



Bridges Weekly Trade News Digest

Weekly trade news from a sustainable development perspective

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LEAD STORY

Geneva Reflects on Doha and Beyond

On 21 April, WTO Director-General Pascal Lamy released a set of documents highlighting the state of play with regard to the long-struggling Doha round. While the documents, which cover all areas of the negotiations – spanning from industrial and agricultural products to trade facilitation and fisheries subsidies – amount to hundreds of pages, they contain no surprises.

The documents comprise a set of updates and texts provided by the chairs of the respective negotiating groups, as well as [a cover note by Lamy](#). Just prior to releasing the documents, Lamy had been holding intensive one-on-one meetings with key delegations, so called “confessions,” to gauge the scope for any new possible compromises and grounds for agreement. However, Lamy emerged from these meetings with a sense that unbridgeable gaps still remain. “This is a grave situation for the round and for all of the efforts and aspirations it embodies,” Lamy writes. “It is our reality, however, and we must face it squarely in order to try to find a way forward together.”

In his cover note, Lamy stresses the value of concluding the Doha round, both in terms of being a concrete win for multilateralism in turbulent political times, and in terms of allowing expanded trade, with all its accompanying benefits, at the global level. Lamy calls on members to carefully reflect on the way forward, so as not to end up throwing away ten years of solid work. He stresses that he has sensed a desire among members to find a solution ‘although at the moment there is little clarity about what this might be’. However, he says it cannot just be ‘business as usual,’ nor can members just ‘stop and reboot.’

Lamy: NAMA gaps “not-bridgeable”

Lamy did not mince words in the note accompanying the chairs' documents: the divisions on non-agricultural (industrial) market access (NAMA) are “not bridgeable today.” Despite other unresolved areas, he expressed the belief that “a deal would be doable... but for NAMA, where the differences today are effectively blocking progress and putting into serious doubt the conclusion of the Round this year.”

The WTO chief expressed similar views in a [report on consultations he held with seven large members](#) on the most contentious issue in the NAMA talks: the role of initiatives to deeply cut or even eliminate tariffs on entire industrial sectors, and specifically, the extent to which large developing countries like China, India, and Brazil participate in them.

The US is the most vociferous of the developed countries demanding that the fast-growing emerging economies to sign on to several of these sectoral initiatives. China, Brazil, and India point to the explicit negotiating mandate that participation in sectorals is to be voluntary, and argue that the modest farm reforms that rich countries have put on offer do not merit dramatic increases in NAMA liberalisation.

The framework agreement being discussed in the NAMA negotiations offers two main vehicles for tariff reduction: a tariff-reduction formula that developed and thirty-odd developing countries will apply to all products (with limited flexibilities for the latter to shelter some tariff lines from the full force of cuts), and sectoral tariff-cutting initiatives. An additional track of work in the NAMA talks looks to smooth market access by reducing non-tariff barriers to trade.

There is a “fundamental gap in expectations in sectorals,” Lamy said.

Developed-developing country split

One group of countries – Lamy declined to name any, but the US is prominent in this camp – thinks that the tariff cuts resulting from the standard formula ask too little of developing countries and too much of developed countries. They want this

disparity rebalanced through extensive participation by emerging economies in sectorals, eliminating tariffs to the maximum extent possible on the covered sectors. In this view, he wrote, “the goal of sectoral negotiations would be for emerging countries to ‘catch up’ with developed members regarding the level of market opening.”

Part of the reason for this group's dissatisfaction is that many developing countries have in the past 15 years reduced the duties that they actually apply to imports, while the baseline for Doha round cuts would be their much higher bound ceiling rates. Consequently, the standard formula would result in reductions to applied import duties that are more modest than the substantial percentages by which bound rates would be cut.

As for the other group, they argue that the “Swiss” tariff reduction formula – with the two “coefficients” that will determine the depth of tariff cuts by developed and developing countries, as well as serve as a future ceiling for most duties – should be “the main determinant of the overall level of ambition of the NAMA negotiations.” In their view, Lamy wrote, “sectorals should be seen as a supplement to the tariff cuts achieved through the formula,” with reducing most tariffs to zero seen as simply unfeasible.

While the Swiss formula coefficients provided for in the text are 8 for developed countries and 20-25 for developing ones (higher if they choose to shield fewer products from standard tariff cuts), the second group argues that eliminating tariffs on chemicals, industrial machinery and electric and electronic products – as the first group is seeking – would be equivalent to coefficients of 4 and 8 respectively.

“There is a fundamental gap in expectations in sectorals... not a technical one that one could bridge through adjustments in the architecture of sectorals,” Lamy wrote. “In sum, there are fundamentally different views on the ambition provided by the Swiss formula as it currently stands, on whether the contributions between the different members are proportionate and balanced as well as on what is the contribution of sectorals.”

