

## WTO holds high level trade symposia on environment and development

The meetings have been closed but a new dialogue is now open", declared Director-General Renato Ruggiero at the conclusion of the WTO High Level Symposia on Trade and Environment and on Trade and Development held at the WTO headquarters in Geneva on 15-16 March and 17-18 March, respectively.

The symposia marked the first time that representatives from non-governmental organizations exchanged views on both subjects with senior government officials from the WTO member and observer governments and with high-level representatives from international organizations.

Some 87 environment-related NGOs and academia, and 40 industry federations and consumer groups participated in the Trade and Environment Symposium. Fifty-one NGOs participated in the Trade and Development Symposium.

Mr. Ruggiero commended the high quality of some 200 interventions made in the symposia. He noted that many participants had urged that trade, environment and sustainable development be addressed in a comprehensive way, which means inclusion of improved market access, capacity building, technology transfer, debt relief and other things.

The Director-General read a letter by US President Bill Clinton to the Environment Symposium that stressed the need to strengthen environmental protection.

Sir Leon Brittan, Vice-President of the European Commission, urged WTO negotiators to "mainstream" sustainability at the Seattle Ministerial Conference. He had originally proposed the holding of the Environment Symposium. □



*WTO Director-General Renato Ruggiero meets Chinese President Jiang Zemin in Geneva on 27 March as work on the country's accession resumed. (Tania Tang/WTO)*

### Fruit and DRAMS reports adopted

The Dispute Settlement Body (DSB), on 19 March, adopted reports on two disputes, and heard implementation statements from India, the European Communities, Argentina and Korea.

#### *Japan's measures affecting agricultural products*

The Appellate Body upheld the basic finding of the panel that Japan's varietal testing requirement for imported apples, cherries, nectarines and walnuts is without sufficient scientific basis, and thus is inconsistent with the provisions of the WTO Agreement on Sanitary and Phytosanitary Measures. It found an additional violation of the Agreement in concluding that Japan's requirements for imported apricots, pears, plums and quince were not based on a risk assessment.

The United States urged the adoption of the Appellate Body report, which it said has clarified important provisions of the SPS Agreement.

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**DSB** (Continued from page 1)

Japan expressed regret that the Appellate Body had not accepted its arguments. However, it said that nothing in the report prevents it from protecting itself from pests.

The EC said that while the reports clarified SPS concepts, they have also raised questions about panel's assessing scientific justification for trade measures. Brazil hoped that the reports would facilitate its exports of mangoes to Japan. Hungary said it was pleased with the findings.

The DSB adopted the Appellate Body report, and the panel report, as modified by the Appellate Body.

**US anti-dumping duty on DRAMS**

This dispute concerns a complaint by Korea against a decision of the US Department of Commerce not to revoke the anti-dumping duty on dynamic random access memory semi-conductors (DRAMS) of one mega bit or above originating from Korea. Korea contended that the decision was made despite the finding that the Korean DRAM producers have not dumped their products for a period of more than three and a half consecutive years, and despite the existence of evidence demonstrating conclusively that Korean DRAM producers will not engage in dumping DRAMS in the future. The panel found the measures complained of to be in violation of Article 11.2 of the Anti-Dumping Agreement, which provides that anti-dumping measures be terminated if a review finds them to be no longer justified.

Korea welcomed the panel report, adding that the United States was now obliged to amend the anti-dumping measure in question. However, it expressed concern with other conclusions reached by the panel.

The United States welcomed a number of the panel's findings, and noted that the panel had not agreed with Korea's suggestion that it rescind the anti-dumping order. It said that it was not interested in prolonging the dispute by lodging an appeal.

The DSB adopted the panel report.

**Implementation of DSB recommendations**

The DSB heard statements regarding reports it had adopted recently:

- Korea said it intended to act expeditiously regarding the implementation of the recommendations of the Appellate Body report, and the panel report, as upheld by the Appellate Body, on its taxes on alcoholic beverages.
- Brazil requested talks with the EC on the latter's implementation of the DSB recommendations concerning poultry products.
- On the DSB recommendations regarding EC measures on meat and meat products from cattle treated with hormones, the EC said that the European Commission had prepared a report for the Council and European Parliament, which sets out options for their implementation. Canada and the United States stressed that the EC must comply with recommendations by the deadline of 13 May 1999.
- In a report that a bill to implement the DSB recommendations concerning its dispute with the United States on patent protection for pharmaceutical and agricultural chemical products is now before Parliament.

ACTIVE PANELS (22 March 1999)		
Complainant	Subject of the complaint	Date established
EC	Argentina - Measures affecting textiles and clothing	16.10.1997
EC	Chile - Taxes on alcoholic beverages	25.03.1998
United States	India - Quantitative restrictions on imports of agricultural, textile and industrial products	18.11.1997
New Zealand	EC - Measures affecting butter products (panel proceedings suspended)	18.11.1998
India	Turkey - Restrictions on imports of textile and clothing products	13.03.1998
New Zealand, US	Canada - Measures affecting dairy products	25.03.1998
US	Australia - Subsidies provided to producers and exporters of automotive leather	11.06.1998
EC	Korea - Definitive safeguard measure on imports of certain dairy products	23.07.1998
Canada	Brazil - Export financing for aircraft	23.07.1998
Brazil	Canada - Measures affecting the export of civilian aircraft	23.07.1998
EC	Argentina - Safeguard measures on imports of footwear	23.07.1998
EC	US - Tax treatment for "Foreign Sales Corp."	22.09.1998
EC, Japan	US - Measure affecting government procurement (panel proceedings suspended)	21.10.1998
US	Mexico - Anti-dumping investigation of high-fructose corn syrup (HFCS) from the US	25.11.1998
Canada	EC - Measures affecting the prohibition of asbestos and asbestos products	25.11.1998
EC, Ecuador	EC - Measures affecting the importation, sale and distribution of bananas (panel convened)	12.01.1999
EC	Canada - Patent protection of pharmaceutical products	01.02.1999
EC	United States - Anti-Dumping Act of 1916	01.02.1999
Japan, EC	Canada - Certain measures affecting the automotive industry	01.02.1999
EC	United States - Imposition of counter-vailing duties on certain hot-rolled lead and bismuth carbon steel products originating in the United Kingdom	17.02.1999
EC	US - Sections 301-310 of the Trade Act of 1974	02.03.1999

- Argentina reported that that a Decree was signed in February implementing the DSB recommendations concerning its statistical tax on imports of footwear, textiles, apparel and other items. □

**Panel set on US Sections 301-310**

The DSB, on 2 March, established a panel--at the request of the EC--to examine Sections 301-310 of the US Trade Act of 1974.

