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Issues appear to remain in Trinidad and Tobago's fishing industry, but improvement efforts are ongoing

News reports in August 2017 highlight ongoing issues associated with illegal, unreported and unregulated (hereinafter, IUU) fishing, at least as they pertain to Trinidad and Tobago. However, the Government of Trinidad and Tobago appears to be engaged in improving systemic issues within its fishing industry, which should at least keep it safe from an outright prohibition to export to the EU (*i.e.*, a '*red card*' issued).

The EU's framework to fight IUU fishing, based on its 2010 IUU Regulation and additional instruments, adopted in November 2013 (see *Trade Perspectives*, Issue No. 23 of 13 December 2013), requires flag States to certify the origin and legality of fishery products in order to trace the fishery products on the EU market. If a country is unable to comply with international rules, the European Commission (hereinafter, Commission) will first attempt to assist and improve the legal framework of said country and its enforcement *via* its *'card system'.* The first issuance by the EU Commission (*i.e.*, issuance of a '*yellow card*') pre-identifies the country as non-cooperative and opens a 6-month formal dialogue to assist the country to improve its system. After the 6-month formal dialogue (which can be extended), the Commission evaluates the country's situation and either lifts the pre-identified status (*i.e.*, issues a '*green card*') or formally identifies the country as being non-cooperative (*i.e.*, issues a '*red card*'). A '*red card*' results in the imposition of a ban of all fishery products imported directly or indirectly from the country listed as non-cooperative (see *Trade Perspectives*, Issue No. 16 of 11 September 2015).

In April 2016, the EU issued a '*yellow card*' warning to Trinidad and Tobago (along with Kiribati and Sierra Leone). According to the Commission, the authorities of Trinidad and Tobago did not have control of, or did not inspect, foreign vessels that operate in their territorial waters. Additionally, there has been a lack of cooperation with relevant flag States. Following standard procedure, the Commission prepared an action plan for Trinidad and Tobago and initiated the formal 6-month dialogue. Yet, as of September 2017, the formal dialogue appears to be ongoing and Trinidad and Tobago remains one of eleven countries with which the Commission is cooperating (the other countries being Cambodia, Comoros, Kiribati, Liberia, Sierra Leone, St Kitts and Nevis, St Vincent and the Grenadines, Taiwan, Thailand, and Tuvalu). Indeed, this extension of the 6-month dialogue is common. For example, in April 2015, Thailand received a '*yellow card*' from the Commission due to its inadequate legal framework on fisheries and poor monitoring, traceability and control systems. Even so, more than two years later, the Commission has not elevated the issue with Thailand to the issuance of a '*red card*'. The Commission has indicated that it continued to cooperate with the Thai authorities and to monitor their progress. For its part, Thailand has taken numerous steps. In relevant part, Thailand's Department of Fisheries introduced the 2015 Fisheries Act, which seeks to ensure the sustainability of marine resources and that all fishing activities in Thailand meet global standards. Furthermore, in May 2016, the Thai Command Centre for Combating Illegal Fishing established three working committees to, *inter alia*, address the general public's complaints regarding local fishing, commercial fishing and legal implications. In addition, other related agencies have been appointed to work towards the enforcement of international fisheries laws.

The situation between the EU and Thailand appears to be comparable to that with Trinidad and Tobago, insofar as there are issues that the Commission has flagged and that it has allowed flexibility in terms of the 6-month dialogue period as Trinidad and Tobago continues to improve its fisheries legislation. As highlighted in a report published on *SeafoodSource*, fisheries are overexploited, and thus local fisherman must go further to sea, but still catch less and less fish. The article refers to a 2014 report by the Ministry of Agriculture, Land and Fisheries of Trinidad and Tobago, which found that key fish stocks were overfished, including king mackerel, in part because the country lacked a management plan. Other issues included the types of fishing equipment used, issues relating to oil and gas exploration, a lack of effective monitoring and surveillance, excessively high bycatch rates, and a lack of up-to-date fisheries legislation. With respect to the last point, it appears that a Draft Fisheries Management Bill is being developed, and that the country has not yet, but plans to, implement and ratify the United Nations Port State Measures Agreement. On 24 July 2017, the Ministry of Agriculture, Land and Fisheries had welcomed a delegation from the Food and Agriculture Organisation of the United Nations (FAO), highlighting the start of a project to '*Strengthen the Fisheries Legislation in Trinidad and Tobago; Focus on IUU Fishing'*. In view of this visit, the Minister of Agriculture, Land and Fisheries of Trinidad and Tobago stated that Government's priorities were legislation, port security measures and inspections, all of which required inter-agency cooperation. With respect to the Draft Fisheries Bill, a consultative process is ongoing and the Bill is supposed to be finalised by the end of October 2017.

