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### **A more inclusive membership, but potentially limited outcomes? – A preview of the eleventh WTO Ministerial Conference in Buenos Aires**

From 10 to 13 December 2017, trade ministers and delegations from around the world will gather in Buenos Aires, Argentina, for the eleventh Ministerial Conference (hereinafter, MC11) of the World Trade Organization (hereinafter, WTO). 164 WTO Members will discuss and negotiate issues of relevance to international trade. However, in light of the continuously growing WTO Membership, reaching common ground is becoming increasingly complex and the most likely only concrete outcome will be an agreement on the prohibition of certain fisheries subsidies. At the same time, vacancies in the WTO's important Dispute Settlement Appellate Body have not been filled, which increasingly puts the functioning of the WTO dispute settlement mechanism at risk.

Article IV(1) of the Marrakesh Agreement Establishing the WTO provides that there shall be a Ministerial Conference composed of representatives of all the WTO Members, which shall meet at least once every two years. The Ministerial Conference is intended carry out the functions of the WTO and take actions necessary to this effect. Furthermore, the Ministerial Conference has the authority to take decisions on all matters under any of the WTO's multilateral trade agreements, if so requested by a WTO Member. The previous WTO Ministerial Conference took place in Nairobi, Kenya, in December 2015. It concluded with an agreement on the so-called '*Nairobi package*', which is a series of six Ministerial Decisions on agriculture, cotton and issues related to least-developed countries (LDCs) (see *Trade Perspectives*, [Issue No. 23 of 18 December 2015](#)). With increasing WTO Membership, negotiations and the quest for common ground has become more complex and more time-consuming. Focus at MC11 will likely be on the issue of fisheries subsidies and on addressing the systemic concerns of some WTO Members, which currently block the filling of vacancies in the WTO's Appellate Body.

Since 2001, WTO Members have been debating the issue of fisheries subsidies, when Ministers agreed in the Doha Ministerial Declaration to "*clarify and improve WTO rules that apply to fisheries subsidies*". In 2005, the Hong Kong Ministerial Declaration included, in provision 9 of its Annex D, language recognising the "*broad agreement that the Group should strengthen disciplines on subsidies in the fisheries sector, including through the prohibition of certain forms of fisheries subsidies that contribute to overcapacity and over-fishing*". The issue now looks poised to become one of the deliverables of the MC11. On 11-12 September 2017, WTO Members in the Negotiating Group on Rules (hereinafter, NGR) discussed proposals on the issue of fisheries subsidies in the context of a recent document prepared by

the WTO Secretariat. The document, published by the WTO on 28 July 2017, has been referred to as a '*compilation matrix*' of seven proposals pertaining to an agreement on fisheries subsidies, as submitted by members of the NGR (see *Trade Perspectives, Issue No. 17 of 22 September 2017*). The document is intended to assist WTO Members in their continuing consultations and negotiations of the agreement, which is intended to be finalised by this year's MC11.

Since the publication of the '*compilation matrix*', the NGR continued to work towards a possible agreement. On 29 November 2017, the Chairman of the NGR published a *preparatory report* to the WTO's Trade Negotiations Committee (*i.e.*, a special committee under the authority of the WTO's General Council and set up by the 2001 Doha Declaration, which assigned it to create subsidiary negotiating bodies to handle individual negotiating subjects), summarising the NGR's efforts in recent weeks and in preparation of the MC11. During the NGR's meetings in mid- and late-October, discussions dedicated to fisheries subsidies were based on a '*vertical text*' produced by the proponents of the seven original proposals. That document compiled, and to varying degrees consolidated, the language from those proposals, in all of the areas addressed (*i.e.*, the preamble, scope, definitions, prohibitions, standstill, special and differential treatment, transparency and notification, transitional provisions, and institutional arrangements).

