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Appellate Body report issued in the WTO dispute on *Philippines – Distilled Spirits*

On 21 December 2011, the WTO Appellate Body circulated its report in the dispute *Philippines – Taxes on Distilled Spirits*. The Panel report found that the Philippines' excise taxes on spirits constituted a *de facto* discriminatory measure, in violation of the first and second sentences of Article III:2 of the General Agreement on Tariffs and Trade (hereinafter, the GATT) (see Trade Perspectives, Issue No. 16 of 9 September 2011). Notices of appeal had been filed by the Philippines and the EU. In particular, the Philippines disagreed with the Panel on the interpretation the concept of '*likeness*' under Article III:2 of the GATT, first sentence; on whether spirits at stake constituted '*directly competitive and substitutable*' products, within the meaning of the second sentence of Article III:2 of the GATT; and on the protective application of taxes in the case at hand.

The dispute concerns the Philippines' excise tax regime on distilled spirits that the EU and the US claimed favoured domestic products over '*like*' imported goods. The complainants argued that domestic distilled spirits produced in the Philippines from the raw materials designated in the tax regulation were '*like*' products when compared to imported spirits produced from 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 GATT. The Panel had agreed with the complainants and determined that the spirits were '*like*' products, on the basis of the physical characteristics of the spirits and their end uses, irrespective of different raw materials used. In the Philippines' view, this finding of the Panel was erroneous, as significant physical differences between the two products should suffice to disqualify a pair of goods from being considered '*like*' *as such*.

The Appellate Body disagreed with this argument and maintained that differences in the raw materials used to make the products, which did not affect the final product, could not disqualify goods from being considered '*like*'. The Appellate Body emphasised that none of the known '*likeness*' criteria could be decisive and stated that the products made with different ingredients may remain '*like*' when those differences '*leave fundamentally unchanged the competitive relationship among the final products*'. Therefore, the Appellate Body interpreted the '*likeness*' test of Article III:2 of the GATT, first sentence, in light of the competitive relationship of the final products. The Appellate Body also supported the '*perceptible difference test*' applied by the Panel, which factored-in the perspectives of a hypothetical consumer as a criterion to determine whether the products at hand are physically different or not. Though this test may be also important to reveal consumers' tastes and preferences, the Appellate Body still did not find the Panel to have committed an error when taking this test into account to assess the physical differences of the products. Ultimately, according to the Appellate Body, any analysis of '*likeness*' under Article III:2 of the GATT, first sentence, should focus on the fundamental competitive relationship between

the goods to be compared; the choice of criteria to do it can be only made on a case-by-case basis. Reiterating its position in *Canada – Periodicals* and *Korea – Alcohol*, the Appellate Body refused to confine the concept of '*likeness*' in Article III:2 of the GATT, first sentence, to identical products only. In addition, the Appellate Body further found that if it has been demonstrated that the '*competitive relationship between each type of domestic distilled spirit made from designated raw materials and the same type of imported distilled spirit made from non-designated raw materials is that of products that are close to being perfectly substitutable*', that is sufficient to determine products as '*like*'.

The Appellate Body also supported the Panel's findings concerning Article III:2 of the GATT, second sentence. In the Appellate Body's view, the competition in a segment of the market (together with substitutability studies and instances of price competition) give grounds for finding a '*direct competitive relationship*' between the two products, thus making the second sentence of Article III:2 of the GATT applicable. The Appellate Body did not agree with the Philippines that the competition in this case should be actual and not just potential. The Appellate Body maintained that the assessment should focus on whether competition would otherwise occur if the challenged measures were not in place. Finally, the Appellate Body investigated whether the excise taxes system was applied '*so as to afford protection*' to the domestic market of distilled spirits. Following past case-law, the Appellate Body analysed '*the design, architecture and structure*' of the measure at issue and found that all designated raw materials were grown in the Philippines and used for spirits manufactured domestically, while most of the imported spirits were not made with designated raw materials. All this denotes that dissimilar taxation imposed by the Philippines on imported distilled spirits *vis-à-vis* directly competitive or substitutable domestic products is applied so as to afford protection to the domestic products.

