

Panels established on corn syrup, asbestos complaints, reports on cement, shrimp, salmon disputes adopted

Talks to continue on EC's new banana regime

The Dispute Settlement Body (DSB), on 25 November, established panels to examine the following complaints: by the United States against Mexico's anti-dumping investigation of high-fructose corn syrup (HFCS) from the US, and by Canada against the European Communities' measures affecting asbestos products. It agreed to come back to three new panel requests: by the EC on Canada's patent protection of pharmaceutical products and on the US Anti-dumping Act of 1916, and by Japan on certain Canadian automotive industry measures.

The DSB adopted the Appellate Body report, and the panel report as reversed by the Appellate Body, on Guatemala's anti-dumping investigation regarding Portland cement from Mexico. (At a previous special meeting held on 6 November, the DSB adopted reports on the shrimp and salmon disputes, see page 3).

Banana dispute

The DSB heard parties to the banana trade dispute reaffirm commitments to follow the WTO dispute-settlement procedures in resolving their differences. It was agreed that the parties would continue with consultations, and that the DSB would revert to this matter at the resumption of its meeting in December.

The EC reported that it had completed the implementation of the DSB recommendations well within the agreed time-period with the adoption, by the Council of the European Union, of two regulations modifying its banana trade regime. It said the new regime will be fully applicable from 1 January 1999.

Market day at Bamako, Mali's capital: the Trade Policy Review Body (see pages 4-5) welcomed significant steps taken by Burkina Faso and Mali towards more open trade regimes, and recognized the difficulties of such adaptation for land-locked least-developed countries.

The complainants in this dispute—Ecuador, Guatemala, Honduras, Mexico and the United States—reiterated their view that the new EC banana regime was still inconsistent with the WTO.

Under another agenda item, the EC requested consultations with the United States regarding the Section 301 procedures of the US Trade Act of 1974. It complained that under these procedures, the United States had announced retaliatory 100% tariffs on imports of EC products should the United States determine that the EC had failed to implement the DSB recommendations regarding its banana regime. The EC stressed that the United States could not withdraw concessions unless authorized by the DSB, and expressed concern that it intended to disregard crucial provisions of the Dispute Settlement Understanding.

The United States said that while the DSB had ruled against the EC banana regime, it believed that the EC would continue what it described as protectionism using the same measures. With respect to the announcement cited by the EC, it said it was acting in full compliance with its WTO obligations and the DSU timetable. The

Continued on page 2

Inside

| | |
|--------------------------------|----|
| Disputes overview | 2 |
| Shrimp, salmon reports adopted | 3 |
| Trade Policy Review | |
| Burkina Faso and Mali | 9 |
| Trinidad and Tobago | 10 |
| Uruguay | 11 |

Two new panels

(Continued from page 1)

United States said that it was simply pursuing internal procedures that would prepare a measured multilateral response to the EC's failure to implement the DSB recommendations.

Panels on asbestos, HFCS disputes

Canada reiterated its request at the previous meeting for a panel to examine its complaint against European Communities' measures affecting asbestos and asbestos products. It said that consultations with the EC in July had not resolved the dispute.

The EC said that France, in 1996, prohibited the sale, distribution and importation of asbestos as asbestos fibres had been found to be carcinogenic. It said that several thousand people die each year due to the effects of asbestos. The EC said that there were substitute products that were safer for public health. It said that the French measure was fully justified for reasons of public health, and that it had been applied in a non-discriminatory manner. The EC said it would state these arguments before the panel, which would decide on the issue.

The DSB established a panel to examine Canada's complaint. The United States indicated its interest to participate as a third party in the panel proceedings.

The United States said that it had been consulting with Mexico over the past few months regarding its complaint against Mexico's anti-dumping investigation of high-fructose corn syrup (HFCS) but that no solution had been found. It said that US exporters continued to face what it called unjustified barriers that were inconsistent with the WTO Anti-Dumping Agreement. The United States added that it intended to continue bilateral consultations with Mexico even after the establishment of the panel.

Mexico said that the DSB should not establish a panel because in its view, the US panel request failed to comply with DSU requirements by not setting out clearly the legal grounds of the complaint as well as giving no indication of nullification or impairment of US trade interests.

The DSB established a panel as this was the second time it was considering the US request and there was no consensus against the request. Jamaica indicated its interest to participate as third party in the panel proceedings.

New panel requests

The European Communities requested the establishment of two panels, which the DSB would revert to at its next meeting.

