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The EU's new Regulation on waste shipments enters into force: Towards more sustainable waste trade?

On 20 May 2024, the EU's *Regulation (EU) 2024/1157 of the European Parliament and of the Council of 11 April 2024 on shipments of waste, amending Regulations (EU) No 1257/2013 and (EU) 2020/1056 and repealing Regulation (EC) No 1013/2006* entered into force. *Regulation (EU) 2024/1157*, known as the *Waste Shipments Regulation*, aims at improving the EU regulatory framework for trade in waste and, most notably, sets stricter rules on the export of waste, including plastic waste, to third countries, facilitating and encouraging waste shipments for reuse and for recycling in the EU. According to estimates by the European Commission (hereinafter, Commission), the EU has seen a significant increase in waste exports to third countries, with shipments surging by 72% since 2004 to reach 35 million metric tonnes in 2023. This article provides an overview of the new rules, their rationale, and the implications for businesses.

A global response to the adverse impacts of waste shipments

The tightening of environmental laws in developed countries during the 1970s significantly raised the cost of domestic waste disposal and waste treatment. As a result, hazardous waste began to be exported to developing countries with less stringent environmental regulations, leading to an important negative impact on the environment. Various destination countries became dumping grounds for hazardous materials, causing significant environmental and health problems.

In response, countries negotiated the *Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal* (hereinafter, Basel Convention), which was adopted in 1989. This Convention aims, *inter alia*, at regulating the export of hazardous waste, particularly to developing countries, and at promoting environmentally sound waste management practices. Three years later, the *Organisation for Economic Co-operation and Development* (hereinafter, OECD) adopted a *Decision on the OECD Legal Instruments Control of Transboundary Movements of Wastes Destined for Recovery Operations*, setting the framework for the environmentally sound movement of recyclable waste among OECD Member countries. These international instruments formed the foundation for the EU's initial

Waste Shipments Regulation, *Regulation (EC) No 1013/2006 of the European Parliament and of the Council of 14 June 2006 on shipments of waste*, which was introduced in 2006 and has now been repealed by *Regulation (EU) 2024/1157*.

The EU's transposition of the international rules on waste management

Regulation (EC) No 1013/2006 transposed the principles of the *Basel Convention* and the OECD *Decision* into EU law. It requires EU Member States to ensure that waste shipments and waste treatment comply with strict environmental and health standards, including export prohibitions for hazardous waste to non-OECD countries. In particular, the Regulation incorporated the *Basel Convention*'s approach of '*Prior Informed Consent*' (PIC) by requiring exporters to notify relevant authorities and obtain consent from both their own country's authorities and the receiving country's authorities before shipping any waste destined for disposal. This aimed at ensuring transparency and control over waste movements, notably to prevent environmentally unsound practices and to promote responsible waste management. In addition to *Regulation (EC) No 1013/2006*, the EU adopted *Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste*, which, most notably, contains key definitions, distinguishing between "*waste*", defined as "*any substance or object which the holder discards or intends or is required to discard*", and "*hazardous waste*", defined as "*waste which displays one or more of the hazardous properties listed in Annex III*" to that Directive, such as being '*explosive'*, '*flammable*', or '*carcinogenic*'.

The EU's new *Regulation (EU) 2024/1157* responds to certain shortcomings identified in the Commission's evaluation of *Regulation (EC) No 1013/2006* carried out in 2020. Notably, the evaluation found that, despite the regulatory efforts, waste exports to non-OECD countries had surged, particularly to China and India. In light of the identified shortcomings, and in response to requests by the European Parliament and the Council of the EU to transition towards a more sustainable and circular economy, mitigating the environmental and health risks associated with waste exports to third countries, on 17 November 2021, the Commission adopted its Proposal for a new Regulation, which, after the inter-institutional *trilogue* negotiations, was formally adopted by the EU's co-legislators on 11 April 2024.

New EU rules on waste shipment: Towards more stringent compliance requirements?

