

The Bulletin

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Editorial: The Road ahead

Jan Eggert, Secretary General

As the year 2006 draws to a close, the FTA can look back on a demanding yet successful year. As we approach 2007, we look forward to three main challenges in international trade.

The first is the current round of trade negotiations in the World Trade Organisation (WTO). Can the Doha Development Round still be concluded successfully in 2007? This is what we are striving for. If not, there will only be losers: Europe and the US, developing countries and last but not least the economy. Valuable time has been lost trying to arrive at agreements which would allow for further liberalisation of world trade and also give a boost to the world economy. Now, as the perspectives for a

successful conclusion of the DDA have darkened, politicians have stood up praising the advantages of bilateral and regional agreements. Yes, these agreements can also help to promote the liberalisation of world trade, but whether they support the multilateral process in the framework of the WTO is questionable. At any rate, they can only be the second best solution as trade rules are getting less transparent and trade developments less predictable. Of course, the FTA will not stand aside when being asked to feed in the needs and wishes of European commerce, but we will also critically check if these agreements support multilateralism and do not lead into a patchwork situation with a multitude of different agreements.

Another catchphrase of the European trade policy debate is "Global Europe". What is it all about? Putting trade policy into the service of competitiveness within the Lisbon strategy – this

is an approach which can also be supported by European commerce. Of course, this strategy has to take into account the competitiveness of all of the European economy – industry, services and also the commerce sector. This is particularly relevant when talking about the reform of anti dumping. The trade defence instruments are certainly valid in a world without global competition rules but they have to be more transparent, more predictable and take more account of business interests particularly for those who suffer most: the importers. Certainly Europe has to reposition itself from time to time in an ever changing world with tougher competition and defend its interests. But Europe should also be aware that it will only be successful in third markets with trade and investment if it keeps its borders open.

The third challenge facing the FTA is to further develop the Business Social Compliance Initiative (BSCI). The BSCI today has 63 members from 10 different countries. We are about to start auditing in the primary food production having already developed adequate tools. After auditing has developed fairly well we have found that training and coaching of suppliers have become more and more crucial. This is one of our main focal points in cooperation with the EU Commission and member states support. The development of the stakeholder dialogue on the EU level but also in supplier countries in the framework of Round Tables will be another focal point. Last but not least we will have to expand our members base and intensify cooperation with similar initiatives.

It is thus with a mixture of optimism and concern that we view the coming months. We will continue to exchange our views and experiences with our members and friends, and look forward to a constructive dialogue on the challenges to come.

Some FTA meetings since the last issue

23 March	FTA Committees
7 June	Regional Conference in the Netherlands
23 June	Regional Conference in France
13 September	Meeting of the FTA Board with Members of the European Parliament
19/20 October	FTA Committees
30 November	Regional Conference in France and FTA Board Meeting

Some FTA activities in 2006 since the last issue

29 March	FTA Position paper on foreign trade and international competitiveness
4 April	FTA letter to the ambassadors of textile exporting countries in Geneva
6 April	FTA informed its members about provisional antidumping duties on certain footwear originating in China and Vietnam
12 April	High Level Group on Textiles and Clothing – discussion paper FTA with AEDT and Eurocommerce
12 April	FTA Position paper on WTO negotiations
12 May	FTA informed its members about possible antidumping investigations against textiles in China
2 June	FTA called for trade facilitation in the framework of the WTO
8 June	Presentation of the first annual report of the BSCI
18 June	FTA Position paper on EU-China trade relations
23 June	Meeting of High level Group on Textiles and Clothing - FTA against retention of textile quotas vis-à-vis China
11 July	FTA met with Peter Mandelson on TDI Green Paper (Expert Group)
18 September	Meeting of the High level Group on Textiles and Clothing
21 September	FTA informed its members on the decision making process with regard to leather shoes from China and Vietnam
4 October	FTA criticized definitive antidumping measures on leather shoes from China and Vietnam
12 October	FTA addressed petitions to the German government
3 November	FTA informed its members on the adoption of new customs code implementation regulation
6 November	FTA Position paper on global Europe: competing in the world
17 November	Reach – FTA intervention vis-à-vis the EP chief negotiators as well as the EU member states
28 November	FTA met with 133 Committee (textiles)

Global Europe: competing in the world

Anja Lörcher, Trade Policy Advisor

“The core message of today’s review is clear: rejection of protectionism at home; activism in opening markets abroad.” These were the words chosen by Trade Commissioner Peter Mandelson on October 4th 2006 when he presented the Communication of the EU Commission entitled ‘Global Europe: competing in the world’. In this Communication the EU Commission analyzes the foundations of EU competitiveness and suggests an action plan for improvement. It names a couple of corner stones for future trade policy namely openness to global trade and further liberalization on multilateral level supported by bilateral agreements.

