FRATINIVERGANO
EUROPEAN LAWYERS
TRADE PERSPECTIVES©

Issue No. 7 of 7 April 2017

The WTO Dispute Settlement Body issues Panel Report in *EU – Poultry Meat (China)* dispute

On 28 March 2017, the WTO Dispute Settlement Body (hereinafter, DSB) issued the Panel Report in *European Union – Measures Affecting Tariff Concessions on Certain Poultry Meat Products* (hereinafter, *EU – Poultry Meat (China)*). The dispute highlights the importance and benefits of securing tariff-rate quotas (hereinafter, TRQs) on key goods, and the report itself (and likely, the WTO Appellate Body Report in the future) may also prove to be of great commercial relevance as the UK formally leaves the EU (*i.e.*, completes the '*Brexit*' procedures) and begins negotiating tariff concessions individually.

The dispute was formally initiated on 8 April 2015, when China requested WTO consultations with the EU on the matter, but the underlying facts of the dispute stem from two tariff renegotiations that the EU initiated pursuant to Article XXVIII of the General Agreements on Tariffs and Trade 1994 (hereinafter, GATT) in 2006. According to Article XXVIII:1 of the GATT, in order for a WTO Member to modify or withdraw a tariff concession, said WTO Member must negotiate and agree on the new terms with any other WTO Member with which the tariff concession was initially negotiated and any other WTO Members that have a '*principal supply interest*' in the relevant good. Article XXVIII:1 also requires that the WTO Member modifying or withdrawing a concession consult with any WTO Members that may have a '*substantial interest*' in the concession, modification or withdraw. Article XXVIII:2 of the GATT also stipulates that, during the negotiation and agreement of tariff concessions or withdrawal, WTO Members "*shall endeavour to maintain a general level of reciprocal and mutually advantageous concessions not less favourable to trade than*" those previously provided for.

A '*principal supply interest*' is generally held by the WTO Member with the largest share of imports into the WTO Member that initiated the tariff concession renegotiation (subject to clarifications provided in paragraphs 4 and 5 of Ad Article XXVIII of the GATT), while a '*substantial interest*' exists when at least 10% of imports of a good originate from the relevant WTO Member. In the dispute at hand, the EU had determined that, for the goods at stake, only Brazil and Thailand held '*principal*' or '*substantial*' interests, a determination that it had made on the basis of the share of imports into the EU that trading partners held over the three years preceding each tariff concession renegotiation. From January 2002 through July 2008, the EU had prohibited the importation of poultry products from China due to the application of various sanitary measures. During the second tariff renegotiation in July 2008, the EU lifted the prohibition on the importation of poultry products from China, and by the end of 2011, more than 50% of the poultry products imported into the EU originated in China.

During the proceedings, the two tariff concession renegotiation outcomes were referred to as the First and Second Modification Packages. The '*First Modification Package*' initiated by the EU, covered three tariff concessions, namely: 1) Salted poultry meat (*i.e.*, HS Code 0210.99.39); 2) Prepared turkey meat (*i.e.*, HS Code 1602.31); and 3) Cooked chicken meat (*i.e.*, HS Code 1602.32.19). Following the renegotiations with Brazil and Thailand, the original tariff rates for '*salted poultry meat*' (15.4%) and '*prepared turkey meat*' (8.5%) were converted into '*in-quota*' tariff rates for specified amounts, and the '*out-of-quota*' tariff rates were set at 1,300 EURO per metric tonne and 1,024 EURO per metric tonne, respectively. The original tariff rate for '*cooked chicken meat*' (10.9%) was lowered and converted into an '*in-quota*' tariff rate of 8.0% for a specified number of metric tonnes, with the '*out-of-quota*' tariff rate being set at 1,024 EURO per metric tonne.

