

## **The latest WTO developments related to Russia's 'recycling fee' on motor vehicles**

On 10 October 2013, the EU filed a WTO request for the establishment of a dispute settlement panel concerning Russia's application of a special fee on motor vehicles (hereinafter, the 'recycling fee'). The EU's request was rejected on 22 October 2013 by Russia at the meeting of the WTO Dispute Settlement Body (hereinafter, DSB). However, this does not prevent the EU from filing a second request, which will be 'automatically' adopted unless the EU withdraws its complaint.

The disputed measure consists of a requirement, for legal entities and natural persons exporting motor vehicles to Russia or producing vehicles on Russia's territory, to pay a certain amount of money (*i.e.*, the 'recycling fee') to the Russian Government for the purpose of preserving the environment through the recycling of used cars. According to the EU, Russia's 'Federal Law No. 89-FZ on production and consumption wastes, as amended by Federal Law No. 128-FZ on introduction of amendments to the Federal Law No 89-FZ on production and consumption wastes and Article 51 of the Budget code of the Russian Federation' (hereinafter, the Law) and 'Resolution of the Government of the Russian Federation No. 870 of 30 August 2012 on recycling fee for wheeled transport vehicles' provide for the 'recycling fee's' legal basis. The amount of the fee depends on a number of factors including, *inter alia*, the vehicle's weight and date of production. The 'recycling fee' may range between EUR 420 and EUR 2,700 for new cars and from EUR 2,600 to EUR 17,200 for cars that are older than three years. However, the 'recycling fee' may be as high as EUR 147,000 for special categories of vehicles, such as mining trucks (see Trade Perspectives, Issue No. 15 of 26 July 2013). The current legislation foresees that certain categories of vehicles be exempted from the payment of the 'recycling fee' (*i.e.*, vehicles produced by entities that committed to recycle them after the complete loss of their value and vehicles manufactured within the Eurasian Economic Community's Customs Union (composed by Belarus and Kazakhstan, apart from Russia), provided that they satisfy the conditions stated in the 'Rules on Conditions for Exemption from the Recycling Fee Imported to the Russian Federation from the Territory of Member States of the Customs Union or for the States which Have the Status of the Customs Union', which essentially require producers to undertake an obligation to recycle vehicles.

In its request for the establishment of a panel, the EU first claimed that the Russian measure violated the most-favoured nation (hereinafter, MFN) principle contained in Article I:1 of the General Agreement on Tariffs and Trade (hereinafter, GATT), on grounds that Russia failed to extend the treatment granted to vehicles produced in Kazakhstan and Belarus (eligible to benefit from the exemption to the 'recycling fee'), while this advantage is not available to vehicles produced in the EU and in other WTO Members. The EU also invoked Article II:1(a) and (b) of the GATT, arguing that Russia failed to accord treatment no less favourable to vehicles produced in the EU, to which it allegedly applied duties in excess of those set forth in its Schedule of Concessions. It is noted that, while paragraph (a) of Article II:1 of the

GATT imposes a general obligation on WTO Members not to grant treatment which is less favourable than that provided in their Schedules of Concessions, paragraph (b) prohibits the imposition of ordinary customs duties and all other duties or charges in excess of the commitments reflected in WTO Members' Schedules of Concessions. Furthermore, the EU claimed a violation of the national treatment obligation under Article III:2 of GATT, arguing that Russia's measure subjects imported products to internal taxes in excess of those applied to domestic products.

According to WTO '*jurisprudence*', Article II:1(b) and Article III:2 of the GATT are mutually exclusive, which determines that a measure cannot simultaneously fall within the scope of both provisions. As established by the Panel in *China – Auto parts*, Article II:1(b) regulates border measures, while Article III:2 deals with internal measures. It follows that a charge cannot constitute an '*other duty or charge*' within the meaning of Article II:1(b) and simultaneously an '*internal tax*' or '*other internal charge*' under Article III:2 of GATT. Therefore, the nature of the measure should be first established by a panel, in order to then assess it under the relevant provision. In this respect, *Ad Article III* of the GATT clarifies that internal taxes or other internal charges are covered by Article III of GATT, even if the tax or charge is applied at the time or point of importation. Therefore, and according to the Appellate Body in *China – Auto parts*, the decisive feature of a measure falling within the scope of Article III of the GATT is that the obligation to pay be triggered by an internal factor, whereas the time or point of collection is not conclusive.

