



- **The European Commission proposes a reform of the EU Customs rules: Towards a more resilient and ‘future-ready’ Customs Union?**
- **To support businesses, the EU and ASEAN issue a Joint Guide identifying commonalities between their standard contractual clauses on data transfers**
- **The EU’s legislative initiative on a “Sustainable EU Food System”: General principles and objectives to integrate sustainability into all food-related policies**
- **Recently adopted EU legislation**

The European Commission proposes a reform of the EU Customs rules: Towards a more resilient and ‘future-ready’ Customs Union?

On 17 May 2023, the European Commission (hereinafter, Commission) put forward a *Communication* and three legislative proposals for what the Commission refers to as “*the most ambitious and comprehensive reform of the EU Customs Union since its establishment in 1968*”. The proposed legislative changes aim, most notably, at simplifying the EU Customs processes and reporting requirements for traders, especially for the most “*trustworthy*” businesses, promoting data-driven solutions, and reducing “*cumbersome customs procedures*”. According to the Commission, the Proposals aim at replacing traditional Customs declarations “*with a smarter, data-led approach to import supervision*”, which is intended to reduce “*the time needed to complete import processes and by providing one single EU interface, facilitating data re-use*”. The proposed reform also intends to respond to risks and pressures posed by the environment in which EU Customs operates, characterised by increased trade volumes and the increasing relevance of digital trade, as well as the growing number of EU standards and market requirements to be checked at the EU border. This article delves into some elements of the proposed EU Customs Reform, including the envisaged EU Customs Authority and the role it may play in enforcing existing and upcoming EU rules.

An overview of the proposed reform

The EU Customs Union, which is the “*world’s largest integrated single market area*”, allows goods to move freely within the EU Single Market. The reform of the EU Customs Union is intended to deliver on the President of the European Commission *Ursula von der Leyen’s* promise “*to bring EU Customs to the next level*”, by, *inter alia*, establishing the EU Customs Authority and simplifying and rationalising Customs reporting requirements for traders.

The Commission published a *Proposal for a Regulation establishing the Union Customs Code and the European Union Customs Authority and repealing Regulation (EU) No 952/2013, a Proposal for a Regulation amending Regulation (EEC) No 2658/87 as regards the introduction of a simplified tariff treatment for the distance sales of goods and Regulation (EC) No 1186/2009 as regards the elimination of the customs duty relief threshold, and a Proposal for a Directive amending Directive 2006/112/EC as regards VAT rules relating to taxable persons*

who facilitate distance sales of imported goods and the application of the special scheme for distance sales of goods imported from third territories or third countries and special arrangements for declaration and payment of import VAT.

The Commission lays out its proposals for the *EU Customs Reform* on the basis of three main pillars. The first pillar, “*A New Partnership with Business*”, entails a “*single online environment*”, the “*EU Customs Data Hub*”, which would “*compile the data provided by business and – via machine learning, artificial intelligence and human intervention – provide authorities with a 360-degree overview of supply chains and the movement of goods*”. When submitting their Customs information, importers would be able to “*log all the information on their products and supply chains into one single portal*” and would only have to submit data “*once for multiple consignments*”. The Proposals single out businesses that have “*completely transparent*” processes and supply chains, which would be considered “*the most trusted traders*” and which would be able to “*release their goods into circulation into the EU without any active customs intervention*”. According to the Commission, “*the Trust & Check category strengthens the already existing Authorised Economic Operators (AEO) programme for trusted traders*”.

The second pillar, “*A Smarter Approach to Customs Checks*”, aims at enhancing the ability of the EU Member States’ authorities to analyse and monitor supply chains and production processes of goods entering the EU. Customs authorities would be able to “*pool information to respond more quickly, consistently and effectively to risks*”, thanks to their enhanced “*access to real-time data*”. According to the Commission, the new system would make use of artificial intelligence to “*analyse and monitor the data and to predict problems before the goods have even started their journey to the EU*”. The underlying intentions under this pillar include the need for EU Member States to uphold a “*growing number of EU laws that ban certain goods that go against common EU values, for example in the field of climate change, deforestation, forced labour*”. The Reform aims at improving the overall coherence of the Customs control system, while equipping authorities with the tools to “*target specific manufacturers and operators in a structured way across all supply points for the EU*”.

