Anti-dumping and Subsidies Commission

TRADE GATEWAY

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MARKET ACCESS NEGOTIATIONS IN U.S. TRADE POLICY

Andrea M. Ewart, Trade Attorney, Washington D.C.

INTRODUCTION

While most Jamaican products receive duty-free entry into the markets of the United States and other developed countries, they nevertheless may encounter several obstacles at the borders through which their products must pass. Goods may be detained, subjected to unnecessary fines, or subjected to inspections that can lead to lost or damaged goods. In the most extreme cases, products are denied entry into the country. The reasons include failure to comply with the (sometimes cumbersome) technical requirements for entry, failure to meet the importing country's *sanitary and phyto-sanitary (SPS)* or health and safety requirements, or absence of certification that the goods meet the importing requirements. The exporter pays through lost goods, dissatisfied customers, and diminished profits.

Can market access negotiations address these types of issues? Improving market access through the reduction of tariff and non-tariff barriers to the import and export of agricultural and non-agricultural goods is one of the primary goals of the World Trade Organization (WTO) Doha Round. Market access issues for agriculture are addressed separately from those for non-agricultural products in the Doha negotiations. This article begins with an overview of both areas.

OVERVIEW OF DOHA MARKET ACCESS NEGOTIATIONS

The Doha negotiations are currently in hiatus because the negotiating positions of key members remain so far apart. This distance is particularly visible in negotiations on agricultural market access.

Agricultural Market Access

In agricultural market access negotiations, tariffs, domestic subsidies, and export subsidies -- the "three pillars" are being addressed simultaneously. WTO members have committed to reduce tariffs, with the deepest cuts to be made on those products with the highest tariff rates. However, members may propose products to be designated "sensitive" and therefore excluded from deep tariff reductions. Members have also committed to substantially reducing domestic subsidies and eliminating all forms of export subsidies including export credits and export credit guarantees. They have been unable to agree on the modalities or methods for adding detail to this general outline.

Andrea Marie Brown, Executive Director, shares pleasantries with Delroy Beckford, former Senior Legal Counsel to the Commission, and Keisha-Ann Thompson, Senior Economist (left to right) during the recently concluded Private Sector Development Programme, Consortia Business Development Services Seminars. *(Page 10)*

Non-Agricultural Market Access (NAMA)

Non-agricultural market access negotiations have the aim of reducing or eliminating tariffs and minimizing non-tariff barriers. The Uruguay Round reduced tariff averages from 6.3 percent to 3.8 percent. However, tariffs remain high on a number of products, leaving *tariff peaks* -- tariffs of 15 percent or above; and *tariff escalation* -- higher import duties on semi-processed and finished products than on raw materials -- as outstanding problems. The primary approach to addressing these issues is through *bound tariff rates*, i.e. a commitment not to raise tariffs on imported goods beyond an established rate. Negotiating countries have so far agreed to use a formula approach to cutting tariffs, but no agreement has been reached on the formula to be used.

Non-tariff barriers (NTBs) are regulations and requirements that apply only to goods being imported into the country. Consequently, they can provide a layer of protection for domestic industry. Some NTBs whose goal is protecting human and animal life and health are therefore permitted if they conform to WTO guidelines. *Continues on page 7*

GLOBALISATION AND JAMAICA'S PRIVATE SECTOR

THE HONOURABLE ANTHONY HYLTON, MINISTER OF FOREIGN AFFAIRS & FOREIGN TRADE

Reprinted with permission from address of Minister Anthony Hylton, Jamaica's Minister of Foreign Affairs and Foreign Trade to the Private Sector Organisation of Jamaica (PSOJ) Trade Breakfast, November 14, 2006.

"The private sector of the developed world which owns or controls the lion's share of patents, of financial capital, of transnational companies and of markets, has not only been driving the globalisation process but has been influencing the design of its international rules."

Firstly, I would like to thank the Private Sector Organisation of Jamaica for extending this invitation to me to act as opening speaker for this morning. I am heartened by the growing interest the public, and in particular, the private sector is showing in trade matters. I hope that the presentations and discussions will leave all of us more informed about our accomplishments and challenges in the globalisation domain. I hope that this will be an opportunity for all of us to learn more about trading possibilities here in the Caribbean, and farther abroad. I will offer some views on **"Globalisation and Jamaica and the Private Sector,"** more specifically the Jamaican private sector.

Globalisation is a historical process. It has, however, generated tremendous momentum and reach over the last three (3) decades or so, signifying a significantly new phase. This phase in the process is driven in fundamental ways by transnational business and technology, in particular information and communication, including transportation technology and financial capital. Technology has, for example, made a number of services which hitherto were not tradeable across countries tradeable services. The process has or is being facilitated by governments which negotiate and establish international rules. These rules are binding, often even on countries which were not parties in the actual negotiations. The Uruguay Round Negotiations were a case in point, where countries which took little interest in aspects of the negotiations, for example, on Services, were forced to accept and sign on to the entire agreement in order to participate in the aspects in which they had interest. In its final form, it was an "all or nothing" package.

The World Trade Organisation (WTO), which was created out of the Uruguay Round of Trade Negotiations, has emerged as the main rule-setting body for international trade. States which had shown little interest in the past now had to quickly negotiate their way into the WTO, at great disadvantage. The WTO sets rules not only for the trade in manufactured goods, which was the remit of its predecessor, the General Agreement on Tariffs and Trade of 1947, but for trade in agricultural goods, in services, in intellectual property as well as even for the way governments trade. There is hardly any area of trade policy unaffected by the WTO. The WTO is, however, not the only global rule-setting body facilitating globalisation. There are, for example, the Codex Alimentarius, the International Standards Organisation (ISO), the World Intellectual Property Organisation (WIPO), the International Air Transport Association (IATA), the International Maritime Organisation (IMO) and the International Telecommunications Union (ITU). Many of these organisations predated the World Trade Organisation and even its predecessor the GATT, and the more recent phase of globalisation, but they have adjusted their *modus operandi* fundamentally to serve or facilitate this phase of globalisation.

The private sector of the developed world which owns or controls the lion's share of patents, of financial capital, of transnational companies and of markets, has not only been driving the globalisation process but has been influencing the design of its international rules. It has also been reaping the lion's share of the returns from the process. The important issue for you as a private sector organisation of a developing country is to seek to understand the phenomenon and to define your role and *modus operandi* in this globalising world. Before we address that issue and to assist in that process, I would sketch briefly some features of the globalising world, as manifested in the last thirty years.

IMPORTANT FEATURES INCLUDE:

- Rapid liberalisation of the goods, services and financial markets, in particular of developing countries while simultaneously, access to critical aspects of the markets of developed countries remain constrained. For example, the transportation sector within the United States and between the United States and its territories, such as Puerto Rico, remains a cabotage sector and it is not possible to buy certain technologies from the United States.
- Rapid growth in the trans-nationalisation and the size of firms through mergers, acquisitions and other forms of alliances. If companies were treated as economies, over 50 per cent of the 100 largest economies in the world would be companies.
- Over the last two decades, there has been a rapid expansion of global commerce with world export of goods and services expanding from US$2.4 trillion to US$12.7 trillion in 2005. Foreign investment – direct and portfolio - has also increased tremendously.
- A rapid growth in the number of bilateral trade agreements being negotiated by countries, including several involving developed and developing countries where companies of both parties have the same rights. The number of agreements registered with the GATT/WTO have increased significantly since 1995. The CARICOM countries, including Jamaica, have intensified their 1973 Common Market into the CARICOM Single Market and have negotiated the CARICOM/Dominican Republic Free Trade Agreement, the CARICOM/Costa Rica Free Trade Agreement, the CARICOM/Cuba Preferential Trade Agreement, the CARICOM/Colombia Preferential Trade and Economic Cooperation Agreement and the CARICOM/Venezuela Preferential Trade and Economic Cooperation Agreement. These are in addition to the unilateral arrangements with Canada, the European Union and the USA. These latter three (3) are now under the threat of the WTO rules. The Caribbean Governments are currently involved in international negotiation with a view to adjusting the rules of commitments, under the WTO, in negotiation with the European Union for an Economic Partnership Agreement.
- The standardisation of products - where there is a movement away from a product being manufactured in any one country and an increasing emphasis on the branding of products.

