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- **Enhanced cooperation towards future binding commitments? The EU and Singapore agree to a *Digital Partnership* and *Digital Trade Principles***
- **The *Indonesia-Korea Comprehensive Economic Partnership Agreement* finally enters into force: Enhancing trade despite an outdated approach?**
- **Ireland notifies new alcohol labelling Regulations to the WTO after obtaining tacit approval from the European Commission**
- **Recently adopted EU legislation**

Enhanced cooperation towards future binding commitments? The EU and Singapore agree to a *Digital Partnership* and *Digital Trade Principles*

On 1 February 2023, the European Commissioner for the Internal Market, *Thierry Breton,* and Singapore's Minister of Industry and Trade, *S Iswaran,* signed the *EU-Singapore Digital Partnership* and, on 31 January 2023, the European Commission Executive Vice-President and European Commissioner for Trade, *Valdis Dombrovskis,* and Singapore's Minister, *S Iswaran,* signed the *Digital Trade Principles*. The *EU-Singapore Digital Partnership* aims at promoting greater collaboration across multiple areas in the cross-border digital economy, including digital trade facilitation. Within the framework of the *Digital Partnership*, the *Digital Trade Principles* set a common understanding between the EU and Singapore regarding five areas of digital trade. Despite the lack of binding commitments, both instruments set the stage for future negotiations to develop common regulatory approaches and binding commitments.

Regulating digital services and digital trade

Over the past few years, the growing importance of digital trade has found its way into regional and international trade initiatives, notably with several countries including dedicated chapters on electronic commerce (hereinafter, e-commerce) or on digital trade in their preferential trade agreements (hereinafter, PTAs) (see *Trade Perspectives*, Issue No. 7 of 9 April 2021).

In 2021, the European Commission (hereinafter, Commission) published its Communication on *An Open, Sustainable and Assertive Trade Policy*, which also reflects the growing importance of digital trade. The Commission's Communication notes that "*supporting Europe's digital agenda is a priority for EU trade policy*". At the same time, the EU has been refining the chapter on '*Digital Trade*' in the PTAs that it negotiates with trading partners, as opposed to merely focusing on certain aspects of e-commerce, as was the case in earlier agreements. The EU's approach to digital trade has been broadened and now includes, *inter alia,* the prohibition of Customs duties on electronic transmissions, cross-border data flows, the regulation of data localisation, privacy issues, and data protection, as well as the protection of software codes.

Negotiating digital agreements

In recent times, both Singapore and the EU have placed greater emphasis on negotiating digital agreements with their respective trading partners. However, there appears to be a significant difference in the initial level of ambition, as Singapore negotiates detailed *Digital Economy Agreements* (hereinafter, DEAs) with, *inter alia*, binding commitments, while the EU mainly focuses on *Digital Partnerships* providing for enhanced cooperation with a view to prepare negotiations on future binding commitments.

Singapore has already concluded DEAs with Australia and the UK, and Digital Economy Partnership Agreement (DEPAs) with Chile and New Zealand, as well as with Korea. On 12 May 2022, the EU and Japan announced the conclusion of the *EU-Japan Digital Partnership*, which was the first such digital partnership concluded by the EU (see *Trade Perspectives*, Issue No. 11 of 6 June 2022) and, on 28 November 2022, the EU and South Korea reached agreement on their *Digital Partnership*. The *Digital Partnerships* with Japan and with South Korea, respectively, cover, *inter alia*, commitments on greater cooperation relating to the facilitation of digital trade, secured international connectivity, green data infrastructures, and digital rules, as well as the resilience of global supply chains.

The EU-Singapore Digital Partnership

On 7 December 2021, the EU and Singapore announced in a Joint Statement their shared intention to advance towards a comprehensive *Digital Partnership* (see *Trade Perspectives*, Issue No.2 of 31 January of 2022). As the provisions of the EU-Singapore Free Trade Agreement (hereinafter, EUSFTA) on e-commerce, negotiated more than 10 years ago, are very limited in scope and in the depth of their coverage, the *Digital Partnership* is intended to provide a framework laying the groundwork for the negotiation of future binding provisions on some of the key issues relating to digital trade.

The *EU-Singapore Digital Partnership* is "*an overarching framework to strengthen connectivity and interoperability of digital markets and policy frameworks*" and has the objective to facilitate digital trade between the EU and Singapore, as well as to advance cooperation across various digital issues, such as trusted data flows and data innovation, digital trust, standards, and digital trade.

