EUROPEAN COMMISSION
DIRECTORATE-GENERAL FOR TRADE

NINTH REPORT ON POTENTIALLY TRADE RESTRICTIVE MEASURES

IDENTIFIED IN THE CONTEXT OF THE FINANCIAL AND ECONOMIC CRISIS

SEPTEMBER 2011 – 1 MAY 2012

CONTACT: trade-market-access@ec.europa.eu

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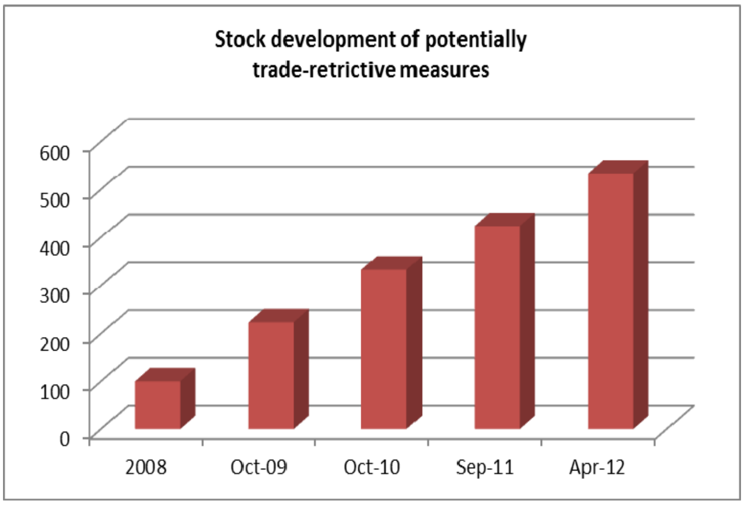
EXECUTIVE SUMMARY

The ninth edition of the report on the **monitoring of potentially trade restrictive measures** of the European Commission's Directorate-General for Trade provides the latest state of play regarding trade activities of the EU's trade partners between **September 2011 and 1 May 2012**[1]. This monitoring activity was launched in the aftermath of the financial and economic crisis in autumn 2008 and represents a crucial aspect of the enforcement and implementation agenda of the EU's trade policy, as set out in the Trade, Growth and World Affairs Communication[2].

As confirmed by the WTO[3], the past years indicate that major recourse to trade protectionism has to a large extent been avoided, and trade openness maintained. Nonetheless, the **stock of potentially trade-restrictive measures adopted since the beginning of the crisis is currently 534**, many of them with horizontal impact on world trade[4]: 123 new measures were added and 13 measures were lifted over the last eight months.



As reported by the IMF[5] in April 2012, after suffering a major setback during 2011, the outlook for the global economy is slowly improving. Real GDP growth should pick up gradually during 2012-2013, however the recovery will remain uneven and vulnerable to downside risks. So far, **emerging market economies** have rebounded strongly and have been the engine of world growth. In contrast, for **advanced economies**, the current recovery is predicted to be the weakest of the post war era. Against this background, trade openness remains a key element to a sustainable and balanced global recovery.

[1] The eighth edition of the report covered an eleven–month period and was released ahead of the G20 Summit in Cannes on 3-4 November 2011.
[2] European Commission, *Trade, Growth and World Affairs*, COM(2010)612, 9 November 2010, http://trade.ec.europa.eu/doclib/docs/2010/november/tradoc_146955.pdf
[3] WTO report from the DG on trade related developments, June 2010
[4] Figures based on EU reports on potential trade restrictive measures
[5] IMF Global Economic Outlook - April 2012

In light of the above, the upcoming **G20 Summit in Los Cabos on 18-19 June 2012** marks another opportunity for leaders to take stock of their two-fold pledge[6] **not to resort to trade restrictive measures** during the economic and financial crisis; and, to **rectify without delay any measure introduced**. As the risk of protectionism is still present, it is important that leaders reaffirm this commitment. Moreover, enhanced transparency and notification of all measures would enable closer monitoring of protectionism in order to **implement the pledge more effectively**. A constructive discussion on this issue was held at the recent G20 Trade Ministerial in Mexico on 19 April 2012.

Despite the pledges made by G20 leaders, this report shows that **since September 2011 the number of potentially trade restrictive measures has steadily continued to rise with 123 measures in only eight months,** and that only a **limited number of 13 measures have been terminated**. In particular, emerging economies such as Argentina, Brazil, India, Indonesia and Russia appear more inclined to apply potentially trade-distorting measures.

The trend of third countries' use of **trade restrictive measures as part of new industrialization policies, aimed at shielding their domestic markets from international competition, continues to be confirmed in this report.** Notably Brazil, China, India, South Africa and Ukraine have recently introduced large stimulus packages to promote specific industrial sectors, combined with trade distortive measures. In addition, this report highlights the **trends observed on trade-related restrictive measures covering foreign direct investment**, emphasising the potential negative impact on EU investors. This includes the decision of the **Argentine Government to expropriate 51% of YPF shares owned by the Spanish company Repsol.** Moreover, **in view of Russia's upcoming accession to the WTO, this report confirms that Russia's recent actions may not be in conformity with the obligations it will have as a new member.**

Finally, over the last eight months the **pace of introduction of new measures has been accelerated**, while most of the measures introduced since the beginning of the monitoring are still applicable. Notably, import and export related border measures, behind the border measures and sector specific stimulus measures have experienced a sharp increase. This worrying trend runs counter to the necessity of keeping trade flows open in order to promote global recovery.

In this context, **emerging economies** with their increasing economic weight have an **increasingly important role in sustaining global growth** by acting responsibly and maintaining open trade. This is why avoiding any new trade-restrictive measures, as well as

[6] G20 Leaders commitment initially made in Washington in November 2008.

rectifying those previously introduced, becomes extremely relevant at this critical juncture of the economic recovery.

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

- At the global level, **trade is showing signs of good recovery**, despite the short-lively contraction observed in mid-2011. Over the whole of 2011, world trade volumes went up, albeit at a slower pace than 2010. The dynamism of emerging economies continued to be the main contributor of global trade activity growth. This is likely to continue in 2012. **Trade will continue to represent a vital source of growth for Europe**, where the economy will be characterised by nearly negative growth rates in 2012.

- Over the past eight months a large number of **123 new measures** of potentially restrictive character were introduced. This is certainly a worryingly increasing trend as compared to previous reporting periods and brings the total current stock of measures since October 2008 to **534**.

- As already updated in the previous report, the roll-back of potentially trade-restrictive measures remains insufficient and slowed down. Only **13 measures** have been removed between September 2011 and 1 May 2012, as compare to the lifting of 40 measures in the previous reporting period from October 2010 – 1 September 2011. Overall, only **89** have been removed since reporting started in October 2008.

- On balance, over the reporting period emerging economies including Argentina, Brazil, India, Indonesia and Russia, have resorted to the highest number of new potentially trade-restrictive measures:

  – **Argentina, Russia, India and Indonesia** announced successively in this period the highest number of new potentially restrictive **import and export measures** by introducing new import licensing procedures, restricting the number of entry and exit points and applying higher import and export duties.

  – Newly planned or reinforced trade-related restrictions in **government procurement** continue to be a cause of concern because of increased local content requirements, in particular those undertaken or planned by **China, India and Russia.**

  – The number of trade-related restrictive measures adopted in the **services and investment areas** have also increased. Notably, **Argentina** has restricted foreign ownership of insurance companies and expropriated 51% of YPF shares owned by the Spanish company Repsol. **China** launched implementation rules for foreign mergers and acquisitions, and **Indonesia** adopted more restrictive foreign equity ownership rules for foreign logistic companies and venture capital companies.

- **New economic stimulus packages**, notably by **Brazil, China, India, South Africa** and **Ukraine**, alongside other measures to stimulate exports **represent almost one-fifth of all new measures.**

- Adoption of measures **to restrict exports of raw materials** remains a cause of concern, with new measures being introduced by **India, Indonesia** and **Russia**.

The Commission will continue to closely monitor the measures envisaged or adopted by third counties and, when necessary, will address them using the full range of tools available under the EU Market Access Strategy.

I. Macroeconomic outlook and trade policy trends in key partner countries

I.1. Macroeconomic outlook

The outlook for the **world economy** is gradually improving as global economic activity gradually bounces back from the slowdown observed in 2011, when recovery in developed economies stalled. Global GDP is now expected to grow by 3.5% in 2012 and 4.1% in 2013[7].

Still there are important downside risks ahead, most notably geopolitical instability factors that could trigger an escalation in oil prices, and the lingering macroeconomic uncertainty in **Europe** as the difficult on-going process of fiscal consolidation and banking deleveraging continues to weigh on consumers and businesses' confidence. A mild recession remains as the most likely scenario for the euro area during 2012 with GDP foreseen to fall 0.3% (for the EU as whole output growth is expected to stay around 0%). However, notably on the back of policy initiatives aimed to overcome the sovereign debt crisis, the economic activity in the EU is due to gather momentum throughout the year. For 2013 growth should be back to the European economy, albeit anaemic (0.9% in euro-area, and 1.3% in the EU).

In turn the **US** economy seems to be picking up pace with mounting signs of strengthening growth as the labour market improves and consumption rebounds. GDP is now expected to expand by 2.1% in 2012 (up from 1.7% in 2011). In 2013, the growth is set to continue with GDP expanding 2.4%. Although subdued by historical standards, the US recovery is now an important contribution to the global economic activity.

The other important engine of the global economy will be (as in the past years) the dynamism of the **emerging world**. Still, growth there has been losing momentum since 2010, when GDP expanded 7.5% in 2010. In 2011, GDP growth decelerated to 6.2% and again to 5.7% in 2012. This was mainly driven by the tightening of macroeconomic policy in some countries as well as by the easing of foreign demand notably from Europe and Japan. This was particularly the case for many export-oriented Asian and Latin American economies. In contrast, economic growth held up relatively well in commodity exporters, notably in the CIS and Latin America.

In 2013 GDP growth across the emerging world is again expected to strengthen to 6%, due to the recovery of demand in the advanced countries. It is also a reflection of the remarkable resilience of the large emerging economies (notably in Asia).

[7] IMF Global Economic Outlook , April 2012

In **China**, economic growth will moderate slightly to 8.2% in 2012 (down from 9.2% in 2011) on the back of softer external demand and tighter domestic policies. In **India,** GDP growth is also soften to 6.9% in 2012 due to less expansive macroeconomic policies aimed to curb domestic demand and inflation pressures. Among the largest emerging economies, **Brazil** is feeling the most severe slowdown. GDP growth slackened considerably from 7.5% in 2010 to 2.7% in 2011. In 2012, GDP growth is due to rebound slightly to 3%, as authorities gradually reverse the tighter macroeconomic policy of previous years.

At the global level, trade is showing signs of good recovery from the short-lively contraction observed in mid-2011. Over the whole of 2011, **world trade volumes** went up by 5.8%, which represented a sharp deceleration from the 12.9% expansion of 2010[8]. The dynamism of emerging economies continued to be the main contributor of global trade activity growth (outpacing that of advanced economies). This is likely to continue in 2012, as global trade is expected to growth 4%, before regaining further momentum (5.6%) in 2013.

Trade has been an important engine of dynamism for the EU economy in 2011. Eurostat official figures show that EU merchandise trade growth held up well with imports increasing by 11.9% and exports by 13.5%. However, trade performance lost momentum throughout 2011. In the first semester, imports and exports grew by around 18% (when compared to the first semester of 2010). But, in the last six months of the year, as the economic situation in the EU deteriorated, import growth moderated sharply to only 6.1% (compared to the period of 2010). Exports have held up better growing 9.6%.

Going forward one important message remains: **trade is one of the most important engines to strengthen global growth and job creation** that we cannot afford to lose. The temptation of resorting to protectionism continues to be one of the biggest dangers the global economy is facing. As the temporary setback felt in Europe in 2011 showed, while the prospects for the global economy seem to be gradually improving, growth cannot be taken for granted. This is especially true given the fragile grounds of this recovery across the advance economies, which continue to be the main drivers of global demand.

I.2. Latest trends by category of measures and by country

The analysis of the trends over the past eight months points to increased developments in the adoption of **border measures**, which represented **over 40 per cent of the new measures** introduced, followed by the introduction of **stimulus and other measures** representing almost **one-fifth of all new measures**. A worrying trend is the fact that the overall pace of the introduction of new measures has been accelerated over the last eight months.

[8] IMF Global Economic Outlook , April 2012

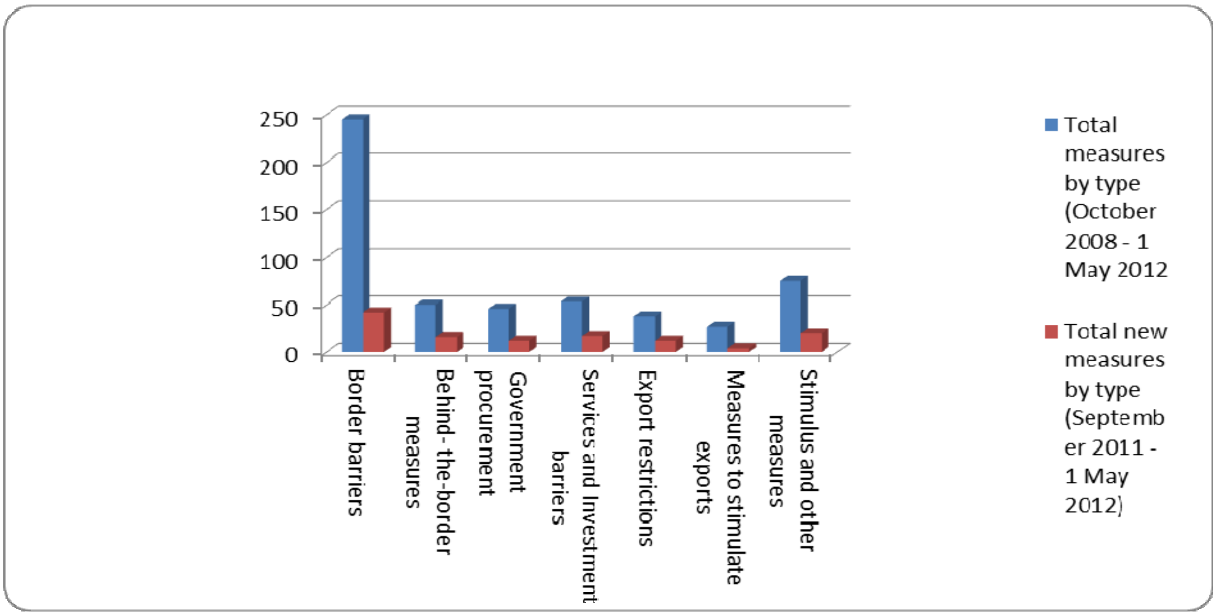


Table 1: Potentially trade restrictive measures by type, since October 2008 (* G20 countries)

The analysis of trends in the past eight months by country-basis points at **Argentina**[9]**, Indonesia and Russia** representing each about 15% of the new measures introduced, followed by **India, Brazil and China**. The use of potentially protective measures by those emerging economies should often be placed against the background of broader industrialization plans, which include trade restrictive measures and other sector specific stimulus measures all as part of an overarching plan to promote domestic industries.

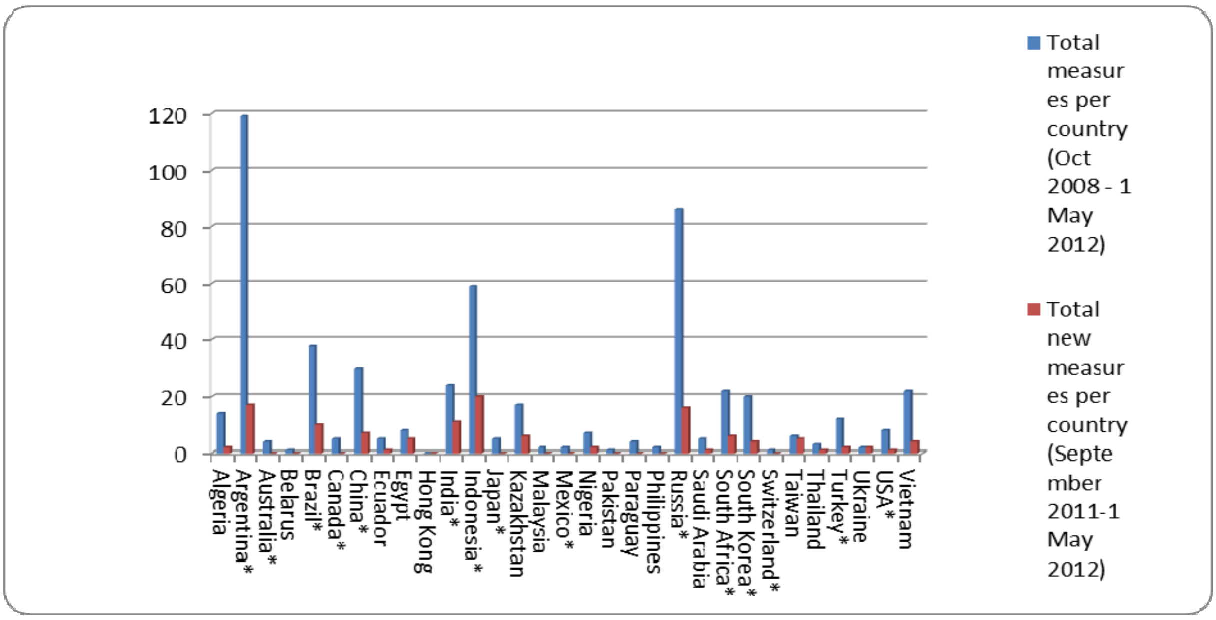


Table 2: Potentially trade restrictive measures by country, since October 2008 (* G20 countries)

[9] Argentina does appear as the country that resorted most to trade-restrictive measures, most of them through reference price setting.

I.3. Consolidation of trade measures as part of industrial policy[10]

As previously reported, we continue to observe the use of trade restrictive measures as part of wider industrial policy programmes and sector specific stimulus packages. This is most noticeable in certain emerging economies. Whereas in the immediate aftermath of the financial crisis countercyclical measures were adopted to sustain demand and avoid massive layoffs, in 2011 several economies initiated comprehensive programmes, which mixed industrial policy measures with trade policy ones in order to spur industrial base growth and economic diversification.

