



TRADE POLICY DEVELOPMENTS PAPER NO. 24

TRADE POLICY MONITORING REPORT

OF

EUROPEAN UNION

(APRIL 2012- JUNE 2012)

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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 GDP of some of the EU countries showed a positive sign as in the case of Germany which increased by 0.5%, while the GDP of some of the countries of the EU like Italy and Spain, reflected a decline whose GDP contracted by 0.8% and 0.3% respectively. Experts are of the opinion that there will be a further growth in the economy of Germany.
2. In order to cope up with the Euro-Zone Crisis, the European Commission has proposed a legislation giving national authorities power to intervene when a bank is about to collapse by forcing out management and imposing losses on unsecured bond holders.
3. In May 2012, the European Central Bank policymakers decided to keep the benchmark interest rate at a record low of 1%.
4. EU has entered into a number of Free Trade Agreements (FTAs) during this quarter with many countries including India, Veitnam, US, Korea and Colombia. The major concern of the country was to promote investment, lower tariffs and remove the trade barriers.
5. During this quarter, the EU has been involved in a number of anti-dumping actions, the major target being China and countries like US, India and Ukraine were also targated.
6. The Government has released new rules which will allow the foreign companies to invest in the EU market, besides their national companies. The proposal is before the EU Parliament and may come into force in 2013.
7. EU has also come up with Sin tax which is imposed on goods and services like alcohol, tobacco, sweets, soft drinks, fatty foods and coffee, gambling in order to reduce specific behaviors which are harmful to the society.
8. The French Government promulgated its intention to re-launch the proposal on the establishment of the EU tariff on imported goods originating from the third countries with lax environmental regulations, by rebranding it as 'Carbon Inclusion Mechanism'.

TRADE POLICY MONITORING REPORT OF EUROPEAN UNION

FOR THE QUARTERLY PERIOD: APRIL 2012- JUNE 2012

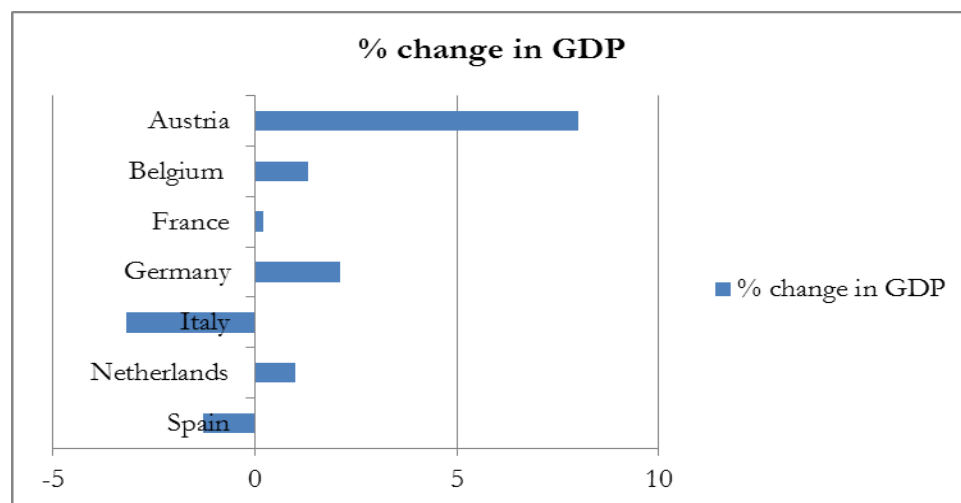
I. INTRODUCTION

This is the fifth 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: April- June, 2012.

II. ECONOMIC ENVIRONMENT AND MONETARY POLICY

OECD forecasts 0.1% contraction in the euro zone economy for the current year.¹ As per GDP figures for the present quarter, Germany showed a 0.5% growth while Italy and Spain contracted by 0.8% and 0.3% respectively. The latest forecasts by the European Commission predict a 0.7% growth in German GDP in 2012 and hope that German performance will make euro zone out of trouble.² The issuance of Emergency Liquidity Assistance (ELA) to the individual central banks is a part of the European System of Central Banks (ESCB), when global financial crisis led to the bail-out. The mechanism has been employed in Germany, Belgium, Ireland and recently in Greece. Under ELA, euro area central banks are able to render emergency liquidity aid to a bank, which is not capable of giving acceptable collateral to the ECB. The risk is not shared by the 'euro system'³ and each ELA loan is required to get the assent of 23 members of the ECB Governing Council.⁴

Graph 1: GDP of Major EU countries over the quarter (April- June 2012)



¹ 'OECD Sees Euro Zone Crisis Threatening World Recovery', The Financial Express, 23 May 2012 at 10.

² 'North and South', The Financial Express, 24 May 2012 at 10.

³ Collective name for 17 member countries of the euro area.

⁴ 'Frozen Europe Means ECB Must Resort to Emergency Liquidity Aid', The Financial Express, 26 May 2012 at 18.

Source: THE ECONOMIST, June 2012.

This graph represents the percentage change in the GDP of various European economies during the present quarter. The GDP of Austria, Belgium, France, Germany and Netherlands expanded by 8%, 1.3%, 0.2%, 2.1% and 1% respectively, whereas the GDP of Italy and Spain contracted by 3.2% and 1.3% respectively. There was no change in the GDP of the Euro area⁵ in the present quarter.

On 21 May 2012, Francois Hollande, the new French President proposed issuing Eurobonds a solution to the debt crisis after he obtained confirmation for this proposal from G-8 leaders meeting in Camp David.⁶

On 30 May 2012, the European Commission in its annual economic recommendations proposed a banking union, which is directly recapitalized by the permanent bail-out fund, the European Stability Mechanism (ESM) without adding to government debt, to resolve the crisis with special focus on Spain. Since banks are not able to get fund directly from ESM and the procedure to change ESM requirements by treaty changes are difficult, this proposal is to overcome the usual practice of ESM lending to sovereign.⁷ On 29 June 2012, the European leaders agreed on this proposal, and according to Herman Van Rompuy, the European Council Chairman, “the aim of this supervisory mechanism is to break the ‘vicious circle’ between banks and sovereign governments”.⁸ The Brussels Summit was focused on the urgent monetary help needs for Spain and Italy, and buying of Italian and Spanish government bonds is proposed to bring down the borrowing costs.⁹ At Brussels Summit to enhance the financing of euro zone economy in the short to medium term, EU leaders called for fresh growth steps including introduction of project bonds, leading power of European Investment Bank by making better use of EU infrastructure funds and increased capital.¹⁰ At the Summit, the EU leaders proposed wider ECB role for the supervision of euro zone banks in return of ECB’s permanent bail-out fund. According to top EU officials, the main issues for the summit were “ideas for the future functioning of the currency union, forcing governments to get approval for budget deficit from other euro-zone countries and requiring them to possibly adapt their spending and tax plans, in an effort to fight off the debt crisis”.¹¹

G-20 and Euro-zone Crisis

The leaders of Argentina, Canada, Chile, China, Colombia, France, Germany, Indonesia, Italy, Japan, Korea, Spain, South Africa and the United States met in Mexico on 19 June 2012. The G-20 Summit in Mexico requested Europe to take proper action to strengthen and stabilize its banks for restoration of economic

⁵ Countries in the European Union (17 countries) which have their currency as euro.

