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EU co-legislators agree on a regulation prohibiting products made with forced labour on the EU market: Another EU measure with global trade repercussions?

The EU consolidates its efforts to contribute to the global fight against forced labour and to safeguard the rights of workers and children. On 5 March 2024, the European Parliament and the Council of the EU reached a Provisional Agreement on the European Commission's (hereinafter, Commission) *Proposal for a Regulation prohibiting products made with forced labour on the Union market* (hereinafter, Forced Labour Regulation), which had been published on 14 September 2022.

In simple terms, the Regulation will prohibit "*the placing and making available on the EU market, or the export from the EU market, of any product made using forced labour*". This article provides an overview of the EU's *Forced Labour Regulation*, reviews the modifications to the original proposal, and underscores the implications for businesses, trade, and global supply chains, especially for small and medium-sized enterprises (hereinafter, SMEs).

A global trend

Given the growing concerns, including among consumers, of consumption contributing to human right violations, such as the use of forced labour, including child labour, in the production of goods, informed by reports on forced labour practices in specific regions, and the intensifying focus on supply chain accountability, directly addressing such concerns through trade measures is slowly gaining *momentum* across jurisdictions. For instance, Section 307 of the US *Tariff Act of 1930 (19 U.S.C. §1307)* prohibits importing products produced or manufactured by forced labour, and was reinforced in 2021 with the adoption of the *Uyghur Forced Labor Prevention Act*, which created a presumption of forced labour for goods produced in the region of Xinjiang, China. Other countries, like Canada with its amendment of the Customs Tariff in July 2020 to prohibit the import of goods produced by forced labour, have also taken steps towards the removal of goods made with forced-labour from their supply chains.

A comprehensive framework for a more ethical sourcing of products?

The EU's *Forced Labour Regulation* will prohibit "*the placing and making available on the EU market, or the export from the EU market, of any product made using forced labour*". The Regulation's scope will encompass all products, including their components, regardless of whether they are produced domestically, imported, or exported from the EU.

To achieve this objective, the Regulation will rely on an investigation-based system, whereby EU Member States' competent authorities and the Commission will have the responsibility to investigate suspected occurrences of forced labour throughout the supply chain. Competent authorities within each EU Member State will be responsible for investigating suspected forced labour practices occurring within the EU, while the European Commission, on the other hand, will take the lead in investigating forced labour concerns surrounding imported products. These investigations will be conducted strategically, focusing on high-risk areas within the supply chains. Should investigations reveal evidence of forced labour, the Regulation mandates the withdrawal of such products from the EU market. Safeguards exist to protect critical supply chains and, in cases where a product is vital to a "*supply chain of strategic or critical importance for the Union*", the competent authority can order a temporary withholding, instead of withdrawal, until the economic operator demonstrates it has eliminated forced labour from the supply chain of said product.

The Regulation also casts a wide net regarding distance selling. Article 4 clarifies that products offered for sale online or through other remote methods fall under its purview if the offer "*targets*" end-users in the EU. This provision, however, presents challenges in terms of interpretation and enforcement. Several questions remain regarding which operators might fall under the scope of this particular article, particularly in the complex landscape of online sales.

The Regulation recognises the potential challenges faced by businesses, particularly small and medium enterprises (SMEs). To facilitate compliance, the Commission is tasked to provide companies with clear guidelines on implementing the Regulation. Additionally, SMEs will benefit from dedicated support tools to assist them in navigating the new requirements. Non-compliance with the Regulation will have significant consequences in the form of penalties. Furthermore, the Regulation establishes a clear path for addressing prohibitions, with companies only regaining access to the EU market after demonstrating that they have effectively addressed forced labour issues within their supply chains.

While Article 1(3) of the *Forced Labour Regulation* emphasises that the Regulation "*does not create additional due diligence obligations for economic operators besides those already provided by Union or national law*", this merely means that business will not face additional reporting obligations. Business will indeed have to undertake enhanced due diligence to ensure that their products are not produced with forced labour – or risk their products being withdrawn from the market.

