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## APRÈS SEATTLE

WTO Members on 17 December decided to postpone consideration of their failure to reach agreement on the scope of new trade talks in Seattle on 3 December 1999. They also took an ambiguous decision with regards to expiring terms of several key Uruguay Round Agreements. At the first meeting of the General Council since the stalled Seattle Ministerial, delegates agreed that talks regarding a new round of trade negotiations would not be held until January 2000. No substantive discussions took place on Seattle issues. However, following the initiative of the Council's Chairman, the assembly proceeded in informal mode to discuss the item on "Follow-up to the Seattle Ministerial Conference". This discussion was characterised by heated and emotional confrontation on the question of so-called "deadline issues". These refer to (a) terms in several key Uruguay Round Agreements and to (b) deadlines from decisions at the 1996 Singapore and 1998 Geneva Ministerial Conferences which would lapse on 31 December 1999 in the absence of decisions expected from the Seattle Ministerial Conference or this last meeting of the General Council.

Ambassador Ali Mchumo (Tanzania), in his capacity as Chairman of the General Council, made a proposal in general terms to "postpone consideration" of the follow-up to the Seattle Conference "in order to allow delegations time for consultations". A strong reaction was then heard from Pakistan -- later supported by Panama, Mexico, Dominican Republic, India, Egypt, Cuba, Peru, and Ecuador -- requesting that the Chairman produce a statement for agreement by all Members clearly indicating that "deadline issues" would be "frozen" while consultations on the follow-up of Seattle took place. Some of these delegations made more specific requests alluding to the need for clear understanding that there would be no "legal consequences or implications for Members as a

result of the lapsing of deadlines" and that "deadline issues" would be "addressed multilaterally and not on a case-by-case basis". On the other hand, the United States stated its position on "transition periods" due to expire (eg.: on TRIPs and TRIMs) saying that "these should be taken up on case-by-case, country-by-country basis, so as to ensure that the real concerns of Members - and the balance of rights and obligations - was preserved [...]."

The European Communities recalled that there were no formal proposals on the table regarding the extension of some of the deadlines or for "stopping the clock", even though discussions in this sense had taken place. Therefore, the EC suggested that Members commit to "exercise a certain degree of restraint" until the January meeting. The EC also made it clear that it could not join a consensus to a suspension of this meeting with reference to "legal consequences".

Switzerland, Brazil, Morocco and Hungary played a conciliatory role, calling for delegations to accept what the Swiss representative termed "a minimum degree of ambiguity that would be constructive". At the end, the Chairman made a statement, in formal mode and agreed by all, adjourning the meeting of the General Council to be resumed as early as possible in January to address the "Follow-up to Seattle". He also made specific reference to the fact that the "deadline issues" would be part of the "consultations to be continued"; to the commitment of Members to exercise restraint "on the matters under consultation"; and to the understanding that the proposed approach "would be without prejudice to the position on rights and obligations of Members".

Other than the deadline issues and the possibility of judicial action flowing from them, the WTO's built-in agenda mandates Members to begin negotiations on further liberalisation of agriculture and services as of 1 January 2000. Disagreements among Members in Seattle over the extent of liberalisation to take place in agriculture has been cited by many as one of the main causes for rupture in Seattle.

At the 17 December meeting, the Chair of the Committee on Budget, Finance and Administration reported that full consensus on the WTO budget for 2000 had not yet been reached. A "consensus minus one" was achieved around an annual budget of SwF 127.7 million (approx. US\$81.5 million). The recommended budget did include a reduction of the minimum contribution from Least-Developed Country (LDC) Members from 0.03 percent of the annual budget to 0.015 percent. The decrease is aimed at encouraging fuller participation by the LDCs in WTO activities. Pakistan expressed dissatisfaction with the proposed 2000 budget which is lower than the SwF 131 million proposed by the Director-General.

Pakistan's overriding concern revolved around what it called "the imbalance in the composition of Secretariat officials and staff. There was lopsided representation of officials from certain countries and groups of countries, and exclusion of other countries, particularly a number of developing countries, including Pakistan." The Pakistan delegation also expressed concern over the size of the WTO Secretariat, arguing that it required restructuring in order to be responsive to its new and enlarged responsibilities since the adoption of the Marrakesh agreements in 1995. In order to be adopted, the WTO budget must be approved by all 135 Members. Pakistan stated that the situation with this budget being "unacceptable, and unless [it] was rectified in 2000, Pakistan would not be in a position to approve the next budget of the WTO."

