

## African trade ministers reject marginalization, reaffirm their confidence in the WTO



**Libreville 2000 opening:** (from left) WTO Deputy Director-General Ablasse Ouedraogo, Director-General Mike Moore, Gabon's Vice-President Didjob Divungi di Ndinge, Prime Minister Jean-François Ntoutoume Emlane, and Minister of Industry, Commerce, Energy and Mine. Alfred Mabika.

African Trade Ministers meeting in Libreville from 13 to 15 November reaffirmed their commitment to the multilateral trading system and considered ways to improve Africa's participation in the World Trade Organization.

In an unprecedented effort, Trade Ministers and officials from over 50 African countries, along with representatives from 29 regional organizations and international agencies, the private sector and observer countries met at the invitation of the Gabon Government to examine Africa's needs and concerns in the multilateral trading system. A series of 24 workshops presenting the main WTO agreements were conducted with the participation of African government Ministers and officials.

### **An historic first**

Speaking at the end of the Conference WTO Director-General Mr. Mike Moore said: "This meeting has been everything I expected and much more. It has been a meeting run by Africans for Africans. It is an historic first. It has enlivened the debate on trade issues for Africa. It has also been an occasion where African Ministers have



Trade Ministers and officials from 50 African countries participated in the Libreville meeting. (Photos by Espé Sesar-Lauraux/WTO)

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It is an historic first. It has enlivened the debate on trade issues for Africa. - Moore

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rejected marginalization and reaffirmed their confidence in the WTO system."

"We have met our shared objective to learn more about the multilateral trading system and explore ways to ensure Africa participates fully in the system and receives maximum benefits", said Mr. Moore.

Mr. Moore was especially pleased with the workshops organized as part of the Conference. He said these were the heart of the meeting. The workshops attracted a wide audience of both Ministers and officials and were presented jointly by the WTO Secretariat and other organizations such as the United Nations Conference for Trade and Development (UNCTAD) and the World Intellectual Property Organization (WIPO). The workshops covered WTO agreements and issues of greatest concern to Africa, including regionalism and agriculture.

At the end of the Conference, African Trade Ministers presented a joint communiqué, reaffirming "Africa's commitment to working in the framework of the multilateral

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## Libreville 2000: Final Communiqué

We, the African Trade Ministers, meeting in Libreville, Gabon, from 13 to 15 November 2000;

Aware of the profound changes that are taking place in the global economy and their implications for African countries, and of the efforts that are required to adapt the economies of our countries in order to pursue sustainable economic growth and development with a view to eradicating poverty;

Recognizing that international trade contributes to economic growth and development;

Considering the limited participation of African countries in the global economy and multilateral trading system;

Having in view furthermore the very low level of intra-African trade;

Considering the difficulties encountered by the African countries in implementing the agreements and rules of the WTO;

Guided by the Algiers and Cairo Declarations of African Trade Ministers;

1. Reaffirm Africa's commitment to working in the framework of the multilateral trading system for a significant and equitable place in international trade;

2. Call on the WTO to play a more active role in this process by adopting and implementing a special capacity-building programme financed by its regular budget, and likewise encourage donor countries and institutions to supplement these efforts with additional financial contributions;

3. Reaffirm the African position, as already defined at the Algiers and Cairo meetings, which identifies development issues as the key challenge to be addressed by the multilateral trading system. Future multilateral negotiations must, therefore, be suitably prepared and take into account the development dimension, on an urgent basis, and include the following:

- structural adjustments requiring developed economies to reduce a range of protection and support measures to inefficient industries;
- a balanced and broad agenda accommodating the concerns and interests of all African countries;
- addressing the implementation issues, in particular the commitments in favour of developing countries;
- addressing imbalances arising from the Uruguay Round Agreements; and
- taking into account the trade and finance needs of developing countries.

4. Stress the need for a coordinated approach to negotiations in the WTO and the upcoming negotiation under the Cotonou Agreement, which sets out a new trade arrangement between the ACP countries and the EU, and encourage such an approach;

5. Encourage the African countries' efforts to strengthen and revitalize the subregional economic or-



*Gabon's Trade Minister Alfred Mabika chaired the meeting.*

ganizations, which are an essential instrument for the development of intra-African trade;

6. Urge the WTO to cooperate with the other multilateral finance and development institutions, including the World Bank and the IMF, in order to achieve greater coherence in accordance with the Marrakesh Agreements;

7. Call for duty-free and quota-free access to all developed-country markets for products of African origin. In that regard, we welcome the new Partnership Agreement between the ACP and EU. We also welcome the efforts by the United States under the African Growth and Opportunity Act and urge that all opportunities be explored to ensure that all African countries and products benefit from the Act;

8. Call for the immediate implementation of G-7 measures to cancel part of the debt of all African countries and invite other creditors, including the financial institutions, to take similar measures so as to generate surplus resources for technological investments geared towards international trade;

9. Call on the international community to take action for the effective establishment of a World Solidarity Fund aimed at reducing poverty in Africa and world-wide;

10. Emphasize the need to make trade a priority in the national development policies of our respective countries through better coordination at the national level among the various actors involved;

11. Request the acceleration of the implementation of the Integrated Framework for Trade-Related Technical Assistance for least-developed countries by improving the mechanisms for implementation and follow-up and the allocation of sufficient resources;

12. Call for the streamlining and facilitation of the accession process of African countries, non-Members of the WTO, on terms compatible with their level of development. In this regard, we call for sufficient and adequate technical and financial assistance to these countries;

13. Have noted the high quality of the work carried out in the Libreville Meeting workshops and request that the results of the work be published as the Libreville Proceedings. □

**Director-General Mike Moore**

## Africa needs open markets

*The following is Director-General Mike Moore's speech at the close of Libreville 2000:*

We have come to the end of this very important and historic meeting of African Trade Ministers. It has been the first of its type; a meeting in Africa or organized by Africans for Africa, discussing multilateral trade issues. The meeting has been a success. A success in enlivening the debate on trade



*Moore (with Gabon's Prime Minister): "Africa's great concerns must be on the international trade agenda."*

issues for Africa. A success in providing a forum for mutual education, enlightenment and increase in knowledge. And a success by the commitment that you, as African Ministers and experts, have brought to the meeting by your presence in person, by your strong and pertinent contributions on the urgent issues we must address, and by the support you have expressed for the future of the multilateral trading system. Never has there been assembled in Africa such a gathering of Ministers, experts, advisers and officials dedicated to the proposition that Africa's great concerns must be on the international trade agenda. This has been Gabon's meeting. This has been Africa's meeting. I am proud my organization has been able to contribute.

