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IN THIS ISSUE

- 1 *KEEP DEVELOPMENT FOCUS OF DOHA AGENDA INTACT, JAITLEY TELLS OECD* 1
- 2 *PARLIAMENT BRIEFS* 3 
- 3 *MONTHLY REPORT ON MULTILATERAL TRADE ISSUES AND DEVELOPMENTS (APRIL 2003)* 9
- 4 *INTERNATIONAL CONFERENCE ON TRADE, INVESTMENT AND DEVELOPMENT* 12
- 5 *SEMINAR ON TRADE LIBERALISATION IN ENVIRONMENTAL GOODS AND SERVICES* 19
- 6 *'I WAS WRONG. FREE MARKET TRADE POLICIES HURT THE POOR' - TEXT OF ARTICLE BY STEPHEN BYERS* 24
- 7 *WTO BRIEFS* 26
- 8 *SCHEDULE OF MEETINGS AT THE WTO/GENEVA - JUNE 2003* 28

KEEP DEVELOPMENT FOCUS OF DOHA AGENDA INTACT, JAITLEY TELLS OECD

Mr. Arun Jaitley, Union Minister for Commerce & Industry and Law & Justice, has called for a strong message from the developed world represented by the OECD that the development focus of the Doha agenda will be fully intact. **In a statement he made to the OECD (Organisation for Economic Cooperation and Development) Ministerial Council meeting held on 31 May, 2003 in Paris, to which India has been invited as a non-member participant,** he stressed the need for satisfactory resolution of all pending issues including those relating to TRIP and Public Health, Implementation Issues and issues relating to Special & Differential Treatment before the Cancun Ministerial Conference. Mr. Jaitley also underlined that the agenda for the Cancun Ministerial Conference should not be overloaded. **Attempts should be made to resolve many of the issues before the Ministerial Conference itself, he said.**

Mr. Jaitley made it clear that **for developing countries, further progress in the negotiations would hinge on satisfactory resolution of these development issues,** viz., Special & Differential and Implementation Issues and TRIPs & Public Health. **"It must be recognised there are**

political pressures within developing countries arising out of failure to meet deadlines. We can recover lost ground to some extent if these issues are addressed and resolved before Cancun.

The Chairman of Trade Negotiations Committee (TNC) and the Chairman of the General Council have been making efforts to resolve the Implementation and S&D Issues. Constructive engagement by all Members would be important. **The need of the hour is a strong message from the developed world represented by the OECD that the development focus of the Doha Agenda is very much intact”, he said.**

Addressing the OECD session on Trade Issues, Mr. Jaitley observed that the Doha Work Programme was proceeding at two speeds. “On issues of interest to the developed countries, there is an attempt to make good progress or set high ambitions as in the area of industrial tariffs or in some services sectors. The second aspect that we see is that while at the Ministerial level, there is a recognition to provide policy space and greater flexibilities for developing countries, this does not always percolate to the technical level discussions. **In the Doha Declaration which has been projected as the Doha Development Agenda, it has been clearly noted that the Ministers place the needs and interests of developing countries at the heart of the Doha Work Programme. But when the issues go to the level of Committees or Negotiating Groups where the actual negotiations take place the scene is different.** The developed country negotiators strive to get the best deal for themselves and avoid meeting developing country issues on tenuous technical grounds or are willing to consider flexibilities only in terms of

longer transition periods. **Attempts are also made to divert the discussions by also calling for upfront differentiation and graduation among developing countries”.**

In the agriculture negotiations, Mr. Jaitley has said that India remains deeply concerned by attempts to set aside the special consideration necessary for developing countries to deal with their large and poor rural communities despite an explicit negotiating mandate and an extensively documented need to urgently improve the living conditions of the poor people in the world. The OECD study on agricultural policies itself concludes that agricultural support and protection provided in OECD countries depresses rural income in developing countries. “Therefore, **any further market access commitments by developing countries like India must be tempered in order to enable them to safeguard food and livelihood security of their rural poor and promote Rural Development through adequate protection at the border. In addition, developing countries must be provided sufficient flexibility in applying safeguards to address different situations”,** he said. The modalities on subsidy and support must effectively redress the adverse impact of developed country policies on developing countries by substantially reducing subsidy and support and prevent a mere shifting of support to circumvent commitments. Moreover, there may be little to be gained by reducing tariffs, if non-tariff barriers, including those created through the guise of sanitary and phytosanitary measures remain, Jaitley cautioned and added that establishing modalities in Agriculture before Cancun would significantly improve resolution of many issues before Cancun.



PARLIAMENT BRIEFS



ISSUES IN THE RUN UP TO CANCUN

The next Ministerial Conference of the World Trade Organisation (WTO) is scheduled to be held in Cancun, Mexico, from 10-14 September, 2003.

In accordance with the mandate provided in the Doha Ministerial Declaration, **negotiations on various issues included in the Doha Work Programme are taking place in the relevant WTO negotiation/regular bodies.** In respect of most of the issues covered by the Doha Work Programme the progress has been uneven. In particular, the deadlines given by the Ministers on **three issues of importance to the developing countries, namely, TRIPs and Public Health; Special & Differential (S&D) Treatment; and the Implementation-related Issues and concerns could not be adhered to.** India and other developing countries have strongly voiced their concerns in

the WTO on the slow progress on the negotiations in these areas.

Besides the above mentioned issues of concern/interest to developing countries, **negotiations on market access for agricultural products, non-agricultural products and services are also taking place in the respective WTO Negotiating Bodies.** India has been actively participating in these negotiations and putting forward its views on the various issues covered by these negotiations. **India and other developing countries have strongly emphasised on the need for providing adequate S&D treatment in these negotiations for the developing countries. At Cancun, India would continue to call upon the WTO members to fully preserve the development focus of the Doha mandate in the ongoing negotiations.**

☉ **Textile and Agricultural Markets in European Union**

During the Trade Policy Review of the European Union (EU) held in the World Trade Organisation (WTO) on 24th and 26th July, 2002 members of the WTO, including India, underlined the adverse impact of EU's Common Agricultural Policy and trade distorting agricultural subsidies on their exports of agricultural products. India also expressed concern that to date the EU had lifted restrictions on only 20% of textiles products restricted in 1990, leaving the elimination of the remaining 80% of restricted imports "back-loaded" for the final stage at the end of 2004, an approach that went against the spirit of the Agreement on Textiles and Clothing. Concern was also expressed on the use of anti-dumping and countervailing duty action by the EU. The WTO Secretariat

Report for the Trade Policy Review of the European Union has observed that the simple average tariff on agricultural products is 16% which is about 4 times higher than that on non-agricultural products. Evidence of tariff escalation remains, in particular on processed products. For textiles, the Report has observed that tariffs well above the average apply to textiles and clothing products. The report has also noted that the EU has long maintained restrictions on imports of textile and clothing products from a number of developing countries and transition economies.

India has been taking up the issue of barriers in access to EU markets in respect of textiles and agricultural products bilaterally with EU and with its member states, as well as at the WTO. The government have also raised these issues at appropriate multilateral fora including during the ongoing

negotiations at the WTO on market access for agricultural and non-agricultural products and in the Negotiating Group on Rules which is considering improvements and clarifications on the Anti-Dumping Agreement and the Subsidies Agreement. These negotiations are scheduled to be completed by January 2005.

☉ **Restriction on Textiles Import in America and European Countries**

Till December 31, 1994, the exports of textiles to certain developed countries including U.S.A., member countries of the European Union and Canada had been governed by bilateral textile agreements entered into between India and these countries under the aegis of the Multi-Fibre Arrangement (MFA), outside the rules of the General Agreement on Tariffs and Trade (GATT). With effect from January 1, 1995, the quantitative restrictions (import quotas) in the bilateral agreements under the MFA, are being governed by the Agreement on Textiles and Clothing (ATC) contained in the Final Act of the Uruguay Round negotiations of the GATT. Presently, our textiles and clothing exports face restraints in U.S.A., European Union and Canada. One of the central elements of the Agreement on Textiles and Clothing (ATC) is the four-stage process for the progressive integration of textiles and clothing products as specified in the Annex to the ATC into GATT 1994 over a ten-year transition period. The integration process has however not led to any meaningful removal of quotas by the restraining countries so far. India has raised the issue of lack of progressive liberalisation in international trade in textiles bilaterally and also at the World Trade Organisation. In accordance with ATC, all the textile quotas would be phased out and textile sector fully integrated into WTO by 1st January 2005. India is not maintaining any restriction on imports of textiles as no restrictions were being maintained by it under the former MFA on 31 December 1994. Further, quantitative restrictions that were maintained for balance of payment reasons have been removed on all products including textile products by 31st March 2001.

☉ **India's Stand on Market Access Issues**

India has been actively participating in the ongoing negotiations under the Doha Work Programme. In the negotiations for Market Access for agricultural & non-agricultural products and services, India has been reiterating its position that the development focus of the mandate should be fully observed and the concerns/interests of developing countries should be

fully factored into the modalities for negotiations. India would make all out efforts at bilateral, plurilateral and multilateral levels to ensure that the developing country concerns and interests are fully reflected in the final outcome of these negotiations.

☉ **Export to European Countries**

India's total exports to European countries during the year 2001-2 (April-March) and 2002-03 (April-Nov. for which data is currently available) were valued at US \$ 10.80 billion and US \$ 8.10 billion respectively. The steps taken to promote exports to the European countries include regular interaction at the Government level through the medium of the Joint Commission & sectoral Working Groups, organization of 'Destination India' (investment promotion meets), facilitating direct business level contacts, participation in trade promotion events, etc.

☉ **Removal of Restrictions on Imports**

India has been following a consistent Policy for gradual removal of restrictions on imports & exports since 1991. Import restrictions on items as notified to WTO for Balance of Payment (BOP) reasons have been completely phased out. The present restrictions on imports are being maintained for national security reason, protection of plant, animal & human health, etc. which are permissible under the WTO Agreement. The restrictions on 5 items of exports and 69 items of import have been removed with effect from 31st March 03. The Government has been reviewing such restrictions from time to time with a view to making the Indian economy more competitive & to take it on a higher growth path.

☉ **Trade Disputes in the WTO**

There have been 30 cases of trade disputes under the Dispute Settlement Mechanism of the World Trade Organisation (WTO) involving India either as a complaining country or the country complained against. While some of these cases have been decided by the Dispute Settlement Body based on Panel and Appellate Body reports, certain others have been amicably settled. There are at present five cases of ongoing disputes in which India is the complaining country. Separate panels have been established in two of these cases for examining India's claims. There are four cases of ongoing disputes in which India is the country complained against. The Government has been pursuing WTO disputes in coordination with concerned administrative ministries, Department of Legal Affairs and the

legal experts engaged for the disputes. For each dispute a lawyer, where necessary an experienced foreign lawyer, is appointed with the prior approval of Department of Legal Affairs. India has won eight cases at the WTO and has lost five cases. In certain other cases, negotiations with other countries has resulted in amicable settlement of the dispute.

