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EU lawmakers approve the Carbon Border Adjustment Mechanism and the Revision of the Emissions Trading System: Economic operators must prepare for compliance, although key implementing rules are still missing

On 25 April 2023, the Council of the EU (hereinafter, Council) voted on the Revision of the EU's Emissions Trading System (hereinafter, ETS) Directive and on the EU's new *Regulation establishing a Carbon Border Adjustment Mechanism* (hereinafter, CBAM). On 18 April 2023, the European Parliament's plenary had already approved both files. Both legislative proposals had been provisionally agreed by the EU Institutions in *trilogue* negotiations in late 2022. The new and revised rules intend to enable the EU to reduce greenhouse gas (hereinafter, GHG) emissions within some of the main emitting sectors of the economy and are part of the EU's '*Fit for 55*' package, which intends to align the EU's policies with its commitment to reduce net GHG emissions by at least 55% by 2030, compared to 1990 levels, and to achieve climate neutrality by 2050. This article delves into some of the CBAM's and ETS' trade and trade-related environmental aspects, as well as the recent scrutiny that the Regulation and the Directive have been subjected to due to the lack of clarity concerning important implementing rules.

The ETS and the CBAM acting in conjunction

In the EU, certain emissions are currently regulated through the EU's ETS, which is based on the '*cap-trade*' principle. This means that a limited cap is set on the total amount of certain GHG emissions that can be emitted by defined industry sectors (*e.g.*, oil refineries, steel works, and the production of iron, aluminium, metals, cement, lime, glass, ceramics, pulp, paper, cardboard, acids and bulk organic chemicals). The cap is then linearly reduced over time so that total emissions decrease (see *Trade Perspectives*, Issue No. 4 of 28 February 2022). Within the cap, the companies active in sectors covered by the ETS may receive emission allowances, either through public auctioning or free of charge. Notably, the allocation of ETS free allowance is used to safeguard the competitiveness of the regulated industries and to avoid '*carbon leakage*', occurring when businesses transfer their manufacturing to countries where more flexible emission constraints lead to an increase in total emissions. The allowances can be traded with other covered companies.

The ETS does not apply to products manufactured in third countries and imported into the EU, which is what the EU's CBAM intends to address. The CBAM will apply the concept of carbon pricing to imports of foreign goods that have not been subject to an equivalent carbon levy in their respective countries of origin. This aims at preventing more effectively the phenomenon of '*carbon leakage*' and will render the ETS free allowances obsolete. The CBAM will work in conjunction with the ETS, and free allowances accorded to EU industries covered by the ETS will be gradually phased out between 2026 and 2034, at the same rate as the CBAM will be phased in.

The introduction of the CBAM was motivated, in large part, by the concern that companies based in the EU and subject to the EU's strict environmental policies, notably the EU's ETS, could be faced with competition from imported products that are subject to less stringent rules in the country of origin and that are, therefore, more competitive (see *Trade Perspectives*, Issue No. 15 of 1 August 2022).

The CBAM will cover products in some of the most carbon-intensive sectors at risk of '*carbon leakage*'. While the European Commission's (hereinafter, Commission) Proposal foresaw that the CBAM would cover cement, electricity, fertilisers, iron and steel, and aluminium, the agreement reached by the EU Institutions expanded the scope to also include hydrogen, indirect emissions under certain conditions, certain precursors, and downstream products, such as screws and bolts. The initial scope of the covered products is to be gradually extended over time, aiming at covering all sectors subject to the EU's ETS by 2030.

The implementation of CBAM and the challenges faced by industry and traders

The EU's CBAM has been in the making for several years. In 2020, the Commission held a public consultation that aimed at involving interested stakeholders in the EU's law-making process of the CBAM and conducted an impact assessment that was published in 2021. After years of legislative debate, the new rules now move to the implementation phase.

