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Latest FTA events

07.04.2010	FTA takes part in a stakeholder meeting on child labour in Uzbekistan
26.03.2010	Letters from FTA President to the trade ministers of the EU member states and to members of the European Parliament concerning the compulsory origin marking of certain imported consumer goods
24/25.03.2010	FTA takes part in a seminar on trade policy organized by DG Trade in Prague
19.03.2010	FTA Board Meeting
04.03.2010	Launch of a position paper on compulsory origin marking of certain imported consumer goods
08.02.2010	Publication of an overview on protectionist measures against the background of the financial and economic crisis
01.02.2010	FTA, the Textile Retailers' Association and Eurocommerce meet with Euratex
15.01.2010	FTA send its annual letter to its members detailing its priorities for 2010
13.01.2010	Annual meeting of the Secretaries General of the FTA member associations
22.12.2009	FTA informs on the effects of the Lisbon Treaty on trade policy
07.12.2009	BSCI receives the 2008 Prize for Business Ethics awarded by the German Business Ethics Network (DNWE)
24.11.2009	FTA Board Meeting
19.11.2009	FTA participates in the German Retail Congress

Editorial

I would have liked to report in this edition of the Bulletin on some progress that has been made in the WTO negotiations since our last Bulletin. Unfortunately, I cannot. There has been no good news from Geneva and the negotiations are still stalled as they enter their ninth year.



Jan A. Eggert
Secretary General

Instead, we must look to the various bi-lateral negotiations that have been, and continue to be, conducted between the EU and third countries to see any improvement toward global free trade. In Central America, negotiations are continuing with Peru and Columbia. In Asia, significant progress has been made in the agreement with Singapore and a new agreement has been opened with Vietnam. In this edition we discuss the importance of the EU/Korea agreement and the tariffs it removes between the two trading partners.

Then, the Director General of the Commission's DG Trade, David O'Sullivan, gives his views on some of the issues concerning EU retailers and importers in an interview.

In 2009, despite the freeing up of trade thanks to the bi-lateral negotiations, there are still calls for greater protectionism. Certain Member States, and it would appear also the European Parliament, favour a compulsory origin marking – otherwise known as the "made in" label - on certain imported products.

The European Commission is also looking to use the Lisbon Treaty to increase its powers to impose anti-dumping duties. We examine the proposal currently being discussed and look at what it means for retailers and importers.

Now that the new modernised customs code has been adopted, we look at how it will be implemented and voice our concerns about the direction the implementation seems to be heading. On this front, things do not look very promising for importers.

REACH, which governs how chemicals are placed on the market, is also addressed. Again, the implementation of a piece of EU legislation appears to show scant regard for the practicalities of EU importers and retailers. In this edition we look at some aspect of that implementation and the impact it may have on those affected by it.

There remains, unfortunately, much to be concerned about in today's global marketplace and the FTA continues to address those concerns on behalf of its members. The issues contained herein are just a sample of those concerns and you all are invited to share your thoughts with us. ■

EU-South Korea Free Trade Agreement: resisting protectionism

Flavia Bernardini, Trade Policy Advisor

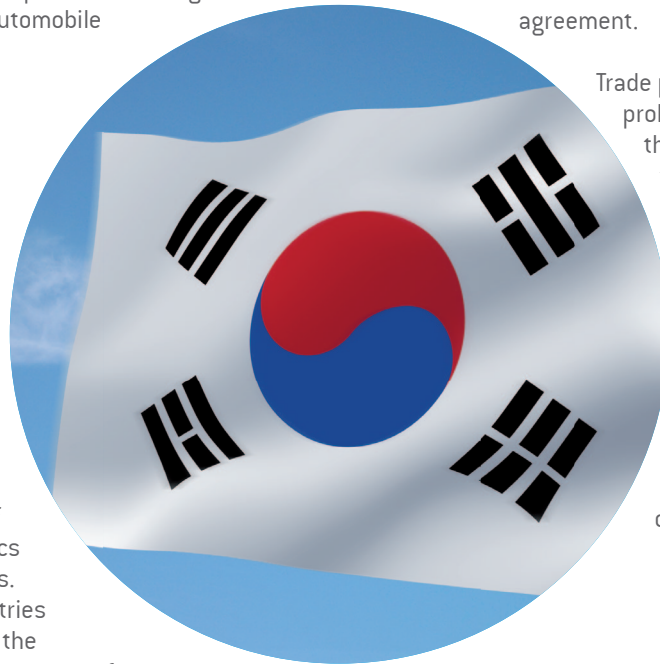
The FTA welcomes the work done by the European Commission for concluding the Free Trade Agreement with South Korea. We call upon Member States and the European Parliament to allow the swift entry into force of this agreement, despite the pressure coming particularly from the EU automobile industry.

