

Doha development agenda: Looming gridlock

The looming gridlock, which has paralysed the global trade talks, can only be cleared by the rich and powerful countries.

Trade ministers of 142 member countries of the World Trade Organisation (WTO) launched a round of trade negotiations at Doha, Qatar in November 2003, at the conclusion of the fourth ministerial conference of the WTO. Instead of naming it a round, ministers decided to give it an appealing name – *Doha Development Agenda*, which is evident from the way the Doha Declaration was crafted.

The Declaration included a number of lofty objectives in its preamble and promised heavens for the developing countries. The Declaration promised, among others, that the implementation issues, public health concerns and agricultural liberalisation would be addressed.

Sixteen good months have passed since, but the progress has been glacially slow. In six months time, ministers are meeting once again in Cancun, Mexico for the fifth Ministerial Conference. However, looking at the progress achieved so far, it is suspected that Cancun Conference will turn into another fiasco as happened in the third ministerial conference of the WTO held in Seattle in November-December 1999.

During the run up to the Doha Ministerial, developing country members of the WTO were not prepared to launch a new round of multilateral trade negotiations. However, they were cajoled into agreeing to the proposition by the developed countries. One of the major demands of the developing countries was to address the implementation issues and concerns. Developed countries managed to pacify the developing countries by annexing a *Declaration on Implementation Related Issues and Concerns* to the Doha Declaration. However, as time passes by, there is a growing realisation among the developing countries that developed countries never had any intention to fulfill the commitments made therein.

Liberalisation of agriculture was another contentious issue at that time, so it is now. Despite the push by the Cairns Group, a group of agricultural products exporting countries, the European Union (EU) and Japan are blocking the proposal aimed at liberalisation of this sector. The EU dismissed the recent draft proposal prepared by Stuart Harbinson, the Chair-

person of the Committee on Agriculture as going too far. Japan mentioned that the proposal was a "catalyst". But the United States says the draft was too tentative and did not provide the "reform needed for a successful outcome." The ministers of 22 countries gathered in Tokyo for mini-ministerial on 14-16 February failed to agree even to the "broad outline" of agricultural negotiations, which is fast approaching its March end deadline as per the Doha mandate.

Another issue that has attracted the attention of the global community is public health. Realising the growing pressure from the civil society organisations (CSOs) around the world, the ministers had agreed to annex another declaration titled *Declaration on TRIPS and Public Health*, which essentially interpreted the provision on compulsory licensing contained in Article 31 (f) of the TRIPS Agreement. While doing so, the Declaration made it clear that any member country of the WTO has a right to knock off patents on pharmaceutical products on public health grounds. However, it was not clear as to how the countries without domestic manufacturing capacity will take its advantage. Therefore, it was decided that TRIPS Council should find an expeditious solution to this problem by the end of December 2002. However, despite a series of extensive debates on this issue, it could not be resolved because the proposal which was acceptable to 143 countries was not agreeable to one country – the US, which remained singularly opposed to the proposal. By opposing an amicable settlement to this problem, the US is in effect renege on its commitment made at Doha.

The progress in these three contentious areas will determine the progress in other areas of trade liberalisation. Developing countries are bound to be apathetic to the new proposals on liberalisation of other sectors or discussions on the inclusion of "new issues" if developed countries do not even fulfill the bare minimum commitments they made at Doha. It is only the rich and powerful countries that can clear the looming gridlock, which has paralysed the global trade talks. They need to exhibit a sense of responsibility in order to prevent the repeat of Seattle and resultant collapse of the multilateral trading order. ■



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ADB to help reform Pak's Agro-Bank

The Asian Development Bank (ADB) said on 20 February that it would help restructure Pakistan's main Agricultural Bank in a bid to improve the availability of credit to farmers.

"For bridging the wide gap between the demand and supply of rural finance services, the Zarai Taraqaiti Bank Ltd. is being restructured...to emerge as a viable rural financial institution," said ADB.

Initially, part of a US\$ 100 million loan to Pakistan will be deployed to augment the share capital of Zarai Taraqaiti Bank, ADB said. The Pakistani Bank will also soon appoint a core team of senior management (*TKP, 21.02.03*). ■

Sri Lanka needs heavy aid

The Sri Lankan government will rely heavily on international aid to mend its war-damaged economy, rather than put pressure on an already overstretched budget, financial experts said on 19 February in Colombo.

A Norway-brokered cease-fire signed last February halted Sri Lanka's 19-year civil war and has led to peace talks between the government and the separatists Liberation Tigers of Tamileelam. The two parties are preparing to jointly host an international conference in Tokyo on 16-17 June to ask for funds for rebuilding war-ravaged parts of the country. They have agreed to appoint the World Bank as the custodian of the aid.

The government estimates at least US\$ 500 million is needed to repair or rebuild bridges, roads and irrigation systems, along with other reconstruction (*TRN, 20.02.03*). ■

Bangladesh to check money laundering

Bangladesh Commerce Minister, Amir Khosru Mahmud Chowdhury has asked all commercial banks as well as corporate houses of the country to remain vigilant against various aspects of money laundering and financial crimes.

The Minister said that money laundering and financial frauds are increasingly becoming

a global menace, and banks and financial institutions should put stress on curbing this black activity with joint effort. If they do so, he added, they are doing a crime and they should be punished by the government (*TNT, 02.02.03*). ■

Asia Pacific to outpace world economy

The Asia Pacific region will outpace the rest of the world economy in the next five years with an annual average growth rate of 5.5 percent, the Economist Intelligence Unit (EIU) said.

China and India — the region's most populous nations — will be among the best performers, the EIU said.

However, the pace of regional growth will be slower compared with the boom years preceding the 1997-1998 regional financial crisis, it said.

In Southeast Asia, Vietnam is likely to be the star performer with growth of nearly 7.0 percent. In the wider Asian region, the economic expansion is seen higher than in other emerging regions, largely owing to the performances of China and India.

Gross domestic product (GDP) growth in China will average just under eight percent, similar to the rates in the previous five years. "Export volumes seem to be expanding rapidly despite the sluggishness of the global economy. Domestic demand growth is being driven primarily by government investment," the EIU said.

Hong Kong's fortunes will remain tied to the international trade cycle, with GDP growth this year seen at a "disappointing" 2.5 percent. India's growth is forecast at 5.5 percent this year, due to the effects of the poor monsoon rains on the agricultural sector.

South Korea, one of the countries hardest hit by the 1997-1998 crisis, is expected to expand at an average rate of 4.5 percent in the next five years, with growth seen strongest at 5.4 percent this year.

Malaysia and Singapore, which are highly reliant on exports, will continue to track trends in global trade (*TWTR, 16-28 February 2003*). ■

The Sri Lankan government will rely heavily on international aid to mend its war-damaged economy, rather than put pressure on an already overstretched budget

India's tax GDP ratio among the lowest

India's tax GDP ratio (tax revenue as a percentage of GDP) is very low (14.4%) in comparison with not just the developed nations, but with many developing countries as well.

Sweden with its strong social welfare system has the highest tax GDP ratio (53%), which means over half of the value added in the economy goes into the hands of the government. Even the UK (37%), the EU-15 (41.6%) and Greece (40%) collect a high proportion of their GDP as tax. The United States (US) - a pioneer in trying out the Laffer curve hypothesis (that a reduction in tax rate increases tax revenues upto a point) - still collects close to 30% of its GDP as tax revenue.

Developing countries like Turkey

Country	Total Tax Revenues as % of GDP*	Central Tax Revenues as % of GDP**
Sweden	53.2	35.1
Greece	40	21.9
UK	37.4	34.6
Turkey	35.8	22
US	29.6	20.1
Japan	27.1	18.6
China	15	6.8
Thailand	14.9	14.1
India	14.4	8.6

* Including Social Security Contributions
** Excluding Social Security Taxes

(35.8%), Korea (26%) and Brazil (21%) also have high tax-GDP ratios. These figures pertain to tax collected at both the national and the sub-national levels and include taxes collected for social security.

High tax GDP ratios in the West are partly explained by the high social security contributions (compulsory levies that must be paid by employers, employees and the self-employed) which go to pay old-age pensions and other welfare schemes. Employers' contribution to social security makes up 12.9% of GDP in Sweden. An average employee there has to shell out 7% of his/her gross wage and the self-employed 10% of his/her income on this head (*ET, 04. 02.03*). ■

FDI in South Asia

Prospects and challenges

It is imperative for South Asia to concentrate on developing a common investment policy and strengthening its investment environment, writes Mr. Uttam Sharma.

FDI Trend

Until the mid-eighties, foreign direct investment (FDI) had a bumpy ride. Countries were very suspicious of the effects of FDI in their economies and tried hard to check its flow by taking measures like restrictions on capital and profit repatriations, performance requirements, etc. But, many countries, including those in South Asia, have now revamped their policy frameworks in order to attract FDI and develop a meaningful partnership with multinational corporations (MNCs), the major source for FDI. This accommodating strategy has produced some results: South Asia is no exception.

In recent years, FDI has been increasing in absolute terms in South Asia. FDI inflow was approximately US\$ 458 million in 1990, US\$ 2,000 million in 1995, US\$ 3,426 million in 1998 and US\$ 4,200 million in 2001. India is increasingly receiving the lion's share of this amount —its share of total FDI was 42.7 percent in 1980 and this rose to 72 percent in 1999 (see the table).

It should, however, be kept in mind that FDI inflow in South Asia is relatively small, even compared to other developing countries. While its share of gross domestic product (GDP) is nine percent of the total GDP in developing countries, it represents only about two percent in the case of FDI.

Prospects

There are many reasons as to why South Asia could and should be an attractive location for FDI. The most important factor is its huge market potential. India alone has more than one billion population. China's proximity to the region is also an added advantage since the demand for many goods, for example, automobiles and other white goods, is increasing there. The industries could, therefore, be setup to cater to the demands in China, in addition to those in the region. Besides, the availability of cheap labour, abundant natural resources and skilled computer literate human resource offer further opportunities.

Some specific areas holding immense potential in the region include investments in power sector (hydro power), exploration and exploitation of oil and gas resources, export processing zones (EPZs), software development and service sector.

Challenges

Firms would definitely be interested in the region if it provides a stable investment environment for which institutional development is a must. Institutions should be strengthened so as to ensure transparency, account-

ability and predictability. There must be fewer bureaucratic hurdles. The rule of law should be enforced. Other incentives like tax holidays, full profit repatriation and other financial incentives might not mean much if institutional setup is not up to mark.

Regional cooperation in economic front is equally important. The South Asian Preferential Trade Arrangement (SAPTA) and South Asian Free Trade Agreement (SAFTA) are the steps in right direction. But, commitments should be matched by actions. If the concept of regional market is realised, foreign investors will naturally be drawn by its huge market potentials; problem of limited market faced by most countries will be solved; and this will also provide a clear signal to the potential investors that South Asia is serious about attracting FDI to reduce its economic miseries.

Another challenge, that is equally relevant to other developing countries, is the unhealthy competition of providing too many incentives - the so called "race to the bottom". Worried that other countries would outdo them, these countries often rush to provide more concessions. However, according to *Foreign Direct Investment, Development and the New Global Economic Order*, a book published by The South Centre, incentives are minor factors in deciding where to invest. "The locational advantages such as market size and growth, production costs, skill levels, political and economic stability and the regulatory framework" are relatively more important. It also suggests that developing countries are collectively losing by focusing excessively on incentive packages. They would have gained more had they cooperated in limiting the incentives and instead focused on improving the general business environment.

