



TRADE POLICY DEVELOPMENTS PAPER NO. 30

TRADE POLICY MONITORING REPORT

OF

EUROPEAN UNION

(JULY 2012- SEPTEMBER 2012)

VOLUME VI

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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	-	European Union Emission Trading Scheme
(Euratom)	-	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 & Agenda for next report

- The GDP increased by 0.1% in the European Union in the present quarter, while it decreased by 0.1% in the Euro area. In the euro area, real GDP is projected to decline by 0.4 percent in 2012 overall — about $\frac{3}{4}$ percent (on an annualized basis) during the second half of 2012.
- The intervention of the European Central Bank in bond markets to help the troubled euro-zone countries, though expected to fade at some point of time, faded suddenly during the present quarter in September 2012.
- Trade agreements by EU with Canada, Russia, South Korea, Japan and Myanmar have been discussed in detail under Trade Agreements and Arrangements.
- EU postponed an application to allow US wine exports to Europe to use the word ‘Chateau’, as it has been a traditional term used in the Union.
- During the present quarter, the European Union moved to shore up the price of carbon dioxide emissions to €6.70 from €7, since the current low price had failed to encourage the companies to reduce their greenhouse gas output.
- Anti-dumping investigations have been taken against goods from China, India, Taiwan, Malaysia, etc. and have been discussed in detail under the head Anti-dumping. Anti-subsidy investigations have been taken by the European Union against goods originating in India.
- In a case of fundamental importance for future trade relations between the European Union and a number of dynamic emerging countries, such as China, the Grand Chamber of the Court of Justice of the European Union (“ECJ”) rendered a landmark judgment on 19 July 2012 that supported the stand of a Chinese exporter in the matter of market economy treatment.
- During the present quarter, the European Parliament voted against the adoption of the Anti-Counterfeiting Trade Agreement (ACTA) after the Parliament’s Committee on International Trade adopted in June 2012 – a recommendation drafted by its ‘rapporteur’ that the Parliament should decline to give its consent to the ACTA.
- The next report will focus on the developments of the Financial Transaction Tax and the Sin Tax (ii) Specific trade concerns against the EU under TBT, especially in view of the Sixth Triennial meeting of the TBT Committee and (iii) an analysis of the trade disputes involving EU.

TRADE POLICY MONITORING REPORT OF EUROPEAN UNION

FOR THE QUARTERLY PERIOD: JULY 2012- SEPTEMBER 2012

I. INTRODUCTION

This is the sixth 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: July-September, 2012.

II. ECONOMIC ENVIRONMENT AND MONETARY POLICY

The GDP increased by 0.1% in the European Union in the present quarter, while it decreased by 0.1% in the Euro area¹ as compared to the previous quarter. The GDP decreased by 0.4% and 0.6% in the Union and euro area respectively, as compared to the equivalent quarter of the previous year.²

In the present quarter, the household final consumption expenditure increased by 0.1% in the EU and remained stable in the Euro area. The gross fixed capital formation decreased by 0.6% and 0.7% in the EU and the euro area respectively. Exports increased by 0.9% in both the zones, while imports increased by 0.1% in the EU and 0.2% in the euro area.³

In the euro area, real GDP is projected to decline by 0.4 percent in 2012 overall — about $\frac{3}{4}$ percent (on an annualized basis) during the second half of 2012. With lower budget cuts and domestic and euro area-wide policies supporting a further improvement in financial conditions later in 2013, real GDP is projected to stay flat in the first half of 2013 and expand by about 1 percent in the second half. The “core” economies are expected to see low but positive growth throughout 2012–13. Most euro area “periphery” economies are likely to suffer a sharp contraction in 2012, constrained by tight fiscal policies and financial conditions, and to begin to recover only in 2013.

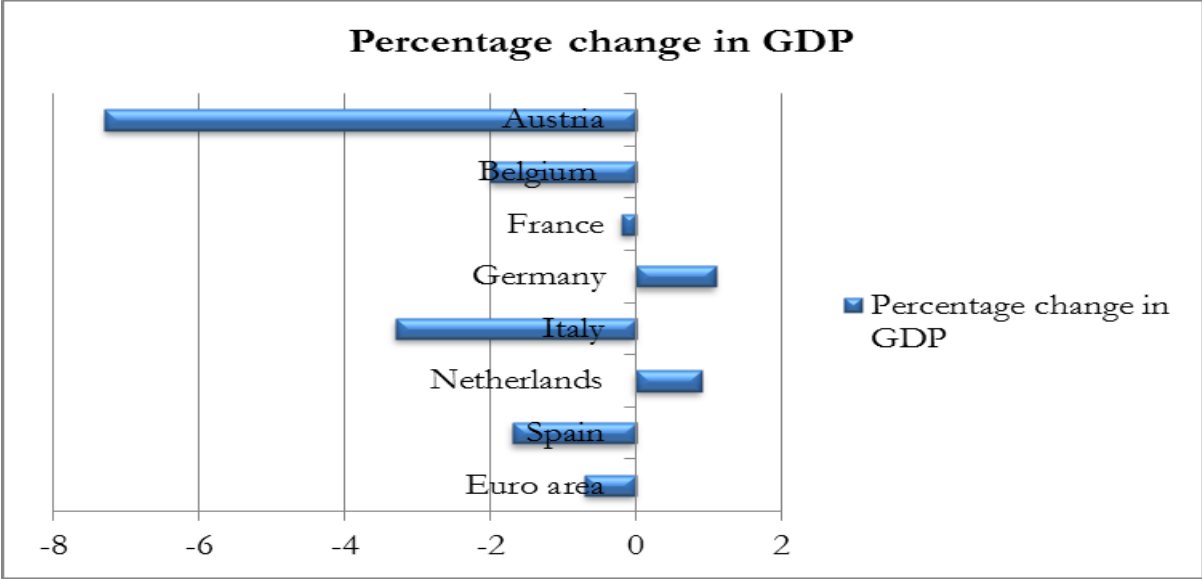
The Eurozone crisis appears to be more severe and deeper than ever. The viability of the Eurozone is threatened by a combination of economic and political issues. It is expected that the reforms for the same is likely to take place in small steps.⁴

¹ Euro area is a part of the Union including Belgium, Germany, Estonia, Ireland, Greece, Spain, France, Italy, Cyprus, Luxembourg, Malta, Netherlands, Austria, Portugal, Slovenia, Slovakia and Finland which have Euro as their currency.

