



## EUROPEAN COMMISSION

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

MAAC 2016-042

Brussels, 11 November 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***  
***Conference Centre Albert Borschette, room 2C***  
***Thursday 20 October 2016, 10:00 – 13:00***

### **1. APPROVAL OF THE DRAFT AGENDA (MAAC 2016 – 035)**

Following issues were requested to be added to the agenda:

- New Decree issued by the Turkish Ministry of Industry and Trade (\*, supported by \*)
- Labelling provisions for beer in Colombia (\* )

The agenda was adopted with these 2 additions.

### **2. ANNOUNCEMENTS FROM THE CHAIR**

The **COM** announced the upcoming WTO Trade Policy Review of the US on 19 and 21 December 2016 and indicated the deadline of 24 November to send input to DG Trade.

### **3. TRADE FOR ALL COMMUNICATION – ROLE OF THE MARKET ACCESS STRATEGY IN THE ENHANCED PARTNERSHIP: FOLLOW-UP OF THE DISCUSSION OF THE MAAC MEETING IN SEPTEMBER 2016**

**COM** presented a first overview of the replies received from MS and business associations following the discussion held in the MAAC in September and the questions formulated by the Commission for reflection on ways to enhance active cooperation on FTA cooperation issues (22 contributions received – 14 from MS and 8 from business associations).

MS and Industry (\*, \*, \*, \*, \*, \*, \*, \*, \*, \*, \*, \*, \*, \*\*, \*) intervened and welcomed the presentation which reflected contributions. Great support was expressed for specific MAAC sessions devoted to FTA discussions (allowing MS also to ensure participation of their FTA experts), the integration of a dedicated FTA platform in the MADB, the sharing of best practices. Interest was shown in particular for specific discussions on preference utilisation rates and rules of origin. MS asked for more details on a possible rules of origin calculator and stressed the importance to highlight the benefits of trade agreements in awareness campaigns. \* mentioned its practical step-by step guide on the use of the FTAs that has already proven very useful for BU. It also mentioned that 2-pagers with important messages regarding each FTA would be useful for MS' visits to third countries. \* underlined possible synergies from advance sharing of COM and MS agendas and dates of meetings of FTA Committees. \* also suggested to have improved statistics for GIs and organic products in third markets. \* reiterated its concerns in regard to the complexity of rules of origin, which sometimes prevents business from making use of the

FTAs. As a best practice, it also highlighted the importance of involving industry at an early stage, before the negotiations start. \* underlined that it would be useful to receive more information on FPI actions in the MAAC meetings. \*\* underlined the importance to include Market Access Teams in the discussions, e.g. through DVC, and of sectorial meetings (both in terms of frequency and of adequate participation, including by MS). It welcomed the organisation of meetings such as the event “EU Trade Agreements in practice” held in Bratislava and considered that it would be good to regularly report back to TPC on barrier removal and FTA implementation activities. \*\* agreed on the importance of adequate MS participation in sectorial meetings and underlined also the significance of tailor-made information on FTAs per sector (cf. e.g. an initiative with DG GROW on specific benefits of FTAs for the textile sector).

COM (Chair) stressed the importance of enhanced cooperation on FTA implementation, thanked MS and BU for their active participation and invited members who have not yet sent their input to do so by 28/10 at the latest. COM agreed to the importance of showing the benefits of trade agreements and noted that this had worked well for the EU-Korea FTA. COM will look into ways to improve advance sharing of the different agendas with the MS. However, this should be done in both ways, in order to use every discussion to reinforce messages. COM welcomed the idea of a step-by-step guide per FTA, proposed that MS present best practices in FTA dedicated MAAC sessions and invited MS reactions on this proposal. On rules of origin, the Chair agreed that this is key. The Chair also agreed to the importance of early involvement of BU by MS and COM, even before start of FTA negotiations, and indicated that COM makes this possible from the start, via public consultations published on its website, such as the questionnaire in regard to the negotiations for an EU-MERCOSUR Association agreement, which the Chair announced at the beginning of the meeting. Chair also agreed on the importance of have tailor-made information for awareness raising but underlined that the input should mainly come from MS. Chair proposed exploring the possibility to share work on this kind of issues (e.g. through pools of MS working on specific themes for mutual sharing).

Chair announced COM will return to MS on this topic before the end of the year, based on the analysis of all contributions received.