☉ **EU for Dismantling the Quantitative Import Restrictions**

On 23 December 2002 the European Communities (EC) requested consultations with India under the Dispute Settlement Mechanism of the World Trade Organisation regarding import restrictions maintained by India under Articles XX and XXI of GATT 1994 on more than 100 products, including certain agricultural products, under its Export and Import Policy 2002-2007. India and the European Communities have held consultations in this case on 17th February 2003 under the Dispute Settlement Mechanism of the WTO. The quantitative import restrictions are imposed under Articles XX, XXI of GATT 1994. However, as part of the annual review under the EXIM Policy and in consultation with concerned Ministries/ Departments, the Director General of Foreign Trade has, through Notification No. 02/ (RE 2003)/2002-2007 dated 31st March 2003, amended the conditions relating to the policy regarding import of 69 products which includes certain items in EC's consultation request in this case.

☉ **EC Proposal on Food Security to WTO**

While the European Commission's proposals for modalities for negotiations on agriculture submitted to the World Trade Organisation (WTO) contain some provisions for special and differential treatment for developing countries like India, including creation of a food security box, they do not adequately address India's interests and concerns in the ongoing negotiations which include safeguarding food and livelihood security concerns, minimal market access for agricultural products, creating opportunities for export of agricultural surpluses as well as substantial reduction in all forms of trade-distorting domestic support and export subsidies provided by the developed countries. The negotiations are scheduled to be concluded by 1 January 2005.

☉ **Proposal of EU in Regard to Singapore Issues**

Mr. Pascal Lamy, Trade Commissioner of the European Commission has recently been to India and held discussions,

among others, with the Minister of Commerce & Industry and Law & Justice on 13 March 2003. It was impressed upon him that the developing countries did not enjoy the full benefits of multilateralism. A number of concerns that India has on various multilateral trade issues were also conveyed to him during the discussions. On Singapore issues, our position that the study process on the four issues, namely, trade and investment; trade and competition policy; transparency in government procurement; and trade facilitation, should continue and that there should be no movement towards rule making was reiterated. On services, the EC side underlined the sensitivity as regards immigration, especially with workers and trade unions of the European Union. The mandated negotiations on trade in Services under the framework of the General Agreement on Trade in Services are underway, primarily on the basis of the request-offer approach. India and the European Commission have both made requests to each other and are both actively involved in the negotiations. On agriculture, we elaborated on the sensitivity involved domestically especially in view of the fact that a large segment of the Indian population was dependent on agriculture.

☉ **Anti-Dumping Duty on Bed Linen**

India had resorted to the Dispute Settlement Mechanism of the World Trade Organisation (WTO) and challenged the anti-dumping duty imposed by European Communities (EC) in December 1997 on imports of cotton-type bed linen from India. The Panel and Appellate Body Reports concluded that the EC's imposition of definitive anti-dumping duties on imports of cotton-type bed linen from India had been inconsistent with the Anti-Dumping Agreement. On 12 March 2001 the Dispute Settlement Body (DSB) of the WTO adopted the Appellate Body Report and the Panel Report as modified by the Appellate Body, in this dispute. Pursuant to the recommendations of these Reports, the DSB requested the EC to bring its measure into conformity with its obligations under the Anti-Dumping Agreement. Following this the EC and India mutually agreed on a reasonable period of five months and two days i.e. up to 14 August 2001 for EC to implement the recommendations and rulings of the DSB in this dispute. Subsequently the EC undertook a review of the anti-dumping measure and re-determined the level of anti-dumping duty. However, the application of the duty was suspended. India strongly disagreed that this re-determination complied with the rulings of the DSB. India requested consultations with EC on 8 March 2002 under the Dispute Settlement Mechanism of the WTO regarding

re-determination. These consultations were held at Geneva on 25-26 March 2002. Subsequently, India sought the establishment of a Compliance Panel to examine the existence or consistency of action taken by EC to implement the DSB decision in the dispute. The Compliance Panel was established on 22 May 2002. The compliance Panel concluded that EC had implemented the recommendations of the original Panel and Appellate Body to bring its measures into conformity with the Anti-Dumping Agreement. On 8 January 2003 India appealed some of the findings and legal interpretations developed by the Compliance Panel in this case. While reversing certain findings of the Compliance Panel, the Appellate Body in its Report dated 8 April 2003 has concluded that in analysing injury EC's determination that *all* imports attributable to *non-examined* producers were dumped—even though the evidence from *examined* producers showed that producers accounting for 53 percent of imports attributed to examined producers were *not* dumping—did not lead to a result that was *unbiased, even-handed, and fair*. Therefore, EC did not satisfy the requirements of paragraphs 1 and 2 of Article 3 of the Anti-Dumping Agreement to determine the volume of dumped imports on the basis of an examination that is "*objective*". The Appellate Body recommended that DSB requested EC to bring its measure, found to be inconsistent with its obligations under the *Anti-Dumping Agreement*, into conformity with that Agreement. During its meeting held on 24 April 2003, the DSB of the WTO adopted the Compliance Panel and Appellate Body Reports in the Compliance dispute. During the meeting, EC indicated its intention to implement the Appellate Body findings as soon as possible after the adoption of Compliance Panel and Appellate Body Reports in the Compliance dispute.

☉ **WTO Meetings on Anti-Dumping**

The Doha Ministerial Conference of the World Trade Organisation (WTO) held in November, 2001 has provided for negotiations aimed at clarifying and improving disciplines under the Agreements on Anti Dumping and Subsidies and Countervailing Measures, while preserving the basic concepts, principles and effectiveness of these Agreements. In the initial phase of the negotiations, participants are to indicate the provisions, including disciplines on trade distorting practices that they seek to clarify and improve in the subsequent phase. These negotiations are currently being undertaken in the Negotiating Group on Rules (NG Rules). Four meetings of NG Rules were held upto November 2002. The regular meetings of the Committee on Anti-dumping Practices and the Subsidies

Committee were also held in October-November 2002. These meetings are of routine nature and are held every six months for reviewing applicable legislation and the anti-dumping/ countervailing duty action by various countries. India has participated in these meetings of NG Rules and the regular meetings of the Committee on Anti-dumping and the Subsidies Committee. The meetings of the NG Rules would be an on-going process till the completion of the negotiations.

India has made two submissions to the NG Rules. The first submission which was made in April 2002, sought increased flexibility for developing countries during anti-dumping and countervailing duty investigations. During the meeting of NG Rules held on 16-18 October 2002, India submitted a second proposal seeking improvements and clarifications of some of the provisions of the Anti-Dumping Agreement. The Doha Ministerial Conference of the WTO also mandated examination by the Anti-dumping Committee and the Subsidies Committee of certain Implementation Issues for recommendations. India submitted detailed proposals on some of these Implementation Issues and actively participated in the deliberations of the two committees.

During the first phase of the negotiations, which is presently under way, countries are required to indicate the provisions that would be the subject of negotiations in the subsequent phase. In the discussions held so far, countries have expressed differing views on the various negotiating proposals that have been submitted. In respect of Implementation Issues, while no recommendation could be agreed to on issues relating to countervailing duty investigation and operationalising Article 15 of the Anti-Dumping Agreement, recommendations have been agreed to in respect of the following two Implementation Issues relating to the Anti-Dumping Agreement: (a) time frame for considering the volume of dumped imports during anti-dumping investigation and (b) making the annual review of operation and implementation of the Anti-Dumping Agreement more meaningful.

☉ **Impact of Dumping on Domestic Market**

The purpose of anti-dumping duty is to counteract trade distortions caused by dumping and the consequential injury to the domestic industry. Since 1992, the DGAD has till date initiated anti-dumping investigation into import of 153 products involving number of countries. The status of these cases is given below:

Number of cases where final findings have been issued	117
Number of cases where preliminary findings have been issued	19
Number of cases under investigation for preliminary findings	11
Number of cases initiated but closed	6
Total	153

Import of 159 items as listed in Appendix-III of Schedule-I Import of ITC (HS) (2002-2007 as amended from time to time) has been made subject to compliance of the mandatory Indian Quality Standards which are also applicable to domestic goods. For compliance of these requirements, all manufacturers/exporters of these products to India are required to register themselves with Bureau of Indian Standards (BIS). Quantitative Restrictions on imports have been removed in phase-wise manner by India as a part of the Government's economic liberalisation programme and its international commitments.

☉ **US Proposal in WTO for Reduction of Import Duties by Member Countries**

Negotiations on further commitments on import tariffs are underway in the WTO in accordance with the Doha Ministerial Declaration. Several WTO Members, including the US, have submitted proposals on modalities for these negotiations. The US in its proposal for non-agricultural products has suggested elimination of customs duties by all WTO members to be achieved by 2015. This is proposed to be done in two phases which *inter alia* require tariffs on all non-agricultural products to be brought down to below 8% by 2010. In the second phase lasting from 2010 to 2015 all remaining non-zero tariffs have been proposed to be brought down to zero. For agricultural products, the US has proposed a formula based reduction method using which the customs duties in no WTO member would be higher than 25% at the end of a five year period. India is not in favour of proposals requiring drastic reductions in the tariff binding levels of developing countries or seeking the elimination of all tariffs. India has also submitted proposals for these negotiations, which *inter alia* call for a higher rate of tariff reduction by developed countries and elimination of tariff peaks and tariff escalation in products of export interest to developing countries. The import duty rates and the tariff range prevalent in different countries are different. These are normally based on their levels of development, the needs of their domestic industry and agriculture and also their revenue

requirements. The minimum duty in most countries is zero per cent while the maximum applied duties in different countries vary.