The next formal General Council meeting is scheduled for 7&9 February.

Japan is expected to propose the establishment of an advisory group within the WTO - to be comprised of between 20 and 30 WTO Members from both developed and developing countries - intended to ensure greater transparency in the WTO decision-making process. Japan is putting the advisory council idea forward as an alternative to the so-called Green Room process, where key trade negotiations take place among the WTO's major economic powers. Many developing countries, both during the Uruguay Round and again at the Seattle Ministerial, expressed discontent over not being party to Green Room discussions. The decisions and opinions put forward by the council under the Japanese proposal would be non-binding. Japan is expected to float the idea at a meeting with the EU on 11 January.

Developing countries are looking toward the UNCTAD X quadrennial meeting in Bangkok next month as an opportunity to build stronger ties between developing nations. The quadrennial meeting of the UN Conference on Trade and Development (UNCTAD) is the agency's highest policy-making body, formulating major policy guidelines and deciding on the UNCTAD programme of work.

"Japan to seek advisory organ in WTO for transparency," DOW JONES NEWSWIRE, 3 January 2000; "World trade talks effort seen delayed for months," REUTERS, 4 January 2000; "WTO envoys meet in Geneva;" "WTO postpones evaluation of Seattle fiasco," ASSOCIATED PRESS, 17 December 1999; ICTSD Internal Files.

## **DSB UPDATE**

A WTO Dispute Settlement panel ruled on 22 December that -- as long as it is implemented in conformity with the WTO Agreements -- the US' Section 301 law does not violate international trade rules. The EU brought the complaint to the WTO in March 1999 in the context of the ongoing dispute between the EU and US over the EU banana import regime. Section 301 is a mechanism used by the US Trade Representative to identify what it deems to be unfair trade practices faced by US exporters and to demand reform - backed by the threat of sanctions. The EU argued that the very existence of the US law violates international trade rules with respect to unilateral measures, because Section 301 requires the US to seek retaliatory measures against a country before the WTO's dispute settlement proceedings have ended (see *BRIDGES Weekly Trade News Digest* Vol. 3, No. 7, 22 February 1999, <http://www.ictsd.org/html/story2.22-02-99.htm> ).

The Panel based its finding in favour of the US on commitments made by the US in its Statement of Administrative Action (SAA) issued as part of the US bill implementing the Uruguay Round trade agreements. Under the SAA, the US Trade Representative is required to base any Section 301 sanctions on WTO panel and Appellate Body reports. The Panel warned the US that, "[S]hould [these commitments] be repudiated or in any other way removed by the US Administration or any other branch of the US government, the findings of conformity contained in these conclusions would no longer be warranted." The EU welcomed the ruling and is not expected to appeal. Former Australian trade representative David Hawes chaired the WTO panel. (The panel report is available on the WTO website at <http://www.wto.org/wto/dispute/distab.htm> )

In other rulings, a Dispute Settlement panel ruled on 23 December that the US violated world trade rules by imposing countervailing duties on imports of steel from a steel firm that was formerly owned by the British government. The WTO panel ruled that the US wrongly concluded

that the British government had continued to provide subsidies to British Steel after the company was privatised. The EU brought the case to the WTO in June 1998, arguing that the US was in violation of the WTO Agreement on Subsidies and Countervailing Measures by failing to prove that the British Steel imports were subsidised. British Steel had received subsidies from the UK government prior to being privatised. The WTO Panel also instructed the US to take appropriate administrative action to essentially update their records regarding newly or recently privatised firms. The US is expected to appeal the ruling. Mr. Ole Lundby of Norway chaired the WTO panel. (The panel report is available at the WTO website <http://www.wto.org/wto/dispute/distab.htm> )

In other news, the US and New Zealand approved a Canadian plan intended to comply with a WTO ruling against Canada's dairy regime. The WTO Appellate Body on 13 October upheld its earlier ruling that Canada's dairy program violates international trade rules (see *BRIDGES Weekly Trade News Digest*, Vol. 3, Number 41, 18 October 1999, <http://www.ictsd.org/html/story3.18-10-99.htm> ). The WTO panel found that Canada violated WTO rules by providing low-cost milk to processors for export, thereby constituting an export subsidy. The US and New Zealand had complained that this practice violated WTO rules on dairy export subsidies. The Appellate Body also ruled against Canada's limiting of milk imports. Canada's proposal aims to reduce the volume of subsidised dairy exports -- ceasing by 2001 its practice of providing subsidised milk to Canadian cheese producers -- and to reduce the volume of subsidised cheese for export by 2001.

