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HOT WEEK FOR WTO DISPUTES: ASBESTOS, SWORDFISH, FSC, BANANAS, TELECOMS

At a 17 November meeting of the WTO Dispute Settlement Body (DSB), Members tackled a number of contentious cases, including concerns over a recent Appellate Body decision to issue procedures for submissions of non-party briefs; a simmering EU-Chile dispute over swordfish, a potentially record-breaking claim of \$US4 billion against the US over its foreign sales corporation law, the latest EU status report on its regime for the importation, sale and distribution of bananas, and a first dispute on access to the telecoms market in a developing country .

Asbestos: General Council to Discuss Amicus Briefs

The WTO Appellate Body (AB)'s publishing on 8 November of procedures for non-party -- or '*amicus brief*' -- submissions to the dispute between France and Canada over asbestos has flared into a serious issue among Members (see *BRIDGES* Weekly Trade News Digest, Vol.4 No. 35, 19 September 2000, <http://www.ictsd.org/html/weekly/story2.19-09-00.htm>).

Meeting informally last week, some countries -- reportedly Pakistan and Egypt, supported by Malaysia and India -- requested the Chair of the General Council to convene a special General Council meeting to discuss their concerns. The issue was also brought up at the 17 November DSB, where the Chair urged Members to regard the question as a 'systemic issue' and to take the opportunity to improve communication between Members and the Appellate Body. Several delegations commented on the AB procedures, with Zimbabwe, which is a third party in the dispute, saying that it was time to look at how to establish guidelines for this kind of procedure.

On 22 November, a special General Council session will meet, as requested, to discuss the Appellate Body's decision to release *amicus brief* guidelines. Broad support for the need to address how the AB deals with non-governmental parties is found among both developing and developed countries. According to trade sources, the meeting is expected to address whether the AB's decision is consistent with WTO rules or if it has applied a new rule. A secondary concern also expected to be on the table is the announcement of the procedure, which was publicized on the WTO website and via a listserv to civil society groups. Some Members are worried that the actions of the AB and Secretariat accord non-governmental parties more access to the system than to Members themselves.

The AB is said to have taken the decision in anticipation of a likely flood of *amicus briefs*. In this context, the conditions set by the AB for submissions to be accepted were highly rigorous and aimed at establishing the interest in the dispute and the independence of applicants with respect to the Parties to the dispute. The AB guidelines seem to be also meant to seek new argumentation and to filter repetitive submissions. At press time, the AB was not in a position to respond to queries regarding the number or identity of requests for submissions received, but according to non-governmental sources, approximately 17 requests were filed; none seem to have been accepted. It is not clear whether non-governmental parties who filed requests before the deadline of 16 November -- including medical, labour, academics, environment, and public-interest groups -- have been informed in detail as to why their submissions were rejected.

Swordfish: Panel Setup Deferred To December DSB

The DSB meeting took up discussions on the request of the EC for the establishment of a Panel on Chile's measures affecting the transit and importation of Swordfish (see *BRIDGES Weekly Trade News Digest*, Vol.4 No. 43, 14 November 2000, <http://www.ictsd.org/html/weekly/story2.14-11-00.htm>). This being the EC's first request to the DSB, a panel will be established automatically at the next DSB that the EC submits its request (expected at the next DSB on 12 December).

The EC nevertheless took the opportunity to explain the background of its request, stating that Chile's measures, based on Article 165 of Chile's Ley General de Pesca y Acuicultura and consolidated by the Presidential Supreme Decrees 430 and 598 -- impeding the discharge, storage, transport and import of swordfish -- were inconsistent with GATT Articles V:1-3 (freedom of transit) and XI:1 (elimination of quantitative restrictions). EC Ambassador Carlo Trojan expressed the Communities' concerns about the environmental problems related to swordfish stocks, but favoured a multilateral agreement to address the issue.

Chile reaffirmed that the reason for the measures was a conservationist one. In addition to prohibiting Chilean fishermen from using Chilean ports should they catch swordfish, Chile's law prohibits all ships fishing swordfish both inside and outside its 200-mile limit from using its ports

for trans-shipment. The EU argues that Chilean jurisdiction does not extend beyond its 200-mile coastal zone. Chilean trade sources say they have requested a panel at the UN Convention on the Law of the Sea (UNCLOS) to help persuade the EU to enter into a swordfish conservation agreement with them. Because swordfish is a highly migratory species, protection must be established both inside and outside the 200-mile zone, the Chilean delegation added. UNCLOS establishes the duties of countries to protect the marine environment in waters adjacent to their coastal lines.

FSC: EC Requests Authorisation For \$4bn In Retaliatory Measures

The EC, after waiting until US President Clinton on 15 November had signed the FSC Repeal and Extraterritorial Income Exclusion Act of 2000 (the "FSC Replacement Act"), is now seeking WTO approval for retaliatory measures. In what is said to be a formal move, the EC on 17 November requested a special meeting of the DSB to be held on 28 November, where it will file its claim that the US failed to implement the October 2000 DSB recommendations and rulings on US Tax Treatment for "Foreign Sales Corporations" (FSC) (see *BRIDGES Weekly Trade News Digest*, Vol.4 No. 8, 29 February 2000, <http://www.ictsd.org/html/weekly/story1.29-02-00.htm>).

Article 22.6 of the WTO Dispute Settlement Understanding obliges the complaining party to ask for authorisation to retaliate at the latest 30 days after the compliance deadline (in this case 1 November) in order to preserve the automatic presumption of the right to retaliate. The EC announced that it is seeking countermeasures in the amount of \$US4.043 billion per year on a list of US products still to be specified.

The review of the EC's request for retaliatory measures is likely to be suspended until the FSC Replacement Act itself has undergone a compliance review by the DSB. The EC argues that the Replacement Act continues to grant and maintain export subsidies, and contains transitional provisions that allow companies to continue to benefit from the FSC scheme beyond the compliance deadline. Therefore, the EC regards the Act as a failure of the US to implement fully the DSB recommendations and rulings. If the DSB concludes that the FSC replacement legislation is in accord with WTO rules, no retaliatory measures will be conceded.

In related news, sources close to the US government said it was unlikely that the Clinton Administration would make use of the so-called 'carousel' provision in US trade law. This provision rotates existing retaliation lists of EU products subject to punitive tariffs because of unresolved beef and banana trade disputes. The EU had warned the US that such measures could lead to a more aggressive EU stance in the FSC dispute.