☉ **Patent of Indian Goods**

Patents are sought and obtained by applicants/inventors, both Indian and foreign, in different countries to safeguard and promote their commercial and other interests. Such patents are granted under the sovereign prerogative of countries according to their respective patent laws and have territorial effect, that is, they are effective only in the country of grant. In order to qualify for grant of patent in any country an invention, whether process or product, has to meet the criteria of patentability, namely, novelty, inventiveness and industrial applicability. Indian goods/items, which are already in public knowledge/domain, cannot be patented. As patents are essentially private rights they are normally challenged, in accordance with the patent laws of the country concerned, by the person(s) whose interests are affected/jeopardised. As and when information is received about patents being obtained on certain items are not considered patentable and which affect Indian interests, steps are taken to assess whether the grant of such patent can be challenged under the patent laws of the country concerned. Earlier a patent granted in the United States of America on the use of turmeric in wound healing was successfully challenged and was also cancelled by the Patent Office of the country concerned. Similarly, a patent on the fungicidal property of neem, granted in Europe, was successfully challenged. The claims of the patent on Basmati Ricelines and grains granted in the United States of America which had the potential of affecting India's commercial interest were also challenged. The said claims were subsequently cancelled by the United States Patent and Trademark Office and the title of the patent was also amended. The patent on waste treatment using Hessian (jute product) granted to M/s Geo Hess (UK) Ltd. has been revoked in August 2002 based on the opposition petition filed by Jute Manufacturers Development Council.

☉ **Pending Patent Applications**

46,248 applications for patents are pending for substantive examinations as on 31 March, 2003. In all these cases, preliminary scrutiny reports have been issued. Out of 46,248 applications, 4,441 applications have been filed under section 5 (2) of the Patents Act and these cannot be taken up for examination till 01 January, 2005. These applications pertain to the year 1997-98 to 2002-03. The Government has taken

up comprehensive upgradation and modernisation of patent administration including clearance of backlog of pending applications. This is inclusive of initiatives for simplification and re-engineering of work procedures, development of databases to facilitate on-line search, computerisation of operations, development of work manuals, recruitment of additional staff and its training, etc. The modernisation initiatives have also started showing improvements in the performance of the Patent Offices. The Patent Offices which examined only 2,824 applications in the year 1999-2000 have examined 9,538 applications in the year 2002-03. With the deferred examination system being brought into force shortly with the operationalisation of the Patents (Amendment) Act, 2002 and Patents Rules, 2003, the existing backlog would be fully cleared. With further consolidation of modernisation initiatives, the overall performance of Patent Offices will improve further and it would be possible to ensure grant of patents rights within a time frame comparable to international standards and consistent with statutory provisions.

● **Free Flow of Drugs in Developing Countries**

Paragraph 6 of Doha Declaration on the TRIPS Agreement & Public Health provided a mandate to the TRIPS Council to address the problem of countries with insufficient or no manufacturing capacities in the pharmaceutical sector in making effective use of compulsory licensing under the TRIPS Agreement by the end of 2002. The Chairman, TRIPS Council had proposed a Draft Waiver Decision on 18 December, 2002 to address the problem highlighted in paragraph 6 of Doha Declaration. Consensus could not be achieved in the TRIPS Council on the draft decision proposed by the Chairman, TRIPS Council. The United States proposed restrictive disease coverage under the Draft Waiver Decision. This was not agreeable to the developing countries and the Africa group. WTO Members have not been able to resolve this issue as yet. India is obliged to extend product patent protection to pharmaceutical and chemical sectors from 1-1-2005. At present, pharmaceutical products are being exported from India to other developing countries.

● **Policy on Retail Business**

As per the extant Foreign Direct Investment policy, FDI upto 100% is permitted in cash & carry wholesale trading through Foreign Investment Promotion Board route. However, Government's Policy on retail trading since 1997 is not to permit FDI in retail trading.

● **Indo-Sri Lanka Trade Relations**

A Free Trade Agreement (FTA) between India and Sri Lanka was signed on 28th December, 1998 in New Delhi. The FTA covers the area of trade in goods only and envisages phasing out of tariffs on all products, over a period of time, except for a limited number of items in the Negative List. With effect from 18th March 2003, India has granted duty free access to Sri Lanka on all the goods except those covered under the negative list and those under the Tariff Rate Quota. Sri Lanka will provide duty free entry on all Indian goods except those covered under its negative list by 2008. Both sides have agreed in-principle to include trade in services to widen the ambit of the India-Sri Lanka Free Trade Agreement (FTA). A Task Force has been set up in this regard to draw up its future programmes.

● **Indian View on Multilateral Environment Agreement**

Japan in its submission to WTO Committee on Trade & Environment Special Session dated 3rd October, 2002 submitted that the scope of mandate for negotiations under paragraph 31(i) of Doha Ministerial Declaration should include an MEA (Multilateral Environment Agreement) open to any country sharing the environmental objective of the agreement and developed and agreed, taking into account works including those under the aegis of the UN or its specialised agencies and with the participation of a substantial number of the countries, reflects the interests of major Parties with substantial trade interest, actual and potential major producers and consumers of materials concerned. The Indian submission proposed that the scope of mandate for the negotiations under paragraph 31(i) should include those environmental agreements where there must have been effective participation in the negotiations by countries belonging to different geographical regions and by countries at different stages of economic and social development along with other criteria. India submitted that Japan's qualification of an MEA as one that "...reflects the interests of major Parties concerned, such as Parties with substantial trade interests, actual and potential major producers and consumers of materials concerned" is perhaps more appropriate for a plurilateral agreement since it introduces a distinction between WTO Members by dividing them into formal categories—"major Parties" and "others". The submission stated that this qualification, in Indian view, is not relevant in this context.

(Source: Replies given in Parliament during May, 2003)



MONTHLY REPORT ON MULTILATERAL TRADE ISSUES AND DEVELOPMENTS (April 2003)

❖ **Working Group on Trade and Investment**

The Working Group on Trade and Investment (WGTI) met in Geneva on 14 & 15 April, 2003. There were seven new submissions, 2 each from Canada, Japan, China and one from European Communities on 'policy flexibility for development'. The focus of the discussion was EC paper which argued that GATS (General Agreement on Trade in Services) type positive-list approach provided sufficient flexibility for developing countries to undertake commitments in line with their developmental needs. **A number of developing countries rebutted the arguments contained in the EC paper. China submitted a paper on definition arguing for narrower definition limited to FDI.** It also submitted a paper on transparency noted that it should be limited to notification and publication of relevant laws, regulations. **The issue of foreign investors' obligation and home government obligation was also raised by developing countries. India made a comprehensive intervention on the EC paper as well as other elements contained in para 22 of Doha Ministerial Declaration. It was agreed to have a factual updated report of the Working Group to the General Council, which will be discussed at the June meeting.**

❖ **Negotiating Group on Market Access**

A delegation from the Capital also attended the meeting of the Negotiating Group on Market Access (NGMA) held in Geneva on 14 & 16 April, 2003. India's formula for tariff reduction was

introduced and received support from many developing country delegations.

❖ **SPS Committee**

The Sanitary and Phytosanitary (SPS) Committee met on 1-3 April, 2003 in Geneva. Canada raised once again its concern on the import restrictions of India on bovine semen. It expressed disappointment that bilateral contacts have not resulted in any fruitful outcome. Canada is BSE free and this disease cannot be transmitted through bovine semen. US once again briefed Committee on its bio-security act. Discussion continued on paragraph 7 of the decision on equivalence. Canada and Egyptian proposals on operationalisation of Article 10 were taken up for discussion up. Though members agreed in principle to the Canada's proposal, no final decision could be adopted. China presented a proposal on changing the revised notification procedures. EC informed that it is seeking consultations with Australia on its SPS requirements.

❖ **Special Sessions of the DSB**

An informal meeting of the Dispute Settlement Body (DSB) special session was held on 9.4.03, where a framework document containing certain areas (5%) where the Chairman believed consensus may be possible and the rest in brackets based on Members' proposals was circulated. On 10th and 11th April the same document was discussed in both formal and informal modes to assess Members' position on the way forward for DSU amendment proposals. Thereafter, DSB met in informal small groups

to discuss specific issues on the rest of the days. The MERCUSOR Group also called a plurilateral on 16th to explore the possibility of identifying a list of feasible issues. Also, a meeting was held on the 30th in the Japanese mission to discuss 'process' issues like cleaning up the draft from legal point of view, mechanism for adoption etc.

The DSB met again on 15/4/03. The first item was status reports on four cases (US Copyright; US Anti-dumping Act, 1916; Section 211 of Omnibus Appropriation Act, 1998; and AD measures on certain hot-rolled steel products from Japan), where USA reported the steps taken by it so far to implement. In the second, third and fourth items, the requests to establish a panel by Chile on Uruguay-Tax Treatment of Certain Products, by Argentina on US-Sunset Reviews of AD Measures on Oil Tubular Goods, and by Canada on US-Investigations of ITC in Softwood Lumber were deferred. In the fifth item, the Panel report in Argentina-Definitive Safeguard Measures on import of Preserved Peaches was adopted. In the sixth item (US-Subsidies on Upland Cotton) there was an intense discussion on whether DSB should take a decision under SCM Annex V procedures irrespective of the procedural questions raised by USA relating its applicability when the peace clause of Agriculture Agreement is in force. In other business, it was informed that the revised Working Procedures of the Appellate Body would take effect from 1.5.03.

At the DSB meeting held on 24/4/03, the first item (Panel report in EC-AD duties on Malleable Cast Tube or Pipe Fittings from Brazil) was taken off the Agenda as Brazil had decided to appeal. In the second item (AB compliance report EC-Bed Linen), India, EC, US and S. Korea made statements, after which the report was adopted.

❖ **Technical Consultation on Blue and Amber Boxes in the Agreement on Agriculture**

A technical consultation was held by the Chairman of the Agriculture Special Session on Calculation of Domestic Consumption on 25/4/03, for the purposes of

tariff rate quota volumes under the WTO Agreement on Agriculture based on the Chairman's Revised first draft of the modalities paper. India's views on modalities were highlighted.

A technical consultation was held by the Chairman of the Agriculture Special Session on Article 6.2 and Annex II of the Agreement on Agriculture earlier on 23/4/03, based on the Chairman's Revised first draft of the modalities paper. India's views on modalities were highlighted.

A technical consultation was also held on 24/4/03, by the Chairman of the Agriculture Special Session on Calculation of Domestic Consumption for the purposes of tariff rate quota volumes under the Agreement on Agriculture based on the Chairman's Revised first draft of the modalities paper. India's views on modalities were highlighted.

❖ **Safeguards Committee**

A routine meeting of the Safeguards Committee to discuss notifications made by Members on the safeguard actions was held on 28.4.2003.

