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EDITORIAL: EPAs Will Benefit Europe at the Cost of Both ACP and Latin American Countries

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South Bulletin: *Reflections and Foresights* takes stock of ongoing debates on major global policy challenges and delivers regular flow of analysis and commentary to policymakers in the South.

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Currently the African, Caribbean and Pacific (ACP) countries are locked in negotiations with the European Union (EU) for the so-called Economic Partnership Agreements (EPAs) as part of the implementation of the Cotonou Agreement that was signed in June 2000.

Initially, when the EPA negotiations began in 2001 there was going to be just one agreement. It was to be between the then 15 countries of Europe, and 76 of the ACP countries. Since then the EU has enlarged itself to 27 members still signing as one entity with full powers given to the European Commission (EC) to negotiate for all of them. The ACP countries in the meantime have allowed themselves to be fragmented into three regions (Africa, Caribbean and the Pacific); then, later, into six (Western Africa, Central Africa, Eastern Africa, Southern Africa, the Caribbean and the Pacific); and later still into several – in the case of Africa, into its almost total fragmentation. Finally, we now have, in many cases, bilateral agreements between one African country on one side and the European Community on the other – a veritable David and Goliath phenomenon. It is tempting to make the comparison with the Berlin Conference of 1884, when European imperial powers sat around a map of Africa and carved it out between them. However, there are two significant differences.

1. Africans are at the table, some of them signing asymmetrical agreements under compulsion of perceived circumstances that leave them, they believe, no other option.

2. In 1884, the European imperial powers were competing with one another for Africa's resources. Now Europe is united under one banner in competition with the United States, Japan and now with the emerging trading giants like India and China.

What does Europe want out of the EPAs? It wants primarily the following:

1. It wants to cement a historically created relationship euphemistically called "partnership" in order to ensure that it has competitive access to the raw materials of ACP countries, especially oil and minerals.

2. It wants to secure market access for European goods, but in particular market access for ser-

vices, such as financial services, communications and consultancies, especially if these can be tied with aid from Europe.

3. It wants a slice of the market in government procurement, which in some countries can be as much as 50 per cent of the national budget.

4. It wants opportunities for investment for European corporations in the ACP countries. And finally:

5. While it is losing out a competitive edge over supply of goods because of competition from countries like China, Europe wants to secure its market for its products protected by means of intellectual property (IP) rights.

The last item is crucially important for Europe. Why? Because, secured IP rights will provide the Europeans with a protected market in the ACP countries against "counterfeits" from China and the other emerging markets. Combine this with the vigorous efforts Europe is making to obtain SECURE – Standards Employed by Customs for Uniform Rights Enforcement—(a matter analysed in the 15th issue of the Bulletin and in the present issue). It is clear why the Europeans are in such a hurry to conclude the EPAs. The competition from China, India, Brazil and other so-called "emerging" economies is knocking at the door. Further delay would whittle away Europe's competitive edge in Africa.

What is the ACP getting in return? The promise of:

1. The continuation of a "secure" access to the European market in the hope perhaps that a revised formula of Rules of Origin would improve market entry; and

2. The guarantee of financial resources from the European Development Fund (EDF).

Both, in our view, are of dubious value. The competitiveness of ACP products in the EU market will come under increasing pressure as the EU concludes a series of Free Trade Agreements with other countries (India, ASEAN, Andean countries, Central American countries, etc.). Moreover, some non-ACP countries (such as those in Latin America) may resent what they will see as unfair discrimination against them. In solidarity with our

Editorial (continued)

Latin friends, we would agree that this is indeed unfair. One group of developing countries is pitted against another group of developing countries. It is difficult to escape the image of dogs fighting for the bone thrown in their middle.

As for the EDF, it will lose value because of the conditionalities attached to aid, including “tied aid”. Europe may chip in a bit more in the form of “Aid for Trade” (although there are serious doubts that it will), and in “trade facilitation” (so far an untouched subject in the negotiations). Besides, it seems now certain that the resources possibly available will in any event not match the costs that the implementation of and adjustment to these agreements will create.

As we analysed in an Analytical Note in February 2008 (SC/AN/TDP/EPA/13), there are several problems with the Interim EPAs, of which the following three are critical:

a) The EPAs are creating divisions among ACP regions to the extent of jeopardising regional economic integration. In fact, the Cotonou Agreement envisaged regional integration of the ACP countries *prior* to the EPAs. This apparently has been now reversed. Interim EPAs have established, perhaps in an irreversible manner, a **reverse sequencing** – preferences for Europe first, and only then for neighbouring countries in the region.

b) The concessions made within these agreements are greater - both in extent and scope - than those that would have been required to ensure their basic conformity with WTO norms.

c) Despite the controversy over the need to negotiate trade-related disciplines (e.g. Singapore issues) and trade in services, the interim agreements tie ACP countries to a detailed and intensive negotiating agenda on these issues.

We also pointed out in the Note that with the end of the December 2007 deadline (when the Doha Waiver on EPAs had lapsed) the issue of the waiver has become obsolete. There is no longer a need for the ACP countries to rush through the negotiations in 2008. Nonetheless, the ACP countries are being pressed to sign the EPAs. You do not need a nuclear physicist to say that the EPAs are totally asymmetrical and unfair.

Another article in this issue of the Bulletin raises the issue of the cost of the imposed EPA agreement on the development of the ACP countries. A study by the United Nations Economic Commission for Africa (UNECA) shows that African countries would stand to lose \$1.9bn in tariff revenue, and another study by the Commonwealth Secretariat estimates that over 10 years the ACP countries would need a of €9.2 billion in overall costs for a minimum level of restructuring adjustment. (See Dodd’s article in this Bulletin)

EPAs are too serious a matter to leave it to technical trade experts. Though important, the arguments cannot be reduced to mere technicalities. There is a larger political dimension that the political leaders of ACP countries and the EU should take seriously. This is the issue of equity and historical justice. Both the EU and the ACP countries have pushed this issue under the rug for the sake of peace and practicality. But in doing so, they are closing their eyes to

grave historical injustice done to the peoples of the ACP regions. Let us recall certain aspects of this historical legacy:

- A legacy of built-in structural “division of labour” based on the ACP countries providing human beings in the form of commodities, super-exploited wage labour, and grossly under priced natural resources. These were needed for the industrialisation of Europe from the 17th to the 20th centuries;
- A legacy of Europe’s “comparative advantage” in the manufactured products, equipment, services (such as shipping, insurance and banking) and IP products arising out of this historical division of labour;
- A legacy of the ensuing liberation struggle (from the end of the First World War to the liberation of South Africa in 1994), at enormous cost to especially people in Africa from which they have not yet fully recovered;
- And a legacy of the Cotonou and previous Agreements that cemented a colonial and asymmetrical relationship.

The people of Latin America are correct in challenging the EPAs for these are indeed discriminatory against them. Trade “preferences” must go, of course. They are an insult to the dignity of ACP peoples, who do not (should not) want to be treated as “less than equal”. But deeply embedded structured relationships created over 300 years of history cannot simply be broken in 50 or 60 years. They cannot be broken, in any case, until the erstwhile colonies have put in place a proper “exit strategy” from aid dependence – a project in which the South Centre is currently working. The people in Latin America should know that they and ACP countries are all in the same historical boat, and the voyage to the destination called “development” is not reached yet.

