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A new Expedited Investment Dispute Resolution Procedure for the EU-Canada Comprehensive Economic and Trade Agreement: An opportunity for SMEs?

On 26 April 2024, the European Commission (hereinafter, Commission) published its *Proposal for a Council Decision* on the position to be taken on behalf of the EU in the Joint Committee of the *EU-Canada Comprehensive Economic and Trade Agreement* (hereinafter, CETA) concerning new rules to help small and medium-sized businesses (hereinafter, SMEs) use the Agreement's investment dispute resolution mechanism.

The Annex to the *Proposal for a Council Decision* contains the Draft Decision of the CETA Joint Committee, which provides for "*supplemental rules on expedited procedures for the resolution of investment disputes between investors and states, in particular for natural persons and small and medium-sized enterprises*".

The new rules were negotiated with Canada and aim at streamlining and simplifying the investment dispute resolution procedures in order to support SMEs in accessing the CETA's investment court system (hereinafter, ICS). This article provides an overview of the proposed supplemental procedural rules and what they will mean for businesses.

The CETA's new approach regarding investment disputes

On 30 October 2016, the EU and Canada concluded the CETA, which aims to "*liberalise and facilitate trade and investment, as well as to promote a closer economic relationship*". From the EU's perspective, the CETA is a '*mixed*' agreement, which means that it requires ratification by both the EU and all EU Member States before fully entering into force. The parts under EU competence are provisionally applied since 21 September 2017, while all other parts, including the investment dispute settlement provisions under Section F of Chapter 8 of the CETA, will only apply once all EU Member States have ratified the Agreement (see *Trade Perspectives*, Issue No. 11 of 31 May 2019 and Issue No. 10 of 19 May 2017). As of today, only 17 out of the 27 EU Member States have ratified the CETA.

In response to the increasing global scrutiny of investment treaty dispute resolution mechanisms, the CETA foresees a novel *Investment Court System* (hereinafter, ICS) with a two-tiered structure consisting of a first-instance CETA Tribunal and an Appellate Tribunal.

The CETA Tribunal, staffed from a permanent roster of adjudicators jointly appointed by the EU and Canada, is tasked with resolving disputes at the first instance within 24 months of a claim's filing. Subsequently, disputing parties may challenge these awards before the Appellate Tribunal, which possesses the authority to confirm, amend, or overturn the initial tribunal's decision, including for errors in the application or interpretation of domestic law.

Accessibility and affordability of investment disputes

Pursuant to Article 8.39.6 of the CETA, the CETA Joint Committee, a body gathering representatives from both parties and empowered by Article 26.3 of the CETA "*to make decisions, by mutual consent, in respect of all matters when the Agreement so provides*", is to "*consider supplemental rules aimed at reducing the financial burden*" of claimants that are natural persons or SMEs and wish to access the ICS.

This provision needs to be read in conjunction with *Statement No. 36 by the Commission and the Council of the EU on investment protection and the Investment Court System ('ICS')*, a declaration made by both Institutions and entered into the Council minutes on the occasion of the adoption by the Council of the decision to authorise the signature of CETA on behalf of the EU. In this Statement, both Institutions committed to ensuring better and easier access to the CETA's ICS "*for the most vulnerable users, namely SMEs and private individuals*", not only by means of additional rules adopted by the CETA Joint Committee "*intended to reduce the financial burden*" imposed on those users to access ICS, but also, and irrespective of the outcome of the negotiations within the CETA's Joint Committee, through "*appropriate measures of (co)-financing of actions"* before the ICS and *"the provision of technical assistance*". As explained in the Statement, the two Institutions made these commitments pursuing a fairer system for resolving investment disputes.