Conclusion

In order to attract FDI, it is imperative for South Asia to concentrate on developing a common investment policy and strengthening its investment environment. Institutional setup and enforcement of appropriate and effective rule of law are equally indispensable. In this process, the significance of regional cooperation cannot be ignored. Unless the challenges ahead are addressed sincerely and promptly, the potential for huge FDI inflow in South Asia will not be harnessed. ■

(Mr. Sharma is Research Associate of SAWTEE)

If the concept of regional market is realised, foreign investors will naturally be drawn by its huge market potentials

FDI inflow in South Asian countries (in %)

	1980	1999
India	42.7	72.0
Pakistan	34.1	13.7
Sri Lanka	23.2	5.3
Bangladesh*		8.4
Nepal*		0.3
Maldives*		0.3

* These countries had negligible FDI inflow in 1980.

Source: Human Development in South Asia 2001.

Nepal and India have completed the foundation level negotiations on Nepal-India Railways Agreement (NIRA)

India, Nepal railway talk

Nepal and India talks on operating direct transport service has ended without any conclusion whereas the dialogue on railway agreement concluded with some important decisions. However, the final agreement remains to be drafted.

It has been said that with this round, Nepal and India have completed the foundation level negotiations on Nepal-India Railways Agreement (NIRA).

Substantial progress was made on outstanding issues. On the few remaining issues, as the need was felt for consulting higher authorities on both sides, it was agreed that further discussions would be held through diplomatic channels with a view to finalising the agreement at an early date.

The achievements have been made with the flexibility shown by both sides. The Nepali side retracted from its earlier stance of issuing customs clearance to Nepal's third country imports at Inland Container Depot (ICD), Birgunj, while India pledged to simplify customs clearance procedures at Kolkata port, agreeing to provide concession on the existing provisions of the bilateral transit treaty.

Although the demand for checking "one-time-lock" goods by the Indian government has been deferred, the talks on managing transit between Kolkatta and Birgunj has been agreed.

Nepal also compromised on India's demand that the ICD not be managed by a

foreign company. They agreed to appoint the Terminal Management Company (TMC) either from Nepal or on a joint venture basis between them. Similarly, India agreed to make Container Corporation of India (CCI), a public cargo handling agency, responsible for security and delivery of Nepal's container safely to the ICD.

Nepal and India also agreed that TMC would be responsible for submitting mandatory documents like bank guarantee and insurance papers, among others, at the port of entry (*STT & TKP*, 14.02.03). ■

BIMST-EC shows no progress

Myanmar has invited Indian investments in information technology, agriculture, infrastructure and energy and asked regional leaders to hold a summit soon to boost economic cooperation.

Addressing the Confederation of Indian Industry (CII), visiting Myanmar Foreign Minister, U Win Aung said the Bangladesh, India, Myanmar, Sri Lanka and Thailand Economic Cooperation (BIMST-EC) formed in 1997 has not shown any progress.

Noting the strategic location of the BIMST-EC countries at the heart of Asia Pacific, Aung said the region is home to about a quarter of the world's population and represents a huge market. Economic progress within the grouping would result in other countries joining BIMST-EC, he said (*TWTR*, 01-15 February 2003). ■

Potential of agriculture neglected in South Asia

Agriculture, the major source of livelihood for South Asia's population, as well as the backbone of the industrial and trading systems, has not been receiving as much policy attention as the sector deserves, states the South Asia Human Development Report 2002, prepared by Mahbub ul Haq Human Development Centre, Pakistan. Despite its contribution to the gross domestic production (GDP), the report says that investment in agriculture, by both public and private sectors, is inadequate and is not helping agriculture play an important role in overall growth of the economy of these countries. Since the green revolution, South Asia has achieved substantial progress in agricultural growth, but this progress has been neither adequate nor equitable to reduce the region's huge backlog of poverty, quotes the report.

The report, which especially focuses on agriculture and rural development, says that recently many South Asian countries have started undertaking institutional and policy reforms, which ensure long-term development of South Asia. However, excessive use of green revolution technologies has led to substantial loss of arable land and environmental degradation, including soil erosion, water logging and salinity, the report says, adding that the irrigation systems and practices are very old and lack efficient

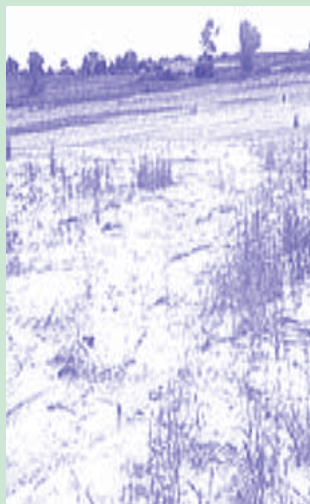
use and maintenance.

Agriculture continues to be one of the major sources of employment in South Asia although the percentage of labour employed in agriculture has witnessed a decline across the region. The report presents the plight of women involved in the agricultural sector. The number of women living in absolute poverty, especially in rural areas, has risen during the 1990s. It is understood that women are responsible for producing food but they have the least access to means of production and receive the lowest wages.

In order to ensure better human development in the region, the report recommends that development priorities should focus on the occupation of the people.

Similarly, policies for food security must focus on empowerment of people so that poor people are able to purchase food. The larger South Asian countries have food stocks well above

their requirements, yet over half a billion people in the region are food insecure. Attention should be given to small farmers for the revival of agriculture. The incentives that are being provided to corporate farming should not be at the expense of the vast majority of the rural populace, recommends the report (www.nepalnews.com). ■



United we stand, divided we fall

Once economic and trade interests are shared, peace becomes inevitable, reports Mr. Shafqat Munir.

The postponement of twelfth South Asian Association for Regional Cooperation (SAARC) Summit has been seen as a serious blow to the peace process in the region. The South Asian civil society organisations (CSOs), academia, media persons and peace activists who gathered at two important events in Islamabad in early January 2003 were of the view that both nuclear powers in the region, Pakistan and India, have failed to take bold decisions to end hostilities and the recent move to postpone the Summit has further aggravated the tension in the region.

The first event on "Postponement of SAARC Summit: Impacts on Regional Peace and Cooperation", organised by South Asian Union, Friedrich Ebert Stiftung and Coalition for Action on South Asian Cooperation (CASAC), was held on 03 January 2003 in Islamabad.

"India and Pakistan could better serve the interests of the people of this region. However, due to lack of political will to move ahead on trade and economic issues, the region has remained far behind," opined the participants during the event. In the present circumstance, there is a dire need to shift the security perception from that of military doctrine to the people's security perception that includes security of movement and livelihood. Human development is essential for the region, and it is possible only through diverting huge sums allocated for defence to investment in the people.

The participants in the event also discussed about the key role that media could play in bringing peace and security in the region. Media can not only bridge a communication gap by bringing people together but also make the governments realise where they are heading, what they are losing and what costs the people of the region are paying. It is obviously important for media not to become a part of war and keep any prejudices. The participants said, "We are rapidly plunging into poverty trap. Our economies can still grow if we increase our trade and build economic ties among us". They suggested, "Once economic and trade interests are shared, peace becomes inevitable."

Similarly, during the second event - the third SAARC People's Summit held in Islamabad on 11-13 January 2003, organised by The South Asia Partnership - the participants expressed their concern over the standoff between India and Pakistan saying, "It is costing a lot to the South Asian economies."

The participants hailing from Nepal, Bangladesh, India, Sri Lanka and Pakistan were of the view that the current hostilities have narrowed down the chances of stability in the region. The South Asian people, particularly

the development sector activists, are facing difficulties in flying across the region due to closure of airspaces by India and Pakistan.

The problem is also with the visa facilities. "It is tragic to note that earlier Pakistanis and Indians visiting each other's country were required to report only to the police in the respective countries, but now the reporting has been extended to Sri Lankans and Bangladeshis too," said the participants. They were unanimous in condemning the strict visa restrictions, closure of airspaces and other difficulties created and said, "This has created a gap within people to people relations across South Asia."

A joint Declaration of the Summit has opposed all actions and policies that promote militarisation, jingoism, extremism and exploitation. Realising that the regional cooperation is the most important prerequisite for the progress of the people of South Asia, especially on the face of increasing globalisation, this Declaration has deplored the postponement of the twelfth SAARC Summit and called for its immediate convening.

The People's Summit has also demanded that the visa regimes should be eased. It has further asked the two governments to allow visas to all SAARC citizens at the port of entry as it is done by Sri Lanka and Nepal. The Summit made specific recommendations to promote peace and tranquility in the region. Some of them are:

- The SAARC Secretariat should associate CSOs in all efforts to promote cultural exchanges; to strengthen the South Asian identity; and to enhance the economic ties.
- SAARC countries should promote traditional arts, crafts and information and knowledge systems to protect the cultural rights of the under-privileged sections of society.
- There is a need to create an environment of active collaboration among the planning authorities of SAARC member states to harmonise their policies and ensure that an increased percentage of gross domestic product (GDP) is devoted to social sector programmes. ■

(Mr. Munir is President of JDHR, Islamabad)



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A report on global trade

On 30 January, United Nations Development Programme (UNDP) launched the book "Making Global Trade Work For People", the culmination of an independent review of the multilateral trading regime.



The comprehensive 341-page study, while supporting the belief that trade can improve the lives of people, calls into question the automatic link between trade liberalisation and human development that is often espoused by those promoting the current international trading system.

The report has also called for a shift of focus from promoting trade liberalisation and market access to fostering development, because there is no compelling evidence to suggest that liberalisation leads to higher growth and poverty alleviation.

The book recommends four basic principles to be accepted and operationalised:

- i) Trade is a means to an end - not an end in itself;
- ii) Trade rules should allow for diversity in national institutions and standards;
- iii) Countries should have the right to protect their institutions and development priorities; and
- iv) No country has the right to impose its institutional preferences on others.

(NTW, 7-13 February 2003 & BWTND, 19.02.03). ■

Countries should have the right to protect their institutions and development priorities

Armenia joins the WTO

On 5 February 2003, Armenia became the newest member of the World Trade Organisation (WTO). The WTO's General Council had approved Armenia's accession package on 10 December 2002 and officially notified the secretariat of Armenia's ratification in early January 2003. The accession took 10 years, during which Armenia negotiated bilateral treaties with its trading partners, and made revisions to its domestic legislation to comply with the WTO law.

With the inclusion of Armenia, the WTO expands its membership to 145, though numerous potential members are currently negotiating their accession. Six former Soviet republics are already members of the WTO. Russia is one of seven former Soviet republics still in the process of accession talks.

Similarly, in the context of countries seeking membership to the WTO, Viktor Yanukovich, the Ukrainian Prime Minister, has met the WTO Director General, Supachai Panitchpakdi in Davos. Members of the delegation have said that the meeting was successful. It has been expected that Ukraine will be admitted to the WTO no later than 2004.

The sources say that Ukraine has received a clear message that the WTO is interested in Ukraine's fastest possible accession.

However, the sources also say, there are still conditions and some differences, mainly in terms of intellectual property laws and services that Ukraine has to fulfill and clarify (BWTND, 06.02.03 & TWTR, 16-28 February 2003). ■

WTO meet unable to bridge differences

Exporting giants eager for markets and nations intent on protecting farming were unable to bridge their differences on tariffs and other issues as a World Trade Organisation (WTO) minister level meeting came to a close on 16 February. During the three-day Tokyo meeting dubbed "mini-ministerial", delegates from 22 nations of the 145-member WTO clashed over a proposal from Stuart Harbinson, the Chair of the WTO farm negotiations, to reduce tariffs by an average 60 percent in five years, cut agricultural subsidies and raise import quotas.