The third pillar, “*A More Modern Approach to E-commerce*”, represents a departure from the “*current customs system, which puts the responsibility on the individual consumer and carriers*”, making online platforms “*responsible for ensuring that customs duties and VAT are paid at purchase*”. The increased responsibilities of online platforms would turn them into the “*official importers*”, and, therefore, into key actors in ensuring that “*goods sold online into the EU comply with all customs obligations*”.

The reform as a response to a changing environment

The Commission’s Proposals for Customs Reform can be perceived as a response to a changing global environment: geopolitically, technologically, socially, as well as environmentally. On 31 March 2022, the EU’s *High-Level Wise Persons Group on the Future of Customs* had published a [report](#) calling for “*urgent structural change*”, while making recommendations on “*how to make the Customs Union more agile, more geo-political and more coherent*”. The Report concluded that “*serious divergences remain between national customs authorities in the application of rules and procedures*”. The Commission also engaged with different stakeholders in a foresight exercise on the future of Customs in the EU 2040. The foresight report recommended to “*address the governance challenge of the customs union by giving preference to a joint, central structure in order to speak with one voice, to leverage technological advancements and to make the most effective use of customs’ data*”.

The role of Customs authorities in enforcing new legislation

The Commission considers that Customs authorities need to have the capacity to enforce an “*ever-growing body of ambitious legislation that sets the environmental, social, and digital EU standards for products in the EU*”. Therefore, the proposed reform is intended to enhance the effectiveness of controls against non-compliant products entering the EU Single Market. The related [Impact Assessment Report](#) recalls that “*there are serious weaknesses in the control of*

products entering the EU", including in the realm of "rules on product safety, chemicals, food, contact materials, and other health or environmental considerations". On the basis of the Proposals, following the Customs Reform, a new *EU Customs Authority* would oversee the *EU Customs Data Hub*, which would, over time, replace the existing Customs IT infrastructure in individual EU Member States. The new *EU Customs Authority* would also "help deliver on an improved EU approach to risk management and customs checks".

Notably, the *Impact Assessment Report* indicates the likely impacts of the Customs Reform on the enforcement of environmental legislation, due to the key role that Customs play in these procedures, including in the area of "the fight against climate change by minimising the use and emissions of dangerous substances". The *Impact Assessment Report* specifies, *inter alia*, that Customs would be "called on to apply new EU rules to curb deforestation", for which the enhanced capacity provided to the Customs Authorities under the reform would be crucial. Additionally, the *Impact Assessment Report* stresses that the recent political agreement on the Carbon Border Adjustment Mechanism (CBAM) (see *Trade Perspectives, Issue No. 9 of 8 May 2023*) "opens up possible synergies with an EU Customs Authority", as the CBAM will apply "to imported goods, and customs supports the enforcement".

How can businesses benefit from the reform?

The upcoming Customs reform should lead to benefits for Customs authorities, as well as for businesses, by pursuing various innovations that would simplify Customs procedures, while increasing the Customs authorities' capacity to control and enforce the relevant rules.

Still, trade and business association have already expressed their concerns with respect to certain issues. On 17 May 2023, a number of trade and business associations, representing, *inter alia*, the Customs Brokers and freight forwarders, the Express Delivery Sector, the Shipping Lines, the European and International Airlines, the Cargo Owners, and the Ship Suppliers, Manufacturers, Retailers and Wholesalers published a [Preliminary Statement](#) on the Customs Reform Proposals, noting that the signatories had "directly witnessed the persistent lack of simplification and uniformity in the application of customs rules and a fully electronic environment for the completion of customs formalities in the EU, which were original objectives" of the Union Customs Code (UCC), underlining that the "current state of UCC electronic systems deployment is already negatively impacting many European businesses".

On 28 March 2023, the *European Semiconductor Industry Association* (hereinafter, ESIA) published its "recommendations" on the Proposals. According to the ESIA, "co-operation between customs and other sectoral authorities and across related policies is uneven and often hindered by structural obstacles affecting the availability or exchange of data". The ESIA notes that, consequently, "economic operators are confronted with the need to obtain certifications for overlapping areas (e.g., supply chain security) from different authorities or submit redundant declarations / statements". In this regard, the ESIA's recommendations note that the structural obstacles would "become more evident as customs authorities are entrusted with more and more responsibilities, such as the "Carbon Border Adjustment Mechanism", "Fit for 55", and other EU environmental goals".