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TRADE REMEDIES CORNER

KEISHA-ANN THOMPSON

WHAT ARE ANTI-DUMPING DUTIES?

Anti-dumping duties are special duties that the World Trade Organisation (WTO) has sanctioned for use, through the process of an investigation, when dumping from a company in another WTO Member, causes injury to the domestic industry of a Member. Such duties are applied specifically against the investigated product from the company in the exporting country, and not against all trading partners. These duties are regarded as special because in the context of the multilateral trading system, countries seek to lower barriers to trade and so any new barriers must be in conformity with the WTO rules. Anti-dumping duties are regarded as exceptions to the basic WTO principles of non-discrimination and bound tariffs. The non-discrimination principle essentially means that each WTO member such as Jamaica, must treat all its trading partners the same. WTO Members agree not to exceed some specific tariff rate on different tariff lines, called the bound rate. Anti-dumping duties result in different duties being applied to different countries. Anti-dumping duties may be applied against trading partners at rates in excess of a country's bound rate.

Once imposed, anti-dumping duties are applied in addition to regular Customs duties. For example, if the normal customs duty on Product A is 20 percent and the anti-dumping duty determined against Company X in a WTO Member called Utopia upon investigation is 30 percent, then the amount of duty to be collected will be 20 percent plus 30 percent on product A from Utopia (the source against which the duty has been applied). It is important to recognise that the duties are product, country and company specific. A different rate, or no rate, of anti-dumping duty may apply to other Utopian Product A exporters, into Jamaica.

Anti-dumping duties are usually applied for a period of five years. The WTO Anti-dumping Agreement (ADA) permits an extension of an anti-dumping duty, based on a review which can be conducted by the Investigating Authority, if it is determined that the duties are still necessary to prevent the recurrence or continuation of dumping or injury. Duties can be reviewed at earlier intervals, as provided by legislation if there are changed circumstances or new exporters (shippers) from the originally investigated countries that had not been exporting to Jamaica at the time of the original investigation. Anti-dumping duties may also be put in place to permit refunds or additional collection based upon assessment mechanisms.

For a country to avail itself of the ability to apply anti-dumping duties in a common law jurisdiction such as Jamaica, it must implement the terms of the ADA through domestic legislation. A 1959 Act was replaced by the **Customs Duties (Dumping and Subsidies) Act, 1999**, which, along with **The Customs Duties (Dumping and Subsidies) (Determination of Fair Market Price, Material Injury and Margin of Dumping) Regulations, 2000**, implements Jamaica's obligations under the WTO Agreements on dumping and countervailing measures. The investigating authority under the legislation is the Anti-dumping and Subsidies Commission, a portfolio agency of the Ministry of Industry, Technology, Energy and Commerce (MITEC). Jamaica has conducted four anti-dumping investigations against four countries. As can be seen from the table below, three of the four investigations concerned Ordinary Portland Grey Cement and the other, Inorganic Fertilizer from the Dominican Republic.

Jamaica's Antidumping Determinations 1999 to Present

Country/ Customs Territory	Product	Date imposed
China, P.R.	Ordinary Portland Grey Cement	20 July 2004
Dominican Republic	Inorganic Fertiliser	4 May 2002
Indonesia	Ordinary Portland Grey Cement	2 July 2002
Thailand	Ordinary Portland Grey Cement	11 June 2001

Globally, anti-dumping duties are the most utilised mechanism of those sanctioned by the WTO to deal with imports that cause injury to a Member's domestic industry. Out of the 149 WTO Members, 91 have legislation and 19 are in the process of implementing legislation. Since 1995 there have been 1,875 anti-dumping measures imposed globally, with China accounting for the largest percentage of measures. Currently, the WTO secretariat reports that the number of anti-dumping measures initiated is on the decline, compared with previous years. ◘

TRADE REMEDIES ACTIVITY TO DATE[1]

PAMELA MORGAN

Trade Remedies refer to measures that countries may use to counter injury caused to domestic industries by imports. They are: anti-dumping duties, countervailing duties, and safeguards (tariff or quotas). Statistics from the WTO show that new anti-dumping investigations are on the decline but new final measures show an increase. According to the WTO's November report, from January to June 2006, new anti-dumping cases initiated stood at 87 compared to 105 for the same period in 2005. However, 71 new final anti-dumping measures were imposed during January to June 2006, up from 55 for the corresponding period in 2005.

Products exported from China attracted the most new measures followed by those from India. Over the period January 1995 to June 2006, there were 2,938 anti-dumping investigations initiated, with 1,875 resulting in final measures.

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"Globally, anti-dumping duties are the most utilised mechanism of those sanctioned by the WTO to deal with imports that cause injury to a Member's domestic industry."

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The Newsletter of the Anti-dumping and Subsidies Commission

Editors: Andrea Marie Brown
Nichole Superville-Hall

Coordinator: Keisha-Ann Thompson
Cover Photograph: Billy Perkins

The Anti-dumping and Subsidies Commission
24 Trafalgar Road
Kingston 10
Jamaica

Phone: 1-876-920-1493
Fax: 1-876-926-4622
E-mail: antidump@jadsc.gov.jm
antidump@cwjamaica.com

PSDP PRIVATE SECTOR DEVELOPMENT PROGRAMME DRIVING BUSINESS COMPETITIVENESS

Supporting this issue of Trade Gateway

A TRADE REMEDIES QUIZ FOR YOU

ERMINE LEWIS

1. Can a company move production to avoid an anti-dumping duty?
2. Does the GATT still exist or has the WTO superseded it?
3. What are the main functions of the WTO?
4. Can any country join the WTO?
5. What is the meaning of "WTO"?
6. What is the "Marrakesh Agreement"?
7. Do some WTO members have more rights than others?
8. Are non - governmental organizations (NGOs) represented at the WTO?
9. Which government body represents Jamaica at the WTO?

(See Answers on Page 12)

CARICOM CORNER

ANDREA MARIE BROWN

CARICOM NEWS AND VIEWS

The CARICOM website, www.caricom.org, which links to www.caricomlaw.com, styled CARICOM-Law has been reformatted over recent months to render a wonderful new look and feel. It is easy to read and to use, and downloads are markedly quicker than previously. Upon browsing the site before preparing this note for ***Trade Gateway,*** the Anti-dumping and Subsidies Commission noted that the website is far more user-friendly and, we think, more current. Congratulations to the CARICOM Secretariat for the improvements and thank you for increasing access to information about Community activities, a necessary factor in the process of deeper regional integration.

Dr. Winston Anderson, General Counsel of the CARICOM Secretariat, writing on the website, notes that the idea of a secure website for CARICOM Law emerged from the Sixth Meeting of the Sub-Committee of the Legal Affairs Committee on Harmonisation of Laws, held in March 2005 in St. Ann, Jamaica. CARICOMLaw.org became effective on 24 August 2005. The Secretariat expects to utilise the website to support Member States in the discharge of their Treaty obligations and to provide legislative support for the CARICOM Single Market and Economy (CSME). It is expected that access to ongoing legislative work in other Member States and in the CARICOM Secretariat will reduce duplication and promote efficient use of the region's human resources in legal drafting.