Regulation (EU) 2024/1157 updates the EU's existing legal framework, introducing stricter rules on waste efforts, favouring intra-EU waste trade and recycling, and setting specific measures to address illegal trade. The Regulation aims to "*protect the environment and human health*" from the adverse impacts of waste shipments, facilitate the environmentally sound management of waste, and contribute to "*climate neutrality and to achieving a circular economy and zero pollution*". The Regulation applies to waste shipments within, entering, or leaving the EU. Exceptions apply, for instance with respect to waste generated by ships and planes, radioactive waste, specific animal products, and wastewaters, which are covered by dedicated EU rules.

One of the key elements of the Regulation concerns the tightening of the rules on waste exports to countries in which the OECD *Decision* does not apply. Recital 48 recalls that countries subject to the OECD Decision "*generally have higher standards for the management of waste*" than the countries that are not subject to it. Article 37 of the Regulation maintains the existing prohibition of waste exports from the EU "*destined for disposal"*. The Regulation extends the list of waste materials destined for recovery, whose exports to countries where the OECD *Decision* does not apply is prohibited, and now includes the export of "*mixed municipal waste collected from private households or from other waste producers or both*" and of "*mixed municipal waste which has been subject to a waste treatment operation that has not substantially altered its properties*".

For non-hazardous wastes that are allowed to be exported from the EU for purposes of recovery, Article 41 of *Regulation (EU) 2024/1157* now empowers the Commission to adopt a delegated act "*establishing a list of countries to which the OECD Decision does not apply and*

to which exports of non-hazardous wastes and mixtures of non-hazardous wastes from the Union for recovery are authorised". Countries concerned and wishing to import non-hazardous waste from the EU must "*submit a request to the Commission indicating their willingness to receive those specific wastes or mixtures of wastes and to be included in the list*", and must demonstrate compliance with the requirements of environmental protection indicated in the Regulation, such as having "*a comprehensive waste management strategy or plan that covers its entire territory and shows its ability and readiness to ensure the environmentally sound management of waste*". The list will provide, *inter alia*, the authorised countries and the "*specific non-hazardous wastes and mixtures of non-hazardous wastes that are authorised for export from the Union to each country*".

The Regulation imposes a number of obligations on EU exporters and Article 46 thereof provides that an exporter may "*only export waste from the Union if it can demonstrate that the facilities which are to receive the waste in the country of destination will manage it in an environmentally sound manner*". For waste destined to non-EU countries, the Regulation imposes a new obligation on exporters, requiring them to ensure that the destination facility had been subject to an independent audit, confirming that the facility processes waste in an "*environmentally sound manner*" and follows the criteria set out in Annex X to *Regulation (EU) 2024/1157*, within the two years before exporting the waste. These requirements will apply from 21 May 2027.

Tackling plastic pollution?

The Regulation intends to take firm action to contribute to curbing the global surge of plastic waste and related pollution. According to Articles 39 and 40 of *Regulation (EU) 2024/1157*, plastic waste exports to countries in which the OECD *Decision* does not apply will be prohibited for 2.5 years starting from 21 November 2026, which is intended to help those countries adapt their recovery facilities to the new requirements on environmentally sound waste management. After this period of time, exports of plastic waste will be subject to a procedure of prior notification and consent, which means that "*exporters to third countries need to notify and receive written confirmation from the countries of dispatch, destination and transit prior to export*". Countries in which the OECD *Decision* does not apply, which intend to allow the import of plastic waste, must submit a request to the Commission to be included in the EU list of countries, demonstrating a robust legal framework and responsible waste management practices. Additionally, plastic waste exported from the EU may only be destined to licensed facilities "*to undertake recovery operations for that waste*" and will not be allowed to be destined to *interim* operations, such as storage, unless "*all subsequent non-interim or interim recovery operations*" take place within listed countries.

