



## **TRADE POLICY DEVELOPMENTS PAPER NO. 18**

### **REPORT ON THE EUROPEAN UNION (for the period January – March 2012)**

**Authors: Professor James J. Nedumpara, Prem Raja Kumari R & Rosmy Joan**

*Centre for International Trade and Economic Laws (CITEL)  
Jindal Global Law School, Sonapat, NCR of Delhi*

*This report has been prepared by the Centre for International Trade and Economic Laws (CITEL), Jindal Global Law School, Sonapat, NCR of Delhi under a project of the Centre for WTO Studies, Indian Institute of Foreign Trade (IIFT), New Delhi.*

## TABLE OF CONTENTS

I. INTRODUCTION.....	7
II. ECONOMIC ENVIRONMENT AND MONETARY POLICY.....	7
III. TRADE AGREEMENTS AND ARRANGEMENTS .....	9
IV. UNILATERAL PREFERENCE SCHEMES.....	10
IV A. GENERALIZED SYSTEM OF PREFERENCES AND OTHER PREFERENTIAL ARRANGEMENTS.....	10
V. TRADE POLICIES AND PRACTICES BY MEASURE.....	10
V A. Tariff Rate Quotas.....	10
V B. Technical Barriers To Trade.....	<b>Error! Bookmark not defined.</b>
V C. Import Restrictions.....	12
VI. CONTINGENCY TRADE PROTECTION.....	12
VII. MEASURES AFFECTING PRODUCTION AND TRADE.....	18
VII A. PUBLIC PROCUREMENT.....	18
VII B. TAXATION AND TAX-RELATED MATTERS IN EU .....	19
VIII. INTELLECTUAL PROPERTY RIGHTS .....	19
IX. TRADE POLICIES BY SECTOR .....	19
IX A. Agriculture.....	19
IX B. Services.....	19
X. WTO DISPUTE SETTLEMENT UPDATE .....	<b>Error! Bookmark not defined.</b>

## **ABBREVIATIONS**

AD	-	Anti Dumping
ASEAN	-	Association of South East Asian Nations
ATA	-	Air Transport Association of America
BIT	-	Bilateral Investment Treaty
BNC	-	Bi-Regional Negotiations Committee
Bq	-	Becquerel
BTI	-	Binding Tariff Information
CCT	-	Common Customs Tariff
CEPA	-	Comprehensive Economic Partnership Agreement
CETA	-	Comprehensive Economic and Trade Agreement
EBA	-	Everything but Arms
ECB	-	European Central Bank
ECON	-	Economic and Monetary Affairs Committee
ECT	-	European Court of Justice
EEA	-	European Economic Area
EFTA	-	European Free Trade Agreement
EMU	-	Economic and Monetary Union
ENs	-	Electronic Entry Summary
ENSREG	-	European Nuclear Safety Regulator's Group
EPC	-	European Patent Convention
EPO	-	European Patent Office
ERM	-	Exchange Rate Mechanism
ESM	-	European Stability Mechanism
ETD	-	Energy Taxation Directive
EU	-	European Union
EU-ETs (Euratom)	-	European Union Emission Trading Scheme European Atomic Energy Community
FDI	-	Foreign Direct Investment
FIR	-	Foreign Investment Regime
FTA	-	Free Trade Agreement
GATT	-	General Agreement On Tariff And Trade
GDP	-	Gross Domestic Product
GM	-	Genetically Modified
GMOs	-	Genetically Modified Organisms

GPA	-	Government Procurement
GSP	-	Generalized System of Preferences
ICT	-	Information and Communication Technology
IMF	-	International Monetary Fund
JRC	-	Joint Research Centre
LDCs	-	Least Developed Countries
MEP	-	Member of European Parliament
PRC	-	People's Republic of China
SMA	-	Single Market Act
SPS	-	Sanitary and Phytosanitary measures
SVHCs	-	Seven Substances of very High Concern
TBR	-	Trade Barriers Regulation
TACs	-	Total Allowable Catches
TBT	-	Technical Barriers to Trade
TEC	-	Transatlantic Economic Council
TEC	-	Treaty Establishing European Community
TEU	-	Treaty on European Union
TFEU	-	Treaty on Functioning of the European Union
TKM	-	Tonne Kilometre Benchmark
USDOC	-	United States Department Of commerce
VAT	-	Value Added Tax
WTO	-	World Trade Organization
WWAN	-	Wireless Wide Area Networking

## **EXECUTIVE SUMMARY**

1. The economic crisis still continues to be a significant issue in the European Union. As a solution to avoid economic crisis in future, the member countries except the UK and Czech Republic signed a fiscal pact. Under the pact, the European Court of Justice has the power to impose sanctions in case of violation of the fiscal rules.
2. The European Central Bank is providing a 36 month loan at minimum interest rate for any amount, to cure the debt crisis. The ECB is also searching for other options apart from the Securities Market Program to better realize the effective buying of bonds.
3. In the present quarter, the EU entered into trade negotiations with Vietnam and Armenia. The India-EU FTA is temporarily struck by issues such as inclusion of intellectual property, opening of services and the EU Emission Trading Scheme. The EU trade negotiations with Singapore, MERCOSUR, Georgia and Moldova are in progress.
4. The EU Emission Trading Scheme attracts world -wide protection and most of the states are about to adopt retaliatory measures against the EU. Royal Jordanian announced a surcharge to meet the EU carbon tax.
5. The European Union approved an oil embargo on Iran as a strong opposition to the nuclear programme of Iran. By 1 July 2012, the EU has agreed to impose a full oil embargo including existing contracts.
6. France is about to impose EU Financial Transaction Tax without waiting for the imposition of the tax by other members of the EU. The unilateral imposition of tax by France is supposed to cause a negative impact on the EU economy.
7. The EU Council for Trade in Goods has approved the EU's waiver request for trade preferences to provide tariff quotas for Pakistan in order to enable post flood recovery measures and has forwarded it to the General Council for adoption.
8. Regarding Generalized System of Preferences, the new revised system of GSP+ scheme is in existence.
9. With a view to ensure the access of EU to world-wide public procurement markets, the European Commission proposed a business improvement, (i.e., providing or improving its business opportunities) for EU firms in procurement markets.
10. Darjeeling Tea, a non-EU product has been given Protected Geographical Indication in EU after Columbian Coffee and other five Chinese products.
11. A number of disputes as regards the present scenario, say Philippines Taxes on Distilled Spirits, Airbus case, China-Definitive Anti-Dumping Duties on X-ray Security Inspection Equipment from EU, Canada measures relating to feed-in-tariff program, China Raw Materials, China Anti-dumping

and Countervailing Duty Measures on Broiler Products from the United States and so on have been discussed in the present report under the head 'WTO Dispute Settlement Update'.

**EUROPEAN UNION**

**TRADE POLICY MONITORING REPORT**

**FOR THE QUARTERLY PERIOD**

**JANUARY 2012- MARCH 2012**

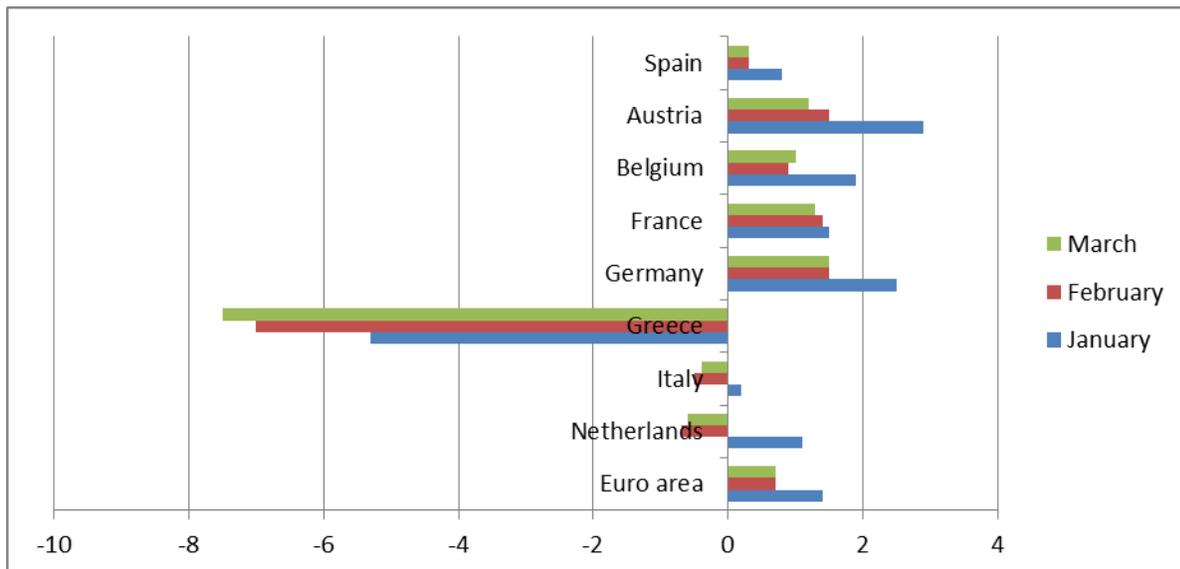
**I. INTRODUCTION**

This is the fourth Quarterly Trade Policy Monitoring Report prepared by the Centre for International Trade and Economic Laws (CITEL), Jindal Global Law School. This report will monitor and discuss the trade and macroeconomic policy developments that took place in the European Union during the period: January-March, 2012.

**II. ECONOMIC ENVIRONMENT AND MONETARY POLICY**

The Eurozone economy is still suffering from an economic downfall. The previous quarter witnessed a 0.3% GDP contraction in comparison with the third quarter of 2011.<sup>1</sup> As per the 2011 overview of the economy nine member states showed a contraction. Out of this nine, five member states namely Netherlands, Italy, Portugal, Greece and Belgium are also suffering from recession.<sup>2</sup> The following graph represents the change in GDP over the present quarter.

**Graph 1:** GDP of Euro Area and Major EU countries over the quarter (January - March 2012)



**Source:** THE ECONOMIST, January to March 2012 Issues.

<sup>1</sup> Ilona Billington, *Euro-zone Economy Shrinks*, MINT, Feb. 16, 2012 at 19.

<sup>2</sup> Contraction of economy for two consecutive quarters.

