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Counting down to the end of the transition period: Clear progress not yet in sight for a trade agreement between the EU and the UK

From 2 to 5 June 2020, the 4th round of the EU-UK trade negotiations took place via video conferences. A high-level political meeting between the two Parties is supposed to take place in mid-June 2020, but negotiations have not been progressing as quickly as envisaged and substantial discrepancies appear to remain. On 19 May 2020, the UK had finally published its *Draft Working Text for a Comprehensive Free Trade Agreement between the United Kingdom and the European Union* (hereinafter, UK text proposal), which it had shared with the EU in March. The UK text proposal significantly differs in key areas from the EU text proposal and negotiators must make progress if agreement is to be reached before the end of the current transition period on 31 December 2020.

The state-of-play of the negotiations

Since early March 2020, the EU and the UK have been negotiating the terms and conditions of their future trade relations, intended to come into place after the transition period. Negotiations were briefly suspended due to the *Covid-19* pandemic, but resumed for the second round from 20 to 24 April 2020, which was held via video conferences (see *Trade Perspectives*, Issue No.9 of 8 May 2020). According to reports from both negotiating Parties, the outcomes of the second and third rounds of negotiation were disappointing, and no real progress appears to have been achieved.

Following the third round of negotiations from 11 to 15 May 2020, the EU Chief Negotiator and Head of Task Force for Relations with the UK, *Michel Barnier*, and the UK's Chief Negotiator *David Frost*, engaged in an exchange of letters highlighting again their respective positions.

The most recent round of negotiations was held from 2 to 5 June 2020. On 5 June 2020, EU Chief Negotiator *Barnier* stated that, as in previous rounds of negotiations, no substantial progress had been achieved. Significant discrepancies remain in four key areas: 1) Fisheries; 2) Level playing field; 3) Governance; and 4) Judicial cooperation. Rather emphatically, EU Chief Negotiator *Barnier* stated that negotiations "*cannot go on like this for ever*". Therefore, the next round of negotiations would likely focus only on those four areas in an effort to achieve meaningful progress and a breakthrough. He recalled that an agreement would not be possible without a deal on fisheries and a "*robust*" playing field. On the other side, UK Chief Negotiator *Frost* stated that "*progress remains limited, but our talks have been positive in tone*". Both Chief negotiators reaffirmed their commitments towards the negotiations. However, EU Chief Negotiator *Barnier* recalled that the latest date for a political compromise, due to the need to

give time to EU Member States and the European Parliament to review it and approve it, is the 31st of October 2020. The fifth round of negotiations is supposed to take place at the end of June or beginning of July. A high-level political meeting between the President of the Commission, *Ursula von der Leyen*, UK Prime Minister, *Boris Johnson*, and the President of the Council of the EU, *Charles Michele*, remains scheduled to take place in June 2020. However, a specific date has not yet been confirmed.

UK text proposal for a Comprehensive Free Trade Agreement

On 19 May 2020, the UK published its text proposal for a EU-UK Comprehensive Free Trade Agreement (hereinafter, CFTA), together with the proposal of further nine agreements that would govern EU-UK relations in certain areas, such as fisheries and civil aviation. In its document *The Future Relationship with the EU*, published together with the text proposals, the UK states that the EU-UK CFTA should be in line with free trade agreements (hereinafter, FTA) already agreed by the EU with other third countries. From the UK's perspective, the CFTA should be complemented by a range of other agreements "*covering, principally, fisheries, law enforcement and judicial cooperation in criminal matters, transport, and energy*". Additionally, the UK states that each of these agreements "*should have their own appropriate and precedented governance arrangements, with no role for the Court of Justice*" (hereinafter, CJEU). The document notes that, while the Government of the UK agreed that all the areas of policy, as set out in the *Political Declaration setting out the framework for the future relationship between the European Union and the United Kingdom*, would be relevant to the UK's future relationship with the EU, it disagreed that these areas should be incorporated "*into a negotiated Treaty or similar arrangement*".

