FRATINIVERGANO
EUROPEAN LAWYERS

TRADE PERSPECTIVES©

Issue No. 12 of 19 June 2023

Foreign subsidies distorting competition among Belgian football clubs? A Belgian football club asks the European Commission to investigate a competing club

On 4 May 2023, *Royal Excelsior Virton*, a professional football club in Belgium's second division, announced that it had lodged a complaint before the European Commission (hereinafter, Commission) against competing club *SK Lommel,* in the context of the new *Regulation (EU) 2022/2560 of the European Parliament and of the Council of 14 December 2022 on foreign subsidies distorting the internal market* (Foreign Subsidies Regulation, hereinafter, FSR), which entered into force on 12 January 2023. The case has been reported by the media as the first instance of the Commission being requested to initiate an *ex officio* investigation under the FSR. This could be one of the first opportunities for the Commission to address subsidies granted by non-EU Governments that result in a negative impact on competition in the EU Single Market. Until now, such distortions had fallen outside of the scope of EU competition law.

The EU's Foreign Subsidies Regulation

The need for rules on foreign subsidies having an impact on competition in the EU market has been under consideration for some time. In 2020, the Commission had published a Communication on *A New Industrial Strategy for Europe* and a complementary *White Paper on levelling the playing field as regards foreign subsidies,* explaining the need for an Instrument on Foreign Subsidies with the objective to address the distortive effects caused by foreign subsidies within the EU Single Market. The *White Paper* proposed a number of solutions and called for new tools to address this shortcoming. According to the Commission, foreign subsidies have been distorting the EU's internal market by providing their recipients with unfair advantages, *inter alia* when obtaining public procurement contracts or when acquiring companies. Currently, subsidies granted by non-EU Governments are not scrutinised, while subsidies granted by EU Member States are subject to close scrutiny by EU authorities. Thus, the Commission considers that the FSR closes an "*enforcement gap*" by providing additional investigatory powers to the Commission with respect to concentrations (*i.e.*, mergers and acquisitions), public procurement procedures, and *ex-officio* reviews "*for all other market situations*".

On 5 May 2021, the Commission had published its *Proposal* for the FSR, which was agreed with the European Parliament and the Council of the EU in June 2022. The new Regulation applies since 12 January 2023 and, from 12 July 2023, the Commission will be allowed to initiate *ex officio* investigations if it suspects that distortive foreign subsidies may be involved, covering subsidies granted as far back as 2018, when it has reasonable suspicion that a foreign subsidy is distorting the internal market.

Regarding the scope of the FSR, Article 1 states that the Regulation lays down the "*rules and procedures for investigating foreign subsidies that distort the internal market and for redressing such distortions. Such distortions can arise with respect to any economic activity, and in particular in concentrations and public procurement procedures*". With respect to the '*existence of a foreign subsidy*', Article 3 states that "*a foreign subsidy shall be deemed to exist where a third country provides, directly or indirectly, a financial contribution which confers a benefit on an undertaking engaging in an economic activity in the internal market and which is limited, in law or in fact, to one or more undertakings or industries*". Additionally, the FSR provides that subsidies "*lower than €4 million in the past three years; or if aimed at repairing damage caused by natural disasters or exceptional circumstances*" are "*unlikely to be distortive*". Further, subsidies "*below EUR 200,000 per third country in the previous three years*" are deemed "*non-distortive*".

With respect to '*distortions in the internal market*', Article 4 states that a distortion is deemed to exist based on two cumulative criteria: 1) "*A foreign subsidy is liable to improve the competitive position of an undertaking in the internal market";* and 2) "*A foreign subsidy actually or potentially negatively affects competition in the internal market*". Once a foreign subsidy has been determined, the Commission would proceed with a '*balancing test*', under which it would "*balance the negative effects in terms of the distortion with the positive effects of the foreign subsidy on the development of the relevant subsidised economic activity*". In case the negative effects outweigh the positive effects, the Commission can "*impose redressive measures or accept commitments from the companies concerned to remedy the distortion*".

