

## US and Saudi Arabia Conclude Bilateral WTO Accession Agreement

US Trade Representative Rob Portman announced that the United States and Saudi Arabia have concluded bilateral negotiations on issues related to Saudi Arabia's World Trade Organization (WTO) accession on 09 September. The bilateral agreement provides new market access opportunities for U.S. providers of agriculture, goods and services and sets the stage for Saudi Arabia to complete accession negotiations with WTO Members. To complete its accession bid, work will resume in Geneva to complete required multilateral negotiations.

"This represents progress for Saudi Arabia, the United States and the WTO," said U.S. Trade Representative Rob Portman. "As a result of negotiations on its accession to the WTO, we will see greater openness, further development of the rule of law, and political and economic reform in Saudi Arabia. We have also increased our cooperation on bilateral and multilateral issues.

"The United States has been working with Saudi Arabia for over a decade on its Membership bid. The negotiations have been tough given the complexity of the issues. Trade Minister Yamani and his team have worked hard to pursue real economic reforms that will contribute to peace and stability in the region.

Saudi Arabia has confirmed that it will not invoke the non-application provision of the WTO Agreement and thus will have WTO relations with all WTO Members. Saudi Arabia has also confirmed that it will not apply the secondary and tertiary aspects of the Arab Boycott of Israel.

Saudi Arabia has taken important steps to reform its trade regime, revising legislation, most notably in the areas of intellectual property protection, import licensing, cus-

tom valuation and fees, and standards and technical regulations. In terms of specific market opening commitments, Saudi Arabia has agreed to revise its sanitary and phytosanitary measures applied to agricultural imports, including shelf-life restrictions and other non-tariff measures that have long hindered U.S. agricultural exports. Onerous non-tariff measures and inspection requirements have been lifted, and replaced with a WTO-compatible system of inspection for health and safety reasons. Tariff commitments include duty free entry of aircraft and information technology products and harmonization of tariffs on chemical imports at very low or zero rates of duty.

U.S. service providers will benefit in particular from new commitments in the distribution, insurance, banking, and telecommunications sectors, among others.

### Background

Saudi Arabia has been negotiating its terms of accession to the General Agreement on Tariff and Trade (GATT), and then to the WTO, since 1993. The United States is the last WTO Member to formally conclude a bilateral market access agreement with Saudi Arabia. This agreement and those concluded with other WTO members in the course of the negotiation will be consolidated. The Report of the Working Party and Protocol of Accession will become part of Saudi Arabia's overall package containing the terms of its accession to the WTO. This package must be formally approved by WTO Members and then accepted by the Government of Saudi Arabia. Thirty days after the WTO receives its notice of acceptance, Saudi Arabia will become a member of the WTO. No Congressional action is required on the accession since Saudi Arabia already receives Permanent Normal Trade Relations (PNTR) from the United States.

## G-20 Calls on Rich Countries to Respond Constructively to AG Proposals

Ministers and senior trade officials from the developing countries that make up the G-20 bloc in WTO negotiations ended a 9-10 September summit in Bhurban, Pakistan with a joint statement calling on rich countries to engage in negotiations aimed at

reforming their agricultural policies. The purpose of the meeting was to discuss strategy in the run-up to the WTO's December Ministerial Conference in Hong Kong.

The 25-point 'Bhurban Declaration' reaffirmed G-20 members' commitment to

their common negotiating positions in the ongoing Doha Round talks on trade liberalisation in agricultural products. These views, expressed in WTO submissions and in a declaration following a similar ministerial gathering in New Delhi in March 2005, call for the elimination of export subsidies within five years; a "substantial and effective reduction" in trade-distorting farm subsidies; a tariff reduction formula that involves equal (as opposed to progressively higher) percentage cuts on items within each band, with developing countries making lower reductions; the binding of all tariffs with different ceilings for developed and developing countries; and the provision of adequate special and differential treatment (S&D) for developing countries.

In July, the G-20 countries proposed a compromise formula on market access at an informal mini-ministerial meeting of WTO trade ministers in Dalian, China. Although delegations present at that meeting agreed at the time to use the G-20 proposal as a starting point for subsequent talks, nothing came of the intensive Geneva-based negotiations in the weeks that followed, as Members started to express disagreement with different aspects of the approach.