"There are very deep differences represented on this table," United States Trade Representative (USTR) Robert Zoellick said after the meeting. Although a deal on agriculture remains critical for the success of global trade talks, Zoellick acknowledged that a number of countries weren't ready to make concessions.

Japanese Foreign Minister Yoriko Kawaguchi, who chaired the talks, played down the failure of the participants to find common ground. "We came to clearer perceptions regarding issues to be discussed," she told.

"Harbinson's paper served as a catalyst. Everyone's positions became crystallised," she further said.

The WTO members are trying to meet a 31

March deadline to agree on a framework for talks on agriculture—one of the stickiest issues in the latest round of global trade negotiations, which began at Doha, Qatar, in 2001.

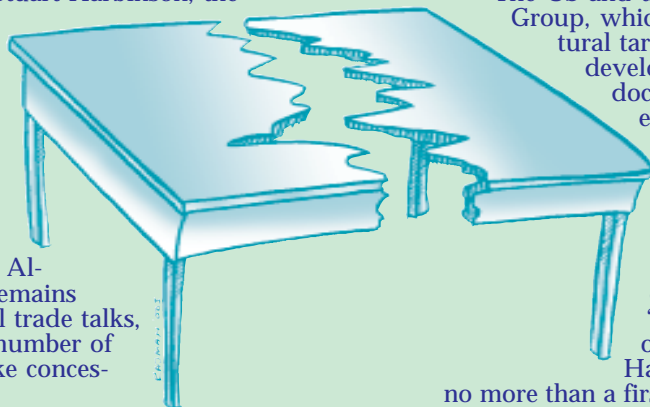
Harbinson's report failed to please most delegates, who refused to budge from their stances, officials at the talks told.

The US and the 18-nation Cairns Group, which favour an agricultural tariff cap at 25 percent in developed nations, said the document didn't go far enough.

But the European Union (EU), which wants to keep some of its farm subsidies and supports tariff reductions by 36 percent, criticised the report as 'unbalanced.' EU officials said that

Harbinson's paper was no more than a first draft. "It was there to provoke reaction and it did provoke reaction," said EU Trade Commissioner Pascal Lamy.

Japan said that Harbinson's proposal was unacceptable. "I wonder whether creating the same market rules for agriculture as for industry will really contribute to the happiness of people around the world," said Agriculture Minister Tadamori Oshima. Similarly, India threw its weight behind Europe and Japan (THT, 17.02.03). ■



More pain for Australia in free trade

An independent study has backed the view of the opposition and some economists that a free trade pact Australia wants with the United States (US) will damage Australia's economic interests. The study, commissioned by Canberra's Rural Industries Research and Development Corporation (RIRDC), has found such a trade pact would damage Australia's farmers and cost its economy more than it delivers.

The Sydney Morning Herald quoted it as saying: "Whether anything can be gained from a bilateral deal with the US is questionable. The US would have most of the bargaining power, as it needs the agreement less than Australia."

The study warned a trade pact with the US may encourage the development of an Asian free trade pact that excludes Australia, noting that 10 percent of its exports go to America compared with 55 percent to East Asia.

It also said that it would invite more retaliation by two of Australia's biggest trading partners, Japan and China.

The study, due for release last year but delayed, is said to remain in draft form because its authors are resisting requested changes.

But a spokesman for the RIRDC said it was held up because the steering committee overseeing the study had requested clarification on some of its conclusions. The study is reported to have been commissioned because of a strong view in the Australian Department

of Foreign Affairs and Trade that an FTA with the US would be worth in excess of 4.0 billion (2.4 billion US) dollars a year (*TKP, 27.02.03*). ■

Lanka Madagascar FTA soon

Sri Lanka will sign a free trade agreement (FTA) with Madagascar soon mainly to promote the import of rough gem stones to Sri Lanka. The proposal in this connection has been already presented to the Consular of Madagascar and the amendments, if any, will be forwarded to Sri Lanka. The FTA will mainly focus on the import of rough gem stones to Sri Lanka and on duty concessions in this regard.

A lot of Sri Lankans are now importing rough stones from Madagascar mainly through unofficial channels and are not paying taxes. It has been said that if there is an FTA in place, Sri Lankans would be able to officially attend many auctions and import the gem stones through official channels. The FTA will also reduce red tape to obtain visas to Madagascar.

With the increased import of rough stones, it has been expected that this will create many job opportunities for Sri Lankans specially in the cutting, polishing and other fields. Further, it will also open a new market in Sri Lanka.

Till date, Sri Lanka has neglected Japan, which is the world's second largest international gem market after USA. There is a lot of untapped potential in Japan which could be exploited even at this late stage (*TWTR, 01-15 February 2003*). ■

A lot of Sri Lankans are now importing rough stones from Madagascar mainly through unofficial channels and are not paying taxes

EC presents services liberalisation offer

On 5 February, EU Trade Commissioner Pascal Lamy outlined the initial European Union (EU) offer to its trading partners for additional services liberalisation commitments. Lamy stated that the EU was willing to offer further market openings in areas such as banking and telecom. However, it would not take new commitments in public services such as health and education as well as audiovisual services. He further said that additional market access was negotiable in areas such as computer services, postal services, environmental services, tourism and transport.

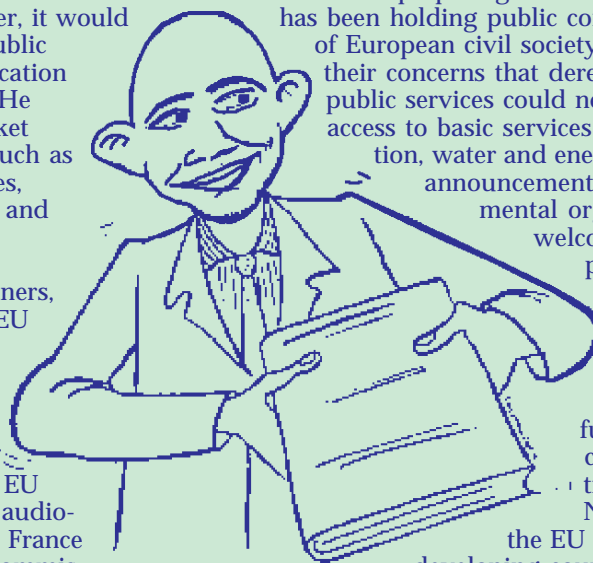
Responding to demands by developing country trading partners, including India, to open up the EU market in mode four (movement of natural persons), Lamy said that the EU would allow professionals based overseas working e.g. in computer and engineering services to enter the EU market for up to six months. On audiovisual — a sector that especially France wants to keep protected — the Commissioner ruled out any commitments whatsoever.

The Commission's proposal will now be forwarded to the European Council (EC) and the Parliament for their consideration before it can be officially submitted to WTO trading partners prior to

the agreed 31 March deadline. In the current request/offer phase in the services negotiations, WTO members are to respond to requests for additional commitments received by trading partners by the end of March. In preparing the draft offer, the Commission has been holding public consultations. A large group of European civil society groups have expressed their concerns that deregulated and privatised public services could negatively impact on the access to basic services such as health, education, water and energy. In reaction to the EU announcement, European non-governmental organisations (NGOs)

welcomed the Commission's proposal, though some expressed disappointment over the fact that postal, retail, environmental and transport services will be further opened to foreign competition. A representative of the Third World Network demanded that

the EU withdraw its requests to developing countries to liberalise these same services, noting that developing countries have far weaker services sectors than the EU countries, and are in even less of a position to make further liberalisation commitments (*BWTND, 06.02.03*). ■



S&DT provisions: On the damp burner

Special & differential treatment may be used as a trade off for commitments in contentious areas such as investment, competition and environment in Cancun, writes Ms. Purnima Purohit.

The preamble to the Marrakesh Declaration, which established the World Trade Organisation (WTO), states that the purpose of trade is to contribute to sustainable development. Whether or not trade can achieve sustainable development, especially in developing countries is still a debatable issue. However, even if WTO Agreements are to contribute to development and poverty reduction, developing countries must be given special and differential treatment (S&DT). This will enable them to use trade policy in an interventionist and flexible manner, to support the development of domestic industry, the diversification of the economy and the generation of sufficient wealth to lift their population out of poverty. Unfortunately, practise differs from the theory.

The need for S&DT arose with the understanding that the playing field between the developing and developed countries is not at the same level and countries with vulnerable economies cannot compete favourably with the developed world. The introduction of the 'Enabling Clause' during the Tokyo

Round 1979 created a permanent legal basis for preferential treatment. It was during the Uruguay Round (UR) 1986-1994 that the issue of S&DT gained centre stage. There appears to have been a general acceptance that developing countries do not have institutional capacity to implement the commitments demanded from them under the UR. However, two new elements of S&DT such as transition time periods and obligation related to technical assistance (TA) were introduced in the UR, while general principles and provisions towards S&DT adopted in previous rounds continued as well.

However, after eight years of S&DT operation, very little benefits have accrued to developing countries. Even the S&DT of binding nature has no meaning as developing countries do not have resources to operationalise such S&DT.

Most of the provisions related to S&DT are in the nature of TA, which cannot be made mandatory. They are only on the basis of better coordination and best intentions. It has been voiced that it would be difficult to make these provisions mandatory unless the issues are brought under the ambit of the dispute settlement mechanism (DSM), which are usually in the form of 'best endeavour clause'. One of the main TA requirements of developing countries is the need to strengthen their negotiating capacity at the WTO, including practical assistance, advisory mission to assist in the preparation of notification and legislation in

relation to the implementation of various WTO Agreements. However, very limited resources are currently being spent on achieving this objective, whether through bilateral or multi-lateral TA.

To carry the matter forward, the Doha Declaration came out with a mandate not only to review all S&DT provisions but with the scope for the inclusion of some other new S&DT provisions. Ministers at Doha, recognising that problem existed with respect to S&DT, set out a work programme for S&DT. The General Council (GC), in its first meeting after the Doha Ministerial, mandated the Committee on Trade and Development (CTD) to carry out the work programme on S&DT in special sessions and report regularly to the trade negotiating committee on the progress made. But things have almost fallen flat.

A large number of agreement specific proposals were submitted by developing countries but comprehensive deliberations on these proposals could not be carried out by the stipulated deadline. In response, many developed countries also raised a number of systemic issues related to principles and objectives of S&DT, utilisation, graduation, universal vs. differentiated treatment etc. and discussions on the "enabling clause". They are insisting that before they get into agreement specific proposals, discussions should take place on the objectives and principles of S&DT.

As a result of growing complexity, the CTD sought more time in July 2002 to complete the mandated work by December 2002. The work is still going on the agreement specific proposals and the systemic issues, but there are wide differences in views and perceptions. As a result, the GC again failed to adopt a report on S&DT, thus missing a third deadline for strengthening S&DT provisions in February 2003 meeting of GC.

At the CTD special session, members adopted a report recommending that the 'the GC provide clarification on the S&DT mandate provided by Ministers at the fourth ministerial conference at Doha, as it considers appropriate'. However, the report was thrown in limbo when a handful of developed country members prevented it from being adopted at GC meeting.

