

MEMORANDUM

Date: December 7, 1999
From: White & Case LLP
Re: **Seattle Ministerial Negotiations Collapse; Resumption of Talks Time Frame is Unclear**

SUMMARY

The collapse of the WTO Seattle Ministerial has cast considerable doubt on whether and when WTO members will launch a new round of trade negotiations. Despite the collapse, WTO members did come to agreement on a number of important issues in Seattle. For example, consensus had been reached on areas such as services and e-commerce, and agreement was close on industrial tariffs. It remains to be seen whether such progress will stand or whether some members will insist on re-opening negotiations on these issues as they attempt to conclude the work of the Ministerial. Although the Ministerial declared a “timeout” and promised to resume negotiations soon, a time frame for a new effort remains unspecified, and some observers believe the whole system could be in jeopardy. This uncertainty is worsened by anti-WTO forces who have been emboldened by what they see as a victory in Seattle. This report focuses on those issues in which progress was made in Seattle, which could provide the basis for a new initiative.

ANALYSIS

I. Progress in Seattle

- ***Solid Support for Services*** – There exists wide enthusiasm among WTO members for launching a comprehensive round on services, including financial, telecoms, professional, energy, distribution, and stronger rules on domestic regulations. U.S. and EC negotiators confirmed that consensus had formed on these sectors in the Seattle Declaration.
- ***Extension of E-Commerce Moratorium*** – WTO members are prepared to extend the ban on customs duties on electronically-traded services by 18-24 months. The lack of opposition, as compared to hesitance by developing countries at the 1998 Geneva Ministerial, represents a growing confidence in the role of e-commerce.

- ***Industrial Tariff Negotiations Likely*** -- WTO members narrowed their differences over the inclusion of industrial tariffs in the next round, including those proposed by APEC under the Accelerated Tariff Liberalization (ATL) initiative. ATL seeks to eliminate tariffs for gems and jewelry, toys, environmental goods and services, energy services, medical equipment and scientific instruments, forestry and fisheries products, and chemicals. Reportedly, the EC dropped its opposition to ATL in exchange for wider support for industrial products. India and several developing countries remain opposed to the idea of a wider round.
- ***Flexibility on Customs Valuation and TRIMS*** – The drafting group on “Implementation and Rules” has shown greater flexibility on extending the transition period for the Agreement on Customs Valuation, up to two years to be reviewed on a case-by-case basis, and extending the notification period for the Trade-Related Investment Measures (TRIMS) Agreement, to January 31, 1999. The EC has stressed flexibility while the U.S. has offered more technical cooperation instead of extending implementation deadlines beyond January 1, 2000 for both agreements. However, very limited concessions have been offered by the U.S. in efforts to reopen agreements on antidumping and subsidies.
- ***Some Progress on Agriculture*** -- The EC and Japan dropped their demands that agriculture negotiations include specific reference to the "multi-functional" nature of agriculture, citing “non-trade” concerns such as food safety and security, environment, animal welfare. Also, EC Agricultural Commissioner Franz Fischler reaffirmed the EC’s commitments to “substantial reductions in subsidies and domestic support”, but asserted that the EC would not agree to a complete elimination of export subsidies. The U.S. appears to be giving greater flexibility to “substantial reductions”, though the Cairns Group stands firm on the total elimination of subsidies.
- ***Expanded Market-Access for Least-Developed Countries (LDCs)*** – The EC, U.S., Canada and Japan said they are prepared to expand market-access for LDCs, though each had a list of exemptions. The U.S. wants exemptions on textiles; the EC on bananas, beef, rice and sugar; Canada on certain textiles and agricultural goods; and Japan on rice and leather. Meanwhile, President Clinton initiated new efforts to encourage market-access and technical cooperation for LDCs.
- ***China Anticipates WTO Membership by February 2000*** – Chinese foreign trade minister Shi Guangsheng met with the EC and other WTO members that have yet to conclude bilateral WTO deals in Seattle, and predicted completion of talks by February 2000. After China concludes negotiations with the remaining 20-plus countries, it must combine all bilateral concessions into an accession protocol.

II. Issues Raised At Seattle, With Continued Disagreements

- ***EC and Japan Still Set on Competition and Investment*** – The EC and Japan, supported by Korea, Hungary, Turkey and Switzerland, proposed comprehensive market-access negotiations and rules on competition policy and investment. The U.S., and countries opposed to a wider agenda such as India, object to rules on competition and investment policies.
- ***U.S. Objects to Antidumping and Subsidies*** – The U.S. remains isolated in its objection to reopening the Agreements on Antidumping and Subsidies and Countervailing Measures (SCM). Most WTO members such as the EC, Japan, Canada and developing countries have supported review of those agreements.
- ***Government Procurement Agreement Still Elusive*** -- The Agreement on Transparency in Government Procurement was near conclusion, though the EC has not given its support. Reportedly, the EC believes the existing agreement is inadequate and contains too much flexibility.
- ***Malaysia Still an ITA II Holdout*** -- Malaysia still has not stated its intent to join 50 other WTO members in reaching an agreement in Seattle on expanding liberalization of \$50 billion in information technology products (“ITA II”).
- ***Opposition to Labor and Biotech Working Groups*** – The U.S. stands alone in its efforts to establish a Working Group on Trade and Labor. President Clinton’s statement in Seattle of an ultimate link between labor rights and trade sanctions infuriated many, including developed and developing countries, U.S. business groups, and Congressmen. The U.S. and Canada also lost support from the EC for a Working Group on Biotechnology.
- ***WTO Dispute Settlement Reform Stalled*** – The U.S. and EC remain deadlocked in their different approaches to “carousel” retaliation, which would allow countries to rotate the product list of punitive sanctions. U.S. negotiators have threatened to forgo the whole process if the EC does not show flexibility in U.S. efforts to gain WTO authority for carousel retaliation.
- ***Compensation Proposed for U.S.-EC Hormone Dispute*** -- The U.S. and EC have met on the sidelines in an attempt to resolve the WTO dispute over the EC’s ban on hormone-treated beef. The EC’s Fischler argued that compensation would benefit U.S. industries more than the current WTO-approved U.S. retaliation of \$116.8 million on EC products. Fischler asserted that compensation in the form of EC tariff concession would increase trade while U.S. retaliation ultimately hurt trade. The U.S. has rejected this position and wants the ban lifted.

III. Conclusion

There remains great uncertainty in the wake of the Seattle collapse as WTO members have given no indication on the timeframe for restarting negotiations in Geneva. We will be providing a more detailed analysis of the Seattle Ministerial and its consequences in the near future.