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LEAD STORIES

TRIPS COUNCIL MEETING SUSPENDED IN EFFORT TO MEET PUBLIC HEALTH DEADLINE

Public health and biodiversity issues were again the items sparking the most discussion at the meeting of the WTO Council for Trade-Related Aspects of Intellectual Property Rights (TRIPS) on 8-9 March 2005. Members were unable to reach consensus on how to formally amend Article 31 of the TRIPS Agreement in order to facilitate the export of drugs produced under compulsory licence. They agreed to suspend the meeting while the Chair continues consultations in an attempt to meet the 31 March 2005 deadline for doing so (see below for details).

Biodiversity-related discussions focused on the issue of misappropriation of genetic resources through patents. A new developing country submission proposed mandatory rules for disclosing evidence of benefit-sharing under relevant national regimes.

Members split over African Group proposal on implementation of 30 August Decision

Discussions at the TRIPS Council are centred around a 30 August 2003 Decision by the General Council that spells out the circumstances under which countries without pharmaceutical manufacturing capacity can import generic versions of drugs still under patent. The Decision temporarily waives Members' obligations under TRIPS Article 31(f) by allowing them to export pharmaceuticals produced under compulsory licence -- subject to a large number of conditions in both the exporting and importing country. In the Decision -- the adoption of which was accompanied by a statement from the Chair of the General Council assuring that it would not be misused -- Members agreed that the waiver would last until the TRIPS Agreement is permanently amended. The already-extended deadline to do this is 31 March.

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Public health-related discussions focused on a submission from Rwanda on behalf of the African Group (composed of African WTO Members) containing legal arguments supporting the group's December 2004 proposal for the amendment of Article 31 of the TRIPS Agreement (IP/C/W/437, see [BRIDGES Weekly](#), 8 December 2004). The submission addresses the legal form of the amendment, justifications for the modification of the 30 August Decision, and the status of the Chair's statement. The communication contends that a footnote would not suffice for the amendment of TRIPS Article 31, because a footnote would not provide sufficient certainty and legal security with respect to the implementation of the amendment. Thus, the African Group argues, the amending text should be inserted into the body of the Agreement.

The African Group proposal also suggests eliminating a number of provisions in the 30 August Decision. The submission says that these modifications would simply remove provisions whose purpose had already been served or that would be redundant in the context of an amendment, as well as those whose purpose would otherwise be served by other provisions of the TRIPS Agreement. In regard to the Chair's statement, the African Group's proposal denies that it is an integral part of the 30 August Decision. Consequently, it should not be part of the amendment. However, as proposed by the African Group, Members could consider reading the Chairman's statement at the time of the adoption of the amendment.

Discussion and comments on the submission reaffirmed the positions taken by Members at the December TRIPS Council meeting. The EU concurred with the US, stating that the African Group's proposal did not reflect all the elements of the 30 August Decision and was, therefore, unacceptable. However, the EU did agree with the African Group's argument that the footnote approach was not the best solution to amend the TRIPS Agreement. It also supported the proposed option of reading the Chair's statement at the time of the adoption of the amendment. Other developed countries such as Switzerland, Japan, and Canada said that the Chair's summary was, in their opinion, an essential part of the Decision and a key element in their willingness to agree on the Decision. They stated their preference for the footnote approach, but showed some willingness to consider alternative solutions. On the other hand, several developing countries, including Argentina, Brazil, Hong Kong-China, India, Jamaica, Kenya, Malaysia, and the Philippines supported the African Group's proposal. They stressed that the Decision and the Chair's summary had different legal status and that including the latter in the amendment would unjustifiably upgrade its legal status. Some developing countries recalled that the main purpose of the 30 August Decision was to

provide an answer to a humanitarian problem, and that its implementation should be carried out in that spirit. All developed and developing countries expressed their commitment to meet the agreed deadline of 31 March 2005 to amend the TRIPS Agreement.

Members accepted the proposal by TRIPS Council Chair Miller of Hong Kong, China to continue the consultations aimed at finding a solution within the agreed deadline. However, his proposal to discuss the text of the Decision paragraph-by-paragraph was rejected by the United States and Switzerland, which argued that this approach would de facto reopen negotiations on the Decision. Thus, countries agreed to suspend the session while the Chair continued consultations aimed at meeting the 30 March 2005 deadline.

Developing countries propose international rules on evidence of benefit-sharing

Bolivia, Brazil, Colombia, Dominican Republic, Ecuador, India, Peru, and Thailand tabled a new proposal (IP/C/W/442) at the meeting on the issue of evidence of benefit-sharing in patent applications. Their submission was in response to the Doha mandate on IPRs, which instructs Members to consider the relationship between the TRIPS Agreement and the Convention on Biological Diversity, the protection of traditional knowledge (TK) and folklore as part of their review of TRIPS Article 27.3 (b), which deals with the patentability of life forms. The submission focuses on the third major issue set out in the March 2004 'checklist' of topics for consideration in TRIPS Council discussions on biodiversity put forward by these and other developing countries -- i.e., evidence of equitable sharing of benefits that arise from the use of genetic resources. Prior submissions by the group dealt with the first two issues of the checklist, i.e. the disclosure of the source and country of origin of biological resources and/or TK used in an invention (IP/C/W/429, see [BRIDGES Weekly](#), 22 September 2004) and providing evidence of prior informed consent for patents that involve the use of biological resources (IP/C/W/438, see [BRIDGES Weekly](#), 8 December 2004).