This graph represents the percentage change in GDP of various European economies during the last quarter. Spain had a growth of about 1% in GDP in the month of January 2012, which subsequently contracted in February and March. Austria had a significant growth in GDP in the month of January 2012, which also contracted consequently in February and March. The GDP of Belgium grew in January, contracted in February and again rose in March, but to a small extent. France did not have much variation in its GDP in the last quarter. However, there was a slight decrease in GDP in the month of February and March when compared to January. The GDP of Germany remained constant in the month of February and decreased in March 2012 when compared to the growth in GDP in the month of January 2012. The GDP of Greece suffered to a large extent in the last quarter. The large and significant decrease in GDP took place in January 2012, which further decreased in the months of February and March 2012. Italy had a positive GDP in the month of January, which decreased and turned negative in the months of February and March 2012. Netherlands also had a positive growth in January, which shrank and became negative in the months of February and March 2012. The Euro area<sup>3</sup> had a slightly positive growth in January 2012, which also shrank, but remained constant and positive in the month of February and March 2012.

As decided in the EU summit dated 9 December 2011, the EU leaders signed a fiscal pact on 2 March 2012. UK and Czech Republic didn't sign the pact and requested other EU leaders to consider this effort as an intergovernmental pact and not a change in EU law.<sup>4</sup> The pact requested the countries which want to tap the European stability Mechanism (ESM) after March 2013, to ratify the fiscal compact first. The countries which fail to ratify the pact will be rejected from bailout funds for the region. The pact empowers the European Court of Justice to impose sanctions on countries violating fiscal rules, "if the court finds the contracting party concerned has not complied with its judgment, it may impose on it a lump sum or a penalty payment appropriate in the circumstances and shall not exceed 0.1% of its gross domestic product".<sup>5</sup> The pact requested countries to incorporate balanced budget provisions in their constitutions and imposition of sanctions against violators of fiscal rules. According to Matina Stevis and Laurence Norman, the aims of the pact are, "to limit government's room for running deficits and to ensure they write into laws- or in some cases national constitutions- pledges to run balanced budgets and reduce their debt burdens".<sup>6</sup> The rules in the pact on deficit spending says, "countries must maintain a structural deficit with a lower limit of 0.5% of the GDP, provided that when a country's debt-to-GDP ratio is well below 60% of the structural deficit rule can be loosened to 1% GDP".<sup>7</sup> Further the pact mandates that, "the signatories must have debt-to-GDP levels that do not exceed 60% or are sufficiently declining toward 60%".<sup>8</sup>

The unresolved issues in the pact will include, "whether non-eurozone countries that have signed the pact will be allowed to participate in meetings where Eurozone issues are discussed and whether sanctions will be imposed when countries fail to meet the pact's requirements on debt-to-GDP ratios".<sup>9</sup>

### **European Central Bank and Debt Crisis**

To curb debt crisis, the European Central Bank (ECB) has adopted the scheme of unlimited funds for a period of 36 months at 1% interest. An auction to raise funds in order to combat the debt crisis will take

---

<sup>3</sup> Countries in the European Union (17 countries) which have their currency as euro.

<sup>4</sup> Laurence Norman et al., *EU Leaders Sign Fiscal Pact*, MINT, Mar. 3, 2012 at 12.

<sup>5</sup> *Id.*

<sup>6</sup> Matina Stevis & Laurence Norman, *European Leaders Hold Fiscal Talks*, MINT, Jan. 31, 2012 at 27.

<sup>7</sup> *Id.*

<sup>8</sup> *Id.*

<sup>9</sup> *Id.*

place in two steps: the first auction in this regard attracted 489 billion euros on 21 December 2011.<sup>10</sup> This is an alternative to the Securities Market Program, the present bond buying program. The ECB Governing Council Member Ewald Nowotny explained the reason in the following words: “There is indeed skepticism about the Securities Market Program because there is the fear that the market imperfections that we want to correct could possibly appear in other places”.<sup>11</sup> Details with regard to the second auction and further developments will be discussed in the next quarterly report.

### III. TRADE AGREEMENTS AND ARRANGEMENTS

#### EU and India

India and EU are continuing their negotiation on Bilateral Trade and Investment Agreement to liberalize the trade in services and goods.<sup>12</sup> The negotiations were supposed to be concluded in 2011 but struck by issues such as opening of service sector, inclusion of intellectual property, reduction in tariffs on cars and spirits imports. Senior level meetings are expected to happen in the coming days to resolve the hard core issues.<sup>13</sup>

#### EU and Vietnam

Vietnam is the third trading partner for EU from the ASEAN region. At the 11<sup>th</sup> ASEAN-EU Economic meeting in Phnom Penh, Cambodia the Vietnamese Minister for Industry and Trade Vu Huy Hoang and the EU Trade Commissioner Karel De Gucht concluded a ‘scoping paper’ covering all the topics to be discussed in future negotiations. The issues for negotiations include, “elimination of import tariffs, trade in services, non-tariff barriers to trade such as technical barriers or the rules on food stuffs and the trade aspects of rules relating to intellectual property and competition”.<sup>14</sup>

#### EU and Singapore

In continuation of the negotiations between EU and Singapore with regard to the EU-Singapore Free Trade Agreement (EUSFTA) as discussed in the previous quarterly reports, EU completed the tenth round of negotiation with Singapore on 19 March 2012. Negotiations with regard to stakeholders’ consultations were also completed. Intensive work in various formats is continuing between EU and Singapore.<sup>15</sup>

#### EU and MERCOSUR

For an effective Bi-regional Association Agreement between EU and MERCOSUR, the regions negotiated over the Political, Cooperation and Trade pillars of the Agreement. The meetings were held from 12 to 16 March 2012. The Working Groups are progressing in areas such as Services and Establishment, Dispute Settlement Mechanism, Public Procurement and Rules of Origin. Sustainable Development and Trade

---

<sup>10</sup> *The Three-Year Loans Offered by the ECB to Banks have Helped Stabilize the Euro-Zone*, THE ECONOMIST, Feb. 4, 2012 at 64; Brian Blackstone, *New Hurdles Loom in Euro zone Debt Crisis*, MINT, Jan. 4, 2012 at 20.

<sup>11</sup> Hans Bentzien & Nicole Lundeen, *ECB Seeks Plan B on Bond-buying Program*, MINT, Jan. 18, 2012 at 19.

<sup>12</sup> *Minister-level Meeting Next Month on India-EU Free Trade Agreement*, <http://articles.economictimes.indiatimes.com/2012-05-20/news/31788362>; *Movement of Professionals to Help Europe in Long Run: EU*, <http://articles.economictimes.indiatimes.com/2012-05-23/news/31827564> (last visited May 30, 2012).

<sup>13</sup> EU Trade European Commission, *Overview of FTA and Other Trade Negotiations*, [http://trade.ec.europa.eu/doclib/docs/2006/december/tradoc\\_118238.pdf](http://trade.ec.europa.eu/doclib/docs/2006/december/tradoc_118238.pdf) (last visited May 30, 2012).

<sup>14</sup> Press Release, *EU and Vietnam Move Closer to Starting Trade Negotiations*, <http://trade.ec.europa.eu/doclib/press/index.cfm?id=792> (last visited May 30, 2012).

<sup>15</sup> See *supra* note 2.

Defense Instruments were discussed at the Chief Negotiator's level. The next round of negotiations is expected to be held in Brazil in July 2012.<sup>16</sup>

## EU and South Caucasus

EU is a major trading partner for South Caucasus countries namely Armenia, Azerbaijan and Georgia. These countries are given benefits under the EU's Generalized Scheme of Preferences. Poor intellectual property protection is one of the main problems in the trade relations between these countries.<sup>17</sup> In February 2012, EU launched free trade negotiations on a free trade area with Armenia. The first round of negotiation is expected to happen soon.<sup>18</sup>

## IV. UNILATERAL PREFERENCE SCHEMES

### IV A. GENERALIZED SYSTEM OF PREFERENCES AND OTHER PREFERENTIAL ARRANGEMENTS

In continuation of the previous quarter, the new revised system of GSP, i.e., GSP+ scheme continues to be in existence.

- On 11 January 2012, the Commission Implementing Regulation (EU) No. 17/2012 amended the Council Regulation (EC) No. 32/2000 as regards the extension of the EU tariff quotas for jute and coconut-fibre products. According to the European Commission, since the GSP scheme has been extended until 31 December 2013 by Regulation (EU) No. 512/2011 dated 11 May 2011, the tariff quota arrangement in the case of jute and coconut-fibre products should also be extended till 31 December 2013.<sup>19</sup>

## V. TRADE POLICIES AND PRACTICES BY MEASURE

### V.A. Tariff Rate Quotas

The EU's tariff preference to Pakistan to aid recovery from floods which took place in the year 2010 was approved by the Council for Trade in Goods on 1 February 2012. The Council forwarded it to the General Council for adoption. The EU made a revised request<sup>20</sup> to include 75 products in place of the older 20 products for a waiver on trade preferences. EU is arguing that the present measure does not have any WTO precedent since it is an exceptional measure under exceptional circumstances. The measure is for the period: 1 January 2012 to 31 December 2013.<sup>21</sup>

---

<sup>16</sup> Press Release, *Statement of the EU and MERCOSUR After the 8<sup>th</sup> Round of Negotiations on the Future Association Agreement Between Both Regions*, <http://trade.ec.europa.eu/doclib/press/index.cfm?id=787> (last visited May 30, 2012).

<sup>17</sup> *South Caucasus*, <http://ec.europa.eu/trade/creating-opportunities/bilateral-relations/regions/south-caucasus/> (last visited May 30, 2012).

<sup>18</sup> Press Release, *EU Launches Free Trade Negotiations with Armenia*, <http://trade.ec.europa.eu/doclib/press/index.cfm?id=777&serie=491&langld=en> (last visited May 30, 2012).

<sup>19</sup> 2012 O.J. (L 8) 31.

<sup>20</sup> G/C/W/640/Rev.2

<sup>21</sup> WTO News, *Members Approve EU Waiver Request for Trade in Aid to Pakistan*, [http://www.wto.org/english/news\\_e/news12\\_e/good\\_o2feb12\\_e.htm](http://www.wto.org/english/news_e/news12_e/good_o2feb12_e.htm) (last visited May 30, 2012).