Acknowledging issues with respect to plastic waste management, even in countries subject to the OECD *Decision*, Article 45 of *Regulation (EU) 2024/1157* authorises the Commission to monitor plastic waste exports and to impose safeguard procedures in specified circumstances. Most notably, Article 45(5) of *Regulation (EU) 2024/1157* empowers the Commission to "*exercise specific scrutiny"* regarding plastic waste exports to countries to which the OECD *Decision* applies. By 21 May 2026, the Commission is tasked to assess whether countries to which the OECD Decision applies, and which import significant volumes of plastic waste from the EU, comply with Article 45. Article 45(6) empowers the Commission to prohibit waste exports if countries subject to the OECD *Decision* were not to manage waste in an "*environmentally sound manner*" or in case of "*substantial adverse effects on the management of waste generated in that country as a consequence of the waste exported from the Union*".

In this context, Article 59 of *Regulation (EU) 2024/1157* elucidates the meaning of "*environmentally sound management*", which all parties involved in the "*shipment of waste or its recovery or disposal*" are required to observe "*throughout the duration of the shipment and during the recovery and disposal of the waste*". Essentially, this Article requires that exported waste, and any resulting residual waste generated through recovery or disposal, be managed in a manner that meets environmental and health protection standards equivalent to those of the EU. Article 59(2) of the Regulation emphasises that, "*when assessing such equivalence,*

full compliance with requirements stemming from Union legislation shall not be required, but it shall be demonstrated that the requirements applied in the country of destination ensure a similar level of protection of human health and the environment than the requirements stemming from Union legislation". The relevant provisions of EU laws and guidelines adopted under the *Basel Convention* are considered as benchmarks for the equivalence assessment.

The EU's new waste shipment rules – a pathway to global action?

The new Regulation updates the EU legal framework for waste trade, aiming to fight with increased intensity the adverse environmental and health impact of waste exports. The new requirements imposed on exporters and importers of waste with respect to the different types of waste are complex, albeit necessary to ensure a better management and treatment of exported waste. Similar comprehensive rules should also be developed in other jurisdictions around the world and properly implemented and enforced, in order to ensure that problems are not only shifted to trade transactions subject to less stringent requirements.

The Government of Indonesia plans to ease the local content requirements for new and renewable energy projects: A step in the right direction?

On 13 May 2024, Indonesia's Minister of Industry, *Agung Gumiwang*, announced a plan to revoke *Minister of Industry Regulation No. 54/M-IND/PER/3/2012 of 2012 concerning Guidelines for the Use of Domestic Products for Electricity Infrastructure Development* (hereinafter, MOI Regulation No. 54/2012) and its amendments, which require the development of electricity infrastructure for public consumption to use domestically-produced goods and/or services. The revocation of *MOI Regulation No. 54/2012* would aim at easing the local content requirements in the electricity sector, which have been identified as bottlenecks for investments in Indonesia's new and renewable energy projects. This article discusses the local content requirements under *MOI Regulation No. 54/2012*, the Government of Indonesia's plan to ease such requirements, the (in)consistency of the local content requirements with WTO rules, as well as the implications for investments in Indonesia's new and renewable energy sector.

Indonesia's policy to promote its domestic renewable energy manufacturing industry

Local content requirements refer to policies imposed by Governments that require economic operators to use domestically-manufactured goods or domestically-supplied services in order to operate in that economy. In Indonesia, local content requirements have been implemented as part of the country's industrial development and are employed to promote specific industries, such as the pharmaceuticals, telecommunications, electric vehicles, and renewables industries.

Indonesia's *Law No. 30 of 2009 concerning Electricity*, as amended by *Government Regulation in Lieu of Law No. 2 of 2022 concerning Job Creation*, requires State-owned enterprises, regional-owned enterprises, private business entities, and cooperatives to prioritise the use of domestic products in developing electricity infrastructure projects, including renewable energy projects. To implement this requirement, the Government of Indonesia had issued *MOI Regulation No. 54/2012*, as lastly amended by *Minister of Industry Regulation No. 23 of 2023*, which stipulates that: 1) All electricity infrastructure for public consumption must use domestically produced goods and/or services; and 2) All goods must be completely manufactured in Indonesia.

