SIXTH REPORT ON POTENTIALLY TRADE RESTRICTIVE MEASURES

TRADE

EUROPEAN COMMISSION

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Executive summary

The sixth edition of the European Commission's Directorate General for Trade report on potentially trade restrictive measures looks at the level of trade restrictions in force while the downward trend of the economy is gradually reversing. It builds on the findings of the previous reports[1] and assesses developments in third-country markets between November 2009 and end of April 2010.

During the first months of 2010, **the world economy rebounded better than had been anticipated.** However, it continues to be a multispeed upturn: **stronger across the emerging economies and more hesitant in the industrialised world**. **The European Union's trade flows are also recovering, albeit at a slower and rather hesitant pace, as compared with other major economies**.

Trade policy has very much been part of the global discussions on the post-crisis economic order. In that respect 2010 will be an important year for the shaping of the financial and economic institutions, and consolidation of the role of the emerging economies, not to mention ongoing national fiscal consolidation efforts. We may be now witnessing a restructuring of the global economic order on a scale not seen since the Bretton Woods conference. In this context, the G20[2] plays a particular role in terms of global economic leadership.

The G20 leaders, through the commitment made at the Washington summit (November 2008), reiterated respectively in London (April 2009) and Pittsburgh (September 2009), pledged to *"keep markets open and free and (…) refrain from raising barriers or imposing new barriers to investment or to trade in goods and services, imposing new export restrictions or implementing World Trade Organisation (WTO) inconsistent measures to stimulate exports and commit to rectify such measures as they arise".*[3]

The next G20 summit in Toronto will be the occasion to take stock of the compliance with this commitment.

So far the Commission's analysis has pointed to a moderate, yet persistent, trend in the introduction of trade restrictive measures by G20 countries in the economic crisis. Despite the overall decrease in the number of new measures imposed on a monthly basis, the previously reported figure of 223 identified measures grew in the past six months to a total of 278 measures[4], which remain in force or are planned, since the beginning of the monitoring in October 2008.

In addition, **very few measures introduced since the beginning of the monitoring exercise have actually been removed**[5]. **The steady overall increase of protectionist measures linked to a very low level of removal of existing restrictions indicates a clear risk of entrenchment and institutionalisation of trade-restrictive measures in the post-crisis period**. Such a "quiet proliferation" of trade barriers poses an important systemic

[1] For the previous report see: European Commission, Directorate-General for Trade, Fifth report on potentially trade restrictive measures, November 2009, http://trade.ec.europa.eu/doclib/docs/2009/november/tradoc_145270.pdf .

[2] Argentina, Australia, Brazil, Canada, China, European Union, France, Germany, India, Indonesia, Italy, Japan, Mexico, Republic of Korea, Russia, Saudi Arabia, South Africa, Turkey, United Kingdom, United States.

[3] Pittsburgh G20 Summit, Leaders' Statement, 24-25 September 2009, para. 48.

[4] The figure of 278 relates to measures remaining in force, or planned ones, which may have a trade restrictive character if adopted. It includes 73 new measures planned or already introduced, which have been reported in the period November 2009 – April 2010, and does not take into account the total of 18 measures removed or expired so far. Table 5 lists the measures removed. It also includes some (abandoned) draft proposals, which have not been reported in earlier versions of the report, and acknowledges partial alleviation of otherwise still existing restrictions.

[5] See supra.

challenge, notably for the EU which is a large player in world trade, and whose recovery remains heavily dependent on external demand.

On the one hand, the global figures on trade flows affected by crisis-related protectionist measures are tiny and decreasing. The measures in place up to November 2009 targeted no more than 1% of total world trade in goods. The latest WTO estimates for the period September 2009-February 2010 speak of around 0.7% of G20 imports, corresponding to 0.4% of global imports[6]. On the other hand, **the impact of protectionism on the European Union seems to be higher than the global average: 1.7% of EU exports have so far been affected**[7]. Moreover, it should be noted that the majority of them had a disproportionate **impact on some industrial sectors such as automotives, textiles, agri-food or steel**.

One and a half years into the economic crisis, we now need to move on from the monitoring of protectionist tendencies and regular reporting, backed by calls for continuous vigilance.

We now need to build up pressure against persistent barriers, along with the new measures introduced in the current reporting period. Persistent barriers not only risk the recovery of exports within the sectors affected, but they could become part of the new trade reality post-crisis: indeed, as they are often driven by sectoral interests, they may be harder to remove, and even prolonged beyond their initial period of validity.

It is therefore of **utmost importance for G20 members to keep the recovery's momentum and actively address the measures introduced so far in order to further help the global economy exit from the crisis. They should renew the commitment made to rectify any trade restrictive measures without undue delay and address them in a decisive way,** thus strengthening the recovery. As set out previously, the G20 commitment and the ensuing monitoring have been instrumental in containing a major protectionist backlash so far. We should now build on this relative achievement to implement also the second leg of the G20 commitment and **make a firm case for the need to discontinue the trade restrictive measures taken in the context of the crisis.** This is all the more important as the majority of the most restrictive measures were introduced by emerging economies where the economic rebound is much stronger than in the EU. Maintenance of restrictions in particular by these economies risks creating an uneven playing field for the recovery.

In the wider context, the EU has set out in its recent **Europe 2020 Strategy** a roadmap for sustainable, smart and inclusive growth in the next decade. Openness remains one of the basic principles of the EU's economic model, allowing our societies to reap the benefits of globalisation that will boost growth and employment.

The **main conclusions** of this report can be summarised as follows:

- Despite an overall gradual improvement of the world economy, **growth remains uneven, marking a clear difference between the situation of industrialised and emerging economies.** There still exists a risk that increasing unemployment could fuel a second wave of protectionist policies in the course of 2010.

[6] WTO, TPRB, Overview of Developments in the International Trading Environment, 18 November 2009, p. A-3.
[7] See: European Commission, DG Trade, Fifth report on potentially trade restrictive measures, November 2009, p. 6, http://trade.ec.europa.eu/doclib/docs/2009/november/tradoc_145270.pdf ; OECD, WTO, UNCTAD, Report on G20 Trade and Investment Measures (September 2009 to February 2010). http://www.oecd.org/dataoecd/22/16/44739159.pdf.

- **Between November 2009 and April 2010, 73 further trade restrictive measures** have been introduced, thus bringing the **total figure of measures in force to 278**. The tendency towards new protectionist measures noted in past reports remains unabated.

- But what is striking is the fact that **only some 18 measures** taken in the context of the crisis **have been withdrawn or have expired between November 2009 and April 2010.** This figure is clearly disappointing and **contrary to the commitment made by G20 leaders to "rectify" such measures**. Continuing to add to the stock of protectionist measures without rectifying them risks the economic recovery.

- **The creation of the Customs Union of Russia**, **Kazakhstan and Belarus**, effective from 1 January 2010, saw the consolidation of most of Russia's **duty increases** introduced during the economic crisis. In the case of Kazakhstan in particular, the creation of the Customs Union has led to a significant deterioration of trading conditions for EU exporters. **This remains by far the most striking example of entrenching the crisis-related measures in the permanent trade environment**, with long-term implications for the resumption of trade flows with Russia. Furthermore, it provides uncertainties with regard to those countries' readiness to enter the World Trade Organisation and proves yet again the importance of a binding multilateral regime as a decisive factor containing the spread of unilateral trade restrictions.

- The decision of **Mercosur** to increase certain tariffs stands out as a **worrisome development. Argentina** continues to be one of the most significant users of trade restrictions.

- The **recourse to 'Buy National' policy** is far from being reversed. Moreover, in the field of government procurement there is still a tendency to adopt discriminatory measures.

- Certain **discriminatory components of fiscal support schemes** still give rise to concerns even if strong budgetary constraints have led to fewer such schemes being introduced.

- With regard to **trade defence instruments**, the **downward trend** in the number of new investigations and imposition of new measures noted since the beginning of 2010 **remains to be confirmed** in the course of the year, in particular in the context of intensive activity observed globally throughout 2009.

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This report is structured as follows:

Chapter I analyses recent trends with regard to new potentially trade restrictive measures introduced in the period from November 2009 to April 2010.

Chapter II analyses these measures in a more detailed manner, providing an overview across sectors and types of measures.

Chapter III interprets the implications of trade protectionism for the recovery and puts forward a number of recommendations.

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

This report continues to focus on restrictions that have been implemented in the context of the economic crisis; all restrictions have been reported by the European Union Delegations, with contributions from economic operators and the EU Member States. As much as the new restrictions are increasingly difficult to distinguish from other measures in the recovery phase, the European Commission has closely analysed the intelligence at its disposal, in particular the background against which they have been introduced as well as their objectives. From that point of view, the report takes into account that not all measures adopted and categorised as trade restrictive, have been adopted with such an intention. Similarly, the timing of certain initiatives, given the lengthy legislative procedures, merely coincided with the crisis, and their adoption shall not be linked with the downturn as such. In some cases, other policy considerations led to the introduction of measures, which may have a potentially restrictive impact on trade. In consequence, the report continues to omit the measures related to the sanitary and phytosanitary field and those having consumer health and safety as a main objective. The report does include trade defence measures, but bearing in mind their legitimate defensive character, they are not counted in the overall figure of reported trade restrictions. Furthermore, the report includes measures such as bailouts and stimulus packages, taking into account their complex nature, particularly regarding the inclusion or not of discriminatory elements. Although every effort was made to provide as complete and impartial picture as possible, the report does not aim to be exhaustive.

I.1. General macroeconomic trends in trade

In tandem with the improvement of the economic situation trade activity is also rebounding. World trade volumes increased in February by 1.8% from the previous month[8]. In the three months to February, world trade increased 5.3% from the preceding three months. While trade volumes remained 7% below their peak of April 2008 they were already 16% above the lowest point of the slump (reached in May 2009). The latest IMF forecasts point to the continuation of the trade recovery[9]. Global trade volumes are expected to expand by 7% in 2010 and 6.1% in 2011. If these projections prove to be accurate it will take one more year for global trade volumes to reach the peak levels of 2008.

Overall, the pick-up of trade activity has been stronger in the emerging markets where generally trade volumes are back to pre-crisis levels. In contrast, the recovery is more subdued in the industrialised economies. This is particularly true for the EU. After falling sharply last January 2010 (20% from December 2009), EU exports values recovered strongly in February 2010 (up 17%) bringing exports values only 9.1% above last year's levels, which were already sharply down relative to 2008[10]. At the same time, imports remained constant, suggesting that domestic demand in Europe remains subdued.