The envisaged EU Customs Authority would play a key role in implementing the EU's various 'Green Initiatives'. The future role of the EU Customs Authority should be carefully considered so as to ensure that it does not perform its functions in a burdensome or discriminatory manner. The Customs Authority must not, for instance, enforce the rules and standards created to promote the EU's environmental objectives by discriminating 'like' products on the basis of their origin or in light of 'unincorporated processes and production methods' (PPMs), also known as 'non-product related PPMs', in other words, processes and production methods that leave no trace in the final product.

Next steps

The EU Customs reform, could lead to important benefits for those involved in trade, from the Customs authorities to businesses and compliant trading partners, and, ultimately, consumers benefitting from more expeditious and predictable trade. They could also result in occasional legal controversies and complex interpretative problems vis-à-vis the existing World Trade Organization (WTO) rules and prevailing principles. The legislative proposals will now be sent to the European Parliament and the Council of the EU for their ultimate agreement, and to the European Economic and Social Committee for consultation.

To support businesses, the EU and ASEAN issue a *Joint Guide* identifying commonalities between their standard contractual clauses on data transfers

On 24 May 2023, the European Commission's (hereinafter, Commission) Directorate-General for Justice and Consumers and the Secretariat of the Association of Southeast Asian Nations (hereinafter, ASEAN) launched the *Joint Guide to ASEAN Model Contractual Clauses and EU Standard Contractual Clauses* (hereinafter, Joint Guide). The *Joint Guide* identifies differences and similarities between the ASEAN Model Contractual Clauses (hereinafter, MCCs) and the EU Standard Contractual Clauses (hereinafter, SCCs), both of which are “*model data protection clauses that can be incorporated by data exporters and importers in their contractual arrangements as a basis to allow the transfer of personal data across borders*”.

The *Joint Guide* aims at assisting companies operating across ASEAN and the EU, namely data exporters in those regions, as well as any data importers, to understand the similarities and differences between the respective model clauses, thereby facilitating compliance with the applicable ASEAN and EU data protection laws. Ultimately, the Guide should also make it easier for companies to meet the respective requirements of the contractual clauses. This article discusses the relevance of standardised contractual clauses in facilitating cross-border data transfers, provides an overview of the *Joint Guide*, and outlines the further cooperation that ASEAN and the EU could explore.

The growing importance of cross-border data transfers

Personal data is a critical resource for the global economy and countries around the world have increasingly recognised the importance of strengthening trust to facilitate data sharing domestically and across borders. Cross-border data flows allow businesses and consumers to access the best available technology and services, regardless of where the resources may be located. Still, cross-border personal data transfers are often impeded by regulatory restrictions, such as in the form of data localisation legislation and diverging rules on personal data protection. Typically, in cases where cross-border data transfers are allowed, companies may only do so if they comply with the requirements prescribed by the data exporting country to ensure that the country to which the data is transferred provides a comparable level of data protection.

Rules on cross-border data transfers in the EU and ASEAN

On 15 May 2018, the EU's *Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data* (the *General Data Protection Regulation*, GDPR) entered into force, providing a set of data protection rules for all companies operating in the EU. The EU's *General Data Protection Regulation* provides a diversified mechanism for companies within the EU to transfer data to third countries, namely: 1) An *Adequacy Decision* adopted by the Commission and allowing data to be transferred freely from the EU to third countries that are recognised to have a comparable level of protection of personal data to that in the EU; 2) *Standard contractual clauses*, which aim at ensuring that the appropriate data protection safeguards be used as a ground for data transfers from the EU to third countries; and 3) *Binding corporate rules*, which refer to “*policies adhered to by companies established in the EU for transfers of personal data outside the EU within a group of undertakings or*

enterprises". The EU has not yet adopted any adequacy decision with respect to any ASEAN Member State.

Within ASEAN, there are currently no single, harmonised data protection rules. In 2017, ASEAN Member States agreed on the [ASEAN Framework on Digital Data Governance](#) (hereinafter, the Framework), which guides ASEAN Member States in their policy and regulatory approaches towards digital data governance. The Framework identifies a number of principles relating to cross-border data flows, namely: 1) Facilitating cross-border data flows by "*developing clear and unambiguous requirements and/or criteria and/or circumstances in which data can be transferred*"; 2) Building trust by ensuring that an adequate level of protection is accorded to the transferred data; and 3) Evaluating and ensuring that the requirements on data flows within ASEAN be proportionate to the risks associated with transferring the data, such as loss or unauthorised access. Additionally, with respect to personal data protection within ASEAN, ASEAN Member States adopted in 2016 the [ASEAN Framework on Personal Data Protection](#), which establishes principles to guide ASEAN Member States in promoting and strengthening data protection measures.