The EC complained that Canada's legal regime with respect to patent protection of pharmaceutical products appeared to be inconsistent with the provisions of the WTO Agreement on Trade-Related Intellectual Property Rights (TRIPS). In particular, it said that Canada allowed third parties, without the consent of the patent holder, to carry out tests before the expiration of the patent that would enable them to gain market access immediately following the expiry date, and the manufacture and stockpiling of

patented products for a period of up to six months before the patent expiry for sale after expiry.

Canada said that its regime on pharmaceutical patents was known to the EC since the Uru-1.3362

DISPUTE SETTLEMENT

Japan complained that Canada's "Auto Pact" with the United States was in violation

The TPRB concluded its first review of the trade policies of Burkina Faso and Mali on 18 and 20 November. Excerpts from the Chairperson's concluding remarks:

Members commended Burkina Faso and Mali on the liberalization and economic reforms they had undertaken. These, combined with the devaluation of the CFA franc in 1994, had resulted in steady economic growth, low inflation and improved international competitiveness of some products. However, progress in restoring balance to government finances and the current account had been limited and export competitiveness was, in general, hampered by the high costs of basic utilities supplied by public enterprises. In addition, external debt was high. Noting that exports, still confined mainly to cotton, livestock products and gold, hardly covered 50% of imports, Members sought clarification on measures to diversify both economies, while containing the negative effects of recurring drought.

Members inquired about the implementation of competition policies and the effects the WAEMU common external tariff (CET) would have on tax revenues owing to the heavy reliance of both Burkina Faso and Mali on trade taxes. Questions were raised on intellectual property rights and the steps being taken to bring the Bangui Agreement into compliance with TRIPS.

There was a certain worry about price controls that still applied to certain goods in Burkina Faso, and about provisions of its investment Act that gave preference to jobs for nationals and domestically-owned service suppliers.

The representative of Mali said that the CIC would not discriminate against non-regional investors. The CIC, in combination with other actions taken to establish the WAEMU customs union, would help to attract foreign capital. Moreover, the WAEMU Treaty provided for Structural Funds and the implementation of common sectoral projects to compensate for negative effects resulting from participation in the customs union.

The representative also indicated that Mali relied on trade taxes both because of the low level of domestic production and because they were relatively easy to collect; however, diversification of production and improved collection of internal taxes were envisaged to reduce reliance on trade taxes. The Government depended on the private sector to diversify its production and its exports. The absence of a capital market in Mali was a major impediment to the implementation of the privatization programme, which would also cover the services sector. Since March 1998, Mali had been eligible for the IMF/World Bank initiative for Highly Indebted Poor Countries (HIPC). He added that updated data on FDI in Mali would be provided to the Secretariat. National legislation on competition was being amended with a view to bringing it into line with WAEMU provisions in this area. The Bangui Agreement on intellectual property was being revised to bring it into conformity with TRIPS. Environmental measures were being implemented to deal with the effects of the drought.

Confirming that the CET could reduce tax revenue, the representative of Burkina Faso noted that the broadening of the tax base and improved tax collection would contribute to offsetting the losses. He indicated some of the products that would be promoted for diversification purposes, including cotton, cereals and vegetables. A shortage of investors and the need for improved transparency had delayed implementation of privatization programmes. Liberalization would also involve basic utilities. Burkina Faso had been implementing its competition policy since January 1998. However, price controls were maintained on petroleum products as these were sensitive products. On the external debt, he noted that suitable actions would be taken under the HIPC. Moreover, structural adjustment programmes and the move to CET were preparing the economies of WAEMU members for increased competition; support from the international community was needed to offsetting the

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TRADE POLICIES

Lomé Convention and the Generalized System of Preferences, and measures envisaged by these countries to adjust to any reduction of preferences that might result from multilateral liberalization.

Recalling the Integrated Programme for least-developed countries, the representatives of Mali and Burkina Faso indicated that they looked forward to its implementation for their countries. On preferential treatment, discussions among African ACP coun

The TPRB concluded its first review of Trinidad and Tobago's trade policies on 12 and 13 November. Excerpts from the Chairperson's concluding remarks:

Members congratulated Trinidad and Tobago on its recent liberalization and economic reforms, which had resulted in steady growth rates, low inflation and had attracted substantial foreign investment. However, challenges re

The TPRB concluded its second review of the trade policies of Uruguay 23 and 25 November. Excerpts from the Chairperson's concluding remarks:

Members welcomed Uruguay's trade liberalization, including the lowering of applied tariffs within MERCOSUR's framework. However, the schedule of convergence to the Common External Tariff (CET) was complex. Several Members questioned the recent temporary increase in the CET by 3 percentage points, noting that as a result tariff bindings have been exceeded in some instances.