The risk-based approach to determine products made with forced labour

A key trigger for the investigations will be the "*risk*" of forced labour. According to Article 14 of the *Forced Labour Regulation*, competent EU Member States' authorities and the Commission are to *"follow a risk-based approach when assessing the likelihood of violation of [the prohibition of products made with forced labour] initiating and conducting the preliminary phase of the investigations and identifying the products and economic operators concerned"*. In practice, when assessing the likelihood of a violation of the prohibition of the placing and making available on the EU market, or the export from the EU market, of products made with forced labour, the investigation must prioritise products suspected to have been made with forced labour based on the *"scale and severity of the suspected forced labour, including whether forced labour imposed by state authorities could be a concern*", the "*quantity or volume of products placed or made available on the Union market*" and the "*share of the part suspected to have been made with forced labour in the final product*". This assessment must *"be based*

on all relevant, factual, and verifiable information" available to the authorities, including a database of risky areas, products and sectors.

In line with the emphasis on risk assessment, the *Forced Labour Regulation* foresees tools to support EU Member States' competent authorities, notably when it comes to obtaining information on the suspected occurrence of forced labour, enforcement, coordination, and cooperation. One of these tools will be the publicly available *Database of forced labour risk areas or products*, which is to be established by the Commission to "*provide an indicative, non-exhaustive, evidence-based, verifiable and regularly updated information of forced labour risks in specific geographic areas or with respect to specific products or product groups including with regard to forced labour imposed by state authorities*".

Following the inter-institutional discussions, Article 8 of the *Forced Labour Regulation* contains key requirements for the operation of that database. Notably, the Commission will be required to ensure that the database: 1) Prioritises "*the identification of widespread and severe forced labour risks*"; 2) Is based on "*independent and verifiable information, from international organisations, in particular the International Labour Organization and the United Nations Organization, or institutional, research or academic organisations*"; 3) Does not "*publicly disclose information that directly names economic operators*"; and 4) Indicates "*specific economic sectors in specific geographic areas for which there is reliable and verifiable evidence that there exists forced labour imposed by state authorities*". The database will be publicly accessible through the *Forced Labour Single Portal*, another tool to be established by the Commission providing a central hub of information for operators and consumers.

The future *Database of forced labour risk areas or products* could significantly influence consumer behaviour and choices. Even though it will not directly name economic operators, consumers will be able to determine "*specific geographic areas*" and "*specific products or product groups*" that have a higher risk of forced labour. The database might indirectly guide consumers away from certain products or producing areas, thereby influencing the purchasing behaviour. Relying on a risk-based approach and benchmarking of specific geographic areas appears to be a growing trend in EU regulation, notably also pursued by the EU's Deforestation-Free Products Regulation with respect to deforestation and forest degradation (see *Trade Perspectives*, Issue No. 13 of 3 July 2023). Such approach has been criticised as protectionist by some of the EU's trading partners, due to the potential of steering consumers away from certain imported products in favour of domestically produced '*like*' products.

Enhanced international cooperation: A Catalyst for a Level Playing Field?

Following the inter-institutional discussions, the *Forced Labour Regulation* contains an enhanced requirement for international cooperation when it comes to the implementation and enforcement of the Regulation. Notably, "*international cooperation with authorities of third countries shall take place in a structured way, for example in the context of existing dialogues with third countries, such as human rights and political dialogues, implementation of trade and sustainable development commitments of trade agreements or the Generalised Scheme of Preferences, and EU development cooperation initiatives or, if necessary, specific dialogues that will be created on an ad hoc basis*". The EU's trading partners should take advantage of these *fora* to ensure that their domestic efforts to address forced labour in the production or manufacture of their main exports to the EU are considered and to ensure that their country or parts thereof are not listed on the '*Database of forced labour risk areas or products'.*

The existing WTO Committees do not appear to be the adequate *fora* to discuss the *Forced Labour Regulation* or other legal instruments regulating process and production methods as a basis for trade measures. The proposed *Forced Labour Regulation* could be a catalyst for a more definitive solution, as indicated by the recent support for a WTO *Working Group on Trade and Decent Work*. A dedicated WTO Working Group would facilitate structured discussions on these issues, potentially leading to greater harmonisation of such rules and a more level playing field.