'Standard contractual clauses'

'Standard contractual clauses' exist for all sorts of issues regulated in inter-company contracts. When it comes to cross-border data transfers, '*standard*' or '*model*' contractual clauses refer to data transfer mechanisms primarily designed to help data controllers (*i.e.*, individuals or companies that determine the purposes and means for the processing of personal data) and data processors (*i.e.*, individuals or companies that process personal data on behalf of the controllers) legally facilitate data transfers to third countries. Incorporating standard or model contractual clauses in a legally binding agreement between companies can help companies avoiding liability by mandating the receiving party to implement certain data protection safeguards similar to those in the data exporting country. Typically, such clauses concern the obligations of the data importer, data subject's rights, transparency, and complaints mechanisms.

Companies increasingly rely on model contractual clauses to regulate data transfers. To date, several countries and regions, including the EU and ASEAN, have developed model contractual clauses that can be used voluntarily by companies for cross-border data transfers. These contractual clauses are particularly useful for small and medium enterprises that often do not have the resources to engage in lengthy contractual negotiations.

The model clauses in the EU and within ASEAN

On 4 June 2021, the Commission had issued two sets of modernised standard contractual clauses (SCCs), namely the [SCCs for the relationship between data controllers and processors](#) and the [SCCs for data transfers](#) to replace the previous SCCs, which had been adopted in 2010. The EU's SCCs for data transfers are standardised clauses that are pre-approved by the Commission and that companies can choose to incorporate into their contractual arrangements to address issues related to data transfers. Compared to the previous SCCs, the new SCCs provide for stronger protection of personal data and new obligations for the contracting parties to assess the legality of the data transfer.

By using the EU's SCCs, parties to the contract are bound to comply with the requirements of the EU's *General Data Protection Regulation* for transferring personal data to countries outside of the European Economic Area (EEA, which comprises the 27 EU Member States, as well as Iceland, Liechtenstein, and Norway). As the SCCs are pre-approved by the Commission, personal data exporters that use the SCCs can transfer data without the need to obtain prior authorisation from the competent EU's data protection authority.

On 22 January 2021, at the ASEAN Digital Ministers' meeting, ASEAN Member States agreed on the [ASEAN Model Contractual Clauses](#) (hereinafter, ASEAN MCCs). The ASEAN MCCs are contractual terms and conditions that companies can choose to adopt in their legal

contracts to transfer personal data to a company in another ASEAN Member State. Including the ASEAN MCCs in contracts with data transfer agreements is intended to help companies to ensure that the transfer of data is compliant with the respective ASEAN Member States' personal data protection laws, such as Singapore's *Personal Data Protection Act*, and in line with the principles provided under the *ASEAN Framework on Personal Data Protection*. While the ASEAN MCCs are primarily designed for intra-ASEAN data transfers, companies may also adopt the clauses for transfers to non-ASEAN countries. Companies may modify the clauses under the ASEAN MCCs as long as they remain in line with the principles of the *ASEAN Framework on Personal Data Protection*.

The EU-ASEAN Joint Guide

The *Joint Guide* is to help companies operating in the EU and ASEAN to understand the differences and similarities between the EU's and ASEAN's respective model contractual clauses. According to the Secretary-General of ASEAN, *Kao Kim Hourn*, the *Joint Guide* should serve as “a valuable tool to assist businesses engaged in data transfers [...] in navigating the data transfer landscape, streamlining data transfer processes, and improving business efficiency”. Notably, by using the *Joint Guide*, companies should be able to easily identify the relevant data transfer requirements in the EU and within ASEAN, and meet the relevant data protection requirements.

Companies in the EU and within ASEAN, looking to transfer personal data to the other region, can now consult the *Joint Guide* to determine the type of provisions or clauses that should be included in their contractual arrangements in order to achieve compliance with the relevant laws and regulations. The *Joint Guide* distinguishes between, on the one hand, obligations for controller-to-controller transfers and, on the other hand, controller-to-processor transfers. For both types of obligations, the *Joint Guide* then identifies and compares three thematic areas: 1) Data protection safeguards, such as rules on the lawfulness of the transfer, sensitive personal data, and storage limitations; 2) Data subject rights, such as rights of individuals and rules on enquiries from data subjects regarding to the processing of their personal data; and 3) Compliance, Dispute resolution, and Termination.