The EC said that the application of this legislation in the past months has posed problems, and believed that other members concerned with unilateral measures would recognize these problems.

The United States claimed that the EC request was motivated by developments in the banana dispute. It expressed confidence that the panel will find the legislation consistent with its WTO obligations.

Brazil, Canada, Colombia, Costa Rica, Cuba, Dominican Republic, Ecuador, India, Israel, Jamaica, Japan, Korea, Saint Lucia, Thailand and Hong Kong, China reserved their third-party rights. □

## WTO High Level Symposium on Trade and Environment

The following article as well as that on the Trade and Environment Symposium are excerpts from the comprehensive reports prepared by the International Institute for Sustainable Development. The full reports are available on the WTO Website ([www.wto.org](http://www.wto.org)).

The World Trade Organization (WTO) High Level Symposium on Trade and Environment was held at the WTO in Geneva from 15-16 March. The Symposium was divided into three panels to consider: linkages between trade and environment policies; synergies between trade liberalization, environmental protection, sustained economic growth and sustainable development; and interaction between trade and environment communities.

### The Opening Session

**Renato Ruggiero**, Director-General, World Trade Organization, welcomed the participants and noted with pleasure the participation of large number of high ranking delegations from capitals and representatives of civil society. He said Sir Leon Brittan had proposed and President Bill Clinton endorsed the holding of a High-level Symposium on Trade and Environment. He read a message from President Clinton that stressed the need to strengthen environmental protection; ensure trade rules support national policies providing for high levels of environmental protection and effective enforcement; and achieve greater inclusiveness and transparency in WTO proceedings. President Clinton's message indicated proposals the US would make at the symposium including the reduction of environmentally damaging subsidies and a pledge by the US to conduct an environmental review of the next round of negotiations.

Ruggiero said the aim of the symposium was to improve the critical relationship between trade and environment and better understand the objectives and functions of the WTO. He identified the objectives of the WTO as lowering barriers between peoples and nations, avoiding discrimination and creating a global trading system that is rule-based not power-based. He stressed the need to accelerate the work of the CTE, consider environmental assessments of WTO work and tackle the problem of poverty. He emphasized that the WTO is an ally of sustainable development and underscored the common objectives of the trade and environment communities - strong rule-based trading regime and strong and effective environmental regimes. He said this common objective could not be attained through unilateralism, discriminatory actions and protectionism but through consensus and negotiations. He underscored the need to reach global consensus on all environmental issues and give this consensus a stronger institutional voice. He concluded with a call for a new vision of global governance that would embrace more nations at the highest level of decision making.

**Sir Leon Brittan**, Vice-President of the European Commission, identified the key to successful policy on trade and environment to be a coordinated approach to sustainable development. He informed the delegates of an EC study on the likely impact on sustainable development of a Round based on the proposed Millennium agenda and



*UNEP Executive Director Klaus Töpfer, EC Vice-President Sir Leon Brittan and Director-General Ruggiero at the start of the Trade and Environment Symposium. (Photo by Tania Tang/WTO)*

encouraged others to follow suit. He indicated a preference for MEAs as compared to unilateral actions and stressed the need for confidence that WTO rules accommodate aims of Parties to MEAs. He said it was undesirable for each WTO member to take whatever trade measures it sees fit, based on its view of the acceptability of the way in which products are made in other countries. The issue of PPMs was linked to that of labeling and he stressed the need to adopt a clear and workable approach to eco-labeling. On the precautionary principle, he said there was a need to give it greater definition and prevent it being invoked in an abusive way. He underlined the importance of coherence in policy-making and suggested that all WTO members, including developing countries, pursue integrated trade and environment policies. He suggested, in conclusion, that negotiators "mainstream" sustainability at the ministerial meeting in Seattle.

### Keynote Addresses

**Klaus Töpfer**, Executive Director of UNEP, stressed that trade or environmental policy can not be isolated from the impacts of international debt, the need to alleviate poverty, the equitable imperative to transfer technology or the need to enhance the capacity of developing countries to face the challenges of sustainable development. He said it was neither fair nor reasonable to expect the WTO to shoulder all the responsibility and recalled that the UNEP Governing Council last month gave UNEP a strong mandate to assume a key role on environment and trade.

He said the first step was to identify the environmental strengths and weaknesses of existing and proposed trade rules. He noted that UNEP would give priority to collecting empirical data on the environmental consequences of international economic policies. The second step is to exploit the environmental benefits of economic liberalization, such as full cost internalization and the removal of price distortions subsidies. The third step, he said, was to articulate and clarify the fundamental principles of international environmental policy that must be accommodated.

dated by the rules of the multilateral trading system. The final step would be to determine how the multilateral trading system should accommodate fundamental environmental principles in the service of sustainable development. Economic liberalization has vastly different effects depending on the underlying social, economic and environmental conditions.

