



INTERNATIONAL CENTRE FOR  
TRADE AND SUSTAINABLE  
DEVELOPMENT

# Bridges

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### LEAD STORIES

#### AGRICULTURE CONSULTATIONS: CHAIR REPORTS LACK OF ENGAGEMENT

Carlos Perez del Castillo, Chair of the General Council (GC), held informal "green room" consultations on agriculture with a group of around 30 key WTO Members from 20-21 November. Chair Perez del Castillo -- who had hoped Members would negotiate on various elements contained in the most recent draft language on agriculture (see BRIDGES Weekly, 19 November 2003, <http://www.ictsd.org/weekly/03-11-19/story2.htm>) -- voiced his frustration after the meetings over what he termed "a persistence of differences on the big issues".

In the face of a continuing deadlock in global farm talks, Chair Perez del Castillo doubted whether he would be able to come up with a new agricultural text by a senior level GC meeting scheduled for 15 December. According to sources, Members are leaning towards a solution under which they would reach an agreement by a later date in the first quarter of 2004. Some Members, such as the EC, even questioned whether a meeting of senior officials should be convened if Members "aren't ready on 15 December".

#### No convergence, retreat to old positions

After the meeting on 20-21 November, which was the first one in the second phase of Perez del Castillo's consultative post-Cancun process (see BRIDGES Weekly, 15 October 2003, <http://www.ictsd.org/weekly/03-10-15/story1.htm>), the GC Chair expressed his disappointment with the outcomes of the consultations. He said they had demonstrated a lack of "any convergence" in positions, and expressed concern over the persistence of difficulties with regard to the major issues of market access, domestic support and export competition. Chair Perez del Castillo explained that his original idea had been "to get some common ground," but that he didn't see that in the meeting room. Because of the absence of a real negotiating mode, the GC Chair declared that at this stage "I don't even have the basis for a revised paper". Del Castillo had announced earlier that he would try to come up with a revised text on agriculture,

which would be based on whatever common ground emerged during the consultative process (BRIDGES Weekly, 30 October 2003, <http://www.ictsd.org/weekly/03-10-30/story1.htm>).

### G-20 tables proposal

During the discussions, Members had reportedly mainly put forth old positions from the pre-Cancun negotiations. For example, the G-20 presented a revised version of the 13 September 'Derbez text' (the second revision of the draft Cancun Ministerial Text). The group had already prepared this text at Cancun, but it was tabled only now (downloadable at [http://www.ictsd.org/ministerial/cancun/docs/G21\\_ag\\_text.pdf](http://www.ictsd.org/ministerial/cancun/docs/G21_ag_text.pdf)). On domestic support, the G-20 suggested that the reduction of Amber Box (trade distortive support) measures on a product-specific basis "remains under negotiation," that Blue Box (only partly decoupled subsidies under production-limiting programmes) measures eventually be phased out, and that disciplines of the Green Box (mostly decoupled and at most minimally trade-distorting support) be "strengthened".

On market access, the Group called for a mandatory expansion of tariff rate quotas, as well as the elimination of the special agricultural safeguard (SSG), which is currently also eligible for developed countries. For developing countries, the G-20 proposed to reintroduce a three-pronged tariff reduction formula, using a somewhat flexible Uruguay Round formula across the board, but with different levels of reduction commitment (see BRIDGES Weekly, 12 February 2003, <http://www.ictsd.org/weekly/03-02-13/story1.htm>). India, in particular, argued that a study it had conducted revealed that using the banded approach proposed in the Derbez draft would cut developed country tariffs only by an average of 30 percent, whereas developing countries would need to bring down their tariffs by 30 to 70 percent. With respect to export competition, the developing country alliance mainly insisted on fixing a date for the elimination of export subsidies.

### EC and US comments

During the talks, the EC repeated its demand that the so-called 'Peace Clause' (exempting agricultural subsidies covered by the Agreement on Agriculture from being challenged in dispute settlement cases) be extended beyond 31 December 2004, a request that was vehemently opposed by various G-20 and Cairns Group countries. On the phase-out of export subsidies, the European trade bloc stated that it could not respond to this demand until it had concluded its internal consultation process.

The US reportedly insisted on having a uniform tariff reduction formula for all Members, including developing countries, but was willing to grant developing countries special and differential treatment in the form of lower reduction commitments. Commenting on the G-20 proposals on domestic support, the US said it would prefer the approach taken in the Derbez text, and if a two-step process were envisaged for Blue Box reduction, this would also have to apply to tariffs.

According to sources, Chair Perez del Castillo is planning to resume the agriculture consultations within the next two weeks.

ICTSD reporting; "Agriculture: WTO Chair Castillo cites disappointment with latest post-Cancun agriculture talks," WTO REPORTER, 24 November 2003; "Report on WTO agriculture consultations; no convergence of view," THIRD WORLD NETWORK INFO SERVICE, 25 November 2003; "WTO Negotiators say they may miss another deadline," AP, 18 November 2003.

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## DEVELOPING COUNTRIES 'TAKEN BY SURPRISE' AT TALKS ON SINGAPORE ISSUES

After a 24 November informal meeting on trade-facilitation -- one of the four so called Singapore issues, which also comprise investment, competition policy and transparency in government procurement -- many of the twenty invited countries expressed surprise at the strategy of the Chair.

