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## Facts and Figures

- Ethanol alcohol now substitutes 40 percent of gasoline in Brazil. To replace gasoline completely, Brazil would have to triple the 2.5 million hectares currently planted with sugar cane.
- Trade between Brazil and China could double – to US\$35 billion – over the next three years due to Brazilian ethanol exports. China is limiting domestic maize-based alcohol production owing to concern about the impact of soaring maize prices to the national food supply.
- Thanks to ethanol, Brazil's gasoline consumption stands at four billion gallons a year for 184 million inhabitants. In contrast, 300 million US consumers use up 140 billion gallons a year. The US imports 21 billion barrels of oil a day while Brazil imports none.

Source: <http://www.energybulletin.net/21064.html>

## 'Quiet Diplomacy' Too Quiet for Some

Confidence in the renewed political will to conclude the Doha Round is on the wane among trade negotiators in Geneva despite the formal resumption of full-scale negotiations in early February.

There is a growing feeling that the frequent 'quiet diplomacy' meetings between trade ministers and other senior officials may be part of the problem rather than a solution. These gatherings take place behind closed doors and only involve a handful of countries. Little is known of the substance of their exchanges, which leaves the bulk of the WTO membership guessing at which direction the talks are heading.

The latest series of bilateral meetings held in London between top agriculture negotiators from Brazil, the EU, India and the US (dubbed the G-4) produced no more than assurances that countries now had a better negotiating relationship and greater understanding of each others' positions. The participants emphasised, however, that no breakthroughs had been achieved on either domestic subsidy cuts or market access, and that much work remained.

One of the reasons advanced for the slow pace of progress is that the G-4 countries are attempting to obtain greater clarity on the likely impact of 'special' and 'sensitive' agricultural products on market access. Bilateral consultations are underway with other WTO Members on which specific products are most important to them.

### India under Pressure

US Trade Representative Susan Schwab said in a C-SPAN Newsmakers interview aired on 25 February that India tended to be "less inclined to be a proactive contributor" than other countries involved in the quiet diplomacy efforts, adding that the country had "a very, very important role to play here, and we hope that India will be part of the solution rather than hold back the talks."

Ms Schwab's remarks followed the London agriculture meeting, where India stuck by its position that developing countries should have the right to designate up to 20 percent of their agricultural tariff lines as 'special' products on which higher import duties may be maintained (see page 7). According to the US, such a high percentage would allow countries to shut out virtually all imported farm goods.

Indian sources expressed surprise over Ambassador Schwab's comments, noting that the US had refused to reveal its own bottom line on domestic farm subsidy cuts at the same meeting. "They want all other countries to show their cards before they decide whether they want to play. How is it possible?" a senior Commerce Ministry official asked. European negotiators are reportedly frustrated as well over US reluctance to discuss an improved subsidy offer before the EU tables a new proposal on agricultural tariffs.

### Where Is the Value Added of Geneva Talks?

Many trade diplomats are starting to question the value of relaunching the Geneva-based negotiations when the future of the Doha Round is being shaped elsewhere. Indeed, little if anything has changed from November when Members decided to restart informal technical-level talks while waiting for a political agreement on the broader parameters of the round (Bridges Year 10 No.7, page 2). As evidenced by delegates' lack of engagement in a discussion

*Continued on page 2*

## Bridges

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See inside back cover for information on other ICTSD periodicals.

aimed at clarifying some of the open questions surrounding sensitive agricultural products, even technical issues are tied to political decisions and cannot be solved in a vacuum (see page 7).

Nor is the focus on the nitty-gritty rather than the 'headline numbers' helping to create forward momentum on industrial tariffs. The Chair of the Negotiating Group on Non-agricultural Market Access (NAMA) acknowledged on 26 February that Members' insistence on the need for the agriculture talks to move first meant that nothing was going to happen in NAMA unless it happened somewhere else first.

Mirroring the continuing stalemate, the goalpost for a breakthrough seems to be shifting from early April to end of June. Pascal Lamy has noted that the key players – generally understood to be the G-4 – should arrive at some sort of understanding by late April in order to give the WTO membership as a whole a couple of months to work on the deal before the expiration of the US trade promotion authority on 1 July (see page 19).

#### Think Outside the Box: The Vision Thing

Meanwhile, efforts to 'rescue the round' are also underway outside the government-centred negotiations at the WTO and elsewhere. Two such events took place in February, one hosted by the Evian Group of industry executives and government sponsors, and the other jointly organised by the William and Flora Hewlett Foundation, the German Marshall Fund of the United States and the Salzburg Seminar. Participants included a wide range of trade experts from different horizons.

A common conclusion drawn by both gatherings was the need for a better understanding of why a positive Doha outcome, and trade more generally, matter or – as one participant in the four-day Salzburg retreat put it – 'the vision thing'. Many of the drivers expected to shape the next ten years are likely to increase instability: a growing struggle for natural resources, climate change, the Israeli-Palestine conflict, tension between globalisation and national sovereignty, and different growth rates between – as well as within – countries. Politicians and the public at large should not underestimate the peace and security benefits associated with a more equitable trading environment and a narrower gap between the haves and have-nots. The development dimension of the Doha Round should not be seen just in terms of special and differential treatment or aid for trade, but as a right to compete, remove distortions and rebalance rules.

The profound sense of uncertainty that colours the public perception of globalisation can be alleviated by making certain, and effectively communicating, that adjustment assistance and other flanking policies are in place to help those negatively affected by changing trading patterns.

We already live in a world where national borders mean little to business, where large sections of workers are moving out of manufacturing and where corn-based biofuel production in one country affects the price of tortillas in another. Although both the context and the key players have changed drastically, the current negotiations are premised on the same conception of trade that underpinned the Uruguay Round instead of trying to address the very different challenges facing the world thirty years later, one of the Salzburg participants pointed out.

The Evian Group brainstorming session for 'breakthrough' ideas produced some concrete suggestions. The first of these was the need for a 'full text' or reference document that would provide a basis for negotiations. If such a paper cannot be drafted via a bottom-up approach, "then a top-down process with all the attendant risks will have to be imposed. It was generally felt that failing in the next three months was a preferable option to the bigger risk of crashing in two years as the landing zone is presently, by and large, relatively clear in most people's mind," the group said in a communiqué released on 13 February.

It also said that "the use of trade as a political or social weapon of immediate expediency in the guise of preferential agreements has got to be tempered," and called for a moratorium on "counter-productive bilateral activity while all incentives are bundled back to Geneva in an attempt to successfully unlock the Doha Development Agenda."

# How Does the USDA Farm Bill Proposal Measure Up?

Emily Alpert

On January 31, US Agriculture Secretary Mike Johanns announced a proposed revision of the current Farm Bill, which could result in a decrease of the most trade-distorting forms of domestic support.

Overall, the proposal would spend an estimated US\$10 billion less over the next 10 years than projected spending for the 2002 Farm Bill, which is set to expire in September 2007. Much of the anticipated savings are from expected high prices for many commodities in future years. However, the Johanns proposal actually would spend US\$5 billion more from 2008 – 2012 than simply extending the existing provisions in the 2002 Farm Bill.

Most of the proposed changes tend to move Farm Bill programmes towards more market-oriented supports and away from the most trade-distorting (Amber Box) forms of subsidies.

Under the 2002 Farm Bill, most commodity subsidies are distributed under three main programmes:

- **loan deficiency payments.** These subsidies are paid when farm prices fall below specified levels. Loan deficiency payments are based on current production, and are generally understood to be trade-distorting. They are defined as Amber Box under WTO rules.
- **counter-cyclical payments.** Subsidies paid when prices fall below specified levels. These payments are based on historical rather than current production. Under current WTO rules they are considered trade-distorting and would likely be classified as Amber Box subsidies. In the Doha Round agriculture negotiations, the US has proposed new criteria that would allow counter-cyclical payments to qualify as Blue Box subsidies.
- **direct payments.** Subsidies based on historical acreage and yields, meant to be ‘decoupled’ from production and therefore less trade-distorting. Direct payments are intended to be classified as Green Box subsidies.

## What Would Change?

The Johanns proposal makes changes to each of these programmes.

*Loan deficiency payments:* The trigger prices for subsidies would be lowered, resulting in reduced subsidies, since payments are only made if market prices fall below the trigger prices. In addition, if market prices remained consistently below the trigger price, the trigger price itself would be lowered to 85 percent of the five-year Olympic average of market prices. This will tend to reduce subsidies over time, even if prices are low. With current high price projections, payments for this programme are expected to be minimal, if not nothing at all in comparison to historical payments in the billions.

In addition, the Johanns proposal would reform the way farmers can claim payments under this programme, making it more difficult to play games and reducing errors that result in payments when prices are not low.

### Loan Rates: The 2002 Farm Bill vs the Johanns Proposal

Loan Rates	Wheat	Corn	Soybeans	Rice	Cotton
2002 Loan Rate	US\$2.80	US\$1.95	US\$5.00	US\$6.50	US\$0.52
New Loan rate	US\$2.94	US\$1.93	US\$4.96	US\$6.53	US\$0.39
Percent Change	5.04%	-1.02%	-0.83%	0.39%	-24.26%

*Counter-cyclical payments:* The Johanns proposal would make significant changes to counter-cyclical payments. The main innovation would be to transform the programmes from compensating for low prices to compensating for low revenues. Farmers complain that the current

counter-cyclical payments only help in times of low prices, but not in the event of poor production. The Johanns revenue-based counter-cyclical payment takes both yield and price into the equation.

The new revenue-based counter-cyclical programme would operate at a national level on a commodity-by-commodity basis. Payments would be triggered when the actual national revenue is less than the target national revenue for an individual commodity. In this instance, all participating farmers for each commodity would receive a payment based on 85 percent of their historical acreage, yield and the payment per acre. Based on Oxfam calculations and high price forecasts, only cotton will receive payments under this programme, averaging US\$1.2 billion per year, which is roughly equal to those under the price-based programme.

*Direct Payments:* The Johanns proposal would boost direct payments. For most commodities, these would increase modestly, by about seven percent. But for cotton, direct payments would increase by 66 percent (see page 4). An important reform in the proposal is to remove planting flexibility restrictions, which prevented farmers receiving direct payments from growing fruits and vegetables. The planting flexibility restrictions were successfully challenged in the Brazil WTO dispute on cotton, so this proposal would bring direct payments into compliance with that part of the Brazil case.

The Johanns proposal also adds a new, environmental component for direct payments, offering a ten-percent premium to farmers who implement a strategic conservation plan on their farms.

### Payment Limits

The Johanns proposal also seeks to reform commodity subsidies by prohibiting subsidy payments to people with incomes over US\$200,000 per year, based on a 3-year

*Continued on page 4*

rolling average. In addition, it would eliminate loopholes that allow farmers to skirt existing payment limitations by creating multiple partnerships and corporations. Such loopholes now permit clever farmers to ignore payment limitations and take subsidies occasionally in excess of US\$1 million.

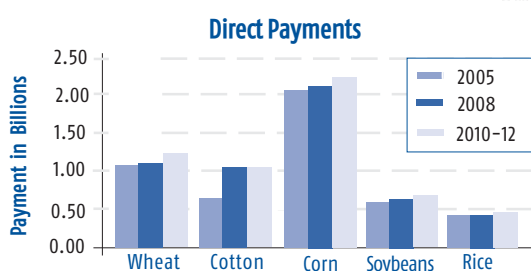
### Sugar and Dairy

Sugar in the US is protected through a complex system of price supports and quotas. The US government manages supplies to keep internal prices high. The JOHANNIS proposal recommends keeping the programme as is. However, since the North American Free Trade Agreement will open US-Mexico trade in 2008, Secretary JOHANNIS proposes to reduce US domestic production if sugar imports exceed a set level. This will maintain higher domestic prices, even though Mexican sugar imports cannot be restricted.

JOHANNIS also supports maintaining the Milk Income Loss Contract programme for dairy. This programme pays milk producers 34 percent of the difference between the market price and US\$16.94 per cwt. The new MILC programme would phase down the payment rate to 20 percent by 2013 and set a historical production base. Payments would be restricted to the current volume limit of 2.4 million pounds per year, count towards a producer's overall annually counter-cyclical payment limit of US\$110,000 and apply the US\$200,000 income cap to MILC payments. This would make the programme more consistent with other counter-cyclical based payment programmes.

### Cotton Shifts

Although the proposed reforms would have limited impacts on most commodities, those on cotton would be considerable. The trigger price for loan deficiency payments for cotton would be significantly reduced, from US\$0.52 to US\$0.39 per pound. Combined with other reforms, this would likely mean virtually no loan deficiency payments since cotton prices have rarely fallen that low.



To compensate for this change, the JOHANNIS proposal includes a major increase – 66 percent – in direct payments for cotton. Under the 2002 Farm Bill, direct payments for cotton were approximately US\$616 million each year. Under the JOHANNIS proposal they would rise above US\$1 billion annually (see graph below).