**Ian Johnson**, Vice President, Environmentally and Socially Sustainable Development of the World Bank, said the challenge facing the world was to take advantage of the trade flows that had lifted millions out of poverty while doing a better job of protecting the environment. As to whether trade liberalization helps or hurts the environment, he noted that the answer depends on which sectors of the economy expand or contract as a result of liberalization. Equally crucial are the effectiveness of the liberalizing country's environmental policy and how much of its trade-generated wealth is used to improve the environment.

He noted that trade policies are not the best way to attain environmental objectives. Since virtually all environmental damage is related to production and consumption, trade measures can only be justified if more direct instruments do not work or are not feasible. He also stressed that allowing unilateral sanctions against pollution or environmental degradation in another country would fundamentally shift the trading system towards one based on power rather than on rules.

**Maritta Koch-Weser**, Director-General, the World Conservation Union (IUCN), highlighted several fronts on which there must be action including: capacity building within countries; intellectual property rights and the sharing of benefits from international use of genetic resources and biosecurity; creation of a standing committee on trade and the environment; strong role for the civil society; and an evaluation of the existing rules of trade to determine how they might be used to inform the next round of negotiations. She said that IUCN would be proactive in responding to these challenges.

### Discussion

**CANADA** supported by the **UNITED STATES** and **FINLAND**, stated that environmental considerations must necessarily feature in upcoming WTO negotiations. Key issues include: clarifying the relationship of MEAs and WTO rules through an interpretative statement; ensuring that eco-labels relying on life cycle analysis avoid disguised trade restrictions; promoting the work of the CTE; and exploring possible collaboration on an environmental review of WTO negotiations. The US stressed the rights of Member countries to have high levels of environmental protection and, with CANADA, highlighted the importance of an early environmental review for the next round of negotiations.

**DENMARK**, with **SWEDEN**, said the WTO must pull its weight on the environment. He stressed the need to identify "triple win" situations: measures that lead to trade liberalization, better environmental protection and improved economic and social development of developing countries. **FRANCE** called for WTO rules to promote voluntary initiatives and liberalization of goods that have a favorable impact on the environment.



*Prince Sadruddin Aga Khan was the moderator of the panel on "The Interaction between the Trade and Environment Communities". (Photo by Tania Tang/WTO)*

**GERMANY** highlighted the need for "cooperation" - between states, governments and civil society and trade and environment policies. The **UNITED KINGDOM** said governments must avoid forging new protectionist tools. Wherever possible, environmental regulation must be multilaterally based and command the widest support. However, trade rules must not be used to frustrate legitimate environmental protection. **JAPAN** suggested a review of Article XX with a view to introducing a link between MEAs and trade.

**INDIA** underscored the importance of common but differentiated responsibilities of countries toward the goal of environmental protection and sustainable development. He said that poverty is the biggest environmental problem facing the world. He questioned the demand for NGO involvement in WTO negotiations, noting that delegations act as per the wishes of the governments, almost all of whom are democracies. **PAKISTAN** called for a reaffirmation of Rio principles and strengthening of mechanisms to comply with Rio obligations. He objected to measures taken on grounds of PPMs. **INDONESIA**, supported by **INDIA** and **PAKISTAN**, noted the importance of taking measures to alleviate poverty. He said that while environmental protection is important, the international community should be more sensitive to other problems.

**GREENPEACE** stated that the lack of transparency and adequate consultation with all stakeholders must be urgently addressed. He called upon WTO to, inter alia, recognize the equal legal status of MEAs, recognize the permissibility of unilateral trade measures, and not commence negotiations on investment liberalization.

**INTERNATIONAL FUND FOR ANIMAL WELFARE** welcomed statements made on PPMs and noted that unilateral action in the past had spurred action on the environment. **COMPASSION IN WORLD FARMING** said he was not asking WTO to solve animal welfare problems, but to stop getting in the way of those who do.

**WWF** supported conducting an environmental impact assessment of trade and making sustainable development an overarching goal of the WTO. **SIERRA CLUB CANADA** called for a review of the Uruguay Round be-

## A brief history of WTO and the Committee on Trade and Environment

The WTO, established on 1 January 1995, is the successor to the General Agreement on Tariffs and Trade (GATT) and the embodiment of the results of the Uruguay Round. As the legal and institutional foundation of the multilateral trading system, the WTO provides the principal contractual obligations that determine how governments frame and implement domestic trade legislation and regulations. The WTO provides the platform on which trade relations among Members evolve through collective debate, negotiation and adjudication.

The WTO provisions include several references to the environment, such as the Preamble to the Marrakech Agreement, which notes the importance of "allowing for the optimal use of the world's resources in accordance with the objective of sustainable development, seeking both to protect and preserve the environment and to enhance the means for doing so in a manner consistent with their respective needs and concerns at different levels of economic development." Specific references to the environment are included in the Agreements on Subsidies and Countervailing Measures, Agriculture and Technical Barriers to Trade and a number of other WTO provisions.

The principal focus of the WTO's work on trade and environment is contained in the Uruguay Round Final Act, under which Ministers adopted a Decision on Trade and Environment that called for the establishment of the Committee on Trade and Environment (CTE) and outlined its work programme. The decision states that the purpose of the CTE is "to identify the relationship between trade measures and environmental measures in order to promote sustainable develop-

ment," and "to make appropriate recommendations on whether any modifications of the provisions of the multilateral trading system are required, compatible with the open, equitable and non-discriminatory nature of the system." The CTE builds on progress achieved in the GATT's Group on Environmental Measures and International Trade, the Committee on Trade and Development and the GATT Council.

The 1996 report of the CTE summarizes the discussions and presents the conclusions of the CTE on its work programme. The Singapore Ministerial Declaration, adopted in December 1996 at the WTO Ministerial Conference, noted that the CTE had made an important contribution toward fulfilling its Work Programme. The Declaration also notes that the breadth and complexity of the issues covered by the CTE Work Programme show that further work needs to be undertaken on all items of its agenda.

