FRATINIVERGANO
EUROPEAN LAWYERS
TRADE PERSPECTIVES©

Issue No. 16 of 9 September 2011

Panel report issued in the WTO dispute *US - Clove Cigarettes*

On 2 September 2011, a WTO panel issued its report for the *US - Clove Cigarettes* dispute. This dispute was commenced on 7 April 2010, when Indonesia requested consultations with the US regarding a provision of the US *Family Smoking Prevention Tobacco Control Act* (hereinafter, the Act), which bans clove-flavoured cigarettes. In particular, Indonesia alleged that Section 907 of the Act prohibits, *inter alia*, the production or sale in the US of cigarettes containing certain additives, including cloves, but continues to permit the production and sale of other flavoured cigarettes, including cigarettes containing menthol. Indonesia is the world's primary producer of clove cigarettes, and Indonesia supplied the vast majority of clove cigarettes consumed in the US prior to the ban. Indonesia argued that Section 907 of the Act is inconsistent with, *inter alia*, Articles 2.1 and 2.2 of the WTO Agreement on Technical Barriers to Trade (hereinafter, the TBT Agreement). These two provisions respectively bind WTO Members to provide national treatment regarding technical regulations, and ensure that technical regulations are not more trade-restrictive than necessary to fulfil a legitimate objective. A Panel was established to hear this dispute on 20 July 2011.

The Panel concluded that, inasmuch as the US grants less favourable treatment to clove cigarettes than to menthol cigarettes, Section 907 of the Act is inconsistent with the national treatment obligation in Article 2.1 of the TBT Agreement. In particular, the Panel found that clove and menthol cigarettes are '*like products*' within the meaning of Article 2.1 of the TBT Agreement, observing, *inter alia*, that both types of cigarettes are flavoured and appeal to youth. The Panel also observed that health studies suggest that the consumer preferences of young smokers and potential young smokers are such that menthol-flavoured and clove-flavoured cigarettes are similarly attractive products for the purposes of starting to smoke.

Yet the Panel rejected Indonesia's second major claim: that the US ban is more trade-restrictive than necessary to fulfil a legitimate objective (*i.e.*, reducing youth smoking) within the meaning of Article 2.2 of the TBT Agreement. The Panel based this conclusion partly on its finding that there is extensive scientific evidence indicating that banning clove and other flavoured cigarettes helps to reduce youth smoking rates. The Panel also concluded that Indonesia had not adequately identified the alternative measures that the US should have applied in place of a ban, noting that a listing – in bullet form – of two dozen alternative measures did not demonstrate that such measures would make an equivalent contribution to achieving the desired level of health protection sought by the US. Moreover, the Panel found that several alternatives suggested by Indonesia appeared to involve a greater risk of failing to achieve the US objective of reducing youth smoking. The Panel's assessment of Article 2.2 of the TBT Agreement is significant in that it appears to be the first substantial analysis of this provision to have occurred in WTO case law. The only previous treatment appears to have occurred in *EC - Sardines*, in which the Panel elected to exercise judicial economy with regard to a claim based on Article 2.2 of the TBT Agreement, but included in its analysis of

Article 2.4 of the TBT Agreement some observations relating to the trade-restrictiveness of the measures challenged in that particular dispute.

US - Clove Cigarettes provides some key insights into the evolving relationship between WTO law and public health objectives (for a discussion of a similar issue, see '*Canadian Act on tobacco aimed at youth might constitute a technical barrier to trade*' in Trade Perspectives, Issue No. 8 of 23 April 2010). In this case, the US ban affected both domestic and imported clove-flavoured cigarettes (as well as candy-flavoured and fruit-flavoured cigarettes). However, menthol cigarettes were excluded from the ban, under the justification that, unlike clove cigarettes, large numbers of adult Americans are addicted to menthol cigarettes (*i.e.*, the Panel determined that approximately 25% of the US smoking population smokes menthol cigarettes) and that, to abruptly ban these products from the market could, by boosting black market menthol cigarette sales, result in negative consequences for smokers, the US healthcare system, or US society as a whole. With these health rationales in mind, the Panel nevertheless found that clove and menthol cigarettes are '*like*' products under its analysis of Article 2.1 of the TBT Agreement, despite the fact that clove and menthol cigarettes contain different additives in substantially different quantities, and different consumers may have varying patterns of consumption of each type of flavoured cigarette. The Panel's key finding was that clove and menthol cigarettes should be considered '*like*' in the context of public health measures that regulate products on the basis of characteristics that clove and menthol cigarettes have in common: namely, that clove and menthol cigarettes are physically similar and include an additive that provides them with a characteristic flavour, are products which are both designed for the same end-use of smoking, and are perceived as similar flavoured products by young smokers and potential young smokers (a key demographic targeted by the Act) for the purposes of starting to smoke.

