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Editorial: Jan A. Eggert, Secretary General

More predictability in world textile trade necessary!

After 40 years of stringent regulation by the quota system, it is obvious that a normalisation of the situation in the international textile trade sector has not yet been achieved. Unpleasant side effects of the removal of quotas for textile products to take effect from January 1st increase.

To be on the safe side, the European Union has already installed a complex monitoring system early in 2005, designed to record data on textile imports from China even before they reach the territory of the European Union. This came as a surprise to European importers and national licensing bodies alike who complain about insufficient staffing leading to difficulties in completing the application

forms for prior monitoring of textiles imports. In contrast, the double-check system, which was in place until the end of 2004 produced less trouble. As a counterpart the Chinese government implemented an export licensing system

that will improve the statistical analysis and monitoring of China's textile exports to Europe and the United States.

Meanwhile Turkey – the most important supplier of textiles to Europe beside China – again imposed quotas against China obviously on no legal basis at all. Before the end of last year, the US initiated safeguard clause proceedings to impede imports from China. However, an examination of these cases also showed that these actions lacked a proper basis.

In the European Union the application of the textile specific safeguard clause vis-à-vis a lot of textile products is seriously discussed. So the EU textile and clothing industry made a formal request to the commission and the member states to apply this safeguard clause to twelve categories of products imported from China.

According to a recommendation of the High Level Group on Textiles and Clothing safeguard clauses should only be applied

as a last resort. If the application of safeguard measures is made too easy there is a danger that this instrument will also be used in spite of the lack of objective conditions for its application. In this instance, predictability and calculability of textile trade with China would no longer be given. Moreover, retaliatory measures from China would be a consequence which would also not be in the interest of the export oriented industry.

REACH – stretching to comply with WTO rules?

The planned legislation on the registration of chemicals (REACH) risks in the view of the FTA to be incompatible with the WTO agreement on „Technical Barriers to Trade“ (TBT). This concerns especially the present wording of Art 6 REACH which deals with the registration duties for importers of articles, i. e. FTA members.

The duty to register chemical substances in imported articles represents without doubt a technical barrier to trade. Barriers to trade are TBT conform, if they are not more trade restrictive than necessary to fulfil a legitimate objective like the protection of human health or safety.

What does this mean for REACH?

The registration of substances in articles can only be demanded from importers if the substance can have a harmful effect on consumers. The EU Commission has already taken this risk based principle into account by narrowing the scope of Art. 6 REACH down on dangerous substances.

But what remains unclear at present is whether this concerns all kinds of articles or only a certain group. This results from the fact that Art. 6 provides no clear definition of the terms “substances that are intended to be released”, “substances that are likely to be released” and “types of articles”.

The lack of definition opens the door to various interpretations that could burden importers with registration duties that are more trade restrictive than necessary. This could be punished by other importing countries with a complaint at the WTO.

The European Parliament and the Council who are both discussing REACH at present should therefore strive to find clear definitions for the above-mentioned terms and keep the scope of application as small as necessary.

The FTA has published a paper on REACH, calling for this improvement (see www.fta-eu.org ‘opinions’).

Good progress in CSR - the Business Social Compliance Initiative (BSCI) expands its scope

The membership of BSCI is growing. Currently, there are 31 members from six European countries (France, Germany, Netherlands, Spain, Sweden, Switzerland) participating in this fast developing

monitoring system for social standards which was initiated by FTA in March 2003.

Audits following the BSCI scheme are being conducted, mainly in the textiles

sector. However, it is now extended to cover agricultural production:

A BSCI working group food has been established in order to adapt the existing BSCI management instruments for an implementation of the system in the food sector. In this regard, the amended tools will be used for social audits in primary agricultural production sites like plantations. The work of this group proceeds very fast and constructive, as participating members are eager to implement these tools soon. Pilot audits are planned in Spain and Morocco in spring and summer 2005. BSCI works together with Eurepgap in this working group. Eurepgap, an organisation of food retailers setting standards and certification schemes in the agricultural sector with respect for food safety, quality and hygiene, seeks a module for auditing social issues. BSCI will be this module.

