SEVENTH REPORT ON POTENTIALLY TRADE RESTRICTIVE MEASURES

May 2010 – September 2010

TRADE

EUROPEAN COMMISSION

Report

on

potentially trade restrictive measures identified in the context of the economic crisis

May 2010 – September 2010

for the Trade Policy Committee

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Executive summary

The seventh edition of the report of the European Commission's Directorate-General for Trade on the **monitoring of potentially trade restrictive measures** provides the latest state of play as regards trade activities of the EU's trade partners. It covers the period between May and September 2010 and, in addition to the analysis of new developments in terms of market access, takes a closer look at how far measures taken since the beginning of the economic crisis in the second half of 2008 have been rolled back.

Two years since the launch of the monitoring exercise, the available data confirms that although restrictive measures have been introduced, **trade protectionism has not been the major factor behind the collapse of world trade**. The latest WTO World Trade Report[1] points out again that falling demand has been the major force behind the slump in trade flows, rather than problems of access to trade finance or trade protectionism. However, just as EU trade was more strongly affected by the crisis than the global average (-14.8% in volume terms, against the worldwide -12.2% in 2009), comparatively, **the impact of trade restrictive measures on EU trade was larger than the WTO average**. Available data shows that between October 2008 and October 2009, around 1.7%[2] of EU merchandise exports were affected. Furthermore, the progress in export recovery remains uneven across the EU. It has been clear that **openness to trade remains a key precondition to promote a stronger recovery.** Nonetheless, there are still concerns of a systemic nature as countries continue to introduce measures that could inhibit free trade.

Against the still nuanced forecast for the economy at large and trade in particular, at the **G20 summit in Seoul in November**, leaders will take stock again of their two-fold pledge (i) not to resort to trade restrictive measures during the economic and financial crisis, and (ii) to rectify without delay any measures introduced. This commitment was reiterated and extended until 2013 at the Toronto G20 summit in June, with the aim of helping to sustain the recovery. The G20 leaders further extended the request to the WTO, OECD and UNCTAD to monitor trade-related developments in this regard. The EU pays particular attention to the need to deliver also on the second part of the pledge and remove the measures already in force. As this report demonstrates, **observance of the G20 pledge both to avoid the introduction of new measures and to remove those in force or planned has been at best mixed. The G20 needs to address this issue once again.**

The measures introduced since early autumn 2008 continue to be implemented across the board even where the crisis has alleviated. Clearly, no straightforward conclusion can be drawn as to the exact impact of these measures on the EU's trade figures. However, there are mounting concerns that the measures **have become part of the post-crisis trade regime**, creating an additional layer of burden on exporters. This accumulating effect was noted in the latest WTO report on trade-related developments issued ahead of the Toronto summit: "[…] *careful attention has to be given to the growing risk of a potential accumulation of trade-restricting measures implemented since the outbreak of the global financial crisis. This risk is compounded by a relatively slow pace of removal of previously adopted restrictive measures. Exiting current restricting measures should be a priority."*[3] This report confirms yet again the validity of this conclusion. The danger of mounting non-tariff barriers, in particular in the area of government procurement, as well as import and export tariff increases, remains present. **It is thus likely that there will be a lasting impact on EU trade flows, even after the crisis**.

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[1] WTO, Report from the Director-General on trade-related developments, June 2010.
[2] On the basis of WTO and European Commission data, and considering only new border measures such as tariffs, quotas, import licenses, reference prices, and import bans.
[3] Idem, p.1.

Against this background, the main conclusions of this report are as follows:

- **66** new measures have been reported as introduced or planned in recent months. In total, since October 2008, as many as **332 measures remain in force or are planned**. In spite of the general upward trend in economic recovery, the bulk of measures that were introduced during the crisis still remain in force: **only 37 measures have in fact been removed since the beginning of the monitoring exercise in October 2008**. So the stock of measures continues to increase.

- **Some countries are clearly more active in applying trade-restrictive measures. Russia** is clearly engaged in an import substitution policy, utilizing several kinds of trade measures. **Argentina's** import licensing system and import reference values remains of serious concern. **Indonesia** seems to have refrained to some extent from introducing further trade-restrictive measures, whereas **South Africa** has increased the use of measures apparently aimed at developing several industrial sectors.

- The **negative trend** in **government procurement**, already highlighted in previous periods, is again confirmed and there is evidence of new worrying developments. The protection of domestic industry and jobs from foreign competition seems to be the underlying motivation in the introduction of new limitations in most cases. Most recently, **Brazil** has joined the countries which apply additional restrictions in this area.

- There is a notable trend towards **investment-related** restrictions. **Russia**, as well as **Algeria** and **Nigeria,** increasingly resort to local content or technology transfer requirements as a precondition for market access. This trend is coherent with the observed proliferation of new **stimulus measures or other support schemes**, frequently coupled with selected tariff increases. These developments suggest a strongly focused industrial policy in several countries aimed at fostering development of local industries. The impact on trade varies according to the country/measure at stake. Such measures stem particularly from **Russia, South Africa, Kazakhstan,** as well as **South Korea**.

- In the reference period, an increase in the adoption of **export restrictions for raw materials** has been observed. Notably, **China** has significantly reduced the annual export quota of rare earth for the second half of 2010. **This is a very worrying trend.**

- The **most affected EU sectors are still agro-food**, **automotive**, **services** and **textile and clothing**. New measures have been introduced to affect automotives and textiles in particular; although there have been fewer measures applied in the steel and other metals sectors.

- **In view of the slow rate of removal of existing measures, above and beyond the collective G20 commitment, the G20 members should send credible signals committing themselves to rectify measures taken. They should agree on ways of monitoring the rectification commitment as a matter of priority**. Further efforts are needed to deliver on the roll-back commitment, in particular given the spread of behind the border measures, where although the exact impact on trade is not directly quantifiable, it is clearly potentially very large.

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The report is structured as follows:

Chapter I presents the main conclusions with regard to the latest trends in the introduction of new trade restrictive measures.

Chapter II identifies relevant trends by categories of measures.

Chapter III analyses the progress in the removal of trade restrictive measures between October 2008 and September 2010.

I. Recent trade developments: new measures reported in key trade partner countries

The progress of the economic recovery, accompanied by the strong increase in trade flows globally, complicates the task of indentifying measures taken for crisis-related reasons with a potentially trade restrictive effect. The broad, and often subtle, nature of trade protectionism exacerbates the difficulty of correctly identifying such policy initiatives. However, identifying the measures remains important: each one taken may worsen trade conditions and contribute to undermining the still fragile global recovery. In line with the previous editions, measures related to sanitary and phytosanitary objectives are not included in the analysis. Similarly, trade defence measures are not counted in the overall number of reported measures, although a short analysis of recent trends can be found in this chapter.

I.1. General macroeconomic trends in trade

The world economy continues to recover. In October 2010, the IMF again revised upward its global output forecast for the current year, projecting an expansion of up to 4.8%. However, the recovery trend remains uneven, with stronger GDP growth in the emerging economies (at 7.1% according to the IMF) and a less pronounced recovery in the industrialized countries (2.7%). Hence, the improvement of the global macroeconomic picture continued over the past months but the outlook remains uncertain. While, according to the OECD's latest Interim Economic Assessment, the world economic recovery may be decelerating more strongly than previously anticipated[4], recent growth in Europe was stronger than expected, notably in Germany. EU GDP grew by 1% between April and June 2010, from the previous quarter (0.3%), but there remain concerns about sustaining the pace of recovery. Although the EU's economic performance in the first half of 2010 led the European Commission to revise upwards the EU GDP-growth forecast to 1.8% in 2010, the lingering fragility of the financial sector and excessive indebtedness levels (both public and private) will continue to hold back demand for some time to come.

Global trade has continued to regain dynamism and has become an important engine for global growth: the latest data[5] confirm that world trade activity continues to recover from the sharp fall of 2009. By July 2010, global trade volumes climbed 22% above their lowest point (in May 2009) and were only 3% below the April 2008 peak. However, according to the same source, world trade volume growth decelerated to 3.4% in the second quarter of 2010, against 5.4% in the first quarter and 6.2% in the last quarter of 2009, driven by a slowdown of trade activity in emerging countries. Hopefully this is just a blip: the July 2010 IMF forecast points to a growth rate for global trade of 9% in 2010 and 6.3% in 2011[6].

EU trade flows continue to rebound after the slump in 2009. On a quarterly basis, recent data suggests an increase in the overall value of EU exports in the second quarter of 2010 by 25.4% as compared to the second quarter of 2009[7], when EU trade fell to its lowest during the crisis. Data for July 2010 suggests that the year-on-year growth for exports was at 21.7% and 28.4% for imports.

[4] OECD, What is the economic outlook for OECD countries? An interim assessment, 9 September 2010, http://www.oecd.org/dataoecd/32/24/45968339.pdf.
[5] Netherlands Bureau of Economic Policy Analysis (CPB).
[6] IMF, World Economic Update, 7 October 2010.
[7] Eurostat data, October 2010.

I.2. New potentially trade restrictive measures

The analysis of data covering the current reporting period suggests a consolidation of most trends identified in the previous reports, both in terms of geographical coverage, the policy instruments and industrial sectors affected. At the same time however, some of the latest developments deserve to be highlighted as potentially worrisome from an international trade perspective.

Indeed, our calculations suggest that between May and September 2010, new measures with a potentially adverse effect on trade continued at the same rate as before. Overall, 66 new measures have been introduced by the EU's trade partners. At the same time, a substantial number of measures already in force have been either prolonged or strengthened e.g., through the inclusion of additional requirements or the expansion of the sector covered. We noted 32 measures, which were modified in this way. In total, by the beginning of October 2010, 332 measures with potential impact on trade were in force.

Table 1. New trade restrictive measures reported since May 2010[8]

In italic: planned measures

Country	Date of adoption	Measure
Algeria	11 July 2010	Substantial changes to the public procurement law, notably inclusion of a local content clause by means of a Presidential Decree. Additional requirements for foreign companies participating in public bids were also introduced.
Argentina	1 June 2010	Previously suspended import licence requirement for trade and advertising material, picture-designs, photographs, printed material in general and electrical transformers has been reintroduced.
	1 June 2010	Previously suspended import licence requirement for tyres has been reintroduced.
	22 June 2010	Reference values for imports of yarn from India, China and South-East Asia.
	7 July 2010	Reference values for imports of apples from MERCOSUR, Chile, Colombia and Ecuador.
	August 2010	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.
	August 2010	Reference values for imports of glasses, bags, polyester textiles and chlorodifluoromethane from India, China and South-East Asia.
	17 August 2010	Reference values for imports of auto accessories (87089990) from FI, HU, PL, UK, SE, RO, Russia, China, India, South-East Asia.
	August 2010	Reference values for import of blank CDs/DVDs, plates,

[8] This table should be read in conjunction with Table 8 (p.25), which enlists new support and stimulus measures adopted since May 2010.

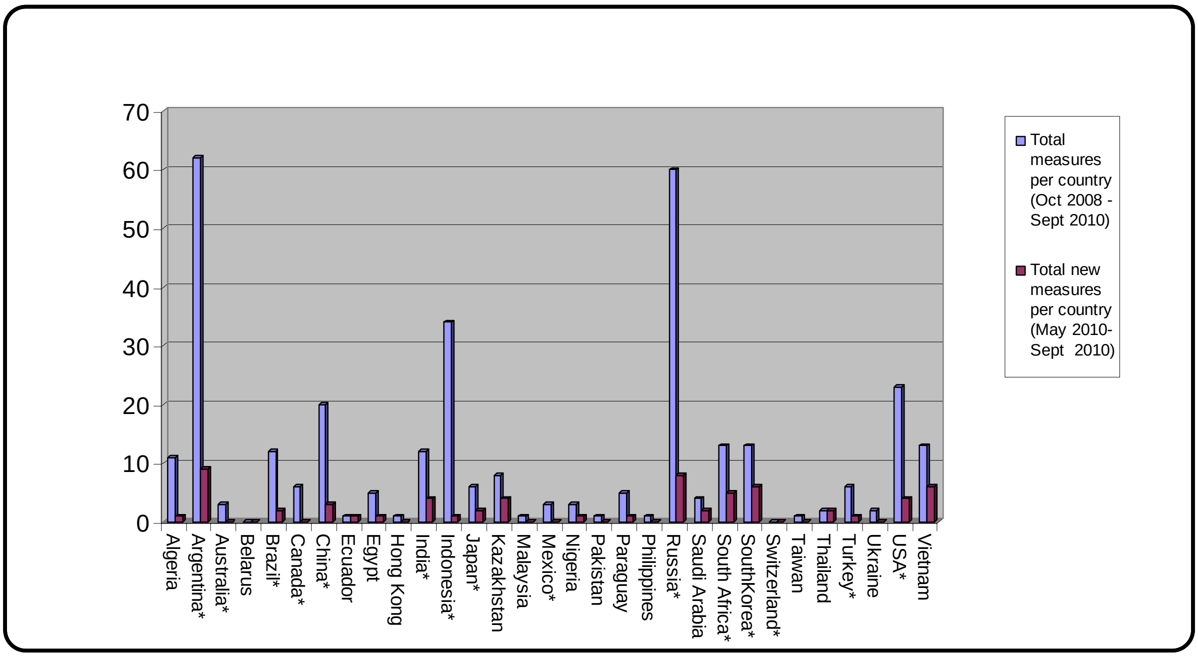
		sheets, film, foil and trip and synthetic filaments from Germany, Belgium, the Netherlands, Spain, France, Italy, Japan, NAFTA countries, India, China and South-East Asia.
	28 September 2010	Decree 1192/2010-PEN – Adopts MERCOSUR Decision 25/2009, which temporarily increases import duties on dairy products (CC 0402.10, 0402.21, 0402.29, 0402.99, 0404.10, 0406.10 and 0406.90) up to 28% until 31 December 2011, and reduces it to 16% after that date.
Brazil	July 2010	Amendments to the Brazilian law on public procurement introduce a 'Buy Brazilian' clause on a 'temporary' basis.
	6 September 2010	By decree (*Medida Provisoria* N - 501) increased funds were allocated to the BNDES (National Bank for Development) to fund exporting operations of SMEs through loans at below market-level interest rates.
China	*April 2010*	*The revision of the Investment Catalogue was announced.*
	August 2010	*The draft version of the "Energy-saving and new-energy vehicles industrial plan", by the Ministry for Industry and Information Technology (MIIT) circulated in August includes an obligation to couple with local partners to induce transfer technology by foreign auto-makers of electric cars in exchange for access to the Chinese market. Moreover the share of Chinese part in such joint venture should be no less than 51%.*
Ecuador	1 June 2010	New specific and ad valorem duties for footwear, clothing and textiles, as specified in the Executive Order 372 of 28 May 2010.
Egypt	October 2010	Import duty of 15% on white sugar was reintroduced.
India	9 April 2010	Export tax on raw cotton (Rs. 2500/tonne) and cotton waste (3%) was introduced.
	11 May 2010	*Mandatory certification for tyres to come into force in November 2010.*
		New restrictive conditions in licence agreements with foreign telecom operators: ensure transfer of technology within three years; substitution of foreign engineers with Indian ones; release source codes and sensitive design information.
Indonesia	June 2010	Strict labelling requirements on a wide range of goods enforced since June 2010, progressively to cover even more categories of products.
Kazakhstan	23 June 2010	Export duty on aluminium at 15% but not less than 100 Euro per 1000 kg was introduced.
	16 August 2010	Export duties on oil and oil products were reintroduced and increased (specific duties).
	27 September 2010	Export ban for buckwheat and all types o vegetable oil, except for linen and rapeseed oil. A draft measure also envisages the ban on export of seeds.
Nigeria	21 April 2010	Local content requirement obligations in the oil and gas sector as well as 10% preference for local bidders.
Paraguay	26 February 2010	Government procurement: national preferences in public tenders from 5 to 70% depending on the product.