On 7 September 2017, Belgium requested the Court of Justice of the EU (hereinafter, CJEU) to review the compatibility of the CETA with EU law. On 30 April 2019, the CJEU issued *Opinion C-1/17*, finding, *inter alia*, that the CETA was compatible with Article 47 of the EU Charter of Fundamental Rights (hereinafter, EU Charter) on '*Right to an effective remedy and to a fair trial'* as regards the accessibility to the ICS by individuals and SMEs based on the commitments made by the Commission and the Council of the EU in *Statement No 36*. In view of the CJEU's Opinion, the compatibility of the CETA with Article 47 of the EU Charter is subject to the EU making its best efforts to adopt supplemental rules within the CETA Joint Committee to improve the accessibility of the ICS for SMEs, but also to taking active measures to increase its affordability for individuals and SMEs.

An expedited investment dispute settlement procedure to save costs

In view of these considerations, the EU and Canada prepared a *draft Decision of the CETA Joint Committee setting out supplemental rules on expedited procedures for the resolution of investment disputes between investors and states, in particular for natural persons and small and medium-sized enterprises* (hereinafter, draft Decision). The draft Decision of the CETA Joint Committee foresees the introduction of a new expedited investment dispute resolution procedure (hereinafter, Expedited Procedure), detailing its scope, procedural rules, as well as provisions on mediation. Once approved by the CETA Joint Committee, the CETA draft Joint Committee Decision "*will enter into force on the date of entry into force of Section F of Chapter Eight of the Agreement"*, which means once all EU Member States have ratified the CETA.

Pursuant to Article 1 of the draft CETA Joint Committee Decision, the EU and Canada seek to "*increase accessibility and reduce the costs of resolving investment disputes between investors and states, in particular for natural persons or small and medium-sized enterprises*" in two ways: 1) By "*setting out supplemental rules for investors, in particular natural persons or small and medium sized enterprises, to request access to expedited procedures, for the resolution of investment disputes under Section F (Resolution of investment disputes between investors and states) of Chapter Eight (Investment) of the Agreement*"; and 2) By "*establishing expedited procedures for the resolution of investment disputes*".

The proposed Expedited Procedure will be available to all investors, with individuals and SMEs having "*preferential access*" to it. Pursuant to Article 2 of the draft CETA Joint Committee Decision, when filing a claim under Article 8.23 of the CETA, investors interested in having it adjudicated under the Expedited Procedure will need to submit a request to the respondent and the Tribunal. The request must contain information about the investor's ownership structure, financial situation, and size. Thereafter, the respondent State would be required to "*give sympathetic consideration*" to requests coming from investors that are a natural person or an SMEs and whose amount of damages claimed does not exceed Special Drawing Right (SDR) 40 million (approx. EUR 49 million). In case the respondent accepts to follow the Expedited Procedure, Section F of Chapter 8 of CETA would apply as modified by the draft CETA Joint Committee Decision.

The claim subject to the Expedited Procedure is to "*be heard by a sole Member of the Tribunal*" under Article 3 of the draft CETA Joint Committee Decision, instead of the three-member tribunal in the regular ICS procedure. Under Articles 4 and 5 of the draft CETA Joint Committee Decision, timelines would be shortened: The Tribunal Member must convene the first session within 30 days of the Tribunal's formation, preferably via electronic means, claimant and respondent are required to submit their memorials within 90 days of each other and within set page limits, the hearings are to be held within 120 days after the respondent State's rejoinder, and the award is to be issued, at the latest, 180 days from the last day of the hearing. Furthermore, the Tribunal Member has discretion to grant grace periods, request document disclosure, limit submissions, and decide on the dispute based on the documents alone without an oral hearing. As under the regular ICS procedure, appeals to the awards would be heard by the CETA Appellate Tribunal.

Interestingly, the draft Decision also provides for a provision on mediation (Article 7 of the draft CETA Joint Committee Decision), which refers to an alternative dispute resolution mechanism, "*based on the disputing parties' consent to find a mutually agreed solution to the dispute with the assistance of a third person*". The respondent will be required to "*give sympathetic consideration*" to a request for mediation coming from an investor that fulfils the same requirements needed to access the Expedited Procedure. Article 7 then refers to the general provisions on mediation established by Article 8.20 of the CETA, as well as to *Decision No 002/2021 of the Committee on Services and Investment of 29 January 2021 adopting rules for mediation for use by disputing parties in investment disputes*.