In the meantime, the question must be asked: who should bear the cost of the above historical legacy? It is a bigger question than simply the \$1.9bn in tariff revenue loss and the €9.2 billion in “adjustment costs”. It is a question of historical justice. We are of the view that the Europe Union has the responsibility to compensate the ACP countries for any losses they suffer as a result of a forcible adjustment to a new trade regime out of a historically created dependent relationship that Europe had created with their former colonies. This is not “development aid”. It is a requirement to rebalance rights and obligations towards a more honest partnership agreement. It is a moral and legitimate entitlement of the ACP countries.

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Liberalizing Food Trade to Death

By Shawn Hattingh

Introduction

Billions of people are struggling to afford food because of the huge disparities and inequalities that have been exacerbated by the current economic system – neo-liberal globalization. Over the last 30 years, almost all states across the world have adopted neo-liberal economic policies. These policies have favored giant corporations' interests over those of people and have enabled a handful of companies to gain a virtual monopoly over the human food chain. The poor, however, have suffered the consequences of neo-liberal policies: if people can't afford the prices these monopolistic companies charge, they don't get food.

The World Has Not Always Been This Way

Prior to the advent of neo-liberalism in the late 1970s, most governments assisted small-scale farmers within their borders, providing them with various forms of subsidies. For example, in Africa, Asia, and Latin America, various state-run entities were created to offer small-scale farmers assistance in the forms of research, cheap credit, marketing services, transport, and processing services.¹ Many states even subsidized the seeds, compost and equipment that small-scale farmers needed.² Third World states also applied high import tariffs on staple foods such as maize, potatoes, rice, beans, grain, and poultry,

to protect small- and medium-sized farmers from dumping and cheap imports. A number of states also played an active role during this period in helping small-scale farmers establish cooperatives. The result was that between 1950 and 1980, small- and medium-sized farmers met most of the food needs of their own countries. To help consumers, most governments also regulated the prices of agricultural goods and subsidized certain food products so that the poor would be able to afford them.³ With the advent of neo-liberal capitalism and free trade, however, this situation was turned on its head.

Hello Neo-liberalism; Goodbye Food Sovereignty

In the early 1980s, the US, International Monetary Fund (IMF), and the World Bank (WB) used the debt stranglehold that they had over many Third World countries to force them to adopt neo-liberal economic policies through Structural Adjustment Programs (SAP). This period saw most Third World governments being forced to sell off their public assets to multinational companies; allow foreign companies to move money in and out of their borders; end food

subsidies; create export-processing zones; smash workers' rights; dismantle environmental laws; and implement wage freezes. Under SAPs, almost all governments in Asia, Africa, and Latin America were also forced to reduce their import tariffs on agricultural goods, thereby creating new export markets for multinational companies. Linked to this, Third World states were required to dramatically reduce the subsidies that they offered to small-scale farmers,⁴ who were producing for domestic needs. Of course, the US and European countries continued to subsidize their own farmers, mostly agribusiness corporations, and also maintained high tariffs on selected agricultural products – those that their farmers were producing. The result was that by the mid-1980s

small-scale farmers in the South were being forced to compete with subsidized agricultural products flooding into their countries from the US and Europe.⁵

Although the IMF, the US, and the WB demanded that the Third World states end any form of assistance to small-scale farmers, they encouraged these same states to continue assisting agricultural corporations and large-scale farmers that were exporters. Third World states were pushed to grow export crops that were needed or desired in Europe and the US. For instance, Kenya was instructed to focus on growing flowers for export to Europe while Brazil was told to focus on soy beans for export to the US.⁶ Thus these states – along with the IMF, the WB, and agricultural multinationals – prioritized such ex-

port crops over food for domestic consumption.

As if the SAPs were not bad enough, almost all the states in the South became members of the World Trade Organization (WTO) when it was formed in 1995. In order to become members of the WTO, countries were required to become full signatories to the WTO's Agreement on Agriculture (AoA). The AoA was written by an ex-employee of one of the largest agricultural multinationals in the world, Cargill, and is highly beneficial to the US and the EU and their corporations. Specifically, the AoA stipulates that WTO members cannot impose quotas on agricultural imports, states that agricultural imports can be only controlled by tariffs,⁷ and requires all member states to reduce their import tariffs on agricultural goods. The idea behind this was to create more export opportunities for multinational companies, such as Cargill.

The Dire Consequences of Neo-liberalism

Up until a few years ago, free trade had led to low food prices internationally. More recently, subsidized agricultural products from the US and EU have flooded into the countries

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Liberalizing Food Trade to Death (continued)

of the South. Farmers involved in producing staple foods in the South, such as maize, beans, and grains, were especially hard hit. For example, maize farmers in the US have traditionally received massive subsidies, often to the tune of \$10 billion a year, which allowed them to export their produce to countries in the South at exceptionally low prices.⁸ Most small-scale farmers in the South, who no longer received subsidies under the SAPs, could not compete with the price of this imported maize.⁹ The outcome was that millions of small-scale maize farmers around the world have gone bankrupt. In Mexico alone, it has been estimated that as many as 5 million small-scale farmers and farm workers have been forced to leave their farms and move to the urban areas due to cheap imports flooding in from the US.¹⁰ As a result, millions upon millions of hectares of farm land has been abandoned in the South. The result has been that most countries in the South are no longer able to meet their own food needs; they have to import food from the US and the EU – which of course benefits multinational companies.

The advent of neo-liberalism and free trade has helped a small number of multinational companies gain a virtual monopoly over global food production, distribution, and sales. 6 corporations control 85% of the world trade in grain; 3 companies account for 83% of the trade in cocoa, and 3 corporations control 80% of the global trade in bananas.¹¹ Through this monopolization, multinationals are now able to control the prices of food products. This system has seen companies in the agricultural and food industries making massive profits. The performance of a number of corporations in 2007 highlights this point: last year Nestle posted a profit of \$9.7 billion¹²; Archer Daniels Midland (ADM) recorded a profit of \$3.1 billion; while Cargill raked in \$2.3 billion in profits.¹³ This all took place in a world where 850 million people are suffering from chronic malnutrition because they can't afford food.¹⁴

These two companies also used Uruguay and South Africa as bases to export regionally into Mercosur and SADC. In doing so, they gained complete dominance over these markets.

The biggest multinational companies have also been buying massive tracts of land in Brazil, Argentina, Paraguay, and Bolivia as small-scale farmers leave their land due to neo-liberalism. These countries have been at the heart of the massive, and ever expanding, soy industry. In Brazil alone, soy plantations – mostly owned by multinationals – expanded from only 705 hectares in 1940 to 18 million

hectares in 2003. Most of the soy from these plantations does not go towards meeting the food needs of the people in these countries; it is rather exported to the US and the EU as animal feed for cattle. Indeed, the reality is that there is not a shortage of food. Rather, food is literally being taken away from the poor to feed cattle and wealthier consumers.¹⁵

Another factor that has been driving up food prices has been the emergence of the biofuel industry, which neo-liberal policies and policy makers have promoted. Recently, huge maize, soy, and palm oil plantations in Africa, Asia, and Latin America have shifted away from producing these products for animal feed to producing them for biofuel for the US and the EU. Even in the US it has been estimated that as much as 25% of maize produced in 2007 was being used to produce

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biofuels.¹⁶ Many of the maize, palm oil, and soy biofuel plantations in the South are on land that used to be owned by small-scale farmers who were producing food for local needs. Added to this, vast forest areas have been cleared in countries such as Brazil and Paraguay to raise new plantations. Essentially, the environment in the South is being destroyed and millions of people are going hungry because of the demand for biofuels in the US and the EU.