Based on the '*vertical text*', WTO Members intensified their discussions at the NGR's mid-November meetings, which finally culminated in the compilation and validation of *two streamlined working texts* that were circulated to WTO Members on 20 November 2017, focussing on the two key issues: 1) Proposed prohibitions relating to illegal, unreported and unregulated (hereinafter, IUU) fishing; and 2) Overfished stocks. These working texts intend to provide some clarity on the numerous issues, approaches, and views before the NGR. At the end of November, discussions within the NGR continued and the NGR took up the issues of transparency and special and differential treatment, as well as additional proposed prohibitions relating to capacity-enhancing subsidies, overcapacity, and overfishing, on the basis of template texts provided by various delegations. Thus far, the NGR has established streamlined working texts on transparency and special and differential treatment, and is in the process of streamlining the texts on additional prohibitions. A revised version of the streamlined working texts can then be expected in the coming days. In parallel, the NGR will be discussing its approach and strategy for the MC11, which may include fall-back positions, such as agreeing to partial outcomes and continuing the work after MC11. It appears that negotiations have been advancing well and this could be the area of negotiations that is most likely to be considered as one of the (few) actual outcomes of the MC11. Moreover, should WTO Members agree on the text of an agreement tackling certain fisheries subsidies, it could have a direct effect for WTO Members' subsidy policies.

Another potential outcome could be agreement on proposals relating to agricultural trade. More specifically, several delegations tabled proposals on limiting '*trade-distorting farm support*' and a number of WTO Members submitted proposals on the issue of public food stockholding schemes, where, most recently, Norway and Singapore circulated a '*Draft Ministerial Decision on public stockholding for food security purposes*'. These two issues played the most prominent role within the context of WTO agricultural negotiations in recent years. With respect to the issue of '*trade-distorting farm support*', most recently, Mexico tabled a proposal, suggesting a new limit on the overall amount of trade-distorting support provided by WTO Members. Relevant subsidies are those classified as highly trade-distorting '*amber box*' support, as well as '*de minimis*' payments (*i.e.*, trade-distorting support falling below a set share of the value of agricultural production). In addition to the submission by Mexico, a number of further WTO Members or groups had tabled their own approaches for limiting trade-distorting domestic support. On public stockholding for food security purposes, there is already a *Ministerial Decision* from the 2013 Bali Ministerial Conference and the recent proposals by Norway and Singapore and another proposal by Paraguay and Russia both build on the 2013 Ministerial Decision. In the past, developing countries argued in favour of more flexibility for developing countries that buy food at minimum prices as part of

their public stockholding for food security. At the same time, food exporting countries continue to state their concern that exempting such purchases by developing countries from the applicable WTO rules could be trade-distorting and undermine food security elsewhere. The recent proposal by Norway and Singapore now aims at mitigating both concerns, on the one hand granting more flexibility to new programmes, on the other hand introducing a limit allowing the procurement of up to 15% of the domestic crop in question. The 2013 ministerial decision was limited to public food stockholding programmes that were already in existence at that time. Overall, WTO Members remain sceptical on whether an agreement could be reached at the MC11 on the agricultural issues. They could form part of a '*Buenos Aires package*' of measures agreed by WTO Members and, thereby, make the package more attractive to certain WTO Members.

Furthermore, during the course of the year, a number of WTO Members appeared interested in making progress on dealing with e-commerce in the context of services negotiations. On 23 May 2017, the EU had tabled a text proposal for rules aiming at facilitating online service transactions. The text proposal dealt with electronic contracts, electronic authentication and trust services, consumer protection and unsolicited commercial electronic messages. In June 2017, the EU's proposal was considered at a dedicated meeting of the Council for Trade in Services – Special Session and different views by WTO Members on technical, as well as substantive, aspects became apparent. The Council for Trade in Services – Special Session held no further meetings since then and, therefore, the Chairman of the Council for Trade in Services – Special Session does not expect any '*outcome in the form of an agreed text*' at the MC11, as noted in his [summary](#) for the Trade Negotiations Committee.

Finally, the MC11 will be overshadowed by recent initiatives and actions by certain WTO Members. Most importantly, the WTO's Appellate Body is currently at risk of becoming paralysed. The appointment of successors to fill vacancies on the Appellate Body has been blocked. Currently, there are two vacancies, a number, which will increase to three, when another Appellate Body Member reaches the end of his 4-year term in December of this year. The reason for this situation lies in the US Administration's WTO policy. The US has recently blocked any new appointments to the WTO Appellate Body, stating that WTO Members must first address "*systemic problems with the dispute settlement mechanism*". The Appellate Body, which needs a quorum of three Members, each of them not being from one of the countries involved in the respective dispute, will then have only four Members and three vacancies. At a time of an exponentially growing caseload, some say that the Appellate Body becomes *de facto* dysfunctional. Indeed, should the US continue its obstruction of appointments, the Appellate Body could become completely paralysed by the end of 2019, when the terms of two further Appellate Body Members will expire. The Appellate Body and the entire WTO Dispute Settlement mechanism is arguably one of the greatest achievements of the WTO's rules-based trading system and has been a respected and credible institution. Putting this key instrument at risk, looks poised to destabilise the entire WTO and the world trading system as a whole.