Development during the present quarter

- On 11 January 2012, the Commission Implementing Regulation (EU) No. 20/2012 fixed the allocation coefficient to be applied for the applications for import licences (lodged from 1 to 6 January 2012) in the context of the tariff quota opened by Regulation (EC) No. 2305/2003<sup>22</sup> for barley. The application for import licence for barley lodged from 1 January 2012 to 6 January 2012 [at 13.00 (Brussels time)] with regard to the quota as per the Regulation (EC) No. 2305/2003, is accepted for the applied quantities multiplied by an allocation coefficient of 3,989135%, wherein the issue of licences from 6 January 2012 [at 13.00 (Brussels time)] are suspended for the present quota period.<sup>23</sup>

## V B. Technical Barriers to Trade

### Box: EU Carbon Emissions Trading Scheme

European Union is the world's largest carbon market. The goals of the EU Emission Trading Scheme will include restriction of carbon dioxide emissions to an agreed cap and an incentive to invest on clean technology.<sup>24</sup> Many countries argue that, "the EU is exceeding its jurisdiction by calculating the carbon cost for the whole flight and not just the portion flying over Europe".<sup>25</sup> Twenty two to twenty nine countries decided to adopt retaliatory measures against EU ETS at a meeting in Moscow on 22 February 2012. The joint declaration states that, "inclusion of international civil aviation in the EU-ETS leads to serious market distortions and unfair competition".<sup>26</sup> The measures include imposition of heavy costs on European airlines and plane manufacturers. Royal Jordanian Airlines operating in India announced a surcharge of 2.40 rupees per kilogram to meet the carbon tax starting from 1 March 2012. The International Association of Air Transport (IATA) Chief Economist, Brian D Pearce criticized the EU-ETS that the scheme is increasing the cost of travel rather than solving the issue of carbon emissions.<sup>27</sup>

Developments During Review Quarter

The second Trade and Investment Barriers Report (TIBR) was published by the EU Commission on February 27, 2012. The Report was presented to the EU Council on March 1-2, 2012. The Report has done an assessment of progress realized regarding 'trade barriers of major strategic economic importance for EU business'.<sup>28</sup> In the light of 'Europe 2020 Strategy', the Report views various trade barriers which had arisen in the markets of China, India, Japan, Mercosur, Russia and the US, the major strategic economic partners of

---

<sup>22</sup> 2003 O.J. (L 342) 7.

<sup>23</sup> 2012 O.J. (L 8) 35.

<sup>24</sup> *Carbon Prices Breathing Difficulties*, THE ECONOMIST, Mar. 3, 2012 at 68.

<sup>25</sup> Sanjay Vijayakumar, *Royal Jordanian Breaks Ranks to Levy Carbon Tax*, THE ECONOMIC TIMES, Feb. 28, 2012 at 5.

<sup>26</sup> India, *22 Nations to Retaliate on EU's Carbon Tax Decision*, THE ECONOMIC TIMES, Feb. 25, 2012 at 6.

<sup>27</sup> Anindya Upadhyay, *Nations Opposed To EU Emission Tax To Meet Next Week*, THE ECONOMIC TIMES, Jan. 23, 2012 at 5.

<sup>28</sup> Fratini Vergano, *Trade Perspectives*, Issue No. 5, Mar. 9, 2012 available at [www.FratiniVergano.eu](http://www.FratiniVergano.eu) (last visited Apr. 1, 2012).

EU.<sup>29</sup> The Report also highlighted emerging countries tendency to enact legislations with ‘local content’ requirements.<sup>30</sup>

## V C. Import Restrictions

### Oil Embargo on Iran

The European Union approved an oil embargo on Iran as a strong opposition to nuclear programme of Iran. By 1 July 2012, the EU agreed to impose a full oil embargo including existing contracts. The embargo is supposed to have great adverse impact over Greece, Italy and Spain, all large buyers of Iranian oil. The embargo helped China and India to get Iranian oil at heavily discounted prices.<sup>31</sup> The consequence which is expected to flow from the embargo is high oil prices and reduced oil consumption and global growth.<sup>32</sup>

## VI. CONTINGENCY TRADE PROTECTION

### Anti-Dumping:

- On 16 February 2012, the 29th Annual Report was submitted by the European Commission to the European Parliament regarding the EU's anti-dumping, anti-subsidy and safeguard activities which took place in 2010.<sup>33</sup> The Commission Staff Working Document was also submitted accompanying the annual report.<sup>34</sup>
- On 23 March 2012, the European Commission published a notice (2012/C 86/04) regarding the ruling of the Dispute Settlement Body of the World Trade Organization on ‘European Communities — Definitive Anti-Dumping Measures on Certain Iron or Steel Fasteners from China’ adopted on 28 July 2011 with regard to anti-dumping and anti-subsidy matters.<sup>35</sup>

### EU and China:

- On 4 January 2012, the Council Implementing Regulation (EU) No. 2/2012 imposed a definitive anti-dumping duty on imports of certain stainless steel fasteners and parts thereof falling within CN codes 7318 12 10, 7318 14 10, 7318 15 30, 7318 15 51, 7318 15 61, 7318 15 70, originating in the People’s Republic of China and Taiwan following an expiry review pursuant to Article 11(2) of Regulation (EC) No. 1225/2009 which is protection against dumped imports from countries not members of the European Community. The rate of the definitive anti-dumping duty applicable to the net, free-at-Union-frontier price, before duty for products manufactured by the companies are as follows: for products manufactured by Tengzhou Tengda Stainless Steel Product Co. Ltd., Tengzhou City originating in the People’s Republic of China, the rate of anti-dumping duty is 11,4% and the TARIC additional code is A650; for products manufactured by Tong Ming Enterprise (Jiaxing) Co. Ltd., Zhejiang originating in the People’s Republic of China, the rate of anti-dumping duty is 12,2% and the TARIC additional code is A651; for products manufactured by all other

---

<sup>29</sup> *Id.*

<sup>30</sup> *Id.*

<sup>31</sup> *Beleaguered But Still Unbowed*, THE ECONOMIST, Jan. 21, 2012 at 43.

<sup>32</sup> John Kemp, *Iran Oil Sanctions are a Gamble*, THE ECONOMIC TIMES, Jan. 12, 2012 at 24.

<sup>33</sup> [http://trade.ec.europa.eu/doclib/docs/2012/may/tradoc\\_149394.pdf](http://trade.ec.europa.eu/doclib/docs/2012/may/tradoc_149394.pdf) (last visited May 30, 2012).

<sup>34</sup> [http://trade.ec.europa.eu/doclib/docs/2012/may/tradoc\\_149395.pdf](http://trade.ec.europa.eu/doclib/docs/2012/may/tradoc_149395.pdf) (last visited May 30, 2012).

<sup>35</sup> 2012 O.J. (C 86) 5.

companies, originating in the People's Republic of China, the rate of anti-dumping duty is 27,4% and the TARIC additional code is A999; for products manufactured by Arrow Fasteners Co. Ltd., Taipei originating in Taiwan, the rate of anti-dumping duty is 15,2% and the TARIC additional code is A653; for products manufactured by Jin Shing Stainless Ind. Co. Ltd., Tao Yuan originating in Taiwan, the rate of anti-dumping duty is 8,8% and the TARIC additional code is A654; for products manufactured by Min Hwei Enterprise Co. Ltd., Pingtung originating in Taiwan, the rate of anti-dumping duty is 16,1% and the TARIC additional code is A655; for products manufactured by Tong Hwei Enterprise, Co. Ltd., Kaohsiung originating in Taiwan, the rate of anti-dumping duty is 16,1% and the TARIC additional code is A656; for products manufactured by Yi Tai Shen Co. Ltd, Tainan originating in Taiwan, the rate of anti-dumping duty is 11,4% and the TARIC additional code is A657; for products manufactured by companies provided in the Annex to the Regulation (EU) No. 2/2012 bearing TARIC additional code A649, the rate of anti-dumping duty is 15,8%; for products manufactured by all other companies originating in Taiwan, the rate of anti-dumping duty is 23,6% and the TARIC additional code is A999. In addition, the customs duty in force is also applicable.<sup>36</sup>

- On 6 January 2012, the European Commission published a notice (2012/C 3/06) concerning the anti-dumping measures in force in respect of imports into the EU of citric acid originating in the People's Republic of China, as regards the change of address of a company subject to an individual anti-dumping duty rate. Council Regulation (EC) No. 1193/2008 of 1 December 2008 imposes a definitive anti-dumping duty on imports of citric acid originating in the People's Republic of China. Weifang Ensign Industry Co. Ltd., a company situated in the People's Republic of China, whose exports of citric acid are subject to an anti-dumping duty of 33,8 %, had informed the Commission on 17 June 2011 of its change of address from The West End, Limin Road, Changle City, Shandong Province, PRC to Changshen Street No 1567, Changle, Weifang, Shandong Province, PRC. The Commission inferred from its investigation that the change of address does not affect the findings of Regulation (EC) No. 1193/2008 in any way. The additional TARIC Code A882 attributed to Weifang Ensign Industry Co. Ltd., The West End, Limin Road, Changle City, Shandong Province, PRC, shall hereinafter attribute to Weifang Ensign Industry Co. Ltd., Changshen Street No 1567, Changle, Weifang, Shandong Province, PRC.<sup>37</sup>
- On 9 January 2012, the Council Implementing Regulation (EU) No. 14/2012 extended the definitive anti-dumping duty imposed by Implementing Regulation (EU) No. 511/2010 on imports of certain molybdenum wires originating in the People's Republic of China to imports of certain molybdenum wires consigned from Malaysia, whether declared as originating in Malaysia or not and terminating the investigation in respect of imports consigned from Switzerland. The anti-dumping duty on imports of certain molybdenum wires originating in the People's Republic of China is extended to imports of molybdenum wires containing at least 99,95% of molybdenum by weight with a maximum cross-sectional dimension exceeding 1,35 mm but not exceeding 4,0 mm, which is currently falling within CN code ex 8102 96 00 (TARIC code 8102 96 00) consigned from Malaysia. The prevailing customs duty applies to the import of molybdenum wires..<sup>38</sup>

---

<sup>36</sup> 2012 O.J. (L 5) 1.

<sup>37</sup> 2012 O.J. (C 3) 10.