I.2. New trade restrictive measures

Since the last report in November 2009 on potentially trade distortive and/or trade restrictive measures in the context of the economic crisis, new developments have been identified in many countries. 73 new measures have been reported; the product coverage of some existing measures has been extended or their validity has been prolonged. 18 measures

[8] See http://www.cpb.nl/eng/research/sector2/data/wtm_archief/trademonitor_feb2010.pdf, from CPB World Trade Monitor.

[9] See April 2010 IMF World Economic Outlook, available at: http://www.imf.org/external/pubs/ft/weo/2010/01/index.htm.

[10] In comparison, in February 2010, the year-on-year increase in values of exports in other major economies amounted to, respectively, 16.9% for the US, 45.7% for China, 45.3% for Japan or 34.8% for India.

were noted as suspended or lifted restrictions. In total, in May 2010, 278 measures remain in force or are at the draft stage[11]. This time again, the scale and the impact of the new measures are different in each case and therefore comparisons should be carefully considered. Structural support measures and trade facilitating (trade promoting) measures have been analysed separately and have not been counted in the total number.

The number of new measures identified since November 2009 continues to diminish, in comparison with previous reporting periods. However, overall the new measures add to those already in force. As the crisis retreats, they should progressively be abolished. Instead we have seen an increase of the overall figure, as new ones are introduced, and a consolidation of a number of them, notably in the context of the created **Customs Union** between Russia, Kazakhstan and Belarus. In other cases, several extensions either in scope or validity have been observed. Few measures have been abolished. In addition, some sectors, such as **steel, automotives, textiles, agri-food,** have suffered disproportionately in comparison to others, resulting in economic, but also social, consequences. The persistence of introduced measures is thus a cause for concern: as the economy is picking up the persistence of trade-restrictive measures risks further hampering the still fragile recovery, in particular in the industrialised countries, given that the majority of adopted measures were introduced by the emerging economies. **Along with trade restrictions adopted in the normal economic circumstances, the entrenchment of crisis-related measures could result in an overall decrease in the openness of the global economy in the recovery.**

With regard to **sectoral impact** of measures, the trends identified in the previous reports have been confirmed again. Firstly, the majority of new restrictions apply to specific targeted industries, such as **agri-food, textiles, steel or automotives**. Secondly, retaliatory behaviour or pressure of domestic stakeholders, seem to be behind the introduction of new measures in many cases. Thirdly, "spill-over effects" can be identified in some cases.

An example of retaliatory behaviour is the recent dispute between **Argentina and China.** China restricted imports of crude soybean oil from Argentina on the basis of a 2003 regulation on residues, which was never enforced. The Chinese measures may well be retaliation against the anti-dumping measures and non-automatic licenses imposed by Argentina on Chinese products over 2008 and 2009. Both countries are, however, mutually dependent on trade of crude soybean oil and are thus likely to find a compromise solution.

Spill-over effects have been reported in the area of **government procurement:** the **agreement between the US and Canada** on the application of 'Buy American' restrictions to Canada is a clear consequence of the introduction of buy-national clauses in the US Recovery Act (ARRA). It gives Canadian producers the possibility to obtain temporary access to seven government programmes, subject to 'Buy American' requirements adopted under the US Recovery Act (ARRA).

The following table shows the sectoral coverage of the trade-restrictive measures that have remained in force since October 2008. The most recent measures still confirm the previous trends, with agri-food, textile and clothing and steel being the most affected sectors.

[11] See supra, footnote 4.

Table 1. Potentially trade restrictive measures – sectoral coverage[12] [13]

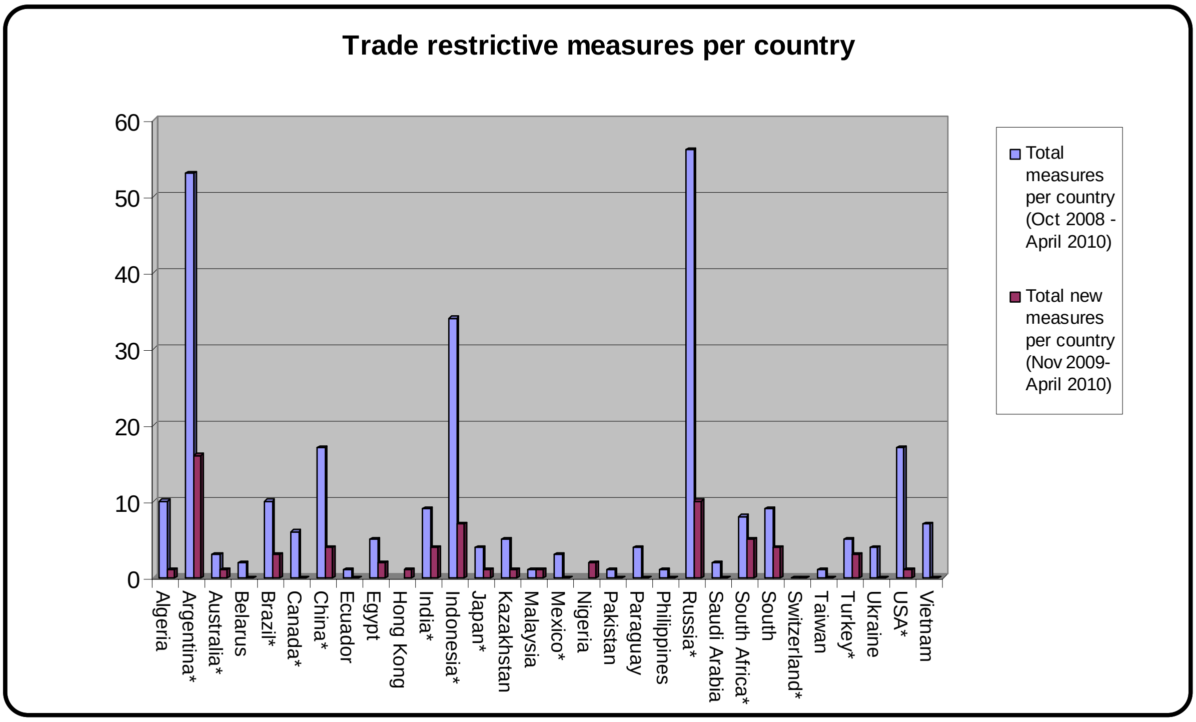
Country	Textiles and clothing	Toys	Telecom	Agri-food	Raw Materials	Steel, other metals	Pharma	Automotive	Services	Ship-building	Other	Total per country
Algeria				1					3		3	7
Argentina*	13	1		2		8		8			29	61
Australia*									1		2	3
Belarus	1			1	1			1			1	5
Brazil*						1				1	6	8
Canada*				3						1	3	7
China*	1		1		1	2		2	2	1	9	19
Ecuador				1				1			4	6
Egypt	1			1		2	1	1	2		2	10
Hong Kong											1	1
India*	2	1		1		3		1			5	13
Indonesia*	1	1	4	13	5	3	3	1	9		8	48
Japan*				1				1	1		2	5
Kazakhstan				1					1		3	5
Malaysia						1		1				2
Mexico*				1							6	7
Nigeria				1							1	2
Paraguay	1			1							3	5
Philippines											1	1
Russia*	1			13	5	10		8	4		28	69
Saudi Arabia*								1			1	2
South Africa*	5			2		1	1	3			3	15
South Korea*	1					1	1	2	1	1	8	15
Switzerland*												0
Taiwan											1	1
Turkey*							1	1			5	7
Ukraine				1			1	1	1		1	5
USA*	1			1		2		4	5		5	18
Vietnam				5	2	1					3	11
TOTAL	**28**	**3**	**5**	**50**	**14**	**35**	**8**	**37**	**30**	**4**	**144**	**358**

[12] 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.

[13] * G20 Countries

With regard to geographic distribution, **Russia** and **Argentina** again introduced the majority of potentially trade restrictive and trade distortive measures among G20 members. Also **Indonesia** has introduced an important number of new, notably behind-the-border, measures, thus raising the total number of trade-restrictive instruments since October 2008 to rather remarkable levels.

Table 2.



More specifically, **Russia** seems to have used the creation of the Customs Union with Belarus and Kazakhstan (effective since 1 January 2010) to consolidate most of the temporary duty increases introduced during the economic crisis. Those unilateral increases have now been consolidated in the Single Customs Tariff of the Customs Union, while additionally a number of duty rates were also increased, within the Single Customs Tariff, as a result of negotiations between the three members of the Union. The Customs Union has not only consolidated these tariff rates but has also widened the scope of these trade restrictions to the other two partners, thereby worsening the EU's trade conditions with them, especially with Kazakhstan, whose duty rates were significantly lower prior to the creation of the Customs Union.

In addition, the implementation of the Customs Union, and more concretely the changes to the various import licensing regimes, has led to temporary trade disruptions as evidenced at the beginning of this year. The Customs Union and its further implementation continues to leave many questions open as to the future functioning of the new regime, including the scope of export duties, regime applicable to technical regulations and sanitary and phytosanitary requirements and trade defence instruments.

This protectionist tendency adopted by Russia in the absence of multilateral commitments has again clearly shown the importance of the binding multilateral trade rules in containing trade restrictive tendencies. However, the creation of the Customs Union has also posed some questions with regard to those countries membership in the World Trade Organisation.
In December 2009 the four permanent members of **Mercosu**r (Brazil, Argentina, Uruguay and Paraguay) agreed to raise 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%). Although Mercosur could partly justify this increase by invoking a need for harmonisation of their external tariffs (the higher tariffs were already applied by some Mercosur countries as part of their exceptions to the Mercosur Common External Tariff), this was nevertheless a negative move. In addition, **Argentina** is still making wide use of import licences and reference prices. The use of these measures increased significantly in 2009 having a negative effect on trade with the EU and overall. In this context, recent delays in the issuance of certificates of free circulation for food products (resulting in a de facto ban) are yet another example of this tendency. Nevertheless, small progress needs to be noted, albeit whether this translates into a wider trend remains to be seen: non-automatic import licenses for tyres have been temporarily suspended.

Furthermore, on top of new measures being adopted, a number of restrictions have been extended in scope or prolonged. The prolongation of existing measures is an example of demand for entrenched protectionism coming from domestic economic stakeholders and the political pressure. Moreover, this underlines the difficulty to reverse a policy once stakeholders have adjusted their preferences to a more protected domestic economic environment; removing a protectionist measure would mean generating negative payoffs for them. Therefore, it is not likely that this trend will soon decline. It has been very well exemplified by the case of **Russia** but also of **Indonesia** with its tendency to further adopt trade restrictive legislation or extend the scope of existing measures (such as the case of decree 56 /2008 on import controls and pre-shipping inspections).

Table 3 lists new trade restrictive measures reported since November 2009 in key trading partners.