Given the Commission's track record of flexibility with other countries that do not yet meet its IUU fishing standards, this is a good sign for Trinidad and Tobago's ability to continue exporting fisheries products to the EU. However, it appears that there is still considerable work to be done. In May 2017, the Commission issued a '*red card*' to Saint Vincent and the Grenadines, where it noted that many vessels registered in Saint Vincent and the Grenadines, and operating illegally there, were actually landing or transhipping in Trinidad and Tobago, where controls are inadequate. In this respect, the Commission has also warned Trinidad and Tobago in order to improve control over activities in its ports. The Commission noted that Trinidad and Tobago had a large fleet operating internationally, where authorities did not control or inspect foreign vessels, nor cooperate with relevant flag States. Furthermore, the Commission underlined that Trinidad and Tobago's poor traceability system increased the risk of '*fisheries laundering*'.

Therefore, it is important that the Government of Trinidad and Tobago continues to cooperate with the Commission and demonstrates its efforts to improve legislation and enforcement in this area. Interested stakeholders should also encourage and take part in these efforts. As it does with all countries that it issued '*yellow cards*', the Commission has proposed a tailor-made action plan for Trinidad and Tobago, while monitoring the progress. Past examples, such as with Thailand, show that the Commission is willing to extend the formal dialogue for years, but it is important that the political will does not stall. Where possible, Government officials should also consider outside advice and counsel to ensure that exports are not negatively affected by a potential '*red card*' in the near future. The stakes are too high, both in environmental and commercial terms, to risk losing an important market like that of the EU and facing the negative domino effects that a red card would entail.

The protection of EU geographical indications in China – 8 EU Member States will pursue legal action against '*counterfeit*' trademarks, while a US consortium objects to the EU-China GI Agreement

Reports in August 2017 indicate that eight EU Member States will shortly pursue legal action against China with respect to 25 '*counterfeit*' trademarks on the Chinese market that have the same designation as products protected by EU's geographical indications (hereinafter, GIs). On 2 June 2017, the European Commission (hereinafter, Commission) and China formally published a list providing the GIs to be included in a bilateral agreement that is to be concluded by the end of this year, but which does not address the issue of existing trademarks. Also in August 2017, the US Consortium for Common Food Names (hereinafter, CCFN) formally objected to the protections granted under the EU-China GI Agreement. The issue of GI protection remains controversial, mainly due to the different approaches in different jurisdictions and the diverging interests of food businesses.

The controversial issue of protecting certain products through GIs plays a major role in EU agricultural policies, as well as in ongoing international trade negotiations. The EU's approach aims at supporting regional specialities, while at the same time enhancing and safeguarding their reputation. In the EU, *Regulation (EU) No. 1151/2012 of the European Parliament and of the Council of 21 November 2012 on quality schemes for agricultural products and foodstuffs* (hereinafter, the EU's GI Regulation) covers the protection of GIs. This Regulation designates two types of GIs: 1) a Protected Designation of Origin (PDO), which applies to foodstuffs that are produced, processed and prepared in a given geographical area using recognised '*know-how*'; and 2) a Protected Geographical Indication (PGI), which indicates a link with the area in at least one of the stages of production, processing or preparation. However, names that have become generic (*e.g.*, Dijon mustard) and names that conflict with the name of a plant variety or an animal breed may not be registered as GIs in the EU. The EU notes that GIs are one of the great successes of EU agriculture, with over 3,300 EU names currently registered. A further 1,250 non-EU names are also protected within the EU, mostly under bilateral agreements, such as the agreement with China that is currently under negotiation. GIs have considerable economic importance for EU farmers and for the EU agro-food industry. Most notably, products protected by a GI can be sold at higher prices, often at around twice the price of their immediate non-GI competitors.