Bananas: Latin American States Still Concerned Over EC Banana Regime

In its latest status report on the implementation of its regime governing banana imports, the EC recalled that the "first come-first served" (FCFS) system is recognised as WTO compatible for the management of tariff quotas, and presented it as a transparent and straightforward system open for all operators.

At the meeting, Colombia, Guatemala, Honduras, Nicaragua, Panama and the US commented on the EC's report, expressing their concerns that the FCFS system proposed by the EC was not in compliance with WTO rules, because bananas from ACP countries would continue to receive duty-

free status under the proposal (see *BRIDGES Weekly Trade News Digest*, Vol.4 No. 38, 10 October 2000, <http://www.ictsd.org/html/weekly/story2.10-10-00.htm>) Instead, a transitional system based on tariffs only was proposed.

"Non-govt judicial voices", DECCAN HERALD, 20 November 2000; "Chile-UE, OMC aplaza decisión sobre prohibición chilena desembarcos europeo", EFE, 17 November 2000; "Under EU Threat, US Likely to Keep Banana, Beef Retaliation Lists", INSIDE US TRADE, 17 November 2000; "EU to kick off sanctions process in US tax row", REUTERS, 16 November 2000; "US House Will Act Tomorrow to Prevent EU Trade War (Update1)", BLOOMBERG, 13 November 2000; ICTSD Internal Files.

AGRICULTURE: NON-TRADE CONCERNS & EXPORT CREDITS MAKING WAVES

Agricultural liberalisation was a topical issue this past week as meetings were convened by both the WTO Committee on Agriculture, 14-15 November and the Fourth Special Session of the Committee on Agriculture, 15-17 November. Meanwhile, corresponding negotiations that sought to regulate the use of export credits in agricultural commodity trade were underway at the Organization for Economic Cooperation and Development (OECD). Debates at both fora on agriculture policy this past week underscore the persistent sensitivities over agriculture in the world trade system.

Fourth Special Session of the Committee on Agriculture

As per Article 20 of the AoA, Members are mandated to negotiate agreed disciplines on export subsidies, domestic support and market access. To do so, the Committee on Agriculture established the Special Session. Thus far, the Article 20 Special Session has met four times to consider both proposals and discussion papers, and the actual negotiation process is set to begin in mid-2001. (For more on the Article 20 process visit the WTO website at http://www.wto.org/english/tratop_e/agric_e/agric_e.htm).

At the Special Session, in total seven proposals were tabled: a US proposal on Tariff Rate Quotas; 2 proposals -- one on domestic support and one on market access -- the transition economies of Eastern and Central Europe; an ASEAN proposal on special and differential treatment; a Cairns Group (excluding Canada) proposal on market access; and two submissions outstanding from the Third Special Session, one on 'non-trade concerns' (from approximately 30 countries) and one on export subsidies submitted by the Southern Cone Common Market (Mercosur -- including Argentina, Brazil, Paraguay and Uruguay).

Non-Trade Concerns Garner Major Attention

Noteworthy among these was the proposal on 'non-trade concerns' (NTCs). The proposal is itself comprised of six specific papers, each detailing some aspect of NTCs, all of which were presented at a NTCs and agriculture conference in Norway this past summer. NTCs refer to issues such as the social and environmental benefits of agricultural production and food security. The discussion on the topic lasted for six hours at the WTO, suggesting that NTCs are considered a substantial issue by most countries.

In general, Members agreed that most countries have NTCs. However, there was considerable disagreement as to how each should be addressed in the context of trade negotiations. Specifically, the Cairns Group argued that green box measures (Annex 2 of the AoA) -- those which have "no, or at most minimal, trade distorting effects or effect on production..." -- are sufficient to address non-trade concerns. Other countries, Norway for example, counter-argued that some countries require trade-distorting subsidies to adequately address their non-trade concerns. Also at issue was that the language of 'non-trade concerns' should be disaggregated to better capture specialised cases. For example, Argentina argued that Japan, which is a net-food importer, should not have access to 'food security' related subsidies, since it has a substantial enough foreign exchange to pay for food imports. Finally, there was debate as to whether NTCs could be addressed adequately by a single set of rules governing all Members, or whether NTCs are better suited to regionally distinct disciplines.

Special Cases

Three other proposals are directly relevant to the trade-sustainable development nexus, notably the two tabled by the Eastern European bloc (transition economies) and one by the Association of Southeast Asian Nations (ASEAN). The transition economies paper is important because it signals both a willingness on the part of those countries to actively engage the negotiating process, but also that the present negotiating context does not fully recognise their unique situation. The ASEAN proposal is similar, but it uses the concept of Special and Differential Treatment outlined in the so-called 'Enabling Clause' to make its case. There are four members of ASEAN that also maintain membership in the Cairns Group. These are Indonesia, Malaysia, the Philippines and Thailand.

The next meeting of the Special Session of the Committee on Agriculture is confirmed for 5-7 February 2001. On 28-29 March 2001, the Special Session will take stock of its progress thus far and set out modalities and rules for the actual negotiations process.

WTO Committee on Agriculture

Debate at last week's regular sitting of the Committee on Agriculture followed two recurring agricultural themes, namely the use of tariff rate quotas and export credit schemes.

TRQs

On the issue of tariff rate quotas, the Committee discussed notifications from Colombia (G/AG/N/COL/21), Japan (G/AG/N/JPN/58) and Norway (G/AG/N/NOR/27) on the fill rates of certain tariff rate quotas (a tariff rate quota specifies the volume and duty on specific import categories). At issue was the proposition that unfilled quotas suggest that some other technical barrier aside from the actual TRQ itself is impeding the import of TQR regulated products. In particular, major agricultural exporters such as the US, Argentina, Australia and New Zealand asked Japan to explain why so many of its import quotas on agricultural products went unfilled in 1999. Japan's response was that internal market conditions, such as low domestic demand, account for the underfill. Underfill was reported by Japan in product categories such as dairy goods, dried vegetables, and rice.