With the advent of neo-liberalism, the global food market has been completely deregulated. Before the 1980s, countries around the world controlled the price of food to ensure that it was more or less stable. To do so, countries built up massive food reserves. When prices were high, countries sold off some of their food reserves to bring prices down. When prices were low, countries bought food for their reserves in order to stabilize prices. Since the 1980s, this system has been dismantled. Countries have run down their reserves and have let the price of food products float according to supply and demand in the global market. Internationally, the food commodity prices are determined by companies and speculators through trade. Recently, due to the sub-prime crisis, speculators and investors have shifted their money into these commodity exchange markets, seeing a chance to make massive profits out of speculating on food commodities. Sensing this, and knowing that countries' food reserves were depleted, large corporate traders started withholding supply over the last few months in the hopes of higher prices in the future, whilst playing off currency differentials. In response, investors started buying grain futures in the hope of making profits, which drove prices even higher. The consequence has been that the price of maize tripled in the last two years.¹⁷ Of course, corporations and speculators are profiteering from the higher prices; while people around the world stare starvation in the face.

Liberalizing Food Trade to Death (continued)

The Elite's Solution

The WTO, the IMF, the WB, the US, and the EU have proposed several solutions to the current food crisis. The main solution that they have offered is further trade liberalization. Thus, they have proposed that the remaining protective barriers that countries have, in the form of tariffs, be completely dismantled. This, we are told, will drive down food prices. Such a drive for further liberalization reveals the callousness of the neo-liberal ideologues in charge of the US, the EU, and the international institutions they control. Seeking to tout further trade liberalization as a cure to the current crisis is simply malicious considering that free trade is actually the cause of the problem.

The growth of the GM sector will simply increase the already substantial power of multinational corporations at the expense of the peoples of the world.

The People's Solution

In Latin America, a number of states with progressive governments, such as Venezuela, Bolivia, and Nicaragua, have tried to address the food crisis through breaking with the dictates of neo-liberalism. These countries, along with Cuba, have attempted to establish a viable regional alternative to free trade in the form of the Bolivarian Alternatives for the America's (ALBA). Through ALBA, these states have created 5 major agricultural projects that are producing soy beans, rice, poultry, and dairy products.

The goal of these projects is to guarantee food security in the ALBA member states. In fact, Venezuela has used these projects to provide free or subsidized food to millions of people.¹⁸ It has also redistributed 2 million hectares of land to small-scale farmers. Linked to this, the Venezuelan state has increased its spending on agricultural production by 728% over the last three years. More recently, the ALBA states launched a \$100-million fund for staple foods such as maize and rice to ease the impact of the recent food price hikes on the poor in these countries. To avoid private speculators, these states agreed to establish a public food distribution network and to regulate the price of food.¹⁹ Unfortunately, the vast majority of other states in the South, which do not have progressive governments, have largely failed to take similar steps for the benefit of their populations. In these countries, it seems that people themselves are going to have to take action on a massive scale if they are going to avoid chronic food shortages and malnutrition.

The recent protests that have erupted across the world are a sign that people have indeed started to take action to change their own lives and gain access to food. The poor of

the world, as consumers, are rising up and demanding their right to food and the dignity that accompanies it. This struggle, however, is not new. Movements for the right to food have existed for decades. The latest bout of protests, however, point towards the fact that the struggle for food may become more widespread and intense.

The aforementioned movements' struggles have also been a fight to create alternative economies, outside of capitalism. Indeed, these struggles have clearly articulated that the right to food for everyone cannot be achieved through capitalism. Such an understanding has seen movements such as the Zapatistas²⁰ and MST²¹ invading the land in the Chiapas and areas of Brazil. On this land, these movements have established cooperatives and collectives to meet people's food needs. Through this, they have created their own

economies based on democracy, solidarity, and equality. They have also established alternative trade networks to improve the lives of the people. In the urban areas of Argentina, movements such as the Piqueteros have also invaded land and established urban farms. Along with this, they have created their own neighborhood kitchens to ensure that all the people in these areas are fed.²² The idea behind these actions has been to prioritize local production to meet needs locally outside of the global, corporate controlled economy.

If hundreds of millions of people are to avoid starvation in the coming months, it seems that the actions of these movements will

need to be adopted and adapted by people across the world. The power of corporations to control the food chain needs to be broken, and only the people can do that. Indeed, only the people through their own actions can create a world of freedom, democracy, dignity, and equality — a world where people don't starve if they don't have money.

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“Seeking to tout further trade liberalization as a cure to the current crisis is simply malicious considering that free trade is actually the cause of the problem.”

Lessons From the Food Crisis: Patchwork Will Not Mend Our Vulnerable System

By Viviana Muñoz Tellez

In response to the global food crisis, world leaders around the globe are making pledges for rapid action. New commitments are embodied in the recent Declaration of the High-level conference on World Food Security convened by the Food and Agriculture Organization (FAO) of the United Nations in Rome from June 3 to 5, 2008. Governments are rightly focusing on implementing short-term measures to muffle the immediate effects of the dramatic upward surge in commodity prices, particularly on the most vulnerable populations. However, addressing the root causes of the crisis requires a thorough appraisal of the global industrial agri-food system and concerted, long-term commitment to reforms aimed at ensuring global food security. This should include a critical examination of the growing use of intellectual property rights in the agri-food sector and its impact on local markets and farmers in developing countries.

The Current Food Crisis

The world is experiencing an unprecedented food crisis. Dramatic hikes in global prices for food are inflating domestic prices of basic staples, such as bread, maize and rice. According to the World Bank, overall global food prices have increased by 83% in the 36 months leading up to February 2008. This in turn is aggravating poverty and malnutrition in developing countries. Food comprises a larger part of the consumption basket of low-income households in developing countries, and thus the poor are more vulnerable to rising food prices. The effect is greater on the poor in countries that depend on food imports from foreign markets, where there is no domestic supply to meet the local demand. Safety nets and social protection is weak or non-existent in countries where they are needed the most. Food exporting countries that would generally benefit from higher international prices are also hit by the sudden upsurge and are responding with a mix of measures, such as introducing import restrictions, setting domestic price ceiling and keeping food stocks in the fear of local food shortages.

An underlying question is how did we get to this point? Why were we not prepared? Analysts point to numerous factors as causes of the aggravating food crisis, including growing global demand, biofuel production, speculation on food markets and rising oil prices. However, if governments are serious about finding solutions for the long term they need to seriously reflect on the structural underpinnings of the crisis rather than turn a blind eye. This is ever more important in light of the strong linkages between food security, climate change and bioenergy. The blame game amongst governments can only go so far.

The State of the Global Food System

So what is the current state of our global food system? Agri-food markets have turned global. All the different activities in the

agro-business value chain- from the supply of inputs, to production, processing and delivery- can be undertaken separately around the globe. One of the problems arising from the current system is the growing concentration of few dominating companies at all stages of agri-food value chains. Concentration means less market power for smaller suppliers, buyers and retailers. The increasing scope and complexity of food standards, particularly those to related food safety, further complicate entry to global food markets. At the same time, many developing countries have made export growth the priority of their agricultural sector and opened up their domestic food markets to global competition. The benefits of commodity export-led growth have been mixed; some countries have been

able to diversify export production and increase participation in higher value-added activities in the agri-food value-chain but others are worst off. Some countries are meeting domestic demand for food despite import surges and growing participation of transnational companies in the local agri-food market. Others that previously were food sufficient are now net importing countries.

Expanding Monopoly Rights

The intellectual property system today has become central to the functioning of the agri-food sector. This was not the case only a century ago. Intellectual property rights are

legal rights granted by the State that allow a right owner to exclude for a certain period of time (in most cases) anyone from making a use of his/her invention or creation. The scope of intellectual property rights has expanded in time and today they take many forms, including patents, copyright, plant breeders rights (PBRs), trademarks, trade secrets, geographical indications, etc. It is assumed that in the absence of these rewards, overall innovative and creative activity would be diminished.

