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This issue of *Trade Perspectives*® focusses on some of the trade and food law developments of relevance to the tragic events unfolding in Ukraine. *FratiniVergano* has a strong bond to Ukraine and its people, having advised the country on its WTO accession negotiations and in relation to a number of trade matters vis-à-vis the European Union. We are deeply saddened and worried by the level of violence and suffering brought upon Ukraine by Russia's invasion and hope that this senseless conflict will end soon and that the sound of weapons be replaced by peace, by the rule of international law, by renewed bonds through trading relations, and by genuine cooperation among all European countries. We dedicate this issue to a free and independent Ukraine.

Open the floodgates? Russia-Ukraine trade relations may be about to impact the WTO Security Exceptions for a second time

On 2 March 2022, Ukraine's Permanent Representative to the World Trade Organization (hereinafter, WTO) *Yevheniia Filipenko* informed the Chair of the General Council of the WTO, Switzerland's Ambassador to the WTO Mr. *Didier Chambovey*, that it would sever diplomatic relations with Russia, stating that it had "*decided to impose a complete economic embargo and no longer apply the WTO agreements in its relations with the Russian Federation*". In the same letter, Ukraine asked for the support of its fellow WTO Members and that entreaty has been answered with a bevy of trade-related sanctions on Russia. As the restrictions imposed by Ukraine and other WTO Members generally involve deviation(s) from WTO obligations, they require legal justification. Notably, the most likely source of validation for these measures is found in a provision, the understanding of which has been largely shaped by Ukraine-Russia trade relations in the past: Article XXI of the General Agreement on Tariffs and Trade (hereinafter, GATT), commonly known as the Security Exceptions. Ultimately, the exceptions contained therein provide a tempting tool for facilitating restrictive trade policies, though one that should be used with consideration and care.

In issuing its clarion call, Ukraine asked that WTO Members "*consider further steps with the view to suspending the Russian Federation's participation in the WTO*". Though paths for collective action by WTO Members against Russia would seem to be limited (*e.g.*, there is no formal mechanism for expulsion of a WTO Member in the Agreement Establishing the World Trade Organization, a number of countries have unilaterally imposed trade-related

punishments. Many such sanctions, enacted by, *inter alia*, the US, the EU, Japan, and even historically neutral Switzerland, impact services sectors, such as banking and finance, and often micro-target Russian oligarchs, freezing the assets of those individuals. There are broader sanctions, however, that impact goods sectors as well. For example, Canada, in appealing to Section 31 of Canada's *Customs Tariff*, discontinued most-favoured-nation (hereinafter, MFN) treatment with both Russia and Belarus. Therefore, imports from those countries into Canada will be subject to the general tariff of 35%. The EU and the US have taken similar steps relating to the suspension of MFN treatment. Additionally, the US has banned crude oil, liquefied natural gas, and coal originating in Russia from its domestic market.

While domestic legislation seemingly allows for these actions, WTO law itself is far less sanguine on the imposition of measures that inhibit trade. MFN treatment, for example, is meant to be extended to all WTO Members, "*immediately and unconditionally*" according to Article I:1 of the GATT. As such, the actions taken by Canada and the US (not to mention many actions currently under consideration) would, at least theoretically, require a justification to be consistent with WTO obligations. The likely legal source of such a defence, should it ever become necessary, would appear to be the security exceptions contained in Article XXI of the GATT, which state, in relevant part, that "*Nothing in this Agreement shall be construed... (b) to prevent any contracting party from taking any action which it considers necessary for the protection of its essential security interests... (iii) taken in time of war or other emergency in international relations; or (c) to prevent any contracting party from taking any action in pursuance of its obligations under the United Nations Charter for the maintenance of international peace and security*". As can be readily inferred, this Article is quite broad, and purposefully so, attempting to leave policy space for WTO Members in an otherwise rules centric system.

Returning again to Ukraine's missive, it is notable that Ukraine explicitly, and pre-emptively, invokes Article XXI of the GATT in justification of its embargo against Russia. In so doing, Ukraine may be motivated, at least in part, by having been on the receiving end of Russia's invocation of Article XXI of the GATT only a few years prior, namely in the WTO dispute *Russia – Measures Concerning Traffic in Transit* (hereinafter, *Russia-Transit*), for which the Panel issued its report in 2019. Notably, in the years preceding that case, Article XXI invocations were quite rare. There was a general fear among WTO Members that the exceptions provided in the Article might be so expansive that they could effectively provide an '*opt out*' of WTO obligations. Therefore, so as not to risk forsaking the finely-crafted '*jewel*' that is the WTO dispute settlement system, a tacit norm developed among WTO Members to avoid the invocation of Article XXI of the GATT.