The '*Second Modification Package*' initiated by the EU covered seven other tariff concessions, namely: 1) Processed chicken meat, uncooked, containing at least 57% poultry meat or offal (*i.e.*, HS Code 1602.32.11); 2) Processed chicken meat, containing 25% to 57% poultry meat or offal (*i.e.*, HS Code 1602.32.30); 3) Processed chicken meat, containing less than 25% poultry meat or offal (*i.e.*, HS Code 1602.32.90); 4) Processed duck, geese, guinea fowl meat, uncooked, containing at least 57% poultry meat or offal (*i.e.*, HS Code 1602.39.21); 5) Processed duck, geese, guinea fowl meat, cooked, containing at least 57% poultry meat or offal (*i.e.*, HS Code 1602.39.29); 6) Processed duck, geese, guinea fowl meat, containing 25% to 57% poultry meat or offal (*i.e.*, HS Code 1602.39.40); and 7) Processed duck, geese, guinea fowl meat, containing less than 25% poultry meat or offal (*i.e.*, HS Code 1602.39.80). Following the renegotiations with Brazil and Thailand, the original tariff rates for the majority of those tariff codes (10.9%) were converted into '*in-quota*' tariff rates, and the '*out-of-quota*' tariff rates were set at 2,765 EURO per metric tonne. The remainder (*i.e.*, '*processed chicken meat, uncooked, containing at least 57% poultry meat or offal*' and '*processed duck, geese, guinea fowl meat, uncooked, containing at least 57% poultry meat or offal*') had the original tariff rates (867 EURO per metric tonne) converted and lowered to an '*in-quota*' tariff rate of 630 EURO per metric tonne, and the '*out-of-quota*' tariff rates were set at 2,765 EURO per metric tonne.

For the most part, the Panel rejected China's claims, in particular China's various claims relating to the argument that the EU should have considered it to hold a principal or substantial supplying interest in the relevant poultry products with respect to the tariff concessions renegotiations under Article XXVIII of the GATT. However, China was successful on its claim under Article XIII of the GATT, where it argued that a change in circumstances following the lifting of the probation on the importation of poultry products into the EU from China in July 2008 should have been considered as a '*special factor*'. Therefore, the EU should have determined China to have a '*substantial*' interest for the purposes of country-specific allocations of the TRQs that it opened for '*processed duck meat, geese and guinea fowl*' following negotiations with Brazil and Thailand. According to Article XIII:2(d) of the GATT, when it is not practical to seek agreement with WTO Members that have a substantial interest in the product concerned, the WTO Member opening a TRQ must "*allot to [WTO Members] having a substantial interest in supplying the product shares based upon the proportions, supplied by such contracting parties during a previous representative period*". In this regard, "*due account [must be taken] taken of any special factors which may have affected or may be affecting the trade in the product*". Accordingly, the Panel agreed with China on this claim and found that the previous sanitary prohibition on Chinese poultry imports should have been considered a '*special factor*', and thus the EU should have considered China to hold a substantial interest when allocating shares under the TRQ for the relevant products of the Second Modification Package, at least with respect to the tariff lines pertaining to '*processed duck meat, geese and guinea fowl*'.

The Panel Report, or the potential WTO Appellate Body Report, may bear particular relevance for purposes of the upcoming tariff concession renegotiations that the UK will need to initiate as it formally leaves the EU, especially if it chooses to use TRQs to control the

quantity of some goods entering its market, rather than fully opening market access in all sectors. If the UK chose to implement new TRQs as part of its trade strategy after it leaves the EU, it would need to do so in compliance with Article XXVIII of the GATT, and eventually allocate import shares in compliance with Article XIII. Given the presence of the EU Customs Union, of which the UK is currently part, calculations of which parties have a '*substantial interest*' for the purposes of import share allocations may be complicated. Non-EU third countries will be able to show import shares during a reference period for the purposes of TRQ allocations. However, due to the free movement of goods within the EU, data on intra-EU trade is more difficult to acquire. Accordingly, this situational context may constitute '*special factors*' which may result in differing claims to import shares to be allocated. The result may be that the UK allocates large portions of its TRQs to the EU, which, in turn, could result in lower levels of market access for third countries expecting to increase their trade with the UK.

According to WTO DSB procedures, the DSB must adopt the report within 60 days (here, likely either at its meetings of 19 April 2017 or 22 May 2017), unless either or both of the parties appeal prior to its adoption. Regardless of its potential implications for future trade relations of the EU and post-'*Brexit*' EU, the dispute highlights the importance of advocating for appropriate TRQ allocations, and the need to make sure they are properly adjusted over time. Traders should always remain cognizant of these benefits, but should especially prepare to assist their governments in future negotiations with the UK as it approaches a full separate from the EU during the next two years.