"EU unlikely to appeal WTO panel upholding Section 301 law," *INSIDE US TRADE*, 7 January 2000; "Bruxelles se contente de promesses à propos des sanctions américaines," *LA TRIBUNE*, 24 December 1999; "WTO rebuffs challenge to US trade law," *INTERNATIONAL HERALD TRIBUNE*, 24 December 1999; "US, New Zealand approve Canada's plan to comply with recent WTO dairy ruling;" "Dispute panel rules Against US on British Steel countervailing duties," *INTERNATIONAL TRADE REPORTER*, 6 January 2000; "United States - imposition of countervailing duties on certain hot-rolled lead and bismuth carbon steel products originating in the United Kingdom: Report of the Panel," WTO (WT/DS138/R), 23 December 1999.

## **S. AFRICA TRADE AGREEMENTS STALLED**

As *BRIDGES Weekly Trade News Digest* went to press, Italy had announced its refusal to implement an EU-South Africa free trade accord set to enter into force from 1 January. Greece is reported to have joined Italy in refusing to implement the trade agreement that took nearly four years to negotiate. The deal, signed in October 1999, would encompass 90 percent of the US\$20 billion in annual bilateral trade between the EU and S. Africa. (See *BRIDGES Weekly Trade News Digest* Vol. 3, No. 41, 18 October 1999, <http://www.ictsd.org/html/story6.18-10-99.htm> ) Italy refused to implement the accord in protest over the failure thus far of EU and S. African trade officials to conclude a key component of the agreement covering wine and spirits. EU ministers had previously agreed to de-couple the wines and spirits component in order to move forward with implementation of the broader agreement.

The main points of disagreement between EU and S. Africa revolve around the EU's insistence that S. African wine and spirit producers cease the use of "geographical denominations" (e.g. "grappa," "port" or "sherry") protected under EU law. South Africa argues that the issue should be addressed under multilateral agreements rather than bilateral agreements. For their part, Italy and Greece want to ensure that their "grappa" and "ouzo" denominators respectively are protected to

the same extent as sherry and port have been in previous drafts of a wine and spirits agreement. It was unclear at press time how the EU would proceed in light of Italy's refusal. South African trade officials remain furious over the last minute manoeuvres by EU countries, and are wary about the precedent last minute concessions could set for developing countries dealing with the EU.

At the same time, the 14 member states of the South African Development Community (SADC) on 5 January postponed plans to implement a regional free trade area previously expected to launch from 1 January. Officials said implementation would likely be delayed until at least June 2000, while negotiators continue to discuss the thorny issue of market access to regional economic powerhouse South Africa and its partners in the South African Customs Union (SACU), which also includes Swaziland, Namibia, Lesotho and Botswana (see *BRIDGES Weekly Trade News Digest* Vol. 3, No. 25, 28 June 1999, <http://www.ictsd.org/html/story7.28-06-99.htm> ).

Once implemented, the SADC free trade area would cover about US\$3 billion in annual trade between SADC countries. Senior trade officials are expected to meet later this month to continue negotiations. SADC comprises Angola, Botswana, Congo, Lesotho, Malawi, Mauritius, Mozambique, Namibia, Seychelles, South Africa, Swaziland, Tanzania, Zambia and Zimbabwe.

"Trade agreement imperilled by dispute over wines, spirits names," *WORLD INTELLECTUAL PROPERTY REPORT*, 15 January 2000; "Italy threatens pact with S Africa," *FINANCIAL TIMES*, 6 January 2000; "Southern Africa free trade pact delayed to June/August," *REUTERS*, 5 January 2000; "South Africa firm on free trade schedule," *FINANCIAL TIMES*, 8 January 2000.