Local content requirements under MOI Regulation No. 54/2012

MOI Regulation No. 54/2012 stipulates the local content requirements for the development of certain electricity infrastructure, including hydroelectric power plants, geothermal power plants, and solar power plants. In accordance with Article 3 of *MOI Regulation No. 54/2012*, the use

of imported goods is allowed, but only if: 1) The relevant goods cannot be produced domestically; 2) The technical specification of domestically produced goods does not meet the relevant requirements; and/or 3) The volume of domestic production of such goods is unable to meet demand. The amount or thresholds for the local content required under *MOI Regulation No. 54/2012* differs for each type of electricity infrastructure. For instance, with respect to non-storage pump hydroelectric power plants, the applicable local content requirements are as follows:

Type of hydroelectric power plants	Goods	Services	Combined goods and services
Installed capacity more than 50 MW up to 150 MW	48.11%	51.1%	49%
Installed capacity of more than 150 MW per unit	47.82%	46.98%	47.6%

The providers of goods and services are subject to sanctions if, *inter alia*, the local content value in their projects does not reach the amount required under *MOI Regulation No. 54/2012* and in case they fail to use domestic goods and/or services in developing their electricity infrastructure. The sanctions can take the form of administrative sanctions, including a written warning, and financial sanctions in cases where the local content value is lower than the amount required in the implementation contracts.

Status quo of investment in renewable energy projects in Indonesia

Since 2021, investments in Indonesia's new and renewable energy projects have remained stagnant. In 2021, the investments in the new and renewable energy sector amounted to USD 1.55 billion and, in 2023, to USD 1.48 billion. The latter only represents 33.6% of the Government of Indonesia's target of USD 4.39 billion worth of investments.

According to the Director-General of New, Renewable Energy and Energy Conservation within Indonesia's Ministry of Energy and Mineral Resources, *Eniya Listiani Dewi*, foreign investments with a total value of approximately IDR 49 trillion (*i.e.*, approximately USD 3.02 billion) for the construction of solar power plants did not materialise due to the local content requirements and as international lenders were withholding their funding.

Under *MOI Regulation No. 54/2012*, the locally-sourced components for solar power plants, namely the solar modules, must amount to 60%, although, in practice, a number of the modules still need be imported due to the unavailability of domestically-produced substitutes. Similar challenges are also faced in the development of geothermal power plants.

The revocation of MOI Regulation 54/2012* and the *New and Renewable Energy Bill

Noting the challenges, the relaxation regarding the fulfilment of the local content requirements, including through the revocation of *MOI Regulation No. 54/2012*, is considered necessary for the Government of Indonesia to attract investments in new and renewable energy projects. The revocation of *MOI Regulation No. 54/2012* complements the ongoing discussions concerning Indonesia's *New Energy and Renewable Energy Bill* (hereinafter, NRE Bill), which would, *inter alia*, empower the Government of Indonesia to provide fiscal and non-fiscal incentives to support the development of new and renewable energy (see *Trade Perspectives*, Issue No. 13 of 4 July 2022). In accordance with Article 55 of the *NRE Bill*, non-fiscal incentives could be granted in the form of the provision of land and infrastructure for the development of new and renewable energy projects and facilitation to obtain business licensing.

According to Director-General *Eniya*, the Ministry of Energy and Mineral Resources had included a provision in the most recent draft of the *NRE Bill* that would provide flexible local content requirements for new and renewable energy projects that received international funding and/or grants. In cases where certain inputs or components were not available domestically, the relevant providers of goods and/or services would be able to import them.

Director-General *Eniya* added that the provision in the *NRE Bill* referred to the local content requirements stipulated in *Government Regulation No. 29 of 2018 concerning Industrial Empowerment*, which, compared to *MOI Regulation No. 54/2012*, provide a lower threshold of local content. Under *Government Regulation No. 29 of 2018*, goods and services are subject to local content requirements of 25%.

Inconsistency with WTO rules?