Accordingly, support measures for particular industrial sectors have been combined with tariff and/or behind-the-border trade measures aimed to protect them from foreign competition on the domestic market, and boost their export performance at the same time. Although country-specific features may differ, in general this policy relies on import substitution, local content and technology transfer requirements, and sector-specific financial support. It remains worrisome, however, that the industrial policy objective is coupled with trade measures that may have adverse effects on their partners, when better targeted, less trade distortive alternatives are available to maintain a level playing field and ensure higher global growth and economic benefits for all.

From the information gathered it appears that certain countries continue disbursing their funds in support to strategic sectors in order to build national industrial champions, while other countries continue supporting domestic manufacturers with measures aimed to increase their export performance. Over the reporting period a few general stimulus packages were launched notably by some emerging countries.

In an attempt to further promote domestic industry and job creation, **Brazil** launched in April 2012 a second phase of the **Plano Brasil Maior** including stimulus incentives worth BRL 60 billion (€ 25 billion), equivalent of 1.5% of GDP. The plan includes a mixture of fiscal incentives; subsidised loans to the automotive and IT sectors; expansion of export financing programmes and tax reliefs for internet broadband access; and, measures for stimulating the national industry through government procurement, where national goods and services will take priority on imported goods.

In 2011, **China** launched its **12th National Five-year Plan** (2011-2015) identifying inter alia to promote the upgrading and **restructuring of traditional industries** (iron/steel/nonferrous metals, building materials, equipment manufacturing, shipbuilding, cars, petrochemicals, light

[10] New and updated as well as recently removed measures can be found in tables at the end of the report, in annex 1, 2 and 3. Annex 4 contains detailed description of all measures currently in force, as well as those removed, since October 2008.

industry and textiles) and **fostering and developing seven strategic emerging industries** (energy conservation and environmental protection, new-generation IT, bio-technology, high-end manufacturing equipment, new energy and materials, new-energy vehicles). Those plans set general targets and hint at policy instruments to achieve them; therefore, it will be important to closely monitor the implementation of the various sector-specific plans, with a view to identifying trade-distortive elements that could be found in the implementing measures. As follow-up to the 12th Five-year Plan, China has issued new sector specific Plans focussing on further developing “national champions” through restructuring and consolidation in the various industries, such as the raw materials industry, linking this with strategic instruments included in the “foreign investment catalogue” and measures to assure a firm hold on enabling factors, including the development of **national standards**, **export controls and restrictions on export of raw materials**.

India approved on 25 October 2011 the **National Manufacturing Policy 2011**, the first of its kind in the country, to increase manufacturing's share of national output as it aims to create jobs and add capacity to sustain brisk economic growth through the next decade. The policy provides an umbrella for the draft **National Telecom Policy 2011**, which aims at the **promotion of domestic production of telecommunication equipment** to meet 80% of India's demand through domestic manufacturing. Policy recommendations on telecom equipment published by the Telecom Regulatory Authority of India on 12 April 2011 confirm the intended **major role of government procurement for supporting domestic production**. Under the same Telecom Policy, **India** on 2 February 2012 approved a new preference policy to domestically manufactured **electronic goods** in public procurement procedures in view of security considerations where the prescribed domestic value addition should increase from 25 per cent the first year to 45 per cent after five years. Local content requirements were also observed in the area of **railway safety technology**.

South Africa has released the next implementation phase of the Second **Industrial Action Plan**. New funding of R 5.8 billion (€600 million) has been made available over the next four years providing grants, tax breaks and capital to a broad range of selected industrial sectors including metal, transport equipment, green energy, ship and automotive, aerospace, defence, electro technical and ICT. Moreover, two new funds have been established in 2011 by the Industrial Development Corporation targeting green industries for an amount of R 25 billion (€2.5 billion), and R 10 billion (€1 billion) over the next five years for start-up businesses including subsidies for buildings, equipment and working capital. In addition, in January 2012 a **Special Economic Zones** (SEZ) Bill has been issued with the objective to attract investment and promote trade, industrialisation and economic growth. A special fund and **incentive package** will be set up to support the promotion and development of SEZ. Apart from funding support, efforts are also focussed on **realigning government and private procurement guidelines.**

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

I.4. Recent trends in investment-related restrictions

In view of the decision taken by the **Argentine Government in April 2012 to expropriate 51% of YPF shares owned by the Spanish company Repsol and 51% of the shares in Repsol YPF GAS S.A., owned by the Spanish company Repsol Butano S.A.**, it has become relevant to examine in more detail to what extent measures covering foreign direct investment have been applied by countries over the reporting period, and to monitor in particular the protectionist trends in Argentina.

Since the beginning of the EU's monitoring exercise in October 2008, potential trade-related investment restrictions have represented less than 10% of the total stock of potential trade restrictive measures identified, however it should be kept in mind that ad-hoc measures such as those taken by Argentina or Bolivia[11], substantially **impact the investment climate for EU investors increasing its unpredictability and limiting its attractiveness.**

In addition to the aforementioned expropriation, more foreign investment restrictions have been introduced by Argentina. In October 2011, Argentina has established by law that **foreign investments and assets of insurance companies cannot exceed 50% of their total capital.** As a consequence companies are requested to repatriate investments from abroad. Furthermore, in December 2011 the **purchase of land by foreigners has been restricted**, limiting foreign ownership of rural land to 15 per cent, subject to exemptions. Finally, Resolution 142/2012 of April 2012, providing the terms of the transfer into the financial system of foreign exchange proceeds from export transactions includes rebates for exports, allegedly discriminating against foreign investments.

[11] Bolivia's policy to reaffirm state control over what it considers strategic industries, effected through nationalisation and expropriation strategies in recent years, some with disputed compensation and earlier renegotiations of contracts with foreign companies in the oil and gas industry, also impacts EU investors' confidence increasing its unpredictability and limiting its attractiveness.

However, efforts of **several emerging economies to strengthen their domestic industry base continue to target investment policies**. Local content and ownership clauses, as well as other instruments in the wider context of industrial development have been issued to enforce and accelerate transfer of technology and know-how, frequently coupled with assisting border measures. In this context, during the reporting period:

China raised a number of investment-related restrictions. In September 2011 implementation provisions came into force for a **review mechanism of foreign mergers and acquisitions against the background of national security**. The new implementation provisions raise concern as regards the timeline of reviews, possible retroactivity and importantly the evaluation criteria applied. Moreover, in December 2011 China issued a revised catalogue for guidance of foreign investments indicating new areas where foreign investments are encouraged, restricted or prohibited entirely, which did not significantly open more areas to foreign investment. China also formalised for the first time investment restrictions on automotive components, notably on **high energy power battery systems** as key part of new energy automobiles, with the proportion of foreign investment not exceeding 50%. It also added the domestic **postal and courier sector** formally to the area of prohibited sectors.

Tax provisions included in the **Indian** Finance Bill 2012 raise serious concerns as they aim at imposing fiscal liabilities on established companies with retroactive effect extending back for as much as half a century, while the Finance Bill also seems to reverse judgments issued in favour of foreign investors by Indian courts or to impact on many currently on-going cases and audits in relevant matters.

Indonesia has required by regulations effective as of January 2012 all **logistic companies and freight carriers performing multimodal transport services to re-register**. Those re-registered can only operate on restricted conditions and not provide domestic support services. The regulation also requires foreign ownership divestments so as to comply with the **restrictive foreign equity ownership rules**. Moreover, in February 2012 Indonesia enacted a more restrictive regulation on financial institutions establishing that **foreign business entities may only own up to 85 per cent of the paid-in capital of Venture Capital Companies.** Finally, as a part of the implementation of Law No. 20/2008 on SMEs, the minimum net asset requirement for foreign investment companies (PMA) has been increased to IDR 10 billion (€0.9 million). This follows the implementation of a circular from BKPM (Indonesian Investment Coordination Board) on minimum net asset requirement for PMA.

I.5. Analysis of Russian measures introduced ahead of its WTO accession

As noted previously, this report confirms that Russia, as an **imminent WTO Member still deserves close scrutiny as one of the most frequent users of trade-restrictive measures.** Following the list of measures issued in 2011 and 2012, the EU can only conclude that **Russia is not currently fully living up to its future obligations** as it has undertaken and extended numerous, potentially trade restrictive measures during the reporting period, including:

- On 19 October 2011 a draft Technical Regulation was published on **Alcohol Product Safety** raising strong concern as regards the **declaration of compliance, notification procedure, the ban on polyethylene terephthalate (PET), labelling requirements and the definitions applied in the draft Regulation.**

- On 20 March 2012, a **ban on imports from the EU of live animals** (pigs, cattle, sheep and goat) was introduced.

- On 18 April 2012, Russia adopted Degree n° 207 restricting **border crossing points**. The application is currently on hold; however this Degree would severely restrict trade between the EU and Russia for a range of products including **food, chemicals and machinery equipment.**

- In spite of previously stated intentions, Russia continues to issue and prepare legislation as recently supported by President Putin on the car sector, containing **preferences for domestic producers in public procurement**. In some cases, foreign companies are denied access to public procurement procedures only open for approved suppliers of goods, works and services.

- Legislation is in preparation concerning the **end of life of vehicles**, which would allegedly discriminate against imported vehicles as only they would be subject to a recycling fee to be paid together with customs duties. As to the fee for the car, this should be between €1.000 and 5.000 per vehicle.

- Customs Union Commission's decisions established seasonal **import duties** on some kinds of sugar, added *inter alia* fresh water fish to a list of goods **subject to a ban or restrictions in trade** and has changed import duties for watches. An elevated rate of export duty on petrol will remain in place.

- Russia has approved a number of programs for the development of specific industries.

  - For an amount 3.700 billion roubles (€92 billion) until 2030 for the development of the **coal industry**.

  - An announcement has been made regarding a number of measures **to support the shipbuilding industry** for an amount of 400 billion roubles (€10 billion) within the next ten years.

– Draft strategy on the development of a Russian **food processing industry** for an amount of 700 billion (€17.5 billion) roubles within the next eight years has been presented.

It will be important to **closely monitor the implementation of the various sector-specific plans**, with a view to identifying trade-distortive elements that could be found in the implementing measures.

II. Trade policy responses 2011-2012

In the course of 2011-12 several types of potentially trade-restrictive measures continued to be introduced at an accelerated pace bringing the total number of measures currently at 534.

Country	Border barriers	Behind-the-border measures	Government procurement	Services and Investment barriers	Export restrictions	Measures to stimulate exports	Stimulus and other measures	Total measures per country (Oct 2008 - 1 May 2012)
Algeria	3	4	2	3	1		1	14
Argentina*	108	1	1	6	3			**119**
Australia*			3	1				4
Belarus					1			1
Brazil*	16	1	6	2	1	6	6	**38**
Canada*		1	2				2	5
China*	1	4	7	5	1	1	11	**30**
Ecuador	2	2	1					5
Egypt	2			3	2	1		8
Hong Kong								0
India*	9	2	2	2	4	3	2	**24**
Indonesia*	15	13	6	16	8	1		**59**
Japan*		1				1	3	5
Kazakhstan	3	1	3		7	2	1	17
Malaysia					1	1		2
Mexico*							2	2
Nigeria	4		1	2				7
Pakistan					1			1
Paraguay	3		1					4
Philippines						2		2
Russia*	55	6	4	3	5	2	11	**86**
Saudi Arabia	3			1			1	5
South Africa*	8	1	4	1			8	**22**
South Korea*				1		4	15	**20**
Switzerland*						1		1
Taiwan						1	5	6
Thailand		1		2				3
Turkey*	2	2	1	1	2		4	12
Ukraine				1			1	2
USA*	3	2	1	1		1		8
Vietnam	8	8	1	2	1		2	**22**
Total measures by type (October 2008 - 1 May 201)	**245**	**50**	**46**	**53**	**38**	**27**	**75**	**534**

Table 3: Potentially trade restrictive measures per country and type of measure, in force since October 2008. (* G20 countries)

II.1. Border measures: import and export restrictions

A substantial number of 54 potentially restrictive import and export measures, including custom tax increases, import licenses, and inspection certificates have been added to the list of new measures introduced over the reporting period. **With over 50 per cent, border import measures continue to represent the highest share of measures** as registered since October 2008. The total number of border measures has increased from 238 (import and export restrictions taken together) to 283 over the last eight months. More specifically we have observed the following over the reporting period:

Argentina has continued to apply trade restrictive border measures such as the use of non-automatic import licensing or trade balancing requirements. On 1 February 2012, it has introduced new administrative procedures related to all imports of goods through a **prior sworn importer declaration**, which represents an additional burden to import. In addition, the Argentine Central Bank made an approved sworn importer declaration conditional to obtaining foreign currency to pay for imports. On 1 of April 2012, the importer declaration was **extended to the services sector**. Argentina also has added a substantial number of new and updated reference values for imports of a broad range of products. **Export taxes on hydrocarbons and hides and skins have been extended.**

Brazil announced the introduction of a **30 per cent tax increase of the industrial products tax for automotive products, exempting certain products, and notably those with more than 65 per cent local content.** Furthermore, the governmental body INMETRO introduced new non-automatic licensing and inspection requirements of imported products adding addition cost and procedures to the existing system.

India has announced on 5 March 2012 the imposition of an **export ban on raw cotton, which is not the first time India takes such decision as in December 2010 it imposed a similar measure**. As India is the world's second largest producer of cotton, such decision creates considerable market disruption. On 12 March 2012, India lifted the ban however exporters remain under the obligation to register export contracts in order to obtain export certificates, a procedure which the EU will closely monitor to ensure sustainable exports of raw cotton. In addition, India for a substantial number of products, including steel, bicycles and motor vehicles increased its customs duty as well as export duties on iron and chromium ores and concentrates.

Russia on 13 January 2012 issued draft legislation regarding the **closure of the Saint-Petersburg port for metal scrap shipments** and designating the port of Magadan as the sole exit point for ferrous metal scrap in the Far East. Furthermore, on 20 March 2012 Russia applied an **import ban on live animals** (pigs, cattle, and sheep). Furthermore, 18 April 2012

Russia adopted Degree n° **207 restricting border crossing points**. Moreover, a number of decisions were taken through the Customs Union Commission establishing seasonal import duties for some kinds of sugar, adding *inter alia* fresh water fish to a list of goods subject to a ban or restrictions in trade, and changing import duties for watches. Import tariff quota related to beef, pork and poultry from EU and other third countries were modified, while an elevated rate of export duty on petrol will remain in place.

Indonesia has introduced new restrictions on the importation of **used capital goods making them subject to technical inspection and formal approval, while imports of those goods can only be pursued by direct users**. Indonesia also restricted the entry and exit points of agriculture products and implemented pre-approval and testing procedures at the border of such imports. Draft legislation is in preparation **further restricting importation and exportation of pharmaceuticals, medical devices and processed food** to be carried out by State-Owned Enterprises. A ban on exports of raw rattan was extended and a ban on unprocessed minerals has entered into force. Furthermore, a law has been promulgated clarifying the legality of exports based on a new set of criteria, but further tightening the registration and reporting requirements by exporters. For foreign exchange monitoring purposes, the **Bank of Indonesia has started to require that exporters report their export activities to foreign exchange banks**.

Kazakhstan has imposed temporary restrictions on imports of cattle from Germany, Belgium and the Netherlands and introduced protective duties on several cotton wool types and confectionery. Exports of light oil products continue to be banned, while export duties on petroleum products have been raised. Temporary export bans have been introduced for some types of vegetable oils.

Egypt introduced a ban on the importation of cotton on 25 October 2011 and a safeguard fee on cotton yard on 31 December 2011. Although the import ban was officially lifted on 18 March 2012, EU imports are *de-facto* still blocked until today. On November 2011, Egypt made imports of textiles, clothing, leather, footwear and bags subject to inspection certificates to conform to Egyptian standards. Moreover, an export ban on rice has been prolonged and export duties have been extended for marble and granite. **Nigeria** introduced extra levies on wheat, wheat flower and rice, while in **South Africa** increased import tariffs on artificial turf and selective duty increases have been issued to protect value added manufacturing capacity. **Vietnam** increased some import tariffs and importantly, enacted a list of 87 mineral products subject to export duties. **Turkey** introduced tariff increases on certain woven fabrics and apparel products.

II.2. Behind-the-border measures

A significant number of 45 new initiatives with potentially restrictive impact on trade behind-the-border have been observed over the last eight months. In May 2012, we note that, in total, 149 measures of behind-the-border character remain in place, as compared to 104 in September 2011. **Behind-the-border measures represent about one-third of the total stock of measures currently in place**, including technical barriers to trade, measures in the area of government procurement and related to services and investment.

As compared to border measures, it becomes clear that fewer of behind-the-border-measures have been removed or terminated so far confirming the assumption that the probability of their **long-term consolidation in the international trade regime** remains higher than that of border measures. Accordingly, many of the behind-the-border measures already in place have been subject to prolongation or other extension of scope.

II.2.1. Technical barriers to trade

Technical barriers to trade arise when countries develop domestic legislation, with for instance references whereby products are increasingly requested to conform to national standards instead of international standards, which would normally facilitate trade. Subsequent product conformity assessment, demonstrating compliance with the domestically-developed technical regulations and standards, add supplementary cost for foreign operators. In the reporting period, the following examples illustrate to what extent foreign economic operators are faced with additional barriers.

China has notified new guidelines for the evaluation of new ingredients of cosmetic products substantially delaying the approval procedures, and launched a call for industry to provide comments regarding the reclassification of cosmetic products not in line with internationally applied product categories.

Similarly, **Indonesia** is in the process of further issuing new mandatory national standards covering steel, ceramics and textile products, which often deviate from international standards. Pre-shipment inspections requirements for imported tires on the basis of national standards are in preparation. Indonesia also notified more stringent requirements for imported cosmetic products entailing administrative procedures and notifications per shipment.

It is also worth noting that **Russia** has published a draft **Regulation on Alcohol Product Safety** raising strong concern as regards the declaration of compliance, notification procedure, the ban on polyethylene terephthalate (PET), labelling requirements and the definitions applied in the draft Regulation.

India has announced a requirement for certification of seven new steel products to conform national standards and **South Africa** has introduced mandatory food labelling requirements and is in the process of developing new Codes of Good Practises, which *inter alia* includes legislation regulating ownership and local content in firm-level procurement. **Algeri**a introduced new technical conditions to importation of pharmaceuticals, while **Argentina** established mandatory certification of lead content in inks and printed products. Finally, **Thailand** recently approved a tax refund for first-time car buyers for certain passenger cars manufactured domestically.