❖ **Special Session of TRIPs Council (Multilateral register for notification and registration of wines and spirits)**

Special Session of the TRIPs Council was held on 29/4/03 where the chairman circulated a common negotiating draft to take the process forward. India agreed with Chairman's text that the issue of 'traditional expressions' need not be settled in the context of these negotiations as the term is not used in the TRIPs Agreement. In the discussions on the Chairman's draft, Members stuck to their known positions

❖ **Committee on Anti-dumping practices – Working Group on Implementation**

A meeting of the Working Group on Implementation of the Committee on Anti-dumping (AD) Practices was held on 29 April, 2003. During the discussion on the Draft Recommendations (G/ADP/AHG/W/121/REV.2 dated 7

April, 2003) concerning conditions of competitions relevant to cumulation, significant differences of opinion among the members were observed. The revised draft will be considered in the next meeting of the Working Group. The working group also decided to recommend to the Anti-dumping Committee the introduction of the following 4 new topics for discussion in the working group: (1) EC's proposal on Art. 2.2 of AD agreement; (2) EC's proposal on Art. 2.4.1 of AD agreement; (3) US's proposal on Art. 6.7 of the AD agreement; and (4) US's proposal on Art 13 of the AD agreement.

❖ **Textiles Monitoring Body (TMB)**

TMB continued its examination of various notification made as well as safeguard action taken by Brazil.

❖ **Committee on Regional Trading Arrangements (CRTA)**

Twenty three agreements were taken up for examination, most of them for the first time. Further examination would be taken up in the next meeting.

❖ **Meeting with EC-GSP third parties**

India convened a meeting with those (Brazil, Cuba, Mauritius, Paraguay and Sri Lanka) third parties, which are not beneficiaries of the EC-GSP (Drug Arrangements) scheme, to explain to them that like other third parties, they are also entitled to seek enhanced third party status.

❖ **Meeting on TRQs established by Russia – Plurilateral**

Discussions in this meeting centered on three issues namely, fees, formalities and other requirements; allocation of TRQs and future plans of Russia with reference to TRQs. Russia clarified its regulations and procedures. Canada and Australia however questioned the transparency aspect of quota allocation as well as Russia's plans for the future. There was no response to this aspect by the Russians.

Working party meeting on the accession of the Russian Federation held on 10/4/03 continued discussions on the draft working party report and thereafter Members reported on the progress on their bilateral negotiations with Russia.

❖ **Plurilateral meeting convened by the Chairman of Sub-Committee on LDCs**

The status of progress in respect of accession of 10 LDC applicants was discussed. The DG is keen that at least some LDCs accede at Cancun. The Secretariat is expediting the process in respect of accession of Cambodia, Nepal and Samoa so that they can accede before Cancun.

❖ **Trade Policy Review Body: TPR of the South African Customs Union (SACU)**

A meeting of the Trade Policy Review Body was held on 23 and 25 April 2003 to conduct the second Trade Policy Review of SACU. All members appreciated the active participation of the SACU members at the WTO. A number of members raised concern over frequent application of trade-remedy measures by SACU. Concerns were also raised over a highly complex tariff regime prevalent in SACU member countries. Members urged SACU to take steps to further harmonise the trade policies among the SACU countries.

❖ **Information Technology Agreement (ITA)**

China and Egypt joined the ITA as 58th and 59th participants on 23/4/03. The report of the informal meeting of the custom experts held in May 2002 was briefly discussed. Japan informed the Committee of its proposals submitted at the NAMA (Non-Agricultural Market Access) on the expansion of project coverage and membership of ITA. Prior to the informal meeting, a workshop was held under the pilot project on EMC/EMI. The workshop was attended by regulators from developed as well as developing countries.

(Source: PMI/Geneva)



INTERNATIONAL CONFERENCE ON TRADE, INVESTMENT AND DEVELOPMENT

NO CURTAILING OF POLICY SPACE, SAYS JAITLEY

(NEW DELHI, 18-20 MAY 2003)

Highlights of the discussions

An International Conference on Trade, Investment and Development was organised from 18 to 20 May 2003 by the Ministry of Commerce and Industry in collaboration with UNCTAD to facilitate understanding of the implications of closer multilateral cooperation in the area of trade and investment in the context of the development policy objectives of developing countries. In all 15 developing countries from Asia, Africa and Latin America participated in the Conference. (Twenty six participants from 14 developing countries namely, Argentina, Bangladesh, Brazil, China, Egypt, Indonesia, Jamaica, Kenya, Malaysia, Nigeria, Philippines, Tanzania, Zambia and Zimbabwe took part in the deliberations, besides participants from India). Mr. Arun Jaitley, Minister of Commerce & Industry, Government of

India, in his concluding address at the Conference stated that any decision on negotiations on Singapore issues would require very careful and considered examination, particularly on issues which have a strong development dimension. He stressed the sensitivity involved in the case of pre-establishment National Treatment and also raised the issue as to whether multilateral rules were necessary for promoting foreign investment when autonomous liberalisation was progressing well. **Emphasising that there should be no curtailing policy space on investment, Mr. Jaitley stated that what was of utmost importance was that the developing countries should not be coerced or feel compelled to take decisions in these areas unless they were fully convinced that it was in their interest to do so.**

2. The **inaugural session of the Conference**, organised by the Ministry of Commerce & Industry, Government of India, in collaboration with UNCTAD, was held on 18th May 2003. In his welcome address the Commerce Secretary of India **Mr. Dipak Chatterjee**, referred to the object and purpose of the Conference. He also highlighted some of the basic issues to be addressed which included whether there was a need for a multilateral framework on investment and if WTO was the appropriate forum for this purpose.
3. Mr. Karl P. Sauvart, Director, UNCTAD referred to the Doha mandate and explained how the technical assistance needs were being met by UNCTAD. Dr. Veena Jha, UNCTAD, introduced the Ministry of Commerce and Industry -UNCTAD-DFID Project "Strategies and Preparedness for Globalisation and Trade in India" under the aegis of which the Conference was held.
4. The Conference was inaugurated by Minister of State for Commerce and Industry of India **Mr. Rajiv Pratap Rudy**. In his inaugural address Mr. Rudy dwelt upon the various issues arising out of the proposals for a multilateral framework on investment by proponent countries (like EC, Japan and Korea). He also referred to the limits on policy flexibility that a multilateral framework on investment would place on developing countries and urged full examination of its implications by the Conference.
5. The deliberations at the Conference were divided into four working sessions spanning two days (19-20 May), apart from also providing a 'Round table' to allow an overview and to identify issues that participants could take away for further reflection.
6. The **first session** was chaired by **Mr. Sidek Hassan**,

- Deputy Director General of Ministry of Trade and Industry of Malaysia. Inaugurating the Session he stated that the Doha Ministerial mandate was to clarify certain issues in the Working Group which included: Definition and scope; Transparency; GATS type positive list approach to pre-establishment national treatment; Development provisions; Exceptions and balance of payment safeguards; and State-to-State dispute settlement. Several questions arose. Was there a need for a multilateral agreement? Even if it was assumed for argument's sake that there was need for a multilateral framework, was WTO the appropriate forum for the purpose? Could trade rules be extended to investment?
7. **Mr. Karl P. Sauvart** of UNCTAD outlined the recent trends in investment flows in general and in FDI in particular. He also referred to the major determinants of investment flows, of which macro-economic stability in the host country was the most important. Legal framework governing investment flows in host countries basically facilitated and did not play any significant role in determining investment flows.
 8. **Mr. Richard Eglin, Director in the WTO Secretariat** dwelt upon several issues including bilateralism vs. multilateralism, scope and definition, post and pre-establishment coverage, performance requirements, transparency, dispute settlement, development provisions and investor and home country obligations. He also stated that the case for a multilateral framework on investment in WTO was recognised by Ministers at Doha in para 20 and it might be difficult to reopen the issue. Mr. Eglin said that while there could be no guarantee that a multilateral framework could enhance investment flows to any specific country, an agreement on investment could assist in bringing about transparency and predictability. He also stated that at Cancun two issues might come up for a decision. One was the issue of modalities and the other was whether it would be part of the single undertaking. Most governments rejected a plurilateral agreement. The last date for negotiations was end 2004, and 14 months to negotiate was unrealistic. At Cancun the Members would be under pressure to say yes or no.
 9. It was also noted that **most countries were not persuaded on pre-establishment national treatment**. The issues raised included if the agreement in WTO covered only FDI why would balance of payments safeguards be needed.
 10. While discussing the issue of WTO as the forum for investment framework it was pointed out that para 20 of the Doha declaration had already spoken of the case for a multilateral framework. However, it was also mentioned that para 20 of Doha declaration recognised only the case for and not the need for a multilateral framework. It was also indicated that an agreement on FDI would be a manifesto for domestic reform. It was easier to adopt domestic reform once policies were locked in the WTO. A multilateral agreement would further the domestic reform agenda.
 11. The view was also expressed as to whether the implication of a framework in WTO should be judged based on diluted proposals of a building block nature or based on likely eventual outcome. It was also stated that a number of WTO Members participated in the discussion without prejudice to their position on the need for a framework in WTO. It was also agreed that no body could tell in advance what the outcome would be if negotiations started, in the same way as the TRIPs agreement which started with discussions on counterfeit goods turned into a full fledged agreement on TRIPs.
 12. Mr. Kamal Malhotra, who co-authored the UNDP publication 'Making Global Trade Work For People' spoke in detail about the background of the efforts to have a multilateral framework on investment and highlighted the possible implications for developing countries. He stated that the elements of the framework would determine the possible benefits and costs of such an agreement to developing countries. He thus stressed the need to define the parameters clearly before taking a decision.
 13. There was no link between trade and growth. As countries developed they were likely to liberalize rather than the other way. MAI demonstrates the failure of reaching agreement among countries at similar stage of development.