Clarification is needed as deadlock had virtually persisted since the first sitting of the special session and was attributable to the lack of a common understanding of the mandate provided. Observing the scenario, in the end it may be foresighted that S&DT may be used as a trade off for commitments in contentious areas such as investment, competition and environment in Cancun. ■

(Ms. Purohit is Research Assistant of CUTS, Jaipur)



Even the S&DT of binding nature has no meaning as developing countries do not have resources to operationalise such S&DT

Is MFN principle sacrosanct?

Due to the 'free rider' problem associated with MFN-based trade liberalisation, GATT/WTO members have often encouraged departure from this principle.

The concept of non-discrimination included within the GATT/WTO through Most-Favored Nations (MFN) principle has provided enormous strength and advantages to the system, but one should not view it as sacrosanct. It too has certain problems; free rider is one of them. Due to the fear of 'free riding', MFN-based trade liberalisation is being discouraged and policy initiatives that depart from the principle of non-discrimination are being encouraged.

The political economy of trade liberalisation suggests that liberalisation does not take place unilaterally. Most countries want to ensure that they gain something in return (ideally mutually equivalent) for having liberalised their import regime. In other words, they would like other countries to reciprocate. Therefore, most countries are willing to provide concessions to only those countries that will provide some *quid pro quo*.

The country that does not provide any reciprocal benefit to another country for having opened its market yet gets the benefit is called 'free rider'. The tendency towards free riding is quite common within the MFN-based trade liberalisation. While some of the free riding are incidental (that comes as a spillover benefit to the free rider) some of them are purely intentional. It is the second type of free riding that countries willing to liberalise are worried about.

The problem of free riding is further exacerbated by the fact that nations want to give away as little as possible to obtain gains from liberalisation. Due to free riding problem, countries which are seeking to liberalise only on the condition of reciprocity do not have incentive to liberalise at too fast a pace, because they fear that free riders will reap the benefits. The obvious danger of MFN requirement is that nations will try to free-ride on each other during bargaining, with the result that mutually beneficial deals will not be struck. Even if the deal is struck, the process is bound to be terribly slow.

It is, therefore, true that holding back on desire to liberalise has led to sub-optimal outcome in terms of national as well as global welfare. Some countries seem to have become really fed up with MFN-based trade liberalisation and have opted for some other approaches to or modes of trade liberalisation, which are second or even third best from the standpoint of welfare. Those approaches are discussed below.

Regional Trading Arrangements (RTAs): The single major derogation from MFN principle is provided by GATT-legal provision on RTA

(Article XXIV). As per this, free trade areas (FTAs) and customs unions (CUs) can decide to provide MFN concessions to the countries within the group, while excluding others outside the group.

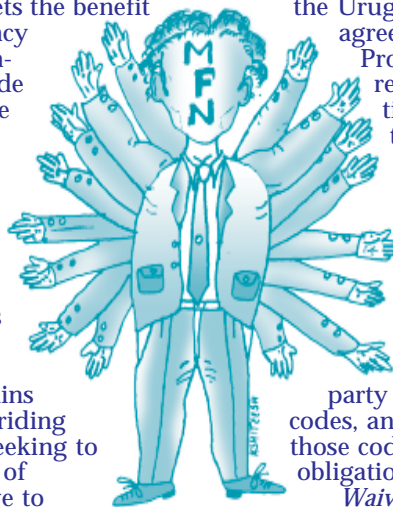
Special and differential treatment (S&DT) to developing countries: Whatever may be the utility of S&DT provisions contained in the WTO Agreement (see the related article on page 8), S&DT provisions allow members to provide differential and more favourable treatment to developing countries without according such treatment to other members. These provisions help avoid free riding by developed countries and some advanced developing countries.

Plurilateral Agreements: Since all the countries were not willing to subscribe to some of the Agreements proposed during the Tokyo Round and developed countries apparently could not wait any longer, these agreements became applicable only to those Contracting Parties, that signed on to them. There were four such agreements then. After the conclusion of the Uruguay Round, only two such agreements, namely, Government Procurement and Civil Aircraft remain. There is an MFN obligation within the signatories to these agreements, but they do not apply to other WTO members.

Tokyo Round Codes: During Tokyo Round, a GATT *a la carte* was developed as per which various side agreements (codes) were created and those Contracting Parties of GATT willing to become a party to the code signed on to those codes, and those, who did not sign on to those codes, did not have any MFN obligations under them.

Waivers: Waivers can sometimes authorise departure from MFN by allowing certain GATT-inconsistent arrangements to continue. Three important examples are the United States-Canada Automotive Products Agreements; the United States preferences granted to the Caribbean basin; and the Contonou Agreement between the European Union (EU) and Africa, Caribbean and Pacific (ACP) countries.

MFN-based trade liberalisation provides best of both worlds. However, the above-mentioned initiatives, which are the manifestation of second or third best approach, are bound to create distortions and result in less than optimal global welfare. If these arrangements are not properly regulated or disciplined, they could pose serious threats to the very existence of the multilateral trading order. Some useful efforts towards disciplining them are already underway, but their pace is far less than satisfactory. ■



Departure from MFN-based trade liberalisation is the manifestation of second or third best approach

Protecting farmers' rights: Issues and options

Farmers' rights, conservation of genetic resources and food security are intimately intertwined - one is not complete without the other.

Bangladesh Environmental Lawyers Association (BELA) in collaboration with SAWTEE organised a two-day *Regional Workshop on Protecting Farmers' Rights: Issues and Options* in Dhaka, Bangladesh from 1-2 February 2003. The workshop, supported by Ford Foundation, ActionAid, United Nations Development Programme (UNDP) and the Ministry of Environment and Forest, Bangladesh, was attended by 87 representatives from governments, academia, farmer groups, lawyers, media and civil society organisations (CSOs).

The workshop is a part of a three-year Regional Programme on Farmers' Rights that SAWTEE has been implementing in South Asia. Resource persons from Bangladesh, India, Nepal and Sri Lanka also participated in the workshop.

The participants delved on the issues of Biotechnology, Agreement on Agriculture (AoA), Agreement on Sanitary and Phytosanitary (SPS) Measures, Women's Perspective on Farmers' Rights, Trade Related Aspects of Intellectual Property Rights (TRIPS) and Biodiversity, and Legal Options available under the TRIPS Agreement to protect Farmers' Rights.

Realising that the negotiations during the multilateral trading system of the World Trade Organisation (WTO) have often gone in favour of the developed countries, the participants stressed that South Asian countries, on one hand, need to develop a national strategy to protect the farmers of their countries, on the other, they have to strive hard to develop a regional strategy.

Inaugurated by Hon'ble Minister for Commerce, Bangladesh, Mr. Amir Khosru M. Chowdhury, the workshop underscored the need to understand "*sui generis*" system of protecting plant variety. "It should be based on the practices and ground realities of the concerned countries and should not be imposed from outside," opined the participants. For the countries of South Asia where agriculture research is largely concentrated in public sector, the private sector-led model of plant variety protection such as the International Union for the Protection of New Plant Varieties (UPOV) is ill-suited, identified the participants.

The participants argued that farmers' rights, conservation of genetic resources and food security are intimately intertwined - one is not complete without the other. The issue of farmers' rights therefore should never be undermined. Since TRIPS is a private sector-led Agreement, it does not only contradict with other two international legal instruments, namely, Convention on Biological Diversity (CBD) and International Treaty on Plant Genetic Resources for Food and Agriculture (ITPGR), but is patently unfair and unjust too. However, the participants also realised that there are some flexibilities within this Agreement, which developing countries should try to

explore and exploit.

The participants also dwelt upon the issues of protectionism and dumping of products. They said that developed countries are subsidising their rich farmers. The double standards of the developed countries as in the case of imposing standards for the import of agriculture products and lack of capacity of the poor farmers to meet the increasingly higher sanitary and technical standards have aggravated the problem of livelihood.

The participants condemned the practice of excluding CSOs from the process of policy formulation by the governments. They also criticised the tactics of multinational corporations to push their agenda for the privatisation of genetic resources.

Talking about the bilateral arm twisting practices of developed countries that they use to make the weaker countries accept such terms and conditions which are not even required by the WTO Agreements, the participants said that the countries in the region should go together to protest against these sorts of practices. European Union's threat to stop development aid to Bangladesh if they do not become a member of the UPOV is one such example.

The participants also expressed their grievances over other multilateral/inter-governmental organisations such as the World Bank, International Monetary Fund (IMF) and World Intellectual Property Organisation (WIPO), which are engaged in furthering "Washington Consensus" designed by the developed countries to impose their neo-liberal agenda on the developing countries. They said, "These agencies should not create hindrances rather facilitate the process of integration of developing and least developed countries into the multilateral trading system."

While the Special Guest for the inaugural session of the workshop was Bangladeshi Minister of State for Environment and Forest, Mr. Jafrul Islam Chowdhury, the Chief Guest for the concluding session was Hon'ble Minister for Law, Justice and Parliamentary Affairs, Mr. Moudud Ahmed. Expressing his commitment towards the protection of farmers' rights, Mr. Ahmed made a public pledge, "Once my ministry receives any legislation relating to farming, I will invite all the interested CSOs for a discussion." This is indeed a positive note and of course one of the major achievements of the workshop. This type of initiative should also be considered by government authorities in other countries of the region.

During the workshop, two posters were released by Minister for Commerce - the first being on the natural and policy handicaps of the mountain farmers and the second on the WTO and the farmers' rights. The posters were published by SAWTEE and its partners under the Farmers' Rights Programme. ■



SPS measures: Impact on HKH countries

If HKH countries' products fail to meet prescribed standards, they have to face problems in exporting their produce to Developed Market Economies (DMEs), writes Dr. Wajid H. S. Pirzada.

During Uruguay Round (UR), developing countries (DCs) viewed trade liberalisation of world agricultural markets as a threat to their economies. Their fear then had a reason for:

- It was not only that majority of the population in DCs eke out their existence from agricultural sector which was at stake but the little share they had in global trade, restricted to agriculture, too was at risk.
- The total value of global trade in agricultural products was estimated at US\$ 586 billion in 1996, amounting to 11.5 percent of total world trade. Market share of DCs was 37 percent of this figure during the period; and the agricultural products accounted for 70-90 percent of total exports from DCs. This clearly indicated the stake DCs - like Hindu-Kush Himalayan (HKH) countries - had in agriculture.
- It was not only quotas and tariffs that had impacted the trade opportunities but also huge subsidies doled out by Developed Market Economies (DMEs) had distorted international agricultural markets.
- They were not able to meet the so-called demands in terms of quality issues such as higher environmental and health standards.

This apprehension of DCs too was not uncalled for, as today we witness environmental and health standards being used by DMEs as disguised barriers to trade. DMEs, under the guise of protecting public health, are exploiting to their advantage the proviso of the WTO Agreement on application of Sanitary and Phytosanitary (SPS) Measures.

The premise of the WTO Agreement on SPS is to protect the fauna, flora and public health from any attended risk arising from imports. The Agreement in this regard contains procedural requirements for formulation of SPS measures. The Agreement covers all such measures which aim at protecting human, animal and plant health. The principles that guide the application of SPS measures under the Agreement are: a) Minimising the negative trade effects; b) Risk assessment based on available scientific evidence and transparency; and c) In cases, where adequate scientific evidence is not available, an importing state may provisionally adopt SPS measure on the basis of available pertinent information (Precautionary Principle). Such measures, however, must be reviewed within a reasonable period of time.