Finally, Article 8 of the draft CETA Joint Committee Decision authorises the CETA Joint Committee to regularly evaluate and amend the Decision, with the aim to enhance the involvement of individuals and SMEs in global trade and investment.

A necessary but insufficient reform?

The introduction of the additional rules on investment disputes is an important step towards aligning the CETA's ICS system with the requirements of EU law, as outlined by *Opinion 1/17* of the CJEU. However, the supplemental provisions appear to fall short of what was mandated by the CJEU and what the Commission and the Council of the EU committed to under *Statement No 36*. Notably, what appears missing from the draft CETA Joint Committee Decision are measures relating to the "*(co)-financing of actions*" of users of the CETA's ICS and to provide them with "*technical assistance*" for the CETA to be fully compliant with EU law.

Reference should also be made to *Recommendation 003/2018 of 26 September 2018 of the CETA Joint Committee on Small- and Medium-sized Enterprises*, which encouraged the parties to establish comprehensive websites, detailing the text of the CETA and any SME-relevant information, including market access and import requirements. The recommendation also called for the appointment of SME Contact Points to facilitate information exchange, keeping the website content up to date, and to consider SME needs in the CETA's implementation. In the EU these recommendations have essentially been implemented through the *Access2Markets* portal, which is an online tool that provides essential trade-related

and regulatory information, including in relation to tariffs, taxes, rules of origin, and the *Enterprise Europe Network*, a network for SMEs with international ambitions that helps them innovate and grow. In Canada, businesses can register with the *Trade Commissioner Service*, to access and receive trade-related information, including related to the CETA.

Towards ratification and implementation

The proposed rules laid out in the draft CETA Joint Committee Decision are now subject to approval by the Council of the EU: The Council's position on the draft Decision, once adopted, will form the EU's position during the deliberations of the CETA Joint Committee on the draft Decision. Interested stakeholders, particularly SMEs, should closely monitor developments surrounding these additional rules and advocate for a swift ratification of the CETA by all EU Member States that have not yet done so, in order to finally fully benefit from the CETA, including the expedited investment dispute settlement procedures.

Cambodia issues a new *Law on Rules of Origin* to promote and facilitate international trade

On 5 July 2023, the Government of Cambodia enacted its new *Law on Rules of Origin*, which establishes the criteria for the origin of goods that are subject to preferential or non-preferential treatment. On 7 February 2024, the *Law on Rules of Origin* was notified to the World Trade Organization's (hereinafter, WTO) Committee on Rules of Origin. The *Law on Rules of Origin* stipulates the principles and rules of origin applicable to exported and imported goods, including the criteria for the determination of the origin of goods, the authentication of the certificate of origin, and the appointment of the competent authorities to manage and enforce the relevant rules.

The new *Law on Rules of Origin* fills the previous regulatory void concerning rules of origin in Cambodia and aims at increasing consumer protection by providing clarity on product origin and encouraging cross-border trade. This article provides relevant background on rules of origin, details the applicable WTO rules, and discusses Cambodia's new *Law on Rules of Origin*, as well as its implications for businesses and trade.

Understanding rules of origin and the relevant WTO rules

Rules of origin refer to the criteria established by national legislation or international agreements to determine the origin of a product. Their importance derives from the fact that, in most cases, duties and restrictions on trade, as well as trade preferences, are linked to the origin of a good. There are two types of rules of origin, namely: 1) Non-preferential rules of origin, which determine the country of origin of goods and that are not related to preferential trading schemes, but that are geared to the application of the Most-Favoured-Nation (hereinafter, MFN) principle and related tariff rates; and 2) Preferential rules of origin, which determine whether goods qualify as originating from certain countries for which special trade preferences (*e.g.*, reduced or zero rates of duty) apply.