BSCI conducts information seminars for suppliers and workshops for auditors between 14 and 23 March in China (Shanghai and Shenzhen) and India (Gurgaon, near Delhi).

The supplier database, a central management tool of the BSCI, is operational. It will provide the possibility to monitor the activities of all parties involved and statistics for a close follow-up of developments in supplying facilities.

The planning for a large CSR conference in Brussels, scheduled for 23/24 November, has started. This will broaden knowledge about BSCI in the CSR world and will set a cornerstone for information and networking also with a view to attract new members.

The WTO – Some reflections on scope and alternatives

The 6th WTO Ministerial Meeting in Hong Kong will not complete the current round of negotiations. Not even the European Commission is expecting the meeting in December 2005 to produce a new WTO-agreement on further trade liberalisation.

The official deadline – the end of 2004 - for the completion of the Doha Development Agenda (DDA) will thus be missed. Officials from the EU Commission refer to the end of 2006 (!) as the new deadline.

The FTA has always promoted a timely conclusion of the DDA. Yet it does not wish for just any conclusion. The outcome must bring considerable improvements for business because the initiation of a new round of negotiations after the conclusion of the DDA appears at present highly questionable. What can not be achieved within the current round will remain unchanged on WTO level for years.

The run of negotiations since the last Ministerial Meeting in Cancun can be resumed in one sentence: After a complete stand-still of negotiations from

October 2003 until May 2004, the EU offer to abolish trade-distorting subsidies for agricultural products and to drop three of the Singapore issues opened the way for the July package with a framework-agreement which lead to an official return to the negotiation tables in Geneva after the summer break in 2004.

But not much has happened since then. Only the negotiations on agriculture are way ahead now and have to be caught up with. All other issues still remain on their pre-Cancun status. Therefore the FTA will refer to its two major position papers on the DDA published before and shortly after Cancun (www.fta-eu.org “positions”) as the content of these papers remains valid for the future negotiations.

Of all the reasons considered responsible for the paralysed negotiation process in Geneva, two shall be looked at here a little more closely.

Non-trade issues in the DDA

The current agenda is burdened with issues that are only indirectly linked to trade but slow the process down, as many WTO countries are reluctant to take them on board. This does not only concern DCs and LDCs but also industrialised countries like the USA.

The protection of human health and the environment, the respect of social standards and the fostering of development are highly important principles that must be promoted. There is no doubt that international trade can have a relevant impact on these principles - for the better but also for the worse. So a linkage for the sake of improvements seems desirable.

An important aspect though is that separate institutions like the ILO or the WHO as well as many Multilateral Environmental Agreements (MEAs) already deal with the above mentioned non-trade issues.

So what would be the ideal way to enhance the liberalisation of trade at the same speed as the realisation of non-trade concerns?

One extreme would be to focus within the WTO exclusively on tariff reductions, improved market-access and trade rules on one hand and on the other hand negotiate non-trade issues only within the relevant institutions and MEAs. This would doubtless facilitate negotiations on the DDA.

The other extreme would be to take all issues on board within the WTO; a solution that would lead directly into a dead-end street. DCs and LDCs could rightfully refuse this new agenda: When the biggest part of these countries joined the WTO, the negotiations only dealt with trade liberalisation but not with non-trade issues.

The ideal way lies somewhere in between these two extremes. The liberalisation of trade via the WTO should be linked to the work of other international institutions via consultation mechanisms or incentives for countries that have ratified certain MEAs.

This would ensure that trade and non-trade issues are dealt with in those institutions that can provide the relevant know-how. It would speed up the process of trade liberalisation in a sustainable way.

Bilateral agreements

Trade liberalisation can not only be achieved via multilateral negotiations on WTO level but also through bilateral or regional agreements. Negotiations are easier, results can earlier be achieved.

Many WTO members have lately shown a tendency to opt for bilateral negotiations. This is to the detriment of the multilateral process as it does not only affect the motivation but also binds negotiation capacities in poor countries. European retailers watch this development with some concern as the continuation of this process would lead to a patchwork of different tariffs and rules around the globe.

The target must remain a predictable and transparent business climate worldwide which can only be achieved on WTO level.

