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Brief on recent DSB and Panel Findings

Chandrakant Patel

Two Dispute Settlement rulings in recent weeks (on Cotton and earlier on ECs tariff preferences under its GSP Scheme to self-designated group of beneficiary countries) are likely to have important implications for the rest of the Doha Round.

These rulings raise the question: what are the benefits of undertaking any commitments under the Doha mandate at this stage when the full implications of the two rulings on NAMA and Agriculture negotiations are yet to be understood. The following is an effort to shed some light on these rulings and their implications for developing countries.

ECs Tariffs and Trade Concessions for Drugs Control Scheme Unravels

WTO's Appellate Body has confirmed an earlier Panel ruling concerning ECs scheme for 12 drug-exporting/trafficking countries mainly in Central America but also some in Asia. The ECs Scheme rewarded these countries with improved market access and preferential and enhanced textiles and apparel quotas in exchange for their efforts to combat production and trafficking of narcotics. India, which was not included under the scheme, challenged it on the grounds that the Scheme discriminated countries not included as beneficiaries and that it was in violation of the Enabling Clause, which was envisioned to be a "non-reciprocal and non-discriminatory" preference Scheme.

The AB held that “... A GSP Scheme may be ‘non-discriminatory’ even if ‘identical’ tariff treatment is not accorded to ‘all’ GSP beneficiaries and that “ GSP Schemes may be ‘non-discriminatory’ when the tariff preferences are addressed to a particular ‘development, financial or trade need’ and are made available to all countries that share that need”. The Appellate Body’s interpretation of the Panels findings appears both confusing and potentially far-reaching in its consequences. (See Chakravarthi Raghavan, *The Hindu*, 3 May 2004). It is confusing since, while ruling in favor of the Panel finding that the ECs scheme is in violation of GATT 1994 and the 1979 Enabling Clause, it at the same time stated that the Enabling Clause allowed preference giving countries to design preferences and schemes for a limited and self-designated group of countries, subject to certain conditions.

It is worth recalling that the Generalized System of Preferences of UNCTAD was adopted at GATT through a waiver and enshrined in the 1979 Enabling Clause. The Enabling Clause, itself adopted in the context of the GATT Tokyo Round negotiations, continues to operate as part of GATT 1994. It provides legal cover for both reciprocal and non-reciprocal preferential trade arrangements involving developing countries. The Enabling Clause also allows WTO members to provide differential and more favorable treatment to developing countries without according such treatment to other WTO members, thus deviating from the MFN principle of non-discrimination. Paragraph 2 identifies specific situations in which this permission is granted. These include: (i) preferences provided by developed countries under GSP (ii) ‘regional trade arrangements among developing countries on a regional or global basis involving the preferential reduction or elimination of tariffs’ and (iii) special treatment of LDCs ‘in the context of any general or specific measures in favor of developing countries’

It was assumed that on the basis of paragraph 2, GSP schemes were

permanently derogated from the GATT’s MFN clause, as are various South–South regional trade agreements such as the Global System of Trade Preferences (GSTP) among developing countries. Under WTO, however, GSP and other similar schemes have come under the purview of its Dispute Settlement provisions and justiciable. In as much as the ruling is seen to negate MFN rights of developing countries from their corresponding obligations to developing countries, it is likely that further legal challenges will ensue. These may affect EPAS and similar preferential schemes designated by the preference giving countries.

At the DSB, Brazil stated that the AB ruling has enabled developed countries to use the WTO ‘as an instrument of their foreign policy and extend trade concessions or benefits to developing countries on the basis of foreign or other non-trade policy goals. In calling for transparent classification schemes based on “objective standard”, the ruling has introduced a degree of discretion greater than envisioned in the Enabling Clause. The AB has in fact extended the ability of developed countries to bring into WTO non-trade concerns ranging from environment and labour standards or human rights standards, if they are in an international agreement.

More immediately, the ruling throws in serious doubt the value of tariff concessions by a developing country if, down the line, the demanders of these reciprocal concessions unilaterally dilute them through the provision of preferential access to other developing countries.

Cotton Subsidies: on the way out?

