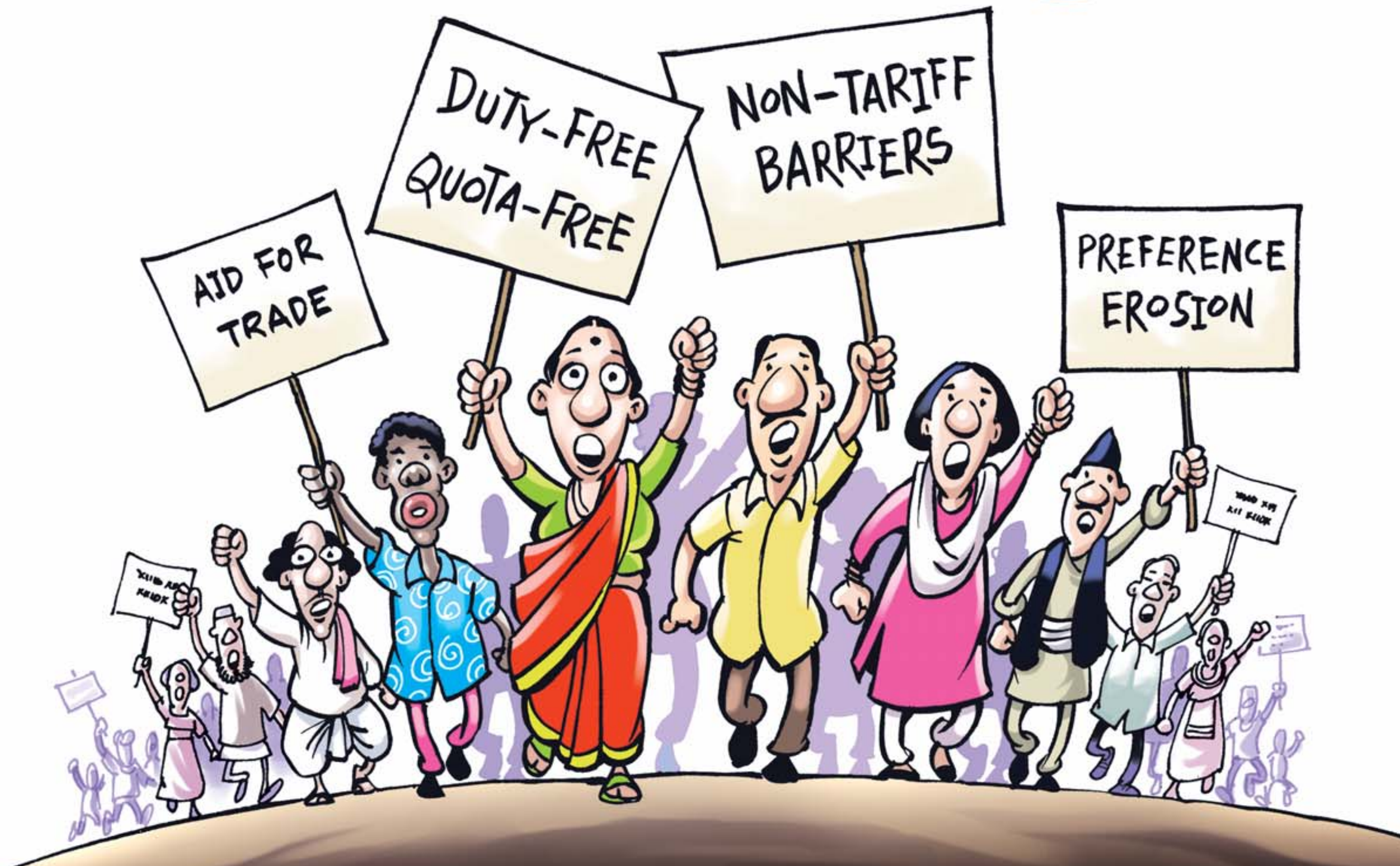
A dialogue on trade and development in South Asia
Vol. 5, No. 3-4, 2009

TRADE insight

from ROME to COPENHAGEN

SPECIAL ISSUE on Trade, Climate Change and Food Security

Trade Agenda for THE LDCs



CLIMATE CHANGE AGENDA FOR COPENHAGEN | TRAMPLING ON FARMERS' RIGHTS | REGIONAL TRANSIT ARRANGEMENT

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TRADE insight
November 2009

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PUBLISHED WITH SUPPORT FROM
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editors' note

Trade, climate change and food security

ALONG with the convening of the World Summit on Food Security in Rome on 15–18 November, the year 2009 is drawing to a close with two other major global meetings in quick succession— the Seventh Ministerial of the World Trade Organization (WTO) in Geneva from 30 November to 2 December and the 15th Conference of Parties (COP) to the United Nations Framework Convention on Climate Change (UNFCCC) in Copenhagen from 7 to 18 December.

Despite the absence of major rich nations, the World Summit on Food Security was able to renew a number of commitments towards advancing agriculture, and addressing hunger and food insecurity. However, given the rise in the number of undernourished people, an increase of 105 million this year alone, and the worsening conditions for trade and growth in the global economy, mainly due to ongoing global crises including climate change, the Summit failed to address many of the crucial concerns of developing countries, including those of the least-developed countries (LDCs). Among others, the neglect of farmers' rights to plant genetic resources which constitute the basis of world agriculture and food security and a mere focus on the need to promote private companies to deliver modern inputs to farmers could have serious implications for the realization of the right to food in poor countries.

At a time when there is a growing need to address the global trade, environmental and developmental challenges by enhancing the inter-linkages among trade, climate change and food security issues, the international community has a responsibility to make the best use of the Seventh WTO Ministerial and the Copenhagen meet. Being held after a four-year hiatus, the Seventh WTO Ministerial, although not a negotiating session, will be important for taking stock of the achievements of the WTO, particularly with regard to its role in ensuring a meaningful integration of the LDCs into the global economy and addressing the global economic and environmental crises. The need to successfully conclude the Doha Round of trade negotiations has never been more urgent, especially due to signs of slippage towards protectionism, including climate protectionism, and the impacts of the global crises on poor economies and the wellbeing of their peoples. Thus, even if the Ministerial is not going to discuss Doha, it is an opportunity for a cool-headed reflection on what went so terribly wrong that even eight years after its launch, the Doha Development Agenda is yet to reach fruition. Also, WTO members need to discuss concrete ways to address the LDC concerns, reflected in the 84-point declaration adopted by the LDC trade ministers' meeting in Tanzania on 14–16 October.

On the climate front, the Copenhagen meet was supposed to be the culmination of climate change negotiations, yielding a new global climate change agreement to replace the Kyoto Protocol, set to expire in 2012. Barring a miracle, the negotiation outcomes so far suggest that no binding agreement is going to be reached at Copenhagen. But as developed countries and advanced developing countries refuse to budge from their entrenched positions, Planet Earth desperately awaits a breakthrough so as to avoid the worst effects of climate change. For the LDCs, along with other vulnerable countries—whose contribution to climate change is negligible but which are least equipped to cope with the havoc it wreaks—this impasse means a further delay in technology transfer on relaxed terms and conditions, and additional and predictable financing, critical for successful adaptation and mitigation. The political agreement widely expected to emerge in Copenhagen will have meaning only if it sets a timeline for a binding global climate pact by 2010 at the latest. ■

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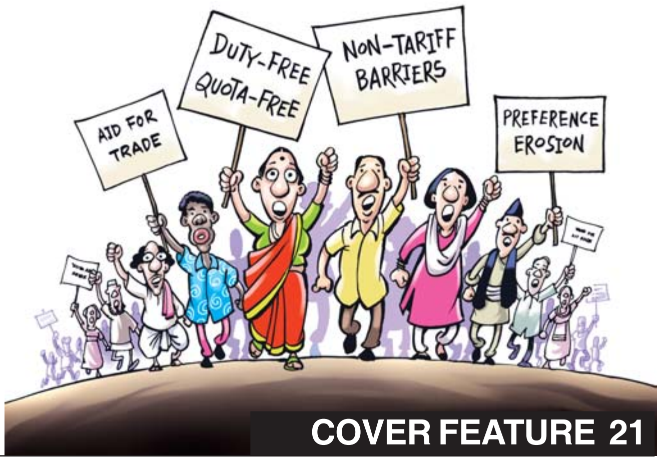

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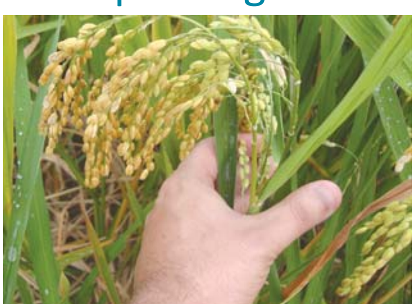

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BANGLADESH
1. Bangladesh Environmental Lawyers' Association (BELA), Dhaka
2. Unnayan Shamannay, Dhaka

INDIA
1. Citizen consumer and civic Action Group (CAG), Chennai
2. Consumer Unity & Trust Society (CUTS), Jaipur
3. Development Research and Action Group (DRAG), New Delhi

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

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

SRI LANKA
1. Institute of Policy Studies (IPS), Colombo
2. Law & Society Trust (LST), Colombo

The State and Development Governance in LDCs

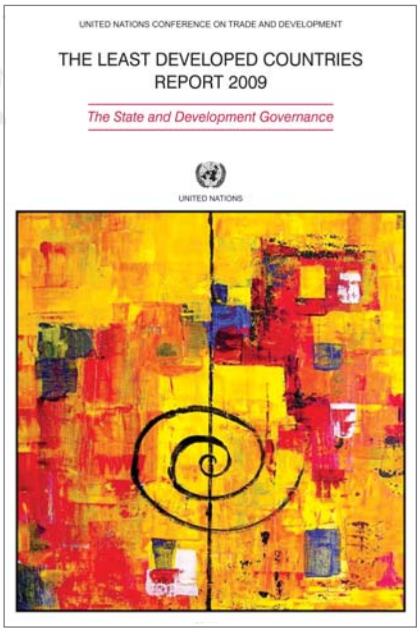
THE Least Developed Countries Report 2009, published by the United Nations Conference on Trade and Development (UNCTAD), states that the least-developed countries (LDCs) are likely to be particularly hard hit due to the ongoing global crisis. The report adds that the combination of high exposure to shocks as well as weak resilience capacity is likely to mean that the LDCs will be harder hit than most other developing countries. The combined threat from falling commodity prices, the slowdown in global demand and the contraction in financial flows are the major reasons for the increased vulnerability of the LDCs due to the economic crisis.

As a result of the crisis, private capital flows, including both foreign direct investment and remittances, are predicted to decline, and if the experience of previous crises is repeated, official development assistance (ODA) will decline, too. The international reserves of the LDCs accumulated during the years of export boom may afford insufficient protection from significant and persistent current account shocks associated with the drying up of external sources of finance. Equally worrisome is that remittances are also set to decline. Hence, official aid trends will become a central determinant of what happens to the LDCs. It will be critical that donors honour their commitments for increased aid. But unfortunately, past experience shows that ODA tends to decline during recessions.

In order to overcome structural constraints and reduce external dependence, it is necessary to reconsider the role of the state in the LDCs. Achieving long-term structural transformation requires the LDCs to stimulate investments by socializing risk. The market has not been and will not be able to carry out these changes alone. In that context, the report suggests three policy orientations:

- Policies should be oriented towards stimulating productive investment, building technological capabilities, and strengthening linkages within and across sectors and between different enterprises to produce a wider range of more sophisticated products;
- By finding new forms of development governance appropriate for the 21st century, a new developmental state founded on a strategic collaboration between the state and the private sector should be built; and
- Rules that govern international economic relationships with regard to trade, finance, investment and technology flows should be designed in ways which would support development in the LDCs. Support for the LDCs should not impose unnecessary limits to the measures that governments can take to promote development.

Of both national and international policies necessary to achieve these, the LDCs should aspire to such good governance in which the practices of governing are imbued with the principles of participation, fairness, decency, accountability, transparency and efficiency in a non-culturally-specific way. They should also aspire to that kind of good governance which delivers developmental outcomes, such as growing income per capita, achieving structural transformation, expanding employment opportunities, and reducing poverty *(Adapted from www.unctad.org, 20.11.09).* ■



LDC factsheet

SINCE 1971, the United Nations has denominated the least-developed countries (LDCs) a category of states that are deemed highly disadvantaged in their development process, and facing more than other countries the risk of failing to come out of poverty. So far, three United Nations Conferences on the LDCs have been held—in 1981, 1990 and 2001. The Third Conference in Brussels agreed on the Programme of Action for the LDCs for the Decade 2001–2010. In addition, there have been several other global initiatives to address their particular needs, including within the World Trade Organization

LDC common position for the WTO Ministerial

THE 49 least-developed countries (LDCs) are set to demand that developed countries fulfill their pledge to provide them duty-free and quota-free market access by early 2010. At the Seventh Ministerial of the World Trade Organization (WTO), to be held from 30 November to 2 December in Geneva, the LDC members will also raise a strong voice for the elimination of all forms of non-tariff barriers and provision of meaningful aid for trade and technical assistance.

Meeting in Dar Es Salaam, Tanzania on 14–16 October, they adopted a 84-point declaration, which represents their unified voice on trade issues. They also came up with a common position on issues of subsidies, market access and aid.

The LDCs are to urge WTO members to implement duty-free and quota-free market access facility pledged to them in Hong Kong in 2005, stop restricting agriculture trade, open markets for workers to provide services, and support trade facilitation. They will also put forth their positions on issues like LDC accession to the WTO, trade and environment, increased support under the Enhanced Integrated Framework and aid for trade-related infrastructure development and trade growth.

The declaration has also called upon WTO members to agree on the urgent setting up, in the context of the current global economic crisis, of a "safety net" mechanism by cotton-producing LDCs to address revenue losses. African LDCs such as Burkina Faso, Benin, Mali and Chad, in the past, had asked for drastic cuts in subsidies provided by the United States to its producers. A deal slashing subsidies is seen as a critical test in reaching a fair farm trade agreement under the Doha Round of trade talks.

While urging the developed countries to eliminate agricultural subsidies, LDC trade ministers, during the Dar Es Salaam meet, also expressed concern over preference erosion. The LDC members will also urge all non-LDCs not to apply food export restrictions on the LDCs.

The declaration calls on WTO members for a speedy conclusion of the Doha Round of trade negotiations, which, among others, aims to free up world trade by cutting farm subsidies and tariffs on agricultural and industrial goods, and help poor countries benefit from the their integration into the multilateral trading system *(Adapted from www.businessday.co.za, 30.10.09; www.myrepublica.com, 30.10.09).* ■

Chart

UN's three criteria for the LDCs

weak human assets, as measured through a composite Human Assets Index	low income, in the light of a three-year average estimate of the gross national income per capita (under US$750 for cases of addition to the list, above US$900 for cases of graduation)	economic vulnerability, as measured through a composite Economic Vulnerability Index

(WTO). However, the LDCs still remain marginalized in the global economy. For example, in 2008, the share of the LDCs in world exports was a mere 1.1 percent and in world imports 0.97 percent. In the same year, seven LDCs that exported oil and readymade garments accounted for 73.8 percent of total LDC exports. At present, out of 49 LDCs, 32 are WTO members and 10 others are in the accession process. Afghanistan, Bangladesh, Bhutan, the Maldives and Nepal are five South Asian LDCs. All but Afghanistan and Bhutan are WTO members *(Adapted from www.unctad.org, 20.11.09).* ■

Climate impasse

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A legally binding international climate change agreement is unlikely to be reached in the United Nations Climate Change Conference slated for 7–18 December in Copenhagen.

The final two rounds of talks under the United Nations Framework Convention on Climate Change (UNFCCC) before the 15th Conference of Parties to the UNFCCC failed to bridge differences on key issues.

Lack of progress in the talks in Bangkok prompted the Danish prime minister to declare, a week before the final round of pre-Copenhagen talks in Barcelona, that he did "not think it will be possible" for a legally binding regime to be negotiated in Copenhagen.

The objective of the two meetings was to continue refining draft texts in two negotiating groups: one that focuses on the Kyoto Protocol (KP), and another that looks at other means of achieving long-term cooperative action to address climate change.

One of the most contentious issues—which triggered the

Climate change to affect yields

THE Asian Development Bank (ADB) has said that South Asia is vulnerable to declining crop yields due to deepening climate change impacts. It has warned that four countries in the region—Afghanistan, Bangladesh, India and Nepal—are particularly most vulnerable to falling crop yields caused by glacier retreat, floods, droughts, erratic rainfall and other climate change impacts.

The ADB made the statement after analysing the current trends and scenarios based on projected temperature increase indicated by a study on "Addressing Climate Change in the Asia and Pacific Region: Building Climate Resilience in the Agriculture Sector" conducted by the International Food Policy Research Institute.

The yields of irrigated crops—maize, wheat and paddy—are projected to fall by 17 percent, 12 percent and 10 percent, respectively if the current rate of climate change persists until 2050 in South Asia, which is highly dependent on rain-fed agriculture and home to almost half of the world's absolute poor.

Changing and diversifying agriculture practices, and developing agriculture science and technology are some of the suggested measures that these countries in particular need to adopt. Moreover, South Asia needs an investment of at least US$1.7 billion for a long-term strategic plan to deal with climate change. The ADB also said melting Himalayan glaciers and other climate change impacts pose a direct threat to water and food security of more than 1.6 billion people in South Asia (*Adapted from www.myrepublica.com, 03.09.09).* ■

Africa Group to walk out and effectively shut down the KP negotiations for a day and a half in the Barcelona talks in early November—was the debate over the extent rich "Annex I" countries are required to reduce their emissions of greenhouse gases. The Africa Group, which counts more than 50 countries as members, refused to continue discussions on any issue under the KP until the rich-country commitments were firmed up. Developing countries repeatedly stressed that the pledges made thus far by Annex I parties would not go far enough to achieve the scientifically established emissions levels that would be required to stabilize the climate. Developing countries are pushing for rich nations to cut their emissions to at least 40 percent of 1990 levels by 2020, while developed countries are offering cuts between 15 percent and 30 percent. China and the members of the G77 coalition of developing nations supported the African position.

Developed countries have indicated their intention to ditch the KP in favour of non-binding national pledges on emission cuts, including by developing countries. The indication was given in the Bangkok talks, prompting the G77 and China to issue a statement expressing concern over the development. Terming the KP the most important instrument embedding the commitments of Annex I parties, they called on "developed countries that are members of the KP to stand firmly in the KP and to engage seriously in negotiations for a second commitment period". They warned that they would consider the Copenhagen meet to be a "disastrous failure" in the absence of an outcome for the commitments of developed countries for the second commitment period of the KP, which expires in 2012.

Against this backdrop, a political commitment, instead of a binding agreement, is expected from the Copenhagen conference *(Adapted from various issues of Trade and Development Monitor, SAWTEE; Bridges News Trade News Digest, Vol. 13, No. 39).* ■

SAARC for common strategy

SOUTH Asia has geared up to develop a common strategy for the 15th Conference of Parties (COP15) of the United Nations Framework Convention on Climate Change (UNFCCC) to be held in December in Copenhagen. As part of the strategy, South Asian nations plan to jointly demand the need for afforestation and sustainable management of forests leading to Reduced Emissions from Deforestation and Degradation (REDD) Plus programme to be an integral part of any agreement on forestry under the UNFCCC.

The environment ministers of the South Asian Association for Regional Cooperation (SAARC), who met in Delhi on 20 October, also agreed to work on a Climate Change Action Plan for the region and publish a compendium before the Copenhagen meet. The common strategy of SAARC would be presented to COP15 by Sri Lanka. SAARC will also organize an event at the sidelines of the Copenhagen conference and a series of events and actions after the conference, including the hosting of the first meeting to review the Climate Change Action Plan in Delhi by March 2010, and finalization of a regional environment treaty for discussion at SAARC Summit in Thimpu in Bhutan in April 2010. The proposed SAARC Summit in Thimpu is also slated to finalize and adopt a Natural Disaster Rapid Response Mechanism for the region.

The Delhi meet also agreed to set up a regional network of SAARC weather stations to monitor weather patterns, especially storms, across the member states, starting with the establishment of 50 automatic weather stations, three GPS Sonde stations and a Doppler radar in Nepal, Bhutan and Bangladesh in the first phase. India offered US$1 million to assist SAARC Meteorological Research Centre's regular function and agreed to provide US$1 million each to SAARC Forestry Centre, Thimphu and SAARC Coastal Zone Management Centre, Male to strengthen those centres.

The meeting also decided to accelerate consultations among the apex environmental management and pollution control agencies of SAARC member states and directed that they develop a regional cooperation plan on environmental management and pollution control within six months from the date of adoption. The gathering also emphasized the need to identify transboundary biodiversity zones and develop a framework for transboundary biodiversity conservation, including exploration of potential biodiversity conversation corridors. The ministers directed the Technical Committee on Environment to examine the concept and develop a framework for consideration of member states within a period of six months (*Adapted from www.financialexpress.com, 20.10.09; The Kathmandu Post, 26.10.09*). ■

Pakistan to finalize investment treaties

BILATERAL Investment Treaties (BITs) between Pakistan and the United States (US) and between Pakistan and the Federal Republic of Germany are likely to be concluded in 2009. Early finalization of a BIT with the US, the largest investment and trade partner of Pakistan, is expected to help increase US investment in Pakistan. Pakistan and US authorities are already undergoing a detailed review of the proposals of both sides for making the treaty acceptable. Likewise, a BIT with Germany would replace the outdated agreement of 1959 and help promote bilateral investment, especially in Pakistan. Under the proposed BIT, clauses relating to transparency would be improved and a speedy and simple dispute settlement mechanism would be provided to improve the confidence of German investors in Pakistan. The authorities expect the proposed BIT to help increase German investment in Pakistan by three to four times annually. Germany is supporting Pakistan's case in the European Union for having a free trade agreement with Pakistan and is a strong investment partner of the country. Pakistan is considering BITs with other partners such as Canada, Saudi Arabia, Kuwait, Austria, members of Economic Cooperation Organization, Russia and Jordan *(Adapted from www.dailytimes.com.pk, 28.08.09)*. ■

G20 calls for DOHA DEAL by 2010

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AT a two-day summit in Pittsburgh on 24–25 September, leaders from the Group of 20 (G20) rich and emerging economies repeated calls for the Doha Round of trade talks to be concluded before the end of 2010, and instructed their trade ministers to meet early next year to assess progress towards a deal in the World Trade Organization (WTO).

"We ask our ministers to take stock of the situation no later than early 2010, taking into account the results of the work program agreed to in Geneva following the Delhi ministerial, and seek progress on agriculture, non-agricultural market access, as well as services, rules, trade facilitation and all other remaining issues," the G20 declaration read.

The declaration represented a compromise on proposed timelines for the talks. Australia, Brazil and the European Union had fought for a commitment for negotiators to secure an agreement on "modalities"—the broad outlines of a global tariff- and subsidy-cutting deal—early next year. But the United States resisted the push for

South Asia steps up reform

IN a record year for regulatory reform worldwide, most South Asian economies strengthened business regulations and made them more efficient, creating more opportunities for local firms. A record 131 of 183 economies around the globe reformed business regulation between June 2008 and May 2009, according to *Doing Business 2010: Reforming through Difficult Times*, the seventh in a series of annual reports published by International Financial Corporation and the World Bank.

In South Asia, six of eight economies reformed. Bangladesh, the region's most active reformer, implemented an online company registration system cutting start-up time by nearly a month, cut corporate income taxes, and expedited trade by introducing an automated customs clearance system at its main port.

India improved its score on the

a commitment to reach modalities early next year.

Besides Doha, the G20 leaders also discussed issues as varied as potential limits on bankers' bonuses, reforms to international financial institutions, caps on fossil fuel subsidies, and progress towards a global climate change deal. The G20 leaders agreed to "a fundamental realignment of voting weights" at the International Monetary Fund.