Speculations on “Plan B”

Following the WTO Easter break, a series of informal “green room” meetings among key members are expected on Thursday, 28 April, while the full membership will meet in the Trade Negotiations Committee (TNC), chaired by Lamy, on 29 April. This meeting is set to address the issue of what comes next for the Doha round.

Meanwhile, speculations and opinions on how to move on beyond Doha are being discussed both informally among trade professionals and in the media. The talks were launched in Qatar in 2001, and have already been going on for almost ten years. Karel de Gucht, the EU trade head, mentioned a “plan B” to European constituencies at the beginning of this month, and his statement has been heavily cited by others. According to trade sources in Geneva, one option would be to hand pick issues where there is agreement, and conclude the round in the form of a narrower deal, leaving out the large and controversial areas like NAMA and agriculture. Salvaging part of the deal would, according to some, be far better than simply giving up and calling the round dead.

Trade veteran Susan Schwab, the former US Trade Representative, embarked on the same train of thought in an article she wrote for the May-June issue of *Foreign Affairs*. In her article, she says that several smaller deals can and should be salvaged, pointing in particular to trade facilitation, restrictions on export support in the area of agriculture, and agreements to limit fishery subsidies and bring down tariffs on environmental goods and services. According to Schwab, broad and inclusive negotiations in the format of a “single undertaking” no longer work, but plurilateral agreements among the willing, under WTO auspices could and should. “Doha may be dead, but by accepting what everyone knows and no one wants to admit, the world can actually reinvigorate and strengthen the multilateral trading system,” she concludes.

Simon Evenett, trade professor at the University of St. Gallen in Switzerland, has similarly laid out a clear plan of action for the WTO in an online article, focusing on the need to salvage parts of the Doha round where there is agreement, provide opportunities for ‘bottom-up’ negotiations in

narrower areas among members that so wish, and strengthen certain WTO secretariat functions, such as for collecting and analysing trade data.

Meanwhile, the *Financial Times* ran an editorial already ahead of the release of the Doha documents, on 18 April, bluntly stating that the round is dead and looking for a new way forward. According to the FT, the WTO would be better placed to focus on narrower, plurilateral or sector-specific deals, and to focus on keeping sprouting bilateral and regional trade deals as well as private-sector and voluntary standards under check. As such, doing what can realistically be done ‘is far better than permanently persisting with negotiations whose failure is leaching credibility from the very principle of multilateralism,’ according to the FT.

The updates and texts provided by the chairs of the different negotiating groups are briefly discussed and analysed in the sections below.

ICTSD will provide an update of the 29 April TNC meeting in its next issue of *Bridges Weekly* on 4 May.

ICTSD reporting; “Life after Doha,” FT, 18 April 2011; ‘Doha trade deal in ‘serious doubt’: WTO chief,’ AFP, 21 April 2011; ‘WTO faces tough choices after latest Doha setback,’ REUTERS, 21 April 2011; ‘Doha trade round faces risk of collapse after 10 years of talks,’ GUARDIAN, 23 April 2011; ‘After Doha: Why the Negotiations Are Doomed and What We Should Do About It,’ FOREIGN AFFAIRS, May-June 2011; ‘WTO chief says Doha trade round at ‘serious risk’ over differences on industrial goods tariffs,’ WASHINGTON POST, 21 April 2011; ‘World Trade Organisation draft to be discussed on April 29,’ ECONOMIC TIMES, 21 April 2011.

REPORT SUMMARIES

Non-Agricultural Market Access (NAMA)

So wide is the divide on sectorals, as mentioned above, that Swiss Ambassador Luzius Wasescha, the chair of the NAMA negotiations, largely refrained from commenting on the issue in his [“textual report” on the negotiations](#), dated 21 April. (Members’ divisions prevented him from issuing a new comprehensive draft agreement text.) The entire December 2008 text, with its coefficients for the Swiss tariff reduction formula, was included as an annex to the report. In terms of new comments on the formula and related flexibilities, Wasescha referred only to appeals by South Africa, Argentina, Venezuela, and recently-graduated former least-developed country (LDC) the Maldives for gentler liberalisation commitments than they would normally be subject to.

This is an area in which the US has been pushing the large emerging economies hard over the last few months to provide larger openings, through so-called sectoral agreements in the areas of chemicals, industrial machinery and electronics. Countries like Brazil, China, and India have been continuing to resist such demands, however.

The bulk of Wasescha’s text focused on non-tariff barriers (NTBs), a relatively uncontroversial issue that NAMA negotiators have been focusing on since early 2009, with convergence on some – though not all – issues.

On NTBs, at least, members’ differences are bridgeable, he said. “There is a significant potential NTB-package within reach, which would *inter alia* constitute a series of improvements to the functioning of the [Agreement on Technical Barriers to Trade], create stimuli for legislators to privilege the reference to international standards and to diminish the tendency to deviate from international standards,” Wasescha wrote in his report.