### Green Payments and Social Issues

The JOHANNIS proposal supports an additional US\$7.8 billion for environmental conservation programmes, provides significant increases in research for bio-energy crops, creates new research and trade programmes for specialty crop producers, and devotes attention towards expanding federal funding for beginning, minority and socially disadvantaged farmers.

### Food Aid

The JOHANNIS proposal would authorise using up to one-quarter of US food aid budgets for local and regional purchase of food during emergency situations. Currently, virtually all US food aid is provided in the form of US commodities and transported on US-flagged ships. Although food aid has been a contentious issue in trade negotiations, the primary rationale for the proposed reform of food aid is to make US emergency food aid more flexible and responsive. Under any new WTO agreement, this form of food aid – emergency response – is likely to be exempted from new disciplines.

### The Proposal and the Doha Round

At the time of this writing, many of the backup figures and assumptions that underlie the JOHANNIS proposal had not been released to the public. Making precise assessments of its effects on subsidies, and on Doha negotiation positions, is therefore difficult.

As long as crop prices remain high, the proposal is more than likely to comply with US Uruguay Round commitment of US\$19.1 billion in annual Amber Box support, and could reduce overall trade-distorting support below the US\$22.5 billion a year offered by the US in October 2005. Lower prices, however, could trigger payments that exceed the offer. To remedy this, USDA has requested authority to adjust spending to comply with international obligations. It is unclear whether the USDA proposal is 'bold' enough to re-energise the Doha Round agriculture negotiations. Although Secretary JOHANNIS has repeatedly emphasised that his proposal is *not* a new US negotiating offer, reactions in Geneva have been dubious.

The proposal recommends maintaining the sugar and dairy programmes at roughly similar levels, about US\$1 billion for sugar and US\$4.4 billion for dairy. Price support programmes for peanuts have been discontinued. Non-product-specific *de minimis* subsidies for water, crop insurance and disaster assistance vary, but figure in the neighbourhood of US\$7 billion. Cotton payments triggered under the revenue-based counter-cyclical payment programme would be classified in the Blue Box.

### Next Steps in Congress

Congressional reactions to the JOHANNIS proposal have been neither very supportive nor very critical. Notably, the Democratic Chair of the Senate Agriculture Committee Tom Harkin welcomed the proposal and declared it 'not dead on arrival'. The Chair of the House Agriculture Committee Collin Peterson was less effusive, but said he was "pleased to see that Secretary JOHANNIS included some good ideas in his proposals, even though there are some areas where we disagree," conceding that it was not as bad as he thought it was going to be.

The next important decision-point for the Farm Bill debate will be around budget matters, i.e. how much money is available. Congress is under pressure to reduce overall government spending, which could restrict the funding available to the 2007 Farm Bill. Key budget decisions will be made in March and April. When those decisions have been made, the House and Senate Agriculture Committees are expected to construct Farm Bill legislation in May through July, probably not concluding the process until September or October. Delays in any of these stages are quite possible.

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# Exploding a Myth about Agricultural Subsidies?

Kym Anderson and Will Martin

A December 2006 European Commission newsletter on agricultural trade policy set out to ‘explode the myths surrounding world trade’, including a World Bank finding that market access barriers are an overwhelmingly important source of potential costs from global agricultural trade barriers.

Since negotiators must allocate their scarce negotiating capital between the three different pillars of the agricultural negotiations – market access, domestic support and export competition – this result has potentially major policy implications.

The main argument raised against the widely-quoted World Bank numbers – first publicised by Anderson and Martin in 2005<sup>1</sup> – is that the OECD found market access to be slightly less important than the World Bank<sup>2</sup>, and that the US Department of Agriculture found it to be much less important.<sup>3</sup> The key numbers are presented in the following table showing the shares of the costs of global agricultural distortions resulting from market access barriers, domestic subsidies and export subsidies.

## Results are similar when like is compared with like

Pillar	World Bank	OECD	USDA <sup>a</sup>
	%	%	%
Market access	93	79	89 (54)
Domestic support	5	19	10 (32)
Export subsidies	2	2	1 (14)

<sup>a</sup> Numbers in brackets are the shares of the three instruments’ contribution to depressing international agricultural prices

The numbers in parentheses in the USDA column of the table were the basis for the EC argument.<sup>4</sup> These refer to impacts on world agricultural *prices* of the different policies, unlike the other numbers in the table which relate to their impact on world *economic welfare*. Later

sections of the USDA study provide estimates of the welfare impacts that can be compared directly with the World Bank results. These put the market access gains from eliminating global agricultural tariffs at US\$25.2 billion per year, the gains from eliminating domestic subsidies at US\$2.8 billion, and the gains from eliminating export subsidies at US\$0.25 billion. On a percentage basis, these provide the numbers before the parentheses in Column 3: tariffs account for 89 percent of potential global gains, domestic support for 10 percent and export subsidies for one percent. The 89 percent USDA estimate for domestic support is, from a policy viewpoint, effectively the same as the World Bank estimate of 93 percent reported in column 1. While the OECD number of 79 percent is lower, it still suggests that market access barriers are overwhelmingly important.

Stiglitz and Charlton have surveyed several other model-based studies that also find market access to be overwhelmingly important for global welfare.<sup>5</sup> They, like the World Bank studies, also make the point that abolition of export subsidies actually has negative welfare implications for developing countries. Some of the studies surveyed by Stiglitz and Charlton reach the same conclusion for OECD domestic subsidies.

We think that it is preferable to consider the impact of the policy instruments on welfare, rather than on international prices. Welfare measures take into account the full impact of a policy change on the economy – through changes in the costs faced by consumers, through the net returns to producers, and through changes in government revenues. While world price impacts are important, their effects on various countries’ national economic welfare depend on the situation of the country. Increases in world prices generally make exporting countries better off, while making importing countries worse off. Whatever one thinks on this issue, it is clearly desirable to compare like with like. If you ask a different question, you are likely to get a different answer – but this difference gives no indication that the answer to either question is incorrect.

The result about the importance of market access barriers is not just an artifact of the computable general equilibrium (CGE) models used in these studies. The general point that domestic

subsidies are likely to be much less important than market access barriers was first highlighted by Snape early in the Uruguay Round. He emphasized that subsidies were likely to be much less important than market access barriers because they involve outlays by treasuries and must pass the scrutiny of annual budget reviews, while tariffs usually generate government revenue and are subjected to review much less frequently.

Hoekman, Ng and Olarreaga (2004), used a completely different approach from the CGE models discussed above. They worked with a simple partial equilibrium framework containing extremely detailed information on tariffs, plus official WTO data on domestic subsidies. With this approach, they also established the importance of agricultural market access barriers. Their findings were even stronger than the Anderson and Martin results cited above. They found that reductions in domestic support would yield less than one percent of the gains obtainable from reductions in market access barriers.

Because of the controversy surrounding the World Bank numbers, Anderson, Martin and Valenzuela recently published a study in the WTO’s own refereed journal that was designed to provide more intuition into this repeated research finding.<sup>6</sup> To ensure transparency, they used widely available data and began with an extremely simple back-of-the-envelope model. Their results confirmed the overwhelming importance of market access. The main determinants of their finding were the much greater importance of tariffs as a form of support, and the fact that domestic subsidies distort only production while tariffs distort both production and consumption. While domestic support contributed almost 40 percent of OECD support to *primary* agriculture, it was much less important for the agricultural *processing* activities that are also covered by the WTO negotiations. Further, non-OECD countries provide much less of their support to primary and processed ag-

*Continued on page 6*

riculture in the form of budget-busting domestic subsidies than do OECD countries. Using an extremely simple, back-of-the-envelope model, they found that domestic support would account for only around six percent of the total cost of agricultural distortions.

Despite these results, we are in full agreement with the authors of the EC article that domestic support should not be ignored in the Doha negotiations. Domestic support turns out to be extremely important for some products of great interest to developing countries. This is particularly so for cotton, where Anderson and Valenzuela (2006) estimate that abolishing domestic subsidies on cotton would provide almost 80 percent of the \$147 billion in total welfare gains to Sub-Saharan Africa from cotton market reform. There is also a systemic risk that restraints on market access barriers unaccompanied by restraints on domestic support could lead some industrial countries to replace market access barriers with distorting domestic support.

A better interpretation of the policy message of these results is surely that reductions in domestic support cannot, *alone*, be expected to realise very much of the potential global trade and welfare gains sought from the negotiations, and that improvements in market access are extremely important for a successful outcome of the round.

*Kym Anderson and Will Martin are Lead Economists in the Development Research Group, Trade, at the World Bank.*

### ENDNOTES

<sup>1</sup> Anderson, K., Martin, W. 2005. 'Agricultural Trade Reform and the Doha Development Agenda', *The World Economy* 28(9)

<sup>2</sup> OECD. 2006. *Agricultural Policy and Trade Reform: Potential Effects at Global, National and Household Levels*, OECD. Paris

<sup>3</sup> USDA. 2001. *Agricultural Policy Reform in the WTO: The Road Ahead*. Agricultural Economic Report 802. Washington D.C.

<sup>4</sup> European Commission. December 2006. *Monitoring Agri-Trade Policy*. Brussels

<sup>5</sup> Stiglitz, J. and Charlton, A. (eds). 2004. 'A Development-Friendly Prioritization of Doha Round Proposals', Initiative for Policy Dialogue Working Paper

<sup>6</sup> Anderson, K., Martin, W. and Valenzuela, E. 2006. 'The Relative Importance of Global Agricultural Subsidies and Market Access'. *World Trade Review* 5:1-23. WTO

### ICTSD Commentary

## Market Access and Subsidies: Some further considerations for negotiators

As Anderson and Martin correctly point out in their article (pages 5-6), trade negotiators often have to take difficult decisions on the best allocation of scarce negotiating capital. The choice of whether to focus more heavily on market access or domestic support can be a challenging one. Two further considerations may also affect negotiators' judgment in this area.

The first is related to the difficulty of measuring the impact of the Doha negotiations on market access in developed countries. Tariff cuts made by developed countries will not necessarily translate into increased market access for developing countries, as the latter mostly trade under arrangements established through preferential schemes such as the Generalised System of Preferences (GSP), the EU's 'Everything But Arms' scheme, the Cotonou agreement, the arrangements established under the US Growth and Opportunity Act (AGOA), or through bilateral free trade agreements such as those negotiated between the US and Central American and Andean countries.

In the case of the EU, for example, only a handful of countries in fact trade at most-favoured-nation (MFN) rates. For most developing countries, it therefore remains unclear to what extent the Doha negotiations would effectively reduce market access barriers.

Of course, there is a value in consolidating lower MFN rates at the multilateral level even if this does not result in increased trade opportunities. Trade preferences are granted unilaterally and may be removed at any time. In contrast, binding commitments in the WTO provide the legal security and predictability that exporters and investors often need.

For some countries, however, the benefits associated with the consolidation of MFN rates at lower levels have to be balanced with possible losses to the trade preferences from which they currently benefit. This issue has been raised by several countries from the African, Caribbean and Pacific (ACP) group, many of which are concerned that preference erosion for sensitive commodities such as sugar or bananas might affect their trade performances and export revenues.

Second, it is important to bear in mind the advantages of multilateral negotiations, relative to those in bilateral or regional fora. Historically, most market access increases have occurred as a result of processes such as autonomous liberalisation, structural adjustment policies, or regional trade agreements. The proliferation of bilateral and regional arrangements offers numerous opportunities for countries to reduce tariffs, and several developing countries seem to feel more comfortable doing so through such agreements rather than in the multilateral context. The fact that bilateral agreements provide countries with advantages over possible competitors, in addition to the fact that they allow countries to be selective in choosing the trading partners with whom they cut tariffs, might be an explanation for such trends. In contrast, subsidy reductions can only be negotiated in the multilateral context.

In determining the most efficient use of their limited negotiating capital, therefore, trade negotiators may want to consider the relative merits of different negotiating settings, and focus on the WTO for those benefits which cannot easily be achieved elsewhere.

## Agriculture: Heading Back to the Multilateral Table?

The 'full resumption' of the Doha Round negotiations has not re-energised talks on agriculture as Members appear to be waiting for signs of progress from 'quiet diplomacy' meetings taking place outside the WTO.

Although Members generally acknowledge that high-level contacts between key governments are necessary for a breakthrough to occur, they are increasingly frustrated about the lack of transparency of such meetings. Ambassador Crawford Falconer, who chairs the WTO agriculture talks, said on 23 February that the 'centre of gravity' of the process needed to return to the multilateral level within weeks rather than months. He rejected the notion that a handful of Members' a failure to reach agreement would automatically mean that the talks had broken down. "Success is a multilateral decision; failure's a multilateral decision," he said.

