



**EUROPEAN COMMISSION  
DIRECTORATE-GENERAL FOR TRADE**

**11TH REPORT  
ON  
POTENTIALLY TRADE-RESTRICTIVE MEASURES**

*IDENTIFIED IN THE CONTEXT OF THE FINANCIAL AND ECONOMIC CRISIS*

**1 JUNE 2013 – 30 JUNE 2014**

CONTACT: [trade-market-access@ec.europa.eu](mailto:trade-market-access@ec.europa.eu)

## TABLE OF CONTENTS

<b>EXECUTIVE SUMMARY .....</b>	<b>2</b>
<b>I. GLOBAL MACROECONOMIC OUTLOOK AND KEY TRENDS FINDINGS.....</b>	<b>7</b>
I.1.    MACROECONOMIC OUTLOOK .....	7
I.2.    METHODOLOGY AND KEY FIGURES.....	10
I.3.    LATEST TRENDS - PROTECTIONIST "BUSINESS AS USUAL".....	13
<b>II. POTENTIALLY TRADE-RESTRICTIVE MEASURES, JUNE 2013 – JULY 2014. ....</b>	<b>20</b>
II.1.    BORDER MEASURES .....	21
II.2.    BEHIND-THE-BORDER MEASURES .....	24
II.2.1. Government procurement.....	26
II.2.2. Services and investment.....	28
II.3.    STIMULUS PACKAGES AND EXPORT SUPPORT MEASURES .....	30
II.4.    TRADE DEFENCE INSTRUMENTS .....	33
<b>III. MEASURES LIFTED IN LINE WITH THE G20 ROLLBACK COMMITMENT.....</b>	<b>35</b>
<b>IV. CONCLUSIONS.....</b>	<b>38</b>
<b>ANNEX 1: NEW POTENTIALLY TRADE-RESTRICTIVE MEASURES.....</b>	<b>40</b>
<b>ANNEX 2: STOCK OF MEASURES SINCE OCTOBER 2008.....</b>	<b>57</b>

## EXECUTIVE SUMMARY

The eleventh edition of the Report on the monitoring of **potentially trade-restrictive measures** of the European Commission's Directorate-General for Trade identifies the trade measures which were introduced by the EU's key trade partners between **1 June 2013 and 30 June 2014**<sup>1</sup> and which have the potential to disrupt trade.<sup>2</sup> This exercise has been carried out regularly since 2008. The report complements a similar biannual work by the WTO Secretariat on the measures adopted by G20 countries<sup>3</sup>, with the same aim to monitor the implementation of global anti-protectionism commitments.<sup>4</sup> It represents the contribution of the EU to the global surveillance on free and fair trade and the continuous effort to enforce existing trade rules as a cornerstone of EU trade policy.

The period between June 2013 and July 2014 could generally be characterised by further recovery of the world economy, and positive forecasts for the coming months. That said, economic and political developments since the beginning of 2014 indicate that this state of affairs cannot be taken wholly for granted. The global challenges related to security and concerns about the long term soundness of some developed and developing economies have unveiled the fragility of the current economic climate. While quick recovery is still not certain in developed countries, high growth figures are also not guaranteed in BRIC economies. As both former and latter are strongly related through the interplay of global value chains and corporate fabric, further recovery requires good trading conditions in order to channel growth between all players. Therefore, in the current favourable but uncertain economic climate **trade is again to play a key role**. Especially when regional political tensions come into play, trade should be the economic means to discharge such tensions at global level and ensure world growth remains unaffected. Impediments to trade of a protectionist nature can only block the vital streams through which global value chains, businesses and ultimately the world economy function and thrive.

---

<sup>1</sup> The 10th edition of the Report covered the same period of 13 months and was released on 2 September 2013, ahead of the G20 Summit in St Petersburg.

<sup>2</sup> More details about the number and qualification of measures listed in the Report are available in chapter I.2

<sup>3</sup> Please refer to WTO Reports on G20 Trade and Investment Measures of 18 December 2013, 16 June 2014 and 6 November 2014 covering the reference period of this Report.

<sup>4</sup> Since the beginning of the financial and economic crisis, G20 leaders have been regularly renewing their commitment not to impose new barriers to investment or trade in goods and services, including new export restrictions and measures to stimulate exports, as well as to roll back any new protectionist measure that may have arisen. This pledge has been extended last year until the end of 2016 at the G20 Summit in St Petersburg. At the 2014 Summit in Brisbane, G20 leaders have reaffirmed their adherence to this pledge and reiterated that their will to resist protectionism was a core commitment of the G20.

It appears, however, that unimpeded world trade still remains a distant vision. This report has identified **170** new measures, exceeding the number identified in the previous 13 months period. This means protectionist trends are, once again, well enshrined in the trade policy menus of many countries – some of them members of the G20 – in spite of their formal commitment to fight protectionism.<sup>5</sup>

Even more worrisome is that in that time span, the Report finds that only **12 previously imposed measures have been withdrawn** (compared to 18 last year). The pace of removal has therefore considerably worsened, while the number of new measures increased as sharply as previously. This does not bode well in the current context of an unstable economic situation and international tensions, and can only put into question the true resolve of some of the G20 members featured in this Report as to their commitment to effectively fight protectionism.

**Emerging economies** still apply the bulk of new potentially-trade restrictive measures, this time in modified order, as **Russia, China, India and Indonesia** operated by far the most trade-impeding policies in the monitored period (they together adopted half of all measures). They were followed by Argentina, Egypt, the United States, South Africa, Turkey and Thailand.

More specifically, the main findings of this report are as follows:

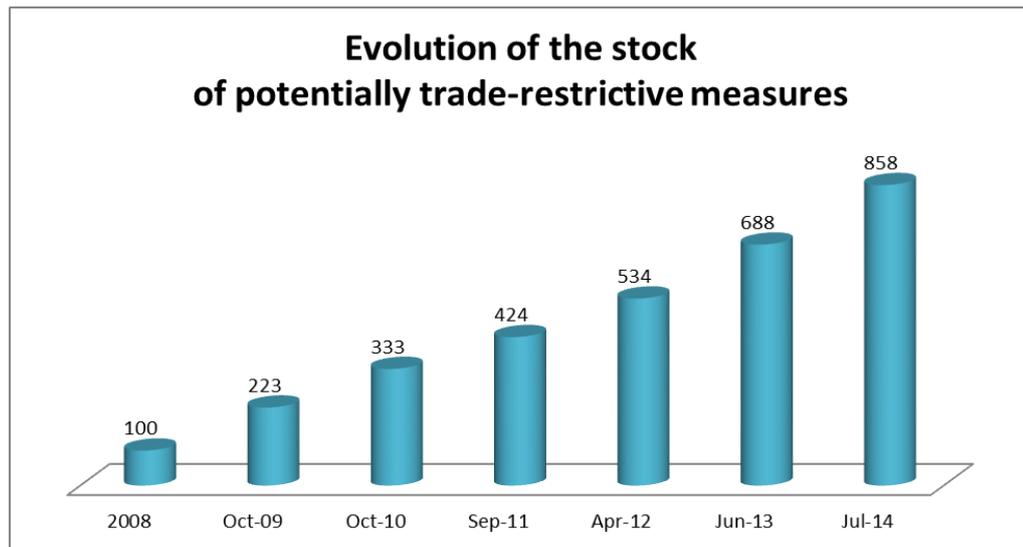
- With **170** new measures imposed and only **12** previous measures formally removed in the reference period, the protectionist trends identified in previous reports remain not only unchanged, but become even more alarming, as the pace of roll-back of measures is now clearly below par.
- As a result, the stock of all potentially trade-restrictive measures observed since October 2008 grew to **858**. At the same time, only 119 of those measures have been since then removed. While some of the older previously adopted measures may have expired automatically over the last six years, hundreds of protectionist measures still obstruct world trade, and their number continues to rise.<sup>6</sup>

---

<sup>5</sup> The specific lists of measures identified in the recent WTO Reports on G20 Trade and Investment Measures which cover this Report's reference period largely reflect the same conclusion. The WTO Reports however use a different methodology, as they include trade defence instruments (TDI), which this Report does not take into account, as they tend to overshadow real policy measures. For a better comparison, non-TDI measures should be looked at in the WTO Reports.

<sup>6</sup> See Annex 2 for an evolution of the measures, to the extent it could be monitored based on signals from national authorities over previous years.

- This also means that the pace of adoption of measures is not decreasing (in line with the G20 commitment) but short of staying steady, it has even increased recently to **12 new measures per month**.



- Among all types of measures applied, countries have again made the most extensive use of **border measures in imports and exports**, through numerous tariff increases, new import licensing procedures, reference values or minimum transaction prices, or banning trade altogether. The number of **new import measures was again high (59)** and reached the level of last year, confirming that countries prefer quick-fix restraints to solve their domestic competitiveness problems. **Russia** has applied by far the highest number of individual measures affecting imports.
- Besides a high number of import measures, there was a surge in the application of **exports restrictions (18)** compared to previous monitoring periods. The previous total stock of 46 measures (accumulated since 2008) increased therefore in the last 13 months by 39%. The intensification of such a trend is particularly alarming as all countries are globally dependent on each other's natural resources. Beyond granting specific cost and access advantages to domestic players at the expense of foreign companies, such practices can have detrimental consequences for the global commodities markets, as they not only can affect or serve to regulate prices domestically but also worldwide. This time **India** stood out in the group of countries making use of export restrictions.

- This reporting period also brought an increased number of **new measures applied behind the border (34)** resulting in the discrimination of imported goods or foreign companies via fiscal and regulatory means or local content preferences (government procurement aside). This finding shows that despite a high number of provisions affecting imported goods at customs, countries increasingly attempt to also hit foreign competition with additional internal measures. In many cases such measures are part of cross-sectoral industrial policy schemes deploying a plethora of different implementing acts (fiscal, technical, localisation-related, etc.). Based on this year's figures, **China** resorted to the highest number of measures of this kind (9), which is more than a quarter of all 34 identified.
- Some measures were also adopted in the fields of **services and investment**, at a pace comparable to previous monitoring exercises (**14 measures**). This sustained phenomenon is rather odd, as FDIs and the successful establishment of economic players are key to domestic growth and a source of much needed tax revenues both at regional and central level. While **China** has recently taken steps to open up its market to foreign capital, it has also restricted foreign activity or discriminated against foreign companies in other cases, which lead it eventually to adopt the highest number of restrictive measures in the services and investment area.
- Finally, many countries continued in a steady manner to support their economic operators with new **state aid measures and financial schemes, some in particular with the aim to boost exports**. This contributes to distorting competitive conditions globally and the effects of such schemes can be noticed not only on domestic markets but also as they spread onto foreign markets. The trend in **restricting government procurement markets** was also sustained, especially in **the United States**.

As seen from the above findings, it is again mostly emerging economies which resorted to instruments protecting their markets, although they also benefit to the highest degree from a world economy open for trade in goods (the export of which they often rely upon heavily) and investment. In a situation of unstable growth, an open business environment, smooth commercial activities and free FDI flows are the key to ensure and preserve a robust economic performance. Still, certain policy choices continue to indicate that the temptation to foreclose the economy remains strong and is considered by some as the key to domestic success. These policies are often based on the assumption that a national industry can take advantage of open markets at the expense of foreign players originating from those markets. But in today's globally interconnected commercial world, where businesses must also import in order to be competitive in their exports, this conception spawns an unsustainable model,

leading only to a further slow-down, which is likely to hit back hardest at protectionist - and by the same token - inefficient economic models.

Efforts to achieve the common global goal of putting an end to protectionist tendencies should therefore be strengthened, as they can ultimately contaminate further the world economy and their effect can be negative for all operators, putting companies and nations' wealth at risk, while not solving individual countries' structural problems.

On 15-16 November, the G20 gathered at its annual Summit in Brisbane, Australia. Beyond giving an account of trends in the application of restrictive provisions and disclosing the names of countries standing behind such practices, this Report is above all a message of alarm to G20 members and a call to honour their commitments, in a mutual manner. With a G20 agenda aiming now at boosting growth and furthering the integration of the world economy for the benefit of everyone, world leaders must finally realise that this objective will not be achieved if trade channels upon which the world economic growth and development rest are obstructed.

In this line of thought and building on the reaffirmation of the anti-protectionism commitment taken at the summit in Brisbane, G20 countries should in the coming months further intensify the fight against protectionist trends and give tangible proof of their intentions **not to resort to trade-restrictive measures**, even in the after-crisis period, which is engraved more than ever with economic and political uncertainty. In particular, they ought to show their political courage to lead the way in **rolling-back protectionist measures introduced in recent years**.

## I. Global macroeconomic outlook and key trends findings

### I.1. Macroeconomic outlook

An overview of trends in the application of trade measures cannot be disconnected from the trends occurring in the global economy. Therefore this Report first takes a look at the latter.

The **world economy** continued to recover in 2013 with global GDP going up by 3.3%. The latest forecasts suggest that the pace of the economic expansion is due to stay constant in 2014, and to gradually strengthen in 2015 to 3.8%<sup>7</sup>. However, the first half of this year showed how fragile the situation remains as economic activity was more subdued than expected both in the developed and in emerging economies<sup>8</sup>. The outlook is therefore fraught with uncertainties. The disappointing performance in some of the leading advanced economies, the downside risks associated with the geopolitical instability in Ukraine and the Middle East that could have repercussions on energy prices, and the potential increased volatility in global financial markets - are amongst the main concerns.

The output in **advanced economies** is expected to grow 1.8% in 2014 and 2.3% in 2015. However, some recent data sent out mixed signals about the sustainability of their economic recovery. In the **US**, output fell unexpectedly in the first quarter of 2014 on the back of harsh winter conditions (that held up domestic activity) and a sharp decline in exports. The GDP in the second quarter was already up by 1% relative to the first three months of the year, and growth is set to pick up momentum in the rest of 2014. GDP is expected to go up by 2.2% over the year and the economic expansion is due to accelerate to 3.1% in 2015.

Growth performance has also been hesitant in the rest of the advanced world, notably in some European economies and in Japan. The recession in Europe has finally come to an end with the stabilisation of financial conditions and the easing of monetary policy, notably by the ECB. Although the **Euro area's** economy stagnated in the second quarter of 2014, the recovery is still expected to progress, albeit in a more modest manner than estimated previously. GDP growth is set to reach 0.8% in 2014 (bouncing back from contractions of 0.4% in 2013 and 0.7% in 2012). The **EU** economy as a whole is due to grow by 1.4% in

---

<sup>7</sup> International Monetary Fund, World Economic Outlook, October 2014.

<sup>8</sup> This led to a downward revision of the previous forecasts for 2014 and 2015. The output growth forecast for 2014 and 2015 were cut by 0.4 and 0.2 percentage points compared to the April 2014 WEO Projections.

2014 (up from 0.2% in 2013) and 1.8% in 2015<sup>9</sup>. However, the concerns about the lingering high levels of unemployment and deflationary pressures in many parts of Europe will remain for some time.

The situation in **Japan** is also very uncertain as the economy contracted sharply in the second quarter of the year (-1.7% relative to the first three months), due to a sharp fall in domestic demand following a hike in consumption tax. This suggests that previous expectations that the economy had finally managed to move into a more sustainable and robust growth path may have proved too optimistic. The economic outlook has been considerably revised downwards. GDP is now expected to grow by 0.9% in 2014 and 0.8% in 2015.

The other reason for moderating global growth projections for 2014 is the relative weakening of the economic outlook in the **emerging and developing world**. In that part of the world GDP growth is expected to slow down to 4.4% in 2014 (from 5.1% in 2012 and 4.7% in 2013). In 2015, the pace of economic growth is set to rebound to 5.0%. However, this evolution is marked by sharp differences between countries. The slowdown is expected to be especially sharp in **Russia** and **Brazil**, where growth in 2014 is forecasted to be 0.2% and 0.3% respectively, due to tighter financial conditions and the weakening domestic demand. The **ASEAN**<sup>10</sup> region will also experience some slowdown in economic activity to 4.7% in 2014 (from 6.2% in 2012 and 5.2% in 2013) due to weaker external demand, notably from China and the US. Growth in the region is due to bounce back to 5.4% in 2015 on the back of the US recovery. In contrast, GDP growth continues to be robust in **low-income developing economies** and in the two biggest Asian economies - **India** and **China**. India's GDP growth is set to accelerate to 5.6% in 2014 and to 6.4% in 2015. China is expected to manage to stabilise economic growth for the period 2013 - 2015 at just above 7% by deploying fiscal stimuli to offset the dampening effects of measures implemented to curb credit growth and the overheating in the real estate markets.

**Table 2: GDP growth (in %)**

<b>Economy</b>	<b>2012</b>	<b>2013</b>	<b>2014*</b>	<b>2015*</b>
<b>Advanced economies</b>	1.2	1.4	1.8	2.3
<b>EU</b>	-0.3	0.2	1.4	1.8
<b>Euro area</b>	-0.7	-0.4	0.8	1.3
<b>US</b>	2.3	2.2	2.2	3.1
<b>Japan</b>	1.5	1.5	0.9	0.8
<b>Emerging markets and developing economies</b>	5.1	4.7	4.4	5.0

<sup>9</sup> International Monetary Fund, World Economic Outlook, October 2014.

<sup>10</sup> Indonesia, Malaysia, Philippines, Thailand, and Vietnam.

<b>China</b>	7.7	7.7	7.4	7.1
<b>India</b>	4.7	5.0	5.6	6.4
<b>Russia</b>	3.4	1.3	0.2	0.5
<b>Brazil</b>	1.0	2.5	0.3	1.4
<b>ASEAN</b>	6.2	5.2	4.7	5.4
<b>Low-income developing economies</b>	5.2	6.0	6.1	6.5
<b>World</b>	3.4	3.3	3.3	3.8

Source: IMF, WEO October 2014

\* projections

**Global trade activity** is expected to slowly continue to recover, notably if demand strengthens further in the advanced economies. The latest IMF forecast pointed to an expansion of world trade volume of 3.8% in 2014 and 5.0% in 2015 (up from a growth rate hovering around 3% in 2012-13).<sup>11</sup> The pickup in trade activity is expected to be the most striking across the advanced economies, as they will see imports increase by 3.7% in 2014 and 4.3% in 2015 (up from the anaemic growth of 1.4% observed in 2013). In contrast, demand for imports from emerging markets and developing economies will slow down to 4.4% in 2014 (from 5.3% in 2013) before picking up again in 2015 (6.1%).

Overall the world economy remains on a recovery path, albeit a subdued and fragile one in many parts of the globe. The IMF warns of a medium-term risk of stagnation and low potential growth in advanced economies and of declining potential growth in the emerging economies.<sup>12</sup> This makes it even more pressing to continue to strive to ensure that trade channels remain open, and to use trade policy as part of the global strategy to support economic dynamism.

<sup>11</sup> International Monetary Fund, World Economic Outlook, October 2014.

<sup>12</sup> International Monetary Fund, World Economic Outlook, October 2014

## I.2. Methodology and key figures

This Report takes stock of measures which were newly adopted, substantially modified or were in an advanced stage of adoption with foreseen significant consequences, in 31 trade partners of the EU, in a reporting period of 13 months: between 1 June 2013 and 30 June 2014. The information contained originates from the European Commission's services, EU Delegations, EU Member States, and stakeholders. The existence and validity of the measures has been verified to the greatest extent possible via official sources, publications or statements by state entities or their representatives. While the report does not prejudge the illegality of the measures under WTO rules and other multilateral and bilateral disciplines, nor the ultimate effect on trade and/or investment flows (as this effect can often be verifiable only in a longer time frame), all measures identified have the capacity to unduly disrupt or restrict trade in one way or another.

New and updated measures which were identified in the reference period are listed in Annex 1. Annex 2 contains descriptions relative to all measures adopted and updated, as well as those removed since October 2008. In case a measure or legislative development did not fully fulfil the criteria above, but was considered close to that, it has still been referenced in Annex 2 of this report for the record, but has not been accounted for in the Report's statistics.<sup>13</sup>

For the sake of procedural simplicity and of coherence with similar monitoring exercises, this Report qualifies as *measures* individual legal acts, or packages of similar acts adopted simultaneously, as well as newly imposed or announced restrictive practices by national or regional authorities. It is important to emphasise that depending on the complexity, product scope, duration and comprehensive nature of the measures, their effect on trade can vary and have more or less far-reaching consequences.

### Main quantitative findings

In terms of main findings, between June 2013 and July 2014 **170** new potentially restrictive measures were identified. **Border measures have again been the most frequently used instrument**, as they represented almost half of all new measures enacted (**77 measures** representing **45%** of the total). Similarly high in numbers were the **65 measures** having an

---

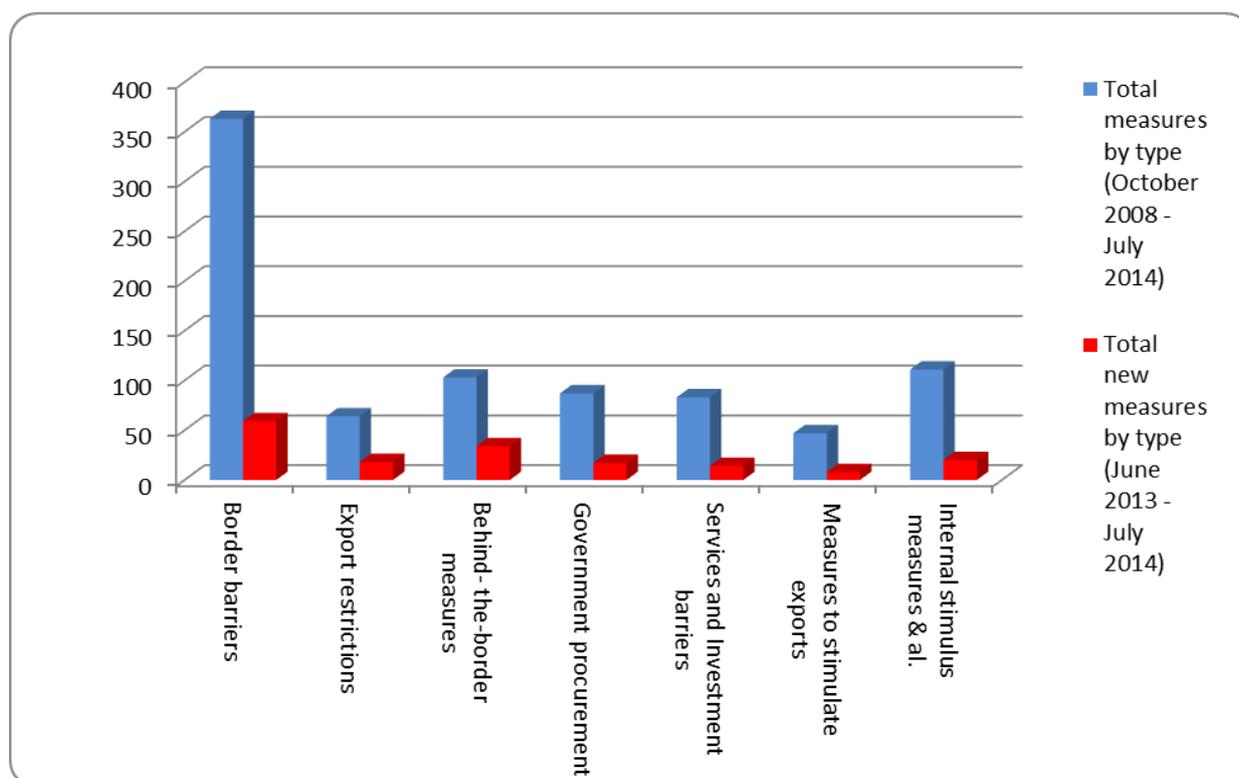
<sup>13</sup> Note that the list of new potentially trade-restrictive measures does not include trade defence, safeguard and sanitary-phytosanitary (SPS) measures (except those from the latter, which appear as obviously protectionist).

**impact behind the border**, which accounted for 38% of this year's total. The number of **stimulus and export support** measures reached 23, which represents a 14% share of the total.

In terms of geographical repartition, the following four countries adopted together **50% of all measures**, in decreasing order: **Russia (32 measures), China (23), India (16) and Indonesia<sup>14</sup>(14)**. Other countries which imposed at least 6 new measures were Argentina, Egypt, the United States, South Africa, Turkey and Thailand.

It must be again underlined that some of the one-off measures applied by these countries take the form of comprehensive legal acts with multiple product and policy focuses. It has also to be noted that in the case of the four countries accounting for most of the measures, while some of them have adopted a substantial number of border measures targeting individual products, all of them have also restrained trade in one way or another in almost all fields through a wide range of measures (the two most prominent examples are described in chapter I.3 hereafter).

The reader will find in the tables below a graphic representation of this year's findings:



**Table 2: Potentially trade-restrictive measures by type, since October 2008 (\* - G20 countries)**

<sup>14</sup> Indonesia was ranked among the 4 countries with most adopted measures also in the previous exercise.

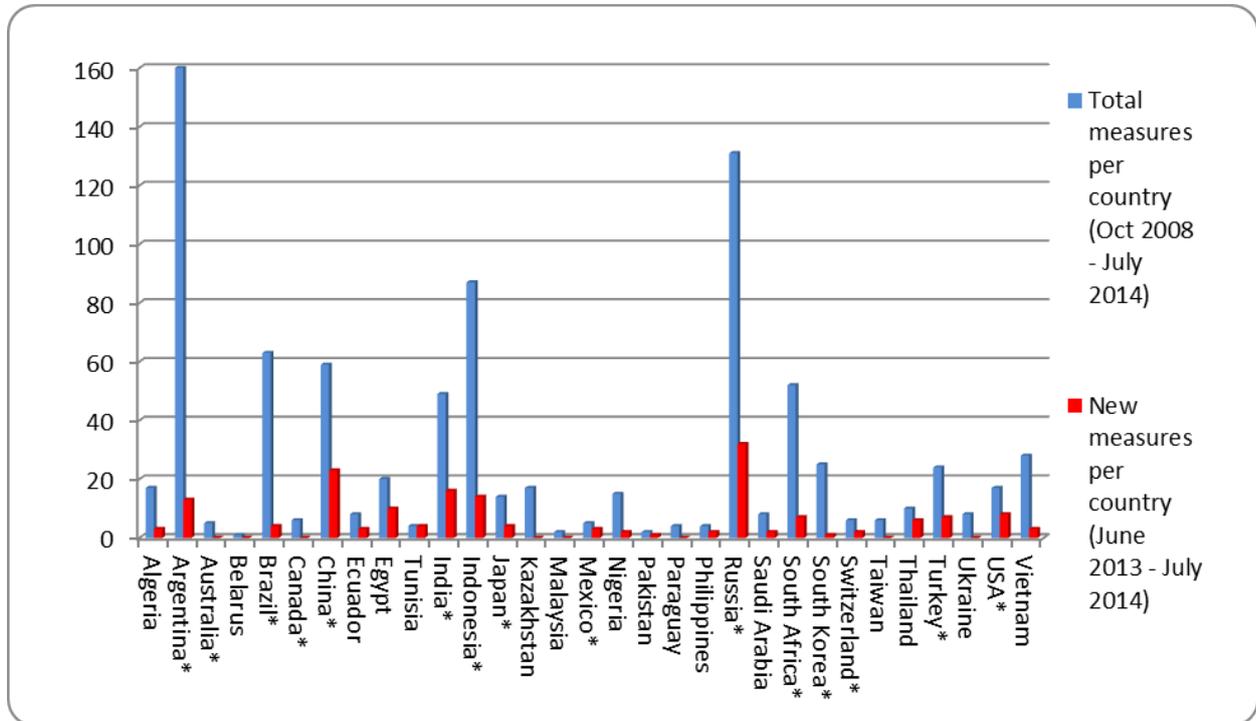


Table 3: Potentially trade-restrictive measures by country, since October 2008 (\* - G20 countries)

### I.3. Latest trends – protectionist "business as usual"

The measures listed further in this report show that protectionism still thrives, despite all the pledges continuously made by G20 members. This is particularly true for the wide array of measures at the border, for which we already noted an alarming increase last year, and for measures adopted behind the border, in their various forms, excluding only government procurement measures. This chapter highlights certain recent trends in the application of measures, based on a set of notable examples. The barriers in the remaining fields are described in section II.

#### *Continuous imposition of border measures, in particular hitting exports*

The previous edition of this report had highlighted an increased pace of adoption of measures having a direct effect at the border, in the form of ad-valorem and specific duties, minimum import and exports prices, licensing, fees, quotas, or trade bans. Unfortunately, this report's figures show that these instruments, geared at regulating and obstructing commerce at entry on the market, are again the preferred choice of trade policy-makers. Not only the number of newly-adopted *import* measures has remained the same, but we notice a resurgence of application of measures restricting *exports*.

Many of the restrictions were applied to exports of raw materials. It must be recalled that these goods are often at the basis of global industrial value chains and are particularly critical for certain leading-edge manufacturing industries producing highly-innovative and environmentally-friendly products. Moreover, the fact that no country is self-sufficient when it comes to natural resources makes all economies to some extent interdependent and therefore vulnerable to restrictive measures hitting exports. Such restrictions produce a number of detrimental economic effects: by limiting the supply available for exports, they lead to an increase in the price of commodities on world markets; by manipulating the terms of trade and distorting trade flows, they reduce global welfare; finally, where the affected products are used as inputs in more complex value chains, such restraints alter the comparative advantages in the processing stages - by artificially reducing input prices on domestic markets, they grant local industries a competitive advantage.

In recent years, we note a proliferation of measures imposed by third countries restricting the supply of raw materials. This year's findings show that the conditions of access to natural resources can and are deteriorating quickly, through easily imposable border measures.

Some examples of new export restrictions introduced between June 2013 and July 2014 are listed below:

In its comprehensive Financial Law of 2014 **Algeria** introduced several trade-restrictive measures, including restricting or banning exports of certain raw material products. This legislation hits, among others, exports of leather and scrap metal, all of which were made subject to an administrative procedure and tied to exports of downstream products.

Following measures adopted in previous years, in January 2014, **Indonesia** further restrained exports on minerals and metal ores, imposing an obligation to process raw materials locally and granting priority of use of the processed metals to domestic industries, which resulted in a de facto export ban of unprocessed or unrefined minerals. Additionally, progressive export taxes (reaching up to 60% by 2016) were instituted on certain minerals and ores that are still allowed for export.

The President of **Egypt**, in his acceptance speech of 8 June 2014, indicated that he will work towards gradually stopping exports of raw materials. Egypt took several measures, among others suspending rice exports in November 2013, banning export of solvents essential in paint manufacturing in June 2014 and imposing an export tax on construction sand.

Another country frequently resorting to restrictive exports regulation - **India** - has also in this reference period been active in that respect. India raised the minimum export price of onions (to 240€, then to 400€ per ton) and potatoes. It also restricted the export of certain chemicals, making their exports possible only through licensing. Furthermore, it introduced an export duty of 5% on iron ore pellets.

As another example, in August 2013, **South Africa** made all scrap metal exports subject to the issuance of export licenses, which now will only be granted if the products have previously – and unsuccessfully – been offered to domestic consumers at a price 20% below international spot prices.

#### *Continuous application of cross-cutting protectionism*

The previous report highlighted many comprehensive policies aiming at boosting domestic industries at the expense of foreign companies. It appears, based on this year's figures that the trend of applying comprehensive sets of measures which aim at protecting domestic industries from foreign competition and/or investments has not dissipated. The following two countries have applied various potentially or obviously trade-restrictive measures across the board: at customs level or through the regulation of markets and of logistics, or via technical

requirements, be it in the goods, investments or services field and by means of sometimes massive state support measures to domestic players.

### *China*

In the past 13 months, the Chinese government, while taking a series of market-liberalizing steps, has also not refrained from heavy intervention by means of measures negatively affecting trade and the situation of foreign economic players, in particular through behind-the-border market regulation and discriminatory market practices, a few of which are presented hereafter.

As an example, in the regulatory sphere, China imposed *new requirements on imports of dairy products* on 1 May 2013 in the form of numerous analyses on chemical and microbiological parameters which left importers with an unclear situation. On the same date a new registration obligation was made effective forcing all companies wishing to export dairy products (and in particular infant formula) to China to get officially registered with the Chinese administration, in a burdensome and opaque process. These newly changed requirements, which are far from reflecting a holistic approach with regard to the implementation of food safety appear as targeted and have an unjustified commercial impact. Additionally, as from December 2013 a draft set of revised rules provides that manufacturers of formula using imported base milk powder will be required to relocate their base powder production lines to other processes, which might exclude many foreign players from the Chinese market.

As another example of burdensome technical requirements, in May 2014, following the public dispute between the US and China on cyber-theft of trade secrets, China announced a *new testing procedure for IT products and services* which will focus on the "security and controllability" of products and services used for government procurement and critical industries. Failure to meet the test would result in exclusion from the Chinese market. This system, as it is, has a high potential to put foreign IT products and service providers at a significant disadvantage.

In terms of interaction between Chinese bodies, a new issue has arisen during the June 2013 - July 2014 period regarding the interplay between patent protection and standards involving essential patents. The terms of certain licences (agreed under FRAND conditions) have not been recognised in some cases by Chinese courts, with the courts imposing *new licensing terms to foreign companies* due to alleged breach of the Chinese antimonopoly law. These decisions are contrary to the usual practice whereby foreign standardisation bodies already

approved standards based on a patent-protected technology. Such an approach amounts to conferring upon Chinese courts an extraterritorial reach with a "monopoly" to rule on licensing terms worldwide.

Serious problems have also occurred in China in the field of public tendering. Foreign companies have had difficulties in engaging in public procurement due to the inconsistent interpretation of certain legal provisions (as for example the term "domestic goods"). Central and local entities tend to implement the provisions in a very broad manner, going far beyond the strict requirements already imposed by the law. The nationwide 'Buy Chinese' measures have been echoed by numerous "Buy Chinese" or even "Buy Local" initiatives undertaken by provincial or municipal authorities. In some cases, the "domestic products" definition adopted by certain local governments implied local content requirements of 70%. In various cases the Chinese Government has explicitly *barred foreign companies from bidding* on public contracts. The condition to bid can be fulfilled if foreign companies enter into a partnership with a Chinese company. This requirement has been seen in projects, *inter alia* related to energy, shale gas, railways, mass transit as well as transmission and distribution. In another similar step, China recently imposed the obligation for military personnel to purchase only domestic branded vehicles.

In the field of competition rules, while the application of the Anti-Monopoly Law has started in China only relatively recently (6 years), investigations have accelerated in an unusual manner over the reporting period. Many inquiries have been suddenly focused on foreign companies, and *allegations of lack of transparency and respect of procedural rights* in investigations have emerged on these occasions. In addition, anti-trust proceedings seem to have been polluted by some issues extraneous to genuine competition considerations, which can seriously affect investment and business activity of foreign companies.

Discriminatory elements have also emerged in the *state policy related to maritime services*. In the Shanghai Pilot Free Trade Zone, while foreign-flagged vessels may now engage in international relay, they are only allowed to do so if owned by a Chinese company.

Chinese *laws on state and commercial secrets* have also been the source of serious concerns. The 2014 version of the Implementing Regulations on the Protection of State Secrets has induced legal uncertainty as to the scope of application of the laws. Issues have emerged also recently regarding judicial proceedings on state secrets not being conducted in open impartial courts.

Furthermore, China has continued to base its industrial development on *state support measures*, which affect not only competition on its territory, but also distort the fairness of

export activities. In March 2014, for example, Chinese authorities confirmed they would provide subsidies to Chinese grain producers in amounts reaching 100 billion RMB (13,1 billion €), while in May 2014 a subsidies scheme was adopted in support of industrial development of the rare earth industry, in areas such as e.g. industrialisation of high-end applications based on rare earths.

On top of the above, China also kept regulating trade at its border to favour its domestic industry. It has recently done so by e.g. imposing *non-automatic import licensing* upon certain chemicals, machinery/electrical goods and ships. It also continued to apply export duties on more than 300 raw materials tariff lines, together with export quotas and licensing measures in the case of many products, all regardless of a second ruling by the WTO on the illicit character of these actions.

### ***Russia***

In recent months, trade relations with Russia experienced specific tensions due to the political and military crisis in Ukraine. However, regardless of political decisions bearing specific trade effects linked to this situation, Russia has also taken in the reference period a large number of general steps of a protectionist nature in a wide range of areas, through many trade policy tools. Such policies led ***Russia to reach the top of the list in terms of newly applied potentially trade-distortive measures***. Russia's action, like in the case of China, took many forms across virtually the whole universe of trade instruments, of which some examples can be found below.

One of the areas where Russia impeded trade the most was directly at its borders by means of no less than 17 measures. Through the vehicle of the Eurasian Economic Commission (triggering application also in Kazakhstan and Belarus), Russia raised ***import duties on a range of products*** such as machinery, motors and chemicals on several occasions. It has also made some products subject to potential restrictions on imports and exports such as for certain chemicals, hides and skins, or goods brought into Russia by individuals for personal use, including goods sent by international mail. Many products of ferrous metals, copper or aluminum have also been made subject to additional sanitary and epidemiological control and state registration in order to enter the Eurasian Customs Union.

After having imposed special duties on combine harvesters (27.5%), in a move which did not appear in line with its WTO obligations, in June 2013 Russia implemented special import quotas for these products.

At the end of 2013, Russia embarked on a policy of *restricting imports of various kinds of meat and agricultural products*. In October 2013, it established tariff quotas for imports of beef, pork and poultry meat, as well as certain types of whey powders. Irrespective of this step, at the end of January 2014, Russia closed its market to live pigs, pork and other related products originating in the EU, basing its decision on alleged animal health considerations with regard to Lithuania and Poland. In taking such steps, Russian authorities did not take into account in a WTO-compliant manner all the available information at hand to limit or avoid the disruption of trade. Additional restrictions were put in place in February 2014, after which Russia extended them further to finished products containing pork from Lithuania and Poland (with the exception of finished feeds for cats and dogs). After extensive consultations between the EU and Russia, which aimed at easing these measures and limiting them to what is strictly necessary (according to the principle of regionalisation), Russia decided not to remove the obstacle. As a result, the EU requested the establishment of a WTO panel in June 2014.

In the reference period, Russia continued to maintain a high number of *its import tariffs at a level which breaches or is likely to breach its WTO commitments* (through the application of specific duties exceeding WTO bound rates in case the customs value of the goods is below a certain amount). In January 2014, Russia, while having the opportunity to bring its system in line with WTO rules, implemented amendments in its tariff code which openly contravened its commitments. This was the case, for example, for duties on certain kinds of paper – a product widely exported to Russia from the EU. On 31 October 2014, the EU requested WTO consultations with Russia on this matter. Besides import measures, Russia has also been imposing *export restrictions*, such as duties on the exports of tungsten ores and concentrates at the level of 10%.

Another customs-related issue arose in July 2013, when Russia's Federal Customs Service (FCS) announced its intention to terminate on 1 December 2013 the 2004 agreement on the use of TIR Carnets. The FCS *cancelled the use of TIR Carnets* by a number of territorial customs organs, while trying to develop a single system of guarantees for transit of goods in the Eurasian Customs Union. While the termination of the Agreement was later postponed until 30 November 2014, Russian customs only recognise TIR Carnets at the border with Finland and Belarus.

Russia has also been adopting certain technical provisions, which makes it openly more difficult to export into the Federation. As an example, a technical regulation on the "Safety of products of light industry" has triggered the application of *stringent requirements regarding chemical substances* in certain kinds of garment and established a *particularly complicated conformity assessment* procedure for imported goods.

In the field of public procurement, Russia (and by the same token the Eurasian Customs Union) decided to ***grant contract price preferences*** of 15% to bidders in auctions and tenders which will supply goods originating from Russia, Belarus or Kazakhstan as from the 31 December 2015.

Some restrictions were also applied in relation to ***foreign investments***. Since March 2014, joint stock companies and their ***subsidiaries have been denied the right to take certain decisions*** (e.g. on amending their agreements with foreign counterparts or circulating/acquiring securities) without prior permission of the Ministry of Industry and Trade.

Russia has also enacted several state support schemes that have a high potential to distort the level playing field vis-à-vis foreign competitors. Around 3 billion USD (2.4 billion €) were assigned to provide ***state guarantees aiming at supporting the export of industrial products*** in 2014. In April 2014, a special program established a national system of support of foreign economic activities, which entails improving access to foreign markets for Russian goods, with the help of 17.8 billion roubles (310 million €) of state support to be spent by 2018. In the framework of the State Program "Development of industry and enhancement of its competitiveness" the Government approved, in January 2014, a system of ***federal subsidies to chemical producers*** for the reimbursement of their expenses related to bank loan repayments over the years 2014 -2016. Similarly, in April 2014, a Program for the "Development of Pharmaceutical and Medical Industries" for the years 2013–2020 was launched, targeting - among others - a 50% increase by 2020 of the share of domestic medicines in the total consumption and an increase in exports of medicines and medical products. The Program foresees ***state financing reaching ca. 100 billion roubles*** (1,75 billion €). The related implementing acts are also to ***promote the localisation of production***, including guaranteeing preferences in public procurement for domestic producers.

Finally, after extending the application of a recycling fee to domestically-manufactured vehicles following the European Union's initiation of a WTO dispute, Russia decided, in January 2014, to ***further penalise foreign manufacturers exporting cars into Russia*** by compensating, through four subsidy schemes, certain costs borne by locally established manufacturers, e.g. for the maintenance of jobs or the costs of energy use. This measure can also potentially constitute compensation for the imposition of the recycling fee on domestic companies.

## II. Potentially trade-restrictive measures, June 2013 – July 2014

Country	Border barriers	Export restrictions	Behind the border measures	Government procurement	Services and Investment barriers	Measures to stimulate exports	Stimulus and other measures	Total per country
Algeria	1	1	1					3
Argentina*	8	3	1		1			13
Australia								0
Belarus								0
Brazil*	1			2		1		4
Canada*								0
China*	2		9	2	4		6	23
Ecuador	3							3
Egypt	1	3	1	2	1	1	1	10
India*	6	4	3		1	1	1	16
Indonesia*	5	2	5		2			14
Japan*						2	2	4
Kazakhstan								0
Malaysia								0
Mexico*	3							3
Nigeria	2							2
Pakistan	1							1
Paraguay								0
Philippines	1		1					2
Russia*	17	3	3	1	3	2	3	32
Saudi Arabia							2	2
South Africa	6	1						7
South Korea*							1	1
Switzerland	1				1			2
Taiwan								0
Thailand			5			1		6
Tunisia <sup>15</sup>			3	1				4
Turkey*	1	1	1	1			3	7
Ukraine								0
USA*				7			1	8
Vietnam			1	1	1			3
<b>Total</b>	<b>59</b>	<b>18</b>	<b>34</b>	<b>17</b>	<b>14</b>	<b>8</b>	<b>20</b>	<b>170</b>

Table 4: New Potentially trade-restrictive measures per country and type of measure (\* - G20 countries)

<sup>15</sup> As from this edition of the Report, Tunisia replaces Hong Kong.

## II.1. Border measures

As described in chapter I.3, border measures have been again the most frequently used instrument to shield economies from foreign competition, and to regulate prices and supply. Their overall figure has even risen further (while having considerably increased already last year). A total of **77 measures** were adopted both in imports and exports, which constitutes 45% of all adopted new measures. Countries sought to impede imports in **59 cases** (that is the same number as last year), while export measures reached a total of **18**, an all-time record since the beginning of the EU's monitoring exercise in 2008.

Measures restricting exports are described in more detail in chapter I.3. This chapter therefore focuses on import measures. They included numerous ad-valorem and specific duty increases (often in packages), reference import values and minimum import price setting, burdensome licensing, tariff quotas or non-compliance with WTO-negotiated tariff rates.

Import measures attributable to **Russia** and **China** have been described in chapter I.4. Other examples of the new measures follow below:

**Indonesia** adopted several important acts which can have highly negative consequences for trade. A new Trade Law and an Industry Law entered into force in the first quarter of 2014. On their basis, the Government may now impose restrictions on imports and exports of goods it deems of special interest or outright prohibit their trade on grounds of national interest. The Industry Law increases the role of the state to control strategic industries and to defend the Indonesian market while forcing the use of domestically-produced goods in the economy. The Government is now empowered to impose export bans on biological and non-biological raw materials.

Moreover, Indonesia introduced some major alterations in pre-shipment control and import restrictions, through new "Provisions for Import of Certain Products". The regulation introduces additional import requirements, as it mandates that the verification or import technical inspection process must each time examine a Product Certification Number of Indonesia's National Standard Marking for products subject to mandatory Indonesian standards, and a Certificate of Analysis. At the same time, the Indonesian Food and Drugs Agency has also established a strict inspection process on imported cosmetics. Finally, in January 2014, Indonesia increased the import income tax on a range of products from 2.5% to 7.5%. The tax appears to be a frontloaded payment of corporate income taxes and only applies to imports. These measures add up to pre-existing cumbersome non-automatic import licensing measures and restrictions applied, *inter alia*, to animal products and horticulture.

**Brazil** was another case of a country which introduced a set of multiple border measures in the form of a comprehensive legal act. It has included in the list of 100 exceptions to the Mercosur Common External Tariffs 6 new tariff lines whose tariffs increased to 20%. Simultaneously, Brazil removed 6 tariff positions from the list of exceptions, as a result of which the import tariff increased for two items: from 2% to 16% for certain demonstrational goods and from 0% to 4% for joint cement.

Along the same lines, **Argentina** extended the application of an additional 100 exemptions from the Mercosur Common External Tariffs for one year, as from 22 January 2014, while withdrawing 5 tariff lines from the list and including another 5 lines in their place. As a result sparkling wines, articles for fireworks, certain herbicides, moulds for metal-injection, and sports vessels have seen their import duties rise, often to as high as 35%. The Ministry of Economy has also made the process of submission of the Sworn Declaration of Composition on imported textiles and footwear subject to an electronic customs system. This however entails now a review by several governmental entities, which can decide to issue "observations", resulting in delays or denial of importation of goods. It is worth mentioning that Argentina continued to impose the obligation to submit a prior sworn importer declaration ("DJAI") before every import operation, which remains by far the most trade-obstructive measure adopted by Argentina. The approval of a DJAI is conditional upon a number of non-written requirements such as commitments to export, to limit or substitute imports, or to regulate prices. Regarding this matter, in August 2014, a WTO Panel ruled that the DJAI scheme was WTO-inconsistent. Finally, Argentina has also adopted new sets of arbitrary reference values for imports and exports of a range of products.

In this reference period, **India** remained at the top of the list in terms of individual import-restrictive measures. It increased customs duties on several products, among others: sugar, certain kinds of vegetal oils, rubber goods, poppy seeds, certain animal fats and their derivatives, as well as areca nuts. It also imposed even stricter import conditions on various forms of precious metals (silver and gold ore, bars and coins as well as platinum) and on jewellery articles.

In February 2014, **Egypt** suspended the import of motorcycles and tricycles for 1 year, and the import of their components for 3 months on security grounds. The scheme was further relaxed for goods intended for personal use, but imports for commercial purposes remained suspended.

More noticeably, a highly stringent new law affecting trade in the automotive sector was imposed by **Nigeria**. As from July 2014, a series of new tariffs and levies of up to 70% (35% duty and 35% levy) have been introduced on imported cars. The measures aim at promoting

local assembly, and domestic plants were granted concessionary rates commensurate to twice the number of their imported assembly kits. The same circular raises to 20% the import duty on tyres. Nigeria has also undertaken to slash the number of import licence allocations for frozen fish by 25% (but decreases of 50% have been reported). What is more, the list of fishery products subject to the reduction in licences cannot be established with certainty, which raises concerns as to the legitimacy of these provisions and the fairness of import practices. The measure has had dire consequences on the local population in the form of soaring prices affecting many poorer households.

**Algeria's** comprehensive Financial Law of 2014 introduced, inter alia, new quantitative restrictions on imports. Second-hand equipment may now be imported only in the absence of local production of similar equipment. The Law also requires that foreign entities may only import goods into Algeria for trade purposes (without further processing in the country) if they enter into a partnership with a local company which must own at least 51% of the joint venture.

In November 2013, **Ecuador** introduced a measure that requires imports to be accompanied by a Certificate of Recognition that confirms the products' compliance with Ecuadorian norms. A number of existing and new norms (some of which can be argued as irrelevant or obsolete) were submitted to this procedure, often making it impossible to comply with, due to non-existence of certified verification procedures. In addition to acquiring the certificate, each lot of imports needs to be previously registered with the Ministry for Industry and Productivity. The same Ministry also imposed the signature of various, so-called voluntary, "Technical Cooperation Agreements" with importers, committing them to limitations on imports and increases of national production. Ecuador also put in place non-automatic import licences for various agricultural products such as meat, butter, cheese and potatoes.

**South Africa** has been again active in regulating imports through numerous individual acts. It increased duties, at different times, on meat, sugar, furnaces, certain tools, coated paper and certain engineering goods. **Mexico** also increased customs duties on certain furniture items, wood products and several agricultural products, including white corn, while **Turkey** resorted in August 2014 to tariff increases on footwear products with customs duties reaching 50%.

Finally, **Switzerland** changed its system for allocating tariff quotas on imported meat in a restrictive way. The change favors domestic production at the expense of imports as 40% of tariff quota on goat meat will be made proportionate to Swiss meat production as of 2015.

## II.2. Behind-the-border measures

This chapter deals with trade-restrictive measures, which are applied behind the border to regulate domestic markets but which at the same time have the capacity to negatively affect the imports of goods, provision of foreign services or economic activities of foreign operators. They include, for example, technical regulations, provisions and incentives in the field of internal taxation, local content requirements, restrictions to public procurement, measures affecting investment and the establishment of foreign companies and service providers, as well as measures affecting cross-border trade in services. The three latter types of provisions, due to their specificity and economic importance, are carved out in dedicated chapters.

Like in the previous year, this type of measures was again resorted to frequently, with **65 measures** introduced. However, this time, it was the technical, taxation or localisation measures (not related to market access in services, investment, or government procurement) or a mix thereof, which constituted the bulk, with as many as **34** trade-restrictive cases. Such a number is unprecedented, as it represents a rise of almost 50% in the stock of all measures of this type in the last 6 years (69). In addition to the already high number of measures applied at customs level, countries appear to increasingly seek to inhibit foreign competition by means of these internal restrictions, be it through individual provisions targeting specific goods or sectors, or by comprehensive policy acts featuring various instruments.

Below follows a more detailed account of the countries' obstructive activity in this field:

In the reference period, **China** has adopted the highest number of behind-the-border measures, across virtually all fields (2 affecting government procurement, 4 affecting services/investments and 9 in other areas). A description of the Chinese measures can be found in chapter I.3 and in the following chapters.

An important array of potentially-restrictive provisions applied internally has also been enshrined in the new Industry Law of **Indonesia**, which encourages localised production, increased use of national standards for products and services, and provides for procedures on the imposition of trade measures if specific industry interests are hurt or under threat. Besides, Indonesia adopted a new regulation on traditional markets and shopping centres, limiting the number of store outlets (max. 150), applying local content requirements to sales (minimum 80% of the products sold must be local), restricting the sale of house-branded products (to 15%), etc. Moreover, Indonesia has been heavily resorting to mandatory Indonesian national standards (SNI) affecting imports in a burdensome manner, e.g. on baby clothing.

The development of *national standards* and local conformity assessment procedures can deter trade to a significant extent. National standards often raise concerns as to their practicality and cost burden, in particular due to discrepancies with international standards. **Ecuador**, recently introduced a number of measures that restrict imports of many products with the objective of promoting the development of the national industry. New regulations extended the requirements to provide a Certificate of Recognition issued by the Ecuadorian Normalisation Institute (INEN) in addition to the usual certificate of conformity as supporting documents to allow importation. In **Thailand**, a mandatory conformity assessment procedure was imposed for ceramic tiles, which requires a burdensome and costly certification process (e.g. requiring on-site certification, the disclosure of manufacturers' confidential information and certification per line of production). Thailand has also been active in the taxation area, maintaining tax discrimination against imported alcoholic goods: in September 2013, an amendment of the Thai Liquor Act imposed new applied and ceiling tax rates on alcohol which trigger a discrimination between 'white liquor' and 'vodka', the latter attracting a higher tax. Additionally, under the 2013 amendments, the specific ceiling value of the duty rate for wine (which is mainly imported) was sharply increased. Local fruit wines also continue to enjoy a lower excise tax rate than imported wines. In March 2014, Thailand also issued a new draft law on alcohol labelling, which establishes an overly complex and burdensome label approval process and suffers from a lack of clarity as to the application scope.

As to labelling, a certain trend of increasingly burdensome regulations can be noticed in several other countries, such as in Indonesia, Ecuador, Philippines, and in particular in **India**. In this latter country, the Bureau of Indian Standards has not only made a range of imported electronic products subject to mandatory registration and testing, but also required the printing or engraving of registration information on the products (with a few exceptions and with certain delay in the application of the law). In August 2013, India also changed its interpretation and enforcement of its Food Safety Regulations, requiring mandatory labelling of foodstuffs directly on packaging instead of on stickers, which is a widely accepted practice internationally (and is effectively not ruled out by the basic Indian laws).

**Algeria's** Finance Law of 2014 introduced further new internal measures which are liable to hinder trade to a great extent. The most important of these measures is a discriminatory tax regime on new vehicles, which is levied exclusively on imported vehicles. A new requirement also forces car dealers to carry out an activity of an industrial nature on top of the dealership. Other fiscal advantages are also provided for locally manufactured goods or for local producers. Likewise, **Argentina** also resorted to internal taxation to regulate imports of high-end cars, boats, planes and motorcycles, imposing a "luxury tax" rate of up to 50%. The tax affects premium cars and therefore imported models to a greater extent than domestically-produced models.

Consumption taxes of up to 75% were also imposed by **Tunisia** on various imported construction stone materials (while domestic material is exempted). Additionally, the Central Pharmacy of Tunisia - the monopoly importer of pharmaceutical products - has requested exporters to accept, in future transactions, any further depreciation of the Tunisian dinar, failing which authorisation to export would not be issued.

As a last example of new internal trade-restrictive measures, the Finance Ministry of **Egypt** established, in February 2014, a new cigarette pricing scheme, with twice as high reference values for imported products compared to domestic ones.

It is finally worth mentioning that while **Brazil** has introduced a lower number of behind-the-border measures this time, the programmes that Brazil has implemented in recent years favouring the localisation of production and granting advantages to Brazilian exporters remain in force. The Report of last year described how the discriminatory tax benefits system in Brazil had been markedly strengthened since September 2012 by means of higher tax burdens on imported goods, the conditioning of tax advantages to the use of domestic goods, and the grating of export contingent subsidies or tax benefits to predominantly exporting companies. As a result, there is still today only marginal access for exports to the Brazilian market in certain sectors. Therefore, on 19 December 2013, the European Union requested WTO consultations with Brazil with respect to the above taxation schemes. Japan, Argentina and the US later joined these WTO consultations. Since the latter have not resulted in a satisfactory solution, the EU requested formally that a WTO Panel rules on this matter.

### II.2.1 Government procurement

This year's findings point to a relative decrease in the application of new restrictions in public procurement markets (**17 measures**) when compared to the surge in such provisions last year. However, there is still a noticeable trend of impeding access in public tenders for foreign players or products, and its evolution in the monitored period is on a par with the last 6 years' average. At the same time, global participation in the Government Procurement Agreement has not been widened. We therefore face a difficult situation in which both potential bidders and tendering authorities (and by the same token users and taxpayers) loose out, as public works projects in many countries do not benefit from the most competitive and possibly innovative solutions. In many cases the measures limiting tendering activities take the form of conditionality related to local content requirements or specific technical regulations, which makes it more difficult for foreign companies to participate, or which reduces the share of foreign inputs in project execution. Some examples of measures restricting government procurement markets follow below.

In the observed period **Brazil** adopted measures further distorting the conditions for participation in public tenders: it granted price preferences to certain locally-produced technological goods such as printers and data processing machines (up to 20% of preferences); executive jets (up to 25% of preferences); IT equipment (up to 25% of preferences); as well as in the provision of software services (up to 18% of preferences).

**China** has relevant public procurement legislation in place, but its interpretation regarding the definition of domestic goods is not clear, and the law features a number of discriminatory elements locking foreign companies out from the Chinese market. By the same token, Chinese authorities have in some cases explicitly barred foreign companies from bidding on public contracts, e.g. through measures which force foreign companies to bid in tenders only through joint-ventures. This trend has been seen recently in air ticketing services, but also in projects related to energy (notably shale gas), railways, mass transit and distribution.

In November 2013, **Egypt** amended some provisions of its Law on Tenders and Competitive Negotiation and has, *inter alia*, allowed government officials to skip public tendering procedures in cases of undefined “urgent” matters. In May 2014, the Government also decided to stop the import of products which have a locally-produced equivalent for the purpose of public tenders. At the same time, preparations were launched for a new Law instructing public bodies to buy local products whenever possible.

A decision of March 2014 by **Russia** will confer (as from December 2015) contractual price preferences of 15% to bidders in public auctions and tenders if they commit to supply goods originating from Russia, Belarus or Kazakhstan. Similarly, in May 2014, **Turkey** has also instructed its procuring entities to grant a 15% domestic price advantage to bidders which offer domestically-produced goods to execute their projects.

Finally, the **United States** has been the most active country to embrace procurement-related trade restrictions, especially at state level. The current monitoring period has revealed a growing trend in the country's states imposing their own domestic content requirements. In June 2014, the New Jersey Senate passed highly restrictive "Buy America" legislation which would require state entities to purchase goods solely manufactured in the United States while the State of Minnesota established a local preference for certain engine models for recreational vehicles and boats manufactured in the United States. In May 2014, a bill was introduced in the New York State with the aim to impose Buy America restrictions on a broad range of the state's procurement for federally funded transportation infrastructure. Furthermore, the Massachusetts State Senate introduced, in April 2014, a bill proposing preferences for domestic products purchased by state agencies.

The situation has also deteriorated at US federal level. In May 2014, the US Administration issued the "Grow America Act", in relation to the Surface Transportation Bill. The proposal includes measures aiming at increasing local content requirements for rolling stock each year by 10%, from 60% in 2016 up to 100% in 2019. While such provisions have yet to be formally implemented, the Act constitutes a very worrisome development on the US public procurement market. Likewise, in May 2014, the US House of Representatives passed an Appropriations Act which includes an amendment aimed at preventing the US Trade Representative from negotiating trade agreements that would further open up the US tendering market to foreign bidders. This would be enacted by prohibiting the allocation of funds to negotiate commitments which waive away provisions of the Buy American Act. Finally, a Water Resources Reform and Development Act imposed, among others, new Buy America restrictions on all iron and steel used in water-related projects.

### *II.2.2. Services and investment*

In the group of 65 trade-impeding measures implemented in the countries internal markets, this Report identifies **14 new measures** in the fields of services and investment, a number similar to the previous report, and comparable to the average of the last 6 years. The steadiness of this trend is a source of concern, and does not bode well for the global opening of markets to services and foreign direct investment. It also confirms the pressing need to continue the current efforts deployed at the plurilateral level (TISA agreement). While some countries embarked on a liberalisation path in certain sectors, they have also paradoxically maintained or deepened restrictions in other areas. This is all the more questionable, as the opening of these markets can contribute to further economic growth, tax revenues as well as better choices and savings for consumers.

In December 2013, **Argentina** raised the rate of the withholding tax applicable to certain purchases of goods and services by Argentinians abroad to 35% and extended it to the acquisition of foreign currency for foreign travels.

As mentioned previously, **China** restricted the operation of foreign-owned vessels in the international water relay of Shanghai, which does not tally with the regulatory relaxation spirit of the recently established Free Trade Zone. In May 2014, China also announced a new algorithm for mobile payments systems without disclosing necessary technical details to foreign companies, making it effectively impossible for the latter to comply with the standard and therefore to access the mobile payments market.

In autumn 2013, **Egypt** changed the interpretation of the Importers' Registrar Law of 1982 effectively blocking the possibility for foreign investors to carry out import activities, which

was previously possible only through an indirect stake in the Egyptian importing agency. While a more lenient interpretation was re-introduced in spring 2014 further to many complaints, the applicable law has not been modified and still contains discriminatory elements, maintaining the current uncertainty as to further trade disruptions.

In **India** the new Government announced the suspension of a plan adopted in 2012 for the opening-up of the multi-brand retail sector to foreign investment, a move which has the capacity to further contribute to the closure of that sector.

In April 2014, some sectors, like warehousing and horticulture, were further closed to foreign investments after **Indonesia** revised its Negative List of Investments (even if some other sectors benefited from some liberalisation). The Indonesian authorities also imposed an obligation for stores to ensure that 80% of the goods they offer for sale were domestically produced. An exemption is possible but it appears time-consuming and administratively slow. This local content requirement will put a burden on retailers relying on imported product lines and will affect exports to Indonesia. The limitation will also strongly impact Indonesian consumers, depriving them of a wider choice of products in terms of price and quality.

**Russia** too has implemented a number of measures which can negatively affect the activity or establishment of foreign companies. In March 2014, joint stock companies and their subsidiaries were forbidden to take certain types of corporate decisions without prior permission of the Ministry on Industry and Trade. Another Law adopted in May 2014 appears to have added certain administrative steps to corporate establishment procedures, even if it also foresees a streamlining of the latter. Russia also resorted to localisation requirements in the telecommunication services area, by issuing, in June 2014, a draft Law (formally adopted afterwards) obliging all internet companies to store data about their users only on servers located in the Russian territory.

In the beginning of 2014, **Turkey** enacted Law 6094 on the utilization of renewable energy resources for the purpose of generating electrical energy. This law puts in place more favorable treatment for energy generation when local content is used.

In the reference period, some countries also adopted limitations to the cross-border movement of employees and service-providers. This was, for example, the case in **Switzerland**, where following a modification of the Swiss Decree on posted workers in July 2013, the pre-notification of employment of a foreigner requires a compulsory statement about future salary amounts. This requirement makes it more difficult to introduce the pre-notifications and therefore to employ foreign workers in (often foreign) companies.

Finally, in **Vietnam** a new draft Decree on Information Technology Services intends to introduce limitations on the foreign supply of IT services, in particular by limiting public procurement to Vietnamese organisations and through Vietnam-located servers, or by imposing requirements such as certificates and licenses on the delivery of cross-border services.

### II.3. Stimulus packages and export support measures

In the reporting period, State support measures continued to distort the global level playing field, with approximately **the same number of schemes (23)** having been identified as during to the last monitoring exercise (bearing in mind the difficulties to monitor this type of policy instrument). There was a rise of internal stimulus measures, while the use of export subsidies seems to have been contained this time (8 measures compared to 12 in the previous report). That said, with the worst phase of the crisis behind us, stimulus measures should have less and less place in policy-making. They are particularly detrimental measures, as they often affect trade at different stages of the value chain, penalise entire sectors which are deprived of support, and maintain inefficiencies with long term repercussions. Hence this report takes a more thorough look at some of this year's provisions below.

**Russia** has relied heavily on subsidies to promote the activity of its companies. In December 2013, it allocated 3 billion USD (2,4 billion €) worth of state guarantees to support the export of industrial products in 2014. In April 2014, it approved the State Program "Development of foreign economic activities", under which it aims at enhancing the effectiveness of financial support to exporters and improving access to foreign markets for Russian goods. The federal budget allocated for this task is to reach 17,8 billion roubles (310 million €) by 2018. Russia will also subsidise its chemical producers' loan expenses in 2014-2016 under the State Program 'Development of industry and enhancement of its competitiveness'. Through another State "Program for the Development of Pharmaceutical and Medical Industries" in 2013–2020 Russia will dedicate ca. 100 billion roubles (1,75 billion €) in state support to increase the share of domestic medicines and medical goods on the market and to increase their exports, while guaranteeing preferences in public procurement for domestic producers and promoting the localisation of production. The automotive sector also benefits from state financing through a subsidy scheme compensating expenses for the maintenance of jobs and operational costs related to the use of energy and fulfilment of environmental obligations (which could include costs generated by the "recycling fee").

**Japan** was one of the countries which adopted an important array of support measures. Under the "Japan Revitalization Strategy" announced in June 2014, the Japanese authorities

earmarked a total of 203 commitments amounting to 1,48 trillion yen (10,3 billion €) in loans, equity participations and guarantees with the aim to finance overseas acquisitions by Japanese companies, promote natural resource exploitation overseas, support Japanese financial institutions involved in overseas expansion strategies of Japanese firms, and co-finance the overseas businesses of SMEs. In another step, in April 2014, the Nippon Export and Investment Insurance increased the maximum amount of insurance coverage to 30 billion yen (210 million €). It aims at supporting Japanese companies to expand exports of key goods such as cars and electronics to emerging markets. Japan also approved an additional 15 billion yen (105 million €) for the Wood-Use Points Programme, extending the functioning of the programme until October 2014.

Also at the forefront of newly adopted subsidy measures was **China**. For example, in June 2013, the Chinese authorities issued "Rules on the Management of Central Budgetary Investment Subsidy", which provide for state support, including loan interest discounts for public or private investment projects, in areas deemed sensitive from the point of view of market functioning. Such scheme would, among others, cover investment projects promoting technological development and high-tech industrialisation. In June 2014, China established a subsidy scheme to its semi-conductors industry, with the issuance of "Guidelines to Promote National Integrated Circuits Industry Development", which provide for financial support through special funds, tax support policies, and other tools. The value of the central support fund would exceed 100 billion RMB (13,1 billion €). Furthermore, in March 2014, Chinese authorities confirmed they would provide subsidies to Chinese grain producers of up to 100 billion RMB (13,1 billion €). Finally, in May 2014, a subsidies scheme was adopted in support of technical innovation and industrial development of the rare earth industry. While some tranches are partly intended for R&D, other uses include the industrialisation of rare earths-based high-end applications, boosted already now by export restrictions on rare earths inputs.

Three measures were identified in **Egypt**, where the government earmarked 2,6 billion EGP (290 million €) to export subsidies for 2014-2015. Most importantly however, in the reporting period two more "Stimulus packages" were adopted, worth 60 billion EGP (6,7 billion €) in total (about 3% of GDP).

In September 2013, **India** approved the National Food Security Act, which entails the massive subsidisation of rice, wheat and coarse cereals supplies to around two-thirds of the Indian population. The Bill appears as an unprecedented endeavour at global scale to supply highly subsidised agricultural goods by a state through a rights-based scheme. The amounts involved reach 1,24 trillion rupees (16,2 billion €) for the 2013-14 period. The issue of public stockholdings and related Indian subsidies were specifically discussed at the WTO 9<sup>th</sup> ministerial conference held in December 2013 in Bali, where an interim "peace clause" was

agreed until December 2017, ensuring that WTO members will not challenge, under certain specific conditions, the public stockholding programmes of developing countries in breach of their agriculture domestic support commitments. In March 2014, India also notified export subsidies of 3300 rupees (43 €) per tonne on raw sugar shipments (with a quantitative limit of 4 million tonnes eligible for subsidies).

**Thailand** launched the Second Phase of its Eco-car scheme in September 2013, providing numerous tax incentives (corporate tax, import duty and other tax benefits). Eligibility to the scheme is conditioned, *inter alia*, on the achievement of substantive investments and production (both in terms of manufacturing lines and volume), with a threshold for manufacturing capacity of 100.000 cars/year (from the 4<sup>th</sup> year onwards). Such a high volume of production is not likely to be absorbed by the domestic market, therefore these tax incentives have the potential to constitute cross-subsidies to export activities.

In November 2013, **South Korea** announced a support scheme of 900 billion KRW (662,4 million €) for the development of the offshore infrastructure sector to be enacted through public-private partnerships with the aim to preserve Korea's status on the global shipbuilding and maritime industry market. This scheme is to favour home-produced equipment through various policy means and will rely on the use of the Export-Import Bank of Korea and the Korea Trade Insurance Corporation to guarantee orders for the Korean yards.

**Turkey** issued a decree modifying, in particular, its investment incentives legislation, extending in time the interest rate support for strategic investments and higher incentives for "early" investments. The new decree also amends the list of priority sectors enjoying higher levels of state support. It also adds new target sectors, including investments in liquefied natural gas infrastructure. Additionally, the Turkish government adopted rules enacting state guarantees to private companies carrying out build-operate-transfer projects, whereby the State Treasury will take over the debt of the firms in case of bankruptcy, even if due to their own negligence (up to 85% of the value).

In March 2014, **Saudi Arabia** created a "Saudi Arabian Company for Industrial Investment" with a capital of 533 million USD (427,3 million €) to support the conversion of a range of industries that rely on petrochemicals, plastics, fertilisers, steel, aluminium and basic industries with a view to diversifying the economy.

Finally, on 9 November 2013, Washington State adopted new legislation extending the state's aerospace tax incentives through 2040. If implemented, these incentives, estimated at 8,7 billion USD (6,8 billion €) will be the largest targeted state tax incentive for the civil aerospace industry in the history of the **United States**.

## II. 4. Trade defence instruments

The use of trade defence instruments is legally justified if the relevant rules are respected. For that reason, such measures are not listed in this Report as potentially protectionist, as they aim precisely at correcting an anticompetitive commercial behaviour. This chapter presents, in a general manner, trade defence related activities of the EU and of third countries against the EU.

As predicted in last year's report, the number of **measures in force against the EU or its Member States** at the end of the period analysed (1 July 2014) has **increased from 136 to 147**, in line with previous trends. This follows an increase in the number of new investigations one year ago, often concluded by the imposition of new measures. As in the past, antidumping represents the majority of measures in force, while safeguards constitute *circa* one third of the total.

The **number of measures imposed** by third countries during the period analysed in this report **increased from 18 to 34**. The majority of the cases are anti-dumping measures (18), but the number of safeguards remains significant. Countries most active in the imposition of measures were **India**, followed by **China, Morocco** and **Indonesia**.

The **number of new investigations** initiated by third countries against the EU during the period between 1 June 2013 and 1 July 2014 **increased by around 15%** compared to the previous period (49 versus 42 new investigations). The trend in the last two years shows that the number of investigations initiated against the EU is clearly rising. While the number of safeguard initiations remained the same, the recent increase is mainly due to new anti-dumping cases which target directly EU exports. **India** and **Brazil** are by far the countries having initiated the most investigations against the EU. The countries mainly using safeguards were India, Indonesia and Colombia. On the other hand, anti-dumping was mostly used by Brazil, followed by India and Australia.

Even if the number of safeguard measures imposed in the period of analysis was lower than previously, the **high number of new safeguard measures** remains an issue of concern. Indeed, safeguards are implemented as a result of a sudden increase of imports and - unlike dumping or subsidy investigations - they do not require the establishment of unfairness elements. In addition, safeguard measures are imposed *erga omnes*, whether or not individual countries cause any injury to the domestic industry. This instrument should therefore be used with extreme caution.

The European Commission continues to monitor trade defence cases closely in order to ensure that measures are applied in strict observance of the WTO rules.

Country	Product	Duty type	Type of Measure	Date of Imposition
Argentina	PVC profiles	AD	Definitive	2014-Jun-03
Australia	Prepared or preserved tomato products	AD	Definitive	2014-Apr-16
Belarus	Light commercial vehicles	AD	Definitive	2013-Jun-16
Brazil	Ethanolamines and triethanolamines	AD	Definitive	2013-Nov-04
Brazil	Laminated steel	AD	Definitive	2013-Oct-04
China	Alloy Seamless Tubes	AD	Provisional	2013-Dec-17
China	Polysilicone	AD	Definitive	2014-Apr-30
China	Polysilicone	CVD	Definitive	2014-Apr-30
Colombia	Steel bars and rods	SG	Provisional	2013-Oct-09
Colombia	Wire rods	SG	Definitive	2014-Apr-30
Eurasian Customs Union	Porcelain tableware and kitchenware	SG	Definitive	2013-Sep-29
India	Cefadroxil Monohydrate	AD	Definitive	2013-Oct-10
India	Methylene Chloride	AD	Definitive	2014-May-21
India	Polyvinyl Chloride Suspension Grade Resin	AD	Definitive	2014-Jun-13
India	Saturated fatty Alcohols	SG	Provisional	2014-May-26
India	Sodium Nitrate	AD	Provisional	2014-Mar-19
India	Sodium Nitrite	SG	Definitive	2014-Feb-26
Indonesia	Casing and Tubing	SG	Definitive	2013-Aug-06
Indonesia	Cotton yarn other than sewing thread	SG	Definitive	2014-Jun-06
Indonesia	Wheat Flour	SG	Definitive	2014-May-04
Jordan	Bars and Rods	SG	Definitive	2013-Jun-16
Kazakhstan	Light commercial vehicles	AD	Definitive	2013-Jun-16
Morocco	Bars and Rods	SG	Definitive	2014-Apr-01
Morocco	Hot rolled steel sheets	AD	Provisional	2013-Nov-13
Morocco	Paper A4	AD	Provisional	2014-Feb-13
Russia	Combine Harvesters	SG	Definitive	2014-Jan-01
Russia	Light commercial vehicles	AD	Definitive	2013-Jun-16
South Africa	Frozen potato chips	SG	Provisional	2013-Jul-01
South Africa	Potato chips	AD	Provisional	2013-Dec-20
Thailand	Hot rolled steel flat	SG	Definitive	2013-Sep-15
Turkey	Float glass colourless	AD	Definitive	2013-Nov-17
Turkey	Water heaters	AD	Definitive	2013-Sep-19
Ukraine	Porcelain tableware and kitchenware	SG	Definitive	2014-May-23
Vietnam	Vegetable oils	SG	Definitive	2013-Sep-06

**TDI measures imposed, 1 June 2013 - 1 July 2014**

### III. Measures lifted in line with the G20 rollback commitment

#### *Effective roll-back*

The G20 roll-back commitment contributed so far to the effective removal<sup>16</sup> of a low number of measures - only one out of seven on average (119 measures repealed out of a total stock of 858 adopted). In the 13 months monitored, besides a constantly high number of new measures imposed, this Report identified an alarmingly low number of only **12 previously-imposed measures which were either removed or suspended**. This represents 7% of effective roll-back and is clearly below par, bearing in mind that the G20 nations regularly commit to removing the stock of trade-restrictive measures. Action must be taken in order to make this pledge credible and the G20 capable of delivering.

