WHITE & CASE

November 2007

Japan External Trade Organization
WTO and Regional Trade Agreements Monthly Report

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Reports in Detail

United States

United States Highlights

Senate Farm Bill Debate to Extend to December as Lawmakers Introduce Legislation Extending 2002 Farm Bill for One Year

Upon returning to Congress on December 3, 2007 following the two-week Thanksgiving recess, US Senators will resume debate on the 2007 Farm Bill (H.R. 2419). On November 16, 2007, Democratic leaders were unable to gather the 60 votes needed to limit debate and bring the Farm Bill to the Senate floor for a vote. Fifty-five Senators voted to limit debate, and 42 opposed the motion for "cloture." The vote was largely along party-lines; only four Republicans joined Democrats in supporting cloture. Three Republicans did not vote: Sens. John Cornyn (R-TX), Trent Lott (R-MS) and John McCain (R-AZ).

Senate consideration of the Farm Bill is stalled because of disagreement among Democrats and Republicans on the amendments to be included in the 2007 Farm Bill legislation. On November 6, Senate Majority Leader Harry Reid (D-NV) stated that Senators should be allowed to introduce only amendments that were germane to the 2007 Farm Bill, but Senate Minority Leader Mitch McConnell (R-KY) and other Republican members refused to agree to Reid's terms. Reid retaliated with a parliamentary maneuver that effectively blocked all amendments except those that Senators unanimously agreed to consider. Democratic Senate leaders wanted to steer the Farm Bill legislation through the Senate free of unrelated language and new provisions that could jeopardize passage. The 2007 Farm Bill, however, could be one of the last measures moving through the Senate this year, and some Senators view the bill as a potential vehicle for addressing other priorities like estate tax repeal, children's health insurance reform and the Iraq War. Although the procedural standoff between Democrats and Republicans has not ended, Senate Agriculture Committee Chairman Tom Harkin (D-IA) and Ranking Member Saxby Chambliss (R-GA) are collecting the non-germane amendments that Senators want to offer, and the two leaders are working to eliminate those that have no chance of success. Congressional sources report that the two leaders are close to reaching a deal that would limit amendments to the 2007 Farm Bill. Legislative aides from Sen. Reid's office have reported that under the deal, Democrats would be able to offer at least five amendments to H.R. 2419, and Republicans would be given time during Senate consideration for 10 amendments. They also stated that Sen. Reid may allow consideration of a

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few non-germane proposals dealing with the estate tax and the alternative minimum tax (AMT). Congressional sources opine that if Democrats and Republicans can strike a deal on 2007 Farm Bill amendments by November 30, then the Senate would likely resume its consideration of H.R. 2419 immediately upon its return on December 3.

However, even if the Senate approves the 2007 Farm Bill in early December, some sources indicate that House and Senate negotiators might be unable to reconcile the two chambers' different versions of the 2007 Farm Bill by the end of the year. Indeed, Sen. Chambliss has already warned that if the Senate passes the bill by the middle of December, "there's no way to get it to conference and signed by the President by the end of the year." Chairman Harkin echoed Sen. Chambliss' concerns and opined that the Senate's failure to break the stalled Farm Bill debate will likely prevent Congress from passing a completed Farm Bill by end-December. Chairman of the House Agriculture Committee Colin Peterson (D-MN) stated that January is a realistic timeline for getting a completed 2007 Farm Bill to President Bush, even if the Senate approves the bill in December. According to Chairman Peterson, a January timeline allows legislative staff to reconcile the differing House and Senate versions of the Farm Bill during the December recess. He stated that "75 percent" of the House and Senate versions of the bill are similar, and that legislative staff would probably need one to two weeks to reconcile the remaining differences in the two bills.

In light of the stalled 2007 Farm Bill debate, lawmakers have begun to introduce legislation meant to extend the current 2002 Farm Bill for one year. On November 15, 2007, Rep. Jerry Moran (R-KS) introduced a bill (H.R. 4193) to extend the 2002 Farm Bill for one additional year (i.e., until September 30, 2008). The 2002 Farm Bill expired on September 30, 2007, and Rep. Moran stated that an extension of it is necessary given the Senate's problems with the 2007 Farm Bill. The bill has 26 co-sponsors, including House Agriculture Committee Ranking Member Bob Goodlatte (R-VA), who stated that US agricultural producers "need to know their levels of support now, so they can deal with their investors and suppliers." Rep. Goodlatte stated that if Congress cannot complete a 2007 Farm Bill before the 2008 harvest (which is covered under the 2002 Farm Bill), then "many provisions of farm policy would revert to antiquated permanent law, which would cause chaos to some sectors." Rep. Goodlatte is referring to the non-expiring provisions of the Agriculture Adjustment Act of 1938 and the Agriculture Act of 1949. If Congress is unable to complete the 2007 Farm Bill before the beginning of the 2008 harvest, the non-expiring provisions of the Agriculture Adjustment Act of 1938 and the Agriculture Act of 1949 take effect. Each new Farm Bill supercedes the provisions of these permanent laws. Congressional sources have opined that commodity support provisions of these permanent laws are different from current US farm policy and

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inconsistent with current farming, marketing, and trade practices, and are costly to the federal government. For example, the permanent law does not authorize counter-cyclical payments or decoupled direct payments. Acreage allotments and marketing quotas could be implemented for wheat and cotton, and dairy support would be between 75 – 90 percent of parity. Support for rice and soybeans would not be mandatory under permanent law.

Farm groups, such as the American Farm Bureau Federation (AFBF) and the National Farmers Union (NFU), are urging Senators to quickly resolve the procedural debate and resist extending the 2002 Farm Bill for one year. Senators have indicated that they could reach an agreement on amendments to the 2007 Farm Bill by the beginning of December, but whether this prediction will translate to concrete action remains uncertain. The partisan debate over the Farm Bill's amendment process reflects the fact that Congressional qualms over the bill are not substantive. Despite the legislation's lack of significant changes and increased subsidy levels, procedural debate centers around partisan, political issues unrelated to the bill itself. These partisan differences indicate that a new Farm Bill might not emerge until 2008 or beyond, and that Congress could be forced to extend the 2002 Farm Bill as a stopgap solution, a move that could upset several US agriculture groups. Agriculture groups, such as the AFBF, feel that an extension of the 2002 Farm Bill would be "okay" but that not passing a 2007 Farm Bill could amount to "missed opportunities" such as opportunities to invest in biofuels and strengthen the safety net for farmers, as well as afford US agricultural producers with the certainty and predictability afforded in a Farm Bill that outlines agricultural support for the next five years, as opposed to a simple one-year extension of the 2002 Farm Bill.

