

Agriculture and Services Talks Start, Implementation Issues Still Unclear

The mandated WTO negotiations on agriculture and services were both officially launched in the last month, but but few expect significant progress on either subject in the near future.

Services Talks to Focus on Rule-making

The first special session of the Council for Trade in Services, held on 25 February, lasted only two and a half hours. Under the chairmanship of Canada's WTO Ambassador Sergio Marchi, Members agreed to address outstanding rule-making issues before proceeding to a 'request and offer' phase of market opening negotiations. Members will review possible provisions for safeguards, subsidies and government procurement in the services area, possibly using some of the text agreed in Seattle package to guide their negotiations. Many developing countries, including India and Pakistan, have made it clear that they will not further liberalise their services sectors unless a safeguard provision is agreed to. WTO Members are also expected to complete a 'trade assessment' of the costs and benefits of the commitments undertaken under the General Agreement of Trade in Services.

Progress in the services area may be held up by a number of Latin American countries, which stressed that those talks should move in tandem with the much more controversial negotiations on agriculture. This point was particularly made by Mercosur members, all of which also belong to the Cairns Group of agricultural exporters. Argentina suggested that both the services and agriculture negotiations Chairs report regularly to the General Council, and India and Pakistan said the General Council should also hear regular oral reports on the implementation of existing agreements.

It was initially envisaged that special sessions on services liberalisation be held every five to six weeks, but the decision was put off pending the timing of the agricultural negotiation sessions. Members agreed to meet in the second week of April to discuss the scheduling of further services meetings.

Agriculture Negotiations Chair Still Not Agreed

The fate of the first special session of the Committee on Agriculture hung in balance for several days as Members disagreed on who should chair the new negotiations on liberalising agricultural trade. The European Union blocked the nomination of Brazil's Ambassador Celso Amorim, claiming that the negotiations could not be overseen by a representative of the Cairns Group, which is pushing for the elimination of production and export subsidies and ultimately bringing agriculture under the same rules that govern international trade in manufactured goods. The EU suggested that the negotiations should be chaired by Ambassador Nacer

Benjelloun-Touimi of Morocco, who in turn was rejected by the Cairns Group, largely because he was proposed by the EU. Several WTO members expressed frustration at this apparent abandoning of the WTO tradition of considering Committee chairs as 'honest brokers' rather than representatives of a particular group. The wrangling over the Agriculture Committee's chairmanship is also holding up a slate of other appointments, including that of the TRIPs Committee chair, which was to go to an EU country.

Members finally agreed that New Zealand's Ambassador Roger Farrell, who presides the Council for Trade in Goods, should chair the special session on 23-24 March on a 'one-time' basis.

Work Programme Adopted But Differences Persist

The meeting produced a work programme for the first year of the negotiations: three more special sessions will take place this year, in June, September and December, back-to-back with the regular sessions of the Committee on Agriculture. Members can submit proposals until the end of December 2000, with a 'stock-taking' meeting of the submissions received scheduled for March 2001. Although the Committee's decision on the work programme does not spell out what the proposals should specifically deal with, trade sources expect them to focus largely on what WTO Members would like to see as the final outcome of the negotiations. This initial proposal phase is likely to involve a fair amount of recycling of pre-Seattle positions and 'wish-lists' – and these do not appear to have shifted since the failed Ministerial Conference.

For instance, at the first meeting, Australia, speaking on behalf of the Cairns Group, insisted that the negotiations should have a pre-established timeline, be conducted independently of any eventual wider negotiating round, and lead to the gradual elimination of export subsidies and other forms to trade-distorting support. Equally predictably, the EU and Japan resisted setting a deadline for the talks, and reiterated that the negotiations could only be concluded as part of a wider round. They also stressed that the controversial concept of 'multifunctionality' of agriculture must be taken into consideration as a legitimate 'non-trade concern' during the negotiations (see related article on the Committee on Trade and Environment on page 5).

The EU also noted in its opening statement that 'all instruments affecting export competition should be brought fully into the negotiation and treated on an equal basis'. This was a direct reference to one of the key difficulties in formulating the agricultural negotiating mandate in Seattle, i.e. extending negotiations on export support to cover not only subsidies (the EU's main export competition tool) but also export credits and other schemes used by the

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United States among other countries. The US raised another sore point between the two trading blocks when it restated its interest in improving market access for 'products of new technologies' or – in plain English – genetically-engineered agricultural goods.

Several developing countries indicated that their priority was to deal with immediate problems affecting them, including addressing food security, particularly with regard to net food-importing developing countries (NFIDCs). In the run-up to Seattle, developing countries demanded that the 1994 Ministerial Decision on mitigating the adverse effects of agricultural liberalisation on NFIDCs be revised before January 2001 'in order to ensure its effective implementation'.

At their March meeting, Members also requested the Secretariat to compile a number of background papers on the latest developments and the effects of the current protection reduction commitments.

The next special session of the Committee of Agriculture will be held on 29-30 June.

Developing Countries Courted on Millennium Round

The European Union's Trade Commissioner Pascal Lamy has undertaken a major effort to persuade developing countries that their trade concerns would best be addressed through a full-fledged round of trade liberalisation, but visits to such key players as India and Brazil have so far produced few signs that they are willing to endorse the broad agenda sought by the EU, Japan, Korea, Switzerland and Norway. In addition to a general resistance to adding new items to the WTO's built-in negotiating mandate, developing countries are concerned about potential industrialised country efforts to address labour and environmental concerns during the round.

Commissioner Lamy's task was not made easier when EU governments refused at their meeting in Porto on 20 March to 'weaken' the negotiating mandate adopted by Union members last October. Mr Lamy had sought more flexibility in carrying out the mandate, including a more 'gradual approach' to the investment and competition policy negotiations that the EU wants to include in the new round, but most developing countries oppose. In a nod to the United States, Commissioner Lamy had also proposed focusing talks on anti-dumping on the implementation of the current Agreement on Anti-dumping rather than new rule-making.

Transition Periods and Other Implementation Issues

Developing countries' post-Seattle priorities remain as firmly in place as those of the advocates of a new comprehensive round of trade negotiations. They include extensions to deadlines for full compliance with the Agreement on Trade-related Intellectual Property Rights (TRIPs), the Agreement on Trade-related Investment Measures (TRIMs) and the Agreement on Customs Evaluation, which expired on 1 January 2000. In addition, developing countries are seeking to address imbalances resulting from the current WTO Agreements through changes to some existing rules and a review of industrialised countries' implementation of Agreements and provisions in favour of developing countries (Bridges Year 4 No.1, page 1).

In response to specific requests with regard to customs valuation, Sri Lanka, the Dominican Republic and Uruguay have already been

granted extensions varying from four months to a year, and similar requests from Bahrain, Colombia, Côte d'Ivoire, Egypt, Guatemala, Jamaica, Mauritius, Myanmar and Senegal are currently under consideration in the WTO Committee on Customs Valuation. Bilateral consultations are also underway on several developing countries' requests for extended transition periods under the TRIMs Agreement (Bridges Year 4 No.1, page 9).

Many developing countries will have their TRIPs compliance reviewed this year, and several of them still lack at least some of the required legislation (see related article on plant variety protection on page 3). So far, however, no extension requests have been submitted to the TRIPs Council, although bilateral consultations may be underway between some Members. Trade officials were unwilling to speculate whether – and in what forum – developing countries would renew their request for an overall extension of their transition periods rather than negotiate individually with trading partners on specific cases.