The new proposal outlines a number of criteria for the determination of evidence of fair and equitable sharing of benefits arising from the use of genetic resources, such as the prior informed consent of the party providing the resources and mutually agreed terms for the sharing of benefits. As with the other checklist issues, the proponents of this submission favour amending the TRIPS Agreement to accommodate the obligations of disclosure of origin, prior informed consent and evidence of fair and equitable benefit sharing.

Members largely took the same positions as they had in discussions on the other checklist items. Developing country Members stressed the importance of a mandatory international system to address cross-border misappropriations of genetic resources. Developed countries contended that the TRIPS Agreement and the CBD are not in conflict with each other, making it unnecessary to amend the TRIPS Agreement.

Peru said that the current patent system was not conducive to preventing misappropriation, pointing to the enormous costs involved in examining whether patent applications in third countries involve domestic genetic resources. Such search costs could be avoided through internationally enforceable rules on disclosure of origin as part of the international patent system. Brazil reminded Members that the CBD contains a provision that states that intellectual property rights should support the CBD objectives of preservation of, access to and benefit sharing of the use of genetic resources -- not run counter to them.

Other Developments

The EU announced that it was submitting a paper on IPRs enforcement, and requested that counterfeiting be included in the agenda for the next TRIPS Council meeting. This request met with strong opposition from developing countries. Also, the EU stressed its intention to discuss the implementation of past TRIPS-related panel/AB reports at the next meeting.

The next meetings of the TRIPS Council are scheduled for 14-15 June and 25-26 October 2005.

Rising frustration in GIs extension debate

The TRIPS Council meeting was followed by the second session of the WTO Director-General's technical consultations on the issue of extending geographical indications (GI) protection to products other than wines and spirits (the consultations were mandated by the July Package). During the meetings, proponents of the GI extension displayed increasing frustration about the current deadlock of positions. However, some of them, such as Bulgaria, indicated their willingness to make concessions in other negotiating areas.

Opponents such as Australia, Canada, the US and Chile reiterated their concern about additional costs that would result from an extension, in particular with respect to GIs currently used as generic terms in these countries. They challenged the proponents of GI extension to illustrate what the consequences of extended protection would be for generic producers of, for example, feta cheese.

These discussions are scheduled to continue in April.

ICTSD reporting.

AGRICULTURE WEEK KICKS OFF ON HIGH NOTE

A week of agriculture negotiations at the WTO started with two days of informal meetings from 14-15 March. Members discussed domestic support, and also took stock of progress on the conversion of 'specific' agricultural tariffs based on quantities into 'ad valorem' equivalents (AVEs), i.e., tariffs based upon the price of the product.

Key Members gathering in a mini-ministerial meeting in Mombasa a week ago had agreed to postpone the decision of whether Members would be able to retain specific tariffs following a conversion in order to allow the technical work to proceed (see [BRIDGES Weekly](#), 9 March 2005). The chair of the agriculture negotiations, New Zealand's Tim Groser, said he felt considerable progress had been made, and was optimistic regarding the prospects for Members agreeing on a 'first approximation' of modalities (such as percentages for tariff and subsidy cuts, reduction formulae, criteria for domestic support, schedules, deadlines, and transition periods) by July. Meanwhile, the G-20 (which includes major developing country players such as Brazil, India and China) and Cairns group of agricultural exporters are preparing for upcoming ministerial-level coordination meetings.

Domestic support - scope for agreement broadens

Members discussed the reduction of Amber Box (trade distorting) support, de minimis support, and Blue Box support (partially de-coupled and linked to production limiting programmes). Amber Box reductions will be made according to a tiered formula, with higher levels of support being cut more steeply. Members discussed how to categorise different countries' support, noting that while overall the EU provides its farmers with the most support, smaller countries such as Switzerland and Norway provide significant support in relation to their farm output. These two countries said they sought to make a real contribution in terms of cutting support, even though the impact of their support is smaller on the world market than that of the EU, for example. Australia and New Zealand had been arguing that the support paid by small countries also contributes to distortion.

At the meeting, the G-20 presented a proposal on the Blue Box, seeking to prevent 'box shifting,' i.e. a situation in which Members would simply move their Amber Box support into the Blue Box and avoid strict

reductions. The group said that any Amber Box commodity support had to be completely reformed to fit the Blue Box before it could be moved, as the Blue Box has been created to help countries transition out of trade distorting subsidies. In addition, the group called for checks on price-linked support, such as countercyclical payments, if these were to be considered Blue Box support measures.

G-20 ag ministers to coordinate positions

The G-20 ministers are meeting in New Delhi from 18-19 March to coordinate positions on agriculture in view of the December Hong Kong WTO Ministerial. India's trade minister Kamal Nath commented that "The aim of the New Delhi meeting is to help us consolidate. When you have diverse interests, how do you remain united?" The ministers attending the G-20 meeting will work on a joint position. They will specifically address the issue of what methodology to use for calculation of AVEs, and are expected to come up with a common position against the expansion of the agriculture negotiations in the current phase beyond the "three pillars" of market access, domestic support and export subsidies to issues such as sectoral initiatives or geographical indications. Other issues on the table include the tariff cutting formula.