In addition, the EU claimed a violation of the national treatment obligation under Article III:4 of the GATT, arguing that the measure at hand grants less favourable treatment to imported vehicles, since they cannot benefit from the exception granted to domestic (and Customs Union) producers to avoid the fee. Finally, the EU invoked Articles 2.1 and 2.2 of the WTO Agreement on Trade-Related Investment Measures (hereinafter, TRIMs Agreement) in conjunction with paragraphs 1(a) and 2(a) of the Illustrative List annexed to the TRIMs Agreement, alleging that the Russian measure envisages local content requirements that favour the purchase or use of products of Russian origin.

It is noted that the legislation on the execution of the '*recycling fee*' was recently subject to an expedited amendment process in Russia. On 31 May 2013, the amended version of Article 24.1 of the Law contained in the Federal Law '*On introduction of amendments into Article 24.1 of the Federal Law on Production and Consumption Wastes*', which regulates the conditions of application of the fee, was put on the agenda of Russian Parliament for approval. After the request for establishment of the Panel was filed, the amendment was approved in less than a month by both chambers of the Parliament and was signed by Russia's President on 21 October 2013. The amended version of Article 24.1 of the Law no longer foresees the exemption for domestic producers and for producers in Belarus and Kazakhstan. The Explanatory Note to the amended Law expressly mentions that the aim of the amendment, which will enter into force on 1 January 2014, is to avoid that the measure be challenged before the WTO.

As amended, the Russian Law does not appear to violate the national treatment and MFN principles or to contain local content requirements, which may put into question the EU's claims under Articles I and III of the GATT as well as under the TRIMs Agreement. However, a possible challenge may arguably still be made under Article II:1(a) and (b) of the GATT, where the threshold of compliance is established on the basis of the WTO Member's Schedule of Concessions. Based on the abovementioned analysis, the EU would need to establish that the measure constitutes an '*other duty or charge*' within the meaning of Article II:1(b) of GATT. An additional assessment could be made concerning Russia's compliance with Article II:2(a) of the GATT, which provides an exception to Article II:1, allowing the imposition of a charge equivalent to an internal tax imposed consistently with the provisions of Article III:2 of the GATT in respect of '*like*' domestic products. However, it must be borne

in mind that Article II:2(a) of the GATT presupposes the existence of two measures (a border measure and an internal measure) of equivalent amount, whereas the 'recycling fee' constitutes only one measure, which should be classified either as a border measure or as an internal measure. In this light, it may be found that the 'recycling fee' does not satisfy the requirements in Article II:2(a) of the GATT, a circumstance which would arguably leave the question of the overall compliance of the 'recycling fee' with WTO law open.

It is advised that businesses operating in the automotive sector closely follow developments related to this the dispute as well as any upcoming amendments to the relevant pieces of Russian legislation, inasmuch as they stand to significantly influence the conditions of trade in vehicles between the EU and Russia.

### **The EU Council has approved negotiating mandates for EU investment agreements with China and ASEAN Member States**

On 18 October 2013, the EU Council adopted mandates that will allow the EU Commission to negotiate investment protection agreements on behalf of the EU with China and the Member States of the Association of Southeast Asian Nations (hereinafter, ASEAN). While the mandate regarding negotiations with ASEAN Member States modifies existing negotiating directives for ASEAN-EU agreements, so as to include investment protection (the mandate relating to the investment protection chapter of the EU-Singapore FTA was already approved in 2011), the mandate regarding China creates the potential for the first stand-alone investment agreement for the EU since the Lisbon Treaty modified its competencies to include foreign direct investment (hereinafter, FDI) among the areas of exclusive competence of the EU.