Russia	20 February 2010	Export subsidy for sales of grain.
		The Ministry of Economic Development new initiative on localisation of foreign production seeks to introduce stringent requirements for foreign investors. Beyond the existing policy targeting so far the automotive sector only, it now concerns a number of other sectors such as pharmaceutical and construction industry.
	1 February 2010	Federal Law on retail trade introduced domination thresholds of 25% on retail chain operations in Moscow, St Petersburg and other territorial entities.
	18 June 2010	Import duty increase on protective spectacles (Customs Union-wide) to 15%.
	August 2010	Export duties on oil and some oil products have been revised upwards. There is a possibility that export duty for gas will be increased from 30 to 35%.
	17 August 2010	Import duty increase on cork and bottle capping from 10% to 15% but no less than €1/kg. (Customs Union-wide).
	17 August 2010	Tariff increase on used and refurbished tires from 20% but no less than € 6.9/tyre to 20% but no less than € 20 per tyre (Customs Union-wide).
	1 January 2011	*Planned introduction of 25% duty on GPS navigation system (if incompatible with GLONASS).*
South Africa	28 May 2010	Tariff increase on imports of glycerol from zero to 10%.
	16 July 2010	Tariff increase on lysine and associated feed supplements, from zero to 10%.
	20 August 2010	Tariff increase on imports of calcium proportionate from zero to 15%.
	20 August 2010	Increased customs duty on imports of non-organic pigments from zero to 10%.
Saudi Arabia	January 2010	Import tariffs on steel were reintroduced at 5% level.
South Korea	*April 2010*	*Restrictions on the access to and investments in the retail sector are in preparation.*
Thailand	*4 August 2010*	*Draft Notification to prohibit foreign dominance in local telecom operators, which will be used as a key criterion to pre-qualify potential bidders of the 3G licenses.*
		Draft law on logistics services business applying both ownership as well as management structure restrictions in its application eligibility criteria.
Turkey	21 May 2010	Export of copper scrap is subject to additional conditions prior to exportation, resulting in a stringent export licensing system resulting in a de facto export ban.
USA		*Buy American Improvement Act proposes to eliminate reasonable cost' exception and replace it with 25% of project cost.*
	July 2010	*The Consolidated Land, Energy and Aquatic Resources Act and the Clean Energy Jobs and Oil Company Accountability of 2010 introduces new ownership restrictions and 'Build American' clauses.*

	29 July 2010	*Save US Manufacturing and Jobs Act (HR 5940) proposes a removal of preferential treatment for imports of certain sleeping bags to protect domestic production.*
	30 July 2010	*The draft Assistance, Quality and Affordability Act of 2010 includes a 'Buy American' requirement for steel, iron and manufactured products (HR 5320).*
	September 2010	*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.*
	15 September 2010	*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.*
Vietnam	3 December 2009	Prime Minister's instructions to adopt technical regulations in combination with taxation measures to limit the importation of 'inessential' products.
	6 April 2010	Government Resolution n. 18 specifies the use of domestic material and equipment in projects and works; promulgates the list of 'inessential' import goods; takes measures to control foreign currency loans to import; propagandizes the use of local goods.
	16 April 2010	Decision to promulgate a list of inessential imported commodities providing that the restriction to foreign exchange to importers for those products.
	20 April 2010	Prime Minister's Directive on public procurement, international biddings to be held only when goods and equipment cannot meet the requirements of a tender of if required by ODA.
	28 May 2010	New list of machinery, equipment, supplies and material that can be produced domestically and for which access to foreign exchange for import is restricted.
	12 August 2010	Circular 122 on price controls on a list of products.

In terms of geographical attribution, it was the same countries as before which tended to adopt the largest number of new measures, albeit on a somewhat reduced scale. In this regard, **Argentina** continues to introduce reference prices for industrial and agricultural goods, while previously taken measures remain in place. Argentina remains the most significant user of this instrument since the beginning of our monitoring, with a potentially important effect through an increased customs duty on imported goods not reflecting the real price of the product. The use of reference prices, coupled with non-automatic licensing system in place, remain a source of concern.

Table 2. Potentially trade restrictive measures per country, since October 2008



Similarly, **Russia's** policy with regard to new measures of potentially trade restrictive character continues to stand out in quantitative terms. Notable are the recent and planned export duty increases while certain import duty increases continue to take place as well. A further potentially worrying trend relates to the implementation of Russia's latest industrial policy, as envisaged in the 'Major guidelines of the customs-tariff policy for 2011 and the period 2012-2013'. The targeted use of investment measures, combined with the tariff policy, aims at boosting the industrial base and technology transfer for selected sectors where foreign investment has been attracted by a mix of incentives and lowered tariffs for semi-processed goods destined for production in Russia. Accordingly, several initiatives are in preparation in order to expand the domestic industrial base through foreign investment, notably with regard to the automotive, pharmaceutical, construction or telecommunications sectors.

This protectionist trend followed by Russia poses numerous concerns and questions. First of all, and as evidenced in the previous reports, it has had a direct negative impact on EU exports of finished goods through a selective increase of import duties, and further consolidated in the Single Customs Tariff of the Customs Union. The deterioration of the trade flows between the EU and Russia that occurred as a result was particularly harmful for certain sectors. Secondly, the localisation initiative, based on TRIMs-incompatible investment incentives, also raises questions from the standpoint of overall efficiency. A possibility of their further negative impact on EU-Russia trade and investment relations needs to be taken into consideration. Noteworthy in this respect are local content requirements, deemed to be strengthened in particular for the automotive sector, but also foreseen for other sectors such as pharmaceuticals. Against the background of mixed policy results that the Russian policy of targeted industrialisation has so far brought, these developments do not indicate a constructive approach to investment policy. Furthermore, these measures are also in stark contradiction with Russia's future commitments in the WTO in spite of indications that Russia is now engaged to ensure relatively early accession.

With regard to Asia, there have been recently some other rather positive developments with regard to the measures taken by **Indonesia**. Notably, in the area of certification, the 'Halal Regulation', which originally prohibited the marketing of any food substance, medicines and cosmetics that had been in contact with haram elements, was revised and changed into a labelling requirement, focusing on quality, safety and efficacy[9]. Similarly, there have been improvements with regard to the certification of cosmetics: the previous pre-marketing registration system has been replaced by a notification requirement. Furthermore, there have been some improvements as regards the import licensing regime set out by Decree 45/2009, which introduced two different import licenses for products destined for resale and for products destined for further processing. The decree originally provided that each import license had to be held by two separate legal entities, thus requiring companies to go through the costly and burdensome procedure of setting up new legal entities. Regulation No. 39/2010, issued on 4 October 2010 and modifying decree 45/2009, provides that manufacturers are allowed to import finished goods upon requirement to be registered in an 'approved importer' list. This eliminates the prohibition to hold two kinds of import licenses. Nevertheless, the right to import finished goods could still be revoked if the ministry of trade estimates that imports 'are not sufficiently balanced by production activities'. The reported changes do represent a somewhat positive evolution; nevertheless, the total number of restrictions still in force make of Indonesia one of the most prominent users of trade restrictions, and so against the dynamic growth trend noted in the course of 2010 (expected annual growth of 6.3%).

South Africa has been recently pursuing policy measures akin to those undertaken by Russia. It has been particularly active in the adoption of new trade measures during the period of analysis, mainly aiming at fostering a broad national industrialisation policy. Measures aiming at supporting the development of domestic production were already introduced in 2009, but witnessed an important acceleration in recent months. Instruments envisaged range from traditional trade measures, such as import duties, to support schemes, which include investment incentives. On top of import duty increases previously introduced to the benefit of the textile sector, between May and August 2010 new increases were adopted, this time aiming at protecting the local chemical industry. These tariff increases are part of a wider 'tariff review' strategy, initiated in 2009 and further prolonged in July 2010, aiming at supporting key domestic sectors, which is part of other support schemes in a broader national industrial development plan. Cars is another sector at the centre of the development plan: the Motor Industry Development Programme, further reviewed and extended for a second time, provides for import duty credits on components and vehicles. Moreover, since June 2010, the Automotive Production and Development Programme has been implemented by making available cash grants to investment projects. The Programme is part of a wider strategy aimed to foster industrialisation through a shift from an export-based incentive to a local manufacturing incentive. Protection of domestic automotive production through trade instruments is a key component of these efforts.

Finally, as regards the **sectoral** coverage of the measures, the most affected sectors in absolute terms remain the agro-food, automotive, services and textiles and clothing. Newly adopted measures concern all of these sectors. The only positive trend is in steel and other metals, where impact was somewhat reduced, notably through removal of some of the measures. The most important impact of new measures is to be noted in the automotive sector and in textiles and clothing in particular.

[9] If this new practice is certainly less trade-restrictive, it still needs to be verified whether the labelling requirements are implemented in a proportionate way.

Table 3. Potentially trade restrictive measures – sectoral coverage[10]

Country	Textiles and clothing	Toys	Telecom	Agri-food	Raw Material	Steel, other metals	Pharma	Automotive	Services	Ship-building	Other/ horizontal	Total per country
Algeria				1					3		3	7
Argentina*	15	1		4		9		10			31	70
Australia*									2		1	3
Brazil*						1		1		1	8	11
Canada*				3						1	3	7
China*	1		1		1	2		3	2	1	11	22
Ecuador	1											1
Egypt	1			2		1	1	1	2		2	10
Hong Kong											1	1
India*	4	2	1	2	1	3		2			6	21
Indonesia*	3	1	4	13	5	4	3	2	9		9	53
Japan*				1				2	1		3	7
Kazakhstan				1	1	1			1		4	8
Malaysia						1		1				2
Mexico*				1							6	7
Nigeria				1	1						2	4
Paraguay	1			1							4	6
Philippines											1	1
Russia*	1			14	6	10		8	5		29	73
Saudi Arabia						1		1			2	4
South Africa*	5			2		1	1	4			7	20
South Korea*	1					1	1	1	2	1	12	19
Taiwan											1	1
Thailand			1						2			3
Turkey*					1		1	1			5	8
Ukraine				1				1	1			3
USA*	2			2	1	3		4	5		8	25
Vietnam				5	2	1					9	17
TOTAL	**35**	**4**	**7**	**54**	**19**	**39**	**7**	**42**	**35**	**4**	**168**	**414**

[10] This table reflects the impact of potentially trade restrictive measures on different sectors; one measure may have an impact on several sectors, therefore the total number of instances where individual sectors are affected is not equal to the total number of measures introduced. Textile sector also includes: fabrics and yarn; automotive sector also includes: cars and parts thereof, motorbikes, tyres.

In the previous months a significant number of measures already in force have been subject to further extensions or developments which deepened their potential impact on trade flows. In terms of extended measures, this trend is particularly noticeable in the case of existing support schemes. The analysis in chapter II indeed suggests that governments continue to support the real economy with stimulus measures to try to “lock in” the recovery, although it has also been suggested that this support is used to shape the industrial landscape. Accordingly, out of 32 revised measures, almost a half relates to prolongation or extension of scope of existing support schemes. Russia, South Korea, South Africa and Japan have been particularly active in recent months in this regard.

Table 4. Extended, modified or prolonged restrictions (updates)

Country	Date of adoption	Measure
Algeria	Mid-2010	The regional agencies of the *Registre national du commerce* have recently been instructed to apply retroactively the 51% minimum requirement for Algerian shareholding to companies already established before the entry into force of the Loi de Finances Complementaire 2009.
Brazil	May 2010	The details of the previously reported plans regarding the introduction of an export stimulus package have been revealed, the package has been adopted.
Egypt	20 September 2010	Measures restricting export of rice to be continued until 1 October 2011 (MD 450/2008).
India	19 May 2010	India moved work clothing and other worn articles to the restricted list of imports subject to licensing requirement.
Indonesia	*April 2010*	*Mandatory certification based on SNI standards is considered for other groups of products: footwear, food, beverage, agricultural products, machinery, petrochemical, electronic.*
	23 June 2010	The planned shrimp import ban was introduced in a joint Ministerial Regulation between the Ministry of Trade and Ministry of Marine Affairs and Fisheries.
	4 October 2010	*Decree 45/2009 was amended by Minister of Trade Regulation No. 39/2010, which preconditions imports of finished goods upon enrolment in the 'approved importer' list.*
	2010	A progressive export duty, between zero and 15% on raw cocoa products has been introduced by regulation 67/2010.
Japan	June – September 2010	The "New Growth Strategy" foresees further support for Japanese exports to emerging economies, initially provided by the credit for exports scheme of the Japan Bank for International Cooperation.
		Subsidies for cars, including eco-friendly cars are said to continue in some local entities until January-February 2011.
Kazakhstan		Kazakh law on public procurement has been amended, notably through an introduction of a 20% preference clause for domestic bidders.
Nigeria	August 2010	Import ban on cement has been replaced with an import licence quota and an import tariff on all categories of cement goods and for bulk cement was increased.
Mexico	August 2010	The list of imports from the US subject to MFN duty has been modified, with some additional products added.
Paraguay	11 August 2010	Prolongation of import licence requirement for poultry meat has been renewed for 180 days more (in annex decree nº 4878) for 4 tariff lines (0207.11.00, 0207.12.00, 0207.13.00, 0207.14.00).

Russia	February 2010	The Federal Law No 308 FZ prolonged the validity of subsidies granted in 2009 to subsidize loans used for technical modernisation in the wood sector, including producers of machinery and equipment.
	2010	Update: subsidies for the support of agricultural sector have been extended.
	2010-2011	Subsidies for producers of agricultural machines and tractors to continue in 2010-2011 (on a quarterly basis).
	2010	The cash-for-clunkers plan was extended to the value of 11 roubles and is to last until end of 2011.
	2010	Further subsidy for the automotive sector has been granted, including subsidies for interest rate down payments.
	November 2010	*Export duty on nickel, copper and potash fertilisers to be raised to 10% from 5% and 0% respectively.*
South Africa	2010	The Second Industrial Policy Action Plan has been allocated additional funding, with majority supporting the textiles and automotives sectors.
	20 July 2010	Trade Policy and Strategy Framework aiming inter alia at 'strategic tariff review' was approved.
		'Distress funding' support for enterprises in difficulty is planned to last until 2015.
South Korea	April 2010	Financing for the ship-building sector has been increased and a package support programme has been introduced.
	23 June 2010	Further support for the pharmaceutical sector (R&D incentives).
USA	*30 July*	*The Federal Aviation and Administration Act (FAA) has been extended until 30 September 2010. The Congress continues deliberations on a permanent reauthorisation bill for FAA with restrictive provisions on foreign ownership and control of US airlines.*
	14 July 2010	Dairy Export Incentive Program for July-June 2010/11 has been extended.
	21 July 2010	*House Energy and Commerce Committee passed H.R. 4678 (Foreign Manufacturers Legal Accountability Act), while discussions to reconcile the House and Senate versions of the bill remain inconclusive.*
	30 August 2010	Strengthened provisions on Buy American in ARRA (scope of exemptions limited only to products not wholly or predominantly made of iron and steel).
		Black liquor producers to qualify for higher tax credit by registering as cellulosic biofuel producers and getting USD1.01/gallon for the volumes of black liquor produced in 2009. Companies could retroactively claim this USD1.01/gallon biofuel tax credit instead of the USD0.50/gallon credit for alternative fuel mixtures.
Vietnam	November 2009	Stimulus measures to be continued in 2010. Subsidised interest rates applied in a non-discriminatory manner.
	28 July 2010	Introduction of automatic import licensing regime for products across the board (Circular 24).

Some measures have also been taken over the past months with the aim of facilitating trade flows. The table below illustrates recent developments in this regard, while no major trend could be observed, indicating absence of any coordinated efforts to facilitate trade in a substantial manner.

Table 5. Trade-facilitating measures reported since May 2010

In italic: planned measures

Country	Date of adoption	Measure
Indonesia	*October 2010*	*Announcement that 100% foreign ownership is to be allowed in pharmaceutical manufacturing.*
Kazakhstan		Import duties for used cars have been cut to a lower level than the rate applicable before the implementation of the Single Customs Tariff of the Customs Union.
		Import duties for aircrafts have been abolished for a transitional period until 1 July 2011. After that, as for cars, the Common External Tariff of the Customs Union will apply (20%).
Malaysia	10 June 2010	The 10th Malaysia Plan (MP), lays down the policy priorities over the next 5 years, with the goal of achieving high-income nation status by 2020.
Russia		Customs Union Commission reduced the import duty rates on wine materials from 20 to 15%.
	20 May 2010	Customs Union Commission set a 0% duty on wolfram and metal-ceramics scrap.
	20 May 2010	Customs Union Commission set a 0% duty on sheets from tropical wood.
	20 May 2010	Customs Union Commission set a 0% duty on some materials used for production of solar energy modules.
	August 2010	Zero import duty on certain types of planes was introduced.
	10 August 2010	Imports of sugar subject to tariff-quota are now subject to 0% import duty down from 35%.
South Korea	11 August 2010	U.S. Manufacturing Enhancement Act of 2010 reduces import duties on a number of products (chemical components in particular) to boost domestic manufacturing.
USA	6 April 2010	Government Resolution n. 18 provides for guidelines for foreign exchange loans for economic operators to import 'essential' input for domestic production.