II.2.2. Government procurement

Potentially trade-restrictive measures continue to be particularly relevant in the area of public procurement. Those measures represent about **nine per cent of the total current stock of measures** registered since October 2008. In this reporting period a relatively high number of revisions to 'Buy National' policies were introduced. Newly planned or reinforced trade-related restrictions in government procurement continue to be a cause of concern in particular those undertaken or in preparation by China, India and Russia.

It was reported that **China** in its public procurement procedures for wind power equipment and development projects promotes domestic operators. Similar practises have been observed in the railway sector. Another recent example in China, where the domestic industry is promoted through the use of local content preferences in public procurement procedures, was observed for **governmental automotive fleet purchases, which only features a list of 412 locally produced Chinese car models.** As government car purchases are estimated at 10 per cent of the total market, this measure severely restricts market access to EU carmakers.

In spite of previously stated intentions, **Russia** continues to issue and prepare legislation as recently supported by President Putin on the **car sector, containing preferences for domestic producers in public procurement**. In some cases, foreign companies are denied access to public procurement procedures only open for approved suppliers of goods, works and services.

In the "Plano Brasil Maior II" **Brazil** has announced measures to stimulate the national industry through government procurement, where national goods and services will receive priority through a preference margin. Substantial governmental investments are expected to benefit the domestic pharmaceutical and the backhoe loaders and motor grader industries.

Indonesia has issued a Regulation including guidelines for using domestic products in the public procurement of goods and services, based on an inventory list and a set of rules on how to calculate local content in such goods and services. **Kazakhstan** has amended legislation for the public procurement of pharmaceutical products promoting the locally produced products as foreign products are automatically excluded when the pharmaceutical is produced locally. **Paraguay** has issued a new law supporting domestic producers through public procurement by including preference margin of 20 per cent for local content in a product.

In a similar manner, **South Africa** has implemented a preferential public procurement regime that came into effect by the end of 2011, including provisions for the designation of sectors from which the government will exclusively procure domestically. Earmarked sectors include inter alia television set top boxes, railway rolling stock, bus-bodies, clothing and textiles, and footwear and leather products.

II.2.3. Services and investment restrictions

Trade restrictions in the area of services and investment have experienced a substantial increase over the last eight months. The total number of potentially trade restrictive measures went up with 18 from 35 measures in September 2011 to 53 measures included in the total stock in May 2012. In addition to potentially investment-related restrictions listed in relation to Argentina, China, India and Indonesia under point I.4, the following measures are reported:

In February 2012, **Brazil** issued new restrictions on **legal services** where partnerships between Brazilian and foreign law firms are not permitted.

In the field of renewable energy production, **Ukraine** introduced local content requirements under which local content rules should be observed for obtaining a specific feed-in tariff for **electricity produced from renewables.** The Law stipulates that such incentive for electricity production from alternative energy sources shall apply on condition that the share of raw stock, materials, main assets, works and services of Ukrainian origin in the cost of the construction of the respective facility producing electricity makes at least 15% starting from January 2012.

Finally, the **United States** extended a law confirming that 75 per cent of the voting rights in a US airline carrier must be owned by persons who are citizens of the United States.

II.3. Stimulus packages and export support measures

A the high number of stimulus packages and export support measures has been adopted by trade partners over the reporting period, the total figure went up from 82 in September 2011 to 102 measures by May 2012. Certain countries continue disbursing funds in support to strategic sectors in order to build national industrial champions, while other countries continue supporting domestic manufacturers through support measures aimed to increase their export performance. **In many cases, the exact conditions and eligibility criteria for allocating the subsidies and export credits are not transparent**. In addition to the support measures listed in relation to Brazil, China, India, Russia, South Africa and Ukraine under point I.3, the following measures are reported:

South Korea in March 2012 announced a scheme for investing KRW 1.821 trillion (€1.2 billion) in the implementation of energy research plans (nuclear power safety, electric power supply and management and new renewable energy). Korea will also be supporting domestic exporters to expand its global trade figures. Furthermore an announcement was made to issue a comprehensive scheme for enhancing the competitiveness of the pharmaceutical industry.

Taiwan announced a number of initiatives for its DRAM, LED and solar industries. **Turkey** announced the creation of a Directorate General for Health investments to support foreign and local investment for developing and producing high-tech medical devices, products and services.

II. 4. Trade defence instruments

It should first be recalled that trade defence instruments are legally justified if the relevant rules have been respected and should in this case not be considered a protectionist measure as such.

The number of investigations initiated during the period September 2011- 30 April 2012 (17) remained quite comparable with the first eight months of 2011 (19). On the other hand, the number of measures imposed during the same period decreased from 25 to 17 (see table below).

This does not, however, fully reflect the trends observed for the year 2011 as compared to the previous year[12]. Indeed, the number of new measures imposed in 2011 was higher than in

[12] The Commission's monitoring activity of third country actions for the year 2011 should be publically available on the EU website in June. http://ec.europa.eu/trade/tackling-unfair-trade/trade-defence/actions-against-eu-exporters/

2010 (36 as compared to 21) and resulted in a **total number of measures in force against the EU (or its Member States) increasing from 123 in 2010 to 146 in 2011**. Most of these new measures concern safeguards, which are the most restrictive trade defence instruments. Indeed, safeguards are measures taken against a 'simple' surge of import and do not require the establishment of any unfair element, such as dumping or subsidy. In addition, safeguard measures are imposed against all countries, including those that do not individually cause any injury to the domestic industry. This kind of instrument should thus be used with extreme caution. Unfortunately it seems this was not always the case.

Over previous months it was also found that too many trade defence investigations were lacking transparency. This issue has already been observed previously and is problematic because it prevents an adequate right of defence to parties concerned, but also because under such circumstances it is not always possible to assess whether measures are legally justified or not. In the latter case, they could in fact be considered as protectionist measures.

Country	Product	Instrument	Type Of Measure	Date Of Imposition
Argentina	Paperboard	AD	Provisional	2012-March-21
Brazil	Lightweight paper	AD	Provisional	2011-Nov-10
Brazil	Glazd paper	AD	Definitive	2011-Oct-06
China	Potato Starch	CVD	Definitive	2011-Sep-17
China	Caprolactam	AD	Definitive	2011-Sep-22
Egypt	Cotton Yarn	SG	Provisional	2011-Dec-29
Egypt	Cotton Textile	SG	Provisional	2012-Feb-29
India	Hot Rolled Flat Steel	AD	Definitive	2011-Oct-11
India	Morpholine	AD	Provisional	2011-sep-20
India	Soda Ash	AD	Definitive	2012-Feb-17
India	Morpholine	AD	Definitive	2012-Jan-24
Kazakhstan	Wadding and articles of wadding	SG	Definitive	2011-Sep-26
Kazakhstan	Confectionery	SG	Definitive	2011-Sep-26
Russia	Activated carbon (coal)	SG	Definitive	2011-Sep-08
Thailand	Glass Block	SG	Definitive	2011-Aug-18
Turkey	Polyethylene terephthalate	SG	Definitive	2011-Nov-07
Turkey	Dioctyl ftalat (dioctyl orthphtalates)	AD	Definitive	2011-Nov-29

Table 4: TDI measures imposed, 1 September – 30 April 2011

III. Compliance with the G20 rollback commitment

Compliance with the G20 pledge to remove without delay potentially trade-restrictive measures remains highly inadequate. Extension of this commitment until 2013, which took place at the G20 summit in Seoul in November 2010, recognised that further efforts are necessary to reduce the level of potential trade restrictions introduced since the onset of the economic crisis in autumn 2008. **At this critical time for the global economy, it is important to restate and underline the merits of the multilateral trading system as a way to avoid protectionism and not turn inward.**

Country	Border barriers	Behind-the-border measures	Services and investment barriers	Government procurement	Export restrictions	Measures to stimulate exports	Stimulus and other measures	Total measures per country
Algeria	1							1
Argentina*	2							2
Australia*								0
Belarus	2							2
Brazil*								0
Canada*							2	2
China*		1						1
Ecuador	1							1
Egypt	2				1		2	5
Hong Kong							1	1
India*	2				3			5
Indonesia*	2	2	3		1		1	9
Japan*							1	1
Kazakhstan	2							2
Malaysia								0
Mexico*	1							1
Nigeria								0
Pakistan								0
Paraguay	3							3
Philippines								0
Russia*	13						1	14
Saudi Arabia								0
South Africa*								0
South Korea*							4	4
Switzerland*						2		2
Taiwan							1	1
Turkey*								0
Ukraine	4	1		2			2	9
USA*		1	5	8			7	21
Vietnam	2							2
Total measures by type	**37**	**5**	**8**	**10**	**5**	**2**	**22**	**89**

Table 5: Removed measures per country and type, October 2008 – 1 May 2012 (* G20 countries)

Against the current stock of **534 measures**, which remain in place or are in preparation, only a limited number of **89 measures have been removed** so far over the last four years. In the current reference period, between September 2011 and May 2012, only **13 measures** were eliminated, which is significantly lower than in the previous period where 40 were brought to an end.

Consequently, the final result remains clearly unsatisfactory, with the following measures being lifted over the reporting period.

– **Argentina** reduced import tariffs on dairy products from 28% to 16% and decreased export tax to a set of fish products to 1%.

– **China** provided information that provisional measures for the administration of implantable medical devices had been postponed.

– **Egypt** exempted custom duties on sugar.

– The Supreme Court in **Indonesia** revoked certain articles of Regulation n° 39/2010 allowing the importation of certain finished products in favour of domestic users.

– **Kazakhstan** established a quota for duty-free imports of cane sugar.

– Relevant for **Russia**, the Customs Union's Commission adopted the decision N 917 from 25 January 2012 extending an application of lower import duties on certain types of paper and cardboard starting from 22 February 2012.

– In **South Korea**, two SME supporting programmes expired of which the "SMEs Innovative Technology Development Programme".

– In **Ukraine,** export measures related to grain varieties (wheat, meslin and emmer wheat) expired.

– Finally, for the **United States** it was reported that the several programmes were terminated or are expected to be terminated soon: the Dairy export Incentive Programme; the Volumetric Ethanol Excise Tax Credit; the Credit for Production of Cellulosic Biofuel and Special Depreciation Allowance for Cellulosic Biofuel Plant Property; Bio refinery Assistance and Repowering Assistance; and Bioenergy Program for Advanced Biofuels.

IV. Conclusions

The findings of this ninth report on potentially trade restrictive measures again underline **justified concerns** with regard to trade policies adopted by many countries in the aftermath of the 2008 economic crisis.

Despite the fact that the outlook for the **world economy** is gradually improving, as global economic activity bounces back from the slowdown observed in 2011, there are important downside risks ahead. Most notably, geopolitical instability factors that could trigger an escalation in oil prices, and the lingering macroeconomic uncertainty in **Europe.** In turn the **US** economy seems to be picking up pace with mounting signs of strengthening growth as the labour market improves and consumption rebounds. The other important engine of the global economy will be (as previous years), the dynamism of the **emerging world**.

At the global level, trade is showing signs of good recovery from the short lively contraction observed in mid-2011. Over the whole of 2011, **world trade volumes** went up and the dynamism of emerging economies continued to be the main contributor of global trade activity growth (outpacing that of advanced economies).

Going forward one important message remains: **trade is one of the most important means of strengthening global growth and job creation**, and one that we cannot afford to lose. The temptation of resorting to protectionism continues to be one of the biggest dangers the global economy faces. It remains therefore **highly worrisome** that a number of G20 trading partners continue to resort to trade protective measures. Four aspects are particularly striking:

- **The pace of the introduction of new measures seems to be accelerating,** with notable recourse to an increased number of **border measures** and **wider economic stimulus measures**;
- New, planned or reinforced restrictions in **government procurement** continue to be a cause of concern, as well as in the **service and investment area**;
- The continued use of **restrictions on raw materials**; and,
- The still **insufficient roll-back** of existing measures despite continued commitment to do so by G20 leaders.

In light of the above, the upcoming **G20 Summit in Los Cabos on 18-19 June 2012** marks another opportunity for leaders to take stock of their two-fold pledge **not to resort to trade restrictive measures** during the economic and financial crisis; and, to **rectify without delay any measures introduced**.

As the risk of protectionism is still present, it is important that leaders reaffirm this commitment. Moreover, enhanced transparency and notification of all measures would enable closer monitoring of protectionism in order to **implement the pledge more effectively**. A constructive discussion on this issue was held at the recent G20 Trade Ministerial in Mexico on 19 April 2012

ANNEX 1

New potentially trade restrictive measures, September 2011 – 1 May 2012

In italic: planned measures

Country	Date of adoption	Measure
Algeria	First semester 2012	Publication of a negative list with 1260 products, in the context of the Arabic Free Trade Area, excluded from import benefits for the coming 3-4 years.
	First semester 2012	Ministry of Health new technical import conditions of pharmaceuticals with restricted importers' volumes and provision of monthly update of stocks in the country.
Argentina	25 October 2011	General Resolution 3203/2011-AFIP – Set reference values for imports of machinery for the preparation of meat or poultry (CC 8438.50) from Asian countries.
	27 October 2011	Resolution 36162/2011 established for insurance companies that foreign investments and assets cannot exceed 50% of their total capital.
	21 November 2011	General Resolution 3214/2011-AFIP – Set reference values for imports of plastic and metal boxes and cases (CC 3926.90, 7326.90, 7616.99) from Asian countries.
	21 November 2011	General Resolution 3217/2011-AFIP – Set reference values for imports of metal mountings and fittings (CC 8302.41, 8302.42, 8302.49) from Asian countries.
	6 December 2011	General Resolution 3230/2011-AFIP – Set reference values for imports of plastic bottle caps (CC 3923.50) from the U.S., Canada and Mexico.
	7 December 2011	General Resolution 3227/2011-AFIP – Set reference values for imports of certain fabrics (CC 5802.19) from Latin American countries.
	9 December 2011	General Resolution 3266/2012-AFIP – Set reference values for imports of water balloons (CC 9505.90) from Asian and Latin American countries.
	9 December 2011	General Resolution 3267/2012-AFIP – Set reference values for imports of yarn (CC 5402.48) from Asian and North American countries.
	28 December 2011	Law 26737 restricted the purchase of lands by foreigners

	28 December 2011	Law 26732 extended for five years the export tax on hydrocarbons which had been established by Law 25561 in 2002.
	7 January 2012	Decree 7 extended the 5% export tax on bovine hides and skins until end 2015 (CC 4101.20, 4101.50, 4101.90, 4104.11, 4104.19, 4104.41 and 4104.49).
	1 February 2012	Resolution 3252/2012 issued by the tax and customs authority rules to submit a prior sworn importer declaration for every import operation. In addition, foreign currency to pay for imports became subject to an approved importer declaration.
	1 February 2012	Resolution 9/2012-MEyFP and 4/2012-SIC establish that traders of wood pulp and newsprint paper need to report the import and export
	5 March 2012	Provisional conformity assessment regime was approved implementing Resolution 453/2010 establishing mandatory certification of lead content in inks and printed.
	1 April 2012	Argentina's tax and customs authority extended to imports of services the obligation to submit a prior sworn importer declaration by Resolution 3276/2012.
	25 April 2012	Resolution 142/2012 of the Ministry of Economy on rebates for exports: Article 1, paragraph 3 sets a reduced period of 15 days for the handling of foreign currency deriving from intragroup exports.
	4 May 2012	Bill established the expropriation of 51% of YPF shares, owned by the Spanish company Repsol, and of 51% of shares in Repsol YPF GAS S.A., owned by the Spanish company Repsol Butano S.A.
Brazil	15 September 2011	30% tax increase on automotive products exempting products with more than 65% local content
	12 December 2011	Extension of both the main and additional 100 tariff lines exceptions to the Mercosur Common External Tariff (CET) until December, 31 2015.
	29 December 2011	Brazil the import duty rate of 35 per cent applying on toys (HS 9503) through December 31, 2012.

	February 2012	New restriction on legal services, of February 2012. Partnership between Brazilian and foreign law firms is not permitted.
	4 April 2012	Plan Brasil Maior II: second package of industry assistance worth BRL 60.4 billion (equivalent to 1.5% of GDP).
	4 April 2012	Plan Brasil Maior II: government procurement measures where national goods and services take priority.
	4 April 2012	Plan Brasil Maior II: expansion of the Export Financing Program (PROEX) with BRL 3.1 billion.
	15 April 2012	Decree 7761/2012 setting regulations on the new industrial and trade regime for the automotive sector.
	2012	New intervention by INMETRO in non-automatic licensing and inspection of imported products, with creation of new taxes on imports.
	1 January 2013	*New PRS 72/10 approved by the Senate last April 24, 2012, sets a single rate of 4 per cent in the ICMS applicable to imported products State intermediate transactions. Domestic industry would not pay this surcharge.*
China	2011	Launch of the 12th Five-year Plan (2011-2015) to upgrade traditional and seven Strategic Emerging Industry sectors
	June 2011	New SFDA guidelines on the requirements for application and evaluation of new ingredients for cosmetic products.
	24 February 2012	MIIT released a preliminary list for official government automotive fleet purchases that only features local Chinese car brands.
		Concessionary bidding mechanism for wind power equipment and development projects discriminating *de facto* foreign companies: no transparency on the bidding procedure and on the evaluation assessment

		Bidding system in railway sector restricts foreign companies to be qualified for bidding for rolling stock projects, prevented JVs from obtaining licenses to bid.
	In preparation	*Draft Regulation concerning the re-Classification of non-special cosmetics.*
	First semester 2012	*Draft of the 12th five year plan for new-energy vehicles included to produce high energy batteries in China and to requiring companies to present independent R&D capability and intellectual property rights, with the equity of the Chinese party no less than 51%.*
Ecuador	24 November 2011	Official registry No. 583 of Reform Law on Internal Taxation and on Tax Equity in Ecuador establishes that imports have to pay a 5% tax, instead of previous 2% on USD outflow (article 19 of the official registry).
Egypt	October 2011	Ban on the imports of cotton until the local production is sold. The import ban was lifted in March 2012 but, Egypt remains de facto closed for EU imports.
	November 2011	Ministerial Decrees 626 and 660 impose inspection certificates to conform to Egyptian standards on imports of textiles, clothing, leather, footwear and bags, entry into force has been repeatedly postponed, recently until 15 June 2012.
	February 2012	Export subsidies are reported to be granted to Egyptian products up to the level of 10% of the local value-added, in order to encourage the use of local inputs.
	12 March 2012	Decree (151/2012) establishing tourism companies' applications shall not be accepted for one year.
	Second semester 2011	Ministerial Decree 90/ 2011 restricting the number of foreign employees in a company to a maximum 10% of the total number of employees
India	25 October 2011	National Manufacturing Policy 2011 increase manufacturing's share of national output. The policy provides an umbrella for the draft National Telecom Policy 2011.