A number of developing countries outside the G-20 plan to attend as observers, including G-33 countries seeking to secure Special Products classifications and a Special Safeguard Mechanism for developing countries, as well as representatives of African, Caribbean and Pacific (ACP) countries and least developed countries (LDCs).

The Cairns group of agriculture exporters also is scheduled to meet at the ministerial level in Cartagena, Colombia, on 30 March.

The agriculture negotiations at the WTO are held in three different settings: in informal negotiating sessions open to the full Membership allowing for a first reading of issues; in more focused open-ended technical consultations that delve deeper into the issues; and in small group consultations involving technical experts. The 'agriculture week' is continuing in informal mode, with a formal meeting of the Committee on Agriculture special (negotiating) session scheduled for Friday, 18 March.

ICTSD will provide a full report of the agriculture week in the next issue of BRIDGES Weekly.

ICTSD reporting; "Cairns Group Ag Group Renews Push On Trade Reform In WTO," DOW JONES, 15 March 2005; "India Says G20 Meeting To Consolidate Alliance," REUTERS, 15 March 2005; "G-20 Meet To

Finalise Stand On Scope Of Trade Talks This Week," FINANCIAL EXPRESS, 14 March 2005; "Focus On Agricultural Subsidy At G-20 Meet," CALCUTTA TELEGRAPH, 15 March 2005; "G-20 Outlines Further Disciplines Sought for New Blue Box Support," WTO REPORTER, 15 March 2005.

BLAIR COMMISSION FOR AFRICA CALLS FOR FAIRER TRADE

The Commission for Africa established in 2004 by British Prime Minister Tony Blair issued its report on 11 March, calling for "more and fairer trade" for the continent. The 450-page study highlights the challenges facing Africa and outlines recommendations on how they can be addressed by both Africa and the developed world.

The report particularly focuses on strategies to combat poverty, which it refers to as "the greatest tragedy of our time." In this respect, the report identifies the following key areas for action: governance and capacity-building; the need for peace and security on the continent; the need to invest in people through education and adequate healthcare; "more trade and fairer trade"; and an additional US\$25 billion per year in aid to be implemented by 2010. It specifies that action on some of these issues will need to be taken by African governments alone; on others, they will have to work in coordination with donor countries.

Commission calls for action on trade

On trade, the report points out that "Africa will fail to achieve sustainable growth and poverty reduction, and fail to meet the Millennium Development Goals, unless it increases its diminishing share of world trade." The report outlines three recommendations for achieving "more and fairer trade" for Africa. Firstly, the report recommends increasing Africa's capacity to trade through investments in infrastructure and the creation of an enabling climate for the private sector, focusing on trade facilitation and enhanced regional integration. Secondly, the report calls on developed countries to address non-tariff trade barriers. For instance, it calls on developed countries to ensure that standards are not unnecessarily stringent, and to help Africa in meeting these standards. It also urges rich countries to explore standard harmonisation so that African exporters are better able to identify and meet such requirements. With regard to the ongoing WTO negotiations, the report notes that "progress requires the successful completion of an ambitious Doha Round, with specific and time bound goals for ending appalling levels of developed country protectionism and subsidies." The report emphasises that development

concerns must be the priority in all trade agreements, and that liberalisation must not be forced on Africa.

Finally, the report urges the developed world to provide transitional support to African countries to help them deal with negative effects resulting from the removal of global trade barriers. According to the Commission, this requires making current trade preference schemes work more effectively by expanding them to cover all low-income countries in sub-Saharan Africa, and ensuring simpler rules of origin requirements. Furthermore, the report urges rich countries to finance trade initiatives with aid to help Africa meet the economic and social costs of adjusting to a new global trading environment.

African leaders generally welcome report

African leaders have generally welcomed the report, although some have expressed concerns regarding how the recommendations will be implemented. South African President Thabo Mbeki expressed satisfaction with the report but noted that it must be translated into concrete action. Upon receiving the report from the British High Commission in Accra, John Kufuor, the president of Ghana, said "Ghana will partner with Prime Minister Tony Blair to work together to change the history of the world."

Critics have pointed out that the problems and solutions the Commission highlights are not new, and that developed countries have often failed to deliver on past promises of aid and debt-relief to Africa. Tanzanian journalist Deogratias Mushi wrote, on the report's call for African leaders to root out corruption and promote good governance, "how many times has this been said?" Nevertheless, he acknowledged that the study had put forward some novel suggestions, including the call for the developed world to play a more active role in policing corrupt payments and repatriating funds deposited by African dictators in European banks, as well as proposals to use aid to address infrastructure development in Africa.

Other observers have noted that while the call for more aid and debt relief is not new, it will be a priority when the Group of 8 rich countries (G-8) hold their annual meeting in September under the presidency of the UK. Cris Landsberg of the Johannesburg-based think tank Centre for Policy Studies, however, remained sceptical, saying "we are not going to get a response from the rest of the G-8. I don't think that they will, for example, write off Africa's debt."

The full report is available at:
<http://213.225.140.43/english/report/introduction.html>

ICTSD reporting; "Can we dare implement Blair Commission report?" IPP Media, 14 March 2005; "Commission for Africa," All Africa.com, 14 March 2005; "Development-Africa: A Mixed Verdict for Commission's Report," allAfrica.com, 14 March 2005; "Africa must be strengthened to compete globally," ghanaweb.com, 14 March 2005; "Mbeki welcomes Blair's Commission for Africa report", SABC News, 11 March 2005.

