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TOKYO MINI-MINISTERIAL: INDIA ARTICULATES FARM AND DEVELOPMENT CONCERNS

An informal meeting of about 20 Trade Ministers of the Member States of the World Trade Organisation (WTO) was held in Tokyo at the invitation of Japanese Government from 14-16 February, 2003. The Indian delegation was jointly led by Mr. Arun Jaitley, Minister of Commerce & Industry and Law & Justice and Mr. Ajit Singh, Minister of Agriculture. The other members of the Indian delegation were: Mr. Dipak Chatterjee, Commerce Secretary; Mr. S.N. Menon, Additional Secretary, Ministry of Commerce & Industry; Mr. K.M. Sahni, Additional Secretary, Ministry of Agriculture and Mr. K.M. Chandrasekhar, Ambassador of India to the WTO in Geneva. The DG/WTO also attended the informal Mini-Ministerial Meeting.

The meeting reviewed all major WTO issues under negotiations in the ongoing Doha Work Programme, including market access for agricultural and non-agricultural products and services; TRIPs and Public Health; Special & Differential Treatment; Implementation-related issues and concerns; Rules & the Singapore issues of Trade and Investment, Trade & Competition Policy, Transparency in Government Procurement and Trade Facilitation.

At this meeting, India forcefully articulated the need to restore the development agenda as the central focus of WTO negotiations, as mandated in the Doha Ministerial Declaration.

India strongly expressed its concern over the slow progress in the area of development-related issues such



टोक्यो में शनिवार को डब्ल्यूटीओ के व्यापार मंत्रियों के तीन दिवसीय सम्मेलन के दूसरे दिन इंडोनेशिया की उद्योग एवं व्यापार मंत्री रिनी सेवांडी, भारत के कृषि मंत्री अजित सिंह और विधि मंत्री अरुण जेटली।

as TRIPs and Public Health; Implementation issues and Special & Differential Treatment issues and stated that the success or otherwise of the forthcoming Cancun Ministerial Conference of the WTO in September this year would greatly depend on the resolution of these issues. Participants from many other developing countries such as Brazil, Kenya, Costa Rica, Nigeria, Lesotho and Senegal strongly supported India's statement.

Since agriculture was a priority sector for all countries, India pointed out that satisfactory resolution with respect to distortions in global agricultural trade can take place only if both domestic support and export subsidies were substantially reduced or eliminated in the developed countries. India strongly emphasised the highest priority that it would give to the protection of its farmers and their well being. India also stressed the need for sufficient special and differential treatment provisions for developing countries, such as the use of special safeguard measures to prevent surge in imports. It pointed out the lack of flexibility it had on market access in agriculture.

In respect of non-agricultural products, India strongly advocated increased market access for products of export interest to India such as textiles, leather goods. Expressing strong interest in the services' negotiations, India asked for greater liberalisation in the movement of natural persons.

On Singapore issues, India reiterated its stand that these issues did not fall within the purview of WTO which should focus on trade related issues only. In the area of Rules,

India called for stronger disciplines in anti-dumping and anti-subsidy so as to ensure that the market access achieved through reduction in tariffs and elimination of non-tariff barriers is not negated through trade defence measures.

Since this was an informal meeting, discussions were in the form of exchange of view of participating countries with no declared outcome. The object was to see how further progress can be made in taking forward the Doha Work Programme by the time of the Fifth Ministerial Conference to be held in Cancun, Mexico this year. The Ministers in this meeting resolved to make a fresh effort to achieve progress in areas, which are of vital interest to the developing countries.

Continues dialogues with stake holders are being held to finalise India's position on various WTO issues. Based on these inputs, India seeks to protect its national interests by actively participating in the negotiations and articulating its position effectively. Further, it is also making bilateral, plurilateral and multilateral efforts, both with developed and developing country members, so as to ensure that interests of developing countries, including India are fully protected. India would make utmost efforts to ensure a balanced outcome at the end of the negotiations that would try to protect the interests of all WTO Members and also to ensure that the development-oriented focus of the Doha mandate is fully preserved in the final results of the negotiations.



INDIA FOCUSSES ON DEVELOPMENT AGENDA AT WTO SPELLS OUT PRIORITIES FOR CANCUN

India has forcefully articulated the need to restore the development agenda as the central focus of WTO negotiations, as mandated in the Doha Ministerial Declaration. All the major WTO issues were reviewed at the informal meeting of the Ministers of Trade and Agriculture of about 20 World Trade Organisation (WTO) member countries held in Tokyo from 14-16 February 2003, at the invitation of the Government of Japan. Participating in the discussions, Mr. Arun Jaitley, Minister of Commerce and Industry and Law and Justice, Government of India, strongly expressed India's concern over the slow progress in the area of development-related issues such as, TRIPS and Public Health, Implementation issues and Special and Differential Treatment issues and categorically stated that the resolution of these issues would be a sine qua non for the success of the next Ministerial Conference of the WTO at Cancun in September 2003. India was strongly supported on this by the other participating developing countries at the Tokyo meet, including Brazil, Kenya, Costa Rica, Nigeria, Lesotho and Senegal. Participants from many developing countries also acknowledged the need to adhere to the deadlines for making headway in the negotiations. Consequently, the Ministers resolved to make a fresh effort to achieve progress in these areas, which are of vital interest to the developing countries.

An important issue discussed in Tokyo was the first draft of the modalities on the negotiations in agriculture. As anticipated, there were sharp differences between the EC and the US and the Cairns group on this draft. Mr. Ajit Singh, the Indian Minister for Agriculture strongly emphasized the highest priority that India would give to the protection of her farmers and their well being. As far as India is concerned, there are some positive features in the draft in the form of provisions for Special and Differential Treatment for developing countries in the area of agriculture. However, India has reservations on the proposed reduction in the bound rate of tariffs and therefore, while noting some of the positive aspects, the Agriculture Minister pointed out the lack of flexibility that India had on the market access in agriculture.

In respect of market access in non-agricultural products, Mr. Jaitley highlighted India's proactive agenda in consonance with our domestic policy of autonomous liberalisation. He strongly advocated increased market access for products of export interest to India such as textiles, leather and other goods. He also emphatically flagged the need to protect certain domestic sectors and to ensure that our revenue needs are not compromised because of liberalisation. In the services sector, India has expressed its strong interest. Most Ministers at the Tokyo meet appreciated India's aggressive approach in

the services negotiations and took note of the fact that India has made more than 60 requests of other countries for market access in services, which makes India by far the most active amongst the developing countries. Mr. Jaitley expressed India's strong interest in the movement of natural persons as service providers and asked for greater liberalisation in this mode of delivery of services.

On Singapore issues, namely investment, competition policy, government procurement and trade facilitation, Mr. Jaitley pointed out that these issues did not fall within the purview of the WTO, which should focus on trade related issues, while the EC, Japan and some other countries pressed for the inclusion of these issues in the WTO agenda. India also called for stronger disciplines in anti-dumping and anti-subsidy in order to ensure that market access obtained through reduction in tariffs and removal of non-tariff barriers is not negated through protectionist trade defence measures.

Looking to the future, India has suggested a six-point road map to Cancun. Speaking on the Session on the Road to Cancun at the Tokyo meet, Mr. Jaitley has proposed that the first priority should be to restore trust and confidence in the WTO system and said that this would be possible through early resolution of the pending development related issues - TRIPs and Public Health, progress in the areas of Special and Differential Treatment and Implementation issues. "This can only take place if there is active engagement from the developed countries during the negotiations", he said.