At the meeting, WTO Deputy-Director General Rufus Yerxa, chairing the meeting on behalf of General Council Chair Carlos Perez del Castillo, invited participants to make comments on Annex E of the 13 September "Derbez text" (available at [http://www.ictsd.org/ministerial/cancun/docs/draft\\_cancun\\_minist\\_text\\_rev2.pdf](http://www.ictsd.org/ministerial/cancun/docs/draft_cancun_minist_text_rev2.pdf)), which outlines modalities for negotiations on trade facilitation. Delegates were taken by surprise, according to a trade delegate, because at previous informal consultations on Singapore issues Members had reached no agreement on how a '2+2 formula' would operate, i.e. whether trade facilitation, along with transparency in government procurement, would be negotiated or sent to working groups for further clarification (see BRIDGES Weekly, 13 November 2003, <http://www.ictsd.org/weekly/03-11-13/story1.htm>). The '2+2 formula' was not discussed at the 24 November meeting.

Also at the meeting, some countries raised concerns regarding costs of implementing trade facilitation. A developing country trade delegate noted that it was important not to forget that the original Doha mandate

called for negotiations based 'explicit consensus' -- which had clearly not been reached yet.

An African trade delegate stressed that African delegations should be more involved in the talks. He also expressed concern that the opponents of negotiations on Singapore issues, primarily developing countries, were being subject to pressure to come up with a result before 15 December. He indicated that the a group of developing countries coordinating on Singapore issues planned to invite the GC Chair for a meeting to inform him of their concerns.

Chair Perez del Castillo has been consulting informally among Members on four key issues -- agriculture, industrial market access, cotton and the Singapore issues -- since ministers failed to reach agreement at the fifth WTO Ministerial in Cancun in September. After the conclusion of a first round of talks on the four issues, Chair Perez del Castillo held a Heads of Delegations meeting on 18 November to take stock of developments so far, and started a new round of informal consultations on the issues (see BRIDGES Weekly, 19 November 2003, <http://www.ictsd.org/weekly/03-11-19/story1.htm>). Chair Perez del Castillo is expected to hold another stock-taking session on 5 December, and on 15 December a senior officials-level session of the General Council will meet to take "necessary action" for Members to be able to conclude the round.

An informal meeting on transparency in government procurement is due to take place early next week.

ICTSD reporting.

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## **FTAA MINISTERIAL LEAVES FUTURE WIDE OPEN; US MOVES TOWARD NEW BILATERALS**

The eighth Ministerial meeting of the Free Trade Agreement of the Americas (FTAA) wrapped up early on 20 November with the adoption of a Declaration that by all accounts avoided tough decisions and left many options on the table. The Ministerial followed lower-level talks between the 34 future FTAA parties (see BRIDGES Weekly, 19 November 2003; <http://www.ictsd.org/weekly/03-11-19/story3.htm>), and saw particularly tough negotiations between FTAA co-chairs Brazil and the US. As delegates failed to broach their wide differences, they chose to adopt a broad and vague declaration in order to prevent a failure -- such as the breakdown of WTO negotiations in Cancun in September -- and keep the talks alive.

## **Ministerial Declaration outlines flexibilities**

The FTAA Ministerial Declaration adopts a two-tiered approach, allowing each country the flexibility to decide its level of commitment according to its needs, objectives and specific capacities. Originally, the US had argued for a comprehensive agreement, while Brazil preferred leaving out commitments in certain sensitive areas, such as intellectual property rights, investment or services. The US continued to be unwilling to negotiate in the area of agriculture, a key concern to Brazil and many other FTAA parties.

The Declaration notes that the FTAA will cover measures in each negotiating discipline, as well as horizontal measures, taking into account the different levels of development and the size of the economies of the parties involved. However, it does not set the level of commitment that will be adopted. Much will depend on the level of participants' ambition, and the Agreement's exact scope will not be clear before the conclusion of the FTAA negotiations.

In their reactions to the Declaration, some countries that already have free trade agreements with the US -- such as Mexico, Canada, Chile and Costa Rica -- called for ambitious commitments in all negotiating areas. The Caribbean countries mainly called for specific horizontal provisions on special and differential treatment.

Observers, especially from the business sector, questioned whether such a Declaration really was all that could be reaped from nine years of effort. Many also wondered how the negotiations had moved away from their original aim of a 'single undertaking' in just a few days.

## **Transparency and civil society participation**

Concerns over a lack of transparency have been raised repeatedly during the nine years of FTAA negotiations. The ministers in Miami, aware of the need for improvement, dedicated two paragraphs of the Declaration to this issue, including a decision to release the third draft of the FTAA chapters to the public.

They also committed themselves to increasing civil society participation in the FTAA process and to enhancing communication. They instructed the Committee on Government Representatives on the Participation of Civil Society (GRPCS Committee) to make recommendations to the FTAA Trade Negotiations Committee (TNC) for expanding information dissemination.

While the FTAA meeting did not see the wide protests that had accompanied earlier free trade meetings -- most notably the WTO Ministerial in Seattle in 1999 -- a

number of organisations mobilised in Miami. A protest march on 20 November united union members, environmentalists and religious and human rights activists from across the entire Americas region. The activists also organised a Workers' Forum and a People's Gala celebrating the cultures of the Americas.

A wide range of civil society groups also met under the auspices of the Americas Business Forum (ABF) and the Americas Forum on Trade and Sustainable Development (AFTSD), holding seminars, dialogues and debates.

### **US goes bilateral with "will do" countries**

In conjunction with the FTAA meeting, the US announced that it would start to negotiate free trade deals with Colombia, Peru, Ecuador, Bolivia, and Panama. It also said it would include the Dominican Republic within the ongoing Central American Free Trade Agreement (CAFTA) negotiations.

Secretary General of the Organisation of American States (OAS), Cesar Gaviria, expressed concern over this US strategy. He said these agreements would lead to a fragmentation among Southern countries, instead of contributing to hemispheric integration. He also stressed that the strategy would exclude many countries, which would lose the opportunities offered by trade liberalisation. The countries involved appeared less concerned, arguing that a significant number of bilateral agreements already existed in the region, and that these mechanisms would serve countries to be better prepared to reach more ambitious agreements in future.