The legal concept of GIs aims at providing legal protection against the imitations and usurpations of food and agricultural products. The protection through GIs focuses on preventing the misuse of names, which could mislead consumers as to the origin of agricultural products and their quality or characteristics, which provide added culinary and economic value. On 2 June 2017, the EU and China formally published a list of 100 EU's GIs and 100 Chinese GIs considered for protection through a bilateral GI Agreement to be concluded by the end of this year (see *Trade Perspectives*, Issue No. 12 of 16 June 2017). Considering that the Chinese market for agro-food products is one of the largest in the world and that it continues to grow, the EU has a strong interest in bringing its high quality products onto the Chinese market and achieving a high degree of protection from imitations.

The pursuit of such protection appears to be already under way. Initiated by the Greek Government, France, Germany, Hungary, Italy, Portugal, Romania and Spain agreed, in August 2017, to launch a joint lawsuit in China concerning 25 '*counterfeit*' trademarks, which have the same designation as products protected by EU's GIs, but that are registered as trademarks in China. The list includes mostly wines and spirits (*e.g.*, Greek Samos wine), but also other products such as Greek feta cheese, Spanish olive oils and Italian vinegar, which are marketed with their protected names written in the local language. Reportedly, Greece noted that China had refused to take action against the respective trademarks. While the issue could probably be resolved as part of the negotiations, Greece reportedly considers the Commission's intent to swiftly conclude the negotiations as an impediment to the resolution of the dispute. While the Commission appears to be open and supportive of this coordinated attempt by the group of EU Member States, it confirmed that it did not intend to use the negotiations to address the EU's GIs already registered as trademarks in China during the negotiations. The eight EU Member States reportedly seek the revocation of the relevant '*counterfeit*' trademarks.

In China, the Trademark Office, under the authority of the State Administration for Industry and Commerce (hereinafter, TMO and SAIC, respectively), the General Administration of Quality Supervision, Inspection and Quarantine (hereinafter, AQSIQ), and the Ministry of Agriculture (hereinafter, MoA) protect and register GIs. The SAIC and the TMO protect GIs as a trademark right; AQSIQ aims at certifying the quality of production processes and related production standards by means of registration of GIs; and the MoA focuses on the protection of primary agricultural products. By the end of 2015, the TMO had approved the registration of a total of 2,984 GIs, including 83 foreign GIs, as collective or certification marks, which provide the same level of legal and economic protection as for any other logo, name or mark registered as a trademark. Of those 83 foreign GIs, 58 were of European origin: 33 French, 18 Italian, 3 British, 2 German and 2 Spanish GIs. Alternatively, and in addition, GIs can be registered at the AQSIQ, which monitors and manages the quality and standard of products offered in China. A dual registration can ensure that the GI is protected both as an intellectual property right and as a standard providing a certain level of quality assurance to the public.

China maintains a '*first-to-file*' system for trademarks, which means that an intended GI may have already been registered as a trademark. In such a situation, cancellation procedures can be initiated if the trademark is deemed to mislead the public into believing that the product originated in a specific geographical location. However, those administrative measures to end the infringement of a GI cannot result in any monetary damages. To achieve compensation, interested parties must have recourse to litigation or negotiations under the China Trademark Law and, therefore, only collective or certification mark holders can pursue this course of action. With regard to wines and spirits, it is prohibited to use another party's registered GI as a collective or certification trademark to identify wines that are not from the GI region. This is also prohibited if the true origin of the product is indicated or if the GI is used as a translation or accompanied by expressions such as '*kind*', '*type*', '*style*'. The Commission stated that it had no objection to EU's GI producers taking legal action to revoke '*counterfeit*' trademarks in China "*as part of a normal procedure under trademark law*".