The Government of the UK stated at various occasions that it believes its text proposal to be in line with previous FTAs concluded by the EU, such as the EU-Canada Comprehensive Economic and Trade Agreement (CETA) and the EU-Japan Economic Partnership Agreement. Still, the EU's and the UK's approaches and related visions towards their future relationship are fundamentally different and appear to be a reason for the limited progress achieved so far in the negotiations. A key issue appears to be that the EU pursues a single agreement governing future EU-UK relations, which would cover all relevant policy areas with a sole governance structure, including issues such as fisheries, law enforcement and judicial cooperation, transport and energy. However, the UK intends to address those and other areas in separate agreements. The differences are clearly not limited to the general approach, but also concern a number of specific substantive issues.

*The delicate issues of the '***level playing field***', fisheries and rules of origin*

A key but complex issue, and one of the most important elements of EU-UK trade negotiations, concerns the issue of the level playing field. In simple terms, in order to facilitate trade, the EU aims at agreeing guarantees for equal rules on, State aid, competition, State-owned enterprises, social and employment standards, environmental standards, climate change, and relevant tax matters. on the contrary, the UK appears reluctant to make such significant concessions that would limit its rights to freely and autonomously regulate in certain key areas.

Commitments on fisheries is another priority area for the EU, and the Commission repeated at several occasions that an agreement with the UK would not be possible without an agreement on fisheries. As noted above, the UK aims at negotiating a separate agreement on fisheries, which would also follow a different approach than the EU had proposed. The UK's draft *Fisheries Framework Agreement* states that the access to each other's waters for fishing activities is to be negotiated on a yearly basis. The EU's proposal, however, seeks to agree on a long-term reciprocal access to each other's waters and to agree annually on the so-called Total Allowable Catch (TAC) for shared stocks, which are then divided between the EU and the UK based on a fixed percentage split that would be inscribed in the EU-UK agreement.

Another example is the chapter on rules of origin, which is of relevance to exporters and typically quite sensitive in trade negotiations, as it sets the rules determining the customs origin

of a product and whether a product may benefit from preferential treatment under the respective FTAs. Although sensitive and essential discussions on product specific rules of origin do not appear to have taken place yet, the UK text proposal on '*Cumulation of origin*' shows in which direction the UK intends to go. Most notably, as most components for UK products are imported from third countries, the UK aims at including '*diagonal cumulation*' in the EU-UK trade agreement. Cumulation allows products originating in one party to be further processed or added to products originating in the other Party, with the resulting product having the origin of the latter party. '*Diagonal cumulation*' allows for cumulation to take place between more than two parties, provided that they have agreements in place that contain identical origin rules and provisions for cumulation. More specifically, the UK seeks to agree that a "*product that originates in: (a) the other Party; (b) a relevant partner country; or (c) a GSP [Generalised Scheme of Preferences] country, is considered originating in a Party when used as a material in the production of a product in that Party*" and provides detailed explanations for the application of such cumulation. The EU's text proposal only refers to bilateral cumulation, which allows originating products of one Party to be further processed in the other Party and be treated as originating from the second Party. A provision on bilateral cumulation is found in most of the EU's FTAs, while '*diagonal cumulation*' has so far only been included in the *Regional Convention on pan-Euro-Mediterranean preferential rules of origin (the so-called PEM Convention)*.

What is next?

In mid-June 2020 a high-level political meeting is supposed to take place. A date has not yet been confirmed, but this could happen before the EU Summit on 19 June 2020. By then, the UK will have to decide whether it will ask for an extension of the transition period, which it would need to formally submit by 30 June 2020. If negotiations were not to lead to the conclusion of a preferential trade agreement by the end of the transition period, the EU and the UK would trade under WTO rules and the respective most-favoured-nation tariffs (MFN) would apply from 1 January 2021. In this context, on 19 May 2020, the Government of the UK had published its so-called UK *Global Tariff*, which will replace the EU's Common External Tariff from 1 January 2021. Interested stakeholders, businesses in the EU, UK and third countries should closely follow the developments and get engaged, so that their interests can be duly considered. Businesses should be aware that a '*no deal'* outcome remains possible.