The leaders also agreed that the G20 will become the "premier forum" for global economic cooperation, replacing the Group of Seven, which has taken centre stage in international economic policy-making since the mid-1970s.

While the lack of an enforcement mechanism limits the G20's influence on the world stage, its leaders in the Pittsburgh summit gave it some clout by agreeing to "peer review" each other's economic policies. The leaders agreed to meet again in Canada in June 2010, in Korea in November 2010, and in France the following year *(Adapted from Bridges Weekly Trade News Digest, Vol. 13, No. 33).* ■

"closing a business" indicator by taking steps to ease resolution of insolvency cases—a critical area in times of crisis. A recent report, *Doing Business in India 2009*, which goes beyond Mumbai to look at the application of business regulations in 17 major cities across India, shows the tremendous potential in India for drawing on home-grown good practices to cut red tape and streamline regulation. Nepal lowered property transfer costs. Pakistan made it easier to start a business by introducing an e-service registration system. And Sri Lanka improved access to credit information to help expand access to finance.

This year, there were 4 new reformers among the global top 10: Liberia, the United Arab Emirates, Tajikistan and Moldova. Others include Rwanda, the top global reformer, Egypt, Belarus, the Former Yugoslav Republic of Macedonia, the Kyrgyz Republic, and Colombia.

Doing Business analyses regulations that apply to an economy's businesses during their life cycles, including start-up and operations, trading across borders, paying taxes, and closing a business *(Adapted from www.worldbank.org, 18.11.09).* ■

US seeks more farm protection at the WTO

THE United States (US) has suggested in an unofficial meeting that it be allowed to protect an additional 2 percent of agricultural tariff lines as "sensitive", a move that sparked immediate resistance from exporting countries already concerned about the extent of market access exceptions in the World Trade Organization's (WTO) troubled Doha Round of trade talks. While lesser tariff cuts for sensitive products would have to be accompanied by expanded quotas, exporting countries have seen them as a tool that importers are likely to use to reduce the degree of market opening. Under the current draft text, developed countries would be allowed to designate up to 4 percent of tariff lines as "sensitive", although towards the end of last year, Canada demanded an additional 2 percent of tariff lines, and Japan as much as 4 percent more. The US reportedly suggested that the greater flexibility requested by Canada and Japan could be made more widely available. However, exporting countries underscored that, if agreed, the additional sensitive product allowance for these two countries would not be "a general option for all". The US was also warned that its idea would send a wrong signal at a time when the Doha Round is struggling *(Adapted from Bridges Weekly Trade News Digest, Vol. 13, No. 36).* ■

Sri Lanka may lose EU trade perks

SRI LANKA was threatened on 19 October with losing preferential trading status with the European Union (EU) over human rights violations. "Serious problems" were identified by a Brussels probe which accuses Sri Lanka of "breaching commitments" made under a deal giving its exporters easier access to the EU market. Sri Lanka, which ended a 25-year internal conflict with Tamil Tiger rebels in May, is one of 16 countries benefiting from an EU deal to enhance the so-called Generalized System of Preferences (GSP) terms offered to developing countries, provided sustainable development and good governance conditions are met. These include human rights obligations and working practices, and Brussels says Colombo has still to ratify and apply them fully. A Sri Lankan foreign ministry statement said Colombo had blocked a team of experts from visiting the country as a "matter of principle". The EU will decide whether or not to renew the GSP Plus trade deal with Sri Lanka giving duty-free access to EU markets by early January 2010, according to the EU head of delegation to Sri Lanka. The EU investigation report was submitted to the government and the EU Brussels office on 19 October 2009. The country's textile industry is the main beneficiary of the reduced tariffs regime. Sri Lanka's government has secured a US$2.6 billion bailout from the International Monetary Fund in a bid to revive its war-battered economy *(Adapted from Agence France Presse, 19.10.09, www.lankabusinessonline.com, 20.10.09).* ■

Nepal-India Trade Treaty revised

ON 27 October, a revised Nepal-India Treaty of Trade was signed in Kathmandu. The Treaty will remain valid for seven years as against the five-year duration of past treaties. The revision was made amid Nepal's growing trade deficit with India, which in 2008/09 accounted for 58.2 percent of Nepal's total trade.

The revised Treaty expands the list of primary products eligible for duty-free and quota-free access. Though the value addition for Nepali manufactured products to get duty-free access to India will be calculated on a free-on-board basis rather than ex-factory price basis, the rules of origin criteria of 30 percent value addition, coupled with the change in tariff heading at HS 4-digit level, have been retained. Tariff-rate-quotas on four Nepali manufactured goods, imposed since 2002, have not also been lifted.

While the old Treaty was silent on para- and non-tariff barriers, the revised Treaty has provisions for reduction or elimination of such barriers. However, whether such non-binding provisions will be implemented remains a major concern, especially for Nepal. The scrapping of a complicated duty drawback scheme is expected to provide Nepal a direct control over its customs duty revenues from the import of manufactured goods from India.

Both countries have agreed to establish a joint mechanism, comprising local authorities to resolve problems arising in the clearance of goods at customs points. The revised Treaty further clarifies that the determination of serious injury, under the safeguard provision, shall be as per the Agreement on Safeguards of the World Trade Organization. The Treaty also opens air traffic and four additional border points for bilateral trade *(Adapted from various issues of Trade and Development Monitor, SAWTEE).* ■

India to bring Food Security Act

THE Indian government, on 6 July, announced in its Union budget for 2009/10 that it would enact a National Food Security Act whereby families below the poverty line (BPL) will be provided 25 kilograms of wheat or rice at the rate of Indian rupee (INR) 3 per kg every month.

Amid concerns about inadequate food grain production this year due to a deficient monsoon, Prime Minister Manmohan Singh on 13 July constituted an Empowered Group of Ministers to work on


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the modalities of the proposed Act. The government, in the budget speech, had promised to put a draft bill on the internet for debate and discussion soon.

The Congress party, which heads the coalition government, had promised to bring such an Act before the 2009 general elections.

At present, the central government provides 35 kg of rice or wheat per month to each BPL family. Wheat is supplied at INR 4.15 per kg and rice at INR 5.65 per kg to over 40 million BPL families.

Despite robust economic growth in recent years, India's record on hunger is worse than that of nearly 25 sub-Saharan African countries and all South Asian countries, except Bangladesh. The International Food Policy Research Institute's 2008 Global Hunger Index shows that with over 200 million people insecure about their daily bread, the Indian scenario is "alarming" in terms of hunger and malnutrition. The India Hunger Index, first released in 2008, found that not a single state in India fell in the "low hunger" or "moderate hunger" categories (*Adapted from Indian Express, 13.07.09; www.hindu.com, 06.07.09; http://cambridgeforecast.wordpress.com, 28.07.09*). ■

SAFTA to cut sensitive list, free services

SOUTH Asian trade ministers have decided to fast-track negotiations on liberalizing services, a move that will enable freer movement of people within the region and give a boost to investments in areas like tourism, financial services and telecom. In their meeting in Kathmandu on 28 October, they also decided to work on reducing the sensitive list of items under the Agreement on South Asian Free Trade Area (SAFTA) and make the free trade agreement more "meaningful''.

Secretary General of South Asian Association for Regional Cooperation (SAARC) Sheel Kant Sharma said that the expert group constituted to draft the agreement on services had made good progress and the agreement would be finalized before the next SAARC Summit in April 2010.

On the need to prune the sensitive lists of SAARC countries, Sharma said that it should be a fixed percentage of the total regional trade of the countries and the next reduction should happen before the SAARC Summit next year. According to a media report, SAFTA Ministerial Council, the apex body of SAARC overseeing the operations and implementation of the regional free trade accord, has asked the member states to downsize the sensitive list by 20 percent.

Intra-SAARC trade in the first six months of 2009 was US$377 billion, which is encouraging, as it is more than the traded figure for the entire 2008. Intra-regional trade share in 2008 in the case of South Asia was 4.8 percent as against 27.06 percent in the case of the Association of Southeast Asian Nations (ASEAN).

SAARC commerce ministers will meet next in the Maldives in 2010 to review the status and implementation of SAFTA (*Adapted from Economic Times, 29.10.09; Republica, 29.10.09*). ■

India-ASEAN FTA amid protests

AFTER six years of negotiations, India and the Association of Southeast Asian Nations (ASEAN) signed a free trade agreement (FTA) on 13 August amid concerns and protests from within the cabinet, state governments and non-governmental organizations in India.

The FTA, which comes into effect from 1 January 2010, aims to eliminate tariffs on 80 percent of goods currently traded between the two countries between 2013 and 2016. With the signing of the deal, India and the 10-member ASEAN target a US$10 billion increase in trade in the first year of its implementation from the current US$40 billion. The pact opens a market of 1.7 billion people to the member countries with a combined gross domestic product of US$2.3 trillion.

Kerala, a state of 32 million people and a high Human Development Index, had objected to slashing duties on fish, coconut, rubber, palm oil, pepper, tea, and coffee, arguing that cheap imports from ASEAN countries would destroy farmers' livelihoods. Labour organizations, farmers, civil society organizations and experts slammed the Government of India for pushing through the FTA without due consultations with stakeholders. Critics argue that ASEAN is in a more advantageous position compared to India because over 75 percent of Indian exports already had duty-free access to the ASEAN market, which has a comparatively lower range of import duties. India may gain if services and investment sectors are opened up but talks on these have been sluggish *(Adapted from various issues of Trade and Development Monitor, SAWTEE).* ■

EU-India FTA

South Asian LDC concerns

The proposed free trade agreement between the European Union and India can have adverse implications for the South Asian least-developed countries, but there are opportunities too.

Mohammad A. Razzaque

Of the bilateral trading arrangements currently under negotiation, the one involving the European Union (EU) and India has attracted considerable attention. A very large and fast growing market in India, which still maintains significant trade protection, constitutes a natural target for EU suppliers. On the other hand, India seeks to obtain preferential access to the EU, the world's largest single market accounting for more than a quarter of its exports. The two economies are also considered to be complementary, giving rise to significant export responses from many sectors. The mutual benefits of these partners, therefore, make a strong case for a free trade agreement (FTA) between them. For the rest of the world, especially for the least-developed countries (LDCs) in South Asia, there are, however, some concerns. This is particularly so as these countries are currently receiving trade preferences in both the markets.

Scope of the adverse implications for South Asian LDCs

Both India and the EU are important export destinations for South Asian countries, including the LDCs. Being landlocked and geographically surrounded by India, the export dependence of Bhutan and Nepal on India is overwhelming. Nearly 60 percent of Bangladesh's exports is destined for the EU while for Afghanistan and Sri Lanka, which is a non-LDC, the dependence on Indian and EU markets are almost similar, accounting for more than 40 percent of the two countries' exports. Therefore, the effects of the EU-India FTA will depend on the extent of mutual tariff cuts that India and the EU would offer each other.

The level of tariffs in India is still quite high, but under various bilateral and regional arrangements, it provides either duty-free or preferential market access to South Asian countries. Therefore, similar preferences extended to EU

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suppliers by India could result in preference erosion for these countries. On the other hand, although EU tariffs on certain products such as textiles and clothing are generally low, its average most-favoured-nation (MFN) tariffs are significantly higher. Preferential tariffs offered to India in these categories could lead to loss of preference or competitive margins currently enjoyed by the LDCs as they obtain duty-free access to the EU.[1]

Potential implications

Winters *et al.* (2009)[2] studied the potential implications of the EU-India FTA for a number of excluded countries. Although the research has identified the effects for all major country groups, only the results relevant to South Asia are highlighted here.

At the outset, the study identified four possible effects. First, if prior to the FTA, both the excluded and member countries face zero tariffs in the EU and Indian markets, any agreement will unlikely to have any effects. Second, a *trade re-orientation effect* can occur when an excluded country (such as Nepal) already benefits from zero-tariff access to the EU market, and by matching this access through the EU-India FTA, India manages to increase its market share at the expense of Nepal. The third possibility is of a *trade diversion effect.* It could occur when an FTA partner (say India) currently faces a tariff in the EU market equal to that faced by an excluded country because the removal of tariff on imports from India makes it a less costly supplier. Finally, a combination of *trade re-orientation and trade diversion effect* can also take place.

Having specified the aforementioned possibilities, Winters *et al.* (2009) worked with disaggregated EU import data to find out the scope of such effects. Their results show that Bangladesh, the Maldives and Nepal might face trade re-orientation effects in about 98 percent, 92 percent and 61 percent of their respective exports to the EU (Table 1) as India obtains matching tariff cuts under the FTA. For Afghanistan and Bhutan, such effects are minimal. As 99.1 percent of Afghanistan's exports to the EU are products for which both Afghanistan and India currently face zero tariffs, the FTA would not improve India's access to the EU relative to Afghanistan. In the case of countries such as Pakistan and Sri Lanka, both of which are non-LDCs but receive Generalized System of Preferences (GSP), there will be no trade re-orientation from matching preferences. Rather, the impact would be in the form of trade diversion: almost 80 percent of exports from Pakistan and 60 percent from Sri Lanka could be affected.

Table 1

Impacts of EU preferences to India*

	No change	Trade re-orientation	Trade diversion
Afghanistan	99.1	0.9	-
Bangladesh	2.5	97.5	-
Bhutan	94	6	-
Maldives	8.3	91.7	-
Nepal	39.1	60.9	-
Pakistan	21.3	-	78.7
Sri Lanka	41.2	-	58.8

*under an EU-India FTA on South Asian excluded countries (% of current exports to the EU)

Source: Winters et al. (2009)

Similar effects were explored in the Indian market (Table 2). By granting EU exports better access in the Indian market, Bhutan and Nepal, the two LDCs which trade heavily with India, will be negatively affected. The impacts will be in the form of both trade diversion and trade re-orientation. Regarding the impacts on Bangladesh, the Maldives and Pakistan, since India is a not a significant export destination for these countries, the adverse implications for them are likely to be limited.

Terms-of-trade effect

As FTAs tend to shift the demand for goods from excluded to included countries, prices commanded by the former are likely to decline. However, such effects for third countries are likely to be small in the EU in most cases as its MFN average tariffs are low. In the Indian market, one could expect bigger effects because of its much higher MFN tariffs and the EU's share in the Indian market being higher than that of India in the EU. However, it is difficult to predict these price changes *a priori*. For example, despite low average figures, EU tariffs on textiles and clothing are much higher, which could cause considerable terms-of-trade shocks for South Asian suppliers of such products. On the other hand, despite high Indian tariffs, the competition with EU suppliers might be very limited because of significant product differentiation.

Trade in services

Services are important for both India and the EU. However, as the bilateral services trade data are weak and the coverage of trade in services is not clear, examining the potential implications of the EU-India FTA on services trade is not straightforward. Winters *et al.* (2009) observe that services trade under the EU-India FTA is likely to be more skill-intensive in nature and it would be difficult for the EU to open up its unskilled labour market substantially. Now, given the existing comparative advantage, it would be difficult for the South Asian LDCs to compete with India in the EU market. Similarly, in the Indian market, the EU will also operate at a high-skill level, making it difficult for most excluded countries to compete. On the whole, the LDCs are likely to be least affected in services trade due to the EU-India FTA.

Foreign direct investment

The EU-India deal could result in huge foreign direct investment (FDI) flows into India, triggering investment diversions away from other countries. While this is quite a plausible theoretical possibility, given the experiences of other regional trade agreements, there is not enough empirical evidence to support it.

Opportunities

Any static analysis would suggest some adverse implications of the EU-India

Table 2

Impacts of Indian preferences to the EU*

	No change	Trade re-orientation	Trade diversion	Trade re-orientation/diversion
Afghanistan	0.8	35	21.3	42.9
Bangladesh	0.5	3.8	36.9	58.8
Bhutan	0.1	24.1	25.2	50.6
Maldives	0	0	99.3	0.7
Nepal	0.3	7.3	45.5	47
Pakistan	0	0	29.3	70.7
Sri Lanka	0.3	48.8	1.2	49.6

*under an EU-India FTA on South Asian excluded countries (% of current exports to India)

Source: Winters et al. (2009)

FTA for India's neighbours, as has been highlighted above. But, could the EU-India FTA also give rise to opportunities for these countries? In fact, there are a number of factors that seem to suggest that the excluded South Asian countries can also benefit from the EU-India FTA.

First, India has become a dominant source of imports for most of the South Asian countries, including Bangladesh, Bhutan, Nepal and Sri Lanka. Opening up to EU suppliers could result in an improved competitive environment in India as a result of which the latter could be a cheaper source of imports. Second, India is also an important service provider to the region. Increased competition and inflow of FDI is likely to improve the standard of these services further, giving rise to welfare gains in the importing countries. Furthermore, more efficient services can also contribute to improved competitiveness in the manufacturing sector across the region. Third, if the EU-India FTA has an overall positive effect on India's growth, it can exert a "pull effect" for the demand for goods and services produced by its neighbours. The recent literature on economic geography seems to suggest that the development of regional growth centres (like India in South Asia) could be vital for energizing trade and growth for other countries in the region. Fourth, the presence of EU investors in the region could also promote intra-regional trade based on foreign investment in India and other South Asian countries in sectors covered by the regional free trade deals such as the Agreement on South Asian Free Trade Area (SAFTA) and the Bay of Bengal Initiative for Multi-Sectoral Technical and Economic Cooperation (BIMSTEC). Fifth, there could also be opportunities for regional cooperation in product value chains to take advantage of export markets in the EU and India.

Policy responses

Though the implementation of the EU-India FTA raises the possibility of adverse implications for the LDCs and other developing countries in South Asia, it is important not to unnecessarily amplify these concerns. Perhaps the most significant challenge will come from India obtaining matching preferences in the EU, particularly in such products as textiles and clothing where the LDCs have some supply capacity and enjoy considerable tariff preferences. On the other hand, Indian preferences to the EU appear to have most significant effects on Bhutan and Nepal. However, the similarity between the EU exports and Bhutanese and Nepalese exports to India is likely to be very little, and as such the overall negative effect might not be very serious.

Excluded countries may wish to monitor the EU-India FTA talks to identify issues of their interest in advance. Under SAFTA and other trade arrangements, they may negotiate concessions to mitigate or compensate for the shocks. These may comprise asking India and the EU to extend tariff preferences, relax rules of origins, and provide aid to meet standards and diversify into new markets. They might also request for a delayed implementation of the FTA deal in certain sectors so that they mitigate some of the adverse implications.

Finally, South Asian LDCs should also strive to take advantage of the likely opportunities. It is important for them to realize that they tend to employ more stringent trade measures against their neighbours than the rest of the world. A study also showed that intra-regional trade in South Asia could greatly be increased by improving trade facilitation alone.[3] There is a general recognition that extended regional cooperation in South Asia (involving services, tourism, energy and water resource development, etc.) could lead to enormous socio-economic benefits and welfare gains, particularly for the LDCs. Therefore, meaningful and extended cooperation can constitute an effective response to trade deals involving countries within and outside the region. ■

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Notes

1 Currently, under the Everything but Arms (EBA) scheme, the LDCs enjoy duty-free and quota-free market access to the EU. Many LDCs and low-income developing countries have also benefited from other EU schemes like the Cotonou Agreement, GSP and GSP-plus. Along with the LDCs, these developing countries might suffer from some loss of competitiveness due to an EU-India FTA arrangement.

2 This article draws on the findings of Winters, Alan, Peter Holmes, Javier López González, Jim Rollo, Maximiliano Méndez Parra, Michael Gasiorek and Anirudh Shingal. 2009. *Innocent Bystanders: An EU-India Free Trade Agreement and Potential Implications for the Excluded Countries*. London: Commonwealth Secretariat.

3 Milner, C. 2007. *Trading on Commonwealth Ties: A Review of the Structure of Commonwealth Trade and Scope for Developing Linkages and Trade in the Commonwealth.* Economic Paper 79. London: Commonwealth Secretariat.

Non-tariff barriers facing Bangladesh in South Asia

In order to do away with the trade-impeding effects of non-tariff barriers, there should be mutual recognition agreements among the respective organizations in Bangladesh and its trading partners in South Asia.

Selim Raihan

One of the main reasons that the Agreement on South Asian Free Trade Area (SAFTA) has not been able to enhance intra-regional trade at the desired level in South Asia is the presence of non-tariff barriers (NTBs) as the Agreement is yet to address the issues of NTBs directly. Therefore, for Bangladesh—the only country in South Asia without any free trade agreement (FTA) with any other South Asian country—removal of NTBs are crucial to intensify its trade under SAFTA. NTBs that distort exports from Bangladesh to its neighbouring countries are mostly in the form of standards, testing and certification procedures, licensing, classification of goods, custom valuation and countervailing duties. Lack of trade facilitation has also been acting as an NTB.

In the context of intra-regional trade in South Asia, Bangladesh stands to be the largest importer. In 2008, Bangladesh accounted for 25 percent of the total intra-regional imports. But, in contrast, its exports to the region accounted for only 2.9 percent of total regional exports. Bangladesh's trade with its neighbouring countries is also highly unequally distributed. The country trades very little with Bhutan, Nepal and Sri Lanka. In South Asia, India is the major trading partner, followed by Pakistan. However, trade with India is largely one-sided, as the volume of imports from India is considerably very large.

The share of Bangladesh's exports in India's total imports is a miniscule 1 percent, and they consist of limited products. For example, exports of fertilizer and jute goods make up two thirds of Bangladesh's exports to India. Although readymade garments (RMG) is the major export item of Bangladesh, its export to India is quite insignificant. All these have resulted in Bangladesh having a huge trade deficit with India.

Although Bangladeshi exporters face some NTBs in Pakistan, the major NTBs they face in South Asia are in the Indian market. Some of the major NTBs that Bangladesh's exports face in South Asia, mainly in India, are discussed below.

Licensing and permits

For the export of a cross-section of products, including cement, gelatine, condensed milk, electrical appliances, mineral water, steel products, leather products, X-ray equipments, dry cell battery and thermometers to both India and Pakistan, prospective exporters are required to obtain licences regarding compliance with quality standards from concerned agencies, which is often highly time- and cost-consuming.

In the case of agricultural products, their import into India requires import permits that are provided on the basis of biosecurity and sanitary and phyto-sanitary (SPS) clearances. Eligibility for import permit also requires risk analysis of the products, which is complex and lacks transparency.

SPS measures

India continues to issue import licences for about 600 items on the ground that restrictions are needed to ensure protection for "human, animal or plant life or health". Imports of nearly all livestock, agricultural and food products require some kind of phyto-sanitary or sanitary certificate and import permit that are issued under the general supervision of the Ministry of Agriculture of India. For processed food products, compliance with the Food Adulteration (Prevention) Act 1954 of India requires that the shelf life of those products should not be less than 60 percent of the original shelf life at the time of import. Determination of shelf life, however, is often done arbitrarily and in a non-transparent manner.

In the case of exports of animals or animal products, poultry, dairy products and meat (frozen, chilled or fresh) can be exported to India only after receiving an import permit from the Department of Animal Husbandry and Dairy of India.

Technical barriers

In the case of pre-packaged products (such as processed foods, cosmetics, toiletries, spices, etc.), imports into India should carry the following declarations: (a) name and address of the importer; (b) generic or common name of the commodity packed; (c) net quantity in terms of standard unit of weights and measures (if the net quantity in the imported package is given in any other unit, its equivalent in terms of standard units should be declared by the importer); (d) month and year when the commodity is manufactured or packed or imported; and (e) maximum retail sale price at which the commodity may be sold to the ultimate consumer (this price should include all taxes, local or otherwise; freight; transport charges; commission payment to dealers; and all charges towards advertising, delivery, packing, forwarding and the like, as the case may be).