Meanwhile, the US food industry is joining the debate, reacting to the soon to be concluded EU-China GI Agreement. At the end of August 2017, the CCFN, mostly representing the US dairy industry, filed a formal objection with the Chinese Government concerning the EU-China GI agreement. The process of recognising GIs allows third parties to file objections to the request for protection by submitting a duly motivated statement. The formal objection filed with China will likely be assessed during the final negotiations at the end of this year and refers to the issue of common or generic names. Such complaints, however, must be justified on the basis of objective evidence (*e.g.*, supported by consumer surveys, dictionary entries or other proofs). The burden of proof lays initially on those that object. Most importantly, the principle of territoriality applies, meaning that the demand for generic names applies exclusively to the territory covered by the agreement, in this case the EU and China. Therefore, an objection by US businesses does not appear to have large prospects of success.

The CCFN describes itself as "*an independent, international non-profit alliance, whose goal is to work with leaders in agriculture, trade, and intellectual property rights to foster the adoption of high standards and model geographical indication guidelines throughout the world*". In practice, this means that it mainly aims at countering the EU's approach on GIs, while supporting the notion of '*common food names*', underlining that "*Everyone should have the right to use common names in marketing well-known, favorite foods*". The CCFN does support GIs for names associated with specialised foods from regions throughout the world, but it opposes any attempt to monopolise common or generic names that have allegedly become part of the public domain. While the EU's GI Regulation provides that names that have become generic may not be registered as GIs in the EU, the Court of Justice of the EU (CJEU) has applied a broad reading of the EU's GIs, maintaining for instance that the protection of '*Parmigiano Reggiano*' also prohibits the use of '*Parmesan*' for products not originating in the respective region. The different approach of what does or does not constitute a generic product names looks poised to further complicate the ongoing debates on GIs.

The issue of GIs plays an increasingly important role for agricultural producers within the EU and for EU trade policy, as the EU-China GI Agreement and other trade negotiation contexts evidence. Still, the '*counterfeit*' trademarks registered in China and the formal objection raised by the CCFN, show the different approaches to such protection around the world and the scope for commercial disputes. Intellectual property rights procedures, the diverging interests of food businesses and the protection of consumer rights contribute to a high degree of complexity. Still, the enforcement of GIs and the production of protected products in compliance with the guidelines set out in the relevant legislation, is key to ensure high quality products and to maintain consumers' trust. Interested parties should be part of the debate and reach out to relevant officials, so as to ensure that their business interests are properly safeguarded.

Italy adopts mandatory country of origin labelling for durum wheat pasta and rice and intends to adopt similar rules for tomato products – how cool is COOL in trade terms?

On 17 August 2017, the Italian Official Journal published the Italian Decree of 26 July 2017 (*Decreto 26 luglio 2017 - Indicazione dell'origine, in etichetta, del grano duro per paste di semola di grano duro*) that requires mandatory country of origin labelling (hereinafter, COOL) for durum wheat in pasta made from durum wheat flour (*i.e.*, durum semolina). A day before, on 16 August 2017, a similar decree had been published requiring mandatory country of origin labelling for rice (*Decreto 26 luglio 2017 - Indicazione dell'origine in etichetta del riso*). In addition, on 4 September 2017, the Italian Minister of Agriculture Maurizio Martina announced a mandatory country of origin labelling scheme for tomato products. None of these measures were previously authorised by the European Commission (hereinafter, Commission).

Mandatory COOL rules for single-ingredient food products, like durum wheat pasta and rice, and for ingredients that represent more than 50% of a food have been debated in the EU, particularly in Italy, for considerable time, already before the adoption of *Regulation (EU) No 1169/2011 on the provision of food information to consumers* (hereinafter, FIR) in 2011. Now Italy has unilaterally acted on durum wheat pasta and rice and also announced the introduction of COOL for tomato products. This article focusses on the Decree on COOL for durum wheat pasta, which essentially provides that labels on pasta products must include the name of the country in which the durum wheat used was cultivated and milled.

