

WTO UPDATE

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Doha could deliver double-win for environment and trade, says Lamy

The WTO Chief has emphasized on the need for a global consensus on how best to tackle the issue of climate change.

Pascal Lamy in a speech at the Informal trade ministers dialogue on “Climate change” held in Bali in December 2007 highlighted the relationship between international trade and the WTO and climate change and defined it as consensual international accord on climate change that successfully embraces all major polluters. He said that the WTO tool-box of rules “can prove valuable in the fight against climate change” but awaits “a truly global consensus on how best to tackle the issue”.

There is no doubt that trade regulations are not, and cannot be, a substitute for environmental regulations. “Trade and WTO toolbox of trade rules more specifically, can — at best - offer no more than part of the answer to climate change. It is not in the WTO that a deal on climate change can be struck, but rather in an environmental forum, such as the United Nations Framework Convention on Climate Change”. Such an agreement must then send the WTO an appropriate signal on

how its rules may best be put to the service of sustainable development; in other words, a signal on how this particular toolbox of rules should be employed in the fight against climate change.

Empirically, various studies conducted on the “carbon mileage” of traded goods, have shown that the issue can often be counter-intuitive. Some studies show that a Kenyan flower that is air-freighted to Europe emits 1/3rd of the CO₂ of flowers grown in Holland. Other study has revealed that New Zealand lamb that is transported to the United Kingdom can actually generate 70% less CO₂ than lamb produced in the UK.

Mr. Lamy emphasized that a multilateral approach to climate change would allow us to properly address these issues. A multilateral agreement, that includes all major polluters, would be the best placed international instrument to guide other instruments, such as the WTO, as well as all economic actors on how negative environmental externalities must be internationalized. “Only with such an instrument can we move towards the proper pricing of energy” he said.

An effective multilateral solution to climate change could and should do away with the need to “offset” competitive disadvantages, when countries perceive themselves to be making equitable emission reductions said Mr. Lamy.

“Launched within a broader context of Doha Round environmental Chapter, the negotiations on environmental good services could deliver a double-win for some our members; a win for the environment and a win for trade” added the WTO DG.

He highlighted the need for opening up the market for clean technology and services in the Doha negotiations which will require a right environmental framework within which market opening can take place.

He concluded that a multilateral approach to climate change that centers on collective action is absolutely key.

Dispute Settlement:

WTO members adopt dispute panel ruling on ‘salmon’

The WTO Dispute Settlement Body adopted panel report on Norway’s complaint against the EU’s anti-

dumping measures on salmon on January 15th 2008.

Norway welcomed the adoption of the panel report in this long lasting conflict. Norway said the EC had no choice but to remove the antidumping measure. Norway concluded that this could be done very quickly using the EC regulation allowing “fast-track” repeal.

The EC accepted the recommendations of the Panel and would examine them when implementing the ruling. The EC added that the Panel explicitly declined to use its discretionary power to recommend the revocation of the measure, despite repeated Norwegian calls for the Panel to do so.

EU-Brazil Dispute over Retreaded Tyres

The Appellate Body, on 3 December 2007, issued its report on the European Communities’ complaint against “Brazil – *Measures affecting imports of retreaded tyres*”. The European Communities claimed that Brazil imposed a prohibition on the importation of retreaded tyres, notably by virtue of Article 40 of Portaria No. 14 of the SECEX (Secretariat of Foreign Trade of the Brazilian Ministry of Development, Industry, and Foreign Trade), dated 17 November 2004, and that this

prohibition was inconsistent with Article XI:1 of the GATT 1994.

The European Communities also contended that certain Brazilian measures providing for the imposition of fines on the importation of retreaded tyres, and on the marketing, transportation, storage, keeping, or warehousing of imported retreaded tyres, were similarly inconsistent with Article XI:1 or Article III:4 of the GATT 1994.

In addition, the European Communities made claims in respect of certain state measures prohibiting the marketing of, and/or imposing disposal obligations on the importers of, imported retreaded tyres.

Finally, the European Communities challenged the exemption from the import prohibition on retreaded tyres and associated fines provided by Brazil to retreaded tyres originating in countries of the Mercado Común.

Brazil did not contest that the prohibition on the importation of retreaded tyres and associated fines were *prima facie* inconsistent with Article XI:1. Brazil contended that the fines associated with the import prohibition on retreaded tyres were justified. Brazil further maintained that the exemption from the import prohibition and associated fines

afforded to imports of *remoulded* tyres from MERCOSUR countries was justified.

In context, the Appellate Body recommended that the Dispute Settlement Body request Brazil to bring its measure, found in this Report, and in the Panel Report as modified by this Report, to be inconsistent with the GATT 1994, into conformity with its obligations under that Agreement.

Complaint against U.S. 'Zeroing Methodology': Japan

WTO has ignored the complaints by Japan, the European Union, Thailand and India against the U.S. for adopting the 'zeroing methodology' that calculates foreign exporters' dumping margins that inflates import duties. Japan's government may decide to ask the Geneva-based WTO to set up a dispute-settlement panel if the U.S. continues to show no signs of scrapping the calculation formula.

India & WTO

India & Brazil slam US-EU proposal in Doha Round

India has shown concern on the agricultural talks, which are in favour of the needs of the developed countries while ignoring the requirements of developing countries in the negotiation of the Doha Round, held on December 4th, 2007.