The following previously adopted restrictive measures were lifted over the reporting period:

#### Argentina:

- ratified the compensation agreement between the Argentine Ministry of Economy and the Spanish company Repsol regarding the expropriation of 51% of Repsol's shares in YPF S.A.

#### Brazil:

- decreased import duties: from 55% to 35% for peaches (code 2008.70.90); from 35% to 16% for bicycle tyres (code 4011.50.00); from 12% to 6% for banknote paper (code 4802.57.91); from 35% to 12% for porcelain (code 6907.90.00).

#### China:

- enacted a measure which annuls the negative effects of previously imposed measures on VAT affecting the logistics industry, thereby suspending the 6% VAT tax and 0,8% additional local surcharge on gross proceeds (including freight costs) from the companies' clients in China.

#### Egypt:

- lifted the ban on brokerage companies and fund managers to trade with shares listed abroad, therefore liberalising transfers of hard currency abroad.

---

<sup>16</sup> This Report considers as effective removal the unilateral and official decision to reverse the measure taken in the past.

- cancelled real estate registration taxes that were previously imposed on mortgage companies owned by foreign investors.

Malaysia:

- re-authorized the imports of all parts of pork and pork products, as a result of which all registered importers can import pork and pork products (on the condition they have an import permit for the consignments) and have no longer to be member of any business association to import.

Philippines:

- Removed the import ban on poultry and poultry products originating from countries where an outbreak of avian influenza was previously reported.

Russia:

- did not extend the previously imposed special duty of some kinds of engineering hardware

Ukraine:

- announced its intention to abandon the re-negotiation of WTO tariff commitments under Article XXVIII of GATT
- did not implement quotas for 2014 on imports of coking coal and coke.
- cancelled the permits system needed for each imported batch of plant protection chemicals.

Vietnam:

- partially revoked the requirement of licensing applied to some steel products.

***Trade facilitating measures***

Beyond the main vocation of monitoring protectionist tendencies, this Report lists also briefly (to the extent sources permit it) measures undertaken by countries to autonomously improve trade or investment conditions. The said provisions cannot qualify as eliminating previously raised obstacles and fulfilling the G20 roll back pledge, but certainly contribute to the global liberalisation of trade flows, and the mitigation of existing protectionist trends. It must be underlined however that some of the facilitating measures (especially related to decreases of customs duties) are parts of trade-regulating mechanisms that also often produce duty increases, as a means to limit commercial transactions.

In the observed period **36 trade-facilitating measures** were identified (according to the same methodology as in the case of trade-restrictive measures) and were enacted by: **Argentina, Brazil, China, Mexico, Nigeria, Philippines, Russia, South Africa, Turkey and the United States.**

The measures are listed in detail in Annex 2 of this Report.

## IV. Conclusions

The 11<sup>th</sup> edition of the EU's Report on potentially trade-restrictive measures points to a **sustained trend in the adoption of new trade impediments**, with an ever more **limited roll back** of previously-introduced measures. The use of many types of instruments has gained in intensity meaning that countries use now a plethora of measures to protect their economies.

The year 2014 has shown that no economic growth can be taken for granted, even in fast developing regions. That said, it is certain **emerging countries that have again resorted to restrictive measures to the greatest extent**, as was the case last year. Yet in the current state of economic uncertainty and political tensions, it is all the more important not to succumb to protectionist temptations. Healthy trade channels are the key element for the global economy to keep recovering - to boost growth in countries where it is lagging behind and to maintain it where it has been healthy so far. **The good functioning of the complex network of global value chains should be the aim of all countries** and this means ensuring that trade flows are left unimpeded to the benefit of *all*.

That said, with regard to this latter goal, this Report comes to unfortunate conclusions:

- In the thirteen months' period observed, EU trade partners have maintained protectionist trends, as the **number of new potentially trade-restrictive measures has been as high** as in the last reporting time span. Most strikingly, the number of previously imposed measures which were effectively rolled-back this year has fallen even more sharply than previously, and hence **the G20 roll-back commitment seems now to be increasingly breached**. On a more positive note, many countries implemented a range of trade and investment facilitating measures, but certainly not enough to compensate for their trade-obstructive actions.
- The number of **measures applied at the border to quickly obstruct trade, already high last year, continued to rise**. This is partly due to an unprecedented **increase in the use of restrictions on exports** of natural resources. This latter trend, seen already in previous years and now clearly exacerbated, represents a great danger to the effective functioning of value chains, and can eventually harm its own perpetrators, as no country is self-sufficient in terms of resources needs.
- Furthermore, the number of unjustified **measures regulating domestic markets, of a technical or fiscal nature, has soared**. This also included schemes aiming at **forced localisation**. Some of these provisions continue to be part of comprehensive policies

aiming at shielding large parts of the corporate fabric from foreign competition. It is all the more worrisome, as such measures are often difficult to catch with international disciplines. **Investment and services were also again affected by negative policy action**, and a sustained trend in **restrictions in the field of government procurement**.

- A number of countries **continued to boost their commercial potential by granting significant state support**, a condemnable practice, which can seriously affect the level playing field in many world markets.

Against this background, in line with the conclusions of the recent Summit in Brisbane, the **G20 countries** will have to meet the challenge of handling the difficult issues of promoting global growth and ensuring the healthy implementation of trade rules. However, as this report shows, **many countries still breach these rules, with the illusive aim of ensuring growth in their own economies at the expense of others**. Most of these countries, enacting beggar-thy-neighbour policies, are actual members of the G20. This puts an even greater responsibility on leaders to honour their commitment, and especially to make **further and real efforts to revive the rolling back of long-standing impediments**. This Report concludes with a call to world leaders to ensure that the outcome of the Summit translates into effectively freer and fairer trade around the globe, in order to address today's numerous economic challenges.

## ANNEX 1

## New potentially trade-restrictive measures (1 June 2013 – 30 June 2014)

*In italic: Draft measures*

Country	Date of adoption/enacting (where available)	Measure
<b>Algeria</b>	30 December 2013	Restriction on imports in the frame of Loi n° 13-08 of second-hand equipment allowed only in the absence of local production of similar equipment, and of goods in general permitted only in partnership with a local firm, which must own at least 51% of the capital.
	30 December 2013	Registration tax on new imported vehicles in the frame of Loi n° 13-08, together with a requirement that car dealers carry out an activity of industrial or semi-industrial nature, fiscal advantages for locally manufactured goods or for local producers.
	30 December 2013	Restriction and/or ban on exports, notably of leather, scrap metal, used car batteries in the frame of Loi n° 13-08 – makes products subject to an administrative procedure and the requirement of downstream products exports in conjunction with the inputs.
<b>Argentina</b>	June 2013	Resolution 248/2013 of the Ministry of Economy- modifies the process of submission of the Sworn Declaration of Composition of Product to trade national or imported textile and footwear products to now be submitted through the customs electronic system SISCO and making the declaration subject to a review by several governmental entities associated to the system, which results in delaying or denying the importation of the good.
	2 December 2013	General Resolutions 3554, 3555, and 3556/2013 - set reference values for imports of certain apparel products, such as shawls, scarves, raincoats, and the like, as well as certain toys.
	14 November 2013	General Resolution 3547/2013 - set reference values for inflatable swimming pools.
	3 September 2013	Decree 1229/2013-PEN - transposes into national legislation Mercosur Decision N° 37/2012 and extends until end of 2014 import tariffs above the MERCOSUR Common External Tariff (CET) for certain toys.

	28 March 2014	Extension (based on Mercosur Directive N° 8 of 28.03.2014) of the application of additional 100 exemptions from the Mercosur Common External Tariffs for one year as from 22 January 2014 – increases duties on articles for fireworks, to 20%, and on sparkling wines, herbicides based on alachlor, ametryn, atrazine or diuron, moulds for metal–injection or compression types, as well as other vessels for pleasure or sports (jetskis, motorskis, rowing boats) to 35%.
	21 January 2014	AFIP General Resolutions 3579 and 3582/2014 - limit the number of purchases abroad by mail or courier to two per year, up to a total of 25 USD and above those limits, makes these imports subject to the General Imports Regime and online sworn declaration, with a 50% import duty.
	3 December 2013	Increase from 20% to 35% of the surcharge applied to purchases made by Argentine residents (using credit or debit cards issued in Argentina) of goods or services outside of the country, of purchases made in foreign currency through websites, and extension of the system to the acquisition of foreign currency for traveling.
	3 December 2013	Decree 2014/2013-PEN - increased export taxes for soy residues and soy by-products used in animal feeding from 5 to 32%.
	5 December 2013	General Resolutions 3557/2013 and 3578/2014 - set reference values for exports of certain raw and tanned hides and skins.
	10 July 2013	General Resolutions 3513, 3514/2013 - set reference values for imports of certain products of iron or non-alloyed steel, as well as for exports of honey.
	9 August 2013	General Resolutions 3521, 3522/2013 - set reference values for imports of certain synthetic fibres, certain plastic toys and office equipment items.
		General Resolutions 3518, 3519/2013 - set reference values for exports of Argentine squids and maté herb.
	January 2014	Law 26929 and implementing Decrees 2273/2013 and 2/2014 - increased the internal taxes on sales of high-end cars, boats, planes and motorcycles, depending on the vehicle's value.
<b>Brazil</b>		Inclusion in the list of 100 exceptions to the Mercosur Common External Tariffs of 6 products with a duty rate of 20% (hydrogenated castor oil, white mineral oils, hydrogencarbonate, ricinolic acidmaching centers, for speed changers, including torque converters, reducers, multipliers, and gear boxes) and removal from the list other 6 products.

	17 January 2014	Decreets 8.184, 8.185, 8.186 grants up to 20%, 25% and 18% of price preferences in Government Procurement to – respectively – locally produced printers and data processing machines, to locally produced executive jets, and to local software services.
	12 February 2014	Decree 8.194 - grants up to 25% of preferences in Government Procurement to certain locally produced IT equipment products from HS chapters 84, 85 and 90.
	June 2014	<i>Announcement of reintroduction of the Special Regime for Reimbursement of Fiscal Contributions for Exporting Companies - "Reintegra" programme, which has expired at the end of 2013.</i>
<b>China</b>	31 December 2013	MOFCOM Notice 97/2013 - imposes non-automatic import licensing upon certain chemicals, machinery and electrical goods, ships and boats.
	February 2014	Ban on pigs and pig products from Poland without recognition of surveillance and control measures put in place in the well-defined ASF-affected area in Poland, which contravenes to China's WTO obligation to recognise the concept of disease-free area.
	March 2014	Requirement by local Chinese border inspection posts (CIQ) to present certificates of customs entry per production batch of wines and spirits (instead of a per brand approach).
	27 June 2014	Risk assessment on phthalates in spirit drinks resulting in a disproportionate restriction in imports.
	June 2014	<i>Draft version of the new Chinese Food Safety Law containing additional stringent food safety requirements, with very lengthy and non-transparent application processes, in particular for the animal sector (such as exports of meat, fisheries and dairy products), including a ban on OEM (Original Equipment Manufacturing), i.e. preparations of products using ingredients from diverse origin.</i>
	23 December 2013	Rules on the Examination of Production License for Infant Formula Manufacture (QS Rules 2013 Version) imposing the mandatory requirement of co-location of wet-dry mixed process on manufacturers that use imported base powder.
	1 May 2014	New rules for imports of infant formulas and dairy products – establish official registration of imports with CNCA, under the authority of AQSIQ and well as registration of importers.
	May 2014	<i>New vetting procedure for IT products and services imposing "security and controllability" of products and services used for government procurement and critical industries in relation "to national security and the public interest".</i>

December 2013	Notice 191 issued by the China Food and Drug Administration (CFDA) – requires that cosmetics imported in China must be marketed in their country of origin, with as consequence the rejection of shipments accompanied by the previously accepted standard "Free Sales Certificates".
31 March 2014	Order 650 by the State Council establishing a new Basic Regulation on medical devices, imposing among others a new list/catalogue approach on clinical trials, and a too short transition time between promulgation and implementation.
2013 - 2014	Imposition of new licensing terms to foreign companies by Chinese courts in contradiction to terms agreed under FRAND conditions, due to alleged breach of the Chinese antimonopoly law.
January 2014	New circular imposing the obligation for Military personnel to purchase domestic brand vehicles.
June 2014	Notice by the CAAC (Civil Administration of China) imposing states preference for domestic airlines or joint-ventures in the purchase of tickets for government personnel travelling on business purposes.
1 <sup>st</sup> quarter 2014	Instruction by State Postal Bureaus and local postal regulators to express delivery companies to connect their internal CCTV monitoring appliances to the regulator's system, in order to enable postal bureaus to have real-time access and monitor companies, at their own cost.
2014	Preclusion of foreign-owned (foreign-flagged) vessels to engage in international relay in Shanghai, unless owned by a Chinese company.
End of 2013	Shut-down of government-run website <a href="http://www.12398.gov.cn">www.12398.gov.cn</a> – as an important source of electricity market information, and recent dissolution of the State Electricity Regulatory Commission - further limited access to information about the electricity market for foreign players.
May 2014	Announcement by NDRC and the PBOC of the algorithm for mobile payments without publication to foreign companies – restricts the use of the mobile payments standards and access the mobile payments market.
March 2014	Announcement of subsidies to Chinese grain producers in amounts reaching 100 billion RMB.
24 June 2013	National Development and Reform Commission's Rules on the Management of Central Budgetary Investment subsidies – establishes subsidies and loan interest discounts for certain governmental or private investment projects, including in the area of high-tech industrialization.

	2014	Anti-trust investigations of several foreign companies lacking transparency and without respect of procedural rights, taking into account issues extraneous to genuine competition considerations.
	17 January 2014	Implementing Regulations of the Law on Guarding State Secrets – introduce unclear provisions leading to uncertainty in terms of compliance and possibly erroneous or discretionary interpretation by courts.
	30 May 2014	Measures on the Administration of Subsidy Funds for National IOT Development and Rare Earth Industry (Cai Qi (2014) No. 87) – establishes a subsidy scheme in support of technical innovation and industrial development of the rare earth industry, including for the industrialization of rare earths-based applications.
	24 June 2014	Guidelines to Promote the National Integrated Circuits Industry Development - provide for a support policy to the IC sector, through a national and regional support funds, and other financial support measures.
<b>Ecuador</b>	14 June 2013	Resolution N. 299 – Establishes a non-automatic import licence regime for various food products (meat, butter, cheese, potatoes).
	19 November 2013	Comex Resolution 116 - reforms the Comex Resolution 450 stating the list of products subject to previous import controls, requesting the submission of a Certificate of Recognition issued by the Ecuadorian authority for standardisation (INEN) and including a list of 293 products to be covered by this control process (extended in January 2014 to 4 more products).
	24 January 2014	MIPRO Agreement 14114 - establishes an Operators Registry whereby all importers have to register their imports in the Ministry of Industry and Productivity.
<b>Egypt</b>	16 February 2014	Ministerial Decree No. 105 - suspended the import for commercial purposes of motorcycles and tuk-tuks for 1 year, and the import of their components for 3 months.
	February 2014	Decision by the Finance Ministry to increase the cigarette prices by EGP 0.5 to EGP 0.75 for local brands and EGP 1 to EGP 1.5 for imported products.
	November 2013	Presidential Decree No. 82 amended some provisions of law No. 89 of 1998 on Tenders and Competitive Negotiation and allowed government officials to skip public tender processes in cases of undefined “urgent” matters.

	13 May 2014	Decision by the Government to stop the import of products which have a local equivalent for the purpose of public tenders, together with an announcement for a Local Production Protection Law instructing public bodies to buy local products whenever possible.
	Autumn 2013	Re-interpretation of the Importers' Registrar Law No. 121 of 1982, stipulating that companies wishing to import goods for trading purposes must be Egyptian - resulted in <i>de facto</i> suspension of import activities unless indirect ownership of the Egyptian importing agency is ensured.
	November 2013	Suspension of exports of rice until further notice.
	20 January 2014	Imposition of an export tax on construction sand (40 EGP per ton).
	June 2014	Ban on the export of solvents used in paint manufacturing.
		Allocation of 2.6 billion EGP to export subsidies in fiscal year 2014/2015.
		Revision of budget for 2013/2014 - included two "Stimulus packages" of ca 60 billion EGP
<b>India</b>	8 July 2013	Customs notification - increases import tariffs for sugar from 10 to 15%.
	28 June 2013	Customs notification – establishes specific tariff values for imports of certain kinds of vegetal oils, poppy seed, gold, silver as well as areca nuts.
	13 August 2013	Customs notification - increases import duties on gold ores and gold dore bar to 8% and silver dore bar to 7% and import duties on gold bars, gold coins, silver in any form including ornaments and platinum to 10%.
	20 December 2013	Customs notification - increases the specific element of the combined import tariff on certain products of natural rubber.
	17 September 2013	Customs notification – increases import duties to 15% on articles of jewellery and parts, on articles of goldsmiths' or silversmiths' wares and parts, of precious metal or of metal clad with precious metal; and increases import duties to 2.5% on half-cut or broken diamonds, cut and polished diamonds including lab-grown diamonds and coloured gem stones.
	20 January 2014	Customs notification - increases import duties of certain vegetal and animal fats and derivatives from 7,5% to 10%.
	3 January 2014	Registration requirement for 15 categories of IT and consumer electronic products – making printing, embossing or engraving of the registration information obligatory on the product and the packaging material.

11<sup>TH</sup> REPORT ON POTENTIALLY TRADE-RESTRICTIVE MEASURES

	1 July 2014	Previously announced imposition of in-country security testing and certification of telecom network elements becomes effective.
	August 2013	Restrictive re-interpretation of the 2011 Food Safety Standards Regulations on labelling and packaging – precludes the use of stickers on packaging for product information presentation (except for India-specific information).
	2014	<i>Suspension by the government of the 2012 legislation liberalisation access to foreign investment in the sector of multi-brand retail.</i>
	27 January 2014	Imposition of an export duty of 5% on iron ore pellets.
	17 June 2014	Introduction of a minimum export price of 300 USD per ton on export of all varieties of onions (further increased to 500 USD on 2 July 2014).
		Notification 56/RE-2013 - restricted the exports of Dimethylamine Hydrochloride, Sodium Cyanide and Sodium Fluoride, and made them subject to licensing.
	26 June 2014	Introduction of a minimum export price of 450 USD per ton on potatoes.
	3 March 2014	India notified export subsidies of Rs 3.300 a tonne on raw sugar shipments during February-March period, and thereafter the subsidy is recalculated every two months taking into account the average exchange rate of rupee vis-a-vis the dollar.
	12 September 2013	National Food Security Act - allocates 1.247 trillion Rupees in 2013-14 for the wide supply of rice, wheat and coarse cereals at highly subsidized rates.
<b>Indonesia</b>	30 September 2013	Trade Minister Regulation 61/2013 on the Provision of Import of Certain Products revising Regulation 83/2012 – imposes, among others, additional import requirements related to technical inspection, and removes the exclusion of cosmetics from products subject to import verification.
	5 December 2013	Ministry of Finance Regulation 175/2013 on the collection of Income Tax for imported goods - increases the Import Income Tax for 502 products from 2.5% to 7.5%, starting from 6 January 2014.
	16 April 2014	Government Regulation 22/2014, amending Government Regulation 41/2013 - increases the luxury tax for motor vehicles from 10%-125%, depending on the type of vehicles and engine capacity.

31 December 2013	Finance Minister Regulation 207/2013, replacing Regulation 62/2010 - raises excise taxes on alcoholic beverages as from 1 January 2014, based on alcohol content and to higher levels on imported than on domestic-like products for two product categories.
21 February 2014	Minister of Industry Regulation No. 07/2014 on Mandatory SNI for baby garments.
26 November 2013	Labeling Regulations No. 67/2013 (amending Reg. 22/2010) and 10/2014 - impose that goods are required to contain a product label in Bahasa Indonesia language, and that labels must be permanent, while the use of sticker is prohibited, with the caveat that in the case of imported goods labels must be attached before the imported products enter the Indonesian Customs Area.
11 April 2013	Minister of Health Regulation 30/2013 - obliges producers to put health warnings on packaging of processed food.
19 December 2013	Industry Law (Law Nr. 3 on Industry) - strengthens the state's role to control strategic industries, impose the use of domestic products, encourage localised production, increase the use of national standards, and to initiate trade measures for industrial rescues.
11 February 2014	Trade Law (Law Nr 7) - strengthens supervision and control of the circulation of goods, mandates the Government to impose import and export restrictions of goods for national interests, and provides discretionary powers to the Government and the Parliament to review and/or annul international trade agreements.
24 April 2014	Presidential Regulation 39/2014 – revises the Investment Negative List, foreclosing certain sectors to foreign investments, like warehousing and horticulture (while opening others, e.g. pharmaceuticals, transportation, telecommunication or energy).
12 December 2013	Ministry of Trade Regulation 70/2013 replacing Regulation 53/2008 regarding guidelines on the arrangement and development of traditional markets, shopping centres and modern stores – imposes an obligation to ensure 80% of the products on sales in certain stores are domestic products.
11 January 2014	Government Regulation Nr. 1/2014 concerning the Implementation of Coal and Mineral Mining Business Activities - stipulates that holders of Contracts of Work must refine their mining products domestically, that holders of mining business license must process and refine their products domestically, and sets the minimum levels of domestic processing for metallic minerals, non-metallic minerals and ores prior to export.

11<sup>TH</sup> REPORT ON POTENTIALLY TRADE-RESTRICTIVE MEASURES

	11 January 2014	Ministry of Finance Regulation No. 6/2014 - imposes a progressive export tax (up to 60% by 2016) onto certain minerals and ores.
	1 August 2013	Ministry of Trade's Regulation 38/2013 – imposes requirements on importers of mobile phones, handheld computers and tablets to prove previous import activities and local aftersales activity, requirements regarding distribution and the establishment of industrial activity in Indonesia.
<b>Japan</b>	24 June 2014	Allocation of state support under the "Japan Revitalization Strategy to the "E-FACE" programme to reinforce financing for: i) overseas M&A by Japanese companies, ii) promotion of overseas natural resource exploitation and iii) Japanese financial institutions which support overseas development of Japanese companies and iv) overseas business of SMEs.
	April 2014	Increase of the maximum amount of insurance coverage to 30 billion yen by The Nippon Export and Investment Insurance in order to support Japanese companies to expand their exports.
	14 June 2014	Decision by the Cabinet to open under the "Japan Revitalization Strategy" through the Shoko Chukin Bank a "Global Niche Top Support Financing Scheme" worth 13.5 billion yen for the support to the overseas development of SMEs.
		Ministry of Agriculture, Forestry and Fisheries' allocation of 15 billion Yen for the discriminatory Wood-Use Points Programme, and extension of the Programme.
<b>Mexico</b>	13 December 2013	Decree amending the Law on General Imports and Exports Tariffs - increased customs duties on certain furniture items and several agricultural products, including white corn.
	5 December 2013	Implementation of import licensing requirements on 133 tariff lines of steel products and on slot machines.
	2 September 2013	Decree amending the Law on General Imports and Exports Tariffs Mexico - increased customs duties on certain wood product items to 7%.
<b>Nigeria</b>	14 November 2013	Circular of 14 November 2013, amended in February 2014 - introduces tariffs and levies of up to 70% on imported cars and of 20% on tyres.
	1 January 2014	New Regulation and Guidelines on imports of fisheries products - reduces the number of import licences allocations for fisheries goods by 25%.
<b>Pakistan</b>	26 June 2014	Regulation SRO No.568(I)/2014 - imposed a 5% duty on imports of certain foodstuffs and toiletries.

11<sup>TH</sup> REPORT ON POTENTIALLY TRADE-RESTRICTIVE MEASURES

<b>Philippines</b>	February 2014	Department of Finance Order 12-2014 - revised rules on the accreditation process for importers, requiring now an 'Importer/Broker Clearance Certificate' from the Bureau of Internal Revenue, before registering with the Bureau of Customs.
	3 September 2013	Republic Act 10620 on Toy and Game Safety Labelling – introduces country-specific labelling requirements on placement of warnings.
<b>Russia</b>	25 June 2013	Decision No. 138 of the Collegium of the Eurasian Economic Commission - increased import duties on certain drilling machines to 3.5% (brought to 2% as from 26 July 2014).
	4 June 2013	Decision N0121 of the EAEC Collegium - added 68 groups of organic chemicals to the Singe List of goods subject to prohibitions or restrictions on imports or exports by the CU members in their trade with third countries.
	5 July 2013	Russia's Federal Customs Service (FCS) notification of the termination on 1 December 2013 of the Agreement on the application of the Convention on the International Transportation of Goods with the use of TIR Carnets – resulted in the cancellation of the use of TIR Carnets by a number of the territorial customs entities (even if later postponed until 30 November 2014).
	25 June 2013	EAEC Collegium's Decision N0143, as amended by EAEC Decisions N0223 of 15.10.2013, and N012 of 05.02.2014 – establish a special import quotas on combine harvesters and their modules
	22 October 2013	EAEC Collegium's Decision N0234 - added oxycodone naloxone to the Singe List of goods subject to prohibitions or restrictions on imports or exports by the CU Member States in their trade with third countries.
	29 October 2013	The EAEC Collegium's Decision N0242 - established for Russia, Belarus and Kazakhstan tariff quotas for 2014 to import beef, pork and poultry, as well as certain types of whey powder or granules, without sugar.
	24 December 2013	The Russian Government's Resolution N01224 - establishes prohibitions and restrictions on the admission of goods originating in foreign countries and services provided by foreigners to public procurement for the needs of national defence and state security.
	25 December 2013	The EAEC Collegium's Decision Nr.307 - added raw hides and skins of pigs, tanned leather from skins of cattle and pigs to the Singe List of goods subject to prohibitions or restrictions on imports or exports by the CU Member States in their trade with third countries.

29 January 2014	The EAEC Collegium's Decision Nr.9 – establishes a new import duty rate for MWC paper at the level of 10%, which contravenes to Russia's WTO commitments (duty bound rate of 5%).
5 February 2014	The Federal Service for Veterinary and Phytosanitary Control notification NOFS-EN-8/1644, amended by letter NOFS-EN-8/1644 of 25.03.2014 - imposes restrictions on imports of pork, products containing pork, and raw pork starting 6 February 2014.
2 April 2014	Federal Service for Veterinary and Phytosanitary Control's notification NOFS-EN-8/5081– imposes additional restrictions on the import from Lithuania and Poland of finished products containing pork, with exception of finished feeds for cats and dogs, heat treated (at least 70 degrees Celsius, for at least 20 minutes) as from 7 April 2014.
5 May 2014	Federal Service for Veterinary and Phytosanitary Control's notification NOFS-EN-8/7351 - introduces restrictions on the import from Latvia of breeding pigs, semen of boars, pork, raw pork products, meat of wild boars, hunting trophies that have not undergone a complete taxidermy treatment, all kinds of feed and feed additives and used equipment for keeping, slaughter and butchering of pigs, as from 7 May 2014.
26 March 2014	Federal Service for Veterinary and Phytosanitary Control's Order - banned imports of food products from three Lithuanian cold storage terminals.
5 May 2014	The Federal Law N0114-FZ - extended the competence of the Government to impose restrictions on the import to Russia and export from Russia by individuals of goods for personal use.
18 June 2014	Attachment to the Council of the Eurasian Economic Commission's Decision N0115 entering into force on 18 June 2014 - extended the list of goods subject to sanitary and epidemiological control and state registration in the Customs Union to tubes and pipes, fittings, tanks and other parts of ferrous metals, copper, or aluminium.
31 January 2014	Decision 3 of the Council of the Eurasian Economic Commission - imposed an import duty of 5% on certain types of A/C motors.
28 March 2014	Decision 16 of the Council of the Eurasian Economic Commission imposed an import duty of 8,3% (further brought to 6,7%) on certain types of rolls for rolling mills.
February 2014	CU technical regulation on 'Safety of products of light industry' - sets stringent requirements regarding chemical substances of underwear garment and establishes a complicated conformity assessment procedure for imported goods.

6 March 2014	Collegium of the Eurasian Economic Commission's Decision Nr.39 - approved a list of products for which the customs declaration must be accompanied by a document on the assessment (confirmation) of conformity to requirements of the Technical regulations of the Customs Union for "Technical regulations for oil and fat products" (TR TS 024/2011).
18 March 2014	Collegium of the Eurasian Economic Commission's Decision Nr.44 - approved a list of products for which the customs declaration must be accompanied by a document on the assessment (confirmation) of conformity to requirements of the Technical regulations of the Customs Union for "Safety of furniture" (TR TS 025/2012).
26 March 2014	Ministry of Economic Development's Decision Nr.155 - grants preferences of 15% in relation to the contract price in public procurement auctions and tenders to participants who propose to supply goods originating from Russia, Belarus or Kazakhstan as from 31 December 2015.
28 October 2013	Ministry of Industry and Trade Order N01727 - forbid Joint Stock Companies and their subsidiaries as of March 2014 to take a series of corporate decisions without prior permission of the Ministry when foreign countries' bodies, foreign state's alliances or international organizations address to such companies requirements for providing information on, among others, their activities, circulation or acquisition of securities, amending their agreements with foreign counterparts, alienation of shares in foreign firms.
5 May 2014	The Federal Law 106-FZ amending the Federal Law Nr.160-FZ "On foreign investments in the Russian Federation" - modifies the rules on creation of branches and opening of representative offices of foreign legal entities in Russia, and their accreditation as of 1 January 2015.
29 April 2014	Government Decree Nr.391 amending the Government Decree Nr.779 of 30.06 2012 - establishes rules for the allocation of tariff quotas for export outside Russia and the Customs Union of spruce, fir white European, and pine.
21 December 2013	Government Decree Nr.1202 – imposes an export duty rate for tungsten ores and concentrates of 10%.
25 December 2013	The Collegium of the Eurasian Economic Commission's Decision Nr.307 - extends the list of goods which are essential for the Customs Union's internal market, and exports of which, in exceptional cases, could be subject to temporary restrictions or prohibition, including raw hides or skins of swine, tanned or crust hides and skins of cattle or horses, and tanned skins of pigs.

	25 June 2014	Duma's Committee on information policy draft Law on the processing of personal data in information and telecommunications networks - obliges all internet companies to store data about their Russian users only on servers located in the Russian territory.
	2 December 2013	Federal Law Nr.349-FZ, as amended on 2 April 2014 - allocates 3 billion USD for Government guarantees to support the export of industrial products in 2014.
	15 April 2014	Government Resolution Nr.330 - approves the State Program 'Development of foreign economic activities', comprising the Subprogram 'Establishment of national system of support of foreign economic activities' which allocates 17.8 billion rubles of support to enhance effectiveness of financial support to exporters, and improve access to foreign markets for Russian goods.
	3 January 2014	Government Resolution Nr. 5 – established rules on federal subsidies to chemical producers for covering paid interests on bank loans in 2014 -2016.
	15 April 2014	Resolution of the Russian Government Nr.305 - establishes a new version of the State Program - 'Development of Pharmaceutical and Medical Industries' for 2013–2020, foreseeing support to domestic manufacturers of pharmaceuticals and medical devices, by means of subsidies amounting to 100 billion roubles as well as guaranteed preferences in public procurement.
	15 January 2014	Resolutions of the Russian Government Nrs.29, 30, 31, 32, as amended on 02.04.2014 - set a subsidy scheme to manufacturers of wheeled vehicles established in Russia under the State program "Development of industry and enhancing its competitiveness", including the compensation of expenses for the maintenance of jobs, or of costs of energy use.
<b>Saudi Arabia</b>	2 August 2013	Decisions by Saudi King Abdullah bin Abdul Aziz - launches a number of development projects of a value of US\$81 billion for the Royal Commission for Jubail and Yanbu, the State oil company Saudi Aramco and Saudi Arabian Basic Industries (SABIC, a global player in plastics).
	24 March 2014	Creation act of the Saudi Arabian Company for Industrial Investment – allocates of 533 million USD of support to the conversion of industries that rely on petrochemicals, plastics, fertilisers, steel, aluminium and basic industries
<b>South Africa</b>	30 September 2013	Notice on the substitution of tariff subheadings 0207.12.20, 0207.12.90, 0207.14.10, 0207.14.20 and 0207.14.90 - increases the 'General' and the 'EFTA' rates of custom duty on certain meat products.

	15 November 2013	Notice on the substitution of tariff subheading 8545.11 - increases the 'General' rate of customs duty on furnaces from 0% to the WTO bound rate of 10%.
	7 March 2014	Notice on the insertion of tariff subheadings 7318.16.20 and 7318.16.30 and substitution of tariff subheadings 7318.15.39 and 7318.15.43 - increases the 'General' and 'EFTA' rates of customs duty on certain screws, bolts and nuts.
	4 April 2014	Notification of duty increase on sugar, tariff subheadings 1701.12, 1701.13, 1701.14, 1701.91 and 1701.99, according to a variable formula tariff, from (0% to 132c/kg.
	11 April 2014	Notification of increase of 'General' rate of duty on coated fine paper, tariff subheadings 4810.13.20, 4810.13.90, 4810.14.10, 4810.14.90, 4810.90.90 and 4810.29.90, from 0% to 5%.
	25 April 2014	Notification of increase of 'General' rate of duty on heat exchange units, tariff heading 8419.50, from 0% to the WTO-bound rate of 15%.
	2 August 2013	Export control guidelines on the Exportation of Ferrous and Non-Ferrous Waste and Scrap of 02 august 2013 (Government Gazette No. 36708, Notice 543), as further amended – makes all scrap metal exports are subject to the issuance of export licenses granted if the products have previously – and unsuccessfully – been offered to domestic consumers at a price 20% below international spot prices.
<b>South Korea</b>	November 2013	Ministry of Trade, Industry and Energy announcement of a support scheme of 900 billion KRW for the development of offshore plant industry to be enacted through public-private partnerships, and for the strategic promotion of use of home-produced equipment through various policy means.
<b>Switzerland</b>	November 2013	Revision of the Federal Law on Agriculture and an Ordinance on Beef Cattle - modifying the system for allocating tariff quotas of imported meat, including goat meat, and establishing that 40% of tariff quota on goat meat will be based on the number of animals slaughtered in Switzerland as of 2015.
	15 July 2013	Modification of the Swiss Decree on posted workers - requires, as compulsory information to be specified in the employment pre-notification form, a statement on the salary to be paid to posted workers.
<b>Thailand</b>	15 January 2014	Thai Industrial Standards Institute (TISI)'s standard for ceramic tiles 2508-2555 – introduces a mandatory conformity assessment procedure for ceramic tiles in discrepancy with international ISO standards.

	13 August 2013	Emergency Decree Amending the Liquor Act B.E. 2493 (1950), No 7 dated 30 August 2013 and implementing Ministerial Regulation Specifying Liquor Tax Rates dated 3 September 2013 - imposes new applied and ceiling tax rates on alcohol with a tax discrimination between 'white liquor' and 'vodka', increases specific ceiling values for the duty rate for wine and enshrines lower excise tax rates for local fruit wines compared to imported wines.
		<i>Draft new excise tax structure on automobiles – determines taxes based on engine size, carbon emission and types of fuel used, with a non-neutral approach in relation to technologies used in identical emission categories.</i>
	28 March 2014	<i>Draft Notification on Alcoholic Beverages Control – introduces a complex administrative label approval process on alcoholic beverages</i>
		<i>Revision of The Drug Act - includes cost-effectiveness as a required element for drug registration and provides for operating privileges to state-owned enterprises with respect to regulatory requirements and regulations for producing, importing and sales of pharmaceutical products.</i>
	30 September 2013	Board of Investment's Notification No. Sor1/2556, implementing Phase II of Eco car scheme - provides tax incentive (corporate tax, import duty and other tax benefits) for the beneficiaries of the eco car scheme (Phase I) and newcomers conditioned on manufacturing capacity of $\geq$ 100,000 cars/year (from the 4 <sup>th</sup> year onwards) and on investment amounts (of at least 6.5 billion THB).
<b>Tunisia</b>	December 2013	Finance Law for 2014 - introduces new consumption taxes of 50% for blocks and 75% for slabs (brought down to 25 and 35% by amendment in August 2014) on various construction stones such as dolomite, travertine, alabaster and granite, with a view to harmonising their rates to those applied to marble, while maintaining a discrimination between foreign and local products, the latter not being taxed.
	June 2013	Decisions of the Pharmacie Centrale de Tunisie conditioning its authorisation for the marketing of new foreign pharmaceutical products to the acceptance by the exporter to bear the risk of the depreciation of the Tunisian dinar for a period of 4 years and requesting substantial price cuts on imported products for which equivalents are manufactured locally.
	21 October 2013	Tunisian Central Bank's Circular N°2013-13 - requires commercial banks to sell foreign currency to clients only after having checked the unavailability of foreign currency deposits on their client's accounts.

11<sup>TH</sup> REPORT ON POTENTIALLY TRADE-RESTRICTIVE MEASURES

	13 March 2014	Decree n° 2014-1039 establishing new rules for Public Procurement - grants as from 1 June 2014 a 10% margin of preference for Tunisian companies in goods and works tenders, encouraging foreign bidders to associate local companies in the execution of contracts.
<b>Turkey</b>	15 July 2013	Increase of import tariffs on walnuts from 43.2% to 66%.
	May 2014	Amendment to the Public Procurement Law - grants 15% domestic price advantage to domestic or international bidders in supply tenders if they offer domestically produced goods and excludes off-sets tenders from the scope of the Procurement Law rules.
		New Decree on Investment incentives package - extends until 31 December 2014 the interest rate support for strategic investments and higher incentives for early investments, amends the list of priority sectors enjoying higher levels of state support, and adds new target sectors, including investments in liquefied natural gas infrastructure.
	19 April 2014	Cabinet decree no. 2014/6217 – sets the Treasury as the guarantor of private companies carrying out build-operate-transfer projects with a commitment to take over 100% of the debt of firms in case of dissolution due to events not arising from their negligence, and to take over 85% of debt in case of dissolution due to their negligence.
	29 April 2014	Ministry of Science, Industry and Technology regulation (Official Gazette no. 28986) on support to investments relating to technological products - The support would target investments in technological products resulting from industry, R&D and innovation-related projects having benefited from public support or from R&D projects that have resulted in a patent.
	Spring 2014	Entry into force of the Law on utilization of renewable energy resources for the purpose of generating electrical energy of 2005 (Law No. 6094) – makes electricity generation eligible for the RER Support Mechanism and stipulates that where domestic mechanical and/or electro-mechanical components are used for power generation, the prices shall be topped up for a period of five years.
	August 2013	Government Announcement on the inclusion of chrome leather products into the non-automatic export licencing system.
<b>USA</b>	May 2014	<i>US Department of Transportation's "Grow America Act" - includes a section increases the local content requirement for rolling stock each year by 10%, from the original 60% in 2016 up to 100% in 2019.</i>

11<sup>TH</sup> REPORT ON POTENTIALLY TRADE-RESTRICTIVE MEASURES

	10 June 2014	Water Resources Reform and Development Act (WRRDA) - imposes new Buy America restrictions on all iron and steel used in water-related projects, and new and permanent Buy America restrictions on procurements funded by the Environmental Protection Agency's (EPA) Clean Water infrastructure fund.
	12 June 2014	<i>New Jersey Senate S 1811 Act - requires all state agencies, local municipalities, and public education institutions of higher education to purchase only goods manufactured in the United States.</i>
	30 May 2014	US House of Representatives' Appropriations Act HR4660 - includes an amendment preventing the Office of the U.S. Trade Representative from negotiating trade agreements that would further open up the U.S. government procurement market to other countries by refusing funds to be used under the Act to negotiate agreements waiving off the provisions of the 'Buy American Act.
	16 May 2014	Minnesota Senate Bill SF 2454 - establishes a preference for engine models of recreational vehicles and boats manufactured in the United States.
	May 2014	New York State Bill - imposes Buy America restrictions on a range of New York State procurement activities for transportation infrastructure.
	April 2014	Massachusetts State Senate bill - proposes a preference for domestic products purchased by the State Agencies.
	9 November 2013	Washington State extension of the aerospace tax incentives – ring-fenced until 2040 ca. 8,7 billion USD in tax incentives for the civil aerospace industry.
<b>Vietnam</b>	20 May 2014	Decision 1079/QD-BTC - imposed for all dairy companies operating in Vietnam a milk price ceiling for 25 formula milk products, and whereby retail prices cannot be more than 15% higher than the referenced prices fixed by the authority.
	1 July 2014	Revised Law on Public Tendering - entry into force imposed preferences to domestic suppliers of goods and services as well as domestically-made goods and restricts their selection to projects that domestic companies are not in capacity to fulfil. (Adoption in 2013)
		<i>The Ministry of Information and Communication's Draft Decree on Information Technology Services – restrains the provision of IT service for State entities to Vietnamese organisations, through servers located in Vietnam, and imposes certification and licensing requirements on the delivery of cross-border IT services.</i>

## ANNEX 2

Measures adopted or planned, since October 2008<sup>17</sup>

## TABLE OF CONTENTS

<b>I.</b>	<b>BORDER MEASURES .....</b>	<b>58</b>
<b>II.</b>	<b>EXPORT RESTRICTIONS.....</b>	<b>97</b>
<b>III.</b>	<b>BEHIND-THE-BORDER MEASURES.....</b>	<b>107</b>
	III.1.GOVERNMENT PROCUREMENT .....	127
	III.2.INVESTMENT AND SERVICES .....	146
<b>IV.</b>	<b>MEASURES TO STIMULATE EXPORTS.....</b>	<b>164</b>
<b>V.</b>	<b>OTHER MEASURES</b>	
	V.1. STIMULUS PACKAGES.....	173
	V.2. OTHER .....	190
<b>VI.</b>	<b>MEASURES ROLLED BACK .....</b>	<b>194</b>
<b>VII.</b>	<b>TRADE FACILITATION MEASURES .....</b>	<b>212</b>

---

<sup>17</sup> Updates on new measures or their modifications/extensions identified since June 2013 are marked in **bold**; whereas measures in adoption are in marked *italic*. It should be noted that not all measures referred to in this annex have been qualified as fulfilling the definition in section I of this Report. The list of full-fledge new potentially trade-restrictive measures for the period of June 2013 – July 2014 can be found in Annex 1.

## I. BORDER MEASURES

### Algeria:

- On 30 November 2008, Algeria introduced measures restricting imports of a certain number of products such as drugs allegedly in order to protect the local pharmaceutical industry. Accordingly, a foreign-manufactured medicine cannot be imported if the same medicine is produced by at least three manufacturers in Algeria in quantities satisfying the market demand. A new order of 8 May 2011 modifies the original regulation which introduced a de facto import ban on pharmaceutical products. The list of drugs banned for imports in Algeria, as established in November 2008, initially included 358 products of all categories, resulting in repetitive market deficiencies since the ban was enforced. 59 new products were added to the list, while 160 were removed from the original list. Around 300 types of medicine and medical devices remain formally banned from importation.
- Algerian Decree (Décret exécutif n° 10-89), issued on 14 March 2010 and complemented by Decree 13-85 of 6 February 2013, makes the exemption of import duties (zero tariffs) within the framework of free-trade agreements with Algeria, including the EU-Algeria Association agreement, dependent on an approval by the Algerian trade authorities. This new procedure, allegedly designed to collect statistics, obliges importers to apply for a *licence statistique* before importing the products into Algeria by presenting a series of legal and fiscal documents to the *Directions régionales du commerce* attesting the European origin of the product. The exporters are obliged to present a valid proof of origin either in the form of a EUR1 or EUR-MED or in the form of an invoice declaration reserved to those exporters that are approved by the authorities of the exporting EU country under the conditions stipulated in article 23 of protocol 6 of the Association Agreement. Since the EUR1 or EUR-MED certificate cannot be obtained from the authorities of the exporting country before the goods leave the port of origin, while the administrative procedure for the granting of the exemption takes between seven and thirty days, the result is that importers cannot clear the goods right away upon arrival (especially for journeys taking between 12 and 24 hours) and are forced to wait several days for the issuance of the license statistique. This new provision has therefore translated into a trade barrier since the new system of non-automatic licenses, submits imports to the approval of Algerian authorities on a case by case basis with the attendant delays and costs for the importers.
- The authorities published of a new reduced negative list with 1260 products, entering into force in February 2013, in the context of the Arabic Free Trade Area (ZALE). The list excludes the products from import benefits for the coming 3-4 years.
- **The Financial Law of 2014 introduces new quantitative restrictions on import, notably for second-hand equipment, which may be imported only in the absence of local production of similar equipment. The law also requires that foreign entities may only import goods into Algeria for trade purposes (without further processing in Algeria) if they enter into a partnership with a local firm, which must own at least 51% of the capital.**

### Argentina:

- Import Licences:

- In October 2008, the Government implemented the requirement for non-automatic import licenses for ovens and TV/video sets (Customs Codes 8516.60.00 and 8528.72.00) and in November 2008 introduced the requirement for a Certificate of Imports (CIM) for metallurgical products, yarns and fabrics and footwear.
- In December 2008 the Government announced that it would increase the use of non-automatic licenses for sensitive sectors (footwear, textiles, etc.) and in January 2009, licenses (the so-called "Certificado de Importación" or CIN) for imports of tyres.
- In February 2009, the Government updated the list of merchandise subject to automatic import licenses (LAPI) in which it included, for example, aluminium bars.
- On 4 March 2009, through Resolution 61/2009, Argentina extended the coverage of import licenses to 200 new product lines. Non-traditional sensitive goods (air conditioners, furniture, machinery, etc) have been included.
- On 14 April 2009 Argentina introduced import licenses for 60 new product lines, covering mechanical appliances, clothing, musical instruments, dye/paint and other manufactured products.
- On 14 April 2009 Argentina suspended for 30 days the licensing requirement for imports of self-tapping screws and other types of screws and bolts and as of 21 April 2009 it made licenses for imports of tyres mandatory only for final consumption purposes.
- On 13 July 2009 by Resolution 251/2009 Argentina extended the list of products requiring an import licence by some 60 items, such as motor powered fans, vacuum cleaners and cotton textiles. This Resolution modifies the previous ones on import licence requirements (444/2004, 343/2007, 588/2008, 589/2008 and 61/2009).
- On 21 August 2009, through Resolution 337/2009, Argentina introduced import licences for some auto parts (5903.10.00, 5903.20.00, 5903.90.00, 6813.81.90, 6813.89.10, 8507.10.00 – those of more than 12 volts or 28mA, 8708.30.19 and 8708.93.00).
- Import license requirements were set for stamps-photos, labels, ballasts and water pumps as of 11 November 2009.
- Argentina reintroduced the application of import licences initially suspended on 8 September 2009 for 60 days (Resolution 61/2009). The following products are again subject to the regime: trade & advertising material (4911.10.90), pictures-designs & photographs (4911.91.00), printed matter in general (4911.99.00) and electrical transformers (8504.10.00).
- Argentina reintroduced the application of import licences initially suspended through Resolution 29/2010 regarding tyres (HS 4011). The measure is back in force.
- Between February 14 and March 9, through Resolutions 45/2011 and 77/2011, the Government of Argentina extended the application of non-automatic licenses (NALs) to a list of 178 new tariff lines (at 8-digits) including some cars, car parts, motorcycles, bicycles (and its parts), textiles, metallurgical products and some electronic products. The measure, effective since March 7, 2011 (20 days after the publication of the measure in the Official Gazette), excludes for 60 days those items already shipped before said date.

- As from February 1 2012 Argentina imposed the obligation to submit a prior sworn importer declaration (known as 'DJAI') for every import operation before placing the purchase order abroad, through Resolution 3252/2012 issued by the tax and customs authority. Further Resolutions 1/2012-SCI and 3255/2012-AFIP defined the bodies that assess the sworn statements, set the processing period between 3 to 15 days (without clarifying the procedure to follow in case of observations) and established exceptions to the regime. Finally, through Communication A 5274 the Argentine Central Bank added the DJAI as a requirement to acquire hard currency in order to pay imports abroad. The approbation of DJAI is conditional upon a number of non-written requirements (the so called restrictive trade related requirements) like commitments to export, to limit imports, to substitute imports or price control requirements. The so created system of administrated trade lacks transparency and is totally unpredictable. This is by far the most important protectionism measure adopted in Argentina. In 2012, the European Union asked to establish a WTO Panel to rule on the legality of Argentina's DJAI system. **On 22 August 2014 the Panel ruled, among others, that the DJAI procedure is inconsistent with Article XI:1 of the GATT 1994, since it has a limiting effect on imports, and thus constitutes an import restriction.**
- Updates of "reference prices / values" – a customs valuation figure adopted in 2001 (currently regulated by Resolution N° 2730/2009) in order to prevent under-invoicing, covering today more than 1,000 imported products considered sensitive - These products may be subject to control for imports valuation, if originating in specified countries. The list of covered tariff lines have been continuously updated through numerous Resolutions, and include among others textiles, shoes, leather products, electronic products, parts, toys, chemicals, household articles, tyres, iron and steel products. Since October 2008, there have been 111 amendments of this list (for the full list of measures, please refer to previous reports):
  - Since September 2008, reference values for imports have been updated in order to avoid commercial fraud (under invoicing) for several sectors, such as textiles, metallic products and tyres.
  - In October 2008 the customs administration set new revised reference prices for toys, textiles, footwear, steel, etc. In January 2009 reference prices were set for steel pipes and in February 2009 for glass fibre discs, cotton fabrics, backpacks, drive-axles, guitars, flash memories, etc.
  - The External Note 20/2009 of 3 March 2009 introduced reference values for imports of 'brake parts' from the EU, China, South East Asia and MERCOSUR countries.
  - The External Note 24/2009 of 17 March 2009 introduced reference values for imports of sweaters and pullovers from South-East Asia and Mercosur countries.
  - The External Note 28/2009 of 27 March 2009 introduced reference values for imports of ceramic and metal products.
  - In April 2009, Argentina set minimum FOB prices for imports of roller chains, tableware, kitchenware and household items, cooling pumps for cars and tube and pipe fittings from China.
  - Additionally, Argentina set reference values for imports of wool products from China, South-East Asia, MERCOSUR and Latin America and for imports of brooms and brushes from China and South-East Asia.

- On 14 May 2009, by the External Note 43/2009, reference values were introduced for synthetic textiles of South Asian origin.
- On 15 May 2009 Argentina introduced reference values for imports of plastic tableware.
- On 22 May 2009 Argentina established reference value for copper wire imported from South-East Asia, Mercosur, Ecuador, Chile, Colombia and China.
- The External Note 49/2009 of 28 May 2009 introduced reference price for tyres from China and South-East Asia.
- On 3 June 2009 reference price was established for steel products imported from Chile and Mercosur countries through the External Note 54/2009.
- On 16 June 2009 Argentina introduced reference values for electrical connection terminals, implemented through the External Note 57/2009.
- On 26 June 2009 reference price was set for fibreglass imports from South-East Asia.
- On 14 July 2009 reference price was introduced for imports of crossheads from Korea, India and other South-East Asian countries through the External Note 65/2009.
- On 14 July 2009 Argentina also set reference price for brake parts and dampers by the External Note 66/2009.
- Reference price for imports of flanges from China, Hong Kong and other South-East Asian countries since 17 July 2009 were introduced through the External Note 68/2009.
- Reference price was also set for imports of footwear from China since 20 July 2009, on the basis of the External resolution 259/2009.
- The External Note 70/2009 of 5 August 2009 introduced reference price for imports of embroideries (8544.11.00) from South-east Asia, MERCOSUR, Ecuador, Chile and Colombia since 28 July 2009. .
- Reference values for imports of wire (8544.11.00) from China, Hong Kong, Korea, the Philippines, South-East Asia, MERCOSUR, Ecuador, Chile, and Colombia were implemented through External Note 76/2009 of 3 September 2009.
- Reference values for imports of gloves (6116.10.00, 6116.91.00, 6116.92.00, 6116.93.00, 6116.99.00) from China, Hong Kong, Korea, the Philippines, South-East Asian countries, India, Pakistan, etc. were implemented through External Note 77/2009 of September 3, 2009.
- A minimum FOB value for imports of colorants and pigments from China and India (3204.14.00 at USD 5.36 per kg, 3204.12.10 at USD 10.56 per kg, and 3204.17.00 at USD 8.38 per kg) was implemented through Resolution 365/2009 of 10 September 2009.
- A minimum FOB value for imports of glass fibre from New Zealand (7019.39.00) of USD 1.525 (uncoated) and USD 3.28 per kg (coated) was implemented through Resolution 376/2009 of 16 September 2009.

- A minimum FOB value for imports of pneumatics tyres for bicycles (position 4011.50.00) made by HWA FONG RUBBER Company from China and Thailand at USD 2.59 per kg was implemented through Resolution 377/2009 of 19 September 2009.
- A minimum FOB value for imports of compact disks (8523.40.11) from Paraguay at USD 0.25 per unit was implemented through Resolution 393/2009 of 18 September 2009.
- Reference values were set for the import of fungicides and food grinders as of 4 November 2009.
- Reference values were set for the imports of compact discs as of 4 November 2009.
- Reference values were set for imports of motorcycle part from India, China and South-East Asia as of 4 November 2009.
- Reference values were set for imports of denims from China as of 9 November 2009.
- Reference values were set for the import of wheels and steel rims from China at USD 3.14/Kg as of 13 November 2009.
- Reference value were set for imports of glasses and parts thereof from Indian, China and South-East Asia as of 17 November 2009.
- Reference values were set for imports of wires from India, China, MERCOSUR and other Latin American countries as of 17 November 2009.
- Reference values were set for imports of strollers from China, India and South Africa as of 30 November 2009.
- Reference values were set for imports of hinges and parts thereof from China, India and South-East Asia as of 9 December 2009.
- Reference values for imports of electric water heaters from India, China and South-East Asia as of 26 February 2010.
- Reference values were set for imports of baths, shower baths, sinks and washbasins, boxes, cases, crates and similar articles of plastic, plastic seats, plastic furniture, footwear, from Brazil, Colombia, Chile, Ecuador, Paraguay, Uruguay, India, China and South-East Asia were introduced through Resolutions 2781/2010 and 2782/2010 of 26 February 2010.
- Through Resolutions 2777/2010, 2778/2010, 2779/2010, 2780/2010, 2802/2010, 2785/2010 of 26 February 2010 reference values were set for imports of pulleys, automatic circuit breakers, dyed artificial fabrics, benzoyl peroxide, press-fasteners, buttons, tubular or bifurcated rivets from India, China and South-East Asia.
- Through Resolution 2783/2010 of 28 February 2010 reference value was set for imports of glasses from some EU Member States (Finland, Hungary, Poland, UK, Czech Republic, Romania and Sweden), Canada, US, Mexico, China and South-East Asia, Colombia, Chile, Ecuador, Paraguay.
- Reference values were set for imports of lighters from China through Resolution 58/2010 of 19 March 2010.

- Through General Resolution 2808/2010 of 4 July 2010, 2871/2010 of 15 July 2010 and 2896/2010 of 17 August 2010 set reference values for imports of copper coil, copper pipes, copper products and boxes, cases, crates and similar articles from MERCOSUR, Chile, Colombia, Ecuador, India, China and South-East Asia.
- Through General Resolution 2870/2010 of 7 July 2010 reference values were introduced for imports of apples from MERCOSUR, Chile, Colombia and Ecuador.
- Through General Resolution 2872/2010 and 2874/2010 of 15 July 2010, and 2893 and 2895 of 17 August 2010 set reference values for imports of glasses, bags, polyester textiles and chlorodifluoromethane from India, China and South-East Asia.
- Through General Resolution 2894/2010 of 17 August 2010 reference values for imports of auto accessories (87089990) from Finland, Hungary, Poland, UK, Sweden, Romania, Russia, China, India, South-East Asia.
- Through General Resolutions 2899/2010 of 24 August 2010, 2897/2010 of 17 August 2010 and 2891/2010 of 17 August 2010 set reference values for import of blank CDs/DVDs, plates, sheets, film, foil and trip and synthetic filaments from Germany, Belgium, the Netherlands, Spain, France, Italy, Japan, NAFTA countries, India, China and South-East Asia.
- Through General Resolution of 2859/2010 of 22 June 2010 set reference values for imports of yarn from India, China and South-East Asia.
- General Resolution 2931/2010- Set reference values for imports of swabs (CC 5601.10 and 5601.21) from Asian countries (08.10.2010).
- General Resolution 2932/2010- Set reference values for imports of tyres (CC 4011.61) from Asian countries (08.10.2010).
- General Resolution 2951/2010- Set reference values for imports of plastic nets (CC 3926.90) from Latin American, European and Asian countries (02.11.2010).
- General Resolution 2952/2010- Set reference values for imports of a plastic material (polyethylene terephthalate, CC 3907.60) from Asian countries (02.11.2010).
- General Resolution 2953/2010- Set reference values for imports of musical instrument parts (CC 9209.92) from Asian countries (02.11.2010).
- General Resolution 2970/2010- Set reference values for imports of staple fabric fibres (CC 5516.21, 5516.22, 5516.23 and 5516.24) from Asian countries (26.11.2010).
- General Resolution 2978/2010- Set reference values for imports of certain metal accessories (CC 8104.90) from Asian countries (03.12.2010).
- General Resolution 2979/2010- Set reference values for imports of drinking glasses (CC 7013.28) from European, Asian, Latin American and other countries (03.12.2010).
- General Resolution 2993/2010- Set reference values for imports of certain fabrics (CC 6001.10) from Asian countries (14.12.2010).

- General Resolution 2994/2010- Set reference values for imports of ceramic tableware (CC 6912.00) from European, Asian, Latin American and North American countries (15.12.2010).
- General Resolution 2995/2010- Set reference values for imports of certain fabrics (CC 6006.21, 6006.22, 6006.23 and 6006.24) from Asian countries (15.12.2010)
- General Resolution 2998/2010- Set reference values for imports of certain fabrics (CC 6005.31, 6005.32, 6005.33, 6005.34, 6005.41, 6005.42, 6005.43 and 6005.44) from Asian countries (31.12.2010).
- General Resolution 2999/2010- Set reference values for imports of certain fabrics (CC 5407.91, 5407.92, 5407.93 and 5407.94) from Asian countries (31.12.2010).
- General Resolution 3025/2011 – Set reference values for imports of glasses (9001.40.00) from 9001.50.00) from China, India and South East Asia (27.01.2011).
- General Resolution 3026/2011 – Set reference values for imports of zippers (9607.1.00 and 9607.20.00) from Asia and South America (27.01.2011).
- General Resolution 3024/2011 – Set reference values for imports of laminated rubber and rubber carpets (4008.21.00 and 4016.91.00) from China, India and South East Asia (27.01.2011).
- General Resolution 3040/2011 – Set reference prices for imports of vinyl chloride polymers (3916.20.00) from South America, some EU member states and Asia (11.02.2011).
- General Resolution 3041/2011 – Set reference prices for imports of rivets and buttons (8308.20.00 and 9606.10.00) from Asia (11.02.2011).
- General Resolution 3042/2011 - Set reference prices for imports of hats (6505.90.00 and 6506.91.00) from Asia (11.02.2011).
- General Resolution 3051/2011 - Set reference prices for imports of graphic equalisers (8543.70.99) from Asia (24.02.2011).
- General Resolution 3057/2011 - Set reference prices for imports of water and juice sprinklers (8418.69.31) from Asia (03.03.2011).
- General Resolution 3070/2011 – Set reference values for imports of fibre glass fabrics (CC 7019.52.90) from China, India and South East Asia (18.03.2011).
- General resolution 3106/2011–AFIP – sets reference values for imports of certain woven fabrics (CC 5516.14) from Asian countries (16 May 2011).
- General Resolution 3107/2011–AFIP – sets reference values for imports of coated paper and paperboard (CC 4810.13 and 4810.19) from the EU, Russia, North America, South Africa and several Asian countries (16 May 2011).

- General Resolution 3108/2011-AFIP – sets reference values for imports of certain woven fabrics (CC 5515.21) from Asian countries (16 May 2011).
- General Resolution 3121/2011-AFIP – sets reference values for imports of certain cotton fabrics (CC 5209.29, 5209.51, 5209.52 and 5209.59) from Finland, Hungary, Norway, Poland, UK, Czech Republic, Romania, Sweden, Switzerland, South Africa, and other Latin American and Asian countries (8 June 2011).
- General Resolution 3122/2011-AFIP – sets reference values for imports of transmission shafts (CC 8483.10) from Asian countries (8 June 2011).
- General Resolution 3141/2011-AFIP – sets reference values for imports of cotton textiles (CC 5205.11.00, 5205.12.00, etc) from Poland, Romania, Czech Republic and Asian and South American countries (4 July 2011).
- General Resolution 3142/2011-AFIP – sets reference values for imports of glasses (CC9003.11, 9003.19, 9004.10 and 9004.90.10) from Asian countries (4 July 2011).
- General Resolution 3143/2011-AFIP – sets reference values for imports of alarms (CC 8531.10.90, 8531.90 and 8536.41) from Asian countries (4 July 2011).
- General Resolution 3153/2011-AFIP – sets reference values for imports of leather bags (CC 4201.22.10, 4201.22.20 and 4201.29.00) from Asian countries (22 July 2011).
- General Resolution 3154/2011-AFIP – sets reference values for imports of plates, sheets and strip of polymers of vinyl chloride and polyurethane (22 July 2011).
- General Resolution 3155/2011-AFIP – sets reference values for imports of toys (CC 9503.00) from Asian countries (22 July 2011).
- General Resolution 3156/2011-AFIP – sets reference values for imports of nylon textiles (CC 5407.42.00) from Asian countries (22 July 2011).
- General Resolution 3157/2011-AFIP – sets reference values for imports of conveyor belts (CC 4010.12.00) from Asian countries (22 July 2011).
- General Resolution 3158/2011-AFIP – sets reference values for imports of polyester textiles (CC 5402.33.00) from Asian countries (22 July 2011).
- General Resolution 3159/2011-AFIP – sets reference values for imports of glasses (CC 9001.50.00) from Asian countries (4 August 2011).
- General Resolution 3195/2011-AFIP – Updated reference values for imports of cotton fabrics (CC 5208.11, 5208.12, 5208.21, 5208.22, 5208.31, 5208.32, 5208.33, 5208.39, 5208.42, 5208.51, 5208.52, 5208.59) from Latin American, Asian, European countries and other origins (12.10.2011).
- General Resolution 3198/2011-AFIP – Updated reference values for imports of iron or steel tube and pipe fittings (CC 7307.19, 7307.93) from Asian, European countries and other origins (14.10.2011).

- General Resolution 3200/2011-AFIP – Updated reference values for imports of steel tubes (CC 7306.40, 7306.61, 7306.69, 7306.90) from North and Latin American, Asian, European countries and other origins (20.10.2011)
- General Resolution 3203/2011-AFIP – Set reference values for imports of machinery for the preparation of meat or poultry (CC 8438.50) from Asian countries (25.10.2011).
- General Resolution 3213/2011-AFIP – Updated reference values for imports of combs and similar articles (CC 9615.11) from Asian countries (21.11.2011).
- General Resolution 3214/2011-AFIP – Set reference values for imports of plastic and metal boxes and cases (CC 3926.90, 7326.90, 7616.99) from Asian countries (21.11.2011).
- General Resolution 3215/2011-AFIP – Updated reference values for imports of blankets (CC 6301.40) from Asian countries (21.11.2011).
- General Resolution 3216/2011-AFIP – Updated reference values for imports of plywood (CC 4409.10, 4409.21, 4409.29, 4411.92, 4412.31, 4412.32, 4412.39) from South American and Asian countries (21.11.2011).
- General Resolution 3217/2011-AFIP – Set reference values for imports of metal mountings and fittings (CC 8302.41, 8302.42, 8302.49) from Asian countries (21.11.2011).
- General Resolution 3231/2011-AFIP – Updated reference values for imports of plastic tableware (CC 3924.10) from Latin American, Asian and certain EU countries, Mexico, Canada and the U.S. (05.12.2011).
- General Resolution 3229/2011-AFIP – Updated reference values for imports of suitcases, backpacks and bags (CC 4202.12, 4202.32, 4202.92, 4202.99) from Asian countries (06.12.2011).
- General Resolution 3230/2011-AFIP – Set reference values for imports of plastic bottle caps (CC 3923.50) from the U.S., Canada and Mexico (06.12.2011).
- General Resolution 3227/2011-AFIP – Set reference values for imports of certain fabrics (CC 5802.19) from Latin American countries (07.12.2011).
- General Resolution 3228/2011-AFIP – Updated reference values for imports of baby carriages (CC 8715.00) from Asian countries (07.12.2011).
- General Resolution 3266/2012-AFIP – Set reference values for imports of water balloons (CC 9505.90) from Asian and Latin American countries (09.02.2012).
- General Resolution 3267/2012-AFIP – Set reference values for imports of yarn (CC 5402.48) from Asian and North American countries (09.02.2012).

- General Resolution 3300/2012-AFIP – Updated reference values for imports of yarn (CC 5509.21, 5509.22) from Asian countries (30.03.2012).
- General Resolution 3296/2012-AFIP – Updated reference values for imports of denim and other cotton fabrics (CC 5211.12, 5211.20, 5211.32, 5211.39, 5211.42, 5211.43) from Latin American, Asian, European countries and South Africa (03.04.2012).
- General Resolution 3297/2012-AFIP – Updated reference values for imports of woven fabrics (CC 5212.11, 5512.19) from Asian countries (03.04.2012).
- General Resolution 3298/2012-AFIP – Updated reference values for imports of porcelain and ceramic kitchenware (CC 6911.10, 6911.90, 6912.00) from Latin American, European, North American and Asian countries (03.04.2012).
- General Resolution 3299/2012-AFIP – Updated reference values for imports of yarn (CC 5510.11, 5510.30, 5510.90) from Latin American and Asian countries (04.04.2012).
- General Resolution 3301/2012-AFIP – Updated reference values for imports of plastic household articles (CC 3924.90) from Latin American, European, North American and Asian countries (09.04.2012).
- General Resolution 3302/2012-AFIP – Updated reference values for imports of plastic parts (CC 3926.90) from Asian countries (09.04.2012).
- General Resolution 3344/2012-AFIP – Set reference values for imports of plastic articles for permanent installation in baths and kitchens (CC 3925.90) from Latin American and Asian countries (25.06.2012).
- General Resolution 3351/2012-AFIP – Set reference values for imports of suitcases and other leather articles (CC 4202.11, 4202.21, 4202.31, 4202.91, 4203.10 and 4203.30) from Asian and three Latin American countries (18.07.2012).
- General Resolution 3428/2012-AFIP – Set reference values for imports of certain wood products (HS 4412.31.00; 4412.32.00; 4412.39.00) from Asian and Latin American countries (28.12.2012).
- General Resolution 3457/2013-AFIP – Set reference values for imports of travel sets for personal toilet, sewing or shoe or clothes cleaning (HS 9605.00) from Asian countries (08.04.2013).
- General Resolution 3458/2013-AFIP – Set reference values for imports of certain knit fabrics (HS 6005.21) and woven fabrics (HS 5514.19) from Asian countries (09.04.2013)..
- General Resolution 3459/2013-AFIP – Set reference values for imports of eiderdowns, cushions and other articles of bedding (HS 9404.90) from Asian countries (09.04.2013).

- General Resolutions 3497 and 3498/2013-AFIP – Set reference values for imports of certain woven fabrics (HS 5513.12, 5513.23, 5513.39, 5513.49 and 5516.12) from Asian countries (17.05.2013).
  - General Resolution 3494/2013-AFIP – Set reference values for imports of certain woven fabrics (HS 5514.12, 5514.22, 5514.23, 5514.30, 5514.42 and 5514.43) from Asian countries (20.05.2013).
  - **General Resolutions 3554, 3555, 3556/2013 set reference values for imports of certain apparel products, such as shawls, scarves, raincoats, and the like, as well as certain toys (02.12.2013).**
  - **General Resolution 3547/2013 set reference values for inflatable swimming pools (14.11.2013).**
  - **General Resolutions 3513, 3514/2013 set reference values for imports of certain products of iron or non-alloyed steel, as well as for exports of honey (10.07.2013).**
  - **General Resolutions 3521, 3522/2013 set reference values for imports of certain synthetic fibres, certain plastic toys and office equipment items (09.08.2013)**
- Since 15 October 2008 Argentina implements the legislation adopted in September 2007 on increase of the external Mercosur tariff on textiles and footwear to 26-35% (depending on the product).
  - In October 2008 controls of all imports were increased with the stated objective of "preventing commercial fraud" in the context of the global financial turmoil. The customs administration also sent alerts to increase border controls for sensitive goods.
  - Specific duty to laminated steel from Korea, South Africa, Australia and Taiwan applies as from 19 November 2009.
  - In December 2009, MERCOSUR countries raised the common external tariffs on a number of items including some dairy products (tariff rise from 11% to 28% ad valorem), some textile (14% to 18%) and some bags, backpacks and suitcases (18% to 35%).
  - Import ban on food products, introduced through an informal note 232 of the Secretary of Internal Trade, applicable since 7 May 2010 through non-issuance of certificates of free circulation by the National Food Institute. All importers were required to obtain approval from the Secretary of Internal Trade. The measure was reportedly aimed at restricting food imports in order to protect Argentina's balance of payment surplus.
  - Decree 2112/2010-PEN of 31 December 2010 – Reintroduced the prohibition to import used garments (CC 6309.00) for a period of five years.
  - Resolution 9/2012-MEyFP and 4/2012-SIC appointed the competent authority to manage the newly-created register of producers, distributors and traders of wood pulp and newsprint paper, who will need to report the import and export operations as from 1 February 2012.

- Decree 2149/2012-PEN – Transposed into national legislation the Mercosur COSUR Decision N° 37/11, that temporarily allowed import tariffs above the Mercosur Common External Tariff (CET) for certain toys, until end December 2012 (14.11.2012). **The measure was extended until the end of 2014 by Decree 1229/2013-PEN which transposed into national legislation Mercosur Decision N° 37/2012 (03.09.2013)**

Decree 25/2013-PEN - Approved a list of additional, temporary 100 exceptions to the Mercosur CET, in line with Mercosur Decision N° 39/11. Almost all of the new tariff lines were set at 35%. The exceptions were effective from January 24<sup>th</sup>, for 12 months, or could be renewed until December 31<sup>st</sup>, 2014. (23.01.2013) **In 2014, Argentina extended the application of these additional 100 exemptions from the Mercosur Common External Tariffs for one year as from 22 January 2014, based on Mercosur Directive N° 8 (28.03.2014). The Directive withdrew 5 tariff lines from the list of 100 exceptions and included in the list the 5 following newly covered lines: Sparkling wines (2204.10.10) with duty rate 35% (previously 20%); articles for fireworks (3604.10.00) with duty rate 20% (previously 14%); Herbicides based on alachlor, ametryn, atrazine or diuron (3808.93.23) with duty rate 35% (previously 14%); Moulds for metal-injection or compression types (8480.41.00) with duty rate 35% (previously 14%); Ceratain vessels for pleasure or sports (jetskis, motorskis, rowing boats) (8903.99.00) with duty rate 35% (previously 20%).**

- Decree 491/2013-PEN – Transposed into national legislation MERCOSUR Decision N° 38/2012, which extended the application of the temporary tariff rate of 28% on imports of certain dairy products until end 2014 (HS 0402.10, 0402.21, 0402.29, 0402.99, 0404.10, 0406.10 and 0406.90) After that date, applicable tariffs will be 14% or 16%, depending on the tariff line (09.05.2013)
- Decree 492/2013-PEN – Transposed into national legislation MERCOSUR Decision N° 39/2012, which extended the application of a temporary tariff rate of 35% on imports of prepared peaches until end 2014 (HS 2008.70) After that date, the applicable tariff will be 14% (10.05.2013)
- Decree 2646/2012-PEN – Modified the regime to import used capital goods (established by Resolution 909/1994). Such goods can be imported definitively as long as they are reconditioned or reconstructed, either at origin or destination. (09.01.2013)
- **In June 2013, the Ministry of Economy adopted Resolution 248/2013 and implementing regulation 99/2013, which modified the process of submission of the Sworn Declaration of Composition of Product, required since 1996 to trade national or imported textile and footwear products. In the case of imported products, this Sworn Declaration must now be submitted through the customs electronic system SISCO. The declaration will be subject to a review by several governmental entities associated to the system. Such entities can introduce “observations” in the system with respect to the declaration, establishing the status of the declaration as “observed”. Until the time those observations are removed, no importation of the good can take place. As a consequence the importer would need to start a new application mentioning the previous observed request. The measure entered into effect on 15 July 2013.**
- **In January 2014, AFIP issued General Resolutions 3579 and 3582/2014, limiting purchases by mail or courier abroad to two per year, and up to a total value of 25 USD. Above those limits, shipments have to enter the country as a regular import, following**

**the regulations of the General Imports Regime, and will be subject to a 50% tax. They also made subject to the requirement of an online sworn declaration.**

**Brazil:**

- On 5 June 2009 Brazil raised tariffs applied on eight steel products from 0 to 12-14%. The measure hits mainly China, NAFTA, Argentina and Russia, the main suppliers of Brazil. This measure is now expired.
- On 18 June 2009, the Ministry of Trade increased import tariffs from zero to 14% on all wind turbines with capacity up to 3,300kVA, which corresponds to approximately 2.640kW (CAMEX Resolution No. 37, of 18 June 2009). Turbines with capacity over 3,300kVA continue to face a zero tariff. The tariff measure includes a grace period for imports registered until 21 December 2009. This measure is now expired.