It is also still unclear where the wider implementation issues will be dealt with. The United States has proposed that any problems encountered in implementation should be reviewed by the Committees responsible for overseeing the Agreements, but many developing countries are seeking to address such questions directly under the General Council. Informal consultations continue between Members on how to tackle the issue, which is likely to be addressed at the next formal General Council meeting 3 May.

In related news, trade ministers from Egypt, Nigeria and South Africa on 5 March announced the creation of a new informal developing country forum intended for exchanging views rather than co-ordinating demands, particularly with regard to WTO reform. India and Brazil are expected to join the forum.

A Modest LDC Package in the Making

Little progress seems to have been made on the 'LDC package' that WTO Director General Mike Moore has been trying to put together to address the most urgent problems faced by least-developed WTO Members, whose share of world trade keeps declining. Among possible steps are significant increases in trade-related technical assistance through the WTO's regular budget, improved market access and exemptions regarding expiring compliance deadlines under various WTO Agreements.

After Seattle, many Members said that such measures would be necessary to rebuild trust in the multilateral trading system after the damage done by the Seattle debacle. However, in spite of many calls to extend duty- and quota-free market access to least-developed countries, the tenth session of the UN Conference on Trade and Development (UNCTAD X) finished in Bangkok with no market access commitments. Instead, UNCTAD members exhorted governments to give 'urgent consideration' to granting such market access to 'essentially all products' of least developed countries, reflecting the language proposed for adoption at Seattle. According to knowledgeable sources, Quad members (the US, the EU, Japan and Canada) continue to have different views on the market access initiative, with the US favouring a bilateral approach while the EU and Japan advocate a multilateral commitment to duty- and quota-free access – albeit excluding sensitive sectors, such as certain agricultural products.

So far, no agreement has been found on LDCs' request for across-the-board extensions of transition periods. The Director-General is expected to report on the LDC package before the Easter break.

Developing Countries and TRIPs: A Case for a Full-fledged Review of Article 27.3(b)

By Genetic Resources Action International

When developing countries reluctantly signed on to the Agreement of Trade-related Aspects of Intellectual Property Rights (TRIPs) as part of the overall package of the Uruguay Round Agreements, they expected to revisit the TRIPs provision on 'patentable subject matter' during a substantial review scheduled for 1999. TRIPs Article 27.3(b) states that WTO Member must provide patent protection over micro-organisms and microbiological processes, such as those used in biotechnology today, but countries are free to exclude plants and animals from their patent laws. However, all nations must provide intellectual property titles over plant varieties, either through patents or through an 'effective *sui generis* system'.

The review of Article 27.3(b) got underway one year before developing countries were obliged to implement the provision. This was important because the provision itself was a source of tremendous uncertainty in the South. Many people hoped that TRIPs could be clarified through the review and, if possible, amended to better suit the development interests of the South.

Up to now, the review has been a disappointment. It was only in July 1999 that discussions started on the substance of Article 27.3(b) rather than its implementation by WTO Members. India highlighted the need to focus on two complementary dimensions: The fundamentally political question of whether patenting life is acceptable in terms of ethics, and the need to recognise not only formal systems of innovation but informal systems as well, especially with regard to biodiversity.

In particular, India insisted on the need to reconcile TRIPs with the Convention on Biological Diversity (CBD). Malaysia took the discussion a step further by asking the WTO Secretariat to prepare a list of other *sui generis* options than that offered by the Union for the Protection of New Varieties of Plants (UPOV).

It is important to note that around this time, the preparations for the Seattle Ministerial Conference entered a critical phase. Between the July and October sessions of the TRIPs Council, almost 100 developing countries signed onto nearly a dozen proposals to reform TRIPs as far as biodiversity and indigenous knowledge were concerned. These proposals were tabled in the WTO's General Council for negotiation at the Ministerial. The Africa Group's position was the first and the most comprehensive from the South.² It proposed an extension of the deadline to implement TRIPs 27.3(b) for developing countries so that the review may proceed and conclude properly. It also spelled out that the Africa Group would like the review to clarify that patents on life should be prohibited, including those on microbiological processes. In the eyes of many, these two suggestions amounted to a proposal for a moratorium on implementation of the current text.

In subsequent TRIPs Council meetings, the South continued to proactively shape the frame for a review of the provisions of Art. 27.3(b), and the North also finally addressed issues of substance. The United States, for instance, argued that patenting of life forms had tremendous advantages; that UPOV 91 was what Washington would consider an effective *sui generis* system; and that there was no conflict between TRIPs and the CBD.³

Europe supported the US perspective, although it indicated that it was prepared to take into account the need to deal with ethics and, by way of example, provide protection for traditional knowledge systems. However, the January 2000 deadline for implementation of Article 27.3(b) in developing countries arrived before any conclusions could be drawn from the mandated re-examination of the text.

Then came Seattle. Beyond the tear gas, a negotiating text reflecting proposals on TRIPs from the Africa Group and the Like-Minded Group of developing countries was on the table. One 'Green Room' session, involving a limited number of participants, looked at the TRIPs chapter but did not conclude anything. As the Conference was 'suspended' without any agreement on where negotiations stood or how they would proceed, the status of these demands is unclear, and confusion reigns at present about the obligations and opportunities generated by the review. (See page 6 for a report on the TRIPs Council's discussion on Article 27.3(b) at its March 2000 session, *ed*).

Problems embedded in TRIPs Article 27.3(b)

- No parameters for what a '*sui generis*' system can amount to.
- No parameters for what is 'effective'.
- Many WTO members have expressed their view that genes and microbiological processes are not inventions and therefore are not patentable subject matter.
- with its lack of any benefit-sharing mechanism, TRIPs offers no remedy for the ongoing wave of biopiracy and is perceived as exacerbating the problem.
- There is a bias ingrained in TRIPs to protect breeders and biotechnologists at the expense of farmers and local communities.
- Many countries perceive a conflict between TRIPs and the rights and obligations countries previously acquired under the Convention on Biological Diversity (CBD).

In addition, there is evidence that plant variety laws inspired by the Union for the Protection of New Varieties of Plants (UPOV) have no positive impact on food security¹, a matter that the TRIPs Council has not looked into.

Implementation of Article 27.3(b) in the South: State of Play

The vast majority of developing country WTO Members have approached their obligation to grant intellectual property rights over plant varieties through 'an effective *sui generis* system' – whatever that means – rather than patenting.⁴ The deadline to have such legislation in place⁵ was 1 January 2000.

Despite the threat of possible trade sanctions, only a few developing countries managed to adopt such legislation in the final hour. To our knowledge, only 21 of them currently have plant variety protection (PVP) legislation in place (see chart on next page). Leaving out the 29 'least-developed' WTO Members, whose transition period ends 1 January 2006, we now face a situation where 47 Third World countries which are party to TRIPs have not enacted IPR protection for plant varieties. This means that 70 percent of the (non-LDC) developing countries that participate in the WTO system are presently in arrears of their obligations regarding TRIPs Article 27.3(b), and could be considered targets for dispute settlement proceedings on grounds of non-compliance with their WTO obligations.