Export Credits

On the issue of export credits, the Committee responded to a request from the WTO General Council on the treatment of export credits. Export credits generally take the form of export loan guarantees and are considered by many as a method for countries to circumvent their export subsidy commitments. Others on the other hand consider export credits to be an acceptable way of marketing agriculture commodities. They are also considered among the broader basket of implementation issues currently being discussed at the General Council. Several Members acknowledged that negotiations on export credit disciplines were coincidentally ongoing in the OECD, but were unwilling to recognise these disciplines as applicable to WTO rules. Instead, they argued that under Article 10.2 of the WTO Agreement on Agriculture (AoA), Members are obligated to seek export credit disciplines at the WTO. These Members included the EU and several large Cairns Group (agriculture-exporting) Members.

OECD Discussion on Export Credits Falters

The ongoing Discussion at the OECD on the use of export credits in agricultural commodity trade broke down last week over disagreement between the US and several Cairns Group countries on state trading enterprises and the amortisation periods for export loans. Presently, US rules allow debtors three years to pay back state-guaranteed loans used to purchase US farm commodities. At the OECD talks, the US conceded that it could reduce this time to 18 months, but Canada and Australia, for example, both argued that this payback term was still uncompetitive and should be further reduced to 12 months. Also, the US wanted Canada and Australia to report on the credit terms extended by their state-trading enterprises even though these loans are not state-guaranteed.

"OECD Talks On Agriculture Credits End Without Agreement," INSIDE US TRADE, 17 November 2000; "WTO Review Of Japan Highlights Need For Structural, Agricultural Reform," INSIDE US TRADE, 17 November 2000; "Agriculture Exporters Express Concern On Japanese Tariff Quotas on Dairy Products," WTO REPORTER, 16 November 2000; "Cairns Group, Multifunctionality Camp Fight To Win Over Third World in WTO Farm Talks," 15 November 2000; ICTSD Internal Files.

COP 6: MAJOR ISSUES STILL UNRESOLVED AFTER FIRST WEEK OF CLIMATE CHANGE NEGOTIATIONS

At the Sixth Conference of the Parties (COP 6) of the United Nations Framework Convention on Climate Change (14-24 November), delegates spent the first week discussing technical issues relating to the operational matters of the Kyoto Protocol in preparation for the ministerial talks taking place this week. Due to time constraints, negotiators failed to resolve some of the technical issues -- in particular compliance measures, supplementarity and sinks -- all of which could potentially come into conflict with WTO multilateral trading rules. These issues will now have to be addressed in this week's high-level negotiations.

Regarding compliance procedures and mechanisms, the Joint Working Group on Compliance has proposed four options for the compliance measures, three of which were presented by the Co-Chair of the Working Group. The fourth option was introduced by the G-77/China on Thursday, outlining facilitative and enforcement consequences of non-compliance. The group reiterated its call for

differentiated responsibilities and stated that only Annex I countries -- the 24 original OECD members, the European Union, and 14 countries with economies in transition -- should be subject to enforcement measures, including contributions to a Compliance Fund, suspension from emissions trading, and deductions from the non-compliant country's allowance allocation in the subsequent commitment period with a penalty rate. The US, which proposes penalising non-compliant countries only by reducing their emission rights in the next budget period, has expressed concerns regarding the G-77/China proposal, stressing its opposition to the use of mandatory financial penalties. The unresolved compliance issues have been referred to the ministers for discussion.

Another issue of importance to the Protocol's compatibility with multilateral trade rules relates to the extent to which greenhouse gas emission targets can be met using the Protocol's flexible mechanisms (emissions trading, Joint Implementation, and Clean Development Mechanism). The EU has proposed that Annex I countries should reach at least half their targets through domestic action. The US, however, opposes strongly any cap on the mechanisms. According to David Sandalow, who heads the US delegation, "emissions trading is too powerful of a tool to restrict," and market-based mechanisms such as emissions trading should be used "to promote innovation and reduce cost in the fight against climate change." No meeting of the minds on this issue has so far been reached, Sandalow said.

The use of carbon sinks, such as forests, to achieve emission targets has also proven to be a highly contentious issue. Many environmental groups are strongly opposed to the use of forests as sinks and have called the Protocol's provisions on carbon sink accounting the "biggest loophole" in the text. The US, supported by Canada and Japan, has proposed that credits for forestry management related to sinks should be "phased-in" during the first commitment period of the Kyoto Protocol. The EU -- after initial signs of (partial) support for the US proposal -- in the end rejected the plan, dismissing it as a "free gift" to the world's largest polluters and stating that it "does not ensure the environmental integrity of the Kyoto Protocol and it does not address the concerns of the EU." However, on Monday 20 November, US undersecretary for global affairs Frank Loy said the US was willing to accept a narrower calculation that would in effect slash the forests' book-keeping benefit by around 60 percent. The decision on carbon sinks will also influence the implementation of the Clean Development Mechanism, with the US proposing that sink activities should be included under the CDM.

In the Kyoto Protocol, member states agreed to cut greenhouse gas emissions by around 5 percent of 1990 levels by 2008-2012, but so far only a few developing countries have ratified the Protocol. The need to resolve differences concerning the implementation of the Protocol is becoming increasingly apparent as consensus regarding the human impact on climate change is growing. Both the draft report of the Intergovernmental Panel on Climate Change (IPCC) and the scientific study recently published by the US Government clearly identify human activities as a contributor to global warming. The IPCC report to be released next year revises its earlier predictions on temperature increases by the year 2100 from an increase of 1 to 3.6° C to an increase of 1.5 to 6.1°C.

BRIDGES will report on the outcomes of COP 6 in the forthcoming issue. See also the current and forthcoming issues of the monthly *BRIDGES* Between Trade and Sustainable Development at: http://www.ictsd.org/html/arct_sd.htm#Bridges. For daily coverage of the Conference, see Earth Negotiations Bulletin at: <http://www.iisd.ca/climate/cop6>.

"EU gives surprise welcome to US proposal on climate," REUTERS, 16 November 2000; "U.S. Accepts Limits on Forests as Carbon Sinks," ENVIRONMENT NEWS SERVICE, 16 November 2000; "Press Briefing," US OFFICE OF INTERNATIONAL INFORMATION PROGRAMS, 16 November 2000; "EU blasts US climate plan as 'free gift'," REUTERS, 17 November 2000; EARTH NEGOTIATIONS BULLETIN Vol. 12 No. 152-157; "US spells out concession on forests at climate talks," AFP, 20 November.