The Brazilian bound tariff for this product at WTO is 35%. The affected trading partners are all countries producing wind-powered electric generating sets. In 2007, four countries were responsible for 94% of all wind turbine exports: Denmark (49.6%), Germany (28%), Japan (10.2%) and Spain (5.7%)<sup>18</sup>.

- Brazilian government raised on 26 August 2009 the import duty on lauryl alcohol and stearyl alcohol, which are used in the production of cosmetics, from 2 to 14% (bound WTO tariff is 35%).
- On 14 December 2010, Brazil increased tariffs for tools for pressing, stamping or punching (HS 8207, from 14% to 25%), moulds for metal or metal carbides for injection or compression types (HS 8480, from 14% to 30%). This measure is now expired.
- On 27 December 2010, Brazil increased import tariffs for toys (HS 9503) from 20 to 35%.
- On 17 February 2011, Brazil increased tariffs on other amino-resins (HS 3909, from 14 to 20%). This measure is now expired.
- On 1 March 2011, Brazil increased tariffs for moulds for rubber or plastics for injection or compression types (HS 8480, from 14 to 30%). This measure is now expired
- On 12 May 2011, Brazil introduced non automatic import licences on automobiles and auto parts. In accordance with the WTO import licensing agreement, licenses are applicable *erga omnes* and are intended to be issued within the mandatory 60 day period.
- Brazil has tightened its procedures for imports of textiles and clothing. This is part of an operation defined as "Panos Quentes III" (warm cloth III), which foresees stricter customs controls. Textiles and clothing imports are now passing through the grey and red customs procedures, which means that goods are subject to physical inspection and samples can be subject to tests in laboratories. As a result, time for imports to be liberated could take as long as 90 days (+ 90 additional days if need be). Additionally, a higher number of certificates being requested by customs authorities. It is a response to alleged fraud in declarations of origin, mainly in the context of triangular trade practices denounced by industry. *The same procedures are likely to be extended to other sectors in the future.*

---

<sup>18</sup> According to the UN Comtrade.

- On 6 September 2011, Brazil included ceramic tiles in the list of exceptions to the Mercosur Common External Tariff (extension of the list of exceptions was announced as part of the Plano Brasil Maior), and increased the applicable duty for imports from 12 to 35% (HS 6907).
- On 12 December 2011 Brazil extended both the main and additional 100 tariff lines exceptions to the Mercosur Common External Tariff (CET) until December, 31 2015. At the Mercosur summit in December 2011, Brazil was allowed to increase import duty rates to a maximum of 35% on other 100 tariff lines. The increase applied as of October 2012 and could remain effective until December 2015. A temporary CET exception list of new import duties on 100 tariff lines was adopted by CAMEX resolution 70/2012 of 28 September 2012. The Resolution has expired on September 2012.
- In December 2012 Brazil renewed the application of the increased external Mercosur tariff of 55 % on canned peaches codes 2008.70.10 and 2008.70.90 until the end of the year 2014. **The canned peaches product code 2008.70.90 was removed from the list of the CET exemptions and as of 8 July 2014 the tariff went back to 35%.**
- *In February 2013 Brazil launched a public consultation (CAMEX resolution 12/2013 of 7 February 2013 in line with Mercosur decision CMC 25/2012) to identify from 366 tariff lines a list of 100 tariff lines as temporary exceptions to the Mercosur Common External Tariff (CET). Mainly tariff increases were proposed. This would be the second temporary CET exception list of 100 tariff lines after CAMEX resolution 70/2012 of September 2012 (next to the main 100 tariff exceptions). The public consultation exercise did not lead that time to an additional increase of tariffs.*
- On 29 December 2011 Brazil maintained the import duty rate of 35% applied on toys (HS 9503) through to 31 December 2012. **It was extended subsequently until the end of December 2014.**
- On 15 September 2011 Brazil announced the introduction of a 30% tax increase on automotive products exempting products with more than 65% local content and enough local production processes as well as products from Mercosur and Mexico **originally** until the end of December 2012, **These measures, constituting part of a comprehensive INOVAR AUTO programme are supposed to stay in force until the end of 2017.**
- **On 3 July 2014 Brazil included in the list of 100 exceptions to the Mercosur Common External Tariffs the following 6 products, which resulted in tariff increases: from 10% to 20% for hydrogenated castor oil (classified under code 1516.20.00 of the Mercosur Common Nomenclature); from 4% to 20% for white mineral oils (code 2710.19.91); from 10% to 20% for hydrogencarbonate (code 2836.30.00); from 2% to 20% for ricinolic acid (code 3823.19.00); from 14% to 20% for machining centers (code 8457.10.00); and from 14% to 20% for speed changers, including torque converters, reducers, multipliers, and gear boxes (code 8483.40.10). Moreover, Brazil removed from the list of exceptions to the Mercosur Common External Tariff rates 6 items, as a result of which the import tariff increased for 2 items: from 2% percent to 16% for instruments, apparatuses, and models, designed for demonstrational purposes (code 9023.00.00: Ex 001 and 002) and from 0% to 4% for joint cement (code 2910.25.23).**
- New PRS 72/10 approved by the Senate April 24, 2012, sets a single rate of 4 per cent in the ICMS applicable to imported products State intermediate transactions. Domestic industry would not pay this surcharge. It has entered into force on the 1.1.2013.

- INMETRO is intervening in non-automatic licensing and inspection of imported products, with the creation of new taxes on imports, on grounds of safety issues and now also on protection of health and the environment, as well as the prevention of fraudulent commercial practices. Thereby, a new body is now active in non-automatic licensing, a new inspection at the border is created and a new rate is to be paid for these new services.

#### China:

- The Ministry of Finance released the Circular on Suspending the Policy of Tariff Reduction and Exemption on Imported Taxable Products in the Trade Remedy Measures. It entered into force on 1 May 2009.
- **MOFCOM Notice 97/2013 of 31 December 2013 imposed non-automatic import licensing upon certain chemicals, machinery and electrical goods, as well as ships and boats.**
- **In February 2014, China has imposed a country-wide ban on pigs and pig products from Poland due to outbreaks of African Swine Fever hereby not recognising the very strict surveillance and control measures put in place in the well-defined affected area in Poland. The EU strict control measures in the disease affected area are in line with international standards and guarantee that trade of pigs and pig products from Poland can continue to take place in a safe manner. Despite the international obligation for China under WTO Agreements to recognise this concept of disease-free area, China maintains in place a country-wide ban on polish products which is more trade-restrictive than necessary and against WTO rules.**

#### Ecuador:

- The Government's Executive Decree 367 introduced, from 1 June 2010, new tariffs for footwear, 10% ad valorem and a specific tariff of 6 USD. Executive Decree No. 372, in force since 1 June 2010, set the tariff on clothing and textiles at 10% ad valorem plus a specific tariff of USD 5.50/kg.
- COMEX Resolucion no. 17 of 2 August 2011, modified with Resolucion no. 24 introduced a system of non-automatic licences for importation of products such as mobile phones, vehicles and tires, with the aim of restricting imports to protect national industry. There are indications that the objective of the licence is to limit imports of certain products by as much as 20%.
- **Resolution N. 299 of 14 June 2013 established non automatic import licence regime for various food products: meat, butter, cheese, potatoes.**
- **Comex Resolution 116 of 19 November 2013 established new quality control measures for the importation of a list of products subject to previous import controls and requests the submission of a Certificate of Recognition issued by the Ecuadorian authority for standardisation (INEN). This resolution annexes a list of 293 products including cosmetics, toys, toothpaste, meat, cereals, among others. The list was extended to four new products on 14 January 2014.**
- **MIPRO Agreement 14114 of 24 January 2014 established the Operators Registry whereby all importers (compulsory) have to register their imports with the Ministry of Industry and Productivity.**

**Egypt:**

- In March 2013 Egypt increased MFN applied tariffs to bound levels for approximately 100 luxury products and products with a local equivalent. These measures do not apply to preferential partners, including the EU.
- **On 16 February 2014, Ministerial Decree No. 105 banned the imports of motorcycles and tricycles for 1 year, and the import of their components for 3 months. Decree No. 417 issued on 26 May re-allowed the import of motorcycles and tricycles for private or personal use, as well as the import of components used for producing those vehicles (engines – chassis), but the import of the three-wheeled vehicles (tuk-tuks) and motorcycles for trading purposes remains suspended.**

**India:**

- India is increasingly using import licences at the discretion of the authorities to limit imports of sensitive products. On 21 and 24 November 2008, less than one week after the G20 declaration on standstill, several products were moved from the “free” to the “restricted” list of imports involving import licences. Steel products were also put on the list of restricted imports, for which an import licence is requested. The experience – especially in the tyres sector - shows that the licensing system is not automatic: it involves delays; authorised quantities can be lower than requested; and the granting of licences is limited to actual users. Meanwhile, India moved work clothing and other worn articles to the restricted list on 19 May 2010 through Notification 43/2009-14. It emerges that six items still remain in the restricted list: electrical energy, medium density boards (3), elastomeric and worn clothing and other worn articles.
- Through Notification 09/2009-2014 dated 10 September 2009 India moved electrical energy (2716 00 00) to the restricted list. In this case, import licence would be issued by the DGFT in consultation with the Ministry of External Affairs, Ministry of Power and Department of Power. However, imports for Special Economic Zones (SEZs) would be 'free'.
- On 24 March 2011, India adopted a new definition for Completely Knocked Down (CKD) kit (HS 8703) which resulted in an increase of import duties from 10% to 30% for pre-assembled engines, gearboxes and transmission mechanism.
- On 5 March 2012 India imposed an export ban on cotton, which was lifted on 12 March 2012. Exporters however remained under the obligation to register their export contracts with the Directorate General of Foreign Trade (DGFT, part of the Commerce Ministry). The notification lifting the export ban also stated that the issuance of new registration certificates (which are required for the export) "stands suspended until further orders". On 9 April 2012 an informal Group of Ministers chaired by Finance Minister Mukherjee decided that the Government will in fact not accept fresh export contract registrations, but will allow pending exports on the basis of those contracts for which registration requests had been made before 5 March. Therefore, and in practical terms, the export ban was effectively turned into an export quota.
- On 16 March 2012, the draft Union budget has been presented to the Parliament by Finance Minister Pranab Mukherjee. The budgetary proposals included the following tariff increases:
  - The concessional rate of 5% of basic customs duty was extended to six life saving drugs/vaccines and their bulk drugs used in the manufactures of said drugs.

- The basic customs duty on flat-rolled products of non-alloy steel whether or not clad, plated or coated falling in headings 7208, 7209, 7210, 7211 and 7212 was increased from 5% to 7.5%
- The basic customs duty on Completely Build Units (CBUs) of motor vehicles (cars) falling under HS 8703 with FOB value of more than US\$ 40,000 and with engine capacity of more than 3000cc for petrol-run vehicles and more than 2500cc for diesel-run vehicles was increased from 60% to 75%.<sup>19</sup>
- The basic customs duty on bicycles in fully built condition as well as in form of CKD/SKD (Semi Knocked Down) kits was increased from 10% to 30%.
- The basic customs duty on bicycle parts and components was increased from 10% to 20%.
- In the Budget 2013-14, basic customs duty on new passenger cars and other motor vehicles (high end cars) with CIF value more than US\$ 40,000 and/or engine capacity exceeding 3000cc for petrol run vehicles and exceeding 2500 cc for diesel run vehicles has been increased from 75% to 100%.
- Basic customs duty on new motorcycles with engine capacity of 800cc or more has been increased from 60% to 75%.

On May 13, 2013, through notification A.P. (DIR Series) Circular No. 103 the Reserve Bank of India (RBI) imposed restrictions on gold import on consignment basis by banks, only to meet the genuine needs of exporters of gold jewellery. This restriction was extended through notification A.P. (DIR Series) Circular No.107, on June 04, 2013, to all nominated agencies/premier/star trading houses having been permitted by Government of India to import gold. Accordingly, the notification stated that any import of gold on consignment basis by both nominated agencies and banks shall be permissible only to meet the needs of exporters of gold jewellery. On May 31, 2013, the Central Board of Excise and Customs announced an increase in import tariff value of gold to \$459 per 10 gram from \$440 per 10 gram in April, 2013. On June 05, 2013, Government of India raised the rate of customs duty on import of gold by 2 per cent to 8 per cent as outlined in notification No. 31/2013. In January, 2013, the Government of India had already raised the gold import duty to 6 per cent, an effective six-fold increase from last year.

- **Through a Customs notification dated 8 July 2013 import tariffs on sugar were increased from 10 to 15%.**
- **Through a Customs notification dated 28 June 2013 specific tariff values have been fixed for imports of certain kinds of vegetal oils, poppy seed as well as areca nuts.**
- **Through a Customs notification dated 13 August 2013, the additional duty on gold ores and gold dore bar was increased to 8% and on silver dore bar to 7%. Similarly, the**

---

<sup>19</sup> At the same time, the increase of excise duty on diesel driven cars with length exceeding 4000mm and engine capacity under 1500 cc has also been announced, from 22% to 24% and on diesel driven vehicles having length exceeding 4000mm and engine capacity exceeding 1500 cc from 22% + Rs.15,000 to 27%. It should be added that excise duties are levied equally on domestic and foreign products and hence with no discrimination.

**basic customs duty on gold bars, gold coins, silver in any form, including ornaments and platinum was increased to 10%.**

- **Through a Customs notification dated 20 December 2013, India increased the specific element of the combined import tariff on certain products of natural rubber from 20 Rs/kg to 30 Rs/kg.**
- **Through a Customs notification dated 17 September 2013, the basic customs duty on articles of jewellery and parts thereof, on articles of goldsmiths' or silversmiths' wares and parts thereof, of precious metal or of metal clad with precious metal was increased to 15% whereas the import duty on half-cut or broken diamonds, cut and polished diamonds including lab-grown diamonds and coloured gem stones was increased to 2.5%.**
- **Through a Customs notification dated 20 January 2014, India increased import duties of certain vegetal and animal fats and derivatives from 7,5% to 10%.**

#### **Indonesia:**

- Minister of Trade Regulation 23/2011 restricts the import of dangerous materials. Imports can only be done by BPI, a state owned company, or by a regular company if the materials are to be inspected at the port.
- Ministry of Finance Decree No. 19/2009, adopted on 13 February 2009, raised import tariffs on some products that were competing with locally manufactured products. These include products such as milk, animal or vegetable oils, fruit juices, coffee and tea, chemicals, silver, steel, electronic products (machines, TVs etc.), as well as manufactured products: packaged juices (10 to 15%), instant coffee (5 to 10 %), iron wire (7,5 to 10%), wire nails (0 to 12,5%) and electrical and non-electrical milling machines (0 to 7,5%). At the same time certain tariffs were reduced, mainly on inputs needed for local manufacturing (e.g. dairy products and base chemicals). Finance minister decree 213/2011, effective January 2012, has changed *for the better* some of the tariffs: packaged juices (15% to 10%), instant coffee (10% to 5%).
- On 22 December 2010, Minister of Finance issued Regulation No. 241/2010, which stipulated import duties for farming products, fishery, pharmaceuticals, manufacture, agro-industry, etc. Regulation No. 241/2010 was the fourth amendment to Regulation No. 110/2006 on Classification of Products and Import Duty Tariffs Imposition, which had been revised by Minister of Finance Regulation No. 80/2011 in April 2011. The new tariffs – mentioned in the bullet above - have been included in Finance Minister Decree 213/2011.
- By ministerial decree PMK 80/2011, the government raised import duties for eight food items i.e. airtight containers of fish (herrings, sardines, tunas, and mackerel) and sugar confectionary (chewing gum, medicated sweet and white chocolate) to 10 percent from 5 percent to “protect local downstream industries from an invasion of imports of such products”. PMK 80/2011 also stipulates that tariffs of 25 non-food goods (manufacturing raw materials and capital goods) were reduced to zero over the period of April to December 2011, and then most of them returning again to 5 percent as of 1 January 2012. In December 2011 Finance Minister issued decree PMK 213/2011, effective January 2012, which kept the import duties of those selected food items at 10%.

- Decree 56/2008, which entered into force on 15 December 2008, imposed burdensome requirements on imports of over 500 products. Imports are subject to licenses, must undergo pre-shipment inspection and can only enter the country through six seaports and international airports. Affected sectors include clothing and textiles, electronics, toys, footwear and food and beverages. It became effective for clothing and textiles on 1 January 2009 and for other products on 1 February 2009.. In December 2010, decree 57/2010 was adopted prolonging the former decree 56 for two more years until 31 December 2012. The measure has been extended by Decree 83/2012 for three more years until 31 December 2015. Priority Lane status was removed from the new Decree, which constitutes an additional burden. **Trade Minister Regulation 61/2013 on the Provision of Import of Certain Products issued on 30 September 2013 revised Reg. 83/2012. It contained several revisions, of which: a change to the verification or the import technical inspection regime, which now must also encompass the verification of the SPPT SNI (Product Certification Number of Indonesia's National Standard Marking) for products subject to mandatory SNI; and the Certificate of Analysis where required; and a removal of the exclusion of cosmetics from products subject to verification or import technical inspection, hence cosmetics imports have now to be equipped with a Surveyor report. Furthermore a new provision states that a Surveyor Report has to be included as a complementary document also for cosmetics imports starting from 1 January 2014. BPOM (The Indonesian Food and Drugs Agency) has implemented a strict inspection process on the imported cosmetics. The implementation requirement concerning the Surveyor report — under which the requested documents are similar to those requested by BPOM and customs officers - constitutes a duplication of processes.**
- Ministry of Trade Decree 8/2009 (08/M-DAG/PER/2009) states that 200 iron and steel products can only be imported by licensed importers and that all shipments undergo a pre-shipment inspection. The Decree 8/2009 was updated by Decree 21/2009, which reduced the amount of HS codes included in the regulation from 203 to 169 HS codes. Ministry of Trade has appointed two surveyors (PT Sucofindo and PT Surveyor Indonesia) to conduct the pre-shipment inspections. The revised Decree 21/2009 eliminates the requirement to submit Goods Import Plan in the application by an importer-producer (IP) or an importer (IL) for importation of iron and steel products (a requirement present in the Decree 8/2009). Furthermore it enlisted the industries excluded from the scope of the Decree: (i) the industries of automotive, electronics, ship building, heavy equipment and their components, (ii) importers in Priority Lane: user industry with SKVI (Industry Verification Reference Letter) through USDFS (User-Specific Duty Free Scheme), and the company owning SKVI through BM-DTP (Import Duty Paid by the Government); and (iii) contractor of Joint Operation in Oil & Gas and Mining; the operator of development of Power Plant for Public Interest; and the operator of the development of Oil and Gas downstream for Public Services. Decrees 8/2009 and 21/2009 were extended for two more years by decree 54/2010 until 31 December 2012. The measure has been extended by Decree 08/2012, enforced from January 2011 to December 2015.
- Ministry of Finance Regulation 101/2009, which entered into force on 1 June 2009, imposed a 5% duty on imported raw materials for processed milk products (milk powder and processed milk). The stated objective is to promote the milk produced by domestic dairy cattle farmers as lobbied for by the Association of Indonesian Dairy Cattle Farmers, affected by low prices on international market. The milk producers' association urges the Government to raise the import duties on dairy products further from 5%. European exporters of milk products have been reporting on the increasing difficulties with imports to Indonesia, such as delivery of a questionnaire filled by European veterinary authorities. In September 2009, also other

countries such as the United States and New Zealand also received requests to complete the country and establishment approval process.

- Import conditions for sugar remain unclear and restricted. Ministry of Trade decides on an annual importation quota and an annual 'importation period', when refined crystal sugar can be imported. The decision is made upon consideration whether the domestic sugar production is first fully used. In 2009, white crystallized sugar can only be imported two months after the end of sugar cane milling season and a month before the milling season begins. In 2008, the Ministry of Trade only allowed imports of sugar during 3 months instead of previously promised 6 months. Imports of sugar are only allowed for registered importers, and to become one a company needs to absorb at least 75% of sugar cane farmed in Indonesia.
- A pre-shipment inspection and reporting requirements on imports of non-hazardous waste were introduced by the Ministry of Trade Regulation nr 26/2009 of 23 June 2009 (which amends a Regulation 58/M-DAG/PER/12/2008). It entered into force on 24 September 2009. An independent surveyor appointed by the Minister would conduct inspections of non-hazardous waste at the port of entry before being admitted to the Indonesian territory.
- Regulation 40/2009 of 15 September 2009 (amended by Reg. 71 dated 23 November 2012) introduced pre-shipment inspections and reporting on imports of sheet glass. All sheet glass (except for certain categories, such as samples or goods for technical research etc.) shall be technically verified in the country of origin. Furthermore, the verified containers need to be sealed and marked with labels.
- In November 2009, the Minister of Marine Affairs and Fisheries announced a ban on shrimp imports in order to protect local companies. The measure would specifically target vaname shrimps from the US. It was established in a joint Ministerial Regulation between the Ministry of Trade and Ministry of Marine Affairs and Fisheries, No. 26/M-DAG/PER/6/2010 dated 23 June 2010. Shrimps with HS codes 0306.13.00.00 and 0306.23.30.00 are completely banned from being imported to Indonesia and all other types of shrimps can only be imported through certain ports (5) and airports (4).
- **Law Nr 7 on Trade was adopted on 11 March 2014. The law strengthens supervision and control over the circulation of goods, mandates the government to impose import and export restrictions of goods for national interest, and provides discretionary powers to the government and parliament to review and/or annul international trade agreements. The law is likely to also create uncertainty for operators and further market access concerns for foreign industry - the law and its implementing regulations may cause further trade restrictions that could affect: retail companies (local content requirement), and non-food manufacturers/importers.**
- MoF Regulation No. 147/2011 on bonded zones removes import duties on capital goods, raw materials and intermediary goods produced in the zones. Bonded zones promoted efficient production and increased the competitiveness of local products overseas by providing incentives, such as the removal of duties levied on capital goods, intermediary goods and raw materials. The regulations would encourage producers to export their products instead of selling them at home. The 2011 Regulation was amended by Regulation 44/2012; stipulating a significant change related to the sale of products from the bonded zones to domestic customers. Regulation 44/2012 allows capital goods which were imported prior to the issuance of Regulation 147/2011 to be delivered from a bonded zone area to customs areas. The 2012 Regulation increased the limits to the domestic delivery of produced goods to 50% but only up to 31 December 2012, provided that such goods would be further processed and are not

directly used by end consumers (intermediate goods). **MoF Regulation 120/2013 further allowed the temporarily selling of 50% of goods domestically. Likewise, the Ministry of Industry's (MoI) Reg. 4/2014 issued on 21 January 2014 allows companies in Bonded Zones to sell for more than 50% of the total value of products sold in the previous years, after approval by Customs and Excise authorities and a recommendation from the MoI.**

- The Minister of Trade Reg 48/2011, dated 29 December 2011, on the imports of used capital goods allows the imports of 306 used capital goods (but not scrap), classified under HS 84 and 85 (machinery and electrical equipment), 87 and 88 (transportation), and 90 (health device/equipment). Used capital goods can only be imported by a direct user, reconditioning, remanufacturing, and health equipment supplier companies. Every importation of the specified goods shall obtain an approval from the MoT. The approved goods to be imported are subject to a technical inspection by a Surveyor in the country of origin. As of early 2012, businesses wishing to import used capital goods need to obtain a recommendation from the Ministry of Industry before they may import used capital goods (Ministerial Regulation 14/2012). **The regulation has expired on 31 December 2013, and a new Minister of Trade regulation nr. 75/2013 has been issued, effective 1 Jan 2014 to 31 December 2016.**

Ministry of Agriculture Regulations 88, 89, and 90/2011, as well as 03/2012 restrict the entry and exit points of agriculture products, implement testing at the border for fruits, vegetables and cereals, and requires pre-approval of imports from the Ministry of Agriculture. Most notably, it closes Jakarta port Tanjung Priok for horticultural imports redirecting imports to the nearest port in Surabaya forcing the supply of imported products to be distributed from there. This is likely to increase the cost of imported foods falling within this category, as well as decrease the quality due to the extended transport time. These regulations, which follow previous versions and were recently updated by Ministry of Trade regulation 16/2013 cover Food Safety Supervision of Imports and Exports of Fresh Food Originating from Plants (PSAT) and apply to fruits, vegetables, and cereals. The imports of certain fruits, vegetables, and cereals shall: (a) be equipped with a safety certificate/document of PSAT and a description of PSAT (prior notice) from the country of origin; (b) pass through designated entry points; and (c) be reported and submitted to a Plant Quarantine Officer at an entry point for testing of chemical contaminants, biological contaminants and prohibited chemicals. The exports shall: (a) be equipped with certificates or documents explaining the condition of PSAT in compliance with the requirements of a destination country, issued by an accredited testing laboratory, accredited certification agency, or other competent authority; (b) pass through designated exit points; and (c) be reported to a Plant Quarantine Officer. The regulations specify a limited number of seaports (Medan, Surabaya, and Makassar) and one airport (Jakarta) as the designated entry points of PSAT imports, unless a so called 'Country Recognition Agreement' is established.

- Ministry of Trade (MoT) Regulations 27/2012 and 59/2012: Importers must secure an importer identification number to be able to import goods into the country, but are only allowed to import one category of goods stipulated in the Goods Classification System An API-P is given to a company that imports capital goods, raw materials, or goods used in production. The imported goods may not be traded or transferred to other parties. Following extensive dialogue with (mostly EU) industry, the regulation now defines Hubungan Istimewa (special relationship) as a relation between company with API with overseas company whereas one of the party is controlling the other party, or has significant influence on the other party according to applicable accounting standard. This special relationship can be acquired through contractual agreement, shares ownership, agent/distributor agreement, loan agreement or supplier agreement. MoT issued a regulation on 30 December 2012 to start implementing the new Regulation 59/2012 by 31 March 2013 instead (MoT regulation 84/2012).

- Food Law No 18/2012 has been adopted at the end of 2012. Under the Law, imports and exports of foods are only allowed if the foods are not available or needed in the country. The law also imposes food labelling provisions and mandatory food processing. The law provides for an instrument for restricting imports of all kinds of food products and resulted in a temporary ban, imposed from February 2013 on imports of certain horticulture products (vegetables and fruits including for instance broccoli and potatoes) and the horticulture quotas for certain products are under Indonesia's new regulations for imports of horticulture products (Ministry of Trade Regulation No. 30/2012, Ministry of Trade Regulation 60/ 2012 and Ministry of Agriculture Regulation 60/2012). These imports are restricted by limiting the issuance of a Recommendation for the Importation of Horticultural Products. **In April 2013 the MoA revised Reg. 60/2012 by issuing Reg. 47/2013, which eliminates the obligation of Import Recommendation to consider domestic factors (domestic production, consumption, and potential of the imported products to distort markets); simplifies the administrative requirements of the Recommendation; extend the period of Recommendation (six months for General Importers and one year for Producing Importers). At the same time, MoT Reg. 16/2013 was issued to amend Reg. 60/2012 to simplify the process of obtaining an import license. The process is streamlined, shortened, and performed electronically, instead of a written request under Reg. 60/2012. The import approval period is shortened to 2 days from 5 days previously. However, overall the import licensing scheme remains non-automatic.**
- Agriculture Minister Decree No 05/2012 restricts seeds imports. This decree stipulates that planting material can only be imported after been registered. After two years of importation, the seed variety has to be produced locally (in Indonesia). The import registration involves a lengthy process and can take around 2 years.
- Trade Minister Decree No 58/2012 on provisions for salt imports stipulates that only recognised companies can import salt (consumption and industrial salt), but not one month before the harvest period, during the harvest period and two months after the harvest period and / or if average price is too low. Quantity quotas will be allocated.
- Industry Minister Decree No 81/2012 and Trade Minister Decree No 82/2012 regulate the importation of cellular phones, starting from January 2013, imposing: technical procedures and applications of standards; import limitations (distributors and port restrictions); pre-shipment controls and obligation to pre-register identification (IMEI) before importations in a one year planning period.
- **Minister of Finance adopted Reg. 175/2013 on the collection of Income Tax for imported goods. This legislation only applies to imports, not domestic like-products. The import income tax for 502 products will increase from 2.5% to 7.5%, starting from 6 January 2014. The objective is to reduce the imports of the selected products, as the importer may be forced to increase the price of imported products (the income tax has to be paid on each import consignment, although the tax credit can be claimed later). It may contribute to a price increase of imported goods compared to domestic ones.**
- **Government Reg. 22/2014, amends Gov. Reg. 41/2013, stipulates that luxury tax for motor vehicles is increased from 10% to 125%, depending on the type of vehicles and engine capacity. Vehicles with engine capacity of 3,000 cc in particular are subject to an increase from 75% to 125%. MOF Reg. 64/2014 elaborates the type of vehicles and engine capacity that are subjected to the increased luxury tax.**

- **Finance Minister Regulation 207/2013 of 31 December 2013, replacing Regulation 62/2010, raises excise taxes on beverages containing ethyl alcohol as from 1 January 2014. Categories of products are defined by alcohol content and excise duties have been increased to 18% for Category A products (0-5° alcohol by volume), to 10% for Category B products (5-20° alcohol by volume) and to 7% for Category C products (20-55° alcohol by volume) With regard to categories B and C, taxation is higher on imported than on domestic like products.**

#### **Kazakhstan:**

- The Customs Union Commission increased the import duty on raw sugar to USD 140 per ton in August 2011. Additionally, a different scale of fees applicable to import of sugar came into force on 1 August 2011.
- Kazakhstan introduced for a period of three years protective duties of 19% of the customs value but no less than EUR 2.8 per Kg of absorbent cotton wool and its derivatives on the imports of some kinds of confectionery and cotton wool from September 2011.
- Government introduced protective duties ranging from 30 to 49% on the imports of several kinds of confectionery also for a period of three years from September 2011.

#### **Mexico:**

- **Import licensing requirements were adopted on 133 tariff lines of steel products and on slot machines, effective on December 2013.**
- **By Decree of 13 December 2013 amending the Law on General Imports and Exports Tariffs Mexico increased customs duties on certain furniture items and several agricultural products, including white corn (to 20%).**
- **By Decree of 2 September 2013 amending the Law on General Imports and Exports Tariffs Mexico increased customs duties on certain wood product items from 0% to 7% (while decreasing duties for some other wood product items from 15% and 10% to 7%)**

#### **Nigeria:**

- Nigeria introduced special levies on products (2008-2010 Tariff Book) which have been traditionally included in an import prohibition list. The levies, which are labelled in the Tariff Book 'National Automotive Council Levies', range from 5% to 100% depending on the products and sectors. They are applied on imports, on top of the tariffs included in the tariff book. They do not replace import bans which continue to apply. Levies apply as of November 2009.
- The import bans on bagged cement, in force since November 2009, has been complemented by an import licence quota for bulk cement, set in August 2010 at the level of 2.5 million metric tonnes. Furthermore, an import tariff was increased to 20% for all categories of cement goods. An additional levy of 15% will also apply on the CIF price of bulk cement, thus

replacing the specific duty of N500 per tonne. The Nigerian Government has recently announced that no import licences were issued in 2012.

- A circular dated 20 February 2012 introduced extra levies on wheat, wheat flour and rice to boost use of the cassava in cassava processing.
- As part of the fiscal measures accompanying the 2013 budget, as of 1 January 2013, raw sugar attracts an import duty rate of 10% plus a levy of 50% while refined sugar attracts an import duty rate of 20% plus a levy of 60%.
- As part of the fiscal measures accompanying the 2013 budget, husked brown Rice and semi-milled or wholly milled rice, whether or not polished or glazed, attracts an import duty rate of 10% plus a levy rate of 100%. **As from 26 May 2014, the levy on husked brown and semi-milled or wholly milled rice was decreased to 20% for investors with rice milling capacity, down from 100% that was applicable under the former fiscal policy. On the other hand, for pure traders, the government reduced the levy to only 60% down from 100% per cent. The basic tariff remains at 10%.**
- According to the Central Bank circular, as from February 2013, polymers of polyethylene and polypropylene now attract an import duty rate of 5% to encourage import substitution.
- **In the automotive sector, a circular published on 14 November 2013 and then amended in February 2014 has introduced new tariffs and levies on cars and tyres as from 1 July 2014: a) Fully Built Unit (FBU) cars attract 35% duty and 35% levy; b) FBU commercial vehicle attract 35% duty; c) local assembly plants can import Completely Knocked Down (CKD) at 0% duty and semi knocked down (SKD) at 5% duty. Local assembly plants are at the same time granted concessionary rates on FBU cars and vehicles (35% and 20% respectively) in numbers equal to twice their imported CKD/SKD kits. As for used cars, duties will be calculated on the price of new cars depreciated by 10% per annum for cars and 7% for commercial vehicles. In either case however depreciation should never be below 30% of the value of the new corresponding vehicle. The same circular includes measures for the tyres industry: 20% duty plus 5% VAT on car tyres and 20% duty plus 5% VAT on lorry/bus tyres. Concessionary rates for the importation of tyres are also given to local manufacturers for a period of two years.**
- **With regards to the fisheries sector, reports since 2013 have indicated an increasing difficulty for importers of frozen fish in securing validation of import documents from the Fisheries Department (part of the Ministry of Agriculture and Rural Development). New Regulations and Guidelines were introduced as from 1 January 2014 providing for a target reduction of 25% of issued licences. Operators state that the drop during the first part of 2014 has been up to 50%. Names of licensees have not been published and it is not clear on which grounds they have been selected. Also, the list of fishery products subject to the reduction in licences is not clear. As a consequence of the current situation, a parallel market for licences appears to have developed and market prices have significantly increased.**

#### Pakistan:

- **On 26 June 2014, the Federal Government imposed a 5% duty on import of certain foodstuffs and toiletries by means of regulation SRO No. 568(I)/2014.**

**Paraguay:**

- Import licence requirement was introduced for clothing products, applicable since 5 February 2009.
- Import licence requirement for cosmetics and personal hygiene products is applied since 23 December 2008. These measures have been put in place mainly in reaction to the financial and economic crisis, justifying the need to protect the domestic production.
- An import licence requirement for import of woven fabrics and laces (HS 5806.20.00, 5806.32.00, 5607.90.10) was published in a Resolution No. 407 of the ministry of Industry and Trade on 17 June 2011.
- By Degree n° 6492 of 28 April 2011 the import licence requirement for poultry meat was extended for a further 180 days for four tariff lines (0207.11.00; 0207.12.00; 0207.13.00; 0207.14.00). A new Degree has been published on 22 December 2011 to extend this measure a 180 days more.

**Philippines:**

- **In February 2014 the Department of Finance issued Order 12-2014 regarding revised rules on the (re-)accreditation process for importers. The process involves securing an 'Importer/Broker Clearance Certificate' from the Bureau of Internal Revenue, before registering with the Bureau of Customs, which is causing long delays in the (re-)accreditation process.**
- *Customs authorities are planning to expand the use of pre-shipment inspections (currently used for bulk and break-bulk cargo) to containerized cargo. A draft regulation is under discussion, but implementation has been deferred due to concerns raised by trading partners, including the EU.*

**Russia<sup>20</sup>:**

- A Decree on harvesters (No. 12 of 9 January 2009, entered into force on 15 February 2009). Russia raised import duties for combine harvesters to 15%, but no less than €120 per 1 kW of engine. Government Decree No. 940 extended for additional 9 months temporary tariffs on harvesters. In force since 14 November 2009, made permanent in the Customs Union's Single Customs Tariff.
- Increased import duties for cars were introduced by the Decree No. 903 of 5 December 2008, initially valid for 9 months, entered into force on 12 January 2009. The duty increases were between 5 % and, 20 % ad valorem. Changes to the specific duties represented in certain cases

<sup>20</sup> Nearly all tariff increases introduced in the course of the economic crisis 2008-2009 have been made permanent and consolidated in the Single Customs Tariff (SCT) as of 1 January 2010. In this subsection, specific remarks concern a change of duty rate under the Customs Union's Single Customs Tariff. Lack of remark implies the tariff has been consolidated in the Customs Union SCT.

(specifically for trucks) an increase of up to 400%. The steepest increases were for used cars, but new cars were hit across the board. On top of this, the rouble was devalued, which made imported cars very expensive. On 9 October 2009, the Decree No. 807 prolonged the validity of the duty for a further 9 months, until June 2010. Under the Customs Union's Single Customs Tariff most of these increases were confirmed, with some exceptions. Since 1 July 2011, import of cars to the Customs Union territory is regulated by the Custom Union agreement of 18 June 2010, 'On order of movement of goods for personal use by individuals through the customs border of the Customs Union' which in Attachment 5 confirms these import duty increases.

- Decree No. 918 of 8 December 2008 on meat quotas reduced the EU poultry quota from 236.4 thousand tonnes to 185.8 thousand tonnes (on beef and pork, the quota was increased). Russia put a request to redistribute some of the unused frozen beef quota from the EU to other countries. New quotas have been introduced for the years 2010-2012 by the Government Decision No. 1021 of 16 December 2009 and made permanent by the Customs Union Commission. On 29 July 2011, a Government Decision was approved, envisaging a 28.5% cut for poultry and a 32% cut for pork in 2012 import quotas. The import quota for beef remains unchanged.
- New Decree No. 9 on steel of 9 January 2009, which entered into force on 14 February 2009, raised import duties for a range of rolled steel products and steel tubes (pipes, carbon long products (wire rod, merchant bars, sections), stainless flat products etc) for 9 months. The duty increase was consolidated under the Single Customs Tariff of the Customs Union.
- Increased import duties on butter and other dairy fats by 15% but not less than €0.35 per 1 kg (Decree No. 71). Government Decree No. 1018 extended a 15% import duty, but not less than €0.35/kg, on certain types of butter and dairy products (codes 0405 10 110 0, 0405 10 190 0, 0405 10 300 0, 0405 10 500 0, 0405 10 900 0, 0405 20 100 0, 0405 20 300 0, 0405 20 900 0, 0405 90 100 0, 0405 90 900 0) for an indefinite period. The duty increase was consolidated under the Single Customs Tariff of the Customs Union.
- Increased duties on certain types of milk and cream by 20% (Decree No. 72). Government Decree No. 1016 extended for an indefinite period of time an import duty of 20% for a number of tariff lines corresponding to milk and condensed milk (code 0402). The duty increase was consolidated under the Single Customs Tariff of the Customs Union.
- Decree No. 179 of 14 February 2009 on seasonal duties on rice and milled products from rice. The decree introduced a seasonal duty on rice and milled products from rice at €0.16 per kg for the period from 15 February until 15 May 2009. On 2 November 2009 the Government Decree No. 881 introduced a specific duty for rice at 0.12€/kg (up from 0.07€/kg), in force since 2 December 2009. The duty increase was consolidated under the Single Customs Tariff of the Customs Union.
- Decree No. 173 from 26 February 2009 on certain types of dairy products for babies. The decree raised the import duty from 5% to 15% and took effect at the end of April 2009. The duty increase was consolidated under the Single Customs Tariff of the Customs Union.
- Increased duties on non-alloy steel bars and rods were introduced by the Government Decision No. 299 of 3 April 2009, which entered into force one month after publication. Duty rates were increased from 5% to 15% for a period of 9 months. The duty increase was consolidated under the Single Customs Tariff of the Customs Union.

- Increased duties on maize starch and manioc starch of 20%, but no less than €0.15/kg (an increase from €0.06/kg) were prolonged by the Russian Government Decision No. 328 of 15 April 2009 for a period of 9 months. The duty increase was consolidated under the Single Customs Tariff of the Customs Union for manioc starch 10% but no less than €0.15/kg. The duty increase for maize starch was not extended.
- The Government Decision of 22 April 2009 prolonged the validity of the 15% duty on radio frequency coaxial cables. The duty increase was consolidated under the Single Customs Tariff of the Customs Union.
- From 3 May 2009 a 15% import duty for asynchronous electric motors (Codes 8501 51 000 1 and 8501 52 2000 1): the import duty of 15% for each is in force since 3 May 2009. Both measures are valid for a period of 9 months. Consolidated under the Customs Union's Single Customs Tariff at the level of 10% but no less than €20/piece.
- On 8 May 2009 the temporary import tariff on magnesium scrap metal and crowbars (first introduced in November 2006) was extended for 9 months. The order maintains the tariff, which is levied at a rate of 5% against the declared value of the goods. The order came into effect on 8 June 2009. As of 8 November 2009 the duty was increased to 20% but no less than €138/tonne on certain magnesium scrap. The duty increase was consolidated under the Single Customs Tariff of the Customs Union.
- Russian Government Decree of 15 June 2009 introduced a temporary minimum import tariff on pentaerythritol. The minimum tariff payment will be 5% ad valorem but no less than €0.07 per kg. The measure is applied for 9 months. Consolidated under the Customs Union's Single Customs Tariff at 5% ad valorem (without the specific component).
- Russian Government Decree of 15 June 2009 introduced a temporary minimum import tariff on 'other plates', sheets, film, foil, strip of plastics, of 10% but no less than €0.35/kg. The duty increase was consolidated under the Single Customs Tariff of the Customs Union.
- Decree No. 680 of 20 August 2009 introduced temporary tariffs on cheese for a 6-month period. The Decree was in force from 20 September 2009. The tariff was set at 15% but not less than €0.5/kg. Consolidated under the Customs Union Single Customs Tariff.
- Decree No. 729 of 14 September 2009 introduced for 9 months an import duty of 15% but no less than €0.12/kg on polyvinylchloride (up from the 15% duty, without euro component). The duty is in force starting on 18 October 2009. Under the Customs Union's Single Customs Tariff the duty rate was set at 10%.
- Decree No. 730 of 14 September 2009 introduced for 9 months an import duty of 15% but no less than €0.07/kg on sodium hydrate (previously set at 15%). The duty is in force starting on 18 October 2009. Consolidated under the Customs Union Single Customs Tariff.
- A special duty for 3 years corrosion-resistant pipes with the outer diameter up to 426 mm inclusive (subheadings of CN 7304 and of CN 7306) at 28.1% ad valorem was introduced by Russia on 28 September 2009. The CU Commission's Decision N 706 of 22 June 2011 reduced the duty to 9.9% of customs value, but introduced a minimum threshold of USD 1,500 per 1 ton. The measure was in force until 1 November 2012, inclusive. The Ministry of Industry and Trade's Order No. 1162 of 26 August 2011 launched a repeated special safeguard investigation into imports of the corrosion-resistant pipes to the customs territory of the Customs Union. The Collegium of the Eurasian Economic Commission's Decision No. 143 of

23 August 2012 introduced, until 1 November 2014 inclusive, import quotas on the corrosion-resistant pipes.

- The Russian Government increased the import duty on snow vehicles from 5% to 10% for a period of 9 months. Consolidated under the Customs Union Single Customs Tariff.
- The Russian Government increased the import duty on ventilating equipment from 0% to 10% for the period of 9 months. Consolidated under the Customs Union Single Customs Tariff.
- The Russian Government planned to establish an import duty for polycarbonates for optical production (CN code 3907 40 00 01) of 5% until 1 January 2010, and import duty of 10% from 1 January 2010. Under the Customs Union the import duty for polycarbonates (CN Code 3907 40 00 01) was set at 5% ad valorem, and for other polycarbonates (CN code 3907 40 00 09) at 10% ad valorem (Customs Union Commission's Decisions No 196 of 26 February 2010, and No 859 of 9 December 2011).
- Decree No. 679 of 20 August 2009, on the tariffs on aircraft spare parts, equipment/ units (also mock-cockpits), entered into force as of 21 September 2009. This confirms earlier tariffs of 2008, introduced originally for the period of 9 months. Consolidated under the Customs Union Single Customs Tariff. (Customs Union Commission's Decision No 130 of 27 November 2009, as amended by the Customs Union Commission's Decision No 728 of 15 July 2011).
- On 30 October 2009 the Russian Government Decree No. 874 introduced a 5% duty on drops for contact lenses, binding from 6 January 2010 for 9 months. Consolidated under the Customs Union Single Customs Tariff.
- On 30 October 2009 the Russian Government Decree No. 876 introduced a duty increase on propylene (methyl ethylene) terpolymer and tetramer, in force from 6 January 2010. The duty was consolidated under the Customs Union Single Customs Tariff through the Customs Union Commission Decision No.316 of 18 June 2010.
- On 16 November 2009 the Government Decree No. 932 introduced for 9 months an import tariff on natural rubber (caoutchouc). Entered into force one month after official publication. Consolidated under the Customs Union Single Customs Tariff.
- On 23 November 2009 the Russian Government Decree No. 943 adopted measures to protect Russian cutlery producers by introducing a specific safeguard duty of \$1.4/kg. Decree entered into force one month after the publication for a period of 3 years. The Customs Union Commission Decision N.704 of 22 June 2011 confirmed the duty on cutlery of corrosion-resistant steel under CN codes: 8211 91 300 0 (replaced with CN Code 8211 91 000 1 according to Customs Union Commission Decision No. 859 of 9 December 2011), 8215 20 1000 0, 8215 99 100 0. The duty was imposed for the period until 26 December 2012. The Customs Union Single Customs Tariff now applies a 15% import duty on the cutlery of corrosion-resistant steel.
- On 28 November 2009 the Russian Government Decree No. 959 increased duties (15% and 20% from 5% and 10%) on iron rolled products and iron pipes, for 9 months. Cancelled by the Russian Government Decree No 1002 of 8 December 2010. Consolidated under the Customs Union Single Customs Tariff.
- In December 2009 the Russian Government Decree No. 989 increased import tariffs for certain flat cold rolled steel from 0 to 5% (codes 7209 17 900 1 and 7209 27 900 1), effective

one month after publication. Cancelled by the Russian Government Decree No 1002 of 8 December 2010. Consolidated under the Customs Union Single Customs Tariff.

- As of 14 November 2009 the Government Decree No. 931 introduced for additional 9 months the duty on coaches for high speed electric trains. Cancelled by the Russian Government Decree No 1002 of 8 December 2010. Consolidated under the Customs Union Single Customs Tariff.
- In February 2010, the Ministry of Industry and Trade (MIT) and the Finance Ministry undersigned a Joint Order, which toughens the rules for imports of parts and components for assembling cars (such parts and components are subject to reduced import duties of 0-5%). On top of the already envisaged agreement on car industrial assembling with the Economic Development Ministry (MED), importers should submit to the customs authorities a conclusion on purpose of imported parts and components. Car producers should also report twice a year to MED about their investment (instead of once a year) and provide a list of every defective part and component and their scrapping.
- On 16 April 2010 by the Customs Union Decision the import duty rate of processed cheese was raised from 15% but not less than 0.3 Euro/ Kg to 15% but not less than 0.5 Euro/kg. The Collegium of Eurasian Economic Commission's Decision No 13 of 5 February 2013 increased starting 1 April 2013 import duties on certain types of cheese (CU CN Codes 0406 20 100 0, 0406 20 900 0, 0406 90 320 9, 0406 90 990 9) For instance, the import duty rate for Glarsky cheese was increased from 15% but no less than €0.3 per 1 kg to 20% but no less than €0.4 per 1 kg.
- On 16 April 2010 the Customs Union took a Decision No. 238 to raise the raw sugar import tariff by pegging it to New York Commodity Exchange prices, calculated on a monthly basis, rather than on the basis of the preceding 3 months. The Federal Customs Service in a letter of 27 March 2013 established the import duty at \$140 per a kilogramme referring to the average sugar price on the NYCE in February of \$401.83 per a tonne.
- *Since the "Strategy of Development of Customs Service of Russian Federation until 2020" (approved by the Government Order No 2575-p of 28 December 2012) cites fiscal functions among the customs services main priorities, further tariff increases could be expected.*
- *The Russian Government decided to introduce a 25% duty on navigation equipment supporting only GPS, without GLONASS modules. All navigators for automobiles destined for the Russian market were planned to be equipped with GLONASS. In October 2011, Russian customs posts started to apply a 5% duty on imported Tablet PC with GPS modules (in particular, Apple iPad and Samsung Galaxy) referring to them as navigators. The Federal Customs Service later had to admit that Tablet PCs did not belong to navigators and not subject to duty (FCS Letter No TF-162 of 14.02.2012). Meanwhile, in June 2012 Russia's partners in the Customs Union, Kazakhstan and Belarus rejected Russia's proposal to increase the duty and the Customs Union Commission retained the import duty rate on GPS navigators at 5%.*
- An import duty increase to 15% on plastic parts of protective spectacles is in force as per Customs Union's Commission Decision No. 314 of 18 June 2010.
- The Customs Union's Commission Decision No. 346 from 17 August 2010 increased the tariff on imports of corks and capping for bottles (codes 3923 50 100 0 and 3923 50 900 0) from 10% to 15%, but not less than €1 per kg.

- The Customs Union's Commission Decision No. 347 from 17 August 2010 increased the import tariff on used and refurbished tires (codes 4012 11, 4012 12, 4012 13, 4012 19, 4012 20) from 20%, but not less than €6.9 per tire to 20%, but not less than €20 per tire.
- A 5% import duty on certain types of agricultural machinery (CN 8428) was introduced in November 2010.
- An import duty of 10% but no less than €0.15/kg on nonwoven materials (CN 5603) was introduced.
- The previous temporary increases in the import duties on certain types of tropical oils in the Russian Customs Tariff were consolidated under the Single Customs Tariff of the Customs Union. In accordance with the Customs Union Commission Decision N. 581 of 28 January 2011, the duty for tropical oil in containers of 20,000 kg or less is set at €0.4/kg.
- The Customs Union Commission issued a Decision No. 736 of 16 August 2011, introduced the import duty on elevators and conveyors for continuous operation of underground works (CN Code 8428 31 000 0), and barring a hydraulically driven (CN Code 8479 89 300 0) at 5%. Effective since 1 September 2011. The measure was consolidated under the Customs Union Single Customs Tariff.
- The Customs Union Commission, by Decision No. 738 of 16 August 2011 established a specific duty on fluid-filled radiators (CN Code 8516 29 10 0) at EUR 5/piece. The ad valorem duty is 10%. Effective since 1 September 2011.
- The Customs Union Commission, by a Decision No. 763 of 16 August 2011, set an import duty on disc harrows (CN Code 8432 21 000 0) and 'other' (CN 8432 30 190 0), as well as on press balers (CN 8433 40 100 0) at 5%. Effective since 1 September 2011.
- The Russian Government Decree on redistribution of import tariff quotas for beef, pork and poultry in 2012 No 1194 of 29 December 2011 (CU CN Codes: 0201, 0202; 0203; 0207 14 200 1, 0207 14 600 1; 0207 14 100 1; 0207 27 100 1) imported from the EU, US, Costa Rica and other countries.
- Customs Union Commission's Decision No 913 of 25 January 2012 establishes the seasonal import duty on some kinds of sugar at USD 140 per 1,000 kg for the period of 01.05.2012 – 31.07.2012, inclusive.
- The import tariff rate on circular carbon electrodes with a diameter not exceeding 1,000 mm (CU CN Codes 8545 11 001 0) was raised to 15% from 0% starting 01.01.2012 by the CU Commission's Decision No 907 of 18 November 2011.
- The new version of the CU Single Customs Tariff comprises corrections of the import duty tariffs on some types of watches. Instead of 20% but at least €3 per piece, the duty rate of 10% but at least €10 per piece was set up for the following CU CN Codes: 9102 11 000 0, 9102 12 000 0, 9102 19 000 0, 9102 21 000 0, 9102 29 000 0, 9102 91 000 0, 9102 99 000 0. (CU Commission's Decision No 850 of 18.11. 2011)
- The CU Commission's Decision No 353 of 17.08.2010 added to the List of goods which are subject to ban or restrictions in CU trade with third countries the following products: fresh water fish, frozen or chilled (including filleted, dried, salted or tinned), prepared or preserved crustaceans, molluscs and other aquatic invertebrates (CU CN Codes: 0303 79 110 0, 0303 79 191 0 – 0303 79 199 0 etc., 0304 19 191 0, 0305, 1604, 16 05).
- *In early 2011, the Ministry of Economic Development (MED) proposed to introduce a 10% import duty on computers, computer monitors and notebook computers, while imported computer components will not be subject to import duties. The Ministry expects that the*

*measure could attract to Russia the largest producers of computers such as Apple and Acer. No decisions have been made. In line with WTO norms (ITA) Russia has to abolish its import duties on high-tech products, including computers and monitors (the average rate of Russian import duties on these products is 5.4%) (Measure not applied yet. In the Customs Union Single Customs Tariff, CN Codes 8471 – computers 0%; 8471 30 000 0 – notebooks – 0%; 8528 41 000 0 computer monitors – 0%)*

- *Russian Ministry of Economic Development (MED) proposes to increase from 5 to 15 per cent the Russian import duty on soda ash. No decision has been taken. The major suppliers of soda ash to Russia are Ukraine, Bulgaria, Turkey and Estonia.*
- 20 March 2012: Import restrictions, notably a ban on live animals (pigs, cattle, sheep, and goat) were introduced.
- A recycling fee on imported vehicles was introduced on 1<sup>st</sup> September 2012 by means of an amendment to the Federal Law on production and consumption wastes of 13 July 2012.

The Amendment introduced a utilization fee that has to be paid "for each wheeled transport vehicle imported to the Russian Federation or produced, manufactured on the territory of the Russian Federation", except for those vehicles which are exempt. The stated purpose of the fee is to "ensure environmental safety". On 30 August 2012, the Government adopted the "Resolution of the Government of the Russian Federation dated August 30, No 870 on utilization fee for wheeled transport vehicles" ("Resolution No 870"), by which the Government approved several sets of implementing rules, which entered into force on 1 September 2012.

The utilization fee applies in practice to imported vehicles (new and used) only. Domestic producers (including foreign companies established in Russia that fulfil certain conditions) are exempted, if they choose to assume recycling obligations. In addition, vehicles imported from the Customs Union (Belarus and Kazakhstan) can also be exempted under certain conditions. Furthermore, the system as such does not apply to vehicles registered in Russia before 1 September 2012. They are therefore exempted from both paying the fee and any recycling obligation. This exemption seems to continue to apply when those vehicles are resold after that date. By contrast, the fee has to be paid for imported vehicles and the amount increases significantly for vehicles older than three years.

It is estimated that assuming recycling obligations represents a much smaller financial burden than paying the fee. In addition, in practice, the recycling obligations will have to be assumed only in 10-15 years' time (when the vehicles reach their end of life, except for accidents). In any event, in respect of vehicles imported from outside of the customs union, there no choice between paying the fee and assuming recycling obligations.

The fee for particular categories of vehicles seems to be unrelated to the costs generated by the actual waste management of those vehicles. This concerns, on the one hand, the level as such of the fee and, on the other hand, the criteria according to which the level of the fee is determined.

**The Russian Government's Resolution N<sup>o</sup>1291 of 29 December 2013 cancelled the provisions of the Russian Government's Resolution N<sup>o</sup>870 of 30 August 2012, which provided advantages to local automobile producers as compared with importers. However, the Russian Government decided to compensate resulting additional costs for local automobile producers by adopting a package of state subsidies to local**

**automobile producers (see further information in the related section), which de facto maintains the discriminatory character of the initial scheme.**

- The import duty on tracked bulldozers equipped with more than 250 horsepower engines was raised from 0% to 10%.
- The import duty on pipe-layers equipped with more than 400 horsepower engines was raised from 0% to 5%.
- The tariff quota on whey (5,000 tonnes per year) was introduced with the in-quota duty of 10% and the out-of-quota duty of 15%.
- Russia unilaterally decided to change its applied duties for 370 tariff lines by adding to ad valorem duties an additional specific minimum tariff. These changes potentially represent non-compliance with Russia's WTO accession commitments, as in the case of many products it leads to a higher ad valorem duty than in the WTO-set maximum tariffs. Despite Russia's assurances that any non-compliant elements would be removed, no positive changes have been brought so far to the tariffs list.
- **On 5 July 2013, Russia's Federal Customs Service (FCS) notified ASMAP (the Association of International Road Carriers), which is the Russian member of the International Road Transport Union (IRU) of the termination on 1 December 2013 of the bilateral "Agreement on the obligations relating to the application of the Customs Convention on the International Transportation of Goods with the use of TIR Carnets" of 2004, because of ASMAP's neglecting its guaranteeing obligations, with -as a result- 20 billion RUR (more than 650 USD million) of unpaid customs duties and fees. The FCS cancelled the use of TIR Carnets by a number of territorial customs organs, and attempted to develop a single system of guarantees for transit of goods in the CU to replace TIR Carnets. Meanwhile, Belarus and Kazakhstan expressed concern about a destabilizing effect of the Russian move, and the EAEC Collegium on 1 October 2013 issued the Recommendation N13 stating that Russia should ensure an unhampered use of TIR Carnets for international transit to Kazakhstan and Belarus. On 29 November 2013, in its letter N<sup>0</sup>01-23/54304 the FCS informed ASMAP of the postponement of termination of the Agreement until 1 July 2014. On 30 June, the FCS informed ASMAP of an extension of the Agreement until 30 November 2014. At present, Russian customs recognize TIR Carnets only at the border with Finland and Belarus.**
- The Customs Union applied a preliminary special duty of 27.5% on combine harvesters and their modules starting 25.02.2013 to 05.06.2013 (EAEC Collegium's Decision N<sup>0</sup>289 of 25.12.2012). **In June 2013, the EAEC Collegium decided to use as a special import quotas (Decision N<sup>0</sup>143 of 25.06.2013, as amended by EAEC Decisions N<sup>0</sup>223 of 15.10.2013, and N<sup>0</sup>12 of 05.02.2014). Quotas were calculated for Russia, Belarus and Kazakhstan for 2014, 2015 and 2016.**
- **Decision No. 138 of the Collegium of the Eurasian Economic Commission of 25 June 2013 increased import duties on certain drilling machines to 3.5% (brought to 2% as from 26 July 2014).**
- **The the Collegium of the Eurasian Economic Commission by its Decision N<sup>0</sup>121 of 4 June 2013 added 68 groups of organic chemicals to the Singe List of goods subject to**

prohibitions or restrictions on imports or exports by the Customs Union Member States in their trade with third countries.

- The EAEC Collegium by its Decision N<sup>0</sup>234 of 22 October 2013 added oxycodone naloxone to the Single List of goods subject to prohibitions or restrictions on imports or exports by the CU Member States in their trade with third countries.
- The EAEC Collegium's Decision N<sup>0</sup>242 of 29 October 2013 established for Russia, Belarus and Kazakhstan tariff quotas for 2014 to import beef, pork and poultry, as well as certain types of whey powder or granules, without sugar.
- The Russian Government's Resolution N<sup>0</sup>1224 of 24 December 2013 established prohibitions and restrictions on the admission of goods originated from foreign countries and services provided by foreigners to public procurement for the needs of national defence and state security.
- The EAEC Collegiums by its Decision N<sup>0</sup>307 of 25 December 2013 added raw hides and skins of pigs, tanned leather from skins of cattle and pigs to the Single List of goods subject to prohibitions or restrictions on imports or exports by the CU Member States in their trade with third countries.
- Decision 3 of the Council of the Eurasian Economic Commission of 31 January 2014 imposed an import duty of 5% on certain types of A/C motors.
- Decision 16 of the Council of the Eurasian Economic Commission of 28 March 2014 imposed an import duty of 8,3% (further brought to 6,7%) on certain types of rolls for rolling mills.
- The EAEC Collegium's Decision N<sup>0</sup>9 of 29 January 2014 was supposed to temporarily bring some of the CU import tariffs on various kinds of paper and cardboard to conformity to Russia's WTO commitments. According to this Decision, for the period from 1 March 2014 to 31 August 2014, the import duty rate for LWC paper was reduced from 12.5% to 10%, which is in accordance with Russia's WTO commitments. However, the duty rate for MWC paper was cut from 15% to 10% instead of 5% (as envisaged under the WTO). The import tariff for GC/GZ cardboard was retained at 5%. On 31 October 2014, the EU requested WTO consultations with Russia to solve the issue.
- At the end of January 2014, Russia closed its market to EU live pigs, pork and other related products basing its decision on alleged cases of African Swine Fever (ASF) in Lithuania and Poland. The Federal Service for Veterinary and Phytosanitary Control (letter N<sup>0</sup> FS-EN-8/1644 of 5 February 2014 as amended by letter N<sup>0</sup> FS-EN-8/1644 of 25.03.2014) imposed additional restrictions on imports of pork, products containing pork, and raw pork starting 6 February 2014.
- Russia imposed as from 7 April 2014 temporary restrictions on the import from Lithuania and Poland of finished products containing pork, with exception of finished feeds for cats and dogs, heat treated (at last 70 degrees Celsius, for at least 20 minutes) (the Federal Service for Veterinary and Phytosanitary Control's letter N<sup>0</sup>FS-EN-8/5081 of 02.04.2014). After failing to achieve removal of these overly restrictive measures

further to consultations with the EU, the EU requested in June 2014 the establishment of a WTO panel.

- Starting 7 May 2014, Russia introduced temporary restrictions on the import from Latvia of breeding pigs, semen of boars, pork, raw pork products, meat of wild boars, hunting trophies that have not undergone a complete taxidermy treatment, all kinds of feed and feed additives and used equipment for keeping, slaughter and butchering of pigs (the Federal Service for Veterinary and Phytosanitary Control's letter N<sup>0</sup>FS-EN-8/7351 of 05.05.2014).
- The List of goods subject to sanitary and epidemiological control and state registration in the Customs Union are extended to include tubes and pipes, fittings, tanks and other parts of ferrous metals, copper, or aluminum (related Point 1 to the Attachment to the Council of the Eurasian Economic Commission's Decision N<sup>0</sup>115 of 17.12.2012 entered into force on 18 June 2014)
- On 26 March 2014, the Federal Service for Veterinary and Phytosanitary Surveillance (*Rospotrebnadzor*) issued an order banning imports of food products from three Lithuanian cold storage terminals, affecting exports and transiting products of many origins (e.g. from the US or from Asia). The ban was implemented without proper justifications and advance notification of Lithuanian authorities or the WTO.
- The Federal Law N<sup>0</sup>114-FZ of 05.05.2014 extends the competence of the Government to impose restrictions on the import to Russia and export from Russia by individuals of goods for personal use. The Government now has the right to set the norms for import of goods for personal use exempt from customs duties and taxes, as well as the norms of import of such goods sent by international mail.

#### **Saudi Arabia:**

- On 9 June 2009 Saudi customs authorities announced a ban on the import of used vehicles older than 5 years for passenger cars, buses and light transport. The importation of heavy trucks over the age of 10 years was also banned. Imports of spare parts for old vehicles were not banned. A six-month grace period has been granted to Saudi importers to adjust, effectively postponing implementation until December 2009. No reason for the ban has been reported. In 2008 140,000 used cars that were older than 5 years were imported. The total value of those imports was SR17.5 billion (US\$4.7 billion) and accounted for a quarter of the value of all cars imported into Saudi Arabia in 2008.
- After a temporary exemption that lasted for two years, Saudi Arabia re-imposed import tariffs (5%, the standard import tariff rate in Saudi Arabia) for imports of steel (HS 7213; 7214; 7215), as from January 2010. Imports from Gulf Cooperation Council (GCC) members are exempted. The measure was notified the WTO Secretariat on 2 June 2010.
- On 26 July 2009 a certain restriction on import of water desalination equipment was introduced, in order to stimulate domestic production and support Saudi industry. Accordingly, there is an obligation for operators of desalination plants to favour spare-parts produced locally in Saudi Arabia. If locally produced spare parts are available which meet the standards set by the Saudi Arabian Saline Water Conversion Corporation (a government entity) then they need to be used. If they are not, the spare parts can be imported.

**South Africa:**

- South African authorities adopted at the beginning of October 2009 an increase in import tariffs on 35 categories of imported garments headings 61 and 62 of imported garments, from 40% to 45% *ad valorem*). This hike remains however within the bound tariff commitments of South Africa.
- Through Government Notice No.1146, in force since 4 December 2009, the MFN customs duties on certain textile products (HS 6112 6201 and 6211) were increased from 22% to the WTO-bound rate of 25%.
- Since 28 May 2010 South Africa has applied an increased MFN duty on imports of glycerol (HS subheading 290545) from zero to 10%.
- Increased customs duty on imports of calcium proportionate (HS subheading 29155030) from zero to 15% (WTO-bound rate) has been in force since 20 August 2010.
- Since 20 August 2010 an increased customs duty on imports of inorganic pigments (HS subheading 32062010) from zero to 10% has been in force.
- Through the Government Notice 1427 of 22 July 2011 a general tariff on imports of sewing thread of synthetic filament (HS 5401.10) was introduced at the level of 15% *ad valorem*.
- Since 14 October 2011 the tariff of artificial turf (HS 9506.99.90) was increased from zero to 10%, through the provision for artificial turf under a new sub-heading, 9506.90.20.
- The MCEP in complement with already existing multiannual funding (including a distressed fund, automotive programme; clothing and textiles incentive scheme and metal fabrication investment fund) brings total funding to be disbursed until 2015 to some R100bn. In addition, tax allowances under Section 12I of the Income Tax Act are also deployed to incentivise the expansion of productive capacity in the manufacturing sector. Tax allowances worth R4.5bn have been granted over a 15-month period since the inception of the scheme in 2010. Apart from funding support, efforts are also focused on realigning government and private procurement guidelines to increase purchases of local goods; and on-going developmental tariff reform (i.e lowering tariffs or creating rebates on intermediates to lower the cost of inputs into manufacturing and selective duty increases to protect value-added manufacturing capacity).
- South Africa increased the general rate of customs duty on sinks and wash basins, of stainless steel to 30% *ad valorem* on 04 May 2013. (Notice R.349).
- On 18 May 2012 South Africa increased the general rate of customs duty on canned tomatoes and tomato paste puree and concentrates in powder form, tariff subheading 2002.90, to 37% *ad valorem*. (Notice R.375)
- South Africa increased the general rate of customs duty on lawnmower blades, tariff subheading 8208.40.10, to 20% *ad valorem* through the insertion of a tariff subheading on 08 June 2012. (Notice R.433)

- On 12 October 2012 South Africa increased the general rate of customs duty on alkyd resins, tariff subheading 3907.50, from free of duty to 15% *ad valorem*. (Notice R.813)
- South Africa increased the general rate of customs duty on other aerials for reception apparatus for television, whether or not capable of receiving radio-broadcast, (excluding indoors "set-top" aerials with a permanently affixed base for placing on top of the television set or another flat surface), tariff subheading 8529.10.20, through the insertion of a tariff subheading of 20% *ad valorem* on 12 October 2012. (Notice R.829)
- South Africa increased the general rate of customs duty on uncooked pasta, not stuffed or otherwise prepared, tariff subheading 1902.19, to 40% *ad valorem*, from 01 January 2013. (Notice R.1082)
- On 21 December 2012 South Africa increased the general rate of customs duty on textile fabrics inter-layered or otherwise combined with bentonite clay, tariff subheading 5911.10.20, through the insertion of a tariff subheading of 25% *ad valorem*. (Notice R.1083)
- South Africa increased the general rate of customs duty on conical steel drums of a capacity of 235 litre or more, tariff subheading 7310.10.10, from free of customs duty to 15% *ad valorem* on 21 December 2012. (Notice R.1084)
- On 21 December 2012 South Africa increased the general rate of customs duty on set top boxes with a value for duty purposes not exceeding R5 000, tariff subheading 8528.71.01, from free of duty to 15% *ad valorem*. (Notice R.1085)
- South Africa increased the general rate of customs duty on molluscs, whether in shell or not, live, fresh, chilled, frozen, dried, salted or in brine; smoked molluscs, whether in shell or not, whether or not cooked before or during the smoking process; flours, meals and pellets of molluscs, fit for human consumption, tariff subheadings 0307.39.10 and 0307.39.90 from free of duty to 25% *ad valorem* on 15 February 2013. (Notice R.98)
- South Africa increased the general rate of customs duty on laminated safety glass, tariff subheadings 7007.21.20 and 7007.21.90, from 15% *ad valorem* to 30% *ad valorem* on 22 February 2013. (Notice R.120)
- On 12 April 2013 South Africa increased the general rate of customs duty on taps and mixers, tariff subheading 8481.80.79, from 15% *ad valorem* to 20% *ad valorem*. (Notice R.269)
- South Africa increased the general rate of customs duty on polytetrafluoroethylene tape, tariff subheading 3920.99.25, from 10% *ad valorem* to 20% *ad valorem* on 10 May 2013. (Notice R.338)
- On 17 May 2013 South Africa increased the domestic-dollar based reference price for wheat, tariff subheadings 1001.91, 1001.99, 1101.00.10 and 1101.00.90. (Notice 476)
- *Government Gazette* notices published on 28 March 2013 amended the customs code in line with the taxation proposal tabled by the Minister of Finance in his Budget speech on 27 February 2013.

- On 30 September 2013, South Africa substituted tariff subheadings 0207.12.20, 0207.12.90, 0207.14.10, 0207.14.20 and 0207.14.90 relating to meat products to increase the 'General' and the 'EFTA' rates of custom duties.
- On 15 November 2013, South Africa substituted tariff subheading 8545.11 to increase the 'General' rate of customs duty on furnaces from free (0%) to the WTO bound rate of 10%.
- South Africa on 7 March 2014 inserted tariff subheadings 7318.16.20 and 7318.16.30 and substituted tariff subheadings 7318.15.39 and 7318.15.43 in order to increase the 'General' and 'EFTA' rates of customs duty on certain screws, bolts and nuts.
- On 4 April 2014, South Africa increased the rates of customs duty, according to a variable formula tariff, on sugar - tariff subheadings 1701.12, 1701.13, 1701.14, 1701.91 and 1701.99 - from free (0%) to 132c/kg.
- On 11 April 2014, South Africa increased in the 'General' rate of customs duty on coated fine paper - tariff subheadings 4810.13.20, 4810.13.90, 4810.14.10, 4810.14.90, 4810.90.90 and 4810.29.90 - from free (0%) to 5%.
- On 25 April 2014, South Africa increased the 'General' rate of customs duty on heat exchange units (tariff heading 8419.50) from 0% to the WTO-bound rate of 15%.

#### Switzerland

- A revision from November 2013 of article 48.2 of the Federal Law on Agriculture and an Ordinance on Beef Cattle changed the system for allocating tariff quotas on imported meat, including goat meat. The change favors domestic production at the expense of imports. From 2015, 40% of the tariff quota on goat meat will be based on the number of animals slaughtered in Switzerland.

#### Turkey:

- Turkey has introduced tariff increases on certain woven fabrics and apparel products. Additional tariff rates vary by country groups excluding the EU and the FTA partners of Turkey, reaching up to 20 % and 30 % for fabrics and apparels respectively. GSP imports, with often important inputs for EU processing or distribution channels, continue to be covered by the measures.
- Turkey has introduced a new Regulation that requires 'certificates approved by the relevant authorities of the origin or loading country for herbal food and feeds as well as for articles and materials contacting with food to be imported by Turkey'. The Regulation entered into force on 1st January 2012. It deviates from the previous practice according to which a "declaration of compliance by the producer" was considered sufficient. According to the new regulation authorities of the exporting country are requested to provide 'the names of the official institutions which have the authority to sign such certificates' and 'samples of the certificates'. This new practice creates substantial additional work for the local Food Safety Authorities of the exporting countries. Those consignments of food contact materials exported from an EU country to Turkey, which have not been accompanied by a certificate, but only a declaration of compliance by the producer, have currently been blocked in the Turkish customs.