Also on October 4th 2006 it became clear that the EU member states would agree to the Commission’s proposal for definitive anti-dumping duties on leather shoes from China and Vietnam. The question, however, whether member states were really convinced that dumping had been proved remained unanswered.

The coinciding of these two events demonstrates nicely that policy principles and political actions can lie far apart.

The FTA shares the EU Commission’s views on the foundations of EU competitiveness and supports the policy principles announced in the ‘Global Europe’ -paper. However, now it remains to be seen whether the EU manages to act accordingly. Already the commitment to trade liberalisation on WTO level – rather than solely on bilateral level – represents a difficult task which may require a painful move in agriculture. It also requires a high level of motivation and focussed negotiation with the EU’s main counterparts in the WTO namely the US, India and Brazil.

A failure of the DDA (Doha Development Agenda) absolutely needs to be avoided; not only for the sake of the WTO’s credibility as an institution but also for the sake of worldwide development, poverty reduction and last but not least economic growth - also in the European Union.

Having this in mind the EU Commission must stick to its outlined policy principles and take action to bring the DDA back on track.

Link to FTA position paper:

<http://www.fta-e.org/doc/unp/opinion/en/FTApositiononGlobalEurope.pdf>

REACH

Anja Lörcher, Trade Policy Advisor

The regulation on registration, evaluation and authorisation of chemicals (REACH) has been adopted by the European Parliament (EP) on December 13th 2006 and will come into force on June 1st 2007. Finally the legislative chapter can be closed and with it a long battle for a workable solution for importers of articles comes to an end.



Over several years importers of articles feared a REACH regulation that would not only have breached WTO rules (World Trade Organisation) but that would have – practically speaking - been impossible to comply with.

Fortunately in the end many of the FTA demands are being reflected in the wording of Art 7: Only substances that are intended to be released from an article have to be registered. The notification duty covers only substances of great concern. A positive-list of harmful substances will be provided by the agency. A de-minimis-threshold of 0,1 % w/w restricts the registration and notification duties. The one-ton-threshold per importer and year applies for registration AND notification duties. Acceptable phase-in periods for substances in articles are provided. A strict OSOR-principle (One Substance One Registration) is applicable not

only up the supply chain but on a broad scope. Non-EU companies without branch offices in Europe can register/notify substances via agents.

At the beginning of 2007, the FTA will organize a seminar to inform its members about the concrete implications of Reach for the European Commerce.

Reform of the EU Anti-Dumping Regulation

Stuart Newman, FTA Legal Advisor

In July this year the EU Trade Commissioner, Peter Mandelson invited the FTA to join a small, high level “expert group” to discuss the possible reform of the EU Anti-Dumping (AD) Regulation. Each member was asked to submit a paper, detailing their concerns on the current legislation, to be used as a basis for a Green Paper.

Our main concerns are a lack of transparency/predictability and an inadequate consideration of “Community Interest”. These points are highlighted below, together with a brief summary of some other issues.

Political aspect

We believe that “world-wide trade” is an achievable goal, despite the problems present in WTO negotiations. That said not all countries are the same; there are differences in manufacturing, supply and trading systems and costs. Furthermore, these costs are higher in the EU and as a result many retailers source products from outside the EU. When AD duties are imposed on imports, in order to compensate (or *protect*) European manufacturers, those importers, retailers and inevitably the consumer, suffer.

Although the FTA accepts that AD legislation may be a necessary evil in the absence of international competition legislation, we are concerned about the apparent ease at which AD measures are applied and the increasing number of measures taken against consumer products. Therefore, we consider that the current EU AD Regulation requires significant revision both legislatively and in application.

Transparency/Predictability

Information such as the progress of an investigation, the type or likelihood of duties, dates and agendas of when Member States meet at the

Anti-Dumping Committees (ADC), are regularly withheld. In order to defend their interests properly, our Members need access to this information. Withholding it simply enforces the suspicion that the Commission is not conducting the investigation fairly.

Complaints are confidential although interested parties may, upon request, receive a non-confidential version. These are supposed to be sufficient in detail but frequently this is not the case and critical information is often removed. We have recommended that the EU introduce a system similar to the US where full access to files is allowed via the APO system (administrative protective order).

Importers have the right to lobby Member States but are faced with two barriers when attempting to do so. Firstly, since proposals for provisional measures are released very close to the date of ADCs, there is insufficient time to lobby effectively. Secondly, the positions of the Member States at the ADC are not published, making it difficult to lobby appropriately. We see no reason why this should be so.

As the filing of a complaint is confidential, there is no warning that an investigation will be initiated; one day, there is simply an announcement in the Official Journal. In order to be recognised as an “interested party” and take part in the investigation, one must do so within 40 days and a mere 10 days is all that is allowed to request a questionnaire or object to the choice of an analogue country.