GOODS COUNCIL MAKES GOOD ON EXTENSION OF TRIMS DEADLINES

At a 15 November session of the WTO Council for Trade in Goods, a proposal from Chairman Ambassador Carlos Perez del Castillo (Uruguay) to resolve the longstanding issue of deadline extensions for certain developing countries on Trade-Related Investment Measures (TRIMs) received qualified support from both developed and developing country Members. Under the TRIMs Agreement, developing countries are required to phase out trade-restrictive restraints on foreign investment -- such as local content requirements -- by 1 January 2000, but nine Members have requested extensions on this deadline, mostly over domestic investment schemes in their auto industries. The requesting countries are the Philippines, Colombia, Mexico, Romania, Argentina, Pakistan, Malaysia, Chile and Thailand.

Perez del Castillo's proposal closely mirrors a US-Japan-EU-Canada (also known as the Quad) compromise proposal announced on 3 November (see *BRIDGES Weekly Trade News Digest*, Vol. 4, No. 42, 7 November 2000, <http://www.ictsd.org/html/weekly/07-11-00.htm>), and consists of the following elements: first, the Goods Council would grant a two-year extension of the TRIMs transition period to all nine requesting Members from 1 January 2000 to 31 December 2001; second, Members seeking an extension beyond 2001 must present their request before 31 June 2001 (the so-called 'two-plus-two' deal). The second extension would not be granted automatically and would be considered on a case-by-case basis. It would be the final extension and would not exceed two years.

US, EC Pledge Qualified Support; Pursue TRIMs Disputes Nonetheless

The US, represented by Ambassador Rita Hayes, said it hoped to finalise its position soon regarding the Chairman's proposal, but indicated it could support the requests by Romania, Chile, Argentina and Mexico (on auto TRIMs) as well as by Thailand (on dairy products). The US stressed that the granting of second extensions would not be guaranteed, and that -- as stipulated in the 3 November Quad proposal -- those requesting these should provide a clear phase-out plan. The EC said its position is to look at the requests on an individual basis but it realises the need for a multilateral solution to apply on each of the nine cases. It said it is still waiting for replies to its questions to the requesting members.

Despite US and EC views on the TRIMs proposal, the two Members are still pursuing panel requests at the Dispute Settlement Body (DSB) against the Philippines and India, respectively. At the 17 November DSB (see related story, this issue), Members agreed to establish panels to rule on the US complaint against the Philippines over its TRIMs in the automotive sector and on an EC dispute against India over conditions for the granting of import licenses for automobile industry products (see *BRIDGES Weekly Trade News Digest*, Vol. 4, No. 41, 31 October 2000, <http://www.ictsd.org/html/weekly/story6.31-10-00.htm>). On the Philippine request, the US said that

its decision to request a panel does not mean the dialogue has come to an end. "Hopefully before the panellists are selected we will be able to resolve the issue," said Ambassador Hayes. The two disputes are to be considered by the same panel, which is yet to be named.

Other Members' Reactions

According to Japan, the proposal is fully acceptable and provides adequate time for requesting Members to do the necessary work as well as fulfil the guarantees it is seeking. The Japanese delegation expressed hope that Pakistan would soon provide answers to its questions over Pakistan's indigenisation programme for industrial enterprises. Canada said the proposal is a sound way to move forward. Australia and New Zealand said that they would have to consult with capitals, adding that they are still waiting for responses to their questions from Thailand.

Thailand said the 'two-plus-two' formula does not allow for sufficient time to implement its TRIMs, but indicated that it would show the necessary flexibility and efforts at compromise based on the proposal. It said a multilateral solution in this area is crucial for the WTO's confidence-building process.

The Philippines said there seemed to be breakthrough in this area, and stressed that as the first to request extension, it had abided fully with the WTO requirements. It said the proposal's elements did not address its needs exactly but that it provided something it could work on. The Philippines pointed out that it had scaled back its time frame for implementation from 5 years to 3-1/2 years, and that it was willing to continue with bilateral talks.

Argentina said that it had asked for a seven-year extension but expressed cautious optimism that Buenos Aires could agree to the proposal. Colombia said the proposal contained positive elements, and that it was willing to continue with consultations. Romania endorsed the Chair's proposal, adding that it faced real technical difficulties with respect to its TRIMs on shipbuilding and that it would continue talks with the US on this issue. Mexico said that in principle, it viewed the elements in the proposal as satisfying Mexico's TRIMs request, and said it would refer the matter to Mexico City for further consideration. Brazil and Egypt also said they needed time to consult with their capitals. Venezuela said the development shows movement in the implementation discussions in the WTO. For its part, Chile expressed agreement with the proposal.

Pakistan said that the General Council had given clear directions on how the TRIMs issue should be resolved, and that it should address this subject as part of the implementation confidence-building exercise. It said the two-plus-two deal represents a positive movement and that the impasse had been broken to some extent. However, it said that the condition of not having further extensions raised systemic concerns regarding compatibility with Article 5.3 of the TRIMs Agreement, and indicated that it would respond quickly to questions posed by the US and Japan.

The Chairman said he would reconvene the meeting as soon as a draft Decision is ready for consideration. He said that the discussions show there is a political will from the Members concerned, and expressed optimism that there is opportunity to make headway not only in TRIMs but also in the area of confidence-building, which he said is the main challenge currently facing the WTO. Regarding TRIMs not notified to the WTO, he said he would consult on this matter after settling the current requests.

"EU, US take India and Philippines to WTO in auto dispute," AFP, 17 November 2000; "Three panels set in disputes," SUNS, 21 November 2000; ICTSD Internal Files.

APEC LEADERS COMMIT TO NEW WTO ROUND

Facing waning resolve before the failed Seattle Ministerial conference last year, the role of the Asia-Pacific Economic Cooperation forum (APEC) in new negotiations has been in question. The grouping's principal actor, the US, has devoted more of its attention to the formation of the Free Trade Area of the Americas. At the same time, the Clinton administration has focused its Asia agenda on China's WTO accession. Nevertheless, APEC Leaders met in Bandar Seri Begawan, Brunei Darussalam last week to rejuvenate discussions on the establishment of an open Pacific Rim economic community. What emerged from the conference, however, was not a reinvigorated sense of Asian cooperation, but a surprising commitment from all APEC members to a new round of multilateral trade negotiations before the end of 2001.