Regarding Cotton, the implications of the interim ruling on the US cotton subsidy — on a complaint made by Brazil— will become clearer after the U.S appeal, probably at the end of the year. The cotton ruling suggests that the non-production related or so called de-coupled’ non-trade-distorting’ green box payments given by the U.S. and the EU to many other agriculture products will be challenged, as

could the amber or blue box domestic supports. Likewise, the U.S.' claims that its export credit programmes are not subsidies can also be challenged. More broadly, the EU, Japan, Canada and South Korea are now even more vulnerable on domestic support, and the EU on domestic support and export subsidies.

A major implication of the ruling is that over time, the farm support programmes of the U.S. and the EU, and the way they have been maintained or enhanced through shifting the subsidies from one box to the other — would be subject to challenges, now that the Peace Clause has expired. These challenges would be not only under the Agreement on Agriculture but also under the Subsidies and Countervailing Measures Agreement or other agreements.

This suggests that developing countries may be better off waiting to see the full implications of the ruling before agreeing to a framework on agriculture. Even without the impetus provided by the Panel ruling on Cotton, it was clear that the agriculture negotiations post Cancun are in serious difficulties: Derbez text is simply not acceptable as serious doubts remain about the blended formula approach (the Swiss part of the blend clearly seen as requiring much larger tariff reductions by developing countries with higher tariff levels but justifiably so in light of their limited capacity to provide subsidies). Some preliminary data suggests that the blended formula would yield a reduction, on average, of 30 percent for developed countries but between 30 and 70 percent for developing countries. Finally, lack of progress on special products and special safeguards also suggests that developing countries--especially the G 33-- have much to gain by waiting to see how the legal challenges unfold (including the outcome of one brought by Brazil and Thailand on sugar).

The pressures mounted on African developing countries such as those from the East African Community participating at various mini Ministerials will intensify; there are strong indications that they are

already succeeding in splitting the developing countries in several areas, notably Singapore issues, NAMA and on a framework on Agriculture.

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Meeting of LDC Trade Ministers, Dakar, 5 May 2004: Civil Society Declaration

We, civil society and non-governmental organisations concerned with trade issues and present as observers at the LDC Ministerial in Dakar, 4-5 May, are extremely concerned by the way discussions have evolved during these two days of debate.

Firstly, we would like to express our concern that the Derbez text, which was rejected by a large number of countries at Cancun, is being used as the basis for the re-launch of negotiations. The manner in which this text was elaborated was not transparent (green room, mini-ministerials etc.). Whole sections of Annex A on agriculture reproduce the notorious joint proposal of the EU and the US. Serious objections were also raised by the developing countries regarding Annex B relating to non-agricultural market access (NAMA). Finally, the LDCs have raised a number of issues regarding Annex C on special and differential treatment. Specifically, the Derbez text does not provide for any clear or easily accessible instrument through which LDCs can protect their agricultural markets from the onslaught of damaging competition from imports. We call on the LDCs, in solidarity with the G90 countries, to demand that their specific proposals be included in the negotiating text.

We reject the approach taken by the EU on the Singapore issues, and remain convinced that there has not been a significant advance by the '*demandeurs*' which would justify opening negotiations on trade facilitation. In this regard we support the proposal of certain LDCs, notably Zambia, to avoid jumping into the

unknown on this issue. In addition it is crucial to ensure that the LDC position on the Singapore issues is coherent with that of important allies in the G90 especially, in order to strengthen alliances for the upcoming negotiations.

The announcement by Commissioner Pascal Lamy in his opening address that the G90 countries would no longer be required to make reductions in their non-agricultural tariffs remains to be clarified and should thus be viewed with some caution. Needless to say, it would be a good thing if G90 countries do not have to make engagements in this area. However, the request that, in exchange, the G90 countries 'consolidate' their tariffs brings the risk that they will be obliged to do so at a level which is too low to facilitate the development of key sectors and which will reduce existing flexibility in the definition of trade and development policies.

We also share the perspective of Benin's Trade Minister on the pressure from the EU and the WTO to make the cotton proposal part of the wider agricultural negotiations. As things stand, this approach offers no guarantee that the trade aspects of the cotton sector initiative will be met with a systematic or timely response. We call on the LDCs to continue to support this initiative outside of the wider agricultural negotiations and further to extend their support to the commodities proposal put forward by Kenya, Uganda and Tanzania.