EU-based companies that receive foreign financial contributions will be subject to new reporting obligations and need to gather the relevant data concerning those contributions in order to prove compliance with the rules under the FSR. The Commission will have the authority to request information and assess whether the contributions constitute foreign subsidies. In this context, on 4 April 2023, the *American Chamber of Commerce to the European Union* (*AmCham EU*) expressed its concerns that companies would "*not be in a position to comply with the Regulation as the reporting obligations currently stand*" and that the FSR would impose requirements that "*are unfamiliar to business and which necessitate the design of elaborate internal compliance mechanisms that do not currently exist*".

Belgian football club asks the Commission to investigate competing club

From 12 July 2023, the Commission will be allowed to initiate *ex officio* investigations into foreign subsidies that appear to distort the EU internal market. Already ahead of this time, a Belgian football club has been making headlines by requesting such *ex officio* investigation.

A recent statement by *Royal Excelsior Virton* referred to comments made by *Javier Tebas*, President of Spain's National Football League, who noted that Qatar, the United Arab Emirates, and Saudi Arabia had been "*distorting the European football ecosystem*" by creating "*State-Clubs*" that benefit from "*financial doping*", notably through "*artificially inflated sponsorship agreements*", but also through direct capital injections. This would lead to an "*inflation of the prices of transfers and players' salaries*", which would "*distort national and UEFA competitions*". The statement notes that the third countries concerned pursued "*their own geopolitical objectives*" and were, therefore, "*not concerned with the economic profitability of the clubs they directly or indirectly own*". More specifically, *Royal Excelsior Virton* considers that the competing club *SK Lommel*, which belongs to the *City Football Group*, a British-based holding company that administers football clubs and is owned by three organisations of which

81% is majority-owned by the *Abu Dhabi United Group*, benefits from "*financial doping*" by the United Arab Emirates.

In particular, *Royal Excelsior Virton* notes that *SK Lommel* recently received a capital injection of nearly EUR 17 million from *City Football Group*, which allowed it to obtain its '*professional licence*' from the Belgian Football Federation for the 2023-2024 season. These economic activities could be perceived as a "*foreign subsidy*" with consequent "*distortion in the internal market*" under Articles 3 and 4 of the FSR, respectively. The statement issued by *Royal Excelsior Virton* further notes that the professional license to *SK Lommel* would constitute a decision in breach of EU competition law, referring to Article 101 of the Treaty on the Functioning of the European Union (TFEU), "*as it would endorse the distortions/restrictions of competition generated by 'foreign subsidies'*". The allegedly "*unfair*" decision would enable *SK Lommel* to remain "*on the Belgian professional football market (to the detriment of another club)*" and, without a license, the club would be "*relegated to the amateur division*". This could be considered to fulfil the criteria for a foreign subsidy under Article 4 of the FSR, namely that it improves "*the competitive position of an undertaking in the internal market*" while it also "*actually or potentially negatively affects competition in the internal market*".

Therefore, *Royal Excelsior Virton* filed a complaint with the Commission, requesting that it "*use its new powers to put an end to the distortions caused by these foreign subsidies distorting the professional football market in the EU and in particular in Belgium*".

Notably, a formal complaint process is not provided under the FSR and the Commission is not obliged to take any action following such request, but may decide so *ex officio*. If the Commission were to decide to initiate an investigation, the process would start with a "*preliminary review*", in which the Commission would request necessary information from the "*competitor*", namely the Belgian football club *SK Lommel*, and any other relevant company, association, EU Member State, and non-EU government. The FSR then foresees that, "*where, as a result of the preliminary review, the Commission has sufficient indications of the existence of a foreign subsidy distorting the internal market, the Commission should have the power to launch an in-depth investigation to gather additional relevant information to assess the foreign subsidy*".

