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# *B R I D G E S*

## *W e e k l y N e w s D i g e s t*

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International Centre for Trade and Sustainable Development

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### Table of Contents

- WTO Committee Chairs
- Asia, Vietnam Address Intellectual Property Rights
- Costa Rica Wins WTO Appeal
- U.S. Threatens New Ag Export Subsidies
- EU Considers Future Of Lome Convention
- Telecom Pact Concluded
- WTO Committee Chairs
- Events And Resources

### **ASIA, VIETNAM ADDRESS INTELLECTUAL PROPERTY RIGHTS**

In an effort to bring China's domestic legislation in line with international standards, Chinese officials announced that China would establish new government agencies to coordinate enforcement of intellectual property rights, in conjunction with an anti-piracy pact with the U.S. As of February 1, China's 21 provinces must establish copyright bureaus responsible for copyright enforcement and publicizing copyright law to the public. Officials also announced that long-promised amendments to its 1991 Copyright Law targeting theft of computer software would be addressed, although they would not specify when such legislation would be introduced. In Vietnam, the government is paying increasing attention to completing intellectual property legislation—seeing strong industrial property rights and copyright laws as an effective way to attract foreign investment. Vietnam is a member of the World Intellectual Property Organization (WIPO), and has signed bilateral agreements with France, Australia and Thailand on assistance and cooperation in industrial property rights protection. The National Office of Intellectual Property (NOIP) in Vietnam has to date put greater emphasis on industrial property rights protection, but is expected to put energy into copyright protection of foreign works in the coming years. NOIP predicts that in 1997-1998, Vietnam will sign the TRIPS Agreement and Berne Convention.

In other intellectual property news, the U.S. penalized Argentina for what the Clinton Administration sees as significant shortcomings in Argentina's new patent law. In a move that officials hope will send a message to developing countries, the U.S. will withdraw 50 percent of Argentina's Generalized System of Preferences (GSP) benefits, resulting in the restoration of duties on \$260 million worth of Argentine imports. The U.S. cited Argentina's failure to institute an adequate patent law protecting the confidentiality of health registration data, which companies are required to submit as part of their patent application. While Argentina has recently enacted a new patent law to protect exclusive health test data, the U.S. holds that the law falls significantly short of international standards. U.S. pharmaceutical manufacturers complain that Argentina's new patent law allows for a five-year exemption from full Trade-Related Aspects of Intellectual Property (TRIPs) implementation, does not provide pipeline protection for pharmaceutical products under development, and that its compulsory licensing measures are not strict enough. The U.S. pharmaceutical industry estimates that piracy by Argentine pharmaceutical firms costs half a billion

dollars a year in lost sales. The price tag on the penalty imposed on Argentina is approximately \$13 million (\$260 million times the average customs duty of five percent), industry officials say.

U.S. pharmaceutical companies think the harm done to the U.S. pharmaceutical industry is dwarfed by the penalty imposed, and that the U.S. will have to take stronger action if Argentina does not respond favorably. Because Argentina is not necessarily in violation of the TRIPs accord, the U.S. was limited in how it could respond, and according to a U.S. trade official, "reluctant to [impose] WTO-illegal sanctions." Another U.S. trade official acknowledged that the penalty would probably not incite a change of heart by the Argentine legislature. The official also said that the U.S. hopes to use the GSP to send a message that lax intellectual property rights protection has consequences. An Argentine pharmaceutical industry source says the U.S. action will only penalize U.S. consumers who will have to pay more for some Argentine goods.

"China to Revise Copyright Law to Meet International Standards;" "Vietnam Moves to Put in Place Legal Framework for IP Protection;" U.S. to Cut GSP Benefits for Failure to Protect Patents," WORLD INTELLECTUAL PROPERTY REPORT (BNA), March, 1997; "Clinton Removes Half of Argentina's GSP Benefits in Patent Fight," INSIDE U.S. TRADE, January 17, 1997.

### **COSTA RICA WINS WTO APPEAL**

Emergency safeguards to control surges of textile and apparel imports cannot be imposed retroactively, the WTO Appellate Body ruled last week. The ruling came as part of the February 10 decision in favor of Costa Rica's appeal of a previous WTO decision, which said that WTO members are allowed to set a beginning date for quotas prior to the conclusion of consultations required by WTO procedures, but that WTO members must first publish notification of requests for consultations. Last week's WTO Appellate ruling holds that the Uruguay Round Agreement on Textiles and Clothing (ATC) determines that the initial date of quotas and other safeguards should be set after consultations conclude. Costa Rica brought the appeal on this specific point as part of its case against the U.S. quota on imports of Costa Rican underwear, in which Costa Rica won a favorable ruling from the WTO Dispute Settlement Body. The final, amended decision will be presented for adoption at the Dispute Settlement Body's February 25 meeting. Under WTO rules, the U.S. cannot block adoption of the panel report, which calls for the immediate lifting of the U.S. quota on Costa Rican underwear.