<sup>38</sup> 2012 O.J. (L 8) 22.

- On 24 January 2012, the European Commission published a notice (2012/C 19/05) of the expiry of certain anti-dumping measures pursuant to the Council Regulation (EC) No. 1225/2009 of 30 November 2009 concerning protection against dumped imports from countries not members of the European Community. An anti-dumping duty levied against Furfuryl alcohol originated in the People's Republic of China, imposed by the Council Implementing Regulation (EU) No. 1202/2009<sup>39</sup> as last amended by the Council Implementing Regulation (EU) No. 195/2010<sup>40</sup> is terminated with effect from 10 December 2011.<sup>41</sup>
- On 27 January 2012, the Council Implementing Regulation (EU) No. 102/2012 imposed a definitive anti-dumping duty on imports of steel ropes and cables including locked coil ropes, excluding ropes and cables of stainless steel, with a maximum cross-sectional dimension exceeding 3 mm and currently falling within the CN codes ex 7312 10 81, ex 7312 10 83, ex 7312 10 85, ex 7312 10 89, ex 7312 10 98, originating in the People's Republic of China and Ukraine as extended to imports of steel ropes and cables consigned from Morocco, Moldova and the Republic of Korea, whether declared as originating in these countries or not, following an expiry review pursuant to Article 11(2) of Regulation (EC) No. 1225/2009 and terminating the expiry review proceeding concerning imports of steel ropes and cables originating in South Africa pursuant to Article 11(2) of Regulation (EC) No. 1225/2009. The rate of anti-dumping duty applicable to CIF net, free-at-Union-frontier price, before duty on imports of steel ropes and cables originating in the People's Republic of China will be 60,4%, and the rate of anti-dumping duty applicable to CIF net, free-at-Union-frontier price, before duty on imports of steel ropes and cables originating in Ukraine will be 51,8%. Exceptions are granted to the imports of steel ropes and cables manufactured by Remer Maroc SARL, Zone Industrielle, Tranche 2, Lot 10, Settat, consigned from Morocco bearing TARIC additional code A567, and to imports of steel ropes and cables consigned from the Republic of Korea bearing TARIC codes 7312 10 81 13, 7312 10 83 13, 7312 10 85 13, 7312 10 89 13, 7312 10 98 13 and manufactured by Bosung Wire Rope Co. Ltd, Chung Woo Rope Co. Ltd., CS Co. Ltd., Cosmo Wire Ltd., Dae Heung Industrial Co. Ltd., DSR Wire Corp., Kiswire Ltd., Manho Rope & Wire Ltd., Shin Han Rope Co., Ssang Yong Cable Mfg. Co. Ltd., Young Heung Iron & Steel Co., Ltd., all containing TARIC additional code of A969. The prevailing customs duty is applicable to the imports. The review proceeding with regard to the imports of steel ropes and cables including locked coil ropes, excluding ropes and cables of stainless steel with a maximum cross-sectional dimension exceeding 3 mm, currently falling within CN codes ex 7312 10 81, ex 7312 10 83, ex 7312 10 85, ex 7312 10 89, ex 7312 10 98, and originating in South Africa, is terminated.<sup>42</sup>
- On 14 February 2012, the European Commission published a notice (2012/C 41/06) of initiation of a partial interim review of the anti-dumping measures applicable to imports of hand pallet trucks and their essential parts, i.e. chassis and hydraulics, currently falling within CN codes ex 8427 90 00, ex 8431 20 00, and originating in the People's Republic of China.<sup>43</sup>

---

<sup>39</sup> 2009 O.J. (L 323) 48.

<sup>40</sup> 2010 O.J. (L 60) 1.

<sup>41</sup> 2012 O.J. (C 19) 8.

<sup>42</sup> 2012 O.J. (L 36) 1.

<sup>43</sup> 2012 O.J. (C 41) 14.

- On 16 February 2012, the European Commission published a notice (2012/C 44/07) of initiation of an anti-dumping proceeding concerning imports of ceramic tableware and kitchenware, currently falling within CN codes 6911 10 00, ex 6912 00 10, ex 6912 00 30, ex 6912 00 50, ex 6912 00 90, and originating in the People's Republic of China, for the reason of alleged dumping and causing material injury to the Union industry.<sup>44</sup>
- On 16 February 2012, the European Commission published a notice (2012/C 44/08) of initiation of an anti-dumping proceeding concerning imports of threaded tube or pipe cast fittings of malleable cast iron, currently falling within the CN code ex 7307 19 10 originating in the People's Republic of China, Thailand and Indonesia, for the reason of alleged dumping and causing material injury to the Union industry.<sup>45</sup>
- On 2 March 2012, the European Commission published a notice (2012/C 63/07) concerning anti-dumping measures on imports of ironing boards originating in the People's Republic of China currently falling within CN codes ex 3924 90 00, ex 4421 90 98, ex 7323 93 00, ex 7323 99 00, ex 8516 79 70, ex 8516 90 00 (TARIC codes 3924 90 00 10, 4421 90 98 10, 7323 93 00 10, 7323 99 00 10, 8516 79 70 10, 8516 90 00 51), and a partial reopening of the anti-dumping investigation concerning imports of ironing boards originating in the People's Republic of China. The General Court of European Union in Case T-274/07, annulled the Council Regulation (EC) No. 452/2007 of 23 April 2007 imposing a definitive anti-dumping duty on imports of ironing boards originating in the People's Republic of China and Ukraine, by its judgment dated 8 November 2011, insofar as it concerns imports of ironing boards manufactured by Zhejiang Harmonic Hardware Products Co. Ltd. Taking into consideration the fact that all other findings made in the Regulation which were not subject to challenge, were not annulled and remained valid. Hence the Commission decided to reopen the anti-dumping investigation concerning imports of ironing boards originating in the People's Republic of China.<sup>46</sup>
- On 9 March 2012, the European Commission published a notice (2012/C 71/08) of initiation of an expiry review of the anti-dumping measures applicable to imports of certain tungsten electrodes including tungsten bars and rods for welding electrodes, containing 94 % or more by weight of tungsten, other than those obtained simply by sintering, whether or not cut to length, currently falling within CN codes ex 8101 99 10, ex 8515 90 00 (TARIC codes 8101 99 10 10, 8515 90 00 10), and originating in the People's Republic of China. On 12 December 2011, Eurométaux lodged a request on behalf of a Union producer representing a major proportion of the Union production of certain tungsten electrodes. Eurométaux had provided evidence that the expiry of the definitive anti-dumping duty imposed by Council Regulation (EC) No. 260/2007 would result in a continuation of dumping and injury.<sup>47</sup>
- On 9 March 2012, the European Commission published a notice (2012/C 71/07) of initiation of an interim review of the anti-dumping measures applicable to imports of bicycles and other cycles including delivery tricycles but excluding unicycles, and not motorized currently falling within CN

---

<sup>44</sup> 2012 O.J. (C 44) 22.

<sup>45</sup> 2012 O.J. (C 44) 33.

<sup>46</sup> 2012 O.J. (C 63) 10.

<sup>47</sup> 2012 O.J. (C 71) 23.

codes 8712 00 30, ex 8712 00 70, and originating in the People's Republic of China, pursuant to Articles 11(3) and 13(4) of Council Regulation (EC) No 1225/2009 on protection against dumped imports from countries not members of the European Community.<sup>48</sup>

- On 13 March 2012, the European Commission published a notice (2012/C 74/10) concerning undertakings offered in connection with the anti-dumping proceeding concerning imports of citric acid originating in the People's Republic of China, as regards the change of address of a company. RZBC Imp. & Exp., a sales company situated in the People's Republic of China, whose undertaking offered in connection with an anti-dumping proceeding was accepted by the Decision 2008/899/EC, has informed the Commission on 26 November 2010, its change of address from No 9, Xinghai West Road, Rizhao, Shandong Province to No 66, Lvzhou South Road, Rizhao (Liangyou Grand View Hotel, 22nd Floor, Building A), Shandong Province. The Commission inferred from its investigation that the change of address does not affect the findings of the Decision 2008/899/EC in any way. The additional TARIC Code A926 and A927 attributed to RZBC Imp. & Exp., No 9, Xinghai West Road, Rizhao, Shandong Province, shall hereinafter attribute to RZBC Imp. & Exp., No 66, Lvzhou South Road, Rizhao (Liangyou Grand View Hotel, 22nd Floor, Building A), Shandong Province.<sup>49</sup>

#### **EU and India:**

- On 24 February 2012, the European Commission published a notice (2012/C 55/04) of initiation of an expiry review of the anti-dumping measures applicable to imports of certain polyethylene terephthalate, currently falling within CN code 3907 60 20 and having a viscosity number of 78 ml/g or higher, according to the ISO Standard 1628-5, and originating in India, Indonesia, Malaysia, Taiwan and Thailand. The request of initiation of an expiry review was brought up by the Polyethylene Terephthalate Committee of Plastics, Europe on behalf of the Union producers on 25 November 2011 alleging that the expiry of the measures would be likely to result in continuation or recurrence of dumping and injury.<sup>50</sup>
- On 22 March 2012, the Commission Decision (2012/163/EU) terminated the anti-dumping proceeding concerning imports of certain stainless steel fasteners and parts thereof currently falling within CN codes 7318 12 10, 7318 14 10, 7318 15 30, 7318 15 51, 7318 15 61, 7318 15 70, and originating in India.<sup>51</sup>

#### **EU and the United States of America:**

- On 11 January 2012, the Commission Decision (2012/24/EU) terminated the anti-dumping proceeding concerning imports of vinyl acetate currently falling within CN code 2915 32 00, originating in the United States of America and releasing the amounts secured by way of the provisional duties imposed. The Regulation (EU) No. 821/2011 which imposed a provisional anti-

---

<sup>48</sup> 2012 O.J. (C 71) 10.

<sup>49</sup> 2012 O.J. (C 74) 16.

<sup>50</sup> 2012 O.J. (C 55) 4.