² ‘GDP down by 0.1% in the euro area and up by 0.1% in the EU27’, Eurostat news release euro indicators, 174/2012- 6 December 2012, http://epp.eurostat.ec.europa.eu/cache/ITY_PUBLIC/2-06122012-AP/EN/2-06122012-AP-EN.PDF (last visited 27 December 2012).

³ Ibid.

⁴ Dr. Alexander Börsch, ‘Eurozone: Back to Back, Global Economic Outlook’, http://www.deloitte.com/assets/Dcom-Global/Local%20Assets/Documents/Deloitte%20Research/GEO-2012/dttl_dr_GEO_Q3_2012_final.pdf (last visited 30 December 2012).



Source: THE ECONOMIST, September 2012.

This graph represents the percentage change in the GDP of various European economies during the present quarter. The GDP of Austria, Belgium, France, Italy, Spain and Euro area contracted by 7.3%, 2%, 0.2%, 3.3%, 1.7% and 0.7% respectively, whereas the GDP of Germany and Netherlands expanded by 1.1% and 0.9% respectively.

ECB and Debt Crisis

The intervention of the European Central Bank in bond markets to help the troubled euro-zone countries, called “Mario Draghi’s ice cream” by some diplomats, though expected to fade at some point of time, faded suddenly during the present quarter in September 2012. The hope of euro-zone crisis coming to an end was hindered by a number of occurrences in the EU, including the anti-austerity protests in Spain and Greece, the resurgence of Catalan secessionism, the likely departure of Mario Monti as Italy’s Prime Minister next year, uncertainty over their bail-out terms, obstacles to creating a credible banking union and a darkening economic outlook. The European stockmarkets fell as a consequence to it.⁵

The panic about euro zone was moderated by ECB’s announcement of its plans to buy unlimitedly short-dated debt of vulnerable countries such as Spain and Italy, which would depend on “their governments first seeking assistance from the euro-zone rescue funds, and then submitting to a formal, externally monitored reform programme”. On the other hand, Spain seems to be hesitant to seek help from the ECB’s funds.⁶

⁵ ‘The end of the euro’s Indian summer’, The Economist (29 September 2012), <http://www.economist.com/node/21563774>.

⁶ Ibid.

III. TRADE AGREEMENTS AND ARRANGEMENTS

EU and Canada

The CETA (Comprehensive Economic and Trade Agreement), which was launched in 2009, is the most comprehensive trade negotiation ever undertaken by both Canada and the EU.⁷ Canada and the EU are committed to building on the success of negotiations thus far, where significant progress has been made across the board, including the areas of goods, services, investment, government procurement and many others.⁸ With the final rounds of negotiations sessions planned for September and October 2012, Canada and the EU are closing in on a free trade deal that would go far beyond the reach of NAFTA. Meanwhile, there is growing opposition to the agreement as the whole process has lacked openness, transparency and any public consultations. In Canada, there are concerns over the threat it poses to local democracy. This includes fears of deregulation and privatization, as well as the expansion of corporate investor rights.⁹

EU and Russia

On 4 July 2012, the EU signed three important agreements with Russia – Safeguards on trade in automotive parts and components industry, Notifications relevant to the introduction or increase of export duties on raw materials important to the EU industry, and, Preservation of commitments on trade in services for increased maritime transport market access and easier access for work permits for staff of EU businesses operating in Russia. These agreements aim to provide better conditions for conducting business in Russia by the EU. These agreements have been negotiated as a part of Russia's accession to the WTO in order to protect EU's businesses from the exemptions granted to Russia during the accession negotiations. In addition, they promote favorable agreements between the parties after Russia's accession to the WTO. Though they have been noted to provide superior terms for EU businesses than necessary under the WTO rules including that the EU is not obligated to undertake any commitments under the agreement, it shall be applied provisionally from the date of Russia's accession to the WTO.¹⁰

EU and Japan

The EU and Japan held preliminary talks which concluded on 31 May 2012. The EU Commission adopted recommendations on 18 July 2012 to start negotiations with Japan on possible FTAs as trade between both the EU and Japan is impacted by tariffs and non-tariff measures including regulatory distinctions that result in cumbersome features affecting trade in goods and services, investment and public procurement. A bilateral trade agreement would help to eliminate such barriers, particularly in the agro-food, automotive,

⁷ Jason Langrish, 'Canada-EU trade holds great potential', <http://opinion.financialpost.com/2012/08/16/canada-eu-trade-holds-great-potential/> (last visited 31 December 2012).

⁸ 'Canada-European Union: Comprehensive Economic and Trade Agreement (CETA) Negotiations', <http://www.international.gc.ca/trade-agreements-accords-commerciaux/agr-acc/eu-ue/negotiations-negotiations.aspx?lang=eng&view=d> (last visited 31 December 2012).

⁹ Dana Gabriel, 'Growing Opposition to the Canada-EU Trade Agreement', <http://www.infowars.com/growing-opposition-to-the-canada-eu-trade-agreement/> (last visited 31 December 2012).

¹⁰ 'Bilateral trade agreements between the EU and Russia result in increased opportunities for EU businesses upon Russia's accession to WTO', Fratini Vergano, Trade Perspectives, Issue No. 14 of 13 July 2012.

pharmaceutical and medical devices sectors.¹¹ “A deal with Japan, which could be sealed in a couple of years if countries approve the Commission’s request for a mandate by the end of this year, could increase the European Union's economic output by almost a percentage point and increase EU exports to Japan by a third”, said the Commission.¹²

EU and Myanmar

Myanmar is set to benefit once again from a special, advantageous trade arrangement with the EU following recognition by the international community of the country’s recent efforts to improve the political, social and labour environments there. On 17 September 2012, the European Commission adopted a proposal to bring the country back under the so-called ‘Everything But Arms’ preferential trade regime which would grant duty-free and quota-free access to the European market for all products except for arms and ammunitions.¹³

EU and South Korea

In June 2011, a free trade agreement was entered into between EU and South Korea for exporting auto shipments to EU. At the time of first anniversary of EU- South Korea trade agreement during this quarter, it is found that the EU- South Korea Free Trade Agreement made it easier for companies from both the states to do business together. The agreement addresses the issues such as elimination of duties on all trade in goods and non-tariff barriers to trade. Services, investments, competition, government procurement, intellectual property rights and transparency in regulation to sustainable development are also addressed in the agreement.¹⁴

On 3 August 2012 the European Commission received a request by France for prior surveillance for South Korean car imports. The Commission is now carefully reviewing the request.¹⁵ The move has come as France prepares reforms aimed at restoring lost competitiveness on world markets. President François Hollande's Socialist government is under pressure from employers to cut labour charges in order to make French products less expensive. ¹⁶

¹¹ ‘The EU and Japan reported to launch bilateral trade negotiations in the coming months’, Fratini Vergano, Trade Perspectives, Issue No. 18 of 5 October 2012.