II. Latest trends by category of measures

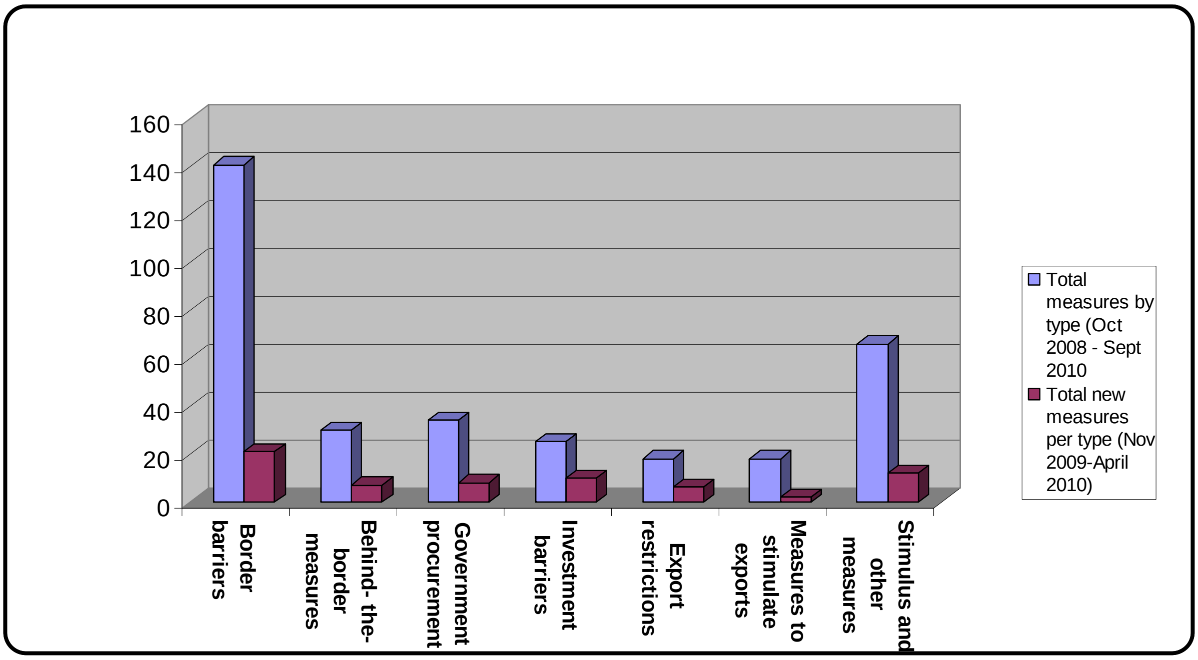
The analysis of the trends in the past few months points to developments in the adoption of investment-related measures, as well as, to some extent, export restrictions. A number of countries continue to resort to stimulus packages to boost the economic recovery and support industry development. The overall pace of the adoption of new measures does not seem to slow down compared to the previous report.

Table 6. Potentially trade restrictive measures per country and type of measure, since October 2008[11]

Country	Border barriers	Behind-the-border measures	Government procurement	Investment barriers	Export restrictions	Measures to stimulate exports	Stimulus and other measures	Total measures per country
Algeria	2	3	2	2	1		1	11
Argentina*	62							**62**
Australia*			2	1				3
Belarus								0
Brazil*	3		2			5	2	12
Canada*		1	2				3	6
China*	1		4	3	1	1	10	20
Ecuador	1							1
Egypt	1			1	1	1	1	5
Hong Kong							1	1
India*	2	2		1	3	3	1	12
Indonesia*	9	10	3	7	4		1	**34**
Japan*		1				1	4	6
Kazakhstan		1	2		3	1	1	8
Malaysia						1		1
Mexico*	1						2	3
Nigeria	2			1				3
Pakistan					1			1
Paraguay	4		1					5
Philippines							1	1
Russia*	39	2	2	3	3	2	9	**60**
Saudi Arabia*	3						1	4
South Africa*	6		2				5	13
South Korea*				1		1	11	13
Switzerland								0
Taiwan						1		1
Thailand				2				2
Turkey*		2	1		1		2	6
Ukraine			2					2
USA*	1	2	8	3		1	8	23
Vietnam	4	6	1				2	13
Total measures by type	**141**	**30**	**34**	**25**	**18**	**18**	**66**	**332**

[11] G20 members are marked with *.

Table 7. Potentially trade restrictive measures per type, since October 2008



II. 1. Border measures

During the period May-September 2010, in line with earlier analyses, border measures appear to be the most commonly used. The resort to such measures, however, has not manifestly increased as compared to the previous reporting period. Considering that the period under analysis covers four and a half months – as compared to the previous period of 6 months – there is almost no change in the amount of border measures that have been introduced (21 for the present period).

Again, the most frequent users of border measures appear to be **Argentina** and **Russia.**

Argentina has resorted to reference pricing on imported goods – a point which has been raised by the EU with Argentina on several occasions. There is now a slight improvement to be noted - the trend in the introduction of this kind of measures has declined as compared to the previous report (only 6 resolutions introducing reference prices were adopted between May and September 2010[12]). Nevertheless, the stock of border measures introduced during the crisis – notably reference prices, tariff increases[13], and non-automatic import licenses[14] - still remains in place. Moreover, the recent positive temporary suspensions on import

[12] The Sixth report on potentially trade restrictive measures identified 14 such measures over a similar period of time.

[13] In December 2009, MERCOSUR countries raised their common external tariff on a number of items including some dairy products (tariff raised from 11% to 28% dad valorem), some textile (4% to 18%) and some bags, backpacks and suitcases (from 18% to 35%).

[14] Since October 2008, Argentina has extended the system of non-automatic licences to a wide range of products in the context of the economic crisis. Initially focusing on textiles, footwear and toys, the system has been applied more and more to other products such as tyres, iron and pipes, machinery and mechanical appliances (e.g. elevators and harvesting machinery), base metals and articles of base metal and auto parts. This non-automatic import licensing system casts some doubt as to its WTO compatibility.

licensing concerning printed materials and electrical appliances as well as tyres have been reversed by reintroducing the restrictions previously in place[15] [16].

As for **Russia**, the trend in the introduction of border measures has remained constant; both import and export restrictions continue to be introduced, even if the duty increases take place on a selective basis in terms of product coverage, rather than across the board. The said duty increases need to be seen in the context of Russia's customs and tariff policy, and in particular that the new import duty increases apply, since 1 January 2010, to the whole territory of the Customs Union, of which Russia is part alongside Kazakhstan and Belarus. With regard to export duties, these continue to be selectively applied by the individual members of the Customs Union. Whereas the number of new border restrictions seems not very large as compared with previous reporting periods, it should be noted that Russia consolidated all previous tariff increases in the Customs Union's Single Customs Tariff.

Of significant concern is the introduction of a number of **export restrictions** between May and September 2010. This trend was also confirmed in the last WTO Report on trade-related developments, where export restrictive measures had been highlighted as notably affecting food products and commodities[17]. This upward trend is particularly worrisome given the still fragile recovery in many industrialised but resource-poor countries, whose manufacturing base, dependent on raw materials' input risks losing the competitive edge. With limited exceptions, export restrictions not only create economic inefficiencies by distorting the allocation of limited natural resources and raw materials, but they also have the potential to subsidize local producers by lowering the domestic prices of their inputs, while significantly increasing the cost of, or even halting, production for foreign producers[18].

During this period, **India** introduced an export tax of Rs. 2500 per tonne on raw cotton and of 3% on cotton waste, on top of an increased export duty on iron ore and concentrates (from 10 to 15%) that was adopted end of April this year[19]. In **Egypt**, the export control regime for rice was extended until 1 October 2010; this regime was first introduced in March 2008 in the form of a temporary export duty, which was then extended almost every six months and escalating first up to an export ban and then to a combination of export quotas and duties. Still in the agro-food sector, **Indonesia** has finally introduced a progressive export duty on cocoa fluctuating between 0% and 15% depending on the market price. On the raw material side, **Kazakhstan** has reintroduced export restrictions in the form of export duties on aluminium, as well as on oil and products thereof[20]. Also **Russia** has revised upwards its export duties on oil and some by-products thereof and is still planning to increase duties on gas by 5% (by 30 to 35%) as well as to raise duties on nickel, copper and potash fertilisers to 10% from respectively 5% and 0%. **Turkey** has introduced a new regime for the exportation of copper scrap that is practically setting up an export ban[21]. And finally, **China** has recently

[15] From 7 May 2010, Argentina started to delay the issuance of certificates of free circulation for certain imported food products, resulting in delays of imports and cancellation of orders. The situation has improved lately, after the EU took action to address the issue bilaterally and multilaterally and Argentinean authorities now maintain that there are no formal measures and that the problems will not reoccur. The Commission will, however, continue to monitor the situation to help EU exporters avoid the problems of the past.

[16] On 8 September 2009 Argentina suspended for 60 days the application of import licenses (Resolution 61/2009) for the following products: 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). Moreover, through Resolution 29/2010 Argentina suspended the earlier Resolution 26/09 on import licensing for tyres (HS 4011) on a temporary basis until 1 June 2010. The temporary exemptions have not been further extended.

[17] WTO, Report from the Director-General on trade-related developments, June 2010.

[18] *Ibidem.*

[19] The rise in export tax on iron ore was already reported in the 6th Report.

[20] The government of Kazakhstan has announced that it was planning to double to export duty on crude oil to USD 40/tonne starting from January 2011.

[21] Operators are required to fulfil three different conditions in order to obtain an export licence from the Exporters Association: copper scrap shall be investigated on site by supervisors from the Standardization Department of

announced the rare earth export quota revision for foreign companies in the second semester of 2010 cutting the export quota by 30% for Chinese traders and by 50% for foreign joint ventures. Considering that China currently sources more than 90% of global supply of rare earths, such a restriction, which discriminates against foreign operators, brings about a distortion within the market putting foreign production based on rare earths' input at a considerable disadvantage[22].

II.2. Behind-the-border measures

Recent developments have confirmed the rather worrying trend in the field of government procurement. Moreover, and contrary to previous reporting periods, a relevant quantity of new discriminatory investment measures has been introduced.

Technical barriers to trade and other behind the border measures

In the previous report, a slightly positive trend was registered as only three new technical or regulatory measures had been introduced. This is further confirmed in this period as only three new regulatory measures have been adopted in India and Indonesia. Besides new measures, a few have been removed or restricted in scope[23]; but on the whole, the stock of behind the border measures, many of which of technical and regulatory character are still mostly in force. Currently some 30 measures in this sphere remain listed.

Noteworthy is the recent import-substitution policy that has been put in place in **Vietnam** mainly by means of import restrictions to tackle the trade deficit and low foreign currency reserves. Following a Government Resolution that was adopted in April 2010 and that provided the legal basis for adopting lists of products considered 'non-essential', those lists were promulgated through several decisions adopted in the second half of 2010. For those products that are listed as 'non-essential', the access to foreign currencies for their importation is to be restricted. These lists affect several commodities, machinery, equipment, supplies and material that can be produced domestically. This import-substitution policy has been introduced in the framework of a domestic industrial policy aimed at developing local production. On top of these restrictive measures, Vietnam has also recently amended its automatic import licensing regime by adopting Circular 24, which entered into force on 28 July 2010 and has not yet been notified to the WTO. Elements of concern include the extension of the time period for authorities to reply to applications, the new requirement for registration of applications by mail to competent authorities, and the 30-day licence validity. The new circular also extends the scope of the licensing regime to a broad range of product categories[24].

Foreign Trade; submission of written confirmation received from at least three domestic producers proving that copper scrap would not be used for domestic production; export contracts need to be provided.

[22] As a result, Chinese supply to the external world would now be well below world demand (30kt of supply against 50-60kt of demand). At the same time, the average rare earth products manufactured by Chinese company is growing at an annual rate of 15-30%.

[23] **India** has moved certain products of iron and steel as well as radial tyres from the 'restricted' import to the 'free' import list. Also Indonesia has lifted two important restrictive measures; first, the **Indonesia** halal regulation was amended in a way not to hinder trade; second, Decree 45/2009, which had introduced a new licensing regime providing for two kinds of import licenses – one for trading purposes and the one for further processing of products – implying the separation of legal entities in order to hold both licenses, is being modified so as to allow one company to hold both licenses.

[24] Chapters 2 (meat and edible offal – entire chapter); 3 (fish and crustaceans, mollusc and other aquatic invertebrates); 16 (preparations of meat, of fish, of crustaceans, molluscs or other aquatic invertebrates); 17 (sugars and sugar confectionary); 18 (cocoa and cocoa preparations); 19 (preparations of cereals, flour, starch or milk; pastry cooks products); 20 (preparations of vegetables, fruit, nuts or other parts of plants – entire chapter); 21 (miscellaneous edible preparations); 22 (beverages, spirits and vinegar); 61 (articles of apparel and clothing accessories, knitted or crocheted); 62 (articles of apparel and clothing accessories, not knitted or crocheted); 63

Government procurement

The recent negative trend in government procurement can be linked, to a certain extent, to concerns about the risk of “jobless recovery” through policy initiatives aimed at sheltering domestic producers from foreign competition in public bids. As the global economy started to recover, some concerns remain with regard to the labour markets: if on the one hand, the recovery has been stronger in Asia and in some BRICs, it has been subdued in industrialised countries, with indications of prospects for a 'jobless recovery'. A further number of new measures have indeed been introduced in the period under analysis in the form of 'Buy National' clauses or increased preference margins for domestic goods and services. Given that public procurement is still, for most countries, shielded from international commitments, it offers ample opportunities to try and boost recovery and hence employment.

As a result, there are some new elements such as the recent modification of the public procurement law in **Brazil**. This modification, introduced on 20 July 2010, is said to be temporary and allows the government to apply up to a 25% preference margin[25] to products and services produced entirely or partially in Brazil. This is one of the widest preference margins introduced among measures affecting government procurement. Similarly, although the measure should primarily benefit the pharmaceutical and textile sectors, the size of the Brazilian market suggest 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 recent legislative activity in the **US** Congress as regards government procurement has been raising some concerns. In August 2010, the 'Buy American' requirements of the American Recovery and Reinvestment Act (ARRA) were modified. More specifically, the scope of the exemption to the 'Buy American' rule has been narrowed, since the new rule clarifies that iron and steel construction materials are exempt only when those materials do not consist wholly or predominantly of iron or steel. If they do, no exemption is made[26]. In September, the US House of Representatives passed two bills with Buy American restrictions. First, 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 US 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 second legislation passed by the House of Representatives is 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. Additionally, in July, the US House of Representatives also passed the Assistance, Quality and Affordability Act (H.R. 5320). The bill amends the Safe Drinking Water Act and reauthorizes and increases funding for the Drinking Water State Revolving Fund. This legislation includes Buy American provisions which would apply to the funds provided by this legislation[27]. The legislation includes a language requiring consistency with international obligations.

(Other made up textiles articles, sets, worn clothing and worn textile articles, rags), 64 (footwear, gaiters and the like, parts of such articles); 95 (toys, games and sports requisites; parts and accessories thereof –entire chapter)

[25] Depending on the sector. Sectoral margins are still to be defined.

[26] The exemptions still applicable are the following: the 'Buy American' provision does not apply if: coverage would not be in the public interest; if the US odes not produce enough iron, steel and manufactured goods; if enforcing the provision would increase the cost of the project by more than 25%.

[27] The provision states that funds made available by a State loan may be used for a project for the construction, alteration, maintenance or repair of a public water system is the steel, iron and manufactured goods used in such project are produced in the US.