Similarly, Rule 32 of the Prevention of Food Adulteration Rules 1955 of India deals with packing and labelling of foods. This rule alone has 30 provisos with many sub-provisos. In addition, there are also cross-references to other rules. These rules prescribe the contents to be specified on the label, the size of the label, the design of the label, the areas specified for display panels, details of colours and flavours, trade name or description of food contained in the package, names of ingredients by weight and volume, etc. Goods are cleared only on receipt of the test report, but certificate from the country of origin is not accepted. The results of the laboratory tests cannot be challenged. And, separate regulations have been enacted for different food items.

Regarding textiles and textile products, their exports to India require pre-shipment inspection certificate from the textile-testing laboratory accredited to the National Accreditation Agency of the country of origin. Non-availability of the certificate requires testing from the notified agencies in India for each and every consignment. In some cases, even certificates issued by the European Union accredited laboratories have been rejected by Indian customs because of which the consignments were subject to repeated tests in India. In addition, the Textile (consumer protection) Regulation of 1988 imposes some strict marking requirements for yarns, fibres and fabrics imported into India.

For the export of jute products to India, the exporting country should issue a certificate which shows the content of non-homogenate hydrocarbon (jute batching oil). Such content should not exceed 3 percent by weight. Similarly, the export of jute bags/sacks to India needs to fulfil special labelling requirements in a way that each jute bag/sack carries machine-stitched marking of the country of origin of the product.

Other barriers

Exports of pharmaceutical products to both India and Pakistan have to meet stringent requirements of drug registration with the Central Drug Standard Control Organization, which involves an arduous and highly time consuming procedure. Moreover, in the case of India, foreign manufacturers must register and subject their premises to inspection along the lines of rules prepared by the Bureau of Indian Standards.

Similarly, exports of chemical fertilizers and lead acid batteries to India require an environment-related certificate. And the export of leather, leather goods and melamine products requires chemical testing, which is often extremely time-consuming.

There are also cases of non-acceptance of SAFTA certificates issued by the Export Promotion Bureau of Bangladesh for the exports of hand pumps, tube well filters, cast iron pipes, cast iron bends and T's water heaters, plastic pipes of various diameters, power paddy thrasher, power tiller, hand spray, and so on by the Indian customs authorities. India has also banned the import of betel nuts from Bangladesh through land customs stations.

Way forward

To do away with the trade-impeding effects of NTBs for Bangladeshi exports, there should be mutual recognition agreements among the respective organizations in Bangladesh and its trading partners in South Asia, mainly India. There is also a need for the harmonization of technical barriers to trade and SPS measures, for which the accreditation bodies or agencies of India can set up accreditation centres in Dhaka in collaboration with the designated national agency of Bangladesh. Problems of non-acceptability of conformity assessment certificates of any particular product, as and when they arise, should be resolved through mutual cooperation programmes without restricting trade. Finally, it is also important to note that the use of para- and non-tariff measures not notified in the World Trade Organization should be prohibited. If the need to introduce any new such measures arises, a code of good practice should be followed. ■

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Case for South Asian Transit Arrangement

Paras Kharel

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The special challenges facing the 31 landlocked developing countries (LLDCs) are well documented. Lack of direct access to the sea, isolation from major economic centres, inadequate transport infrastructure (both in LLDCs and transit countries) and cumbersome transit procedures constrain their growth prospects, especially through the well-worn path of international trade, thus rendering the death-of-distance hypothesis "more fiction than fact".[1] These factors result in high transport costs, inflating landed import prices and eroding international competitiveness of exports. A World Bank study found that the median landlocked country experiences transport costs 42 percent higher than the median coastal economy, and halving transport costs increases trade volume by a factor of five.[2]

There is ample cross-country evidence that geography matters. For example, on an average, LLDCs experience 1 percent slower growth than coastal economies; being entirely landlocked subtracts roughly 0.7 percent from a developing country's annual growth; and a landlocked country with transport costs 50 percent higher than a similar coastal economy can expect slower growth of about 0.3 percent per annum.[3]

Barring rare exceptions like Botswana, whose economy's heavy dependence on diamond exports allows it to bypass its transit neighbour infrastructure by utilizing air transport, LLDCs are dependent on their transit neighbours for access to international markets. Faye *et al.* (2004) identify four types of dependence of LLDCs on transit neighbours that are important in explaining the poor development and trade performance of LLDCs: dependence on neighbours' infrastructure; dependence on sound cross-border political relations; dependence on neighbours' peace and stability; and dependence on neighbours' administrative practices.[4]

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South Asian LLDCs

South Asia has three LLDCs—Afghanistan, Bhutan and Nepal—all of which are also least-developed countries (LDCs). They depend on neighbouring countries for transit for their international trade. Afghanistan depends on the ports of Karachi (Pakistan) and Bandar Abbas (Iran) for overseas freight traffic, with the port of Bandar Abbas primarily used for humanitarian aid imports. Both Bhutan and Nepal solely use Indian ports: Bhutan uses Kolkata port; Nepal uses Kolkata port and Haldiya port (the latter mostly for imports).

South Asia does not have a regional transit arrangement. There are transit arrangements between the three LLDCs and their principal transit neighbours (Afghanistan-Pakistan, India-Bhutan and India-Nepal). As the Himalayan ranges restrict most bilateral and all transit trade through China, both Bhutan and Nepal are completely dependent on India for transit trade, and their foreign trade is heavily concentrated with India. Pakistan and, of late, India are the major trading partners of Afghanistan, though the dependence is not high as that of Bhutan and Nepal on India.

Not all bilateral transit arrangements function equally well. Political relationship between the LLDC and its transit neighbour plays an important role. The cases of Bhutan and Nepal offer a study in contrast. Snow et al. (2003), in their case studies of 30 LLDCs, conclude that Bhutan, a protectorate of India, enjoys the best transit procedures of all LLDCs they studied.[5] All transit trade takes place under Royal Bhutan Customs, with no involvement of Indian Customs.[6] There is, therefore, no requirement for the insurance of goods in transit.[7] In contrast, according to Snow *et al.* (2003), while Nepal has a generally positive relationship with India, where the policies of the two governments have been in significant disagreement, India has had a tremendous advantage over Nepal—the advantage being most evident through the 1990 Indian blockade of Nepal, resulting in regime change.[8] Even in normal times, Nepal does not enjoy the hassle-free transit enjoyed by Bhutan. Transit to and from Nepal is subject not only to the Indian Central Government regulations and formalities but also those that are in force in local governments.[9] Owing to enforcement in the Indian states of Uttar Pradesh, Bihar and West Bengal of minimum freight tariffs for the transportation of Nepali cargo, Nepal has not been able to benefit from the prevailing Indian road freight market, which, in general, is very competitive.[10]

In the case of Afghanistan, civil war and political instability have affected its transit through Pakistan. Continued unofficial trade including the opium trade and re-export trade to Pakistan is an increasing source of tension with neighbouring Pakistan.[11] Afghanistan's political instability has also prevented it from fully exploiting its rich resources of oil, gas, coal, iron, chrome and copper.[12] Afghanistan, due to its strategic geographic location, has the potential to serve as an energy transit corridor: for example, the proposed pipeline to transport Caspian Sea natural gas from Turkmenistan through Afghanistan into Pakistan and then to India. Presently, Pakistan does not grant transit facility for Afghanistan's trade with India.

Transit and transport issues

The operationalization of an inland container depot (dry port) at Nepal's main border point (Birgunj), which is connected by rail link to Kolkata port through a rail services agreement signed in May 2004, was expected to reduce transit costs from 12–15 percent of cost-insurance-freight value to 8–10 percent and the journey time between Kolkata and Birgunj from 10 days to 3 days.[13] However, the full benefits are yet to be realized as, among other problems, through bills of lading (TBLs) are still not provided. The most important advantage of issuing and receiving TBLs at a dry port is that they reduce to a minimum customs and clearance activities at seaports, with only the transport activities of transit being emphasized.[14] If all documents are in order, cargoes have to spend three to five days at the port, which could be reduced if TBLs are issued and received at the dry port.[15] Other problems include: closure of the border after 10 pm, non-availability of round-the-clock customs, only the movement of a few types of wagons being allowed, idling of costly reach stackers, non-integration of customs procedures, and deficiency in infrastructure design of the dry port.

In the case of Bhutan, transit through India to Kolkata port is by road. Construction and effective operationalization of a dry port at Phuentsholing on Bhutan's border with India and linking it with the Indian railways could help stimulate the Himalayan kingdom's external trade sector[16], leading to trade diversification.

Indian ports currently used by Bhutan and Nepal are congested and inefficient. Moreover, Kolkata port has the disadvantage of only being able to accept vessels with a maximum draft of about 7.2 metres, depending on the tide, which effectively means that Kolkata is serviced by smaller feeder container vessels from large trans-shipment ports in Singapore, and to some extent Colombo and Hong Kong. Nepal has long sought an alternative port in India mainly for its trade with the western hemisphere. It has been estimated that using Jawaharlal Nehru Port (JNP) can reduce transit cost by US$400 per 20-foot equivalent unit by avoiding transshipment at Singapore and the feeder services.[17]

India agreed in principle in 1995 to allow Nepal to use JNP and Kandla port on its western coast for third-country trade. The pledge was not implemented. Later, another study[18] recommended using Visakhapatnam Port located on the eastern coast of India in the state of Andhra Pradesh as an alternative to Kolkata port as the port has spare capacity and draft conditions permitting berthing of mother vessels of up to 100,000 deadweight tonnage, and is also much more efficient than Kolkata port in handling containers. In August 2008, India agreed in principle to allow Nepal to use Visakhapatnam Port but the agreement is yet to be formalized through a revision to the Protocol to the transit agreement between the two countries that presently allows Nepal to use only Kolkata and Haldiya ports.

Nepal can potentially use Chittagong and/or Mongla ports in Bangladesh and there is a transit agreement between the two countries signed in 1976 and a protocol to it that grant Nepal transit right to access overseas markets through Bangladesh territory and sea-ports. However, lack of cooperation from India has prevented Nepal from utilizing that option. Likewise, the transit agreement between Bhutan and Bangladesh signed in 1980 has not resulted in Bhutan using Bangladeshi ports as there is no tripartite agreement between Bangladesh, India and Bhutan to enable Bhutan to use Bangladeshi sea ports.

In the absence of transit arrangements between non-landlocked countries such as between India and Bangladesh, and India and Pakistan, the full intra-regional trade potential has not been realized. Not only external trade, Nepal's trade within the region could be diversified through a better transit arrangement.

A 1997 agreement with India allows Nepal road and rail transit through India to Bangladesh. While the absence of a bilateral railways service agreement between India and Bangladesh has prevented Nepal from utilizing the rail transit facility, a host of transit problems stymies Bangladesh-Nepal trade through the Kakarbhitta (Nepal)-Fulbari (India)-Banglabandh (Bangladesh) transit route. Transit through Indian territory for Nepal's trade with Bangladesh is allowed for a limited time of the day. It can only take place under Indian security escort and the cargo has to be unloaded 500 m from the Bangladeshi border in India. Poor implementation of a one-time lock system is combined with the poor state of infrastructure on the Indian side of the border. Indian insurance companies enjoy monopoly power, goods have to be transshipped at the Bangladesh-India border, and there is no provision of TBLs by shipping lines. The involvement of third-party (Indian) customs is an additional burden .

Case for regional transit pact

It is generally argued that transit countries may not have much incentive to provide improved transit facilities to LLDCs. But the case for transit for Bhutan and Nepal through India to Bangladesh holds out the prospect of a win-win situation. India has been demanding transit through Bangladeshi territory to access its seven northeastern states (Assam, Nagaland, Tripura, Meghalaya, Manipur, Mizoram and Arunanchal Pradesh)—collectively known as the "Seven Sisters". Currently road and rail traffic between Kolkata and the Seven Sisters moves through a narrow strip of land—the so-called chicken's neck—involving a 1,500 km travel. Transit through Bangladesh can reduce the distance by 40 percent.[19] Bangladesh's official position has been that in exchange for granting India transit, India should also facilitate transit for Bhutanese and Nepali goods heading for Bangladesh and vice-versa.

There are concerns in Bangladesh that India may use the transit facility to transport arms/supplies to fight the insurgencies raging in the northeastern states. Such concerns cannot be brushed aside especially in the light of the fact that India has been denying Nepal, a landlocked country, unhindered transit through its territory for Nepal's trade with Bangladesh and third countries using Bangladeshi ports on security grounds. This is despite the fact that all three countries are members of the World Trade Organization (WTO) and Article V of the General Agreement on Tariffs and Trade (GATT) provides for "…freedom of transit through the territory of each contracting party, via the routes most convenient for international transit, for traffic in transit to or from the territory of other contracting parties". Importantly, the Article does not require the transit trade to be preceded or succeeded by a sea journey.

Based on a 2005/06 estimate, Bangladesh stands to gain US$430.79 million through trade in transport services if a transit arrangement involving it, Bhutan, India and Nepal were to come into effect.[20] Bangladesh's security concerns can possibly be addressed through a provision for a negative list of goods that are prohibited from being transported using Bangladeshi territory and an effective seal system. A study on the eastern sub-region of South Asia—comprising Bangladesh, Bhutan, India and Nepal—suggests that a regional transit arrangement could enhance regional trade.[21] Given that one of the major causes of high trade transaction costs in the sub-region is cumbersome and complex cross-border trading practices involving transshipment at the border and lack of harmonization of technical standards, the study shows that a 10 percent fall in transaction costs at the border has the effect of increasing a country's intra-regional exports by about 3 percent, controlling for other variables.

Such a transit arrangement should also rope in Pakistan, which can thereby enhance its trade with eastern South Asian countries such as Bangladesh, Bhutan and Nepal as well as northeastern parts of India through the development of the proposed SAARC highway corridor linking Pakistan to Bangladesh through India—Lahore-New Delhi-Kolkata-Petropole/Benepole-Dhaka-Akhaura/Agartala. Likewise, Afghanistan can increase its trade with Bangladesh, Bhutan, India and Nepal besides serving as an energy transit corridor.

The gains from a South Asian transit arrangement can be increased by linking regional transit routes with other regional and trans-regional routes. For example, though flows are presently limited, Nepal could become an important transit country for cargo between India and China with the extension of the Asian Highway route AH42 to Lhasa, China, which borders Nepal.[22]

A regional transit arrangement that harmonizes rules, regulations and procedures for goods and vehicles in transit across countries will intensify regional economic integration and also help exploit trade-investment nexus. For landlocked countries of the region, it will help diversify their trade linkages within the region as well as beyond since a full regional transit leads to a stronger multilateral transit. For the region as a whole, it will help boost intra-regional trade, which has been languishing at less than 5 percent. Such a transit arrangement should have provisions reflecting international legal instruments on transit, most notably Article V of the GATT. Further, regional investment cooperation on expanding, modernizing and upgrading transport infrastructure is crucial for a transit deal to pay rich dividends.

The establishment of regional transport corridors and the adoption of common rules and standards have played major roles in transit transport facilitation in various regions. A number of regional organizations, including the Association of Southeast Asian Nations, the Andean Community and the Southern African Development Community, have concluded transit or transport agreements or have included transit transport elements in agreements between their members.[23] Such agreements can be particularly beneficial for LLDCs as they provide a wider framework for harmonized procedures through which countries can gain access to transit facilities in a larger number of countries on the basis of the same legal framework, and can also act as a stepping stone for accession to international legal instruments.[24]

A regional transit arrangement will also create a level playing field and address the problem of low bargaining power of the smaller and vulnerable nations, including landlocked ones. Bilateral agreements involving LLDCs have often been unbalanced, with the corresponding transit state(s) frequently in a dominating position and dictating the terms.[23] Through a regional agreement, the landlocked countries stand to secure better transit rights, and the realization of such rights will be less dependent on their political relationship with any particular country as any restriction and the resultant dispute will be a regional issue as opposed to a bilateral issue.

Given that international recognition of the special challenges facing LLDCs and the need to address them through cooperation between LLDCs and transit developing countries is already there—most notably, the 2003 Almaty Programme of Action, adopted by the United Nations General Assembly—SAARC has its task cut out for it. It should take concrete steps for the establishment and effective implementation of a South Asian transit and transport arrangement. ■

Notes

1 Anwarul K. Chowdhury and Sandagdorj Erdenebileg. 2006. Geography against Development: A Case for Landlocked Developing Countries. www.unohrlls.com.

2 Limão, Nuno, and Anthony J. Venables. 1999. *Infrastructure, Geographical Disadvantage and Transport Costs. Policy Research Working Paper 2257*, December. Washington, D.C.: The World Bank.

3 See Chowdhury and Erdenebileg. 2006. Note 1.

4 Faye, Michael L., John W. Mcarthur, Jeffrey D. Sachs and Thomas Snow. 2004. The Challenges Facing Landlocked Developing Countries. *Journal of Human Development 5 (1)*, March.

5 Snow, Thomas, Michael Faye, John W. McArthur and Jeffrey D. Sachs. 2003. Country Case Studies on the Challenges Facing Landlocked Developing Countries. www.hdr.undp.org.

6 Chakra Infrastructure Consultants (CIC). 2001. Review of Progress in the Development of Transit Transport Systems in the India, Nepal and Bhutan Subregion. www.unctad.org.

7 *ibid.*

8 Snow *et al.* 2003. Note 5.

9 CIC. 2001. Note 6.

10 *ibid.*

11 Snow *et al.* 2003. Note 5.

12 *ibid.*

13 CIC. 2001. Note 6.

14 *ibid.*

15 *ibid.*

16 *ibid.*

17 *ibid.*

18 Additional Port Facilities in India for Nepal's EXIM Traffic with Third Countries. Draft Report of the Study Team, Nepal Intermodal Transport Board, November 2008.

19 Ahmed, Nazneen. 2009. Liberalization of Trade in Transport Services: Case of Transit through Bangladesh. Presentation made at a Regional Conference on "Mainstreaming International Trade into National Development: Some Perspectives from South Asia", 1–2 February 2009, Dhaka, organized South Asian Network on Economic Modeling, Dhaka.

20 *ibid.*

21 De, Prabir, Abdur Rob Khan and Sachin Chaturvedi. 2008. *Transit and Trade Barriers in Eastern South Asia: A Review of the Transit Regime and Performance of Strategic Border-Crossings.* ARTNeT Working Paper Series, No. 56, June.

22 UNESCAP. 2003. Transit Transport Issue in Landlocked and Transit Developing Countries. Note by the Secretariat, Special Body on Least Developed and Landlocked Developing Countries, Sixth Session, 22–23 April, Bangkok.

23 UNCTAD. 2007. Regional Cooperation in Transit Transport: Solutions for Landlocked and Transit Developing Countries. Note by the UNCTAD Secretariat, TD/B/COM.3/EM.30/2, 10 July.

24 Chowdhury and Erdenebileg. 2006. Note 1.

25 UNCTAD. 2007. Note 23.

Trade Agenda for THE LDCs

Ratnakar Adhikari

Over the past two decades, trade integration of the least-developed countries (LDCs) has been one of the most rapid in human history. Whether we measure trade liberalization in the LDCs in terms of policy instruments (such as tariff and non-tariff barriers) or at the level of outcome (such as trade-to-GDP ratio), they are generally more liberal than some of the developing countries.[1] Despite this, their performance in terms of increasing trade (mainly export trade) with a view to achieving sustained economic growth and poverty reduction has not been encouraging. Barring encouraging economic growth of select LDCs propelled by high commodity prices, reasonably good exports and increased foreign direct investment (FDI) in the past few years, the growth rates of a significant number of them have been abysmally low.

Of late, the LDCs have increased their share in world trade. In 2008, their share in global exports reached

Table 1
Share of major LDC exporters in total LDC merchandise exports

	Merchandise export US$ billion (% of LDC exports)		Major exports (2-digit HS code)	% of major exports in total exports	Export growth rates (%)	
	2008	2007	2008	2008	2000-2008	2007-2008
Angola	67.1 (38.1%)	39.9 (33.3%)	27 (fuels, oils, etc.)	98.2	31	51
Bangladesh	15.4 (8.8%)	12.5 (10.4%)	61, 62 (RMG)	81.0	12	23
Cambodia	4.3 (2.4%)	4.1 (3.4%)	61, 62 (RMG)	84.9	15	5
Chad	4.7 (2.7%)	3.5 (2.9%)	27 (fuels, oils, etc.)	97.3	50	27
Equatorial Guinea	16.3 (9.3%)	10.0 (8.3%)	27 (fuels, oils, etc.)	96.0	40	60
Sudan	12.1(6.9%)	8.9 (7.4%)	27 (fuels, oils, etc.)	94.1	27	36
Yemen	10.0 (5.7%)	7.3 (6.1%)	27 (fuels, oils, etc.)	88.7	10	27
Total	129.9 (73.8%)	86.2 (71.8%)				

Sources: Author's calculation based on WTO 's World Trade Report 2008 and 2009; International Trade Centre's TradeMap, www.tradmap.org, accessed 22.11.09.

1.1 percent, while their share in global imports was 0.97 percent.[2] But what is hidden behind these figures, particularly in terms of exports, is that seven oil- and readymade garment (RMG)-exporting LDCs, accounted for a lion's share of 73.8 percent of total LDC exports. This has contributed to respectable gross domestic product (GDP) growth in such LDCs.

However, neither the export growth nor the GDP growth experienced by these LDCs can be considered sustainable because of their highly concentrated export basket, which renders them extremely vulnerable to external shocks. Alarmingly, for the seven major LDC exporters, one category of product accounts for between 81 percent (Bangladesh) and 98.2 percent (Angola) of their overall exports (Table 1). In addition, oil prices are unpredictably volatile, as experienced in 2008 and 2009.

Similarly, RMG exports of Bangladesh and Cambodia have also shown signs of lower rates of growth than what were achieved in the past few years. This is attributed to reduced demand for RMG in developed countries, the main markets for LDC exports, owing to the global economic meltdown.

In another extreme, according to *World Trade Profile 2009* of the WTO, the LDCs such as Comoros, Eritrea, Gambia and Samoa have experienced negative growth in their merchandise exports between 2000 and 2008.

These disappointing results notwithstanding, the LDCs have been making efforts to integrate themselves into the global economy. But, if their drive towards achieving sustained integration into the global economy is to succeed, they should diversify their exports. For that, they need to devise negotiating positions which will help maximize gains from various trade arrangements at multilateral, regional and bilateral levels. This article identifies the trade negotiating agenda that the LDCs need to pursue in various negotiating forums.

Multilateral negotiations

The Doha Development Agenda (DDA), launched in November 2001, intends to address several trade-related development concerns of developing countries and the LDCs. The 2004 July Framework and the 2005 Hong Kong Ministerial reaffirmed the Declarations adopted in Doha. However, the Doha Round of trade negotiations has gone through turbulent phases. The failure of the mini-ministerial conference held in Geneva in July 2008 is testimony to the difficulties in the negotiations. One of the reasons for the failure of the negotiations to gain the required momentum is the global economic crisis, which has resulted in a surge of protectionist tendencies globally.

The Seventh Ministerial of the WTO, taking place against the backdrop of these challenges, is not likely to deliver much to revive the DDA. However, the LDCs, as a group, would do well to prepare their negotiating strategies by utilizing this opportunity, for whatever it is worth. The discussion below highlights some of the major concerns of the LDCs, dividing them into sectoral issues and cross-cutting issues.

Sectoral issues

Agriculture

Agriculture has been the most contentious issue in multilateral trade negotiations. Since the agricultural sector has come under the spotlight in the global political landscape due to recent increases in agriculture prices, concerns over the impact of liberalization have assumed even greater salience. This sector is associated with the livelihood of a majority of people in developing and least-developed countries and makes a significant contribution to GDP and private consumption expenditure in many LDCs. Therefore, the welfare implications of agricultural liberalization are likely to vary depending on the relative strength of the sector, including the level of import dependence of these countries.

