

Preparing for Negotiations on the Built-In Agenda: Non-Trade Concerns Loom Large for Agriculture Talks

WTO Members in November outlined their positions on liberalising trade in agriculture and services, the main items of the 'built-in agenda' of the multilateral trade negotiations slated to start in the year 2000. In addition to new negotiations on agriculture and services, the 'built-in agenda' consists of reviews of several other WTO Agreements, including those on sanitary and phytosanitary measures, technical barriers to trade and trade-related intellectual property rights. Members met in October to consider future work on the implementation of existing Agreements (see Bridges Vol.2 No.7, page 1). In January 1999, governments will present their views on possible new areas to be included in the post-2000 trade talks, thus completing the initial review of negotiation positions and goals.

In view of the widely diverging priorities of the WTO membership, intense negotiations will be required to reach a consensus on the scope of the post-2000 agenda. Those will start at the February Special Session of the General Council and, after a series of inter-session meetings, culminate at the Third WTO Ministerial Meeting in early December 1999, which will adopt the negotiation agenda and timeframe.

The European Union, Japan and Korea lead the push for a 'Millennium Round', with simultaneous negotiations on a broad range of areas conducted as a 'single undertaking'. Many members of the Cairns Group of developed and developing country agricultural producers also support broad-ranging multilateral trade negotiations, but stress that negotiations on agriculture and services must not 'be held hostage to agreement on a comprehensive round'. The US and Canada, wary of launching a long round where 'nothing is agreed until everything is agreed', propose to complement the built-in agenda with separate sectoral negotiations on topics where Members agree that results could be achieved.

India, Pakistan, Cuba and Egypt are the strongest advocates for focusing future work in the WTO on effective implementation of existing agreements rather than on further liberalisation of trade beyond the built-in agenda. At the November meeting, Members agreed that General Council Chair, Ambassador John Weekes of Canada, should hold consultations on India's and Egypt's request that the Secretariat prepare an analytical paper on the impact of the Uruguay Round on developing countries.

Export Subsidies, Domestic Support and Market Access

A large number of countries want the agriculture negotiations to lead to the elimination of export subsidies and a

drastic reduction of production subsidies. The EU, Japan and – to a lesser extent – South Korea are the main targets of this drive. The Cairns Group and developing countries largely agree on measures primarily aimed at opening developed country markets. In addition to the removal of export subsidies, they will aim at deep cuts to all tariffs, including mechanisms to address tariff peaks and tariff escalation. Other priorities include elimination of prohibitive tariffs and entry price mechanisms that act as disguised export subsidies.

Chile called for a clear prohibition of roll-over of export subsidies, a position shared by other developing countries and the Cairns Group. The latter and the US also said the negotiations should finalise provisions under Article 10.2 of the Agriculture Agreement on export credits and guarantees, and come up with means to prevent circumvention of export subsidy commitments.

The Cairns Group will also seek major reductions in in-quota tariff rates and 'substantial increases' on rate quota volumes. The Group, together with the US and Pakistan, called for simpler and more transparent tariff rate quota management leading to a gradual elimination of import quotas. The US also said that 'Members should agree to pursue additional approaches that address market access issues for biotechnology products.'

Regarding domestic support, the US said Members should agree to strengthen the rules so that all production-related support is subject to discipline. The proposal is targeted towards the elimination of the so-called 'blue box' subsidies, which Members agreed during the Uruguay Round were trade-distorting but nevertheless temporarily exempted from WTO subsidies in order to accommodate the EU's production-related agricultural subsidies.

Developing countries, whether Cairns Group members or not, made an important distinction between industrialised countries' subsidies

which distort world markets and those used by developing countries to attain high enough standards for exports or to ensure food security. For instance, Cuba, the Dominican Republic, El Salvador, Honduras and Nicaragua said that the new round should provide developing countries with flexibility and facilities to assist them in using domestic support in the agricultural sector provided such support was aimed at improving marketing, transport and diversification of agricultural production or ensuring compliance with sanitary and phytosanitary regulations. See also special and differential treatment, non-trade concerns and food security below.

IN THIS ISSUE

The Intellectual Property Rights Debate:	3
The WTO Needs Citizen's Advice on Life Patents	
WTO News	4
Dispute Settlement	7
Dispute Settlement Review Update	9
The Buenos Aires Tango: What Trade-related	11
Consequences?	
MEA News	
Regional Integration News	13
Anti-dumping in Mercosur	15
International Organisations	17
ICTSD and Partner News	18
Meeting Calendar	20

Published by the International Centre for Trade and Sustainable Development.

Continued on page 2

In-built Agenda, continued from page 1

Pakistan and India called for future negotiations to address the imbalance between highly-protected industrialised countries' right to maintain import restraints, as well as domestic and export subsidies, and the prohibition for developing countries – which did not have such measures before the Uruguay Round – to introduce them beyond a 10 percent *de minimis* level. The Dominican Republic and Honduras presented a paper on the special needs of developing countries with small and vulnerable economies, such as small island nations. According to observers, however, the possibility that other developing country WTO Members would agree to create a new category of states eligible for preferential tariffs is remote.

Special and Differential Treatment

Article 20 of the Agreement on Agriculture, which mandates Members to initiate new agricultural negotiations before the year 2000, also provides that such negotiations take into account 'non-trade concerns' and 'special and differential treatment to developing country Members'. At the November meeting, India and Pakistan stressed the need to strengthen and, above all, implement the Agriculture Agreement's provisions for 'special and differential treatment' (SDT). In future negotiations, India said it might be necessary to adopt a 'market plus' approach for developing countries with 'a significant percentage of the population not only dependent on the agricultural sector for its livelihood, but also just surviving above the poverty line.' A 'market plus' approach would take into account non-trade concerns such as maintenance of the livelihood of the agrarian peasantry and production of sufficient food to meet domestic needs. Other developing countries made similar interventions, and Pakistan said that the special and differential treatment provisions of the SPS Agreement should be translated into more specific obligations to take developing countries' infra-structural handicaps into account and assist them in achieving appropriate levels of SPS protection in their export markets.

All countries recognised that SDT measures would be an important part of the outcome of the negotiations, although the Cairns Group did not entirely follow India's arguments on their usefulness in addressing food security and other non-trade concerns.

Non-trade concerns

'Non-trade concerns' are emerging as one of the major battlefields of what observers think will be the most difficult trade negotiations ever held. The European Union, Japan and Norway argue that agriculture cannot be treated the same way as other GATT disciplines because of its 'multifunctional' role. According to these countries, the Agriculture Agreement's 'green box' of permissible subsidies should be retained and expanded to cover government support to environmentally-sound agricultural production, rural employment, development and culture, preservation of agrarian landscapes and other environment-related concerns. The so-called 'green box' specifies the subsidies that Members have agreed do not distort trade and are thus allowed under WTO rules.

While Korea shares the characteristic of a highly protected agricultural sector with the other advocates of agriculture's unique multifunctional role, unlike the European Union, it is a net food importer. It called for only gradual and partial removal of trade barriers, such as high tariffs or tariff quotas, as well as extending the green box to cover measures related to multifunctionality and food security.

This approach will be strongly fought by the Cairns Group and practically all developing countries. Australia argued that existing green box provisions (such as public stockholding for food security purposes, domestic food aid, environmental programmes, support for rural amenities and pest control) were sufficient to address legitimate non-trade concerns, and that there was no reason for 'mainly rich, developed, protectionist countries' to use them as 'an excuse to avoid liberalising trade in agriculture'. The United States said that so far, contrary to some initial fears, the green box has not been abused by countries adopting broad definitions of allowable subsidies, but that it would fight against expanding green box coverage.

Argentina put the Cairns Group's and developing countries' objections to the EU's conception of non-trade concerns in forceful terms, stating that '[n]either consumer concerns nor protection of the countryside, rural culture or the environment need to lead to mountains of surpluses that are subsequently tipped on the world market at prices with which we cannot compete and which ultimately generate yet more marginalisation and poverty in our countries.' Chile also said it could not under any circumstances accept trade barriers based on environmental reasons, and argued that environmentally harmful agricultural practices would best be remedied through reforming agricultural subsidies and import restrictions. Similar proposals have been made in the Committee on Trade and Environment, notably by Argentina, in the context of discussions on environmental benefits of removing trade barriers.

Food security

For most developing countries food security is the priority 'non-trade concern' that should be addressed by the next round, particularly with regard to net food-importing developing countries (NFIDCs). Chile said the new round should result in a prohibition of export restrictions as such measures disrupt food supplies, effecting NFIDCs in particular. Cuba, the Dominican Republic, El Salvador, Honduras and Nicaragua called for improved market access for products from net food-importing countries so that they can increase their export earnings and hence be in a position to face higher food-import bills.

Both India and Pakistan pointed out the shortcomings of the principle that countries should import food from abroad if this was cheaper than the cost of domestic production. This, India and Pakistan argued, was only possible for countries with sufficient foreign exchange reserves to pay for such imports. In those developing countries that could not generate enough foreign exchange through their exports, government support to local farmers, producing for domestic consumption, was necessary to ensure food security, and a legitimate 'non-trade concern'.

Continued on page 14

Post-2000 Preparatory Process

January 1999 3 rd week	Fourth Inter-sessional Meeting of the SS-GC Possible future work on the basis of the work programme initiated at Singapore; other matters proposed and agreed to by Members concerning their multilateral trade relations.
February 1999 25-26	Second Special Session of the General Council for the 3 rd WTO Ministerial
30 Nov. to 3 Dec. 1999	Third WTO Ministerial Meeting Adoption of the post-2000 negotiating agenda

The Intellectual Property Rights Debate: The WTO Needs Citizens' Advice on Patents over Life

By David R. Downes and Matthew Stilwell

At its meeting in December 1998, the TRIPs Council for the first time discussed plans for the 1999 review of Article 27.3(b) of the TRIPs Agreement. In the coming months, this review will raise the contentious question of whether the TRIPs Agreement should be extended to require governments to recognize patents over 'life itself.' In the December meeting, governments focused on procedural issues (see related article on page 5). Unfortunately, available information suggests that governments overlooked one of the main procedural items – the need to open the process to public scrutiny and public input.

Life patenting involves issues relating to consumer rights, biodiversity conservation, environmental protection, sustainability of agriculture, indigenous rights, scientific and academic freedom, and the economic development of countries dependent on new technologies. Are living organisms or parts of organisms, such as human genes, to be considered 'inventions' that can be patented under intellectual property law? To ensure adequate public debate about these issues, the review of Article 27.3(b) must involve a broad, public debate about the many implications of extending intellectual property rights to cover life.

Intellectual property in some form is almost universally recognized as an essential policy tool in market economies. Inventors are granted intellectual property rights as a reward for innovation, and as an incentive to disclose information, thus promoting innovation by others. These rights provide a time-limited exclusive right to control the commercial use and sale of a valuable product. As well as encouraging innovation, they allow the holder to raise the price and reduce supply to consumers and may therefore give market dominance or even a monopoly to the owner.

The scope of exclusive rights – in terms of duration, technology, activities and geographical application – should thus be carefully defined to maximize the benefits to the public. An equitable and creative society must develop intellectual property laws that strike the right balance between incentives and fair returns to innovators on one hand, and the risk of market dominance, profit-taking and losses of consumer welfare on the other.

Today, the balance seems to be shifting. Intellectual property laws are defined during closed international negotiations dominated by industry. They are then brought to national legislatures as *faits accomplis*, without democratic deliberation. In the name of national competitiveness in the global market place, industrialized country governments are promoting corporate interests by helping to expand corporate control over – and corporate profits from – new developments in biotechnology and pharmaceuticals.

Many citizens' groups in both the developed and developing world are concerned about the economic, social, environmental and ethical impacts of these developments, and in particular their latest manifestation: the prospect of the TRIPs Agreement being extended to cover life patenting. Moreover, many developing country governments are concerned that control of the nature and distribution of new life forms by multinational corporations may affect their development prospects and food security.

Article 27.3(b) of the TRIPs Agreement

Negotiated in the Uruguay Round of trade talks, the Agreement on trade-related Intellectual Property Rights (TRIPs) is the most important international law on intellectual property. It sets minimum standards and enforcement procedures for national protection of intellectual property rights. Its enforcement measures – including trade sanctions against non-complying WTO members – are unprecedented in international intellectual property law.

Article 27.3(b) of the TRIPs Agreement requires countries to recognize patents on most products and processes, including pharmaceuticals, modified microorganisms and 'microbiological processes'. Currently, however, it does not require countries to recognize patents on plants or animals, or 'essentially biological [but not microbiological] processes for the production of plants or animals'. Each country has the discretion whether to recognize these patents. Countries may protect plant varieties either through patents or an 'effective *sui generis* system' or both. This exception exists because many other countries rejected on economic, legal or ethical grounds demands by the United States for patenting of plants and animals.