The *EU-Singapore Digital Partnership* displays a flexible architecture that is intended to allow the EU and Singapore to jointly address additional areas of the digital space and to adopt a range of cooperation modalities going forward. Both Parties recognise that, in certain areas "*where businesses and citizens need legal certainty and clarity on how they can operate in the digital environment, the EU and Singapore may consider negotiating legally binding agreements in the future, in line with the relevant domestic procedures for their adoption*".

In the framework of the *EU-Singapore Digital Partnership*, the EU and Singapore intend "*to facilitate and organise joint work in areas of mutual interest, going beyond dialogue and exchange of information to deliver concrete results*". The EU and Singapore committed to prepare a joint workplan and related deliverables, building on existing cooperation mechanisms, such as the committees established under the EUSFTA, and dedicated expert workshops.

As a first step, under Section 4 of the *Digital Partnership*, the EU and Singapore agreed to jointly work on 13 identified priority areas, such as digital trade, digital connectivity, data and standards, technical regulations, and conformity assessment procedures, while an Annex sets out an "*Initial set of joint actions*" within the priority areas. The *Digital Partnership* provides for the ministerial-level *EU-Singapore Digital Partnership Council* to meet annually to review the progress made and to identify areas for future collaboration and possible deliverables.

The Digital Trade Principles

The EU notes that the signature of the *Digital Trade Principles* is the "*first tangible outcome of our digital partnership*", and it sets a common understanding between the EU and Singapore regarding five areas of digital trade, namely: 1) '*Digital Trade Facilitation*'; 2) '*Data Governance*'; 3) '*Consumer Trust*'; 4) '*Business Trust*'; and 5) '*Cooperation on Digital Trade*'. While the EU and Singapore note that the *Digital Trade Principles* indicate a common understanding, both Parties "*share the understanding that these Digital Trade Principles are not legally binding and are not intended to give rise to any rights or obligations under the respective domestic laws and regulations, or international law*".

With respect to digital trade facilitation, the *Digital Trade Principles* address issues such as paperless trade, electronic transactions and electronic contracts, electronic transferable records and freight transport information, Customs duties, standards, technical regulations, and conformity assessment procedures.

In the context of data governance, the EU and Singapore committed to cooperate on '*Data free flow with trust'*, a concept meant to convey concerns relating to the privacy of individual and company-level data, and characteristic of the EU's strong internal safeguards on international data transfers, which stem from the EU's privacy and personal data protection rules. In this regard, both Parties share the view that "*data should be able to flow freely across borders with trust, based on instruments for cross border data flows ensuring a high level of data protection and security*" and agreed on the importance of enhancing "*cooperation on data governance, privacy and data protection*" and "*to work towards identifying commonalities, complementarities and elements of convergence between their regulatory approaches with a view to explore future interoperability to facilitate data to flow with trust*". While an important step, the EU services sector has long been advocating for modernised rules on cross border dataflows between the EU and Singapore and such binding rules have yet to be agreed.

Towards more binding rules

Following the signing of the *EU-Singapore Digital Partnership*, Commissioner *Breton* and Singapore's Minister *S Iswaran* chaired the first *Digital Partnership Council*, during which both Parties agreed to work on projects to facilitate digital trade, as well as on issues related e-identification, artificial intelligence governance, and on providing assistance to small and medium enterprises.

While the *EU-Singapore Digital Partnership* is an important step forward to develop common regulatory approaches, it remains a non-binding instrument. The *Digital Partnership* notes that the EU and Singapore commit to consider negotiating binding agreements in the future, but does not provide further details. In this context, Singapore's Minister *S Iswaran* stated that trade documentation, electronic invoicing, and data portability could be areas in which the EU and Singapore would begin to discuss binding rules.

The *EU-Singapore Digital Partnership* should pave the way towards greater harmonisation of the relevant rules and trade facilitation, contributing to increased commercial and trade opportunities and to develop common regulatory approaches between these two important trading partners. Importantly, the *Digital Partnership* foresees the involvement of the private sector in various instances, through exchanges of views expected to be organised as part of existing cooperation mechanisms, as well as through joint Digital Partnership dialogues, an opportunity that businesses and relevant trade associations should seize in order to contribute to shaping the future regulatory environment.

The *Indonesia-Korea Comprehensive Economic Partnership Agreement* finally enters into force: Enhancing trade despite an outdated approach?