The report includes new draft agreement language – albeit with a number of brackets marking issues

to be determined – on three issues on which members’ positions have significantly converged: a proposed “horizontal mechanism” for the swift mediation of trade irritants arising from non-tariff measures; general rules concerning transparency in the adoption of new technical regulations (so that they do not take trading partners by surprise); and the labelling of textiles, clothing, footwear and travel goods.

Instead of draft treaty language, the December 2008 text ([TN/MA/W/103/Rev.3](#)), which was included in its entirety as an annex to the current textual report, had simply listed a variety of proposals on NTB-related subjects by different members.

The report’s draft ‘Ministerial Decision on Procedures for the Facilitation of Solutions to Non-Tariff Barriers’ sets out procedures for establishing a two-stage process – the latter with the help of an outside mediator – to help countries’ address NTB related concerns. The text sets aside for later issues such as the facilitation mechanism’s relationship to standard WTO dispute settlement, as well as the elaboration of provisions for special and differential treatment for developing countries. The provisions on transparency provide for members to publish new technical regulations clearly and as soon as possible, and to consider coming up with an annual list of regulations and standards that might be subject to change. It also calls for the creation of a “dedicated WTO portal” for information about technical regulations and conformity assessment procedures. Wasescha said that members would have to decide whether they would want to take sector-specific decisions on transparency, or ‘horizontal’ approaches covering all industrial sectors or at least all those introduced in the NTB discussions.

On textiles, clothing, footwear, and travel goods labelling, the draft ‘understanding’ sets out guidelines for members to endeavour to ensure that labelling requirements do not serve as an undue barrier to trade. For instance, it suggests that governments should try to require textiles and clothing labels to deal with nothing more than fibre content, country of origin, size, and care instructions.

Although Wasescha did not draft potential agreement text on the issue, he said that the idea of legally strengthening the six TBT Committee Principles for the Development of International Standards to better facilitate cooperation between standard setting bodies and the TBT Committee was “generally well received,” as was the notions that developing countries need to participate more in international standard setting bodies.

Less convergence was apparent on a range of other issues, such as trade in “remanufactured goods.” Sector-specific proposals for addressing NTBs in sectors other than textiles and clothing – notably chemicals, automotive products, and electronics, were also finding consensus more elusive.

Other proposals in the NTB negotiations, dealing with issues such as export taxes, transparency in export licensing, and non-tariff measures pertaining to lighters and forestry products, remained on the table, and are to be discussed later.

As for what may be next in the NAMA talks, Wasescha said that members would discuss how to move forward in the TNC. He suggested that the NAMA negotiating group might wish to continue work on NTBs, “where there are still prospects to make progress in the immediate future.”

Market Access chair Luzius Wasescha's textual report on the state of play of the NAMA negotiations can be accessed [here](#) and Director-General Pascal Lamy's report on his consultations on NAMA sectoral negotiations can be accessed [here](#).

Negotiating Group on Agriculture

Close observers of trade talks will note nothing new in the report released by Ambassador David Walker of New Zealand, chair of the agriculture negotiating group. After a series of consultations with WTO members he summarised the key issues that remain to be solved ahead of an agreement on agriculture.

Walker conceded that despite considerable engagement by members over the past two years, it is “regrettable” that more of this progress could not be agreed to or put forward as a text. The chair says that more consultation is now needed to move forward.

Delegates that spoke to Bridges found no surprises in chair's report and the annexed documents, which included the December 2008 draft modalities.

Walker's report speaks to the relevance of developing templates and the benefits of the clarification exercises, viewed by many as the only thing that could be done in the absence of concessions in the negotiating process.

The report avoids addressing the talks by the major areas of negotiations, such as market access, domestic support and export competition. Instead it focuses on nine issues that are still bracketed or annotated.

WTO members in the chair's view remain “sharply divided” on a tariff cap set at 100 percent and the creation of new tariff rate quotas. While Japan and Canada are still seeking additional flexibility on sensitive products, goods that will receive lighter cuts in tariffs in exchange for expanded quotas, other members seem to be uncertain about whether they should or how much quota expansion to seek in return.

Similarly, on special products, goods slated for lower tariff cuts to protect rural livelihoods, food security and development, negotiations have stabilised but it is unclear whether the allotted number will.

According to Ambassador Walker, on the special safeguard mechanism, a tool that would allow tariffs to rise in the case of price depressions or surges in imports, widely blamed for the collapse of talks in 2008, members have reached the end of “useful analytical discussion” and need to move beyond to a “problem solving engagement.”

In other areas, such as tariff simplification, the process of converting complex duties and taxes to their ad valorem equivalents, delegates are continuing to work but have yet to reach a stage

where they can share anything concrete with the broader membership.