Local content requirements for the development of electricity infrastructure are implemented to promote the growth of Indonesia's new and renewable energy manufacturing industry. They can be considered as *prima facie* discriminatory measures and as restrictions on market access for foreign goods. If challenged by trading partners, it is rather unlikely that Indonesia's local content requirements would withstand WTO scrutiny. More specifically, Indonesia's local content requirements are likely to be found inconsistent with Article 2 of the WTO *Agreement on Trade-Related Investment Measures* (hereinafter, TRIMs Agreement), which prohibits the application of trade-related investment measures that are inconsistent with Article III or Article XI of the *General Agreement on Tariffs and Trade 1994* (hereinafter, GATT 1994). Article III of the GATT 1994 requires WTO Members to accord imported products treatment no less favourable than that accorded to "*like products*" of national origin. Article XI:1 of the *GATT 1994* prohibits WTO Members to impose quantitative restrictions on the exportation and importation of goods. The local content requirements under *MOI Regulation No. 54/2012* would likely be found inconsistent with the *GATT 1994*, as they create incentives for providers of goods and/or services to use domestic components of electricity infrastructure, to the detriment of foreign counterparts, and as they have a limiting effect on the quantity of imported components.

Incentives rather than restrictive measures?

Local content requirements, non-compliance with which is subject to sanctions, can, and in fact have, negative impacts on foreign investments for the development of new and renewable energy projects, particularly when it comes to solar and geothermal power plants. This is to the detriment of the Government of Indonesia's energy transition agenda and related objectives. Therefore, easing the current local content requirements appears to be a step in the right direction for the Government of Indonesia to remove the bottlenecks in the investments in new and renewable energy. The Government of Indonesia should also consider addressing the issues of the energy transition and "*green*" investments in its ongoing bilateral negotiations with trading partners, such as in the context of the negotiations for the *EU-Indonesia Comprehensive Economic Partnership Agreement*.

The EU has already negotiated dedicated chapters on energy and raw materials in its Preferential Trade Agreements (hereinafter, PTA), such as in the *EU-New Zealand Free Trade Agreement*, which aim at facilitating trade and investment between the Parties to "*promote, develop and increase energy generation from renewable sources and the sustainable production of raw materials*". Relevant commitments could lead to an increase of investments into Indonesia's renewable energy market in exchange for preferential market access, such as the reduction or elimination of tariffs for imported inputs and raw materials of electricity infrastructure or facilitated licensing procedures. Shift from the use of '*sticks*', namely the trade-restrictive local content requirements, to the use of '*carrots*', namely through incentives and trade preferences, could be a powerful catalyst for promoting new and renewable energy in Indonesia and to increase the '*appetite*' of foreign investors to enter Indonesia's lucrative renewables market.

The revocation of *MOI Regulation No. 54/2012* and the inclusion of flexible local content requirements in the *NRE Bill*, while awaiting its finalisation by the Government of Indonesia, have been welcomed by domestic stakeholders. For instance, an analyst from the *Institute of Energy Economics and Financial Analysis*, an institute that examines issues related to energy markets, trends, and policies, stated that the amendment of the current local content requirements was necessary to promote Indonesia's interests, noting that Indonesia's

domestic manufacturing capacity, particularly for solar power plants, remained low. It remains be seen whether the revocation of *MOI Regulation No. 54/2012* and the relaxation of local content requirements in the *NRE Bill* could successfully ensure the continuation of new and renewable energy projects development in Indonesia. At the same time, it appears that some local content requirements would remain in place, and such approach is, unfortunately, not novel when it comes to Indonesia's trade policies. Trading partners should diligently assess and consider challenging the consistency of the measures with Indonesia's WTO commitments.

A case of '*greenwashing*'? Appeal against the removal of the word "*Farmed*" from the UK Protected Geographical Indication (PGI) "*Scottish Farmed Salmon*"

In early May 2024, it was reported that the UK-based environmental non-governmental organisations (hereinafter, NGOs) *WildFish* and *Animal Equality UK* had formally appealed the decision by the UK *Department for Environment, Food and Rural Affairs* (hereinafter, DEFRA) to allow Scottish farmed salmon to be labelled simply as "*Scottish salmon*". The decision by DEFRA was made on 3 April 2024, following an application in July 2023 by the producer association *Salmon Scotland* for an amendment of the Protected Geographical Indication (hereinafter, PGI) name. The article provides an overview of the change of the PGI term "*Scottish Farmed Salmon*" under UK law, and discusses the reactions to the name change. The article also assesses whether the change of the name is misleading or even a case of "*greenwashing*".