The report of the Appellate Body is a landmark decision, which resolves one of the most debated areas related to Article III of the GATT. The Appellate Body has often been criticised for a rigid approach with respect to the concept of '*likeness*' under Article III:2, due to heavy reliance on the '*likeness*' criteria, proposed by the Working Party in *Border Tax Adjustments*. Those criteria (*i.e.*, physical characteristics, end-uses, consumers' preferences, and tariff classification of the products concerned) are non-economic in nature and do not necessarily reflect any economic '*likeness*' of the two goods. An evaluation of the fundamental competitive relation as a ground of '*likeness*' was first proposed by the Appellate Body in *EC – Asbestos*. However, the need to assess the nature of the competitive relationship for the '*likeness*' determination in that case was established only in respect of Article III:4 of the GATT. The Appellate Body in *EC – Asbestos* reasonably noticed the textual difference between Article III:2 and III:4 of the GATT, with the former provision containing separate rules for '*like*' and for '*directly competitive and substitutable*' goods (Article III:4 refers to '*like*' products only). In the *Philippines – Distilled Spirits*, the Appellate Body appears to have extended the fundamentally economic interpretation of '*likeness*' to Article III:2 as well. The new approach taken by the Appellate Body is that the '*likeness*' test, in any of the Article III clauses, should focus, in essence, on the analysis of the economic competitiveness of the two products.

The report of the Appellate Body in the *Philippines – Distilled Spirits* case demonstrates a significant switch in the classical approach of the WTO '*jurisprudence*' towards the concept of '*likeness*' in Article III:2 of the GATT. The Appellate Body shows an inclination towards the economic analysis of '*likeness*' in Article III:2 of the GATT, thus overcoming the classical rigid methodology based on the so-called '*likeness criteria*'. Although this new approach may be subject to confirmation and progressive '*consolidation*' by future '*like*' jurisprudence, the current position of the Appellate Body is highly significant for the argumentation strategies of the parties to future disputes on national treatment violations. All of the '*likeness*' criteria, developed in abundant WTO case law, shall be from now on put in light of the competitive relationship of the products at hand, with a particular emphasis on the economic evidence of

competition present. Considering the proliferation of WTO Members' domestic regulatory policies that have direct or indirect national treatment effects on trade in '*like*' products, this appears to be a very welcome interpretative development.

The customs union between Belarus, Kazakhstan and Russia bans the importation and exportation of harp seal furs

The customs union between Belarus, Kazakhstan and Russia (hereinafter, the CU) has reportedly informed the WTO of the enacted ban on the importation and exportation of harp seal furs. The ban was introduced through the Decision of the Commission of the CU No. 696 *'On the addition of chapter 1.8 to the Common list of goods, to which prohibitions or restrictions on export or import by the Member States to the CU apply'* of 22 June 2011. Although the measure does not specify the reasons for its imposition, the ban resulted from a long-standing debate within the CU Member States on the slaughter methods used in harp seal hunt. Since 2009, Russia has officially prohibited non-Inuit baby seal hunt on its territory and has initiated the imposition of cross-border trade restrictions in these products at the CU level. The newly adopted prohibition also outlaws cross-border trade in seal furs with Belarus and Kazakhstan.

The prohibition of harp seal hunt has been one of the most debated issues in the multilateral trade agenda since the adoption of *EC Regulation No. 1007/2009 of the European Parliament and of the Council of 16 September 2009 on trade in seal products*, which effectively banned the importation of non-Inuit seal products into the EU market (See Trade Perspectives, Issue No. 4 of 25 February 2011 and Issue No. 6 of 25 March 2011). Canada and Norway filed complaints against the European ban on seal products to the WTO. On 21 April 2011, the WTO Dispute Settlement Body established a single panel to hear both claims. *Inter alia*, both Canada and Norway consider the EU ban in breach of Article 2 of the Agreement on Technical Barriers to Trade (hereinafter, the TBT Agreement), as not '*necessary to achieve a legitimate objective*' and for being tantamount to an '*unnecessary obstacle to trade*'. The panel will have to make a finding on whether the import ban qualifies as a '*technical regulation*' under Annex 1:1 of the TBT Agreement. In addition, animal welfare goals are not specifically mentioned as legitimate objectives under Article 2.2 of the TBT Agreement. However, inasmuch as the list of legitimate objectives in this provision is not exhaustive, a panel may well find animal welfare to constitute a legitimate objective under Article 2.2 of the TBT Agreement. With the ongoing process of Russia's accession to the WTO, the success of Norway and Canada in the current disputes against the EU could trigger further WTO cases on trade in seal furs against Russia, which is to formally enter the WTO shortly.