The Panel's conclusion in this case suggests that future WTO panels may interpret the '*like products*' criterion of Article 2.1 of the TBT Agreement quite broadly in the context of measures adopted with an explicit goal of improving public health outcomes. This decision should accordingly be noted by commercial parties who may, in the future, be affected by such public health measures, and by public authorities considering similar legislative or regulatory measures. In light of the Panel report in *US - Clove Cigarettes*, to remain compliant with its WTO obligations the US will now have to amend Section 907 of the Act to bring it into conformity with Article 2.1 of the TBT Agreement, or alternatively appeal the Panel's report.

Panel report issued in the WTO dispute *Philippines - Taxes on Distilled Spirits*

On 15 August 2011, the WTO panel in the dispute *Philippines - Taxes on Distilled Spirits*, issued its report. This dispute dates back to 29 July 2009 and 14 January 2010 (see Trade Perspectives, Issue No. 2 of 29 January 2010), when the EU and the US, respectively, requested consultations with the Philippines regarding the Philippines' excise tax regime on distilled spirits. The WTO Dispute Settlement Body (hereinafter, DSB) subsequently established a single panel to hear both of the complaints.

The Philippines' measure at stake concerned an excise tax regime that the EU and US claimed favoured domestic products over '*like*' imported products. In particular, both the EU and US argued that domestic distilled spirits produced in the Philippines from the raw materials designated in the excise tax law were '*like*' products when compared to imported spirits produced with other raw materials, and that the Philippines' excise tax regime discriminated against imported distilled products by taxing them at a substantially higher rate than domestic spirits, in violation of the first and second sentences of Article III:2 of the General Agreement on Tariffs and Trade (hereinafter, the GATT). The Panel first examined

the Philippines' excise tax regime and concluded that it represented a low flat tax which was applied to certain domestic spirits made from designated raw materials (*e.g.*, primarily cane sugar), while a significantly higher tax rate was applied to spirits made from non-designated materials (*e.g.*, primarily cereals or grape varietals) used in imported distilled spirits. As a result, all domestic spirits were subjected to a low flat tax, while a higher tax rate applied to the vast majority of imported spirits.

Based on this analysis of the excise tax regime, the Panel then applied the two-step test outlined in *Canada - Periodicals* for analysing whether a measure is consistent with the first sentence of Article III:2 of the GATT: 1) assess whether imported and domestic products are '*like*' products; and 2) assess whether the imported products are taxed in excess of the domestic products. Under the first step, the Panel determined that the distilled products at issue are indeed '*like*' products, noting that with respect to the physical qualities and characteristics of the products, as well as with regard to their end uses, there is similarity between all the relevant imported and domestic distilled spirits, regardless of which raw materials are used to manufacture them. Under the second step, the Panel noted that, although the Philippines' excise tax is, in principle, origin-neutral, the *de facto* result of the tax is that all distilled spirits produced in the Philippines benefit from the lower tax rate, while the vast majority of spirits imported into the Philippines are made from other raw materials and are thus subject to one of three higher excise tax rates.