Finally, we note with great concern the level of influence that the EU negotiator has had during this meeting, in spite of its primary objective as a preparatory meeting to strengthen the common position of LDCs. Thus we call on the Ministers and their representatives present in Dakar not to jeopardize their alliances notably with the G90 countries, but also with other developing countries, in their enthusiasm to re-launch the negotiations.
**Signed by Action Aid, ENDA Tiers Monde, Aid Transparency and Oxfam International.*

The Cotton Sector in Mozambique: Challenges and options after the WTO Conference in Cancun

João Ribas, President of the Mozambican Cotton Association

This is a transcript of a speech by João Ribas, President of the Mozambican Cotton Association, who spoke at the Nairobi Conference on 30 - 31 March 2004 which was entitled "Business for Development – Challenges and options for Government and Business after the WTO Conference in Cancun".

Excellencies, Ladies and gentlemen, it is a pleasure for me to be here and to have been invited to address you on the subject of the Cotton Sector in my country, the Republic of Mozambique, following the World Trade Organization Conference in Cancun.

In Mozambique, as indeed in most African countries, agriculture plays an undeniably important role in the economic development and well being of the populations. 80 percent of the population in Mozambique lives in rural areas and for this reason the land is where they seek their subsistence.

As with the majority of commodities, cotton prices reflect a descending tendency in the long run, and strong fluctuations in the short term. Different factors explain this price behaviour. Among these factors we find, without dispute, the policy of subsidies practiced by industrialized nations. In the United States alone, the subsidies paid to cotton producers rose to 3.7 billion dollars in 2003 – an incredible sum, equivalent to almost 90 percent of Mozambique's Gross Domestic Product.

On analysing the statistics for the 2001/2002 campaign, we observe that close to 50 percent of the world's production of cotton was secured by two countries alone: China with 24.8% and the United States with 20.6 percent. India follows with 12.5 percent and Pakistan 8.4 percent.

In this campaign, the Western and Central African countries - the second largest world cotton exporters and fifth producers - contributed 5.1 percent of the world's total production, and the remaining African, Caribbean and Pacific countries 1.3 percent.

The United States is the major exporter, with around 40 percent of the world's total cotton exports. Last season, cotton exports represented 69 percent of their production, reflecting the steady decline in the use of cotton fiber by American textile mills after the peak reached in 1997/98.

The European Union, on the other hand, is a large importer and absorbed more than 12 percent of the world's exports during the 2001/2002 campaign. 60 percent of the world's production of cotton is subsidized. Over the last five years, the United States, European Union and China accounted for 95 percent of world cotton subsidies, and the United States 63 percent of world cotton subsidies in 2002/2003.

In 2001/02, United States and European Union subsidies were equivalent to 72 percent of world exports valued at Index A prices. Those subsidies allowed farmers in the United States and European Union to receive for their cotton a price that was higher than the world market price by 90 percent and 154 percent respectively.

No one can ignore the tremendous impact subsidies have on the internal production of the countries that adopt this policy, nor can one ignore the disastrous consequences this has on Less Developed Countries who cannot offer similar privileges to their cotton producers.

For farmers who receive such subsidies, the price of cotton is irrelevant. If the price is low, the government subsidy is there to cover their losses and provide profit. As the price is of no concern to these producers, the decision to produce cotton once again in the next season, or to increase the cultivated area, is made without having to consider that determinant influence.

Thus the natural market game is distorted. The rules of competition are falsified. The laws of supply and demand are no longer effective. And world production increases artificially. By increasing production, the price falls. And it is at this distorted price that the Mozambican farmer is obliged to place his cotton on the market.

Less Developed Countries are unable to subsidize their farmers. Even worse: the farmers in Less Developed Countries work under less favourable conditions and do not benefit at the outset from basic infrastructures equal to those existing in industrialized nations. The quality of life of millions of Mozambicans is being dramatically eroded by the low price of cotton registered in the last years in the international market.