ITC Makes Negative Determination in AD, CVD Case on Paper Imports from China, Indonesia and Korea

On November 20, 2007, the US International Trade Commission (ITC) determined that a US industry is neither materially injured nor threatened with material injury by reason of imports of coated free sheet (CFS) paper from China, Indonesia, and Korea. ITC Chairman Daniel Pearson, Vice Chairman Shara Aranoff, and Commissioners Deanna Tanner Okun, Irving Williamson, and Dean Pinkert voted in the negative. Commissioner Charlotte Lane voted in the affirmative. As a result of the ITC's negative determinations, no antidumping (AD) or countervailing (CVD) duties will be imposed on imports of CFS paper from China, Indonesia, and Korea.

Copies of the ITC's public report *Coated Free Sheet Paper from China, Indonesia, and Korea (Investigation Nos. 701-TA-444-446 and 731-TA-1105-1107 (Final), USITC Publication 3965, November 2007)* will be available after December 21, 2007, at the ITC.

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105 US Business Leaders Warn Against China Legislation in Letter to Congressional Leaders

In a November 14, 2007 letter addressed to Congressional leadership, 105 Chief Executive Officers (CEOs) of American companies stated their opposition to legislation "targeting the US-China trading relationship." The letter, addressed to Speaker of the House Nancy Pelosi (D-CA), House Minority Leader John Boehner (R-OH), Senate Majority Leader Harry Reid (D-NV), and Senate Minority Leader Mitch McConnell (R-KY), urged Members to avoid any legislative action that would impose unilateral trade penalties that are likely to violate the United States' international obligations under the World Trade Organization (WTO) or provoke retaliation from US trade partners. The executives warned that such actions could weaken the United States' international competitiveness and threaten US national interests. Although the executives disagreed with Congress' proposed means of addressing "important challenges" such as currency valuation, product safety and intellectual property protection, the letter stated their shared view that "more action needs to be taken." According to the US-China Business Council (USCBC), the House and Senate have introduced over 100 trade and commercial bills related to China since convening in early January. Most of these proposed bills have yet to move beyond committee, but some observers opine that Congress could pass a bill targeting Chinese currency practices as soon as Spring 2008.

The executives' concerns expressed in the letter echo those of other US businesses. On September 26, for example, more than 150 business and industry associations sent a letter to all Members of Congress urging them to reject "policies that single out individual countries as responsible for the United States' broader concerns." The executives' statements also echo concerns of the Bush Administration, which has sought to deter Congress from taking unilateral action against China through legislation. On June 30, Treasury Secretary Henry Paulson, Commerce Secretary Carlos Gutierrez and US Trade Representative (USTR) Susan Schwab sent separate letters to Senate leaders from both parties opposing two Senate bills (S. 1607 and 1622) that require Treasury Department action against countries found to have "misaligned" or "manipulated" currencies. The letters criticized the bills as "counterproductive" and warned that the bills' potential violation of the United States' international obligations could provoke US trade partners to enact "mirror legislation." On November 14, Special Envoy for China and the Strategic Economic Dialogue (SED) Ambassador Alan F. Holmer stated that Chinese and US policymakers should resist "short-term and misguided policy responses" that would sacrifice the gains of increased openness between the two countries. Despite its opposition to the Congressional measures, the Bush Administration has taken a number of steps to address Chinese trade practices. The Office of the USTR

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has filed four complaints with the WTO dispute settlement body (BSB) since March 2006, and the Department of Commerce and International Trade Commission have accepted eight investigations that would apply countervailing duties (CVDs) to imports of illegally subsidized Chinese imports.

The November 14 CEO letter is significant for several reasons. First, although other US business leaders and groups have lobbied against unilateral trade legislation, the November 14 letter is the first to oppose expressly legislation targeting China (rather than unilateral legislation more generally). Business leaders' willingness to be associated with China – and incur possible backlash from consumers, shareholders and anti-China Members of Congress – indicates how strongly they oppose the current unilateral measures. Second, that over 100 CEOs from the nation's largest and most successful companies – including Coca Cola, FedEx, Microsoft, and Proctor & Gamble – signed the letter indicates the extent to which US businesses rely on China trade, and thus oppose unilateral legislation targeting that relationship. Third, US businesses' views on China trade might also affect the current US presidential campaigns, as Democratic frontrunners have either co-sponsored or publicly supported unilateral legislation against China's trade practices.

President Bush Nominates New Agriculture Secretary

On October 31, 2007, President George W. Bush nominated former governor of North Dakota Ed Schafer for US Secretary of Agriculture, replacing former Secretary of Agriculture Mike Johanns. Johanns announced his resignation from his post on September 19, 2007 and has indicated plans to run in the Nebraska Senate race in 2008. In the interim, Deputy Secretary of Agriculture Chuck Conner has served as Acting Secretary of Agriculture. It is unclear when the Senate will consider Schafer's nomination.

According to the White House, during his two terms as North Dakota's governor (1992-2000), Schafer "gained extensive experience with the leading agriculture industry" and was "a leader on agricultural issues." During his time as Governor, Schafer led an agricultural trade mission from North Dakota to China in 2000 to help open new markets for North Dakota, oversaw initial development of North Dakota's biofuel industries and also directed the state's response to eight statewide disasters, including drought, flood and fire. The White House also stated that former Governor Schafer pioneered innovative programs to increase economic opportunity in North Dakota's rural communities by using technology to deliver education, healthcare and economic development. Should the Senate approve President Bush's nomination of Schafer for Agriculture Secretary, his priorities will be to work with Congress in passing a Farm Bill, to help conclude the World Trade Organization (WTO) Doha Round of trade negotiations, and to seek opening up new markets for US beef and other agricultural products.

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Congressional reaction to Schafer's nomination was positive. Senate Agriculture Committee Chairman Tom Harkin (D-IA) stated that he looks forward to working with Schafer in passing a 2007 Farm Bill. Ranking Member on the Senate Agriculture Committee Saxby Chambliss (R-GA) noted that Schafer has a strong background in public service, "which will certainly be a valuable asset in his new role as Secretary." House Agriculture Committee Chairman Collin Peterson (D-MI) stated that Schafer "understands agriculture in our part of the world" but he added that Schafer might not be the most "ideal advocate" for the Bush Administration's argument that farm subsidies should be cut to ease disputes with international trading partners. According to Rep. Peterson, "drought and flooding in northern Plains states [such as North Dakota] make farming a risky business, and farmers there tend to rely on subsidies more than producers in other parts of the country do." Rep. Peterson questioned whether Schafer "will have to toe the Administration's line [in reducing subsidies so as to avoid conflict with trading partners] or whether he will be able to soften [its] position on issues like sugar and permanent disaster assistance."

Private sector response was also positive, although Schafer's nomination was initially met with confusion. Many private farm interest groups had assumed that Acting Agriculture Secretary Conner, who served as deputy to former Secretary Johanns and who is viewed as the "architect" of the Administration's 2007 Farm Bill proposal, would receive the nomination. Congressional sources opine, however, that Conner's "free-trade approach" to farm policy may have limited support from members of Congress for his potential confirmation, especially among subsidy-supporting members of the Senate Agriculture Committee, such as Sen. Chambliss. Nonetheless, within the private sector, Schafer's nomination is seen as a positive move. United States Cattleman's Association (USCA) President Jon Wooster opined that Schafer has vast experience in areas critical to US cattle producers. President of American Farm Bureau Federation (AFBF) Bob Stallman also noted that Schafer's background in small business issues will give him "an understanding of the economic challenges US farmers and ranchers face."

