FRATINIVERGANO
EUROPEAN LAWYERS
TRADE PERSPECTIVES©

Issue No. 4 of 24 February 2017

The WTO Agreement on Trade Facilitation enters into force

On 22 February 2016, the WTO Agreement on Trade Facilitation (hereinafter, TFA) entered into force, following the submission of an '*instrument of acceptance*' to the WTO by Chad, Jordan, Oman and Rwanda, respectively. The addition of those four WTO Members brought the total count of WTO Members that have formally accepted the TFA at the domestic level to 112, two more than the two-thirds threshold of WTO Members needed for the agreement to enter into force (*i.e.*, 110 out of 164). As the world awaited the entry into force of the TFA, several trade facilitation initiatives have been launched by WTO Members at the regional level, including by the Member States of the Association of Southeast Asian Nations (hereinafter, ASEAN), as described below. With the TFA entering into force, the expectation is that trade facilitation will gather further momentum and translate in greater business opportunities for traders, reduced transactional costs and fewer non-tariff measures (NTMs) or barriers (NTBs) impacting trade across borders.

In 2004, formal multilateral negotiations on trade facilitation were launched as part of the Doha Development Agenda (hereinafter, DDA). The DDA called for an agreement to improve and clarify Articles V, VIII and X of the General Agreement on Tariffs and Trade (hereinafter, GATT) "*with a view to further expediting the movement, release and clearance of goods, including goods in transit*". Article V of the GATT requires WTO Members to allow freedom of transit for goods, vessels and other means of transit. It is meant to limit regulatory obstacles, costs and discrimination during passage across countries' borders and requires WTO Members to allow traders to use the most convenient routes for international transit. Article VIII of the GATT requires that any fees and charges associated to importation or exportation be approximate to the services rendered. Article VIII also concerns formalities relating to importation and exportation, inasmuch as it provides that WTO Members shall not impose harsh penalties for minor or easily rectifiable regulatory or procedural mistakes related to customs procedures and clearance. Lastly, Article X of the GATT addresses transparency, in part by ensuring the publication of trade-related documents such as judicial decisions, administrative decisions and trade agreements. Together, these GATT provisions serve as the foundation of the WTO efforts to improve trade facilitation, including through the TFA.

Notably, the TFA also adds obligations on customs cooperation between and among WTO Members, and includes key flexibility and assistance regarding the implementation of the TFA by developing and least-developed countries. These latter provisions are provided in Section II of the TFA, and are an example of the so-called WTO *'special and differential treatment*' (*i.e.*, SDT). Section II allows WTO Members to categorise provisions of the TFA as Category A, Category B and Category C. Provisions identified as Category A must be implemented by the time the TFA enters into force (or, in the case of least-developed

countries, within one year after entry into force). Provisions identified as Category B must be implemented after a designated transitional period, following entry into force of the TFA. Similarly, provisions identified as Category C will be implemented after a designated transitional period, following entry into force of the TFA, but include provisions that the WTO Member in question believes require technical assistance and capacity building. Developed countries have one year to fully notify the WTO of the definitive implementation dates for Categories B and C, while least-developed countries have 3-5 years before such full implementation.

On 7 December 2013, at the Ninth WTO Ministerial Conference in Bali, Indonesia, WTO Members agreed by consensus on a new package of trade agreements (*i.e.*, the '*Bali Package*'). Almost a year later, on 27 November 2014, the WTO General Council went on to adopt a Protocol of Amendment to insert the TFA into Annex 1A of the WTO Agreement. However, in accordance with Article X:3 of the WTO Agreement, for the TFA to enter into force, two-thirds of WTO Members must have formally accepted the Protocol of Amendment at their domestic level (*e.g.*, through ratification or other valid means) and submitted their '*instruments of acceptance*'. On 8 December 2014, Hong Kong (China) was the first WTO Member to submit its '*instrument of acceptance*' to the WTO and, on 22 February 2017, Chad, Jordan, Oman and Rwanda became the most recent ones (* a full list of WTO Members that have submitted a relevant '*instrument of acceptance*' is included below). WTO Members that have submitted their '*instruments of acceptance*' to the WTO must now implement the TFA on a Most-Favoured Nation (MFN) basis. WTO Members that have not submitted an '*instrument of acceptance*' to the WTO will not be bound by the TFA until they themselves have completed domestic acceptance procedures and submitted an '*instrument of acceptance*' to the WTO, which they agreed to do when the TFA was adopted by consensus. Nonetheless, in the meantime, such WTO Members will '*free ride*' on Members that are implementing the agreement.