The WTO's first Symposium on Trade, Environment and Sustainable Development was convened from 20-21 May 1997 in Geneva and attended by over 70 NGOs. The Second WTO Symposium of NGOs was held at the WTO in Geneva from 17-18 March 1998. The Symposium was attended by over 150 individuals representing environment and development NGOs, private corporations, research and academic institutes, and over 60 individuals representing Member governments. The objective of the Symposium, organized by the WTO Secretariat, was to broaden and deepen the constructive dialogue between NGOs and the WTO on the relationship between international trade, environmental policies and sustainable development. □

fore any new round of negotiation begins. She said the WTO needed to incorporate labor standards and human rights and reduce tariffs on goods and services produced in an environmentally sustainable manner.

The **NATIONAL ASSOCIATION OF MANUFACTURERS** said that multilateral trade rules must not allow the use of unilateral trade measures or sanctions for environmental purposes.

**INTERNATIONAL INSTITUTE FOR SUSTAINABLE DEVELOPMENT (IISD)** said it was unfortunate that the environment and development symposia were being held separately as such separation ran the risk of making development a Southern and environment a Northern agenda.

### Closing Statements

The moderator then provided a summary of the discussions. He said environmental conditions are worsening daily and the dialogues within these walls have failed to proceed quickly enough to stave off damage. This session discussed the linkage between trade and environment communities. Several participants stressed that trade, environment and development must be considered together. Public support for the WTO is waning and civil society needs to be engaged in the debate. The result could

be combined with the trade and development symposium and submitted as a joint contribution to the WTO.

Ruggiero concluded the Symposium by declaring it an important and positive event. He said the quality of speakers and interventions had been extremely high. He noted that many participants had urged that trade, environment and sustainable development be addressed in a comprehensive way, which means inclusion of improved market access, capacity building, technology transfer, debt relief and other things. He said all participants agreed that WTO must avoid a situation that opens up a new North-South divide. He noted that many participants see the issue of transparency differently, but there is an appreciation of progress by many in this area. He noted that the idea for an environmental review was supported by many. MEAs are the best way for governments to tackle transboundary issue, but there were strong views on Article XX and how PPMs should be addressed. There was also agreement that trade restrictions are not the best means of addressing environmental problems. He welcomed statements on cooperation between UNEP and WTO and more coherence between two, as well as those for policy coordination at the national level. In conclusion, he declared the meeting closed, but said a new dialogue was now open. □

## The High Level Symposium on Trade and Development

*The WTO High Level Symposium on Trade and Development was held from 17-18 March 1999. Participants met during three panel discussions to consider: linkages between trade and development policies; trade and development prospects of developing countries; and further integration of developing countries, including the least developed countries (LDCs) into the multilateral trading system.*

### Opening Statements

**Renato Ruggiero**, WTO Director-General, said that in some ways the dialogue to be undertaken is an old one because development was one of the central goals of the GATT. However, the dialogue is also new because, in the age of globalization, interdependence and instantaneous communications, the level of inequality between countries and people is becoming increasingly unacceptable. He noted that more than two billion people—a third of humanity—live on less than 2 dollars a day, 1.5 billion people lack access to fresh water, and 130 million children have never gone to school. The idea that billions are mired in poverty, while others grow richer, is not just unsustainable it is unconscionable.

The second difference is that the role of developing countries in the trading system has changed profoundly. When the GATT was born there were just 23 members, and only 11 of these were from the developing world. Today the WTO has 134 Members of which 80 per cent are developing, least developed and transition economies. Of the 30 candidates negotiating to join, practically all are developing economies and economies in transition. He said that developing countries are becoming more and more important to the health of the world economy. Between 1973 and 1997 the developing countries share of the manufactured imports into developed markets tripled—from 7.5 per cent to 23 per cent. This reflects the reality that the development challenge is no longer a challenge only for developing countries but should be a concern of the advanced economies as well.

**Ali MChumo**, Chair of the General Council, said the symposium should contribute to: facilitating the integration of developing countries in the multilateral trading system; building coherence among trade, finance and development policies and institutions; improving the participation and reducing the vulnerability of LDCs in the trading system; and, developing the role of the WTO in supporting the developmental objectives identified in the Marrakech Agreement.

**Rubens Ricupero** stressed that there must be a clearly established strategy with a definite time frame for the eradication of poverty. He said trade and development should mutually support and reinforce each other. He characterized the Asian financial crisis as a “crisis of development,” examined its many dimensions and proceeded to discuss the needs of developing countries in future trade negotiations—more access and more flexibility. He said there was a need for greater access to markets for developing country goods and services. He suggested addressing the unfinished business of the Tokyo and Uruguay Rounds—inter alia, tariff peaks and tariff escalation

in food, textiles, clothing, footwear and leather industries; the postponement until 2005 of economically meaningful removal of restraints on developing countries’ exports of textiles and clothing; embryonic liberalization of trade in agriculture; abuse of anti-dumping procedures; the problem of rules of origin; and technical standards and environmental barriers. He also called for re-invigorated special and differential treatment, and enhanced trade-related technical cooperation. These goals, to be achieved through co-operation between international organizations, could help developing countries become active protagonists in future negotiations.

### Keynote Addresses

**Paolo Fulci**, President, ECOSOC, stressed the need to ensure policy consistency and coherence between trade, aid, financial and environmental aspects of policies. Poverty eradication should be the top priority. He said poverty was our main enemy as it generated ignorance, hunger, illiteracy, unemployment, environment degradation, intolerance and hatred. He called for globalization to assume a human face. He stressed that partnership not hegemony is the key element. He said trade must be inclusive of all and the poor, weak and vulnerable had to be able to partake of the benefits of trade.