JAMAICA'S FOREIGN TRADE MINISTER ANTHONY HYLTON URGES THE REGION TO MOVE DECISIVELY ON ENERGY POLICY

The Jamaica Information Service reported that Minister of Foreign Affairs and Foreign Trade, Senator Anthony Hylton has noted with urgency that, in light of the geo-political climate and rising energy bills, members of the Caribbean Single Market (CSM) should move expeditiously to establish the regional energy policy. Minister Hylton stated that such a policy would operate as an "equal protection clause" and provide necessary underpinning for the single economic space which is the objective of the CSM. The Minister addressed the opening session of the Eighth Meeting of the Task Force on the Regional Energy Policy, at the Hilton Kingston Hotel on October 17, 2006. Citing the high cost of petroleum products on the world market and the critical role energy plays in production and its consequent impact on the global environment, the Minister opined that the time is appropriate for establishing the regional energy policy. The Regional Task Force on Energy Policy was established in 2003 by regional Heads of Government. The Task Force is directed to examine elements of the regional energy situation, issues relating to supplies, energy pricing policy and its impact on competitiveness within the CSME, and the necessity of a common external tariff on energy products.

CARICOM Chairman for the Task Force on the Regional Energy Policy, Andrew Jupiter revealed that a preliminary draft policy document has been completed and submitted to members of the Task Force for review. *Trade Gateway will be following the unfolding of policy in this critical area.*

STATEMENT BY H.E. EDWIN W. CARRINGTON, SECRETARY-GENERAL OF CARICOM AT THE END-OF-YEAR PRESS BRIEFING

Reported on the CARICOM website are details of what has become an annual press briefing on CARICOM held in Georgetown, Guyana. The Secretary General addressed the gathering of members of the news media on December 8, 2006. He stated that the region has moved closer to full integration and outlined significant developments. He noted that the year started on a very positive note with the launching of the Single Market on January 1, 2006 by Barbados, Belize, Guyana, Jamaica, Suriname and Trinidad and Tobago, with an impressive formal ceremony at Mona, Jamaica on 30 January, 2006.

He outlined meetings and summits held, two of which were Heads of Government meetings, as well as a number of other major international meetings involving Heads of Government, including the CARICOM-Spain Summit in Madrid, and the European Union/Latin America and the Caribbean Summit in Vienna, Austria, both in May. Antigua and Barbuda, Dominica, Grenada, St. Kitts and Nevis, Saint Lucia and St. Vincent and the Grenadines followed suit at the Twenty-Seventh Regular Session of the Conference of Heads on 3 July. In the words of Trinidad's Prime Minister and Chairman of CARICOM at the time, Patrick Manning, through this action, CARICOM states' economies are expected to become more resilient and able to attract new capital.

Other significant CARICOM developments which took place in the year 2006, which were highlighted by Secretary General Edwin Carrington in his revue included:

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Trade Talk For "Dummies"

ALTHEA WOOLCOCK

The tendency of everyone involved in International Trade is to use words, abbreviations and acronyms and assume that the audience knows precisely what is being referred to. Those who hear them often formulate an understanding of what is being referred to without a full working definition or explanation. If you don't do it yet, you will soon find yourself doing it. In this corner, we will enlighten our readers about words, abbreviations and acronyms used in "trade speak" which you often hear and of which you want to know the precise meaning.

Two Commonly Confused Acronyms: GATS And GATT

General Agreement on Trade in Services (GATS)

The GATS is a set of multilateral rules and commitments covering Government measures which affect trade in **services**. The GATS covers all services with two exceptions – that is, services provided in the exercise of governmental authority and in the air transport sector, air traffic rights and all services directly related to the exercise of traffic rights.

General Agreement on Tariffs and Trade (GATT)

The General Agreement on Tariffs and Trade (GATT) was first signed in 1947. It was designed to provide an international forum that encouraged free trade between contracting parties by regulating and reducing tariffs on **goods** and by providing a common mechanism for resolving trade disputes. GATT was superseded by the World Trade Organisation (WTO), which came into effect on January 1, 1995. Today WTO membership includes 149, soon to be 150 countries, when Viet Nam's accession is effective in January 2007, compared to the 23 original signatories to the GATT 1947.

Clarification

- While the objective of **GATT** is the ultimate removal of tariffs on trade in goods, it is not the aim of **GATS** to remove domestic regulations. Rather, the focus of **GATS** is to ensure that the regulations are administered reasonably, objectively and impartially.

- **GATS** intends to increase trade in services through increased transparency and predictability. The assumption is that by supporting informed choices by exporters and increasing international competition in services provision, **GATS** will encourage the improvement of services quality, price competitiveness and innovation in services delivery. In contrast to **GATT 1947**, **GATS** incorporates not only specific commitments to prevent further trade restrictions but also the requirement to engage in ongoing rounds of negotiations for progressive liberalization.

- While **GATT** focuses only on the product being traded **GATS** addresses both the service and the service supplier. Any notification regarding trade barriers or liberalization commitments must address the impact on both the service and the service supplier.

- Unlike **GATT**, there is no general obligation under **GATS** for Members to extend either market access or national treatment to other Members. These obligations are negotiated on a sector-by-sector basis and are inscribed in the Member's schedule of commitments.

Let's Get Technical

KEISHA-ANN THOMPSON

Subsidies in International Trade: What are they and when are they problematic?

Subsidies are an interesting and perplexing issue in International Trade. As anyone following the Doha trade talks is aware, subsidies were the pivotal issue on which progress in the talks rested. The talks were suspended in July of 2006 because the dissatisfaction of developing countries with the proposals of developed countries such as the United States and the European Community on scaling back agricultural support programmes caused to make progress.

Why are subsidies so contentious? For the subsidising country they are recognised as important tools of development, being at the heart of the transformation of many of today's trading giants. However, complicating the issue is the fact that, at the same time they may also cause a decline in the net economic welfare of the subsidising country. It is recognised that it is the sovereign right of a country to pursue policies that will promote specific societal and governmental objectives and to determine what trade offs, in respect of economic welfare, it will absorb in pursuit of these objectives. Subsidised goods are seen by recipient countries on the one hand as protagonists of the economic decline of industries, but on the other as the saviours of consumers, who benefit from cheaper goods.

Whether a country wishes to counter the effect of a subsidy or simply put a programme in place to achieve a particular economic objective, there is one primary determination that must be made. There should be a determination as to whether or not the proposed programme can be regarded as, "a problematic subsidy". Given the critical role that subsidies have and can play in development, this is an important question for governments to answer, when trying to ascertain what programmes it can institute, eliminate or retain. This is especially so given their limited policy choices and budgetary constraints. Additionally, the answer to this question will enable a country to identify instances when action can and should be taken to offset the negative impact of subsidised goods.

Subsidies were such a difficult issue that at the beginning of the General Agreement on Tariffs and Trade (GATT) there was very little discipline on subsidies, save for countervailing duty action. The rules were not well developed and most strikingly, there was no definition of what could be regarded as a subsidy. This in of itself posed a problem given that there was a vast array of government programmes that could be regarded as subsidies. "Subsidies", administered by one country to pursue legitimate goals, could have negative spill-over effects on other countries, especially given the increasing international economic interdependence of economies. Under the early GATT countries experiencing such problems could apply countervailing duties. There were no clear rules on what could be regarded as a subsidy and how countries could respond, so arbitrary application of countervailing duties was possible and there was the potential for undermining of the liberal trading order.