WTO Members should resist the proposed extension of TRIPs to life patenting and maintain the current language of Article 27.3(b). Members should also consider expanding the exception to cover microorganisms.

In 1999, the TRIPs Council of the WTO will review Article 27.3(b). It is expected that the United States will seek to remove this discretion so that TRIPs requires countries to recognize patents on plants and animals. Other industrialized countries may side with the United States, especially since the European Union recently decided to extend patents to cover life forms. Many developing countries are likely to oppose the removal of the exception.

WTO should maintain the life patenting exception

It is our view that the WTO Members should resist the proposed extension of TRIPs to life patenting and maintain the current language of Article 27.3(b) allowing for plant and animal discretion and the right to develop *sui generis* systems for plant variety protection. Members should also consider expanding the exception to cover microorganisms. This discretion is essential for a number of reasons:

- **Maintaining flexibility to address indigenous and biodiversity goals**

It gives countries the space they need to experiment with various approaches to implementing Article 8(j) of the Convention on Biological Diversity, requiring protection of traditional knowledge, innovations and practices of local and indigenous communities. Given the complexity of the issues, countries badly need to develop experience resolving them through pilot projects and programs, and this will require a phase of experimentation. Requiring all countries to recognize life patenting and uniform systems of plant variety protection, would hinder countries from gaining the experience needed to implement Article 8(j) effectively.

Continued on page 16

Update on Trade and Development, LDC Committees

Because of the same basic subject matter, the Committee on Trade and Development (CTD) and the Sub-Committee on Least-Developed Countries have agreed to a rough division of labour: the former deals with special and differential treatment and electronic commerce, and the latter with follow-up to the High Level Meeting on Integrated Initiatives on Least-Developed Countries' Trade Development, held in October 1997.

Committee on Trade and Development

On 2 November, the Committee on Trade and Development agreed that the Secretariat circulate a questionnaire to all Members asking for an update on the application of the special and differential treatment provisions in WTO Agreements and related ministerial decisions in favour of developing countries, and a description of problems encountered. This was a compromise solution: India had proposed that the Secretariat prepare an analytical paper on the impact and effects of the provisions on the trade and economies of developing countries. Instead, the Secretariat will compile and analyse the replies to the questionnaire but not make any judgements. That paper will also draw on relevant information in other WTO documents. (Developing country views on special and differential treatment have been reported in detail in Bridges Vol.2 No.6, as well as in the cover story of this issue.)

The Committee also discussed a joint paper submitted by Barbados, Jamaica, Lesotho, Mauritius, Sri Lanka, and Trinidad and Tobago on the so-called small economies. The paper requests the WTO to give more attention to small economies, and Members discussed the possibility of establishing a 'small economies group.' It remained unclear, however, what criteria should be used to distinguish small economies from other economies and to what extent they should be treated differently. The issue will be kept on the CTD agenda next year.

The Committee reviewed the Secretariat's technical assistance activities for developing countries carried out in 1998. Some 280 such activities, mainly involving human resource development and training, were carried out in close collaboration with other international organisations (see related article on page 17). A full report on WTO technical co-operation activities during 1998 will be provided to the CTD early in 1999.

The next three-year plan (1999-2001) for technical co-operation (WT/COMTD/W/48) has been adopted. In 1999, the focus of the Secretariat's technical assistance activities related to the Agreement on Agriculture will remain on assisting Members in implementing their specific commitments in the areas of market access, domestic support and export competition. Technical co-operation under the Sanitary and Phytosanitary Agreement will continue to take the form of national or regional seminars organised in response to developing-country Members' requests, or at the initiative of the Secretariat.

Sub-Committee on LDCs

Trade officials stress that the Sub-Committee on Least-Developed Countries (LDCs) mainly operates at the technical level. Regarding preparations for the upcoming negotiations, not all the links between this level and the larger picture have yet been made. The General Council met on the issue on 14 and 16 December. The next issue of Bridges will report on the outcome of the meeting; see also Bridges Weekly Trade Digest Vol.2 No. 49.

The most important points under discussion in the Sub-Committee have been the Integrated Framework on Technical Assistance endorsed by the High-Level Meeting (HLM), and questions related to market access. Some 80-90 percent of LDC goods already enter developed countries duty-free, but Members are not under obligation to grant such access. Several countries have notified their enhanced market access conditions to the WTO, although the data needs to be organised in a readily accessible form for LDCs to take advantage regarding each export commodity they have.

While preferential treatment for LDC exports to developed countries is allowed under WTO Agreements, provisions are lacking for other developing countries to offer privileged market access. The Sub-Committee has sought to remedy this lack but, so far, developing countries have not found a consensus on inserting the necessary provisions in the WTO Agreements (for instance, a waiver or a temporary license regarding LDC exports). Consultations are under way between the Secretariat and key delegations.

Integrated Framework for Technical Assistance

The Integrated Framework for Trade-related Technical Assistance (IF) is an aid co-ordination mechanism to address supply side constraints (institutional and human resources capacity, infrastructure, etc.) identified by LDCs as major obstacles to their full integration in the multilateral trading system. Six international agencies involved in technical assistance activities participate in the IF: the WTO, UNCTAD, the International Trade Centre, the World Bank, the IMF and UNDP. The process starts with a 'needs assessment' prepared by an LDC government. Upon receipt of the assessment, the collaborating agencies jointly with the government concerned develop a country-specific trade-related technical assistance action plan. Forty out of 48 LDCs have already sent in their needs assessments.

One year after the needs assessment has been translated into a country-specific action plan, a round-table is organised in the country in question. The first such roundtable took place in Uganda in December (no report was yet available when this issue went to press). The second will be held in Haiti in January. The roundtables – to which governments may invite any development partner they wish, including the private sector, NGOs, donors and intergovernmental agencies – are intended to lead to a multi-year programme of trade-related technical assistance. Both the country programmes and the IF itself are subject to regular reviews. For more information, see <http://www.ldcs.org>

In July, the Sub-Committee asked the Secretariat to provide a survey of the difficulties that LDCs were encountering in implementing WTO Agreements. These can be broadly classified under the following headings: co-ordination between government ministries; creating an adequate domestic institutional and administrative framework to implement often highly technical agreements; adapting national legislation; keeping up with the notification requirements and timetables; and lack of data processing facilities.

Most trade officials acknowledge that the technical assistance provided by the WTO cannot alone address least-developed countries' trade-related problems; some also point out that the WTO seems to put more emphasis on assistance for complying with obligations than on using rights, such as trade remedies (anti-dumping, subsidies, countervailing, etc.).

General Council: High-Level Meetings & Transparency

Meeting from 9-10 December, the WTO General Council confirmed the dates and objectives of the high-level dialogues on trade and environment, as well as trade and development (see also Bridges Vol.2 No.7, page 4). The former will take place on 15-16 March 1999, and the latter on 17-18 March. Both meetings will involve senior government officials and representatives of intergovernmental organisations, as well as civil society and the private sector. The modalities for participation have not yet been decided.

The Trade and Environment meeting will address three broad issues: linkages between trade and environmental policies; synergies between environmental protection, trade liberalisation, sustained economic growth and sustainable development; and interaction between the trade and environment communities.

The Trade and Development meeting will focus on the following three topics: links between trade and development; trade and development prospects for developing countries; and further integration of developing countries, including least-developed countries, in the multilateral trading system. Egypt has already submitted a detailed paper entitled Special and Differential Treatment for Developing Countries in the Multilateral Trading System for the meeting.

Both meetings will be convened by the WTO Secretariat outside the WTO's formal structure, and will not involve a negotiated outcome. Instead, the WTO Director General will prepare a factual Chairman's Summary for each meeting.

Although document derestriction was on the General Council's agenda, it was not really discussed during the meeting. Members are currently considering a Chairman's proposal, a slightly toned-down version of the US/Canadian proposal put forward for the October session of the General Council (see Bridges Vol.2, No.7, page 3). The new proposal – elaborated after consultations with Members – no longer suggests making available as unrestricted the 'Descriptive' part of dispute settlement panel reports in their original language pending translation, although it does suggest circulating as unrestricted the 'Findings and Conclusions' portion as soon as it is available in all three WTO languages. As the translation of full panel reports can take several weeks, releasing the short final section first would speed up public access to panel decisions. However, it is the 'Descriptive' part that reveals the panel's reasoning, and gives the best indication of how a country found in violation of WTO rules might amend its laws and regulations.

The Chairman's proposal would also amend current practice through circulating as unrestricted Secretariat background notes 'unless the relevant [WTO] body, while making the request, decides that the note be initially considered on a restricted basis.' In such cases, the document would be automatically derestricted in six months. Currently, Secretariat background notes must only be 'considered for derestriction' after six months. Minutes of meetings would be derestricted after three months, instead of the current six, but working documents (including meeting agendas) would continue to be restricted until the adoption of the relevant report. The proposal also specifies that no document should be considered for derestriction unless it is available in all three WTO languages. And it would add to the footnote on handling restricted documents that '[i]n principle only government officials may have access to restricted documents.' The General Council Chair, assisted by Deputy Director General Anwarul Hoda, will further consult with Members between now and 10 February, when document derestriction will be on the agenda of the first 1999 General Council session.

TRIPs Council Starts Review of Article 27.3(b)

At its last meeting in 1998 from 1-2 December, the Council for TRIPs started discussion on the review of Article 27.3(b), due to take place in 1999 (see also related article on page 3). This first exchange of views focused on how the review should be carried out, and did not generate significant disagreement. However, an earlier informal session revealed tension about the scope of the review: most developed countries favoured reviewing implementation of 27.3(b), i.e. to what extent and through what legislation – patents, an 'effective *sui generis* system' or both – are countries providing protection for plant varieties. Most developing countries, on the other hand, said that the review should focus on the provision itself rather than its implementation. Delegates did not discuss the scope of the review at the formal Council meeting.

It was provisionally agreed that the procedure set out in the TRIPs Council Annual Report (available on the WTO web site as document PI/C/15) would be followed. According to the procedure, Members already under an obligation to apply Article 27.3(b) would be invited to provide information on 'how the matters addressed in this provision were presently treated in their national law'. Other Members would be invited to do so on a 'best endeavour' basis. The WTO Secretariat should seek factual information from the Food and Agriculture Organisation (FAO), the Secretariat of the Convention on Biological Diversity and the International Union for the Protection of New Varieties of Plants (UPOV).

The provisional procedure directs the Secretariat to prepare a paper in time for the next meeting of the TRIPs Council, scheduled for 16-17 February 1999. Although the review of Article 27.3 (b) is due to be completed in 1999, it could conceivably become an item of wider negotiation if WTO Members agree to hold comprehensive multilateral trade negotiations at their third Ministerial Meeting next December.

Contact: Matthijs Geuze, WTO Intellectual Property and Investment Division, tel: (41-22) 739-5418, fax: 739-5790.

Committee on Technical Barriers to Trade

Meeting on 20 November 1998, the WTO Committee on Technical Barriers to Trade again considered the EU's Regulation 1139/98, which requires foodstuffs and food ingredients containing traces of genetically modified soya or maize to be labelled as 'produced with genetically modified soya/maize' (see also Bridges Vol.2 No.4, page 9 and Vol.2 No.6, page 2).

The European Union argued that the labelling requirement was within the scope of the TBT Agreement, adding that it was in the process of drafting a reply to US claims that the regulation violates the TBT Agreement. The US has repeatedly maintained that there is no scientific justification for such labels, and that the product testing the EU is proposing to implement the regulation is more trade-restrictive than necessary. According to WTO sources, the EU response will be available 'very shortly'. For its part, Japan said that the issue of GMO labelling is still under discussion in its government.

Members also continued discussion on a draft Dutch labelling bill that would require imported wooden products to bear a label indicating whether or not the wood came from a sustainably

Continued on page 6

Committee on TBTs, continued from page 5

managed source (see also Bridges Vol.2 No.6, page 2). The bill is currently under consideration in the Dutch upper house of parliament. ASEAN countries, as well as Norway, Poland, Ecuador and Canada are concerned that the draft legislation contravenes WTO Agreements and the International Tropical Timber Agreement. The EU stated that the concerns of other WTO Members would be considered by the Dutch parliament.

The United States brought up its concern over a pending EC aircraft noise regulation, which it claims would cost US airlines hundreds of millions of dollars in hushkits installation expenses. According to the EU, the new standard is in line with the International Civilian Aeronautics Organization (ICAO), but the US said the EU was applying the measure ahead of the ICAO schedule, which calls for a similar improvement in noise reduction by 2002.

Contact: Vivien Liu, WTO Trade and Environment Division, tel: (41-22) 739-5455, fax: 739-5620, e-mail: vivien.liu@wto.org.