One regional bloc where significant efforts have been made in the area of trade facilitation is ASEAN. In the context of the WTO, nine out of ten (*i.e.*, Brunei Darussalam, Cambodia, Lao PDR, Malaysia, Myanmar, the Philippines, Singapore, Thailand and Viet Nam) ASEAN Member States (hereinafter, AMSs) have submitted their '*instrument of acceptance*' of the TFA to the WTO, with Indonesia expected to finalise this process in the near future. But within ASEAN's own Economic Community (AEC), and free trade area (AFTA), other initiatives and programmes have shown great promise. Under the AEC, as stated in the ASEAN Economic Blueprint, AMSs aim to "*transform ASEAN into a region with free movement of goods, services, investment, skilled labour, and freer flow of capital*". Paragraph 16 of the Blueprint also expressly identifies trade facilitation, and lists a number of actions to be collectively undertaken by AMSs. Notably, progress towards the achievement of AEC initiatives has come from the ASEAN Trade in Goods Agreement (hereinafter, ATIGA), which entered into force on 17 May 2010. Article 45 of the ATIGA requires AMSs to develop and implement a comprehensive ASEAN Trade Facilitation Work Programme. Most recent efforts, under the 2016 Lao PDR Chair of ASEAN, have focussed on the definition of an ASEAN Trade Facilitation Framework and the re-launch of the ASEAN Trade Facilitation Joint Consultative Committee (ATF-JCC), which is intended to advance private sector engagement and achieve a greater degree of institutional coordination on trade facilitation among AMSs and the relevant ASEAN sectoral bodies.

The ATIGA outlines a number of key trade facilitation principles, including: transparency; communications and consultations with the business and trading community; simplification, practicability and efficiency of rules; non-discrimination; consistency and predictability; harmonisation, standardisation and recognition; modernisation and use of new technology; due process; and co-operation between and among AMSs. In particular, insofar as it is defined within the context of the WTO, the ATIGA, in Article 7 thereof, references Article VIII of the GATT, and, in Article 12, directly incorporates by reference Article X of the GATT. Timely and effective implementation of the principles of trade facilitation, mandated either under the ATIGA or the WTO, look poised to have a tremendous impact on the effectiveness

of the AEC. AMSs have made substantial progress with respect to the plan outlined in the ASEAN Economic Blueprint, but much remains to be done. In some areas, such as the development of Single-Stop/Single Window Inspection (SS/SWI) border crossings, the implementation of the ASEAN Customs Transit System (known as ACTS, which is currently in the pilot stage) or the full operationalisation of the ASEAN Trade Repository (ATR) based on a network of AMSs' National Trade Repositories (NTRs), progress is being assisted by Dialogue Partners' technical assistance programmes, such as the ASEAN Regional Integration Support from the European Union (ARISE) programme. With the entry into force of the TFA, additional technical assistance and capacity building will no doubt be available, as developed countries are required to provide such funding under the TFA. However, developed and least-developed countries must notify the WTO of the assistance that they require for the implementation of specific provisions of the TFA.

At the multilateral and regional levels, commitment to the principles of trade facilitation have the potential for delivering significant results. Faster transit and customs clearance, as well as greater regulatory transparency, are fundamental drivers of trade facilitation, regional economic integration and socio-economic development, particularly to the benefit of micro-, small- and medium-sized enterprises (MSMEs), which are increasingly seen as the real engines of growth and vital actors in sustainable models of development. According to WTO economists, full implementation of the TFA could reduce the cost of trade by over 14%, and reduce the time needed to import goods by 47%, and to export goods by 91%. Overall, it could boost global trade by over USD 1 trillion per year. With the right amount of time, political will, human/financial resources and technical assistance, these efforts will continue to elevate WTO Members around the world, and in particular AMSs, as attractive investment destinations.