### Consultations on Domestic Support

Ambassador Falconer told the membership that the 20 or so countries that had participated in his 'fireside chats' had focused on two issues: domestic support and sensitive products. On the former, delegates discussed possible disciplines to the proposed formulas for cutting domestic support so as to avoid the concentration of subsidies on just a few products. It has already been agreed that product-specific spending caps will be established for Amber Box subsidies, but what that limit will be is still open. Some Members have also called for caps on individual products that receive less trade-distorting Blue Box support, which already has an overall spending limit. The meeting did not produce tangible results.

Speaking for the G-20 coalition of developing countries, Brazil said that the group's preparation for further negotiations included the position that cuts in domestic support must result in cuts in applied levels, coupled with disciplines by product to avoid concentration and circumvention. On 7 February, the G-20 told the General Council that its preliminary view of the Farm Bill changes proposed by US Agriculture Secretary Mike Johanns (see page 3) was that "the volume of resources still available for trade-distorting programmes is not consistent with the need for effective cuts." However, the group also believed that an ambitious Doha Round result in the domestic support pillar was still possible since it was the G-20's understanding that the Farm Bill would be changed to reflect new multilateral obligations.

### Sensitive Products

According to Mr Falconer, Members seemed unenthusiastic to engage seriously on 'sensitive' products – the subject of his second fireside chat – because they were waiting for the outcome of discussions elsewhere (see page 1).

All WTO Members may shield a number of sensitive products from the formula tariff cuts that will apply to other agricultural goods, but there is no agreement on how many tariff lines a country would be allowed to designate as sensitive. Improved market access must be provided for this category of products through a combination of tariff reductions and quota expansion, but wide differences remain on how great the tariff reduction should be, and on what basis and by how much quotas should be expanded. Some Members are concerned that attempts to broker a deal on agricultural market access might end up with the key players allocating import quotas to specific countries in order to guarantee them a certain amount of export opportunities. They argue that any potential quotas for sensitive products should be open to all WTO Members without discrimination.

Australia said the Cairns Group was preparing a proposal on sensitive products that would include two levels of deviation from the cut that would be required for a given product under the tiered formula, as well as two levels of treatment for tariff quota expansion.

### Other Flexibilities

Sensitive products are one of the three categories of market access flexibilities included in the July 2004 Framework Agreement on agriculture. The other two are available only to develop-

ing countries. They may designate an 'appropriate number' of agricultural tariff lines as 'special' products based on criteria of food security, livelihood security and rural development needs. These products will be eligible for 'more flexible treatment'. Neither the number nor the treatment has been agreed. The third flexibility instrument is a Special Safeguard Mechanism for the use of developing countries.

The US in particular has urged WTO Members to make progress in the defining the scope of these flexibilities, since they have the potential to cancel out market access gains from formula-based tariff reductions.

India stressed that those seeking to link sensitive products with special products were 'barking up the wrong tree' since the rationale for the two categories was different. Most likely referring to US insistence that the agriculture negotiations (and the Doha Round in general) must result real improvements in market access, India also said it could not accept that special products should be liberalised in a way that allows meaningful market access or genuine new trade flows.

Benin welcomed the WTO Director-General's decision to convene a high-level meeting on cotton in mid-March.

### New Chair's Text Expected

In order to provide a basis for further multilateral negotiations, Ambassador Falconer announced his intention to circulate a new paper by late March or early April, reflecting movement since his draft 'possible modalities on agriculture' were released in June 2006. That document made clear the extent differences between Members' positions, and offered no proposals for a possible compromises. Mr Falconer said he hoped that processes outside Geneva would have produced results in time for him include 'the wisdom' of key players in the new text, but told Members that the paper would be circulated even if this were not the case.

## Trade Facilitation

The WTO Negotiating Group on Trade Facilitation met on 31 January for informal consultations on all elements of the mandate to cut red tape and other obstacles to the flow of goods, including special and differential treatment, technical assistance and capacity-building and customs co-operation.

Discussions essentially revolved around 33 'new generation' proposals, much-revised versions of earlier ones that had been refined with the objective of becoming draft text for a potential agreement. One developing country negotiator said that although Members had not yet zeroed in on drafting a text, they would reach that stage between mid-March and the end of April.

Another official highlighted two submissions on how trade facilitation commitments and related technical assistance could be implemented. The first (TN/TF/W/142) came from a 'core group' of 21 small and large developing and least-developed countries. The second was submitted by a 23-member group of developed and developing (TN/TF/W/137)

Both propose textual language and detailed steps for the implementation of trade facilitation obligations, based on a self-assessment of technical assistance and capacity needs, and the provision of aid. The 'core group' proposal also divides provisions into mandatory and 'best endeavour', with some of the mandatory obligations kicking in only after the necessary capacity has been acquired and duly notified to the WTO. The trade facilitation mandate is unique in that Members will not be required to implement commitments unless they receive the technical assistance necessary to do so.

The Secretariat reported that 17 Members had requested needs assessments for technical assistance related to trade facilitation. The EU reportedly agreed to help fund seven regional workshops on the issue.

The next trade facilitation meeting is likely to be held around 12-14 March, but the dates have not been formally confirmed.

## NAMA: State of Suspended Pessimism

The Chair of the WTO Negotiating Group on Market Access for Non-agricultural Products has urged Members to accelerate work on a number of technical issues.

At the conclusion of consultations on industrial tariffs in late January, Chair Don Stephenson said the group was 'back at work – sort of', adding that he liked the description of an unnamed source that the NAMA talks were in 'a state of suspended pessimism'.

The January consultations focused on technical issues, including an update on the verification of Members' calculations of *ad valorem* equivalents (AVEs). *Ad valorem* tariffs are based on the imported good's value (expressed as a percentage), while specific duties are based on volume (US\$100 per tonne, for instance). The AVE calculations of 17 WTO Members have now been verified multilaterally, but the larger question of how specific duties will be reduced is far from resolved.

### Non-tariff Barriers

The group discussed the pros and cons of establishing a mechanism for an expedited resolution of conflicts arising from the application of non-tariff barriers (NTBs), such as technical or sanitary regulations. The two main proposals in this area have been submitted by the EU and the NAMA-11 group of developing countries – Argentina, Brazil, Egypt, India, Indonesia, Namibia, the Philippines, South Africa, Tunisia and Venezuela.

The EU has proposed the establishment of a horizontal problem-solving mechanism, with short timelines and the involvement of a facilitator to assist countries in reaching mutually agreed solutions (TN/MA/W/68/Add. 1). The NAMA-11 has called for the creation of a solution- rather than a rights-based mechanism that would deliver creative and pragmatic results guided by the principle of 'good faith' and conciliatory negotiations (TN/MA/W/11/Add. 8). While Members did not rule out either approach, they expressed concern over possible duplication of regular work undertaken in WTO committees and potential conflicts with the WTO's formal dispute settlement system.

### Treatment of Recently-acceded Members

Both developed and developing countries continue to have serious reservations about recently-acceded Members' (RAMs) demands for longer implementation periods and other flexibilities, such as smaller tariff cuts than those required from other developing countries. The RAMs argue that they are still implementing the extensive concessions required by their WTO accession protocols, and therefore cannot be asked to undertake further commitments so soon after their accession. While many WTO Members are not opposed to according more favourable treatment to the economically weaker RAMs, they are reluctant to extend such preferences to China, which has emerged as the most vocal *demandeur* for exemptions for newly-acceded WTO Members.

### Sectoral Initiatives

Countries that had organised small group meetings on more far-reaching tariff reductions in specific sectors expressed satisfaction over the high attendance and interest shown by participants. Among the issues discussed in those meetings were product coverage and what would constitute a 'critical mass' of participants. The latter issue is of vital importance as the tariff elimination/reduction agreed under sectoral liberalisation deals will apply to all WTO Members, including those that have taken on no special reduction commitments in the sector in question. Among the sectors under consideration are electronics, electrical products and auto parts (led by Japan), chemicals (led by the US), fish and fish products (led by New Zealand) and forest products (led by Canada).

Ambassador Stephenson has proposed holding NAMA sessions once a month, with the next one being scheduled for the week of 26 February.



## No Consensus on Key Issues in the TRIPS Council

February meetings of the Council for Trade-related Aspects of Intellectual Property Rights did little to bridge differences between WTO Members on geographical indications, biopiracy or the enforcement of intellectual property rights.

Members are debating whether to extend the higher level of geographical indication (GI) protection currently accorded to wines and spirits to other products. The EU, India, Sri Lanka and Switzerland called for negotiations to develop an agreement on GI extension. This met with opposition from Argentina, Australia, Canada, Japan and the US, which argued that there was no mandate for doing so. The EU and Switzerland believe that commercial opportunities arising from extending GI protection to products such as ‘Parma ham’ could help compensate their farmers for liberalisation under the Doha Round. Both delegations had already brought up their demands on GIs during a 9 February session of the agriculture negotiating committee, where Argentina questioned why they were even referring to the issue. Argentina, like most ‘new world’ countries, including Australia, Canada and the US, have few well-known GIs and remain adamantly opposed to extension, preferring instead strong protection for registered trademarks.

### Biopiracy

Well-established fault lines also reappeared on the issue of how best to minimise the granting of ‘bad’, or erroneous, patents incorporating naturally-occurring genetic resources without recognition or compensation. Countries including Bolivia, Brazil, China, India and Norway called for negotiations to amend the TRIPS Agreement in order to make it mandatory for patent applicants to disclose the use of any biological resources or associated traditional knowledge in their inventions.

A number of African countries supported the disclosure of origin proposal, and said they were considering becoming co-sponsors.

The drive for a TRIPS disclosure of origin obligation derives from biodiversity-rich countries’ desire to harmonise enforceable internationally binding intellectual property rights with the Convention on Biological Diversity (CBD) requirement that the benefits accruing from the commercialisation of an invention based on genetic resources or traditional knowledge be shared with the community at the origin of the resource or knowledge regarding its use.

A number of countries, including Argentina, Australia, Canada, Japan, New Zealand, South Korea and the US maintain that there is no conflict between the CBD and the TRIPS Agreement, which makes an amendment of the latter unnecessary. The proponents of this view again told TRIPS Council that negotiations on an amendment would be premature in view of the lack of consensus on its usefulness. The EU reiterated its position that the TRIPS Council was not the appropriate forum for discussing the issue, which should rather be debated at the Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore of the World Intellectual Property Organisation (WIPO).

### Enforcement Continues to Stir Controversy

Members considered a new US submission on enforcement of TRIPS obligations (IP/C/W/488). Originally introduced by the EU, the issue divides Members among those that support implementing effective measures to enforce IPRs at the international and regional levels as well as multilateral discussions at the WTO, and those that feel the issue belongs at the national level.

The US paper highlighted its experience in IPR-related border enforcement. The paper acknowledged that the TRIPS Agreement gave Members the flexibility to determine appropriate means for implementing enforcement measures, but said the purpose of the submission was to contribute examples of tools that the US had found useful in the context of its activities seeking protection against IPR infringement, with a view to promoting international co-

operation and information exchange. After presenting figures on the increasing number of pirated products at US borders, the paper provided examples of risk analysis methods, as well as on post-entry verification, where auditors review companies’ financial records to identify potential IPR violations.

A number of developing countries, led by China, expressed opposition to making enforcement a permanent agenda item for the Council. China noted that there was no mandate in either the TRIPS Agreement or the Doha agenda to pursue such work, and that a discussion on the topic would not be helpful in advancing other agenda items currently under negotiation or review.

China, Argentina, Brazil, Cuba, India and South Africa underlined the importance of Members’ freedom to determine the appropriate means of IP enforcement, and the need to consider enforcement issues in conjunction with TRIPS provisions on the non-discrimination obligation and the need to avoid the creation of unnecessary trade barriers. In addition, they cautioned against duplication of work already carried out by the World Customs Organisation and WIPO.

Australia, Canada, El Salvador, Japan, the EU, New Zealand and Switzerland supported increased exchange of information on domestic IP enforcement practices.

### The Way Forward

Informal discussions are underway between intellectual property negotiators from individual delegations to determine how best to proceed.

WTO Deputy Director-General Rufus Yerxa will hold further consultations on GI extension. Ambassador Trevor Clarke is set to chair talks on the closely related topic of the review of the application of the TRIPS Agreement’s provisions on GIs. Members currently disagree on whether the review should be based on the individual TRIPS provisions or on their reactions to a WTO questionnaire.

## Disputes in Brief

Thailand may resort to WTO dispute settlement if Australia adopts stringent new risk management measures on imported shrimp. Imports would need to (i) be sourced from a country or zone that is free of diseases caused by four different viruses and one bacteria, or; (ii) have the head and shell removed and each imported batch held on arrival in Australia under quarantine control and tested and found to be disease-free, or; (iii) be highly processed into food products such dimsums, spring rolls or samosas; or (iv) cooked in premises approved by and under the control of the Competent Authority until no uncooked meat remains and the core temperature of the prawn or prawn product reaches 85°C.