	15 February 2012	Ministry of Communications and Information Technology policy on mandatory preferences covers a wide range of electronic products for the purpose of government procurement.
	12 March 2012	Export ban on cotton, which was lifted on 12 March 2012. Exporters remain under the obligation to register their export contracts with the DG of Foreign Trade.
	First Quarter 2012	Finance Bill 2012 imposing fiscal liabilities on established companies with retroactive effect and also seems to reverse judgments issued by Indian courts
	16 March 2012	*The draft Union budget including tariff increases for chromium ores and concentrates; lifesaving drugs/vaccines; flat-rolled products of non-alloy steel; Build Units of motor vehicles; bicycles and components.*
	In preparation	*Local content requirements where observed for railway safety technology for the Governmental procurement of certain railway safety technology products*
Indonesia	20 April 2011	Cosmetic Import Control required notification of every shipment of cosmetics imports where all documents, e.g. invoice etc. will have to carry exactly the same product details as the product registration.
	September 2011	Regulation on Monitoring of Banks' Foreign Exchange Activities (13/21/PBI/2011).
	29 December 2011	Minister of Trade Regulation 48/2011 on restrictions of imports of used capital goods
	December 2011	86 obligatory standards were introduced for batteries, shoes; stoves and hoses etc. *40 new obligatory standards are expected in 2012 for steel, ceramics, and textile products.*
	1 January 2012	Ministry of Finance regulation No. 143/2011 on bonded warehouses caps the permitted domestic sales at a maximum of 25% of the export realization value
	1 January 2012	Regulation No. 147/2011 on bonded zones removes import duties on capital goods, raw materials and intermediary goods produced in the zones.

	1 January 2012	A new regulation requiring verification for tire importation under HS Code 4011 before shipment at the country of loading.
	26 January 2012	Government Regulation 8/2011 on Multimodal Transportation requires logistics companies and freight forwarders to re-register.
	January 2012	Regulation on Foreign Exchange Export Proceeds and Foreign Exchange Debt Drawdowns (13/20/PBI/2011)
	January 2012	Regulation on Foreign Exchange Debt Drawdown Reporting Obligation (13/22/PBI/2011).
	1 February 2012	Regulation 18/2012: foreign business entities may only own up to 85 per cent of a Venture Capital Company paid-in capital.
	21 February 2011	Minister of Industry Regulation No 15/2011 on Guideline for Using Domestic Product in Procurement of Goods/Services
	21 February 2011	Minister of Industry Regulation No 16/2011 on Provision and Procedure for Local Content sets rules on calculating local content in goods and services.
	March 2012	Ministry of Trade Regulation 40/2011 and 03/2012 require a pre-shipment inspection of tires to be imported and the implementation of national standards.
	7 May 2012	Minister of Energy and Mineral Resources (ESDM) Regulation No. 7 of 2012 on Increasing Value-Added Minerals Through Processing and Refining bans the exports of unprocessed minerals, except coal, from 2014.
	First semester 2012	Ministry of Agriculture Regulations 88, 89, and 90/2011 and 03/2012 restricts entry and exit points of agriculture products.
	First semester 2012	Government Regulation 14/2012 implements Law No. 30 of 2009 on Electricity requires the government to regulate electric power supply businesses; electric power supply business licenses and operation licenses.
	First semester	Implementation of Law No. 20/2008 on SMEs: minimum net asset requirement for foreign investment companies (PMA) has been increased to IDR 10 billion (€ 0.9 million).

	July 2012	Ministry of Trade Regulation No. 13/M-DAG/PER/3/2012 to address current uncertainties regarding the legality of exports and their restriction or limitation.
	In preparation	*Draft Law stipulates that the importation and exportation of pharmaceuticals, medical devices, and household health products shall be carried out only by a State-Owned Enterprise or by any Business Actor upon obtaining a license.*
Kazakhstan[13]	27 June 2011	Government Order 1729 provides for central State tender process for hospitals with local preferences
	29 September 2011	Decision of the Government of 23 August 2011 No 942 on the introduction of a (temporary) export ban on some kinds of vegetable.
	September 2011	Introduction of protective duties ranging from 30 to 49% on the imports of several kinds of confectionery for a period of three years.
	September 2011	Introduction of duties of 19% of the customs value but no less than EUR 2.8 per Kg on the imports of some kinds of confectionery and cotton wool.
	1 February 2012	Temporary restrictions until further notice on imports of cattle from Germany, Belgium, the Netherlands and France in connection with the Schmallenberg virus.
	February 2012	Increase export duties on petroleum products and light petroleum products and dark petroleum products
Nigeria	20 February 2012	Application of extra levies on wheat, wheat flour and rice to boost use of the cassava in cassava processing
	In preparation	*An announcement was made that a bill on Local Patronage aimed at boosting consumption of "Made in Nigeria" goods and services.*
Russia[14]	17 August 2010	The CU Commission's Decision No 353 of 17.08.2010 added to the list of goods which are subject to ban or restrictions in CU trade with third countries the following products: fresh water, crustaceans, and molluscs.

[13] See supra.

[14] See footnote 23.

	18 November 2011	The import tariff rate on circular carbon electrodes with a diameter not exceeding 1,000 mm (CU CN Codes 8545 11 001 0) was raised to 15% from 0%
	18 November 2011	The new version of the CU Single Customs Tariff comprises corrections of the import duty tariffs on some types of watches
	21 December 2011	Russian Government's Decision No 1079 says that low-alcohol beverages (up to 9% strength) should be labelled with a special pink-coloured federal marks of 63x21 mm.
	28 December 2011	Russian Government Decree No1192 appoints the Russian Chamber of Industry and Trade authorized to issue conclusions on the recognition of the product manufactured with the use of foreign goods
	29 December 2011	Russian Government Decree on redistribution of import tariff quotas for beef, pork and poultry in 2012
	30 December 2011	Russian Government's Decree No 1230 on labeling requirements of imported low-alcohol beverages
	25 January 2012	Eurasian Economic Commission Regulation No 5 on Placement of Orders and Conclusion of Agreements to Supply Goods and Render Services does not specify foreign companies' access to public procurement.
	25 January 2012	Customs Union Commission's Decision No 913 of 25 January 2012 establishes the seasonal import duty on some kinds of sugar
	20 March 2012	Import ban on live animals (pigs, cattle, and sheep) in connection to the Schmallenberg virus.
	18 April 2012	Degree N° 207 restricting border crossing points. The application is currently on hold; however this Degree would severely restrict trade between the EU and Russia for a range of products including food, chemicals and machinery equipment.
	1 Quarter 2012	Program for development of coal industry until 2030. Total amount of financing to the program will be 3,700 billion roubles, including 251.8 billion roubles of budget funds.

	In preparation	*Legislation is in preparation concerning the recycling of vehicles, which would allegedly discriminate against imported vehicles as only they would be subject to a recycling fee to be paid together with customs duties*
	In preparation	*President-elect Putin on 04.04.2012 announced that the federal and regional authorities, municipalities and companies financed by the state should only buy automobiles manufactured CU of Russia, Belarus or Kazakhstan. MED and MIT are preparing amendments to the Public Procurement Law.*
	In preparation	*Draft Technical Regulation on Alcohol Product Safety (TR) of the Belarus-Kazakhstan-Russia Customs Union (CU) that was published on 19 October 2011 raises concern as regards the declaration of compliance, the notification procedure, the ban on PET, labelling and the definitions applied in the draft Regulation.*
	In preparation	*President-elect Putin announced a number of measures aimed at supporting the domestic ship-building industry.*
	In preparation	*Draft strategy on the development of food processing industry until the year 2020*
Saudi Arabia	26 November 2011	The new "Nitaqat" programme foresees fixed quota of Saudi nationals in all companies with more than 9 employees. The quotas vary from sector to sector
South Africa	14 October 2011	Tariff of artificial turf (HS 9506.99.90) was increased from zero to 10%, through the provision for artificial turf under a new sub-heading, 9506.90.20
	December 2011	Preferential public procurement regime related to sectors. *A second round of preferential sectors is expected for first semester 2012*
	January 2012	Department of Trade and Industry: Special Economic Zones Bill (2011) to attract investment and promote trade, industrialisation and economic growth.
	1 March 2012	New food labelling regulation came into force (regulation R 146, which replaces R 2034 under the Foodstuffs, Cosmetics and Disinfectants Act of 1972).

	March 2012	New funding of R5.8bn over the next four years under a new incentive scheme: the Manufacturing Competitiveness Enhancement Programme (MCEP).
	Second semester 2011	New green energy funds (R25bn) to support the establishment of green industries and the new Gro-EN Scheme (R10bn) primarily geared at job creation.
South Korea	6 January 2012	MoHW comprehensive scheme for enhancing the competitiveness of pharmaceutical industry 2012. MoHW
	3 February 2012	MKE 2012 trade strategies that it will be supporting 100,000 first-time exporters and domestic firms with insufficient experience in exports
	March 2012	MKE to support the semiconductors industry in 2012 by providing financial support worth KRW 1.15 trillion for R&D investment.
	March 2012	MKE scheme investing KRW 1.821 trillion for implementation for 2012 Energy R&D Plans
Taiwan	6 December 2011	MOEA to inject US$5 million into a joint project, with a total investment of US$15 million, between Intel and the Industrial Technology Research Institute to develop next-generation DRAM technologies.
	9 December 2011	Banking industry: financial support measures to (1) extending loan periods, (2) stock borrowing, (3) extending mortgage period
	13 December 2011	MOEA to assist the local solar industry in participating international bids by setting up solar factories abroad. The potential places might be located in Middle East, Eastern Europe and Southeast Asia.
	14 December 2011	MOEA intends to help domestic LED industries in RTD by investing more than USD$ 83 million, creating more than 500 jobs.
	27 December 2011	Publication of a subsidy scheme for consumer purchasing certain "Made in Taiwan" energy saving household appliances in the period 1 January-31 March 2012.
Thailand	September 2011	Granting of tax refund to first-time car buyers for passenger cars manufactured with a small engine of less than 1,500cc and a price not exceeding Bt1mn.

Turkey	Second semester 2011	Tariff increase on certain woven fabrics and apparel products.
	November 2011	Decree law no. 663 creates a DG for Health investments within the MOH to support foreign and local investment for high-tech medical devices, products and services.
	1 January 2012	Regulation requiring certificates approved by the relevant authorities of the origin or loading country for herbal food and feeds as well as for articles and materials contacting with food to be imported by Turkey
Ukraine	12 September 2011	Programme to Develop Domestic Production under resolution n° 1130 announcing 159 industry-related projects for a total amount of UAH 349 billion.
	January 2012	Local content requirements in renewable energy in the amended Law on Electricity (#4065-VI
USA	*In preparation*	*Upcoming regulations implementing the Food Safety Modernization Act: registration of food facilities, designated agents, and inspections and re- inspections of food facilities.*
Vietnam	Second semester 2011	Circular 30 on type approval certification and declaration of conformity for IT and telecommunications products requiring equipment to be tested by designated labs located in Vietnam.
	1 January 2012	Circular 157/2011/TT-BTC: tariff increase of 108 lines and 87 products subject to export duties (mainly mineral products such as iron ores, metal scraps, and various kinds of monumental or building stones)
	In preparation	*In January 2012 preparations started for a new draft Law on Pricing. The law aims to address limitations in the 2002 Ordinance on Pricing and create a comprehensive legal framework.*

ANNEX 2

Extended, modified or prolonged restrictions, September 2011 – 1 May 2012

In italic: planned measures

Country	Date of adoption	Measure
Argentina	12 October 2011	General Resolution 3195/2011-AFIP – Updated reference values for imports of cotton fabrics
	14 October 2011	General Resolution 3198/2011-AFIP – Updated reference values for imports of iron or steel tube and pipe fittings
	20 October 2011	General Resolution 3200/2011-AFIP – Updated reference values for imports of steel tubes
	21 November 2011	General Resolution 3213/2011-AFIP – Updated reference values for imports of combs and similar
	21 November 2011	General Resolution 3215/2011-AFIP – Updated reference values for imports of blankets
	21 November 2011	General Resolution 3216/2011-AFIP – Updated reference values for imports of plywood
	5 December 2011	General Resolution 3231/2011-AFIP – Updated reference values for imports of plastic tableware
	6 December 2011	General Resolution 3229/2011-AFIP – Updated reference values for imports of suitcases, backpacks and bags
	7 December 2011	General Resolution 3228/2011-AFIP – Updated reference values for imports of baby carriages
	30 March 2012	General Resolution 3300/2012-AFIP – Updated reference values for imports of yarn
	3 April 2012	General Resolution 3296/2012-AFIP – Updated reference values for imports of denim and other cotton
	3 April 2012	General Resolution 3297/2012-AFIP – Updated reference values for imports of woven fabrics
	3 April 2012	General Resolution 3298/2012-AFIP – Updated reference values for imports of porcelain and ceramic kitchenware
	4 April 2012	General Resolution 3299/2012-AFIP – Updated reference values for imports of yarn
	9 April 2012	General Resolution 3301/2012-AFIP – Updated reference values for imports of plastic household articles
	9 April 2012	General Resolution 3302/2012-AFIP – Updated reference

		values for imports of plastic parts
Australia	19 December 2011	Victorian Coalition Government final report (VCEC inquiry) retains local content in public procurement
	In preparation	*New South Wales coalition Government review of procurement policy including local content preferences*
China	1 September 2011	Implementation provisions came into force on the establishment of a National Security Review Process by the State Council of March 2011 on a national security review process for mergers and acquisitions.
	December 2011	In December 2011, a revised Catalogue for Guidance of Foreign Investment was released - EIF 30 January 2012
Egypt	19 September 2011	Ministerial Decree 450/2008 imposing the ban on exports of rice was extended until 1 October 2011. Ministerial Decree 466/2011 prolonged until 1st of October 2012 the export ban on rice introduced by the decree 450/2008.
	January 2012	Ministerial Decree 707/2011 has extended until 12/12/2012 export duties on crude marble and granite that were raised.
India	30 December 2011	The export duty on iron ore fines and lumps (other than pellets, HS 260111 and 260112) was further raised from 20% to 30%.
	12 March 2012	Steel and Steel Products (Quality Control) Order 2012 requiring the certification of the seven steel products conform national standards.
	12 March 2012	The entry into force of the Steel and Steel Products (Quality Control) Second Order was notified to take place on 12 September 2012.
Indonesia	January 2012	Ministerial decree PMK 213/2011 kept the import duties of the selected food items at 10% (reference to Ministerial decree PMK 80/PMK.011/2011).
	January 2012	Ministry of Trade extended the decree 36/2009 on Rattan Exports that expired in August 2011 to ban again the exports of raw rattan from Jan 2012 (MoT Reg 35/2011).
	First quarter 2012	Presidential Decree 24/2012 obliges foreign holders of mining licenses to cut their stakes to 49 per cent within 10 years of starting production, from 80 per cent.

Kazakhstan	January 2012	Export of light oil products continue to be banned until 1 July 2012.Products involved are motor gasoline (2710 11 310 0-2710 11 700 0), kerosene (2710 19 210 0-2710 19 250 0) and gas oil (2710 19 410 0-2710 19 490 0) except heating oil.
Paraguay	15 December 2011	Law n° 4558 supports domestic producers through public procurement and a preference margin of 20% for local content
	22 December 2011	A new Degree has been published to extend the import licence requirement for poultry meat with 180 days.
Russia	12 March 2012	The Ministry of Economic Development's Instruction No 120: a large number preferences for domestic producers in public procurement remained intact.
	April 2012	An elevated rate of the export duty on petrol will remain in place in 2012. In April the rate of export duty on petrol is $414.6 per tonne
	In preparation	*Ministry of Economic Development (MED) proposed to introduce a 10% import duty on computers, computer monitors and notebook computers, while imported computer components will not be subject to import duties. No decisions have been made yet.*
South Africa	*December 2011*	*New code of conduct issues for consultation on firm-level procurement (including local content), ownership employment equity rules Regulations rules entered into force, aligning procurement principles with the Black Economic Empowerment Act of 2003.*
South Korea	December 2011	Korean National Assembly passed a revision bill of the Distribution Industry Development Act (DIDA), under which local governments can impose restrictive measures against large retailers as regards the operation hours and the compulsory closing days of the stores.
Turkey	January 2012	*The 2009 Decree on Industrial Incentive Schemes is to be amended with an increased scope*
USA	Second semester 2011	Foreign ownership of US airlines: the US Code 40102 establishes that 75% of the voting rights in a US carrier must be owned by persons who are citizens of the United States. The provision was reauthorized under Public Law No: 112-95 without changed provisions.
	First semester	*The current Senate Transportation legislation that is being*

	2012	*negotiated may contain a "Buy-America" amendment. The legislation has not been finalized and so formal amendments have not been formally been enacted into law.*
	Second semester 2011	*The draft 'Textile and Enforcement Security Act' has been introduced in the Congress, seeking to strengthen customs controls on imported textiles and clothing to prevent fraud. An identical bill was introduced in the Senate, S 1683. Both bills are still in the legislative process.*
	Second semester 2011	*A draft bill (H.R.3157) was re- introduced in Congress to amend the Internal Revenue Code (the Neal Bill). A similar bill was introduced by Congressman Doggett Lloyd, H.R. 64on the reduction of tax withholding. To date, both bills have not advanced in the legislative process.*
Vietnam	20 October 2011	MOIT issued Circular 32/2011/TT-BCT to amend the Circular 24/2010/TT-BCT. Revision is that all commodities in the Annex 1 are subject to automatic licensing requirement

ANNEX 3

Lifted/ terminated restrictions[15], September 2011 – 1 May 2012

Country	Date of adoption / entry into force	Measure description
Argentina	1 January 2012	Decree 1192/2010 of 28 September 2010, adopting MERCOSUR Decision 25/2009 which temporarily increased import taxes on dairy products up to 28%, until 31 December 2011.
	2011	Resolution 1243/2011 introduced an export tax of 1% applied to a set of fish products, which is a decrease from 10% to 2.5% and 1%.
China	April 2012	NDRC informed on 12 April that it had postponed sine die a draft on Provisional measures for the administration of implantable medical consumables prices.
Egypt	February 2012	Customs import duties on sugar were exempted by Ministerial Decree 165/2012 until 31.12.2012.
Indonesia	June 2011	Supreme Court issued Supreme Court Decision No. 19P/HUM/2011 dated 20 June 2011 which revokes Article 1 (3) and Article 2 (1) of MoT Regulation No. 39/2010. The articles stipulate that a manufacturer can import finished products to support the company's development.
Kazakhstan	27 January 2012	The government of Kazakhstan has established a quota for the duty-free imports of cane sugar with no artificial flavours or colours in 2012. The regulation allows the import of 434,737 tons of raw cane sugar and entered into effect on 27 January 2012.
Russia	25 January 2012	The CU Commission adopted the decision N 917 from 25 January 2012 extending an application of import duties on certain types of paper and cardboard starting from 22 February 2012.
South Korea	2012	Two SME support programmes expired
Ukraine	1 January 2012	The export ban on grain, introduced in 2010, was replaced with an export duty since 1 July 2011 for wheat, meslin and emmer wheat expired.