Although at present nothing can be said for certain about the content of a new round, the US Trade Representative, Charlene Barshefsky, indicated that regardless of the political preferences of the incoming presidential administration no new round would proceed in the absence of labour and environmental standards somewhere in the negotiations agenda considering the difficulty faced by the thin Republican majority in the US House of Representatives in amending this policy. In fact, the US used the APEC meeting to announce that Singapore and the US would begin bilateral trade negotiations which would include labour and environmental standards, similar to those found in the recently signed US-Jordan Free Trade Agreement. However, despite these assurances, Sapuchai Panitchpakdi, Deputy Prime Minister for Thailand and future WTO Director General, has signalled that environment and labour are best left out of the WTO and should be taken up by a strengthened multilateral process.

Also at centre stage of the APEC conference were discussions around the so-called 'digital divide' separating the new economy's digerati and techno-peasants. While the Internet and home computer use in the US has skyrocketed in the last five years most developing country households lack even basic telephone lines. APEC members committed themselves to reversing this pattern of electronic development while ensuring that electronic transmissions and transactions would remain tax-free.

The APEC Leaders Declaration comes at a time when bilateral trade deals in the region are proliferating and China is on the brink of attaining WTO Membership. Some trade analysts posit that with the accession of China to the WTO and the capital and trade flow shifts which will invariably result, regional trade deals are being used by many countries in the region to secure markets which may otherwise undergo unmanageable transformations.

"Pacific Rim Leaders Call For New Trade Round," FINANCIAL TIMES, 17 November 2000; "APEC Nations to Seek New Trade Talks in 2001," THE WALL STREET JOURNAL, 17 November 2000; "APEC Calls For WTO Talks Addressing Third World's Fears," THE TIMES OF INDIA, 17 November 2000; "APEC Leaders Set 2001 Deadline For Resuming WTO Talks," BLOOMBERG, 16 November 2000; ICTSD Internal Files.

AFRICAN TRADE MINISTERS DIVIDED ON NEW ROUND

Trade Ministers from 53 African countries met from 13-15 November in Libreville, Gabon. The meeting was aimed at enabling their countries to benefit more from the Multilateral Trade System. Africa accounts for almost a third of all WTO Members (41 out of 139), standing in contrast to the continent's 2 percent share of world trade.

In his speech held at the opening of the meeting, WTO Director-General Mike Moore said, "the WTO must do more for Africa, but Africa needs to focus more on the WTO as well." He emphasised the importance for African countries of negotiations undertaken by the trade body -- especially those on agriculture and services; the need for an appropriate implementation mechanism; and the requirement for capacity building in developing countries through expanded technical cooperation programmes. Moore stressed the importance of a new trade round for Africa to prevent further marginalisation, but at the same time warned that "another failed launch would be disastrous."

However, delegations from Egypt, Mauritius, Kenya, Zambia, Botswana and Mauritania refused to sign a final declaration in favour of a new trade round as called for by mainly the EU and the US. Magdy Farahat, Egypt's representative at the WTO, said that a new round of negotiations will be inevitable some day, but African countries will not begin new talks as long as parts of older agreements have not yet been implemented. A toned down communiqué was finally adopted, reaffirming that African nations would engage in the multilateral trading system, but without committing themselves to a swift opening of a new trade round. Instead, they urged the WTO to carefully prepare new negotiations and to take into consideration the specific requirements of developing countries.

A WTO Press Release on the meeting is available at:
http://www.wto.org/english/news_e/news_e.htm.

"Director-General attends meeting of African trade ministers in Libreville: Ministers reaffirm their support for the WTO", WTO PRESS RELEASE, 17 November 2000; "Les nouvelles négociations divisent l'Afrique", L'AGEFI, 17 November 2000; "OMC: l'Afrique divisée sur un nouveau Round", LES ECHOS, 16 November 2000; "Africans reject new trade round at well-attended WTO talks", AFP, 15 November 2000; "L'Afrique s'intéresse à l'OMC", LA TRIBUNE, 14 November 2000; "French minister warns Africa falling out of trade, investment loop", AFP, 13 November 2000; "African trade ministers in talks with WTO over rules", AFP, 13 November 2000; ICTSD Internal Files.

IN BRIEF

COP 6 SIDE-EVENT ON KYOTO AND WTO ELICITS INTENSE INTEREST. ICTSD, together with the Royal Institute for International Affairs (RIIA) and the International Institute for Sustainable Development (IISD), jointly organised a side-event to COP 6 on 20 November entitled: "The Kyoto Protocol and the WTO" to discuss issues arising from the simultaneous pursuit of climate change and trade goals. The event attracted strong interest from delegates and representatives of various intergovernmental and non-governmental organisations. ICTSD and RIIA panelists spoke about the functioning of the WTO system; trade-related impacts of domestic

policies and measures in climate change mitigation; the compatibility of WTO rules with the transaction of emissions allowances under the Protocol's flexibility mechanisms; and potential conflicts between WTO rules and possible compliance mechanisms in the Protocol . The event concluded with a lively discussion during which participants agreed with the potential for conflict between Kyoto and the multilateral trading system, but also pointed to the "self-enforcing" nature of the WTO regime which could result in less complaints to the WTO arising from the Protocol than some envisage. ICTSD Internal Files.

AMID PROTESTS, TRADE AND BUSINESS LEADERS CONTINUE DIALOGUE. As the Trans-Atlantic Business Dialogue (TABD) conference drew to a close on 18 November, government officials and business leaders alike acknowledged the challenges facing further trade liberalisation. The conference opened to numerous protests that at times featured escalating tensions between protestors and police. While riot police surrounded the downtown Cincinnati hotel that hosted the meeting, TABD delegates discussed several issues surrounding future negotiations. A main item of debate was the plan to implement a 'mutual recognition agreement', making it easier for companies to meet product safety specifications in both the US and the EU. US regulatory agencies have taken a cautious approach on the issue and their reluctance to allow EU agencies to certify products for the US market have essentially brought mutual recognition negotiations to a standstill. One European official charged that the US refuses to budge on the issue because "they are terrified of the non-governmental organisations." While the future of mutual recognition remains in doubt, George David, chairman and chief executive of United Technologies Group and the TABD American co-chairman, urged both sides to resolve their disputes. "We have an important number of very significant disputes and these have gone on too long," David noted. He pointed specifically towards bananas, beef and passenger jets as well as to the recent EU request to the WTO to enact retaliatory tariffs of US\$4 billion on US products after the US enacted a revised export tax regime last week. The TABD is also urging both the EU and the US to use greater caution in using the WTO dispute settlement mechanism, which it charges has failed to resolve several of the outstanding conflicts between the US and the EU. "Protests make mark on trade leaders," FINANCIAL TIMES, 20 November 2000. "Seeking ways to surmount US-EU barriers," BUSINESS TIMES, 20 November 2000. "CEOs focus on trade; protestors on people," THE CINCINNATI ENQUIRER, 17 November 2000. "Police break up protest of trade officials' meeting," ASSOCIATED PRESS, 18 November 2000.

