FRATINIVERGANO
EUROPEAN LAWYERS

TRADE PERSPECTIVES©

Issue No. 20 of 6 November 2023

New rules to simplify the out of court resolution of consumer disputes and to boost consumer rights in digital markets?

On 17 October 2023, the European Commission (hereinafter, Commission) adopted its *Proposal for a Directive amending Directive 2013/11/EU on alternative dispute resolution for consumer disputes, as well as Directives (EU) 2015/2302, (EU) 2019/2161 and (EU) 2020/1828*, which aims to "*modernise and simplify rules on out-of-court dispute resolution to adapt them to digital markets*" and are part of the EU's consumer policy, which seeks to ensure a high level of consumer protection. On the basis of the Commission's proposal, consumers would be able to refer a wide range of disputes, ranging from online to offline sales or services to contractual and non-contractual situations, to alternative dispute resolution.

Enforcing consumer rights through alternative dispute resolution

EU consumer policy, as set out in Article 169 of the Treaty on the Functioning of the European Union (hereinafter, TFEU), seeks "*to protect consumers' health, safety, and economic interests*" and to promote consumers' "*right to information, and education, and to organise themselves in order to protect their interests*". In the EU, consumer rights can be enforced privately by a consumer before a court or through an out-of-court process, and publicly by public authorities for the collective interest of consumers. The Commission notes that effective enforcement of consumer laws boosts legal certainty, increases consumer confidence, fuels consumption, and stimulates economic growth. Alternative dispute resolution (ADR) is one of the private enforcement mechanisms that consumers can use to settle disputes against traders (*i.e.*, an individual or legal entity that is privately or publicly owned, engaged in activities related to trade, business, craftmanship, or a profession) without going to court. Essentially, alternative dispute resolution "*offers a simple, fast and low-cost out-of-court solution to disputes between consumers and traders*".

In 2013, the EU adopted *Directive 2013/11/EU of the European Parliament and of the Council of 21 May 2013 on alternative dispute resolution for consumer disputes and amending Regulation (EC) No 2006/2004 and Directive 2009/22/EC (Directive on consumer ADR)*, which aims at ensuring *"that consumers can, on a voluntary basis, submit complaints against traders to entities offering independent, impartial, transparent, effective, fast and fair alternative dispute resolution procedures*". Under *Directive 2013/11/EU,* consumers have access to

alternative dispute resolution in all covered "*economic sectors, both for online and offline purchases and for domestic and cross-border disputes alike*". Certain sectors and disputes are exempt, such as health services, public education, disputes between traders, and disputes initiated by a trader against a consumer. Traders must "*inform their customers of the possibility to settle their dispute out-of-court*". EU Member States may maintain or introduce rules that go beyond those laid down by *Directive 2013/11/EU*, in order to ensure a higher level of consumer protection.

In 2019, the Commission adopted a report on the implementation of *Directive 2013/11/EU* and *Regulation (EU) No 524/2013*, which found that *Directive 2013/11/EU "had led to increased coverage of consumer markets by ADR entities throughout the EU*", but also noted that "*consumer and business uptake of ADR procedures was still lagging behind in some sectors and Member States*".

In 2023, the Commission conducted an evaluation of *Directive 2013/11/EU*, which confirmed "*the need for its strengthening*". Given that *Directive 2013/11/EU* was drafted more than ten years ago, it was considered not to be well-suited for "*disputes resulting from new consumer market trends"* characterised by the surge in e-commerce, data-driven digital advertising, and the rise of online intermediaries, "*which have intervened on the traditional*" business-to-consumer "*contractual relationships, increasing the complexity of consumer disputes*". The Commission further notes that "*EU consumers are purchasing much more online including from non-EU traders",* which *"goes in parallel with an increased exposure to unfair practices - through online interfaces - that materially distort or impair, either on purpose or in effect, the ability of recipients of the service to make autonomous and informed choices or decisions (dark patterns), hidden advertising, fake reviews, distorted price presentations or lack of important pre-contractual information".*