The Lisbon Treaty, which entered into force in 2009, amended the EU and EC treaties and included FDI in the list of matters falling under the common commercial policy of the EU, granting to the EU exclusive competence on such matters (see Trade Perspectives Issue No. 21 of 13 November 2009). In order to clarify the potential relationship between future EU investment agreements and already-established BITs between EU Member States and third countries, the EU adopted '*Regulation No. 1219/2012 of the European Parliament and of the Council of 12 December 2012 establishing transitional arrangements for bilateral investment agreements between Member States and third countries*' (hereinafter, the Grandfathering Regulation). Under Article 3 of the Grandfathering Regulation, EU Member States' BITs with third countries will be maintained in force until they are replaced by EU agreements (see Trade Perspectives Issue No. 13 of 29 June 2012). Additionally, Article 6 of the Grandfathering Regulation requires EU Member States to ensure that provisions in their investment agreements do not constitute serious obstacles to the EU in negotiating or concluding investment agreements with third countries. Under Article 5 of the Grandfathering Regulation, it is the duty of the EU Commission to evaluate whether a measure constitutes a '*serious obstacle*' under Article 6.

EU Member States have signed approximately 1,200 BITs with third countries. China is a party to 26 BITs with individual EU Member States, while ASEAN Member States have also signed numerous BITs with EU Member States. The scope of those BITs is typically limited to investment protection, which includes areas such as post-establishment national-treatment and most-favoured-nation, fair and equitable treatment, transfer of capital and expropriation. Future investment agreements negotiated by the EU Commission will encompass these issues, but they will also include investment liberalisation provisions, such as market access and pre-establishment national treatment for investors. In addition to the developing BIT with China, the EU has recently increased ties with numerous ASEAN Member States, including through active free trade agreement (hereinafter, FTA)

negotiations with Malaysia, Thailand and Vietnam, and a recently-concluded FTA with Singapore.

There is no standardised BIT text or negotiating model in the EU, as, according to the EU Commission, it is more prudent to adapt to each specific negotiating context. However, recent agreements negotiated by the EU may serve as useful benchmarks. The current version of the EU-Singapore FTA excludes a chapter reserved for investment protection, which is currently being negotiated, but it may still be useful as a benchmark for pre-establishment provisions in future investment agreements. Additionally, Canada and the EU recently agreed in principle to the Comprehensive Economic and Trade Agreement (hereinafter, the CETA), which contains investment protection rules. The EU-Singapore FTA includes commitments that were designed to help EU businesses operate on a level playing field with domestic competitors in financial services, which is a key sector in Singapore's economy. In the CETA, some provisions of note concern monopolies and state enterprises (hereinafter, MSEs). Those include, *inter alia*, provisions which: (i) exclude the buying and selling of energy from non-discrimination and commercial-consideration obligations; and (ii) require that MSEs with public-service obligations continue to have flexibility. It remains to be seen how much liberalisation will be possible between China and the EU, but the parties have indicated that they expect difficulties in relation to the negotiations on issues of market access, labour and the environment. For example, the EU Parliament's Committee on International Trade adopted a resolution earlier this year that an investment agreement with China should exclude cultural and audiovisual services from the market access talks.

Interested stakeholders should consider liaising with the competent authorities within their countries and taking an active role to ensure that their interests are adequately catered for. In China and in the ASEAN Member States, businesses should monitor developments to ensure that their level of protection is not unreasonably decreased and that avenues for adequate remedies are available, if necessary. In the EU, the negotiating procedure requires close cooperation among the EU Commission and the EU Member States gathered in the Trade Policy Committee (*i.e.*, a special committee composed of EU Member States appointed by the EU Council to assist the EU Commission in negotiations), as well as with the EU Council and the EU Parliament, which are to approve the agreement. The continuing role of EU Member States should allow them to push for further liberalisation with respect to the already-signed BITs. However, interested parties are advised to contact representatives from their respective EU Member States, the EU Commission and the relevant trade associations that can effectively represent their positions. Together, the EU and China account for over EUR 1 billion of trade per day, while ASEAN is the EU's third largest trading partner outside of Europe. Potential EU investment agreements provide for enormous growth opportunities and businesses should stay abreast of developments.