OTHER STORIES

WTO SPS COMMITTEE FOCUSES ON REGIONALISATION, S&D

At its 9-10 March meeting in Geneva, the WTO Committee on Sanitary and Phytosanitary Standards (SPS) considered the issue of recognising regions -- both within and across national borders -- for the purposes of applying health-related measures. However, WTO Members were unable to agree on guidelines for the implementation of such regional recognition; discussions on the issue will continue at the Committee's next meeting, scheduled for 29-30 June.

The Committee agreed to try to complete reports on the issue of special and differential treatment (S&D) for developing countries as well as on the review of the SPS Agreement during the June meeting. Finally, the Secretariat's round-up of the Committee's work confirmed that animal health concerns have dominated SPS discussions since 1995, pointing in particular to foot-and-mouth disease and Bovine Spongiform Encephalopathy (BSE, commonly known as 'mad cow disease').

Guidelines divide regionalisation debate

Following informal consultations earlier in the week, the Committee continued its discussions on Article 6 of the SPS Agreement, which requires Members to adapt their sanitary or phytosanitary measures to specific geographic areas rather than to national borders, so as to take into account considerations such as the prevalence of pests or diseases within countries. Several Members complained about the lack of implementation of this requirement, specifically with regards to recognising pest-and disease-free regions within countries. Canada, the EU and Argentina gave examples of how limited and localised outbreaks of a disease could lead to a general ban on imports from a country as a whole. Members also raised concerns about the tedious procedures of obtaining pest-free status.

In an attempt to accelerate the implementation of Article 6, a draft decision on a work programme was circulated prior to the meeting. The work programme, based on recent submissions by Chile ([G/SPS/W/171](#)) and Australia (G/SPS/W/172), would co-ordinate the information gathered from Members as well as from international expert organisations invited to share their views on whether guidelines for importing countries to improve implementation are necessary. The proposed work programme would also set out to clarify the SPS Committee's role in relation to scientific organisations. Further, implementation of Article 6 would be included as a standing item on the Committee's agenda. Although the draft decision was not adopted, Members agreed to re-examine the issue at the next meeting.

Members are largely divided on the question of where and how to develop these guidelines for implementation. Chile and other Latin American countries want such guidelines to be developed in the SPS Committee itself, whereas other countries including the US believe that they should be developed by expert bodies that already deal with regionalisation such as the World Animal Health Organisation (OIE) and the FAO's Secretariat of the International Plant Protection Convention (IPPC). Proponents of the latter approach argue that it would avoid duplication and inconsistency. The EU and some other Members are concerned that the process of developing guidelines would delay, rather than hasten, the implementation of Article 6.

Positive and pragmatic S&D discussions

The Doha mandate requires Members to review all special and differential treatment (S&D) provisions with a view to strengthening them and making them "more precise, effective and operational". The task was initially given to the Committee on Trade and Development, which subsequently delegated certain S&D proposals to the relevant WTO bodies. The July Package ([WT/L/579](#)) stipulates that the WTO bodies should consider the proposals and report their recommendations to the General Council by July 2005. Proposals before the SPS Committee have focused on clarifying and amending the SPS Agreement's provisions on technical assistance and S&D.

Members' proposals differed widely in terms of their expectations for S&D, particularly with regard to linking new obligations to technical assistance. SPS Chair Gregg Young of the US characterised the informal discussions in the run-up to the meeting as "very positive and pragmatic... with broad-based and constructive participation". Sources reported that in spite of the gap in Members' expectations, the discussions suggested that Members are genuinely willing to focus on issues they can agree upon.

In addition to reporting to the General Council on S&D, the SPS Committee agreed to aim to approve a draft report on the second review of the SPS Agreement at its June meeting. Transparency and clarification of definitions figure among the issues discussed in the report. The review also includes a summary of the experiences with technical assistance in relation to the SPS Agreement, as reported by developing countries.

Secretariat round-up and specific trade concerns

In its latest round-up of the SPS Committee's work (G/SPS/GEN/204/Rev.5), the Secretariat established that "animal health and zoonoses" represent 40 percent of the concerns raised in the body since 1995. This was reflected during the meeting, with the US and Canada describing the measures they had undertaken to deal with BSE. Various other countries also reported on foot and mouth disease.

The Secretariat further noted that developing countries have actively reported trade concerns to the SPS Committee, raising 101 of the 246 issues brought before it. Most of these were developing country complaints against measures imposed by developed country governments. However, issues raised between neighbouring developing countries also figured in the list of specific trade concerns.

ICTSD reporting.

NAMA WEEK UNDERWAY, MEMBERS LOOK AT NEW PROPOSALS

WTO Members resumed negotiations on non-agricultural market access (NAMA) with a 14 March meeting of the Negotiating Group on Market Access. Discussions focused on new proposals addressing issues including the erosion of trade preferences, dealing with unbound tariffs, the elimination of low tariffs, and special and differential treatment (S&D) for developing countries.