Ever-increased scrutiny of supply chains

For businesses, the EU's forthcoming *Forced Labour Regulation* presents another complex challenge for compliance, requiring greater scrutiny of supply chains. While the Regulation does not create any additional legal due diligence obligations, businesses will have to significantly enhance supply chain scrutiny to ensure that their products comply with the requirements and to avoid product withdrawals.

To ensure proper implementation, the EU's *Forced Labour Regulation* will only start applying 3 years after its entry into force, namely during the course of 2027. This timeframe provides an important opportunity for businesses to prepare, especially as further guidance should be provided through upcoming guidelines to be developed by the Commission. Interested stakeholders should continue engaging with the European Commission to express their interests and concerns regarding the Regulation and its implementation. At the same time, preparation should not be delayed and businesses placing and making available products on the EU market or exporting from the EU must prepare for compliance with the new rules. Seeking expert advice on the implications of the Forced Labour Regulation for their business and products is, therefore, recommended.

Advancing the *Indo-Pacific Economic Framework for Prosperity* (IPEF): A closer look into the Pillars on resilient supply chains and clean economy

On 14 March 2024, the Office of the United States Trade Representative (hereinafter, USTR) published the texts of the *Indo-Pacific Economic Framework for Prosperity's* (hereinafter, IPEF) *Clean Economy Agreement*, of the *Fair Economy Agreement*, and of the *Agreement on IPEF*. This publication followed the entry into force of the IPEF's *Supply Chain Resilience Agreement* on 24 February 2024. The 14 IPEF Partners, namely Australia, Brunei Darussalam, Fiji, India, Indonesia, Japan, the Republic of Korea, Malaysia, New Zealand, the Philippines, Singapore, Thailand, the United States, and Viet Nam, will now proceed with their individual domestic procedures to prepare for the signature and ratification of the agreements. This article provides an overview of the IPEF and the current state of the negotiations, examines the published legal texts on supply chain resilience and clean economy, and discusses their relevance for trade.

Overview of the IPEF and the current state of negotiations

The IPEF was first launched by the US with certain partner countries across the Indo-Pacific region in May 2022. The IPEF is part of the US Administration's commitment to "*strengthening ties with allies and partners and tackling 21st-century economic challenges in the Indo-Pacific region*". Notably, the IPEF seeks to "*advance resilience, sustainability, inclusiveness, economic growth, fairness, and competitiveness*" through four pillars, namely Pillar I on Trade; Pillar II on Supply Chain Resilience; Pillar III on Clean Economy; and Pillar IV on Fair Economy (see *Trade Perspectives*, Issue No. 5 of 13 March 2023). Since its launch, the IPEF Partners have engaged in intensive discussions to scope out each of the four pillars of the Framework, with each pillar advancing at different speeds. To date, negotiations have been concluded for three IPEF pillars, except for the Trade Pillar, negotiations for which were put on hold by the US Administration in view of the US elections later this year. The Trade Pillar Agreement is intended to cover, *inter alia*, labour, environment, digital economy, and trade facilitation, but IPEF Partners were, so far, unable to reach an agreement "*amid differences over the digital economy and labour provisions*".

Despite the envisaged Trade Pillar, the IPEF is an '*economic arrangement*' rather than a preferential trade agreement (hereinafter, PTA), given the lack of market access commitments. Under WTO rules, a "*free-trade area*" is defined as a group of two or more countries in which the duties and other restrictive regulations of commerce are eliminated on substantially all the trade. In September 2023, the Office of the USTR had published a press release confirming

that the IPEF is designed to be "*different from a traditional Free Trade Agreement*". More specifically, to achieve its objectives, and as reflected in the relevant agreements, the IPEF puts a strong emphasis on enhanced cooperation and coordination on specific issues. Several IPEF Partners and members of the US Congress noted that the lack of tariff reductions and other market access commitments within the IPEF could lead to "*a missed opportunity to deepen economic ties across the Indo-Pacific*".

Enhancing supply chain resilience in the Indo-Pacific region?