The CBAM will begin to operate from October 2023 onwards. Initially, a "*simplified version*" of the CBAM will be applied, merely obliging importers to collect data related to their products' carbon emissions and reporting the data four times a year to the Commission. The reporting obligation is to provide the information needed for compliance with the new rules, for instance the total direct and indirect emissions embedded in the production process. Direct emissions refer to emissions from sources that are owned or controlled by the reporting entity, while indirect emissions refer to the production process of the goods, both of which will be covered by the CBAM. During the transitional period, importers will not yet be required to purchase CBAM certificates, and the information provided in the reports will not yet be verified.

On 1 January 2026, the transitional period is scheduled to end and the "*full CBAM*" will apply. At that stage, a carbon levy corresponding to the EU's carbon market price, which currently stands at around EUR 90 per metric tonne of carbon dioxide, will be payable. Businesses that do not provide their emissions data (or that provide data deemed unacceptable by the EU) will face punitive measures. To pay the carbon levy under the CBAM, EU importers will be required to purchase CBAM certificates for the emissions embedded in the products and submit annual CBAM declarations through an EU-wide registry. In simple terms, the annual declaration must indicate the basic data needed for compliance, such as the total quantity of CBAM goods imported during the previous calendar year, the total emissions embedded in those goods, the total number of CBAM certificates to be surrendered, as well as a copy of the verification report of the embedded emissions issued by the accredited verifier.

Now that the CBAM Regulation has been adopted and as the implementation phase approaches, economic operators are growing increasingly concerned. Various trade and business associations have expressed their concerns regarding the implementation of the CBAM, notably highlighting insufficient time to prepare for the reporting obligations during the transition period. Associations representing various industries have been calling for a more

gradual implementation schedule, ensuring an uninterrupted flow of goods and allowing economic operators to adjust appropriately.

A key concern by affected industries is the uncertainty with respect to important implementing rules that would enable economic operators' effective implementation of the new requirements by clarifying, *inter alia*, the specific responsibilities of the different actors involved in the supply chains of the imported goods covered by the CBAM. The Commission's implementing acts will provide highly relevant regulatory elements for the compliance with the new rules, such as the calculation methods for both direct and indirect emissions, including *"determining system boundaries of production processes and relevant precursor materials, emission factors, installation-specific values of actual emissions and default values and their respective application to individual goods as well as laying down methods to ensure the reliability of data"*. However, the CBAM Regulation does not provide any deadlines for the adoption of such implementing acts and the Commission will reportedly not publish any relevant implementing regulation before July 2023, with the rules applying from October 2023. Therefore, EU trade associations have been urging the EU to adopt a more appropriate timeframe in order for economic operators to be able to make the necessary adaptations and to ultimately comply with the new rules before the beginning of the reporting obligations during the transition period.

The EU's CBAM has led to a number of critical reactions from the EU's trading partners, including the allegation that the CBAM constitutes a discriminatory unilateral measure. With respect to the GATT, it is not inconceivable that the assignation of carbon emissions to certain products, while *de jure* non-discriminatory, might lead to claims of *de facto* discrimination where competing *'like'* products were considered to have less/more carbon emissions. This is particularly true where, *inter alia*, the negatively impacted *'like'* product(s) hail from outside the EU, while the positively impacted *'like'* products derive from within the EU (which would potentially constitute a national treatment violation in violation of Article III:4 of the GATT) (see *Trade Perspectives*, Issue No. 7 of 10 April 2023).

On 26 April 2023, at a public hearing on *"Reinforcing EU-Latin America Trade Relations"* organised by the European Parliament's Committee on International Trade, the Head of Trade and International Integration at Brazil's *National Confederation of Industry* (*Confederação Nacional da Industria*, CNI), *Constanza Negri Biasutti*, noted that, from 2001 to 2021, the EU experienced a decline in its relevance as an export destination for products originating from Latin America and Caribbean countries. CNI's *Constanza Negri Biasutti* stressed that some recent policy developments in the EU could create additional challenges to relations with Latin America. In particular, she mentioned the CBAM Regulation and explained that additional challenges were not related to the objectives of the new measures, but to their implementation and effects.

From legislative debate to implementation – a bumpy road ahead?

The immediate impact of the EU's CBAM is limited, given that it will initially only apply to a limited range of products so that not all trading partners will be impacted equally. For those economic operators affected by the '*simplified version*' of the CBAM during the transition period, it is crucial to have both clarity on the applicable rules and an appropriate timeline that allows the necessary operational modifications required for compliance to be undertaken.