[15] Previously reported draft measures are included.

USA	June 2011	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 and has been extended for the period July 2010 – June 2011.
	31 December 2011	The Volumetric Ethanol Excise Tax Credit, Small Ethanol Producer Credit, Biodiesel Tax Credit, Small Agri-Biodiesel Producer Credit and Renewable Diesel Tax Credit, administrated by IRC, expired in December 31, 2011.
	31 December 2012	*The Credit for Production of Cellulosic Biofuel and Special Depreciation Allowance for Cellulosic Biofuel Plant Property, administrated by IRC, are expected to expire in December 31, 2012.*
	31 December 2012	*Bio refinery Assistance and Repowering Assistance, which offers grants to bio refineries that use renewable biomass to reduce or eliminate fossil fuel use, administrated by the Rural Business-Cooperative Service (RBS) are expected to expire at the end of FY2012.*
	31 December 2012	*Bioenergy Program for Advanced Biofuels administrated by the Rural Business-Cooperative Service (RBS), which provides payments to producers to support and expand production of advanced biofuels, is expected to expire at the end of FY2012.*

ANNEX 4

Potentially trade restrictive measures adopted or planned in the context of the economic crisis, since October 2008

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I. BORDER BARRIERS[16]

Algeria:

- On 30 November 2008, Algeria introduced measures restricting imports of a certain number of products such as drugs allegedly in order to protect the local pharmaceutical industry. Accordingly, a foreign-manufactured medicine cannot be imported if the same medicine is produced by at least three manufacturers in Algeria in quantities satisfying the market demand. A new order of 8 May 2011 modifies the original regulation which introduced a de facto import ban on pharmaceutical products. The list of drugs banned for imports in Algeria, as established in November 2008, initially included 358 products of all categories, resulting in repetitive market deficiencies since the ban was enforced. 59 new products were added to the list, while 160 were removed from the original list. 257 types of medicine remain formally banned from importation.

- 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").

- **Publication of a negative list with 1260 products, in the context of the Arabic Free Trade Area (ZALE), excluded from import benefits for the coming 3-4 years.**

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.

[16] Measures <u>reported</u> since September 2011 are marked in **bold,** measures in preparation are in ***italic.***

- In December 2008 the Government announced that it would increase the use of non-automatic licenses for sensitive sectors (footwear, textiles, etc.) and in January 2009, licenses (the so-called "Certificado de Importación" or CIN) for imports of tyres.

- In February 2009, the Government updated the list of merchandise subject to automatic import licenses (LAPI) in which it included, for example, aluminium bars.

- On 4 March 2009, through Resolution 61/2009, Argentina extended the coverage of import licenses to 200 new product lines. Non-traditional sensitive goods (air conditioners, furniture, machinery, etc) have been included.

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

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

- On 13 July 2009 by Resolution 251/2009 Argentina extended the list of products requiring an import licence by some 60 items, such as motor powered fans, vacuum cleaners and cotton textiles. This Resolution modifies the previous ones on import licence requirements (444/2004, 343/2007, 588/2008, 589/2008 and 61/2009).

- On 21 August 2009, through Resolution 337/2009, Argentina introduced import licences for some auto parts (5903.10.00, 5903.20.00, 5903.90.00, 6813.81.90, 6813.89.10, 8507.10.00 – those of more than 12 volts or 28mA, 8708.30.19 and 8708.93.00).

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

- Argentina reintroduced the application of import licences initially suspended on 8 September 2009 for 60 days (Resolution 61/2009). The following products are again subject to the regime: trade & advertising material (4911.10.90), pictures-designs & photographs (4911.91.00), printed matter in general (4911.99.00) and electrical transformers (8504.10.00).

- Argentina reintroduced the application of import licences initially suspended through Resolution 29/2010 regarding tyres (HS 4011). The measure is back in force.

- Between February 14 and March 9, through Resolutions 45/2011 and 77/2011, the Government of Argentina extended the application of non-automatic licenses (NALs) to a list of 178 new tariff lines (at 8-digits) including some cars, car parts, motorcycles, bicycles (and its parts), textiles, metallurgical products and some electronic products. The measure, effective since March 7, 2011 (20 days after the publication of the measure in the Official Gazette), excludes for 60 days those items already shipped before said date.

  - **Even though not formally an import licence, as from February 1 2012 Argentina imposed the obligation to submit a prior sworn importer declaration (known as 'DJAI') for every import operation before placing the purchase order abroad, through Resolution 3252/2012 issued by the tax and customs authority. Further Resolutions 1/2012-SCI and 3255/2012-AFIP defined the bodies that assess the sworn statements, set the processing period between 3 to 15 days (without clarifying the procedure to follow in case of observations) and established exceptions to the regime. Finally, through Communication A 5274 the Argentine Central Bank added the DJAI as a requirement to acquire hard currency in order to pay imports abroad.**

- <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 ceramic and metal products.
  - In April 2009, Argentina set minimum FOB prices for imports of roller chains, tableware, kitchenware and household items, cooling pumps for cars and tube and pipe fittings from China.
  - Additionally, Argentina set reference values for imports of wool products from China, South-East Asia, MERCOSUR and Latin America and for imports of brooms and brushes from China and South-East Asia.

- On 14 May 2009, by the External Note 43/2009, reference values were introduced for synthetic textiles of South Asian origin.
- On 15 May 2009 Argentina introduced reference values for imports of plastic tableware.
- On 22 May 2009 Argentina established reference value for copper wire imported from South-East Asia, Mercosur, Ecuador, Chile, Colombia and China.
- The External Note 49/2009 of 28 May 2009 introduced reference price for tyres from China and South-East Asia.
- On 3 June 2009 reference price was established for steel products imported from Chile and Mercosur countries through the External Note 54/2009.
- On 16 June 2009 Argentina introduced reference values for electrical connection terminals, implemented through the External Note 57/2009.
- On 26 June 2009 reference price was set for fibreglass imports from South-East Asia.
- On 14 July 2009 reference price was introduced for imports of crossheads from Korea, India and other South-East Asian countries through the External Note 65/2009.
- On 14 July 2009 Argentina also set reference price for brake parts and dampers by the External Note 66/2009.
- Reference price for imports of flanges from China, Hong Kong and other South-East Asian countries since 17 July 2009 were introduced through the External Note 68/2009.
- Reference price was also set for imports of footwear from China since 20 July 2009, on the basis of the External resolution 259/2009.
- The External Note 70/2009 of 5 August 2009 introduced reference price for imports of embroideries (8544.11.00) from South-east Asia, MERCOSUR, Ecuador, Chile and Colombia since 28 July 2009. .
- Reference values for imports of wire (8544.11.00) from China, Hong Kong, Korea, the Philippines, South-East Asia, MERCOSUR, Ecuador, Chile, and Colombia were implemented through External Note 76/2009 of 3 September2009.
- Reference values for imports of gloves (6116.10.00, 6116.91.00, 6116.92.00, 6116.93.00, 6116.99.00) from China, Hong Kong, Korea, the Philippines, South-East Asian countries, India, Pakistan, etc. were implemented through External Note 77/2009 of September 3, 2009.

- A minimum FOB value for imports of colorants and pigments from China and India (3204.14.00 at USD 5.36 per kg, 3204.12.10 at USD 10.56 per kg, and 3204.17.00 at USD 8.38 per kg) was implemented through Resolution 365/2009 of 10 September 2009.
- A minimum FOB value for imports of glass fibre from New Zealand (7019.39.00) of USD 1.525 (uncoated) and USD 3.28 per kg (coated) was implemented through Resolution 376/2009 of 16 September 2009.
- A minimum FOB value for imports of pneumatics tyres for bicycles (position 4011.50.00) made by HWA FONG RUBBER Company from China and Thailand at USD 2.59 per kg was implemented through Resolution 377/2009 of 19 September 2009.
- A minimum FOB value for imports of compact disks (8523.40.11) from Paraguay at USD 0.25 per unit was implemented through Resolution 393/2009 of 18 September 2009.
- Reference values were set for the import of fungicides and food grinders as of 4 November 2009.
- Reference values were set for the imports of compact discs as of 4 November 2009.
- Reference values were set for imports of motorcycle part from India, China and South-East Asia as of 4 November 2009.
- Reference values were set for imports of denims from China as of 9 November 2009.
- Reference values were set for the import of wheels and steel rims from China at USD 3.14/Kg as of 13 November 2009.
- Reference value were set for imports of glasses and parts thereof from Indian, China and South-East Asia as of 17 November 2009.
- Reference values were set for imports of wires from India, China, MERCOSUR and other Latin American countries as of 17 November 2009.
- Reference values were set for imports of strollers from China, India and South Africa as of 30 November 2009.
- Reference values were set for imports of hinges and parts thereof from China, India and South-East Asia as of 9 December 2009.
- Reference values for imports of electric water heaters from India, China and South-East Asia as of 26 February 2010.
- Reference values were set for imports of baths, shower baths, sinks and washbasins, boxes, cases, crates and similar articles of plastic, plastic seats,

plastic furniture, footwear, from Brazil, Colombia, Chile, Ecuador, Paraguay, Uruguay, India, China and South-East Asia were introduced through Resolutions 2781/2010 and 2782/2010 of 26 February 2010.

- Through Resolutions 2777/2010, 2778/2010, 2779/2010, 2780/2010, 2802/2010, 2785/2010 of 26 February 2010 reference values were set for imports of pulleys, automatic circuit breakers, dyed artificial fabrics, benzoyl peroxide, press-fasteners, buttons, tubular or bifurcated rivets from India, China and South-East Asia.

- Through Resolution 2783/2010 of 28 February 2010 reference value was set for imports of glasses from some EU Member States (Finland, Hungary, Poland, UK, Czech Republic, Romania and Sweden), Canada, US, Mexico, China and South-East Asia, Colombia, Chile, Ecuador, Paraguay.

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

- Through General Resolution 2808/2010 of 4 July 2010, 2871/2010 of 15 July 2010 and 2896/2010 of 17 August 2010 set reference values for imports of copper coil, copper pipes, copper products and boxes, cases, crates and similar articles from MERCOSUR, Chile, Colombia, Ecuador, India, China and South-East Asia.

- Through General Resolution 2870/2010 of 7 July 2010 reference values were introduced for imports of apples from MERCOSUR, Chile, Colombia and Ecuador.

- Through General Resolution 2872/2010 and 2874/2010 of 15 July 2010, and 2893 and 2895 of 17 August 2010 set reference values for imports of glasses, bags, polyester textiles and chlorodifluoromethane from India, China and South-East Asia.

- Through General Resolution 2894/2010 of 17 August 2010 reference values for imports of auto accessories (87089990) from Finland, Hungary, Poland, UK, Sweden, Romania, Russia, China, India, South-East Asia.

- Through General Resolutions 2899/2010 of 24 August 2010, 2897/2010 of 17 August 2010 and 2891/2010 of 17 August 2010 set reference values for import of blank CDs/DVDs, plates, sheets, film, foil and trip and synthetic filaments from Germany, Belgium, the Netherlands, Span, France, Italy, Japan, NAFTA countries, India, China and South-East Asia.

- Through General Resolution of 2859/2010 of 22 June 2010 set reference values for imports of yarn from India, China and South-East Asia.

- General Resolution 2931/2010- Set reference values for imports of swabs (CC 5601.10 and 5601.21) from Asian countries (08.10.2010)

- General Resolution 2932/2010- Set reference values for imports of tyres (CC 4011.61) from Asian countries (08.10.2010)

- General Resolution 2951/2010- Set reference values for imports of plastic nets (CC 3926.90) from Latin American, European and Asian countries (02.11.2010)

- General Resolution 2952/2010- Set reference values for imports of a plastic material (polyethylene terephthalate, CC 3907.60) from Asian countries (02.11.2010)

- General Resolution 2953/2010- Set reference values for imports of musical instrument parts (CC 9209.92) from Asian countries (02.11.2010)

- General Resolution 2970/2010- Set reference values for imports of staple fabric fibres (CC 5516.21, 5516.22, 5516.23 and 5516.24) from Asian countries (26.11.2010)

- General Resolution 2978/2010- Set reference values for imports of certain metal accessories (CC 8104.90) from Asian countries (03.12.2010)

- General Resolution 2979/2010- Set reference values for imports of drinking glasses (CC 7013.28) from European, Asian, Latin American and other countries (03.12.2010)

- General Resolution 2993/2010- Set reference values for imports of certain fabrics (CC 6001.10) from Asian countries (14.12.2010)

- General Resolution 2994/2010- Set reference values for imports of ceramic tableware (CC 6912.00) from European, Asian, Latin American and North American countries (15.12.2010)

- General Resolution 2995/2010- Set reference values for imports of certain fabrics (CC 6006.21, 6006.22, 6006.23 and 6006.24) from Asian countries (15.12.2010)

- General Resolution 2998/2010- Set reference values for imports of certain fabrics (CC 6005.31, 6005.32, 6005.33, 6005.34, 6005.41, 6005.42, 6005.43 and 6005.44) from Asian countries (31.12.2010)

- General Resolution 2999/2010- Set reference values for imports of certain fabrics (CC 5407.91, 5407.92, 5407.93 and 5407.94) from Asian countries (31.12.2010)

- General Resolution 3025/2011 – Set reference values for imports of glasses (9001.40.00) from 9001.50.00) from China, India and South East Asia (27.01.2011).

- General Resolution 3026/2011 – Set reference values for imports of zippers (9607.1.00 and 9607.20.00) from Asia and South America (27.01.2011).

- General Resolution 3024/2011 – Set reference values for imports of laminated rubber and rubber carpets (4008.21.00 and 4016.91.00) from China, India and South East Asia (27.01.2011).

- General Resolution 3040/2011 – Set reference prices for imports of vinyl chloride polymers (3916.20.00) from South America, some EU member states and Asia (11.02.2011)

- General Resolution 3041/2011 – Set reference prices for imports of rivets and buttons (8308.20.00 and 9606.10.00) from Asia (11.02.2011).

- General Resolution 3042/2011 - Set reference prices for imports of hats (6505.90.00 and 6506.91.00) from Asia (11.02.2011)

- General Resolution 3051/2011 - Set reference prices for imports of graphic equalisers (8543.70.99) from Asia (24.02.2011)

- General Resolution 3057/2011 - Set reference prices for imports of water and juice sprinklers (8418.69.31) from Asia (03.03.2011)

- General Resolution 3070/2011 – Set reference values for imports of fibre glass fabrics (CC 7019.52.90) from China, India and South East Asia (18.03.2011).

- General resolution 3106/2011–AFIP – sets reference values for imports of certain woven fabrics (CC 5516.14) from Asian countries (16 May 2011).

- General Resolution 3107/2011–AFIP – sets reference values for imports of coated paper and paperboard (CC 4810.13 and 4810.19) from the EU, Russia, North America, South Africa and several Asian countries (16 May 2011).

- General Resolution 3108/2011-AFIP – sets reference values for imports of certain woven fabrics (CC 5515.21) from Asian countries (16 May 2011).

- General Resolution 3121/2011-AFIP – sets reference values for imports of certain cotton fabrics (CC 5209.29, 5209.51, 5209.52 and 5209.59) from Finland, Hungary, Norway, Poland, UK, Czech Republic, Romania, Sweden, Switzerland, South Africa, and other Latin American and Asian countries (8 June 2011).

