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Mexico files a request for WTO consultations on Costa Rica's measures concerning the importation of fresh avocados

On 8 March 2017, Mexico filed a request for WTO consultations on Costa Rica's measures concerning the importation of fresh avocados. Mexico brought its claims under the General Agreement on Tariffs and Trade 1994 (GATT) and the WTO Agreement on the Application of Sanitary and Phytosanitary Measures (hereinafter, SPS Agreement), but appears to be focusing the scope of dispute on the '*regionalisation*' obligations under the latter agreement.

The facts surrounding the dispute originate from a 5 May 2015 notification to the WTO, made by Costa Rica, regarding emergency measures implemented to combat the spread of *Avocado Sunblotch Viroid* (hereinafter, ASBVd), a plant disease that damages avocados and results in lower crop yields, and which in many cases shows no symptoms of infection. Pursuant to the emergency measure, Costa Rica suspended the issuance of temporary phytosanitary certificates for importation of fresh avocados exported from Australia, Ghana, Guatemala, Israel, Mexico, South Africa, Spain and Venezuela. Mexico was previously the principal supplier of fresh avocados to Costa Rica. Following the entry into force of a free trade agreement between the two parties, the value of imports of avocados to Costa Rica from Mexico had increased from USD 391,940 in 1995 to USD 21,289,951 in 2015 (the year when the import prohibition took effect).

With respect to avocados exported from Mexico, specifically, Costa Rica later notified the WTO, on 13 July 2015 of its *Resolution DSFE-11-2015*. The Resolution implements a report titled "*ARP-003-2015 Pest risk analysis established following the review of a policy in respect of the importation of avocados (*Peresea Americana*) from Mexico for consumption*" and established phytosanitary requirements on the importation of avocados from Mexico. In particular, Costa Rica's *Resolution DSFE-11-2015* requires: 1) an official certificate issued by the country of origin (including a declaration that the exported avocados are pest- or disease-free); 2) that products originate from nurseries certified as ASBVd-free by the national plant protection organisation of the country of origin; 3) that products come from a production place free of ASBVd previously recognised by the State Phytosanitary Service of Costa Rica; 4) that exporting countries comply with the UN Food and Agriculture Organisation's (FAO) requirements for the establishment of pest-free places of production and pest-free production sites; and 5) that products be clearly labelled and be subject to phytosanitary control at the point of entry. Mexico submitted comments to Costa Rica following the notification of *Resolution DSFE-11-2015* to the WTO, but reportedly did not receive any response.

In its request for WTO consultations, Mexico cites a number of relevant articles from the GATT and the SPS Agreement. The request states generally that the dispute "*relates to a*

number of Costa Rica's domestic legislative provisions that fail to implement or recognise various obligations under the SPS Agreement", but then goes on to use language from Article 6 of the SPS Agreement on regionalisation, namely that Costa Rica has failed to adapt "*to regional conditions, including pest- or disease-free areas and areas of low pest or disease prevalence, i.e. to render operational the concept of regionali[s]ation by establishing a procedure or practice which provides an effective opportunity to receive claims of the existence of such areas*". In relevant part, under Article 6.1 of the SPS Agreement, WTO Members must adapt SPS measures to the area (*e.g.*, country, part of a country, or all or parts of several countries) from which the good originated. Article 6.2 of the SPS Agreement clarifies that WTO Members must recognise disease-free areas, which are determined on the basis of, *inter alia*, geography, ecosystems, and the effectiveness of SPS controls. Notably, pursuant to Article 6.3 of the SPS Agreement, it is the burden of the exporting WTO Member (*e.g.*, Mexico) to provide evidence of a disease-free status for relevant areas, but the importing WTO Member (*e.g.*, Costa Rica) has the right to reasonable access to the exporting country's area for inspection, testing, and other relevant audit procedures. More detailed facts and claims of Mexico's dispute with Costa Rica are not yet available, but it is notable that the issue of regionalisation was recently addressed in a WTO Appellate Body Report released on 23 February 2017. In *Russia – Pigs (EU)*, the WTO Appellate Body reaffirmed the importance of regionalisation under Article 6 of the SPS Agreement, stating that WTO Members not only have the obligation to acknowledge or recognise the concept of regionalisation, but an obligation to "*render operational*" its concepts (see *Trade Perspectives*, Issue No. 5 of 10 March 2017).