On 1 January 2023, more than ten years after trade negotiations were launched by the Republic of Korea (hereinafter, South Korea) and Indonesia, the *Indonesia-Korea Comprehensive Economic Partnership Agreement* (hereinafter, *IK-CEPA*) entered into force. The *IK-CEPA*, which had already been signed by both Parties on 18 December 2020, presents wider opportunities for Indonesia and South Korea's trade relations through the elimination of tariffs, increasing opportunities for trade in services and investment, economic cooperation, and human resources development. In particular, the implementation of the *IK-CEPA* is expected to boost Indonesia's fishery and agricultural sectors, as well as to strengthen South Korea's industrial and automotive sectors through investments in and exports to Indonesia.

From the ASEAN-Korea Free Trade Agreement to the RCEP and the IK-CEPA

In 2005, Indonesia and the other nine ASEAN Member States (*i.e.*, Brunei Darussalam, Cambodia, Indonesia, Laos, Malaysia, Myanmar, the Philippines, Singapore, Thailand, and Viet Nam) signed the *Framework Agreement on Comprehensive Economic Cooperation* with South Korea, which paved the way for the signing of four agreements covering trade in goods, services, investment, and a dispute settlement mechanism. Collectively, these agreements established the *ASEAN-Korea Free Trade Area* (hereinafter, AKFTA). The *ASEAN-Korea Trade in Goods Agreement*, which entered into force in 2007, eliminates 90.2% and 80.1% of export tariffs for Indonesian and South Korean exports, respectively. In terms of scope, the *ASEAN-Korea Trade in Goods Agreement* is limited to the '*traditional*' rules on trade in goods, such as the elimination of tariffs, rules of origin, the elimination of quantitative restrictions, as well as the reaffirmation of the Parties' WTO obligations.

Other than the *AKFTA*, Indonesia and South Korea are also parties to the *Regional Comprehensive Economic Partnership Agreement* (hereinafter, RCEP), which was signed on 15 November 2020 by the ten ASEAN Member States and its trading partners China, Australia, Japan, South Korea, and New Zealand. The *RCEP*, which entered into force on 1 January 2022 for South Korea and on 2 January 2023 for Indonesia, eliminates 90% of tariffs in trade in goods between the Parties.

While Indonesia and South Korea have been benefitting from the broader regional agreements, both Parties recognised the existence of "*considerable opportunities to further enhance bilateral trade and economic ties through a bilateral FTA*", which eventually led to the negotiations and conclusion of the *IK-CEPA*.

Negotiating the Indonesia-Korea Comprehensive Economic Partnership Agreement

In 2012, Indonesia and South Korea agreed to initiate negotiations for the *IK-CEPA* to increase trade and economic relations based on three main pillars, namely: 1) Better market access for goods and services; 2) Trade and investment facilitation; as well as 3) Cooperation and capacity building. In 2014, following seven rounds of negotiations, Indonesia and South Korea decided to put the negotiations for the *IK-CEPA* on hold due to changes in the respective Governments and disagreements over South Korea's request for Indonesia to fully remove import duties for motor vehicles and electronics from South Korea.

Negotiations were resumed on 19 February 2019 and concluded in November 2019. On 18 December 2020, the *IK-CEPA* was signed by Indonesia's Minister of Trade, *Agus Suparmanto,* and South Korea's Minister of Trade, Industry and Energy, *Sung Yun-mo*. South Korea ratified the *IK-CEPA* in December 2021, while Indonesia's only ratified the *IK-CEPA* on 30 August 2022. During the negotiations, South Korea reportedly pursued benefits for its auto industry, while Indonesia sought commitments for more South Korean investment in Indonesia's automotive and smartphone industries.

Overview of the IK-CEPA and its potential benefits

The *IK-CEPA* consists of 13 chapters, 16 annexes, and four additional appendices, governing trade in goods (*e.g.*, tariff elimination, rules of origin, and Customs procedures), trade in services, investment, economic cooperation, as well as legal and institutional matters. The *IK-CEPA* eliminates import tariffs on 95.5% of Indonesia's exports to South Korea and 92% of South Korean exports to Indonesia, thus providing significantly improved market access conditions than under the AKFTA. In this context, tariffs on 92% of South Korea's and 86% of Indonesia's tariff lines were to be eliminated from the entry into force of the *IK-CEPA,* while tariffs on an additional 3.4% of South Korea's and 5.6% of Indonesia's tariff lines will be eliminated gradually over the following three to twenty years.