Table 3. New trade restrictive measures reported since November 2009

In italic: planned measures

Country	Date of adoption	Measure
Algeria	10 March 2010	Exemption from import duties foreseen in free-trade agreements by approval only.
Argentina	4 November 2009	Set reference prices for imports of fungicides and food grinders.
	4 November 2009	Set reference values for imports of CDs.
	4 November 2009	Set reference values for imports of motorcycle parts from India, China and South East Asia.
	9 November 2009	Set reference values for imports of denim from China.
	11 November 2009	Set import license requirement for stamps-photos, labels, ballast and water pumps.
	13 November 2009	Set reference value for imports of wheels – steel rims from China at USD 3.14 per kg (FOB).
	17 November 2009	Set reference values for imports of glasses and their parts from India, China and South East Asia.
	17 November 2009	Set reference values for imports of wire from India, China, MERCOSUR and other Latin American countries.

	19 November 2009	Applied specific duty to laminated steel from Korea, South Africa, Australia and Taiwan.
	30 November 2009	Set reference values for imports of strollers from China, India and South east Asia.
	9 December 2009	Set reference values for imports of hinges and parts thereof from China, India and South east Asia.
	26 February 2010	Set reference values 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
	26 February 2010	Set reference values for imports of electric water heaters from India, China and South East Asia.
	26 February 2010	Set reference values 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
	26 February 2010	Set reference values 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
	19 March 2010	Reference values were set for imports of lighters from China through Resolution 58/2010 of 19 March 2010.
	December 2009	MERCOSUR countries raised the common external tariffs on a number of items including some dairy products (tariff rise from from 11% to 28% ad valorem), some textile (14% to 18%) and some bags, backpacks and suitcases (18% to 35%)
	7 May 2010	Delays in issuance of certificate of free circulation for imported food products, resulting in a de facto import ban
Australia	2 February 2010	The Foreign Acquisitions and Takeovers Amendment Bill 2009: government screening in foreign investment.
Brazil	December 2010	Decision to increase the number of exporting companies with access to the government's export financing programmes.
	10 December 2010	An additional credit line was opened by the National Development Bank
		Further support is planned to help boost exports from Brazil, providing a mechanism of funding and guarantee to exports, fiscal exemptions and other incentives for exporters.
China		*Planned consolidation of the wind turbine manufacturing industry – restrictions on foreign participation in public procurement.*
	17 November 2009	Indigenous Innovation Product Accreditation List
Egypt	*October 2009*	*Local content restriction of foreign shipping agency activities. Entry into force: end of October 2010.*

	October 2009	Update: further modification of export restrictions on rice.
India	29 April 2010	Increased the export tax on iron ore and iron ore concentrates from 10% to 15%.
	12 January 2010	Announced a €73 million incentive scheme for exporters targeting over 2000 products from sectors such as engineering, textiles, chemicals and electronics, which will be allowed duty free imports of inputs.
	31 March 2010	Stimulus package for exporters – incentives for the textile sector, engineering, electronics, a nd agro-food products. Incentives for textiles (readymade 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.
	April 2010	Introduced a *de facto* export ban on raw cotton
Indonesia	15 September 2009	Restricted sales of alcohol: by Indonesian nationals only. Entry into force: 1 January 2010.
	15 September 2009	Pre-shipment inspections and reporting on imports of sheet glass.
	September 2009	Regulation 45/2009 for import licences in force since 1 January 2010, introducing a general import license (API-U) and a producer import license (API – I).
	11 October 2009	Decree 36/2009 on export controls of raw rattan enters into force on 11 October 2009.
	November 2009	*Planned ban of shrimps imports.*
	December 2009	*KPPU (Anti-Monopoly Commission) is preparing a guideline prohibiting principals from establishing a minimum selling price for retailers.*
	Planned	*New draft regulation to establish data centres for information and electronic transactions in Indonesia, which also have to be operated by Indonesians.*
Japan	*December 2009*	*Reform of postal services – Japan backtracks from the liberalisation plans*
Kazakhstan	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.
Nigeria	November 2009	Introduced special levies on products from the import prohibition list (from 5% to 100%).
	November 2009	New import bans of bagged cement.
Russia	30 October 2009	Update: by Decree No. 874, introduced a 5% duty on drops for contact lenses, binding as of 6 January 2010 for 9 months.

	31 October 2009	By Decree No. 876, a duty increase on propylene (methyl ethylene) terpolymer and tetramer, in force as of 6 January 2010.
	2 November 2009	Update: by Decree No. 881, a specific duty for rice at 0.12€/kg (up from 0.07€/kg), in force since 2 December 2009.
	8 November 2009	Increase of export duty (from 5% to 20%) on certain magnesium scrap, but not less than 138 euros/tonne.
	16 November 2009	By Decree No. 932 introduced for 9 months an import tariff on natural rubber (caoutchouc). Entered into force one month after official publication.
	23 November 2009	By Government Decree No. 943, a specific safeguard duty of $1.4/kg on cutlery. Decree entered into force one month after the publication for a period of 3 years.
	28 November 2009	By Government Decree No. 959, an increased duty on iron rolled products and iron, for 9 months.
	3 December 2009	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.
	December 2009	*Planned increase of import duties on car parts and components (0-5%).*
	1 February 2010	Russian Decree on Food Security Doctrine
	26 February 2010	Update: Customs Union Decision No. 196 to increase the rate of import duty on polycarbonates from the current 0% rate to 5%.
	March 2010	*Proposal for an increase of export duty on fertilizers and non-ferrous metals is in preparation*
	25 March 2010	Main guidelines on customs and tariff policy until 2013
	16 April 2010	Customs Union Decision to increase the import duty rate of processed cheese from 15% but not less than 0.3 Euro/ Kg to 15% but not less than 0.5 Euro/kg.
	23 April 2010	Customs Union Decision to raise the raw sugar import tariff by pegging it to New York prices of the preceding month rather than the preceding 3 months.
South Africa	4 December 2009	Increase in MFN customs duties from 40% to the WTO-bound rate of 45% on certain textile products (HS 6112 6201 and 6211)
Turkey	*31 December 2010*	Market authorisations for pharmaceutical products subject to certification of Good Manufacturing Practices Enters into force on 1 March 2010.
USA	*24 February 2010*	*Foreign Manufacturers Legal Accountability Act of 2010 (House of Representatives version), requires existence of a registered agent acting on behalf of foreign manufacturer.*

The reports on new trade restrictive or trade distortive measures have been complemented by information on prolonged restrictions. The prolongation of their validity, albeit not systematic, is a cause of concern. Table 4 shows extended or prolonged measures.

Table 4. Extended or prolonged restrictions

Country	Date of adoption	Measure
Indonesia	April 2010	The decree 56/2008 was expanded to cover cosmetics and traditional /herbal medicines.
Russia	14 November 2009	Update: Government Decree No. 940 extended for additional 9 months temporary tariffs on harvesters. In force since 14 November 2009.
	14 November 2009	Government Decree No. 931 introduced for additional 9 months the duty on coaches for high speed electric trains.
	16 December 2009	Update: Government Decree No. 1019 extended a 5% import duty on soybean oil meal for an indefinite period.
	16 December 2009	Update: Government Decree No. 1018 extended indefinitely an import duty of 15%, but not less than €0.35/kg, on certain types of butter and dairy products.
	16 December 2009	Update: Government Decree No. 1016 extended indefinitely an import duty of 20% on milk and condensed milk products (code 0402).
Turkey	31 December 2009	Conformity assessment requirement for goods in free circulation has been prolonged for one year (affected: electrical devices, batteries, toys, medical devices, radio and telecommunications, construction products).

Only very few cases previous restrictions were lifted. The below table includes draft measures, which were abandoned before entering the legislative debate.

Table 5. Measures lifting previous restrictions[14]

Country	Date of adoption	Measure
Argentina	8 March 2010	Temporary (until June 2010) suspension of non-automatic licences for imports of tyres.
	8 September 2009	Suspension for 60 days of import licences for trade and advertising material, pictures-designs, photographs, printed material and electrical transformers.
Egypt	31 December 2009	The exemption of import duties on sugar was extended until 30 June 2010.
	April 2009	10% import duty on rolled steel was suspended (Ministerial Decree No. 336 of 2009).
India	8 January 2010	Moved hot rolled coils back to 'free' list on 8 January 2010. This used to be placed under 'restricted' list since 21 November 2008.
Indonesia		Local content requirement and discrimination in maritime and shipping services has been removed to some extent.

[14] See footnote 5.

Paraguay	December 2009	The increase of import tariffs on certain chemical products has been suspended.
Russia	1 January 2010	The import duty on ferrous metals waste and scrap lowered to 0% under the Customs Union.
	21 January 2010	Government Decision No. 25 eliminated the export duty on unalloyed nickel and copper cathode (0% duty rate).
	1 January 2010	A special duty for corrosion-resistant pipes was reduced to 10% under the Customs Union's Single Customs Tariff.
	1 January 2010	The import duty of 5% on water boilers, internal combustion engines, air and vacuum pumps, etc. was restored to 0% under the Customs Union's Single Customs Tariff.
	1 January 2010	The import duty on certain types of goods for medical purposes was set at 0% under the Customs' Union Single Customs Tariff.
	1 January 2010	Import customs duties on certain types of civil aircraft, as increased by the Civil Aircraft Decree No. 379 of 30 April 2009 were decreased under the Customs Union's Single Customs Tariff to 0%.
		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.
Switzerland		The support credit for exports of breeding cattle and productive animals, increased on 23 July 2009 from CHF 4 to 5 million, expired.
		The measure introducing export refunds for cream, in force since 1 January 2009, expired.
Taiwan		*A government subsidy to the DRAM industry was not introduced as the global demand picked up.*
Ukraine		*Draft Law No 4767 "On amendments to certain Laws of Ukraine (regarding temporary surcharge to the valid import duty rates) was not adopted.*
		New initiatives to replace the expired 13% surcharge under discussion for a few months have been abandoned.
		The measure introducing preferences for the steel and chemical sectors, extended until the end of 2009, has expired.
USA	18 March 2010	*Buy American provisions not retained in 'The Jobs for Main Street' Act.*
	11 February 2010	*Draft bill to end the controversial Tax Credits for Black Liquor*
	17 December 2009	*Reversed restrictions on foreign entity for funding of energy-related research projects.*

Throughout 2010 many countries (such as Brazil, Japan, South Korea, South Africa) have continued introducing and extending fiscal stimulus packages to alleviate the effects of the crisis.

The nature of this support may differ according to the type of assistance given, the size of the support provided and the targeted recipients. Support programmes prepared in response to the crisis can be classified into those targeting either the supply or the demand side of the economy[15]. Within these two blocks, sector-specific schemes are to be distinguished from horizontal measures. The stimulus programmes are in general not discriminatory per se, they could, however, have a potentially trade distorting effects in the long run, especially as the crisis unveils.