This trade agreement will improve bilateral trade by removing virtually all tariffs and several non tariff trade barriers between the two economies. South Korea is Asia's fourth largest economy and the EU's fourth largest trading partner outside Europe. For European retailers and importers, South Korea is a major source of textile products, electronics and other consumer goods. Importing from third countries allows retailers to offer to the European consumers a vast range of products at competitive price. Also, South Korea offers remarkable market access opportunities.

Considering the lack of progress in the eight year old DDA negotiation, bilateral trade deals have a primary role in global trade liberalization. The agreement with South Korea is certainly the most important free trade agreement negotiated between the EU and a third country, not only for its economic impact but also because it could enhance the EU's credibility in Asia and pave the way for establishing closer economic ties with other Asian countries.

Following the Treaty of Lisbon, the entry into force of this agreement will require the consent of the European Parliament. We are closely following the debate and we observe that some industries inclined to protect their short term interests have a considerable influence on all political parties in the Parliament.

We are confident that the European Parliament will be capable to resist this protectionist pressure and show that the EU is able to conclude ambitious bilateral free trade agreements resulting in increased business opportunities for the vast majority of the European business. We call upon the Members of the European Parliament to use their increased influence in international trade for supporting this trade agreement.



Trade protectionism would only prolong the economic crisis, this is a fact well known to the EU. When US House of Representative added a protectionist clause to Barack Obama stimulus package, the EU cried foul. Now the EU is given the opportunity to show that boosting international trade and improving competitiveness is an important part of the way out of the recession. ■

"The agreement with South Korea could enhance the EU's credibility in Asia and pave the way for establishing closer economic ties with other Asian countries"

Interview with Mr David O'Sullivan, EU Director General for Trade

1. The FTA deeply believes that only a multilateral approach can avoid insular solutions and ensure that world trade will follow uniform and transparent rules to the benefits of the European consumers. Unfortunately, optimism on the conclusion of the Doha Round appears to have faded. What is the current level of ambition of the European Commission?

An ambitious, comprehensive and balanced outcome in the Doha Round remains an absolute priority for the Commission. It would generate substantial new market access for exporters and increase welfare benefits for all countries. A successful conclusion would considerably reinforce the world trading system through lower tariff bindings and better common rules.

But its value also lies in improving the predictability of the international trading environment. The WTO system has been successful in keeping protectionist pressures in check during the global economic recession. Concluding the Doha Round would further increase its resilience.

There are certain political obstacles that the key trading partners must overcome so as to enable the Doha Round to be concluded in the near future. But we are working to address these obstacles and to bridge the remaining gaps. You can be sure that the EU will continue to play a strong and constructive role in the negotiations.

2. The new EU Trade Commissioner, Mr De Gucht, announced to the European Parliament that his priorities will include taking to a higher level the cooperation with the United States and China. As Director General of the DG Trade, what is your plan for implementing this commitment?

In view of our close economic relationship with the US, we cooperate on many issues ranging from investment to legislation and market access, in various fora such as the Transatlantic Economic Council.

We are each other's first export markets: we absorb about 20 % of each other's exports in goods, even more



David O'Sullivan

is currently the European Commission's Director General for Trade. His services support the EU's Trade Commissioner in negotiating bilateral and multilateral trade agreements, ensuring that foreign markets are open for EU businesses and that the international rules agreed are actually applied, so that trade policy contributes to the Commission's headline goals of prosperity, solidarity and security both in the EU and around the world. The post of Director General for Trade has brought David back to the Department in which he started his Commission career, first in Brussels and then in the Commission's Tokyo office.

Prior to this, David was Secretary General of the European Commission from June 2000 to November 2005, Head of Cabinet of Commission President Romano Prodi and Director General for Education and Training. He also has extensive experience in EU social and employment policy. David has a background in economics, graduating from Trinity College, Dublin and having completed post graduate studies at the College of Europe, Bruges.

on services – about 30 %. Total FDI stocks held in each others countries reach approximately €1.89 trillion. The overall «transatlantic workforce» is estimated at 12 to 14 million people, of which roughly half are Americans who owe their jobs directly or indirectly to EU companies.

So what do we need to do to take this relationship up a gear?