Enhancing consumer rights and making the rules fit for digital markets

On 17 October 2023, the Commission adopted a *Proposal for a Directive amending Directive 2013/11/EU on alternative dispute resolution for consumer disputes, as well as Directives (EU) 2015/2302, (EU) 2019/2161 and (EU) 2020/1828,* with the aim to, *inter alia*, "*make the ADR framework fit to digital markets by explicitly covering a broad range of EU consumer rights that may not be explicitly described in contracts or which relate to pre-contractual stages".*

The Commission's Proposal seeks to expand the scope of issues that can be resolved through alternative dispute resolution by including "*contractual obligations stemming from sales contracts, including for the supply of digital content, or service contracts*" and "*consumer rights applicable to non-contractual and pre-contractual situations and provided in Union law concerning*: *(i) unfair commercial practices and terms, (ii) compulsory precontractual information, (iii) non-discrimination on the basis of nationality or place of residence, (iv) access to services and deliveries, (v) remedies in case of non-conformity of products and digital content, (vi) right to switch providers, and (vii) passenger and travellers' rights*". The Commission also proposes to amend the definition of '*cross-border dispute'* to include a dispute between a consumer residing in an EU Member State and a trader established outside of the EU. The Commission notes that this amendment would "*contribute to a greater level-playing field for EU and non-EU traders*". Under the Commission's Proposal, unless specific EU law or national legislation imposes trader participation in out-of-court dispute resolution, businesses would be allowed to decide whether to participate in alternative dispute resolution. Should a consumer ask for alternative dispute resolution, the business would be required to reply within 20 working days.

Additionally, the Commission proposes that EU Member States must "*ensure that, with regard to cross-border disputes, consumers and traders are able to obtain assistance to access the ADR entity or entities competent to deal with their cross-border dispute*". The Commission proposes that EU Member States implement that obligation through a designated "*ADR contact point*". According to the Commission, such assistance could range from *"translation, to explanations on the procedure, fees, or physical documentation*".

The Commission also adopted a *Recommendation on quality requirements for dispute resolution procedures offered by online marketplaces and Union trade associations,* which highlights that a fair and efficient alternative dispute resolution "*needs to be transparent about the different steps of the procedure, or ensure that mediators are independent, with no financial conflict of interest*".

Towards effective rules?

From a business perspective, the proposed amendments may require additional efforts to ensure compliance, such as additional clarity in pre-contractual information, and a deeper understanding of various consumer rights provided in EU law and/or EU Member State laws, as well as more rigorous processes to handle and engage in ADR, especially for traders operating in the digital market, including non-EU traders offering goods or services to consumers residing in the EU.

Under Article 4(2)(f) of the TFEU, consumer protection is a shared responsibility between the EU and EU Member States. EU Member States can "*keep or introduce stricter consumer protection measures than those laid down by the EU*". With respect to alternative dispute resolution, the Commission notes that "*trader participation varies widely across EU Member States, depending on whether their participation is mandatory or voluntary, whether the outcome is binding or not, or whether there are name and shame practices*", which could lead to an uneven playing field across the EU and, therefore, limit the impact of the proposed amendments on enhancing consumer protection. Notably, the impact assessment accompanying the Commission's Proposal notes that, "*in eleven Member States, participation is entirely voluntary, while in six others it is compulsory"* and that, *"in seven Member States, trader participation is mandatory only in specific sectors, and in four, it is mandatory only in specific situations*". In this regard, on 17 October 2023, the *European Consumer Organisation BEUC* issued a press release noting, *inter alia*, that, "*against BEUC's expectations, according to the proposal, traders' participation in ADR procedures would still not be mandatory".*

Towards effective enforcement vis-à-vis non-EU traders

Additionally, the enforcement of alternative dispute resolution outcomes against non-EU traders, especially in the digital environment, could pose a significant challenge. In that context, *Ecommerce Europe*, an association representing over 150,000 companies selling goods and/or services online to consumers in Europe, noted that extending the application of the alternative dispute resolution to non-EU traders could "*help consumers that purchase goods and services from outside the EU*", but also noted that there could be "*difficulties in the execution of an ADR decision against the non-EU trader in the jurisdiction of these traders*".

Scholars note that "*sound enforcement of consumer protection rules requires a complementary mix of public and private enforcement*". Therefore, cooperation between the EU and third countries could provide an avenue to address non-compliance with alternative dispute resolution outcomes. Notably, the Commission cites international cooperation with non-EU countries in existing international *fora* and bilateral international agreements, as one of its priorities in supporting the enforcement of consumer protection laws in the EU.

