

AGRICULTURE IS THE LEAD ISSUE FOR INDIA AT CANCUN

The central issue of the Fifth Ministerial meeting at Cancun is the subject of agriculture because of the lack of progress on the negotiations in the Agreement on Agriculture (AoA).

The EC-US paper on agriculture should be opposed as the basis for the negotiations in agriculture at Cancun. It pries open developing countries' markets while allowing both EC and US to escape from obligations to discipline domestic support and export subsidies and credit. This proposal is not acceptable as India has 680 million peasants to look after and the proposal is against their interests.

The proposal on market access is not acceptable. It has a category on products to be subjected to harmonization approach. This will have effect of prying open developing countries markets whilst not posing a problem for the US and EU because they have fewer tariff lines with high tariffs whilst developing countries have more tariff lines with higher tariffs.

There is no movement on the special category of agriculture products that are proposed to be protected by developing countries. This is necessary to protect food and livelihood security of millions of peasants in Asia and Africa.

Another matter, which suffers neglect, is the subject of Geographical Indications (GI), which is of great interest to the economies of developing countries. These countries, which are largely agriculture based, have several specialty products on which they wish to seek the form of IPR called Geographically Indicated Rights. India is interested in protecting a range of products like Basmati rice, Darjeeling tea, Shahi lychees, Ratnagiri mangoes etc.

Geographical indications identify a product as originating in the territory of a member country or a specific region within it, to with a given quality; reputation or other characteristic of the product can be attributed. Basmati rice for example can be distinctly attributed to the low foothills of the Himalayan region, which used to constitute the greater Punjab. After partition, this region has been divided between India and Pakistan, so geographically indicated rights belong to India and to Pakistan.

Paragraph 18 of the Doha Ministerial Declaration states: "With a view to completing the work started in the Council for Trade Related Aspects of Intellectual Property Rights on the implementation of Article 23.4, we agree to negotiate the establishment of a multilateral system of notification and registration of geographical indications for wines and spirits by the fifth session of the Ministerial Conference. We note that issues related to the extension of the protection of geographical indications provided for in Article 23 to products other than wines and spirits will be addressed in the Council for TRIPs pursuant to paragraph 12 of this Declaration".

India must work aggressively to garner support for the commitment made in this declaration, to increase the ambit of protection offered under Article 23 of TRIPs. Other countries too have an interest in protecting their (agricultural) products so mobilising support should not be difficult. The US remains a staunch opponent of enhancing the scope of GI protection, supported by Canada, Australia and New Zealand, all of whom are major agriculture exporting countries, including products like cheese, ham and other processed meats. The Indian strategy should aim to isolate the US with the support of the EU and strike independent deals with the other countries involving other issues of interest to them.

With respect to TRIPs and agriculture, the Doha declaration was explicit. It instructs the Council for TRIPs, in pursuing its work program including the review of article 27.3(b) (the article under which biological materials are handled) and Article 71.1 (review in the context of any new developments),

to examine *inter alia* the relationship between the TRIPs Agreement, the CBD and the protection of traditional knowledge.

It further instructs that in pursuing this work, the TRIPs Council will be guided by Articles 7 and 8 of the TRIPs Agreement. Article 7 provides that IPR protection rather than becoming an instrument of unfair monopoly should contribute to technology transfer and be mutually advantageous to producers and users of technology in a way that is conducive to social and economic welfare. Article 8 enjoins members of WTO to adopt measures to protect public health and nutrition and promote the public interest in vital sectors like food and medicine. The draft Cancun declaration simply ignores these injunctions of the Doha declaration and moves ahead with an agenda that benefits the economies of the industrial countries while being largely oblivious to the interests of the developing world.

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