Innovation in agriculture has changed dramatically. While in the past agricultural biodiversity and crop improvement lay in the hands of farmers and indigenous peoples on their own land, today the industrial farming model has taken over (Dutfield 2008). Historically, farmers produced, selected and improved plant varieties through traditional methods. As commercial interests in agriculture and food grew, the private sector displaced public sector as lead investor in agricultural research. Private enterprises seeking to reap market benefits of applying new technology, such as genetic engineering to agriculture, pressed for the extension of intellectual property rights, particularly patents and PBRs, to agriculture. Though many countries have withstood pressure to grant patents related to plants and animals, patents on genes on plants are nonetheless proliferating. Risks associated with such patent activity include loss of agricultural biodiversity, environmental, and health safety risks. Yet the most direct, devastating ef-

“The alarming level of concentration of private commercial enterprises in the input supply side of the agri-food system is related to intellectual property rights.”

Lessons From the Food Crisis (continued)

fects are on small-scale farmers. Patents, and to a lesser extent PBRs, increase the cost of seeds and fertilizers and restrict the ability of farmers to save, reuse and sell seeds.

International Rules

The historical role and contribution of farmers in relation to innovation and conservation of plant genetic resources, and their right to save, exchange and sell seeds is not rightfully recognized in the current international regulatory framework. Treaties, such as the Trade Related Aspects of Intellectual Property Rights (TRIPS) of the World Trade Organization (WTO), and the International Convention for the Protection of New Varieties of Plants (UPOV 1991) do not effectively promote or guarantee farmers' rights. The TRIPS Agreement allows countries to exclude plants and animals from patentability, but requires countries to protect new plant varieties by either patents, or an effective sui generis system or by a combination of the two. TRIPS makes no mention of farmers' rights. The UPOV, built around PBRs is the prevailing sui generis model of plant variety protection. UPOV seeks to ensure that patent holders do not block access to plant genetic resources so that breeders can freely access these resources for the purpose of propagating new plant varieties through a 'breeders exemption'. In UPOV 1991 it is up to governments to decide whether they wish to uphold farmers' rights at the national level, which is limited only to the use of saved seed on the same farm, not the exchange or sale of the seed. Most developing countries have not adopted national legislation providing for farmers' rights, yet they have implemented UPOV 1978 or the more restrictive version 1991. One notable exception is India, which enacted the Protection of Plant Variety and Farmers' Rights Act in 2001.

A different approach to the TRIPS and UPOV model for agri-food innovation was adopted in the FAO International Treaty on Plant Genetic Resources for Food and Agriculture (ITGRFA) that came into force in 2001. The treaty seeks to establish a plant genetic resource commons in light of the interdependence of countries on certain genetic resources essential for food and agriculture. Access to the pool is free, if anyone develops a product using material from the pool, they cannot claim intellectual property rights over it and must share in the benefits of its sales. Farmers' rights are explicitly recognized and measures to realize these are promoted, yet their implementation is again left to national governments. Unfortunately, members of the ITGRFA have yet to make the necessary financial contributions to ensure the proper functioning of the system.

Concentration in Agri-food Supply Chains

The alarming level of concentration of private commercial enterprises in the input supply side of the agri-food system is related to intellectual property rights. The seed and agrochemical fertilizer sector is now dominated by a handful of

multinational companies whose profits in the present food crisis have risen exponentially. For example, revenues for Cargill, one of the largest players in the agri-food business, increased over 36% in the 2006-2007 period (GRAIN 2008). By merging and acquiring smaller players in the seed sector, dominant companies are able to further increase their dominant position and acquire greater control over intellectual property protected seeds and fertilizers. An added problem is lax requirements for obtaining a patent for plant materials in countries that allow them, such as the United States (US). An example of the complexities is the case of the Enola bean. A patent was erroneously granted for 20 years to a US national over a yellow bean common in Latin America who claimed to have developed a new field bean variety. It took a regional research centre eight years to defeat the case, and the patent owner can still appeal the case through the US federal court system.

"Sustainable agriculture for domestic food security, meeting the needs of local markets and supporting local farmers must be prioritized."

If not managed appropriately, the linkage between climate change and intellectual property rights threatens to devastate the food system further. Troubling signs of what is to come ahead is the current moves by seed and agrochemical companies to file a number of patents on what are called "climate-ready" genes (ETC 2008).

Thinking Long-Term

There is a real need for new technology and investment in innovation to increase agricultural production in developing countries and to ensure that farmers have access to basic agricultural inputs, particularly seeds. However, caution must be observed in the policies that are implemented towards achieving these goals. Sustainable agriculture for domestic food security, meeting the needs of local markets and supporting local farmers must be prioritized. The limits of the industry-led agri-food market must be recognized and more than short-term buffers for the poor must be put in place. Seed aid and provision of fertilizer is rightly being advocated as an immediate answer to the current food crisis but in the medium-long term it is not a solution for seed security and may create more problems than it solves, such as distorting farmers local seed systems (Sperling et al 2008).

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ALBA, PETROCARIBE, and CARICOM: Issues in a New Dynamic (Part 1)

By Norman Girvan

The growth of relations between several Caricom states and the Venezuelan-promoted ALBA and Petrocaribe initiatives is one of the most significant recent developments in regional affairs. An immediate issue that has arisen is whether membership of ALBA might conflict with the obligations of membership of Caricom itself. There are also larger issues of a strategic nature for Caricom. They are related to the need for diversification of economic relations in the light of global economic restructuring; pursuit of opportunities for new modalities of South-South cooperation that are more advantageous to the region than the standard features of North-South arrangements; and the scope for a coordinated external trade policy by the Community. Indeed although ideology and hemispheric geo-politics do come into play with ALBA and Petrocaribe; it seems important for the issues to be framed within a regional optic rather than within one determined by Washington.

We argue here that ALBA, though possessing its own special characteristics; should be seen as one manifestation of a process of reconfiguration in the world political economy; a process marked by a relative decline in U.S. power and the emergence of new geo-economic poles of influence. The rise of Asia, and in particular China and India, is among the most significant of the changes; as is the emergence of other regional powers in the Global South including South Africa, Brazil and Venezuela. One notable consequence is the waning ability of the United States to control the course of events in Latin America and the Caribbean. Hence, according to a recent report published by the Washington-based Council on Foreign Relations, 'the era of US hegemony (in the region) is over'.

The signs of this shift are everywhere. The FTAA process was aborted due to Brazilian opposition to the terms on which Washington had framed the negotiations; governments opposed to the neo-liberal 'Washington Consensus' have come to power in several countries; the Cuban Revolution is about to celebrate its 50th anniversary in spite of Washington's obsession with regime change in that country; the Bolivarian Revolution in Venezuela continues apace in spite of Washington's antagonism; and the traditional Washington-dominated sources of development cooperation are being overshadowed by Southern-

controlled institutions centred on Venezuela and Brazil. Continentally, a South American Union (UNASUR) is being constructed under Brazilian leadership. These developments form an important backdrop to a consideration of the role and significance of ALBA and of Caricom's relationship with the grouping.

In this paper we examine the nature of ALBA's mission and programme, focusing on the kind of cooperation arrangements that are likely to be of particular interest to Caricom countries. Hence, we review the scope and magnitude of its financial cooperation, the existence of non-reciprocity, the

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scope of social cooperation, the role of Petrocaribe and the recent incorporation of food security into the ALBA cooperation programme. We discuss the content of ALBA agreements from the point of view of the treaty obligations of Caricom members; and conclude that there is no inherent incompatibility between them. We go on to point to the potential economic and political vulnerabilities from participation in ALBA and Petrocaribe; and suggest how these might be mitigated. We point to the value of coordinated Caricom policies on ALBA and other external economic relations and also discuss the difficulties of agreement on these issues in a Community with divergent interests among its members. There is a short concluding section.