I wish to pay tribute to His Excellency President El Hadj Omar Bongo, Prime Minister Jean-François Ntoutoume-Emane, Minister Mabika, Ambassador Bike and the Government and people of Gabon for organizing this meeting and providing the excellent facilities from which we have benefited. I should also like to thank the donor countries and organizations that so generously contributed to the financing of this meeting and to bringing Ministers and officials here. I also want to express my appreciation for the cooperation received from a very large number of international agencies that have taken part in this meeting – both agencies with world-wide scope and African regional and sub-regional institutions. 29 agencies were invited, 29 attended. They have added real value to our discussions. It is a mark of our excellent working relations among institutions. It augurs well for our continuing efforts to achieve greater coherence among institutions.

Above all, I wish to congratulate all of you – Ministers, officials, and private sector experts – for your enthusiastic participation in our workshops. These have been the beating heart of this meeting and, judging by the reports that have come from the Reporters, they have gone very well and have been an education for all

of us. The statements made in the opening sessions and in subsequent discussions among Ministers concerning the broader international trade agenda has given me great confidence that Africa is supporting the WTO and multi-lateral solutions wholeheartedly.

More must be done. This meeting is a starting-point. We need to build on this lasting relationship with all our African members and with African countries seeking accession to the WTO. We need to assist you to ensure proper representation in Geneva, continuous contact with our Committees and Councils, and strong working relations with our Secretariat. I think we have made a good start and I shall see that the contacts forged here continue. We now have a large number of key advisers with whom we must keep in contact and build their capacity to pursue national objectives. As early as next week, I will be meeting with my staff and friends to see what follow-up activities must be undertaken immediately.

Africa needs to build its capacity to produce, export, grow and develop. The international community can help. Africa also needs open and reliable markets and fair and stable rules for the conduct of its trade. Some of these objectives may be achievable through the present discussions and negotiations on agriculture, services and implementation of WTO Agreements. But I believe that Africa and the rest of the world needs a new Round of trade negotiations to ensure maximum benefit from the multilateral trading system. I also believe that we should be able to achieve this goal next year if sufficient flexibility is shown by the Members and continued efforts are made to enable the small players to participate effectively in the negotiations.

I should not like to end without thanking the team of dedicated WTO staff who worked so enthusiastically and effectively over the course of this meeting. They assisted the Gabon authorities with logistics. They took part in the workshops. They interacted with Ministers and officials inside and outside the meeting halls. I should like to add that this meeting would not have come to fruition without the determination of my good friend and colleague, Ablasse Ouedraogo. I thank him for his tireless efforts. We in the international institutions are public servants. We are here to facilitate and advise.

Prime Minister, I can report that Ministers and officials have worked hard at this Conference. The issues they addressed are not easy ones. There are great interests at stake. But at all times, Ministers pursued tirelessly the interests of Africa.

Once again, thank you Prime Minister. I wish the Government and the people of Gabon well in facing the challenges of development and look forward to the next occasion for such strong and positive interaction between Africa and the WTO. □

## Overview: Transparency in the WTO

*The Third Ministerial Conference of the World Trade Organization witnessed an increased focus on issues relating to internal transparency and the effective participation of Members. Although this issue has a long history in the GATT/WTO, the events surrounding the Seattle conference placed it - as well as issues relating to external transparency - under renewed scrutiny. This overview provides an account of progress made in the year since Seattle on matters regarding these two subjects.*

### Internal transparency and effective participation of members

Early in 2000 the Director-General proposed a work programme combining the start of mandated negotiations with a number of confidence-building elements, including measures to improve internal transparency and the effective participation of Members. This was agreed to by the General Council at its meeting of 7 - 8 February 2000.

At this meeting of the General Council Members identified the issue of internal transparency and effective participation of Members as one of the priority issues to be addressed in the first six months of the year. At the heart of the issue on WTO institutional reform is the delicate balance between efficiency and inclusiveness. When the GATT was founded by 23 countries in 1948 issues such as transparency, coordination and participation were relatively easy to address. However, with the WTO membership now standing at 139 issues of inclusiveness, transparency and ensuring the effective participation of all Members in the work of the WTO have become more complex, though no less vital.

#### Consultations

Since then the Chairman of the General Council and the Director-General have conducted an intensive series of open-ended consultations on how to improve internal transparency. This process was initiated by an invitation to Members for specific suggestions on how to make the consultative processes in the WTO more transparent and inclusive. Numerous contributions from individual or groups of countries were received and these, as well as a Secretariat compilation of the main points raised by delegations, have served as the basis for constructive and positive discussions at seven meetings of the full membership. In addition, the Chairman presented a short discussion paper in which he highlighted a number of issues where he saw a convergence of opinion. In his paper the Chairman focused on the fact that Members in general see no need for radical reform of the WTO, firmly support the fundamental principles of the multilateral trading system, including the practice of reaching decisions by consensus, and that informal consultations continue to be a useful tool, provided that certain improvements regarding inclusiveness and transparency are applied.