- We need to take a fresh look at outstanding trade disputes, and even more importantly, avoid future ones.
- We need to align our approach to legislation as far as we can (in particular on trade relevant matters such as sanitary and phyto-sanitary measures).
- We also need to cooperate pro-actively in setting of global rules, especially in future growth sectors such as intellectual property rights, investment, secure trade, financial markets and innovation. ➔

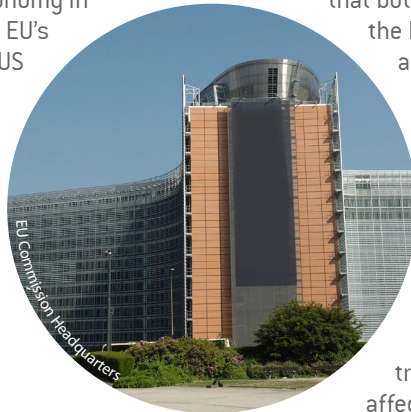
Turning to China, whose economic development is a success story unmatched in economic history: China is the first major economy to emerge from the international crisis, already with growth rates that equal its impressive pre-crisis development. Since its accession to the WTO, China's GDP has tripled. Overall it is on track to become the world's second biggest national economy in 2010. Size matters. Today, China is the EU's second biggest trade partner after the US and its biggest source of imports.

There are both major opportunities and significant challenges in our relationship with China. Continuing the path of political and economic integration is attractive but it is not a given. There are compelling reasons for the EU to look to China for its potential as a long term partner; the many advantages for businesses and consumers are clear. Likewise, there is scope for China to assume greater responsibilities that reflect its size in the global economy.

At the same time, it is no secret that many in Europe and among our businesses in China do not feel that things are improving. I hear complaints about closed markets, unfair competition including in dumped goods, discriminating rules in procurement, and difficulties with enforcement of intellectual property rights. We need progress on all these issues.

Europe is a very open economy; we welcome Chinese businesses and investments here. This is mutually beneficial, and very important in times when protectionism is a real treat. In the long run, I think the politics of all this is quite simple. For markets to stay open, openness needs to be a two-way street. This is the entire point of the very rich relationship that we are continuing to build with China at the highest level, including through regular meetings of the College of Commissioners with their Chinese counterparts.

3. The FTA believes that the principle granting Member States the right to consider, and if necessary reject, proposals by the Commission on issues related to external trade is a crucial part of the democratic process within the EU. Can you give assurances that any changes that may arise as a result of the implementation of the Lisbon Treaty will not adversely affect this principle?



The Lisbon Treaty greatly improves the democratic legitimacy of the EU's trade policy. It gives both the Member States in the Council and the European Parliament a say in the conduct of EU trade policy. Under the revised Treaties, all legislation on external trade is subject to the ordinary legislative procedure. This means that both the Member States in the Council and the European Parliament have the power to agree or disagree with the Commission's proposals.

The Commission has long sought the correction of the former institutional imbalance between the Council and the European Parliament as far as trade was concerned. In my view the Lisbon Treaty positively strengthens the democratic principles of the EU's trade policy and in no way adversely affects this principle.

4. In November 2009 the European Parliament adopted a resolution urging the Commission to revive its four years old proposal for an EU regulation introducing a compulsory country of origin marking for certain imported consumer goods. Do you think that this proposal is compatible with the principle that goods from third countries should be treated in the same way as goods produced in the European Union?

Discussions on origin marking have been ongoing at the EU level since the 1980s. The proposal for a Regulation that you are referring to was tabled by the Commission in 2005 but has still not been adopted. The length of this debate is an indication of the variety of views that origin marking generates amongst stakeholders! The proposal has now gone to the European Parliament following the Lisbon Treaty.

In proposing legislation in this area, the Commission responded to considerable interest expressed by several EU Member States. We also took into account all relevant principles of international law, and in particular those enshrined in the WTO agreements.

Many of the EU's main trading partners already have similar schemes in place. ■



Anti-dumping decision process to be shaken up?

Stuart Newman, Legal Advisor

The way in which definitive anti-dumping measures are imposed has been the subject of much criticism over the past few years. This criticism is usually directed on two fronts: abstentions being classified as votes in favour, and “horse-trading” amongst Member States.

The first of these is something unique to the world of anti-dumping. Like many Commission proposals, Member States (at Council) vote by means of simple majority whether or not to impose anti-dumping measures (usually for the maximum five year period – though in very rare instances it can be shorter).

Although this method is not controversial in and of itself, the way in which votes are counted is.

In all other instances where the simple majority system is used, Commission proposals are adopted if a majority of Member States vote in favour of that proposal. In anti-dumping, Commission proposals are rejected if a majority of Member States vote against that proposal. At first glance the latter may seem to be another way of phrasing the former, however, this is not the case. Under the normal system, if 12 Member States vote in favour, 13 against and 2 abstain, the proposal is rejected – as would seem logical. Under the anti-dumping system, the same voting results will result in the proposal being accepted! This is because the 2 abstentions are counted as votes in favour.