Article 2 of the Decree provides that, on the label of the pasta product, the following information must be indicated: (a) the '*country of cultivation of the wheat*': the name of the country in which the durum wheat was grown; and (b) the '*country of milling*': the name of the country in which the semolina was obtained (through milling). Article 3 of the Decree on COOL for durum wheat pasta addresses the indications to be affixed on the pasta labels in the case of durum wheat or durum semolina obtained in more than one country: where cultivation or milling occur in the territories of more than one EU Member State or outside the EU, the following entries may be used to indicate where the single operation has been carried out, even in the absence of mixtures: '*EU*', '*non-EU*', or '*EU and non-EU*'. Where the durum wheat used has been cultivated for at least 50% in a single country, the '*name of the country*' in which at least 50% of durum wheat and other countries were cultivated *'and other* *countries: 'EU', 'non EU', 'EU and non-EU'* may be used, depending on the origin. Therefore, with regard to durum wheat, if at least 50% of the durum wheat used in a product is grown in one country (such as Italy), the label '*Italy and other EU and/or non-EU countries*' should be used. However, Article 6 of the Decree on COOL for durum wheat pasta provides for a so-called mutual recognition clause, by which the rules will neither be applied to pasta lawfully made in other EU Member States and third countries nor for Italian pasta intended for export (since the labelling rules to be respected are those in force in the target market).

The Decree recalls Article 26(3) of the FIR, which provides that, where the country of origin or the place of provenance of a food is given and where it is not the same as that of its primary ingredient: (a) the country of origin or place of provenance of the primary ingredient in question shall also be given; or (b) the country of origin or place of provenance of the primary ingredient shall be indicated as being different to that of the food. The application of this paragraph is subject to the adoption of an implementing act, which to date has not yet been adopted. However, a Commission spokesperson in August 2017 reportedly announced that implementing rules are planned to be adopted in the second half of 2017. This is also an important difference to recently introduced national COOL requirements for dairy and milk products, where the Commission has opted, for the moment, not to issue legislation and has temporarily permitted national schemes, awaiting reports from the respective EU Member States (for details, see *Trade Perspectives*, Issue No. 14 of 15 July 2016). Italy appears to have become impatient at the speed at which the EU is implementing similar measures, clearly indicating the origin of food, when it is not the same as the primary ingredient. This would change current rules, under which a processed product marketed as '*made in Italy*', can arguably contain imported ingredients without the obligation to inform the consumer. But Italy has chosen to go ahead with legislation without waiting for the Commission, which, according to the Italian Minister of Agriculture Martina, "*chose not to proceed in a timely manner with the full implementation of the labelling regulation*".

The Decree on COOL for durum wheat pasta recalls the '*Report of the Commission to the European Parliament and the Council of 20 May 2015 under Article 26(5) of the FIR regarding the mandatory indication of the country of origin or place of provenance for single ingredient food products and for ingredients that represent more than 50% of a food*'. It also refers to the resolution of the European Parliament of 12 May 2016, by which the Commission was invited to, *inter alia*, assess the possibility of extending mandatory COOL to mono-ingredient foods or foods with a predominant ingredient and to prepare legislative proposals for these sectors, which the Commission has now promised for the second half of 2017.

According to the Italian Decree on COOL for rice, the labelling must include the country in which the rice was cultivated, processed and packaged. Only where the rice has been cultivated, processed and packaged in the same country, the origin may be indicated using the words '*rice origin: name of the country*'.

In the assessment of national measures on COOL, like the Italian Decrees on COOL for durum wheat pasta and rice, procedural questions and substantive questions need to be addressed. According to Article 39(2) of the FIR, EU Member States' provisions on COOL, complementing harmonised EU COOL legislation (see *Trade Perspectives*, Issue No. 1 of 13 January 2017), are only permitted when a proven link between certain qualities of food and its origin or provenance can be established. Any such measure must be notified to the Commission following the procedure established in Article 45 of the FIR and EU Member States must provide evidence that the majority of consumers attach significant value to the provision of that information.