Secondly, the Director General of the WTO in his capacity as Chairman of the Trade Negotiations Committee (TNC) could consider a possible road map for the months ahead with clear deadlines. Thirdly, as a confidence building measure, the issue of internal transparency in the negotiations at the WTO should be resolved. Fourth, there should be a clear focus on achieving future deadlines as laid down in the Doha Ministerial Declaration. In this context, India has pointed out that since agriculture is a priority sector for all countries, satisfactory resolution with respect to removal of distortions in global agricultural trade can take place only if both domestic support and export subsidies are substantially reduced or eliminated in the developed countries. "Market Access in the developing countries needs to be carefully calibrated so that social tensions in the rural areas do not occur. Adequate bound rates and special safeguards must be available to prevent surge of imports", Mr. Jaitley stressed. Fifthly, in order to avoid an overload of agenda at Cancun, completion of as much work as possible and as much consensus as possible in Geneva would be necessary so that only the most important issues could go to the Ministers for resolution at Cancun. And, finally, that there could be small meetings of Ministers and senior officials to focus on specific pending issues at Geneva rather than taking up overall reviews of work. Mr. Jaitley warned against slippage in the deadlines prescribed at Doha and hoped that substantive progress would be achieved in the content of the negotiations.



JAITLEY STRESSES FLEXIBILITY IN FARM TARIFFS TO PROTECT INDIAN FARMERS

Mr. Arun Jaitley, Minister of Commerce & Industry and Law & Justice, has said that India wants a far greater flexibility as far as agricultural tariffs are concerned in the WTO negotiations on agriculture in order to protect the interests of the Indian farmers. Speaking to the media at the end of the Informal Meeting of WTO Ministers held in Tokyo from 14-16 February 2003, Mr. Jaitley said that participation in this meeting had been very vital for India as several market access issues were taken up and "the foremost which concerns us immediately is agriculture. Whereas we are somewhat satisfied that issues of reduction of domestic support and export subsidies in the developed countries are a part of the agricultural agenda (in the draft modalities for negotiations on agriculture circulated earlier), "we are still deeply concerned about market access in developing countries, particularly in India, where a large part of the rural population dependent on agriculture could be adversely hit if market access is given. We, therefore, want a far greater flexibility

as far as agricultural tariffs are concerned". Mr. Jaitley said another vital issue of concern to India related to the developmental issues - i.e. besides Implementation issues and Special & Differential Treatment, the whole question of TRIPS and Public Health. "It is extremely important for countries which do not have manufacturing facility as far as pharmaceuticals are concerned, and we have represented the viewpoint of those countries effectively at this meeting", he said. Responding to questions about a reported proposal made by Brazil to break the deadlock on TRIPS and Public Health, Mr. Jaitley explained that the proposal was made in passing in the Brazilian Minister's speech and said "we have not examined the proposal in depth. Once we receive it, we will give our reaction to it". He also said, "we stand by our position that there should be no dilution of the spirit of Doha and we have given our consent only to the 16th of December text of the Chairman of the TRIPS Council".



AJIT SINGH STANDS BY INDIA'S FARMERS HIGHLIGHTS INDIA'S CONCERNS ON AGRICULTURE AT TOKYO MEET

"In the Informal Meeting of the World Trade Organisation (WTO) Trade Ministers- Mini Ministerial - in Tokyo this morning, Mr. Ajit Singh, Minister for Agriculture, made a strong pitch for protecting the livelihood concerns of the millions of India's small and marginal farmers. He pointed out that India has 20 major agro climatic zones and that there are as many as 33 crops on each of which more than 5 million lives are dependent. He reminded his select audience that any agreement on trade and agriculture must take care of the farmers who cannot be redeployed elsewhere. He made it clear that it would be difficult for India to support any reform agenda which deprives farmers of their basic rights.

The Session on Agricultural Market Access was attended by Ministers from 23 countries. Mr. Ajit Singh said he expected positive results from the Mini Ministerial in all the three interlinked pillars of the WTO Agreement on Agriculture, namely, domestic support, market access and export competition. During his stay in Tokyo, the Agriculture Minister also utilised the opportunity to hold bilateral meetings with his counterparts from New Zealand, South Korea, Japan, Canada and the European Community Commissioner for Agriculture.

The following is the text of the Agriculture Minister's intervention at the Session on Agricultural Market Access in Tokyo on 15 February, 2003:

"Madam Chair, I wish to convey my sincere appreciation for the initiative taken to convene this meeting, and for setting at the outset the agenda on agriculture related issues in the right

perspective. It is a valuable opportunity to exchange views on the three pillars of the Agreement on Agriculture and, also, the other relevant issues as provided in the Doha mandate, particularly now that Chairman Stuart Harbinson has brought out his first draft of the modalities paper. I had also visited Geneva in January 2003, and had the opportunity then to discuss agriculture-related issues with the DG, WTO, Mr. Supachai, Chairman Stuart Harbinson and Secretariat officials, and with various delegations. I recall also my fruitful interaction with my Swiss counterpart Dr. Joseph Deiss and I am happy to meet with him once again here today.

Throughout the negotiations during the past few months, India has been emphasising the inter-linkages between the three pillars in agriculture. We have indicated time and again the importance of ensuring speedy elimination of market distortions arising as a result of domestic support and export subsidies. We have said also that mere transfer of domestic support from the amber box to the green box will not significantly reduce market distortions. We had urged tighter disciplines on the green box. We had mentioned also the specific problems that we face in our own agricultural economy. With more than 650 million people, constituting 65% of India's population, dependent on agriculture, this is a sector of utmost sensitivity to us, as it is to many other similarly placed developing countries. The agriculture negotiations are, therefore, of vital importance to us, and we expect positive results that would protect the interest of our small and marginal farmers. We would like to see more market

access in this area in some of the developed country markets which are presently closed to us and to several other developing countries. However, I must emphasise that market access is not a function of tariffs alone. There is little purpose in reducing tariffs if other barriers are created in the form of various non-tariff measures, including sanitary and phyto-sanitary measures, and if there is a steady decline in prices because of high domestic support in developed countries.

It is in this context, therefore, that we need to examine the first draft of the modalities submitted by the Chairman on 12 February 2003. We received it only after we had left Delhi and, therefore, would need to analyse the fine print in greater detail in due course. Hence, what we discuss today can only be on the basis of first impressions, which may undergo change as our experts examine the 26-page document of the Chairman now before us.

There seem to be some positive aspects in this paper. On domestic support, I see a proposal for substantial reduction of AMS, a product-specific cap on domestic support levels, reduction of de minimis levels over a period of five years for developed countries, an attempt to tighten the criteria for domestic support under paragraphs 5, 6, 7, 11 and 13 of the green box, and an attempt to control blue box payments. These are not measures which will completely solve the market distortion problems arising out of domestic support, but are steps in the right direction and we could work further on them. We notice a similar attempt for elimination of export subsidies, and to discipline export credits and food aid. We, however, continue to have reservations on the proposals made in respect of market access. We do not believe that the market access problems faced by countries such as ours with sizeable populations dependent on agriculture have been fully addressed. When we discuss the first draft in Geneva later

this month, our negotiators will be expressing our apprehensions in this area.