Argentina noted that it was negotiating in seven different fora, and would continue to look for new negotiating opportunities. Argentina however also made it clear that its interests were linked to those of Brazil, and that the country would not negotiate the FTAA separately.

### **Next steps**

The next step in the FTAA process -- already underway for nine years -- will involve a TNC meeting in February 2004. Much of the real work will have to be carried out in the TNC, as the vague Miami Declaration gives little in the way of clear guidance to negotiators.

For further information, see the BRIDGES Daily Updates produced in Miami, available at [http://www.ictsd.org/issarea/Americas/FTAA\\_ministerial/miami/index.htm](http://www.ictsd.org/issarea/Americas/FTAA_ministerial/miami/index.htm).

The Miami Ministerial Declaration is available at [http://www.ftaa-alca.org/Ministerials/Miami/declaration\\_e.asp](http://www.ftaa-alca.org/Ministerials/Miami/declaration_e.asp).

ICTSD reporting; "Environment Sidelined In FTAA Draft Agreement," ENS, 20 November 2003.

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## **OTHER NEWS**

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### **TRIPS COUNCIL SHOWS LITTLE PROGRESS ON HEALTH AND BIODIVERSITY**

Discussions on public health at the 17-18 November meeting of the WTO Council for Trade-related Aspects of Intellectual Property Rights (TRIPs) lacked the excitement of last year's negotiations, and Members appeared to have given little thought to how to convert a 30 August 2003 Decision on paragraph 6 of the Doha Declaration (on access to generic medicines) into an amendment of the TRIPs Agreement, as called for in the Decision. Similarly, little new emerged from discussions on biodiversity, with countries largely reiterating previous proposals.

WTO Members on 30 August adopted a Decision on paragraph 6 of the Doha Declaration on the TRIPs Agreement and Public Health, together with a statement by TRIPs Council Chair Ambassador Vanu Gopala Menon of Singapore (see BRIDGES Weekly, 4 September 2003, <http://www.ictsd.org/weekly/03-09-04/wtoinbrief.htm>). The Decision spells out the conditions under which countries without pharmaceutical manufacturing capacity can import generic versions of drugs still under patent. Paragraph 11 of the Decision instructs the TRIPs Council to initiate work by the end of 2003 on an amendment to the TRIPs Agreement to replace the provisions of the waiver contained in the Decision. The amendment should be adopted by the end of June 2004.

### **Health discussions to continue informally**

Very little substantive discussion took place on TRIPs and health, and Members agreed to a suggestion by Chair Menon to hold informal consultations until the next TRIPs Council meeting in March 2004. Most Members stressed that this work should be a "technical" effort, without re-opening the substance of the Decision. A number of ideas were floated in the corridors, including making textual changes to the TRIPs Agreement itself (as favoured by the EC), adding



an annex with the language of the waiver, or leaving the Agreement unchanged but adding a footnote referring to the waiver and the Chair's statement (as preferred by the US).

Canada and Norway announced that they were already drafting or had drafted legal revisions to implement the Decision (see BRIDGES Weekly, 19 November 2003, <http://www.ictsd.org/weekly/03-11-19/inbrief.htm#3>).

Switzerland also said it was preparing a new law, adding that it was necessary to maintain the substance of the Decision unchanged when converting it to an amendment. The EC circulated a paper (IP/C/W/416, searchable at <http://docsonline.wto.org/>) in which it stressed the need to fully respect the terms of the Decision and for technical assistance to help implement it.

### No progress on biodiversity

During the debate on issues related to Article 27.3(b) (patentability of life forms), traditional knowledge and biodiversity, various Members recalled their previous proposals, including Switzerland, the African Group and a group of developing countries led by India (see BRIDGES Weekly, 12 June 2003, <http://www.ictsd.org/weekly/03-06-12/story2.htm>).

Norway, the EC and Thailand supported a Swiss proposal to amend the World Intellectual Property Organisation (WIPO)'s Patent Cooperation Treaty (PCT) that would enable countries to require patent applicants to declare the source of the genetic resources and traditional knowledge in patent applications. The EC added that it was also willing to discuss other proposals for disclosure of origin, including inserting text in the TRIPs Agreement. The US, Japan, Canada and Australia opposed any discussion on this issue in the TRIPs Council, saying that it should be dealt with in WIPO's Intergovernmental Committee (IGC) on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore. The US said it would prefer to not change the patent system, but rather address disclosure and benefit-sharing through permits, contractual obligations and civil and/or criminal penalties.

Disclosure requirements were also discussed at a WIPO Working Group on the reform of the PCT at its 17-21 November meeting. As at the TRIPs Council, the US-led group of countries said these issues should be discussed in the IGC instead. One trade source claimed that the discussions in the two meetings highlighted the strategy of the US and others to use the IGC to undermine developing countries' demand for amending the TRIPs Agreement. The source added that it was a "telling detail" that only developed countries had referred to the IGC in the TRIPs Council meeting, while no developing countries had mentioned it.

### GI discussions on hold

Members did not discuss the issue of geographical indications (GI), which had been moved to the level of the Trade Negotiations Committee in December 2002 as part of the 'implementation' issues. Negotiations on the multilateral system for GIs have been temporarily suspended along with all other negotiating sessions.

In related developments, the European Commission's Directorate-General for Trade in an initial draft paper circulated to EU member states has proposed that the EC take a more flexible approach to the contentious issue of GI extension (i.e. extending the additional protection already provided for wines and spirits to other products). Such flexibility could include agreeing to a transition period for entry into force of the extension, particularly for developing countries that do not have GI protection systems. DG Trade also suggested that the list of 41 foods and beverages for additional protection -- put forward by the EC just prior to the Cancun Ministerial meeting -- should be isolated from the negotiations on GIs in the TRIPs context, and discussed instead in the context of agriculture. The draft paper served as a basis for internal consultation purposes. A new EC strategy paper was adopted by the Commission on 26 November, and will be discussed by EU member states and the European Parliament. In the strategy paper, the EC continues to propose a more flexible approach on GIs.