## **EU TAKES ITS BEEF WITH FRANCE TO COURT**

The European Commission (EC) on 4 January moved forward with legal action against France for France's refusal to lift its ban on British beef imports. The EC alleges that France is in violation of the EC's founding treaty by failing to comply with a decision taken by EU states based on sound scientific evidence.

France has balked over lifting a ban on imports of British (UK) beef as mandated by the EC in August 1999. The ban was implemented in March 1996 after British scientists discovered a link between UK beef and bovine spongiform encephalopathy (BSE), or "mad cow disease". Since then, the UK has slaughtered nearly three million heads of cattle and implemented tight controls on cattle feed. France justified its decision to keep the ban in place citing health safety concerns and concerns around traceability and adequacy of testing for BSE.

France responded to the EC legal action by filing a counter case, in which it argues that the EC did not adequately address food safety concerns when it voted to lift the beef ban in August. The European Court of Justice is expected to take between 18 and 24 months to reach a decision in the matter. Meanwhile, the EC is not expected to ask the Court to require France to lift its ban during the interim period while the case is being decided.

In related news, on 12 January the EC is expected to outline its plans for an independent food safety authority. *BRIDGES Weekly Trade News Digest* will report on this development in the next issue.

"Commission starts action against Paris," FINANCIAL TIMES, 5 January 2000; "Commission decides to take France to court if France continues to refuse to lift British beef embargo," EUROPEAN UNION PRESS RELEASE (IP/99/1036), 22 December 1999.

### **CAPTIVE AUDIENCE: US COMPANIES LOOK TO STATE PRISONS FOR LABOUR**

Faced with the lowest unemployment rate in decades, US businesses are beginning to turn their eyes toward the large prison population for labour. Prisons Industry Enhancement (PIE) programs (state penal system work programmes) are expected to engage 10,000 prisoners by 2005 in everything from light manufacturing to customer service work for private enterprises. There are currently about 1.2 million inmates in state penitentiaries. No federal prisons run PIE programs.

Perhaps the most compelling reason employers are attracted to state PIE programmes is the prospect of cheap labour. Inmates are paid US minimum wage (US\$5.15 per hour), and companies hiring labour this way do not have to pay for health insurance and other benefits. Prisons take deductions for room, board and other costs from inmates' pay checks such that they net about 10 per cent of earned wages. Labour unions have been historically cold to the idea of cheap prison labour competing for union jobs, but have been less vocal against the movement in light of the tight US labour market.

"Prison inmates offered the escape of work," FINANCIAL TIMES, 31 December 1999.

### **IN BRIEF**

The US National Marine Fisheries Service (NMFS), on 3 January 2000, published the Interim Final Rule implementing the provisions of the International Dolphin Conservation Program Act (IDCPA) in the Federal Register. The regulations will meet internationally adopted standards for protecting dolphins in the eastern tropical Pacific Ocean (ETP). Under the regulations, tuna products can be imported into the United States if they are harvested in compliance with the IDCPA. The regulations will also implement a new labelling standard allowing tuna products to carry a dolphin-safe label only if no dolphins were killed or seriously injured during the fishing operations. Also established by the regulations is a tuna-tracking programme designed to track and verify the status of imports from the ETP throughout the tuna harvest and processing. US fishing vessels will be allowed to operate on the same basis as other signatory nations under a streamlined permitting process for purse seine fishing. The US Commerce Department hopes that the implementation of these regulations will bring a corresponding decrease in dolphin mortality. "Commerce Department Implements Regulations To Reduce Dolphin Mortality In The Eastern Tropical Pacific Ocean," COMMERCE NEWS, US DEPARTMENT OF COMMERCE, 4 January, 2000.

Rejecting a US suggestion that the International Monetary Fund (IMF) concentrate primarily on emergency lending, IMF First Deputy Managing Director Stanley Fischer said on 6 January that crisis lending is an important, but not the sole, IMF function. In December 1999 US Treasury Secretary Lawrence Summers had commented that the IMF should pull out of long-term lending to governments and be even more selective in its emergency support. The IMF, Fischer said, is "one of the most important ways, possibly the most important way, that the international

community promotes good policies around the world." "IMF: Fund Official Rejects US Call To Limit Role," [imf@onelist.com](mailto:imf@onelist.com), 7 January 2000.