The WTO members have the right, under the Agreement, to adopt SPS measures that are consistent with these provisions of the Agreement. This right, however, is qualified in three ways: a) SPS measures should be applied to the extent necessary; b) These should be science-based and not maintained without scientific evidence; and c) These should not constitute disguised and unjustifiable barriers to trade.

However, despite the very need for SPS measures stipulated under the Agreement, it is the temptation and tendency of DMEs for using SPS measures - at times higher than stipulated in the Agreement and thus beyond the extent required - that block the little trade opportunities DCs may have in agriculture sector exports.

On one hand, subsidies, quotas and high tariffs are being widely applied for especially sensitive products, particularly related to agriculture, which are of interest to DCs; the disguised and unjustifiable barriers to trade in the form of unnecessary environmental and health standards on the other are impacting their market access opportunities.

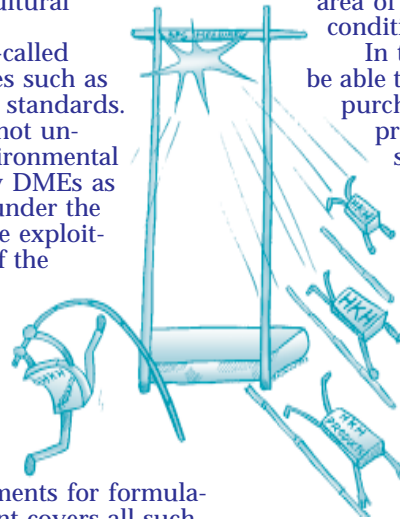
Trade liberalisation thus poses big problems to DCs including HKH countries. These countries, for example, have been subjected to a situation where they ought to reform their economies, at huge cost, so as to reorient and readjust to globalisation of economic activities in general and to the WTO regime in particular. Their limited capacity, particularly in the area of SPS related issues, and socio-economic conditions further imperil their trade prospects.

In this scenario, HKH countries would not be able to meet the quality demands of DMEs purchasers. Naturally, if HKH countries' products fail to meet prescribed standards such as sensory qualities, fitness for consumption, product declaration etc., they have to face problems in exporting their produce to DMEs. Further, DMEs have not honoured their pledge to provide technical and financial support to build their capacity in this area, as provided under the Agreement.

Against this backdrop, it is therefore imperative to save these counties with the certain approaches pointed below:

- Extension of technical and financial support, promised in the Agreement, and with the investment in food quality and safety programmes e.g. food contamination monitoring system. Investment initiatives in institutionalising Hazard Analysis and Critical Control Points (HACCP) would be rewarding in this regard.
- Capacity building in quality infrastructure and management.
- Consumers' awareness of quality and safety issues.
- Promotion and application of principles and technology of producing, storing and processing healthy foods, which are free from pesticides, toxins and pathogens.
- Harmonisation of standards and equivalence arrangements with trading partners in general and at regional level in particular. ■

(Dr. Pirzada is associated with Pakistan Council for Science and Technology, Islamabad)



Evolving *sui generis* options for the HKH

Should the developing countries decide to choose the UPOV model it would spell disaster for the livelihood of their farming communities.

In order to protect plant varieties, Trade Related Aspects of Intellectual Property Rights (TRIPS) Agreement of the World Trade Organisation (WTO) has provided three options: i) protection through patent; ii) protection through an effective *sui generis* (of its own kind) system; or iii) protection through a combination of patent and *sui generis*. Most countries in the world presently do not have a mechanism in place to protect plant varieties. However, in order to make their regime TRIPS compliant, all the WTO members are required to enact such legislation. While developing member countries should have put in place such mechanism by 31 December 1999 (most of them have failed to do so), least developed countries (LDCs) are required to implement this provision by 31 December 2005.



However, before implementing this provision, the countries, especially the developing and least developed, should be extremely cautious. The phrase "effective *sui generis* system" has not been defined anywhere. Therefore, it is subject to varied, often conflicting, interpretations.

Another related issue is that of providing farmers the right to recognition and compensation for their role in protecting and improving genetic resources and traditional knowledge.

Recent years have seen a sharp increase in the role of intellectual property rights (IPRs) in agriculture. This has led to a demand that the role of farmers and rural communities as sources of genetic material and indigenous knowledge be recognised and compensated for. However, TRIPS Agreement does not provide any recognition to the farmers for having conserved the genetic resources. United Nations Convention on Biological Diversity (CBD), which has been ratified by 186 countries, does provide recognition to this right. In order to address the conflict between TRIPS and CBD, paragraphs 19 and 31 of the Doha Ministerial Declaration have mandated negotiations on TRIPS Agreement among the WTO members.

Unlike the developed countries, farming is not a business in many developing countries; it is rather a way of life and life support system, where percentage of people involved in farming for their livelihood is very high.

Developed countries have instituted a convention of their own to protect new varieties of plant 'developed' by their commercial plant breeders, which is known as Union for Protection of New Plant Varieties (UPOV). This Convention has been amended three times since it came into force in 1961. Unlike the previous amendments, the latest one made in

1991 severely constraints the ability of the farmers to save, exchange, re-use and sell seeds. This Convention has 50 members, out of which 36 are developed countries. However, developed countries want all the countries of the world to adopt UPOV as the model for enacting their *sui generis* legislation. Some of the delegates of the developed countries, toeing the line of UPOV Secretariat, have gone on record suggesting that UPOV is the only model that satisfies the requirement of an "effective *sui generis* system" demanded by TRIPS Agreement.

The discourse on protection of farmers' rights has now focused on to one key question: what kind of *sui generis* system countries should put in place? Clearly, this underscores the imperative of taking a balanced approach between protection of farmers rights' and formal plant breeders and giving rights to traditional communities on their genetic resources. This is precisely what one of the countries of the Hindu-Kush Himalaya (HKH) region, India has done. However, other countries in the region (excluding China, which agreed to become a member of UPOV during its accession to the WTO) are yet to put in place such a legal mechanism. And they are faced with enormous challenges because they are under bilateral threat/pressure not to follow that model. Should the developing countries decide to choose the UPOV model it would spell disaster for the livelihood of their farming communities among others.

Against this backdrop, SAWTEE and International Centre for Integrated Mountain Development (ICIMOD) are organising a Regional Seminar on "Policies for the Protection of Farmers' Rights in Mountain Regions: Evolving *Sui Generis* Options for the Hindu-Kush Himalayas (HKH)" on 24-26 March 2003 at Godavari, Kathmandu. The objectives of the Seminar are:

- To help policy makers and civil society actors understand the contemporary debate on intellectual property protection and rights of the poor, marginalised and vulnerable farmers of the region in general and mountain farmers in particular.
- To explore various options available under the TRIPS Agreement and help to prepare a balanced legislation that would protect the rights of commercial breeders without impairing the rights of farmers to save, exchange, re-use and sell seeds.
- To explore and evolve specific policy options which would contribute to safeguarding the rights of mountain farmers.
- To provide trade negotiators with skills and knowledge necessary to negotiate during the on-going review of TRIPS Agreement.

The Seminar will specifically focus on the mountain regions of the countries of Afghanistan, Bangladesh, Bhutan, China, India, Myanmar, Nepal and Pakistan. ■

Unlike the developed countries, farming is not a business; it is rather a way of life and life support system in many developing countries

TRIPS on trial: Sailing through turbulence

Civil society groups as well as developing countries need to be vigilant and effectively counter the WIPO patent agenda, argues Ms. Ruchi Tripathi.

Farming is the main source of livelihood for 75 percent of the world's population living in rural areas. But introduction of intellectual property laws on plants and seeds under the auspices of the Trade Related Aspects of Intellectual Property Rights (TRIPS) Agreement of the World Trade Organisation (WTO) has the potential to damage the livelihoods of 1.4 billion farmers worldwide who rely on farm saved seeds.

As per the provision of the Agreement, patents effectively block competition for 20 years and enable the patent holder to set the market price for the product. Six multinationals control around 70 percent of the patents held on staple food crops. If seeds and agricultural inputs fall under the control of private corporations, there will be less incentive for public funded agricultural research resulting in research being driven by the demands of private profit rather than for the benefit of small farmers.

Intellectual property right (IPR) protection as construed under the TRIPS could be applied very broadly allowing monopoly rights over individual genes and their characteristics. This could imply the exclusion of farmers' rights over seeds and propagating materials having such genes and characteristics and is a threat to food production and farming practices by poor farmers.

IPRs on genetic resources for food and agriculture could potentially raise the cost of seeds and agricultural inputs making them unaffordable for the small farmers in developing countries. IPRs can also reduce genetic diversity making the crops more vulnerable to pest attacks. Small farmers dominate food production in developing countries. Higher cost of agricultural inputs would undermine their ability to purchase seeds and produce food.

Current state of play

The trial of the TRIPS began as soon as it was signed. The whole of the TRIPS Agreement is currently under review as per the provisions of Article 71.1.

Many developing country governments have been vocal and have expressed their concerns regarding its impacts on their economy, farmers' livelihood and food security as well as on the moral and social cohesion of their societies. Farmers groups and civil society organisations (CSOs) around the world have joined in this call under the loose banner of the 'no patents on life' coalition.

There have been attempts to harmonise the TRIPS with the Convention on Biological Diversity (CBD)'s provisions of prior informed consent and equitable benefit sharing led by Brazil and India. Moreover, international and national legislation must take account of the International Treaty on Plant Genetic Resources concluded in November 2001. It has recognised the significance and special nature of agricultural biodiversity and reaffirmed farmers' rights to save, use, exchange and sell farm saved seeds and other propagating

materials to support food security.

More recently, some of the developed country governments including the European Union (EU) have started showing a more flexible stance towards the concerns of developing countries with regards to patents on life as well as the protection of farmers' rights. The UK Government set up an independent Commission on IPRs to examine how IPR regimes could be designed and improved to benefit developing countries. The Commission reported in September 2002 with the message that 'ONE SIZE FITS ALL' approach does not work in the area of IPR, and that countries with varying levels of development need flexibility in their policy making arena.

Additionally, on the specific issue of patenting of staple foods, the report recommended: a)

Patents should not restrict farmers' rights to save, grow, exchange

and sell seeds; b)

Developing countries should have the right not to grant

patents on plants

and animals,

including genes and

genetically modified

plants and animals; c)

Governments should

put in place measures to

promote farmers' rights at a national level; d)

The current system that has allowed patents

on traditional knowledge should be revised to

protect poor communities from biopiracy; and

e) Developing countries should introduce rules

that restrict the application of patents to

agricultural biotechnology.

A looming threat to the current flexibilities

in the TRIPS that are being fought for could be

undermined by World Intellectual Property

Organisation (WIPO)'s patent agenda with its

three pillars (patent law treaty, patent coopera-

tion treaty and substantive patent law treaty)

that could make it simpler to file worldwide

patents, harmonise the domestic laws further

as well as possibly remove the exemptions

currently allowed under the TRIPS - in other

words, a one stop shop for a single global

patent. CSOs as well as developing countries

need to be vigilant and effectively counter the

WIPO patent agenda. Any IPR system devel-

oped nationally or internationally must at the

minimum acknowledge and respect the

following three positions: a) No patents on

life; b) Protection of farmers' rights to save,

use, exchange and sell farm saved seeds; and

c) Ensure that the provisions of TRIPS are

consistent with the CBD provisions on prior

informed consent and equitable benefit

sharing.