China is still in the process of adopting the so-called Indigenous Innovation Product Accreditation System[28]. The new accreditation system provides that all innovative products need to be registered. The measure is likely to have an important economic impact as it targets key strategic sectors and risks undermining the profitability of investments in China by requiring operations to be carried out under an independent brand and by imposing the obligation to disclose business secrets. In the meantime, on 10 April 2010, the Chinese authorities posted for public comments a revised draft version of the accreditation procedure on the Ministry of Science and Technology (MOST) website. While that new draft proposes removing the requirements of prior Chinese origin for brands, for example, several other IPR-related provisions remained unclear. Following the consultation of concerned stakeholders on the draft legislation, the final version of the legislation is still awaited at the time of writing.

Paraguay also modified its government procurement legislation in February 2010. Decree 4008 introduced national preference in public tenders in the form of a preferential margin ranging from 5% up to 70%, depending on product category. This preference is also unusually high. The measure is meant to be temporary (one year) and the stated goal is the promotion of national production and national employment in response to the financial crisis.

In April this year, **Vietnam** adopted new directives encouraging the use of domestic goods and materials in the bidding of State-funded projects. International bidding shall be held only if domestic suppliers cannot meet the tender's requirements, the goods cannot be provided locally and if requested under an ODA project.

After amending its Law on Public Procurement in June 2009, by introducing a local content clause as well as limitations for foreign-owned companies, **Kazakhstan** further amended this legislation by adopting a new horizontal 'Local Content' Law. For a company to be considered 'Kazakh' and to have therefore access to government procurement, its workforce has to be composed of at least 95% Kazakh workers. It is noteworthy that China, Brazil, Paraguay, Vietnam and Kazakhstan are not parties to the Government Procurement Agreement (GPA).

<u>Investment-related measures</u>

Potentially trade-distorting measures in the field of investment have so far been introduced on a rather limited scale, although the total number of identified restrictions in this area has reached 25 at the end of September 2010. Indeed, the developments of recent months indicate certain movement in this area of trade policy, along with new industrial policy trends. Accordingly, in addition to the localisation initiative of **Russia**, analysed in chapter I, other WTO members have recently launched policy measures based on local content requirements. These initiatives have been noteworthy in particular in the automotive sector, where **China** (if its draft plan for electric vehicles is confirmed) and **Russia** attempt to compel foreign investors to transfer the technology to the local infant industry. Furthermore, limitations on the operations of big international retailers are planned to be introduced in **South Korea.** The latter has shown certain activism in the investment area. Similar restrictions have been introduced in **Russia** where, although it concerns domestic retailer operators as well, they have a potentially more significant impact on foreign retail operators. In all cases, the intention of protecting small retailers is considered the primary objective of these initiatives.

[28] As the draft legislation was released in 2009, the most critical issues appeared to be very short timeframe for registration and the stringent criteria for application, which seemed to discriminate against foreign companies. China confirmed that all enterprises registered in China, regardless of their ownership would be regarded as domestic companies and therefore would be given equal treatment in the accreditation procedure.

Also in the **US**, on the wave of the oil spills in the Gulf of Mexico, new investment restrictions have been introduced or are being discussed in the Congress. In July 2010, the House passed the Consolidated Land, Energy and Aquatic Resources Act (HR 3534), which introduces a clause providing for the Americanization of offshore operations in the exclusive economic zone. All oil-drilling vessels must be registered in the US and be at least 75% US-owned. Moreover, the same legislation includes a national content clause providing that in order to use offshore facilities to engage in support of exploration, development or production of oil or natural gas in, on or above the exclusive economic zone, the facility must have been built in the US.

Noteworthy is the revision of the **Investment Catalogue** in **China**; the revision process was officially announced in April 2010 when the State Council issued a Circular on investment also 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 current version of the Catalogue sets up important barriers to investment; this is equivalent to a framework legislation on investments, classifying them according to three categories (encouraged, restricted, prohibited), and providing for facilitations or limitations according to the category. At this stage, it is still unclear to what extent the new Catalogue is to improve - or possibly even worsen in some areas - access to investment in China: the publication of a draft for public consultation is still awaited; but concerns remain also in light of the perception that, lately, the business environment in China has been overall worsening.

II. 3. Stimulus packages and export support measures

Stimulus measures continue to play an important role during the economic recovery, ensuring a boost either on the supply- or demand-side of the market. While the economic significance of this support should not be underestimated, new interesting trends emerge in the type of support given at national level. If on the one hand measures supporting research and development or capacity-building of small and medium-sized enterprises can be expected to yield a positive contribution to the global economy, other elements may give rise to concerns. Accordingly, while some countries continue to boost domestic demand and production in the post-crisis recovery context, other use this opportunity to steer the economic development on new growth paths based at times on protectionist rationale.

In terms of horizontally applied measures, they share a focus on capacity-building and enhancing the competitive edge of the industry. At the same time, with regard to more industry-specific support, the potentially trade distortive elements of each plan vary, presumably also against the background of a variable level of economic development of those countries.

South Korea focused its recent initiatives on measures supporting the growth of green energies and other environmental sectors and more specifically with a view to stimulate their investment in research and development. Support for investment in green technologies has been designed in particular, in line with the 2009 'Green New Deal' strategy. Support for R&D investment focuses on tax reductions in general as well as export support schemes or funding aimed to boost 'green' technological innovation. Furthermore, it aims to support a cross-sectoral shift toward renewable energy throughout the full production cycle. These support programmes also focus at the support and development of small and medium-sized enterprises. Similarly, **Japan**'s stimulus package also foresaw measures aimed to increase competitiveness and investment in research and development, also addressed to SMEs. **Brazil** has also increased its activity, with additional funding granted to the National Bank for

Development (BNDES), albeit rather to boost SMEs' export performance in a more direct manner, notably through below-market level interest rates.[29]

A further trend relates to the growing support for shift toward low-carbon and hence, 'greener' technology, in given specific sectors. Such is the case of support for Korea's automotive sector, and **Japan**'s latest support package for the automotive sector, through incentive tax measures for eco-friendly cars. In contrast, **South Africa's** latest support for the automotive sector aims to strengthen local manufacturing and a shift from an import-based policy, thus without specifically aiming at a higher environmental efficiency.

Whereas these initiatives cannot be directly classified as trade-distorting - though their sector-specificity may raise some concerns related to competition considerations - some elements of packages recently adopted by China and Brazil do suggest a more direct impact on trade activities. In particular, **Brazil**'s export stimulus package, albeit aiming at increasing the export performance of domestic companies across sectors, includes also measures aiming at slowing down imports, notably by the removal of previous tariff incentives for imports of car parts destined for domestic production and subsequent duty increase. With regard to China, the introduction of a subsidy aiming at supporting exporting high-tech companies was announced in **China** in June 2010. The subsidy 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.

Further support measures were prepared in **Kazakhstan** in the framework of its industrial policy, with the aim of diversifying the country's industrial base and strengthening the export performance. The 'Business Roadmap 2020' provides notably for subsidised loans and state guarantees to a wide variety of sectors.

Finally and on the same note, in **India** a wide support package to traditional labour-intensive industries has been introduced, including also interest rate subsidies.

[29] Concessional funding at favourable terms/below-market interest rates from BNDES and other public financial agencies have been key to boosting domestic economy over the past decades. In this specific case, particularly striking is the importance of the additional funding, the BNDES biggest-ever, with 180bn-BRL lending budget (currently the main source in Brazil for financing long-term projects).

Table 8. New support and stimulus measures reported since May 2010[30]

In italics: planned measures

Country	Date of adoption	Measure
China	June 2010	Subsidy for high-tech companies.
India	23 August 2010	Stimulus package providing general incentives and export incentives to several sectors.
Japan	*June 2010*	*The "New Growth Strategy" foresees introduction of subsidies for construction of R&D facilities and factories producing components for eco-friendly vehicles.*
		Plans to introduce a 100 *billion yen ($1.2 billion) R&D subsidy scheme for small and medium-sized manufacturers.*
Kazakhstan	May 2010	Business Roadmap – 2020 foresees accelerating of industrialisation and business expansion in non-oil and - export orientated sectors. Subsidised loans and state guarantees are foreseen, among other measures.
Saudi Arabia	July 2010	Five year development plan (2009-2013) of US$400. Including: overhaul Jeddah international airport, railway line east-west Jeddah-Dammam, 10 new desalination plants, new construction of water supply and sewage systems.
South Africa	14 June 2010	Grants for investment projects in the car sector in the framework of the Automotive Production and Development Programme.
South Korea	1 July 2010	Programme 'Promoting Globally Competitive SMEs' – 81 SMEs to receive support in R&D, export financing and marketing.
	29 July 2010	'SMEs Innovative Technology Development Programme' for 239 SMEs to facilitate finance to develop technological innovation.
	13 July 2010	'Green SMEs' programme expanding the scale of policy funding and bank guarantee and increasing an investment fund.
	11 August 2010	'Measures to Promote Green Certification' including financial support for certified-green companies.
	9 September 2010	Financial support (up to KRW 1.7 trillion) for R&D of the domestic semiconductors industry.

[30] This table should be read in conjunction with Table 1 (p.7), which enlists other potentially trade restrictive measures. The listing does not pre-judge the measures' (in-)compatibility with the WTO law and is purely indicative.

II.4. Trade defence instruments

After a very intense period in terms of TDI activity by third countries against the EU during the years 2008/2009, the trend which started already in the last quarter of 2009 has been confirmed in the course of the year 2010. Even though the number of new investigations remains important, it is by far less important than in 2009 (26 initiated cases in the first 9 months of 2010, compared to 37 during the corresponding period of 2009). Positive news is also that a significant number of investigations launched in 2009 have not resulted in any measures. This is reflected in rather a moderate number of measures imposed in the first 9 months of 2010. The imposition of only 10 new measures between January and September 2010 represents a positive development as compared to the 33 measures adopted in 2009.

Despite of these improvements, the quite intensive use of anti-dumping by **China**, **India** and **Israel** against the EU should be underlined. The frequent use of the safeguard instrument (*inter alia* by **Indonesia** and **Ukraine**) remains a subject of concern. A particular focus needs to be given to the monitoring of the developments arising from the recently created **Customs Union** between the Russian Federation, Kazakhstan and Belarus given the intended harmonisation in the area of TDI and thus possible extension of national TDI measures to the territory of the other two members of the CU.

Table 9. TDI measures imposed, 1 April 2010 – 30 September 2010

Country	Product	Instrument	Type Of Measure	Date of Imposition
China	X-Ray Security Inspection Equipment (energy above 100 thousand KeV)	AD	Provisional	2010-Jun-10
China	Certain iron or steel fasteners	AD	Definitive	2010-Jun-29
China	Polyamide-6 (PA6)	AD	Definitive	2010-Apr-22
Israel	Bituminous Membranes - waterproofing products	AD	Provisional	2010-May-25
Jordan	Ceramic tiles	SG	Definitive	2010-Sep-01
Philippines	Testliner board	SG	Provisional	2010-May-05
Turkey	Mono-ethylene-glycol	AD	Definitive	2010-May-02

III. Removal of potentially trade restrictive measures – state of play

In the course of the economic crisis, successive meetings of G20 leaders, starting in Washington in November 2008, have reiterated the commitment not only to refrain from introduction of new measures, but also to remove without delay any potential barriers to trade: " [W]e renew for a further three years, until the end of 2013, our commitment to refrain from raising barriers or imposing new barriers to investment or trade in goods and services, imposing new export restrictions or implementing World Trade Organization (WTO)-inconsistent measures to stimulate exports, and *commit to rectify such measures as they arise. We will minimize any negative impact on trade and investment of our domestic policy actions, including fiscal policy and action to support the financial sector.* We ask the WTO, OECD and UNCTAD to continue to monitor the situation within their respective mandates, reporting publicly on these commitments on a quarterly basis."[31]

However, a closer look at the state of this roll-back commitment reveals rather disappointing results, which should be measured against the catalogue of new measures established during the past two years.

Against the looming sense of complacency speaks the number and nature of measures in force[32]. Out of 332 measures, a good half have a behind-the-border character and have been subject to a complex domestic decision-making process, hence their removal is not only a matter of political will but also bears on the necessary administrative framework. Behind-the-border measures therefore tend to remain 'locked-in'.

A similarly careful approach with regard to this assessment is also suggested when looking at the delivery in terms of rectification of measures in force. By end of September 2010, the total figure of removed restrictions reached a mere 37 or some 10% of the total number of measures currently in force. It is noteworthy, however, that there is a certain move in both directions: in some cases the trade restrictive character is reduced over time, hence the measures can be classified as removed or no longer bearing a potential of adverse effect on trade. Conversely, there have also been instances of measures reintroduced after a certain period of time. Such was the case of import licensing requirement for tyres and other goods in Argentina, for example. Finally, in some instances the improvement concerns only a part of an overall measure that continues to remain in force. Such is the case of Indonesia's local content, the Buy American requirement in the US included in a number of policy initiatives or import licensing in India, where certain product categories have been moved to the 'free' list, and are no longer subject to the import requirement, while import of other categories of products remains restricted. In consequence, the total figure of removed measures, including these partially removed measures, as well as the below table, should be interpreted with this caveat in mind.

[31] G20, Toronto Summit Declaration, 26-27 June 2010, p.7, Emphasis added. Interestingly, the reference to the need to notify the WTO about such measures, inserted in the Pittsburgh communiqué has been dropped from the Toronto G20 Declaration.

[32] Excluding SPS-related as well as trade defence measures from reporting and/or quantitative analysis, as well as measures which could be justified under GATT 1994 Articles XX or XXI. This deviation significantly narrowed the focus and limited the number of measures considered as bearing a potentially protectionist characteristic, as opposed to an approach solely based on economic-efficiency perspective.

Table 10. Removed/terminated measures per country and type of measure, October 2008 – September 2010

Country	Border barriers	Behind-the-border measures*	Investment barriers	Export restrictions	Measures to stimulate exports	Other measures	Total measures per country
Algeria							0
Argentina*							0
Australia*							0
Belarus	2						2
Brazil*							0
Canada*							0
China*							0
Ecuador	1						1
Egypt	1			1			2
Hong Kong							0
India*	2						2
Indonesia*		1	1				2
Japan*							0
Kazakhstan	1						1
Malaysia							0
Mexico*							0
Nigeria							0
Pakistan							0
Paraguay	1						1
Philippines							0
Russia*	11			1			12
Saudi Arabia							0
South Africa*							0
South Korea*						2	2
Switzerland*					2		2
Taiwan						1	1
Turkey*							0
Ukraine	5	1					6
USA*		2	1				3
Vietnam							0
Total measures by type	**24**	**4**	**2**	**2**	**2**	**3**	**37**

In geographical terms, it may at first glance seem that the removal of previous trade restrictions is the most notable for **Russia** and **Ukraine**. However, with regard to Russia, these results need to be interpreted bearing in mind major import duty modifications in the process of creation of the Customs Union with Kazakhstan and Belarus. Against this background, the **import duty reductions that took place remain almost irrelevant**, relative to the widespread increase of duties on imports that took place mainly during 2009. The consolidation of these duties as a consequence of the formation of the Customs Union further magnified the negative impact on EU export to Russia and the terms of trade, thereby nullifying the value of these duty reductions. Furthermore, the reductions concerned only a selected and very limited product range; finally, this figure includes some earlier plans for a duty increase which have not been implemented.

With regard to **Ukraine**, there is a mix of border and behind-the-border measures which have so far been removed, or never entered into force. To some extent the results reflect the EU's efforts aimed at removal of trade restrictive provisions, such as the import surcharge applied to some category of products, justified at the outset of the crisis by the balance-of-payments concerns. Other measures, notably those at a planning stage, have not been adopted due to opposition in the internal decision-making process, or have been removed as a result of court's ruling.

The above table clearly shows that **border measures** top the roll-back list, with the Russian measures heavily adding to the overall figure, for reasons explained above. While there exists no general pattern, it is the **'list of absences'** that should attract particular attention. While some limited progress was noted with regard to certain Buy American components in the US legislation, there is very limited progress with regard to removal of any **behind-the-border**, regulatory measure. In addition, while the number of border measures in force is somewhat elevated, it is noteworthy that hardly any tariff increase was applied on a cross-sectoral basis. Rather, a selective product-by-product approach has been taken. At the same time, the behind-the-border measures in force reveal a greater tendency to be applied in a horizontal manner, be it regulatory requirements related to technical regulation or investment or government procurement measures. Noteworthy is also the relative absence of withdrawal of **stimulus and other support measures**. This particular case however is closely linked to the uneven recovery at a global level, and the need to continue sustaining demand through government intervention, while the real economy pick-up remains nuanced and hindered by the still looming danger of jobless growth, notably across developed countries. In fact, as mentioned earlier, several countries continue to prolong their stimulus packages; in some cases, their expiry is foreseen toward the end of 2010 and it remains to be seen whether further support is deemed necessary.

