

Table of Contents

- WTO AGENDA: QUAD MINISTERS DIFFER OVER MILLENNIUM ROUND
- RUGGIERO PROPOSES FIX FOR LEAKS
- MAI ON SIX-MONTH HOLD
- INDIA TO CONTEST U.S. WTO COMPLAINT
- NEW TRANSATLANTIC MARKETPLACE: FRANCE KEEPS BRITTAN'S
SHIP AT BAY
- CHINA-U.S. MAKE PROGRESS ON WTO ACCESSION
- U.S. ANTIDUMPING ACT UNDER FIRE
- EVENTS/RESOURCES

WTO AGENDA: QUAD MINISTERS DIFFER OVER MILLENNIUM ROUND

Trade ministers from the so-called Quad powers of the U.S., EU, Japan and Canada last week agreed on a new approach to negotiating further trade liberalization within the WTO. The approach will allow sector-by-sector agreements to remain valid if WTO members subsequently reach accords on at least two other sectors. This differs from traditional arrangements wherein sector-by-sector agreements become invalid if WTO members cannot reach agreement on all negotiating areas. The new approach is expected to have more appeal to developing nations.

Quad ministers disagreed however over the so-called Millennium Round of trade talks. The EU and Japan support the launch of a comprehensive trade round to begin in 2000, while Canada warned strongly against such an approach. The U.S. said it is too early to decide on the matter.

Canadian Minister for International Trade Sergio Marchi urged ministers to take stock of the WTO scope before pushing forward with new talks. "The world community wants to move toward that town called trade and investment liberalization. The questions I think the globe needs to ask themselves in the next year or two are: how big is the road to that town, how much traffic can we put on it, and how quickly should that traffic be moving," Mr. Marchi said.

Quad ministers also agreed to push for a high-level meeting of the WTO Committee on Trade and Environment (CTE) well before the end of 1999 in order to break the log-jam that has stymied the group since its inception. EU Commissioner for External Relations Sir Leon Brittan said clear decisions on the intersection between trade and environment must be solved as "apparent clashes" between trade liberalization and environmental policies may impede progress in other areas. "Other areas" in this case could include possible WTO negotiations for an agreement on investment should negotiations for a Multilateral Agreement on Investment (MAI) ultimately fail at the Organization for Economic Cooperation and Development (see related story this issue.) The WTO's recent ruling on an U.S. import on shrimp caught without devices to protect endangered sea-turtles highlighted the conflict between WTO trade rules and international environmental agreements.

U.S. Trade representative Charlene Barshefsky called for the CTE to maintain close consultations with business and non-governmental organizations to ensure "concrete results."

"Quad ministers reveal competing visions for new WTO negotiations," INSIDE US TRADE, May 1, 1998;
"Quad ministers agree on new trade talks approach," KYODO NEWS INTERNATIONAL, April 30, 1998;
"Japan to propose new round of international trade talks," KYODO NEWS INTERNATIONAL, April 25, 1998.

RUGGIERO PROPOSES FIX FOR LEAKS

WTO director-general Rennato Ruggiero last week offered two possible solutions to the problem of leaking WTO dispute panel interim rulings. Addressing the WTO General Council on April 24, Mr. Ruggiero proposed increasing the budget for the WTO translations department so as to shorten the time it takes to issue interim rulings to the public. Further, Mr. Ruggiero proposed to issue interim reports immediately in at least one of the three WTO working languages (English, French and Spanish).

WTO policy calls for interim rulings to be released simultaneously in all three languages. However, because of budget constraints and the large volume of dispute cases being handled it has been impossible to process timely translations.

Mr. Ruggiero said that almost all interim panel rulings to date have been leaked within a few days and sometimes hours of being handed over to interested parties. The leaks, he said, "reduce the likelihood of a mutually agreeable solution to the dispute, which is the preferred result of the [dispute settlement process] and which is the basic reason for revealing the preliminary result to the parties in the first place."

Most recently, both the U.S. and Japan leaked the findings of the WTO panel on the joint U.S.-Japanese complaint against Indonesia's national car policy. Indonesia called this action "a serious breach of confidentiality." Indonesia also called for WTO rules that would sanction parties "who offend this critical obligation."