The WTO, and most importantly, WTO dispute settlement, has been a success in securing a rules-based international trade environment. While progress has significantly slowed down, the WTO has become more and more inclusive by continuously adding new Members. Accession negotiations with 21 more countries are currently ongoing. At the same time, the functioning and credibility of the WTO is endangered by the political initiatives of certain WTO Members, as the current blocking of Appellate Body appointments evidences. It can only be hoped that discussions and negotiations in Buenos Aires will not only lead to a new agreement on fishery subsidies, but also mitigate some of the key issues currently affecting the WTO. Stakeholders around the world should carefully monitor the MC11 and analyse its outcomes.

## New organic farming rules in the EU: Current recognition of equivalence by control bodies for imports to be progressively shifted to a compliance regime

On 22 November 2017, the European Parliament's Committee on Agriculture and Rural Development (AGRI) approved a new regulation on organic production and labelling of organic products by 29 votes to 11, with four abstentions. The text of the regulation was agreed after more than three years of negotiations in the trilogue by the European Commission (hereinafter, Commission), the European Parliament's (hereinafter, Parliament) negotiators and EU Member States' governments in the Council on 28 June 2017 and endorsed on 20 November 2017 by the Council's Special Committee on Agriculture. The agreed text, which shall increase consumers' trust in organic foodstuffs and set free the sector's potential for growth, still needs to be approved by the Parliament's plenary before it can enter into force. It shall apply from 1 January 2021.

The first piece of EU legislation on organic production was adopted in 1991. *Council Regulation (EEC) No 2092/91 on organic production of agricultural products and indications referring thereto on agricultural products and foodstuffs* provided a legal definition of organic production through production rules, and set out control and labelling requirements and rules for importing organic products. The regime established provided a basis for protecting consumers and organic producers against false and misleading organic claims. That legislation was revised with the adoption of *Council Regulation (EC) No 834/2007 of 28 June 2007 on organic production and labelling of organic products*, which lays the foundation for EU rules on organic produce including wine, aquaculture products and seaweed. In particular, *Regulation (EC) No 834/2007*: 1) Defined organic production further by describing its objectives and principles; 2) Improved the harmonisation of the organic production rules within the EU, by putting an end to national rules for animal products; 3) Introduced the possibility of exceptions to the rules under the responsibility of EU Member States, but with strict limitations and for a limited period of time; 4) Linked the organic control system to the official food and feed controls system provided for in *Regulation (EC) No 882/2004 on official controls* and made the accreditation of private control bodies obligatory; and 5) Restructured the import regime: in addition to the recognition of third countries for the purpose of equivalence, the EU recognised control bodies active in third countries for the purpose of equivalence or compliance.

The previous system of individual authorisations granted by EU Member States consignment by consignment, under *Regulation (EEC) No 2092/91*, was removed from the basic regulation and was phased out. Under *Commission Regulation (EC) No 1235/2008 of 8 December 2008 laying down detailed rules for implementation of Council Regulation (EC) No 834/2007 as regards the arrangements for imports of organic products from third countries*, products may be imported from non-EU countries whose rules on organic production and controls are equivalent to the ones of the EU (currently, Argentina, Australia, Canada, Costa Rica, India, Israel, Japan, New Zealand, Tunisia, Republic of Korea, Switzerland and the US. For the US, see *Trade Perspectives, Issue No. 4 of 24 February 2012*). Organic products from non-EU countries may be distributed within the EU market only if produced and inspected under conditions that are identical or equivalent to those applying to EU organic producers. The rules introduced in 2007 were more flexible than the previous ones, under which organic goods were allowed to be imported from outside the EU only if they were EU-certified, if the EU Member States monitored that there was sufficient evidence that the imported products were manufactured according to production rules equivalent to the EU rules, and if an import licence had been issued. Control bodies (*i.e.*, Certifying Organisations) operating in non-EU countries were directly authorised and monitored by the European Commission and EU Member States. Certain third countries' authorities and bodies are authorised to issue documentary evidence attesting that organic products and organic operators comply with organic rules equivalent to those of the EU, as well as certificates of inspection for the import of organic products into the EU.



