

# The Bulletin

March 2006

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## Some FTA activities in 2005 since the last issue

25 May	Press Conference on textiles
1 June	Meeting with DG Trade textiles
24 Aug.	Meeting with Chinese Mission
6 Sept.	Press Conference on textiles
20 Sept.	Meeting with Mandelson cabinet
28 Sept.	Meeting with Mandelson cabinet
13 Oct.	BSCI presentation, Paris
20 & 21 Oct.	FTA Committees
10 Nov.	Meeting with Mr Mandelson
16 Nov.	Meeting with 133 Textile Comm.
23 & 24 Nov.	BSCI Conference
25 Nov.	FTA Regional Conference, Lille
10 – 17 Dec.	WTO Ministerial Conference



FTA Secretary General, Jan Eggert and FTA President, Ferry den Hoed meet Commissioner Mandelson to discuss Chinese textiles and shoes

## *Editorial*

### *Where is the EU heading?*

*Jan Eggert, Secretary General*

The 6th WTO Ministerial in Hong Kong finished with a disappointing result for European Commerce. The agricultural negotiations again cast a big shadow on the negotiations known as the Doha Development Agenda. Very little progress was possible on agriculture issues and as the DDA is scheduled to be finished in 2006 this means the bulk of work on non-agricultural issues has to be done this year. The FTA has a strong interest in a substantial outcome of these negotiations because a lot is at stake for European Commerce on issues like market access, trade facilitation, improvement of anti dumping rules and liberalisation of distribution services. In addition, the FTA still gives a clear priority to multilateral negotiations within the framework of the WTO.

2006 will also not be easy for other trade policy issues. Although a solution was found for textiles from China in 2005 we might run into problems with the quota again in 2006 because the quantities are limited and partially have been used already in 2005. The double check system, however, will at least prevent Chinese export licences being issued if the quantities are exhausted. Still, EU importers should look for other sourcing countries for certain categories as the quotas might be exhausted some time in 2006.

We also do not exclude the possibility that the EU textile industry will try to launch new attempts to have safeguard measures introduced for other categories. We will oppose these attempts as we will any other attempt to introduce protectionist measures against the import of consumer goods into the EU. This also holds true for the plans of the EU Commission to introduce an origin labelling requirement for certain imported consumer goods. On one hand, the

information value of origin labels for consumers is limited. On the other hand, only those consumer goods which concern weak industries of the EU shall require labelling. So what is the real issue? It is certainly not transparency for consumers but protectionism.

Another hot topic is the discussion about anti-dumping duties on footwear from China and Vietnam. This issue has been in discussion for several months now. A proposal of the EU Commission is expected in March and looks certain to recommend anti-dumping duties on footwear. What has to be protected though? It cannot be the high quality and price shoemakers. It is the remains of a European footwear industry which has failed to cope with increasing international competition and adapt to new requirements.

From the perspective of European Commerce the prospects for more liberal trade is sunny but there are some black clouds on the horizon which will be in our sights for the months to come.

European Commerce is often criticised for importing cheap products from the Far East pushing prices of suppliers there down and exploiting the workforce in third world countries. Well, here we say: the consumer wants low prices. The growing success of discount retail chains underlines this fact. What is often not recognised however is that European Commerce engages more and more in Corporate Social Responsibility. The FTA is contributing to that with its Business Social Compliance Initiative (BSCI). Within that, 50 retail companies from 9 European countries cooperate on monitoring social standards at their suppliers and investing in improving social standards in supply countries. Sometimes, media should also report good news!

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## **WTO: Outcome of the 6<sup>th</sup> Ministerial Conference**

*Anja Lörcher, Trade Policy Advisor*

In December 2005 the 6<sup>th</sup> WTO Ministerial Conference took place in Hong Kong. Initially it had been set up to conclude the current round of negotiations on the DDA (Doha Development Agenda) which aims at further liberalisation of world trade. However, owing to the poor progress the negotiations had made in the past, the conference could only serve as an opportunity to agree on corner stones and a working plan for 2006.

The DDA must be concluded in 2007 as by then the US Trade Promotion Authority (TPA) ends. It gives President Bush the power to conclude international trade agreements without prior consultation of the US congress which is expected to further hinder trade liberalisation especially in the agricultural sector.

The vital question for FTA members is not only whether Ministers will manage to meet the new deadlines but also whether the European Commission will finally manage to put the offensive interests of European business through and achieve the urgently needed results.