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This does not mean that developing countries are inactive on the legislative front. Far from it. India, Egypt and the Philippines have final drafts under scrutiny by their national assemblies right now. Costa Rica, Malaysia, Pakistan and Egypt are either discussing drafts or have them awaiting Cabinet approval for submission to Parliament. Many other countries are still drafting. For example, most of the member states of the Organisation of African Unity are deeply engaged in a process to develop national legislation based on a regional Model Law, which was only finalised last November. The OAU Model Law covers not only breeders' rights but also farmers' rights, benefit-sharing and rules on access to genetic resources. The 15 members of the Organisation Africaine de la Propriété Intellectuelle revised the Bangui Agreement in February 1999, incorporating a UPOV-based system of intellectual property rights for plant varieties. But to the best of our knowledge, national PVP laws drawn from the revised Bangui Agreement are not yet in force.

Nevertheless, the message is that despite four-year transition periods, despite best intentions to bear the cost of inclusion in the WTO trade system, as well as the pressure and countless workshops organised by the industrialised world, including UPOV, *developing countries are not ready to implement TRIPs Article 27.3(b)*. They have good reason to be in this state: since the mid-1990s, they have been under intense, often unilateral, pressure from industrialised countries to follow the UPOV model of plant variety protection as a means of implementation – something which many developing countries strongly feel is not in their interest. The WTO itself joined in this campaign by sponsoring a series of workshops for developing countries on UPOV-as-sui-generis-solution even while hosting a review, which was supposed to revisit the very provision. Then, proposals from developing countries to clarify what the Article means, not only through the TRIPs Council review but a Ministerial Conference, were not dealt with. Finally, commitments to other treaties that TRIPs overlaps with, viz. the CBD and the International Undertaking at FAO, have inclined many developing countries to want to ensure that community rights and farmers' rights are not torpedoed by rash legislation favouring industrial plant breeders.

The developing countries that did adopt UPOV-based PVP laws reacted understandably to all these conflicting pressures. But they did so in most cases – not all – without meaningful consultation or debate with those who will be most affected: the farming and indigenous communities. They certainly did not, in any case, resolve the underlying conflicts.

For a Full-fledged Review

It is hard to escape the conclusion that a full and thorough review of Article 27.3(b) is imperative. The current text is the result of a compromise between Europe and the US, with no proper consideration of the interests of developing countries or of the principles embedded in the Convention on Biological Diversity and other international agreements. In addition, the text as it stands

is full of dangerous ambiguities. Rather than bulldoze ahead and force inappropriate legislation upon developing countries and their farmers, it is important to seriously review the Article as originally agreed, and clarify its scope, meaning and objectives taking into account all these interests and concerns.

In that context, the Africa Group has offered the most comprehensive proposal on how to move forward and it merits full support – and active implementation – without further delay. It can be seen as leading to a moratorium since it demands a thorough review procedure, an extension of the transition periods and specific clarifications, which would result in amendment of the treaty. However one designates it, this in no way means that countries should abandon their efforts to develop balanced

national systems of rights in the meantime. On the contrary, putting the African proposal into action should provide the appropriate time and space for developing countries to elaborate, in a more integrated and consultative way, legislation that properly meets their needs. Protecting biodiversity, promoting its sustainable use and giving fair recognition to the rights and interests of local communities and indigenous peoples cannot be sidelined from implementation of TRIPs. These objectives and issues go far beyond the scope of any world trade system, but they

stand directly in the way of the current WTO TRIPs Agreement.

The collapse of the Seattle process could very well mark the start of a new era in which developing countries increasingly and successfully challenge the over-expanding reach and undemocratic functioning of the WTO, and the way it has served the interests of the industrialised world and its corporations. In that context, these are times to review and rebuild – not to rush ahead and adopt inappropriate IPR laws.

This article is adapted from a longer, fully footnoted, paper entitled 'For a Full Review of TRIPs 27.3(b) – An Update on Where Developing Countries Stand with the Push to Patent Life at the WTO', produced by Genetic Resources Action International (GRAIN), based in Barcelona, Spain. The report is available at: <http://www.grain.org/adhoc.htm>

ENDNOTES

¹ GRAIN (1999). *Plant variety protection to feed Africa? Rhetoric versus reality*, Barcelona, October. <http://www.grain.org/publications/reports/variety.htm>

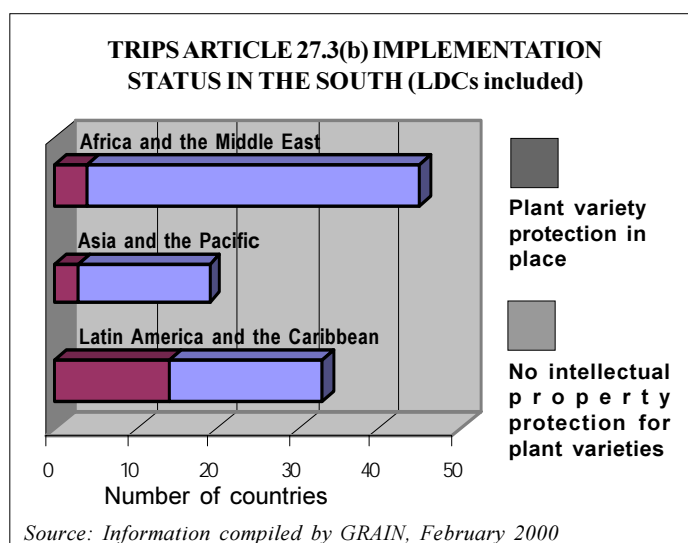
² *Preparations for the 1999 Ministerial Conference: The TRIPs Agreement. Communication from Kenya on behalf of the African Group*. WTO, Geneva, WT/GC/W/302, 6 August 1999.

³ *Article 27.3(b): Views of the United States of America*, paper presented at the TRIPs Council, WTO, Geneva, 20 October 1999.

⁴ At present, only the United States and the Republic of Korea explicitly provide patent protection for plant varieties.

⁵ Some interpret this deadline as one requiring that the process to implement was in motion, but not necessarily completed.

⁶ Cameroon ratified – without parliamentary discussion – but there is still no national law in force. In the other countries, the ratification process is reportedly stalled.



Committee on Trade and Environment Split on Fisheries Subsidies

Market access issues were the main focus of the Committee on Trade and Environment (CTE) at its meeting on 29 February and 1 March 2000. In addition, Members addressed the relationship between multilateral environmental agreements and the WTO, sustainability assessments of trade agreements and the relationship between the Convention on Biological Diversity and the Trade-related Aspects of Intellectual Property Rights Agreement (TRIPs). Ambassador Yolande Biké of Gabon took over the chairmanship of the CTE for the next year.

Market access: subsidies, multifunctionality and labelling

In the run-up to Seattle, several governments (including New Zealand, Iceland, and the US) called for the elimination of fisheries subsidies, stressing the 'win-win-win' nature of the initiative. At the February/March CTE meeting, the EU and Japan, whose fisheries operations are among the most subsidised in the world, said that time was not ripe for a detailed debate in the WTO, as analysis on the subject was underway at both the FAO and the OECD. The FAO made a presentation on its activities related to fisheries subsidies (WT/CTE/W/135), and in particular the implementation of the International Plan of Action for the Management of Fishing Capacity, adopted by more than 100 nations in February 1999 (Bridges Year 3, No.1, page 14).