Through subsequent rounds of GATT negotiations the issue of subsidies was dealt with more comprehensively. Finally, in the Uruguay Round (1986 to 1994), the Agreement on Subsidies and Countervailing Measures (SCM) was adopted and was mandatory for all Members. The rules that allow for protection against subsidies, deemed to be unfair trade, are set out in Article VI of the GATT 1994 and the SCM.

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The Economics of Competition Law

Dr. Kevin Harriot, Competition Bureau Chief, Fair Trading Commission

Introduction

One of the primary objectives of any government is to improve the welfare of the individuals it governs. The welfare of these individuals is ultimately linked to their consumption of economic goods and services; we generally assume that welfare is enhanced whenever individuals consume goods and services in greater quality, quantity or variety. The fundamental problem faced by any government is that there will never be enough resources to provide goods and services in sufficient quality, quantity or variety to satiate the desires of individuals. Given limited resources, therefore, a government must decide on the best available means of organizing economic activity. A free market economy generally produces a greater standard of living than alternative methods, but some free market economies out-perform others.

Monitoring Market Structure vs. Regulating Market Behaviour

Features of the market which influence the behaviour of firms include the number of firms and consumers of the product; the ease at which firms may enter or leave the market (barriers to entry or exit); the degree to which information is accessible (market friction); and perceived differences in the characteristics of goods produced by various firms (product homogeneity). Since the market environment influences its efficiency, the combination of these features ultimately determines the level of welfare generated by the market. The term *market structure* is used to describe the set of prominent features in a market.

Monitoring Structure (first best approach)

In this section, we examine the approach taken to ensure that the highest possible level of welfare is generated by the market, given the limited amount of resources available to the economy.

Various Types of Market Structures

The *perfectly competitive* market is idealistic in the sense that it does not exist in the real world; no market in the real world has all the characteristics as described by this market structure. This is in contrast to imperfect market structures such as *monopoly*, *oligopoly* and *monopolistically competitive* which exist in the real world. The markets described in various types of market structures differ considerably with respect to clearing price, quantity, product varieties, and efficiency, among other things. Given that social welfare is a primary objective, the competition authority prefers the perfectly competitive market; which generates the highest level of total surplus (a measure of social welfare).

Despite the fact that a perfectly competitive market does not exist in the real world, the focus on this market structure is of tremendous practical value since it provides a benchmark against which we measure the performance of actual markets. All other things being equal, the closer the features of an actual market to those of a competitive market, the greater the level of welfare to be enjoyed by the society, and the market is said to be *more competitive.* A market is *less competitive* whenever the features of the market are more dissimilar to the features of a perfectly competitive market. Since a market economy is the best way to organize economic activities, and the perfectly competitive market is the most efficient market structure, the government (whenever possible) would appropriately want to ensure more competitive market operation. Governments seek to ensure this by enacting *competition laws*. The primary purpose of competition laws is therefore to establish or preserve the features of the market that generate a more competitive market process; competition laws are enacted to protect neither the firm nor the consumer. In order to fully appreciate competition law, therefore, we must first have a clear understanding of the features of a perfectly competitive market structure.

The Perfectly Competitive Market Structure

A market is perfectly competitive if it has the following four (4) features:

1. Many firms and consumers,
2. No barrier to entry or exit,
3. No market friction (accurate market information is freely accessible), and
4. Homogenous goods (consumers perceive all goods in the market to be identical).

Market power is defined as the ability of firms to charge a price above the competitive level for a sustained period of time. Each firm endeavors to gain or enhance its market power since market power enables the firm to increase profits. Unfortunately, the pursuit of profits by individual firms may often be to the detriment of the welfare of the wider society. In this sense, competition laws function mainly to restrict (but not necessarily eliminate) the exercising of market power.

Firms cannot exercise market power in a perfectly competitive market. Each firm in a perfectly competitive market charges at the competitive price level. It is the combination of the four features listed above that prevents a firm from exercising *any* market power. Firms might be able to exercise *some* market power if any feature is diminished or absent from a market.

Since competition policy is geared towards promoting a more competitive market environment, an action by a firm may be prohibited only if it significantly mitigates at least one of the features of a perfectly competitive market. Three well-known anti-competitive practices are (a) *collusion* or *cartelization*, (b) *exclusive dealing* and (c) *misleading advertising*. Collusion occurs whenever two or more competitors make joint strategic decisions. Collusion has the effect of reducing the effective number of firms in the market as colluding firms seek to enhance their market power by mitigating the feature listed first above. Exclusive dealing occurs whenever firms make an agreement that would prevent another party from trading with at least one of these firms. It is deemed to be anti-competitive since it has the effect of erecting artificial barriers to entry and thereby mitigating feature (2) in the market. Misleading advertising may present itself in several forms. Invariably, this action is deemed to be anti-competitive since it creates friction in the market and thereby reduces feature (3). It is also important to note that under competition legislation, some actions which are deemed anti-competitive are expressly disallowed (*per se* treatment), whilst other actions are judged on a case by case basis (*rule of reason* treatment).

Competition laws do not prohibit all attempts by firms to exercise market power. In fact, there are instances when the government encourages such practice, as occurs under *patent* laws or other forms of government created monopolies. Competition law, therefore, might permit genuine attempts by firms to differentiate their products and thus weaken feature (4). ***Continues on page 9***

Market Access Negotiations in U.S. Trade Policy, continued from page 1

The SPS and Technical Barriers to Trade (TBT) Agreements from the Uruguay Round provide guidelines by which importing countries can use these health, safety, and environmental requirements and reduce their protectionist impact by imposing a minimal burden on the importer.

U.S. Policy on NAMA Negotiations

The stated U.S. goal in market access negotiations is to expand the markets abroad for American manufacturers and farmers and to "level the playing field" at home for American workers, companies and manufacturers. U.S. trade negotiating policy is also shaped by the mandates outlined in the Trade Promotion Authority (TPA) granted by the U.S. Congress to the President for the specific purpose of conducting trade negotiations. In the area of market access, TPA gives authority to the President to enter into trade agreements with foreign countries regarding tariff and non-tariff barriers. TPA mandates that U.S. trade agreements must also afford small businesses expanded export market opportunities and provide for the reduction or elimination of trade barriers that disproportionately affect small business. To ensure passage of the legislation enabling an agreement, U.S. negotiators must ensure that the agreement meets these trade negotiating objectives.

Addressing NAMA Tariff Barriers

The United States has proposed the elimination of tariffs on non-agricultural goods by 2015. In effect, this would likely be modified to reflect a 10-year period from the date an agreement is eventually reached. The United States proposes that the process occur in two phases, and proposes cutting its own tariffs by as much as 85 percent in the first five years. The United States supported the use of the tariff rates that were actually being applied in 2001 as the base rate for application of the tariff-cutting formula. The United States has also supported the proposal that countries begin by eliminating those tariffs that are already low.

NAMA Non-Tariff Barriers

The U.S. submission identifies four categories of NTBs, each of which, it is proposed, require a different approach:

1. NTBs which relate to existing rules, such as Agreements on Rules of Origin, Customs Valuation, SPS, and TBT. These should be negotiated within the relevant committees or bilaterally, or brought before the dispute settlement mechanism if the practice is inconsistent with the rules;
2. NTBs which relate to new areas in the Doha negotiations, for example trade facilitation and services should be handled within those negotiating areas;
3. NTBs which relate to the work of the Negotiating Group on Market Access (NGMA) might be dealt with during the negotiations; and
4. NTBs which might be best addressed bilaterally.

Therefore, the United States believes, not all NTB issues should be addressed within the Doha negotiations.