The Panel next assessed whether the Philippines' excise tax regime is inconsistent with the second sentence of Article III:2, following the methodology applied by the Appellate Body in a number of reports (such as *Japan - Alcohol II* and *Canada - Periodicals*) by separately considering three issues: 1) whether the imported and domestic products at issue are '*directly competitive or substitutable*' with respect to each other; 2) whether these directly competitive or substitutable products are '*not similarly taxed*'; and 3) whether the dissimilar taxation of these directly competitive or substitutable products is '*applied … so as to afford protection to domestic production*'. Interestingly, the Panel evaluated the issue of '*direct competitiveness or substitutability*' under the second sentence of Article III:2 as if, for the sake of its analysis, it had found that the products at issue were not '*like*' under the first sentence of Article III:2. However, the Panel nevertheless concluded that there was indeed '*direct competitiveness or substitutability*' between domestic and imported distilled spirits. The Panel then ruled that these directly competitive or substitutable products are '*not similarly taxed*', and that the dissimilar taxation of these directly competitive or substitutable products was applied '*so as to afford protection to domestic production*'.

The Panel's findings in *Philippines - Taxes on Distilled Spirits* indicate that WTO dispute settlement panels continue to follow a body of well-established WTO case law concerning the two sentences of Article III:2 of the GATT, most notably the Appellate Body rulings in *Canada – Periodicals*, *Japan - Alcohol II* and *EC - Asbestos*. Reports indicate that the Philippines plans to appeal this ruling. If the Panel's report is not ultimately appealed, the Philippines must comply with the Panel's findings, or otherwise face the risk of retaliatory trade measures applied by the EU and the US. The commercial stakes in this case are quite significant: in 2010, the Government of the Philippines valued its distilled spirits industry at almost 1 billion USD. Yet from 2004-2007, the EU Commission estimates that the value of EU exports of distilled spirits to the Philippines declined from approximately 37 million EUR to 18 million EUR. Certain EU Member States have a strong market share for distilled spirits in the Philippines (*e.g.*, Spanish brandies represented approximately 99.6% of imported brandies consumed in the Philippines in 2009), and may be well-positioned to further their commercial interests if the Philippines brings its excise tax regime into compliance with the Panel's ruling.

A recent FVO report has found that Turkish regulation on the control of pesticide residues is improving

In August 2011, the EU Commission published the final report of an EU Food and Veterinary Office (hereinafter, FVO) audit, carried out in Turkey from 12 to 18 April 2011 (SANCO 2011-6029), in order to evaluate controls of pesticide residues in food of plant origin, in particular sweet peppers and table grapes intended for export to the EU. The FVO audit report seems to indicate that Turkish control of pesticide residues according to EU law is improving. However, looking at the practice and, in particular, the most recent notifications of non-compliances via the EU Rapid Alert System for Food and Feed (hereinafter, RASFF), it appears unlikely that the previously-heightened EU control measures in relation to peppers from Turkey will be lifted in the near future.

Regulation (EC) No. 669/2009 implementing *Regulation (EC) No. 882/2004 of the European Parliament and of the Council as regards the increased level of official controls on imports of certain feed and food of non-animal origin* required a 10% frequency of controls at EU points of entry for Turkish pears, peppers, tomatoes and courgettes. As an overall satisfactory degree of compliance of courgettes and pears from Turkey with the relevant safety requirements provided for in EU legislation was achieved, Regulation No. 669/2009/EC was amended by Regulation No. 433/2011/EC of 4 May 2011, and courgettes and pears are no longer subject to increased controls as of 8 May 2011 (in relation to the introduction of the measures on pears from Turkey, see Trade Perspectives, Issue No. 21 of 13 November 2009). However, at least 10% of tomato and pepper consignments originating in Turkey are still being subjected to increased controls by EU Member States at importation.