The Bhurban Declaration called on major subsidisers to respond constructively to their proposals, which they said constituted "a genuine middle ground." They warned the latter against trying to extract disproportionate concessions in other areas of the Doha Round talks in return for eliminating trade-distortions in farm products.

Officials at the meeting paid particular attention to improving co-operation between the G-20 and other developing country groups at the WTO, including the G-33, the least developed countries (LDC), and the African, Caribbean, and Pacific (ACP) countries. They declared that LDCs should be exempt from commitments to cut tariffs, and said that preference erosion could be addressed by expanding market access in products of export interest to beneficiaries, as well as through the provision of financial and technical assistance.

The G-20 formally reiterated its support for the G-33 grouping's goals of allowing developing countries to designate 'special products' for reduced liberalisation to help address issues of food security, rural development, and livelihood concerns, accompanied by the creation of a 'special safeguard mechanism' to afford them some protection against import surges. It announced that it would support the G-33's efforts to develop a list of indicators for the identification of such products.

The declaration also called for an end to unjustifiable non-tariff barriers and tariff escalation – higher tariffs on processed foods that discourage developing countries from adding value to their farm products– and “the fullest liberalisation” of trade in both tropical products and crops that can be grown in the place of illegal narcotics.

Hong Kong Commerce, Industry and Technology Secretary John Tsang, who will chair the Ministerial Conference in December, was present in Bhurban in order to improve his understanding of G-20 concerns.

### **Civil society groups urge India, Brazil to quit FIPs**

Several civil society organisations held a meeting on the sidelines of the G-20 gathering. Representatives from the groups shared their concerns with some of the ministers present in Bhurban. Notably, the non-governmental organisations and farmers’ groups urged India and Brazil to quit the influential “five interested parties” (FIPs) grouping which they form along with Australia, the EU, and the US, arguing that talks in “exclusive processes such as green rooms, mini-ministerial meetings and FIPs do not yield pro-development elements.” The joint state-

ment was signed by NGOs including Oxfam Great Britain-Pakistan, ActionAid-Pakistan, and the Islamabad-based Sustainable Development Policy Institute.

At the end of the meeting, Brazilian Foreign Minister Celso Amorim said that “the ball is in the developed countries’ court.” This echoes comments made by some Geneva-based trade negotiators, who said that the US and the EU must work out a deal on cutting farm subsidies in order for talks to move ahead.

The US and the EU, for their part, have been attempting to find common ground in the Doha Round talks. EU Trade Commissioner Peter Mandelson and EU Farm Commissioner Mariann Fischer Boel met their US counterparts in Washington on 13 September. That same day while speaking at the National Press Club, Mandelson said that the US and the EU should jointly agree to the rapid elimination of export subsidies. The EU has been arguing that it reformed its subsidy programme in 2003 and that the US should decrease its subsidies rather than increasing them as it has in recent years. US politicians counter that EU support and tariffs remain higher than those in the US.

### **Lamy’s First TNC Address Announces “New Phase” in Talks**

In his first address to the WTO Trade Negotiations Committee (TNC) on 14 September, new Director-General Pascal Lamy called on Members to focus all of their efforts towards reaching an ambitious and coherent agreement at the organisation’s Hong Kong Ministerial Conference in December. That agreement, he said, should take Members two-thirds of the way towards finishing the Doha Round by the end of 2006. He warned that the Doha Round could only succeed if the “development dimension is at the centre of the negotiations.”

The former EU Trade Commissioner dedicated much of his statement to process-related steps that he would take to try to push the negotiations forward. Proclaiming a “new phase” in the negotiations, he exhorted delegations to be “brief, pragmatic, practical, and action-oriented” instead of wasting time on long and repetitive declarations. He said that the WTO was entering into a period of “permanent negotiations,” which he likened to a football team’s “training camp” before a crucial match.

### **Outlines substantive hurdles that must be overcome**

Instead of describing the overall state of the negotiations, Lamy chose to outline strategic issues in the talks that he believed must

be solved “for us to get out of the vicious circle and into the virtuous one.” These included agreeing by Hong Kong on an end date for agricultural export subsidies, a “clear understanding” on how to cut and limit domestic farm support, and a formula for cutting tariffs on farm products that incorporates flexibilities for certain goods. With regard to non-agricultural market access (NAMA), he said that Members would have to “find the right balance between the [tariff reduction] formula and the flexibilities.”