It remains to be seen whether the concerns that have been expressed will lead the EU to reconsider the established timelines and related obligations. However, the lack of official guidance and tight deadlines undeniably have the potential to disrupt economic operators' activities if left unaddressed, especially those of micro, small and medium-sized enterprises currently participating in global value chains and, in particular, those based in low and middle-income countries and trading with the EU.

The substantial conclusion of the *Mercosur-Singapore FTA*: Moving closer towards Mercosur's first trade agreement in the ASEAN region

On 20 July 2022, on the side-lines of the 2022 Mercosur Summit held in Paraguay, Singapore and the Mercosur countries, namely Argentina, Brazil, Paraguay, and Uruguay, announced the substantial conclusion of the negotiations for the *Mercosur-Singapore Free Trade Agreement* (hereinafter, *Mercosur-Singapore FTA*). On 17 April 2023, Singapore and Brazil issued a Joint Statement, expressing their intention "*to work toward reaching consensus on remaining issues, to allow the signing of the Mercosur-Singapore FTA at the earliest opportunity*". In addition to the negotiations with Singapore, on 16 December 2021, Mercosur and Indonesia announced the launch of trade negotiations, but actual negotiations have yet to be held.

The significance of the Singapore-Mercosur trade relationship

In 2019, the four Mercosur countries had a combined population of more than 265 million people and a combined GDP of USD 2.38 trillion. In 2021, Singapore's total trade in goods with the Mercosur countries had a value of USD 5.7 billion, while total trade in services had a value of USD 2.1 billion. Mercosur's main exports to Singapore include poultry products, pork, beef, and iron ore, while Singapore's main exports to Mercosur countries are refined petroleum, pesticides, and pharmaceutical products. In 2021, Singapore's direct investments in Mercosur countries had a total value of USD 1.24 billion. According to a press release by Singapore's Ministry of Trade and Industry, there are more than 90 registered companies from Mercosur countries in Singapore and almost 70 overseas affiliates of Singapore companies established in the Mercosur countries.

The *Mercosur-Singapore FTA* should further enhance the bilateral trade relations between Singapore and the Mercosur countries, specifically with Brazil as Singapore's largest trading partner in Latin America. Data from Brazil's Ministry of Economy shows that the flow of trade in goods between both Singapore and Brazil had a value of USD 6.7 billion in 2021, with exports from Brazil to Singapore having a total value of USD 5.8 billion and imports from Singapore into Brazil having a total value of USD 843 million. Brazil's main exports to Singapore are, *inter alia,* refined petroleum, crude petroleum, and poultry meat, while Singapore's main exports to Brazil are integrated circuits, pesticides, and special-purpose ships. Brazil's Ministry of Economy predicts that the agreement could increase Brazil's GDP by USD 5.14 billion between 2022 and 2041.

The Mercosur-Singapore FTA

The *Mercosur-Singapore FTA* consists of 19 Chapters, which provide comprehensive commitments on investment and trade. The official text of the Agreement has yet to be published, but the Government of Brazil has published a report providing summaries of the individual chapters.

Under the chapter on '*National Treatment and Market Access for Goods*', Singapore will grant tariff liberalisation for all tariff lines once the Agreement enters into force, and, in return, Mercosur countries will grant tariff liberalisation for 95.8% of their tariff lines. Mercosur countries will immediately liberalise 25.6% of tariff lines once the Agreement enters into force, while the other tariff lines will be gradually liberalised according to the tariff reduction schedule over the following 15 years, whereas 12.5% of tariff lines will be further liberalised after four years of the entry into force, 40.9% of tariff lines after eight years, 15.1% of tariff lines after ten years, and the remaining 1.7% of tariff lines after 15 years. Both sides' key export products will benefit from preferential market access.