The EU adopts new rules to regulate trade in '*conflict minerals*'

On 3 April 2017, the Council of the European Union (hereinafter, Council) adopted a regulation aimed at regulating trade in '*conflict minerals*' and at stopping the financing of armed groups through such trade. The *Regulation of the European Parliament and of the Council setting up a Union system for supply chain due diligence self-certification of responsible importers of tin, tantalum and tungsten, their ores, and gold originating in conflict-affected and high-risk areas* (hereinafter, the EU Conflict Minerals Regulation) has been in discussion since 2014, but the now adopted rules will only enter into effect on 1 January 2021. A key aspect of the regulation is the issue of certification and traceability, an issue of increasingly horizontal relevance for global trade in goods.

So-called '*conflict minerals*' are minerals that are extracted in conflict-affected areas under conditions that often violate human rights and which contribute to the funding and existence of armed groups. During the last 15 years, various public and private initiatives have been driving this issue forward, calling for enhanced due diligence and transparency for trade in '*conflict minerals*' in general and, more specifically, for minerals from the Great Lakes region of Africa (*i.e.*, Burundi, the Democratic Republic of Congo, Kenya, Rwanda, Tanzania and Uganda), which has been particularly affected by armed conflicts in recent years. The relevant UN Committee and Groups of Experts for the Democratic Republic of Congo have considerably contributed to the process, notably by drawing up recommendations for due diligence guidelines for importers, processing industries and consumers of mineral products regarding the purchase, sourcing, acquisition and processing of mineral products from the Democratic Republic of Congo in 2010.

The EU has been debating legislation in this field since 2014 and it has finally reached a compromise agreement in 2016. On 5 March 2014, the European Commission (hereinafter, Commission) submitted to the Council the first proposal for the EU Conflict Minerals Regulation. However, in May 2015, the European Parliament made significant amendments to the proposal, which led to inter-institutional trilogue negotiations involving the European Parliament, the Commission and the Council. Negotiations started in July 2015, progressed during the course of 2016 (see *Trade Perspectives*, Issue No. 8 of 22 April 2016), and

culminated in a compromise agreement in November 2016. Disagreement existed, though, particularly with respect to the scope of the EU Conflict Minerals Regulation and the voluntary or mandatory nature of the due diligence requirements, with the Commission having proposed only voluntary measures. The European Parliament achieved a broadening of the scope of the EU Conflict Minerals Regulation to include not only the countries of origin, but also the countries of transit, and making the due diligence requirements compulsory. Having brought major amendments to the original proposal, the European Parliament, on 16 March 2017, overwhelmingly approved the EU Conflict Minerals Regulation before the Council adopted it on 3 April 2017, putting an end to this lengthy legislative process.

The EU Conflict Minerals Regulation covers the trade of tin, tantalum, tungsten and gold, and establishes binding EU supply chain due diligence requirements for importers of those raw '*conflict minerals*'. The only exception applies to imports of small quantities, which are often used by dentists or jewellers and account for 5% of relevant imports. Still, the new rule is expected to cover 95% of imports of the relevant minerals. Due diligence implies that the companies concerned must apply supply chain controls in all conflict-affected or high-risk areas, in order to identify the risk of funding harmful activities. Following the approach set out in the 2011/2012 OECD Guidance, importers must comply with obligations concerning the management system (particularly traceability), risk management, third-party verification (*e.g.*, external audits) and communication. The supervision of compliance with the obligations and the imposition of penalties will be in the hands of the EU Member States' competent authorities. Additionally and on a voluntary basis, companies, which do not directly import minerals from conflict-affected areas, but use minerals in their production processes, are requested to report annually on their due diligence measures. Furthermore, the Commission will establish a list of responsible smelters and/or refiners supplying the EU, as well as a handbook to help identify conflict-affected and high-risk areas. Finally, the EU Conflict Minerals Regulation includes a review clause, requiring the Commission to review the functioning and effectiveness of the regulation every three years.

