

Table of Contents

- WTO BANANAS: SUSPENSE BUILDS ON EU'S NEXT STEPS
- INDIA TO APPEAL WTO PATENT RULING AND TO TABLE OFFER ON
BALANCE OF PAYMENTS DISPUTE
- CHINA ENHANCES WTO BID
- WTO: CHILE PRAISED FOR EFFORTS ON IMPROVING SOCIAL WELFARE
- FTAA: SMALL COUNTRIES, SMALLER RESOURCES
- HONG KONG MEETING: MALAYSIA CALLS ON WTO FOR PROTECTION
AGAINST SPECULATORS
- EVENTS/RESOURCES

WTO BANANAS: SUSPENSE BUILDS ON EU'S NEXT STEPS

The European Union accepted last week at the WTO an Appellate Body ruling against its banana import regime. How the EU plans to implement the recommendations is yet to be revealed. The EU is scheduled to report its plan at the next dispute settlement body (DSB) meeting on 16 October either by complying with WTO rules, by compensating its trading partners for revenue losses or by defaulting on its WTO obligations. Informed sources say that while the EU will reveal what it plans to do, it will most likely not provide much detail around when and how it plans to implement its response.

The regime granted preferential market access to EU markets for banana imports from African, Caribbean and Pacific countries, as well as for those from Latin American countries in the Uruguay Round's Framework Agreement on Bananas (Colombia, Venezuela, Costa Rica and Nicaragua). Any EU proposal must meet the approval of the U.S., Ecuador, Mexico, Honduras and Guatemala, which brought this third and latest complaint to the WTO. U.S. estimates put lost trade revenue from the EU restrictive regime at US\$2 billion, but U.S. officials have stated that they want compliance, not compensation.

According to informed sources, compliance could take many forms- not all of them appealing to the Latin American countries or Chiquita Brands International, on whose behalf the U.S. brought its complaint to the WTO. The EU could arrange its regime in such a way as to effectively prevent Chiquita from shifting its banana production to the lowest cost Latin American country. This would conceivably give the EU more leverage in its negotiations with the U.S. when working out a final deal.

Jamaica, Cote d'Ivoire and St Kitts and Nevis have criticized in the past few days the WTO ruling, saying it would eliminate more than 30,000 banana industry jobs in their countries. Caribbean nations remain in limbo as their economies face the possibility of losing a significant, and in some cases a majority, of their export revenue. In Guadeloupe and Martinique over 100,000 people are employed in the banana industry, while banana exports account for 80% of GDP in the Canary Islands.

British Minister for International Development Clare Short suggested today in London that a consumers boycott against Central American fruit, as a rejection to plantations where workers endure low pay and poor conditions, could save West Indies growers.

"Le verdict de l'OMC inquiète les producteurs européens de bananes, JOURNAL DE GENEVE, September 23, 1997; "EU accepts banana ruling but reveals little about future response," INSIDE U.S. TRADE, September 26, 1997; "Banano: la Unión Europea sí daría preferencias," EL COMERCIO, September 30, 1997.

INDIA TO APPEAL WTO PATENT RULING AND TO TABLE OFFER ON BALANCE OF PAYMENTS DISPUTE

India will appeal a WTO panel ruling which found that it failed to provide adequate intellectual property protection for pharmaceuticals and agricultural chemicals, according to an informed source within the Indian government. A WTO dispute resolution panel ruled in favor of the United States over India on September 5, finding that India had not adhered to the Trade Related Aspects of Intellectual Property Rights (TRIPs) agreement. This was the first time an intellectual property case went through the WTO dispute resolution process. The Indian government tried and failed in 1994 to pass legislation through parliament which would meet its TRIPs obligations by granting exclusive marketing rights for five years to newly patented drugs and agro-chemicals. A WTO source said the Indian government never informed the WTO that the legislation failed. Indian trade delegates claim that the TRIPs agreement allows the lack of legislation contended by the U.S. The Indian government is reported to be under significant political pressure to pursue an appeal.

The U.S. brought the complaint against India in July 1996, saying that India failed to set up a TRIPs mandated "mailbox" system for filing for patent protection. Under the agreement, during the ten year phase-in period (1995-2005), developing countries that do not have patent protection in place for pharmaceuticals and agricultural chemicals were to set up a system by which companies could file patent applications to be reviewed when patent protection is in place in the country of application. This "mailbox" system allows companies to preserve their original filing dates to substantiate the novelty of their products. India claims it has set up an effective "mailbox" system which does not need legislation to be in place and operate, as it's the case today.

