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Jan A. Eggert
Secretary General

No protectionism? No progress?

In our last Bulletin I spoke about the importance of the G20 summit where the leaders of the western world promised to refrain from protectionist measures. At the time, I expressed my belief that increased international trade was the solution to the economic crisis we all find ourselves in. I still hold to that belief; hiding behind protectionist measures to further the short-term goals of select parts of domestic industry will not benefit anyone in the long run – opening up trade will.

Unfortunately, it seems that the EU Commission may not be honouring its commitment in this respect. Since April when the G20 summit took place, anti-dumping measures have been imposed on imports of candles and aluminium foil and new investigations have been opened against fasteners, road wheels and polyester yarn – to say nothing of the recently completed review on leather footwear that is discussed later on in this Bulletin. I only hope this is not a sign of things to come.

Of course, the EU is not the only culprit and we discuss other restrictive measures by countries such as the USA, Thailand and Brazil later on.

Uncertainties still surround the application of the REACH chemicals Regulation that is creating complex problems for many of our members and looks set to do so for some time to come.

I should like to say, following the end of the quotas and surveillance system on textiles and clothing from China, that everything was now plain sailing as far as "T&C" was concerned. Unfortunately, duty rates are still high and the certificate of origin regime needs updating. These issues are discussed later in this issue.

Finally, there is the not so insignificant matter of the Doha Round. The arrival of a new administration in the USA undeniably impeded progress, as did the elections in India, but the continual lack of progress is becoming a very serious issue. If the countries of the world cannot put their differences aside and work together to achieve a truly multi-lateral system we run the risk of the so-called "spaghetti bowl" of bi-lateral agreements overflowing into a sorry mess. Moreover, the important role of the WTO in supervising the multilateral trading system and solving trade disputes between WTO members will further be eroded. The forthcoming Ministerial at the WTO in Geneva later this month is important but is not expected to produce significant results. However, we will continue to be involved in negotiations and to push for a successful conclusion.

I hope you will enjoy reading the Bulletin and invite you to discover more about the work and competencies of the FTA on our website (www.fta-eu.org). ■

Latest FTA events

- 19.11.2009 FTA work on anti-dumping duties on imports of leather shoes from China and Vietnam prove successful as Member States vote against measures continuing
- 04.11.2009 FTA pleads for the retention of the "First sale for export concept" regarding customs valuation
- 02.11.2009 FTA calls for the abolition of non-preferential certificates of origin
- 21.10.2009 FTA urges the EU Commission to secure a correct application of the Community Law by Poland
- 14.10.2009 Meeting of the FTA Committees
- 30.09.2009 FTA presents its position on the GSP reform
- 28.09.2009 FTA organizes a panel at the WTO Public Forum
- 16.09.2009 FTA calls for the abolition of non-preferential certificates of origin for the import of textiles and clothing
- 01.09.2009 FTA takes part in the meeting of the international trade committee of the European Parliament
- 25.-30.08.2009 FTA delegation visits China
- 14.08.2009 FTA rejects the recommendation of ICC Bangladesh to use Incoterm FCA exclusively
- 14.08.2009 FTA protests against the handling of issuing Form A in Bangladesh
- 01.07.2009 Letter to Trade Commissioner Baroness Ashton regarding anti-dumping measures against leather footwear from China and Vietnam
- 16.06.2009 FTA organizes a REACH seminar
- 12.06.2009 FTA French regional conference

The problem with the G20

Flavia Bernardini, Trade Policy Advisor



"Give negotiators more flexibility" said WTO Director Pascal Lamy at the opening of the WTO Public Forum 2009, where the FTA hosted a conference on distribution services and GATS. In Pittsburgh, G20 - an economic forum created in 1999 for boosting international cooperation taking into consideration

emerging economies - renewed the promise to conclude the Doha Development Round by 2010. Moreover, after having stressed the importance of the multilateral trade negotiations, they endorsed the bilateral process. These conclusions are not reflected in the mandate to the negotiators that miss the flexibility to progress towards the conclusion of these negotiations. Why?