** The full list of WTO Members that have ratified the TFA and submitted instruments of acceptance to the WTO includes (in chronological order): Hong Kong, Singapore, the US, Mauritius, Malaysia, Japan, Australia, Botswana, Trinidad and Tobago, Korea, Nicaragua, Niger, Belize, Switzerland, Chinese Taipei, China, Liechtenstein, Lao PDR, New Zealand, Togo, Thailand, the EU (on behalf of its 28 Member States), Macedonia, Pakistan, Panama, Guyana, Côte d'Ivoire, Grenada, Saint Lucia, Kenya, Myanmar, Norway, Viet Nam, Brunei Darussalam, Ukraine, Zambia, Lesotho, Georgia, Seychelles, Jamaica, Mali, Cambodia, Paraguay, Turkey, Brazil, Macao, the United Arab Emirates, Samoa, India, Russia, Montenegro, Albania, Kazakhstan, Sri Lanka, St. Kitts and Nevis, Madagascar, Moldova, El Salvador, Honduras, Mexico, Peru, Saudi Arabia, Afghanistan, Senegal, Uruguay, Bahrain, Bangladesh, the Philippines, Iceland, Chile, Swaziland, Dominica, Mongolia, Gabon, the Kyrgyz Republic, Canada, Ghana, Mozambique, Saint Vincent & the Grenadines, Nigeria, Nepal, Rwanda, Oman, Chad and Jordan.*

A shift in global trade priorities – trade negotiations between the EU and Japan and between the EU and Mexico are to be accelerated

On 17 February 2017, the European Commission (hereinafter, Commission) and Japan announced their "*commitment for an early conclusion*" of bilateral trade negotiations, which have been ongoing since 2013. On a similar note, on 1 February 2017, the EU and Mexico announced their aim to "*accelerate*" negotiations to update their trade relationship, which is currently governed by an agreement that entered into force in the year 2000. Both announcements have to be seen as a reaction to global trade developments, in particular, the decision by the US to withdraw from the Trans-Pacific Partnership (hereinafter, TPP), the potential renegotiation of the North American Free Trade Agreement (hereinafter, NAFTA) between Canada, Mexico and the US, and the uncertain fate of the Transatlantic Trade and Investment Partnership (hereinafter, TTIP). This shift of priorities looks poised to deliver important trade benefits to other negotiating constellations and countries and regions around the world.

On 25 March 2013, the EU and Japan officially launched negotiations for a free trade agreement (hereinafter, FTA). A general impact assessment of the future EU-Japan FTA had been conducted by the EU and published in July 2012, ahead of the preparations for the actual negotiations (see *TradePerspectives*, Issue No. 18 of 5 October 2012). For quite some time, negotiations only proceeded slowly and appeared to have reached an impasse due to various obstacles, including, in particular, agriculture. Earlier in 2016, negotiations only progressed at a rather slow pace as Japan appeared to be placing a stronger emphasis on the ratification of the TPP. With the fate of the TPP now uncertain, after the withdrawal of the US, Japan's priorities clearly appear to have shifted in the direction of renewed negotiations with the EU. Reportedly, both sides now appear to aim at a conclusion even before the elections that are to take place in major EU Member States, such as presidential election in France, as early as late April 2017. The next negotiating round is supposed to be scheduled soon. With regard to the substance of the negotiations, a "*broad agreement*" is reportedly within sight and EU Commissioner for Trade Cecilia Malmström noted that "*tremendous progress has been registered over the last few months".*