The above conclusions show that there is some danger of the institutionalisation of already introduced measures and underlines the complexity of the removal of such measures. From the decision-making point of view, it may seem more straightforward to remove or reduce import duty increases. Yet, the relative importance of such a move diminishes if compared with the legislative burden of a behind-the-border barrier, which, also in terms of impact on trade, often outweighs the importance of a tariff by leading to significant reduction of trade activity or even market closure. All this points to the need to reinforce trade diplomacy at an early stage, so as to prevent new trade-restrictive measures from being taken in the first place. It also stresses again the importance of roll-back in terms of G20 commitments made. The above evidence indicates that there exists wide scope for improvement in fulfilling this pledge.

IV. Concluding remarks

In view of the extended G20 mandate on monitoring of protectionism and the still unsatisfactory situation in particular in terms of removal of existing measures, the European Commission will continue to pay particular attention to actions by its trading partners in the recovery from the economic crisis.

It will therefore continue its own monitoring and will continue to move from monitoring to concrete trade policy actions, where necessary and justified, with a view to convincing partners to remove existing measures.

The ultimate aim remains for Europe to contribute to a sustained global recovery, getting us back on the path of economic growth and creation of long-term jobs.

ANNEX

Potentially trade restrictive measures

adopted or planned in the context of the economic crisis

since October 2008

TABLE OF CONTENT

I. BORDER BARRIERS[33]

Algeria:

- Introduced measures restricting imports of a certain number of products such as drugs in order to "protect the local pharmaceutical industry".

- A new Algerian Decree (Décret executif n° 10-89), issued on 14 March 2010 makes the exemption of import duties (zero tariffs) within the framework of free-trade agreements with Algeria, including includes the EU-Algeria Association agreement, dependent on an approval by the Algerian trade authorities. This new procedure will oblige companies exporting to Algeria to submit supporting documents (invoice, legal and fiscal documents) to the *Directions régionales du commerce*, which shall issue import authorisations within 30 days from the date of request. These provisions were implemented for all shipments made as of 15 March 2010. It remains to be seen at this stage whether this new provision will translate (1) into a new system of non-automatic licenses, whereby imports will be submitted to the approval of Algerian authorities on a case by case basis or (2) into a more burdensome import regime, whereby imports will not be submitted to licenses but will only have to undergo a more heavy administrative procedure (in this respect, it is worth noting that Algeria states that this approval procedure has to be considered as a "statistical license").

Argentina:

- <u>Import Licences</u>
  - 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.

[33] Measures <u>reported</u> since November 2009 are marked in **bold.**

- 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.**

- Reference prices (covering around 24,000 products)

  - 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 'cermet' (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 September2009.
- 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, Span, 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.**

<u>Tariff increases</u>

- 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%).

- **Decree 1192/2010-PEN of 28 September 2010 adopted MERCOSUR Decision 25/2009, which temporarily increases import taxes on dairy**

products (CC 0402.10, 0402.21, 0402.29, 0402.99, 0404.10, 0406.10 and 0406.90) up to 28% until 31.12.2011, and reduces it to 16% after that date.

- 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 are now required to obtain approval from the Secretary of Internal Trade. **The measure is reportedly aimed to restrict food imports in order to protect Argentina's balance of payment surplus.**

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.

- 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.

  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%)[34].

- 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%).

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.

Ecuador:

- **The Government's Executive Order 372 of 28 May 2010 introduced, from 1 June 2010, new tariffs for footwear, clothing and textiles. The rule imposes a fee of $6 in the import of each pair of shoes, plus a 10% charge on the value of the goods (ad valorem) and a tariff on clothing and textiles from USD 5.50 per kilo plus 10% surcharge.**

Egypt:

- On 20 August 2009, all import duties on sugar were abolished be it on raw or on refined sugar until the end of December 2009. The measure aims at lowering domestic prices for sugar, in line with the policy of subsidising basic foodstuffs for citizens, especially those of the low income segment. The exemption of import duties

[34] According to the UN Comtrade.

on sugar was extended until 30 June 2010. **In October 2010, import duties were revised and partly reintroduced. While raw sugar is subject to 0% import duty, imports of white sugar now face a 10% duty.**

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'.

Indonesia:

- 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. The economic impact for EU exporters is up to EUR 388 million, about 6.5% of EU exports to Indonesia. However, priority lane importers, including many of the large European companies, are exempted from the requirements. The decree is temporary and expires on 31 December 2010. In April 2010 the decree 56/2008 was expanded to cover cosmetics and traditional /herbal medicines (41 new tariff lines), due to domestic pressure to face increasing imports from China.

- Ministry of Trade Decree 8/2009 (08/M-DAG/PER/2009) requires that 200 iron and steel products be only imported by licensed importers and that all shipments undergo a pre-shipment inspection. The requirement for pre-shipment inspection was postponed until 30 April 2009. Other requirements imposed by the Decree (import licenses) would apply nevertheless. The application of the Decree has been further delayed since the Minister of Trade is still considering which user industries should be excluded. No firm date for application has been set. The Decree 8/2009 has been updated by Decree 21/2009, which reduces 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. Obligatory pre-shipment inspections were to be launched on 25 July 2009. 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 enlists 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.

- Ministry of Finance Regulation 101/2009, which entered into force on 1 June 2009, imposed 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%. The Minister of Agriculture commented in press that it was very likely that the duties would be raised. 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 received requests to complete the country and establishment approval process.

- Ministry of Finance Decree No. 19/2009, adopted on 13 February 2009, raised import tariffs on some products that are competing with locally manufactured products. This includes 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 7,5%) and electrical and non-electrical milling machines (0 to 7,5%). At the same time certain tariffs were reduced, mainly on input products needed for local manufacturing (e.g. dairy products and base chemicals).

- 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. The problem for EU companies is the unpredictable and scarce supply of high quality sugar for food and beverage manufacturers who are producing in Indonesia. 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 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.

- 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) fir 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. The Regulation provides that manufacturers are allowed to import finished goods upon approval to be registered in an 'approved importer' list. The approval should be obtained by the Ministry of Trade. The Regulation provides that import realisation reports have to be submitted to the Director of Import, Ministry of Trade, every quarter. This is to check whether imports correspond to the realisation report and whether imports of finished goods have to be in line with the scope of the business licence. The right to import finished goods could also be abolished if it is estimated that imports 'are not sufficiently balanced by production activities'. The Regulation enters into force on 1 January 2011.***

- 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).**

Mexico:

- Mexico imposed MFN tariffs on 89 US products, effective since 19 March 2009, in retaliation for ending a pilot programme allowing circulation of a limited number of Mexican trucks on American roads. The sanctions are expected to affect US $ 2.4bn worth of goods originating from 40 different states of the US. The products concerned include a mixture of agricultural and industrial consumption goods, selected so as to avoid affecting Mexican competitiveness and excluding raw materials and capital goods. The sectors most affected include the agro-industrial, agricultural, editorial, perfumes and cosmetics, glass and electrical manufactured goods. **In August 2010 the list of products subject to duties was modified, with certain goods added to the list (mainly agricultural and food products: apples, pork, cottage cheese), some removed (jewellery, batteries, furniture, paper, carpets) and some tariff modifications for others (dairy, printed books, certain hygiene articles).**

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 ban on cement, in force since November 2009**, has been replaced by an import licence quota, 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.

Paraguay:

- 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.
- Import licence requirement was introduced for clothing products, applicable since 5 February 2009.
- Import licence requirement for poultry meat is in force since 9 February 2009 (with temporary 6-month application). **The measure was extended for further six months on 11 August 2010 by decree No. 4878 (applies to four tariff lines (0207.11.00, 0207.12.00, 0207.13.00, 0207.14.00).**
- 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.

Russia[35]:

- 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[36]. 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, valid for 9 months, entered into force on 12 January 2009. The duty increases are between 5 % and, 20 % ad valorem. Changes to the specific duties represent in certain cases (specifically for trucks) an increase of up to 400%. Steepest increases are for used cars, but new cars are hit across the board. On top of this, the rouble has been devalued, which makes imported cars very expensive. On 9 October, the Decree No. 807 has 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**.** *Import duties on cars are said to remain in place at least until 1 July 2011.*
- 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

[35] 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 only 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.

[36] Following joint efforts by the EU and the US, Russia committed to gradually reduce the tariff surcharge of 15% introduced in January 2006 to 5% in the context of the US-Russia bilateral WTO accession agreement of November 2006. The duties were reduced to 5% temporarily in June 2007 and the lower duty was applied temporarily until January 2009.

2010-2012 by the Government Decision No. 1021 of 16 December 2009 and made permanent by the Customs Union Commission.

- 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 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.

- 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.

- 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 an 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. The import duty on other polycarbonates (CN code 3907 40 00 09) was to be set at 10% ad valorem. Under the Customs Union the import duty was set at 5% ad valorem, on the basis of a Customs Union Decision No. 196 of 26 February 2010.

- 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.

- 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.

- 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.

- On 28 November 2009 the Russian Government Decree No. 959 introduced an increased duty on iron rolled products and iron, for 9 months. Consolidated under the Customs Union Single Customs Tariff.

- In December 2009 the 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. Consolidated under the Customs Union Single Customs Tariff.
- *In December 2009, Deputy Minister of Industry and Trade Stanislav Naumov revealed that the Ministry was also considering increasing the existing preferential import duties on car parts and components (0-5%) in order to stimulate their local production*.

- As of 14 November 2009 the Government Decree No. 931 introduced for additional 9 months the duty on coaches for high speed electric trains. 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 will have to submit to the customs authorities a conclusion on purpose of imported parts and components. Car producers will also have to report twice a year to MED about their investment (now 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.

- On 16 April 2010 the Customs Union took a Decision 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. According to some experts, the measure could quadruple the current duty and reach $200 per tonne.

- Russia adopted the main guidelines on customs and tariff policy until 2013, which may lead to further tariff increases.
- ***Russian Government is planning to introduce a 25% duty on GPS navigation equipment. However, if imported equipment can operate under both navigation systems, GLONASS and GPS, then a zero percent duty will apply.***
- **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.**

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 for 35 categories of imported garments (a 5% increase in import tariffs for 35 categories, 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[37].

- 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 40% to the WTO-bound rate of 45%.

- **Since 28 May 2010 South Africa applies an increased MFN duty on imports of glycerol (HS subheading 290545) from zero to 10%.**

- **Since 16 July 2010, an increase in MFN duties on imports of lysine (HS subheading 292241) and of associated feed supplements (HS 2309 90 65) from 0% to 10% is in force.**

- **Increased customs duty on imports of calcium proportionate (HS subheading 29155030) from zero to 15% (WTO-bound rate) is 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% is in force.**

United States:

- ***A draft bill by Congressman Robert Aderholt, called "Save US Manufacturing and Jobs Act" (HR 5940) calls for removal of preferential trade treatment for import of certain sleeping bags, manufactured by a specific US-based company, which competes with imports from developing countries benefitting from the GSP regime. The draft law was prepared after the failure to remove sleeping bags from the list of GSP eligible products, prepared by the President Obama's administration. The bill was referred to the House Committee on Ways and Means on 29 July, 2010.***

Vietnam:

- 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. So far, no complaints have been made in this regard, as the registration procedure by the MOIT is swift. The new decree also establishes a difference between 'essential and 'non-essential' imports, clearly signalling that Vietnam is preparing to identify the imports that are not key to the continuing development of the country. 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%. **Circular 24 on “automatic” import licensing (Ministry of Industry and Trade) was issued on 28 May and entered into force on 12 July, replacing Circular 17. Circular 24 was not notified to the WTO Import Licensing Committee. While Circular 17 included selected products from 10 HS chapters, Circular 24 include selected products from 24 HS chapters. The following**

[37] More information is also available in the section on government procurement.

product Chapters in Circular 24 are new, i.e. they were not included in Circular 17: 2 (meat and edible offal – entire chapter); 3 (fish and crustaceans, mollusc and other aquatic invertebrates); 16 (preparations of meat, of fish, of crustaceans, molluscs or other aquatic invertebrates); 17 (sugars and sugar confectionary); 18 (cocoa and cocoa preparations); 19 (preparations of cereals, flour, starch or milk; pastry cooks products); 20 (preparations of vegetables, fruit, nuts or other parts of plants – entire chapter); 21 (miscellaneous edible preparations); 22 (beverages, spirits and vinegar); 61 (articles of apparel and clothing accessories, knitted or crocheted); 62 (articles of apparel and clothing accessories, not knitted or crocheted); 63 (Other made up textiles articles, sets, worn clothing and worn textile articles, rags), 64 (footwear, gaiters and the like, parts of such articles); 95 (toys, games and sports requisites; parts and accessories thereof –entire chapter). The circular extends the time the authorities have to reply to the applications from 5 to 7 days. In addition, the applications have to be sent by regular mail (before they could be handed in directly to the authorities). Once issued, the license is valid only for 30 days, which makes it difficult for companies to calculate when to introduce the request so that it will not expire before the goods arrive at port. Exporters have reported that it has taken them two weeks to get the "automatic" license". For EU exporters the Circular has been causing problems in particular for fresh food by air. The circular may result in backlogs of products at ports, additional business costs and reduced availability of goods that are important to sectors such as the tourism sector.

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- On 5 March 2009 the Ministry of Finance issued Circular 39/2009/TT-BTC to raise the import tariff on milk and dairy products. Accordingly, an import tariff of 15% (instead of the current 5%) is imposed on condensed milk and cream, milk and cream with fat by 1% of weight, 1-6% or over 6% (under HS Headings 040110, 040120 and 040130). On other kinds of milk and cream a new import duty of 10% is applied (from the previous rate of 3%). The import tariff on fresh milk is raised from 7% to 20% (under HS Headings of 040299). Only tariffs on powdered milk remain unchanged at average rates of 3-7%.

- 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.

II. BEHIND THE BORDER BARRIERS

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. They are needed when the payment of the goods involves a bank, and risk being extended to all deliveries. (please also see the related barriers in the section on restrictive measures in investment for more information)

- The law “La loi de finances complementaire 2009” of 26 July 2009 introduced the following restrictions: a domiciliation tax on all bank transactions related to import activities; obligation to produce a letter of credit (accompanied by the certificates of origin, phytosanitary control and quality control certificates) for the purpose of payment for imported goods. 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, notably with regard to the letter of credit, which will no longer be required from SMEs importing up to the value of DA 2 million per year (21.110 EUR).**

- 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 clear customs and be picked up and removed in other Algerian ports, which adds delays and costs to the import procedures.

Canada:

- Ontario Province introduced sales targets for various wines. Wines sold in the stores of the Liquor Board of Ontario (LCBO) below these thresholds can be de-listed. Thresholds for Ontario wines are set at a substantially lower level than imported wines, despite higher sales volumes in the LCBO stores. These net thresholds can be considered as a possible barrier to trade. This measure is effective as of 20 July 2009.

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 galvanised steel sheets).

- ***Through an Order of 11 May 2010, the application of mandatory certification for tyres was deferred by another 180 days. Unless India decides to do away with the issue of mandatory certification, the measure is likely to come into force from November 2010. India claims that its road and weather conditions are different hence the need for mandatory certification requirements.***

Indonesia:

- Ministry of Industry was proposing, through two decrees, to introduce mandatory standards and certification for a number of iron and steel products[38]. The requirements would apply to both imported and domestically manufactured products. The two draft decrees have been notified under the WTO TBT Agreement and were adopted in 2009-2010, depending on the case[39]. For iron and steel, the requirement started to be enforced in May and July 2009. EU exports of iron and steel[40] to Indonesia in 2007 amounted to about EUR 261 million. Press reports indicated that more mandatory standards (SNIs) for three additional types of products will be issued (cold rolled coils, cables and hot rolled plates). DG Ansari Bukhari from Ministry of Industry has even said that these SNIs are made mandatory as a policy of non-tariff barriers to hinder a flood of imported "non-standard" steel during the economic crisis. Last year, the domestic producers reported an increase in imported steel, which is suspected being a result of dumping practices. To anticipate this, the Ministry of Industry established mandatory SNIs. Indonesia Iron and Steel Industry Association said that these new SNIs are in accordance with the wishes of the domestic producers following the drastic increase in volume of imported products in 2008. **Further ten product categories are considered: steel, aluminium, toys, textile, footwear, food and beverage, electronic, petrochemical, machinery, and agricultural products. In April 2010, the proposed SNI-list included 23 standards, which are expected to be notified to the WTO.**

- 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. This is supported by an EU-funded technical assistance project that began in October 2009.