The UK's Protected Geographical Indication (PGI) scheme

In April 2024, the DEFRA decided to change the name of the PGI from "*Scottish Farmed Salmon*" to "*Scottish Salmon*" under the UK *Protected Geographical Indication* scheme, which was established after the UK's withdrawal from the EU to replace the respective EU scheme in Great Britain (England, Scotland, and Wales).

Food, drink, and agricultural products with a geographical connection or that are made using traditional methods can be registered and protected as intellectual property. This protection is called PGI. PGI protection guarantees a product's characteristics or reputation, authenticity, and origin. In simple terms, it aims at protecting the product name from misuse or imitation. The UK's PGI schemes protect registered product names when products are offered for sale in Great Britain. The EU's PGI schemes protect registered product names when they are offered for sale in Northern Ireland and the EU. All product names protected in the EU on 31 December 2020, following successful applications to the EU's PGI schemes, are protected under both the UK's and EU's GI schemes. Product names registered under the UK's GI scheme are listed on the *Protected food names scheme register: protected designation of origin (PDO) and protected geographical indication (PGI)*.

The decision approving non-minor amendments to the PGI *Scottish Farmed Salmon*

"*Scottish Farmed Salmon*" was first registered as a PGI in the EU on 12 August 2004. In July 2023, the producer organisation *Salmon Scotland* submitted an application for the amendment to the PGI name "*Scottish Farmed Salmon*" under Article 53(1) of *Regulation (EU) No 1151/2012 of the European Parliament and of the Council on quality schemes for agricultural products and foodstuffs*, which, in the UK, is referred to as "*assimilated Regulation (EU) No 1151/2012*", and which provides that "*A group having a legitimate interest may apply for approval of an amendment to a product specification*" and that applications are to "*describe and give reasons for the amendments requested*". In the application, *Salmon Scotland* reportedly argued that "*the public now understand that Atlantic salmon for sale in the UK is now all farmed, not wild, so the "farmed" designation is redundant*" and that, "*in practice, most retailers and customers understand 'Scottish Farmed Salmon' is 'Scottish Salmon'*".

On 24 April 2024, the UK Secretary of State for Food, the Environment and Rural Affairs approved amendments to the product specification for the Scottish Farmed Salmon PGI, including the change of the name of the PGI from "*Scottish Farmed Salmon*" to "*Scottish Salmon*". The Secretary of State stated that the amendments were justified and met the requirements of the scheme. As required by Article 50(2)(a) of the Regulation, as read with the first subparagraph of Article 53(2), the Secretary of State published the amendment application in the GI register. As no admissible reasoned statement of opposition was received by the Secretary of State, the amendments to the product specification were approved and the Secretary of State updated the GI register to take account of the approved amendments. Appeals against the decision had to be filed "*before 5 p.m. on 30 April 2024*".

The revised product specification "*Scottish Salmon*" *PGI* notes that the applicant group's name is *Salmon Scotland Ltd* and the product name "*Scottish Salmon*". As regards the geographical area, the product specifications refer to "*the coastal region of mainland Scotland, Western Isles, Orkney and Shetland Isles*". Under "*Method of production*", the product specification refers, in fact, to salmon farming and states that, "*under farmed conditions, they are transferred from the freshwater environment, in which they have lived and developed since hatching, to sea pens or tanks where they grow rapidly*".

The appeal to the name change in the UK

The appeal regarding DEFRA's decision on the change in the PGI name from "*Scottish Farmed Salmon*" to "*Scottish Salmon*" was lodged at the General Regulatory Chamber of the UK's First-tier Tribunal against the Secretary of State. The General Regulatory Chamber of the UK's First-tier Tribunal is responsible for handling appeals against decisions made by the UK Government's regulatory bodies in cases relating to, *inter alia*, charities, the environment, and food safety. In their appeal, *WildFish* and *Animal Equality UK* reportedly argued that the name change is "*likely to mislead consumers*".