*Fifty-one development NGOs joined WTO representatives and senior UN officials in the discussions. (T. Tang/WTO)*

**Shigemitsu Sugisaki**, Deputy Managing Director, International Monetary Fund, stated that one of the greatest disappointments of the last two decades has been the failure of living standards in the world’s poorest countries to converge toward those of the richer countries. This disappointing performance, despite all the efforts so far, underscores the urgent need to look for far-reaching and bold solutions. He noted three critical components: action by the LDCs to sustain and strengthen their own policies for growth and development; action by the international community to improve the external financial environment, particularly through appropriate debt relief and concessional assistance; and, improved access to in-

trial countries' markets that would increase incentives for trade and investment activities in LDCs.

**Caio K. Koch-Weser**, Managing Director, Operations, the World Bank, stated that for nearly two decades, developing countries as a group have been in the vanguard of progress on trade liberalization, and this openness to trade has paid off not only in higher growth but also in providing a stimulus to the world economy as a whole. He stressed the importance of protecting these gains and resisting a return to protectionism. He said that every one has a role to play in moving this agenda forward, from the

World Bank and other international institutions, to countries themselves. Trade alone cannot form the basis for lasting development. It must be part of a broader development agenda to invest in the poor and integrate them into the global economy.

**Prof. T. N. Srinivasan**, Chair, Department of Economics, Yale University, highlighted the folly of trying to achieve too many policy objectives with one instrument and suggested that the TRIPS be taken out of GATT and handled by WIPO; the CTE be wound up and environment tackled by UNEP; and labor be excluded from the purview of GATT and handled by ILO. He stressed the need for agricultural trade to be brought under GATT. He supported "developing country hesitancy" in entering into a new round of negotiations. He characterized anti-dumping as the equivalent of a "nuclear weapon in the armory of trade policy" and suggested removing it. He said the issue of regional agreements could be dealt with by introducing a "sunset clause," whereby preferences available to the members of the regional agreement would be extended to all WTO members in five years.

## Discussion

**BANGLADESH** stressed the need to review all past commitments made to LDCs by the developed world, as well as their implementation. He highlighted the limited capacity of LDCs to take on any new commitments. With **INDIA** and **ZIMBABWE**, he was unwilling to take on any new issues as the WTO agenda was overloaded. **PAKISTAN** and **INDONESIA** called for coherence in macro-economic policies and renewed international development cooperation. **COSTA RICA** highlighted the need to open up markets, strength trade disciplines, counter protectionist trends and unilateralism. He stressed that the new round should ensure inter alia, greater

liberalization of customs procedures and elimination of tariff peaks and escalation. **SENEGAL** highlighted the

*UNCTAD Secretary-General Rubens Ricupero (centre) stressed that trade and development should mutually support and reinforce each other. (T. Tang/WTO)*

need for debt relief measures and greater policy coordination. **EGYPT** said the WTO has contributed to trade promotion, but there are increasing concerns over imbalance. He requested the Secretary to analyze the distribution of the benefits from the Uruguay Round. **COLOMBIA** called for an instrument that will provide equal access to justice in the WTO dispute settlement process. He noted that a group of countries have proposed an autonomous center for legal assistance for the least developed countries.

**THIRD WORLD NETWORK** disagreed with the idea that trade always leads to growth and that the Uruguay Round benefited everyone. He cited a number of recent studies demonstrating that inappropriate trade liberalization can lead to losses and economic stagnation, as seen in many African and Latin American countries. The **WORLD DEVELOPMENT MOVEMENT** recalled his group's opposition to the Multilateral Agreement on Investment (MAI) because it proposed to sweep away policies that governments used to meet their development objectives.

The **EU** said that the best way for developing countries to prevent unilateralism and protectionism and ensure integration into the multilateral trading system would be to enter into a new round. He said the EU would put all its current tariffs on table for the new round. He stressed the need to help developing countries with implementation, develop an approach to capacity building and ensure institutional reform to facilitate developing country participation in the WTO system. With the **UK** and **DENMARK**, he called for LDC concerns to be given specific consideration. The **US** elaborated on the elements of President Clinton's conception of the new round. It includes an accelerated agenda for negotiation, institutional reform to ensure transparency and capacity building and on-going trade liberalization. She said the US was willing to work on increasing market access in agricultural and industrial

## A brief history of developing country participation in the GATT and the WTO

Of the original 23 signatories to the GATT in 1947, 11 were developing countries. At that time, the GATT did not separately recognize the special situation of developing countries. The fundamental principle of the agreement was that rights and obligations should apply uniformly to all contracting parties. Participation of developing countries in the WTO negotiations has increased steadily; 25 developing countries took part in the Kennedy Round of negotiations and 68 in the Tokyo Round and 76 in the Uruguay Round. Today, more than 100 of the 134 Members of the WTO are developing countries; 29 of which are least-developed countries (LDCs).

### **The Review Session and Follow-Up**

Between 1948 and 1955, developing countries participated in tariff negotiations and other aspects of GATT activities as equal partners. During these years, requests made by developing countries under Article XVIII (Government Assistance to Economic Development and Reconstruction) for releases from their obligations were examined by the working parties to ensure that the requirements of the provision had been fulfilled. At the Review Session (1954-55), Article XVIII was overhauled with a view to giving developing countries additional flexibility with regard to several of their obligations. A new Article XXVIII (bis) was introduced at the session. It provided for periodic rounds of multilateral negotiations, which would take into account the needs of developing countries for a more flexible use of tariff protection to assist their economic development.

### **The Kennedy Round**

Following a Ministerial Meeting in May 1963, which laid down the principles for what was later known as the Kennedy Round (1963-1967), the Committee on Legal and Institutional Framework of GATT in Relation to Less-Developed Countries worked on a chapter on Trade and Development. This chapter, added by an amending protocol as Part IV, contained three new Articles, entitled Principles and Objectives (Article XXXVI), Commitments (Article XXXVII) and Joint Action (Article XXXVIII). Article XXXVI recognized the need for conscious and purposeful effort on the part of contracting parties, individually and jointly, to improve access to world markets for primary, processed and manufactured products currently or potentially of particular interest to the developing countries. Article XXXVIII introduced provisions for contracting parties to take certain actions in respect of trade in interests of developing countries. However, these provisions did not constitute clear-cut obligations. Article XXXVIII on "Joint Action" mandated the contracting parties to take action, inter alia, through international agreements to improve access to world markets for primary products of interest to developing countries, and to devise measures for stabilization and improving the conditions of

world markets for such products.