- General Resolution 3122/2011-AFIP – sets reference values for imports of transmission shafts (CC 8483.10) from Asian countries (8 June 2011).
- General Resolution 3141/2011-AFIP – sets reference values for imports of cotton textiles (CC 5205.11.00, 5205.12.00, etc) from Poland, Romania, Czech Republic and Asian and South American countries (4 July 2011).
- General Resolution 3142/2011-AFIP – sets reference values for imports of glasses (CC9003.11, 9003.19, 9004.10 and 9004.90.10) from Asian countries (4 July 2011).
- General Resolution 3143/2011-AFIP – sets reference values for imports of alarms (CC 8531.10.90, 8531.90 and 8536.41) from Asian countries (4 July 2011).
- General Resolution 3153/2011-AFIP – sets reference values for imports of leather bags (CC 4201.22.10, 4201.22.20 and 4201.29.00) from Asian countries (22 July 2011).
- General Resolution 3154/2011-AFIP – sets references values for imports of plates, sheets and strip of polymers of vinyl chloride and polyurethane (22 July 2011).
- General Resolution 3155/2011-AFIP – sets reference values for imports of toys (CC 9503.00) from Asian countries (22 July 2011).
- General Resolution 3156/2011-AFIP – sets reference values for imports of nylon textiles (CC 5407.42.00) from Asian countries (22 July 2011).
- General Resolution 3157/2011-AFIP – sets reference values for imports of conveyor belts (CC 4010.12.00) from Asian countries (22 July 2011).
- General Resolution 3158/2011-AFIP – sets reference values for imports of polyester textiles (CC 5402.33.00) from Asian countries (22 July 2011).
- General Resolution 3159/2011-AFIP – sets reference values for imports of glasses (CC 9001.50.00) from Asian countries (4 August 2011).
- **General Resolution 3195/2011-AFIP – Updated reference values for imports of cotton fabrics (CC 5208.11, 5208.12, 5208.21, 5208.22, 5208.31,**

5208.32, 5208.33, 5208.39, 5208.42, 5208.51, 5208.52, 5208.59) from Latin American, Asian, European countries and other origins (12.10.2011)

- **General Resolution 3198/2011-AFIP – Updated reference values for imports of iron or steel tube and pipe fittings (CC 7307.19, 7307.93) from Asian, European countries and other origins (14.10.2011)**
- **General Resolution 3200/2011-AFIP – Updated reference values for imports of steel tubes (CC 7306.40, 7306.61, 7306.69, 7306.90) from North and Latin American, Asian, European countries and other origins (20.10.2011)**
- **General Resolution 3203/2011-AFIP – Set reference values for imports of machinery for the preparation of meat or poultry (CC 8438.50) from Asian countries (25.10.2011)**
- **General Resolution 3213/2011-AFIP – Updated reference values for imports of combs and similar articles (CC 9615.11) from Asian countries (21.11.2011)**
- **General Resolution 3214/2011-AFIP – Set reference values for imports of plastic and metal boxes and cases (CC 3926.90, 7326.90, 7616.99) from Asian countries (21.11.2011)**
- **General Resolution 3215/2011-AFIP – Updated reference values for imports of blankets (CC 6301.40) from Asian countries (21.11.2011)**
- **General Resolution 3216/2011-AFIP – Updated reference values for imports of plywood (CC 4409.10, 4409.21, 4409.29, 4411.92, 4412.31, 4412.32, 4412.39) from South American and Asian countries (21.11.2011)**
- **General Resolution 3217/2011-AFIP – Set reference values for imports of metal mountings and fittings (CC 8302.41, 8302.42, 8302.49) from Asian countries (21.11.2011)**
- **General Resolution 3231/2011-AFIP – Updated reference values for imports of plastic tableware (CC 3924.10) from Latin American, Asian and certain EU countries, Mexico, Canada and the U.S. (05.12.2011)**
- **General Resolution 3229/2011-AFIP – Updated reference values for imports of suitcases, backpacks and bags (CC 4202.12, 4202.32, 4202.92, 4202.99) from Asian countries (06.12.2011)**
- **General Resolution 3230/2011-AFIP – Set reference values for imports of plastic bottle caps (CC 3923.50) from the U.S., Canada and Mexico (06.12.2011)**
- **General Resolution 3227/2011-AFIP – Set reference values for imports of certain fabrics (CC 5802.19) from Latin American countries (07.12.2011)**

- **General Resolution 3228/2011-AFIP – Updated reference values for imports of baby carriages (CC 8715.00) from Asian countries (07.12.2011)**
- **General Resolution 3266/2012-AFIP – Set reference values for imports of water balloons (CC 9505.90) from Asian and Latin American countries (09.02.2012)**
- **General Resolution 3267/2012-AFIP – Set reference values for imports of yarn (CC 5402.48) from Asian and North American countries (09.02.2012)**
- **General Resolution 3300/2012-AFIP – Updated reference values for imports of yarn (CC 5509.21, 5509.22) from Asian countries (30.03.2012)**
- **General Resolution 3296/2012-AFIP – Updated reference values for imports of denim and other cotton fabrics (CC 5211.12, 5211.20, 5211.32, 5211.39, 5211.42, 5211.43) from Latin American, Asian, European countries and South Africa (03.04.2012)**
- **General Resolution 3297/2012-AFIP – Updated reference values for imports of woven fabrics (CC 5212.11, 5512.19) from Asian countries (03.04.2012)**
- **General Resolution 3298/2012-AFIP – Updated reference values for imports of porcelain and ceramic kitchenware (CC 6911.10, 6911.90, 6912.00) from Latin American, European, North American and Asian countries (03.04.2012)**
- **General Resolution 3299/2012-AFIP – Updated reference values for imports of yarn (CC 5510.11, 5510.30, 5510.90) from Latin American and Asian countries (04.04.2012)**
- **General Resolution 3301/2012-AFIP – Updated reference values for imports of plastic household articles (CC 3924.90) from Latin American, European, North American and Asian countries (09.04.2012)**
- **General Resolution 3302/2012-AFIP – Updated reference values for imports of plastic parts (CC 3926.90) from Asian countries (09.04.2012)**

<u>Tariff increases</u>

- o 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).

- o 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.

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

- o 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.

- Decree 2112/2010-PEN of 31 December 2010 – Reintroduced the prohibition to import used garments (CC 6309.00) for a period of five years.

- **Resolution 9/2012-MEyFP and 4/2012-SIC appointed the competent authority to manage the newly-created register of producers, distributors and traders of wood pulp and newsprint paper, who will need to report the import and export operations as from 1 February 2012.**

- ***Following the Member States' decision at last MERCOSUR Summit in December 2011, Argentina is working on the draft of 100 additional exceptions to the Common External Tariff. The proposal, which has already been discussed by the Ministry of Industry and local business chambers, is expected to be submitted to MERCOSUR partners during April 2012.***

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%)[17].

- Brazilian government raised on 26 August 2009 the import duty on lauryl alcohol and stearyl alcohol, which are used in the production of cosmetics, from 2 to 14% (bound WTO tariff is 35%).
- On 14 December 2010, Brazil increased tariffs for tools for pressing, stamping or punching (HS 8207, from 14% to 25%), moulds for metal or metal carbides for injection or compression types (HS 8480, from 14% to 30%).
- On 27 December 2010, Brazil increased import tariffs for toys (HS 9503) from 20 to 35%.
- On 17 February 2011, Brazil increased tariffs on other amino-resins (HS 3909, from 14 to 20%).
- On 1 March 2011, Brazil increased tariffs for moulds for rubber or plastics for injection or compression types (HS 8480, from 14 to 30%).
- On 12 May 2011, Brazil introduced non automatic import licences on automobiles and auto parts. In accordance with the WTO import licensing agreement, licenses are applicable *erga omnes* and are intended to be issued within the mandatory 60 day period.
- *In its Programme Brasil Maior announced on 2 August, Brazil announced the proposal, to be submitted to its Mercosur partners, to raise the number of products in the list of exceptions to the TEC (Common external tariff) from 100 to 200.*
- Brazil has tightened its procedures for imports of textiles and clothing. This is part of an operation defined as "Panos Quentes III" (warm cloth III), which foresees stricter customs controls. Textiles and clothing imports are now passing through the grey and red customs procedures, which means that goods are subject to physical inspection and samples can be subject to tests in laboratories. As a result, time for imports to be liberated could take as long as 90 days (+ 90 additional days if need be). Additionally, a higher number of certificates being requested by customs authorities. It is a response to alleged fraud in declarations of origin, mainly in the context of triangular trade

[17] According to the UN Comtrade.

practices denounced by industry. *The same procedures are likely to be extended to other sectors in the future.*

- On 6 September 2011, Brazil included ceramic tiles in the list of exceptions to the Mercosur Common External Tariff (extension of the list of exceptions was announced as part of the Plano Brasil Maior), and increased the applicable duty for imports from 12 to 35% (HS 6907).

- **On December 12, 2011 Brazil extended both the main and additional 100 tariff lines exceptions to the Mercosur Common External Tariff (CET) until December, 31 2015. At the Mercosur summit in December 2011, Brazil was allowed to increase import duty rates to a maximum of 35 percent on other 100 tariff lines. The increased duties went into effect in January 2012 and will remain in effect through the end of 2012, with the possibility of an extension until December 2015.**

- **December 29, 2011 Brazil the import duty rate of 35 percent applying on toys (HS 9503) through December 31, 2012.**

- **On 15 September 2011 Brazil announced the introduction of a 30% tax increase on automotive products exempting products with more than 65% local content and enough local production processes as well as products from Mercosur and Mexico until the end of December 2012.**

- **New PRS 72/10 approved by the Senate last April 24, 2012, sets a single rate of 4 per cent in the ICMS applicable to imported products State intermediate transactions. Domestic industry would not pay this surcharge. It shall enter into force on the 1.1.2013.**

- **New intervention by INMETRO in non-automatic licensing and inspection of imported products, with creation of new taxes on imports. From safety, intervention is extended to health and protection of the environment and the prevention of fraudulent commercial practices. So, new body in non-automatic licensing, a new inspection in border and new rate to pay for these new services are added.**

China:

- The Ministry of Finance released the Circular on Suspending the Policy of Tariff Reduction and Exemption on Imported Taxable Products in the Trade Remedy Measures. It entered into force on 1 May 2009.

Ecuador:

- The Government's Executive Decree 367 introduced, from 1 June 2010, new tariffs for footwear, 10% ad valorem and a specific tariff of 6 USD. Executive Decree No. 372, in force since 1 June 2010, set the tariff on clothing and textiles at 10% ad valorem plus a specific tariff of USD 5.50/kg.

- COMEX Resolucion no. 17 of 2 August 2011, modified with Resolucion no. 24 introduced a system of non-automatic licences for importation of products such as mobile phones, vehicles and tires, with the aim of restricting imports to protect national industry. There are indications that the objective of the licence is to limit imports of certain products by as much as 20%.

Egypt:

- **In October 2011, Egypt banned imports of cotton "until the local production is sold". The import ban was lifted in March 2012. Egypt also imposed a 3.33 EGP/kg safeguard fee on cotton yarn (Ministerial Decree 736 from 26.12.2011), as well as a safeguard fee amounting to 10% of the (CIF) value (but no less than 3.33 EGP/kg) on cotton and mixed cotton fabrics imports (HS 52.08, 52.09, 52.10, 52.11, 54.07, 54.08, 55.12, 55.13, 55.14, 55.15, 55.16) by virtue of the Ministerial Decree 116/2012. Both safeguard fees are set to be temporary (in place for 200 days).**
- **Ministerial Decrees 626 and 660 from November 2011 imposed additional requirements on imports of textiles, clothing, leather, footwear and bags, namely an inspection certificate to guarantee conformity with the Egyptian standards (mostly aligned to the EU ones), delivered either by a EU or international body, or by the Egyptian competent authority for imports and exports controls (GOIEC). The application of the measure has been postponed until mid-June 2012.**

India:

- India is increasingly using import licences at the discretion of the authorities to limit imports of sensitive products. On 21 and 24 November 2008, less than one week after the G20 declaration on standstill, several products were moved from the “free” to the “restricted” list of imports involving import licences. Steel products were also put on the list of restricted imports, for which an import licence is requested. The experience – especially in the tyres sector - shows that the licensing system is not automatic: it involves delays; authorised quantities can be lower than requested; and the granting of licences is limited to actual users. Meanwhile, India moved work clothing and other worn articles to the restricted list on 19 May 2010 through Notification 43/2009-14. It emerges that six items still remain in the restricted list: electrical energy, medium density boards (3), elastomeric and worn clothing and other worn articles.
- Through Notification 09/2009-2014 dated 10 September 2009 India moved electrical energy (2716 00 00) to the restricted list. In this case, import licence would be issued by the DGFT in consultation with the Ministry of External Affairs, Ministry of Power and Department of Power. However, imports for Special Economic Zones (SEZs) would be 'free'.

- On 24 March 2011, India adopted a new definition for Completely Knocked Down (CKD) kit (HS 8703) which resulted in an increase of import duties from 10% to 30% for pre-assembled engines, gearboxes and transmission mechanism.

- **On 5 March 2012 India imposed an export ban on cotton, which was lifted on 12 March 2012. Exporters however remained under the obligation to register their export contracts with the Directorate General of Foreign Trade (DGFT, part of the Commerce Ministry). The notification lifting the export ban also stated that the issuance of new registration certificates (which are required for the export) "stands suspended until further orders".** ***Update: on 9 April 2012 an informal Group of Ministers chaired by Finance Minister Mukherjee decided that the Government will in fact not accept fresh export contract registrations, but will allow pending exports on the basis of those contracts for which registration requests had been made before 5 March. Therefore, and in practical terms, the export ban effectively turned into an export quota.***

- **On 16 March 2012, the draft Union budget has been presented to the Parliament by Finance Minister Pranab Mukherjee. The budgetary proposals included the following tariff increases:**

  - **The concessional rate of 5% of basic customs duty was extended to six life saving drugs/vaccines and their bulk drugs used in the manufactures of said drugs.**

  - **The basic customs duty on flat-rolled products of non-alloy steel whether or not clad, plated or coated falling in headings 7208, 7209, 7210,7211 and 7212 was increased from 5% to 7.5%**

  - **The basic customs duty on Completely Build Units (CBUs) of motor vehicles (cars) falling under HS 8703 with FOB value of more than US$ 40,000 and with engine capacity of more than 3000cc for petrol-run vehicles and more than 2500cc for diesel-run vehicles was increased from 60% to 75%.[18]**

  - **The basic customs duty on bicycles in fully built condition as well as in form of CKD/SKD (Semi Knocked Down) kits was increased from 10% to 30%.**

  - **The basic customs duty on bicycle parts and components was increased from 10% to 20%.**

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

Indonesia:

- Decree 56/2008, which entered into force on 15 December 2008, imposed burdensome requirements on imports of over 500 products. Imports are subject to licenses, must undergo pre-shipment inspection and can only enter the country through six seaports and international airports. Affected sectors include clothing and textiles, electronics, toys, footwear and food and beverages. It became effective for clothing and textiles on 1 January 2009 and for other products on 1 February 2009. The economic impact for EU exporters is up to EUR 388 million, about 6.5% of EU exports to Indonesia. However, priority lane importers, including many of the large European companies, are exempted from the requirements. . 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. The decree was temporary and expired on 31 December 2010. In December 2010, decree 57/2010 was adopted prolonging the former decree 56 for two more years until 31 December 2012.

- Ministry of Trade Decree 8/2009 (08/M-DAG/PER/2009) states that 200 iron and steel products can only be imported by licensed importers and that all shipments undergo a pre-shipment inspection. The Decree 8/2009 was updated by Decree 21/2009, which reduced the amount of HS codes included in the regulation from 203 to 169 HS codes. Ministry of Trade has appointed two surveyors (PT Sucofindo and PT Surveyor Indonesia) to conduct the pre-shipment inspections. The revised Decree 21/2009 eliminates the requirement to submit Goods Import Plan in the application by an importer-producer (IP) or an importer (IL) for importation of iron and steel products (a requirement present in the Decree 8/2009). Furthermore it enlisted the industries excluded from the scope of the Decree: (i) the industries of automotive, electronics, ship building, heavy equipment and their components, (ii) importers in Priority Lane: user industry with SKVI (Industry Verification Reference Letter) through USDFS (User-Specific Duty Free Scheme), and the company owning SKVI through BM-DTP (Import Duty Paid by the Government); and (iii) contractor of Joint Operation in Oil & Gas and Mining; the operator of development of Power Plant for Public Interest; and the operator of the development of Oil and Gas downstream for Public Services. Decrees 8/2009 and 21/2009 were extended for two more years by decree 54/2010 until 31 December 2012.

- Ministry of Finance Regulation 101/2009, which entered into force on 1 June 2009, imposed a 5% duty on imported raw materials for processed milk products (milk powder and processed milk). The stated objective is to promote the milk produced by domestic dairy cattle farmers as lobbied for by the Association of Indonesian Dairy Cattle Farmers, affected by low prices on international market. The milk producers' association urges the Government to raise the import duties on dairy products further from 5%. European exporters of milk products have been reporting on the increasing difficulties with imports to Indonesia, such as delivery of a questionnaire filled by European veterinary authorities. In September 2009, also other countries such as the United States and New Zealand also received requests to complete the country and establishment approval process.

- 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).

- On 22 December 2010, Minister of Finance issued Regulation No. 241/2010, which stipulated import duties for farming products, fishery, pharmaceuticals, manufacture, agri-industry, etc. Regulation No. 241/2010 was the fourth amendment to the Regulation No. 110/2006 on Stipulation of Classification of Products and Import Duty Tariffs Imposition, which had been revised by Minister of Finance Regulation No. 80/2011 in April 2011.

- By ministerial decree PMK 80/PMK.011/2011, the government raised import duties for eight food items to 10 percent from 5 percent to “protect local downstream industries from an invasion of imports of such products". As of 1 January 2012, import duties for all of the goods would return to 5 percent**. Ministerial decree PMK 213/2011, effective January 2012, kept the import duties of the selected food items at 10%.**

- Import conditions for sugar remain unclear and restricted. Ministry of Trade decides on an annual importation quota and an annual 'importation period', when refined crystal sugar can be imported. The decision is made upon consideration whether the domestic sugar production is first fully used. In 2009, white crystallized sugar can only be imported two months after the end of sugar cane milling season and a month before the milling season begins. In 2008, the Ministry of Trade only allowed imports of sugar during 3 months instead of previously promised 6 months. Imports of sugar are only allowed for registered importers, and to become one a company needs to absorb at least 75% of sugar cane farmed in Indonesia.

- A pre-shipment inspection and reporting requirements on imports of non-hazardous waste were introduced by the Ministry of Trade Regulation nr 26/2009 of 23 June 2009 (which amends a Regulation 58/M-DAG/PER/12/2008). It entered into force on 24 September 2009. An independent surveyor appointed by the Minister would conduct inspections of non-hazardous waste at the port of entry before being admitted to the Indonesian territory.

- Regulation 40/2009 of 15 September 2009 introduced pre-shipment inspections and reporting on imports of sheet glass. All sheet glass (except for certain categories, such as samples or goods for technical research etc.) shall be technically verified in the country of origin. Furthermore, the verified containers need to be sealed and marked with labels.

- In November 2009, the Minister of Marine Affairs and Fisheries announced a ban on shrimp imports in order to protect local companies. The measure would specifically target vaname shrimps from the US. It was established in a joint Ministerial

Regulation between the Ministry of Trade and Ministry of Marine Affairs and Fisheries, No. 26/M-DAG/PER/6/2010 dated 23 June 2010. Shrimps with HS codes 0306.13.00.00 and 0306.23.30.00 are completely banned from being imported to Indonesia and all other types of shrimps can only be imported through certain ports (5) and airports (4).

- Indonesia's government has submitted a draft Trade Law to the parliament for adoption. The law presents some critical elements such as: i) authorities shall promote the use of domestic products in order to strengthen the domestic market and empower domestic products; ii) compulsory character of SNI standards is reiterated without any reference to international standards; iii) for the purpose of national interests authorities are allowed to restrict imports and exports for the national interests; and as such no reference to international commitments.