On 17 July the Chairman provided Members with a progress report which emphasized the general recognition that significant improvements in the consultative pro-



*The WTO headquarters in Geneva: With the rise in membership, issues of inclusiveness, transparency and ensuring the effective participation of all members have become more complex, though no less vital.*

cesses have taken place in the first half of the year 2000. Members expressed particular appreciation for the efforts of the Chairman of the General Council and the Director-General and his Deputies to establish a practice of improved transparency and full consultation in the substantive work of this organization. The Chairman emphasized that while such tangible progress on internal transparency was important the full membership has a collective responsibility to keep this issue under close scrutiny as the organization moves forward on the substantive agenda.

At the General Council Special Session on Implementation held on 18 October 2000, a large number of delegations representing Members from all regions and all levels of development expressed satisfaction with the way in which the consultative processes were being carried out, and complimented the Chairman and the Director-General on the efforts they have made in this respect.

#### Ministerial Conferences

At an informal meeting in early November Members engaged in a constructive exchange of views on issues relating to the preparation and organization of Ministerial Conferences. In line with the interactive approach adopted for discussions on internal transparency, the Chairman asked delegations to consider a number of specific questions, including, inter alia the conduct of the preparatory process, the format of Ministerial Declarations, advance decision on Chairs and negotiation structure, the role of the host country, and the role of the Director-General and the Secretariat. In addition, the Chairman asked delegations to consider the suggestion by some Members that Ministerial Conferences could be held annually rather than every two years and that such conferences should be political events to discuss the developments in the international trading system on a more regular basis.

Although some Members saw merit in having a set of flexible guidelines for the preparation and organization of Ministerial Conferences, the majority of delegations ar-

gued that since each event differed in terms of the objectives sought to be achieved, a maximum of flexibility was required in the process leading up to, and including, Ministerial Conferences. All Members agreed that a strong, inclusive, and transparent preparatory process in Geneva was fundamental for a successful Ministerial Conference.

Delegations agreed that adopting a standard format for Ministerial Conferences would be impractical, but there was broad support for an advance decision on the negotiating structure and the chairmanships of the working groups at each Ministerial Conference. On the issue of the role of the host country, the Director-General, and the Secretariat there was broad agreement that the important respective roles of the Chairman of the Conference, the Chairman of the General Council, the Director-General and the Secretariat needed to be reinforced and that a high level of coordination with the host country was essential.

### **Secretariat Initiatives**

From the outset of the debate on internal transparency the Director-General instructed the WTO Secretariat to continue to look at immediate practical ways in which to improve and speed up the information flow to Members. At present such efforts include initiatives to further improve the on-line data bases available to Members and a number of pilot projects to use electronic communication channels to inform delegations about activities at the WTO. A Daily Bulletin also informs delegations about activities the previous day. In addition, a number of internal Secretariat task forces are continuously looking at matters of immediate concern relating both to the internal functioning of the Secretariat and ways in which the Secretariat could improve on its service to Members.

The Director-General has also implemented initiatives to help ensure the full and effective participation in the work of the WTO by Members who do not have representatives resident in Geneva. These include the appointment of a member of the secretariat staff earlier this year to liaise with non-residents and the organisation of a week-long seminar for non-residents in Geneva at the WTO. The seminar encompasses a programme of lectures and other events designed to help trade officials familiarise themselves with the work of the WTO and of other organizations in Geneva. "Geneva Week 2000" took place in late October this year. The Director-General is also conducting consultations among interested parties to explore ways of enhancing facilities and services available to small missions and non-residents in order for them to participate more effectively in the WTO.

In addition, the WTO Secretariat has so far installed 94 Reference Centres in developing and least-developed countries to keep governments and regional entities up-to-date on the activities of the WTO. Most recently, Reference Centres were established in the Lebanon and at the OECS Secretariat in Saint Lucia.

### **External Transparency**

Important progress has been made in the WTO over the past year in the area of external transparency and public outreach. Although this issue received some attention when the GATT was founded in 1948, the creation of the

WTO five years ago firmly recognized that increased dialogue with non-governmental organizations (NGOs) and civil society in general could play an important role in building public awareness in respect of WTO activities. Whereas there were no provisions for interaction with NGOs under the GATT, Article V:2 of the Marrakesh Agreement establishing the WTO contains a clear reference to cooperation with non-governmental organizations. In July 1996 Members decided to provide the Secretariat with a more articulate interpretation of Article V:2 and adopted the Guidelines for Arrangement on Relations with NGOs (WT/L/162). These guidelines have since served as the principal foundation upon which the ever increasing interaction between the WTO and civil society has been built.

Although there is currently not a consensus in favour of involving NGOs directly in the work of the WTO the guidelines were designed by Members to give the Secretariat a large degree of flexibility in its dealings with civil society. This flexibility has been illustrated by the increasing number of symposia as well as other initiatives to increase the dialogue between the multilateral trading system and the public.

### **Transparency Initiatives**

The relationship between the WTO Secretariat and non-governmental organizations continues to evolve. Since 1996, NGOs have registered an ever increasing presence at WTO Ministerial Conferences and have participated in numerous symposia organized by the WTO Secretariat. The Secretariat hosts regular briefings for NGOs on the work of WTO committees and working groups and extends each month to the 139 WTO Member countries a list of documents, position papers and newsletters submitted by NGOs. These documents are made available upon request from Member states. A special section of the WTO web site, including a recently opened chat room for interactive discussion, is devoted to NGOs. Finally, a special electronic NGO bulletin is available to organizations that wish to receive information on the current status of activities at the WTO. This facility is an integral part of the efforts to reach out to individuals and organizations located all over the world.