Table 6. General fiscal stimulus measures reported since November 2009

In italics: planned measures

Country	Date of adoption	Measure
China		Financial support for China Southern Airlines.
		Adoption of plans to create an asset management firm to restructure state-owned enterprises (SOE).
Egypt		*Third fiscal package worth EGP 10 billion was adopted.*
Hong Kong	*February 2010*	*A new round of support measures of HK$16.8 billion (ca.€1.6 billion). The middle class, low income groups and SMEs to benefit from the package.*
Japan	March 2010	Update: A two-tier subsidy scheme for cars from April 2009 extended by 6 months to 30 September 2010.
Malaysia	*29 October 2009*	*Review of the National Automotive Policy (NAP) to attract FDI while continuing to subsidise the national car industry.*
Russia	20 January 2010	Cash-for-clunkers plan of 10bn roubles to provide co-financing for the purchase of 200,000 cars produced in Russia in 2010.
	End of December 2009	Government subsidies to domestic producers to a total of 195 billion roubles (€4.6bn).
South Korea	*November 2009*	*Support package for 300 'hidden champion' SMEs.*
	From December 2009	*Support for automobile industry.*
	April 2010	*Renewable energy products only manufactured locally are eligible for state-led projects.*
	May 2010	*Planned R&D incentives for pharmaceutical industry.*

[15] Source: OECD, TAD/TC(2009) 2-REV Trade and economic effects and responses to the economic crisis - preliminary results.

South Africa	*18 February 2010*	*Second Industrial Policy Action Plan (IPAP) details 'key action programmes' for twelve 'focus sectors' and foresees a review of the preferential procurement regime to promote local production.*
	Allocated in 2009 for a two-year period	The Industrial Development Corporation established a R6.1 billion 'distress funding' package to assist companies in difficulty.
		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.
		Draft Trade Policy and Strategy Framework envisages a continuation of a 'strategic tariff review'.
Turkey		*New incentive scheme aims at reducing the regional disparities; large investments in twelve selected sectors to receive state aid.*
		Planned 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.
USA	*25 March 2010*	*A bill introduced to extend for five additional years the existing subsidies and protection for US ethanol.*

Table 7. Terminated support schemes

Country	Date of adoption	Measure
Australia	7 February 2010	The Government has withdrawn from the guarantee Scheme Large Deposits and Wholesale funding designed to promote financial stability.
Brazil	31 December 2010	Additional credit line (US $4 billion) for State Governments through the National Development Bank was terminated.
	30 June 2010	*Existing support measures (fiscal initiatives) for the house appliance sector are expected to be discontinued.*
	31 March 2010	Existing support measures (fiscal initiatives) for the automotive sector will be discontinued.
Hong Kong		*HK Monitory Authority has established a tripartite working group to work our arrangements to exit from the Full Deposit Guarantee regimes introduced in October 2008.*
		The Special Loan Guarantee Scheme for SMEs will expire in June 2010.
New Zealand	30 April 2010	Closure of the wholesale funding guarantee. Guarantee on retail deposits will continue until 30 October 2010.

From the above follows that global demand is still being supported by government intervention worldwide. Withdrawal of this support could have considerable consequences and should be carefully monitored.

Table 8. Trade-facilitating measures reported since November 2009

In italic: planned measures

Country	Date of adoption	Measure
Argentina	2 March 2010	Reduction of tariffs from 35% to 2% for 200 units of hybrid automobiles
Japan	April 2010	Increased support to the 2009 emergency trade finance measures for financial institutions in developing countries, especially in Asia.
Russia	12 October 2009	Abolished restrictions on customs clearance points for exports of metal scrap.
Nigeria		*The Nigerian Parliament is considering a Bill repealing the Export (Prohibition) Act on beans, cassava tuber, maize, rice, yam tuber and their derivatives.*
Tunisia	December 2009	Extended the measures introduced in January 2009 on support for exporting firms hurt by the decrease in exports. The measure is not discriminatory.
	25 December 2009	2010 Law of Finance continues the reduction of import duties on certain equipment, raw materials, semi-finished products, etc.
		Within the framework of the fiscal stimulus package dedicated to public investment, new short-term measures were adopted to support exporting firms.

II. Sectoral analysis of the measures – November 2009-April 2010

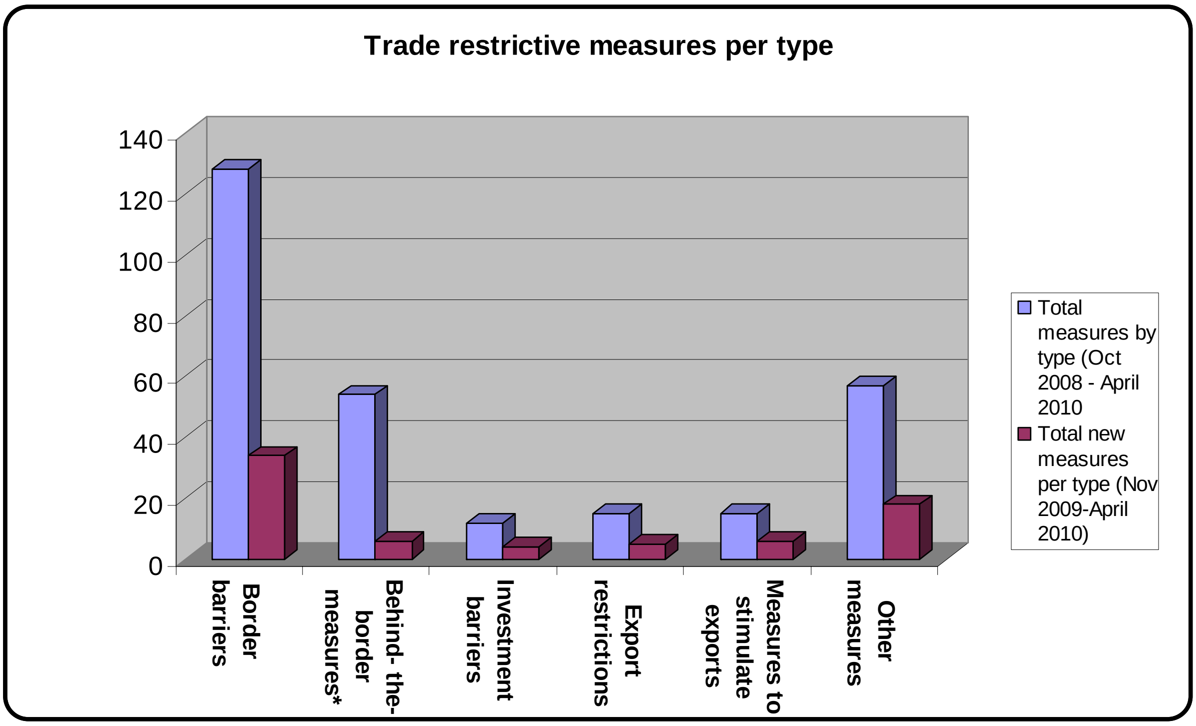
Aggregate figures show that the overall moderate trend in introduction of new measures nonetheless continues to increase the total number of measures in force. By having a closer look at the categories of measures, some even more negative trends become evident in certain cases, either in terms of an increasing number of measures, or in terms of risk of entrenchment.

Table 9. Potentially trade restrictive measures per country and type of measure[16]

Country	Border barriers	Behind-the-border measures*	Investment barriers	Export restrictions	Measures to stimulate exports	Other measures	Total measures per country (Oct 2008 - April 2010)
Algeria	2	4	2	1		1	10
Argentina*	53						**53**
Australia*		2	1				3
Belarus	2						2
Brazil*	3	1			4	2	10
Canada*		3				3	6
China*	1	4	1	1	1	9	17
Ecuador	1						1
Egypt			1	2	1	1	5
Hong Kong						1	
India*	3	1		2	3		9
Indonesia*	9	14	5	5		1	**34**
Japan*		1			1	2	4
Kazakhstan	1	3			1		5
Malaysia						1	1
Mexico*	1					2	3
Nigeria	2						
Pakistan				1			1
Paraguay	4						4
Philippines						1	1
Russia*	38	5	1	3	1	8	**56**
Saudi Arabia	2						2
South Africa*	2	2				4	8
South Korea*					1	8	9
Switzerland*							0
Taiwan					1		1
Turkey*		3				2	5
Ukraine		3				1	4
USA*		7	1		1	8	17
Vietnam	4	1				2	7
Total measures by type (Oct 2008 - April 2010	**128**	**54**	**12**	**15**	**15**	**57**	**278**

[16] G20 members are marked with *. Behind-the-border measures include restrictions in the field of government procurement.

Table 10.



II. 1. Border measures

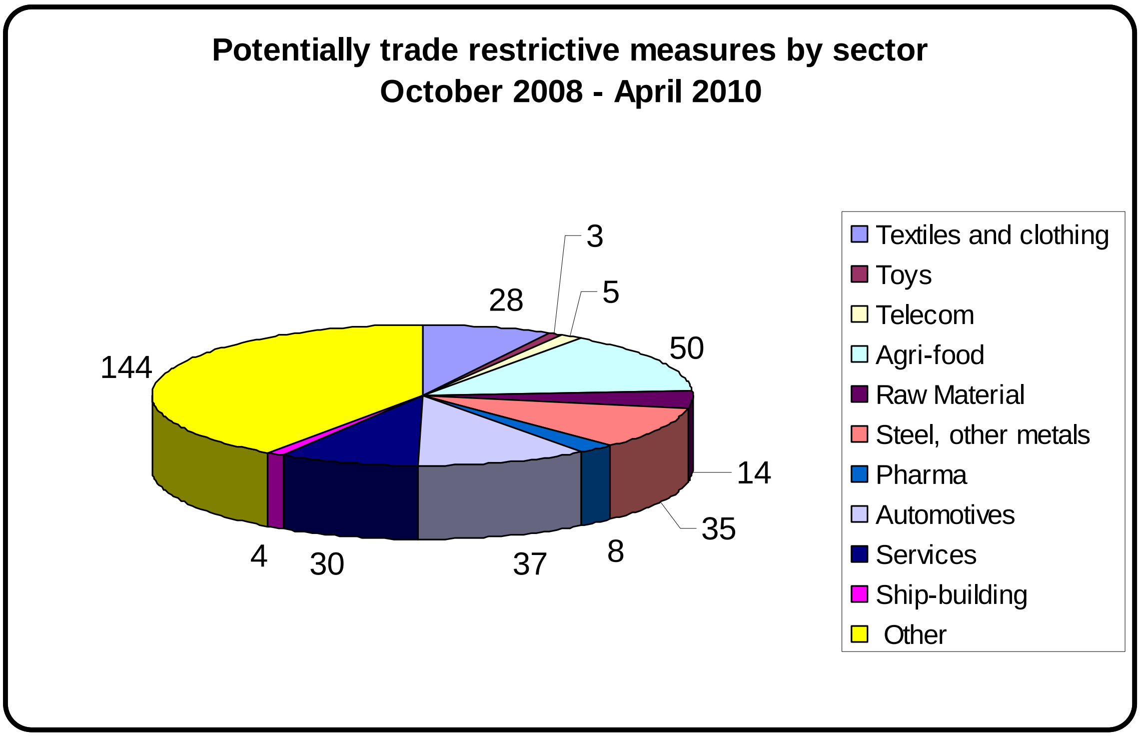
In the period November 2009 - April 2010, border measures appear to be the most prominent and commonly used category of potentially trade restrictive instruments. The Fifth report on potentially trade restrictive measures referring to the period October 2008-October 2009, concluded that emerging economies resorted to border measures, such as increase of import and export duties, particularly frequently. Other border measures, such as import or export prohibitions, more stringent customs valuation practices, import licensing, pre-shipment inspections are also among the most frequently used instruments. This trend has been confirmed in the period November 2009 - April 2010.