Under the WTO Agreement on Agriculture, members have been negotiating for agricultural trade reforms. While little progress has been made in liberalizing agricultural markets, trade reforms are expected to negatively impact the net importers of agricultural commodities.[3] As per the Revised Draft Modalities on Agriculture dated 6 December 2008, issued by Committee on Agriculture Special Session, the major subsidizers of agricultural products have been urged to reduce their domestic support by 70–80 percent.[4] If and when this proposal is implemented, there could be a further increase in the import bill for net food importers, even though subsidy is not the only determinant of international price changes.

The studies of Asian LDCs summarized in Raihan *et al.* (2007) found a number of agricultural commodities with significant export potential, including processed fruits and vegetables, tea, coffee, herbs and medicinal plants, organic rice, and cashew nuts. Tariffs and other forms of domestic support measures in most developed countries act as major inhibiting factors against the export expansion of these commodities.[5]

Protecting the livelihood of farmers and largely agrarian rural communities, which are vulnerable to import surges, is another important issue for these LDCs. Therefore, the proposals of G33 developing countries, with major interests in agricultural negotiations, on the Special Safeguard Mechanism (SSM) and Special Products (SP) hold significance for them.[6] Similarly, the declaration adopted by the Sixth LDC Ministerial Meeting held in Dar Es Salaam from 14 to 16 October 2009 calls for, among others, a restriction on food export ban, which has affected food security in the LDCs.[7]

Non-agricultural market access

Non-agricultural market access (NAMA) negotiations are proceeding towards the reduction of bound tariff rates, bringing unbound tariff rates under binding commitments, and identifying and removing non-tariff barriers (NTBs). If and when NAMA tariffs are reduced, they will provide additional market access opportunities for the LDCs. Although the LDCs are exempted from such reduction commitments, they are expected to substantially increase their binding coverage.[8] However, the LDCs are insisting that they be given the final say to decide "the extent and level of bindings of their tariff lines".[9]

If tariffs are reduced as part of NAMA negotiations, it is likely to have both positive and negative impacts on the LDCs. On the positive side, the LDCs' access to many developed- and developing-country markets will increase in select sectors. On the negative side, they may suffer from possible preference erosion in countries such as Canada and the European Union (EU), where they currently enjoy duty-free and quota-free (DFQF) market access (discussed below).

Services trade liberalization

Liberalization of services trade under the General Agreement on Trade in Services (GATS) has important implications for many LDCs as services account for a significant share of their GDP. For example, one of the major constituents of services trade—remittances to the extent such earnings are generated through the provisioning of services—are important for a number of the LDCs. As an indication, measured as percentage of GDP, the LDCs such as Tonga (38 percent), Samoa (26 percent) and Nepal (22 percent) figured among the top 10 recipients of remittances in 2008, while in terms of absolute figure, Bangladesh, with a receipt of US$ 9 billion in 2008, was in the top 10 list.[10]

However, services trade liberalization under Mode 4 (movement of natural persons) of the GATS is largely being restricted by immigration regulations and barriers related to visa and work permit. In most cases, no distinction is made between temporary and permanent movement of workers, and the process involves complicated, non-transparent and costly steps to conform to labour market regulation. Furthermore, in terms of migration regulations, while developed countries seem biased towards high-skilled workers, the movement of low-skilled workers, which most LDCs can competitively supply, is the most restrictive.[11]

Cotton subsidies

Although removal of export subsidies on and market access for cotton may not be high on the agenda of most LDCs, this is a non-trivial issue for four West African LDCs: Burkina Faso, Benin, Chad and Mali. A World Bank study has shown that removing subsidies would expand cotton exports from sub-Saharan Africa by 75 percent, and increase developing countries' overall share of global cotton exports from the current 56 percent to 85 percent by 2015.[12] Despite the pledge made at the WTO Ministerial in Hong Kong to remove all cotton subsidies by developed countries by 2006 and provide DFQF market access to cotton exports from the LDCs, nothing much has happened.

Therefore, the Dar Es Salaam Declaration of the LDCs, among others, underscores the need to achieve, on an "early harvest" basis, an ambitious, expeditious and specific outcome for cotton trade-related aspects, in particular, the elimination of trade-distorting domestic support measures and export subsidies, granting of DFQF market access for cotton and cotton by-products originating in the LDCs. [13] The declaration also highlights the significance of "implementing the commitment by WTO Members contained in the July Package and the Hong Kong Ministerial Declaration regarding the mobilization of technical and financial assistance to ensure the coherence between the trade and development aspects".[14]

Intellectual property rights

The LDCs are worried that the current intellectual property protection regime does not take into account the contribution of the LDCs and their communities in protecting and conserving genetic resources and traditional knowledge. They are finding it difficult to enforce the provision for mandatory sharing of benefits in the event these resources and knowledge are accessed and exploited for commercial purposes. In order to ensure that the LDCs and their communities get due recognition of their contribution, a proposal to require mandatory disclosure of the source of origin as a condition for patentability has been submitted by a group of developing countries led by Brazil and India in the Council for TRIPS discussion.

Although this proposal is being opposed by a handful of developed countries at the behest of their corporate lobby, the LDCs have recently joined the call for the disclosure requirement. Against this backdrop, the Dar Es Salaam declaration demands that the TRIPS Agreement be amended to include a mandatory requirement for the disclosure of source of origin of genetic resources and/or associated traditional knowledge in cases of their use for inventions.


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Cross-cutting issues

Besides the sectoral issues discussed above, there are four distinct but inter-related issues of interest to the LDCs, as they cut across market access agenda under the WTO.

DFQF market access

The 2005 Hong Kong Ministerial Declaration allows "members facing difficulties" to reduce LDC product coverage for duty-free treatment to 97 percent of tariff lines. However, as LDC manufactured exports to developed countries are concentrated in a few categories such as RMG, most of their export items could be potentially excluded from such treatment under this scenario. Moreover, Asian LDCs are not granted preferential market access in the United States (US) and thus face high tariff rates on most of their RMG exports.[15]

Since advanced developing countries are also emerging as major markets for the LDCs and they are likely to maintain high tariffs even after the completion of NAMA negotiations, achieving DFQF access in such markets could be immensely beneficial to the LDCs. For example, a study estimates that full DFQF market access in five large developing countries (Brazil, China, India, Mexico and South Korea) would lead to annual export gains as high as US$5.6 billion for the LDCs.[16]

Non-tariff barriers

NTBs, particularly in the form of regulatory requirements, quota restrictions, administrative procedures and rules of origin (ROO), are of major concern for the LDCs. Due to their technical complexity and non-transparent nature, they are the most difficult barriers to challenge. Standards-related NTBs such as sanitary and phyto-sanitary (SPS) restrictions act as major impediments to LDC exports, particularly when they are not based on scientific evidence and/or beyond the standards set by international bodies.[17]

The studies summarized in Raihan *et al.* (2007) provide examples in which developed countries have imposed stringent SPS requirements and other NTBs on agricultural exports from select Asian LDCs. Similarly, for non-agricultural products, standards and labelling requirements pose insurmountable barriers for these countries. ROO is another major NTB, for example affecting Bangladesh, Cambodia and Lao PDR, and such barriers have resulted in low utilization of preferences for these LDCs—their utilization rates of *Everything but Arms* preference given by the EU are in the range of 60–70 percent.[18] ROO is also a problem for many African LDCs, which have not benefitted much from the US African Growth and Opportunity Act due to the "yarn forward rules" and/or a complicated "short supply" provision imposed on them to qualify for preferential market access.

Preference erosion

Since the LDCs enjoy preferential market access in many developed countries, tariff reductions under agriculture and NAMA negotiations would lead to preference erosion for them. As preference erosion largely depends on the value of exports, preference margin and the current rate of preference utilization, Bangladesh is expected to be a major loser

in the EU market. However, this loss can be offset by additional opportunities arising from DFQF market access to the US, Japan and other developed countries as well as new opportunities that tariff reductions in developing countries would bring about. For example, Laborde (2008) shows that full DFQF treatment provided by five advanced developing countries (Brazil, China, India, Mexico and South Korea) and five developed countries (Canada, Japan, Norway, Switzerland, and the US) would not only reduce the losses arising from preference erosion substantially but also result in large-scale net gains for the LDCs.

Aid for trade

There is no denying that market access issues discussed above are important from the perspective of the LDCs as long as tariff and non-tariff barriers in the case of goods and regulatory barriers in the case of services exports pose insurmountable difficulties for the LDCs trying to diversify their export basket. However, most LDCs suffer from supply-side constraints such as infrastructure bottlenecks, lack of human capital, access to technology and credit, and virtual absence of trade facilitation measures, and hence lack the capacity to become competitive suppliers in the international market.

Moreover, the LDCs find it difficult to implement some of their WTO commitments. Since the benefits accruing from the implementation of these agreements are much lower than the associated cost of implementation, the resource-strapped LDCs cannot take this additional burden. Therefore, the LDCs are rightly demanding support from their development partners to implement such commitments. They have received some support from their development partners through Integrated Framework for Trade-Related Technical Assistance (IF), but the resources committed to the Framework have been insufficient, and the major focus so far has been on the "software" part such as training, capacity building, research and studies and not on the "hardware" part such as infrastructure building. Realizing this deficiency, the Hong Kong Ministerial agreed to launch the Enhanced Integrated Framework and pledged to ramp up resources for this initiative. However, progress has been disappointingly slow owing to the delay in contribution of resources pledged by some of the development partners and, consequently, approval of projects.[19]

Likewise, a full-fledged "Aid for Trade" initiative was also launched during the Hong Kong Ministerial. After a Task Force, formed by the Director-General to prepare a guideline for providing aid for trade, issued its report in 2006, two global reviews have taken place in 2007 and 2009. However, given the fact that the LDCs have to rely on their traditional bilateral and multilateral donors to obtain resources and the initiative suffers from limitations similar to those seen in the conventional aid delivery mechanism, the enthusiasm initially shown by these LDCs seems to have waned. Therefore, the Dar Es Salaam declaration rightly urges development partners to expeditiously move from commitment to implementation.

Negotiation dynamics and LDC positions

The LDCs should design their trade negotiation strategies taking into account their own ground realities as well as the positions of other LDCs. In this context, the Dar Es Salaam declaration not only tries to strike a balance between the various positions of the LDCs, but also provides the basis for devising a common negotiation stance.

It should, however, be noted that the benefits arising from cross-cutting issues such as DFQF market access and agreement on preference erosion are not likely to be shared equally by all the LDCs. For example, African LDCs could suffer from preference erosion in the US market, if the LDCs' proposal of full DFQF market access is implemented. Therefore, compensatory mechanisms such as preferential access to aid for trade resources should be proposed to the prospective losers in order to garner a broader support for common positions. Similarly, an expeditious removal of cotton subsidies, which are of great concern to African LDCs, will have to be taken on board to demonstrate solidarity among the LDCs even if, as noted above, the cotton issue has limited significance to Asian LDCs.

RTA and BTA negotiations

One of the likely consequences of the failure to finalize the DDA negotiations is the proliferation of regional/bilateral trade agreements (RTAs/BTAs), though this may not be the only reason why the LDCs are inclined to enter into such agreements. While the interests of the LDCs are best protected within the multilateral trading system, they cannot avoid negotiating RTAs and BTAs because of the way various forms of trade agreements are currently being negotiated. Therefore, it is equally important for them to devise a well thought-out strategy for the negotiation of these agreements.

All the LDCs have entered into at least one RTA and some are members of more than three RTAs. However, most of these RTAs are of shallow integration variety with provisions for the liberalization of tariff barriers to trade in goods being the predominant feature. Since trade in goods alone is not likely to provide benefits to the LDCs, they need to push for LDC-friendly liberalization of services sectors and investment regimes.

The LDCs have also been engaged in several BTA negotiations with neighbouring countries and/or countries in the North. As for BTA negotiations, South-South BTAs can bring benefits to the LDCs. There are, however, concerns whether North-South BTAs will be beneficial for the LDCs. Some studies have indicated that BTAs between developed and developing countries can result in trade diversion for the weaker partners.[20] Likewise, due to the inherently asymmetric negotiating prowess, stronger partners can impose their will, including several WTO-plus conditions on services liberalization, competition and investment policies, environment and labour standards and intellectual property rights. Such conditions are often seen as being detrimental to the interest of weaker partners.

Way forward

The LDCs, in general, have common positions at the multilateral level, which is reflected in most LDC ministerial declarations adopted so far for WTO negotiations. Even where differences exist, they are not of the magnitude that cannot be reconciled. Since DFQF market access is the single major agenda of Asian LDCs, they should be prepared to address African LDCs' concerns on the removal of cotton subsidies and preference erosion. Sticking to common positions on issues relating to agriculture, NAMA, services negotiations, ROO and NTBs, in which all the LDCs have the same position, is not likely to prove difficult.

Some of the LDC concerns relating to agriculture and NAMA negotiations are best addressed specifically through appropriately designed sectoral negotiating strategies; others can be comprehensively addressed through the cross-cutting agenda. For instance, the LDCs should specifically align their positions with the proposal of G33 on SSM and SP on agricultural negotiations. As for NAMA negotiations, they should demand full autonomy while increasing their binding coverage. On services, a major negotiation strategy for the LDCs is to call for the removal of restrictions on the movement of low- and semi-skilled workers.

On cross-cutting issues, the timely implementation of the DFQF pledge by both developed and advanced developing countries; and removal of NTBs, whether regulatory or otherwise, on products of export interest to the LDCs are of critical significance. Similarly, to address the problem of preference erosion, they should press for trade solutions such as increased market access on protected sectors and non-trade solutions such as provision of aid for trade based on the magnitude of preference erosion. Finally, on the issue of aid for trade, they should demand significant ramping up of support through Enhanced Integrated Framework as well as aid for trade initiatives, and commitments from development partners to move into implementation mode.

While South-South RTAs and BTAs are likely to produce benefits to the LDCs, deepening and broadening of the areas of economic cooperation are necessary to realize the true potential of these arrangements. However, due to their trade-diverting nature and negotiation dynamics that are tilted in favour of stronger players, the LDCs need to be extremely cautious while signing North-South BTAs. Finally, given their limited institutional capacity and negotiating capital, the LDCs should prioritize the negotiating forums so as to maximize the advantages from trade negotiations.

Notes

1 Raihan, Selim, Ratnakar Adhikari and Kamalesh Adhikari (eds.). 2007. *Export Diversification for Human Development in the Post-ATC Era: Perspectives from Asian LDCs*. Colombo: UNDP Asia Pacific Regional Centre.

2 WTO. 2009. *World Trade Report 2009*. Geneva: World Trade Organization.

3 Raihan *et al.* 2007. Note 1.

4 WTO. 2008. Revised Draft Modalities for Agriculture. TN/AG/W/4/Rev.4. 6 December. Geneva: World Trade Organization.

5 Adhikari, Ratnakar, Yumiko Yamamoto and Kakada Dourng. 2008. *Trade Negotiation Issues and Strategies for Asian LDCs: Experience from Bangladesh, Cambodia, Lao PDR and Nepal*. Joint Policy Brief, Issue 3, August. UNDP Asia Pacific Regional Centre: Colombo.

6 *ibid.*

7 WTO. 2009. Dar Es Salaam Declaration, Sixth LDC Trade Minsiters' Meeting, Dar Es Salaam, Tanzania, 14–16 October. WT/MIN (09), 21 October. Geneva: World Trade Organization.

8 WTO. 2005. Doha Work Programme: Ministerial Declaration, Ministerial Conference, Sixth Session, Hong Kong, 13–18 December. WT/MIN(05)/DEC. Geneva: World Trade Organization.

9 WTO. 2009. Note 7.

10 Dilip Ratha, Sanket Mohapatra, and Ani Silwal. 2009. *Migration and Development.* Brief 11. Washington, D.C.: The World Bank.

11 Adhikari *et al*. 2008. Note 5.

12 See UN-OHRLLS Press Release, UN-OHRLLS/67/2005, www.un.org/special-rep/ohrlls/Press_release/14-12-05PressConf.pdf (accessed 15.11.09).

13 WTO. 2009. Note 7.

14 WTO. 2009. Note 7, p 4.

15 Adhikari *et al*. 2008. Note 5.

16 Laborde, David. 2008. *Looking for a Meaningful Duty Free Quota Free Market Access Initiative in the Doha Development Agenda*. Issue Paper No. 4. Geneva: International Centre for Trade and Sustainable Development.

17 *ibid.*

18 Adhikari, Ratnakar. 2008. The Local Content Paradox at the WTO: A Minor Lapse or Organised Hypocrisy? *Bridges Monthly Review 12 (4).* Geneva: International Centre for Trade and Sustainable Development.

19 WTO. 2009. Note 7.

20 UNESCAP. 2007. Economic and Social Survey of Asia and the Pacific 2007. Bangkok: United Nations Economic and Social Commission for Asia and the Pacific.

Certificate of Origin

Nepal's concerns

Jagdish Prasad Agrawal


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Certificate of Origin determines the originating status of a manufactured good meant for exports. It is normally required by the importing country to prevent trade deflection, especially when it is providing preferential duty concessions as part of a bilateral or regional trade agreement.

The Agreement on South Asian Free Trade Area (SAFTA) requires the Certificate of Origin to be issued by the designated authority in the exporting country after the goods have met the prescribed criteria and are eligible for preferential treatment in the importing country. The eligibility criteria for preferential entry into a member's market are as follows:

- The product is sufficiently processed.
- The final product is classified differently than its required inputs imported from a third country.
- The value of third-country inputs in the final product does not exceed 60 percent of the freight-on-board (FOB) value of the final product.

Regarding the third criterion, the least-developed countries (LDCs) are provided special treatment in that their exportable manufactured goods should fulfil only 30 percent domestic value addition criterion. But taking other factors into consideration, the required domestic value addition is much higher. For example, in the case of Nepal, transportation costs associated with the import of inputs from a third country and the subsequent export of manufactured goods to other South Asian countries are so exorbitant that the value addition in effect rises to approximately 43 percent of the FOB sales price. The reason for such a rise is that transportation costs of the imported inputs are included while calculating value addition whereas transportation costs associated with the export of the finished goods are not.

Although Nepal's major trade partner is India, it trades, to some extent, with other South Asian countries as well. During the period from 2000/01 to 2006/07, Nepal's exports to India declined whereas its exports to other countries of the South Asian Association for Regional Cooperation (SAARC), except Bangladesh, remained static. On the import front, Nepal's import from India grew exponentially while imports from other SAARC countries remained either static or non-existent.

Therefore, in order to reduce its huge trade deficit, Nepal needs to reduce its trade dependence with India and increase its exports to other SAARC countries. Such a strategy requires Nepal's exports to be competitively cheaper for which the issue of the Certificate of Origin should be addressed.

Certificate of Origin as a mechanism to prevent trade deflection has lost its relevance in the wake of substantial reductions in tariff barriers in the region. But the other components of the concept of Certificate of Origin, that is, transformation of imported raw materials into finished products in the exporting country, is relevant even today, especially in the context of the developmental role it plays and the preferential tariff concessions provided mutually. However, the transformation aspect has been relegated to a back seat whereas the value addition test has been given utmost importance. This has bred distortions, such as undervaluation of products and discretionary implementation of rules at the border. Fluctuation in exchange rates and volatility of commodity prices render the eligibility of the goods to be exported to change on a day-to-day basis. Moreover, the necessity that the Certificate of Origin be issued by a third party has also increased cost and time.

The system of determining the origination of goods for export is not deemed necessary under the most-favoured-nation dispensation because duty concessions are not involved in the importing country and the vulnerability of re-exports are negligible. Likewise, in the case of wholly produced goods which are sought to be promoted for intra-regional trade, it has been observed that agricultural harvests and products are facing non-tariff barriers of multiple dimensions. Almost all SAARC countries are agriculture-driven and their comparative advantages are also in agricultural products. Trade flows of agricultural harvests and the products thereof within the region take place on the basis of topical demand and supply situation across the border. But these products too are subject to the same formalities of the issuance of Certificate of Origin as are manufactured goods.

Exports of agricultural products from Nepal cannot meet the costs of pre-export inspections, issuance of Certificate of Origin and customs clearance of goods not only in Nepal but also in India and other importing countries. In addition to these costs and hassles, these products also face additional non-tariff barriers in the forms of quarantine, phyto-sanitary inspection and quality certification. Because of these formalities and the costs involved, under SAFTA, it is much easier to export manufactured goods than to export agricultural products.

Problem arises in the definition of wholly produced goods as it is inconceivable that products made out of agricultural harvests do not contain any input from non-originating state. Had Nepal's agricultural sector been more organized, it would have been possible for the country to follow international practices in the issuance of Certificate of Origin, and also fulfil other formalities. But, because the country's agriculture is in a very unorganized state, individually driven and of small scale, the sector is unable to bear the burden of exporting under a very formal and rigid trade regime. If green channels are not created by differentiating and facilitating wholly produced Nepali agricultural produce and products from third-country non-originating input-based manufactured products, the temptation of finding access to the adjoining markets through unauthorized routes will always be there.

In this context, there is a need to reconsider the issue of the Certificate of Origin by expanding the definition of wholly produced goods to include:

- a minimal quantity of goods from non-originating country.
- any other products such as handicrafts, agro-products, etc. which are non-sensitive and the trade of which the member countries want to promote mutually on a preferential basis.

There is also a need to introduce a green channel for the export of wholly produced goods with, among others, the following provisions:

- Certificate of Origin to be issued by the exporter him/herself.
- Export of less than US$1,000 per consignment to be allowed on a single document of bill of exports issued by the exporting country.
- Value addition criteria to be given the back seat and transformation in tariff classification be the main criteria for preferential tariff eligibility purposes.
- Wholly produced goods to be given national treatment in respect of quarantine and other non-tariff issues.
- Accredited third-party pre-shipment inspection certificate to suffice for the verification of transformation in Harmonized System Code.
- Payment of countervailing duties and clearance of goods allowed to be made in advance and vehicles carrying goods under the green channel allowed access up to the warehouses in the destination country without any additional permission.

So far, the emphasis on increasing intra-regional trade in South Asia has been on the macro concepts of doing business. However, any smooth trade flow calls for addressing very basic requirements like Certificate of Origin. It is high time that South Asia paid more attention to this issue. ■

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Least-developed countries
United they stand

At the Seventh WTO Ministerial, the LDCs are prepared to raise their common concerns but whether their counterparts are ready to address what they want out of the Doha deal remains to be seen.

Asjadul Kibria

In the Sixth Ministerial of the World Trade Organization (WTO) held in Hong Kong in December 2005, developed countries committed to providing duty-free and quota- free (DFQF) market access to least-developed country (LDC) exports on 97 percent of tariff lines. But progress in that regard has been almost negligible so far. And now, after four years of hiatus, the Seventh WTO Ministerial is going to be held in Geneva, Switzerland from 30 November to 2 December 2009. The theme of the Seventh Ministerial is "The WTO, the Multilateral Trading System and the Current Global Economic Environment".

Unlike previous ones, the Seventh Ministerial is "not intended to be a negotiating session" and negotiations on the Doha Development Agenda (DDA) are on a separate track. However, the Conference is an opportunity to take into consideration two critical issues that have cast a shadow on the future of the multilateral trade regime—the global financial crisis and climate change.

As a response to the global economic recession of 2009, there has been a surge of protectionist tendencies, especially in developed countries. Many of the economic stimulus packages introduced by these countries to fight the recession contain provisions that encourage spending on local products in preference over imports. With such tendencies on the rise, the crisis is going to hit hard mainly the LDCs.