Members congratulated Uruguay on streamlining customs procedures. There were questions about customs valuation procedures; preferential rules of origin; the use of international standards; and preferences for domestic products in government procurement and about Uruguay's possible accession to the Government Procurement Agreement (GPA).

In reply, the representative noted that Uruguay had adopted MERCOSUR's CET on 1 January 1995, with rates between 0 and 20%. The temporary increase of CET rates by 3 percentage points, would end on 31 December 2000. Applied tariffs were within WTO bindings, except for a few lines, which Uruguay intended to correct by 1 January 1999.

On customs valuation, the representative noted that transaction value was used whenever possible. Rules of origin were currently applied to MERCOSUR intraregional trade, but would be eliminated when convergence to the CET was completed.

The representative noted that Uruguay's agricultural exports faced a number of barriers, including tariff peaks and non-tariff barriers; access was also distorted by subsidies in a number of countries. Export taxes in Uruguay were applied only on one product; elimination depended on negotiations within MERCOSUR. On export subsidies, the concessions granted to the motor vehicles industry had been notified to the WTO. Uruguay applied a system of temporary admission and import duty drawbacks in a manner consistent with WTO obligations. Uruguay had recently introduced new trademark legislation; draft laws on copy rights and patents were in Parliament. Uruguay was addressing the problem of enforcement of intellectual property rights, particularly regarding trademark and copy right infringement.

Sectoral issues

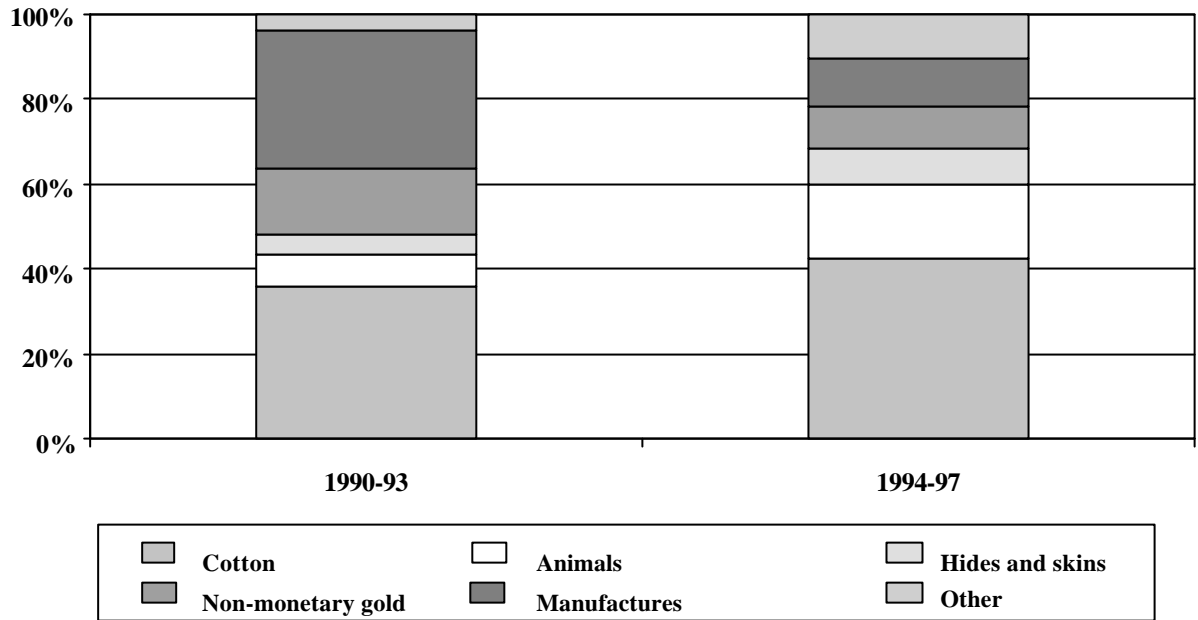
Members commended Uruguay on the performance of its agriculture sector, but posed questions on the pricing mechanism for milk and its impact on exports. Clarifica-