In 2010, the US adopted, as part of the Dodd-Frank Wall Street Reform and Consumer Protection Act (hereinafter, Dodd-Frank Act), its own '*conflict minerals*' regulation. It has, in contrast to the more general EU Conflict Minerals Regulation, a limited focus on the Democratic Republic of Congo and nine neighbouring countries, and requires companies to annually disclose the use of (potential conflict) minerals on a mandatory basis and to declare whether or not they originate in a country covered by the measure. Since a 2014 ruling of a US Court of Appeals declared parts of the disclosure requirements as violating the First Amendment of the US Constitution, debate about the due diligence requirements subsisted. On 31 January 2017, the Acting Chairman of the US Securities and Exchange Commission (hereinafter, SEC) Michael S. Piwowar directed the SEC to reconsider whether the 2014 guidance on the '*conflict minerals*' rule was still appropriate and whether any additional relief was in order, in particular referring to the "*unintended consequences washing over the Democratic Republic of the Congo and surrounding areas*". Acting Chairman Piwowar went on to state that the '*conflict minerals*' regulation constituted a "*misguided rule*" and that the disclosure requirements had caused a *de facto* boycott of minerals from portions of Africa and that legitimate mining operators were facing onerous costs to comply with the rule, which threatened to put them out of business. He noted that it was also unclear whether the rule had, in fact, resulted in any reduction in the power and control of armed groups or eased human suffering. On 4 April 2017, US President Trump himself announced an overhaul of the regulations under the Dodd-Frank Act. To date, however, specifics on the expected changes remain unavailable.

Outside the US and the EU, no other compulsory due diligence and traceability requirements currently exist. However, an increasing number of countries is implementing voluntary schemes. For example, Australia has in place voluntary '*Due diligence guidelines for the responsible supply chain of minerals from red flag locations to mitigate the risk of providing direct or indirect support for conflict in the eastern part of the Democratic Republic of the*

Congo' and China has implemented the '*Chinese Due Diligence Guidelines for Responsible Mineral Supply Chains*', which are based on the OECD Guidance.

Current schemes, such as the US '*conflict minerals*' regulation under the Dodd-Frank Act, are deemed to lead to onerous costs for mining operators and even putting them out of business. At the same time, they have allegedly failed to comprehensively achieve their objectives. New rules by important markets, such as the upcoming EU Conflict Minerals Regulation or the Chinese Guidelines, should they become mandatory, further contribute to this piecemeal approach. Arguably, the legitimate objectives being pursued by these measures could be much better achieved through a plurilateral or multilateral approach. While often referring to the OECD Guidance, specifics of the rules remain divergent. An increasing amount of products (*e.g.*, timber, fishery products subject to the EU's framework on illegal, unreported and unregulated (IUU) fishing, palm oil and biofuel feedstock subject to sustainability criteria or the wave of country of origin labelling (COOL) measures around the world) is subject to rules on transparency, and to often burdensome traceability and sustainability schemes, which stem from political agendas or consumer demands. However, such rules are often unilaterally imposed and constitute non-tariff measures that often amount to significant trade barriers.

The exceptional character of such measures is evidenced by a 2003 waiver granted by the WTO General Council, after recommendation by the Council for Trade in Goods, to a request by a number of WTO Members concerning trade measures taken under the '*Kimberly Process Certification Scheme for Rough Diamonds*', which is currently in place until 2018. The '*conflict minerals*' schemes could, arguably and depending on their specific requirements, be qualified as technical regulations under the WTO Agreement on Technical Barriers to Trade (TBT). Indeed, during the debate of the '*conflict minerals*' provisions under the Dodd-Frank Act, US trade law scholars drew parallels to the WTO dispute on *United States – Certain Country of Origin Labelling (COOL) Requirements*, arguing that many similarities persisted, in particular the creation of economic disincentives to import certain goods from specific countries (see, on the legal issues in the recent COOL measures: *Trade Perspectives*, Issue No. 1 of 13 January 2017). Therefore, leaving behind this piecemeal approach and avoiding the inconsistency with WTO rules, the international standards-setting and rule-making bodies should become the *fora* in which to address these issues. Processes may be more complex on a multilateral basis, as compared to a unilateral approach, but the results would be broader, more comprehensive and globally accepted.