The decision to remove the word "*Farmed*" garnered negative feedback from NGOs, which called the new name an act of "*greenwashing*". Notably, farmed salmon is associated with "*serious consequences for wild fish populations which are caught to feed farmed salmon and global access to good nutrition*". *Feedback*, a UK- and Netherlands-based environmental organisation noted that the new name would enable "*the industrialised salmon farming industry to obscure its methods, the government should be promoting the many health benefits of eating locally-caught pelagic fish like sardines and herring*".

Is the *Scottish Salmon* PGI likely to mislead consumers or even '*greenwashing*'?

It appears that the Tribunal would be called upon to determine whether the "*Scottish Salmon*" PGI was likely to mislead consumers as to whether the Scottish salmon protected by the PGI may be understood as being "*wild*" and caught in Scottish rivers, rather than being farmed in fish farms. Recital 29 of *assimilated Regulation (EU) No 1151/2012* provides that "*Protection should be granted to names included in the register with the aim of ensuring that they are used fairly and in order to prevent practices liable to mislead consumers*". There is no specific provision in *assimilated Regulation (EU) No 1151/2012* governing a possible misleading nature of a PGI name itself.

Article 6(2) to (4) of *assimilated Regulation (EU) No 1151/2012* concerns: 1) A name that may not be registered as GI, where it conflicts with a name of a plant variety or an animal breed and is likely to mislead the consumer as to the true origin of the product; 2) Homonymous names with a name already entered in the register; and 3) Cases of conflicts with trademarks. Given that no specific rules apply, the general UK labelling rules on misleading labelling must be applied. The *retained version of Regulation 1169/2011 on the provision of food information to consumers* applies in Great Britain, while, in Northern Ireland, EU food law, including *Regulation (EU) No 1169/2011 on the provision of food information to consumers*, applies directly.

Article 7(1)(c) of *Regulation 1169/2011* on '*Fair information practices*' provides that "*food information shall not be misleading, particularly, as to the characteristics of the food and, in particular, as to its nature, identity, properties, composition, quantity, durability, country of origin or place of provenance, method of manufacture or production*". It could be argued that the name is misleading as to the characteristics of the food and, in particular, as to its method of manufacture or production. In this regard, the Tribunal would have to determine whether the "*Scottish Salmon*" PGI could mislead consumers as to the method of production of the salmon, in particular since the name now omits that it is Scottish "farmed" salmon. "*Scottish Salmon*" PGI may be understood as being "*wild*" and caught in Scottish rivers rather than being farmed in fish farms. Essentially, the removal of the word "*farmed*" could suggest to consumers a more sustainable production method.

The "*average consumer, who is reasonably well informed and reasonably observant and circumspect*" could understand, based on the label and marketing in a specific case, that the product is more sustainable than salmon raised in fish farms. In a specific case, the entire labelling and product presentation would have to be assessed to determine whether an average consumer may be misled as to the true production process of the salmon by the omission of the word "*farmed*". Notably, it has been reported that the fact that the salmon has been "*farm-raised*" would be displayed on the back of the packaging.

In this context, it must also be noted that, in Scotland, all commercial Atlantic salmon (*Salmo salmar*) products are from farmed stocks. In 2002, the Government of Scotland prohibited the sale of rod caught salmon in the *Conservation of Salmon (Prohibition of Sale) (Scotland) Regulations 2002*, making it illegal to market any Atlantic Salmon caught by rod and line. Further protective measures were put in place under the *Conservation of Salmon (Scotland) Regulations 2016* to prohibit the retention of any salmon caught in any coastal waters in a salmon fishery district, as well as the retention of any salmon caught in any inland waters.