In an effort to spur progress in the discussions, which have been stalled for want of common ground on how to proceed, NAMA Negotiating Group Chair Ambassador Stefan Johannesson of Iceland has reorganised the NAMA talks along the lines of the agriculture negotiations (see [BRIDGES Weekly](#), 9 February 2005). In addition to plenary meetings where Members will review overall progress, more detailed discussions are to take place in so-called 'Room D' meetings open to a maximum of three representatives per delegation. Room D discussions will cover topics including the treatment of unbound tariffs, the tariff-reduction formula, and the products covered by the

NAMA negotiations. There will also be small group meetings to discuss highly technical issues.

The Negotiating Group on NAMA held formal meetings on 14-15 March. The rest of the week will see Room D discussions, as well as informal small group, plurilateral, and bilateral meetings before concluding with another session of the Negotiating Group on 18 March.

New proposals put before Members

Several new submissions were introduced to Members during the 14 March plenary session. Many of them are likely to be discussed in greater detail in smaller meetings during the NAMA week.

Benin circulated a communication on behalf of the group of African, Caribbean, and Pacific (ACP) countries (TN/MA/W/53) that attempted to reconcile broader trade liberalisation with the needs of countries that stand to lose greatly from the erosion of trade preferences. The submission outlined three criteria for assessing a country's vulnerability to preference erosion: the share of exports of a particular product to a specific preference-granting country in the developing country's total exports; that product's market share in the importing country; and the world market share of the exporting country in the product. It then proposed a formula for calculating an 'index of vulnerability' to determine which products should receive special treatment while reducing tariffs. The proposal said that applying this methodology yielded common lists of products for ACP countries' exports to the EU and the US under their respective preference schemes.

Members were broadly encouraging of the ACP Group's idea, and asked them to come up with specific proposals. A few developing countries pointed out that some of the products identified by this approach could well be of export interest to them, and said that they would prefer not to see slower liberalisation for those goods.

The US tabled a paper on the 'dual coefficient' approach it has been pushing in the NAMA talks (see [BRIDGES Weekly](#), 9 March 2005). The submission called for the difference between the coefficients for developing and developed countries -- and hence between the resulting tariff reductions -- to be small. Yet, the US continued to insist that it would only agree to differentiated coefficients if Members agree to bind all of their tariffs and accept a 'Swiss formula' approach that would require higher tariffs to be reduced more sharply. Many developing countries oppose the Swiss formula approach, since they tend to apply higher tariffs to industrial goods than their rich counterparts.

Other proposals examined during the meeting included a 24 February proposal from Mexico, Colombia and Chile to allow Members to choose a balance among binding their tariffs, the depth of tariff reduction, the ability to exclude some products from the tariff reduction formula, and the implementation period for tariff cuts (TN/MA/W/50, see [BRIDGES Weekly](#), 9 March 2005). Norway submitted a paper (TN/MA/W/7/Add.1) outlining a system for rewarding "Members who contribute to a more liberal trading regime" with 'credit' -- and lower tariff cuts. Norway, joined by Canada, also proposed that Members eliminate low tariffs (TN/MA/W/52). They argued that this would benefit developing country Members since low bound tariffs were concentrated in rich countries.

Delegates considered a methodology tabled by Canada, Hong Kong-China, New Zealand, and Norway (TN/MA/W/53) for converting unbound applied tariffs into base rates that would then be subject to the eventual tariff-reduction formula. The four Members suggested establishing base rates at a level five percent higher than each unbound rate -- a one percent tariff would rise to six percent; a 100 percent tariff to 105.

Several of the technical issues raised by these proposals are likely to be discussed during 'Room D' and other meetings during the rest of the NAMA week.

ICTSD will provide a full report of the NAMA week in the next issue of [BRIDGES Weekly](#).

ICTSD reporting; " U.S. Details 'Dual Coefficient' Approach For World Trade Organization's NAMA Talks," WTO REPORTER, 15 March 2005.

IN BRIEF

EUROPEAN PATENT OFFICE UPHOLDS NEEM PATENT REVOCATION IN BIOPIRACY CASE

In the first conclusion of a biopiracy case in its history, the European Patent Office (EPO) on 8 March upheld a 2000 decision to revoke a patent on a fungicidal product extracted from seeds from the Indian neem tree (see [BRIDGES Weekly](#), 23 May 2000). The case had originally been brought to the EPO in 1995 by Indian environmentalist Vandana Shiva, Magda Aelvoet (then MEP and President of the Greens in the European

Parliament), and the International Federation of Organic Agriculture Movements (IFOAM).

The 8 March decision by the EPO's Technical Board of Appeals dismissed an appeal brought by the original defendants -- biotech company Thermo Trilogy and the United States. The appeals body's ruling maintained the decision of the EPO Opposition Division five years ago to revoke the neem patent in its entirety. The decision brings to a close the ten-year battle around the patent. According to Magda Aelvoet, Belgian Minister of State and President of the Green Group in the European Parliament when the original case was submitted, "Our victory against biopiracy is threefold. First, it is a victory for traditional knowledge and practices. This is the first time anybody has been able to have a patent rejected on these grounds. Second, it is a victory for solidarity: with the people of developing countries -- who have definitively earned the sovereign rights to their natural resources -- and with our colleagues in the NGOs, who fought with us against this patent for the last ten years. And third, coming as it does on International Women's Day, this is also a victory for women."