The ALBA Mission

ALBA—the Bolivarian Alternative for the Americas—presents itself as an integration scheme that is an alternative to the U.S.-sponsored neo-liberal model of economic integration based on trade and investment liberalization. ALBA claims to put the basic needs of the population and the reduction of poverty above private profits and the rights of private investors. The guiding principles of ALBA integration are said to be solidarity, complementarity, compensatory financing for the treatment of asymmetries, and differentiated treatment of countries according to their circumstances. In practice ALBA's cooperation has consisted mostly of (i) concessional financing for the relief of energy import bills, for state-owned industries, and for physical and social infrastructure, (ii) support for projects in health and education that directly benefit the poor; and (iii) non-reciprocal trading arrangements.

ALBA, PETROCARIBE, and CARICOM (continued)

Box 1: ALBA principles and 'rules'

As set out in Joint Statement (Venezuela-Cuba) for the Creation of ALBA, 14/12/2004,

1. Trade and investment to be instruments of fair and sustainable development with effective participation of the State.
 2. Special and differentiated treatment for participating countries according to their level of development and size
 3. Economic complementarity and cooperation between countries to preserve efficient and productive specialization and balanced economic development
 4. Cooperation and solidarity for a Continental fight against illiteracy provide free healthcare and a scholarship programme.
 5. Creation of a Social Emergency Fund
 6. Integrated development of communications and transport
 7. Protection of the environment
 8. Energy integration
 9. Promotion of intra-Latin American Investment through a Latin American Investment Bank, a Bank of Development of the South and a Latin American Society of Reciprocal Guarantees
 10. Defense of cultural identity: creation of TELESUR.
 11. Intellectual Property Rights to protect the patrimony of the region while not becoming an obstacle to cooperation
 12. Harmonization of positions in multilateral fora, including democratization of international organizations particularly the United Nations system.
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ALBA has grown significantly since it was launched by Venezuela and Cuba in December 2004. Bolivia, Nicaragua and Dominica have acceded; and St. Vincent and the Grenadines and Antigua and Barbuda have signed statements of support. The 6th ALBA Summit in January 2008 was attended by the leaders of twelve countries, including nine from the Greater Caribbean and five Caricom member states. According to the Venezuelan Ministry of Integration and Foreign Trade, the main initiatives of 'Caribbean ALBA' are:

- a) The fight against poverty and social exclusion
- b) Joint Plan for food security
- c) Power and mining development for the development of joint production chains
- d) Portfolio of integrated investments
- e) Academic and cultural exchange
- f) Tourism—cooperation in human resource development, air transport, and other areas

- g) Environmental conservation
- h) Caribbean regional market—intra-regional trade
- i) Prevention and management of natural disasters

ALBA Financial Cooperation

Financial cooperation is an important element of ALBA. Hence, there was a Venezuelan commitment of \$100 million to Bolivia on the latter's joining and an additional \$30 million for infrastructure projects. Two major new developments are the ALBA Caribe Fund and the ALBA Bank. The ALBA Caribe Fund was created within the Petrocaribe framework specifically for ALBA participating countries. Reportedly 25 percent of the bill for imports of crude oil from Venezuela is credited to this Fund, whose purpose is to fight poverty by financing social and economic programmes. Information on the amount accruing to this fund and the level of disbursements is not available. Given the steep increases in oil prices, the fund is likely to grow rapidly.

Establishment of the ALBA Bank (BALBA) was agreed between Bolivia, Cuba, Nicaragua and Venezuela in June of 2007 and the Bank was formally launched in 2008. Its objectives are to support sustainable social and economic development, reduce poverty and strengthen integration. BALBA will have an authorized capital of \$2 billion and will start with subscribed capital of \$1 billion.

Non-reciprocity in ALBA

Non-reciprocity and compensated trade (i.e. through direct product exchanges) are two ways in which the principles of fair trade and special and differentiated treatment are applied in ALBA. Furthermore, trade agreements are negotiated on a case-by-case basis, allowing for flexibility of commitment according to country circumstances. These principles are broadly applied: for instance, some non-reciprocal features of the Cuba-Venezuela agreements actually favour Venezuela, even though it may be considered the 'more developed' member.

Hence, Cuba agreed to grant duty-free access to Venezuelan imports and to remove non-tariff barriers; while in return Venezuela has agreed to eliminate only non-tariff barriers on Cuban imports. Such non-reciprocity is in recognition of the fact that "Venezuela is a member of international institutions that Cuba does not belong to, all of which must be taken into consideration when applying the principle of reciprocity in the commercial and financial arrangements that are made between the two countries". Similarly, Bolivia has been granted duty free access to Cuba and Venezuela and elimination of non-tariff barriers on its exports without undertaking the same obligation in return.

In payment arrangements, there is provision for payment-

ALBA, PETROCARIBE, and CARICOM (continued)

in-kind for oil imports from Venezuela ('compensated trade') and for Reciprocal Credit Arrangements; both being contained in the Venezuela-Cuba Agreement.

Non-reciprocity in payment obligations also applies: Bolivia can pay for Cuban imports with Bolivian products, with the national currency of Bolivia or other mutually agreed currencies; but is not obliged to grant a reciprocal facility to Cuba. Venezuela has been granted the same facility in paying for Cuban imports, without reciprocity from Venezuela. In the Caribbean, Dominica is allowed to pay for 40 percent of its Petrocaribe oil imports with exports of bananas.

Non-reciprocity, however, is not always a good thing. There is the danger that Caricom will come to be seen, and will come to see itself, as a 'free-loader' in its external relations. It is in the interest of the Community to identify ways in which can assist other ALBA participating countries. English language training and tourism-related training are two areas that come to mind. Caricom could also seek to establish its own technical assistance and volunteer programmes for service in other developing countries, not restricted to ALBA. Thus non-reciprocity can, and should, be reciprocated.

Social cooperation

Cooperation in health and education are major elements in ALBA. Here Cuba's considerable human resource capabilities in these sectors come into play.

Hence, it is reported that some 30,000 doctors are providing free services to the poor throughout Latin America and the Caribbean; 70,000 students are receiving training as health professionals; over two million have been made literate and 600,000 people have 'had their sight restored via Operation Miracle and free surgical operations'.

ALBA agreements provide for 2000 Cuban scholarships per year for Venezuela and 5000 Cuban medical scholarships for Bolivia. Bolivia is reportedly benefiting from 600 Cuban medical specialists and Venezuela has 15,000 Cuban medical professionals working in its *Barrio Adentro* Mission.

In the case of Dominica, over 100 students from that country are reportedly attending Cuban medical and nursing schools and approximately 75 Dominican students are in other Cuban schools. It is reported that 'about 2,000 Venezuelan and Cuban scholarships are available to qualified Dominican students in computer science, medicine, engineering, sports, physics, math, and agriculture'. Several hundred visually impaired Dominicans are said to have had their sight restored in either Cuba or Venezuela through

Operation Miracle.