The Hong Kong Convention Centre

## **NAMA: Market-Access for Industrial Goods**

Regarding tariff reduction for industrial goods, WTO members agreed to a Swiss Formula but not on the level or number of coefficients. A Swiss formula decreases tariffs prominently by cutting higher tariffs to a bigger extent than lower tariffs.

The FTA supports this approach and calls for a coefficient that represents more than pure window dressing.

### **Services**

The liberalisation of the service sector (i.e. distribution) is managed via a complicated request and offer system. This procedure is time intensive and can often not be followed by least developed countries for capacity reasons which block the overall procedure. The Hong Kong agreement takes this into consideration by providing the possibility to negotiate and agree on a plurilateral basis.

The FTA welcomes this approach as long as a critical mass of interesting countries participates. Agreements only between the industrialised countries will not be helpful as distributors need new markets in new countries.

### **Trade Facilitation**

Already before Hong Kong, WTO members had shown broad consensus on the need to facilitate procedures at borders. The measures suggested before Hong Kong were not questioned during the conference and remain valid for the further negotiations. They cover the majority of problems named by FTA and other business representatives.

### **Anti-Dumping**

On anti-dumping WTO members at least committed themselves to continue the negotiations in order to achieve more transparency and predictability and to improve the initiation and administration of procedures. The FTA considers this as a small breakthrough because the USA had so far refused to negotiate on a new anti-dumping agreement. This principle

corresponds with the demands of FTA members and must now be put into practice.

### **Development Package**

The hoped for agreement on a development package to foster the participation of LDCs in world trade was only partly reached. The USA managed to exclude 3% of tariff lines from the so-called “duty-free, quota-free” arrangement. As a consequence, a number of important goods (i.e. textiles from Bangladesh) are left outside.

In July 2006 WTO Ministers will meet in Geneva to decide on modalities and give the starting signal for the finals – if all WTO countries stick to the ambitious working plan. The EU should now join forces with the USA and continue to act as a pace-maker.

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## ***REACH – Up one minute, down the next***

*Anja Lörcher, Trade Policy Advisor*

For many years now the EU has been struggling to define its new chemical's policy. The so-called REACH-regulation shall determine the way in which chemical substances are Registered, Evaluated and Authorised for an improved protection of human health and the environment. Countless texts have been drafted, the latest version being tabled by the European Council of Ministers in December 2005. The FTA will comment on the content in a separate position paper.

However, here and now another aspect of REACH shall be highlighted: the dilemma with communication.

One main task of a business association is the assessment of upcoming regulations from the point of view of its members. These are entrepreneurs who deal with practical questions and take real-time business decisions. They need to be informed in a comprehensive way about developments in legislative procedures in

order to provide them early enough with the tools for new tasks. They have to take precautions, change business procedures and inform their trading partners and suppliers, who need to prepare likewise. Those who monitored the genesis of REACH will easily understand what kind of ups and downs retailers and distributors went through.

Following the first draft of the EU Commission in 2002, FTA members would have been forced to completely reorganise the management and handling of imported goods in order to be able to analyze any chemical substance in their imports, determine its weight and characteristics and register it in a lengthy process. However, owing to the approaching legislative procedure the FTA message at this time was: REACH can become disastrous but precautions should not yet be taken as amendments are still very probable.

The second Commission proposal in 2003 took the importers' needs much more into consideration and provided a phase-in period of 11 years for the registration of substances in articles (Art. 6). Nevertheless, owing to missing definitions it was not possible to tell FTA-members, which precise requirements they would have to fulfil. Fortunately there was still some chance to influence the outcome so the FTA message at this stage was: the worst could be prevented; the phase-in period preparations can be made after entry into force of REACH when the duties are clearly defined.

In 2005 the entrepreneurs were put to the toughest test whilst REACH was discussed in 9 different committees of the European Parliament. What happens if the most radical committee pushes its views through by calling for an import ban on any kind of chemical substance in an imported article that has not been registered – without any phase-in period? Not even the big multinationals could have prepared for this worst case scenario.

The FTA message was not an easy one in this phase: the outcome of the parliamentary

discussions can either be a workable solution with an appropriate phase-in period or a real barrier to international trade that will be applicable within a couple of months.

The two most frequent questions asked by FTA members in that period were: “why can nobody give us any information on how to prepare for REACH?” and “are the decision makers in Europe aware of business realities?”