With growing protectionism and unemployment, G20 leaders decided to put new emphasis on the promise to push trade liberalization and not to succumb to protectionism. This would have been an excellent decision if only the G20 leaders would be capable of working together to keep those promises. On the contrary, just a few days after the G20 Summit in Pittsburgh, President Obama slapped a stiff tariff on Chinese tire imports for the next three years. This protectionist decision has triggered a predictable reaction from China, which threatened to retaliate against American chickens and car parts. Market access barriers are increasing: exporting footwear and textiles to Brazil recently became challenging owing to the increased complexity for acquiring non-automatic licenses ; Thailand is preparing a retail act to regulate retail and wholesale industry, with the aim to give the administration discretionary power to oversee the licensing regime ; Ukraine is preparing a new draft on export taxes whose content is not yet entirely clear. India hosted a Ministerial meeting in Delhi last

September with the aim of relaunching the process and breaking the deadlock of the Doha Round, but it is not a champion of free trade. Under this framework, the lack of flexibility given to the negotiators is not surprising. The new emphasis on the conclusion of this Round, which is the longest ever, seems to be a way to cover the protectionist measures used during the crisis and the intention to keep on using them. Our concern is that the G20, that is progressively becoming an important platform for the worldwide trade and economic cooperation, seems to be too divided to fulfill its responsibilities and satisfy the expectations of business.

The Pittsburgh communiqué also endorsed bilateral agreements. In a world of collapsing export and rising protectionism, the conclusion of bilateral trade deals may represent a positive political sign. The conclusion of bilateral agreements seems more feasible and more concrete than the conclusion of the Doha Round. The position of the Foreign Trade Association is that bilateral agreements are not necessarily a stepping stone to a comprehensive global deals. It is true that regional trade deals may add economic well being, under certain conditions. But the risk of a proliferation of bilateral trade deals is that these may result in offering favorable treatment to some sectors at the expense of others. For example, if the EU / India negotiations will not cover textiles and market access for distribution services, this would certainly not help to increase business. Moreover, establishing many different regimes does not help the operators that would need standard, internationally agreed procedures to reduce the costs of bureaucracy and be competitive.

Business would need the G20 to genuinely boost global competition. The economic crisis is not yet over and FTA Members need now more than ever business opportunities to be improved. ■

"The position of the FTA is that bilateral agreements are not necessarily a stepping stone to a comprehensive global deal."



Daniel Caspary
EPP, Member of the
European Parliament

1. You are member of the INTA Committee for the second time. During this legislation and if the Lisbon Treaty enters into force, the role of the European Parliament in the EU Trade Policy will gain considerable importance. Under this framework, what do you think should be the priorities of the INTA Committee?

If the Lisbon Treaty comes into force the role of the International trade committee will change in total. Parliament and Council will be co-legislators on an equal footing when determining the framework for implementing the Common Commercial Policy (CCP), which may include both policy and technical aspects of CCP. This means a complete overhaul in INTA's work. While today INTA can only express its views on autonomous/internal CCP legislation, with the entry into force of the Treaty of Lisbon it will have a co-legislative responsibility in all the proposals concerning the framework for implementing the CCP.

The new gained power means also more responsibility for the INTA committee. Therefore we need to set priorities and focus more on realistic approaches within the committee. As Members of the Parliament are the legitimate voice of European citizens and companies, we should focus on their needs and problems. Therefore the conclusion of the Doha Round, as the best solution for International Trade, stays first priority. I am aware that our companies, which are especially dependent on export, need new market access for which we need to pursue our bilateral and regional approaches. Of course this can only be the second best solution. The INTA committee will continue to support the European Commission to find the right way to fight against protectionism and to offer the European companies the best framework for their trade activities.

"The conclusion of the Doha Round, as the best solution for International Trade, stays first priority."

2. Do you see the INTA Committee taking a more active role in the proposals and decisions taken by the Commission in anti-dumping investigations?

Anti-Dumping cases are often highly political and marked by national interests. The European Parliament is already today involved in anti-dumping cases, like for example the airbus/ Boeing or the footwear case. For the future I would like the commission to be more open in front of the EP. I think the EP will choose some cases of high importance and will of course use its right to co-decide whether Anti-Dumping measures should be implemented or not.

3. The FTA supports a successful conclusion of the Doha Round. We are glad that the EU has called for renewed efforts to revitalise the Doha Round Trade talks. How can the European Parliament contribute to the successful conclusion of the negotiations?

On the very top of INTA's agenda is still the EU's commitment to multilateralism and the WTO's rules-based system that is providing both legal certainty and transparency in the conduct of international trade. INTA has closely followed and produced several reports on the WTO in general and the latest round of multilateral trade negotiations - the Doha Development Agenda.