According to Australia these measures are necessary to prevent outbreaks of disease in domestic farm, hatchery or wild shrimp through three main pathways, i.e. diversion of imported shrimp intended for human consumption for use as feed for Australian crustacean broodstock; disposal of solids and liquid waste from commercial processing of imported prawns, or; diversion of imported prawns for use as bait for recreational fishing.

Thailand considers the measures too stringent in relation to the risk and intends to bring the matter to the attention of the Committee on Phytosanitary and Sanitary Measures (SPS). Thai and Australian officials are also discussing the issue bilaterally. If these efforts fail, Thailand is likely to request a WTO dispute settlement panel.

Under the SPS Agreement, WTO Members are allowed to set a standard of human and plant protection that they consider 'appropriate', but any trade restrictions must be backed by a scientific risk assessment and only applied to the extent necessary to attain the stated goal. Previous SPS disputes included the Beef-Hormones case lost by the EU, a successful challenge of Japan's testing requirements for imported apples and the salmon dispute lost by Australia in 1998. In the latter case, Australia had banned imports of fresh or chilled salmon, allegedly to protect domestic fishstocks from diseases.

## US Challenges China's Subsidies

The United States has initiated dispute settlement proceedings against China over the latter's use of subsidies in the production and marketing of manufactured goods.

Back in October 2006, the US and the EU expressed serious concern over the fact that China's first-ever WTO notification of subsidies granted to the industrial goods sector did not include any information on support provided by local and provincial authorities. They gave several examples of such support, including export-contingent tax breaks and loans (Bridges Year 10 No.7 page 8).

The 7 February 2007 US dispute settlement claim lists a large number of schemes and regulations that according to the complainant "appear to provide refunds, reductions or exemption to enterprises in China on the condition that those enterprises purchase domestic over imported goods, or on the condition that those enterprises meet certain export performance criteria" (WT/DS358/1). These measures, the US alleges, are prohibited under Article 3 of the Agreement on Subsidies and Countervailing Measures, as well as the national treatment principle of the GATT, which commits WTO Members to treat 'like' domestic and imported products equally favourably. Many sectors of Chinese manufacturing benefit from WTO-inconsistent support, the Office of the US Trade Representative maintains, singling out steel, wood and paper.

The two sides have until early April to settle the case through consultations. If they do not reach agreement, the US may request the establishment of dispute settlement panel to rule on the matter. Australia, the EU and Japan have joined the dispute as a third parties.

### Pressure for More Cases Mounts

USTR faces intense demands from business lobbies and politicians to file more WTO cases against China. Two issues stand out in particular: the low exchange rate of the yuan and China's compliance with, and enforcement of, intellectual property rights obligations. Among those most concerned are the entertainment industry and manufacturers of high-end brandname consumer goods. The administration recognises that IP infringements are serious and the yuan undervalued, but has so far chosen exert bilateral pressure on these issues, as well as vowed to pursue its quest to expand the coverage of prohibited subsidies in the Doha Round negotiations on WTO rules.

### China May Lower Steel Tax Refunds

Chinese authorities expressed regret that the US had chosen to initiate a WTO dispute while bilateral discussions were still underway between the two countries. Some indications of a potential compromise have already emerged. According to reports published in Chinese media in mid-February, the government is considering the removal of VAT refunds for steel exports. The eight percent rebate on low-end products would be eliminated and the 13-percent rebate on other steel exports would be brought down to five percent.

### Car Part Ruling Expected in Late April

In the only WTO dispute involving China to have progressed beyond the consultation stage to date, Canada, the EU and the US in September 2006 requested a panel to determine whether China's car part tariffs violated WTO rules on trade-related investment measures and industrial subsidies. The main point of the complaints is that China levies different tariffs on foreign car parts: the basic ten percent tariff rises to 25 percent if imported parts make up more than 60 percent of vehicle made in China, which according to the complainants gives local manufacturers an incentive to favour domestic components over imported ones, as well as encourages foreign car part producers to relocate in China (Bridges Year 10 No.6 page 6). On 19 January 2007, the WTO Director-General appointed the three panelists who are to hear the case. The parties are to submit their first written arguments in March and the final ruling is expected in December 2007.

## Canada Attacks US Corn Support

Canada has challenged US corn subsidies at the WTO with arguments similar to those successfully used by Brazil in the cotton dispute.

The first part of Canada's request for dispute settlement consultations enumerates subsidies and support programmes available to the US corn industry under the 2002 Farm Bill, such as marketing loan payments (including marketing assistance loans, marketing loan gains, loan deficiency payments, commodity certificates, commodity certificate exchange gains and commodity loan interest subsidies), direct payments and counter-cyclical payments, and any other provisions of the 2002 Farm Bill that provide direct or indirect support, as well as corn export credit guarantees provided under the *Agricultural Trade Act of 1978*. According to the complainant, these and other measures have caused significant price depression for the Canadian market between 1996 and 2006.

The measures at issue in the second part cover favourable export credit rates and other terms more favourable than the market would otherwise provide not only for corn, but also other agricultural products. Canada contends that these programmes provide export-contingent subsidies in violation of the WTO Agreement on Subsidies and Countervailing Measures.

And finally, in the third part of its submission, Canada argues that the US exceeded its annual trade-distorting domestic support spending limit (US\$19.1 billion) in 1999, 2000, 2001, 2004 and 2005 by incorrectly excluding production flexibility contract payments, direct payments, market loss assistance and counter-cyclical payments from its Aggregate Measure of Support. Although direct payments decoupled from production requirements are generally considered Green Box measures, the cotton panel ruled that this was not the case for the US because the payments were only available to the producers of certain crops, and explicitly excluded fruit and vegetable growers (Green Box spending is currently unlimited under the WTO Agreement on Agriculture). The crops that have benefited, and continue to benefit, from the support measures cited in this section of the complaint include wheat, corn, grain sorghum, barley, oats, upland cotton, rice, soybeans and other oilseeds.

If the two sides cannot reach agreement by the second week of March, Canada can request a dispute panel. A number of analysts believe, however, that the challenge is more geared toward influencing the ongoing Farm Bill debate in the US than to obtaining a WTO ruling on the case, at least in the short term. Argentina, Australia, Brazil, the EU, Guatemala, Nicaragua, Thailand and Uruguay have joined the consultations as third parties.

### Farm Bill Targeted

When announcing the WTO action on 8 January, Canada's Minister of International Trade David Emerson expressed his government's hope to "see the US live up to its WTO obligations, particularly given that it has the opportunity to do so when it rewrites its Farm Bill this year." US Agriculture Secretary Mike Johanns vowed to vigorously defend US farm programmes at the WTO although he has repeatedly warned that some domestic support programmes must be modified to avoid more disputes that the US could lose. Indeed, the new bill proposed by Secretary Johanns would steer counter-cyclical payments away from supporting prices by linking them to farmers' incomes instead. It also proposes an increase in non-product-specific direct payments and includes fruit and vegetable growers in the scheme (see page 3).

A USTR spokesperson expressed surprise over Canada's allegation that US corn programmes were causing harm in breach of WTO rules given the dramatic improvement in the market over the last year. However, in a report prepared by the US Congressional Research Service, agricultural policy specialist Randy Schnepf notes that "current market conditions are unlikely to influence any WTO investigation (should the case reach that point) since Canada is specifically challenging US subsidies for the period 1996 through 2006 when corn prices were substantially lower."

## Disputes in Brief

On 15 February, the panel examining US compliance with WTO rulings on its internet gambling restrictions handed its findings to the governments of Antigua and Barbuda and the US. Although the report remains confidential until it is formally circulated in late March, US Trade Representative spokeswoman Gretchen Hamel has confirmed that the panel "did not agree with the United States that we had taken the necessary steps to comply" with a WTO ruling that the US was not granting full market access in gambling and betting services. Nevertheless, she said the US believed the ruling only applied to 'a narrow issue of federal law' concerning horse racing, and did not question the US right to prohibit remote interstate betting services in order to protect public order.

In April 2005, the Appellate Body ruled that the US could exclude internet betting services from its general GATS commitment to open 'recreational services' to foreign competition on the grounds of upholding public morals. It did, however, fault the US for a discriminatory application of the prohibition since domestic service providers could supply certain remote betting services under the Interstate Horse Racing Act (Bridges Year 9 No.4 page 13). The US subsequently said it needed to take no action to comply with the ruling as all interstate transmissions of bets or wagers, including those under the Horse Racing Act, were in fact already prohibited under existing criminal statutes.

Antigua and Barbuda contended that this was merely a restatement of a position taken by the US during the dispute and could not be considered as a 'measure taken to comply with the recommendations and rulings' of the DSB. The tiny island country also maintained that no domestic remote gambling and betting service providers had been prosecuted under the Horse Racing Act. In September 2006, the US adopted new legislation that prohibits US banks/companies from processing credit card payments to internet gambling sites.

# Towards Improved Negotiating Modalities in Services Trade

Pierre Sauvé

Although services have been relegated to a secondary role in the Doha Round talks for the moment, Members may want to start reflecting on how to impart greater momentum to the market access dimension of the services negotiations.

Many have expressed alarm at the lack of engagement of WTO Members in the Doha Development Agenda (DDA) services negotiations. There are doubtless several reasons for this, starting with the generally desultory progress registered elsewhere in the negotiations, particularly in agriculture, which is by all accounts the defining issue of the Doha Round and the one most likely to make or break the development dimension woven into it. The ‘agriculture comes first’ aspect of the DDA has quite naturally relegated services to a secondary role, with many leading developing countries – those with arguably most at stake (i.e. those emerging countries with most to gain but also the most to offer by way of new or improved market access commitments) in services and the DDA more generally – holding back until developed countries show their hands in farm trade.

Experience suggests that it would be a mistake to read too much into such an account of the current state of play of DDA talks in services, as cross-sectoral considerations tend to weigh more heavily in the final stages of multilateral negotiations.

Faced with an outstanding rule-making agenda on services – the so-called ‘unfinished agenda’ on domestic regulation, emergency safeguards measures, subsidies and government procurement in services – that has to date revealed few notable signs of DDA-induced progress, a number of proposals have been made to impart greater momentum to the market access dimension of negotiations under the GATS.

## **Bilateral Request-Offer Process Now Seen as Inoperative**

A major reason for such a push is the growing realisation that the current bilateral request-offer approach is largely inoperative. For lack of any credible alternative, and drawing on mercantilistic reflexes long-honed in goods negotiations, the bilateral request-offer approach was adopted in the Uruguay Round as the main negotiating method for services.

At the WTO’s Hong Kong Ministerial Conference in 2005, discussions on the idea of conducting, where practicable, negotiations on a plurilateral basis revealed a paradoxical – if largely tactical – aversion of developing countries to considering alternatives to the current bilateral approach.

The paradox lies in the fact that the bilateral request-offer approach is clearly much more taxing for developing countries than it is for developed countries. This is so given the considerable resources and time it consumes, the limited number of developing country services experts available for bilateral discussions in Geneva missions and in capitals; the negotiating imbalances that flow from the limited ability of most developing countries to formulate their own requests; significant asymmetries in negotiating-relevant information available to policy officials; and the more limited extent of stakeholder consultations and private sector engagement – and presence abroad – of service suppliers from developing countries. The extensive inter-agency coordination and external stakeholder consultation machinery required to make a success of services negotiations is simply lacking or inoperative in the vast majority of developing countries. Not surprisingly, all of the above factors tend to interact in ways that produce least common denominator, precaution-induced, outcomes at the negotiating table.

Such a stalemate, in turn, complicates attempts at marshalling corporate interest in multilateral negotiations, and tends to shift incentives towards bilateral or neighbourhood responses in the form of preferential trade agreements, many of which have tended of late to be highly asymmetrical in content.

There has long been a strong case for complementing the current bilateral request-offer approach, which may still be of relevance for countries with highly specific offensive or defensive interests, with collective approaches to negotiations. In a world of unequal bargaining power, plurilateral or multilateral approaches, which must however be equitable by targeting areas of common interest in a flexible manner, are likely to yield a more desirable outcome than bilateral negotiations.

Such approaches are also likely to economise on the scarcest of commodities: time and human resources, and afford developing countries significant economies of scale in negotiating efforts. Avoiding sector-by-sector and country-by-country bartering of commitments can indeed substantially reduce the transaction costs of services negotiations.

## **Towards Formula-based Negotiating in Services?**

Most formula proposals advanced to date in the DDA centre on the idea of ratcheting up the overall level of bound commitments under the General Agreement on Trade in Services (GATS). The simplest approach would be horizontal in nature and consist of defining a percentage of service sectors to be covered by binding commitments and/or the number of sectors subject to full market opening (i.e. with no restrictions on national treatment and market access). While such an approach can doubtless prove attractive, one can easily see how it could translate into commitments in sectors that are less commercially meaningful – for instance in regard of Mode 2 trade (movement of consumers) – for the sake of meeting a quantitative threshold.