Among the most significant improvements in the area of external transparency is the WTO web site. One of the most popular web sites among international organizations it is visited by an average of 200,000 individual users per month and receives between 15 and 20 million hits per month. Users of the WTO web site download the equivalent of 80 million pages of text per month. The web site was re-launched in a new, improved and more user friendly version in May 2000 and is continuously up-dated. The overwhelming majority of WTO documents are placed on the web page instantly and may be downloaded from anywhere in the world.

The WTO Secretariat has long had a reputation among journalists of providing timely and comprehensive information on the work of the organization. The Secretariat has six full-time press officers who brief the media at virtually all meetings of WTO Councils and Committees. Taking into account the organization's increasingly high news profile the Information and Media Relations Divi-

sion has recently added a Spanish speaking press officer to ensure that briefings for the media may take place in all of the three official languages of the WTO. The Secretariat is also making increasing use of information technology to inform the media of WTO activities. This includes providing electronic press releases and background notes on a regular basis.

Since the Third Ministerial Conference in Seattle the Director-General and his Deputies have kept up a comprehensive programme of participation in international meetings with the public and private sectors and NGOs. In addition, the Director-General has participated in a number of meetings with parliamentarians and representatives from international parliamentary groups. These activities have focussed on developing the WTO's outreach activities towards civil society and on stimulating a constructive dialogue with the public at large on the future direction of the trade agenda. Other WTO staff continue to participate in events hosted by non-governmental organizations, academic institutions and others all over the world.

### **Member Discussions on External Transparency**

Another significant development in the area of external transparency was the informal consultation in early November held by the Chairman of the General Council to discuss the issue. Drawing on the experience from the discussions on internal transparency and effective participation of Members the Chairman invited delegations to submit written suggestions on external transparency which would serve as a basis for informal discussions among Members.

The constructive discussion at the informal consulta-

tion on 9 November was a significant event in itself. A majority of delegations welcomed a discussion of external transparency, though some questioned the need for it. Many delegations signalled that it remained the primary responsibility of individual governments to keep the public informed. In this context a number of delegations expressed support for a process of exchanging national experiences of interaction with civil society.

There was broad agreement that the WTO should continue to improve its outreach activities, including symposia, as these had proved to be useful for delegations and NGOs to engage in an exchange of views on a broad range of issues. A large number of delegations highlighted the WTO web site as one of the principal vehicles in the quest for improved transparency and encouraged the Secretariat to continue the efforts in that area. On the issue of de-restriction of documents several delegations urged the Chairman to continue his consultations on how to make documents more speedily available to the public.

While some delegations saw some room for further involving NGOs in the work of the WTO, a large number of delegations emphasized the intergovernmental character of the WTO as well as the need to focus on the more substantive elements on the WTO's work programme as a matter of priority. Several delegations expressed the view that a clearer distinction needed to be made between enhancing public understanding of WTO activities, which they favoured, and considering any direct participation of civil society in the work of the organization. They emphasized that efforts to improve the transparency of the WTO should not affect the intergovernmental nature of the WTO or change the existing representation system of the organization. □

## **“Solid momentum” in China talks**

The Working Party on China has established “solid momentum” and China is accelerating efforts to conclude all its outstanding negotiations, said the acting Chairperson, WTO Deputy Director-General Paul-Henri Ravier, on 9 November 2000.

He said that China had recently concluded bilateral negotiations with Bolivia, Costa Rica and Venezuela. However, he stressed that “many substantive, verification and technical gaps still need to be filled” with respect to China's schedules.

The Deputy Director-General cited the contributions made by China during this session of the Working Party, especially on TRIPS and domestic implementation legislation.

Mr. Ravier said that there had been “textual breakthroughs in central subjects like transitional review mechanism; judicial review, uniform administration and transparency; and tariff-rate quota administration”. He urged China and interested delegations “to intensify their consultations on these subjects in the same spirit of flexibility that they have shown this week.”

He suggested an “ambitious work programme” that would include addressing the texts both for the draft Protocol of Accession and the draft report of the

Working Party at the next meeting scheduled for 5-8 December 2000. “Given the solid momentum we have generated this time, I have every hope that work will continue to advance along the lines of the plan I have just laid out,” he added.

Mr. Ravier concluded that “we should do everything possible to maintain and accelerate the momentum we have gained”.

The head of the Chinese delegation, Vice Minister Long Yongtu, agreed that “encouraging momentum has emerged during this session”. He reiterated that China would abide by its commitments made in the bilateral and multilateral negotiations.

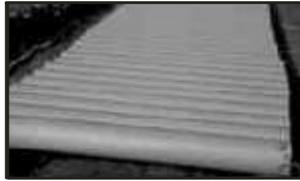
Mr. Long said that China had accelerated work on revising its laws and regulations to align them with the WTO.

He said that China “hopes to accede to the WTO at an early date on the basis of balance between rights and obligations” but that the “specific date of China's accession is not to tally in our hands”.

“In case the WTO members have the political will to conclude the negotiations at the next session, China will make its best efforts to achieve that goal,” he said. □

## Panel set on US safeguard measures on Korean pipes

The Dispute Settlement Body (DSB), on 23 October, established a panel at the request of Korea on United States' definitive safeguard measures on imports of circular welded carbon quality line pipe from Korea.



Korea claims that the US procedures and determinations that led to the imposition of the safeguard measure as well as the measure itself contravene various provisions of the Safeguards Agreement and the GATT 1994.

Australia, Canada, the EC, Japan and Mexico reserved their third-party rights to participate in the panel's proceedings.