Petrocaribe

Petrocaribe was initiated in June 2005 as an extension of the Caracas Energy Accord of 2001. As such the facility predates ALBA and, as it is available to 16 countries in the Greater Caribbean; it is not tied to ALBA accession. However, ALBA countries appear to derive an extra benefit from Petrocaribe (see below). Petrocaribe finances a portion of the value of imports of crude oil from Venezuela according to a sliding scale: above \$30 per barrel, 25 per cent; at above \$40, 30 per cent; above \$50, 40 per cent; above \$100, 50

per cent. The balance is payable over 25 years at 2 percent, falling to 1 percent at prices above \$40/bl., with a grace period for repayment of 2 years.

As the price of oil on world markets has grown, so has the value of Petrocaribe loans to importing countries. One consequence is that Petrocaribe has become the largest single source of concessional finance to the Caribbean region. Hence, Petrocaribe credits to importing countries from June 2005 to December 2007 amounted to \$1.17 billion and are expected to reach \$4.5 billion by 2010. This is \$468 million/year in 2005-2007 rising to \$1.1 billion in 2008-2010. By comparison, U.S. Foreign Assistance to

the Caribbean region for Fiscal Years 2005-2007 is estimated at \$340 million/year, \$149 million/year excluding Haiti. In the case of the Inter-American Development Bank, disbursements to the 16 Petrocaribe participating countries in Fiscal Year 2008 amounted to \$100 million; which is less than one-quarter of the Petrocaribe average lending for 2005-2008.

For Caricom countries, the shift in the relative importance of sources of concessional finance is no less marked. Jamaica alone benefited from Petrocaribe lending to the tune of \$471 million to the end of March 2008; while US assistance to Jamaica in Fiscal Years 2005-2007 amounted to \$58 million; i.e. less than one-eighth as much in a comparable period. For the Eastern Caribbean and Suriname, the value of Petrocaribe credit is estimated at between \$180-\$360 million/year, compared to US assistance in FYs 2005-2007 totalling approximately \$15 million. IADB disbursements to all of Caricom in 2007 amounted to \$43 million, clearly a fraction of the Petrocaribe total. Petrocaribe also exceeds the EU's Regional Indicative Programme for Cariforum countries by a wide margin: the 10th replenishment of the European Development Fund (EDF) is programmed at EU165 million (approximately US\$255 million) or \$45 million/year.

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ALBA, PETROCARIBE, and CARICOM (continued)

Since the beginning of 2008 the skyrocketing price of oil on world markets has considerably enhanced the strategic role of the Petrocaribe facility. At current rates of importation (72 million barrels/year) each dollar rise in the oil price adds \$72 million/year to the oil bill of importing countries. By reference to a base price of \$30/barrel, the recent world market price of \$135/barrel represents an addition of \$7.6 billion/year to the oil bill of the 16 importing countries. Between 25 and 50 percent could be financed by Petrocaribe credits.

Access to Petrocaribe is not conditional on accession to ALBA. However Petrocaribe shares many elements in common with ALBA, including compensation for asymmetries and the financing of poverty reduction and of the state sector. In Venezuelan eyes, Petrocaribe and ALBA are expressions of a Bolivarian vision that includes other initiatives such as PetroAndina, PetroSur, Telesur, and the South Bank, which has an authorized capital of \$7 billion.

ALBA countries plus Haiti also reportedly derive an extra benefit from Petrocaribe. In this instance Petrocaribe extends 90 days credit for payment of 50 percent of the value of oil shipments, and part payment may be made through product exchange. For the balance, 25 percent of the import bill is extended as a direct credit to the government of the importing country and 25 percent is paid into the ALBA Caribe Fund administered by PDVSA for social and economic projects within the importing country. The ALBA Caribe fund is a new institutional development within the ALBA Caribbean landscape and is destined to become a major player in regional financing.

Food security

An Extraordinary Summit of ALBA held on April 26-27 2008 addressed the issue of rising food prices and food shortages affecting the region. The leaders of Bolivia, Cuba, Nica-

ragua and Venezuela agreed to create the ALBA Network of Food Trade and the ALBA Food Security Fund with an initial investment of \$100 million. They also approved the creation of a Commission comprising the Agriculture and Forestry Ministers of the countries with the objective of organising joint productive projects and agro industrial development in cereals, leguminous and oleaginous plants, meat and milk. The Extraordinary Summit also declared its support for the President of Bolivia in the midst of attempts to destabilize his administration.

“ALBA and Petrocaribe are major new sources of balance of payments relief in the face of rising oil prices, of financial assistance for government budgets and badly needed physical infrastructure, and of technical cooperation in the provision of social services and human resource development.”

In short, ALBA and Petrocaribe are significant developments in the hemispheric geo-economic and geo-political landscape. Caricom countries cannot afford to ignore these developments; indeed they are already strongly engaged on a bilateral basis. ALBA and Petrocaribe are major new sources of balance of payments relief in the face of rising oil prices, of financial assistance for government budgets and badly needed physical infrastructure, and of technical cooperation in the provision of social services and human resource development. They have proven to be proactive in the face of new developments such as rising food prices. They are low-conditionality and involve a considerably lower degree of intrusion into domestic policies in scope and depth, than the funding from traditional donors.

The issues and risks involved in ALBA association will be taken up in the second half of this article in the next edition of the South Bulletin along with the endnotes for this article.

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Real and Hidden Costs of Economic Partnership Agreements

By Liz Dodd

The European Commission (EC) has generally downplayed the costs involved in the implementation of Economic Partnership Agreements (EPAs), preferring to focus on the supposed benefits. This short paper summarises the potential fiscal costs of EPAs resulting from loss of customs revenue and adjustment costs associated with transition to a new trade regime. It does not attempt to assess the value of trade creation or diversion associated with the trade liberalisation aspects of EPAs.

Although it is difficult to accurately forecast what these fiscal costs will be, as negotiations in countries and regions continue, research to date suggests some of the costs are likely to be substantial, front loaded and threaten to divert resources from other government programmes. The paper briefly outlines why it would be unwise for ACP countries to rely on either aid from the EU or tax reform to adequately cover these losses.ⁱ

Revenue loss

For governments whose revenue is heavily dependent on import tariffs, the reduction of tariffs on as much as up to 80-90% or more of imports from the EU (as in some of the agreements initialled so far) will represent a substantial loss of public revenue. Customs revenues in Sub-Saharan Africa are significant, for example amounting to 27% of public revenues in 1995.ⁱⁱ

Given that the EU is still the biggest trading partner for most African countries the reliance of these countries on public revenue generated through taxing European imports is very high, therefore the dismantlement of import tariffs under EPAs will result into significant revenue shortfalls for African governments. A UNECA study on the revenue implications of EPAs on African regions warns that *'revenue forgone is likely to have negative impacts on other government programmes'* and that *'if no appropriate measures are put in place to forestall the macroeconomic imbalances that are likely to result from the falling revenues (EPAs) will have the possibility of undermining development objectives of the African countries'*.ⁱⁱⁱ

The revenue implications of EPA are understandably gaining some serious concern among African countries, especially as these will be hard felt by governments struggling to achieve the Millennium Development Goals (MDGs).

Although it is difficult to put figures on the potential revenue losses, a UNECA study has put the revenue implications of EPAs at around \$1.9 billion for all Africa countries.^{iv} An initial assessment by ODI/ECDPM for only thirteen of those African countries that have initialled interim agreements puts the revenue lost at \$684 million.^v These losses are likely to happen very rapidly and therefore cause serious fiscal shocks.