The European Parliament believes that the WTO must be reformed by the introduction of a more democratic system of decision making at the WTO. The parliamentary dimension of the WTO has a high importance in order to enhance the democratic legitimacy and transparency of WTO negotiations. In this respect, the Parliamentary Conference on the WTO (co-organised with the Inter-Parliamentary Union) has regularly offered the opportunity for constructive participation. In addition, INTA has been monitoring closely the evolution of WTO dispute settlement cases involving the EU and has made its views known through reports, public hearings etc, most notably in case of the ongoing Airbus-Boeing dispute between EU and United States. ➔

4. With 50% of EU imports coming from China, China is a strategic commercial partner. Unfortunately, the trade dialogue with China is not progressing as expected. What should be done to improve the trade dialogue with China and what is the role for the European Parliament in this issue?

China is the single biggest challenge for EU trade policy. Two decades ago China and Europe traded almost nothing; today China is the EU's second biggest trade partner after the US and its biggest source of imported goods. A first step in the right direction was surely the formal accession of China to the WTO in 2001. This step integrated China in the World economy, improved access for EU firms to the Chinese market and also import taxes were reduced sharply. Although many Non-Tariff Barriers still remain.

Unfortunately the ambition of China in the field of a common trade dialogue is lower than the ambitions of the EU. Nevertheless at the 11th China-EU Summit in Prague in May 2009 leaders expressed their satisfaction and agreed to follow up in dialogues and working groups.

Reflecting its ever-increasing importance as EU's trading partner, the EP adopted two resolutions in relation to economic relations with China. Noting an imbalance in bilateral trade between the two partners - notably through China's non-observance of sustainable development, environmental limits and WTO rules - Parliament repeatedly called on China (both in those resolutions, but also in others) to address the concerns of EU industry regarding implementation of some of its WTO obligations, especially relating to Intellectual Property Rights, national treatment, transparency and environmental, social and health standards.

Parliament should keep up its efforts to continue the policy of engagements and dialogue with China and urge China to play an active role in the WTO. Furthermore we should encourage and support the Commission to pursue openness in EU

trade with China, being aware that protectionism cannot be Europe's response to the growth in EU-China trade relations Parliament will support the negotiations for a partnership agreement between the EU and China, which will aim for free and fair trade, based on the enforcement of clauses on human rights, environmental, sustainable development and social issues. Many things have been done in recent years to improve Trade Relations with China: business-to business cooperation, programmes designed to increase China / EU trade participation, such as the Executive training program. To further deepen the dialogue

I think the setting up of a China / EU Business council would be helpful. Also the cooperation between European and Chinese universities and increased mobility for scientists, researchers and students will help to foster the understanding and interest of the two different cultures. ■

"Protectionism cannot be Europe's response to the growth in EU-China trade relations"



Shoes duties plod on and on?

Stuart Newman, Legal Advisor

In our last issue we reported on the Commission's progress regarding the expiry review it was undertaking on the anti-dumping measures imposed on leather footwear from China and Vietnam. At the time, the seven month completion deadline promised by the ex-EU Trade Commissioner Peter Mandelson had passed but

Commissioner Ashton had told us she was pushing her services to complete the review before the summer.



She should have pushed harder. Summer came and went without any sign of a proposal and it was not until 13 October that the "General Disclosure Document" was released.

As an "interested party" – a very interested party – the FTA was asked to provide its feedback to the conclusions within the document by 3 November. At first glance, this looked like a difficult task. It was evident that the Commission had attempted to counter every argument it had received throughout the investigation which had resulted in an 80 page document with 422 recitals. However, a second reading, and a third and fourth, showed that all was not what it seemed.

The document contains many statements which are generalised and unsubstantiated by solid evidence and also several contradictions and discrepancies, that overall indicates a certain amount of desperation by the Commission to ensure that the duties will continue to run – for fifteen months as it turns out.

The FTA believes, and has always stated, that the shoes from China and Vietnam are not injuring the EU producers. The shoes being imported are the type of shoe that the average customer buys on a regular basis;

shoes at the cheaper end of the market. Whilst there may have been a time when shoes such as these were produced in the EU that time has long since gone and these days the only shoes that you will find that are genuinely EU produced are high-end, high cost shoes that few of us could afford.



Despite this, the Commission seems determined to persuade Member States to allow the duties to continue. It even sent each Member State a paper summarising all their main arguments for continuation and called in certain Member States to persuade them to support their proposal – something which has not happened in other anti-dumping cases.

