



EUROPEAN COMMISSION
 Directorate-General for Trade
 Directorate G - Trade Strategy and Analysis, Market Access
Market Access, Industry, Energy and Raw Materials

MAAC 2016-029

Brussels, 3 August 2016

All redactions marked with "*" are made under Art. 4.1(a)

All redactions marked with "* * " are made under Art. 4.2.

DRAFT MINUTES
MARKET ACCESS ADVISORY COMMITTEE
Charlemagne building, room JENK
Friday 15 July 2016, 14:30 – 17:30

1. APPROVAL OF THE DRAFT AGENDA (MAAC 2016 – 026)

Following issues were requested to be added to the agenda:

- * : Dominican Republic – labelling of imported food product
- ** : Russia – new Regulation on fur labelling
- ** : Uganda – Standards Regulations

The agenda was adopted with these additions.

2. ANNOUNCEMENTS FROM THE CHAIR

The **Chair** informed the Committee about the following upcoming WTO Trade Policy Reviews:

- Russian Federation on 28 and 30 September 2016; deadline to send input to DG Trade 5 September;
- South Korea on 11 and 13 October 2016; deadline to send input to DG Trade 16 September.

COM further announced that DG Trade has prepared a questionnaire to give stakeholders and interested parties the opportunity to provide information on trade matters for the negotiation of a trade agreement between the EU and the Mercosur. The questionnaire is published on DG Trade's website:

http://trade.ec.europa.eu/consultations/index.cfm?consul_id=213.

3. TRADE FOR ALL COMMUNICATION – ROLE OF THE MARKET ACCESS STRATEGY IN THE ENHANCED PARTNERSHIP: EXCHANGE OF VIEWS WITH SIGNE RATSO, DIRECTOR DG TRADE

The **COM** (Chair) outlined the rationale of the Enhanced Partnership as spelled out in the Trade Communication, which is to extend and reinforce the current Market Access Partnership beyond the removal of obstacles to trade and investment to the implementation of FTAs. COM mentioned that MS and BU should have a more active role in FTA implementation and awareness raising activities including by using more pro-actively the different Market Access Strategy instruments, both in Brussels and locally, to ensure that EU business can profit to the maximum extent of any FTA. The COM invited MS and BU to

reflect on the concept of the proposed Enhanced Partnership and provide input on how to make this policy tool successful. The topic will be on the agenda of the MAAC meeting in September in order to continue the discussion.

MS (*, *, *, *, *) and BU welcomed the COM's initiative. ** noted that the actions should be 'tailor-made' according to the sector (for instance, rules of origin are important for the textile sector); * asked for statistics broken down by sector and MS; * mentioned the importance of the dialogue (businesses are not aware what the EU MAS offers); ** asked to improve the frequency of the MA WGs.

4. EU-KOREA FTA IMPLEMENTATION: FEEDBACK ON THE WORKING GROUPS HELD IN JUNE

The COM (Chair) provided a debrief on two EU-Korea FTA Working Group meetings which took place in Brussels on 21 and 22 June, namely on Motor Vehicles and Parts and on Pharmaceuticals and Medical Devices. COM noted that overall the meetings were held in a cooperative and constructive manner.

In the WG on Motor Vehicles and Car Parts the points on the agenda included car part marking, truck tractors (these two issues are included in the bilateral discussions with Korea on a possible FTA amendment package) and vehicle width as well as regulatory co-operation and information points. COM also mentioned that the EU introduced a new issue concerning a ban on the use of motorcycles on Korean highways. The COM noted some grounds for optimism on several market access issues such as safety standards for seats in certain car models and the request to Korea to accept the Flex-PLI legform impactor test. Korea also showed an interest to work in a co-operative manner on greenhouse gas emissions for commercial vehicles and implementation of Real Driving Emissions.

COM then briefly outlined the outcome of the discussions in the WG on Pharmaceuticals and Medical Devices and mentioned that a detailed debrief had already been given to Industry. COM noted possible positive developments on several market access issues such as on the pricing policy for Pharmaceuticals. Korea confirmed that the Consultative Body involving industry stakeholders has agreed to redefine the requirements of the premium pricing policy in order to make them easier to meet by foreign companies.

The EU also raised the recognition of Pharmaceutical Compendiums from the EU, notably the ** (COM debriefed * on this issue). Regarding the reimbursement prices of Medical Devices ("import price methodology"), Korea assured to inform industry about pricing in a transparent manner. Korea also confirmed that the Ministry of Food and Drugs has decided to withdraw for the time being the clinical test requirements for 63 high-risk medical devices.