### **A derogation for generic descriptors under the Nutrition and Health Claims Regulation enters into force on 11 October 2013**

On 20 September 2013, the EU Commission adopted *Regulation (EU) No. 907/2013 setting the rules for applications concerning the use of generic descriptors (denominations)*. Pursuant to Article 1(4) of *Regulation (EC) No. 1924/2006 of the European Parliament and of the Council of 20 December 2006 on nutrition and health claims made on foods* (hereinafter, Regulation (EC) No. 1924/2006), specific generic descriptors that have traditionally been used to indicate a particular class of foods or beverages, which could imply an effect on health, may be exempted from the application of Regulation (EC) No. 1924/2006 following a request by the food business operators concerned.



According to Article 1(4) of Regulation (EC) No. 1924/2006, the EU Commission had to adopt and make public the rules for food business operators according to which applications for the use of generic descriptors must be made, so as to ensure that the application is dealt with transparently and within a reasonable time. This has now occurred with the adoption of Regulation (EU) No. 907/2013, whose overall principle is that the use of generic descriptors, which could imply an effect on health, should not be false, ambiguous or misleading. A generic descriptor is a term that has traditionally been used to indicate a particular class of food and beverage and which, like '*digestive*' and '*cough drops*' (the examples given in Recital 5 of Regulation (EC) No. 1924/2006), could imply an effect on human health. In practice, the strict authorisation procedure for health claims, including the opinions of the European Food Safety Authority (hereinafter, EFSA) requiring proof of a cause and effect in relation to health claims on foods, does not apply to generic descriptors. This could apply to products explicitly mentioned in Regulation (EC) No. 1924/2006 (*i.e.*, digestives and cough drops), but also to pre- or pro-biotic yoghurts and other milk products, digestive biscuits or cookies and all sorts of cough drops (*e.g.*, throat lozenges or cough sweets). It should be noted that, over the last few years, no pro- or pre-biotic claim has been approved by EFSA and the EU Commission as health claim under Regulation (EC) No. 1924/2006. Therefore, many in the food industry hope to get approval of these terms using the procedure for generic descriptors.

Before Regulation (EU) No. 907/2013 was adopted, it appears that the national authorities in EU Member States did not forward applications for generic descriptors to the EU Commission and that generic descriptors continued to be permitted at the EU Member State level. Regulation (EU) No. 907/2013, which is directly applicable in EU Member States, was published in the Official Journal of the EU on 21 September 2013 and entered into force on the twentieth day following that of its publication (*i.e.*, on 11 October 2013). According to recital 5 of Regulation (EU) No. 907/2013, national authorities are now able to exercise their own faculty of judgement, having regard to the case-law of the Court of Justice, to determine the typical reaction of the average consumer in each case. In broad terms, the provisions established in Regulation (EU) No. 907/2013 are supposed to ensure that the application of food business operators for generic descriptors is compiled by EU Member States in a way which presents and provides all the necessary information for the assessment of the application.

The EU Commission may require supplementary information, where appropriate and depending on the nature of the generic descriptor and the extent to which the derogation was applied. Generic descriptors should correspond to a period of at least 20 years of proven usage within EU Member State(s) prior to 11 October 2013. Trade associations representing specific food sectors are allowed to submit applications on behalf of their members, in order to avoid multiple applications in respect of the same generic descriptor. Detailed rules for the application procedure and for the content of applications for the recognition of generic descriptors are set out in the Annex to Regulation (EU) No. 907/2013. The EU Member State that receives an application and the Member State(s) covered by its scope must provide their opinions to the EU Commission within six weeks from the date of transmission of the valid application. Other EU Member States may also provide their opinion on the application to the EU Commission by the same deadline. After receiving the valid application from an EU Member State, and the possible opinions of EU Member States, the EU Commission may, within a reasonable time, initiate the procedure of approval of the generic descriptor pursuant to Article 1(4) of Regulation (EC) No. 1924/2006.