The European Commissioner for Justice, *Didier Reynders*, stated that the EU and ASEAN would now “engage with stakeholders to operationalise this bridging of the two sets of clauses, by collecting best practices on their implementation and use”. Following this initial *Guide*, a second part of the *Guide*, referred to as the ‘*Implementation Guide*’ is to be published in the near future and is intended to provide best practices “from companies that meet the requirements of both sets of contractual clauses”.

Towards future EU-ASEAN cooperation on data transfers?

To date, there is no binding cooperation between the EU and ASEAN on cross-border data transfers and data protection. Therefore, in order to further facilitate trade and inter-company cooperation, the EU and ASEAN could work towards adequacy decisions. On the basis of adequacy decisions, personal data may flow freely from the EU to the respective third country without being subject to any further safeguards or authorisations. To date, the EU has only recognised Andorra, Argentina, Canada (commercial organisations), the Faroe Islands, Guernsey, Israel, the Isle of Man, Japan, Jersey, New Zealand, the Republic of Korea, Switzerland, the UK, and Uruguay as “providing adequate protection”. Despite ASEAN's efforts concerning digital trade, several ASEAN Member States, namely Lao PDR, Brunei Darussalam, Cambodia, and Myanmar, do not yet have comprehensive personal data protection laws in place. Therefore, the EU could only start discussions with individual ASEAN Member States, such as Singapore, that have well-established personal data protection laws.

Nonetheless, the *Joint Guide* is a positive start for the EU and ASEAN, with the view to expand their cooperation on data transfers and data protection, and serves as an example of how the EU and ASEAN can make a joint contribution to the development of international standards on data transfers and data protection. Companies operating in the EU and ASEAN can use the

Joint Guide when negotiating contracts with provisions on data transfers and should closely monitor for the publication of the second part of the *Joint Guide*.

The EU's legislative initiative on a “Sustainable EU Food System”: General principles and objectives to integrate sustainability into all food-related policies

In 2020, the European Commission's (hereinafter, Commission) Communication on a *Farm to Fork Strategy* for a fair, healthy and environmentally-friendly food system announced that, before the end of 2023, the EU would pursue the adoption of a horizontal framework law, so as to accelerate and facilitate the transition to a more sustainable food system and to ensure that foods placed on the EU market increasingly become sustainable.

The EU's legislative initiative on a “Sustainable EU Food System” has the objective of making the EU food system sustainable and integrating sustainability into all food-related policies by laying down general principles and objectives, together with the requirements and responsibilities of all actors in the EU food system. More specifically, the future Regulation is to lay down rules on sustainability labelling of food products, minimum criteria for sustainable public procurement of food, as well as on governance and monitoring. Inevitably, there will also be an impact on third countries, with future sustainability requirements likely applying on imports of food into the EU.

Defining “sustainable food system”

The United Nation's Secretary General's [High Level Task Force on Global Food and Nutrition Security](#) defined “food system” as a “system that embraces all the elements (environment, people, inputs, processes, infrastructure, institutions, markets and trade) and activities that relate to the production, processing, distribution and marketing, preparation and consumption of food and the outputs of these activities, including socio-economic and environmental outcomes”. According to a 2018 [publication](#) by the Food and Agriculture Organization (FAO) of the United Nations on “Sustainable food systems - Concept and framework”, a “sustainable food system” is a “food system that delivers food and nutrition security for all in such a way that the economic, social and environmental bases to generate food security and nutrition for future generations are not compromised. This means that: – It is profitable throughout (economic sustainability); – It has broad-based benefits for society (social sustainability); and – It has a positive or neutral impact on the natural environment (environmental sustainability)”.

In 2021, the Commission published the *Inception Impact Assessment* for the legislative framework on a “Sustainable EU Food System”. In the *Inception Impact Assessment*, the Commission did not propose an EU definition of “sustainable food system”, but stated that the planned legal framework “would set out the common basis composed of general objectives, definitions, principles and requirements for ensuring that sustainability considerations, beyond the already applicable safety-based requirements, are taken into account when food is produced/placed on the Union market, taking into account EU international trade obligations”.