The *IK-CEPA* is intended to provide market access opportunities for several of Indonesia's key export products, including motorbikes, processed fish products, *salak* fruit, and textile products. According to the Director of Communication and Guidance for Service Users within the Directorate General of Customs and Excise of Indonesia's Ministry of Finance, *Nirwala Dwi Heryanto*, by the fifth year of its implementation, the *IK-CEP*A has the potential to increase Indonesia's exports to South Korea by 19.8% and imports from South Korea by 13.8%. The *IK-CEPA* will also increase investment opportunities for South Korean businesses in a number of important sectors, such as automotive, metal, chemical, and renewable energy. According to South Korea's Deputy Director for Free Trade Agreements within South Korea's Ministry of Trade, *Oh Hyun*, the country intends to make Indonesia its new production base in ASEAN, notably in light of the elimination of tariffs for auto parts, steel, and petrochemical products. Home to several of the world's largest automotive manufacturers, South Korea expects the *IK-CEPA* to pave the way for a more robust bilateral value chain through greater trade and investment, particularly with respect to nickel and electric vehicles.

The *IK-CEPA* has also been welcomed by the private sector. The Deputy Chairperson of the Indonesian Chamber of Commerce and Industry, *Shinta Kamdani,* stated that the *IK-CEPA* would provide significant trade and investment opportunities *"as Indonesia and South Korea have a high degree of complementarity since Indonesia does not have many products that are the same or directly in competition with South Korea*". The Executive Director of the Indonesian Centre of Reform on Economics (CORE), *M. Faisal,* noted that the implementation of the *IK-CEPA* should not only focus on trade in goods, but must also take advantage of the increased opportunities with respect to trade in services and investment.

Consultations and cooperation to address trade irritants

The *IK-CEPA* emphasises the importance of consultations on trade-related issues, including on non-tariff measures, Customs, and rules of origin. Notably, Article 2.10 of the *IK-CEPA* provides that a Party may request technical consultations on a measure that it considers to be "*adversely affecting trade*". Article 4.11 of the *IK-CEPA* further allows and provides the procedures for consultations in relation to other trade matters, such as consultations on Customs matters, which may be evoked by a Customs authority in case there are issues with the respect to the implementation of the chapters on Customs and Rules of Origin.

To further facilitate trade and capacity building, Chapter 8 of the *IK-CEPA* on '*Economic Cooperation*' requires the Parties to promote cooperation in areas of mutual interest, taking into account "*the different levels of development and capacity of the Parties*". Article 8.2 of the *IK-CEPA* states that Indonesia and South Korea agreed to explore and undertake cooperative activities, in the following sectors: 1) Industry, including automotive, steel and metal, as well as food and beverages; 2) Agriculture, fishery, and forestry, such as forest management and food processing; 3) Rules and procedures for trade, such as sanitary and phytosanitary and rules of origin; 4) Movement of natural persons; and 5) Other areas of cooperation, such as supporting policy for small and medium enterprises, investment, environment, energy and mineral resources.

The Parties are free to choose their preferred methods of cooperation, which can take the form of technical assistance, training of human resources, joint research and development, and sharing of best practices. To implement and oversee such cooperation, the *IK-CEPA* foresees the establishment of a Committee on Economic Cooperation. Indonesia and South Korea also agreed on the *Implementing Arrangement for Economic Cooperation Pursuant to Chapter 8 of the IK-CEPA*, which outlines the details of the cooperation framework. For instance, indicative activities for cooperation in the industry can include "*encouraging and facilitating visits and exchanges of experts, and exchange of knowledge and technology*".

Chapter 9 of the *IK-CEPA* on '*Transparency*' highlights the importance of the publication of domestic laws, regulations, procedures, and administrative rulings. Article 9.3 mandates a Party, upon the request of the other Party, to provide information and respond to inquiries on any proposed or existing measure.

A 'new generation' agreement?

Despite having been concluded in 2019, it is apparent that the *IK-CEPA* does not go beyond the '*traditional*' rules on trade in goods, such as tariff elimination, rules of origins, Customs procedures and trade facilitation, transparency, services, and cooperation. Importantly, the *IK-CEPA* does not address any of the '*emerging*' issues, such as electronic commerce and digital trade, or trade and sustainable development. In comparison, the *RCEP* incorporates a number of chapters on emerging issues, such as those on electronic commerce and on small and medium enterprises. The *IK-CEPA* falls short of addressing these issues and appears already outdated compared to the *RCEP*.

