



INTERNATIONAL CENTRE FOR  
TRADE AND SUSTAINABLE  
DEVELOPMENT

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### LEAD STORIES

#### WTO MEMBERS STILL BATTLING OVER TRIPS AND HEALTH

As BRIDGES Weekly went to press, negotiations were still going on in the WTO Council for Trade-related Aspects of Intellectual Property Rights (TRIPs) over paragraph 6 of the Doha Declaration on the TRIPs Agreement and Public Health. While most WTO Members had expressed their willingness to approve the Chair's most recent draft Decision, released on 16 December, on the condition that it was not re-opened, the US rejected the draft, disagreeing in particular with the disease coverage.

According to paragraph 6 of the Doha Declaration on the TRIPs Agreement and Public Health, the TRIPs Council must find an expeditious solution by the end of 2002 to the problems countries may face in making use of compulsory licensing (i.e. allowing the use of a patent without the consent of the patent-holder under certain conditions) if they have insufficient or no pharmaceutical manufacturing capacity. The perceived need to address this issue arose from concerns related to Art. 31(f) of the TRIPs Agreement, which requires that production under compulsory licensing must be primarily for the supply of the domestic market.

#### US pushing for restricted disease coverage

The 16 December draft Decision retains the disease coverage of previous drafts, referring to paragraph 1 of the TRIPs and Health Declaration, i.e. "public health problems afflicting many developing and least-developed countries, especially those resulting from HIV/AIDS, tuberculosis, malaria and other epidemics". The draft also covers active ingredients used in the manufacture of medicines as well as diagnostic kits needed for their use, as proposed in particular by the Africa Group. The US, however, is fighting hard to restrict disease coverage to HIV/AIDS, malaria, tuberculosis and similar infectious diseases, arguing that the current scope of the decision could fundamentally undermine patent rights for a broad array of pharmaceutical products. While Switzerland, traditionally a supporter of the US position on this issue,

described the text as an "improvement", they believe that Members can still find a solution on disease coverage that would suit everyone.

### Other outstanding issues

Most countries, including the US, appear willing to accept the Chair's proposal regarding the other five outstanding issues that the Chair had previously identified (see BRIDGES Weekly, 12 December 2002; <http://www.ictsd.org/weekly/02-12-12/story2.htm>).

Regarding eligibility of importing and exporting countries, references to "developed countries not in transition" have been removed, thereby responding to concerns by Members from economies in transition and high-income developing countries that had objected to the inclusion of any categories of countries that were not officially recognised by the WTO. Instead, the draft Decision now includes a list of countries -- i.e. the US, New Zealand, Australia, Switzerland and EU member states -- that have signalled their willingness to not use the system. The decision also notes that other Members have said that, if they used the system, "it would be in no more than situations of national emergency or other circumstances of extreme urgency".

With respect to the legal mechanism for the solution, the waiver-plus-amendment solution remains unchanged. Work on the preparation of such an amendment would start by the end of 2003 with a view to its adoption within six months.

Similarly, requirements for Members to implement measures to prevent flow-back of generic medicines into developed country markets remain largely unchanged. In response to developing country concerns that such measures could be too burdensome, the most recent draft includes references to technical and financial cooperation by developed country Members to those importing countries experiencing difficulty in implementing these measures.

The paragraph addressing the African Group's request that "domestic market" in 31(f) should also refer to customs unions or free trade areas has been completely reformulated. Thus, the draft Decision allows for the "domestic market" requirement in Article 31(f) to be waived for regional trade agreements (RTA), it sets out clearly which RTAs this rule would apply to, including a requirement that at least half of the membership of the RTA is made up of least-developed countries.

### Recent developments

The informal TRIPs Council was reconvened at 10 am on 20 December, but was suspended almost immediately to allow for further informal consultations. During the morning's brief meeting, Korea had presented a proposal to include 15 diseases in the paragraph 6 solution. The informal TRIPs Council was reconvened at 5 pm for further negotiations ahead of the General Council meeting. The 5 pm meeting was again rescheduled for 8 pm, to be followed by the General Council. 20 December is the last working day of the WTO.

The draft Decision is available at [http://www.ictsd.org/ministerial/cancun/docs/TRIPs\\_para6\\_16-12-02.pdf](http://www.ictsd.org/ministerial/cancun/docs/TRIPs_para6_16-12-02.pdf)

BRIDGES Weekly will follow up on this report in future editions.

ICTSD reporting.

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### TRADE AND DEVELOPMENT COMMITTEE UNABLE TO BRIDGE GAPS ON S&D

After numerous sessions held between 12 and 20 December -- including a marathon session on 19 December with Heads of Delegation -- Members at the Special Session of the WTO's Committee on Trade and Development (CTD) were unable to bridge the gaps that remained on the mandate to strengthen special and differential treatment provisions (S&D).

After a short discussion in the morning of 20 December, Members agreed that Chair Ransford Smith (Jamaica) would provide a factual interim report to the General Council on the current state of affairs. The Chair's report, according to one trade official, concluded that Members simply could not agree. At time of press, no further detail on how this matter would be followed up with in 2003 was available.

### Developments over the past week

The discussions on S&D over the last week were split into two thematic groups. The first focussed on coming up with a first basket of decisions for immediate action. In this regard, Chair Smith prepared on his own responsibility 22 potential recommendations for agreement-specific proposals on 11 December (see BRIDGES Weekly, 12 December, <http://www.ictsd.org/weekly/02-12-12/story3.htm>). The second thematic group dealt with how, and on what time frame, to proceed with the remaining issues.