Finally, investing in farmer-controlled seed

development, production and preservation

systems that take into account local climatic,

social and economic situations can effectively

reduce the threats posed by TRIPS. ■

(Ms. Tripathi is Food Trade Policy Analyst of ActionAid, London)



Developing countries should introduce rules that restrict the application of patents to agricultural biotechnology

Status of *amicus* briefs in DSU negotiations

Unnecessary wrangling on *amicus* briefs by the EC and the US could only delay the DSU negotiation process, argues Mr. Ujjwal Kumar.

Ever since the Shrimp-Turtle case in 1997, the issue of *amicus curiae* (friend of the court) briefs has been contentious. The issue reached its zenith after the Appellate Body (AB) ruling on *amicus* briefs in the Asbestos case, following which a Special Session of the General Council was called in November 2000 to discuss the issue. Several developing countries voiced against the inclusion of *amicus* briefs in the Dispute Settlement Mechanism (DSM) of the World Trade Organisation (WTO). The issue has once again become thorny, this time in the Dispute Settlement Body (DSB) where European Commission (EC) and the United States (US) are pushing for a regulatory framework on *amicus* briefs in pursuant to the Doha Agenda for negotiations to improve the Understanding on Rules and Procedures Governing the Settlement of Disputes (DSU).

While the EC and the US have received the support from countries like Canada, Hungary, Norway and Japan, developing countries are opposed to this issue, among which India is the most vocal. The opposition camp includes: India, Malaysia, Indonesia, Hong Kong, Thailand, Singapore, Turkey, Cuba, Peru, Chile, Ecuador, Brazil, Uruguay, Colombia, Costa Rica, Venezuela and Switzerland.

According to the EC, the issue of *amicus* briefs could not be easily dismissed, as the right to submit such briefs has been recognised by the AB and hence it would be preferable to formulate rules by members to regulate the submission of these briefs. India has attacked the very basis of this argument. India does not share the view of the EC that the right to submit such briefs was entrenched in WTO's legal system following the rulings by the AB. It insists that the status of these briefs would have to be determined by members in the course of the negotiations, as this is a substantive interpretation of the DSU that adversely affects the rights and obligations of the members, especially the developing countries. This issue was considered and rejected during the Uruguay Round (UR).

In fact, for India, the very findings of the AB on *amicus* briefs were far from clear. The AB has not clearly identified the specific provision in the DSU or other agreements in the WTO acquis from which it had derived the legal authority to accept and consider unsolicited *amicus curiae* briefs. The Article 13 of the DSU bestows rights on panels and AB only to 'seek' information from outside sources. To put an end to the whole matter, India, on behalf of many other developing countries, has proposed that a footnote should be added to clarify the meaning of the word "seek" contained in Article 13. "Seek" should be defined to mean any information that was sought or asked for, or demanded or requested by panels, arbitrators or the AB. Unsolicited information should not be taken into consideration by panels, arbitrators and the AB.

The main fear of the developing countries is that the *amicus* briefs could introduce new claims, which would not only put more burden on parties, but would be totally inappropriate and against the very rationale of the dispute settlement system. Even the EC agrees to this point. However, it also says that if there were an argument in an *amicus* brief, which could help settle the dispute, it would make sense for it to be considered by the panels/AB. To India, the EC's position is

ambiguous. While, on one hand, the EC appears to accept in principle that panels should not have right to address new claims, on the other, in the EC's view, the Panel/AB could be free to address new arguments made in *amicus* briefs, even if such arguments were not made by the parties to the dispute. The line of difference between the new claims and new arguments could be very thin.

The opponents are of the opinion that the admission of *amicus* briefs would place an intolerable burden on developing countries, which are largely capacity-constrained and the development of guidelines for the admission of such briefs is not going to ease the problem. In addition, it would be time-consuming if panels/AB were to give reasoned explanation for acceptance or rejection of each argument made in each accepted brief. This goes against one of the key agendas for the improvement of the DSU, i.e. how to speed up and prevent any slow down of the dispute settlement process.

It has also been voiced that the acceptance of *amicus* briefs would tantamount to giving rights to private entities, which otherwise had no standing before the WTO. This would undermine the inter-governmental character of the WTO-DSM. Although the EC and the US are maintaining that the inter-governmental character of the WTO would not be undermined, they have not put forward any forceful argument to rebut the developing countries' contention.

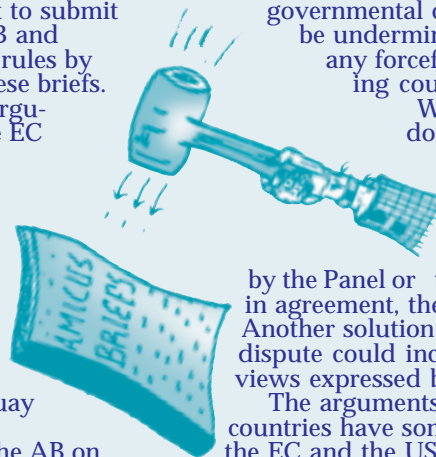
While the contention is on, Ecuador and Mexico have proposed a compromise solution. They suggest that the decision as to 'whether *amicus* briefs should be accepted' should be taken by the parties to the dispute and not

by the Panel or the AB. Where the parties are not in agreement, these briefs should not be accepted. Another solution would be that the parties to the dispute could incorporate in their submissions the views expressed by various interest groups.

The arguments put forward by developing countries have some merits, while the attitudes of the EC and the US expose their pushy character in the WTO negotiation process. Whatever be the merits of the arguments, one thing is becoming clear that the issue of *amicus* briefs is not ripe enough to be taken up at this stage. There are other important issues vis-à-vis the DSU negotiations, for instance, issues relating to implementation and the surveillance of implementation, issue of sequencing between Articles 21.5 and 22 of the DSU, interim relief, etc. that need to be considered on priority basis.

Ministers at Doha were aware of the importance and urgency of improving the DSU. To avoid deadlocks and delays, the Ministerial had intended to dissociate the DSU negotiations from other negotiations by keeping it out of the "single undertaking" governing the other parts of the work programme adopted at Doha. Unfortunately, at a time when there seems to be a convergence of views on other important issues proposed for the DSU improvement, the unnecessary wrangling on *amicus* briefs by the EC and the US could only delay the negotiation process, making it difficult to meet the deadline of May 2003. ■

(Mr. Kumar is Policy Analyst at Gene Campaign, New Delhi)



Knowledge as property:

Nepal's tryst with intellectual property rights

We should try to capitalise on the growing realisation that IPRs should evolve in a given country rather than be imposed from outside, argues Dr. Hiramani Ghimire.

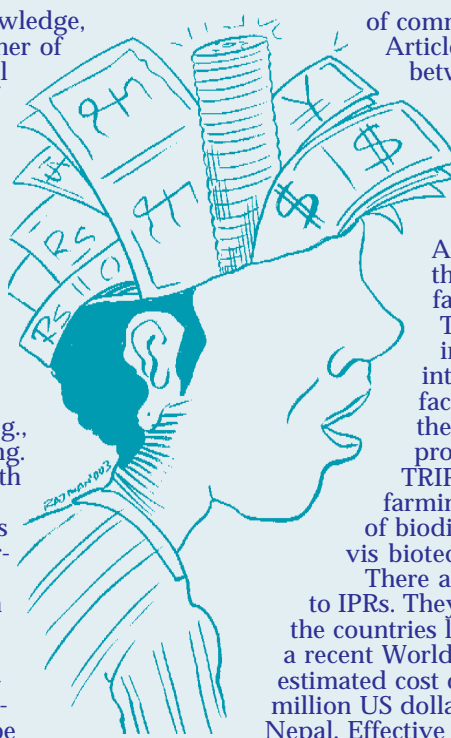
Intellectual property is a form of knowledge, which enjoys specific rights. An owner of intellectual property may claim legal protection for it in the same way as he/she may claim protection for his/her physical property such as land and buildings. Individuals are granted intellectual property rights (IPRs) for their creative works. This means that no one could use them without authorisation derived mostly through compensation. IPRs may be categorised as industrial (patents, industrial designs, trademarks, geographical indications, and trade secrets) and artistic (copyrights). Some hybrid systems, known as *sui generis* (e.g., plant breeders' rights), are also emerging.

When one compares these rights with Nepal's socio-cultural norms on the dissemination of knowledge, one comes across a large gap in terms of the understanding of knowledge as "property". To many of us, knowledge is more than intellectual property. Even if it is a "property", it belongs to society and its institutions. Free distribution of knowledge (*vidya daan*) is thus a social obligation. The only condition, which could be attached to it, is proper use. We have a number of pre-historical instances, where a monopolistic owner of intellectual property was required to share it with his/her apparent enemy; and of course, free of cost! The proper use itself was thought to be the best compensation.

In the era of globalisation, such traditions cannot survive. Nepal wants to be "integrated" into the global economy. It requires that global rules on IPRs be respected. This is not to suggest that IPRs are entirely new to Nepal. Nepal's first Patent, Design and Trademark Act was promulgated in 1936. The first Copyright Act came in 1965. While a Trade Related Aspects of Intellectual Property Rights (TRIPS) compliant Copyright Act has entered into force in 2002, its counterpart, on the industrial property side, is yet to be announced. With Nepal's intended membership in the World Trade Organisation (WTO), reincarnation of the industrial property legislation is not difficult to foretell.

There is a broad recognition that IPR protection under the TRIPS Agreement of the WTO can play a significant role in stimulating research and development in poor countries. The subject of IPR protection is also associated with the promotion of foreign investment, technology transfer, and joint research programmes focused on the local needs of developing and least developed countries (LDCs).

However, the protection of IPRs should not affect basic human rights, such as the right to health. The Universal Declaration of Human Rights (UDHR) encompasses health in its category of fundamental human rights. And it does not ignore the importance



of commercial rights. For example, Article 27 of UDHR strikes a balance between a creator's "moral and material interests resulting from any scientific, literary, or artistic production" and the community's "right to share in scientific advancement and its benefits". The TRIPS

Agreement ignores the need for this balance and operates in favour of the investor. Within the TRIPS regime, producers' interests dominate consumers' interests. Poor consumers even face the threat of exclusion from the opportunity to use a particular product or service. In addition, TRIPS weakens the position of farming communities and protectors of biodiversity in poor countries vis-à-vis biotechnology companies.

There are also economic costs related to IPRs. They are sometimes too heavy for the countries like Nepal to bear. For example, a recent World Bank study in Jamaica puts the estimated cost of implementing TRIPS at one million US dollars. It could not be less for Nepal. Effective enforcement of formally adopted norms and processes has always been an elusive goal in Nepal. Are we then trying to create an additional problem of implementation?

IPR is supposed to be an instrument to promote public good. The socio-economic context needs to be taken into account. The move towards global harmonisation of IPR systems seems to have forgotten this. Advocates of globally harmonised IPRs tend to put all forms of commercial rights into one single basket. This is a risky proposition. One needs to see the relevance of IPRs to protecting human rights, especially of the poor. As Lester Thurow, a leading economist, argues, the need to get low-cost medicines in poor countries is not equivalent to their needs for low-cost CDs.

This is by no means to underestimate the relevance of IPR protection in Nepal, and elsewhere. We should try to capitalise on the growing realisation that IPRs should evolve in a given country rather than be imposed from outside. Over-emphasis on IPR protection may lead to a proliferation of poor quality IPR instruments that promote litigation and stifle innovation. Keeping these issues in mind, Nepal needs to build coalitions with other countries in order to move them closer to designing a more appropriate IPR regime that also encompasses the concerns of poor countries like ours. The ongoing review of TRIPS provides us with a good opportunity to act proactively. ■

(Dr. Ghimire is Chief Advisor of Management Research and Training Academy, Kathmandu)

IYFW: Managing the blue gold crisis

Till date, the focus of water management strategy has been on increasing the supply of water, not paying much attention to demand management, writes Mr. Arjun Dutta.