The US, under President *Donald J. Trump*, provided the first substantial deviation from that norm, announcing its intention to defend tariffs on steel and aluminium by appealing to Article XXI. As part of its claim, the US asserted that, once Article XXI was invoked, the issue exited WTO justiciability. The US claim was seen as something of a signal to others that Article XXI had become an acceptable legal gambit, and Russia, who would defend its case in advance of the US dispute, took up this argument in *Russia-Transit*. Of course, the legal narratives in *Russia-Transit* were nested within the real-world saga between Russia and Ukraine and the Panel in that case was quick to point this out, stating that the case before it "*must be understood in the context of the serious deterioration of relations between Ukraine and Russia that occurred following a change in government in Ukraine in February 2014*". That '*deterioration*' included, from Russia's perspective, Ukraine's further integration with the EU, efforts hallmarked by the European Union-Ukraine Association Agreement, which also established a Deep and Comprehensive Free Trade Area, signed in June 2014. In response, Russia did, *inter alia*, make trade destined for, and originating from, Ukraine, more onerous. In particular, Russia refused to allow transit through Russian territory for trade transactions between Ukraine, Kazakhstan, and the Kyrgyz Republic. As part of the scheme, Russia required that all rail and road transit from Ukraine to the aforementioned countries be carried out from Belarus.

In response to these measures, Ukraine alleged that Russia was acting inconsistently with, *inter alia*, Article V:2 of the GATT, which states that “*There shall be freedom of transit through the territory of each Member, via the routes most convenient for international transit, for traffic in transit to or from the territory of other Members. No distinction shall be made which is based on the flag of vessels, the place of origin, departure, entry, exit or destination, or on any circumstances relating to the ownership of goods, of vessels or of other means of transport*”. Ultimately, the Panel found that Russia had, in fact, acted inconsistently with obligations under both sentences of Article V:2 of the GATT, though this determination was ostensibly arrived at rather easily, as Russia offered little to contradict the assertions made by Ukraine. Instead, Russia relied almost exclusively on Article XXI of the GATT and, in particular, on the notion of non-justiciability, to justify its behaviour.

The Panel decision in *Russia-Transit* addressed the justiciability question head-on, responding largely to the argument advanced by Russia (that had been, itself, articulated by the US, in its Third Party Submission) that the dispute was non-justiciable because there was no legal criteria by which a WTO Member’s consideration of its essential security interests could be judged. This contention was based on the so-called ‘*self-judging*’ language of the chapeau in Article XXI(b), which refers to any measure that a WTO Member “*considers necessary for the protection of its essential security interests*”. Ultimately, the Panel found that, “*Article XXI(b)(iii) of the GATT 1994 is not totally “self-judging” in the manner asserted by Russia*” and that it rejected the “*argument that Russia’s invocation of Article XXI(b)(iii) is “non-justiciable”, to the extent that this argument also relies on the alleged totally “self-judging” nature of the provision*”. Similarly, the Panel rejected a US argument that invocations of national security made under Article XXI(b)(iii) of the GATT are non-justiciable by virtue of their being ‘*political questions*’ (as opposed to legal ones). Considering the lack of equivocation by the Panel and the gravitas lent to the opinion by its Chairperson, former Appellate Body member and legal scholar, *Georges Abi-Saab*, the case for non-justiciability has certainly been damaged, if not fully extinguished.

While the Panel undoubtedly struck a blow on behalf of the integrity of the WTO’s dispute settlement system, it seems reasonable to wonder if this was not something of a *Pyrrhic* victory, particularly if Russia’s case marked the beginning of more frequent invocations of Article XXI of the GATT. Indeed, while a finding of non-justiciability could have yielded a full ‘*opt out*’ from WTO proceedings, the exceptions found in Article XXI still offer broad latitude to a WTO Member willing to rely upon them. This dynamic can be seen in the *outcome of Russia-Transit*. While the Panel found that it had the power to review the integrity of Russia’s invocation, the restrictions put in place by Russia against Ukraine survived, as Russia was able “*to articulate the essential security interests said to arise from the emergency in international relations*”.