Regarding the definition, in the public consultation to the *Inception Impact Assessment* held in 2022, *FoodDrinkEurope*, the organisation of the European food and drink manufacturing industry, [noted](#) that “a clear definition of sustainable food systems and common sustainability criteria will be needed to clarify common goals [...]. As sustainability is a concept that is in constant evolution, definitions should be based on principles and concepts rather than detailed rules. The definitions should be aligned, as much as possible, to existing international definitions and standards. It could be based on widely recognised definitions, such as the definition by the UN Food and Agriculture Organisation (FAO)”.

The European Commission's initiative and its policy options

The Commission's overall policy objective of the legislative initiative on "*Sustainable EU Food System*" is to establish comprehensive framework legislation on the sustainability of the EU food system. Such comprehensive framework legislation is intended to "*serve as a lex generalis, applying to all actors of the food system*". In the *Inception Impact Assessment*, the Commission identified three policy options: 1) A voluntary approach using soft-law instruments; 2) The reinforcement of existing legislation; and 3) The development of a new comprehensive framework legislation on the sustainability of the EU's food system. The type of legal act envisaged is a Regulation, the draft of which is to be published in the fourth quarter of 2023.

Leaked Commission Staff Working Document on the Impact Assessment Report

In February 2023, a Commission Staff Working Document on the Impact Assessment Report for the legislative initiative on a "*Sustainable EU Food System*" was leaked. It evaluates the potential impacts of different policy options related to the Framework on Sustainable Food System. The document reportedly finds that promoting sustainable agricultural practices, such as reducing the use of pesticides and fertilisers, could create opportunities for farmers to differentiate their products and tap into niche markets, potentially leading to higher prices and better income prospects in the long term. However, the document reportedly also notes that these practices could increase production costs for farmers in the short term and suggests that a balanced approach to policy design may be needed to achieve both economic and environmental sustainability.

The document reportedly notes that reducing food waste could lead to increased demand for certain agricultural products and potentially increase prices and improve farmers' incomes. Additionally, reducing food waste could potentially reduce the amount of surplus production, leading to more stable prices for farmers. The document reportedly suggests that promoting healthier diets could have positive impacts on farmers by increasing demand for fruits, vegetables, and other healthy food products. This could create opportunities for farmers to diversify their products and tap into new markets, potentially leading to increased income. Overall, the document reportedly highlights that the different policy options related to the Framework on Sustainable Food System could lead to significant impacts on farmers.

According to the leaked Commission document on the impact assessment, mandatory requirements for sustainable public procurement and a voluntary harmonised sustainability labelling system have reportedly been ranked among the preferred policy elements under the EU's future Framework on Sustainable Food System.

The Commission reportedly also offered some clarification on the leaked document, regarding the relationship between the Framework on Sustainable Food System and the Commission's legislative *Proposal on Substantiating Green Claims* (see *Trade Perspectives, Issue No. 7 of 10 April 2023*), confirming that the Framework on Sustainable Food System would take precedence.

Failed impact assessment on the proposal

In May 2023, it was reported that the Commission's *Impact Assessment Report* on the Framework for Sustainable Food System has failed to receive the approval and rather received a negative opinion from the EU's [Regulatory Scrutiny Board](#), the independent quality control body within the Commission that advises the College of Commissioners. This was reported by sources inside the [Advisory Group on the Sustainability of Food Systems](#), which provides the Commission with stakeholders' views on food systems' sustainability, and related areas, including food safety; food labelling and presentation; public health and nutrition; food production and international relations; and crop protection, and which met on 12 May 2023.

According to sources, the Regulatory Scrutiny Board's concerns are mainly due to the "*articulation of the framework with sectoral and national legislation, as well as the impact of fragmentation of sustainability legislation and the gaps that the framework would fill*".

Impact on third countries: *More sustainability requirements on food imports?*

In the context of the legislative initiative on a “Sustainable EU Food System”, the EU appears to be considering the introduction of additional standards and/or requirements related to the sustainability of food, which would also apply to food imports into the EU. The *Inception Impact Assessment* refers to, *inter alia*, “sustainability principles and objectives, providing a common understanding as goals to be achieved”, “general minimum standards to be met for foods produced or placed on the Union market and related food operations, which could be linked, amongst others, to environmental and social aspects”; and “legitimate and proportionate requirements on sustainability for imports of food, in compliance with EU international commitments, particularly in the WTO”.