A reformulated claim submitted by the patent holders as part of their appeal was rejected on formal grounds. Subsequently, the main body of the patent was tested with regard to novelty, disclosure, and inventive step -- and irrevocably revoked.

"Landmark Victory in World's First Case Against Biopiracy: European Patent Office Upholds Decision to Revoke Neem Patent," RESEARCH FOUNDATION FOR SCIENCE, TECHNOLOGY AND ECOLOGY, THE GREENS/EUROPEAN FREE ALLIANCE IN THE EUROPEAN PARLIAMENT AND INTERNATIONAL FEDERATION OF ORGANIC AGRICULTURE MOVEMENTS, 8 March 2005.

US LAUNCHES FTA TALKS WITH OMAN, UAE

The US has launched negotiations towards a free trade agreement (FTA) with the United Arab Emirates (UAE) and Oman, starting a new set of bilateral FTA talks in the Middle East. Assistant US Trade Representative Catherine Novelli concluded the first round of FTA discussions with each of the two Persian Gulf countries during a visit to the region last week. Representatives from both the UAE and Oman expressed hope that they would be able to conclude agreements with Washington by the end of the year.

Following the 12-14 March talks in Muscat, Omani Commerce and Trade Minister Maqbool bin Ali Sultan told the press that Oman and the US had already

agreed on 70 percent of the terms and conditions of an eventual FTA. Officials from the two countries will start the next round of talks in Washington on 18 April. US talks with the UAE will continue from 25 April. A senior US trade official said that "high standard" intellectual property rights protections were part of US demands in both negotiations.

The move to sign bilateral agreements with the two countries is part of the US' strategy, announced by President George W. Bush in 2003, to create a 'Middle East Free Trade Area' (MEFTA) by 2013. The US has already signed bilateral FTAs with Israel, Jordan, Bahrain and Morocco, and hopes to sew up similar agreements with enough other countries in the region by then to integrate them into a broader MEFTA.

The US push for FTAs among members of the Gulf Cooperation Council (GCC, a customs union comprising the United Arab Emirates, Bahrain, Saudi Arabia, Oman, Qatar and Kuwait), however, has raised the hackles of the Saudi government, which is anxious about the effect that the FTAs will have on the group's common external tariff once they come into force, fearing that the FTA countries will become a gateway for US goods to flood the customs union. Saudi officials have also expressed "alarm" over the decision of some GCC members' decision to negotiate with the US bilaterally, rather than as a trade bloc. Saudi Arabia is not a WTO Member, and has no plans at the moment to negotiate an FTA with the US.

"UAE, US to sign free trade agreement by year-end," XINHUANET, 10 March 2005; "Maqbool: 70pc of FTA terms reached," TIMES OF OMAN, 15 March 2005; "US Free Trade Agreements Split Arab Opinion," ARAB NEWS, 8 March 2005; "Free Trade Talks with Oman, United Arab Emirates Off to Rapid Start," WASHINGTON FILE (US State Department), 14 March 2005.

WTO IN BRIEF

WTO PANEL ISSUES MIXED RULING IN GEOGRAPHICAL INDICATIONS CASE

A WTO panel has upheld US and Australian claims that certain provisions of a 1992 EU framework regulation governing geographically-linked names of certain agricultural products violated WTO non-discrimination rules. According to the panel's ruling, released to the public 15 March, the regulation erred by requiring other WTO members to offer levels of protection for

geographical indications (GIs) similar to those required by the EU in order to receive protection for their trademarks in Europe (for a story on the panel's interim report, see [BRIDGES Weekly](#), 1 December 2004).

The ruling faulted EU rules that only allow foods produced in their region of origin to bear certain well-known names -- for example, under the rules, only ham produced using traditional methods near the Italian city of Parma can be called Parma ham -- for discriminating against non-EU trademark holders. The panel, however, rejected US and Australian claims that the 1992 regulation violated the WTO's Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPs) by permitting the co-existence of GIs with pre-existing trademarks with similar-sounding names.

Acting US Trade Representative Peter Allgeier welcomed the panel's ruling, referring to it as a "clear win" for US farmers and food processors. However, a US trade official is reported to have pointed out that the WTO panel had not supported the US on all its claims; for instance, the panel did not issue a clear ruling on the US claim that the EU regulation does not allow US firms the right to object to GIs protected by the EU. EU agriculture spokesman Michael Mann noted that the ruling would have an insignificant commercial impact on the US and Australia, as neither of them had ever submitted an application for GI protection under the 1992 regulation.

In its request for the establishment of a dispute settlement panel in August 2003, the US had claimed that the EU's legislation on GIs -- which protects the names of origin of more than 600 foodstuffs and agricultural products including fruits, cheeses, meats and fish -- discriminated against non-EU products and among WTO Members by not according all trading partners the same advantages enjoyed by EU members.

ICTSD reporting; "Australia Applauds WTO Ruling On Regional Food Names," Associated Press/Sydney, 16 March 2005; "U.S., EU, Australia All Claim Victory In WTO Geographical Indications Dispute," WTO Reporter, 16 March 2005.