Similarly, it appears that the countries that resorted the most to border measures in the previous period are still the major users (see table 9). Despite the recent positive move on licensing requirements for tyres, **Argentina** has further extended the list of products benefitting from reference values; **Indonesia** has introduced new import licensing requirements, tightened pre-shipment inspections and restricted imports. **Russia** has consolidated its unilateral import duty increases in the new Single Customs Tariff of the Customs Union with Belarus and Kazakhstan, thereby limiting the chances of restoring the import duty to pre-crisis levels. Creation of the Customs Union further led to an increase of import rates for a number of products, as a result of negotiations between the three Member countries.

The above examples show there remains concern about further existence of these measures. Beyond Russia, there are other examples of such a risk: **Indonesia** has expanded the scope of Decree 56/2008 establishing non-automatic import licences so as to include cosmetics and traditional herbal medicines (41 tariff lines).

Sectoral interests rather than general economic welfare considerations have clearly been the driving force behind the introduction of trade restrictions. In **Russia** for instance, there has been growing recognition within the Russian administration that the trade restrictive policy has not shielded its economy from the crisis, but well on the contrary it boosted the inefficiencies of the Russian industry and decreased the Russian consumers' surpluses and welfare. Likewise, in **Argentina** the majority of border measures that have been introduced target the steel, metal, textile and clothing sectors. In this country, manufacturing production is structurally focused on domestic or regional demand and the steel sector is certainly one of the least dynamic ones[17]. In **Indonesia**, border measures have targeted a wide range of manufactured products in several industrial sectors, although some of them seem to have received special attention: it is the case of steel and food industry, where, notably in the latter case, it was reported that the stated objective was the promotion of domestic production as lobbied by national industry associations[18].

Table 11.



[17] Anós-Casero P., Rollo V., *Argentina – Trade Patterns and Challenges Ahead, The World Bank Latin America and the Caribbean Economic Policy Sector*, February 2010. At the same time, manufacturing has been one of the key-drivers of the recovery of Argentina in the aftermath of the crisis of 2001, when growth was boosted by an import-substitution policy. The sectoral measures taken during the crisis are in line with this rather inward-looking pattern of growth.

[18] The very frequent use of border measures by Indonesia has been amplified by the entry into force of free trade agreements, notably the ASEAN-China FTA. The Government is in fact being lobbied by certain industrial sectors that are particularly affected by the regional liberalisation occurred and notably fearing the competition from cheap Chinese products.

In the case of steel, Indonesian authorities received a lot of pressure from the state-owned company Krakatau Steel wishing to maintain their dominant position on the market despite some clear problems of structural lack of competitiveness. For many years, they were making losses and had never submitted an audited statement to the Ministry of Finance. They are currently preparing an IPO (10 or 20%) and have recently started a road show to investors.

II.2. Behind-the-border measures

The most recent developments have revealed that government procurement measures show the most negative trend. Technical and regulatory barriers and investment-related measures have not been systematically used in a discriminatory way during the crisis, but do still deserve close monitoring.

Technical barriers to trade and regulatory measures

Between November 2009 and April 2010, the previously observed negative trend seems to some extent reversed as only three new regulatory measures have been introduced (**Indonesia, Turkey, US**), while two measures have been prolonged for one year in **Turkey** (conformity assessment for goods in free circulation) and in the **US** (Foreign Manufacturers Legal Accountability Act).

Nonetheless, all potentially protectionist regulatory instruments introduced between October 2008 and October 2009 remain in force. The risk of locking-in in spite of the economic recovery is a major one for this category of measures. Therefore, special attention should be paid to those measures that were previously introduced and that are still persisting today.

Government procurement

Between November 2009 and April 2010 new potentially restrictive measures were introduced in some important markets, with a potentially significant economic impact, also due to the prominent role of national support schemes applicable to government procurement.

Following the introduction of the so-called Indigenous Innovation Product Accreditation System in **China** on 17 November 2009, some action was taken to clarify the still unclear and most critical issues, notably the very short timeframe for registration as well the stringent criteria for application, which seem to discriminate against foreign companies. Some uncertainty also remained as to whether eligible products will be given exclusivity or preference and whether the measure will be applied to all procuring entities. Adding to the previous action taken by the IT industry and the EU's Delegation in China, in March 2010 a letter from Commissioner De Gucht was submitted to the Chinese Ministry of Science and Technology, the Ministry of Finance and to the Chairman of the National Development and Reform Commission, conveying EU concerns about the new scheme and inviting China to enter into a dialogue on the new rules. In his reply, China's Minister of Science and Technology stated that all enterprises registered in China would be regarded as domestic companies and therefore would be given equal treatment in the accreditation.

The new accreditation system provides that all innovative products need to be registered in China in order to qualify for government procurement. The measure is likely to have a remarkable economic impact as it targets key strategic sectors and risks undermining the profitability of investments in China by requiring operating 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 this new draft removes the requirements of prior Chinese origin for brands and other IPR, several other IPR-related provisions remain unclear.

China is also in the process of adopting new measures to regulate the wind manufacturing industry with the objective of reducing a problem of over-capacity in the sector. The draft measure sets entry standards in order to apply for public tenders. These standards risk excluding foreign wind turbines producers. Some estimates show that if the draft law were to be adopted as such, only three Chinese turbine producers would remain on the market, with all foreign producers being kept out.

Also other countries have introduced some new restrictions on government procurements in the context of their stimulus packages. In **South Africa**, the Second Industrial Policy Action Plan recently adopted (February 2010) provides for the revision of the preferential procurement regime with a view of promoting local production.

Another very important development in the area of government procurement, which can lead to further distortions, is the agreement between the US and Canada in government procurement, which was concluded in February 2010. In addition to the access for Canadian firms to the US sub-federal market (37 states), which the EU already enjoyed, this agreement gives (temporarily) the Canadian firms some increased access to government procurement contracts in the US, in the framework of seven government programmes subject to the 'Buy American' requirements adopted under the US Recovery Act (ARRA). This temporary access is still not available to other GPA-countries (e.g. EU). In exchange, Canada will guarantee access to US suppliers in the framework of the GPA to certain provincial procurement, as well as to some sub-federal infrastructure projects.

Nonetheless, some progress with regard to the 'Buy American' provisions has been achieved in the **US**. On 16 December 2009, the House of Representatives approved the Jobs for Main Street Act containing two 'Buy America' requirements. The first provision mirrored the Buy American language of the American Economic Recovery and Reinvestment Act (ARRA) of February 2009, by stipulating that the allocated funds could have been used provided that 'iron, steel and manufactured goods used in the projects [were] produced in the US'. This provision would have been problematic with regard to procurement at state level, since not all US states are bound by the GPA. The second 'Buy American' provision applied to highways and public transportation where the conditions applying for waivers had been made more stringent. Nevertheless, the final version of the law that was signed on 17 March 2010 as had been approved by the Senate did not include the two 'Buy American' requirements. While this is an important improvement, the EU will remain vigilant in monitoring future legislation to ensure it does not include any new 'Buy American' provisions.

Overall, the trend in new measures in the area of government procurement continues to be rather negative: those measures that were introduced since the second part of 2008 in the context of the crisis have not been yet lifted, with the exception of the Buy American provisions originally contained in the Jobs Bills following the approval by the House of Representatives. This only represents a partial positive move but not a reversal of the trend: the fact that temporary measures are further prolonged proves that the risk of entrenchment in this area is still concrete.

Investment-related measures

Although not a dominant trend, the risk of discriminatory restrictions in the field of investment still remains, and needs to be monitored, as confirmed by the measures recently introduced in some countries. Of concern is the extension of the scope of **Australia's** *Foreign Acquisition and Takeovers Amendment Bill 2009*, which extends the power of the federal government to block or put conditions upon proposed investments justified by national interest considerations to any acquisition of shares or voting power. **Egypt** has introduced a higher equity cap granting control to Egyptian companies in the area of maritime services. **Indonesia** has introduced limitations to national treatment affecting distribution services, specifically for the trading and distribution of alcoholic drinks. It also plans to introduce another limitation to national treatment affecting the banking sector.

Furthermore, the new government of **Japan** backtracked in December 2009 from the initial liberalisation plan for the Japanese Post. The revised plan envisaged to ensure a prominent position for the Japanese Post on the market, notably by expanding its activities into such sectors as insurance and financial services. In result, the revised proposal altered the competitive conditions on the Japanese market, to the disadvantage of foreign service providers. Thus, it would bear the potential of hindering market access to foreign operators. Some doubts exist as to the proposal's compatibility with Japan's international commitments. Draft legislation was tabled on 8 February 2010 and the EU and the US issued a joint letter in response to the Japanese Ministry of State for Financial Services and Postal Reform, expressing concerns about its content. The letter emphasised the need to establish a level-playing field between the Japanese Post and private sector companies in the insurance, banking and express delivery sectors, and to comply with international obligations.

II. 3. Stimulus packages and other support measures

Many countries resorted to stimulus packages in order to avoid a systemic collapse of demand and of the global financial system and therefore to limit the effects of output contraction. With regard to trade, those stimulus measures may be helpful as they contribute to maintaining global demand, by either being demand- or supply-sided. However, these support schemes are positive only as long as they are temporary and are carefully designed in order not to include discriminatory clauses aiming at supporting national producers to the detriment of more competitive foreign producers and exporters. National support schemes may in fact provide for potentially trade-distorting subsidies and 'buy/lend/invest/hire local' conditions. In this case, these measures affect trade negatively and they may therefore even magnify the negative trend in global demand due to the crisis.