WTO members have been asked to submit suggestions for changing or improving the dispute settlement process. The Dispute Settlement Body will then undergo a formal review by the end of 1998.

"WTO chief floats solutions to problem of leaked reports," INTERNATIONAL TRADE REPORTER, April 29, 1998.

MAI ON SIX-MONTH HOLD

Ministers from the Organization for Economic Cooperation and Development (OECD) last week agreed to a six-month hold on negotiations for a Multilateral Agreement on Investment (MAI). Ministers are to use this time as a "period of assessment and further consultation between the negotiating parties and with interested parties of their societies," according to a communiqué from last week's OECD ministerial meeting in Paris. Talks for the MAI began in 1995 and were to conclude with an agreement last year, until the deadline was extended until April 28, 1998. It became evident this winter that no agreement could be reached, which resulted in last week's decision for a pause in negotiations.

France remains the most outspoken against the MAI. According to French Minister for European Affairs Pierre Moscovici, a MAI will only be acceptable if it includes binding core labor standards for investors; provisions for separate liberalization standards for regional economic integration organizations (REIOs),

e.g. the EU; and the renunciation by the U.S. of any possibility of sanctioning foreign firms who invest in Cuba, Iran or elsewhere.

With regard to the latter, Mr. Moscovici said, "The United States can't negotiate a multilateral agreement for trade and liberalization while at the same time taking unilateral measures that are purely extraterritorial in nature." The U.S. and EU remain far apart as well over the issue of separate standards for REIOs.

France and Canada together called for the MAI to protect cultural industries such as the arts from being overrun by foreign investors. This so-called "cultural exemption" position has gained popular support in France as a reason for opposition against the MAI.

Canadian Trade Minister Sergio Marchi gave voice to a concern held by many in the global trade community over whether the OECD is the appropriate forum for negotiating a MAI. Mr. Marchi argued that by negotiating a MAI via the WTO the agreement would be open to nearly all likely recipients and sources of foreign direct investment, rather than the small group of 29 OECD member-states. Indeed, developing countries have been ultra wary of supporting a MAI agreement they had no part in shaping. Mr. Marchi urged that investment requires a "more permanent approach," through the WTO and said that the work done thus far by the OECD is "important but preparatory nonetheless."

Japan last week also called for investment to be included in possible Millennium Round talks at the WTO, although it is not clear if Japan intended to call for parallel talks to the OECD or to move the MAI to the WTO outright.

The pause in MAI talks is seen in part as a victory for environmentalists, trade unions and consumer advocates who lobbied vigorously against the MAI. According to John Evans, secretary-general of the Trade Union Advisory Committee to the OECD, "[t]he new debate on the MAI has shown politicians where the fault line is on globalization...[This] agreement cannot be negotiated only with the needs of investors in mind."

OECD trade negotiators are formally due to meet again in October. EU trade commissioner Sir Leon Brittan urged for a firm date to be set to resume negotiations, lest absence of a date become "an elegant or not- so-elegant way of signing the death warrant to the whole thing."

"Investment pact in jeopardy in OECD as members agree to six-month pause," INTERNATIONAL TRADE REPORTER, April 29, 1998; "OECD accepts French demand to pause MAI talks, paves way for WTO work," INSIDE U.S. TRADE, May 1, 1998; "OECD agrees to continue talks on multilateral investment talks," WALL STREET JOURNAL, April 29, 1998; "Japan favors inclusion of investment in new WTO round;" "OECD fails to agree on opening up investment markets," AGENCE FRANCE-PRESSE, April 27, 1998, "OECD's future," FINANCIAL TIMES, April 28, 1998.

INDIA TO CONTEST U.S. WTO COMPLAINT

India last week announced plans to contest the U.S. complaint against India over its phase-out plan for import restrictions on over 2,000 products. Over the last year, India and its major trading partners have disagreed over India's system of quantitative import restrictions, which India says are necessary to protect its poor, agrarian-based economy. Trading partners, meanwhile, cited India's healthy trade balance and currency reserves as evidence of its ability to withstand an influx of cheap foreign imports.