- Mandatory standard, certification and marking requirements for refined crystal sugar entered into force on 13 March 2009.

- 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. They will have an exclusive right to ship oil, gas and coal as of 1 January 2010. Similarly, as of 1 January 2011 only Indonesian vessels will have the right to transport passengers and cargo within the country.

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[38] Mainly hot rolled sheet, coil steel, hot rolled sheet, coil steel for gas cylinder, zinc aluminium - coated sheet and coil steel.
[39] Notifications G/TBT/N/IDN/23 and G/TBT/N/IDN/24.
[40] HS chapters 72 and 73.

- 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 entered into force on 26 August 2009.

- *Draft regulation on cosmetics in preparation by the Food and Drug Safety authority (BPOM) is intended to tighten the labelling and packaging requirements for imported cosmetics, in that product information, utilization advice, product number, expiry date etc. are to be labelled on the product in Indonesian. Authorities have also started to strictly require an undersigned certificate from BPOM before allowing products to enter into the market (earlier an approval in the internet system was sufficient). Bottlenecks in the issuance of import licenses by the BPOM have thus resulted in delays of many months of products entering into markets. Furthermore, all French dossiers applying for import license have suddenly been refused, as French Certificates of Free Sales issued by the Federation of Beauty are no longer accepted, and a government-issued certificate is required instead. The draft regulation on packaging and labelling was expected to be issued in June 2009, but has not been issued yet.*

- **Related to the above, the Trade Ministry Decree 62/M-DAG/PER/12/2009 obliging companies to put a label using Bahasa Indonesia to certain goods has been implemented more vigorously since June 2010. The accelerated implementation concerns electronics, footwear, telecom equipment, household equipment, and motor vehicle spare parts). As of 1 September 2010 the Decree will be enforced for new products and since April 2011 for existing products. Goods affected include clothes, footwear, electronic and telecommunication equipment, spare parts for motor vehicles, construction material, lamps, photocopy machines. The label needs to contain information about the safety, health and environment aspects as well as the means of use and detail usage specification and warnings. It shall also include the name and address of the importer, for the imported products.**

- From August - September 2008 the Indonesian Food and Drug Regulatory Agency (BPOM) started to vigorously enforce the requirement that all foodstuffs, pharmaceuticals and cosmetics must be approved and registered. It is reported that it can take 6 to 9 months to register a product. 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, some 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.

- *According to the latest version (July 2009) of the draft Law on Trade, large companies would be prohibited from selling products and services directly to consumers and have to use a distributor. Medium-sized companies are allowed to sell to the level of retailers and only micro and small companies directly to consumers. Ministry of Trade has commented that this also depends on the type of commodities, dangerous goods such as chemicals "are more suitable" for the industry to sell directly.*

- *In December 2009, the KPPU (anti-monopoly commission) announced new guidelines prohibiting principals to establish a minimum selling price for retailers. Until now, minimum prices on imported goods have been set by principals, which has permitted brands to keep an image of exclusivity.*

Japan:

- Draft legislation submitted on 8 February 2010 on the reform of the Japanese Post. The new plan would provide for a prominent position for the Japanese Post on the market, notably by expanding its activities into such sectors as insurance and financial services. This would be to the disadvantage of incumbent foreign service providers and would introduce a new barrier to market access. The future of this proposal is however rather uncertain, given the opposition to the draft within the Japanese Government after the re-appointment of Mr Kan as Prime Minister in mid-September 2010.

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.

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 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 to be reviewed so as to prevent undervaluation and wrongful declaration of goods. Customs points, which organize clearance of imported pipes and rolled steels, were to be equipped so as to permit the conduct of radiological and phytosanitary control.

Turkey:

- New import procedures were introduced on 1 January 2009. These new procedures entail a major change in the treatment of imports originating from third countries. Turkey requires that products in free circulation in the EU but manufactured outside the EU be subject to the conformity assessment of the Turkish Standard Institute. The implementation of the Communiqué on Standardisation in Foreign Trade (conformity assessment requirement for goods in free circulation) has been prolonged for one year (announced on 31 December). This affects numerous products such as electrical devices, batteries, toys, medical devices, radio and telecommunications, construction products.

- Requirement for reciprocity for Good Manufacturing Practices certificates to be submitted for receiving the market authorisations for pharmaceutical products. The circular enters into force on 1 March 2010.

United States:

- *The Foreign Manufacturers Legal Accountability Act of 2009 is being discussed in the US Congress, where the House and Senate are trying to reconcile respective positions on the draft. The bill aims 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 may exclude manufacturers who only import a minimal amount of products into the United States. The Bill creates an obligation that these foreign manufacturers consent to the jurisdiction of the courts in the state where their agent is located.* http://thomas.loc.gov/home/gpoxmlc111/s1606_is.xml *Foreign Manufacturers Legal Accountability Act of 2010 in the House version is very similar to the Foreign Manufacturers Legal Accountability Act of 2009. It requires establishing a registered agent in the United States who is 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 contains an import ban on products of those manufacturers who failed to register an agent in the US. There is 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.***

- *A draft bill (H.R. 6969) was introduced in Congress to amend the Internal Revenue Code 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.*

Vietnam:

- Decree number 26/ND-CP/2009 providing guidance on the implementation of several articles of the Law on Excise Duty was issued on 16 March 2009. 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 122 on price controls (Ministry of Finance): enacted on 12 August 2010 and entered into force 1 October 2010. All 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. It should be noted that circular 122 was previously applicable to state-owned enterprises only.

- **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.**

- **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.**

- **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; Continue to "propagandize" the masses and enterprises use Vietnamese goods through information agencies and mass media.**

II.1. Government procurement restrictions

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) 15% preferential margin applied on products and services from Algeria.

- **Presidential decree of 11 July 2010 on public procurement in Algeria 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 offer. 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.**

Australia:

- Two Australian states adopted provisions, which seem to run against the position of the Federal Government. First, Victoria (sub-national level) announced on 19 November 2008 (operative from 1 July 2009) that Victorian Government procurement for declared strategic projects greater than $A250m should be subject to 40% local (Australian and New Zealand) content requirements. The measure will have a potential adverse impact over a broad range of sectors, specifically in relation to passenger rail rolling stock and tram fleets.
- Furthermore, a stimulus package announced on 16 June 2009 by the New South Wales government gives a preference to Australian and New Zealand content in government procurement. 20% Price Preference Margin (PPM) applies to Australian and New Zealand content of goods and services offered and an additional Country Industries Price Preference Margin of 2.5% or 5% is applied to goods. The preference extends to SMEs with up to 500 employees. Among revisions issued on 22 February 2010 is an end-date of 30 June 2011 (when the measure will be reviewed).

  It should be noted that 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 adopted a "temporary measure" modifying the Brazilian law on public procurement and the facto turning it into a kind of 'buy Brazilian' law. The temporary measure 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, as well as to companies investing in research and technology in the country. The measure should benefit primarily the pharmaceutical and textile sector, i.e. a market which was worth R$16 billion (around €7 billion) in 2009 in terms of public procurement contracts.**

  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, as well as to goods and products originating in other countries with whom Brazil would sign an agreement on government procurement in the future.

Brazil is not a party to the WTO GPA.

Canada:

- On 29 January 2009 the Government of Canada announced that it would provide 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 two inland scientific research craft.
- *Proposed decision on domestic content in Ontario's Green Energy Act and Feed in Tariff (FIT) program. It is expected that the Ontario government will be finalizing a decision on domestic content at a cabinet meeting within weeks. Feedback from the Ministry of Energy and Infrastructure (MEI), CanWEA and the draft FIT rules indicate that domestic content will be based on 'soft costs plus', a percentage of the project's total capital expenditure (i.e. balance of plant) and Major Equipment (nacelles, blades & towers). The total percentage has yet to be released, however, it is expected to be between 20-40%.*

China:

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

  This 'Buy Chinese' policy was strengthened in 2007 by two implementing decrees[41]. They limited the possibility to procure foreign goods in China to cases when domestic products are 'unreasonably' more expensive or of lower quality.

  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)[42] 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

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[41] 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.

[42] 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.

projects launched under the RMB 4-trillion stimulus packages adopted in 2008 and 2009[43] has been announced.

Moreover, the Chinese National Development and Reform Commission (NDRC) issued in 2009 a notice[44] reminding all authorities to strictly apply the 'Buy Chinese' rules in all procurement financed by the stimulus package. In particular,

- o article 2.1 asks to eliminate any possible discrimination against domestic manufactured equipment;
- o article 2.2 reminds that 'Buy Chinese' is the guiding principle in procurement in China and the procurement of foreign goods and services is only allowed under the exceptions foreseen in the GPL (i.e. article 10 of the GPL); the article also imposes new sanctions and penalties against officials setting up rules or criteria that exclude domestic bidders or favour foreigners.

I. 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. So far cases have been reported in twelve provinces.

II. 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. This accreditation list would apply to the 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 Chinese authorities posted for public comments a revised draft version of the accreditation procedure on the Ministry of Science and Technology (MOST) website. While this new draft removes the requirements of prior Chinese origin for brands and other IPR, several other IPR-related provisions remain unclear. The public consultation will be open until 10 May.*

III. 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.

It should be noted that China does not yet undertake any substantial multilateral or bilateral commitments concerning government procurement. It is currently negotiating its accession to the WTO GPA[45].

Indonesia:

IV. 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,

[43] For more information on stimulus packages, see the 133 Report on potentially trade restrictive measures of July 2009.

[44] Notice 2009/1361 on "The implementation of deployment on the expanding of the domestic demand to promote the economic development" and "Opinions for the supervision of project tendering procedure" jointly with seven other Ministries (Ministry of Industry and Information Technology, Ministry of Water Resources, MOFCOM, Ministry of Railways, Ministry of Transport, Ministry of Supervision, Ministry of Housing and Urban-Rural Construction).

[45] It submitted its WTO GPA (Government Procurement Agreement) initial offer end of December 2007.

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.

V. 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.

VI. 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.

Indonesia is not a party 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.

  Kazakhstan is not a party to the WTO GPA.

Paraguay:

- **Ministry of Finances published a new decree (nº 4008) on 26 February 2010 establishing national preferences in public tenders. As you will notice, those preferences cover a range from 5% up to 70% compared with imported products in public procurement. This decree is valid for one year and the factor behind such decision is to promote both national production and national employment, in direct response to the international crisis.**

  Paraguay is not a party to the GPA.

Russia:

- Instruction 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. Expiration is foreseen at the end of 2010. The Federal Law On State Procurement No. 94-FZ establishes national regime for foreign firms on the basis of reciprocity with foreign countries. No priorities for Russian firms are envisaged so far.

- 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.

1. Agriculture Ministry Order 82 from 3 March 2009 - Russian authorities discriminate in granting 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.
2. Subsidies for executive bodies, regional authorities, militia, communal services and medical establishments are envisaged to buy locally produced passenger cars, transportation cars and special vehicles (32.5bn roubles in 2009, 20bn roubles for 2010).
3. 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.
4. The anti-crisis plan calls for further steps in order to increase the demand for domestically manufactured goods from the Federal Government, private business and the population.

Russia is not a party to the WTO GPA.

South Africa:

- The Customised Sector Programme for the Textile and Clothing Sector (CSP) was adopted on 21 May 2009 in order to assist the textile and clothing industry as part of the "Framework for South Africa's Response to the International Economic Crisis" of February 2009. It stipulates tariff increases (see above), safeguard investigations and a 'Buy South African' public procurement policy, as well as preferential loans and capital upgrading. South African public institutions are expected to procure only textiles and clothing manufactured locally and by companies in compliance with national tax and labour laws.
- On 14 August 2009, the Finance Minister released for public comments new draft Preferential Procurement Regulations, which seek to align the SA preferential procurement regime with Broad-based Black Economic Empowerment (B-BBEE) law. Under the draft Regulations, the 'B-BBEE status' of companies becomes a key factor of competitiveness in the awarding of public contractors. The proposed Regulations do not formally discriminate against foreign producers and service suppliers, but may indirectly do so in practice.

South Africa 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. A Prime Minister circular of December 2008 encouraged Turkish contracting authorities to apply more rigorously those provisions. The procedure was used in a total of 1285 tenders in 2008, a volume which constitutes about 10% of all tenders and 14,8% of tenders open to foreign bid (12.6% and 20.17% respectively in 2007). In 2008, about 68.2% of all tenders were open to foreign bid. Following the above Decree, a big increase is observed in the first quarter of 2009 for using the 15% price advantage. The procedure is used in 336 tenders with a volume TL 2,2 billion (ca. €1 billion) whereas the numbers were 101 (ca. €47 million) and TL 403 million (ca. €188 million) respectively in the same quarter in 2008.

  Turkey is not a party to the WTO GPA.

Ukraine:

- 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 is 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. However, the Rada recently adopted certain amendments to the Public Procurement Law which would exclude from the scope of the law all goods, services and works procurement necessary for the preparation of EURO 2012; their procurement would be done via a sole-source procedure, without any approval of the Authorised body in the procurement area.
- Furthermore, 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.

  Ukraine is not a party 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. Comments received during that period are due to be assessed and integrated by the relevant authorities in the final implementation rules and guidance, still to be published.

Since the adoption of the "Buy American" provisions in ARRA, the U.S. Congress has tabled several legislative proposals with similar 'Buy American' provisions (21st Century Green High-Performing School Facilities Act, Water Quality Investment Act[46], Appropriations Act for Energy and Water Development as it relates to motor vehicles). Restrictions with a similar discriminatory 'pro-American' intention have also been included in a funding announcement by the US Department of Energy (Department of Energy Recovery Act "Financial Assistance Funding opportunity Announcement"). On 17 December 2009 the Department of Energy reversed foreign entity restrictions for funding of energy related research projects.

- 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

[46] Water Quality Investment Act (passed in the House on 12 March 2009) and 21st Century Green High Performing Public School Facilities Act (passed in the House Education and Labour Committee on 6 May 2009.)

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. The Commission continues to monitor the situation closely.

- The "National Defense Authorization Act for Fiscal Year 2010" includes three provisions that introduce either 'Buy American' requirements or otherwise imply set-asides or protection for U.S. providers of goods or services.

- 'Buy American' provisions on steel and iron and manufactured goods and 'Hire American' provisions are 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.

- ***On 30 July 2010, the House of Representatives passed the Assistance, Quality and Affordability Act (HR 5320), which includes new Buy American requirements. Notably, the funds made available by a State loan may 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 funds various drinking water projects set up by US states and municipalities, which are not covered by the Government Procurement Agreement. The Senate has not yet passed its version of the bill (S 1005), nor has it taken up the House's adopted text. Seemingly the Congress refrained from adopting similar reauthorisation acts in the previous years.***

- ***In the House of Representatives, Rep. Lipinski introduced HR 4351 and Senator Feingold in the Senate introduced S 2890, Buy American Improvement Act, which proposes to eliminating reasonable costs exception in 1933 Act and replacing it with 25% of project cost, as well as other preferences for domestic suppliers.***

- ***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.***

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 can not meet package requirements**

or those can not be provided locally or sponsors of ODA package require of international bidding.

II.2. Investment restrictions

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 importing goods to the country would be obliged to have a 30% 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 complementaire 2009" of 26 July 2009 introduced further restrictions, such as 'Buy Algerian' requirement for all investors benefitting from assistance of Agence Nationale de Developpement des Investissements (ANDI) and a pre-emptive right of re-aquisition 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.**

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.