Whether the Commission will be successful remains to be seen; On 19 November, 15 Member States voted against the Commission's proposal for continuation - a vindication of our efforts in this case. However, the final vote will be conducted at Council level and we suspect the Commission will make all efforts to get Member States support its proposal. Of course we will make similar efforts to reject it is rejected. ■

"The FTA believes, and has always stated, that the shoes from China and Vietnam are not injuring the EU producers"

Trade in textiles – Still a sensitive topic?



Stefan Wengler, Director

When the quota regime for textiles was finished in December 2004 importers emphasized that there was no longer any need for textile trade policy. This was ignored. Quotas vis-à-vis China were re-introduced in summer 2005 and only until three and a half years later were the surveillance systems vis-à-vis the import of certain textile and clothing from China abolished.

What is the situation today? There are still no indications for the initiation of anti-dumping procedures or safeguard measures according to the product specific safeguard clause. Nevertheless, some examples show that textiles are still not treated in the same way as any other product.

So, the duty rates for textile and clothing products are relatively high compared with other products. The duty rates are unchanged since 2004 because of the missing results of the Doha round.

The preferential margin for textiles in the framework of the Generalized System of Preferences is lower than for all other products and amounts to a reduction of the most favoured nations tariff by only 20 percent. Furthermore, the new approach of the preferential rules of origin which will be applied in the framework of the GSP is more protectionist than in all other sectors.

When importing clothing from certain countries a non-preferential certificate of origin must be presented. The

legal basis for this requirement is very vague. It is true that article 1, section 1 of regulation 1541/98 provides a certificate of origin, but it must be considered that this regulation is more than eleven years old and based on a regulation which was adopted more than three decades ago. At that time, this regulation was designed to prevent improper actions and changes in the transportation route for textiles which would hamper the proper application of the common rules for the import of textile products. The common import regulation for textile goods is still part of the famous regulation (EC) 3030/93. However, currently the only countries concerned are Belarus and Uzbekistan. So from the point of view of the FTA it is well justified to conclude that for textiles originating in any other country it is not required to present a certificate of origin.

Nevertheless, the EU Commission hesitates to repeal the historical regulations despite the fact that there is no need for them. It seems that trade in textiles is still a "hot potato". ■

"Textiles are still not treated in the same way as any other product"



Next reform of the Generalized System of Preferences: Higher preferential margin is needed

Stefan Wengler, Director

Notwithstanding the fact that the system of Generalized Customs Preferences (in short: GSP) will remain in force for a good two years more, in view of the necessary planning it is desirable to start now the discussion for the next GSP regulation. This regulation is designed for the years 2012 to 2014 and is thus considered a further refinement of the current system rather than a fundamental reform.

From our point of view the currently applicable GSP, apart from some minor aspects, has proved itself. However, the preferential margin of 3.5 percentage points against the most-favoured-nations tariff rate, and in particular the preferential margin for textile and clothing products of just 20 per cent of the most-favoured-nations duty rate, is far too low in order to have the desired effect on development policy.

Hence we consider it necessary to agree on a preferential margin of 5 percentage points against the most-favoured-nation tariff. Among other things, this would lead to a situation where a number of goods now subject to marginal tariffs could be imported duty-free, hence not imposing any administrative burden.

Furthermore the EU Commission should check whether it makes sense to fully retain the very ambitious criteria underlying the granting of GSP plus. On looking more carefully, there is hardly any country which strictly fulfils all the requirements. ■

"It is desirable to start now the discussion for the next GSP regulation."



Uncertainties of the REACH implementation

Flavia Bernardini, Trade Policy Advisor

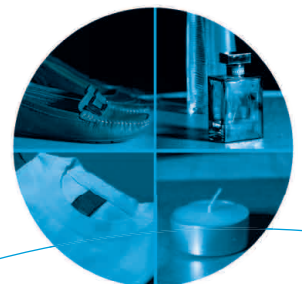
A recent debate at the European Parliament has highlighted problems and inconsistencies of the implementation of REACH, the Regulation for Registration, Evaluation, Authorisation and Restriction of Chemicals.

Three years after the approval of this Regulation, some of the guidelines and tools that were due to be delivered to producers and importers are still not available or updated.

Economic operators encounter difficulties in applying the procedure for identification of substances and sometimes European and national rules protecting the copyright are in conflict with the REACH requirement. New rules on cosmetics, toys and ecolabel have added additional restriction on the use of substances, creating the risk of a possible overlapping of regulation on chemicals. The criteria for identification of persistent, bio-accumulative and toxic substances included in Annex XIII have been accused by specialized national agencies to be out of date and not to reflect the state of science.