According to Article 4 of the FSR, "*a distortion in the internal market shall be determined on the basis of indicators, which can include*": "*the amount and nature of the foreign subsidy*", as well as "*the situation of the undertaking, including its size and the markets or sectors concerned*". According to Article 7 of the FSR, if deemed distortive, the Commission would be able to impose "*redressive measures*", including "*refraining from certain investments*", "the *divestment of certain assets*", and "*the repayment of the foreign subsidy*".

With the FSR in force, the Commission will likely receive more demands to launch investigations under the new Regulation. Given the sensitive nature of such investigations and the possible political repercussions, the Commission will need to establish objective criteria to determine the existence of distortive practices, ensuring that there is no discrimination with respect to the EU's trading partners. In this context, the Commission notes that it would publish "*guidelines on certain key concepts within three years after the entry into force of the FSR, including criteria for determining a distortion in the Single Market, the balancing test and the criteria to request an ad-hoc notification*". Additionally, in order to "*provide companies with more certainty early on, the Commission has committed to clarify the concepts of a distortion and the balancing test at the latest one year after the start of application*".

Towards widespread use?

From 12 July 2023, the Commission will be allowed to initiate *ex officio* investigations and, as of 12 October 2023, the notification obligations will start applying to companies. Operators active in the EU should take the necessary steps to navigate the regulatory risks and opportunities emerging from the FSR. Non-subsidised companies will benefit from the FSR's

capacity to level the playing field, while companies that receive financial contributions from non-EU Governments need to prepare, especially with respect to the new reporting obligations.

Countering economic coercion by third countries: EU institutions reach a final political agreement on the EU's *Anti-Coercion Instrument*

On 6 June 2023, the European Commission (hereinafter, Commission), the European Parliament, and the Council of the EU reached a final political agreement on the EU's *Anti-Coercion Instrument*, following a provisional agreement that had been reached on 28 March 2023. The *proposed Anti-coercion Instrument* will become a new instrument in the EU's toolbox of autonomous instruments with the aim of "*deterring third countries from targeting the EU and its member states with deliberate economic coercion*" and would allow the EU to "*defend itself better on the global stage through a large variety of response measures*". According to a press release issued by the Commission, the final agreement provides for a number of changes, such as in relation to the role of the Council of the EU in determining the existence of economic coercion, and the scope of reparations for '*injuries*' caused by economic coercion. As a tool intended to allow the EU to act quickly and unilaterally, rather than relying on lengthy dispute settlement procedures within the multilateral *fora*, such as the World Trade Organization (hereinafter, WTO), this instrument remains controversial.

The rationale for the Anti-Coercion Instrument

In recent years, there has been an increase of geopolitical tensions, weakened international cooperation, and the unfortunate weaponisation of trade and investment measures, including practices of third countries "*seeking to unduly interfere in the EU's and/or its Member States' policy choices*". According to the Commission, such economic coercion *"threatens to undermine the ability of the EU and its Member States to take legitimate action in areas of their own sovereignty*". Examples of such coercive measures include the previous US Administration establishing additional tariffs on steel and aluminium, as well as the blockage of exports from Lithuania to China, which were perceived as having been enacted in response to Lithuania's policies concerning Taiwan (see *Trade Perspectives*, Issue No. 23 of 17 December 2021).

Until now, the EU did not have a legislative framework that specifically addresses economic coercion or the imposition of commercial policy measures to counter such coercion. In 2021, in a Joint Declaration, the European Parliament and several EU Member States had raised their concerns about economic coercion, and asked the Commission to develop a mechanism to deter and counter economic coercion. To allow the EU to defend its interests on the global stage, on 8 December 2021, the Commission published its Proposal for the *Anti-Coercion Instrument*, which would empower the Commission, in specific situations of coercion, to "*take trade, investment or other restrictive measures towards the non-EU country exerting the pressure*".