The deal reached on bananas and the associated cooling of debate on tropical products, goods for which developed countries want improved developed country market access, has yet to be multilaterally agreed. The chair noted that some countries, not a part of the deal on bananas, are still seeking better outcomes. India and Pakistan have been amongst the most vocal members on this subject.

On the 'blue box' - subsidies that can be increased without limit, so long as payments are linked to production-limiting programs - Walker reports that no technical input is needed and that members should pick a bracketed number and move forward.

Although cotton producing countries in West Africa, the C-4, have voiced objection to the lack of movement on the commodity, the Walker notes that "no new contributions, technical or substantive, have been forthcoming to date."

As with much of the activity in past two weeks, Ambassador Walker and other members are anxiously awaiting "guidance" from the upcoming TNC.

Agriculture chair David Walker's report to the Trade Negotiations Committee can be accessed [here](#).

Negotiating Group on Rules

In his [communication to the TNC](#), rules chair Dennis Francis put forward three documents, each addressing the state of play on anti-dumping, subsidies and countervailing measures, and fisheries subsidies. The first document on anti-dumping is a revised legal text, while the latter two are reports. However, despite the difference in format, Francis is clear to point out that much work still needs to be done on anti-dumping. Francis points to a lack of substantive convergence for both subsidies and countervailing measures and fisheries subsidies as the reason for submitting a report rather than a text; however, many observers have suggested that his report on

fisheries subsidies, in fact, reveals broad member support for strong regulation in the sector.

Antidumping

In his foreword to the report, Francis explained that he had chosen to prepare a revised legal text in the area of anti-dumping to capture progress made in "a few areas where useful changes to [existing] language might be warranted." He added, however, that this "this should not be understood to mean that I perceive significant signs of convergence on the major 'political' issues. To the contrary, it is noticeable that the new text contains the same twelve bracketed issues as the 2008 chair's text."

Many of the proposed changes just simplify or clarify existing language, but others are more controversial. Positions on the use of zeroing in anti-dumping calculations remain highly polarised, ranging from "insistence on a total prohibition on the zeroing irrespective of the comparison methodology used and in respect of all proceedings to a demand that zeroing be specifically authorised in all contexts.

Other divisive issues include whether authorities should take into account other factors than the volume of dumped imports in their determination that domestic producers are being injured. Views also differ on whether it should be mandatory to impose a lesser duty than the calculated dumping margin in cases where that would suffice to remove injury to the domestic industry. Developing countries in particular support a mandatory lesser duty rule, but many others oppose it with equal conviction. Members are sharply divided on the desirability of a procedure to take account of the representations of domestic interested parties, such as importers, when deciding whether to impose an anti-dumping duty to protect domestic industry.

The gap has not narrowed between those, such as the US, who seek to bolster anti-circumvention disciplines and those concerned about the use of such measures with respect of exports originating in a third country. There is also sharp disagreement on whether anti-dumping duties should be automatically lifted after a given period of time. Many delegations think this should be the

case, while others defend their right to conduct so-called 'sunset reviews' before deciding whether the duty order should be extended, terminated or modified.

Developing countries have proposed that their investigating authorities should be given more flexibilities as a special and differential treatment measure, but others resist this, arguing that a number of developing countries are now among the most active users of anti-dumping remedies.

Subsidies and Countervailing Measures

In his detailed report on the state of play in negotiations on proposed changes to the Agreement on Subsidies and Countervailing Measures, Francis noted that no significant signs of convergence had emerged on bracketed issues as reflected in the 2008 chair's text. He also determined that some unbracketed language remained too controversial for a new negotiating draft to be issued. In addition, the rules group had not yet had the time to examine in detail a number of new proposals tabled in the past few months.

Among unresolved bracketed issues are new disciplines on loans and loan guarantees provided by government financial institutions that do not operate on an independent, commercial basis, and that benefit from long-term government support to state enterprises unable to obtain financing from commercial lenders. The issue is pushed by the EU in particular, but opposed by countries with large sectors of state-owned enterprises.

Convergence is also lacking on Egypt, India, Kenya, and Pakistan's proposal to base the determination of a product's export competitiveness on a five-year rolling average rather than two consecutive calendar years, he said. This would create a mechanism to allow reintroduction of export subsidies where export competitiveness in a product was lost after having been reached.

Two issues related to export credits raised by Brazil also remain unresolved. One would identify prohibited export subsidies in the form of export credits and guarantees on the basis of the benefits reaped by the recipient as a basis for identifying rather than the cost to government as is currently

the case. The other seeks to ensure that changes to the Organisation for Economic Co-operation and Development (OECD) Arrangement on Officially Supported Export Credits would need to be adopted by the WTO before it can be used as a reference.

The report provides a summary of the points of view on other changes suggested in the 2008 chair's text, as well as describes the status of five new proposals on export financing benchmarks for developing countries; countervailing procedures; tax and duty rebate schemes; export subsidy phase-out period for countries graduating from Annex VII status (after their GNP per capita has reached US\$1,000); and the presumption of serious prejudice.