### New panel requests

The DSB deferred action on the following new panel requests:

- By the EC on India's measures affecting export of certain commodities;
- By the EC on India's measures affecting the automotive sector; and
- By the US on Philippine measures affecting trade and investment in the motor vehicle sector;

The DSB referred to the original panels the following complaints regarding implementation of DSB's recommendations:

- By Malaysia on the US implementation in the case "US import prohibition of certain shrimp and shrimp products". Canada, Ecuador, India, Japan, Mexico, Thailand and Hong Kong, China reserved their third-party rights.
- By the US on Mexico's implementation regarding the case "Mexico - Anti-dumping investigation of high-fructose corn syrup (HFCS) from the United States." The EC and Mauritius reserved their third-party rights.

The US and Canada announced their intention to, respectively, implement the DSB's recommendations rulings in the cases on "US - Anti-dumping Act of 1916" and on "Canada - Term of patent protection". Both countries said they need a reasonable period of time for implementation, and that they were consulting with the complainants on this matter.

The DSB heard status reports on the implementation of its recommendations with respect to the following: the EC banana regime, Japan's measures on agricultural products, Canada's measures on dairy products, Turkey's restrictions on imports of textiles and clothing, and India's quantitative restrictions on agricultural, textile and industrial products. □

### Re reports on Canada's term of patent protection adopted

The Dispute Settlement Body, on 12 October, adopted the reports of the panel and the Appellate Body on the complaint by the United States about Canada's term of patent protection.

The United States said the Appellate Body upheld the panel's findings that the requirement of the TRIPS Agreement for a 20-year period of protection for patents was not available under Section 45 of Canada's Patent Act, which provided a patent term of 17 years. It urged Canada to immediately amend its Patent Act to prevent premature expiry of many patents in Canada.

Canada expressed disappointment with the findings. It said that the dispute concerned only patents filed before 1 October 1989 and had been granted within three years of filing. Canada said that patents filed on or after 1 October 1989 had a term of 20 years from filing and were not at issue in the dispute.

### FSC dispute

The United States proposed the extension of its deadline in complying with DSB recommendations on its tax treatment for "Foreign Sales Corporations" from 1 October 2000 to 1 November 2000. It said that the US Congress had been working hard on legislation to amend the FSC provisions of the US tax law but that the process could not be completed by 1 October. The United States said that its proposal—made after consultations with the complainant the European Communities—would provide time both for the completion of the legislative process and for the EC to review the outcome. It expressed appreciation the "constructive attitude" displayed by the EC.

The EC said it had agreed to the US' proposal after assurances that the adoption of the FSC replacement system was imminent as it had preferred not to exacerbate the dispute. However, it continued to consider that unless fundamental changes were made, it considered the bill before the US Congress to still be inconsistent with the WTO Agreements. It stressed that the DSB, in agreeing to the US request, should also agree that the EC's WTO rights were fully preserved and protected.

The DSB agreed to the US' request.

Under "Other Business", the EC and the US presented their understanding regarding the procedures to be followed in the FSC dispute.

The EC said that they have agreed to simultaneously start procedures under Article 21.5 (convening of the original panel to examine the implementation measures) and Article 22.6 (suspension of concessions) of the WTO Dispute Settlement Understanding, but to suspend the work of arbitrators until the reports of the compliance panel and the Appellate Body, in case of appeal, had been adopted.

India welcomed the EC-US agreement. It said that major delegations like the EC and the US who frequently used DSU provisions had major responsibilities, and hoped they would behave in the same manner in other cases as well.

Japan said that the EC-US understanding confirmed once again that the current DSU text needed to be improved, especially in regard to the sequence between Articles 21 and 22, to find a more predictable and multilateral solution to this issue. □

TPRB: Japan

## Signs of economic recovery welcomed

*The Trade Policy Review Body concluded its fifth review of Japan on 14 and 16 November 2000. Excerpts from the Chairperson's concluding remarks:*

We have had an open and informative discussion of Japan's trade policies. Members were encouraged by signs of economic recovery in Japan, whose economic prosperity is important for the continued recovery of the region, for the health of the world economy and the expansion of trade. Members attributed this nascent recovery largely to Japan's macroeconomic policies and structural reforms. At the same time, Members recognized that the multilateral trading system had contributed to the improved economic outlook for Japan, by keeping foreign markets open to Japan's exports. In commending Japan's recent efforts to implement deregulation and other structural measures, including the removal of barriers to foreign businesses, Members strongly urged Japan to continue its reform process and improve access to its markets for goods and services.

### Active participation in the WTO

Members expressed their appreciation of Japan's active participation in the work of the WTO. Many Members underlined that their bilateral trade and investment ties with Japan had been strengthened over the recent period. Noting Japan's increased willingness to explore bilateral trade agreements, they sought (and received) assurance that such agreements would be WTO-consistent.

On trade and trade-related policies, Members remarked in particular on Japan's complex tariff (and tariff quota) structure and the fact that the use of non-advantageous tariffs appeared to conceal high applied rates. Some Members also voiced concern about the complexity and seeming lack of transparency of government procurement practices. Furthermore, many Members were concerned about the complexity of Japan's sanitary and phytosanitary regulations, including quarantine procedures. In addition, pointing to the low level of inflows of foreign direct investment (FDI) into Japan, Members welcomed Japan's efforts to open further its FDI regime.

### Agriculture

On sectoral policies, Members noted that the level of domestic support for agriculture was disproportionate to its share in GDP. While Members generally recognized that non-trade concerns did arise in agriculture, some urged Japan (among the world's largest importers of agricultural products) to address these concerns in a manner that would not unduly distort trade. While recognizing that substantial reforms had been undertaken in the financial services and telecommunications sectors, Members expressed their belief that reform should continue with a view to enhancing competition in these sectors. They also urged Japan to extend reforms to other sectors, such as agriculture, transport, legal services and education services.