“From now until Hong Kong,” Lamy went on, “Members should develop different approaches in services, leading to an increased number and to an enhanced quality of commitments.” He also urged Members to try to arrive at draft negotiated texts on anti-dumping, subsidies and countervailing measures, and fisheries subsidies in the Negotiating Group on Rules.

The WTO chief was emphatic about the centrality of development concerns to every area of the ongoing negotiations. “The challenge is to maximise the development value of every sector and of the round as a whole,” he said. Notably, he expressed the conviction that an “aid for trade” facility could “help us translate the development package of the round into reality.”

### **Falconer Kicks Off AG Week as Hong Kong Looms**

Following on the heels of G-20 ministerial meeting in Pakistan, agriculture delegates kicked off the first ‘agriculture week’ after the WTO’s August recess with a formal meeting of the Special (negotiating) Session of the Committee on Agriculture on 13 September. Originally scheduled to begin two weeks later, the meeting was brought forward by the new chair of the farm trade negotiations, Ambassador Crawford Falconer of New Zealand, who will seek to get the talks back on track in the three months before the WTO’s Hong Kong Ministerial Conference in December. This is particularly urgent given that delegates failed to reach agreement on a ‘first approximations’ of agriculture modalities at the end of July.

In the invitation to the meeting, Falconer asked delegates to refrain from repeating already-known negotiating positions during the discussions. He asked them to come forward with “genuinely new things to say” on domestic support, export competition, and market access, the so-called ‘three pillars’ of the farm trade talks. During the meeting itself, he stressed to Members that the aim of the negotiations has changed: the goal is no longer a framework, but rather the actual modalities themselves. In this regard, he asked delegates to consider three questions: whether a comprehensive approach to the agriculture negotiations, tackling a range of issues at once, would work better than the current incremental approach; whether Members would find it useful to start discussing actual numbers under this approach, making the modalities more concrete; and when to discuss linkages across pillars and across issue areas, and which these linkages were. He also made it clear that he expects Members to be on call for negotiations in between the official agriculture weeks.

Trade sources report that Lamy also said that Members would have to agree on a public health amendment to the WTO Agreement on Trade-related Aspects of Intellectual Property Rights (TRIPS) by Hong Kong.

As WTO Director-General, Lamy is Chair of the TNC. He outlined some changes in how the body would function under his guidance. Emphasising that the purpose of the TNC was to assess progress in the different negotiating areas, he said that he would not fix a date for the next TNC meeting, as

has been customary. Instead, he would wait to see what was happening in the different negotiating groups before scheduling the next TNC session.

Both in his TNC speech and the press conference that followed, Lamy stressed that Geneva must be the centre of WTO activity between now and Hong Kong. He said that other initiatives to push the negotiations forward were welcome, but that they must be done in a way that supports the Geneva-based processes.

Lamy said he would attach a great deal of importance to transparency in his functions as Director-General. He said that he would make use of formal and informal TNC meetings at the head-of-delegation level to keep all Member delegations involved and informed of progress in his informal consultations.

Reminding Members that precisely three months separated their meeting from the 13 December start of the ministerial summit,

Lamy asked them to constantly evaluate progress – or the lack thereof – in the negotiating groups, so as to keep things on track. He did identify two specific junctures for evaluation before December: mid-October, for evaluating progress made up to that point and coming to a clearer understanding of what it is that Members hope to achieve in Hong Kong; and mid-November as a date by which Members would need to see specific and substantive results from each negotiating group. Ideally, a consolidated draft ministerial text would emerge by the latter time, which would give delegations a month to hash out differences before the Ministerial Conference, thus improving their chances of reaching a deal.

Following the meeting, Lamy appealed to the US and the EU to make concessions in the agriculture talks, saying that they could break the deadlock in the negotiations by doing so.

## The Systemic Issue of the Case and the WTO

In the parties' arguments lies an important systemic issue. No WTO panel has ever had to rule on the procedures for removing previously authorised sanctions. This panel will have to determine where the burden of proof lies – whether Members should have to file a compliance or a non-compliance case in order to determine if and when authorised sanctions should be lifted. This is an important clarification of Members' rights and obligations under the DSU.

The US and Canada have thus far not been willing to file a non-compliance case against the EU under the relevant article of the DSU (Article 21.5). Instead, they contend that the EU should prove its compliance. Moreover, the EU's compliance should be confirmed multilaterally, such as through the adoption of a WTO panel report recommending the suspension or revocation of their right to retaliate. The US and Canada argue that the EU has submitted no arguments or evidence proving its compliance, but merely states that it is in compliance.