The bulk of stimulus packages were adopted between the end of 2008 and the first half of 2009 in order to support national economies as soon as macroeconomic indicators showed the materialisation of the gloomy prospects of a deep recession. Some of these support programmes were designed to cover a two-year-period (expected timeframe for recovery), while others had a shorter life-period but allowed for prolongations if necessary. During the period between November 2009 and April 2010, the number of new stimulus packages adopted decreased; however, the potential for new measures to be introduced is still present, in spite of the fact that public resources for expansionary fiscal policies are drying up and that national economies face the challenge of reducing their budget deficits (notably in industrialised countries).

In light of a jobless recovery in many parts of the world, it is likely that governments will continue adopting more supporting measures. Furthermore, given the limited resources available and the risk of growing unemployment, it may happen that these measures, instead of a horizontal application, will target particular sectors suffering from lack of competitiveness and layoffs.

Most importantly, it has to be avoided that the political pressure stemming from a weak recovery and raising unemployment lead policy-makers to adopting measures that discriminate against foreign goods and services in the future.

In the period under analysis, some countries have resorted to new supporting measures having a strong sectoral component, though without being discriminatory as such, targeting some particular industrial sectors such as automotive, chemicals, textile, shipbuilding, steel and metal industries, and pharmaceuticals (China, Malaysia, Russia, South Korea, South Africa, Turkey, US). Though not being discriminatory, the sector-specificity of these measures may still have a distortive effect on trade, especially in the long run and in conjunction with the reversal of a negative economic cycle. Some other recent measures, on the contrary, contain clearly discriminatory provisions: some examples are the automotive scrapping schemes in **Russia** and **Japan** and the plan to review the preferential procurement regime to promote local production in **South Africa**.

The table below provides an overview of the newly reported stimulus packages. Sector-wise, the car industry continues to benefit the most from support schemes, reflecting the fact that this sector counts among the most affected by the economic downturn. Among introduced measures are subsidies, scrapping schemes and tax incentives with some of them being discriminatory, notably on the demand-side (e.g. in Russia and Japan).

Table 12. General new stimulus measures reported since November 2009[19]

	Demand		Supply			
Implementing country	government spending	private consumption	Capital	Labour	Direct subsidies (or tax cuts)	credit facilitation
Egypt	x					x
Hong Kong						
***Japan**		x on cars				x
Malaysia			x		on cars	x
***Russia**		x on cars				
***South Korea**	x	x on cars	x	x	x	x
***South Africa**			x		x	x
Turkey *	x					
Tunisia	x					
***USA**					x	
Examples	*infrastructure, state aid to regions*		*measures to support investment*	*incentives for new jobs, employment programmes*	*direct state aid payments, subsidised loans*	*export credit guarantees*
Notes:	general support				mainly sectoral support	

II.4. Trade defence instruments

The trade defence activity in 2009 was remarkable, both in terms of initiations of new investigations (45) and imposition of measures against EU exports (33). This confirmed the trend that started at the end of 2008. This increasing trend seemed however to have somehow stabilised at the end of the year. Indeed, during the last quarter of 2009, even if the number of new investigations was not negligible, it was less important as compared to the beginning of the year. 8 of the 45 new investigations were initiated in the last quarter of 2009.

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[19] **Only measures quoted in table 4 for the relevant period are listed here. For more information on general economic stimulus packages, please refer to DG Trade June report.

However, about half of all measures (31) imposed in the course of 2009 were imposed during the last quarter of the year. In this context, the situation so far in 2010 was relatively quiet since only 4 measures have been imposed (3 anti-dumping and 1 safeguard). Even if the number of initiations remained important, with 10 new investigations so far, a majority of them (7) concern products which are not or hardly exported from the EU to the countries that have opened the cases. It is too early to conclude that the rapid expansion of new investigations and measures resulting from the global crisis has come to an end, but this is certainly a positive development.

The increasing use of anti-dumping by China against the EU remains a cause of concern.

Table 13. TDI measures imposed, 16 October 2009 – 1 April 2010

Country	Product	Instrument	Type Of Measure	Date Of Imposition
Argentina	Petrol extraction pumps	AD	Definitive	23 November 2009
Australia	Geosynthetic clay liners	AD	Definitive	09 October 2009
Belarus	Fibreglass	SG	Definitive	04 February 2010
Brazil	Viscose Yarn	AD	Definitive	16 December 2009
China	Adipic acid	AD	Definitive	02 November 2009
	Polyamide-6 (PA6)	AD	Provisional	20 October 2009
	Certain iron or steel fasteners	AD	Provisional	29 December 2009
	Polyamide-6,6	AD	Definitive	12 October 2009
	Polyamide 6	AD	Definitive	29 April 2010
Croatia	Semi-hard Cheese and Cheese supplements	SG	Definitive	09 November 2009
India	Caustic Soda	SG	Provisional	04 December 2009
	Cold-Rolled Flat Products of Stainless Steel	AD	Definitive	20 February 2010
Indonesia	Wire Nails	SG	Definitive	12 October 2009
	Wire nail, wire of iron/non-alloy steel, not plated	SG	Definitive	01 October 2009
Mexico	carbon steel tubes with longitudinal straight seam	AD	Definitive	06 January 2010
Pakistan	Tinplate (secondary quality)	AD	Definitive	16 November 2009
Russia	Stainless steel pipes	SG	Definitive	01 November 2009
	Flatware from corrosion-proof steel	SG	Definitive	27 December 2009
Turkey	Matches	SG	Definitive	23 December 2009
Ukraine	Matches	SG	Definitive	04 November 2009
	Syringes	AD	Definitive	04 November 2009
	Float glass unreinforced, transparent, colourless (thickness 3.5 - 4.5 mm)	SG	Provisional	13 November 2009

III. Trade restrictive measures in the period of economic recovery – future outlook

As the world economy has seen the first signs of a gradual recovery, significant challenges lie ahead to improve the overall macroeconomic picture. Fundamental decisions relating to the fiscal consolidation of industrialised countries, the new structure of global financial management and new institutional balance in global economic governance, among many others, will determine the pace of recovery and be reflected in trade flows. **This close interlink between trade and overall macroeconomic situation in turn leads to a legitimate concern that the pressure to maintain trade restrictive measures will remain high in the coming months.** The following factors should notably be taken into account:

- In general, **fundamental differences in the exposure to the economic and financial crisis between the industrialised and developing economies have played a role in the way the crisis has been addressed by respective national policies**. In industrialised countries, until now, the recovery was sustained by government support in order to keep up the demand. However, there is very limited room for further fiscal expansion, and governments are pressed to consolidate their fiscal position, while the unemployment rate continues to grow. For most emerging economies, in turn, there are legitimate concerns about a risk of overheated growth and inflation, which can lead to decisions decelerating the growth. These, however, would dampen domestic demand, the other main engine of the current economic recovery and in result constrain the global recovery, largely based on Asian countries' demand. This points to the importance of keeping trade flowing and markets open to sustain growth.

- **Access to credit, although gradually improving, has so far led to a nuanced recovery, as in some markets the situation continues to be difficult.** Those small and medium-sized enterprises that rely on exports have suffered a disproportionate disadvantage during the crisis, which in turn had an impact on company closures and lay-offs. There exists, therefore, a certain link between the resumption of trade activities and fighting the currently high unemployment levels.

- **The example of effects of restrictions introduced in Russia, outlined above, points to the inherent inefficiencies of protectionism**. Not only does trade protectionism hamper the exports of partner countries, the past months have also proved that there any advantages are limited and short-term. The attempts to shield certain sectors from the crisis in Russia have proved unsuccessful as they have not led to gains in productivity. Frequently, trade restrictive measures were introduced with the objective of protecting inefficient industries or ensuring the development of an infant industry. Russia's example shows, however, that in many cases the desired outcome has been far from attained, while the measures were taken at the expense of trade. Maintaining and further opening of markets remains an important part of the recovery, while it is important to ensure economic development by non-trade restrictive means.

Albeit this report has been stating that no widespread resort to protectionism has been noted throughout the crisis – and this conclusion still holds – the impact of protectionism goes beyond the mere economic value of imposed restrictions (many of which are difficult to quantify due to lack of precise data or yet unknown impact). Their very persistence, even if on a relatively modest scale, adds to the challenge of recovery efforts, potentially hampering the performance of certain sectors in years to come. The risk of entrenchment needs to be avoided; trade protection not only delays necessary modernisation of inefficient sectors, but may also lead to further demands for protection.

Furthermore, the crisis-related measures do not exist in isolation. Any normal period of economic prosperity usually witnesses imposition of different trade restrictive measures, based either on regulatory or consumer safety grounds. If the crisis-related measures are not removed, there is a risk that the number of trade restrictions introduced during the crisis will add to those measures and obstacles to free trade already existing on other, arguably legitimate, grounds.

These challenges need to continue to be firmly embraced by the G20 countries. The first most important test will continue to be the adherence to the pledge made in Washington in November 2008. As noted above, wide resort to protectionism during the crisis has been prevented. Yet, in the recovery period it is important to deliver on the second part of this commitment, namely to revoke the measures introduced during the crisis. The European Commission is strongly in favour of a complete retreat from these trade restrictions, and in the first place in the sectors most affected globally. We have to avoid an institutionalisation of crisis-related protectionism and keep trade flowing in an undistorted way.

A decisive retreat from crisis-related trade restrictive measures will send an important signal for business around the world, and will inspire further recovery. The G20 meeting in Toronto is therefore a chance to embrace this challenge and address it without delay.

For its part, the European Union has remained committed to the G20 pledge. In addition, it has actively monitored new trade restrictions and has been addressing the most important ones with third country authorities, many of them fellow G20 members. The Europe 2020 Strategy embeds the EU's plea for openness and will be the benchmark for the EU's active engagement in working towards open global markets bilaterally with its trading partners, at the level of G20 partners and in the WTO.

Indeed, the importance of a rule-based open trade system is more important than ever. The WTO rulebook has proven instrumental in preventing a wider application of trade restrictions during the crisis. It will be important to strengthen this system, inter alia by closing its loopholes in such areas as government procurement. The European Union will continue to play a leading role in this respect.

IV. Concluding remarks

The findings of this interim report show that although the economic crisis is receding, it is important to ensure that protectionist tendencies do not undermine the burgeoning economic recovery. The worsening situation on the job market has the potential to fuel protectionist tendencies for some time to come. In that context, monitoring and removal of potentially trade restrictive measures adopted in the context of the crisis will thus remain a priority of EU trade policy, at least until the recovery is set on a firm path and again generates jobs and growth. The Commission will continue to work on the basis of the reporting and monitoring activities set up at the outbreak of the crisis and will also keep on addressing the identified measures through its various trade policy tools including in the framework of the Market Access Strategy.