Iceland and New Zealand submitted papers on the 'win-win-win' benefits of removing environmentally-harmful subsidies in the fisheries sector. Iceland proposed that the Secretariat undertake a factual study on the impact of subsidies on fisheries, including trade and trade distortions, fisheries management, overcapacity and over-fishing, and environmental impacts (WT/CTE/W/132). New Zealand presented its research (WT/CTE/W/134) on financial transfers to the fisheries sector, and encouraged others to share their analyses and national experiences in this sector. The CTE requested the Secretariat to update its work on the environmental benefits of removing trade distortions in the fisheries sector contained in document WT/CTE/W/67, with attention to the development dimension and in close cooperation with other relevant intergovernmental organisations.

Discussions on the multifunctionality of agriculture followed familiar pre-Seattle lines. Countries such as Japan and Switzerland defended agricultural support measures to address market failures and enhance rural development, environmental protection, food security and landscape preservation. Cairns Group members and the US rejected these arguments, and Argentina in particular noted the trade-distorting and environmentally-damaging effects of agricultural subsidies and the importance of internalising environmental costs in market prices. Several developing country representatives, including South Africa, Costa Rica, the Philippines and Uruguay, also said that agricultural policies, even when addressing other functions of agriculture, should not lead to distortions in production and trade.

Debate on eco-labels introduced no new elements to the CTE's five-years of deliberations on the issue, although Members noted that the second Triennial Review of the TBT Agreement would address labelling issues. One Member particularly noted that eco-labels whose criteria included non-product-related production and processing methods (PPMs) were not consistent with WTO rules. The Secretariat was requested to update its study on the market access effects of eco-labelling.

TRIPs and biodiversity

Costa Rica presented its Biodiversity Law, which aims to be compatible with obligations under the Convention on Biological Diversity (CBD) and the Trade-Related Aspects of Intellectual Property Rights Agreement (TRIPs). Several Members commented on a Secretariat paper, which presents case studies of *sui generis* intellectual property rights systems and legislation for CBD implementation (WT/CTE/W/125). ASEAN and Brazil, among others, emphasised the need for the TRIPs Agreement to explicitly recognise sovereign rights over genetic resources, as well as the rights of farmers and indigenous communities. They said Article 27.3(b) should remain open for each Member to choose the most appropriate patent system. Norway said the CTE should consider whether the TRIPs Agreement allows the necessary flexibility for countries to effectively implement the CBD. The EU and the US maintained that the CBD and TRIPs were mutually compatible.

**Environmental assessment of trade agreements**

The OECD presented a report on its workshop on 'methodologies for environmental assessment of trade liberalisation agreements' (WT/CTE/W/133), and the US, EU, Canada, Norway, Australia and the Czech Republic described their national efforts to carry out environmental/sustainability assessments of trade agreements. Several developing countries cautioned against developing any obligation at the multilateral level to undertake such assessments, citing lack of capacity and financial resources as their principal reasons. The Secretariat will prepare a factual background paper on the approaches used in national sustainability assessments.

Relationship between trade and environment regimes

Canada called for the CTE to clarify the relationship between WTO rules and trade measures pursuant to multilateral environmental agreements (MEAs). Canada plans to submit a paper setting out its approach to this issue at the CTE's next meeting on 5-6 July. The EU, US and Australia noted that commitments under the Cartagena Protocol on Biosafety and the WTO should be implemented in a mutually supportive manner. The EU said it would present its paper on the precautionary principle (Bridges Year 4 No.1, page 12) at the July meeting of the CTE.

The CTE agreed to hold two MEA Information Sessions on 5 July and 24 October, back-to-back with the CTE's meetings. Delegates will hear presentations and updates on a large number of multilateral environmental agreements ranging from biosafety, hazardous wastes and climate change to tuna conservation, endangered species, dangerous chemicals and forests.

Many Members expressed support for the Secretariat's plans to hold a second series of regional seminars on trade and environment for developing country government officials. Some delegations also highlighted the need to improve the WTO's image after the Seattle Ministerial Conference, particularly with respect to transparency, derestriction of documentation and relations with NGOs.

A WTO Secretariat report on the meeting, contained in the Trade and Environment Bulletin #32, is available from the Secretariat or at <http://www.wto.org/wto/environ/TE032.htm>

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SPS Committee Agrees Risk Consistency Guidelines

After five years of deliberations, the Sanitary and Phytosanitary (SPS) Measures Committee at its meeting on 15-16 March 2000 completed a final draft for guidelines meant to assist governments in achieving 'consistency in the application of the concept of appropriate level of sanitary and phytosanitary protection against risks human life or health, or to animal and plant life or health'. According to Article 5.5 of the SPS Agreement, Members must develop guidelines for 'the practical implementation of this provision', which specifies that 'each Member shall avoid arbitrary or unjustifiable distinctions in the levels it considers to be appropriate in different situation, if such distinctions result in discrimination or a disguised restriction on international trade'.

The guidelines are not legally-binding. They are intended to help officials follow SPS Article 5.5 when they make decisions on levels of health protection, and adopt and implement measures on food safety, or animal or plant health. The key is the concept of the 'level of protection' that countries propose to achieve through trade measures. The guidelines suggest that when new measures are introduced or existing measures modified, health authorities could as a matter of course compare these with other measures they have adopted. Governments are also urged to consult international guidelines and decisions taken by other WTO Members in similar situations. The final draft will be considered for adoption at the Committee's next meeting in June, and the guidelines will be reviewed three years after their adoption.

Members also discussed the EU's Communication on the Precautionary Principle, presented to the Committee as document G/SPS/GEN/168 (see also Bridges Year 4 No.1, page 12). Several Members expressed concern that the application of the precautionary principle as the EU defines it might reduce the certainty and predictability of WTO rules and upset the 'balance of rights and obligations' struck in the Uruguay Round through allowing every country to use precaution as an excuse for protectionism. They stressed that the precautionary principle already exists in Article 5.7 of the SPS Agreement, which states that in cases where relevant scientific evidence is insufficient, 'a Member may provisionally adopt sanitary or phytosanitary measures on the basis of available pertinent information, including that from the relevant international organizations as well as from sanitary or phytosanitary measures applied by other Members'. However, Members must seek 'the additional information necessary for a more objective assessment of risk and review the SPS measure accordingly within a reasonable period of time'.

The US, which is currently formulating its official response to the EU paper, has criticised it as lacking a 'clear definition' of the precautionary principle. US officials have also been critical of the paper's acknowledgement that risk management decisions are essentially political rather than exclusively based on scientific risk assessment. Countries expressing views on the paper at the SPS Committee meeting included Hong Kong China, Australia, Canada, the US, Bolivia, Chile, Brazil, Argentina and Mexico.

The committee agreed to hold a substantial discussion on the implementation of the SPS Agreement's provisions on special and differential treatment for developing countries at its next meeting on 21-22 June 2000.

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TRIPs Council Tries New Approach to Article 27.3(b) Review

The Council for Trade-related Aspects of Intellectual Property Right (TRIPs) met from 21-22 March. Among the agenda items was the review of TRIPs Article 27.3(b), which deals with exemptions to patentable subject matter (see related article on page 3). After some heated exchanges on the review last year, discussions took a more procedural turn, as Members agreed to look in a more structured manner at how local/traditional knowledge and community rights could be protected under TRIPs, and how the ethical dimensions of intellectual property protection for life forms could be dealt with. According to a report prepared by the WTO Secretariat, the Council 'agreed that the chairperson should hold consultations on how to organise work on these issues. Work underway in other forums (e.g. the World Intellectual Property Organisation and the Biodiversity Convention) should also be taken into account, the Council said.