This is an essential problem that should mobilize us all. It is a paradox to promote globalisation and at the same time to corrupt the rules of the market. In Mozambique, we have adhered to globalisation and to a market economy. With conviction! And for this reason we believe we have the right to claim internationally that the obvious distortion these subsidies represent must be corrected.

We cannot, nor do we wish to interfere in the internal policies of other nations. We simply request that those nations understand the damage caused to the economies of Less Developed Countries by their policies of subsidies – and that they assume their responsibilities with urgency.

At present, the situation is considerably less stressing as cotton prices rose in October 2003 due to an estimated reduced crop in China associated to the low level of stock in that country at the beginning of the 2003/2004 season.

The economies of Less Developed Countries should be compensated without further delay for the losses caused by the subsidizing of agriculture in industrialized nations. Otherwise, we regret that we

would not be dramatizing if we stated that the obvious consequence of that policy will be to perpetuate misery and dependence in Africa.

The recent notice issued by the European Commission to the European Council and the European Parliament proposing a partnership between Europe and Africa to support the development of the cotton sector is, in our opinion, an honest working base.

Cotton producers in Mozambique must be fairly compensated for the losses they have sustained by having to sell their product at artificially low prices. At the same time, they should be provided with sufficient resources in order to make them more competitive.

On another level, it is necessary to work on the barriers that make it difficult to have access to the market. And this seems to be especially important with regard to markets that appear to have greater importing potential in the future – the South and East Asian economies.

We applaud Benin, Burkina Faso, Mali and Chad for their Cotton Initiative within the World Trade Organization and for the determination with which they have taken their fight to the WTO for fair compensation to be paid by industrialised nations to Less Developed Countries for their policy of subsidising the production of cotton domestically. The cotton producers of Mozambique are with you and would like to join the Western and Central African countries in drawing awareness to this critically important problem. Thank you for your attention.

Big companies beneficiaries of EU sugar regime

Summary

This summary is taken from Oxfam's briefing paper 61 *Dumping on the World How EU sugar policies hurt poor countries*. European Union (EU) sugar policies hamper global efforts to reduce

poverty. Export subsidies are used to dump 5 million tonnes of surplus sugar annually on world markets, destroying opportunities for exporters in developing countries. Meanwhile, producers in Africa have limited access to EU markets. The winners from the CAP sugar regime are big farmers and corporate sugar refiners such as Sudzucker and British Sugar. The losers are the poor. European consumers and taxpayers are financing a system which denies vulnerable people a chance to escape poverty and improve their lives. Reforms are needed to stop European dumping and improve market access for the poorest countries

The Common Agricultural Policy (CAP) sugar regime produces an annual harvest of subsidised profit for food processors and big farmers, and it perpetuates unfair trade between Europe and the developing world. Reform could benefit millions of people in poor countries. The current system disproportionately benefits a wealthy minority in Europe. The sugar regime is an anachronism within the expensive absurdity of the CAP. Insulated from successive reforms, the sugar sector remains one of the most distorted markets in European agriculture. It is also a flashpoint for international tensions over trade. An ongoing review of the CAP sugar regime provides an opportunity to address the problem. Failure to grasp that opportunity will be bad for Europe, worse for developing countries, and potentially disastrous for the future of the rules-based multilateral trading system.

The EU sugar regime is a notoriously complex system, but it produces a problem that can be very simply stated: too much sugar. Each year, Europe – a high-cost producer – generates an export surplus of approximately 5 million tonnes. This surplus is dumped overseas through a system of direct and indirect export subsidies, destroying markets for more efficient developing-country producers in the process. Meanwhile, high trade barriers keep imports out of Europe. The livelihoods of agricultural labourers and small farmers in developing countries suffer both as a consequence of the EU's

exports to world markets, and because of restricted access to European markets.

The EU claims that Europe is a 'non-subsidising' sugar exporter. This is the basis of its defence at the World Trade Organisation (WTO), where the sugar regime is under challenge. But this defence is untenable. The EU's position at the WTO is built on economic sophistry. Behind the statistical fog emanating from Brussels, Europe is the world's most prolific subsidy-user and biggest dumper. Currently, the EU is spending €3.30 in subsidies to export sugar worth €1. In addition to the €1.3bn in export subsidies recorded annually in its budgets, the EU provides hidden support amounting to around €333m on nominally unsubsidised sugar exports. These hidden dumping subsidies reflect the gap between EU production costs and export prices.