Ultimately, the current situation poses important questions relating to the wisdom of employing trade policy tools to mete out punishment, and the advisability of justifying those measures under Article XXI of the GATT. On the one hand, there is much to be said for locating and traversing as many non-violent avenues as possible to confront aggression on the international stage. Moreover, given that a certain degree of policy space has been intentionally codified in Article XXI, it is relatively easy to argue that a WTO Member that invokes Article XXI, and does so in good faith, acts in accordance with the rule of law. On the other hand, the norms against invoking Article XXI came into existence for a reason. Not only does frequent invocation (and/or invocation as a pretext for protectionism) undermine the forcefulness of existent WTO obligations, it also inserts the trade regime into existing conflicts, making that regime less able to act as a facilitator of renewed diplomatic relations. Thus, trade sanctions that are justified by Article XXI of the GATT, though an attractive policy tool, are best left to be ‘*exceptions*’ rather than the rule.

Russia's attack on Ukraine and related trade measures: Turbulences ahead for the EU's agri-food industry?

Due to Russia's attack on Ukraine and in light of Belarus' role in supporting that aggression, the EU has adopted, over the past few weeks, a series of unprecedented sanctions against Russia and Belarus. While the sanctions imposed on Russia and Belarus have only been implemented for a very short time and while the situation is still developing rapidly, EU industries and businesses around the world will likely feel a significant impact. More specifically, the EU's agri-food industry will be affected due to its dependency on both imported feed crops from Ukraine and Russia, as well as imports of gas and fertilisers from Russia and Belarus.

On 9 March 2022, the European Commission's Directorate General for Trade held a meeting of the newly established *European food security crisis preparedness and response mechanism (EFSCM)* to discuss the "food security impact of the energy and input price increase and impact of the war in Ukraine". While the overall impact on EU industries, including the agri-food industry, will only become clearer in the weeks (and possibly months) to come, Russia's actions and the related reactions will inevitably lead to trade barriers and create trade disruptions that will resonate well beyond Ukraine, Russia, and Belarus.

The EU's sanctions against Russia and Belarus

Over the past weeks, the EU has adopted a series of restrictions against Russia and Belarus. One *category* of sanctions relates to, *inter alia*, the freezing of assets, and the prohibition on making funds or economic resources available to listed persons and entities, including indirect economic benefits, such as payments to entities owned or controlled by a listed person. A second *category* of sanctions relates to sectoral restrictions, such as those on the financial sector (e.g., the EU cut Russia's access to the most important capital markets), the technology sector (e.g., the EU prohibited exports of dual-use goods and technology), the energy sector (e.g., the EU prohibited the sale, supply, transfer, or export to Russia of specific goods and technologies used in oil refining), and the transport sector (e.g., an export ban covering goods and technology in the aviation and space industry). The third category of restrictions involves additional sanctions on Russia, including sectoral restrictions, such as the removal of a selection of strategic Russian banks from the *SWIFT* system for international payments to ensure that these banks are disconnected from the international financial system and the closing of the EU's airspace to planes registered in Russia. On 2 March 2022, the EU adopted *Council Regulation (EU) 2022/355 of 2 March 2022 amending Regulation (EC) No 765/2006 concerning restrictive measures in view of the situation in Belarus*, imposing on Belarus restrictions on trade in certain goods, such as mineral fuels, potassium chloride ("*potash*") products, wood products, and cement products. Additionally, the EU prohibited the provision of services and the financing or offering of financial assistance in relation to the goods referred to in these sanctions. For all sanctions issued by the EU against Russia and Belarus, the EU measures provide for a transition period within which businesses affected by the restrictions may still execute existing contracts concluded before the date of issuance of the EU sanctions.

The relevance of the EU sanctions for the EU's agri-food industry

Currently, most of the impact on the EU's agri-food industry is indirect and linked, for instance, to the ban on products such as potassium chloride (commonly known as '*potash*') products, used in fertilisers, as well as to the restrictions in the transport and financial sectors. With respect to restrictions on transportation, the EU closed its airspace for planes registered in Russia and, in retaliation, Russia closed its airspace to planes registered in certain countries including those registered in all EU Member States. Therefore, passenger traffic, cargo traffic and express delivery services are significantly affected. As EU carriers cannot use Russian airspace to their destinations in the Asia-Pacific region, this has led to additional flight time, additional emissions, delayed deliveries, and, ultimately, increased costs of doing business. Similarly, restrictions on financial transactions, such as the ban on transactions with Russia's

Central Bank and the exclusion of seven Russian banks from the SWIFT system for international payments, could make it very difficult for EU businesses to receive payments for exports and to pay for their imported goods.