Since many of the current substantive rules are more than 20 years old, the Commission saw a need for new rules reflecting the major changes that have taken place in the EU organic sector. The new regulation, which covers agricultural products, food, seeds, plants and processed products, aims at harmonising rules on EU production and, most importantly, will make seeds and plant reproductive material adapted to the organic farming needs more accessible. A number of new products, such as salt, cork and essential oils, will be covered under the new rules. By default, organic production will have to be soil-based. The new regulation confirms the link with the soil as a basic principle, and as such the use of demarcated beds in greenhouses is not considered compatible with broader organic principles. EU Member States, where the practice has exceptionally been authorised for organic agriculture, may continue to permit it for a limited period of 10 years.

To increase consumers' trust, the following elements have been established in the new rules: 1) Strict, risk-based checks along the supply chain, that will be on-site and for all operators, at least annually or once every two years if no fraud is found in the last three years; 2) Farmers will be obliged to apply precautionary measures to avoid contamination with agrochemicals; if a non-authorised chemical or fertiliser is suspected to be present, the final product should not bear the organic label until further investigation; if contamination was deliberate, or the farmer failed to apply newly introduced precautionary measures, the product will lose its organic status; 3) EU Member States that currently apply thresholds for non-authorised substances in organic food, such as agrochemicals, can continue to do so, if they allow other EU Member States' organic foodstuffs complying with EU rules to access their markets; 4) Non-EU organic imports need to fully comply with EU rules. Current equivalence rules, requiring non-EU imports to comply with similar, but not identical standards, will be phased out within five years; to avoid supply being suddenly disrupted, the Commission could, for a renewable period of two years, allow imports of specific products, even if not fully compliant with EU standards (e.g., due to specific climate conditions); 5) Four years after the entry into force of the regulation, the Commission will report on how efficient the EU anti-contamination rules and national thresholds are and, if need be, draw up a draft measure to address them.

At the same time, the regulation is intended to boost EU organic food production with the following measures: 1) The supply of organic seeds and animals will be increased in order to meet the needs of organic farmers by better data gathering on the availability of organic seeds and animals. Derogations allowing the use of conventional seeds and animals in organic production will expire in 2035, but the Commission may move the time limit back or forward by delegated act, depending on increased availability of organic seeds and animals; 2) Mixed farms producing both conventional and organic food will be allowed on condition that the two farming activities are clearly and effectively separated; 3) The introduction of group certification will make it easier for small farmers to get certified and will attract more of them into the organic farming business.

The trade regime is adapted to improve the level playing field for organic operators of the EU and in third countries, and in order to better ensure consumer confidence. The possibility of equivalence agreements with third countries remains, while the system of unilateral equivalency is phased out. Instead of the more than 60 different standards that were considered equivalent with EU rules and that applied to imported goods, the organic farming rules set out in the new regulation will apply. Under the new regime, to be applicable as of 2021, the recognition of control bodies is progressively shifted to a regime that requires compliance with EU rules. This change of approach has been justified by the EU legislator with the realisation that, operating under the principle of equivalence (rather than the principle of compliance or conformity), the schemes around the world that are certified equivalent to the EU's own rules, *inter alia*, often tolerate the use of agro-chemicals or practices not permitted in the EU (e.g., in cases, where they were used to treat diseases not present in Europe), which can place EU organic farmers at a disadvantage.

In parallel to the adoption of the new organic farming regulation, there are developments on the so-called “5% non-organic feed protein rule”. Article 43 of *Commission Regulation (EC) No 889/2008 laying down detailed rules for the implementation of Council Regulation (EC) No 834/2007 with regard to organic production, labelling and control* (as amended) provides that, due to restricted supplies, organic farmers are allowed, in the calendar year 2017, to feed their pig and poultry up to 5% non-organic protein feed. The Commission has reportedly taken the ‘*necessary steps*’ to prolong the feed derogation until 31 December 2018 in order to provide legal certainty for the organic poultry and pig sector.

This example shows a major problem that organic food production is facing. While demand in organic food is growing rapidly, the supply of organic primary materials available is too low and cannot meet market demands. Another example are organic ingredients for processed foods. Part IV of Annex II of the new rules provides detailed rules for organic production of processed food, including procedures that are available for producing additives.