Fisheries subsidies

While fisheries subsidies negotiations have been an area of notable progress of late, Francis' foreword to the issue explains that there is "too little convergence on even the technical issues, and indeed virtually none on the core substantive issues, for there to be anything to put into a bottom-up, convergence legal text." But despite this grim tone, the document outlines the significant progress made in the fisheries subsidies negotiations in recent months, the consensus by WTO members of the importance and urgency of the issue, and the need for collective action for a successful outcome.

"All recognize that this is a crisis of exceptionally serious implications for all humankind, and particularly for the poor in many countries who are heavily dependent on fisheries as a source of nutrition and employment," the report reads. "Successful subsidy negotiations can help bring about a situation where profitability and economic and environmental stability are mutually reinforcing, contributing to sustainable wealth creation."

Francis points to unwillingness by some unnamed countries to make concessions for fear of giving up policies aimed at short-term gains. "It is hard to see how such strategies can either protect communities and jobs or be a source of food security and stable growth over the long-term," Francis wrote.

Environmental groups generally applauded the chair for his unwillingness to give in to pressure to create a compromise text and his strong language on the urgency of the fisheries subsidies issue.

“The Chair’s report clearly leaves the door open to strong WTO rules on fisheries subsidies,” said WWF’s David Schorr. “Particularly in light of the deepening uncertainty over the conclusion of the Doha Round, the report signals the continuing urgency of the environmental mandate underlying the fisheries subsidies talks.”

According to the chair’s report, key areas where gaps remain wide in the negotiations revolve around prohibition and general exceptions, special and differential treatment (S&DT), general disciplines (adverse effects), fisheries management, notification and surveillance, and provisions on dispute settlement and transition rules.

Rules chair Dennis Francis’ communication can be accessed [here](#). Francis’ document on the transparency mechanism for regional trade agreements can be accessed [here](#) and his report on systemic issues related to regional trade agreements can be accessed [here](#).

Dispute Settlement Body (DSB)

Included in last week’s release of texts on the current state of the Doha negotiating groups is the chair’s text for the review of the Dispute Settlement Understanding (DSU). These negotiations aim to update the current rules governing WTO dispute settlement. The section, however, does not include new draft text on the matter but is limited to the narrative report by the chair, Costa Rican Ambassador Ronald Saborio Soto.

A group of around 42 Members has been engaged in formal and informal negotiations based on a draft text that compiles countries’ various proposals, which the chair of the negotiating group put together in July 2008.

The chair’s text reflects developments since May 2010 on six issues, including sequencing, post-retaliation, effective compliance, timing, third party rights and flexibility. Different countries

have been engaged in negotiations on the issues they have a particular interest in. Seven issues remain untouched since the July 2008 draft was compiled.

Of the six issues that members have been actively discussing, only one, sequencing, has reached a point where it resembles a legal text nearing a final solution. This, however, is not surprising, as members have found a temporary solution to the problem of sequencing in ongoing proceedings.

In one of the most controversial areas, namely effective compliance - which includes collective and group countermeasures, cross-retaliation options and monetary compensation - no agreement is in sight. “Key points of divergence” have been identified and “constructive work” has been conducted on this matter and others, the report by the chair of the group, notes. As part of this process, Mexico presented revised text in November 2010 taking into account concerns of other members on the issue of suspension of obligations and its relation to the “reasonable period of time” (RPT). Yet no agreement was reached on this point either.

The areas that members have yet to discuss since the completion of the 2008 text to a great extent concern provisions focused on improving the prospects of developing country members vis-à-vis dispute settlement. This includes proposals to create a dispute settlement fund for developing countries, along with other proposals that would give special or differential treatment to developing countries. According to the chair’s text, work must be completed in areas such as “developing country interests” in order for Members to arrive at a successful conclusion of the negotiations.

The DSU review negotiations, which were launched in part to improve developing countries’ ability to take advantage of the WTO’s dispute settlement mechanism, are not formally part of the Doha round. Nevertheless, there is a de facto link between the two and officials insist that they cannot conclude without a broader accord in the troubled global trade talks.

DSB chair Ronald Saborio Soto’s report to the Trade Negotiations Committee can be accessed [here](#).

TRIPS Council

On TRIPS negotiations, three topics have largely stalled since the launching of the Doha round in 2001, namely: the establishment of a multilateral register for geographical indications (GIs) of wines and spirits; extending to all products the stronger protection currently accorded by TRIPS to geographical indications of wines and spirits (GI extension); and the relationship between the TRIPS Agreement and the Convention on Biological Diversity (CBD).

Each of these issues has been on the table for quite some time and the proposals and parameters for solution have also been the subject of extensive debates during the past decade.