- **MoF Regulation No. 147/2011 on bonded zones removes import duties on capital goods, raw materials and intermediary goods produced in the zones. Bonded zones promoted efficient production and increased the competitiveness of local products overseas by providing incentives, such as the removal of duties levied on capital goods, intermediary goods and raw materials. The regulations would encourage producers to export their products instead of selling them at home. Effective from 1 Jan 2012.**

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

- **Ministry of Agriculture Regulations 88, 89, and 90/2011, as well as 03/2012 restrict the entry and exit points of agriculture products, implement testing at the border for fruits, vegetables and cereals, and requires pre-approval of imports from the Ministry of Agriculture. Most notably, it closes Jakarta port Tanjung Priok for horticultural imports redirecting imports to the nearest port in Surabaya forcing the supply of imported products to be distributed from there. This is likely to increase the cost of imported foods falling within this category, as well as decrease the quality due to the extended transport time. The implementation date has recently been extended to June 2012 and Ministry of Trade indicated solutions would be found for countries that adhere to health and safety standards.**

- **A new regulation requiring verification for tire importation came into effect on 1 January 2012. Minister of Trade issued Minister of Trade Regulation No. 40/MDAG/ PER/12/2011 on Verification or Technical Examination of Tire Importation ("MOT Regulation No. 40/2011") on 13 December 2011 giving the industry 18 days to adjust. The Regulation requires the verification for all imported tires under the HS Code 4011 before shipment at the country of loading. The verification shall be done by a surveyor appointed by Minister of Trade, which must fulfil the specification set forth in MOT Regulation No. 40/2011. Tire Importers who fails to comply with the regulation are imposed by revocation of Import License (API) and/or other sanctions in accordance with other laws and regulations**

- ***Draft Law on Pharmaceuticals, Medical Devices, Household Health Products and Processed Food stipulates that the importation and exportation of Pharmaceuticals, Medical Devices, and Household Health Products (instruments, materials, or combination of materials for health maintenance or care for humans, pet flea controller, households and public places) to and from the Indonesian territory shall be carried out only by a State-Owned Enterprise or by any Business Actor upon obtaining a license from the SOE Minister or by an education and/or research institutions for education and/or science. In addition, the procurement and manufacturing of Processed Food for consumption of under-five (5)-year-old children shall be conducted only by a State-Owned Enterprise or by any Business Actor upon obtaining a license from the SOE Minister.***

Kazakhstan:

- The Customs Union Commission increased the import duty on raw sugar to USD 140 per ton in August 2011. Additionally, a different scale of fees applicable to import of sugar came into force on 1 August 2011.

- **Kazakhstan has imposed temporary restrictions from 1 February 2012 until further instruction on imports of cattle from Germany, Belgium, the Netherlands and France in connection with the outbreak of Schmallenberg virus.**

- **Kazakhstan introduced for a period of three years protective duties of 19% of the customs value but no less than EUR 2.8 per Kg of absorbent cotton wool and its derivatives on the imports of some kinds of confectionery and cotton wool from September 2011.**

- **Government introduced protective duties ranging from 30 to 49% on the imports of several kinds of confectionery also for a period of three years from September 2011.**

Nigeria:

- Nigeria introduced special levies on products (2008-2010 Tariff Book) which have been traditionally included in an import prohibition list. The levies, which are labelled in the Tariff Book 'National Automotive Council Levies', range from 5% to 100% depending on the products and sectors. They are applied on imports, on top of the tariffs included in the tariff book. They do not replace import bans which continue to apply. Levies apply as of November 2009.

- The import bans on bagged and bulk cement, in force since November 2009, has been complemented by an import licence quota for bulk cement, set in August 2010 at the level of 2.5 million metric tonnes. Furthermore, an import tariff was increased to 20% for all categories of cement goods. An additional levy of 15% will also apply on the CIF price of bulk cement, thus replacing the specific duty of N500 per tonne.

- **The 20 February 2012 circular introduced extra levies on wheat, wheat flour and rice to boost use of the cassava in cassava processing**

Paraguay:

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

Russia[19]:

- 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

[19] 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.

€120 per 1 kW of engine[20]. Government Decree No. 940 extended for additional 9 months temporary tariffs on harvesters. In force since 14 November 2009, made permanent in the Customs Union's Single Customs Tariff.

- Increased import duties for cars were introduced by the Decree No. 903 of 5 December 2008, initially valid for 9 months, entered into force on 12 January 2009. The duty increases were between 5 % and, 20 % ad valorem. Changes to the specific duties represented in certain cases (specifically for trucks) an increase of up to 400%. The steepest increases were for used cars, but new cars were hit across the board. On top of this, the rouble was devalued, which made imported cars very expensive. On 9 October 2009, the Decree No. 807 prolonged the validity of the duty for a further 9 months, until June 2010. Under the Customs Union's Single Customs Tariff most of these increases were confirmed, with some exceptions**.** Since 1 July 2011, import of cars to the Customs Union territory is regulated by the Custom Union agreement of 18 June 2010, 'On order of movement of goods for personal use by individuals through the customs border of the Customs Union' which in Attachment 5 confirms these import duty increases.

- Decree No. 918 of 8 December 2008 on meat quotas reduced the EU poultry quota from 236.4 thousand tonnes to 185.8 thousand tonnes (on beef and pork, the quota was increased). Russia put a request to redistribute some of the unused frozen beef quota from the EU to other countries. New quotas have been introduced for the years 2010-2012 by the Government Decision No. 1021 of 16 December 2009 and made permanent by the Customs Union Commission. On 29 July 2011, a Government Decision was approved, envisaging a 28.5% cut for poultry and a 32% cut for pork in 2012 import quotas. The import quota for beef remains unchanged.

- New Decree No. 9 on steel of 9 January 2009, which entered into force on 14 February 2009, raised import duties for a range of rolled steel products and steel tubes (pipes, carbon long products (wire rod, merchant bars, sections), stainless flat products etc) for 9 months. The duty increase was consolidated under the Single Customs Tariff of the Customs Union.

- Increased import duties on butter and other dairy fats by 15% but not less than €0.35 per 1 kg (Decree No. 71). Government Decree No. 1018 extended a 15% import duty, but not less than €0.35/kg, on certain types of butter and dairy products (codes 0405 10 110 0, 0405 10 190 0, 0405 10 300 0, 0405 10 500 0, 0405 10 900 0, 0405 20 100 0, 0405 20 300 0, 0405 20 900 0, 0405 90 100 0, 0405 90 900 0) for an indefinite period. The duty increase was consolidated under the Single Customs Tariff of the Customs Union.

[20] 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.

- Increased duties on certain types of milk and cream by 20% (Decree No. 72). Government Decree No. 1016 extended for an indefinite period of time an import duty of 20% for a number of tariff lines corresponding to milk and condensed milk (code 0402). The duty increase was consolidated under the Single Customs Tariff of the Customs Union.

- Decree No. 179 of 14 February 2009 on seasonal duties on rice and milled products from rice. The decree introduced a seasonal duty on rice and milled products from rice at €0.16 per kg for the period from 15 February until 15 May 2009. On 2 November 2009 the Government Decree No. 881 introduced a specific duty for rice at 0.12€/kg (up from 0.07€/kg), in force since 2 December 2009. The duty increase was consolidated under the Single Customs Tariff of the Customs Union.

- Decree No. 173 from 26 February 2009 on certain types of dairy products for babies. The decree raised the import duty from 5% to 15% and took effect at the end of April 2009. The duty increase was consolidated under the Single Customs Tariff of the Customs Union.

- Increased duties on non-alloy steel bars and rods were introduced by the Government Decision No. 299 of 3 April 2009, which entered into force one month after publication. Duty rates were increased from 5% to 15% for a period of 9 months. The duty increase was consolidated under the Single Customs Tariff of the Customs Union.

- Increased duties on maize starch and manioc starch of 20%, but no less than €0.15/kg (an increase from €0.06/kg) were prolonged by the Russian Government Decision No. 328 of 15 April 2009 for a period of 9 months. The duty increase was consolidated under the Single Customs Tariff of the Customs Union for manioc starch 10% but no less than €0.15/kg. The duty increase for maize starch was not extended.

- The Government Decision of 22 April 2009 prolonged the validity of the 15% duty on radio frequency coaxial cables. The duty increase was consolidated under the Single Customs Tariff of the Customs Union.

- From 3 May 2009 a 15% import duty for asynchronous electric motors (Codes 8501 51 000 1 and 8501 52 2000 1): the import duty of 15% for each is in force since 3 May 2009. Both measures are valid for a period of 9 months. Consolidated under the Customs Union's Single Customs Tariff at the level of 10% but no less than €20/piece.

- On 8 May 2009 the temporary import tariff on magnesium scrap metal and crowbars (first introduced in November 2006) was extended for 9 months. The order maintains the tariff, which is levied at a rate of 5% against the declared value of the goods. The order came into effect on 8 June 2009. As of 8 November 2009 the duty was increased to 20% but no less than €138/tonne on certain magnesium scrap. The duty increase was consolidated under the Single Customs Tariff of the Customs Union.

- Russian Government Decree of 15 June 2009 introduced a temporary minimum import tariff on pentaerythritol. The minimum tariff payment will be 5% ad valorem but no less than €0.07 per kg. The measure is applied for 9 months. Consolidated under the Customs Union's Single Customs Tariff at 5% ad valorem (without the specific component).

- Russian Government Decree of 15 June 2009 introduced a temporary minimum import tariff on ‘other plates’, sheets, film, foil, strip of plastics, of 10% but no less than €0.35/kg. The duty increase was consolidated under the Single Customs Tariff of the Customs Union.

- Decree No. 680 of 20 August 2009 introduced temporary tariffs on cheese for a 6-month period. The Decree was in force from 20 September 2009. The tariff was set at 15% but not less than €0.5/kg. Consolidated under the Customs Union Single Customs Tariff.

- Decree No. 729 of 14 September 2009 introduced for 9 months an import duty of 15% but no less than €0.12/kg on polyvinylchloride (up from the 15% duty, without euro component). The duty is in force starting on 18 October 2009. Under the Customs Union's Single Customs Tariff the duty rate was set at 10%.

- Decree No. 730 of 14 September 2009 introduced for 9 months an import duty of 15% but no less than €0.07/kg on sodium hydrate (previously set at 15%). The duty is in force starting on 18 October 2009.

- A special duty for 3 years corrosion-resistant pipes with the outer diameter up to 426 mm inclusive (subheadings of CN 7304 and of CN 7306), at 28.1% ad valorem was introduced by Russia on 28 September 2009. The CU Commission's Decision N 706 of 22 June 2011 reduced the duty to 9.9% of customs value, but introduced a minimum threshold of USD 1,500 per 1 ton. The measure is in force until 1 November 2012, inclusive. The Ministry's of Industry and Trade Order No. 1162 of 26 August 2011 launched a repeated special safeguard investigation into imports of the corrosion-resistant pipes to the customs territory of the Customs Union.

- The Russian Government increased the import duty on snow vehicles from 5% to 10% for a period of 9 months. Consolidated under the Customs Union Single Customs Tariff.

- The Russian Government increased an import duty on ventilating equipment from 0% to 10% for the period of 9 months. Consolidated under the Customs Union Single Customs Tariff.

- The Russian Government planned to establish an import duty for polycarbonates for optical production (CN code 3907 40 00 01) of 5% until 1 January 2010, and import duty of 10% from 1 January 2010. The import duty on other polycarbonates (CN code 3907 40 00 09) was to be set at 10% ad valorem. Under the Customs Union the import duty was set at 5% ad valorem, on the basis of a Customs Union Decision No. 196 of 26 February 2010.

- Decree No. 679 of 20 August 2009, on the tariffs on aircraft spare parts, equipment/ units (also mock-cockpits), entered into force as of 21 September 2009. This confirms earlier tariffs of 2008, introduced originally for the period of 9 months. Consolidated under the Customs Union Single Customs Tariff.

- On 30 October 2009 the Russian Government Decree No. 874 introduced a 5% duty on drops for contact lenses, binding from 6 January 2010 for 9 months. Consolidated under the Customs Union Single Customs Tariff.

- On 30 October 2009 the Russian Government Decree No. 876 introduced a duty increase on propylene (methyl ethylene) terpolymer and tetramer, in force from 6 January 2010. The duty was consolidated under the Customs Union Single Customs Tariff through the Customs Union Commission Decision No.316 of 18 June 2010.

- On 16 November 2009 the Government Decree No. 932 introduced for 9 months an import tariff on natural rubber (caoutchouc). Entered into force one month after official publication. Consolidated under the Customs Union Single Customs Tariff.

- On 23 November 2009 the Russian Government Decree No. 943 adopted measures to protect Russian cutlery producers by introducing a specific safeguard duty of $1.4/kg. Decree entered into force one month after the publication for a period of 3 years. The Customs Union Commission Decision N.704 of 22 June 2011 confirms the duty on cutlery of corrosion-resistant steel under CN codes: 8211 91 300 0, 8215 20 1000 0, 8215 99 100 0. The duty is imposed for the period until 26 December 2012.

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

- In December 2009 the Government Decree No. 989 increased import tariffs for certain flat cold rolled steel from 0 to 5% (codes 7209 17 900 1 and 7209 27 900 1), effective one month after publication. Consolidated under the Customs Union Single Customs Tariff.

- As of 14 November 2009 the Government Decree No. 931 introduced for additional 9 months the duty on coaches for high speed electric trains. Consolidated under the Customs Union Single Customs Tariff.

- In February 2010, the Ministry of Industry and Trade (MIT) and the Finance Ministry undersigned a Joint Order, which toughens the rules for imports of parts and components for assembling cars (such parts and components are subject to reduced import duties of 0-5%). On top of the already envisaged agreement on car industrial assembling with the Economic Development Ministry (MED), importers will have to submit to the customs authorities a conclusion on purpose of imported parts and components. Car producers will also have to report twice a year to MED about their investment (now once a year) and provide a list of every defective part and component and their scrapping.

- On 16 April 2010 by the Customs Union Decision the import duty rate of processed cheese was raised from 15% but not less than 0.3 Euro/ Kg to 15% but not less than 0.5 Euro/kg.

- On 16 April 2010 the Customs Union took a Decision to raise the raw sugar import tariff by pegging it to New York Commodity Exchange prices, calculated on a monthly basis, rather than on the basis of the preceding 3 months. According to some experts, the measure could quadruple the current duty and reach $200 per tonne. Elevated seasonal rates of sugar import duties are imposed at different intervals according to the Government Decision N. 671 of 12 October 2007. This Decision also foresees abolition of such seasonal duty once Russia accedes to the WTO or if the price of sugar on the stock exchange exceeds 259.99 USD per tonne.
- Russia adopted the main guidelines on customs and tariff policy until 2013, which may lead to further tariff increases.
- *Russian Government is planning to introduce a 25% duty on GPS navigation equipment by 2012. All navigators for cars destined for the Russian market are expected to be equipped with GLONASS.*
- An import duty increase to 15% on plastic parts of protective spectacles is in force as per Customs Union's Commission Decision No. 314 of 18 June 2010.
- The Customs Union's Commission Decision No. 346 from 17 August 2010 increased the tariff on imports of corks and capping for bottles (codes 3923 50 100 0 and 3923 50 900 0) from 10% to 15%, but not less than €1 per kg.
- The Customs Union's Commission Decision No. 347 from 17 August 2010 increased the import tariff on used and refurbished tires (codes 4012 11, 4012 12, 4012 13, 4012 19, 4012 20) from 20%, but not less than €6.9 per tire to 20%, but not less than €20 per tire.
- A 5% import duty on certain types of agricultural machinery (CN 8428) was introduced in November 2010.
- An import duty of 10% but no less than €0.15/kg on nonwoven materials (CN 5603) was introduced.
- The previous temporary increases in the import duties on certain types of tropical oils in the Russian Customs Tariff were consolidated under the Single Customs Tariff of the Customs Union. In accordance with the Customs Union Commission Decision N. 581 of 28 January 2011, the duty for tropical oil in containers of 20,000 kg or less is set at €0.4/kg.
- On 24 March 2011, the Government's Sub-Commission for customs tariff and non-tariff regulation and protective measures in foreign trade, headed by First Deputy Prime Minister Viktor Zubkov, decided to introduce a 10% import duty on base stations for wireless networks with the ability to work in a range of carrier frequency at 2.2 GHz and apparatus for the systems of fibre-optic network working exclusively in the range 1270 – 1610 nm of the carrier wave.

- The Customs Union Commission issued a Decision No. 736 of 16 August 2011, introduced the import duty on elevators and conveyors for continuous operation of underground works (CN Code 8428 31 000 0), and barring a hydraulically driven (CN Code 8479 89 300 0) at 5%. Effective since 1 September 2011.
- The Customs Union Commission, by Decision No. 738 of 16 August 2011 established a specific duty on fluid-filled radiators (CN Code 8516 29 10 0) at EUR 5/piece. The ad valorem duty is 10%. Effective since 1 September 2011.
- The Customs Union Commission, by a Decision No. 763 of 16 August 2011, set an import duty on disc harrows (CN Code 8432 21 000 0) and 'other' (CN 8432 30 190 0), as well as on press balers (CN 8433 40 100 0) at 5%. Effective since 1 September 2011.