Quantitative assessments of offers or numerical targets, which some WTO Members had espoused earlier in the DDA as one way forward in the services market access negotiations, have thus quite sensibly been discarded as unhelpful distractions because even the best avail-

able methods of quantifying barriers to trade are widely viewed as inadequate. At best, it could be possible to measure differences in the sectoral coverage of commitments, possibly weighted by some measure of the level of openness. Reaching agreement on any such target, however, would be extremely difficult and consume negotiating time and energy that are in short supply.

The Hong Kong Ministerial decision to supplement bilateral request-offer discussions with plurilateral negotiations (collective requests) whose results would then be extended to all WTO Members on an MFN basis appears as a more constructive alternative. Such an approach primarily involves coalitions of Members, akin to the numerous ‘friends’ groups that already exist under the GATS, to propose a set of negotiating objectives in a given sector or in a cluster of sectors.

The building blocks of model schedules are relatively straightforward, and some have already been proposed for specific modes. Such objectives can be outlined in schedules similar to the Understanding on Commitments in Financial Services agreed in 1997 or the Model Schedule for Maritime Transport advanced by a number of WTO Members in the DDA. They might also take the form of a set of additional regulatory disciplines, as was done successfully in the Telecommunications Reference Paper appended to the 1997 Agreement on Basic Telecommunications. The latter approach would likely be required should market opening discussions intensify in other network-based industries, such as energy or environmental services.

### The Need for Development-friendly Clusters

Two clusters around which ‘friends’ groups have emerged and which would appear to show significant promise from a development perspective are those relating to computer-related services and logistics. Both, as it happens, relate closely to – and usefully complement – recent or ongoing negotiating efforts in goods trade. In so doing, they recall the close linkages that exist between goods and services in a globalising environment and the need to pursue negotiated strategies that relate more closely to the integrated manner in which firms and markets operate in the global marketplace.

The cluster on computer-related services could thus be crafted as a GATS complement to the highly successful 1997 Information Technology Agreement, and would seek to address a range of policy challenges arising with greatest intensity at the interface of Modes 1, 2 and 4.<sup>1</sup> It would provide a vehicle for WTO Members to maintain the currently relatively open and benign trading environment governing remotely supplied services (e.g. e-commerce) whilst also providing a means to contain nascent forms of protectionism in regard to business process outsourcing while also facilitating the temporary business travel of a dedicated category of skilled professionals in the sector.

For its part, the cluster on trade logistics should be designed as the GATS complement to the ongoing DDA discussions on trade facilitation under the GATT. Services make up the bulk of what is ultimately involved in shipping goods across borders and bringing them to market, from warehousing to customs brokering, freight-forwarding, port and airport management services; inspection services; express delivery and distribution services. This continuum provides a ready platform within which WTO Members can address key border infrastructure bottlenecks by engaging in selective, progressive, liberalisation across a wide range of sectors. The scope for parallelism between the GATS and GATT negotiations is all the greater as talks on trade facilitation have generated significant policy interest among all WTO members over the course of the DDA.

Any particular WTO Member’s incentive to participate in a given negotiation, be it bilateral or plurilateral, will essentially depend on the willingness of its trading partners to make commitments in modes and sectors in which the member has an export interest, both within and outside services. A reformed negotiating method can help, especially if it chips away at the tendency for negotiating bargains to be sought along mutually exclusive sectoral lines, but ultimately members will need to make the hard political bargains necessary for a successful outcome.

### Binding the Status Quo?

Yet another way of enhancing the liberalisation payoff of the GATS would be for WTO Members to strive to lock in the regulatory status quo in sectors in which they continue to voluntarily choose to schedule commitments. Without changing the ‘hybrid’ way in which liberalisation commitments are scheduled under the GATS, such an approach would aim to approximate the nature (i.e. generally status quo) and greater transparency of commitments made in the vast majority of regional trade agreements that follow a negative list approach to market opening.<sup>2</sup>

Doing so would reduce what in some instances are significant gaps between the actual level of market access afforded under domestic laws and regulations and the lower level of access provided under existing GATS commitments. The decision to allow WTO Members to schedule commitments below the regulatory status quo was taken in the Uruguay Round, replicating in services trade the mercantilistic instincts long practiced for tariff negotiations in goods trade. In the Uruguay Round, only developing countries availed themselves of such flexibility, as the norm for OECD countries (and subsequently for acceding countries) has been to lock in the prevailing level of market openness in their GATS commitments.

Closing the gap between applied and bound regulation would arguably increase the predictability and transparency of host countries’ services regimes, contributing in the process to enhancing their investment climates. Such an outcome could either proceed from an informal understanding among GATS members or be anchored in a more formal modification of the rules governing the scheduling of market access and national treatment commitments under the agreement.

### Towards a Transparency Undertaking?

Most developing countries appear unwilling to break with past practice as regards GATS negotiating modalities. Accordingly, a softer variation to the proposal outlined above might need to be considered whereby WTO Members would continue to schedule commitments on a hybrid basis while

*Continued on page 14*

agreeing to prepare non-binding lists of non-conforming measures affecting trade and investment in services for purposes of transparency.

Developing countries, and especially least-developed countries, should be given more time and appropriate technical assistance in preparing such lists, even if these are non-binding in character. As noted earlier, a large and growing number of WTO Members have already assumed such binding obligations under preferential trade and investment agreements operating on the basis of negative listing.

Such a ‘transparency undertaking’ could serve several good-governance-promoting purposes. It could help countries assess their regulatory regimes and identify regulatory or institutional deficiencies that need technical assistance; benchmark domestic regimes against best international or regional practice; identify policy objectives that may be achieved in a less trade- and/or investment-restrictive manner; identify sectors where the need for restrictions remains a national policy imperative; allow for the rank-ordering of impediments by sector, country, region and mode of supply for purposes of future negotiations; help in the formulation of possible new negotiating formulas; and provide the trade and investment community with a comprehensive reading of regulatory requirements and restrictions in foreign markets.

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### ENDNOTES

<sup>1</sup> Mode 1 of refers to cross-border trade where a consumer receives a service from abroad; Mode 2 refers to the receiver going abroad to consume a service; Mode 3 refers to a company’s commercial presence in a foreign country, and; Mode 4 refers to an individual providing a service within a foreign country.

<sup>2</sup> Under a negative list approach, all services and modes of supply are considered open to all parties to the agreement unless they are specifically listed as exceptions to this underlying premise.

## WTO Members Divided Over Services

An ‘informal’ cluster of services meetings concluded on 2 February with mixed reactions to a call for Members to start preparing improved services offers.

The discussions came at a time of increased focus on the services negotiations. In remarks to an informal heads-of-delegation meeting on 31 January, WTO Director-General Pascal underscored the need to ensure that the negotiations in the services sector “do not lag behind agriculture and NAMA [non-agricultural market access].”

The EU and the US had made precisely this point to Mr Lamy prior to the 27 January ‘mini-ministerial’ meeting in Davos. The two economic superpowers led other services *demandeurs* in emphasising the importance of substantial services liberalisation as an integral part of an overall Doha Round market access package. In anticipation of the extent of work required in the event of a breakthrough in agriculture and NAMA negotiations, they called upon other Members to put more effort into fleshing out commitments in services trade.

However, one observer noted that the US and the EU did not appear to have given Members a clear idea of what would be entailed by the substantial outcome they referred to. Developing country *demandeurs* like Mexico and India were far more explicit in identifying the improved commitments they seek as key ingredients of a services deal, specifically referring to the cross-border supply of services (mode 1 under the GATS), labour mobility (mode 4) and disciplines on domestic regulation. However, some developing countries led by Argentina cautioned against trying to move the services talks forward too quickly, without any indications about the parameters of a possible agreement on agriculture and NAMA. While Brazil said it did not share the view that services talks were lagging behind the two other key pillars of the negotiations, it noted that an indicative timeline for the submission of revised market access offers could be useful.

At the 2 February meeting, Chair Fernando de Mateo announced his plan of holding ‘high-level’ substantive discussions involving ambassadors and deputies of key developed and developing countries in the next few weeks, with a view to establishing the possible contours of an eventual services package. These discussions are intended to lead to a ‘high-level’ meeting of the Council for Trade in Services, which will be the highlight of a ‘mini-cluster’ of services meetings the chair has scheduled for the week of 26 February. Some delegates expect that the process leading up to that meeting will provide a sense of direction on the timing for the submission of revised liberalisation offers.

The ‘mini-cluster’ is expected to focus primarily on the non-market access aspect of the negotiations, i.e., disciplines on domestic regulation and GATS rules relating to an emergency safeguard mechanism, subsidies disciplines and government procurement in services. There will also be an informal meeting dedicated to finding ways to effectively operationalise the modalities for the special treatment of least-developed countries. While the mini-cluster is not intended to cater to request-and-offer negotiations on market access, many predict that interest-specific ‘friends groups’ will hold informal meetings. A more conventional two-week cluster of services meetings has also been scheduled for the second half of March.

### Industry: No Deal Without Real New Services Market Access

In related news, representatives of the Global Services Coalition emphasised on 21 February that a breakthrough must occur simultaneously in services, agriculture and NAMA. A delegation of the industry group met with trade negotiators from a number of countries in Geneva to deliver the message that simply binding current market access commitment would not suffice. David Snyder, Vice President of the American Insurance Association, told journalists that without a positive result in services, even a good deal in agriculture and NAMA would not produce a political success – at least in the United States – either in terms of Congressional renewal of the President Bush’s trade promotion authority or approval for a final Doha deal.

# India's Patent Act on Trial

Tahir Amin

In May 2006, Novartis challenged India's standard for patentability of an invention as being unconstitutional and not in compliance with the WTO's TRIPS Agreement. The outcome of the case is likely to have major implications for many developing countries.

The challenge is significant on two counts. The key issue in the case goes to the root of how flexible TRIPS is when countries attempt to set stricter patent standards for the purpose of safeguarding public health, socio-economic and technological development. The other issue of note is that the challenge against a Member state's implementation of TRIPS was brought by a non-state actor in a domestic court rather than at the WTO.

## Background

On 1 January 2005, India was required to come into compliance with the TRIPS obligation to introduce patent protection for pharmaceutical products. One of the key issues during the legislative process on creating a TRIPS-compatible patent regime was the 'evergreening' of pharmaceutical product inventions and its potential impact on affordable access to medicines. After intense debate, the Indian government elected to set out a stricter standard of patentability than international norms: under Section 3(d) of the Patents Act, the mere discovery of a new form of a known substance would not be considered an invention unless a significant difference in properties – resulting in an enhancement of efficacy over the known substance – could be shown (see box).

Despite the legislative debate in Parliament, the application and scope of the newly established S3(d) was not defined. That task was left to the Indian Patent Office in Chennai. The opportunity to put the provision into practice duly arose following pre-grant oppositions<sup>1</sup> filed by generic companies and a cancer patients group against Novartis's patent application for the leukemia drug Gleevec/Glivec. Novartis's application was rejected on the grounds that the claimed subject matter was anticipated and obvious in the light of prior art, but also because it was only a new form of known substance which did not show any enhancement of efficacy.

## The Novartis Claim

Novartis has not only challenged the patent office's decision; it has also taken the bold step of challenging the validity of S3(d) in the face of the TRIPS Agreement and the Indian Constitution. Its main contention is that the provision flouts the requirements of TRIPS Article 27, which Novartis believes requires Members to provide uniform standards of patentability without discrimination as to the subject matter. In addition, Novartis is claiming that S3(d) is unworkable and ambiguous as the Act not only fails to define what amounts to efficacy, but also that discoveries of new forms of known substances require human intervention and an inventive step.<sup>2</sup> Accordingly, such new forms are inventions and should not be subjected to a test of efficacy.

### Section 3 of the Indian Patents Act

The following are not inventions within the meaning of this Act:

Section 3(d): *'The mere discovery of a new form of a known substance which does not result in the enhancement of the known efficacy of that substance or the mere discovery of any new property or new use for a known substance or the mere use of a known process, machine or apparatus unless such known process results in a new product or employs at least one reactant.'*

*'Explanation – For the purpose of this clause salts, esters, ethers, polymorphs, metabolites, pure form, particle size, isomers, mixtures of isomers, complexes, combinations and other derivatives of known substance shall be considered to be the same substance unless they differ significantly in properties with regard to efficacy.'*

## A Valid Challenge?

Novartis's decision to challenge the validity of S3(d) and India's right to use the Article 27 ambiguities when defining what is an invention is questionable. Although TRIPS provides minimum standards for the criteria Member countries must meet in determining the patentability of a product, its negotiation history suggests that they are not required to create uniform and harmonised patent regimes. The lack of a definition of what an invention is for the purpose of TRIPS compliance suggests that Members have some degree of flexibility for defining the term. Indeed, varying standards already exist for the granting of patents in WTO Member countries.