As already reported in 2016 (see *TradePerspectives*, Issue Number 10 of 20 May 2016), a number of issues remain controversial. Core issues appear to be market access and non-tariff measures (hereinafter, NTMs). The EU aims at achieving improved market access for dairy products, meat, timber and wine. However, the EU's ambitions appear to go beyond the market access concessions made by Japan in the negotiations of the TPP. At the same time, Japan is requesting the EU to remove tariffs on motor vehicles and electronic devices, which currently stand at 10% and up to 14%, respectively. These areas are very sensitive for the two negotiating parties and their domestic constituencies. Noteworthy, and an indicator that negotiations may indeed be concluded in the near future, is the progress announced in the report published after the most recent negotiating round in September 2016, a stark contrast to the previous rounds. The report notes, *inter alia*, that work on the TBT Chapter and big parts of the Services Chapter is nearly finalised. Discussions related to the TBT Chapter also extended to NTM issues, which still appear to be hindered by a lack of transparency and clarity of existing measures.

The future EU-Japan FTA looks poised to bring the most advantages to the EU's agro-food producers. This is mostly due to Japanese dependence on external food supply, as well as high Japanese consumer demand for specialty products form the EU, such as wine, ham, cheese and beer. Therefore, the EU aims at facilitating markets access of these kinds of products. The EU is reportedly also interested in removing tariffs on chocolate, pasta, tomato paste and cheese, but is reportedly open to accommodate Japanese interests concerning '*sensitive*' products such as rice, beef and pork. Indeed, the report of the September 2016 negotiating round indicates that market access negotiations mostly focused on the areas of, *inter alia*, agricultural and processed agricultural products, as well as fishery products.

A further key aspect is the reconsideration by Japan of its regulations on food additives, which are currently much stricter than existing guidelines of the United Nations Food and Agriculture Organisation (FAO). One notable example pertains to the issue of certain beers exported from the EU, which, due to Japanese regulations, may not be allowed to be labelled as beer. Instead, another product category entitled '*bubbly spirits*' applies and subjects beers exported from the EU to different prices and taxes from the ones applied to Japanese beers. The report of the September 2016 round notes that "*special efforts were dedicated to food additives*", suggesting that no breakthrough has yet been reached in this important area. Interested stakeholders should take note of the accelerated pace so as to avoid that important trade facilitative elements are neglected in view of a speedy finalisation of the negotiations.

The Economic Partnership, Political Coordination and Cooperation Agreement (hereinafter, Global Agreement) between the EU and Mexico was signed in 1997. This '*Global Agreement*' included provisions that were developed into a preferential trade agreement

through Decision No 2/2000 of the EC-Mexico Joint Council of 23 March 2000 and that entered into force in October 2000. The Commission highlights that, between 2005 and 2015, the yearly trade flow of goods between the two trading partners more than doubled from EUR 26 billion to EUR 53 billion. The acceleration of the trade negotiations with Mexico particularly entails scheduling additional negotiating rounds during the course of 2017. For the first half of 2017, two additional rounds were added to the Schedule. The rounds will be held from 3 to 7 April 2017 and from 26 to 29 June 2017. Additionally, the EU Commissioner for Trade Cecilia Malmström and Mexico's Minister of Economy Ildefonso Guajardo have agreed to meet between those two rounds in order to "*take stock and push negotiators for further progress*".

The agreement provides for a multi-tiered approach to liberalisation, listing eight categories that classify products and provide for specific timelines of liberalisation. However, a large number of products pertaining to agricultural and fisheries products are declared as '*category 5*' products. Articles 8(6) and 9(6) of Decision No 2/2000 of the EC-Mexico Joint Council provide that customs duties on imports listed in Annex I and II (Tariff Elimination Schedules) under '*category 5*' shall be reduced in accordance with the provisions of Article 10. Article 10 of Decision No 2/2000 of the EC-Mexico Joint Council is a "*Review Clause for Agricultural and Fisheries Products*", which calls on the Joint Council to consider further steps in the process of liberalisation of trade with respect to customs duties and tariff quotas within three years of the entry into force. However, it appears that, until now, no further steps liberalising trade in agricultural goods under '*category 5*' have been taken by Mexico and the EU and that no preferential duties or tariff quotas are currently in place for a high number of such products. This affects important – and sensitive – products such as sugar, meat and grains. For example, Mexican sugar entering the EU market is currently subject to a non-preferential import duty of EUR 419 per metric tonne (white sugar) and EUR 339 per metric tonne (raw sugar).