Cultured meat as novel food in the EU – the need for a coordinated approach

The concept of cultured or '*laboratory-grown*' meat is increasingly gaining supporters, who are interested in enjoying a diet that includes meat, but without the linked environmental and animal welfare issues associated to traditional meat production. This article addresses some of the regulatory issues related to cultured meat in the EU and the need for involved businesses to pursue a coordinated approach to advance their interests.

Cultured meat (also known as '*clean*' or '*in vitro*' meat) is a product obtained by harvesting muscle cells from live animals, then placing the harvested cells in a breeding medium, and finally into a bioreactor, similar to that used for the fermentation of beer or yogurt, which supports the growth of muscle tissue fibres. The animal cells are '*fed*', *inter alia*, with minerals, salt and protein, in order to keep growing and developing tissues, which then become the cultured meat (see *Trade Perspectives*, Issue No. 21 of 15 November 2019).

According to Article 3(2)(a)(vi) of *Regulation (EU) No 2015/2283 on novel foods* (the Novel Foods Regulation, hereinafter, NFR), "*food consisting of, isolated from or produced from cell culture or tissue culture derived from animals, plants, micro-organisms, fungi or algae*" falls within the scope of the NFR. The NFR aims at improving conditions so that food businesses can easily bring new and innovative foods to the EU market, while a high level of food safety for consumers is maintained. Novel foods are foods that were not used for human consumption to a significant degree within the EU before 15 May 1997. This includes newly developed, innovative food, or food produced using new technologies and production processes.

Novel foods procedure including risk assessment by the EFSA

The procedure for placing a novel food on the EU market is laid down in the NFR. Following the submission of an application to the European Commission (hereinafter, Commission), the validation of the novel food application should require from one to three months, although past applications suggest that the actual validation time takes three to six months. The Commission then forwards the dossier to the European Food Safety Authority (hereinafter EFSA), which carries out an assessment of the risk that the particular novel food has on human health.

According to the NFR, within nine months from the receipt of the mandate by the Commission, the EFSA is to provide a scientific opinion on the safety of the proposed new novel food for human health. However, at any step of the evaluation, the EFSA may suspend the evaluation at its own discretion and request additional information from the applicant. According to data from past applications, the evaluation process of a new novel food is usually suspended by the EFSA between one and three times, in order to seek additional information from the applicant.

In order to carry out the risk characterisation of the proposed new novel food, the EFSA will most likely request nutritional and different categories of toxicological studies. Typically, due to the specificity of the product, such studies might not be readily available in the scientific literature. According to past novel food applications, the EFSA usually requests additional information when there is an incomplete dataset and/or insufficient scientific literature, due to the complexity or novelty of the novel food application. The most commonly requested additional information relate to the manufacturing processes and toxicological studies.

The scientific opinion by the EFSA is usually the ground on which the Commission designs the authorisation for the placing on the EU market of the proposed novel food and its subsequent listing in the EU's list of authorised novel foods. A novel food may only be placed on the EU market once it is included in this list, which sets out information on: 1) Conditions of use; 2) Specific labelling requirements; and 3) Eventual post-marketing requirements.

The Commission and the EFSA are expected to evaluate and authorise a new novel food within around 18 months. It should be noted that, under the NFR, all authorisations are generic, as opposed to the applicant-specific, restricted novel food authorisations under the previous novel food regime. This means that any food business operator may place an authorised novel food on the EU market, provided that the authorised conditions of use, labelling requirements, and specifications set by the Commission are respected. While the NFR does not foresee a holder of authorisation, the NFR prevents competitors from using proprietary data during a period of five years from the date of the authorisation of the novel food without the agreement of the initial applicant. Data protection for the applicant's proprietary data is granted by the Commission, on request by the applicant at the time of first submission of the application, provided that: 1) The data consist on newly developed scientific evidence; 2) The owner of the data holds their exclusive right of use; and 3) The data is necessary to conclude on the safety of the new novel food. Data for which protection is usually requested are toxicological studies, clinical trials, nutrition studies, and information on the manufacturing process.