On 12 May 2017, Italy notified a draft decree on COOL for durum wheat pasta to the Commission. At the meeting of the Section '*General Food Law*' of the Standing Committee on Plants, Animals, Food and Feed (hereinafter SCPAFF), composed of representatives from the Commission and the Member States, and consulted in case of notifications under

Article 45 of the FIR, on 12 - 13 June 2017, the Italian delegation provided a presentation of the notified draft decree and its justifications. The Italian authorities explained that the notified draft measure was based on the consumers' interest and the specific quality of the Italian durum wheat in pasta. In addition, the beneficial effects of the measure for the Italian farmers were underlined. A summary report of the June meeting of the SCPAFF shows that 11 EU Member States (without detailing exactly which ones) "*strongly criticized*" the Italian draft. Italy then withdrew its notification during the three-month period provided to the Commission and EU Member States' Governments to scrutinise potential damage to the single market and, without notifying it, went on to adopt the slightly amended Decree on COOL for durum wheat pasta on 26 July 2017, publishing it on 17 August 2017. It is apparent that Italy bypassed the procedures established in the FIR, which may result in the Commission initiating infringement procedures.

EU Member States' lawmakers have shown an increasing appetite for labelling, due to consumer demands for information about food. Italy has also stated that labelling would help its pasta industry to better compete with foreign food manufacturers. However, such labelling schemes might be considered disruptive to the single market and result in violations of the international trade rules. The COOL requirements for durum wheat pasta may already restrict the free movement of goods, if they discriminate against businesses based in another EU Member State, thereby possibly violating Article 34 of the Treaty of the Functioning of the EU (hereinafter, TFEU). Third countries may be discriminated, too, causing potential violations of WTO rules (see, for more details on WTO law, *Trade Perspectives*, Issue No. 1 of 14 January 2017).

The effect of mandatory origin labelling on all operators that are subject to the COOL requirements is an added cost for processors, which will have consequences at all levels of the pasta supply chain, from farmers to consumers. More importantly, the national COOL measures appear to encourage local sourcing without regard to the detrimental impact that it may have on established supply chains, which transcend national, and sometimes even EU, borders. Although the national COOL requirements do not apply to products lawfully produced or marketed in another EU Member State, they may still have a detrimental effect on the internal market. For example, French pasta made with French durum wheat does not need to state '*Origin: France*' when marketed in Italy. However, it can be easily identified as a foreign product because it does not state '*Origin: Italy*' or it might not even reach the Italian retail stage at all because retailers may decide to no longer stock it, leading to *de facto* discrimination (in form of a potential *de facto* '*boycott*' by retailers in Italy). Another example is the potential decline of durum wheat imports by Italian food manufacturers since they, due to pressure from retailers, appear to prefer durum wheat of Italian origin in order to be able to indicate that country origin on the product label according to the COOL scheme. Interestingly enough, France, which has just established its own national COOL scheme for milk and meat as food ingredients, is a major exporter of wheat to Italy and will most likely be significantly affected by the Italian Decree, which is poised to prompt Italian companies to prefer Italian wheat. The potentially protectionist measure will most likely also create extra costs for Italian pasta-makers that use Canadian or French wheat supplies, thereby likely resulting in lower prices for Canadian and French farmers and less demand for Canadian and French wheat.

The issue has already created some controversy within the Italian agricultural supply chain, which denounced the massive use of foreign wheat. This, however, appears to be necessary, since the total Italian production is not sufficient to satisfy demand. Cultivation is concentrated mainly in the south, where Puglia and Sicily alone represent almost half of the national durum wheat production. While Italy is the EU's largest producer and the second largest producer of durum wheat worldwide, around 2.3 million tonnes of durum wheat still have to be imported every year, mainly from Canada, France and Ukraine (for more details, see *Trade Perspectives*, Issue No. 5 of 10 March 2017). On the other hand, Italy's farmers' union, Coldiretti, who contends that one in three pasta packages sold with the label '*made in Italy*' is made with imported durum wheat and is thereby allegedly deceiving consumers over the true origin of the product, welcomed the new rules. However, it can be argued that in the case of pasta, what defines the quality is not only the place of origin of the durum wheat, but rather the processing, in particular the composition or the blends and the proportions of the individual durum wheat ingredients. Italian pasta manufacturers may in fact be penalised when the Decree on COOL for durum wheat pasta enters into force on 16 February 2018, if they were *de facto* forced to change their blends in case they use durum wheat from other countries. In that regard, it appears that, under the current system, pasta manufacturers that want to emphasise that their pasta is produced in Italy with Italian durum wheat can provide this information voluntarily. Those consumers that consider it important to purchase only Italian products could select such products, eventually paying a premium.