The WTO has estimated that in 2009, the volume of global trade will fall by 9 percent, which means that LDC exports too are likely to suffer. The slowdown in the export earnings of the LDCs has already been visible. For example, the export earning of Bangladesh in 2008/09 registered a growth of only 10.3 percent over the previous year, which fell short of the annual target by 4.5 percent. The export price index also dropped by 1.6 percent, reflecting a fierce competition among exporters to maintain their market share.

The United Nations Conference on Trade and Development has also projected that in 2009, LDC exports are likely to contract by 9 to 16 percent and the real growth rate of their gross domestic product (GDP) would drop to 2.7 percent. Such a sharp decline in the GDP growth rate from an average of 7.4 percent during 2003–2008 implies that the LDCs are going to be hit hard the most by the crisis.

It is evident that although the LDCs are not the cause of the financial crisis, they are disproportionately affected by it. Worse, the global measures initiated to curb the financial crisis are mostly biased towards developed countries. The G20 meeting held in April of this year announced the injection of US$1.1 trillion into the International Monetary Fund, the World Bank Group and regional development banks to boost the resources of these international financial institutions. But there is hardly any possibility that the LDCs would stand to gain from it.

Besides the financial crisis, climate change has also become an issue of global concern. But interestingly, as is the case in multilateral trade negotiations, advanced developing countries are in a row with developed countries on issues of climate change. For instance,

> At the WTO, the LDCs have two core demands––ensuring an early implementation of the DFQF market access provision, and opening up of services in developed countries under Mode 4 of the GATS.

China and India have rejected the developed countries' proposal that advanced developing countries too put a cap on their carbon emissions. Developing countries have been consistently arguing that it is the responsibility of the wealthy industrialized nations to fight climate change by reducing their carbon emissions.

During 7–18 December 2009, the environment ministers and concerned officials from all over the world are meeting in Copenhagen for a climate change conference under the United Nations Framework Convention on Climate Change. They intend to thrash out a successor to the Kyoto Protocol. Because the climate change agenda has also become part of trade negotiations, and the Seventh WTO Ministerial as well as the Copenhagen meet are going to take place at around the same time, there is a possibility that the climate change agenda will find an important place in the Ministerial. While powerful players fight for their interests, the LDCs might not gain anything substantial. At the WTO, the LDCs have two core demands––ensuring an early implementation of the DFQF market access provision, and opening up of services in developed countries under Mode 4 of the General Agreement on Trade in Services (GATS). But there is little hope that their demands will be met.

The LDCs have not taken adequate initiatives to strategize and get prepared for the Geneva Ministerial. However, it is encouraging that, patching up divergencies among themselves on various issues, the recent Dar Es Salaam meeting of the trade ministers of the LDCs came up with a declaration outlining their common demands and positions for the WTO Ministerial. That they are now pressing for DFQF market access and removal of cotton subsidies by developed countries with one voice makes their case stronger.

For a meaningful DFQF market access, the issue of product coverage is extremely important. Coverage of only 97 percent of tariff lines allows developed countries to protect their so-called sensitive products, like textiles and clothing, which are the major export items of many LDCs.

For South Asian LDCs, market access to the United States (US) is the most important of all issues. The US is reluctant to offer full-fledged market access to the South Asian LDCs, mainly Bangladesh, Nepal and Bhutan. It imposes higher import tariffs on Bangladesh's exports than on the exports from the United Kingdom (UK) and France. For instance, in 2007, while the export of British goods worth US$57 billion to the US raised only US$412 million in revenue to the US, Bangladesh's exports (mostly clothing) worth US$3.4 billion faced a tariff of about US$500 million.

The average rate of tariff imposed by the US on goods imported from the Asia-Pacific LDCs is 15.6 percent while it is just 3.9 percent for all other LDCs. The rates for the UK, members of the Organisation for Economic Cooperation and Development and members of the Organization of Petroleum Exporting Countries are 0.9 percent, 0.7 percent and 0.6 percent, respectively. This clearly shows the discriminatory behaviour of the US towards the LDCs, especially Asian LDCs.

Therefore, the LDCs should stick to a common position in multilateral forums. The stringent rules of origin, trade remedy measures and safeguard rules are some of the crucial areas in which the LDCs have a common stake to collectively demand relaxation of rules and non-discrimination.

It is likely that the Obama administration in the US might be more sympathetic towards African LDCs. If so, in a race for securing the US market share, the earlier rift among the LDCs might resurface. Consequently, the LDCs might find it difficult to negotiate on a common platform. However, it is important to keep in mind that the LDC concerns will not be properly addressed under the DDA unless they get united.

It is very unlikely that an agreement on agriculture subsidy and industrial tariff cuts will be reached before 2010. The LDCs should optimally use the available time to pressure both developed and developing countries to exclude LDC issues from the "single undertaking" initiative, under which nothing is agreed until everything is agreed. ■

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Scope for investment cooperation in South Asia

Mythili Bhusnurmath

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Does investment follow trade or is it the other way round? Till fairly recently, received wisdom had it that investment followed trade. But globalization and the frenetic need for companies to constantly lower costs in a fiercely competitive world have increasingly led corporates to invest overseas to take advantage of cheap raw materials and/or cheaper skills even where trade links are, at best, tenuous.

Trade has then followed such investment. For instance, it is estimated that a significant part of Chinese exports are from multinational corporations that have established their base in China. With sovereigns now joining the game to garner cheaper natural resources, especially in Africa—China being a prime example again—it is clear the old order has changed. Investment will increasingly lead, not follow, trade.

Despite growing evidence of the symbiotic links between investment and trade, the members of the South Asian Association for Regional Cooperation (SAARC) as a whole have been slow to exploit the potential of such links within the region.

Trade integration

South Asia is the least-integrated region in the world. If on the political plane, there is considerable distrust between neighbouring countries, especially India and Pakistan, in the economic arena, all countries in South Asia adopted highly interventionist trade regimes in the early years of their growth.

This began to change in the late 1970s when Sri Lanka became the first to liberalize, followed by others in the 1980s. SAARC was established in 1985 as a first step towards closer regional integration. The process of economic integration finally culminated in a traditional regional trade agreement aimed at reducing trade barriers—the Agreement on South Asian Free Trade Area (SAFTA).

In addition to SAFTA, there are four free trade agreements (FTAs) among South Asian countries: India-Bhutan, India-Nepal, India-Sri Lanka, and Pakistan-Sri Lanka; and two sub-regional preferential arrangements: the Asia-Pacific Trade Agreement and the Bay of Bengal Initiative for Multi-Sectoral, Technical and Economic Cooperation (BIMSTEC). Four FTAs are under negotiation: India-Pakistan, India-Bangladesh, Sri Lanka-Maldives and Pakistan-Bangladesh.

All these are traditional FTAs aimed at reducing or eliminating barriers only in trade in goods, excluding services, competition, intellectual property rights, government procurement and investment. In this respect, South Asia is a bit of an outlier in a world where most FTAs, in recent years, have moved beyond reducing barriers in goods trade to involve specific commitments on investment.

Investment integration

If the situation of intra-regional trade flows in South Asia is disappointing, the picture of intra-regional investment flows is far worse. The participation of South Asian countries in other forms of foreign direct investment (FDI) undertakings such as Bilateral Investment Treaties (BITs) and Double Tax Avoidance Treaties (DTTs) is negligible. Although South Asian countries are involved in 109 BITs overall, there are only four BITs in the region. Similarly, DTTs are in force primarily among India, Pakistan, Bangladesh and Nepal. Bhutan and the Maldives are not members of any such treaties.

In a bid to promote and protect investments in the region, a Draft Regional Agreement on Promotion and Protection of Investment within SAARC has been under consideration since September 1997. However, progress has been excruciatingly slow.

FDI in South Asia

In line with the much higher level of global investment flows in recent years (except last year when they fell dramatically following the global financial crisis), FDI to South Asia has also been increasing over the years. According to the United Nations Conference on Trade and Development (UNCTAD), from an average of US$2.5 billion per year during 1990–2000, FDI to the region increased to an incredible US$51 billion in 2008. Surprisingly, despite the global meltdown, all countries (with the exception of Bhutan, Nepal and Pakistan, the latter two possibly because of political instability during the year) received more FDI in 2008 than in the previous year.

Table 1
Inward FDI flows

	US$ million					as % of gross fixed capital formation			
	1999–00	2005	2006	2007	2008	1999–00	2006	2007	2008
India	1,705	7,606	20,336	25,127	41,554	1.9	6.9	6.5	9.6
Pakistan	463	2,201	4,273	5,590	5,438	5.1	16.1	18.3	18.3
Sri Lanka	159	272	480	603	752	5.0	6.8	7.5	7.3
Bangladesh	218	845	793	666	1,086	2.9	5.3	4.0	5.9
Maldives	9	9	14	15	15	7.0	2.8	2.9	2.5
Nepal	6	2	-7	6	1	0.9	-0.3	0.2	n.a.
Bhutan	n.a.	9	6	73	30	0.4	1.2	10.9	3.9

Source: UNCTAD's World Investment Report 2009, www.unctad.org

Within these overall trends, individual countries performed highly unevenly (Table 1). The driving force behind the receipt of most FDI from developed-country sources is related to the industrial sophistication of the host country, availability of cheap skills, the size of the home market and of course, infrastructure. It is no surprise, therefore, that India, which is the most advanced country in the region industrially, should attract most of the FDI inflows from the developed world to the region. An UNCTAD survey ranks India among the five-most attractive places for FDI globally.

The sources of FDI are highly diversified in most SAARC countries. Though the dominant tendency is still for the FDI to originate in developed countries, the share of developing countries is also fairly significant. During 2006–2007, Organisation for Economic Cooperation and Development (OECD) countries contributed only 27 percent of the total FDI to India. However, this ignores the fact that the FDI which is routed through Mauritius and Singapore for tax reasons and accounts for 49 percent of FDI inflows to India also originates primarily in developed countries.

In Sri Lanka, a middle-income country, the major investors are from the United States (US), the United Kingdom (UK) and Australia. The share of the non-OECD investment in Pakistan, during 2006–2008 was 60.5 percent, and it was 51.2 percent in Bangladesh during 2005–2006. In Nepal, until 2005/06, of the 50 countries that had their commercial presence in the country, 33 were developing countries, accounting for 66 percent of the FDI in the country. Very few FDI projects have been commissioned in Bhutan.

Determinants of FDI

Locational proximity is seen to be an important determinant of investment decisions for developing-country firms, including those in South Asia. Fifty-six percent of the non-OECD investment in Pakistan during the past two years originated from neighbouring West Asia. In Bangladesh, closely situated South and Southeast

Asian countries were the major developing-country investors accounting for more than 24 percent of the total FDI in the past two years. In recent years, Egypt and the United Arab Emirates have also emerged as major investors in the country. In Nepal, India and China accounted for about 60 percent of the country's total FDI during 2005–2007. Similarly, Sri Lanka has a large commercial presence of firms from close-at-hand Singapore, Malaysia, South Korea, Hong Kong and India.

Apart from locational proximity and, to some extent, cultural and religious links (Saudi Arabia, for instance, is a fairly big investor in Pakistan), ease of doing business, quality of infrastructure, size of the market and its sophistication, as well as the availability of skilled human resource also appear to be powerful determinants of FDI inflows to South Asia.

Have FTAs made a difference?

If only geographical proximity is considered an important determinant of FDI flows into developing countries, one should expect large intra-regional FDI flows in South Asia. Although intra-regional FDI flows in South Asia have increased in the post-2000 period, with a few exceptions, they remain rather small. Regional FDI flows into the three largest recipients of FDI, namely India, Bangladesh and Pakistan, are negligible. However, Nepal, and since 2002, Sri Lanka, have been attracting substantial FDI from India (Table 2).

Table 2
Intra-regional FDI flows (% of country total)

	India		Bangladesh		Pakistan		Nepal		Sri Lanka
	2001–2003	2006–2007	1995–1996	2005–2006	2001–2005	2006–2008	Upto 2006	2006–2007	2005
India	-	-	0.620	0.540	0.001	0.002	40.710	46.600	6.200
Bangladesh	-	-	-	-	0.050	0.100	0.750	-	0.180
Pakistan	-	-	1.400	1.870	-	-	0.470	-	0.600
Nepal	-	-	-	-	-	-	-	-	-
Sri Lanka	0.009	0.014	0.230	0.410	-	-	0.130	-	-
Bhutan	-	-	0.005	-	-	-	0.010	-	-
Maldives	0.008	0.009	0.000	-	-	-	0.000	-	n.a.
Share of South Asia	0.017	0.023	2.250	2.820	0.060	0.102	41.800	46.600	7.000

Sources: Board of Investment for Pakistan and Bangladesh; Department of Industry for Nepal; Secretariat for Industrial Assistance for India; UNESCAP for Bhutan.

The Sri Lankan experience is one of the best examples of the intra-regional investment potential in South Asia. Historically, India has not been a major investor in Sri Lanka. In 2000, India's share was just about 2 percent of Sri Lanka's total FDI stock and it did not even figure among the top 10 investors in Sri Lanka. But in the next five years, it ranked the fourth largest. Such a dramatic increase in FDI flows from India into Sri Lanka was due to the coming into effect of the India-Sri Lanka FTA.

Sri Lanka also has an FTA with Pakistan that came into operation on 12 June 2005. This has the potential to not just promote trade between the two countries, but also between India and Pakistan. Currently, Indo-Pak trade takes place mostly via Singapore or Dubai. By encouraging Pakistani investors to set up operations in Sri Lanka in order to trade with India using the Indo-Sri Lanka FTA, the island nation can gradually acquire an entrepot status in South Asia. This can further promote FDI inflows to Sri Lanka.

Pakistan has opened all its sectors for FDI. However, investment inflows from within the region are still negligible, although Bangladesh's investment in Pakistan has increased in the past two years. So far, Bangladesh and Pakistan do not have an FTA with each other but are working towards putting one in place. The countries, however, have formed a Joint Economic Commission, a Joint Working Group and a Joint Business Council, as well as a Joint Investment Company to finance joint ventures in several key areas.

In the case of Bangladesh, during the period 1995–2006, regional FDI accounted for an average of 2.25 percent of the total FDI flows into the country. But, in the past two years, it increased to 2.82 percent, primarily owing to increased FDI from Pakistan. Investment from Sri Lanka has also increased to some extent. In Nepal, until the end of 2006, there were a total of 1,067 foreign projects. Of them, more than one third were from the region itself, with India accounting for the lion's share.

Conclusion

Though new investment opportunities are emerging in South Asia and intra-regional FDI flows are increasing, the pace of growth is very slow, especially when compared to the potential that exists. Neither multilateral liberalization nor regional integration has succeeded in making a significant impact on intra-regional FDI flows. While shallow regional integration remains a key deterrent to increased intra-regional investment flows, part of the reason is that SAFTA, limited as it is, does not include investment within its scope.

South Asia could learn from the experiences of other regional blocs such as the Association of Southeast Nations and the European Union, and instead of confining itself to agreements on goods trade, expand their scope to cover investments as well. ■

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Thailand's fight for public health

The way Thailand capitalized on the TRIPS flexibilities to address its national public health concerns provides lessons for other developing countries to benefit from the WTO system.

Cecilia Oh

In 2001, trade ministers adopted the Ministerial Declaration on the TRIPS Agreement and Public Health at the World Trade Organization (WTO) Ministerial in Doha. The result of an acrimonious debate at the WTO, wherein developing countries had pressed for a legal clarification that the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) does not prevent them from taking measures to ensure access to affordable medicines, the Declaration confirmed that countries are permitted to take measures to limit exclusive patent rights, when the interests of public health and the need to ensure access to affordable medicines so require. These measures include compulsory licensing and parallel imports, which are often collectively referred to as the "TRIPS flexibilities".

Despite the legal clarity provided by the Declaration and the urgency of providing access to affordable essential medicines in developing countries, only a small number of developing countries have made actual use of the TRIPS flexibilities. This is in contrast to the developed world, where compulsory licensing has been "part of the law and practice of many industrial countries" for over a century.[1]

This article analyses Thailand's use of the TRIPS flexibilities in order to draw lessons that can be useful in addressing some of the key factors preventing or hindering the use of the flexibilities in other developing countries.

Use of the TRIPS flexibilities

In 2006 and 2007, the Government of Thailand granted a series of government use authorizations to enable the import of generic equivalents of seven patented medicines at a fraction of their price. The medicines were: efavirenz and lopinavir/ritonavir combination (both of which are antiretroviral (ARV) therapy for HIV), clopidogrel (which is used in the treatment of coronary artery disease), and four cancer medicines used in the treatment of leukaemia, lung and breast cancers (imatinib, erlotinib, letrozole and docetaxel). The case of Thailand is worthy of study for a number of reasons.

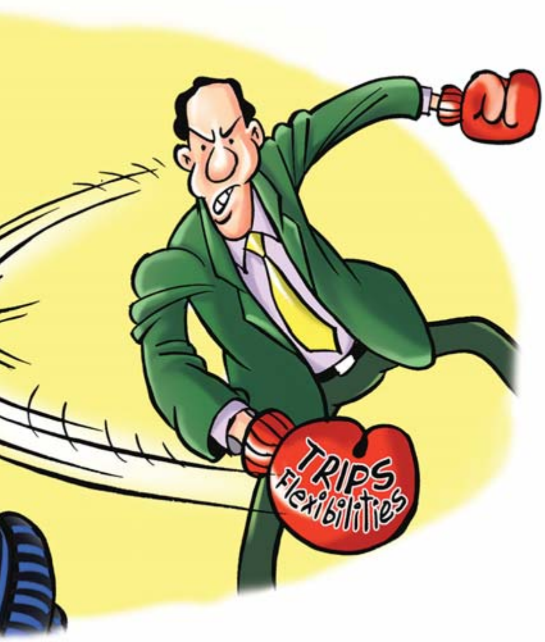
Type of disease

The government use authorizations in Thailand are significant for the fact that they were granted not only for HIV/AIDS medicines, but also for medicines to treat heart disease and cancer. A popular misconception about the use of the TRIPS flexibilities is that they may only be used to address public health crisis in pandemic or emergency situations. Neither the TRIPS Agreement nor the Doha Declaration places any restrictions on the type of disease or products for the use of the TRIPS flexibilities. While some parties have raised the argument that Thailand's government use authorizations for clopidogrel and the cancer drugs did not meet the criteria of an "urgent public health concern", it does not hold true. Further, it should be noted that no attempt has yet been made to challenge the decision in the courts, nor has any complaint been made against Thailand for contravention of the TRIPS Agreement.

Legal validity

Thailand justified the government use authorizations on the grounds that they were needed to address serious public health concerns in the country, and to ensure access to essential medicines that have proven effective and necessary for the treatment of diseases with high prevalence in the country.

Since 2002, Thailand has provided universal health coverage for its 64 million population. Thais are covered by one of three national public health insurance schemes, which accord them access to drugs on the National List of Essential Medicines (NLEM). ARV therapy for the treatment of HIV/AIDS was not initially included in the NLEM due to high prices and inadequate govern-



ment budget. But when the government sought to provide universal access to HIV/AIDS treatment in 2003, the sustainability of the HIV programme became a major concern, given the cost of the patented medicines. Meanwhile, epidemiological evidence also indicated a rising trend of cardiovascular diseases and cancer in Thailand.[2] Yet, the public health insurance system was not able to ensure sufficient access to the proven and effective treatments due to high prices.

The use of generic equivalents of the patented medicines was thus identified as a sustainable cost-containment measure for public health. Although the estimated cost savings would be substantial,[3] the Thai government maintains that the government use authorizations are not intended to reduce health expenditure but to enable greater access to medicines under its health insurance scheme.

The TRIPS Agreement and the Doha Declaration, as mentioned above, do not restrict the use of the TRIPS flexibilities to specific diseases. Under TRIPS , members are only limited with regard to the procedure to be followed and the conditions met in the grant of compulsory licences or government use authorizations, such as the requirement for prior negotiations with the patent holder for the grant of a voluntary licence and payment of adequate compensation. In the case of the government use of patents, where it is for public and non-commercial purposes, the condition for prior negotiations is waived.[4]

Article 51 of the Thai Patent Act 1979[5] authorizes the government use of patents in the general public interest, so that "any ministry, bureau or department of the Government" may exercise the rights in any patent "to carry out any service for public consumption". It further provides that the government may use a patent, either by itself or through others, subject to the condition of a royalty payment to the patent holder. While Article 51 requires prompt notification to the patent holder about the government use authorization, it does not require negotiations with the patent holder prior to the grant of the government use authorization.

The government use authorizations in Thailand were, thus, in compliance with the provisions of the domestic law in Thailand, as well as the TRIPS Agreement. The generic medicine imported under the government use authorization was only for the use of patients under the public health insurance scheme. Compensation was also provided in accordance with the legal provisions, wherein compensation in the range of 0.5–5 percent of the sale value of the generic medicine would be paid to the patent holders.

Decision-making and implementation system

The decision to grant the government use authorizations took a considerable length of time. This was because the Thai authorities had sought to negotiate price discounts with the patent-holding pharmaceutical companies before considering the use of the TRIPS flexibilities, although there was no legal requirement to do so.

In 2005, the Ministry of Public Health (MOPH) established an *ad hoc* Working Group on Medicine Price Negotiation, chaired by the Secretary General of the Food and Drug Administration (FDA), to undertake price discounts on the needed medicines. The Working Group identified a list of priority medicines for which access was lacking, including treatments for cancer, cardiovascular diseases and HIV. When negotiations to reduce the prices of the priority medicines did not succeed, the National Health Security Office (NHSO) set up a sub-committee a year later in 2006, to develop recommendations for the implementation of the government use of patents. Chaired by the Secretary General of the NHSO, the sub-committee's membership comprised senior officials from MOPH, FDA, and the Department of Intellectual Property, as well as representatives from health and consumer-protection groups in Thailand. The sub-committee was tasked with considering the need for the government use authorization as well as developing the criteria for the selection of medicines and the conditions for the implementation of the government use authorization.

The fact that the decision-making process involved different agencies in developing the criteria and guidelines for implementation helped to delineate and define the roles and responsibilities of different government agencies. This, in large part, ensured the speedy and effective implementation of the government use authorizations when they were eventually granted.

Ensuring transparency and accountability

The government use authorizations, not surprisingly, provoked strong objections from the patent-holding pharmaceutical companies whose products were affected and the governments of the countries where the companies are headquartered.

The strongest reaction came from Abbott Laboratories, which decided to withdraw its applications for market registration of 10 new drugs in protest of the government use authorization on its product, Kaletra (the lopinavir/ritonavir ARV combination). This act raised concerns in Thailand about the risk of losing access to new medicines, particularly if other multinational pharmaceutical companies were to follow suit. Civil society groups in Thailand and elsewhere organized protests and boy-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cotts of Abbott products. The negative publicity forced the company to eventually reinstate its applications for market registration. The involvement of civil society groups in the decision-making process was critical for mobilizing their support.

On the political front, the Office of the United States Trade Representative (USTR), in its Special 301 Report of 2007 which is the annual review of the state of IPR protection and enforcement, downgraded Thailand's ranking from the Watch List to the Priority Watch List, indicating its concerns over deficiencies in IPR protection and enforcement in Thailand. A reason given for this change in Thailand's status was that "in late 2006 and early 2007, there were further indications of a weakening respect for patents, as the Thai Government announced decisions to issue compulsory licences for several patented pharmaceutical products. While the United States acknowledges a country's ability to issue such licenses in accordance with WTO rules, the lack of transparency and due process exhibited in Thailand represents a serious concern". In addition, in a move widely speculated to be retaliation against the government use authorizations, the USTR announced that privileges under the Generalized System of Preferences (GSP) would be removed for three Thai export products.