New rules on the transparency and sustainability of EU risk assessments

Important new rules on the transparency and sustainability of EU risk assessments will apply from of 27 March 2021. The Commission's so-called '*fitness check*' of *Regulation (EC) No 178/2002 of the European Parliament and of the Council of 28 January 2002 laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety* (hereinafter, GFL) had concluded that risk communication, which is a substantial part of the risk analysis principle, together with risk management and risk assessment, is not sufficiently effective, leading to a significant impact on consumers' confidence and overall impeding the effective functioning of the risk analysis process. Therefore, the Commission proposed increasing the transparency of the risk assessment process through a more participative and open dialogue between all

interested parties and in close cooperation with the EFSA and the EU Member States concerning all areas of the food chain (see *Trade Perspectives*, Issue No. 22 of 29 November 2019).

Regulation (EU) 2019/1381 of the European Parliament and of the Council of 20 June 2019 on the transparency and sustainability of the EU risk assessment in the food chain is an important piece of legislation that will significantly affect the EU novel food authorisation process, influencing the following aspects as regards new novel food applications: 1) There will be the possibility of pre-submission consultations with the EFSA; 2) An EFSA database on scientific studies will be created, with the consequence that applicants will not be able to hold back disadvantageous studies; 3) Confidentiality of certain information included in the dossier may still be requested and requests will be analysed by the EFSA, while they are currently under the responsibility of the Commission; 4) Personal data will be protected (*e.g.*, names and details of laboratories and of scientific experts carrying out scientific studies); and 5) The dossiers will be made publicly available online, while applicants will be obliged to prepare two different versions of the dossier, one for publication and one, confidential, including business sensitive and proprietary data.

Pre-submission advice by the EFSA

The new Article 32(a) of the GFL provides for a pre-submission phase, during which potential applicants for authorisations may request the EFSA's advice on the relevant provisions and the required content of the application for authorisation, including general guidance on the design of required studies. The possibility of pre-submission advice is a direct response to industry demand, especially from SMEs, which is intended to further support them in the preparation of complete applications.

The way forward – Necessity of coordinated engagement in the EU

Numerous actors, including start-ups with limited resources, are involved in the process of cultured meat and reports indicate that breakthroughs have been recently achieved and cultured meat may soon be ready for commercialisation. In the EU, before initiating the novel foods procedure, a number of issues should be clarified, including: 1) A description of the identity and detailed characterisation of the novel food in order to determine the complexity of the technical dossier; 3) The type of growth *medium* that producers use, and how variations in the *medium* might affect the final product; 4) The type of scaffold that producers will use to grow the meat; 5) Information on the possible genetic engineering techniques used in the manufacturing process, if any; and 6) Whether an authorisation for the marketing of the novel food has been presented to other regulatory bodies outside of the EU.

Therefore, a coordinated engagement of the cultured meat industry to advance its interests in the EU appears to be beneficial and, in fact, essential, for instance for purposes of interacting with the various relevant Institutions, such as the Commission and the EFSA, as well as, more broadly, with the European Parliament and EU Member States.

Such an '*infant industry*' has specific needs and references to other similar '*novel industries*' are useful for purposes of benchmarking the possible strategies. For example, it appears that the Cannabidiol (hereinafter, CBD) and hemp industry largely acts without major coordination. A number of individual applications for authorisation of CBD products as novel foods have been made in recent times. The UK Association for the Cannabinoid Industry (ACI) now appears to be guiding its members through the authorisation process in the UK (through the UK's Food Standards Agency) and the EU (through the EFSA), in order to "*help them ensure that they submit credible Novel Foods CBD dossiers*". Another UK Association, the Cannabis Trades Association (CTA), which disagrees on the question of whether all CBD extracts are '*novel*', announced on 2 September 2019 that it would not submit a novel foods application. Similarly, the European Industrial Hemp Association (hereinafter, EIHA) argues that no authorisation is required when placing hemp-derived products on the EU market. The EIHA states that it is currently working closely with EU Member States and the Commission to find

a solution to this issue. In the absence of a coordinated approach, important legal and regulatory uncertainties appear to persist (see *Trade Perspectives*, Issue No. 21 of 15 November 2019) making it difficult for businesses to expand their activities and inevitably resulting in confusion among businesses, regulators and consumers, as well as greater costs down the road.