⁶ ‘Holland to Make Eurobond Proposals at EU Summit’, The Financial Express, 22 May 2012 at 6.

⁷ ‘EC Calls for Banking Union in Debt-stricken Euro Zone’, The Financial Express, 31 May 2012 at 10.

⁸ ‘Euro-zone Agrees on Bank Supervision, Bond Support’, The Economic Times, 30 June 2012 at 5.

⁹ Rebecca Christie & Joao Lima, ‘EU Chiefs Weigh Rescue Measures at Crisis Meet’, The Economic Times, 29 June 2012 at 8.

¹⁰ Rebecca Christie & Ewa Krukowska, ‘EU Leaders Want Fresh Growth Steps’, The Economic Times, 16 June 2012 at 13.

¹¹ Gabriele Steinhauser, ‘EU Officials Propose Wider ECB Role’, Mint, 27 June 2012 at 19.

growth. Europeans are requested to finish their work on bail-out funds and develop a mechanism to lend directly to banks.¹² G-20 group of leaders met in Mexico

European Commission and Euro-zone Crisis

The European Commission proposed a legislation giving national authorities power to intervene when a bank is about to collapse by forcing out management and imposing losses on unsecured bond holders. This proposal shifts the cost of a bank's failure, from taxpayers to investors.¹³ The proposal is expected to be implemented on 31 December 2014. By this proposal, banks are forced to make 'resolution plans' popularly known as 'living wills' to explain as to how they will overcome the situation. The proposal also provides for the setting up of a national resolution fund.¹⁴

European Central Bank and Debt Crisis

In the situation where economic crisis is moving to a deeper recession, European Central Bank policymakers decided to keep the benchmark interest rate at a record low of 1% during a meeting on 3 May 2012 at Barcelona.¹⁵

III. TRADE AGREEMENTS AND ARRANGEMENTS

EU- Colombia Free Trade Agreement

On 26 June 2012, EU signed a comprehensive trade agreement with Colombia and Peru. Karel De Gucht, the trade commissioner and Jonas Bering Lisberg, the Danish Ambassador representing the Presidency of the Council of EU, represented EU. Sergio Diaz Granados and Jose Luis Silva Martinot the trade ministers for Colombia and Peru respectively signed the agreement on behalf of their states.¹⁶ The Free Trade Agreement between Columbia and Peru with the European Union is submitted for ratification before the European Parliament. The FTA has already been ratified by the EU Council, and carries the prospective of creating ever-widening relations between the European Union and South America.¹⁷ Karel De Gucht, the EU Trade Commissioner showed a positive sign over the FTA and remarked that this FTA should create "a stable framework to boost trade and investment between the EU and the Andean region." He also added: "In times of economic crisis, increasing trade and investment is the way forward to create growth and job".¹⁸ The deal

¹² Annie Lowrey, 'G 20 to Urge Quicker Action in Europe', Mint, 18 June 2012 at 3.

¹³ Clare Connaghan, 'EU to Push Nations Power Over Weak Banks', Mint, 5 June 2012 at 19.

¹⁴ Ibid.

¹⁵ 'ECB Keeps Rate at 1% as Euro-area Recovery Stalls', The Financial Express, 4 May 2012 at 18.

¹⁶ Press Release, 'EU Signs Comprehensive Trade Agreement with Colombia and Peru', trade.ec.europa.eu/doclib/press/index.cfm?id=810 (last visited 7 September 2012).

¹⁷ Javier Solana, 'Europe, Colombia and the Role of Free Trade', The New York Times (28 June 2012), The Opinion Pages, <http://www.nytimes.com/2012/06/29/opinion/europe-colombia-and-the-role-of-free-trade.html> (last visited 1 Sep. 2012).

¹⁸ 'EU signs a trade agreement with Colombia and Peru', NewEurope Online (26 June 2012), <http://www.neurope.eu/article/eu-signs-trade-agreement-colombia-and-peru> (last visited 4 Sep. 2012).

is expected to reduce 270 million euros duties annually to EU exporters. The official text of the agreement was signed on 13 April 2011. Full implementation of the agreement expected to bring tariff elimination to industrial and fisheries products, increased market access for agricultural products, improved access to public procurement, services and investment markets, further reduction in technical barriers to trade and so on.¹⁹

EU and Vietnam

On 26 June 2012, official negotiations for a free trade agreement have been launched between EU and Vietnam. The issues for negotiations are tariffs, non-tariff barriers, and commitments on trade related aspects like procurement, regulatory issues, competition, services and sustainable development.²⁰

EU and India

Negotiations over India- EU free trade agreement have been taking place in a positive manner. On 26 June 2012, EU Trade Commissioner and Indian Commerce Minister agreed to hold a ministerial meeting with the aim of concluding the negotiations successfully.²¹ After 14 rounds of negotiations, the agreement referred as the Broad-based Trade and Investment Agreement (BTIA) is expected to be concluded by October-November 2012. Mr. Anand Sharma, the Indian Commerce Minister after the meeting with EU Trade Commissioner, Karel De Gucht remarked: “After a number of rounds of negotiations, issues of concern to both sides have been identified. We must devote our energies to addressing these issues as expeditiously as possible. India is keen on a successful and balanced outcome of the negotiations at an early date”.²²

EU and Central America

On 29 June 2012, EU signed an association agreement with six Central American states (Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua and Panama) in Honduras. Karel De Gucht, the Trade Commissioner and Christian Laffler, the European External Action Service Managing Director for the Americas represented EU. Their respective ministers of trade and foreign affairs in the presence of their Presidents represented Central America. The agreement consisted of political dialogue, cooperation and trade. The provisions related to free trade area are expected to come into force at the end of 2012 or early next year.²³

¹⁹ Press Release, ‘EU Signs Comprehensive Trade Agreement with Colombia and Peru’, trade.ec.europa.eu/doclib/press/index.cfm?id=810 (last visited 7 Sep. 2012).

²⁰ Press Release, ‘EU and Vietnam’, trade.ec.europa.eu/doclib/press/index.cfm?id=811 (last visited 7 Sep. 2012).

²¹ Announcements, ‘Joint Statement on the Outcome of the EU-India Trade Ministerial’, trade.ec.europa.eu/doclib/press/index.cfm?id=812 (last visited 7 Sep. 2012).

²² ‘India-EU agree on roadmap for free trade pact by November’, *The Indian Express* (27 Jun. 2012), <http://www.indianexpress.com/news/indiaeu-agree-on-roadmap-for-free-trade-pact-by-november/967188> (last visited 12 Sep. 2012).

²³ Press Release, ‘EU and Central America Sign Association Agreement’, trade.ec.europa.eu/doclib/press/index.cfm?id=815 (last visited 7 Sep. 2012).