As to the content of the application, the application shall consist of the name and the address of the applicant, the generic descriptor subject to the application, a brief description of the particularity of the class of foods or beverages that the generic descriptor covers, and the EU Member State(s) for which the application concerning the use of the generic descriptor is being made. The generic descriptor subject to the application must be indicated

as used in the language(s) where it is traditionally used, while a description of the generic descriptor must be indicated in English where appropriate. The class of foods or beverages covered by the generic descriptor must be indicated, together with a detailed description, highlighting the particularity and the elements that distinguish the class of foods or beverages marketed under the generic descriptor, for which the application is made, from other products falling within the same class of foods or beverages.

The supporting data required in relation to the use of the generic descriptor appears to be a potentially problematic matter. Relevant bibliographical or otherwise verifiable evidence demonstrating the presence on the market of the class of foods or beverages with the generic descriptor, over at least a 20-year period prior to 11 October 2013, must be provided. Finally, EU Member States which receive the application and the EU Member State(s) concerned may require, prior to the submission of the application to the EU Commission, where they consider it necessary for the assessment of the application, relevant evidence or information related to consumers' understanding and perception of the effects that could be implied by the generic descriptor and relevant evidence or information demonstrating that consumers link the generic descriptor with the specific class of foods or beverages mentioned in the application.

The additional information possibly required by some EU Member States, in particular the need to show consumer understanding and perception of the implied health effects, as well as evidence that the consumer links the generic descriptors to the particular class of food or beverage, is poised to become a major stumbling block in the authorisation procedure for generic descriptors, which some have seen as a '*lighter*' version of the strict health claims approval procedure under Regulation (EC) No. 1924/2006. The question is how this additional information may be obtained, if it is requested by EU Member States. It appears that it would require major market research, which is difficultly to be obtained by smaller food business operators. The EU Commission takes the final decision of whether to approve or disapprove a generic descriptor. The EU Commission proposes a draft decision on the possible derogation to Regulation (EC) No. 1924/2006 and the decision will be taken in the Standing Committee of the Food Chain and Animal Health following the comitology procedure. Although not provided in the Annex to Regulation (EU) No. 907/2013, the third recital of such Regulation provides that the EU Commission should not be prevented from requiring supplementary information, where appropriate and depending on the nature of the generic descriptor and the extent of the derogation applied for. The Annex simply states, under point (3) of part B, that '*Any additional information (optional)*' may be requested. The denial of many health claims under Regulation (EC) No. 1924/2006 has shown that the EU Commission's approach has been quite restrictive. The decision lies now with food business operators and trade associations to make solid applications for generic descriptors with the right evidence and supporting data in the right EU Member State.

### **The EU Commission terminates the anti-subsidy investigation against biodiesel from Argentina and Indonesia**

On 7 October 2013, the European Biodiesel Board (hereinafter, EBB) reportedly withdrew the complaint it had filed before the EU Commission on 27 September 2012 alleging that shipments of biodiesel from Argentina and Indonesia were unfairly subsidised in their domestic countries and were causing material injury to the EU industry. Following the withdrawal of the complaint, the EU Commission has reportedly concluded the anti-subsidy investigation.

Anti-subsidy proceedings were launched on 10 November 2012 against imports of '*fatty-acid mono-alkyl esters and/or paraffinic gasoils obtained from synthesis and/or hydro-treatment,*

of non-fossil origin, in pure form or as included in a blend' (i.e., biodiesel) from Argentina and Indonesia. In its complaint, the EBB submitted sufficient evidence that differential export tax (hereinafter, DETs) regimes applied to soybeans and soybean oil (in the case of Argentina) and palm oil (in the case of Indonesia) led domestic producers to sell their raw materials mainly (if not solely) in their respective domestic markets, therefore creating excess supply and artificially lowering market prices to the benefit of biodiesel exporters. Such investigation, conducted under the guidance of the EU Basic Anti-Subsidy Regulation (i.e., Council Regulation (EC) No. 597/2009 of 11 June 2009 on protection against subsidised imports from countries not members of the European Community), was directed to verify whether: (i) biodiesel imports from Argentina and Indonesia benefited from illegal subsidies; (ii) the EU industry suffered injury; (iii) there was a causal link between such injury and the subsidies granted; and (iv) the imposition of countervailing duties would not be against the EU's interests.