The Appellate Body ruled that the dispute resolution panel was wrong in its original ruling when it concluded that the beginning date of an U.S. quota on Costa Rican underwear could have been consistent with the ATC and GATT if the quota had been imposed on or after the publication date of the request for consultations. The U.S. had set the initial date for its quota as April 21, 1995, the date when it originally notified Costa Rica that it was calling for consultations on Costa Rican underwear imports. The appeals board ruled that importing countries should date safeguards to start in the 30 days that follow the mandatory 60 day consultation period. The appeals board did acknowledge U.S. concerns that the inability to impose restraints retroactively might allow the exporting country to dramatically increase shipments once notice of consultations is given. In cases which pose serious concern to countries, the appellate board would direct a country to utilize Article 6.11 of the ATC, wherein it states that a country could impose an immediate temporary restraint "in highly unusual and critical circumstances, where delay could cause damage which would be difficult to repair."

"WTO Appellate Body Says U.S. Cannot Backdate Textile Safeguards," INSIDE U.S. TRADE, February 14, 1997.

### **U.S. THREATENS NEW AG EXPORT SUBSIDIES**

U.S. House Agriculture Committee chairman Bob Smith last week announced his support for President Clinton's decision to fully fund the Export Enhancement Program (EEP) as part of the Fiscal 1998 budget. Smith said EEP and other export subsidy programs should be fully utilized in order to compete with U.S. trading partners and maintain U.S. market share in foreign markets. The congressman noted that EU domestic and export subsidies totaled \$49 billion last year compared to \$12 billion in the U.S. President Clinton has proposed funding EEP at \$500 million, an amount consistent with U.S. Uruguay Round commitments.

Smith also warned that problems may arise between Congress and the Clinton Administration should the President's fast-track proposal maintain the ability to negotiate labor and environment provisions in trade agreements. The congressman said that fast-track has a greater chance of being passed if it is silent on labor and environment. Smith also said this year's Agriculture Committee agenda would "emphasize trade," and that hearings would be held to review the effects NAFTA and the Uruguay Round have had on U.S. agriculture.

"House Agriculture Chairman Calls for Reactivation of EEP," INSIDE U.S. TRADE, February 14, 1997.

## **EU CONSIDERS FUTURE OF LOME CONVENTION**

At the end of November 1996, The European Development Commission issued its Green Paper addressing the future of African, Caribbean, Pacific (ACP) and European Union cooperation beyond the year 2000. Citing the need to address changes in global political and trade structures, as well as upcoming changes for the European Union, EU Development Commissioner Joao de Deus Pinheiro said the paper is intended to offer a series of options to increase the effectiveness of ACP—EU cooperation.

The paper expresses EU disappointment at Lome's inability to help ACP economies expand. Only a handful of countries (Mauritius, Botswana, Cote d'Ivoire, Jamaica, Uganda and Benin), the paper says, have seen significant economic growth, despite a wide range of non-reciprocal trade preferences. The paper notes that commodities still make up more than 80 per cent of ACP exports to the EU. In an effort to develop the globalization of ACP economies, the paper puts forth the possibility of incorporating WTO-friendly trade liberalization measures, such as standards certification and intellectual property rights, into existing non-reciprocal preferences. Another possibility would be to afford trade preferences to ACP countries under the EU's Generalized System for Preferences (GSP) for developing countries. Also put forward in the paper is the possibility of differentiated reciprocity agreements, tying the degree of reciprocity to the level of development in an ACP country. The Green Paper also notes the need to generate more competitiveness in ACP economies. Saying cooperation should focus on non-inflationary growth and a macro-economic approach, the paper suggests measures to restructure state-owned enterprises and to encourage private capital investment, especially in infrastructure and the telecommunications sector.

Also in November, at the annual meeting of ACP and EU social interest groups, a Final Declaration of the Social Partners was adopted, addressing "the future of ACP-EU relations and the position of the economic and social interest groups." Key recommendations from the declaration include a flexible and more differentiated approach to cooperation, reflecting varying levels of development; promotion of good governance, respect for human rights, the rule of law and gender equality; and consistency and coordination of EC policies, most notably between development and agriculture policy.