The *Supply Chain Resilience Agreement* under Pillar II of the IPEF, which has been lauded as the "*world's first multilateral supply chain agreement*", provides the baseline for the IPEF Partners to develop a shared understanding of global supply chain risks, as well as to improve transparency, diversity, security, and the sustainability of supply chains through coordinated actions to mitigate and prevent future disruptions. To achieve these objectives, the IPEF Partners' cooperation and collaboration mainly focuses on improving supply chains in the Indo-Pacific, such as by increasing investment opportunities in critical sectors and exploring supply chain mapping approaches, notably to minimise unnecessary restrictions or impediments creating barriers to trade. IPEF Partners also committed to publish domestic laws and regulations "*related to IPEF supply chains adopted or maintained at the central level of government*". Most notably, the *Supply Chain Resilience Agreement* appears to put a strong emphasis on the IPEF Partners' "*intention"* to promote supply chain resilience, such as to align guidance, procedures, and policies related to trade facilitation "*to the extent possible*", to "*undertake evidence-based and data-driven identification of critical sectors and key goods"*, and to adopt digital standards and frameworks to support the interoperability of information and data flows among freight and logistics stakeholders.

To improve cooperation on supply chain issues in the Indo-Pacific region, and to enhance coordination between the IPEF Partners, three new institutions are to be established, namely the *IPEF Supply Chain Council,* the *IPEF Supply Chain Crisis Response,* and the *IPEF Labor Rights Advisory Board.* Through the *IPEF Supply Chain Council*, the IPEF Partners commit to identifying "*critical sectors*" or "*key goods*" within their supply chains and to develop action plans to increase the resilience and competitiveness of such sectors and goods. The *IPEF Supply Chain Crisis Response* will provide the IPEF Partners with an emergency communications channel during supply chain disruptions. Finally, the *IPEF Labor Rights Advisory Board* will address labour rights concerns in the IPEF supply chains. However, observers argue that the *IPEF Supply Chain Crisis Response* lacks the authority for substantial and enforceable measures, which could make it difficult to effectively address supply chain issues. The absence of binding commitments and sanctions for non-compliance with respect to the protection of labour rights also raises questions as to whether the Agreement would lead to any meaningful change.

Shaping the "clean economy" in the Indo-Pacific?

The negotiations for the *Clean Economy Agreement* under Pillar III of the IPEF were substantially concluded on 16 November 2023. The IPEF Partners commit to "*actively pursue their shared climate objectives [...] while also ensuring the promotion of sustainable growth and success for all partners*", as well as ensuring a "*just transition*", which refers to an energy transition that inclusively benefits everyone concerned. The Agreement contains various commitments to address a wide range of "*issues critical to transitions to clean economies*", including efforts towards energy security and transition, a just transition, and the deployment of incentives for the clean economy transition.

For instance, with respect to energy security and transition, the IPEF Partners intend to cooperate on "*achieving energy security and accelerating deployment of clean energy technology*". Such cooperation may concern*, inter alia*, policy discussions, technical analyses, technology exchanges, and financing schemes. The IPEF Partners also intend to support, adopt, or maintain measures that, *inter alia*, "*encourage new energy infrastructure investments*". With respect to the incentives for the clean economy transition, the IPEF

Partners "*intend*" to "*promote and facilitate carbon market activities in the region*" and, notably, to collaborate on "*reducing potential non-tariff barriers to cross-border trade or provision of low and zero-emission goods and services, including carbon services*".

The Agreement also provides opportunities for partnerships and capacity-building initiatives in the context of promoting and facilitating carbon market activities, which could be utilised by IPEF Partners that have yet to develop their carbon markets, and to seek information and best practices from countries that already have well-developed carbon markets, such as New Zealand and South Korea. In order to mobilise and expand access to financing for low and zero-emission projects and initiatives, the IPEF Partners agreed to establish the *IPEF Clean Economy Investment Forum*, which will meet annually to *"bring together the region's largest investors, innovative start-up entrepreneurs, cutting-edge project proponents, and government agencies for matchmaking and investment facilitation*". The first *forum* is to be held from 5 to 6 June 2024 in Singapore with the aim of mobilising green investment projects.

Effective implementation despite a lack of enforceable rules?

As previously emphasised, in order to achieve the relevant objectives, the IPEF agreements focus on cooperation and collaboration, rather than on binding commitments. The use of terms such as "*to the extent possible*" and "*as appropriate*" in the *Supply Chain Resilience Agreement* and the *Clean Economy Agreement* provides IPEF Partners with the flexibility to determine how to implement their various commitments.