Closer Ties between Trade and Finance

In the wake of the Asian financial debacle, the newly-created WTO Trade and Finance Division is reinforcing co-operation with the World Bank and the International Monetary Fund. The three institutions have agreed to work more closely together to ensure a coherent trade and financial framework.

To help countries realistically assess what the prospects for trade and trade liberalisation are likely to be in three years hence, the WTO, the World Bank and the IMF have recently concluded a number of agreements. The World Bank will look into the situation of net food-importing developing countries in the upcoming agricultural negotiations, as well as seek solutions to the special problems of small and vulnerable states. In the context of services, the Bank will study what restrictions actually exist on the movement of natural people (see also WTO document WT/GC/13).

The IMF in its biannual World Economic Outlook studies will focus on the macro-economic factors likely to affect the international financial situation. Although the financial crisis seems for the moment to have stabilised, there still are serious risks that could change the outlook for future trade liberalisation talks, including a stock market collapse in the EU or the US, a real recession in Japan, or significant further capital outflow from – or lack of inflow to – emerging markets.

TRIMS and Investment

In addition to relations with the World Bank and the International Monetary Fund, the Trade and Finance Division deals with three areas: balance of payment exceptions, trade-related investment measures (TRIMs) and the Working Group on the Relationship between Trade and Investment. The Secretariat expects shortly to finalise a paper on the links between trade and investment as a contribution to the debate between Members on whether to launch negotiations on investment or not. On TRIMs, Members will start further negotiations next year. Developed and developing country positions are roughly opposite: the first essentially want to tighten the rules and extend their coverage, and the latter want the rules loosened and/or developing country transition periods extended.

Contact: Richard Eglin, WTO Trade and Finance Division, tel: (41-22) 739-5148, e-mail: richard.eglin@wto.org

Singapore Working Groups Update

All three of the so-called Singapore working groups will continue to meet next year. Of these, only the Working Group on Transparency in Government Procurement has a mandate to 'develop elements for inclusion in an appropriate agreement.' The group has compiled a 30-page report entitled List of Issues Raised and Points Made, but has not decided to 'include or exclude any particular aspect addressed in it' from the elements it will eventually recommend for inclusion in a formal WTO Agreement. The group's annual report to the General Council is available on the WTO web site as document WT/WGTGP/2.

On a parallel track, the Committee on Government Procurement has decided to start negotiations on the Plurilateral Agreement on Government Procurement in April 1999, with a view to conclude them 'at least on the simplification and improvement of the Agreement' by the third WTO Ministerial. Other elements of the negotiations will include 'the elimination of discriminatory measures and practices which distort open procurement and the expansion of the coverage of the Agreement.'

The working groups on investment and competition policy were established with a two-year mandate in 1996. Both were extended indefinitely at the end of 1998. Although the Ministerial Declaration establishing the groups specifically states that their work 'shall not prejudice whether negotiations shall be undertaken in the future,' it is clear that the numerous papers submitted (104 for competition policy alone) will serve as a basis for negotiation if Members agree at the third Ministerial to add either subject to their post-2000 negotiation agenda.

The EU is particularly keen to wrap up the study phase of investment and competition issues, as it has already announced its intention to seek the inclusion of both topics in the 'Millennium Round' of comprehensive trade talks it hopes the Ministerial Meeting will agree upon next December. However, at the last meeting of the Working Group on the Relationship between Trade and Investment in late November, ASEAN countries, as well as India and Pakistan insisted that any decision on how to proceed on the issue could only be made after both the competition policy and the investment working groups – which have a mandate to 'draw upon each other's work' – had completed their respective studies. The report of the Working Group on the Relationship between Trade and Investment is available at the WTO web site as document WT/WGTI/2.

The Working Group on the Interaction Between Trade and Competition Policy nearly failed to extend its mandate, due to US reluctance to continue discussions on trade remedy law. The US Congressional Steel Caucus had called on the Administration to 'seek an agreement that the review of trade and competition policy should be barred from further review within the WTO unless there is specific language excluding review of antidumping laws within such a forum.' The US won a partial victory, when the Competition Policy Working Group agreed on 3 December to focus its future deliberations on the relevance to competition of the WTO's fundamental principles (national treatment, most-favoured nation treatment and transparency); co-operation among Members; and the contribution of competition policy to the WTO's objectives. However, the group will also continue to address 'issues raised by Members relating to the interaction between trade and competition policy, including anti-competitive practices.' The group's annual report to the General Council is available on the WTO web site as document WT/WGTCP/2.

Dispute Settlement Corner

Banana War Highlights Unclear Compliance Procedures

A full-scale trade war appeared one step closer when the US on 15 December rejected the EU's terms of reference for a panel to review its revised banana regime, due to enter into force on 1 January 1999. The EU made changes to its current regime following the September 1997 Appellate Body condemnation of the regime's quota and licensing systems but the complainants in the case (the US, Mexico, Honduras, Guatemala and Ecuador) maintain that the changes are merely cosmetic and still discriminate against Latin American bananas and the US companies that distribute them. According to the EU, the revised regime fully complies with the Appellate Body's recommendations and thus completes the Union's implementation of the dispute settlement ruling.

Procedural wrangling had kept the complainants from formally requesting a compliance panel at several previous Dispute Settlement Body (DSB) meetings. On 15 December, the EU itself requested the establishment of a panel, but one with a mandate to find that its implementation measures 'must be presumed to conform to WTO rules unless their conformity has been duly challenged' under appropriate dispute settlement proceedings. Turning down the EU's proposal, the complainants stated that the EU was 'not seeking a panel to review the consistency of its banana measures, but instead is demanding that the DSB establish a panel to agree with the EU's legal position on Article 21.5. Furthermore, it wants to mandate that the panel create a new presumption in favour of the party found in violation of its WTO obligations.' It was not clear how the parties would proceed on the panel when this issue of Bridges went to press.

The dispute has highlighted other grey areas in the WTO's hitherto untested compliance procedures. For instance, the United States insists that the whole process – including the review, a possible appeal and arbitration of the level of countermeasures – must be conducted within 90 days, ending on 3 March. The EU has offered 170 days as 'the greatest possible reduction of the time-frame consistent with the due conduct of a proper legal process.'

On 10 November, the United States made public a preliminary list of EU products – potentially worth US\$1.6 billion in trade – which it was considering for a 100 percent import tax in retaliation for what it claimed to be the EU's non-compliance. The US has confirmed that it will publish a definitive, narrower list after the EU-US summit meeting on 18 December if no compromise is found. In that case, the US will request the WTO Dispute Settlement Body in January 1999 to allow punitive taxes on the listed EU products 'no later than 3 March'. The EU has said that it will challenge the sanctions at the WTO unless the US agrees to postpone them until a compliance panel has ruled that the new regime does not implement the Appellate Body findings.

Disagreement on procedures

The US actions are based on Section 301 of the 1974 Trade Act (see page 8), as well as Article 22.6 of the Dispute Settlement Understanding (DSU). Article 22.6 provides that, in cases where the losing party is in non-compliance with dispute settlement rulings, the DSB shall authorise the complainants to suspend concessions within 30 days of the date set for compliance. Thus,

the US claims it can start levying the import taxes on 1 February, or on 2 March if the EU requests an arbitration regarding the level of the suspension proposed. The US maintains that 'Article 22 does not require that the aggrieved party delay recourse to Article 22 until a panel has ruled on the consistency of the responding party's new measures under Article 21.5. Nowhere does the DSU say that Article 21 is a precondition to Article 22.'

The EU – which the complainants accused of putting up 'procedural roadblocks' leading to 'endless litigation' – said the proposed US action would amount to a 'unilateral finding of non-compliance', as well as 'unilateral and illegal' retaliatory measures. According to the EU, the only way to determine compliance is through Article 21.5 procedures, which provide for reconvening the original panel to examine the implementation measures and to rule on their consistence with the panel findings within 90 days. The EU also originally insisted that the compliance procedure could only start once the new regime was actually in force, and that it should be preceded by formal consultations.

Meanwhile, Ecuador has requested consultations with the European Union regarding compliance with the ruling. Because of this parallel track, it seems certain that the WTO will eventually rule on the regime's consistency with the dispute settlement rulings regardless of the outcome of the EU-US controversy. Jamaica, Brazil, Costa Rica, Belize, Dominica, Mexico, Côte d'Ivoire, Panama and the Dominican Republic have requested to join the consultations.

Background

The September 1997 Appellate Body ruling was the third time the EU's banana regime was found inconsistent with multilateral trade rules, although the GATT panel reports of 1993 and 1994 were never adopted.

The controversy over the EU regime has two essential elements. The first is a quota system that guarantees duty-free access to the EU market for 857,700 metric tonnes of bananas from 71 developing country members of the Lomé Convention, or the so-called ACP countries. The second is an import licensing system that gives an edge to European distributors of ACP bananas. The regime also allows these distributors and producers to access part of the 2.2 million tonne Latin American import quota under certain circumstances. The complainants want the EU to abolish the quotas and the licensing system, keeping only tariffs as a favourable market access tool for ACP bananas. The EU has said that a tariff-only solution would 'either imply a tariff level that would be so low as to practically wipe out Caribbean suppliers, or be so high as to put Latin American supplies in jeopardy.'

Many ACP countries, and particularly the Windward Islands in the Caribbean, are heavily dependent on bananas. However, due to their location, natural conditions and transport costs they cannot compete in an open market with Latin American bananas mostly marketed by multinational giants such as Chiquita. Without the EU regime, 'small Caribbean growers could not retain their traditional share of the EU market against competition from the large-scale, highly integrated operations based on huge plantations in Latin America,' Caribbean producers say.

Continued on page 8

Dispute Settlement Corner

US Trade Act Section 301 Challenged

In the wake of the banana dispute, the EU on 25 November requested a dispute settlement panel to rule on the WTO-consistency of sections 301-310 of the US Trade Act of 1974. The EU contends that sections 305 and 306, in particular, 'do not allow the US to comply with the rules of the DSU in situations where a prior multilateral ruling under the DSU on conformity of measures taken pursuant to implementation of DSB recommendations has not been adopted by the DSB.' The EU is also seeking consultations on the 'unilateral determinations under section 306 of the Trade Act on retaliatory actions being prepared by the US for what it considers non-implementation [of the banana ruling]'.

The Trade Act, which provides for mandatory sanctions in trade disputes, is the main trade retaliation weapon of the United States. The list of EU products liable to import taxes due to non-compliance with the WTO banana ruling was compiled under it, and similar lists are expected to be compiled if the US remains unsatisfied with Canada's compliance with advertisement content of foreign magazines or the EU's implementation of the Appellate Body ruling regarding the import ban on hormone-raised beef.

New Focus on Anti-Dumping

The European Union on 25 November requested the establishment of a dispute settlement panel over the US 1916 Anti-Dumping Act, which prohibits the import and sale of goods on the US market when the price is lower than in the country of production. According to the EU, the Act breaches several provisions of the GATT and the WTO Anti-Dumping Agreement. For example, the EU claims that 'the 1916 Act allows federal courts to impose criminal penalties on importers, whereas WTO rules specify that anti-dumping duties are the only possible remedy to dumping. By maintaining the 1916 Act in force without adjustment, the US is breaking its obligation to bring existing legislation into conformity with WTO Anti-Dumping Agreements.' In its panel request, the EU also alleges that the Act violates GATT Article VI:1(a) and Articles 2.1 and 2.2 of the Anti-Dumping Agreement which set the actual price in the exporting country as the first and privileged criterion for the calculation of 'normal value'.

At the same meeting, the DSB established a panel regarding Mexico's anti-dumping measures on imports of high-fructose corn syrup (HFCS) from the United States. The US contends that Mexico violated ten different provisions of the Anti-Dumping Agreement through the manner in which it initiated the anti-dumping investigation, as well as the manner in which the determination of threat of injury was made. Jamaica reserved its third-party rights.

In related news, an interim dispute settlement ruling, released to the parties on 7 December, on a case initiated by Korea against a US anti-dumping order on Dynamic Random Access Memory (DRAM) chips found that US Commerce Department anti-dumping regulations exceeded the limits established in Article 11.2 of the WTO's Anti-Dumping Agreement. That Article provides that, in order to maintain an anti-dumping measure, the country imposing it must prove that dumping *would otherwise*

occur. The US regulation in question, however, requires the petitioning companies to prove that dumping is '*not likely*' to occur if the anti-dumping order is lifted. See also update on the WTO Working Group on the Interaction Between Trade and Competition Policy on page XX.

Shrimp-Turtle Report Raises Systemic Concerns

The 6 November adoption of the Appellate Body and panel reports on the shrimp-turtle dispute provoked unusually sharp comments from the complainants, who won the case (see Bridges Vol.2 No.7 for details of the rulings).

