

EU TAKES US TO WTO OVER CUBAN LEGISLATION

Making good on repeated warnings, the European Union and its member states have requested formal bilateral consultations with the US at the World Trade Organization (WTO) over the extraterritorial aspects of the Cuban Liberty and Democracy Act (LIBERTAD) recently enacted by the US Congress (see EURECOM, March 1996).

Over the years, the EU has consistently opposed the extraterritorial reach of some US legislation, which impedes international trade and investment by exposing foreign-based firms to conflicting legal requirements. This subject will once again be addressed in the Commission's soon-to-be-released annual report on US trade barriers.

The request for consultations (under Article XXIII of the GATT) is the first step toward solving trade disputes under WTO rules. If the consultations fail to resolve the conflict, the EU can then ask for a formal panel to examine and rule on the complaint.

Under the disputed legislation, US citizens can sue foreign companies operating in Cuba if they are profiting from property deemed to have been expropriated from individuals by the Cuban government after the 1959 revolution. According to the EU, this provision threatens legal chaos, thereby deterring European investment in Cuba. "The Cuban Democracy Act and its companion the Cuban Liberty and Solidarity Act contain a number of provisions which have the intent and effect to restrain the liberty of the [EU] to export to Cuba or to trade in Cuban origin goods," said the Commission's letter to the US.

On April 22, EU foreign ministers not only warned the US that the Cuban legislation could damage transatlantic relations, but they also called on the US administration to resist similar bills currently in the US Congress that would negatively affect foreign investment and European economic interests in Iran and Libya.

"ERM II" PLAN TAKES SHAPE IN VERONA

Last month in Verona, Italy, EU finance ministers and central bankers backed the idea of a new, non-compulsory exchange rate mechanism — "ERM II" — between the Euro and those EU currencies remaining outside the monetary union. Above all, it would aim to maintain stability in foreign exchange markets and to ensure proper functioning of the single market (see EURECOM, December 1995).

While many technical questions on the new ERM remain unsettled, the European Monetary Institute (EMI) will present a more detailed report on the plan to the European Council in Florence, Italy on June 21-22.

With the ERM's turbulent history in mind, any new ERM would have to be flexible, with relatively wide bands in which

non-EMU currencies could fluctuate. At present, most currencies in the ERM can fluctuate within 15% of agreed central rates against other ERM members. Exceptions are the German mark and the Dutch guilder, which move in a narrow 2.25% band against each other.

Another point emphasized in Verona by EMI President Alexandre Lamfalussy was that the future European Central Bank (ECB) should have a watch-dog role over ERM II, with ultimate responsibility for changing parities of currencies under speculative attack. Further, while intervention to support an ailing non-EMU currency "should in principle be automatic", the ECB should also have to right to set limits or to suspend support.

Further, ERM fluctuation bands should be flexible, allowing non-EMU countries "with a good convergence record" the possibility of tighter links to the Euro.

Relatedly, the Verona meeting also supported German Finance Minister Theo Waigel's idea of a budget "stability pact" among countries inside EMU, which would use existing mechanisms in the Maastricht treaty to prevent excessive budget deficits. The Commission was asked to examine further the issues and details raised by such a pact.

EU-LED RESEARCH EFFORT HITS PAY DIRT

Largely the result of an EU-led and funded project, the first-ever complete DNA sequence, or genome, of yeast has been deciphered by an international consortium of European, North American and Japanese researchers.

Overall, EU funds (19.8 million ecu; 1 ecu=\$1.23) financed 55% of the sequenc-



ing, supporting a network of almost 100 European laboratories. In the US, laboratories at Stanford and Washington University (St. Louis) completed 22% of the sequencing as part of the Human Genome Research program at the National Institute of Health.

Biotechnology is one of the areas designated for joint EU-US action by the December 1995 New Transatlantic Agenda.

The quest to unravel the yeast genome was launched in 1989 by Dr. André Goffeau of the European Commission (Directorate-General XII for Science, Research and Development), who, at the Catholic University of Louvain-la-Neuve, was the main coordinator for the European laboratories involved in the project.

Single celled yeast, which is used by bakers and brewers, is the most complex organism to have been deciphered so far. Its genome is distributed among 16 chromosomes and has over 12 million bases, or chemical units, representing some 6,000 potential genes. More than 50% of the yeast genes are similar to human genes, and a yeast cell has much in common with a human one. Already, the sequence data has provided a wealth of information, allowing considerable advances in understanding the basic mechanisms of life in higher cells.

The discovery is useful not only to companies using yeasts in food processes or for the production of industrial enzymes and therapeutic agents, but it also could unlock new possibilities for research into human health disorders such as colon, breast and ovarian cancers.