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Free Trade Agreements

USTR Attempts to Strengthen Trade Ties with ASEAN and APEC Partners

Summary

The United States Trade Representative (USTR) has turned its attention to members of the Association of Southeast Asian Nations (ASEAN)[1] and the Asia-Pacific Economic Cooperation (APEC)[2] in its efforts to strengthen trade and commercial linkages with US trading partners in light of the absence of Presidential Trade Promotion Authority (TPA). TPA's June 30, 2007 expiry limits USTR's Free Trade Agreement (FTA) related activity, and any new FTA negotiations with ASEAN or APEC partners are unlikely until Congress renews TPA. USTR, however, has turned to other fora, such as Trade and Investment Agreements (TIFAs), with ASEAN and APEC members to strengthen bilateral trade ties. We review below recent developments regarding USTR's focus on ASEAN and APEC countries.

Analysis

I. US – ASEAN Bilateral Talks

On November 19, 2007, USTR Schwab met with ASEAN counterparts on the sidelines of the 13th ASEAN Summit in Singapore. During the meeting, the two sides discussed several ongoing projects under the US – ASEAN TIFA including the "ASEAN Single Window," regulatory activities, sanitary and phytosanitary (SPS) regulatory activities, and regional economic integration. The two sides also discussed ASEAN members' involvement in the World Trade Organization (WTO) Doha Round negotiations, and how ASEAN members could push the stalled talks forward. When asked if the United States would pursue a formal US – ASEAN FTA, USTR Schwab responded that it is unlikely that the United States will pursue an FTA with ASEAN in the near future. She noted, however, that the United States has not ruled out the possibility as a long-term objective. USTR Schwab stated that the US – ASEAN TIFA affords the two sides with the potential for "creating the building blocks [for an FTA] down the road." She noted that although the current political climate in the United States would make it hard for

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[1] The ten ASEAN members are Brunei, Cambodia, Indonesia, Laos, Malaysia, Burma, the Philippines, Singapore, Thailand, and Vietnam.

[2] The 21 APEC members are Australia, Brunei, Canada, Indonesia, Japan, Malaysia, the Philippines, New Zealand, Singapore, Korea, Thailand, United States, Taiwan, Hong Kong, China, Mexico, Papua New Guinea, Chile, Peru, Russia, and Vietnam.

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the United States to pursue an FTA with ASEAN in the short-term, "that does not mean that [the United States does not] have the opportunity to continue broadening and deepening the economic and commercial ties [it has] with individual ASEAN members." According to USTR, taken as a whole, ASEAN is the United States' fifth largest trading partner.

The United States and ASEAN signed the TIFA on August 25, 2006. Under the TIFA, the parties established a formal ministerial dialogue to determine concrete steps for deepening trade and investment relations. Both sides also initiated a work plan under the TIFA and are initially focusing their efforts on three projects: (i) an initiative to support the development of the ASEAN Single Window, which will create a common system throughout ASEAN for entry of goods, facilitating trade within ASEAN and between ASEAN and the United States; (ii) a framework agreement on SPS issues to foster increased trade in agricultural goods; and (iii) the development of harmonized standards for pharmaceutical registration and approval.

II. US – Cambodia TIFA

On November 21, 2007, USTR Susan Schwab met with Cambodian Minister of Commerce Cham Prasidh in Cambodia under the auspices of the US-Cambodia TIFA. USTR Schwab's visit marked the first time a USTR has visited Cambodia. At the TIFA meeting, the two officials discussed Cambodia's economic performance, domestic reforms and implementation of legal and trade reforms that it committed to under its 2004 WTO accession. Other items on the discussion agenda included intellectual property rights (IPR), investment and trade facilitation. The two sides, however, did not discuss a potential FTA between the two countries.

The United States and Cambodia signed the TIFA in July 2006. Trade between the United States and Cambodia totaled USD 2.2 billion in 2006. Current US foreign direct investment (FDI) in Cambodia is approximately USD 1 million.

III. US – Vietnam TIFA

USTR sources have indicated that US officials plan to meet with Vietnamese officials in Washington, DC the week of December 17 for the first ever US-Vietnam TIFA meeting. The topics of discussion likely will center on Vietnam's WTO accession commitments and its implementation of the bilateral trade agreement (BTA) it signed with the United States in 2001. The two sides will also discuss Vietnam's investment climate.

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The United States and Vietnam signed the TIFA on June 21, 2007. According to USTR, two-way goods trade between Vietnam and the United States totaled USD 9.7 billion in 2006, an increase of 23 percent from 2005. In 2006, the United States exported USD 1.1 billion worth of goods to Vietnam.

IV. US – Malaysia FTA

On November 19, 2007, USTR officials stated that the United States and Malaysia will attempt to recommence FTA negotiations at the beginning of 2008. Although USTR spokesman Steven Norton did not provide an exact timeframe for the FTA negotiating round, he noted that the two sides are working on finalizing dates and should know shortly when they will meet. The United States and Malaysia launched formal FTA negotiations in March 2006 and held their last formal negotiating round in February 2007. The June 30, 2007 expiry of TPA, however, effectively placed a halt on the formal talks, although USTR officials noted that they would continue to meet with their Malaysian counterparts informally to complete as much of the agreement as possible so that if and when Congress renews TPA, the two sides would be close to completing a comprehensive FTA. Contentious agenda items in the FTA talks include Malaysia's *bumiputra* policy, which grants preferential treatment to ethnic Malaysian companies, as well as financial services and government procurement.

USTR's announcement on the US – Malaysia FTA followed a five-day mission to Malaysia that the US-ASEAN Business Council (USABC) concluded November 16, 2007. During the mission, USABC delegates met with Malaysian government and business leaders in Johor, Kuala Lumpur and Putrajaya to reiterate the US business community's support for the successful conclusion of the FTA. The delegation also met with Malaysia's Prime Minister H.E. Dato Seri Abdullah Badawi, Minister of International Trade and Industry H.E. Dato Seri Rafidah Aziz, and Second Finance Minister H.E. Tan Sri Nor Yakcop. USABC urged the completion of a US – Malaysia FTA before the November 2008 US Presidential elections.

V. US – APEC Bilateral Talks

On November 26, 2007, Assistant USTR Wendy Cutler announced that the United States will work with APEC economies to establish a Free Trade Area for the Asia-Pacific (FTAAP) in the long term. AUSTR Cutler stated that the United States will begin its work with APEC economies in 2008 in laying the groundwork for an FTAAP that "weaves together existing FTAs in the region [and] adopts a building block approach under which negotiators would work on one FTA chapter at a time." She noted that the United States will request that APEC undertake an analysis of similarities and differences in FTAs in the region. AUSTR Cutler stated that the creation of an FTAAP would be challenging because APEC consists of

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"twenty-one economies at differing levels of development with different types of barriers." She noted, however, that the United States is "cognizant of the dynamism in the [Asia]" and added that the United States sees a longer-term FTAAP as an opportunity to tap into the region's dynamism.