In the case of cultured meat, it is clear that such products are indeed '*novel*' and must be authorised as novel foods before being placed on the EU market. A coordinated approach across the EU and its Member States appears to be not only necessary, but also highly advisable, including to pursue effective advocacy efforts vis-à-vis the various involved Institutions. At the same time, from 2021, more guidance can be expected from the EFSA in the pre-submission phase, possibly speeding up the actual authorisation procedure. Interested stakeholders are encouraged to set out an advocacy strategy at the industry level as soon as possible and individually prepare well and timely to navigate the approval procedures for cultured meat working with their legal advisors prior to submitting novel food dossiers to the Commission in the EU or other competent authorities around the world. A disorganised, piecemeal and individual approach may end up giving a comparative advantage to a single operator, but jeopardising the entire industry, particularly if competing forces will try to damage this novel industry in the eyes of consumers.

European Commission publishes report on the additional front-of-pack (FoP) nutrition declaration: endorsing the provision of information on the "*overall nutritional quality of foods*"?

On 20 May 2020, alongside the *Communication on a Farm to Fork Strategy for a fair, healthy and environmentally-friendly food system* (hereinafter, F2F Strategy), the European Commission (hereinafter, Commission) published a long-awaited *Report to the European Parliament and the Council regarding the use of additional forms of expression and presentation of the nutrition declaration* (hereinafter, '*front-of-pack*' or FoP Report). This article analyses the FoP report, particularly the inclusion therein of schemes providing information on the "*overall nutritional quality of foods*", such as the *Nutri-Score* scheme, which has now been introduced in various EU Member States.

Complementing the nutritional declaration by a repetition of the main elements

Since 13 December 2016, point (l) of Article 9(1) and Article 55 of *Regulation (EU) No 1169/2011 of the European Parliament and of the Council of 25 October 2011 on the provision of food information to consumers* (hereinafter, FIR) requires a nutrition declaration on the labelling of almost all pre-packaged foodstuffs and demands that this label include the energy value, as well as the amounts of fat, saturates, carbohydrate, sugars, protein and salt (eventually supplemented by the amounts of mono-unsaturates, polyunsaturates, polyols, starch, fibre, and certain vitamins or minerals), expressed in tabular format (if space permits), to allow consumers to make informed and health-conscious choices. Previously, the nutrition declaration was voluntary, but if it were provided, it had to adhere to the format given in *Council Directive 90/496/EEC of 24 September 1990 on nutrition labelling for foodstuffs*.

According to Article 35(1) of the FIR, the mandatory nutrition declaration may be complemented by a voluntary repetition of the energy value and the amount of nutrients in the principal field of vision (known as the '*front-of-pack*' or FoP), in order to help consumers to see at a glance the essential nutrition information when purchasing foods. For this repetition, other forms of expression and/or presentation (*e.g.*, graphical forms or symbols) may be used on the FoP. Such voluntary nutrition labelling may not be given in isolation, but it must be provided in addition to the full mandatory ('*back of pack*') nutrition declaration. According to Article 35(1) and (2) of the FIR, additional forms of expression and/or presentation of the nutrition declaration may be used by food business operators or recommended by EU Member States, provided that they comply with the criteria set out in the FIR. To that end, these labels must be

objective, non-discriminatory and must not create obstacles to the free movement of goods. Supplementary forms of expression of the nutritional content of the food must be based on sound and scientific researches and should not mislead consumers, but aim at facilitating consumer understanding of the contribution or importance of the food product to the energy and nutrient content of a diet.

