Washington Tariff & Trade Letter®

A Weekly Report for Business Executives on U.S. Trade Policies, Negotiations, Legislation, Export Controls and Trade Laws

Editor & Publisher: Samuel M. Gilston ● P.O. Box 5325, Rockville, MD 20848-5325 ● Phone: 301-570-4544 Fax 301-570-4545

Vol. 24, No. 31 August 2, 2004

SPECIAL REPORT: RESULTS FROM WTO GENERAL COUNCIL

WTO AGREEMENT RESTARTS CLOCK ON DOHA ROUND NEGOTIATIONS

The World Trade Organization's (WTO) completion at 30 minutes after midnight Aug. 1 of a Framework Agreement on how to move Doha Round negotiations forward will allow trade negotiators to resume talks in September with clearer political guidance than they have had in almost three years. But serious talks won't start until mid-2005, because the top trade leaders in the U.S. and European Union (EU) -- U.S. Trade Representative (USTR) Robert Zoellick and EU Trade Commissioner Pascal Lamy -- are set to leave their posts in the fall and winter.

> Career and technical-level negotiators will return to Geneva to assess the impact of last week's deal on specific products and sectors and to flesh-out the details of their disagreements. "I fully expect that when negotiators return in September, negotiations in these areas and all others will recommence with a high degree of enthusiasm," said WTO Director General Supachai Panitchpakdi.

The WTO General Council formally recognized what everyone has known for some time: the Doha Round won't finish by Jan. 1, 2005. No new deadline was set, however. The members agreed to hold the next WTO ministerial meeting in Hong Kong in December 2005. They also established a new timetable, calling for negotiators to make recommendations on special and differential (S&D) rules by July 2005, revised market opening offers in services by May 2005, and implementation issues by May 2005. No deadlines were announced in other areas.

The final agreement -- produced by General Council Chairman Shotaro Oshima, Japan's ambassador to the WTO, and Supachai -- set ambitious goals for reducing farm subsidies, eliminating export subsidies, cutting industrial and agriculture tariffs, negotiating on trade facilitation, opening services markets, and addressing Uruguay Round implementation issues and S&D treatment for developing and least-developed countries (see stories pages 2-4). It also resolved a demand by four African countries for special treatment for cotton.

AGRICULTURE DEAL LEAVES QUESTIONS ABOUT IMPACT OF SUPPORT CUTS

The agriculture annex (Annex A) that the General Council approved in the Framework Agreement for Doha Round negotiations has raised doubts about whether the proposed cuts in domestic subsidies will reduce the distortions of farm aid for many years. Critics of the deal, which was the most difficult and crucial element of the week of negotiations, already complain

Published weekly 50 times a year except last week in August and December. Subscription in printed or electronic form is $597 a year in U.S., Canada & Mexico; $627 Overseas. Additional copies with full price subscription are $75 each.
Circulation Manager: Elayne F. Gilston

that it allows shifting of support from the so-called Amber Box of trade-distorting domestic aid to a new, bigger Blue Box of less-distorting help with no real change in the impact of the aid.

> The U.S., however, did get credit for agreeing for the first time to putting a number on the level of reduction it is willing to make in domestic supports and for offering a first-year downpayment of 20%. "As the first installment of the overall cut, in the first year of implementation, the sum of all trade-distorting domestic support of such members will not exceed 80% of the overall base level," the agreement states. In the Blue Box, the U.S. also for the first time, agreed to language that would cap all Blue Box support to 5% of each member's total value of agriculture production during an historic period.

Nonetheless, critics, including many developing countries belonging to the so-called Group of 20 (G-20), also note that proposed cuts are from a larger, bound base, thus requiring no actual reduction in support initially. The new base will be the sum of "aggregate measurements of support" (AMS) or Amber Box payments, de minimis payments, and an enlarged Blue Box.

Since the U.S. doesn't fund all the support it is authorized to provide, its cut initially may not change actual benefits. The accord explicitly allows this expanded use of Blue Box and de minimis payments to help subsidy-providing countries make the transition to less support. Depending on what comes out of the round over the next 18 months, any commitments to reduce aid would require changes – many long expected -- in the 2002 U.S. Farm Bill.