14. There was no correlation between liberalization and volume of investment flows. Many countries had not been dependent on high level of FDI such as in Japan and Korea. China and Malaysia had strong control and regulation systems. Many liberal countries in Africa had not been successful in attracting investment.
15. IMF used to coerce countries to adopt capital account convertibility. However, IMF had since changed the tone and feels that capital account liberalisation could be dangerous. Even in respect of FDI balance of payment problems could arise. Half the FDI was through merger acquisition route. Greenfield investment was the most development friendly. When FDI was liberalised, companies could borrow from local banks and export the capital. Exclusion of nationals was also possible. That was why sophisticated investment policies like bhumiputra policies had been put in place by countries. This had led to political, economic and social stability, perhaps the most important determinant of FDI inflows.
16. It was also noted that the EC proposal on modalities was procedural. Detailed listing of the scope of modalities in respect of each of the Singapore issues was necessary.
17. The **second session**, which was devoted to the issue of national treatment in the context of an investment framework, was presided over by **Ambassador Chipaziwa of Zimbabwe**. Initiating the Session he stated that the concept of National treatment was very familiar to WTO Members, since this is one of the principal pillars on which the multilateral trading system was based. The question was how relevant and important it was in the context of investment? During the negotiation of OECD Multilateral Agreement on Investment (MAI) the sensitivity of national treatment provisions to many developed countries became clear. Had such sensitivities got reduced now? The proponent countries for a multilateral framework were keen on binding national treatment provisions. On the other hand, most of the countries, including developing countries, were autonomously liberalising investment policies. Would demands for a multilateral framework slow down the autonomous liberalisation efforts, he asked. Performance requirements like local content requirement and trade balancing remain prohibited based on the provisions of Art. III and Art IX of GATT. He raised the point as to what would be the implications of pre-establishment national treatment commitments in a multilateral framework as far as other performance requirements were concerned?
18. **Prof. Sornarajah**, highlighted the fact that traditionally only post establishment national treatment was granted in investment agreements. However, in the recent past certain bilateral investment treaties signed by the US and Canada with other countries had included provisions related to pre-establishment national treatment. Certain free trade agreements like NAFTA also had such provisions. Pre-establishment national treatment or right of entry had important implications for developmental and sovereign policy space. This had to be kept in mind while deciding on any multilateral framework. He also referred to the crucial role that the most favoured nation (MFN) clause could play in certain circumstances.
19. **Martin Khor of the Third World Net Work** underlined the implications of a high standard agreement and stated that developing countries might not have any control on the outcome, even though, now, the proposals might be for a low standard positive list approach covering only FDI and State-to-State dispute settlement. He cautioned about the need to study and understand the relevant issues further before rushing to any conclusions at Cancun.
20. **Dr. Nagesh Kumar of RIS** highlighted the role of performance requirements in the development process of countries and also drew attention to the fact that developed countries of today resorted to use of performance requirements when they were at early stages of development. This could not be denied to developing countries and LDCs of today when they reached the stage of development where they were able to effectively make use of such measures for development purposes. There was little supportive evidence to show that performance requirements would affect the magnitude of investment inflows. Performance requirements were essential development tools and should continue to be available to developing countries. Extension on a case by case basis did not make sense. Objective criteria like level of manufacturing value added per capita should be used.

21. **It was noted that investment discussions in the WTO focused on pre-establishment phase and this would eliminate or limit policy space for directing investment to desired areas of economic activities.** An investment agreement could swallow the GATS mode 3. It was doubtful that multilateral investment agreements would replace BITs. Transaction costs would not be reduced for investors as a result of a multilateral agreement on investment.
22. It was also indicated that the transition period for elimination of TRIMs was not sufficient. Developing countries should be provided with flexibility to choose policies that allowed FDI to contribute to human development. The opportunity cost of diverting scarce negotiating time from issues such as agriculture and textiles to investment might not be justified.
23. The costs of a multilateral framework were not known. In the case of TRIPs the cost has been very high for developing countries. There did not appear to be any corresponding benefits to developing countries. There was no perceptible movement in areas of interest to developing countries like agriculture. There was also no direct relationship between multilateral framework and transaction costs.
24. It was also remarked that while the limitations on economic policy space had been brought out during the discussions, more examples of negative implications needed to be made available to enable countries to take a decision.
25. The point was raised that balance of payment implications were pertinent even in the case of FDI because almost half of the FDI was by way of re-invested earnings and not fresh inflow.
26. The need for a multilateral framework when autonomous liberalisation efforts were on was also raised.
27. The Europeans hardly made BITs which included pre-establishment national treatment. Their bilateral agreements were protection oriented.
28. On the issue of performance requirements the issue was raised that only when countries reached a certain stage of economic development would they be in a position to make use of performance requirements. That being the case the decision under the TRIMs agreement to prohibit certain important performance requirements after a specified transition period appeared anti-developmental. Only one LDC notified a TRIM. Did it mean that all other LDCs would never have the opportunity to make use of performance requirements like local content requirement and trade balancing, at all.
29. The **third session** was on GATS and Investment. It was chaired by **Ms. De Pinho of Brazil**. Introducing the issue for discussion, the Chairperson stated that mode 3 namely commercial presence under GATS did not address all the issues related to an investment framework. For example, GATS did not address the issue of investment protection, compensation etc. One of the issues that may be looked at during the Session would be how GATS could guide the shape of a future agreement on investment in WTO. In this regard, without prejudicing the position of her Government, she stated that mode 3 or commercial presence covered only FDI. There was option for members to commit selectively sector-by-sector. The core principle of National Treatment was not applied as a general rule under GATS. In case a member did not want to extend National Treatment it could leave the sector unbound. She also referred to the possibility of investment agreement under WTO swallowing mode 3 of GATS.
30. **Ms. Mina Mashayekhi of UNCTAD** gave a detailed presentation of the GATS provisions which were development friendly, on the one hand, but which also had several rules that had still not been clarified. It was also made clear that GATS did not deal with FDI *per se* but rather with the supply of services and covered commercial presence only to the extent that FDI was necessary for facilitating trade in Services. As for performance requirements under the GATS, it was stated that these had to be specified under Article XVI and under XVII. Effectively, therefore, a GATS type positive list approach would include performance requirements within its scope.
31. Discussions also referred to the potential problems and

conflict that could arise in respect of GATS itself because mode 3 relating to commercial presence might get subsumed in it if any future framework was devised on investment, covering both goods and services. During the discussions some of the participants also pointed out that while the GATS type architecture provided for some flexibilities, the proponents of a multilateral framework had alluded to GATS only in respect of a positive list approach. Other elements of the GATS architecture might not, therefore, be available.

32. The *fourth session* on 'Investors and home country obligations' was chaired by **Mr. Zhang Xiangchen, Deputy Director General of WTO of the Ministry of Commerce of China**. In his introductory remarks the Chairman stated that the investment process involved the investor, the home country and the host country. The Doha mandate (para 22) talked of addressing in a 'balanced manner' the "interests of home and host countries". The joint paper presented by India, China, Kenya, Pakistan, Zimbabwe and Cuba in the WTO Working Group had highlighted the relevant issues. He also stated that there had been demand for positive action on the part of the multinationals. An issue that needed to be looked at in this regard was technology transfer. The need for binding and enforceable global code has been highlighted by the recent spate of cases of corrupt corporate practices and fraud involving some of the biggest MNEs.

33. **Professor Sol Picciotto of the University of Lancaster** made a presentation that looked at precedents and problems in relation to investors' obligations and home country measures, and suggested certain approaches for allocating jurisdictions and for including corporate responsibility obligations in the areas of transparency, disclosure and accountability.

34. Prof. Sornarajah explained how in investment agreements entered into by some countries it had been made clear that the obligations of home countries to protect investments were limited to those investments which conformed to host country laws and regulations. He also dwelt upon other ways by which meaningful legal constructions could be considered for making a foreign

investor a good corporate citizen.

35. During the discussions areas of cooperation between home countries and host countries, particularly in relation to sharing of information on restrictive business practices, were highlighted. It was also mentioned that many countries had home country measures but they were unilateral in nature. Arrangements could be considered to make these transparent and for also being made multilateral.

36. The last session was in the form of a Roundtable. A set of 7 questions were posed to the participants by the Chairman which were responded to in the form of statement of country positions by participants. Briefly the statements made were as follows:

Zambia

The needs of developing countries should be taken into account while thinking of a multilateral framework on investment. Zambia would like to know what the proponents wanted to be included in a multilateral agreement on investment in WTO and what way developing countries would benefit from the inclusion of such elements.

Philippines

Philippines would prefer an agreement, but with flexibility for developing countries. Issues raised during the two days, especially the issues of technology transfer and investors' and home country obligations should be taken care of. Any possible agreement should take into account developing country concerns. As for the forum, whether it was WTO or any other forum did not matter to Philippines as long as it could effectively implement the agreement and could provide technical assistance and capacity building to developing countries and LDCs.

Malaysia

FDI had contributed enormously to the development of the Malaysian economy. In view of the fact that Malaysia recognised the contribution of FDI not only to the internal economy but also to its international competitiveness, Malaysia maintained a very liberal foreign investment policy. Discussions in the Conference brought out the fact that GATS model might not be as flexible and development

friendly as claimed. Flexibility and creativity had to be considered. Malaysia felt that a set of rigid rules on investment might restrict the ability of developing countries to attract investment to desired areas of activities. After listening to the discussions in the Conference one was concerned about the availability of policy space to developing countries and their right to screen and regulate investment inflows in accordance with their domestic laws and regulations. Malaysia felt that development provisions should be an integral part of the architecture of any proposed multilateral investment agreement. Such a framework should also take into account the home country and investors' obligations. There were more negative than positive aspects to an investment agreement because it was generally felt that a multilateral framework might not increase investment or trade flows. Before we went into negotiations we should be clear about the substance and content. Home country and investors' obligations should be clearly spelt out in any framework. Developing countries like Malaysia still required performance requirements and would like to use those performance requirements which were WTO consistent now. We needed to differentiate between greenfield investment, which contributed to the economic development of developing countries, and pure capital flows. Developmental provisions should be integral part of any investment agreement. Technical assistance and capacity building should be available to understand the implications of closer multilateral cooperation in the area of investment. As Cancun drew near, Malaysia was not sure if she was ready to start negotiations on investment. Malaysia had liberalized her investment policy autonomously. However, the implications of an agreement and its contents and the required commitments were not known. Therefore, Malaysia was not ready for start of negotiations at Cancun.

China

A fair, transparent and predictable agreement would be good for China. It was, however, necessary to be very cautious about dealing with this issue. Modalities were a substantial issue and not procedural as indicated in the EC proposal. Balance of rights and obligations was very important for developing countries. An investment

agreement would be for developing countries, in effect, another TRIPS agreement. China made extensive use of performance requirements during its development process. During accession negotiations it had to agree to eliminate many of them. That did not mean that other developing countries would not require it. China supported the demand of other developing countries for flexibility and the right to use performance requirements. The capacity of developing countries, including China, to negotiate investment agreement was inadequate. This capacity would also depend on modalities. Further work in the Working Group was necessary especially on issues like pre-establishment and post establishment national treatment and definition and scope. Even on the issue of post establishment national treatment further clarifications and capacity building was necessary.

Nigeria

In any framework Developing countries should be provided flexibility to take into account their special situations

Tanzania

Nothing concrete has been done to make LDCs understand the implications of Singapore issues. LDCs were not ready to start negotiations at Cancun. They did not have adequate capacity to understand the implications of closer multilateral cooperation in the area.