'*Greenwashing*' is a marketing technique used by companies to make their products appear more environmentally friendly than they are. In 2021, the UK's *Competition and Markets Authority* published a *Green Claims Code* to assist businesses in complying with responsibilities under the *Consumer Protection Law*, when making environmental claims. The *Green Claims Code* sets out, *inter alia*, that "*Claims made by businesses must not omit or hide information that consumers need to make informed choices. These sorts of omissions can occur where claims focus on saying one thing but not another, or where they say nothing at all.* Labelling claims are often made in the context of ethical criteria, such as sustainability, environmental protection, and animal welfare. Whether the omission of the word "*farmed*" is indeed a case of '*greenwashing*' under the *Green Claims Code* must be determined in view of any specific case at hand.

Towards a Decision of the Tribunal

According to its Rules of Procedure, the Tribunal may take a decision with or without a hearing. Interested stakeholders are advised to carefully monitor developments in these proceedings related to the protected geographical indication of "*Scottish Salmon*" and its labelling, which may be misleading consumers by omitting that the salmon originates in fish farms.

Recently adopted EU legislation

Trade Law

- *Commission Implementing Regulation (EU) 2024/1450 of 23 May 2024 making imports of mobile access equipment originating in the People's Republic of China subject to registration*

- *Council Decision (EU) 2024/1412 of 19 February 2024 on the signing, on behalf of the Union, of the Voluntary Partnership Agreement between the European Union and the Republic of Côte d'Ivoire on forest law enforcement, governance and trade in timber and timber products to the European Union (FLEGT)*

- *Council Decision (EU) 2024/1413 of 29 April 2024 on the conclusion of the Voluntary Partnership Agreement between the European Union and the Republic of Côte d'Ivoire on forest law enforcement, governance and trade in timber and timber products to the European Union (FLEGT)*

- *Voluntary Partnership Agreement between the European Union and the Republic of Côte d'Ivoire on forest law enforcement, governance and trade in timber and derived products to the European Union (FLEGT)*

- *Regulation (EU) 2024/1392 of the European Parliament and of the Council of 14 May 2024 on temporary trade-liberalisation measures supplementing trade concessions applicable to Ukrainian products under the Association Agreement between the European Union and the European Atomic Energy Community and their Member States, of the one part, and Ukraine, of the other part*

- *Regulation (EU) 2024/1501 of the European Parliament and of the Council of 14 May 2024 on temporary trade-liberalisation measures supplementing trade concessions applicable to products from the Republic of Moldova under 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*

- *Agreement in the form of an Exchange of Letters between the European Union and the Arab Republic of Egypt 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) 2024/1361 of 22 April 2024 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 Arab Republic of Egypt 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 Regulation (EU) 2024/1485 of 27 May 2024 concerning restrictive measures in view of the situation in Russia*

- *Council Decision (CFSP) 2024/1470 of 21 May 2024 amending Decision 2014/512/CFSP concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine*

Trade Remedies

- *Commission Implementing Decision (EU) 2024/1279 of 8 May 2024 concerning exemptions from the extended anti-dumping duty on certain bicycle parts originating in the People's Republic of China pursuant to Commission Regulation (EC) No 88/97*

- *Commission Implementing Regulation (EU) 2024/1475 of 30 May 2024 imposing a definitive anti-dumping duty on imports of certain seamless pipes and tubes of*

stainless steel 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

Food Law

- *Commission Delegated Regulation (EU) 2024/1401 of 7 March 2024 amending Delegated Regulation (EU) 2022/2104 supplementing Regulation (EU) No 1308/2013 of the European Parliament and of the Council as regards marketing standards for olive oil*

- *Directive (EU) 2024/1438 of the European Parliament and of the Council of 14 May 2024 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*

- *Commission Regulation (EU) 2024/1451 of 24 May 2024 amending Annex II and Annex III to Regulation (EC) No 1333/2008 of the European Parliament and of the Council as regards the food additives tartaric acid (L(+)-) (E 334), sodium tartrates (E 335), potassium tartrates (E 336), sodium potassium tartrate (E 337) and calcium tartrate (E 354)*

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