**, *, * thanked the COM for having raised many issues of their interest. ** asked about the Direct Transport Clause (Chair replied that this is part of the FTA amendment package and therefore not directly related to discussions in the FTA implementation WG) and Korea's intention to change the labelling rules for spirits (Chair replied that the Trade in Goods Committee would be a more appropriate forum to consider raising that issue).

5. EXCHANGE OF VIEWS WITH Art. 4.1.(b) ON MARKET ACCESS ISSUES

5.1. Mexico: Art.4.1.(b)

COM resumed the current economic situation and recent reforms in Mexico. COM explained that an elimination of the key barriers are EU offensive interests in the context of the on-going negotiation on the modernisation of the EU-Mexico FTA.

COM then presented the draft key barriers list and asked MS and BU to provide comments until end of August: *IPR* – all legislation is applied, but enforcement issues remain. There is little progress in *Geographical indications* (Mexico has a national GI system), *Labelling*, *Registration of health products and agro-chemicals* (registration procedures have improved at federal level, but restrictions continue at the level of national health systems). *Customs procedures* –the reform of 2013 has resulted in a more performing customs service with more appropriate procedures, therefore this key barrier could be eliminated. The 4 key barriers on SPS are highly technical and show little progress and are linked to the FTA modernisation negotiation.

MAAC members raised the following issues: * – all SPS barriers , long procedures for registration of medicaments, new key barriers on closed sectors (investment). * – no transparency for procurement, Croatia's EU membership still not ratified. * – missing GI protection leads to a "devaluation" of GI products. * – procurement at municipal level, openness of energy and transport sectors, traders report customs problems on steel, footwear and textiles. * – definition of whisky. * – labelling of textiles (e.g. "man made fibres" in capital letters etc.). ** – labelling problems continue but fewer complaints due to dwindling exports, outdated rules of origin, compulsory import licenses, quota for textiles and some customs problems. ** – GIs, labelling issues versus OIV standards (wine species, allergens even if residues are not found etc.). * and ** – clarifying SPS procedures and more priority for SPS issues (Mexico exports to the EU 100,000 t of fruits and vegetables and the EU only 25 t to Mexico). COM remarked *inter alia* that Mexico opened the telecom and energy sectors, the FTA does not cover services, investment, procurement at sub-federal levels, and that the EU cannot intervene on non-EU products. The customs key barrier will be reformulated as it is not any more a general issue, but a concern for specific sectors (textiles, footwear and steel) due to new monitoring/control measures with reference prices.

5.2. Colombia: Art.4.1.(b)

COM explained that Colombia was an important market, being the 3rd largest in Latin America and currently opening up. Colombia has a stable economy and keeps posting high growth rates which should offer further opportunities for EU exports. COM further mentioned that Colombia concluded a number of trade agreements in recent years, not only with the EU, but also with the US, Canada and the Pacific Alliance. In 2017 Colombia expects to finalise the OECD accession negotiations, which contain important trade components.

COM also provided insights into the main challenges concerning the trade situation in Colombia, such as the drop in commodity prices, Colombia being dependent on petroleum exports, the high costs of trading goods due to a lack of infrastructure, and the peace process. Colombia intends to develop infrastructure projects, which should offer business opportunities also for EU construction companies.

COM then outlined the main trade barriers: *on SPS* – there are detailed provisions in the EU-Colombia FTA, but implementation has been slow. However, some progress could be achieved, COM mentioned in particular that there is now a single procedure in place for imports ; *on the spirits sector* – there is discrimination at 2 levels: at national level due to the tax regime, and at subnational level due to discriminatory alcohol monopoly practices. COM hoped for a positive outcome of the current legislative procedure in Colombia's Senate, and referred to a possible WTO case filed by the EU; *truck scrapping scheme* - the import of new trucks is only possible if a similar one is scrapped; *market access in Public Procurement at the local level* – COM noted that this issue is of particular importance in view of upcoming infrastructure projects; *pharma sector* – the main issues concern provisions in Colombia's National Development Plan and recent threats of a compulsory license. COM explained that all these trade barriers are important and carefully monitored by the EU DEL.

MS and BU supported the COM efforts. * mentioned an issue related to the registration of medication (the COM is not aware of problems and asked to provide details on this case).