### **The Committee on Trade and Development**

The CTD was established in 1964 to review the application of the provisions on Part IV, carry out any necessary consultations, and consider any extensions or modifications suggested to Part IV with a view to furthering the objectives of trade and development. Also in 1964, the International Trade Centre, which later became a joint agency of UNCTAD and GATT, was established with the aim of promoting trade development in developing countries. Although Part IV left the main structure of GATT legal rights and obligations unchanged, it created a potentially stronger basis for developing countries to seek special action in their favor in liberalization of world trade and the implementation of GATT rules.

### **The Tokyo Round**

The Declaration that launched the Tokyo Round, held from 1973-1979, provided that the negotiations must aim to "secure additional benefits for the international trade of developing countries." The Ministers also recognized "the importance of the application of differential measures to developing countries in ways which will provide special and more favorable treatment for them in areas of the negotiations where this is feasible and appropriate." One of the major decisions emerging from the Round was the "enabling clause," entitled "Differential and More Favorable Treatment, Reciprocity and Fuller Participation of Developing Countries." The enabling clause established an exception from Article I of GATT, which made possible the extension of differential and more favorable treatment of developing countries.

### **The Uruguay Round**

Held from 1986-1993, this Round resulted in the multilateral trading system being greatly strengthened and deepened. As a central feature of the WTO Agreement, the dispute settlement machinery was made more judicial in approach by providing for assurances access to the panel process, time limits for every stage, provision for appeals and semi-automatic adoption of panel and appellate body reports. Three agreements were particularly important from the perspective of developing countries. First, steps were taken to establish a fair and market-oriented agricultural trading system, based principally on bound tariffs and limitations on export subsidies and a reform process was initiated. Second, it was agreed to phase out discriminatory restrictions on textiles and clothing and progressively integrate the sector into GATT. Third, it was provided that emergency safeguard action must be temporary and normally non-discriminatory and gray-area measures such as "voluntary export restraints: and "orderly marketing arrangements" were prohibited. □



goods, discussing implementation problems on a case-to-case and issue-by-issue basis and making improvements to dispute settlement procedures.

In summarizing, the moderator noted that many thoughts on integrating the developing countries into the multilateral trading system had been provided. He noted that developed countries should remember that an example is better than a sermon. He also noted many statements questioning the belief that simply free trade is enough. He said LDCs will be encouraged if the trading system does not become a source of additional obligations. **UNITED KINGDOM** noted the importance of poverty alleviation and the need for integration of trade policies into a wider set of development policies.

### Closing remarks

**WTO Director-General Renato Ruggiero**, in closing the Symposium, noted that by the end of the four days of discussion, around 200 interventions from delegations had been made. He said the meeting had been positive and constructive, with an impressive number of interventions which had contributed to a better knowledge of problems pertaining to trade and development. He noted in particular: the strong emphasis placed on least-developed countries; the statement by Alec Erwin that trade liberalisation and development policy required adjustment in both developing and developed countries; the wide consensus that trade liberalisation was not on its own sufficient for development; and the support for closer cooperation between the main international organisations to ensure an integrated framework in terms of development strategy.

Mr. Ruggiero noted the discussion about the goals to be pursued through the WTO and took up Mr. Erwin's idea that greater social equity should be sought in future negotiations. It was recognized that there had been difficulties for many developing countries in implementing the Uruguay Round results; this was a serious issue that needed to be examined with an open mind in order to prepare future negotiations. Studies showed that, although there had been benefits from the Uruguay round, these had not necessarily been evenly distributed.

Regarding the next round of multilateral negotiations – which many had called a Development Round – some had expressed the need for delaying the initial phase of the negotiations. Others had indicated that it was necessary to meet the agreed deadline; this could be done if developing countries had greater confidence in themselves, their roles, and their leverage in forthcoming negotiations. He recalled Mr. Ricupero's statement that developing countries needed to face a positive agenda with a more aggressive mind, so that they might define and defend their interests successfully.

The role of new technologies had been indicated as an essential element both of future negotiations and of the development process in general. He had been particularly impressed by negotiations for the liberalisation of telecommunications, which had been completed in a few months. These negotiations had not been particularly arduous for developing countries. They had quickly recognized that liberalisation in telecommunications would be of interest to them as it would allow a flow of investment and network technology that would increase their



*A high light of the Symposium was the full support for giving priority to the integration of LDCs into the multilateral trading system. (ILO Photo)*

competitively. He also recalled that developing countries had made positive contributions in the area of electronic commerce, allowing agreement on an ambitious work programme. It was essential to consider how to use new technologies to accelerate the development of developing and least-developed countries.

Mr. Ruggiero said that a major success of the Symposium was the full support for giving priority to the integration of LDCs into the multilateral trading system, and the need for industrial countries to open their markets through bound duty and quota free access to the exports of least-developed countries, at an early stage of the next Round. He also noted full support for the development of an integrated strategy to address shortfalls in capacity experienced by LDCs, a quick decision on debt relief, measures to strengthen the access of LDCs to the Dispute Settlement Mechanism, and the provision of both financial and legal assistance to this end. He was grateful to the IMF, World Bank and UNCTAD for their support in this area.