## Agreement-specific proposals

Delegates discussed the Chair's draft 'proposed recommendations for decisions in relation to certain agreement-specific proposals' (available at [http://www.ictsd.org/ministerial/cancun/docs/possible\\_S&D\\_decisions\\_agreement-specific\\_11-12-02.pdf](http://www.ictsd.org/ministerial/cancun/docs/possible_S&D_decisions_agreement-specific_11-12-02.pdf)) on 12 December. While Members did not accept the draft as it stood, most were willing to continue working on the basis of its contents. However, one developing country trade expert commented that the 22 areas were procedurally heavy and substantively light, providing possible procedures for resolving the difficulties in using special and differential treatment provisions, but providing no solutions in themselves. Another observer noted that much of the language was non-mandatory, and -- echoed by a number of other developing country delegates -- cautioned that non-mandatory language had been the source of many of the problems the current exercise was trying to address. The delegates made it clear that if a decision of this nature were to go forward (i.e. an initial basket of proposals for immediate agreement), a detailed roadmap of future work on the remaining proposals would have to be included.

After further consultations on 13 December, a revised version of the 22 proposals was made available that evening. One trade source reported that the changes were mainly editorial in nature and there were no additions or deletions.

## Finding a path to proceed

On the second theme of recent discussion, focusing on the way to proceed -- predicated on the success of agreeing to an initial basket of items for immediate decision -- Chair Smith released on 18 December a replacement for section VII of the draft report to the General Council (the first draft, TN/CTD/W/25, is available at <http://docsonline.wto.org>).

This revised section VII outlined the following procedures and timelines. The allocation of the remaining proposals into two additional baskets would be decided upon by 31 January. While all proposals would remain under the "oversight" of the CTD Special Session, only the first basket of agreement-specific proposals would remain under its purview for further consideration. This basket of items, those that could be amenable to solutions in the short-term, would face a deadline of reporting to the General Council with recommendations for a decision by 30 April 2003. On the other agreement-specific proposals, those on which the Special Session "could benefit" from ongoing discussions in other bodies (either because similar discussions were already underway or because decisions could not be taken in isolation of other negotiations), the Special Session would face a

deadline of reporting to the General Council with recommendations for a decision by 31 July 2003 -- a full year beyond the original mandate for this review. These bodies would be instructed to give priority to the referred proposals and "requested" to provide regular written reports to the Special Session.

This draft also envisaged putting work on the cross-cutting issues on a parallel path, with a separate report being due to the General Council by 31 July 2003. As for the Monitoring Mechanism to monitor S&D provisions, the language did not change from the first draft, i.e. that the General Council would decide on the timing of the entry into force of the Mechanism, only after the special session had made recommendations on its "functions, structure, and terms of reference".

## At the final stretch, no consensus could be found

After meeting until 10 pm on 19 December, Members were still unable to agree on either of the two tracks. On agreement-specific proposals, only four out of the 22 on the Chair's list seemed acceptable to everyone. On the way forward, Members could not agree on future deadlines or the procedure on which to handle the remaining proposals. In particular, one developing country delegate noted that having the cross-cutting issues in a report of its own was completely unacceptable. India and Kenya were reported to be unwilling to see the exercise go beyond February.

## A last day of talks

The Special Session met again formally on the morning of 20 December to see if a last-minute deal could be worked out before the resumption of the final General Council session of the year (see BRIDGES Weekly, 12 December, <http://www.ictsd.org/weekly/02-12-12/story1.htm>). After a short discussion, Members agreed that the Chair Smith would go ahead and make a factual interim report to the General Council on the state of S&D discussions. This report would, noted one trade source, indicate that Members could have potentially agreed on four of the agreement-specific proposals (out of 85-plus), being modified versions of items included in Smith's original 22 proposals. Two of these were allegedly related to the General Agreement on Trade in Services (GATS), a third on the Agreement on Trade-related Aspects of Intellectual Property Rights (TRIPs) (regarding technical and financial assistance), and a fourth on the Enabling Clause (which stipulates, *inter alia*, that S&D should not be applied in a way that raises barriers or creates difficulties for other developing countries). On the way forward, the report would say that there was no agreement amongst Members and would conclude by requesting more time.

At time of press, no further details were available on the report that was made to the General Council on the afternoon of 20 December. One South Asian delegate did note however that the results were "extremely disappointing", while another observer closely following the issue commented that this deadlock, combined with the lack of progress on TRIPs & Public Health (see related article, this issue) and the lack of movement on implementation issues (see BRIDGES Weekly, 12 December, <http://www.ictsd.org/weekly/02-12-12/story1.htm>) seriously call into question the sincerity of the alleged Doha "Development" Agenda.

BRIDGES Weekly will follow up on this report in future editions.

ICTSD reporting.

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## **WTO: HARBINSON CIRCULATES 'OVERVIEW PAPER', EU PRESENTS NEW AG PROPOSAL**

On 18 December, Stuart Harbinson, Chair of the negotiating session of the Committee on Agriculture (CoA), circulated a long-awaited 'overview paper' that outlines the current status of negotiations on establishing numeric targets, formulas and other 'modalities' for countries' commitments by 31 March 2003. The paper was released in accordance with the agreed timeline. In his general observations, included in the 89- page compendium, Harbinson pointed to "substantial progress" on some issues such as tariff quota administration and export credits. He however went on to list six key points relating to outstanding issues, including: significant differences in interpreting the Doha mandate; developing countries' split on special and differential treatment (S&D); and the role of non-trade-concerns (NTCs). The 'overview paper' was released only two days after the EU submitted its modalities proposal for the agriculture negotiations.