While Pascal Lamy, former Commissioner for Trade, refrained from the initiation of new bilateral negotiations for the sake of the DDA, the new Commissioner Peter Mandelson is apparently heading for the short cut while still committing himself to multilateralism; a dangerous undertaking regarding the fact that the EU seems to be the main driving force for the completion of the DDA.

Of course the EU has the necessary capacity to negotiate on all levels but it should be aware of the fact that our trading partners may lose interest in a multilateral approach, if an open trading climate with the EU could be easier achieved bilaterally.

Conclusion

The DDA still has good chances to be concluded if all parties involved put enough energy not only in the negotiations on agriculture but also in the other issues on the agenda. But these chances will

fade if too many non-trade issues are taken on board and the WTO community does not commit itself to multilateralism before going in the direction of bilateralism.

FTA welcomes many aspects of the new proposal for a scheme of generalized tariff preferences

On 10 February 2005 the European Commission agreed to bring into force the new scheme of generalized tariff preferences on 1st April 2005 already. In this way, the countries most hardly hit by the tsunami disaster, such as India, Indonesia, Sri Lanka and Thailand, should be supported to find better access to the European market as soon as possible.

Although only Sri Lanka will be granted the so called GSP+ status, which provides for duty-free imports into the European Union, India, Indonesia and Thailand will profit by the new regulation, too. The reason for the renewal of preferential treatment for these countries are new graduation criteria that take into account the economic situation of the country as a whole as well as the sector specific competitiveness. So Thailand will again enjoy preferences with regard to fishing products, plastics and rubber, shoes, glassware, ceramics, pottery and consumer electronics. India will again enjoy preferences with regard to leather goods, furs and textiles. Indonesia will again enjoy preferences with regard to footwear.

As far as the goods concerned are listed as sensitive products, the

common customs tariff duties will be reduced by 3.5 percentage points. For textiles and clothing the reduction will amount to only 20 percent. From our point of view an improvement of the preferential margin is necessary. FTA thinks that it would be desirable and necessary that the preferential tariff rate for all sensitive products uniformly amounted to 50 percent of the most favoured nation tariff. If this results in a duty rate of less than 3 percent the same should not be levied.

The provisions concerning a temporary withdrawal of preferences arrangements or the application of safeguard clauses have remained widely unchanged. Those regulations were of little practical relevance in the past.

In summary one can say that the EU commission has taken up some important suggestions made by FTA aimed at a simplification of the schemes application. Still under criticism are the margin of preferences as well as some parts of the GSP+ provision which appear somewhat vague. The effectiveness of the new system of preferences will further depend on the extent to which the provisions concerning regional cumulation, which are part of the customs code, can be modified.

Intellectual property rights – why the FTA supports the Commission’s new strategy for third countries

Once upon a time, piracy and counterfeiting mainly affected certain types of products, such as traditional luxury goods. As we all know, these days are long gone and piracy is now a problem for all industry sectors. The last few years have shown a massive increase not only in the amount of pirated and counterfeit goods seized by customs at the European borders, but also in the type of goods seized. Counterfeited consumer goods are becoming increasingly common. This causes huge problems for the importing and retailing sector, which imports large amounts of goods from outside the European Union. This is the reason why the FTA fully supports the new strategy presented by the European Commission to fight piracy and counterfeiting outside the EU borders. The strategy, which mainly focuses on enforcing existing legislation, should have positive effects. Even though many countries have IPR legislation, the problems basically lie with actually implementing this legislation. Therefore it makes sense to identify priority countries, which will regularly be surveyed. The

awareness of the existence of such a thing as intellectual property is lacking in certain areas, which makes awareness raising amongst the public an essential part of this strategy, as does technical cooperation and political dialogues. The FTA also believes that the creation of public-private partnerships in order to support and monitor implementation of intellectual property legislation is a constructive way to go forward.

No doubt will the other aspects of the strategy; introducing IPR mechanisms in the EU’s agreements with third countries as well as making use of the WTO dispute settlement mechanism be important for the overall adherence to intellectual property rules. However, the FTA wishes to warn against the use of sanctions for those countries that do not succeed. There is a risk that sanctions would be counterproductive and would affect legitimate parts of industry and trade that do not deal with counterfeited and pirated products.