¹² Robin Emmott, ‘EU pushes trade deal with Japan in hunt for growth’, Reuters, <http://www.reuters.com/article/2012/07/18/us-eu-trade-japan-idUSBRE86H0HD20120718> (last visited 31 December 2012).

¹³ ‘European Commission proposes to reinstate trade preferences to Myanmar / Burma’, Trade, European Commission (17 September 2012), <http://trade.ec.europa.eu/doclib/press/index.cfm?id=831>.

¹⁴ Press Release, ‘EU- Korea Trade Agreement One Year On’, trade.ec.europa.eu/doclib/press/index.cfm?id=814 (last visited 7 September 2012).

¹⁵ ‘Statement by EU Trade Spokesman John Clancy following the meeting between EU Trade Commissioner Karel De Gucht and French Commerce Minister Nicole Bricq’, Trade, European Commission (3 September 2012), <http://trade.ec.europa.eu/doclib/press/index.cfm?id=828>.

¹⁶ ‘France 'regrets' EU refusal to monitor South Korean car imports’, (23 October 2012), <http://www.euractiv.com/trade/eu-refuses-french-monitoring-imp-news-515588>.

IV. TRADE POLICIES AND PRACTICES BY MEASURE

IV A. SANITARY AND PHYTOSANITARY MEASURES

On 5 July 2012, the Codex Alimentarius Commission (CAC) agreed to establish maximum residue limits for the veterinary drug ractopamine¹⁷ allowed in the tissues of pigs and cattle. 69 votes against close opposition of 67 votes, Codex members agreed on the new limits which allow no more than 10 micrograms of ractopamine per kg of pig and cattle muscle, 40 kg micrograms per kg in the livestock's liver and 90 micrograms per kg in kidneys. This decision by CAC was followed after scientific assessments carried by the Joint Expert Committee on Food Additives convened by the UN Food and Agriculture Organization (FAO) and the World Health Organization (WHO) that provides for scientific support to Codex. The scientific assessment which concluded in May 2010 provided that the approved minimum residue limits of ractopamine are compatible with the acceptable daily intake and have no negative impact on human health.¹⁸

The use of ractopamine as a feed additive is authorized, *inter alia*, in Argentina, Brazil, Canada, Japan, Mexico and the US. The EU, China and other countries have banned the usage. As it is noted from the 33rd session of the CAC in 2010, there was an extensive discussion on the maximum residue limits for ractopamine but no conclusion was adopted. While at its 34th session, the CAC decided to hold at Step 8 the global food safety standards for ractopamine and this time the maximum residue limits for ractopamine was approved by a very short margin.¹⁹

IV B. TECHNICAL BARRIERS TO TRADE

EU postpones an application to allow US wine exports to Europe to use the term 'Chateau'

On 25 September 2012, at the 366th Meeting of the EU Management Committee for the Common Organization of Agricultural Markets, the Committee postponed the voting on a Commission Implementing Regulation recognizing a traditional term (Chateau). The decision on the US application for recognition of the traditional term 'Chateau' for certain US wines has been postponed to the next EU Management Committee meeting. This matter is particularly sensitive in the French region of Bordeaux, as it is the place from where the denomination 'Chateau' is considered identical with wine-producing estates. Even those estates that do not have buildings resembling a '*Chateau*' and which can be translated into English meaning as 'castle', use the

¹⁷ Ractopamine is a β -agonist drug added to feed, which is distributed via the blood to the muscle tissues where it binds to specific β -receptors in the muscle cell membranes. It increases protein synthesis, which results in an increase in muscle fibre size. In simple terms, ractopamine increases the rate of weight gain, boosts growth, improves feed efficiency and increases carcass leanness in pigs and cattle.

¹⁸ 'Codex adopts MRLs for ractopamine in the tissues of pigs and cattle, amid strong opposition by the EU and China', Fratini Vergano, Trade Perspectives, Issue No. 15 of 27 July 2012.

¹⁹ In 2009, the EU Commission asked the European Food Safety Authority (EFSA) to provide an opinion on the JECFA evaluation for ractopamine. The EFSA Panel concluded, after having consulted and co-operated with other organization such as the European Medicines Agency (EMA) and the EU Reference Laboratory responsible for β -agonists (BVL in Berlin), that the data and methodology used by the Joint Expert Food Committee was weak and uncertain and could not be taken as a basis to derive an acceptable daily intake. After 2009 disapproval by the European Food Safety Authority and European Medicines Agency of the said standards of allowing ractopamine, the EU stated that it would not adopt the said standard and the agreement should be on the basis of consensus which is the main function of the organization.

same term on their labels. France shall try to outvote the request of US due to the impact on its estates labeling their wines the same as US' proposal.²⁰

Specific Trade Concerns under TBT

On 19 August 2012, a petition as regards banning ritual slaughter of animals was requested by Occupy for Animals, an NGO. This petition is with respect to the Council Regulation (EC) No. 1099/2009 of 24 September 2009 as regards protection of animals at the time of killing wherein it is required that stunning of animals should be done before they are slaughtered so as to minimize pain caused to them; but it provides for certain exceptions – the main one being religious slaughter. During the quarter, this petition has been registered and awaiting confirmation. Concerns have also been brought by third countries exporting to the EU like Argentina and Brazil with regard to the ritual slaughtering of animals.

On 2 July 2012, the Commission Implementing Regulation (EU) No. 582/2012 as regards approving the active substance bifenthrin, in accordance with Regulation (EC) No. 1107/2009 of the European Parliament and of the Council with respect to the placing of plant protection products on the market, and which amended Commission Implementing Regulation (EU) No. 540/2011 was adopted. As per the Regulation, the active substance bifenthrin is approved subject to the conditions in the Annex to the Regulation. The approval was made on 1 August 2012 and shall expire on 31 July 2019.

On 2 August 2012, the European Union replied to the concerns raised by the Republic of Korea as regards 'Draft Commission Regulation implementing Directive 2009/125/EC of the European Parliament and of the Council with regard to ecodesign requirements for directional lamps, light emitting diode lamps and related equipment'. With respect to the testing time of 6000 hours for lamp survival factor and the lumen maintenance of lamps, the European Union replied that the testing time of 6000 hours also applied to compact fluorescent lamps, as per Commission Regulation No. 244/2009. On a comparison made between LED lamps and compact fluorescent lamps as regards their properties, purchase cost, etc., the testing time of 6000 hours was reasonable keeping in mind the high cost of LED lamps and the consumers' expectation of duration of functionality.