With respect to those NTB issues it believes could be handled by the NGMA, the United States favors the use of a vertical approach. Under this approach, members would negotiate "vertical" NTB agreements which bundle together a number of NTB issues relevant to a single industry. The United States has suggested automotive products and textiles and apparel as possible priority areas for vertical NTB agreements. It is also open to suggestions on other industry areas that would be appropriate for this vertical approach, which have included fish and forest products, and areas of interest to developing countries.

The bilateral approach proposed by the United States includes the use of the request/offer process in the negotiations. For example, Country A would make a specific request to Country B that it remove those requirements that Country A considers a barrier to entry for its products. The issue could also be addressed completely outside the context of the Doha negotiations through the negotiation of bilateral or pluri-lateral agreements.

The Caribbean in U.S. Trade Negotiating Policy

There is a mandate that Doha negotiations include *special and differential treatment* for developing countries. Members have agreed, in principle, that developing countries will be required to make smaller tariff cuts and enjoy a longer period in which to implement the reductions.

In general, however, the U.S. position is that developing countries stand to benefit most from elimination of tariffs, particularly their own. This position relies on a 2002 World Bank study which said tariff elimination would create developing country income gains of US $500 billion by 2015. A U.S. submission has nevertheless recognized the concerns raised by Jamaica and other developing countries of the lost revenue that would result from tariff reductions and eliminations. The solution, the United States says, is an efficient and simplified income tax system and a broad-based consumption tax. So, the United States places the focus on the need for developing countries to reform their tariff and tax structures, rather than on a need to revisit the entry requirements into its market.

For the Caribbean, NTBs remain the major obstacle to entry into the U.S. market. For example, Trinidad and Tobago has submitted notification of the following NTBs:

- Domestic distributors must be used to distribute imported products and the names and addresses of these distributors printed on each package
- The net content of pre-packaged goods must now be displayed on the principal display panel of each package in *both* the metric system and the customary system (ounces, pounds), resulting in increased costs.
- The first shipment of all biscuits sent to a specific country must be tested by an external certified laboratory and test results must accompany the *Supplier's Declaration of Conformity* Form.
- All imported electrical cables must be certified by one U.S. based laboratory and products that conform to other standards are excluded.

While taking note of the Trinidad and Tobago submission, the U.S. position paper indicates that it considers these issues to be either commercial obstacles that are totally outside the scope of the Doha negotiations, or legitimate measures that need to be addressed in another arena within the WTO. The United States has expressed its willingness to assist exporters to meet its SPS entry requirements. This offer as well as other NTB issues that affect the Caribbean will most likely need to be addressed through dispute settlement or through bilateral requests and negotiations or through the dispute settlement mechanism of the WTO.

Minister Hylton's address to the PSOJ ... *continued from page 2*

- A movement away from the involvement of government in economic activities, reduced ability of governments, particularly of developing countries, to discriminate positively in favour of their national enterprises and increased pressure on even very small companies to compete with global giants. There is little distinction between operating in the national and global market.
- A much more sensitive and active international consumer with a strong demand for quality, value for money, convenience and timely availability of the products is required.
- A strong movement against the preferential arrangements under which Jamaica's main traditional exports – sugar, bananas, rum and apparel/textiles – accessed their major markets in Canada, the European Union and the United States. One result has been heavy competition and a steep decline in prices, and increasing access to international capital markets and demands for international investors to have access to the national capital market.

Implications for the Caribbean/Jamaican Private Sector

Against that background, I now suggest five (5) implications, rules and strategies for the Jamaican, indeed Caribbean, Private Sector operating in this globalised market space.

First, Jamaica and the other Caribbean Governments have created the CARICOM Single Market as a "home" economic space for all CARICOM investors. Jamaican entrepreneurs have to familiarise themselves with the rules, rights and obligations in this single market space. The Jamaican business person has a right of access to the entire market and resources of the Region but will face competition from business persons from other parts of the Region.

Second, the private sector has to adopt a much more proactive approach to the analysis of the international market, in particular, the markets where the Government has negotiated agreements, to identify new dynamic opportunities and invest in the development of products and marketing channels in those markets.

Third, the private sector has to become more involved in making investment in productivity enhancement, in standardisation and in management systems which can be internationally certified. Productivity gains and the development of unique products are critical to competitive advantage. Further, neither the foreign importer nor the consumer is likely to come to inspect your operations. They rely on documentation from sources in which they have confidence. This is the role of international standards, certification and certification bodies. The Caribbean Governments have established the CARICOM Regional Organisation for Standards and Quality (CROSQ) with headquarters in Barbados. The private sector has to take an even greater interest in the operation of the Jamaican Bureau of Standards and of CROSQ.

Fourth, operators in the global marketplace are focussed on competition and on size or quantities which reduce unit costs. The largest producer or buyer of almost any product in Jamaica is still a small producer or buyer in global terms. The private sector in Jamaica, at the level of individual enterprises and organisations must become more creative in developing networks and alliances as well as joint ventures within Jamaica, within the CARICOM Single Market and with entities outside the Region.

Continues on page 12

OUTSIDE THE WTO

KHALILE NELSON

UNCTAD - Turning Natural Resources Into Development Opportunities

A conference organized by UNCTAD, held November 20-22, 2006 examined the potential economic, social and environmental impact of the involvement of Trans-national Corporations (TNCs) in extractive industries (mining) on host economies.

Participants noted that many developing countries need more support from the international community if they are to improve their legislative framework and to enhance their ability to bargain with TNCs. They also recognized the need for increased international dialogue to identify good practices among government and firms in the extractive industry, the main objective being to secure development gains from foreign investments.

World Economic Forum Annual Meeting – Shaping the Global Agenda

With growth in developing countries expected to exceed 7 percent and concern about whether the global environment can sustain itself, the World Economic Forum will hold its Annual General Meeting on January 24-28, 2007 in Davos, Switzerland. The goal of the meeting will be to provide an opportunity for business leaders from a diverse cross section of the world to establish effective and innovative approaches to conducting business, in the spirit of global citizenship. The focus will be on topics such as Driving Growth, Scaling Up Sustainable Solutions, Finding Global Fault Lines, Exploring Identity and the Communication Disconnect, and Defining Leadership Mandates and the Power of the Network.

Experts Share Good Practices on Building Skills for Trade in Developing Countries.

UNCTAD's "TrainforTrade" Programme (sic) held a meeting on November 24—26, 2006 at the Palais des Nations in Geneva, Switzerland. Experts from developed and developing countries attended and exchanged ideas and information on the building up of expertise in businesses and institutions in developing countries to expand trade.

Strong Growth Prospects; Globalisation Pressures Cause Concern

According to "Global Economic Prospects 2007: Managing the Next Wave of Globalization", growth in developing countries will reach a near record 7 percent this year. Globalization is the phenomenon of increasing integration and interaction between countries around the world, through trade and financial flows. The report indicates that globalization could spur faster growth in average world incomes in the next 25 years compared to growth over the period from 1980 to 2005. Developing countries are expected to play a central role in the pattern. If not managed properly, however, the World Bank predicts that the phenomena could be accompanied by growing income inequality and severe environmental pressures.

Need More Information About Trade Remedies?

Read The Customs Duties (Dumping and Subsidies) Act, 1999, and The Safeguard Act, 2001. Call 920-1493 or 920-7006 to speak to or meet with a member of the Commission's technical staff. Application and information packages are available from the Commission's office at 24 Trafalgar Road, Kingston 10 or send email to antidump@jadsc.gov.jm
The WTO website at http://www.wto.org is also helpful.