That being said, the *IK-CEPA* is poised to strengthen bilateral relations in a number of trade areas. In order to ensure effective implementation, both Parties should encourage their private sectors to make use of the trade facilitation tools through proper socialisation and dissemination of relevant information. Businesses in both countries should carefully review the Agreement and determine the relevant trade and investment opportunities.

Ireland notifies new alcohol labelling Regulations to the WTO after obtaining tacit approval from the European Commission

On 6 February 2023, Ireland's Department of Health notified the *Public Health (Alcohol) (Labelling) Regulations 2022* (Document G/TBT/N/IRL/4) to the World Trade Organization's (hereinafter, WTO) Committee on Technical Barriers to Trade (TBT Committee). On 22 December 2022, the consultation process in the EU on the draft *Public Health Alcohol Labelling Regulations* with mandatory health warning labels on all alcohol product packaging in Ireland, which the Government of Ireland had initiated on 21 June 2022, formally ended with no objections raised by the European Commission (hereinafter, Commission), which procedurally amounts to a tacit approval. This article provides an overview of the draft *Public Health Alcohol Labelling Regulations* and assesses their WTO consistency.

Significant public health harm caused by alcohol

The consumption of alcohol has been identified as causing significant public health harm in Ireland. In response to this threat, the Government of Ireland enacted the *Public Health (Alcohol) Act 2018* for the protection of human health (see *Trade Perspectives*, Issue No. 2 of 26 January 2018). Under Section 12 of the *Public Health (Alcohol) Act*, the Minister for Health is empowered to make regulations to require that the labels of alcoholic products should contain: 1) A warning to inform consumers of the danger of alcohol consumption; 2) A warning to inform consumers of the danger of alcohol consumption when pregnant; 3) A warning to inform consumers of the direct link between alcohol and cancers; 4) The quantity of grams of alcohol contained in the product; 5) The number of calories contained in the alcoholic product; and 6) A link to a health website that gives information on alcohol and related harms.

Based on Section 12 of the *Public Health (Alcohol) Act 2018*, the draft *Public Health Alcohol Labelling Regulations,* with their requirement for mandatory health warning labels on all alcohol product packaging, apply to all alcoholic products sold in Ireland, whether produced locally or imported into the country. The draft labelling regulations now notified to the WTO TBT Committee provide the details for the obligation under Section 12 of the *Public Health (Alcohol) Act 2018*. Regarding health warnings, the requirement under Section 12(i) to provide for a warning to inform consumers of the danger of alcohol consumption has been specified as a warning on the risk of liver disease. No alcoholic product may be sold without bearing the following warnings: "*Drinking alcohol causes liver disease*" and "*There is a direct link between alcohol and fatal cancers*". In addition, the requirement for a pregnancy warning under Section 12(ii) can be fulfilled through using a specified pictogram. The health website required under Section 12(vi) is www.askaboutalcohol.ie. The quantity of grams of alcohol contained in the product and the number of calories contained in the alcohol product must also be indicated.

The draft regulations also provide that, for alcoholic products that have a small surface area, the health warnings and information can be of a smaller size. Finally, the regulations specify that websites, which sell alcoholic products, must display the same information, as would be available to the consumer in a physical shop, so that the online consumer has all the information at the moment of purchase. The purpose of this provision is to ensure that important and necessary public health information is communicated to the Irish consumers at the moment of purchase, so that consumers can make an informed choice when purchasing alcoholic products and with respect to the related consumption. In addition, the Government of Ireland notes that evidence shows that health information on the labels of alcoholic products leads to a reduction in alcohol consumption and, therefore, a decrease in the health harms caused by alcohol. Currently, there is no regulatory requirement for the display of health warnings or health information on alcoholic products sold in Ireland. The Government of Ireland notes that "*this is despite the well settled scientific evidence that alcohol causes conditions such as alcoholic liver disease and alcohol induced pancreatitis as well as cancers, cardiovascular disease and other conditions being attributable to alcohol*".