Box: Carbon Emission Scheme

During the present quarter, the European Union moved to shore up the price of carbon dioxide emissions since the current low price had failed to encourage the companies to reduce their greenhouse gas output. However, the changes announced resulting in changes in the timings of auctions of carbon permits are minor compared to the large scale reforms urged by campaigners and green businesses.

The carbon price stood at about €7 (£5.40) per tonne of carbon, much below the analysts' recommended price of €25-40 per tonne which is needed to encourage companies to change their carbon emitting behavior. As per the announcement during the quarter, the price of carbon dipped to €6.70.

Connie Hedegaard, European Commission's Climate Chief on the carbon emission, remarked: "The EU [carbon market] has a growing surplus of allowances built up over the last few years. It is not wise to

²⁰ 'EU postpones decision on an application to allow US wine exports to Europe to use the word 'Chateau', Fratini Vergano, Trade Perspectives, Issue No. 18 of 5 October 2012.

deliberately continue to flood a market that is already oversupplied. This is why the commission today has paved the way for changing the timing of when allowances are auctioned. This short-term measure will improve the functioning of the market.”

It is not certain as to whether this step will be put into practice; it depends on the approval of the member states and MEPs after which the changes are expected to come into force in early 2013. Hedegaard added: “After the summer recess, the commission will also finalise the options for long-term structural measures.”

Bas Eickhout, a prominent Green party MEP, remarked: “Despite the urgent need to repair the misfiring emissions trading scheme, the commission is tiptoeing towards action. The emissions trading scheme is in need of serious surgery to address the current problems with the carbon market and ensure it can fulfil its purpose of delivering emissions reductions in the EU. Regrettably, the commission is riven by internal wrangling and has only set out limited proposals on the legal base today, merely preparing the ground for future steps and making it more difficult to shore up the emissions trading scheme before the end of the year.”

The Commission’s moves are likely to have limited impact in the United Kingdom, as the UK government is taking steps to ensure that companies pay an effective minimum price for carbon unmindful of the EU price.

Source: ‘EU moves to shore up price of carbon emissions’, The Guardian (25 July 2012), <http://www.guardian.co.uk/environment/2012/jul/25/eu-price-carbon-emissions>.

IV C. MARKET ACCESS

- On 4 July 2012, Regulation (EU) No. 649/2012 of the European Parliament and of the Council as regards export and import of hazardous chemicals with the aim to – implement the Rotterdam Convention on the Prior Informed Consent (PIC) Procedure for certain hazardous chemicals and pesticides, promote shared responsibilities and cooperative efforts in the international movement of hazardous chemicals for protecting human health and environment from potential harm, contribute to the environmentally sound use of hazardous chemicals, was adopted.²¹
- On 6 July 2012, the Commission Implementing Regulation (EU) No. 607/2012 laid down rules concerning the due diligence system and the frequency and nature of the checks on monitoring organizations as provided for in Regulation (EU) No. 995/2010 of the European Parliament and of the Council which laid down the obligations of operators dealing with timber and timber products in the market.²²
- On 10 July 2012, the Commission Regulation (EU) No. 618/2012 amended Regulation (EC) No. 1272/2008 of the European Parliament and of the Council as regards classification, labelling and packaging of substances and mixtures, for the purposes of adaptation to technical and scientific progress.²³

²¹ Regulation (EU) No. 649/2012 of the European Parliament and of the Council, OJ 2012 L 201/60.

²² Commission Implementing Regulation (EU) No. 607/2012, OJ 2012 L 177/16.

²³ Commission Regulation (EU) No. 618/2012, OJ 2012 L 179/3.

- On 11 July 2012, the Commission Regulation (EU) No. 622/2012 amended the Regulation (EC) No. 641/2009 with regard to ecodesign requirements for glandless standalone circulators and glandless circulators integrated in products.²⁴
- On 12 July 2012, the Commission Implementing Regulation (EU) No. 631/2012 amended Regulation (EC) No. 1295/2008 as regards agencies authorised to issue attestations in respect of imported hop cones falling under CN code ex 1210, imported hop powders falling under CN code ex 1210, imported saps and extracts of hops falling under CN code 1302 13 00.²⁵
- On 24 July 2012, Council Decision (2012/429/EU) concluded the Agreement between the European Union and the Government of the Russian Federation as regards trade in parts and components of motor vehicles between the two nations.²⁶
- On 24 July 2012, Council Decision (2012/434/EU) concluded the Agreement between the European Union and the Government of the Russian Federation in the form of an Exchange of Letters as regards preservation of commitments on trade in services as contained in the EU-Russia Partnership and Cooperation Agreement.²⁷
- On 24 July 2012, Council Decision (2012/435/EU) concluded the Agreement between the European Union and the Government of the Russian Federation in the form of an Exchange of Letters as regards introduction or increase of export duties on raw materials.²⁸
- On 24 July 2012, Council Decision (2012/442/EU) concerning an amendment to Annex II (Technical regulations, standards, testing and certification) on the position to be taken by the European Union in the EEA Joint Committee with regard to the EEA Agreement was adopted.²⁹
- On 20 August 2012, Commission Implementing Regulation (EU) No. 757/2012 repealed Implementing Regulation (EU) No. 828/2011 and suspended the introduction of specimens of certain species of wild fauna and flora into the Union.³⁰
- On 20 August 2012, Commission Implementing Decision (2012/482/EU) amended Decision (2002/994/EC) concerning certain protective measures with regard to products of animal origin imported from China intended for human consumption or for animal feed.³¹
- On 19 September 2012, Commission Regulation (EU) No. 847/2012 amended Annex XVII to Regulation (EC) No. 1907/2006 of the European Parliament and of the Council as regards

²⁴ Commission Regulation (EU) No. 622/2012, OJ 2012 L 180/4.

²⁵ Commission Implementing Regulation (EU) No. 631/2012, OJ 2012 L 182/27.

²⁶ Council Decision (2012/429/EU), OJ 2012 L 199/3.

²⁷ Council Decision (2012/434/EU), OJ 2012 L 200/1.

²⁸ Council Decision (2012/435/EU), OJ 2012 L 200/2.

²⁹ Council Decision (2012/442/EU), OJ 2012 L 202/1.