APEC members formally agreed to consider the FTAAP as a long-term proposal during the 2006 APEC Summit in Hanoi, Vietnam. Members instructed their respective ministers to prepare a report on the proposal, and the ministers presented the report to the Leaders during the 2007 Summit in Sydney, Australia. Although the 2007 Ministerial Statement emphasized APEC members' commitment to a successful conclusion of the Doha Round, it also noted members' agreement to "examine the options and prospects" for the FTAAP going forward.

Outlook

Although the lack of TPA limits USTR's ability to pursue any new FTA negotiations in the short-term, USTR is pursuing alternative strategies to strengthen its trade linkages with ASEAN members. Talks held under the US – Cambodia and the US – Vietnam TIFAs, for example, indicate that the United States views these economies as potentially viable longer-term FTA partners; USTR will likely continue to meet with officials from these two countries, as well as with officials from other ASEAN economies, under the auspices of its TIFAs to maintain its presence in the region and demonstrate its interest in these economies. TIFAs are limited trade agreements that allow parties to monitor and discuss trade issues. Under US trade policy, TIFAs are the first step towards the initiation of formal bilateral or regional FTA negotiations. USTR has not yet broached the issue of FTAs with Cambodia and Vietnam; however the respective TIFAs with these two economies indicate that although the United States is not yet ready to begin formal FTA talks, it views them as a viable FTA partners. The next step in the process would be for the countries to enter into a Bilateral Investment Treaty (BIT) with the United States; BITs protect the rights of foreign subsidiaries and investors in the countries' home markets.

The prospects for a US – ASEAN FTA and an FTAAP are less promising. USTR has stated that an FTAAP is a longer-term objective that will require time and effort; thus, it appears unlikely that the United States will pursue such an ambitious agreement in 2008 without TPA. The United States, however, could take the initiative to move APEC forward on the FTAAP when it hosts the APEC Summit in 2011. Such initiative would depend, however, on the political will of the future US Administration and on that of APEC members. On the ASEAN side, US and ASEAN officials have pointed out that the US – ASEAN TIFA does not serve as a definite precursor for a more formal US – ASEAN FTA. USTR Schwab, has also made clear that the TIFA is unlikely to remove one of the most contentious issues blocking a closer economic partnership – or FTA – between the United States and ASEAN: US economic sanctions against

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Burma due to the nation's human rights record. Regardless, an FTA with ASEAN would prove more complicated than US FTAs with individual ASEAN members. ASEAN is a large geographic zone comprised of economies at various stages of development. With a US – Singapore FTA already in effect and USTR negotiating an FTA with Thailand and Malaysia, it is unclear how USTR would formulate a regional FTA that would treat all ASEAN members equally, despite their heterogeneous economic ties with the United States. A US – ASEAN FTA could build upon common elements of US TIFAs with Brunei, Indonesia, Malaysia, the Philippines, Thailand, Cambodia, and Vietnam, but the United States would likely still need to complete a TIFA with Burma if it decided to pursue this track. Although the future of a US – ASEAN FTA remains unclear, it is clear is that the United States will not pursue this initiative in the near-term.

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Free Trade Agreements Highlights

United States, Libya Meet to Discuss Bilateral Trade Relations

From November 13-14, 2007, officials from the United States and Libya met to hold high-level discussions on US-Libya bilateral trade and investment relations. Libyan Minister for Economy, Trade and Investment Ali Al-Esawi met with Secretary of Commerce Carlos Gutierrez and Deputy United States Trade Representative (DUSTR) John Veroneau during the two-day meetings. Al-Eswai stated that Libya's objective in the mid-November discussions with US officials was to lay the groundwork for the establishment of a broad "legal framework" for trade and investment between the United States and Libya.

On November 14, officials from both countries agreed to establish the US-Libya Commercial Policy Dialogue, a formal body that will meet annually to discuss strengthening bilateral commercial ties between the two countries. The United States and Libya also agreed to consider negotiating a Trade and Investment Framework Agreement (TIFA) and a possible Bilateral Investment Treaty (BIT), both prerequisites that the United States usually completes with its trading partners prior to initiating formal Free Trade Agreement (FTA) negotiations. US officials cautioned, however, that the creation of a TIFA and BIT with Libya are long-term goals and that there are no immediate plans to begin FTA talks with Libya.

During the meetings, US officials also told Libyan officials that they were paying attention to Libya's accession to the World Trade Organization (WTO). Assistant USTR for Europe and the Middle East Shaun Donnelly stated that Libya's willingness to endorse reforms in areas such as sanitary and phytosanitary (SPS) measures, technical barriers to trade and intellectual property rights (IPR) will help it move forward in its WTO accession. According to Donnelly, "if Libya can demonstrate a capacity to move forward, [the United States] will focus on Libya" as a serious candidate for full WTO membership. Libya initiated its accession 2004, but has not yet submitted the required memorandum on its foreign trade regime to its WTO accession working party. According to Donnelly, Libya has not yet commenced bilateral accession talks with the United States. Donnelly noted that if Libya moves forward on its WTO accession, then the United States would also look to Libya as a viable TIFA, BIT and FTA candidate.

In September 2004, President Bush announced the end of the 18-year US trade embargo against Libya following Libya's December 2003 commitment to oppose terrorism and halt the development of both weapons of mass destruction and long-range missile-delivery systems. On May 15, 2006, US Secretary of State Condoleezza Rice announced that the United States and Libya had resumed full diplomatic relations, and that the State Department had removed Libya from its list of state sponsors of terrorism.

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Secretary Rice also announced that US companies would now be able to export computers and other high-technology products to Libya, and that the United States made the decision "in recognition of Libya's continued commitment to renounce terrorism and its cooperation in response to the common global threats faced by the civilized world since Sept. 11, 2001."

The increased commercial dialogue between the United States and Libya likely forms a component of President Bush's proposed US-Middle East Free Trade Area (USMEFTA) initiative. Under the Bush Administration's USMEFTA initiative, the United States seeks to establish bilateral FTAs with all countries in the Middle East region by 2013. However, because of Libya's ongoing WTO accession and the June 30, 2007 expiry of Presidential Trade Promotion Authority (TPA), it is unlikely that the United States will formally commence FTA talks with Libya anytime soon. Both countries' exploration of a possible TIFA and a BIT are also long-term goals but indicate that the Bush Administration is still focused on the Middle East region and will attempt to strengthen commercial ties with Middle Eastern trading partners in an effort to keep the USMEFTA initiative moving forward. Beside the USMEFTA initiative, the United States is likely looking to strengthen commercial ties because of its trade in oil with Libya. US imports of crude oil and other petroleum products from Libya totaled USD 2.5 billion in 2006, and industry sources expect Libya to export even more oil to the United States over the next several years.