*Tokyo engineers using a computer at a machine tool plant: Members attributed Japan's nascent recovery to the government's macroeconomic policies and structural reforms. (Photo by the ILO)*

### Concerns

Members also sought further clarification in a number of areas, including:

- matters concerning tariff classification and high tariff rates for certain goods;
- the opacity and complexity of tariff quotas and quantitative restrictions;
- alignment of national standards with international standards;
- reform of standards and environment-related regulations;
- competition policy;
- the new agricultural policy embodied in the Basic Law on Food, Agriculture and Rural Areas;
- impediments to market access for certain items, such as rice, leather, and forestry products;
- Japan's initiative to promote information technology; restrictive business practices in Japanese ports;
- independence of regulatory authorities in some areas, such as telecommunications, electricity;

Members expressed their appreciation to the Japanese delegation for their oral and written responses to the large number of questions posed by them, and for the Japanese delegation's undertaking to provide written responses as soon as possible to any outstanding queries.

### Conclusion

In conclusion, it is my view that this Review has provided Members with a much better understanding of Japan's trade and trade-related policies, particularly regulatory and other structural reforms. Members were pleased to see signs of Japan's economic recovery; they strongly urged Japan to maintain the momentum of structural reform so as to ensure that the recovery is sustained. It is my sense that Members were reassured by Japan's commitment to multilateralism; none the less, they urged Japan to ensure that bilateral and regional arrangements were WTO-consistent. Members also looked to Japan for strong leadership in pursuing future multilateral trade liberalization, including in any new round of negotiations at the WTO. □

### *Structural reforms: The key to Japan's economic recovery*

Japan appears to be extricating itself slowly from a severe economic situation, and the current nascent recovery could lead to real GDP growth of around 1% in 2000, says a new WTO report on the trade policies of Japan. Following negative growth of 2.5% in 1998, when Japan was the only industrialized economy in recession, Government outlays turned into a positive growth factor as were net exports, due in part to the openness of the multilateral trading system. Having recovered by 0.2% in 1999, real GDP growth is projected by the Government to be around 1% in 2000. It reached an annual rate of 4.2% in the second quarter of 2000.



The report says that the Government has sought to revive the economy through expansionary macroeconomic policies together with structural reforms. But the view is taking hold that a sustained economic recovery can be achieved only through more aggressive structural reform that enhances competition.

The report notes that a key element in structural reform is deregulation, which has the potential to reduce costs and prices to world levels, thereby stimulating demand and growth. Economic intervention has been reduced in several sectors, especially financial services, telecommunications and retailing, says the report. Steps have also been taken by the Japan Fair Trade Commission (JFTC) to increase competition. These elements are in addition to the stimulus to competition provided by Japan's further liberalization of its trade and investment regime, partly in accordance with WTO commitments.

The WTO report stresses that since its previous Trade Policy Review in 1998, Japan has made no major changes to its trade policy regime except those pertaining to its regulatory framework for financial services, the so-called "Big Bang". Japan's trade policy priorities include strengthening the multilateral trading system. It also remains committed to the promotion of deregulation and improved transparency. Japan's commitment to the former is demonstrated by the Cabinet's adoption in April 2000 of a revised Three-Year Program for Promoting Deregulation (TYPPD) in sectors including financial services, telecommunications, energy, transportation and distribution.

During the period under review, Japan has been an active participant in WTO activities. It has used extensively the WTO dispute settlement mechanism, having been a party to four disputes, three as plaintiff and one as defendant.

The report also notes that in a break with the past, regional free-trade agreements now seem to be attracting greater interest in Japan; more specifically, an agreement with Singapore is being studied jointly by the two Governments, and government-affiliated institutes in Japan and Korea are exploring the possibility of a free-trade agreement between the two countries. Ac-

ording to the authorities, these regional and bilateral initiatives will not undermine Japan's commitment to the multilateral trading system.

Japan has continued to liberalize its trade and investment regimes, mainly as part of its broad regulatory reforms. However, measures constituting potentially important distortions to competition are still evident in some sectors, notably agriculture and certain services.

The tariff is Japan's principal trade policy instrument. Most imports to Japan are either duty free or are subject to low tariff rates. In fiscal year (FY) 2000, the simple average applied MFN tariff rate was 6.5%; the rate is expected to fall to 6.3% once the Uruguay Round tariff cuts are fully implemented, by 2009. Nearly 99% of tariff lines are bound and most applied tariff rates coincide with bound rates, thereby imparting a high degree of predictability to Japan's tariff schedule. At the same time, non-ad valorem duties are an important feature of the tariff, particularly in agriculture; they accounted for 6.9% of all lines in FY2000. While such duties are indicated clearly in Japan's tariff schedule, they can conceal high ad valorem equivalent (AVE) rates.

Japan is moving from price to income support for agriculture. However, the sector remains relatively well protected from foreign competition. The average tariff on imports of agricultural products remains high, tariff quotas can be intricate, and a number of these products receive domestic support. As a consequence, the overall level of government assistance for agriculture (as measured by producer and consumer support estimates) is well above the OECD average.

The report notes that Japanese manufacturing has traditionally been much more exposed to international competition than other sectors. Tariffs on manufactured goods are usually low, non-tariff barriers are few, and the sector receives relatively little financial or other assistance from the State.

The share of services in Japan's GDP has grown to roughly 65%. Protection for Japanese suppliers from foreign competition has been provided not so much through border measures, but more through internal regulations, notes the WTO report, which stresses also that Japan's attention has focused increasingly on deregulation and that financial services liberalization is one of the centrepieces of recent structural reform efforts. In the meantime, Japan has also introduced various measures to promote further deregulation in the telecommunications sector.

With economic prospects seemingly brighter, there is perhaps the danger that Japan may waver in its resolve to continue to pursue structural reforms, thereby jeopardizing a sustained recovery. In deed, there have been some recent signs of "reform fatigue". Nonetheless, the Government seems firm in its intention to intensify regulatory and other reforms aimed at removing distortions to competition. □

## Committee discusses unfilled quotas, export credit

Whether unfilled tariff quotas are the result of trade obstacles and how to deal with export credits, were among the subjects discussed in the regular session (i.e. not negotiations) of the WTO Agriculture Committee on 14 November.