Deliberations on the three issues have followed two separate tracks. The multilateral system of notification and registration for wines and spirits is discussed in a Special Session of the Council for TRIPS. On 21 April, the chair of the Council's Special Session, [Zambian Ambassador Darlington Mwape](#) presented [his report](#), attaching a draft composite text of the future register. In a separate report, WTO Director-General Lamy presented the state of play on the two remaining issues – which are so-called Doha implementation issues.

In his report, chair Mwape says he believes the draft composite text “provides a good basis on which to continue negotiations.” However, his report also underlines that there still a long way to go to reach final agreement.

The draft composite text spells out the six “possible elements for developing texts” suggested by the chair for the future register, namely: notification, registration, legal effects / consequences of registration, fees and costs, special and differential treatment and participation. In the section dealing with the legal effects of the register or consequences of the registration – as in most parts of the draft - there is no single agreed concept. Meanwhile, the section dealing with special and differential treatment for developing countries and LDCs features transitional time periods and technical and financial assistance.

On GI extension, Lamy elaborates on discussions over the last two years, including their structure and the clarification process on technical issues. In his final observations, he concludes that delegations continue to voice the divergent views that have characterised this debate, with no convergence evident on the specific question of extension of GI coverage. He observes, however, that the legitimacy of trademark systems as forms of protecting GIs - in line with the general principle that members are entitled to choose their own means of implementing their TRIPS obligations - has been clarified.

On the relationship between TRIPS and the CBD, Lamy highlights that members have consistently voiced support for the principles and objectives of the CBD, including the principle of prior informed consent and the principle of equitable sharing of benefits. They have agreed on the need to take steps to avoid erroneous patents, including through the use of databases, as appropriate, to avoid patents being granted on existing traditional knowledge or genetic resources subject-matter. However, members continue to differ on whether a specific disclosure mechanism relating in particular to genetic resources and associated traditional knowledge would be useful and effective in ensuring that the patent system is supportive of CBD objectives, or whether other mechanisms should be used.

Out of the three issues and based on the recent reports, the register appears to be in a more promising stand in terms of progress made compared to the earlier prevailing stalemate. For the first time, exposed to public scrutiny, a consolidated text does exist – with an abundance of square brackets on the most sensible issues - suggesting progress in the negotiating process, but still far from its final goal. On the other two issues, beyond a better understanding of the differences among members, the gaps persist and progress continues to be elusive.

TRIPS chair Darlington Mwape's report on the multilateral system of notification and registration of Geographical Indications for wines and spirits to the Trade Negotiations Committee can be accessed [here](#). Director-General Pascal Lamy's report on issues related to the extension of the protection of Geographical Indications

provided for in article 23 of the TRIPS Agreement to products other than wines and spirits and those related to the relationship between the TRIPS Agreement and the Convention on Biological Diversity can be accessed [here](#).

Council for Trade in Services

Based on Fernando de Mateo's [report to the TNC](#), no significant progress has occurred in market access negotiations on services since the 2008 "signalling conference" where a number of countries indicated liberalisation concessions they could be willing to make if the outcome of the Doha round was satisfactory in other areas. A summary of the state of play in negotiations on specific market opening requests in 18 sectors – ranging from accounting and distribution to construction, education and telecommunications – shows that "significant gaps" remain across the board.

Some countries appear unwilling to discuss further liberalisation on the basis of the potential concessions they had conditionally outlined in July 2008. Many offers are well below existing, but unbound, levels of market opening.

One of the main reasons behind the lack of progress is a widely held view among developing countries that the demandeurs (mostly advanced economies) seek a level of ambition in the services negotiations that exceeds their own concessions in agricultural market access, as well as the demandeurs' unwillingness to remove barriers to temporary workers (so-called Mode 4 of services delivery), the only plurilateral liberalisation request sponsored by a group consisting entirely of developing countries.

The sponsors had expected some movement forward this year, but "there were no concrete signals of improvements from many of the key recipients [...] who in general reiterated their existing positions." The proponents consider the extent to which the Mode 4 request is met as an "indicator of the fulfilment of the development dimension of the round." A positive outcome on this issue will be important to achieve a balance in market access negotiations in services, they argue.

The report also covers incremental progress made in the development of new disciplines for domestic regulation, and shows next to no progress in discussions on substantive changes to General Agreement on Trade in Services (GATS). According to the chair, members had engaged in focused discussions on emergency safeguard measures, government procurement and services subsidies, but his general assessment was that proponents were unable to convince members that disciplines were needed in any of the three areas.

"Given the fundamental divergences over the objectives and expected outcome of these negotiations, the working group on GATS rules has not been able to move to a text-based process," he wrote.