Time to engage

The Commission's Proposal will now be discussed by the European Parliament and the Council of the EU, and the EU Institutions will then have to agree on a common text. Interested stakeholders should actively follow and participate in the deliberations on the Commission's Proposals to ensure that their interests are taken into account.

To achieve climate goals in the region, ASEAN Member States endorse an *ASEAN Strategy for Carbon Neutrality*

On 19 August 2023, the ASEAN Economic Ministers endorsed the *ASEAN Strategy for Carbon Neutrality* (hereinafter, Carbon Neutrality Strategy), which is designed to *"complement the ASEAN Member States' national initiatives in meeting their respective Nationally Determined Contributions under the Paris Agreement"*. The *Carbon Neutrality Strategy* was adopted by the ASEAN Economic Community Council on 3 September 2023 and acknowledged by ASEAN Leaders at the 43rd ASEAN Summit on 5 September 2023. According to the ASEAN Secretariat, ASEAN Member States must now *"oversee its implementation"*. The *Carbon Neutrality Strategy* emphasises the need for ASEAN to pursue carbon neutrality *"with utmost urgency"* in order to *"unlock the huge value potential of a green transformation of the region"*.

ASEAN's Paris Agreement commitments and the need to reach carbon neutrality

All ASEAN Member States (*i.e.*, Brunei Darussalam, Cambodia, Indonesia, Lao PDR, Malaysia, Myanmar, the Philippines, Singapore, Thailand, and Viet Nam) are signatories to the *Paris Agreement*, a binding international treaty on climate change with the overarching objectives of limiting the increase of the "*global average temperature to well below 2°C above pre-industrial levels*" and limiting "*the temperature increase even further to 1.5°C above pre-industrial levels"*. The *Paris Agreement* requires its signatories to submit, and thereafter update every five years, their Nationally Determined Contributions (hereinafter, NDCs), containing their respective climate strategies to reduce greenhouse gas (GHG) emissions.

All ASEAN Member States have submitted their NDCs, as part of which eight ASEAN Member States (*i.e.*, all ASEAN Member States except Indonesia and the Philippines) have announced national targets to achieve net-zero GHG emissions or to become carbon neutral by 2050. Indonesia committed to net zero emissions by 2060, while the Philippines has yet to make such commitment. Notwithstanding the existing pledges, most ASEAN Member States have not developed firm domestic mitigation measures to achieve their objectives. In this context, the *Carbon Neutrality Strategy* is intended to complement ASEAN Member States' national policies in meeting their NDCs, notably by laying down strategies and initiatives to accelerate ASEAN's efforts to achieve carbon neutrality.

Status quo of ASEAN's environmental conditions

According to the ASEAN Secretariat, the region is "a*cutely exposed to climate change*", whereby GHG emissions in the region have been increasing due to, *inter alia*, industrialisation based on fossil-fuel energy, the associated land-use change, as well as agriculture. The ASEAN Secretariat highlights that five ASEAN Member States, namely Indonesia, Myanmar, Philippines, Thailand, and Viet Nam, are among the 20 most at-risk countries in the world when it comes to the effects of climate change, adding that *"unchecked climate change could drive down regional GDP by 11% by 2100"*.

The *Carbon Neutrality Strategy* highlights ASEAN's need to pursue carbon neutrality *"with utmost urgency"*, as doing so could "*unlock the huge value potential of a green transformation of the region*". Notably, taking measures to achieve regional carbon neutrality, such as through green investments, is forecast to increase ASEAN's GDP by USD 3 to USD 5.3 trillion, increase green investment by USD 3.7 to USD 6.7 trillion, and create 49 to 66 million job opportunities by 2050 in the region.

ASEAN's Strategy for Carbon Neutrality

The *Carbon Neutrality Strategy* supports and indirectly highlights the importance of several of ASEAN's existing climate policies, such as the *ASEAN Taxonomy for Sustainable Finance*, which is a guide to classify economic activities and investments for *"green"* financing (see *Trade Perspectives,* Issue No. 7 of 10 April 2023) and the ASEAN *Catalytic Green Finance*

Facility, which is an infrastructural fund to support ASEAN Member States' governments in financing green infrastructure projects. ASEAN claims that the *Carbon Neutrality Strategy* outlines a *"nuanced approach"* that reflects the diverse resources and starting points of ASEAN Member States.