The U.S. is expected to shift more of its farm support into the Blue Box, including counter-cyclical payments and aid to cotton producers. But it will face strong opposition to such a move in the Doha talks from countries that have pressed for steep cuts in developed-world farm subsidies. Brazil will fight any effort to undermine its pending WTO panel victory against the U.S. cotton program, and African cotton producers say they intend to be "vigilant" to prevent the U.S. from avoiding substantial reductions in cotton aid.

The key step in the talks on export subsidies came two months ago when the EU agreed to set a fixed date for ending all direct export subsidies. In return, the U.S. in the Framework agreed to eliminate export credits, guarantees and insurance programs that extend beyond 180 days. It also accepted restrictions to prevent food aid from displacing commercial markets.

In market access, the fight between the most-developed countries, such as Japan, Norway and Switzerland -- the so-called G-10 -- and less developed agriculture producers -- the so-called G-33 -- over treatment of sensitive and special products almost derailed the negotiations. To resolve a perceived imbalance in the methods for identifying these products, negotiators agreed that members could select their own sensitive and special products subject to negotiations.

U.S. KEEPS HIGH AMBITIONS FOR TARIFF CUTS FOR INDUSTRIAL GOODS

American negotiators, led by Deputy USTR Peter Allgeier, successfully beat back an attempt by developing and least-developed countries in the negotiations to reduce the level of ambition in the Framework Agreement annex (Annex B) on non-agriculture market access (NAMA). This crucial text for U.S. manufacturers and exporters continues to maintain the basic goal of higher cuts on higher tariffs, with negotiations on complete tariff elimination in some sectors. It provides for a "non-linear formula" for cutting tariffs rather than a straight percentage reduction.

As a concession, however, the U.S. agreed to include a new paragraph acknowledging the need for further negotiations on the "modalities" for specific cuts and on the treatment of unbound tariffs. The added language also recognizes that developing countries need flexibility in their tariff cutting commitments and that the final accord should address the expected erosion of trade preferences. Even before the Council meeting, negotiations in Geneva had found strong resistance to the tariff cutting proposals for NAMA. In a four-page letter to Director General Supachai on July 9, Ambassador S.H. Johannesson, Iceland's WTO representative and chairman of the NAMA talks, provided a detailed analysis of the objections being raised. He said no agreement could be reached to address these concerns and proposed using the same text that Mexican Commerce Secretary Derbez had proposed at the Cancun ministerial as the basis for the Framework Agreement. The Council adopted that suggestion with the one new paragraph.

> During the week of negotiations, U.S. officials fought efforts to make more substantial changes to the text. Countries, particularly those in the African, Caribbean and Pacific (ACP) group, wanted significant changes to allow them to maintain their high tariff structures. "We can't open the text," one senior U.S. official told WTTL. "It would open a Pandora's Box," he said.

UNITED AFRICANS WIN HELP FOR COTTON PRODUCING NEIGHBORS

Marginalized for many years in trade negotiations because of the turmoil in their nations and left out of the WTO decision-making process, African representatives at the WTO General Council meeting July 26-31 showed that they have achieved a new level of sophistication and skill in trade negotiations. The chief result of their efforts was the inclusion of a "sectoral initiative on cotton"in the Framework Agreement members adopted on July 31.

> In addition to working on cotton, officials from Nigeria, Rwanda, Senegal, Uganda and other African countries worked effectively in the negotiations to get concessions from the developed world on farm subsidies, trade facilitation and market access. Although many of them will be exempt from trade liberalization measures because they are considered least-developed countries entitled to S&D treatment under WTO rules, some have moved or soon will into developing country status where they will have to open their markets.

Sparked by complaints from four cotton-producing countries in West Africa -- Benin, Burkina Faso, Chad and Mali -- the other nations of the continent displayed a unified position on the issue, successfully pressing the WTO to launch talks that would "ensure appropriate prioritization of cotton issues independently from other sectoral initiatives." While defending the demands of their fellow Africans, negotiators from several African countries also worked behind the scenes to put pressure on the cotton producers to back off from their most drastic demands. They convinced the four to accept the inclusion of the cotton initiative inside the broader agriculture negotiations rather than as a separate subject in the talks.

In the end, cotton was the only commodity given separate treatment in the Framework. Added to language in the July 16 draft accord, which called for dealing with cotton "ambitiously, expeditiously and specifically," the final deal creates a special subcommittee to monitor these efforts and to report to the Council on their progress. It also calls for international financial institutions to find "additional resources" for these nations.

