



FOREIGN TRADE ASSOCIATION

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## **FTA Position on the 6th WTO Ministerial Conference in Hong Kong**

### **FTA Demands on the Outcome of the Doha Development Agenda (DDA):**

1. **Improved Market-Access for Non-Agricultural Products (NAMA)**
2. **Further Liberalization of Trade in Services (GATS)**
3. **Decrease of Obstacles at Customs (Trade Facilitation)**
4. **Further Reduction of Non-Tariff Trade Barriers (NTB)**
5. **Reform of the Anti-Dumping Agreement (AD)**
6. **Reform of the Dispute Settlement Procedures (DSU)**
7. **Continuation of Agriculture Liberalisation**
8. **Plurilateral Agreements on Investment and Competition**
9. **Bilateral Agreements only Complementary to WTO Process**

The FTA is the association for European commerce specializing in foreign trade issues. Members are national trade associations and companies from all over Europe. For more than 25 years the FTA has campaigned in favour of free world trade and supported its members in their international activities through information, service and lobbying on the EU and international level.

## **FTA Position on the 6th WTO Ministerial Conference in Hong Kong**

*“The European economy stands or falls on our ability to keep markets open, to open new markets, and to develop new areas where Europe’s investors and entrepreneurs can trade.”*

This statement made by EU Commissioner Peter Mandelson at the EU Market Access Symposium in Brussels in September 2005 fully reflects the expectations for the Doha Development Agenda DDA of FTA members.

In December 2005 the 6<sup>th</sup> WTO Ministerial Meeting will be held in Hong Kong. Unfortunately, not much has been achieved since the July agreement in 2004. FTA members are concerned and disappointed with the lack of process in negotiations and call on the governments of all WTO members to redouble their efforts to keep the DDA on course towards a further liberalization of world trade in the interest of global economic growth and job creation.

### **FTA EXPECTATIONS FOR THE DDA**

#### **1. Improved Market-Access for Non-Agricultural Products (NAMA)**

The partly prohibitively high tariff rates in several newly industrializing and developing countries lead to a closure of potential markets thus obstructing an overall economically useful extension of world trade. Against this background, the FTA advocates to use a general formula covering all goods as a basis for further negotiations on market access.

##### **Swiss Formula**

The FTA therefore generally supports the exclusive application of the Swiss Formula without any modifications. This formula is easy to apply and has the advantage that high tariffs are decreased to a bigger extent than low tariffs.

##### **Exemptions from the Swiss Formula**

Exemptions should only be possible in cases where its application would lead to a tariff above 15%.

##### **De-Minimis-Threshold**

A de-minimis-clause should exclude tariffs below 3%. The EU approach that favours a threshold of 2% is too low regarding the bureaucratic workload linked with customs procedures.

##### **Environment friendly goods**

Tariff reductions for so-called “environment friendly goods” should be treated with scepticism especially regarding the difficulties to define these goods. The environment friendly goods would have to be categorised which would afford the creation of new tariff lines – an effect which is not desirable. Completely rejected should be the special tariff reductions for goods that have been produced in an

environment friendly manner. The main argument is not only a lack of worldwide binding standards. It would also open the doors to misuse and circumvention.

## **2. Further Liberalization of Trade in Services (GATS)**

Trade in services namely in the distribution sector must be further liberalized as the service sector contributes more to economic growth and the creation of jobs than any other sector of the economy.

It is no exaggeration to state that the negotiations on GATS have been badly neglected over the last couple of years. However, FTA members supply an increasing amount of distribution services in third countries via mail-order services and stores. Transparency, predictability and legal certainty are a prerequisite for their activities.

The EU has tabled a far-reaching offer regarding liberalization in the distribution sector. Now other WTO members must follow with substantial commitments. The offers tabled so far are rather disappointing.

### **Mode 3: Commercial presence**

Especially in countries like China, Japan, India, Brazil, Malaysia, Mexico and the USA, commercial presence must be facilitated for retailers and wholesalers. Discriminatory licensing must be avoided. Economic needs tests must be abolished or follow the principle of national treatment. The purchase of real estate should not be impeded by unnecessary bureaucracy or discrimination.

### **Mode 4: Movement of personal**

The GATS-provisions regarding mode 4 should enable any service supplier to move qualified personal for a period of several months between the WTO member states. Mode 4 should provide for free movement of business related services. Further liberalisation is especially necessary in air traffic and maritime transport to realise more favourable freight tariffs worldwide.

### **Safeguard-Measures**

The FTA is strictly against the implementation of specific safeguard-measures in the GATS-Treaty. It would be detrimental to the companies' needs for investment protection as the export of services in the distribution sector often includes long-term commitments.