The 17 December Meeting of the General Council agreed to the accession of Jordan to the WTO. The Hashemite Kingdom of Jordan concludes in this way five years of negotiations during which it has undertaken major reforms of its economy, laws and institutions in order to promote greater trade and investment. It has also adopted a national programme for further liberalisation of its economy. ICTSD Internal Files.

President Mahuad of Ecuador announced on 10 January the decision of his government, backed by most political parties in the country, to "dollarise" its economy. Consequently, under his fast track plan the Sucre will be replaced in 30 days by US dollars drawn from the country's international reserves; the Sucre will still be in circulation at a parity rate estimated by Mahuad at 25,000 sucres per dollar. The radical move comes after a critical year for Ecuador's economy which forced defaults on current, Brady and Euro bond foreign debt and saw the Sucre's 500 percent devaluation. Ecuador's inflation rate is currently the highest in Latin America at over 60 percent. Michel Camdessus welcomed the initiative and yesterday offered technical assistance from the IMF to secure a smooth conversion to the new system. ICTSD Internal Files.

A number of NGOs will make themselves present at this year's Davos meeting of the World Economic Forum (WEF). As part of a campaign termed "The Public Eye on Davos" led by the Swiss NGOs Pro Natura and the Bern Declaration, NGOs will organise parallel meetings featuring main Davos personalities, including WEF's founder Klaus Schwab. In addition, the Bern-based NGO Anti-WTO-Koordination is convening a demonstration on 29 January (though the municipal government of Davos has determined that it should take place on the 30th). At least 200 participants are expected to come from Italy, Germany, France and the Netherlands. ICTSD Internal Files.

## **EVENTS & RESOURCES**

For a more complete list of events, please refer to ICTSD's web calendar at <http://www.ictsd.org/html/calendar.htm>

### **❑ WTO Meetings**

An updated list of forthcoming WTO meetings is posted at <http://www.wto.org/wto/about/meets.doc>. Please bear in mind that dates and times of WTO meetings are often changed, and that the WTO does not always announce the important informal meetings of different WTO bodies. Unless otherwise indicated, all WTO meetings are held at the WTO, Centre William Rappard, Rue de Lausanne 154, 1211 Geneva, Switzerland.

12 January: DISPUTE SETTLEMENT BODY. For information contact: Nuch Nazeer, WTO; tel: (41-22) 739-5393.

24 January: COUNCIL FOR TRADE IN GOODS. For information contact: Nuch Nazeer, WTO; tel: (41-22) 739-5393.

27 January: DISPUTE SETTLEMENT BODY. For information contact: Nuch Nazeer, WTO; tel: (41-22) 739-5393.

7&9 February: GENERAL COUNCIL MEETING. For information contact: Nuch Nazeer, WTO; tel: (41-22) 739-5393.

#### ❑ **Other Events**

10-13 January, Seattle, Washington: SEVENTY-SIXTH ANNUAL MEETING OF THE INTERNATIONAL PACIFIC HALIBUT COMMISSION. For information see web: <http://www.iphc.washington.edu/halcom/pubs/annmeet/2000/ann2000.htm>

23-26 February, Anchorage, Alaska: HERRING 2000 SYMPOSIUM. This international Wakefield Fisheries Symposium will bring together scientists who manage herring, study herring biology and ecology, and study the social and economic aspects of herring fisheries to share information, synthesise recent developments, and plan for further work to help conserve the resource and assure sustainable fisheries. For information contact: Brenda Baxter, Alaska Sea Grant College Program, University of Alaska, Fairbanks, PO Box 755040 Fairbanks, AK 99775-5040 USA, tel: (1-907) 474-6701; fax: 474-6285; web: <http://www.uaf.edu/seagrant/Conferences/symposia.html>

5-8 March, Cairo, Egypt: 3rd MEETING OF THE MEDITERRANEAN DEVELOPMENT FORUM (MDF). The focus of the MDF will be on trends, challenges, and opportunities in the Mediterranean region regarding economic liberalisation, regional integration, and the role of the private sector. For information contact: Mr. Tudor Lomas, Jemstone Network, tel: (962-6) 585-3024; fax: 585-3025; email: [mdf@jemstone.net](mailto:mdf@jemstone.net); web: <http://www.jemstone.net>