Mexico's request for WTO consultations also points to claims that Costa Rica relied on insufficient scientific evidence in order to support its implementation of a prohibition on the importation of fresh avocados from Mexico, but, nonetheless, the core claims by Mexico appear to be under Article 6 of the SPS Agreement. Claims under Article 6 of the SPS Agreement have been common during the past few years, and the concept provides a useful materialisation of the general idea that measures implemented by governments shall not result in an unnecessary burdens to trade or in disguised forms of trade protection. With improvements to technology and traceability, governments should indeed be expected to adopt SPS measures so as to allow imports of products from regions or facilities that have been sheltered from diseases and pests and that are declared (and proven) as disease- or pest-free. Traders should be vigilant and make sure to inform their WTO representatives if they are unduly burdened or discriminated by the importing countries' unwillingness to implement the concept of regionalisation when trade-restrictive SPS measures are adopted. In the dispute at hand, the parties have 60 days to reach a mutually agreeable solution to the dispute, before it may be elevated to the panel stage.

Brexit and the growing legal and economic uncertainties for all stakeholders, in particular in the agro-food sector

On 29 March 2017, the United Kingdom looks poised to formally notify the European Union of its intention to leave the EU, commonly referred to as '*triggering Brexit*'. This notification comes nine months after the UK's electorate narrowly voted in favour of leaving the EU. However, while negotiations on Brexit will commence during the coming months and discussions about future relations between the UK and the EU, and the UK and the rest of the world, are beginning, legal and economic uncertainties remain plentiful and significantly affect a high number of stakeholders. In particular, this affects the food industry, as it is a sector strongly dependent on trade, due to its highly integrated supply chains and reliance on EU food legislation.

After months of campaigning and debate, the UK population, on 23 June 2016, narrowly voted to leave the EU. This result, unexpected by some observers, led to intense debates about the proper way forward with respect to the approach to the process, the negotiations and the future relationship between the UK and the EU (see *Trade Perspectives*, Issue No. 13 of 1 July 2016). By now, a number of those questions appear to have been addressed. First, a number of procedural questions were decided by the UK Government and by UK

courts. The UK's Supreme Court ruled in January 2017 that the UK Parliament must be consulted before Article 50 of the Treaty on European Union (hereinafter, TEU), which provides the legal basis for a withdrawal from the EU, may be invoked. Therefore, a short, two line, '*Brexit bill*' was adopted by the UK Parliament in March 2017, providing that "*[t]he Prime Minister may notify, under Article 50(2) of the Treaty on European Union, the United Kingdom's intention to withdraw from the EU*". After a first adoption by the House of Commons, the House of Lords amended the bill to include a call to guarantee the rights of EU citizens already in the UK and to ensure a "*meaningful vote*" for the UK Parliament before any Brexit deal were to be agreed with the EU. However, the House of Commons rejected those amendments and the original bill became law after the House of Lords did not object further.

Article 50 of the TEU provides the guidelines for the withdrawal procedure. However, details of the UK Government's approach to the '*Brexit*' negotiations and its objectives for the future relationship between the UK and the EU still remain largely unclear and uncertainties impede stakeholders to take important steps and decisions. On 17 January 2017, UK Prime Minister Theresa May set out the '*Plan for Britain*', including twelve priorities that the UK Government shall follow in negotiating Brexit. The UK Government appears to have decided to pursue what is commonly referred to as a '*hard Brexit*', meaning a comprehensive separation from the EU without participation in the single market. The UK Prime Minister expressly noted that the UK did not seek to adopt a model already enjoyed by other countries, such as membership within the European Free Trade Association (EFTA). As to the relationship with the EU, the UK Prime Minister noted that the UK would "*pursue a bold and ambitious free trade agreement*". Still, despite those general considerations, the UK has yet to publish details on its approach and objectives. Article 50(2) of the TEU provides that the withdrawal arrangements should take account of the framework for the future relationship between the withdrawing EU Member State with the EU. The EU has underlined, however, that the withdrawal negotiations and the definition of the future relationship would not commence in parallel. Reports from March 2017 indicate that the EU Member States' heads of State and Government will instruct the EU's chief Brexit negotiator, Michel Barnier, to delay the negotiation of a future trade deal until a financial settlement with the UK, an agreement on citizens' rights and other key points (such as border issues with Ireland) have been secured. Only then would the EU expand the negotiating mandate to include a future trade (or other partnership) deal. Article 50 of the TEU allows for such an approach. Finally, Article 50(2) of the TEU provides that the framework for the future relationship between the withdrawing EU Member State and the EU should be negotiated in accordance with Article 218(3) of the Treaty on the Functioning of the European Union (TFEU), which details the procedures for the negotiation of international agreements. The upcoming launch of negotiations will slowly put an end to speculations and the current period of legal uncertainty.