IV. TRADE POLICIES AND PRACTICES BY MEASURE

IV A. TECHNICAL BARRIERS TO TRADE

Spanish Measure on Biodiesel

Argentina raised its concern before the WTO Committee on Technical Barriers to Trade against the Spanish measure implementing ‘a system for the allocation of biodiesel production volumes for the computing of compliance with the targets put forward by the Renewable Energy Directive’.²⁴ In order to achieve EU’s climate change and energy policy objectives and to reduce emissions, the Renewable Energy Directive established a common framework for energy from all renewable sources across the EU.²⁵ The Spanish measure at issue laid down the mandatory conditions to be met by plants for participating in the procedure of allocation of biodiesel production volumes in the EU. The measure pointed out that, “only plants located in Spain or in the EU are entitled to request the allocation of a biodiesel production volume”. According to Argentina, the measure is prohibitive and trade distortive since it de facto prohibits importation of biodiesel from outside EU, particularly Argentina, the leading biodiesel exporter to Spain.²⁶

Box I: France to revive the EU’s carbon tax

The French Government promulgated its intention to re-launch the proposal on the establishment of the EU tariff on imported goods originating from the third countries with lax environmental regulations, by rebranding it as ‘Carbon Inclusion Mechanism’. Under this scheme, the European importers would be obligated to buy ‘pollution permits’ from the EU’s Carbon Emission Trading System. The EU would offer partnership agreements with emerging economies where key industrial sectors such as steelmaking, aluminium and cement are particularly sensitive to EU competition especially in light of the higher EU technologies.

The EU is building a track record of the environmental policies that are increasingly raising suspicion or opposition with its trading partners, establishing a common framework for the promotion of energy originating from renewable sources in the EU, by setting mandatory national overall targets and measures for the use of energy from renewable sources. Concerns have been raised with respect to the sustainability criteria for biofuel and biodiesel, particularly their impact on trade and their potentially discriminatory effects.

The Fuel Quality Directive²⁷ was adopted which requires the EU Member States to reduce the levels of greenhouse gas emissions of transportation fuels by 6% by 2020. Under the fuel quality directive, the methodology to calculate compliance with the reduction target requires a calculation of the lifecycle of

²⁴ Ministerial Order IET/822/2012 (‘Orden IET/822/2012, de 20 de abril, por la que se regula la asignación de cantidades de producción de biodiésel para el cómputo del cumplimiento de los objetivos obligatorios de biocarburantes’) entered into force on 22 April 2012.

²⁵ Directive 2009/28/CE of the European Parliament and of the Council of 23 April 2009 on the promotion of the use of energy from renewable sources and amending and subsequently repealing Directives 2001/77/EC and 2003/30/EC

²⁶ Fratini Vergano, Trade Perspectives, Issue No. 12 of 15 June 2012.

²⁷ Directive 2009/30/EC of the European Parliament and of the Council of 23 April 2009 amending Directive 98/70/EC as regards the specification of petrol, diesel and gas-oil and introducing a mechanism to monitor and reduce greenhouse gas emissions and amending Council Directive 1999/32/EC as regards the specification of fuel used by inland waterway vessels and repealing Directive 93/12/EEC.

greenhouse gas intensity of fossil fuels conducted through the determination of default values (for each type of fossil fuel). The most controversial aspect of this legislation that has been debated by the EU Commission and EU Member States is in the context of developing implementing measures which are related to the determination of default values for fossil fuels and the question whether certain fuels like that produced from tar sands and shale oil should be attributed higher 'polluting' values than other fuels.

The EU adopted policies with the aim of ensuring sustainable management of fisheries and forestry resources through instruments such as the EU IUU Regulation and the Forest Law Enforcement Governance and Trade framework aimed at combating illegal practices and establishing licensing systems.

The Carbon Inclusive Mechanism may be problematic under WTO Law, in particular the GATT. WTO members are precluded from imposing tariffs in excess of those that they have committed to in their Schedules of Concessions, and internal taxes or charges in excess of those applied to 'like' domestic products. The specific design of the Carbon Inclusion Mechanism will have to ensure that no country is provided either in law or in fact, a discriminatory treatment in respect of the tariffs imposed as well as regarding any substantial regulation, so that the aforementioned obligations are complied with.

Source: 'France plans to revive EU carbon tariff', The Guardian (18 May 2012), <http://www.guardian.co.uk/environment/2012/may/18/france-eu-carbon-tariff>.

Export Restrictions

For preserving the stock of domestic raw materials, European steel makers have made a request to the EU Commission to impose export restrictions on steel scraps originating in the EU. According to the EU steel makers, the measure is essential to save the European steel industry. The expected effects of the export restriction are rise in international prices of steel scrap and increased supply in domestic steel scrap.²⁸

IV B. TARIFF RATE QUOTAS

On 23 April 2012, Council Decision (2012/231/EU) as regards signing of the Agreement (on behalf of the European Union) in the form of an Exchange of Letters between the European Union and Brazil pursuant to Article XXVIII of the General Agreement on Tariffs and Trade (GATT) and the Agreement in the form of an Exchange of Letters between the European Union and Thailand pursuant to Article XXVIII of the General Agreement on Tariffs and Trade (GATT) 1994, relating to the modification of concessions with respect to processed poultry meat provided in the EU Schedule (annexed to GATT 1994) was adopted.²⁹

On 26 April 2012, the Commission Implementing Regulation (EU) No. 374/2012 amended Regulation (EU) No. 1255/2010 as regards laying down detailed rules for the application of import tariff quotas for 'baby beef' products originating in Bosnia and Herzegovina, Croatia, the former Yugoslav Republic of Macedonia, Montenegro, Serbia, wherein the title of the Regulations was amended with the following words: "Commission Regulation (EU) No. 1255/2010 of 22 December 2010 laying down detailed

²⁸ Fratini Vergano, Trade Perspectives, 'European steelmakers requesting export restrictions on steel scrap', Issue No. 12 of 15 June 2012.

²⁹ Council Decision (2012/231/EU), OJ 2012 L 117/1.

rules for the application of the import tariff quotas for “baby beef” products originating in Bosnia and Herzegovina, Croatia, the former Yugoslav Republic of Macedonia, Montenegro, Serbia and Kosovo”.³⁰

On 29 May 2012, the Commission Regulation (EU) No. 460/2012 established a prohibition of fishing in category 9 ‘pelagic freezer trawlers’ in the Mauritanian Economic Zone by vessels flying the flag of a Member State of the European Union, as the fishing quota allocated for the Member States of the European Union are deemed to be exhausted from 24 April 2012.³¹