This change was introduced in 2004 in order to make it more difficult for Member States to reject Commission proposals. We have objected to this not very democratic system since its inception and continue to do so.

The second criticism, that of “horse-trading”, is more difficult to prove - after all, the minutes of the Anti-Dumping Committee, where the real discussions on Commission proposals take place, are not published (yet another example of the opacity of the anti-dumping system). However, anyone who has conducted negotiations for Member State governments knows that such practice is common place. In anti-dumping, this

normally takes the form of “vote with me in favour of duties on shoes, and I’ll vote with you in favour of duties on fertilizer”.

Any attempt to rid the system of this form of deal making “in the margins” is unlikely to meet with much success. In fact, one might suggest that the only hope of success would be to remove the Member States from the process altogether – hardly democracy in action. However, it appears that this is exactly what the Commission is attempting to do.

In a proposed regulation “laying down the rules and general principles concerning mechanisms for control by Member States of the Commission’s exercise of implementing powers” the Commission is seeking to amend the comitology process, by virtue of Article 291(3) of the Treaty on the Functioning of the European Union (TFEU or “Lisbon Treaty”), and be the sole arbitrators in a variety of trade policy areas – including anti-dumping. Not only are they seeking to remove the current powers of Member States to take decisions on definitive anti-dumping proposals, but also opt out of the co-decisional powers the Lisbon Treaty extends to the European Parliament (though for individual anti-dumping proposals, full EP involvement is generally considered to be impractical).

Despite the criticisms levelled at the status quo it cannot be permitted that the very institution that proposes anti-dumping measures, based on its own (often non-transparent) investigation, is the same as that which decides whether those measures should be implemented. The proper “check and balance” afforded by the Member States vote, even with its flaws, must be retained. Otherwise EU retailers and importers can expect a much greater chance of anti-dumping measures being imposed.

We have been following developments on this proposal and are engaged in discussions with certain Member States to ensure that, at the very least, proper controls on the imposition of anti-dumping measures are retained. ■

“It cannot be permitted that the very institution that proposes anti-dumping measures is the same as that which decides whether those measures should be implemented”

Compulsory origin marking – confusing and protectionist



Stefan Wengler, Director

In November 2009, the European Parliament adopted, by a significant majority, a resolution urging the EU Commission to revive its four year old proposal for an EU regulation that would introduce compulsory country of origin marking for certain imported consumer products (among others textiles, footwear, ceramics and furniture). The justification for this was better consumer protection.

However, consumers and their associations have never asked for an origin marking – even if they do so now – for good reasons: if this marking is applied in accordance with the non-preferential rules of origin it would be comparable to a legal deception of consumers and to a violation of the Madrid Agreement on deceptive indications of source.

For example, a shoe the sole of which was produced in Albania and the upper of which in India, may wear a label “Made in Italy” if these two parts were mechanically put together in Italy. A garment produced in China will also be labelled “Made in Italy” if in Italy the buttons were attached and it was ironed there. A real contribution to consumer information looks different.

According to an investigation of the EU Commission, a marking obligation would, on average, cost 1.50 € per garment and 2.00 € per footwear. These costs would be passed down to consumers while the generally low wage level in the supplier countries would remain just the same. Even if the above calculation was a little too high, the consumers would be burdened in any case.

"The primary reason for such labelling has protectionist motives and discriminations against goods from third countries with China being in the focus"

Finally, corresponding proposals are exposed by the fact that the origin marking is intended to be applied only to certain goods described by the former Trade Commissioner Ashton as “interesting to us”. Other consumer goods – such as toys, consumer electronics, electrical household appliances, sports equipment – which are to a large extent produced in non-EU countries - are to be excluded from the marking obligation. If we follow the reasoning of the supporters of an origin marking there is no sensible reason why consumers should not be interested in a corresponding labelling of these products too. It therefore becomes clear that the primary reason for such labelling has protectionist motives and discriminations against goods from third countries with China being in the focus. ■



Making REACH a success?

Flavia Bernardini, Trade Policy Advisor

Environment Commissioner Janez Potočnik and Industry Commissioner Antonio Tajani recently declared their common commitment to make REACH a success by streamlining its implementation and supporting companies in complying with the REACH obligations. We welcome this intention, but we would also like to highlight our concerns about this process and the impact it will have on importers and retailers.