Organic farming is no longer a niche part of the EU agro-food sector, as it was when the first rules were drawn up. In fact, it is now one of the most dynamic sectors of the EU's agriculture, with the amount of land used for organic farming growing at around 400,000 hectares a year. The European organic market is currently worth around EUR 27 billion, a 125% increase in the last ten years. Roughly 90% of organic food produced in the world is consumed in Western Europe and North America. However, according to the EU branch of the International Federation of Organic Agriculture Movements (hereinafter, IFOAM EU), the European organic farmers' association, 82% of all certified organic farmers are based in Africa, Latin America and Asia, providing livelihood for millions of small farmers. That said, while demand is growing fast, the supply of, in particular, organic feed and organic ingredients, remains too low. There is a risk that the growing production and importation of organic products may lead to fraud in the organic food chain, undermining the trust of consumers in the good reputation of organic farming.

The new regulation still needs to be approved by the Parliament's plenary before it can enter into force and apply as of 2021. It remains to be seen whether the new rules create enough incentives for a rise in production of organic food, ingredients and feed. The future availability of organic seeds appears to be an important step. Food business stakeholders with an interest in the matter should carefully monitor developments in the EU on organic farming and trade in organic products. The existing equivalence arrangements or agreements in place with third countries will have to “*accommodate the new rules whenever relevant within a reasonable timeframe*”, according to the Commission. Third country governments should analyse whether the new EU rules will affect their exports of organic products to the EU and take the necessary steps to continue enjoying access to a premium export market, although IFOAM EU has stated that foreign organic farmers are seen as “*partners, not competitors*”.

### **Insects as food and feed – with cricket bread on the market in Finland and insect protein allowed for aquaculture animals, the EU now targets 2019 to allow the use of insect protein in poultry feed**

On 21 November 2017, the European Commissioner for Health and Food Safety Vytenis Andriukaitis stated at an international conference organised by the International Platform of Insects for Food and Feed (hereinafter, IPIFF) that the European Commission (hereinafter, Commission) was working to authorise the use of insect protein in feed for poultry. While noting significant technical challenges, the Commissioner stated 2019 as an optimistic target. Already since 1 July 2017, [\*Regulation \(EU\) 2017/893\*](#) allows feeding animals in aquaculture with processed animal protein from insects. At the same time, insects are also increasingly becoming popular as food and as ingredients in foodstuffs for human consumption, as current developments in Finland and Spain evidence.

In recent years, the interest in using insects as a source of protein has increased and there appears to be the potential for insect protein as an economically viable source for both human consumption and animal feed. Entomophagy (*i.e.*, the human use of insects as food) is already common in many parts of the world, with at least two billion people worldwide consuming insects on a regular basis. Although this is not (yet) a common practice in the EU, experts agree that there are nutritional values to incorporate more insect-based protein into the EU consumers' diets. The United Nations' Food and Agriculture Organisation (hereinafter, FAO) has been advocating on issues related to edible insects since 2003. Edible insects typically contain a high level of calcium, high quality proteins, vitamins and amino acids. Insects are also rich in fibre, they represent a good source for healthy fats (omega-3) and have a high amount of nutrients such as iron, selenium, zinc and vitamin B12. Furthermore, insect consumption can be associated with environmental benefits, due to the limited resources necessary to rear them, compared to other animals.

Regarding animal feed, the major source of protein in prepared feed currently comes from soybean meal and fishmeal. The EU imports more animal feed than it produces, which is referred to as the '*protein deficit*'. The European Parliament's Resolution of 8 March 2011 on the EU '*protein deficit*' states that 70% of the raw materials rich in plant proteins consumed in the EU (equivalent to 42 million metric tonnes in 2009), especially soy flour, are imported, mainly from Brazil, Argentina and the US. At the same time, approximately 60% of these imports (equivalent to 26 million metric tonnes) are by-products of vegetable oil production and are used as meals, especially soymeal, for animal feed (see *Trade Perspectives, Issue No. 9 of 6 May 2016*). According to *PROteINSECT* (an EU funded project), the '*protein deficit*' in Europe is a very real risk to social, economic and environmental progress. In recent years, many experts have argued that the use of insects for animal feed was more sustainable (*e.g.*, requires very little land or energy) and it could improve the impact on the environment. For example, compared to fishmeal, *PROteINSECT* found that the house fly and black soldier fly production systems had shown more favourable results in terms of their impact on fossil fuel depletion, freshwater and marine eutrophication (*i.e.*, an increase in the primary production of the ecosystem), and ecotoxicity (*i.e.*, the potential for biological, chemical or physical stressors to affect ecosystems), as well as natural land transformation, compared to vegetable-based protein sources.