V. CONTINGENCY TRADE PROTECTION

Anti- Dumping

EU and China

- An anti-dumping investigation was initiated against imports of sodium cyclamate originating in the People’s Republic of China on two Chinese exporting producers, Fang Da Food Additive (Shen Zhen) Limited and Fang Da Food Additive (Yang Quan) Limited by Productos Aditivos SA, the sole producer of sodium cyclamate in the Union, representing 100 % of the Union production. On 4 April 2012, Commission Decision (2012/185/EU) terminated the anti-dumping proceeding due to a withdrawal by Productos Aditivos SA vide a letter of 17 January 2012. The review of Regulation (EC) No. 1515/2001 is also terminated.³²
- On 12 April 2012, the Council Implementing Regulation (EU) No. 325/2012 imposed a definitive anti-dumping duty and collected definitively the provisional duty imposed on imports of oxalic acid whether in dihydrate or anhydrous form and whether or not in aqueous solution, currently falling within CN code ex 2917 11 00 (TARIC code 2917 11 00 91) originating in India and the People’s Republic of China.³³
- On 13 April 2012, the Council Implementing Regulation (EU) No. 332/2012 amended Regulation (EC) No. 130/2006³⁴ which imposed a definitive anti-dumping duty and collected definitively provisional duty imposed on imports of tartaric acid originating in the People’s Republic of China, and excluded the company Hangzhou Bioking Biochemical Engineering Co., Ltd. from the definitive measures. Accordingly, the term ‘all other companies’ after deleting Hangzhou Bioking Biochemical Engineering Co., Ltd. shall be read as ‘All other companies (except Hangzhou Bioking Biochemical Engineering Co., Ltd. — TARIC additional code A687)’.³⁵
- On 16 April 2012, the Council Implementing Regulation (EU) No. 349/2012 imposed a definitive anti-dumping duty on imports of tartaric acid currently falling within CN code ex 2918 12 00 bearing TARIC code 2918 12 00 90, excluding D-(-)-tartaric acid with a negative optical rotation of at least 12 degrees measured according to the method described in the European Pharmacopoeia in a water

³⁰ Commission Implementing Regulation (EU) No. 374/2012, OJ 2012 L 118/1.

³¹ Commission Regulation (EU) No. 460/2012, OJ 2012 L 142/25.

³² Commission Decision (2012/185/EU), OJ 2012 L 99/33.

³³ Council Implementing Regulation (EU) No. 325/2012, OJ 2012 C 106/1.

³⁴ Regulation (EC) No. 130/2006, OJ 2006 L 23/1.

³⁵ Council Implementing Regulation (EU) No. 332/2012, OJ 2012 L 108/1.

solution, originating in the People's Republic of China, following an expiry review pursuant to Article 11(2) of Regulation (EC) No. 1225/2009. 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 Changmao Biochemical Engineering Co. Ltd, Changzhou City originating in the People's Republic of China, the rate of anti-dumping duty is 10,1% and the TARIC additional code is A688; for products manufactured by Ninghai Organic Chemical Factory, Ninghai originating in the People's Republic of China, the rate of anti-dumping duty is 4,7% and the TARIC additional code is A689; for products manufactured by all other companies (except Hangzhou Bioking Biochemical Engineering Co. Ltd, Hangzhou City originating in the People's Republic of China bearing TARIC additional code A687), the rate of anti-dumping duty is 34,9% and the TARIC additional code is A999. The individual duty rates shall be applicable only on the presentation of a valid commercial invoice (conforming to the requirements mentioned in the annex of the regulation) to the customs authorities.³⁶

- On 17 April 2012, the European Commission published a notice (2012/C 110/05) concerning the anti-dumping measures in respect of imports into the Union of certain finished polyester filament fabrics originating in the People's Republic of China: modification of the name of a company subject to an individual anti-dumping duty rate.³⁷
- On 17 April 2012, the European Commission published a notice (2012/C 110/06) of the expiry of certain anti-dumping measures, as regards certain frozen strawberries originating from the People's Republic of China with reference to Council Regulation (EC) No. 407/2007³⁸ to be expired on 18 April 2012.³⁹
- On 20 April 2012, the European Commission published a notice (2012/C 116/03) of the impending expiry of certain anti-dumping measures, as regards Dicyandiamide (DCD) originating from the People's Republic of China with reference to Council Regulation (EC) No. 1331/2007⁴⁰ to be expired on 16 November 2012.⁴¹
- On 24 April 2012, the European Commission published a notice (2012/C 119/05) of the impending expiry of certain anti-dumping measures as regards Silico-manganese (including ferro-silico-manganese) originating from the People's Republic of China and Kazakhstan with reference to Council Regulation (EC) No. 1420/2007⁴² to be expired on 6 December 2012.⁴³
- On 24 April 2012, the European Commission published a notice (2012/C 119/06) concerning the anti-dumping measures in force in respect of imports into the EU of ceramic tiles originating in the People's Republic of China, as regards the change of the name of a company subject to an average anti-dumping duty rate for cooperating companies. Council Implementing Regulation (EC) No. 917/2011 of 15 September 2011 imposes a definitive anti-dumping duty on imports of ceramic tiles

³⁶ Council Implementing Regulation (EU) No. 349/2012, OJ 2012 L 110/3.

³⁷ (2012/C 110/05), OJ 2012 C 110/6.

³⁸ Council Regulation (EC) No. 407/2007, OJ 2007 L 100/1.

³⁹ (2012/C 110/06), OJ 2012 C 110/7.

⁴⁰ Council Regulation (EC) No. 1331/2007, OJ 2007 L 296/1.

⁴¹ (2012/C 116/03), OJ 2012 C 116/3.

⁴² Council Regulation (EC) No. 1420/2007, OJ 2007 L 317/5.

⁴³ (2012/C 119/05), OJ 2012 C 119/8.

originating in the People's Republic of China. Heyuan Wanfeng Ceramics Co., Ltd., a company situated in the People's Republic of China, whose exports of ceramic tiles are subject to an anti-dumping duty of 30,6%, had informed the Commission on 28 September 2011 of its change of name to Guangdong Luxury Micro-crystal Stone Technology Co., Ltd. The Commission inferred from its investigation that the change of name does not affect the findings of the Regulation (EU) No. 917/2011 in any way. The additional TARIC Code B195 attributed to Heyuan Wanfeng Ceramics Co., Ltd., shall hereinafter attribute to Guangdong Luxury Micro-crystal Stone Technology Co., Ltd.⁴⁴

- On 25 April 2012, the European Commission published a notice (2012/C 120/06) of initiation of an expiry review as regards the anti-dumping measures applicable to imports of ironing boards originating in the People's Republic of China and Ukraine.⁴⁵
- On 27 April 2012, the European Commission published a notice (2012/C 122/06) of initiation of an anti-subsidy proceeding concerning imports of bicycles originating in the People's Republic of China, due to a complaint lodged by the European Bicycle Manufacturers Association (EBMA) against imports of bicycles (including delivery tricycles but excluding unicycles) and other cycles not motorized currently falling within the CN codes 8712 00 30 and ex 8712 00 70, and originating in the People's Republic of China, which by being subsidized are causing material injury to the Union industry.⁴⁶
- On 1 May 2012, the European Commission published a notice (2012/C 127/03) of the impending expiry of certain anti-dumping measures as regards 'gas-fuelled, non-refillable pocket flint lighters and certain refillable pocket flint lighters' originating from the People's Republic of China and Taiwan with reference to Council Regulation (EC) No. 1458/2007⁴⁷ to be expired on 13 December 2012.⁴⁸
- On 7 May 2012, the Council Implementing Regulation (EU) No. 398/2012 amended the Implementing Regulation (EU) No. 492/2010 imposing a definitive anti-dumping duty on imports of sodium cyclamate originating in, inter alia, the People's Republic of China.⁴⁹
- On 10 May 2012, the Commission Regulation (EU) No. 402/2012 imposed a provisional anti-dumping duty on imports of aluminium radiators and elements or sections of which such radiator is composed, whether or not such elements are assembled in blocks, currently falling within CN codes-ex 7615 10 10, ex 7615 10 90, ex 7616 99 10 and ex 7616 99 90 and TARIC codes 7615 10 10 10, 7615 10 90 10, 7616 99 10 91, 7616 99 90 01 and 7616 99 90 91, excluding radiators and elements and sections thereof of electrical type, originating in the People's Republic of China.⁵⁰
- On 21 May 2012, Commission Decision (2012/265/EU) terminated the anti-dumping proceeding concerning imports of certain stitched or woven or stitched and woven continuous filament glass