The TRIPs Council sessions for next year have been tentatively scheduled for 8-10 March, 21-23 September and 30 November - 2 December.

ICTSD reporting; "EC Directorate offers more flexible approach to extend GI protection in Doha round talks," WTO REPORTER, 19 November 2003.

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### DSU REVIEW: MEMBERS REACT TO MEXICAN STUDY

The WTO Dispute Settlement Body (DSB) met for a special (negotiating) session from 13-14 November, focusing on a study by Mexico that diagnosed some of the problems of the WTO Dispute Settlement Understanding (DSU). The Mexican paper highlighted three sets of problems related to compliance, access to the dispute settlement system and procedural issues. Members are currently undertaking a review of the DSU, scheduled to conclude by the end of May 2004 (see BRIDGES Weekly, 28 July 2003, <http://www.ictsd.org/weekly/03-07-28/wtoinbrief.htm#1>). According to the Mexican report, the review missed an end-May 2003 deadline because Members lacked focus.

**Study identifies non-compliance as fundamental problem**

Mexico circulated and presented the paper entitled "Diagnosis of the Problems Affecting the Dispute Settlement Mechanism: Some Ideas by Mexico" to Members for discussion at the 13-14 November meeting. The paper highlighted non-compliance with panel rulings as the most fundamental problem within the DSU. It noted that losses caused by non-compliance with rulings and procedural delays amounted to hundreds of millions of dollars each year. According to the paper, non-compliance problems occurred both when Members failed to ensure the conformity of their laws, regulations and administrative procedures with WTO obligations (compliance a priori), and when Members failed to withdraw measures found to be inconsistent with WTO provisions (compliance a posteriori).

**Need to shorten DSU procedural timeframes highlighted**

On procedural timeframes, the study noted that out of 77 cases where the WTO had found a Member to be in violation of WTO rules, immediate compliance had been secured only five times, with five cases being settled mutually. The average 'reasonable period of time' (RPT) to comply ran to 292 days. The study also pointed out that the average period of time between the establishment of a panel and the expiry of the reasonable period of time was 775 days, or over two years, which grew to 1507 days or over 4 years once the consultation period was included.

The report noted significant financial implications of the long delays, and cited the example of the "Ecuador-Bananas" dispute against the EU. This case translated into losses of USD 161 million during the RPT, which would increase to USD 428 million if counting the period after the establishment of a panel, or USD 832 million after the request for consultations.

The study stressed the need for the DSU to provide incentives for Members to comply as soon as possible. It highlighted the need for countries to obtain compensation or exercise retaliation at an early stage, the need for earlier arbitration on nullification and impairment, and the need to determine nullification or impairment retroactively. Some of these ideas reflected Mexico's position as highlighted in a previous WTO submission (TN/DS/W/23, available at <http://docsonline.wto.org>, and BRIDGES Weekly, 20 November 2002, <http://www.ictsd.org/weekly/02-11-20/story3.htm>).

**Measures to enhance compliance**

The Mexican study touched on compensation (for example, giving greater market access to the winning party of the dispute, or possibly monetary compensation), noting that compensation was provided for by Article 22.1 of the DSU Agreement. On collective retaliation (retaliation by more than one Member), the study pointed out that while collective retaliation was not authorised as such, in some cases more than one Member had been authorised to suspend concessions or obligations. In the cases, the Members involved were co-complainants.

In discussion, one Member noted that in cases where several co-complainants are involved, collective retaliation was not a problem as such. However, the level of retaliation had to be equivalent to the nullification and impairment of benefits for each party, and it was unclear whether Members could transfer the right of retaliation to another Member. A Mexican delegate acknowledged that the issue of collective retaliation was unclear, and relevant information was difficult to come by.

**Developing countries fail to make use of DSU**

The Mexican study noted that many developing countries and least developed countries (LDCs) were not taking recourse to the DSU. Disputes initiated by developed countries were far more frequent than those initiated by developing countries, and LDCs had never been engaged in dispute settlement. Not a single panellist so far had been appointed from an LDC, while a number came from developing countries. The study noted that neither financial aspects nor a lack of consideration of development issues were at the core of the problem of low developing country participation, but suggested the reasons had more to do with non-compliance and costly procedural delays. On special and differential treatment (S&D), Members (complainants or defendants) had invoked such provisions in 13.8 percent of cases examined by the study. According to the report, this finding contradicted the view of many LDCs, who had called for the evolution of a more "development-friendly" jurisprudence at the WTO (see BRIDGES Weekly, 17 October 2002, <http://www.ictsd.org/weekly/02-10-17/story5.htm>).

**Discussions of the report**

According to trade sources, the report received a positive response from developing countries. One LDC delegate pointed out that some of the LDC concerns were not given due priority. He said that, contrary to the findings of the report, the high financial costs of dispute settlement were an important reason for LDCs not

taking recourse to the DSB, though he agreed that non-compliance issues were the most important reason.

Echoing the LDC delegate's views, an African trade delegate said that the lack of compliance, combined with pressures from powerful trading partners, were a major disincentive for LDCs to engage in dispute settlement cases. "The ends should justify the means and costs as well," he stated, adding that "...it is asking whether a measure will be implemented or not that gives me sleepless nights". He also noted that since LDCs already had significant access and privileges, there was little scope for disputes related to their trade. On compensation, he said any compensation should start at the consultation stage in order to offset trade losses incurred by African exporters. On collective retaliation, he noted the problems many African countries faced in becoming co-complainants and acting collectively, such as coordination problems, reliance on different products, bilateral pressure etc.