The Economics of Competition Law, continued from page 6

This is a result of recognizing that the reduction in welfare which results from market power acquired through product differentiation will be offset by an increase in welfare that will be generated from the greater variety or quality of products in the market. The competition authority's main concern is the probable net effect of the actions on social welfare.

Regulating Market Behaviour (second best approach)

It will not always be feasible for a competition authority to organize the market for a good in a manner that is even remotely close to the perfectly competitive ideal. Some goods have non-traditional production or consumption characteristics that preclude them from being traded in a perfectly competitive market environment. Since these goods will not be competitively traded, it also means that the market for these goods might not generate the highest possible welfare, given the level of resources available in the economy. Consequently, a different approach is required for the markets for these goods; rather than monitoring the structure of the market to achieve the perfectly competitive outcome (first best approach), competition policy would instead seek to regulate the behaviour of firms and readily accept an imperfectly competitive outcome (second best approach).

Natural Monopolies

Some goods must be produced in large quantities before each unit can be sold to consumers at an affordable price. Whenever such economies of scale are present in the market, there is a natural tendency for only one firm to profitably serve the market and as such we refer to this market as a *natural monopoly*; an example of which is the electricity market.

Although it is not feasible for a competitive environment to be established for a natural monopoly, there is still a role to be played by the competition authority. Rather than trying to build a structure that would force prices down to the competitive level, the competition authority would instead seek to ensure that prices are not set unreasonably high above the competitive level. Instead of monitoring the structure of the market, the behaviour of firms in markets which are naturally monopolistic would instead be regulated.

Other Aspects of Competition Policy

The discussions above assume that the competition legislation is enforced by a single agent of the Government. Two features of competition policy which highlight further economics principles involved in the enforcement of competition law are discussed below.

Competition Advocacy

The common perception in the wider society is that competition laws are established to protect the consumer. In fact, competition laws are established to protect the competitive structure of the market. One factor which contributes to this misconception is probably the noticeable *competition advocacy* role played by the competition authority as it relates to consumer awareness. Competition advocacy refers to activities by a competition authority to promote a competitive economic environment by non-enforcement mechanisms, mainly through relationships with other governmental entities and by increasing public awareness of the benefits of competition. Although advocacy programs protect the consumer, the more compelling reason for their existence is that advocacy programs reduce market frictions and hence bolster the competitiveness of the market.

The third feature of the perfectly competitive market establishes the fact that information is crucial to the functioning of a perfectly competitive market. The soundness of any decision taken by a consumer or producer depends on the amount of information available to the individual or firm. The consumer's purchasing decision is the most effective means of curbing the attempts by firms to exercise market power. A perfectly competitive firm cannot sustain a price higher than the competitive level because each firm knows that consumers know they can buy an identical good for a lower price at another firm. Hence, it is the consumer's access to information about the prices charged by each firm, for instance, that ultimately restrains firms from exercising market power.

Despite the obvious importance of information to the outcome of any decision-making process, information is not free and must be considered to be an economic good in a similar way that an apple is an economic good. Information is costly to produce or gather. The main problem is the fact that while it would be beneficial for consumers to pool resources and share the cost of gathering information, it might not be beneficial for an individual consumer to bear the cost on his own. For instance, if the cost of gathering information from every firm totals one dollar, it will not make sense for a consumer to bear this cost if said information will only yield a one cent reduction in price. If at least one hundred consumers pooled resources however, and shared the cost of information gathered, then the exercise would be worth their while. In essence, competition advocacy programs that, among other things, collect and disseminate information to consumers is a recognition by the authority that an action that could be beneficial to consumers when undertaken at the aggregate level might not be feasible when undertaken at the individual level. In general, competition advocacy programs ultimately recognize that the resources required to deter firms from engaging in anti-competitive practices are considerably less than the resources required to monitor, detect, investigate and prosecute alleged anti-competitive practices after the fact.

The Use of Multiple Agencies to Implement Competition Policy

As noted, the presence of frictions and goods with non-traditional production or consumption characteristics precipitate second best approaches in enforcing competition law, and these may differ from first best approaches in markets for traditional goods. The very fact that different skill sets are required for alternative approaches implies that there are efficiencies to be gained from having separate institutions carrying out different roles. Through specialization, each institution develops expertise in an area and becomes more efficient. Competition policy may therefore be implemented by establishing one institution housing specialized departments or separate institutions specializing in different functions. Although neither form of implementation is innately preferred to the other, organizing competition policy around separate institutions requires a concerted effort to coordinate the functions of otherwise independent agencies.

Successful coordination of efforts among agencies would ensure, for instance, that a complaint at one agency would be shared with, and possibly be re-routed to, the sister agency. There might be cases that legitimately fall within the purview of more than one agency; coordination would ensure their allocation among the relevant agencies and eliminate duplication of efforts and use of resources.

Conclusion

Social welfare is the central objective of any competition policy. It is measured differently by different governments. At face value, competition law appears to be a product of legal and political minds; however, economists make a significant contribution to the policy. Many of the basic economic principles employed to guide the application of the law and to secure the common objective of maximizing social welfare have been highlighted in this article.◘

Trade Remedies Corner, continued from page 3

Between January 1999 to June 2006, there were 155 notifications of safeguard initiations, only 76 of which resulted in final measures. India had the most safeguard investigations (15) since 1995, followed by Chile and Jordan with 11 each. The products most frequently affected were, chemical products (26) metal and metal products (21), food-stuff (16), ceramics (14) and vegetables (14). The latest statistics for the period January – June 2006, show that new initiations stood at 13, compared to the same period in 2002, where there were 34. Of the 13 initiations only 6 resulted in the imposition of measures. Among this 13 Turkey accounted for the majority of measures imposed. With regard to countervailing measures over the period January 1995 to June 2006, there were 183 initiations of which only 113 resulted in the imposition of final measures. Overall the statistics reveal that the number of initiations exceeds the imposition of final measures across all three trade remedies. Some analysts believe that this gap is indicative of the strategic use of trade remedies as a threat against trading partners.

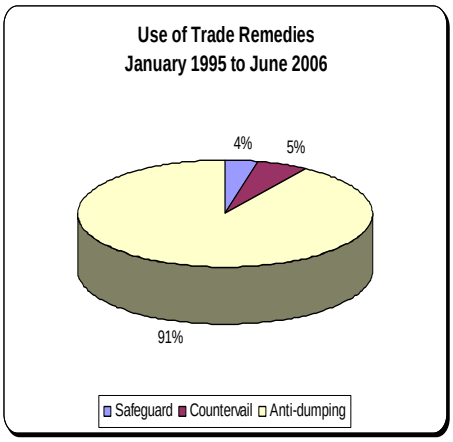

Figure 1

Safeguard measures are utilised less than anti-dumping and countervail actions. As can be seen from the graph in Figure 1, over the period, January 1995 to June 2006, anti-dumping action accounted for 91 percent of all trade remedy actions, with countervail and safeguard accounting for 5 percent and 4 percent, respectively.

Endnotes

[1] Statistics are taken from the WTO website, www.wto.org, based on Members' notifications to June 2006.

Private Sector Development Programme Business Development Seminars

NICHOLE SUPERVILLE-HALL

In October through November, 2006, the Commission completed a series of Business Development Services (BDS) Seminars throughout the island. The Seminars titled, "The Nuts and Bolts of Anti-dumping, Subsidies and Safeguards" were staged in Mandeville, Montego Bay, Port Antonio and Kingston. Invitations were extended by direct mail through business associations and umbrella organisations, and by advertising in the electronic and print media. The aim of the programme was to expose businesses and their advisors to the rudiments of Trade Remedies. Knowledge of these international rules allows businesses to more strategically navigate their trading environment and facilitate competitive gains.