Essentially, the *Carbon Neutrality Strategy* strives to achieve four key outcomes, namely: 1) Develop '*green industries*', which would unlock ASEAN's manufacturing and export potential; 2) Achieve interoperability within ASEAN, such as enabling the exchange of '*green*' electricity and products; 3) Adopt globally credible standards to ensure ASEAN's position as a *"top destination for international capital to increase liquidity in regional markets"*; and 4) Foster '*green*' capabilities, which includes "*developing the necessary green talent and expertise*".

In order to achieve the four outcomes, the *Carbon Neutrality Strategy* lays down eight implementing strategies, in relevant part to: 1) Accelerate '*green*' value chain integration; 2) Pursue regional circular economy supply chains; 3) Connect '*green*' infrastructure and markets; 4) Attain interoperable carbon markets; 5) Adopt credible and common standards; 6) Attract and deploy '*green*' capital; 7) Attract '*green*' talent and allow its mobility; and 8) Share '*green*' best practices.

Each of the eight strategies consists of various policy initiatives, 16 in total, to deliver the carbon-neutral transition and kick-start ASEAN's efforts. For instance, Strategy 1 to *"Accelerate green value chain integration"* identified three initiatives, including defining and boosting opportunities for the *"greentification of the manufacturing value chains regionally"*. With respect to Strategy 3 to *"Connect green infrastructure and market"*, ASEAN Member States identified two policy initiatives, including enabling *"regional power trading, physical interconnection, and policy"*.

Fostering circular economy in ASEAN

Strategy 2 of the *Carbon Neutrality Strategy* concerns *"Regional circular economy supply chain"* and calls for the upgrade of the *ASEAN Trade in Goods Agreement* (hereinafter, ATIGA) to "*comprehensively include circular products*". Specifically, Strategy 4 seeks to incorporate all types of circular products (*e.g.*, used products, recycled products, and valuable waste) in the ATIGA's tariff Schedules and "*value content*" definitions.

Circular economy refers to an economic model that involves the sharing, leasing, reusing, repairing, refurbishing, and recycling of existing materials and products as long as possible. The circular economy plays an important role in achieving carbon neutrality by, *inter alia*, reducing the amount of GHG emissions associated with material extraction and reducing waste. In this context, on 18 October 2021, ASEAN Member States endorsed the *Framework for Circular Economy for the ASEAN Economic Community* (hereinafter, Circular Economy Framework), which is intended to guide ASEAN Member States in achieving their *"ambitious long-term vision of the circular economy"* through five strategic priorities, including through prioritising trade openness and facilitation. With respect to trade, the initiatives proposed under the *Circular Economy Framework* include: 1) Promoting trade, investment and innovation in environmental goods and services; and 2) Facilitating the movement of second-hand goods and materials across borders.

Preferential trade agreements also play an important role in supporting the circular economy in supply chains, and, in turn, supporting carbon neutrality, by lowering tariff and non-tariff barriers for the trade in circular products. In fact, liberalising trade in circular products within ASEAN, through the upgraded ATIGA, could help support clean technology diffusion, promote more efficient use of finite resources, raise the GDP in countries exporting the relevant circular products, and create new trading opportunities for economic actors in the region. However, in order to successfully foster intra-ASEAN trade of circular products, ASEAN Member States would need to agree on key issues, such as on the definition of "*circular products*" and the scope of circular products subject to tariff elimination.

Addressing ASEAN's untapped potential for carbon trading

Strategy 4 of the *Carbon Neutrality Strategy* concerns the development of an interoperable carbon market in the ASEAN region through the harmonisation of the related policies, namely in relation to the measurement, reporting, and verification standards. Strategy 4 also calls for the development of a framework *"to enable high quality carbon credits and provide policy support to enable seamless international exports of carbon credits"*.