Additionally, many commitments under the *Clean Economy Agreement* refer to the "*interested parties*", which are defined as "*those Parties that intend to engage in the cooperation or other activities referred to in that provision*". For example, the Agreement notes that "*interested parties further intend to develop rules, regulations, and frameworks to enable the cross-border trade of renewable energy equipment and components for mini-grids*". This clearly indicates the ability of the IPEF Partners to select, on their own initiative, which areas of the Agreement they intend to participate in and implement. While this allows them to act on the basis of their respective interests and capabilities, this may also considerably limit the outcomes. With respect to the *Supply Chain Resilience Agreement*, for instance, India noted that it would not be required to amend any domestic laws, which would provide important "*policy flexibility to make decisions aligned with its domestic needs*". This type of approach undoubtedly undermines the efficacy of the IPEF and a number of observers and experts further argue that the absence of conventional FTA provisions, such as tariff concessions, could limit the economic significance of IPEF and deter IPEF partners from making significant commitments.

At the same time, the IPEF's approach could also be considered as innovative, as it covers issues not typically covered by recent PTAs, such as supply chain resilience and the just transition. Despite the absence of preferential market access commitments, the agreements could indirectly provide trade benefits to IPEF Partners and businesses based in these countries, provided that they effectively implement and make use of the available mechanisms. This includes, for instance, the commitments on enhanced cooperation to reduce non-tariff barriers for low and zero-emission goods under the *Clean Economy Agreement,* as well as the discussions on ways to increase the resilience of the IPEF Partners' critical goods and key sectors under the *Supply Chain Resilience Agreement*, which could have a positive effect on supply chains and trade flows. Still, the "*success*" and achievement of tangible results relies on the IPEF Partners commitment to implement key provisions. Relevant stakeholders should closely follow the developments of the IPEF agreements and anticipate possible concrete initiatives to be rolled out by the IPEF Partners.

The European Commission publishes its first monthly report on food fraud suspicions

On 29 February 2024, the European Commission (hereinafter, Commission) published the first monthly *Report on EU agri-food fraud suspicions* for January 2024. The report aims at supporting EU Member States "*in their risk-based controls and to guide food business operators in assessing their vulnerabilities to fraudulent and deceptive practices*". The report includes cases of cross-border non-compliance, which have been identified and shared as suspected fraud. The *Report on EU agri-food fraud suspicions* will be published here every month.

The article discusses the related EU legal framework on food controls and agri-food frauds established by *Regulation (EU) 2017/625 of the European Parliament and of the Council on official controls and other official activities performed to ensure the application of food and feed law, rules on animal health and welfare, plant health and plant protection products* (hereinafter, Official Controls Regulation), *Regulation (EC) No 178/2002 of the European Parliament and of the Council laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety* (hereinafter, General Food Law Regulation) and *Commission Implementing Regulation (EU) 2019/1715 laying down rules for the functioning of the information management system for official controls and its system components* (hereinafter, IMSOC Regulation). The article provides an overview of the first report and the implications of a monthly report for purposes of transparency and of assisting EU Member States and operators in addressing food frauds.

The EU's Alert and Cooperation Network (ACN)

The report published on 29 February 2024 by the Commission compiles information gathered from the Alert and Cooperation Network (ACN), which facilitates the exchange of information between EU Member States on agri-food controls. The ACN is composed of the Rapid Alert System for Food and Feed (RASFF), the Administrative Assistance and Cooperation Network (AAC), and the EU Agri-Food Fraud Network (FFN), as established by the IMSOC Regulation. Each network is responsible for different aspects of the agri-food chain, respectively: non-compliances with possible health risk (RASFF); non-compliances without health risk (AAC); and suspicions of fraud (FFN).

Regulatory background

The EU's *Official Controls Regulation* requires the competent authorities in EU Member States to identify and combat fraudulent and deceptive practices along the entire agri-food chain. Article 9(2) provides that "*Competent authorities shall perform official controls regularly, with appropriate frequencies determined on a risk basis, to identify possible intentional violations of the rules referred to in Article 1(2), perpetrated through fraudulent or deceptive practices, and taking into account information regarding such violations shared through the mechanisms of administrative assistance provided for in Articles 102 to 108 and any other information pointing to the possibility of such violations*".