House Democrats Urge Leadership to Consider Geopolitical Context of KORUS FTA

In a November 8, 2007, letter to House Democratic leadership, Rep. Diane Watson (D-CA) and nine other House Democrats advocated passage of the Korea-US (KORUS) Free Trade Agreement (FTA) by underscoring the agreement's geopolitical importance. In the letter, addressed to Speaker of the House Nancy Pelosi (D-CA), Majority Leader Steny Hoyer (D-MD), Ways and Means Committee Chair Charles Rangel (D-NY) and Ways and Means Trade Subcommittee Chair Sander Levin (D-MI), the ten Democratic Members noted that the United States and Korea have enjoyed political and economic relations for 125 years, and that Korea continues to serve as a "vital ally" in Northeast Asia. The letter cites Korea's roles in preventing the proliferation of North Korean nuclear weapons and balancing against China's "emerging economic and political dominance" in the region. According to the letter, the FTA's benefits would extend beyond economic gains from lowered tariff barriers because it would also strengthen the United States' and Korea's political and strategic alliance. The Members opine that increased economic and trade activity under the FTA would solidify bilateral relations by encouraging greater interaction between Korean and American professionals, students and tourists. Although the

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Members acknowledge the "domestic concerns" related to the Agreement's passage in the United States, they encourage House Democratic leaders to grant full consideration to the FTA's geopolitical aspects.

The United States and Korea signed the KORUS FTA on June 30, 2007; however, the agreement's approval in both countries has stalled due to domestic political concerns. Korea's legislature, the National Assembly, will likely postpone consideration of the agreement until after Korea's December 2007 Presidential elections. On the US side, many Democratic and Republican Members of Congress have indicated that they will oppose or withhold support for the agreement until Korea reopens fully its market to imports of US beef, on which the Korean government has maintained import restrictions since December 2003. Other Members, Democrats in particular, have criticized the agreement's alleged failure to address non-tariff barriers (NTBs) for sectors such as automobiles. In a June 29 statement, Speaker Pelosi and Reps. Hoyer, Rangel and Levin opined that the agreement "does not address in an effective manner the persistent problem [of NTBs]" and added that they could not support the agreement "as currently negotiated."

Because of broad-based Democratic opposition to KORUS, the November 8 letter in support of the Agreement is a significant departure from the party line. Moreover, the letter underscores the agreement's importance to the United States not only economically, but also in geopolitical terms. The Bush Administration has also promoted the agreement's strategic importance: Secretary of State Condoleezza Rice stated in May that failure to pass the agreement would send a "disastrous signal" to region and she has reiterated this message in recent months. On the other hand, the small number of Democratic Members who co-authored the letter with Rep. Watson indicates that Democratic support for the KORUS FTA remains disparate and insufficient to ensure congressional passage. Given the Agreement's economic importance, as well as the Bush Administration's past reluctance to submit FTA implementing legislation before it has secured passage, it is unlikely that the Administration will move the KORUS legislation based upon this letter. Submission of the implementing legislation starts strict timetables for congressional consideration under Presidential Trade Promotion Authority (TPA). To convince the Administration to start the clock, a broader shift in Democratic support in Congress – perhaps arising from the Korean National Assembly's passage of the Agreement or the Korean government's reopening of the Korean beef market – is necessary.

House Approves US – Peru FTA; Agreement Moves to Senate

(Please note that on December 4, 2007, the Senate approved implementing legislation for the US-Peru Free Trade Agreement (FTA) (H.R. 3688) by a vote of 77 to 18. The agreement will next move to the

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President for his signature. We will include our report on the Senate's passage of the agreement in the December 2007 monthly report).

On November 7, 2007, the House of Representatives approved implementing legislation for the US-Peru Free Trade Agreement (FTA) (H.R. 3688) by a vote of 285 to 132. House Members did not consider any amendments to the agreement because the FTA falls under Presidential Trade Promotion Authority (TPA); the United States and Peru signed the FTA before the TPA expired on June 30, 2007, and TPA bars Congress from amending the FTA's final text. The implementing legislation next moves to the Senate, and Congressional sources opine that the Senate will likely vote on the agreement during the week of December 3.

Support for the agreement was bi-partisan. Only 16 of 200 House Republicans opposed H.R. 3688, whereas 109 of 233 House Democrats supported the FTA. Key Democratic Members voting in favor of H.R. 3688 included House Speaker Nancy Pelosi (D-CA), Majority Leader Steny Hoyer (D-MD), Majority Whip James Clyburn (D-SC), Ways and Means Committee Chairman Charles Rangel (D-NY), House Financial Services Committee Chairman Barney Frank (D-MA), House Energy and Commerce Chairman John Dingell (D-MI), and Armed Services Chairman Ike Skelton (D-MO). Among the Democratic opposition were 28 freshman Democrats and 10 of 17 committee chairs. Committee chairs opposing the US-Peru FTA included Judiciary Committee Chairman John Conyers (D-MI); Homeland Security Chairman Bennie Thompson (D-MS); Rules Committee Chairwoman Louise Slaughter (D-NY); Appropriations Committee Chairman David Obey (D-WI); Veterans' Affairs Committee Chairman Robert Filner (D-CA); Natural Resources Committee Chairman Nick Rahall (D-WV); Budget Committee Chairman John Spratt (D-SC); Education and Labor Chairman George Miller (D-CA); and Small Business Committee Chairwoman Nydia Velazquez (D-NY). Congressional sources noted, however, that the Democratic support for the US-Peru FTA exceeded Democratic support for any other Latin American FTA brought to the House floor for a vote. Sixteen House Members (eight Democrats and eight Republicans) did not vote.

Reaction to House approval of the US-Peru FTA was positive. President Bush lauded House approval of H.R. 3688 and called on Congress to approve pending FTAs with Colombia, Panama and Korea. The Bush Administration, however, has yet to submit these agreements' respective implementing legislation to Congress for a final vote; the President signed each before TPA expired. House Ways and Means Committee Chairman Rangel stated that the US-Peru FTA "is truly an historic breakthrough because, not only will it open new markets for American goods and services, but for the first time we have included enforceable standards for workers and stronger environmental protections in the text of the agreement."

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House Ways and Means Trade Subcommittee Chairman Sander Levin (D-MI) opined that approval of the US-Peru FTA translates to a new US trade model that protects workers and the environment. United States Trade Representative (USTR) Susan Schwab stated that the US-Peru FTA “is the foundation of an enduring partnership with one of America’s key friends and allies in Latin America.” Secretary of Commerce Carlos Gutierrez commended the House of Representatives for its support of the FTA and stated that the agreement removes barriers to US exports “so American workers, farmers and businesses can compete and win in the Peru market.” Senate Finance Committee Chairman Max Baucus (D-MT) stated that the House vote is a show of support for enforceable labor and environmental standards, and he predicted that the Senate would also approve the agreement.