More significantly, the argument that S3(d) discriminates against subject matter and is not TRIPS compliant is also misleading. When read closely, S3(d) not only permits the granting of pharmaceutical product patents, but also new forms of known substances provided the required standard of efficacy can be shown. The fact that Novartis has chosen to cite the recent report of the government-appointed Technical Expert Group on Patent Law Issues, otherwise known as the Mashelkar Committee, as support for its case against S3(d) is to misunderstand the ambit and findings of the report.<sup>3</sup> The committee was asked to determine whether, in addition to S3(d), it would be TRIPS compliant to limit the grant of patents for pharmaceutical substances only to new chemical/medical entities involving one or more inventive steps.

However, where Novartis's challenge may succeed is in helping to interpret and set the standard for determining what amounts to a 'significant difference in properties with regard to efficacy' and an 'enhancement of efficacy'. The provision currently lacks any guidelines from the patent office.

It also remains to be seen whether the High Court of Chennai has the authority to de-

*Continued on page 16*

cide on S3(d)'s compliance with TRIPS and suggest its removal or re-drafting. Novartis could be told that Indian courts are not the appropriate forum for challenging India's implementation of TRIPS. However, that could leave private actors like Novartis in the cold as the WTO's dispute settlement procedures are designed only for Members to bring actions against other Members.

### The Potential Impact

Following the challenge, the future of S3(d) is uncertain and it could be some time yet before its fate is decided, most likely by the Indian Supreme Court. However, the outcome of the case could impact more than just one provision in the Patents Act.

Should Novartis succeed, the removal of S3(d) could have a significant impact on how patents are granted for pharmaceutical products in India given that many of the mailbox applications and indeed pharmaceutical products being filed for today, including by Novartis<sup>4</sup>, are salts, esters, polymorphs, derivatives and combinations of known substances. As a result, any change in the law could also weaken the pre-grant opposition procedure. This would inevitably lead to a number of potentially non-meritorious patents on essential medicines being patented and the decline of affordable generics for such products.

A decision in favour of Novartis would also raise the question of whether Novartis will then allow companies that were already producing generic versions of Gleevec prior to 1 January 2005 to continue provided they pay a reasonable royalty as permitted under Section 11A(7). Or will Novartis seek to challenge this provision as well?

It would also send a warning to other developed and developing countries, such as the Philippines, which might be seeking to rely on S3(d) as a model for the implementation of more public health-friendly patent laws.<sup>5</sup>

On the other hand, if the Indian courts reject Novartis's challenge and provide guidance on how S3(d) should be interpreted in light of the Parliament's intention for the provision, it could spell the beginning of a change in an ailing patent system and a flexible TRIPS Agreement.

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### ENDNOTES

<sup>1</sup> Section 25(1) of the Indian Patents Act permits any person to submit a representation of opposition anytime before the granting of a patent on the grounds of novelty, inventive steps and exclusions from patentability, including S3(d).

<sup>2</sup> The patent office held that an increase in 30 percent bioavailability over the free base imatinib did not meet the requirement of efficacy. However, the Patent Controller omitted his reasons from the decision as to why this was the case. As a result Novartis has also challenged the Indian Patent Office's interpretation of efficacy.

<sup>3</sup> The report of the Technical Expert Group – set up to answer two questions raised in the legislative amendment debate, one being the limiting of patents to new chemical entities – has been much criticised for its lack of reasoning and analysis of submissions made by various experts on why TRIPS Article 27 could be interpreted as allowing patents to be granted only to new chemical entities.

<sup>4</sup> For pending patent applications published for opposition and grant by the Indian Patent Office, see <http://india.bigpatents.org/>

<sup>5</sup> The Philippines is currently debating an amendment to its patent laws and has included a mirror provision of S3(d) in its draft.

## Novartis Under Pressure

The dispute has aroused intense interest worldwide. More than 300,000 people have signed a petition urging Novartis to drop the case. The People Before Patents campaign led by the Nobel Peace winner Médecins sans Frontières emphasises that millions of people around the world rely on affordable medicines produced in India. Among the signatories are Archbishop Emeritus Desmond Tutu, former UN Special Envoy for HIV/AIDS in Africa Stephen Lewis and Dr Michel Kazatchkine, the new head of the Global Fund to Fight AIDS, Tuberculosis and Malaria. Former Swiss President Ruth Dreifuss, who chaired the 2004-2006 WHO Commission on Intellectual Property Rights, Innovation and Public Health, has called on Novartis to discard the wider challenge against Section 3(d) and focus court action on just determining whether the Glivec patent does in fact fulfil recognised criteria for patentability. Five members of the European Parliament have issued a declaration calling on the European Commission to request Novartis to withdraw its complaint. EU Trade Commissioner Mandelson said the Commission was following the case closely and would take a position should that become necessary.

Novartis, on the other hand, argues that the dispute is not about generics versus patents, but about the reasons why “a patent for Glivec – granted in nearly 40 countries, including China – was denied in India in 2006.” Novartis claims that 99 percent of the people treated by Glivec in India receive it free from the company, and that generic versions of the drug would “remain on the market in India regardless of the outcome of this legal action.” The company insists it fully supports the flexibilities that now exist for granting compulsory licenses for public health reasons, and poor countries' right to import generics manufactured in another country under compulsory license. Nevertheless, Novartis maintains that patent protection is essential to create incentives for the development of innovative medicines, and “that Indian patent laws do not comply with the intellectual property standards the country agreed to when it joined the WTO in 1995.”



## Thailand Continues the Battle for Cheaper Drugs

The Thai government may allow generic production of more than a dozen patented medicines unless companies substantially lower the price of their brandname products. Three compulsory licenses for domestic production and import have already been issued.

Thailand's Ministry of Public Health has set up a panel to review whether compulsory licenses should be granted for at least ten patented drugs in addition to the three issued in November 2006 and January 2007 (see below). According to reports in Thai press, these could include medicines to treat diabetes, cancer, cholesterol-related diseases and possibly some antibiotics, but health officials have not confirmed the exact number or the names of the drugs under consideration. Public Health Minister Mongkol na Songkla told the Thai News Agency on 13 February that no compulsory licenses would be issued in the near future, and that the ministry hoped that brandname pharmaceutical manufacturers would engage in a dialogue with the government over a long-term strategy for public access to quality medical treatment. If companies brought prices down, Thailand would not "have to enforce compulsory licensing because we honestly don't want to," he said.

### Kaletra, Plavix Targeted

On 29 January, the Thai government granted compulsory licenses for the AIDS drug Kaletra (lopinvir/ritonavir) manufactured by Abbot Laboratories and Plavix (clopidogrel bisulfate), a blood thinner used to treat heart disease, jointly marketed by the US-based Bristol Myers Squibb and France's Sanofi-Aventis. Generic copies of these would at least initially be imported from India.

The decision to produce generic Plavix without the rightholder's consent was somewhat unusual as most compulsory licenses are granted for medicines that treat epidemics rather than non-communicable diseases. Thai health officials say that only 20 percent of the 200,000 patients that need Plavix – the world's second best-selling drug in 2005 – currently receive it. Generic production would cut the price per tablet more than ten-fold from about US\$2.06 to 18 cents. Bristol Myers Squibb has not publicly commented on the case.

Abbott, however, said in a statement that it did not view the decision to issue a compulsory license for Kaletra 'as legal or in the best interest of patients'. Nevertheless, the company swiftly entered into negotiations with the Thai Ministry of Public Health and was reported by Thai press to have offered on 8 February to lower the price of Kaletra from US\$347 a month per patient to US\$167. This is still considerably higher than the US\$120 Indian generic manufacturers charge for a month's lopinavir/ritonavir treatment, and discussions reportedly continue between Abbott and Thai authorities on a further price reduction. In 2005, Abbott agreed to cut its Kaletra price for Brazil rather than face a compulsory licence.

### Merck to Lower Price

In November 2006, Thailand issued a compulsory license for the AIDS drug efavirenz, under which it intends to first import a generic version of the medicine from India and later manufacture it locally (Bridges Year 10 No.8 page 16). Patented efavirenz is marketed by Merck & Co as Stocrin, and a month's treatment cost around US\$40 when the Thai compulsory license was issued. A one-month course of the Indian-made generic was about half the price. On 14 February, however, Merck announced that it was making Stocrin available at US\$0.65 per day for the poorest countries and middle-income countries with an adult HIV prevalence of one percent or more. As a result, the cost of a monthly course of Stocrin treatment would drop to US\$19.6 in Thailand. Merck cited 'efficiencies resulting from improved manufacturing processes' as the reason for the new offer and did not mention Thailand in its press release.

### No TRIPS Violations Alleged

While health activists have applauded the efforts to widen access to affordable medicines, the government's compulsory licensing strategy has raised an uproar from original drug producers, including Thailand's Pharmaceutical Research and Manufacturers' Association. The asso-

ciation's president Teera Chakajarnodon told Reuters that the government's action was "completely unprecedented anywhere in world" and could result in companies deciding against marketing their latest drugs in Thailand. Although some of the companies concerned have expressed doubts about the legality of licenses granted without prior consultation, none have alleged a violation of the WTO's TRIPS Agreement.

The 2001 Doha Declaration on TRIPS and Public Health explicitly confirms that governments have the "right to grant compulsory licenses and the freedom to determine the grounds upon which such licenses are granted." According to Professor Frederick Abbott of Florida State University, the notion that there is a 'scope of diseases' limitation on the medicines for which compulsory licenses could be issued is spurious. "The idea that compulsory licensing of patents is limited to treatments for HIV/AIDS or ebola, as opposed to treatments for coronary disease and diabetes, is flat wrong," he said.

WHO Director-General Margaret Chan was seriously criticised for suggesting on 1 February that the Thai government should negotiate with drug companies before taking action. A week later, she wrote to Minister Mongkol to express regrets for any embarrassment her remarks might have caused and confirmed that Thailand's decision to issue compulsory licenses was "entirely the prerogative of the government, and fully in line with the TRIPS Agreement." She also said that there was "no requirement for countries to negotiate with patent holders before issuing a compulsory licence" and that the WHO unequivocally supported developing countries' use of the flexibilities within the TRIPS Agreement, including compulsory licensing. In related news, the UNAIDS Executive Director Peter Piot on 8 February wrote to the Thai Ministry of Public Health to commend the government for taking steps to ensure universal access to affordable HIV/AIDS treatment.

## US-Andean Trade Relationship Still Hangs in the Balance

A new proposal on how to address labour issues in already signed free trade agreements with Peru and Colombia is expected to be submitted to US Congress in early March.

The two agreements, as well as a concluded but unsigned deal with Panama, will not be sent to Congress for approval before Democrats are satisfied that their concerns about stronger labour and environmental provisions have been addressed. Congressional staff from both sides of the aisle failed to forge a compromise by their 19 February deadline, and the matter is now in the hands of US Trade Representative Susan Schwab.

A factor complicating the situation is how to define the labour standards required from the trading partners without explicitly referring to the so-called ‘core conventions’ of the International Labour Organisation. The US itself has not ratified all of those instruments although its labour laws generally reflect ILO standards.

On 13 February, fifteen House Democrats, including Speaker of the House Nancy Pelosi, Ways and Means Committee Chair Charles Rangel and Trade Sub-committee Chair Sander Levin, sent a letter to President Bush urging him to incorporate into all pending and future FTAs an “enforceable commitment to adopt and effectively enforce the five internationally recognised basic labour standards,” i.e. a ban on child and forced labour, non-discrimination, and the right of workers to associate and bargain collectively.

Democrats must also take into consideration the views of trade unions, which have called for the inclusion of enforceable international labour and environmental standards in the core text of all trade agreements “with effective enforcement mechanisms that provide remedies and penalties that are the same as those available for violations of the commercial provisions.”

On environment, eleven out of 24 Ways and Means Democrats have requested USTR Schwab to include in the Peru and Colombia agreements a “prohibition on trade in illegally-sourced and produced timber and products thereof” (see page 19 for provisions suggested for all FTAs).

In contrast, former Senate Finance Committee Chair Chuck Grassley, sees no need to strengthen the agreements’ labour and environmental provisions, and is pushing hard for sending all three FTAs to Congress as soon as possible. Senator Grassley has praised the governments of Colombia, Peru and Panama for having demonstrated that “they want closer economic ties with the United States. We need to reward that leadership. We should do so by implementing our respective trade agreements as soon as possible. If we don’t, we’ll be turning our backs on allies in the region.”

### What Are the Chances of Approval?

If the labour provisions can be sorted out, many think that enough votes could be mustered to pass the Peru and Panama agreements, although there will be fierce opposition from Democrats opposed to FTAs in general and seeking a change of direction in US trade policy (see page 19).