Adverse effects due to Ukraine's and Russia's export restrictions

In addition to the EU's measures, Ukraine, and Russia also adopted restrictions on certain agricultural products that directly affect the EU's agri-food industry. On 5 March 2022, the Government of Ukraine suspended exports of rye, oats, millet, buckwheat, salt, sugar, meat, and livestock to ensure food security in its embattled territory. On 6 March 2022, Ukraine extended the export restriction to corn, and buckwheat suitable for human consumption. Additionally, Ukraine introduced export license requirements for wheat, corn, and sunflower oil. While such measures are entirely comprehensible and appear very well-justified under Article XX of the General Agreement on Tariffs and Trade (hereinafter, GATT), shortages and possible price increases will inevitably affect the EU's agri-food industry, which has long-established trade relations with Ukraine. Ukraine alone accounts for 19% of imports of wheat and 13% of oilseed imports into the EU.

On 8 March 2022, Russia retaliated against the imposed sanctions by, *inter alia*, issuing a decree restricting the export and import of, *inter alia*, some agricultural, and forestry products to and from certain countries, including to and from the EU, though the list detailing the exact scope does not appear to be available yet. Since Ukraine's global share of agri-food exports amounts to 46% for sunflower seed and sunflower oil, 14.4% for corn, 13.4% for barley, and 4% for wheat and since Russia's global share of agri-food exports amounts to 27% for sunflower seed, 17% for barley, and 10% for wheat, the export ban on certain agricultural products, as well as the disruptions in Ukraine due to the war, are affecting the relevant markets, as well as trade in fertilisers needed for food production.

With respect to the EU's level of dependence on Russia's exports of agri-food products, a [study](#) by the European Parliament's Research Service shows that, in 2020, trade with Russia represented 3.7% of overall EU exports in agri-food products and 1.4% of overall agri-food imports into the EU. At the same time, Russia's sanctions will have a significant effect on EU market access to Russia, notably when it comes to beverages and edible preparations, such as sauces and condiments, which account for 21.2% and 9.3 %, respectively, of overall exports from the EU to Russia.

While the impact of Russia's attack on Ukraine for global agri-food markets will dynamically evolve depending on the related developments, it will likely be considerable given Ukraine's and Russia's substantive share of the global agri-food commodities and fertilisers markets. Overall, the global food industries are already facing price increases for certain inputs, such as fertilisers, energy, as well as agricultural raw materials.

Concerns voiced by the EU's agri-food industries

The impact of Russia's aggression against Ukraine and the resultant sanctions have started to cause concerns among the EU agri-food industry. For instance, the EU's vegetable oil association *FEDIOL* warned that "*the roughly 200,000 tonnes per month supply of sunflower seed oil from Ukraine has stopped being shipped to European ports*", adding that "*between 35 and 45% of sunflower oil refined in the EU comes from Ukraine and there is no immediate solution to the disruption in sunflower seed oil, as it is unclear if and how trade will be able to resume*". In terms of alternative sources, the European trade association representing farmers and agri-cooperatives, *Copa Cogeca*, stated that, with respect to wheat, it expected that more produce would need to be sourced from "*Australia and South America, as well as Canada*". On 2 March 2022, following an informal meeting of the EU Agriculture Ministers, the European Commissioner for Agriculture, Mr. *Janusz Wojciechowski*, stated his intention to, *inter alia*, "*consider introducing exceptional measures in the framework of the Common Market Organization (CMO) Regulation, targeting the sectors most affected by rising costs of production*" and to "*consider adopting measures to guarantee and release Europe's production*".

capacity in 2022, such as the use of fallow land for protein crops". Further details will be likely be discussed at the Agriculture and Fisheries Council on 21 March 2022.

How to address these trade barriers?