⁴⁴ (2012/C 119/06), OJ 2012 C 119/9.

⁴⁵ (2012/C 120/06), OJ 2012 C 120/9.

⁴⁶ (2012/C 122/06), OJ 2012 C 122/9.

⁴⁷ Council Regulation (EC) No. 1458/2007, OJ 2007 L 326/1.

⁴⁸ (2012/C 127/03), OJ 2012 C 127/3.

⁴⁹ Council Implementing Regulation (EU) No. 398/2012, OJ 2012 L 124/1.

⁵⁰ Commission Regulation (EU) No. 402/2012, OJ 2012 L 124/17.

fibre fabrics falling within CN codes ex 7019 39 00, ex 7019 40 00 and ex 7019 90 00, excluding open mesh fabrics containing cells of a size more than 1,8 mm in length and width and weighing more than 35 g/m² and products which are impregnated or pre-impregnated (pre-preg), originating in the People's Republic of China.⁵¹

- On 23 May 2012, the Commission Regulation (EU) No. 437/2012 initiated an investigation concerning the possible circumvention of anti-dumping measures imposed by Council Implementing Regulation (EU) No. 791/2011⁵² on imports of certain open mesh fabrics of glass fibres of a cell size of more than 1,8 mm both in length and in width and weighing more than 35g/m² bearing CN codes ex 7019 51 00 and ex 7019 59 00 and TARIC codes 7019 51 00 12, 7019 51 00 13, 7019 59 00 12 and 7019 59 00 13 and originating in the People's Republic of China, by imports of certain open mesh fabrics of glass fibres consigned from Taiwan and Thailand, whether declared as originating in Taiwan and Thailand or not, and making such imports subject to registration.⁵³
- On 4 June 2012, Commission Decision (2012/289/EU) terminated the anti-dumping proceeding concerning imports of tartaric acid originating in the People's Republic of China, which is limited to one Chinese exporting producer, Hangzhou Bioking Biochemical Engineering Co. Ltd.⁵⁴
- On 6 June 2012, the European Commission published a notice (2012/C 160/07) of initiation of a review of the anti-dumping measures in force on imports of certain iron or steel fasteners originating in the People's Republic of China, following the recommendations and rulings adopted by the Dispute Settlement Body of the World Trade Organization on 28 July 2011 in the EC-Fasteners dispute (DS 397).⁵⁵
- On 13 June 2012, the Commission Regulation (EU) No. 502/2012 initiated an investigation concerning the possible circumvention of anti-dumping measures imposed by Council Implementing Regulation (EU) No. 2/2012⁵⁶ on imports of certain stainless steel fasteners and parts thereof originating in the People's Republic of China by imports of certain stainless steel fasteners and parts thereof, currently falling within CN codes ex 7318 12 10, ex 7318 14 10, ex 7318 15 30, ex 7318 15 51, ex 7318 15 61 and ex 7318 15 70 and bearing TARIC codes 7318 12 10 11, 7318 12 10 91, 7318 14 10 11, 7318 14 10 91, 7318 15 30 11, 7318 15 30 61, 7318 15 30 81, 7318 15 51 11, 7318 15 51 61, 7318 15 51 81, 7318 15 61 11, 7318 15 61 61, 7318 15 61 81, 7318 15 70 11, 7318 15 70 61 and 7318 15 70 81, consigned from Malaysia, Thailand and the Philippines, whether declared as originating in Malaysia, Thailand and the Philippines or not, and making such imports subject to registration. Registration has been made appropriate and the customs authorities are directed to register imports entering the Union. The registration shall expire in nine months after this Regulation enters into force. The customs authorities may be directed by the Commission to cease registration as regards imports which have the eligibility for exemption and have been requested by the producers. More information is available on the website: <http://ec.europa.eu/trade/tackling-unfair-trade/trade->

⁵¹ Commission Decision (2012/265/EU), OJ 2012 L 131/7.

⁵² Council Implementing Regulation (EU) No. 791/2011, OJ 2011 L 204/1.

⁵³ Commission Regulation (EU) No. 437/2012, OJ 2012 L 134/12.

⁵⁴ Commission Decision (2012/289/EU), OJ 2012 L 144/43.

⁵⁵ (2012/C 160/07), OJ 2012 C 160/19.

⁵⁶ Council Implementing Regulation (EU) No. 2/2012, OJ 2012 L 5/1.

defence, and interested parties may consult the relevant web page on the website of Directorate-General for Trade.⁵⁷

- On 19 June 2012, the European Commission published a notice (2012/C 175/08) concerning the anti-dumping measures on imports of certain prepared or preserved citrus fruits (namely mandarins, etc.) falling within CN codes 2008 30 55, 2008 30 75 and ex 2008 30 90 and bearing TARIC codes 2008 30 90 61, 2008 30 90 63, 2008 30 90 65, 2008 30 90 67, 2008 30 90 69, originating in the People's Republic of China, and a partial reopening of the anti-dumping investigation concerning imports of certain prepared or preserved citrus fruits (namely mandarins, etc.) originating in the People's Republic of China.⁵⁸
- On 21 June 2012, the Council Implementing Regulation (EU) No. 541/2012 terminated the interim review of the anti-dumping measures concerning imports of furfuraldehyde originating in the People's Republic of China and repealing those measures.⁵⁹
- On 26 June 2012, the Council Implementing Regulation (EU) No. 558/2012 amended Implementing Regulation (EU) No. 102/2012⁶⁰ imposing 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, falling within CN codes ex 7312 10 81, ex 7312 10 83, ex 7312 10 85, ex 7312 10 89 and ex 7312 10 98, originating, inter alia, in the People's Republic of China as extended to imports of steel ropes and cables consigned from, inter alia, the Republic of Korea, whether declared as originating in the Republic of Korea or not. Products manufactured by Bosung Wire Rope Co. Ltd., originating in the Republic of Korea with TARIC Additional Code A969; by Chung Woo Rope Co. Ltd., originating in the Republic of Korea with TARIC Additional Code A969; by CS Co. Ltd., originating in the Republic of Korea with TARIC Additional Code A969; by Cosmo Wire Ltd., originating in the Republic of Korea with TARIC Additional Code A969; by Dae Heung Industrial Co. Ltd., originating in the Republic of Korea with TARIC Additional Code A969; by DSR Wire Corp., originating in the Republic of Korea with TARIC Additional Code A969; by Kiswire Ltd., originating in the Republic of Korea with TARIC Additional Code A969; by Manho Rope & Wire Ltd., originating in the Republic of Korea with TARIC Additional Code A969; by Seil Wire and Cable, originating in the Republic of Korea with TARIC Additional Code A994; by Shin Han Rope Co. Ltd., originating in the Republic of Korea with TARIC Additional Code A969; by Ssang YONG Cable Mfg. Co. Ltd., originating in the Republic of Korea with TARIC Additional Code A969; by Young Heung Iron & Steel Co. Ltd., originating in the Republic of Korea with TARIC Additional Code A969 are included within the ambit of the Regulation. The registration of imports done by the customs authorities are hereby directed to discontinue the same and anti-dumping duties cannot be collected on imports registered.⁶¹
- On 26 June 2012, Council Implementing Regulation (EU) No. 567/2012 amended Implementing Regulation (EU) No. 917/2011 imposing a definitive anti-dumping duty and collecting definitively provisional duty imposed on imports of ceramic tiles originating in the People's Republic of China,