In general terms, there are two broad criteria for determining the country of origin for goods, namely: 1) The "*Wholly obtained*" rule, which applies to goods that are exclusively produced and obtained in one country; and 2) The '*substantial transformation*' rule, which applies to goods that are processed in a second country or in several countries.

Under the WTO legal framework, the *Agreement on Rules of Origin* calls on WTO Members to harmonise their non-preferential rules of origin and to devise rules that are "*objective, understandable and predictable*". A WTO Committee and a Technical Committee under the auspices of the *World Customs Organization* were formed to support this process of harmonisation, which, to date, has yet to be concluded. During this transitional period, WTO Members are required to adhere to several general principles, such as: not to use rules of

origin as instruments to pursue trade policy objectives; not to create restrictive, distorting or disruptive effects on international trade; and to administer the rules of origin in a consistent, uniform, impartial and reasonable manner.

The new rules under Cambodia's Law on Rules of Origin

Prior to the enactment of the *Law on Rules of Origin*, Cambodia did not have a dedicated law on rules of origin. Therefore, for the trade of goods subject to MFN tariffs, Cambodia's exporters automatically relied on the non-preferential rules of origin applied by the importing country. The absence of clear rules and guidance on the application of non-preferential rules of origin, including the relevant procedures for verifying the origin of goods, had, reportedly, been a particular concern for many traders exporting from Cambodia, as it often led to different interpretations of the rules of origin of the importing countries, making it difficult for them to declare the origin of their products. With respect to imports into Cambodia, the new rules provide greater clarity on the determination of the origin of goods. Additionally, regional traders often encountered challenges in third markets when attempting to prove that their products had been produced in Cambodia.

Noting these challenges, the *Law on Rules of Origin* aims at "*promoting and facilitating trade benefiting from trade preferences and the implementation of non-preferential rules as well as preventing frauds of origin of goods*". The *Law on Rules of Origin* also establishes the legal basis for Cambodia's authorities in charge of determining the origin of goods, issuing certificates of origin, and promoting the export of Cambodian products. With respect to goods subject to preferential tariffs under Cambodia's preferential trade agreements (hereinafter, PTAs) or under unilateral preferential tariff treatments, the Law states that the determination of the goods is to "*be made in accordance with the preferential rules of origin of importing preference-granting countries*".

New criteria for non-preferential rules of origin

The *Law on Rules of Origin* provides that the rules of origin of a good subjected to MFN tariffs will be determined based on the following criteria: 1) "*Wholly obtained or produced*", which applies to goods occurring naturally and made entirely within a particular country, such as animals born and raised in one country; and 2) "*Substantial transformation*", which applies to goods that underwent manufacturing or processing activities in multiple countries. For the substantial transformation criterion, the origin of goods will be determined based on the change in the tariff classification and *ad valorem* percentages, though further details will be provided in a forthcoming Ministerial Decision (*i.e.*, in an "*Inter-Ministerial Prakas*") to be issued by Cambodia's Minister of Economy and Finance and Cambodia's Minister of Commerce. The *Law on Rules of Origin* provides further details relevant to determining whether a good is '*originating*'. For instance, Article 7 lists the "*Minimal Operations and Processes*", which are considered insufficient to confer the originating status of goods, such as operations necessary for the preservation of goods during transportation or storage and simple assembly operations.

Requirements for the proof of origin and guidance on the application of rules of origin

The *Law on Rules of Origin* contains provisions governing the substantive aspect of "*proof of origin*", as well as the procedures for granting such proof in Cambodia. A "*proof of origin*" is a document that serves as evidence showing that the goods to which it relates satisfy the origin criteria under the applicable rules of origin and can refer to a certificate of origin or a declaration of origin. For goods that benefit from preferential trading schemes, the proof of origin is determined based on the respective scheme. For goods subject to non-preferential rules of origin, the Law requires the certificate of origin to contain certain information and follow the form required by a Ministerial Decision of the Minister of Commerce (*i.e.*, *Prakas No. 112 MOC/SM 2013 dated 23 May 2013 of the Ministry of Commerce on Revision of Procedures of the Issuance of Certification of Origin*). The *Law on Rules of Origin* also appoints competent authorities to manage and enforce the rules of origin, such as Cambodia's Ministry of Commerce as the issuing authority for both paper and electronic certificates of origin.