China:

- As of August 2009, Chinese authorities encourage new airline operators setting up in China to operate Chinese-made aircrafts, as a pre-condition in order to receive an air operator certificate (AOC). Chinese government promotes the local product on domestic market since Chinese aircrafts (MA60) have usually been exported, due to domestic operators' preference for foreign-made aircrafts.
- ***China's government is considering plans that could force foreign auto makers to hand over cutting-edge electric-vehicle technology to Chinese companies in exchange for access to the nation's huge market. This would be in conjunction with the MIIT's 10-year plan aimed at turning China into the 'world's leader' in developing and producing battery-powered cars and hybrids. The government could compel foreign auto-makers that want to produce electric vehicles in***

China to share critical technologies by requiring the companies to enter joint ventures in which they are limited to a minority stake.

- ***The revision process of the Investment Catalogue was officially announced in April 2010, when the State Council issued a Circular on investment also 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 current version of the Catalogue (last modified in 2007) sets up important barriers to investment; this is equivalent to a framework legislation on investments, classifying them according to three categories (encouraged, restricted, prohibited), and providing for facilitations or limitations according to the category. At this stage, it is still unclear whether the new Catalogue is to improve or worsen access to investment in China: the publication of a draft for public consultation is still awaited.***

Egypt:

- *In October 2009 Egypt announced local content requirements for foreign shipping agency activities. An equity cap of 51% for Egyptian ownership is imposed on those companies licensed to carry out shipping agency activities. Entry into force has initially been postponed to end of October 2010, while a further six-month delay in implementation is foreseen.*

India:

- ***Since the end of 2009, the Department of Telecoms had taken a number of steps to increase security requirements in telecoms. The actual measures taken pose fundamental market access questions. The requirement for telecom equipment providers to ensure transfer of technologies within a period of three years and the obligation to substitute Indian engineers to foreign ones within a period of 2 years included in the 18 March license amendment to the United Access Service Licence Agreement already raised fundamental concerns. The Telecom Service Provider –Vendor/Supplier Agreement imposed in the 28 July Amendment to the United Access Service Licence Agreement added much more demanding and trade restrictive requirements, including the escrow of source code and sensitive design information and very high liability set out in terms of penal provisions. Such requirements, which are unprecedented internationally, are very likely to be commercial deterrents for global ICT companies that exercise great care in protecting such sensitive proprietary information which is at the core of their business. Following public and private foreign and domestic concerns, a two month period had been given early August to see if there was any merit in the concerns highlighted and review the provisions in the light of international best practices and see if there can be alternative mechanism which can be put in place to resolve the issues.***

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 has 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. EU exports of pharmaceuticals to Indonesia amounted to EUR 145 million in 2007[47]. According to the investment coordinating board, investments into the pharmaceuticals sector have come to a halt since the limitation of FDI to 75%. In August-September 2009, Food and Drug Safety Agency sent warning letters to foreign companies which have not applied for a production licence, threatening to revoke their PBF licence. Although the regulation should be applied equally to domestic PBF companies, its enforcement seems to target foreign companies. Given that little points out to the possible withdrawal of the measure, importers have started pairing up with local manufacturers or manufacturing 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.*

- *Draft regulation is being prepared to introduce local content requirement of 50% on oil and gas contractors, who would be obliged to spend 50% of their total project expenditure on local products and services in the framework of the "Indonesia Incorporated" concept in the sector to support these industries in terms of service, financial and human resources procurement.*

- 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 draft 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.

[47] SITC 515, 516 and 541 - accounting for around 3% of total EU exports to Indonesia.

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.**

Russia:

- In April 2008, the Russian Duma approved The Strategic Sectors Law ("Law on Foreign Investment in Companies with Strategic Significance for National Security and Defense") and Federal Law No. 58- 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. Since the adoption of the law investors submitted 122 applications. 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. Attempts to modify the stringent rules of the Law have been undertaken, but have so far been limited to clarifications of procedures and some relief for Russian companies, whose foreign-based affiliates are affected by the law. The Government is currently considering the first package of amendments to the Law drafted by the Federal Antimonopoly Service (FAS).

- ***The Ministry of Industry and Trade is proposing 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 and is expected to be conditioned upon the following criteria: production capacity should be at least 300,000 cars (25, 000 cars annually are requested now), localization of production should reach 60% (30% at present), more than $700m should be invested in new production, carmakers should be obliged to produce at least 200,000 engines, or gearboxes, to consider producing 18 key components of a car (fuel or breaking systems, cooling system, exhausting system, dashboard etc) in order to use at least 5 of them. 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 'Strategy of pharmaceutical industry' 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).*

- **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.**

South Korea:

- ***The National Assembly is preparing a draft law restricting access to retail services for big-surface retailers. The law may be in breach of South Korea's GATS commitments.***

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. On 4 August 2010, the NTC announced a draft Notification to prohibit foreign dominance in local telecom operators, which will be used as a key criterion to pre-qualify potential bidders of the 3G licenses.***

- ***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.***

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.

- 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.**

  - ***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.***

III. 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.

China:

- After months of delay, in October 2009 China published the rare earth export quota for foreign companies for the second semester of 2009. Almost at the same time, Chinese government announced in the press that it would tighten its administration on production and exports of rare earths in the next six years, according to a "Rare Earths Industry Development Plan in 2009-2015" drafted by the country’s Ministry of Industry and Information Technology. This Plan has not been publicly released yet.

Egypt:

- On 10 March 2008, the Egyptian Government raised the export duty on rice from 200 LE to 300 LE per tonne. This measure was followed on 27 April 2008 by a Ministerial Decree (MD197-2008) banning rice export, allegedly for a period of 6 months (from April to October 2008) in order to supply in priority the local market. On 25 May 2008 a second Ministerial Decree (MD 450/2008) was issued extending the ban on rice export until April 2009. On February 2009, the Government of Egypt (GoE) announced that the ban would be extended until further notice. End of March, the GoE confirmed the extension of the ban until October 2009. "The decision is intended to preserve the stability of prices in the local market". Exports companies which also import rice on behalf of the state for distribution as part of food subsidies would be allowed to export the same amount they import. Export companies would also be allowed to export any surplus rice after meeting domestic demand for a fee of 1,000 EGP. On 6 July 2009, Egypt's Ministry of Trade and Industry doubled the above mentioned export duty on rice to 2,000 EGP per tonne. On 15 July 2009, the export ban was lifted for broken rice and replaced by an export duty of 300 EGP per tonne. On 30 August 2009, the above export duty of 300 EGP per tonne of broken rice was cut to 100 EGP per tonne. On 24 September 2009, the Ministry of Trade and Industry announced the prolongation of the export ban by another year until October 2010. In October 2009, a further modification to the export regime was adopted. The new regime established a country-wide export-quota of 100,000 tons every two months, corresponding to an annual quota of 500,000 to 600,000 tons. Each bidding company could obtain an export license of 10,000 tons every two months. At the same time, the export duty was reduced from EGP 2,000/ton to EGP 1,000/ton. **On 20 September 2010, the Ministerial Decree 450/2008 imposing the ban on exports of rice was extended until 1 October 2011.**

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%.

- Following the increase of prices on cotton, Indian Ministry of Textiles decided on 19 April 2010 to suspend the registration of export contracts, thereby effectively banning exports of cotton, until further notice.

- **In addition, on 9 April 2010, an export tax on raw cotton and cotton waste at Rs. 2500/tonne and 3% respectively, was introduced.**

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.

- 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.

- Ministry of Agriculture was planning to introduce an export duty on cocoa ores (cocoa raw material, HS 1801, 1802, 1803)) to promote the national cocoa industry and processing in Indonesia. **The regulation No. 67/PMK.011/2010 introduced a progressive export duty, 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. The Indonesian Chamber of Commerce (Kadin) has also proposed to the Indonesian Government to raise export duties on 10 commodities, when the new Indonesian administration takes office in late October. The 10 commodities would include cocoa, rubber, palm oil, coffee and sugar, for each of which (except for sugar) Indonesia is among the world's largest suppliers. The stated objective of the suggested policy would be to increase the competitiveness of domestic processing industries, to increase the share of 'value-added' in Indonesia, to secure domestic supplies with an affordable price and to promote employment in processing industries. No date disclosed yet for implementation. Cocoa industry has been lobbying for a 10% export tax in order to push for increase of domestic production/manufacturing. 70-80% of the cocoa beans are currently said to be exported unprocessed. According to Kadin and press statement from Coordinating Ministry of Economic Affairs, the Government seems to support the proposed policy of commodities export taxes, in line with their commitment to reduce Indonesia's dependency on exporting 'raw'/unprocessed natural resources. The policy would be established on commodity-by-commodity basis, depending on the international market price for each commodity and the equilibrium price level deemed suitable for domestic market.

- Decree 36/2009 of 11 October 2009 introduced export controls on raw rattan.

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. *Furthermore, Kazakhstan's government was planning to introduce export duties on some metals like copper, zinc and gold, in order to boost revenues for the budget. Kazakhstan's miners protested urging the government to abandon the plans for export tariffs; they would favor a profit based tax. Recently this information has been dismissed by the Government.***

- **On 13 July 2010, the Government announced that it had approved the reintroduction of export duty at USD 20 on crude oil and updated the rates for oil products. Duties on light oil products, medium distillates, gasoline (2710 19 410 0 - 2710 19 490 0) and fuel (2710 19 510 0 -2710 19 550 0) were increased from USD 82.96 to USD 99.71. Duties on fuels (2710 19 610 0 - 2710 19 690 0), bitumen and gasoline (2710 19 310 0 - 2710 19 350 0) were increased from USD 55.31 to USD 66.47. The regulation is in force since 16 August 2010. 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).**

The government has announced that it was planning to double the export duty for crude oil to USD 40 per tonne starting from January 2011.

- **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.***

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.

Russia:

- 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%). *The export duties on potash fertilisers are being considered.* ***The measure could enter in force already in November 2010 The Russian Government links the increase to the price of nickel and copper on LME.***

- **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).** ***The Finance Ministry is actively lobbying for increase in export duty for gas from the existing 30% (flat rate) to 35%.***

Turkey:

- **The Undersecretariat 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 scarp export by the Exporters Associations. The registration requires obtaining a registry certificate which amounts to an export license. However, the recent instructions of the Foreign Trade which bind the distribution of export license to the above mentioned conditions have apparently turned the existing licensing regime to a de facto export ban.**

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.
- 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.**

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:

- 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 theses 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.

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.

Japan:

- On the basis of the Emergency Measures to Defend People's Daily Lives decided by the Ministerial Meeting on Economic Measure and a public notice issued by the Ministry of Finance on 25 December 2008, the Japan Bank for International Cooperation (JBIC), a subsidiary of the government-owned Japan Finance Corp., has initiated a scheme on 'Credit for exports to developing countries'. The scheme will be in force until the end of March 2010. Japanese companies exporting goods and services to developing countries are eligible to receive loans. The temporary measure to provide loans and guarantees for Japanese firms (including SMEs) to finance their business operations in industrial countries (including EU-15), as well as the scheme on 'Credit for exports to developing countries' have been extended to the end of March 2011 (the original date of expiration was the end of March 2010). http://www.jbic.go.jp/en/about/news/2008/0115-01/index.html. **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 ($225 billion) 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 JBIC scheme. The Government will expand the scope to ten categories, adding such areas as efficient power generation, efficient electricity transmission, water treatment and carbon capture and storage. It will also expand 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. A cabinet decision to revise the relevant ordinance is expected before the end of 2010.**

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. This initiative is carried out within the framework of Strategy 2020 and Business Roadmap 2010-2014.

Malaysia:

- On 29 October 2009 the Ministry of International Trade and Industry presented the planned Review of the National Automotive Policy (NAP), whose main objective is 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.

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. The federal budget allocates on the support for exports of Russian manufactured goods (in the form of state guarantees) 1bn in 2010, $1.5bn in 2011 and $1,5bn in 2011 (according to the federal budget for 2010 and the planning period of 2011 – 2012, as specified in the federal Law No. 308 FZ of 02 December 2009). $7bn was granted in the framework of the Government's anti-crisis measures in 2010.

- **On 20 February 2010 Russian Government introduced a subsidy of 5.07 billion rubles to boost export sales of grain from intervention reserves.**

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.

Taiwan:

- Taiwan has pursued three main programmes to stimulate its economy, including one on stimulating 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, is 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, will be 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 will be 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 will 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, is relatively in line with measures seen globally. As such it is not seen as particularly objectionable.

United States:

- 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'. *There were also plans for a 'National Dairy Promotion and Research Program', which would introduce a levy for milk produced in the US as well as on imported products. However, so far the levy has not been introduced*. **The program has been extended for the period July 2010-June 2011 and the beneficiary products are non-fat fry milk, butterfat and various cheeses.**

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, collecteurs et transformateur) are going to be increased significantly.

Brazil:

- Brazil's state development bank, BNDES, is supplying subsidized loans for up to 90 percent of the costs for domestically built ships.

- 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.

Canada:

- 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).

- Canada decided to provide a subsidy to Bombardier, a Canadian aircraft manufacturer, in the form of repayable loans of up to CAN $173 million. This support, although formally in compliance with the Aircraft Sector Understanding for Export Credits signed in the OECD framework, does not follow the spirit of the agreement in that the preferential credit rate gives the Canadian producer an advantage over European manufacturer, none of which can benefit from a similar governmental support (Italy or France are not direct lenders).

China:

- Introduced a stimulus plan for the ICT industry. Investment will be 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 will be continued and the rebate rate for certain IT products will be raised. Innovation and IPR protection for technologies are emphasised.

- 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 R%B 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.

Egypt:

- *Third fiscal package worth EGP 10 billion (around 1% GDP for 2008-2009 fiscal year) aimed at addressing the impact of the global crisis on the domestic economy. An initial EGP 15 billion fiscal package was approved at the end of 2008. A second fiscal package worth EGP 8 billion was added to the 2009-2010 budgets. The funds from first two packages have been spent. Disbursement of the third package has begun.*

Hong Kong:

- February 2010: A new round of relief measures was revealed which will cost the Hong Kong Government HK$16.8 billion (around €1.6 billion). The latest package was the fourth in the last 15 months, bringing the total stimulus package to HK$87.6 billion (€8.7 billion), or 5.2% of GDP. The middle class, low income groups and SMEs are the biggest beneficiaries of the new package.

India

- **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 (extended until 30 June 2011), Zero duty Export Promotion Capital Goods (EPCG) Scheme extended by one year to March 31, 2012 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.**

Indonesia:

- A fiscal stimulus package was adopted 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.

Japan:

- Some local governments (among them: Tokyo Metropolitan Government, Kanagawa Prefecture, Akita Prefecture) are offering 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 new tax measures for eco-friendly cars such reduction or exemption in automobile tax, acquisition tax and tonnage tax introduced in April 2009 (until April 2012) tend to benefit domestic eco-friendly cars. Mercedes Benz is applying to the Transport Ministry for eco-car recognition of its new model E250 CGI (launched in October 2009). It will be the first imported gasoline car meeting the requirement, if admitted. The scheme, which was originally due to expire in March 2010, was extended by 6 months to 30 September 2010. The new eco-car tax measures such as reduction or exemption in automobile tax, acquisition tax and tonnage tax tend to benefit domestic eco-friendly cars. In January 2010, METI announced the revision of the scheme to extend its scope also to cars imported under the PHP (Preferential Handling Procedures). Although some European cars were made eligible for the scheme, the discriminatory feature of the programme has still remained. **These subsidies for eco-friendly cars are expected to continue until the end of term (ie. Tokyo Metropolitan Government: until 14 February 2011, Kanagawa Prefecture: 31 January 2011), whereas in some the scheme already expired (Akita Prefecture, at the end of August 2010).**

- **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.** ***The programme foresees introducing a subsidy scheme to promote construction of R&D facilities and factories producing components for eco-friendly vehicles.***

- ***METI is planning to introduce 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 molding and casting), business development and marketing for SMEs. Through such measures, METI aims to protect employment and prevent an outflow of SMEs from Japan.***

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 compensates 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.

This year, 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.

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 falling, expected job losses for 2009 reaching 380,000 and important manufacturing industries increasingly requesting financial injections.

  The series of measures fall into five categories:

  1) Employment: 2 billion USD have been earmarked to create an extra 250,000 temporary jobs. A special programme will be created to preserve jobs within affected industries. Unemployed Mexicans will be able to tap into their retirement funds for financial support and social security for the unemployed will be amplified.