⁵⁷ Commission Regulation (EU) No. 502/2012, OJ 2012 L 153/8.

⁵⁸ (2012/C 175/08), OJ 2012 C 175/19.

⁵⁹ Council Implementing Regulation (EU) No. 541/2012, OJ 2012 L 165/4.

⁶⁰ Implementing Regulation (EU) No. 102/2012, OJ 2012 L 36/1.

⁶¹ Council Implementing Regulation (EU) No. 558/2012, OJ 2012 L 168/3.

by adding a company 'Onna Ceramic Industries (China) Co. Ltd.' bearing TARIC Code B293 to the list of producers from the People's Republic of China listed in Annex I.⁶²

- On 26 June 2012, the Council Implementing Regulation (EU) No. 626/2012 amended Implementing Regulation (EU) No. 349/2012 imposing a definitive anti-dumping duty on imports of tartaric acid originating in the People's Republic of China.⁶³
- On 26 June 2012, the European Commission published a notice (2012/C 186/06) of the impending expiry of certain anti-dumping measures, as regards ferro-silicon originating from the People's Republic of China, Egypt, Kazakhstan and Russia with reference to Council Regulation (EC) No. 172/2008⁶⁴ as amended by Council Implementing Regulation (EU) No. 1297/2009⁶⁵ to be expired on 1 March 2013.⁶⁶
- On 27 June 2012, Commission Decision (2012/343/EU) terminated the anti-dumping proceeding concerning imports of certain concentrated soy protein products falling under CN codes ex 2106 10 20, ex 2106 90 92, ex 2309 90 10, ex 2309 90 99 (ex 2309 90 96 as from 1 January 2012) and ex 3504 00 90, originating in the People's Republic of China.⁶⁷
- On 28 June 2012, the Commission Regulation (EU) No. 572/2012 was adopted as regards imports of certain prepared or preserved citrus fruits, namely mandarins(including tangerines and satsumas) prepared or preserved, clementines, wilkings and other similar citrus hybrids, not containing added spirit, whether or not containing added sugar or other sweetening matter, currently falling within CN codes 2008 30 55, 2008 30 75 and ex 2008 30 90 and bearing TARIC codes 2008 30 90 61, 2008 30 90 63, 2008 30 90 65, 2008 30 90 67 and 2008 30 90 69, defined under CN heading 2008, originating in the People's Republic of China subject to registration. The registration shall expire in nine months after this Regulation enters into force.⁶⁸

EU and USA

- On 11 April 2012, the European Commission published a notice (2012/C 103/06) of initiation of a partial interim review of the anti-dumping measures applicable to imports of ethanolamines originating in the United States of America.⁶⁹

EU and India

- On 21 April 2012, the European Commission published a notice (2012/C 117/06) of the impending expiry of certain anti-dumping measures, as regards Polyethylene terephthalate (PET) film originating

⁶² Council Implementing Regulation (EU) No. 567/2012, OJ 2012 L 169/11.

⁶³ Council Implementing Regulation (EU) No. 626/2012, OJ 2012 L 182/1.

⁶⁴ Council Regulation (EC) No. 172/2008, OJ 2008 L 55/6.

⁶⁵ Council Implementing Regulation (EU) No. 1297/2009, OJ 2009 L 351/1.

⁶⁶ (2012/C 186/06), OJ 2012 C 186/8.

⁶⁷ Commission Decision (2012/343/EU), OJ 2012 C 168/38.

⁶⁸ Commission Regulation (EU) No. 572/2012, OJ 2012 L 169/50.

⁶⁹ (2012/C 103/06), OJ 2012 C 103/8.

from India, Brazil and Israel with reference to Council Regulation (EC) No. 1292/2007⁷⁰ to be expired on 7 November 2012.⁷¹

- On 9 May 2012, the European Commission published a notice (2012/C 135/09) of the impending expiry of certain anti-dumping measures as regards Dihydromyrcenol originating from India with reference to Council Regulation (EC) No. 63/2008⁷² to be expired on 27 January 2013.⁷³
- On 26 June 2012, the Council Implementing Regulation (EU) No. 560/2012 terminated the partial interim review concerning the anti-dumping measures on imports of certain polyethylene terephthalate (PET) originating in India, without amending the anti-dumping duties in force. The termination was due to withdrawal of request for partial interim review by the applicant.⁷⁴

EU and Belarus

- On 7 May 2012, Commission Decision (2012/247/EU) terminated the anti-dumping proceeding concerning imports of certain seamless pipes and tubes of iron or steel falling within CN codes ex 7304 19 10, ex 7304 19 30, ex 7304 23 00, ex 7304 29 10, ex 7304 29 30, ex 7304 31 80, ex 7304 39 58, ex 7304 39 92, ex 7304 39 93, ex 7304 51 89, ex 7304 59 92 and ex 7304 59 93, excluding seamless pipes and tubes of stainless steel with a circular cross-section where the external diameter not exceeding 406,4 mm with a Carbon Equivalent Value (CEV) not exceeding 0,86 as per the International Institute of Welding (IIW) formula and chemical analysis, and originating in Belarus.⁷⁵

EU and Ukraine

- On 12 June 2012, the European Commission published a notice (2012/C 166/03) of initiation of a partial interim review of the anti-dumping measures applicable to imports of ironing boards originating in Ukraine.⁷⁶
- On 16 June 2012, the European Commission published a notice (2012/C 171/11) of the expiry of certain anti-dumping measures, as regards Ammonium nitrate originating from Ukraine with reference to Council Implementing Regulation (EU) No. 512/2010⁷⁷ and Commission Decision 2008/577/EC⁷⁸ to be expired on 17 June 2012.⁷⁹
- On 21 June 2012, the Council Implementing Regulation (EU) No. 540/2012 amended Regulation (EC) No. 954/2006⁸⁰ imposing a definitive anti-dumping duty on imports of certain seamless pipes and tubes, of iron or steel originating in Croatia, Romania, Russia and Ukraine.⁸¹

⁷⁰ Council Regulation (EC) No. 1292/2007, OJ 2007 L 288/1.