The chapter on '*Sanitary and Phytosanitary Measures*' (SPS chapter) provides for commitments "*to guarantee greater predictability, readiness and mutual knowledge between sanitary systems*" through, *inter alia,* the recognition of the principle of '*pre-listing*' by Singapore, in which "*sanitary authorities of one country accept the direct indication of the*

producing establishments of the other through a faster process". The SPS chapter also emphasises the Parties' commitment to ensure transparency by facilitating the exchange of information between the Parties' SPS authorities on various topics, such as on the equivalence of sanitary measures, regionalisation, risk analysis, and audits. The SPS chapter would facilitate market access for Brazil's chicken exports to Singapore, likely leading to increased competition for exporters in Malaysia, which is currently Singapore's main supplier of chicken. Therefore, the reduced tariffs under the *Mercosur-Singapore FTA*, coupled with the commitments on SPS facilitation, such as on the pre-listing process, could significantly enhance the imports of certain agricultural products into Singapore and could make Brazil one of Singapore's key suppliers.

With regard to the Chapter on '*Technical Barriers to Trade*' (TBT), Singapore and Mercosur commit to, *inter alia,* "*adapt to existing relevant international standards in the regulated matters*", while encouraging the use of regulatory impact analyses, including the consideration of potential impacts on micro, small, and medium enterprises, and holding public consultations prior to the adoption of TBT-related regulations. The summary notes that "*through this mechanism, it would be possible to seek harmonisation with relevant standards and recognise results of conformity assessment procedures*". Further, the Agreement looks poised to also regulate the labelling of products, so as to "*bring greater predictability and avoid undue delays in approval, registration and certification*". As Singapore's main exports to Mercosur include machinery and electronics, the harmonisation of standards and labelling provisions would facilitate the import of Singapore's machinery products into the Mercosur countries.

The *Mercosur-Singapore FTA* provides rules of origin and product-specific rules of origin that are "*in line with the rules agreed upon between Mercosur and the EU*". Notably, while the chapter on rules of origin provides for a hybrid certification system "*with the possibility of self-certification through a declaration of origin or a traditional Certificate of Origin*", Singapore will only rely on self-certification. Further, the Parties agreed on a simplified yet thorough system of verification of origin, through which "*the importing country can request additional documents from the competent authority or the commercial operator and carry out on-site visits in order to confirm the origin of the product*".

The chapter on '*Customs Procedures and Trade Facilitation'* under the *Mercosur-Singapore FTA* aims at providing greater transparency, efficiency, and simplification of import, export, and transit procedures, which, consequently, should expedite the clearance of goods and reduce costs for operators. Notably, the exchange of information and the use of information technology should "*speed up and simplify bureaucratic procedures*". The chapter also includes provisions on perishable goods, which would enable faster dispatch of goods. According to the report by the Government of Brazil, "*the text allows the possibility of negotiating mutual recognition agreements for Authorized Economic Operator programs, which when implemented will make it possible to increase the competitiveness of certified companies*".

The Agreement also contains provisions on certain emerging issues, such as on electronic commerce and micro, small and medium enterprises. Notably, the Chapter on Electronic Commerce provides comprehensive commitments on digital issues that are intended to achieve trade facilitation, including provisions on paperless commerce and electronic invoicing. With regard to the chapter on electronic commerce, the Government of Brazil notes that the chapter is "*the most comprehensive framework for this modality of commerce ever agreed by Mercosur with an extra-regional partner*". The Chapter foresees commitments on, *inter alia,* personal data protection, electronic authentication, cross-border transfer of information by electronic means, paperless commerce, and electronic invoicing, as well as the prohibition of collecting Customs duties on electronic transmissions.

When compared with other '*modern'* trade agreements, such as the *EU-Singapore Free Trade Agreement,* the *Mercosur-Singapore FTA* does not appear to include any provision on trade and sustainable development or environment-related chapters, despite the growing relevance of such commitments in trade agreements.

Finally, with respect to the chapter on Micro, Small and Medium Enterprises, the Agreement provides the Parties' commitment to support the development, growth, and competitiveness of micro, small and medium enterprises by, *inter alia,* facilitating their digital transition.

Reactions from stakeholders

The *Mercosur-Singapore FTA* has been widely welcomed by stakeholders. According to the *Singapore Logistics Association*, the *Mercosur-Singapore FTA* is expected to help Singaporean businesses "*to seize more opportunities in the transport of commodities and agricultural products*" in Mercosur countries.