In terms of EU legislation, including EU food law, the UK looks poised to take a step-by-step approach. More specifically, by the autumn of 2017, the UK Government plans to enact a so-called '*Great Repeal Bill*', which will end the primacy and direct application of EU law in the UK. This bill is expected to incorporate all EU legislation into UK law in one piece. Only after that, the UK Government will decide, over a period of time, which parts to keep, change or remove. This will likely take years to complete. It must also be determined whether the UK will continue to implement changes to the ever-evolving EU food legislation. Any changes by the UK must be well thought-out and shall require intensive stakeholders' action and participation. Indeed, consumers and the industry are wary of changes to the elaborate legislation and the high level of consumer protection guaranteed by current UK food law, largely based on EU rules. This is guaranteed either through the direct application of EU regulations (*e.g.*, the General Food Law Regulation, the Food Information Regulation, the Nutrition and Health Claims Regulation) or EU directives transposed into UK law (*e.g.*, the Food Supplements Directive, the directives related to mineral water). The scope of EU food law can be divided into five areas: (1) standards related to food hygiene (*i.e.*, the safe production of food); (2) standards related to food and food contact materials; (3) standards related to consumer information and labelling; (4) general obligations of food business operators; and (5) general obligations of EU Member States regarding official controls. In March 2017, Food Standards Scotland (hereinafter, FSS), the public sector food body for

Scotland, published the results and its evaluation of consumer focus groups and their views on the food-related threats and opportunities as a result of '*Brexit*'. Particularly noteworthy is the fact that consumer opinion suggests "*a high level of satisfaction with current food safety and food standards requirements and very little appetite for change*". However, FSS does note that this must not necessarily constitute an argument for the *status quo*, but rather suggests the necessity of a sensitive approach with respect to all issues affecting food regulation. More specifically, consumers appear to have the general expectation that regulation of food production shall remain at a high level of protection and the idea of reducing standards was deeply unpopular. Therefore, the UK's Food and Drink Federation (FDF) is calling for the development of a roadmap for future legislation and continued regulatory cooperation between the UK and the EU.

However, even if the UK Government intended to make changes to food legislation currently in force, food business operators relying on exports to the EU would still have to apply and meet EU standards or achieve a mutual recognition agreement with the EU. Apart from actual food law, the UK food industry will be much more affected by the UK's future trade relationship with the EU, including neighbouring countries such as Ireland, and other trading partners worldwide. Indeed, the UK food industry is already calling for '*early*' trade deals with certain countries. On 13 March 2017, leaders of 35 of the UK's most important food industry associations sent an open letter to the UK Government requesting that it "*should make a clear and early statement of principle that it is committed to maintaining this trade with Ireland and that it will make it a priority in negotiations*". Ireland is indeed key for UK trade and, in particular, for the UK agro-food industry. Almost one fifth of all UK food and drink exports go to Ireland and the amount imported by Ireland from the UK is higher than that imported from Brazil, Canada, China, Japan and the US combined.

The significance of the UK's agro-food sector is also underlined by its socio-economic importance. It is the largest industry in the UK, it employs more than four million people and, in 2016, contributed more than EUR 20 billion to the UK economy. At the same time, food manufacturers are already directing attention to further consequences for trade. Open borders and the free movement of goods within the EU's single market allowed the development of highly integrated supply chains across EU Member States. Should the UK leave the EU without having a comprehensive preferential trade deal in place, the trade rules of the WTO would apply. However, the UK's WTO commitments would also have to be re-evaluated and renegotiated (see *Trade Perspectives*, Issue No. 13 of 1 July 2016). A UK study published in late 2016 illustrates this situation. With respect to trade with the EU, average tariffs of around 40% would be reinstated for the sectors of meat, dairy, and meat and fish preparation; of more than 30% in the area of confectionary; of around 25% in the area of products of milling (*e.g.*, flour) and cereals, and of almost 20% for preparations of vegetables. Individual tariffs would vary significantly, from 87% for frozen beef to 3.8% for whole, fresh sweet potatoes. The study further notes that, if the UK were to leave the EU without a trade deal, UK exporters would face the impact of GBP 5.2 billion in tariffs on goods being sold to the EU. At the same time, EU exporters would also face GBP 12.9 billion in tariffs on goods entering the UK. More specifically, the UK food and drink industry would be among the sectors most affected. The UK meat industry would be the second most affected sector, with a tariff estimate of about GBP 380 million, and the dairy industry the third most affected sector at about GBP 330 million.