Ireland's alcohol health warning label is tacitly approved by the European Commission

On 21 June 2022, the Government of Ireland had notified the draft *Public Health Alcohol Labelling Regulations,* with their requirements for mandatory health warning labels on all alcohol product packaging, to the European Commission (hereinafter, Commission) under the EU's Technical Regulation Information Service (TRIS) procedure, set up under *Directive (EU) 2015/1535 of the European Parliament and of the Council of 9 September 2015 laying down a procedure for the provision of information in the field of technical regulations and of rules on Information Society services.*

The consultation process on the draft alcohol labelling regulation, conducted under the TRIS procedure, generated concerns from a number of EU Member States. In particular, nine EU Member States (*i.e.,* Croatia, the Czech Republic, France, Hungary, Italy, Portugal, Romania, Slovakia, and Spain) objected to Ireland's draft in the commentaries that they submitted. At the same time, numerous health non-governmental organisations (NGOs) and industry representatives also issued comments in the context of the TRIS procedure. While the Health NGOs supported the measure, the industry and the nine EU Member States essentially argued that Ireland's national attempt to regulate food labelling could fragment the EU's Single Market by creating different marketing standards and requirements for companies operating in the sector. It must be noted that Ireland is not the first EU Member State to introduce additional labelling rules on alcoholic beverages. In France, operators have the choice between a

pictogram or the written message "*The consumption of alcoholic beverages during pregnancy, even in small quantities, can have serious consequences on the health of the child*".

The consultation process formally ended on 22 December 2022 with no objections raised by the Commission, which procedurally amounts to a *tacit* approval. *Claire Gordon*, manager within the Tobacco and Alcohol Control unit at the Irish Department of Health, explained at an event on *Europe's Beating Cancer Plan,* organised by the Swedish Presidency of the Council of the EU, held on 1 February 2023, that Ireland was "*very grateful and indeed somewhat surprised – and somewhat surprised is an understatement – that our proposals got through that EU assessment process successfully*". The next steps, she said, would include a notification to the WTO, "*as the new labelling system might be considered an obstacle to international trade*".

Assessment under WTO law

Regarding the WTO law consistency of Ireland's draft, according to Article 2.2 of the WTO Agreement on Technical Barriers to Trade (hereinafter, TBT Agreement), *"Members shall ensure that technical regulations are not prepared, adopted or applied with a view to or with the effect of creating unnecessary obstacles to international trade. For this purpose, technical regulations shall not be more trade-restrictive than necessary to fulfil a legitimate objective, taking account of the risks non-fulfilment would create. Such legitimate objectives are, inter alia, the protection of human health or safety, animal or plant life or health, or the environment*".

The Government of Ireland argues that the high volumes and harmful patterns of alcohol consumption in Ireland are responsible for an enormous burden of public health harms and healthcare costs. The proposed regulations form part of a suite of measures under the *Public Health (Alcohol) Act* that are designed to reduce these harms and the related costs for the protection of the health of Irish citizens. According to the Government of Ireland, "*in accordance with Article 2.2 of the WTO TBT Agreement and in pursuit of the protection of human safety and health, these regulations are aimed at protecting human health. The draft labelling regulations apply to all alcohol products sold in Ireland, whether produced locally or imported into the State. Therefore, in accordance with Article 2.1 of the WTO TBT Agreement, products imported from the territory of any member will be accorded treatment no less favourable than that accorded to like products of national origin and to like products originating in any other country*".

According to Article 2.2 of the TBT Agreement, WTO Members must ensure that technical regulations do not create unnecessary obstacles to international trade. For this purpose, technical regulations must not be more trade-restrictive than necessary to fulfil a legitimate objective (*e.g.*, the protection of human health). Arguably, however, the objective of the alcohol warning labels could be addressed by more effective and less trade-restrictive public policies. For instance, Ireland's draft requires the quantity of grams of alcohol and the number of calories contained in the alcohol product to be indicated. If such nutritional information is provided, the rationale for imposing additional warnings is not clear. Other less trade-restrictive information measures, such as launching campaigns to encourage the population to eat and drink healthily and promoting physical activity programmes, also appear to be available.

Article 2.4 of the TBT Agreement provides that technical regulations must be based on the relevant international standards. Section 5 of the *Codex Guidelines on Nutrition Labelling* recommends, in relation to supplementary nutrition information, that it should be intended to increase consumers' understanding of the nutritional value of their food and that it should assist in interpreting the nutrient declaration. The *Codex Guidelines on Nutrition Labelling* state that the information contained in the nutrient declaration "*should not lead consumers to believe that there is exact quantitative knowledge of what individuals should eat in order to maintain health, but rather to convey an understanding of the quantity of nutrients contained in the product*". Additionally, the manner in which the legitimate public health objective is pursued appears to be incompatible with the list of prohibited claims under section 3 of the *Codex General Guidelines on Claims*. For instance, Section 3.5 of these guidelines prohibits "*claims which*

could give rise to doubt about the safety of similar food or which could arouse or exploit fear in the consumer". Arguably, the warning labels risk demonising alcoholic beverages, whose consumption in moderation can, arguably, be part of a healthy diet.