³⁰ Commission Implementing Regulation (EU) No. 757/2012, OJ 2012 L 223/31.

³¹ Commission Implementing Decision (2012/482/EU), OJ 2012 L 226/5.

Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH) with respect to mercury so as to reduce mercury levels in the environment as well as to human exposure.³²

- On 19 September 2012, Commission Regulation (EU) No. 848/2012 amended Annex XVII to Regulation (EC) No. 1907/2006 of the European Parliament and the Council as regards Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH) with respect to phenylmercury compounds so as to reduce mercury levels in the environment as well as to human exposure.³³
- On 27 September 2012, Commission Implementing Decision (2012/532/EU) amended Annex I to Decision (2004/211/EC) wherein the entries as regards live equidae and semen, ova and embryos of the equine species from Bahrain and Brazil into the Union is authorized.³⁴

V. CONTINGENCY TRADE PROTECTION

ANTI-DUMPING

- On 3 July 2012, the European Commission published a notice (2012/C 195/11) of the impending expiry of anti-dumping measures with regard to Coke of coal in pieces with a diameter of more than 80 mm (coke 80 +) originating from the People's Republic of China. The anti-dumping duty imposed is likely to expire on 19 March 2013.³⁵
- On 5 July 2012, the Commission Regulation (EU) No. 596/2012 initiated an investigation as regards possible circumvention of anti-dumping measures imposed by Council Implementing Regulation (EU) No. 467/2010 on imports of silicon currently falling within CN code ex 2804 69 00 (TARIC code 2804 69 00 20), originating in the People's Republic of China, by imports of silicon consigned from Taiwan, whether declared as originating in Taiwan or not. The customs authorities are directed to register the imports by taking appropriate steps, unless specifically exempted. Registration shall expire after nine months of this Regulation.³⁶
- On 10 July 2012, the Council Implementing Regulation (EU) No. 627/2012 terminated the partial interim review and the expiry review concerning the anti-dumping measures applicable on imports of certain plastic sacks and bags currently falling within CN codes ex 3923 21 00, ex 3923 29 10 and ex 3923 29 90 originating in the People's Republic of China and Thailand imposed by Regulation (EC) No. 1425/2006.³⁷
- On 16 July 2012, the Council Implementing Regulation (EU) No. 672/2012 extended the definitive anti-dumping duty imposed by Implementing Regulation (EU) No. 791/2011 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 35 g/m², excluding fibreglass discs, currently falling within CN codes ex 7019 51 00, and ex 7019 59 00, originating in the People's Republic of China, to imports of certain open

³² Commission Regulation (EU) No. 847/2012, OJ 2012 L 253/1.

³³ Commission Regulation (EU) No. 848/2012, OJ 2012 L 253/5.

³⁴ Commission Implementing Decision (2012/532/EU), OJ 2012 L 264/15.

³⁵ (2012/C 195/11), OJ 2012 C 195/18.

³⁶ Commission Regulation (EU) No. 596/2012, OJ 2012 L 176/50.

³⁷ Council Implementing Regulation (EU) No. 627/2012, OJ 2012 L 182/6.

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 35 g/m², excluding fibreglass discs, currently falling within CN codes ex 7019 51 00, and ex 7019 59 00 (TARIC codes 7019 51 00 11 and 7019 59 00 11) and consigned from Malaysia, whether declared as originating in Malaysia or not. The provisions as regards customs duty apply to the import of certain open mesh fabrics of glass fibres unless specifically mentioned.³⁸

- On 17 July 2012, the Commission Regulation (EU) No. 653/2012 initiated a new exporter review of Council Regulation (EC) No. 192/2007 imposing a definitive anti-dumping duty on imports of polyethylene terephthalate with a viscosity number of 78 ml/g or higher, currently falling within CN code 3907 60 20, originating, inter alia, in Taiwan, and repealing the duty with regard to imports from one exporter while making the imports subject to registration. The customs authorities are directed to register the imports by taking appropriate steps. Registration shall expire after nine months of this Regulation.³⁹
- On 25 July 2012, the Council Implementing Regulation (EU) No. 693/2012 amended the Implementing Regulation (EU) No. 723/2011 which deals with extending the definitive anti-dumping duty imposed on imports of certain iron or steel fasteners falling within CN codes ex 7318 12 90, ex 7318 14 91, ex 7318 14 99, ex 7318 15 59, ex 7318 15 69, ex 7318 15 81, ex 7318 15 89, ex 7318 15 90, ex 7318 21 00 and ex 7318 22 00, originating in the People's Republic of China imposed by Regulation (EC) No. 91/2009 to imports of certain iron or steel fasteners consigned from Malaysia, whether declared as originating in Malaysia or not, by granting an exemption to one Malaysian exporting producer and terminating the registration of imports from that exporting producer. Hence, anti-dumping duty shall not be collected on the imports thus registered.⁴⁰
- On 30 July 2012, the Commission Regulation (EU) No. 699/2012 imposed a provisional anti-dumping duty on imports of certain tube and pipe fittings of iron or steel with an external diameter not exceeding 609,6 mm, used for butt-welding or for other purposes, falling under CN codes ex 7307 93 11, ex 7307 93 19 and ex 7307 99 80, originating in Russia and Turkey. The provisional rate of duty of the imported products mentioned above originating from Russia is 23,8%. The provisions as regards customs duty apply to the import of certain tube and pipe fittings of iron or steel unless specifically mentioned.⁴¹
- On 10 August 2012, the European Commission published a notice (2012/C 240/07) of initiation of an anti-dumping proceeding as regards imports of stainless steel wires currently falling within CN codes 7223 00 19 and 7223 00 99, originating in India.⁴²
- On 28 August 2012, Council Implementing Regulation (EU) No. 795/2012 amended Implementing Regulation (EU) No. 585/2012 as regards imposing of definitive anti-dumping duty on imports of certain seamless pipes and tubes of iron or steel with an external diameter not exceeding 406,4 mm and currently falling within CN codes ex 7304 11 00, ex 7304 19 10, ex 7304 19 30, ex 7304 22 00, ex 7304 23 00, ex 7304 24 00, ex 7304 29 10, ex 7304 29 30, ex 7304 31 80, ex 7304 39 58, ex 7304 39

³⁸ Council Implementing Regulation (EU) No. 672/2012, OJ 2012 L 196/1.

³⁹ Commission Regulation (EU) No. 653/2012, OJ 2012 L 188/8.

⁴⁰ Council Implementing Regulation (EU) No. 693/2012, OJ 2012 L 203/23.