The recent FVO audit concludes that Turkish authorities have made significant efforts in terms of introducing new legislation and implementing existing national legislation, in particular for controls on the marketing and use of pesticides. According to Turkish Law No. 5996 on Veterinary Services, Plant Health, Food and Feed, which entered into force on 13 December 2010, Turkish authorities are empowered to take samples of plant produce from growers in order to check for pesticide residues, and may require destruction of plant produce in the case that maximum residue levels (hereinafter, MRLs) are exceeded. In cases in which grower non-compliance is identified (*e.g.*, non-authorised uses of pesticides, uses of pesticides without prescriptions, and exceeding MRLs), fines can be imposed. The FVO mission report remarks, however, that a structured approach towards official controls of growers has not yet been implemented, and that only a small number of samples are taken for pesticide residue analysis in produce intended for export to the EU. Although progress has been made in the development of laboratories, shortcomings were identified by the FVO in quality control and analytical scope. A problem seems to be that growers sell their produce through dealers on the wholesale market, and they are not sufficiently aware of the destination of their produce in order to fulfil the requirements in the importing country.

On the regulatory side, significant progress has been made since Turkey initiated a process for withdrawal from the market of plant protection products which are not authorised in the EU (many pesticides have already been banned by the Turkish Agriculture Ministry, in particular in March 2011: carbendazim, clofentenize, diafenthiuron, dimethoate, formetanate, malathion, procymidon, tetradifen and thiophanate-methyl in the production of tomatoes, peppers, zucchinis and pears, although for some of them a phase-out period is still running, such that they may still be sold and used). Additional requirements have been established by Turkish authorities in relation to specific combinations of crops and pesticides; for example, amitraz was banned for use on pears as of 16 November 2009 (in relation to the use of amitraz on pears, see Trade Perspectives, Issue No. 21 of 13 November 2009). An important step forward was the introduction of the EU's MRLs by an amendment to the

Turkish Food Codex on MRLs of pesticides allowed in foodstuffs of 31 December 2009, which entered into effect on 21 January 2011.

As to the situation in practice, from May 2011 until the end of August 2011, 57 non-compliances were notified via the EU's RASFF in relation to exceeding MRLs on peppers (for carbendazim, clofentezine, formetanate, malathion, methomyl, procymidone, and tetradifon). In the same period, 3 non-compliances were notified via the RASFF in relation to exceeding MRLs on tomatoes (oxamyl, procymidone, and tetradifon). The notifications led in most cases to border rejections of the produce. Under the new Turkish legislation, oxamyl uses on tomatoes, peppers and cucumbers were banned from 1 July 2010. Since 31 August 2009, all uses of procymidone have been banned (with a phase-out period until 31 August 2011); however, inspectors seem to have received instructions to identify remaining stocks and to act as if there was no phase-out period. In addition, methomyl uses in peppers, cherries, cucumbers and grapes have been prohibited since 1 January 2011, and also uses in tomatoes since 25 March 2011. Recent RASFF notifications indicate that some of the banned pesticides are still being applied in Turkey, presumably as growers are not aware of the bans or of the destination of the produce.

The EU imports significant amounts of fruits and vegetables from Turkey. According to Eurostat, in 2010 Turkey was the fifth-largest exporter of fresh fruit (mainly citrus fruit and table grapes) to the EU, with around 676,000 tonnes (or 5.3% of the total imports to the EU). In relation to vegetables, Turkey was the fourth-largest exporter to the EU (mainly aubergines, courgettes, peppers, and tomatoes), with approximately 362,000 tonnes (or 9.3% of total imports into the EU).

The new Turkish legislation requires a modified approach with regard to the enforcement measures to be applied in cases of non-compliances. The ban of certain pesticides and the amendment of the Turkish Food Codex introducing EU MRLs are important steps towards further harmonisation with the EU system for the control of pesticide residues in view of possible future EU membership. The EU opened membership talks with Turkey in October 2005. After the EU-Turkey Association Council meeting in Brussels in May 2010, negotiations were opened on 30 June 2010 on Chapter 12 (of the 35 subject areas for negotiation prior to EU entry) on '*food safety, veterinary and phytosanitary policy*'. The aim of this negotiating chapter is to adopt a framework law on food, feed and veterinary matters, which complies with EU requirements and allows the complete transposition of the EU *acquis*.