### Unfilled quotas

This meeting reviewed 39 notifications, including reports from Colombia, Japan and Norway on how much they had imported in the relevant years under their commitments on tariff rate quotas and other quotas.

As in previous meetings, the discussion on this subject reflected more general concerns that some member governments have expressed about the possibility that trade can be affected by the way the quotas are administered. Several countries asked why quotas, in one case for a range of products, were unfilled. These included skimmed milk powder, various whey products, butter and butteroil, and groundnuts.

The reply was that the quotas were not filled because of market conditions. Among the reasons stated were fewer babies and children and increased breast-feeding (for milk products), a decline in live stock (some whey products used as feed), oversupply of domestic production (butter and butteroil), and consumers' diversifying diets combined with competition from other types of nuts (groundnuts). The replying country also repeated that it was conforming fully with its commitments and with WTO agreements.

The questioning countries said that they doubted whether market conditions were the cause when for a single country so many quotas were unfilled. They expressed concern about the way the quotas are administered including monopolies given to state-owned importers. Some

suggested the importing country should remove these barriers in order to test whether the low import volumes really are caused by market conditions.

### Export credits

Mercosur circulated a copy of its 16 May 2000 proposal on export credit disciplines for the regional agreement, the Free Trade Area of the Americas (FTAA). Brazil, speaking on the group's behalf, said the group is not submitting this document as a proposal for the WTO, simply sharing information.

Malaysia, Columbia, Chile, Thailand, Egypt, and Brazil said that they supported the OECD talks but stressed that the outcome cannot be forced on WTO members. They, together with the EU, Canada, New Zealand, Australia, Mexico and Hungary said they consider WTO disciplines on export credit to be part of implementing the present agreement and the Uruguay Round — "and not at all an early harvest of the new WTO negotiations on agriculture," the EU said.

Japan agreed that this is an implementation issue in the WTO, but said it is realistic to wait and see the outcome in the OECD and then discuss the subject further in the WTO agriculture negotiations.

The US expressed hope that this "difficult" subject can be settled soon.

Mauritius and Egypt stressed the need to take the concerns of least-developed countries and net food-importing developing countries into account.

### LDCs, food-importing developing countries

The Secretariat has circulated a revised report on the latest situation related to the Marrakesh decision on the possible negative effect of the agriculture reform programme on least-developed and net food-importing developing countries. Additional information was provided by several observers or organizations including the World Bank, IMF, OECD, FAO and International Grains Council.

Egypt, Sri Lanka, Jamaica, Barbados, Trinidad and Tobago, Cuba and Mauritius said the decision has been ineffective and several called for more specific commitments to deal with problems. They, the EU and Switzerland expressed concern about figures that show that food aid has increased at times when world food prices are low and declined when prices have risen. This shows that aid has also been used to offload surpluses and not to deal with emergencies, they said.

### Other business

Chile, supported by New Zealand and Mexico, expressed concern about new US legislation (the Agriculture Appropriations Act for fiscal 2001) which includes the creation of a marketing board for avocado, including a possible levy (25 cents per pound) on sales in the US. These countries said the new board could present an additional barrier to trade and questioned whether it would serve the interests of all avocado suppliers.

The US said regulations to implement the provision are still being drafted and welcomed comments from supplying countries. □

### Export credits

Government-supported export credits are seen as a way of circumventing export subsidy commitments because interest rates and repayment terms can be easier than under normal commercial conditions. In addition to discussions in the Agriculture Committee, the question is also part of broader discussions on "implementation" in the General Council.

Article 10.2 of the Agriculture Agreement says "Members undertake to work toward the development of internationally agreed disciplines to govern the provision of export credits, export credit guarantees or insurance programmes and, after agreement on such disciplines, to provide export credits, export credit guarantees or insurance programmes only in conformity therewith."

Negotiations on an OECD understanding on agricultural export credits, which includes Argentina as well as OECD members, were taking place in Paris at the same time as the WTO Agriculture Committee's meeting. The deadline in the OECD for agreement is the end of this year. □

## WTO body mulls pests in wood crates, studies “equivalence”

A draft EU emergency measure against pests in pine-wood packaging, which would affect a large share of goods trade, generated some concern in the 8–9 November 2000 meeting of the WTO Committee on Sanitary and Phytosanitary Measures. The meeting also discussed a number of other specific trade issues, and “equivalence”, a subject which also comes under “implementation” in the General Council.

### EU draft measure on wood packaging

This issue was raised by Canada which complained that this measure would cover 69% of all Canadian exports of all goods to the EU since it applies to packaging.



The draft measure covers a wide range of wood packaging that uses coniferous wood originating in Canada, China, Japan and the US. It is designed to protect EU forests against pine-wood nematode (*Bursaphelenchus xylophilus*). The products covered would have to be either heat treated to 56°C for at least 30 minutes and have a moisture content below 20 per cent or have been preservative (impregnated) treated.

Canada recognized the EU's legitimate need to protect its forests against pests, but urged the EU to follow its example by waiting until negotiations on multilateral standards are completed in the International Plant Protection Convention (IPPC) even if pests are detected. Canada also urged all participants in the negotiations to work for a swift conclusion.

Sharing Canada's concern were the US, Republic of Korea, Japan and Chile. They complained about both the “enormous impact” and the “abrupt” timing of the proposed measure, which in its original draft was due to take effect from 1 January 2001.

The EU said the measure was notified to the SPS Committee so that WTO members could comment, and three (including Canada) have commented so far. The draft is being reviewed and the original target date of 1 January will be postponed, the EU said. But it argued that an emergency has arisen since it found numerous occurrences of the pest. The EU added it could not wait for the IPPC negotiations to reach agreement since they appear to be heading for considerable delay. “This is a new and serious problem for us,” the EU said.