  2) Safeguarding of the family's income: a 10% cut in liquid petroleum gas prices will be applied for households and gasoline prices for 2009 will be frozen. Access to credit for council housing will be increased.

  3) Assistance to SMEs: Government institutions are required to ensure that 20% of procurement contracts are awarded to SMEs. The latter will also benefit from new lines of credit worth $9.2 billion USD, 2 million of which will target specifically struggling industries and companies. The sectors to benefit most from it have not been specified yet, but the automotive alongside other export-orientated industries are the most likely ones. Electricity tariffs for some industries will be reduced by up to 20%.

  4) Infrastructure: an extra 2.2 billion USD covered by the oil surplus, are to be injected into infrastructure projects, raising by 30% the funds available for the National Programme for Infrastructure. Although the government says that the programme's implementation is to be accelerated, a number of legal obstacles have delayed the launch of several important infrastructure projects.

  5) Transparent public funding: apply the new Accountability Law and initiate the process of public tenders.

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 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 has initiated regional consultations in the context of preparations for the Philippine Export Development Plan, which will in turn feed into the preparation of the country's Medium Term Philippine Development Plan (MTPDP). The EDC expects the Export Support Fund to continue in a self-sustainable manner.

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.** There is a list of documents, which need to be submitted in order to receive a subsidy. The Ministry of Industry and Trade and the Federal Service for Financial and Budgetary Control are to exercise control over the use of subsidies.
- 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 lax 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.**
- 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').
- 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.

- By Government Decree No. 690 of 20 August 2009 Russian airlines received ¾ compensation of their lease payments for Russian aircraft and ¾ 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).

- 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.

- 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 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).

Saudi Arabia:

- **Five year development plan (2009-2013) of almost US$400 bn finally adopted in July 2010. Including: overhaul Jeddah international airport, railway line east-west Jeddah-Dammam, 10 new desalination plants, new construction of water supply and sewage systems.**

South Africa:

- *Second Industrial Policy Action Plan (IPAP), announced on 18 February 2010, details 'key action programmes' for twelve 'focus sectors' (automotives, textiles and clothing, plastics, pharmaceuticals and chemicals, biofuels, forestry, paper and furniture, cultural and tourism industries, business processing servicing) in new sectors (metal fabrication, capital and transport equipment, green and energy-saving industries, agro-processing) and 'advanced technology sectors (nuclear energy, advanced materials and aerospace industry). The Plan foresees a review of the* *preferential procurement regime to promote local production, in particular strengthening of local content and supplier development conditions.* ***Under the 2010 budget, R8.2 billion have been allocated to the implementation of the key action programmes, albeit almost 2/3 of these on budget resources have been directed at two traditionally supported sectors (textiles, automotives).***

- The Industrial Development Corporation (IDC) established a R6.1 billion "distress funding' package to assist companies in difficulty (food, mining, automotive, wood, paper, textile and clothing, chemicals, metal, machinery, financial, media and film sectors). **Allocated in 2009 for a two-year period. So far, R1.1 billion has been approved to assist 23 companies. The IDC further envisages to inject R70 billion in the economy until 2015.**

- *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 local manufacturing incentive.*

- The Trade Policy and Strategy Framework **was approved on 20 July 2010.** It envisages a continuation of South African 'strategic tariff review' initiated in 2009 in order to support industrial upgrading and agricultural sector development, whereby tariffs are lowered on inputs not produced domestically, while tariffs are increased on final products for which there is no significant local production.

- **Since 14 June 2010 the Automotive Investment Scheme (AIS) makes available cash grants to investment projects by vehicle and component manufacturers for a total value of R 2.69 billion over the next three years. It is the first step in the implementation of the Automotive Production and Development Programme (APDP), which envisions a shift from an export-based incentive to a local manufacturing incentive, including through tariff protection for build up vehicles (25%) and components (20%) to discourage imports over locally-produced vehicles; a local assembly allowance that enables certain duty-free imports; and a production incentive in the form of a tradable duty credit.**

South Korea:

- 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, MKE announced its plans to purchase and install renewable energy products manufactured locally for state-led projects[48]. Furthermore, Korean companies will receive support to develop local solar energy operations through an intensification of certification standards for solar module and solar collector functions.

- Plans to Finance Green Growth Related Industries[49]: The Korean government plans to promote investment in green growth related industries. The plan is aimed at creating funds fit for the industries and expanding sources of financing as a way to

[48] Up to now only 1 out of 146 wind power generators currently operating in Korea was built by local companies. This year the central government in cooperation with regional authorities plans to install 26 new wind power generators across the country.

[49] Press release on 5 July 2009 by MOSF

prevent potential bubble in the industries. The plan is 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 form 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.

- 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 automotive and shipbuilding 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 9 trillion won would be provided to excellent shipbuilding companies and their partners.[50] 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 will provide loans of up to 4.7 trillion for the purchase of ships constructed by financially stricken local shipping companies. **In April 2010 the Korean Ministry of Knowledge Economy decided to increase ship-building related financing of the Export-Import Bank of Korea by 40.8% per cent (6.38 trillion won in 2010). Additionally, the Korea Export Insurance Crop has introduced a package support programme that can reduce the burden on shipping lines and would provide 2.1 trillion won. Up to 500 billion won will be offered as loans to shipyards to build and launch new ships, with efforts made to link direct loans with greater export insurance coverage that can help shipping companies place orders for new vessels.**

- *November 2009 support for SMEs: within the framework of the robust support plan for SMEs, the government has announced a plan to develop and support 300 SMEs with high growth potential known as the 'hidden champions' into competitive global players by 2010.*

50 MEK announcement on 30 April 2009

- *In April 2010, as part of the 'Green New Deal' (January 2009), Korea announced its plans to purchase and install renewable energy products manufactured locally for state-led projects.*

- Support for pharmaceutical industry: R&D incentives were expected to be proposed by May 2010 to foster growth in the bio-pharmaceutical sector. In 2009 the Korean government identified 'biopharmaceutical and medical equipment' as one of the future engines for economic growth and intended to raise 2 trillion won in funds by 2015 to bolster research and development. The plan is to be applied both to national and foreign companies. **On 23 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'.**

- **On 1 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.**

- **On 29 July 2010, the SMEA 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 will provide up to KRW 250 million for one year.**

- **On 13 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 plans to select 200 green technologies developed by SMEs every three years and provide financial support in view of R&D.**

- **On 11 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 the support measures. Such measures include 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.**

- **On 9 September 2010, the MKE announced its scheme for providing financial support (up to KRW 1.7 trillion) for R&D of the domestic semiconductors industry. This is specifically in order to develop the nation's "core system semiconductors and equipments" 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.**

Turkey:

- *New incentive scheme aims at reducing the regional disparities, encouraging clustering, and supporting selected large-scale investments. Large investments in twelve selected sectors would receive state aid (automotive, chemicals, transit pipelines, electronics, pharmaceuticals).*
- *Law reducing benefits to companies investing in the least developed provinces, including subsidisation of energy costs, income and corporate tax incentives, reimbursement of insurance premiums. Sectors: manufacturing, mining, stock breeding, tourism, health.*

United States:

- 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.
- 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 qualifies 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."
- 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 benefit from this measure.
- The House of Representatives passed American Clean Energy and Security Act of 2009 (H.R. 2454) on 26 June, 2009 which includes 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. This bill is placed on Calendar in Senate and this version also includes the section mentioned above with the same drafting.
- *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.*
- 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 emerges that black liquor producers could now 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.**

Vietnam:

- The government is implementing 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.**

V.2. Other

Canada:

- 'The ice cream initiative': Canadian dairy producers instituted 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. Contracts would be renewed annually and cover production from 1 January to 31 December with a start of 1 January 2009.

China:

- Measures announced include references to funding of external expansion of Chinese companies.
- China is scheduled to build three to four major oil refining plants in the Yangtze River Delta in eastern China and the Pearl River Delta in southern China by 2011.

In addition to boosting processing capacity, the government wants to make existing facilities more environmentally friendly.

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 by 1% per year in order to reach 45% by 2015 and address concerns on the safety of imported products. MAFF subcontracted the world biggest advertising company, Dentsu to conduct the nationwide campaign through various media tools by using celebrities and famous athletes. New GoJ under DPJ is aiming at more ambitious target of raising the food self sufficiency rates up to 50% in ten years and therefore expected to carry out even stronger campaign.

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.

United States:

- 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 impacts 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. CBP expects to publish a new notice on the subject in the Customs Bulletin in the near future so the issue should be monitored closely. http://www.cbp.gov/linkhandler/cgov/admin/fl/foia/elec_read_room/jones_act/withdraw_jones.ctt/withdraw_jones.pdf

- 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.

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. SUSPENDED/TERMINATED MEASURES

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 CO2, 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.**

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:

- 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 (Ministerial Decree No. 124/2009) applied from February 2009 for one year to rolled steel sheets either cold rolled or galvanised or pre-painted[51]. Egypt applied the *erga omnes* measure, considered to be compatible with the WTO as the duty remained below the bound rate. The measure was suspended through a Ministerial Decree No. 336 in April 2009.

- **A ban on exports of cement (and clinkers) and steel, introduced primarily in March 2008 was extended on 15 July 2009, following the market price increase, until October 2010. This new directive includes assignments for the Competitiveness Protection and Antimonopoly Agency (ECA), Egypt's**

[51] Cold rolled 10% of the CIF value with a minimum amount of US$ 150/MT; zinc coated 10% of the CIF value with a minimum amount of US$ 200/MT; pre-painted or lacquered 10% of the CIF value with a minimum amount of US$ 250/MT.

competition watchdog, to examine the cement market structure and analyse the competition mechanisms (note: a court ruling from last year fined 20 executives in cement companies for anti-competition practices). The ban has expired and is no longer in force.

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.**

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.**

Kazakhstan:

- **Kazakh limitation of sugar imports to 54,423 tonnes, which was introduced on 12 August 2009, was terminated on 1 April 2010.**

Paraguay:

- The increase of import tariffs on certain chemical products has been suspended in December 2009.

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%.

- A special duty for 3 years corrosion-resistant pipes with the outer diameter up to 426 mm inclusive, at 28.1% ad valorem was introduced on 28 September 2009. Under the Customs Union's Single Customs Tariff, the duty was reduced to 10%.

- 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%.**

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 October 2009, President Lee Myung-Bak publicly offered full government support to help Korean firms secure about 10% of the global electric car market by 2015. the Ministry of Knowledge Economy targeted ass production of electric cars from 2011 by allocating 400 billion won between October 2009 and 2014 to support development of high performance batteries and other related systems.

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 as the global demand picked up. The government was under pressure to support prominent local companies in view of the industry's major production role in the world. At the recent 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 "Ukrecocomresursy", 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.**

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. The amended bill has passed the House and will be considered in the Senate.

http://appropriations.house.gov/pdf/EW_Conf_Rpt_FY2010.pdf

- 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.

VII. TRADE FACILITATION MEASURES

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).

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.
  It is worth noting that there still exists a preferential treatment of US investors in Australia under the Australia-United States Free Trade Agreement (AUSFTA), namely the $A1,004 million threshold for investments in non-sensitive sectors. The above provisions took effect from 22 September 2009 by means of amendments to the Foreign Acquisitions and Takeovers Regulations 1989.

China:

- Trade facilitation measures announced include customs and quarantine clearance in 24 hours and reduced costs for textiles, clothing and agricultural products border inspections[52].

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52 This has been announced but details of the implementation are still awaited.

Egypt:

- Ministerial Decree No. 51/2009 announced the reduction of 250 customs tariffs. Customs tariffs also will no longer be applied to some capital devices, machines and equipment, some raw materials and intermediate goods (as they are production inputs) and non-locally produced wood. These items will be exempted from customs fees (the current tariff issued in April 2008 is equal to 20%). According to the modifications, the customs tariff will often be reduced by up to 2%. The customs reduction has been applied to all sectors which demanded a reduction in tariffs (such as engineering, chemical and wood industries) as long as no damage is caused to local products.

Indonesia:

- Local content requirement and discrimination in maritime and shipping services were 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.

- 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.

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. For a updated information, see http://www.jbic.go.jp/en/report/jbic-today/2009/200908/04/index.html .

Kazakhstan:

- **Import duties on aircrafts have been abolished for a transitional period until 1 July 2011.**

- **Import duties for used cars have been cut to a lower level than the rate applicable before the implementation of the Single Customs Tariff of the Customs Union. This arrangement was reached under the condition that there would be no resale onto Russian territory. The lower rates apply to one car per year imported by one individual for private use. There are higher rates for every following car. The transitional period will last until 1 July 2011 when the planned Single Economic Space (SES) is supposed to enter into force.**

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* (ethinic 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 futher 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".**

Mexico:

- The Mexican Government took a unilateral decision to gradually eliminate, by 2013, import tariff on over 70% of products and has also engaged in an ambitious plan to modernise its customs infrastructure and procedures. The Government is taking concrete steps towards implementing the latest customs reform announced in March 2008, which seeks to facilitate trade mainly by simplifying procedures. The latest measures focus primarily on facilitating exports as opposed to imports.
- Mexico and Colombia have agreed to relax rules of origin on textiles.
- Rules of origin have also been eased for cigarettes originating from Chile, which are also exempt from tariffs since 14 July 2009.
- 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.
- In September 2009, further modifications to the External Trade legislation were published, in an effort to further deregulate, simplify and reduce import and export procedures. These changes enable the importer / exporter to apply online for certificates of origin, registering products eligible for tariff preferences and for exporters to claim taxes back on imports whose return to the country is definitive and which have not suffered any modifications/transformation.
- In August 2009, Mexico consolidated the initiative to exchange of electronic certificates of origin with Colombia, by introducing the necessary modifications in their FTA.

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.*

Russia[53]:

- 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 percent import duty on certain types of LCD screens (codes 8529 90 870 1 and 8529 90 870 2) for the period of nine months.

[53] The duties at 0% rate were made permanent under the Customs Union's Single Customs Tariff.

- Decree No. 700 from 28 August 2009 introduces a zero percent duty on ceramics used to produce catalysers (CAT) for cars.
- Decree No. 696 from 21 August 2009 establishes a zero percent duty on certain types of medical equipment.
- 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 sets a zero-rate tariff 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-percent 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 sets a zero-percent 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.

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.
- A R20 billion tax incentive was provided for large scale industrial projects (R600 million to R1.6billion) in view of facilitating new investments in the South African manufacturing sector. Investors can apply for a tax allowance equal to 35%-55% of the project value. Qualification criteria include skills development, energy efficiency, innovation, job creation and procurement from SMEs.

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.***

Tunisia:

- As part of an economic stimulus plan presented on 23 December 2008, the government announced a reduction of customs duties to boost the companies' competitiveness. As part of the economic stimulus plan the 2009 Law of Finance has reduced import duties on equipment, raw materials, semi-finished products and some other products as from 1 January 2009.
- The 2010 Law of Finance continued the reduction of import duties on certain equipment, raw materials, semi-finished products etc.
- In 2009, within the framework of the fiscal stimulus package dedicated to public investment, new short term measures were adopted to support exporting firms. The measure is not discriminatory.

USA:

- **On 11 August 2010, President 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, which he said is a key driver of the economic recovery. The new law amends the harmonized tariff schedule of the US to provide for duty suspensions and reductions (chemical components in particular) until 31 December 2012. According to the White House, the bill will reduce or suspend some tariffs that U.S. companies must pay to import certain materials to manufacture their**

products. This bill will lower costs for U.S. businesses and lower prices for U.S. consumers, it said. The bill is aimed to boost the US home-based manufacturing and exports, in the context of the President's objective to double US exports over the next five years.

Vietnam:

- On 16 April 2009 the government issued a Decision No. 58/2009/TT-BTC on some tax measures to implement its stimulus policy. The Ministry of Finance enacted a circular in May 2009 to implement a 50% reduction of value-added tax (VAT) on five categories of commodities. The VAT cut is applied on: (i) motorbikes with cylinder capacity of over 125cc; (ii) fibre, cloth and garment products; (iii) footwear & leather products; (iv) certain types of paper (with the exception of printing paper); and (v) cement, brick & fibro cement. The VAT cut of 50% is applicable from 1 May to 31 December 2009. **The measure was terminated on 31 December 2009.**
- 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.**

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