In addition, more work is needed on the so-called LDC Waiver, which would allow WTO members to grant preferential market access to services and service providers from least developed countries. Countries are still seeking greater clarity on the measures that would be covered by the waiver, as well as what rules of origin would apply. The chair also noted that several members had indicated that the differences over the remaining issues "would be bridgeable under the right circumstances."

Services chair Fernando de Mateo's report to the Trade Negotiations Committee can be accessed [here](#).

Committee on Trade and Development (CTD)

In the infancy of the Doha Round, developing countries identified 88 provisions on special and differential treatment spread across WTO agreements that needed to be strengthened and made more precise, effective, and operational. Thirty-eight of the proposals were subsequently referred to other negotiating groups and WTO bodies for consideration. In 2003, the Committee on Trade and Development reached an "in-principle" agreement on 28 further proposals, leaving changes to some 22 provisions to be negotiated. Of those, six "agreement-specific" ones were prioritised for immediate consideration, while the rest were set aside in hopes that

members would come up with new ideas or language that would allow progress to be made. So far, that has not happened, “largely due to the fact that the issues raised in many of the proposals form an integral part of the ongoing negotiations” in other WTO bodies, according to a March 2010 report by former CTD chair Thawatchai Sophastienphong.

On the six prioritised agreement-specific proposals, chair Shahid Bashir stated in his [report to the TNC](#) that despite a “positive and constructive spirit, Members remain far from developing any common understanding and so far it has not been possible to bridge the gaps.” Some countries view the proposals – mostly on sanitary and phytosanitary rules and import licensing – as “fairly stabilised” in their current form while others contend that they fall short of accurately reflecting earlier discussions. That latter group says more work is required to develop convergence.

That leaves a tentative agreement on a monitoring mechanism the only tangible result of work undertaken since the Hong Kong ministerial conference in 2005. The mechanism will not function as a negotiating body, but act as a focal point to review the implementation of Special and Differential Treatment (S&DT) provisions in all WTO agreements. In practice, it will consist of at least two annual special sessions of the Committee on Trade and Development, during which members will identify and propose actions to the General Council and other WTO bodies that would strengthen and improve the implementation of S&DT provisions. The mechanism may also recommend that other WTO bodies initiate negotiations on some of the clauses it has reviewed.

CTD chair Shahid Bashir's report to the Trade Negotiations Committee can be accessed [here](#).

Committee on Trade and Environment (CTE)

The [report by the chair of the Committee on Trade and Environment \(CTE\)](#), Manuel A. J. Teehankee covers the progress on the two main

topics of Paragraph 31 of the Doha Ministerial Declaration: Multilateral Environmental Agreements (MEAs) and Environmental Goods and Services (EGS).

Expert group on MEAs

Paragraph 31(i) considers the relationship between existing WTO rules and specific trade obligations set out in MEAs. Paragraph 31(ii) considers procedures for regular information exchange between MEA secretariats and the relevant WTO committees, and the criteria for the granting of observer status.

A “Group of Experts on Trade and Environment” (GETE) could be available for consultations by any member on the linkages between specific trade obligations as laid out in MEAs and the WTO as a complement to existing technical assistance and capacity building mechanisms of the WTO, with priority for LDCs and developing countries. For example, the Group of Experts can assist in the negotiation of climate change-related MEAs with specific trade obligations, and environmental subsidies that affect international trade with developing countries.

There is a draft Ministerial Decision on Paragraphs 31(i) and 31(ii) which is attached to the chair's report but this is not an agreed text nor is it in complete or final form.

EGS: identification of goods

Paragraph 31(iii) of the Doha Ministerial Declaration considers the reduction or elimination of tariff and non-tariff barriers to trade in environmental goods and services (EGS). The format of an outcome under Paragraph 31(iii) is still open, although stated options and components have become clearer.

On the identification of environmental goods, the report contains a “reference universe” of environmental goods of interest to members, which is a compilation based on HS-6 lines submitted by members. There are six broad categories under which goods have been submitted: air pollution control, renewable energy, waste management and water treatment,

environmental technologies, carbon capture and storage, and others.

A group of members identified, on an illustrative basis, a number of tariff lines from the reference universe, and these are reflected separately. Preliminary discussions on these goods showed that some of the goods included in this set could be considered by the membership as clear environmental goods - “single use” environmental goods.

A number of technical difficulties remain regarding the identification of environmental goods. Further work needs to be undertaken in this respect, including on the verification of HS descriptions and the determination of ex-outs or sub-classifications.

“Triple Win”

According to the chair, members agree that a successful outcome of the negotiations on EGS should deliver a triple-win in terms of environment, development, and trade. First, the negotiations can benefit the environment by improving countries' ability to obtain high quality environmental goods at low cost or by enhancing the ability to increase production, exports and trade in environmentally beneficial products. This can directly improve the quality of life for citizens in all countries by providing a cleaner environment and better access to safe water, sanitation or clean energy.