A parallel challenge of the new ban on harp seal furs could be initiated by Canadian and Norwegian private parties before the courts of the CU. However, the Statute of the Economic Court of the EurAsEC (the court of the CU) does not grant foreign or domestic affected companies the right to challenge the decisions of the Commission of the CU before it. Thus, the Decision of the Commission of the CU would have to be reviewed within the domestic court systems of the Member States of the CU. No established practice on challenging the decisions of the Commission of the CU at domestic level is available yet. According to Article 15.4 of Russia's Constitution, international agreements form part of the domestic legal system and have precedence over domestic laws. Therefore, if the Decision of the Commission of the CU were to be treated as an international treaty between Belarus, Kazakhstan and Russia, it could be challenged solely before the Constitutional Court of Russia in case contradictions with the Russian Constitution were detected. Constitutional control over trade laws is not preferable, as it is time-consuming and strict in respect of the legal standing, right to initiate the review and the limited number of remedies available. To

avoid constitutional control over supranational bodies' legal acts, the Interstate Council of EurAsEC determined, in its Decision No. 15 of 27 November 2009, that the decisions of the Commission of the CU are applied directly in the Member States of the CU and have the legal force of the acts of the local authorities, which were competent in the given field of regulation prior to the formation of the CU. In the case at hand, the decision of the Commission of the CU would have the legal force of a Decision of the Government of Russia, and could be challenged before the Supreme Commercial (Arbitrazh) Court. Still, the Supreme Commercial Court can make a finding on the legality of the ban that is valid for Russia only, and in order to make it inoperative in the other two jurisdictions of the CU, separate legal actions would have to be initiated there.

The import and export restrictions on seal furs within the CU represent another significant blow to the seal products industry. Recent years have shown the drastic drop in seal products trade, due to regulatory barriers worldwide. In 2006, prior to the EU ban, Canadian seal product exports reached 18 million Canadian dollars (5.4 million out of those went to the EU). According to the estimates of the Government of Canada, following the EU ban, Russia received up to 90% of Canada's exports of seal furs. The closure of the major consumption markets would have dramatic consequences for the seal hunting market. Therefore, it is likely that the affected industries will try to challenge the recent ban. In light of Russia's accession to the WTO, which is fast approaching, seal fur producers may consider both international and national venues for the protection of their interests. The outcome of the ongoing WTO disputes on the EU seal products ban would be most indicative for the interested businesses. At the same time, this development indicates the likelihood for complex and confusing overlaps between domestic laws and judicial remedies, CU law and procedures and WTO law (or other international commercial agreements) in the three countries members of the CU.

French Soda tax approved, contributing to an EU trend of taxing certain foods to combat obesity and generate revenues

In its decision No. 2011-644 DC of 28 December 2011, the French Conseil Constitutionnel approved the Finance Act 2012, adopted by the Assemblée Nationale on 21 December 2011, which includes a so-called '*soda tax*' on sugar sweetened beverages. The legislation, which came into effect on 1 January 2012, is part of a growing trend in Europe to impose so-called '*sin taxes*' on food and drinks associated with poor health and obesity. '*Sin taxes*' in modern economic terms amount to excise, or '*per unit*' taxes that are mainly designed to reduce specific behaviours thought to be harmful to society, and that are levied on certain goods, which are generally socially proscribed, such as alcohol, tobacco, candies, soft drinks, fatty foods, coffee, and services like gambling.

More than sixty members of the Assemblée Nationale challenged the Finance Act 2012, in particular Article 26 thereof, which establishes a tax on certain beverages containing added sugars, and Article 27 thereof, taxing beverages which contain artificial sweeteners. In its decision approving the legislation, the Conseil Constitutionnel ruled that Articles 26 and 27 of the Finance Act 2012 do not infringe the French Constitution. While the Conseil Constitutionnel said that it did not believe that the government was imposing the tax only to promote health and combat obesity as originally foreseen, it also did not see any discrimination against specific products. In fact, the tax does not only apply to sugar-sweetened beverages, but also to beverages with artificial sweeteners. Moreover, the tax is part of French austerity measures adopted to combat the debt crisis. According to reports, the French tax is expected to generate around €120m a year in revenue. The goal is, therefore, not only to combat obesity but also to help replenish State coffers.