There is no advance announcement that measures are to be imposed; publication in the Official Journal appears the day before the measures apply. This prevents importers reorganising their sourcing methods in an effort to avoid the measures. We have asked for publication one month ahead of implementation. In addition, when it is decided that provisional measures will not be implemented there is no publication to advertise that fact.

Community Interest

The Regulation states that measures should not be applied when it can be concluded that it would not be in the interest of the Community (i.e. the EU) to do so. However, the Commission tends to interpret this narrowly by considering the interests of producers only. We have asked the Commission to pay greater attention to the interests represented by importers and retailers.

In addition, we believe that “product exclusion” should be considered when applying measures. In the recent case involving imports of leather shoes from China and Vietnam, it was decided to exclude children’s shoes from the provisional measures as it would not be in the interest of the Community to subject families to the extra cost. Unfortunately, the exclusion was removed for the definitive measures after intense lobbying from EU producers.

Complaints

There is a perception that complaints are filed and re-filed with the Commission until they meet the necessary standard to allow an investigation to be initiated. This suggests that the Commission already has the intention to impose duties before the investigation is concluded. In addition, complaints are considered viable if they are filed by a representation of only 25% of Community production of the product. We believe this figure is not truly representative and should be increased to 50%.

Market Economy Treatment (MET)

During the course of an investigation in a non-market economy country, some companies are assigned “MET” and (usually) a lower duty level than others. We believe that the arguments used to refuse MET to a company are flawed and inconsistent. In addition, in many cases submissions for MET are rejected for minor faults on the submission forms.

Definitive Measures

Definitive measures are imposed for five years (a lesser term is very rare). Worse still, this can stretch to more than 6 years if the measures are subjected to an expiry review to determine whether they should be extended since the measures remain in force during the 15 months it takes to complete such a review. Considering that the life-cycle of consumer products is getting shorter and shorter, this five year period is outdated and we have asked for a maximum 3 year term to be implemented.

Reimbursement of duties

As explained above, one has to continue paying an additional 15 months of duties during an expiry review. However, if a review concludes that the original measures should not be extended there is no possibility for an importer to obtain a refund of these extra duties. We have insisted this be rectified.

Member States Voting

Member States are consulted at the ADC before imposing provisional and definitive duties and the Council has to vote on a Commission proposal

before any definitive measures may be imposed. As with many Member States decisions these are passed by simple majority. However, what is unique to anti-dumping is an amendment introduced in 2004 that abstentions are counted as votes in favour. Absurdly, the proposal for provisional duties on shoes from China and Vietnam was passed with only 3 votes in favour, 10 against and 12 abstentions. The FTA protested this undemocratic system when it was first proposed and has continued to do so.

Next Steps

The Green Paper was released on 6 December and does contain some of the points we raised, e.g.: increased transparency, greater and wider use of the “Community Interest” test, a reduction to the duty period, the standing of complaints and the reimbursement of duties following a negative conclusion to an expiry review. However, it fails to address many of the improvements we felt could be made to the current Anti-dumping Regulation; improvements that would benefit EU importers, retailers and ultimately European consumers, e.g.: the continual re-filing of complaints, the lack of useable information contained in non-confidential complaints, time limits to respond to complaints, the lack of notice to announce the initiation of an investigation and implementation of measures, the criteria applied to choose an analogue country and grant MET to a company in an NME country, irregularities in sampling, the length of time taken to conclude an expiry review and the voting system.

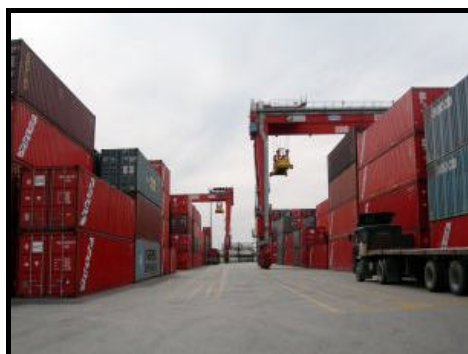
We have written to Mr Mandelson to ask why the Green Paper was so lacking in this respect and are awaiting his response. In the meantime, we are in the process of drafting our official response to the Green Paper and will be part of the consultation process which is to be concluded by 31 March.

Link to FTA position paper on the Green paper:
<http://www.fta-eu.org/doc/unp/opinion/en/11-07-06.pdf>

Adoption of new customs code implementation regulation

Stefan Wengler, FTA Director

After years of long and controversial discussion, the EU Commission's Customs Code Committee has adopted the new customs code implementation regulation with only one vote against and one abstention. As a consequence, the electronic submission of a summary declaration for the import and export of goods will become mandatory as from 1st July 2009. The status of an Authorised Economic Operator who shall be granted certain simplifications, can be applied for from January 2008. However, the current draft version of the modernized customs code does not attach these simplifications to the status of an Authorised Economic Operator, which does not really make the application for such a status necessary.