Participants were exposed to fundamental legal, economic and financial concepts in international trade and trade remedies, and the World Trade Organization (WTO), including the dispute resolution mechanism, the investigative process, and compiling a trade remedies complaint.

The seminars were received enthusiastically by the audiences in all parishes. Participants expressed opinions that the material to which they had been exposed was extremely important and encouraged the Commission to seize and create opportunities to repeat the training throughout Jamaica. The Seminars were financed under the Jamaica Promotions (JAMPRO) – Private Sector Development Programme (PSDP), which is jointly funded by the European Union and the Government of Jamaica.

Let's Get Technical, continued from page 5

The SCM Agreement does the following:

1. Defines the types of subsidies that distort trade: generally, the most 'trade-distorting' subsidies are those aimed at promoting or displacing imports, or those given in specific instances; and
2. Sets out rules for trade actions that countries may take to counter such subsidisation by other countries, and the circumstances under which action can be taken. Trade actions can be pursued multilaterally through the WTO Dispute Settlement Body, or unilaterally through countervail, if adverse effects are suffered as a result of subsidies.

Article 1 of the SCM is the starting point for assessing whether a particular programme is a problematic subsidy. The Appellate Body has hailed the definition as, "detailed and comprehensive". There are three important elements to the definition:

1. a financial contribution
2. made by a government or public body
3. that confers a benefit

A support programme must contain all three elements or it cannot be regarded as a subsidy, against which action can be taken. The meaning of each element has been clarified through dispute settlement cases. A financial contribution could be direct transfers of funds; potential direct transfers of funds; government revenue that is otherwise due is forgone or not collected; or provision of goods or services or purchase of goods.

It is important to note that the SCM covers these measures even if they are carried out by a private entity, provided that the government "entrusted" or "directed" that entity to carry out these activities. An important implication of this definition is that it precludes the failure of governments to provide regulation in certain areas, such as on the environment or labour standards, from being regarded as subsidies.

Article 1 is not the only consideration however, because even if the three criteria above are present, one has to determine if the subsidy is problematic in the sense of the SCM. This occurs where the subsidy is trade distorting or in the language of the SCM, "specific" (Article 2). This means that it is directed to a given activity or for a given purpose. The SCM defines four types of specificity:

1. Regional – the support is given to producers in a specific region
2. Enterprise – the support is given to a particular company or group of companies
3. Industry – the support is given to a particular sector or sectors
4. Prohibited — the support is targeted at exports of those goods that use domestic over imported inputs

The test of specificity, however is not free of problems; enter the concepts of *de jure* and *de facto*. There must be a determination of whether the subsidy is specific on the face of the law or official document, or if it amounts to a specific subsidy based on administration.

Two implications follow from the concept of specificity:

- Economic - If it is generally available there is no or rather minimal distortive effect.
- Political/Administrative – it limits action being taken in instances where the programme at issue is not a subsidy

Some would argue that the fact that a programme is generally available does not mean that it does not create distortions. The traditional economic approach is to view distortions in terms of resource allocation, and from this perspective, whether or not a financial contribution is provided on a general basis is of no consequence, since it stillmay induce the recipient to allocate resources in a way that would not otherwise have occurred. *Continues on page 11*

Let's Get Technical, continued from page 10

The important point to note, however, is that not all subsidies are deemed to be problematic. For a particular government programme or action to come under the disciplines of the SCM, it has to conform to these technical specifications. In a sense therefore this still allows countries the opportunity to avail themselves of the use of subsidies. As the rules become tighter it may mean that countries will have to be more creative in the design and implementation of their domestic support programmes, bearing in mind that the use of such programmes is not without risk.

Endnotes

[1] Special duties, called countervailing duties, to offset the effects of a subsidy.
[2] It is important to note that originally the SCM only addressed subsidies on Industrial goods. Agricultural products were dealt with in the Agreement on Agriculture. However, with the expiration of certain provisions in the Agreement on Agriculture, all subsidies can now fall within the scope of the SCM.
[3] The SCM identifies three types of adverse effects, nullification and impairment, serious prejudice and injury. Only where there is injury to a domestic industry can a country act unilaterally to impose countervailing duties. If the other two effects are present, the subsidy has to be addressed multilaterally through the WTO Dispute Settlement Mechanism.
[4] The WTO Appellate Body is a standing body of seven persons that hears appeals arising from reports issued by Panels in disputes brought by WTO Members.
[5] Panel Report in US - FSC.
[6] Reports of these disputes can be found on the WTO website, www.wto.org.

Caricom Corner, continued from page 4

Development Fund

CARICOM is moving towards the establishment of the framework for the Single Economy by 2008. Toward that end, the heads of Government agreed in February 2006 to capitalise the CARICOM Development Fund at US $250 million. The Fund is considered to be a major and necessary element of the CSME. The joint efforts of governments and social partners are deemed necessary to accomplish and sustain the Single Market and Economy. In moving towards its 2008 goal, Government representatives, industry leaders, lead representatives of labour, members of academia and civil society were brought together in a three-day symposium in pursuit of the Single Economy.

Haiti

Haiti was re-admitted during the year to the Community's Councils and CARICOM has affirmed its commitment to supporting Haiti as it returns to democracy, and to lend assistance in determined areas. Haiti's sizeable market is important to the CSM.

Bilateral Relations

CARICOM Ministers of Foreign Affairs met with the US Secretary of State and agreed to the convening of a Conference on the Caribbean in 2007, from June 19 to 21, with a view to increasing the focus on Caribbean affairs on the agenda of the United States Government and influential members of that society. CARICOM also strengthened bilateral relations with Japan, the Republic of Korea, Mexico, Spain and the United Kingdom. Major on-going bilateral trade negotiations proceeded through much of the year between Europe and the CARIFORUM countries, CARICOM plus the Dominican Republic.

CARIFORUM-EU EPA UPDATE

CARICOM, together with the Dominican Republic (CARIFORUM), is entering what is expected to be the final phase of negotiations (phase 4) on an Economic Partnership Agreement (EPA) with the European Communities (EC). These aim is to form a new Free Trade Agreement (FTA) between CARIFORUM and the EC with preferential market access on both sides. In the past, trading arrangements between the EC and its ACP partners were non-reciprocal, that is, while CARICOM had preferential access into the EC market, the EC did not have preferential access into CARICOM markets. In a joint statement coming out of the meetings held in Brussels from the 29-30th of November 2006, Ministers noted the expectation that the "partnership will build upon, strengthen and support the CARIFORUM regional integration process, while promoting the development objectives of individual countries."

There will be four technical working group meetings leading up to the final Ministerial projected for September 2007, the aim being to agree on the final text and facilitate the entry into force of the EPA by January 1, 2008. The view has been expressed by some that the timeline is extremely ambitious. However, Ministers in the Region have expressed their commitment to this deadline. Three major issues that remain to be resolved pertain to tariff liberalisation in goods, commitments in services and investments. An important consideration in the EPA process is the progress made by other ACP regions in negotiating EPAs. Benefits may accrue to the CARIFORUM region due to the preferential treatment that will be accorded, relative to other regions, upon concluding a Free Trade Agreement with the EU first (referred to as "first mover" advantages). However, these advantages could be outweighed by potential negative economic and social effects of making specific commitments.