Reacting to the concern expressed that the WTO system tended to exclude some developing countries, Mr Ruggiero recognized that the system was not perfect, and acknowledged that some developing and least-developed countries had difficulty in participating fully in the organization. This was mainly because there were too many meetings, which was an objective problem, but not the result of a deliberate policy of exclusion. While recognizing that further efforts needed to be taken in improving the negotiating capacity of developing countries, he noted the ability of developing and least-developed country Ambassadors in defending the interest of their countries, and recalled that the success of the Singapore Ministerial Conference was in large part due to the work of Ministers from developing countries. Developing countries therefore played a very important role in the organization, and it was consequently necessary to dispense with the notion that the organization worked in favour of some members and against others.

As with the Symposium on Trade and Environment, Mr Ruggiero declared that the Symposium on Trade and Development was closed, but that a new dialogue had now been opened. □

## WTO Committee completes review of health-related agreement

**Says at most four years of 'SPS' implementation has clarified trade issues**

The WTO agreement on food safety and animal and plant health issues has helped to defuse potential disputes, to improve trading relations between countries, and to help countries be better informed about each others' food safety concerns, a WTO committee concluded on 11 March.

In a report on the agreement's implementation, the Sanitary and Phytosanitary (SPS) Measures Committee emphasized that the agreement is still a new framework for dealing with regulations and actions related to food safety and animal and plant health.

Although some of the WTO's 134 member governments remain concerned about some aspects of its implementation, the agreement's contribution to improved trading relations includes the resolution of several issues through discussions in the committee, the report says.

The report is the outcome of a review of the first three and half years of the WTO Agreement on Sanitary and Phytosanitary Measures. It was approved at today's meeting of the SPS Committee. Sanitary measures deal with animal health and food safety issues. Phytosanitary measures do the same for plants.

The SPS Agreement came into being on 1 January 1995 with the creation of the WTO. It was an innovation of the 1986-94 Uruguay Round of negotiations.

The agreement strikes a balance between consumer protection and avoiding the use of food safety and animal and plant health as disguised trade protectionism.

It says governments' measures should be based on science and should not discriminate among foreign sources of supply. It encourages the use of international standards.

A few SPS issues have become high-profile disputes in the WTO. But the report points out that formal disputes have been avoided in several other cases because of discussions under the agreement.

"Extensive discussions on particular implementation problems at its formal meetings had helped to draw attention to specific trade concerns and related issues and to avoid potential trade conflict," it says.

The report does not go into details, but among recent subjects the committee has discussed are new EU limits for aflatoxin (a cancer-causing poison associated with a fungus) in a number of products, a US restriction on certain solid wood packaging materials designed to combat infestation of Asian long horn beetles, and various countries' measures in response to bovine spongiform encephalopathy (BSE, or "mad cow disease").

In some cases, the measures have been modified after countries discussed them in the SPS Committee and through other channels.

### Transparency

Among the most important achievements is the way governments are keeping each other better informed about the application of sanitary and phytosanitary measures, the



*The SPS Agreement strikes a balance between consumer protection and avoiding the use of food safety and animal and plant health as disguised trade protectionism. (ILO)*

report said.

The report's assessment of improved transparency is based on work that is an unglamorous, nuts-and-bolts activity in many WTO committees — notification and review. In the SPS Committee, members have to inform each other about new measures related to food safety that they have introduced or are proposing to introduce.

This helps countries be informed about new regulations that could affect their exports. They have an opportunity to discuss the measures.

The report observed that WTO member governments were increasingly "and in a more comprehensive manner" fulfilling their obligations to notify fellow-members. This, it said, "had significantly improved transparency in the application of sanitary or phytosanitary measures".

It also welcomed the progress governments had made in setting up specific points of contact which fellow-members can use to enquire about SPS measures, and in clarifying which of their authorities are responsible for submitting notifications to the WTO.

"As of 11 March 1999, over 1,100 notifications had been submitted by 59 members; 91 members had established National Notification Authorities; and 100 members had established National Enquiry Points to respond to requests for information," the report said.

The increased transparency and other opportunities for discussing SPS measures has helped countries avoid trade conflict in this area, the committee said. It "welcomed the fact that a substantial number of SPS-related trade matters had been resolved following their discussion at formal meetings of the committee or bilaterally".

However, the committee recognized there is room for improvement in transparency. It agreed on a new format for increasing the relevant information supplied in notifications, and it urged member governments to use the Internet to publish their regulations and improve transparency.

## Developing countries, etc

Some of the concerns raised came, in particular, from developing countries. They said they lack the money and the people to deal with the complex and scientific SPS issues such as adopting international standards. They also have difficulties in participating in the development of these standards.

Although the SPS Agreement says developing countries are to be given more time to adjust so that they can continue to export, the committee said it had no information how this provision was being implemented.

The committee also looked at some highly technical but important issues such as equivalence (the possibility of accepting another country's different measures as equivalent to one's own) and risk assessment. It said that although considerable progress has been achieved, further work may be needed.

lent to one's own) and risk assessment. It said that although considerable progress has been achieved, further work may be needed.

## Snap shot of a review

The review was conducted under Article 12.7 of the SPS Agreement which says a review has to take place three years after the agreement came into force — 1 January 1995 — and after that when necessary. The report approved to day is a snapshot of discussions in the committee during the review.