According to the President of the Brazilian Extern Trade Association (*i.e.*, *Associação do Comércio Exterior do Brasil*), *José Augusto de Castro*, the *Mercosur-Singapore FTA* "*is very important because we're talking about the gateway to Southeast Asia for Mercosur and this, in addition to helping the region's trade, also strengthens investment ties*". Still, Mr. *Castro* cautioned that "*Mercosur nations should also be attentive, because Singapore and Southeast Asia is one of the most dynamic industrial regions in the world. If companies here in our region aren't more competitive too, this agreement could become a huge problem for domestic industries*".

Towards deeper Mercosur-ASEAN relationship?

The *Mercosur-Singapore FTA* is a positive start for Mercosur to expand its presence within the ASEAN region and for Singaporean businesses to expand trade with the Mercosur countries. In fact, Mercosur considers Singapore as an important gateway for Mercosur's products to enter the Asia-Pacific region, taking advantage of Singapore's wide network of agreements in the region. Once the *Mercosur-Singapore FTA* enters into force, the Agreement could also pave the way towards future negotiations with other ASEAN Member States, including with Indonesia. In 2021, several ASEAN Member States were among Mercosur's leading export destinations, notably Viet Nam with a total export value of USD 7.06 billion, Malaysia at USD 6.8 billion, Indonesia at USD 4.1 billion, and Thailand at USD 3.84 billion.

ASEAN and Mercosur businesses should closely monitor the developments regarding the *Mercosur-Singapore FTA* and diligently review the specific commitments, once available in detail, so as to take advantage of the agreed preferential market access and trade facilitation tools.

The European Commission adopts proposals revising the country of origin labelling for certain products, including honey, and introducing it for nuts

On 21 April 2023, the European Commission (hereinafter, Commission) adopted several legislative proposals to revise the existing marketing standards applicable to a number of agri-food products, such as fruits and vegetables, fruit juices and jams, and honey. According to the Commission, the proposed rules are intended to "*help consumers make more informed choices for a healthier diet and contribute to prevent food waste*". Regarding origin labelling, the Commission notes that the proposed new rules provide for "*clearer, mandatory origin labelling rules for honey, nuts and dried fruits, ripened bananas, as well as trimmed, processed and cut fruit and vegetables*". EU Member States and consumer groups have been requesting the revision of country of origin labelling for honey for some time and its introduction for nuts and dried foods will affect an entirely new sector.

EU marketing standards for agri-food products

EU marketing standards for agri-food products are laid down in the following legislative documents: 1) *Regulation (EU) No 1308/2013 of the European Parliament and of the Council establishing a common organisation of the markets in agricultural products*, which lays down

rules concerning marketing standards, definitions, designations, sales descriptions, eligibility criteria and optional reserved terms for a broad range of sectors; 2) Secondary Commission rules, laying down detailed rules on marketing standards for specific sectors (*e.g.*, eggs and dried grapes); and 3) European Parliament and Council so-called '*Breakfast Directives*', which establish specific rules on the description, definition, characteristics, and labelling of coffee and chicory extracts, cocoa and chocolate products, sugars intended for human consumption, fruit jams, jellies and marmalades, dehydrated milk, fruit juices, and honey.

No more labels of honey '*blends*' from EU and non-EU countries

A number of food products are subject to specific mandatory country of origin labelling in the EU, including some fruits and vegetables, beef, poultry, fish, olive oil, and honey. In addition, Article 26(2)(a) of *Regulation (EU) No 1169/2011 of the European Parliament and of the Council on the provision of food information to consumers* requires the indication of the country of origin or place of provenance where its omission could mislead the consumer as to the true country of origin or place of provenance of the final food in question. The *Proposal for a Directive of the European Parliament and of the Council amending Council Directives 2001/110/EC relating to honey, 2001/112/EC relating to fruit juices and certain similar products intended for human consumption, 2001/113/EC relating to fruit jams, jellies and marmalades and sweetened chestnut purée intended for human consumption, and 2001/114/EC relating to certain partly or wholly dehydrated preserved milk for human consumption* (hereinafter, proposed Directive), *inter alia*, provides for amendments to the country of origin labelling for honey, regulated under *Council Directives 2001/110/EC relating to honey*.