Another interesting aspect to consider is the UK's future participation in important international and inter-governmental bodies and institutions competent for food law and food safety issues. This includes, *inter alia*, the EU's Rapid Alert for Food and Feed (RASFF), health and food audits and analysis by the EU's Food and Veterinary Office (FVO), the European Food Safety Authority (EFSA), the European Union Reference Laboratories, the FAO's *Codex Alimentarius* Commission (CODEX), the World Organisation for Animal Health (OIE), and the International Plant Protection Convention (IPPC).

Those figures, as well as the likely overhaul of food legislation in the UK, show the potential for drastic effects on the industry and on consumers. Obviously, the food industry is just one example and all other economic sectors will be similarly affected. As indicated above, the UK

Government is expected to '*trigger*' Brexit on 29 March 2017 and exactly one month later, on 29 April 2017, an EU summit discussing Brexit and the way forward will take place. Negotiations are to begin shortly after those events and, according to Article 50(3) TEU, should be completed within two calendar years (unless otherwise agreed). Determining all details of the future relationship between the two Parties will, however, likely take considerably more time. The current situation of legal and economic uncertainty already affects stakeholders, including the food and drinks industry in the UK, in the EU and worldwide, and is poised to significantly affect trade relations. All stakeholders should, therefore, consider their (legal) options, take the necessary steps and prepare for this unprecedented political manoeuvre.

The European Commission report on labelling of alcoholic beverages invites the industry to submit a self-regulatory proposal

On 13 March 2017, the European Commission (hereinafter, Commission) adopted a long-awaited and overdue report regarding the mandatory labelling of the list of ingredients and the nutrition declaration of alcoholic beverages. This report responds to the Commission's obligation set by Article 16(4) of *Regulation (EU) No 1169/2011 on the provision of food information to consumers* (hereinafter, the FIR). This provision exempts alcoholic beverages containing more than 1.2% by volume of alcohol from the mandatory list of ingredients and the nutrition declaration. However, it requests that the Commission produce a report addressing whether alcoholic beverages should in future be covered, in particular, by the requirement to provide nutritional information, and the reasons justifying possible exemptions, and considering in this context the need to propose a definition of '*alcopops*', which are specifically targeted at young people.

Historically, EU food labelling legislation exempted alcoholic beverages from the indication of ingredients. The Commission presented proposals to address this in 1982 and in 1992, but the Council could not agree on any of those proposals. Regarding alcoholic beverages, consumers have currently only reduced access to the nutrition declaration and to the list of ingredients, with the exception of ingredients, which may have an allergenic effect. In its report, the Commission states that it "*has not identified objective grounds that would justify the absence of information on ingredients and nutrition information on alcoholic beverages*" and invites the alcoholic beverages industry to develop, within one year, a self-regulatory proposal aimed at providing information on ingredients and nutrition of all alcoholic beverages.

As a general point, the Commission's report notes that the industry's position on the matter has significantly evolved in recent times. In the past, most food business operators were opposed to any additional labelling requirement. Today, however, the majority of sectors acknowledge that consumers have the right to know about the content of their drinks and a number of concerted or independent voluntary initiatives have emerged providing consumers with information on the ingredients, the energy value or the full nutrition declaration of alcoholic beverages. Food business operators are thereby addressing consumers' expectations for more information on the drinks they consume. Originally, such voluntary information was mainly accessible through new information and communication technologies, like QR codes. However, according to information from the sector, the Commission notes that it should now increasingly be found on the labels themselves.