Thailand, Malaysia, India and Pakistan, as well as Brazil highlighted systemic concerns raised by the Appellate Body's DSU Article 13 interpretation, which affirmed that panels had a 'discretionary authority' to consider or to reject non-solicited information from non-governmental sources. Along with other countries, Brazil stressed that while Article 13 allows panels to 'seek' information, it implicitly bars them from considering non-solicited materials from non-governmental sources. Allowing a panel to consider such materials would place on it an unjust 'burden of explaining why it thought that a particular piece of information it received – without having asked for it – was relevant and another piece of information – equally uncalled for – was irrelevant.' Panels would also face a task of sorting out a 'deluge of unsolicited information,' Brazil said.

India and other commentators also emphasised that NGOs could not have a direct role in the WTO because of the organisation's 'contractual relationship between governments of Member countries', and 'cannot be accorded privileges superior even to those enjoyed by Members, as the Appellate Body has done in this case.' Only parties to the dispute and countries that have reserved their third party rights may make submissions to dispute settlement panels under current rules (see related article on the DSU review on page 9).

India also challenged the Appellate Body's finding that the US shrimp embargo fulfilled the criteria for measures allowed under GATT Article XX(g), although the Appellate Body condemned the ban as 'unjustifiable discrimination' due to the manner in which it was applied. The original panel was right, India and others said, in ruling that a measure could not be considered as falling within the scope of Article XX if it was operated so as to affect other governments' policies in a way that threatened the multilateral trading system. If applied to future measures, the Appellate Body's interpretation would 'open the floodgates to unilateral measures aimed at discrimination based on processes and production methods (PPMs),' India argued.

US Ambassador Rita Hayes told the 25 November DSB meeting that the United States would implement the Appellate Body's recommendations and findings, but stressed that 'the Appellate Body report does not suggest that we weaken our environmental laws in any respect, and we do not intend to do so.' She gave no details on the US implementation plan beyond affirming that it would be 'consistent not only with our WTO obligations but also with our firm commitment to the protection of endangered species, including sea turtles.'

Continued on page 10

Dispute Settlement Understanding Review Update

Meeting on 8 December, WTO Members agreed to ask the General Council to prolong the Dispute Settlement Understanding (DSU) review until the end of July 1999. As the system is generally held to be functioning well, the number of amendment proposals has taken WTO officials and diplomats by surprise. The original deadline for completing the review was the end of this year.

The following is an overview of the major themes that have already emerged in the DSU review. Earlier proposals have been described in more detail in previous issues of Bridges (see Vol.2 No.4 and No.7, page 7).

Transparency vs confidentiality is one of the main issues of the review, and one on which country positions diverge the most. The EU, the United States and Canada have proposed speedier release of panel rulings and public access to other documents such as the country submissions which currently remain confidential even after the dispute settlement process is complete. Speeding up the release of the 'findings and recommendations' section of panel reports has garnered support from both developed and developing countries. For other documents some Members, including Cuba, India and Mexico, have stated their preference for the status quo, often citing the need to protect confidential business information contained in documents related to dispute settlement proceedings (for details see Bridges Vol.2 No.7, page 7). Australia's submission to the 20 November informal session on the DSU review suggested that interim panel decisions be issued to parties earlier in the ruling process in order to give them an adequate chance to question the findings prior to the issuance of a final decision.

More controversial than document derestriction is non-state actors' right to spontaneously submit contributions or amicus briefs to panels, as evidenced by the lively criticism provoked by the Appellate Body's ruling on the shrimp-turtle dispute that 'A panel has the discretionary authority either to accept and consider or to reject information and advice submitted to it, whether requested by a panel or not.' The complainants in the case (India, Pakistan, Malaysia and Thailand), as well as Japan and Brazil objected to this interpretation of DSU Article 13 when the report was adopted on 6 November (see separate story on page 8).

Recent submissions on the DSU review from Pakistan, Singapore and Thailand urge that changes be adopted to the DSU that would reverse the Appellate Body's conclusion. These countries hold that only participants and third parties to a dispute should have the right to present written submissions. Singapore highlighted the danger of inundating panels with unsolicited material and consequent delays in the dispute settlement process; Pakistan argued that NGO participation in dispute proceedings was for WTO Members rather than panels or the Appellate Body to determine; and Thailand requested that acceptance of unsolicited material be prohibited and the DSU amended to restore the rights of Members. The United States and Europe are the main supporters of NGOs' right to submit briefs to dispute settlement panels.

EU and US proposals to open panel hearings to the public are the most unlikely to be accepted, as many countries feel strongly that the WTO is an intergovernmental forum which should remain free from pressure from special interest groups. The need to protect trade secrets is frequently evoked as a reason for limiting participation in panel hearings to the governments involved in the dispute.

Countries are also looking into the question of admitting **private counsel** to panel hearings. Unlike under the GATT, where disputes were usually argued by diplomats, most hearings now involve highly specialised trade lawyers. These lawyers, however, must be government officials, and many developing country governments do not have such expertise. There is no strong resistance to the principle of admitting private counsel in the DSB, but the operating parameters are under discussion, including such questions as avoidance of conflicts of interest and developing a code of conduct for panelists, as suggested by Pakistan.

The DSU's **special and differential treatment** provisions in favour of developing and least-developed countries are general principles rather than obligations and have not yielded concrete benefits, developing countries argue. India has proposed the development of a monitoring mechanism to check whether such requirements are adhered to. Among problems are insufficient assistance and high costs to developing countries bringing or defending cases at the WTO. As it is important for the Secretariat to maintain its neutrality, Venezuela has suggested setting up an independent advisory unit staffed with legal experts to assist developing countries involved in dispute settlement proceedings (see Bridges Vol.2 No.4, page 7). India has proposed to extend the 'reasonable period of time' for implementation from 15 to 30 months for developing countries; and that cases brought by a developed country against a developing country be dismissed if the latter's imports amount to less than seven percent of its overall imports of the commodity in question, or to less than 15 percent of the cumulative volume of imports of the like products or services from all developing countries.

Some countries, and most vehemently India, want changes in DSU rules regarding **'multiple complaints'**. Because dispute settlement rulings are only binding between the litigants (although others may also benefit from the removal of WTO-inconsistent measures), countries sometimes initiate proceedings in cases that have already been adjudicated, as happened when the EU brought a case against India's 'mailbox' patent legislation after the US had already won a complaint against India on the same issue. It could be possible to avoid such occurrences if other parties were allowed to join a dispute at the implementation stage.

Composition of panels: Currently, panelists from a variety of geographic and professional backgrounds are appointed in each case. As most of them have many other obligations and the number and complexity of cases is growing, as is the length of the panel reports, the EU has suggested setting up a group of professional panelists. While this might solve some of the problems, it raises others: some fear that the individual views of a relatively small group of panelists (15-24 people) would soon be known, and could lead to attempts to influence panel selection, as well as less respect for panel rulings. Other countries, including the US, Pakistan and Korea, have suggested the elaboration of rules concerning conflicts of interests for the panelists, the Appellate Body and panel support staff. Australia has proposed that groups of experts should be established to advise panels on complicated issues such as those involving the environment and sanitary/phytosanitary measures.

Compliance and implementation issues were added to the review agenda at a relatively late stage. As the banana dispute has underlined, this remains an untested area of the dispute settlement

Continued on page 10

Dispute Settlement, continued from page 8

Dispute Settlement Briefs

- Brazil on 7 December requested consultations on an EU Generalised System of Preferences (GSP) scheme, which provides duty-free access to soluble coffee originating from countries belonging to the Andean Group and the Central American Common Market if they conduct programmes to combat drug production and trafficking. Brazil alleges that this special treatment adversely affects the importation into the EU of soluble coffee originating in Brazil, and is inconsistent with the Enabling Clause (GATT Article XXXVII), as well as with the most-favoured nation principle. Indonesia, on behalf of ASEAN nations, also requested at a recent General Council meeting that WTO Members cease to grant enhanced GSP tariffs to developing countries in compensation for enforcing environment, labour or drug-related policies (see Bridges Vol.2 No.4, page 9).
- Canada is reported to consider initiating the WTO's first dispute settlement proceedings involving the Agreement on Subsidies and Countervailing Measures. At issue is a Brazilian export subsidy programme, which Canada claims Brazil misused to unfairly build up its aircraft manufacturer Embraer. In its defence, Brazil is expected to argue that its export subsidy programme was justified under the Subsidies Agreement's Article 27 on special and differential treatment of developing country Members.
- Following a second request from Canada, the DSB on 25 November established a panel to rule on the WTO consistency of a French prohibition of white asbestos and products containing asbestos, including a ban on imports of such goods. The French ban was enacted in 1996 in response to concerns about links between asbestos and cancer. Canada alleges that these measures violate Articles 2, 3 and 5 of the SPS Agreement, Article 2 of the TBT Agreement, and Articles II, XI and XIII of GATT 1994. The US reserved its third-party rights.
- The EU on 19 November requested consultations with respect to changes to US rules of origin for textiles and apparel products. According to the EU, the United States is not adhering to a mutually agreed solution regarding the application of its 1996 rules of origin for 'flat goods', such as sheets or table cloths, which the US no longer recognises as being of European origin if the fabric was woven or knit elsewhere. The EU alleges violations of Articles 2.4, 4.2 and 4.4 of the Agreement on Textiles and Clothing, Article 2 of the Agreement on Rules of Origin, Article III of GATT 1994, and Article 2 of the TBT Agreement.
- Japan has notified its intention to appeal the 27 October panel ruling condemning the Japanese requirement that quarantine treatment has to be separately tested for each variety of apples and other fruit before that variety can be imported in the country, even when the treatment has proven efficient with other varieties. The panel found this practice to violate Article 2.2 of the Agreement on Sanitary and Phytosanitary Measures, which requires that such measures are not maintained without sufficient scientific evidence. The same argument was used by the Appellate Body when it ruled against the EU's hormone beef ban in February 1998 and Australia's Pacific salmon ban in October. The case against Japan was brought by the United States.

Dispute Settlement Review, continued from page 9

system (see separate story on page 7). Australia's submission to the review meeting of 20 November called implementation an emerging 'major problem' and requested that the DSU be amended to clarify the procedures for ensuring compliance. The US told the DSB on 25 November that it expected the review to clarify Article 21.5, which provides that disputes over compliance 'shall be decided through these dispute settlement procedures', but does not spell out all the steps that have to be taken or the length of the various stages. Neither is it clear whether a compliance review must be completed before a country can ask for trade retaliation. Guatemala has said that Article 21.5 should indicate that any disagreement on compliance can only be brought to the panel review once, and if the panel concludes that the proposed measure is inconsistent with the Agreement in question, the Member affected can apply countermeasures without any further proceedings. In its submission dated 29 October, the US called for provisions to ensure that implementation does not amount to 'a situation in which one violation of WTO obligations is simply replaced with another, different violation.' India's discussion paper proposes that when implementation is questioned by a developing country that won a case against a developed country, compliance procedures under Article 21.5 should be resolved by the original panel within 30 days (instead of 90) 'without any further procedural requirement.' Pakistan has called for provisions that would oblige the losing country in a dispute case to provide compensation to the affected country, rather than allow cross-sectoral retaliation.

Other issues

Other items under discussion include the right to join consultations because of a 'systemic interest' rather than a trade interest. In their recent submissions, Thailand and Australia called for strengthening the consultation process, as have many others earlier in the process (see Bridges Vol.2 No.4, page 7).

Consensus is emerging that the 'urgency' provisions regarding the adjudication of cases involving perishable goods need to be clarified. While proceedings are expedited up to the panel report (panels should rule within three months instead of six), implementation is not regulated. Delegates recognise this can be a problem, but are concerned that too much expediency can be at the expense of 'due process'.

Next steps

WTO Members will now need to determine the DSU provisions on which there is enough support to enter into amendment negotiations. In view of the divisive nature of some of the issues – and none more so than provisions related to transparency and public participation – sources close to process generally refuse to speculate on which provisions the Members will ultimately focus on. Nevertheless, there seems to be a consensus to clarify/review compliance and consultation procedures, as well as provisions related to private counsel and urgent cases related to perishable goods. When the review process is complete, the Dispute Settlement Body will forward amendment proposals to the General Council, which will present them to the third Ministerial Meeting in December 1999. Only the Ministerial Meeting – the WTO's highest governing structure – can adopt changes to treaties. As all amendments to the DSU must be adopted by consensus, radical changes are unlikely. Some observers have pointed out, however, that in case the post-2000 negotiating round turns out to be comprehensive, the extended review period may offer opportunities for tradeoffs.

The Buenos Aires Tango: What Trade-related Consequences?