We, however, note that the first draft reflects, to some extent, the need of developing countries for special and differential treatment in the important area of agriculture. The retention of de minimis level at 10% for developing countries, clearer definition of Article 6.2, new flexibility for maintaining domestic production capacity for food security purposes, and changes in the minimum crop loss trigger for government participation in crop insurance schemes, are some of the proposals which reflect the Chairman's sensitivity to the requests made by developing country members. Likewise, we note the attempt to maintain existing latitudes and to expand them, wherever needed, to meet the specific requirements of developing countries. However, much work still remains to be done to ensure that there is no adverse market access impact on our indigent farming community.

Now that the first draft is on the table, it is upto us to further negotiate during the weeks to come and ensure a satisfactory outcome which, as we all know, will largely determine the success or otherwise of the Doha Work Programme. The diversity of Indian agriculture can be gauged by the fact that we have 20 major agro-climatic zones and that there are as many as 33 crops on each of which alone more than 5 million lives are dependent. I wish to conclude by reminding ourselves that any agreement on trade and Agriculture must take care of the most urgent livelihood concerns of the farmers dependent solely on agriculture in the developing countries. Our farmers cannot be redeployed elsewhere, and it will be difficult for us to support any reform agenda, which deprives them of their livelihood and brings them onto the streets of our cities in search of jobs. The consequences of such a development could tear asunder the very fabric of our society and polity".

FEED BACK ON TOKYO

सब्सिडी मामले में विकसित देशों को उदार होना होगा

सहायक सचिव बहुरी
नयी दिल्ली, 18 फरवरी



बहुरी ने कहा कि विकसित देशों को उदार होना होगा। उन्होंने कहा कि विकसित देशों को उदार होना होगा।

नयी दिल्ली, 18 फरवरी (प्र.सं.)। बहुरी ने कहा कि विकसित देशों को उदार होना होगा। उन्होंने कहा कि विकसित देशों को उदार होना होगा।

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(Jansatta, 19.2.03)

कैनकन बैठक का सिएटल जैसा हश्र संभव : जेटली

नयी दिल्ली, (प्र.सं.)। बहुरी ने कहा कि विकसित देशों को उदार होना होगा। उन्होंने कहा कि विकसित देशों को उदार होना होगा।

नयी दिल्ली, (प्र.सं.)। बहुरी ने कहा कि विकसित देशों को उदार होना होगा। उन्होंने कहा कि विकसित देशों को उदार होना होगा।

(Dainik Jagran, 19.2.03)

विश्व व्यापार संगठन के कैनकन सम्मेलन में विरोध तेज होगा : जेटली

नयी दिल्ली, 18 फरवरी (प्र.सं.)। बहुरी ने कहा कि विकसित देशों को उदार होना होगा। उन्होंने कहा कि विकसित देशों को उदार होना होगा।



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(Jansatta, 19.2.03)

कृषि क्षेत्र को संरक्षण के मामले में भारत ढील देने को तैयार नहीं

नयी दिल्ली, (प्र.सं.)। बहुरी ने कहा कि विकसित देशों को उदार होना होगा। उन्होंने कहा कि विकसित देशों को उदार होना होगा।

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(Hindustan, 19.2.03)

THE HARBINSON TEXT

AGRICULTURE : FIRST DRAFT OF MODALITIES FOR NEGOTIATIONS

Following is the text of first draft of the “modalities” paper, circulated to member governments on 12 February 2003, on the eve of the informal meeting of Trade Ministers in Tokyo ahead of the 24–28 February negotiations meetings.

The “modalities” are targets (including numerical targets) for achieving the objectives of the negotiations, as well as issues related to rules. Due to be completed by 31 March 2003, they will set parameters of the final agreement to be reached by 1 January 2005.

In preparing this first draft, the negotiations’ chairperson, Stuart Harbinson, drew on the 18 December 2002 overview paper, which was reviewed at a negotiations session of the Agriculture Committee on 22–24 January 2003. This in turn was based on proposals made in the agriculture negotiations between March and December 2002.

Introduction

Under the programme adopted by the Special Session of the Committee on Agriculture on 26 March 2002, the Chairman is required to prepare the first draft of modalities for further commitments for circulation in advance of the Special Session to be held on 24–28 February 2003 (TN/AG/1 refers). In accordance with this requirement, the Chairman submits herewith this first draft on his own responsibility.

The draft is based on the work carried out during the series of formal and informal Special Sessions of the Committee on Agriculture and related intersessional and technical consultations conducted in accordance with the mandate provided by Ministers at Doha and the programme thereunder as adopted by the Special Session on Agriculture on 26 March 2002. Paragraphs 13 and 14 of the Doha Ministerial Declaration provide (WT/MIN(01)/DEC/1 refers):

“13. We recognize the work already undertaken in the negotiations initiated in early 2000 under Article 20 of the Agreement on Agriculture, including the large number of negotiating proposals submitted on behalf of a total of 121 Members. We recall the long-term

objective referred to in the Agreement to establish a fair and market-oriented trading system through a programme of fundamental reform encompassing strengthened rules and specific commitments on support and protection in order to correct and prevent restrictions and distortions in world agricultural markets. We reconfirm our commitment to this programme. Building on the work carried out to date and without prejudging the outcome of the negotiations we commit ourselves to comprehensive negotiations aimed at: substantial improvements in market access; reductions of, with a view to phasing out, all forms of export subsidies; and substantial reductions in trade-distorting domestic support. We agree that special and differential treatment for developing countries shall be an integral part of all elements of the negotiations and shall be embodied in the Schedules of concessions and commitments and as appropriate in the rules and disciplines to be negotiated, so as to be operationally effective and to enable developing countries to effectively take account of their development needs, including food security and rural development. We take note of the non-trade concerns reflected in the negotiating proposals submitted by Members and confirm that non-trade concerns will be taken into account in the negotiations as provided for in the Agreement on Agriculture.

“14. Modalities for the further commitments, including provisions for special and differential treatment, shall be established no later than 31 March 2003. Participants shall submit their comprehensive draft Schedules based on these modalities no later than the date of the Fifth Session of the Ministerial Conference. The negotiations, including with respect to rules and disciplines and related legal texts, shall be concluded as part and at the date of conclusion of the negotiating agenda as a whole.”

This draft should also be seen against the background of the Chairman’s recent references to the difficulty participants have so far had in building bridges between widely divergent

positions and to the consequent lack of guidance on approaches to solutions. It therefore represents no more than a first attempt to identify possible paths to solutions. It does not claim to be agreed in whole or in any part and is without prejudice to the positions of participants.

Square brackets are used in a number of places for a variety of purposes, such as to put forward figures for indicative purposes, to suggest alternatives, or possible formulations. Where text is not in square brackets, this does not convey any degree of acceptance. In a few areas, the text has not been fully elaborated and any resulting unevenness may need to be ironed out. Based on the third sentence of paragraph 14 of the Doha Ministerial Declaration, not all of the elements of the draft and its attachments may need to be finalised in detail by 31 March 2003, bearing in mind that negotiations will continue well beyond that date. Further consultations on these matters will be arranged.

It is the Chairman's earnest hope that this first draft will stimulate further and immediate, meaningful and serious negotiations between participants, so as to enable an improved second draft to be prepared in March.

General Provisions and Terms

Unless otherwise specified below, the following general provisions and terms shall apply:

(a) Product coverage

The product coverage as specified in Annex 1 of the Agreement on Agriculture shall apply (hereafter referred to as "agricultural products").

(b) "Year"

"Year" in relation to the specific commitments of a Member refers to the calendar year, financial or marketing year specified in the Schedule relating to that Member.

(c) "Commitment"

The term "commitment" includes concessions.