Central and Eastern European countries made a strong call for negotiations on geographical indications aimed at expanding the higher level of protection – currently given to wines and spirits – to other products. Many other countries supported their position that if 'benchmarks' were to be set for the talks agriculture and services, there should be similar benchmarks for negotiations on geographical indications. A report of the meeting is available at the WTO website: <http://www.wto.org/wto/new/Trips.htm#review>.

Somewhat surprisingly, Members did not discuss expired transition periods, although no other forum has been identified for the consideration of this issue. In spite of the possibility – or even certainty, in some cases – of being found in non-compliance with intellectual property protection requirements under TRIPs, no developing country has filed a request to have its transition period extended beyond January 2000. This year, the Council will start reviewing the intellectual property legislation of developing Member states. Twenty-seven countries are slated for review at the June and November sessions of the TRIPs Council, and consultations are being held on the dates for reviewing the intellectual property laws of another 42 Members in 2001.

Members are currently operating under a 'gentlemen's agreement', according to which they will 'exercise restraint' in initiating dispute settlement proceedings while various expiring WTO provisions are under consultation among Members. These include not only developing countries' compliance deadlines with various WTO Agreements (see page 2), but also the moratorium on non-violation cases that expired on 1 January 2000 under TRIPs Article 64 (other such provisions include so-called 'green-lighted subsidies' under Article 8 of the Agreement on Subsidies and Countervailing Measures, Bridges Year 4 No.1, page 9).

The gentlemen's agreement notwithstanding, at least the United States has said it reserves the right to dispute settlement proceedings against 'any Member in violation of its WTO obligations'. This could happen after the release of the annual review on US trading partners' intellectual property protection, scheduled for 28 April. US trade officials have said that they will work with WTO Members who experience 'genuine difficulties' in implementing TRIPs, but warned that 'outright refusal by other governments to honour their commitments' would be likely to result in dispute settlement proceedings.

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Dispute Settlement Corner

Australia Loses Compliance Case in Salmon Dispute

A WTO panel ruled on 18 February that Australia's measures to comply with an adverse ruling on its import restrictions on fresh, frozen and chilled Pacific salmon were not consistent with the Appellate Body's findings. In its second ruling on a violation of the Agreement on Sanitary and Phytosanitary Measures, the Appellate Body found in November 1998 that there was not enough scientific evidence to back Australia's claim that such imports would threaten the health of native salmonid stocks. After the ruling, Australia conducted an Import Risk Analysis, and replaced the import ban with new regulations that required all salmon imported to the country from regions where certain diseases occur to be 'consumer-ready'. Canada, which had brought the case, contested the new measure and on 28 July 1999 requested WTO arbitration of Australia's compliance with the AB ruling.

The compliance panel conceded that Australia's Import Risk Analysis (IRA) met the SPS Agreement's requirements for a risk assessment, but ruled that the new regulations were not *based* on the risk analysis, particularly because none of the experts heard by the panel was able to find a justification in the IRA for the requirement that salmonids be 'consumer-ready' before they can be released from quarantine. The panel thus found that the IRA did not justify the measures taken by Australia to comply with the ruling, and also ruled that the consumer-ready requirement was 'more trade-restrictive than required to achieve Australia's appropriate level of sanitary protection, contrary to Article 5.6 of the SPS Agreement'.

In addition, the panel condemned the near-total Pacific salmon import ban maintained by the state government of Tasmania as not based on a risk assessment and lacking in scientific evidence. On 23 February, the Tasmanian government released a state-specific draft Import Risk Analysis of its own, which it claimed set out a 'scientific basis for excluding diseased raw fish products' and gave separate consideration to each disease which may be introduced into Tasmania through imported fish. Several Australian environmental organisations are mobilising support for the Tasmanian government's position.

If Australia fails to bring its – and Tasmania's – legislation into compliance with the panel's findings, Canada may retaliate with trade sanctions on Australian exports. Canada has claimed that Australia's trade barriers cost its salmon exporters C\$45 million in lost revenue, and an arbitration panel has been established to determine the level of the eventual retaliation.

On a separate point, the compliance panel confirmed that it had considered information contained in a non-solicited letter from Concerned Fishermen and Processors of South Australia 'as relevant to its procedures and accepted this information as part of the record'. The panel cited the Appellate Body report in the shrimp-turtle case, which stated that a dispute settlement panel had the right – but not the obligation – to consider information submitted to it *whether requested by the panel or not*. This ruling has been repeatedly challenged by several WTO Members as giving non-governmental organisations more access to panels than Member governments not party to the dispute under consideration (Bridges Vol.2 No.8, page 8).

Cross-retaliation Authorised in Banana Dispute

On 17 March, a WTO arbitration panel for the first time authorised a Member to 'suspend concessions' under an other Agreement than the one violated by the loser in a dispute. The panel ruled that – to compensate for the loss caused to Ecuadorian exporters by the EU's banana import regime – Ecuador could impose trade sanctions worth US\$201 million in the intellectual property rights and services sectors. Although the arbitration panel only granted less than half of the US\$450 million compensation sought, the amount still surpasses the \$US191.4 million that the WTO authorised the United States to levy against EU exports in April 1999 (Bridges Year 3 No.3, page 5).

When Ecuador filed its compensation claim on 9 November 1999, it stressed that although Ecuador's import-dependent domestic economy would be hurt by imposing sanctions in the goods sector, such sanctions would 'hardly make a dent in the economic might of the European Communities'. Ecuador has not yet specified the exact products that will be affected by the retaliation, but has indicated that they would fall under the TRIPs categories of copyrights and related rights, geographical indications and industrial designs, as well as wholesale distribution services under the GATS Agreement.

Meanwhile, the EU is no closer to bringing its banana import regime into compliance with WTO rules. Talks continue between the complainants and the European Commission, as well as the banana producers of the African, Caribbean and Asian (ACP) states that are members of the Lomé Convention. Eliminating tariff-rate quotas and the import licensing system would make for a WTO-consistent regime, but most complainants do not favour a tariff-only solution. Instead, negotiations have focused on ways to reorganise the quota and licensing system in a less discriminatory fashion while retaining preferable market access conditions for ACP banana producers (Bridges Year 4 No.1, page 9). The EU Parliament will again debate the issue in April.

Interim Panel Report Faults US Sanctions Timing

According to trade sources, an interim ruling handed to the parties in the EU's challenge of the timing of US trade sanctions in the banana dispute essentially favours the EU view. In 1999, the US claimed that Article 22.6 of the Dispute Settlement Understanding gave it the right to impose 'contingent liabilities' on European exports as of 3 March, although the WTO arbitration panel only ruled on 19 April on the amount of trade sanctions the US could impose retaliation to the EU's non-compliance (Bridges Year 3 No.2, page 5). Once the sanctions were authorised, the US imposed them retroactively as of 3 March. The EU also challenged the right to proceed with sanctions when a panel established under Article 21.5 had not yet ruled on whether the alleged compliance violation had actually occurred. The compliance report, which showed that the EU's banana regime still was inconsistent with WTO rules, was released on 12 April 1999. Although the panel seems to have followed the EU's reasoning in this specific case, a wider EU challenge of US trade retaliation law was rebuffed last December (Bridges Year 4 No.1, page 6). The final panel ruling in the banana sanctions case is expected in mid-April.