In other news on trade disputes: in an effort to resolve a balance-of-payments dispute between India and major trading partners, the government has made what sources say is a "substantially improved" offer "that largely addressed the U.S. demands." Those demands include a shorter phase-out period for most goods than the six years initially offered by India. Although terms were not disclosed, it is expected that the majority of the 2,714 goods would have import curbs phased out over three years. U.S. negotiators have reportedly said that they would support a six year phase-out period for the remaining items. The U.S., Australia and Canada are due to respond to the revised offer by 6 October.

"India to appeal WTO ruling on patent system," JOURNAL OF COMMERCE, September 12, 1997 "India will appeal WTO panel ruling on drug, agricultural chemical patents," "India revises plan to phase out import curbs in WTO dispute," INTERNATIONAL TRADE REPORTER, September 24, 1997

CHINA ENHANCES WTO BID

China's top economic official Zhu Rongji last week announced a three- year target for turning around state-owned enterprises, saying that China has identified "an urgent need to set up a new investment system in which the roles of government and enterprises are separated." Mr. Zhu forecast eight percent

annual economic growth for China until 2000, followed by seven percent for the following decade. This growth, Mr. Zhu said, would not be possible without the commitment to reform that China has undertaken. This same spirit of reform has fueled the "enormous efforts" that China has put forth on behalf of its WTO bid, according to Mr. Zhu, who warned trading powers that it was "unreasonable to make excessive demands on China for admission to the WTO."

U.S. Deputy Treasury Secretary Larry Summers said that he was "encouraged" by China's promises to institute banking reforms and cut taxes on foreign investment in China, but reiterated the U.S. position that China's accession to the WTO had to be based on its accepting the norms of "openness of the international system." The major trading powers take issue with the invisible barriers to trade which they say exist in China, namely subsidies to state-owned enterprises and unpublished restrictions on foreign goods. The U.S. has remained disappointed by China's offers on market access and intellectual property protection.

China is seeking admission to the trade organization on the terms afforded to developing countries, which generally grant more lenient phase-in periods for compliance to WTO rules. The major trading powers, led by the EU and U.S., argue that China is too large an economy to be treated in the same manner as the least developed economies.

"Beijing gives state sector three years to halt losses," FINANCIAL TIMES, September 25, 1997;
"L'adhesion de la Chine a l'OMC avance lentement," LE MONDE, September 25, 1997; "China says tariff cuts to boost WTO bid," REUTERS, September 21, 1997.

WTO: CHILE PRAISED FOR EFFORTS ON IMPROVING SOCIAL WELFARE

Chile's trade policies came under scrutiny last week as the The World Trade Organization (WTO) completed a two-day Trade Policy Review of the country's economic laws on Wednesday, 24 September. The review was highly favourable, praising Chile's success in combining effective liberalization policies with efforts to improve social welfare. However, despite Chile's outward-oriented trade policy, some concerns were raised by WTO members regarding its emphasis on regional/bilateral trade arrangements; its policies on agricultural goods; and various technical barriers to trade.

WTO members argued that promotion of a range of trade agreements, such as the recent conclusion of a Free Trade Agreement with Canada, a new agreement with MERCOSUR, and ongoing negotiations for a framework agreement with the EU, have complicated efforts at liberalization by promoting different treatment for Chile's various trading partners. Rules of origin and disparities between industrial sectors facing differing timetables for tariff reductions were particularly at issue here.

Where import barriers were concerned, Chile was seen to have been moderately successful in complying with its liberalization commitments. Chilean exports have benefited from a duty drawback system for imported inputs and a non-sector-specific, simplified method for minor exports. According to Chile's trade representative, any subsidy, both in this sector and in all others, is currently being phased out. This includes the country's automotive program, which, under prior commitments to the TRIMs agreement, will be phased out by 2000. The environmentally-based prohibition of imports of used vehicles, however, will be maintained.

Concern was raised regarding the so-called price band mechanism on some import-competing agricultural goods. The worry was that this system could lead to high protection rates for some goods and promote a misallocation of resources. The mechanism was established to buffer domestic prices against international price fluctuations of agricultural products upon which Chile depends heavily for domestic consumption.

In terms of Chile's efforts at facilitating imports from least developed countries, Chile's trade representative noted that tariff quotas covered imports under preferential rates, and that there were no restrictions on imports under MFN rates. In addition, Chile maintains no non-preferential rules of origin that might discriminate against LDC imports. Nonetheless, members voiced concerns regarding the potential impact of health and sanitary requirements as barriers to trade.

"TPRM of Chile," ICTSD's Internal Briefings File

FTAA: SMALL COUNTRIES, SMALLER RESOURCES

Negotiations for the upcoming Free Trade Area of the Americas (FTAA) could put a serious strain on smaller countries' human and financial resources, according to Donald Mackay, an advisor to the Organization of American States' secretary general. Speaking at a conference on free trade, Mr. Mackay warned that smaller Latin American and Caribbean countries' resources for trade negotiations will be put to the test: they must negotiate on a number of trade issues simultaneously, a task for which they may not have the resources or experience.