Articles 13 and 14 of the *Law on Rules of Origin* provide sanctions for frauds relating to the origin of goods, as well as for non-conforming acts in applying for the certification of origin of goods. The applicable sanctions consist of fines from KHR 10 million (approximately USD 2,500) to KHR 40 million (approximately USD 9,900) or imprisonment between one and five years. Notably, having strict rules on origin verification is intended to: 1) Ensure the traceability of products; 2) Identify the origin of imported goods, thereby ensuring the accurate application of import duties; 3) Decrease the influx of counterfeit products; and 4) Ensure that products comply with the relevant safety and quality standards.

Requirements and procedures relating to marks of origin

Country-of-origin markings are markings to indicate where the product originates from. The *Law on Rules of Origin* does not stipulate new rules on origin markings, but they will be further determined by a joint implementing regulation to be issued by Cambodia's Minister of Commerce and the Minister of Economy and Finance. In recent years, the Government of Cambodia has been supporting the use of "*Made in Cambodia*" marking on products. Products that were marked as having been made in another country were even prohibited from being exported from Cambodia.

Therefore, due to the increasing "*pressure*" to use the "*Made in Cambodia*" marking, coupled with the unclear basis for the use of "*Made in Cambodia*" marking, manufacturers and exporters often risked violating the rules of origin in the importing country, in order to allow such products to be exported from Cambodia. As an example, exporters would use the "*Made in Cambodia*" mark even when only less than 10% of a minor product assembly took place in Cambodia.

Establishing stringent rules on origin investigations

In recent years, Cambodia has witnessed a steady increase in counterfeit goods. Notably, in 2021, Cambodia seized 4.7 metric tonnes of illegal medicine, cosmetics, and medical products. In the same year, 77,770 litres of alcohol were seized by authorities. Cambodia's *Consumer Protection, Competition and Fraud Repression Directorate-General* (CCF) noted that it seizes more than 1,000 metric tonnes of fake products every year, including food and beverages.

The *Law on Rules of Origin* provides stricter rules of supervision of product origin for both imported and exported products in order to ensure consumer protection and decrease fraud related to the origin of goods. Notably, Article 21 of the Law empowers the Ministry of Commerce "*to conduct an origin investigation for exported goods*" in cases where "*there is an involvement in a fraud of origin of goods to obtain preferential tariff treatment from an importing country or other benefits or to circumvent anti-dumping measures, countervailing measures and safeguard measures*". The investigation is to be conducted through, *inter alia,* an inspection of the production site and documentary checks. The origin investigation for exported goods will be further regulated by a Ministerial Decision of the Minister of Commerce.

Enhancing Cambodia's trade

The *Law on Rules of Origin* appears to be a positive step for Cambodia to provide greater legal certainty regarding its rules of origin and origin marking, coupled with strict enforcement measures in case of non-compliance or for the falsification of the product's origin. As several implementing regulations, such as the forthcoming rules on marks of origin and regarding the "*substantial transformation*" criterion have yet to be issued, relevant stakeholders, including exporters and importers in Cambodia and businesses trading with Cambodia, should closely monitor the developments and further implementation of this new Law.

The EU amends the "*Breakfast Directives*" and revises the country of origin labelling of honey

On 29 April 2024, the Council of the EU (hereinafter, Council) adopted a Directive revising certain of the EU's so-called "*Breakfast Directives*". On 10 April 2024, the European Parliament had adopted the *Legislative Resolution on the Proposal for a Directive of the European Parliament and of the Council amending Council Directives 2001/110/EC relating to honey, 2001/112/EC relating to fruit juices and certain similar products intended for human consumption, 2001/113/EC relating to fruit jams, jellies and marmalades and sweetened chestnut purée intended for human consumption, and 2001/114/EC relating to certain partly or wholly dehydrated preserved milk for human consumption*.