#### **4. REVIEW OF THE KEY BARRIERS LIST FOR INDIA**

COM presented the draft list of key barriers, which included a column with next steps and a prioritization of the barriers and asked MS/BU to provide input on easily solvable measures, figures on economic impact and the own demarches contributing to tackle the issue. MAAC participants should provide input until 3 November. The final Key Barrier list would be presented at the November MAAC.

\*\* thanked the Commission for including barriers on telecommunication and LCR in the Key Barrier list and asked to include the barrier on mandatory certification, which figures on the agenda for the EU-India SPS/TBT JWG. \*\* requested to add the testing of tyres on the list, and to continue raising the issue at the TBT Committee. The study initiated by the COM would provide additional insights on the barriers. \*\* congratulated COM on the progress achieved. As regards mineral waters, they would check if there was any progress and report back. \* underlined the importance of barriers mentioned under Telecommunications and LCR for the country. \* remarked that the next-steps-column only made sense for regularly updated Key Barrier lists, as the one on India.

\* companies were concerned by the labelling requirements, telecommunication barriers, customs procedures, taxes, mandatory certification. CE labels are no longer accepted by the Indian authorities since beginning of this year. \* expressed its gratitude for the quite complete list and suggested to include poultry genetics and ergot in corn. The

\* Embassy is discussing the Legal Metrology Act with the Indian authorities.  
 \*\* related on the barriers affecting the textile and clothing industry, in particular labelling, taxation system and IPR. \*\* is very concerned about the Legal Metrology Act and the urgency to get more information for operators. \* expressed its interest in IPR barriers and welcomed the introduction of "next steps" and invited the COM to introduce a barrier on crop protection products. \* supported comments made by France and Germany. \* welcomed the introduction of "next steps", as it increased transparency and was affected by most of the barriers. \* is in particular affected by mandatory certification of steel products. \*'s priorities are reflected in the list. \* enquired whether it would be possible to list barriers at Indian States level as well. COM assured it is also working on the barriers not mentioned in the Key Barrier list. In order to introduce new barriers, industry should provide an economic impact analysis so to enable a proper prioritisation otherwise there was the risk of including barriers only in the light of lobbying efforts deployed by industry. There was a way to accommodate BU/MS requests within the existing clusters of trade barriers. On tyres, the COM needs an update on the barrier before the EU-India SPS/TBT working group on 11 November. An update on mineral waters would be necessary in order to include it in the list. The COM keeps raising the barrier on ITA-1 products attracting 10% duty in India at WTO level and inputs from industry on economic impact is awaited. On the Legal Metrology Act, the COM has just addressed a letter to the Indian authorities and would also need MS/BU support to also escalate the matter politically. It would be possible to include barriers at State level, and this is already the case in the existing list for alcoholic beverages. COM assured \*\* that these aspects could be accommodated. On taxation, a meeting with the Indian Embassy was organised on 24 October.

## **5. PREPARATION OF THE TBT COMMITTEE MEETING, 10-11 NOVEMBER 2016, GENEVA**

COM presented the list of offensive cases it intends to discuss in the coming TBT Committee meeting and outlined the 3 new cases it considers raising: Uganda – Alcoholic beverages specifications (G/TBT/N/UGA/434, 435, 437, 438, 439, 440 & 441); Russia – Medical devices (G/TBT/N/RUS/51, 52, 53 & 55); Russia - pharmaceutical products (G/TBT/N/RUS/54, 58 & 63).

MS and BU reiterated their main concerns and thanked the COM for the inclusion of several of them in the list. \*\*, \*\*, \* and \* stated their support to the inclusion of the case related to the Chinese furniture standards 1094-1095-1096 and stressed the importance of having clarification from China on the pending/unclarified questions.

\*, \*, \*, supported by \*, \* and \*\*, asked the COM to raise also the issue related to Vietnam's licencing arrangements for alcoholic beverages. This issue is not on the list, but COM agreed to explore the possibility to raise it bilaterally with Vietnam. \*\* voiced its concerns regarding Thailand's new marking requirements for tyres and agreed to send comments to the COM via the NTB factsheet. \*\* informed about Peru's requirements for warning labels on food products, which in its views are disproportionate, and will prepare comments. \*\* mentioned changes to the milk pricing system in Canada and warned that this issue is likely to be raised by other members in the TBT Committee. \*\* agreed to send further clarification. \*, supported by \* and \*, asked to be updated on India's Amendment to the Legal Metrology Act (COM agreed to raise it bilaterally with India). \*\* asked about the Eurasian Economic Union's Amendment to its TR on the safety of toys, in particular whether a revision of the text would take place (COM agreed to raise this issue bilaterally). \*\* expressed concern with an Indonesian regulation including local content requirements on IT equipment. \*\* also requested the

COM to provide a debrief on the market access barrier discussions in the EU-China HED (High-Level Economic and Trade Dialogue) which took place on 18 October at the next MAAC, and COM agreed.