### **Major "flexibilities on all sides" said to be imperative**

The 'overview paper' contains a 12-page narrative section that includes the Chair's comments and a summary of the main negotiation issues in the three areas of market access, export competition and domestic support. In addition, Harbinson added a section on least-developed countries (LDCs), which states that there is "significant support" among Members for excluding LDCs from any reduction commitments in the three areas. The 'overview paper' also includes a 77-page annex listing options Members have suggested for addressing the many modalities parameters.

"This paper should signal the start of a new phase in the negotiations" where participants "need to move beyond the restatement of well-know national positions," Chair Harbinson pointed out to Members. Moreover, he urged countries to immediately focus on the many outstanding issues and questions highlighted in the paper, "not simply...identifying the option which corresponds to their position but to think creatively about avenues for convergence." Apparently in an effort to push Members to start striking real deals on the various issues, he reminded trading partners that agreeing on the modalities would not mark the end of the agriculture negotiations and that "there will be time thereafter to address matters not directly required for the purpose of establishing draft schedules of further commitments." Above all, Harbinson stressed, "the ground rule will continue to be that nothing is agreed until everything is agreed," not least because of the interlinkages between the three negotiation pillars relating to market access, export competition and domestic support themselves, and with the negotiations under the Doha Development Agenda as a whole.

### **New EU proposal draft dismissed by Cairns, US**

The EU's key trading partners had been putting noticeable pressure for some time on the EC to provide its modalities proposal setting out clear numbers and targets for the current phase of the agriculture negotiations. The Commission introduced its new negotiating position to EU Members States only two days ahead of the release of Harbinson's 'overview paper'. Due to its late release, the paper was neither adopted by EU Member States at the 16-19 December EU Agriculture and Fisheries Council nor included in Harbinson's paper.

The key elements of the Commission paper are proposals to: slash WTO Members' import tariffs by 36 percent; reduce Amber Box subsidies (i.e. trade distorting support) by 55 percent; and cut export subsidies by 45 percent, eventually eliminating export subsidies on products such as wheat, oilseeds, olive oil and tobacco. The proposal also contains certain measures to benefit developing country Members. These include providing full market access to imports from LDCs and richer countries providing zero-duty market access to at least 50 percent of their imports from developing countries. The proposal also contains a "food security box" including a special agricultural safeguard and additional flexibilities granted to developing countries to pursue food security and rural development objectives. Moreover, the Commission reiterated its previous suggestions to address contentious issues such as food labelling, the precautionary principle, animal welfare and the extension of the additional protection for geographical indications (GI) to products other than wines and spirits



directly through the agriculture negotiations (BRIDGES Weekly, 25 September 2002, <http://www.ictsd.org/weekly/02-09-25/story1.htm>).

In its preliminary comments, the 17-member Cairns Group of agriculture exporting nations criticised the European proposal for contravening the Doha mandate which called for the "reductions of, with a view to phasing out" all forms of export subsidies. The Group also stated that the proposal failed to make a suggestion on how to dismantle the so-called Blue Box covering partly decoupled government payments under production-limiting programmes. Australian Trade Minister Mark Vaile remarked that the Commission's tariff reduction proposal provided "too little and too late". The US was quick to lash out at the Commission position. A US government official stated that "you would hope that our European friends would match the ambition of the US proposal" (see BRIDGES Weekly, <http://www.ictsd.org/weekly/02-08-06/story5.htm>). "At least in an initial impression, it does not do that," he added.

A Latin American Cairns official particularly criticised the proposal to eliminate export subsidies on certain products of export interest to developing countries. "What they are trying to do is pit developing country exporters of wheat and oilseeds against exporters of sugar, dairy and beef," he said. The latter three sectors were also the main recipients of EU export refunds and had influential lobby groups trying to retain this support, he added. As regards the EU proposal that developed countries should ensure "zero-duty access for developing countries' exports of agricultural products on no less than 50 percent of their imports from developing countries," trade experts cautioned that one needed to ask for more detail on this to be in a position to evaluate whether this EU offer would really be to the benefit of all developing countries or only to some. Nevertheless, a Cairns representative indicated that the EU's proposal on Amber Box subsidy cuts was "more than we expected".

#### **EU Members still to discuss Commission paper**

According to observers in Brussels, the Commission's proposal has generally been received positively by EU Members States. Noting that certain minor amendments in the various individual proposals could be expected, it was felt that the Commission's position would be adopted by EU Members States in all of its substantive elements prior to the forthcoming negotiating session of the WTO CoA in late January.

The WTO overview paper can be viewed at: [http://www.wto.org/english/tratop\\_e/agric\\_e/negoti\\_mod\\_overview\\_e.htm](http://www.wto.org/english/tratop_e/agric_e/negoti_mod_overview_e.htm).

The Commission's proposal is available at [http://www.ictsd.org/ministerial/cancun/docs/EU\\_%20Ag\\_Proposal\\_16-12-02.pdf](http://www.ictsd.org/ministerial/cancun/docs/EU_%20Ag_Proposal_16-12-02.pdf)

The recent EU press release on the new Commission paper is posted at [http://europa.eu.int/rapid/start/cgi/guesten.ksh?p\\_action.gettxt=gt&doc=IP/02/1892|0|RAPID&lg=EN&display=](http://europa.eu.int/rapid/start/cgi/guesten.ksh?p_action.gettxt=gt&doc=IP/02/1892|0|RAPID&lg=EN&display=).

EU Director-General for Agriculture Franz Fischler's speech at a 16 December press conference can be viewed at [http://europa.eu.int/comm/agriculture/external/wto/index\\_en.htm](http://europa.eu.int/comm/agriculture/external/wto/index_en.htm).