- Turkey has substantially extended the surveillance regime to additional categories of products as an informal trade defence instrument that actually requires obtaining an import license and imposes an import minimum price. These measures cover a wide range of products and hundreds of tariff lines in various chapters of the nomenclature. The Ministry of Economy recently increased CIF/customs values for numerous products, including parts for lifts to impose a surveillance certificate request or to increase the actual value declared if the value of the products is below the threshold (minimum value).
- **On 15 July 2013, Turkey increased import tariffs on walnuts from 43.2% to 66%.**

#### Ukraine:

*In September 2012 Ukraine notified the WTO of its intention to modify under Article XXVIII of the GATT import tariffs for 371 tariff lines, both for agricultural and industrial products. Ukraine has not yet revealed at what level it would request to re-bind the affected tariff lines which makes it difficult to assess the impact of this adjustment on trade flows. With such a massive renegotiation agenda it is hard to see how Ukraine would be able to maintain a general level of reciprocal and mutually advantageous concessions required by WTO rules for such cases. This behaviour undermines the legal certainty of the WTO system and the value of Ukraine's commitments when it joined WTO. In the context of the Macro Financial Assistance provided for Ukraine by the EU, Ukraine committed to "consult with EU and WTO members on its request for renegotiation of its WTO commitments under article XXVIII of the GATT, so as to address systemic concerns raised by WTO members". As agreed with Ukraine, the consultations were to "result in a further substantial reduction of the number of tariff lines affected by the renegotiation request". Subsequently, in June 2014 Ukraine indicated that they intended to abandon Art. XXVIII negotiations.*

- On 1 January 2013 Ukraine increased the applied import duties on 131 tariff lines.
- In March 2013 the Cabinet of Ministers of Ukraine approved a resolution (No 225) introducing a quota of 10,2 million tonnes for coking coal and a "zero" quota (a ban) for imports of coke into Ukraine (even if later Ukraine announced a slight increase of the coke quota). It is likely that this measure is WTO incompatible as it clearly amounts to a quantitative restriction prohibited by Article XI:1 of the GATT and it is quite doubtful that it could be justified under the existing GATT exceptions. Moreover, pursuant to the terms of its accession to the WTO, Ukraine does not benefit from any derogation with regard to WTO rules applicable to quantitative restrictions. **However, Ukraine did not implement quotas for 2014 and the issue appears as solved today.**
- On July 4th, 2012 the Ukrainian Parliament adopted a Law of Ukraine #5038-VI introducing import licensing for medicines. This took effect on March 1st, 2013. Proper by-laws detailing the licensing conditions were adopted only on February 20th (Ministry of Health Order #143), introducing an automatic licensing procedure which does not create a new burden for business. *However, it is envisaged that on 1 December 2013 the next – and more rigorous - stage of licensing will become effective (The draft has already been published). Non-automatic licensing provisions for import of medicinal products may violate the WTO rules as such provisions create additional barriers for international trade and would cause delays in supplies of imported medicinal products to the Ukrainian market (in case the current procedures are not simplified).*

- *After a preliminary announcement in mid-2013, on 1<sup>st</sup> September 2013 Ukraine formally introduced an "ecological tax on recycling of old vehicles", i.e. a car recycling fee. Manufacturers were exempted from paying the tax if they created vehicle disassembling facilities, a possibility which was not offered to imported vehicles, putting them at a competitive disadvantage. The different treatment granted to imported and domestically produced vehicles introduced an element of discrimination, incompatible with Ukraine's WTO commitments. However, on 18 April 2014, Ukraine nullified the measure by adopting a law on the cancellation of the vehicle recycling tax and the excise duty on re-equipped trucks. The trade irritant was thus solved and will not be accounted as a measure in the 2014 Report.*

#### United States:

- A 'National Dairy Promotion and Research Program' was introduced on 18 March 2011, as a follow up to the 2008 Farm Bill. It introduces, inter alia, a requirement for importers to pay 7.5 cents per hundredweight of imported milk, or equivalent. The levy will be used to fund promotion and research in the dairy sector. The law is in force since 1 April 2011. The measure, still in force, has been extended until September 2013.

#### Vietnam:

- Decree 184/2010 entered into force on 1 January 2011, setting an import duty on gold materials (HS 8718 at the level of 10%). This import duty was removed under the Circular 193/2012/TT-BTC dated 15 November 2012. Now the classification of gold materials is broken down into detailed HS codes, which have various specific tariffs.
- An official Letter 348/TCHQ-TXNK on List of Administrated Imported Goods at Risks and (Reference) Prices was issued on 21 January 2011 by the General Department of Customs (under the aegis of the Ministry of Finance). It entered into force on 29 January 2011. This document together with an enclosed list of commodities (4 HS digits, covering 13 categories of products) sets reference prices for imported goods and identify countries where such products are originating. Based on the reference prices, import tariffs are calculated where the transaction value is lower than the reference price. The purported purpose is to set up database for the fight against trade fraudulence and underpriced declaration. This measure seems to go against to the WTO Customs Valuation Agreement.
- As per the above a sister measure, Official Letter 2334 was issued on 23 May 2011 and entered into force on 1 June 2011. It expands the List of Administrated Imported Goods to cover seven additional categories of products. This Official Letter 348/TCHQ-TXNK and the Official Letter 2334 were further revised by the Official Letter numbered 5486/TCHQ-TXNK dated 10 October 2012 with more commodities being added to the list of referenced prices.
- Circular 20/2011/TT-BCT on supplementary procedures for imports of cars with 9 seats or below was issued on 12 May 2011 and took effect on 26 June 2011. This circular in fact requires importers of motor vehicles for transport of up to nine persons to include additional customs papers (Dealer Certificate/ Paper of Trader Authorisation) to their customs dossiers. Besides, this circular requires that such papers must be approved by Vietnamese consulate in the exporting country. This measure caused additional costs and delay to importers.

## II. EXPORT RESTRICTIONS

### Algeria:

- Restriction on exports (metal scrap, leather and cork), and prohibition to export subsidized agricultural and food products: cereals (wheat and barley), flour and milk.
- **The Financial Law of 2014 contains new restrictions or bans on exports, notably of leather, scrap metal, used car batteries, which are all subject to an administrative procedure and to requirements tying exports of the latter to other products.**

### Argentina:

- Law 26732, passed by the national Congress on 28 December 2011, extended for five years the export tax on hydrocarbons which had been established by Law 25561 in 2002.
- Decree 7, issued on 7 January 2012, extended the 5% export tax on bovine hides and skins until end 2015 (CC 4101.20, 4101.50, 4101.90, 4104.11, 4104.19, 4104.41 and 4104.49).
- Decree 1339/2012-PEN - Raised the export tax on biodiesel (CC 3826.00.00) from 20 to 32% and eliminated the drawback for this product (previously of 2.5%). Therefore, the export tax applied on biodiesel became the same as the tax on soybean oil, the underlying raw material (10.08.2012). This export tax level was later amended by Decree 1719/2012-PEN, which set a variable tax rate linked to three elements: the biodiesel reference price, the total production costs and the rate of return on capital employed. These three values must be determined by a Monitoring Executive Unit every second week. (20.09.2012) The applicable values have been modified, even though not published as a new norm, over 2014. In July, the effective rate reportedly was 11.16%.
- Resolution 800/2012-MEFP increased export tariffs on skins from sheep from 10 to 15%, in order to promote the industrialisation of the sector. (05.12.2012)
- **General Resolutions 3518, 3519/2013 set reference values for exports of Argentine squids and mate herb.**
- **Decree 2014/2013-PEN increased export taxes for soy residues and soy by-products used in animal feeding (HS 2302.50.00, 2308.00.00 and 2309.90.90) from 5 to 32% (03.12.2013)**
- **General Resolutions 3557/2013 and 3578/2014 set reference values for exports of certain raw and tanned hides and skins.**

### Belarus:

- On 16 March 2011, Belarus introduced an export duty on linseed, rapeseed and rapeseed oil on a temporary basis, until 16 September 2011.

**Brazil:**

- Presidential administration is reportedly considering creating an iron ore export tax meant to spur investment in local steel production and reduce reliance on commodities exports. According to market analysts, given the current tight world market conditions, driven by a continuously growing demand, if Brazil (world's second largest exporter) decides to restrict its supplies to reallocate them for domestic use, it could lead prices to jump from their current already extreme prices to the range of USD 220-230/tonne in H1 2012
- Exports of some products are prohibited for reasons of environmental protection and compliance with international agreements. Exports of some organic chemicals (included in HS Chapter 29) to non-signatories of the Montreal Protocol are prohibited. Exports of wood in the rough (HS 4403) are generally suspended unless certain conditions are met, and require the approval of the Brazilian Institute of the Environment and Renewable Natural Resources (IBAMA). Exports of raw leather of amphibians and reptiles are also prohibited. In accordance with United Nations Resolutions, Brazil prohibits exports of weapons and military equipment to the Democratic Republic of Congo, the Democratic People's Republic of Korea, Eritrea, Iraq, Ivory Coast, Liberia, Libya, Sierra Leone, Somalia, and Sudan, as well as exports of materials and technology that could lead to the development of nuclear weapons to Iran.
- Exports of "sensitive products" are subject to control by the Inter-Ministerial Commission for the Export Control of Sensitive Goods (CIBES) under Law No. 9,112 of 10 October 1995. The CIBES is responsible for preparing regulations, criteria, procedures, and control mechanisms for the exportation of sensitive products and their related services. Law No. 9,112 defines as sensitive: double-use goods that could be utilized for war purposes; goods of use in nuclear activities and equipment, chemical or biological goods that may be used for war purposes; and services directly linked to the production or use of a sensitive good. Exporters of sensitive products must apply to the CIBES for a licence which will take into account the international conventions and regimes related to chemical, biological, nuclear, and missile technologies. The lists of controlled products and services are prepared, updated, and approved by the CIBES
- Some products listed in Annex XVII of SECEX Ordinance No. 23 of 14 July 2011 are subject to tariff quotas/licences when exported to certain markets. These include exports of some types of bovine meat and poultry products, and exports of sugar to the EU. Quotas are administered on a first-come-first-served basis through an export licensing procedure managed by the DECEX. In the case of bovine and poultry meat, the producers must be accredited by the Ministry of Agriculture (MAPA) and accepted by the EU as safe exporters in order to obtain a quota. Exports of milk (HS 0402) to Colombia must obtain a MERCOSUR quota authorization from DECEX in order to benefit from the access conditions under the Economic Complementary Agreement.
- Exports of certain wood (pine, imbuia and virola) are subject to specific rules and require prior authorization from the IBAMA. Exports of mahogany, Brazil wood, and cedar require CITES permission, which is issued by the IBAMA. Exports of jacaranda from Bahia (HS 4407.29.90) are subject to special rules on the grounds that this wood is becoming extinct. Normative Instruction No. 77 of 7 December 2005 establishes the procedures for exporting wood products and sub-products, including pine, imbuia and virola. Exports of rough diamonds require a Kimberley Certificate.
- Exports of a relatively large number of products require prior authorization from the relevant government agencies, mainly for safety, health, security, or environmental reasons, or when they are subject to export quotas. As at 30 December 2010 (latest information available), the list included some 1,055 tariff headings at the HS eight-digit level (HS 2007), representing

around 10% of all tariff headings and involving 53 HS Chapters. 149 Products subject to prior export authorization are mainly organic and inorganic chemicals (55% of the products), pharmaceuticals, wood products, some vehicles and aircraft, mineral fuels, fish and crustaceans, raw hides and skins, arms and ammunition, and live animals. Wild animal leather products are subject to authorization from IBAMA on grounds of native fauna protection. Several agencies are responsible for issuing licences; and some products require authorization by more than one agency

#### China:

- China maintains export duties on more than 300 raw materials tariff lines, and in certain cases applies export quotas. Further to a recent WTO ruling, China removed such restrictions for nine products (12 tariff lines), but it did not do so in the spirit of the ruling for remaining tariff lines. Therefore, the EU, Japan and the United States requested on 27 June 2012 the establishment of a new WTO dispute settlement panel concerning China's export restrictions on rare earths, tungsten and molybdenum. **Also in this case, the WTO Appellate Body confirmed on 8 August 2014 that China's export duties and quotas at issue are incompatible with China's WTO obligations. China is now bound to remove the restrictions for the challenged products.**

#### Egypt:

- On 20 September 2010, the Ministerial Decree 450/2008 imposing the ban on exports of rice was extended until 1 October 2011. Any surplus rice is allowed for export after meeting domestic demand, with an export duty set at the level of 2,000 EGP/tonne (HS 100610 to 100640). Broken rice (HS 100640) can be exported at 100 EGP/tonne. An export quota for export of milled rice (HS 100630) has been set at 100,000 tonnes every two months. The system is managed through export licence system. On 19 September 2011, Ministerial Decree 466/2011 prolonged until 1<sup>st</sup> of October 2012 the export ban on rice introduced by Decree 450/2008.
- Since June 2011, higher export duties on certain industrial raw materials are applicable, as specified by the Ministerial Decrees 277 and 278/2011. Export duties on crude marble (HS 2515.11) and granite (HS 2516.11) were raised from 80 EGP/ton to 150/ton; and for unwrought lead, lead waste and scrap (HS 78.01 and 78.02) from 2,000 to 3,000 EGP/ton. The measure was set to apply for 6 months in the case of marble and granite, and for one year in the case of the other materials. For marble and granite, the Ministerial Decree 707/2011 has extended until 12/12/2012 the application of the 150 EGP/ton duty.
- **In November 2013 rice exports were suspended until further notice.**
- **An export tax on sand (40 EGP per ton) was imposed on 20 January 2014 for six months.**
- **A ban on the export of solvents, essential in paint manufacturing and comprised mainly of diesel fuel, was issued in June 2014.**

#### India:

- An export tax of 5% on iron ore was re-introduced (from the previous 0% regime). At the same time, the export tax on iron ore concentrates was increased from 5% to 10%. Both

measures apply as of 24 December 2009. On 29 April 2010, India increased the tax from 10% to 15%. On 1 March 2011, the export duty on iron ore fines and lumps (other than pellets, HS 260111 and 260112) was raised from 5% and 15% to a unified rate of 20%. This unified rate was further raised to 30% with effect from 30 December 2011. **On 27 January 2014 an export duty of 5 percent was imposed on iron ore pellets.**

- On 1 March 2011, India introduced an export duty of 10% on de-oiled rice ban cake.
- On 16 March 2011, India reduced the Minimum Export Price (MEP) of onions (HS 0703 10 10) other than Bangalore Rose onions and Krishnapuram onions from \$350 metric ton to \$275 per metric ton. On 7 September 2011, a single MEP was fixed for all varieties of onions, including Bangalore Rose onions and Krishnapuram onions at 475 \$/metric ton. As of 9 September 2011, export of all varieties of onions is prohibited with immediate effect till further notice. On 11 January 2012, MEP on Bangalore Rose onions and Krishnapuram onions was reduced from \$ 300 per metric ton to \$250 per metric ton. On 29 June 2012, onions were allowed for export without any MEP. **On 17 June 2014, an MEP of US\$ 300 per MT on export of all varieties of onions was introduced and was further increased to US\$ 500 per MT on 2 July 2014.**
- The export duty on chromium ores and concentrates all sorts was increased from Rs. 3000 per tonne to 30% ad valorem.
- In the Budget 2013-14, export duties were introduced for Bauxite (natural, not calcined) at the level 10%, Bauxite (natural, calcined) at the level of 10%. In the Budget 2013-14, export duties were also introduced for Ilmenite (unprocessed) at the level of 10%, Ilmenite (upgraded, beneficiated ilmenite including ilmenite ground) at the level of 5%.
- **Through notification 56/RE-2013, India restricted the exports of Dimethylamine Hydrochloride, Sodium Cyanide and Sodium Fluoride, and made them subject to licensing.**
- **On 26 June 2014, India introduced a Minimum Export Price of US\$ 450 per MT on potatoes.**

#### Indonesia:

- Ministry of Fisheries Decree 5/2008 on Catch Fishing Business requires both domestic and foreign fisheries companies to set up fish-processing industry in Indonesia. According to the press statement, caught fish has to be processed domestically first before exportation. The stated purpose is to create added value to the Indonesian fisheries sector and to create jobs.
- The regulation No. 67/2010 introduced a progressive export duty on cocoa, fluctuating between 0% and 15% depending on the world market price. The funds from the export tax would be used for developing the national cocoa industry.
- Decree 36/2009 of 11 October 2009 introduced export controls on raw rattan. Ministry of Trade extended the decree 36/2009 on Rattan Exports that expired in August 2011 to ban again the exports of raw rattan from Jan 2012 (MoT Reg 35/2011). Reg. 35/2011 bans rattan under HS Codes 1401.20 consisting raw rattan, original rattan, washed and sulphureted rattan, and half-made rattan. For rattan under HS Codes 4601, 4602, 9401 and 9403 can only be exported by a company appointed as Registered Exporter of Forestry Industry Product. For such rattan products, they have to go through pre-shipment verification before they are exported.

- On September 30 2011 Bank Indonesia issued three regulations that reflect its foreign exchange policies. The regulations are the Regulation on Foreign Exchange Export Proceeds and Foreign Exchange Debt Drawdowns (13/20/PBI/2011); the Regulation on Monitoring of Banks' Foreign Exchange Activities (13/21/PBI/2011); and the Regulation on Foreign Exchange Debt Drawdown Reporting Obligation (13/22/PBI/2011). Regulation 13/20 stipulates that all foreign exchange export proceeds must be received and deposited by the exporter in a foreign exchange bank. For monitoring purposes, Bank Indonesia also requires that exporters report their export activities to foreign exchange banks, which in turn are required to pass on the information to Bank Indonesia. Regulation 13/21 became effective immediately, whereas Regulation 13/20 and Regulation 13/22 were effective on January 2 2012.
- Ministry of Trade Regulation No. 13/M-DAG/PER/3/2012 was issued in March 2012 (in force as of July 2012) to address current uncertainties regarding the legality of exports and their restriction or limitation. This was previously regulated by No. 558/MPP/Kep/12/1998 ('1998 Regulation') The regulation stipulates three types of goods for export (Article 2(1)): goods free for export, limited export goods, and restricted export goods. Article 4(2) allows the Minister to limit the quantity or type of exported goods based on national security or national interests (a); human health, animals, plants or environmental safeguards (b); international agreements or treaties (c); shortage of goods or conservation purposes (d); the export destination's market capacity (e); and raw material shortages (f). Decisions to restrict goods are to be based on similar considerations (4(3)): threats to national security and interests; intellectual property rights protection; human life and health protection; environmental destruction; and the implementation of international agreements or treaties. The regulation also requires businesses to provide the following documentation: recognition as a registered exporter; export approval; surveyor's report; certificate of origin; and other supporting documents required by legislation. They will also have to supply monthly reports to the Ministry.
- Finance Minister Regulation 27/2010 and Trade Minister Regulation 19/2011 on export taxes on palm oil, cocoa, rattan, wood, and leather. Currently enforced taxes are aimed to increase domestic value added.
- Trade Minister's Regulation 78/2012 concerning provisions on the export of tin limit exports of the latter from January 1, 2013 up to June 30 2013, including Bar Tin, Tin in other forms (Tariff Post/HS 8001. 10. 00. 00 and 8001.20.00.00), and Solder Tin (Tariff Post/HS 8003.00.10.00 and 8003. 00. 90.00). Bar Tin and Tin in other forms may be exported if they contain Stannum with the lowest level of 99.85% Sn.
- Minister of Energy and Mineral Resources (ESDM) Regulation No. 7 of 2012 on Increasing Value-Added Minerals Through Processing and Refining bans the exports of unprocessed minerals, except coal, from 2014. Regulation No.7/2012 was revised by Regulation No.11 of 2012, which lifts the export ban provided that exporters process and purify the minerals, or present a feasible plan to do so. Export of mineral ores and coal are allowed up to 12 January 2014.
- **Government Regulation (GR) No 1/2014 was issued as the second amendment of GR No 23/2010 (as further amended by GR No 24/2012) concerning the Implementation of Coal and Mineral Mining Business Activities. Under this regulation, holders of Contracts of Work (CoW) must refine their mining products domestically, and holders of mining business license (IUP) must process and refine their products domestically. Holders of CoW and IUP may export their products in specific amounts, with the details to be regulated in a Ministerial Regulation. Ministry of Energy and Mineral Resources Regulation No 1/2014 defines the refining and processing activities. Furthermore, it sets**

**the minimum levels of domestic processing and refining for metallic minerals, non-metallic minerals, and rocks prior to export.**

- **Ministry of Finance Regulation No. 6/2014 imposes a progressive export tax (up to 60% by 2016) on certain minerals and rocks that are still allowed to be exported according to MEMR 1/2014. The taxes are designed to give disincentives for COW and IUP holders from exporting semi-processed products.**

#### **Kazakhstan:**

- Export duties on aluminium products (7601 20) were reintroduced on 23 June 2010 (previous duty was removed in February 2009 on a temporary basis to support domestic producers): 15% but not less than 100 Euro per 1000 kg.
- On 13 July 2010, the Government announced the reintroduction of export duty at USD 20 on crude oil and updated the rates for oil products. In January 2011, Kazakhstan doubled the export duty on crude oil to USD 40 per tonne, which remains unchanged. Export duty in Kazakhstan was introduced in May 2008 and was in operation until 29 January 2009. At the same time, 1 January 2009, a new tax code introduced a Rent Tax (depending on world market price) and Mineral Extraction Tax (depending on volume of production).
- In August 2011, export duty on light oil was increased to USD 114.05 (from USD 98.13) per ton and the export duty on heavy oil was increased to USD 76.03 (from USD 65.42) per ton. Current duties reflect an increase of 16% as compared with previous levels.
- On 27 September 2010, Kazakhstan's government introduced a ban on the export of buckwheat and all types of vegetable oil, except for linen and rapeseed oil. *The government has also taken draft decisions that envisage the ban on the export of seeds used for the production of vegetable oils and of buckwheat.*
- A ban on export of gas oil (except for heating oil), motor gasoline, kerosene has been extended (initially introduced on 29 May 2010) until end 2011. Export of light oil products continue to be banned until 1 July 2012. It is very likely a further re-extension of the ban. Products involved are motor gasoline (2710 11 310 0-2710 11 700 0), kerosene (2710 19 210 0-2710 19 250 0) and gas oil (2710 19 410 0-2710 19 490 0) except heating oil.
- With the Decision of the Government of 23 August 2011 No 942 "On the introduction of an export ban on some kinds of vegetable oils", published on 29 September 2011, Kazakhstan has introduced temporary export bans for four months on some types of vegetable oil (Sunflower-seed, safflower or cotton-seed oil and fractions thereof, whether or not refined, but not chemically modified, crude oil and other: 1512 11; 1512 19). It came into force on 29 September 2011.
- The Kazakh government has decided to increase export duties on petroleum products by 15% from February 2012. The export duty on light petroleum products will amount to EUR 125 per tonne, compared to the previous rate of EUR 108.8 (since September 2011). Dark petroleum products will have an export duty of EUR 83.39 per tonnes, versus EUR 72.56. The export duty on oil will be kept at EUR 30.33 per tonne.

#### **Pakistan:**

- On 13 April 2009 Pakistan imposed 15% regulatory duty on export of molasses. Molasses is used to feed production but is also an important feedstock for bio-ethanol production. The

decision has been taken to encourage ethanol production in Pakistan, which has witnessed increasing export trend to other markets owing to unprecedented fuel price hike.

- Pakistan continues to apply 20% regulatory duty on raw hides and skins. This protectionist measure encourages the manufactures of leather products and discourages tanners to enter into the international market (including EU) with their products at competitive prices.

#### Russia:

- Russia continues to apply export duties on a range of raw materials, notably fuels, metal scrap and wood. Under the Orders of July 2001 of the State Customs Committee, Russia regularly increased such duties and extended their scope, covering a large number of headings of the Harmonised System, at rates up to 50% (ad valorem duty), and € 500 per tonne (specific duty), depending on product category. The level of these export duties has been very high, at times prohibitive, for certain products, i.e. ferrous scrap, cobalt scrap, non-ferrous metal scrap, energy products, hides and skins, and wood products. In effect, these duties discriminate EU downstream processing industry against the domestic one resulting in an unfair competitive advantage to the latter.
- The Russian Government increased export duty (from 5% to 20%) on some categories of magnesium scrap, but not less than 138 euros/tonne. In force since 2 November 2009 by Government Decree No. 771 of 2 October 2009.
- The Russian Government's Commission for the External Trade Protection Measures took a decision about the increase of export duty on copper (from 0% to 10%) and nickel (from 5% to 10%), which are in force since December 2010 (Government Decree No. 892 and No. 893 of 12 November 2010). The Russian Government links the increase to the price of nickel and copper on LME. *The export duties on potash fertilisers are being considered.*
- In August 2010, the Russian Government revised upwards the export duties on oil and some oil products, in accordance with the increased world oil price (Government. Decree No. 652 of 26 August 2010). A further upward revision of the duty took place in February 2011, with export duty for oil set at USD 346.6 per tonne. New methodology for calculating export duties on petroleum products was introduced in February 2011. The rate of export duty on heavy petroleum products is set at 46.7% of the rate for crude oil, while the rate of export duty on light petroleum is set at 67% of the rate for crude oil. By 2013 the rates of export duties on heavy and light petroleum products will be equalized at the level of 60% of the export duty on crude oil. *The Finance Ministry is also actively lobbying for increase in export duty for gas from the existing 30% (flat rate) to 35%.*
- The Russian Government introduced a prohibitive export duty on petrol amounting to USD 415.8 per ton in order to reduce the deficit of petrol in some regions of Russia. An elevated rate of the export duty on petrol will remain in place in 2012. In April the rate of export duty on petrol is \$414.6 per tonne.
- The government issued the decree designating the port of Magadan as the sole exit point for ferrous metal scrap in the Far East.
- Export duties on timber were initially agreed on in the 2004 WTO membership deal with Russia. After Russia raised the export duties in 2007, negotiations on the matter were re-initiated. Since 2009, the export duties amounted to 25% but no less than €15 per cubic meter. Russia planned to raise the duties to 80% of customs value but no less than 50 euros per cu m in 2010, but the decision was postponed mainly due to objections from the Commission. In November 2010, Russia and the EU agreed that the wood export duties would be lowered to below 20%.

- The list of Russia's WTO commitments says that its export duties would be fixed for over 700 tariff lines, including certain products in the sectors of fish and crustaceans, mineral fuels and oils, raw hides and skins, wood, pulp and paper and base metals. Russia agreed to the tariff quotas with within-quota duties from 13 to 15% for the export of unprocessed timber in the EU right after the accession. In five years time Russia should reduce protective duties on export of base metals scrap from 15% to 5%. Export duties on copper and nickel should be abolished or sharply reduced within 4 to 3 years transitional periods.
- **The Government Decree N<sup>0</sup>391 of 29.04.2014 amended the Government Decree N<sup>0</sup>779 of 30.06 2012 establishing rules for allocation of tariff quotas for export outside Russia and the Customs Union of spruce, fir white European, and pine. The Decree N<sup>0</sup>391 restores the original rule that licenses to export these conifers are granted to tenants of forest areas, who have the right to harvest them and have no arrears in rent payments, or who have signed a contract of sale (supply) of these conifers with such tenants. The Decree entered into force on 30 May 2014 and will be in force until 30 June 2015.**
- **The Government Decree N<sup>0</sup>1202 of 21 December 2013 increases the export duty rate for tungsten ore and concentrates from 0% to 10%.**
- **The Collegium of the Eurasian Economic Commission's Decision N<sup>0</sup>307 of 25 December 2013 extends the List of goods, which are essential for the Customs Union's internal market, and exports of which, in exceptional cases, could be subject to temporary restrictions or prohibition. The added goods comprise, in particular: raw hides or skins of swine, tanned or crust hides and skins of cattle or horses, and tanned skins of pigs.**

### South Africa

- An export tax of 5% on unpolished diamonds has been in place since November 2008. The purpose of the tax is to stimulate the local diamond polishing industry and to create jobs.
- On 10 May 2013, a policy directive on the exportation of ferrous and non-ferrous waste and scrap metal was announced. In accordance to the notice exports of the latter have first to be offered to the domestic users of waste and scrap for a period determined by the International Trade Administration Commission of South Africa (ITAC) and at a price discount or other formula determined by ITAC intended to facilitate local rather than export sale. In the second instance, to ensure the type and quality of scrap metal that is intended for export are accurately reflected on application for export permits, all permit applications should be accompanied by confirmation by a metallurgical engineer or a suitable qualified person, confirming the type, quality and quantity of scrap at hand for export, and information as to when and where such scrap metal may be inspected by prospective buyers. The policy will be in place for five years. At the end of this period, it will be reviewed to determine whether it should be terminated or extended for a limited period, with or without amendment. (Notice 470)
- *ITAC, under Government Gazette notice 385 of 2013 published on 19 April 2013, is in the process of considering the recommendation of a price preference system – consisting in essence of a price preferential rate to the extent of 20% below the London Metal Exchange (LME) benchmark spot price for the published types and grades of waste and scrap metal, to ensure access for domestic foundries and mills.*
- *South Africa published amendments to the Export Guidelines on Exportation of Ferrous and Non-Ferrous Waste and Scrap on 09 May 2014 (Government Gazette No. 37605*

*General Notice 345), on 15 November 2013 (Government Gazette 37034 Regulation 10055, Notice 871), on 27 September 2013 (Government Gazette No. 36882 Regulation 10026, Notice 717), on 18 September 2013 (Government Gazette No. 36858, Regulation 10020, Notice 697, on 18 September 2013 (Government Gazette No. 36848, Regulation 10018, Notice 689, 13 September 2013 (Government Gazette No. 36815, Regulation 10013, Notice 663 and 03 September 2013 (Government Gazette No. 36708, Regulation 9996, Notice 543). According to the latter, all scrap metal exports are made subject to the issuance of export licenses, which will only be granted if the products have previously – and unsuccessfully – been offered to domestic consumers at a price 20% below international spot prices. Scrap metal shall be offered to domestic consumers for 15 working days. It appears that such system is inconsistent with South Africa's international obligations has undertaken. The restrictions will affect the quantity of scrap metal available for export as well as the price at which scrap metal is sold to all market actors.*

#### **Turkey:**

- Ministry of Economy (former Under secretariat for Foreign Trade sent an instruction to the Exporter Associations which are in charge of registering the export of copper scrap on 21 May 2010. According to this instruction, operators are required to fulfil three different conditions in order to obtain an export license from the Exporters Associations: copper scrap which will be exported shall be pre-investigated on site by supervisors from the Standardisation Department of the Foreign Trade; submission of written confirmation received from at least three domestic producers showing that copper scrap would not be used for their production; contract that shows export connection. The Foreign Trade had previously issued a communiqué that orders the registration of copper scrap export by the Exporters Associations. The registration requires obtaining a registry certificate which amounts to an export license. However, the instructions of the Foreign Trade which bind the distribution of export license to the above mentioned conditions have apparently turned the existing licensing regime into a de facto export ban. A communiqué of 21 April 2011 made recovered (waste and scrap) paper or paperboard and aluminium waste and scrap subject to export registration, yet lacking in transparency as regards conditions for obtaining an export license. **In August 2013, Turkey announced that chrome leather products will be made subject to the non-automatic export licencing system.**

#### **Ukraine:**

- *In February 2013 Ukrainian Parliament registered a draft law aiming at the establishment of an export duty on raw wood (Bill #2325 “On establishing the rates of export duties on timber”). This measure aims at stimulating investment activity in the wood industry. It is proposed, in particular, to establish a five-year export duty for the customs codes 4401210000, 4401220000 and 4403. The duty levels are proposed to be set at 20% of custom value for the codes 4401210000 and 4401220000, but not less than 7 EUR per 1 ton and at 40% of custom value for 4403, but not less than 17 EUR per 1m<sup>3</sup>.*

#### **Vietnam:**

- Decree 109/2010/ND-CP which was announced on 4 November 2010 and entered into force on 1 January 2011, exporters of rice must meet more strict requirements regarding storage and rice processing facilities. There is one positive aspect of this Decree 109/2010/ND-CP, i.e. this legislation allows foreign-invested enterprises to participate in rice exports.

- On 15<sup>th</sup> November 2012, the Ministry of Finance issued Circular 193/2012/TT-BTC to replace the Circular 157/2011/TT-BTC of 14 November 2011. The Circular entered into force on 1 January 2013. Annex I lists export duties applicable to 118 groups of goods. Compared to the export duties under the previous legislation (Circular 157), the duties of some minerals and ores have been increased by an average 5-10%. In detail, export duty on natural sands increased from 20% to 30%, fine grain apatite from 15% to 20% and grain apatite from 20% to 30%, limestone flux from 17% to 25%, natural steatite from 15% to 30%, lead ores & concentrate from 20% to 30%, gold ores from 20% to 30%, gold with contents of less than 99.99% and 80% from 0% to 10%. Additionally, Circular 193/2012/TT-BTC adds certain minerals and ores to the list of goods subject to export duties such as zinc oxide (HS code: 2817; duty: 5%), aluminium oxide (HS code: 2818; duty: 5%), and nickel stein (HS code: 7501; duty: 5%).

### III. BEHIND-THE-BORDER MEASURES

#### Algeria:

- The law “La loi de finances complémentaire 2009” of 26 July 2009 introduced the following restrictions: a domiciliation tax on all bank transactions related to import activities. The law equally forbids all types of consumption credits; only credits for the purpose of purchasing real estate by individuals are allowed. The law also doubles the tax on new cars with significant engine capacity (depending on the engine type) and imposes a 0.5% tax on the turnover of mobile phone operators in Algeria (foreign investors principally). On 25 August 2010, the Loi de Finances complémentaire 2010 (LFC 2010) was approved. Certain provisions relax the strict provisions of the 2009 law.
- **In the frame of the Financial Law of 2014, Algeria shaped a discriminatory registration tax on new vehicles, levied exclusively on imported vehicles to the exception of those manufactured locally; the law entails a new requirement for car dealers to carry out an activity of industrial or semi-industrial nature on top of the dealership (subject to a period of grace of three years) as well as fiscal advantages for locally manufactured goods or for local producers.**
- Measure related to services (access to ports): it is no longer possible since 1 October 2009 to use the port of Algiers for non-container shipments, including cars. As a result, all non-container sea freight going to Algeria must undergo customs clearance and be picked up and removed in other Algerian ports, which adds delays and costs to the import procedures.
- A circular no. 31 of the Directorate General for Customs of 5 January 2010 imposed a requirement to close disbursement accounts (or comptes d’escalas) (regarding clearance of agency fees on entry/exit port costs of a vessel) within 90 days which restricts the clearance of fees related to maritime transport and hence restricts possibilities to import goods through maritime transport means *A decree amending the contested system is in the process of being adopted by the Government and may result in the elimination of the restriction.*
- Ministry of Health for 2012 introduced a set of new technical conditions for the importation of pharmaceuticals where moreover importers' volumes are restricted and have to provide a monthly update if the stocks in the country.

#### Argentina:

- On 5 March 2012 a provisional conformity assessment regime was approved implementing Resolution 453/2010 establishing mandatory certification of lead content in inks and printed products by sworn statement.
- On 28 May 2012 Resolution N°13/2012 established the requirement for mining companies to create an internal department for import substitution.
- **Law 26929 and implementing Decrees 2273/2013 and 2/2014 increased the internal taxes on sales of high-end cars, boats, planes and motorcycles, imposing a tax rate of 30 or 50%, depending on the vehicle's value. These measures are effective as from January 2014. While the tax does not appear discriminatory, it affects premium cars - therefore mainly imported models. However, with the strong inflation and the corresponding price increases more and more locally produced cars become also subject to the tax.**

**Brazil:**

- As part of Plano Brasil Maior, the Government increased the IPI (Tax on Industrial Products) by 30% for cars with less than 65% of local content components (defined as manufactured in Brazil, Mercosur or Mexico). The measure applies to car, lorries, and commercial trucks. The IPI used to vary between 7 and 25%, depending on engine power and type of fuel. It is now passing to 37 to 55%. The measure entered into force on 16 September 2011, though manufacturers have two months to prove that they produce 65% or more of components in Brazil or to adjust its production chain. Moreover, they will have to invest 0.5% of their gross revenue in R&D in the country. In two months' time, if manufacturers fail to comply with the criteria set by the measure, they will have to pay retroactively the 30% increase of the IPI.

Since 4 October 2012 the automotive sector is being regulated by the INOVAR-AUTO programme, established by Articles 40-44 of Law No. 12715 of 17 September 2012, and implemented in Decree 7819 of 3 October 2012. The main elements of the scheme are:

- (1) the new sectoral industrial and trade regime will be valid for four years (2013-2017) and will provide incremental reduction on the supplementary 30-percentage points to the range of tax on manufactured goods (IPI) applying to automobiles, trucks and buses, introduced in October 2011 through December 2012, for carmakers that reach investment and onshore production requirements;
- (2) automobile manufacturers must meet at least three of the following four criteria to be eligible for the new industrial and trade regime: (a) investing at least 0.15% of gross revenue in research and development; (b) investing at least 0.5% of revenue in engineering; (c) having at least eight of the 12 production steps for light vehicles onshore, and 10 of the 14 production steps in the case of heavy vehicles (final assembly, stamping, welding, painting, trimming, plastic injection, engine assembly, transmission assembly, component assembly, chassis assembly, body assembly); and (d) carrying out energy-efficiency evaluations for at least 25% of vehicles. Those criteria will become stricter during every year of the plan: by 2017, manufacturers will need to invest 0.5% of revenue in R&D, and double their engineering investment to 1% of revenue; locate 10 production processes onshore for light vehicles and 12 processes for heavy vehicles and provide energy-efficiency measures for 100% of their local production;
- (3) for purposes of obtaining the incremental reduction on the supplementary 30-percentage points to the IPI range, automobile manufacturers must carry the production steps established in the criteria (c) above with at least 65% of regional/local content based on production and labour value-added indexes;
- (4) an stepping-up regional/local content requirement will be allowed for newcomers (45% to 65% in ten years), limited to a maximum of 50% of the nominal capacity of their planned onshore production during the period of installation of their local industrial facilities/supply chains, provided that they comply with research and development investment and fuel-efficiency criteria.

INOVAR AUTO was modified by the Decree 8.015 of 17.05.13 that has altered licencing conditions for beneficiary companies. The decree introduced the requirement of having more production stages being performed in Brazil in order to benefit from the 30% IPI reduction. **The most recent amendment included in the Law 12.996 of 18 June 2014 elaborated the traceability criteria applicable to the car parts used by the beneficiaries of the scheme.**

**On 31 October 2014, the European Union requested formally that a WTO Panel rules on this matter.**

- REPUBL-Redes, the Special Taxation Regime of the National Broadband Programme for the Establishment of IT Broadband Supporting Networks, established by Law No. 12715 of 17 September 2012, foresees tax benefits related to use of technology and acquisition of network equipment and components in accordance of Basic Productive Process, related to local content.
- Law No. 12715 amended the Programme for Digital Inclusion, established by Law N. 11196 of 21 November 2005. Tax benefits (PIS/PASEB and COFINS) apply on revenue from sales of certain products produced in the country, in accordance with local content requirements laid down as Basic Productive Process. The range of products was enlarged to include also smartphones.
- Law No. 12715 of 17 September 2012, Articles 16 to 23, also established REINCOMP, the Special Regime of Incentives to Computers for Educational Purposes, which grants tax benefits conditional upon respect of local content requirements established by Basic Productive Process.
- Law No. 12794 of 2 April 2013 established REIF, the Special Regime of Incentives for the Development of Infrastructure for the Fertilisers Industry. Tax benefits are conditional upon fulfilment of requirements of investment in R&D and technological innovation and of a minimum percentage of local content in relation to the overall value of the project.
- In 2012 Brazilian Inmetro agency started implementing a domestic system of technical regulations and certification and marking procedures for automotive products in Brazil which is burdensome for industry. In the past, UNECE-certified and marked products were accepted in Brazil without additional testing, marking or certification. Brazil did not express much openness to review this practice which is, according to the authorities, already well consolidated, despite that fact that Brazil's technical requirements are often similar to EU ones.

**Canada:**

- The Canadian Liquor Boards are independent monopolies, controlled by their respective provincial governments. They have control over the import, distribution and sale of all alcoholic beverages in the province concerned. They are also State Trading Enterprises under GATT Art. XVII. There have been numerous complaints about lack of transparency for many of the Boards' decisions, particularly regarding listing and delisting measures (if a product is not listed by the provincial Board, it is not allowed to be sold in the province). The Boards also use their clout as monopolies and, in the case of Ontario and Quebec, as the largest and second largest single purchasers in the world of alcoholic beverages, to negotiate extremely onerous conditions on suppliers. Each of the Boards also use a number of methods to favour local production, including imposing an extra cost of service charge on imports, waiving mark ups on the direct sales of domestic products, restricting the sale of imported products to Board outlets, waiving certain transport costs for domestic products and lower sales targets for domestic products, thereby making it easier not to be "de-listed". These discriminatory measures are particularly prevalent in the provinces of Ontario, Quebec and British Columbia in which most of Canada's alcoholic beverage industry is based.

**China:**

- The National Energy Administration's 'Notice on Issuing Interim Measures on Administration of Grid Connection Testing for Wind Turbine Generator Sets' was released on 1 January 2011. This specific notice immediately required all wind turbines to have a test certificate; however only local certificates were accepted, not foreign ones. Therefore, until the company was able to attain the certification, they could not join any tendering processes. This poses a serious threat to the business operations of foreign companies and threatens the healthy development of the wind industry.
- *On 27 July 2011, China issued 6 draft information security technical standards, one of which would apply to IT facilities of national government departments (information security techniques basic requirements of information security for national departments), the others applying to all facilities (e.g. testing and evaluation approaches for terminal computer systems). These standards represent a consolidation of the implementation of the Multi-Level Protection Scheme and OSCCA regulations on commercial encryption as they contain such requirements as the obligation to purchase home-grown products; the obligation to require state (national) certification an prohibition to rely on third-party certification agencies; the obligation for information technology outsourcing staff to be of Chinese nationality; the obligation to discriminate against foreign products and services by imposing specific procedures; the prohibition to set up information system data centres and business recovery centres abroad. These standards seems to be voluntary for the time being; however, in the past China followed the practice of developing mandatory technical requirements on the basis of existing voluntary standards.*
- **Cosmetics with new ingredients:** In June 2011, China had notified to the WTO TBT Committee a set of guidelines on the "requirements for application and evaluation of new ingredients" (notification G/TBT/N/CHN/821) entering in force 1 July 2011. As a consequence of this measure, there is an almost complete standstill of approvals by the State Food and Drug Administration of China (SFDA) for new ingredients, as well as cosmetic products containing new ingredients. Since 2010, only 4 new ingredients (and one product containing a new ingredient) out of a total of over 120 applications, have been approved. By comparison, during this time, several hundred new ingredients have been introduced safely outside China. This trade interruption is extremely disconcerting for a fast moving product sector that is driven by constant innovation. The situation seems to have eased somewhat since March 2012, with 2 ingredients approved. More recently 10 additional ones having passed the first safety review process (though not the entire administrative approval process yet). However more efforts by the CFDA (former SFDA) are necessary to bring the number of products approved back to levels comparable to those achieved prior to the application of the new requirements.
- Circular of the Ministry of Finance and the State Administration of Taxation on the VAT tax exemption for home-made regional aircrafts (Cashui 2000 No 51 and Cashui 2002 No 97) – several home-made models of regional aircrafts are exempted from VAT which is paid by foreign-made regional aircrafts when sold in China. The Ministry of Finance claims it intends to withdraw the Circulars in question only in the framework of the overall revision of the Chinese fiscal system, which can take several years.
- Despite the moves taken by the Central Government to suspend legislation making the link between indigenous innovation policies across China, a local Regulation on Promoting Indigenous Innovation was published in Guangdong and came into force on 1st March 2012. It still appears to make the link. It reportedly encourages R&D support to indigenous innovation; encourages indigenous innovation results to be transformed into technical standards; and has

an article that restricts the import of key technology or equipment for which China already has research and development capability.

- AQSIQ implemented the obligation provided for in Article 65 of the Chinese Food Safety Law regarding the obligations for exporters and their agents to require all food and agricultural exporters to register online with the AQSIQ Inspection and Quarantine Bureau. This registration requirement for exporters or agents was issued in AQSIQ Notice No. 55 (2012). The deadline for registration has been set on 1 October 2012. According to the respective provisions "...exporters or agents exporting food to China shall be registered at the national exit-entry inspection and quarantine department. Overseas food producers exporting food to China shall get registered at the national exit-entry inspection and quarantine agency. The national exit-entry inspection and quarantine department shall regularly publish the lists of exporters, agents or overseas food producers who have been recorded or registered." The above allegedly applies to the following product groups: meat, egg and egg products, aquatic products and preserved aquatic products, traditional Chinese medicinal materials of animal and plant origin, grains and grain products, oil and oil seeds, soft drinks and drinking water, sugar, vegetable and vegetable products, processed flavourings of plant origin, dried fruits and nuts, other plant origin food, canned foods, dairy products, bee products, alcoholic beverage, pastry biscuits and crackers, candied (preserved) fruits, cigarette, tea, processed flavourings, other processed foods, foods for special dietary uses. The website for registration (<http://ire.eciq.cn/>) seems to experience some technical problems which often prevent the completion of the process.
- On 22 January 2013, the General Administration of Quality Supervision, Inspection and Quarantine (AQSIQ) issued without pre-warning a notification requiring from 1 February 2013 a laboratory test report confirming that levels of certain plasticizers<sup>21</sup> are within levels permitted in wines and spirits under the existing Chinese standards. This measure resulted in detained shipments from the EU. In April 2013, delays due to sampling test were reduced together with a reduction of sampling size. EU Companies are however, still obliged to provide a certificate of conformity with the Chinese legislation. **From March 2014, some local Chinese border inspection posts (CIQ) started to require certification per production batch instead of on a brand basis which has led to uncertainty and an unnecessary increase in costs.**
- **On 27 June 2014, China has published the results of its risk assessment on phthalates in spirit drinks. Based on the result of the assessment, China doesn't intend to create a standard with maximum level of phthalates but would apply migration limits same as the EU. The EU therefore urged China to limit its import requirements for wines and spirits to what is strictly necessary and proportionate to the risk. The current Chinese import requirements are considered overly burdensome, not proportionate to the risk and thus trade-restrictive.**
- New requirements regarding imports of dairy products into China entered into force on 1 May 2013. They impose in particular numerous analyses on chemical and microbiological parameters and leave importers with unclear provisions. *In June 2014, China launched a public consultation on the latest draft version of a revised Chinese Food Safety Law which also will impact exports of agricultural and foodstuff goods to China. Previous drafts were circulated for consultation in 2009 and 2013. Up to date, China has not submitted a WTO notification of the draft Food Safety Law. Concerns relate to lack of transparency regarding*

---

<sup>21</sup> di-butyl phthalate (DBP), di-2-ethylhexyl (DEHP) and Diisononyl phthalate (DINP)

*import conditions, non-alignment with international standards, or uncertainties with regard to imports application and registration procedures. The draft legislation is in its final stage and is to be presented in October 2014 to the State Council for adoption. If the Food Safety Law is enforced with the current draft text, foreign companies will be faced with additional stringent food safety requirements in addition to the already burdensome current food safety conditions, with a very lengthy and non-transparent application process, in particular for the animal sector (such as exports of meat, fisheries and dairy products).*

- *On 23rd December 2013, the CFDA issued the revised Detailed Rules on Examination of Production License for Infant Formula Manufacture (QS Rules 2013 Version). If the revised text is adopted, manufacturers using imported base powder will be required to relocate the base powder production line to the local dry blending plant due to the mandatory requirement of co-location of wet-dry mixed process on manufacturers that use imported base powder. This could potentially lead to a reduction in imports of base powder. In addition the on-going review, the Food Safety Law foresees in its current version a ban on OEM (Original Equipment Manufacturing), i.e. preparation of products using ingredients from diverse origin. If this provision is maintained, it will exclude from the Chinese market a significant number of foreign products.*
- **New rules for exporting infant formulas and dairy products to China are applicable since 1 May 2014: all companies willing to export dairy products and infant formula to China need to get officially registered with CNCA, the Chinese administration responsible for certification and accreditation under the authority of AQSIQ. Registration of importers by AQSIQ is also mandatory. The registration process appears burdensome, not transparent and creates uncertainty for foreign dairy products exporters. The suddenly changed import requirements lack a holistic approach with regard to implementation of food safety legislation. This is linked with inconsistent enforcement and interpretation of new requirements. Other concerns relate to differences between international standards and Chinese standards which cause unnecessary restrictions on imported products and discriminatory treatment.**
- *In May 2014, following the public dispute between US and China on cyber-theft of trade secrets, China announced a new vetting procedure for IT products and services. This network security screening will focus on the "security and controllability" of products and services used for government procurement and critical industries "related to national security and public interest". This includes communications, finance, energy and transportation. Failure to meet the test would result in exclusion from the Chinese market. This system has the potential to put foreign IT product and service providers at a significant disadvantage.*
- **Cosmetics with Free Sales Certificates: In December 2013, the China Food and Drug Administration (CFDA) issued Notice 191 whereby it requests evidence that cosmetics imported in China must be marketed in their country of origin. As a consequence of this new policy, shipments accompanied by the previously accepted standard "Free Sales Certificates" were systematically rejected. Whilst the initial impact of the measure was moderated by certain practical solutions put in place, such as a new certificate for the products that are actually sold in the EU, this does not solve the problem for products exclusively intended for the Chinese market (like e.g. skin whiteners).**
- **On 31 March 2014, the long-awaited Chinese Basic Regulation regulating the sector of medical devices was released, without being notified to the WTO TBT Committee. The revised Order 276 was published as Order 650 by the State Council (after 7 years of revision) with a date of entry into force of 1 June 2014. While the overall philosophy**

underlying Order 650 is that the authorization process will decrease and the role of post-market surveillance will increase, the law contains a number of trade-obstructing provisions: e.g. regulation of clinical trial exemptions appear to be more restrictive than necessary and risk causing serious delays to market products. The list/catalogue approach that China has taken does not ensure necessary flexibility, as clinical trials from outside China should be accepted. Finally, there is no appropriate transition time between promulgation and implementation of the measures. Another issue related to the new Order 650 concerns the draft implementing regulation on In-Vitro Diagnostic Products Registration. In the second draft, published on 30 April, 2014, certain diagnostic reagents with moderate risk are still classified as high risk products, which is contrary to the principle of risk management, and imposes a stricter classification than in most countries.

- A new issue arose during the June 2013 - July 2014 period regarding the interplay between patent protection and standards involving essential patents. The terms of a licence agreed under FRAND conditions have not always been recognised by Chinese Courts. Courts are now imposing new licensing terms to foreign companies due to alleged breaches of the Chinese antimonopoly law. This is particularly sensitive when a standard, based on a patent-protected technologies, as well as FRAND commitments have been approved by a foreign standardisation body. Such approach conferred to the Chinese Courts an extraterritorial prerogative with the right to rule on FRAND terms worldwide.

#### **Ecuador:**

- A resolution 019-2008 of CONCAL (Consejo de la Calidad, CONCAL) introduced a technical regulation on ceramic tiles (RTE INEN 33), yet its application was subsequently restricted on request of Consejo de Comercio Exterior e Inversiones (COMEXI, Resolucion 601 of 30 December 2010). Accordingly, Resolucion 18-2010 of CONCAL of 19 January 2011 foresees that imported tiles need to present conformity certificates as issued by bodies accredited to Ecuadorian Organismo de Acreditacion in the country of origin, or issued at destination. The certificate is valid for 90 days.
- The official registry No. 583 of the 24 November 2011 set a reform to the Reform Law on Internal Taxation and on Tax Equity in Ecuador that establishes that imports have to pay a 5% tax, instead of previous 2% on USD outflow (article 19 of the official registry). However, the exceptions contained in the previous reformed Law on Internal Taxation and on Tax Equity remain the same: external financed payments under the conditions established in the "Production Code"; Ecuadorian citizens and foreigners who leave the country with a transcription of an income tax' basic fraction. Transfers abroad up to 1000 USD; Tax credits for imported raw materials, capital goods and inputs for production. In the Law, imports are now considered as taxable acts (Article 6, Title II).
- **Resolution N. 299 of 14 June 2013 establishes a non-automatic import licence regime for various food products (meat, butter, cheese, potatoes).**
- **Comex Resolution 116 of 19 November 2013 reforms the Comex Resolution 450 stating the list of products subject to previous import controls and requests the submission of a Certificate of Recognition issued by the Ecuadorian authority for standardisation (INEN), This resolution annexes a list of 293 products to be under this control. Subsequently, Comex Resolution 006 of 14 January added four new products to the**

**latter list. In parallel, new norms aiming at promoting national industry have been elaborated namely for ceramics/tiles, cosmetics, beverages.**

- **MIPRO Agreement 14114 of 24 January 2014 establishes the Operators Registry whereby all importers have to register their imports in the Ministry of Industry and Productivity.**

#### **Egypt:**

- **A decree issued on 29 May 2014 introduces ten new standard specifications on imported cars and spare parts. These standards were applied already to locally-assembled cars and allegedly aim at preventing the importation of sub-standard vehicles and spare parts, or those not conforming to international standards.**
- **The finance ministry increased the cigarette prices in February by EGP 0.5 to EGP 0.75 for local brands and EGP 1 to EGP 1.5 for imported goods.**

#### **India:**

- In September 2008 the Ministry of Steel issued two 'Orders' which stipulate mandatory compliance for 17 steel products with new national standards and certification by the Bureau of Indian Standards (BIS). In February 2009 the Ministry of Steel notified that the second of the two 'Orders' – concerning 11 out of 17 products - will not be implemented before 12 February 2010. Out of these eleven, three items would not need any certification at all. However, the deferral of the implementation only offers an opportunity for the industry to get accustomed with BIS standards. The scope of the measures has been reduced as India continues to apply mandatory certification requirements on 7 steel products (plain hard-drawn steel wire for pre-stressed concrete; plain hard-drawn steel wire for pre-stressed concrete; indented wire for pre-stressed concrete; uncoated stress relieved strand for pre-stressed concrete; fusion bonded epoxy coated reinforcing bars; uncoated stress relieved low relaxation seven ply strand for pre stressed concrete; and galvanized steel sheets). On 24 June 2011, India adopted the Steel and Steel Products (Quality Control) Second Order 2011. Of the 11 products in the 2009 Order, India has taken 9 products in the new Order. Of the remaining two, one (277) is already under mandatory certification and the other (1993) had been dropped. Implementation will be effective after six months from the date of publication. On 12 March 2012 the Steel and Steel Products (Quality Control) Order 2012 entered into force, requiring the certification of the seven steel products which were already listed in the Steel and Steel Products quality order 2008 conform to national steel standards. On the same day, the entry into force of the Steel and Steel Products (Quality Control) Second Order was also notified to take place on 12 September 2012. On 10 September 2012 the Ministry of Steel granted, at least for certain steel products, an additional six months for compliance with the said requirements. Subsequently, further to efforts of the EU Delegation and industry, another derogation was obtained from the Ministry of Steel concerning the entry into force of mandatory certification requirements for steel products. The new deadline for implementing the requirements is now 1 October 2013. **On 13 March 2014 India slightly relaxed the scheme in that quality certificates issued by international standard-certifying bodies would be accepted for products intended for large scale projects but with no plans to further enlarge the scope of this notification to all imports. Through Ministry of Steel Order dated 1 October 2013, out of 9 products, implementation for 6 products was postponed to 1<sup>st</sup> April 2014. However, through an Order dated 31 March 2014, the**

**Ministry of Steel out of 9 products further deferred the implementation for 5 products to 1 July 2014 and for 2 products to 1 October 2014.**

- A Quality Control Order from 2009 placed pneumatic tyres (including tubes) under mandatory certification, not reflecting the agreed UNECE standards. Applied since 13 May 2011, the new mandatory certification requirements put an extra administrative and financial burden on importers. On 1 October 2012 the Bureau of Indian Standards (BIS) clarified that radial tyres bearing the BIS mark (which is a prerequisite for the sale of radial tyres in the Indian markets) can also be sold outside India.
- As from 1 April 2013, all cosmetic products should be registered with India's Central Drugs Standard Control Organisation (CDSCO) before they can be marketed in India.
- **As from 3 January 2014, registration of 15 categories of IT and consumer electronic products - including imported ones – became mandatory. As a significant part of these products on the Indian market are imported, this measure has the potential to affect trade to a great extent. On 11 April 2014 BIS published the requirement to continue to use tamper proof & non-removable stickers until 30 June 2014. On 31 July, the measure was amended in that for products of too small size for being labelled, the conformity statement can now be given on the packaging. Furthermore, the obligation for Self-Declaration to be "screen-printed/embossed/engraved on the product and printed on the product and printed on the packaging material" was postponed to 31 August 2014.**
- After certain delays, as from 1 July 2014, the long-announced in-country testing and certification of telecom network elements has become mandatory. Since a significant part of these products on the Indian market are imported, this measure can particularly affect trade.
- Since August 2013, India has changed the interpretation and enforcement of the 2011 Food Safety Standards Regulations concerning labelling and packaging adopting a zero tolerance policy for the use of stickers in packaging (and allowing them only for India-specific information), thereby triggering a serious disruption in the trade of foodstuffs.

**Indonesia:**

- *A Draft Law on Pharmaceuticals, Medical Devices, Household Health Products and Processed Food is still under discussion in the Parliament with certain stipulations regarding import and export and is said to be limiting OTC sales of certain pharmaceuticals and obliges to use locally produced drugs under the national insurance plan. The draft law has a wide reach covering of health products and medicines as well as medical devices.*
- Presidential Decree 76/2012 was adopted on 03 September 2012, with provisions on regarding the exploitation by the Government of patents on antiviral and antiretroviral medicines. This decree was issued without prior notice or consultation with the industry impacted.
- The Ministry of Industry introduced mandatory standards and certification for a number of iron and steel products<sup>22</sup>. The two draft decrees were notified under the WTO TBT Agreement

---

<sup>22</sup> Mainly hot rolled sheet, coil steel, hot rolled sheet, coil steel for gas cylinder, zinc aluminium - coated sheet and coil steel.

and were adopted in 2009-2010, respectively<sup>23</sup>. For iron and steel, the requirement started to be enforced in May and July 2009. Since then there has been a proliferation of new mandatory Indonesian standards (SNIs) for products of varying degrees of risk, including primary batteries, special safety shoes, gas stoves, rubber hoses, motorbike helmets, LPG steel cylinders, urea fertilisers, wheat flour, cocoa powder, electric cables, refined crystallised sugar, water pumps, ceramic floor tiles, ceramic tableware, water tanks, totalizing water meters, vehicles rim, steel wire of pre-stressed concrete for concrete construction, steel wire rope, profile steels, electrolysis tin coated thin steel sheets, rubber seals for LPG steel cylinder valve, and black malleable cast iron threaded pipe fittings. *As of December 2012 there were 113 obligatory SNIs with new SNIs among others covering steel, fertilizer, cocoa, electronics, lamps and ceramics products. This trend of developing mandatory SNIs, compliance with which is verified by means of mandatory third party conformity assessment procedures, regardless of the risk of the product, is quite worrisome. In 2014, among others, the Minister of Industry issued Regulation No. 07/2014 on a Mandatory SNI for baby garments, particularly hitting imports.*

- Increased costs and delays for European tyre exports to Indonesia. Ministry of Industry / Indonesian National Standards Agency (SNI) began to require on-site inspections of tyre manufacturing plants in Europe for allowing tyre exports from these factories to Indonesia. Ministry of Industry recently indicated that it would join the international standard UN-ECE for tyres in 2011 or early 2012. This is supported by an EU-funded technical assistance project that began in October 2009 and will be continued under EU-ASEAN cooperation programmes. Ministry of Trade Regulation 40/2011 and Ministry of Industry Regulation 03/2012 require a pre-shipment inspection of tires to be imported into Indonesia by Indonesian inspectors and the implementation of national standards. It was made effective on 1 March 2012, and applicable to tires for which HS Codes are stipulated in the regulation.
- Indonesian authorities introduced implementing regulations to the Law on Shipping (17/2008, of 8 April 2009) that limit the right to cabotage to Indonesian vessels only. As of 1 January 2011 only Indonesian vessels have the right to transport passengers and cargo within the country. Government Regulation No. 22 of 2011 was adopted in April 2011 to amend Government Regulation No. 20 of 2010 on Water Transport so as to exempt upstream oil and gas vessels from the cabotage rule of Law No. 17 of 2008 on Shipping (reduction in scope for Law No. 17). Cabotage for off-shore construction is regulated under Transportation Minister Nr. 48/2011, and revised (in stricter provisions) under Reg. 10/2014. *A regulation covering areas beyond cabotage is under discussion, with a proposal restricting export operations of Indonesian products to only Indonesian vessels.*
- Labelling: Indonesia's labelling requirements are quite burdensome and onerous. Concerning non-food products, the Trade Ministry Reg. 62/2009 was enforced for new products on 1 September 2010 and in April 2011 for existing products. It requires that products be labelled in Bahasa Indonesian with information about safety, health and environment aspects, as well as the means of use and detail usage specification and warnings. For imported products, the name and address of the importer are required. Goods affected include clothes, footwear, electronic and telecommunication equipment, spare parts for motor vehicles, construction material, lamps, photocopy machines (though for some products, such as electronics and telecom equipment, footwear, household equipment and motor vehicle spare parts, the implementation seems to be more strict). Also, Trade Minister Reg. 22/2010 stipulates burdensome labelling requirements for certain non-food products requiring prior approval of

<sup>23</sup> Notifications G/TBT/N/IDN/23 and G/TBT/N/IDN/24.

labels and pre-export labelling, and there is a risk that the Decree will be expanded in the future to cosmetics and foodstuffs. It should be noted that, while the EU does not contest Indonesia's right to request that the information on the label be in the Indonesian language, the obligation that this be included on a permanent label (as opposed to a sticker) attached prior to shipment to Indonesia is quite burdensome. Furthermore, in some cases, the label has to be pre-approved by Indonesian authorities. **Reg. 22/2010 was amended by Reg. 67/2013 and subsequently with Reg. 10/2014 regarding the obligation to put labels in Indonesian languages. Article 4.3 of Reg. 67/2013 stipulates that the use of stickers is prohibited (which is accepted practice worldwide). It also requires the size of label to be proportional to the size of goods or package and can be easily or clearly read. The producers or importers are held responsible for goods that have been in circulation in the domestic market before the introduction of those regulations.**

- For food products, the Food And Drug Agency BPOM issued 2 regulations in 2011: No. HK.03.1.5.12.11.09955 on registration of processed food products and No. HK.03.1.5.12.11.09956 on registration procedure of processed food products, in which the labelling obligation on processed food products is required in order to obtain registration from BPOM. To note, these two regulations refer to the previous Food Law No. 7/1996 but are still in effect. In addition, Government Regulation No. 69/1969 still applies provided that it does not contradict the new Food Law No 18/2012. Furthermore, on 18 February 2013, BPOM issued a regulation on e-registration of food and processed food products, effective on 11 March 2013. This regulation refers to the new Food Law No. 18/2012 and the previous two 2011 BPOM regulations. These regulations do not restrict the use of a sticker as a label, however the design and content of the label has to be approved by BPOM, and the labelling done before the products reach Indonesian ports.
- On 08/11/2011 Indonesia notified the WTO of the new BPOM's regulation regarding Cosmetic Import Control (G/TBT/N/IDN/51), which was issued in 20 April 2011. The required notification of every shipment of cosmetics imports causes concern to some companies as under the new regulation all documents, e.g. invoice etc. will have to carry exactly the same product details as the product registration. In addition, article 5 point (2) of the regulation requires a Certificate of Analysis (results of the quality control done by the manufacturer) to receive the Import License. This requirement is valid for every shipment and every batch of product and generates additional costs and lead-time.
- From August - September 2008 the Indonesian Food and Drug Regulatory Agency (BPOM) started to enforce the requirement that all foodstuffs, pharmaceuticals and cosmetics must be approved and registered. BPOM seems to recognise to a certain extent the long delays in registration and has committed to reduce the time to 3 months (the legal requirement is 45 days). Lately, further positive changes have been noted in that daily quotas for the number of dossiers are no longer in place; there is an electronic queuing system and a self-assessment system, which facilitates registration. The current main bottleneck is formed by the need to receive a hard copy of the certificate and the inconsistent decision-making. These requirements are no longer applying to cosmetics: Decree 1176/2010 of September 2010 replaced the registration requirement with a notification requirement.
- The Ministry of Maritime Affairs and Fisheries issued a Ministerial Decree 15/2011 to revise the Ministerial Decree 17/2010, specifying the types of fishery products that can be imported, such as the amount and type of fish that could be processed by canning factories, by factories for export purposes, by the manufacturing industry and by traditional processing units. The regulation also covered fish unavailable in Indonesian waters and restricted general importers and non-processing factories, such as restaurants or hotels, from importing fish products by requiring certificates of good manufacturing practices for importers, which among other things

required value to be added to imported products. The Decree 15/2011 has led to creation of a supply shortage of shrimps and mackerel where domestic production is not yet sufficient, also affecting the exports of fisheries. The Decree also bans the imports of dory fish fillets that domestic industry cannot produce.

- The Ministry of Maritime Affairs and Fisheries Reg.17/2010 on aquaculture quality control and safety specifies the quality and safety standards of imported fish. Importers should secure import licenses before importing fish into Indonesia.
- Trade Minister Decree No 43/2009, amended by Decree 54/2012 restrict the import of alcohol to only 10% of domestic demand. In addition, discriminatory excise duties make imports more expensive than local produce.
- *There are indications that halal related legislation may become more restrictive in Indonesia. The draft Law of 2014 on Halal Product Guarantee introduces mandatory halal certification for food and beverages, cosmetics, pharmaceuticals, biological products, chemical products, genetically engineered products, which are imported, distributed and traded in Indonesia customs area. It is proposed that a specific Halal Certification Body will be established under Ministry for Religious Affairs to issue Halal Certificate based on fatwa from MUI (Indonesian Ulema Council). Business actors and associations have proposed halal certification to be voluntary as cumbersome and costly mandatory requirements will harm small scale industries including food and beverages industries and related sectors.*
- **Minister of Health Regulation 30/2013 obliges producers to put health warnings on packaging of processed food.**
- **Law Nr. 3 on Industry dated 15 January 2014 strengthens the state's role to control strategic industries, to defend the Indonesian market, to impose the use of domestic goods, to encourage localisation of production, to increase the use of national standards, and to initiate trade measures for industrial rescues.**

#### **Kazakhstan:**

- Law on currency control, introduced on 4 July 2009, allows the President to impose temporary foreign currency restrictions. The bill specifies the types of restrictions that can be imposed, such as forcing residents and companies to sell their foreign currency reserves to the government, imposing restrictions on foreign banks, and requiring permission from the central bank to exchange currency. The special currency regime would be limited to one year if adopted, though the Central Bank stated that the new legislation was a precautionary measure and had no intention to use it under current circumstances. So far the Kazakh Government has not resorted to the possibility of applying the law.

#### **Malaysia:**

- Exporting meat products to Malaysia is difficult due to serious non-tariff barriers, in the form of strict (but non-transparent) Halal requirements, a cumbersome, costly and non-transparent inspection regime (in force since January 2010; since 1 July 2011 for pork) and unclear and often contradictory information from the competent authorities. For pork meat, moreover, a quota regime was put in place on 1 July 2011 whereby import licences were granted by a "committee" on a 3-months basis and only to members of one specific importers' association, with alleged high level "connections". However, it appears that the demarches and steps taken by the EU have finally produced results. **As from December 2013, the previous cut limitation applied under halal requirements is no longer in place. All parts of pork and**

**pork products are authorised for imports. However, imports can only amount to a "quantum": import permits are granted in function of storage capacity available at importer for food safety reasons.**

### **Philippines**

- **Philippines adopted Republic Act 10620 or the "Toy and Game Safety Labelling Act of 2013" on 03.09.2013, with country-specific labelling requirements on placement of warnings, which do not appear in line with international practice.**

### **Russia:**

- A new road tax on all foreign transport as of 1 February 2009 was introduced by the Government Resolution No. 1007 of 24 December 2008. It applies to freight vehicles weighing over 3.5 tonnes. On 20 May 2009 a Decree was adopted to amend the Resolution by lifting the road charges for 14 EU Member States. The Government Resolution N. 480 of 20 June 2011 transferred the authority to collect the road tax from the Federal Service of Transport Surveillance to the Federal Customs Service. According to Article 6 of the Federal Law N 68-FZ, from 1 January 2013, the driving of trucks of above 12 tonnes on the federal public roads should be subject to a charge to compensate for damage they cause to these roads. Data obtained from on-board GLONASS devices should be used to calculate the charge. According to Chapter 12 of the Administrative Infringements Code, violation should be punishable by a fine of up to 1 million roubles. Meanwhile, the Transport Ministry submitted amendments to the Law N 68 – FZ, which postponed the introduction of the system until 1 November 2014.
- The Government Anti-Crisis Plan for 2009 of 10 June 2009 foresaw toughening of customs control over imports of foreign steel. Customs clearance procedures for rolled steel imports were reviewed so as to prevent undervaluation and wrongful declaration of goods. Customs points, which organize clearance of imported pipes and rolled steels, were being equipped so as to permit the conduct of radiological and phytosanitary control.
- In 2010, Russia requested a renewal of licences for import of alcohol The Federal Service for Regulation of Alcohol Market (FRS) exercised an excessive administrative discretion in the process of renewing licences which put at risk the business continuity of many operators. Meanwhile, on 22 July 2011 the Government's Sub-Commission for customs tariff and nontariff regulation and protective measures in foreign trade, headed by First Deputy Prime Minister Viktor Zubkov, supported the draft Decision of the Commission of the Customs Union to cancel licensing for import of alcoholic beverages. According to Russia's WTO commitments, from the date of accession, importers of alcohol, pharmaceuticals and some products with encryption technology would not need import licences. .
- A framework regulation for the operation of the alcohol sector on the Russian market has been adopted. On 20 July 2011, President Medvedev signed into law the bill amending the Federal Law 'On state regulation of production and turnover of ethanol and alcohol products'. This law, although imposes more stringent conditions for beer products, was in principle non-discriminatory.
- The Russian Government's Decision No 1079 of 21.12. 2011 says that low-alcohol beverages (up to 9% strength) should be labelled with a special pink-coloured federal marks of 63x21 mm The applicant should submit a report on its previous use of such marks and an estimate of its need for such marks (forms of these documents are approved).

- The Russian Government's Decree No 1230 of 30.12.2011 says that imported low-alcohol beverages (up to 9% strength) should bear grey-yellow coloured excise marks with a blank space in order to put information about this alcoholic beverage.

The Russian Government Decree No1192 of 28 December 2011 appoints the Russian Chamber of Industry and Trade and its territorial divisions as organs which are authorized to issue conclusions on the recognition of the product manufactured with the use of foreign goods either a product of the Customs Union or not a product of the Customs Union (i.e. a product from the third country). The Decree is adopted in the implementation of the CU Agreement On free (special) economic zone (18 June 2010), and the CU Agreement On free warehouses and customs procedure of free warehouse (18 June 2010). Arbitrariness of authorized bodies is quite likely.

- Russia has continued in the covered period to use reference prices for the customs valuation of several agricultural products (fresh and processed fruit and vegetables, wines) despite its commitment in the WTO to solve the issue.
- In May 2013, a draft Resolution on the submission of notifications about the beginning of trade in alcohol products in the Russian Federation was in the process of being adopted. The finalized draft foresees a new burdensome and duplicative procedure for the notification of alcoholic beverages commercialisation.
- *A draft Technical Regulation on Alcohol Product Safety (TR) of the Belarus-Kazakhstan-Russia Customs Union (CU) that was supported by the Consultative Council of the Eurasian Economic Commission raises concerns as regards the declaration of compliance, the notification procedure, the ban on PET, labelling and the definitions applied in the draft Regulation. It was notified to the WTO TBT Committee in December 2012. The EU and other WTO Members provided comments and raised concerns in the TBT Committee. The Regulation is currently in Russia's internal legislative procedure and has not yet been adopted.*
- *The Technical Regulation of the Customs Union on the Safety of Products for Children and Adolescents (TP TC 007/2011) and the Technical Regulation on the Safety of Light Industry Products ((TR TS 017/2011) were adopted in 2011 (prior to Russia's WTO accession) and contain various requirements deemed overly restrictive (e.g. mandatory third party certification for textiles and footwear, ban of synthetic materials in the lining of shoes of children and adolescents, etc.) Furthermore, their implementation has been proving difficult. The EU has been discussing these issues with Russia bilaterally and in the context of the WTO TBT Committee. In February 2013, draft amendments to the Regulation on the safety of light industrial products were notified to the TBT Committee (notification G/TBT/N/RUS/14). They still appear to contain provisions on burdensome mandatory third party conformity assessment procedures, labelling and marking.*
- **In connection with the completion on 1 July 2014 of the transitional period before the entry into force of the CU technical regulation 'Safety of products of light industry', the Eurasian Economic Commission issued a clarification (EAEC Information of 20.02.2014) that this technical regulation does not prohibit the manufacture, import and turnover of knitted underwear made of synthetic fibres, but only establishes the safety requirements. However, this technical regulation sets stringent requirements regarding chemical substances of underwear and establishes a complicated conformity assessment procedure for imported goods.**

- **The Collegium of the Eurasian Economic Commission's Decision N<sup>0</sup>39 of 6 March 2014 approved a list of products for which the customs declaration is accompanied by a document on the assessment (confirmation) of conformity to requirements of the Technical regulations of the Customs Union "Technical regulations for oil and fat products" (TR TS 024/2011).**
- **The Collegium of the Eurasian Economic Commission's Decision N<sup>0</sup>44 of 18 March 2014 approved a list of products for which the customs declaration is accompanied by a document on the assessment (confirmation) of conformity to requirements of the Technical regulations of the Customs Union "Safety of furniture" (TR TS 025/2012).**

#### **South Africa:**

- On 12 April 2013 the Department of Trade and Industry informed of the labelling requirements of goods originating from East Jerusalem, Gaza or West Bank, which are wrongly labelled as originating from Israel in terms of Section 24 of the Consumer Protection Act, 2008. In the event of a producer or importer of goods into South Africa, made from material imported from (i) East Jerusalem, such goods shall be labelled "made in country X from material imported from East Jerusalem: Israeli Goods"; (ii) Gaza, such goods shall be labelled "made in country X from material imported from "Gaza: Israeli Goods"; or (iii) West Bank, such goods shall be labelled "made in country X from material imported from "West Bank: Israeli Goods". (Notice 380).
- *Comments were solicited by 22 May 2013 in respect of the categories of goods that are required to have a trade description applied to them under the Consumer Protection Act, 2008. The proposed categories of goods are processed and packaged meat products and dried and packaged meat products. (Notice 238).*

#### **Switzerland:**

- To promote indigenous production the Swiss parliament adopted on 20 June 2013 the so called "Swissness" legislation. The law provides for an increased local content of 60% and sometimes more regarding the use of the "Swiss made" label or the Swiss flag. As "Made in Switzerland" is very popular on the Swiss market and allows for price mark-ups at retail level between 50 to 100% it is very likely this measure will contribute towards reducing inputs of other origins for further processing in Switzerland.
- *The Swiss Parliament is likely to adopt a revision of the alcohol tax law whereby an advantage would be provided to the local industry, by means of a tax rebate for local producers. The amendment would also authorise the government to fix minimum prices for specific types of alcohol.*

#### **Thailand:**

- Cabinet approved in September 2011 the proposal to grant tax refund to first-time car buyers. It offers tax refunds for first-time car buyers for passenger cars manufactured in Thailand with a small engine of less than 1,500cc and a price not exceeding Bt1mn. Meanwhile, there is no limitation on engine size for pick-ups to be eligible. The eligible first-time car buyers must be at least 21 years old and are required to hold ownership of the car for at least five years, to prevent car buyers from joining the program for commercial purposes (i.e. reselling).