CONSUMERS INTERNATIONAL CHALLENGES TRIPs. The WTO TRIPs agreement became the object of pointed criticism as the Consumers International conference in Durban, South Africa ended 17 November. Delegates said that the denial of medication was one of the "cruellest outcomes" of a clash between market economics and human needs. Participants pointed to the fact that France never introduced product patents until 1960, Japan until 1976, and Italy and Sweden until 1978, while the US refused to recognise international patents before it was 100 years old. Dr. Balasubramaniam, a health advisor for Consumers International, posed the question of whether "it is unreasonable for developing countries to ask for the same standards of intellectual property rights that were enjoyed by the developed, industrialised countries at a period in their development when they had not reached international competitiveness?" Participants wanted the WTO to relax the requirement of a 20-year minimum patent protection for new drugs to be eased. "Consumers International says drugs patents deny the poor and sick relief," AGENCE FRANCE-PRESSE, 16 November 2000.

JAPAN LOOKS TO INCREASE TIES WITH CARICOM. After meeting with CARICOM nations on 8 November, Japan offered to aid Caribbean countries in areas of environmental protection and living conditions as well as to help Caribbean countries integrate into the global economy. The proposal follows the first-ever ministerial meeting between Japan and Caribbean countries. Japanese Foreign Minister Yohei Kono said, "We are entering a new era of Japan-CARICOM relations." Japan's proposal includes \$US3 million in assistance to the Caribbean Disaster Emergency Response Agency and support in efforts to reduce poverty, improve health care and develop primary education. Participants also approved a "New Framework for Japan-CARICOM Cooperation for the 21st Century. Under the framework, Japan and the Caribbean will cooperate in multilateral settings such as at the UN and the WTO. "Japan Offers Various Support to Caribbean Countries," KYODO NEWS, 8 November 2000.

NEW ZEALAND TO REMOVE TARIFFS ON LDC IMPORTS. New Zealand announced on 16 November that as of 1 July 2001 it would remove all tariffs on imports from the world's least developed countries. NZ Prime Minister Helen Clark stated "the rich nations must ensure that the benefits of globalisation are available for everyone and this is a tangible contribution." Clark also noted that if future trade liberalisation talks are to take place, the world's poorest countries must be assured that they will gain and that New Zealand's move is a step in that direction. "NZ To Remove Tariffs on Imports from Poor Nations July 1," DOW JONES NEWSWIRE, 16 November 2000. "NZ to End Tariffs for Least Developed Countries," REUTERS, 16 November 2000.

NEW US PRESIDENT TO KEEP LABOUR AND ENVIRONMENTAL ISSUES IN TRADE NEGOTIATIONS. With the outcome of the US Presidential elections still uncertain, US Trade Representative Charlene Barshefsky announced last week that the next US President will continue to push for trade pacts that involve labour and environmental standards. Barshefsky noted that current Vice President Al Gore would most likely continue the Clinton Administration's policy of linking trade with labour and environmental standards, while a Bush presidency would be unable to change the current policy due to the near even distribution of power in Congress. "USTR: Next US Pres Won't Ignore Labour, Environment in WTO," DOW JONES NEWSWIRE, 14 November 2000. "US to Keep Pushing on Labour, Environment, No Matter Who Wins," BLOOMBERG, 14 November 2000.

WTO IN BRIEF

WTO REVIEWS BRAZILIAN TRADE POLICY. Though WTO Members concluded that they were "impressed" with Brazil's economic recovery and trade liberalisation, they also insisted that Brazil simplify its foreign trade regime. The assertions came after a Trade Policy Review of Brazil's trade laws that took place last week. Members believed that increased transparency, achieved through adopting a single law governing foreign trade, would simplify current regulations, which they deem excessively complicated. Brazil agreed to continue trade liberalising reforms, though Ambassador Jose Alfredo Graça Lima, head of the Brazilian delegation, said, "the priority is in sustaining [trade] liberalisation through successful regional and multinational negotiations." Brazil also hinted at further integration with Mercosur countries through the development of a common market with the goal of adopting a single currency. British Diplomat and moderator Peter Jenkins noted that "Mercosur is one of the regional accords that is justified by its political impacts." While Brazil is pursuing further trade liberalisation, it has gone on the offensive at the WTO to force other Member nations to open their markets. Currently Brazil has complaints against the EU and Turkey

to remove barriers to Brazilian exports while it is contemplating another complaint against the EU and one against Mexico. ICTSD Internal Files.

FRANCE DONATES 1 MILLION EUROS TO INCREASE TECHNICAL ASSISTANCE TO LDCs. On 2 October, the French Government made a voluntary contribution of 1 million euros to the Global Trust Fund for WTO Technical Assistance. According to French Minister of Trade Francois Huwart, "the French Government wanted to make an added effort to contribute to the financing of technical assistance activities organised by the WTO on behalf of developing countries to help them play their full role in the multilateral trading system." The donation will be made over the period 2000-2003. WTO Director-General Mike Moore praised France for the contribution, noting that, "the ordinary WTO budget for technical assistance, which amounts to only 741,000 Swiss francs, is insufficient." ICTSD Internal Files.

ON THE MOVE

On 14 November, Louise Sylvan was elected President of Consumers International (CI), a federation of 263 organisations working on consumer rights and protection issues around the world. Sylvan has worked extensively in the areas of consumer health, food issues, financial services and competition policy, and heads the 170,000 member Australian Consumers' Association. She was instrumental in the formulation of the 1999 OECD Guidelines on Electronic Commerce, and has served on the Australian Prime Minister's Economic Planning Advisory Council. Speaking at CI's 16th World Congress in Durban, South Africa last week, Sylvan said that consumer organisations "speak the language of the market and that is a language that governments hear. She believes that this is the edge that guarantees them a pivotal role among citizen groups in pushing for reforms to the WTO, World Bank, and other "supra-national economic institutions," where she says important decisions on consumer welfare are increasingly being made.