The UNECA study notes that losses are likely to be higher for larger economies who import more goods from the EU. For example the estimated liberalisation would have cost Nigeria up to \$426 million in foregone customs revenue. Even for smaller economies the losses could be substantial relative to government budgets. Cote d'Ivoire stands to lose as much as \$139 million as a result of its agreement.^{vi} This is equivalent to current health care for four million people. For Ghana much of the revenue loss could be front loaded, ODI/ECDPM comment *"the revenue impact of the EPA liberalisation is likely to be severe since significant new revenue must be found within ten years."* Even an LDC such as Mozambique stands to lose \$10 million and the vast majority of this almost immediately. This could provide healthcare for three quarters of a million people and will have significant implications for both the current account and the state deficit of a country already heavily dependent on external aid.^{vii}

Adjustment costs

Research by the Commonwealth Secretariat estimates that the overall costs for a minimum level of restructuring adjustment support required by ACP countries is €9.2 billion over 10 years.^{viii} The study identifies four main areas where ACP countries will need support with adjustment costs. These include:

- costs incurred by fiscal reform, made necessary by loss of government revenue due to removal of tariffs;
- trade facilitation and export diversification costs;
- production and employment adjustment programmes;
- skills development and productivity enhancement support programmes.

How will these costs be covered?

EPAs bring no additional financing to deal with these costs. As Louis Michel, the European Development Commissioner, recently made clear:

"As far as the Commission is concerned, there will be no further financing."^{ix}

Aid?

The EC says that aid to cover the costs of implementing and adjusting to EPAs will come from the 10th EDF which has €23 billion pledged for the period 2008-2013. However, before consideration of any EPA related needs, it was estimated that €21.3 billion was needed to fund the costs of the existing aid portfolio and maintain EU contributions at 0.38 % GNI. So, if the EDF is to finance EPAs, they would clearly have to be diverted from other areas such as health and education.^x

Real and Hidden Costs of Economic Partnership Agreements (continued)

In addition the EC continues to make much of its Aid for Trade Initiative through which it aims to increase aid for all developing countries to €2 billion by 2010. Around half of the increase (above current spending - in reality €350 million) is earmarked for ACP countries to cover all trade related assistance. There are two key points with Aid for Trade at the moment with respect to EPAs:

- First the resources are not committed yet, and it still remains very unclear where they will come from and whether the resources will indeed be 'new'.
- Secondly it should be noted that should resources be forthcoming, the EC has pledged that they would be available to all countries to support their trade programmes irrespective of whether they sign an EPA. This was reaffirmed by the EU's General Affairs Council in May 2008:

"The Council recalls that AfT is part of the broader ODA increase agenda and its delivery is not conditional upon signing an EPA or an interim agreement."^{xi}

It is clear that while signing an EPA does not in anyway guarantee additional resources, it does guarantee significant additional costs.

Taxation?

It will be a major challenge to make up for lost revenue through shifting government revenue collection away from trade based taxes to other forms of taxation. However this will be essential if major fiscal imbalances or fundamental cuts in public expenditure are to be avoided.

Such a shift has a number of problems:

- **Cost:** Reforming tax policy and administrative systems is an expensive process. The Commonwealth Secretariat estimated that in Swaziland fiscal restructuring would cost \$60 million over ten years. The EU had budgeted less than one tenth of that in terms of its support.^{xii}
- **Time:** For most countries that have currently initialled EPAs, the customs revenue losses would be concentrated in the first ten years. This provides little time to complete what is a difficult, complex and lengthy process. In European countries tax reforms often take ten years or more. For African countries most of whom have to bring about more fundamental reforms, the timescale is far too ambitious.
- **Effectiveness:** Recent empirical evidence collated by the IMF suggests that low income countries have struggled to recover trade tax revenue lost as a result of trade liberalisation. Only 30% has been recovered, nor is there much evidence that the presence of a value-added tax has in itself made it easier to cope with the

revenue effects of trade liberalization.^{xiii} In addition EU assistance has a very poor record of supporting countries reform their tax structure. In the SACU region EU support was grossly insufficient and ineffective leading in one case to an increase rather than a decrease in dependence on customs revenue.^{xiv}

Conclusion

The only realistic option left to ACP countries, if they are not to hurt their health and education budgets (for example) is to collectively demand for financial compensation for loss of tariff revenue, lengthening the period of adjustment, and in the immediate run not to sign the agreement until its full implications are analysed, understood and publicly debated in the ACP countries.

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ⁱ This paper is based on a longer paper "The Real Costs and Benefits of EPAs" produced by Christian Aid, Tearfund and Traidcraft in April 2007, updated and supplemented by Traidcraft in June 2008

ⁱⁱ Romain Perez. Are the Economic Partnership Agreements a First-best Optimum for the African Caribbean Pacific Countries? In The Journal of World Trade 40 (6):999-1019, 2006

ⁱⁱⁱ UNECA Regional Integration Study 2006 referenced in Perez (2006) – "Are Economic Partnership Agreements a first-best optimum for the African Caribbean and Pacific Countries?"

^{iv} UNECA African Trade Policy Centre "The Economic and Welfare impacts of the EU-Africa Economic Partnership Agreements"

^v Stevens at al. "The new EPAs: comparative Analysis of their content and challenges for 2008". ODI and ECDPM 31 March 2008

^{vi} Stevens at al. "The new EPAs: comparative Analysis of their content and challenges for 2008". ODI and ECDPM 31 March 2008

^{vii} All health expenditure data from the World Bank

^{viii} C. Milner 'An assessment of the overall implementation and adjustment costs for the ACP countries of Economic Partnership Agreements with the EU', in Grynberg, R. and A. Clarke (2006)

^{ix} Quoted in Oxfam International, "Partnership or Powerplay" April 2008 from a interview in Jan 2008

^x Oxfam International (2006) Unequal Partners: How EU-ACP Economic Partnership Agreements (EPAs) could harm the development prospects of many of the world's poorest countries

^{xi} European Union Council Conclusions on Economic Partnership Agreements, 2870th External Relations Council meeting, 26th and 27th May 2008

^{xii} ICCO, "The realities of EC Aid for Trade support in Botswana, Lesotho, Swaziland and Namibia: Lessons for the EPA negotiations"

^{xiii} "Tax revenue and or Trade Liberalisation?", IMF Working Paper 05/112, Baunsgaard and Keen, IMF, 2005

^{xiv} ICCO, "The realities of EC Aid for Trade support in Botswana, Lesotho, Swaziland and Namibia: Lessons for the EPA negotiations"

Addressing the Challenges of Trade Facilitation

By Anil K. Kanungo

The issues that consistently held the centre stage of the WTO negotiations were agriculture, NAMA and services. Another issue which is of great significance, yet may not be the cynosure of all eyes in many multilateral forums, is the issue of trade facilitation. The importance trade facilitation holds in the conduct of international trade is well realized, as the volumes of gains accrued from this for both developed and developing countries, and for the world economy in general, are proven to be enormous (UNCTAD Study, 1994). The issue thus far has remained on the sidelines of the ongoing negotiations, yet promises to play a significant role in world trade.

It is interesting to note that trade facilitation is by no means a new issue in the gamut of international trade operations. It was discussed much earlier and in fact formed a central part of the agenda of the League of Nations in 1923. Afterwards, it was prominently discussed within various international forums through the initiatives of certain international and regional organizations such as World Customs Organization, UNCTAD, IMO, APEC and the World Bank, etc. In addition, different lobbies that were pursued by private sector organizations, like International Chambers of Commerce, worked hard to make it an issue of great concern and finally brought it under the WTO.

Today, in the wake of proliferation of trade in goods and services, the issue of trade facilitation is fast assuming a critical dimension. Emerging as one of the four Singapore issues in 1996, it first drew significant attention at Doha. Trade facilitation later formed an integral part of the July Framework of 2004 which aimed to activate and identify the modalities for negotiations on the issue. As world trade today demands faster movement, release and clearance of goods, simplification and harmonization of international trade procedure, established through multilateral agreements on trade facilitation, becomes crucial.