ICTSD reporting; "Agriculture: Cairns Group Countries Blast European Union's Agriculture Proposal," WTO REPORTER, 19 December 2002; "Australia Dismisses EU Farm Proposal," AFP, 18 December 2002; "EU Fails To Impress With 'Tepid' Trade Subsidy Reforms," DOW JONES, 17 December 2002; "WTO And Agriculture: European Commission Proposes More Market Opening, Less Trade Distorting Support And A Radically Better Deal For Developing Countries," EU PRESS RELEASE, 16 December 2002.

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## **OTHER NEWS**

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### **EU FISHERIES TALKS MARKED BY SHARP DISAGREEMENT**

EU fisheries ministers, scheduled to complete talks on fishing quotas on Thursday, 19 December, struggled in drawn-out meetings to find a compromise deal. While scientists warn that cod and other key species are on the verge of becoming extinct and should be protected, fishermen and nations with significant fishing fleets are fighting to save jobs and safeguard coastal economies and communities. The talks, which address both reform of the EU Common Fisheries Policy (CPF), recovery plans for fish stocks and 2003 fishing quotas, have been described as deadlocked. If the 15 EU fisheries ministers do not reach agreement on Friday, 20 December -- an unscheduled extra day following the 16-19 December Agriculture and Fisheries Council -- the European Commission may impose emergency regulations for several months until the issue would be taken up at the EU Council of Ministers meeting in March. Ministers have also tentatively scheduled discussions for 8 February 2002.

The European Commission proposal under discussion does not involve the closure of North Sea fisheries, but rather 80% cuts in quotas for cod, haddock and whiting, and 40% cuts for plaice and sole. The proposal would also involve taking more than 8,000 trawlers out of operation with EU aid while other vessels' days at sea would be limited. In cases such as cod, this could mean just seven days of permitted fishing every month. An estimated 28,000 jobs would be lost under the plan. The Commission proposal also focuses on tightened controls to tackle problems such as falsified reporting and operation in prohibited areas. Spain, France and other countries with large fleets are strongly opposed to the planned cutbacks. British and French fishermen have held demonstrations and blockaded ports in protest.

### **Collapse of the Canadian Cod Fishery**

The European Commission proposal is based on advice from the International Council for the Exploration of the Sea, that recommended a full fishing ban in order to preserve fish stocks for the future. Cods are now at their lowest ever levels due to years of over-fishing in the European fishing grounds. The collapse of the Canadian cod fishery outside Newfoundland provides a warning of what may happen if drastic action is not taken. Ten years ago, cod reached commercial extinction, and despite a ten-year moratorium on fishing, the cod has not returned. The fishing communities in the area have been devastated.

"EU agonises on fish quotas to save cod and jobs," REUTERS, 19 December 2002; "Extra day to rescue EU cod talks," BBC ONLINE, 20 December 2002; "EU ministers embark on all-night fish quota debate," REUTERS, 20 December 2002.

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## **WTO WORKING GROUP DISCUSSES COHERENCE WITH IMF AND WORLD BANK**

Meeting in Geneva on 17 December, the Working Group on Trade, Debt and Finance focussed on the issue of coherence between the multilateral trading system and international financial institutions such as the World Bank and the IMF. Participants considered a background paper entitled "Toward greater coherence", prepared by the Secretariat. The paper outlines prospective areas of coherence including: investment, government procurement, competition policy, good governance and business environment.

### **Secretariat's paper draws criticism**

The paper (WT/WGTDF/W/17) was not well received among some developing countries. Brazil, for one, was dissatisfied because the paper did not mention the issue of credit for autonomous liberalization in the services negotiations. Autonomous liberalization has usually been recommended or mandated by the IMF and World Bank when granting structural loans, and has also been mandated in the GATS. Brazil saw the omission of autonomous liberalisation in the Secretariat paper as symptomatic of the lack of coherence with the Bretton Woods institutions.

Korea cited an example of incoherence regarding IMF supported adjustments in its financial sector, now challenged by the EU under the WTO as being an actionable subsidy. Other countries, such as Pakistan and Japan, cautioned that the Working Group already had a number of issues on its agenda and should not be creating new ones. The EU reportedly was supportive of the Secretariat paper, which some observers said had many similarities with an earlier EU paper presented to the group.

### **Initiatives by the African Group, Cuba**

An African Group proposal (WT/WGTDF/W/16) was due to be discussed in the meeting, however all African delegates were absent because of the discussions on TRIPS and Health. In its paper, the African Group calls for meaningful market access for products of interest, financial support for addressing trade supply concerns and policies to reduce price risks on commodities and currency exchange risks. It presents specific recommendations to the fifth Ministerial Conference, including requesting the Working Group to: review existing relevant WTO Agreements to address financial instability and external indebtedness; identify ways and means of contributing to the diversification of value-added exports; serve as the WTO body tasked with the monitoring of the implementation of the outcome of Monterey Summit; and provide for the exchange of experience on the impact of capital account liberalization on exchange rates and competitiveness.

Cuba presented a paper at the meeting (WT/WGTDF/W/18), which identifies the following main concerns for developing countries regarding trade and finance: exchange rate fluctuation; lack of financial sources for trade expansion; adjustment problems in the balance of payments; and a lack of links between the macro-economic policies promoted by IMF and trade policies. Regarding trade and debt, Cuba indicated the necessity of an integrated approach that would address limitations with regard developed country market access, as well as the need to retain some tariff protection for developing infant industries.

The submission also noted the need to create mechanisms to deal with debt renegotiation processes. The paper proposes that the Working Group continue its activities from a multidimensional perspective, seeking to, inter alia, identify solutions for export diversification, obtaining market access based on special and differential treatment, and introducing a monitoring mechanism for commitments to finance development such as those made at the Financing for Development summit.