⁷¹ (2012/C 117/06), OJ 2012 C 117/7.

⁷² Council Regulation (EC) No. 63/2008, OJ 2008 L 23/1.

⁷³ (2012/C 135/09), OJ 2012 C 135/20.

⁷⁴ Council Implementing Regulation (EU) No. 560/2012, OJ 2012 L 168/14.

⁷⁵ Commission Decision (2012/247/EU), OJ 2012 L 121/36.

⁷⁶ (2012/C 166/03), OJ 2012 C 166/3.

⁷⁷ Council Implementing Regulation (EU) No. 512/2010, OJ 2010 L 150/24.

⁷⁸ Commission Decision 2008/577/EC, OJ 2008 L 185/43.

⁷⁹ (2012/C 171/11), OJ 2012 C 171/25.

⁸⁰ Regulation (EC) No. 954/2006, OJ 2006 L 175/4.

- On 26 June 2012, the Council Implementing Regulation (EU) No. 585/2012 imposed a definitive anti-dumping duty on imports of certain seamless pipes and tubes, of iron or steel, originating in Russia and Ukraine, following an expiry review pursuant to Article 11(2) of Regulation (EC) No. 1225/2009, and terminating the expiry review proceeding concerning imports of certain seamless pipes and tubes, of iron or steel, originating in Croatia.⁸²

EU and Thailand

- On 19 June 2012, the European Commission published a notice (2012/C 175/09) of initiation of an expiry review of the anti-dumping measures applicable to imports of certain prepared or preserved sweet corn in kernels, prepared or preserved by vinegar or acetic acid, not frozen, falling within CN code ex 2001 90 30 and sweetcorn in kernels, prepared or preserved otherwise than by vinegar or acetic acid, not frozen, other than products of heading 2006, falling within CN code ex 2005 80 00, originating in Thailand.⁸³

EU and South Africa

- On 21 June 2012, the European Commission published a notice (2012/C 180/10) of the impending expiry of certain anti-dumping measures, as regards certain manganese dioxides originating from South Africa with reference to Council Regulation (EC) No. 221/2008⁸⁴ to be expired on 14 March 2013.⁸⁵

EU and Vietnam

- On 25 June 2012, the Commission Regulation (EU) No. 548/2012 initiated an investigation concerning the possible circumvention of anti-dumping measures imposed by Council Regulation (EC) No. 1458/2007 on imports of gas-fuelled, non-refillable pocket flint lighters originating in the People's Republic of China by imports of gas-fuelled, non-refillable pocket flint lighters consigned from Vietnam, whether declared as originating in Vietnam or not, and making such imports subject to registration.⁸⁶

Anti-Subsidy

- On 23 May 2012, the Commission Decision (2012/278/EU) terminated the anti-subsidy 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 and 7318 15 70, originating in

⁸¹ Council Implementing Regulation (EU) No. 540/2012, OJ 2012 L 165/1.

⁸² Council Implementing Regulation (EU) No. 585/2012, OJ 2012 L 174/5.

⁸³ (2012/C 175/09), OJ 2012 C 175/22.

⁸⁴ Council Regulation (EC) No. 221/2008, OJ 2008 L 69/1.

⁸⁵ (2012/C 180/10), OJ 2012 C 180/15.

⁸⁶ Commission Regulation (EU) No. 548/2012, OJ 2012 L 165/37.

India. The amounts collected by way of provisional countervailing duties pursuant to Regulation (EU) No. 115/2012 shall be released.⁸⁷

VI. MEASURES AFFECTING PRODUCTION AND TRADE

VI A. TAXATION AND TAX-RELATED MATTERS IN EU

EU Tax on Financial Transactions

As mentioned in the previous reports, financial transaction tax popularly known as Tobin tax on all EU financial transactions was suggested as a means to curb economic crisis. Most of the member states have different views on the imposition of Tobin tax and many of them expressed their concerns regarding the tax.⁸⁸ The Financial Secretary, Mark Hoban expressed his concern over the imposition of financial transaction tax in a letter to the Lords European Union Committee in May 2012.⁸⁹ The major issues include devastating effects on major economic centres of EU namely London, Paris and Frankfurt, negative impact on the EU GDP growth rate by 1.76% as assessed by the European Commission and reduction in employment opportunities since 1.76% reduction in GDP will result in € 200 billion economic loss.⁹⁰ European Finance ministers are not unanimous on their view to impose Tobin tax as per the information flowing from EU Council meetings.⁹¹ In the Council meeting which took place in June, it was agreed to hold the imposition of EU financial transaction tax in view of difference in opinion of EU finance ministers.⁹²

Sin Taxes on Food and Beverages

Sin taxes are excise or per unit taxes aimed to reduce the specific behavior of goods and services which are supposed to be harmful to the society. Sin taxes are levied on goods like tobacco, alcohol, coffee, soft drinks, sweets, fatty foods and services like gambling. France imposed a 'soda tax' as a measure to revise governmental revenue in addition to the health perspective in the context of economic crisis.⁹³

EU, in order to reduce obesity but more so to generate revenues, proposes to impose a tax on fatty foods and/or sugary beverages in the member states, known as Fat Tax or otherwise known as Sin Tax. These measures will help EU's economy in the midst of the current economic debt crisis. At present, the EU Commission's stance is not clear for pursuing the harmonization of 'fat taxes' but such measures could be

⁸⁷ Commission Decision (2012/278/EU), OJ 2012 L 134/31.

⁸⁸ See Anthony Seely, 'Tobin Tax- Recent Developments', Standard Note 06184, House of Commons Library (13 July 2012).

⁸⁹ Letter from the Financial Secretary to Lord Harrison (Chair, Economic and Financial Affairs and International Trade sub-Committee), 24 May 2012.

⁹⁰ *Ibid.*

⁹¹ HC Deb 18 April 2012 c22WS.

⁹² HC Deb 2 July 2012 c30WS.

⁹³ Fratini Vergano, Trade Perspectives, "Sin taxes' on food and beverages in the EU Member States – A model for the EU?", Issue No. 8 of 20 April 2012.

imposed if the current EU Member State taxes prove successful at altering consumer behavior. However, such measure should be supported by most of the EU members in order to be effective.⁹⁴

Legal Perspectives of the Tax:

- EU measures shall comply with the EU internal market rules. The EU member States must comply with the Treaty on the Functioning of the European Union.
- The harmonized EU ‘fat tax’ shall also comply with international trade law obligations especially the Most Favoured Nation (MFN) clause and National Treatment (NT) clause.
- Proper scientific justification on taxing such foods has to be provided, since the Food Industry emphasizes on the link between taxes and health.⁹⁵

Box II: European Commission v. Republic of Estonia

On 10 May 2012, the European Court of Justice in the case of Commission v. Republic of Estonia in Case no: C-39/10 pronounced its judgment in favour of the Commission, wherein the Commission had requested clarification as to whether the European Union legislation as regards non-resident pensioners claiming income tax deduction has been complied with by the Income Tax Act of Estonia. Estonia was limiting the freedom of movement of non-resident seniors who were exercising their freedom of movement but did not gain 75% of income from Estonia, and were given a less favourable treatment than the senior residents who belonged to Estonia. The ECJ held that, if a member state does not provide tax benefits to non-resident pensioners for the reason that the total income is very modest, the refusal of member state (where the source of income arises) to exercise a tax exemption is in conflict with right to free movement.