"Loise Sylvan Elected President of Consumers International," CONSUMER CONGRESS NEWS RELEASE, 14 November 2000.

EVENTS

For a more comprehensive list of events in trade and sustainable development, please refer to ICTSD's web calendar at: <http://www.ictsd.org/html/calendar.htm>.

ICTSD-Related Events

23 November, International Environment House, 13 chemin des Anemones, Geneva, Switzerland: MICRO-ORGANISMS, DEFINITIONS AND OPTIONS UNDER TRIPs. A discussion meeting with developing country delegates sponsored by Quaker

United Nations Office-Geneva and ICTSD. Drs. Mike Adcock and Margaret Llewelyn of the Sheffield Institute for Biotechnology Law and Ethics will make presentations and be available for discussion. For information contact: Brewster Grace, Representative, Quaker United Nations Office, Avenue du Mervelet 13, 1209 Geneva, Switzerland; tel: (41-22) 748-4800; fax: 748-4819; email: quno@mbox.unicc.org.

24 November, 10:00-11:00am, Room 2, International Environment House, 13 Ch. des Anémones, Châtelaine, Geneva, Switzerland: INFORMAL DIALOGUE ON THE PROGRESS OF THE WTO NEGOTIATIONS ON AGRICULTURE. Peruvian Ambassador Jorge Voto-Bernales, Chair of the Special Session of the WTO Committee on Agriculture, will give a brief presentation on the subject matter, after which the floor will turn to participants for an informal discussion from a sustainable development perspective. Please note that participants in ICTSD Café & Croissants meetings are invited in their personal capacity and that a non-attribution policy is applied. Given that there is limited seating, there is a need to RSVP to ICTSD your intention to participate by email to: ictsd@ictsd.ch or by fax at: (41-22) 917-8093.

Coming Up This Week

21 November, Washington, DC: US GOVERNMENT-NGO MEETING ON CARTAGENA PROTOCOL. The US Government will be meeting with NGOs to discuss the agenda and strategy for the upcoming Biosafety Protocol ICCP meeting in Montpellier, France on 11-15 December. For information contact: Amy Johnson; tel: (1-202) 647-1804 or Paul Phifer (1-202) 736-7428.

21-22 November, Addis Ababa, Ethiopia: ECA MEETINGS. The UN Economic Commission for Africa will conduct preliminary meetings in advance of the Financing for Development high-level meetings which will take place in 2001. The ministerial conference organised by the ECA, the African Development Bank and the UN Conference on Trade and Development will focus on development funding and globalisation. For information contact: Federica Pietracci, FfD Secretariat, United Nations; tel: (1-212) 963-1267; email: pietracci@un.org; Internet: <http://www.un.org/esa/analysis/ffd>.

23-24 November, Beirut, Lebanon: ESCWA MEETINGS. The Economic and Social Commission for Western Asia will conduct preliminary meetings in advance of the Financing for Development high level meetings. For information contact: Federica Pietracci, FfD Secretariat, United Nations; tel: (1-212) 963-1267; email: pietracci@un.org; Internet: <http://www.un.org/esa/analysis/ffd>.

24-26 November, Aotearoa, New Zealand: INTERNATIONAL STRATEGY CONFERENCE: PROTECTING GLOBAL FORESTS WITHIN A WORLD TRADE ENVIRONMENT. Hosted by the Native Forest Network and Native Forest Action. The conference will be strategy and network focused. Topics on the agenda include: WTO and trade agreements, tariff liberalisation, TRIPs, bio security and others. For information contact: Garrick Martin; tel: (64-0-3) 328-8852; email: garrick.martin@actrix.gen.nz; Internet: <http://www.nfa.org.nz/hui/index.html>.

25 November, Bentley Australia: N25 CONVENTION. The theme of the convention will be Globalisation: Trash or Treasure? -- Community Responses. The convention will focus on whether the Federal and State Governmental economic policies are adequately taking social and environmental impacts under consideration given the nature of global corporate control. For information contact: Brian Jenkins, tel: (61-8) 9246-3882; fax: 9246-4284; email: jenks@iinet.net.au.

28 November, Conference Room XXIII, Palais des Nations, Geneva, Switzerland: WORKSHOP ON TRADE IN PHARMACEUTICALS AND HUMAN RIGHTS. Organised by the UN Conference on Trade and Development (UNCTAD) and Rights and Humanity. The training session will consider the implications of TRIPs in the light of the work of UNCTAD. It will examine

control of price and access in the globalised market, of technology transfer and the development of national industrial capacity in a key sector, with a view to the right to the highest attainable standard of physical and mental health, and the right to development. Chair: Mr. Reinaldo Figueredo, Special Adviser to the Secretary-General of UNCTAD. For information contact: Hamish Jenkins, UN non-governmental liaison service (NGLS), Geneva, Switzerland; tel: (41-22) 917-2076; email: Hamish.Jenkins@unctad.org; Internet: <http://ngls.tad.ch/>.

28-29 November, Brussels, Belgium: FISHING IN THE DARK. The conference examines government subsidies in the fishing industry and attempts to give citizens greater access to information about them. For information contact: Karen Flanders, WWF; tel: (32-2) 743-8815; fax: 743-8819; email: kflanders@wwfnet.org; Internet: <http://www.fishing-in-the-dark.org>.

29-30 November, Washington, DC: USDA ADVISORY COMMITTEE MEETING: 3RD ACAB MEETING. Topics to be discussed include: USDA1a public seed breeding program, impacts of gene flow from transgenic crops to other plants, and biotechnology budget priorities for 2002. For information contact: Dr. Michael Schechtman, Designated Federal Official, Office of the Deputy Secretary, USDA, 202B Jamie L. Whitten Federal Building, 12th and Independence Avenue, SW, Washington DC 20250; tel: (1-202) 720-3817; 690-4265; email: mschechtman@ars.usda.gov; Internet: <http://www.usda.gov/agencies/biotech/>.