The sanctions and countersanctions imposed by countries around the world will inevitably affect trade. Therefore, in order to mitigate the impact of such sanctions, the European Commission (hereinafter, Commission) recommends that businesses, in such situations: 1) Keep an updated list of persons and entities subject to EU sanctions; and 2) Check whether products fall within the scope of the sanctions.

At the WTO level, Article XI of the General Agreement on Tariffs and Trade (GATT) sets out a general prohibition on quantitative restrictions on imports or exports, which applies to all measures instituted or maintained by WTO Members, prohibiting or restricting the importation, exportation, or sale for export of products other than in the form of duties, taxes, or other charges. However, given the highly political nature of the conflict, it is unlikely that the trade issues would be resolved through the classic trade tools and WTO dispute settlement.

Given the uncertainty surrounding the developments and the duration of the measures, affected industries have already reclaimed compensation or support from the EU. For now, no such support measures have been discussed, but, reportedly, the European Commission is considering relaxing its State Aid toolbox to enable EU Member States to support companies and sectors severely impacted by Russia's war in Ukraine.

Uncertain times ahead

The current situation is evolving dynamically, and more restrictions will likely be adopted if Russia's aggression does not come to an end. The exact magnitude of the impact on industries, including the EU's agri-food industry, will only be felt over time, but looks poised to be significant. EU Agriculture Ministers intend to adopt "*effective measures*" that can be implemented quickly in order to stabilise agricultural markets. Additionally, Germany has already announced that the consequences of Russia's attack of Ukraine for global food security would be discussed at the G7 meeting of Agriculture Ministers scheduled for May 2022 in Germany.

Ukraine's EU Membership ambitions are not only symbolic – the example of food safety legislation harmonised with EU rules

Ukraine has been a Member of the World Trade Organization (hereinafter, WTO) since 2008. It is also a party to the three sister organisations, recognised by the WTO's Agreement on the Application of Sanitary and Phytosanitary Measures for their standard-setting activities in the areas of human, animal, and plant health, namely the Codex Alimentarius Commission (CODEX), the International Plant Protection Convention (IPPC), and the World Organisation for Animal Health (OIE). Ukraine has recognised that one important issue that it should prioritise is food safety. During the past years, Ukraine has started a process of reforming its food safety legislation to adopt the best international practices and has made significant process.

Ukraine's food safety system and legislation

On 15 September 2014, Ukraine's Government signed [Law No. 1602 VII on Amendments to Certain Legislative Acts of Ukraine related to Food Products](#) (hereinafter, Law No. 1602 VII), which had previously been adopted by the *Verkhovna Rada* (i.e., Ukraine's Parliament). *Law No. 1602 VII* aligned Ukraine's food legislation with the food law of the European Union. In particular, *Law No. 1602 VII* established a completely new wording for the [Law of Ukraine on the Safety and Quality of Food](#) (hereinafter, Law on Food Safety), which, applies since 20 September 2015. In addition, *Law No. 1602 VII* amended certain provisions of the following

Ukrainian legislation related to food: the Law on State Regulation of Agricultural Imports; the Law on the State Biosafety System for Developing, Testing, Transportation and Use of Genetically Modified Organisms; the Code on Administrative Offences; the Economic Code; the Law on Protection of Consumers' Rights; the Law on Sanitary and Epidemiological Welfare; the Law on the Withdrawal from Circulation, Processing, Disposal, Destruction, or Continued Use of Poor Quality and Unsafe Products; the Law on the List of Permits for Business Activity; the Decree of the Cabinet of Ministers of Ukraine on Standardisation and Certification; and the Law on Drinking Water and Water Supply (for more details, see *Trade Perspectives*, Issue No. 18 of 3 October 2014).

Ukraine's Law on Food Safety aims at harmonising the legislation on food safety and quality of food products of Ukraine with that of the EU, ensuring a high level of public health protection and consumers' interests, as well as maintaining transparent conditions for conducting business activities, and raising competitiveness of domestic food products. In the course of the legislative reforms, the responsibility for food safety was transferred from governmental authorities to market operators, producers, processors or importers of food and agricultural products. Ukraine introduced HACCP (*i.e.*, Hazard analysis and critical control points) requirements for all food producers (including from third countries), residue monitoring plans, formal product recall procedures, traceability requirements on the "one step back" and "one step forward" principle, positive lists of approved facilities, international food safety audit requirements and many other new measures. These changes in legislation led to increased transparency and the simplification of food import procedures.