Continued on page 8

Dispute Settlement Corner

Desperately Seeking Solutions in FSC Case

After the Appellate Body confirmed on 24 February that the tax breaks benefiting US companies through their foreign sales corporations (FSCs) amounted to an illegal export subsidy, US trade officials vowed to seek a way to comply with the ruling while continuing to provide a 'level playing field' for US exporters. They argued that the FSC tax law was not an export subsidy, but a way to offset tax advantages enjoyed by European exporters. While the latter may deduct the domestic value-added tax from the price of exported goods, foreign sales companies allow US businesses to shelter some of their export earnings from corporate income tax, which is the only form of taxation affecting manufactured goods in the United States, US administration officials and business representatives claimed.

The FSC tax benefits amount to billions of dollars a year, and represent by far the largest sum of money ever involved in a WTO dispute. In its report, the Appellate Body emphasised that WTO Members were free to choose their own tax systems, but cautioned that whatever system was chosen, a Member would not be in compliance with its WTO obligations if 'it provides, through its tax system, subsidies contingent upon export performance that are not permitted under the covered agreements'. Possible fallout from the WTO ruling was among the reasons that made Senate Majority Leader Trent Lott postpone a vote on the United States' continued participation in the WTO.

The deadline for US compliance with the Appellate Body ruling is 20 October 2000, but the European Union has indicated that it may be flexible with regard to full compliance if the US shows 'good faith' about implementing the ruling. Bill Archer, Chairman of the House Ways and Means Committee, told Congress in mid-March that a negotiated settlement with the EU – which some businesses favour as a solution – would still leave the US vulnerable to challenges from other WTO Members. In the end, he said, only full compliance with WTO rules would shield US tax law from further disputes, but he conceded that it would be difficult to raise support for at least two possible implementation measures: taxing spending rather than income, or establishing a territorial tax system where economic activity beyond national borders is not taxed.

Public hearings will be held in the United States over the coming weeks on compliance options, and talks will be initiated between the EU and the US on a WTO-consistent solution once the administration has decided on a course of action. Meanwhile, US Trade Representative Charlene Barshefsky ensured Senator Lott that she would not consider easing US trade sanctions against the EU in the beef and banana cases in exchange for favourable settlement of the FSC issue.

Generic Drug Approval Allowed Prior to Patent Expiry

A panel report released on 17 March found that Canada's patent protection for pharmaceutical goods falls short of its obligations under the Agreement on Trade-related Aspects of Intellectual Property Rights (TRIPs), but ruled that companies could develop and seek regulatory approval for generic drugs before the expiry of the 20-year patent protection period mandated by TRIPs. The European Union had argued that regulatory approval could only be sought once the patent had lapsed.

Had the panel accepted the EU's argument, the length of the drug approval process could have meant a three- to six-year delay in the release of much cheaper generic alternatives to brand-name patented medicines. While the panel ruled that generic drug producers may not manufacture and stockpile approved products in the six months that precede the expiry of brand-name drug protection, implementing this restriction is estimated to delay the availability of generic versions for no more than three to four weeks.

The ruling is also important to developing countries, which rely greatly on generic versions of brand-name medicines. India and Brazil are among major manufacturers of such drugs both for domestic consumption and for export.

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- An interim panel report has found that Canada's plant patent protection violates TRIPs rules. Under TRIPs, patents must be granted for 20 years from the date a demand has been filed, but Canada has extended 20-year protection only to plant patents filed after 1989. Those filed earlier expire after 17 years. In its interim report, the panel agreed with the United States that all patents should be granted 20-year protection under WTO intellectual property rights rules. The final report is expected in April, but trade sources say Canada is likely to appeal the findings.
- Korea has announced that it will request a panel to investigate US implementation of a 1998 ruling requesting changes in the procedures used to determine the continuation of anti-dumping measures. Korea alleges that the US review of the procedures was inconsistent with the panel findings and that the new guidelines were not used when the Department of Commerce decided to uphold the anti-dumping order because Korea was 'likely to resume' dumping semi-conductors on the US market.
- Australia lost another compliance case when a WTO report, adopted on 11 February, found that its implementation of a June 1999 panel ruling was not consistent with the Agreement on Subsidies and Countervailing Measures. At issue were grants worth A\$30 million accorded by the government to the car leather manufacturer Howe & Co Pty Ltd between 1997 and 1999. The panel found that these grants amounted to prohibited export subsidies.

To comply with the ruling, Howe reimbursed A\$8 million to the government, but the compliance panel determined that the company must pay back the entire amount of the WTO-inconsistent subsidy. It is the first time the WTO directs a company to reimburse illegal subsidies. Australia is seeking a mutually-acceptable solution with the United States in order to avoid US trade sanctions.

- The dispute settlement panel adjudicating Canada's complaint against the French import ban on white (chrysotile) asbestos has announced that its final report will be further delayed. The panel now expects to release it to the parties in June rather than March (see Bridges Year 3 No.6, page 11).

CITES to Revisit Ivory Trade Decision and Commercial Whaling

Trade in ivory and certain whale species are likely to split the 150 member governments – and arouse passions in the conservation community – at the Eleventh Meeting of the Conference of the Parties to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), which will take place in Nairobi from 10-20 April.

Ivory Trade: Take Two

In June 1997, CITES Parties agreed to the experimental sale of stock-piled ivory from three African nations, thus ending a seven-year moratorium on international ivory trade (Bridges Vol.1 No.2, page 1). The battle between the 'conservation' and 'sustainable use' camps was intense, but – after two secret ballots – the Parties agreed that Botswana, Namibia and Zimbabwe could proceed with a one-time shipment of specific quotas of ivory to Japan, whose trade controls were examined and strengthened for the purpose. The three nations are now requesting the establishment of annual ivory sale quotas of twelve, two and ten tonnes respectively.

The CITES Secretariat has reserved its judgement on the proposals until a Panel of Experts delivers its opinion on a South African request for the experimental sale of 30 tonnes of ivory stock-piled in the Kruger National Park. As a first step for the sale, South Africa has requested the transfer of its elephant population to CITES Appendix II. Unlike species and products of species listed in Appendix I, those listed in Appendix II can be traded internationally provided that export and import controls are in place and the export is guaranteed as non-threatening to the species' survival.

TRAFFIC, a non-governmental network which tracks wildlife trade and advises the CITES Secretariat, has provisionally recommended maintaining the Appendix II status for Botswanan, Namibian and Zimbabwean elephants, as well as granting it to South African elephant populations. However, the group advocates delaying the allocation of any new export quotas until analysis is complete on monitoring programmes' effectiveness in identifying and mitigating possible negative impacts of resumed ivory trade. TRAFFIC also cautions that South Africa's proposal does not identify an importing country, whose trade controls would need to be assessed by the Panel of Experts before a decision is made.

India and Kenya, which opposed the experimental trade decision in 1997, have now submitted a proposal to transfer Botswana's, Namibia's and Zimbabwe's elephant populations back to Appendix I, which is designed to protect species on the brink of extinction that 'are or may be' affected by trade. Both the CITES Secretariat and TRAFFIC reject the proponents' argument that the Appendix II listing of the three countries' elephant populations has a detrimental impact on the status of elephant populations elsewhere.