Chair Hernando José Gómez presented his summary of the discussion, noting with regard to trade and finance that participants had stressed the value of keeping markets open world-wide in periods of financial crisis, and the need to improve the stability and security of sources of trade-financing. On trade and debts, he noted that non-discriminatory reduction of trade barriers in the context of the current WTO negotiations, could make a significant contribution to a durable solution for external indebtedness, especially for developing country exports. He also stated that trade policy reform in indebted countries has to be supported by pro-growth policies.

### Background

The Working Group was established at the Doha Ministerial Conference in November 2001, with the mandate to examine the relationship between trade, debt and finance in the WTO, because developing country Members in particular noted the need for greater coherence in global economic policy-making. The group has met three times previously this year, on 15 April, 11-12 July, and 30 September, with Ambassador Hernando José Gómez of Colombia serving as Chair. The work focused on the relationship between trade and finance and the relationship between trade and debt, and relevant institutions, including the Bretton Woods institutions and the UN regional economic commissions made presentations on these issues. The Working Group is due to report on its progress at the fifth Ministerial Conference in September 2003.

Working Groups documents are searchable at <http://docsonline.wto.org>.

ICTSD reporting.

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## IN BRIEF

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### EU APPROVES FARM ANIMAL HORMONE BAN

EU Ministers, meeting for the Agriculture and Fisheries Council on 16- 19 December, reached political agreement on the Commission's proposal related to the ban of hormones as growth promoters for farm animals. The proposal aims to amend Directive 96/22/EC, thereby making the current temporary legislative ban permanent. The European Parliament, which will vote on the proposal by mid-2003, is expected to back the ban. The US National Cattlemen's Beef Association strongly criticised the Council's decision, accusing the EU of flaunting WTO rules. In 1998, the WTO had ruled in favour of the US and Canada that the first Commission ban, instituted in 1989, was not justified on scientific grounds and had allowed the US to impose sanctions worth USD 116.8 on EU exports. The Commission is hoping that the scientific advice on health risks of hormone-treated beef underlying the adopted proposal would convince the WTO that the EU ban was scientifically justified rather than constituting a trade barrier. The Agriculture and Fisheries Council also discussed fishing quotas and the EU's negotiating stance in the current agriculture talks at the WTO (see related stories, this issue).

"US impatient with EU ban on GMOs, beef hormones," REUTERS, 18 December 2002; "Ministers' no to hormones," BLOOMBERG, 18 December 2002.

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### BASEL COP AGREES ON STRATEGIC PLAN, ADOPTS COMPLIANCE MECHANISM

At the sixth meeting of the Conference of the Parties (COP-6) to the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal, delegates adopted a ten-year Strategic Plan and agreed on a compliance mechanism. They made headway on issues such as Basel Convention Regional Centres and new institutional arrangements, and adopted technical guidelines on the environmentally sound management of biomedical and healthcare wastes, plastic wastes, waste lead-acid batteries, and the dismantling of ships. Meeting from 9-14 December in Geneva, Switzerland, the COP agreed on the budget for 2003-2005, following drawn-out negotiations. The COP saw the launch of a partnership initiative with mobile phone manufacturers, addressing the recovery of end-of-life mobile telephones using a life-cycle approach. Delegates further considered

cooperation with relevant international bodies. They adopted a decision that requests the Basel Convention apply for observer status and to attend the Committee on Trade and Environment special negotiation session meetings. According to the decision, the Secretariat is to consult with Parties when providing general advice to the WTO, while a deeper interpretation of trade-related convention provisions is deferred to the COP. However, at the close of the meeting some observers pointed to a lack of steam in the process, noting that only 90 out of 152 Parties were present at the COP. They stressed that a 1995 legally-binding amendment prohibiting trade in hazardous waste from OECD to non-OECD countries has yet to enter into force, and questioned whether the convention process is on track to reach broader goals such as hazardous waste minimization. For further information on the meeting see IISD's Earth Negotiations Bulletin: <http://www.iisd.ca/linkages/basel/cop6/>.

"Leading Manufacturers And Basel Convention To Cooperate On The Environmentally Sound Management Of End-of-life Mobile Phones," UNEP PRESS RELEASE, 12 December 2002.

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### **WIPO COMMITTEE CONTINUES DISCUSSIONS ON LEGAL PROTECTION FOR TK**

Extensive discussions continued at the fourth meeting of the WIPO (World Intellectual Property Organization) Intergovernmental Committee (IGC) on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore on 9-17 December on possible ways of providing legal protection for traditional knowledge (TK) and folklore, including through the use of databases, a multilateral sui generis system and disclosure requirements for country of origin, benefit sharing and prior informed consent in patent application. Participants also considered coordination with other WIPO bodies such as the Standing Committee on the Law of Patents as well as forums outside WIPO, and the need to fund indigenous representatives to allow them to participate in IGC meetings. As one observer noted, the discussions at the meeting seemed less "lively" than before, adding that the Committee "almost seemed to be running out of steam". The observer speculated that this could be a sign that countries might need more time to consider their positions on the kind of system for TK protection that would be appropriate for them. Others believe that it is time to change the group's mandate from study to negotiations mode, arguing that they are unwilling to spend more efforts on a process that had no mandate to advance toward adequate solutions on the

relationship between intellectual property rights and genetic resources and the protection of TK and folklore.

For the full story, see BRIDGES Trade Biores, 20 December 2002; <http://www.ictsd.org/biores/02-12-20/story1.htm>.