According to Recital 5 of *Council Directive 2001/110/EC relating to honey*, consumers have particular "*interests as regards the geographical characteristics of honey*" and, for transparency reasons, "*the country of origin where the honey has been harvested should be included in the labelling*". *Council Directive 2001/110/EC* currently requires the indication of the country or countries where the honey has been harvested on the label. However, it also provides the possibility to replace the list of countries of origin of the honey by one of the following, as appropriate: '*blend of EU honeys*', '*blend of non-EU honeys*', '*blend of EU and non-EU honeys*'. The *Explanatory Memorandum* to the proposed Directive states that "*The lack of harmonisation of EU standards has resulted in differences in labelling of honeys across the Union that may mislead consumers and hinder the functioning of the internal market. For example, operators importing honey blends to be packed in a Member State that requires the individual list of countries may not know the specific countries of origin of the honey. (…) it is appropriate to harmonise the rules on origin labelling and remove the possibility not to list the country or countries of origin where the honey originates in more than one country*".

The proposed Directive states that, in Article 2(4) of *Council Directive 2001/110/EC relating to honey*, point (a) would be replaced by: "*(a) The country of origin where the honey has been harvested shall be indicated on the label. If the honey originates in more than one country, the countries of origin where the honey has been harvested shall be indicated on the label of packs containing more than 25 g*". Thereby, the Commission proposes to remove the possibility not to list the specific country or countries of origin when the honey originates in more than one country. However, in light of the reduced size of certain packs containing only a single portion of honey (so-called '*breakfast packs*'), the Commission considers it appropriate to exempt those packs (*i.e.*, those containing less than 25 g) from the obligation of listing all individual countries of origin.

Would greater harmonisation actually reduce the impact on affected industries?

According to the Commission's Impact Assessment Report regarding the revision of EU marketing standards for agricultural products of 21 April 2023, "*there can be diverging national standards in EU Member States, international standards that are voluntary or implemented differently, or (where there are no public standards) a panoply of private standards, often developed by retailers and used in relation to producers. This might create a situation of information overload for consumers. Moreover, such discordance can lead to increased*

transaction costs, reduced transparency in business-to-business transactions, and situations of unfair competition among operators in different EU Member States, thereby hampering the single market".

Several EU Member States, such as France, Greece, Italy, Portugal, Romania, and Spain, have already implemented or have notified to the Commission the intention to implement national rules concerning the indication of the precise origin of honey in blends packed in their territories, which, according to the Commission "*is in line with the current Directive*".

According to the Commission's Impact Assessment Report, "*Stakeholders reported that changing the current provisions on honey origin labelling towards obligatory indication of the origin of honey in honey blends would have a potentially significant economic impact on honey packers that buy honey in bulk from producers in and outside the EU, often blend it and sell it to retailers. The honey packers use blends to achieve a stable quality (taste, colour, liquidity) and are happy with the status quo. Honey blends are determined mainly by floral origin (e.g. robinia, sunflower) and less by geographic origin (e.g. Spain, Ukraine). The current blend labelling requirements (EU/non-EU) facilitate this business model as they allow flexibility in the underlying composition of the honey without occasioning the need to change the label*". Therefore, there appear to be significant concerns and costs for the industry.

Mandatory origin labelling rules for nuts, dried fruits, and ripened bananas

Processed fruit and vegetable products and ripened bananas are currently not covered by Article 76(1) of *Regulation (EU) No 1308/2013 of the European Parliament and of the Council establishing a common organisation of the markets in agricultural products*, which requires that "*products of the fruit and vegetables sector which are intended to be sold fresh to the consumer may only be marketed if they are sound, fair and of marketable quality and if the country of origin is indicated*". Nonetheless, according to Recital 6 of the draft *Commission Delegated Regulation (EU) …/...of XXX supplementing Regulation (EU) No 1308/2013 of the European Parliament and of the Council as regards marketing standards for the fruit and vegetables sector, certain processed fruit and vegetable products and the bananas sector*, one of the instruments proposed by the Commission, the labelling of the origin is relevant for consumers and necessary for consumers in the context of the Commission Communication of 20 May 2020 on the '*Farm to Fork Strategy*', that also aims at empowering consumers to make informed and sustainable food choices and should therefore be mandatory also for products intended for direct consumption after simple operations like drying or ripening.