No matter who we are, where we are, all of us need freshwater everyday. Freshwater has a key role in agriculture, energy, health, biodiversity, ecosystems and in combating poverty. The global demand for this 'blue gold' has increased more than six-fold over the past century. If this trend continues, freshwater would overtake oil and become the most precious commodity on Earth by 2025. This means that five billion people would be living in areas where it would be impossible or difficult to meet basic water needs for sanitation, cooking and drinking.

The major factor influencing demand for freshwater is the world's changing patterns of population growth, irrigation, distribution and wealth. Rapid urbanisation with indiscriminate tapping and misuse of groundwater has resulted in a huge imbalance between water recharge and exploitation, causing water tables to decline. Even the difference in consumption patterns of water in developed and developing countries clearly reflects the cavalier and irreverent attitude that humanity has towards water, especially by the most prosperous segments of the society. While Canada consumes 1.6 million litres of water per capita per annum, France 0.8 million litres of water per capita per annum, Germany 128 litres daily per capita and United Kingdom 149

litres daily per capita, people of Ethiopia, Eritrea, Djibouti, Gambia, Somalia, Mali, Mozambique, Tanzania and Uganda have to live on an average of less than 10 litres of water a day!

The UN Millennium Declaration has pledged to halve, by the year 2015, the proportion of the world's people unable to reach, or to afford, safe drinking water and "to stop the unsustainable exploitation of water resources". This was endorsed by the World Summit on Sustainable Development (WSSD) that was held in August last year at Johannesburg, South Africa. WSSD also set a new target of halving the proportion of people who do not have access to basic sanitation by 2015.

It is known that governments have failed to properly maintain ageing water infrastructure. Developing countries lose as much as 50 percent of their municipal water through system leakage. Many of them, while undergoing rapid industrialisation, are faced with modern toxic pollution problems like eutrophication, heavy metals, acidification, persistent-organic-pollutants (POPs) apart from struggling to deal with traditional problems of poor water supply and lack of sanitation services.

In the past, governments had thought that privatisation of water could be a way out to properly maintain water infrastructure. This

resulted in multinational corporations, aided by irresponsible or corrupt governments, taking control of once publicly owned water supplies for a singular purpose of profit. Their narrow, self-serving philosophy dictates the price and distribution of water.

Effective water pricing, which sets water prices high enough to discourage waste, remains a highly sensitive issue in low-income countries, where most people depend on irrigated agriculture for their living. According to most civil society groups, commodification and pricing of water might lead to worsening of the present situation, hampering the access to drinking water, considered as a basic human right, among weaker sections of the society.

An alternative governance structure proposed to replace privatisation of the world's freshwater supply was private-public partnership (PPP). PPP is different from privatisation as private sector is only one of the stakeholders to such initiatives. Many fund-starved governments are eager to use the technology and management skills of private sector and improve efficiency. Even in the case of PPPs, most civil society groups have reservation, as multinational corporations would be involved. A PPP initiative could be successful if it receives sufficient funding with adequate civil society and government involvement to act as a pressure group and promote healthy competition among private organisations.

Till date, the focus of water management strategy has been only on increasing the supply of water, not paying much attention to demand management. An integrated approach to freshwater management offers the best means of reconciling competing demands with dwindling supplies. This can be achieved with education and involvement of people about the ensuing crisis of water scarcity, more emphasis on rainwater harvesting particularly in developing countries, stressing on the use of organic fertilisers as it consumes less water, more involvement of women in decision-making related to water and healthy PPPs with greater involvement of civil society. There is also a need for reasonable water tariff based on quantum to check the overuse/wastage of water.

The International Year of Freshwater (IYFW) 2003 has been officially launched on 12 December 2002 by the United Nations. It aims to raise awareness of the importance of protecting and managing freshwater. One of the main events of IYFW would be the third World Water Forum, to take place in Kyoto, Japan from 16-23 March. The World Water Forum should discuss the probable components of an integrated water management plan laying more stress on the demand management. ■

(Mr. Arjun Dutta is Coordinator of Centre for Sustainable Production and Consumption, CUTS, Calcutta)



The UN Millennium Declaration has pledged to halve, by the year 2015, the proportion of the world's people unable to reach, or to afford, safe drinking water and "to stop the unsustainable exploitation of water resources"

US to drop complaint against EU

Washington is dropping plans to take the European Union (EU) to the World Trade Organisation (WTO) over its refusal to accept genetically modified (GM) crops. The United States (US) had threatened a complaint to the WTO, claiming that "Luddite" Europeans had broken the organisation's free trade rules with a 1998 decision not to allow in new GM seeds or crops. Only US soya, which was approved prior to 1998, is allowed to be sold in the EU.

The row threatened to be the latest in the series of fractious transatlantic trade disputes. But the US embassy's minister counsellor for agricultural affairs Peter Kurz told the BBC that a decision had been taken not to proceed with the complaint to the WTO.

Speaking on the BBC Radio 4 Farming Today Programme, Kurz said the decision "was made at a high level of government. I suppose the idea was we don't need further trade irritants." "If there is some way of working this one out then so much the better. If not, then maybe the decision will have to be reconsidered." Kurz said the US still believed Europe should accept its crops, and did not believe food products should be labelled, so that consumers can see whether or not they contain GM material.

"This does not mean we're still not very concerned about the moratorium on approval of new US GM crops or that we are not very concerned about the position on labelling and traceability," he said.

"We believe that foods should not unnecessarily be labelled when there is no substantial difference between two foods according to the way they are produced," he mentioned.

Kurz rejected suggestions that the dropping of the case was part of US efforts to build bridges with countries whose support Washington needs in looming war against Iraq. "I happen to think that this decision is probably made on the merits of the issue itself," he said (TKP, 21.02.03). ■

The taxi pays

The Nepal Bureau of Standards and Metrology (NBSM) has recently taken action against a

taxi with the number plate Ba. 1 Ja. 5103 after a complaint filed by Mr. Bidur Khatri, a staff of Forum for Protection of Public Interest (Pro Public), Kathmandu.

The complaint was filed on 18 October 2002, accusing the taxi for overcharging the fare on a fixed metre. The NBSM has fined the taxi NRs. 2,000 and confiscated its metre.

Pro Public, one of the network institutions of SAWTEE, has been actively working in Nepal to safeguard the public interest issues. ■

Quality certificates withdrawn

The Indian government has stopped verifying the quality of some of India's most popular brands of bottled water, and may close some plants, after high levels of pesticide were found in samples. The Bureau of Industrial Standards (BIS) has withdrawn quality certificates for water produced at five plants, including those operated by Bisleri International, which makes one of India's most popular drinking water brands. The action was taken on the basis of raids conducted by various regional arms of BIS.

It has been said that the plants would be barred from using the ISI mark and marketing the product in the country.

Indian branches of multinational companies Pepsi and Coca-Cola have been issued warnings as part of a major crackdown against companies ignoring the government's hygiene norms (STT, 21.02.03 & ET, 20.02.03). ■

India to ban tobacco ad

India's Cabinet on 20 February 2003 approved legislation banning tobacco advertisements. The legislation would be introduced in Parliament during the ongoing budget session. It has been expected that the legislation will also regulate trade, production, supply and distribution of tobacco products. The ban on tobacco ads would include print media such as newspapers and magazines as well as television commercials (TRN, 21.02.03) ■



The Bureau of Industrial Standards (BIS) of India has withdrawn quality certificates for water produced at five plants, including those operated by Bisleri International

World Consumer Rights Day, 15 March 2003

"Our Food, Whose Choice?" was the question asked three years ago by the consumer organisations, when World Consumer Rights Day 2000 took its first look at genetically modified foods. This year, consumer organisations have returned to the issue - which remains high on the agenda for national and regional consumer action. The theme for World Consumer Rights Day, 15 March 2003, is 'Corporate Control of the Food Chain - The GM Link'. The organisation that is leading this campaign is Consumers International (CI), which has been actively working in the area of consumer protection.

As per CI, while key safety and environmental questions remain unanswered, it is equally important to look beyond these to the ways that corporations are using GM technology to consolidate their control over global food production. As evidence from practical experience grows more substantial, it is increasingly clear that GM crops currently being grown offer no benefits to consumers and nothing to

most farmers. Even the intended 'indirect' advantages of reduced pesticide and herbicide use are not being achieved. The only beneficiaries are the agrochemical corporations that sell the seeds and associated farm chemicals. Consumers have a right to question why this technology should be used at all when it produces no benefits to society but has the potential for causing great damage.

To assist the members of CI worldwide and engage them in this issue and mark this year's World Consumer Rights Day, CI has also prepared a campaign kit with the latest information on how corporations are extending their control over the food chain through the development of GM crops and seeds. The kit, entitled 'Corporate Control of the Food Chain - The GM Link' contains campaign and lobby activities and tools, including several model letters for groups and individuals to send to strategic decision-makers (Adapted from www.consumersinternational.org). ■

The theme "Booking the Mountains" was especially chosen to bring attention to the mountain information and knowledge

Booking the Mountains

International Centre for Integrated Mountain Development (ICIMOD) organised a book fair and exhibition, "Booking the Mountains" on 10-12 December 2002, in Lalitpur, Nepal as part of the International Year of Mountains 2002. The theme "Booking the Mountains" was especially chosen to bring attention to the mountain information and knowledge that exist at present on a common platform, with the objective of imparting education, sharing and exchanging information, and raising awareness.

Fifteen organisations including NGOs, INGOs, and government organisations took part in the event. SAWTEE was one of them. Others were: IUCN, Nepal; Helvetas Nepal; WWF-Nepal Programme; The Mountain Institute (TMI); Nepal Agricultural Research Council (NARC); Department of Soil Conservation and Watershed Management/HMG; Institute for Integrated Development Studies (IIDS); Centre for Rural Technology (CRT); Participatory District Development Programme (PDDP); Himal Association; The Mountain Forum; Spiny Babbler; Winrock International; and King Mahendra Trust for Nature Conservation (KMTNC).

On display and sale were various products and materials including publications, agricultural products, posters, greeting cards, t-shirts, and models.

SAWTEE had also put its publications on display and sale. The book fair was successful in attracting people from various professions and students from different disciplines. ■

Competition Issues

Consumer Unity & Trust Society (CUTS) organised an international symposium on "Competition Policy and Pro-Poor Development" at Geneva on 19 February.

The purpose of the symposium was to disseminate the findings of the 7-Up project, which is a path-breaking study of competition regimes in seven developing countries of Asia and Africa, conducted by CUTS Centre on Competition, Investment and Economic Regulation and supported by Department for International Development, UK. Adrian Wood, Chief Economist, DFID released the project results: "Pulling Up Our Socks".

The deliberations in the symposium revolved around three questions: How does competition policy and law help the poor; what type of competition policy and law should a country have; and how do developing countries deal with competition problems with international dimensions. The event was attended by nearly 100 people coming from about 50 countries all over the world.

Similarly, CUTS also organised a meeting of International Working Group on Doha Agenda (IWOGDA) from February 17 to 18 at Geneva.