6-8 March, Quito, Ecuador: INTERNATIONAL EXPERTS MEETING ON SUSTAINABILITY ASSESSMENT OF TRADE LIBERALISATION. Organised by the World Wide Fund for Nature (WWF) in collaboration with Fundacion Futuro Latino Americano. For information contact: Mireille Perrin, WWF International, Trade and Investment Unit; tel: (41-22) 364-9026; fax: 364-8219; email: [mperrin@wwfnet.org](mailto:mperrin@wwfnet.org)

6-8 April, San Salvador, El Salvador: COMPETITIVENESS AND SUSTAINABLE DEVELOPMENT IN CENTRAL AMERICA. Organised jointly by the Central American Development and Environment Foundation - ECOFUTURO, Salvadoran Economic and Social Development Foundation (FUSADES) and CEDES, this conference will bring together regional and international personalities to discuss future action in Central America that furthers sustainable development. For information contact: the Salvadoran Business Council for Sustainable Development; tel: (503) 264-6188; fax: 264-5051; email: [ecomillennium@hotmail.com](mailto:ecomillennium@hotmail.com)

#### ❑ **Resources**

GREEN POLITICS (GEN-1). November 1999. By the Centre for Science and Environment. This first report on Global Environment Negotiations (GEN) was launched by Anders Wijkmann of the European Parliament during the fifth conference of parties to the United Nations Framework Convention on Climate Change in Bonn. The GEN reports are an effort to document global environmental negotiations from a Southern perspective. The report closely analyses important



environment-related conventions in light of their origin, and the political influences that resulted in decisions taken thus far. It also documents the attempts of international institutions to move towards sustainable development. To order contact: the Centre for Science and Environment (CSE), 41, Tughlakabad Institutional Area, New Delhi - 110 062; tel: (91-11) 698-1110; fax: 698-5879; email: [webadmin@cseindia.org](mailto:webadmin@cseindia.org); web: <http://www.cseindia.org>

THE GATT URUGUAY ROUND: A NEGOTIATING HISTORY (1986-1994). 1999. By Terence P. Stewart. This book is a comprehensive treatment of the often-confidential minutes of the Uruguay Round negotiating sessions and the proposals tabled by the various negotiating countries. The sessions are exposed in great detail and the various proposals are compared in side-by-side charts so that the evolution of the final agreements can be clearly traced. Each volume of this extensive work deals with specific aspects of the Uruguay Round. 4500 pp. US\$655.00 ISBN 90-6544-644-3. To order contact: (for USA, Canada, Central & South America) Order Department, Kluwer Law International, 675 Massachusetts Avenue, Cambridge, MA 02139, USA, tel: (1-617) 354-0140, fax: 354-8595, email: [sales@kluwerlaw.com](mailto:sales@kluwerlaw.com), web: <http://www.kluwerlaw.com> (for Europe and Rest of World) Order Department, Kluwer Law International, Distribution Centre, P.O. Box 322, 3300 AH Dordrecht, The Netherlands; tel: (31-078) 654-6454; fax: 654-6474; email: [sales@kli.wkap.nl](mailto:sales@kli.wkap.nl)

DISPUTE SETTLEMENT IN THE WORLD TRADE ORGANIZATION: PRACTICE AND PROCEDURE. January 1999. By David Palmetier and Petros C. Mavroidis. This book is the first to remove the mystery from the WTO's complex procedural law and make it accessible for practitioners. Through a careful examination of actual practice, including their own experience, the authors reveal this hidden, yet crucial, side of dispute settlement. 325pp. US\$78.00 ISBN 90-411-0634-0. Published by Kluwer Law International. For ordering information see resource above.

COMPLETING THE WORLD TRADING AGENDA: PROPOSALS FOR THE MILLENNIUM ROUND. April 1999. By Peter S. Watson, Dr. Joseph E. Flynn and Chad Conwell. This work provides a description of the evolution of the GATT/WTO, detailing the failure to integrate into the same the original breadth of the Havana Charter. Also, it concisely describes the workings of all the major regional trade arrangements, and how they have expanded into those areas still not covered by the GATT/WTO. 450pp. US\$125.00 ISBN 90-411-9302-2. Published by Kluwer Law International. For ordering information see resource above.

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