In relation to the Decree on COOL for rice, and similar procedural and substantive assessments, Coldiretti contends that one in four rice packages sold with the label '*made in Italy*' actually contains imported rice. One of the reasons put forth for a COOL scheme for rice, is the claim by Italian farmers that the EU's Everything But Arms preferential trade arrangement, which allows duty-free access to EU markets for all countries on the UN's list of Least Developed Countries (LDCs), except for arms and ammunition, has negatively affected the domestic rice market, as it increased the importation of rice from Vietnam and Cambodia.

The trend to adopt COOL schemes in Italy continues. Producers have 180 days to adapt to the new system and to dispose of the old labels and packaging before the Italian Decree on COOL for durum wheat pasta enters into force on 16 February 2018, the one on rice on 17 February 2018, both '*experimentally*' until 31 December 2020. Like in the cases of durum wheat pasta and rice, reportedly in order to counter foreign competition, on 5 September 2017, the Italian Minister of Agriculture Maurizio Martina announced a COOL scheme for tomato products. This increased (regulatory) activity in Italy on COOL for single ingredient products and products with ingredients that represent more than 50% of a food (such as durum wheat pasta, rice and tomato products) appears to be very controversial vis-à-vis EU law and may force the Commission to soon take action. Stakeholders should be prepared to participate in shaping any harmonised EU legislation on COOL for single ingredient products and products with ingredients that represent more than 50% of a food by interacting with the relevant EU institutions, EU Member States, trade associations and affected stakeholders. These schemes will need to be EU and WTO consistent so as to avoid potentially costly and destabilising litigation and legal uncertainty for economic operators and consumers. Unilateral and piecemeal approaches, while politically attractive and able to cater to the respective protectionist forces in each EU Member State, do not appear to be very '*cool*' in terms of the existing EU and WTO law.

Recently Adopted EU Legislation

Trade Remedies

- *Commission Implementing Regulation (EU) 2017/1524 of 5 September 2017 withdrawing the acceptance of the undertaking for two exporting producers under Implementing Decision 2013/707/EU confirming the acceptance of an undertaking offered in connection with the anti-dumping and anti-subsidy proceedings concerning imports of crystalline silicon photovoltaic modules and key components (i.e. cells) originating in or consigned from the People's Republic of China for the period of application of definitive measures*

- *Commission Implementing Regulation (EU) 2017/1514 of 31 August 2017 initiating a review of Council Implementing Regulation (EU) No 1371/2013 (extending the definitive anti-dumping duty imposed by Implementing Regulation (EU) No 791/2011 on imports of certain open mesh fabrics of glass fibres originating in the People's Republic of China to imports of certain open mesh fabrics of glass fibres consigned from India and Indonesia, whether* *declared as originating in India and Indonesia or not) for the purposes of determining the possibility of granting an exemption from those measures to one Indian 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*

Customs Law

- *Commission Implementing Regulation (EU) 2017/1517 of 31 August 2017 fixing the import duties in the cereals sector applicable from 1 September 2017*

Food and Agricultural Law

- *Commission Implementing Regulation (EU) 2017/1523 of 25 August 2017 approving non-minor amendments to the specification for a name entered in the register of protected designations of origin and protected geographical indications (Limone Costa d'Amalfi (PGI))*

- *Commission Implementing Decision (EU) 2017/1521 of 1 September 2017 amending the Annex to Implementing Decision 2014/709/EU concerning animal health control measures relating to African swine fever in certain Member States*

- *Commission Implementing Decision (EU) 2017/1519 of 1 September 2017 amending the Annex to Implementing Decision (EU) 2017/247 on protective measures in relation to outbreaks of the highly pathogenic avian influenza in certain Member States*

Other

- *Commission Decision (EU) 2017/1525 of 4 September 2017 amending Decision 2014/256/EU in order to prolong the validity of the ecological criteria for the award of the EU Ecolabel to converted paper products*

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