The next DG TRADE report will be released ahead of the G20 summit in Seoul in November 2010.

ANNEX

Potentially trade restrictive measures

adopted or planned during the economic crisis

since October 2008

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I. BORDER BARRIERS[20]

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.

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

- On 14 April 2009 Argentina introduced import licenses for 60 new product lines, covering mechanical appliances, clothing, musical instruments, dye/paint and other manufactured products.

- On 14 April 2009 Argentina suspended for 30 days the licensing requirement for imports of self-tapping screws and other types of screws and bolts and as of 21 April 2009 it made licenses for imports of tyres mandatory only for final consumption purposes.

- On 13 July 2009 by Resolution 251/2009 Argentina extended the list of products requiring an import licence by some 60 items, such as motor powered fans, vacuum cleaners and cotton textiles. This Resolution modifies the previous ones on import licence requirements (444/2004, 343/2007, 588/2008, 589/2008 and 61/2009).
- On 21 August 2009, through Resolution 337/2009, Argentina introduced import licences for some auto parts (5903.10.00, 5903.20.00, 5903.90.00, 6813.81.90, 6813.89.10, 8507.10.00 – those of more than 12 volts or 28mA, 8708.30.19 and 8708.93.00).

- **Import license requirements were set for stamps-photos, labels, ballasts and water pumps as of 11 November 2009.**

- <u>Reference prices (covering around 24,000 products)</u>

  - 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 value 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.**

- **Reference values were set for imports of lighters from China through Resolution 58/2010 of 19 March 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.**

- Tariff increases
    - Since 15 October 2008 Argentina implements the legislation adopted in September 2007 on increase of the external Mercosur tariff on textiles and footwear to 26-35% (depending on the product).

    - In October 2008 controls of all imports were increased with the stated objective of "preventing commercial fraud" in the context of the global financial turmoil. The customs administration also sent alerts to increase border controls for sensitive goods.

    - **Specific duty to laminated steel from Korea, South Africa, Australia and Taiwan applies as from 19 November 2009.**

    - **In December 2009, MERCOSUR countries raised the common external tariffs on a number of items including some dairy products (tariff rise from 11% to 28% ad valorem), some textile (14% to 18%) and some bags, backpacks and suitcases (18% to 35%).**

- **Import ban on food products, introduced through an informal note 232 of the Secretary of Internal Trade, applicable since 7 May 2010 through non-issuance of certificates of free circulation by the National Food Institute. All importers 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.**

Belarus:

- The Decree 320 of 18 June 2009 'On temporary increase of import tariffs' enacts 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 defines obligatory threshold levels of CO2, hydrocarbon and nitric oxide to that purpose.) The Decree states 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%).
- 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 are 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).

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%)[21].

- 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:

- 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. These measures were taken in response to current balance-of-payment difficulties of Ecuador. 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. There will be two more BoP Committee meetings on this issue: Ecuador should inform at a meeting end of May 2010 how it is phasing out the measures until 23 July 2010 and report about the elimination of all specific duties at a meeting end of July 2010.

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

[21] According to the UN Comtrade.

automatic: it involves delays; authorised quantities can be lower than requested; and the granting of licences is limited to actual users.

- 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. Recently, India eased the ban on Chinese toys, saying shipments fulfilling international safety requirements and duly certified would be allowed to enter the Indian market. It also specified that Indian producers would have to meet the same criteria. The implementation remains to be seen and according to press reports citing government sources, only 10% of Chinese exports would fulfil these criteria. This new approach poses less concern about WTO compatibility.

- 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 630 million[22]. 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

[22] This is an overestimation based on a calculation at HS 4-digit level.

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 introduces 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, is likely to have a bigger impact on pharmaceutical companies.

- ***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.***

Kazakhstan:

- In a government decree issued in the week of 12 August 2009, Kazakhstan limited sugar imports to 54,423 tonnes until 1 April 2010 in a bid to protect domestic producers.

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.

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.**

- **Import ban on bagged cement as of November 2009.**

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).
- 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[23]:

- 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[24]. **Government Decree No. 940 extended for additional 9 months temporary tariffs on harvesters. In force since 14 November 2009.**

- 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.**

- Decree No. 918 of 8 December 2008 on meat quotas reduced the EU poultry quota from 236.4 thousand tonnes to 185.8 thousand tonnes (on beef and pork, the quota was increased). Russia put a request to redistribute some of the unused frozen beef quota from the EU to other countries. **New quotas have been introduced for the years 2010-2012 by the Government Decision No. 1021 of 16 December 2009 and made permanent by the Customs Union Commission.**

- 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.

- 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), increased import duties on butter and other dairy fats by 15% but not less than €0.35 per 1 kg (Decree No. 71), and increased duties on certain types of milk and cream by 20% (Decree No. 72). **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. 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). As of 16 December 2009 the Government Decree No. 1019 extended a 5% import duty on soybean oil meal for an indefinite period.**

- 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**

[23] 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.

[24] 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.

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.

- 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.

- 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.

- 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 Government Decision No. 273 of 31 March 2009 introduced increased duties on imported liquid crystal displays (LCDs) from 10% to 15% for a period of 9 months. The increase entered into force 1 month after publication date.

- The Government Decision of 22 April 2009 prolonged the validity of the 15% duty on radio frequency coaxial cables.

- 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.**

- 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.

- 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 at the level of €0.5/kg.**

- 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%.**

- 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.**

- 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.

- The Russian Government increased an import duty on ventilating equipment from 0% to 10% for the period of 9 months.

- 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.

- **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.**

- **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.**

- **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.**
- **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.**
- ***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.**

- **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 23 April 2010 the Customs Union took a Decision to raise the raw sugar import tariff by pegging it to New York prices of the preceding month rather than the preceding 3 months.**
- **Russia adopted the main guidelines on customs and tariff policy until 2013, which may lead to further tariff increases.**

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.

- A ban on import of water desalination equipment was introduced on 26 July 2009 in order to stimulate domestic production and support Saudi industry.

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. (More information is also available in the section on government procurement).

- **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%.**

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%.

- On 5 March 2009 the Ministry of Finance issued a decision 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%. 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%. Only tariffs on powdered milk remain unchanged at average rates of 3-7%.

- The Vietnam Steel Association proposed to the government to increase tariffs on imported steel pipes to 10% and galvanised steel sheets to 12% from the current 5% and 7% respectively. It further proposed a hike in the import tax on steel ingots from the current 5% to 15%. Import duties on finished products of rolled and barred steel were also recommended to rise from the current 12% to 22%. Some of the recommendations have been followed by the Ministry of Finance. In March 2009 the import duty on steel billet increased from 5% to 8%, rolled steel for construction from 12% to 15%, cold rolled steel from 7% to 8% and other kinds of steel from 12% to 13%. On 13 April 2009 the ministry raised the import tariff on alloyed steel from 0% to 10%.

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).

- 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. Recent indications suggest that India will not show any additional flexibility.

Indonesia:

- Ministry of Industry was proposing, through two decrees, to introduce mandatory standards and certification for a number of iron and steel products[25]. The requirements would apply to both imported and domestically manufactured products. The two draft decrees have been notified under the WTO TBT Agreement[26]. It is not clear when they would be enacted. EU exports of iron and steel[27] 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 says 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.

- 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

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

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.

- 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. It seems likely that the draft decree on packaging will not be adopted.*

- 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. These need to receive a marketing license from BPOM before they can be sold to Indonesian consumers. The Decree lists 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.

- From August - September 2008 the Indonesian food and drug regulatory agency (BPOM) started to vigorously enforce the requirement that all foodstuffs 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).

- *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.***

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.

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 foresees toughening of customs control over imports of foreign steel this year. Customs clearance procedures for rolled steel imports are to be reviewed so as to prevent undervaluation and wrongful declaration of goods. Customs points, which organize clearance of imported pipes and rolled steels, are to be equipped so as to permit the conduct of radiological and phytosanitary control.
- **In December 2009 Russia adopted a Decree on Food Security Doctrine, which outlines an objective to ensure self-sufficiency in domestic food production, which may have an adverse impact on imports, if implemented.**

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.**

Ukraine:

- 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.

United States:

- FAA Reauthorisation: the House of Representatives approved on 23 September 2009 a temporary, three-month extension of FAA programs, allowing more time for Congress to debate a permanent reauthorization 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.

- *The Foreign Manufacturers Legal Accountability Act of 2009 was introduced in the Senate on 6 August 2009 and referred to the Committee on Finance. 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. 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 are consenting 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.***

Vietnam:

- A decree on the new law on excise duties (SCT) 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.

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.

Australia:

- Two Australian provinces adopted provisions, which seem to run against the position of the Federal Government. First, the State of 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 and related services. The preference extends to SMEs with up to 500 employees for tenders from countries having a free trade agreement with Australia. 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.

  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
    - products that cannot be obtained in China or cannot be obtained in China under reasonable business conditions
    - or for products that are to be used out of China..

  This 'Buy Chinese' policy was strengthened in 2007 by two implementing decrees[28]. 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)[29] by further eliminating the possibility to buy foreign products, even if they are of better quality or less expensive. The Opinions state in particular that all products falling under the scope of the above mentioned Decrees (2007/119 and 2007/120) must be purchased in China. The Opinions 2009/35 stipulate further that the procurement of imported "high tech or innovative equipment" will only be possible if no such products are available in China. Also close supervision of construction projects launched under the RMB 4-trillion stimulus packages adopted in 2008 and 2009[30] has been announced.

  Moreover, the Chinese National Development and Reform Commission (NDRC) issued in 2009 a notice[31] reminding all authorities to strictly apply the 'Buy Chinese' rules in all procurement financed by the stimulus package. In particular,

    - article 2.1 asks to eliminate any possible discrimination against domestic manufactured equipment;

    - 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

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[28] 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.

[29] 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.

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

[31] 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).

officials setting up rules or criteria that exclude domestic bidders or favour foreigners.

- 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.

- **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.***

- ***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[32].

Indonesia:

- The Ministry of Industry adopted on 29 May 2009 a regulation (49/2009) requiring the use of domestic products and services in 558 sub-sectors for public procurement. The regulation relates to both domestic and foreign companies established in Indonesia, which could be considered as local producers in several sectors (raw materials, equipment, machinery, supplies, construction materials, agriculture and agri-food, energy, telecommunication sector etc.). The regulation is a response to a presidential instruction No. 2/2009, which entered into force on 9 February 2009, stipulating that all state administration should 'optimize' the use of domestic goods and services and give price preferences for domestic goods and providers. Domestic products are defined as 'goods/services (including construction-design and engineering) produced or prepared by company investing and producing in Indonesia, with possibility to use imported raw material or component in the production or working process'. The law is effectively in force since 12 August 2009.