The EU has requested WTO consultations with Canada regarding Ontario's alleged renewable energy subsidies

On 11 August 2011, the EU requested WTO consultations with Canada concerning measures by the Canadian province of Ontario, which establish domestic content requirements in Ontario's '*feed-in tariff*' scheme, a Government programme which obliges Ontario's power authority to pay above-market prices for renewable energy fed into the Ontario grid by private renewable energy producers (for more background on Ontario's '*feed-in tariff*' programme, see Trade Perspectives, Issues No. 9 of 7 May 2010, No. 12 of 17 June 2011, and No. 15 of 29 July 2011). The DSB has already established a panel to adjudicate a similar complaint lodged by Japan against Ontario's '*feed-in tariff*' scheme (see Trade Perspectives, Issue No. 15 of 29 July 2011). Should the EU's consultations with Canada prove unsuccessful, the EU may also request the establishment of a panel to adjudicate its complaint.

The EU's allegations are identical to those expressed by Japan in its request for the establishment of a panel, circulated on 7 June 2011 (see Trade Perspectives, Issue No. 15 of 29 July 2011). Like Japan, the EU claims that Ontario's '*feed-in tariff*' programme, with its domestic content requirement, violates a number of provisions of various WTO Agreements, notably the national treatment obligations under Article III:4 of the GATT, and Article 2.1 of the Agreement on Trade-Related Investment Measures (hereinafter, the TRIMs Agreement), in conjunction with paragraph 1(a) of the TRIMs Agreement's Illustrative List, and Articles 3.1(b) and 3.2 of the WTO Agreement on Subsidies and Countervailing Measures (hereinafter, the ASCM), to the extent that Canada's measures are deemed to be subsidies within the meaning of Article 1.1 of the ASCM, which are prohibited insofar as their provision is made contingent upon the use of domestic over imported goods (for an analysis of the potential compatibility of '*feed-in tariff*' schemes with the ASCM, see Trade Perspectives, Issues No. 12 of 17 June 2011, No. 9 of 7 May 2010, and No. 17 of 24 September 2010).

This case has important commercial implications for the EU. In recent years, EU exports of wind power and photovoltaic power generation equipment to Canada have been significant, ranging between 300 and 600 million EUR during the 2007-2009 period. The EU argues that these export figures could be higher if Ontario's local content requirements were removed from the *Green Energy Act, 2009*. The EU's export opportunities could also expand further if Canadian tariff rates on EU manufactured goods were to decrease following an eventual successful conclusion of negotiations and implementation of an EU - Canada free trade agreement (for recent updates on these negotiations, see Trade Perspectives, Issues No. 2 of 28 January 2011 and No. 12 of 17 June 2011). Interested commercial parties should also note that Ontario's Official Opposition, the Progressive Conservative Party has, due to public dissatisfaction with an anticipated 46% increase in the cost of electricity over the next five years, pledged to cancel the '*feed-in tariff*' programme should the Progressive Conservative Party win office in the 6 October 2011 provincial election. Ontario's '*feed-in tariff*' programme thus faces existential challenges in both the domestic political arena and at the WTO level.

Recently Adopted EU Legislation

Market Access

- *Commission Implementing Regulation (EU) No. 904/2011 of 7 September 2011 fixing the allocation coefficient to be applied to applications for import licences lodged from 26 August 2011 to 2 September 2011 in the context of the tariff quota opened by Regulation (EC) No. 2305/2003 for barley*

- *Commission Implementing Regulation (EU) No. 851/2011 of 23 August 2011 withdrawing the suspension of submission of applications for import licences for sugar products under certain tariff quotas*

- *Commission Implementing Regulation (EU) No. 849/2011 of 22 August 2011 correcting Implementing Regulation (EU) No. 742/2011 on the issue of licences for importing rice under the tariff quotas opened for the July 2011 subperiod by Regulation (EC) No. 327/98*

- *Commission Implementing Regulation (EU) No. 838/2011 of 19 August 2011 on the issue of import licences for applications submitted in the first seven days of August 2011 under the tariff quota for high-quality beef administered by Regulation (EC) No. 620/2009*

- *Commission Implementing Regulation (EU) No. 742/2011 of 27 July 2011 on the issue of licences for importing rice under the tariff quotas opened for the July 2011 subperiod by Regulation (EC) No. 327/98*