Whales and Sea Turtles Proposed for Downlisting

As at the last CITES Conference of the Parties in 1997, Japan and Norway are again proposing transferring certain populations of

gray and minke whales from CITES Appendix I to Appendix II. The CITES Secretariat acknowledges that the whale populations targeted by Norway and Japan are not threatened with extinction and thus do not fulfil the criteria for an Appendix I listing. However, coherence between the moratorium on commercial whaling decreed by the International Whaling Commission (IWC) and CITES would require any downlisting to be accompanied by a recommendation for a zero trade quota. Furthermore, the Secretariat notes with concern that 'the difficult political discussion that has divided [the IWC] for so many years now, is "exported" to the CITES Conference of the Parties with the risk of causing similar negative effects on the relationship between Parties. To subject CITES to such a risk may not be justified, particularly because an Appendix II listing would have no practical effect where and as long as commercial catches remain prohibited by international law.'

Cuba is also repeating its request for the international sale of hawksbill turtle shells stockpiled during a national management programme between 1993 and March 2000. The sale would take

place as a one-time shipment of 6,900 kg to Japan. After that, Cuba seeks approval for a yearly quota 500 hawksbill carapaces culled under its management programme. The shipments would go to Japan, or to 'other Parties with equivalent controls which will not re-export'. The proposal specifies that wild hawksbill turtle stocks in Cuban waters would be treated as 'specimens of species in Appendix I and international trade in them shall be regulated accordingly'. A similar Cuban proposal was narrowly defeated by CITES Parties

in 1997. The present one is supported by the Secretariat, but IUCN reviewers have expressed differing views. TRAFFIC recommends acceptance of the one-time shipment but not of the continuing annual quota, at least until a more comprehensive regional management system for Caribbean hawksbills is in place and Japanese import and re-export controls have been strengthened.

Fashion versus Wildlife: Curbing Illegal Trade

A draft resolution has also been prepared urging both producer and consumer states to take the necessary measures to curb illegal trade in shahtoosh, the fine wool of the seriously-threatened Tibetan antelope. Although the species has been listed in CITES Appendix I since 1975, worldwide demand – and the high prices upscale consumers are willing to pay for shahtoosh shawls – have fuelled large-scale poaching and smuggling. A single scarf requires the wool of three to four animals.

The CITES resolution requests producer states to strictly prohibit the acquisition of Tibetan antelope and its products, as well as to ban processing of the wool. Consumer states should 'implement strict law enforcement measures, investigate into the existing and potential markets for shahtoosh, and severely punish relevant selling and smuggling activities'. It also urges governments and organisations to provide financial assistance to range states to help them control poaching, processing and trade; and recommends vigorous public education campaigns in both consumer and producer countries.



African Elephants

CSD to Tackle Trade and Agriculture

This year's meeting of the UN Commission on Sustainable Development (CSD) will focus on two clusters that have direct bearing on the debate on international trade and sustainable development: agriculture and trade. The meeting will take place from 24 April to 5 May in New York. Environment, finance and trade ministers will attend a high-level segment on 26-27 April.

Intersessional working groups met to prepare for the April event from 22 February to 3 March. Instead of heated exchanges on the multifunctional role of agriculture, technology transfer under the WTO TRIPs Agreement or the use of the precautionary principle, delegates agreed without too much difficulty to a set of proposals for the consideration of the full CSD. Many of the recommendations sound eerily familiar to those who have followed WTO discussions on environmental and development issues. Governments are urged, *inter alia*: to pursue 'opportunities where trade liberalisation, including addressing trade distorting subsidies, holds particular promise for producing trade, environmental and developmental benefits'; to 'consider possible commitment by developed countries to grant duty-free and quota-free market access for essentially all exports originating in LDCs'; and to fully implement special and differential treatment provisions for developing countries. The working groups also recommended that governments 'cautiously explore the potential of appropriate and safe biotechnology for enhancing food security [...] based on the precautionary approach, as articulated in Principle 15 of the Rio Declaration on Environment and Development, and take into account concerns about possible adverse effects on the environment and human health'.

The Chair of the upcoming CSD session, Colombian Environment Minister Juan Mayr – who also chaired the recently-concluded Biosafety Protocol negotiations – hopes the meeting will contribute to a better understanding of the linkages between different international negotiation processes rather than serve as a parallel platform for WTO rhetoric. However, many expect Member states at the April session to closely reflect their WTO positions on agricultural trade liberalisation rather than engage in dispassionate analysis of sustainable agriculture, rural development or coherence in international governance.

Permanent Forestry Forum Decision Expected

Nearly eight years after the Rio Earth Summit adopted a set of non-binding Forest Principles rather than a legally-binding forest convention, government representatives recommended in February the creation of a permanent intergovernmental body under the UN General Assembly to address global forestry issues. The Intergovernmental Forum on Forests asked the CSD to back the establishment of a new body 'which may be called the United Nations Forum on Forests'. This forum could, within five years, 'recommend the parameters of a mandate for developing a legal framework on all types of forests', as well as reflect on the 'establishment of mechanisms on finance, technology transfer and trade'. Since Rio, these three elements have been the most contentious ones of the international forestry debate: the need for a forest convention, financial and technology transfers to support sustainable forest management in developing countries, and the role of trade in sustainable forest management. While the vague language of the IFF reflects the continued lack of consensus on these issues, the recommendation to continue annual intergovernmental deliberations could herald a more purposeful dialogue than the inconclusive talks held over the past five years.

Codex Biotech Task Force Sets Work Programme

Members of the Ad Hoc Task Force on Foods Derived from Biotechnology met for the first time in Chiba, Japan, from 14 to 17 March 2000. The Task Force was established after the Codex Commission on Food Labelling was unable to reach a consensus recommendation on labelling of processed foods containing genetically modified organisms (Bridges Year 3 No.4, page 1). Codex Alimentarius is the only international food standards body recognised under WTO rules.

In Chiba, the Task Force set out a programme of work over its four-year period of activity. This will include the development of 'over-arching' general principles for risk analysis of foods derived from biotechnology, including science-based decision-making, pre-market assessment procedures, transparency, post-market monitoring, and 'other legitimate factors as appropriate'. The question of 'other legitimate matters' has been a bone of contention between Codex members for a number of years, pitting countries that would like to see 'sound science' as the only criteria for food safety standards against those more inclined toward a precautionary approach that leaves more freedom for regulatory action when full scientific certainty is lacking.

The Task Force will prepare specific guidance on the risk assessment of foods derived from biotechnology for food safety and nutrition, and consider long-term health effects and non-intentional effects arising from genetic modification. It will also review the application of the concept of 'substantial equivalence'. 'Substantial equivalence' embodies the idea that 'existing organisms used as food, or as a source of a food, can be used as the basis for comparison when assessing the safety of human consumption of a food or food component that has been modified or is new'. However, Dr Alan Randell, the Secretary of the Task Force acknowledged that, in view of mounting criticism, the Task Force would 'need to look at different ways of developing and applying the concept of substantial equivalence and reviewing other methods of science-based risk assessment'.