Documents of the meeting are available at [http://www.wipo.org/documents/en/meetings/2002/igc/index\\_4.htm](http://www.wipo.org/documents/en/meetings/2002/igc/index_4.htm).

ICTSD reporting.

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## **WTO IN BRIEF**

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### **US DSU PROPOSAL RECEIVES MIXED REACTIONS**

At a 16-18 December negotiating session of the WTO Dispute Settlement Body (DSB), the US and Chile submitted a joint proposal aimed at providing parties to a WTO dispute with more flexibility and control over the process. The proposal would allow members more control of the content of Appellate Body (AB) reports as well as the course of the dispute settlement proceedings. Trading partners Malaysia and India expressed their support for the US position. However, Brazil, Canada, the EU, Korea and Switzerland criticised the US's proposal, cautioning that it would undermine the independence of the AB, transform the WTO dispute settlement system from litigation towards bilateral settlements, and subvert the predictability and security of the multilateral trading system. The US-Chilean paper sets out six options for improving the rules of the WTO Dispute Settlement Understanding (DSU), including: introducing confidential interim reports to be circulated by the AB to parties prior to issuing the final report; allowing parties to "delete by mutual agreement findings in the report that are not helpful or necessary to resolving the dispute"; allowing the DSB to only partially adopt a report; providing parties with a right to suspend panel or AB proceedings for further negotiations; and providing "some form of additional guidance to WTO judicative bodies" concerning the application and interpretation of WTO law.

Sources commented that the new US stance -- which partly contradicts its earlier standpoint on dispute settlement -- results from a recent US Congress drive for change. In the words of US Senate Finance Committee Chair Max Baucus (D-Mont.), WTO panels are "making up rules that the US never negotiated, that Congress never approved, and I suspect, that



Congress would never approve." Intra-US criticism had e.g. been sparked by a WTO ruling against the US in the foreign sales corporation (FCS) case with the EU (BRIDGES Weekly, 13 September 2002, <http://www.ictsd.org/weekly/02-09-13/story2.htm>) allowing the latter to impose trade sanctions to the amount of some US\$ 4 billion per year on US imports. Members are currently negotiating on the clarification of the DSU, with a 31 May 2003 deadline (Doha Declaration paragraph 30).

"Dispute Settlement: US Proposal On Dispute Settlement Reform Gets Mixed Reaction from WTO Delegations," WTO REPORTER, 20 December 2002; "Dispute Settlement: US, Chile Unveil Proposal For Increasing 'Member Control' Of WTO Dispute Procedures," WTO REPORTER, 17 December 2002.

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### **RUSSIAN WTO MEMBERSHIP NEGOTIATIONS PICK UP SPEED**

WTO Members and Russia have agreed on a new, accelerated schedule for Russia's WTO accession negotiations. A number of meetings will be held during the first quarter of 2003, prompting some observers to speculate on whether Russia might become a member by the fifth Ministerial Conference to be held in Cancun, Mexico in September 2003. Russian finance minister Aleksei Kudrin's participation in the WTO working party on the accession of Russia, which met from 16-18 December, indicated that Russia's seriousness about accelerating the negotiations. The main stumbling blocks on the way relate to agriculture and services, and to the requisite termination of more than 50 bilateral trading agreements with current WTO Members.

"Russia, WTO Members Agree On Accelerated Schedule of Negotiations," WTO REPORTER, 19 December 2002.

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## **EVENTS & RESOURCES**

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### **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/cal/index.htm>. If you would like to submit an event, please email [events@ictsd.ch](mailto:events@ictsd.ch).

### **Coming Up In January 2003**

2-7 January, Hyderabad, India: ASIAN SOCIAL FORUM. The main themes of the forum are the following: Peace and Security; Debt, Development and Trade; Nation State, Democracy and Exclusions; Ecology, Culture and Knowledge; Social Infrastructure, Planning and Cooperation; and Alternatives and Peoples Movements. The events that are envisaged over a period of 6 days are: 2 public/ plenary sessions; 2 conferences daily (total 6-8); 25 parallel seminars daily (total 50-100); Up to 50 workshops daily (total 100-200); Testimonials, and open "spaces" for mass movements; A Youth Camp; Cultural Events; and a Film Festival. For further information on this conference, visit <http://www.wsfindia.org>.

9-12 January, Chennai, India: INTERDISCIPLINARY DIALOGUE ON "LEGACY OF WATSON AND CRICK: BIOTECHNOLOGY FOR FOOD, HEALTH, NUTRITION AND WATER SECURITY". Organised by Swaminathan Research Foundation. For further information, contact: Dr. Ajay Parida, Swaminathan Research Foundation, tel:(91 44) 2541 220 / 254 1698; fax: 254 1319, email: [ajay@mssrf.res.in](mailto:ajay@mssrf.res.in).

10 January, Paris, France: EUROPEAN SEMINAR ON FINANCE, ENVIRONMENT AND SUSTAINABLE DEVELOPMENT. This event is intended to highlight the issues addressed during the World Summit for Sustainable Development (WSSD) in Johannesburg. Financial leaders will debate around issues of fundamental importance to capital markets and the financial services community. The seminar will introduce innovative tools and techniques for enhanced risk management and assessment of emerging commercial opportunities linked to sustainability. For further information on this seminar, contact Kiki Lawal at UNEP Financial Initiatives, email: [kiki.lawal@unep.ch](mailto:kiki.lawal@unep.ch) or visit: <http://unepfi.net/SocGen/index.htm>.