India and Brazil criticized the US-EU new set of proposal in the Doha Round regarding to free up trade in environmental goods to boost sales of goods of rich nations. The two developing countries also negotiated on the 'rules' for anti-dumping, subsidies and fisheries subsidies.

G-20 wants 'balanced solutions' from Doha

The G-20 led by Brazil and India, proposed to arrive at the balanced solutions "on domestic support, export credits, tariff capping, sensitive products, tariff escalation and tariff simplification" on issues of the Doha Agriculture Mandate.

In one of the key issues in the Doha farm agenda, the US, the EU, Japan, Switzerland and Norway, among others, want "minimalist" solutions while asking the developing

countries to pay a "disproportionately" high price in cutting down industrial tariffs or opening services markets.

In a move targeted at the US and other major farm subsidisers, the G-20 called for incorporating several changes in the Agreement on Agriculture to include overall level of trade-distorting domestic support, blue box caps and disciplines, product-specific caps at individual product level. India and other G-20 members also demanded that all farm tariffs should be converted into ad valorem duties but the EU, Japan, Switzerland and Norway are dragging their feet.

US, India forging bilateral investment treaty

The United States and India are to explore the possibility of forging a bilateral investment agreement in high-level talks in February 2008. A bilateral investment agreement can help protect private investment and develop market-oriented policies in partner countries. A key component of the relationship was a landmark deal in which Washington agreed to transfer nuclear fuel and technology to India. US officials have been stimulating India to adopt sweeping reforms, including lifting ownership caps and reducing high tariff rates, to draw foreign investments and fuel in India. American businessmen are

also keen to participate in India's plans to build 500 billion dollars worth of infrastructure over the next five years, if reforms in such areas are adopted.

WTO farm goods paper disappointed India and other G-33 members

The G-33 coalition, led by Indonesia and India, seeking enhanced flexibilities for certain farm products from the tariff-cut formula suggested a "hybrid" approach in which they pressed designating 20 per cent of all farm tariff lines as special products, demanded zero cut for about 40 per cent of all special farm product tariff lines on a self-designation basis, 8 per cent cut for 30 per cent of special product tariff lines and 12 per cent for the remaining 30 per cent tariff lines in a meeting held on December 17, 2007.

However, on January 11, 2008 India and other developing countries opposed a set of proposals issued by the chair, Ambassador Crawford Falconer for the Doha agriculture negotiations. Mr. Falconer had suggested a tiered formula on how to cut the number of farm products that have different duties. He had suggested five tier system in which it is proposed to cut between 32.2 per cent and 34.6 per cent for farm products with tariffs between 0 and 30 per cent; 36.6 per cent and 40 per

cent for products having tariffs between 31 and 80 per cent; 41.3 per cent and 43.3 per cent for products having tariffs between 81 per cent and 130 per cent; and 44 per cent and 48.6 per cent for products with tariffs of more than 131 per cent.

In the first category, a minimum of [7] per cent of tariff lines up to a maximum [12] per cent of tariff lines may be sheltered from the application of the tariff cut formula. For these products in the first category, he suggested a minimum cut of between [10] per cent and [20] per cent and a maximum cut of [20] per cent and [30] per cent and provided that the average of that cuts is at least [15] per cent and [25] per cent.

A second category of special products would include between [2] per cent and [5] per cent of tariff lines for which the proposed tariff cuts would be between zero and [10], [15] per cent and the overall average cuts must be at least [5] per cent to [10] per cent.

This would imply that developing countries can have a tariff cut of between 0 and 12.5 per cent for about 3.5 per cent tariff lines provided the average of the cuts is 7.5 per cent.

Note: (square brackets imply there is no consensus yet)

Geneva briefs

China to eliminate 12 WTO-banned subsidies

U.S. and Mexico filed a complaint against China in WTO as China was providing 12 subsidy programmes across its three broad industrial sectors including steel, wood products and information technology. This was proving a benefit to its exports giving Chinese goods an advantage abroad and encouraging its domestic companies to purchase Chinese-made goods instead of imports. Leading to a massive trade deficit to US, distorting US produced goods sold in the domestic market, China and third-country markets.

The US and China had signed an agreement in November'07 to ease the strained trade relationship. According to the agreement China will eliminate a dozen WTO-banned subsidies, which will now be interest of US companies and workers.

US slammed with \$21 million penalty on e-gambling ban

According to the WTO three-member arbitration pane, Antigua and Barbuda can slap trade retaliatory measures against the United States of \$21 million because of the loss of benefits the two countries suffered due to the restrictions imposed by Washington on cross-border supply of gambling and betting services on the Internet. The US also has to offer compensation package to eight countries, including India, the European Union (EU), Canada, Costa Rica, Macao, Japan and Australia among others, due to its decision to modify its Uruguay Round services commitments that allowed cross-border trade in gambling and betting services on the Internet.

In concession, the US has offered to lift restrictions on outsourcing of research and development (R&D) activities as well as services relating to storage, warehousing and technical standards. So far, the EU and Canada have agreed with the American package of concessions while India, Macao and Costa Rica are yet to take a final decision to agree with Washington.