(d) Starting-point of reduction commitments

The starting-point for the first instalment of the reduction commitments in all areas shall be the beginning of year 1 of the respective implementation periods. Subsequent reductions shall be made at the beginning of each of the following implementation years.

Market Access

Tariffs

Tariffs, except in-quota tariffs, shall be reduced by a simple average for all agricultural products subject to a minimum reduction per tariff line. The base for the reductions shall be the final bound tariffs as specified in the Schedules of Members. Except as provided in paragraph 14 below, the tariff reductions shall be implemented in equal annual instalments over a period of [five] years, applying the following formula:

- (i) For all agricultural tariffs greater than [90 per cent *ad valorem*] the simple average reduction rate shall be [60] per cent subject to a minimum cut of [45] per cent per tariff line.
- (ii) For all agricultural tariffs lower than or equal to [90 per cent *ad valorem*] and greater than [15 per cent *ad valorem*] the simple average reduction rate shall be [50] per cent subject to a minimum cut of [35] per cent per tariff line.
- (iii) For all agricultural tariffs lower than or equal to [15 per cent *ad valorem*] the simple average reduction rate shall be [40] per cent subject to a minimum cut of [25] per cent per tariff line.

In applying this formula, where the tariff on a processed product is higher than the tariff for the product in its primary form, the tariff reduction for the processed product shall be higher than that for the product in its primary form.

Where participants apply non-ad valorem tariffs, the allocation of any tariff item in categories (ii) and (iii) above shall be based on tariff equivalents to be calculated by the participant concerned in a transparent manner, using representative average [1999-2001] external reference prices or data. Full details of the method and data used for these calculations shall be included in the tables of supporting material for the draft Schedules and shall be subject to multilateral review.

Special and Differential Treatment

In implementing their market access commitments, developed country Members should take fully into account the particular needs and conditions of developing country Members by providing for greater improvement of opportunities and terms of access for agricultural products of particular interest to these Members, including the fullest liberalization of trade in tropical

products, whether in primary or in processed form, and for products of particular importance to the diversification of production from the growing of illicit narcotic crops, or crops whose non-edible or non-drinkable products, while being lawful, are recognised [by WHO] as being harmful for human health.

Developing countries shall have the flexibility to declare up to agricultural products at the [6-digit] HS level as being strategic products with respect to food security, rural development and/or livelihood security concerns and designate these products with the symbol "SP" in Section I-B of Part I of their Schedules (hereafter referred to as "SP products"). For all agricultural products other than SP products, the reduction commitments of developing countries shall be implemented applying the following formula:

- (i) For all agricultural tariffs greater than [120 per cent *ad valorem*] the simple average reduction rate shall be [40] per cent subject to a minimum cut of [30] per cent per tariff line.
- (ii) For all agricultural tariffs lower than or equal to [120 per cent *ad valorem*] and greater than [20 per cent *ad valorem*] the simple average reduction rate shall be [33] per cent subject to a minimum cut of [23] per cent per tariff line.
- (iii) For all agricultural tariffs lower than or equal to [20 per cent *ad valorem*] the simple average reduction rate shall be [27] per cent subject to a minimum cut of [17] per cent per tariff line.

Where participants apply non-ad valorem tariffs, the provisions of paragraph 8 above apply.

The simple average reduction rate for all SP products shall be [10] per cent subject to a minimum cut of [5] per cent per tariff line [, except for SP products for which a developing country opts to have access to the special safeguard provisions under paragraph 24 below].

In all cases, the base for the reductions shall be the final bound tariffs as specified in the Schedules of Members. The reduction commitments shall be implemented in equal annual instalments over a period of [ten] years.

Preferential Schemes

In implementing their tariff reduction commitments, participants undertake to maintain, to the extent possible, the nominal margins and other terms and conditions of tariff preferences

they accord to their developing trading partners. As an exception to the modality under paragraph 7 above, tariff reductions affecting long-standing preferences in respect of products which are of vital export importance for developing country beneficiaries of such schemes may be implemented in equal annual instalments over a period of [eight] instead of [five] years by the preference-granting participants concerned. The products concerned shall account for at least [25] per cent of the total merchandise exports of any beneficiary concerned on average of the most recent three years for which data are available. Interested beneficiaries shall notify the Committee on Agriculture, Special Session accordingly and submit the relevant statistics. In addition, any in-quota duties for these products shall be eliminated.

Tariff Quotas

Tariff Quota Volume

Final bound tariff quota quantities or values as specified in Members' Schedules (hereafter referred to as "tariff quota volume") which are equivalent to less than [10] per cent of "current" domestic consumption of the product concerned shall be expanded to that level. However, for up to one-quarter of the total number of tariff quotas concerned a Member may opt for binding the tariff quota volume at a level equivalent to [8] per cent of that consumption, provided that the volumes for a corresponding number of tariff quotas concerned are expanded to [12] per cent.

In calculating domestic consumption participants shall use, where applicable, the same definitions and method applied when establishing the Uruguay Round base levels. "Current" domestic consumption means the average consumption of the period 1999-2001 or of the most recent three-years period for which data are available. Full details of the method and data used for the calculations of domestic consumption for the products concerned shall be included in the tables of supporting material for the draft Schedules and shall be subject to multilateral review.

The expansion of tariff quota volumes shall be implemented in equal instalments over a period of [five] years. The starting-point for implementing the expansion of tariff quotas shall be the beginning of year 1 of the implementation period. Additional market access opportunities provided by the expansion of tariff quotas shall be on an MFN basis.

Special and Differential Treatment

Developing countries shall not be required to expand tariff quota volumes for SP products. For other agricultural products, final bound tariff quota volumes as specified in Members' Schedules which are equivalent to less than [6.6] per cent of "current" domestic consumption of the product concerned shall be expanded to that level. However, for up to one-quarter of the total number of tariff quotas concerned a Member may opt for binding the tariff quota volume at a level equivalent to [5] per cent of that consumption, provided that the volumes for a corresponding number of tariff quotas concerned are expanded to [8] per cent.

The modalities in paragraphs 16 and 17 above apply, except that the commitments by developing countries shall be implemented over a period of [ten] years.

In-quota Tariffs

There shall be no requirement to reduce in-quota tariffs, except that in-quota duty free access shall be provided for tropical products, whether in primary or in processed form, and for products of particular importance to the diversification of production from the growing of illicit narcotic crops, or crops whose non-edible or non-drinkable products, while being lawful, are recognized [by WHO] as being harmful for human health.

Special and Differential Treatment

Developing countries shall not be required to reduce in-quota tariffs.

Tariff Quota Administration

The administration of tariff quotas shall be subject to disciplines as outlined for further consideration in Attachment 1 to this document.

Special Safeguard Provisions

Article 5 of the Agreement on Agriculture

The provisions of Article 5 of the Agreement on Agriculture shall cease to apply for developed countries [at the end of the implementation period for the further tariff reductions] [[two] years after the end of the implementation period for the further tariff reductions].

Special and Differential Treatment

For SP products [subject to tariff reductions in accordance

with paragraph 10 above], developing countries shall have the flexibility to apply a special safeguard mechanism to be based on the provisions of Article 5 of the Agreement on Agriculture. This right shall be reserved by designating in their Schedules with the symbol "SSM" the products concerned. Only products designated in this way in the Schedule, as well as items already currently covered and designated with the symbol "SSG", shall be eligible for measures under Article 5.