By Lucas Assunção

Marked by an apparent lack of ambition from the outset, the fourth Conference of the Parties to the Climate Change Convention (COP-4) held in Buenos Aires on 2-13 November concluded with a tango-style apex. It takes two to tango: while Argentina broke from the ranks of the Group of 77 and China by announcing that it would undertake a voluntary commitment at COP-5 to abate its greenhouse gas emissions, the United States on 12 November signed the Kyoto Protocol at the UN Headquarters in New York, becoming the 60th signatory Party. Before COP-4, Argentina did not spare efforts to broadcast its intentions while desperately looking for a partner. The move, some claim, helped galvanise support within the US Administration for a reaction against the Byrd-Hagel Resolution adopted in the Summer of 1997 by which the US Senate unequivocally refused to sign the Kyoto Protocol without 'meaningful participation' by developing countries.

Although these initiatives cannot realistically be seen as significant steps towards achieving meaningful greenhouse gas (GHG) emission reductions, they carry considerable symbolic value. Argentina is not a major GHG emitter and nobody, including its government, is yet clear about what mitigation measures to adopt or the order of magnitude of voluntary emission reductions it could announce next year at COP-5. On the other hand, by signing the Protocol the US Administration took the audience by surprise and raised the eyebrows of reticent Senate members. One should not lose sight, however, that what counts for the implementation of the Kyoto Protocol (roughly 5.2 percent average reduction in GHG emissions between 2008-2012 in relation to 1990 levels) is its ratification, not only its signature. Furthermore, the Protocol needs to be ratified by at least 55 countries, representing fifty five per cent of total Annex I Parties CO₂ emissions in 1990. To date, only Fiji and Antigua and Barbuda have ratified.

The tango played by Argentina and the US changed the rhythm towards the end of the two-week negotiations in Buenos Aires and, to a large extent, added some urgency to the need for establishing deadlines for the definition of operational elements to make Kyoto Protocol really effective. In substantive terms, Buenos Aires frustrated expectations to start defining details of any of the so-called 'Kyoto mechanisms', i.e. international greenhouse gas emissions trading, a clean development mechanism (envisaged as a means of technology transfer from industrialised to developing countries) and joint implementation between developed countries to achieve their GHG reduction targets (for more details, see Bridges Vol.2 No.7, page 13).

The Buenos Aires Plan of Action

COP-4 produced a mixed bag of results carefully packaged as the Buenos Aires Plan of Action. The plan consists of six decisions including: (1) an agreement that the restructured Global Environment Facility shall continue to serve as the financial mechanism under UNFCCC, and committing new and additional funding to mitigation and adaptation measures and improved access to information; (2) a decision establishing a consultative process to effectively transfer technology to developing countries; (3) one on adverse effects of climate change and/or the impact of

the implementation of response measures, calling for further analysis is but deferring consideration of future action; (4) one on activities implemented jointly, agreeing to continue the ongoing pilot phase until its final review to take place by 2000; (5) a decision on the 'Kyoto mechanisms', which gives priority to the clean development mechanism over the other [two] mechanisms and defers decisions on the key elements of the 'Kyoto Mechanisms' until COP-6 in 2000; and, finally, (6) a decision to start preparations for the first meeting of Parties to the Kyoto Protocol, which will focus on a work plan that includes defining elements of the Protocol related to compliance and on mitigation policies and measures.

In sum, the first step was taken in defining the work agenda for the actual implementation of the Kyoto Protocol with a deadline by COP-6 to be held possibly in Jordan in late 2000. Now, all the real work remains to be done. The reality test for the Buenos Aires plan of action will be the pace and precision in which key Protocol

elements are agreed upon. Decisions on other contentious issues, such as a capping the use of the Kyoto mechanisms to a certain percentage of domestic measures to implement the Protocol in developed countries, were postponed to a future date. UNFCCC Executive Secretary Michael Zammit Cutajar said at the closure of COP-3 in Kyoto that progress in the Kyoto Protocol process should be tested against its capacity to influence policy-making and market behaviour through a powerful economic signal linking current GHG emissions trends and unpredictable and costly changes in climate patterns. Given the level of

representation of both governments and private sector interests in Buenos Aires, one could say that the process is moving forward, although the level of participation and understanding by civil society at large of what is at stake remains debatable.

One aspect which remains marginal to the increasingly complex climate change negotiations is the impact of an effective response by the international community – by, for example, implementing the Kyoto Protocol – on foreign trade. Although no complaint has arisen to date within the WTO regarding trade measures taken in pursuit of a multilateral environment agreement (MEA), higher commitments towards implementation of the Kyoto Protocol will result in increasingly costly climate change measures for both industry and energy sectors and, potentially, significant effects on trade flows (see article in Bridges Vol.1 No.5, page 2).

The interaction between climate change policies and trade policies and trade patterns can be divided into three broad types:¹ (i) competitiveness effects: mitigation measures adopted in a Protocol Party may affect adversely its trade competitiveness in a given sector if trading partners take no concerted action. Such effects – real or perceived – are likely to influence industry, energy and climate change policies; (ii) specific mitigation measures adopted in some sectors may create new trade barriers and/or open up new market opportunities; (iii) WTO rules may constrain the adoption of certain climate change policies particularly if they are seen as discriminatory and extra-territorial in scope: in essence, climate change policies address process and production methods (PPMs).

Continued on page 12

African Elephant Range States Meet

The third meeting of the African Elephant Range States Dialogue was convened in Arusha, Tanzania, from 28 September to 2 October 1998 under the auspices of IUCN-The World Conservation Union. This meeting was organised to discuss and review the implementation of the important decisions on African Elephant issues taken at the tenth meeting of the Conference of the Parties to CITES (COP-10), held in Harare, Zimbabwe in June 1997. That meeting decided to transfer the African Elephant populations of Botswana, Namibia and Zimbabwe from CITES Appendix I to Appendix II and conditional export quotas for trade in raw ivory were agreed upon. Accompanying this change in listing, the COP agreed on a package of measures bearing directly and indirectly on the initiation of the experimental trade in raw ivory. These include:

- the set of conditions that must be fulfilled before exports of ivory from Botswana, Namibia and Zimbabwe can take place (CITES Decision 10.1);
- a mechanism for Range States to declare their government ivory stocks if they wish to make them available for a one-off purchase for non-commercial purposes in return for conservation funding (CITES Decision 10.2); and
- the requirements for an international system for monitoring illegal hunting of elephants and trade in elephant specimens.

The Range State Dialogue highlighted the difficulty of accurately surveying elephant populations and called for the development of survey capacity in the context of the proposed CITES site-based system for monitoring illegal killing of elephants (MIKE). Delegates also recognised that population numbers are not the only data needed for the management of elephants. The degradation and loss of critical habitats is another key variable in the conservation of elephant populations and must also be monitored. Moreover, there is important and relatively untapped potential for intra-continental (South-South) transfer of expertise in elephant population survey techniques, but the facilitation of such transfer will require resources.

Range States representatives expressed concern about the considerable spread of misinformation since CITES COP-10 with respect to the Conference decisions and unsubstantiated reports of elephant poaching, although they did recognise that illegal killing of elephants did persist in many Range States and that there was a need to establish the true motivations behind such activity, both external and local. For example, more attention must be paid to understanding the links between illegal ivory trade and the dynamics of other economic activities in the same areas, such as the timber trade in parts of Central Africa.

The meeting reviewed progress on the implementation of CITES Decision 10.1, which requires Botswana, Namibia, Zimbabwe and Japan to remedy deficiencies identified in the review by the CITES Panel of Experts of the proposals to transfer elephant populations from CITES Appendix I to II at COP-10.

Delegates from these countries presented an update on the actions taken to address the deficiencies and there was a general conclusion that tangible progress had been achieved. The CITES Secretariat, which must verify compliance with the condition of Decision 10.1, is in the process of finalising arrangements for the verification exercise, which is scheduled to be completed before the end of 1998 and reported to the CITES Standing Committee meeting in February 1999.

Biosafety and Trade: Next Stop the WTO?

The private sector seems increasingly concerned about the trade impacts of the Biosafety Protocol currently being negotiated under the Convention on Biological Diversity (see Bridges Vol. 2 No.6, page 9). For instance, the Grocery Manufacturers of America (GMA) on 2 November sent a letter to President Clinton, requesting him to mobilise the WTO to fight the inclusion of products derived from genetically modified organisms in the Protocol. In the letter, GMA argued that 'the Protocol would impose significant burdens on international trade in products that present no proven threat to biological diversity, including food beverages and consumer products'. 'These non-living products [...] pose no threat to biological diversity and are, therefore, properly outside the scope of the new regime being negotiated for trade in LMOs (living modified organisms)', the letter stated. GMA further argued that if the Protocol was ratified in its present form (i.e. with rules covering products derived from LMOs), 'countries could use the Advanced Informed Agreement and other provisions to justify new barriers that block the import of goods derived from biotechnology from producers in the US and other countries.' According to the letter, 'the principles of sound science and non-discrimination necessary to free trade', currently protected through the WTO TBT and SPS Agreements, would be 'undermined if not completely nullified' for bio-engineered food and beverages if the Protocol were made to cover not only LMOs but also 'products thereof'. Such an outcome – or even a more flexible labelling scheme for LMO-derived products – would also 'lend support to efforts within the European Union to use non-scientific and arbitrary socio-economic preferences to create barriers to free trade', GMA warned.

Specifically, GMA asked the president to direct the cabinet and administration 'to contact their counterparts in foreign delegations to raise concerns about the possible inclusion of "products thereof" in the Protocol', and 'to request the WTO Secretariat to prepare an analysis of the Biosafety Protocol and its impact on trade for distribution to Member governments in advance of the final round of negotiations on the Protocol', scheduled for 15-19 February 1999, in Cartagena, Colombia.

Buenos Aires Tango, continued from page 11

As the negotiations evolve from agenda setting to real response to environmentally and economically adverse impacts of climate change, trade considerations will most likely be brought to the forefront of policy decision-making. Unless these key trade-related effects are addressed squarely, the Kyoto Protocol implementation could remain a rather speculative exercise in which both developed and developing countries are unable to engage themselves for fear of losing their respective comparative advantages in world trade. While it is always preferable to address global environmental problems through co-operation under an effective MEA, a delay in looking into the trade aspects of climate change policies might prevent solutions that privilege co-ordination over discrimination.

Lucas Assunção is a Brazilian economist. Formerly with the UN Climate Change Secretariat, he is currently the Research, Documentation and Support Services Director of ICTSD. He wrote this comment in his personal capacity.

NOTES

¹ For an insightful discussion of these interactions, see (forthcoming) Brack D. with Windram C. and Grubb M. *International Trade and Climate Change Policies* (RIIA).

APEC Summit Sends Agenda to the WTO

Unable to agree on the Early Voluntary Sectoral Liberalisation (EVSL) initiative at their summit meeting held in mid-November in Kuala Lumpur, APEC countries decided to move liberalisation negotiations on the nine EVSL sectors to the WTO. The original plan involved achieving tariff cuts and agreeing on phase-out time-frames in sectors ranging from jewellery and toys to environmental goods and services, and fishery and forestry products. In the end, Japan refused to include the latter two in EVSL, and the other 15 countries could not accept a package that offered better market access in such areas as telecommunications, chemicals and medical instruments but none in fisheries or forestry, which are of key interest to APEC's developing country members, as well as Australia and Canada.

In their final statement, APEC ministers agreed to 'work constructively to achieve a critical mass in the WTO necessary for concluding agreement in all nine sectors.' They also said the WTO process would be initiated immediately with a view to concluding agreement in 1999.

The mechanics for achieving this remain unclear. APEC countries could put the initiative on the WTO Ministerial agenda at the January inter-session meeting, which will deal with additional areas for negotiation during the post-2000 trade talks. However, other APEC countries insist that the nine sectors must remain a 'package', while Japan's support for negotiations involving forestry and fisheries is expected to be lukewarm. Even in the APEC context, Japan long held to its position that any liberalisation in those sectors could only be negotiated at the end of a comprehensive round of WTO trade talks. US Trade Representative Charlene Barshefsky, on the other hand, has said the entire 'package' should form an independent WTO agreement neither conditioned on a new round, nor 'on the putative end of some new round'.

While the European Union might accept the sectoral package as part of the Millennium Round, it is difficult to imagine the EU agreeing to a set of sectoral negotiations to be concluded before the launch of the post-2000 WTO talks. And those developing countries that insist on focusing the maximum of the WTO's energies on improving implementation of existing agreements are unlikely to take on a separate sectoral initiative at a time when the next WTO round is being shaped. So far, APEC countries have not formally introduced the EVSL initiative in any WTO Committee.

Free Trade in the Americas Overshadowed by the WTO

The APEC process is not the only regional integration scheme to find its ambitions curtailed by upcoming WTO negotiations. Vice Ministers of Trade of the 34 Western Hemisphere countries met in Suriname from 2-3 December to review progress in the Free Trade Area of the Americas negotiations. All sectoral working groups had held their first meetings when the ministers met, but instead of an ambitious calendar of inter-American rule-making, they decided to focus immediate future efforts on the relatively uncontroversial subject of business facilitation measures. Such measures include, for instance, simplification of customs procedures and special treatment for express shipment companies.