- New import requirements were set for automotive tyre imports as of 11 January 2013 and entered into force on the following day (12 January) with no transitional period for implementation. Besides importer registration, the regulation requires importers to avail, in addition to existing import Custom Procedure Code, a Certificate of Competent Authority (COCA) issued by the government of the exporting country, or by certified entities or institutions guaranteed by the government, or certified entities empowered to issue the certification of the producing country, while standards required by such regulation remain ambiguous. The new regulation also obliges importers to keep new pneumatic tyres of rubbers separately from other types of products and report import and export activities, possession, sales, distribution and stock inventory of tyres to the DFT on a monthly basis.
- **A mandatory conformity assessment procedure was imposed for ceramic tiles as from 15 January 2014. The law raises concerns about the practicalities of the new standard, in particular the discrepancies between Thai and international standards ISO 13006:2012 requiring the Thai Industrial Standards Institute (TISI) mark to be attached to each and every tile and differences in the water absorption levels.**
- Concerning wine and spirits, longstanding unequal treatment between imported and local spirits, was reduced but not eliminated in 2012 when the Thai authorities increased the excise tax applied to 'white liquor' (most often locally produced) from 120THB to 150 THB and the tax on 'brown liquor' (local whiskey) from 300THB to 350THB and revised sales license fees on domestic spirits moderately. Under the Thai liquor Act, other imported spirits such as whiskey, brandy and vodka are subject to a higher tax rate of 400 THB. **In September 2013, the system underwent another modification and the applied (and ceiling) rates now comprise a specific rate duty and *ad valorem* components (calculated as a percentage of the last wholesale price excluding VAT ("LWP")). Discrimination between 'white liquor' and 'vodka' as well as sales licensing fees has been maintained. Furthermore, the lack of definition for wine as well as weak product labelling regulations have created a loophole for domestic bottling operators allowing imports of wine in bulk to be mixed with minor content of fruit to produce fruit wines sold as "wines" with lower excise tax rates. Additionally, under the 2013 amendments, the ceiling rate of tax varies according to the type of alcoholic beverages. For fermented products (such as wine), the maximum tax of *ad valorem* tax is maintained at 60% but the specific rate of duty is increased sharply from 100 THB to 2,000 THB/l of 100% alcohol or 300 THB/l, whichever is higher. The amendment also retains a clear differentiation between local 'fruit wines' (i.e. wines with some addition of fruit juices) and imported 'wines' as well as between local 'white spirits' and imported 'white spirits' (imported white spirits such as vodka are classified as "other distilled spirits" subject to a higher tax than local white spirits). For spirits, a partially simplified tax structure has been introduced by combining different types of distilled spirits into two main categories, namely "white liquor" (Lao Kao) and "other distilled spirits", thereby maintaining the existing differentiation in favour of white liquor.**
- *In the case of automotives, a new excise tax structure was approved by the previous administration and expected to enter into force in 2016. The new excise tax structure is determined by engine size, carbon emission and types of fuel used. The law raises concerns that the excise tax structure may not be technologically neutral e.g. a hybrid car emitting CO<sub>2</sub> higher than 100 g/Km will be subject to a higher excise tax (20% - 50% excise tax) than an eco-car emitting CO<sub>2</sub> higher than 100 g/km (17% excise tax).*

- *As regards alcoholic beverages labelling, the Alcoholic Beverage Control Act B.E. 2551 (2008) regulates the advertising, consumption and sale of alcohol products on public health ground and is enforced by the Department of Disease Control of the Ministry of Public Health. In the recent years, the National Alcohol Policy Board has been proposing mandatory use of new graphic warnings on alcohol bottles linking the consumption of alcohol per se, rather than its misuse, with a range of health effects. On 28 March 2014, Thailand notified the new proposal, i.e. Draft Notification of the Alcoholic Beverages Control, Re: Rules, Procedure and condition for Labels of Alcoholic Beverages, to WTO members under the WTO TBT Agreement. Thailand's proposal raises a number of concerns including, among others, an administrative complexity in the label approval process and a lack of clarity on the scope of the proposal. Short compliance timeframe (immediately after the publication of the notification in The Royal Gazette) also appears as an issue.*
- *The Drug Act of Thailand is currently being revised, and these revisions may include cost-effectiveness as a required element for drug registration. The revisions may also provide additional operating privileges to state-owned enterprises with respect to regulatory requirements and regulations for producing, importing and sales of pharmaceutical products.*

#### Tunisia:

- **The finance law for 2014 adopted by Parliament in December 2013 introduced new consumption taxes of 50% (blocks) and 75% (slabs) on various construction stones such as dolomite, travertine, alabaster and granite, with a view to harmonising their rates to those applied to marble (which were at the same time halved from their previous rates of 100 and 150% depending on the degree of processing). So far locally produced marble has not been subject to any consumption tax. The rates were eventually brought down to 25 and 35% as provided for by the amended Finance Law for 2014 approved in August 2014, but the discrimination between local and foreign products appears to still persist.**
- **Since June 2013, the Pharmacie Centrale de Tunisie (which has the monopoly for the import of pharmaceuticals) conditions its authorisation for the marketing of new foreign pharma products to the acceptance by the exporter to bear the risk of the depreciation of the Tunisian dinar for a period of 4 years (sales to the PCT are in foreign currency due to the non-convertibility of the dinar). In addition, the Pharmacie Centrale de Tunisie has since May 2014 requested very large price cuts on imported products for which equivalents are manufactured locally.**
- **According to circular N°2013-13 of 21.10.2013 by the Tunisian Central Bank, commercial banks are authorised to sell foreign currency to their clients only after having checked the unavailability of foreign currency deposits on their client's accounts, and this throughout the whole banking network. This requirement comes on top of the requirement imposed in 2013 by the Tunisian Central Bank that commercial banks hold reserves worth at least 30% for any credit granted for the import of consumer goods (the reserve requirement was 50% in 2012). The combined effect of these measures is a restriction of foreign currency for import purposes.**

#### Turkey:

- **Turkey established a requirement for reciprocity for Good Manufacturing Practices (GMP) certificates to be submitted for receiving the market authorisations for pharmaceutical**

products. The circular entered into force on 1 March 2010. Turkey does not approve the EU GMP certificates. In order to obtain a Turkish GMP certificate, manufacturers are required to submit numerous documents in Turkish about their manufacturing sites, which would be subject to subsequent inspection by Turkish authorities.

- Turkey made important changes to standardisation rules in its foreign trade regime (now called the product safety and control regime) as of end of December 2012. New product categories and products which are subject to import control and fall into the non-harmonised area are now included in the TAREKS system, the electronic product safety control system based on risk assessment. Accordingly, products bearing CE mark and previously not included under TAREKS are integrated to the system as of January 2013: i.e. machinery, electrical equipment designed for certain voltage limits, products that create or affected by electromagnetic waves, lift safety components, pressure equipment, simple pressure vessels, transportable pressure vessels, appliances burning gaseous fuels and hot water boilers. **The second-hand and renovated goods started being processed through the TAREKS system for the first time in 2014. Yet, this is just an administrative procedure and the licensing procedures for this category of products still apply.**
- **The Law on utilization of renewable energy resources for the purpose of generating electrical energy of 2005 (Law No. 6094) started to be applied in the beginning of 2014. The law stipulates that electricity generation can benefit from a RER Support Mechanism, and where domestic mechanical and/or electro-mechanical components are used for the generation - the prices shall be topped up for a period of five years.**

#### United States:

- A draft bill (H.R. 6969) was introduced in Congress in 2009 to amend the Internal Revenue Code (the Neal bill) and deny a tax deduction for excess reinsurance premiums with respect to US risks paid to affiliated insurance companies that are not subject to US taxation. The bill risks creating unfair tax disadvantages to EU-owned US subsidiaries compared to US-owned companies.
- The US House of Representatives Ways and Means Subcommittee on Select Revenue Measures held a hearing on 14 July 2010 regarding international reinsurance transactions and competing proposals to reform their US tax treatment. These proposals would affect European insurance companies operating in the US that conduct reinsurance transactions to diversify risk and hurt legitimate reinsurance transactions by raising insurance premiums for US consumers. *The Neal Bill was reintroduced in Congress in May 2012 (HR 2054), but Congressman Neal is no longer Chairman of the Tax Subcommittee on Ways and Means, which weakens the bill's chances of advancing in the legislative process. In next year's FY2014 Presidential budget proposal released in February 2013, the Administration opted for a more restrictive proposal in line with the Neal bill which would deny an even larger share of tax deductions for reinsurance than their initial proposal. In addition, a similar provision on reinsurance is contained in a tax reform legislative proposal by Keith Ellison (D-MN) in HR 505 which was introduced in April 2013. There was discussion to introduce similar provisions in Congress in 2014 but none were introduced to date.*
- *Food Safety Modernization Act: implementing regulations may entail excessive burdens for EU exporters regarding: registration of exporters and food facilities, designated agents, preventive controls for human food; new production standards; new accreditation standards for food safety audit.*

**Vietnam:**

- Decree number 26/ND-CP/2009 providing guidance on the implementation of several articles of the Law on Excise Duty (issued on 16 March 2009) has been revised with some amendments and modifications as stipulated under Decree 113/2011/ND-CP dated 8 December 2011 and Circular 05/2012/TT-BTC, both of which entered into force on 1 February 2012. While the law establishes a single, non-discriminatory duty to be applied to both foreign and local products, the decree outlines an 'exception to the rule' in cases where the producer is selling non-imported products to a 'business and trading establishment'. The price reference is the production price (with some conditions). In practice, this could amount to a tax cut of up to 10% for local wines and spirits products. Circular 05/2012/TT-BTC also allows excise duty exemption for products made for the purpose of direct and/or indirect exporting. This creates de facto discrimination for imported products.
- Circular 122 on price controls (Ministry of Finance): enacted on 12 August 2010 and entered into force 1 October 2010. All concerned businesses are required to register their selling prices and changes to these with competent state authorities. This will create an additional administrative burden for retailers and wholesalers in Vietnam trading in the listed products. The circular does not in particular target imported products but the result is that certain products from European producers, in particular baby infant formula, will be affected. The likely consequence is that all actors in the market will be forced to follow the same set of norms in price calculation and consequently profit determination, without taking into account the fact that companies may accept different risks in carrying out their businesses and, as a result, expect different rates of profit. This does not seem to be in line with the fundamental principles of a market economy. Circular 122 was previously applicable to state-owned enterprises only. **Decision 1079/QD-BTC from 20 May 2014 imposed for all dairy companies operating in Vietnam a milk price ceiling for 25 formula milk products. Accordingly, wholesale prices of 25 formula milk products have been set at prices 10% lower than the prices that dairy companies registered with the Ministry of Finance in 2013. Retail prices cannot be 15% higher than the referenced prices fixed by the authority.**
- Decision of the Ministry of Industry and Trade 1899/QD-BCT of 16 April 2010 to promulgate the list of “non-essential” imported commodities, consumer goods not encouraged for import. The list contains around 1500 tariff lines and is understood, in practice, to restrict importers’ access to foreign exchange through official channels, thereby restricting imports. The publication of the list was followed by a dispatch by the State Bank of Vietnam (ref. 3215/NHNN-CSTT) on 29 April 2010 instructing Credit Institutions to consider, strictly control and restrict the provision of foreign currency loans for making payment for the import of goods items belonging to the list in 1899/QD-BTC. A new list of commodities “not encouraged for import” was published on 25 March 2011, under the Ministry of Industry and Trade's Decision numbered 1380/QD-BCT, replacing the list which had been in force since 16 April 2010. The previous list covered around 1500 products, such as meat and offal products, wines and spirits, machinery and mechanical appliances, electrical machinery and equipment, vehicles. The new list, which was effective upon signature, expanded product coverage to certain products in the categories live animals, fish and crustaceans, dairy products, sugars and sugar confectionary, miscellaneous edible preparations, table salt, miscellaneous chemical products and miscellaneous manufactured articles.
- Decision of the Ministry of Industry and Trade 2840/QD-BCT of 28 May 2010 to promulgate a list of machinery, equipment, supplies and materials which can be produced domestically.

Ministries, sectors and the People's Committees are to use these lists to monitor the discouragement of imports and the limitation of access to foreign currency. Ministries and other authorities are to instruct agencies, units and enterprises to select and use the list in tender activities of investment projects using the state budget in line with the spirit of the Prime Minister's Directive no. 494/CT-TTg dated 20 April 2010. This Decision 2840/QD-BCT has been under substantial modifications eight times during 2010 – 2012. In fact, the list of domestically-produced machineries and equipment has been added with new items. The relevant legislations which amend this Decision 2840/QD-BCT are decisions 1746/QD-BCT (date of entry: 9 April 2012), 2313/QD-BCT (date of entry: 4 May 2012), 7073/QD-BCT (21 November 2012), 4872/QD-BCT (20 September 2010), 0283/QD-BCT (19 January 2011), 2979/QD-BCT (17 June 2011), 223/QD-BCT (13 January 2012), and decision 1366/QD-BCT (22 March 2012).

- Prime Minister instructions (ref. 8646/VPCP-KTTH) of 3 December 2009 to implement strictly the measures to boost exports, and at the same time, based on the needs to ensure food safety, to develop and issue immediately the necessary regulations in combination with taxation measures to enhance the management and limit the imports of “non-essential” products in order to drastically reduce the import surplus. Addressed to The State Bank of Vietnam and to Ministries of Industry & Trade, Finance, Public Security, Planning & Investment, Agriculture & Rural Development, Health, Justice, Transport, and Science & Technologies.
- Government Resolution no. 18/NQ-CP dated 6 April 2010 on “key measures to ensure macro-economic stability, curb inflation and achieve a GDP growth rate of approx. 6.5% in 2010, which include: Implement measures on prices”; to restrict foreign currency loans for those goods for which imports are not encouraged; Specify the use of materials and equipment of domestic production to replace imports under projects and works; Promulgate the list of “inessential” import goods, non-encouraged import of consumer goods; Take measures to control foreign currency loans for the import of these items.
- Vietnam's Circular 30/2011/TT-BTTTT dated 31 October 2011 on type approval certification and declaration of conformity for IT and telecommunications products. This circular, which entered into force on 11 January 2012, requires equipment to be tested by designated labs located in Vietnam.
- On 20 June 2012, Vietnam passed the Law on Prices replacing the Ordinance on Prices numbered 40/2002/PL/UBTVQH dated 26 April 2002. This legislation took effect on 1 January 2013. Under the Law, certain goods and services may be controlled by the State by means of four pricing control methods. Those goods and services comprise of petrol & liquefied gas, electricity, nitrate & NPK fertilisers, plant protection drugs, vaccines for livestock and cattle, edible salt, milk for children under six years old, sugar, paddy & rice, human-use preventive & curative medicines used at health care establishments. The price determination is also applied to goods and services exclusively manufactured and traded by the State, and important natural resources and goods held in storage as national reserves. This long list include aviation services, telecommunication connection services, electricity services (transmission, generation, wholesale & retail), land & surface water, healthcare services, education & training services, and domestically-produced cigarettes. The Law on Prices also provides detail conditions for establishment of an enterprise engaging in price evaluation, conditions for a price evaluator, as well as the rights and obligations of price evaluating enterprises and evaluators.

### III.1. Government procurement

#### Algeria:

- Local content requirement for acquisition of office equipment (up to 15% of tender). Preference is given to Algerian goods and services for administrative purposes: 1) when at least with equal quality as foreign tenderers 2) 25% preferential margin applied on products and services from Algeria.
- Presidential decree of 11 July 2010 on public procurement in Algeria, confirmed by another presidential decree of 2012, contains several elements with a potentially distortive impact on trade. Notably, it reinforces preferences for domestic bidders in public procurement orders, in order to strengthen domestic participation. Accordingly, the preference margin for national bidders has been increased from 15% to 25%. In addition, the law imposes an obligation to resort to a domestic bidder if the national producer is able to satisfy the conditions of tender. Equally, foreign bidders who win the bid will be obliged in the future to conclude contracts with a local producer. Non-respect of such a contract could result in sanctions. It was published in the Official Journal of Algeria on 7 October 2010. Furthermore, presidential decree of 1 March 2011 stipulates that foreign investors already present in Algeria or with significant engagement of investment may be exempted partially or completely from the obligation of investment as a precondition to participate in public bids.

Algeria is not a party to the WTO Agreement on Government Procurement (GPA).

#### Argentina:

- Decree 893/2012 – Implemented older Decree 1023/2001 that regulates the general regime on public procurement. Article 5 determines a 7% preference for suppliers with exporting activities. (14.06.2012)
- Decree 1187/2012-PEN - With the aim of improving cost-efficiency in procurement contracts awarded by the federal government, established that the salaries of government officials and agents have to be paid through the main public bank, Banco de la Nación. (19.07.2012)
- Decree 1188/2012 - With the same aim, established that official cars have to be leased (not bought) through a division of the same bank, Leasing Nación. (19.07.2012)
- Decree 1189/2012 - Established that fuel and lubricants for official cars, ships and planes have to be acquired from nationalized company YPF. (19.07.2012)
- Decree 1190/2012 - Established mandatory competitive tenders for the procurement of telephone services. These tenders are invited by the Office of the Chief of Cabinet, and each government agency has to contract the services with the selected provider/s. (19.07.2012)
- Decree 1191/2012 - Established that - as long as the routes are covered by the public airlines Aerolíneas Argentinas, Austral and Lade - public officials have to fly with these companies. (19.07.2012)

Argentina is an observer to the WTO GPA.

### Australia:

- Commencing with the *Australian Government Procurement Statement* in July 2009, the Federal Labor Government enacted a series of measures designed to enhance Australian industry participation in Australian Government procurement. The requirements were described as being consistent with Australia's international obligations and unlike the policies of some State Government counterparts do not mandate the use of Australian suppliers, yet their incremental application reveal a tendency towards the increased use of subtle restrictions on overseas firms participating in government procurement tenders.

The 2009 Statement strengthened the Australian Industry Participation framework (introduced by the previous Coalition Government in 2001) by requiring participants in large Commonwealth tenders (generally \$A20 million or more) and infrastructure projects to prepare and implement Australian Industry Participation (AIP) Plans. Additional support was provided in the May 2011 Budget to fund greater advocacy for local suppliers under the *Buy Australian at Home and Abroad* package.

In October 2011, the Government extended the requirement for AIP Plans to private procurement, in particular to companies in receipt of federal grants of \$A20 million or more and for grants of \$A20 million or more to the States and Territories where they do not apply their own industry participation plans. Projects greater than \$A2 billion eligible for the Enhanced Project By-law Scheme (a tariff concession scheme) were also required to publicly list additional information on opportunities being made available to Australian industry.

The Labor Government's *Plan for Australian Jobs*, issued in February 2013, further extended the requirements for AIP Plans to all major projects with a capital expenditure of \$A500 million or more. **This was enabled by the *Australian Jobs Act 2013* which received Royal Assent on 27 June 2013 and commenced under the current Coalition Government on 27 December 2013.**

- Following a review of its procurement policies the New South Wales (sub-national level) Coalition Government replaced the previous State Labor Government's *Local Jobs First Plan* announced in June 2009 which gave a price preference to Australian and New Zealand SME content in State Government procurement. With the *NSW Government Procurement: Small and Medium Enterprises Policy Framework* (published 18 January 2013). The latter still retains its predecessor's requirement for SME Participation Plans for contracts valued at \$A10 million and above (increased from \$A4 million previously), which must show how the tender will support local industry (similar plans are also required by the Federal Government and other State Governments).
- The then-Victorian (sub-national level) Labor Government announced on 19 November 2008 (operative from 1 July 2009) that government procurement for declared strategic projects with whole-of-life costs greater than \$A250m or above \$A100m capital cost should be subject to minimum local (Australian and New Zealand) content targets and weighting on local content in tender evaluation. The measure has a potential adverse impact over a broad range of sectors, specifically in relation to passenger rail rolling stock and tram fleets. On 19 December 2011, the Victorian Coalition Government released the final report of the Victorian Competition & Efficiency Commission's (VCEC) inquiry into *A More Competitive Victorian Manufacturing Industry*, along with the Government's response and a new manufacturing strategy. The Government did not support VCEC's recommendation 12.9 (*the Victorian*

*Government remove the preferential aspects of the Victorian Industry Participation Policy), stating that it "will retain local content as a criterion in procurement policy and is committed to local content as part of its industry participation policy."*

Australia is an observer to the WTO GPA.

### **Brazil:**

- The Brazilian Ministry of Mines and Energy (MME) was to hold the first wind energy auction on 25 November 2009, as part of the ongoing Program of Incentives for Alternative Electricity Sources (PROINFA), a government program that aims to promote the use of renewable technologies in the production of electricity. The Ministry set out the requisites for new electricity generation projects participating in the auction in Administrative Act (Portaria) No. 211, published on 28 May 2009. This act banned the use of imported wind turbines with nominal power up to 2,000kW by bidders participating in the auction. This restriction was modified by MME Administrative Act No. 242 of 25 June 2009, which stated that the use of imported turbines with nominal power under 1,500 kW were not allowed by bidders in the auction.
- On 20 July 2010, Brazilian authorities modified the Brazilian law on public procurement and the facto turning it into a kind of 'buy Brazilian' law. The initially temporary measure was converted into Law 12.349/10 on 15 December 2010 and allows the government to grant up to 25% preference margin (depending on the sector, thresholds to be defined) to products and services produced entirely or partially in Brazil. This is one of the widest preference margins introduced among measures affecting government procurement. Moreover, for goods and services considered of strategic national interest, procurement can be restricted to goods and services developed in Brazil and produced in accordance with the basic productive process. Similarly, although the measure should primarily benefit the pharmaceutical and textile sectors (i.e. a market which was worth R\$16 billion (around €7 billion) in 2009 in terms of public procurement contracts), the size of the Brazilian market suggests that the measure should not be underestimated, the more so as it does not seem to be driven by the crisis rationale but rather appears to form part of a wider industrial policy.

The measure specifies that the preference margin could in the future be extended, partially or totally, to products and services coming from Mercosur Members, upon ratification of the Protocol on Government Procurement which was signed on 20 July 2006.

- The December 2010 law on Buy Brazilian has already been applied to the ICT sector. Foreign companies (despite participation of local capital) have been excluded from the bids to acquire broadband equipment and services for the state operator Telebras, which has been reactivated under the National Broadband Programme (PNBL) adopted in May 2010 (Presidential Decree 7.175/10). Only companies with "national technology" (local development) could participate on Telebras bids using the above mentioned provisions under law 12.349.
- On 2 August 2011, President Dilma Rouseff announced the "Plano Brasil Maior", a package of measures aimed at fostering industrial production. As part of the package, the Government announced that the 25% price preference for domestic products would apply to purchases in the area of health, defence, communications and high-tech equipment. The Programme also foresees other trade-related measures aimed at supporting industrialisation of the economy.

- In line with the above "Plano Brasil Maior" and earlier application of procurement thresholds to the ICT sector, the Decree No. 7.546 of 2 August 2011 establishes specific measures regarding public procurement in the ICT field, whereby purchases can be restricted to equipment and services developed and produced in Brazil and the 25% preference margin applies to domestic bidders.
- Within the frame of the Plan Brasil Maior II, measures for stimulating the national industry through government procurement were announced. National goods and services will take priority with a preference margin of up to 25 per cent on imported products. The government estimates that it will invest BRL 3.5 billion on medications, pharmaceuticals and biopharmaceuticals in the next 5 years. Furthermore, the purchase of backhoe loaders and motor graders shall amount to BRL 400 million by 2015. Similar measures were already in place applying to textiles and clothing, computing and TLCs sectors.
- Several Decrees have been approved establishing preference margins for certain national products in tendering procedures:
  - Decree 7.756 of 14 June 2012 established a preference margin of 20% for textiles, apparel and footwear.
  - Decree 7.767 of 27 June 2012 established a preference margin of 8% to 25% on medical products.
  - Decree 7.810 of 20 September 2012 established a preference margin of 20% for paper money for printing.
  - Decree 7.812 of 20 September 2012 established a preference margin of 20% for locomotives, wagons, trains and car parts for railways.
  - Decree 7.816 of 28 September 2012 established a preference margin of 14% to 17% on some tractors, transport trucks, fighting vehicles, road equipment, and ambulances.
  - Decree 7840 of 12 November 2012 established a 29% preference margin on drills and tractors.
  - Decree 7.843 of 12 November 2012 established a 20% preference margin on discs for coins.
  - Decree 7.903 of 4 February 2013 established up to 25% preference margin on some information technology related products.
- The "Urban mobility" initiative, introduced through Decree 7.888 of 15 January 2013 and supplemented by technical specifications of Ordinance 131/2013, as a part of the Program for Growth Acceleration (announced in March 2010) provides for local content requirements in projects related to transport infrastructure, equipment and services.
- **Several Decrees have been approved granting preferences in Government procurement to certain locally produced products, namely:**
  - **Printers and data processing machines – decree 8.184 from 17/01/14 (up to 20% of preference)**
  - **Executive jets – decree 8.185 from 17/01/14 (up to 25% of preference)**
  - **Software services – decree 8.186 from 17/01/14 (up to 18% of preference)**

- **Decree 8.194 from 12/02/14 granted preferences in Government procurement to various IT equipment goods from HS chapters 84, 85 and 90 with up to 25% of price preferences.**

Brazil is not a party to the WTO GPA.

#### **Canada:**

- The domestic content requirements in Ontario's Feed in Tariff program under its Green Energy Act have been adopted, as follows: i) for wind power projects over 10 kW, the requirement is 50%. There are no domestic content requirements for wind power projects 10 kW or less in size; ii) for micro solar PV (10 kW or smaller) projects, the requirement is 60%; iii) for larger solar PV projects, the requirement is 60%. The WTO recently upheld an EU complaint that these domestic content requirements violate Canada's international trade obligations. On 29 May the Ontario Minister of Energy said that the province will comply with the WTO ruling and put in place legislation to this effect by early 2014. **On July 25 2014, the Minister instructed the Ontario Power Authority (OPA) not to include any domestic content requirements in any FIT or microFIT contracts signed by the OPA after that day.**
- On 3 June 2010, the Canadian government announced its National Shipbuilding Strategy. The Strategy encompasses three streams – large ship construction, small ship construction, and repair, refit and maintenance projects. The government intends to use two Canadian shipyards for the procurement of the large ships – one to build combat vessels, the other to build non-combat vessels. The construction of smaller ships will be set aside for other Canadian shipyards. Only the repair, refit and maintenance of ships in the Government fleet will be sourced through competitive tendering. The cost is expected to range around CDN \$35 billion, with the bulk (\$33 billion) going for the procurement of large ships. On 19 October 2011, the government awarded a \$25 billion project to Irving Shipbuilding in Halifax and the remaining \$8 billion to Seaspan Marine in Vancouver.

Canada is a party to the WTO GPA.

#### **China:**

- 'Buy local' clauses exist in China since 2003, when the principle was spelt out in the 2003 Government Procurement Law. Article 10 of the 2003 Government Procurement Law (GPL) provides for a domestic preference except for
  - products that cannot be obtained in China or cannot be obtained in China under reasonable business conditions
  - or for products that are to be used out of China..

This 'Buy Chinese' policy was strengthened in 2007 through two implementing decrees<sup>24</sup> limiting the possibility to procure foreign goods only when domestic products are 'unreasonably' more expensive or of lower quality.

Moreover, in spring 2009 China emphasised to its procuring entities that they should tightly enforce the existing 'Buy Chinese' provisions in its public procurement legislation (Opinion 2009/35)<sup>25</sup> by further eliminating the possibility to buy foreign products, even if they are of better quality or less expensive. The Opinions state in particular that all products falling under the scope of the above mentioned Decrees (2007/119 and 2007/120) must be purchased in China. The Opinions 2009/35 stipulate further that the procurement of imported "high tech or innovative equipment" will only be possible if no such products are available in China. Also close supervision of construction projects launched under the RMB 4-trillion stimulus packages adopted in 2008 and 2009<sup>26</sup> has been announced.

- On 17 November 2009, China introduced the Indigenous Innovation Product Accreditation List. This provides for an accreditation list on which only IP right holders that are registered for the first time in China are permitted to be included in the list of producers allowed to participate in public procurement of innovative products. Very short registration timeframe and stringent selection criteria could potentially hinder access to public procurement to foreign companies. On 10 April 2010, the Ministry of Science and Technology (MOST) removed the requirements of prior Chinese origin for brands and other IPR, several other IPR-related provisions remain unclear. On the occasion of the third EU-China High-Level Economic Dialogue in December 2010, reiterated since and lately at the EU-China Summit in November 2013, China gave very positive signals on the IPR elements, namely that foreign and domestic products will be treated equally and laws and regulations will be amended accordingly. China also recognised the problems related to implementation at the provincial level and committed to increasing exchanges and communication to ensure consistency in implementation at central and local levels. China also made additional commitments on the procurement side at the visit of the Chinese President to the US, namely that there will not be any link between procurement and IP. Following these announcements, the Ministry of Finance announced the suspension of three key pieces of legislation linking indigenous innovation to government procurement, namely evaluation measures on indigenous innovation products for government procurement, administrative measures on budgeting for the procurement of indigenous innovation products and administrative measures on government procurement contracts for indigenous innovation products.
- *In the framework of the wind turbine manufacturing industry consolidation, China is considering draft legislation on the entry standards for public procurement. If the legislation were adopted as it is in the draft, only three Chinese manufactures would remain on the market and no European company would any longer qualify for public tenders.*

---

<sup>24</sup> Decree 2007/119 on "Printing and distributing the administrative measures for the government procurement of import products" and Decree 2007/120 on "Administrative measures for government procurement on initial procurement and ordering of indigenous innovation products" adopted by the Chinese Ministry of Finance.

<sup>25</sup> The State Council of China released in 2009 the "Opinions for further strengthening the management on Government Procurement" (Opinions 2009/35). It is related to the enforcement of the Government Procurement Law (GPL) adopted on 29 June 2002. In January 2003 a law on Government Procurement entered into force in China, with a wider coverage than the 1999 Law on Tendering and Bidding.

<sup>26</sup> For more information on stimulus packages, see the 133 Report on potentially trade-restrictive measures of July 2009.

- Concessionary bidding mechanism for wind power equipment and development projects discriminating de facto foreign companies: there is no transparency on the bidding procedure and on the evaluation assessment; the international track record of the equipment provided is not taken into account; the system is exclusively based on the unit price of the equipment rather than on the average life cost of it; only certain sizes of turbines are allowed regardless of the specificities of the individual location.
- De jure and de facto discrimination against foreign companies supplying equipment in the railways sector: bidding system restricts foreign companies to be qualified for bidding for rolling stock projects, signalling and has prevented also joint ventures from obtaining a license or qualification to bid.
- On 24 February 2012, the Chinese Ministry of Industry and Information (MIIT) has released a preliminary list for official government automotive fleet purchases that only features local Chinese car brands. The new catalogue lists 412 domestically produced automotive models exclusively built under local Chinese brands. The list excludes models built under joint ventures (JVs) with foreign companies including European automakers. **Moreover, China issued a new circular in January 2014 imposing the obligation for Military personnel to purchase domestic brand vehicles.** These measures can significantly reduce market access to government procurement for European automakers producing in China. Some experts estimate Government automotive purchases in China at around 10 % of the auto market (14 million passenger vehicles sold in 2011). Furthermore, market research shows that foreign brands account for at least 60% of this market (including European brands such as Audi).
- *A key factor still contributing to difficulties for foreign companies in engaging in government and public procurement in China is the inconsistent interpretation of the term "domestic goods". In January 2010 the draft Implementation Regulations for the GPL (Implementing Regulations) was released for comments. It defined "domestic product" as "made within China's borders and for which domestic manufacturing costs exceed a certain percentage of the final price", which is said to be set at 50%. However, almost four years later this Regulation has not yet been published. In the meantime, Central and local entities tend to implement in a very broad manner those provisions, going far beyond discrimination already imposed by the law. The nationwide 'Buy Chinese' measures have been echoed by numerous 'Buy Chinese' or even 'Buy Local' initiatives taken by provincial or municipal authorities. In the case of "domestic products" definition certain local governments have stipulated local content requirements of 70%. In various cases the Chinese Government has explicitly barred foreign companies from bidding on public contracts i.e. in June 2014, MOF and CAAC (Civil Administration of China) issued a Notice that states preference for domestic airlines in the purchase of tickets for government personnel travelling on business purposes. In that case if foreign companies want to bid, they have to enter in a partnership with a Chinese company. This requirement has also been seen in projects related, *inter alia*, to energy (including shale gas or transmission/distribution.), or mass transit.*

China is currently negotiating its membership to the WTO GPA.

#### Ecuador:

- The Ecuadorian Constitution (September 28, 2008) stipulates in Article 288 the "prioritization of domestic products and services in public procurement". The National Procurement System

Organic Law establishes as one of its aims to be a "dynamic element of production" (Article 9) and it also states that "specifications of a public procurement will contain evaluation points that encourage national or local participation, by a preferential margin, for suppliers' works, goods and services, including consultancy, according to the parameters set by the Ministry of Industry and Competitiveness" (Article 25).

- A public procurement tender for medicines, launched on 22 July 2011, set a preference margin for domestic bidders of 38%. This tender is in line with the 2008 National Procurement System Organic Law, which stipulates use of preference margins to encourage participation of local producers and service suppliers, including consultancy, according to the guidelines set by the Ministry of Industry and Competitiveness

Ecuador is not party to the WTO GPA

## Egypt

- **On 13 May 2014 the Government Cabinet decided to stop the import of products which have a local equivalent for the purpose of public tenders. *The Ministry of Industry & Trade was requested to prepare a Local Production Protection Law for public bodies to buy local products whenever possible. (Even if a temporary law of 1999, which has been subsequently renewed, prohibited already the importation of specific commodities with a local equivalent in public procurement.)***
- **Presidential Decree No. 82 issued in November 2013 amends some provisions of law No. 89 of 1998 on Tenders and Competitive Negotiation. Specifically, the decree increases the financial ceilings that apply to the use of contracting by Direct Agreement in cases of emergency. Most importantly, it allows government officials to skip public tender processes in cases of undefined "urgent" matters.**

Egypt is not party to the WTO GPA.

## India:

- *Further to the publication of a framework policy document entitled "Preference to domestically manufactured electronic goods in procurement due to security considerations and in Government Procurement" on 10 February 2012, on 5 October 2012 the Department of Telecommunications came out with some more detailed rules as concerns the preferences to be given to the aforementioned products in government procurement. Draft guidelines on domestically manufactured electronic goods in procurement due to security considerations, and in public procurement were submitted to local stakeholders for comment in April 2013. As compared to earlier drafts, the draft guidelines for government procurement introduce some flexibility (calibration of value-addition reflecting average/slightly above average manufacturing capability of domestic industry, to be suitably increased depending on the depth in manufacturing achieved rather than fixed thresholds), however the guidelines for electronic products having security implications specify that preference would apply in a mandatory manner for both public and private (e.g., telecom services providers) procuring agencies, which would be very worrisome from a legality point of view. At the time of the*

*preparation of this report, the implementation of the rules on preferential market access was being suspended temporarily until further notice, but with no firm assurance as to the future of the legislation. On 8 July 2013, India announced the suspension of the implementation of the PMA policy. The announcement explicitly rules out using domestic manufacturing requirements as a basis for achieving security related needs, and for private procurement. For electronics products, a new preference policy along the lines announced was however adopted on 23 December 2013.*

- Additionally, in December and January 2013 the Department of Electronics and Information Technology published a series of additional notifications, extending the scope of the preference policy to cover domestically manufactured tablet PCs, laptop PCs, desktop PCs and dot matrix printers.
- Local content requirements were noted for railway safety technology regarding 100% local content requirements for the Governmental procurement of certain railway safety technology products.
- Effective from 31 May 2013 a new Defence Policy was notified by the Indian Government. Under the new policy, priority is to be given to purchases from the Indian defence industry, the classification of which is based on minimum local content requirements (starting from 30%, on a cost basis).

India is not party to the WTO GPA.

### **Indonesia:**

- The Ministry of Industry adopted on 29 May 2009 a regulation (49/2009) requiring the use of domestic products and services in 558 sub-sectors for public procurement. The regulation relates to both domestic and foreign companies established in Indonesia, which could be considered as local producers in several sectors (raw materials, equipment, machinery, supplies, construction materials, agriculture and agri-food, energy, telecommunication sector etc.). The regulation is a response to a presidential instruction No. 2/2009, which entered into force on 9 February 2009, stipulating that all state administration should 'optimize' the use of domestic goods and services and give price preferences for domestic goods and providers. Domestic products are defined as 'goods/services (including construction-design and engineering) produced or prepared by company investing and producing in Indonesia, with possibility to use imported raw material or component in the production or working process'. The law is effectively in force since 12 August 2009.
- The Ministry of Communication and Information Technology commented in the press in July 2009 that companies with foreign capital ownership beyond 49% are forbidden from participation in tenders for broadband internet access (WiMax, 2.3 GHz frequency). The exact legal basis is not confirmed, however, the Ministry referred to the investment negative list, which establishes limits on new investments in the sector and is being applied.
- Ministry of Industry Decree 04/2009 (dated 15 January 2009) stipulates a domestic content obligation for electric power generation infrastructure construction.
  - 1) Article 6-8: Coal and water power generators with less than 100 MW shall be constructed and managed by a national company, and with above 100 MW it can be a

foreign company but it must work together with a national company. For geothermal power, the limit is 110 MW for similar conditions.

- 2) The buyer of these construction services must give a price preference to locally produced goods and services. The size of discount depends on the category of costs, between 7.5 – 30%
- 3) The attachment of this regulation stipulates the required levels of domestic content for the different sectors - coal, water power, geothermal and distribution, as well as for different sub-categories of goods and services. The local content requirements range from 15% up to 96% for different categories, but mostly are above 50%.

Ministry of Industry introduced administrative sanctions for not following the regulation, in the form of penalties or blacklisting. Foreign products can be used only when locally produced goods are not available. The Decree will affect the procurement related to the Government's 10,000 MW electricity crash program.

- In August 2010, a new Presidential Regulation (PerPres 54/2010) was adopted. This would just be an interim measure, however, setting up principles for implementing legislation to be adopted thereafter. Consequently, a new Law on government procurement started being discussed in the Parliament in December 2010. Several elements of the Presidential Regulation and of the Law raise concerns: i) local content: the Regulation sets a 40% requirement on local goods and services across the board. The Law does not specify local content requirements by amount or percentage, yet there exists a general principle that 'contractors have to bear in mind the use of domestic products and the role and independence of national companies'. It can be assumed that the implementing regulations following the Law will apply local content percentages set by the Regulation. ii) Partnership obligations: the Regulation provides that foreign companies can only participate in procurement of construction projects with a value higher than approximately 11 million US\$ and in procurement of goods and services beyond a value of 2 million US\$ and in partnership with a domestic company. These provisions could also be included in the Law's implementing regulations. iii) Scope: the Law is intended to go beyond the usual definition of government procurement by also including goods and services of general for public interest provided by the private sector and/or service providers. This means that the law explicitly states that local content requirement would also apply to public-private partnerships, particularly in the infrastructure sector. It further implies that procurement by private companies, e.g. in telecom and electricity sectors, would be considered as government procurement, thus Regulation and the Law would apply as horizontal legislation.
- Minister of Industry Regulation No 15/2011 on Guideline for Using Domestic Product in Procurement of Goods/Services for the Government, dated February 21, 2011 foresees a list of inventory of locally produced goods/services to be issued by the Ministry of Industry. Local content values shall be verified by an independent surveyor, appointed by the Minister, and an official, appointed by the Secretary General of the Ministry of Industry.
- Minister of Industry Regulation No 16/2011 on Provision and Procedure for Counting Local Content, dated February 21, 2011 sets precise rules on calculating local content in goods and services.
- Law 16/2012 on Defence has been adopted, requiring 85% local content in the production of defence equipment, starting at 35% and gradually (in 5 years) to 85%.

Indonesia is an observer to the WTO GPA.

### **Kazakhstan:**

- The Republic of Kazakhstan adopted changes and amendments of the Law on public procurement No. 156-IV on 4 May 2009 (entry into force on 5 May 2009) introducing a local clause in the public procurement law for goods - 20%, services and construction - 15%, thus limiting the purchase of foreign goods, services and works.

A company with more than 50% foreign shareholding is considered as foreign and therefore excluded from participation in public procurement tenders, unless it fulfils all of the following criteria making it a 'national producer':

- the company is resident in Kazakhstan,
- the company produces finished products in Kazakhstan,
- the company uses no less than 85% of local workforce.

Despite these rules, local branches of foreign companies created as a public limited company (LTD) in accordance with national regulations are refused access to public procurement tenders.

This law was further amended by Law No. 233-IV 'concerning the introduction of amendments and additions to certain legislative acts of the Republic of Kazakhstan on matters of Kazakhstan content ("LC Law")'. The LC Law is effective from 22 January 2010 and relates to subsoil operations by changing certain provisions of the law on Subsurface Use and to public procurement, by providing amendments to the Law on State Procurement. The LC law defines the local content by providing definitions of a Kazakh producer, a Kazakh provider or Kazakh origin of goods. Accordingly, a Kazakh provider of work and services is defined as individuals and legal entities of the Republic of Kazakhstan (RK) which are resident in the RK and whose operations are conducted by no less than 95% of RK citizens in the total number of employees. Whereas the law introduced a clause forbidding closed tenders, the LC Law introduces a 20% price preference clause for local bidders.

- The Government plans to set up administrative punishment for entities violating local content clauses in the procurement law were implemented in the LC Law of December 2009. In particular, the law established fines for violation of the state procurement legislation. In addition, on 25 February 2009 the Kazakh government published a list of companies subject to mandatory monitoring of procurements.
- Government Order 1729 from 30/10/2009, amended on 27/06/2011 provides that all hospital needs are served through the central tender process organized under state owned organization called SK Farmacia. It collects centrally the required volumes from regional hospitals and the bids. The problem with this arrangement is that if the molecule is produced locally in Kazakhstan, the local producer gets the whole tender volume regardless of the prices proposed by other participants. In other words, the local producer gets the exclusive right to supply the state and the non-local producers are automatically excluded from the process.

Kazakhstan is not a party to the WTO GPA.

### **Nigeria:**

- Government instructions of 30 March 2011 direct all federal administration and agencies to favour locally produced and assembled goods in public procurement. *A consumer credit facility is planned, and will be made available to locally-made goods*
- *A Bill on Construction Industry is pending before the National Assembly by which preferences might be given to Nigerian companies.*
- *The National Information Technology Development Agency (NITDA) has issued a Draft Framework and Guidelines for Nigerian Content Development in Information Technology. Although framed within science- and industry-driven principles (respect of standards, global approach, role of FDI), the framework includes quite stringent requirements with respect to all sectors of the IT and communications industry, including procurement of locally manufactured equipment and software (when available) by government entities and capitalisation requirements on OEMs manufacturers for the development of locally produced equipment.*
- *With regards to cheques books to be printed and used in Nigeria, since 2013 only Nigerian printing companies have been authorised by the Central Bank of Nigeria under a policy specifically aimed at fostering local production.*

Nigeria is not a party to the WTO GPA.

#### **Paraguay:**

- A decree no. 4008) on 26 February 2010 established national preferences in public tenders. Those preferences cover a range from 5% up to 70% compared with imported products in public procurement. This decree, introduced to promote national production and employment in direct response to the economic crisis, was valid for one year.. On 4 March 2011 a new Decree (No. 6255) was published to support the production and domestic employment, providing for new domestic preference margins ranging from 5% to 70%. Several differences with Decree No. 4008 are to be noted: Article 2 a): the new Decree sets a single margin of 40% for national industrial or manufactured products. Article 3: The definition of "national" for a product is determined more precisely. Article 12: The duration of this decree is now unlimited (duration of one year for the previous Decree). On 30 May 2011, a Decree No. 6674 modified the earlier Decree No. 4008. It reduces the preference margin from 40 to 20%. Law n° 4558 published 15 December 2011 supports domestic producers through public procurement and envisages reference margins of 20% for local content in a product.

Paraguay is not a party to the WTO GPA.

#### **Russia:**

- Instruction n° 427 of 5 December 2008 by the Ministry of Economic Development "On the Conditions for Access of Foreign Origin Commodities for the Purposes of Placing Orders for Commodity Supplies for the Government and Municipal Use" determines conditions for access to the Russian market for a large number of goods and services from foreign countries: agricultural products, hunting products; agricultural and hunting services, food products and beverages, textile products, clothes, fur and fur products, leather and leather products, saddlery products, shoes, organic and non-organic synthesis products, rubber and plastics articles, machines and equipment, cars, trailers and semi-trailers, car bodies, components and

accessories and others. In fact it legitimizes the preferences for goods produced in Russia, by enabling the national producers to win bidding with a price which is up to 15% higher than that of a foreign producer. The new 'Buy Russian' provision was considered as an anti-crisis measure, which would only apply for a limited period of time. The Federal Law On State Procurement No. 94-FZ establishes national regime for foreign firms on the basis of reciprocity with foreign countries. Despite initial time-limit of 2010, the law was prolonged in January 2011 extending its validity until the end 2011. The Ministry of Economic Development's Instruction No 120 of 12.03.2012 was a modified version of the Ministry's Instruction No 427. In spite of its previously stated intention to radically curtail the preferences for domestic producers in public procurement, a large number of goods from the list remained intact. Only Russian producers of agricultural products were devoid of some preferences. It is remarkable that the Federal Antimonopoly Service criticised the draft Instruction, which was sent to it for coordination, as anti-competitive. MED's Instruction No 120 of 12.03.2012 was registered by the Justice Ministry, on 17 April 2012, and entered into force on 6 May 2012.

- President-elect Putin announced on 04.04.2012 that the federal and regional authorities, municipalities and companies, who are financed from the state coffers, should buy automobiles that are only manufactured in the Customs Union between of Russia, Belarus or Kazakhstan.
- Continued use of single-source procurement procedures creates ample opportunities to apply the Buy Russian principle through direct contracting According to the Economic Development Ministry's estimate, from the total value of public procurement in 2011 of RUR8.3 trillion, RUR3.6 trillion was spent without tenders or auctions. The value of these public procurement orders received without competition by 'single suppliers' increased for one year tenfold. Some experts blame for this mostly the defence order (purchases of arms and ammunition). In addition, the single-source procedures were further expanded in the Agreement on Government Procurement signed by the Customs Union members (Russia, Belarus, Kazakhstan) listing 27 instances for single-source public procurement. Such procedures can now be implemented by order or a decision of a President of a Customs Union member state or a Government decision on behalf of the President. In light of an ongoing revision of public procurement legislation in Russia, it cannot be excluded that the new legislation will further expand application of Buy Russian.
- The Government Anti-Crisis Plan 2009 envisaged measures to increase the demand for domestically manufactured goods by providing support to 'systemic companies' (343 companies including Gazprom, Russian Railways Co, Aeroflot, RusAl, AvtoVAZ, GAZ) in public procurement. Additional funds were allocated on purchases of automobiles by Government bodies and local administration, as well as for the implementation of the 'cash-for-clunkers' programme.
- Agriculture Ministry Order 82 from 3 March 2009 - Russian authorities discriminate in granting Russian banking loans (with interest subsidies) to farmers depending on the origin of agricultural equipment purchased. It could be considered as formal discrimination with regard to imported agricultural machines. In 2010, such interest subsidies provided by the Agriculture Ministry should amount to 3.5bn roubles, which should attract estimated 70bn roubles for purchasing *domestically produced* agricultural machinery.
- Subsidies for executive bodies, regional authorities, militia, communal services and medical establishments were granted to buy *locally produced passenger cars, transportation cars and special vehicles* (32.5bn roubles in 2009, 20bn roubles for 2010).

- The Anti-crisis plan envisages a working out of measures to stimulate the demand for *locally produced steel* products from the construction industry, the machine-building sector and the fuel-and-energy complex. The plan called for further steps in order to increase the demand for domestically manufactured goods from the Federal Government, private business and the population.
- The Eurasian Economic Commission Regulation No 5 of 25 January 2012 "On Placement of Orders and Conclusion of Agreements to Supply Goods, Execute Orders and Render Services for needs of the Eurasian Economic Commission" does not specify foreign companies' access to public procurement. Meanwhile, Point 2 of Paragraph 4 says that one of the principles of public procurement should be "equality, fairness, lack of discrimination and unjustified restrictions of competition in relation to participants of public procurement". At the same time, opportunities for arbitrary decisions are provided by the provisions regulating direct purchases of goods and services from single suppliers. Paragraph 6 says that "during the formation of the Commission until 1 July 2012, the authority to approve the list of the only suppliers of goods, works and services shall be carried out by Chairman of the Board".
- **Participants in public procurement auctions and tenders, who propose to supply goods originating from Russia, Belarus or Kazakhstan, shall be granted preferences in relation to the contract price in the amount of 15%, in accordance with the Ministry of Economic Development's Decision N<sup>o</sup>155 of 26.03.2014. The Order will be in force as of 31 December 2015.**

Russia is not a party to the WTO GPA. Russia committed itself to join the GPA at the time of WTO accession. It is bound to become an observer to the GPA and initiate negotiations for membership within four years of its accession.

#### South Africa:

- On 8 June 2011 new Preferential Procurement Regulations were published. The principal change to the regulations is their alignment with the Broad-based Black Economic Empowerment Act of 2003 and its associated Codes of Good Practice. The changes to the rules are largely cosmetic. Tenders are decided on a point-based system, which awards 90 points on price and 10 points on empowered status for large contracts (>€51 000). For contracts smaller than €51 000, that scoring ratio is 80:20. The scoring ratios have not been changed. However, empowerment status is now determined not only on the basis of black shareholding, but also by means of a scorecard that measures a broader set of empowerment criteria, including management, employment equity, contribution towards the development of black skills, preferential procurement by firms from black enterprises, the assistance of small black-owned enterprises and contribution towards socio-economic development. The new rules came into effect in December 2011.
- In December 2011, provisions for the designation of sectors from which government will exclusively procure locally were also been finalised and will now come into force. The sectors earmarked for exclusive local procurement are power pylons, railway rolling stock, buses (bus bodies), canned and processed vegetables, clothing and textiles, footwear and leather products, and television set top boxes. A second round of designations was announced in 2012, with pharmaceuticals, electrical cables and yellow cables, and office and school furniture. The level of local content for designated sectors varies between 35% and 100%, and is determined on a product-specific basis.

- Government streamlined and consolidated two supplier schemes – the Competitive Supplier Development Package (CSDP) and the National Industry Participation Programme (NIPP) – to better align foreign supplier participation in the South African economy to achieve the above goals. The programmes cover procurement areas that are traditionally the domain of foreign suppliers, because of insufficient or non-existing local production capacity. The schemes are currently voluntarily invoked by government departments and parastatals when they put out tenders. The programmes impose offset conditions on foreign suppliers awarded government contracts, to either invest in the local economy or undertake other actions that will enhance local production and/or stimulate exports. The commitments are in line with government objectives to promote localisation, job creation and black economic empowerment. Some of the means identified to achieve these goals are through greenfield and brownfield investments; technology transfer; sourcing of locally manufactured inputs; local skills development. The Trade and Industry Department, which is tasked with drafting the rules, has indicated that offset commitments will have to be focused in the particular sector within which a tender is won. The value of the "offset" commitments required is determined as a percentage of the size of the contract. For the NIPP that level is 30% of the value of the contract; under the CSDP the level is 60%, set to increase to 70%. The new offset participation ratio of the consolidated programme still to be determined.

South Africa is not a party to the WTO GPA.

#### Tunisia:

- **A new Code of Public Procurement was adopted on March 13th 2014 (Decree n° 2014-1039) and entered into force on 1 June 2014. It is part of an overall reform process of moving from a system of ex ante to ex post control. The new Code grants a 10% margin of preference for Tunisian companies in goods and works tenders, and encourages foreign bidders to associate as much as possible local companies in the execution of contracts.**

Tunisia is not a party to the WTO GPA.

#### Turkey:

- Turkey's public procurement legislation allows for a 15% price preference in favour of domestic suppliers when participating in tenders as well as for set asides for Turkish goods and suppliers. The amendment to the Public Procurement Law in February 2011 partially revised the application of the domestic advantage clause. Although this revision reduced the discrimination against the foreign tenderers, existence of such a preferential provision remains to be an obstacle to fair competition. **Besides, a further amendment in May 2014 created the obligation for the procuring entities to grant a 15% domestic price advantage to domestic or international bidders in supply tenders if they offer domestically produced goods. In addition, an off-sets clause has been introduced in the Law and such tenders were excluded from the scope of the Law. The Ministry of Science, Technology and Industry has been designated as the authority both to determine domestic goods and to set the rules for the award of off-set contracts. Of the overall public contracts value, about 2 % were awarded to foreign bidders in 2013.**

Turkey is an observer to the WTO GPA.

#### **Ukraine:**

- On 4 April 2013 Parliament approved Law #11100 "On public procurement" on changes of tender conditions that is meant to exclude the price mark-ups by commercial intermediaries that are not qualified as official representatives of the foreign producers in Ukraine. It also requires proving the "ownership of production capacities and/or service centres on the territory of Ukraine" in order to qualify for public procurement tenders. Article 16 of the PPL (establishing qualifying criteria), although it is not legally binding for all tenders, will become clearly incompliant with the important legal principle of non-discrimination of tenderers by the country of origin pursued in the WTO framework.

Ukraine is an observer to the WTO GPA.

#### **United States:**

- On 13 February 2009 the US Congress passed the \$790bn American Economic Recovery and Reinvestment Act (ARRA), which was signed into law by President Obama on 17 February 2009. The legislation includes two new 'Buy America(n)' provisions that:
  - 'prohibit funds appropriated by this Act to be used for a project for the construction, alteration, maintenance, or repair of a public building or public work unless all of the iron, steel and manufactured goods used in the project are produced in the United States.';
  - 'prohibit funds appropriated by this Act to be used for the procurement by the Department of Homeland Security of a detailed list of textiles items (e.g. clothing, tents, cotton and natural fibres, etc. ) unless the item is grown, processed in the United States.'

Specific waivers to these restrictions can be requested on the basis of public interest, non-availability or unreasonable costs. The final new Buy America(n) type amendments contain language that the law should be "applied in a manner consistent with US obligations under international agreements". Such wording is supposed to give ARRA consistency with, among other US international agreements, the WTO plurilateral Government Procurement Agreement (GPA).

On 30 August 2010, the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Councils adopted a rule that implements a "Buy American" provision of the American Recovery and Reinvestment Act. The rule clarifies that iron and steel construction materials are exempt from the Buy American provision only when those materials do not consist wholly or predominantly of iron or steel. If they do, no exemption is made. The Buy American provision does not apply if: coverage would not be in the public interest; if the US does not produce enough iron, steel, and manufactured goods; or if enforcing the provision would increase the cost of the project by more than 25%.

As regards the application the rules apply to:

- State procurement entities not covered by the US GPA commitments as well as the procurement by the States not committed under the GPA;

- States covered by the GPA will have to admit bidders coming from GPA Parties if the procurement in question is covered by the US GPA commitment.

Although the funding, in the form of grants, will be provided by the federal authorities, the States will be for the most part the ultimately procuring entities.

- Following the adoption of ARRA, the U.S. Administration has issued two sets of implementing rules and guidance aiming at further clarifying the new provisions. These have been subject to a two-month stakeholder consultation. No change was done in the implementation of the Act, except an increase from 787 to 840bn USD of the expenditure, in 2011.
- On May 15, the Senate passed S 601, Water Resources Development Act of 2013. The bill included an amendment by Senators Jeff Merkley (D-OR) and Sherrod Brown (D-OH) that would extend Buy American provisions to certain water infrastructure projects to be known as Innovative Financing Pilot Projects. The Buy American provision is in Section 10016 of the bill. The Senate bill would authorize \$50,000,000 in funding for the program for each fiscal year from 2014-2018. Under the legislation approved by the Senate, recipients of federal loans and loan guarantees under the Water Infrastructure Finance and Innovation Act (WIFIA) for eligible construction, alteration, maintenance, or repair projects must use U.S.-produced iron, steel, and manufactured goods. Eligible entities are corporations, partnerships, JVs, trusts, federal/state/local govt. entities, tribal governments and state infrastructure financing authorities. The legislation contains an exception to the Buy American requirement in situations where the Secretary finds that (1) adhering to the requirement would be inconsistent with the public interest, (2) the iron, steel, and the relevant manufactured goods are not made in the United States in sufficient quantities or are not of satisfactory quality, or where (3) complying with the rule would increase the cost of the overall project by more than 25%. (These are the standard Buy American exceptions). The Senate bill would apply to projects valued at \$20,000,000 or more, except for certain rural water infrastructure projects that qualify for a lower \$5,000,000 project cost threshold. Under the bill, several types of projects would be eligible for WIFIA assistance, including certain flood control or hurricane and storm damage reduction projects; certain water pollution control projects; certain Safe Drinking Water Act projects; energy efficiency projects for public water systems or treatment works; repair, rehabilitation, or replacement of treatment works, community water systems, or aging water distribution or waste collection facilities; brackish or sea water desalination projects, managed aquifer recharge projects, or water recycling projects; certain real property acquisitions in connection with a project, and projects that combine a variety of eligible projects pursued by a state infrastructure financing authority or pursuant to a common security pledge. The Senate bill also identifies several activities that would be eligible for assistance under WIFIA, including development-phase activities, construction, reconstruction, rehabilitation, replacement, real property acquisition, environmental mitigation, acquisition of equipment, and certain aspects of project financing. There is currently no companion House bill for the Senate-passed Water Resources Development Act of 2013 at this time.
- *Other initiatives possibly entailing domestic content requirements have also been introduced to Congress for assessment, such as "The Invest in American Jobs Act of 2013" or the "American Steel First Act of 2013".*
- *In May 2014, the US Department of Transportation unveiled the "Grow America Act", which reflects Administration wishes for the Surface Transportation Bill. The proposal includes section 3006 (under General provisions), which would increase the local content requirement for rolling stock each year by 10%, from the original 60% in 2016 up to 100% in 2019. The Administration proposal has been introduced as a legislation in June 2014 by Chairman Petri on behalf of DC Representative Norton (D).*

- **The Water Resources Reform and Development Act (WRRDA) was enacted in June 2014. The legislation imposed new Buy America restrictions on all iron and steel used in such projects. The WRRDA also imposed new and permanent Buy America restrictions on procurement funded by the Environmental Protection Agency's (EPA) Clean Water State-Revolving Fund.**
- **On 30 May 2014, the US House of Representatives passed HR4660: Commerce, Justice, Science, and Related Agencies Appropriations Act, 2015, which included an amendment 761 introduced by Rep. Alan Grayson aimed at preventing the Office of the U.S. Trade Representative from negotiating trade agreements that would further open up the U.S. government procurement market to other countries. Grayson's amendment consists of one sentence stating that "[n]one of the funds made available by this Act may be used to negotiate an agreement that includes a waiver of the 'Buy American Act.'**
- **In May 2014, a bill was introduced in the New York State to impose Buy America restrictions on a broad range of the state's procurement activities that mirror the restrictions imposed by the federal government for federally funded transportation infrastructure.**
- *On 12 June 2014, the New Jersey Senate passed S 1811 which would require all state agencies, local municipalities, and public education institutions of higher education to purchase only goods manufactured in the United States to fulfill those contracts.*
- **On May 16, 2014, Minnesota enacted S.F. No. 2454. Section 2 established a preference for engine models of recreational vehicles and boats manufactured in the United States.**
- **In Massachusetts, a State Senate bill has been introduced in April 2014 to propose a preference for domestic products purchased by State Agencies.**

The United States are a party to the WTO GPA.

#### **Vietnam:**

- Prime Minister's Directive no. 494/CT-TTg dated 20 April 2010 on the use of domestic materials and goods in bidding of state-funded projects. It states that for bidding of goods procurement, international bidding shall be held only if domestic goods, materials and equipment cannot meet package requirements or those cannot be provided locally or sponsors of ODA package require of international bidding.
- The Inter-ministerial Circular 01/2012/TTLT-BYT-BTC on "Guiding Drug Tenders in the State medical care units", jointly issued by the Ministry of Health (MoH) and the Ministry of Finance (MoF) took effect on 1 June 2012. Under this circular, the medicine products under tender shall be divided into three packages, i.e. (i) Generic Package [which is divided further into 5 sub-packages]; (ii) Brand name package [a) brand name or treatment equivalence with brand name evaluated and announced by MoH; b) Rare medicine listed by MoH]; and (iii) Oriental medicine / traditional herbal medicine. The main concerns are related to the process of evaluating innovative drugs and their listing as branded products. To be listed, medicines should have recognized patent from patent offices accepted by Vietnam. At present, only 14

patent offices (including European Patent Office) are recognised for consideration as innovator.

- **Vietnam published a revised Law on Public Tendering in 2013, which entered into force on 1 July 2014. This Law continues to give preferences to domestic suppliers of goods and services as well as domestically made goods. Accordingly, foreign suppliers/contractors are only selected when domestic companies cannot provide goods/services or when financing agreements between the government of Vietnam and donors require international biddings (in case of packages that use funding from Official Development Assistance).**

Vietnam is an observer to the WTO GPA.

### III.2. Investment and services

#### Algeria:

- A series of instructions issued on 20-22 December 2008 introduced stringent procedures for foreign investors and traders in Algeria. The instructions specify that any foreign investment required a majority participation of Algerian capital. Furthermore, all foreign investment would be subject to examination by the National Investment Council; the capital could only be mobilised on the Algerian capital market; and any project would need to result in positive foreign exchange balance for its entire duration. Finally, any company established in Algeria which imports for resale without transformation is obliged to have a 51% Algerian participation in its capital. It has to be noted though that the initial provision regarding the retroactive character of the requirement has been lifted largely due to the pressure exercised by the European Union.
- The law "La loi de finances complémentaire 2009" of 26 July 2009 introduced further restrictions, such as 'Buy Algerian' requirement for all investors benefitting from assistance of Agence Nationale de Développement des Investissements (ANDI) and a pre-emptive right of re-acquisition of shares sold by foreign investors by the State.
- The regional agencies of the *Registre national du commerce* have recently been instructed to extend the obligation to have a 51 % minimum requirement for Algerian shareholding to companies already established before the entry into force of the LFC 2009 and who now wish to modify their shareholding composition. While the 2009 loi de finances complémentaire only applied to newly established companies, these new guidelines will make the application of the 51 % rule retroactive and might therefore prevent companies from welcoming new investors.
- One of the implementing acts to the Finance Law 2009, decree no. 09-283 of 12 May 2009, imposes a 40% participation of Algerian capital in the maritime services. The law is in force since 23 May 2011 and applies to already existing companies as well as to new investments in Algeria.

#### Argentina:

- On 21 February 2011, the Argentine insurance regulator (Superintendencia de Seguros de la Nación or SSN) issued Resolution N° 35.615/2011 modifying the regulatory framework for reinsurance in the country, which will enter into force in September 2011. Among its main provisions, the new regulation only authorizes national companies or locally-established branches of foreign companies to provide reinsurance services in the country (cross border supply or consumption abroad of reinsurance services will no longer be possible). By way of derogation, companies can request a waiver from this obligation when they can prove that the degree of risk cannot be covered in the local market. On 26 May 2011, resolution 35794/2011-SSN modified the regulatory framework established with the previous resolution. This new regulation allows cross-border supply of reinsurance services both for risks above USD 50 million and for retrocession services. Nevertheless, other restrictions remain in place (e.g. reinsurance abroad of life insurance and transfer abroad of more than 40% of premiums of local reinsurers are not allowed). The minimum requirements to apply for the waivers, when the degree of risk cannot be covered in the local market, were defined through Resolution 36332 of 12 December 2011.

- On 27 October 2011, Resolution 36162/2011 issued by the SSN established the obligation for insurance companies to repatriate investments abroad before 15 December, even though exceptional cases could be considered. The regulation stipulates that foreign investments and assets cannot exceed 50% of their total capital.
- Law 26737 passed on 28 December 2011 restricted the purchase of lands by foreigners, limiting foreign ownership of rural lands to 15% and the maximum land extension to be held by a single foreigner to 1,000 hectares at the so-called "core zone" or its equivalent in other zones of Argentina. Foreign individuals with residence in the country, married to Argentine citizens or with Argentine children are exempted from the provisions. A national registry of rural lands is to be created within six months after the approval of the law, and foreign right-holders would have to register their properties accordingly.
- As from 1 April 2012, Argentina's tax and customs authority extended to imports of services the obligation to submit a prior sworn statement, through Resolution 3276/2012. This requirement is applicable for service contracts above USD 100,000, or with instalments over USD 10,000.
- In April 2012 President Cristina Fernandez de Kirchner announced the expropriation of 51% of shares in YPF S.A. owned by the Spanish company Repsol S.A. Shares belonging to other Argentinean and international stakeholders were not expropriated. Law 26741 implementing the expropriation was adopted by Congress on 7 May 2012. By mid-2013, Repsol had not been given any compensation for the expropriation of these assets. **On 28 April 2014, Congress passed Law 26,932 which ratified the compensation agreement between the Argentine Ministry of Economy and Repsol.**
- Resolution 142/2012 published on 25 April 2012 in the Official Gazette (Article 1, paragraph 3) sets a reduced period of 15 days for the handling of foreign currency deriving from intragroup exports. It also amended the general conditions to liquidate foreign currency from exports of goods into the local financial system, by shortening them from 60, 180 and 360 days to 15, 90 and 360 days, depending on the product. Later Resolutions 187/2012 and 231/2012 extended the minimum period and the mandatory period for linked companies from 15 to 30 days, while exempting exporters with annual operations of less than USD 2 Mn/year from these provisions. Numerous exceptions for particular companies were also authorized since 2012.
- On 28 May 2012, the Secretariat of Mining adopted Resolution N° 12/2012 that imposed on mining companies the requirement to use Argentine transport companies for the exportation of minerals - to the extent possible considering the international agreements signed by the country.
- The Argentine Central Bank amended the requirements for the purchase of external assets by Argentine residents – individuals and companies - through Communication "A" 5318 of 31 July 2012. In practice, it suspended their access to the local foreign exchange market without the Central Bank's prior authorization. Together with other regulations on the local exchange market, it had an impact on the amounts that companies are allowed to convert in order to transfer payments for importations.
- On 15 March 2013 Argentina's Federal Tax Revenue Agency broadened the scope and increased the rate of the withholding tax applicable to certain purchases of goods and services

by Argentinians abroad (from 15% to 20%). The surcharge applies to purchases made by Argentine residents, using credit or debit cards issued in Argentina, of goods or services outside of the country, as well as purchases made in foreign currency through websites or through any type of Internet connection. The new rule increases the tax rate from 15% to 20%. **On 3 December 2013, the surcharge was raised again to 35%, extending it to the acquisition of foreign currency for traveling.**

- General Resolution 3395 of 12 October 2012 extended the requirement of a prior sworn statement for services (DJAS) to international travel services, including air and sea transport.
- Through General Resolution 3417/2012 of 20 December 2012, the national tax authority AFIP established a mandatory 'Prior Statement of Foreign Payments' (DAPE), effective as from 1 February 2013. Companies and individuals operating in Argentina thus have to obtain AFIP's authorisation before making any payment abroad related to debt services, royalties, profits repatriation or imports either under the simplified or temporary regimes (e.g. couriers and merchandise that is not for final consumption in Argentina).

#### **Australia:**

- Australia announced on 12 February 2009 that it would seek to amend the Foreign Acquisitions and Takeovers and Amendments Act 1975, clarifying the operation of foreign investment screenings to include investment instruments which involve the exercise of rights to acquire shares or voting power in the future. The amendments were assented to on 12 February 2010 and apply retrospectively from the date of the announcement.

#### **Brazil:**

- On December 15, 2010 the National Council of Private Insurance (CNSP) decided to change the way in which the reinsurance business is conducted in Brazil by introducing two new Resolutions 224 & 225 aimed at protecting the interests of Instituto de Resseguros do Brasil (IRB). Resolution 224 has then been replaced by Resolution 232, which entered into force on 31 March 2011. Under new regulations, insurers can only cede a maximum of 20% to affiliates abroad. The objective is to induce insurers to use local reinsurers, which means also accepting whatever rates and conditions are offered locally.
- Restrictions in the telecommunications sector, in 2011 Brazil enacted imposition of local presence and frequency coordination requirements and the preference for Brazilian companies.
- Restriction in maritime services - Cabotage is reserved for Brazilian-flag vessels operated by Brazilian shipping companies. Foreign vessels may only participate in cabotage when chartered by a Brazilian shipping company, for which an authorization must be obtained. Authorizations waiving this restriction may be granted when: a Brazilian-flag vessel of the required type is not available; for public interest/reasons; or if the foreign vessel substitutes for a vessel that is under construction in a Brazilian shipyard.
- New restriction on legal services, of February 2012. Partnership between Brazilian and foreign law firms is not permitted.
- Land purchase restrictions for foreign companies were introduced in August 2010. Foreign companies, even if acting through a subsidiary in Brazil, cannot buy more than 50 modules of land, varying between 250 hectares and 5000 hectares depending on the region. The legislation does not apply retroactively to existing properties.