The DSU discussions continued on a list of questions regarding the pre-panel (consultation) stage that had been circulated by Chair Péter Balás (Hungary). The Chair also invited Members to continue point-by-point discussions and to submit textual amendments at the next and later meetings. The EC made an oral presentation highlighting issues related to sequencing, compensation and third-party rights. The EC felt that the chair's text drafted in May was a good starting point for the negotiations (see BRIDGES Weekly, 4 June 2003, <http://www.ictsd.org/weekly/03-06-04/story2.htm>).

The next meeting of the DSB special session is scheduled for 18-19 December.

ICTSD reporting; "Mexican Study Cites Non-compliance as Top Problem in WTO Dispute System," WTO REPORTER, 14 November 2003.

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## IN BRIEF

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### EC ADOPTS COMMUNICATION ON POST-CANCUN STRATEGY

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The European Commission adopted a strategy paper on the post-Cancun process on 26 November. According to EC Trade Commissioner Pascal Lamy, the EC will now re-engage at the WTO, and work to get the current round of trade talks back on track. The strategy paper is being circulated among EU member states and the European Parliament, and trade ministers as well as the European Parliament will discuss the paper at

their respective meetings on 2 December. EU foreign affairs ministers are expected to adopt it at an 8 December General Affairs Council, just prior to a 15 December high-level officials meeting at the WTO. At the EC adoption of the report, Lamy commented that "we have listened carefully to all points of view inside and outside Europe, and we believe there is now enough support to get the train back on track". According to the paper, the EC remains committed to the multilateral trading system and will to engage in re-launching talks, with the expectation that other parties show flexibility and a willingness to negotiate and go beyond initial positions. The paper covers areas in which the EC could show flexibility, such as the Singapore issues, environment and geographic indications (GIs), as well as areas in which the EC would like to see flexibility from its trading partners. The latter areas could include agriculture and the cotton initiative. The EC also proposes, among other things, that the profile of commodities issues be raised.

"EU says it ready to resume global trade talks," REUTERS, 26 November 2003; "EU-WTO: European Commission proposes to put Doha Round of trade talks back on track," EC RELEASE, 26 November 2003.

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### TRADE TENSIONS SIMMER BETWEEN US AND CHINA

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A US announcement on 26 November that it planned to impose tariffs of up to 45 percent on some Chinese TVs, following recent US decisions to impose anti-dumping duties on Chinese iron pipe fittings and to re-impose quotas on Chinese textiles, is exacerbating tensions between the two trading partners. The US -- which currently suffers from a large trade deficit with China -- has accused Chinese firms of selling products in the US at below fair cost or with unfair government support. China, on the other hand, criticised the US of double standards, calling the anti-dumping duties on televisions "groundless" and "unfair". When referring to the textile dispute, Chinese Vice Commerce Minister Ma Xihong stated that the US decision "runs against WTO principles on free trade, transparency and non-discrimination," and called on the US to "change its mind immediately". China has threatened to take the textile issue to the WTO, concerned that the US may be shifting towards more protectionist trade policies. The US government argued, however, that the cap was allowed under the terms of China's WTO accession agreement, which gave Members the right to impose temporary quotas if Chinese imports cause market disruption. China postponed a 'buying trip' to the US, and Minister Ma Xihong announced that China would raise tariffs on some commodities imported from the US in response to US duties on steel imports, ruled to be illegal by the WTO.

"China summons US envoy on quotas," BBC NEWS, 21 November 2003; "China strikes back at US with new import tariffs," TAIPEI TIMES, 1 November 2003; "China US trade spat further frayed," CHINAVIEW.CN, 24 November 2003; "China decries US import quotas," AP, 20 November 2003; China angry at US tariff threat, BBC NEWS, 26 November 2003.

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## REPORT RELEASED ON NAFTA'S IMPACTS

A report entitled "NAFTA's (North American Free Trade Agreement) Promise and Reality: Lessons from Mexico for the Hemisphere", was recently released by the Carnegie Endowment for International Peace, a Washington-based research institute. The release coincided with the Free Trade Agreement of the Americas (FTAA) negotiations occurring in Miami, Florida from the 17-21 November (see related story, this issue). The study analysed NAFTA's influence on rural employment, household income, agricultural production and land use, migration patterns and the environment. The report concluded that NAFTA had been "neither the disaster its opponents predicted nor the saviour hailed by its supporters" for Canada, the US and Mexico after it took effect on the 1 January 1994. The report, however, found few benefits for Mexico from the agreement. John Audley, who edited the report, found NAFTA "rough" for rural Mexicans, and said NAFTA had not helped the Mexican economy keep pace with a growing demand for jobs, nor had productivity growth led by NAFTA translated into higher wages. Rural farmers had started to farm more marginal land to replace lost income caused by the collapse in commodity prices, which showed the inability of NAFTA to deliver environmental benefits, such as reduced deforestation and tillage.

For more information, visit [http://www.ceip.org/files/Publications/NAFTA\\_Report.asp?from=pubdate](http://www.ceip.org/files/Publications/NAFTA_Report.asp?from=pubdate).

"NAFTA at ten: Who heard of the giant sucking sound?," CARNEGIE ENDOWMENT FOR INTERNATIONAL PEACE PRESS RELEASE, 19 November 2003; "Report finds few benefits for Mexico in NAFTA," THE NEW YORK TIMES, 19 November 2003; "NAFTA little benefit to Mexico, study finds," REUTERS, 19 November 2003.