On October 4, 2007, the Senate Finance Committee approved implementing legislation for the US-Peru FTA by a margin of 20 to 1. The legislation, however, could not move to the Senate floor for a vote because the implementing legislation is considered a revenue measure, and US law mandates that revenue measures originate in the House of Representatives. On October 31, 2007, the House Ways and Means Committee unanimously approved H.R. 3688, and the legislation moved to the House floor for a vote. The United States and Peru signed the US-Peru FTA on April 12, 2006, but the agreement required further amendments specific to labor and the environment after the Bush Administration and Congressional Democratic leadership achieved a bipartisan trade deal in May 2007 requiring all pending and future US FTAs to contain “stronger labor and environmental provisions.” The United States and Peru completed amendments to the agreement prior to TPA’s June 30 expiry.

Once implemented, the agreement will grant immediate duty-free access to certain goods traveling between the two countries and phase out remaining tariffs in ten years. Under the agreement, US exports of consumer and industrial goods will receive immediate duty-free treatment, and the countries will phase-out all remaining tariffs within ten years of when the FTA enters into force. Two-thirds of US agricultural products will also receive immediate duty-free access and remaining agricultural tariffs will be phased-out within 18 years. Under the FTA, Peru is required to remove its market access barriers to services trade and “provide a secure, predictable framework for US investors operating in Peru.” The agreement also contains provisions for five years of “data protection” on goods including pharmaceuticals, as well as provisions protecting US investors and investments.

The US-Peru FTA is the first of four pending US FTAs that the 110th Congress has considered in 2007, and it is likely the only pending FTA that Congress will approve of by the end of 2007. The Senate’s approval of the agreement will quickly follow House approval of the US-Peru FTA’s implementing legislation, and it seems likely that the Senate will approve the agreement before the end of December.

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The breakdown of the House vote on H.R. 3688 shows continued congressional partisanship on trade issues, with Republicans approving FTAs and Democrats objecting to them. As noted, however, House Democratic support for the US-Peru FTA was higher than House Democratic support for any other Latin American FTA, a likely consequence of the May 2007 Congressional-Administration's deal on enhanced labor and environmental provisions to the FTA, as well as extremely limited opposition from US unions and other groups traditionally opposed to trade liberalization. It seems likely that the Senate's vote on the Peru agreement will follow the voting pattern established in the House. As for the other completed US FTAs (with Panama, Colombia, and South Korea) Congressional passage of the US-Peru FTA does not portend their approval. Although signed months ago, each of these bilateral agreements has stalled because of Congressional opposition specific to the FTA. Thus, the FTAs likely will have to wait until 2008 for Congressional consideration, and approval is far from certain.

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Multilateral

Multilateral Highlights

Brazil Challenges US Trade-Distorting Agricultural Subsidies at the WTO

At the November 19, 2007 meeting of the Dispute Settlement Body (DSB), the Brazilian Government requested the establishment of a World Trade Organization (WTO) dispute settlement panel on US trade-distorting agricultural subsidies. The Canadian Government seconded Brazil's request. On November 27, 2007, the United States blocked the Brazilian and Canadian panel request. Brazil and Canada will likely renew their request at the next DSB meeting scheduled for December 17. At that time, under WTO rules, the DSB will automatically accept their requests and form a panel.

Brazil and Canada argue that the United States has provided trade-distorting agricultural subsidies in excess of its WTO commitments in 1999, 2000, 2001, 2002, 2004 and 2005. Under its Total Aggregate Measurement of Support (Total AMS) commitments under the WTO Agreement on Agriculture, the United States agreed that its level of trade-distorting domestic support would not exceed USD 19.9 billion for 1999 and USD 19.1 billion for each subsequent year. In October 2007, the United States notified the WTO of what it considers to be its trade-distorting subsidies for the years 2002-2005. The United States claims that these notifications, along with its earlier WTO notifications, show that its annual levels of trade-distorting support have been within its WTO commitments. However, Brazil and Canada argue that when these programs are properly accounted for under the WTO Agreement on Agriculture, the level of US trade-distorting agricultural subsidies exceeded US WTO commitments in 1999-2002 and in 2004 and 2005.

In blocking Brazil and Canada's panel request, the United States argued that the US government ensures that spending amounts for US agriculture support programs fall within WTO limits. The United States also argued the dispute distracts WTO Members from completing the Doha Round negotiations. US officials criticized Brazil and Canada for requesting the panel and stated that both countries should instead ensure that "the Doha negotiations successfully increase farm trade, to provide a real boost to farmers and consumers worldwide, rather than pursuing this dispute."

The United States could face additional WTO disputes (besides this current one) with Brazil and other trading partners regarding US agricultural support and farm subsidies. The US Congress is currently debating the 2007 Farm Bill which is very similar to the 2002 Farm Bill and continues the agricultural

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support programs included in the 2002 legislation. Indeed, the bill increases subsidy levels for certain crops - a fact that will likely anger other WTO Members. The current Farm Bill remains stalled in Congress due to procedural and political issues unrelated to the Bill's substance; few Members of Congress oppose the blanket extension of the 2002 Farm Bill's agricultural subsidy programs, despite vocal opposition from US trading partners at the WTO. Because of this fact, it is almost certain that the 2007 Farm Bill will not resolve current WTO dispute settlement cases regarding US farm subsidies and indeed could lead to more WTO disputes over US agricultural support.

USTR Schwab, DOC Secretary Gutierrez Acknowledge Senate Concerns over Zeroing in Doha Rules Negotiations

In a November 1, 2007 letter to Senator Elizabeth Dole (R-NC), United States Trade Representative (USTR) Susan Schwab and Secretary of Commerce Carlos Gutierrez stated that the United States would continue its efforts to work with other World Trade Organization (WTO) Members to achieve a "favorable result" in the Doha Round Rules negotiations on the issue of "zeroing." USTR Schwab and Secretary Gutierrez's letter responded to an October 11, 2007 letter from thirteen Senators – led by Sens. Dole and Jay Rockefeller (D-WVA) – in which the Senators emphasized the importance of incorporating language into the text of any final Doha Round Agreement to permit the use of "zeroing" by WTO Members' investigating authorities.

The October Senate letter stated that the issue of zeroing was "particularly critical" to the outcome of the Doha Development Round talks as a whole. The letter criticized the recent WTO Appellate Body decisions on zeroing, which it considered had "given rise to more criticism – and, indeed, ridicule – than perhaps any other area of jurisprudence in the [WTO's] history." The Senate letter expressed the view that "rectifying the decisions on zeroing would only restore the original intent of the [WTO] agreements," and suggested that this "should be seen as the starting point for the Rules negotiations" and not "as a trade-off for other changes that weaken the agreements."