In order to meet the challenge, Mr. Mackay called on larger countries to accelerate deliberations on providing smaller countries with technical assistance. Mr. Mackay noted as well an increased role for pooling resources and joint-negotiations, citing the examples of the Caribbean Community (Caricom), the Andean Group and MERCOSUR. "Joint negotiations, however, present their own challenges as the countries involved must be sure that they can effectively translate collective decisions into national commitments," Mr. Mackay warned.

However, doubt remains among some Latin American countries about the likelihood of an FTAA coming into existence should the Clinton Administration not receive fast-track approval to negotiate further trade agreements. According to Chilean Foreign Minister Jose Miguel Insulza, the absence of U.S. fast-track legislation might derail talks toward a hemispheric free trade zone next year in Santiago, Chile.

"FTAA hemispheric trade negotiations strain smaller countries' resources," INTERNATIONAL TRADE REPORTER, September 24, 1997. "Chile sees FTAA talks stymied absent US fast-track," REUTERS, September 24, 1997

HONG KONG MEETING: MALAYSIA CALLS ON WTO FOR PROTECTION AGAINST SPECULATORS

"Most unusual" is the way many observers characterized last week's IMF/World Bank annual meeting in Hong Kong. Much of the discussions focused on the financial crisis in South East Asia; emotions ran high as Asian leaders warned rich industrialized countries not to impose their value systems on developing countries by forcing their hand via liberalization agreements.

China's Prime Minister Li Peng warned that "Such practices [by the West] as bullying the weaker or less fortunate by dint of one's power or wealth should not go unchecked, still less should countries be allowed to impose sanctions, or threaten to do so, at every turn, against others." Mr. Li also reminded industrialized countries that their future growth depends on developing countries, saying "they must have markets for their goods, outlets for their capital and suppliers for the raw materials they need." Mr. Li put forward what he called "six proposals of principle," by which sustainable development could be achieved in developing countries, including the call for more financial and technical assistance.

James Wolfensohn, President of the World Bank, warned at last week's meeting of the growing disparity between rich and poor countries, calling the gap "a time bomb which, if ignored, could explode in our children's faces." In response, the World Bank will be significantly stepping up efforts in developing countries to restructure banking and financial systems.

Perhaps the most dramatic example of developing nations' resistance to Western-led liberalization of their financial markets came from the much publicized comments by Malaysia's Prime Minister Mahathir bin Mohamad: the Prime Minister called currency trading "immoral," and blamed recent difficulties in financial markets on western speculators. Malaysian Deputy Prime Minister Anwar Ibrahim assured IMF members that no restrictions would be put on currency trading, although he did note that Malaysia would not join the WTO financial services agreement unless it provided for protection from "unscrupulous speculators."

An attempt at a regionalized response to the South East Asian financial crisis via a separate US\$100 billion bail-out facility for Asia only was rejected. However, IMF members agreed to increase by US\$88 billion capital available globally for bailing out countries in financial trouble.

"At finance talks, Li Peng cautions rich countries," INTERNATIONAL HERALD TRIBUNE, September 24, 1997; "Rumpus in Hong Kong," THE ECONOMIST, September 27, 1997; "Globalization theory vaults into reality," INTERNATIONAL HERALD TRIBUNE, September 26, 1997.

EVENTS/RESOURCES

"Fast Track, the MAI and Sustainability" will be the topic of the next Communications for a Sustainable Future (CSF) Online Seminar, starting Monday, September 29 and ending October 10, 1997. The seminar continues CSF's series in "Sustainable Economics" and will examine various perspectives and implications of the Multilateral Agreement on Investment (MAI) currently being negotiated at the Organization for Economic Cooperation and Development (OECD). Other perspectives on the MAI may be accessed from: <http://csf.colorado.edu/sustainable-economics/mai/>

Fifth Annual World Bank Conference on Environmentally and Socially Sustainable Development, October 6-8, 1997. Washington, D.C., USA. Theme: "Partnerships for Global Ecosystems Management: Science, Economics, and Law. For more information, contact the World Bank, ESSD5, Room S7-040, 1818 H St., N.W., Washington, D.C. 20433, USA Ph: +01/202/ 458/4358; Fax: +01/202/522/3265; Internet: <<www.worldbank.org>>

UNCTAD World Investment Report 1997: Transnational Corporations, Market Structure and Competition Policy. To order, contact Sales Section, Rm. DC2-0853, UN Secretariat, New York, N.Y., USA. email: publications@un.org

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