Heavy export subsidies and high import tariffs are a consequence of the wide gap between EU guaranteed prices and world prices. Domestic prices are maintained at levels three times those prevailing on world markets. Shorn of diplomatic niceties, the CAP sugar regime has the appearance of a price-fixing cartel operated by governments on behalf of big farmers and sugar-processing companies. The regime maintains a system of corporate welfare, paid for by EU taxpayers and consumers, with the human costs absorbed by developing countries.

Europe's most prosperous agricultural regions – such as eastern England, the Paris Basin, and northern Germany – are among the biggest beneficiaries of sugar subsidies. We estimate the average support provided to 27 of the largest sugar-beet farms in the UK at €206,910. But the biggest welfare transfers are directed towards corporate sugar processors.

The 25 per cent profit margin achieved by British Sugar, a subsidiary of Associated British Foods, is among the highest in the manufacturing sector in the EU. British Sugar is among the most vigorous lobbyists for maintaining the current regime, having built an entire campaign on

a selective and misleading interpretation of facts.

Other companies benefit from export subsidies worth millions of Euros each year. We estimate export-subsidy receipts for six major sugar processors at €819m in 2003. The French company Beghin Say tops the league with receipts of €336m, followed by the German company Sudzucker, Europe's largest processor, with receipts of €201m, and Tate and Lyle with €158m.

Developing countries figure prominently in the ranks of losers from CAP-sponsored sugar dumping. Translated into foreign-exchange losses, world-market distortions associated with EU sugar policies cost Brazil \$494m, Thailand \$151m, and South Africa and India around \$60m each in 2002. These are large losses for countries with significant populations living in poverty, acute balance-of-payments pressures, and limited budget resources.

Trade preferences mitigate the losses caused by the sugar regime – but only marginally. Countries in the African, Caribbean, and Pacific (ACP) group enjoy preferential access to the European sugar market at prices linked to EU guaranteed prices. Least Developed Countries (LDCs) also have preferential access for a limited quota. This is a transitional arrangement under the Everything But Arms (EBA) initiative, through which the EU is committed to providing duty-free access from 2009.

The EU likes to point to the EBA initiative as an example of its commitment to development – and it must be said that the initiative has helped some countries. But in sugar, as in other areas of trade policy, EU generosity has its limits. Market-access rights are severely restricted to accommodate the concerns of processing companies such as British Sugar, Beghin Say, Sudzucker, and the sugar-beet lobby.

EBA arrangements allow Least Developed Countries to export a volume of sugar equivalent to 1 per cent of EU consumption. In other words, a group of 49 of the world's poorest countries are

allowed to supply Europe, one of the world's richest regions, with only three days' worth of sugar consumption. Mozambique and Ethiopia, two of the world's poorest countries, have a right to export a combined total of 25,000 tonnes in 2004. Just fifteen of the biggest sugar farms in Norfolk produce more than this. When it comes to choosing between reducing poverty in Africa and supporting big farm and industrial interests in Europe, EU governments have made a clear choice.

We estimate the costs of EU market restrictions for Ethiopia, Mozambique, and Malawi. Total losses since the inception of the EBA in 2001 amount to \$238m. Projected losses for 2004 are \$38m for Mozambique and \$32m for Malawi. The figures highlight a shameful lack of coherence between EU aid and trade policies. For every \$3 that the EU gives Mozambique in aid, it takes back \$1 through restrictions on access to its sugar market. Export losses undermine investment and restrict the scope for diversification. For individual countries, the costs are large in relation to national financing capacity.

The losses for Mozambique in the current financial year are equivalent to total government spending on agriculture and rural development. Ethiopia's losses are equivalent to total national spending on programmes to combat HIV/AIDS while Malawi's losses exceed the national budget for primary health care.