Outlook

Comments of other WTO Members within the TBT Committee can be filed 90 days from Ireland's notification. WTO Members could also raise a Specific Trade Concern (STC) with respect to the draft regulation at the meetings of the WTO TBT Committee. Following the lapse of the WTO notification period, Ireland's Minister of Health, *Stephen Donnelly,* still needs to sign the draft regulation in order for the health labelling requirements to enter into force. Notably, according to Ireland's notification to the WTO, "*the draft regulations provide for a very long lead-in time (3 years) which will not begin until the regulations have been finalised and provide options for businesses to minimise the impact on their processes*". Business should start familiarising themselves with the new rules and prepare for their entry into effect.

Recently adopted EU legislation

Trade Law

- *Commission Implementing Regulation (EU) 2023/254 of 6 February 2023 amending Implementing Regulation (EU) 2020/761 as regards certain technical rules on the management of tariff rate quotas*

- *Council Decision (EU) 2023/274 of 6 February 2023 on the position to be taken on behalf of the European Union within the EU-UK Specialised Committee on Energy established under the Trade and Cooperation Agreement between the European Union and the European Atomic Energy Community, of the one part, and the United Kingdom of Great Britain and Northern Ireland, of the other part, concerning the EU-UK electricity trading arrangements*

- *Council Decision (EU) 2023/310 of 6 February 2023 on the position to be taken on behalf of the European Union within the Specialised Committee on Social Security Coordination established under the Trade and Cooperation Agreement between the European Union and the European Atomic Energy Community, of the one part, and the United Kingdom of Great Britain and Northern Ireland, of the other part, as regards the use of the Electronic Exchange of Social Security Information for the transmission of data between institutions or liaison bodies*

Trade Remedies

- *Commission Implementing Regulation (EU) 2023/265 of 9 February 2023 imposing a definitive anti-dumping duty on imports of ceramic tiles originating in India and Türkiye*

Customs Law

- *Commission Implementing Regulation (EU) 2023/248 of 1 February 2023 concerning the classification of certain goods in the Combined Nomenclature*

Food Law

- *Commission Implementing Regulation (EU) 2023/255 of 6 February 2023 concerning the renewal of the authorisation of naringin as a feed additive for all animal species and repealing Implementing Regulation (EU) No 870/2012 (Text with EEA relevance)*

- *Commission Implementing Regulation (EU) 2023/257 of 6 February 2023 correcting Implementing Regulation (EU) 2022/1412 concerning the authorisation of ylang ylang essential oil from Cananga odorata (Lam) Hook f. & Thomson as a feed additive for all animal species (Text with EEA relevance)*

- *Commission Implementing Regulation (EU) 2023/263 of 7 February 2023 concerning the authorisation of sepiolitic clay as a feed additive for dairy ruminants, weaned and fattening Suidae, salmonids and chickens for fattening (Text with EEA relevance)*

- *Commission Implementing Regulation (EU) 2023/267 of 8 February 2023 authorising the placing on the market of dried nuts of Canarium ovatum Engl. as a traditional food from a third country and amending Implementing Regulation (EU) 2017/2470 (Text with EEA relevance)*

- *Commission Implementing Regulation (EU) 2023/268 of 8 February 2023 amending Annexes V and XIV to Implementing Regulation (EU) 2021/404 as regards the entries for Canada, the United Kingdom and the United States in the lists of third countries authorised for the entry into the Union of consignments of poultry, germinal products of poultry and fresh meat of poultry and game birds (Text with EEA relevance)*

- *Commission Implementing Decision (EU) 2023/312 of 30 January 2023 amending the Annex to Implementing Decision (EU) 2021/641 concerning emergency measures in relation to outbreaks of highly pathogenic avian influenza in certain Member States (notified under document C(2023) 834) (Text with EEA relevance)*

- *Commission Implementing Regulation (EU) 2023/308 of 8 February 2023 amending Annex I to Implementing Regulation (EU) 2021/403 as regards model animal health certificates for movements between Member States of consignments of cervid animals (Text with EEA relevance)*

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