Arguably, sustainability criteria for imports of goods should not be set unilaterally by the EU without consulting trading partners and agreeing such standards with third countries. Only a concerted approach at international level can indeed make global food systems more sustainable. Objective and science-based criteria should form the basis of any EU action, ideally developed in cooperation with other producing countries and EU trading partners. The *Inception Impact Assessment* already attempts to list such criteria, referring to the “reduction of greenhouse gas emissions, preservation of biodiversity and rural livelihoods, reduction of pesticides use and risk and pressure on water quality, and better consumer information and animal welfare”.

A holistic approach is needed, and the EU should not only look at any single indicator. The *Inception Impact Assessment* notes that “taking these measures at EU level may lead to simplifications for food system actors active on several national markets and preserve a level-playing field for all actors. It will also help promote European standards in the food system internationally”. In this context, the EU should rely, as it is required under WTO rules, on international standards and, in their absence, privilege the setting of multilaterally agreed standards, instead of doing so unilaterally.

Next steps

Following the Regulatory Scrutiny Board’s negative feedback, the Impact Assessment must reportedly be reviewed and will be resubmitted in early June 2023 to the Regulatory Scrutiny Board. However, the negative opinion will likely not impact the overall timeline for the discussion of the Commission’s legislative proposal and the Proposal for a Regulation is still expected to be published before the end of the year. The Commission is intending to hold a dedicated stakeholder *forum* over the Summer to discuss principles and definitions.

Recently adopted EU legislation

Trade Law

- [Notice concerning the date of entry into force 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](#)
- [Council Decision \(EU\) 2023/991 of 15 May 2023 on the position to be taken on behalf of the European Union within the International Grains Council with regard to the extension of the Grains Trade Convention, 1995](#)
- [Council Decision \(EU\) 2023/1056 of 25 May 2023 on the conclusion, on behalf of the Union, of the Agreement between the European Union and the Federative](#)

Republic of Brazil 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 Federative Republic of Brazil 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*

Trade Remedies

- *Commission Implementing Regulation (EU) 2023/1033 of 25 May 2023 amending Implementing Regulation (EU) 2020/1080 imposing a definitive anti-dumping duty on imports of solar glass originating in the People's Republic of China and Implementing Regulation (EU) 2020/1081 imposing definitive countervailing duties on imports of solar glass originating in the People's Republic of China*
- *Commission Implementing Regulation (EU) 2023/1050 of 30 May 2023 imposing a definitive anti-dumping duty on imports of rebars originating in the Republic of Belarus following an expiry review pursuant to Article 11(2) of Regulation (EU) 2016/1036 of the European Parliament and of the Council*

Customs Law

- *Commission Implementing Regulation (EU) 2023/1057 of 26 May 2023 concerning the classification of certain goods in the Combined Nomenclature*

Food Law

- *Commission Implementing Regulation (EU) 2023/981 of 17 May 2023 amending Regulation (EU) No 37/2010 as regards the classification of the substance praziquantel with respect to its maximum residue limit in foodstuffs of animal origin*
- *Commission Implementing Decision (EU) 2023/984 of 15 May 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) 3324)*
- *Council Decision (EU) 2023/990 of 25 April 2023 on the position to be taken on behalf of the European Union at the Conference of the Parties to the Rotterdam Convention on the Prior Informed Consent Procedure for certain hazardous chemicals and pesticides in international trade as regards certain amendments to the Convention and its Annex III*
- *Commission Implementing Decision (EU) 2023/1016 of 22 May 2023 amending Decision 2002/994/EC concerning certain protective measures with regard to the products of animal origin imported from China*
- *Commission Implementing Regulation (EU) 2023/998 of 23 May 2023 renewing the approval of the active substance *Bacillus thuringiensis* subsp. *kurstaki* ABTS-*

351 in accordance with Regulation (EC) No 1107/2009 of the European Parliament and of the Council, and amending Commission Implementing Regulation (EU) No 540/2011