<sup>51</sup> 2012 O.J. (L 84) 36.

dumping duty on imports of vinyl acetate currently falling within CN code 2915 32 00 and originating in the USA is repealed..<sup>52</sup>

- On 21 January 2012, the European Commission published a notice (2012/C 18/12) of initiation of an expiry review of the anti-dumping measures applicable to imports of ethanolamines currently falling within CN codes ex 2922 11 00, ex 2922 12 00 and 2922 13 10 and originating in the United States of America imposed by the Council Implementing Regulation (EU) No. 54/2010.<sup>53</sup>

#### **EU and Korea:**

- On 25 February 2012, the European Commission published a notice (2012/C 57/06) of the expiry of certain anti-dumping measures. The anti-dumping duty against Polyethylene terephthalate (PET) imposed by the Council Regulation (EC) No. 192/2007<sup>54</sup>, originated from the Republic of Korea will expire with effect from 28 February 2012.<sup>55</sup>

#### **EU and Russia:**

- On 16 January 2012, the Council Implementing Regulation (EU) No. 60/2012 terminated the partial interim review pursuant to Article 11(3) of Regulation (EC) No. 1225/2009 of the anti-dumping measures applicable to imports of ferro-silicon currently falling within CN codes 7202 21 00, 7202 29 10, 7202 29 90 and originating, inter alia, in Russia, without amending the level of anti-dumping measure in force.<sup>56</sup>

#### **EU and Ukraine:**

- On 31 March 2012, the European Commission published a notice (2012/C 96/07) of initiation of an anti-dumping proceeding concerning imports of welded tubes, pipes and hollow profiles of square or rectangular cross-section, of iron other than cast iron or steel other than stainless, currently falling within CN codes 7306 61 92, 7306 61 99, and originating in the former Yugoslav Republic of Macedonia, Turkey and Ukraine, alleging dumping and causing material injury to the Union industry.<sup>57</sup>

#### **Anti-subsidy:**

##### **EU and China:**

- On 22 February 2012, the European Commission published a notice (2012/C 52/05) of initiation of an anti-subsidy proceeding concerning imports of certain organic coated steel products i.e. flat-rolled products of non-alloy and alloy steel (not including stainless steel) which are painted, varnished or coated with plastics on at least one side, excluding so-called 'sandwich panels' of a kind used for building applications and consisting of two outer metal sheets with a stabilising core of insulation

---

<sup>52</sup> 2012 O.J. (L 8) 36.

<sup>53</sup> 2012 O.J. (C 18) 16.

<sup>54</sup> 2007 O.J. (L 215) 27.

<sup>55</sup> 2012 O.J. (C 57) 10.

<sup>56</sup> 2012 O.J. (L 22) 1.

<sup>57</sup> 2012 O.J. (C 96) 13.

material sandwiched between them, and excluding those with a final coating of zinc-dust (a zinc-rich paint containing by weight 70 % or more of zinc), currently falling within CN codes ex 7210 70 80, ex 7212 40 80, ex 7225 99 00, ex 7226 99 70, and originating in the People's Republic of China.<sup>58</sup>

### EU and India:

- On 9 February 2012, the Commission Regulation (EU) No. 115/2012 imposed a provisional countervailing duty on imports of certain stainless steel fasteners and parts thereof, currently falling within CN codes 7318 12 10, 7318 14 10, 7318 15 30, 7318 15 51, 7318 15 61, 7318 15 70, and originating in India. The rate of the provisional countervailing duty applicable to the net, free-at-Union-frontier price, before duty for products manufactured by the companies are as follows: for products manufactured by Agarwal Fastners Pvt. Ltd., Vasai (East), Thane, Maharashtra, originating in India, the rate of duty is 11,7% and the TARIC additional code is B266; for products manufactured by Raajratna Ventures Ltd., Ahmedabad, Gujarat, originating in India, the rate of duty is 13,0% and the TARIC additional code is B267; for products manufactured by Viraj Profiles Limited, Boisar, Thane, Maharashtra, originating in India, the rate of duty is 3,2% and the TARIC additional code is B268; for products manufactured by Kundan Industries Ltd., Mumbai and Lakshmi Precision Screws Ltd., Rohtak, originating in India, the rate of duty is 13,6% and the TARIC additional code is B269; for products manufactured by all other companies, originating in India, the rate of duty is 16,5% and the TARIC additional code is B999. Free circulation of the products in the Union depends on a security equivalent to the amount of provisional duty. The prevailing customs duty is applicable to the imports.<sup>59</sup>
- On 24 February 2012, the European Commission published a notice (2012/C 55/05) of initiation of an expiry review of the countervailing measures applicable to imports of certain polyethylene terephthalate having a viscosity number of 78 ml/g or higher, according to the ISO standard 1628-5, currently falling within CN code 3907 60 20, and originating in India.<sup>60</sup>

## VII. MEASURES AFFECTING PRODUCTION AND TRADE

### VII A. PUBLIC PROCUREMENT

On 21 March 2012, the European Commission proposed a business improvement scheme for EU firms in procurement markets. The scheme attempts to ensure EU access to worldwide public procurement markets. Important aspects of the new scheme include, “The Commission may approve that EU contracting authorities for contracts above €5 million exclude tenders comprising a significant part of foreign goods and services where these contracts are not covered by existing international agreements, In the event of repeated and serious discrimination against European suppliers in non-EU countries, the Commission will have at its disposal a mechanism allowing it to restrict access to the EU market, if the country outside the EU does not engage in negotiations to address market access imbalances. Any restrictive measures will be targeted, for example by excluding tenders originating in a non-EU country or imposing a price penalty and finally, the

---

<sup>58</sup> 2012 O.J. (L 52) 4.

<sup>59</sup> 2012 O.J. (L 38) 6.

<sup>60</sup> 2012 O.J. (C 55) 5.

proposal increases transparency on abnormally low offers in order to combat unfair competition by non-EU suppliers on the European market”.<sup>61</sup>

Further, EU has requested India to keep government supply contracts within the bilateral trade and investment agreement. EU officials warned India that, “if India does not get into a bilateral procurement agreement with the EU, then Indian companies, including subsidiaries and joint ventures established in the 27 EU countries, could be deprived of the current business they are getting”.<sup>62</sup>

## VII B. TAXATION AND TAX-RELATED MATTERS IN EU

### EU Tax on Financial Transactions

France, the State which proposed the financial transaction tax stepped to impose the tax in France without waiting for the other EU partners to impose the same. Angela Merkel, the German Chancellor supported the French move.<sup>63</sup> If the tax is imposed over the whole EU, it would deem to be raised fifty billion euros a year which is well short of European Stability Mechanism which is supposed to raise five hundred billion euros. Unilateral imposition of the tax by France will shift the trading in equities and derivatives to Frankfurt. The adoption of the tax by all EU member states is expected to shift the market to New York or Singapore. This will definitely affect the EU financial sector.<sup>64</sup>

## VIII. INTELLECTUAL PROPERTY RIGHTS

‘Darjeeling Tea’ is the seventh non-EU product given a protected status in the Europe after Columbian Coffee and some Chinese Products. EU has given a Protected Geographical Indication (PGI) status to Darjeeling Tea<sup>65</sup> since 3-4 million kilograms of Darjeeling tea is exported to European countries annually. EU took a decision to permit European blenders a five year transition period for selling 100% Darjeeling tea in packets. After five years the present blends would be renamed. Only those blenders who have their products in the market five years before October 14, 2009 can sell the product as Darjeeling tea. The EU decision is highly significant since 40 million kilograms are sold globally every year as Darjeeling tea despite only 10 million kilogram is produced at the 80 odd gardens in Darjeeling.<sup>66</sup>

## IX. TRADE POLICIES BY SECTOR

### IX A. Agriculture

- On 6 January 2012, the Commission Implementing Regulation (EU) No. 9/2012 amended the representative prices and additional import duties for certain products in the sugar sector fixed by Implementing Regulation (EU) No. 971/2011 for the marketing year 2011/12. The amended representative price per 100 kg net of the product concerned and additional import duties per 100 kg net of the product concerned, applicable to white sugar, raw sugar and products (covered by CN code 1702 90 95) are - 41,69 euros and 0,00 euros for products containing CN code 1701 13 10; 41,69 euros and 0,00 euros for products containing CN code 1701 14 10; 41,69 euros and

---

<sup>61</sup> Press Release, *European Commission Levels the Playing Field for European Business in International Procurement Markets*, <http://trade.ec.europa.eu/doclib/press/index.cfm?id=788> (last visited May 30, 2012).

<sup>62</sup> Amiti Sen, *EU Insists on Government Supply Contracts*, THE ECONOMIC TIMES, Jan. 11, 2012 at 13.

<sup>63</sup> Gregory Viscusi, *Sarkozy Wins Merkel Backing for Financial Transaction Tax*, MINT, Jan. 10, 2012 at 24.

<sup>64</sup> Barry Eichengreen, *Europe’s Tobin Tax Distraction*, MINT, Feb. 13, 2012 at 23.

<sup>65</sup> Black tea originating from West Bengal.

<sup>66</sup> Sutanuka Ghosal, *‘Darjeeling Tea’ Tag: EU-India Meet in Feb*, THE ECONOMIC TIMES, Jan. 12, 2012 at 24.

2,40 euros for products containing CN code 1701 13 90; 41,69 euros and 2,40 euros for products containing CN code 1701 14 90; 41,69 euros and 0,00 euros for products containing CN code 1701 12 10; 41,69 euros and 2,10 euros for products containing CN code 1701 12 90; 47,13 euros and 3,33 euros for products containing CN code 1701 91 00; 47,13 euros and 0,20 euros for products containing CN code 1701 99 10; 47,13 euros and 0,20 euros for products containing CN code 1701 99 90; 0,47 euros and 0,23 euros for products containing CN code 1702 90 95 respectively.<sup>67</sup>

- On 6 January 2012, the Commission Implementing Directive (2012/1/EU) amended Annex I to the Council Directive 66/402/EEC as regards the conditions to be satisfied by the crop *Oryza sativa* (a species of rice). A threshold limit for the presence of *Fusarium fujikuroi* (a species of fungus) in *Oryza sativa* has been decided by the Member States in order to protect the crops from damage caused by *Fusarium fujikuroi*. The presence of wild or red-grains and the plants infected by *Fusarium fujikuroi* in the fields of *Oryza sativa* should be reduced for the efficient production of *Oryza sativa*. Directive 66/402/EEC was amended by inserting point 3.A of Annex I to Directive 66/402/EEC:

“A. *Oryza sativa*:

The number of plants which are recognisable as obviously being infected by *Fusarium fujikuroi* shall not exceed:

- 2 per 200 m<sup>2</sup> for the production of basic seed,
- 4 per 200 m<sup>2</sup> for the production of certified seed, first generation,
- 8 per 200m<sup>2</sup> for the production of certified seed, second generation.