POORER COUNTRIES GET CONCESSIONS ON TRADE FACILITATION

For the least-developed countries of the world, especially those in Africa, trade facilitation – the only one of four Singapore Issues left in the Doha Round talks – is not a philosophical issue of good governance; it is seen as a costly obligation many of them can't afford. That is why they demanded and won language in the Framework Agreement making the provision of technical and financial assistance a condition for the launching of negotiations in this area.

They also succeeded in getting the draft revised to ensure that the principle of special and differential treatment is applied to trade facilitation. In addition, they won wording to make it clear the talks would impose no mandatory requirements and no dispute-settlement procedures could be used to challenge a country's compliance. The addition of the commitment on financial aid was important to developing-country officials who concede improved trade facilitation would benefit their nations. They acknowledge that their domestic goods could be exported more easily and imports could enter with fewer delays and lower costs, as well as less dependence on middlemen who monopolize trade and corrupt government officials.

> Nevertheless, they raised concerns about the cost of trade facilitation, including the need for improving cargo facilities at ports and airports, and the installation of computer systems to handle electronic filing of trade documentation. They argued that money also is need to train customs agents, publish regulations for imports and exports, expand the bureaucracy to manage the system, and increase salaries for customs agents to make bribery less necessary and acceptable.

PROCESS FOR REACHING FRAMEWORK CARRIED HIGH RISK

The week of negotiations at the WTO General Council resembled in many ways past processes that had gotten trade talks in trouble. A small group of negotiators in a closed room worked out the major concessions on a key part of the agreement and handed a new text to the rest of the membership. This time the small group was known as the Non-Group of Five (NG-5) or the Five Interested Parties (FIPs). And as in the past, the secretiveness and exclusiveness of the group stirred resentment and complaints from those not included in the meetings.

> The agreement they reach on agriculture, however, formed the basis for the final deal. The FIPs comprised USTR Robert Zoellick, EC Trade Commissioner Pascal Lamy, Australian Trade Minister Mark Vaile, Brazilian Commerce Minister Celso Amorim and Indian Commerce Minister Kamal Nath. They were joined by their senior aides and agriculture officials. Tim Groser, New Zealand's WTO ambassador and chairmen of the WTO Agriculture Negotiations Committee, also attended.

The General Council meeting was actually a week of smaller-group meetings. On several occasions, the permanent ambassadors to the WTO met in Heads of Delegations (HODs) meetings. Parallel to the HODs, various country groupings - G-10, G-20, G-33, and G-90 -- as well as the EU Council of Ministers, African ministers and Caribbean nations held meetings to review proposals and positions. At the Wednesday, July 28, HODs meeting, ambassadors from 27 countries complained about the lack of transparency in the FIPs process.

While one senior U.S. official told WTTL that he recognized the frustration being expressed by these diplomats, he said the tone of the complaints was not as acrimonious as it was at the failed Seattle and Cancun ministerials. Another U.S. official defended the FIPs process. "How else can you draft a text," he told WTTL. Nonetheless, the criticism at the HOD led Oshima, Supachai and Groser to spend 36 hours trying to gain consensus on the FIPs agriculture proposal before issuing a revised Framework Agreement on July 30.

The FIPS meetings were held at the high-security U.S. Mission in Geneva. Pizza, chicken and salads were brought in to feed the five ministers and their aides during talks that went late or all night. Because the FIPS have met periodically over the past six months and have known each for several years, the talks were described by one aide as collegial and good humored. During the long sessions, the officials went over the proposed agriculture annex line-by-line, with each of them explaining the problems he had with specific language. When these objections were raised, the group would then openly discuss different ways to resolve them.

Parallel to these meetings, Supachai held what have become known historically as "Green Room" sessions – closed-door talks with smaller groups of key participants to iron-out the final details of an agreement. The last Green Room lasted off and on for 24 hours. It produced the final Framework Agreement adopted by the Council at 12:30 A.M., Aug. 1.

When the Doha Round restarts in September, significant hurdles still must be surmounted. The Framework remains vague in most areas. To avoid concessions now, numerous sections say "this issue will be addressed in the negotiations." It was this sweeping postponement of conflict that allowed the WTO to settle on an agreement that leaves the hard details to future talks.