The ultimate losers from the CAP sugar regime are men, women, and children in the world's poorest countries. For those countries where more than half of the rural population lives below the poverty line, EU import restrictions translate into increased vulnerability, more poverty, absent or deteriorating health services, and diminished opportunities for education. The same is true for rural populations in countries such as South Africa and Thailand, where wages and conditions are adversely affected by EU dumping.

Reform of the EU sugar sector must address four central concerns

First, the EU has to stop the direct and indirect subsidisation of exports. Continued dumping of surpluses must be rejected. For practical purposes, this means that the EU should adopt a 'zero export' regime for sugar, which in turn means cuts in production quotas.

The second priority is to improve market access for the poorest countries. Governments of the Least Developed Countries have indicated a preference for retaining quotas through which they can export to the EU at a remunerative and predictable price. If this option is adopted, the quota should reflect their export capacity.

The third priority is the protection of ACP interests. It is widely accepted that reform of the sugar regime will result in lower guaranteed prices, for which large growers in Europe will be generously compensated. But as EU prices fall, so too will those received by ACP exporters. For a large group of ACP countries this poses a serious threat. Some will face severe adjustment costs and the threat of social and economic dislocation. For this reason, it is imperative that the EU provides generous and timely support to aid countries undergoing adjustment.

Finally, the sugar regime should be brought into line with public interest in the EU. That means enhancing the capacity of small-scale family farmers in Europe to contribute to the creation of an agricultural system that is sustainable in social and environmental terms.

There is a growing danger that corporate interest groups will exploit the debate about reform of the CAP for their own ends, overriding public interest in the pursuit of subsidised profit. Sugar processors and large farm organisations have launched a Europe-wide lobbying effort aimed at perpetuating the current system. Britain is one of the focal points for the campaign. British Sugar and the National Farmers' Union are attempting to sway public opinion against reform behind

the populist banner of a 'Save Our Sugar' campaign. That campaign is built on distortion and the pursuit of self-interest. This paper sets out the case for a reform model built on a fundamental realignment of EU sugar policy. It starts out from a position of pragmatism, rather than market fundamentalism. Advocates of deep liberalisation and transition to world-market prices ignore two fundamental problems. First, no politically plausible price cuts are likely to eliminate EU export surpluses, especially if implemented with large direct income aids to compensate the biggest farms for income losses. Second, deep price cuts in the EU would devastate the ACP and LDC industries that currently export at prices linked to CAP guaranteed prices. They would also undermine small-scale family farming.

Our reform option incorporates a recognition that price cuts will take place as part of the reform process, but it argues for deep adjustments through quota cuts and expanded market access for least developed countries. We propose four key measures, as follows:

1) A cut of around 5.2 million tonnes, or one-third, in the EU quota to end all exports, facilitate an increase in imports from least developed countries, and realign domestic production with consumption. The cut would take place in two stages:

Stage 1: An immediate prohibition on non-quota exports (2.7 million tonnes) and a domestic quota cut of around 2.5 million tonnes.

Stage 2: An incremental, graduated cut in quotas over the period 2006-13 to accommodate an additional 2.7 million tonnes in imports from Least Developed Countries at prices linked to those on the EU market.

2) The elimination of all direct and indirect export subsidies with immediate effect.

3) A programme of increased aid and compensation for ACP exporters, financed by a transfer of the €1.3bn now allocated to export subsidies. The programme would include a 'quota buy-back' option, under which ACP countries could sell their quota

back to the EU in return for a guaranteed flow of assistance.

4) Redistribution of CAP support towards smaller farmers, and an EU-wide investigation of the activities of sugar processors, conducted by national competition authorities.

Perhaps more than in any other sector, the sugar regime demonstrates why CAP reform cannot be treated solely as a domestic EU affair. The EU's position as a major global producer, exporter, and importer means that decisions taken in Brussels will have implications not just for a large group of poor countries, but for millions of desperately poor people within those countries. That is why the EU needs to display a sense of international responsibility commensurate with its market power.

Dumping on the World, Oxfam Briefing Paper, March 2004.

The following resolution was passed at the ACP-EU civil society consultation in Brussels on 20 April 2004.

