

## IN THIS ISSUE

### EDITORIAL

**1** Asbestos@wto

### ASBESTOS

**3** The vital issues in the WTO asbestos dispute

### TUTB OBSERVATORY

**6** From technical transpositions to political debates

**7** A timely critique of the British health and safety regulatory system

**11** Safety at Work Charter 2000 in Italy

**12** Strong response to strike for building site safety in Spain

**13** **WOMEN, WORK AND HEALTH**  
**SPECIAL REPORT**  
 ■ Rio 2nd International Congress  
 ■ Trade union initiatives across Europe

### WORKING TIME

**25** New ECJ case : the interpretation of the Working time Directive

**28** How the ECJ ruling may affect the United Kingdom

### CHEMICAL SUBSTANCES

**30** TUTB Chemical Network

**32** Controlling exposure to chemicals : a simple guide on how to do it

### TUTB-SALTS A CONFERENCE

**35** Working without limits ?  
 Re-organising work and reconsidering workers' health

### NEWS IN BRIEF

**37** TUTB PUBLICATIONS

**39** Market Surveillance of PPE in France

Risk Assessment at the Workplace.  
 A guide for Union Action

Occupational Health in Central Government Administration

### EDITORIAL

## Asbestos@wto

We cannot stress too often the importance, not just to workers but the public, too, of Canada's complaint to the WTO against France's 1996 decision to outlaw the marketing and use of asbestos and asbestos-containing products. France is being represented by the European Union in the case, and the United States has joined issue as a third party.

In 1998, the ETUC pressed all European governments and the Commission to back France in the dispute. It was against any WTO proceedings likely to undermine EU rules and international conventions protecting workers and the public against asbestos. The Commission's decision of 26 July 1999 to ban the marketing and use of asbestos EU-wide from 1 January 2000 was a major prop to France's decision, and a big step forward in reducing asbestos exposure for the public and many workers. Of course, even that was too little too late for the countless victims reported in French figures published by us (*Newsletter*, N° 4, November 1996).

More still has to be done to ensure that many workers still exposed on building demolition work and dismantling asbestos-containing installations do not suffer the same fate. The Social Affairs Council wants the Commission to revamp the present Directive on the protection of workers against asbestos. Consultations with the Member States began in September 1998, but the social partner consultations required by article 137 of the Treaty are still nowhere in sight !

The WTO's Dispute Settlement Body (DSB) is now poised to deliver its findings. Its decision will give a new take on the validity of public measures to protect consumers and workers against asbestos and its derivatives. We are talking about a product known for over a century to be dangerous, and as cancer-causing for 40 years ! Never before has the WTO been asked to rule on a dispute directly relating to workplace health and safety standards, although it has previously dealt with public health issues (e.g., bovine growth hormones).

It is also the first time that the DSB will produce findings - after appointing a panel of experts - under the TBT (Technical Barriers to Trade) Agreement, set up mainly to ensure that technical regu-

NEWSLETTER

lations and standards do not create "unnecessary" obstacles to international trade. Its ruling, which is bound to be appealed, has to be handed down within 90 days of the complaint being notified by the complainant, defendant or both, but has been put back more than once. It is now expected for summer 2000, and will place a series of question marks over the role of the WTO, the dispute settlement procedure (especially its lack of transparency), and the likely deregulatory effect of the TBT Agreement rules. One issue which cannot be ducked about the role of the WTO is its health and safety jurisdiction. This is an area covered by other international institutions like the ILO, WHO and UNEP, and where the WTO has no specific remit other than to prevent the creation of "unnecessary" obstacles to international trade.

EU trade unions know all about the impact trade barriers have on public safety and health protection measures. Their agenda is for common policies based on a high level of protection. These common policies need to be supplemented by labour rules setting minimum standards, i.e., leaving governments free to set better protection for workers. One thing market rules must not in any circumstances do is tie governments' hands to set tougher requirements where they are based on higher interests like public health or environmental protection. Freed of that context, market rules could turn back the tide of social progress, and the odds are that the most advanced national social, health or environmental laws will be the target of constant attack as potential barriers to trade.

The unions will have to give their take on this DSB decision, which is bound to set a precedent. They will have to take their own governments to task and hammer home the undeniably appalling social costs of asbestos. They must join forces to demand that the EU clarify both the role of the TBT Agreement on measures to protect occupational health, public health and the environment, and its own policy on asbestos in a globalizing world.

The TUTB will be ready to do its bit in whatever action European trade unions take when the WTO ruling is published. ■

**Marc Sapir**, Director of the TUTB

**THE EUROPEAN TRADE UNION TECHNICAL BUREAU FOR HEALTH AND SAFETY** was established in 1989 by the European Trade Union Confederation (ETUC). It provides support and expertise to the ETUC and the Workers' Group of the Advisory Committee on Safety, Hygiene and Health Protection at Work. The TUTB is an associate member of the European Committee for Standardization (CEN). It coordinates networks of trade union experts in the fields of standardization (safety of machinery) and chemicals (classification of hazardous substances and setting occupational exposure limits). It also represents the ETUC at the European Agency for Health and Safety in Bilbao.

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**TUTB Newsletter** no. 13 March 2000.  
The information contained in this issue is mainly as at 30 March 2000.  
The **TUTB Newsletter** is published three times a year in English and French.

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**Translation:** Glenn Robertson

**Reference material:** Jacqueline Rotty

**Circulation:** Géraldine Hofmann

**Graphic design:** Célia Carrera Schmidt

**Printed** in Belgium by JAC Offset