Therefore, an important issue during the upcoming negotiations will likely be the improvement of market access for both sides in areas currently not covered by the '*Global Agreement*'. These negotiations look poised to be difficult as products, such as sugar and meat, in particular pork and beef, are sensitive products for Mexico and the EU. Further to enhanced market access, negotiations on rules of origin, as well as the chapter pertaining to Sanitary and Phytosanitary (hereinafter, SPS) measures, are likely to be more controversial than others. The issue of rules of origin will likely constitute a burdensome issue as Mexico's economy is closely intertwined with those of its neighbouring countries. Reportedly, the EU and Mexico are already cooperating with the aim of aligning their food safety standards and SPS measures. Indeed, in relation to the EU text proposals published by the Commission in December 2016, the Commission specifically notes that the proposal aims at increasing "*cooperation on imports requirements related to food safety, plant and animal health*".

While the fate of large scale preferential trade agreements, such as the TTIP and the TPP, remains mostly unclear, a large number of negotiations are concurrently progressing. This includes the negotiations between the EU and Japan and between the EU and Mexico, but interested stakeholders should also closely follow the EU's trade negotiations with the Philippines and with Indonesia, where progress can be expected during the course of this year. At the same time, the Commission clearly indicates that the focus on Latin America will also mean stepped up efforts with respect to the everlasting negotiations with MERCOSUR (consisting of Argentina, Brazil, Paraguay, Uruguay and (currently suspended) Venezuela), with which a new negotiating round is scheduled for March 2017 in Buenos Aires, Argentina. The uncertainties with respect to US trade policy and the fate of the TPP provide a clear opportunity for the EU and for countries around the world to further shape global trade policy. Still, negotiations with Japan and Mexico can be expected to be a primary focus of the Commission in the coming months and businesses, trade associations and non-governmental organisation should seize the opportunity before negotiations are finalised and the agreements concluded.

The complex regulation of maximum levels of acrylamide in food

On 31 January 2017, the European Parliament's Committee on the Environment, Public Health and Food Safety (hereinafter, ENVI Committee) held an exchange of views with the Commission and the European Food Safety Authority (hereinafter, EFSA) on a draft *Commission Regulation on the application of Codes of Good Practice to reduce the presence of acrylamide in food*. This draft ensued a debate on why the Commission intends to use Regulation (EC) No. 852/2004 on the hygiene of foodstuffs as a legal basis to regulate the presence of acrylamide instead of Commission Regulation (EC) No. 1881/2006 setting maximum levels for certain contaminants in foodstuffs (*i.e.*, nitrate, mycotoxins, heavy metals, dioxin and PCB, Polycyclic aromatic hydrocarbons (PAH), melamine and inherent plant toxins).

Acrylamide, which can have negative effects on human health, is a chemical that has been shown to be present in food as a result of cooking practices, some of which have been used for centuries. Therefore, finding ways to reduce the levels is complex. In particular, starchy foods have been shown to be affected, such as potato and cereal products, which have been deep-fried, roasted or baked at high temperatures, but also instant coffee and baby foods. A *Codex Alimentarius Code of Practice for the Reduction of Acrylamide in Foods (CAC/RCP 67-2009)* addresses acrylamide mainly formed in food by the reaction of asparagine (an amino acid) with '*reducing sugars*' (particularly glucose and fructose) as part of the so-called *Maillard* Reaction.