In an effort to inform the public and to garner support, MOPH and NHSO published a series of so-called "White Papers"[6], which detailed the rationale for, as well as the legal issues and the decision-making process of, the government use authorizations. These White Papers were widely circulated both within and outside Thailand. A further detailed study was conducted by an independent research arm of MOPH, the International Health Policy Programme, with the aim of documenting the policy processes involved in the decision to grant the government use authorizations.[7]

The Minister of Public Health also sought support from World Health Organization (WHO) members at the World Health Assembly (WHA) in 2007. It is significant that the WHA that year adopted a resolution, which urged the WHO Director General to provide technical and policy support to countries on the use of the TRIPS flexibilities.[8] Thailand became the first country to request WHO support under this resolution. A WHO-led mission comprising experts from the WTO, the United Nations Development Programme and the United Nations Conference on Trade and Development produced a technical report in 2008, which has been widely interpreted as confirming the government use authorizations' validity and compliance with the TRIPS Agreement.

Conclusion

The ability of developing countries to make effective use of the TRIPS flexibilities has gained increased importance. Valuable lessons can be drawn from the manner in which Thailand handled the criticism and political pressures directed at the government use authorizations.

Aware that the decision would be much scrutinized, the government authorities were at pains to ensure that the decision-making and implementation processes were well-documented and, hence, transparent. The government also sought the technical and legal advice of international organizations and civil society groups. These efforts were aimed at demonstrating the transparency of the policy decision and the accountability of the government. These factors were extremely helpful in eliciting support for the government use authorizations and in countering the criticism leveled against the measures.

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Notes

1. http://hdr.undp.org/en/reports/global/hdr2001/.
2. http://ihppthaigov.net/index.php?option=com_wrapper&Itemid=105.
3. The use of generic ARV drugs and clopidogrel (for heart disease) would result in savings of 800 million baht per year. Note 2.
4. See Article 31 of TRIPS Agreement.
5. Thai Patent Act BE 2522 (A.D. 1979) as amended by the Patent Act (No. 3) B.E. 2542 (A.D. 1999)
6. MOPH and NHSO. 2008a. The 10 Burning Questions regarding the Government Use of Patents on the Four Anti-cancer Drugs in Thailand. Ministry of Public Health and the National Health Security Office, Thailand; and MOPH and NHSO. 2008b. The Facts and Evidences on the 10 Burning Questions related to the Government Use of Patents on three patented Essential Drugs in Thailand. Ministry of Public Health and the National Health Security Office, Thailand.
7. Tantivess et al. 2008. Note 2.
8. WHA Resolution 60.30, dated 24 May 2007.

from Rome to Copenhagen farmers' rights

Kamalesh Adhikari

an unaddressed agenda

The neglect of farmers' rights is at the cost of the realization of people's right to food in developing and least-developed countries.

Kamalesh Adhikari

The international community, at different levels and in different times, has made numerous commitments to addressing global food insecurity. But the reality is: the world is still in a race against the clock in the war against hunger.

In 1996, at the World Food Summit in Rome, world leaders made a historic global pledge to halve the number of undernourished people from the then level of more than 800 million and eventually achieve food security for all by 2015. At the dawn of a new millennium in September 2000, based on the outcomes of a decade of major United Nations conferences and summits, they scaled down their pledge under the Millennium Development Goal 1 by setting out a time-bound target to halve the proportion of people who suffer from hunger by no later than 2015.

Unfortunately, the world is not even near the achievement of the scaled-down millennium target. Instead, with an estimated increase of 105 million hungry people in 2009, as the Food and Agriculture Organization of the United Nations (FAO) estimates, there are now 1.02 billion malnourished people in the world, representing more hungry people than at any time since 1970.

In the words of FAO Director General Jacques Diouf, it is "our tragic achievement in these modern days" that "in some developed countries, two to four percent of the population are able to produce enough food to feed the entire nation and even to export, while in the majority of developing countries, 60 to 80 percent of the population are not able to meet country food needs".

At a time when a number of poverty- and hunger-sricken developing and least-developed countries are reeling under the global fuel and food crises, another global crisis, in the form of financial-turned-economic crisis, is aggravating food insecurity. Estimates reveal that due to this crisis, developing and least-developed countries have been facing declines in remittances, export earnings, foreign direct investment and foreign aid, leading to loss of employment and income. Moreover, in these countries, the already-felt impacts of climate change have created harsh socio-economic and environmental conditions for poverty reduction and food security.

But as the FAO report titled "The State of Food Insecurity 2009" also admits, the fact that hunger was on the rise even before the global crises suggests that present efforts are not on track and future efforts need to be unprecedented in scale and effective in implementation to make a difference in global food insecurity trends.

It is thus high time world leaders moved beyond renewing commitments and, in partnership with all actors and agencies, made real actions. One of such actions is the implementation of farmers' rights to plant genetic resources which constitute the basis of food and agriculture production for present and future generations. At least in developing and least-developed countries where poor farmers

Box 1

Provisions on farmers' rights in Article 9 of the ITPGRFA

Article 9 of the ITPGRFA has the following sub-articles on farmers' rights:

9.1 The Contracting Parties recognise the enormous contribution that the local and indigenous communities and farmers of all regions of the world, particularly those in the centers of origin and crop diversity, have made and will continue to make for the conservation and development of plant genetic resources which constitute the basis of food and agriculture production throughout the world.

9.2 The Contracting Parties agree that the responsibility for realising Farmers' Rights, as they relate to plant genetic resources for food and agriculture, rests with national governments. In accordance with their needs and priorities, each Contracting Party should, as appropriate, and subject to its national legislation, take measures to protect and promote Farmers' Rights, including: (a) protection of traditional knowledge relevant to plant genetic resources for food and agriculture; (b) the right to equitably participate in sharing benefits arising from the utilisation of plant genetic resources for food and agriculture; and (c) the right to participate in making decisions, at the national level, on matters related to the conservation and sustainable use of plant genetic resources for food and agriculture.

9.3 Nothing in this Article shall be interpreted to limit any rights that farmers have to save, use, exchange and sell farm saved seed/propagating material, subject to national law and as appropriate.

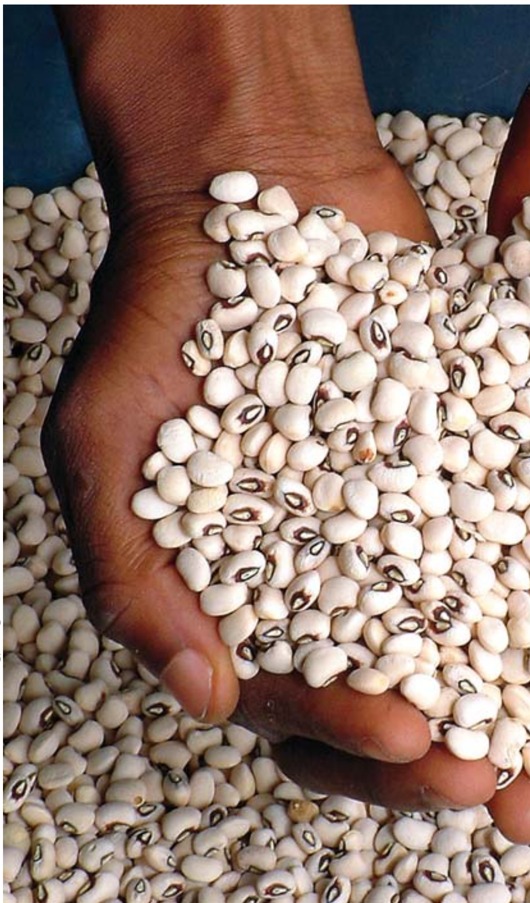
Source: FAO. 2002. International Treaty on Plant Genetic Resources for Food and Agriculture. Adopted by the Thirty-First Session of the Conference of the Food and Agriculture Organization of the United Nations on 3 November 2001. Rome: The Food and Agriculture Organization of the United Nations.

are in a majority in total population and rely on traditional farming and seed systems for livelihood, this issue is critically important.

Farmers' rights: Why the neglect?

Since the early 1980s, the issue of farmers' rights pertaining to plant genetic resources for food and agriculture has been receiving widespread attention and recognition in global negotiations as well as international instruments. For example, the International Treaty on Plant Genetic Resources for Food and Agriculture (ITPGRFA), which came into being in 2001 after a series of negotiations that started in 1983 under the auspices of the FAO, provides for the protection of farmers' rights (Box 1).

Enabling the Contracting Parties which may want to protect farmers'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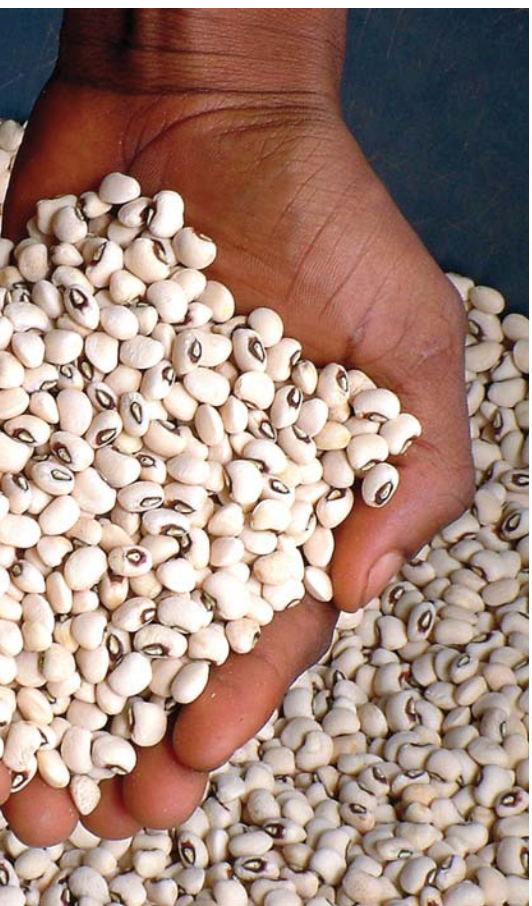
Box 2
Can farmers benefit from commercial seeds?

At least 1.5 billion people in the world depend on small-scale farming for their livelihoods. Developing agriculture by ensuring that farmers, particularly small-scale farmers, have access to improved varieties of seeds has been a central component of a model of agricultural development sometimes called the "green revolution" model. Support to these farmers often takes the form of the provision of inputs, particularly seeds and fertilizers. However, since small-scale farmers are poor and cannot move beyond subsistence farming, this form of support can create problems.

First, although commercial seed varieties may improve yields in the short term, their higher performance often has been a response to inputs and to water availability. It is difficult for small-scale farmers to access such inputs and reap benefits. Those who acquire inputs with their own means, often encouraged to do so during an initial period of subsidized inputs, may find themselves trapped in the vicious circle of debt as a result of a bad harvest and the consequent impossibility to reimburse input loans. This may occur particularly when they have switched to monocropping leading to revenues which may be higher in certain seasons but less stable across the years, and diminish resilience in the face of climate change.

Second, commercial seed varieties may be less suited to the specific agro-ecological environments in which farmers work, and for which landraces (traditional farmers' varieties) may be more appropriate. Finally, the expansion of surfaces cultivated with commercial seeds accelerates crop diversity erosion, as an increasing number of farmers grow the same crops, using the same, "improved" varieties on their fields.

Source: United Nations. 2009. Report of the Special Rapporteur on the Right to Food. A/64/170, 23 July. Submitted in accordance with Paragraph 36 of General Assembly Resolution 63/187.



rights through national measures, the ITPGRFA recognizes the enormous contribution that the local and indigenous communities and farmers of all regions of the world have made and will continue to make for the conservation and development of plant genetic resources which constitute the basis of world food security. Notwithstanding some differences during negotiations among its Parties, it is encouraging to see that the two of the Treaty's Governing Body sessions, held in 2007 in Spain and in 2009 in Tunisia, have attempted to explore and help the Parties implement measures to address farmers' rights. This is also evident from the fact that both of these sessions led to the adoption of separate resolutions on farmers' rights, which, among others, sought global contributions in gathering views and experiences on the implementation of farmers' rights.

However, if we look at how developed countries, at the behest of the corporate lobby, have been strengthening intellectual property right (IPR) rules in global trade and environmental agreements, we come to know that farmers' rights are yet to be realized in their whole spirit, though such rights form the basis of the realization of the right to food in a majority of developing and least-developed countries.

While the neglect of farmers' rights in the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) of the World Trade Organization (WTO) and the Convention of the International Union for the Protection of New Varieties of Plants (UPOV) has been widely debated and understood, their non-recognition in the FAO's list of challenges that were identified for the World Summit on Food Security, held from 16 to 18 November 2009 in Rome, and in the declaration of the Summit is perplexing.

Key challenges, for whom?

Ahead of the convening of world leaders for the World Summit on Food Security at its headquarters in Rome, the FAO had identified the following key challenges to the Summit:

- eradicating hunger from the earth. Not only to ensure sufficient food production to feed a world population that will grow by 50 percent and reach 9 billion by 2050, but also find ways to guarantee that everyone has access to the food they need for an active and healthy life.
- putting in place a more coherent and effective system of governance of food security at both national and international levels.
- making sure developing countries have a fair chance of competing in world commodity markets and that agricultural support policies do not unfairly distort international trade.
- finding ways to ensure that farmers in both developed and developing

countries can earn incomes comparable to those of secondary and tertiary sector workers in their respective countries.

- mobilizing substantial additional public and private sector investments in agriculture and rural infrastructure and ensuring farmers' access to modern inputs to boost food production and productivity in the developing world, particularly in low-income and food-deficit countries.
- agreeing on more effective mechanisms for early reaction to food crises.
- ensuring that countries are prepared to adapt to climate change and mitigate negative effects.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These challenges undoubtedly indicate the major action areas for world leaders, but largely tend to underestimate the crucial need of realizing farmers' rights to plant genetic resources for food and agriculture.

For instance, the crucial need of "mobilizing substantial additional public and private investments in agriculture and rural infrastructure, and ensuring farmers' access to modern inputs" has been identified as one of the major challenges. Broadly, there can be no disagreement that tackling this challenge has a significant bearing on boosting food production and productivity. But if the focus is more on ensuring sustained access to competitive, transparent and private sector-led markets for modern inputs—the notion that treats farmers as consumers and not as breeders and producers of seeds—farmers' traditional seed systems, which still form the basis of agriculture and food security in many countries, will be dismantled for the benefit of a few seed and agrochemical companies.

Therefore, it is important that the international community protect farmers' rights that have been legitimized by a number of international instruments and also implemented by some developing countries at the national level. As seen in some countries, such an unbalanced focus towards modern inputs may have serious political-economy implications for farmers' livelihoods and food security in developing and least-developed countries (Box 2).

Moreover, it is important to note that the identification of corporate interest-oriented issues in the list of challenges that influences an important global gathering like the World Summit on Food Security and their strong recognition in the Summit's declaration are of significance to multinational seed and agrochemical companies. Known as the "gene giants", the large share of such companies in global seed and agrochemical markets has already enabled them to transform farmers from seed owners to mere licencees and consumers of IPR-protected seeds.

Thanks to developed countries, and global agencies and rules that support them, in 2008, when the global food crisis was pushing more farmers into poverty, as reported by Agro World Crop Protection News of August 2008, only five multinational seed companies—three from the United States and two from the European Community—were holding 57 percent of global commercial seed sales. It is indeed an irony that while poor countries are agriculture-driven and genetic resources-rich, less than a dozen multinationals of a few developed countries hold a majority of IPRs on seeds, and benefit even in the period of the global food crisis by commercializing global hunger.

Declaration of the Summit: Does it address farmers' rights?

Despite the near total absence of major rich nations in the Summit, there were expectations that the heads of state and government or their representatives would decide on measures and mechanisms to eradicate global hunger. However, as Oxfam International viewed, the delegates left Rome without tackling "many of the biggest challenges" and did not also focus on "the need to increase support to the kind of sustainable farming methods that would help poor farmers".

Following deliberations on several aspects of food security and insecurity, they came up with a declaration. But the seven-page document does not

As climate change continues to change the geography of agriculture all over the world, pressures are mounting for states as well as farmers to develop strategies needed to address the implications of the unpredictable, unclear and inconsistent climatic conditions for agriculture.

anywhere mention farmers' rights and their significance in relation to the realization of the right to food—though it lists a number of commitments towards helping smallholders, including women farmers, and strengthening the capacity of farmers and their organizations.

One might argue that the World Summit on Food Security is not the right forum to dwell upon farmers' rights and its declaration does not need to deal with such rights. But one cannot fathom why a declaration of the FAO Summit can express commitments to "increase the resilience of agricultural producers to climate change" and to "support the conservation of, access to, and fair and equitable sharing of the benefits arising from the use of genetic resources" without mentioning the need to realize farmers' rights. It is, in fact, a matter of concern how "the progressive realization of the right to adequate food in the context of national food security", which is a commitment under the declaration, can be ensured, if there is no global call and support for farmers' rights in a gathering like the World Summit on Food Security.

Thus, a mere focus on the right to food by the Summit and its declaration and non-mention of the need to protect farmers' rights add to the evidence that there are vested interests who do not want to see the implementation of farmers' rights by developing and least-developed countries. Such vested interests are very much visible in global negotiations, for example, within the Council for TRIPS of the WTO, the Governing Body sessions of the ITPGRFA, the World Intellectual Property Organization (WIPO), the United Nations, etc.

Notwithstanding these issues, developing and least-developed countries should not leave any stone unturned for defending their interests and rights. Since the Summit has at least committed to making actions towards investing in "country-owned plans", countries that aim to protect and promote farmers' rights should not miss the opportunity of addressing this unaddressed agenda in their national policies and programmes. At the same time, they also need to develop negotiation strategies for other global forums that might help them advance their national interests.

Copenhagen conference: Will it address farmers' rights?

As recent trends in climate change negotiations reveal, a legally binding international climate change agreement is unlikely to be reached in the Climate Change Conference, to be held from 7 to 18 December in Copenhagen. However, it is not that the Copenhagen gathering will not hold significance for future climate change trends and deals.

As climate change continues to affect biodiversity and change the geography of agriculture all over the world, pressures are mounting for states as well as farmers to develop strategies needed to address the implications of the unpredictable, unclear and inconsistent climatic conditions for agriculture and food security.

At the same time, multinationals, with their own corporate standards for the use, reproduction and marketing of seeds, are now making every attempt to commercialize climate change, as they claim that they have both financial and technical capacities to make available seeds that adapt to changing environments. In view of the already-felt impacts and predicted implications, while there is a need to enhance the role of private sector in variety development and research, the Copenhagen meet should not undermine the role that the realization of farmers' rights can play in addressing climate change impacts on agriculture and food security.

The recognition of farmers' rights in climate change adaptation and mitigation strategies and programmes by the Parties to the United Nations Framework Convention on Climate Change (UNFCCC) could also help in making the TRIPS Agreement and the UPOV Convention supportive of food security goals in developing and least-developing countries. Although not impossible, in view of the current trends and practices, this remains an uphill task. ■

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Developing-country Trade Agenda for Copenhagen

Nitya Nanda

Trade can work as a means for the introduction and diffusion of climate-friendly technologies. Technologies embodied in goods and services can reach countries that trade with those that invent such technologies. Closer trade relations among nations can also promote awareness of the existence of climate-friendly technologies even when such technologies are not embodied in tradable goods and services. This is quite important, particularly in the context of developing countries, as the 2007 Intergovernmental Panel on Climate Change study estimated that using currently available technologies, if 20 percent of energy is conserved in developing countries, the increase in carbon dioxide (CO_2) emissions from developing countries from 2000 to 2020 would decline to almost half of what it would be without energy-saving measures.

However, it is doubtful if technologies can be the only solution to climate change. Although developed countries can be assumed to have good access to technologies and financial resources, the emissions in these countries are 5 to 10 times higher than acceptable levels. It is noteworthy that while North America and Western Europe have similar levels of standard of living as well as access to technologies, the emission level in North America is almost double that in Western Europe. Economic and environment policies as well as the attitude of the people play an important role in this regard.

International trade can lead to specialization across nations, promoting efficiency. However, what is often seen in practice is not so much specialization as intra-industry trade. Nevertheless, intra-industry trade can also play a positive role in promoting competition and thereby enhancing efficiency as well as providing more choices for consumers. But such benefits may involve environmental costs through transportation and associated pollution. Such costs can be quite significant as one European Union (EU) estimate says that by 2020, ships are set to emit more greenhouse gases than all land sources combined unless some measures are taken.

Such concerns may be valid even when international specialization dominates or replaces intra-industry trade. The comparative advantage theory typically does not take into consideration transport costs. In practice, however, when economic agents make their decisions, they do take account of transportation costs. But do they take into account the costs imposed on the environment or climate? There is no reason that this should happen on its own unless trade policy factors this into account.

The issue of emissions from shipping has also drawn the attention of the global community and there are talks of imposing a tax on shipping.

However, such an approach may not be appropriate. There is a need to distinguish between avoidable and unavoidable trade. For example, if a country cannot produce certain goods, it has to import them. On the other hand, some countries may have such resource endowments that they can produce only a few goods and export much of them. Moreover, a tax on shipping only will not take care of the emissions caused by transportation over land.

Global rules

Whether trade can be restricted on the basis of the climate friendliness of production processes is still a contested territory. There has been a demand that if developed countries have to make emission cuts, they must have some border tax adjustment mechanism to deal with imports coming from countries that do not take on emission-cutting commitments. These measures may be targeted at the way products are produced rather than the inherent qualities of the products. The general approach under the World Trade Organization (WTO) rules has been to acknowledge that some degree of trade restriction may be necessary to achieve certain policy objectives as long as a number of carefully crafted conditions are respected. The WTO Appellate Body, in the Shrimp-Turtle case, has opened the door to the possibility of using trade measures on environmental grounds. Though the issue is still not very clear, it may be noted that the recent academic literature in Europe has been more supportive of such trade measures. Interestingly, neither the United Nations Framework Convention on Climate Change (UNFCCC) nor the Kyoto Protocol provides for specific trade measures. In fact, the UNFCCC stipulates that the measures taken to combat climate change, including unilateral ones, should not constitute a means of arbitrary or unjustifiable discrimination or a disguised restriction on international trade.

However, such a measure would be difficult to implement in a fair manner. Emissions would be different for different producers and would also be difficult to measure. Thus, a single adjustment rate for all producers is likely to be discriminatory. Moreover, such a single rate would be a serious disincentive for producers adopting energy-efficiency measures on their own. The case for border tax adjustment may not be very strong as a study has shown that the overall impacts of domestic policies like carbon tax and energy efficiency standards on competitiveness have not been substantive. While the impacts have been negative in some sectors, in others, due to subsidies and exemptions, they have actually been positive.

The issue here is of government policies and measures that can restrict trade. Individual purchasers, however, are free to make their buying decisions that may include sustainability criteria. In fact, there are, albeit extremely limited, evidences that such measures are being adopted by individual buyers in the developed world.

Exports from developing countries to developed countries—for example, the EU and the United States (US)—get considerably affected by the practice of eco-labelling. Eco-labelling, by looking at the entire life cycle of the product and analysing the production- and process-related criteria, tries to ensure that exports from a country are harmless for consumers and the environment of the importing country. Therefore, emission norms will enter the eco-labelling criteria in the future with greater measure.

Recently, in the US, product standards introduced by companies and non-governmental organizations have been gaining importance, as there is a price premium for labelled products. This means that developing countries will be forced to share the burden of emission reductions in developed countries through the trade route, even if they do not have

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Neither the United Nations Framework Convention on Climate Change nor the Kyoto Protocol provides for specific trade measures.

any emission reduction targets as such, or developed countries do not take border tax adjustment measures.

Meanwhile, the issue of climate change has already entered the WTO through its trade and environment agenda. WTO members have been discussing the liberalization of tariff and non-tariff barriers to trade in environmental goods and services, and there is now a call for a special focus on climate-friendly goods. A World Bank study has identified 43 goods that can be climate-friendly. However, there is little understanding on the extent to which they can reduce the emission of greenhouse gases. Many find this approach to be not so useful. Moreover, technology being dynamic in character, a static list may not be of much value and revising the list on a regular basis would not be easy.