Trade Remedies

- *Council Implementing Regulation (EU) No. 871/2011 of 26 August 2011 terminating the expiry and partial interim review of the anti-dumping measures concerning imports of certain castings originating in the People's Republic of China and repealing those measures*

- *Commission Regulation (EU) No. 821/2011 of 16 August 2011 imposing a provisional anti-dumping duty on imports of vinyl acetate originating in the United States of America*

- *Council Implementing Regulation (EU) No. 831/2011 of 16 August 2011 imposing a definitive anti-dumping duty on imports of barium carbonate originating in the People's Republic of China following an expiry review pursuant to Article 11(2) of Regulation (EC) No. 1225/2009*

- *Council Implementing Regulation (EU) No. 824/2011 of 12 August 2011 terminating the partial reopening of the anti-dumping interim review investigation concerning imports of polyethylene terephthalate (PET) film originating in India*

- *Commission Decision of 9 August 2011 terminating the anti-dumping proceeding concerning imports of tris(2-chloro-1-methylethyl)phosphate originating in the People's Republic of China*

- *Council Implementing Regulation (EU) No. 792/2011 of 5 August 2011 imposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of certain ring binder mechanisms originating in Thailand*

- *Council Implementing Regulation (EU) No. 803/2011 of 4 August 2011 repealing the countervailing duty on imports of certain broad spectrum antibiotics originating in India and terminating the proceeding in respect of such imports, following review pursuant to Article 18(2) of Council Regulation (EC) No. 597/2009*

- *Council Implementing Regulation (EU) No. 791/2011 of 3 August 2011 imposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of certain open mesh fabrics of glass fibres originating in the People's Republic of China*

- *Notice of the impending expiry of certain anti-dumping measures (certain prepared or preserved sweetcorn in kernels from Thailand)*

- *Notice of the expiry of certain anti-dumping measures (certain side-by-side refrigerators from the Republic of Korea)*

- *Notice of the expiry of certain anti-dumping measures (silicon carbide from China)*

- *Notice of initiation of an anti-dumping proceeding concerning imports of certain aluminium radiators originating in the People's Republic of China*

Customs Law

- *Commission Implementing Regulation (EU) No. 827/2011 of 12 August 2011 concerning the classification of certain goods in the Combined Nomenclature*

- *Corrigendum to Commission Regulation (EU) No. 861/2010 of 5 October 2010 amending Annex I to Council Regulation (EEC) No. 2658/87 on the tariff and statistical nomenclature and on the Common Customs Tariff*

Food and Agricultural Law

- *Commission Implementing Regulation (EU) No. 903/2011 of 7 September 2011 fixing the import duties applicable to certain husked rice from 8 September 2011*

- *Commission Implementing Regulation (EU) No. 902/2011 of 7 September 2011 amending the representative prices and additional import duties for certain products in the sugar sector fixed by Regulation (EU) No. 867/2010 for the 2010/11 marketing year*

- *Commission Implementing Regulation (EU) No. 861/2011 of 25 August 2011 amending the representative prices and additional import duties for certain products in the sugar sector fixed by Regulation (EU) No. 867/2010 for the 2010/11 marketing year*

- *Commission Implementing Regulation (EU) No. 852/2011 of 24 August 2011 amending Regulation (EU) No. 397/2010 as regards the quantitative limit for the exports of out-of-quota isoglucose until the end of the 2010/11 marketing year*

- *Commission Implementing Regulation (EU) No. 841/2011 of 22 August 2011 amending the representative prices and additional import duties for certain products in the sugar sector fixed by Regulation (EU) No. 867/2010 for the 2010/11 marketing year*

- *Corrigendum to Commission Implementing Decision 2011/513/EU of 19 August 2011 authorising the placing on the market of Phosphatidylserine from soya phospholipids as a novel food ingredient under Regulation (EC) No. 258/97 of the European Parliament and of the Council*

- *Commission Implementing Regulation (EU) No. 833/2011 of 18 August 2011 amending the representative prices and additional import duties for certain products in the sugar sector fixed by Regulation (EU) No. 867/2010 for the 2010/11 marketing year*