## **6. KEY BARRIERS LIST FOR MEXICO: FOLLOW-UP ON DISCUSSION IN THE MAAC OF SEPTEMBER 2016**

COM explained that the updated list of key barriers for Mexico had been presented in the MAAC in October following a first discussion in the MAAC in July and in the light of the comments received from MS and Industry. In view of the lack of progress in a number of items, and against the backdrop of negotiations for the modernisation of the existing trade agreement with Mexico scheduled for the end of November, it was essential to better target and coordinate COM and MS actions. MS and BU took the floor to highlight their main concerns in regard to market access in Mexico. COM reiterated its invitation to MS to share in advance information on high level visits, cooperation programs, and other opportunities for advancing our market access agenda in order to maximise our impact. If part of this information was considered sensitive, it can be shared with the COM bilaterally. On the basis of the information received, COM concluded that it would take a more comprehensive and focused approach based on enhanced coordination with interested MS.

## **7. MARKET ACCESS CASES:**

### **7.1 Algeria: termination of granting import licences for steel products**

\* raised its concerns with regard to the quantitative restrictions brought in by Algeria in 2016 in the form of quotas and import licences, which are particularly heightened by the fact that since July, additional import restrictions have been imposed for steel products, in particular as regards wire rods. \* stated that these restrictions are in breach of the Association Agreement and asked COM to take all possible steps towards the elimination of these protectionist measures. \* finally stressed the importance of enhancing transparency with regard to the procedure for granting the import licences, so to avoid discrimination against their importers. COM was asked to intensify its efforts to solve this issue and to intercede with the Algerian authorities as well as to offer any new relevant information.

COM explained that it has raised this issue several times this year with the Algerian authorities who continue to justify the measure on the basis of balance of payment difficulties as mentioned in article 40 of the Association Agreement (AA). However Algeria has never invoked any such derogation under the AA by following both the form and substance requirements.

COM informed that it has no evidence that the distribution of import licenses by Algeria was done in an improper way. In order to verify that quota distribution respects the criteria of existing market share and historical trade, the COM invited MS to provide information on quotas received for the products in question.

\* indicated that although there is still quota left to be used for steel products, the import licenses are not being issued by the Algerian authorities. \*, backed by \*, asked about Algeria's measures to face its balance of payments difficulties in particular by contacting the IMF. The COM indicated it has no information on this and underlined the fact that Algeria's difficulties are viewed with a certain sympathy by MS due to its position as a stable partner of the EU as regards security and counterterrorism issues and invited the participants to closely work with people in their foreign ministries.

## **7.2 Russian Federation: new Decree N°925 introducing preferences for Russian suppliers in goods and services in the context of the procurement activities of State-owned enterprises**

The COM informed the Committee on a new Decree adopted by the Russian Government on 16 September 2016, introducing preferences to goods of Russian origin and for Russian suppliers of services in the context of the procurement activities of State-owned enterprises. This Decree, which will start to apply from 1 January 2017, establishes a 15% price preference for domestic goods, services or works in tenders organised by SOEs, thus giving domestic suppliers a competitive edge to the detriment of imported goods and foreign service providers, with some exceptions. COM noted that based on information available at this stage, the new rules appear to entail discrimination against foreign goods and service providers and to raise serious economic concerns in view of the vast economic importance of the SOEs sector. The size of the State-owned sector has been estimated at around 50% of GDP (OECD, 2013) and is growing. The value of procurement contracts by SOEs exceeded 23 trillion roubles in 2015 (~€320 billion at the current exchange rate). The new Decree appears as a major development in the context of Russia's policy of import substitution, in this case through the leveraging of SOEs' market power. While Decree n°925 is not the first measure in this area, it entails both a generalisation (all products) and a formalisation of the discriminatory practices applied through less transparent means.

COM asked MS and Industry to provide input, in particular all useful elements to assess the economic impact of this measure, in order to conduct a thorough analysis of this new issue.

**\*\*** confirmed that Russia was an important market and that EU business already signaled their concerns, and agreed to cooperate on this issue. The COM noted that contracts concluded before 2017 are exempted from this measure.