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## AUSTRALIA, US DISCUSS STICKY ISSUES

Australian Trade Minister Mark Vaile visited the US this week, meeting with his counterpart Robert Zoellick,

senior White House trade officials and the business community. The talks ran into difficulties over Australia's Pharmaceutical Benefits Scheme (PBS), Australia's access to the US agriculture market, the Australian Wheat Board, Australian television and local content controls, and environmental regulation. US trade negotiators demanded that the Australian Wheat Board give up its monopoly over exports, and Australia pushed for access to American beef, cotton, sugar and dairy product markets -- which was strongly resisted by US lobby groups. Last month, the US sugar industry released a study warning that America's sugar industry would be "devastated" if free trade for sugar was included. On the other side, a coalition of Australian civil society groups issued a statement highlighting their concern that an FTA would allow US corporations to challenge existing Australian social and environmental laws. Australia's USD 4-5 billion-a-year PBS, a significant aspect of Australia's universal health care service, is currently under scrutiny by US drug companies.

Formal negotiations are set to resume next week, with the two countries aiming for an agreement by the end of the year.

"US firm on trade talk demands," SYDNEY MORNING HERALD, 26 November 2003; "Australia wants concessions in exchange for trade pact," DOW JONES, 24 November 2003; "Australia tries again to smooth the way to free trade pact with US," AFP, 24 November 2003.

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## OPEN-SOURCE SOFTWARE COULD BENEFIT DEVELOPING COUNTRIES

Free and open-source software (FOSS) could greatly boost the information and communication technology (ICT) sector in developing countries and might "dramatically improve the digital inclusion of the developing world", according to UNCTAD's "E-commerce and Development Report 2003". FOSS -- which allows programs to be used for any purpose, studied and adapted according to the user's needs without anyone owning the intellectual property (e.g. the UNIX operating system) -- could benefit developing countries by reducing barriers to market entry, cutting costs and facilitating rapid expansion of skills and technology. FOSS could also help produce synergistic effects in the ICT services industry and the broader economy, leading to job creation and export opportunities, the report concluded. This could lead to an acceleration of overall ICT adoption in developing countries, particularly given the increasingly strict intellectual property rights enforcement called for by proprietary software producers. With the emergence of



FOSS, the report noted, countries would need to adapt their ITS policies to ensure that they could fully benefit from the free software.

The report is available at <http://www.un.org/Pubs/whatsnew/e032d30.htm>.

"Open-source software could boost ICT sector in developing countries, says UNCTAD report," UNCTAD PRESS RELEASE, 20 November 2003.

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## **DELEGATES PREPARE FOR ROTTERDAM CONVENTION'S ENTRY INTO FORCE**

The Intergovernmental Negotiating Committee (INC) of the Rotterdam Convention that sets out a Prior Informed Consent (PIC) procedure for trade in hazardous chemicals met in Geneva from 17-21 November. During the meeting, delegates made preparations for the Convention's entry into force, which is expected to take place soon. Delegates also considered, among other things, adding all forms of asbestos and two hazardous pesticides to the list of chemicals requiring PIC by importing countries. Key producers --Canada, Russia and China-- of chrysotile asbestos, which comprises 94 percent of asbestos used worldwide and has been proven to be a carcinogen, blocked the addition of the chemical to the PIC list. The other proposed chemicals were included on the PIC list.

The Rotterdam Convention is one of six multilateral environmental agreements (MEAs) that WTO Members are focusing on in their Committee on Trade and Environment debate on the relationship between WTO rules and specific trade obligations in MEAs. At the PIC meeting, delegates discussed cooperation with the WTO, and agreed on a decision that would be operationalised once the Convention enters into force. The decision highlighted the need for enhanced cooperation between the Convention and the WTO, and requested more information exchange between the two bodies, as well as domestically among officials working on PIC and WTO issues.

For a comprehensive summary and analysis of the meeting, see IISD's Earth Negotiations Bulletin report at <http://www.iisd.ca/chemical/pic/pic10/>.

"Canada accused as bid to curb asbestos trade fails," REUTERS, 18 November 2003; "Asbestos Producers Block Placement Of Chrysotile On Danger List," ENS, 18 November 2003.

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## **WTO IN BRIEF**

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### **AG COMMITTEE DISCUSSES US FARM BILL, ASSISTANCE TO LDCS**

The WTO Committee on Agriculture (CoA) held its last regular session of the year on 20 November. The session lasted three hours and included discussions on the 2002 US Farm Bill, cereal imports for Net Food Importing Developing Countries (NFIDCs) and least developed countries (LDCs), as well as a financing initiative proposed by the IMF for developing countries. On the 2002 US Farm Act, Canada, Australia, Brazil and Argentina asked when the US was planning to notify the AoA of its intention to exempt some payments from domestic support reduction commitments. Australia asked specifically about the US' multi-year crop disaster and counter-cyclical payment programmes. The US responded that it would notify as soon as possible. During the session, the UN Food and Agriculture Organisation (FAO) reported that the combined cereal import bill for LDCs and NFIDCs was forecast for approximately USD 7.3 billion for 2003/04, down almost 10 percent from the previous year, but still above the preceding four years. It noted that food aid continued to be important for LDCs. The IMF and World Bank also described new assistance programmes for LDCs. Elaborating on a new initiative announced in Cancun, the IMF said it would provide financial support to those Members facing a negative impact on the balance of payments from the current round of trade talks, and additional financial help if the impact of trade liberalisation turned out to be greater than anticipated in these countries.

ICTSD reporting.

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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: 27 November - 3 December**

26-27 November, Amsterdam, the Netherlands: ELECTRONICS RECYCLING SUMMIT. This senior

executive Pan-European event will focus on delivering practical information for implementing the WEEE and RoHS directives and providing a competitive advantage through the collection, disassembly and recycling of electronics. For further information contact E.N.G. European Networking Group at tel +31 (0)20 305 0950; email: [recycling@eng-nl.com](mailto:recycling@eng-nl.com); Internet: <http://www.eng-nl.com>.