The remaining steps in the adoption of the EU Conflict Minerals Regulation, including its publication in the Official Journal of the EU, are expected to be finalised by the end of May 2017. The EU Conflict Minerals Regulation will enter into force, as usual, on the 20th day following that of its publication in the Official Journal of the EU. However, key provisions, including the due diligence requirements, shall only become mandatory on 1 January 2021. Despite this rather long transition period, stakeholders should act now and prepare for the rules to come into effect. At the same time, stakeholders in other sectors should carefully examine the rules and legal obligations, as this global traceability trend looks poised to affect an increasing number of sectors. Stakeholders and affected countries should underline the need for concerted multilateral efforts in order to avoid further unilateral imposition of burdensome compulsory schemes and the establishment of further non-tariff measures and, potentially, of significant barriers to international trade.

Is the EU moving towards the labelling of added sugar? The EFSA is to provide an opinion on the intake of sugar added to food

On 16 March 2017, the European Food Safety Authority (hereinafter, the EFSA) received the mandate to provide scientific advice on the daily intake of added sugar in food by 29 February 2020. The EFSA aims at establishing a science-based threshold for daily

exposure to added sugars from all sources that are not associated with adverse health effects. The advice is intended to update the EFSA's 2010 Scientific Opinion on Dietary Reference Values for carbohydrates and dietary fibre on the basis of the most recent scientific evidence in order to derive such cut-off value and to guide EU Member States when establishing recommendations for the consumption of added sugars and planning dietary guidelines. The question is whether the EFSA's advice will also lead to the introduction of added sugar nutrition labelling in the EU, as it has happened in the US.

From a procedural viewpoint, it is interesting that it was not the Commission that requested the opinion, but the Food Safety Agencies of the Nordic EU Member States (*i.e.*, Denmark, Finland and Sweden) and two of the European Economic Area's (EEA) Member States (*i.e.*, Iceland and Norway). The request of June 2016, led by Sweden, was made "*in line with" Regulation (EC) No. 178/2002 of the European Parliament and of the Council of 28 January 2002 laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety* (hereinafter, GFL). Under Article 29(1) of the GFL, the EFSA shall issue a scientific opinion: 1) at the request of the Commission, in respect of any matter within its mission, and in all cases where EU legislation makes provision for the EFSA to be consulted; or 2) of its own initiative, on matters falling within its mission. The second sentence of Article 29(1) of the GFL provides that also the European Parliament or an EU Member State may request the EFSA to issue a scientific opinion. This is the provision under which the request of the Nordic coalition led by Sweden appears to have been accepted. EEA Members Iceland and Norway participate in GFL-matters like the EFSA and the EU Rapid Alert System for Food and Feed (RASFF).

In 2010, the EFSA published a Scientific Opinion on Dietary Reference Values for carbohydrates and dietary fibre, which also included sugar. At that time, the available evidence was insufficient to set an upper limit for the daily intake of total or added sugars. The EFSA's mandate to provide scientific advice on the daily intake of added sugar in food reads that new scientific evidence had become known since then and that there had also been growing public interest in the impact of the consumption of sugar-containing foods and beverages on human health. However, according to the request, several EU Member States and international organisations have indeed found scientific evidence supporting the setting of a dietary recommendation for added sugars to a maximum of 10% of total energy intake (*e.g.*, the Nordic Nutrition Recommendations, NNR, 2012; the WHO, 2015; the British Scientific Advisory Committee on Nutrition, SACN, 2015; and the Dietary Guidelines for Americans, DGA, 2015-2020). Added sugars from all sources include sucrose, fructose, glucose, starch hydrolysates such as glucose syrup, high-fructose syrup, and other sugar preparations consumed as such or added during food preparation and manufacturing. The adverse health effects under consideration in the EFSA's opinion will include body weight, glucose intolerance and insulin sensitivity, type-2-diabetes, cardiovascular risk factors, as well as dental caries. In its assessment, the EFSA will look at the general healthy population, including children, adolescents, adults and the elderly. '*Added sugars*' are not a chemically different nutrient from sugars.