On 3 May 2007, the Commission adopted a *Recommendation on the monitoring of acrylamide levels in food*. This recommendation has been extended to more food categories by *Recommendation 2010/307/EU*. EFSA has published a number of reports with the results of the monitoring of acrylamide levels in food carried out in EU Member States. On 10 January 2011, the Commission adopted a *Recommendation on investigations into the levels of acrylamide in food*, which advised EU Member States to carry out investigations in cases where the levels of acrylamide in foodstuffs, tested in the monitoring exercise, exceed certain indicative values of acrylamide. These assessments by EU Member States have shown that further risk management measures are needed to further reduce the presence of acrylamide in food. In order to support appropriate risk management measures, EFSA has been requested by the Commission to provide a comprehensive risk assessment on acrylamide in food. It was decided to continue, in the meantime, the exercise of investigations on reasons of levels of acrylamide higher than the indicative levels, but more targeted and with a review of the indicative levels. The Commission adopted, on 8 November 2013, *Commission Recommendation 2013/647/EU on investigations into levels of acrylamide in food*, which sets in its Annex the indicative acrylamide values based on the EFSA monitoring data from 2007-2012. FoodDrinkEurope (FDE), in representation of the EU food industry and in close co-operation with the national authorities and the Commission, has developed a '*toolbox*' to highlight ways to lower levels of acrylamide in food. Sector-specific brochures have been designed to help food business operators (hereinafter, FBOs) to implement those items of the '*toolbox*' that are relevant for their sector (*i.e.*, biscuits, crackers and crispbreads, bread products, breakfast cereals, fried potato products/potato crisps, fried potato products/french fries, food for infants and young children).

On 4 June 2015, following a comprehensive review, EFSA published its scientific opinion on acrylamide in food. EFSA reconfirmed previous evaluations that acrylamide in food potentially increases the risk of developing cancer for consumers in all age groups. Evidence from animal studies shows that acrylamide and its metabolite glycidamide are genotoxic and carcinogenic (*i.e.*, they damage DNA and cause cancer). Evidence from human studies that dietary exposure to acrylamide causes cancer is currently limited and inconclusive. Since acrylamide is present in a wide range of everyday foods, this health concern applies to all consumers, but children are the most exposed age group on the basis of body weight.

On 4 October 2016, the European Parliament adopted a motion for a resolution on the Commission's proposals of new rules to limit human exposure to acrylamide, which notes that the Commission proposal limits itself to requiring the agro-food industry to comply with a vague code of conduct drawn up by its own pressure groups and that the values that industry undertakes to comply with are purely indicative and largely higher than the levels of acrylamide in the food tested by the EFSA. The motion for a resolution calls on the Commission to consider adopting more binding measures concerning the presence of acrylamide in foodstuffs.

Following EFSA's opinion, in November 2016, the Commission submitted a draft *Commission Regulation on the mandatory application of Codes of Good Practice*. The draft currently being proposed establishes compulsory measures to reduce the risk of acrylamide forming in food, and use of benchmark levels to verify their efficacy. It proposes to reduce the presence of acrylamide as much as possible by applying measures to prevent and reduce formation of acrylamide in specific manufacturing practices. These measures are contained in Codes of Good Practice that have been developed by the relevant sector organisations. Given the human health concerns related to the presence of acrylamide in food, the proposal makes the application of the Codes of Good Practice mandatory.

FBOs should establish an ongoing monitoring programme of analysis for acrylamide levels to confirm that the application of the Code of Good Practice is effective to reduce the presence of acrylamide in food. Indicative values are established as benchmarks to check the effectiveness of the Codes of Good Practice applied. More frequent sampling and analysis, to confirm that the application of the Code of Good Practice is effective to reduce the presence of acrylamide, is necessary for the FBOs producing food products covered by Codes of Good Practice, which contain less obligatory requirements for application of mitigation measures than the FBOs producing food products covered by Codes of Good Practice, which contain more obligatory requirements for application of mitigation measures. The successful application of the Codes of Good Practice should result in lower levels of acrylamide and, therefore, the indicative levels should be regularly reviewed in view of a further reduction of the levels of acrylamide in food. The mandatory mitigation measures will, therefore, require FBOs to evaluate the risk of acrylamide formation for their products, develop measures to reduce the risk and monitor their own systems, and present samples for analysis, using strict benchmark levels in order to assess the efficacy of the mitigation measures. A first review is proposed to take place immediately after the entry into force of the Regulation.