ASEAN has immense potential for generating carbon credits (*i.e.,* permits that allow the owner to emit a certain amount of carbon dioxide or other greenhouse gases) due to the region's rich renewable energy resources, such as solar, hydro, and geothermal. Despite being a region "*rich*" in natural resources, to date only Indonesia, Malaysia, Singapore, and Thailand have established their respective carbon trading systems (see *Trade Perspectives,* Issue No. 18 of 9 October 2023). The *Carbon Neutrality Strategy* could be the basis to further cooperate and encourage the transfer of knowledge, so as to ensure that carbon markets are available in all ASEAN Member States. ASEAN Member States need to ensure that their carbon markets are not fragmented, as a lack of standardisation of the respective regulatory frameworks could increase the costs and lead to inefficiencies of carbon trading.

In this context, in line with the *Carbon Neutrality Strategy*, ASEAN Member States could seek the adoption of regional standards for the measurement, reporting, and verification framework on carbon trading, as well as the same approach to carbon pricing (*i.e.,* the price per tonne, set by countries for the purchase of carbon credits) to help establish a level playing field for ASEAN businesses. Notably, having the same carbon price in the region would address concerns that the companies based in ASEAN Member States, which have more expensive carbon prices, could *"lose"* their ability to compete with the exporters from other ASEAN Member States with lower carbon prices. In the long term, the interoperable ASEAN carbon markets would help increase intra-ASEAN carbon trade and, ultimately, foster new technology development through '*green*' financing across the region.

Way forward

While the *Carbon Neutrality Strategy* marks an important step for ASEAN to address climate change issues in the region, it is essential for ASEAN and individual ASEAN Member States to develop and progressively roll-out concrete plans for the effective implementation of the initiatives contained in the Strategy, notably by translating these non-binding strategies into an ASEAN binding commitment, which could also be transposed into binding national laws of each ASEAN Member State. Interested stakeholders should closely monitor these novel developments, especially the negotiations for the establishment of a regional carbon market and the actions to implement the trade-related initiatives in the Strategy.

From 1 January 2024, certain cocoa and chocolate products will be subject to country of origin labelling requirements in France

On 20 October 2023, the Government of France notified to the European Commission (hereinafter, Commission) a draft *Decree amending Decree No. 76-692 of 13 July 1976, as amended, relating to cocoa and chocolate products intended for human consumption,* which would enter into force on 1 January 2024 (hereinafter, draft Decree). The draft Decree aims *"to strengthen consumer information on the origin of cocoa in its raw or processed state for certain cocoa products"* and provides the obligation to indicate the name of the country or countries of origin of the cocoa contained in cocoa powder, chocolate, milk chocolate, household milk chocolate, filled chocolate, and chocolate confectionary or candy, when they are packaged in France. The article provides an overview of EU law on country of origin labelling, the draft Decree, and the implications for businesses.

EU rules on country of origin labelling

Currently, mandatory rules on origin labelling exist in the EU for several food sectors, such as honey, fruit and vegetables, fish (but not for fish products such as prepared or preserved fish), beef and beef products, olive oil, wine, eggs, and for fresh, chilled or frozen meats of swine, sheep, goat, and poultry. With respect to the indication of the country of origin or place of provenance of food, Article 26 of *Regulation (EU) No 1169/2011 on the provision of food information to consumers* (hereinafter, FIR) provides the general rules and requirements. Article 26(2)(a) of the FIR 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, in particular if the information accompanying the food or the label as a whole would otherwise imply that the food has a different country of origin or place of provenance.

In addition, and of particular relevance for certain cocoa products, *Commission Implementing Regulation (EU) 2018/775 laying down rules for the application of Article 26(3) of Regulation (EU) No 1169/2011, as regards the rules for indicating the country of origin or place of provenance of the primary ingredient* of a food establishes that, if the primary ingredient in a food product (for example cocoa in certain chocolate products) originates in a country other than the one indicated on the packaging (for example, "*Belgian chocolate*"), the country of origin of the primary ingredient cocoa must also be specified, although it is possible to state "*non-EU*". The term "*primary ingredient*" is not defined, but would likely include cocoa in most chocolate products.