Stop EU-ACP Free Trade Agreements

Since 2002 the European Union (EU) and countries of the Africa, the Caribbean and the Pacific Group (ACP) have been negotiating Economic Partnership Agreements (EPAs). EPAs aim to establish "new WTO compatible trading arrangements removing progressively barriers of trade between EU and ACP countries" which would build on "the regional integration initiatives of ACP states" and promote "sustainable development and contribute to poverty eradication in the ACP countries".

EPAs as Free Trade Agreements

Consistently, the EU has insisted that EPAs be based on a tight interpretation of WTO rules aiming for the elimination of all trade barriers on more than 90% of the EU-ACP trade, within the shortest possible transitional period. In addition the EU is demanding negotiations in the field of investment, competition, trade

facilitation, government procurement, data protection and services. These negotiations were rejected by ACP countries in the WTO because of their negative implications for development. Under the guise of a 'development partnership' the EU is re-introducing its WTO free trade agenda through EPAs.

Despite a great deal of reluctance from ACP countries, the European Commission has put heavy economic and political pressure on the ACP to rush into the EPA free trade negotiations without sufficient preparation. As a result of heavy dependence on aid, ACP governments have little choice but to give in to EU's demand that they open up their markets to European goods and services. The overwhelming emphasis on liberalisation in the EPA negotiations proves that these negotiations are about expanding Europe's access to ACP markets, rather than about ACP countries' development.

Regional integration efforts are central to ACP countries' development strategies. EPAs will endanger the fragile processes of regional integration and expose ACP producers to unfair European competition in domestic and regional markets. The result will be deeper unemployment, loss of livelihoods, food insecurity and social inequality. ACP governments will face significant losses in public revenue from the elimination of import duties and will continue to suffer the problem of capital flight associated with liberalisation. While the European Commission argues that EPAs are 'instruments for development' all assessments so far indicate that the burden of adjustment for EPAs will be carried exclusively by the ACP countries, including those that are LDCs.

The EU has narrowed down the Cotonou objectives to a self-serving trade and investment liberalisation agenda. As such, EPAs will deepen - and prolong the socio-economic decline and political fragility that characterises most ACP countries. EPAs do not make sense economically, or developmentally for ACP countries.

Reject EPA's

We call for an overhaul and review of the EU's neo-liberal external trade policy, particularly with respect to developing countries. We demand that EU-ACP trade cooperation should be founded on an approach that is:

- based on the principle of non-reciprocity;
- protects ACP producers domestic and regional markets;
- reverses the pressure for trade and investment liberalisation;
- allows the necessary policy space and supports ACP countries to pursue their own development strategies.

**All civil society organisations that would like to sign on to this statement can send an email indicating their interest to Nancy Kachingwe at:*

politicaleconomy@twnafrica.org

Editorial: Developing countries should be allowed policy options to protect their local industries

Percy Makombe

On April 26, the dispute resolution panel of the World Trade Organisation (WTO) gave an interim ruling examining the compatibility of US cotton subsidies to international rules of trade. The panel accepted the position advanced by Brazil that the subsidies paid by the US government to its cotton farmers were contrary to multilateral trade rules. Brazil had complained that the US 1996 Farm Act had unlawfully increased the US share of cotton exports through driving world cotton exports down. Brazil further contended that the subsidies granted under the new 2002 Farm Act were, besides being trade-distorting, more powerful than those of previous Acts. This was in violation of Articles 3 and 8 of the Agriculture Agreement and Article 3 of the Agreement on Subsidies and Countervailing Measures.

To say the US subsidies are trade-distorting is an understatement. For evidence one needs to look no further than

the US Department of Agriculture which has itself admitted that between August 1999 and July 2003, US cotton producers were paid \$12.4 billion in subsidies. The implications of this payment cannot be overemphasized especially given the fact that over the same period US cotton production amounted to \$13.9 billion. This is a subsidy of almost 90%. In monetary terms, it means that for every dollar earned by a US cotton producer, he was given an extra 90 cents by his government. This is a scandal of momentous proportions more so as it comes from a country that has been sponsoring the grand talk of allowing the forces of supply and demand to determine prices.