**China:**

- In February 2011, the State Council announced the setting up of a national security review process for mergers and acquisitions, to enter into force in March 2011. The review raises many questions with regard to the definition of national security, which is defined very broadly with many sectors being included. Furthermore, there is concern with the timeline of the review, possible retroactivity and third party complaints. It is feared that this review will considerably lessen legal security for foreign investor in China.
- The revision process of the Investment Catalogue was officially announced in April 2010, when the State Council issued a Circular on investment, referring to the Catalogue and pledging to “open up more areas and encourage foreign investments in high-end manufacturing, new high-tech technology, modern services, energy-saving and environmental protection industries”. The Catalogue, previously revised in 2007, is the equivalent of a framework legislation on foreign investments, classifying them according to three categories (encouraged, restricted, prohibited), and providing for incentives or limitations according to the category. Relatively few changes were made in the 2011 edition of the Catalogue in comparison to the 2007 version, though the changes made were mainly in the sectors highlighted in the 2010 Circular. In total, 3 items were moved to the “encouraged” category, 7 items were moved from the “restricted” category, 1 item was removed from the “prohibited” category. Two items - the construction of villas and express delivery services - were added to the “prohibited” category, whereas the manufacture of automobiles was one of the key industries moved from the “encouraged” category. In December 2011, a revised Catalogue for Guidance of Foreign Investment was released for entering into force 30 January 2012.
- *The first draft of the 12<sup>th</sup> five year plan for new-energy vehicles included provisions that could compel foreign auto-makers that want to produce critical components (e.g., vehicle traction battery, drive motor, basic materials for complete vehicle control system, battery and motor, etc.) in China to share critical technologies by requiring the companies to “present independent R&D capability and intellectual property rights, with the equity of the Chinese party no less than 51%”. The recently revised Catalogue for Guidance of Foreign Investment has for the first time formalised this investment restriction on automotive components but limited it to the battery systems by stipulating the following: "Manufacture of key parts and components of new energy automobiles: high energy power batteries (with the proportion of foreign investment not exceeding 50%)".*
- Establishment of a National Security Review Process: In February 2011, the State Council announced the setting up of a national security review process for mergers and acquisitions, to enter into force in March 2011. On 1 September 2011, definitive implementing provisions came into force. Though the establishment of a system to review foreign mergers and acquisitions with a potential impact on national security is not uncommon, the Chinese system raises many questions with regard to the definition of national security, which is defined very broadly with many sectors being included. Furthermore, there is concern with the timeline of the review, possible retroactivity and third party complaints. It is feared that this review will considerably lessen legal security for foreign investor in China. To date, it does not seem that any mergers have been blocked as a result of the introduction of the review system.
- According to the Interim Provisions on Licensing Administration of Direct Access to and Use of Foreign Computer Reservation Systems by Foreign Airlines Agents in China (CCAR-315) that entered into force in October 2012, foreign CRS providers are allowed market access to the foreign airline segment of the Chinese CRS market, which contributed to enhancing legal

certainty. However, simultaneously the Itinerary Receipt Circular was adopted, in the form of a regulatory requirement imposed on Chinese travel agents to issue an itinerary receipt on international business and leisure electronic tickets (Circular on Issues Concerning the Use of Itinerary Receipt of Electronic Ticket for Air Transport for International Air Ticket (guoshuifa (2012) No. 83) Currently, this Circular means that Chinese travel agents are only able to use TravelSky's system as it is the only CRS system certified and approved by CAAC (Civil Aviation Administration of China). **Other problems in this market arise from TravelSky's practices and given mandate. TravelSky has been practicing highly anti-competitive behaviour which includes coercing travel agents into long-term exclusive agreements, and threats of commercial retaliation to any travel agents that have signed agreements with foreign CRS. Also, TravelSky acts both as regulator and competitor in the same market as it assist CAAC to monitor compliance with the CRS regulations by travel agents, and the CRS market. As an effect, in practice, no foreign CRS provider has yet managed to provide its services on the market.**

- The “Measures for the administration of the express delivery market” took effect on March 1st, 2013. These measures introduced a number of potential restrictions for foreign services providers, e.g. the necessity to apply for an international licence at the municipality level (instead of the provincial/national level as per previous practice). **In early 2014, a number of European express delivery companies were requested by State Postal Bureaus and local postal regulators to connect their internal CCTV monitoring appliances to the regulator’s system to enable postal bureaus to have real-time access and monitor companies on a constant basis. The companies are also requested to bear the costs for network cables and equipment installation.**
- *In December 2012, China's State Council Legislative Affairs Office (SCLAO) published for comments (by 10th January 2013) 3 sets of measures drafted by the General Administration of Press and Publication (GAPP) for internet publishing services:*
  - 1) *Administrative Measures for Internet Publishing Service (Revision Draft for Comments)*
  - 2) *Administrative Measures on the Standardization in the Press and Publication Industry (Revision Draft for Comments)*
  - 3) *Administrative Measures for Establishing Offices in China by Overseas Press and Publication Organizations (Draft for Comments).*

***The scope of the first regulation on Internet Publishing Services is potentially wide and may overlap with existing commitments of China under the GATS and under TRIPS, notably in distribution and computer, some aspects of the regulation – such as the interdiction for joint venture to provide these services – could cause problems of compliance with existing international obligation of China under the WTO Agreement.***
- *New draft Measures for the Administration of Trial Operation of New Types of Telecommunications Businesses were published by MIIT for comments. In the WTO classification context, China considers the vast majority (if not all) information and communication technology (ICT) services to be value-added telecom services, thus protecting its domestic industry from fair foreign competition. MIIT maintains a catalogue of these value-added telecom services; however, the catalogue has not been updated in years and does not contain “new” ICT technologies: cloud computing, social networking platforms, mobile apps, big data analytics, etc. Thus, MIIT considers all of these to be de facto value-added*

*telecom services and treats them as such for licensing and market access purposes, however the WTO legal basis of that has been ambiguous.*

- Foreign-flagged vessels, which are owned by a Chinese company, may now engage in international relay in the China (Shanghai) Pilot Free Trade Zone , while foreign-flagged vessels owned by foreign companies may not, thus creating an uneven playing field.
- *At the end of 2013, the government-run website [www.12398.gov.cn](http://www.12398.gov.cn) - an important source of electricity market information - was shut down. While a new site is expected to be built, no progress has been made so far. This closure together with the recent dissolution of the SERC (State Electricity Regulatory Commission) are further limiting access to information and stifling progress towards the national government's goal of greater openness and competitiveness of the electricity market. It is also compromising the ability of foreign enterprises to offer suitable solutions for the Chinese market.*
- *In May 2014, the NDRC and the PBOC announced that the algorithm for mobile payments will be one of the existing national algorithms, but without publicising which to foreign companies. Without knowing the algorithm, it is impossible for any foreign-invested company to comply with the standard and therefore access the mobile payments market.*

#### **Egypt:**

- In October 2009 Egypt announced local content requirements for foreign shipping agency activities. An equity cap of 51% for Egyptian ownership was imposed on those companies licensed to carry out shipping agency activities. Entry into force was initially postponed until October 2010. Companies received a new grace period until July 2011 and reached subsequently an agreement with the authorities to renew their licenses. The government continues to renew the licences of foreign shipping companies on an ad-hoc basis, and the 51% Egyptian ownership requirement is effectively not yet in place.
- In Egypt, the number of foreign employees in a company is limited to a maximum 10% of the total number of employees (25% for companies established in free zones). According to the Ministerial Decree 90/ 2011, a work permit for a foreigner can be granted only if an Egyptian substitute cannot be found, and for a maximum of 3 years. Companies are also obliged to employ and train Egyptian assistants for the foreign experts.
- Decree Law No 14/2012 on the Integrated Development of the Sinai Peninsula was published in January 2012, and the Executive Regulations of this Decree published in September 2012. They regulate investment, ownership and use of land in the Sinai. The new law, which entered into force in March 2013, restricts land ownership in the Sinai to single-nationality Egyptians born to Egyptian parents and to corporate entities fully owned by Egyptians. Any Egyptian who acquires a second nationality must sell his land or property. Furthermore, the usufruct rights regime is reduced from a maximum of 99 years to 50 years.
- **The Importers' Registrar Law No. 121 of 1982 stipulates that companies wishing to import goods for trading purposes must be Egyptian. Foreign investors were however able to *de facto* practice import activities through indirect ownership of the Egyptian importing agency. This possibility was blocked in autumn 2013 due to Egypt's more restrictive interpretation of Law 121. While in spring 2014 the authorities appear to have reverted back to the previous more lenient interpretation of Law 121, no modification to the applicable law was made, which maintains the risk of further changes in application and of further trade disruptions.**

**India:**

- Since the end of 2009, the Department of Telecoms (DoT) has taken a number of steps to increase security requirements in telecoms, which posed fundamental market access questions. On 31 May 2011, DoT issued a new license Amendment superseding all prior telecom security-related policies dating back to December 2009. The Amendment reflects some positive developments, including removing (i) the source code escrow and (ii) the transfer of technology requirements, and (iii) the mandatory contractual terms stipulated by the 2010 template agreement. However, the proposed changes raised some new policy issues, including a requirement for mandatory security testing in an Indian laboratory by April 2013: inspection of hardware, software, design, development, and manufacturing facilities as well as supply chains; employment of only resident, trained Indian nationals as executives responsible for certain security cases; and the potential for companies to be “blacklisted” from the Indian market, should they fail to comply with certain laws and regulations. Accordingly, a lasting solution that addresses all concerns is yet to be achieved. **The implementation of the measure was postponed to 1 July 2014.**
- Many of the tax provisions included in the Indian Finance Bill 2012 raise serious concerns as the aim at imposing fiscal liabilities on established companies with retroactive effect extending back for as much as half a century, while the Finance Bill also seems to reverse judgments issued in favour of foreign investors by Indian courts or to impact on many currently on-going cases and audits in relevant matters.
- *The new Indian government has announced its opposition to the legislation adopted in 2012 which opened the sector of multi-brand retail to foreign investment (see "Suspended/terminated measures" in this Report). Even though it is unlikely that the government will repeal the legislation, it will however freeze its implementation.*

**Indonesia:**

- Indonesia set up an 80% limit on foreign direct investment in the fisheries sector, according to the Decree 5/2008 of the Ministry of Fisheries.
- In November 2008 the Ministry of Communications published a draft Decree on its website (for public consultation) which imposed a minimum 30% local content requirement on telecom equipment acquired by local operators, as well as related services. The Ministry of Communication and Information Technology subsequently issued three decrees, which set the local content requirements: Decree 7/2009 set a local content requirement of 30-40%, and up to 50% in 5 years time on subscriber and base stations; Decree 19/2009 requires telecom tower management company (if not a telecom operator) to be a national company (100%-Indonesian owned); Decree 41/2009 of October 2009, which provides details on the calculation of local content, which covers equipment and materials, engineering services, cost of manpower for construction and project, tools and the use of supporting services.

Ministry of Health Decree 1010/2008 restricts the scope of imported drugs that can be registered and provided that drugs which are currently imported must be manufactured locally within 5 years. The Decree was adopted and became effective on 3 November 2008. Contrary to previous commitments to ensure that existing foreign importers (so called PBF companies) could continue to register their products, the Ministry of Health returned to its original position whereby drugs can only be imported if they fulfil the need and are not manufactured

locally; furthermore imported drugs can only be registered by companies having manufacturing facilities in Indonesia. The Decree 1010/2008 stipulates the technology transfer requirements, which requires local manufacturing facilities for off-patent products. In 2011, Head of BPOM issued the Brown Book, for public protection against drugs that do not meet drug safety, quality and user guidelines. The Brown Book acts as the implementing regulation of MOH Regulation No. 1010, and has been effective since 12 October 2011. It has been concluded from the Brown Book that the regulation allows the industry more room to negotiate with the government (BPOM and the Ministry of Health) despite the issuance of requirements to localise several simple products in Indonesia. It is also concluded that the industry does not have to follow the whole manufacturing stages for every product that is marketed in Indonesia.

- Decree 43/2009 on circulation, selling and supervision and control of alcoholic drinks of 15 September 2009 imposes new limitations on national treatment applying to the distribution and retail services. These services can be provided only by companies owned by Indonesian nationals and resident on the territory of Indonesia.
- *A new draft regulation has been prepared on the establishment of data centres for information and electronic transactions. It would provide for limitations on national treatment, since these would have to be operated by Indonesian nationals. Depending on the definition of 'public service', many multi-national companies might be affected. A Ministry of Communication Regulation, planned in 2013, might include an on-shoring obligation, which would require domestic data storage for electronic transactions, which will also affect foreign banks.*
- A mining law adopted on 16 December 2008 requires that minerals and coal be processed before export. The Government has one year to put into place the necessary implementing regulations to give effect to the provisions of the law. The Decree on Mining Services entered into force in September 2009 (Decree 28/2009) and stipulates that mining companies need to prioritise the use of local or national (100%-Indonesian owned) mining service companies over foreign-owned ones. Implementing regulations were adopted in February – June 2010 for 1) Mineral and Coal Mining Enterprise Activities, 2) Determination of Mining Area and 3) Forest Area Utilisation Regulation. Government Regulation No. 24 of 2012 on the Amendment to Government Regulation No. 23 of 2010 on the Implementation of Coal and Mineral Mining Business Activities was issued to re-organize the process for issuing mining licenses for non-metal and rock minerals. Presidential Decree 24/2012 obliges foreign holders of mining licenses to cut their stakes to 49 per cent within 10 years of starting production, from 80 per cent.
- In 2010, a new Investment Negative List was issued (presidential regulation 36/2010), encompassing previous sectoral limitations (above) in one new list, while stating grandfathering and hierarchy of regulations. Some sectors were opened up (for instance hospital, education) while others became more restrictive (such as specialised hospital and other health services, from 65 to 67%; some tourism services have been increased from 50 to 51%. International maritime transports for cargo and passengers as well as maritime cargo handling services allow for 60% foreign ownership for ASEAN investors, compared to 49% for non-ASEAN investors. Very Courier/express delivery services are subject to minority foreign ownership (49%) and additionally reflect the restrictions imposed by the Postal Law, i.e. delivery services can only be carried out up until Indonesia's gateways. Foreign ownership limits for large-scale construction services have been raised from 55 to 67%, but only for high risk projects with a value exceeding IDR 1 billion (about US\$ 100,000). Operation, construction and management of telecommunication towers are completely closed to foreign investment, in line with Ministerial Regulations issued in 2008 and 2009 in a push for local content requirements in this sector. This also appears to be inconsistent with Indonesia's

GATS commitments. **A revised Negative List was released on 24 April 2014 through Presidential Regulation 39/2014. Certain sectors were made subject to restrictions on foreign investments, like warehousing and horticulture.**

- The Horticulture Law of October 2011 reduced the foreign equity cap from 95%/100% down to 30%. This entails serious implications not only for future investments but also for established investors as the legislation does away with the grandfathering principle. **The 30% foreign ownership limitation has been adopted under Reg. 39/2014 in the negative Investment List, to be consistent with the law.**
- In April 2011, the House of Representatives passed a bill to limit the number of foreign accountants operating in the country. Under the bill, a foreign accountant would not be able to receive a business license unless there was a mutual recognition agreement (MRA) between Indonesia and the accountant's country of origin. The bill also requires that foreign public accounting firms have five local partners for every foreign partner and that foreign public accountants be members of their national public accountant professional associations. Foreign employees must not comprise more than 10 per cent of a public accounting firm's total employees under the bill. While the bill will tighten requirements for foreign public accountants, the rules for local accountants will be loosened. Aspiring local public accountants would no longer need an accounting degree under the bill. Applicants would only need to complete accounting courses and to pass a certification test jointly administered by several universities and the Indonesian Association of Public Accountants (IAPI).
- Government Regulation 8/2011 on Multimodal Transportation requires all logistics companies and freight forwarders who perform the multimodal transport (end-to-end transport) services to re-register and obtain a new license. The regulation would also require existing logistics service providers with foreign ownership to divest, based on the interpretation of "foreign legal entities" as the current equity ownership rules as imposed by the Investment Negative List mandate minority foreign equity ownership (**this has been stipulated in Presidential Reg. 39/2014**). On 26 Jan 2012, Minister of Transport issued Ministry of Transport Regulation No 8/2012 as an implementing regulation to Regulation No 8/2011 on Multimodal Transportation. A registered foreign multimodal transport provider may operate in Indonesia by appointing an agent, and may only operate up to ports open for international trade, ports for crossing country borders, or international airports with air cargo service, or cargo terminals and train stations with trans-country services. Furthermore, foreign businesses cannot provide support services, such as handling customs issues.
- *The Central Bank of Indonesia is considering limiting foreign ownership in banks and introducing requirements for foreign banks to set up offices in Indonesia. Foreign ownership limits below 50% have been proposed in the media. Bank ownership is currently regulated by the Government Regulation 29/1999, which allows a person or institution, Indonesian or foreigner, to own up to 99% of a bank. Foreigners currently own 50.6% of banks assets. Any single entity trying to own at least 25% of shares already needs an approval from the central bank. As of July 2014 the new regulation has not been finalised.*
- Payments and settlements of all domestic commercial transactions and obligations should be conducted in Indonesian Rupiahs from May 2012, except for transactions related to the state budget, grants given by or to a foreign state, international commercial transactions (any payment made by or to a counterpart overseas for goods or services with an "overseas component"), bank deposits denominated in foreign currencies, and international finance transactions. Violation of this provision of the Currency Law may attract imprisonment of up to 1 year and a fine of up to IDR 200 million for both payer and payee.

- Government Regulation 14/2012 implements Law No. 30 of 2009 on Electricity, which requires the government to regulate electric power supply businesses; electric power supply business licenses and operation licenses; compensation for land use; electric power sales prices, network leases, and tariffs; electricity safety, operational feasibility certificates, Indonesian national standards, competency certificates; electric power network use; development and supervision of electric power supply businesses; and administrative sanctions. (Alicia)
- Regulation 18/2012 was issued 1 February 2012 (and since in force) to comply with Presidential Regulation No. 9 of 2009 on Financial Institutions. Pursuant to Article 20, foreign business entities may only own up to 85% of a Venture Capital Company (PMV) paid-in capital. **Presidential Reg. 39/2014 on the Negative Investment List has incorporated this new limit.**
- As a part of the implementation of Law No. 20/2008 on SMEs, the minimum net asset requirement for foreign investment companies (PMA) has been increased to IDR 10 billion (USD 1,1 Million). This follows the implementation of a circular from BKPM (Indonesian Investment Coordination Board) on minimum net asset requirement for foreign investment companies (PMA). **Reg. 5/2013 of the Chairman of BKPM stipulates that foreign investment must meet the requirements of: a/ total investment > IDR 10 billion ((approximately € 630,000 or US\$ 870,000), b/ paid-in capital ≥ IDR 2,5 billion (or approximately € 157,500 or US\$ 217,500), and c/ in the company's capital, individual shareholders must own ≥ IDR 10 million worth of shares.**
- Trade Minister issued regulations on Franchising, i.e. Regulation 53/2012, 68/2012, and 07/2013. Provisions require franchising companies to provide that at least 80% of the sales are domestically produced goods, limit the outlets number to a maximum of 150 (restaurants 250), impose restrictions to further investment and to setting up new stores.
- Government Regulation 15/2013 implementing the provisions of Law No 38/2009 on Postal services, restricting thereby foreign ownership.
- **Ministry of Trade Reg. 70/2013 replaces Reg. 53/2008, and will be effective in 13 May 2014. Under Reg. 70/2013 modern stores are under an obligation to ensure 80% of the products they offer for sale are domestic products. The MoT may issue an exemption of the 80% local content obligation based on recommendation from the Communication Forum, but getting an exemption is time consuming and the bureaucratic process is slow. The 80% local content requirement is burdensome for retailers which rely on imported product lines for their operations.**
- **In March 2014, the Indonesian Government announced its intention to terminate all of its existing 67 Bilateral Investment Treaties (BITs), once they expire, allowing for a review of the current agreements, and to present a new 'template', reflecting recent developments. This has created significant uncertainty among foreign companies, as there will be no framework to ensure new foreign investors' protection until a new system is put in place (although a sunset clause ensures protection of existing investments during a period of 10 or 15 years).**

Japan:

- *The reform of the Japanese Post in 2012 has confirmed that the door is open for Japan Post Insurance (JPI) and Japan Post Bank (JPB) to remain under the Japan Post Holding umbrella and for Japan Post Network and Japan Post service to have privileged access to the postal network. The new legislation might introduce a new barrier to market access. Indeed, both Japan Post Insurance and Japan Post Bank have submitted applications for new and modified products in September 2012. **On 24 January 2014 the Financial Services Agency and the Ministry of Internal Affairs and Communications approved the sales of education endowment insurance by Japan Post Insurance. Furthermore, on 27 June 2014, the Financial Services Agency and the Ministry of Internal Affairs and Communications approved the application by Japan Post Insurance to start a new business: to distribute cancer insurance as an agent of American Family Life Assurance Company of Columbus, Inc. (AFLAC).***

#### **Nigeria:**

- The law of 21 April 2010 imposes local content requirement for investment in the oil and gas industry. Nigerian companies would retain a substantial share of contracts and projects awarded in the oil and gas sector and would also obtain preferential treatment in the awarding of oil blocks, oil field licences and oil lifting licences. Minimum Nigerian content is defined, as are the preferences for Nigerian operators. A Nigerian investor is granted a 10% advantage over a foreign bidder. The Nigerian Content Monitoring Board is set to supervise the compliance with the law. The law builds on the previous local content policy, with the aim of fostering local industry capacity building; it raises, however, questions about the feasibility and implementation.
- *An announcement was made that a private bill on Local Patronage aimed at boosting consumption of "Made in Nigeria" goods and services. International manufacturers will be asked to establish part of the manufacturing process in Nigeria, as part of a company-to-company partnership. **The Federal Government is also finalising a policy on "Buy Nigeria".***
- *In April 2013, local content measures in the electricity and technology/communications sectors have been announced although their current status is not yet clear.*
- *The Nigerian Energy Regulatory Commission (NERC) published in 2013 draft Regulations and Guidelines on National Local Development for the Nigeria Energy Supply Industry which reflect the same principles of the Nigerian Content Development Act 2010. In particular first consideration shall be given, as part of licences obligations, to services provided from within Nigeria and to goods manufactured in Nigeria; Nigerians shall be given first consideration for training and employment. Major projects to be carried out by electricity licensees will require the production of a plan showing compliance with local content requirements, both with respect to goods, services and labour. NERC will be able to grant waivers where capacity is not available. Provisions on mandatory transfer of technology to Nigerian entities and deployment of equipment in Nigeria, as well as insurance, financial services and legal services are also included. The draft Regulations provide that NERC "may establish such penalties as it deems fit to ensure the effective discharge of duties and compliance under the Act and this Regulation".*

#### **Russia:**

- In April 2008, the Russian Duma approved The Strategic Sectors Law (SSL "Law on Foreign Investment in Companies with Strategic Significance for National Security and Defense") and Federal Law No. 57- FZ amending certain other Russian laws to give effect to the Strategic Sectors Law (the "Amendments Law"). It imposes limitations on foreign investment in Russia in a wide number of sectors deemed of strategic importance to Russia, such as telecoms, aviation, electronics (TV), broadcasting and printed media, as well as extraction of mineral resources from the 'federally important' fields. The Law, although brings certain advantages in terms of greater clarity of procedures, does complicate the process for foreigners to invest in Russia. Albeit recently the procedure of granting permissions has recently been accelerated, the law remains too restrictive by providing too wide a definition of strategic sectors. Furthermore, a 50% participation limit was imposed on foreign participation in strategic business entities (a 10% limit in the extraction sector, and tougher restrictions for businesses controlled by foreign governments and international organisation). A special committee led by PM Putin approves all deals exceeding the limits. For instance in 2009, the Government Commission for foreign investment in strategic sectors considered 39 applications, 20 of which were approved, 2 rejected and 17 referred for further consideration. Amendments to the SSL were until recently limited to clarifications of procedures and some relief for Russian companies, whose foreign-based affiliates are affected by the law. Meanwhile, a significant decline in inflow of foreign investment in 2010-2011 has started to hamper the implementation of the Government's economic plans. Prime Minister Putin-led Government Commission for foreign investment stressed in December 2010 a need to liberalise the SSL.
- The Strategic Sectors Law (SSL, No 57-FZ of 29.04.2008) was approved and entered into force together with the Federal Law No 58-FZ, which amended a number of the Federal Laws to bring them in conformity with the SSL. The most important law among them was the Subsoil Law (No 2395-1 of 21.02.1992), which regulates the most important sector of the Russian economy – the extraction of natural resources. The Amendments imposed even tougher restrictions on foreign access to this sector as compared to other sectors of the Russian economy. The notion of the 'subsoil plot of federal importance' was introduced (e.g. oil fields with more than 70m tonnes of oil each, gas deposits of more than 50bn cubic meters of gas, gold deposits of 50 tonnes of gold each, all deposits of diamonds, uranium, nickel, cobalt, tantalum, platinum, beryllium and niobium). A complete ban was imposed on foreign access to the Federal fund of reserve subsoil plots, and mineral resources of the Russian continental shelf (only Rosneft and Gazprom are now permitted to develop them).
- The Federal Law No 322 –FZ of 16 November 2011 introduced some liberal amendments to the SSL. The threshold of shareholding by foreign investors in strategic business entities, which requires Government approval, was raised from 10% to 25%, and the use of cryptographic means by commercial banks, and equipment with radioactive sources (e.g. medical X-ray machines), were removed from the strategic list. Companies controlled by Russian citizens, who are Russia's tax residents, were withdrawn from the SSL's scope.
- Russia's accession to the WTO should improve conditions for foreign investors in various sectors of the Russian economy. In the telecom sector, the foreign equity limitation (49%) would be eliminated four years after accession. Russia also agreed to apply the terms of the WTO's Basic Telecommunications Agreement. Foreign insurance companies would be allowed to establish branches nine years after Russia accedes. Foreign banks would be allowed to establish subsidiaries. There would be no cap on foreign equity in individual banking institutions. While the overall foreign capital participation in the Russian banking system would be limited to 50%, this limit should not include foreign capital invested in potentially privatized banks. Russia would also allow 100% foreign-owned companies to engage in wholesale, retail and franchise sectors. (note: In February 2013, the Russian

Government approved and submitted to the Duma a bill amending the Federal Law on SMEs giving foreign investors the right to establish SMEs in Russia without any restrictions on their share in statute capital.)

- The Ministry of Industry and Trade prepared tougher rules of industrial car assembly. The extension of current deals with foreign car manufacturers is expected to take place in the course of 2012/2013; specific conditions for the prolongation of contracts is as follows: production capacity should be at least 300,000 cars per year within two years after signing the additional agreement for CN codes 8701-8705 (25,000 cars annually are requested now). Alternatively, the producer should modernise the existing production facilities to be able to produce at least 350,000 motor vehicles annually within three years from signing the additional agreement. The car manufacturer should take an obligation to equip at least 30% of motor vehicles locally produced with domestically produced engines and/or gear boxes. In case annual volume of production exceeds 1 million motor vehicles, domestically produced engines and/or gear boxes need to be installed on 200,000 cars. A manufacturer is obliged to establish the production of car body parts, possibly in cooperation with other Russian legal entities, within 48 months after signing the additional agreement. The car manufacturer who builds new production facilities is obliged to comply with the following schedule of production localisation: 30% level of production localisation in the fourth year after signing the agreement; 40% in the fifth year; 60% in the sixth year. The car manufacturer who modernises the existing production facilities is obliged to implement the following schedule of product localisation: 35% level of localisation in the first year; 40% in the second; 45% in the third year; 50% in the fourth year; 55% in the fifth year; 60% in the sixth year. These steps are in line with a large-scale programme of localization of foreign production, which should stimulate foreign companies to share their technologies and knowhow with local producers in order to transform their assembly facilities in Russia into a full-scale production. E.g. the Ministry of Industry and Trade drafted a 'Strategy of pharmaceutical industry' which envisages a broad spectrum of benefits for domestic pharmaceutical firms. Foreign firms could also get the status of 'domestic producer' by not only packaging their medicines, but via organizing production of drug substances in Russia. Foreign producers of telecom equipment and mobile phones (e.g. Nokia, Alcatel-Lucent, Cisco Systems, and Huawei) are requested to reveal source codes of their software in order to enjoy the status of 'domestic producer' for their projects in Russia (Government support, larger market share etc). On 24 December 2010, the Ministry of Economic Development, the Ministry of Industry and Trade and the Ministry of Finance issued a joint Order adopting the above rules of car assembly regime, imposing much higher thresholds of localisation and assembly quantities. Conditions to import parts and components for car assembly are established in foreign car manufacturing firms' individual agreements with the Ministry of Economic Development. Remaining preferential, they aim at promoting locally manufactured final products.
- The Federal Law "On the bases of state regulation of retail trade in the Russian Federation" (No. 381 – FZ of 28 December 2009), which entered into force on 1 February 2010, places as one of its primary goals the support of Russian producers and retailers in their relations with big retail chains. Although the Law does not distinguish between Russian and foreign retailers, it has a certain 'anti-Western' orientation taking into account the large size of Western retail chains which have improved their positions in Russia. The Law imposes a domination threshold on retail chain operations in Moscow, St. Petersburg and other territorial entities (25%) while forbidding those exceeding the limit to expand their business. Retail chains were also deprived of their privilege to collect bonuses from local suppliers (which is quite common practice in other countries). The Law also gives the Government the right under certain conditions to regulate retail prices for essential foodstuffs.

- In March 2014, the Ministry of Industry and Trade issued rules (by Ministry's Order N<sup>0</sup>1727 of 28 October 2013) which forbid Joint Stock Companies and their subsidiaries to take a series of decisions without prior permission of the Ministry. The Rules are applied in case when foreign countries' bodies, foreign state's alliances or international organizations address to such companies requirements for such actions as: providing information on their activities, including in connection with the issue, circulation or acquisition of securities, amending their agreements with foreign counterparts, alienation of shares in foreign firms, etc.
- The Federal Law 106-FZ of 05.05.2014 amends the Federal Law N<sup>0</sup>160-FZ "On foreign investments in the Russian Federation", modifying the rules on creation of branches and opening of representative offices of foreign legal entities in Russia, and their accreditation. While the law partially streamlines and speeds-up establishment procedures, it also raises additional concerns of bureaucratic nature, e.g. the need to renew accreditation for those branches and representation offices which do not comply with the new rules. Therefore issues are likely to arise as from 1 January 2015, when the Law comes into force.
- On 25 June 2014, the Duma Committee on information policy approved a draft law (with further adoption as Law 242 FZ) "on clarifying the processing of personal data in information and telecommunications networks". The law will oblige all internet companies to store data about their Russian users only on servers located in the Russian territory, which can greatly impede foreign companies operations. The law will eventually take effect in 2016 instead of 2015 (as initially envisaged in the Duma-considered draft).

#### **Saudi Arabia:**

- Saudi Arabia has intensified its efforts to increase the level of employment of Saudi nationals in the private sector. A new step in this long-term "Saudization" project, the so-called "Nitaqat programme", was introduced on 10 September 2011, with enforcement starting on 26 November 2011. The Nitaqat programme foresees fixed quota of Saudi nationals in all companies with more than 9 employees. The quotas vary from sector to sector. In function of their level of compliance with the quotas companies are categorised as "red", "yellow", "green" or "excellent". Companies in the "red" category are excluded from public procurement contracts. Companies in the "red" and "yellow" categories are excluded from hiring (new) non-Saudi employees.
- Additionally since 15 November 2012, upon regulation issued by the Saudi Arabian Ministry of Labour, all private sector firms that employ more foreigners than Saudis nationals are liable to pay a fine of 2400 Saudi Riyals (€500) per annum, for every extra foreigner employed. The following aliens are not considered foreigners under this regulation: citizens of other GCC member states, children of Saudi mothers, domestic workers. This measure is part of the same Nitaqat" programme.

#### **South Africa:**

- *The Government is currently formulating a comprehensive FDI policy with a view to preparing a new investment act. A broader set of criteria would be used for assessment of FDI decisions, notably large M&A applications. These criteria will replace the exchange control procedure currently used to assess M&A applications. The criteria will follow a developmental approach that balances private versus social returns. The policy will pursue*

*aims to protect the tax base and limit options to evade taxes or externalise assets while state-specific regulation, such as BEE, which emphasises "social cohesion and growth imperatives" will carry more weight when future FDI is considered.* In the meantime, the Government has started terminating existing BITs, with the unilateral termination of the SA/Belgium-Luxembourg BIT in 2012, with Spain in June 2013, and with Austria, Denmark, France, Germany, Greece, The Netherlands, and the United Kingdom in October 2013. Italy was just notified in August 2013 of South Africa's intention not to renew its BIT, which will be in effect until 2019 with further protection until 2029. Finland and Sweden were informed on 18 June 2014 that their respective BITs would be terminated.

### South Korea:

- The Act on the Promotion of Collaborative Cooperation between Large Enterprises and Small-Medium Enterprises (LESMEA effective from 1 December 2010) stipulates that even the franchises of super supermarkets (SSMs affiliated with large retailers) where over 51% of total investments is invested by large enterprises shall be equally subject to the Business Adjustment System application, as provided for under the LESMEA, under which the concerned new stores could be open based on the consent of neighboring small merchants and the economic needs test.
- In June 2011, the National Assembly adopted a law further restricting access of large retailers (so-called "SSMs", or super-super markets affiliated with large enterprises) to retail services, as part of efforts to protect smaller businesses, family-run stores and traditional markets. The amendments to the Distribution Industry Development Act excludes SSM and hypermarkets from operating within 1000 meter from traditional market zones. The validity of this measure was also extended from 3 to 5 years.
- In January 2013, the Distribution Industry Development Act (DIDA) was revised (revised on 23 January 2013; and effective as of 24 April 2013) again in a manner to further reinforce local governments' legal and administrative authority, as regards drafting and implementing of rules intended to restrict new opening and the operation of SSMs (termed as "large-sized store equivalents" referring to the stores affiliated with large retailers, including franchises) and hypermarkets. Under the revised Act, large retailers are now required to submit to the Head of local governments the so-called "Commercial Impact Assessment Report" and the "Regional Collaboration Plans". These mandatory requirements shall be applied to the opening of hyperstores (termed as "large-sized stores" with the total space of larger than 3000 square meters), and SSMs if the concerned stores are opened within 1 km of the traditional market. In cases where any modifications are to be made to what has been already registered, the same rules shall be applied. The whole Act became effective as of April 24 2013, but this particular requirement will enter into force from 24 July 2013. On 16 May 2013, the Ministry of Trade, Industry and Energy (MoTIE) announced that it had outsourced research in April 2013 on the implementation of the aforementioned Commercial Impact Assessment Report and the Regional Collaboration Plans. **Accordingly, the detailed elements on these requirements were set out under the Enforcement Decree and the Enforcement Regulation of the DIDA through the revision in July 2013. Notably, the Commercial Impact Assessment Report is required to contain: the outline of the concerned business; the scope of the envisaged commercial impacts; demographic analysis (incl. the number of residents and households, population ages and incomes, status of floating population); analysis of the status concerning existing businesses (incl. large-retailers, traditional markets and stores); analytical descriptions of the concerned commercial area (incl. type of residence within the commercial area; transportation facilities, attraction facilities, status of retailers); descriptions of the impact on the concerned commercial area. Under same**

legislation, the Regional Collaboration Plans are referred to as "the plans to be submitted for the purpose of activating the regional commerce and businesses or reinforcing win-win collaboration with traditional markets and small and medium-sized business operators."

#### Switzerland

- Since 15 July 2013, following a modification of the Swiss Decree on posted workers, the pre-notification of employment form requires, as compulsory information, a statement about the salary paid to posted workers. Businesses should then notify ahead the adapted salary amounts during the posting. This requirement makes it more difficult to introduce the pre-notification and to comply with the "8-days rule". The introduction of a reference salary does not provide any legal security for the service provider as regards the respect of minimum salary provisions for posted workers. Therefore, this additional requirement appears as an undue restriction of the right to provide services and breaches stand-still obligation set out in EU-Switzerland bilateral agreements. It also contravenes to the commitment whereby Switzerland had to phase out prior salary controls for EU service providers by 31 May 2004.

#### Thailand:

- *In the past few years, Thailand attempted to tighten the law by adding new criteria used to qualify companies as foreign referring not only to "equity ownership limitation" but also to the "majority of voting rights and management controls". These amendments did not pass, but there are some concerns that the government could revisit the issue and try to use the backdoor of sector-specific legislation to introduce the new criteria. There is currently a worrying trend of using sectoral legislation framework to impose foreign dominance criteria by means of both ownership as well as management structure controls. In June 2011, the National Telecommunication Commission (NTC) announced the reintroduction (previous attempt August 2010) of a draft notification that would introduce foreign dominance criteria in the telecom sector by taking into account such elements as shareholding, management control and supply relationship. The notification has been sent for publication already. The Ministry of Finance is preparing an amendment to the Life and Non-Life Insurance Acts of 2008 which would maintain the foreign dominance criteria so as to restrict foreign participation in insurance companies by means of both ownership as well as management structure control. According to the draft, insurance companies would still be subject to the condition that 75% of shares belong to Thai nationals and that these shares must also carry no less than 75% voting rights.*
- *Similarly, a new draft law on logistics services business intends to apply both ownership as well as management structure restrictions in its application eligibility criteria. Such conditions include a criteria requiring at least 70% of shares in the companies be owned by locals, and a management structure criteria requiring that 70% of the directors must be Thai nationals in order to be eligible for the privilege benefits.*
- *Thailand's Board of Investment (BOI) has long provided a number of incentives (tax holiday, import duty reduction/exemption, permission to own land and facilitation on visa and work permits for expats, etc.) to promote investment in Thailand. The level of concessions could vary depending on zoning of the investment (disadvantage or developed areas) and economic activities. The discussion to overhaul the BOI promotion is underway with the objective to move away from the old fashion investment approval to a new concept based on prioritized sectors and merits e.g. R&D, technological development/transfer, product/packaging design,*

*contribution to local suppliers' development, etc. This plan, together with the investment promotion approvals, were stalled after the dissolution of the Thai lower House of Parliament in December 2013 after months of political unrest, and the government remaining in power as a caretaker government. In May 2014, BOI investment promotion approvals have resumed under the supervision of the Chief of the military administration. According to a military administration policy briefing, BOI might take into account the local sourcing concept for its investment promotion approvals.*

#### **Unites States:**

- Foreign ownership of US airlines: the US Code 40102 establishes that 75% of the voting rights in a US carrier must be owned by persons who are citizens of the United States. This matter is discussed yearly between the EU and US in the context of the EU-US joint Committee created by the EU-US Air Transport Agreement, which refers to further investment opportunities as one of the objectives for second stage negotiations. No progress has been made. The foreign equity limitation has also been discussed since 2013 in the context of the Transatlantic Trade and Investment Partnership (TTIP) negotiations.
- CFIUS: Committee on Foreign Investment (CFIUS) is the US foreign investment screening used to monitor acquisitions by foreign governments. While CFIUS is used in transactions involving sensitive sectors, the lack of transparency prevents verification that the process is not politicized or investments are prevented on protectionist grounds, or that EU companies are pressured to withdraw acquisition plans. The US Government does not share information on specific transactions. The last annual CFIUS report to Congress for 2012 (released 12/2013), showed 37% of the companies involved in CFIUS transactions were from the European Union in 2012 and comprised of 48% from 2010-2012.

#### **Ukraine:**

- Local content requirements in renewable energy The Law on Electricity contains a new provision under which local content rules should be observed for obtaining a specific feed-in tariff for electricity produced from renewables. The Law was amended to this end on 18 December 2011 (#4065-VI). The law stipulates that such incentive for electricity production from alternative energy sources shall apply on condition that the share of raw stock, materials, main assets, works and services of Ukrainian origin in the cost of the construction of the respective facility producing electricity makes at least 15% starting from January 2012. From January 2013 this will be 30% and from January 2014 50%. For production of electricity from solar there is an additional requirement in that the share of raw materials of Ukrainian origin in the production cost of solar modules shall make at least 30% starting from January 2013 and 50% from January 2014 respectively.

#### **Vietnam:**

- On 1 August 2011, a decree No. 46 on employment and administration of foreign employees entered into force. It conditions extension of work permits for foreign workers with employment of local labour force.
- *Vietnam is considering enacting a new Decree on Information Technology Services. The draft decree has been proposed by the Ministry of Information and Communication and was, by 1 August 2014, under the consideration of the Prime Minister Office. This draft legislation would limit foreign suppliers of IT services by requirements on: (i) IT service providers serving State bodies must be Vietnamese organisations; (ii) IT service providers*

*serving State bodies must store the data in servers located in Vietnam; and (iii) requirements such as certificates and licenses are imposed on the delivery of cross-border IT services.*

#### IV. MEASURES TO STIMULATE EXPORTS

##### Brazil:

- Sovereign wealth fund was introduced, aiming to protect the country from the global financial crisis and to help Brazilian companies to boost trade and to expand overseas.
- Decision to increase the number of exporting companies with access to the government's export financing programmes. *As part of the new industrial plan launched on 2 August 2011 ("Brasil Plano Maior), the Government announced that that the time lag for export refunds to be made available to exporters will be significantly reduced.*
- An additional credit line (R\$80 billion, US\$ 43.6 billion) was opened by the National Development Bank on 10 December 2009.
- On 6 September 2010, the Government adopted a decree (*Medida Provisoria N - 501*) increasing funds allocated to the BNDES (National Bank for Development) to fund exporting operations by Small and Medium Enterprises. Funds passed from R\$45 billion to 90 billion (over €40 billion). BNDES funds directly or indirectly (through financing operators) exporting operations at interest rates below market levels. Under certain circumstances it grants non-refundable funds.
- A stimulus package is planned to help boost exports from Brazil. It would include creation of a subsidiary of the BNDES, Eximbank, which would provide mechanism of funding and guarantee to exports, continuation of fiscal exemptions for companies 'preponderantly export-orientated', a system of integrated drawback to buy inputs tax-free and a simplified import-export procedure for SMEs. On 5 May 2010, the Brazilian government released details about the export stimulus package. The package establishes EXIM Brazil, a subsidiary of the National Bank for Economic and Social Development (BNDES) which will be in charge of financing exports. A new public export credit agency, Empresa Brasileira de Seguros (EBS), has also been created. The capital of EBS will have an initial capital of 17 billion Reais (obtained by merging already existing funds for infrastructures and export credit). The package also accelerates the refund of fiscal credits to exporting companies. Exporting companies are entitled to fiscal refunds for all components of a final product which is destined to export. Exporting companies are now to receive fiscal credit refunds within 30 days after submitting the request (the time lag is currently around 5 years). Companies with a minimum of 30% of their turnover generated through exports will be entitled to receive such fiscal credit refund. The package establishes a limit to the refunds of 50% of the total fiscal credit accumulated by an exporting company (until now, companies were entitled to 100% refunds). Furthermore, as part of the package, in November 2010, Brazilian tariff on auto parts used for domestic production will increase from the current 9 to 11% duty to 14-18% (full TEC duty). The move is foreseen in the export stimulus package, released in May 2010, which intended to eliminate within 6 months the 40% import duty reduction applied so far to imported auto parts used to produce cars in Brazil. This exemption, which aimed at reducing the trade deficit in the sector, had been in force for 10 years.
- A second phase of the Plano Brasil Maior was announced in April 2012 with a package of measures geared to promote manufacturing industry and competitiveness. Within this context, for foreign trade sectors competing with imported products, the government announced the

expansion of the Export Financing Program (PROEX), which will make BRL 3.1 billion available to ease trade operations.

- *Reintegra* programme. Law No. 12,546 of 14 December 2011 introduced the Special Regime for the Reimbursement of Taxes for Exporters, known as *Reintegra*. The programme enables exporters of manufactured goods to recover residual indirect tax costs levied on the production chain, such as the Tax on Services (ISS), the financial transaction tax (IOF), and the royalty tax (CIDE). Companies that export goods manufactured in Brazil are entitled to a refund of up to 3% of their gross receipts from exports, to be used either as a credit against federal tax liabilities, or as a cash payment. *The programme has expired at the end of 2013. Its reintroduction was however formally announced by the Government in June 2014, and it was done so by Provisional Measure 651 on 10/7/2014 and Decree 8.301 of 12/9/2014 (outside of the reference period for this report), extending to scheme to ethanol and providing for a limitation of 40% on imported products.*
- Brazil operates a drawback scheme designed to reduce the tax costs associated with inputs used in the production of goods for export. The scheme provides for the suspension or exemption of import tariffs and indirect taxes such as IPI, PIS, COFINS, ICMS and AFRMM levied on inputs used to produce exportable goods. The regime was extended by Decree 8.010/13.
- Law No. 12715 of 17 September 2012 amended several programmes and tax incentives:
  - RECAP – the Special Regime for the Acquisition of Capital Goods for Exporting Companies, established by Law N. 11196 of 21 November 2005 grants tax benefits (PIS/PASEB and COFINS) to predominantly exporting companies, which according to the amendment, are from now on those whose gross export turnover is 50% or more of the total gross income.
  - the IPI Tax Suspension for Raw Materials, Intermediate Goods and Packaging Materials for companies that produce certain goods, established by Law N. 10637 of 30 September 2002 applies to predominantly exporting companies, which according to the amendment, are from now on those whose gross export turnover is 50% or more of the total gross income.
  - REPES – the Special Tax Regime for the IT Services Exports, established by Law No. 11196 of 21 November 2005, grant tax benefits to predominantly exporting companies, which according to the amendment, are from now on those whose gross export turnover is 50% or more of the total gross income.

#### China:

- The sectoral plans that have been published for various sectors cover various forms of support including financial support measures, consolidation around national champions and reduction of outdated capacity. There is generally a reference to increases of export tax rebates as a way to support exports. The measure does not discriminate between domestic and foreign producers established in China.

#### Egypt:

- Egypt, through the Export Development Fund, subsidises exporters of non-oil products ranging from 8-10% of the value of the exported goods. Although the government has always

asserted that subsidies target low profit companies with low energy consumption (since energy is heavily subsidised), in practice it appears that the subsidy is widespread across exporting companies, and exporters with high profit margins and high energy consumption can also benefit from it. In fiscal year 2012/13 the government allocated 1.8 billion EGP to the Export Development Fund, 30% less than in 2010/11 and 55% less than in 2009/10.

- **The government budget in fiscal year 2014/2015 has allocated 2.6 billion EGP to export subsidies, 500 million EGP less than in fiscal year 2013/2014.** *The Minister of Industry and Trade has announced a possible revision of the export subsidy system to prioritise emerging markets with export growth potential.*

#### India:

- The Minister of Commerce and Industry announced that the exports of leather and textile sectors would be given incentives of INR 325 crore (USD\$ 67 million) with effect from 1 April 2009.
- *On 12 January 2010 India announced a €73 million incentive scheme for exporters in the form of duty credit scrip, which may be used for import of any capital goods, including spares, office and professional equipment, office furniture and consumables which are freely importable.*
- On 31 March 2010 India adopted a stimulus package for exporters – incentives for the textile sector, engineering, electronics, and agro-food products. Incentives for textiles (ready-made garments) will be available till September 2010, whereas incentives for electronic, engineering and agro-chemical goods will be given for the entire 2010-2011 period under the Market Linked Focus Product Scheme.
- The annual supplement to the Foreign Trade Policy announced by the Commerce Minister on 23 August 2010 announced a stimulus package to the tune of Rs. 1,052 crores (€0.16 billion). The major beneficiaries of these incentives are labour intensive sectors such as handlooms, silk, carpets, textiles, handicrafts, sports goods, toys, leather and leather manufacturers and some bicycle parts. In addition, certain new engineering and electronic items, finished leather, rubber products, other oil meals, castor oil derivatives, packaged coconut water, coconut shell worked items, instant tea and CNSL cardanol have been included for benefits under export incentive schemes. Some of the schemes which provide subsidies have been given extension. These scheme are Duty Free Entitlement Pass Book (DEPB) Scheme (initially extended until 30 June 2011 and subsequently until September 2011). Zero duty Export Promotion Capital Goods (EPCG) Scheme extended by one year to March 31, 2011 and Benefits under Market Linked Focus Product (MLFP) Scheme for garment exports to EU extended from October 2010 to March 2011. The facility of interest subvention of 2%, currently available for handicrafts, handlooms, carpets and SMEs, is being extended for a number of specified products pertaining to leather and leather manufacturers, jute manufacturing including floor covering, engineering goods and textile sector for the year 2010-11. Additionally, on 23 August 2011 it was announced that the EPCG Scheme was also extended by one year until 31 March 2012.
- On 26 December 2012 the Indian Commerce Minister (Anand Sharma) announced a series of measures to support falling exports. The export incentives distributed through various schemes are either in the form of interest subvention on export credit or partial duty exemption on export value. Exporters can benefit from these schemes depending on the country of export, the exporters' sector, the type product exported, or the country of export coupled with the type of product exported. The measures announced comprises the extension of the duration of

application of an existing scheme, the inclusion in existing schemes of new sectors or products or countries enabling the benefit of incentives, and the creation of a new scheme rewarding additional exports to EU, USA and countries of Asia in the last quarter of this financial year. On 18 April 2013, India announced its last supplement of the Foreign Trade Policy (FTP). The amount of revenue foregone in carrying out these export support measures is estimated to be around €428.57 million. More products and more markets have been added to the Focus Product Scheme and Focus Market Scheme. The interest subvention scheme has been further extended to 31<sup>st</sup> March 2014. The Commerce Ministry is expected to review the FTP in October 2013.

- **On 3 March 2014 India notified export subsidies of Rs 3,300 a tonne on raw sugar shipments undertaken during the February-March period. The incentive shall be at the rate of Rs 3,300 a tonne for February and March, and thereafter, be recalculated every two months after taking into account the average exchange rate of rupee vis-a-vis the dollar. There would be a quantitative limit of 4 million tonnes for subsidies. Raw sugar produced and exported during 2013-14 and 2014-15 marketing years (October-September) is eligible for the support. It has been made mandatory for mills to pre-register their export contracts with the Director General of Foreign Trade (DGFT) for direct export of raw sugar or of deemed export of supplies against invalidation to advance authorisation holders.**

#### **Indonesia:**

- Ministry of Finance Regulation No. 143/2011 on bonded zone warehouses caps the permitted domestic sales at a maximum of 25% of the export realization value in the previous year (50% in the previous regulation). Effective from 1 Jan 2012.

#### **Japan:**

- In June 2010 the Government of Japan announced the "New Growth Strategy". One of the key policy measures to stimulate the economy's growth is the promotion of infrastructure-related exports to emerging economies. It aims to create infrastructure-related business worth Yen 19.7 trillion in the next ten years. On 10 September 2010, the Cabinet adopted the "The economic measures for realisation of New Growth Strategy", which, inter alia, aims to expand the types of projects covered under the Japan Bank for International Cooperation (JBIC) scheme. The Government expanded the scope of the JBIC scheme to ten categories, adding such areas as efficient power generation, efficient electricity transmission, water treatment and carbon capture and storage. It also expanded the scope of railway projects to include not only high-speed rail but also subway and monorails. JBIC will be required to make such investment and loans in cooperation with private-sector financial institutions.
- The Japan Bank for International Cooperation (JBIC) launched on 1 April 2011, "E-FACE "(Enhanced Facility for Global Cooperation in Low Carbon Infrastructure and Equity Investment)" with the view to promoting a package of infrastructure related exports to emerging countries. The scheme aims at mobilizing private capital through JBIC's equity participation, guarantee functions and loans. It was created in response to i) the "New Growth Strategy" (June 2010), ii) the Cabinet decision on the "The three step economic measures for the realisation of New Growth Strategy"(10 September 2010) and iii) the Cabinet decision on the promotion of infrastructure related package exports (10 December 2010). The "E-FACE" has integrated and expanded the existing schemes of JBIC such as the "FACE" (Facility for

Asia Cooperation and Environment) and the "LIFE initiative" (Leading Investment to Future Environment Initiative). The "E-FACE" will cover such projects as: i) infrastructure package exports: clean energy, railway, water treatment, smart grids; ii) investment promotion in emerging countries: M&A and natural resource exploitation projects; iii) environment and energy saving: efficient power generation, efficient electricity transmission, carbon capture and storage. In the past, JBIC's investment finance was limited, in principle, to projects in emerging countries but it is now available also for some projects in developed countries after the revision of the ministerial ordinance concerning the implementation rules on the Law concerning the Japan Finance Corporation (16 November 2010). In addition to high-speed trains and nuclear power plants which have been already eligible as projects for developed countries (from 28 April 2010), the projects (for developed countries) which have become newly eligible for JBIC's schemes are city trains (subway and monorails), water treatment facilities, power generation using renewable, electricity conversion/transmission facilities and smart grids. On 28 April 2011 a Japan Bank for International Cooperation Act entered into force, separating the Bank from the Japan Finance Corporation (JFC). On 15 July 2011, a ministerial ordinance was adopted by the Cabinet to expand the scope of lending and investment operations of the JBIC. The ordinance set out the scope of the JBIC operations as follows: i) export finance for developed countries (e.g. export of vessels, aircraft and infrastructure related exports, such as railways); ii) investment finance to support M&A by Japanese companies (if the purpose is management control or tie-up of/with foreign companies engaged in infrastructure related business or foreign companies which possess advanced technologies); iii) project finance for projects in developed countries (including natural gas power generation).

- **The "Japan Revitalization Strategy" announced by the Government of Japan on 24 June 2014 urged the JBIC to focus "E-FACE" on projects which would contribute to enhance earning power of Japanese companies and to introduce new methods such as subordinated loans and LBO financing. Accordingly, the "E-FACE" was revised to reinforce financing for: i) overseas M&A by Japanese companies, ii) promotion of overseas natural resource exploitation and iii) Japanese financial institutions which support overseas development of Japanese companies and iv) overseas business of SMEs. In these areas, JBIC made a total of 203 commitments amounting to Yen 1.477 trillion in loans, equity participations, and guarantees in FY 2013.**
- **The Nippon Export and Investment Insurance increased the maximum amount of insurance coverage to 30 billion yen in April 2014. It aims to support Japanese companies to expand exports, led by automobiles and electronics to emerging markets such as the Middle East and Asia.**

#### **Kazakhstan:**

- In February 2010, the Kazakh Ministry for Industry and Trade offered to reimburse 50% of export costs to local producers. It would cover costs associated with registering and certification of products overseas, maintaining offices abroad, participation in foreign exhibitions and promotion of products abroad, etc. Overall package in 2010 amounted to 500 million Tenge. This initiative is carried out within the framework of Strategy 2020 and Business Roadmap 2010-2014. In 2011, the Kazakh government allocated 700 million Tenge (USD 4.8 million) to compensate for the costs to exporters.
- *The Kazakh Government intends to subsidise exports of grain in the direction of the Black Sea and the Baltic Sea. The Government will be partially compensating the agricultural manufacturers for the transportation costs at USD 40 per ton.*

**Malaysia:**

- On 29 October 2009 the Ministry of International Trade and Industry presented a plan for the Review of the National Automotive Policy (NAP), with as main objective to attract FDI while continuing to subsidise the national car industry. To encourage exports, the Government has increased income tax exemptions: if the exports of an automotive company increase by at least 30%, 30% (from previously 10%) of the increased export income may be exempted from income tax; if the exports increased by at least 50%, 50% (from 15%) of the increased export income may be exempted from income tax.

**Philippines:**

- In the framework of the government's stimulus fund to finance export development and promotion, as well as capacity-building of small- and medium-sized exporters, the Export Development Council (EDC) released only PHP 200 million out of foreseen 1 billion. Nineteen projects were approved so far involving inter alia the following: international trade fair participation, capacity building, common service facility, product development training, and collateral. These 19 projects are reportedly worth PHP 242 million, the disbursement of which is planned until December 2010. The EDC expects the Export Support Fund to continue in a self-sustainable manner. With the President's approval of the Philippine Export Development Plan 2011-2013 last July, the government allocated an amount of PHP 80 million for another Export Support Fund for the year 2011 (though this has yet to be released).
- In July 2011, the President approved the Philippines Export Development Plan 2011-2013, allocating PHP 80 million to the Export Support Fund for 2011. The Export Support Fund is no longer applicable as there has been no new allocation by government after 2011.

**Russia:**

- State support for exports of Russian manufactured goods envisaged at 9 billion roubles in 2009, which is three times more than in 2006. This is mainly made by subsidising of interest rates on credits received from Russian commercial banks. The upper limit of state guaranty granted to exporters of manufactured goods is raised from \$50 million to \$150 million. The procedure of granting state guarantees is streamlined. The Government is considering delegating its right to grant such state guarantees to the Finance Ministry. For the support for exports of Russian manufactured goods (in the form of state guarantees) the federal budget allocated 1bn in 2010 and \$1.5bn in 2011. The federal budget projections for 2011-13 foresee an allocation of 17 billion roubles to support export of manufactured goods. \$7bn was granted in the framework of the Government's anti-crisis measures in 2010. In 2011, subsidies to exporters of industrial goods for partial reimbursement of interest rates on bank loans total 8 billion roubles.
- On 20 February 2010 Russian Government introduced a subsidy of 5.07 billion roubles to boost export sales of grain from intervention reserves.
- The federal budget for 2013 provided for \$1,500 million in state guarantees for Russian exporters of products with a high degree of processing and services with high value added.

- **The Federal Law N<sup>o</sup>349-FZ of 02 December 2013 (as amended on 2 April 2014) allocated 3 billion USD worth of Government guarantees to support the export of industrial products in 2014.**
- **The Government Resolution N<sup>o</sup>330 of 15 April 2014 approved the State Program 'Development of foreign economic activities', which comprised the Subprogram 'Establishment of national system of support of foreign economic activities'. The Sub-program aims to enhance effectiveness of financial support to exporters, and improve access to foreign markets for Russian goods. The federal budget allocates 17.8 billion rubles of financing through to 2018.**

#### **South Africa:**

- On 06 July 2012 the authorities introduced a rebate item 470.03/00.00/03.00 for goods cleared in terms of a permit issued by the International Trade Administration Commission of South Africa (ITAC) for the manufacture, processing, finishing or equipping of yachts exclusively for export. (Notice R.509)
- The National Exporter Development Programme (NEDP), launched on 04 April 2013, serves to increase exports, particularly of those products and services that add value and contribute to employment and the green economy. The target group is small, micro and medium enterprises (SMMEs), while still taking into account the needs of larger potential and established exporters. The vision of the NEDP is to provide an exporter development programme that contributes to increase the number of active exporters and the growth of exports value.

#### **South Korea:**

- The government and the Korea Export Insurance Corporation plan to invest an additional 3 trillion won into troubled exporters that suffer from the weak won and a falling global demand have been implemented.
- In January 2011, the state-run Korea Trade Insurance Corporation announced its plan to offer payment guarantee coverage worth KRW 86 trillion to SMEs throughout 2011, up by 16% from the previous year.
- In April 2011, the Korea Trade Insurance Corporation announced that it would offer payment guarantee coverage worth USD 1.03 billion to 10 large container ships being built by Hyundai Heavy Industries Co. for the Hapag-Lloyd, the world's fourth-largest container operator with 137 vessels. This was in order for Hyundai Heavy Industries Co. to secure financing from various lenders for the Hapag-Lloyd AG deal. The Korea Trade Insurance Corporation said that it would continue to offer export insurance coverage for ship orders won by local yards, which were expected to win new orders as global trade recovers from the 2008 worldwide financial crisis.
- According to the Ministry of Knowledge Economy (MKE) in its report on 2012 trade strategies published on 3 February, 2012, the Korean government will be supporting 100,000 first-time exporters and domestic firms with insufficient experience in exports to expand its global trade figures to two trillion dollars by 2020. The government will raise the number of export-oriented SMEs from current 80,000 (as of late 2010) to 100,000. The strategy also consists of increasing subsidies for export consulting, dispatching more trade expeditions, and selecting model firms (with export targets of five million dollars) and robust firms (with

export targets of \$50 million). Trade insurances for SMEs will be increased from 19 trillion won (\$16.97 billion) last year to 50 trillion won, while government support for mid to large-sized projects will increase from 14 trillion won to 50 trillion won. According to this report, the trade insurance and the Export-Import Bank of Korea will open up more than 60 per cent of their loan and credit lines with the first half of 2012, in efforts to help domestic exporters overcome external uncertainties.

- On October 29, 2012, the MoTIE (former Ministry of Knowledge Economy) announced its scheme to actively provide domestic companies, which are going through the restructuring process, with special financial support associated with the export insurance, from November 2012 to June 2013. Whether to extend its implementation will be decided at a later stage, depending on the assessment of the outcome of the new scheme. Companies which have established an export contract (despite their ongoing restructuring process) are to benefit from this scheme. The support consists in the export credit guarantee (up to KRW 100 billion) and short-term export insurance (no threshold defined).
- On 1 May 2013, the MoTIE unveiled its new planning to provide financial support for SMEs, as part of the Ministry's comprehensive scheme recently designed for the "economic growth and job creation through trade and investment expansion". The main pillar of its broad policy scheme lies in "expanding support to SME exporters", which constitutes an integral part of the MoTIE's "New Trade Policy Strategy", which gives much weight to closely linking the external trade policy with fostering domestic industries.
- MoTIE plans to provide financial support worth KRW 11.1 trillion to extend public loan/insurance programmes particularly for SMEs through KEXIM Bank, etc. The main beneficiaries would be: SMEs exporters (KRW 7.6 trillion); SMEs participating in an international tender for overseas plant construction (KRW 1 trillion); and shipbuilders (through shipbuilding financing support and special trade insurance for funding ship equipment manufacturing (KRW 2.5 trillion).

#### Switzerland:

- *The Swiss Parliament is debating the reintroduction of export credit support for exports of breeding cattle. Export subsidies for breeding cattle were paid by Switzerland until 2009 but were terminated given the prohibition of export subsidies by WTO law. The agricultural lobby has succeeded since in putting forward a parliamentary proposal to reintroduce export subsidies of around 4 million CHF per year. Both chambers of the Swiss parliament have accepted the subsidy as a matter of principle but details of the bill remain to be determined between the two chambers. The Swiss government has repeatedly pronounced its opposition against the reintroduction of the subsidy.*
- Switzerland increased the budget available for export subsidies for chocolate. The legality of this refund for the milk content in a processed product is dubious as no export refund is granted to milk in its natural state.

#### Thailand:

- **In September 2013, Thailand has launched the Phase II of the eco car scheme, which provides tax incentive opportunities (corporate tax, import duty and other tax benefits) for both the existing beneficiaries (Toyota, Suzuki, Nissan, Honda and Mitsubishi) under Phase I (initiated in 2007) and newcomers. As in Phase I, the conditions of substantive**

**investment (at least 6.5 billion THB), substantial production (both in terms of complete manufacturing lines and volume), safety standards, carbon emission and fuel efficiency are still required, with a more stringent set of requirements (e.g. Euro 5, safety standards, CO<sub>2</sub> ≤120g/km emission standard, fuel consumption, manufacturing capacity of ≥ 100,000 cars/year from the 4<sup>th</sup> year onwards). Given the high volume of production required, which the domestic market would not be able to absorb, tax incentives granted under this scheme have the potential to become cross export subsidies.**

#### **Taiwan:**

- Taiwan had pursued three main programmes to stimulate its economy, including one on stimulating and promoting exports. The measures are currently viewed as relatively non-discriminatory. On 25 December 2008 the Cabinet announced an export stimulus package totalling NT\$8.53billion (US\$ 258.7 million, €182.7 million) to be used through 2012. The main focus of the package, developed by the Bureau of Foreign Trade, was on stimulating exports to China and markets in emerging economies. The program of stimulus is named the 'New Zheng He Plan'. The bulk of the funds, NT\$5.58 billion, was used between 2009 and 2010 and focused on supporting financing for export businesses by providing preferential loans and export insurance. A further NT\$1 billion was used between 2009 and 2010 specifically to boost exports of foodstuffs to China. The majority of the rest of the funds, around NT\$1.8 billion was dedicated be used to target the markets of India, Russia, Brazil, Vietnam, Indonesia, Malaysia and those of the Middle Eastern countries. This plan, focused on export promotion and addressing SME financing difficulties, was relatively in line with measures seen globally. As such it is not seen as particularly objectionable. In December 2011 MOEA earmarked NT\$5 billion (120 M EUR) for additional export credit.

## V. OTHER MEASURES

### V.1. Stimulus packages

#### Algeria:

- The Government announced measures to stimulate dairy production in Algeria, from locally produced milk, instead of from imported milk powder, used to produce reconstituted milk and other dairy products. The premium paid at all level of the dairy filière (producers, collectors and transformers) are going to be increased significantly.

#### Argentina:

- Decrees 1027/2012 and 480/2013-PEN – Temporarily extended, until end June 2013, the subsidy ('Fiscal Bond') for domestic producers of capital goods (Decrees issued on 05.07.2012 and 06.05.2013).

#### Brazil:

- Brazil's state development bank, BNDES, is supplying subsidized loans for up to 90 per cent of the costs for domestically built ships. The BNDES continues to play a leading role in providing sufficient competitive-low cost credit lines to exports of goods and services. Disbursements in lines for exports reached BRL 18.4 billion (€ 7.9 billion) in 2010, for an increase of 38.2% as compared to the previous year (+170% in comparison to pre-crisis disbursements). The main highlights were capital goods, along with engineering and construction services. As part of the new industrial plan launched on 2 August ("Brasil Plano Maior"), the Government extended the subsidized loan programs run by the BNDES, which announced R\$ 500 billion loans to be granted between 2011 and 2014 to foster industrial production. The government also extended until the end of 2012 the Programa de Sustentação de Investimentos of the BNDES, with loans between 4,0% and 8,7% per year, to the benefit of the technology and innovation sectors. Other BNDES' budget lines were increased, in particular the ones concerning SMEs (from R\$ 3.4 to R\$ 10,4 billions at interests rates between 10,0 and 13,0% per year - programme extended until December 2012). Similarly, BNDES' budget lines were activated to provide loans to the auto-parts sector and to meet requests for funding coming from private institutions operating in the area of technical education and trainings.
- The Brazilian Development Bank undertook on 26 August 2009 a reduction of interest rates on public financing of exports of capital goods within the framework of the existing rules on pre-shipment financing for exporters (PROEX). On the same day the benefits of the system were extended to small and medium-sized enterprises.
- In the framework of the "Brasil Plano Maior" launched on 2 August 2011, it was announced that 3% of the revenues coming from exports would be redistributed to the benefit of the manufacturing industry.

- The key measure of the Brasil Plano Maior of 2 August 2011 concerns payroll-tax cuts for textile, footwear, mobile and software producers, who are exempted from the payment of the 20% social security tax. Tax cuts should amount to 25 billion reais (€ 11 billions) and were presented as a pilot project which could be soon extended to other sectors. The Government will partially recover some of the money by introducing a new tax on profits (amounting to 1.5% for textiles and footwear producers, and 2.5% on mobiles and software ones).
- On April 4, 2012, Brazil launched a new stimulus package (Brasil Maior II), which worth about BRL 60.4 billion (€ 25.3 billion), equivalent to 1.5% of GDP, and include a mixture of fiscal incentives, comprising lowering payroll taxes for employers in hard-hit industries and increasing tariffs on products that have been gaining market space. Other measures include giving preference to national goods in public procurement; more liberal rules for trade financing; incentives for the IT industry; tax incentives for innovation in the automotive industry; tougher enforcement of trade regulations against unfair trade practices. Furthermore, the government will transfer BRL 45 billion (€ 18.8 billion) to the state development bank, BNDES, to use for subsidised loans to industry to foster local production and technological innovation.
- *In April 2013, the Government, announced in the frame of the industrial policy programme Brasil Major the launch of 'strategic agendas' for 19 sectors (including inter alia petroleum and gas, chemical industry, metallurgy paper and cellulose, capital goods, agroindustry, renewable energies, mining, textiles and apparels) that would consist of different variations of preferential industry treatment schemes. The measures would include inter alia a 3% compensation upon exportation of domestically paid taxes that were not compensated otherwise (export subsidies) and other fiscal benefits. The schemes are supposed to be focused on developing and boosting local production of capital goods (in order to diminish their imports). For the automotive sector more incentives are planned, particularly for car parts producers.*

#### **Canada:**

- Canada has established a "Canada Account", administered by Canada's export credit agency, Export Development Canada (EDC), to provide preferential rates of credit for transactions that are deemed by the Canadian government to be in "Canada's national interest". Since 2001, there have been 17 such Canada Account transactions, some of which range up to over a CDN \$1 billion that include loans to the automakers GM and Chrysler (since repaid) and the sale of Canadian aircraft, marine vessels and nuclear facilities. Since 2012, there have been no new Canada Account transactions.

#### **China:**

- Introduced a stimulus plan for the ICT industry. Investment has been targeted to six key projects, stimulation of domestic consumption, credit guarantees for SMEs in particular and including, measures aimed at strengthening international competitiveness. In order to stabilize exports, the import tax rebate has been continued and the rebate rate for certain IT products has been raised. Innovation and IPR protection for technologies are emphasised in particular through financial supports to file and obtain patent protection.
- Stimulus plan on automobiles (restructuring around 2-3 big firms producing around 2 million cars) and steel (restructuring around five major companies which would represent more than

45% of the domestic capacity by 2011). China may use the opportunity to accelerate the process of restructuring of these domestic industries.

- China will take a range of measures including a hike in export tax rebates, credit support and elimination of outdated capacity to prop up its light industry according to an industry stimulus and revival action plan outlined on 18 May 2009. The authorities will further hike export tax rebates on some light industry products that do not form part of "high pollution, high energy consumption and capital intensive industries", said the detailed action plan released by the State Council. The government intended to extend financing support such as issuing credit lines to companies which have good track record but are temporarily short of liquidity, to help them weather the economic downturn. In particular, the plan said, the government would offer a proactive credit and guarantee policy to support well performing small- and medium-sized enterprises (SME) to create jobs. According to the plan, the government aims to form another 10 large companies in the sector through industry consolidation, each with annual sales revenue exceeding 15 billion Yuan.
- Stimulus plan in the shipbuilding sector aiming at raising the shipbuilding capacity. Specific measures:
  - provides ship-owners competitive bank loans until 2012 to encourage fleet renewal and replacement
  - support to increase credit funds for ship export buyers (commercial loans and credit facilities) at preferential lending rate
  - offers a 17% subsidy on ship prices for domestic ocean going ships' buyers till 2012
  - offers working capital at preferential interest rate to shipbuilders and provides mortgage financing for ships under construction.

The stimulus package calls the country to raise its annual shipbuilding capacity to 50mln DWT, or, the shipping market is already constrained by overcapacity. The 2 largest shipbuilding companies, state owned, China State Shipbuilding Co. Ltd and China Shipbuilding Industry Corporation will be supported to carry out mergers and acquisitions through capital injection and the establishment of an industrial fund. State owned COSCO, China Shipping Group and Sinotrans are supported to pick up cancelled shipbuilding orders from state owned shipyards.

- *Support measures in favour of the tyre industry and its upstream and downstream processing announced in the press in the wake of the US decision to impose special safeguard measures on tyres imported from China.*
- China Southern Airlines received 1,5 billion yuan cash injection. The fund is the last instalment of capital that the government extended to the top three carriers. The Nation's three major carriers had received a total of 15 billion yuan as part of a package from the central government in 2008.
- The State Council approved a plan proposed by the country's state-owned assets regulator to set up an asset management firm to push ahead with restructuring of state-owned enterprises (SOE). The new entity will be a domestically-oriented sovereign wealth fund, set up to better manage state-owned assets in the industrial sector. The new company is said to have registered capital of RMB 20 billion and initial funding will be from the state-owned assets management budget and dividends paid by the central SOEs.
- In June 2010 a subsidy for the high-tech industry was introduced. It is contingent on export performance in that it would be granted in the form of a one-year special loan rate based on export performance in 2009. To be eligible, a company should export technology for a value of RMB 100,000 and the maximum total subsidy would amount to RMB 5,000,000.

- China launched its 12<sup>th</sup> five-year plan (2011-2015) with the objective to upgrade and restructure traditional industries (equipment manufacturing, shipbuilding, automobile, iron/steel and non-ferrous metals, building, petrochemicals, light industries, and textiles) and to foster seven Strategic Emerging Industries (energy conservations, new-generation IT, Bio-technology, high-end manufacturing equipment, new energy, new materials and new-energy vehicles).
- *Provisions regarding a Universal services fund (USF) stipulated in the Postal law requires express delivery operators to contribute to such fund without however specifying the details of the fund's operation. Businesses oppose the scheme, as contravening the principles of sound economic regulation and leading to higher costs for consumers and an unfair competitive advantage to State-owned firms. The scheme appears in violation of the guiding policies of the Government to reduce the burdens on the logistics industry. In May 2014, the USF provisions were in draft form, awaiting implementation.*
- ***In March 2014, Chinese authorities confirmed they would provide subsidies to Chinese grain producers in amounts reaching 100 billion RMB.***
- **On May 30, the Measures on the Administration of Subsidy Funds for National IOT Development and Rare Earth Industry (Cai Qi [2014] No. 87) was released, which became effective from the promulgation date. The subsidies are to support technical innovation and industrial development of IOT and of the rare earth industry. While some tranches are partly intended for R&D, other uses include areas such as rare earth mining and smelting in support of "existing businesses on the rare earth mining, smelting production systems and environmental systems" and "industrialization of high-end applications and technologies for rare earths".**
- **On 24 June 24 2013, the National Development and Reform Commission issued Rules on the Management of Central Budgetary Investment Subsidies, which entail investment subsidies and loan interest discounts, focused on economic and social areas where the government presumes market failures, including in investment projects promoting technological development and high-tech industrialization.**
- **On 24 June 2014, the MIIT, the NDRC and the Ministry of Finance issued "Guidelines to Promote National Integrated Circuits Industry Development", which provide for a support policy into the IC sector value chain, aiming at making China the global leader in all segments of the IC industry by 2030. Support will be enacted through a national and several regional support funds, through tax support policies, as well as other financial support tools (credit support, debt financing tools, loan insurance). The value of the support fund managed by the central government would initially reach at least 100 billion RMB. Total support to the industry, including by local governments, could reach 300 billion RMB.**

## Egypt

- **In fiscal year 2013/2014 Egypt's transition Government adopted a number of reviews to the Budget, which were enacted by the President to include two "Stimulus packages" of EGP 60 bln in total (about 3% of GDP). This additional spending was mainly geared**

towards investment projects, although in the end a significant amount of the additional budget went to recurrent spending.

## India

- On 12 September 2013, India approved the National Food Security Act, a programme aiming at to providing around two-thirds of the Indian population with supplies of rice, wheat and coarse cereals at highly subsidized rates of Rs 1 to 3 per kg (€0.013 to €0.039). The Bill is the biggest ever experiment in the world for distributing highly subsidized food by any government through a 'rights based' approach. Some of the subsidised products are now allegedly being exported instead of reaching of the target population.

## Japan:

- The "New Growth Strategy" of June 2010 and its implementing guidelines "The three step economic measures for the realisation of New Growth Strategy" foresees a number of measures to stimulate the economic growth, inter alia, to counter the yen's appreciation and deflation.
- METI introduced in April 2010 a 100 billion yen (\$1.2 billion) R&D subsidy scheme for small and medium-sized manufacturers. The scheme is to provide support for R&D (of core manufacturing technologies/methods as moulding and casting), business development and marketing for SMEs. Through such measures, METI aims to protect employment and prevent an outflow of SMEs from Japan. The total budget was Yen 140 billion in FY 2013.
- As part of the supplementary 2012 budget, in 2013 the METI introduced the JPY 200bn "Subsidy Program to Promote Investment in Advanced Equipment as Measures to Deal with Yen Appreciation and Energy Constraints". Non-SMEs can have up to 1/3 of the cost covered by the subsidy (maximum JPY 12bn per project), and SMEs up to 50% (subsidy rate is dependent on the planned improvement in resource productivity). Specifically, the equipment should increase resource productivity by more than 10% (e.g. through value addition), or be specialized equipment for production of high-value added core parts/materials. The programme was implemented during Fiscal Year 2013, which runs from April 2013 to March 2014.

## Kazakhstan:

- Created by Decree of the President No. 958 "On the State Programme on the enforced industrial-innovative development of the Republic of Kazakhstan in 2010–2014," the Government of Kazakhstan has approved a plan for realization of "Business Roadmap – 2020" in May 2010. The programme is aimed at accelerating the industrialization of the country, ensuring sustained and balanced growth of regional entrepreneurship in the non-oil and export-orientated sectors of the economy, as well as maintaining and creating new permanent jobs. It focuses particularly on the industrial diversification of Kazakhstan. The agro-industry, industrial production, construction materials production, light industry and technical services in mining, metallurgy, activities in health service and education are priority sectors under this programme.

Within this program, government and financial authorities signed the “Agreement on cooperation in subsidizing interest rates on enterprises’ loans” and the “Agreement on state’s loan guarantee”, which aim at interest rate subsidies and state guarantees on loans for the country’s small and medium-sized businesses. Enterprises hit by the crisis and new business initiatives that meet the programme’s requirements may receive new forms of state support - in 2010, given the interest rate of 12% for bank loans; an enterprise will pay only 5% while the state will compensate the remaining 7%. Exporters will get even a higher support, as they would get 8% subsidized by the state. In 2011, companies hit by the financial crisis will not be supported anymore.