EU Member States may introduce country of origin labelling in certain cases

Article 39(1) of the FIR on '*National measures on additional mandatory particulars*' provides, in relevant part, that "*In addition to the mandatory particulars […], Member States may […] adopt measures requiring additional mandatory particulars for specific types or categories of foods, justified on grounds of at least one of the following: (a) the protection of public health; (b) the protection of consumers; (c) the prevention of fraud; (d) the protection of industrial and commercial property rights, indications of provenance, registered designations of origin and the prevention of unfair competition*".

Article 39(2) of the FIR specifies that, "*By means of paragraph 1, Member States may introduce measures concerning the mandatory indication of the country of origin or place of provenance of foods only where there is a proven link between certain qualities of the food and its origin or provenance. When notifying such measures to the Commission, Member States shall provide evidence that the majority of consumers attach significant value to the provision of that information*".

France must establish a link between the respective origin and a particular quality attribute

France notified the draft Decree to the Commission under the EU's Technical Regulation Information Service (TRIS) procedure, set up under *Directive (EU) 2015/1535 of the European Parliament and of the Council of laying down a procedure for the provision of information in the field of technical regulations and of rules on Information Society services*. The draft Decree would revise *Decree No. 76-692 of 13 July 1976 on the repression of fraud in the sale of goods and falsification of foodstuffs, with regard to cocoa and chocolate products intended for human consumption*. The draft Decree aims *"to strengthen consumer information on the origin of cocoa in its raw or processed state for certain cocoa products"* and provides the obligation to indicate the name of the country of origin of the cocoa for cocoa powder, low-fat cocoa powder, chocolate in powder and household chocolate powder and equivalent names, chocolate, milk chocolate, household milk chocolate, filled chocolate, and chocolate candy, when they are packaged in France.

The legal basis for the notified draft Decree is the FIR, in particular Articles 7, 9, 26 and 39 thereof, as well as France's Consumer Code, in particular Articles L. 412-1 and L. 412-4 thereof. Article L412-4 of France's Consumer Code provides, in relevant part, that "*[…] the indication of the country of origin shall be mandatory for agricultural, food and seafood products, whether raw or processed. […] The consumer is informed, by means of labelling, of the origin of cocoa from cocoa or chocolate products […]. The detailed rules for the application of […] this Article shall be laid down by decree of the Council of State after the European Commission has declared the obligation provided for in this Article compatible with European Union law*".

To improve consumer information on the origin of raw or processed cocoa and for the purposes of applying Article L. 412-4 of the Consumer Code, a new Article 8 is inserted into *Decree No. 76-692 on cocoa and chocolate products intended for human consumption*, worded as follows: "*For the products defined in points 2(a), (b), (c) and (d), 3, 4, 5, 7 and 10 of Annex I-A, packaged on the national territory, the labelling indicates the country or countries of origin of cocoa*".

In the notification to the Commission, France's Government refers to Article 13 of *Law No. 2021-1357 to protect farmers' remuneration*, which was adopted on 18 October 2021. This law, known as "*EGAlim 2*", complements and reinforces the *Law of 30 October 2018* (known as "*EGAlim*"), the objective of which was to improve the balance of trade relations in the agricultural and food sector. Article 13 of *EGAlim 2* intends to improve information on the origin of food products. In the notification to the Commission, France's Government argues that "*there is a proven link between certain properties of chocolate and its origin. The natural and wild cocoa tree grows in Africa and South America. Nowadays, it is cultivated on all continents. Cocoa beans are the seeds of cocoa trees that make chocolate. The quality of the cocoa bean depends on the conditions of its cultivation: the soil where it is grown and the climate. Chocolate will not have the same taste, depending on the origin of cocoa trees, its pods and therefore its beans*".

As stated above, under Article 39(2) of the FIR, EU Member States may introduce additional measures concerning mandatory COOL only where there is a proven link between certain qualities of the food and its origin or provenance. EU Member States, in this case France, must provide credible evidence to the Commission that the majority of consumers attaches significant value to the provision of that information. Apart from the claimed wish of the consumer to know the origin or provenance of a product, a link must be established between the respective origin and a particular quality attribute. Such link must be established and corroborated by France.

The complexities of country of origin labelling for cocoa and cocoa products

The obligation to indicate the name of the country or countries of origin of cocoa for the various cocoa products applies when products are "*packaged in France*". It does not apply to imported products. However, the draft Decree does not provide a definition of "*packaged*" or any further clarification in this regard.