### **Investment Protection**

The protection of investments provided for by GATS has to be reformed and extended. Since it only refers to business by "commercial presence", it does not cover the services sector adequately.

The fact that foreign direct investment by distributors can serve as a development tool has become obvious in a Sustainability Impact Assessment (SIA) written by the University of Manchester [http://www.sia-trade.org/wto/DistServicesFR\\_130405.pdf](http://www.sia-trade.org/wto/DistServicesFR_130405.pdf) . A liberal investment climate enables retailers to improve unacceptable working conditions and inefficient supply chains in DCs to the benefit of local consumers and workers. The increase in quality and range of products helps improve the living-conditions while new jobs are created in the accompanying services sectors (logistics and transport, financial services, waste management, etc.) as well as in the related

industries (e.g. construction, automotive and shipbuilding, energy, etc.). The use of intelligent concepts (e.g. shop-in-shop-principle) can help maintain the co-existence of national and international artisan, industrial and agricultural goods.

Because of the high responsibility FTA members have taken over with the creation of the BSCI-project that aims to improve social standards in supplier countries ([www.bsci-eu.org](http://www.bsci-eu.org)), the positive impact will increase with better market access for distributors in third countries.

### **3. Decrease of Obstacles at Customs (Trade Facilitation)**

Despite numerous international initiatives aimed at facilitating cross-border trade (ICC, UN Trade Facilitation programme) there seems to be little reduction of procedural barriers. On the contrary, the more tariffs are cut, the more such barriers are created or at least no serious efforts are being undertaken to abolish them. This does not only concern the customs procedures in third countries but also to big extent European procedures.

#### **Classification of products**

The product classification applied by the European Member States as part of the combined nomenclature is still not uniform. As a consequence binding customs rates are not upheld in all of the EU Member States, resulting in turn in unnecessary delays when dispatching the goods concerned. The Commission is striving continuously to introduce uniform classification of goods, but new product developments continue to be placed into diverging CN-codes.

#### **Intra-trade statistics**

The collection of these data has no recognisable worth for industry. Only those statistics should be gathered for which there is a concrete purpose. The users of statistics must indicate to what ends they are collecting the data.

#### **Documents of origin**

With the removal of textile quotas for some categories there would seem to be no real need for the use of documents of origin. Where a document of origin is required for the application of trade policy measures, a declaration of origin on the invoice should suffice. Proof of origin should only be required in cases in which the goods concerned are subject to trade policy measures.

#### **Submission of summary declarations**

The imminent requirement to submit a summary declaration prior to bringing a product into the customs area of the Community constitutes superfluous red tape. It is doubtful whether the aim of this measure, i.e. to prevent imports of hazardous goods, is in fact achieved.

#### **New procedures and regulations**

Where procedures and regulations are being amended, the transition period should be sufficiently long.

#### **International standards**

Some countries (like Turkey and Russia) demand additional certification for products, even where these bear the European conformity logo.

### **Intransparent fees and formalities**

Some countries (China, Russia and Ukraine) determine the customs value of goods in an arbitrary manner and take irrelevant elements into account (financing costs, purchase commission). Customs clearance procedures in these countries, as well as in India and Moldova, are excessively bureaucratic and time-consuming.

These barriers not only complicate and slow down the foreign trade procedures, but also make these more expensive, counteracting possible tariff benefits.

The FTA welcomes that the negotiations on Trade Facilitation are given high priority within the DDA. The improvements for GATT articles VIII and X proposed by the EU (TN/TF/W/46, 9 June 2005; TN/TF/W/23, 18 March 2005; TN/TF/W/35, 29 April 2005 and TN/TF/W/6, 28 January 2005) correspond to the demands of FTA members. Corresponding changes to the GATT provisions would also lead to cheaper, quicker and more predictable customs procedures for imports into the EU as well as in third countries.

However, in order to bring the developing countries to this level, financial and technical support by the industrial countries is essential. At present, many developing countries are not in a position to comply with the demands of the modern customs clearance.

### **4. Further Reduction of Non-Tariff Trade Barriers (NTB)**

The negotiations on NTBs have not moved since Cancun. But still: requirements regarding product quality, rules for product labelling as well as national examinations and certifications prove to be non-tariff trade barriers. Therefore a harmonisation of technical rules, respectively the implementation of the principle of mutual recognition, is imperative.

International harmonisation of standards as well as mutual recognition of the results of international procedures for conformity investigations is not mandatory. The Agreement on Technical Barriers to Trade, which should lead to more transparency of national rules and multilateral dispute settlement procedures, must be further developed according to the actual needs. The scope of application must be widened.