Schemes providing information on the FoP on the overall nutritional quality of foods

In various EU Member States and the UK, additional forms of the nutrition declaration were introduced, such as the UK's '*traffic light*' scheme, the '*Keyhole*' scheme developed in Scandinavian EU Member States and the '*Nutri-Score*' scheme. Finland indicates the best nutritional choice with a heart symbol and, in Italy, the *NutrInform Battery* was recommended (see *Trade Perspectives*, Issue No. 3 of 14 February 2020). Private operators introduced schemes such as the *Reference Intakes* (RIs) Label, the *Evolved Nutrition* Label, and the *Healthy Choice* logo.

In light of the experience gained with these additional forms of expression and/or presentation of the nutrition declaration, the Commission was requested under Article 35(5) of the FIR to adopt the FoP Report on their use and impact by 13 December 2017. Considering the limited experience in this area in the past years and some recent developments at national level, the Commission postponed the adoption of the FoP Report with a view to include the experience with recently introduced schemes.

Most importantly, the FoP Report goes beyond the scope of Article 35 of the FIR, which refers only to additional forms of expression and/or presentation, repeating the information provided in the nutrition declaration, and "*includes also schemes that are providing information on the FOP on the overall nutritional quality of foods, since such a differentiation would not be pertinent from a consumer's perspective*".

The Commission notes in the FoP Report, that "*some FOP schemes developed by Member States or food business operators do not fall under Article 35 of the FIR since they do not repeat information provided in the nutrition declaration as such but provide information on the overall nutritional quality of the food (e.g. through a symbol or letter)*". The Commission considers such schemes "*as 'voluntary information' under Article 36 of the FIR which shall not mislead the consumer, not be ambiguous or confusing for the consumer and shall, where appropriate, be based on the relevant scientific data*".

Importantly, the Commission notes that "*at the same time, when such a scheme attributes an overall positive message (for example through a green colour), it also fulfils the legal definition of a 'nutrition claim' as it provides information on the beneficial nutritional quality of a food as defined in Regulation (EC) No 1924/2006 on nutrition and health claims made on foods*" (hereinafter, NHCR). According to the NHCR, claims are to be based on scientific evidence, are not to be misleading, and are only permitted if the average consumer can be expected to understand the beneficial effects expressed by the claim. These requirements also apply to overall positive messages, such as green colours.

Nutri-Score as scheme on the overall nutritional quality of foods

In the part of the FoP Report on FoP schemes endorsed or under consideration by EU Member States, the Commission dedicates a longer paragraph to the *Nutri-Score* scheme, adopted in October 2017 by France after a series of experimental and large-scale studies. Some expected that the Commission would "*endorse*" or "*recommend*" the *Nutri-Score* scheme in the FoP Report, as the '*harmonised*' EU's FoP nutrition labelling scheme. Belgium adopted the *Nutri-Score* in March 2019 and, in March 2020, Germany notified to the Commission a draft national regulation on the use of *Nutri-Score*. Spain (in November 2018), the Netherlands (in November 2019) and Luxembourg (in February 2020) also announced their decision to adopt the scheme.

In the FoP Report, the Commission simply states that "*Nutri-Score, based on the UK Food Standards Agency nutrient profiling model, indicates the overall nutritional quality of a given food item. The label is represented by a scale of five colours, from dark green indicating food products with the highest nutritional quality to dark orange for products with lower nutritional quality, associated with letters from A to E. The algorithm to calculate the nutritional score considers both negative (sugars, saturated fats, salt and calories) and positive elements (protein, fibre, fruits, vegetables, legumes and nuts)*".

Indeed, schemes such as *Nutri-Score* appear to simply rank foods from "*good*" to "*bad*". Unfortunately, it appears that, for the negative component of the nutritional score, the *Nutri-Score* scheme only takes, for example, saturated fats into account. This appears to be a discrimination towards products containing saturated fats, which can also form part of a healthy diet, if consumed in moderation.