With regard to long-term health effects and non-intentional effects arising from genetic modification, first priority will be given to foods of plant origin, followed by micro-organisms used directly in foods and then foods of animal origin. According to Codex officials, early attention may have to be given to fish. International trade in live genetically-modified fish will be regulated by the Cartagena Protocol on Biosafety, but that treaty is only expected to enter into force two to three years from now. In the meanwhile, consumers are increasingly concerned about 'franken-salmon' whose growth-hormone has been spliced with an anti-freeze protein from flounder, allowing it to grow to more than twice the size of the same species in the wild.

In advance of the meeting, a grouping of 200 organisations and individuals accused the task force of seeking to undermine the Biosafety Protocol. In a letter to Thomas Billy, Chair of the Codex Alimentarius Commission and head of the US Food Safety and Inspection Service, they said that preparatory documents issued to government delegates included a summary review of Cartagena Biosafety Protocol, which 'could be viewed as preparatory to a WTO action intended to force nations to accept GMO imports or pay penalties for lost trade revenues, contrary to the provisions of the Protocol'.

Contact: John Riddle, Codex Alimentarius, Media Relations, tel: (39-6) 5705-3259, e-mail: John.Riddle@fao.org

Globalisation and Sustainable Human Development

ICTSD will convene its first regional policy dialogue in Africa to examine key issues related to globalisation and sustainable human development in Windhoek, Namibia, from 10-12 May, 2000. Participants will include high-level government officials, as well as representatives of academia, civil society and the private sector. Similar meetings have already taken place in Latin America and Asia under the aegis of the joint UNCTAD/UNDP Programme on Globalisation, Liberalisation and Sustainable Human Development (see Bridges, Year 3, No. 8 and Bridges Year 4 No.1).

At round-table sessions, participants will discuss the effects that several topical aspects of globalisation are likely to have on sustainable human development in Africa, including foreign direct investment, regional integration, special and differential treatment in the multilateral trading system, and export-led growth.

These issues are of particular importance to African societies today. In investment, the pattern of FDI in Africa is changing, shifting from natural resources to the servicing and manufacturing sectors, opening up new possibilities but also bringing new concerns. Regional integration is expected to experience a further boom as African countries prepare for the Regional Economic Partnership Agreements slated to gradually replace the Lomé Convention between the European Union and ACP countries after 2008, eventually leading to reciprocal trade concessions between the EU and African countries instead of the market access preferences the EU has unilaterally offered under the Lomé Convention.

African economies also need to assess how the WTO's special and differential treatment provisions can assist their sustainable human development goals, including through attracting larger foreign direct investment flows. In addition, participants will look at the scope special and differential treatment could offer to infant industry protection and trade restrictions imposed for balance of payment reasons.

While some African countries, such as Senegal and Mauritius, have successfully established and exploited export-processing zones, a roundtable session will examine the linkages between export-led growth, human capital development and female employment, as well as potential inconsistencies with the WTO's Agreement on Subsidies and Countervailing Measures.

For more information on the dialogues, contact Ali Dehlavi at ICTSD, tel: (41-22) 917-8352, fax: 917-8093, e-mail: adehlavi@ictsd.ch, internet: <http://www.ictsd.org/html/dialogues.htm>



BRÜCKEN

Zwischen Handel und Zukunftsfähiger Entwicklung

ICTSD is happy to welcome *BRÜCKEN*, the German version of *BRIDGES Between Trade and Sustainable Development*. The first issue of the publication was released in February, and others will follow on a bi-monthly basis. *BRÜCKEN*, produced by Germanwatch in collaboration with ICTSD, joins the *BRIDGES* 'family', which also includes *PUENTES* and *PASSERELLES*. All these publications are available from their producers, as well as at the ICTSD website (see masthead opposite).

For copies contact: Brücken, Germanwatch, Kaiserstrasse 210, 53113 Bonn, Germany, tel: (49-228) 60492-0, fax: 60492-19, e-mail: tradewatch@germanwatch.org, web: <http://www.germanwatch.org>.

BRIDGES

Between Trade and Sustainable Development

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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 (SECO) for Bridges, and the John D. and Catherine T. MacArthur Foundation for Puentes and Passerelles.



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MEETINGS

WTO meetings take place in Geneva.

Dates may 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.

April 5	WTO Council for Trade in Goods Contact: Suja Rishikesh, tel: 5485, fax: 5770
April 7	WTO Dispute Settlement Body Contact: Gabrielle Marceau, tel: 5519, fax: 5788
April 10-12	WTO Textiles Monitoring Body Contact: J.-P. Lapalme, tel: 5223, fax: 5765
April 10-20 Nairobi	Eleventh Meeting of the Conference of the Parties to the Convention on International Trade in Endangered Species (CITES) Contact: CITES Secretariat, tel: (41-22) 917-8139, fax: 797-3417, e-mail: cites@unep.ch , Internet: http://www.wcmc.org.uk:80/CITES/
April 12	WTO Committee on Customs Valuation Contact: Janet Chakarian, tel: 5549, fax: 5770
April 14	WTO Committee on Rules of Origin Contact: Eki Kim, tel: 5584, fax: 5770
April 14	WTO Council for Trade in Services – Special Session Contact: A.-Hamid Mamdouh, tel: 5435, fax: 5771
April 17-18	WTO Committee on Balance of Payments (Pakistan) Contact: Hans-Peter Werner, tel: 5286, fax: 5458
April 24-May 5 New York	UN Commission on Sustainable Development Eighth Session, special focus on agriculture and trade issues. Contact: CSD Secretariat, tel: (1-212) 963-3170, fax: 963-4260, e-mail: dsd@un.org , Internet: http://www.un.org/esa/sustdev/csd.htm
May 1-2	WTO Committee on Anti-dumping Practices – Ad Hoc Group on Implementation Contact: Luis Ople, tel: 5374, fax: 5458
May 2-4	WTO Trade Policy Review Body (Bangladesh) Contact: Lucie Giraud, tel: 5075, fax: 5458
May 3	WTO General Council Contact: Bernard Kuiten, tel: 739-5676, fax: 5777
May 9-11	WTO Committee on Subsidies and Countervailing Measures Contact: Luis Ople, tel: 5374, fax: 5458
May 16-18	WTO Dispute Settlement Body Contact: Gabrielle Marceau, tel: 5519, fax: 5788

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Binswanger, Hans and Lutz, Ernst. 2000. Agricultural Trade Barriers, Trade Negotiations and the Interests of Developing Countries. Paper presented at UNCTAD X. World Bank. Washington

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WTO. 2000. European Communities – Regime for the Importation, Sale and Distribution of Bananas – Recourse to Arbitration by the European Communities. Arbitrators' decision on Ecuador's trade retaliation rights (WT/DS27/ARB/ECU). WTO. Geneva

WTO. 2000. WTO Director-General's Comments on the 28 March General Council Meeting on Internal Transparency and Post-Seattle Issues (PRESS/173). WTO. Geneva

ON-LINE RESOURCES

IISD Linkages Coverage of the Eighth Session of the UN Commission on Sustainable Development – special focus on trade and agriculture. URL: <http://www.iisd.ca/linkages/csd/>

OECD Review of the OECD Guidelines for Multinational Enterprises URL: <http://www.oecd.org/daf/investment/guidelines/newtext.htm>

The Kyoto Protocol The Dutch Implementation Network's website on the flexibility mechanisms for meeting the Protocol's objectives. URL: <http://www.northsea.nl/jiq/>