Zimbabwe

All the efforts of developed countries were about market access. Zimbabwe did not think that sufficient case had been made that investment belonged to WTO. Besides, nobody would guarantee that a multilateral framework would lead to increased flow of investment. Brettonwoods institutions – IMF and World Bank - were pushing for coherence. They were, in fact, seeking to re-enforce their own conditionalities.

Kenya

Majority of us would like a framework that would enhance our development needs. Technical assistance was required to understand how development needs could be enhanced. Kenya was not ready for a multilateral framework on Investment. We needed to do stocktaking regarding capacity building and technical assistance.

Brazil

Even though Brazil was negotiating bilateral investment agreement with EC, Brazil was not ready to negotiate any multilateral agreement on investment. One did not know what would be the eventual outcome and its implications. Implementation issues needed to be addressed before looking at Singapore issues. Brazil was not party to any bilateral or regional investment agreement at present. However, Brazil was getting huge inflow of foreign investment. Macro-economic stability, availability of skilled manpower etc were the determining factors. IMF used to push for capital account convertibility. However, the 1997 East Asian financial crisis made everybody wiser. It was, therefore, important to limit scope and definition in any discussions on a multilateral framework, to FDI only.

Argentina

How an investment agreement would affect the host country economy had to be studied more clearly. Argentina had lot of experience in negotiating bilateral and regional investment agreements. Argentina was also involved in the OECD MAI negotiations. Performance requirements and home country measures and investors' obligations had to be covered in any framework. Implementation issues had to be addressed before taking up issues like investment.

India

India was against any multilateral agreement on investment right from the beginning. This was known to all. The reason why India was against such an agreement was because we didn't know where we were going. We burnt our hand in the past. India wanted to know the substance of what was being proposed which would help us make up our mind. This was why India took the initiative in organising this Conference to make available to the participants the different sides to the debate. Representatives of UNCTAD and WTO as well as the representatives from third world network and other resource persons have spoken of the different aspects involved.

Jamaica

A number of issues involved questions of national sovereignty. Jamaica would like to liberalize at the

regional level though at the moment Jamaica is not party to any regional agreement on investment. Jamaica was not interested in a multilateral framework.

Concluding Session

The Conference ended with concluding address by Shri Arun Jaitley, Minister for Commerce and Industry, Government of India on 20th May 2003.

In his address, Minister expressed disappointment that the progress made on some of the issues concerning developing countries with Doha work programme had not been adequate. While the Doha declaration had prescribed very clear deadlines for the solution of implementation issues, making progress on issues relating to S&D treatment and for resolving the residual issue relating to para 6 of the Doha Declaration on TRIPs and Public Health, the deadlines prescribed had been breached and we were yet to make any significant break through. On the other hand, on issues like non-agricultural market access there were calls for high levels of ambition. Mr. Jaitley also stated that any decision on negotiations on Singapore Issues would require very careful and considered decision, particularly on issues, which have a strong development dimension. He also stated that it was appropriate that the Conference addressed the twin issues of whether a multilateral framework on investment was needed and whether WTO was the appropriate forum. He stressed the sensitivity involved in the case of pre-establishment National Treatment. He also raised the issue as to whether multilateral rules were necessary for promoting foreign investment particularly when autonomous liberalization was progressing well. He stated that what was of utmost importance was that the developing countries should not be coerced or feel compelled to take decisions in these areas unless they were fully convinced that it was in their interest to do so. This, in his view, was the essential meaning of the principle of explicit consensus. While stating that this Conference had enabled all concerned to enhance the understanding of the issues from an economic, legal and developmental stand point, it was necessary to further build on this and strengthen our cooperation. He cautioned about moves that might try to suggest that modalities would be limited to procedural matters.



SEMINAR ON TRADE LIBERALISATION IN ENVIRONMENTAL GOODS AND SERVICES

(May 16, 2003 – New Delhi)

A Summary

BACKGROUND AND CONTEXT

Liberalisation of trade in environmental goods and services (EGS) is an important issue both from sustainable development and trade point of view. **During the fourth ministerial conference of the WTO held in Doha in November 2001, the Members agreed to negotiate on substantial aspects of trade–environment linkages including the one on EGS.** The call for trade liberalization in EGS in the Doha Ministerial Meeting is guided by the principle that the protection of the environment and promotion of sustainable development can and must be mutually supportive. The ongoing negotiations therefore are expected to result in:

- ❑ support for the member countries to take measures to improve their environment while aiding their development by way of production and promotion of trade with environmentally friendly products;
- ❑ development of environmental goods industry; and
- ❑ adoption of environmentally friendly technologies all in a cost effective way.

In this **backdrop, the Ministry of Commerce and Industry, Government of India, The Energy and Resources Institute (TERI), and United Nations Conference on Trade and Development (UNCTAD)** organised this one-day seminar aimed at addressing the following issues:

- ✦ What are the benefits of trade liberalisation for India?
- ✦ Does the country have export potential in certain segments of the EGS industry?
- ✦ What are the implications of trade liberalisation for the development of domestic EGS sectors?
- ✦ What should be the negotiating objectives?
- ✦ Is it viable to push for inclusion of inherently environmentally friendly products?

- ✦ What conditions should be attached to specific commitments, if any?
- ✦ What kinds of policies are needed to help strengthen domestic EGS sectors?
- ✦ What are the capacity building needs in the country in the area of EGS, in particular in the context of their participation in the negotiations in the WTO?

Over 70 participants from all over the country representing the industry, research institutions, Government agencies, and NGOs attended the seminar.

INAUGURAL SESSION

The **inaugural address** was delivered by the Union Minister of State for Commerce and Industry, Mr Rajiv Pratap Rudy. The other speakers who spoke in the session were Dr R K Pachauri, Director General, TERI; Mr S N Menon, Additional Secretary, Ministry of Commerce and Industry; and Dr Veena Jha, Coordinator, UNCTAD, New Delhi.

In his welcome address, **Dr Pachauri** stressed the need to have a holistic approach towards trade and environmental issues to ensure the mutual supportiveness. He highlighted the need for developing countries to come together on a common platform, as it is mostly the industrialised countries that have been responsible for the largest share of cumulative emissions of greenhouse gases and the consequences of which are borne by the developing countries. On the issue of liberalisation of EGS, he said efforts should be made to balance trade and environmental objectives.

Mr S N Menon mentioned the autonomous initiatives taken by India with respect to liberalization in this sector. He mentioned that India has already allowed 100% FDI (foreign direct investment) in this sector. The Indian tariffs on environmental goods range between 25% and 40%. Most of these tariffs are fixed but the percentage is expected to reduce

by 20–10%. Whereas, the tariffs in developed countries are virtually zero. He highlighted the need for analysing non-tariff barriers in detail in this sector.

Dr. Veena Jha of UNCTAD discussed the relevance and importance of her recent book released on the occasion, *Trade and Environment: issues and options for India*. The honourable Minister of State for Commerce and Industry released this book on the occasion.

In his address **the Minister enumerated how trade liberalization in EGS will provide an opportunity for India to improve availability of such goods and services, and produce at lower costs. As a result of the growing awareness among people, and stricter regulations there has been an increase in the demand for EGS in India.** Though the EGS industry is growing at a fast pace, most of the time it falls short of funds and appropriate technology. However, he said, as far as negotiations are concerned the starting point is identification of EGS. The proposals by the developed nations so far, have been for the end of the pipe pollution control equipment.

Since the **developing nations are net importers of these goods, it is imperative that a careful assessment is done before opening up the sector.** India could offer the environmental services under Mode 3 as well as Mode 4 to all nations but it is important to bear in mind that there are many services, such as wastewater treatment, municipal solid waste disposal, etc. which are under government control besides being difficult to export. Thus there is need for appropriate negotiating strategies to ensure a judicious balance between the economic and environmental interests.

SESSION I:

Liberalisation in EGS and sustainable development

Dr Prodipto Ghosh, Additional Secretary, Prime Minister's Office, Government of India chaired the first technical session of the seminar. The other panelists were **Mr. Rene Vossenaar**, UNCTAD, Geneva; **Mr. R. Gopalan**, Joint Secretary, Ministry of Commerce and Industry, New Delhi; Dr. P. Khanna, Director, Indian Institute of Environmental Management, Mumbai; and **Mr K. Balakrishnan**, Regional Director, US-Asia Environmental Partnership, New Delhi.

In his presentation Mr. Vossenaar gave an overview of global EGS industry and mentioned the fact that the market in developed nations is saturated. The companies from these countries are looking towards developing countries as new markets for their products and services.

He said another issue that is being discussed in the WTO is whether or not a member state should be given special treatment for environmental goods as compared to other goods that are under negotiation. Developed countries argue that this issue was highlighted in the Doha Ministerial Declaration, which dealt with the environment. Therefore, there is a need to try for deeper tariff cut and may be zero-to-zero agreements in this issue. Whereas other countries argue that for the time being there is no need for its. They have special treatment and need to look first at what the modalities are and what is negotiating EGS in general. And then see later, if there is a need to do something on environment goods to comply with the mandates.

In the services sector, it is necessary to differentiate between infrastructure and commercial services because of the need for regulation in the former prior to liberalisation. So, it is important to look into the GATS agreement to take advantage of the special flexibility and other provisions that developing nations have. Thus development can only be sustained if a proper sequence to the liberalisation process is followed.

Mr. Gopalan enumerated the issues on trade liberalisation in the EGS sector for India. He said it would help nations while taking measures to improve the environment, to enhance production, and trade of environmentally friendly goods, etc. Not only are investments and funds important in achieving these objectives but so also is the inflow of technology with liberalisation. Thus, negotiations on the issue of free trade should begin with a balance definition of environmental goods. Many developing nations have different viewpoints on this.

In the environmentally friendly products, issues such as non-product related PPM (process and production methods) standards are extremely important. He said India should even explore the inclusion of traditional knowledge-based products wherein we may have some advantage. Another issue, of importance in this sector is that which of the two sector services-public or

private-should be opened? In the present scenario, there is 100% FDI in the private sector but in the public sector there are a lot of issues that need to be addressed before opening up. The question of commitment by developing nations in Mode 4 is still open to discussions.

Dr. Khanna in his presentation emphasised the relationship between sustainable development and environment protection. A developing nation can derive export gains from trade liberalisation, which is only possible if the competitiveness in the industry can be increased. This export gain can be achieved through many available measures in prevention and control in India. Sustainability of knowledge requires integration of environmental and social concerns. Efficiency is also an important aspect as it would lead to production of large quantity of goods by the same stock and energy resources.