The econometric model advanced by Brazil to support its argument proves that if subsidies had not been paid in the period 1999-2002, cotton production would have decreased by about 29% while cotton exports would have fallen by 41%. This would have meant that cotton in world markets would have gone up by an average of 12.6%. Brazil's position is the same position that is being pushed by Least Developed Countries like Benin, Burkina Faso, Chad and Mali. These West African countries have pointed out how US cotton subsidies have grave economic consequences for their region. This is more so given the fact that cotton farming is a source of crucial revenue for the majority of the people in this region.

Anticipating the potential problems in the cotton sector, the European Commission (EC) adopted a commodities plan in February 2004. Ostensibly, the idea of the plan is to assist developing countries fight agricultural commodity dependency. Against this background, the EC set aside 80 million euros to assist African cotton producers to enhance competitiveness and deal with price fluctuations. It has become a habit for the developed nations to cloud their inaction on issues of concern to developing countries by promising financial and technical assistance. Usually absent from promises of financial and technical assistance are time frames and firm commitments.

The interim ruling on cotton is raising alarm bells for other subsidized producers of sugar and rice for example. If the ruling is confirmed it will bring into the spotlight a separate complaint raised by Brazil, Australia and Thailand against the EU on sugar. The complaint is basically against the production and export subsidies to EU beet farmers. This case has implications for the Caribbean as it is a beneficiary of the price linkages in the EU/ACP sugar protocol. This is where the ACP producers are guaranteed the same subsidized prices paid to European producers. Essentially this means that they too are also getting prices above world market prices.

The European Commission is talking about reforming Europe's sugar sector but the rhetoric does not match the action. According to a new report by Oxfam, *Dumping on the World*, EU taxpayers are contributing 819 million euros in subsidies each year to six big sugar processing companies to dump unwanted sugar on world markets. These subsidies according to Oxfam are not even helping the small farmers in Europe but are benefiting the already big rich companies. Tate and Layle (UK), Sudzucker (Germany) and Beghin Say (France) are some of the companies named as beneficiaries of EU subsidies. Oxfam reveals that these companies receive 158 million euros, 201 million euros and 263 million euros respectively in EU export subsidies.

Least Developed Countries have nothing to show from the much touted preferential access schemes. As Oxfam reveals, the total annual quota allowance for the 49 LDCs amounts to an equivalent of three days' EU consumption. The Common Agricultural Policy makes sure that the duty-free access to European markets to the world's poor granted under the 'Everything but Arms' policy counts for nothing.

It was St Jerome who pointed out that if the truth causes an offence, it is better that an offence be caused than that the truth be denied. The truth of the matter is that agriculture is an extremely important sector in Africa yet it continues to be

subjected to unfair global trading rules that permit rich countries to maintain their subsidies, while denying developing countries the right to counterbalance with tariffs. Such a state of affairs is untenable. The developed countries led by US and the EU continue to call for further steep tariff cuts to be imposed on developing countries while they Nicodemously go on with the high protection of their own agriculture industry. This kind of scenario enables the developed countries to maintain and keep their own markets even though their agriculture is less efficient.

Through import protection, sugar from developing countries is denied entry in the EU market. This is because the tariffs slapped by the EU on imported sugar are so high that it becomes uncompetitive for exporters to export to the EU. The EU has even strengthened its protectionism to make sure that even if the price of sugar drops, it can impose 'special safeguard' measure to raise the tariff to take care of the drop due to the lower global sugar price. Pascal Lamy the EU trade Commissioner has argued that the EU has a right to protect its local industries this way. By the same token, developing countries should not be denied the policy options to protect their local industries.

- (a) There should be Special and Differential Treatment for developing countries by allowing them to raise tariffs on strategic products, in accordance with their individual needs.
- (b) Developing countries must be allowed unencumbered use of Special Safeguard Measures.

- (c) There is also need for the elimination of all forms of export subsidies, credits and tariff peaks and escalation by developed countries, and the need for transparency in tariff rate and quota administration.

What is interesting about the WTO negotiations is that there has been to a large extent a total absence of progress in areas of concern to the developing countries. This was adequately demonstrated by the failure to meet deadlines in areas of Implementation, TRIPS and Public Health, Special and Differential treatment and Agriculture. It is hoped that this lack of interest in issues of major concern to the developing nations will change.

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