Article 3 of the draft *Commission Delegated Regulation (EU) …/...of XXX supplementing Regulation (EU) No 1308/2013* requires the indication of the origin for certain processed fruit and vegetable products (*i.e.*, dried fruits; dried figs and dried grapes) and ripened bananas. The country of origin of a product would have to be determined in accordance with Article 60 of *Regulation (EU) No 952/2013 of the European Parliament and of the Council laying down the Union Customs Code*, which provides that "*1. Goods wholly obtained in a single country or territory shall be regarded as having their origin in that country or territory. 2. Goods the production of which involves more than one country or territory shall be deemed to originate in the country or territory where they underwent their last, substantial, economically-justified processing or working* (…)".

The current rules on marketing standards for fruits and vegetables, contained in *Commission Implementing Regulation 543/2011 laying down detailed rules for the application of Council Regulation (EC) No 1234/2007 in respect of the fruits and vegetables and processed fruits and vegetables sectors* exempt certain nuts (both in-shell and kernels, and their mixtures), dried fruits, mushrooms, capers and saffron from the application of the general marketing standard. Article 5(1)(b) of the draft Delegated Regulation provides a list of products that would not be required to conform to the general marketing standard, **except regarding the indication of the country of origin**, as referred to in Article 76(1) of *Regulation (EU) No 1308/2013*, and that includes: bitter almonds; shelled almonds; shelled hazelnuts; shelled walnuts; pine nuts; and pistachios.

The removal of the exception for nuts and dried fruits from indicating the country of origin would have some impact on official control, although, according to the Commission's Impact Assessment Report regarding the Revision of EU marketing standards for agricultural products of 21 April 2023, "*these already have to take place on other aspects, but can be considered a technical change, aligning rules for these niche products with the rest of F&V* [fruit and vegetables]". The single change caused by this removal would be that the origin labelling rules would apply to these exempted products, "*as requested by certain MSs notably ES and IT, which are the two main EU producing MSs of nuts*". The Commission further notes that the new rules "*would apply equally to EU MSs and third countries"* and, *"to the extent that this encourages the consumption of nuts and dried fruits as an alternative to less wholesome snacks, it may also contribute to better nutrition"*. From an industry perspective, the new rules may be beneficial for those origins that are associated with high quality products.

The way forward

Article 5(1) of the proposed Directive and amending country of origin labelling for honey states that "*Member States shall adopt and publish, 18 months after the date of entry into force of this Directive at the latest, the laws, regulations and administrative provisions necessary to comply with this Directive. They shall apply those provisions 24 months after the date of entry into force of this Directive*". The proposed Directive is open for public consultation from 21 April 2023 to 16 June 2023 and will follow the ordinary co-legislative procedure by the European Parliament and Council before its publication and entry into force.

Article 11 of the draft Delegated Regulation, introducing country of origin labelling for nuts, provides that it shall apply from 1 January 2025. The draft Delegated Regulation is currently open for public consultation from 21 April to 19 May 2023. Following the conclusion of the public consultation, the delegated Regulation will be adopted by the Commission and sent to the European Parliament and the Council of the EU for a scrutiny period of two months. Unless an objection is raised, the delegated Regulation shall enter into force on the twentieth day following that of its publication in the Official Journal of the European Union.