Surprisingly, the issue of technology transfer has not received much attention in the WTO discussion on trade and environment though it is an important component of the UNFCCC agenda. Nevertheless, the issue of the role of intellectual property rights (IPRs) in access to environment-friendly technologies has been raised by some countries in the WTO Committee on Trade and Environment. Most notably, Cuba has demanded the shortening of the patent protection period to facilitate the transfer of clean technologies. However, as the issue of IPRs is not explicitly mentioned in the Doha Agenda on trade and environment, it would be difficult to make any substantial progress on this at the WTO. Similarly, there is also a Working Group on Trade and Technology Transfer at the WTO wherein not much has happened that could have a bearing on this issue. Since an important item on the WTO trade and environment agenda is the clarification of the relationship between the WTO agreements and the multilateral environmental agreements, issues like border tax adjustment can also be addressed here.

Stake of developing countries

For climate change implications, it is important to look at the stock of greenhouse gases in the atmosphere. It is, of course, also true that flow is linked to stock. Nevertheless, if countries are allotted emission entitlements as a stock concept and on the basis of population size, most developed countries have already exhausted their quota. Developed countries now cannot take back their contribution to the stock of greenhouse gases, but it then becomes incumbent upon them to take the responsibility of mitigation and adaptation, even in developing countries. The global discourse on climate change, however, is focusing more on the flow of emissions and the stock concept is almost missing.

Developing countries are not the major contributors to the stock of greenhouse gases present in the atmosphere. But a huge majority of the people living in these countries have been adversely affected by climate change since they are mostly dependent on climate-sensitive sectors like agriculture and fisheries for their livelihoods. In seasonally dry and tropical regions, crop productivity is projected to decrease for even small local temperature increases of 1 to 2 degree celsius. It has been estimated that by 2020, in some African countries, yields from rain-fed agriculture could be reduced by up to 50 percent. For many countries, these sectors are also the source of their exports. Climate change is thus likely to adversely affect the macroeconomic performance of developing countries as well as the livelihood and food security of their people.

Much of the discussion on technology transfer in the context of climate change has been concerned with mitigation. However, for developing countries, technology would probably be more important for adaptation. These countries are in need of technology in agriculture so that crops can withstand the impacts of climate change. They are also in need of technology that could deal with water stress as well as a greater occurrence of existing diseases and the arrival of new ones.

Agenda for Copenhagen

Developing countries' trade agenda would be better addressed at the WTO than at the climate change conference in Copenhagen. Nevertheless, by reiterating the already existing UNFCCC provision of not using trade-restricting measures, it may be worthwhile to preempt the possibility of using trade measures on climate change grounds which might negatively affect developing-country interests without serving any substantial environmental purpose.

Another important issue that the Copenhagen conference may consider is the issue of IPRs in climate adaptation and mitigation technologies. It is important to reform the global IPR regime under the WTO for transfer and diffusion of climate adaptation and mitigation technologies. Only the WTO members can take a final call on this. However, the UNFCCC can contribute to the process by highlighting the issue and outlining the agenda for IPR reforms at the WTO. ■

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Should India take the lead?

Pradeep S Mehta

India's Environment Minister Jairam Ramesh is well known for raising controversies. Now, he has stirred the hornet's nest by his out-of-the-box thinking, arguing for a fresh approach to climate change negotiations. And the Indian intelligentsia has roundly criticized his views, expressed in his letter to Prime Minister Manmohan Singh. This is typical of a country in which persistence with the "tried and tested" guarantees acceptance, and out-of-the-box thinking often invites censure and, in certain cases, even ridicule.

Thus, instead of congratulating Ramesh for his innovative thinking, which in any case was an input into India's final stand and not the stand itself, we challenge the free flow of his refreshing views. That too when the climate issue has been caught in a deadlock for long with developing and developed countries stubbornly sticking to their stands.

Jairam's opinions are appropriate from another perspective. Over the last decade or so, India has made the journey from a large, impoverished and laggard nation to an emerging power almost spoken of in the same breath as China, though still beset with significant developmental problems.

As an emerging power, India should also assume the responsibility of leading by example in climate issues. The resulting moral pressure on the rich to clean up their act is sure to have a greater impact than expressions of resolve to not compromise, which have had "zero success" in mitigating climate change. After all, the impacts of climate change through decreased agricultural yield, floods, droughts and desertification will be felt mostly in the tropical zone, and therefore on India, China and their neighbours. To say that India should not innovate or adjust its negotiating stance is probably sheer folly.

In his attempt to address the logjam, Jairam has been reported to have recommended a new move for India by "not stick(ing) to G77 alone" as it is now an integral part of the G20, taking positive "initiatives to bring the US into the mainstream" and "nuance" from demand for financial and technological support from the rich countries for climate change mitigation. His proposal has the potential to lead to successful climate change agreement(s) and also endorse India's image as a deal maker, otherwise known as an obstructionist country in every international negotiation.

While the South has the right to resist binding emission ceilings, it has the responsibility to self-regulate.

The minister's out-of-the-box thinking is not as impulsive as publicized by the media and politicians. Although supportive of western efforts towards the conclusion of climate change negotiations, he has also maintained the essential crucial elements of India's stand—the need to preserve the distinction between the obligations of developed and developing nations, which has been buttressed well by the argument that binding emission reductions would necessarily slow down sustainable economic growth in developing countries, which at their current level of economic wellbeing is still an imperative.

The minister is also one of the first international statesmen to recognize the difference between "rights" and "responsibilities"—while the South has the right to resist binding emission ceilings, it has the responsibility to self-regulate. Should the South not draw a lesson from the naked display of aspirations by the North, which saw the ceaseless use of resources not only in productive activities associated with high emissions but destructive pursuits such as world wars, nuclear bombings and stockpiling of weapons? At the same time, it is true that no climate deals bound the North in its economic march and so it is not difficult to see why the South does not want to restrict its growth prospects by being limited by one. This is especially the case as southern countries have modelled their political, economic and resource use structures on the North.

Yet the counterpoint argues that it is time for the South to project a more enlightened stand as the future of the human race is at stake. It cannot afford to be blinded by the prospects of growth at this cost. The South remains wary of the intentions behind this counterpoint as it feels that the northern emphasis on southern "responsibilities" rather than "rights", as embodied in the global framework climate change convention, might be another ruse to project northern interests.

But wariness does not justify inertia or the lack of realization of one's responsibilities to the human race. India and China have broken the shackles of global recession ahead of others, and are thus bound to be more hopeful about faster growth. At this point, if these countries are asked to effectively put a cap on such growth, a negative response is understandable. However, they need to shift their motives to a higher plane as the future of the Earth is at stake. Climate change will ultimately drown all of us if none of us take unilateral initiatives. If India takes the initiative of floating a life boat, others are bound to follow. The double dividend to India—mitigated climate change and an elevated status in the global league of nations —constitutes a strong defence of Jairam's stand.

To conclude, the climate change negotiations are going nowhere with countries entangled in a "prisoners dilemma", with each sceptic of the motives of the other and agreeing to take measures only if others do so in equal measure. To prevent a logjam in climate change negotiations, countries should present unilateral measures in confidence to certain chosen members of the Convention.

These members would define the guidelines for the new protocol, which would essentially be based on the common measures included in such unilateral reports. This procedure avoids the problem of who goes first and would be acceptable to all, with minor tweaking possible through provisions for country-specific flexibility.

Nations need to realize that climate change is already upon us. They should now put their best foot forward to temper it and soften its impact. Consensus is needed in this regard, and swiftly! With nations indulging in a flurry of talks, the urgency being attached to the matter has become sufficiently evident. But will countries choose to be guided by the foresight of leaders like Jairam Ramesh or continue en masse on the myopic and inflexible paths of devastation and self-destruction? ■

The author is Secretary General, CUTS International, Jaipur. *A version of this article first appeared in The Economic Times on 28.10.09. Shruti Mittal and Siddhartha Mitra contributed to this piece.*

Trampling on farmers' rights

India's Seed Bill

India's attempt to create a balance between breeders' and farmers' rights has been greatly challenged by Seed Bill 2004, which is basically corporate interest-driven.

S. Bala Ravi

With the public research institutions' share of 26 percent and the private sector's share of 4 percent, the Indian seed industry is the eighth largest in the world. The estimated value of seed turnover in India is US$1.06 billion per year, and is growing at the rate of 12–13 percent per annum. Similarly, the hybrid seed market of India, accounting for about 3.7 percent of the global market, is also growing at the rate of 10 percent against the global growth rate of 5 percent. Therefore, the private seed industry has a huge interest in the Indian seed legislation and its implementation, and also has the ability to influence the legislation-making process.

On the other hand, about 70 percent of India's seed system is managed by farmers' traditional practices like saving seed from own harvest, and using them for re-sowing, sharing, exchanging, bartering and selling. Such practices are also the mainstay of the conservation and enrichment of plant genetic resources (PGRs). But, because Indian farmers are unorganized, they have the least clout to influence any legislative process. Therefore, any responsible legislative and enforcement process should not ignore the interests of farmers.

In India, to regulate the seed market that saw the arrival of high-yielding varieties in food grain crops in the 1960s, the first Seed Act was legislated in 1966, which became operational along with the enactment of the Seed Rules in 1968. The Seed Act and Rules were amended in 1972, 1973, 1974 and 1981. The Seed Act and its amendments do not cover farmers' traditional seed systems.

Seed Bill 2004

With a view to repealing and replacing the Seed Act 1966, India introduced a Seed Bill in 2004. Unlike the Seed Act 1966, the Seed Bill covers farmers' traditional seed systems. Among others, one of the notable exemptions provided in the Bill with regard to farmers' seed is:

"Nothing in this Act shall restrict the right of the farmer to save, use, exchange, share or sell his farm seeds and planting material, *except that he shall not sell such seed or planting material under a*

Box
PPVFR Act 2001

In 2001, India instituted the PPVFR Act with the primary goals of fulfilling India's commitment to providing intellectual property rights (IPRs) on plant varieties to comply with the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) of the World Trade Organization (WTO). The Act was also instituted to protect farmers' rights to seeds. It was also assumed that the Act would be instrumental in stimulating investment in research and development by the private seed industry that would ensure the availability of high quality seed and planting materials to farmers. In other words, the Act strikes a balance between the rights of farmers and breeders. But with the Seed Bill 2004 in the offing, there are widespread concerns that farmers' rights instituted by the Act would be infringed.


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brand name or which does not conform to the minimum prescribed limit of germination, physical purity, genetic purity" (Italics added).

Despite the coverage of the farmers' seed system, the Seed Bill 2004 has ignored farmers' rights that have been recognized and established by the Protection of Plant Varieties and Farmers' Rights (PPVFR) Act 2001 (Box).

Comparative analysis of the PPVFR Act and the Seed Bill

The contradictions between the PPVFR Act and the Seed Bill have serious implications in view of the fact that the Bill enjoys temporal precedence over the Act. The major contradictions between the Act and the Bill have been briefly discussed below.

Registration of seed

Provisions regarding the registration of a variety under the Seed Bill is such that a variety not registered under the PPVFR Act can be registered under the Seed Bill. Moreover, while registration under the PPVFR Act requires detailed documents to substantiate the legality of the process, the Seed Bill offers registration without *a priori* establishment of legal ownership of the applicant on the variety. Such provision in the Seed Bill may freely allow a party to pick any seed, including farmers' variety or public or private research variety, for registration and carry out seed business. Moreover, the detection of such intrusive registration is also not easy as the registration process is non-transparent.

Truthful disclosure

One of the essential requirements for registration under the PPVFR Act is truthful disclosure of the pedigree of the variety, the geographical origin of parental material used, as well as an affidavit on the lawful acquisition of the parental material. This information is linked to the benefit sharing provision of the Act. In the case of the Seed Bill, there is no obligation whatsoever for disclosing either the pedigree of the variety under registration or the geographic origin of its parental material or the process of accessing these materials.

Benefit sharing

The PPVFR Act provides for the sharing of the economic gains accrued to the user who registers the variety with the conservers or providers of PGR. The Seed Bill, on the other hand, has no provision for benefit sharing and identifying persons or institutions eligible for the same. Thus, the Bill short circuits the benefit sharing provision of the PPVFR Act.

Institutional system for variety testing

The eligibility test for the registration of a variety under the PPVFR Act is the test for distinctness, uniformity and stability (DUS), and in some cases, biochemical test, of a seed. These tests, under this Act, are to be carried out only by accredited government institutions. Regarding the Seed Bill, the important test data required are: agronomic performance assessed from multi-location testing (MLT); and certification of seed quality. The Bill seeks to have these tests conducted by accredited public and private organizations, including private individuals. The ability of the Central and State governments to hold these private institutions and individuals (some of them also associated with seed trade) accountable for the important data they provide based on their tests is questionable.

Regulation of seed price

In countries like India, there are instances where seed companies have misused their monopoly on seed to levy arbitrary and high prices. By including the provision of compulsory licensing, the PPVFR Act seeks to regulate unreasonably high seed prices, including unfair methods like creating artificial seed shortages. The Seed Bill, on the other hand, has no provision to regulate seed prices.

Farmers' rights to seed

Recognizing farmers as cultivators, conservers and breeders, the PPVFR Act provides a number of farmers' rights:

- the right to seeds;
- the right to fair and equitable benefit sharing when PGR conserved by

In countries like India, there are instances where seed companies have misused their monopoly on seed to levy arbitrary and high prices.

farmers is used to breed a new commercial variety;

- the right to register farmers' varieties;
- the right to recognition and reward from the National Gene Fund for their contribution in the conservation and improvement of and making available PGRs;
- unrestricted access to registered seeds at reasonable prices;
- the right to claim compensation for underperformance of a registered seed;
- judicial protection against an innocent infringement of the Act; and
- exemption from all fees related to the administration of the Act and judicial proceedings.

Farmers' right to seeds, according to the Act, is the right to save, use, sow, re-sow, exchange, share or sell farm produced seeds. It is also the right to sell seeds even of registered varieties, but only in non-branded form. The Seed Bill, on the other hand, renders these seed transactions conditional. It introduces a rider that seeds or planting material sold by farmers have to conform to the minimum prescribed limits of germination, physical purity and genetic purity. As the traditional seed system of farmers is practised outside the formal commercial seed system and without any legal encumbrances, the introduction of the above rider may lead to the choking of the traditional seed system or rendering the transactions therein a punishable offence. The creation of such an obstacle in the traditional seed system may divert the demand for seeds from the traditional to the formal system and thus benefit seed companies.

Registration of GM crop variety

An application for the registration of a genetically modified (GM) crop variety, according to the Rules of the PPVFR Act, will be acceptable only if such an application is accompanied by a bio-safety clearance certificate from the competent authority. In the case of the Seed Bill, it makes GM crop varieties eligible for provisional registration for a period not exceeding two years even without the bio-safety clearance from the competent authority.

Penalty

The Seed Bill is notable for a very soft penalty in comparison to the PPVFR Act. For instance, all offences under the PPVFR Act are punishable with imprisonment from three months to three years and fines from INR 50,000 to 500,000. In contrast, as provisioned in the Seed Bill, the punishment for most of the offences, including selling spurious seeds to farmers, is a fine of a mere INR 5,000 to 25,000, with no prison term. Comparing this penalty with the price of tomato seeds at INR 25,000 to 75,000 per kg or the price of hybrid rice seeds at INR 25,000 per quintal, one can infer that the low penalty will not be able to prevent spurious seed trade and deter fly-by-night seed traders.

Future direction

Due to anti-farmer provisions of the Seed Bill, farmers and civil society actors in India dubbed the Bill a legislative piece drafted at the behest of the seed industry to serve its end and snatch away farmers' rights. The strong and wide public opposition to the Bill forced the Government of India to refer the Bill to the Parliamentary Standing Committee on Agriculture for examination.

The Committee, through a consultative process, offerred valuable recommendations in 2006 for undoing most of the deficiencies of the Bill and take measures to address farmers' rights. This led to the introduction of the amended Seed Bill in the Indian Parliament in 2008, but it has not been enacted as of now.

Given the nature of agriculture and significance of the need to protect farmers' rights to plant genetic resources (seeds) in India, which is very much reflected in the objectives and provisions of the PPVFR Act, it is crucial that the Government of India do not create any legal and institutional barriers for the realization of farmers' rights. This demands the government to take bold initiatives to respond to the rising pressures from vested interests, mainly seed companies. ■

The author is associated with MS Swaminathan Research Foundation, Chennai.

Trade, Climate Change and Food Security

We, the participants of the South Asian Civil Society Consultation on Trade, Climate Change and Food Security Agenda for Copenhagen, held from 9-11 September at Gokarna Forest Resort, Kathmandu, Nepal, view that addressing climate change impacts, food insecurity, and trade concerns in times of global economic crisis has become more important than ever.

We also view that trade, climate change and food security issues are interlinked both positively and negatively, and, thus, need serious attention for harmonization of related policies and practices by all governments, actors and agencies. We believe that trade and climate change negotiations and deals—mainly under the aegis of the World Trade Organization (WTO) and the United Nations Framework Convention on Climate Change (UNFCCC), respectively—should be mutually supportive so as to contribute to sustained growth, food security, poverty reduction and environmental sustainability.

We also believe that such trade and climate change negotiations and deals, as well as all the local, national, regional and international efforts in agriculture, including those of the Food and Agriculture Organization of the United Nations (FAO) and other United Nations bodies, the World Bank and the Asian Development Bank, need harmonization and coordination for sustained world food security.

In particular, we take note of the fact that South Asian countries are highly exposed to the adverse impacts of climate change although their historical contribution to climate change is insignificant. We draw the attention of South Asian governments and the international community, including UNFCCC parties, to the past, present and future impacts of climate change on South Asia. In particular, we are concerned about the impacts on South Asia projected by the Fourth Assessment Report of the Intergovernmental Panel on Climate Change—glacier melting in the Himalayas causing increased flooding and affecting water resources; compounded pressures on natural resources and the environment due to rapid urbanization, industrialization, and economic development; decrease in crop yields by up to 30 percent by the mid-21st century; rise in mortality due to diarrhoea primarily associated with floods and droughts; and sea-level rise exacerbating inundation, storm surge, erosion and other coastal hazards. We also note that melting Himalayan glaciers and other climate change impacts pose a direct threat to the water and food security of more than 1.6 billion people in South Asia.

We are also concerned about the unequal playing field and unfair trade deals at different levels, including the WTO, and take note that there has been limited cooperation at the multilateral level as well as at the level of South Asian Association for Regional Cooperation (SAARC) for harnessing the potential of using trade as a means to achieve growth, food security and poverty reduction. We note that, as a result of the global economic crisis, world trade is projected to decline by 10 percent in 2009, and there has been some slippage towards protectionism. We express our deep concern over the threat of a new kind of protectionism—climate protectionism—which, if not addressed, may have adverse ramifications for the development-friendly functioning of the multilateral trade regime, as well as the South Asian and global economies.


www.geos.ed.ac.uk

We also take note of the fact that South Asia accounts for 23 percent of the world's population but generates hardly 2 percent of the global income. We are concerned that housing 40 percent of the world's poor and 35 percent of the world's undernourished people, South Asia continues to have the highest concentration of poverty and hunger. We call for attention to the growing vulnerability of the poor in South Asia as they depend significantly on rain-fed agriculture and live in settlements that are highly exposed to climate variability. We are worried that failure to make trade and climate change negotiations and deals mutually supportive will deepen food insecurity in South Asia with severe implications for the region's efforts to achieve the Millennium Development Goals, as well as the SAARC Development Goals.

Realizing the crucial roles that the UNFCCC, the WTO, SAARC governments, and other actors and agencies can play in reexamining, redefining and strengthening the linkages among and between trade, climate change and food security, we put forth the following recommendations and demands that we believe must be addressed for a world oriented towards inclusive and sustainable global integration and development.

Demands at the UNFCCC level

- We demand that Annex 1 countries ensure full and faithful implementation of the commitments made under the Kyoto Protocol, and make a time-bound commitment for deeper greenhouse gas emissions cuts compared to 1990 levels.
- We demand that developed countries provide at least 1 percent of their gross national product to climate adaptation and mitigation fund and the COP/MOP Authority mobilize the fund in a fair, equitable and just manner and in the interest of developing and least-developed countries. We also call upon developed countries to ensure that a larger share of funding is made available for adaptation.
- We demand that support to the climate adaptation and mitigation fund be over and above other aid commitments and in line with the Partnership Commitments made in the Paris Declaration on Aid Effectiveness. We call upon UNFCCC parties to ensure an enabling environment for the development and implementation of local community-centred action programmes on climate change adaptation and mitigation, and to ensure that such programmes are measurable, reportable and verifiable, as well as accountable to the communities and societies affected by climate change.
- We urge developed countries to provide financial and technical assistance to vulnerable countries, mainly developing and least-developed countries, to cope with climate-induced dislocation and distress, and address the concerns relating to environmental refugees.
- We urge developed countries to agree on legal and institutional options and make time-bound commitments to introduce incentive mechanisms and implement measures that remove the obstacles to and provide financial and other incentives for scaling up the development, transfer and acquisition of climate-friendly technologies in developing and least-developed countries.
- We call upon UNFCCC parties

to recognize the impacts of climate change on agriculture productivity and food security, and identify and provide environment-friendly agriculture support measures for enhancing agriculture productivity and food security. In this regard, we also demand that UNFCCC parties refrain from promoting faulty solutions to climate change such as encouraging those biofuels that negatively affect food availability and prices, as well as the resource base.

- We also demand that UNFCCC parties agree to implement measures to regulate environment-unfriendly use of biotechnology and the unjust application of intellectual property rights (IPRs) in the area of biodiversity and agriculture, and implement measures to protect the environment and the rights of local, indigenous and farming communities over their biological resources and associated knowledge.
- We call upon UNFCCC parties to make a fundamental change in the manner in which the Clean Development Mechanism (CDM) operates, in that its environment integrity is ensured and it benefits the least-developed countries (LDCs) and the poor. In this connection, we also demand that the parties implement measures that harness CDM more closely with development and sectoral priorities as well as attract and utilize both public and private funding.
- We call upon UNFCCC parties to seek compliance of a global climate change deal with other international conventions, treaties and agreements that govern trade, biodiversity, environment, etc., and necessary support from relevant bodies, as and when required.

Demands at the WTO level

- We demand that any outcome of multilateral trade negotiations on environmental goods and services reflect the trade, development and environmental interests of developing and least-developed countries.
- We urge developed countries and those developing countries that are in a position to do so to provide concrete support measures for building the supply-side capacity of the LDCs in environmental goods and services. We also demand that the WTO's aid for trade initiative be implemented for enabling the developing and least-developed members to realize their trade potential in environmental goods and services.
- We call upon WTO members to address the possible negative implications of preference erosion for the LDCs in the event of the liberalization of environmental goods and services.
- We urge WTO members not to resort to climate protectionism by taking unilateral trade measures to compel trading partners to take on emissions reduction commitments.
- We urge developed countries to create incentives, including through the provisioning of technology transfer funds and relaxation of IPR rules, for ensuring transfer of climate-friendly technologies to developing and least-developed countries. In particular, we demand that developed countries develop and implement concrete measures for the implementation of their commitments on technology transfer to the LDC members under Article 66.2 of the Agreement on Trade-

LI-BIRD

It is crucial to ensure that any outcome of multilateral trade negotiations on environmental goods and services reflect the trade, development and environmental interests of developing and least-developed countries.