## **7.3. Switzerland: application of VAT on small orders sent from countries outside Switzerland**

**\*** pointed at a change of the Swiss VAT law adopted by the Swiss Parliament this autumn and which would enter into force on 1<sup>st</sup> January 2018. Up to now, consignments for which the amount of VAT to be paid does not exceed CHF 5 are exempt from VAT. The modified VAT law would foresee that all companies generating a turnover of more than CHF 100,000 from low-value consignments in Switzerland will become subject to VAT. When VAT is due, customs clearance fees are due as well and the procedure of a simple voluntary declaration would not apply anymore. These customs clearance fees are considered by FR as disproportionately high. As a result of the modified VAT law, customers in Switzerland would have to pay more for receiving small consignments from countries outside Switzerland. A more expensive customs procedure for small consignments could therefore become a barrier to trade.

**\*** would like to know which legislative text would be implemented and would like the legislation to explicitly foresee the possibility of recourse to the simplest customs clearance procedure ('déclaration de volonté') for all consignments lower than the current thresholds of (CHF 62.5 for the normal VAT rate of 8% and CHF 200 for the VAT rate of 2.5%).

COM took note of the concerns presented by **\*** and is aware that due to the increasing importance of e-commerce in today's distribution of goods, customs fees and postal handling charges for customs inspections have an impact on trade relations. COM will try to discuss the issue at the next Joint Committee of the FTA with Switzerland in November. For this, COM would like to know if and how other MS would be affected by the change of the law. COM asked for more information from MS about the economic relevance of the change of the VAT law and consequently higher customs clearance fees: which businesses would be affected, how much VAT and customs clearance fees are currently levied on small

consignments in Switzerland that benefit from the 'déclaration de volonté' and what would be levied after 1<sup>st</sup> January 2018 on those shipments, how much of such small consignments (in value) are shipped to Switzerland per year and which are the affected products.

## 8. AOB

\* , supported by \* , raised concerns about a new **Decree issued by the Turkish Ministry of Industry and Trade** in August 2016, **which extended restrictions on movement of certain products**, including alcoholic beverages, under the transit regime. As a result and despite an earlier court ruling which should have freed such movement, alcoholic beverages could henceforth, not be sent back to their source.

COM responded that it had raised the issue in the Customs Union Joint Committee on 25 May 2016. DG Taxud was currently analysing the latest developments and considering proposing it for the Customs Cooperation Committee to take place with Turkey in December.

\* raised an issue concerning **discriminatory labelling provisions for beer in certain "departamentos" in Colombia**. COM requested \* to complete an NTB fact sheet in order to consider the issue further.

### FOLLOW-UP ACTIONS:

- **Role of the Market Access Strategy in the Enhanced Partnership: MS, BU which have not yet sent comments** should provide their input.

- **Key Barriers exercise:**

MS and BU to provide the COM by 3 November 2016 with information in regard to **India's key barriers**. Input should indicate which barriers are easily solvable measures, include figures on economic impact and the own demarches contributing to tackle the issue.

**Mexico:** MS to reflect on ways to coordinate better COM and EU actions to improve the efficiency of the EU fight against trade barriers, and to provide advance information for better coordination with COM.

- **Algeria: termination of granting import licences for steel products:** MS to provide information on quotas received for the imports of steel products, in particular rebars.

- **Russian Federation: new Decree N°925 introducing preferences for Russian suppliers in goods and services in the context of the procurement activities of State-owned enterprises**

MS and Industry to provide input, in particular all useful elements to assess the economic impact of this measure.

- **Switzerland: application of VAT on small orders sent from countries outside Switzerland**

MS to inform the COM if they would be affected by the change of the law. Input should include information about the economic relevance, which businesses would be affected, how much VAT and customs clearance fees are currently levied on small consignments in Switzerland that benefit from the 'déclaration de volonté' and what would be levied after 1<sup>st</sup> January 2018 on those shipments, how much of such small consignments (in value) are shipped to Switzerland per year and which are the affected products.

- **Colombia: discriminatory labelling provisions for beer in certain "departamentos" in Colombia**

■\* to send information on this case using the NTB fact sheet template.

#### **FOR MEMBER STATES ONLY**

#### **9. APPROVAL OF THE DRAFT MINUTES OF THE MAAC MEETING OF 22 SEPTEMBER 2016 (MAAC 2016-029)**

The minutes of the MAAC meeting in September 2016 were distributed on 3 October 2016. A revised version following comments from ■\*\* was circulated on 17 October. The revised minutes were adopted.

*DG TRADE, Unit G.3*