BANANA SAGA CONTINUES

The closing of 2006 sees a new challenge from Ecuador to the preferential access of the region and of the larger ACP countries into the European markets, under the EC's new banana regime. The new regime replaces the old tiered tariff rate quotas system with a tariff only regime. Through 2007 about 775,000 tonnes of ACP banana will be granted duty free access to the EC, with a tariff of 176 euros per tonne applicable to non-ACP bananas. Ecuador has complained that this level of duty would not allow it to maintain its market share. The current challenge mounted at the WTO is the third such challenge to the EC proposals to resolve the banana disputes. Previous challenges have resulted in the proposed moved down from 230 euros per tonne to the current 176 euros per tonne, which was initially unacceptable to the affected ACP countries.

CARIBCAN AND CBI

The region has benefited from non-reciprocal market access into North American markets under the Caribbean-Canada Trade Agreement (CARIBCAN) and the Caribbean Basin Initiative (CBI) with the United States. These arrangements are made possible through waivers obtained from other WTO Members since the arrangements violate the basic WTO principle of non-discrimination, whereby Members must accord treatment to all Members no less favourable than treatment accorded to one WTO Member. Under both regimes, extension of waivers have been applied for. However, to date, Members have agreed only to an extension for CARIBCAN for a further five years. To date, no extension has been granted in respect of the CBI. The implication is that currently regional exports covered under the CBI are vulnerable to challenge under the WTO Dispute Settlement Understanding. Can anyone say Sugar and Bananas? If a waiver is not obtained, (and in the absence of a completed FTAA) an alternative would be a US-CARICOM Free Trade Area, which would be very different from the CBI arrangement. Most notably it would involve reciprocal market access, and would potentially also cover services and investment.

Continues on page 12

Caricom Corner, continued from page 11

The integration movement has reportedly been positively impacted by the provisions for the event in a number of ways. The Secretary General reports that this is true especially in terms of provisions made for security. He paid special tribute to the Most Honourable P.J. Patterson, the former Prime Minister of Jamaica, whom he referred to as one of the stalwarts of regional integration. He lauded former Prime Minister Patterson's contribution as being without equal.

Prime Minister Mitchell Challenges Region

Prime Minister of Grenada, Dr. Keith Mitchell has said that the region must leverage science and technology in its strategy to become more globally competitive. Addressing the launch of the Annual National Conference of Jamaica's Scientific Research Council in November, the Prime Minister noted that "The existence of an information society presents an opportunity for [transformation] that leads to economic prosperity for nation states". Prime Minister Mitchell has responsibility for Science and Technology in CARICOM.

Citing strategic goals of CARICOM Member States, which include eradication of poverty, combating serious illnesses, provision of universal primary education, increasing tertiary education, improving security and achieving sustainable development, Prime Minister Mitchell emphasised that such goals could only be achieved if the regional economies were rapidly developing. He stated that this would be possible through greater exploitation of profitable scientific innovation. He noted that it was important to align regional economies with those of their trading partners. Prime Minister Mitchell noted in his talk that, "Science and technology can no longer be seen as a stand-alone discipline for the academically gifted. Scientific and technological knowledge as well as their innovation need to become hands-on tools and translated into know-how for farmers, fishermen and service providers, housewives and construction tradesmen." ◘

Minister Hylton's address to the PSOJ ... continued from page 8

There are risks but the small independent operator, the family owner, and managed firm will have less and less of a chance in this globalising world. The major corporations, whether in the production, transportation or the distribution industries are networking and consolidating in one form or another. The Jamaican private sector will have little choice, but to adopt that kind of approach.

Fifth, as I mentioned earlier, the Jamaican Government with its CARICOM partners is involved in a range of negotiations seeking to create more advantageous conditions for Caribbean businesses. Big businesses, especially in developed countries, invest tremendous resources including the time of senior executives, to ensure that their Government negotiators are fully informed on the implications of the most intricate proposals for their business. Jamaica's private sector, at the highest level, needs to invest their expertise and the information and other resources of their enterprises to support the Government teams in negotiations. The Ministry of Foreign Affairs and Foreign Trade has established the Jamaica Trade Adjustment Team (JTAT), chaired by the Minister, as a forum where expertise and information can be shared. We have seldom benefited from the insights and expertise of the top decision-makers, except for the few who head organisations. We need much greater private sector support and collaboration in this area. I challenge you to become more involved.

I hope my thoughts have been sufficient to underscore the reality that the private sector now operates in a very different global environment in which the opportunities for Government to offer protection are very limited. I also hope it has been sufficient also to stimulate thought on how the private sector can organise to take advantage of opportunities opened up by globalisation and the agreements negotiated by Governments, as well as to collaborate and assist the Government in external trade negotiations. I look forward to the discussions.◘

The WTO In Brief

PAMELA MORGAN

10th Introduction Course on WTO For LDC's

In November 2006, the World Trade Organisation (WTO) hosted its 10th Introduction Course for Least Developed Countries (LDCs) in French. The course was conducted at the WTO headquarters in Geneva by its Institute for Training and Technical Cooperation (ITTC). Participants from countries such as Afghanistan, Angola, Burundi, Haiti and Senegal, were given an overview of the structure, rules and function of the organisation. The main focus was on capacity building, the status of the Doha negotiations and development of a network between the WTO and the participants.

New Appointment to the Appellate Body

On September 28, 2006 Mr. David Uterhalter from South Africa was sworn in as the newest Appellate Body Member, after being appointed by the Members. He joins Mr. Georger Abisaab, Luiz Baptista, Ms. Merit Janow, Mr.Giorgio Sacerdoti and Yasuhei Taniguchi. Director General Pascal Lamy welcomed Mr. Uterhalter and reiterated the role of the Appellate Body in maintaining the rights and obligations of WTO Members and contribution to development of international law.

Viet Nam, Newest WTO Member

Viet Nam is slated to become the 150th Member of the WTO on 11th January 2007, after it notified the WTO on December 12, 2006 that it ratified its Membership Agreement. Viet Nam has been through 11 years of preparation including eight years of negotiations.

Status of the Doha Negotiations

The Doha Round of Negotiations started in 2001. Over 100 issues concerning agriculture, services, Market Access (non-agriculture), intellectual property, investment, competition, antidumping, subsidies, regional agreements, special and differential treatment, and trade and technology were raised. Speaking in October 2006 and on several occasions since the negotiations were suspended in July 2006, WTO Director General, Pascal Lamy has warned about the devastating effect that an abrupt end of the Doha Round would have on trade. Director General Lamy has called for a serious strategic approach to resume the negotiations and has called on Parliamentarians for support. Informal meetings of technical working groups have been taking place. Some opine that these could escalate into a formal resumption of the Round in early 2007.

New Publications

The WTO has added to its collection a 97-minute DVD; a training tool that provides essential information on how the WTO system works, the evolution of the trading system from GATT, how trade disputes are resolved through the dispute settlement system and a virtual tour of the WTO building. Also available is a text entitled "WTO Appellate Body Repertory of Reports and Awards 1995-2005".◘

Answers for Trade Remedies Quiz on Page 4

1. Yes.
2. Yes, the GATT now forms a part of the WTO Agreement and essentially the basis on which the WTO rests.
3. This WTO comprised of the Member countries which make agreements; the WTO Secretariat coordinates with Members to develop the implementation of agreements.
4. Yes , through a process of negotiation.
5. World Trade Organization.
6. The agreement, sometimes called the WTO Agreement, establishing the World Trade Organisation (WTO).
7. No, under the WTO Agreement all Members have a single vote.
8. Yes, NGOs can be represented at the WTO.
9. Jamaica's Permanent Representative to the United Nations stationed in Geneva, Switzerland, diplomatically represents Jamaica at the WTO and the Minister of Foreign Affairs and Foreign Trade represents Jamaica at Ministerials, the highest official level of the WTO.