In November 2005 the plenary of the European Parliament voted on a workable solution of Art. 6 (though without providing a phase-in period for the notification duty). The FTA advised their members to prepare their third country suppliers: in future they would need precise data on certain chemical contents in their goods and more tests will be necessary. The question as to when this duty would apply could only be answered by a vague “within one to eleven years”. Unsatisfactory information for retailers and distributors who need detailed information for their suppliers and enough capacities in chemical laboratories on which they will depend.

Even now the FTA is still not able to tell its members which concrete duty will be imposed on importers of articles and when this provision will come into force. On the one hand the latest version of Art. 6 para. 1 still lacks a concrete definition; on the other hand the whole regulation will undergo a second reading in the European Parliament which can change the text all over again.

This reflects one major problem our sector is permanently facing: a lack of predictability causes planning insecurity. REACH is only one example of many. The competitiveness of the commerce sector (a major European player that provides millions of jobs) stands or falls with a trade policy that provides transparency and legal security.

The legislative procedures in the EU are lengthy and complicated, which can probably not be avoided in a democratic system. However, the decision makers in

Parliament, Commission and Council can prevent the damage resulting from this insecurity by implementing sufficient phase-in periods in the regulations, in order to allow business to prepare adequately and effectively for their new tasks.

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## *Imports of textiles and clothing from China: what to do in 2006?*

*Stefan Wengler, FTA Director*

On 14<sup>th</sup> September 2005 the so-called Beijing Agreement came into force. As a result, all goods in textile categories 4, 5, 6, 7, 20, 26, 31 and 39 blocked as of 5 September were cleared into free circulation under an accelerated procedure.

The solution of the textiles conflict between the EU and China was accompanied by extensive press coverage of the FTA and had a great influence on public opinion as well as the EU Commission and the governments of several member states.

Although the average utilisation of quotas in February is less than 15% it cannot be excluded that the quantities for 2006 provided for in the Memorandum of Understanding between the EU and China will be insufficient to cover demand.

So it is necessary to observe very carefully the development of the quota utilisation and arrange for imports from China with utmost care. In particular, it must be prevented that Chinese export licences are issued if the quantities are already exhausted.

It is also necessary to pay close attention to all actions of the European textiles industry to introduce safeguard and antidumping measures; importers must perceive those actions at a very early stage. The introduction of new quotas for those categories liberalised since June 2005 must be avoided at all costs.

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***Compulsory origin marking:  
protection or deception?***

*Stefan Wengler, FTA Director*

Although the High Level Group on Textiles did not put forward any recommendations and against the interests of a lot of trade and industrial associations, in mid-December the Commission presented a proposal for compulsory origin marking. Concerned are several consumer goods amongst them textiles and clothing, shoes, furniture and ceramics.

According to the Commission's view labelling is necessary for reasons of consumer protection but with regard to the worldwide division of labour such labelling is more a consumers' deception. So the motivation for the labelling is not the protection of the consumer but the protection of weak industrial sectors in Europe.

The FTA emphasise once more that European trade strictly opposes the introduction of a compulsory origin label for certain imported consumer goods. Such an origin label only for certain imported products would act as a new non-tariff barrier to trade, bringing its compliance with WTO into question. Therefore the FTA is trying to convince the member states to vote against this regulation in order to establish a blocking minority against protectionism.

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***Customs code: provisions of  
security code do not meet traders'  
requirements***

*Stefan Wengler, FTA Director*

The present considerations of the EU Commission for an amendment of the implementation rules of the customs code do not meet the requirements of European trade and industry. This so-called security initiative requires the economic operator to provide customs authorities with information on goods prior to import or export from the EU. Furthermore, mechanisms for setting uniform community risk selection criteria for controls, supported by computerised systems, need to be introduced.

According to the view of European trade, security will not be increased as a consequence of the pre-declaration. Instead this procedure causes delays in processing of the import formalities. In addition, the requirements concerning the so-called authorised economic operator are totally out of touch with reality. On the other hand advantages granted to the authorised economic operator are marginal so one has to question if it is useful making efforts to get this status.

Nevertheless, the Commission is convinced it has found a good solution. Discussions must go on in order to create a system securing the external borders on the one hand whilst on the other hand, trade facilitation for the European economic operators.