The number of plants which are recognisable as obviously being wild or red-grain plants shall not exceed:

- 0 for the production of basic seed,
- 1 per 100 m<sup>2</sup> for the production of certified seed, first and second generation”.

The Member States can bring about laws, regulations and administrative provisions necessary for complying with the Council Directive 66/402/EEC by 31 May 2012. A communication to the Commission is made detailing the correlation between the law or regulation and the Directive. When the Member States incorporate the provisions in the Official Journal, a reference shall be made to the Directive. The Member States can decide and determine as to how the reference should be made.<sup>68</sup>

- On 13 January 2012, the Commission Implementing Regulation (EU) No. 31/2012 fixed import duties in the cereals sector which is applicable from 16 January 2012. The import duty is 0,00 euros per ton for -- high quality, medium quality and low quality Durum wheat containing CN codes 1001 19 00 and 1001 11 00; ‘common wheat seed’ containing CN code ex 1001 91 20; ‘high quality common wheat other than for sowing’ containing CN code ex 1001 99 00; rye containing CN code 1002 10 00 and 1002 90 00; ‘maize seed other than hybrid’ containing CN

---

<sup>67</sup> 2012 O.J. (L 4) 5.

<sup>68</sup> 2012 O.J. (L 4) 8.

code 1005 10 90; 'maize other than seeds' containing CN code 1005 90 00; 'grain sorghum other than hybrids for sowing' containing CN code 1007 10 90 and 1007 90 00.<sup>69</sup>

- On 23 January 2012, the Commission Implementing Regulation (EU) No. 59/2012 amended the representative prices and additional import duties for certain products in the sugar sector fixed by Implementing Regulation (EU) No. 971/2011 for the 2011/12 marketing year. The amended representative price per 100 kg net of the product concerned and additional import duties per 100 kg net of the product concerned, applicable to white sugar, raw sugar and products (covered by CN code 1702 90 95) are - 44,47 euros and 0,00 euros for products containing CN code 1701 12 10; 44,47 euros and 1,27 euros for products containing CN code 1701 12 90; 44,47 euros and 0,00 euros for products containing CN code 1701 13 10; 44,47 euros and 1,56 euros for products containing CN code 1701 13 90; 44,47 euros and 0,00 euros for products containing CN code 1701 14 10; 44,47 euros and 1,56 euros for products containing CN code 1701 14 90; 50,09 euros and 2,44 euros for products containing CN code 1701 91 00; 50,09 euros and 0,00 euros for products containing CN code 1701 99 10; 50,09 euros and 0,00 euros for products containing CN code 1701 99 90; 0,50 euros and 0,22 euros for products containing CN code 1702 90 95 respectively.<sup>70</sup>
- On 14 February 2012, the Council Decision (2012/164/EU) on the conclusion of the Agreement between the European Union and Georgia on protection of geographical indications of agricultural products and foodstuffs was adopted.<sup>71</sup>
- On 15 March 2012, the Commission Regulation (EU) No. 225/2012 amended Annex II to Regulation (EC) No. 183/2005 of the European Parliament and of the Council as regards the approval of establishments placing on the market, for feed use, products derived from vegetable oils and blended fats and as regards the specific requirements for production, storage, transport and dioxin testing of oils, fats and products derived thereof.<sup>72</sup>
- On 26 March 2012, the Council Decision (2012/189/EU) was adopted on the conclusion of the International Cocoa Agreement 2010. The European Union adopts the International Cocoa Agreement, 2010 in replacement to the International Cocoa Agreement, 2001 (which has been extended till 30 September 2012), and the President of the Council deposits his acts on behalf of the European Union. The Agreement is open for signature and for approval, acceptance and ratification till 30 September 2012.<sup>73</sup>
- On 26 March 2012, the Commission Regulation (EU) No. 270/2012 amended Annexes II and III to Regulation (EC) No. 396/2005 of the European Parliament and of the Council as regards maximum residue levels for amidosulfuron, azoxystrobin, bentazone, bixafen, cyproconazole, fluopyram, imazapic, malathion, propiconazole and spinosad in or on certain products - fresh or frozen fruits and nuts, fresh or frozen vegetables, oilseeds and oilfruits, cereals, tea, coffee,

---

<sup>69</sup> 2012 O.J. (L 12) 24.

<sup>70</sup> 2012 O.J. (L 19) 15.

<sup>71</sup> 2012 O.J. (L 93) 1.

<sup>72</sup> 2012 O.J. (L 77) 1.

<sup>73</sup> 2012 O.J. (L 102) 1.

herbal infusions and cocoa, hops, spices, sugar plants, products of animal origin and terrestrial animals, etc.<sup>74</sup>

### Food and food products

- On 11 January 2012, the Commission Regulation (EU) No. 16/2012 amended Annex II to Regulation (EC) No. 853/2004 of the European Parliament and of the Council as regards the requirements concerning frozen food of animal origin intended for human consumption, wherein Section IV is added to the Annex and states that the term “date of production” means, “(a) the date of slaughter in the case of carcasses, half carcasses or quarter carcasses; (b) the date of killing in the case of bodies of wild game; (c) the date of harvesting or catching, in the case of fishery products; (d) the date of processing, cutting, mincing or preparation, as appropriate, for any other food of animal origin.”

Information regarding the date of production and the date of freezing must be ensured by the food business operators in the case of frozen food of animal origin intended for human consumption till the food is labeled in accordance with the Directive 2000/13/EC. The information is available to the food business operators to whom the food is supplied and also to the competent authority, if requested. When a batch of raw materials are used for the preparation of food with different dates of production and freezing, the oldest date of production and freezing should be available. The form of availability of information is left to the choice of the supplier of the frozen food, as long as the information is clearly available. This Regulation is applicable from 1 July 2012.<sup>75</sup>

- On 19 January 2012, the Commission Implementing Regulation (EU) No. 50/2012 fixed the representative prices in the poultry meat and egg sectors and for egg albumin, and amended Regulation (EC) No. 1484/95. The representative price of “Fowls of the species *Gallus domesticus*, not cut in pieces, presented as “70 % chickens”, frozen” containing CN code 0207 12 10 originating from Argentina is 119,2 euros for 100 kilograms of the product; the representative price of “Fowls of the species *Gallus domesticus*, not cut in pieces, presented as “70 % chickens”, frozen” containing CN code 0207 12 10 originating from Brazil is 128,7 euros for 100 kilograms of the product; the representative price of “Fowls of the species *Gallus domesticus*, not cut in pieces, presented as “65 % chickens”, frozen” containing CN code 0207 12 90 originating from Argentina is 138,1 euros for 100 kilograms of the product; the representative price of “Fowls of the species *Gallus domesticus*, not cut in pieces, presented as “65 % chickens”, frozen” containing CN code 0207 12 90 originating from Brazil is 136,1 euros for 100 kilograms of the product; the representative price of “Fowls of the species *Gallus domesticus*, boneless cuts, frozen” containing CN code 0207 14 10 originating from Argentina is 284,7 euros for 100 kilograms of the product; the representative price of “Fowls of the species *Gallus domesticus*, boneless cuts, frozen” containing CN code 0207 14 10 originating from Brazil is 222,5 euros for 100 kilograms of the product; the representative price of “Fowls of the species *Gallus domesticus*, boneless cuts, frozen” containing CN code 0207 14 10 originating

---

<sup>74</sup> 2012 O.J. (L 89) 5.

<sup>75</sup> 2012 O.J. (L 8) 29.

from Chile is 328,5 euros for 100 kilograms of the product; the representative price of “Fowls of the species *Gallus domesticus*, breasts, frozen” containing CN code 0207 14 50 originating from Brazil is 222,0 euros for 100 kilograms of the product; the representative price of “Fowl of the species *Gallus domesticus*, legs, frozen” containing CN code 0207 14 60 originating from Brazil is 249,8 euros for 100 kilograms of the product; the representative price of “Turkeys, not cut in pieces, presented as “80 % turkeys”, frozen” containing CN code 0207 25 10 originating from Brazil is 223,5 euros for 100 kilograms of the product; the representative price of “Turkeys, boneless cuts, frozen” containing CN code 0207 27 10 originating from Brazil is 333,8 euros for 100 kilograms of the product; the representative price of “Turkeys, boneless cuts, frozen” containing CN code 0207 27 10 originating from Chile is 415,1 euros for 100 kilograms of the product; the representative price of “Egg yolks” containing CN code 0408 11 80 originating from Argentina is 303,9 euros for 100 kilograms of the product; the representative price of “Eggs, not in shell, dried” containing CN code 0408 91 80 originating from Argentina is 328,9 euros for 100 kilograms of the product; the representative price of “Preparations of fowls of the species *Gallus domesticus*, uncooked” containing CN code 1602 32 11 originating from Brazil is 297,1 euros for 100 kilograms of the product; the representative price of “Preparations of fowls of the species *Gallus domesticus*, uncooked” containing CN code 1602 32 11 originating from Chile is 361,2 euros for 100 kilograms of the product; the representative price of “Egg albumin, dried” containing CN code 3502 11 90 originating from Argentina is 498,7 euros for 100 kilograms of the product respectively.<sup>76</sup>

- On 31 January 2012, the Commission Implementing Regulation (EU) No. 81/2012 concerning the denial of authorisation of *Lactobacillus pentosus* (DSM 14025) as a feed additive was adopted. Since *Lactobacillus pentosus* was not proved to not have an adverse effect on human health, animal health and environment, the authorization of *Lactobacillus pentosus* as a feed additive was denied. Stocks of *Lactobacillus pentosus* and premixtures containing *Lactobacillus pentosus* should be removed from the market at the earliest possible, and at the latest by 22 April 2012. Silages produced with *Lactobacillus pentosus* before the date of Regulation shall be used until the present stocks are exhausted.<sup>77</sup>
- On 2 February 2012, the Commission Implementing Regulation (EU) No. 91/2012 concerning the authorisation of *Bacillus subtilis* (CBS 117162) as a feed additive for weaned piglets and pigs for fattening (holder of authorisation Krka d.d.) was adopted. The preparation of *Bacillus subtilis* (CBS 117162) by “containing a minimum of  $4 \times 10^9$  CFU/g additive (granulated form)” where there is active presence of “Spores *Bacillus subtilis* (CBS 117162)” and the method of preparation is Analytical – “spread plate method (EN 15787)” wherein “pulsed-field gel electrophoresis (PFGE) method” is identified; and, belonging to the functional group ‘gut flora stabilisers’ and additive category ‘zootechnical additives’ is authorized in animal nutrition as an additive subject to certain conditions specified in the annex of the Regulation.<sup>78</sup>
- On 3 February 2012, the Commission Implementing Regulation (EU) No. 93/2012 concerning the authorisation of *Lactobacillus plantarum* (DSM 8862 and DSM 8866) as a feed additive for

---

<sup>76</sup> 2012 O.J. (L 17) 13.