- *Commission Implementing Regulation (EU) No. 823/2011 of 16 August 2011 amending the representative prices and additional import duties for certain products in the sugar sector fixed by Regulation (EU) No. 867/2010 for the 2010/11 marketing year*

- *Commission Implementing Regulation (EU) No. 816/2011 of 12 August 2011 fixing the import duties in the cereals sector applicable from 16 August 2011*

- *Commission Implementing Regulation (EU) No. 815/2011 of 12 August 2011 amending the representative prices and additional import duties for certain products in the sugar sector fixed by Regulation (EU) No. 867/2010 for the 2010/11 marketing year*

- *Commission Implementing Regulation (EU) No. 799/2011 of 9 August 2011 amending Annex I to Commission Regulation (EC) No. 669/2009 implementing Regulation (EC) No. 882/2004 of the European Parliament and of the Council as regards the increased level of official controls on imports of certain feed and food of non-animal origin*

- *Commission Implementing Regulation (EU) No. 801/2011 of 9 August 2011 amending Regulation (EU) No. 206/2010 laying down lists of third countries, territories or parts thereof authorised for the introduction into the European Union of certain animals and fresh meat and the veterinary certification requirements*

- *Commission Implementing Decision of 9 August 2011 authorising the placing on the market of fermented black bean extract as a novel food ingredient under Regulation (EC) No. 258/97 of the European Parliament and of the Council (notified under document C(2011) 5645)*

- *Commission Implementing Decision of 5 August 2011 authorising the placing on the market of phosphated maize starch as a novel food ingredient under Regulation (EC) No. 258/97 of the European Parliament and of the Council (notified under document C(2011) 5550)*

- *Commission Implementing Regulation (EU) No. 782/2011 of 4 August 2011 amending the representative prices and additional import duties for certain products in the sugar sector fixed by Regulation (EU) No. 867/2010 for the 2010/11 marketing year*

- *Commission Implementing Regulation (EU) No. 778/2011 of 3 August 2011 amending the representative prices and additional import duties for certain products in the sugar sector fixed by Regulation (EU) No. 867/2010 for the 2010/11 marketing year*

- *Commission Implementing Regulation (EU) No. 760/2011 of 1 August 2011 amending the representative prices and additional import duties for certain products in the sugar sector fixed by Regulation (EU) No. 867/2010 for the 2010/11 marketing year*

- *Commission Implementing Regulation (EU) No. 751/2011 of 29 July 2011 amending the representative prices and additional import duties for certain products in the sugar sector fixed by Regulation (EU) No. 867/2010 for the 2010/11 marketing year*

- *Commission Implementing Regulation (EU) No. 752/2011 of 29 July 2011 fixing the import duties in the cereals sector applicable from 1 August 2011*

Other

- *Council Decision of 18 July 2011 concerning the conclusion of consultations with the Republic of Guinea-Bissau under Article 96 of the Partnership Agreement between the members of the African, Caribbean and Pacific Group of States of the one part, and the European Community and its Member States, of the other part*

- *Council Decision of 12 July 2011 on the signing, on behalf of the European Union, and the provisional application of the Protocol between the European Union and the Kingdom of Morocco setting out the fishing opportunities and financial compensation provided for in the Fisheries Partnership Agreement between the European Community and the Kingdom of Morocco*

- *Protocol between the European Union and the Kingdom of Morocco setting out the fishing opportunities and financial compensation provided for in the Fisheries Partnership Agreement between the European Community and the Kingdom of Morocco*

- *Council Regulation (EU) No. 779/2011 of 12 July 2011 concerning the allocation of the fishing opportunities under the Protocol between the European Union and the Kingdom of Morocco setting out the fishing opportunities and financial compensation provided for in the Fisheries Partnership Agreement between the European Community and the Kingdom of Morocco*

Ignacio Carreño, Eugenia Laurenza, Anna Martelloni, Nicholas Richards-Bentley and Paolo R. Vergano contributed to this issue.