⁴¹ Commission Regulation (EU) No. 699/2012, OJ 2012 L 203/37.

⁴² (2012/C 240/07), OJ 2012 C 240/15.

92, ex 7304 39 93, ex 7304 51 89, ex 7304 59 92 and ex 7304 59 93, with a Carbon Equivalent Value (CEV) not exceeding 0,86 according to the International Institute of Welding (IIW) formula and chemical analysis, originating in Russia and Ukraine, wherein anti-dumping duty for company Interpipe NTRP bearing TARIC additional code A743, was raised.⁴³

- On 29 August 2012, the European Commission published a notice (2012/C 260/04) of initiation of an anti-dumping proceeding concerning imports of biodiesel currently falling within CN codes ex 1516 20 98, ex 1518 00 91, ex 1518 00 95, ex 1518 00 99, ex 2710 19 43, ex 2710 19 46, ex 2710 19 47, 2710 20 11, 2710 20 15, 2710 20 17, ex 3824 90 97, 3826 00 10 and ex 3826 00 90, originating in Argentina and Indonesia.⁴⁴
- On 30 August 2012, the Council Implementing Regulation (EU) No. 796/2012 imposed a definitive anti-dumping duty on imports of lever arch mechanisms falling within CN code ex 8305 10 00 (TARIC code 8305 10 00 50) used for archiving sheets and other documents in binders or files, originating in the People's Republic of China. The provisions as regards customs duty apply to the import of lever arch mechanisms unless specifically mentioned.⁴⁵
- On 6 September 2012, the European Commission published a notice (2012/C 269/04) of initiation of an anti-dumping proceeding concerning imports of crystalline silicon photovoltaic modules and key components (i.e. cells and wafers), currently falling within CN codes ex 3818 00 10, ex 8501 31 00, ex 8501 32 00, ex 8501 33 00, ex 8501 34 00, ex 8501 61 20, ex 8501 61 80, ex 8501 62 00, ex 8501 63 00, ex 8501 64 00 and ex 8541 40 90, originating in the People's Republic of China.⁴⁶
- On 17 September 2012, Commission Regulation (EU) No. 833/2012 imposed a provisional anti-dumping duty on imports of certain aluminium foils in rolls of 'thickness of 0,007 mm or more but less than 0,021 mm, not backed, not further worked than rolled but whether or not embossed, in low weight rolls of a weight not exceeding 10 kg', and currently falling within CN codes ex 7607 11 11 and ex 7607 19 10 (TARIC codes 7607 11 11 10 and 7607 19 10 10) originating in the People's Republic of China. The provisions as regards customs duty apply to the import of aluminium foils unless specifically mentioned.⁴⁷
- On 18 September 2012, Commission Regulation (EU) No. 845/2012 imposed a provisional anti-dumping duty on imports of certain organic coated steel products including flat rolled products of non-alloy and alloy steel painted, varnished or coated with plastics on at least one side, excluding products with a final coating of zinc- dust, and falling within CN codes ex 7210 70 80, ex 7212 40 80, ex 7225 99 00, ex 7226 99 70 (TARIC codes 7210 70 80 11, 7210 70 80 91, 7212 40 80 01, 7212 40 80 21, 7212 40 80 91, 7225 99 00 11, 7225 99 00 91, 7226 99 70 11 and 7226 99 70 91), originating in the People's Republic of China. The provisions as regards customs duty apply to the import of certain organic coated steel products unless specifically mentioned.⁴⁸

⁴³ Council Implementing Regulation (EU) No. 795/2012, OJ 2012 L 238/1.

⁴⁴ (2012/C 260/04), OJ 2012 C 260/8.

⁴⁵ Council Implementing Regulation (EU) No. 796/2012, OJ 2012 L 238/5.

⁴⁶ (2012/C 269/04), OJ 2012 C 269/5.

⁴⁷ Commission Regulation (EU) No. 833/2012, OJ 2012 L 251/29.

⁴⁸ Commission Regulation (EU) No 845/2012, OJ 2012 L 252/33.

- On 25 September 2012, the Commission Regulation (EU) No. 875/2012 initiated an investigation as regards possible circumvention of anti-dumping measures imposed by Council Implementing Regulation (EU) No. 990/2011 on imports of bicycles and other cycles not motorized, falling within CN codes 8712 00 30 and ex 8712 00 70 (TARIC code 8712 00 70 90), originating in the People's Republic of China, by imports of bicycles and other cycles not motorised consigned from Indonesia, Malaysia, Sri Lanka and Tunisia, whether declared as originating in Indonesia, Malaysia, Sri Lanka and Tunisia or not. The customs authorities are directed to register the imports of bicycles by taking appropriate steps, unless specifically exempted. Registration shall expire after nine months of this Regulation.⁴⁹

Box II: ECJ Ruling on Market Economy Treatment in AD Investigations

In a case of fundamental importance for future trade relations between the European Union and a number of dynamic emerging countries, such as China, the Grand Chamber of the Court of Justice of the European Union (“ECJ”) rendered a landmark judgment on 19 July 2012 that supported the stand of a Chinese exporter in the matter of market economy treatment.

The case arose from an anti-dumping proceeding concerning imports of glyphosate, a chemical herbicide from the People’s Republic of China. The Commission and the Council refused to grant MET to Xinanchem. Both the Commission and the Council justified this decision on the grounds that Xinanchem was under significant State control, and that therefore the Chinese State interfered with the decisions of Xinanchem. The ECJ dismissed in its entirety an appeal by the Council of the European Union (the “Council”) against the judgment of 17 June 2009 by the General Court. The General Court had already held that a finding by the European Commission (the “Commission”) of State control of an undertaking is insufficient grounds for concluding that “significant State interference” exists, and that claims by an exporting enterprise for MET in an anti-dumping investigation could not be rejected on that basis.

The ECJ’s ruling will require the Commission to reform its approach towards MET assessment.

EU practice

The granting of MET to certain producers subject to an anti-dumping investigation is a commercially significant status. Producers granted MET are not subjected to the discriminatory non-market economy regime that applies to exporters from some countries - such as China and Vietnam - who cannot prove their market-economy status. Conferral of MET on a producer allows it to obtain an individual anti-dumping margin, assessed on the basis of its own business data, rather than on the basis of replacement values from surrogate countries, which are at the same level of economic development.