After the meeting, Brazilian, as well as other Latin American government officials said that multinational negotiations were more of a priority than regional ones. Jamaica suggested a new scheme

for the negotiations that would create a core agreement of FTAA disciplines within which each country could determine its liberalisation commitments, rather than a 'single undertaking' where everything needs to be approved for anything to go forward.

Contrary to expectations, outreach to civil society got scant interest from the ministers. At the insistence of the US and Canada, a Committee of Government Representatives on the Participation of Civil Society was established when the FTAA process was launched last spring. Controversial from the start, the Committee agreed last October to invite civil society views in written form until 31 March 1999. The Committee will then decide which of these views deal with 'trade matters related to the FTAA process' and forward those on which consensus is found for the consideration of ministers. The Committee has not agreed what else it should do to involve non-governmental actors in the FTAA debate, such as holding national and regional public hearings or roundtables (see also Bridges Vol.2 No.7, page 15). The invitation letter is posted on the official FTAA website at: <http://alca-ftaa.org/>

Submissions to the CGR should be mailed to: Chairman of the Committee of Government Representatives on Civil Society, c/o Tripartite Committee (Ref. Civil Society), ECLAC, 1825 K St. NW, Suite 1120, Washington, DC 20006, USA, fax: (1-202) 296-0826, e-mail: mailto:eclac@tmn.com.

Civil Society Concerns in EU, US Trade

European and American authorities have expressed their support for including four different citizens' advisory groups in shaping the Transatlantic Economic Partnership (TEP). The Transatlantic Labour Dialogue, led by AFL-CIO and the European Union Trade Commission is still in its initial stages. The Transatlantic Consumer Dialogue (TACD), which groups European and US consumer organisations, has already presented a position paper, calling, *inter alia*, for the same access to the negotiations as business groups – organised under the Transatlantic Business Dialogue –, as well as greater transparency and freedom of information in international trading arrangements. TACD also suggested that the US adopt EU policies regarding labelling of genetically modified organisms (the EU's labelling requirements are currently being contested by the US in the WTO, see separate article on page 5). The EU and US governments have already committed to the establishment of an overarching biotechnology working group to guide negotiations.

Although the Transatlantic Environmental Dialogue is expected to be formally launched next February in Bonn, Dialogue members on 14 December called for the TEP negotiations to be postponed until the TEP Action Plan is revised 'to ensure that this partnership will actively promote environmental protection and sustainable development' (see also Bridges Vol.2 No.7, page 15).

On 16 November, the European Commission, Council and Member States met with 70 civil society representatives from industry, environment, development and labour organisations to discuss the EU's work programme regarding the upcoming WTO negotiations. The EU Trade Commissioner, Sir Leon Brittan, announced that he would commission a study on the sustainable development impacts of a new round global trade negotiations. Other EU/civil society meetings will follow, Commission officials said. Several European NGOs are following up on this initiative, and an NGO assessment report has been prepared by Myriam Vander Stichele of the Transnational Institute, e-mail: stichele@worldcom.nl

In-built Agenda, continued from page 2

justifying subsidies. Along the same lines, Pakistan said that the WTO Subsidies Agreement should allow countries producing mainly for food security, 'the freedom to retain their own internal regime of subsidies which are basically aimed at protecting the farmers and achieving a greater degree of self-sufficiency in food.'

In contrast, the Cairns Group maintained that while not sufficient in itself, trade liberalisation was 'a necessary part of the solution' to achieve food security. It would help 'reduce domestic trade distortions and provide improved market access and higher prices for [developing country] exports.' Only least-developed and net-food importing countries might need some long-term assistance to cope with the effects of agricultural liberalisation.

Timeline and forum

A consensus seems to be forming that the agricultural negotiations should be completed by the end of 2003 when the so-called 'peace clause' expires. This provision in the Uruguay Round Agreement on Agriculture was designed to restrain countries from initiating countervailing duty investigations during this period. The US and Argentina also called for setting intermediary deadlines within the negotiation process. Only India stressed it was more important to arrive at an acceptable new Agreement than to conclude the negotiations on deadline. It also remains to be decided whether the agriculture negotiations will be conducted by the WTO Agriculture Committee, a special body set up for the purpose, or the General Council itself.

Services: Scope and sectors

Australia, Norway, the Czech Republic and the European Union strongly stressed that the upcoming services negotiations should be comprehensive and cover all services sectors, as well as urged broad developing country participation in the talks. 'A comprehensive approach offers better prospects of trade-offs and of a package agreement with substantive gains for all Members,' Australia noted. Japan seemed to take a cautious attitude, stressing that liberalisation should be 'progressive' and based on an assessment of trade in services yet to be conducted.

Brazil pointed out that developing countries were mainly importers of services, and that service-related agreements had not created new or enhanced export opportunities for them. Together with other developing countries, India stressed that the services negotiations 'must take place with due respect for national policy objectives and the level of development of individual Members, both overall and in individual sectors.' Both countries emphasised that the 'progressive liberalisation' principle of the GATS Agreement explicitly provided individual developing country Members the flexibility to open fewer sectors, liberalise fewer types of transactions and progressively extend market access in line with their development situation. Brazil said that while it would not *a priori* exclude any services sectors from the negotiations, the level of expectations could not be the same for all sectors, with the financial services sector offering 'less room for significant increase in the level of commitments.'

Many countries highlighted areas of particular interest to their economies. Financial, telecommunications, environmental, educational and distribution services were among some of the developed country priorities, while developing countries stressed, *inter alia*, professional services, health-related and social services, as well as construction and engineering and tourism-related services.

The European Union, Australia and Czech Republic were among those that strongly stressed the importance of clear, transparent and predictable regulatory environments to service providers and, with a particular reference to the recent financial crisis, the need for adequate, proportionate and transparent domestic regulation. Australia said it would seek to give legal effect to disciplines affecting domestic regulation for professional services.

Chile called for the services negotiations to prioritise subsidies: Members should establish a regime that clearly distinguishes between service-related subventions justified by legitimate development policy objectives and actionable subsidies oriented towards gaining a commercial advantage. Many developing countries, including Chile and Brazil highlighted the importance of clarifying safeguard provisions: emergency safeguards should essentially be temporary, and only be used in unforeseen circumstances of increased imports of a given service.

Movement of natural persons

Movement of natural persons is *the* area of interest to developing countries in the services context. It is also one where the least progress has been made since the completion of the Uruguay Round. The issue is sensitive because of its links to immigration policy and fears that freer movement of service providers might lead to permanent employment and settlement in the host country. At the November meeting, Pakistan and India – supported by a large number of developing countries – focused on the need for further liberalisation in this area, highlighting particularly the need to curtail the use of 'economic needs tests' (ENTs), lack of mutual recognition agreements for professional service providers and cumbersome work permit and visa requirements. India called ENTs 'a huge barrier to the movement of natural persons as service suppliers,' and said it was looking forward to the negotiations bringing about 'the total elimination of ENT from the horizontal commitments of developed country Member states.' For a discussion on the issues involved in movement of natural persons in liberalising services, please see Bridges Vol.2 No.4, page 13.

TRIPS/TRIMS

Venezuela called for more coherence between the reviews of the Agreement on Trade-related Investment Measures (TRIMs) and the Agreement on Trade-related Intellectual Property Rights (TRIPs), as well as addressing lacks in competition disciplines. From a developing country perspective, Venezuela said these themes had in common the potential to contribute to the structural transformation of developing country economies through their participation in investment flows and technological development. However, developing countries will need to fight industrialised countries' tendency to rigidify investment and technology rules and incentives to acquire them. Too rigid investment and intellectual property regimes would curtail developing countries' right to apply active economic development policies as practically all such instruments would distort trade flows. India noted that the purpose of the TRIPs and TRIMs reviews was not to impose additional burdens and commitments on developing countries but, on the basis of experience gained, to provide relief to Members.

The US stressed ensuring compliance with TRIPs provisions when the transition period ends for many developing countries in 2000. It also called on Members to 'consider the desirability of broadening the [TRIMs] Agreement by expanding the disciplined list of TRIMs to include export performance requirements, technology transfer requirements and product management requirements.' The European Union also would like to tighten TRIMs disciplines in these areas.

Antidumping in Mercosur: the Current Situation

By Welber Barral

At their last summit meeting in December 1997, the presidents of Mercosur countries (Argentina, Brazil, Paraguay and Uruguay) signed an agreement on the application of antidumping measures against imports from third countries (Decision CMC/11/97, hereinafter MAA). Although this agreement does not create common rules for the application of antidumping duties by the four member States, it constitutes a legal framework with which national regulations must comply. Accordingly, the MAA will pattern the future Mercosur Antidumping Code, which is expected to be in force before 2001.

This paper reviews briefly the main provisions in the MAA and reports on the current legal situation of antidumping in Mercosur, considering the troublesome question of their compatibility with other free trade schemes and with WTO rules.

Mercosur's Legal Structure

In its seven-year history, the economic goals attained by Mercosur are remarkable: trade between Brazil, Argentina, Uruguay and Paraguay has increased from US\$4 to US\$14.4 billion, and their combined gross domestic product reaches nearly US\$1 trillion. This has led to more cultural and political contacts among the member States, which have helped minimise the suspicion that historically characterises international relations in the South American Cone.

Mercosur's institutional structure has not, however, evolved with the same speed. Supranational institutions have not been created and inter-governmental bodies are responsible for the elaboration of the common regulations. These are only achieved after time-consuming negotiations and by consensus among the trade partners. This pragmatic model leaves legislative gaps in many economic sectors whose legal regimes are still being negotiated. Besides that, the regulations must comply with other free trade schemes with which these countries are involved, such as the Latin American Integration Association (LAIA) and the future Free Trade Area of the Americas (FTAA). Likewise, their accession to the World Trade Organisation means they must respect the provisions of the Uruguay Round Agreements.

Antidumping in Free Trade Areas

The economic relevance of antidumping regulation is increasingly recognised as tariff barriers are removed, and national industries pressure for effective deterrents to foreign competition. This relevance may be also inferred from the importance given to the matter during the Uruguay Round. The resulting Uruguay Round Antidumping Agreement (URAA) may be seen as an attempt to reduce the use of antidumping measures by stipulating specific criteria (and notably procedural requirements) for their imposition. The four Mercosur States are also members of WTO, and the Uruguay Round Antidumping Agreement has been incorporated into their national law, conditioning Mercosur rules on the matter as well.

Moreover, the problem of dumping determination is aggravated in free trade areas. A current trend advocates simply the elimination of antidumping in regional trade, and legal literature abhors the possibility of its existence in a customs union (such as Mercosur). However, the elimination of antidumping measures is normally

conditioned to the existence of a common competition policy, or a common competition rules.

Mercosur has dealt with this problem by conferring different legal treatment to foreign dumping and to local dumping (i.e., imports from within the area). In the latter case, the agreement predicts the application of national regulations until 31 December 2000. This provision, determined by the 1996 Protocol on Competition Defence (CMC/18/96, Art. 2), directs national authorities 'to analyse until 2001 the rules and conditions for the regulation of antidumping in Mercosur'. During this period of time, every investigation against a Mercosur good must be previously notified to the exporting country. The provision also prescribes reciprocal consultations and exchange of data (CMC/18/96, Art. 3) in an attempt to avoid the imposition of antidumping duties.

Antidumping measures against outsiders

In the case of dumped imports from outside Mercosur, the MAA provides a legal framework that, as mentioned before, shall prevail over national regulations. This option is compatible with the approach adopted by Mercosur regarding the implementation of common rules. Instead of elaborating common regulations, to be enforced by supranational institutions, the Mercosur States have opted for a collaborative performance of national agencies. In the present situation, the main obligation consists of an exchange of information and experiences among national authorities, in order to harmonise the investigation procedure and to construe a symmetric interpretation of the various international agreements applicable to antidumping (CMC/11/97, Art. 8).

According to the MAA, Mercosur States must notify other members on the commencement of an antidumping investigation, as well as deliver information on the conditions and prices for the admission of goods imported from outside the area (Arts. 4 e 5). Whenever a member State requests the imposition of antidumping duties, other members shall consider it according to the Art. 14 of URAA (Art. 6).

The future of Antidumping in Mercosur

In a free trade area, the application of antidumping duties against products from third countries demands a common understanding of applicable provisions. In Mercosur, while these provisions are still being negotiated, a pragmatic solution leads to the exchange of information as a means to leading national agencies to a compatible behaviour.

On the other hand, the debate over the elimination of antidumping regulation in free trade areas raises strong arguments and sensitive questions. Such a debate is always regarded as a menace to the autonomy of national trade policies, and therefore touch local interests and stimulate political pressures.