The Resolution marked the European Parliament's official adoption of the provisional political agreement reached on 30 January 2024 between the European Parliament and the Council on the European Commission's (hereinafter, Commission) *Proposal* of 21 April 2023. The article provides an overview of the revision of the "*Breakfast Directives*" and discusses the revised country of origin labelling requirements for honey, as well as some of the reactions from the agricultural sector.

EU marketing standards for agri-food products and "Breakfast Directives"

EU marketing standards for agri-food products are laid down in the following legislative documents: 1) *Regulation (EU) No 1308/2013 of the European Parliament and of the Council establishing a common organisation of the markets in agricultural products*, which lays down rules concerning marketing standards, definitions, designations, sales descriptions, eligibility criteria and optional reserved terms for a broad range of agricultural products; 2) Secondary Commission rules, laying down detailed rules on marketing standards for specific sectors (*e.g.*, eggs and dried grapes); and 3) The "*Breakfast Directives*", which establish specific rules on the description, definition, characteristics, and labelling of coffee and chicory extracts, cocoa and chocolate products, sugars intended for human consumption, fruit jams, jellies and marmalades, dehydrated milk, fruit juices, and honey.

On 21 April 2023, the Commission proposed the revision of the EU marketing standards contained in certain "*Breakfast Directives*" that, according to the Commission, "*are more than 20 years old*". The revised Directives seek to "*promote a shift to healthier diets, help consumers make informed choices, and ensure transparency regarding the origin of products*". The new rules are, in particular, designed to: 1) Combat adulterated honey imports from non-EU countries through "*obligatory and clearly visible country of origin labelling*", and "*launch a process to create a honey traceability system*"; and 2) Provide clearer labelling on the sugar content in fruit juices, as well as "*for minimum fruit content in jams and marmalades*".

Under the new rules, products may bear denominations such as "*reduced-sugar fruit juice*", "*reduced-sugar fruit juice from concentrate*", or "*concentrated reduced-sugar fruit juice*". Fruit juices may only be labelled "*reduced-sugar*" if a minimum of 30% of naturally occurring sugars have been removed. Moreover, the statement "*fruit juices contain only naturally occurring sugars*" may be used on the label. Other novelties are the authorisation to use protein from sunflower seeds for clarification of fruit juices, and the permission to use the name '*coconut water*' as a particular designation. The revised rules also lay out revised minimum fruit contents for fruit jams. The standard for jams will increase from 350g to 450g per 1,000g and from 450 to 500 g per 1,000g for extra jams, which are defined in Annex I to *Directive 2001/113/EC relating to fruit jams, jellies and marmalades and sweetened chestnut purée intended for human consumption* as "*a mixture, brought to a suitable gelled consistency, of sugars, the unconcentrated pulp of one or more kinds of fruit and water*".

Changes to the country of origin labelling for honey for greater transparency

The main novelty of the revision of the "*Breakfast Directives*" is a significant change regarding the country of origin labelling of honey under *Council Directive 2001/110/EC relating to honey*. In the EU, a number of food products are subject to specific mandatory country of origin labelling, including certain fruits and vegetables, beef, poultry, fish, olive oil, and honey. In addition, Article 26(2)(a) of *Regulation (EU) No 1169/2011 of the European Parliament and of the Council on the provision of food information to consumers* requires the indication of the country of origin or place of provenance where its omission could mislead the consumer as to the true origin of the final food in question.

According to Recital 5 of *Council Directive 2001/110/EC relating to honey*, consumers have particular "*interests as regards the geographical characteristics of honey*" and, for transparency reasons, "*the country of origin where the honey has been harvested should be included in the labelling*". Therefore, *Council Directive 2001/110/EC* currently requires the indication of the country or countries where the honey has been harvested on the label. However, it also provides for the possibility to replace the list of countries of origin of the honey by one of the following, as appropriate: "*Blend of EU honeys*", "*Blend of non-EU honeys*", '"*Blend of EU and non-EU honeys*".