IWOGDA was established to promote understanding on competition and investment issues emanating from the WTO Doha agenda embracing the views of experts from different countries of the world. The IWOGDA project is being supported by the Ministries of Foreign Affairs of The Netherlands and Sweden and the Department for International Development, UK. ■

Monthly Forum on Globalisation and WTO

In its effort to sensitise the stakeholders through the dissemination of correct information based on empirical evidence and help them keep abreast with the latest development in the areas of Nepal's accession to the World Trade Organisation (WTO), SAWTEE, together with ActionAid Nepal, has started a monthly forum on Globalisation and WTO. The launch meeting of the forum was organised on 09 February 2003 in Kathmandu on *Nepal's Accession to the WTO: Challenges and Prospects*.

The forum was represented by more than 50 participants from different sectors - government, business, private, academia, donor agency, civil society and media. Five panelists made their presentations on different aspects of Nepal's accession to the WTO. This was followed by floor discussion, which raised a number of significant issues that could be considered while preparing for the ongoing negotiation process as well as for the future course of action after the membership of the WTO.

Realising that being a small least developed country (LDC), Nepal cannot remain aloof from the paradigm of globalisation and trade liberalisation, the participants identified that it is imperative for Nepal to explore the ways to maximise the opportu-

nities and minimise the threats arising from these developments. With the assumption that the country shall accede to the WTO within 2004, if all goes well, the participants said that the country, in its preparation process for accession, should capitalise the flexibilities provided to the LDCs in various commitments made by Third United Nations Conference on LDCs (UNLDCIII) and Doha Ministerial Conference of the WTO.



The forum discussed the potential areas where Nepal can get better advantages such as modern farming, intellectual properties, biodiversity (herbs, forestry, ayurved, spices), tourism (flora, fauna, health, sports, religious, education, SAARC hub), financial and offshore center, service sector and special economic zones, information technology,

human resources, energy power, global landmarks (Mt. Everest, *Lord Buddha*, *Sita*) etc.

The forum also enumerated two major strategies that Nepal should adopt to enhance its trade competitiveness. They are: 1) International level: Coalition building; and 2) National level: Mainstreaming trade in development policies; and increasing credibility (*Detailed report of the meeting is available on our website*). ■

SAWTEE's website and e-newsletter

SAWTEE has launched its official website (www.sawtee.org) from 01 January 2003. The website is expected to make a greater impact because this can be a key means to inform, educate and sensitise the stakeholders at large. The website has been visited more than seven hundred times since its launch.

SAWTEE has also taken another important initiative through the circulation of an e-newsletter titled "Globalisation and WTO" on a monthly basis. The e-newsletter contains news, articles, network events etc. on burning and contemporary issues of globalisation and WTO. The first newsletter was circulated on 28 February 2003. ■

Case against unhygienic milk

Forum for Protection of Public Interest (Pro Public) has filed a complaint against the producer of the "Gayatri Milk", Kharipati Dairy, Pvt. Ltd. at the Regional Office of Nepal Bureau of Standards and Metrology (NBSM) charging the industry for defying the standards set by the NBSM in producing their product. The product of the industry, "K.D.P. Homogenised Gayatri Milk", collected as a sample during a market follow up carried out by Pro Public, was found to be contaminated with Coliform bacteria which have hazardous effects on human health. The complaint was registered based on the laboratory analysis report of the Department of Food Technology and Quality Control (DFTQC).

When the Coliform count in dairy products should be nil as per the accepted standards, according to the report of DFTQC, it was found to be 2400 in the sample of "Gayatri Milk". In the complaint filed by advocates Bishnu Prasad Pokhrel and Diwakar Bhatta of Pro

Public, demand has been made for the severest legal action against the industry for clearly violating the provisions of the Consumer Protection Act—1998 by producing and selling such a product which has hazardous effects on human health ■

WTO watch group in Pakistan

Realising that very little work has been done to study the impacts of trade liberalisation and the World Trade Organisation (WTO) Agreements in different walks of life in Pakistan, Sustainable Development Policy Institute (SDPI) has come up with an idea to form a WTO watch group in Pakistan. The idea of forming such group was precisely one of the important suggestions made during the regional consultation of SAWTEE partners in Islamabad in December 2001. The workshop had recommended to set a proactive agenda and form a group which could assess the impacts of the WTO policies on Pakistan through research and advocacy campaigns. It was suggested that a WTO watch group should be formed with a broader membership of civil society organisations, trade unions, members of chambers of commerce, academia, researchers and research students.

Accordingly, a steering committee comprising ActionAid, SDPI, and The Network has been formed to run the day to day functioning of the group. The group is still in the making and will be formally launched by March 2003. However, it has already started some of its functions and provided feedback to the government policy makers during current negotiations on Agreement on Agriculture. ■

The group is still in the making and will be formally launched by March 2003



Regional Integration in the WTO Era

The dust is yet to settle on the global debate between the protagonists and antagonists of regional trading arrangements (RTAs) as to whether they are building blocks or stumbling blocks for multilateral trade liberalisation.

Proponents argue that trade creation in RTAs has generally exceeded trade diversion and RTAs contribute to both internal and international dynamics that enhance rather than reduce the prospects for global liberalisation. They also argue that RTAs can lock-in trade liberalisation measures much faster than global pacts. Opponents of RTAs as building blocks argue that proliferation of RTAs has resulted in a 'spaghetti bowl' phenomenon and that they have assumed a 'hub and spoke' pattern causing serious damage to multilateral trade liberalisation. However, their arguments too have been criticised on the ground that when the first best option (multilateral trade liberalisation) is not feasible, countries are bound to settle for the second best option (trade liberalisation at the regional level). Clearly, RTAs can never be worse than no liberalisation at all, although one can agree with the fact that they might not be as effective as multilateral trade liberalisation in terms of increasing global welfare.

South Asian endeavour at regional cooperation, even after 21 years from the date of conceptualisation of South Asian Association for Regional Cooperation

(SAARC), has not been able to achieve much – neither in terms of increasing intra-regional trade nor in terms of getting itself noticed as a block during the multilateral trade negotiations. The series of bilateral and sub-regional agreements formed among the members of SAARC are undermining its existence as a credible institution. Moreover, some of the South Asian countries are members to more than three RTAs, which calls into question the commitment of these countries to the cause espoused by SAARC.

Against this backdrop, SAWTEE and CUTS-CITEE have published a Discussion Paper on *Regional Integration in the WTO Era: South Asia at Crossroads*. This Paper, divided into five chapters, deals with some background theoretical notes on regional integration; current status of the debate on regionalism, i.e., whether it strengthens or weakens the multilateral trading system that is promoted by the WTO; WTO rules and regulations pertaining to RTAs; ground level situation with regard to regional integration in South Asia; and the most pertinent political economy issues of regional integration in South Asia. The Paper has been researched and written by Dr. Saman Kelegama, Executive Director, Institute of Policy Studies (IPS), Colombo and Mr. Ratnakar Adhikari, Executive Director, SAWTEE, Kathmandu. ■

Gender implications of the WTO

SAWTEE and United Nations Development Fund for Women (UNIFEM) organised a focus group discussion on *Gender Implications of Trade within the World Trade Organisation (WTO) Regime* on 23 February in Kathmandu. The purpose of the discussion was to have a multi sectoral discussion as well as triangulate the data that have been gathered so far by SAWTEE in its ongoing research on Gender and Trade started in December 2002.



The thrust of the exercise should be to identify means through which gender mainstreaming can be achieved

The discussion was divided into four thematic topics: a) Nepal's WTO Membership: Opportunities and Challenges for Women; b) Female Labour in Trade; c) Trade Promotion and Labour Policies; and d) Capacity Building of the Women.

The participants in the discussion realised that there is a need to conduct studies focusing on the implications of WTO membership on gender. The thrust of the exercise should be to identify means through which gender mainstreaming can be achieved and to prepare to confront the adverse impact of WTO Agreements, said the participants.

They said, "Gender specific competitive items that arise out of gender advantage need to be identified and marketed properly." The participants also identified some major areas where women are more productive and efficient than their male counterparts such as service sector, tourism, semi-industrialised enterprises, information technology, research and academia, among others. ■

CSOs to prepare Competition Report

Consumer groups and research institutions from around the world have launched an international network to promote a healthy competition culture. One of the major projects is to prepare a World Competition Report by 2005.

Over 35 organisations that attended the first general body meeting of the International Network of Civil Society Organisations on Competition (INCSOC) held on 20 February at Geneva expressed a strong support for such a network. These organisations came from diverse countries such as Zambia, Bangladesh and Nepal from the LDC category; India, Argentina and Brazil from the developing category and UK and the USA from the developed category of nations.

The network will work closely with other international organisations such as UNCTAD, WTO, OECD, International Competition Network etc, and will provide them with critical inputs which the existing debates are missing.

The idea of forming INCSOC was recently mooted by several CSOs in the wake of the dissemination of the results of a pioneering project on competition policy implemented by Consumer Unity & Trust Society (CUTS), India.

The project popularly known as "7-Up" has documented the competition policy and regimes of seven countries in South Asia and Africa. INCSOC has been conceived as a network that seeks to build coalitions of CSOs interested in promoting a healthy competition culture.

The meeting has also constituted three working groups. These groups will prepare a work programme which will be circulated amongst the members for discussion at a second meeting planned for New Delhi in mid-March 2003. The work plans will be finalised by the end of March. ■

SAWTEE NETWORK

BANGLADESH

1. Associates for Development Initiatives (ADI), Dhaka
2. Bangladesh Environmental Lawyers Association (BELA), Dhaka

INDIA

1. Citizen Consumer & Civil Action Group (CAG), Chennai
2. Consumer Unity & Trust Society (CUTS), Jaipur
3. Development Research & Action Group (DRAG), New Delhi
4. Federation of Consumer Organisation of Tamilnadu & Pondichery (FEDCOT), Thanjavur

NEPAL

1. Society for Legal & Environmental Analysis & Development Research (LEADERS), Kathmandu
2. Forum for Protection of Public Interest (Pro Public), Kathmandu

PAKISTAN

1. Journalists for Democracy & Human Rights (JDHR), Islamabad
2. Sustainable Development Policy Institute (SDPI), Islamabad

SRI LANKA

1. Law & Society Trust (LST), Colombo

SAWTEE

Launched in December 1994 at Nagarkot, Nepal by a consortium of South Asian non-governmental organisations (NGOs), South Asia Watch on Trade, Economics & Environment (SAWTEE) is a recognised, registered, non-profit and non-governmental organisation. Its mission is to build capacity of the stakeholders in South Asia by equipping them with knowledge, information and skills to voice their concerns particularly in the context of liberalisation and globalisation. It currently operates through its headquarters in Kathmandu and 11 network institutions from five South Asian countries, namely Bangladesh, India, Nepal, Pakistan and Sri Lanka.

The views expressed in the articles published in *Trade and Development Monitor* are solely those of the authors and do not necessarily reflect the official position of SAWTEE or its member institutions.

Composed and published by South Asia Watch on Trade, Economics & Environment (SAWTEE)
P.O.Box: 19366, 254, Lamtangin Marg, Baluwatar, Kathmandu, Nepal.
Editor: Ratnakar Adhikari. Associate Editor: Kamalesh Adhikari.
Printed at Modern Printing Press, Kathmandu.

SOURCES

BWTND: Bridges Weekly Trade News Digest;
ET: The Economic Times;
STT: Space Time Daily;
THT: The Himalayan Times;
TKP: The Kathmandu Post;
TNT: The News Today;
TRN: The Rising Nepal;
and
TWTR: The World Trade Review.