The EU's Anti-Coercion Instrument

The *Anti-Coercion Instrument* defines '*economic coercion*' as "*a situation where a third country is seeking to pressure the Union or a Member State into making a particular choice by applying, or threatening to apply, measures affecting trade or investment*". The *Anti-Coercion Instrument* will provide a legal framework to get a third country to stop its coercive measures through dialogue and engagement, such as through negotiations, mediation, arbitration, adjudication, or other relevant avenues. If dialogue and engagement were to fail, the *Anti-Coercion Instrument* would allow the EU, as a last resort, to impose countermeasures, which could be applied to a country, specific regions, sectors, or operators of the third country, as well as to certain natural or legal persons that are connected or linked to the government acting in a coercive manner. The countermeasures could take the form of, *inter alia,* the imposition of tariffs, restrictions to trade in services, or restrictions to access to foreign direct investment.

The final compromise

The final political agreement reached by EU legislators amends certain elements of the Commission's Proposal. While the final official text has not yet been published, a press release issued by the Commission summarises some of the amendments, one of which is the inclusion of a legal framework that will allow the EU to request third countries to "*repair the injury caused by its economic coercion*" suffered by the EU, by EU Member States, or by economic operators. The final political agreement also strengthens the Council of the EU's role in determining instances of '*economic coercion*'. Under the *Anti-Coercion Instrument*, the Commission will have the role of carrying out examinations based on the information received from legal and natural persons, or from an EU Member State, on the possible coercive measure imposed by the third country. Following such examination, the Council of the EU would determine if the EU or an EU Member State is indeed the target of economic coercion. In case economic coercion has been determined with respect to a third country, the Commission would then engage in a dialogue and implement the EU's response measures, including the imposition of countermeasures, such as trade restrictions. To ensure that the European Parliament and Council of the EU are updated at all the relevant stages, from the examination until the review of the EU response measures, a contact point in the Commission will be established to ensure coordination and transparency.

Consistent with WTO rules?

Economic coercion poses a serious threat to the multilateral trading system and to the core principles of the WTO on non-discrimination and transparency. In principle, measures of economic coercion would be subject to WTO dispute settlement due to possible inconsistencies with a number of WTO commitments, such as those under the *General Agreement on Tariffs and Trade 1994* (GATT 1994) and the *General Agreement on Trade in Services.* However, under WTO law, retaliation or the imposition of countermeasures is only allowed following a decision of the WTO Dispute Settlement Body within the context of WTO dispute settlement proceedings.

The *Anti-Coercion Instrument* represents the EU's intention to act quickly and unilaterally, rather than relying on lengthy dispute settlement procedures within the multilateral *fora*. In this context, by allowing the EU to unilaterally impose countermeasures against a coercing country, the *Anti-Coercion Instrument* will likely be subject to scrutiny in light of the applicable WTO obligations (see *Trade Perspectives*, Issue No. 20 of 31 October 2022). For instance, if the EU were to impose restrictions on the importation of goods, the '*coercing country*' subject to the countermeasures might initiate WTO dispute settlement proceedings against the EU on the basis of inconsistency with Article XI:1 of the GATT 1994 on quantitative restrictions and the EU would need to justify its measures. When it comes to countermeasures affecting trade in goods, the EU might try to invoke Article XX or Article XXI of the General Agreement on Tariffs and Trade (hereinafter, GATT) 1994 on '*General exceptions*' and on '*Security exceptions*', respectively, which allow WTO Members to derogate from their GATT 1994 obligations for certain specific reasons.