COMMISSION BLOCKS PLATINUM INDUSTRY MERGER

Fearing the creation of a duopoly in the world's platinum market, the Commission has rejected a proposed merger between the South African platinum interests of Lonrho PLC (UK) and Gencor (South Africa).

This marks only the fifth time since the EU's merger regulation came into effect in 1990 that the Commission has blocked a

merger outright. It is also the first time that it has vetoed a merger comprised solely of businesses located outside the EU.

After a four-month examination, the Commission found that Gencor and Lonrho together would have controlled 28% of the world's platinum market which, when coupled with Anglo-American's (South Africa) 35% share, would have created a duopoly in the world platinum market, controlling over 60% of the market and 90% of world reserves. At present, Russia supplies 23% of the world market, but it only has 10% of world reserves.

In addition, the potential for the creation of a dominant position was high: the demand for platinum — centered in the automobile (catalytic converters) and electronics (production of TV and computer screens) sectors — is highly inelastic since there are practically no substitutes.

Competition Commissioner Karel Van Miert also warned Anglo-American, which already has a 6% stake in Lonrho, that it too would face the same problem should it attempt to acquire control of Lonrho.

WORLD TELECOM DEAL POSTPONED

Asserting that there was not a "critical mass" of market-opening offers on the table, the US, just 36 hours before the April 30 deadline, decided it could not sign a WTO agreement opening up global telecommunications markets. Unlike the WTO financial services accord, however, from which the US also walked away (see EURECOM, September 1995), the EU was unable to rescue an agreement at the eleventh hour.

Hence, after a flurry of diplomatic activity, the EU and the US agreed to prolong the talks until February next year, salvaging 18 months' worth of negotiations (as long as the 37 other countries involved agree and maintain their offers). The US hopes that with the extension, some (mostly Asian) countries will improve their offers.

The EU, however, did not share the US opinion to pull back. "In our view, there is

a critical mass," said EU Trade Commissioner Sir Leon Brittan. "I regret and deplore the fact that the US has reached (the opposite) conclusion. I respect and understand the requirements of domestic politics can make it very difficult to conclude an agreement in an election year. But the multilateral system loses out as a result," he said.

Sir Leon also made it clear that the EU would have been ready to lift its limitations on foreign ownership in telecommunications in return for the US lifting its curbs on submarine cables.

Despite the setback, the EU will pursue an agreement with the "same vigor and determination", with no intention of downgrading its offer; it wants to maintain the progress made to date. The booming global telecom sector, which already generates over \$500 billion a year in revenue, would get a tremendous boost from a deal opening up often highly protected national markets to foreign competition.

EU, US CARMAKERS TO WORK ON COMMON STANDARDS

In an effort to increase transatlantic automotive trade, European and US car industry representatives agreed on an ambitious agenda to harmonize standards and certification requirements at a meeting last month in Washington, DC.

The idea for the meeting was first raised at the Transatlantic Business Dialogue Conference in Seville, Spain, in November 1995, where car producers agreed that differing national standards are the most serious trade barrier for EU-US automotive trade, far worse than tariffs (see EURECOM, December 1995).

EU Industry Commissioner Martin Bangemann welcomed the conference, saying that EU experience has shown that by harmonizing regulatory requirements, costs of designing and developing vehicles are reduced, thereby benefitting the consumer. "It is now time for industry and governments to make a sustained effort to achieve global harmonization of regulation," he said.



Bangemann also suggested that a first step could be the mutual recognition of another country's standards — provided they are of "functional equivalence" — with later steps aimed at common standards.

Industry-led, the conference set November 1996 as the starting date for harmonization procedures in environmental areas such as noise and exhaust emissions. Recommendations for mutual recognition of items like safety belts and seating systems are expected by November 1997. Other areas initially under consideration for harmonization include theft protection systems, bumpers and crash protection devices.

US Under Secretary of Commerce for International Trade Stuart Eizenstat told the conference that the US government would be receptive to industry moves to eliminate duplicate standards, but he warned that new, common standards could not be lower than existing ones.

NEW CAPITAL RULES FOR DERIVATIVES

The Commission has put forward a proposal introducing refined and more realistic capital requirements for credit risks inherent in a wide range of over-the-counter (OTC) derivatives.

Amending EU solvency and capital adequacy legislation for banks and investment firms, the proposal takes into account changes in international rules agreed by the Basel Committee of the Bank of International Settlements. For the totality of EU banks' and investment firms' OTC derivatives activities, the new proposal would ensure a more accurate calculation of capital charges which, on an aggregate basis, would likely be lower, making EU financial institutions more competitive.

Although the proposal does not deal with the market risk of OTC derivatives per se, in some cases coverage of credit or default risk would have to take market volatility into account.