Currently, EU food labelling law refers to '*total sugars*', without a subcategory of '*added sugars*'. The nutrition labelling provisions in *Regulation (EU) No. 1169/2011 of the European Parliament and of the Council of 25 October 2011 on the provision of food information to consumers* (hereinafter, FIR) harmonise nutritional information on energy and on certain nutrients on food. Nutrition labelling was optional under the FIR's predecessor, *Council Directive 90/496/EEC of 24 September 1990 on nutrition labelling for foodstuffs* and became mandatory for all foodstuffs on 14 December 2016. Article 30 of the FIR provides that the mandatory nutrition declaration must include the following: (a) energy value; and (b) the amounts of fats, saturates, carbohydrates, sugars, proteins and salt. The content of the mandatory nutrition declaration may be supplemented by an indication of the amounts of one or more of the following: (a) mono-unsaturates; (b) polyunsaturates; (c) polyols; (d) starch; (e) fibres; and (f) any of certain vitamins or minerals that are present in significant amounts.

Annex I of the FIR defines '*sugars*' as all monosaccharides and disaccharides present in food, but excludes polyols. Annex XV of the FIR details how nutrition information must be provided. Sugars, polyols and starch have to be listed under the category '*carbohydrates*', preceded by the words '*of which*'.

At the international level, Article 2.4 of the WTO Agreement on Technical Barriers to Trade (TBT Agreement) provides that technical regulations must be based on the (existing) relevant international standards. in this case, the relevant measure is the Codex Alimentarius Guidelines on Nutrition Labelling (CAC/GL2-1985, revised in 2013), which defines sugars in point 2.7 as "*all mono-saccharides and di-saccharides present in food*". Most importantly, point 3.2 provides that "*where nutrient declaration is applied, the declaration of the following is mandatory: energy value; and the amounts of protein, available carbohydrate (i.e. dietary carbohydrate excluding dietary fibre), fat, saturated fat, sodium (or salt) and total sugars; and the amount of any other nutrient for which a nutrition or health claim is made*". Therefore, reference is made to '*total sugars*', without an eventual '*added sugars*' sub-category. Of interest is also point 3.2.1.4 of the *Codex Alimentarius* Guidelines on Nutrition Labelling, which states that the amount of any other nutrient considered to be relevant for maintaining a good nutritional status may be indicated, as required by national legislation or national dietary guidelines. A footnote to this provision gives as an example the circumstance that countries, where the level of intake of trans-fatty acids (hereinafter, TFAs) is a public health concern, may consider the declaration of TFAs in the nutrition labelling. The US, for example, requires the indication of TFAs in the new '*Nutrition Facts*' label (regarding the status of TFAs in the US, see *Trade Perspectives*, Issue No. 23 of 18 December 2015). Therefore, the question is whether '*added sugars*' are another example of a nutrient that raises public health concerns, which would justify its inclusion in nutrition labelling. Arguably, added sugars are not chemically different nutrients from sugars, whereby TFAs are a particular type of unsaturated fatty acids.

The US amended and modernised the nutrition information found on the so-called '*Nutrition Facts*' label in 2016. The new '*Nutrition Facts*' require food business operators (hereinafter, FBOs) to indicate how much sugar has been added to their products (see *Trade Perspectives*, Issue No. 11 of 3 June 2016). Among the many changes of the '*Nutrition Facts*' label is a new line of text located just underneath '*total sugars*'. In this new line of text, FBOs are required to indicate exactly how much of the total sugars include '*added sugars*', and what percentage of the daily value is represented by those added sugars. The word '*includes*' is intended to clarify that added sugars are a sub-component of total sugars. The declaration of added sugars needs to be expressed in grams (*e.g.*, "*includes x g of added sugars*").