The EU, on the other hand, claims that the US and Canada, by refusing to file a case to determine whether the EU is indeed in compliance, have made a unilateral 'de facto' determination that it is not. Since WTO rules require such determinations to be made multilaterally by the DSB, the EU is arguing that the US and Canada are in violation of WTO law. Continuing to send the ball back and forth, the latter two claim that the EU's case has no legs, since it has neither removed its WTO-inconsistent ban on hormone treated meat nor established that the measures it implemented in 2003 brought it into compliance with the 1998 ruling. Moreover, the US and Canada charge that the EU's notification to the DSB that it was in compliance with the ruling was in itself a unilateral action.

The first scheduled meetings focused more on procedural and systemic issues than on the substantive SPS and science issues linked to the case. In the first session on 12 September, the parties made oral statements on the basis of their written submissions, laying out their claims and arguments. On 13 September, the parties and the panel were given the chance to ask questions and seek clarification about previously-made statements and submissions.

The panel appeared to explore the parties' possibilities within the DSU to resolve the dispute. It asked the EU if its present case was tantamount to a case filed against the US and Canada under the DSU Article for non-compliance cases – since, in seeking the removal of US and Canadian sanctions, it

## Trade Disputes

### First Public WTO Dispute Settlement Hearing under Way

For the first time in its ten-year history, the WTO this week opened up the proceedings of a dispute settlement meeting to the public. The 12-13 September proceedings in the long-standing beef hormones dispute among the EU, the US and Canada were broadcast through closed-circuit television to an audience consisting mainly of trade negotiators, non-governmental organisation (NGO) representatives, media and academics at the WTO in Geneva.

Over the years, the WTO has been criticised for its lack of openness, not just to the public but also to some extent toward its own Members. The dispute settlement process has been at the centre of the debate on greater organisational transparency. The hormone panel's 2 August announcement that it had accepted the parties' joint request to open up the hearing thus represented a historic shift in policy.

On the first day of the hearing, the EU, the US, and Canada each acknowledged the importance of the day, emphasising the benefits that increased transparency would bring to Members that have never participated in a WTO dispute, as well as to the general public's understanding of the WTO and the dispute settlement system. The three have long supported the principle of making dispute settlement meetings public, albeit only so long as doing so is acceptable to all parties in a dispute. The 14 September meeting among the disputing parties and the third

parties in the case - Australia, Brazil, China, Chinese Taipei, India, Mexico, New Zealand, Norway - was closed, as not all of the latter were willing to open it to the public.

#### EU attempting to have retaliatory sanctions lifted

The issue before the panel is a complaint brought by the EU against continued trade sanctions by the US and Canada on certain EU exports, worth USD 116.8 million and USD 11.6 million respectively. The challenged sanctions were authorised in 1999 by the Dispute Settlement Body after the Appellate Body in 1998 found that an EU ban on hormone treated meat exports from the US and Canada violated the WTO Agreement on Sanitary and Phyto-sanitary Measures (SPS).

The EU argues it adopted measures in 2003 to come into compliance with the 1998 Appellate Body ruling, and that the continued sanctions therefore violate WTO law. The US and Canada counter that the authorisation to retaliate still applies, arguing that the EU has not proven that it is in compliance with the ruling. To this charge, the EU responds that the US and Canada should then file a case charging non-compliance against the EU, rather than merely continuing their sanctions. It would then be left to a WTO panel to determine whether the EU is in fact complying with its obligations.

was essentially implying that it was in compliance with previous WTO rulings. The EU rejected this, maintaining that its complaint was against the US and Canada's unilateral determination of its guilt. The panel also asked the US and Canada why they had not used the DSU mechanism and filed a case against the EU charging non-compliance, in the interest of quickly solving the matter. The US and Canada argued that they were

not obligated to do so under the DSU, with the US specifying that it was for the Members to determine the most efficient way of solving such cases.

Relatively few people attended the WTO's first open dispute settlement hearing. Up to 400 people were permitted to observe the meetings, but only 100 sat in on the first day. By the end the second day, a mere 20 people remained.

## US and EC Reach Agreement on Trade in Wine

US Trade Representative Rob Portman announced that the United States and the European Community reached agreement on wine-making practices and labeling of wine, aimed at facilitating bilateral trade in wine valued at \$2.8 billion annually on 15 September.