Article 1(2) of the *Official Controls Regulation* refers to EU legislation in the areas of: (a) food and food safety, integrity and wholesomeness at any stage of production, processing and distribution of food, including rules aimed at ensuring fair practices in trade and protecting consumer interests and information, and the manufacture and use of materials and articles intended to come into contact with food; (b) deliberate release into the environment of GMOs for the purpose of food and feed production; (c) feed and feed safety at any stage of production, processing and distribution of feed and the use of feed; (d) animal health requirements; (e) prevention and minimisation of risks to human and animal health arising from animal by-products and derived products; (f) welfare requirements for animals; (g) protective measures against pests of plants; (h) requirements for the placing on the market and use of plant protection products and the sustainable use of pesticides; (i) organic production and labelling

of organic products; and (j) use and labelling of protected designations of origin, protected geographical indications, and guaranteed traditional specialities.

Article 17 of the *General Food Law Regulation* on '*Responsibilities*' requires food and feed business operators at all stages of production, processing and distribution within the businesses under their control to "*ensure that foods or feeds satisfy the requirements of food law which are relevant to their activities and shall verify that such requirements are met*". In this context, the Commission noted, when it published the first monthly *Report on EU agri-food fraud suspicions*, that, since operators are required to "*perform adequate vulnerability assessments, to identify risks and prevent them from occurring when placing food on the market*", it is "*crucial to grant them information in relation to suspicions of fraud and deceptive practices, as is already the case for notifications of food safety risks*".

Article 2(21) of the *IMSOC Regulation* defines '*fraud notification*' and indicates the key elements to be considered. In this regard, food fraud can be considered *"non-compliance […] concerning suspected intentional action by businesses or individuals, for the purpose of deceiving purchasers and gaining undue advantage therefrom, in violation of the rules referred to in Article 1(2) of Regulation (EU) 2017/625"*. Article 21(1) of the *IMSOC Regulation* details that Food Fraud Network contact points are to exchange fraud notifications, which are to include at least the following elements: 1) All the information required by Article 16(1), which includes: a description of the possible non-compliance; the identification, where possible, of the operators associated with the possible non-compliance; details of the animals or goods involved; and any information concerning suspected risks); 2) A description of the suspected fraudulent practice; 3) The identification, where possible, of the operators involved; 4) Information as to whether there are ongoing police or judicial investigations into the suspected fraudulent practice; and 5) Information on any instructions from the police or judicial authorities as soon as they are available and can be disclosed.

The first report

For the January 2024 *Report on EU agri-food fraud suspicions*, 277 suspicions were retrieved from 681 *iRASFF* notifications. '*iRASFF*' refers to the electronic system implementing the RASFF and AAC procedures. The report divides the notices into three parts: 1) Product tampering (56 cases); 2) Record tampering (16 cases); and 3) Other non-compliances (Implicit Claim Violations) (205 cases). A total of 111 out of 277 notices concerned fruit and vegetables. The category of dietetic foods, food supplements, and fortified foods were in second place with 44 alerts, followed by cereals and bakery products with 18 notices. Nuts, nut products and seeds were mentioned 6 times. Regarding the sources of detection, border controls with 122 instances, and market controls with 111 occurrences, resulted in the majority of cases. Company's own checks (17 cases), consumer complaints (12 cases), whistleblower information (9), and monitoring of media (6 cases), were the other sources.

The report then provides details of the various cases within the different categories. Examples of product tampering are: 1) Additives not compliant with EU maximum levels, such as candies with sunset yellow colourant (E 110) from the US; 2) Adulteration (ingredient addition) of fish fillets (Pangasius) with water from the Netherlands; 3) Adulteration (ingredient substitution) concerning chicken meat instead of pork in sausages from Poland; blossom honey instead of acacia honey in organic honey from Germany; and a nut mix with the absence of hazelnuts from the Netherlands; 4) Unapproved processes, such as nitrites (E 249 - E 250) in tuna from Viet Nam; and titanium dioxide (E 171) in food supplements from Romania, Switzerland, and the UK.