Articles 26 and 27 of the Finance Act 2012 insert, respectively, Sections 1613 *ter* and 1613 *quater* in the General Tax Code. These provisions establish, in almost identical terms, contributions levied on certain fruit juices, waters – including mineral water – and other soft drinks, packaged in containers for retail sale for human consumption. The first provision concerns drinks with added sugars, and the second one imposes a tax on drinks with artificial sweeteners. Infant formula, follow-on formula and nutritional products for ill people are exempted from the tax on drinks with added sugar. Food for special medical purposes and high protein food for malnourished people are also exempted from the tax on drinks containing artificial sweeteners. The obligation to pay the tax, set at 7.16 EUR per hectolitre (*i.e.*, 0,072 EUR per litre or approximately 0,024 EUR for a 33cl can) for both categories, is incumbent upon manufacturers of these drinks established in France and on importers. Thus, it also applies to imported products. It can be expected that the taxable parties will ultimately pass on the tax to the final consumer, raising the tax money by increasing prices per drink.

Although it is officially part of the French fiscal austerity measures, the '*soda tax*' is another example of a trend in various EU Member States to tax certain foods under the guise of improving public health. On 1 September 2011, Hungary introduced a tax on products considered to be excessively salty, sweet or with high caffeine levels, also known as a '*chips tax*' (*chipsadó*). On 1 October 2011, the Danish Act on a tax on saturated fat in specific food came into effect to discourage unhealthy eating and to limit the population's intake of fatty foods (See Trade Perspectives Issue No. 18 of 7 October 2011).

From an EU perspective, the French soda tax, the Danish fat tax and the Hungarian '*chips tax*', appear to be indirect internal taxes that are not harmonised in the EU. In general, EU Member States may introduce and maintain non-harmonised internal taxes and freely establish their modalities. However, such taxes must comply with the Treaty on the Functioning of the European Union, in particular with Article 110 thereof, which prohibits internal discriminatory taxation, directly or indirectly, on products of other Member States, in excess of that imposed directly or indirectly on similar domestic products. Although the French tax appears to be origin-neutral, it should be closely analysed whether there is, in practice, a higher tax burden on imported products subject to these taxes. In fact, in the implementation of such taxes, possible (*de facto*) discrimination against third country products could become an issue. Article III:2 of the GATT prevents WTO Members from applying to imported products internal taxes in excess of those applied to domestic products so as to afford protection to domestic production. As stated above, the French tax appears to be origin-neutral, but instances of discrimination relevant to France's WTO obligations may nevertheless occur where the tax *de facto* favours domestic production of like or '*directly competitive or substitutable*' products. This would need to be further examined.

The food industry does not agree with this new trend of taxing certain foods. FoodDrinkEurope, the trade body representing the EU food and drink industry, claims that there is no science-based evidence to support such measures with public health objectives, and has urged the Danish EU Presidency and other EU Member States not to resort to additional taxes on food products given their regressive nature and negative impact on lower income consumers in the current economic climate. Tackling obesity and encouraging consumers to have a balanced diet and lead a healthy lifestyle are also important challenges for regulators. One question is whether these product-specific taxes are really addressing the obesity problem by penalising certain '*unhealthy*' products, or if they are just primarily new instruments to generate fiscal revenue in the context of the economic crisis. The rationale behind the French tax seems to cover both goals. However, there is uncertainty about which foods to target (*i.e.*, fatty foods, sugared foods, or both?) and there is potential discrimination among specific food categories. In addition, it is not clear whether the imposition of such taxes is going to reduce obesity or whether governments would be better off with, for example, educational campaigns.

The new trend of so-called '*sin taxes*' has a potentially restrictive effect on trade. Third country governments and producers must monitor these legislative actions closely and assess the impact that they may have on their products, market access opportunities and conditions of competition. The interest here is two-fold: 1) being able, if need be and in cases of perceived discrimination (*de facto* if not *de jure*), to trigger the appropriate mechanisms at EU and/or WTO level to protect its commercial interests; and 2) to define, over time and where needed, similar or alternative domestic regulatory and legislative instruments that may tackle similar health policy objectives and be WTO-consistent.