The Agreement, initialed today by Ambassador Johnson and the European Community's Director General of Agriculture and Rural Development José Manuel Silva Rodríguez, provides for acceptance of existing wine-making practices and addresses a number of labeling issues, helping to create marketing certainty for U.S. and EU wine exporters.

In summary, the agreement provides for:

- 1) recognition of existing current wine-making practices;
- 2) a consultative process for accepting new wine-making practices;
- 3) the United States limiting the use of certain "semi-generic" terms in the U.S. market;
- 4) the EU allowing under specified conditions for the use of certain regulated terms on U.S. wine exported to the EU;
- 5) recognizing certain names of origin in each other's market;

6) simplifying certification requirements; and

7) defining parameters for optional labeling elements of U.S. wines sold in the EU market.

The Agreement does not address the use of "geographical indications," a form of intellectual property. The Agreement also provides for a second phase of negotiations to address other outstanding U.S.-EU wine trade issues.

### Background

Since 1983, the EU has been renewing short-term derogations from their regulations for U.S. wine made using practices not recognized by the EU. The temporary nature of these derogations created continuous uncertainty for U.S. wine exporters. This wine agreement is intended to replace these derogations and provide stable market conditions for the wine sector. For further information, see the attached Fact Sheet.

U.S. exports of wine worldwide and to the European Community have been steadily increasing. In 2004, global U.S. wine exports exceeded \$736 million, with exports to the European Community over \$487 million. Total U.S. imports of wine from other countries in 2004 were nearly \$3.4 billion, and U.S. imports from the European Community exceeded \$2.3 billion.

## UNCTAD Points to Fundamental Shift in Global Economic Interdependence

The nature of global economic interdependence is being fundamentally changed by the economic ascent of China and India, according to the UN Conference on Trade and Development (UNCTAD) Trade Development Report for 2005. Rapid growth in the two countries has driven up global commodity prices, increased South-South trade, and led to the emergence of East and South Asia as "a new growth pole in the global economy." The annual study, released on 2 September, hailed economic growth in developing countries in 2004 as being higher and more broad-based than in previous years. Developing country output that year grew

by 6.4 percent more than in 2003 — 5.7 percent in Latin America, 4.6 percent in Africa, and 6.9 percent in Asia. It warned, however, that worldwide economic growth in 2005 had already slowed due to weakness in developed country economies coupled with high oil prices, and that growth in developing countries has been "depending excessively on the US economy."

The report points to a shift in the terms of international trade for developing countries. Exporters of primary commodities have benefited in recent years, mainly because of growing demand for oil, minerals, and mining products from East and South Asia.

## UN HDR Highlights Concern Over Agricultural Trade

On 7 September, the UN Development Programme (UNDP) released the 2005 Human Development Report (HDR). The HDR is well known for its 'human development index,' a ranking of 177 countries on the basis of their performance on health and education, in addition to per capita income. The index's 15 year history has seen it grow into a much anticipated and somewhat controversial update on levels of development around the world.

This year's HDR focuses on global aid, trade and security policies, and their respective roles in lifting the world's poorest people out of extreme poverty. With regard to trade, an area on which the HDR has tended not to focus, the study draws attention to problems that impede development, stating "the world's highest trade barriers are erected against some of its poorest countries." It cites unfair subsidies and high import tariffs in developed countries as significant obstacles for growth in the agricultural sector in the developing world.

The study puts particular emphasis on agricultural trade in relation to countries' continued lack of progress in alleviating rural poverty and the consequent problems of achieving the Millennium Development Goals (MDGs) - a set of eight development targets which range from providing universal primary education to halving extreme global poverty by 2015. It states "More than two-thirds of all people surviving on less than USD 1 a day live and work in rural areas either as farmers with small holdings or as agricultural labourers. Unfair trade practices systematically undermine the livelihoods of these people, hampering progress towards the MDGs in the process."

However, developing countries that mainly export manufactured goods have seen their imports of raw materials become more expensive, compounded by increased competition from other developing countries.

According to UNCTAD, the central policy concern with regard to global trade flows is the need to correct present imbalances - specifically, the US' large external deficit and large current account surpluses in Japan and Germany - without pushing developed countries into recession. In the introduction to the report, UNCTAD Secretary-General Supachai Panitchpakdi writes, "Adjusting the global imbalances will be less deflationary if demand from the euro area and Japan grows faster."