Source: ‘European Court of Justice: Estonian income tax system discriminated non-resident seniors’, Tax Newsletter Estonia (30 May 2012), [http://www.ey.com/Publication/vwLUAssets/EE_Tax_Newsletter,_May_12,_Eng/\\$FILE/EY%20newsletter%2030.05.12.pdf](http://www.ey.com/Publication/vwLUAssets/EE_Tax_Newsletter,_May_12,_Eng/$FILE/EY%20newsletter%2030.05.12.pdf).

VI B. CUSTOMS

On 4 May 2012, the EU Taxation and Customs Union Directorate and the U.S. Customs and Border Protection (CBP) signed the mutual recognition decision, which “formally recognizes the compatibility of each other’s security-certified trader programs, i.e., the US Customs-Trade Partnership Against Terrorism (C-TPAT) program and the EU’s Authorized Economic Operator (AEO) program”. The decision will be implemented by the EU and the US from 1 July 2012. This decision of mutual recognition is a win-win situation for both the EU and the US companies, since the customs authorities of both the countries will treat the certified traders of the other country in the same manner as they treat their own.

The AEO program of the EU currently has about 5000 members, and is expanding with mutual agreements entered with Japan, Norway and Switzerland, and discussions taking place with China, whereas the C-TPAT

⁹⁴ *Ibid.*

⁹⁵ *Ibid.*

program of the US has more than 10000 members, and is expanding with mutual recognition from Canada, Japan, Jordan, Korea and New Zealand, and discussions taking place with Singapore. The decision has brought about a change in international trade where companies are looking forward for conducting trade with speed and end-to-end supply chain security. For companies with AEO or C-TPAT status, this decision has brought about an advantage for being a security-certified trader in the global marketplace.⁹⁶

VII. TRADE POLICIES BY SECTOR

VII A. COMMON AGRICULTURAL POLICY

On 18 April 2012, the Commission Implementing Regulation (EU) No. 331/2012 was adopted as regards the issue of licences for the import of garlic in the sub-period from 1 June 2012 to 31 August 2012.⁹⁷

VII B. COMMON FISHERIES POLICY

On 13 April 2012, the Commission Implementing Regulation (EU) No. 319/2012 added to the 2012 fishing quotas certain quantities withheld in the year 2011 pursuant to Article 4(2) of Council Regulation (EC) No. 847/96. The quotas for fishing are increased as set out in the Annex to the Regulation as regards Regulation (EU) No. 1225/2010, Regulation (EU) No. 1256/2011, Regulation (EU) No. 5/2012, Regulation (EU) No. 43/2012 and Regulation (EU) No. 44/2012.⁹⁸

VIII. DISPUTE SETTLEMENT UPDATE

China Export Restrictions on Rare Earths

On 27 June 2012, European Union requested the establishment of a dispute settlement panel at the World Trade Organization regarding China's export restrictions on rare earths, tungsten and molybdenum.⁹⁹ According to EU "Chinese export restrictions, including export duties, export quotas and additional requirements that limit access to raw materials for companies outside China significantly distort the market and favour Chinese industry at the expense of companies and consumers in the EU and globally".¹⁰⁰

Airbus Case

United States requested the WTO Dispute Settlement Body to set up a panel to examine the compliance taken by EU in the airbus case.¹⁰¹ On 13 April 2012, the Dispute Settlement Body agreed on the request under Article 21.5 of the Dispute Settlement Understanding.¹⁰² United States recalled that the European Union has failed to comply with the ruling under Article 7.9 of the Subsidies and Countervailing Measures Agreement.

⁹⁶ 'A big win for security-certified traders in the US and EU', Trade Watch, Volume 11, Issue 2 (June 2012).

⁹⁷ Commission Implementing Regulation (EU) No. 331/2012, OJ 2012 L 107/3.

⁹⁸ Commission Implementing Regulation (EU) No. 319/2012, OJ 2012 L 104/2.

⁹⁹ Press Release, 'EU requests WTO panel against China's export restrictions on rare earths', trade.ec.europa.eu/doclib/press/index.cfm?id=813 (last visited 7 September 2012).

¹⁰⁰ *Ibid.*

¹⁰¹ DS 316.

¹⁰² WTO News, *Dispute Panel to Examine EU Compliance in Airbus Case*, http://www.wto.org/english/news_e/news12_e/dsb_16apr12_e.htm (last visited 9 September 2012).

Argentina Import Restrictive Measures

On 25 May 2012, the EU requested consultations with Argentina under the dispute settlement system concerning the latter's import restrictive measures to obtain an import license.¹⁰³ The measures put an obligation on companies to balance imports with exports. The major EU concerns are:

Argentina subjects the import of all goods to a pre-registration and pre-approval regime, called the "Declaración Jurada Anticipada de Importación". Since February 2012, this pre-approval requirement is applied to all imports. Secondly, hundreds of goods also need an import license. On the basis of these procedures, imports are systematically delayed or refused on non-transparent grounds. In early 2011, more than 600 product types were affected by this license regime, such as electrical machinery, auto parts and chemical products. Thirdly, Argentina requires importers to balance imports with exports, or to increase the local content of the products they manufacture in Argentina, or not to transfer revenues abroad. This practice is systematic, non-written and non-transparent. Acceptance by importers to undertake this practice appears to be a condition for obtaining the license allowing imports of their goods. These measures delay or block goods at the border and inflict major losses to industry in the EU and worldwide.¹⁰⁴

The EU Commissioner Karel De Gucht said, "Argentina's import restrictions violate international trade rules and must be removed. These measures are causing very real damage to EU companies – hurting jobs and our economy as a whole".¹⁰⁵ Consultations have been taking place. In case a satisfactory solution is not reached within sixty days, EU may request for the establishment of a Panel. The dispute in detail will be discussed in the next quarterly report.¹⁰⁶

¹⁰³ WT/DS438/1.

¹⁰⁴ European Commission Press Release, *EU Challenges Argentina's Import Restrictions*, <http://europa.eu/rapid/pressReleasesAction.do?reference=IP/12/503&> (last visited 9 September 2012).

¹⁰⁵ *Ibid.*

¹⁰⁶ WTO News, *EU Files Dispute Against Argentina*, http://www.wto.org/english/news_e/news12_e/ds438rfc_25may12_e.htm (last visited 9 September 2012).