Discussions on the US '*Nutrition Facts*' label including added sugars have taken place at the international level within the context of the WTO Committee on Technical Barriers to Trade in 2014, after the US notified the revision of the '*Nutrition Facts*' Labels. The EU, in particular, had commented in detail and argued that the lack of an analytical method to distinguish naturally present and added sugars was a serious obstacle, which would lead to difficult compliance assessments, and that the determination of added sugars is only feasible by using recipe and process information (see *Trade Perspectives*, Issue No. 11 of 3 June 2016 for more details). The EU had further argued that the information on total sugars is sufficient for informing consumers about the sugar content of foods. Consumers would be sufficiently informed about the sugar content of products, such as soft drinks, with the information on the amount of total sugars and the energy value. Considering the difficulties of enforcement, the lack of a scientific basis to distinguish between the types of sugars as far as their health impact is concerned, and the more complex message for consumers, the EU had invited the US authorities to reconsider their position regarding the introduction of mandatory added sugars labelling, which the US has so far not done.

Arguably, the mandatory indication of '*added sugars*' constitutes a barrier to trade that is not based on the relevant international *Codex* standard. FBOs need to change their labels in

order to access markets where the indication of '*added sugars*' is required. Furthermore, careful record keeping is needed. An analysis of the US market conditions after the introduction of '*added sugars*' labelling could serve as an example to determine the impact of such measure. The US Food and Drug Administration (FDA) is reportedly working on a draft guidance that, when finalised, will address FBOs' compliance with the added sugars '*Nutrition Facts*' labels.

Of note is also that, on 24 January 2017, the ANSES (*i.e.*, the French Agency for Food, Environmental and Occupational Health and Safety), updated its food consumption guidelines for the French population. Regarding sugars, the ANSES concluded that the available data cannot be used to distinguish the health effects of sugars naturally present in food from those of added sugars. Nevertheless, the ANSES found that evidence is converging towards harmful effects of high sugar intakes, above a certain maximum intake limit. In order to reduce total intakes for the most exposed populations, it appears vital to control the consumption of foods that contain added sugars. In view of the limited effectiveness of voluntary reduction pledges, the ANSES therefore recommends that public authorities envisage the introduction of targeted regulatory measures on the main added sugar carriers, in order to act within a controlled timetable, on the number of products concerned, and on the level of reduction in added sugar content. Similar calls for mandatory added sugar labelling may be made by other EU Member States' authorities or by NGOs.

Regarding the next steps, the EFSA will establish an *ad-hoc* working group with expertise in dietary exposure, epidemiology, human nutrition, diet-related chronic diseases and dentistry. The five Nordic countries that initiated the process will be invited to the working group as observers. The EFSA will use its established methodology in order to develop a protocol on how to carry out the assessment. To ensure openness and transparency, the EFSA will engage with stakeholders throughout the assessment process. It will hold two public consultations, inviting feedback on the draft protocol in the first half of 2018 and on the draft opinion in late 2019, which will also involve a meeting with stakeholders. Developments in that regard need to be carefully monitored by stakeholders in order to have arguments ready, should the mere discussions translate into actual legislative proposals in the EU on nutrition labels including added sugars. Stakeholders should be prepared to interact with relevant EU Institutions, trade associations and other affected stakeholders.

Recently Adopted EU Legislation

Trade Remedies

- *Commission Implementing Regulation (EU) 2017/648 of 5 April 2017 imposing a definitive anti-dumping duty on imports of okoumé plywood originating in the People's Republic of China following an expiry review pursuant to Article 11(2) of Regulation (EU) 2016/1036 of the European Parliament and of the Council*

- *Commission Implementing Regulation (EU) 2017/649 of 5 April 2017 imposing a definitive anti-dumping duty on imports of certain hot-rolled flat products of iron, non-alloy or other alloy steel originating in the People's Republic of China*

Food and Agricultural Law

- *Commission Regulation (EU) 2017/644 of 5 April 2017 laying down methods of sampling and analysis for the control of levels of dioxins, dioxin-like PCBs and non-dioxin-like PCBs in certain foodstuffs and repealing Regulation (EU) No 589/2014*

- *Commission Implementing Regulation (EU) 2017/611 of 29 March 2017 amending Regulation (EC) No 1484/95 as regards fixing representative prices in the poultrymeat and egg sectors and for egg albumin*

Other

- *Information concerning the date of entry into force of the Agreement amending for the second time the ACP-EC Partnership Agreement*

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