The Commission claims that the *Anti-Coercion Instrument* would not be used as "*a means to short-circuit the WTO dispute settlement system*" or as "*a means to impose countermeasures to respond to a manifest breach of WTO rules*". It remains to be seen whether the EU will stay true to this promise when it comes to the implementation of the *Anti-Coercion Instrument.*

Recent Joint Declaration by third countries on economic coercion

In addition to the EU, the G7 countries (*i.e.,* Canada, France, Germany, Italy, Japan, the UK, and the US, as well as the EU as a "*non-enumerated member*") also recently voiced their concerns regarding economic coercion. Following the G7 Summit in Hiroshima, which was held from 19 to 21 May 2023, G7 countries agreed on the *G7 Hiroshima Leaders' Communiqué* and on the *G7 Leaders' Statement on Economic Resilience and Economic Security*, which

announced the launch of the G7 *'Coordination Platform on Economic Coercion'*. The Platform can be used by G7 countries to share information, provide early warnings, consult with each other, assess, and explore coordinated responses, as well as deter and, where appropriate, counter economic coercion. According to the Commission, the G7 *'Coordination Platform on Economic Coercion'* "*is fully compatible with the Anti-Coercion Instrument*" and can be used to gather and share information on economic coercion. The European Parliament welcomed the launch of the Platform, stating that it echoed the EU's initiative and confirmed its necessity.

More recently, on 8 June 2023, at a Ministerial meeting in Paris, Australia, Canada, Japan, New Zealand, the UK, and the US endorsed a *Joint Declaration Against Trade-Related Economic Coercion and Non-Market Policies and Practices*, acknowledging that "*the use of trade-related economic coercion and non-market-oriented policies and practices threatens and undermines the rules-based multilateral trading system*". The countries further committed to cooperate in order to "*identify, prevent, deter, and address trade-related economic coercion and non-market policies and practices, including through multilateral institutions, such as the WTO*".

Towards future cooperation with other countries?

The *Anti-Coercion Instrument* has been met with positive responses by EU businesses. For instance, *BusinessEurope*, which represents enterprises of all sizes in the EU and in seven non-EU European countries, stated that it welcomed the *Anti Coercion Instrument*, noting that it was crucial "*to protect the EU and the Member States from economic coercion by third countries*". On the other hand, a former senior Chinese trade official, *He Weiwen*, commented that the *Anti-Coercion Instrument* would, arguably, be inconsistent with the non-discrimination and most-favoured-nation principles of the WTO.

The Commission believes that the *Anti-Coercion Instrument* could open doors "*to raise the issue in any relevant international fora, and coordinate with other countries affected and with like-minded partners and allies*". As noted in the Preamble to the *Anti-Coercion Instrument,* the EU intends "*to contribute to international efforts to act against economic coercion*" and is "*open to cooperate and does cooperate with all partners that recognise economic coercion as an issue*". Following the final agreement reached by EU legislators, the final text will still have to be formally approved by the European Parliament and the Council of the EU. Once the Regulation has been officially adopted, it will enter into force 20 days after its publication in the EU Official Journal. EU businesses and EU trading partners alike should carefully review the future rules in view of the upcoming risks and opportunities.

Concerns over the "*Not for EU*" marking and labelling of agri-food goods intended for sale to final consumers in Northern Ireland

Under the *Windsor Framework Agreement*, the European Commission (hereinafter, Commission) and the Government of the UK agreed on new requirements for the marking and labelling of agri-food retail goods, under which certain products intended for sale to final consumers in Northern Ireland will have to be labelled as "*Not for EU*". The purpose of the new marking and labelling is to inform consumers that those retail goods are not for the EU market, but only intended for sale to the final consumers in Northern Ireland. This is also intended to ensure the traceability of such retail goods.

"*Not for EU*" labelling is seen by the Commission as "*an important safeguard to protect the EU Single Market*". While the EU has adopted a Proposal for a regulation regarding the new marking and labelling rules, there has not been much explanation from the UK Government, so that the new labelling requirement has led to confusion and complaints from businesses in the UK. Businesses stated that they needed greater "*clarity on how these labelling changes will impact both food producers and in-store retailers*". The article provides a brief overview of

the *Windsor Framework Agreement*, an overview of the new labelling requirements, and the implications of the new requirements for the agri-food sector.