The two Commissioners agreed upon a common approach for identifying and managing Substances of Very High Concern (SVHCs). They defined, together with ECHA, a roadmap for the inclusion of 106 priority SVHC substances by 2012. The fact that more substances will be added to the candidate list was to be expected following the provision included in the REACH legislation and in the annual action plan of ECHA this year, but the fact that more than 100 + substances will be included in the “candidate list” in a short time frame represents a considerable challenge for the business.

Our companies need an increased level of predictability in order to ensure safety of the products on the shelves

of the European retail shops. Moreover, companies face considerable challenges with the registration system, and the definition of certain consumer goods as article or preparation is still not clear. We need a clear and workable system allowing us to classify the product.

Understanding whether a product should be considered an article or a preparation is the first step that retailers and importers have to take in order to comply with REACH. Nevertheless, today a wax crayon might be considered an article in certain Member States, and a preparation in others. Many so-called “border-line” cases are still unsolved. This creates confusion and uncertainty.

The FTA has actively contributed in the public consultation on the revision of the “Guidance on requirement for substances in articles” and we trust that the new version of the guidance will include a greater number of practical examples to assist companies in complying with the legislation. Whilst we appreciate the efforts of the European Commission, we call upon the competent authorities to provide companies with clear steps and rules to follow for complying with the REACH obligations, and to ensure a uniform application of the regulation in the EU. ■



The modernised customs code – implementing rules of crucial importance

Stefan Wengler, Director

The regulation on the modernised customs code was already adopted in April 2008. In principle FTA welcomes the new code. Nevertheless, we must not overlook the fact that many circumstances which are now regulated by the customs code, will later be covered by the implementation provisions, the scope of which is likely to increase. Furthermore, the EU Commission intends to change the currently applicable implementation provisions to the effect that the customs value will be based on the very last transaction prior to importation. Since this transaction has the highest price, such a regulation would result in a significant increase of the

customs value. The additional burden will be passed on to the consumers through higher selling prices.

Unfortunately the EU Commission shows little interest in retaining the present concept which permits the importer to declare the lowest price of different purchase transactions as the basis of the customs value declaration. The Commission argues that the modernised customs code only provided for an electronic data exchange, which meant that simpler and clearer rules were required. The Commission says that it is not intended to increase the customs value of goods and to burden enterprises and consumers with higher costs and prices.

From the FTA's point of view the statement of the Commission is not convincing. We still have considerable doubts that the cancellation of the present principle will not have an impact on the price level of imported goods. This would only be the case if other cost elements – for example transportation costs – were excluded from the customs value. As an alternative, FTA is in favour of such a solution. ■

BSCI continues its focus on capacity building and stakeholder dialogue

Lorenz Berzau, BSCI Managing Director

In 2009, BSCI continued to focus on capacity building and stakeholder engagement. The increased impact by more capacity building and stakeholder dialogue as well as innovative projects, are the key items of BSCI's strategy for the next five years.

With more than 500 member companies, BSCI has continued its path of growth, which shows that the development oriented approach towards improving social compliance in supply chains is the direction businesses support and trust.



Particularly in difficult economic times, growth is a reassurance, but it is also a challenge. The growth is an incentive to enhance our efforts to providing our services and new tools to explain the BSCI process, the use of the database and more training sessions for our members and their suppliers. Launching a service provider directory generates more opportunities for increased capacity building activities. Shortly, BSCI will embark on a 3 year public private partnership project to develop support structures (e.g. training capacities) that facilitate the

improvement of socially sound production practices for the domestic and export market in India through setting up a CSR expertise centre and linking to stakeholders.

BSCI also increased the workshops offered to suppliers in numerous countries worldwide, both basic awareness raising workshops and also advanced sessions. In early 2010, BSCI provided trainings in China, India, South Africa and Taiwan, and more are coming.

Continued dialogue with stakeholders, in Europe and also in supplier countries remains another topical area of activities. BSCI participated in Round Table discussions in Bangladesh, China and India in early 2010 and more

such meetings are planned in the coming months. BSCI uses these opportunities particularly to discuss possible options for tackling challenges faced by BSCI members and their suppliers and which are also addressed by stakeholders, e.g. higher wages for workers enabling them to lead a decent living, improving health and safety at the workplace or freedom of association and collective bargaining.

Improving social compliance in supply chains is a long journey of many small steps. This development approach taken by BSCI is finding resonance in the business community and also with social compliance stakeholders. BSCI offers a solution as a partner for businesses and working with partners in Europe and supplier countries to make a change. ■

The Foreign Trade Association (FTA) is the association of European commerce that specialises in foreign trade issues.

It is committed to achieving its goal of a true free trade environment. For 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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- Advice and support to members in case of individual business problems
- Privileged access to the Business Social Compliance Initiative



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