Participants undertake to review the provisions of Article 5 of the Agreement on Agriculture with a view to ensuring that these provisions are operationally effective and enable developing countries to effectively take account of their development needs, including food security, rural development and livelihood security concerns. This review shall take into account the various proposals on possible safeguard mechanisms submitted by developing countries in the negotiations under the Doha Development Agenda and shall be completed no later than [].

State Trading Import Enterprises

State trading import enterprises shall be subject to disciplines as outlined for further consideration in Attachment 2 to this document.

Other Market Access Issues

Participants will further consider the non-trade concerns and other market access issues identified in paragraph 28 of document TN/AG/6 dated 18 December 2002 and the extent to which these issues should be taken into account in the modalities to be established and/or subsequent work.

Export Competition

Export Subsidies

The basis for the further commitments on export subsidies shall be the final bound budgetary outlay and quantity commitment levels as specified in Members' Schedules.

For a set of agricultural products representing at least [50] per cent of the aggregate final bound level of budgetary outlays for all products subject to export subsidy commitments, final bound levels of budgetary outlays and quantities as specified in Members' Schedules shall be reduced over [five years (n = 5)] using the following formulae with the constant factor c equal to [0.3] (Attachment 3 to this document provides an illustration of the operation of these formulae):

$$(1) \quad B_j = B_{j-1} - c \cdot B_{j-1} \quad \text{with } j = 1, \dots, n$$

$$(2) \quad Q_j = Q_{j-1} - c \cdot Q_{j-1} \quad \text{with } j = 1, \dots, n$$

with

B = budgetary outlays Q = quantities c = constant factor
 j = implementation year and B_0 and Q_0 being the base levels, respectively.

At the beginning of [year 6], budgetary outlays and quantities shall be reduced to zero.

For the remaining products, final bound levels of budgetary outlays and quantities as specified in Members' Schedules should be reduced over [nine years ($n = 9$)] using the formulae (1) and (2) above. However, for these products the constant factor c shall equal [0.25]. At the beginning of [year 10], budgetary outlays and quantities for these products shall be reduced to zero.

Special and Differential Treatment

For a set of agricultural products representing at least [50] per cent of the aggregate final bound level of budgetary outlays for all products subject to export subsidy commitments, final bound levels of budgetary outlays and quantities as specified in developing country Members' Schedules shall be reduced over [ten years ($n = 10$)] using the formulae (1) and (2) above, with the constant factor c equal to [0.25]. At the beginning of [year 11], budgetary outlays and quantities shall be reduced to zero.

For the remaining products, final bound levels of budgetary outlays and quantities as specified in developing country Members' Schedules should be reduced over [twelve years ($n = 12$)] using the formulae (1) and (2) above. However, for these products the constant factor c shall equal [0.2]. At the beginning of [year 13], budgetary outlays and quantities for these products shall be reduced to zero.

The exemptions for developing countries under Article 9.4 for the transport and marketing subsidies set out in Article 9.1(d) and (e) of the Agreement on Agriculture shall be maintained for the time of the implementation period of the further export subsidy commitments to be undertaken by developing countries.

Export Credits

Export credits and export credit guarantees and insurance programmes shall be subject to disciplines as outlined for

further consideration in Attachment 4 to this document.

Food Aid

International food aid shall be subject to disciplines as outlined for further consideration in Attachment 5 to this document.

State Trading Export Enterprises

State trading export enterprises shall be subject to disciplines as outlined for further consideration in Attachment 6 to this document.

Export Restrictions and Taxes

Except as provided for in paragraph 2(a) and 2(b) of Article XI and Articles XX and XXI of GATT 1994, the institution of new export prohibitions, restrictions or taxes on foodstuffs shall be prohibited.

Special and Differential Treatment

For developing countries, the disciplines of Article 12 of the Agreement on Agriculture and the relevant provisions of GATT 1994 [and of other relevant WTO agreements] shall continue to apply.

Domestic Support

Agreement on Agriculture (Green Box)

The provisions of Annex 2 of the Agreement on Agriculture shall be maintained, subject to possible amendments as outlined for further consideration in Attachment 7 to this document.

Special and Differential Treatment

Possible amendments of Annex 2 of the Agreement on Agriculture are outlined for further consideration in Attachment 8 to this document.

Article 6.2 of the Agreement on Agriculture

The provisions of Article 6.2 of the Agreement on Agriculture shall be maintained and enhanced as outlined for further consideration in Attachment 9 to this document.

Article 6.5 of the Agreement on Agriculture (Blue Box)

Direct payments under production-limiting programmes provided in accordance with the provisions of Article 6.5 of the Agreement on Agriculture (Blue Box payments) [shall be capped at the average level notified for the implementation years [1999-2001] and bound at that level in Members' Schedules. These payments shall be reduced by [50] per

cent. The reductions shall be implemented in equal annual instalments over a period of [five] years.] [shall be included in a Member's calculation of the Current Total Aggregate Measurement of Support (AMS)].

Special and Differential Treatment

For developing countries users of such direct payments, the commitment shall be implemented in equal annual instalments over a period of [ten] years, with the rate of reduction being [33] per cent.

Amber Box

The final bound Total AMS shall be reduced by [60] per cent in equal annual instalments over a period of [five] years.

Article 6.3 of the Agreement on Agriculture shall be amended so as to ensure that the AMS for individual products shall not exceed the respective levels of such support provided on average of the years [1999-2001].

Special and Differential Treatment

For developing countries, the final bound Total AMS shall be reduced by [40] per cent in equal annual instalments over a period of [ten] years.

Other matters

Inflation

Scheduled Total AMS commitments may be expressed in national currency, a foreign currency or a basket of currencies. In case a foreign currency or a basket of currencies is used and the final bound Total AMS in a Member's Schedule is expressed in national currency (or another foreign currency) and a participant wants to avail itself of this option, the final bound Total AMS shall be converted using the average exchange rate(s) as reported by the IMF for the year at issue.

The provisions of Article 18.4 shall be maintained.

Article 6.4 of the Agreement on Agriculture (de minimis)

The de minimis level of 5 per cent under subparagraph (a) of Article 6.4 of the Agreement on Agriculture shall be reduced annually by [0.5] percentage point over a period of [five] years.

Special and Differential Treatment

The de minimis level of 10 per cent under subparagraph (b)

of Article 6.4 of the Agreement on Agriculture shall be maintained.

[Developing countries shall have the flexibility to credit any negative product-specific support to the non-product-specific de minimis support.]

Least-developed Countries

In addition to the special and differential treatment provisions above, least-developed countries shall not be required to undertake reduction commitments. [However, they are encouraged to consider making commitments commensurate with their development needs on a voluntary basis.]

Developed countries should provide duty- and quota-free access to their markets for all imports from least-developed countries.

Others

Recently Acceded Members

[Members that have recently acceded to the WTO shall have the flexibility to begin the implementation of the further commitments regarding tariffs, tariff quotas, export subsidies and trade-distorting domestic support [two] years following the expiry of the full implementation of their accession commitments under the Agreement on Agriculture. The respective implementation periods shall be adjusted accordingly.]

Others

Participants will further consider the possible introduction of additional forms of flexibility for certain groupings (e.g. SIDS, vulnerable developing countries, transition economies) which have made specific proposals to this effect (TN/AG/6 refers).

Final Note

In accordance with the agreed work programme, this draft will be revised in the light of the further negotiations at the Special Session of the Committee on Agriculture to be held on 24-28 February 2003. The revised draft will be circulated to participants before the Special Session to be held on 25-31 March 2003 on which occasion, in accordance with paragraph 14 of the Doha Ministerial Declaration, the modalities for the further commitments, including provisions for special and differential treatment, are to be established.