- The Ministry of Communication and Information Technology commented in the press in July 2009 that companies with foreign capital ownership beyond 49% are forbidden from participation in tenders for broadband internet access (WiMax, 2.3 GHz frequency). The exact legal basis is not confirmed, however, the Ministry referred to the investment negative list, which establishes limits on new investments in the sector and is being applied.

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

- 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.

- 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.

  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.

- Furthermore, the Government plans to set up administrative punishment for entities violating local content clauses in the procurement law. 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.

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' provisions will only apply for a limited period of time. Expiration is foreseen at the end of 2010.

- The Government Anti-Crisis Plan 2009 further envisaged measures to increase the demand for domestically manufactured goods in public procurement. Amendments are to be introduced in the legislation to that purpose.

  Amendments are to be introduced into the legislation regulating state procurement so as to prioritize the use of Russian goods, including sophisticated equipment. Leasing schemes are to be also used to support Russian producers, while organizing state procurement (as envisaged by the Government anti-crisis plan for 2009). However, no related changes have been made so far in the Federal Law on state procurement No. 94-FZ. (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.)

  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 of imported agricultural machines.*
  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).*
  3. *The anti-crisis plan for 2009 envisaged 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 (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 SA' public procurement policy. 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.
- 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).

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[33], 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.**

- 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

- Financial Services and General Government Appropriations bill (S 1432, HR 3170) The Senate Appropriations Committee and the full House passed their own versions

[33] 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.)

of the Financial Services and General Government Appropriations bill (S 1432, HR 3170), which would prohibit inverted companies from receiving funds through contracts with federal government agencies. The specific language states: None of the funds appropriated or otherwise made available by this or any other Act may be used for any Federal Government contract with any foreign incorporated entity which is treated as an inverted domestic corporation or any subsidiary of such an entity. Although the Senate version of the bill states consistency with international obligations (the prohibition in subsection (a) shall not apply to the extent that it is inconsistent with the United States obligations under an international agreement), the House version of the bill, which has already passed in the House of Representatives, does not. This provision will only apply to the appropriations funds for the fiscal year of 2010. Currently there are only a couple of companies that would be negatively affected (that recently inverted to become European companies), but this does not mean that there will not be more in the future. 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

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.

Australia:

- **The Foreign and Acquisition Takeovers and Amendments Bill 2009 was prolonged for 2010 and extended in scope so that any investment proposal (the acquisition of shares or voting power) would trigger the possibility for the government to block or place conditions justified by national interests considerations. In force as of 7 February 2010.**

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.

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 been postponed to end of October 2010.***

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) that imposes a minimum 30% local content requirement on telecom equipment acquired by local operators, as well as related services. Although the Decree has not yet been adopted, and the local content requirement as expressed in percentages has been removed from the draft, the Decree prescribes the method of calculating the local content, which may be used as a criterion in the selection of offers.
- 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[34]. 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. The pharma industry, is making efforts to change the old Decree 245/1990 in order to convert the status of the PBF companies into 'manufacturer', which would mean that they could still register their own drugs in Indonesia. The anti-monopoly commission KPPU has conducted an investigation of the Decree 1010 and found that it did not hamper access to important medicines while it was likely to increase investments.
- **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.**

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

Russia:

- There are currently 45 applications from foreign investors awaiting permission from the Putin Commission to invest in strategic sectors (Federal Law No. 58). The Law seriously complicates the process for foreigners to invest in Russia. There are attempts by the advocates of state control in the Government to revise the Law for further toughening of state control over the key economic sectors.

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.

III. EXPORT RESTRICTIONS

Algeria:

I. 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 establishes 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 may obtain an export license of 10,000 tons every two months. At the same time, the export duty is reduced from EGP 2,000/ton to EGP 1,000/ton.**

- 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 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).

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.**

  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.

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.

- A new 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. *A second draft of the implementing regulations as well as the draft Decree on Mining Services (received in August 2009) still retains local content, local processing, domestic market obligation, price controls and divestment obligations. For mining services, local and national companies should be prioritized over foreign-owned ones. In consultations with foreign embassies in August 2009, MEMR gave no indication that the stipulations of EU concern would be removed. Some flexibility will be introduced on the local processing requirements to ensure that only economically rational processing will be required to take place.*

- 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 is planning to introduce an export duty on cocoa ores (cocoa raw material) to promote the national cocoa industry and processing in Indonesia. The funds from the export tax would be 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.**

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 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.

- **The Russian Government increased export duty (from 5% to 20%) on certain magnesium scrap, but not less than 138 euros/tonne. In force since 2 November 2009.**

- ***A proposal for an increase of export duty on fertilizers and non-ferrous metals is in preparation by the Ministry of Economic Development, on request of the Russian Government.***

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.**
- **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.**

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 2H2009), 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 .

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.**

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.

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.

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. However there are currently indications that the government may be considering more direct export stimulus measures. This will continue to be monitored.

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 are 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.

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 recently by the State Council. The government, the three-year plan said, will 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 shipowners 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 has officially 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.***

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.***

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.**

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.***

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:

- Based on informal consultation with the Export Development Council (EDC), PHP 200 million was released in June. 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 would go beyond 2009. More than PHP1 billion worth of project proposals were reportedly submitted under the Fund, which have yet to be evaluated and approved by the EDC.

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).

- 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.
- 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.
- 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.
- 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.
- **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 10bn 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.**

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.
- 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[35]. 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[36]: 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 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.[37] 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.

- ***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***

[35] 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.

[36] Press release on 5 July 2009 by MOSF

[37] MEK announcement on 30 April 2009

300 SMEs with high growth potential known as the 'hidden champions' into competitive global players by 2010.

- ***Support for automobile industry: limited to tax cuts on car purchases mainly to boost sluggish private consumption.***

- ***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 are to be proposed by May 2010 to foster growth in the bio-pharmaceutical sector.***

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.***

- **The Industrial Development Corporation 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.

- ***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.***

- ***Draft Trade Policy and Strategy Framework envisages a continuation of SA 'strategic tariff review' in order to support industrial upgrading and agricultural sector development.***

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.***

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.

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, which needs to be monitored closely.
- 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.

Ukraine:

- 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 July 1, 2008. If the Law is signed by the President, it enters into force since the date of its official publication.

United States:

- 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.

- 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:

- On 10 May 2009 the Ministry of Finance sent for approval to the National Assembly a draft of "Law on Natural Resources Tax". The draft law proposes that mining royalties on gold, rare earth minerals, precious gemstones and crude oil be at 30% (at the most), while for wood the rate should be 40% and for water and mineral water 5-10%. The new tariffs will be applied from 1 January 2010 when the law takes effect.

VI. SUSPENDED/TERMINATED MEASURES

Argentina:

- 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).
- **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.**

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 on sugar was extended until 30 June 2010.**
- 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 is a preventive measure (Ministerial Decree No. 124/2009) applied from February 2009 for one year on rolled steel sheets either cold rolled or galvanised or pre-painted[38]. Egypt applies the *erga omnes* measure, considered to be compatible with the WTO as the duty remains below the bound rate. The measure is said to be temporary**. Measure suspended through a Ministerial Decree No. 336 in April 2009.**

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.**

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.

Paraguay:

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

[38] 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.

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%.**

- The Russian Government Committee on the External Trade Protection Measures also recommended reintroduction of the export duty on nickel, abolished in January 2009. The proposal suggested a 5% export duty. **Export duty on unalloyed nickel and copper cathode was eliminated (0% duty rate) by the Government Decision No. 25 of 21 January 2010.**

- 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.**

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 is under pressure to support prominent local companies and is using the need to intervene to strategically restructure and consolidate industries – notably in the LCD and DRAM sectors (DRAM is a semi-conductor product for computer storage capacity and thus used in of a wide variety of high-tech products). The DRAM restructuring programme is aimed at consolidating the DRAM sector by combining different Taiwanese companies and involving US and Japanese producers, also in view of the heavy competition from South Korea. The restructuring is likely to involve state support with the aim of increasing the competiveness of the Taiwanese DRAM industry, although full details are not yet known. There are only very few DRAM producers in the world. The development in Taiwan is of particular interest in light of the present bankruptcy procedures affecting the only European competitor in the DRAM sector. Quimonda (DE) had 12,000 employees, of which about 7,000 in the EU. After declaring bankruptcy in January its future is uncertain. While these Taiwanese restructurings involve state support, they might be comparable to initiatives being undertaken in the EU and US. Since no firm plans have been agreed yet, the details will need to be followed closely.

Ukraine:

- 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, has 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 foresee 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.

United States:

- **Discriminatory Buy America provisions in the Jobs for Main Street Act, adopted on 18 March 2010, have been abandoned.**

- **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 t**he 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.

- **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 $A219 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 $A953 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 $A953 million threshold for investments in non-sensitive sectors. The above provisions are set to be implemented in 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[39].

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

[39] This has been announced but details of the implementation are still awaited.

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 .

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.

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[40]:

- 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.

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

- 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.
- A duty free regime on sheets for furniture veneering of tropical wood has been introduced.
- The permanent zero import duty on ceramic pots for the production of catalysts has been introduced.
- 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.
- 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 establishes import duty of 0% (down from 10%) on stamping machines with programmed numerical control and import duty of 10% (the same rate) on other (stamping machines).
- 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.*
- ***By Decision of Russia's Highest Arbitration Court of 12 October 2009, restrictions on customs clearance points for exports of metal scrap were abolished.***

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.

South Korea:

- According to the Ministry of Strategy and Finance's plans to promote corporate investment[41] for the second half of 2009, tax deduction would be granted to encourage R&D investment in core technologies and in the 17 areas of new national growth engines (up to 25 percent tax deduction to large corporations and 35 percent to SMEs in the case of R&D investment in core technologies, and as for R&D investment in the 17 areas of new growth engines, up to 20 % and 30% deduction to large corporations and SMEs, respectively). To encourage R&D investment by SMEs, municipal governments and public institutions will be obliged to purchase SMEs' products up to 10% of their total purchase value, a two-fold increase from 5%. In addition, the government will provide support to help commercialize newly developed technologies, which includes government assistance with cost incurred by quality inspection and product certification.

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.

- **Extended the duration of measures introduced in January 2009 to support exporting firms hurt by the decrease in exports. The measure is not discriminatory.**

- **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 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 are also plans for a 'National Dairy Promotion and Research Program', which would introduce a levy

[41] Press release on 1July 2009 by MOSF.

for milk produced in the US as well as on imported products. For the ongoing program, see: http://www.fas.usda.gov/excredits/deip/deip-new.asp.

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.
- 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.