On 1 July 2017, *Commission Regulation (EU) 2017/893 of 24 May 2017 amending Annexes I and IV to Regulation (EC) No 999/2001 of the European Parliament and of the Council and Annexes X, XIV and XV to Commission Regulation (EU) No 142/2011 as regards the provisions on processed animal protein* (hereinafter, *Regulation (EU) 2017/893*) became applicable. *Regulation (EU) 2017/893* allows feeding animals in aquaculture with processed animal protein from seven insect species. Under Article 7 and Annex IV of *Regulation (EC) No 999/2001 laying down the rules for the prevention, control and eradication of certain transmissible spongiform encephalopathies* (hereinafter, *TSE Regulation*), insects were prohibited for use as the animal derived protein to be used in feed for farmed animals, including fish. The recently adopted regulation amends the TSE Regulation and partially lifts the feed ban rules regarding the use of insect processed animal proteins (hereinafter, *PAPs*) for aquaculture animals. The rules of *Regulation (EU) 2017/893* also apply to insect *PAPs* that are imported from non-EU third countries. *Regulation (EU) 2017/893* authorises the use of insect *PAPs* only with respect to the following seven species: 1) Black soldier fly; 2) House fly; 3) Yellow mealworm; 4) Buffalo worm; 5) House cricket; 6) Banded cricket; and 7) Field cricket. These species may only be fed with '*authorized substrates*'. The occurrence of hazards in non-processed insects is expected to be equal or lower, as long as the insects are fed on substrates, which do not harbour material of ruminant (*i.e.*, mammals that are able to acquire nutrients from plant-based food by fermenting it in a specialized stomach prior to digestion) or human (manure) origin. In parallel to the adoption of *Regulation (EU) 2017/893*, the EU also adopted *Regulation (EU) No 2017/1017 on the EU catalogue of feed materials*. The amended catalogue introduces revised descriptions referring to processed animal proteins and fats from insects.

In the context of the international conference organised by the IPIFF, EU Commissioner for Health and Food Safety Vytenis Andriukaitis stated that the EU continues to focus on updating the applicable legislation regarding insect feed in other segments. He announced that the next step would be the use of insect proteins in feed for poultry. According to the EU Commissioner, the Commission is targeting 2019 as the year for authorisation to be in place and pointed out that “*the driving forces behind this approach increased focus on insects*”, was “*the need for sustainable, high-value animal protein, actions in the context of the circular economy and efforts to boost innovation, growth and new jobs*”.

With respect to insects as food, the most relevant piece of EU legislation is the EU's Novel Food Regulation. On 31 December 2015, *Regulation (EU) 2015/2283 on novel foods* entered into force. Novel foods in the EU are foods that have not been consumed to any significant degree by humans in the EU before May 1997. The new EU Novel Food Regulation provides two main novelties with respect to the authorisation of novel foods: 1) A new centralised procedure; and 2) An additional notification procedure for traditional food from third countries (see *Trade Perspectives*, [Issue No. 3 of 12 February 2016](#)). Although the new Novel Food Regulation entered into force in December 2015, many of its provisions only entered into force on 1 January 2017, such as the establishment of an EU list enumerating the authorised novel foods.

At the same time, EU Member States are allowed to take further actions regarding the insects sector. Recently, one of the largest corporations in the Finnish food industry started marketing the first cricket-based bread in Finland, shortly after the Finnish Ministry of Agriculture and Forestry lifted a ban on the cultivation and sale of insects as food. On 27 September 2017, the Finnish Ministry of Agriculture and Forestry had announced that the cultivation and sale of insects as food was now permitted (see *Trade Perspectives*, [Issue No. 18 of 6 October 2017](#)). Every cricket-based bread is prepared with around 70 ground house crickets, containing more protein than normal wheat bread. Fazer stated that the insects had a good nutritional level because they also contained good fatty acids, calcium, iron and vitamin B12. Finland now joins Belgium, Denmark, the Netherlands, and the UK, as the only EU countries that allow insects to be reared and marketed for food purposes. The Finnish Food Safety Authority Evira is currently drafting guidelines for the food industry concerning the farming, sale and preparation of insects for human consumption.