Record tampering cases included issues with: 1) EU protected designations, such as the misleading denomination "*Prosecco*" used on wine from Czechia, Germany, Romania and Slovakia; 2) Nutrition and health claims, such as the unauthorised claims on food supplements from Belgium, Germany, Poland, Portugal, and Switzerland; and 3) Product related data, records and information, such as the quality classification of olive oil from Italy.

Other identified non-compliances concerned: 1) Traceability issues with eggs from Belgium, Czechia, and Ukraine; 2) Ingredients not authorised in the EU, such as cannabidiol (CBD), tetrahydrocannabinol (THC) in food supplements, unauthorised GM papayas from Viet Nam, and L-theanine in energy drinks from the US; 4) Illegal trade (under the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) or illegal, unreported and unregulated (IUU) fishing) in fish and fish products, such as the protected species eels (*Anguilla anguilla*) from Ireland; 5) Residues of pesticides not compliant with EU maximum levels, such as chlorpyrifos in rice from Pakistan, chlorpyrifos in oranges from Egypt, and chlorpyrifos-methyl in lemons and mandarins from Türkiye; and 6) Smuggling, such as a higher quantity than certified of duck meat from China. Other issues concerned products skipping border controls and an unauthorised operator of natural mineral water from Russia.

Notably, infringements of EU rules on contaminants like aflatoxins in cereals or nuts are not included in the report. The reason appears to be that levels of contaminants are unintentional, while food fraud is a *"a non-compliance […] concerning suspected intentional action by businesses or individuals, for the purpose of deceiving purchasers and gaining undue advantage therefrom*. Pesticides, in contrast to contaminants, are used intentionally and cases of residues of pesticides not compliant with EU maximum levels will be listed in future EU food fraud reports.

Conclusion

Operators are not '*named and shamed*' in the reports. The aims of sharing the information in the reports are to support EU Member States in their risk-based controls and to guide food businesses in assessing their vulnerabilities to fraudulent and deceptive practices. The reports provide important information on suspected food fraud cases in different sectors of the food chain, besides food safety matters, and is a valuable tool for food business operators, as well as consumer organisations.

Recently adopted EU legislation

Trade Law

- *Decision No 2/2024 of the Trade Committee of 16 January 2024 amending Annex II to Protocol 1, concerning the definition of the concept of originating products and methods of administrative cooperation (EU-Viet Nam Free Trade Agreement)*

Trade Remedies

- *Commission Implementing Regulation (EU) 2024/819 of 8 March 2024 imposing a definitive anti-dumping duty on imports of certain corrosion resistant steels 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*

- *Commission Implementing Regulation (EU) 2024/842 of 11 March 2024 re-imposing safeguard measures with regard to imports of Indica rice originating in Cambodia and Myanmar/Burma*

- *Commission Implementing Regulation (EU) 2024/844 of 13 March 2024 imposing a definitive anti-dumping duty and definitively collecting the provisional duty imposed on imports of electrolytic manganese dioxides originating in the People's Republic of China*

Food Law

- *Commission Implementing Regulation (EU) 2024/836 of 12 March 2024 approving the basic substance magnesium hydroxide E528 in accordance with Regulation (EC) No 1107/2009 of the European Parliament and of the Council, and amending Commission Implementing Regulation (EU) No 540/2011*

- *Commission Implementing Regulation (EU) 2024/771 of 29 February 2024 amending Regulation (EC) No 152/2009 laying down the methods of sampling and analysis for the official control of feed*

- *Commission Implementing Regulation (EU) 2024/880 of 14 March 2024 amending Annexes V and XIV to Implementing Regulation (EU) 2021/404 as regards the entries for Canada and the United States in the lists of third countries authorised for the entry into the Union of consignments of poultry and germinal products of poultry, and of fresh meat of poultry and game birds*

- *Commission Implementing Regulation (EU) 2024/859 of 18 March 2024 amending Regulation (EU) No 37/2010 as regards the classification of the substance sodium salicylate with respect to its maximum residue limit in foodstuffs of animal origin*

- *Commission Implementing Regulation (EU) 2024/885 of 20 March 2024 amending Implementing Regulation (EU) 2023/2782 laying down the methods of sampling and analysis for the control of the levels of mycotoxins in food as regards the method of sampling for dried herbs, herbal infusions (dried product), teas (dried product) and powdered spices*

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