There are various reasons why mandatory origin labelling for cocoa and cocoa products is complex. First, cocoa is a tropical product and origin labelling would unlikely give important information to consumers, who are presumably aware that cocoa is not grown and harvested in Europe, but in Africa, America, and Asia.

Secondly, mandatory origin labelling would likely affect the cocoa supply and production, as the industry would need to separate sourcing for specific origins and increase storage capacity, which, in turn, would result in significant additional costs for the EU's cocoa industry and, ultimately, for the consumer.

Thirdly, chocolate manufacturers often use blends of different cocoa origins to give a signature taste and change sourcing practices depending on commodity prices and the quality of the cocoa. The change in sources would likely need to be reflected on the labels in France.

Fourthly, the draft Decree appears to conflict with *Commission Implementing Regulation (EU) 2018/775*, which permits the indication of the country of origin of the primary ingredient as "*non-EU*", while the draft Decree requires to indicate the name of the country or countries of origin of cocoa for the various cocoa products when products are "*packaged in France*".

The way forward – Stakeholders' concerns should be transmitted to the Commission

The TRIS notification of France's draft Decree indicates as "*End of Standstill*" the 23 January 2024. The standstill period is a period during which the notified draft technical regulation may not be adopted by the EU Member State concerned. Depending on the type of reaction issued by the Commission or other EU Member States, the standstill period can be extended.

Further to EU Member States and the Commission, other stakeholders may also transmit their concerns to the Commission. Although there is no official deadline, stakeholders are invited by the Commission to submit their concerns at least one month before the end of the three months standstill period for their comments to be taken into account. Both traders and producing countries should carefully assess the possible impacts of this proposed measure and engage with France and the EU in order to minimise the negative commercial outcomes, if any.

Recently adopted EU legislation

Trade Law

- *Commission Implementing Regulation (EU) 2023/2437 of 25 October 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, fresh meat of poultry and game birds*

- *Decision No 1/2023 of the EU-Republic of Moldova Association Committee in Trade Configuration of 6 October 2023 amending Annex XXVIII-B (Rules applicable to telecommunication services) and Annex XXVIII-C (Rules applicable to postal and courier services) to the Association Agreement between the European Union and the European Atomic Energy Community and their Member States, of the one part, and the Republic of Moldova, of the other part [2023/2434]*

Customs Law

- *Commission Implementing Regulation (EU) 2023/2364 of 26 September 2023 amending Annex I to Council Regulation (EEC) No 2658/87 on the tariff and statistical nomenclature and on the Common Customs Tariff*

Food Law

- *Commission Implementing Regulation (EU) 2023/2210 of 20 October 2023 authorising the placing on the market of 3-Fucosyllactose produced by a derivative strain of Escherichia coli K-12 DH1 as a novel food and amending Implementing Regulation (EU) 2017/2470*

- *Commission Implementing Regulation (EU) 2023/2203 of 20 October 2023 amending Regulation (EU) No 37/2010 as regards the classification of the substance rafoxanide with respect to its maximum residue limit in foodstuffs of animal origin*

- *Commission Implementing Regulation (EU) 2023/2214 of 23 October 2023 amending Implementing Regulation (EU) 2017/2470 as regards the conditions of use and the specifications of the novel foods partially defatted chia seed (Salvia hispanica) powders*

- *Commission Implementing Regulation (EU) 2023/2215 of 23 October 2023 authorising the placing on the market of 6'-Sialyllactose sodium salt produced by derivative strain of Escherichia coli W (ATCC 9637) as a novel food and amending Implementing Regulation (EU) 2017/2470*

- *Commission Implementing Regulation (EU) 2023/2229 of 25 October 2023 amending and correcting Implementing Regulation (EU) 2021/1165 authorising certain products and substances for use in organic production and establishing their lists*

- *Council Decision (EU) 2023/2427 of 23 October 2023 on the position to be taken on behalf of the European Union within the International Sugar Council as regards the extension of the International Sugar Agreement 1992*

- *Commission Implementing Regulation (EU) 2023/2448 of 25 October 2023 amending Regulation (EC) No 1484/95 as regards fixing representative prices in the poultrymeat and egg sectors and for egg albumin*

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