13-15 January, Leuven, Belgium: SYMPOSIUM ON HISTORY AND FOREST BIODIVERSITY: CHALLENGE FOR CONSERVATION. Organised by International Union of Forest Research Organization. For further information, contact the IUFRO, tel: (43 1) 877 01 51 0; fax: 877 01 51 50; email: [iufro@forvie.ac.at](mailto:iufro@forvie.ac.at). Internet: <http://iufro.boku.ac.at/iufro>

13-17 January, Bangkok, Thailand: TECHNICAL CONSULTATION ON BIOLOGICAL RISK MANAGEMENT IN FOOD AND AGRICULTURE. Organised by UUN FAO. For further information, contact: Ms. Ezzeddine Boutrif, FAO Food Quality and Standards Service, tel: (39 6) 5705 6156; fax: 57054593; email: [ezzeddine.boutrif@fao.org](mailto:ezzeddine.boutrif@fao.org); Internet: <http://www.fao.org>

23-28 January, Davos, Switzerland: WORLD ECONOMIC FORUM ANNUAL MEETING. The theme of the next meeting of the World Economic Forum is "Building Trust". During the Annual Meeting, civil society organizations - including church, non-governmental and non-profit organizations - will hold discussions for the general public. These events will be held in conjunction with the Forum under the heading "Open Forum Davos 2003" and will be held in the assembly hall of the Schweizerische Alpenen Mittelschule secondary school on Guggerbachstrasse 72 in Davos. Entry will be free of charge. For information contact: World Economic Forum, 91-93 route de la Capite, CH - 1223 Cologny/Geneva; tel: +41-22 869 12 12; fax: +41 22 786 27 44 email: [contact@weforum.org](mailto:contact@weforum.org); Internet: <http://www.weforum.org>.

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### WTO 2003 Events

An updated list of forthcoming WTO meetings is posted at: [http://www.wto.org/english/news\\_e/meets.pdf](http://www.wto.org/english/news_e/meets.pdf). 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.

13 January, Geneva, Switzerland: WTO SPECIAL SESSION OF THE COUNCIL FOR TRADE IN SERVICES.

15 & 17 January, Geneva, Switzerland: WTO TRADE POLICY REVIEW BODY - MALDIVES.

17 January, Geneva, Switzerland: INTEGRATED FRAMEWORK STEERING COMMITTEE.

22 & 24 January, Geneva, Switzerland: WTO SPECIAL SESSION OF THE COMMITTEE ON AGRICULTURE.

23 January, Geneva, Switzerland: WTO COUNCIL FOR TRADE IN GOODS.

24 January, Geneva, Switzerland: WTO SUB-COMMITTEE ON LEAST-DEVELOPED COUNTRIES.

24 January, Geneva, Switzerland: WTO WORKING PARTY ON THE ACCESSION OF BELARUS.

27 January, Geneva, Switzerland: WTO DISPUTE SETTLEMENT BODY.

27-29 January, Geneva, Switzerland: WTO TEXTILES MONITORING BODY.

28-30 January, Geneva, Switzerland: WTO SPECIAL SESSION OF THE DISPUTE SETTLEMENT BODY.

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### Other 2003 Events

6-7 February, The Hague, Netherlands: CHANGING DIMENSIONS OF THE FOOD ECONOMY: EXPLORING THE POLICY ISSUES. This Conference is organised by the OECD in collaboration with the government of the Netherlands to examine the changes underway in the food economy and explore the policy implications. The main themes of the conference are: changing balance of power along the food supply chain; food lifestyles and challenges for the food industry; and Transparency and responsibility in the food economy. For further information, visit <http://www.oecd.org/oecd/pages/documentation/display.xml/0,3375,EN-document-0-nodirectorate-35999-0,00.html>.

7-8 February, Budapest, Hungary: EMISSIONS TRADING AND PROJECT-BASED MECHANISMS: SYNERGIES BETWEEN EMERGING REGIMES. This Concerted Action on Tradeable Emission Permits (CATEP) workshop is organised by FIELD, UNEP and the Central European University. It aims to explore synergies, possibilities for linking instruments and possible conflicts between the new and emerging frameworks for the implementation of GHG emissions trading at the domestic, regional and international levels. It includes workshops focusing on the following questions: What role can project-based activities play in domestic and regional trading regimes? How can coherent accounting and institution building be ensured? (How) can different domestic, regional and international trading regimes be linked? What lessons can be learned from GHG emissions trading for other environmental issues?. For further information, visit <http://www.ucd.ie/~envinst/envstud/CATEP%20Webpage/publications/ceuprog.pdf>.

15-16 February, Japan: WTO MINI-MINISTERIAL. Reportedly, Egypt has also offered to host a mini-ministerial sometime between February and the Fifth WTO Ministerial in Cancun in September.

20-21 February: SEMINARIO:¿EL ALCA, NEGOCIO PARA TODOS? Se analizarán las amenazas y consecuencias del ALCA para la soberanía, la industria, la agricultura, el mercado interior y exterior, los recursos naturales, los servicios públicos, la educación, la salud y los derechos humanos. For

further information contact: Hernan Perez Zapata, email: [hernanperezapata@hotmail.com](mailto:hernanperezapata@hotmail.com).

25–26 March, Mexico City: SECOND NORTH AMERICAN SYMPOSIUM ON ASSESSING THE ENVIRONMENTAL EFFECTS OF TRADE. At this meeting, organized in collaboration with UNEP, sixteen research papers will be presented and discussed on issues ranging from energy subsidies to invasive species and intensive livestock operations. For more information visit:

<http://www.cec.org/calendar/details/index.cfm?varlan=english&ID=1819>.