Mr. Balakrishnan gave an overview of the Indian environmental market. The size of the Indian environmental market is to the tune of 4.1 billion US dollars and growing faster—12% per annum. Over the years due to an increase in the awareness, the prospects seem bright especially with government agencies looking to the private agencies for many issues. In the **wastewater and water treatment sector, although there is scope for growth in biomedical waste management sector, but the Indian companies are still grappling with technological issues and the tariff and non-tariff barriers.** As these advanced technologies are very important in the industrial and the municipal sectors, the high tariffs act as an impediment for growth. It is here where trade liberalisation can prove to be beneficial. By strengthening regulatory framework and increased technology cooperation, we can operate under economies of scale.

The chairperson **Dr. Prodipto Ghosh mentioned the importance of a list versus definition that is whether to first generate a list and then modify it or whether to first get the definition in place and then generate a list. He argued that the implication should be carefully considered before categorically adopting one approach.** On one hand, the problem of proceeding with the list is that without realising there could be some serious infringements of established GATT principles. On the other hand the definitional approach might be very difficult to balance the interests of

different nations.

The **chair noted that the concept of cleaner technology is not static; it is a moving target and is relative to baseline.** Though the adoption of stoichiometric and thermodynamic limits as a definition for cleaner technology is very appropriate but then the costs are very high. So there is a choice between moving to cleaner technology and maintaining the comparativeness of the economies. Another issue that should also be addressed is the multiple use of products and technologies. So we need to realise our negotiating strengths and be optimistic about reaching out to stakeholders, the research community, etc.

Session II:

Environmental goods: End of the pipe pollution control equipments and technologies

Mr. S.N. Menon chaired the second session of the day in which presentations were made by Mr. Sandeep Singh, Research Associate, TERI, Mr. S. Nigam, Economic Advisor, Department of Industrial Policy and Promotion, Government of India; Mr. Rene Vossenaar and Dr. Veena Jha of UNCTAD.

In his presentation, **Mr. Sandeep Singh** touched upon the analyses that have been undertaken at TERI on liberalisation of EGS. **He mentioned that even with a list approach a broader agreement on major categories of environmental goods is important, e.g. whether to include only end of the pipe equipments or to expand it to include RE (renewable energy) equipments, environmentally friendly products and cleaner technologies.**

He mentioned that the two lists proposed by the APEC and the OECD secretariat can only be taken as indicative, they neither include all the equipment that are used in pollution control nor the goods included are exclusively used for pollution control. He added that given the skewed structure of global environmental industry the proposals that have come so far include goods that may not necessarily benefit a country like India both from trade as well as environmental point of view.

Mr. Singh mentioned that from trade negotiation point of view APEC list is more practical as it includes goods, which are distinguishable by the Harmonized System of custom codes.

However, from the environmental point of view, he cited an analysis done by TERI, which showed that only 16 out of the 109 items listed could be predominantly used for environmental purposes. There are some other equipments also that are used for environmental purposes but they are to a large extent used for other purposes. These include filtering machinery for gases, gas analysis equipments, etc. However, equipments such as fans and blowers, vacuum pumps, etc. are generally industrial equipments that may or may not be used for environmental purposes.

A trade analysis of the APEC reveals that applied tariffs in India for most of the products range from 10% to 25%, while in countries like Canada and US it is between 2% and 5%. India's exports in the items included in APEC list is to the tune of 610 million US dollars as against its imports of 1.34 billions US dollars. The only sub sector where our exports exceed imports is renewable energy.

Mr. Nigam argued that lists suggested by the OECD, the APEC, and Japan are nothing but instruments through which the developed nations are channelling their interests. The developing countries, therefore, need to look beyond these lists and seek channels for discussions so that by providing productive employment opportunities they can reduce poverty and the consequent pollution. This is far more important than cleaning up pollution, which is aggravated by the lack of employment opportunities. Development can be addressed by identifying cleaner and natural products like jute, coir etc., which can provide employment.

In the interaction session, **Luis Abugattas** in his comments added that a nation might vouch for a product to be included for tariff cuts or for in-flow of FDI. But what matters is the cost of investment for companies in the other countries. However, there should be an aim to reducing the cost of investment to local capital so as to strengthen the domestic supply. The FDI in-flow will lower the cost of entering the market. Thus the policy objective should be unilateral elimination of tariffs to bring in foreign investment.

Dr. Sheshadri emphasised the importance on the need for redressing the imbalance on tariffs and how the inputs from the industry can be useful. Thus, there is a need for a balanced definition. The choice is between a narrow definition (including only pollution control equipments) and a very broad definition. But then the main issue is easier access and affordable access

to environmental technology.

Session-III :

Trade Liberalisation in Environmental Goods: Environmentally Friendly Products and Renewable Energy Equipment

Mr. Prabir Sengupta, Director-General, Indian Institute of Foreign Trade, chaired the third session of the day. Other speakers on the panel were Mr. P. Jayakumar, Adviser, Tata B.P. Solar Ltd; Mr. Chintan Shah, General Manager, Suzlon Energy Ltd.; and Mr. P.K. Banerjee, Director, Indian Jute Industries' Research Association.

Mr. Banerjee gave an overview of the Indian jute industry and spoke about environmentally friendly nature of the jute fibre. The fossil fuel content of jute is small when compared to other fibres. Jute is an economically profitable crop as it uses 10% less energy compared to others and it absorbs a larger amount of carbon dioxide from the atmosphere after subtracting all the damage. Because of the increasing awareness towards environment and jute being an environmentally friendly product, it has tremendous potential for trade.

India exports around 20% of its jute products with 80% being absorbed in the domestic market. But the Indian industry faces a lot of NTBs. For instance, the US requires some kind of visa; Egypt requires some kind of certification of Egyptian standard, Syria has imposed some 2% as legislation fee, etc. There are some tariff barriers also, e.g. Argentina (31%) and Egypt (28%) has imposed high import barriers. But countries like the UK, Japan, and Australia have relatively low import barriers. In international trade in Jute, only India and Bangladesh are the major players. Bangladesh being an LDC (least developed country) enjoys preferential access to many markets. But since the Indian jute industry is technologically stronger and growing stronger, we should lobby for abolition of all tariffs and establish a trade advantage. Despite apprehensions, we need to be optimistic.

During the discussions it was highlighted that 70% of India's exports in the RE sector go to developed nations. Africa, Gulf, and ASEAN countries levy huge duties on Indian products. China has a huge market for wind turbines but because of unreasonable trade barriers there has been inability to convert this to our advantage. India imports specific components of RE technology but hardly any finished products. Therefore,

there is a need for a local and national policy, which is favourable to the industry. India has a comparative advantage in many cases for example in solar PV technology. State-of-the-art technology exists but requires some cost cutting.

In response to a question, it was highlighted that India has an installed capacity of 70 MW whereas indigenous consumption is only 22 MW, so there is a scope for exports. Liberalising is only the starting point to achieve much. Volumes have increased from 45 MW to 500 MW but there is a need to decrease the prices and dismantle the administrative price mechanism. By entering into the EGS category, many obstacles can be overcome, such as tariff and non-tariffs barriers, etc. Inclusion should look into the technology as well the cost aspect and it is here where the inputs from the industry are required. Thus the framework should encompass technology transfer and the applications. As to why there is a need to include it is a simple matter of expanding the market while being careful. Subsidised energy cost and social pricing drives the Indian market to increase volumes and we need to look beyond barriers.

Session IV:

Liberalisation in Environmental Services

Ambassador C. Dasgupta, Distinguished Fellow, TERI, was chairperson of the last session. Other presentations were made by Mr. Luis Abugattas, UNCAD, Ms. Aparna Sawhney, Indian Institute of Management, Bangalore, and Mr. A.K. Chaturvedi, EQMS Pvt. Ltd.

In his presentation, Mr. Abugattas, stressed the importance of environmental services. This sector has achieved high prominence not only from the commercial point of view but also from the many social aspects pertaining to it. He said it is very difficult to separate trade in EGS in the real market as very often the two are offered as a package by the industry. The classification issue is sensitive. In WTO the official classification as of now of on form of the W-120 list prepared by old GATT secretariat. The classification proposed by the European Union in November 2000 could also be useful. However, it is up to the WTO members to decide whether to use these classifications as a basis or start with a new classification altogether.

The classification is also important in terms of more precise clarity about the various categories of services. Commitment for a country would mean that every single service that is under force of that class is subjected to multiplexes. That is

why some European nations involved in the classification negotiations are trying to give some sort of clarity to it. There is a divergence between the market realities in terms of environmental issue and the classification used for statistical purposes. Services are core or related because of the end use. The dynamics of the negotiations will determine the legitimacy of the commitments of the different countries.

Mr. Abugattas added that there are basically two major types of environmental services, infrastructure and commercial (which consist of water management, waste disposal and sanitation). There is also something called the negotiation-related service. All developed nations already have deep liberalisation commitment on environmental services. Liberalisation will bring an end to the increase in the costs. The issue of regulation is also very crucial. Thus liberalising is not a feasible option unless there is some efficient regulatory agency in place. Liberalisation brings in competition and that would force an established company to look for other markets and some companies might not like this, as then they would lose their monopoly. So this whole regulation business has to be done on the basis of fair discussions.

It is also important to note it is developing nations that are experiencing double-digit growth rates whereas markets in the developed nations are saturated and growth has come down by 2%-3%. We need to look for markets in other developing nations. We have done so in Africa, South East Asia, and so on. There are also barriers in terms of movement of employment of nationals. Since environmental services are related to a whole gamut of other services, market access barriers to those sectors will obviously reflect on this. Growth prospect also exist in commercial support services such as environmental consulting, auditing, analysis, and training.

So the bottom line is that we need foreign capital to increase availability of manpower and technology services to improve cost competitiveness. But allowing foreign companies in the industrial sector (the non-goods sector) might have a negative effect on the Indian industry, as the are very efficient. Streamlining infrastructure, to create a competitive environment amongst exporting nations, will improve market access. On the import side, we need to restrict some kinds of tariff control system. India has tremendous potential in environmental consultancy but there are no specific studies conducted for market barriers etc. so we need data when talk about fair regimes.



'I was Wrong. Free Market Trade Policies Hurt the Poor'

- Stephen Byers

“ In November 1999, during the World Trade Organisation ministerial conference in Seattle, I watched from my hotel room as thousands demonstrated against the evils of globalisation.

Anarchists clad in black marched alongside grandmothers dressed as turtles and steelworkers from Philadelphia. They saw international trade as a threat to their jobs, the environment or simply as part of a capitalist conspiracy.

As leader of the delegation from the United Kingdom, I was convinced that the expansion of world trade had the potential to bring major benefits to developing countries and would be one of the key means by which world poverty would be tackled.