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

Special Session on Agriculture

The meeting held on 22-24 January, 2003 was attended by Shri K.M. Sahni, Additional Secretary, Department of Agriculture, Shri K.D. Sinha, Joint Secretary, Department of Agriculture, Shri R. Gopalan, Joint Secretary, Department of Commerce. The discussion was on the overview paper submitted by the Chairman of the Special Session on 18.12.2002. **India made its submission on food security with in the scope of Special and Differential treatment for developing countries.** The chairman remarked at one stage in the meeting that Members are merely repeating their known positions and not addressing issues with a view to arriving at a consensus.

Committee on Trade in Services (CTS) – Special Session

The CTS-SS of December 9 resumed its session on January 13. On the number of services cluster in 2003, it was agreed to revert to the issue at the next formal meeting. UNCTAD gave a brief presentation on its expert meeting on audio visual services sector.

Dispute Settlement Body (DSB)

As we filed appeal notice on the *EC – Bedlinen* dispute, the panel report, which was inscribed by the EC for adoption, was deleted from the DSB agenda held on 7/1/03. DSB established a panel on *US – Softwood Lumber* (DS264) and we become third party to the dispute. DSB adopted the panel and Appellate Body reports on *US – CVD on Certain Products from EC* (DS212).

The US formally expressed its intention to implement the DSB rulings in the dispute *US – CVD on German Steel* (DS213). DSB on 17/01/03 adopted the panel and Appellate Body reports on dispute *Canada – Dairy: 2nd Recourse to Article 21.5* (DS113). We made brief intervention expressing concern that as this case, which took over four and half years and not concluded yet, the litigation at the WTO was taking longer time than originally envisaged. Further, if a sort of remand

procedure is available, the second resort to the 21.5 proceedings in this case, and thus delays in resolving disputes, could be avoided.

At our second request, the DSB on 27/01/03 established a panel on *EC – GSP* (DS246) dispute. We made a brief statement presenting our request and in response to Colombia and others' appeals, we expressed our willingness to settle the dispute with the EC. We informed that we tried to do so that until that previous week, but EC was unwilling to accommodate our trade concerns and therefore we were compelled seek establishment of a panel. We also informed the Members that our trade losses due to the EC's GSP scheme were about \$300 million per annum and about 100 000 lost employment. EC repeated its regret at our request and vowed to defend its case. 12 Members, including Colombia, Cuba, Sri Lanka, the US, joined as third parties. The US presented status reports on *Copyright Act, 1917 AD Act, Omnibus Act (Cuba rum)* and *Japan Hot-rolled Steel* disputes. EC, Japan and Cuba expressed disappointment at continued delay in non-compliance of the DSB rulings by the US in these disputes. The US also formally expressed its intention to implement the DSB rulings in the dispute *US – CVD on Certain Products from the EC* (DS212). DSB adopted the panel and Appellate Body reports on *US – CDSOA (Byrd Amendment)* (DS217 & 234). We made a statement calling upon the US to repeal the Byrd Amendment. Also we made brief statement appreciating the Appellate Body's explanation on amendments to the appellate procedures and expressed disapproval of the distinction being maintained between the 'parties' and 'participants' and 'third parties' and 'third participant', which was not provided for in the DSU.

At a Special Session of DSB on 28-30 January, 2003, Jordan, Thailand and Chinese Taipei formally and Australia, Canada, the EC, Mexico and others informally presented their proposals and legal texts. We made formal statements on the US-Chile joint proposals and on Thailand's proposal on permanent body of panel-chairmen. In the informal meeting, we raised questions and sought clarifications on various proposals of the Australia, EC, Japan, Mexico and others on shortening of time period for

consultations, establishment and withdrawal of panel requests, etc. In the informal meeting the DSU Article-wise check list of legal texts submitted by various Members was discussed. The discussion covered amendment proposals up to Article 9 of the DSU. There was divergence of opinion on shortening of 60-day consultations time and on establishment of permanent panellists or panel-chairmen. We promised to submit our legal text on behalf developing countries by 7 February 2003. US indicated that it would be submitting legal text on transparency. Several delegations expressed concern about fast approaching deadline and lack of progress in the negotiations. We stated that consensus text should emerge from the discussions, rather than from the Chair.

Panel Meeting

The Panel on *US – Rules of Origin for Textile and Clothing Products* (DS243) held its second meeting with parties, i.e., India and the US. We made an opening statement countering US arguments made in its second submission. US in its statement argued at length that India failed make a *prima facie* case against the US' rules of origin. While the Panel asked questions on interpretation and application of provisions of the Agreement on Rules of Origin as well as the US' rules of origin, the US sought factual information as to how changes in their rules of origin affected India's textile exports to the US. Later these questions were transmitted to us in writing, which were replied on 3 February 2003.

Council for Trade in Goods (CTG)

A formal meeting of the CTG on 23/1/03 took place basically to discuss the waiver request for the Kimberley Process Certification scheme and information on RTAs (Regional Trade Agreements).

Sub-Committee on Least Developed Countries (LDCs)

The Thirty Second session of the Sub-Committee on LDCs was held on 24th January 2003. The members appreciated Decision **(WT/L/508)** adopted recently by the General council on the accession process for the LDCs and urged for its faithful implementation. Zambia, on behalf of the LDC made a formal proposal to operationalise through binding WTO rules the trade- related part of the UN **LDC-III Programme** of Action.

Information Technology Agreement (ITA)

Discussions continued on the non-tariff work programme on 28/01/03. The US submission was taken up for discussion on main non-tariff measures and their economic impact on trade in ITA products. The proposal for EMC/EMI workshop scheduled for March 2003 was also discussed and finalised. The report of the informal meeting of customs experts held in Geneva in May 2002 is being finalised and would be taken up for discussion at the next formal meeting.

Trade Policy Review Body (TPRB) : TPR of the Maldives

A meeting of the Trade Policy Review Body was held on 15 and 17 January 2003 to conduct the first Trade Policy Review (TPR) of the Maldives. Members in general appreciated a highly liberal and transparent trade regime in the Maldives. The issue of likely graduation of the Maldives from the LDC figured prominently during the review. India urged the members currently extending preferential market access to the Maldives to try to minimise the impact of possible graduation of the Maldives through suitable arrangements.

Working Party Meeting on the Accession of Belarus

A formal working party meeting of Belarus took place on 24/01/03 to review the state of play in the market access negotiations in goods and services. The meeting also continued the examination of the foreign trade regime of Belarus. The general sense of the house was that there was a lot of work required to be done by Belarus before a draft working party report could be contemplated. Belarus on its part has steadfastly adhered to its position that its offers in goods and services would be similar to those of Russia given their association in the common customs union.

Working Party Meeting on the Accession of Russian Federation

In the formal working party meeting, members urged Russia to improve upon its offers on goods and remove the bottlenecks in the goods and services sector. There was near unanimous concern at Russia's recourse to safeguards for certain agricultural and bovine products. Members also urged Russia to give the most recent data on agricultural domestic support.