In 2010, the national budget has allocated KZT 30 billion. Out of this, KZT 12 billion are allocated for backing new business initiatives, KZT 16 billion are aimed to improve the business sector, and KZT 2 billion are to encourage export-oriented industries. In August 2010, first eleven requests were approved by the State Committee of Economic Modernization.

#### **Russia:**

- Government Decree No. 205 of 10 March 2009 established rules for granting subsidies from the federal budget to producers of agricultural machines and tractors, the wood processing sector, producers of equipment for the oil and gas sector, producers of machine tools in order to cover part of interest rates on credits for up to 5 years for their technical modernization. The subsidies will be granted in the period 2009–2011, on a quarterly basis. The Ministry of Industry and Trade and the Federal Service for Financial and Budgetary Control are to exercise control over the use of subsidies. Additionally, the Government launched a scrappage programme for agricultural machinery. 3.5 billion roubles have been allocated in order to replace an old stock of agricultural machinery.
- 39 billion roubles in additional subsidies for the automotive industry envisaged by the Government Anti-Crisis Plan for 2009 was approved on 19 June 2009. The upper limit for price of locally produced cars subject to state subsidies (2/3 of CBR refinancing rate for banking credits to individuals) is raised from 350 billion roubles to 600 billion roubles (foreign cars assembled in Russia partly included). Subsidies are also to cover costs of transportation by rail of locally produced cars (including some foreign cars assembled in Russia). State guarantees were provided (130 billion roubles) and partial compensation on credit rates on vehicles purchased by private persons (2 billion roubles). A 29bn rouble interest-free credit was provided by the Government Order No. 2080-p of 25 December 2009 to AvtoVAZ (total financial support for this company is estimated at 75bn roubles). The Government allocated a total of 33.5bn roubles to support the automotive in 2010 (including 20bn roubles on purchases of automobiles by federal government bodies, and 2.5bn roubles as subsidies for the payment of interest on loans).
- Subsidies in the agriculture and fishery sectors in 2009, as envisaged by the Government Anti-Crisis Plan, will total 212 billion roubles, almost 45% more than in 2008. Other 95 billion roubles will be spent by the Russian regions. These are to include subsidising of 100% of CBR refinancing rate for banking credits to meat and milk producers, and additional capitalization of Rosselkhozbank (45bn roubles) and Rosagrolizing (25bn rouble), which grant tax credits to framers and organize leasing of agricultural machines and equipment. In 2010, the federal budget allocated 107.6bn roubles on state support for the agriculture sector in 2010. Of this amount, be 79.4bn roubles will be spent to subsidise interest payments on loans. Amendments to the federal budget for 2011 increase an allocation of funds to support the agricultural sector by 13 billion roubles. Total agricultural support will amount to 150 billion

roubles in 2011. In addition, Rosselkhozbank and Sberbank reserved 100 billion roubles and 50 billion roubles, respectively, to provide credit resources to agricultural producers.

- Military-industrial complex, according to the Government Anti-Crisis Plan, is to receive 969 billion roubles in subsidies in 2009, or 38% more than in 2008. Subsidies are to boost capitalization of the leading firms, such as MiG, Gorbunov and Khrunichev. Other subsidies are to prevent bankruptcies of enterprises producing weaponry. Strategic enterprises of the military industrial complex were included in the list of enterprises, whose loans are provided by government guarantees (47bn roubles are allocated for 2010; Attachment 20 to the Federal Law No 308-FZ of 02 December 2009). The Government allocated 40bn roubles to support the enterprises which operate the state defence order (together with 'systemic enterprises') The Government also allocated 2.4bn roubles to increase the authorized capital of the United industrial corporation 'Oboronprom' ('Defence Industry'). The military sector receives in 2011, respectively, 2.4 billion roubles for state-owned enterprises and 1 billion roubles to cover the costs of innovation and investment aimed to manufacture high-tech products.
- 325 million roubles are allocated in 2009 in order to subsidise interest rates on banking credits for the wood sector, and to create seasonal reserves of rough wood and fuels. The federal budget for 2010 allocates 1bn on subsidies to reimburse interest payment on loans received in 2009 – 2011 and used for technical modernization (together with companies producing equipment in other sectors, such as combines and agricultural equipment, gas and oil equipment). The federal budget allocates about 50m roubles on several pilot projects to reform the wood-processing industry. The timber industry receives a subsidy covering partial reimbursement of loans for the creation of intra-seasonal supplies of wood, raw materials and fuel (650 million roubles), and other subsidies to Russian enterprises to the amount of 3 billion roubles in 2011.
- By Government Decree No. 690 of 20 August 2009 Russian airlines received  $\frac{3}{4}$  compensation of their lease payments for Russian aircraft and  $\frac{3}{4}$  of their interest payments on credits in roubles, obtained in 2002-2005 for purchasing Russian aircraft. The 2010 federal budget allocates 788m roubles on these needs. The 2010 federal budget allocates 2.5bn roubles to subsidies discounts for passengers on flights from the Far East in the European part of Russia and back. 5bn roubles are allocated by the 2010 federal budget to grant subsidies to airlines for reimbursement of their income shortfall caused by their carrying of passengers of airlines who were denied flight licenses (Federal Law No 308- FZ). For the aircraft (incl. helicopter) manufacturers, subsidies for partial reimbursement of interest on bank loans used for technical modernisation and leasing payments amount in 2011 to 0.9 billion in 2011. Similarly, a subsidy was allocated in 2011 at the level of 1.53 billion roubles to Russian firms purchasing Russian airplanes for use by Russian airlines. Furthermore, Russian producers of aircraft engines received similar support to the amount of 289 million roubles in 2011. Other transport companies in the transport engineering sector receive support (partial bank loan reimbursement) for technological modernisation purposes to the amount of 1.5 billion roubles in 2011. Similar support has been granted to transport, shipping, transport and fishing companies for partial reimbursement of payments under leasing contracts to acquire civil ships manufactured by Russian shipyards to the amount of 70 million roubles in 2011.
- Government subsidies to domestic producers: the Government adopted a plan of industry support in the economic crisis for 2010. The plan's priorities include support to systemic companies (40 billion roubles), purchases of vehicles for the public sector (20 billion roubles), and support to the housing and utilities sector (15 billion roubles) A total of 195 billion roubles (€4.6bn) will be spent. For enterprises of textiles industry, which used bank loans for modernisation purposes, the amount of subsidy in 2011 reaches 250 million roubles.

- The Doctrine of food security of the Russian Federation (approved by the Presidential Decree No. 120 of 30 January 2010) establishes criteria of Russian food security in the form of minimal market share of domestically produced food products: for grain – at least 95%, sugar – at least 80%, vegetable oil – at least 80% (up from current 58%), meat and meat products – at least 85% (up from current 66%), milk and dairy products – at least 90% (up from current 82%), fish and fish products – at least 80% (up from current 63%), potato – at least 95%, and dietary salt – at least 85%. The Government plans to spend annually more than 100bn roubles on subsidies to the agriculture sector in order to achieve these import-substitution goals (the Government allocated 107.6bn roubles on the implementation of state programme of support to agriculture in 2010).
- The government approved the program for development of coal industry until 2030. Total amount of financing to the program will be 3,700 billion roubles, including 251.8 billion roubles of budget funds.
- *President-elect Putin announced a number of measures aimed at supporting the domestic ship-building industry. About 400 billion roubles of the federal budget money will be allocated to support the sector within the next ten years.*
- *The Ministry of Agriculture presented a draft strategy on the development of food processing industry until the year 2020. The industry is expected to receive investments totalling 700 billion roubles within the next eight years.*
- The State program for the development of agriculture and regulation of markets of agricultural products, agricultural raw materials and food in 2013 – 2020 (approved by the Government Decree No 717 of 14 July 2012) envisages the allocation of RUR 1,509,745,406.93 (around €37 million) for its implementation. The Government expects that the share of domestically produced agricultural products in Russia's all resources of agricultural products would by 2020 amount to: 99.7% for grain, 88.3% for meat, and up to 90.2% for milk and dairy products. In this context, by resolution N 1432/2012, the Government introduced a programme of subsidies to local manufacturers covering 15% of the wholesale price. The resolution establishes localisation requirements in order to qualify for the subsidies, namely a set of manufacturing/technical operations to be performed in Russia.
- **Government Resolution N<sup>o</sup>5 of 3 January 2014 approved the Rules of granting federal subsidies to chemical producers for reimbursement of their expenses for the payment interest rates on bank loans in 2014-2016 intended for investment projects under the State Program 'Development of industry and enhancement of its competitiveness'.**
- **Resolution of the Russian Government No.305 of 15 April 2014, established a new version of the State Program - 'Development of Pharmaceutical and Medical Industries' for 2013–2020. The Program for 2013-2020 contains four sub-programs, including the federal target programs: 'Development of Medicines Production'; 'Development of Medical Goods Production'; 'Improvement of State Regulation in the Area of Circulation of Medicines and Medical Goods'; and the federal target program - 'Development of the Pharmaceutical and Medical Industry of the Russian Federation for the period of up to 2020 and further'. By 2020, the following results are expected to be achieved: - 7 times increase of the share of high-tech products in total production of pharmaceutical and medical industry with respect to 2011; - up to 50% increase of the share of domestic medicines in total consumption (in monetary terms); - up to 40% increase of the share of domestic medical goods in total consumption (in monetary terms); - increase in exports of medicines and medical products up to at least 105 billion roubles; - 50% increase of the share of enterprises engaged in technological innovation in the pharmaceutical and medical industry in the total number of producers. The total**

state financing of the Program is foreseen to reach ca. 100 billion roubles. *The Resolution foresees that legal acts are further enacted to organize support to domestic manufacturers of pharmaceuticals and medical devices, and to guarantee preferences in public procurement for those domestic producers, including promoting the localization of production. Preferences will also be given to producers of pharmaceutical devices from Belarus and Kazakhstan, members of the Customs Union.*

- Resolutions of the Russian Government N<sup>o</sup>29, 30, 31, 32 of 15.01.2014 (as amended on 02.04.2014) set a subsidy scheme from the federal budget to Russian manufacturers of wheeled vehicles under the State program "Development of industry and enhancing its competitiveness" for the compensation of part of expenses for the maintenance of jobs, of expenses related to the production and support of warranty in respect of wheeled vehicles that meet the standards of Euro-4 and Euro-5, of part cost of the use of energy resources of energy-intensive enterprises of automobile industry, of part of expenses for realization of research and developmental works and testing of wheel vehicles.

#### Saudi Arabia:

- Five year development plan (2009-2013) of almost US\$400 bn was adopted in July 2010 and includes overhaul Jeddah international airport, railway line east-west Jeddah-Dammam, 10 new desalination plants, new construction of water supply and sewage systems.
- Saudi King Abdullah bin Abdul Aziz enacted on 2 August 2013 a number of development projects with a total value envelope of 81 billion USD for the Royal Commission for Jubail and Yanbu (RCJY, which runs the country's two main industrial development areas), Saudi Aramco (the state oil company) and Saudi Arabian Basic Industries (SABIC, a global player in plastics).
- The government created a new "Saudi Arabian Company for Industrial Investment" on 24 March 2014 with a capital of 533 million USD with the task to support the conversion industries that rely on petrochemicals, plastics, fertilisers, steel, aluminium and basic industries in order to that achieve further economic diversification.

#### South Africa:

- The Automotive Production and Development Programme (APDP) will replace the Motor Industry Development Programme (MIDP) in 2013 with a shift from an export based incentive to a production-based incentive scheme.
- Under the APDP (with implementation on 01 January 2013), the authorities introduced a new refund item 537.03, and rebate item 460.17; amended refund item 536.00/00.00/01.00 to clarify the application of this item to original components (*automotive components*) as provided for in Tariff Chapter 98. (Notice R.1088); substituted rebate items 537.02/87.00/01.02 and 460.17/87.00/03.02 to extend the period for the issuing of productive asset allowance certificates up to 31 December 2015. (Notices R.249 and R.248).
- On 04 April 2013 the Minister of Trade and Industry launched the Industrial Policy Action Plan (IPAP) 2013/14 to 2015/16. The IPAP serves to outline the Government's initiatives to accelerate the industrialisation of the economy as well as to support and strengthen certain interventions for domestic industrial development. **The Minister of Trade and Industry on 07 April 2014 launched the sixth iteration of the Industrial Policy Action Plan (IPAP).**

- The Special Economic Zones (SEZ) Bill was introduced in the National Assembly on 05 March 2013 and the explanatory summary of the Bill was published in the *Government Gazette* of 01 March 2013. A SEZ is an economic development tool which serves to promote industry development by using support measures in order to attract targeted foreign and domestic investments and technology. The Bill indicates that the Minister may determine and implement support measures, and administer support measures or other support programmes. **A new act on Special Economic Zones was issued in 2014 (Act No. 16 of 2014).**

### South Korea:

- The Korean government announced its plan in 2009 to promote investment in green growth related industries. The plan is aimed at creating funds fit for the industries and expanding sources of financing.

The plan was formulated on the basis of the three stages of development as follows:

- Stage 1: R&D and commercialization

To promote R&D projects and their commercialization, the government will increase fiscal support from 2.0 trillion won in 2009 to 2.8 trillion in 2013, along with 300 billion won funds set up by the KDB (Korea Development Bank). SMEs doing projects in stage 1 will access fiscal funds exclusive for them, which will be expanded from 60 billion won in 2009 to 1.1 trillion won in 2013. Credit guarantee offered to “green enterprises” and green projects will also be increased almost three folds from 2.8 trillion won in 2009 to 7 trillion won in 2013.

- Stage 2: Industries maturing

To boost maturing industries, the “green funds” of 500 billion won will be formed by the KDB and National Pension Fund in the last half of this year, along with long-term deposit products and “green bonds” launched by banks to attract private investors. The government will grant tax incentives on capital gains: no tax on dividend up to 30 million won, among others.

- Stage 3: Industries fully grown

To support fully grown industries, 100 billion won carbon funds will be set up in October 2009, followed by carbon emission rights exchange which will be test run in 2011. To promote exports of eco-friendly industries and projects, the government will expand export financing from 1.0 trillion won in 2009 to 3.0 trillion won in 2013 in addition to increased government guarantee for exporters.

- Green New Deal: In January 2009, the government announced the "Green New Deal", an ambitious project aimed at pushing a "low-carbon, green-growth" policy and spending 107 trillion won (\$87 billion) on a variety of projects to reduce emissions and develop cutting-edge technologies and other areas. Key areas of green technologies that South Korea plans to focus on include solar cell, hydrogen fuel cell, wind energy, and light-emitting diodes or LEDs, which are used in making energy-efficient bulbs and other products. As part of efforts to push this project, in late April 2009, the MKE (Ministry of Knowledge Economy) announced the "2009 Plan on the Implementation of the New and Renewable Energy Technology Development, Utilization and Diffusion". In the press release, the MKE pointed to the problem with the increase in the number of imported products, underlining the Ministry's active engagement in installing and diffusing locally manufactured products for the government-sponsored large-scale projects. Furthermore, in this press release, the MKE

clearly indicated that they would reinforce the certification standards for solar module and solar collector functions (6 product items), in order to "prevent the low-priced imported products surging and the resulting accidents occurring" and to "discourage the increase of imported products". In February 2011, the MKE announced (in its press release on 23/Feb/2011, entitled 'MKE scheme for the establishment of the renewable energy test beds") its mid-term scheme for selecting 5 test-beds and investing KRW 48 billion from 2011 to 2013 in their infrastructure and facilities, for the purpose of the prior verification and assessment of new green technologies. In March 2011, the MKE unveiled its scheme for fund raising of KRW 100 billion to support fostering of "Global Star Enterprises" in the field of renewable energy, as a follow-up measure to its earlier announcement of the "Development Strategy for Renewable Energy Industry" on 10 October 2010. The MKE also signed with some leading enterprises (including both large enterprises and SMEs) concerned and financial institutions a MoU on Renewable Energy Shared Growth Guarantee Fund. The MKE planned to invest KRW 3 trillion of the development of core technologies and strategic R&D over the next 5 years, under the so-called "Triple 15 Strategy" of achieving 15 % of the world's market share until 2015 in solar and wind energy sectors.

Shipbuilding and Marine Industry: In February 2009, the Ministry of Knowledge Economy (MKE) submitted a plan to the National Assembly which indicated the possibility of providing support measures to the troubled local shipbuilding and automotive industries, on the condition that they reduce production costs through restructuring. In April 2009, the government announced a massive package program to assist the shipbuilding industry. Total amount of KRW 9 trillion would be provided to "excellent shipbuilding companies and their partners". In July 2009, the state-owned Korean Asset Management Corporation (KAMCO) started the implementation of a sale-and-leaseback scheme for Korean shipping companies. Participating companies improve their liquidity position as they may sell and lease back part of their fleet. In the first round of this scheme, shipping companies successfully offered 62 ships to KAMCO. When business improves, the companies have the option to buy back sold ships. In addition, the Export Import Bank of Korea would provide loans of up to 4.7 trillion for the purchase of ships constructed by financially stricken local shipping companies. In March 2011, the Ministry of Land, Transport and Maritime Affairs (MLTM) announced the nation's long-term vision for the marine industry. The MLTM set a policy goal of "making Korea become one of the most powerful marine nations in the world by 2020 as a means of accumulating the nation's wealth", based on 4 strategies and 22 projects. The MLTM's long-term vision and the comprehensive schemes (relevant details also available in the MLTM public announcement in December 2010 entitled the "long-term development planning for the marine industry") encompass a wide range of the marine industry-related aspects, from the transportation to the marine plant services. Notably as regards the marine plant services, the MLTM said that they planned to foster the marine plant services in order to stimulate the growth of the shipbuilding industry. **In November 2013, the Ministry of Trade, Industry and Energy (MoTIE) announced a scheme of investment invest by 2017 reaching 900 billion KRW in the development of offshore plant industry. This mid-term plan aimed at creating more than 10,000 jobs and retaining Korea's status as world's No. 1 powerhouse in the shipbuilding and maritime industry. Notably, the Ministry explicitly indicated in the press statement (Nov/13/2013) that in connection with this planning, the use of home-produced equipment would be further strategically promoted through various policy means (e.g. technological development, establishment of direct linkage with shipbuilders, use of performance/track records based on the tendering of state-owned enterprises, attraction of FDIs). In August 2014, the MoTIE affirmed its commitment to promoting the use of core-equipment domestically produced and to ship-financing in cooperation with the Export-Import Bank of Korea (KEXIM) and the Korea Trade Insurance**

**Corporation (K-SURE), so that Korean yards would not have difficulty in winning new orders.**

- Automobile Industry: Most noteworthy was the current government's high commitment to offering full support to help Korean firms secure about 10 % of the global electric car market by 2015, since October 2009. The MKE targeted mass production of electric cars from 2011 instead of 2013 set earlier, by allocating KRW 400 billion (341 million dollars) between October 2009 and 2014 to support the development of high-performance batteries and other related systems. According to another public source, the MKE also planned to invest jointly with the private sector KRW 1.4 trillion in total for the battery plants for electric cars, so that Korea becomes the world's largest electric car manufacturing country, accounting for 40% of the world's total production in the long term. The government said it would help local carmakers produce 1.4 million electric cars and export 1 million units by 2015, and produce up to one million electric cars by 2020. On the back of full support from the government, within a year, Hyundai displayed Korea's first electric car, the BlueOn. On 10 September 2010, Hyundai Motors, controlling more than 70% of the local auto market and also the world's 5th largest automaker (in terms of sales), promoted the first viewing of the car, the nation's first full-speed car. According to the local press, KRW 40 billion (approximately USD 35 million) was invested in the development of BlueOn over a one year period. Out of KRW 9.4 billion allocated for the R&D investment in the electric car production in 2010, the Korean government reportedly invested KRW 8.5 billion (90%) in automotive car parts producers (mostly small and medium-sized enterprises) engaged in the development of electric vehicle parts for BlueOn. According to the MKE press release dated 11 August, 2011, the Ministry started to embark upon the development of mid-sized electric vehicles from August 2011, as a follow-up to the announcement of the "MKE Green Car Industry Strategy" in December 2010. The MKE unveiled the scheme for investing KRW 70 billion in establishing the electric vehicle production system earlier than initially planned, in order to get ahead in the global market competition.
- Support for SMEs: In November 2009, within the framework of the robust support plan for SMEs, the government announced a plan to develop and support 300 SMEs with high growth potential known as the 'hidden champions' into competitive global players by 2020. In July 2010, the Small and Medium Enterprises Administration (SMEA) designated 81 export-oriented SMEs as beneficiaries of the programme entitled "Promoting Globally Competitive Small Enterprises". Under this programme, those selected SMEs are to receive intensive supports entailing R&D, export financing and marketing overseas, with an aim of making them "global power-SMEs" with exports worth more than USD 50 million. In July 2010, the SMEA announced support measures for "green SMEs". In recognition of the significance of SMEs' role in green-growth industry sectors, the SMEA decided to support "green SMEs" specialised in core green parts/components and materials in various aspects, with the aim of nurturing up to 1000 "green SMEs" by 2013. The SMEA plans to expand the scale of policy fund and banking guarantee, and also to increase an investment fund in the area of green growth from KRW 105 billion in 2009 to KRW 1.1 trillion in 2013. In addition, the SMEA planned to select 200 green technologies developed by SMEs every three years and provide financial support in view of R&D. In August 2010, the MKE announced "Measures to Promote Green Certification", pursuant to Article 32 of the "Low-Carbon, Green-Growth Framework Act (effective from 14 April 2010)". This was mainly in order to specify the scope of products and technologies, etc. to benefit from various support measures. Such measures included financial support for green-certified companies, on a mid- and long-term basis. More specifically, it entails: extending loans for the purpose of disseminating new renewable

energy; providing linkage to SME policy fund; intensive support for technology guarantee; support for export financing and insurance. In February 2011, the MKE said in its press release that it would reimburse 50% of the quality inspection and product certification fees (up to KRW 1 million) for green-certified SMEs. This was in order to reduce alleviate cost burdens incurred in the process of SMEs' obtaining the green certification. The MKE expected about 300 local SMEs to be certified as green and to benefit from this government's financial assistance programme in 2011.

- R&D support for pharmaceutical industry: In 2009, the government identified biopharmaceutical and medical equipment as one of the future engine for economic growth. As a follow-up to the 2009 comprehensive plan for new growth engine, the government announced a series of sector-specific plans on creating or expanding funds in the short and the mid-term. For biopharmaceuticals, the government released "Measures on Strengthening of Competitiveness of Pharmaceutical" on 5/Feb/2010, saying that it would plan to create new drug R&D funds worth KRW 2 trillion within 5 years. In June 2010, a joint announcement was made by the Ministry of Education, Science and Technology, Ministry of Knowledge Economy and Ministry of Health and Welfare to invest 600 billion won in the 'Global New Drug Development Project'. In November 2010, the MKE announced its policy scheme, entitled "Industrialisation Strategy for Global Exports of Biosimilars". The MKE planned to invest KRW 6.5 billion until 2014 in the pilot project to establish infrastructure for clinical testing and drug production, ultimately enhancing the global competitiveness of Korea's biosimilars and promoting their exports. Equally on the back of substantial investments worth KRW 6.5 billion until 2014 by the Korea Bio Industry Association, et al., the MKE expected to produce biosimilars USD 20 billion (22% of the world's market share) after 2020, with the exports worth USD 10 billion and the employment of 120000 people. On March 30 2011, the Special Act on Fostering and Supporting Pharmaceutical Industry was enacted and would become effective on March 31, 2012. The Ministry of Health and Welfare in charge announced that new legislation aimed to establish a solid basis for the development of the pharmaceutical industry on the back of systemic R&D promotion and support measures, innovation-enhancing scheme, and strengthening of international cooperation. According to the MoHW press release dated 6/Jan/2012, the Ministry announced a "comprehensive scheme for enhancing the competitiveness of pharmaceutical industry 2012". As part of its planning, the MoHW said, "The Ministry will select "innovative pharmaceutical companies" which are competent to perform R&D." The Ministry will also pursue 4 key tasks, as regards drug pricing, tax, financing and R&D, and improve the infrastructure. In particular with respect to tax, the Ministry clearly indicated, "In order to expand the corporate R&D and the facility investment, the scope of tax reductions will be widened or adjusted." The Ministry is supposed to review together with the tax authorities measures to relax some specific conditions for obtaining preferential (tax) treatments given to the company, in case of the corporate M&A.
- Semiconductors Industry: On 9 September 2010, the MKE announced its scheme for providing financial support (up to KRW 1.7 trillion, including investments from private sector) for R&D of the domestic semiconductors industry. This is specifically in order to develop the nation's "core system semiconductors and equipment" into the competitive export item in the global market by 2015. The scheme includes fund-raising up to KRW 150 billion involving the government and the semiconductor companies. In September 2011, the MKE, in cooperation with Samsung Electronics and Hynix Semiconductor, created a 1.35 trillion won Semiconductor Fund. In March 2012, the MKE announced its planning to "actively support the semiconductors industry" in 2012, by providing financial support worth KRW 1.15 trillion for: R&D investment; human resources development; assessment of SME product

function and support for their exportation. The MKE scheme also entailed the support for the Semiconductor Fund, and for the establishment of semiconductors industrial clusters.

- **Steel Industry:** On June 10, 2011, the MKE announced its "strategies for upgrading steel industry" to overcome its weakness in high-end products manufacturing. As part of its broad range of measures, the MKE would select 30 steel products based on its consideration to their respective industrial impacts which will be gradually subject to the nation's intensive care and fostering planning for the purpose of quality upgrading. In addition, the MKE would provide financial support worth KRW 100 billion in total until 2019, with the aim of manufacturing of the world's best eco-friendly smart steel plates under the "World Premier Materials" project. Particularly in order to achieve a "Green-Steel Industry" in Korea, the MKE would provide KRW 150 billion, accounting for 54% of the total R&D costs, possibly from 2012 for 8 years, to develop CO<sub>2</sub>-free technologies for steels.
- *In March, 2012, the MKE announced its financial scheme support of KRW 1.821 trillion for the implementation for the "2012 Energy R&D Plans" which include mid- and the long-term projects relating to: nuclear power safety-related technologies; electric power supply and management technologies; new renewable energy technologies.*

#### **Taiwan:**

- In December 2011 Taiwan announced a number of initiatives for its DRAM, LED and solar industries:
  - Financial support: the Bankers Association, an industry organisation established by law, following the request from Financial Supervisory Commission (FSC), passed a proposal on 9 December 2011 with three measures: (1) Extending loan periods: firms are allowed to receive payment extensions after securing approval from banks that account for two-thirds of their credit. The relaxed loan extension rule will remain in effect until June 2012. (2) Stock borrowing: companies, which used their stock as collateral for loans, are entitled to negotiate their credit or agreements when the prices of stocks are falling. (3) Extending mortgage period: due to lay-off or the closure of companies, non-voluntary unemployed labours are entitled to apply for extending mortgage period. Following this the more than 6 billion USD debt for a major Taiwanese ICT company was rolled over at lower than expected interest rate.
  - On 6 December 2011, MOEA announced that it would inject US\$5 million into a joint project, with a total investment of USD15 million, between Intel and the Industrial Technology Research Institute (ITRI, a government institute) to develop next-generation DRAM technologies. The project would enable Taiwanese PC DRAM chipmakers to produce more value-added chips utilizing existing technologies and would not require a major investment in new equipment.
  - LED industries: on 14 December 2011 Industrial Development Bureau of the Ministry of Economic Affairs announced its intention to help domestic LED industries in R&D by investing more than NT\$2.5 billions (USD 83 million) and creating more than 500 job opportunities.
  - Solar industries: on 13 December 2011, MOEA announced its intention to assist the Taiwanese solar industry in participating international bids by setting up solar

factories abroad. The potential places might be located in Middle East, Eastern Europe and Southeast Asia. Taiwanese companies have expressed their interest.

- On 27 December 2011 the Bureau of Energy of the Ministry of Economic Affairs of Taiwan published a subsidy scheme for consumer purchasing certain Made in Taiwan energy saving household appliances in the period 1 January-31 March 2012 (of 2000NTD (about 50EUR) subsidy per purchase). Concerns regarding this measure had been raised in the WTO by EU and other members. As a result, a similar second subsidy scheme for energy efficient household appliances has not been limited to "Made in Taiwan" products.

#### Turkey:

- In June 2012 a new incentive package was adopted, which superseded the 2009 package. This new package sought novelties in addition to the former one. It entered into force retroactively, beginning from January 2012. It increased the regional categories from four to six zones, according to provincial socio-development index (instead of NUTS-II classification used by its predecessor). It also introduces the new category of "strategic investments" in addition to existing schemes (general, large and regional investments), as well as new instruments, "VAT refunds, support for employees' social security premium contributions (in Region VI) and support for personal income tax (in Region VI)". Furthermore, the package supports investments in organised industrial zones (OIZs) with additional incentives to encourage clustering and technology creation. While large investments remain to be supported for the same sectors favoured as before (including automotive, chemicals, transit pipelines, electronics, and pharmaceuticals), incentives for "strategic investments" are clearly designed to reduce current account deficit, by employing an import substitution policy. This new package, together with the free zones regime (see below), remains one of several schemes in need of alignment with EU and Customs Union rules.
- **In the reference period of June 2013- July 2014, the cabinet adopted a decree modifying the cabinet decree on the 2012 investment incentives package. The new decree extends interest rate support for strategic investments to applications made until 31 December 2014 (previously the date was 31 December 2013). It extends the duration of support to employer insurance premiums as follows: investments having started until 31 December 2014 receive support for the duration previously provided for investments having started until 31 December 2013. Investments having started after 1 January 2015 will now receive support for the duration previously provided for investments having started after 1 January 2014. The scheme is extended to provide higher incentives for early investments, initially defined as investments starting before 31 December 2013, to investments starting before 31 December 2014. The new decree also amends article 17 of the 2012 cabinet decree, on priority sectors enjoying Region V level of incentives, even if they are located in Regions II, III or IV. It also adds some items to the same list, including investments in liquefied natural gas and in underground natural gas storage, where they amount to minimum TL 50 mln.**
- While free trade zones remain to be aligned, a government decision encourages investment, from early June 2011, in organised industrial zones (OIZs) by subsidising the allocation of land based on rates varying between 50 and 100%, depending on the type of region concerned. The system comprises four regions, categorised according to their level of socio-economic development. Over 250 OIZs are benefiting.

- Decree-law no. 663, from November 2011, created a Directorate General for Health investments within the Ministry of Health. The DG's duties include support foreign and local investment for developing and producing high-tech medical devices, products and services (article 13 f). Financial and other aid to the local industry is explicitly provided for, including measures to support local R&D, to develop the local industry's technological infrastructure, and to ensure the transfer of technology from abroad (article 50).
- The government adopted a decision in October 2012, which removed the cap placed on State support to social security premium contributions for investments made in region VI under the regional and large investment schemes of the 2012 incentives package. The initial decision provided for caps of respectively 50 and 15%. These caps have now been removed, while caps for regions I-V remained unchanged. As regards strategic investments made in region VI, premium support will no longer be limited to a given percentage of the amount of fixed investment (the limit is 15% for regions I-V).
- A decree from 15 February 2013, modifying the 2012 decree on incentives, includes in the category of "priority investments" in the motor vehicles sector, as well as investments in electricity production based on anthracite/hard coal and lignite (the latter with a view to reducing Turkey's dependency on natural gas). Irrespective of the region where they are made, priority investments will benefit from levels of support normally given to investments made in the 5th region.
- A government decision published on 30 May 2013, amending the 2012 incentives package, removed item B.6, i.e. "Investments for coal extraction (excluding types "lower C" types of coal)", from the list of investments that cannot be incentivised (Annex 4, I. to the cabinet decision of 15 June 2012). The new measure makes it possible to support investments in the production of high-caloric coal.
- The Money-Credit and Coordination Board issued two communiqués on 25 June, both based on Cabinet decree 94/6401 from 27/12/1994 on State aid to: exports of goods and services to selected foreign markets in the construction sector (providing that certain expenses incurred in the country and abroad by contracting firms and technical consultancy firms will be covered by the Support and Price Stability Fund (DFİF), and to certain services generating foreign exchange earnings, i.e. education, health tourism, information technologies, and cinema (to increase the revenue from such services, and to increase their international competitiveness, it provides for DFİF to support part of the expenses relating to expense items such as market penetration, promotion and establishment abroad, certification, commercial and purchase-related delegation, and consultancy).
- **Cabinet decree no. 2014/6217 published on 19 April 2014 (Official Gazette no. 28977), made the Treasury become the guarantor of private companies carrying out build-operate-transfer projects. Under article 4(2) of the decree, the Treasury will take over the entire debt of these firms in case of dissolution due to events not arising from their negligence, and 85% of it in case of dissolution due to their negligence.**
- **The Ministry of Science, Industry and Technology published on 29 April 2014 a regulation on support to investments relating to technological products (Official Gazette no. 28986). This regulation lays down the principles and procedures applicable to the support to investments in products made by physical and legal persons established in Turkey. The support would target investments, among others, in technological products resulting from industry-related projects having already benefited from public support.**

**Ukraine:**

- A Programme to Develop Domestic Production was adopted by the Cabinet of Ministers resolution n° 1130 on 12 September 2011 announcing 159 industry-related projects. The Programme increases the role of the State in the process of reform and economic diversification. Main actions include: create joint companies of producers of agriculture machinery in the Ukraine, introduce preferential regimes of production with simultaneous increase of tax and customs tariffs for imports; implementation of effective customs duties to protect domestic producers of light industrial goods; use of TBT and SPS measures, certification, licensing, quota and standards to protect national producers on domestic markets.

**United States:**

- On 30 March 2010, President Obama signed into law the Health Care and Education Reconciliation Act of 2010 that closed the supposed tax loophole for black liquor provided in the CBPC. It was planned to enlarge the scope of the US fuel tax credit, which related to a tax credit designed to promote the use of alternative fuels, expanded in 2007 by the US Congress. US \$0.50 a gallon were supposed to be offered to firms that blend renewable fuels, such as ethanol, with traditional fossil fuels, such as diesel. By mixing a small amount of taxable fuel (diesel) into the 'black liquor', US companies that produce pulp through the kraft chemical process would qualify for funding. Payment of those subsidies started in March 2009. From a Memo No. AM2010-002 from the U.S. Internal Revenue Service (IRS), it emerged that black liquor producers could qualify for a higher tax credit by registering as cellulosic biofuel producer and get USD1.01/gallon for the volumes of black liquor produced in 2009. The companies could retroactively claim this USD1.01/gallon biofuel tax credit instead of the USD0.50/gallon credit for alternative fuel mixtures. Current legislation in force, Tax Relief, Unemployment Insurance Reauthorisation, and Job Creation Act of 2010 (H.R. 4853) renewed the Alternative Fuel Mixture Credit yet effectively removed black liquor fuel as an eligible fuel. During negotiations for a multiyear US transportation bill, an attempt was made in the Senate to eliminate the "black liquor" tax credit through an amendment to the legislation as a cost savings measure, but the proposal and the legislation failed to pass the Senate. (Phased out. Retroactive payments are no longer due).
- **On 9 November 2013, Washington State adopted new legislation extending the state's aerospace tax incentives through 2040. If implemented, these incentives that are estimated at UDS 8.7 billion will be the largest targeted state tax incentive for the civil aerospace industry in the history of the United States.**

## V.2. Other measures, non-classifiable

### Canada:

- Canada has initiated a number of programmes recently designed to lessen competition from imported products and thereby addressing potential challenges to Canada's dairy supply management system. These include:
- 'The ice cream initiative', in which Canadian dairy producers instituted in 2009 a CDN 13\$ million/year programme to encourage Canadian dairy processors to use 100% Canadian dairy products in the manufacture of ice cream, instead of imported products, including imported butter-oil blends. The programme will give dairy processors a rebate on their cost of buying Canadian milk products.
- A new special class of milk pricing (class 4m), which grants Canadian processors raw milk at subsidized prices well below international market levels for the processing of milk protein concentrates designed specifically for use in the manufacturing of cheese, thereby encouraging processors to use domestic product over imports.
- **A new special foodstuff class (class 3(d)) for "shredded or diced mozzarella in bags of 2.27 kilograms or more to be used by restaurant operators only on fresh pizzas" becomes effective on 1 June 2013. This new special class translates into an incentive (subsidy) of about CDN \$25 million/year to Canadian restaurant operators making fresh pizzas and is intended to address primarily imports of frozen pizzas and fresh pizza kits from the US.**

### China

- **Competition enforcement (Anti-Monopoly Law) is relatively new in China (6 years) but its application has accelerated in an untransparent manner over the reporting period (June 2013 – July 2014). The perception of a focus on foreign companies, allegations of insufficient objectivity in investigations and of the introduction into proceedings of issues extraneous to genuine competition considerations have emerged. This has a serious potential of affecting investment and business activity of foreign companies.**
- **The foreign business community in China continues to be concerned about laws on state and commercial secrets. While foreign companies seek to ensure that they fully comply with Chinese laws in all their activities, the 2014 version of the Implementing Regulations the Protection of State Secrets has been disconcerting to foreign investors as no clear scope thereof has been determined. The law features a lack of sufficient legal certainty to determine that companies comply with such regulations. Serious concerns have also emerged that trials relating to state secrets are not conducted impartially in open courts.**

### Indonesia:

- Ministry of Trade Decree 19/2009 requires electronics and telecommunications producers to have six service centres in Indonesia. Utilization manual and warranty cards are required to be in Indonesian language. The decree was in force since 26 August 2009.
- *Draft Law on prohibition of production, sales, purchasing and distribution of alcohol was submitted before the Parliament for adoption.*

### Japan:

- The Ministry of Agriculture (MAFF) set up a campaign 'Food Action Nippon' in October 2008 to promote domestic agricultural products, raise the Japanese food self sufficiency and address concerns on the safety of imported products. MAFF launched the nationwide campaign through various media tools by using celebrities and famous athletes. Originally the target was set at reaching 45% by 2015, but after the Great East Japan Earthquake, the target was amended to reach 50% by 2020.
- In December 2011, the GoJ set out the "Programme for Promoting Japan as an Asian Business Centre and Direct Investment into Japan". This programme was formulated on the basis of the "New Growth Strategy" (June 2010) and the "Strategies to Revitalize Japan" (August 2011). The Programme sets out the following three targets towards 2020: i) to promote the establishment of high value-added sites in Japan (e.g. Asian Regional Headquarters and R&D facilities); ii) to double the number of employees of foreign enterprises and iii) to double the volume of direct investment into Japan. In connection to this programme the Asia Business Location Bill was introduced in November 2012. Specifically, the support measures provided to qualified companies (setting up regional headquarters and/or R&D operations) are: 20% income deduction for 5 years (i.e. 7% point effective tax rate cut); same treatment as Japanese enterprises for taxation on stock option benefits granted by parent companies; reduced patent fees (for SMEs) and accelerated applications for patents from approximately 22 months to two months.
- In 2010, METI introduced the subsidy "Program for Projects Promoting Foreign Direct Investment, Site Location and Regional Development in Japan" (Project of site location for global companies) to promote FDI into Japan by supporting the establishment of new high-value-added facilities in Japan by global companies, such as Regional Headquarters or R&D sites. In FY2013 the subsidy programme has been broadened to cover also survey design costs, facility costs, equipment costs and facility rental fees. The subsidy ranges from 1/3 (non-SMEs) to 1/2 (SMEs) of related costs and is capped at JPY 0.5bn. Up to FY 2013, out of 23 projects subsidised, 12 were of EU companies. (Renamed from the "Programme for Promoting Japan as an Asian Business Centre and Direct Investment into Japan").
- *The Government seeks to encourage businesses and municipalities to introduce ultra-compact cars, a new type of vehicle (expected to be approved for road use in autumn 2013) by covering half of the purchase price with subsidies. The subsidy programme starting in 2013 will target 100 projects (e.g. in tourism, healthcare sector, etc.). The ultra-compact cars will be marketed at a price between JPY 0.5mln to 1mn, and the programme is calculated to be enough to subsidise the purchase of some 3,000 cars.*
- In the supplementary budget for 2012, JPY 41bn has been set aside for the Wood-Use Points Programme. Forestry Agency of MAFF started implementation of the programme on 1 April 2013. This programme is to provide points for use of wood which called "Chiiki-zai" (literal translation: "local wood"). The term appears to benefit domestic producers. The programme

also designates pre-approved wood species as subject to the scheme and latter are Japanese wood species, not including European species. **As additional amount of 15 bln JPY was approved for an extension of the programme from 31 March 2014 to 30 September 2014.**

- In February 2013, the Japan Bank for International Cooperation (JBIC) launched a new loan program for foreign firms that buy infrastructure-related products made by the overseas subsidiaries of Japanese companies. Under the new lending scheme, the JBIC will finance efforts by foreign companies to source products such as electronics, construction machinery and other goods needed for infrastructure projects, all made by the overseas units of Japanese firms.
- **According to the "Japan Revitalization Strategy" the government will, among others, implement: "Hometown specialty support" led by regional small and medium-sized enterprises and nurturing strategic industries led by regional medium-sized enterprises composed of (1) the development and commercialization of "hometown specialties" using regional resources including tourism resources and agriculture-forestry-fishery goods will be promoted with consideration given to the viewpoint of consumers; (2) industrial, academic, government and financial sectors will cooperate to support research and development, commercialization, sales channel development and overseas expansion to nurture regional strategic industries. Also, on the basis of this Strategy (Cabinet decision on 14 June 2014), the Shoko Chukin Bank established the "Global Niche Top Support Financing Scheme" on 1 April 2014 to support overseas development of SMEs. Yen 13.5 billion is budgeted for FY 2014.**

#### Mexico:

- 'Made in Mexico' campaign: In February 2009, the Mexican Ministry of Economy launched a made in Mexico campaign, in an effort to promote Mexican exports and increase internal consumption of Mexican-made products. The Ministry designed a specific logo and published a list of requirements to be met for the logo to appear on the product. The new Government which took office in December 2012 has maintained these measures.

#### Vietnam:

- The Law on Royalties (which was ratified on 25 November 2009 and entered into force on 1 July 2010), the National Assembly's Resolution numbered 928/2010/UBTVQH12 (which was approved on 19 April 2010 and entered into force on 1 July 2010) and the government's decree numbered 50/2010/ND-CP of 14 May 2010 guiding the implementation of the Law on Royalties (which was announced on 14 May 2010 and entered into force on 1 July 2010) make substantial amendments to legal provisions on royalties. Accordingly, metallic and non-metallic minerals, crude oil, coal and natural gas, products of natural forests, natural aquatic products, surface and underground water are all royalty taxable with effective royalty rates. There are following major amendments: (i) First, the Law on Royalties numbered 45/2009/QH12 of 25 November 2009 allows a much higher range of royalty rates, based on which the government shall fix practical royalties applicable for certain period of time. This range of royalty rates is on average three times higher than the previous rates depending on different types of natural resources (e.g. range of royalty rates for: gold increased to 9-25% from the previous 2-6%; iron & manganese rose to 7-20% from 1-5%; crude oil increased to 6-40% from the previous 6-25%; natural mineral water increased to 8-10% from 0-5% etc). (ii) Second, the government sets higher royalty rates on practical application ( e.g. royalty rate

for: gold increased to 15% from the previous 6%; iron & manganese rose to 11% from the previous 5%; exploitation of more than 150,000 barrels of oil per day is charged with 29% instead of the previous 25%). Third, the government, under its Decree numbered 50, applied a new method for calculation of taxable price, i.e. the currently applicable taxable price is the selling price of a product unit of the natural resource by the entity exploiting it, excluding value added tax. In particular, the Decree 50 provides that the taxable price for exported natural resources is the export price (Free-on-board price) while, under the previous legislation, royalties were calculated based on the reference to the price paid at the place of exploitation. This currently applied calculation method make actual royalties higher because all costs including those for transport, concentrating, refining and insurance are subject to royalty tax.

## VI. MEASURES ROLLED BACK

### Algeria:

- The note 16/DGC/2009 of the Bank of Algeria, dated 16 February 2009, introduced a requirement to supply certification documents with each delivery of goods to Algeria. The certification requirement concerns quality control and control of origin of the goods, as well as phytosanitary safety. This measure was annulled through a note of 24 March 2011.

### Argentina:

- Decree 1192/2010 of 28 September 2010, adopting MERCOSUR Decision 25/2009 which temporarily increased import taxes on dairy products up to 28%, until 31 December 2011. As from that date, the applicable import tax for the concerned tariff lines is 16% (CC 0402.10, 0402.21, 0402.29, 0402.99, 0404.10, 0406.10 and 0406.90).
- Resolution 1243/2011 introduced an export tax of 1% applied to a set of fish products (0304.19.19, 0304.19.90, 0304.29.10, 0304.99.00, 0305.49.90, 1604.19.00, 1604.20.90, 1605.90.00.) which is a decrease from 10% to 2.5% and 1%.
- Decree 751/2012-PEN adopted on May 16<sup>th</sup> 2012 revoked fiscal and customs benefits which had been established for production and exports of oil and gas by Law 19640 back in 1972.
- On September 9<sup>th</sup> 2012, Argentina abolished the automatic licenses ('LAPIs') required for imports of 285 tariff lines through Resolution 505/2012 issued by the Ministry of Economy and Public Finance (MEPF).
- The temporary increase in import tariffs for certain toys allowed by MERCOSUR Decision N° 37/11 and by transposing Argentine Decree 2149/2012 ceased end of December 2012.
- General Resolution 3448 of March 5<sup>th</sup> 2013 repealed reference values for exports of sheep skins (HS 4102.10 and 4102.29).
- The Non-Automatic Import Licenses regime was repealed by Resolution 11 issued by the MEFP on January 24<sup>th</sup>, 2013. This measure annulled 19 Resolutions - adopted between 1999 and 2011 - which covered 584 positions at 8-digit level, including paper, household appliances, toys, footwear, footwear parts, motorcycles, tyres, balls, textile products, yarns, fabrics, automobiles, auto-parts, screws, metallurgical products and other manufactured products (for a list of annulled Resolutions please refer to previous reports). The effective impact of the measure is however limited since the DJAI system (prior sworn importer declaration) remains in place for all import operations in the country.
- **On 28 April 2014, the Congress passed Law 26,932 which ratified the compensation agreement between the Argentine Ministry of Economy and the Spanish company Repsol regarding the expropriation of 51% of shares in YPF S.A.**

### Belarus:

- The Decree 320 of 18 June 2009 'On temporary increase of import tariffs' enacted a temporary (9 month) increase of import tariffs on imported trucks (including tractors) to 25% for the new items and 50% for used items. The Government also eliminated temporary import tariffs on new, environmentally friendly trucks. (The Decree defined obligatory threshold levels of CO<sub>2</sub>, hydrocarbon and nitric oxide to that purpose.) The Decree stated as its objectives the protection of domestic producers and widening of the range of transport modes that comply with European safety and quality standards. Tractors and trucks traditionally belong to the two top Belarusian export products, accounting for 10% of all exports (coming second to petroleum, which accounts for 32%). The measure is no longer in place.
- On 21 April 2009, with a presidential edict No. 214 Belarus raised import duties on a wide range of consumer goods: for 9 months, 40% duty on imported meat and 30% duty on imported grape wines; 25% duty on butter, fats, starch and ice cream; 30 % duty on textiles (not applicable for goods imported from the EU-Member States, Turkey, Switzerland and Lichtenstein). The edict raised the import duty on some home appliances from 25 to 40 %. Wood products were also affected by import duties raised to 25-30%. For a period of 6 months, the edict imposed a 180 % import duty on vegetables (potatoes, onions, carrots, cabbages and beets). The measure is no longer in force.

#### **Brazil:**

- According to CAMEX Resolution 20/2013 in connection with the Resolution 70/2012 the tariff line 2905 31 – ethylene glycol was excluded from the list of temporary tariff increases (based on MERCOSUR decision 29/11 CMC) and attracts again a 12% duty.
- **On 3 July 2014 Brazil excluded from the list of exceptions to the Mercosur Common External Tariffs the following tariff lines, which resulted in the decrease of import duties: from 55% to 35% for peaches (code 2008.70.90); from 35% to 16% for bicycle tires (code 4011.50.00); from 12% to 6% for banknote paper (code 4802.57.91); from 35% to 12% for porcelain (code 6907.90.00).**

#### **Canada:**

- On 29 January 2009 the Government of Canada announced that it would provide next CAD175 million “on a cash basis” to the Canadian Coast Guard for the purchase of new vessels and improvements to existing vessels. The allocated funds are included as part of Budget 2009’s provisions for infrastructure renewal. Although the Government had yet to award the contracts when the Budget was announced, it clearly stated that “work will be conducted in Canada, and where possible, by shipyards located within the regions of the vessels’ home-ports”. The Budget foresees acquisition of 60 small craft, 30 environmental response vessels, five life boats and three inshore fisheries scientific research craft. The measure has been implemented and not repeated.
- Canadian government announced initiatives that could possibly introduce subsidies to various industries. For the automotive industry there is an offer of short-term repayable loans to the industry; creation of a \$12 billion credit facility to support vehicle and equipment financing; \$170 million over two years to support innovation and marketing for the forestry sector; \$500 million over five years to facilitate new agricultural initiatives; \$50 million over three years to strengthen slaughterhouse capacity; as well as measures to enhance the resources and scope of action available to Export Development Canada (EDC). GM has repaid in 2012 the loan

portion of its support to the governments of Canada and Ontario in full, with interest and ahead of schedule. The federal and Ontario governments have also reduced their share in the company from 11.7 per cent to nine per cent. Chrysler continued in 2012 to work toward repaying its loans.

#### China:

- *EU delegation was informed on 12 April that the NDRC had postponed sine die a draft on "Provisional measures for the administration of implantable medical consumables price, NDRC, Exposure draft, August 2011". This draft was being discussed with industry representatives, including the EU industry. The system proposed is a mark-up on CIF import prices (for importing companies) or ex factory prices (for goods produced in China). This draft imposes a price control system by limiting companies' mark up at 60% (of the CIF price or ex-factory price) with a maximum amount of RMB 6,000. The measure is due to enter into force on 1 July 2012. Most EU medical devices exported to China are still produced in the EU. The EU industry claims that the measure is discriminatory for them vis-à-vis domestic producers as CIF import prices do not cover locally incurred Selling General and Administrative costs (SG&A).*
- *Reclassification of cosmetics: On 21 February 2012, the SFDA issued a call for comments by the industry on a draft Regulation concerning the "Classification of non-special cosmetics". The purpose of this draft regulation was to move imported non-special products from a pre-market registration to a notification regime, and also to reclassify a considerable number of product categories from 'non-special' to 'special' products which are subject to pre-market registration. At the moment there are only nine categories of cosmetics that are considered "special", but with the proposed reclassification, an additional 13 product categories would be added to the "special" cosmetics category. According to an initial assessment, 60-70 % of all non-special products could become special cosmetics under this proposal and thereby move to an increased registration procedure. The criteria used by the CFDA to define these new 'special cosmetics' are not transparent and result in product categorizations that are different to those applied internationally (e.g. lip and eye makeup products are nowhere else in the world considered as posing a safety risk that would justify a status of 'special' cosmetic. During the meeting between European Commission (DG SANCO) and SFDA regulators on 25 October 2012, SFDA informed the EU side that after extensive consultation of the industry and of trade partners, SFDA had decided to postpone its intended legislation on reclassification (WTO notification G/TBT/N/CHN/887). The issue will be linked to the revision of the CHMR (China Cosmetics basic regulation) which is planned for 2013-2014. The initial drafting will be done by SFDA and the adoption is the responsibility of the State Council. China has hinted that it might consider moving away from a pre-market approval system to a notification regime system (however the scope of the latter is unclear).*
- *The WTO Appellate Body issued a ruling of 30 January 2012, confirming that the export restrictions, duties and quotas, imposed by China on nine raw materials were in breach of its WTO obligations and could not be justified. The parties (the co-complainants: EU, US, Mexico and China) agreed on a reasonable time for implementation by China until 31 December 2012. A preliminary analysis shows that China seems to have complied with the WTO ruling. In December 2012, China has issued measures which have lifted the export duties and export quotas subject to the WTO ruling. The actual impact of compliance measures, namely, if this "legal" compliance has been followed by a "factual" impact on export figures, will be monitored. An export licensing requirement is now effective on some*

products previously subject to an export quota and the EU will be examining whether this continues to be an obstacle for exports.

- **On 12 December 2013 China enacted a measure which annuls the negative effects of previous measures on VAT imposed on the logistic industry. The freight forwarders, unlike before, were not allowed to deduct certain cost items, such as international transportation freight from their tax base, and were required to apply 6% VAT and a 0,8% additional local surcharges on gross proceeds including freight costs, from their clients in China, which could constitute a loss for foreign companies of up to 4 Mio € per week (companies estimates).**

#### **Ecuador:**

- The trade-restrictive measures taken due to balance of payments considerations were removed by 23 July 2010, as confirmed to the WTO Balance of Payments Committee. On 22 January 2009, Ecuador adopted import measures from additional tariffs to quotas affecting a large number of products, including cosmetics, perfumes, alcoholic beverages, plastic articles, electrical products, ceramics and car parts. The Balance of Payment Committee at the WTO adopted a consensus report on 4 June 2009 and Ecuador agreed to replace most of the quantitative restrictions for price-based measures no later than 1 September 2009, to progressively modify the level and scope of the measures as Ecuador's balance of payments (BoP) situation improves, and to remove all trade measures for BoP purposes before 22 January 2010. Ecuador complied partially with the Committee's conclusions and quantitative restrictions have been replaced with ad-valorem duties. However, just before the measures should have expired, Ecuador extended the period for another 6 months and notified the WTO thereof, although Ecuador's BoP situation has improved due to higher oil prices. Some WTO members classed this as a new request, and initiated a specific meeting regarding the prolongation of the measures on 22 and 23 March 2010. In result, Ecuador resisted against formal consultations or starting a new procedure. Ecuador informed the WTO that the additional import duties were reduced by 10% on 23 January 2010 and that they would be further reduced by 30% every 2 months until 23 July 2010.

#### **Egypt:**

- In February 2009 a 10% import duty was imposed on cold rolled flat tin sheets of steel, on top of existing duties, to stabilise the local market price. This preventive measure applied for one year. The measure was suspended in April 2009.
- In March 2008 a ban on exports of cement (and clinkers) and steel was introduced. In 15 July 2009 it was extended until October 2010. The ban is no longer in force.
- The government announced a fiscal package aimed at addressing the impact of the global crisis on the domestic economy (1 December 2008 and disbursed essentially during the first half of 2009). The EG Government has announced a package of incentives of LE 15 Billion (€ 2 Billion) to support the manufacturing and export activities as well as stabilizing the prices of natural gas and electricity to all factories. This package includes other measures such as eliminating trade barriers, increasing tax exemptions (i.e. exempting car component imports from customs fees), and reviewing planned increase in the prices of energy. An initial LE 15 billions has been unblocked to tackle the global financial crisis. Around EGP10 billion will be spent on infrastructure in FY2008/09 (this will likely extend into the second half of 2009), while a further EGP5 billion will go on export subsidies (EGP3 billion) and the reduction of

investment-related tariffs (c. EGP2 billion). The Export Development Fund will also receive LE 3 billion of financial assistance. Several sectors will be affected by these decisions, automotive manufacturing, weaving and textile industry (i.e. committees to set benchmark prices for the imported ready-to-wear clothes, textiles and yarns, in order to protect the local industry), tourism sector, pharmaceuticals, etc.

- - LE 9.9 Bn for budget sector investments, of which the major bulk of 8.2 are in water and sewage projects and infrastructure (roads and bridges construction).
- - LE 0.6 Bn for improving railways and ports
- - LE 2.8 Bn for exports promotion, infrastructure development for internal trade and support to industrial zones.

The measure expired.

- In August 2009 import duties on sugar were abolished until December 2009. The measure aimed at lowering domestic prices for sugar. The exemption of import duties on sugar was extended until June 2010. In October 2010 import duties were revised and partly reintroduced. In January 2011 a specific duty (70 Euro per tonne) was added to the 10% duty on white sugar imports. In February 2012 Ministerial Decree 165/2012 exempted raw sugar from customs duties until December 2012.
- In October 2011 Egypt banned imports of cotton to ensure the selling of local production. The import ban was lifted officially in March 2012 (even if it remained effectively in place until March 2013.)
- In November 2011 Decrees 626 & 660 imposed a new compulsory pre-shipment inspection on imports of textiles, clothing, leather, footwear and bags to guarantee conformity with Egyptian standards. The measure was postponed and entered into force in June 2012. The Decrees were cancelled in December 2012 and replaced by Decree 961 (2012), which re-establishes to a large extent the previous, more favourable, import conditions (it has to be noted however that the system is now based on the establishment of a list of exporters who can export without pre-shipment inspection and, since the conditions of inclusion on this list remain vague, the system will be monitored).
- In March 2012 the Ministry of Tourism issued a decree (151/2012) banning the establishment of tourism companies of different categories for one year. The decree expired in March 2013 and was not renewed.
- In October 2012 Ministerial Decrees 767 & 796 lifted the export ban on rice (re-allowing the exportation of white rice subject to an export tax of 1000 EGP per tonne).
- In December 2012 Decree 949 re-allowed exports of white sugar, previously banned by Decree 1035 of 2010.
- **On 5 March 2014, the Egyptian Financial Supervisory Authority lifted the ban on brokerage companies and fund managers to trade shares listed abroad. The ban had aimed at limiting transfers of hard currency abroad. The new rules allow brokerages and fund managers in Egypt to trade foreign shares on behalf of non-resident foreign investors. Egyptian companies, however, remain banned from trading stocks that are not listed in Egypt on behalf of local investors or on their own account.**
- **President Abdel Fattah El-Sissi has issued a decree to amend the Mortgage Law, cancelling real estate registration taxes that were previously imposed on mortgage companies owned by foreign investors. Accordingly, these companies will be treated as companies owned by Egyptian shareholders.**

**India:**

- Import licensing: in January 2009, several products were brought back onto the “free” list of imports (including seamless tubes/pipes, parts and accessories of motor vehicles and carbon black – only the upmarket segment of the latter being liberalised). Hot rolled coils were moved back to 'free' list on 8 January 2010. This used to be placed under 'restricted' list since 21 November 2008. Through notification 08/2009-2014, India moved carbon black (2803 00 10) and other polyesters (5402 47 00) back to 'free' list. On 26 May 2010, after keeping radial tyres under the restricted category for nearly 18 months, India moved radial tyres back to "Free" category. Recently, through a notification dated 8 July 2010, India also moved articles of iron and steel (HS 7326 90 99) back to "Free" category.
- India decided on 26 January 2009 to ban the import of Chinese toys for six months, without indicating any official reason. Chinese toys account for half of India’s toy market. On 27 January 2010 India issued a notification on import policy for toys. Imports are free for all countries provided they fulfil the necessary conditions such as conformity to standards prescribed in ASTM F 963 or standards prescribed by ISO. Certificate of conformance from manufacturers that toys are tested by independent labs, which are accredited under ILAC, MRA and meet the specifications.
- On 9 April 2010, an export tax on raw cotton and cotton waste at Rs. 2500/tonne and 3% respectively, was introduced. It was revoked in April 2011.
- On 2 August 2011, the government lifted the export ban on cotton – including raw cotton, noting factors such as the availability of huge stocks and the fall in local prices. However, the conditions of registering export contracts with DGFT remain unchanged.
- On 18 February 2011, India prohibited exports of milk and cream, concentrated or containing added sugar or other sweetening matter including skimmed milk powder, whole milk powder, dairy whitener and infant milk foods (HS 0402). Also, on the same date, India extended the export prohibition of casein, caseinates, other casein derivatives and casein glues (HS 3501). On 22 November 2012, the India lifted the ban on exports of milk powder including whole milk powder, dairy whitener and infant milk foods (after also lifting the ban on exports of skimmed milk powder on 1 June 2012).
- On 4<sup>th</sup> February 2013, India exempted from any export restrictions with immediate effect ten processed and/or value added agricultural products (among others wheat or meslin flour, cereal flours, cereal groats, milk products, butter, and cheese).

**Indonesia:**

- Local content requirement and discrimination in maritime and shipping services has been removed to some extent. Pelindo (State-owned port operator) has withdrawn the circular letter which would have given a 5% discount on port services only to Indonesian flagged ships. Now also foreign-flagged ships receive the discount.
- On 31 August 2009, the Food and Drug Safety Agency of Indonesia (BPOM) adopted a 'Halal Regulation' (HK.00.05.1.23.3516) that regulates ('for consumer protection') the registration for drugs, traditional drugs, cosmetics, food supplements and food containing un-halal substances and/or alcohol. These need to receive a marketing license from BPOM before they can be sold to Indonesian consumers. The Decree listed non-permitted substances from a wide range of animals not approved by sariah law or not slaughtered in halal way. For some products (alcohol, emergency drugs) labelling is required, other products are simply banned from

Indonesian markets. A revision of this regulation took place and since 5 July 2010 a new Regulation on Information Disclosure of Origins of Certain Materials, Alcohol Substance and Expiration Date Deadline Mark/Label on Drugs, Traditional Medicine, Food Supplement and Food Products is in force. Halal inspections have been abandoned, while a label is required with declaration of certain materials made of pork, or having gone through a process which encounter certain materials made of pork, as well as alcohol and an expiry date. Halal declaration is voluntary. The measure no longer poses an obstacle to trade.

- Obligation for exporters of certain products (palm oil, minerals, also coal, coffee, cocoa and rubber) to obtain letters of credit from local banks for export transactions exceeding US\$ 1 million. In addition, exporters will be barred from receiving payment from foreign customers through overseas bank accounts. Companies with existing long-term contracts have been granted postponement until end of August 2009. For palm oil, minerals, and metals, full implementation began on 1 April 2009. However, companies with existing long-term contracts have been granted a postponement until 1 September. All coffee, cocoa and rubber exporters were exempted until 1 September 2009. Several commodities exporters have requested for additional delays to the requirement beginning on 1 September 2009. Ministry of Trade has commented that several exporters are likely to receive a delay. This obligation was cancelled in 2010 before it was effectively applied.
- A fiscal stimulus package was adopted in 2009 with measures aiming at improving the purchasing power, strengthening competitiveness and increasing job opportunities. The duty drawbacks for some industrial sectors have also been included. The stimulus package was discontinued in 2010.
- Regulation 45/2009 on import licenses entered into force on 1 January 2010. The new regimes introduced two different kinds of licenses: a general import license (API-U) for the import of products that are to be distributed to other parties; and a producer import license (API-I) for the import of products that are to be self-utilised and/or be used in a production process and that shall not be traded or transferred to other parties. This measure, though horizontal in kind, was likely to have a bigger impact on pharmaceutical companies. Decree 45/2009 was amended by Minister of Trade Regulation No. 39/2010, issued on 4 October 2010. With the introduction of Regulation No. 39/2010 of 4 October 2010, the Indonesian authorities changed their previous practice and allowed economic operators to import both finished goods for sale on the domestic market and raw materials for production, under the same legal entity. Decree 39 entered into force on 1 January 2011. Supreme Court issued Supreme Court Decision No. 19P/HUM/2011 dated 20 June 2011 which revokes Article 1 (3) and Article 2 (1) of MoT Regulation No. 39/2010. The articles stipulate that a manufacturer can import finished products to support the company's development. The Decision was issued based on the argument that MoT Regulation No. 39/2010 impairs local industry and opens wider opportunity to have overflow of import.

#### **Japan:**

- Some local governments (among them: Tokyo Metropolitan Government, Kanagawa Prefecture, Akita Prefecture) offered subsidies for purchases of cars. The car acquisition subsidy schemes were launched mostly in April 2009; Kanagawa Prefecture began providing subsidies in April 2009 (possibly up to 700,000 yen) to individuals buying electric vehicles.
- The subsidy scheme for purchasing eco-friendly cars which ran from December 2011 ended on the 31<sup>st</sup> of January 2013. The GoJ subsidized JPY100,000 for passenger cars meeting the required fuel efficiency standards and JPY70,000 for Kei-cars (engine size less than 660cc). The total budget of this scheme was JPY300bn billion.

**Kazakhstan:**

- Kazakh limitation of sugar imports to 54,423 tonnes, which was introduced on 12 August 2009, was terminated on 1 April 2010.
- The government of Kazakhstan has established a quota for the duty-free imports of cane sugar with no artificial flavours or colours in 2012. The regulation allows the import of 434,737 tons of raw cane sugar and entered into effect on 27 January 2012.

**Malaysia:**

- **As from December 2013 the 10-cut limitation under the Halal laws has been revoked. All parts of pork and pork products are authorised for imports; all registered importers can import pork and pork products on condition they have an import permit for the consignments; Importers no longer have to be member of any business association for being authorised to import pork and pork products. There is a list of approved importers of pork and pork products available at the "online permit application system" of Malaysia's Competent Authority; the quota system is no longer in force. However, imports can only amount to a "quantum": import permits are granted in function of storage capacity available at importer for food safety reasons. This system will still be subject to monitoring.**

**Mexico:**

- Early January 2009, President Felipe Calderon unveiled a 25-point economic plan to mitigate the impact of the US crisis on the ailing Mexican economy and preserve employment. This is the 5th counter-crisis plan that the President has announced since the effects of the crisis have become apparent, with exports' figures down 29%, investment down more than 10%, consumption off nearly 7%. This package in Mexico was provided in the form of utility rates discounts, tax breaks and spending programmes. In its efforts to strengthen domestic economy, the national government planned new investments in infrastructure development, housing, agriculture and diversification of exports. Mexico has since then, experienced a strong economic rebound based on strong export growth, in particular exports to the United States. The economy grew by 3,9% in 2011. After the change of Government on 1 December 2012, these stimulus measures no longer apply.
- On 6 July 2011, Mexico and the US signed an agreement to end the long-standing trade dispute over trucking. The three-year long Memorandum of Understanding will allow Mexican trucking companies, who have already completed the necessary paperwork, to send their trucks into the US, starting in August of this year. Following the approval of the first cross-border permit for a Mexican trucking company in October 2011, the Mexican Ministry of Economy lifted the retaliatory tariffs it had imposed on 99 US products (mainly agricultural) since 2009.

**Nigeria:**

- *The Nigerian Parliament is considering a Bill seeking to repeal the Export (Prohibition) Act n°7 of 1989. The act n°7 prohibits exports of beans, cassava tuber, maize, rice, yam tuber and their derivatives.*
- In line with circular of November 2010, import prohibition on cassava, toothpicks, furniture and textiles was removed with the exception of some locally produced items.

#### **Paraguay:**

- The increase of import tariffs on certain chemical products has been suspended in December 2009.
- On 27 March 2009 Paraguay temporarily raised applied tariffs of the Mercosur nomenclature (NCM) for certain chemical goods until 31 December 2009 (Decree No. 1.731/09). The justification for this measure is article 9 and 10 of the law no. 1095/84 to defend the local industry in specific cases. A 10% tariff (three tariff lines) and 15% tariff (for 16 tariff lines) are applicable. It seems that this measure has been taken directly against Argentina, as a response to a similar increase of tariffs in the chemical sector. After the expiration date, the measure was not renewed.

#### **Philippines**

- **The Philippines have been long applying an import ban on poultry and poultry products originating from countries where an outbreak of avian influenza was allegedly reported. On 6 January 2014, the Philippines authorities acknowledged this ban has been removed.**

#### **Russia:**

- Civil Aircraft Decree No. 379 of 30 April 2009 modified import customs duties on certain types of civil aircraft: it increased the duty to 20% for planes capable to carry more than 29, but less than 200 passengers, and reduced the duty to 0% for planes capable to carry less than 19 passengers. Decreased under the Customs Union's Single Customs Tariff to 0%.
- Decree No. 809 of 14 October 2009 extended for a period of 9 months the tariff on ferrous metals waste and scrap (extends measures of 7 November 2008 introduced by Decree No. 813). Under the Customs Union the duty rate was lowered to 0%.
- Decree No. 742 of 15 September 2009 establishes a temporary import duty of 5% for 9 months, on the following types of equipment: water boilers, internal combustion engines, air and vacuum pumps, etc. Previously all these types of equipment were imported on a duty-free basis (0%). The measure enters into force one month after official publication of the Decree. Under the Customs Union's Single Customs Tariff, the duty rate was restored to 0%.
- The Russian Government considered restoring the import duty of 5% on certain types of goods for medical purposes. Set at 0% under the Customs Union's Single Customs Tariff.
- An increase of tariff for pesticides to 20%, as reported before the establishment of the Customs Union, has not taken place.
- An increase of tariffs for tyres for trucks to 25%, as reported before the establishment of the Customs Union, has not taken place.

- An increase of import tariffs for tyres for passenger vehicles to 30%, as reported before the establishment of the Customs Union, has not taken place.
- By Decision of Russia's Highest Arbitration Court of 12 October 2009, restrictions on customs clearance points for exports of metal scrap were abolished. The Federal Customs Service issued an Order No. 1514, in force from end of April 2009, which restricts customs clearance points for exports of metal scrap. It leaves now only one single land crossing point on the western border, thus contradicting the provisions of the EU-Russia bilateral steel agreement. A justification for limiting the customs clearance points for exports of scrap is based on request from Russian metallurgical industry, which is in a shortage of raw materials.
- Decree No. 671, in force from 4 September 2009 set tariffs for laundry equipment for 9 months at 5-10% rate. These increases are not reflected in the Single Customs Tariff. The decree is no longer in force.
- The Government Decision No. 273 of 31 March 2009 introduced increased duties on certain imported liquid crystal displays (LCDs, code 8529 90 870 9) from 10% to 15% for a period of 9 months. The increase entered into force 1 month after publication date. Under the Common Single Tariff, the duty was brought back to 10%.
- Decree No. 616, which entered into force on 14 August 2009, established a tariff on bodies for specific motor vehicles at 15% but not less than €5000 per piece. Under the Customs Union's Single Customs Tariff, the duty rate was set at 5%.
- Cash-for-clunkers plan: the Government allocated 11bn roubles in the 2010 federal budget for the implementation of the cash-for-clunkers plan. The plan could provide co-financing for the purchases of 200,000 new cars produced in Russia in 2010 and is expected to be launched in March 2010. Owners of cars older than 10 years could exchange their cars for 50,000 rouble vouchers valid for purchases of new cars 20 January 2010. The plan was extended in the summer 2010 (additional RUR 11bn) and subsequently to 2011 (RUR 13.5 bn allocated in the 2011 federal budget). The validity of the plan was prolonged in November 2010, for one year. Subsidies under the scheme in 2011 amounted to 16.6 bn roubles. About 500,000 new cars produced in Russia were purchased over this period and 600,000 old cars have been scrapped. The programme was completed in June 2011.
- In December 2009, Deputy Minister of Industry and Trade Stanislav Naumov revealed that the Ministry was considering increasing the existing preferential import duties on car parts and components (0-5%) in order to stimulate their local production. These plans have not materialised in that no erga omnes duty increase took place. However, new rules of car assembly regime specify in individual deals with foreign car producers the exact import conditions for car parts.
- **Validity of the special duty of \$282.4 per tonne of certain kinds of engineering hardware (CU CN codes 7318 15 810 0, 7318 15 890 0, 7318 15 900 9, 7318 16 910 9, 7318 16 990 0, 7318 21 0009) expired in June 2014 and have not been renewed.**

#### South Korea:

- In December 2008, the government unveiled an outline of industry support measures to be taken, with a view to covering liquidity and corporate tax exemptions to the nation's 9 key industries, namely automotive, semiconductors, petro-chemicals, textiles, shipbuilding, steel, displays, mobile phones and machinery. The Ministry of Knowledge Economy confirmed that this scheme was valid until 31 December 2009.

- Support for automobile industry: limited to tax cuts on car purchases mainly to boost sluggish private consumption. The Korean Government temporarily reduced the individual consumption tax on car purchases by 30% between December 2008 and June 2009.
- In July 2010, the SMEA also confirmed its selection of 239 SMEs to benefit from the so-called "SMEs Innovative Technology Development Programme to grant KRW 34.7 billion in total. The SMEA aimed at facilitating technological innovation for SMEs suffering from a lack of financial resources (despite their potential). Under the ceiling of 75% of the total cost required for the development of technology within one year, this project would provide up to KRW 250 million for one year; Programme has expired.
- On June 15 2011, the MKE announced its plan to provide SMEs, which have difficulty in importing raw materials (mainly due to high oil prices, etc), with the so-called "urgent management stabilisation fund" worth KRW 100 billion. In addition, the MKE would have the state-run Korea Trade Insurance Corporation operate the import insurance coverage. It would be implemented also in the second half of the year, and where necessary, subject to further changes as to the amount of the fund and its operation planning in the coming months. The programme has expired.

#### **Switzerland:**

- The Swiss Federal Office for Agriculture increased on 23 July 2009 the support credit for exports of breeding cattle and productive animals from CHF 4 to 5 million. The measure expired.
- Switzerland reintroduced export refunds for cream as of 1 January 2009. The measure expired.

#### **Taiwan:**

- The intention to subsidise the DRAM sectors has not materialised At the 2011 Trade Policy review Taiwan confirmed that no subsidy was ultimately granted to the industry.