** and * reiterated their concerns in regard to the truck scrapping scheme. ** also mentioned Colombia's National Quality Subsystem. COM replied that Colombia's National Quality Subsystem was not particularly business-friendly but is not *prima facie* incompatible with international rules. However, this measure is not only affecting cars, but also other sectors and the EU encourages Colombia to follow international standards and recognise self-certification.

5.3. Switzerland: Art.4.1.(b)

COM provided a general overview of the EU-Swiss trade relations. The COM explained that Switzerland is the third trading partner of the EU, whereby the EU has a very considerable trade surplus in the trade in goods and in services. The economy of the country is very open and more than 100 bilateral agreements currently exist between the EU and Switzerland, where Switzerland has agreed to take on certain aspects of EU legislation in exchange for accessing parts of the EU's internal market.

COM noted that although there are not many trade barriers, they are still of economic importance because of the size of the trade flows. A recent list of trade barriers was established in cooperation with the EU Trade Counsellors in Bern last April. COM mentioned that the barriers are difficult to solve, given that there is no dispute settlement mechanism in the EU-Swiss agreements, meaning that there are no means to tackle the issues beyond the discussions in the Joint Committees. This is among the issues which are addressed in the ongoing negotiations on an institutional agreement between the EU and Switzerland.

The COM then briefly outlined the main difficulties for EU operators on the Swiss market: - *On the service sector* the main barriers are linked to implementation of the flanking measures for posted workers (8-days pre-announcement obligation, Deposit requirements for foreign service providers, Disproportionality of sanctions and Blacklists); - *Recognition of Professional Qualifications*; - *Swissness Legislation* (only products consisting of at least 80% Swiss raw materials can carry the "Swiss made label"); although this new legislation which will enter into force on 1 January 2017 does not infringe international rules, its implementation is burdensome; *Agricultural Regulations* (tariff reclassification and quotas). COM noted that the Market Access Team (MAT) in Bern was very active, but the participation of BU on the ground could be improved. COM also encouraged MS and BU to

cooperate with the MAT in Bern more pro-actively and stressed the importance of taking market access issues up in the relevant fora in Brussels and in bilateral talks with the Swiss.

6. MARKET ACCESS SUCCESS STORIES

India: revised rules on food additives for alcoholic beverages and abandonment of labelling requirements in duty free areas

The **COM** reported the successful resolution of two issues when exporting to India: The notification to the WTO under the SPS Committee of the revised rules on food additives for alcoholic beverages by the Food Safety and Standards Authority of India (FSSAI) and the publication by the FSSAI of a Notice indicating that labelling requirements applicable in the domestic market would not apply to duty free areas.

****** noted that they were still looking at the regulation and it seems that a number of additives are still missing. Indeed, FSSAI's notification includes additional names, but it remains unclear for the industry whether this should be read in relation to the list published in 2015 or the one published in June 2016. It not understandable how the two lists combine and what constitutes the final list, and the last notification of June 2016 still lacks a number of additives for spirits.

****** explained their concerns. With regard to beers, the Codex Alimentarius level is not the finalised level - certain additives authorized in the EU are not in the Codex list – and India has problems acknowledging anything that is not in the Codex list. This is of concern for the brewing industry as the Codex list won't be finalised until 2020-2022. They underlined that, as a starting point, all the additives which are already in the Codex list should be acknowledged in the Indian legislation.

COM underlined that the preliminary feedback received from the industry was positive but took note of the remaining concerns. ****** thanked the COM and MS for their efforts and supported the point made by ******. They also have problems understanding what is in the final list of additives.

7. MARKET ACCESS CASES:

7.1. India: Legal Metrology (Packaged Commodities) Amendment Rules 2015

The **COM** informed that in early July, the EU TBT enquiry point contacted the Indian Authorities so as to enquire an explanation on why the Legal Metrology (Packaged Commodities) Amendment Rules of 2015 had not been notified. Indian Authorities were kindly invited to notify the measure under the TBT Agreement and to postpone its implementation until notification is effectively made and MS are given the opportunity to analyse the legislation and comment on it. COM asked for more information on the applicable law where there is specific legislation for the products at issue, such as in case of alcohol, food or cosmetics.

COM acknowledged the relevance of the change of the rules on the dimensions of the Principle Display Panel (from 20% to 40%). However, COM would welcome information on what the international practice on this is. The COM also noted that the EU should be careful with its concerns because the EU legislation is also quite strict in some areas, e.g. in tobacco, the EU requires a % of the package to be covered with health warnings.