(Source: PMI/Geneva)

PARLIAMENT BRIEFS



PROGRESS IN WTO NEGOTIATIONS

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 negotiating/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 and Differential 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 of the negotiations in these areas.**

In paragraph 6 of the Doha Ministerial Declaration relating to the TRIPS Agreement and Public Health, the Ministers had directed the TRIPS Council to find an expeditious solution by December, 2002 to the problem of countries with insufficient or no manufacturing capacities in the pharmaceutical sector in making effective use of flexibility of compulsory license. Paragraph I of the Declaration recognised the gravity of the public health problems afflicting many developing and least-developed countries, especially those resulting from HIV/AIDS, tuberculosis, malaria and other epidemics. Based on the various proposals submitted by the developing countries including India, the Africa Group, and developed countries such as the United States and the European Communities, negotiations have been taking place in the TRIPS Council. The Chairman of the TRIPS Council gave a proposal for a Draft Waiver Decision under paragraph 6 of the Doha Declaration under reference. The TRIPS Council could not arrive at a consensus on this issue as the United States did not agree to the Chairman's proposal. In view of this, these negotiations did not lead to any positive results by the deadline of 31 December 2002. However, the Chairman of the TRIPS Council is continuing with his consultations with a view to finding a solution.

In accordance with the mandate for negotiations on agriculture and the deadlines established therein, following detailed discussions on all aspects of the negotiations, the Chairman of the Committee on Agriculture, Special Session, presented an overview on the negotiations in mid-December 2002, followed by the first draft modalities for negotiations in mid-February 2003. **While there is convergence in some areas of negotiations on agriculture, gaps in positions between Members remain on many key areas of the negotiation in accordance with the Doha mandate, the modalities for negotiations are required to be established by 31 March 2003, and negotiations concluded by 1 January 2005.**

Improvements in market access for our agricultural exports will depend upon the agreement reached by Members in the on going negotiations to reduce distortions in world agricultural markets resulting from high levels of support and protection provided by India's major trading partners, and the extent to which the opportunities for trade in agricultural products that are created will be actualised by our trading entities. This would also depend on the results achieved in other areas of Doha Work Programme since the final results of negotiations in all areas would be part of the single undertaking of the Members.

IMPOSITION OF NON-TARIFF BARRIERS BY EUROPEAN COMMISSIONS

On 23 December 2002 the European Communities requested consultations with India under the Dispute Settlement Mechanism of the World Trade Organisation regarding import restrictions maintained by India on more than 100 products under its Export and Import Policy 2002-2007. These import restrictions are maintained by India under Articles XX and XXI of GATT 1994. Subsequently India and the European Communities have held consultations in this case on 17th February 2003 under the Dispute Settlement Mechanism of the WTO.

COMPLIANCE PANEL REPORT ON COTTON BED LINEN

India had resorted to World Trade Organisation's (WTO) Dispute Settlement Mechanism and challenged the anti dumping duty imposed by European Communities (EC) on imports of bed linen from India. On 12 March 2001 the Dispute Settlement Body (DSB) adopted the Appellate Body Report and the Panel Report as modified by the Appellate Body, in this dispute. These 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. Pursuant to the recommendations of these Reports, the DSB requested the European Communities to bring its measure into conformity with its obligations under the Anti-dumping Agreement. Subsequently, EC undertook a review of the anti-dumping measure and re-determined the level of antidumping duty. However, the application of the duty was suspended. India strongly disagreed with the re-determination and at its request a Compliance Panel had been constituted to examine the consistency of measures taken by EC in compliance with the decision of the DSB in the original bed linen dispute with EC. The Compliance Panel has concluded that EC has implemented the recommendations of the DSB in the original bed linen dispute.

India has appealed to the WTO's Appellate Body certain issues of law and legal interpretations covered in the Compliance Panel Report in this dispute. A Notice of Appeal was filed by India before the Dispute Settlement Body of the WTO on 8th January, 2003, after which the appellate proceedings have commenced.

REVIEW OF ANTI-DUMPING DUTIES ON SENSITIVE PRODUCTS IMPORTED FROM NEPAL

Directorate General of Anti-Dumping and Allied Duties has so far initiated two anti-dumping cases involving Nepal. The case on Zinc Oxide was initiated on 19.3.2001 and the anti-dumping duty is in place since 12.9.2001. In the case of Acrylic Yarn, investigations were initiated on 3.7.2001 and the anti-dumping duty is in place since 10.10.2001. However, the Central Government later issued orders exempting the permitted fixed quantity of Zinc Oxide (2500 MT per annum) and Acrylic Yarn (10000 MT per annum) modifying the earlier orders in view of review and modifications in the Indo-Nepal Treaty of Trade.

ANTI-DUMPING DUTIES ON IMPORT OF COLD ROLLED STAINLESS STEEL

On the basis of a petition filed by M/s. Jindal Strips Ltd., anti-dumping investigation were initiated on imports of Cold Rolled Flat Products of Stainless Steel originating in or exported from EU, Japan, Canada and USA on 21.8.2001. On the basis of sufficient evidence of dumping, injury and a causal link between the two, provisional duties were recommended on imports from these countries in the preliminary findings issued by the Directorate General of Anti-Dumping & Allied Duties (DGAD) on 29.11.2001, which were imposed by the Government vide notification: dated 28.12.2001. Final findings were notified by DGAD on 21.10.2002. Definitive anti-dumping duty was imposed by the Government vide notification dated 5.12.2002

PATENTING OF INDIAN ITEMS

Intellectual property rights, including patents, are granted under the sovereign prerogative of countries according to their respective Patent Laws and have territorial effect only, that is, they are effective only in the country of grant. Be that as it may, **Vedas, Ayurveda, Gayatri Mantra, etc. are *prima-facie* not patentable under patent laws. Patents are only granted to a process or a product which meets the criteria of patentability namely novelty, inventiveness and industrial applicability. The reported patenting of the ancient heritage of India like the Vedas, Ayurveda, Gayatri Mantra, etc. is factually not correct and needs to be distinguished from the usage of such words for trade promotion for which trade marks registration is sought/obtained under appropriate laws by commercial and other organisations.**

As and when information is received about patents being obtained on certain items which 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 Basanti Rice

lines 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. A patent is normally challenged by the person(s) whose interests are affected/jeopardised.

In order to protect traditional knowledge from being patented, provisions have been incorporated in the Indian patent law through the Patents (Amendment) Act, 2002 to include anticipation of invention by available local knowledge, including oral knowledge, as one of the grounds for opposition as also for revocation of patent. An invention which, in effect, is traditional knowledge or which is an aggregation for duplication of known properties of traditionally known component or components has also been made non-patentable.

In order to protect bio-resources, provisions have been incorporated in the said law for mandatory disclosure of source and geographical origin of the biological material used in the invention while applying for patents in India. Provisions have also been incorporated to include non-disclosure or wrongful disclosure of the same as grounds for opposition and for revocation of the patent, if granted.

Apart from these, Government is also developing a digital database of traditional knowledge in the field of medicinal plants in order to prevent patents being granted incorrectly on such knowledge.

SALIENT FEATURES OF INDIA'S AMENDED PATENTS ACT

The Patents Act, 1970 has already been amended by the Patents (Amendment) Act, 2002 in order to fulfill India's current obligations under the Agreement on Trade Related Aspect of Intellectual Property Rights (TRIPs).