The WTO accession of Samoa and Vanuatu may contribute to resolve the 10-year long kava dispute

On the last day of the WTO Ministerial Conference, which was held on 15-17 December 2011, WTO Members formally approved Montenegro's and Samoa's accession to the WTO, on the terms and conditions set out in their accession packages. Samoa and Montenegro will need to sign and ratify the accession protocol before the membership will take full effect. The approval of Samoa's accession package follows shortly that of Vanuatu. Vanuatu's accession package was formally approved by the WTO General Council on 26 October 2011. Vanuatu was to ratify the accession deal by 31 December 2011 to become WTO's 154th Member, 30 days after ratification.

One of the benefits of WTO's accession for Samoa and Vanuatu, two least-developed Pacific island countries, is that the WTO instruments and tools will soon be available to them to address and solve barriers and hurdles, which currently impair their trade with other WTO Members. A most notable example of such trade barriers is provided by the measures long imposed by a number of WTO Members, including several EU Member States, against the importation, marketing and sale of products containing kava-extracts and certain kava preparations.

Kava (*i.e.*, *Piper methysticum*, a member of the pepper family that also includes black pepper) is an important agricultural commodity for Pacific island countries, forming integral part of their cultural, economic and social life. The kava drink (which has traditional ceremonial and cultural uses for people of South Pacific islander descent) is made from a water extract of the root and/or rhizome of *Piper methysticum*. Due to the calming and relaxing properties of certain active ingredients, kava extracts are also used for the development of herbal medicinal products and food supplements in a number of countries.

Following allegations of hepatotoxity, a number of countries have adopted trade-restrictive measures, prohibiting *de jure* or *de facto* the sale and marketing of kava-based products. In particular, restrictions on kava-based food supplements and herbal medicines, through the withdrawal of marketing authorisations of kava-extract containing products, have been put in place by regulators responsible for public health in Germany, France, Japan, Ireland, and Switzerland. In all these countries reports linking kava to liver damage prompted regulators to ban or restrict the use of kava. In the UK, outright prohibition of all form of kava has been applied since 2003. Germany's Bundesinstitut fuer Arzneimittel und Medizinprodukte ('*BfArM*'), the German regulatory authority responsible for the monitoring of risks related to medicinal products, was among the first authorities to adopt restrictive measures, prompting several EU countries to implement similar policies. Australia currently maintains a prohibition on commercial importation of kava (*i.e.*, kava drinks or preparations that can be used for kava drinks) intended to combat kava abuse and associated significant kava health problems in some indigenous communities, although it did not ban the importation of kava for medical and/or scientific purposes.

Whereas these measures effectively resulted in *de facto* '*bans*' on kava-based products, which severely affect the ability of the kava-exporting Pacific Island countries to export kava (to, *inter alia*, the EU), they also appear to lack proper and conclusive scientific justification and to constitute unnecessary barriers to trade, discriminatory practices and disguised restrictions on international trade, in violation of several provisions of the WTO Agreements (including, arguably, the Agreement on the Application of Sanitary and Phytosanitary Measures, the General Agreement on Tariffs and Trade, the Agreement on Agriculture and the Agreement on Import Licensing Procedures).

In this respect, WTO Membership would provide Samoa and Vanuatu (together with Fiji and Tonga, WTO Members since, respectively, 1996 and 2007) a number of tools to solve the kava trade dispute. These tools include the availability of technical *fora* for discussions, such as those offered by the WTO Committee on Sanitary and Phytosanitary Measures, where Pacific Island countries will be able to formally express their concerns on the trade-restrictive nature of the measures imposed on kava-based products, and request for information concerning (*inter alia*) the scientific justifications in support of such measures. In addition, the WTO provides the negotiating and '*diplomatic*' setting for exercising pressure, in the multilateral arena, through targeted actions at different committee levels as well as in the context of trade negotiations, on countries maintaining the unjustifiable trade-restrictive measures. Lastly, the WTO offers an effective system for the settlement of commercial disputes between its Members in case of alleged violations of WTO obligations.