Five main points are addressed in the Commission's report: first, whether there should be a list of ingredients for alcoholic beverages. Second, whether a nutritional declaration for alcoholic beverages should be provided. Third, how the nutritional declaration should be presented to consumers (*i.e.*, per 100 ml or per serving size). Fourth, whether such information could be provided on off-label information sources (*i.e.*, on the Internet). And, fifth, whether '*alcopops*' should be defined for labelling purposes.

Regarding the first point, unlike for other foods, the indication of the list of ingredients is currently not obligatory for alcoholic beverages, except for certain ingredients causing

allergies or intolerances. Therefore, consumers are only informed when a substance or a product, amongst those listed in Annex II to the FIR as the most common allergens, is present in alcoholic beverages (*e.g.*, sulphites added to wine). Although there is no requirement for alcoholic beverages to list their ingredients, food business operators may voluntarily provide this information to the consumers. In accordance with Article 36 of the FIR, such information must comply with the provisions governing the mandatory listing of ingredients. Article 41 of the FIR allows EU Member States to maintain national measures as regards the listing of ingredients of alcoholic beverages pending the adoption of harmonised EU rules.

Second, a nutrition declaration is currently not obligatory for alcoholic beverages. With the nutrition declaration having become mandatory for the vast majority of pre-packed food on 13 December 2016 under the FIR, the particular situation of alcoholic beverages is now even more striking. However, there are further exceptions listed in Annex V to the FIR. To avoid unnecessary burdens on food business operators, the FIR exempts from the mandatory nutrition declaration certain categories of foods that are unprocessed or for which nutrition information is not a determining factor in consumers' purchasing decisions, or for which the packaging is too small to accommodate the mandatory labelling requirements. The question is whether, taking into account the specific nature of alcoholic beverages, they should also be exempted from nutrition labelling. Article 30(1) of the FIR provides that the mandatory nutrition declaration must include the following: (a) energy value; and (b) the amounts of fat, saturates, carbohydrate, sugars, protein and salt. Under Article 30(2) of the FIR, the content of the mandatory nutrition declaration may be supplemented with an indication of the amounts of one or more of the following: (a) mono-unsaturates; (b) poly-unsaturates; (c) polyols; (d) starch; (e) fibre; and (f) certain vitamins or minerals, present in significant amounts.

Consumer advocates argue that there does not appear to be a legitimate reason why soft drinks display ingredients, nutrients and calories, while alcoholic beverages remain silent. An argument against ingredients listing and nutritional information on the products' labels is the limited space available. Furthermore, is nutrition information a determining factor in consumers' purchasing decisions of alcoholic beverages? The answer could be yes if, in order to make an informed decision, this information were to contribute to purchasing decisions. In fact, many alcoholic beverages are rich in calories. A glass of beer accounts for around 135-180 calories (hereinafter, kcal). Among the wines and sparkling wines, a glass amounts to 150-160 kcal. Beers and wines also contain carbohydrates, including sugars. In comparison, a typical shot of a spirit drink may have just 40 kcal and no carbohydrates (for more detail, see *Trade Perspectives,* Issue No. 21 of 14 November 2014).

Regarding the third main point addressed in the Commission's report on how the information on the nutrition declaration should be presented to consumers, it must be noted that Article 30(4) of the FIR allows limiting the content of the declaration to the energy value for beverages containing more than 1.2% alcohol by volume. Therefore, it is possible to declare only limited elements of the nutrition declaration in those instances. The general rule, according to Article 32 of the FIR, is that the energy value and the amount of nutrients must be expressed per 100g or per 100ml. Some sectors of the alcoholic beverages industry argue that there is no value in showing calories per 100ml, as such a reference would misrepresent the calories present in an average glass, depending if consumers choose spirits, beer or wine. Showing the information per serving would allow for a more useful comparison, and facilitate informed choices. Other sectors, in particular the beer sector, favour the indication of calories per 100ml. However, there is also a legal argument that using 100ml as a reference point may be appropriate. According to Article 33(a) of the FIR, the energy value and the amounts of nutrients may (in addition to per 100g or per 100ml) also be expressed (easily recognisable by the consumer) per portion and/or per consumption unit, provided that the portion or the unit used is quantified on the label and that the number of portions or units contained in the package is stated in addition to the form of expression per 100g or per 100ml. This is, for example, usually done for yoghurt cups, where the nutritional information is given per 100g and per 125g (*i.e.*, the typical content of a yoghurt

pot). The Commission points to the 100ml reference laid down in the FIR for food and non-alcoholic drinks is a "*robust standard for comparing the nutritional content of different drinks*".