In our view the new regulation is an acceptable compromise - possible only due to the intervention of Commerce which succeeded in preventing particularly restrictive formulations from earlier draft versions. Moreover, the EU Commission has guaranteed to also take into account the specific features of each enterprise when granting the status of an Authorised Economic Operator. For example, large enterprises will have to fulfil different criteria to small and medium-sized enterprises

The textile and clothing sector two years after the abolition of quotas

Stefan Wengler, FTA Director

Two years after the abolition of textile quotas it is time to reflect on how far the textile and clothing sector can be regarded as any other industrial

sector. The answer is clear. Textile and clothing are still subject to many special arrangements in order to continue the protection of this sector after the abolition of quotas.

It began in the first months of the year 2005 when the textile specific safeguard clause was applied against ten textile categories originating in China. Three months later the quota regime vis-à-vis China was born again. These quotas shall be abolished at the end of the year 2007, nevertheless there are some stakeholders supporting the ideas of prolonging the quota regime until the end of 2008.

Already in 2004, the European Commission launched the High Level Group on Textiles and Clothing for enhancing the competitiveness of this sector. Whilst some members tried to influence the group in a protectionist manner, FTA called for better market access, trade incentives, dismantlement of non-tariff barriers to trade and favourable framework conditions for European commerce abroad. Furthermore, FTA stressed the necessity of transparency, predictability and legal certainty in connection with trade defence instruments.

Another example for the special treatment of the textile and clothing sector is the generalized system of preferences. Whilst the preference margin of 3.5 percentage points is granted to most sectors, the tariff deduction for textiles and clothing is only 20 percent of the most favoured nation tariff. As the present system will expire at the end of 2008, a new system must be created by the end of 2007 in order to secure a one year planning period. In this context FTA has called for a higher preferential margin of 5 percentage points for all products. Furthermore, the preferential rules of origin in the framework of the GSP must be radically simplified. The net production cost method which is presently being discussed does not meet this requirement.

When the EU Commission launched its proposal for a compulsory origin marking of certain imported consumer goods, textiles and clothing were among them. FTA strictly opposes a compulsory origin marking scheme because this would only increase bureaucracy, costs and legal uncertainty for importers. Furthermore, such a label would act as a non-tariff barrier to trade and its compliance with WTO rules would be highly questionable. For the consumer labelling is not a protection but a deception, because although several countries were involved in the production only one origin can be mentioned.

BSCI– Developments and challenges: Growing membership, enlarged scope and more sustainability

Lorenz Berzau, BSCI Project Coordinator

The Business Social Compliance Initiative (BSCI), which was launched by the FTA nearly four years ago, has developed further since then with remarkable impetus. Currently, 62 members from 10 countries (Belgium, Canada, Denmark, Finland, France, Germany, The Netherlands, Spain, Sweden and Switzerland) use the common monitoring system for social standards in their supply chain. With the BSCI project, FTA has become a member of the UN Global Compact, again underlining the commitment of commerce regarding CSR. In October 2006, the BSCI also became an Organisational Stakeholder of the Global Reporting Initiative (GRI), the leading standard for sustainability reporting.

In 2006, the BSCI conducted workshops for suppliers and auditors in China and Vietnam, and the next workshops are planned for China again, being the most important supplier country for BSCI members. The purpose is to train suppliers on the functioning and the criteria of the BSCI, and also provide them with practical management instruments in their local language.



Most of the BSCI audits have been conducted in the textiles, shoes and toy industry. The BSCI is now also enlarging its scope by being implemented in the primary production in agriculture, after dedicated management tools have been developed in order to meet the specific challenges in the food supply chain. This BSCI Food Module, introduced in Morocco, will be implemented in Southern Africa in early summer 2007.

BSCI currently works on strengthening the involvement and the cooperation with stakeholders on the European and local level. The latter is especially important for the development and conduct of training and qualification projects for suppliers which are being discussed now and which are a crucial issue for safeguarding sustainable change in the supplier countries. In recent months, BSCI has contributed to a series of training programs in China for government officials and factory managers. This has been embedded in projects led by the European Union and leading Chinese organisations like the China National Textile and Apparel Council (CNTAC). Currently, BSCI is organising training workshops for Turkish suppliers, in partnership with Social Accountability International (SAI). Also in this project, the European Commission provides financial support. In addition single BSCI members are active in several countries to build more capacities in their supply chain to raise awareness and sustainable improve social performance of factories.

Link to BSCI annual report:

<http://www.bsci-eu.org/dl.php?id=10077>

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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