24-26 April, Beijing, China: WIPO SUMMIT ON INTELLECTUAL PROPERTY AND THE KNOWLEDGE ECONOMY. Heads of State, government officials, CEOs, judges and academics will discuss issues of relevance for the future of intellectual property and its role in stimulating innovation and creativity, and in generating economic growth through business development. An Industry and Private Sector Forum will be held in conjunction with the Summit, and World Intellectual Property Day will be celebrated on 26 April. For more information visit: <http://www.wipo.int/summit-china>.

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## RESOURCES

FREE TRADE AND THE ENVIRONMENT: THE PICTURE BECOMES CLEARER. NAFTA Commission for Environmental Cooperation (CEC), December 2002. This report, produced for the tenth anniversary of the North American Free Trade Agreement (NAFTA), summarises effects of NAFTA on the environment. It outlines the outcome of research carried out, noting that while free trade has brought about advances in technology and management practices that have made positive environmental changes, there are negative links as well, including border communities suffering from more air pollution. However, there is little evidence of a 'race to the bottom,' with differences in environmental regulation not determining where business investments are located. To access the document online visit [http://www.cec.org/pubs\\_docs/documents/index.cfm?varlan=english&ID=977](http://www.cec.org/pubs_docs/documents/index.cfm?varlan=english&ID=977).

Several new reports and case studies developed under the UNCTAD-ICTSD Capacity Building Project on IPRs and Development are now available online. These include drafts of Part I and Part II of the RESOURCE BOOK ON TRIPS AND DEVELOPMENT focusing on: Nature and Obligations, Principles and Objectives; and Substantive Obligations, 2.7 Protection of Undisclosed Information. New case studies are also available. Jerome Reichman and Catherine Hasenzahl have

written on 'Non-Voluntary Licensing of Patented Inventions: The Canadian Experience,' and on 'Development: Non-Voluntary Licensing of Patented Inventions: Historical Perspective, Legal Framework under TRIPS, and an Overview of the Practice in Canada and the United States of America. Graham Dutfield has conducted a case study on 'Protecting Traditional Knowledge and Folklore: A Review of Progress in Diplomacy and Policy Formulation, while Linsu Kim has written on 'Technology Transfer and Intellectual Property Rights: Lessons from Korea's Experience.' All the reports are available for online at <http://www.ictsd.org/iprsonline/unctadictsd/projectoutputs.htm>.

AGRICULTURAL POLICIES IN OECD COUNTRIES: A POSITIVE REFORM AGENDA. Organization for Economic Cooperation and Development (OECD), December 2002. This document outlines an agenda for agricultural policy reform in OECD countries. Without making judgements on specific policies in individual countries, or pre-judging negotiations at the WTO or elsewhere, it suggests ways in which agricultural policies in Member countries can further the shared goals agreed to at the OECD Committee for Agriculture at Ministerial Level in 1998. These goals correspond to several areas of consensus among OECD Member government; namely that governments should provide an appropriate framework to ensure that the agrofood sector, inter alia: is responsive to market signals; is further integrated into the multilateral trading system; and provides consumers with access to adequate and reliable supplies of food, which meets their concerns, in particular with regard to safety and quality. The report is available for download at [http://www.oelis.oecd.org/olis/2002doc.nsf/linkto/com-agr-td-wp\(2002\)19-final](http://www.oelis.oecd.org/olis/2002doc.nsf/linkto/com-agr-td-wp(2002)19-final).

INTELLECTUAL PROPERTY ON THE INTERNET: A SURVEY OF ISSUES. By the World Intellectual Property Organization (WIPO), December 2002. This WIPO survey provides an overview of the impact that digital technologies have had on intellectual property (IP) and the international IP system. The Survey draws on statistical indicators, international studies, and concrete examples, to outline the recent evolution of the Internet and describe how digital networks have become a virtual marketplace for intellectual property. The Survey also explores the impact of the Internet on copyright and related rights, trademarks, and patents, and examines international responses to these challenges and opportunities. It also discusses the question of private international law and the benefits offered by alternative dispute resolution (ADR). A substantial portion of the report covers the role WIPO and the intellectual property rights protection system can play in helping developing countries to build the bridges that enable them to engage in electronic

commerce. It provides a status report on the WIPO Digital Agenda, a set of guidelines and goals first outlined by the Director General of WIPO at the September 1999 International Conference on Electronic Commerce and Intellectual Property. The survey is available for download at <http://ecommerce.wipo.int/survey/>

**EVIDENCE FOR HOPE: THE SEARCH FOR SUSTAINABLE DEVELOPMENT.** Edited by Nigel Cross, December 2002. Since the Stockholm Environment Conference in 1972 - and amplified by the Earth Summits in Rio in 1992 and in Johannesburg in 2002 - there has been unprecedented public concern for the future of the planet and a growing awareness that development needs to be sustainable. The book charts the growth of these ideas by beginning with a visionary piece written in the 1970's by Barbara Ward, one of the 20th century's most persuasive voices for sustainable development, and ending with a chapter looking a further 30 years into the future. For further information, see: <http://www.earthscan.co.uk/asp/bookdetails.asp?key=3826>

**TRADE AND SUSTAINABILITY: CHALLENGES AND OPPORTUNITIES FOR CHINA AS A WTO MEMBER.** By David Runnalls, Konrad von Moltke, Wanhua Yang and Ruqiu Ye. IISD, November 2002. This book consists of a collection of essays addressing the implications of China's accession to the World Trade Organization for trade and sustainable development, focusing on: Trade, Environment and Sustainable Development - General Issues; Investment and Sustainable Development; Sectoral Issues; Technology Transfer; The Precautionary Principle and Genetically Modified Organisms; Environmental Measures and Market Access; and Looking to the Future. For more information visit: <http://www.iisd.org/publications/publication.asp?pno=486>

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