The EU-Ukraine Association Agreement requires the gradual approximation of Ukraine's legislation to that of the EU

Adopting new general food legislation was relevant in the context of the Association Agreement between the EU and its Member States, of the one part, and Ukraine, of the other part (hereinafter, [EU-Ukraine Association Agreement](#)) ratified by the Parliament of Ukraine and the European Parliament simultaneously on 16 September 2014, which fully applies since 1 September 2017. Regarding its scope, the first sentence of Article 474 of the EU-Ukraine Association Agreement provides that, "*In line with the objectives of this Agreement as set out in Article 1, Ukraine will carry out gradual approximation of its legislation to EU law as referred to in Annexes I to XLIV to this Agreement, based on commitments identified in Titles IV, V and VI of this Agreement, and according to the provisions of those Annexes*".

The general EU food law established in [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, the EU General Food Law or GFL) is not explicitly listed in the various Annexes to the EU-Ukraine Association Agreement. However, the second sentence of Article 474 of the EU-Ukraine Association Agreement states that "*This provision shall be without prejudice to any specific principles and obligations on regulatory approximation under Title IV (Trade and Trade-related Matters) of this Agreement*". Title IV refers in Chapter 3 to measures related to Technical Barriers to Trade (TBT), including "marking and labelling", and in Chapter 4 to measures Sanitary and Phytosanitary (SPS) Measures, including legislation on GMOs. A general food law, addressing SPS issues like food safety and TBT issues like the labelling and traceability of food, falls under Title IV of the EU-Ukraine Association Agreement, where a gradual approximation of Ukraine's legislation to that of the EU is required under the EU-Ukraine Association Agreement.

Food labelling – Law on Information for Consumers on Food Products adopted in 2019

Regarding the specific field of food labelling, Article 39 of Ukraine's Law on Food Safety sets out some general requirements. In particular, food labelling must provide consumers with information that allows them to make informed choices. All foods that are in circulation in Ukraine must be labelled in the official Ukrainian language and operators may choose to place a product on the market also labelled in other languages further to the official language.

In December 2018, the *Verkhovna Rada* adopted a new [Law on Information for Consumers on Food Products](#), which went into effect on 6 August 2019, simplifying existing labelling requirements. It contains detailed information on compulsory and voluntary labelling information. Essentially, the Law aligns Ukraine's food labelling legislation to [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](#) requiring that food labels contain the following information: 1) The name of the food; 2) The list of ingredients; 3) Substances that may cause allergies or intolerances; 4) The quantity of certain ingredients or categories of ingredients; 5) The net quantity of the food in defined units of measurement; 6) The date of minimum durability or the 'use by' date; 7) Any special storage conditions and/or conditions of use; 8) The business name and address of the food market operator (for imported food an importer); 9) The country of origin or place of provenance where provided by the Law; 10) Instructions for use where it would be difficult to make appropriate use of the food in the absence of such instructions; 11) For beverages containing more than 1.2 % by volume of alcohol, the actual alcoholic strength by volume; and 12) A nutrition declaration (including energy value, the amount of fat, saturated fat, carbohydrates, sugar, protein, and salt). Differences to EU law in Ukraine's Law on Information for Consumers on Food Products exist, such as requirements for a voluntary "GMO-free" label, which are not harmonised at the EU level, but regulated by some EU Member States like France and Germany (for more details, see [Trade Perspectives, Issue No. 15 of 24 July 2015](#)).

Outlook on Ukraine's EU membership aspirations

On 28 February 2022, Ukraine submitted an application for immediate EU membership following Russia's invasion. Subsequently, on 3 March 2022, Georgia and Moldova submitted their respective applications to accede to the EU. The French Presidency of the Council of the EU stated, on 7 March 2022, that the EU would formally assess the applications from Georgia, Moldova, and Ukraine to join the EU, a process usually taking years. EU Member States' permanent representatives met on 7 March 2022 to discuss particularly Ukraine's request to become an official candidate for membership of the EU and requested the European Commission (hereinafter, Commission) to prepare opinions on the applications for EU membership by Georgia, Moldova, and Ukraine. While this is a technical step, it still carries significant symbolic value at a time Ukraine is defending its right to act as an independent and sovereign country. In recent times, the EU and its Member States have been hesitant on a further enlargement of the EU. According to sources, *"EU ambassadors were in unison on two points during Monday's meeting: One, that the EU should launch its formal assessment process; and two, that EU leaders should discuss the subject at a summit later this week"*.