All member countries feel that a multilateral agreement on trade facilitation will be beneficial to them as it reduces transaction costs and increases revenue. Yet, the activities, practices and formalities that follow in implementing such a system require huge financial resources, large technical assistance and immense capacity building (TACB). Many member countries, especially developing countries and LDCs, are either not ready or not at all equipped for such challenges. As a result, these countries are reluctant to undertake any legal obligations under the WTO. At the same time, they are, irrespective of their level of development,

equally convinced about the role that trade facilitation plays in one's economic development, and that is why many of them are keen to pursue trade facilitation as a part of a unilateral trade reform agenda based on available resources.

The key issue is how to carry forward the negotiations on trade facilitation at WTO. As TACB holds paramount importance in implementation of trade facilitation agreements, the granting of special and differential treatment (S&DTs) to developing countries and LDCs doesn't arm them with all the necessary means to implement change. In what may be just a good gesture on the part of the WTO, they have already extended S&DTs to developing countries and LDCs through the July Framework of 2004 to address this specific issue.

But what is really required is the consolidation of their technical capability and the capacity to build a system through which they will be able to overcome the impending challenges of such an implementation. Certain ingenious methods or approaches may be developed to undertake various programmes of TACB such as reengineering or re-activating the existing institutions of developing countries and LDCs through financial donations, and transferring technology and human resource training from the industrialized countries instead of allowing them to create new institutions. Secondly, developing countries and LDCs should learn from each others' experiences rather than borrowing the concepts from developed countries which may prove to be disaster, as they are quite dissimilar in their economic, social and political architecture. This may effectively help developing countries and LDCs because the method is not an agreement imposed from the top for which they are not prepared at all.

“According to an UNCTAD report, direct and indirect transaction costs are adding up to ten percent of total value of global trade, which is equivalent to approximately \$400 billion.”

Besides, developing countries and LDCs feel, that simply granting S&DTs is not so important as it is their nature or their operationalizations. It appears that the onus of identifying such measures lie with these countries and require huge human resources, technical skills and financial assistance. Not only do they have to calculate one-time cost of a particular measure, but also the recurring costs of sustaining the system. It is further argued that a simple cost benefit analysis may not be a sufficient reason to undertake such an uphill task, because given the nature and dimension of the issue, the social cost of investment (mainly referring to opportunity costs and social rates of return in terms of creating a better and less corrupt society) are important variables in such a bargain to holistically understand the implications of trade facilitation. Moreover, in a group of countries where SMEs form the backbone of the economy, a simple cost benefit analysis may not be appropriate once given the dy-

Addressing the Challenges of Trade Facilitation (continued)

namics of the issue, where social costs of investment and rates of return hold enormous significance.

Having said this, no one can deny the importance of trade facilitation nor can justify the unnecessary procedural, bureaucratic and transaction costs involved in the movement of goods and services across the border. According to an UNCTAD report, direct and indirect transaction costs are adding up to ten percent of total value of global trade, which is equivalent to approximately \$400 billion. Such a huge loss of global trade for world economy is definitely a matter of concern. If trade facilitation has the capacity to reduce such a cost, then all member countries have the responsibility to put in place a mechanism by which everybody can benefit.

The forthcoming Multilateral meetings will be an opportune moment for the developed and developing countries to understand, recognize and manifest these developmental dimensions of trade facilitation, where more than two-thirds of participating members are drawn from developing countries and LDCs.

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Op-Ed: WCO SECURE: Drama, Game or Negotiation? (Continued from the back cover)

Scenario IV: Finally, let us take the case where the concierge of a building attempts to sell the property behind the owner's back. As the concierge is somewhat aware of the inappropriate nature of such an act, he pays for an external legal opinion to justify the transaction. Is this a comedy or a tragedy? In either case, common sense tells us: it is just a drama.

Ironically, such a drama is on show at the WCO Secretariat. Realizing its limited competence in drafting legislation on IP enforcement, the Secretariat sought an external legal opinion, in an unpublicized manner. The report of the external legal consultant was used to legitimize its actions in absence of appropriate mandate provided to the WCO by the Member States.

The above four scenarios represent just a few acts of the whole drama series in the WCO on SECURE. More of such dramatic scenes are likely to be on show in the forthcoming Policy Commission and Council sessions from 23 to 28 June 2008 in Brussels. In the interest of developing countries in general, actions are needed to prevent the adoption of the SECURE in June.

International standards should be set in a fair and transparent manner, based on properly approved terms of reference.

They should not be made, dominated or manipulated by a handful of members in the name of the entire Membership of the WCO.

Saying "yes" without taking the national interest as a whole into consideration could lead to huge political, economic and legal costs for developing countries, and may end up compromising the national development goals. Here is a checklist for decision-makers of developing countries and the representatives to the WCO to consider: Has any cost effectiveness analysis been conducted to assess the implications of SECURE in your own country? Has any empirical study been carried out to evaluate the impact of SECURE on domestic industry? Is your government prepared to bear all associated enforcement costs presently covered by private sector?

One final recommendation: double check your calculations before making a decision.

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Reflections and Foresights

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Op-Ed: WCO SECURE: Drama, Game or Negotiation?

By Xuan Li



As cautioned in the previous issues of the South Bulletin, attempts are currently underway to get the Provisional Standards Employed by Customs for Uniform Rights Enforcement (SECURE) approved by the World Customs Organization (WCO) Council in Brussels in June 2008. How can developing countries assess the likely impact of this attempt by the developed countries to promote "TRIPS-Plus-Plus" agenda on international IP enforcement regulations? This piece provides a lens to policymakers in developing countries to assess the situation to form the basis of their response.

Scenario I: Let us take the case of international standards.

If (i) no definition of protectable subject matter is clarified, (ii) no appeal and review mechanisms are provided, (iii) no exemption and limitations provisions are identified, (iv) the text contains provisions that are unbalanced, favouring one stakeholder against another, (v) benefits private sector at the cost of the State, (vi) expands benefits of one stakeholder without properly defined obligations, would it be reasonable to label such a standard as the best practice? Common sense tells us: No.

Why is it then that SECURE which exhibits all the above elements that should not be a part of international standards is being lauded as a "best practice" for adoption at the forthcoming WCO session?

Scenario II: Let us take the case of multilateral negotiations.

If (i) the mandate is questionable, (ii) the rules of procedure have not been clarified, (iii) the terms of reference have not been agreed to, (iv) private sector interests are given a precedence over national interests of Member States, (v) there is a general lack of transparency, and (vi) there is asymmetry in information sharing, would it be considered as a serious negotiation process or just a game? Common sense tells us: it must be a game.

Unfortunately, SECURE, which fails all the above tests of a serious negotiation process is being referred to as an ongoing negotiation process in the WCO.

Scenario III: Let us take the case of a report prepared by secretariat of an international institution.

If a report that is supposed to summarize what has been discussed and what has not been agreed upon, particularly outstanding issues for further deliberations, still states that consensus has been reached, without mentioning key outstanding issues, would the drafter of such a report be considered acting in good faith? Common sense tells us: No.

Unfortunately, the Report of the SECURE Working Group (The Report), with its Annexure on Draft Report of 3rd Meeting of the SECURE Working Group, Brussels, 24-25 April 2008, made no reference to the outstanding agenda items that shall be further discussed, but requested the Policy Commission to examine SECURE and if appropriate to recommend them to the Council for adoption. The Report is factually incorrect and misrepresents the discussions of the Working Group. How should such a document be interpreted and treated?

(Continued on the inside back cover)

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