Recently adopted EU legislation

Trade Law

- *Commission Implementing Regulation (EU) 2023/903 of 2 May 2023 introducing preventive measures concerning certain products originating in Ukraine*

- *Council Decision (EU) 2023/909 of 25 April 2023 on the position to be taken on behalf of the European Union within the Trade Committee established under the Free Trade Agreement between the European Union and the Socialist Republic of Viet Nam, as regards the amendment of Protocol 1 concerning the definition of the concept of 'originating products' and methods of administrative cooperation*

- *Council Decision (EU) 2023/912 of 25 April 2023 on the conclusion, on behalf of the Union, of the Agreement between the European Union and the United States of America pursuant to Article XXVIII of the General Agreement on Tariffs and Trade (GATT) 1994 relating to the modification of concessions on all the tariff rate quotas included in the EU Schedule CLXXV as a consequence of the United Kingdom's withdrawal from the European Union*

- *Agreement between the European Union and the United States of America pursuant to Article XXVIII of the General Agreement on Tariffs and Trade (GATT) 1994 relating to the modification of concessions on all the tariff-rate quotas*

included in the EU Schedule CLXXV as a consequence of the United Kingdom's withdrawal from the European Union

- *Voluntary Partnership Agreement between the European Union and the Co-operative Republic of Guyana on forest law enforcement, governance and trade in timber products to the European Union*

- *Council Decision (EU) 2023/904 of 7 March 2023 on the conclusion of the Voluntary Partnership Agreement between the European Union and the Co-operative Republic of Guyana on forest law enforcement, governance and trade in timber products to the European Union*

Trade Remedies

- *Commission Implementing Regulation (EU) 2023/919 of 4 May 2023 amending Implementing Regulation (EU) 2017/804 imposing a definitive anti-dumping duty on imports of certain seamless pipes and tubes of iron (other than cast iron) or steel (other than stainless steel), of circular cross-section, of an external diameter exceeding 406,4 mm, originating in the People's Republic of China*

Customs Law

- *Commission Delegated Regulation (EU) 2023/858 of 23 February 2023 amending Regulation (EU) 2018/196 of the European Parliament and of the Council on additional customs duties on imports of certain products originating in the United States of America*

Food Law

- *Commission Implementing Regulation (EU) 2023/867 of 26 April 2023 amending Regulation (EC) No 1484/95 as regards fixing representative prices in the poultrymeat and egg sectors and for egg albumin*

- *Commission Implementing Regulation (EU) 2023/859 of 25 April 2023 amending Implementing Regulation (EU) 2017/2470 as regards the specifications of the novel food 2'-Fucosyllactose (microbial source) to authorise its production by a derivative strain of Corynebacterium glutamicum ATCC 13032*

- *Commission Implementing Regulation (EU) 2023/868 of 27 April 2023 amending Annexes V and XIV to Implementing Regulation (EU) 2021/404 as regards the entries for Canada, Chile, 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*

- *Commission Delegated Regulation (EU) 2023/905 of 27 February 2023 supplementing Regulation (EU) 2019/6 of the European Parliament and of the Council as regards the application of the prohibition of use of certain antimicrobial medicinal products in animals or products of animal origin exported from third countries into the Union*

- *Commission Implementing Regulation (EU) 2023/907 of 3 May 2023 correcting the French language version of 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*

- *Commission Regulation (EU) 2023/915 of 25 April 2023 on maximum levels for certain contaminants in food and repealing Regulation (EC) No 1881/2006*

- *Commission Implementing Regulation (EU) 2023/918 of 4 May 2023 amending Implementing Regulation (EU) No 540/2011 as regards the extension of the approval periods of the active substances aclonifen, ametoctradin, beflubutamid, benthiavalicarb, boscalid, captan, clethodim, cycloxydim, cyflumetofen, dazomet, diclofop, dimethomorph, ethephon, fenazaquin, fluopicolide, fluoxastrobin, flurochloridone, folpet, formetanate, Helicoverpa armigera nucleopolyhedrovirus, hymexazol, indolylbutyric acid, mandipropamid, metalaxyl, metaldehyde, metam, metazachlor, metribuzin, milbemectin, paclobutrazol, penoxsulam, phenmedipham, pirimiphos-methyl, propamocarb, proquinazid, prothioconazole, S-metolachlor, Spodoptera littoralis nucleopolyhedrovirus, Trichoderma asperellum strain T34 and Trichoderma atroviride strain I-1237*

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