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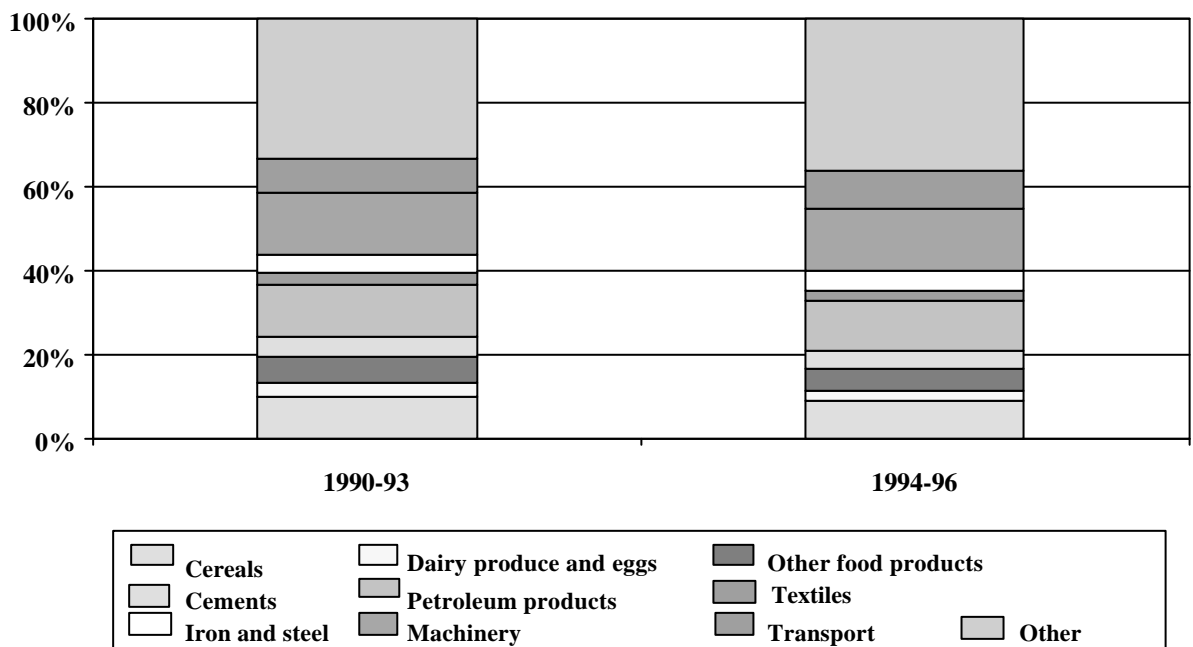
Chart I.2

Breakdown of trade by product category, 1990-1993 and 1994-1997

(a) Exports



(b) Imports



Source: Burkina authorities

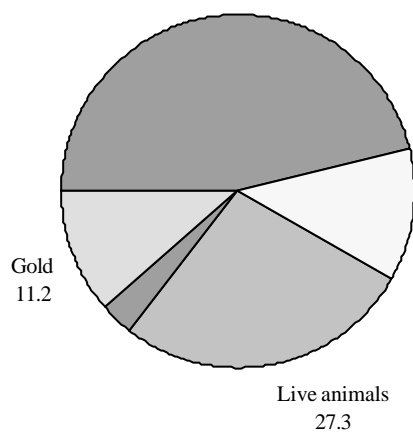
Chart I.1

Exports and imports by major product groups, 1993 and 1996

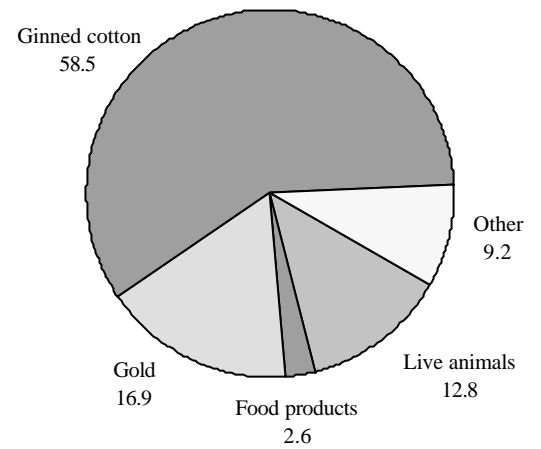
1993

1996

(a) Exports



Total: 98.9 billion CFA francs



Total: 235.3 billion CFA francs

(b) Imports