Kava-exporting Pacific Island countries are currently working to ensure that the production of kava meets safety and quality requirements and all other relevant standards set by the internationally-competent and recognised bodies (such as the *Codex Alimentarius*). This includes the promotion of traceability systems, which will ensure that only kava extracts obtained through certain procedures and good agricultural practices are exported. Hopefully, these efforts will prompt the removal of the measures currently imposed by other WTO Members, with no need to resort to WTO tools and to costly and lengthy commercial confrontations.

Recently Adopted EU Legislation

Market Access

- *Commission Implementing Regulation (EU) No. 17/2012 of 11 January 2012 amending Council Regulation (EC) No. 32/2000 as regards the extension of the tariff quotas of the Union for jute and coconut-fibre products*

- *Commission Implementing Regulation (EU) No. 20/2012 of 11 January 2012 fixing the allocation coefficient to be applied to applications for import licences lodged from 1 to 6 January 2012 in the context of the tariff quota opened by Regulation (EC) No. 2305/2003 for barley*

- *Council Decision of 14 December 2011 establishing the position to be taken by the European Union within the Ministerial Conference of the World Trade Organisation as regards a request for granting a waiver in order to give preferential treatment to services and service suppliers of least-developed countries*

- *Council Regulation (EU) No. 1386/2011 of 19 December 2011 temporarily suspending autonomous Common Customs Tariff duties on imports of certain industrial products into the Canary Islands*

- *Council Regulation (EU) No. 1344/2011 of 19 December 2011 suspending the autonomous Common Customs Tariff duties on certain agricultural, fishery and industrial products and repealing Regulation (EC) No. 1255/ 96*

- *Council Regulation (EU) No. 1359/2011 of 19 December 2011 amending Regulation (EU) No. 7/2010 opening and providing for the management of autonomous tariff quotas of the Union for certain agricultural and industrial products*

- *Commission Implementing Regulation (EU) No. 1323/2011 of 16 December 2011 laying down rules for the management and distribution of textile quotas established for the year 2012 under Council Regulation (EC) No. 517/94*

Trade Remedies

- *Council Implementing Regulation (EU) No. 13/2012 of 6 January 2012 amending Regulation (EC) No. 1292/2007 imposing a definitive anti-dumping duty on imports of polyethylene terephthalate (PET) film originating in India*

- *Council Implementing Regulation (EU) No. 14/2012 of 9 January 2012 extending the definitive anti-dumping duty imposed by Implementing Regulation (EU) No. 511/2010 on imports of certain molybdenum wires originating in the People's Republic of China to imports of certain molybdenum wires consigned from Malaysia, whether declared as originating in Malaysia or not and terminating the investigation in respect of imports consigned from Switzerland*

- *Commission Decision of 11 January 2012 terminating the anti-dumping proceeding concerning imports of vinyl acetate originating in the United States of America and releasing the amounts secured by way of the provisional duties imposed*

- *Council Implementing Regulation (EU) No. 2/2012 of 4 January 2012 imposing a definitive anti-dumping duty on imports of certain stainless steel fasteners and parts thereof originating in the People's Republic of China and Taiwan following an expiry review pursuant to Article 11(2) of Regulation (EC) No. 1225/2009*

- *Council Implementing Regulation (EU) No. 1389/2011 of 19 December 2011 imposing a definitive anti-dumping duty on imports of trichloroisocyanuric acid originating in the People's Republic of China following an expiry review pursuant to Article 11(2) of Regulation (EC) No. 1225/2009*

- *Commission Decision of 19 December 2011 granting certain parties an exemption from the extension to certain bicycle parts of the anti-dumping duty on bicycles originating in the People's Republic of China imposed by Council Regulation (EEC) No. 2474/93, lifting the suspension and revoking the exemption of the payment of the anti-dumping duty extended to certain bicycle parts originating in the People's Republic of China granted to certain parties pursuant to Commission Regulation (EC) No. 88/97 (notified under document C(2011) 9473)*

- *Notice of initiation of an anti-dumping proceeding concerning imports of certain organic coated steel products originating in the People's Republic of China*

- *Council Implementing Regulation (EU) No. 1331/2011 of 14 December 2011 imposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of certain seamless pipes and tubes of stainless steel originating in the People's Republic of China*

- *Notice of initiation of an anti-dumping proceeding concerning imports of white phosphorus, also called elemental or yellow phosphorus, originating in Kazakhstan*