Article 12.7 says the committee can recommend changes to the agreement, but no such recommendation was made in this report. □

## Working Party adopts final report on PSI

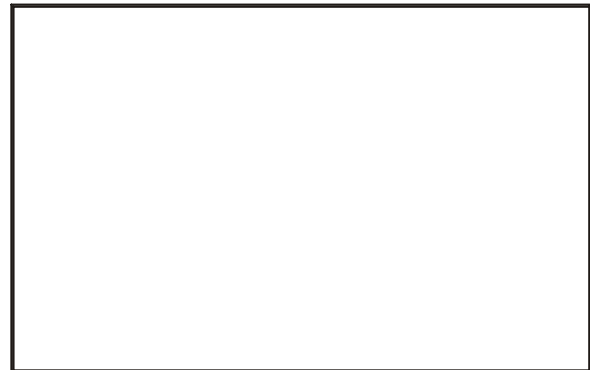
The WTO Working Party on Preshipment Inspection completed its work on 12 March with the adoption of its final report to the General Council. In addition to recommendations in its 1997 report, the Working Party added the following:

- Governments must ensure that preshipment inspection (PSI) contracts are in conformity with the provisions of the WTO PSI Agreement, and encourage Members to consider following the model contract wherever possible;
- Governments should examine incorporating the principles of selectivity and risk assessment in their contracts;
- Governments who consider having their PSI programmes audited should be guided by principles contained in an annex to the report, or ensure that the principles in the Agreement such as non-discrimination and national treatment are respected; and
- Developed countries ensure that the developing countries receive the necessary assistance for domestic capacity building in order that the transition away from PSI can be made.

The Working Party further recommended that the future monitoring of the Agreement should be undertaken initially by the WTO Committee on Customs Valuation.

The Working Party Chairman, Mr. Edward Brown (United Kingdom), said that the positive spirit of cooperation between exporting and PSI-using Members had produced a good result. He added that inviting inputs from key players like the International Chamber of Commerce and the International Federation of Inspection Agencies had also contributed to the successful completion of the body's work.

Preshipment inspection is the practice of employing specialized private companies to check shipment details—essentially price, quantity and quality—of



*Mr. Edward Brown (U.K.) chairs the final meeting of the PSI Working Party. Also in the photo are Mr. Heinz Opelz, Director of Market Access, and Ms. Janet Chakarian-Renouf, Secretary of the Working Party.*

goods ordered overseas. Currently used by 34 developing country members of the WTO, the purpose is to safeguard national financial interests (prevention of capital flight and commercial fraud as well as customs duty evasion, for instance) and to compensate for inadequacies in administrative infrastructure.

The WTO PSI Agreement recognizes that GATT principles and obligations apply to the activities of PSI agencies mandated by governments. The obligations placed on governments which use PSI include non-discrimination, transparency, protection of confidential business information, avoidance of unreasonable delay, the use of specific guidelines for conducting price verification and the avoidance of conflicts of interest by the inspection agencies. The obligations of exporting members towards PSI-using countries include non-discrimination in the application of domestic laws and regulations, prompt publication of those laws and regulations and the provision of technical assistance when requested. An independent review procedure has been established to resolve disputes between an exporter and an inspection agency.

The Working Party was established by the General Council in November 1996 to review the agreement. □

## Sweden, Germany boost WTO's technical cooperation fund

Sweden's Deputy Minister for Trade, Ms. Yvonne Gustafsson, on 16 March, handed over to Director-General Renato Ruggiero her country's contribution of Swiss Francs 1 million to the WTO's technical cooperation activities.

At a brief ceremony held at the Swedish Residence in Geneva, Ms. Gustafsson underlined the importance Sweden attaches to assisting developing countries, particularly the least-developed among them, in integrating themselves fully into the multilateral trading system. She also stressed the importance that Sweden attached to the establishment of a Global Trust Fund for WTO technical cooperation and expressed the hope that Sweden's contribution would pave the way for its constitution.

In thanking the Government of Sweden, Mr. Ruggiero noted that 80 per cent of WTO's technical cooperation activities are funded by extra-budgetary contributions from a few developed countries. He emphasized that strengthening the technical cooperation allocations in the WTO regular budget would enable the organization to plan ahead and provide more efficient assistance to developing countries.

The Swedish WTO Trust Fund was established last December with the signing of an agreement between Ambassador Johan Molander, Permanent Representative of Sweden to the WTO, and Mr. Ruggiero.

### Germany donates DM 1 million

The government of Germany announced on 13 March that it will contribute DM 1 million (around US\$600,000) to the WTO's Trust Fund for developing countries.

In an intervention made during the High-Level Symposium on Trade and Development, Dr. Ushi Eid, Parliamentary State Secretary with the Federal Ministry for Economic Cooperation and Development, said the contribution to the WTO's Trust Fund represents a first step in a special-purpose contribution from Germany to support developing countries in securing their interests in the multilateral trading system.

Dr. Eid said an integral part of the provisions on special and differential treatment in the Uruguay Round Agreements was the commitment by developed countries to support substantial technical cooperation programmes in developing countries. She said Germany's contribution would help meet this challenge. □

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*Deputy Trade Minister Yvonne Gustafsson and Mr. Ruggiero in a toast to Sweden's continued support for WTO's technical cooperation programme. (T. Tang/WTO)*

### 1999 Committee Chairpersons

The Council for Trade in Goods, on 25 March, agreed on the following chairpersons to head its various subsidiary bodies in 1999:

- **Committee on Agriculture:** Ambassador Nestor Osorio (Colombia);
- **Committee on Anti-Dumping Practices:** Mr. Milan Hovorka (Czech Republic);
- **Committee on Customs Valuation:** Mr. Edward Brown (United Kingdom);
- **Committee on Import Licensing:** Ms. Marie Gosset (Côte d'Ivoire);
- **Committee on Rules of Origin:** Mr. Sandy Moroz (Canada);
- **Committee on Market Access:** Mr. Pedro da Costa e Silva (Brazil);
- **Committee on Safeguards:** Mr. Hamish McCormick (Australia);
- **Committee on Sanitary and Phytosanitary Measures:** Mr. Attie Swart (South Africa);
- **Committee on Subsidies and Countervailing Measures:** Mr. Jan Söderberg (Sweden);
- **Committee on Technical Barriers to Trade:** Mr. Mohan Kumar (India);
- **Committee on Trade Related Investment Measures:** Mr. Leo Palma (Philippines);
- **Working Party on State Trading Enterprises:** Mr. Bernard T. Kuiten (The Netherlands).



