In either case, handling with antidumping regulation in free trade areas concerns the difficult task of co-ordinating trade policies. On this sense, Mercosur has just begun to walk, and the MAA is one step more towards a distant objective.

Welber Barral is a Professor of International Economic Law at the Universidade Federal de Santa Catarina, Brazil.

Intellectual Property Rights Debate, continued from page 3

• **Avoiding trends toward overly broad biotechnology patents**

The scope of biotechnology patents in countries that are furthest along the road of patent expansion, such as the United States, is frequently too broad, which could actually stifle, rather than stimulate, productive innovation with consequent effects on international competitiveness and consumer health and welfare. There is significant concern about over-broad patent claims in the US itself. This suggests that the rest of the world is better off taking a 'wait-and-see' approach and learn from the US experience, rather than rushing into a decision whose benefits are unproven.

• **Maintaining competitive markets**

The combination of expanded international intellectual property protection with shifts in market dominance in the global economy raises significant concerns about market competitiveness. The over-broad patent claims in biotechnology, with a continued blurring of the lines between invention and discovery, intensify the risk of anti-competitive impacts, although some argue that intellectual property rights in the hands of small firms or newcomers to a market may sometimes serve as a tool to enhance competition.

In any case, there is currently a policy imbalance within the WTO. The WTO provides powerful protection of intellectual property through the TRIPs Agreement. While the TRIPs Agreement permits Members to take 'appropriate measures' to prevent the abuse of intellectual property rights or practices that unreasonably restrain trade, there is no international set of competition disciplines to guard against market abuses, in large part because of US opposition. No further expansion of intellectual property should take place without a thorough examination of the competitive impacts and the possible need for competition disciplines to manage them.

• **Preventing greater disparities between North and South**

The proposed extension of TRIPs to life patenting would further unbalance the Uruguay Round bargain in favor of industrialized countries and against developing countries. The protection afforded by the TRIPs agreement expands exclusive intellectual property protection in time (from 17 years in the US to 20 years under TRIPs); in scope (the TRIPs Agreement covers 'any invention'); and in geographical application (to all WTO Member countries). The increase in prices that is likely to result from recognition of patents on products such as new seed varieties and pharmaceuticals will reduce access to these goods for poor people in the developing world.

In addition, as intellectual property rights are predominantly owned and controlled by corporations in industrialized countries, the protection of these rights worldwide entails a significant transfer of revenues from developing to industrialized countries. The concessions offered to developing countries in the Uruguay Round to offset this transfer – including reduction in agricultural subsidies, better market access and special and differentiated treatment – have not yet been honored by industrialized countries. Until they are, the WTO should not add to its requirements for intellectual property protection.

• **Managing investment in biotechnology**

Countries may not want expanded TRIPs to life patenting until a proper regulatory framework governing biotechnology is in place to control the environmental impacts of modified organisms. By definition, intellectual property rights are designed to encourage

private sector investment in technological development. Hence, avoiding the extension of intellectual property to modified organisms remains a reasonable policy choice for countries wishing to control the development of biotechnology, at least until an effective biosafety protocol is negotiated and enters into force, and effective national regulations and institutions are in place.

• **Counterbalancing unilateralism on intellectual property.**

The WTO should not raise TRIPs standards while major trading nations are applying unilateral pressure to force trading partners not only to meet TRIPs standards but to go beyond them. For instance, the US threatened Argentina with trade sanctions on the grounds that Argentina's protection of IPRs is not strong enough. Yet some of the US demands seemed to seek stronger protection than TRIPs requires.

• **Addressing environmental and ethical concerns.**

Life patenting raises significant environmental and ethical issues for many people in many countries. There are concerns that patents on crop varieties, for instance, augment incentives in favor of monoculture and use of expensive inputs such as fertilizer; this in turn causes environmental harm. In addition, many people in many societies feel that the structures of genes, animals or plants – the structure of life itself – should be kept free from commodification and market transactions, as an ethical matter. The private ownership and marketing of these fundamental structures of life violates religious and moral principles in a number of cultures. The WTO should not adopt a blanket rule when so many perspectives and concerns are yet to be considered.

**WTO should examine broader concerns
about intellectual property**

As Lester Thurow wrote recently in the *Harvard Business Review* (1997), '[i]t is clear that the invention of a new gene for making human beings different or better cannot be handled in the same way as the invention of a new gearbox.' Decisions about the evolution of intellectual property cannot be left for specialists or to the WTO alone. They need debate by a full range of institutions, experts, and representatives of civil society. As steps toward such a discussion, we recommend the following:

- A full and public discussion within the TRIPs Council and the 1999 WTO Ministerial Conference of the public interest questions raised by intellectual property.
- A commitment by WTO members to discuss fully and openly the public interest concerns involved in intellectual property, and to carry out a thorough review of the TRIPs Agreement in 2000, before starting negotiations on additional intellectual property requirements.
- A commitment in the WTO to address related issues alongside intellectual property policy.
- Involvement of other relevant institutions, such as UNESCO, FAO, World Health Organization, World Intellectual Property Organization, and the full participation by citizens' groups.

David R. Downes and Matthew Stilwell are attorneys with the Center for International Environmental Law (CIEL). This article was adapted by the authors from: David R. Downes and Matthew Stilwell. 1998. The 1999 WTO Review of Life Patenting Under TRIPs: Revised Discussion Paper. CIEL, Washington. The full version of this article, including references, is available through the WTO NGO Document Centre, or upon request.

UNCTAD Stresses Partnerships

UNCTAD has held a number of sustainable development related meetings over the last few weeks. The Partners for Development conference held in Lyon from 9-12 November brought together hundreds of private sector and civil society representatives in an effort to reinforce the role of business and other non-state actors in development. Among other results, UNCTAD signed collaboration agreements with several Latin American institutions in the context of its Biotrade Initiative, which is 'designed to promote development of a market that provides incentives for the conservation of biodiversity and also creates sustainable economic development opportunities.'

Collaboration on Biotrade

UNCTAD will co-operate with a private investment bank, Banco Axial S.A., on the promotion and execution of biodiversity-related business and on fund-raising for the sustainable use of biological, in particular, biochemical resources in the countries sharing the Amazon region. The agreement with Poema, a non-governmental organisation which works to raise the living standards of rural communities in the Amazon, involves further development of 'Bolsa Amazonia', a joint initiative of 15 Brazilian public and private institutions for the promotion and intermediation of bio-business opportunities for natural products.

Through its EMPRETEC programme, UNCTAD will collaborate with Banco do Nordeste, a regional development bank, in elaborating an integrated, self-sustaining programme for the economic and social development of the Amazon. The bank will seek to raise the funds for the programme's first three years of activities.

A biotrade collaboration agreement was also signed with the Andean Development Corporation, a regional development and integration body between Bolivia, Colombia, Ecuador, Peru and Venezuela. The agreement calls for coordinated action in research, training and public awareness programmes to promote the conservation of biodiversity. The institutions also aim at enhancing Andean countries' ability to compete in the emerging market for biological resources.

UNCTAD also formed partnerships with the University of Chicago and Cook College of Rutgers University. The University of Chicago will develop case studies on biological and genetic resource use, involving a broad range of stakeholders, and make comparative studies of these cases to implement local, sustainable economic programmes aimed at preserving biodiversity. The partnership with Cook College will provide expertise to conduct market research and economic analysis, as well as design and implement training and technical assistance programmes in natural product research, biotechnology and biodiversity conservation.

Contact: Juan de Castro, UNCTAD, tel: (41-22) 907-5791, e-mail: juan.de.castro@unctad.org

A New Industry Association for Emissions Trading?

At the fourth Conference of the Parties to the Climate Convention, UNCTAD and the Earth Council held a special meeting to discuss the launch of an International Emissions Trading Association (IETA). According to the Chairman's Summary, the meeting demonstrated broad-based support for the establishment of an independent, industry-led, non-profit international association dedicated to facilitating and advancing the development of an open international greenhouse gas emissions trading market. The

meeting set up a steering Committee, which will develop a short mission statement clearly defining the purpose of the association. The objectives, structure and target areas of IETA will be defined once the mission statement has been approved.

Contact: Frank Joshua, Head of Greenhouse Gas Emissions Trading, UNCTAD, fax: (41-22) 907-0274, e-mail: frank.joshua@unctad.org

Training Trainers for Multilateral Trade Issues

UNCTAD, the WTO and the International Trade Centre (ITC), organised a francophone 'training-of-trainers' course for officials, academics and representatives of business organisations from Benin, Burkina Faso, Côte d'Ivoire, and Tunisia from 23 November to 11 December 1998. The course, held in Geneva, aimed to facilitate these countries' integration into the multilateral trading system. It was the second in a series; a similar 'training-of-trainers' course was organised in 1997 for English-speaking countries, namely Ghana, Kenya, Tanzania and Uganda, as part of the three institutions' Joint Integrated Technical Assistance Programme in Selected Least-Developed and Other African Countries (JITAP). The courses are designed to give a comprehensive overview of the multilateral trading system. For each topic, the WTO explains rules stemming from the Uruguay Round, UNCTAD addresses policy implications, and ITC examines business aspects and opportunities.

Contact: Marcel Namfua, JITAP Coordinator, UNCTAD, tel: (41-22) 917-5873, fax: 907-0044, e-mail: marcel.namfua@unctad.org

Multilateral Investment Treaty Officially Dead

In a terse statement released on 3 December, the OECD let it be known that 'negotiations on the MAI (the Multilateral Agreement on Investment, *ed.*) are no longer taking place'. According to the statement, OECD governments still believe that international rules on investment are desirable, but some negotiators admitted that it was impossible to proceed due to 'irreconcilable political difficulties', including over whether to include rules on labour and environment in the treaty. Other politically sensitive issues involved governments' regulatory authority, protection of culture, the treatment of regional economic organisations and terms for exceptions.

With the official death of the MAI, speculation is rife on whether negotiations on multilateral investment rules will now move to the WTO, as several OECD countries have indicated they would like to happen. Some see a major confrontation looming up between the EU – which would like to include investment in the 'Millennium Round' it is advocating – and India, which leads the movement against a WTO investment treaty. The confrontation may never amount to much, however: many trade diplomats say there is 'no huge appetite' for investment rules in the WTO. A large number of developed and developing country governments is still undecided about whether there is a valid case to be made for multilateral investment rules at all. In any case, the WTO could not build on the ruins of the MAI but would have to start afresh, most likely by defining special and differential treatment provisions for developing countries, trade sources say.

The OECD for its part will continue its 'analytical work' on investment issues, possibly within the framework of the OECD Committee on Investment and Multinational Enterprises. The Committee will meet in February and decide whether governments will want to do 'anything concrete' on the investment issue, an OECD official said.

ICTSD Update

The International Centre for Trade and Sustainable Development completes its second year in a substantially changed landscape of NGO/trade system relations. Many new participants are now engaged in the trade and sustainability debate and, among those, many others have helped raise the level of discourse between civil society and the multilateral trade system in effective and increasingly interesting ways. Among the many significant events of the past year, one of the most significant was the meeting between NGOs and the WTO Director General in late 1997 and the widening dialogue between civil society and the trade system that has emerged from this event. One of ICTSD's principal challenges in the coming year leading up to the 1999 WTO Ministerial meeting will be to support this broader and more sophisticated interaction while maintaining the services which allow all concerned to join the trade and sustainability debate.

1998 was a very active and successful year for ICTSD. Bridges Between Trade and Sustainable Development is now published in English, Spanish and French in Switzerland, Ecuador and Senegal, and is distributed to a targeted list of over three thousand people and organisations active on trade and sustainability issues around the world in more than 190 countries and territories. As we noted last year, ICTSD could not have accomplished all this and many other things without the substantial support it receives from a broad network of NGOs, the WTO Secretariat and its Executive Board, Programme Advisory Board and Trade Advisory Council, funders and ICTSD staff.

Once again we would like to acknowledge the contributions of our funders and the dedication of our staff and the many people who volunteered for ICTSD over the past year. Our thanks to all of you and best wishes for an equally successful 1999.

ICTSD has been generously funded during the past year by non-governmental organisations, private foundations and governments. It has received substantial financial and in-kind contributions and a great deal of goodwill. We gratefully acknowledge the support of:

MISEREOR (Germany)
NOVIB (Netherlands)
OXFAM (UK)
Christian Aid (UK)
National Wildlife Federation – NWF (USA)
Fundación Futuro Latinoamericano – FFLA (Ecuador)
Swiss Coalition of Development Organisations – SCDO (CH)
The World Conservation Union – IUCN (CH)
MS Denmark (Denmark)

The Government of Denmark (DANIDA)
The European Commission DGI / DG XII
The Government of Switzerland (BAWI– SDC)
The Government of Sweden (SIDA)
The Government of the Netherlands (DGIS and Environment Ministry)
The Government of Canada (DFAIT)
The Government of the United Kingdom (DFID)

The C.S. MOTT Foundation (USA)
The John D. and Catherine T. MacArthur Foundation (USA)
The Nelson Rockefeller Centre – Dartmouth College (USA)
US Information Agency Fulbright Programme – (USA)

United Nations Environment Programme – UNEP (CH)
United Nations Development Programme – UNDP ROLAC (México)
United Nations
Fondation des Immeubles pour les Organisations Internationales – FIPOI (CH).