Pursuant to Article 14(1) of the EU Basic Anti-Subsidy Regulation, the withdrawal of the complaint shall lead to the termination of the anti-subsidy investigation, unless that were to be contrary to the EU's interests. As a WTO Member, the EU needs to ensure that any countervailing measure it imposes is in line with WTO rules. Any duties imposed by the EU pursuant to a finding from the EU Commission in possible violation of WTO law could expose the EU to challenges from the affected WTO Members. In the case at hand, the apparent difficulty for the EU to establish that the DETs in Argentina and Indonesia fall within the definition of a 'subsidy' under the WTO Agreement on Subsidies and Countervailing Measures (hereinafter, ASCM), as reflected in the EU Basic Anti-Subsidy Regulation, may arguably have played a role in the complaint's withdrawal.

In particular, Article 1.1 of the ASCM indicates that a subsidy exists when: (i) there is a financial contribution of a government or any public body or, alternatively, there is a form of income or price support in the sense of Article XVI of the GATT; and (ii) a benefit is conferred. In this sense, DETs may arguably qualify under Article 1.1(a)(1)(iv) of the ASCM, to the extent that the Governments of Argentina and Indonesia may have entrusted or directed 'a private body [i.e., raw materials producers] to carry out [a function for the benefit of an ultimate recipient private entity, i.e., biodiesel exporters] which would normally be vested in the government and the practice, in no real sense, differs from practices normally followed by governments'. In addition, the alternative provided by Article 1.1(a)(2) of the ASCM, that 'any form of income or price support in the sense of Article XVI of the GATT' may qualify as a 'subsidy', may arguably also cover DETs. However, the rather restrictive interpretation given by previous WTO panels to Article 1.1(a)(1)(iv) of the ASCM and the little guidance provided to Article 1.1(a)(2) of the ASCM, suggest that deep legal argumentation would be required to justify the consideration of DETs as 'subsidies' (see Trade Perspectives, Issue No. 22 of 30 November 2012). It is noted that Article 1.1(a)(2) of the ASCM was raised by Japan within the context of the WTO dispute *Canada – Renewable Energies*, although neither the panel nor the Appellate Body provided any clarification.

Despite the EBB's withdrawal of its complaint on unfair subsidisation, imports of biodiesel from Argentina and Indonesia are still subject to anti-dumping proceedings in the EU, triggered by the same complainants and opened by the EU Commission on 29 August 2012. On 28 May 2013, after the EU Commission provisionally found that targeted exporters engaged in injurious dumping, provisional anti-dumping measures were adopted in accordance with Article 7 of the EU Basic Anti-Dumping Regulation (i.e., Council Regulation (EC) No. 1225/2009 of 30 November 2009 on protection against dumped imports from countries not members of the European Community). In particular, provisional duties ranged between EUR 65.24 and EUR 104.92 per tonne net for Argentinean exporters, and between EUR 24.99 and EUR 83.84 per tonne net for Indonesian companies. Sources suggest that, on 22 October 2013, the EU Council approved the imposition of definitive anti-dumping duties on Argentinean and Indonesian biodiesel, which would reportedly range between

EUR 217 and EUR 246 per tonne net for Argentinean exporters and between EUR 122 and EUR 149 for imports from Indonesia. If so, these duties are set to come into force on 28 November 2013.