- Commission Implementing Regulation (EU) 2023/999 of 23 May 2023 renewing the approval of the active substance *Bacillus thuringiensis* subsp. *israelensis* strain AM65-52 in accordance with Regulation (EC) No 1107/2009 of the European Parliament and of the Council, and amending Commission Implementing Regulation (EU) No 540/2011
- Commission Implementing Regulation (EU) 2023/1000 of 23 May 2023 renewing the approval of the active substance *Bacillus thuringiensis* subsp. *aizawai* GC-91 in accordance with Regulation (EC) No 1107/2009 of the European Parliament and of the Council, and amending Commission Implementing Regulation (EU) No 540/2011
- Commission Implementing Regulation (EU) 2023/1031 of 24 May 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) 2023/1032 of 25 May 2023 establishing measures to prevent the introduction into and the spread within the Union territory of Tomato brown rugose fruit virus (ToBRFV) and amending Implementing Regulation (EU) 2020/1191
- Commission Regulation (EU) 2023/1049 of 30 May 2023 amending Annexes II and IV to Regulation (EC) No 396/2005 of the European Parliament and of the Council as regards maximum residue levels for fish oil, pendimethalin, sheep fat and spirotriamat in or on certain products
- Commission Implementing Regulation (EU) 2023/1001 of 23 May 2023 renewing the approval of the active substance *Bacillus amyloliquefaciens* strain QST 713 in accordance with Regulation (EC) No 1107/2009 of the European Parliament and of the Council, and amending Commission Implementing Regulation (EU) No 540/2011
- Commission Implementing Regulation (EU) 2023/1002 of 23 May 2023 renewing the approval of the active substance *Bacillus thuringiensis* subsp. *aizawai* strain ABTS-1857 in accordance with Regulation (EC) No 1107/2009 of the European Parliament and of the Council, and amending Commission Implementing Regulation (EU) No 540/2011
- Commission Implementing Regulation (EU) 2023/1003 of 23 May 2023 renewing the approval of the active substance *Bacillus thuringiensis* subsp. *kurstaki* EG2348 in accordance with Regulation (EC) No 1107/2009 of the European Parliament and of the Council, and amending Commission Implementing Regulation (EU) No 540/2011
- Commission Implementing Regulation (EU) 2023/1004 of 23 May 2023 renewing the approval of the active substance *Bacillus thuringiensis* subsp. *kurstaki* SA-11 in accordance with Regulation (EC) No 1107/2009 of the European Parliament and of the Council, and amending Commission Implementing Regulation (EU) No 540/2011
- Commission Implementing Regulation (EU) 2023/1005 of 23 May 2023 renewing the approval of the active substance *Bacillus thuringiensis* subsp. *Kurstaki* SA-12 in accordance with Regulation (EC) No 1107/2009 of the European Parliament

and of the Council, and amending Commission Implementing Regulation (EU) No 540/2011

- *Commission Implementing Regulation (EU) 2023/1021 of 24 May 2023 renewing the approval of the active substance *Bacillus thuringiensis* subsp. *kurstaki* PB 54 in accordance with Regulation (EC) No 1107/2009 of the European Parliament and of the Council, and amending Commission Implementing Regulation (EU) No 540/2011*
- *Commission Regulation (EU) 2023/1029 of 25 May 2023 amending Annexes III and V to Regulation (EC) No 396/2005 of the European Parliament and of the Council as regards maximum residue levels for phosmet in or on certain products*
- *Commission Regulation (EU) 2023/1030 of 25 May 2023 amending Annex IV to Regulation (EC) No 396/2005 of the European Parliament and of the Council as regards *Bacillus amyloliquefaciens* strain AH2, *Bacillus amyloliquefaciens* strain IT-45 and *Purpureocillium lilacinum* strain PL11*
- *Commission Regulation (EU) 2023/1042 of 26 May 2023 amending Annex II to Regulation (EC) No 396/2005 of the European Parliament and of the Council as regards maximum residue levels for folpet in or on certain products*
- *Commission Implementing Regulation (EU) 2023/1058 of 30 May 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*
- *Commission Regulation (EU) 2023/1065 of 1 June 2023 amending Annex II to Regulation (EC) No 1925/2006 of the European Parliament and of the Council as regards nicotinamide riboside chloride added to foods*
- *Commission Regulation (EU) 2023/1069 of 1 June 2023 amending Annex II to Regulation (EC) No 396/2005 of the European Parliament and of the Council as regards maximum residue levels for bixafen, cyprodinil, fenhexamid, fenpicoxamid, fenpyroximate, flutianil, isoxaflutole, mandipropamid, methoxyfenozide, and spinetoram in or on certain products*
- *Commission Regulation (EU) 2023/1068 of 1 June 2023 amending Annex II to Regulation (EC) No 396/2005 of the European Parliament and of the Council as regards maximum residue levels for cyantraniliprole in or on certain products*

Felipe Amoroso, Ignacio Carreño, Joanna Christy, Tobias Dolle, Alya Mahira, and Paolo R. Vergano contributed to this issue.

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