The ECJ agreed with Advocate General Kokott’s view that a priori exclusion of excluding State-owned or State-controlled companies from MET merely on account of the existence of State shareholding “would not be consistent with economic reality”. In dismissing the appeal, the ECJ noted that “the General Court was fully entitled to hold (...) that State control (...) cannot be

⁴⁹ Commission Regulation (EU) No. 875/2012, OJ 2012 L 258/21.

equated, as a matter of principle, to ‘significant State interference’ (...) and cannot therefore relieve the Council and the Commission of the obligation to take into account the evidence (...) of the real factual, legal and economic context in which [a producer] operates”.

The ECJ also emphasised that “the first indent of Article 2(7)(c) of the basic regulation (...) is not directed at all types of State interference (...) but only that concerning their decisions regarding prices, costs and inputs”. The ECJ further noted that “the use of the word ‘interference’ indicates that it is not sufficient that a State may have a certain amount of influence over those decisions, but implies actual interference in them” and emphasised that such interference must be ‘significant’ and that, therefore, “the first indent of Article 2(7)(c) of the basic regulation allows (...) a certain degree of State interference in those decisions”.

The ECJ thus concluded that “State interference that is neither by its nature nor effect capable of rendering a producer’s decisions regarding prices, costs and inputs incompatible with market economy conditions cannot be considered significant.” ECJ found that even if the State had a certain de facto influence over Xinanchem, it does not, however, follow that the State actually interfered - still less significantly - in Xinanchem’s decisions regarding prices, costs and inputs.

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ANTI-SUBSIDY

- On 9 August 2012, the European Commission published a notice (2012/C 239/02) of initiation of a partial interim review of the countervailing measures applicable to imports of certain stainless steel bars and rods other than bars and rods of circular cross-section of a diameter of 80 mm or more, currently falling within CN codes 7222 20 21, 7222 20 29, 7222 20 31, 7222 20 39, 7222 20 81 and 7222 20 89, originating in India.⁵⁰
- On 10 August 2012, the European Commission issued a notice (2012/C 240/06) of initiation of an anti-subsidy proceeding concerning imports of stainless steel wires of a weight of ‘2,5 % or more of nickel, other than wire containing by weight 28% or more but not more than 31% of nickel and 20% or more but not more than 22% of chromium’ or ‘less than 2,5 % of nickel, other than wire containing by weight 13% or more but not more than 25% of chromium and 3,5% or more but not more than 6% of aluminium’, currently falling within CN codes 7223 00 19 and 7223 00 99, originating in India.⁵¹
- On 23 August 2012, Commission Regulation (EU) No. 771/2012 as regards subjecting imports of bioethanol sometimes referred to as ‘fuel ethanol’, i.e. ethyl alcohol produced from agricultural products, currently falling within CN codes ex 2207 10 00, ex 2207 20 00, ex 2208 90 99, ex 2710 12 11, ex 2710 12 15, ex 2710 12 21, ex 2710 12 25, ex 2710 12 31, ex 2710 12 41, ex 2710 12 45, ex 2710 12 49, ex 2710 12 51, ex 2710 12 59, ex 2710 12 70, ex 2710 12 90, ex 3814 00 10, ex 3814 00 90, ex 3820 00 00 and ex 3824 90 97, originating in the United States of America, to registration in application of Article 24(5) of Council Regulation (EC) No. 597/2009 on protection against

⁵⁰ (2012/C 239/02), OJ 2012 C 239/2.

⁵¹ (2012/C 240/06), OJ 2012 C 240/6.

subsidised imports from countries not members of the European Community, was adopted. Registration shall expire after nine months of this Regulation.⁵²

VI. MEASURES AFFECTING PRODUCTION AND TRADE

VI A. INTELLECTUAL PROPERTY RIGHTS

On 4 July 2012, the European Parliament voted against the adoption of the Anti-Counterfeiting Trade Agreement (ACTA) after the Parliament's Committee on International Trade adopted in June 2012 – a recommendation drafted by its 'rapporteur' that the Parliament should decline to give its consent to the ACTA.⁵³

An ACTA is a plurilateral trade agreement that intends to address the protection and enforcement of intellectual property rights, mainly patents, copyrights, trademarks, designs and geographical indications. At a supranational level, it is deemed to combat growing counterfeiting and piracy. Rather than creating any new rights, the ACTA aims to improve the enforcement of the existing rights by providing new and common ways for IPR holders' access to justice, customs and police.⁵⁴

The reasons delineated for the recommendation to preclude ACTA are –

- Treatment that it afforded to individual criminalization;
- Definition of 'commercial-scale';
- Role of internet service providers;
- Treatment granted to generic medicines.⁵⁵

The Parliament's 'rapporteur' provided that the vague language that was used in regard to the aforementioned areas led to a considerable degree of uncertainty which made the provisions of the ACTA likely to result in unintended consequences. It is noted that the private sector and the civil society played a considerable role in the said rejection of the ACTA through different channels by the EU Parliament. They provided that IPR enforcement is in the best interest of trade, not only by regulating IPR enforcement in a manner that prevents fraud but also in the interest of trade, by doing so, safeguards other important values as well.⁵⁶

VI B. CUSTOMS

On 14 August 2012, Commission Implementing Regulation (EU) No. 750/2012 as regards the classification of certain goods in the Combined Nomenclature was adopted.⁵⁷

⁵² Commission Regulation (EU) No. 771/2012, OJ 2012 L 229/20.

⁵³ 'The European Parliament blocks the adoption of the ACTA', Fratini Vergano, Trade Perspectives, Issue No. 14 of 13 July 2012.

⁵⁴ Ibid.

⁵⁵ Ibid.

⁵⁶ Ibid.

⁵⁷ Commission Implementing Regulation (EU) No. 750/2012, L 222/3.