The situation becomes even less transparent when considering that large amounts of honey imports to the EU are likely fraudulent. In 2021 and 2022, the coordinated action *From the Hives* by the European Commission's Directorate General for Health and Food Safety (SANTE), the EU's Joint Research Centre (JRC), and the EU's Anti-Fraud Office (OLAF) highlighted that a high percentage of honey placed on the EU market is suspected of being adulterated with sugars. The *Explanatory Memorandum* to the Commission's Proposal states that "*The lack of harmonisation of EU standards has resulted in differences in labelling of honeys across the Union that may mislead consumers and hinder the functioning of the internal market. For example, operators importing honey blends to be packed in a Member State that requires the individual list of countries may not know the specific countries of origin of the honey*" and that it was "*appropriate to harmonise the rules on origin labelling and remove the possibility not to list the country or countries of origin where the honey originates in more than one country*".

Labels of honey 'blends' from EU and non-EU countries no longer permitted

The amended point 4 (a) of Article 2 of *Council Directive 2001/110/EC relating to honey* will provide, in relevant part, that "*The country of origin where the honey has been harvested shall be indicated on the label. If the honey originates in more than one country, the countries of origin where the honey has been harvested shall be indicated on the label in the principal field of vision, in descending order of their share in weight, together with the percentage that each of those countries of origin represents. A tolerance of 5% shall be allowed for each individual share within the blend, calculated on the basis of the operator's traceability documentation*".

Therefore, the new rules remove the possibility not to list the specific country or countries of origin when the honey originates in more than one country. In case of blends, the countries of origin where the honey has been harvested must, in the future, all be indicated on the label in the principal field of vision, in descending order of their share in weight, together with the percentage that each of those countries of origin represents.

However, there are some derogations and EU Member States may provide that, with regard to honey placed on the market within their territory, where the number of countries of origin of honey in a blend is greater than four and the four largest shares represent more than 50% of the blend, it is allowed to indicate the percentage only for the four largest shares, and that the remaining countries of origin be indicated in descending order without a percentage. Furthermore, for packages containing net quantities of honey of less than 30 grams, the names of the countries of origin may be replaced by a two-letter code.

Implementing rules on methods of analysis to detect adulterated honey and traceability

The Commission must, within four years from the date of entry into force of the amending Directive, "*taking into account international standards and technical progress, adopt implementing acts laying down the methods of analysis to detect adulterated honey*". Moreover, the new Article 4a(1)(e) of *Council Directive 2001/110/EC relating to honey* will provide that, "*For the purpose of ensuring fair commercial practices and protecting consumer interests, the Commission is empowered to adopt delegated acts (…) by laying down the methods and criteria to determine the place where honey has been harvested and Union-wide traceability requirements for honey from the harvesting producer or importer to the consumer*".

Agricultural sector welcomes new rules and blockchain traceability system

Copa-Cogeca, the representation of farmers and agri-cooperatives in the EU, welcomed the intended establishment of a "*traceability system for the honey supply chain to track product origin*", as well as the setting up of "*a reference laboratory for honey to improve controls and to detect adulteration through systematic testing*". According to *Copa-Cocega*, "*European beekeepers welcome (…) the mandatory indication of percentages of each origin and in descending order in honey blends*", which would "*increase transparency for consumers while significantly contributing to combating unfair competition from adulteration of imported honey products*". The inclusion of a "*blockchain traceability system to trace back the entire honey chain*" would be the "*first step in the right direction for achieving the objective of 0% adulteration in the honey value chain by 2030*", as had been proposed by *Copa-Cogeca*.

Still, *Copa-Cogeca* noted that the two associations "*deeply regret that the agreed actions on traceability and composition criteria are to be adopted by means of delegated acts in five years' time*" and that "*This institutional slowness contrasts with the urgency of the situation for beekeepers on the ground. The establishment of an expert group to advise and make recommendations to the European Commission on detecting honey adulteration and enhancing controls, is also a positive step forward*".