Ironically, the yet-to-be signed deal with Panama may have the best chance, since it offers more limited market access to the US than the other two, as well as new opportunities for US firms interested in a slice of the Panama Canal expansion pie, estimated at US\$5.25 billion. Panama is the only country to have accepted a strict ‘yarn forward’ rule, which means that textiles and apparel must be wholly made of US or Panamanian yarn/fabric to qualify for duty-free treatment. It also agreed to remove market access restrictions in several services sectors previously reserved exclusively to Panamanian nationals.

Colombia, on the other hand, faces long odds, largely due to the violence encountered by labour unionists in the country. According to the International Confederation of Free Trade Unions, more than 3,000 Colombian union leaders, activists or members have been murdered since 1985. (The Colombian government and the Inter-American Development Bank are reportedly preparing a paper on how the government could improve its capacity to enforce domestic labour laws). Some US lawmakers have also expressed concern over allegations of links between far-right paramilitary death squads and members of the Colombian Congress from President Uribe’s party. A cabinet minister was forced to resign on these charges.

### Andean Preferences

Colombia and Peru, as well Bolivia and Ecuador, currently enjoy market access preferences under the extended Andean Trade Promotion and Drug Eradication Act (ATPDEA), but the arrangement is set to expire at the end of June (Bridges Year 10 No. 8, page 10). The administration, as well as most Democrats, are in favour of further extending the preferences for all four countries should the FTAs not be approved by that date. There are, however, both Democrats and Republicans who want them terminated, at least for Bolivia and Ecuador. For instance, Senator Grassley told Congress on 31 January: “As far as Bolivia and Ecuador go, I see no reason to extend preferential trade benefits to them. Not only are they withholding market access from US exporters, they’re actively engaged in nationalising industries and expropriating foreign assets. It wouldn’t be right to treat imports from Bolivia and Ecuador the same as products from Peru and Colombia. Why should Congress be in the business of rewarding bad behaviour?”

Losing the preferences would make a big difference to the economies of Bolivia and Ecuador. Sixty-four percent (173 products) of Bolivia’s total exports to the US benefit from ATPDEA preferences, and the US is the destination for 80 percent of the country’s jewellery and textiles and apparel production. In 2005, the value of Bolivia’s ATPDEA trade was US\$152 million, or 62 percent of the value of the country’s total exports to the entire world. Ecuador’s ATPDEA exports reached nearly US\$4 billion in 2005. While crude oil and derivatives accounted for a lion’s share, the country’s loss of benefits would also have significant impacts on trade and employment in the tuna, produce and textiles sectors.

## Major Policy Changes Needed for TPA Extension

Democrats have put President Bush on notice that only far-reaching reforms in foreign and domestic trade policy will induce them to renew his authority to negotiate trade agreements with limited congressional involvement until the deals are finalised.

The trade promotion authority (TPA, also known as ‘fast-track’) allows the administration to negotiate and sign trade agreements, which the Congress can either approve or turn down, but not change. The current TPA expires on 1 July 2007, and any new trade deals must be submitted to Congress by 31 March to give lawmakers a statutory 90-day period to consider them before voting on implementing legislation. President Bush has requested Congress to extend TPA, arguing it is the “only way we can complete the Doha Round and make headway on other trade agreements.”

On 12 February, a business and agriculture lobby entitled Trade for America was launched to drum up support for TPA extension. The coalition comprises several heavyweights, including the US Chamber of Commerce, the National Retailers Federation, the Food Products Association and the National Association of Manufacturers.

The extension, however, is not a foregone conclusion as Democrats now control both houses in Congress amid wide-spread scepticism about the benefits of globalisation. On 30 January, Senate Finance Committee Chair Max Baucus said he saw reauthorisation “as an opportunity to address Americans’ legitimate concerns on trade, with more vigorous enforcement of laws and agreements, greater congressional consultation – so we can fight for workers and businesses back home – and better labour and environmental standards. Improving Trade Adjustment Assistance for the times when trade has negative effects must be part of the conversation as well.” Senator Baucus also said at a 15 February hearing that the enforcement of trade remedy laws to protect workers against surges of Chinese imports would be a big factor in congressional debate on fast-track extension.

In 13 February letter, House Speaker Nancy Pelosi and 14 other House Democrats urged President Bush “to work with us to develop a new direction in US trade policy that addresses in a meaningful way the unsustainable US trade deficit and promotes broad-based equitable growth for all Americans.” The letter called on the administration to produce, within 90 days, a comprehensive plan to eliminate surging trade deficits with China (US\$233 billion), the EU (US\$117 billion) and Japan (US\$88 billion) “by tearing down market access barriers and eliminating unfair trade practices that have existed for years – in some cases for decades.” The letter also noted that all pending and future FTAs should be amended to contain an enforceable commitment to ‘adopt and effectively enforce’ five internationally recognised labour standards. Congress was prepared to approve “a strong and ambitious [Doha Round] agreement that achieves core US objectives, including in the areas of agriculture, manufacturing and services, and preserves (and ensures that WTO dispute settlement does not undermine) strong US fair trade laws,” the lawmakers said.

### Unions Call for Changes

The AFL-CIO federation of labour unions has called upon House Ways and Means Committee Chair Charles Rangel to insist that all US trade agreements include “enforceable international labour and environmental standards in the core text, with effective enforcement mechanisms that provide remedies and penalties that are the same as those available for violations of the commercial provisions.”

In addition, the group said loopholes in FTAs conferring greater rights to foreign investors than those enjoyed by their domestic counterparts should be closed, and expressed concern that TRIPS-plus provisions in recently concluded FTAs “could be used to constrain the ability of a government to issue compulsory licenses as permitted under TRIPS and the Doha Declaration.” AFL-CIO also stressed that “governments must retain their ability to invest tax dollars in domestic job creation and to pursue other legitimate social objectives,” and that government procurement rules that restrict this authority were ‘inappropriate’.

Care should be taken in the future to include a ‘broad and explicit’ carve-out for public services in FTA services chapters, the group said. It also called for the inclusion of stronger safeguard remedies in bilateral trade treaties.

### Environment and FTAs

While the drift of the labour amendments is relatively clear, only a handful of Democrats have spelled out in detail the environment-related changes they seek. Among those are deleting the clause that investors may sue governments for measures ‘equivalent to expropriation’. Under a similar provision in the North American Free Trade Agreement (NAFTA), companies have challenged host states’ environmental and health regulations on the grounds that they diminish or nullify the investment’s value.

The 11 signatories of the proposal also suggested including in FTAs a GATT Article XX-type exemption that would allow participants to adopt environmental or public health legislation that may be incompatible with other provisions in the treaty, provided the laws are applied in a non-discriminatory fashion. In addition, the group proposed stricter requirements for FTA signatories to implement and enforce the multilateral environmental agreements they are party to, as well as making breaches of FTA labour and environmental provisions subject to the same rules and sanctions as violations of the treaty’s trade obligations. There are, however, no indications of wide-spread support for making these measures part of a new US FTA template.

### USTR Requests DFQF Study

In other news related to US trade policy, Trade Representative Susan Schwab on 16 February asked the International Trade Commission to conduct a confidential study of the economic impacts of granting duty-free and quota-free (DFQF) access to 97 percent of products originating in least-developed countries. Ms Schwab requested the commission to complete its study within six months, and said its report would be classified as confidential for ten years.

## US-Asia Trade Agreements on Two Different Tracks

The race is on for the conclusion of a free trade agreement between the US and Korea, but prospects are dimming for an imminent US-Malaysia pact.

At the conclusion of their seventh round of negotiations in mid-February, Korean and US negotiators were optimistic about reaching agreement on outstanding issues by the end of March. The next negotiating session will take place from 8 to 12 March.

### Automobiles

Both sides acknowledged that no progress had been made in market access for automobiles. The Korean Ministry of Foreign Affairs and Trade put this down to “the US side’s continued linkage of automotive tariffs to automotive taxes.” Indeed, US negotiators are under great pressure to improve American cars’ access to the Korean market. In this regard, tariff elimination is less important than the removal of non-tariff barriers, such as taxes and other regulations that favour Korea’s domestic industry. The Chair of the House Sub-committee on Trade Sander Levin said on 12 February that the US “should insist right now that South Korea end its discriminatory practices,” which had resulted in just 5,415 US-made cars being sold in South Korea in 2005 while 688,700 Korean cars had been sold in the US. “This one-way street has to end,” he added. Many other politicians and industry representatives strongly support this view.

The car issue apart, Korean officials say that the two sides have already agreed to an immediate elimination of duties on 85 per cent their industrial tariff lines. The US has offered to phase out all tariffs on textiles and apparel within three to 11 years. Duties are to be eliminated on 1,000 tariff lines upon the FTA’s entry into force, but Korea is still seeking an acceleration of the phase-out schedule for the 515 products that have longer transition periods.

### Pharmaceuticals

Little progress has been made on the contentious dossier of pharmaceutical products. US industry wants guarantees that American brandname drugs are not excluded from the list of medicines reimbursed under Korea’s recently adopted Drug Expenditure Rationalisation Plan (DERP). Korea’s chief negotiator Kim Jong-hoon said in February that the two sides

had agreed ‘in principle’ to establish a committee where issues related to pharmaceuticals would be discussed. For its part, USTR has stressed Korea’s promise to incorporate into the DERP implementation regulations any agreements reached in the FTA negotiations.

### Agriculture

This is another sensitive area, and officials on both sides remain reluctant to disclose details on the negotiations. It is, however, known that Korea wants to shelter more than 200 products from tariff cuts, including rice. Korean press reported with alarm in February that the country’s FTA negotiators had offered to open the market for six out of 18 rice tariff lines, but this was refuted by the government. For its part, the US has made it clear that Congress would not approve the FTA unless Korea allowed imports of US beef to resume. These are currently suspended due to Korean authorities having found small fragments of bone in shipments supposed to contain boneless beef. Korea prohibits beef imports containing bone from countries that have experienced outbreaks of bovine spongiform encephalopathy or mad cow disease.

### Trade Remedies and Labour

Obtaining derogations from the full application of US trade remedy laws is perhaps the top priority of Korean negotiators. While the US has already ruled out any exemptions that would require legislative changes, US negotiators say they are open to considering administrative measures proposed by Korea in such areas as safeguards.

According to Korean officials, the FTA’s labour provisions are virtually agreed, largely due to the fact that Korea’s labour laws are in line with ILO standards. US chief negotiator Wendy Cutler said, however, that USTR was still consulting with Congress on how labour issues should be addressed in FTAs (see page 19).

### Malaysia Deal May Falter

Two issues in particular emerged in February as the main obstacles for concluding a free trade agreement between the Malaysia and the US. First, Malaysia announced that it wanted to exclude government procurement from the treaty altogether. Second, it continued to resist US demands that services market access be based on a negative list approach, i.e. only sectors and modes of supply specifically carved out would be exempt from full liberalisation. Many countries distrust this approach due to the possibility of inadvertently opening sectors through failing to list a caveat, as well as uncertainties related to new services or modes of delivery arising from future technological advances.

Government procurement is a sensitive issue in Malaysia, which has an affirmative action policy in the award of public contracts aimed at reducing the income difference between the country’s ethnic Malay majority and the more affluent Chinese minority that dominates the business sector. While Malaysia’s Trade Minister Rafidah Aziz said changing the policy was out of the question, direct talks between her and USTR Susan Schwab may yet produce a compromise.

Other areas of disagreement include access to Malaysia’s protected automobile market and the country’s enforcement of intellectual property rights.

Prior to the February round, the Malaysian Ministry of International Trade and Industry had warned that it was prepared to terminate the talks if the US heeded the call of House Foreign Affairs Committee Chair Tom Lantos to suspend the negotiations until Malaysia agreed to renounce its US\$16 billion deal to develop oil and gas reserves in Southern Iran. The US did not, however, raise the subject during the FTA negotiations.

Although no schedule has been set for future rounds, a USTR spokesperson has indicated that the two sides will keep trying to conclude the FTA.

## Many Key Questions Remain Open in EPA Negotiations

In less than ten months, the decades-old unilateral preferences granted to African, Caribbean and Pacific (ACP) countries by the European Union are scheduled to be replaced by trading relationships based on reciprocal market access concessions.

Economic Partnership Agreements (EPAs) are under negotiation between the EU and six regional groupings – Eastern and Southern Africa, Central Africa, West Africa, the Southern African Development Community, the Caribbean and the Pacific. While each region has unique characteristics, the groupings face a number of common difficulties, which they hope EU development ministers will take into consideration when they gather in Berlin to assess the EPA process on 12-13 March.