India reached bilateral agreements last fall with the European Union, Japan, Australia and New Zealand, agreeing to a six-year phaseout period for import restrictions. India had initially proposed a nine-year phaseout period.

The U.S. has pushed for a three-year phaseout period, but has said it will accept a five-year plan if certain items important to the U.S. are front-loaded into the phaseout plan. The U.S. brought a complaint to the WTO to try and resolve the impasse: months of negotiations have failed to settle the differences between India and the U.S., so a dispute settlement panel is to be established to address the complaint.

The new Bharatiya Janata Party-led government in India is prepared to go to the mat with the U.S. over the issue. According to sources, the Indian government's decision is based on the theory that India's national interests cannot be subsumed by the WTO. Indian sources said that the U.S. utilizes its own trade laws to protect national interests and that therefore India is within its rights to protect its interests when necessary.

India will file its reply to the U.S. complaint later this week at the WTO, where it is expected to argue that it is lifting import restrictions on its own and should not be obligated to submit to a U.S. or WTO prescribed plan. For example, India removed import restrictions on more than 340 products in early April. The U.S. maintains that despite this move, India's import restrictions on more than a third of its imports remain serious barriers to U.S. exports, particularly agricultural and consumer products.

In other regional news, India, Australia and South Africa have joined 11 other nations that border the Indian Ocean to form the Indian Ocean Rim Association for Regional Cooperation (IOR-ARC). The group aims to forge agreements on economic and trade cooperation, and is currently working to standardize customs regulations. IOR-ARC has tremendous potential to become a major trade force: half of the world's shipping container traffic passes through the Indian Ocean as well as two-thirds of the world's oil shipments. Already, regional trade revenues amount to US\$1 trillion annually, 70% of that between IOR-ARC nations.

Serious obstacles exist, however, as the countries grapple with religious, political and economic disparities which could make it hard for the countries to come together. IOR-ARC also includes Mozambique, Madagascar, Mauritius, Tanzania, Kenya, Yemen, Oman, Sri Lanka, Malaysia, Singapore, and Indonesia. Pakistan has applied for membership, but its application is opposed by neighboring India.

Meanwhile, Pakistan last week initialled a five-year cooperation agreement on partnership and development with the EU. President of the European Commission Jacques Santer praised Pakistan's commitment during the 1990s "to follow a broad range of liberal economic policies," which encourage investment.

"India to contest US complaint on import curbs at WTO," ECONOMIC TIMES (India), April 25, 1998; "India contesting U.S. complaint before WTO," JOURNAL OF COMMERCE, April 28, 1998; "Big dreams on the Indian rim," FORTUNE, May 11, 1998; "Pakistan signs 5-year cooperation pact with EU," ECONOMIC TIMES, April 25, 1998.

NEW TRANSATLANTIC MARKETPLACE: FRANCE KEEPS BRITTAN'S SHIP AT BAY

At a meeting of European foreign ministers April 27, France led opposition to the proposed New Trans-Atlantic Marketplace (NTM) between the U.S. and EU, resulting in the removal of the proposal in name from the May 18 EU-U.S. summit. Sources said that while French opposition will keep the NTM off the agenda, the EU and U.S. could still end up agreeing to a similar package of issues to negotiate, albeit under a different label. "It's face saving for everyone," according to one source. "France gets to kill the NTM, but the summit will still discuss [trade] liberalization, so the pieces [of the NTM] will live on."

The NTM could be worth an additional US\$166.5 billion a year to EU gross domestic product from an already robust trade partnership. The plan, drawn up by EU trade commissioner Sir Leon Brittan, would remove technical barriers to trade and further liberalize investment, government procurement and intellectual property.

Ministers agreed that resolving long-standing disputes with the U.S. over Helms-Burton and Iran-Libya Sanctions (ILSA) laws is a "precondition" for moving the NTM forward. "A settlement is a precondition for developing future trade liberalization and an enhanced trans-Atlantic relationship," British Foreign Minister Robin Cook said last week. "This is a serious matter that has been hanging over our heads for more than two years. The EU cannot accept the extraterritorial principle," Mr. Cook said.