The salient features of the amended Act are:

- **Definition of the term "invention" in accordance with international practices and the TRIPs Agreements;**
- **Exclusion of inventions from patentability as permitted by TRIPs Agreement and inclusion of subject matters like discovery of any living or non-**

living substances occurring in nature in the list of inventions not patentable;

- **Provisions for protection of bio-diversity and traditional knowledge;**
- **Alignment of the rights of patentees in accordance with the TRIPs Agreement;**
- **Provisions for parallel import to ensure availability of products at competitive prices;**
- **Provision for reversal of burden of proof in accordance with the TRIPs Agreement;**
- **Provision of uniform term of patent protection of twenty years for all categories of inventions;**
- **comprehensive provisions for protection of public interest and public health &**
- **Simplified and rationalised patent granting procedures.**

MENACE OF COUNTERFEITING

In a Conference on "Combating Counterfeiting", organised at New Delhi from 21-22 January, 2003 by the Confederation of Indian Industry (CII) in collaboration with the International Anti Counterfeiting Coalition (IACC), USA, various sectors of industry expressed concern over the menace of counterfeiting and its impact on the economy.

The Conference highlighted issues involved in tackling counterfeiting both at policy and enforcement levels and stressed the need to take up sector-specific issues, strengthen enforcement, upgrade technologies for preventing counterfeiting, chalk out strategies for industry for a synergistic approach to deal with counterfeiting and take voluntary action both at industry and Government levels. After deliberations, the Conference made the following recommendations :

- For a synergistic approach to fight the menace and devise a mechanism for sharing of responsibilities by industry and Government;
- for organising training modules to create awareness at all levels for target groups, namely consumers, industry, police, customs, judiciary and all other stakeholders;
- to seek and promote international cooperation with anti-counterfeiting bodies like the International Anti-Counterfeiting Coalition, Business Software Alliance, World Customs Organisation, Global Anti-Counterfeiting Group, International Trademark Association, Counterfeiting Intelligence Bureau, the Anti-Counterfeiting Group etc.;

- for efficient and effective enforcement through establishment of Intellectual Property (IP) courts, better trained IP police force and cohesive public awareness;
- for smooth coordination between industry and enforcement agencies and
- for formation of multi functional teams in industry with representatives from ail interested groups including legal, corporate security, public affairs/consumer relations, sales and marketing, governments and packaging developers.

With a view to checking the menace of counterfeiting, the Government has taken effective steps for modernising and amending various legislations related to IPRs. In that direction, the Copyrights Act has been amended and new Trade Marks and Design laws have been enacted to provide effective protection to the industry and the consumers. Penal provisions under the to-be-operationalised Trade Marks Act, 1999 have been enhanced to provide for effective deterrence. Certain offences have been made cognizable and the period of imprisonment further enhanced. In order to generate awareness among the public, users, enforcement agencies and the technical institutes, various programmes have been organised in different states about the effects of counterfeiting and its impact on the national economy.

GROUP OF MINISTER FOR NON-AGRI PRODUCTS

An appropriate decision making structure has been established for finalisation of India's proposal on non-agricultural products for the negotiations in the WTO. The decision making structure includes the concerned ministries of the Governments.

FREE-TRADE AGREEMENTS WITH WTO MEMBERS

A Free Trade Agreement (FTA) was signed between India and Sri Lanka on 28th December, 1998 in New Delhi. The FTA has been made operative by the issuance of Customs Notification on 1st March, 2000. The Agreement envisages phasing out of tariffs on all products, over a period of time, except for a limited number of items in the Negative List. While India would complete the process of tariff elimination over a period of 3 years, Sri Lanka would achieve this over 8 years. The list of commodities that have been accorded duty concession by India is available in the Custom Notification No.

26/2000-Customs dated 1st March, 2000 read with Notification No. 59/2000-Customs dated 12th May, 2000; No. 60/2000 Custom dated 12th March 2000; No. 20/2001-Custom dated 1st March 2001; No. 135/2001-Customs dated 31st December, 2001; No. 24/2002-Customs dated 1st March 2002 and No. 126/2002-Customs dated 12th November, 2002. There is also a bilateral Trade Agreement between India and South Africa signed on 22nd August, 1994. However, this does not provide for exchange of duty concessions on commodities trade between the two countries. We are in the process of negotiating a Preferential Trading Arrangement with South Africa.

UNITED NATIONS TRADE AND DEVELOPMENT REPORT

The Trade and Development Report 2002 of the United Nations Conference on Trade and Development has stated that growth in world economy slowed sharply in 2001; performance was weak in all three leading economic regions in the developed world; several emerging market economies in East Asia and Latin America entered into recession; only **China and India, two large and relatively closed economies were by and large immune from the downward pressure of world markets.** The slow down of global growth during 2001 was accompanied by an even more marked **deceleration of growth in international trade;** in Asia, the fall in demand by United States led to stagnation in export growth, a rapid deterioration in current account positions and a declining growth rate in 2001 in all countries except India and China.

This report is examined by the concerned departments in the Government. In fact, during April-December 2002 the export growth of Indian merchandise goods has picked up substantially at 20.36% as compared to the corresponding period of the previous year. This is higher than the export target of 12% fixed for the current financial year. However, export promotion being a constant endeavour of the Government various initiatives have been launched to enhance the export growth which include introduction of new schemes like Assistance to States for Infrastructure Development for Exports (ASIDE), establishing Agri Export Zones, Market Access Initiative, strengthening and adding new features to the Special Economic Zones, 'Focus Africa' Programme, etc.

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

Dr. SUPACHAI WELCOMES START OF WTO WORK ON BHUTAN'S ACCESSION

Director-General Supachai Panitchpakdi, on 18 February 2003, welcomed the start of serious work on the accession of Bhutan with the delivery of the country's Memorandum on the Foreign Trade Regime to the WTO. He said that this development signalled Bhutan's keen interest in commencing its accession process. He noted that activation of Bhutan's accession was strongly supported by all WTO Members and said he expected that the first meeting of the Working Party would be held prior to the Cancún Ministerial Conference. Dr. Supachai said that the General Council's decision last December to facilitate the entry of least developed countries into the WTO has given new impetus to advancing or concluding LDC negotiations before the Cancún Ministerial. The WTO Working Party on Accession for the Kingdom of Bhutan was established on 6 October 1999. Since then work has been underway in the capital, Thimpu, on preparing the documentation required to activate the negotiating process in Geneva. On 17 February 2003 the representative of the Kingdom of Bhutan to the WTO delivered the Memorandum on the Foreign Trade Regime. The document describes all aspects of Bhutan's economy and legal system and its compliance with WTO norms and requirements.

SCHEDULE OF MEETINGS AT THE WTO/GENEVA* MARCH 2003

MARCH

3	Special Session of the Council for Trade in Service	14	Integrated Framework Steering Committee
		14	Trade Policy Review Body - Canada
3	Working Group on Trade and Transfer of Technology	18	Dispute Settlement Body
		18	Workshop on Technical Barriers to Trade
4 & 5	Trade Negotiations Committee	20	Committee on Technical Barriers to Trade
4 & 5	Workshop on Information Technology Products	24 & 25	Special Session of the Committee on Agriculture
5	Committee of Participants on the Expansion of Trade in Information Technology Products	24 & 25	Textiles Monitoring Body
6	Special Session of the Council for Trade in Service	26	Committee on Market Access
		26	Special Session of the Committee on Agriculture
7	Committee on Trade and Development	26	Textiles Monitoring Body
10	Committee on Trade and Development	27	Committee on Agriculture
10	Committee on Trade and Development on Small Economies	28	Special Session of the Committee on Agriculture
		28	Working Group on Trade, Debt and Finance
10 & 11	Special Session of the Dispute Settlement Body	31	Special Session of the Committee on Agriculture
12 & 13	Council for Trade in Good - Trade Facilitation	31	Working Group on the relationship between Trade and Investment
12	Trade Policy Review Body - Canada		
14	Council for Trade in Goods		

**Source : WTO/Geneva as on February 2003*

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