### **5. Reform of the Anti-Dumping Agreement (AD)**

European importers as well as the developing countries are demanding stricter rules and higher thresholds for the initiation of anti-dumping proceedings.

### **Predictability**

The FTA emphasizes the necessity of predictability for commerce. Any trade policy measure must also take the interests of importers into consideration. Provisional ad-duties are implemented at very short notice. The selling price cannot be adapted at such short notice, neither can the goods be

ordered in other third countries within a couple of weeks. Ad-duties of any kind should therefore only apply after an acceptable period of time after their determination and publication.

### **Prevention of Misuse**

The WTO should act as a watchdog and strengthen its surveillance of the use of trade defence instruments, in order to prevent the misuse of anti-dumping measures for protectionist purposes. They must under no circumstances be used as a kind of safeguard measure especially against imports from China.

### **Transparency**

The FTA also calls for more transparency in anti-dumping proceedings. For European trade to be able to take part in such proceedings more easily, all parties should be obliged to submit a non-confidential version of their documents at the opening of proceedings. It is imperative that the same information be available to all parties at the same point of time. In addition, there should be standardised questionnaires as well as harmonised criteria and methods to compensate the very different ways of implementing the agreement.

### **Harmonisation**

The trade sector in particular is in need of a unified system, since it is often involved in several anti-dumping proceedings at the same time. Since the developing countries are often not in the position to properly defend themselves against anti-dumping, greater knowledge of the impact of dumping would lead to more legal security for exporters as well as importers. This better developed know-how would have as a consequence a decrease of anti-dumping cases.

## **6. Reform of the Dispute Settlement Procedures (DSU)**

Although the current Dispute Settlement Understanding (DSU) has significantly developed the system for settlement of trade disputes, the FTA believes that a number of changes should be made to the agreement in order to strengthen it further.

### **Transparency**

An important step would be to increase the transparency of the proceedings. The public should have access to all substantive panels, appellate bodies and arbitration meetings and documents, with specific exceptions being made for confidential information.

### **Increased Efficiency**

More steps should also be taken to limit the damage of illegal measures and increase the efficiency of the agreement. Currently, rulings only have prospective effect. If retroactivity was introduced, WTO members would be able to benefit fully from the concessions and rights obtained in the Uruguay Round, and the effects of this *de facto* waiver would be eradicated.

### **Introduction of Interim Measures**

Interim measures should also be introduced, as the system would benefit from the possibility of taking precautions when a measure causes damage that is difficult to repair. The interim measures could either consist of a right to request suspension of a challenged measure or a right to take preventive measures.

## **Improved Control**

The system must also adapt to the constant rise of the amount of cases before the WTO. The DSB should keep members' implementation of adopted recommendations or rulings under strict surveillance. As not only the number of panels is increasing, but also the duration and complexity of each case, the FTA proposes that the numbers of members in a panel should be increased, rather than to move to a system of permanent panelists.

## **Involve LDCs**

The FTA also believes that considerable efforts must be made to facilitate and support the full participation of LDCs in dispute settlement, as the lack of utilization in the past may well be due to the complexities of the DS system in itself.

## **7. Continuation of Agriculture Liberalisation**

The FTA is of the opinion that the EU has to continue a strict policy of liberalizing its agricultural sector. Protectionism still severely impedes and distorts trade in agricultural products and poses a heavy burden on European consumers and tax payers. They have an injurious effect on the export capability of many developing countries. The EU must expose the agricultural sector to international competition through

- further tariff cuts from applied rates in order to improve market access
- the elimination and prohibition of all forms of trade-distorting export subsidies (not only for products of special interest to developing countries)
- a meaningful reduction of domestic support measures that encourage overproduction and distort trade and
- the avoidance of using non-trade concerns to create new barriers of trade.

## **8. Plurilateral Agreements on Investment and Competition**

The FTA regrets that the Singapore-Issues Investment and Competition are not on the WTO agenda any more but accepts this in view of the difficult political atmosphere after Cancun where a splitting of the issues seemed inevitable. However, these issues remain important for FTA members. The long-term target must be plurilateral agreements on investment and competition.

## **9. Bilateral Agreements only Complementary to WTO Process**

Regarding the increasing number of bilateral free trade agreements and regional economic agreements, the question arises, whether and how these agreements comply with the multilateral trading system. Often described as a kind of insurance to fall back on, in case the multilateral process should fail, they do not serve as an alternative to WTO-agreements. Otherwise, ambitions to conclude the multinational negotiations within set deadlines will fade. Competitive disadvantages will lead to uneven development in developing countries and LDCs, a differing process of liberalisation would be detrimental to the development aspect of the DDA.