<sup>77</sup> 2012 O.J. (L 29) 36.

<sup>78</sup> 2012 O.J. (L 31) 3.

- all animal species was adopted. The preparation of *Lactobacillus plantarum* (DSM 8862 and DSM 8866) by “containing a minimum of  $3 \times 10^{11}$  CFU/g additive (ratio 1:1)” where there is active presence of “*Lactobacillus plantarum* (DSM 8862 and DSM 8866)” and the method of preparation is Analytical – “spread plate method (EN 15787)” wherein “pulsed-field gel electrophoresis (PFGE) method” is identified; and, belonging to the functional group ‘silage additives’ and additive category ‘technological additives’ is authorized in animal nutrition as an additive subject to certain conditions specified in the annex of the Regulation.<sup>79</sup>
- On 10 February 2012, the Commission Implementing Decision (2012/81/EU) authorised the placing on the market of products containing, consisting of, or produced from genetically modified soybean A5547-127 (ACS-GMØØ6-4) pursuant to Regulation (EC) No. 1829/2003 of the European Parliament and of the Council. As per the Decision, “(a) foods and food ingredients containing, consisting of, or produced from ACS-GMØØ6-4 soybean; (b) feed containing, consisting of, or produced from ACS- GMØØ6-4 soybean; (c) products other than food and feed containing or consisting of ACS-GMØØ6-4 soybean for the same uses as any other soybean with the exception of cultivation” have been authorized for the purpose of authorizing GMO for food or food use placed in the market, and feed containing GMO and feed produced from GMO or produced from a feed containing GMO. Certain labeling requirements and monitoring for environments effects have also been discussed in the decision.<sup>80</sup>
  - On 16 February 2012, the Commission Implementing Regulation (EU) No. 136/2012 concerning the authorisation of sodium bisulphate as feed additive for pets and other non-food producing animals was adopted. The preparation of sodium bisulphate by chemical synthesis where the method is Analytical – “titrimetric method based on the determination of total soluble acidity of sodium bisulphate against a standard sodium hydroxide solution”; and, belonging to the functional group ‘acidity regulator’ and additive category ‘technological additives’ is authorized in animal nutrition as an additive subject to certain conditions specified in the annex of the Regulation. The preparation of sodium bisulphate by chemical synthesis where the method is Analytical – “titrimetric method based on the determination of total soluble acidity of sodium bisulphate against a standard sodium hydroxide solution”; and, belonging to the functional group ‘flavouring compounds’ and additive category ‘sensory additives’ is authorized in animal nutrition as an additive subject to certain conditions specified in the annex of the Regulation.<sup>81</sup>
  - On 9 March 2012, the Commission Regulation (EU) No. 231/2012 laid down specifications for food additives listed in Annexes II and III including colour and sweeteners to Regulation (EC) No. 1333/2008 of the European Parliament and of the Council, as regards the food additives approved for use and conditions of use in foods, food enzymes, food flavourings, carriers in nutrients with their conditions of use, etc.<sup>82</sup>

---

<sup>79</sup> 2012 O.J. (L 33) 1.

<sup>80</sup> 2012 O.J. (L 40) 10.

<sup>81</sup> 2012 O.J. (L 46) 33.

<sup>82</sup> 2012 O.J. (L 83) 1.

- On 14 March 2012, the Commission Implementing Regulation (EU) No. 222/2012 amended the Annex to Regulation (EU) No. 37/2010 on pharmacologically active substances and their classification regarding maximum residue limits in foodstuffs of animal origin, as regards the substance triclabendazole.<sup>83</sup>
- On 19 March 2012, the Commission Implementing Regulation (EU) No. 237/2012 concerning the authorisation of alpha-galactosidase (EC 3.2.1.22) produced by *Saccharomyces cerevisiae* (CBS 615.94) and endo-1,4-beta-glucanase (EC 3.2.1.4) produced by *Aspergillus niger* (CBS 120604) as a feed additive for chickens for fattening (holder of authorisation Kerry Ingredients and Flavours) was adopted. The preparation of Alpha- galactosidase (EC 3.2.1.22) Endo-1,4- beta- glucanase (EC 3.2.1.4) by “containing a minimum of 1 000 U alpha-galactosidase/g — 5 700 U endo-1,4-beta-glucanase/g” where there is active presence of “Alpha-galactosidase” and the method of preparation is Analytical – “colorimetric method measuring p-nitrophenol released by action of alpha- galactosidase from p-nitrophenyl-alpha- galactopyranoside substrate, and, colorimetric method measuring water soluble dye released by action of endo-1,4-beta-glucanase from azurine-crosslinked barley glucan substrate” is determined; and, belonging to the functional group ‘digestibility enhancers’ and additive category ‘zootechnical additives’ is authorized in animal nutrition as an additive subject to certain conditions specified in the annex of the Regulation.<sup>84</sup>
- On 21 March 2012, the Commission Implementing Regulation (EU) No. 250/2012 amended Implementing Regulation (EU) No. 961/2011 imposing special conditions governing the import of feed and food originating in or consigned from Japan following the accident at the Fukushima nuclear power station, which was applicable till 31 March 2012 is extended till 31 October 2012. The level of presence of caesium-134 and caesium-137 determined during physical checks and laboratory analysis, in the products consigned from Fukushima, Gunma, Ibaraki, Tochigi, Miyagi, Nagano, Yamanashi, Saitama, Tokyo, Chiba, Kanagawa and Shizuoka has been amended to be 5%, and the level of presence of caesium-134 and caesium-137 in the products consigned from a prefecture other than “Fukushima, Gunma, Ibaraki, Tochigi, Miyagi, Nagano, Yamanashi, Saitama, Tokyo, Chiba, Kanagawa and Shizuoka”, or, if consigned from “Fukushima, Gunma, Ibaraki, Tochigi, Miyagi, Nagano, Yamanashi, Saitama, Tokyo, Chiba, Kanagawa and Shizuoka prefectures”, it does “not originate in one of those prefectures and has not been exposed to radioactivity during transiting” - has been amended to be 10%.<sup>85</sup>
- On 28 March 2012, the Commission Regulation (EU) No. 278/2012 amended Regulation (EC) No. 152/2009 as regards the determination of the levels of dioxins and polychlorinated biphenyls related to feed and food law.<sup>86</sup>

#### Developments during the Review Quarter

After a two year negotiation EU Commission and US Department of Agriculture (USDA) reached a bilateral agreement making standards and control systems of both the region as same on 15 February 2012. The

---

<sup>83</sup> 2012 O.J. (L 75) 10.

<sup>84</sup> 2012 O.J. (L 80) 1.

<sup>85</sup> 2012 O.J. (L 82) 3.

<sup>86</sup> 2012 O.J. (L 91) 8.

agreement is expected to be in force on June 1, 2012.<sup>87</sup> The importance of the agreement is that organic products certified in the US can be sold as organic product in the EU and vice versa.<sup>88</sup> The present system requires the operators to get separate certifications as per the standards of both the region and thereby pay double set of fees, paperwork and inspections.<sup>89</sup>

The EU Council meeting dated 9 March 2012 rejected a compromise text from the Danish EU Presidency regarding the authorization and cultivation of GMOs within EU member states. Most of the member states except France, Germany and Belgium accepted the Danish Presidency proposal. The rejection of the proposal by the EU members blocked the agreement in the EU Council. The options in the proposal include, “during the GMO authorisation procedure (upon request of an EU Member State), the notifier/applicant has the possibility to adjust the geographical scope of the authorisation, thus excluding part or all of the territory of that EU Member State from cultivation; and after the authorisation procedure, the EU Member State has the possibility to restrict or prohibit the cultivation of an authorised GMO, provided that the national measure does not conflict with the environmental risk assessment carried out at EU level”.<sup>90</sup> The blocking members have concern over compatibility of provisions in the proposal with WTO and internal EU market rules and the overlaps and inconsistencies both in the EU and the national level mandatory risk assessment.<sup>91</sup>

### Common Fisheries Policy

- On 19 December 2011, the Council Regulation (EU) No. 5/2012 fixed the fishing opportunities for certain fish stocks and groups of fish stocks applicable to EU vessels operating in the Black Sea for the year 2012. The allocation of fishing opportunities among the Member States shall be without prejudice to “(a) exchanges made pursuant to Article 20(5) of Regulation (EC) No 2371/2002; (b) reallocations made pursuant to Article 37 of Regulation (EC) No 1224/2009; (c) additional landings allowed pursuant to Article 3 of Regulation (EC) No 847/96; (d) quantities withheld in accordance with Article 4 of Regulation (EC) No 847/96; (e) deductions made pursuant to Articles 37, 105 and 107 of Regulation (EC) No 1224/2009.” The fish stocks for which Total Allowable Catches (TACs) are established are permitted to be retained on board or landed only if – the quota possessed by a Member State for fishing stocks is not exhausted and that Member State has taken the catches; or, the catches are subject to a share of Union quota where the Member States has not allocated any quota, and the Union quota is not exhausted. The Member States communicate to the Commission the data relating to landings of quantities of stocks caught.<sup>92</sup>
- On 23 January 2012, the Council Regulation (EU) No. 134/2012 concerning the allocation of fishing opportunities under the Protocol to the Fisheries Partnership Agreement between the European Community and the Republic of Mozambique was adopted. As per the Protocol, the fishing opportunities are allocated among the Member States as: in the case of tuna purse seiners- Spain is allotted 22 vessels, France 20 vessels and Italy 1 vessel- a total of 43 vessels; in

---

<sup>87</sup> Fratini Vergano, *Trade Perspectives*, Issue No. 4, Feb. 24, 2012 available at [www.FratiniVergano.eu](http://www.FratiniVergano.eu) (last visited Apr. 1, 2012).