Regarding the fourth point, whether such information could be provided on off-label information sources (*i.e.*, on the Internet) to provide consumers with adequate, detailed information, the Commission merely takes note of existing voluntary initiatives. The industry notes that any change to labels results in costs, and those costs are borne disproportionately by smaller companies. In addition, nutritional information for alcoholic beverages may require scientific investments to make sure that the information displayed is accurate. As a possible compromise, nutritional information could be delivered off-pack, in particular on Internet sites. Rather than exact figures, estimates per serving size communicated through modern information channels could serve the purpose of helping consumers to monitor their calorie intake, if they so wish or need. It could be argued that smartphones are becoming ubiquitous in supermarkets, restaurants and bars. An application calculating how many calories, for example, three beers and two spirit drinks have in a specific region (taking into account typical regional serving sizes) does not sound impossible.

The fifth main point in the Commission's report, the definition of the popular so-called '*alcopops*', which are drinks specifically targeted at young people, appears to have been a major stumbling block towards the adoption of the delayed report. Ready-to-drink beverages, colloquially referred to as '***alcopops'***, are beverages that are in part a spirit, wine or malt and a non-alcoholic drink, served in a pre-mixed format ready for consumption. They are often very high in sugar and do not display much information as to the ingredients, except in the product's name (*e.g.*, '*aromatised cocktail with wine*'). However, they do not display whether they contain, *inter alia*, juice, a soft drink or tonic water (which, although tasting bitter, may be high in sugar). A bottle of '***alcopops'*** may contain about 200 kcal (for more detail, see *Trade Perspectives*, Issue No. 21 of 14 November 2014). Due to concerns about their appeal to adolescents, Germany adopted already in 2004 a law imposing a special tax on alcoholic soft drinks (alcopops) to protect young people (*Gesetz über die Erhebung einer Sondersteuer auf alkoholhaltige Süßgetränke (Alkopops) zum Schutz junger Menschen*). This law increased the tax on spirit-based pre-mixes with an alcohol content between 1.2% and 10%. The German tax on alcopops was so '*successful*' (*i.e.*, effective in its intended goal) that manufacturers immediately reformulated to similar mixes, but with beer or wine or to high-strength pre-mixes, (*i.e.,* pre-mixed beverages with an alcohol by volume content of 15% or above combined with juice or any other soft drink), which do not fall under the tax due to their wine or beer base or higher alcoholic content. These beverages are similar in flavour, colouring and marketing. Many EU Member States consider that it is unjustified and inconsistent that, on the label of soft drinks, ingredients mixed with alcohol do not have to be declared, while ingredients of a soft drink without the alcohol would have to be declared. Similarly, there is no justification as to why a soft drink should provide a nutrition declaration when the same soft drink mixed with a spirit would be exempted from such declaration. In addition, it appears that the notion of '*alcopops*' is not always pertinent at national level and is also too vague to allow for a constructive definition. Therefore, the Commission considers that, *a priori* and without prejudging any justified exemption, all alcoholic beverages including '*alcopops*' should be treated equally for the labelling particulars under consideration.

At international level, the *Codex Alimentarius* Standard on the labelling of pre-packaged foods does not exempt alcoholic beverages from the provision of the mandatory list of ingredients. Following the Codex Guidelines on nutrition labelling, the nutrition declaration should be mandatory except where national circumstances would not support such declaration. Certain foods may be exempted, for example on the basis of nutritional or dietary insignificance or small packaging.

Momentum for nutrition and ingredients labelling on alcoholic beverages has been increasing for some time. Such information is nevertheless provided by some producers on a voluntary basis. Furthermore, in view of the lack of legal action in this area, a number of EU Member States (*i.e.*, Austria, Croatia, Czech Republic, Finland, Germany, Greece, Hungary, Ireland, Lithuania, Luxembourg, Portugal, and Romania) maintained or adopted national measures imposing additional labelling requirements on ingredients or certain ingredients for alcoholic

beverages or certain alcoholic beverages. Concerning the nutrition declaration, Austria requires the labelling of the amount of sugar for certain wine products. Regarding national measures concerning the nutrition declaration, the FIR does not provide the same flexibility compared with the list of ingredients. However, Romania and Ireland notified, within the framework of the TRIS notification procedure laid down by *Directive (EU) No 2015/1535*, draft legislation requesting nutrition labelling for alcoholic beverages. Such national initiatives contribute to an increased risk of market fragmentation.