### Insufficient Regional Integration

One of the principal goals of the EPAs is to strengthen economic integration and coherence within the regional blocs. However, in most regions the participating countries are at different levels of development, have different economic profiles and priorities, and lack common institutions to drive integration forward. In Africa, the multiple economic and political alliances (all at different stages of integration) within any given EPA bloc make the establishment of a common external tariff, let alone more comprehensive regional trade policies, particularly difficult. Many EPA groupings are asking the EU to make allowances for the different national circumstances prevailing within the blocs.

### Market Access

Under WTO rules, parties to free trade areas must eliminate duties and other restrictive regulations of commerce on 'substantially all the trade' between them, which leaves scope for excluding some sensitive products from tariff cuts. The main worry of ACP countries is how to establish a common list of such products for each region, since the EPA members have different priorities and it is not clear how many tariff lines the EU will accept to exclude from reductions. In addition, the length of the transition period for total tariff elimination on non-sensitive ACP products is yet to be set. The EU has proposed 12 years, but some EPA regions are calling for 18-year grace periods for certain products.

The EU is expected to grant full duty- and quota-free access to all EPA partners, although for sensitive products this is likely to take several years after the treaties' entry into force. Such access, particularly if granted sooner rather than later, would benefit some EPA partners, but could harm the interest of others. With regard to bananas, for instance, Belize's Foreign Minister Eamon Courtenay has called for a well-managed regime of country-specific agreements and quotas so as to prevent other, more efficient, ACP producers from "cutting up the market on an 'everything-but-arms' basis from which only the biggest producers will benefit." Sugar is likely to become another flashpoint if all EPA partners have the same access to the EU.

### Services and Trade-related Areas

While the EU has called for 'reciprocal liberalisation of trade in services', ACP countries want at best selective opening of sectors in the short run, with a focus on developing regional-level services markets before taking on intra-regional commitments.

They have also argued that – due to limited negotiating capacity in trade-related areas, such as investment and competition policy rules, trade facilitation, intellectual property rights, government procurement, labour and the environment – ACP countries need time to build institutions and regulatory frameworks, first at the national and then at the regional level, before they can make commitments on these 'new generation' trade areas.

### Adjustment Costs

The EU recognises that the EPAs will involve adjustment costs for ACP countries, particularly for those that rely heavily on tariff revenue for government expenditure. The Commonwealth Secretariat has identified four broad categories of adjustment needs: fiscal adjustment, i.e.

helping countries to establish non-trade-based taxation systems; trade facilitation and export diversification; production and employment adjustment, and; skills development and productivity enhancement. While the EU has promised increased development aid, technical and financial assistance for meeting trade facilitation commitments and Aid for Trade to help EPA participants diversify exports, ACP countries have called for more precise and enforceable provisions on the financial resources that will be made available.

### WTO Compliance

The EU's ACP preferences require a waiver from the WTO as they are incompatible with the fundamental principle that all Members be treated equally. The current waiver expires on 1 January 2008, and is unlikely to be renewed. The EPAs aim to replace the preference regime with WTO-compatible free trade agreements.<sup>1</sup> Least-developed countries (LDCs), however, will retain their current level of preferences under the Everything But Arms initiative.

Some EPA groupings have suggested an extension of the end-2007 deadline for concluding the negotiations. So far, the EU has insisted that the EPAs must be in place on schedule because if they are not, as of January 2008 non-LDC ACP countries would only be eligible to the much less extensive preferences available to all developing countries under the EU's Generalised System of Preferences. Non-governmental organisations such as Oxfam and the European Research Office have argued that the preferences could be extended beyond the waiver's expiry, since an eventual WTO challenge would result in a lengthy dispute settlement process that would allow the EU and the EPA regions to work on more development-friendly agreements.

### ENDNOTES

<sup>1</sup> The most-favoured-nation treatment obligation does not apply participants in customs unions and free trade areas based on reciprocal market access concessions.

## UNEP Governing Council: Environment and Globalisation

UN Environment Programme Executive Director Achim Steiner and WTO Director-General Pascal Lamy have called for improving synergies between the trade and environment regimes.

The call was echoed by a number of environment ministers and other high-level participants at the 24th Session of the UNEP Governing Council/Global Ministerial Environment Forum held from 5 to 9 February in Nairobi, where participants discussed globalisation and the environment, as well as UN reform.

Speaking at the Governing Council plenary, Pascal Lamy referred to sustainable development as central to the WTO and noted that a successful conclusion of the Doha Round negotiations would “tear down the barriers that stand in the way of trade in clean technologies and services” as well as reduce “the environmentally harmful agricultural subsidies that are leading to overproduction and harmful fisheries subsidies which are encouraging over-fishing and depleting the world’s fishstock.”

Mr Lamy emphasised that ongoing trade negotiations have a potential to facilitate a more efficient global allocation of resources but also noted, in line with environment ministers and other delegates that proper pricing of resources and internalisation of externalities, including environmental externalities, was needed.

### Food for Thought on Trade

Ministerial roundtables under the theme of globalisation and the environment led to suggestions that UNEP contribute substantially to the global trade dialogue, including through strengthened collaboration with the WTO. Delegates called upon UNEP to contribute to the dialogue on trade to help shape trade-related rules and institutions that affect the environment. Actions by UNEP would also include working with the WTO on the mutual supportiveness of trade and environment to ensure that trade benefits of the environment and vice versa. Delegates suggested the need for the international community to ensure greater parity among international organisations promoting sustainable development (e.g. multilateral environmental agreements and the WTO).

Trade-related institutions also featured in discussions on the reform of the UN. Delegates pointed out that a reformed UN institution for the environment should have closer relations with the World Bank and the WTO.

### High-level Roundtable Seeks Synergies

At a panel discussion jointly organised by the WTO and UNEP, the Minister of Trade and Industry of Kenya; the Under-Secretary of State, Ministry of Environment, Land and Sea of Italy; the Chief Executive of ICTSD; the Director-General of the WTO; and the Executive Director of UNEP converged in recognising that the perception of environment as a ‘non-trade issue’ had drastically changed over the past few years, and that environmental issues now warranted attention both in the trade and environment policy fora. Panelists also shared the view that while the need to foster linkages between trade and environment was no longer a question of ‘whether’ but of ‘how’, progress had so far been very slow both at the national and international levels. They noted that greater efforts were needed first at the national level to enhance policy coherence between ministries and agencies working on trade and environment. At the multilateral level, they called for interactions between multilateral environmental agreements and the WTO to be enhanced in a more structured manner.

A range of issues raised in the discussion related to the linkages between climate change, energy and trade. Several participants sought to gain a better understanding of how the international trading system could play a role in climate change mitigation, including efforts to foster a transition to clean energy.

The Kyoto Protocol to the United Nations Convention on Climate Change mandates greenhouse gas emission reductions for industrialised countries referred to as ‘Annex 1 countries’. However, the Protocol does not specify any particular ways for meeting emissions reduction targets. Many of the potential measures to implement the Protocol would relate to certain WTO agreements and negotiation areas, including agriculture, subsidies and the liberalisation of environmental goods and services (EGS). Both the Climate Change Convention and the Kyoto Protocol provide that measures taken to combat climate change, including unilateral ones, should not lead to unjustifiable discrimination or disguised restrictions on international trade. Clearly, as far as climate change is concerned, many areas of potential synergy and conflict with the trade regime are of high interest to both environmental and trade constituencies and clarification is required.

As countries around the world are exploring the potential of biofuels to meet their obligations under the Kyoto Protocol as well as concerns about energy security, many trade-related issues remain to be answered – subsidies in support of biofuels production, agricultural subsidies for crops that could be used as feedstock in the production of biofuels and issues of market access, including non-tariff measures. The panel provided an overview of current WTO negotiations related to biofuels, indicating that ethanol was being negotiated as an agricultural product, whereas biodiesel is considered as a chemical and thus falls under the negotiating mandate for industrial goods. While some believed that negotiations on EGS could provide opportunities for supporting trade in biofuels, it remains to be seen whether biofuels will be considered as environmental goods.

While the various panels and roundtables among delegates converged in recognising the need to enhance synergies between the trade and environment regimes, much uncertainty remains as to how this would be translated into concrete outcomes beyond the current status. The 24<sup>th</sup> UNEP Governing Council took an initial step toward that goal by creating a process of interaction at the ministerial level.

## What Trade Policies for Dryland Areas?

Trade has the potential to affect the livelihoods of communities dependent on drylands and degraded areas. Drylands cover 40 percent of the earth's land surface and are home to more than two billion people, most of whom suffer from the poorest economic conditions. Land degradation is potentially the most threatening ecosystem change directly impacting the livelihoods of people living in these areas.

International trade regimes and related government policies, macroeconomic reforms and a focus on raising agricultural production for exports can affect, directly or indirectly, the resilience of dryland ecosystems. The growth of large-scale, export-oriented agriculture often pushes small farmers onto marginal lands and forces them to adopt unsustainable farming practices, which in turn decrease soil fertility and exacerbate land degradation.

Certain types of agricultural subsidies, such as those directly linked to production, are believed to have a more harmful impact on sustainable development than others. They can create incentives for over-production and the intensification of farming methods, lead to trade distortions and, in many cases, contribute to land degradation, water pollution and other negative impacts on natural resources. Tariff escalation can discourage movement towards value-added production in developing countries. Higher tariffs on finished products (such as peanut butter) than on raw materials (such as peanuts) prevent the development of industries focusing on processed products that are often less land-intensive than agriculture and offer an alternative source of livelihood for rural communities.

Developing markets at the local, regional and global levels for products based on natural resources that provide a comparative advantage for communities living in dryland areas can enhance sustainable use and management of land and advance rural development. Increased trade in products such as Gum Arabic, medicinal plants and biofuels from groundnuts would positively impact the livelihoods of dryland populations by favouring income generation and land rehabilitation. It would also create incentives for communities to invest in the sustainable use and management of the land and natural resources on which they depend.

The process of trade liberalisation and rule-making under the WTO – including in the areas of market-distorting subsidies, 'special' agricultural products, full duty- and quota-free market access for least-developed countries and the liberalisation of environmental goods and services – could provide opportunities for promoting investment in sustainable land management. For instance, tariffs could be eliminated on goods that help control land degradation.

Other policies, tools and mechanisms to set in place for increasing investment in sustainable land management in rural dryland regions through market access and trade include: (a) legally secured access to land; (b) improved market infrastructure; (c) enhanced entrepreneurship and enterprise development; (d) facilitating access to financial services; (e) a coherent public policy framework at the global, regional, national and local levels for trade in agricultural goods to support, rather than undermine, sustainable land management principles; (f) involving a wide range of stakeholders from government, civil society, producer groups and agri-industry (g) political commitment at the highest level; (h) the development of local and regional markets; (i) the development of social and environmental certification and labelling schemes for dryland products; (j) facilitating the integration of producers into global production and supply chains; (k) promoting organic agriculture, and; (l) safeguarding intellectual property rights for dryland commodities.

While policies like these could contribute to increasing investment in sustainable use and management of natural resources, they would need to be crafted in ways that minimise potential risks with regard to overexploitation of natural resources, negative impacts on traditional knowledge and the exclusion of local populations from benefit-sharing.

For more information, visit [http://www.ictsd.org/dlogue/2007-01-31/2007-01-31\\_desc.htm](http://www.ictsd.org/dlogue/2007-01-31/2007-01-31_desc.htm)

The International Centre for Trade and Sustainable Development (ICTSD) is an independent non-profit organisation that upholds sustainable development as the goal of international trade and promotes participatory decision-making in the design of trade policy.

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### WTO Meetings

- Mar. 12 Working Group on Trade and Transfer of Technology
- Mar. 15-16 High-level Session of the Consultative Framework on Cotton
- Mar. 19 Council for Trade in Goods
- Mar. 20 Dispute Settlement Body
- Mar. 21-22 Committee on Technical Barriers to Trade
- Mar. 26 Committee on Market Access
- Mar. 28 Committee on Agriculture
- Apr. 24 Dispute Settlement Body

*Doha Round negotiating groups are also expected to meet, but no schedule was available at the time of publication.*

### Other Meetings

- Mar. 12-13 Saving Doha and Delivering on Development  
New Delhi Organised by the Government of India, the Carnegie Endowment for International Peace, Oxfam, the National Council for Applied Economic Research and CUTS International.  
Tpapanicolas@carnegieendowment.org
- Mar. 19-23 UNCTAD Commission on Trade in Goods,  
Geneva Services and Commodities  
<http://www.unctad.org/>
- Mar. - Apr. ILO Forum on Decent Work and Fair  
Geneva Globalisation  
<http://www.ilo.org>
- Apr. 14-15 Spring Meetings of the World Bank and the  
Washington International Monetary Fund  
<http://www.worldbank.org>

### New Publications from ICTSD [www.ictsd.org](http://www.ictsd.org)

Barton, John. February 2007. New Trends in Technology Transfer. ICTSD Project on Intellectual Property Rights and Sustainable Development

ICTSD. January 2007. Promoting Sustainable Land Management through Trade. Draft Paper

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