The *Windsor Framework Agreement*

The *Windsor Political Declaration by the European Commission and the Government of the United Kingdom* (hereinafter, Windsor Framework Agreement) of 23 February 2023 intends to provide mutually acceptable solutions to some of the issues caused by the UK's withdrawal from the EU. The *Windsor Framework Agreement* addresses a number of the difficulties encountered with the implementation of the Protocol on Ireland/Northern Ireland (hereinafter, Northern Ireland Protocol), which is an integral part of the EU-UK Withdrawal Agreement. After long negotiations, the EU and the UK agreed the Protocol in 2020 to protect the 1998 Good Friday (Belfast) Agreement and with the objective of avoiding a "*hard border*" on the island of Ireland, while ensuring the integrity of the EU Single Market.

The *Windsor Framework Agreement* includes arrangements for medicines, cross-border transport of plants and pets, and the power of Northern Ireland's Government to raise objections to EU legislation that applies in Northern Ireland. The *Windsor Framework Agreement* also creates a so-called "*Green Lane*" (for agri-foods being traded only into Northern Ireland) and a "*Red Lane*" (for agri-food products "*at risk*" of leaving the UK's market and being traded into the EU's Single Market). Given that, compared with the checks on such goods required under the Northern Ireland Protocol, "*Green Lane*" goods will be subject to reduced Customs checks and procedures, it is considered that there is a need to label them as not for sale in the EU. Since the *Windsor Framework Agreement* is only a "*Framework*" agreement, both the UK and EU still need to adopt implementing legislation and guidance for companies operating in Northern Ireland, Great Britain, and the EU on how the "*Not for EU*" labelling requirements would work in practice.

EU proposed legislation and UK implementation guidance on labelling and marking

On 27 February 2023, the Commission has published its *Proposal for a Regulation of the European Parliament and of the Council on specific rules relating to the entry into Northern Ireland from other parts of the United Kingdom of certain consignments of retail goods, plants for planting, seed potatoes, machinery and certain vehicles operated for agricultural or forestry purposes, as well as non-commercial movements of certain pet animals into Northern Ireland* (hereinafter, the EU Agri-Food Proposal). In this context, '*retail goods*' refers to goods that are delivered at distribution terminals and include food products of animal or plant origin. According to Article 1 of the EU Agri-Food Proposal, the Regulation would only cover goods that move from Great Britain to Northern Ireland and would not cover goods that are exported directly from Great Britain to the Republic of Ireland, nor would it apply to goods originating in the Republic of Ireland and moving to Northern Ireland or to Great Britain.

According to Article 6(1) of the EU Agri-Food Proposal, '*retail goods*' are to "*be marked in accordance with the following requirements:*

> *(a) from 1 October 2023, all retail goods shall be marked in accordance with the requirements set out in Annex IV, points 2 and 3* [*i.e.*, a "*Not for EU*" on the product box, on the shelf, next to the price tags, and on posters around the products in the retail premises]*, except for the following retail goods which shall bear an individual marking in accordance with Annex IV, point 1* [*i.e.*, a "*Not for EU*" on the individual packaging]*:*
>
> *(i) prepacked meat, prepacked meat products and meat packed on sales premises;*
> *(ii) prepacked milk, prepacked dairy products and dairy products packed on sales premises listed in Part 1 of Annex V* [such as pasteurised milk or cream; sour cream; crème fraiche]

(b) *from 1 October 2024, all milk and dairy products shall bear an individual marking in accordance with Annex IV, point 1;*

(c) *from 1 July 2025, all retail goods shall bear an individual marking in accordance with the requirements set out in Annex IV, point 1, except for the retail goods listed in Part 2 of Annex V* [such as confectionery, including sweets; pasta, noodles and couscous, not mixed or filled with meat product; bread, cakes, biscuits, waffles and wafers, rusks, toasted bread and similar toasted products]*, which shall be marked in accordance with the requirements set out in Annex IV, points 2 and 3*".