In its report, the Commission did not insist on mandatory labelling. The report shows that the sector is increasingly prepared to provide responses to consumers' expectations to know what they are buying and consuming. This is demonstrated by the expansion of concerted or independent voluntary initiatives. Following the report, the industry must propose, within a year, a harmonised approach that would cover the entire sector of alcoholic beverages, aiming at providing consumers with information about the ingredients present in alcoholic beverages and the nutritional value of alcoholic beverages. This proposal will be assessed by the Commission. Should the Commission consider the self-regulatory scheme proposed by the industry as unsatisfactory, it would then launch an impact assessment to review further available options in line with Better Regulation principles. Such assessment should carefully consider the impact of different options on the internal market, on the economic sectors concerned, on consumers' needs, as well as on international trade.

Interested parties should closely monitor any developments in order to ensure that their legitimate interests are duly taken into account and safeguarded. The Commission, in an unusual step, has left the ball in the court of the alcoholic beverages industry – for now. The upcoming initiatives in the EU on the labelling of alcoholic beverages should be monitored and stakeholders should be prepared to participate in this self-regulatory exercise in order to shape potentially future EU legislation by interacting with relevant EU Institutions, trade associations and affected stakeholders.

Recently Adopted EU Legislation

Market Access

- *Council Decision (EU) 2017/436 of 6 March 2017 on the signing, on behalf of the European Union, of the Agreement between the European Union and the Republic of Chile on trade in organic products*

Trade Remedies

- *Commission Implementing Regulation (EU) 2017/454 of 15 March 2017 withdrawing the acceptance of the undertaking for four exporting producers under Implementing Decision 2013/707/EU confirming the acceptance of an undertaking offered in connection with the anti-dumping and anti-subsidy proceedings concerning imports of crystalline silicon photovoltaic modules and key components (i.e. cells) originating in or consigned from the People's Republic of China for the period of application of definitive measures*

Customs Law

- *Commission Implementing Regulation (EU) 2017/545 of 22 March 2017 fixing an acceptance percentage for the issuing of export licences, rejecting export-licence applications and suspending the lodging of export-licence applications for out-of-quota sugar*

- *Commission Implementing Regulation (EU) 2017/493 of 21 March 2017 on the release of securities in relation to Union import tariff quotas for poultrymeat originating in Ukraine managed by Implementing Regulation (EU) 2015/2078*

- *Commission Implementing Regulation (EU) 2017/484 of 20 March 2017 establishing the allocation coefficient to be applied to the quantities covered by the applications for import rights lodged from 1 to 7 March 2017 under the tariff quotas opened by Implementing Regulation (EU) 2015/2078 for poultrymeat originating in Ukraine*

- *Commission Implementing Regulation (EU) 2017/483 of 20 March 2017 determining the quantities to be added to the quantity fixed for the subperiod from 1 July to 30 September 2017 under the tariff quotas opened by Implementing Regulation (EU) 2015/2077 for eggs, egg products and egg albumin originating in Ukraine*

- *Commission Implementing Regulation (EU) 2017/475 of 17 March 2017 establishing the allocation coefficient to be applied to the quantities covered by the applications for import licences lodged from 1 to 7 March 2017 and determining the quantities to be added to the quantity fixed for the subperiod from 1 July to 30 September 2017 under the tariff quotas opened by Regulation (EC) No 1385/2007 in the poultrymeat sector*

- *Commission Implementing Regulation (EU) 2017/474 of 17 March 2017 establishing the allocation coefficient to be applied to the quantities covered by the applications for import licences lodged from 1 to 7 March 2017 under the tariff quotas opened by Regulation (EC) No 533/2007 in the poultrymeat sector*

Food and Agricultural Law

- *Commission Implementing Decision (EU) 2017/486 of 17 March 2017 amending Annexes I and II to Decision 2004/558/EC as regards the infectious bovine rhinotracheitis-free status of Luxembourg, of the Federal States Hamburg and Schleswig-Holstein of Germany and of Jersey, and amending Annex II to Decision 2008/185/EC as regards the Aujeszky's disease-free status of the Friuli Venezia Giulia region of Italy*

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