Voices have been raised in Argentina and Indonesia that WTO dispute settlement proceedings will ensue should the EU adopt definitive anti-dumping duties that are considered WTO-inconsistent. In 2012, Indonesia requested WTO consultations with the EU concerning the imposition of provisional and definitive anti-dumping duties on imports of certain fatty alcohols and their blends originating in India, Indonesia and Malaysia, as per *Council Implementing Regulation (EU) No. 1138/2011 of 8 November 2011 imposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of certain fatty alcohols and their blends originating in India, Indonesia and Malaysia*. Already at an early stage of the dispute (i.e., during consultations), the EU adopted *Council Implementing Regulation (EU) No. 1241/2012 of 11 December 2012 amending Implementing Regulation (EU) No. 1138/2011 imposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of certain fatty alcohols and their blends originating in India, Indonesia and Malaysia*, whereby it revised and lowered the anti-dumping duties imposed on Indonesian exporters.

There appears to be a proliferation of policies, measures and administrative rulings in the EU which are specifically targeting biofuels and renewable energy products in a way that gravely affects trade in such products. In this regard, it is noted that the EU currently maintains definitive anti-dumping measures on bioethanol from the US, as well as anti-dumping and countervailing measures on US biodiesel. In addition, solar panels originating from China are currently being investigated by the EU Commission and already subject to provisional anti-dumping measures. At the same time, the EU maintains measures that, although presumably designed for environment protection purposes, also have a (perhaps unintended) negative impact on trade in biofuels. For instance, the EU's regulatory framework on biofuels, with the sustainability requirements foreseen for biofuels by the Renewable Energy Directive and the Fuel Quality Directive, as well as the ongoing legislative procedure to amend it (which is to further tighten the requirements for biofuels into the EU, see Trade Perspectives, Issue No. 17 of 20 September 2013), provides an excellent example of the type of non-tariff measures currently affecting trade in biofuels into the EU. Clearly, WTO Members have every right to protect themselves from alleged instances of unfair trade, within the framework and limits imposed by the relevant WTO agreements, but the massive targeting of renewable energy products, and biofuels in particular, may (unintentionally) result in protectionist behaviour. In this respect, rulings of the WTO Dispute Settlement Body are a key tool to set the balance between the protection of legitimate interests, including the protection against unfair trading practices as well as the environment, and the need to avoid protectionist behaviours unfairly impacting trade.

## Recently Adopted EU Legislation

### Market Access

- [\*Commission Implementing Regulation \(EU\) No. 1012/2013 of 21 October 2013 on the derogations from the rules of origin laid down in Annex II to the Agreement establishing an Association between the European Union and its Member States, on the one hand, and Central America on the other, that apply within quotas for certain products from Costa Rica\*](#)
- [\*Commission Implementing Regulation \(EU\) No. 1011/2013 of 21 October 2013 on the derogations from the rules of origin laid down in Annex II to the Agreement establishing an Association between the European Union and its\*](#)



[Member States, on the one hand, and Central America on the other, that apply within quotas for certain products from El Salvador](#)

- [Council Decision of 18 October 2013 on the signing, on behalf of the European Union, of the revised Memorandum of Understanding with the United States of America Regarding the Importation of Beef from Animals Not Treated with Certain Growth-Promoting Hormones and Increased Duties Applied by the United States to Certain Products of the European Union](#)

## Trade Remedies

- [Council Implementing Regulation \(EU\) No. 1026/2013 of 22 October 2013 terminating the partial interim review concerning the anti-dumping measures applicable to imports of certain iron or steel fasteners originating in the People's Republic of China, as extended to imports consigned from Malaysia, whether declared as originating in Malaysia or not](#)

## Customs Law

- [Commission Implementing Regulation \(EU\) No. 1001/2013 of 4 October 2013 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 Regulation \(EU\) No. 1017/2013 of 23 October 2013 refusing to authorise certain health claims made on foods, other than those referring to the reduction of disease risk and to children's development and health](#)
- [Commission Regulation \(EU\) No. 1066/2013 of 30 October 2013 refusing to authorise certain health claims made on foods, other than those referring to the reduction of disease risk and to children's development and health](#)

## Other

- [Commission Delegated Regulation \(EU\) No. 1003/2013 of 12 July 2013 supplementing Regulation \(EU\) No. 648/2012 of the European Parliament and of the Council with regard to fees charged by the European Securities and Markets Authority to trade repositories](#)

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