### Australian measures on durian

Thailand said it took from 1991 to August 2000 to obtain Australian clearance for imports of Thai durian. However, it is concerned about the conditions, including: the requirement that a random sample of 450 fruit have to be cut open for every consignment of less than 1,000 fruit (the fruit is normally airfreighted within this size); the restriction of imports to the period from April to December; and the acceptance of only durians grown in the east of the country.

Australia explained at length the steps it took to obtain information from Thailand in order to make a risk assessment, and the way the information changed over the years. It said the number of fruits to be sampled is justified by the

requirement of 95% statistical confidence that “durian seed borers” will only be found in 0.5% of consignments, that this is an internationally accepted standard, and that Australian mangoes transported between certain states within Australia also faced the same sampling requirements. However Thailand could cut fruit that are below export standard, Australia said. The permitted period of import is the months when the pest will not survive in Australia, and the accepted growing region is the only one meeting proper standards, Australia said. The measure will be reviewed after a year, it added.



India, the Philippines and the EU expressed an interest in the issue.

Other measures discussed included a New Zealand complaint about Indonesia maintaining a ban on fruit even though the original infestation (a few Mediterranean fruit flies found in May 1996) only lasted a few weeks; continued complaints about bans on imports of bovine semen (Canada about an Indian ban, the EU about an Argentine ban) which, according to the OIE cannot transmit BSE even from diseased infested areas; and a complaint from Thailand about a Mexican ban on its rice.

### “Equivalence”

SPS measures reduce risks to consumers, livestock or plants to acceptable levels. An acceptable level of risk can often be achieved in alternative ways. Among the alternatives — and on the assumption that they are technically and economically feasible and provide the same level of food safety or animal and plant health — governments should select those which are not more trade restrictive than required to meet their health objective. Furthermore, if an other country can show that the measures it applies provide the same level of health protection, these should be accepted as equivalent. This helps ensure that protection is maintained while providing the greatest quantity and variety of safe foodstuffs for consumers, the best availability of safe inputs for producers, and healthy economic competition.

Developing countries in particular say developed countries are not doing enough to accept that actions they are taking on exported products provide levels of protection that are equivalent to the developed countries' requirements. This complaint has been raised as one of the many issues in the General Council under the heading of “implementation”.

Informal SPS Committee consultations were held on this before the SPS meeting. At the heart of the discussion in the consultations was a US paper which outlined the US experience and argued that in many cases equivalence agreements are unnecessary and cumbersome to negotiate. Many participants stressed that importing countries commonly accept products or alternative technical treatments, but this is ad hoc or informal. India called for equivalent agreements between developed countries to be notified to the WTO so that developing countries could study them, and negotiate to join or forge similar agreements with developed countries. □

**Libreville 2000**

*(Continued from page 1)*

eral trading system within the WTO.” The communiqué emphasized “the need to make trade a priority in the national development policies” of African countries.

The Libreville meeting was convened and organized by the government of Gabon. In his closing speech at the Conference, Mr. Moore paid tribute to President El Hadj Omar BONGO, the Prime Minister Jean-Francois NTOUTOUME-EMANE and the people of Gabon for their hospitality and outstanding organization.

The meeting was made possible by donations from the following countries and agencies: Belgium, Chinese Taipei, Egypt, France, Gabon, Great Britain, Ireland, Japan, Luxembourg, Morocco, South Africa, the African Development Bank Group, the Agence Intergouvernementale de la Francophonie (AIF), the International Development Research Centre, the World Intellectual Property Organization (WIPO), the United Nations Development Programme (UNDP) and the European Union. □



*Workshop on Regionalism and Multilateralism: Trade Ministers Elmi Obsieh Wais(Djibouti) and Khouraiichi Thiam (Senegal) with WTO Development Director Peter Tulloch of the WTO.*



*The Workshop on Environment and Standards. Mr. Moore described the Workshops on WTO Agreements and trade issues as “the heart of the meeting”.*

**MEETINGS**

December 2000	
1	Committee on Rules of Origin; Council for TRIPS
1, 4-5	Council for Trade in Services
4, 6	Trade Policy Review: Liechtenstein and Switzerland
6	Council for Trade in Services - Special Session Sub-Committee on Least-Developed Countries
7-8	GENERAL COUNCIL
8	Working Party on the Accession of China
11-13	Textiles Monitoring Body
12	Dispute Settlement Body
13, 15	Trade Policy Review: Canada
14-15	GENERAL COUNCIL - Special Session on Implementation
15	Committee on Balance-of-Payments: Bangladesh
18-19	Working Party on the Accession of the Russian Fed.

**US boosts WTO Fund for Africa**

The US Government on 11 November pledged 650,000 USD (about 1 CHF million) to the Global Trust Fund for WTO Technical Assistance. This voluntary contribution by the United States will benefit Sub-Saharan African countries. Specifically, it will be used to conduct technical assistance courses on trade policy and WTO rules, and will also fund the development of computer-based training modules on WTO Agreements. These modules will be useful not only in Africa but in developing countries and in economies in transition around the world.

“I am extremely grateful to the United States for its contribution to the Trust Fund,” said Mike Moore. “The WTO is facing increasing demands for technical cooperation from its members, least-developed and developing countries, and economies in transition, and such donations make it possible for the WTO Secretariat to meet these requests. The United States’ contribution will help a particularly disadvantaged part of the world increase its participation in the multilateral trading system.”

The WTO Trust Fund was created in 1995 to assist poorer countries to participate actively in the WTO and to take advantage of the new opportunities in international trade offered by the WTO Agreements. □

**WTO FOCUS**

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