On 20 August 2012, Commission Implementing Regulation (EU) No. 756/2012 amended Regulation (EEC) No. 2454/93 laying down provisions for the implementation of Council Regulation (EEC) No. 2913/92 in accordance with the Community Customs Code.⁵⁸

VII. DISPUTE SETTLEMENT UPDATE

Measures Concerning Importation of Biodiesels

On 17 August 2012, Argentina filed a request in WTO for consultations with the European Union and Spain on certain measures affecting the importation of biodiesels for accounting purposes in order to comply with the mandatory targets for biofuels. The key measure at issue was the Spanish Ministerial Order regulating allocation of quantities of biodiesel required to achieve the mandatory target of renewable energy. This measure has been promulgated by the EU under its regulatory framework for energy from renewable sources. Argentina has claimed that the Spanish measure is inconsistent with GATT 1992, TRIMS Agreement and the WTO Agreement. On 31 August 2012, Australia initiated a request to join the consultation, and Indonesia made a request on 1 September 2012. EU subsequently, accepted the requests of Australia and Indonesia to join the consultations.⁵⁹

EU- Anti-Dumping Measures on Imports of Certain Fatty Alcohols from Indonesia

On 27 July 2012, Indonesia filed a request in the WTO for consultations with the EU on the imposition of definitive and provisional anti-dumping measures on the importation of fatty alcohols including investigations underlying such measures. This measure was imposed pursuant to the Council Implementing Regulation (EU) No. 1138/2011 of 8 November 2011 imposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of certain fatty alcohols and their blends originating in India, Indonesia and Malaysia. The provisional measure challenged by Indonesia was imposed pursuant to Commission Regulation (EU) No. 446/2011 of 10 May 2011 imposing a provisional anti-dumping duty on imports of certain fatty alcohols and their blends originating in India, Indonesia and Malaysia. The anti-dumping investigation was initiated pursuant to a Notice of Initiation of an anti-dumping proceeding concerning imports of certain alcohols and their blends originating in India, Indonesia and Malaysia. Indonesia claimed that the measures are inconsistent with the Anti-Dumping Agreement and the GATT 1994.⁶⁰

EU- China on measures affecting exports of rare earths

On 13 March 2012, the EU launched a dispute against China's restrictions over exports of rare earths like tungsten and molybdenum. The dispute refers to rare earth materials under but not exhaustive of 212 eight-digit Chinese Customs Commodity Codes and over 30 measures. The dispute refers to various published and unpublished measures of China, working separately or collectively to impose or administer export restrictions. These restrictions include export duties, export quotas, minimum export price requirements, export licensing requirements and additional requirements and procedures in connection with the administration of

⁵⁸ Commission Implementing Regulation (EU) No. 756/2012, OJ 2012 L 223/8.

⁵⁹ WTO Official Website, 'European Union and a Member State – Certain Measures Concerning the Importation of Biodiesel DS443' (6 Nov. 2012), http://www.wto.org/english/tratop_e/dispu_e/cases_e/ds443_e.htm.

⁶⁰ WTO Official Website, 'EU- Anti-Dumping Measures on Imports of Certain Fatty Alcohols from Indonesia' DS 442 (6 Nov 2012), http://www.wto.org/english/tratop_e/dispu_e/cases_e/ds442_e.htm.

quantitative restrictions. Japan, US and Canada joined the consultations. On 27 June 2012, the EU requested for a panel and on 10 July 2012, the DSB deferred the request until 23 July 2012. On 23 July 2012, the DSB established a single panel pursuant to Article 9.1 of the DSU. On 12 September 2012, the US, the EU and Japan requested the Director-General to compose the panel, and on 24 September 2012, the panel was composed.⁶¹

EU-US on measures affecting trade in LCA

On 27 June 2005, the EC complained against certain prohibited and actionable subsidies by the US to its producers of large civil aircrafts. The EC claimed these subsidies to be violating SCMA under the WTO. The Panel and the AB report recommended the US to bring its measures in conformity. The US claimed to do so by 23 September 2012 by withdrawing subsidies and removing adverse effects. On the contrary, the EU claimed that the US has not complied with its obligations and requested consultations under Article 21.5 of the DSU. On 27 September 2012, the EU requested authorization by the DSB to take countermeasures under Article 22 of the DSU, and Article 4.10 and 7.9 of the SCMA.⁶²

EU-US on ‘Zeroing’

On 12 June 2003, the EU complained against the US’s practice of ‘zeroing’ while calculating dumping margins. This methodology of ‘zeroing’ implies that those specific price comparisons which do not show dumping are zeroed while calculating weighted average dumping margins. The dispute challenges certain provisions of the US Tariff Act 1930 and the Dept. of Commerce (DOC) regulations. The EC attached various details of those specific cases where the US used ‘zeroing’, wherein most of the products were steel. The EU provided that, but-for ‘zeroing’, the dumping margins would have been much lower or even negative. Both the panel and the AB stated recommendations for the US. The EU thereby, requested for the authorization to suspend the application of concessions or other obligations under the covered agreements. The US objected to the level of suspension and the DSB referred the matter to arbitration. On 2 July 2012, the Chairman of the arbitration informed the DSB about a joint communication by the EU and the US in which had withdrawn the dispute from arbitration, since the US had complied with the steps pursuant to the roadmap under the memorandum between both the countries in order to end the dispute. Therefore, both the countries notified that there was no need for an award in this dispute.⁶³

EC-Norway on measures prohibiting imports and marketing of seal products

On 5 November 2009, Norway complained against EC Regulation No. 1007/2009 which establishes a regime for seal products in the EC. This regime prohibits the importation and sale of processed and unprocessed seal products as well as certain exceptions which provides for privileged access to the EC seal products in the EC market. On 24 September 2012, Canada and Norway requested the Director-General to constitute a panel.⁶⁴

⁶¹ WTO Official Website, ‘China- Measures Related to the Exportation of Rare Earths, Tungsten and Molybdenum’ DS432, http://www.wto.org/english/tratop_e/dispu_e/cases_e/ds432_e.htm.

⁶² WTO Official Website, ‘United States – Measures Affecting Trade in Large Civil Aircraft – Second Complaint’ DS353, (28 December 2012), http://www.wto.org/english/tratop_e/dispu_e/cases_e/ds353_e.htm.

⁶³ WTO Official Website, ‘United States – Laws, Regulations and Methodology for Calculating Dumping Margins (Zeroing)’ DS294 (28 December 2012), http://www.wto.org/english/tratop_e/dispu_e/cases_e/ds294_e.htm.

⁶⁴ WTO Official Website, ‘European Communities – Measures Prohibiting the Importation and Marketing of Seal Products’ DS401 (29 December 2012), http://www.wto.org/english/tratop_e/dispu_e/cases_e/ds401_e.htm.

Russia's to contest EU's energy laws at the WTO

Russia is reported to launch its first trade dispute in the WTO against EU's Third Energy Package. The Package provides that the EU and third country companies willing to acquire a significant interest over EU network must seek certification from national regulators in the EU Member States in advance for operating. In addition to the certification to operate in the EU, the same can be refused in conditions where either the country does not 'demonstrably and unequivocally' comply with the requirements of unbundling, or where, under the 'third country clause', it is considered that such certification would threaten EU's energy security.⁶⁵

⁶⁵ 'Russia may contest EU energy laws at the WTO', Fratini Vergano, Trade Perspectives, Issue No. 18 of 5 October 2012.