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## ***Intellectual property rights: how valuable are they?***

*Stuart Newman, FTA Legal Advisor*

There is an old joke: the CEO of a company asks his secretary, his accountant and his lawyer; “what does 2 plus 2 equal”. The secretary quickly says “four”. The accountant takes fifteen minutes to explain that it could equal 3.99 or 4.01 but invariably equals four. The lawyer smiles and says “how much do you want it to equal?”

The same response could be given to the question in the title. Intellectual Property Rights or “IPRs” can be as valuable as you want them to be: fail to take advantage of them and they could be worthless, but used properly they can be worth billions of Euro.

Unfortunately, whilst companies may realise the importance of proper IPR protection, some countries fail to ensure that their legislation is properly enforced. Consequently, counterfeiting and piracy, is a lucrative business. Current estimates suggest that counterfeiting accounts for 5% - 7% of world trade; or €450Bn. It is also no longer confined to the luxury goods market; today, all goods are targeted, and the most sophisticated security measures are quickly beaten. With no regulatory controls with which to conform, no R&D costs, and the fact that cheap, poor quality materials are often used, the profits are enormous.

Of course, many would argue that buying a fake Rolex watch or Prada handbag for a few Euro is harmless but the exclusivity granted by the genuine article is lost. However, no-one can offer the harmless defence when consumers unwittingly purchase goods they believe to be genuine. What follows may be only disappointment, e.g. perfume that smells more like camel than Chanel, but may be far more serious, e.g. fire alarms that do not detect a fire or pharmaceuticals with little or no active ingredient.

So, the consequences for the consumer of counterfeit goods are clear. However, the

consequences for the retailer who mistakenly sells the counterfeit goods can also be serious: legal action from consumers, legal action from the owners of the genuine article, loss of reputation and business.

The Anti-Counterfeiting Initiative of the European Commission is an effort to combat the problem. Increased vigilance at customs points is one aspect but better education of customs officials and judges in countries where enforcement is lacking is another. The FTA will shortly be conducting a survey amongst its members to establish what aspects of counterfeiting concern retailers and importers the most. The results of that survey will be passed to the Commission to assist them in their Initiative. If we work together, we may not be able to stop the counterfeiters entirely but we should at least slow them down.

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## ***Business Social Compliance Initiative: The way forward: more visibility and greater achievements*** *Lorenz Berzau, BSCI Project Coordinator*

2005 has been another challenging and decisive year for the BSCI. 22 new members joined this European system to monitor and improve social standards in the global supply chain of mainly European retail companies. Membership currently amounts to 52 members in 9 countries, of which 50 are companies and 2 are associations. Moreover, FTA/BSCI has joined the United Nations’ Global Compact, a CSR platform created by UN Secretary General Kofi Annan.

So far, more than 1000 audits have been conducted by independent external firms in 19 countries, mainly in Asia. However, auditing alone is not the objective of the BSCI. Taking a development oriented approach, the implementation of so-called “corrective action plans” after the audits is an essential part of the BSCI process. Thus, BSCI is currently planning projects which aim at the qualification and capacity building

of production facilities – involving local organisations. In this way BSCI is leading discussions with other systems to find ways to converge and use more synergies.

The implementation of the BSCI in the food sector, i.e. the primary production in agriculture, is going forward also. After initial meetings with local associations, government authorities, trade unions and NGOs in March, awareness raising workshops are planned in Southern Spain and Morocco in May/June this year. Besides this, workshops for non-food suppliers are planned in Asia. After workshops conducted in China and India in March, workshops were also held in Bangladesh in December 2005.

New Working Groups have been formed in the BSCI which deal with different issues such as auditing, qualification, system implementation etc. By this, BSCI involves its members more in the further development and improvement of processes and tools.

The visibility of the BSCI has also improved in the last months. On 23/24 November 2005, BSCI organised a CSR conference in Brussels attended by more than 130 people from various organisations and countries. Moreover, BSCI plans to publish its first annual report this spring. It will provide

more detailed information about the activities and achievements.



**FTA President, Ferry den Hoed, opens BSCI's CSR conference**

The core issues for 2006 are to create more synergies and raise the effectiveness of the BSCI, focus on qualification issues in order to achieve sustainability and implement the food module.

So it can be seen that EU commerce does live up to expectations to take responsibility for CSR.

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*The FTA is the association for European commerce that specialises in foreign trade issues. It is committed to achieving its goal of a true free trade environment. For almost 30 years it has supported its members, consisting of national trade associations and companies from all over Europe, by providing expertise and up-to-date information and by campaigning on their behalf against protectionist measures in the European and international arena.*

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