26-27 November, New Delhi, India: SYMPOSIUM ON GM TECHNOLOGY. Gene Campaign is organising a national symposium on "The Relevance of GM Technology to Indian Agriculture and Food Security". A range of national and international experts will deliver talks on various aspects of GM technology and its application. Panel discussions will be held involving a variety of stakeholders. For further information visit: <http://www.genecampaign.org>.

27 November, Brussels, Belgium: SUSTAINABILITY IMPACT ASSESSMENT OF PROPOSED WTO MULTILATERAL TRADE NEGOTIATIONS. This will be a DG TRADE Civil Society Dialogue meeting with the Institute for Development Policy and Management of the University of Manchester. There will be a presentation and discussion on the integration of its final report into policy-making. To register for the meeting email: [belgin.bingol@cec.eu.int](mailto:belgin.bingol@cec.eu.int). To read the papers see <http://idpm.man.ac.uk/sia-trade/Phase%203A/frontpage3A.htm>.

27-28 November, Brussels, Belgium: 78TH SESSION OF ACP COUNCIL OF MINISTERS. The ministers will discuss revised regulations within the ACP Secretariat. They will also hear reports from Committees on bananas, sugar, and development finance cooperation. For more information see: <http://www.acpsec.org>.

27-29 November, Brussels, Belgium: GLOBAL PROGRESSIVE FORUM. The Global Progressive Forum will bring together more than 500 policy makers, leaders and representatives of non-governmental organisations, trades unions, businesses and academia from around the world for a three-day gathering in the European Parliament in Brussels, to launch a global reform process. As a new consensus-building initiative, this Forum is open to all, upon registration. The Forum will consist of two plenary sessions and eighteen round tables on global issues, such as trade and poverty and reform of the UN, with more than 130 speakers. For further details of the Global Progressive Forum and how to attend, visit <http://www.pes.org/globalprogressiveforum> or send a message to [globalprogressiveforum@pes.org](mailto:globalprogressiveforum@pes.org).

1-2 December, Amsterdam, the Netherlands: MAXIMISING THE POTENTIAL OF SUSTAINABLE DEVELOPMENT. This event will focus on the theme of Establishing Sustainable Development within your organisation and gaining future opportunity through Public- Private Partnerships. The summit will examine how different industries succeed in incorporating sustainable development throughout the value chain and effectively engaging in public- private partnerships to achieve their sustainable development goals. For further information contact E.N.G. European Networking Group at tel +31 (0)20 305 0950; email: [sustainability@eng-nl.com](mailto:sustainability@eng-nl.com); Internet: <http://www.eng-nl.com>.

1-4 December, Berlin, Germany: MEETING ON THE SUSTAINABLE USE AND CONSERVATION OF BIOLOGICAL DIVERSITY: A CHALLENGE FOR SOCIETY. This meeting is organised by the German Federal Ministry of Education and Research. For more information contact the Ministry at tel: +49-228-81- 99-611; fax: +49-228-81-99-640; e-mail: [meltem.cosar@dir.de](mailto:meltem.cosar@dir.de); Internet: <http://www.biodiversity-symposium.de>.

1-5 December, Queensland, New Zealand: DEEP SEA 2003. Founding sponsors include the Ministry of Fisheries, New Zealand, Food And Agriculture Organisation of the United Nations, Department of Agriculture, Fisheries and Forestry Australia and Fisheries Research and Development Corporation. This is an international conference where experts will discuss and debate the issues and future needs for science, conservation, and governance and management of the continental slope and deep seas. It will provide a forum for expert discussion on the objectives, constraints and influences on the conservation and management of the continental slope and deep-sea area. For further information, fax: (+64 3) 441-8127; email: [deepsea@qdm.co.nz](mailto:deepsea@qdm.co.nz); Internet: <http://www.deepsea.govt.nz/index.aspx>

1-12 December, Milan, Italy: NINTH CONFERENCE OF THE PARTIES TO THE UNITED NATIONS FRAMEWORK CONVENTION ON CLIMATE CHANGE (COP-9). The conference will continue deliberations from SB-18. For further information, contact: UNFCCC Secretariat, tel: (+49 228) 815-1000, fax: 815-1999, email: [secretariat@unfccc.int](mailto:secretariat@unfccc.int), Internet: <http://www.unfccc.int/>.

## WTO 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, and are open to WTO Members and accredited observers only.

27-28 November, Geneva, Switzerland: WTO COMMITTEE ON TRADE AND DEVELOPMENT.

28 November, Geneva, Switzerland: WTO WORKING PARTY ON THE ACCESSION OF ALGERIA.

1 December, Geneva, Switzerland: WTO DISPUTE SETTLEMENT BODY.

1 December, Geneva, Switzerland: WTO COMMITTEE ON TRADE IN FINANCIAL SERVICES.

2 December, Geneva, Switzerland: WTO TRADE POLICY REVIEW BODY - CHILE.

2 December, Geneva, Switzerland: WTO WORKING PARTY ON GATS RULES.

2-3 December, Geneva, Switzerland: WTO COMMITTEE ON REGIONAL TRADE AGREEMENTS.

3 December, Geneva, Switzerland: WTO WORKING PARTY ON DOMESTIC REGULATION.

### Other Forthcoming Events

2-5 December 2003, Niamey, Niger: SUSTAINABLE DRYLAND AGRICULTURE SYSTEMS CONFERENCE. Partially supported by the Finnish Ministry of Foreign Affairs, the central theme of the conference is "Interactions between Estuaries, Coasts and Human Environment". The symposium will feature presentations and papers on agro-ecological production systems in areas where farmers strive to meet their family needs from small parcels of land in low rainfall regions. For more information contact: Arnie Schlissel, IPALAC; fax: +972-647-2984; e-mail: [ipalac@bgumail.bgu.ac.il](mailto:ipalac@bgumail.bgu.ac.il).