In response, USTR Schwab and Secretary Gutierrez's letter specifically stated that "the Bush Administration has made clear its strong disagreement with recent dispute settlement findings by the WTO Appellate Body regarding zeroing." According to the letter, the Bush Administration has communicated its views to other WTO Members that "the Appellate Body used a flawed interpretive approach not based on the text of the [WTO Antidumping Agreement] and noted that the United States "submitted a textual proposal in the Rules negotiations in June [2007] to provide clear, precise rules in the Antidumping Agreement expressly permitting the use of zeroing."

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The Senate letter was prompted by a succession of adopted WTO Panel and Appellate Body decisions involving the US Department of Commerce's (DOC) zeroing methodology. According to several WTO panels (DS294: United States – Laws, Regulations and Methodology for Calculating Dumping Margins (Zeroing), DS322: United States – Measures Relating to Zeroing and Sunset Reviews and DS344: Final Anti-Dumping Measures on Stainless Steel from Mexico (according to sources familiar with the preliminary ruling issued to the parties on October 5, 2007), DOC's practice of zeroing violates Articles 2.4 and 9.3 of the Antidumping Agreement. Zeroing arises where investigating authorities do not allow negative dumping margins to offset positive dumping margins when calculating the margin of dumping for the relevant product as a whole. Article 2.4 of the Antidumping Agreement requires WTO Member State investigating authorities to make a "fair comparison" between affected imports' prices and the normal value in dumping margin calculations, and lists three acceptable methods for calculating dumping margins in average to average comparisons, transaction to transaction comparisons and average to transaction comparisons. Article 9.3 reads "the amount of the anti-dumping duty shall not exceed the margin of dumping as established under Article 2." The WTO Dispute Settlement Body has interpreted the "fair comparison" requirement in Article 2.4 to prohibit DOC from applying its zeroing methodology in initial investigations and administrative or sunset review proceedings.

The United States' June 2007 proposal recommended amending the WTO Anti-dumping Agreement by inserting a new Article 2.4.3 to the Antidumping Agreement permitting zeroing and amending Article 9.3 of the Agreement to reflect this new provision. The new Article 2.4.3 would state that investigating authorities "are not required to offset the results of any comparison in which the export price is greater than the normal value against the results of any comparison in which the normal value is greater than the export price."

The United States faces a difficult task in negotiating its proposed changes to the Antidumping Agreement in the Doha Rules negotiations. China has stated that the US proposals go "far beyond" the existing mandate of the Rules negotiating group. Japan has noted that a "vast majority" of WTO Members are opposed to the US proposals on zeroing. Canada has also stated that it will not accept any proposals that would effectively reverse previous WTO Panel and Appellate Body rulings on zeroing. The EU indicated that it was open to work "constructively" with the United States on the issue. An alternative proposal from Egypt would deem zeroing acceptable in average to transaction comparisons, commonly referred to as "targeted" dumping investigations. The WTO Appellate Body has not ruled on the WTO-consistency of the use of zeroing methodology in targeted dumping investigations. US officials welcomed

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the Egyptian proposal but indicated that it carved too narrow an exception for use of the zeroing methodology.

To the extent that the Senate letter signals a Congressional refusal to approve any trade-offs regarding the Rules negotiations, US negotiators in Geneva will face a difficult task ahead of the tentative mid-November deadline set by Chairman of the Rules negotiating group Guillermo Valles Galmes for release of the first Rules text. China submitted proposals in June 2007 calling for tighter sunset review disciplines and a ban on all antidumping duty orders in place for over ten years. US officials indicated that the United States would not accept the ten year ban. However, because China is the most frequent target of antidumping measures among WTO Members, the United States will likely face strong resistance from Beijing on its zeroing proposal unless it makes concessions on China's key issues.

Delays in Agriculture, NAMA Texts Likely Mean Doha Talks Will Continue in 2008

Delays in the issuance of the agriculture and non-agricultural market access (NAMA) draft texts have led World Trade Organization (WTO) Members to reassess their expectations on completing the Doha Round by the end of 2007. The multilateral negotiations remain entrenched due to differences among Members in the agriculture and NAMA talks, and trade officials are now realizing that the talks will likely continue in 2008.

Prior to November, WTO Members and officials – such as WTO Director General Pascal Lamy – continued to express their hope that WTO Members would conclude the Doha Round and complete a comprehensive agreement by the end of 2007, especially in light of revised agriculture and NAMA texts that were to be distributed in mid-November. Lamy and others had hoped that the revised texts would foster further cooperation among WTO Members and spur them to narrow their differences so as to complete the Doha Round by December. However, the beginning of November brought news that the agriculture and NAMA texts would not completed by the expected deadline.

On November 2, 2007, Chairman of the Doha Round negotiating group on agriculture Crawford Falconer announced that he will meet with WTO Members throughout November to discuss the agriculture text and that he would likely issue a revised agriculture text by the end of November. Falconer noted that the November talks would focus on the issues of sensitive products and export competition. Members will discuss tariff-rate quota (TRQ) volumes for sensitive products, export subsidies, export credits and credit guarantees, food aid, and other issues.

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Falconer's announcement was shortly followed by Chairman of the NAMA negotiating group Don Stephenson's announcement that a revised NAMA draft negotiating text would also be delayed. Stephenson announced on November 9 that he will also hold further talks with WTO Members throughout November, and that he expected to issue the revised NAMA text by the end of November, although he did not provide a firm date. NAMA negotiations have been particularly contentious over the past several weeks and negotiators are still unable to agree on two issues in particular: (i) the level of required tariff cuts for developed and developing countries and (ii) the extent of special treatment developing countries should be allowed for sensitive products (i.e., the percentage of tariff lines they should be allowed to exempt from required reductions). Stephenson has indicated that that WTO Members are unlikely to resolve NAMA issues until they resolve contentious issues in the agriculture negotiations. For example, developing countries such as Argentina, Brazil, India, and South Africa have indicated that they are willing to reduce industrial tariffs depending on developed Members' willingness to cut farm tariffs and reduce agricultural subsidies. On the other side, however, developed Members such as the United States and the EU have indicated that they can make cuts in agricultural tariffs and subsidies if they receive guarantees that developing countries will make cuts to industrial tariffs. Regardless of the demands made, WTO sources have opined that it is unlikely that WTO Members will be able to resolve the standoffs in the agriculture and NAMA negotiations before the end of the year.

The delays in the issuance of the revised agriculture and NAMA texts reflect the stalled nature of the Doha Round and how little WTO Members have progressed since January 2007 when Doha negotiations were informally "recommenced" after months of intractability. Since January, WTO Members have not made any concrete forward movement and have not put forth any new proposals that could move the Round forward. Although WTO Members continually indicated their "political willingness" to complete the Doha Round by end-2007, Members did not follow that willingness with substantive action and many viewed the rhetoric as empty. Although analysts had begun predicting in mid-2007 that WTO Members would be unable to achieve a final agreement by the end of the year, the delay in the agriculture and NAMA texts makes it clear that WTO Members will be unable to reach a Doha agreement by December. Members will continue to meet this month and next, but it seems highly unlikely that between now and the end of the year, Members will resolve all their differences in the agriculture and NAMA negotiations and pick up and complete the services and rules negotiations. Large gaps still exist between Members' agriculture and NAMA negotiating positions, and the services and rules negotiations have been held hostage by the lack of movement in agriculture and NAMA. The delays in the agriculture and NAMA texts have only made it clearer that much work still remains for WTO Members in achieving a final

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comprehensive Doha agreement, and that they will need more than two months of negotiating time to iron out their differences and reach a final agreement.