****** noted that they learned of this issue a couple of months ago. They confirmed the entry into force had been postponed to October 2016. Despite this, it is still burdensome to adapt all their labels for October.

***** mentioned that this was not the first modification of a law from 2011. It has never been notified which implies a lot of legal uncertainty. On the Legal Metrology Amendment Rules

relationship with other specific legislation, * confirmed that, at least, for olives and olive oil, this amendment clashes with the specific rules.

8. FOLLOW-UP OF PREVIOUS MAAC MEETINGS

8.1. China: new food safety import certificate

The issue was discussed in the MAAC meeting in June. COM informed that a meeting with the Chinese administration AQSIQ will indeed happen on 26 July in Beijing, hosted by the EU DEL. The * were the only MS so far that sent information about the potential impact of the new certification requirements: beverages excluded, the * authorities estimate that about 4000 additional certificates would have to be issued annually. The COM noted that this is an important information to be used in the discussion with China. The case will also be discussed in the SPS MA WG on 19 July.

*, * expressed its concerns, in particular in regard to the exports of apples and pears.

8.2. Turkey: imports of machinery

Upon *'s request the COM provided an update on this issue which had been discussed in previous MAAC meetings (March and May 2016). The issue relates to Turkey's unproportioned and unjustified requirements in regard to EU imports of machinery into Turkey. The COM reported that the case was raised at the meeting of the Customs Union Joint Committee in Ankara on 25 May and at the meeting of the Machinery Administrative and Cooperation Group (AdCo) on 26 May. Following that meeting the EU is expecting Turkey to address the questions formulated by the Group. The COM hopes to receive Turkey's comments in September, ahead of the next meeting of the AdCo Group planned on 5-6 October 2016, where the participation of a representative of the competent Turkish Ministry of Economy is expected. The COM however, pointed at the fact that the AdCo Group is an advisory body, with limited authority.

The Chair also informed about a letter from Commissioner Malstrom in reply to Orgalime, in which the Commissioner assured that she will continue her efforts and raise the issues of EU's concerns in her bilateral meetings with Turkey.

* and * supported COM's actions. * signalled new import measures imposed by Turkey as from 1st July. * will send details in written.

9. AOB

9.1. Russia: wrong allocation of HS code for multi-ply paperboard

** informed the COM about the wrong allocation of HS code to some cartonboard grades by the Russian customs authorities. Russian customs authority continues to apply a 15% customs duty to multi-ply paperboard with only one outer bleached layer (CN code 4810 92 300). However, Russia also applies this import tariff to paperboard based on recovered fibres which should fall under CN code 4810 92 900 with a lower customs duty (5%).

COM informed that the EU has filed a WTO case against Russia on excessive tariff duties, and the tariffs mentioned by ** are included in the list of excessive tariffs identified by the EU. The final report on the case is expected in September and might bring positive outcome on the issue raised by **.

9.2. Uganda:

The COM thanked * for bringing the Ugandan notification TBT 538 to its attention. The deadline for comments expired on 16 June. However, after analysing the input received, the COM decided that it was worth sending comments to the Ugandan Authorities on the

notified measure. This decision was made in view of the substance of the issue and of the risks of getting the measure extended across the African Community in the future if no concerns are currently raised.

The comments from the EU on this issue have compiled the most important concerns affecting EU industry and have been subject to an Inter-Service consultation that was completed that week. The COM expressed hope that the Ugandan Authorities take the EU comments into consideration.

The COM will inform MS and BU once a reply from the Ugandan Authorities is received.

Other AOB points:

Because of time constraints, the points requested by * and ** could not be taken. The Chair asked the * Delegate to send written information to the COM and proposed to discuss these issues in a forthcoming MAAC meeting.

FOLLOW-UP ACTIONS:

Mexico – Key Barriers list: MS and BU to provide comments until end of August

FOR MEMBER STATES ONLY

10. APPROVAL OF THE DRAFT MINUTES OF THE MAAC MEETING OF 21 June 2016 (MAAC 2016-021)

The minutes of the MAAC meeting in June 2016 were distributed on 1 July 2016. The minutes were adopted.

FOLLOW-UP ACTIONS:

Role of the Market Access Strategy in the Enhanced Partnership: MS to provide input until end of August

DG TRADE, Unit G.3