3-10 December 2003, Geneva, Switzerland: 24TH SESSION OF THE ECOSOC SUB-COMMITTEE OF EXPERTS ON THE TRANSPORT OF DANGEROUS GOODS. This meeting will discuss the transport of gases, explosives, and other dangerous goods. For more information, contact: UNECE Transport Division; tel: +41-22-917-2401; fax: +41-22-917-0039/89; e-mail: [dominique.leger@unece.org](mailto:dominique.leger@unece.org); Internet: <http://www.unece.org/trans/danger/danger.htm>.

5-6 December 2003, London, England: WORLDFAIR - CHRISTMAS WITH A CONSCIENCE IN LONDON.

Stalls are run by ethical traders, charities and co-operatives, offering shoppers a chance to buy their Christmas presents while helping communities around the world. There will also be live music and dance performances. This event is organized by Oxfam, War on Want, and World Development Movement. For more information, contact: Alex Burrow; Tel: +43 20 7354 4231 / +43 7957 861 379; Email: [alex@millipedia.co.uk](mailto:alex@millipedia.co.uk); Internet: <http://www.worldfair.org.uk>.

9 December 2003, Geneva, Switzerland: GLOBAL GOVERNANCE OF ICT: PUBLIC INTEREST CONSIDERATIONS. This workshop is presented by Computer Professionals for Social Responsibility on the occasion of the World Summit on the Information Society. It will bring together experts from civil society and other sectors to carefully consider both the current global policy architecture and realistic, balanced alternatives. For more information, see <http://www.cpsr.org/conferences/WSIS/WSIS120903.html>.

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## RESOURCES

AFTER CANCUN: POSSIBILITIES FOR A NEW NORTH-SOUTH GRAND BARGAIN ON TRADE. By Thomas Palley (Foreign Policy in Focus, November 2003). According to the author, the failure of the Cancun WTO ministerial may eventually come to be viewed as marking the end of the current global trade agenda. Given the existing lack of multilateral consensus, the immediate future promises a shift of negotiating strategy toward bilateral agreements. This shift is a transitional moment, that brings with it opportunity and risk. The opportunity is to craft an historic new progressive multilateral trade agenda based on a North-South grand bargain involving agricultural trade policy reform in return for trade-related labour and environmental standards. The risk is that bilateral negotiations could be used to weaken existing labour protections and introduce undesirable investment rules that create global lock-in. For this reason, the debates over FTAA, CAFTA, and other country agreements matter very much, since they will impact the space for future multilateral agreements. To view the article visit <http://www.fpif.org/papers/cancun2003.html>.

THE STATE OF FOOD INSECURITY IN THE WORLD 2003. By the Food and Agriculture Organisation (2003). According to the report, international trade can have a major impact on reducing hunger and poverty in developing countries. Participation in trade allows access to larger markets and opens up opportunities for specialisation in production and economies of scale. This can be of special importance for developing countries, particularly for smaller ones where the limited

size of domestic markets discourages full use of production potential. To access the report, see: <ftp://ftp.fao.org/docrep/fao/006/j0083e/j0083e00.pdf>.

**GM CROPS? COEXISTENCE AND LIABILITY.** By the Agriculture and Environment Biotechnology Commission (November 2003). The report recommends that the main aim of government policy on coexistence of GM and other crops must be to facilitate consumer choice to the greatest possible extent, while allowing UK farmers to respond to present and future national and international market demand. If GM crops were to be grown commercially, farmers growing them should be required to follow legally enforceable crop management protocols designed to achieve at least the 0.9 percent threshold. To access the report, see: [http://www.aebc.gov.uk/aebc/coexistence\\_liability.shtml](http://www.aebc.gov.uk/aebc/coexistence_liability.shtml)

"Development, trade, and the environment: how robust is the Environmental Kuznets Curve?" in **ENVIRONMENT AND DEVELOPMENT ECONOMICS** 8 (4, 2003): 557-580. This paper assesses the strength of the Environmental Kuznets Curve (EKC) which posits an inverted-U relationship between per capital income and pollution. Specifically, answers are sought to the following related questions: (1) How robust is the EKC relationship?; (2) To what extent can the EKC relationship be explained by changing trade patterns as opposed to growth-induced pollution abatement?

"The Mercosur dispute resolution system" by Christian Leathley in **JOURNAL OF WORLD INVESTMENT** 4, (5, 2003): 787-826. This article offers a comprehensive look at Mercosur's dispute resolution system which regulates State-to-State and investor -- State dispute procedures. It describes how the system works and offers a critical overview of its effectiveness. The current system exhibits shortfalls in terms of accessibility to private investors, overt political influences, the absence of an independent supra-national judicial body, the speed of the process and the incomplete character of Mercosur's legal acts. Looking to the future, consideration is given to the factors that will affect the development of the Mercosur dispute resolution system, especially to the array of external influences including the World Trade Organization, the North American Free Trade Agreement, the Free Trade Agreement of the Americas and the growing trend of bilateralism.

"Civil liability regimes as a complement to multilateral environmental agreements: sound international policy or false comfort?" by Anne Daniel in **RECIEL** 12 (3, 2003): 225-241. The author reviews recent civil liability development in multilateral environmental agreements (MEAs), examining whether the development of international liability regimes reflects sound international environmental policy. She describes the

challenges that existing civil liability regimes have faced, analyses progress made in negotiations on liability and redress mechanisms in the context of, inter alia, the Stockholm Convention on Persistent Organic Pollutants, the Convention on Biological Diversity and the Rotterdam Convention on Prior Informed Consent and recommends policy approaches to MEAs that might provide alternative or complementary methods of achieving some of the goals identified by proponents of civil liability regimes.

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