<sup>88</sup> *Id.*

<sup>89</sup> *Id.*

<sup>90</sup> Fratini Vergano, *Trade Perspectives*, Issue No. 6, Mar. 23, 2012 available at [www.FratiniVergano.eu](http://www.FratiniVergano.eu) (last visited Apr. 1, 2012).

<sup>91</sup> *Id.*

<sup>92</sup> 2012 O.J. (L 3) 1.

the case of surface longliners, Spain is allotted 16 vessels, France 8 vessels, Portugal 7 vessels and United Kingdom 1 vessel, a total of 32 vessels.<sup>93</sup>

## Market Access

- On 10 February 2012, the Commission Implementing Decision (2012/110/EU) concerning preventive vaccination against low pathogenic avian influenza in mallard ducks (*Anas platyrhynchos*) in Portugal and certain measures restricting the movements of such poultry, their eggs and mallard ducks which are exposed to the risk of avian influenza.<sup>94</sup>

## IX B. Services

### Health Services

- On 1 March 2012, the Commission Decision (2012/160/EU) concerning the national provisions notified by the German Federal Government maintaining the limit values for lead, barium, arsenic, antimony, mercury and nitrosamines and nitrosatable substances in toys beyond the entry into application of Directive (2009/48/EC) of the European Parliament and of the Council on the safety of toys was adopted. Accordingly, the German measures relating to antimony, arsenic and mercury were not approved based on grounds relating to a major need of protection of human health, and, the German measures relating to lead, barium, nitrosamines and nitrosatable substances were approved based on the grounds relating to the justification provided for protecting human health and its non-discriminatory policy, undisguised restriction on trade, etc.<sup>95</sup>
- On 7 March 2012, the Commission Directive (2012/9/EU) amended Annex I to Directive (2001/37/EC) of the European Parliament and of the Council on the approximation of the laws, regulations and administrative provisions of the Member States concerning the manufacture, presentation and sale of tobacco products. It contained a list of additional health warnings due to the usage of tobacco products.<sup>96</sup>
- On 14 March 2012, Directive (2012/5/EU) of the European Parliament and of the Council amended Council Directive (2000/75/EC) as regards vaccination against bluetongue, wherein “vaccination against bluetongue using live attenuated vaccines is prohibited in the surveillance zone”. It also contains amended provisions with regard to vaccination measures.<sup>97</sup>
- On 29 March 2012, the Commission Implementing Regulation (EU) No. 284/2012 imposed special conditions governing the import of feed and food originating in or consigned from Japan following the accident at the Fukushima nuclear power station and repealing Implementing Regulation (EU) No. 961/2011. The maximum level of the presence of caesium-134 and caesium-137 -- in the foods for infants and young children is 50 Bq/kg; in milk and dairy products is 50 Bq/kg; in all other foods is 100 Bq/kg; in water and similar drinks is 10 Bq/kg; in the feed for cows and horses is 100 Bq/kg;

---

<sup>93</sup> 2012 O.J. (L 46) 1.

<sup>94</sup> 2012 O.J. (L 50) 46.

<sup>95</sup> 2012 O.J. (L 80) 19.

<sup>96</sup> 2012 O.J. (L 69) 15.

<sup>97</sup> 2012 O.J. (L 81) 1.

in the feeds for pigs is 80 Bq/kg; in the feed for poultry is 160; in the feed for fish is 40 Bq/kg respectively.<sup>98</sup>

### **Aeronautics Industry**

- On 30 March 2012, the Commission Regulation (EU) No. 290/2012 amended Regulation (EU) No. 1178/2011 laying down technical requirements and administrative procedures related to civil aviation aircrew pursuant to Regulation (EC) No. 216/2008 of the European Parliament and of the Council (in particular Pilot training organisations, Flight simulation training devices, aero-medical centres, cabin crew requirements, oversight capabilities, transitional measures).<sup>99</sup>

### **Environment Protection**

- On 28 February 2012, the Commission Implementing Decision (2012/134/EU) established the best available techniques (BAT) conclusions under Directive (2010/75/EU) of the European Parliament and of the Council on industrial emissions for the manufacture of glass. The BAT conclusions are with regard to “Manufacture of glass including glass fibre with a melting capacity exceeding 20 tonnes per day”, and “Melting mineral substances including the production of mineral fibres with a melting capacity exceeding 20 tonnes per day”, and apply to all kinds of glass unless otherwise excluded in the annex to the Regulation.<sup>100</sup>
- On 28 February 2012, the Commission Implementing Decision (2012/135/EU) established the best available techniques (BAT) conclusions under Directive (2010/75/EU) of the European Parliament and of the Council on industrial emissions for iron and steel production. The BAT conclusions are with regard to “activity 1.3: coke production; activity 2.1: metal ore (including sulphide ore) roasting and sintering; activity 2.2: production of pig iron or steel (primary or secondary fusion) including continuous casting, with a capacity exceeding 2,5 tonnes per hour.” The processes relating to “the loading, unloading and handling of bulk raw materials; the blending and mixing of raw materials; the sintering and pelletisation of iron ore; the production of coke from coking coal; the production of hot metal by the blast furnace route, including slag processing; the production and refining of steel using the basic oxygen process, including upstream ladle desulphurisation, downstream ladle metallurgy and slag processing; the production of steel by electric arc furnaces, including downstream ladle metallurgy and slag processing; continuous casting (thin slab/thin strip and direct sheet casting (near-shape))” are also included in the BAT. It applies to all kinds of iron and steel production unless otherwise excluded in the annex to the Regulation.<sup>101</sup>

## **X. WTO DISPUTE SETTLEMENT:**

### **Philippines Tax on Distilled Spirits**

On 21 December 2011, the WTO Appellate Body in Philippine’s Tax on Distilled Spirits,<sup>102</sup> found “the excise tax applied on distilled spirits in Philippines discriminates against imported spirits and therefore in violation

---

<sup>98</sup> 2012 O.J. (L 92) 16.

<sup>99</sup> 2012 O.J. (L 100) 1.

<sup>100</sup> 2012 O.J. (L 70) 1.

<sup>101</sup> 2012 O.J. (L 70) 63.

<sup>102</sup> DS 403, DS 396

of the principle of non-discrimination enshrined in the General Agreement on Tariff and Trade”.<sup>103</sup> The EU hoped that the Philippines would take necessary steps to reestablish WTO compatibility.

### **Airbus Case**

In continuation of the facts and the dispute discussed in the previous quarterly report, an arbitrator was appointed under Article 22.6 of the DSU on 13 January 2012. On 30 March 2012, the US requested for a compliance review panel under Article 21.5 of the DSU in Airbus case.<sup>104</sup>

### **China Anti-dumping Duties on EU X-ray scanners**

On 20 January 2012 a panel was established by the Dispute Settlement Body to review the anti-dumping duties imposed by China on EU X-ray scanners.<sup>105</sup> EU’s second time request resulted in the establishment of the panel. China argued that the alleged measures were in full compatibility with WTO Anti-dumping Agreement. Japan, United States, India, Thailand and Norway are the third parties.

### **Canada Measures Relating to the Feed-in-tariff Program**

Based on EU’s first time request a panel was established on January 20, 2012 by the Dispute Settlement Body in Canada measures relating to the feed-in-tariff program.<sup>106</sup> The consultations between EU and Canada failed since EU was seriously concerned about the measures. EU has significant commercial interest in renewable energy technologies in Canadian market. EU argued that, “feed-in-tariff programs should be framed without any discrimination to foreign goods and the measure at issue has a negative impact on the world wide deployment of low carbon technologies for the generation of electricity”.

Canada argued that the alleged feed-in-tariff program is in consistence with WTO obligations and said, “the Ontario FIT program was established to increase the supply of renewable energy in that province and it supported Ontario’s committed transition from Coal-fired electricity generation”. China, Japan, Australia, India, the US, Chinese Taipei and Saudi Arabia are the third parties.<sup>107</sup>

### **China Anti-dumping and Countervailing Duty Measures on Broiler Products from the United States**

On 20 January 2012, a panel was established by the Dispute Settlement Body based on the second time request by the US.<sup>108</sup> EU is a third party in this dispute along with Thailand, Japan, Saudi Arabia and Norway. EU is a third party because of its similar concerns in China Anti-dumping Duties on EU X-ray Scanners.

### **China Raw Materials**

On 30 January 2012, the WTO Appellate Body confirmed the findings of the Panel in China’s export restrictions on raw materials. Based on environmental protection or conservation policy, WTO found the Chinese measure non-justified. On 13 March 2012, EU launched a second complaint regarding the ‘export

---

<sup>103</sup> Press Release, *EU and US Prevail in WTO Appeal Against Philippine’s Tax Regime Discriminating Against Imported Distilled Spirits*, <http://trade.ec.europa.eu/doclib/press/index.cfm?id=771> (last visited May 30, 2012).

<sup>104</sup> DS 316

<sup>105</sup> DS 425

<sup>106</sup> DS 426

<sup>107</sup> WTO News, *Panel Set Up on X-ray Scanners, Chicken Broiler Products and Renewable Energy Equipment*, [http://www.wto.org/english/news\\_e/news12\\_e/dsb\\_20jan12\\_e.htm](http://www.wto.org/english/news_e/news12_e/dsb_20jan12_e.htm) (last visited May 30, 2012).

<sup>108</sup> DS 427

restrictions on raw materials including 17 rare earths, as well as tungsten and molybdenum'. Chinese export restrictions including "export quotas, export duties and additional requirements" discriminates against the companies outside the territory of China. EU argued that, "these measures significantly distort the market and favor Chinese industry at the expense of companies and consumers in EU".<sup>109</sup>

---

<sup>109</sup>Press Release, *EU Challenges China's Rare Earth Export Restrictions*, <http://trade.ec.europa.eu/doclib/press/index.cfm?id=785&serie=499&langd=en> (last visited May 30, 2012).