European Commission Executive Vice-President and European Commissioner for Trade *Valdis Dombrovskis* said that he believed that *"there should be an EU perspective for Ukraine. It's clear that EU membership is not something that happens overnight. It's a very long and very complicated process (...) so from that point of view it's not something that's going to happen very quickly, but the question is whether Ukraine is to have a perspective"*. Georgia, Moldova, and Ukraine are three of the six countries the EU classifies as Neighbourhood Partners under the so-called *"Eastern Partnership"* (EaP) initiative. The European Union's European Neighbourhood Policy (ENP) was launched in 2004 to support and foster stability, security, and prosperity in the EU's neighbourhood. The EaP is a joint initiative of the EU, its Member States and Armenia, Azerbaijan, Belarus, Georgia, Moldova, and Ukraine. On 18 March 2020, the European External Action Service (EEAS) and the Commission adopted a Joint Communication on the [Eastern Partnership policy beyond 2020 - Reinforcing Resilience - an Eastern Partnership that delivers for all](#), outlining the long-term policy objectives for future cooperation. Although sources indicated that the Commission is now preparing to change the neighbourhood policy and propose a sort of privileged partnership for Georgia, Moldova, and Ukraine, the final [statement](#) of the Heads of State or Government, meeting in Versailles, on the Russian military aggression against Ukraine on 10 March 2022 fell short of it. The statement merely states that *"the European Council acknowledged the European aspirations and the European choice of Ukraine, as stated in the Association Agreement"* and that *"the*

Council has acted swiftly and invited the Commission to submit its opinion on this application in accordance with the relevant provisions of the Treaties”.

Conclusion

The example of Ukraine’s food safety legislation shows that, over the last years, Ukraine has made significant progress in aligning its food safety legislation with that of the EU, as requested by the EU-Ukraine Association Agreement. Regarding this field of law, it would appear that Ukraine’s EU ambitions are not only symbolic, but that Ukraine has already made significant progress in recent years and its long-term commitment towards greater alignment with the EU is clear.

Recently adopted EU legislation

Trade Law

- *Council Implementing Regulation (EU) 2022/408 of 10 March 2022 implementing Regulation (EU) No 269/2014 concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine*
- *Council Decision (CFSP) 2022/411 of 10 March 2022 amending Decision 2014/145/CFSP concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine*

Trade Remedies

- *Commission Implementing Regulation (EU) 2022/402 of 9 March 2022 imposing a definitive anti-dumping duty on imports of certain aluminium foil originating in the People’s Republic of China following an expiry review pursuant to Article 11(2) of Regulation (EU) 2016/1036 of the European Parliament and of the Council*
- *Commission Implementing Decision (EU) 2022/403 of 3 March 2022 concerning exemptions from the extended anti-dumping duty on certain bicycle parts originating in the People’s Republic of China pursuant to Commission Regulation (EC) No 88/97 (notified under document C(2022) 1262)*
- *Commission Implementing Decision (EU) 2022/407 of 9 March 2022 terminating the partial interim review of the countervailing measures applicable to imports of certain rainbow trout originating in the Republic of Turkey*

Food Law

- *Corrigendum to Commission Regulation (EU) 2021/1297 of 4 August 2021 amending Annex XVII to Regulation (EC) No 1907/2006 of the European Parliament and of the Council as regards perfluorocarboxylic acids containing 9 to 14 carbon atoms in the chain (C9-C14 PFCAs), their salts and C9-C14 PFCA-related substances (OJ L 282, 5.8.2021)*
- *Corrigendum to Commission Implementing Regulation (EU) 2021/2077 of 26 November 2021 concerning the authorisation of L-valine produced by *Corynebacterium glutamicum* CGMCC 7.366 as a feed additive for all animal species (OJ L 426, 29.11.2021)*

- [Corrigendum to Regulation \(EU\) 2019/1009 of the European Parliament and of the Council of 5 June 2019 laying down rules on the making available on the market of EU fertilising products and amending Regulations \(EC\) No 1069/2009 and \(EC\) No 1107/2009 and repealing Regulation \(EC\) No 2003/2003 \(OJ L 170, 25.6.2019\)](#)

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