During an exchange of views on 31 January 2017, the European Parliament's ENVI Committee requested the Commission to clarify why, in view of the human health concerns expressed by EFSA and its recommendation that exposure be kept as low as possible, the current draft measure does not propose binding maximum levels for acrylamide in food. Reportedly, the Commission is convinced that the envisaged measures would result in an effective reduction of the presence of acrylamide in food. Several Members of the European Parliament (*i.e.*, MEPs) reportedly questioned the Commission's choice of the EU food hygiene regulation as the legal basis for drafting legislation on acrylamide, rather than the EU regulation on contaminants in food. The Commission reportedly responded by saying that it made sense because the hygiene regulation requires FBOs to take responsibility for the safety of their own products. The binding maximum levels for certain foods, however, would be based on the relevant regulation for chemical contaminants. Using these two different regulations reflected the complexity of the issue. According to the Commission, acrylamide is not a technical contaminant that can be banned, reportedly adding that it required applying best practice techniques to food processing, as well as selecting certain raw materials and using specific storage techniques. The actual maximum levels for acrylamide, and the full list of affected foods, will be decided later this year following the adoption of the regulation currently being proposed.

Swiss scientists confirm that setting legal limits for acrylamide is problematic and, instead, the industry should be regulating '*reducing sugars*' for potatoes intended for (deep) frying or roasting as a more effective and easier-to-enforce method, than the one of reducing acrylamide in final products. Legal limits on acrylamide in final products are problematic, as limits would need to be high in order to prevent a quasi-ban on certain foods. However, a high limit also equates to an approval up to that level, which for a substance like acrylamide would potentially increase the risk of developing cancer. Instead, regulation at the source is being suggested, urging FBOs to use potato varieties with low '*reducing sugars*'. Reportedly, an improvement in acrylamide levels has been seen in Switzerland, where such regulation is carried out.

Interested food industry stakeholders must continue to monitor the legislative procedures in relation to acrylamide, analyse any new proposal being made, develop a position and engage with the key stakeholders and competent authorities at the EU and EU Member States level.

Recently Adopted EU Legislation

Trade Remedies

- *Commission Implementing Regulation (EU) 2017/271 of 16 February 2017 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) 2017/272 of 16 February 2017 initiating an investigation concerning the possible circumvention of anti-dumping measures imposed by Council Implementing Regulation (EU) No 1331/2011 on imports of certain seamless pipes and tubes of stainless steel originating in the People's Republic of China by imports consigned from India, whether declared as originating in India or not, and making such imports subject to registration*

- *Commission Implementing Regulation (EU) 2017/242 of 10 February 2017 initiating a review of Implementing Regulations (EU) 2016/184 and (EU) 2016/185 (extending the definitive countervailing and anti-dumping duty on imports of crystalline silicon photovoltaic modules and key components (i.e. cells) originating in or consigned from the People's Republic of China to imports of crystalline silicon photovoltaic modules and key components (i.e. cells) consigned from Malaysia and Taiwan, whether declared as originating in Malaysia and in Taiwan or not) for the purposes of determining the possibility of granting an exemption from those measures to one Malaysian exporting producer, repealing the anti-dumping duty with regard to imports from that exporting producer and making imports from that exporting producer subject to registration*

Food and Agricultural Law

- *Commission Implementing Regulation (EU) 2017/307 of 21 February 2017 concerning the authorisation of dry grape extract of Vitis vinifera spp. vinifera as a feed additive for all animal species except for dogs*

- *Commission Implementing Regulation (EU) 2017/295 of 20 February 2017 on exceptional market support measures for the poultry meat sector in France*

- *Commission Implementing Decision (EU) 2017/302 of 15 February 2017 establishing best available techniques (BAT) conclusions, under Directive 2010/75/EU of the European Parliament and of the Council, for the intensive rearing of poultry or pigs*

- *Commission Regulation (EU) 2017/269 of 16 February 2017 amending Regulation (EC) No 1185/2009 of the European Parliament and of the Council concerning statistics on pesticides, as regards the list of active substances*

- *Commission Regulation (EU) 2017/236 of 10 February 2017 refusing to authorise a health claim made on foods and referring to the reduction of disease risk*

Ignacio Carreño, Tobias Dolle, Yury Rovnov, Bruno G. Simões and Paolo R. Vergano contributed to this issue.