The liberalisation of trade in environmental goods and services can be beneficial for development by assisting developing countries in obtaining the tools needed to address key environmental priorities as part of their ongoing development strategies.

Finally, trade wins because these products become less costly and efficient producers of such technologies can find new markets. In addition, liberalising trade in environmental goods will encourage the use of environmental technologies, which can in turn stimulate innovation and technology transfer.

Agreement on coverage “urgent”

The primary area requiring delegations' urgent attention, the report states, relates to establishing agreement on an approach to *coverage*. The two most recent proposals – a hybrid approach and combined approach – were put forward in an effort to bridge the various proposals on the table and could therefore provide a starting point for structured discussions on coverage.

Under the *combined* approach, there would be two lists of environmental goods, one for developed and one for developing country members. Both would be self-selected from the reference universe and subject to an agreed *alpha* minimum number of tariff lines for developed country members and a *beta* minimum number of tariff lines for developing country members, with *alpha* being greater in number than *beta*.

In an effort to combine the various elements of all proposals on the table, the *hybrid* approach includes the following components: (i) an agreed core list of environmental goods that would comprise a targeted set of environmental goods on which all members would take commitments; (ii) a complementary self-selected list from which developed countries would individually select a number of environmental products for tariff elimination and developing countries would be encouraged to participate in doing; (iii) as a complement to the common core list and complementary lists, products would be identified through a request/offer process, the outcome of which would be multilateralised in accordance with the MFN principle; and (iv) environmental projects could be used to identify lines for inclusion in the common core list, the complementary self-selected list or the request-offer list or by unilateral liberalisation if used in environmental projects.

Treatment

On *treatment*, although the treatment modalities proposed depend on the final structure considered, all proposals for options include a reduction of tariffs to zero for some products or a reduction including 0 for X and a 50 percent cut after formula application and elimination of tariffs by certain set periods of time.

Members have noted the existence of non-tariff barriers (NTBs) in certain sectors and provided general ideas on how NTBs can be reduced – for instance by increasing transparency.

S&DT

With regard to *special and differential treatment* for developing countries, Teehankee's report states that lesser reductions, implementation delays, and other forms of flexibilities belong to the options. Product exemptions as well as the liberalisation by developing country members of a lesser number of tariff lines have also been envisaged. For least-developed country members and small and vulnerable economies, additional flexibilities could be considered.

Concerning transfer of environmental technologies, discussions have clearly highlighted the importance of these elements as being an integral part of an outcome.

Environmental services

With respect to environmental services, the main work is occurring in the Committee on Trade in Services Special Session. One option is for the committee to draft textual elements cross-referencing that work as it relates to enhanced commitments on environmental services. Another possibility would be to associate enhanced commitments on environmental services with the environmental goods in the reference universe or categories or to an agreed set of environmental goods.

CTE chair Manuel A. J. Teehankee's report to the Trade Negotiations Committee can be accessed [here](#).

goods through customs, and the second contains special and differential treatment provisions for developing and least developed countries. Most importantly, the text firmly links developing countries and least developed countries' (LDCs') obligation to implement the agreement to adequate financial support and technical assistance from developed countries.

The obligations include timely publication of procedures, applied tariffs, fees and charges, import and export restrictions, measures to enhance transparency, information on delays or detention of goods, risk management and many other aspects of efficient management of imports and exports.

The special and differential treatment section recognises explicitly that "the extent and the timing of entering into commitments shall be related to the implementation capacities of developing and least developed country (LDC) members, who would not be obliged to undertake investments in infrastructure projects beyond their means." Developed countries 'shall provide' support and assistance, and if they fail to do so, LDCs and developing countries be exonerated from fulfilling their obligations.

Although many provisions in the draft still contain alternatives, and the text needs to be reordered, it appears clear that there are no major obstacles to finalising the deal. Many have suggested that this development-friendly agreement could be swiftly concluded and adopted as a confidence-building "early harvest" – perhaps the only harvest – of the Doha round, but so far the idea has failed to win unanimous support.

Trade Facilitation chair Eduardo Ernesto Sperisen-Yurt's draft consolidated negotiating text can be accessed [here](#).

Negotiating Group on Trade Facilitation

Of the 14 documents released on 21 April, only Trade Facilitation chair Eduardo Ernesto Sperisen-Yurt submitted a [full draft negotiating text](#). The document outlines a new 35-page WTO agreement on trade facilitation with two sections. The first part spells out members' obligations with regard to making it easier and faster to move

VACANCY

Vacancy

The Australia Indonesia Partnership for Economic Governance (AIPEG), an AusAID-funded project assisting Indonesia to undertake economic and financial policy reforms, is seeking applications from qualified and experienced personnel for the positions of Distribution Services Specialist and Transport Services Specialist. These two short-term positions are located in the AIPEG Ministry of Trade Sub-Facility office in Jakarta, Indonesia. For more information, [click here](#).