The new rules will apply to products placed on the market from 2026

The amending Directive will enter into force on the 20th day following its publication in the EU Official Journal and the new rules will apply to products placed on the market 24 months after the entry into force of the Directive. From that time, the new rules on country of origin for honey will apply and the confusing labels of honey '*blends*' from EU and non-EU countries will no longer be permitted.

The changes are to be welcomed, as this has been a demand of consumer groups, beekeepers, and the agricultural sector for years. Two years appears to be a reasonable timeframe for all operators to adjust to the new rules, while implementing acts providing the rules on methods of analysis to detect adulterated honey and on traceability are being developed. Interested stakeholders should closely monitor developments regarding the implementing act on the methods of analysis to detect adulterated honey and the delegated act on traceability, so as to contribute to the debate.

Recently adopted EU legislation

Trade Law

- *Protocol amending the Agreement between the European Union and Japan for an economic partnership*

- *Council Decision (EU) 2024/1303 of 29 April 2024 on the conclusion, on behalf of the Union, of the Protocol amending the Agreement between the European Union and Japan for an Economic Partnership*

- *Commission Implementing Regulation (EU) 2024/1319 of 15 May 2024 on the derogations from the originating products rules laid down in the Free Trade Agreement between the European Union and New Zealand that apply within the limits of annual quotas for certain products from New Zealand*

- *Agreement in the form of an Exchange of Letters between the European Union and the Argentine Republic amending the Agreement in the form of an Exchange of Letters between the European Union and the Argentine Republic 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) 2024/1334 of 25 September 2023 on the conclusion, on behalf of the Union, of the Agreement in the form of an Exchange of Letters between the European Union and the Argentine Republic amending the Agreement in the form of an Exchange of Letters between the European Union and the Argentine Republic 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 Delegated Regulation (EU) 2024/1363 of 12 March 2024 amending Annex IV to Regulation (EU) No 978/2012 of the European Parliament and of the Council in order to remove Bhutan from the list of beneficiary countries of the special arrangement for the least-developed countries*

Trade Remedies

- *Commission Implementing Regulation (EU) 2024/1268 of 6 May 2024 extending the definitive countervailing duties imposed by Implementing Regulation (EU) 2022/433 on imports of stainless steel cold-rolled flat products originating in Indonesia to imports of stainless steel cold-rolled flat products consigned from Taiwan, Türkiye and Vietnam, whether declared as originating in Taiwan, Türkiye and Vietnam or not*

- *Commission Implementing Decision (EU) 2024/1273 of 7 May 2024 terminating the investigation of the possible circumvention, by imports of biodiesel consigned from the People's Republic of China and the United Kingdom, whether declared as originating in the People's Republic of China and the United Kingdom or not, of the countervailing measures concerning imports of biodiesel originating in Indonesia, and terminating the registration of imports*

- *Commission Implementing Regulation (EU) 2024/1287 of 13 May 2024 extending the definitive anti-dumping duty imposed by Implementing Regulation (EU) 2021/1930 on imports of birch plywood originating in Russia to imports of birch plywood consigned from Türkiye and Kazakhstan, whether declared as originating in Türkiye and Kazakhstan or not*

Food Law

- *Commission Regulation (EU) 2024/1314 of 15 May 2024 amending Annex III to Regulation (EC) No 396/2005 of the European Parliament and of the Council as regards maximum residue levels for dithianon in or on certain products*

- *Commission Regulation (EU) 2024/1318 of 15 May 2024 amending Annex II to Regulation (EC) No 396/2005 of the European Parliament and of the Council as regards maximum residue levels prothioconazole in or on certain products*

Ignacio Carreño, Joanna Christy, Tobias Dolle, Alejandro López Bo, Alya Mahira, Stella Nalwoga, and Paolo R. Vergano contributed to this issue.

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