The authorisation procedure that will lead to phasing out several substances is underway, but the timing of the procedure is not yet clear. The number of substances concerned is also unclear: at the moment, there are fifteen substances and fifteen more have been submitted for consultation, but according to certain Member States the number of substances of concern will increase.

European companies operating in many different countries are under pressure. We believe that the economic operators should be provided with a clear and predictable framework in order to comply with the Regulation and satisfy the expectations of the customers. We request ECHA, the European Commission and Member States to ensure consistency of the legislation and coordination in the implementation of the procedures in an improved way. ■





The BSCI: More capacity building, stakeholder engagement and resources for more efficiency

Lorenz Berzau, BSCI Managing Director

Over the past few years, the main focus in discussions about social compliance has developed from setting up Codes of Conduct to the establishment of efficient auditing systems to check the implementation of those Codes. We now see a new period focusing more on improving the ability of suppliers to manage social compliance criteria as this is key for achieving improvements for a sustainable supply chain.

In this context, the BSCI took various steps to enhance the social performance in its members' supply chains and to strengthen its dialogue with stakeholders. The BSCI adopted a new commitment: As of 1 January 2010, all BSCI members are committed to the goal that 3 years after joining the BSCI, 1/3 of their direct suppliers in risk countries achieve audit results with the assessment "good" or "improvement needed". This new commitment underlines the BSCI's determination to achieve improvements in a certain time frame. The BSCI also agreed that buying practices should take social compliance into account. Building a partnership approach between buyers and suppliers is a core element to successfully improve social compliance. The BSCI launched a complaint mechanism to be started in China and India to provide workers an opportunity beyond social audits to address concerns. This new procedure notably addresses the expectations from stakeholders and we believe it will contribute helping to improve working conditions in factories.

Improving the core business of BSCI member companies and suppliers also means building the capabilities of the different actors to improve the social compliance in the supply chain. BSCI has representatives in China and India now to support this process and we increasingly develop specific training activities. We organised workshops for suppliers in China in May, June and November that gathered more than 2000 participants. We also conducted workshops in Vietnam in May, in Bangladesh and Turkey in October. The BSCI also develops more e-learning tools to support suppliers without having attended BSCI workshops.

We also believe communication about what companies do in terms of social compliance is key to improve the reputation of companies, improve the visibility of their engagement and their relations with stakeholders. The BSCI launched a new BSCI members' logo that will help our members to better show their commitment to social compliance. We also value the confidence and constructive dialogue that we develop with our stakeholders through more regular meetings – also beyond the format of the Stakeholder Board. A Stakeholder Meeting, in which discussions on key topics have been led with various stakeholders, took place in October and another will follow at the end of November. Round Table

meetings with stakeholders in supplier countries have taken place in Bangladesh, India, Morocco, Turkey, Vietnam, and less formal exchanges took place in Brazil, Costa Rica, Kenya, Peru and South Africa.

Sustainability in the supply chain is a continuous and complex process that requires patience, determination and the involvement of all parties concerned. If you are not a BSCI member yet, we invite you to join us!

NB: The Business Social Compliance Initiative (BSCI) is the leading business-driven platform for the improvement of social compliance in the global supply chain. It has been created by the FTA in 2003 and gathers more than 400 retail, brand and importing companies committed to a socially compliant supply chain.

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

We directly represent more than 200 retailers across Europe having a combined turnover in excess of €500Bn and a responsibility for more than 2.5m employees. Companies that belong to our national association members account for another 500+ names and hundreds of billion more Euro in turnover. All our members, that include major retail and brand companies as well as small and medium sized enterprises, are committed to the further liberalisation of international trade. The FTA represents their interests by providing expert and up-to-date information and by advocating on their behalf against protectionist measures in the European and international arena.

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- Legal and political analysis
- Elaboration of statistics on foreign trade
- First-hand information through exclusive electronic publications (Circulars and Newsflashes) and through access to the members area of the FTA website
- Regular meetings: FTA committees, Seminars and Conferences
- Access to an extensive network of national, European and international trade associations
- Advice and support to members in case of individual business problems
- Privileged access to the Business Social Compliance Initiative



FTA
Foreign Trade Association

Avenue de Cortenbergh 168
1000 Brussels - Belgium
Tel. +32 2 762 05 51
Fax +32 2 762 75 06
info@fta-eu.org
www.fta-eu.org