The U.S. laws at issue here are U.S. attempts to curb foreign investment in expropriated property in Cuba and energy development in Iran and Libya. Earlier this month, the EU allowed its WTO complaint against the Helms-Burton law to lapse, saying it would attempt to settle the matter bilaterally with the U.S. According to one EU official, "[t]here seemed to be a sense that because we let the WTO case expire--which was basically a procedural matter--we were somehow backing off or letting up on the pressure over our opposition to Helms-Burton and ILSA. This is not the case at all, and the member states felt the need to emphasize that." The EU ministers urged the European Commission to push negotiations over Helms-Burton and ILSA in order to reach a solution by the EU-U.S. summit.

France has opposed the NTM proposal since it was first put forward to EU ministers in March. French President Jacques Chirac has said the New Transatlantic Marketplace proposal goes against the vital interests of his country, especially with regard to communications, agriculture and intellectual creativity sectors. France is also concerned that Brittan's proposed bilateral dispute settlement mechanism might undermine the WTO dispute settlement process. France was incensed that Sir Leon first discussed the proposal with the U.S. rather than EU member states. The Netherlands, however, was opposed to the proposal because it does not include agriculture. According to one Dutch official, the Netherlands believes including agriculture within NTM would give the EU the push it needs to push forward reform of its common agricultural policy. Germany and Belgium were reported to be lukewarm on the NTM proposal as well.

"France blocks trans-atlantic trade talks; Cuba, Iran-Libya resolution a precondition," INTERNATIONAL TRADE REPORTER, April 29, 1998; "EU trade initiative off summit agenda in wake of French opposition," INSIDE US TRADE, May 1, 1998; "Interview: Brittan says his trade ideas live on," REUTERS, April 28, 1998; "EU backs off U.S. trade plan, Brittan pushes," REUTERS, April 27, 1998.

CHINA-U.S. MAKE PROGRESS ON WTO ACCESSION

U.S. Secretary of State Madeleine Albright last week showed uncharacteristic U.S. optimism regarding a China-U.S. bilateral agreement for China's WTO accession bid. Ms. Albright, visiting China last week in advance of a U.S.-China summit next month, said she was hopeful a bilateral agreement could be

concluded by the June meeting but that much work remained to be done before then. Ms. Albright said a visit with Chinese Premier Zhu Rongji left her encouraged that China is willing to make the necessary market opening offers necessary to move China's application forward.

U.S. Trade Representative Charlene Barshefsky--also in China last week-- did say that U.S.-China accession talks were "back on track," but could not confirm that an agreement would be reached by June. U.S. President Clinton and Chinese President Jiang Zemin will discuss China's WTO accession during their summit meeting. Not long ago, the U.S. and China had anticipated China's accession to be complete in time for the summit: last week's visit by Ms. Barshefsky and Ms. Albright signalled the first sign of momentum in otherwise frustrated talks.

Meanwhile, Ms. Barshefsky asked the Chinese government to exempt U.S. companies including Avon, Mary Kay and Amway from a recent ban on direct-sales operations. The Chinese government last month implemented a ban on pyramid schemes and included door-to-door sales of consumer products in the ban. The People's Daily, official newspaper of the Communist ruling party in China, reported that "due to immature market conditions, inadequate legislation and immature consumer psychology, direct sales have proven unsuitable for China and therefore must be resolutely banned."

"The ban has effectively shut down the legitimate operations of [Avon, Mary Kay and Amway] and other companies in China. These companies have invested over US\$120 million in China and provide income to more than 2 million Chinese," Ms. Barshefsky said in a press conference April 24. Ms. Barshefsky called the Chinese ban overly broad.

China agreed to conduct talks with officials from Avon, Amway and Mary Kay regarding its operations in China. Observers warn that reinstating U.S. companies' direct sales operations may be difficult since it would basically send a message that U.S. companies are trustworthy while Chinese firms are not. Still other observers wonder if China's official reasons for the ban are not masking its real discomfort with the growing role of American direct sales companies are playing in China's economy and culture. Amway, Avon and Mary Kay last year enjoyed combined sales in China in excess of US\$250 million.