Spain is also preparing to join the list of EU Member States that allow insect-based food. Although some specialty restaurants in Madrid and Barcelona already use insects in their menus, only on 1 January 2018 Spain will give green light for insect-based products to be placed on the Spanish market. Companies such as *InsectFit*, a Spanish company that produces energy bars and pasta from cricket-based flour, is preparing to use this opportunity to position themselves in the Spanish market. In addition to certain EU Member States, Switzerland is another country that has enacted legislative changes. In May 2017, the Swiss Government permitted the sale of products containing three type of insects: 1) Crickets; 2) Grasshoppers; and 3) Mealworms. Products such as insect burgers, which blend flour worms with rice and vegetables, can already be found at several Coop supermarkets in Geneva, Bern and Zurich.

During the November 2017 conference, the IPIFF expressed that the two EU policy reforms (*i.e.*, *Regulation (EU) 2015/2283 on novel food* and *Regulation (EU) 2017/893 on processed animal protein*) had largely contributed to the development of the insect sector and called for extending the use of insect proteins in feed for pigs and poultry. The IPIFF also pointed out that there were opportunities to maximise the potential of the insect sector in the context of ongoing EU discussions on circular economy and of EU-funded research programmes (*e.g.*, the Horizon 2020 Work Programme from 2018 to 2020 “*New opportunities for the insect sector*”). Furthermore, IPIFF stated that it was also working together with insects’ producers’ associations from other regions (*e.g.*, South-East Asia, North America and Africa) to address certain issues collectively and at an international level.



Over the past two years, the EU regulatory framework has been amended to accommodate the developments in the insect food and feed sector. Although recent changes in EU legislation in this sector can be seen as a big step forward, the legal and commercial predictability necessary for the insect industry's production activities and investments can only be reached with a solid and effective regulatory framework. This framework is still far from finalised to accommodate the various opportunities for insect-based food and feed.

Insect feed for aquaculture animals is only the first step in opening up the animal feed sector for insect protein. In parallel, a growing number of EU Member States is also opening up its markets for insect-based food for human consumption. Food business operators producing insects or insect-based food, as well as business operators producing insect feed for farmed animals and all interested stakeholders should monitor the on-going legislative changes and be prepared to participate in shaping upcoming guidelines by interacting with the relevant EU institutions, trade associations and other affected parties.

## Recently Adopted EU Legislation

### Market Access

- *Council Decision (EU) 2017/2182 of 20 November 2017 on the signing, on behalf of the European Union, of an Agreement in the form of an Exchange of Letters between the European Union and the Kingdom of Norway concerning additional trade preferences in agricultural products*

### Customs Law

- *Commission Implementing Regulation (EU) 2017/2208 of 29 November 2017 fixing the allocation coefficient to be applied to applications for export licences for certain milk products to be exported to the Dominican Republic under the quota referred to in Regulation (EC) No 1187/2009*
- *Commission Implementing Regulation (EU) 2017/2200 of 28 November 2017 opening and providing for the administration of import tariff quotas of certain cereals from Ukraine*
- *Commission Implementing Regulation (EU) 2017/2191 of 24 November 2017 withdrawing the suspension of submission of applications for import licences under the tariff quotas opened by Regulation (EC) No 891/2009 in the sugar sector*

### Trade Remedies

- *Commission Implementing Regulation (EU) 2017/2213 of 30 November 2017 amending Commission Implementing Regulation (EU) 2017/271 extending the definitive anti-dumping duty imposed by Council Regulation (EC) No 925/2009 on imports of certain aluminium foil originating in the People's Republic of China to imports of slightly modified certain aluminium foil*
- *Commission Implementing Regulation (EU) 2017/2206 of 29 November 2017 imposing a definitive anti-dumping duty on hand pallet trucks and their essential parts 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) 2017/2207 of 29 November 2017 amending Council Implementing Regulation (EU) No 412/2013 imposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of ceramic tableware and kitchenware originating in the People's Republic of China*

## **Food and Agriculture Law**

- *Commission Implementing Decision (EU) 2017/2201 of 27 November 2017 authorising the placing on the market of 2'-fucosyllactose produced with Escherichia coli strain BL21 as a novel food ingredient under Regulation (EC) No 258/97 of the European Parliament and of the Council (notified under document C(2017) 7662)*
- *Commission Implementing Regulation (EU) 2017/2184 of 22 November 2017 amending Regulation (EC) No 1484/95 as regards fixing representative prices in the poultrymeat and egg sectors and for egg albumin*

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