According to Article 2(n) of the EU Agri-Food Proposal, "*'marking' means any tag, brand, mark, pictorial or other descriptive matter, written, printed, stencilled, marked, embossed or impressed on or attached to the packaging of a retail good or the box in which it is contained, and which cannot be easily removed or faded*".

Article 4 of the EU Agri-Food Proposal foresees a reduction in the number of border checks currently required under the Northern Ireland Protocol for goods moving from Great Britain to Northern Ireland and sets out in Article 4(4) redress for the EU should the UK authorities fail to inspect the required percentage of goods or fail to ensure that "*Not for EU*" goods do not end up in the Republic of Ireland. In either case, the EU would be entitled to suspend the rules on labelling and checks contained in the *Windsor Framework Agreement* and revert to the identity check requirements set out in the Northern Ireland Protocol.

In the UK, on 13 April 2023, the Department for Environment, Food and Rural Affairs (hereinafter, DEFRA) issued a set of updated *Arrangements for authorised traders moving food from Great Britain to Northern Ireland*. The DEFRA's guidance appears to confirm, although in less detail, the above EU labelling and marking requirements, in particular that goods exported from Great Britain to Northern Ireland, which are not intended for onward shipping to the Republic of Ireland, are to be specifically labelled. The DEFRA's suggested wording for the product label is "*These products from the United Kingdom may not be sold outside Northern Ireland*". The UK Government has not, so far, put forward any draft legislation of equivalent detail to the EU Agri-Food Proposal.

Impact on businesses

The new labelling requirements will have an important impact on businesses. For example, under the EU Agri-Food Proposal, from 1 October 2023, prepacked meat and dairy products intended for sale to the final consumers in Northern Ireland will have to be individually labelled as "*Not for EU*". Goods sold loose, such as apples, will only need to be labelled at box level and easily visible signs would need to be placed next to the price tag on the shelves at the retail establishments. Posters will need to be visibly displayed in the vicinity of the retail goods informing the consumers that those retail goods are only intended for sale to final consumers in Northern Ireland and are not to be subsequently moved to an EU Member State. The rationale for these labelling and marking rules is explained in Recital 16 of the Agri-Food Proposal, which states that it is "*necessary to ensure that those retail goods remain in Northern Ireland and do not undermine public health and consumer protection on the internal market or its integrity, by providing information to consumers concerning those retail goods*". While it appears that such marking and labelling is justified when goods are placed on the market, the rationale for retail level marking and labelling as "*Not for EU*" is not obvious and does not appear to be necessary. Would a consumer be prevented from travelling with the goods to the Republic of Ireland?

In order to minimise supply chains difficulties, it was agreed by the UK Government and the Commission that the labelling requirements would be introduced gradually. As of 1 July 2025, all retail goods (other than goods sold loose) will have to be individually labelled except those not subjected to official controls at border control posts in the EU, such as confectionery, pasta, biscuits, coffee, tea and similar shelf-stable products.

Media reports indicate that retail and trade lobby groups warned, during an evidence session of the UK House of Lords' European Affairs Committee on 10 May 2023, that the UK Government had been far too slow to share detailed plans of how the "*Not for EU*" label required for all meat and dairy products sold in Northern Ireland would operate from October 2023. A representative from the *British Retail Consortium*, which represents the UK's biggest supermarkets, said that the UK Government had been "*seriously remiss*" in its failure to engage with the business sector, adding that "*We've had very little of any dialogue with the UK government on the issue of labelling*". There will be added complexity for major retail chains, like *Marks and Spencer*, that will now need distinct labelling solutions to export products to the Republic of Ireland and to the rest of the EU. A representative from *Marks and Spencer* said that, while the *Windsor Framework Agreement* would make it easier to send goods to Northern Ireland, the "*complexity and cost of having to label products differently for export*" would be a challenge for companies exporting to Ireland and the EU. The representative urged the UK and the EU to devise new digital solutions to simplify processes for business, saying that "*Retailers have been operating digitised supply chain systems for decades and we should not settle for a labelling regime belonging to a pre-digital era as a permanent state*".