US SHIFTS POLICY ON IRAN ACCESSION

The US has announced that it would drop its longstanding opposition to Iran's membership in the WTO if Iran renounced its nuclear ambitions. In an 11 March statement, the Bush administration announced that the US would join the EU in offering the Islamic Republic economic incentives including WTO membership if it agreed to permanently stop its production of enriched uranium, the fuel for nuclear

power plants that could also be used to make nuclear weapons. The US has been blocking Iran's requests for accession since 1996, in the face of increasing opposition from other WTO Members (see [BRIDGES Weekly](#), 16 February 2005).

Speaking in Caracas, Venezuela, Iranian President Mohammad Khatami said that Iran would not renounce its "legitimate right" to develop "peaceful nuclear technology," though it was ready to "give more assurances" that it was not pursuing nuclear weapons. He also accused the US and the EU of double standards for opposing Iran's nuclear programme.

Iran is building a nuclear reactor with support from Russia; it claims that the plant is for producing electricity for civilian use. However, it could be used to make material for nuclear weapons. The US has argued that Iran, the second-largest producer in the Organisation of Petroleum Exporting Countries (OPEC), does not need to develop other energy sources.

France, Germany, and the UK have been trying to convince Iran to stop enriching uranium. It agreed in November 2004 to do so in return for EU trade and economic concessions. The EU is Iran's biggest trading partner. The US has banned most trade and investment relations with Iran since 1980.

"Iran Says It Won't Give Up 'Right' to Nuclear Power," BLOOMBERG, 12 March 2005; "U.S. Drops Objection to Iranian Bid For World Trade Organization Entry," WTO REPORTER, 14 March 2005; "US Joins Europe in Offer of WTO Deal for Iran, Official Says," BLOOMBERG, 11 March 2005.

EVENTS & RESOURCES

CALL FOR APPLICATIONS

ICTSD is urgently seeking to establish a roster of experienced editors and copy-editors interested in freelance work on reports and other ad hoc publications on a range of issues related to trade policy. Mother-tongue level of English required. Please contact Deborah Vorhies for further details at dvorhies@ictsd.ch.

EVENTS

For a more comprehensive list of events in trade and sustainable development, please refer to [ICTSD's](#) web

calendar. If you would like to submit an event, please email events@ictsd.ch.

Coming Up: 17 - 23 March

17-18 March, Kuala Lumpur, Malaysia: CAPACITY BUILDING WORKSHOP ON TRADE FACILITATION IMPLEMENTATION FOR ASIA AND THE PACIFIC. This workshop, organised by the United Nations Economic Commission for Europe (UNECE) and the United Nations Economic and Social Commission for Asia and the Pacific (UNESCAP), aims to assist countries of the Asian and Pacific region to better understand the current challenges and opportunities of trade facilitation from a regional and global perspective; and explain existing and emerging trade facilitation standards and other instruments. Some practical aspects of implementing trade facilitation instruments in areas that are discussed are the scope of trade facilitation from a regional and global perspective; harmonizing and simplifying trade documents and processes; and e-business standards and codes. For further information contact Aruna Vivekanantham, tel: +41 (0)22 917 51 75; fax: +41 (0)22 917 06 29; email: aruna.vivekanantham@unece.org; Internet: http://www.unece.org/trade/workshop/malaysia_0305/wkshop_h.htm.

WTO Events

An updated list of forthcoming WTO meetings is posted at: 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.

17 March: WTO TRADE POLICY REVIEW BODY - MONGOLIA.

17 March: WTO COMMITTEE ON BUDGET, FINANCE AND ADMINISTRATION.

18 March: WTO COMMITTEE ON AGRICULTURE - SPECIAL SESSION.

18 March: WTO NEGOTIATING GROUP ON MARKET ACCESS.

21 March: WTO WORKSHOP ON TECHNICAL BARRIERS TO TRADE.

21 March: WTO DISPUTE SETTLEMENT BODY.

21 March: WTO TRADE NEGOTIATIONS COMMITTEE.

22-23 March: WTO COMMITTEE ON TECHNICAL BARRIERS TO TRADE.

22-24 March: WTO NEGOTIATING GROUP ON TRADE FACILITATION.

Other Upcoming Events

28-30 April, Brussels, Belgium: INTERNATIONAL BANANA CONFERENCE II. This 2nd International Banana Conference, organised by Coordinadora Latinoamericana de Sindicatos Bananeros (COLSIBA), the Association of Caribbean Farmers (WINFA), the European Banana Action Network (EUROBAN), International Union of Food, Agricultural, Hotel, Restaurant, Tobacco & Allied Workers' (IUF), and United States Labor Education in the Americas Project (US/LEAP); aims to establish a dialogue, to help reverse the 'race to the bottom' as far as rights, conditions, socio-economic equity and environmental health are concerned. Main objectives of this conference include placing the specific needs of women workers and small farmers firmly on the international agenda; exploring mechanisms to control over-production and to stabilise prices; elaborating a definition of a 'fair price;' and creating a permanent mechanism/forum in which to continue dialogue (and/or negotiations) between the different actors. For further information contact Stephen Coats, tel: +1 773 262 6502; fax: +1 773 262 6602; email: usglep@igc.org; Internet: <http://www.abc2.org/>.