WTO Events

An updated list of forthcoming WTO meetings is posted at: http://www.wto.org/english/news_e/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 the different bodies. Unless otherwise indicated, all WTO meetings are held at the WTO, Centre William Rappard, rue de Lausanne 154, 1211 Geneva, Switzerland.

21 November, Geneva, Switzerland: WTO WORKING GROUP ON THE INTERACTION BETWEEN TRADE AND COMPETITION POLICY. For information contact: Hans-Peter Werner, WTO Information and Media Relations; tel: (41-22) 739-5286.

22 November, Geneva, Switzerland: WTO SPECIAL GENERAL COUNCIL. Members will discuss Appellate Body procedures for submission of non-party briefs. For information contact: Keith Rockwell, WTO Information and Media Relations; tel: (41-22) 739-5051.

27-30 November, Geneva, Switzerland: COUNCIL FOR TRADE-RELATED ASPECTS OF INTELLECTUAL PROPERTY RIGHTS (TRIPS). On the agenda: observer status for international intergovernmental organisations; review of national implementing legislation; technical cooperation; and review of the implementation of the agreement under article 71.1. For information contact: Peter Ungphakorn, Information and Media Relations Division; tel: (41-22) 739-5412.

Other Forthcoming Events

4-9 December, Johannesburg, South Africa: PERSISTENT ORGANIC POLLUTANTS INC-5. This is the fifth session of the Intergovernmental Negotiation Committee for an International Legally Binding Instrument for Implementing International Action on Certain Persistent Organic Pollutants. For information contact: UNEP Chemicals (IRPTC); tel: (41-22) 979-9111; fax: 797-

3460; email: dodgen@unep.ch; Internet: <http://irptc.unep.ch/pops/>. From IISD Linkages, <http://www.iisd.ca/linkages/journal>.

7-8 December, Geneva, Switzerland. ECE MEETINGS. The Economic Commission for Europe will conduct preliminary meetings in advance of the Financing for Development high level meetings which will take place in 2001. For information contact: Federica Pietracci, FFD Secretariat, United Nations; tel: (1-212) 963-1267; email: pietracci@un.org; Internet: <http://www.un.org/esa/analysis/ffd>.

11-15 December, Ouagadougou, Burkina Faso: 12TH MEETING OF THE PARTIES OF THE MONTREAL PROTOCOL. For information contact: the Ozone Secretariat; tel: (254) 262-1234; fax: 262-3601; email: ozoneinfo@unep.org; Internet: <http://www.unep.org/ozone/meet2000.htm>. From IISD Linkages, <http://www.iisd.ca/linkages/journal>.

11-22 December, Bonn, Germany: FOURTH SESSION OF THE CONFERENCE OF THE PARTIES TO THE CONVENTION TO COMBAT DESERTIFICATION: COP-4. For information contact: the CCD Secretariat, P.O. Box 260129, D-53153 Bonn, Germany; tel: (49-228) 815-2800; fax: 815-2899; email: secretariat@unccd.de; Internet: <http://www.unccd.de>. From IISD Linkages, <http://www.iisd.ca/linkages/journal>.

RESOURCES

If you have a relevant resource (books, papers, bulletins, etc.) you would like to see announced in this section, please forward a copy for review by the *BRIDGES* staff to hcameron@ictsd.ch. Submissions of publications to ICTSD's documentation centre would also be welcome (contact mgalvin@ictsd.ch).

CORPORATE ENVIRONMENTAL PERFORMANCE. Produced for Management Today by Market Tracking International. The two-volume report gives detailed results from a new survey on corporate environmental performance, data indicating that financial institutions do not understand environmental risk, advice and future trends in environmental reporting. To obtain a copy contact: Adrian Wistreich, MIT, 7 Archway Business Centre, Wedmore Street, London N19 4RU; tel: (44-17) 1263-1365; fax: 1272-8525; Internet: <http://www.managementreports.haynet.com>.

"Tobin and other Global Taxes." By Howard Wachtel in REVIEW OF INTERNATIONAL POLITICAL ECONOMY, vol. 7, no. 2, 2000. As capital's tax share continues to decline and labour's continues to rise, the author argues for three new tax schemes to address the problem of different mobility: the Tobin Tax on financial transactions, a tax on foreign direct investment experience rated to core labour standards, and a unitary tax which redefines profits in a tax jurisdiction.

"Essential drugs in Southern Africa need protection from public health safeguards under TRIPs." By Rene Loewenson in *BRIDGES BETWEEN TRADE AND SUSTAINABLE DEVELOPMENT*, 2000, vol. 4, no. 7, pp. 3-4, 8. The article investigates the consequences of the WTO TRIPs Agreement on drug access for Southern African Development Community countries. It outlines the key content of the essential drug policies needed to manage the public health problems in the region, and explores the impact of the TRIPs Agreement on these policies.

"Whither The Washington Consensus." By Howard Wachtel in INTERNATIONALE POLITIK UND GESELLSCHAFT, 2000. In the paper, the author argues that the free trade argument directly and concretely challenges the sovereignty of countries, their authority to regulate borders, evoking a confrontation between nation states and markets, where the market position is represented by the Washington Consensus. The manifest clash between the Washington Consensus and its doubters has occurred in the WTO.

TRADE AGREEMENTS, PETROLEUM AND ENERGY POLICIES. Published by UN Conference on Trade and Development (UNCTAD), 2000. The publication analyses the interface between energy policies and trade agreements. It addresses the wishes of petroleum producing developing countries to use their natural energy resources effectively in order to promote development and competitiveness in the face of globalisation. For information contact: United Nations Publications, Sales and Marketing Section, Room C 115, Palais des Nations, 1211 Geneva 10, Switzerland; tel: (41-22) 917-2613; fax: 917-0027; Internet: <http://www.unctad.org/en/pub/orderfrm.htm>.

POSITION VACANCY

The Overseas Development Institute in London and the European Centre for Development Policy Management (ECDPM) in Maastricht are looking to appoint a joint research fellow in international trade to work on European trade policy towards developing countries, in particular the ACP. Responsibilities include: analysis of developing countries' trade policies, capacity building in developing countries for research and policy-making, and evaluation of European aid. For information contact: Sheila Page, Overseas Development Institute, 11 Westminster Bridge Rd, London SE1 7JD; tel: (44-20) 7922-0300; fax: 7922-0399; email: recruitment@odi.org.uk; Internet: <http://www.odi.org.uk>.

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