There is not much time until meat and dairy products have to be labelled according to the new rules. All affected operators need to understand the new applicable framework and do the necessary to comply.

Recently adopted EU legislation

Trade Law

- *Regulation (EU) 2023/1115 of the European Parliament and of the Council of 31 May 2023 on the making available on the Union market and the export from the Union of certain commodities and products associated with deforestation and forest degradation and repealing Regulation*

- *Regulation (EU) 2023/1077 of the European Parliament and of the Council of 31 May 2023 on temporary trade-liberalisation measures supplementing trade concessions applicable to Ukrainian products under the Association Agreement between the European Union and the European Atomic Energy Community and their Member States, of the one part, and Ukraine, of the other part*

- *Commission Implementing Regulation (EU) 2023/1100 of 5 June 2023 introducing preventive measures concerning certain products originating in Ukraine*

- *Notification to the Joint Sectoral Committee by the European Union under Article 7 of the Sectoral Annex on Pharmaceutical Good Manufacturing Practices (GMPs) of the Agreement on Mutual Recognition between the European Community and the United States of America*

- *Council Decision (EU) 2023/1116 of 25 May 2023 on the conclusion, on behalf of the European Union, of the Protocol amending the Marrakesh Agreement establishing the World Trade Organization, as regards the Agreement on fisheries subsidies*

- *Protocol amending the Marrakesh Agreement establishing the World Trade Organization Agreement on Fisheries Subsidies*

- *Notice concerning the date of entry into force 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

- *Commission Implementing Regulation (EU) 2023/1142 of 9 June 2023 amending Implementing Regulations (EU) 2020/761 and (EU) 2020/1988 as regards the quantities that may be imported under certain tariff quotas following the agreement between the European Union and the United States of America*

- *Commission Implementing Regulation (EU) 2023/1110 of 6 June 2023 amending Implementing Regulation (EU) 2019/1793 on the temporary increase of official controls and emergency measures governing the entry into the Union of certain goods from certain third countries implementing Regulations (EU) 2017/625 and (EC) No 178/2002 of the European Parliament and of the Council*

Trade Remedies

- *Commission Implementing Regulation (EU) 2023/1122 of 7 June 2023 imposing a definitive anti-dumping duty on imports of certain hot-rolled flat products of iron, non-alloy or other alloy steel originating in People's Republic of China following an expiry review pursuant to Article 11(2) of Regulation (EU) 2016/1036 of the European Parliament and of the Council*

- *Commission Implementing Regulation (EU) 2023/1123 of 7 June 2023 imposing a definitive countervailing duty on imports of certain hot-rolled flat products of iron, non-alloy or other alloy steel originating in People's Republic of China following an expiry review pursuant to Article 18 of Regulation (EU) 2016/1037 of the European Parliament and of the Council*

- *Commission Implementing Regulation (EU) 2023/1159 of 13 June 2023 imposing a definitive anti-dumping duty on imports of okoumé plywood originating in the People's Republic of China following an expiry review pursuant to Article 11(2) of Regulation (EU) 2016/1036 of the European Parliament and of the Council*

Customs Law

- *Commission Implementing Regulation (EU) 2023/1131 of 5 June 2023 concerning the classification of certain goods in the Combined Nomenclature*

- *Commission Delegated Regulation (EU) 2023/1128 of 24 March 2023 amending Delegated Regulation (EU) 2015/2446 to provide for simplified customs formalities for trusted traders and for sending parcels into Northern Ireland from another part of the United Kingdom*

Food Law

- *Commission Regulation (EU) 2023/1141 of 1 June 2023 refusing to authorise certain health claims made on foods, other than those referring to the reduction of disease risk and to children's development and health*

- *Commission Regulation (EU) 2023/1101 of 6 June 2023 refusing to authorise a health claim made on foods and referring to children's development and health*

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