27 May, Leuven, Belgium: GENE PATENTS AND PUBLIC HEALTH. This conference offers a survey of the varied and complex issues which occur in patenting diagnostic methods. The conference also provides empirical evidence on well established strategies for using patents and explores new measures for gaining access to patents. The two major areas of discussion are patenting diagnostic methods: practical, ethical and legal framework; and licensing diagnostic methods: current practices and future options. For further information contact Linda Mees, tel: +32 (0)16 32 37 32; fax: +32 (0)16 32 37 30; email: linda.mees@law.kuleuven.ac.be; Internet: <http://www.law.kuleuven.ac.be/cir>.

31 May - 3 June, Maputo, Mozambique: 9th AFRICA OIL & GAS TRADE & FINANCE CONFERENCE & SHOWCASE. The 2005 edition is organised by the United Nations Conference for Trade and Development (UNCTAD), the Ministry of Mineral Resources & Energy, Mozambique, the national state oil company, ENH, (Empresa Nacional de Hidrocarbonetos de Mocambique), Petromoc and ITE Group Plc. The

conference will take a detailed look at the current opportunities within Mozambique, as well as throughout the African continent, regarding natural gas. Sessions held throughout the conference include financing oil and gas trade; opportunities in oil distribution and logistics; and innovations in oil industry technologies. For further information contact Colins Tchang, Tel: (+44 207) 596 5148; fax: (+44 207) 596 5062; email: colins.tchanga@ite-exhibitions.com; Internet: <http://www.africa-ogtf.com/index.htm>.

RESOURCES

"Decoupling EU Farm Support: does the new single payment scheme fit within the Green Box?" By Alan Swinbank and Richard Tranter. THE ESTEY CENTRE JOURNAL OF INTERNATIONAL LAW AND TRADE POLICY, Winter 2005. Recent reform of the EU's Common Agricultural Policy (CAP) has led to reducing the link between support and production. The new Single Payment Scheme will simplify the application arrangements for subsidy payments by replacing ten major CAP payment schemes with one new single payment. The EU believes that the Single Payment Scheme will qualify for green-box status in the WTO, policies that have little to no effect on production. The paper examines this argument, particularly in light of the recent WTO panel report on upland cotton. For access to this report visit http://www.esteyjournal.com/j_pdfs/swinbanktranter6-1.pdf.

LEGAL ASPECTS OF IMPLEMENTING THE KYOTO PROTOCOL MECHANISMS: MAKING KYOTO WORK. Edited by David Freestone and Charlotte Streck. Oxford University Press, February 2005. This book is the first guide to the complex legal arena of Kyoto Implementation. It provides full coverage of emissions trading and 'carbon finance,' which will dominate the implementation of Kyoto. Drawing on the emerging body of expertise in this complex area, this book conveys a knowledge of carbon finance and the international trade of emission allowances. For further information visit <http://www.oup.co.uk/isbn/0-19-927961-6?view=lawview>.

2005 ENVIRONMENTAL SUSTAINABILITY INDEX (ESI). Yale Centre for Environmental Law and Policy, January 2005. The 2005 ESI establishes indicators which permit comparison across the following five fundamental components of sustainability: Environmental Systems; Environmental Stresses; Human Vulnerability to Environmental Stresses; Societal Capacity to Respond to Environmental Challenges; and Global Stewardship. Higher ESI scores suggest better environmental stewardship. The five highest-ranking countries are Finland, Norway,

Uruguay, Sweden, and Iceland - all countries that have substantial natural resource endowments, low population density, and have managed the challenges of development with some success. The lowest ranking countries are North Korea, Iraq, Taiwan, Turkmenistan, and Uzbekistan. These countries face numerous issues, both natural and manmade, and have not managed their policy choices well. Some core policy conclusions derived from the ESI analysis are: developing and developed countries face distinct environmental challenges - the pollution pressures of industrialization on one hand and the stresses of poverty and incapacity on the other; economic success contributes to the potential of environmental success but does not guarantee it; and emphasis on good governance may be justified. For access to this report visit <http://www.yale.edu/esi/>.

TRADE FACILITATION: REDUCING THE TRANSACTION COSTS OR BURDENING THE POOR? By CUTS (Consumer Unity and Trust Society) International, December 2004. Trade facilitation has been on the WTO's agenda as one of the four Singapore issues along with competition policy, investment, and transparency in government procurement. According to the July decision, the scope of negotiations on trade facilitation will be of "limited nature." Though the decision does not require countries to undertake investments beyond their means, the biggest apprehension of developing and least-developed countries is the huge recurring costs that they would have to incur. This report is an endeavour to bring together the diverse viewpoints and concerns on the issue of definition of trade facilitation, GATT Articles V, VIII and X, dispute settlement and technical assistance and capacity building. It attempts to analyse and present the fundamental yet contentious issues pertaining to trade facilitation in order to facilitate better understanding. For further information contact cuts@cuts.org.

"The Impact of Trade Liberalization on Revenue Mobilization and Stability in Sudan." By Kabbashi Medani Suliman. WORLD BANK CONFERENCE PAPER, January 2005. This study examines the buoyancy and the elasticity of the Sudanese tax system, paying particular attention to the impact of trade liberalization on revenue mobilization and the stabilization role of the fiscal sector. The results of the analysis over 1970-2002 reveal that the tax system as a whole is not buoyant or elastic; the same results were also obtained for the major tax handles, namely; income and profit taxes, import duties and excise tax. For access to this paper visit http://siteresources.worldbank.org/INTMEPCCHANGE/Rsources/Suliman_final.pdf.

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