TRADEWINS

BUILDING THE FOUNDATIONS FOR TRADE:

BIOFUELS STANDARDS, FUTURES AND OPTIONS MARKETS, AND THE WTO

-- PANEL INTRODUCTION --

Presented at U.S. Chamber of Commerce Symposium:
Outlook for an Emerging Global Biofuels Market

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Good morning, ladies and gentlemen. I'm very glad to be here today. I'm John Magnus of TRADEWINS LLC and also of Miller & Chevalier Chartered. Nothing in these introductory remarks reflects the views of either firm, or of any clients.

With the writer's strike still unresolved, I've had to write my own material for today, and so will beg your indulgence on that account.

Rarely has an issue jumped on to the public policy agenda, and the trade agenda, as rapidly as biofuels and carbon control measures. It's quite a phenomenon, and the Chamber made a good decision in bringing folks together to discuss it today.

Our panel deals with the building blocks for successful biofuels trade -- product standards, the general backdrop of WTO rules, and the financial instruments that support forward pricing of these energy commodities. It might sound dry. I assure you it is not. There are some sexy policy issues in this panel's mix.

For trade wonks, the standards and WTO-compatibility themes are especially fascinating, and they are much in the news. The EU seems to be driving a lot of policy innovation, although not always in directions trade purists would favor.

One newly-reported development is a proposed EU policy in this sector limiting imports, or at least limiting the availability of consumption subsidies, according to a process/production method ("PPM") criterion. It turns out there is reason, on environmental grounds, to wonder how the feedstock for biofuel plants comes into existence. The result would be to add "sustainably produced" to the list of standards that may help trade work, or prevent it from working, in this sector.

Measures like these raise numerous questions -- is the standard itself, and a given product's conformity with it, determined privately or by government; what legal and other consequences attach to meeting (or failing to meet) the standard; etc.

No one should be surprised by the effort to take standard-setting beyond product performance, and into areas like this. The desire to reduce the transportation sector's contribution to carbon emissions is destined to give rise to measures like those now being floated in Brussels. These measures will be enacted, will be highly popular, and will almost certainly test the WTO's now-fairly-rigid rule against using PPMs to determine the treatment of products. At present, to justify a PPM-based measure, whether a border measure or something less directly trade-

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related, you basically have to show that a PPM-based measure was the only real option *and* that the specific PPM-based measure you chose was the least trade-restrictive one available.

A difficult task. But the rule against PPMs exists for a reason, and to move away from it is to open a Pandora's box. Perhaps our panelists can help us imagine what might be inside that box, and also what non-PPM approaches may be available to help meet the same underlying environmental objectives.

Other product standards (and measures based on them) affect trade and investment in the biofuels sector as well -- in a more practical, nuts-and-bolts sense, although here too the WTO's rules on non-discrimination and Technical Barriers to Trade ("TBT") may be implicated. We'll hear about some of the pertinent standard-setting work this morning, from Frances Shrotter of ANSI.

And other WTO rules have a bearing -- notably the rules on subsidies, which have been invoked by the EU biodiesel industry in a pending complaint over certain U.S. fiscal measures which Larry Schafer of the National Biodiesel Board may wish to discuss when his turn comes.

Then there is the issue of how overall reform of farm policy -- Topic A in the trade world and especially in the WTO Doha Round -- may reflect, or complement, or perhaps conflict with, the policy imperatives that seem to be driving things in the biofuels sector. We are fortunate to have Charlotte Hebebrand of the International Food & Agricultural Trade Policy Council to tackle that one.

Finally we come to financial instruments -- the futures and options contracts through which demand and expectations inform pricing, market signals make themselves felt, and ultimately (through repeated interactions) investment capital is sensibly allocated. Changes in supply take a while to roll out, in terms of productive capacity and distribution networks, and you can generally see them coming. But regulatory-driven changes in demand can occur at a startling pace. How can forward pricing be made to work in such a setting? And what are financial players looking for in the fields of standard-setting and trade policy, to maximize predictability and minimize the kinds of sharp swings that can reduce traders' life expectancy? Felix Carabello of the Chicago Mercantile Exchange gets those questions.

There are some interesting ethanol-specific trade issues -- including the future of the United States' MFN tariff on this product, usage of the duty-free category under the Caribbean Basin Initiative, and the various trade problems surfacing as a result of the increased share ethanol plants are taking of available U.S. corn supplies. Each of our panelists may have something to say on those topics, and we are free to raise them during Q&A if they do not.

With that basic framing, and with advance thanks to all of our expert panelists, let's turn first to Frances Shrotter.

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