"Commission Launches Green Paper on Future ACP-EU Cooperation;" "Social Partners Look Beyond Lome," THE ACP-EU COURIER, January-February, 1997.

## **TELECOM PACT CONCLUDED**

A global telecommunications agreement was concluded on Saturday, February 15th, after marathon discussions that pushed the talks to the final moments. This new pact includes 57 countries, representing over 90 per cent of the \$600 billion basic telecom market. The U.S. is the single biggest stakeholder in the sector, with its \$200 billion market. In the week leading up to Saturday's concluded agreement, U.S. Deputy Trade Representative Jeffrey Lang had expressed concern that the pact might lack the "critical mass" of quality proposals from countries to make the agreement a "go" for the U.S. One key trade diplomat said of the negotiations during the week that "Much of this exercise is about making Washington happy that there is enough to make opening its own market to all-comers worthwhile."

Malaysia, Indonesia and South Africa submitted offers at this round of negotiations, after opting out of last year's negotiations. Two other developing countries—Ghana and Grenada, also tabled their first offers last week. A point of contention during negotiations was over foreign ownership of telecommunication firms. Canada was adamant about limiting foreign equity investment (direct and indirect combined) to around 48%. Mexico and South Korea had similar restrictions in their offers. The U.S. strongly opposed such restrictions and called Canada's stance on the matter "very disappointing."

WTO director-general Renato Ruggiero was more than eager to get the telecommunications pact signed by Saturday's deadline. Ruggiero sees the completed pact as a necessary step in establishing the WTO's credibility--vital to the organization's success. "Failure cannot be an option," Ruggiero told reporters last week before the pact's completion.

"Trade Chief Appeals for Telecom Deal," FINANCIAL TIMES, February 11, 1997; "U.S. Sees Progress to Global Telecom Pact," REUTER, February 10, 1997. "Global Telecom Agreement" New York Times, February 15, 1997.

## **WTO COMMITTEE CHAIRS**

Two of the WTO Committee Chairs reported in last week's Bridges have changed. The WTO Committee on Trade and Development will be chaired by H.E. Mr. Dhurmahdass Baichoo from Mauritius, and the Committee on Budget, Finance and Administration will be headed by H.E. Mr. Kamel Morjane from Tunisia.

## **EVENTS AND RESOURCES**

UNCTAD WORKSHOP on THE BIOTRADE INITIATIVE: A NEW APPROACH TO BIODIVERSITY CONSERVATION AND SUSTAINABLE DEVELOPMENT. February 18, 1997, Palais des Nations, Geneva.

UNCTAD is organizing a workshop for delegates and other interested individuals and organizations to introduce its BIOTRADE Initiative to the international community. The Initiative seeks to stimulate trade and investment in biological resources in developing countries and to enhance the capacity of these countries to compete in the biochemical prospecting market. UNCTAD see the Initiative, launched last November, as a pragmatic way to promote the objectives of the Convention on Biological Diversity, which includes conservation and sustainable use of biological diversity and

equitable sharing of the benefits arising from the use of genetic resources. For more about the workshop and/or the BIOTRADE Initiative, contact Juan A. de Castro, Coordinator, BIOTRADE Initiative: Ph: +41/22/907/5791; Fax: +41/22/907/0047; E-mail: [juan.de.castro@unctad.org](mailto:juan.de.castro@unctad.org).

The PACIFIC ENVIRONMENT AND RESOURCES CENTER(PERC): is looking for information from organizations working on Pacific Rim trade and environment issues, especially regarding the Asia Pacific Economic Cooperation (APEC). PERC would like to learn what groups are currently involved in APEC issues, what kinds of work are under way and how environmentalists are organizing around the APEC meetings due to take place in Vancouver this year. PERC want opinions on priority areas for environmental activism around Asia-Pacific trade liberalization and your ideas on how to increase the effectiveness of environmental NGOs working on APEC issues. PERC will be monitoring APEC activities over the next year and helping environmental NGOs prepare and organize for the November 1997 APEC meeting in Vancouver. To share your ideas and suggestions, please contact Paige Fischer at PERC: 1055 Fort Cronkhite, Sausalito, CA 94965. Ph: 415-332-8200; Fax: 415-332-8167; E-mail: [perc@igc.apc.org](mailto:perc@igc.apc.org)

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