#### **Ukraine:**

- The 13% surcharge on cars and refrigerators, adopted by Ukraine for balance-of-payments reasons, expired on 7 September 2009.
- New initiatives to replace the expired 13% surcharge under discussion for a few months have been abandoned. Draft Law No. 5080 "On amendments to certain Laws of Ukraine on taxation (regarding support of employment level in Ukraine in the conditions of the world financial crisis)", foresaw an introduction of temporary charge on agrarian and automobile products in amount of 10% is registered in the Parliament. Transport vehicles and bodies to them (and some further products) were considered.
- Draft Law No 4767 "On amendments to certain Laws of Ukraine (regarding temporary surcharge to the valid import duty rates" was not adopted. The objective was to introduce a framework law which, in line with constitutional requirements, would provide the possibility to the Parliament to introduce additional surcharges (for the period of 12 months) if the balance of payment situation requires it.
- The Government, seeking to support the steel and chemical sectors, extended till the end of 2009 a number of preferences for them, which are envisaged by the corresponding

Government's Resolution No 925 of 14 October 2008 and Memorandum signed between metallurgical and chemical enterprises and the Government. In particular, the preferences foresaw introduction of moratorium for increase of railroad transportation tariffs, reduction of prices for coking coal, cancellation of target surcharge for gas and suggestion to the National Electricity Regulation Commission to stop from 1 November 2008 increase of prices for electric power. The measure has now expired.

- Moratorium on any rise in prices and tariffs for medicines during the financial crisis until the level of minimum wages and pensions is set at the level of the living wage and all debts on wages and scholarships are repaid. According to the Law No. 3426 passed by the Parliament, domestically produced medicines should be sold at prices regulated by the state, while foreign medicines should be sold at the prices set as of 1 July 2008. The President of Ukraine vetoed the legislation; in the absence of a sufficient majority in the Parliament to overcome the veto, the measure did not enter into force.
- Requirement of a mandatory conclusion of agreements for packaging waste utilization by importers with one state company "Ukrecomresursy", which basically creates a monopoly and contradicts with the principles of free market competition without an obvious reason. In spite of the Presidential Decree No. 718/2009 of 8 September 2009 that terminated certain provisions of the Resolutions of the Cabinet of Ministers of Ukraine No. 915 of 26 July 2001 ("On Implementation of the System of Collecting, Sorting, Transportation, Recycling and Utilization of Wastes as Secondary Raw Materials") and No. 508 of 20 May 2009 (which introduced changes to the Resolution No. 915), de facto it is not being implemented and the Joint Order of the Ministry of Economy of Ukraine, Ministry of Environmental Protection and the State Customs Service No. 789/414/709 of 30 July 2009 (issued on the basis of the Government's Resolutions) is still de facto applied. On 23 December 2009 the Ukrainian Administrative Court of Kyiv invalidated the said Joint Order, thus removing the trade-restrictive provisions.
- According to the Government's Resolution "On amendments to the resolution on public procurement of goods, works and services" of 24 June 2009, goods, works and services are to be purchased from the domestic producers or their representatives, dealers, distributors and only if such goods, works and services are not produced in Ukraine, they can be purchased from non-residents or their official representatives. This measure was in force until 1 January 2011. Earlier the Constitutional Court ruled as unconstitutional the Law No. 694-VI "On amendments to the certain Laws of Ukraine to minimise the impact of the financial crisis on the development of domestic industry" of 18 December 2008 that contained the same provision. But since the Resolution is in force, it is still valid. A new Public procurement law removing the discrimination provision was adopted in July 2010.
- On 11 March 2009 the Cabinet of Ministers approved Resolution No. 264 "On enlargement of internal market for domestic producers of machine-building for agriculture complex", which envisages that agricultural equipment purchased with state funds should only be purchased from domestic producers. The Resolution was further complemented by the Decree No. 328 "On state support in 2009 of domestic machine-building for agriculture complex", which lays down more detailed operational instructions on public procurement for state institutions. The measure expired.
- The export ban on grain, introduced in the summer 2010, has been replaced with an export duty since 1 July 2011. On 10 June 2011, Viktor Yanukovich, President of Ukraine, signed the law No. 3387-VI "On making of amendments to the Tax Codex of Ukraine and adoption of tariffs of the export duties for several varieties of grains", which imposed 9-14% customs duties for grain exports until 2012. In particular, the law specifies that the Government

imposes the export duties till 1 January 2012, for the following grain varieties: wheat, meslin and emmer wheat - 9% of the customs cost, but not less than 17 EUR/ton; barley – 14%, but not less than 23 EUR/ton; maize – 12%, but not less than 20 EUR/ton. The measure expired as of 1 January 2012.

- *In June 2014, Ukraine indicated the intention to abandon the re-negotiation of WTO tariff commitments under Art. XXVIII.*
- **Ukraine did not implement quotas for 2014 on imports of coking coal and coke. Hence this measure is considered as suspended for now.**
- **In June 2014, the Ukrainian Parliament had just adopted Draft Law No. 2536a, which confirms the cancellation of permits per imported batch of plant protection products. The previous system of permits requiring also analytical testing per batch, established by Articles 16-1 and 16-2 of the Ukrainian Law on Plant Protection No. 3042-VI dated 17 February 2011 was considered as highly burdensome.**

#### United States:

- On 17 July 2009 the House of Representatives passed H.R. 3183, "Appropriations for Energy and Water Development and Related Agencies Act of 2010 ". The House also adopted a "Manager's amendment" - made up of a series of 10 amendments including a so called Kissell/Pastor Amendment, which says: "None of the funds made available in this Act may be used to purchase passenger motor vehicles other than those manufactured by Ford, GM or Chrysler" . This discriminatory provision has been removed during the conference process.
- Discriminatory Buy America provisions in the Jobs for Main Street Act, adopted on 18 March 2010, have been abandoned.
- Restrictions on foreign entity related to funding of energy-related researched projects have been reversed on 17 December 2009.
- The draft Foreign Manufacturers Legal Accountability Act of 2009, which lapsed due to the Congress elections in November 2010 aimed to further protect U.S. consumers and businesses from injuries caused by defective products manufactured abroad. It would require the heads of federal government agencies such as the Food and Drug Administration to pass regulations requiring that foreign manufacturers of products regulated by their agencies register an agent who will accept service of process in case of damage litigation. Regulators could exclude manufacturers who only import a minimal amount of products into the United States. The Bill would create an obligation that these foreign manufacturers consent to the jurisdiction of the courts in the state where their agent is located. Foreign Manufacturers Legal Accountability Act of 2010 in the House version was very similar to the Foreign Manufacturers Legal Accountability Act of 2009. It required establishing a registered agent in the United States who would be authorized to accept service of process on behalf of foreign manufacturers for the purpose of all civil and regulatory actions in state and federal courts. The House Energy and Commerce Committee 21 July 2010 passed H.R.467, which contained an import ban on products of those manufacturers who failed to register an agent in the US. There was a similar pending legislation in the Senate (S.1606) which sought to remove this provision, while looking at the possibility to establish an import threshold exempting minor exporters from the requirements. Due to the November 2010 elections to the Congress, no further action on the draft was taken. In relation to the objectives of the Act, the U.S. Supreme Court issued two opinions, on 27 June 2011, in which it declined to expand the jurisdictional reach of U.S.

courts over foreign manufacturers, including foreign subsidiaries of U.S. companies whose products may end up in the U.S. In *Nicest*, the Supreme Court reversed (5 to 3) a decision of the New Jersey Supreme Court denying the New Jersey Court specific jurisdiction over a U.K. manufacturer whose product had been involved in a workplace accident. In a unanimous decision, the Supreme Court in *Goodyear* concluded that a North Carolina court did not have jurisdiction, under a theory of general jurisdiction, over foreign subsidiaries of a U.S. company that manufactured tires in Turkey that were allegedly involved in a bus accident in France, killing two North Carolina residents.

- Financial Services and General Government Appropriations bill (S 1432, HR 3170) The Senate Appropriations Committee and the full House passed their own versions of the Financial Services and General Government Appropriations bill (S 1432, HR 3170), which would prohibit inverted companies from receiving funds through contracts with federal government agencies. The specific language states: None of the funds appropriated or otherwise made available by this or any other Act may be used for any Federal Government contract with any foreign incorporated entity which is treated as an inverted domestic corporation or any subsidiary of such an entity. Although the Senate version of the bill states consistency with international obligations (the prohibition in subsection (a) shall not apply to the extent that it is inconsistent with the United States obligations under an international agreement), the House version of the bill, which has already passed in the House of Representatives, does not. This provision will only apply to the appropriations funds for the fiscal year of 2010. Currently there are only a couple of companies that would be negatively affected (that recently inverted to become European companies), but this does not mean that there will not be more in the future. Due to the November 2010 elections to the Congress, no further action on the draft was taken.
- The “National Defense Authorization Act for Fiscal Year 2010” included three provisions that would introduce either 'Buy American' requirements or otherwise imply set-asides or protection for U.S. providers of goods or services. Due to the November 2010 elections to the Congress, no further action on the draft was taken.
- 'Buy American' provisions on steel and iron and manufactured goods and 'Hire American' provisions were expected to be included in the economic stimulus legislation. Concrete negative effects of these provisions to the procurement possibilities of European companies in the US market have already been reported. Due to the November 2010 elections to the Congress, no further action on the draft was taken.
- On 30 July 2010, the House of Representatives passed the Assistance, Quality and Affordability Act (HR 5320), which included new Buy American requirements. Notably, the funds made available by a State loan could be used for a project for the construction, alteration, maintenance, or repair of a public water system if the steel, iron, and manufactured goods used in such project are produced in the US. This legislation intended to fund various drinking water projects set up by US states and municipalities, which are not covered by the Government Procurement Agreement. Due to the November 2010 elections to the Congress, no further action on the draft was taken.
- In the House of Representatives, Rep. Lipinski introduced HR 4351 and Senator Feingold in the Senate introduced S 2890, Buy American Improvement Act, which proposed to eliminate reasonable costs exception in 1933 Act and replacing it with 25% of project cost, as well as other preferences for domestic suppliers. Due to the November 2010 elections to the Congress, no further action on the draft was taken.
- The House of Representatives approved on 23 September 2010 a temporary, three-month extension of Federal Aviation and Administration Act (FAA) programs, allowing more time

for Congress to debate a permanent reauthorisation bill for the FAA. This means that the issues relating to airline ownership, mobile voice communication in aircraft and foreign repair stations are not yet off the table. On 29 and 30 July 2010 the House and Senate respectively passed another extension of the current Federal Aviation and Administration Act authorization until 30 September 2010. It is of concern because the House bill contains more restrictive language on foreign ownership and control of US airlines, inspection of foreign repair stations by the US government and a sunset clause for anti-trust immunity for airline alliances. The text approved by the Senate has less stringent provisions. Due to the November 2010 elections to the Congress, no further action on the draft was taken.

- The US is adopting a series of measures in the field of exploration and exploitation of energy resources. The Consolidated Land, Energy, and Aquatic Resources Act, H.R. 3534 provides for: the Americanization of offshore operations in the exclusive economic zone (all oil drilling related vessels in the exclusive economic zone must be registered in the United States and must be at least 75 per cent U.S. owned); Build America requirement for offshore facilities (a person may not use an offshore facility to engage in support of exploration, development, or production of oil or natural gas in, on, above, or below the exclusive economic zone unless the facility was built in the US. A person can seek to have the "build American" requirement waived). The legislation was passed by the House on July 30, 2010. Due to the November 2010 elections to the Congress, no further action on the draft was taken.
- The U.S. government approved two relevant auto loans to date. On 30 September 2008 President Bush signed into law the "2009 Continuing Appropriations Resolution", which included appropriation of funding for so called 'Advanced Technology Vehicles Manufacturing Incentive Program' (ATVMIP). On 19 December 2008 President Bush announced that the Administration would provide federal loans for GM and Chrysler in the total amount of US \$ 17.4 billion using the 'Troubled Assets Relief Program' (TARP) originally approved for the financial institutions. The law expired.
- On 17 March 2009 Rep. Betty Sutton introduced 'car scrappage' legislation (HR 1550), which would provide consumers with vouchers if they decide to scrap their high polluting automobile and replace it with a new fuel efficient automobile. All new cars would benefit from this measure. Due to the November 2010 elections to the Congress, no further action on the draft was taken.
- The House of Representatives passed American Clean Energy and Security Act of 2009 (H.R. 2454) on 26 June, 2009 which included section 123: Plug-In Electric Drive Vehicle Manufacturing, which directs the U.S. Department of Energy to establish a vehicle manufacturing assistance program to provide financial assistance to automobile manufacturers to facilitate the manufacture of plug-in electric drive vehicles that are developed and produced in the United States. The financial assistance would be provided for the reconstruction or retooling of facilities for the manufacture of plug-in electric drive vehicles or batteries for such vehicles that are developed and produced in the United States. Due to the November 2010 elections to the Congress, no further action on the draft was taken.
- Related to Black Liquor, the program constituting a part of the 2008 Farm Bill, was supposed to benefit "companies that use expensive, cutting-edge technologies to distil ethanol from plant materials instead of corn". Despite Congress' intent, the Internal Revenue Service released a memorandum in October 2009 ruling that black liquor qualified for cellulosic biofuel producer credits because the fuel is produced and used in the U.S. and is "derived from lignocellulosic or hemicellulosic matter that is available on a renewable or recurring basis." Current legislation in force, Tax Relief, Unemployment Insurance Reauthorisation, and Job Creation Act of 2010 (H.R.4853) renewed tax reliefs for alternative energy production but removed black liquor fuel as an eligible fuel.

- Jones Act: on 17 July 2009 Customs and Border Protection (CBP) published a "Proposed Modification and Revocation of Ruling Letters Relating to the Customs Position on the Application of the Jones Act to the Transportation of Certain Merchandise and Equipment between Coastline Points", which proposed to remove exemptions to the Jones Act for certain offshore activities involving foreign flag vessels and thereby change long-standing interpretations of rules for vessels in the offshore oil and gas industry. The notice provided only a 30-day comment period and letters were sent to CBP by Ambassador Bruton, the Consultative Shipping Group and the European Community Shipowners' Association (ECSA), among others, requesting an extension of the deadline so the impact could be fully examined. ECSA's request was denied. However on 15 September 2009 CBP withdrew the proposal based upon its consideration of 141 comments received both in favor of and against the proposal, and on additional research. Due to the November 2010 elections to the Congress, no further action on the draft was taken.
- New piece of legislation would force the administration to reduce trade barriers in other countries before allowing other countries to sell their products in the US market. The Reciprocal Market Access Act would essentially add 'common sense' reforms to the process by which goods are exchanged between the United States and other countries. The bill would instruct US trade negotiators to eliminate foreign market barriers - including non-tariff barriers - before reducing US tariffs. It also would provide enforcement authority to reinstate the tariff if the foreign government does not honour its commitment to remove its barriers. The lawmakers indicated their legislation is particularly targeted at the ongoing World Trade Organization Doha Development Agenda trade negotiations. US negotiators currently do not have the flexibility to trade a tariff reduction for elimination of a non-tariff barrier, the lawmakers said. To correct that, the bill would require the President to provide a certification to the Congress, in advance of agreeing to a modification of any existing duty on any product, that sectoral reciprocal market access has been obtained; if trading partners do not grant similar market access or if they erect new barriers to US exports, the United States may withdraw tariff concessions. The process would be triggered by either a private-sector or Congressional petition. Due to the November 2010 elections to the Congress, no further action on the draft was taken.
- The Berry Amendment Extension Act (H.R. 3116) extends certain "Berry Amendment" restrictions placed on military acquisitions by the Department of Defence to the Homeland Security Department. The original Berry Amendment requires the U.S. Department of Defence to procure certain goods, such as textiles, clothing, tents and cotton, from domestic sources. The legislation includes a clause requiring consistency with international obligations.
- The House of Representatives passed the Congressional Made in America Promise Act of 2009 (H.R. 2039), which clarifies that the Buy American Act of 1933 extends to the Legislative branch. The bill also prohibits application of any of the exceptions to requirements of the Act (public interest, unreasonable cost, unavailable supply, etc.) for all products bearing the Congressional Seal.
- On 22 May 2009 the United States Department of Agriculture (USDA) presented a 'Dairy Export Incentive Program' for the period from July 2008 through 30 June 2009. The programme is equivalent to the US WTO commitments for agricultural export. Some countries and regions will be excluded from the programme and quantities may be limited depending on the budget. USDA's Foreign Agricultural Service is in charge. The programme originally was introduced in 1985 and was reauthorized by the Food, Conservation and Energy Act of 2008, the so-called 'Farm Bill'. The programme has been extended for the period July 2010 – June 2011 and the beneficiary products are non-fat fry milk, butterfat and various

cheeses. While the programme officially lapsed, applications were still being accepted to distribute the remainder of funds.

- On 25 March 2010 a proposal for a bill was tabled, to extend for five additional years the existing subsidies and protection for US ethanol. The bill would extend three measures, the Volumetric Ethanol Excise Tax Credit, the Small Ethanol Producers Tax Credit, and a special tariff on imported ethanol. It would also extend the Cellulosic Ethanol Production Tax Credit for three years. Current legislation in force, Tax Relief, Unemployment Insurance Reauthorisation, and Job Creation Act of 2010 (H.R. 4853) renewed the Alternative Fuel Mixture Credit but effectively removed black liquor fuel as an eligible fuel. The Volumetric Ethanol Excise Tax Credit, Small Ethanol Producer Credit, Biodiesel Tax Credit, Small Agri-Biodiesel Producer Credit and Renewable Diesel Tax Credit, administered by IRC, expired in December 31, 2011. The Credit for Production of Cellulosic Biofuel and Special Depreciation Allowance for Cellulosic Biofuel Plant Property, administered by IRC, to expire in December 31, 2012. Biorefinery Assistance and Repowering Assistance, which offers grants to biorefineries that use renewable biomass to reduce or eliminate fossil fuel use, administered by the Rural Business-Cooperative Service (RBS), to expire at the end of FY2012. Bioenergy Program for Advanced Biofuels administered by the Rural Business-Cooperative Service (RBS), which provides payments to producers to support and expand production of advanced biofuels, to expire at the end of FY2012.

#### **Vietnam:**

- On 10 February 2009 the Ministry of Finance announced an increase on the tariff levied on newsprint from 20% to 29% and on printing/writing paper from 25% to 29%, except on that coming from members of the Association of Southeast Asian Nations (ASEAN). In a further step to protect local industry, the Ministry of Industry and Trade proposed end of March 2009 to raise the import duty on newsprint, printing and writing paper imported from ASEAN countries from 3% to 5%. The measure has been withdrawn.
- After pressure from local steel producers and the Vietnam Steel Association, the Vietnamese Ministry of Finance issued Circular 75/2009/TT-BTC of 13 April 2009 and Circular 216/2009/TT-BTC of 12 November 2009 revising up the MFN import tariffs on several construction steel products. In detail, import duties on alloy steel products (under HS Headings of 7227900000, 7228301000, 7228309000, 7228401000, and 7228409000) were increased from 5% to 10%. While the new rates are 5% higher than the previous rates, they are 2-5% lower than the rates proposed by the Vietnam Steel Association. The measure has been withdrawn.
- The government implemented a US \$8 billion stimulus package to spur the economy. The funds are mainly spent on: (i) a 4% interest subsidy program for loans to SMEs; (ii) a zero interest loans program for the poor; (iii) a loans program for Vietnamese enterprises to invest in new technology, environmentally friendly technologies and expand scale of production & business; (iv) tax cut on goods and tax break for individuals and companies; (v) increase of minimum salary by 20% for public servants and increase of 5% in pension and social benefits. Following the USD 8 billion stimulus package in 2009, the government in November 2009 decided to continue stimulus measures in 2010 on a smaller scale in order to maintain the recovery of its economic growth. The measures mainly aim at providing subsidies of interest rates of loans by companies operating in Vietnam on non-discriminatory basis. The government offers a 2%-subsidy to short term loans (loans having a maturity date as early as 60 to 120 days from the date of inception of the loan) during the first quarter of 2010 and 2%-subsidy to medium and long term loans in the entire 2010. The total amount planned for this

subsidy is not known, neither is the current disbursement rate of the subsidy loans. This stimulus programme has been terminated by mid-2011.

- Automatic licensing regimes for exports of rice and minerals as well as imports of key consumer goods for imports by the Vietnamese Ministry of Industry and Trade (MOIT) were re-introduced in January 2009. On 5<sup>th</sup> September 2011, MOIT issued Circular 32/2011/TT-BCT to amend the Circular 24/2010/TT-BCT. This Circular 32/2011/TT-BCT entered into force as from 20<sup>th</sup> October 2011. The biggest revision under the new Circular 32/2011/TT-BCT is that all commodities<sup>27</sup> in the Annex 1 that was issued together with the Circular 24/2010/TT-BCT are now subject to automatic licensing requirement. There is only one exception, i.e. wire telephone sets (HS code 8517110000) and mobile phone (HS code: 8517120000) are not subject to this automatic licensing regime. On 26 September 2012, the Ministry of Industry and Trade issued Circular numbered 27/2012/TT-BCT which suspended the application of the Circulars 32/2011/TT-BCT and 24/2010/TT-BCT. Circular 27/2012/TT-BCT entered into force on the day of issuance. **On 16 June 2014, the Ministry of Industry and Trade issued Circular numbered 17/2014/TT-BCT to partially revoke the requirement of licensing regime applied for some steel products. This Circular took effect the same day of its publication.**
- Notice 197/TB-BCT on imports of wines & spirits, mobile phones and cosmetics, was issued on 6 May 2011 and entered into force on 1 June 2011. It required that all imports of these products must enter into Vietnam only through customs clearance facilities of the three international seaports of Ho Chi Minh City, Hai Phong and Da Nang. It also introduced a requirement for additional customs documentation to be provided and an obligation to have these documents approved by the consulate of Vietnam in the exporting country. On 28 December 2012, the Ministry of Industry and Trade issued Notice 301/TB-BCT revoking the import restriction measures imposed by Notice 197/TB-BCT. The revocation has been effective since 1 January 2013.

---

<sup>27</sup> Annex 1 of Circular 24/2010/TT-BCT include all products in Chapters 2, 20, 64 and 95 and important products of chapters 3, 16, 17, 18, 19, 21, 22, 33, 39, 61, 62, 63, 69, 70 73, 76, 84, 85, 87, and 94.

## VII. TRADE FACILITATION MEASURES<sup>28</sup>

### Argentina:

- Allows tariff free imports to institutions related to scientific and technological research. Implemented on 18 September 2009 by the internalisation of MERCOSUR's Dec. 40/2008 of 15 December 2008.
- By Decree 311/2010 of 2 March 2010 Argentina reduced import duties from 35% to 2% for up to 200 unites of hybrid automobiles from outside the MERCOSUR (within the HS codes: 8702 and 8703).
- The 2012 Financial Law promotes foreign investment by providing inter alia VTA exemption under certain conditions for banks and financial institutions; cancellation of certain banking taxes; and lowering fiscal pressure and simplification and harmonization of financial procedures.
- **Decree 1425/2013-PEN lowered export taxes for asphaltites (HS 2714.90) (23.09.2013)**
- **General Resolution 3560/2013-AFIP launched a new IT customs system (named Sistema Informático Malvina or SIM), which will gradually replace the Sistema Informático María installed in the 1980s. The new SIM will be fully operational in November 2014 (09.12.2013). In this context, the tax and customs authority AFIP approved the guidelines to implement the module of the so-called Single Window of Foreign Trade ('Ventanilla Única de Comercio Exterior', VUCE). This module will comprise the interventions by the relevant government entities in the imports and exports operations (General Resolution 3599/2014, of 11.03.2014).**

### Australia:

- Australia announced on 4 August 2009 changes to its foreign investment screening regime, in order to reduce disincentives for overseas investors and promote Australia as a competitive and attractive destination. The six monetary thresholds applied to screening for private foreign investment will be reduced to two: 15% or more in a business worth \$A231 million or more (the monetary threshold currently applied to US takeovers), indexed on an annual basis; secondly, the current threshold for US investors in non-sensitive sectors (or where the acquiring entity is not controlled by a US government) of \$A1,004 million (indexed) will remain, as will current screening arrangements for the media sector and foreign government investments. Furthermore, the requirement that non-US investors notify the Government when establishing a new business in Australia worth more than \$A10 million will be repealed. The provisions took effect from 22 September 2009 by means of amendments to the Foreign Acquisitions and Takeovers Regulations 1989.

---

<sup>28</sup> These measures do not qualify as rolled back, as they either do not aim at abolishing previously adopted restrictive provisions, or they remove the restriction to trade only to a certain extent.

It is worth noting that there still exists a preferential treatment of US and New Zealand investors in Australia under the Australia-United States Free Trade Agreement (AUSFTA) and the Investment Protocol to the Australia-New Zealand Closer Economic relations Trade Agreement, namely the higher \$A1,078 million threshold for investments in non-sensitive sectors.

### **Brazil:**

- On 14 September 2010, a tariff-rate quota of 250.000 tons for cotton not carded or combed (5201.00.20 and 52.01.00.90), at 0% duty for the period of 1 October until 31 May 2011. This period has been extended until 30 June 2011. In 2013 the reduced tariff is valid for the quota of 80 000 tons, in the period between 1 May 2013 and 31 July 2013.
- On 11 February 2011, a tariff-rate quota (TRQ) of 150 Tons of Terephthalic acid and its salts (2917.36.00) at 0% duty was adopted. A new TRQ of 135.000 Tons was adopted until 31 December 2011.
- On 1 April 2011 some tariffs have been decreased: Vinyl acetate (2915.32.00) from 12 to 2% and carbon electrodes (8545.90.10) from 12 to 2%.
- On 17 May 2011, a TRQ of 3.000 Tons (for a period of 6 months) of 4,4'-Isopropylidenediphenol (bisphenol A, diphenylolpropane) and its salts (29.07.23.00) and a TRQ of 30.000 Tons (until 31 December 2011) of some Flat-rolled products of steel with a thickness of 29,45 mm (7208.51.00 - Ex 005) at 2% were adopted.
- On 14 June 2011, a TRQ of 3.000 Tons (for a period of 3 months) of Mixed alkylbenzenes (3817.00.10 – Ex 001) at 2% was adopted.
- On 21 June 2011, a TRQ of 6.000 Tons (for a period of 12 months) of Titanium oxides (2823.00.10) at 2% was adopted.
- On 16 August the Brazilian Congress approved a draft bill (PLC 116) on the elimination of regulatory restrictions for the provision of triple play (pay-TV) services by telecommunication operators, which was causing a discrimination against cable-TV operators that did not face any such restrictions. This will be an important step to foster the major investments on broadband development that will be needed throughout the country.
- On 28 February 2013 the CAMEX Resolutions 15/2013 and 16/2013 were published reducing tariffs down to 2% for 290 tariff lines representing machinery and equipment that are not produced in Brazil. The reduction was bound to last until 31 December 2014 and is composed on 213 new tariff lines and 73 prolongations of earlier reductions.
- On 14 May 2013 the CAMEX Resolutions 33/2013 and 34/2013 were published reducing tariffs down to 2% for 157 tariff lines representing 147 lines for capital goods and 10 lines for IT and Telecommunication. The reduction will last until 31 December 2013 (Resolution 33/2013) and 2014 (Resolution 34/2013).
- **From 1 June 2013 to 31 June 2014 a number of CAMEX Resolutions - 44/2013, 47/2013, 54/2013, 55/2013, 60/2013, 69/2013, 74/2013, 86/2014, 87/2013, 4/2014, 7/2014, 19/2014, 20/2014, 33/2014, 35/2014 temporarily reduced import tariffs on certain specific products, often under import quotas.**
- **Camex Resolutions No 86/2013 (4 October 2013), 21/2014 (13 March 2014) and SECEX Portarias 43/2013 (23 October 2013) 7/2014 and 8/2014 (19 March 2014) introduced sequential extensions of the temporary elimination of import tariffs on methanol (methyl alcohol) (NCM 2905.11.00), under an import quota of 282,500 tons; and fire fighting**

vehicles (NCM 8705.30.00), under an import quota of 80 units (effective from 17 March 2014 to 16 March 2015).

- On 13 March 2014, CAMEX Resolution 20/2014 reduced tariffs down to 2% for a number of capital goods tariff lines. The reduction will last until 31 December 2015.
- On 20 June 2014 Camex Resolution 44/2014 was adopted reducing tariffs down to 2% for 250 tariff lines representing machinery and equipment that are not produced in Brazil. The reduction is bound to last until 31 December 2015.
- As a result of the Presidential Decree 8.077/13, which allowed the National Health Surveillance Agency (ANVISA -Agência Nacional de Vigilância Sanitária) to streamline procedures and requirements on health risk, Resolution 15/2014 of 28 March 2014 was issued providing for simpler and faster import of medical devices in Brazil. Resolution 15/2014 and Presidential Decree 8.077/13 introduce 3 measures: 1. ANVISA can accept audit reports issued by foreign regulatory agencies which are party of specific programs recognised by ANVISA (e.g. the Medical Devices Single Audit Programme). ANVISA can partner with other regulatory agencies, share information and reduce the need to send technicians abroad. 2. Class I and Class II Medical Devices, considered lower risk such as gloves, syringes and some surgical instruments, are to be produced in accordance with Good Manufacturing Practices (GMP) but are exempted from certification from ANVISA. This eliminates the need for international inspections of production lines (without however changing the criteria of efficacy and safety required for the registration of those devices). 3. Manufactures of Class III and IV medical devices do not have to wait for ANVISA's GMP inspection to initiate the process of registration, revalidation or changes of their products. This law will reduce the time of arrival of new equipment on the market, since the assessment of the product may take place while the factory waits for the GMP inspection/certification.

#### China:

- In 2012, with the aim of further facilitating trade, China started implementation of the "Reform of Paperless Customs Clearance" to cover imports and exports via air, sea and land. Under this Reform, the approved pilot enterprises graded B or higher could choose to clear customs either through a paper or paperless customs declaration via the China E-port System. "AA"-rated enterprises and "A"-rated manufacturing enterprises, which are approved by customs, do not need to submit electronic supporting documents when making a customs declaration. At present (2014) the pilot programme is being implemented at all sites of 12 customs offices: Beijing, Fuzhou, Gongbei, Guangzhou, Hangzhou, Huangpu, Nanjing, Ningbo, Qingdao, Shanghai, Shenzhen and Tianjin. The remaining 30 customs offices are implementing a few of the pilot programmes for paperless custom clearance at only one or two sites.
- *In May 2014, it was reported that China will further expand market access of foreign funds into the nation's securities industry and encourage Chinese cross-border businesses. State-owned securities companies would be encouraged to enter into mixed ownership reform and social security funds. Enterprise annuity managers will be supported in setting up securities firms. Chinese securities firms are encouraged to help domestic companies get listed abroad enter into mergers and acquisitions and issue bonds.*
- In September 2013, China launched the "China (Shanghai) Pilot Free Trade Zone" (SHFTZ). The main official aim of the zone is the testing of further market reforms. The objective is a system where (1) the state is more efficient (simplification of procedures,

less red tape), adopts a supervisory role (ex-post control in lieu of pervasive approval/guidance), and is more coordinated (end to administrative fragmentation with a larger role for single agencies); (2) the going-out strategy of Chinese firms is supported via trade facilitation; (3) financial liberalisation is tested; (4) China tests the gradual opening to foreign companies in targeted service sectors, and prepares for the potential signature of bilateral investment agreements. A central pillar of the zone is the adoption of a pre-establishment, negative list approach to investment. While the list is close to that of the current Foreign Investment Catalogue, 37 sectors have been opened to foreign investment - mostly in the service sector, in sub-areas of financial services, internet and technology, healthcare, construction, travel services, entertainment, education, professional services. In addition, a single-window mechanism for filing procedure, accelerated business approval times, and notably a shift from pre-approval to ex-post supervision have been at the heart of the zone. So far, the zone has not had large business impact for foreign operators: implementation is slow, the negative list is still very wide, and there are physical limitations to activity in the zone. However, its policy impact may be significant and will be followed in future reports.

- The Decision of the State Council on Revising the Administrative Regulations on Foreign-invested Insurance Companies entered into force on August 2013 (Decision No.636). It plays a positive role in boosting the insurance industry. *Inter alia*, the minimum registered capital of joint-capital and foreign capital insurance companies has been reduced.
- In May 2014, NDRC released a decree promulgating Measures on Verification, Approval and Record-Filing of Foreign Investment Projects. The new measures, effective on 16 June 2014, provide for less burdensome investment approval procedures, limiting the latter in some cases to a simple registration. However, the simplified foreign investment rules will be accompanied by "strengthened national security review" – a matter to be followed up.
- The Ministry of Finance (MoF) announced that China will temporarily impose from 2014 lower custom duties on 760 tariff lines. On average, the tariff reduction will be 60% of the MFN rate. According to MoF, the aim of this temporary tariff reduction is "to satisfy growing consumption demand and promoting economic structural adjustment" but also "to achieve balanced trade growth". The 760 tariff lines mainly concern highly demanded equipment, components and raw materials used in the strategic emerging industries or in sectors where China is either moving operations further up the value chain or developing new production capacities, notably to answer growing domestic demand. For instance, the Chinese aircraft and automotive industries (particularly for electric vehicles) will benefit from lower import duties on components or machineries used in the production process. Out of the 760 tariff lines, more than 20% of them are related to minerals or chemicals (tariff lines 25 to 38), i.e. inputs for industry.

#### Egypt:

- In 2009 Egypt announced the reduction of 250 customs tariffs. Customs tariffs would no longer be applied to some capital devices, machines and equipment, some raw materials and intermediate goods and non-locally produced wood. These items would be exempted from customs fees. The customs reduction was applied to all sectors which demanded a reduction in tariffs (such as engineering, chemical and wood industries) as long as no damage would be inflicted on local products. In March 2013 Egypt capped MFN applied duties on imports of

hotel and tourist establishments, imports for infant milk factories, imports of the Arab Petroleum Pipeline Company, components and spare parts of turbine engines for railway locomotives, equipment for natural gas vehicles, environmental monitoring equipment, equipment and components of new and renewable energy as well as cars operating with hybrid engines and natural gas. Inputs for assembly industries benefit from a MFN duty reduction depending on the local manufacture component of the final product. These measures, however, do not apply to preferential partners, including the EU, and therefore diminish the preferential margin.

#### **India:**

- Wheat and all varieties of non-Basmati rice (out of privately held stocks) were made free for export.
- A Regulation was adopted to allow 51% foreign direct investment (FDI) in multi-brand retail.

#### **Indonesia:**

- Indonesia introduced a new regulation "One Door Integrated Investment Services" on 23 June 2009, which aims to facilitate the procedural requirements related to foreign investments in the country, by removing unnecessary bureaucratic formalities and introducing more transparency in the approval of operational licence. The law foresees an electronic information system for the processing of licence applications; more decentralisation in the management of the system is planned as well. However, the exact implementation of the new law remains to be seen.
- Decree 1176/2010 adopted in September 2010 provides for notification of cosmetics instead of pre-marketing registration, thus easing exporting procedures.
- By ministerial decree PMK 80/PMK.011/2011 the government temporarily scrapped import duties for 182 raw materials and capital goods to lower costs for local manufacturers. The 182 products, which will be exempt from import duties between April 18 and Dec. 31 2011, include 59 items in the chemical industry, one food item (soybean oil), 91 machinery items, 16 electronic items, 13 shipping items. Some of these reductions came after dialogue with European business arguing products were not in direct competition with the Indonesian industry. As of Jan. 1, 2012, import duties for all of the goods will return to 5 per cent. According to the ministerial decree PMK 213/2011, effective in January 2012, most of the import tariffs remained at 0% (import tariffs for textile machinery and few other products were raised from 0% to 5%).
- Ministry of Health issued a decree 1799/2010 that provides a response to Decree 1010/2008 so that research-based companies previously classified as pharmaceutical wholesalers (PBFs) can now apply for a pharmaceutical industry licence if undertaking any manufacturing stage (procurement of raw and packaging materials, production, and packaging, quality control and quality assurance). Still to be clarified is whether companies conducting R&D abroad will fall within the scope of the decree.

#### **Japan:**

- The Japanese government announced in February 2009 a \$1 billion emergency programme to finance trade between developing countries, especially in Asia. The move is part of a

coordinated initiative with the Asian Development Bank. A total of up to \$2 billion in loans will be provided to private financial institutions in Asia, with a focus on ASEAN members. These financial institutions are to use the funds for lending to local companies for trade settlements and issuing letters of credit. The \$2 billion pool is foreseen to support annual funding demand of around \$4 billion. The funds will be made available to local financial institutions, rather than directly to companies, to ensure that even small and medium-sized businesses have access to it. The role of the programme is progressively diminishing.

- The Organization for Small & Medium Enterprises and Regional Innovation Japan (SME Support, JAPAN) announced on 15 December 2011 that it will create investment funds jointly with the private sector (e.g. banks and trading houses) to support SMEs for their overseas expansion and M&A. The SME Support, which is an independent administrative agency under METI, aims to support SMEs to cope with the stronger yen and intensifying global competition. This scheme is also a part of the GoJ's East Japan Earthquake Reconstruction process.
- On March 15 2012, the SME Support opened a tender for investments into the following two types of funds. The one is the funds for overseas expansion which amount to Yen 5 billion yen (50% of which will be funded by the GoJ). The other funds are to help SMEs with acquisitions and the establishment of joint ventures overseas. The M&A funds are expected to be around Yen 4 billion, half of which will be subsidised by the GoJ. The SME Support is currently assessing the applications and the date of the start of the funds is not known yet.
- On 5 October 2011, JBIC agreed with three Japanese major banks to set up an M&A credit line totalling \$43 billion as part of the "Emergency measure package against the Yen's appreciation" to support overseas business expansion through M&A" announced by Ministry of Finance on 24 August 2011. On 23 February 2012, JBIC approved the first M&A credit line under the scheme to extend low-interest dollar loans to Sony Corp. and Toshiba Corp. JBIC will provide \$819 million loan to Sony for full acquisition of Sony Ericsson mobile phone joint venture. Toshiba will receive \$600 loan for the takeover of Landis+Gyr AG (Switzerland).
- On April 1, 2012, the Japan Bank for International Cooperation (JBIC), which used to be the international wing of the Japan Finance Corporation (JFC), was spun off from JFC and became wholly government-owned entity.
- In December 2011, the GoJ set out the "Programme for Promoting Japan as an Asian Business Centre and Direct Investment into Japan". This programme was formulated on the basis of the "New Growth Strategy" (June 2010) and the "Strategies to Revitalize Japan"(August 2011). The Programme sets out the following three targets towards 2020: i) to promote the establishment of high value-added sites in Japan (e.g. Asian Regional Headquarters and R&D facilities); ii) to double the number of employees of foreign enterprises and iii) to double the volume of direct investment into Japan. METI established a subsidy scheme for global companies to help them establishing high-value added sites in Japan. The subsidy scheme will cover such costs for survey design, facility(buildings not land), equipment and facility rental charges. The subsidy rate is up to 50% for SMEs and up to one-third for non-SMEs with the ceiling of 1 billion yen. To date, METI has decided to subsidize the projects of 15 foreign companies (8 from the EU).
- The subsidy scheme for purchasing eco-friendly cars was re-introduced from December 2011 to 31 January 2013 after it was once terminated in September 2010 due to the exhaustion of the budget. The GoJ will subsidize Yen100, 000 for passenger cars meeting the required fuel efficiency standards and Yen 70,000 for Kei-cars. The total budget of this scheme is Yen 300

billion. The scheme will also cover the cars imported under the PHP (Preferential Handling Procedures).

#### **Kazakhstan:**

- Import duties on aircrafts have been abolished for a transitional period until 1 July 2011.
- The Customs Union Commission eliminated (from 10%) an import duty on capelin.
- On 24 June 2011, Customs Union Commission set a 0% duty on oil imports between the Customs Union member states (from 5%).
- The Customs Union Commission has lowered import duties on non-alloy steel bars, hot-rolled sections and shape steel-rolled stock at 10% of the customs value. The new customs duties were officially announced on January 25. Previously these steel products had a duty rate of 15%.
- The Board of the Eurasian Economic Commission (EEC) has agreed to impose 5% import duty on certain types of coconut, palm and palm kernel oil shipped in boxes, barrels and cans and packages between 200 kg and 19 tons. The regulation will come into effect if approved by the EEC Council. Now 5% duty is levied on 200-kg oil packages and below, the regulation will significantly increase the upper ceiling for duty-free oil imports. The EEC countries wanted to ensure that the oil was supplied in bulk for further processing, rather than in small packages ready for use.

#### **Malaysia:**

- The International Trade and Industry Ministry of Malaysia (MITI) has announced a review of steel policy, which will ultimately lead to reductions in duties on the imports of steel and the introduction of a set of Malaysian standards for imported steel products. The motivation for the review is to enhance the competitiveness of the Malaysian steel industry. The measures are implemented since 1 August 2009.
- Since 22 April 2009 100% foreign equity is allowed in 27 subsectors of services, including health and social services, tourism, transport, business services, IT. On 27 April 2009 a relaxation of foreign investment conditions in financial services was announced. Foreign equity limits were increased from 49% to 70% for investment banks, insurance companies and *takaful* (Islamic insurance) operators. A higher foreign equity limit above 70% is considered on a case-by-case basis for insurance companies. More flexibility for operations of locally incorporated banks, insurance companies, and *takaful* operators has been granted.
- On 30 June 2009, the Government announced the liberalisation of the Foreign Investment Committee (FIC) guidelines, including the repeal of FIC Guidelines on the acquisition of interests, mergers and takeovers. The Guidelines originally contained a *bumiputera* equity requirement, whereby *bumiputera* (ethnic Malays) had to hold a combined 30% stake in locally incorporated companies. Following the repeal of the FIC Guidelines, for newly listed companies, the *bumiputera* requirement is 12.5% and it can be further reduced if more shares are issued at a later stage. Also, foreign equity limits were raised from 49% to 70% for stock-broking firms and unit trust management companies, and from 70% to 100% for fund management companies providing wholesale services. However, sectors of 'national interest' are not to be liberalised. *Bumiputera* participation requirements continue to exist in banking

and insurance, certain manufacturing sectors (I.e. fabrics and apparel of batik, integrated Portland cement), agriculture, defence, energy, telecommunications, water.

- On 10 June 2010 Malaysia introduced the "10th Malaysia Plan" (MP). The MP lays down the government's policy priorities over the next 5 years, with the goal of achieving high-income nation status by 2020. The plan outlines the government's approach to a comprehensive economic transformation, on the understanding that successful economic policies of the past will not support the necessary 6% per annum GDP growth required to reach this goal. This should be achieved through: broad policy and regulatory reforms to support and drive a private-sector led economy; renewed investment in human capital development; a new focus on specialization in key sectors which include oil and gas, palm oil and related products and financial services; bolstering global competitiveness and Trade, including by means of a new Competition Law, the removal of price controls and subsidies and further liberalization (particularly in the services sector) including the expansion of Malaysia's WTO commitments to liberalise 65 services subsectors; and an alleged "shift" in the *bumiputera* policy, with less emphasis on affirmative action policies and more programs to focus support on the bottom 40% of households, with a "market friendly, merit based, transparent and needs-based approach". In July 2011, the Government announced liberalisation measures in three services sector (healthcare, education and professional services), including the removal of foreign equity restrictions, to take place in phases.
- As announced in October 2011 for the "Budget 2012", the Government will further liberalise 17 services subsectors "in phases" during 2012. This is to allow up to 100% foreign equity participation (but also as low as 40%, in the case of Legal Services). The 17 subsectors are the following: Telecommunication services (Network Service Providers and Network Facilities Providers licences; Telecommunication services (Application Service Providers licence); Courier services; Private hospital services; Medical specialists services; Dental specialists services; Private higher education institution with university status; International school; Technical and vocational secondary education services; Technical and vocational secondary education services (for students with special needs); Skills training centre; Accounting and taxation; Architectural services; Engineering services; Legal services; Departmental stores and specialty stores; Incineration services. However, there is a lack of transparency on the level of implementation of this liberalisation measures and the legal enforcement procedures.

#### **Mexico:**

- The Mexican Ministry of Economy unilaterally reduced and in some cases eliminated MFN tariffs on 490 tariff lines in the agricultural and chemical sectors, in November 2012, to further enhance competitiveness in the sectors concerned. This tariff reduction completes the reductions initiated in 2008 (which affected most industrial products) and continued earlier this year with a reduction affecting mostly industrial inputs and some consumer goods. As in previous occasions, the reduction or elimination of tariffs is scaled over a four or five-year period respectively.
- In December 2008, the Mexican Government took a unilateral decision to gradually eliminate, by 2013, import tariffs on over 70% of products. The tariff reductions are scheduled to be implemented in five stages, beginning in 2009, with subsequent tariff cuts occurring on the first day of 2010 through 2013. The fourth and last phase of the programme (January 2012) reduced duties on 200 tariff lines, 113 of which saw their duties reduced while the remaining 87 saw their duties drop to zero. Products concerned include liquors, wines, packed fish, television screens, health-related products and clothing. These reductions to import tariffs are

in addition to the 200 tariff duties eliminated in December in the context of the elimination of antidumping duties on imports of certain Chinese goods.

- Mexico's automotive industry benefits from the elimination of import tariffs for car parts and spare parts between Brazil and Mexico as of 14 July 2009. Economic Complementation Agreement (ECA no. 55) for the automotive sector between Mexico-Brazil-Argentina-Uruguay-Paraguay. On 30 June 2011, Mexico's Ministry of Economy published in the Official Gazette of the Federation the amendments to the ECA No. 55, for Mexico and Brazil, Argentina and Uruguay. These amendments were incorporated by Mexico and Paraguay since 8 April 2011. These amendments, part of the first Additional Protocol to ECA no. 55, establish that from 1 July 2011 cars, light vehicles, bodies, trailers, semi-trailers and tractors will benefit from free access between these countries. Regarding heavy vehicles and buses, the parties agreed to gradually reduce the respective tariffs until total elimination by 1 July 2020. In 2012 though, after Brazil threatened to denounce the ECA No. 55 agreement, Mexico agreed to limit car exports to Brazil to roughly \$1.55 billion USD a year for three years in the form of duty free quotas, after which both countries will return to free trade in cars.
- In August 2009, Mexico consolidated the initiative to exchange of electronic certificates of origin with Colombia, by introducing the necessary modifications in their FTA.
- Modifications to FTA Mexico-Colombia: In August 2011 Mexico and Colombia deepened their FTA in order to increase trade of several industrial and agricultural products by incorporating such products (mainly agro-industrial) into their tariff relief programme.
- As of 1 June 2011, EU exporters can benefit from importing temporarily to Mexico commercial samples, professional equipment and goods for use at trade fairs free of import duties and charges, thanks to the appointment of the Mexico City Chamber of Commerce as the national guaranteeing and issuing organisation for ATA Carnets in Mexico for the next five years.
- Mexico's Customs Administration will render the second revision of goods imposed in Mexican customs on certain goods more flexible. The physical inspection of the merchandise will be replaced by non-intrusive technological methods such as X-ray, a move which, security factors aside, is expected to accelerate the revision process and therefore cut down on costs related to the storing of goods in Customs warehouses. The measures will be applicable as of September 2011.
- The governments of Mexico and five Central American countries (Costa Rica, Nicaragua, El Salvador, Guatemala and Honduras) signed a FTA that unifies the existing bilateral FTAs in one body.
- Since 2 January 2012, holders of trademarks that have been registered with the Mexican Industrial Property Institute (IMPI) may request the listing of their trademarks at the Mexican Customs Office. The purpose of the listing is to facilitate the identification of goods illegally bearing trademarks registered in Mexico and being imported into the country. The listing will expedite the immobilization of goods and the filing of criminal or administrative legal actions.
- Following the elimination of antidumping duties on imports of certain Chinese goods on 12 December, the Ministry of Economy implemented new measures to combat contraband and undervalued goods originating from China and pertaining to the textile footwear and apparels sectors. In addition to pursuing regular anti-dumping and safeguard actions, Mexican customs launched a new price alert system to detect any practices of undervaluation that may adversely affect domestic producers. Imports whose value is below the reference price (provided by the domestic industry) of either the product itself or in some cases the actual raw material used to fabricate the product (such as leather in the case of footwear) will be flagged and the collected

data will be used to generate information and risk analysis models that will enable the Mexican authorities to carry out comprehensive audits. Mexican customs indicates that this price alert system will initially focus on 400 textile tariff lines and will subsequently incorporate tariff lines of Chapters 61, 62 and 64.

- In April 2013, Congress approved a reform in the telecommunications sector, which extended investment opportunities in telecom and television services sectors. **The secondary legislation for the implementation of the telecom reform was adopted in June 2014, ending the long dominance in the Mexican telecom market of America Móvil (telephony) and Televisa (television).**
- In 2013, the Mexican Ministry of Economy unilaterally decreased MNF tariffs of 20 and 10% respectively on lemons and green tomatoes, in addition to opening an annual tariff-free 300 000 tons quota for imports of chicken. The elimination seeks to lower the price of these agricultural products on the domestic market, which suffered increases of around 80% since the beginning of 2013.
- In February 2013, Mexico became the third country in the Latin American to be a party of the Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks.
- **In October 2013, the Mexican Congress approved a bill reforming Mexico's Customs Law. The bill provides for facilitation and simplification of customs procedures, gives trade operators enhanced legal certainty in foreign trade matters, promotes competition between various service providers, and provides the customs administration with tools and mechanisms that seek efficiency in customs control.**
- **The Mexican Congress adopted a new Competition Law in April 2014, which addresses issues of dominant position and anti-competitive practices.**
- **In December 2013, the Mexican Congress approved a reform in the energy sector with the aim to open the oil, gas and electricity to national and foreign private investors.**
- *Other bills which seek to either lift FDI restrictions (such as the landownership on border and coastal areas) and/or increase competition (the rail freight reform) are still to be adopted.*
- **In August 2013, the Mexican customs authorities as well as the Health Agency COFEPRIS designed a series of trade facilitation measures aimed at speeding up procedures in customs clearance. A Customs authorities project seeks to homologate import and export criteria in all 49 custom entry points of the country. This project is the first pillar of a four-axed strategy, which also includes projects focusing on improving risk management, further digitalising of custom procedures via a single window as well as creating the position of an external trade appraiser. As for COFEPRIS, the institution published a set of guidelines which would help custom officials to better identify the authenticity of import permits and has made progress throughout the year in harmonising regulations for the pharmaceutical market within Latin America.**
- **Elimination of import tariffs on 21 medicines tariff lines (HS 30) effective December 2013.**

**Nigeria:**

- As part of the fiscal measures accompanying the 2013 Budget, the duties on machinery and spare parts imported for the establishment of local sugar manufacturing industries, on commercial aircrafts and aircraft spare parts imported for use in Nigeria, on machinery and equipment imported for the development of the solid minerals sector, on completely knocked down (CKD) components for mass transit buses of at least 40-seater capacity, as well as on amorphous polyethylene terephthalate (PET) chips were reduced to 0% (however, problems were recorded with Customs resisting the application of the new regime).
- **Through circulars published on 14 November 2013 and February 2014, the importation of some machinery and equipment has become duty free.**

#### Paraguay:

- Resolution n° 892 of 13 October 2011 established system of *automatic* import licence for steel products

#### Philippines

- *In June 2014, the House and Senate of the Philippines approved an amendment to the Foreign Banking Bill, raising the equity limit on foreign ownership of subsidiaries or acquired local banks from 60% to 100%, removing the limit on the number of subsidiaries or acquisitions and the limit on the number of foreign banks (currently 10) that may enter the country as a full branch, as well as the limit on the amount of the total resources of the banking system that may be held by foreign banks from 30% to 40%. This law will allow foreign banks to participate in mortgage foreclosure proceedings (i.e. without transfer of title).*

#### Russia<sup>29</sup>:

- By the Decree No. 371 of 30 April 2009 Russia amended its customs code and decreased import duties on oil and pitch cokes, as well as graphitized electrodes, to 0% and 5% respectively.
- Decree No. 400 of 8 May 2009 reduced the import tariff on magnesium scrap and waste from 15% to 5% of their customs value in order to increase supply.
- Decree No. 442 of 25 May 2009 abolished a 5% import duty on skins and hides. The new duty is set at 0%.
- Decree No. 533 of 25 June 2009 extends a zero per cent import duty on some raw materials (paints, leather) used by the shoe industry.
- Decree No. 664 from 19 August 2009 extends a zero per cent import duty on certain types of LCD screens (codes 8529 90 870 1 and 8529 90 870 2) for the period of nine months.
- Decree No. 700 from 28 August 2009 introduces a zero per cent duty on ceramics used to produce catalysers (CAT) for cars.
- Decree No. 696 from 21 August 2009 establishes a zero per cent duty on certain types of medical equipment.

<sup>29</sup> The duties at 0% rate were made permanent under the Customs Union's Single Customs Tariff.

- Decree No. 803 of 5 October 2009, while abolishing CN code 8462 10 100 0 with import duty rate of 10%, introduces two new CN codes 8462 10 100 1 with a zero rate of import duty (stamping presses numerically controlled with automatic loading and unloading for stamping body parts, etc.), and retains the zero rate of import duty for the new CN code 8462 10 100 9 (Other). The measure is for 9 months, and enters into force 2 months after official publication of the Decree.
- The Government extended a 0% import duty on certain types of equipment for metal-processing industry.
- *The Government is considering extending for 9 months a zero import duty set up by Gov. Decree No. 659 of 11 September 2008 for panels for the equipment classified under CN code 8528 (CN codes 8529 90 870 and 8529 90 870 2) and active matrix devices on liquid crystals (CN code 9013 80200 0). The draft Decree also introduces additional measurement unit, namely 'pieces', for CN codes 8529 90 870 1 and 8529 90 870 2.*
- CU Commission Decision No. 279 from 20 May 2010 sets a zero-percent duty on sheets from tropical wood (code 4408 39 310 0).
- Customs Union Commission Decision No. 28 from 18 July 2010 eliminated an import duty on civic aviation planes (code 8802 40 002 2) brought into the territory of the Customs Union under the regime of temporary importation for contracts concluded before 31 December 2013 for the period of five years. Planes with the number of passenger seats between 50 and 111, 160 and 219 are excluded from this decision. The measure entered into force on 18 August 2010. Furthermore, Russia agreed to cancel the import duty on civil aircraft with carrying capacity above 250 passengers.
- The Customs Union Commission Decision No. 348 reduced the import duty rate on wine materials imported in containers of more than 227 litres (codes 2204 29 110 1, 2204 29120 1, etc.) from 20% to 15%.
- CU Commission Decision No. 327 from 20 May 2010 sets a zero-per cent duty on wolfram and metal-ceramics scrap (codes 8101 97 000 0 and 8113 00 400 0).
- CU Commission Decision #278 from 20 May 2010 eliminated a duty on some materials used for production of solar energy modules (code 8541 40 900 1) or a 5% duty (code 7007 19 800 1).
- In February 2010, Russia cancelled the obligatory certification for foodstuffs, cosmetics and perfumery. Instead of special laboratories, which used to conduct tests of these goods, the manufactures have started to indicate quality and safety of their products in voluntary conformity declarations.
- An import duty for certain types of trucks was lowered from 25% to 15% (code 8407 10 102 2).
- An import duty on certain rubber mixes was eliminated (code 4005 99 000 0).
- An import duty on coking coal (2701 12 100 0) was eliminated.
- An import duty on heparin and its acids was eliminated (3001 90 910 0).
- An import duty on certain types of machinery used in the forestry sector (8427 90 000 1) was eliminated.
- An import duty on certain types of railway carriages (8603 10 000 2) was eliminated.

- An import duty on certain types of passenger planes (codes 8802 40 003 2, 8802 40 004 2, 8802 40 004 3) was eliminated in accordance with the Decision of the CU Commission No. 592 from 2 March 2011).
- An import duty on certain chemicals was eliminated (code 2510 20 000 0) in accordance with the Decision of the CU Commission No. 661 from 19 May 2011.
- Import duties on two types of chemicals (codes 2711 14 000 1 and 2901 24 100 1) were abolished by the decision N 900 of the CU Commission from 09.12.2011.
- Import duty on styrole (code 2902 50 000 0) was abolished for the period of one year starting from 1<sup>st</sup> January 2012 in accordance with the decision N 846 of the CU Commission from 18 October 2011.
- Import duty on terephthalic acid (code 2917 36 000 0) was abolished for the period of one year in accordance with the decision N 845 of the CU Commission from 18 October 2011.
- Import duties on apple jams and concentrated apple juices (codes 2007 99 970 1, 2009 79 190 1, 2009 79 300 1) were set at 0% level for the period of nine months starting from 2 January 2012.
- The Eurasian Economic Commission issued the decree lifting import duties on industrial equipment and components used for the purposes of construction and maintenance of the nuclear power station in Belarus.
- The application of the 5% import tariff on some categories of paper (CU CN Codes: 4810 13 800 9, 48 10 19 900 0, 4810 22 100 0, 4810 29 300 0, 4810 92 100 0) instead of 15% was prolonged until 31.12. 2012. by the CU Commission Decision No 917 of 25 January 2012. The reestablishment of the 15% import duty was originally scheduled for 22.02.2012.
- An export duty on nickel was cut by 1.7 times in accordance with the governmental decree signed on 3 February 2012. The rate of export duty on nickel was set at \$1,245.5 per tonne effective from 5<sup>th</sup> March 2012.
- The rates of export duty on many tariff lines of raw timber were cut in January 2012.
- The CU Commission took the decision to speed up an implementation of uniform export control procedures at the external borders of the Customs Union in accordance with the CU Agreement on single export controls by the member-states of the Customs Union. These procedures have to be implemented at national level by the CU countries.
- The Federal Law No 322-FZ of 16.11. 2011, which amended the Federal Law No 57-FZ, removed some restrictions for foreign investments in strategic sectors of the Russian economy. International financial organizations, which have agreements with Russia or which are established with Russia's participation, were withdrawn from the scope of the Federal Law No 57. The limits that restrict the ownership of shares by foreign investors of strategic enterprises, their possibility of voting in the management bodies of the enterprise, have been somewhat mitigated. Some kinds of business activities were excluded from the list of strategic kinds of activities (e.g. the use by banks of cryptographic means, the use by clinics and hospitals of radiological equipment).
- Increased import duties on several agricultural products were introduced by means of three decrees published on 31 January 2009, which entered into force one month after publication. The decrees increased import duties by 5% on soy meal for a period of 9 months (Decree No. 70). As of 16 December 2009 the Government Decree No. 1019 extended a 5% import duty

on soybean oil meal for an indefinite period. The duty increase was consolidated under the Single Customs Tariff of the Customs Union. For a short period until 31 July 2011, the duty on soy meal was removed, by the Customs Union Commission Decision N.620 of 7 April 2011.

- President Medvedev signed the Federal Law No 86 of 19 May 2010 that amended the basic legislation on the legal situation of foreigners in the Russian Federation (Federal Law No 115 of 25 July 2002). The amendments, which entered into force on 1 July 2010, created a new category of “Highly Qualified (foreign) Specialists” (HQSs), for whom the conditions for visas and work permit application have been much simplified. *Amendments to the Federal Law "On the Legal Status of Foreign Citizens in the Russian Federation" are being prepared (scheduled for the submission by the Russian Federal Migration Service to the Government in 3Q2013 and Duma in 1Q2014), which aim to streamline the procedure of entry, exit and stay in Russia for foreign citizens arriving for business purposes, and involved in the investment and business activities, as well as foreigners who are employees of foreign companies registered in Russia. The amendments could also simplify this procedure for such foreign citizens' family members, including the removal of the restrictions on their employment and training in Russia.*
- Some steps in reforming Russian standardization were made with the adoption of the Federal Law No 255-FZ of 21 July 2011 which amended the Technical Regulation Law. It envisaged, in particular, the creation of a national body for accreditation. The Federal Service for Accreditation (Rosakkreditatsia) was established in October 2011. Thus, many Government bodies (the Ministry of Regional Development, the Transport Ministry, Rosselkhoz nadzor, Rossvyaz, Rosstandart, Rospotrebnadzor, Roszheldor) were deprived of the right to accredit certification bodies and testing laboratories.
- The Customs Union Commission's Decision N 319 of 18 June 2010 "On technical regulation in Customs Union" introduced single rules and forms for conformity assessment procedures and single list of products subject to mandatory conformity assessment. Out a total of 31 technical regulations approved by the Customs Union, 14 technical regulations were in force in February 2013. *Seven more technical regulations are scheduled to enter into force by 1 July 2013.*
- On 29 June 2012, the Russian Government approved the Customs regulation roadmap, which was prepared by the Agency for Strategic Initiatives. The amount of paperwork for customs clearance of import goods should be reduced from the existing 10 to 4 documents and the clearance deadline from 25 to 7 days by 2018. Such figures for export goods should be down from 8 to 4 documents and from 25 to 7 days. Decisions to release goods (including before customs duties are paid, if banking guarantees are provided) would be based on preliminary information as part of risk management, electronic communication would be introduced, and customs officials at border check points would be entitled to release goods.
- *The CU's Agreement on Uniform Regulating Principles of Intellectual Property Rights Protection of 9 December 2010 stated that Russia, Belarus and Kazakhstan should rely on the common international framework for the protection and enforcement of IPR, and abide by the principles of the WTO TRIPs Agreement and international agreements managed by the WIPO.*
- **The Ministry of Trade and Social Protection published a list of occupations, professions and jobs requiring high qualifications, which shall not be subject to quotas for the employment of foreigners. It comprises a total of 62 lines, and comprises such spheres as business, culture, high-tech and engineering (the Ministry's Order N<sup>o</sup>768n of 20 December 2013).**

- The Council of the Eurasian Economic Commission's Decision N<sup>0</sup>101 of 13 December 2013 eliminated the import duty and taxes on civil aviation planes with an unladen weight of more than 120,000 kg (code 8802 40 009 1) brought into the territory of the Customs Union under the regime of temporary importation for up to 5 years. The Collegium of the Eurasian Economic Commission's Decision N<sup>0</sup>6 of 31 January 2014 also eliminated the import duty on civil aviation planes (codes 8802 40 003 5, 8802 40 003 6, 8802 40 004 5, but with the exception of airplanes with a maximum seating capacity of more than 50 seats and less than 110 seats) brought into the territory of the Customs Union under the regime of temporary importation for contracts concluded before 31 December 2013 for the period of five years under agreements signed, and planes placed under the customs procedure of temporary importation until 1 January 2017.
- The Collegium of the Eurasian Economic Commission's Decision N<sup>0</sup>181 of 27 August 2013 reduced the special duty for kitchen and tableware of porcelain to 1035.3 USD per ton. The duty rate is effective from 29 September 2014 to 28 September 2015.
- Based on the Collegium of the Eurasian Economic Commission's Decision N<sup>0</sup>67 of 13 May 2014, producers of natural diamonds and manufacturers of products from natural diamonds are permitted to export their goods without any requirements and restrictions
- The Collegium of the Eurasian Economic Commission's Decision N<sup>0</sup>64 of 13 May 2014 lowered import duties on certain kinds of tropical timber (CU CN code 4408 39 850 9). The zero-rate duty is effective until 31 May 2016.
- Further to Federal Law N<sup>0</sup>22-FZ of 4 March 2014, auctions have been excluded as a method to allocate tariff quotas. The elimination of their use was one of Russia's commitments under the WTO. Thus, quota allocation will be based in Russia as a result of competition, or be proportional to the volume of goods imported from the foreign country to Russia for a certain period.

#### South Africa:

- The Government Notice No. 762 of 24 July 2009 introduced a full or partial reduction of MFN tariffs (previously set at the level of 5-10%) on a range of secondary aluminium products (aluminium bars, rods and profiles, aluminium wire, aluminium plates, sheet and strips, as well as aluminium foil). Current applicable duty for these products imported from the EU ranges between 0% and 3.8%, depending on the product.
- The Government Notice No. 815 of 7 August 2009 eliminated the 20% MFN tariff on electric heating resistors and solid plates used in the manufacturing of stoves, hobs and cookers, which are not produced domestically. Additional tariff reductions can be expected (in sectors such as chemicals, machinery and capital equipment) in line with the Government's plan to eliminate import duties on inputs not produced locally, in order to lower costs for downstream manufacturing.
- On 14 October 2011 the general tariff on imports of lysine and its esters and feed supplements containing by mass 40% or more lysine (classifiable under HS Subheadings 2922.41 and 2309.90.65) was reduced from 10% *ad valorem* to free of duty.
- On 14 October 2011 a duty on plastic bags with a low density polyethylene ( HS subheading 3923.21.90) was reduced from 15% *ad valorem* to free of duty.

- Under the Industrial Policy Action Plan for the period 2012/13 to 2014/15 the government will renew its efforts on improving cross-border infrastructure (road and rail), particularly in relation to the north-south corridor, which links the port of Durban to the DRC. No funding targets were announced.
- Large-scale infrastructure investment programmes, including projects to facilitate enhanced exports were announced in the 2012 Budget. These include national rail and port infrastructure improvement projects by Transnet to the tune of R300bn over the next seven years; the development and integration of rail, road and water infrastructure, centred around the Waterberg and Steelpoort areas of Limpopo, to facilitate coal, platinum, palladium, chrome and other minerals exports; and the development of a 16-million-ton-a-year manganese export channel through the Port of Ngqura in the Eastern Cape.
- On 18 May 2012, Notice R.376 created a rebate item 304.07/2002.09/01.06 on tomato paste in containers 200 litres or more used in the manufacture of food preparations.
- On 18 May 2012 Notice R.377 created rebate items 320.04/5404.1/01.05, 320.04/5404.90/01.06, 320.04/5407.20/01.06 and 320.04/5512.19/01.06 for the manufacture of artificial turf.
- On 03 August 2012 Notice R.609 created rebate items 307.06/83.00/01.04 to 03.04 and rebate items 310.06/83.05/01.04 to 03.04 for the manufacture of loose-leaf binders of paper and paperboard and of plastics.
- On 14 September 2013 Notice R.748 decreased customs duty on electrical motors and generators (excluding generating sets), tariff subheadings 8501.61.10, 8501.61.90 and 8501.62, from 5% *ad valorem*, 10% *ad valorem*, and 10% *ad valorem* to free of duty.
- On 12 October 2012 Notice R.841, with retrospective implementation on 01 January 2010, created rebate item 551.03/00.00/01.00 to provide for goods (excluding those covered by rebate item 551.02) in respect of which environmental levy has been paid and which are exported to a BLNS country as defined by rule 54F.01.
- On 30 November 2012, an Explanatory Memorandum on the European Free Trade Association (EFTA) clarified customs duty levels for 2013, with various implementation dates.
- On 28 December 2012, Notice R.1111, with implementation on 01 January 2013, created rebate item 317.03 and amended of the notes to rebate item 317.03 to under the new Automotive Production and Development Programme (APDP).
- Published under Notice R.133 on 28 February 2013, with implementation on 01 March 2013, created a rebate of the general rate of customs duty on petroleum bitumen, tariff subheading 2713.20, in such quantities, at such times and under such conditions as the International Trade Administration Commission of South Africa (ITAC) may allow by specific permit.
- On 28 March 2013, Notices R.227 and R.228, with implementation on 01 April 2013, created tariff subheadings 8521.90.10 and 8521.90.90 for video recorders, with eight or more input channels and a customs value exceeding R13,000, as well as other ones, with a general rate of customs duty and an *ad valorem* excise duty of 0%.
- ***On 7 June 2013, South Africa substituted tariff subheading 3907.20.15 to reduce the 'General' rate of customs duty on polyether-polyols from 10% to 0%, and inserted rebate item 306.01/2815.11/02.06 for sodium hydroxide for use in the manufacture of sodium metasilicates.***

- *On 18 October 2013, South Africa deleted tariff subheading 3921.90.05 and inserted tariff subheadings 3921.90.07 and 3921.90.09 to reduce the 'General' rate of customs duty on laminates of phenolic resin with a basis of paper.*
- *On 29 November 2013, South Africa reduced the rate of customs duty on self-adhesive polyethylene terephthalate (PET) film, tariff subheading 3919.90.03.*
- *On 4 April 2014, South Africa inserted rebate items 320.01/5407.61/01.06, 320.01/5903.20.90/01.08 and 320.01/5907.00.90/01.08 to provide for a rebate of duty on certain fabrics used in the manufacture of upholstered furniture.*
- *On 11 April 2014, South Africa inserted rebate item 304.08 2009.81.10 01.08 to provide for a rebate on cranberry fruit juice concentrate used in the manufacture of fruit juice mixtures.*
- *On 25 April 2014, South Africa inserted rebate item 306.06/3402.11.20/01.08 to provide for a rebate on methyl ester sulphate for the manufacture of washing preparations, and inserted rebate items 311.14/3919.10.07/01.08 and 311.14/4016.99.90/01.08 to provide for rebates on polyurethane flat shapes and natural rubber straps for the manufacture of dust masks.*
- *On 23 May 2014, South Africa inserted rebate item 312.01/6001.92/01.06 to provide for a full rebate of duty on other pile fabrics, knitted or crocheted, of man-made fibres, classifiable in tariff subheading 6001.92, for the manufacture of footwear with uppers of textile materials classifiable in Chapter 64.*
- *On 27 June 2014, South Africa reduced the rates of customs duty on sugar (tariff subheadings 1701.12, 1701.13, 1701.14, 1701.91 and 1701.99) from 132c/kg to 92,6c/kg in the existing variable tariff formula.*

#### **South Korea:**

- On 10 August 2010, the Ministry of Strategy and Finance announced that Korea planned to reduce the level of duty on the 100,000 tons tariff-quota for imported sugar from 35% to 0 % from late August 2010, keeping valid till the end of this year. This was in order to stabilise the domestic price of sugar and also food products using sugars.

#### **Thailand:**

- On 28 August 2012, Thai authorities raised the level of excise tax for locally produced “white liquor” from 120THB to 150 THB and for “brown liquor” from 300THB to 350THB, bringing it closer to the levels imposed on imported spirits. Retail licence fees for local products have also been levelled- up.
- Minor changes took place in the area of foreign investment in the services sector with the removal of a double licensing requirement under two different set of regulations and authorities. On 11 March 2013, the Ministry of Commerce issued ministerial regulations under the Foreign Business Act (FBA) permitting foreigners to operate in certain securities related businesses without having to obtain a foreign business license. The regulations are effective as of 19 March 2013 and cover services relating to securities (14 types), futures contracts (3 types), and capital market trusts (1). While the FBA license may no longer be an impediment to foreign ownership of these securities-related businesses (i.e. foreign-owned (up to 100%) firms may engage in these businesses), it would appear that the positive impact of trade

liberalization produces limited results since other hurdles under Thailand's securities laws remain for foreign applicants, such as the licensing requirements for such businesses under sector-specific regulations, namely the Securities and Exchange Act B.E. 2535, Derivatives Act B.E. 2535 and the Trust for Transactions in Capital Markets Act B.E. 2550.

#### Tunisia:

- On the occasion of the adoption of the 2012 Finance Law (No. 7) of 31 December 2011, the Government renewed the reduction of direct import duties which began in 2008, and thus reduced the rate of import customs duties on certain raw materials and semi-finished products, and pneumatic rubber tires with no similar in Tunisia (article 15, chapter 15-3). The 2012 Finance Law also suspended import customs duties on seeds and plantations as from 1 January 2012 (article 17).
- The maximum age of cars imported by Tunisians permanently returning from abroad was raised from 3 to 5 years as from 1 July 2012.

#### Turkey

- **Communiqué 2014/1 on the import regime for certain products (among them rolling bearings) has eased testing procedures for imports. As a result, products bearing an A.TR certificate can freely be imported into Turkey.**

#### United States:

- On 11 August 2010, President B. Obama signed into law the U.S. Manufacturing Enhancement Act of 2010 (H.R. 4380), known as the Miscellaneous Tariff Bill (MTB), intended to help create jobs and strengthen the manufacturing sector. The MTB amended the harmonized tariff schedule of the US to provide for duty suspensions and reductions (chemical components in particular) until 31 December 2012. The MTB reduces or suspends some tariffs that U.S. companies must pay to import certain materials to manufacture their products. *The legislation has since then elapsed. In July 2013, House Ways and Means Republicans and Democrats introduced the "US Job Creation and Manufacturing Competitiveness Act of 2013", which reintroduces many of the past duty suspensions and introduces some new import tariff cuts based on a process through which Congressional Committees and the administration reviewed and vetted requests for tariff suspension.*

#### Vietnam:

- On 4 May 2009 the Ministry of Finance issued a special incentive import duty list to implement Vietnam's commitment on tariff cuts for goods imported from five ASEAN countries namely Brunei, Laos, Malaysia, Myanmar and Singapore as well as Japan (AJCEP). Particularly, automobiles designed to carry passengers including those having separate luggage space and racing automobiles, ambulance automobiles and prisoner automobiles were subject to a duty rate of 9% from 1 December 2008 to 31 March 2009. A duty rate of 8% is being applied from 1 April 2009 to 31 March 2010; 7% from 1 April 2010 to 31 March 2011 and 6% from 1 April 2011 to 31 March 2012.
- Government Resolution no. 18/NQ-CP dated 6 April 2010 on "key measures to ensure macro-economic stability, curb inflation and achieve a GDP growth rate of approx. 6.5% in 2010,

which include: Implement measures on prices”; “Guide” the commercial banks to lend foreign currencies for loans for import of “essential” goods for production which cannot be produced domestically.

- The National Assembly of Vietnam passed the amended Law on Corporate Tax. Key amendments include reducing the current 25% corporate tax applicable to all forms of enterprises to 22% as from 1 January 2014 and to 20% as from 1 January 2016. SMEs (employing less than 200 workers and having annual revenue of less than 995,000 US\$) will enjoy lower taxes, at 20% as from 1 July 2013, and at 17% as from 1 January 2016. Annex II of Circular 193/2012/TT-BTC updates further cuts of import duties that Vietnam must take under its international commitments. About 214 tariff lines undergo an average reduction of 2.85%.