In order to achieve this, I believed that developing countries would need to embrace trade liberalisation. This would mean opening up their own domestic markets to international competition. The thinking behind this approach being that the discipline of the market would resolve problems of underperformance, a strong economy would emerge and that, as a result, the poor would benefit. This still remains the position of major international bodies like the IMF and World Bank and is reflected in the system of incentives and penalties which they incorporate in their loan agreements with developing countries. But my mind has changed.

I now believe that this approach is wrong and misguided. Since leaving the cabinet a year ago, I've had the opportunity to see at first hand the consequences of trade policy. No longer sitting in the air-conditioned offices of fellow government ministers I have, instead, been meeting farmers and communities at the sharp end.

It is this experience that had led me to the conclusion that full trade liberalisation is not the way forward. A different approach is needed: one which recognises the importance of managing trade with the objective of achieving development goals.

No one should doubt the hugely significant role that international trade could play in tackling poverty. In terms of income, trade has the potential to be far more important than aid or debt relief for developing countries. For example, an increase in Africa's share of world exports by just 1% could generate around £43m-five times the total amount of aid received by African countries.

This has led President Museveni of Uganda to say: "Africa does need development assistance, just as it needs debt relief from its crushing international debt burden. But aid and debt relief can only go so far. We are asking for the opportunity to compete, to sell our goods in western markets. In short, we want to trade our way out of poverty."

The World Bank estimates that reform of the international trade rules could take 300 million people out of poverty. Reform is essential because, to put it bluntly, the rules of international trade are rigged against the poorest countries.

Rich nations may be prepared to open up their own markets, but still keep in place massive subsidies. The quid pro quo for doing this is that developing countries open up their domestic markets. These are then vulnerable to heavily subsidised exports from the developed world.

The course of international trade since 1945 shows that an unfettered global market can fail the poor and that full

trade liberalisation brings huge risks and rarely provides the desired outcome. It is more often the case that developing countries which have successfully expanded their economies are those that have been prepared to put in place measures to protect industries while they gain strength and give communities the time to diversify into new areas.

This is not intervention for the sake of it or to prop up failing enterprises, but part of a transitional phase to create strong businesses that can compete on equal terms in the global marketplace without the need for continued protection.

Just look at some examples. Taiwan and South Korea are often held out as being good illustrations of the benefits of trade liberalisation. In fact, they built their international trading strength on the foundations of government subsidies and heavy investment in infrastructure and skills development while being protected from competition by overseas firms.

In more recent years, those countries which have been able to reduce levels of poverty by increasing economic growth-like China, Vietnam, India and Mozambique-have all had high levels of intervention as part of an overall policy of strengthening domestic sectors.

On the other hand, there are an increasing number of countries in which full-scale trade liberalisation has been applied and then failed to deliver economic growth while allowing domestic markets to be dominated by imports. This often has devastating effects.

Zambia and Ghana are both examples of countries in which the opening up of markets has led to sudden falls in rates of growth with sectors being unable to compete with foreign goods. Even in those countries that have experienced overall economic growth as a result of trade liberalisation, poverty has not necessarily been reduced.

In Mexico during the first half of the 1990s there was economic growth, yet the number of people living below

the poverty line increased by 14 million in the 10 years from the mid-1980s. This was due to the fact that the benefits of a more open market all went to the large commercial operators, with the small concerns being squeezed out.

The evidence shows that the benefits that would flow from increased international trade will not materialise if markets are simply left alone. When this happens, liberalisations is used by the rich and powerful international players to make quick gains from short-term investments.

The role of the IMF and World Bank is also of concern. The conditions placed on their loans often force countries into rapid liberalisation, with scant regard to the impact on the poor.

The way forward is through a regime of managed trade in which markets are slowly opened up and trade policy levers like subsidies and tariffs are used to help achieve development goals.

The IMF and World Bank should recognise that questions of trade liberalisation are the responsibility of the WTO where they can be considered in the overall context of achieving poverty reduction and that it is therefore inappropriate to include trade liberalisation as part of a loan agreement.

This represents a departure from the current orthodoxy. It will be opposed by multinational companies who see rich and easy pickings in the markets of the developing world. But such a change would benefit the world's poorest people and that's why it should happen. , ,

(This is the text of an article by Stephen Byers published in The Guardian Dated May 19, 2003. Stephen Byers is a Labour MP for North Tyneside. He is a former UK trade and Industry secretary and was a Cabinet Member from 1998 to 2002).



*** ANTI-DUMPING: WTO Secretariat reports significant decline in new anti-dumping investigations**

The WTO Secretariat, on 2 May 2003, reported that in the period 1 July–31 December 2002, 17 Members initiated 149 anti-dumping investigations against exports from a total of 43 different countries or customs territories. This represents a significant decline from the corresponding period of 2001, during which 23 WTO Members had initiated 210 anti-dumping investigations. Forty of the 149 initiations during the second semester of 2002 were reported by developed countries.

India initiated 54 investigations during the second semester of 2002, as compared with 55 investigations initiated during the second semester of 2001. Thailand had the second highest number of initiations (14) during the second semester of 2002, a significant increase from the 2 investigations initiated during the corresponding period in 2001. Australia and the United States had only slightly fewer initiations, with 13 each. China, with 27 investigations on its exports, is at the top of the list of countries subject to anti-dumping investigations, although this number is a slight decrease from the 29 investigations initiated on Chinese exports during the second semester of 2001. The Republic of Korea and Chinese Taipei were next, with, respectively, 10 and 8 investigations initiated on their exports in the second semester of 2002. Russia, Thailand, and the United States each had 7 investigations initiated on their exports, while Germany and Indonesia each had 6

investigations initiated on their exports, and Canada, India, Japan, and Singapore each had 5 investigations initiated on their exports in the second semester of 2002.

The largest number (46) of investigations initiated during the second semester of 2002 involved products classified in the base metals sector of the Harmonized System of Tariff Classification, which includes iron, steel and aluminium products. The second most affected sector was chemicals, with 43 investigations initiated, followed by plastics (23 initiations). Of its 54 investigations, India initiated the largest number (23) on chemical products, followed by 19 initiations on products in the base metals sector. Thailand initiated all 14 of its investigations on products in the base metals sector. Australia initiated 11 of its investigations on plastics products, and 1 each on products in the base metals and machinery sectors. The United States' investigations were distributed among plastics products (5 initiations), vegetable and chemical products (3 initiations each) and animal and base metal products (1 initiation each).

Sixteen WTO Members imposed a total of 106 final anti-dumping measures against exports from 38 countries or customs territories during the second semester of 2002. Twenty-eight of these measures were imposed by developed countries. The number of measures imposed represents an increase from the 77 measures imposed during the corresponding period of 2001. This increase in the number of final measures is likely a consequence of the large number

of initiations in preceding periods, 210 in the second semester of 2001, and 104 in the first semester of 2002.

India imposed the largest number of final measures (42) during the second semester of 2002, more than twice the number of final measures it had imposed (20) during the corresponding period of 2001. The European Communities were a distant second to India in the number of final measures imposed during the period, with 13, followed by the United States (9), Argentina and South Africa (7 each) and Egypt (6).

Exports from China were the subject of the largest number of final measures (18) imposed during the second semester of 2002. This represents a slight decrease from the 21 measures imposed against its exports during the second semester of 2001. The Republic of Korea was a distant second, with 9 measures, followed by Chinese Taipei (6) and the United States (5).

As was the case for initiations, the sector most affected by final measures was base metals, with 34 final measures imposed on products in that sector. The chemicals sector was second most affected, with 25 measures imposed, and the textiles sector was third, with 19 measures. Of the measures on products in the base metals sector, the largest number was imposed by the European Communities (10), followed by the United States (8), India (6), South Africa (4), Australia (3), Mexico (2), and Thailand (1). In the chemicals sector, India imposed the largest number of measures (17) followed by Argentina, Brazil, and the European Communities (2 each) and Mexico and the United States (1 each). In the textiles sector, India imposed the largest number of measures (12), followed by Turkey (3), Japan (2), and Argentina and the European Communities (1 each).

* **WTO paper out on key issues in the tariff negotiations**

The WTO Secretariat, on 6 May 2003, issued a comprehensive discussion paper on "Industrial Tariffs and the Doha Development Agenda". Containing many tables and charts, the paper focuses on the basic mandate given to negotiators at Doha and looks at specific issues facing developed, developing and least-developed countries.

Industrial Tariffs and the Doha Development Agenda is the first of a series of discussion papers to be published by the WTO Secretariat.

The following is an abstract of the paper:

"The negotiating mandate for the Doha Development Agenda is both broad and comprehensive. This paper focuses on the basic mandate given to negotiators in the area of tariffs and trade in industrial products.

With respect to developed country markets the key issue is how to tackle the residual protection arising from low overall levels of protection. We have identified a number of products at the 4-digit level of the HS system where issues of peaks and escalation need to be addressed.

For developing countries there are two issues — their high levels of tariffs and the limited coverage of bindings for some Members. These, however, do not preclude problems of peaks and escalation such as those that we have identified in developed country markets.

Finally, for LDCs the issues are the degree of effective non-reciprocal market access granted by developed countries, and the very high levels of protection they face in developing country markets, and the role that high levels of protection are playing as industry policy instruments in their own economies".

(Source: WTO/Geneva)



SCHEDULE OF MEETINGS AT THE WTO/GENEVA* JUNE 2003

JUNE

2-3	Council for Trade in Goods -Trade Facilitation	19	Symposium on Government Procurement
3	Council for Trade in Goods	20	Working Group on Transparency in Government Procurement
3-5	Council for Trade - Related Aspects of Intellectual Property Rights	23-25	Textiles Monitoring Body
4	Committee on Trade in Civil Aircraft	24-25	Committee on Sanitary and Phytosanitary Measures
5-6	Working Group on Trade ,Debt and Finance	24	Dispute Settlement Body
9	WHIT MONDAY (WTO non-working day)	24-25	Trade Negotiations Committee
10-12	Working Group on the relationship between Trade and Investment	26	Committee on Market Access
12-13	Trade Negotiations Committee	27	Trade Policy Review Body - Indonesia
16-18	Symposium "Chanllanges Ahead on the Road to Cancun"	30	Committee on Agriculture
16	Trade Policy Review Body- Morocco	30	Trade Policy Review Body - Indonesia
18-20	Negotiating Group on Rules	30	Workshop on Technical Barriers to Trade
18	Trade Policy Review Body - Morocco		

*Source : WTO/Geneva as on May 2003

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