Concerning credit risks, the proposal complements the "contractual netting" directive recently adopted by the Council (see EURECOM, March 1996) in three

QUOTES

"I have never believed that the American model could be transposed to Europe. I believe even less that our old nation states could be swallowed up in a federal polity. There is, however, a question of preventing the European Union from losing its Community identity while preparing for further enlargements. The Community should not revert into a large free-trade area run solely through intergovernmental cooperation." Former European Commission President **Jacques Delors** speaking at the City University of New York (CUNY) on May 7 as part of a US speaking tour.

"Despite its economic weight and its role as the number one aid donor, the Union doesn't really have much weight in crisis management." German Secretary of State **Werner Hoyer**.

"Those who criticize the inadequacies of the European Union, sometimes with good reason, need to be reminded of the invaluable things it has achieved: 50 years of peace and prosperity." Commission President **Jacques Santer** in a statement for Schuman Day, May 9th, which celebrates the French Foreign Minister

Robert Schuman's call in 1950 for Germany and France to merge their coal and steel industries in order to prevent future war. This led to the six-nation European Coal and Steel Community in 1951, the precursor to today's EU.

"We are for a currency union, but for a union that will deliver a stable Euro and one that does not later lead to tension and conflict." German Bundesbank President **Hans Tietmeyer**.

"It seems to me a reasonable idea to stop the clock of monetary union for a few months so that a few more of us can jump onto the bandwagon...What's more, I don't think France will want to leave out countries of the size of Spain and Italy, with competitive economies." Former EU Commissioner, MEP and newly appointed Spanish Foreign Minister **Abel Matutes**.

"Unless there are clear signs of recovery by 1999, I would be in favor of postponing (EMU), because otherwise it will attract all the resentment...about unemployment and would become the whipping boy." Billionaire financier **George Soros**.

ways: by extending the scope of existing compulsory capital coverage for credit risks to all types of OTC derivatives (including commodity- and equity-related instruments); by requiring calculation of capital charges for the current credit exposure of OTC derivatives on the basis of more realistic market values; and by allowing supervisory authorities to calculate capital charges which reflect the risk-reducing effects of close-out netting on the potential future exposure of netted OTC derivatives.

...IN BRIEF

...After a preliminary one-month probe, the Commission has opened a full four-

month investigation into the planned merger between Swiss chemical and pharmaceutical giants Ciba-Geigy and Sandoz. The proposed merger, which would yield a new company called Novartis, would become the leading worldwide supplier of crop protection products and the number two global player in the pharmaceuticals, animal health and seed sectors. Novartis would be twice as large as its next competitor in crop protection and would enjoy high market shares for many products in several EU member states. In a number of fungicide markets and in the market for seed treatment, Novartis would have market shares over 50%, especially in France. In addition to these market strengths, Ciba-Geigy and Sandoz would add their combined R&D potential which — at least for



crop protection — would far exceed all other competitors.

...EU social affairs ministers recently adopted a directive on parental leave, translating into EU law an earlier framework agreement reached between the "Social Partners" — UNICE (European employers' confederations), the ETUC (European trade unions) and the CEEP (public enterprises) — under the Social Protocol (SP) of the Maastricht treaty (see EURECOM, February 1996). The directive guarantees EU workers a minimum of three months' unpaid parental leave, regardless of gender. Social Affairs Commissioner Padraig Flynn called the decision "a milestone" that is "pro-family, pro-equal opportunity, pro-business and pro-flexibility in the workplace." Because it was adopted on the basis of the SP, the legislation does not apply to the UK.

...Long known as a grain export subsidizer, the EU has been progressively taxing wheat exports since December and, for the first time in 20 years, has levied an export tax on wheat flour. These actions aim to assure a stable domestic supply for EU food processing companies. Low world grain stocks and a poor US winter wheat harvest have recently generated record prices in grain commodity markets.

...Average EU unemployment ticked up to 11% in February after being stable at

10.9% in the previous two months. The increase over January and over February 1995, when the rate stood at 10.8%, is chiefly attributable to a sharp rise in German (up to 9% from 8.7% in January) and Portuguese (7.7% compared with 7.5%) unemployment. At the same time, Finland, which has the second highest jobless rate among EU countries at 16.3% (Spain has the highest at 22.6%), enjoyed a 0.2% decrease, while the other member states' rates remained virtually unchanged. In January 1996, US and Japanese unemployment rates were 5.7% and 3.5%, respectively.

...Long delayed due to technical and legal problems, Easdaq, a Europe-wide version of the US Nasdaq stock exchange for smaller, high growth companies, plans to list about 20 companies when it opens in September. Based in Brussels and financed by a consortium of US and European banks, Easdaq will be quote-driven, with share prices displayed on both sides of the Atlantic on the International Securities Market Association's network. It aims to trade the shares of around 500 companies within five years, emphasizing growth sectors like biotechnology and information technology.



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