Customs Law

- *Council Resolution of 13 December 2011 on the future of customs law enforcement cooperation*

- *Explanatory Notes to the Combined Nomenclature of the European Union*

Food and Agricultural Law

- *Commission Regulation (EU) No. 16/2012 of 11 January 2012 amending Annex II to Regulation (EC) No. 853/2004 of the European Parliament and of the Council as regards the requirements concerning frozen food of animal origin intended for human consumption*

- *Commission Implementing Regulation (EU) No. 9/2012 of 6 January 2012 amending the representative prices and additional import duties for certain products in the sugar sector fixed by Implementing Regulation (EU) No. 971/2011 for the 2011/12 marketing year*

- *Commission Implementing Directive 2012/1/EU of 6 January 2012 amending Annex I to Council Directive 66/402/EEC as regards the conditions to be satisfied by the crop Oryza sativa*

- *Commission Implementing Regulation (EU) No. 1383/2011 of 22 December 2011 fixing the import duties in the cereals sector applicable from 1 January 2012*

- *Commission Implementing Regulation (EU) No. 1381/2011 of 22 December 2011 concerning the non-approval of the active substance chloropicrin, in accordance with Regulation (EC) No. 1107/2009 of the European Parliament and of the Council concerning the placing of plant protection products on the market, and amending Decision 2008/934/EC*

- *Commission Implementing Regulation (EU) No. 1380/2011 of 21 December 2011 amending Regulation (EC) No. 798/2008 as regards the specific conditions for breeding and productive ratites*

- *Commission Implementing Decision of 21 December 2011 amending Annexes II and IV to Council Directive 2009/158/EC on animal health conditions governing intra-Community trade in, and imports from third countries of, poultry and hatching eggs (notified under document C(2011) 9518)*

- *Commission Implementing Decision of 22 December 2011 on emergency measures regarding unauthorised genetically modified rice in rice products originating from China and repealing Decision 2008/289/EC*

- *Commission Implementing Regulation (EU) No. 1369/2011 of 21 December 2011 amending Regulation (EC) No. 952/2006 laying down detailed rules for the application of Council Regulation (EC) No. 318/2006 as regards the management of the Community market in sugar and the quota system*

- *Commission Implementing Regulation (EU) No. 1372/2011 of 21 December 2011 concerning the non-approval of the active substance acetochlor, in accordance with Regulation (EC) No. 1107/2009 of the European Parliament and of the Council concerning the placing of plant protection products on the market, and amending Commission Decision 2008/934/EC*

- *Commission Implementing Regulation (EU) No. 1371/2011 of 21 December 2011 amending Implementing Regulation (EU) No. 961/2011 imposing special conditions governing the import of feed and food originating in or consigned from Japan following the accident at the Fukushima nuclear power station*

- *Commission Implementing Regulation (EU) No. 1325/2011 of 16 December 2011 amending Implementing Regulation (EU) No. 543/2011 as regards the trigger levels for additional duties on pears, lemons, apples and courgettes*

Other

- *Council Decision of 20 December 2011 repealing Council Decision 2011/491/EU 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*

- *Council Decision of 14 December 2011 establishing the position to be taken by the European Union within the relevant instances of the World Trade Organization on the accession of the Russian Federation to the WTO*

- *Council Decision of 14 December 2011 establishing the position to be taken by the European Union within the Ministerial Conference of the World Trade Organization on the accession of Samoa to the WTO*

- *Council Regulation (EU) No. 5/2012 of 19 December 2011 fixing for 2012 the fishing opportunities for certain fish stocks and groups of fish stocks applicable in the Black Sea*

- *Commission Implementing Decision of 14 December 2011 on the determination of quantities and the allocation of quotas for substances controlled under Regulation (EC) No. 1005/2009 of the European Parliament*

and of the Council on substances that deplete the ozone layer, for the period 1 January to 31 December 2012(notified under document C(2011) 9196)

- *Commission Implementing Decision of 20 December 2011 confirming the provisional calculation of average specific CO2 emissions and specific emissions targets for manufacturers of passenger cars for the calendar year 2010 pursuant to Regulation (EC) No. 443/2009 of the European Parliament and of the Council*

- *European Convention on the legal protection of services based on, or consisting of, conditional access*

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