This way, the debate on whether the *Nutri-Score* scheme fulfils the requirements for an additional form of the nutritional declaration on the FoP established in Article 35(1) of the FIR, particularly whether it refers to reference intakes (RIs) and does not discriminate certain nutrients (see *Trade Perspectives*, Issue No. 23 of 14 November 2018) was elegantly avoided by the Commission, which extended the scope of the FoP Report, including schemes providing information on the FoP on the so-called "*overall nutritional quality of foods*", including the *Nutri-Score*. However, such schemes were also clearly considered by the Commission as mere "*voluntary information*", falling under Article 36 of the FIR and that are not to mislead the consumer, not to be ambiguous or confusing for the consumer, and are to be based on the relevant scientific data, where appropriate.

Mandatory FoP nutrition labelling scheme to be proposed by the end of 2022

The FoP Report concludes that, given the political priority of the F2F Strategy, namely the potential of FoP schemes enabling consumers to make health-conscious food choices, it seems appropriate to introduce a legislative proposal on a harmonised mandatory FoP nutrition labelling scheme in line with the objectives of the F2F Strategy. In the F2F Strategy, the Commission announced that, by the fourth quarter of 2022, after launching an impact assessment on the different types of FoP schemes, it intends to announce such legislative proposal. As stated above, no specific FoP scheme has been recommended in the FoP Report, and it also appears that schemes providing information on the FoP on the overall nutritional quality of foods, such as the *Nutri-Score*, do not appear to be appropriate for a harmonised mandatory FoP nutrition labelling scheme under the current legal framework of the FIR.

Setting of nutrient profiles?

The FoP Report also includes a reference to nutrient profiles. According to the WHO, nutrient profiling is the categorisation of foods according to their nutritional composition using predefined criteria. Nutrient profiles have a variety of applications around the world, for example for purposes of regulating food marketing to children. Nutrient profiling is also commonly used in FoP nutrition labelling schemes. The NHCR provides for the adoption of nutrient profiles (see *Trade Perspectives*, Issue No. 11 of 2 June 2017). In this context, the setting of nutrient profiles to restrict the promotion of foods that are high in fat, sugars and/or salt is foreseen by the Commission for the fourth quarter of 2022. Nutrient profiles could also become relevant in determining the "*overall nutritional quality of food*".

Shift towards an indication of the overall nutritional quality of food?

In the EU and its Member States, the idea of a complementary repetition of the energy value and the amount of nutrients on the FoP appears to be shifting towards an indication of the overall nutritional quality of food as the new standard. The Commission announced that a mandatory FoP nutrition labelling scheme is to be proposed by the end of 2022. A mandatory FoP label pointing at the overall nutritional quality of food would signify an additional burden for producers. Given the unique situation of the EU Single Market, uniform legislation regarding

FoP nutrition labelling should indeed be adopted at the EU level. Stakeholders in the agri-food sector should carefully observe these initiatives on FoP nutrition labelling and take action to ensure that their legitimate interests are voiced and represented within all relevant *fora*.

Recently Adopted EU Legislation

Food and Agricultural Law

- *Commission Regulation (EU) 2020/685 of 20 May 2020 amending Regulation (EC) No 1881/2006 as regards maximum levels of perchlorate in certain foods*

Trade Remedies

- *Commission Implementing Regulation (EU) 2020/705 of 26 May 2020 imposing a provisional anti-dumping duty on imports of certain heavyweight thermal paper originating in the Republic of Korea*

- *Commission Implementing Decision (EU) 2020/727 of 29 May 2020 terminating the anti-dumping proceeding concerning imports of continuous filament glass fibre products originating in Bahrain and Egypt*

- *Commission Implementing Regulation (EU) 2020/738 of 2 June 2020 amending Implementing Regulation (EU) 2019/1286 imposing a definitive countervailing duty on imports of certain polyethylene terephthalate (PET) originating in India*

Other

- *Commission Directive (EU) 2020/739 of 3 June 2020 amending Annex III to Directive 2000/54/EC of the European Parliament and of the Council as regards the inclusion of SARS-CoV-2 in the list of biological agents known to infect humans and amending Commission Directive (EU) 2019/1833*

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