ICTSD will continue to be small organisation in foreseeable future. However, we have added a few new positions to our staff. The dedication of this core team and a rapidly growing circle of friends and collaborators has extended ICTSD's capacity substantially over the past year.

Current Staff

Ricardo Meléndez-Ortiz (Executive Director)
Andrew Crosby (Programmes Director)
Miguel Jiménez-Pont (Dialogues Programme Director)
Lucas Assunção (Research, Documentation and Support Services Director)
Anja Halle (Senior Editor)
Caroline Dommen (Associate Editor)
Christophe Bellmann (Programme Officer, Outreach and Partnerships)
Juan Patricio Navarro (Business and Development Officer)
Hugo Cameron (Assistant Editor)
Marc Galvin (Database and Documentation Centre)
Oscar Haro (Executive Assistant)
Dagmar Timmer (Intern)
Soraya Hassanali (Intern Brussels)
Carolyn Deere (Intern Geneva/Washington)

Other Staff Contributors 1998

Matej Hacin (Assistant Editor)
Chris Dedicik (Intern)
Marta Gonzales (Intern)
Hiranya Fernando (Junior Legal Officer)
Aimee Christensen (Special Assistant)

Collaborating Organisations

Institute for Agriculture and Trade Policy – Minneapolis, MN, USA, Co-producer of ICTSD Weekly Trade News Digest
Enda Tiers Monde, Dakar, Senegal, Core Partner Production of Passerelles (Bridges French Language Edition)
Fundacion Futuro Latinoamericano (FFLA), Quito, Ecuador, Core Partner Production of Puentes (Bridges Spanish Language Edition)
New Media Productions (NMP) Falls Church, VA USA, ICTSD Website

ICTSD's work has also been enriched by the contributions of:

Ioannis Kinnas, (Consultant)
Alix Gowlland (Consultant Discussion Papers)
Tashi Kaul (Consultant Discussion Papers)
Marie-Claire Segger (Trade and Sustainability in the Americas Project)

**WE WISH ALL READERS OF BRIDGES
A PEACEFUL HOLIDAY SEASON
AND A SUCCESSFUL NEW YEAR**

ICTSD and Partner News in Brief

The ICTSD Regional Trade and Environment Seminar for Governments and Civil Society in Harare has been postponed from December 1998 to 10-12 February 1999. It will take place in conjunction with the WTO regional trade and environment seminar for English-speaking Africa, now scheduled for 8-10 February.

The organisers expect about 70 participants from non-governmental and academic institutions, as well as governments, the WTO Secretariat and other international organisations. Discussions will focus on issues of particular interest to Africa, such as trade-related aspects of biodiversity and desertification, and more general questions of regional and multilateral trade and environment co-operation.

Contact: Christophe Bellmann, ICTSD, tel: (41-22) 917-8492, fax: 917-8093, e-mail: cbellmann@ictsd.ch.

ICTSD's dialogue on regional integration approaches to addressing trade liberalisation and sustainable development has been postponed to 1-2 February. The meeting will take place in Geneva. Some 80 academics, business and NGO representatives, as well as officials working on regional integration and multilateral trade, will look at the role of regional economic integration in promoting convergence between trade and environment policies, as well as the elements that contribute to such a process of convergence. (For more information see Bridges Vol.2 No.5, page 15).

Contact: Miguel Jimenez-Pont, ICTSD Dialogues Programme, tel: (41-22) 917-8492, fax: 917-8093, e-mail: mjimenez@ictsd.ch

Solagral Focuses on Equitable Natural Resources Management

On 26 November 1998, Solagral organised a roundtable entitled Management of Natural Resources: Property rights, institutions and markets. The meeting aimed to provide an occasion for government officials, NGO representatives and academics to reflect on instruments and policies that could further equitable long-term natural resources management. Among the discoveries was a lack of real conflict between public authorities and civil society. The only issue which proved somewhat divisive was intellectual property rights, which some NGO representatives did not consider as tools favouring equitable markets. According to these speakers, trade-related intellectual property rights are primarily of political nature. Solagral called for a collective search for future instruments that would take into account all interests rather than foster competition between different institutions. The French Environment Ministry committed itself to follow up on the initiative.

The day consisted of meetings on four main themes. The first looked at the current state of negotiations on natural resources management and the launch of new multilateral trade negotiations. The second presented economic instruments and considered the consequences of the spread of juridical market mechanisms, such as user rights and pollution rights. Do these mechanisms lead to the privatisation of natural resources or are they simply management tools for public responsibility? The third meeting focused on new forms of environmental regulations through legal instruments, as well as new forms of private, public and customary law, with an emphasis on the role of intellectual property protection in collective management of natural resources. An finally, on this last theme, the fourth meeting looked at the coherence of development policies.

Contact: Solagral, tel: (33-4) 99 23-22.80, fax: (33-4) 99 23-24 61, e-mail: stephane.gueneau@ensam.inra.fr

BRIDGES

Between Trade and Sustainable Development

BRIDGES/PUENTES/PASSERELLES

aim to provide information and analysis on the interface between trade and sustainable development for the growing number of actors involved in the debate worldwide. ICTSD and its partner organisations gratefully acknowledge the support of the Swiss Federal Government (BAWI) for Bridges, and the John D. and Catherine T. MacArthur Foundation for Puentes and Passerelles.



INTERNATIONAL CENTRE FOR
TRADE AND SUSTAINABLE
DEVELOPMENT

BRIDGES Between Trade and Sustainable Development is published monthly by the International Centre for Trade and Sustainable Development.

Director: Ricardo Meléndez-Ortiz
Editor: Anja Halle
Associate Editor: Caroline Dommen
Address: 13 chemin des Anémones
1219 Geneva, Switzerland
Tel: (41-22) 917-8492
Fax: (41-22) 917-8093
E-mail: ictsd@ictsd.ch
Web: <http://www.ictsd.org>



FUTURO
LATINOAMERICANO

PUENTES Entre el Comercio y el Desarrollo Sostenible, the Latin American edition of *BRIDGES*, is published bi-monthly in collaboration with Fundación Futuro Latinoamericano.

Co-ordinator: Nicolas Lucas
Associate Editor: María Amparo Albán
Address: Casilla 17-17-558
Quito, Ecuador
Tel. and fax: (593-2) 451-822/463-503,
and 456-521.
E-mail: ffla1@fulano.org.ec



enda-tiers monde

PASSERELLES entre le commerce et le développement durable, the French edition of *BRIDGES*, is published bi-monthly in collaboration with ENDA-Tiers Monde.

Co-ordinator: Taoufik Ben Abdallah
Address: B.P. 3370
Dakar, Senegal
Tel: (221) 821-7037
Fax: (221) 822-2695
E-mail: syspro2@enda.sn
Web: <http://www.enda.sn>

The opinions expressed in signed contributions to *BRIDGES/PUENTES/PASSERELLES* are the authors' and do not necessarily reflect the views of ICTSD. Material from these publications can be used in other publications with full academic citation.

BRIDGES Weekly Trade News Digest

To subscribe to ICTSD's weekly summary of trade news relevant to the environment and development communities, please send e-mail to: Majordomo@igc.apc.org. Leave the subject line blank. In the body of the message write: subscribe tradedev. For fax and mail copies contact ICTSD. Also available on the ICTSD Web site.

All WTO meetings take place in Geneva. Dates are subject to change, please contact the WTO for confirmation.
Internet: <http://www.wto.org> (All WTO phone and fax numbers start with (41-22) 739. Only extensions are provided in this list.)

January 18	WTO Textiles Monitoring Body Contact: J.-P. Lapalme, tel: 5223, fax: 5765	February 22-23	WTO Council for Trade in Services Contact: A.-Hamid Mamdouh, tel: 5435, fax: 5771
January 19	Fourth Inter-sessional Meeting of the Special Session of the WTO General Council to prepare for the Third Ministerial Meeting Contact: Paulo Barthel-Rosa, tel: 5095, fax: 5761	February 24	WTO Dispute Settlement Body Contact: Paulo Barthel-Rosa, tel: 5095, fax: 5761
January 20-21	WTO Trade Policy Review Body (Argentina) Contact: Clemens Boonekamp, tel: 5226, fax: 5765	February 24-25	WTO Working Group on Transparency in Government Procurement Contact: Vesile Kulaçoglu, tel: 5187, fax: 5790
January 25	WTO Dispute Settlement Body Contact: Paulo Barthel-Rosa, tel: 5095, fax: 5761	February 25-26	Second Special Session of the WTO General Council for the Third Ministerial Conference Contact: Paulo Barthel-Rosa, tel: 5095, fax: 5761
January 25	WTO Committee on Rules of Origin Contact: Eki Kim, tel: 5584, fax: 5770	February 25-26	WTO Trade Policy Review Body (Guinea) Contact: Clemens Boonekamp, tel: 5226, fax: 5765
January 25-26	WTO Council for Trade in Services Contact: A.-Hamid Mamdouh, tel: 5435, fax: 5771	February 26	WTO Committee on Rules of Origin Contact: Eki Kim, tel: 5584, fax: 5770
January 27-28	WTO Trade Policy Review Body (Togo) Contact: Clemens Boonekamp, tel: 5226, fax: 5765	March 2	WTO Committee on Trade and Development Contact: Chiedu Osakwe, tel: 5250, fax: 5774
January 29	WTO Committee on Rules of Origin Contact: Eki Kim, tel: 5584, fax: 5770		
February 1-2 Geneva	Trade Policy and Sustainability: The Regional Approaches Contact: Miguel Jimenez-Pont, ICTSD Dialogues Programme, tel: (41-22) 917-8492, fax: 917-8093, e-mail: mjimenez@ictsd.ch		
February 5	WTO Council for Trade in Goods Contact: Suja Rishikesh, tel: 5485, fax: 5770		
February 6-7 Brussels	WWF/ICDA Conference on Trade, the WTO and Social and Environmental Assessments Contact: Charlie Arden-Clarke, WWF Intl, e-mail: CHARLES.ARDEN-CLARKE@wwfnet.org		
February 10	WTO General Council Contact: Paulo Barthel-Rosa, tel: 5095, fax: 5761		
February 10-12 Harare	ICTSD Regional Trade and Environment Seminar for Governments and Civil Society Contact: Christophe Bellmann, ICTSD, tel: (41-22) 917-8492, fax: 917-8093, e-mail: cbellmann@ictsd.ch		
February 15-19 Cartagena	Ad Hoc Working Group on Biosafety: Sixth Negotiating Session for a Biosafety Protocol Contact: CBD Secretariat, tel: (1-154) 288-2220, fax: 288-6588, e-mail: chm@biodiv.org		
February 18-19	WTO Committee on Trade and Environment Contact: Sabrina Shaw, tel: 5482, fax: 5620		
February 22	WTO Committee on Rules of Origin Contact: Eki Kim, tel: 5584, fax: 5770		

PUBLICATIONS/DOCUMENTS

British Council. 1998. Environmental Responsibility in World Trade. British Council. Oxford

Geuze, Matthijs. 1998. 'Patent Rights in the Pharmaceutical Area and Their Enforcement: Experience in the WTO Framework with the Implementation of the TRIPs Agreement'. The Journal of World Intellectual Property Vol.1 No.4. Werner Publishing Company. Geneva.

Hunter, David; Salzman, Jim and Zaelke, Durwood. 1998. International Environmental Law and Policy. Foundation Press

Jayasekera, Rohan Asoka. 1998. 'Trading in Futures: EU-ACP Relations: Putting Commerce before Co-operation?' Panos Briefing No. 31. Panos Institute. London

Kennan, Jane and Stevens, Christopher. 1997. From Lomé to the GSP: Implications for the ACP of Losing Lomé Trade Preferences. Oxfam. Oxford.

Kwa, Aileen and Bello, Walden. 1998. Guide to the Agreement on Agriculture: Technicalities and Trade Tricks Explained. Focus on the Global South. Bangkok

WTO. 1998. Annual Report 1998. WTO. Geneva

WTO. 1998. Trade Policy Review of Trinidad and Tobago. WTO. Geneva

Zarrilli, S. and Kinnon C. 1998. International Trade in Health Services – A Development Perspective. (UNCTAD/ITCD/TSB/5/WHO/TFHE/98.1) UNCTAD. Geneva