Related Aspects of Intellectual Property Rights (TRIPS), including for enabling developing and least-developed countries to use the IPR flexibilities.
- We demand that WTO members review the Agreement on Subsidies and Countervailing Measures (ASCM) and agree on incentives and implement measures for the removal of subsidies on fossil fuels and the strengthening of subsidies for renewable energy sources, and in this regard, also address the special needs and development concerns of developing and least-developed members.
- We call upon WTO members to review TRIPS Article 27.3 (b), taking into account its implications for climate change, including biodiversity and the rights of local, indigenous and farming communities in developing and least-developed countries. We also demand that WTO members accomplish the review negotiations by 2010 and make TRIPS compatible with the Convention on Biological Diversity (CBD).

Demands at the SAARC level

- We call upon SAARC countries to develop and implement a South Asian Framework Agreement on Climate Justice, and to set up a South Asian climate change observatory to assess and forecast climate change impacts, and establish a joint monitoring system to address, among others, glacial melting, sea-level rise and impacts on river basins.
- We urge SAARC countries to create and mobilize a regional climate change adaptation and mitigation fund and link it with national-level climate change adaptation and mitigation funds.
- We urge SAARC countries to address the impacts of climate change on human rights, and to create and implement a regional insurance mechanism to address the climate change impacts on poor, marginalized and vulnerable communities.
- We urge SAARC countries to use trade as a means to address climate change, food security and development concerns by substantially increasing intra-regional trade, particularly in agriculture products, through, among others, the pruning of sensitive lists, removal of non-tariff and para-tariff barriers, and prohibition of food export ban.
- We demand that SAARC countries develop their common understanding and positions on the liberalization of trade in environmental goods and services for multilateral forums, and strengthen cooperation on it at the regional level.
- We urge SAARC countries to promote public-private partnership for, and South-South collaborative research and development, and investment projects and programmes on, the development and transfer of climate-friendly technologies.
- We demand that SAARC countries effectively operationalize the SAARC Food Bank by improving its governance mechanism. In particular, we demand that its distribution system be made responsive to seasonal food insecurity and food emergencies, and accessible for affected people and communities.
- We demand that SAARC countries reinvigorate national innovation systems to strengthen and develop appropriate technologies for climate change adaptation and mitigation, including for sustainable natural resources management. We also urge SAARC countries to document and disseminate good adaptation and mitigation practices in agriculture, and promote the sharing and adoption of such practices within the region and outside. We also urge SAARC governments to support local and indigenous technologies, and harness the potential of local and indigenous knowledge in agriculture, through community-led biodiversity management programmes, including participatory plant breeding and variety selection programmes.
- We urge SAARC countries to implement policy and institutional measures for the establishment, expansion, strengthening and effective operationalization of community, national and regional seed systems and gene banks. In particular, we also demand that, strengthening and linking with community and national seed banks, SAARC countries establish and operationalize a SAARC Seed Bank so as to ensure an effective long-term mechanism of production, exchange and use of farmer- and environment-friendly quality seeds in the region.
- We urge SAARC countries to support community-led on-farm conservation programmes; develop regional guidelines and frameworks on biotechnology, biopiracy, IPRs and farmers' rights; and develop and operationalize a regional access to genetic resources and benefit sharing regime. ■

For further information, please contact SAWTEE.

SAARC countries should use trade as a means to address climate change, food security and development concerns by substantially increasing intra-regional trade, particularly in agriculture products.

Special and differential treatment for The LDCs

The idea of granting developing countries preferential tariff rates in the markets of industrialized countries was originally mooted in 1964. In 1971, the Contracting Parties to the General Agreement on Tariffs and Trade (GATT)—the precursor to the World Trade Organization (WTO)––approved a waiver to the General Most-Favoured-Nation (MFN) treatment of the GATT (Box 1) for 10 years in order to authorize the Generalized System of Preferences (GSP) scheme. Later, as part of the Tokyo Round, the Parties decided to adopt the 1979 Enabling Clause, Decision of the Contracting Parties of 28 November 1979 (26S/203) entitled "Differential and more favourable treatment, reciprocity and fuller participation of developing countries", creating a permanent waiver to the MFN clause to allow preference-giving countries to grant preferential tariff treatment under their respective GSP schemes.

The Enabling Clause is still applicable as part of the GATT 1994 under the WTO. By allowing derogations to the MFN treatment in favour of developing countries, it enables developed-country members to give differential and more favorable treatment to developing countries. It is the WTO legal basis for the GSP under which developed countries offer non-reciprocal preferential treatment (such as zero or low duties on imports) to products originating in developing countries. In doing so, preference-giving countries unilaterally determine which countries and which products are included in their schemes. The Enabling Clause also provides the legal basis for regional arrangements among developing countries and for the Global System of Trade Preferences (GSTP). A number of developing countries exchange trade concessions among themselves as part of the GSTP.

S&DT in WTO Agreements

When the WTO was established in 1995 by also including agreements on services and intellectual property rights, among others, those agreements too contained "special and differential treatment (S&DT)" provisions that give developing countries special rights. The S&DT provisions can generally be classed in five main groups:

- Provisions aimed at increasing trade opportunities through market access;
- Provisions requiring members to safeguard developing-country interests;
- Provisions allowing flexibility in rules and disciplines governing trade measures;
- Provisions allowing longer transitional periods; and
- Provisions for technical assistance.

Box 2 provides an indicative list of the S&DT provisions for the least-developed countries (LDCs) contained in some of the major WTO Agreements. Many of the agreements provide LDCs flexibility in the implementation of certain rules and commitments including longer implementation periods.

In addition to the LDC-specific S&DT provisions contained in the legal texts of the WTO, there are a number of Ministerial decisions and declarations in favour of the LDCs. For example, the Decision on Measures in favour of the LDCs adopted in the context of the Uruguay Round to address the special concerns of the LDCs states that they will only be

Box 1

General MFN Treatment

With respect to customs duties and charges of any kind imposed on or in connection with importation or exportation or imposed on the international transfer of payments for imports or exports, and with respect to the method of levying such duties and charges, and with respect to all rules and formalities in connection with importation and exportation, and with respect to all matters referred to in paragraphs 2 and 4 of Article III,* any advantage, favour, privilege or immunity granted by any contracting party to any product originating in or destined for any other country shall be accorded immediately and unconditionally to the like product originating in or destined for the territories of all other contracting parties.

Source: www.wto.org

Box 2

S&DT provisions for the LDCs in major WTO Agreements

Agreement on Agriculture	LDCs are exempt from undertaking reduction commitments.
Application of Sanitary and Phyto-sanitary Measures (SPS Measures)	LDCs had the possibility of delaying for up to five years, the implementation of the provisions of the Agreement with respect to their sanitary and phyto-sanitary measures affecting imports.
Agreement on Technical Barriers to Trade (TBT)	Particular account to be taken of LDCs in the provision of technical assistance and in the preparation of technical regulations.
Agreement on Subsides and Countervailing Measures	LDCs are exempted from prohibition on export subsidies. Prohibition on subsidies that are contingent upon export performance is not applicable to LDCs for eight years.
General Agreement on Trade in Services (GATS)	Special priority given to LDCs in implementing Article IV of GATS and particular account to be taken of the difficulties encountered by LDCs in accepting negotiated commitments, owing to their particular needs. Special consideration is given to LDCs with regard to encouraging foreign suppliers to assist in technology transfers, training and other activities for developing telecommunications.
Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS)	Delay for up to 10 years in implementing most of TRIPS obligations. Possibility of extension following duly motivated request. Members to provide incentives for encouraging the transfer of technology to LDCs.
Understanding on Rules and Procedures Governing the Settlement of Disputes	Particular consideration should be given to the special situation of LDCs in all stages of a dispute involving an LDC. Members to exercise due restraint in raising matters involving an LDC. LDCs may request use of the good offices of the Director-General or the Chairman of the Dispute Settle Board.

Source: www.wto.org

required to undertake commitments and concessions to the extent consistent with their individual development, financial and trade needs or their administrative and institutional capabilities. The Decision includes provisions that require the expeditious implementation of S&DT provisions for the LDCs, the need to accord special consideration to the export interests of the LDCs, and the need for substantially increased technical assistance.

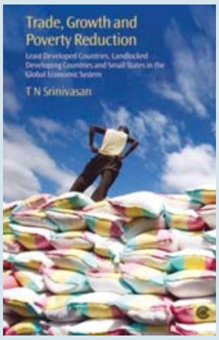
In all the WTO Ministerial declarations, there is special reference to the needs of the LDCs. At the first WTO Ministerial in Singapore in 1996, Ministers adopted the WTO Action Plan for LDCs. The Plan aimed to improve the trade opportunities of the LDCs and their integration into the multilateral trading system. In pursuance of the Action Plan, a High-Level Meeting on Integrated Initiatives for Least-Developed Countries' Trade Development was held in October 1997, organized by the WTO in close collaboration with the International Monetary Fund, International Trade Centre, United Nations Development Programme, the World Bank and UNCTAD. The Meeting endorsed the Integrated Framework for trade-related technical assistance to the LDCs, which seeks to increase the benefits that the LDCs derive from technical assistance to help them enhance their trading opportunities.

Similarly, at Doha in November 2001, Ministers recognized the particular vulnerability of the LDCs and committed to addressing their marginalization in international trade and improving their effective participation in the WTO system. The Declaration on TRIPS Agreement and Public Health, also adopted at Doha, instructed the Council for TRIPS to extend LDCs' transition period under TRIPS in respect of pharmaceutical products until 1 January 2016.

Likewise, in the Hong Kong Ministerial in 2005, the LDCs were promised duty-free and quota-free market access on 97 percent of tariff lines in developed countries as well as developing countries in a position to do so.

Despite the S&DT provisions as defined in various WTO Agreements and pledges and commitments made in different times, their implementation so far has not been effective. ■

Based on information available at www.wto.org and www.unctad.org.



Poor countries in global economy

Title: Trade, Growth and Poverty Reduction: Least Developed Countries, Landlocked Developing Countries and Small States in the Global Economic System
Author: T N Srinivasan
Publisher: Commonwealth Secretariat and Academic Foundation
ISBN: 978-0-85092-896-9

The least-developed countries (LDCs) and other poor countries have not been able to reap benefits from globalization. Why is this happening? In *Trade, Growth and Poverty Reduction: Least Developed Countries, Landlocked Developing Countries and Small States in the Global Economic System*, TN Srinivasan explores the links between trade, growth and poverty, explaining why LDCs and small, poor states are marginalized in the global economic system.

Srinivasan concludes that the primary constraints on strengthening the linkages between trade, growth and poverty are largely domestic and basically of political economy. While not denying that external constraints are absent or unimportant, he argues they are secondary to the domestic ones and removing them is a crucial step for maximizing trade liberalization benefits.

Terming trade preferences unwarranted, Srinivasan says the special and differential and "more favourable" treatment has been triply damaging—once directly, through enabling them to continue their costly import-substitution strategies; a second time by allowing developed countries to retain their own General Agreement on Tariffs and Trade (GATT)-inconsistent barriers (in textiles) against developing-country imports; and a third time by allowing industrialized countries to keep higher-than-average most-favoured-nation tariffs on goods of export interest to developing countries. The author believes that under the Doha Round of trade negotiations at the World Trade Organization (WTO), the LDCs should be given a longer time for meeting commitments but allowing them to retain higher trade barriers is counterproductive. He argues that by agreeing to the demands of developing countries for concessions in commitments and obligations, developed countries are able to avoid making any resource-transfer commitments.

Srinivasan argues that had developing countries participated "fully, vigorously and on equal terms" with developed countries in the GATT, and had they adopted an outward-oriented development strategy, they could have achieved far faster and better-distributed growth. The experiences of China, India and East Asian nations are cited as success stories. What is not mentioned, though, is that these countries largely grew and developed on their own terms and—particularly in the case of China and East Asian nations—did not reduce the role of the state to a bare minimum. Moreover, no explanation is offered as to why the reduction in poverty has not been as spectacular in India as in China.

At the theoretical level, the author points out the pitfall of using outcome-based criteria for classifying countries as the LDCs. He emphasizes that the development outcomes are the result of an interplay of endogenous and exogenous factors.

The issue of sovereignty inevitably comes up in the context of external support for poor countries. Srinivasan considers sovereignty "increasingly irrelevant" and advocates infringing sovereignty, if needed, in order to "help millions living in a poor state of development, with international agreement and proper safeguards against misuse". This is an open invitation to powerful nations to intervene in domestic policy-making of smaller, less powerful, poorer nations. He seems to ignore the fact that the nation state is not dead but alive and kicking, and powerful nation states are driving the globalization process.

While Srinivasan appears to be a neoliberal with absolute faith in the free workings of the market, some of his recommendations for multilateral institutions may find resonance with even his usual critics. He wants the World Bank to be reconstituted into a smaller institution to cater to only the needs of those developing countries that do not have access to world capital markets. He opposes the International Monetary Fund's intrusion into poverty alleviation; suggests that it confine itself to maintaining global financial stability; and calls for a reform in its voting system. He wants the WTO's capacity building efforts to be multidimensional and broader based.

However, his argument that WTO's "ultra legalistic" dispute settlement mechanism (DSM) penalizes the poorer members and recommendation for a reversion to the GATT system ignore the fact that the DSM makes the WTO distinctively better than the GATT. In a glaring omission, the author makes no more than a few passing references to landlocked developing countries (LLDCs) though the book' title implies an extensive treatment of LLDCs, which have their own special challenges and needs. ■

Roundtable on Road to Geneva

SAWTEE, together with Ministry of Commerce and Supplies, Government of Nepal, organized a Roundtable Discussion on Road to Geneva on 23 November in Kathmandu. The objective of the programme was to discuss the priorities of the least-developed countries (LDCs) of South Asia for the World Trade Organization (WTO) Ministerial to be held in Geneva from 30 November to 2 December. The event also discussed Nepal's priorities for the Ministerial.

There was a consensus that South Asian LDCs need to vigorously pursue the issues identified by the Dar Es Salaam Ministerial Declaration of the LDC trade ministers held in October.

Participants noted that although the forthcoming ministerial is not likely to be a negotiating forum, it will definitely provide a forum for moving forward the Doha Development Agenda, which has been passing through turbulent phase ever since it was launched in 2001. They agreed that multilateralism should be preferred over regionalism or bilateralism.

South Asian LDCs should join forces with other LDCs in demanding 100 percent duty-free and quota-free access to developed-country markets, participants said. Aid for trade is critical for helping LDCs overcome supply-side constraints, and such aid should be additional and predictable.

Since there is a possibility of preference erosion for the LDCs, they should ask developed countries to compensate through various trade and non-trade measures. The Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) should be compatible with the Convention on Biological Diversity (CBD), protecting traditional knowledge and genetic resources in developing and least-developed countries through a disclosure requirement. Though capacity-building measures and other issues like sanitary and phyto-sanitary and technical barriers to trade are important for export promotion, LDC governments will not be able to address them alone and it should be a joint effort of the government, the private sector and other stakeholders, including civil society.

More than 65 stakeholders, including government officials, researchers, academicians, media persons, and business leaders participated in the discussion. ■

A Hero of the Environment 2009

Syeda Rizwana Hasan

SYEDA Rizwana Hasan, Chief Executive of the Bangladesh Environmental Lawyers Association (BELA), a member institution of SAWTEE network, has been featured as one of the Heroes of the Environment 2009 by *Time* magazine.

It is in recognition of Hasan's struggle to bring better environmental and labour regulation to Bangladesh's 36 shipbreaking yards, where labourers face health hazards and deaths.

In 2003, Hasan petitioned Bangladesh's Supreme Court to certify that all ships arriving in the country for breaking were free of toxins. In March 2009, the court ordered the closure of all yards operating without government environmental clearance—in other words, all of them. The court also imposed new restrictions mandating that ships identified as carrying harmful chemicals be denied entry to Bangladesh; all ships allowed in now need to be "precleaned" for toxins.

The Supreme Court has since reneged on its ruling on noncompliant yards, a move that Hasan is fighting in appellate court *(Adapted from www.time.com)*. ■

Addressing Climate Change Issues in South Asia

South Asian Civil Society Consultation

SAWTEE, Oxfam Novib and Climate Change Action Network in South Asia (CANSA) organized a South Asia-level Civil Society Consultation for setting and disseminating a Trade, Climate Change and Food Security Agenda for global and regional negotiations on 9-11 September 2009 in Kathmandu. The event brought together a cross-section of 72 stakeholders who came up with a South Asian civil society declaration on trade, climate change and food security, containing demands at three levels—the United Nations Framework Convention on Climate Change, the World Trade Organization and the South Asian Association for Regional Cooperation.

Youth Summit on Climate Change

SAWTEE, collaborated with the Nepalese Youth for Climate Action, Clean Energy Nepal and several South Asian youth networks to organize the South Asian Youth Summit on Climate Change, held on 3-6 September in Dhulikhel, Nepal. The Summit, gathering more than 100 youth leaders, came up with a South Asian Youth Declaration on Climate Change. The declaration, among others, demands that Annex I Parties to the United Nations Framework Convention on Climate Change commit to emission reduction by 45 percent by 2020 and 90 percent by 2050 with base year 1990 and emission peaking no later than 2015.

Climate Change for Development

THE Institute of Policy Studies of Sri Lanka (IPS), together with the Ministry of Environment and Natural Resources, and Sri Lanka National Commission for United Nations Educational, Social and Cultural Organization (UNESCO), organized a workshop on Mainstreaming Climate Change for Sustainable Development in Sri Lanka on 19–21 August in Dambulla. The workshop was divided into six themes: science and economics of climate change adaptation; agriculture, plantations, forestry and wildlife; fisheries, aquatic resources and coastal sectors; urban development, infrastructure and disaster management; irrigation, water supply and drainage; and healthcare and diseases. The event identified issues that need urgent policy attention and prioritization for addressing climate change impacts in Sri Lanka. ■

India's Proposals on WTO Reforms

INDIA'S official communication to the World Trade Organization (WTO) with five proposals on systemic reforms in the WTO is timely and deserves active endorsements from other member countries, but needs more coherence in its contents, panelists at a seminar on the Indian proposals recommended on 21 November 2009 in New Delhi. The seminar was organized by Consumer Unity & Trust Society (CUTS) International, Jaipur and Friedrich Ebert Stiftung (FES).

The Indian communication has proposed setting up of a trade information system, revitalizing of WTO Committees, special legal provision of market access to the least-developed countries (LDCs) and setting of standards and monitoring of regional trade agreements.

These are open-ended proposals intended to provoke a debate, and on their own are vital for making the multilateral trading system equitable and just as well as achieve its development objectives.

The panel examined the practical difficulties and political dimensions involved in putting the proposals into practice and adjudged that garnering support for their implementation is next to impossible, considering the current impasse in multilateral trade talks.

Discussion on the proposals will not be a part of the official agenda of the Seventh Ministerial of the WTO, which is scheduled for 30 November–2 December in Geneva, because a few developing countries did not support them fearing that they may lead to the introduction of a weighted voting system. Concerns were also raised on whether talks on systemic reforms at this stage will further delay the long-awaited conclusion of the Doha Development Round. A book entitled, *Reforming the WTO: Developing Countries in the Doha Round* authored by Faizal Ismail and jointly published by CUTS and FES was released by Sharad Joshi, Member of Parliament. ■

WORLD FOOD DAY 2009

Securing Food and Farmers' Rights in Times of Crisis

IN order to mark World Food Day on 16 October 2009, SAWTEE, Local Initiatives for Biodiversity, Research and Development (LI-BIRD), National Alliance for Food Security in Nepal (NAFOS), and International Development Research Centre (IDRC), Canada organized a half-day national awareness forum Securing Food and Farmers' Rights in Times of Crisis in Kathmandu. Over 40 participants, including agricultural scientists, academics, policy makers, economists, civil society members, media persons and students, attended the event.

Years of neglect of the agriculture sector is a major reason behind food insecurity in Nepal and a pro-active intervention of the state in agriculture, together with the introduction and implementation of farmer-friendly plans and policies, is critical for reviving the moribund sector and addressing food insecurity, said participants of the programme. Calling for exclusive policies and laws on food security, participants stressed that the new constitution of Nepal must include right to food as a fundamental right with concrete directives to protect the interests and rights of poor, hungry, marginalized and vulnerable communities, and farmers. Based on the recommendations of a paper published by SAWTEE and LI-BIRD, which was released on the day, participants discussed that although the Interim Constitution of Nepal recognizes food sovereignty as a fundamental right, there are no concrete policy and institutional measures to operationalize the provision in the country's socio-economic context. Stating that the new constitution would do well to enshrine right to food as a fundamental right, some participants suggested the recognition of food sovereignty in the preamble or in the state's directive principles and policies.

It was pointed out that Nepal's food security situation has particularly worsened in the past three years, with the country suffering a series of adverse weather conditions and the state not being able to respond to such conditions. Participants felt that Nepal is already witnessing unpredictable climatic conditions in different regions. Discussing the impacts of climate change on agriculture, they called for increasing investments in research and breeding, and legal measures to protect farmers' rights. They also discussed why Nepal should promote participatory plant breeding and community seed banks. Surya Adhikari, a farmer-cum-breeder, called for farmers' real and effective participation in decision-making, and demanded that the new constitution guarantee farmers' rights over seed. ■

Nepal-India Trade Treaty

AS part of its regional initiatives on research, capacity building and advocacy on trade issues in South Asia, SAWTEE organized a discussion programme on the Revised Nepal-India Trade Treaty in Kathmandu on 6 November.

Trade experts, industrialists, academicians, policy makers and consumer rights activists, among others, discussed the strengths and weaknesses of the revised Treaty and recommended further actions for the government and the private sector.

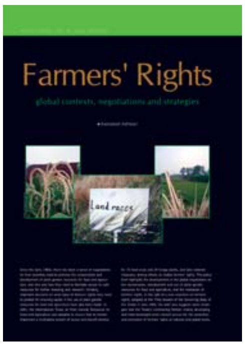
Participants also discussed the crucial role of the Nepal-India Trade Treaty in promoting regional cooperation in South Asia, and its relevance in the context of the Agreement on South Asian Free Trade Area (SAFTA). ■

Farmers' Rights and Seed Laws

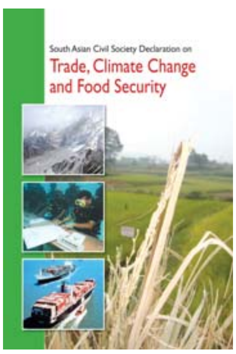
SAWTEE, Local Initiatives for Biodiversity, Research and Development (LI-BIRD), and Seed Quality Control Centre (SQCC), Ministry of Agriculture, Kathmandu organized a core group discussion on Seed Legislation and Roadmap for the Protection of Farmers' Rights on 25-26 August 2009 in Dhulikhel, Nepal.

Likewise, SAWTEE and LI-BIRD, together with Biotech Society of Nepal, organized a National Workshop on Biotechnology and Development Concerns in Nepal on 21 August in Kathmandu. International Development Research Centre (IDRC), Canada was a development partner for both of these events, which brought together more than 100 stakeholders. ■

Briefing Paper: Global Economic Crisis and South Asia
Author: Dr. Posh Raj Pandey
Publisher: SAWTEE



Policy Brief: Farmers' Rights: Global Contexts, Negotiations and Strategies
Author: Kamalesh Adhikari
Publisher: SAWTEE



Civil Society Declaration: Trade, Climate Change and Food Security
Adopted at: Gokarna Forest Resort, Kathmandu on 11 September 2009

SAWTEE
SOUTH ASIA WATCH ON TRADE, ECONOMICS & ENVIRONMENT

South Asia Watch on Trade, Economics & Environment (SAWTEE) is a regional network that operates through its secretariat in Kathmandu and 11 member institutions from five South Asian countries, namely Bangladesh, India, Nepal, Pakistan and Sri Lanka. The overall objective of SAWTEE is to build the capacity of concerned stakeholders in South Asia in the context of liberalization and globalization.

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