WTO Reports Decrease in Number of New Antidumping Investigations, Final Measures

On October 30, 2007, the World Trade Organization (WTO) Secretariat reported that the number of initiations of new antidumping investigations and new final antidumping measures declined sharply during the January 1-June 30, 2007 period, compared to the corresponding period in 2006. According to the WTO, during January 1-June 30, 2007, only 13 WTO Members reported 49 initiations of new antidumping investigations, a decrease from the 92 initiations reported in 2006. During the first half of 2007, only 16 Members applied 57 new final antidumping measures, compared with 71 new measures reported by 15 Members for the corresponding period in 2006.

Of all reporting WTO Members, India had the highest number of initiations of new antidumping investigations during January-June 2007 (13 initiations). New Zealand came in second with six initiations and Korea came in third with five initiations. According to the WTO, Argentina, Egypt, India, and Mexico witnessed declines in their initiations of new antidumping investigations in the first half of 2007 compared to the first half of 2006. Brazil, Chile, Japan, Korea, New Zealand, South Africa, and the United States, however, increased their new antidumping investigation initiations during the first half of 2007 compared to the same period in 2006.

China remained the most frequent subject of the new antidumping investigations, with 16 initiations directed at its exports during January-June 2007. Taiwan, the European Communities (EC), and Korea were the second most frequent subjects, with four initiations of new investigations each directed at their exports during the first half of 2007. The United States came in third with two new initiations directed against its exports. During the first half of 2007, the chemicals sector was the most frequent subject of the new investigations (23 initiations of new antidumping investigations). Pulp and paper came in second and third place, with nine and six initiations respectively.

India also had the largest application of new final antidumping measures, with 16 new final measures during the first half of 2007. Argentina ranked second with seven new measures imposed in the first half of 2007, followed by the EC (six new measures), China (five new measures) and Pakistan (four new measures). For the first half of 2007, products exported from China remained the most frequent subject of new final antidumping measures, accounting for 22 new measures. Taiwan came in second with its exports subject to four new measures. India, Indonesia, Korea, and Thailand were subject to three new

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measures each during the first half of 2007. Products in the chemical sector were the most frequent subject of new final antidumping measures during January-June 2007, accounting for 12 of the 57 total new measures reported by WTO Members. Products from the textiles sector and the base metals sector were also frequent subjects of new final antidumping measures.

The WTO's statistics are derived from semiannual reports that Members submit to the Secretariat. The figures clearly demonstrate that the dramatic decline in AD investigations that began in 2003 has shown no sign of slowing down in 2007. The statistics can be found at: **http://www.wto.org/english/news_e/pres07_e/pr497_e.htm**.

Mercosur Seeks Increased Flexibilities for Customs Unions at Doha Negotiations

On October 29, 2007, Mercosur countries unveiled a controversial confidential proposal to a group of World Trade Organization (WTO) Members, in which it requested greater flexibility for customs unions in the Doha Round non-agricultural market access (NAMA) negotiations. Mercosur proposes that customs union members be allowed to: (i) select a total of 16 percent of tariff lines so that they are entitled to a "half-formula cut" (i.e., these tariff lines would be subject to only half of the agreed cuts in the NAMA negotiations); and (ii) be exempted from any restriction in terms of volume of trade for the application of flexibilities by the customs union members.

Mercosur argues that the current structure of NAMA modalities is an ambitious non-linear Swiss formula with limited flexibilities that has considerable implications for customs unions integrated by developing countries. Mercosur countries believe that the current structure of the multilateral trading system is not supportive of customs unions formed by developing countries, hence the need to adopt balanced and flexible modalities. Because the proposed NAMA modalities do not address this issue, Mercosur members believe that additional flexibilities are necessary to ensure proper treatment of sensitive sectors. According to Mercosur, "[this] would be achievable by increasing the percentage of tariff lines that would be eligible for flexibilities and also by eliminating the trade limitation for them, as it is the case in the Agriculture modalities." Mercosur's proposal calls for greater flexibilities for customs unions as compared to the current draft negotiating proposal from NAMA Negotiating Group Chairman Don Stephenson, which proposes that developing countries exempt 10 percent of their tariff lines from the agreed cuts. Stephenson's draft text also proposes that developing countries choose to exempt 5 percent of their tariff lines from any cuts in industrial products tariffs; Mercosur's proposal does not consider this option.

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The core group of developed WTO Members (i.e., the United States, Japan, Norway, Switzerland, Canada, the European Union, New Zealand, and Australia) have rejected Mercosur's proposal. They argue that the idea of not establishing trade limits to the amount of trade to be covered and protecting an additional percentage of tariff lines is unacceptable, because customs unions could use this mechanism to exempt their most sensitive tariff lines from the agreed-to cuts. Developed countries have also outlined that Mercosur is not yet a "full-fledged" customs union and that it already has a number of exceptions to Mercosur's Common External Tariff (CET).

Argentina and Brazil are members of the NAMA-11 and the G-20 Group of developing countries. As members of both these groups, they have advocated for higher coefficients than those prescribed in the "Swiss Formula" which would assure them lower tariff cuts than those for developed countries. The NAMA-11 has asserted that the Doha Round will not progress if developed countries do not show more flexibility in NAMA negotiations given that developed countries' current proposal will have significant adverse effects on developing countries' industrialization. NAMA-11 countries argue that developing countries do not need to fully reciprocate tariff reduction commitments by developed countries. They also highlight that agriculture remains the most contentious issue in the Doha Round and any flexibility in the NAMA negotiations should be linked to improvements in developed countries' offers on market access and elimination of subsidies in the agricultural sector.

Brazilian government officials have sent mixed signals to the press regarding the conclusion of the Doha Round. Reportedly, Brazilian President Luiz Inacio Lula da Silva remains optimistic and believes that WTO Members can achieve a deal in 2007 if developed countries show more flexibility on agriculture. Clodoaldo Hugueney, Brazilian Ambassador to the WTO, has stated, however, that "if the texts are imbalanced, there is a risk of failure, and it will be a definitive failure." Brazil is organizing a meeting of trade ministers from the G-20 that will take place in Geneva on November 15, 2007. It remains to be seen if developed countries such as the United States will respond to increased calls from Mercosur and other developing nations to show increased flexibility in the agriculture and NAMA negotiations. If the developed countries' objection to the latest Mercosur NAMA proposal serves as any kind of signal, then it is likely that developing and developed countries will continue their stand-off in the NAMA talks regarding, among other things, the proper coefficients to use in the Swiss Formula of tariff cuts.

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