"China, U.S. WTO pact possible before presidential summit- Albright," DOW JONES, April 30, 1998; "Clinton, Jiang to discuss WTO at June summit," WALL STREET JOURNAL, April 30, 1998; "China bans the door-to-door seller," INTERNATIONAL HERALD TRIBUNE, April 26, 1998; "U.S. appeals to China for direct-sales companies," LOS ANGELES TIMES, April 25, 1998.

U.S. ANTIDUMPING ACT UNDER FIRE

The European Union last week launched a complaint over the U.S. failure to repeal its Antidumping Act of 1916. The EU argues that the law is incompatible with WTO obligations on a number of fronts. The 1916 act includes "unqualified injury criterion," while the WTO has a strict definition of what comprises "material injury," a criterion necessary for the imposition of dumping duties. The 1916 law lacks requirements for dumping investigations in conflict with WTO rules, according to the EU. Further, under WTO rules antidumping duties are the only recourse for dumping whereas the 1916 law provides for triple damages, fines and possible imprisonment.

The U.S. and EU will enter an automatic two-month consultation period to try and reach an agreement. If no agreement is reached, a dispute settlement panel will conduct an investigation and issue a ruling

on the WTO-compatibility of the 1916 act. The U.S. last week said the rarely-imposed 1916 act meets WTO obligations and that the U.S. would defend the law to the fullest extent.

"EU Commission to hit U.S. legislation on trade," FINANCIAL TIMES, April 29, 1998; "EU seeks WTO consultations on 1916 U.S. antidumping act," INTERNATIONAL TRADE REPORTER, April 29, 1998.

EVENTS/RESOURCES

LIBERALISATION & PROTECTIONISM IN THE WORLD TRADING SYSTEM - 15TH MAY, INNER TEMPLE, LONDON: The World Trade Law Association (WTLA), which was established in 1997 to create a forum for informed discussion and debate in relation to legal issues arising in international trade, is organizing its first annual conference on the changes imposed by the WTO in relation to the previous GATT regime. For further information, please contact the WTLA Secretariat at +44(0)171 344 0344.

"BIRMINGHAM SUMMIT OF THE EIGHT" ON THE INTERNET. From May 12-17, Real Education, Inc. will be hosting a free forum enabling the public to participate as online attendees at the May Summit meeting in Birmingham, U.K. between leaders of the G-8. Topics will include the integration of Russia in the Western Alliance, Human Rights, Development and Environmental Concerns, and Multilateral Trade, Investment, and Labour Relations, among others. Registration and access are available at <http://g8.realeducation.com>

NEW PUBLICATIONS. "More Instruments and Broader Goals: Moving toward the Post-Washington Consensus," a publication based on the annual lecture delivered by the chief economist of the World Bank, Joseph Stiglitz, at the World Institute for Development Economics Research of the UN University in January 1998, is now available. It can be ordered from: UN/WIDER publications, Katajannoklaituri 6 B, 00160 Helsinki, Finland, phone: 358-9-615-9911, fax: 358-9-615-9933, email: wider@wider.unu.edu

The Canadian Centre for Policy Alternatives (CCPA) has just released a new book on the Multilateral Agreement on Investment (MAI): "Dismantling Democracy: the MAI and its Impact," edited by Andrew Jackson and Matthew Sanger, and co-published by the CCPA and James Lorimer, was released April 22, 1998. This 346-page book is available for \$CDN19.95 from the CCPA, 815-207 West Hastings St. Vancouver, B.C. Canada V6B 1H7. Tel: (1-604) 801-5121; fax: (1-604) 801-5122.

BRIDGES Weekly Trade News Digest is published by the International Centre for Trade and Sustainable Development and edited by the Institute for Agriculture and Trade Policy. Excerpts from BRIDGES Weekly Trade News Digest© may be used in other publications with appropriate citation. Comments and suggestions are welcome and should be directed to: Ricardo Melendez-Ortiz:

<http://www.ictsd.org/forms/mailbox.htm>, Executive Director, ICTSD, Geneva Executive Center, 13 chemin des Anemones, 1219 Chatelaine, Geneva, Switzerland; email: ictsd@iprolink.ch; voice: (41-22) 979-9492; fax: (41-22) 979-9093.

BRIDGES Weekly Trade News Digest© can be found at the ICTSD web page: <http://www.ictsd.org>