- **The Russian Government Decree on redistribution of import tariff quotas for beef, pork and poultry in 2012 No 1194 of 29 December 2011 (CU CN Codes: 0201, 0202; 0203; 0207 14 200 1, 0207 14 600 1; 0207 14 100 1; 0207 27 100 1) imported from the EU, US, Costa Rica and other countries.**

- **Customs Union Commission's Decision No 913 of 25 January 2012 establishes the seasonal import duty on some kinds of sugar at USD 140 per 1,000 kg for the period of 01.05.2012 – 31.07.2012, inclusive.**

- **The import tariff rate on circular carbon electrodes with a diameter not exceeding 1,000 mm (CU CN Codes 8545 11 001 0) was raised to 15% from 0% starting 01.01.2012 by the CU Commission' s Decision No 907 of 18 November 2011.**

- **The new version of the CU Single Customs Tariff comprises corrections of the import duty tariffs on some types of watches. Instead of 20% but at least €3 per piece, the duty rate of 10% but at least €10 per piece was set up for the following CU CN Codes: 9102 11 000 0, 9102 12 000 0, 9102 19 000 0, 9102 21 000 0, 9102 29 000 0, 9102 91 000 0, 9102 99 000 0. (CU Commission's Decision No 850 of 18.11. 2011)**
- **The CU Commission's Decision No 353 of 17.08.2010 added to the List of goods which are subject to ban or restrictions in CU trade with third countries the following products: fresh water fish, frozen of chilled (including filleted, dried, salted or tinneed), prepaed or preserbved crustaceans, molluscs and other aquatic invertebrates (CU CN Codes: 0303 79 110 0, 0303 79 191 0 – 0303 79 199 0 etc., 0304 19 191 0, 0305, 1604, 16 05).**
- *In early 2011, the Ministry of Economic Development (MED) proposed to introduce a 10% import duty on computers, computer monitors and notebook computers, while imported computer components will not be subject to import duties. The Ministry expects that the measure could attract to Russia the largest producers of computers*

such as Apple and Acer. ***No decisions have been made. In line with WTO norms (ITA) Russia has to abolish its import duties on high-tech products, including computers and monitors (the average rate of Russian import duties on these products is 5.4%)***

- *Russian Ministry of Economic Development (MED) proposes to increase from 5 to 15 per cent the Russian import duty on soda ash. No decision has been taken. The major suppliers of soda ash to Russia are Ukraine, Bulgaria, Turkey and Estonia.*
- **20 March 2012: Import restrictions, notably a ban on live animals (pigs, cattle, sheep, and goat) was introduced.**
- **On 18 April 2012, Russia adopted Degree N° 207 restricting border crossing points. The application is currently on hold; however this Degree would severely restrict trade between the EU and Russia for a range of products including food, chemicals and machinery equipment.**

Saudi Arabia:

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

South Africa:

- South African authorities adopted at the beginning of October 2009 an increase in import tariffs on 35 categories of imported garments headings 61 and 62 of imported garments, from 40% to 45% ad valorem). This hike remains however within the bound tariff commitments of South Africa[21].

- Through Government Notice No.1146, in force since 4 December 2009, the MFN customs duties on certain textile products (HS 6112 6201 and 6211) were increased from 22% to the WTO-bound rate of 25%.

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

- Increased customs duty on imports of calcium proportionate (HS subheading 29155030) from zero to 15% (WTO-bound rate) has been in force since 20 August 2010.

- Since 20 August 2010 an increased customs duty on imports of inorganic pigments (HS subheading 32062010) from zero to 10% has been in force.
- Through the Government Notice 1427 of 22 July 2011 a general tariff on imports of sewing thread of synthetic filament (HS 5401.10) was introduced at the level of 15% *ad valorem*.
- **Since 14 October the tariff of artificial turf (HS 9506.99.90) was increased from zero to 10%, through the provision for artificial turf under a new sub-heading, 9506.90.20**
- The MCEP in complement with already existing multiannual funding (including a distressed fund, automotive programme; clothing and textiles incentive scheme and metal fabrication investment fund) brings total funding to be disbursed until 2015 to some R100bn. In addition, tax allowances under Section 12l of the Income Tax Act are also deployed to incentivise the expansion of productive capacity in the manufacturing sector. Tax allowances worth R4.5bn have been granted over a 15-month period since the inception of the scheme in 2010. Apart from funding support, efforts are also focused on realigning government and private procurement guidelines to increase purchases of local goods; **and on-going developmental tariff reform (i.e lowering tariffs or creating rebates on intermediates to lower the cost of inputs into manufacturing and selective duty increases to protect value-added manufacturing capacity)**

Turkey:

- Turkey has introduced tariff increases on certain woven fabrics and apparel products Additional tariff rates vary by country groups excluding the EU and the FTA partners of Turkey, reaching up to 20 % and 30 % for fabrics and apparels respectively.

- **Turkey has introduced a new Regulation that requires 'certificates approved by the relevant authorities of the origin or loading country for herbal food and feeds**

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

as well as for articles and materials contacting with food to be imported by Turkey'. The Regulation entered into force on 1st January 2012. It deviates from the previous practice according to which a "declaration of compliance by the producer" was considered sufficient. According to the new regulation authorities of the exporting country are requested to provide 'the names of the official institutions which have the authority to sign such certificates' and 'samples of the certificates'. This new practice creates substantial additional work for the local Food Safety Authorities of the exporting countries. Those consignments of food contact materials exported from an EU country to Turkey, which have not been accompanied by a certificate, but only a declaration of compliance by the producer, have currently blocked in the Turkish customs.

United States:

- A 'National Dairy Promotion and Research Program was introduced on 18 March 2011, as a follow up to the 2008 Farm Bill. It introduces, inter alia, a requirement for importers to pay 7.5 cents per hundredweight of imported milk, or equivalent. The levy will be used to fund promotion and research in the dairy sector. The law is in force since 1 April 2011.
- *A draft bill by Congressman Robert Aderholt, called "Save US Manufacturing and Jobs Act" (HR 5940) called for removal of preferential trade treatment for import of certain sleeping bags, manufactured by a specific US-based company, which competes with imports from developing countries benefitting from the GSP regime. The draft law was prepared after the failure to remove sleeping bags from the list of GSP eligible products, prepared by the President Obama's administration. The bill was referred to the House Committee on Ways and Means on 29 July, 2010. Due to the November 2010 elections to the Congress, no further action on the draft was taken. A draft bill by Congressman Robert Aderholt, called the "Free and Fair Trade Act of 2011" (HR 913) calls for removal of preferential trade treatment for import of certain sleeping bags, manufactured by a specific US-based company, which competes with imports from developing countries benefitting from the GSP regime. The draft law was prepared after the failure to remove sleeping bags from the list of GSP eligible products, prepared by the President Obama's administration, before the November 2011 elections to the Congress. The bill was referred to the House Committee on Ways and Means on 14 March, 2011. The legislation differs from the previous version introduced in the last Congress. The bill now seeks the removal of preferential trade treatment for certain imported sleeping bags, but the bill also provides for a simple reauthorization for Andean Trade Preferences.* ***No congressional action has been taken on the legislation, as of March, 2012.***

- *Congressman Larry Kissel introduced HR 2754, The Textile and Enforcement Security Act, which seeks to strengthen the enforcement capacity of the US Customs and Border Patrol to detect illegal textile imports, such as fraudulent reporting, false valuation, and origin fraud. The bill seeks to develop a database of known shippers* *within the Western Hemisphere. While the legislation appears to target NAFTA, CAFTA, and Trade Preferences countries, the previous version of the legislation in the last Congress included draconian measures which would have also impacted textile imports from the European Union. The list of textiles under the US tariff schedules outlined in the legislation may impact EU exporters.* ***An identical bill was introduced in the Senate, S 1683, by Sen. Hagan Kelly*** *Both bills are still in the legislative process and would have to pass significant hurdles to be approved by both chambers. The legislation should be monitored in order to review any impact on EU businesses.* ***No congressional action has been taken on the bill, as of March, 2012.***

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. **In 5th September 2011, MOIT issued Circular 32/2011/TT-BCT to amend the Circular 24/2010/TT-BCT. This Circular 32/2011/TT-BCT entered into force as from 20th October 2011. The biggest revision under the new Circular 32/2011/TT-BCT is that all commodities[22] in the Annex 1 that was issued together with the Circular 24/2010/TT-BCT are now subject to automatic licensing requirement. There is only one exception, i.e. wire telephone sets (HS code 8517110000) and mobile phone (HS code: 8517120000) are not subject to this automatic licensing regime.** So far, no complaints have been made in this regard, as the registration procedure by the MOIT is swift. Once issued, the license is valid only for 30 days, which makes it difficult for companies to calculate when to introduce the request so that it will not expire before the goods arrive at port. The circular may result in backlogs of products at ports, additional business costs and reduced availability of goods that are important to sectors such as the tourism sector. To date, Circular 24 and 32 has not been notified to the WTO Import Licensing Committee.

- **Circular 157/2011/TT-BTC was enacted by the Ministry of Finance on 14 November 2011 and took effect from 1 January 2012. Under this Circular 157, around 945 import tariffs are cut in line with Vietnam's WTO commitments. About 108 tariffs increased by an averaging 1%-2% compared to the previous tariffs. But they remains 1%-2% lower than the bound rate in 2012. These are mainly the tariffs under the List of Goods not Encouraged to be Imported or the machineries/ equipment/ accessories or special means of transportation that can be produced domestically. This Circular also enacts a list of 87 products subject to export duties. They are mainly mineral products such as iron ores, metal scraps, and various kinds of monumental or building stones. 16 new products are added to the list of products subject to export tariffs**

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

- Decree 184/2010 entered into force on 1 January 2011, setting an import duty on gold materials (HS 8718at the level of 10%.

- An official Letter 348/TCHQ-TXNK on List of Administrated Imported Goods at Risks and (Reference) Prices was issued on 21 January 2011 by the General Department of Customs (under the aegis of the Ministry of Finance). It entered into force on 29 January 2011. This document together with an enclosed long list of commodities (4 HS digits, covering 13 categories of products) sets reference prices for imported goods and identify countries where such products are originating. Based on the reference prices, import tariffs are calculated. Under the pretext of database establishment for the fight against trade fraudulence and underpriced declaration, this measure imposes minimum import values which runs counter to the WTO rules as provided under the Customs Valuation Agreement, thus leading to the imposition of higher import duties.
- As per the above a sister measure, Official Letter 2334 was issued on 23 May 2011 and entered into force on 1 June 2011. It expands the List of Administrated Imported Goods to cover seven additional categories of products.

- Notice 197/TB-BCT on imports of wines & spirits, mobile phones and cosmetics, was issued on 6 May 2011 and entered into force on 1 June 2011. It requires that all imports of these products must enter into Vietnam only through customs clearance facilities of the three international seaports of Ho Chi Minh City, Hai Phong and Da Nang. It also introduces a requirement for additional customs documentation to be provided and an obligation to have these documents approved by the consulate of Vietnam in the exporting country. This measure, which de facto ban all import routes by road, rail, air and to seaports other than the three mentioned in the Notice, cause considerable disruption in our export patterns and major trade losses for EU exporters of these products, representing millions of Euros in value. Furthermore, obtaining additional necessary documentation and having it consulate-approved cause additional administrative burden, costs and delays.

- Circular 20/2011/TT-BCT on supplementary procedures for imports of cars with 9 seats or below was issued on 12 May 2011 and took effect on 26 June 2011. This circular in fact requires importers of motor vehicles for transport of up to nine persons to include additional customs papers (Dealer Certificate/ Paper of Trader Authorisation) to their customs dossiers. Besides, this circular requires that such papers must be approved by Vietnamese consulate in the exporting country. This measure caused additional costs and delay to importers, thus creating unnecessary uncertainty and worries among business community.

II. BEHIND THE BORDER BARRIERS

Algeria:

- 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. The law equally forbids all types of consumption credits; only credits for the purpose of purchasing real estate by individuals are allowed. The law also doubles the tax on new cars with significant engine capacity (depending on the engine type) and imposes a 0.5% tax on the turnover of mobile phone operators in Algeria (foreign investors principally). On 25 August 2010, the Loi de Finances complémentaire 2010 (LFC 2010) was approved. Certain provisions relax the strict provisions of the 2009 law.
- 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.
- A circular no. 31 of the directorate General for Customs of 5 January 2010 imposed a requirement to close disbursement accounts (regarding clearance of agency fees on entry/exit port costs of a vessel) within 90 days which restricts the clearance of fees related to maritime transport and hence restricts possibilities to import goods through maritime transport means.
- **Ministry of Health for 2012 introduced a set of new technical conditions for the importation of pharmaceuticals where moreover importers' volumes are restricted and have to provide a monthly update if the stocks in the country.**

Argentina:

- **On 5 March 2012 a provisional conformity assessment regime was approved implementing Resolution 453/2010 establishing mandatory certification of lead content in inks and printed products by sworn statement.**

Brazil:

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

In two months' time, if manufacturers fail to comply with the criteria set by the measure, they will have to pay retroactively the 30% increase of the IPI.

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.

China:

- The National Energy Administration's 'Notice on Issuing Interim Measures on Administration of Grid Connection Testing for Wind Turbine Generator Sets' was released on 1 January 2011. This specific notice immediately required all wind turbines to have a test certificate; however only local certificates were accepted, not foreign ones. Therefore, until the company was able to attain the certification, they could not join any tendering processes. This poses a serious threat to the business operations of foreign companies and threatens the healthy development of the wind industry.
- *On 27 July 2011, China issued 6 draft information security technical standards, one of which would apply to IT facilities of national government departments (information security techniques basic requirements of information security for national departments), the others applying to all facilities (e.g. testing and evaluation approaches for terminal computer systems). These standards represent a consolidation of the implementation of the Multi-Level Protection Scheme and OSCCA regulations on commercial encryption as they contain such requirements as the obligation to purchase home-grown products; the obligation to require state (national) certification an prohibition to rely on third-party certification agencies; the obligation for information technology outsourcing staff to be of Chinese nationality; the obligation to discriminate against foreign products and services by imposing specific procedures; the prohibition to set up information system data centres and business recovery centres abroad. These standards seems to be voluntary for the time being; however, in the past China followed the practice of developing mandatory technical requirements on the basis of existing voluntary standards.*
- **Cosmetics with new ingredients: In June 2011, China had notified to the WTO TBT Committee a set of guidelines on the "requirements for application and evaluation of new ingredients" (notification G/TBT/N/CHN/821). Entering in force 1 July 2011. As a consequence of this measure, there is a complete standstill of approvals by the State Food and Drug Administration of China (SFDA) for cosmetic products containing new ingredients. This trade interruption is extremely disconcerting for a fast moving product sector that is driven by**

constant innovation. In March 2012, the situation seemed to ease somewhat since SFDA announced for the first time in 2 years that 2 new ingredients have just been approved.

- ***Reclassification of cosmetics: On 21 February 2012, the SFDA has issued a call for comments by the industry on a draft Regulation concerning the "Classification of non-special cosmetics". The purpose of this draft regulation is to move imported non-special products from a pre-market registration to a notification regime, and also to reclassify a considerable number of product categories from 'non-special' to 'special' products which are subject to pre-market registration. At the moment there are only nine categories of cosmetics that are considered "special", but with the proposed reclassification, an additional 13 product categories will be added to the "special" cosmetics category. According to an initial assessment, 60-70 % of all non-special products could become special cosmetics under this proposal and thereby move to an increased registration procedure. The criteria used by SFDA to define these new 'special cosmetics' are not transparent and result in product categorizations that are different to those applied internationally (e.g. lip and eye makeup products are nowhere else in the world considered as posing a safety risk that would justify a status of 'special cosmetic'***

Ecuador:

- A resolution 019-2008 of CONCAL (Consejo de la Calidad, CONCAL) introduced a technical regulation on ceramic tiles (RTE INEN 33), yet its application was subsequently restricted on request of Consejo de Comercio Exterior e Inversiones (COMEXI, Resolucion 601 of 30 December 2010). Accordingly, Resolucion 18-2010 of CONCAL of 19 January 2011 foresees that imported tiles need to present conformity certificates as isseus by bodies accredited to Ecuadorian Organismo de Acreditacion in the country of origin, or issued at destination. The certificate is valid for 90 days.
- **The official registry No. 583 of the 24 November 2011 set a reform to the Reform Law on Internal Taxation and on Tax Equity in Ecuador that establishes that imports have to pay a 5% tax, instead of previous 2% on USD outflow (article 19 of the official registry). However, the exceptions contained in the previous reformed Law on Internal Taxation and on Tax Equity remain the same: external financed payments under the conditions established in the "Production Code"; Ecuadorian citizens and foreigners who leave the country with a transcription of an income tax' basic fraction. Transfers abroad up to 1000 USD; Tax credits for imported raw materials, capital goods and inputs for production. In the Law, imports are now considered as taxable acts (Article 6, Title II).**

India:

- In September 2008 the Ministry of Steel issued two 'Orders' which stipulate mandatory compliance for 17 steel products with new national standards and certification by the Bureau of Indian Standards (BIS). In February 2009 the Ministry of Steel notified that the second of the two 'Orders' – concerning 11 out of 17 products - will not be implemented before 12 February 2010. Out of these eleven, three items would not need any certification at all. However, the deferral of the implementation only offers an opportunity for the industry to get accustomed with BIS standards. The scope of the measures has been reduced as India continues to apply mandatory certification requirements on 7 steel products (plain hard-drawn steel wire for pre-stressed concrete; plain hard-drawn steel wire for pre-stressed concrete; indented wire for pre-stressed concrete; uncoated stress relieved strand for pre-stressed concrete; fusion bonded epoxy coated reinforcing bars; uncoated stress relieved low relaxation seven ply strand for pre stressed concrete; and galvanised steel sheets). On 24 June 2011, India adopted the Steel and Steel Products (Quality Control) Second Order 2011. Of the 11 products in the 2009 Order, India has taken 9 products in the new Order. Of the remaining two, one (277) is already under mandatory certification and the other (1993) had been dropped. Implementation will be effective after six months from the date of publication. **On 12 March 2012 the Steel and Steel Products (Quality Control) Order 2012 entered into force, requiring the certification of the seven steel products which were already listed in the Steel and Steel Products quality order 2008 conform national steel standards. On the same day, the entry into force of the Steel and Steel Products (Quality Control) Second Order was also notified to take place on 12 September 2012.**

- *Through an Order of 11 May 2010, the application of mandatory certification for tires was deferred by another 180 days. On 9 November 2010, India proposed another order, which further postponed the application of mandatory certification requirements for tires by another 180 days. Unless India decides to do away with the issue of mandatory certification, the measure was expected to come into force on 13 May 2011. In the meantime, the Indian Tyre Manufacturers' Association launched a legal proceeding against the measure), pending the outcome of which the application of the requirements has been suspended.*

Indonesia:

- Ministry of Industry introduced mandatory standards and certification for a number of iron and steel products[23]. The two draft decrees were notified under the WTO TBT Agreement and were adopted in 2009-2010, respectively[24]. For iron and steel, the requirement started to be enforced in May and July 2009. Since then national standards have been established for many products, including primary batteries, special safety shoes, gas stoves, rubber hoses, motorbike helmets, LPG steel cylinders, urea fertilisers, wheat flour, cocoa powder, electric cables, refined crystallised sugar, water pumps, ceramic floor tiles, ceramic tableware, water tanks, totalizing water meters, vehicles rim, steel wire of pre-stressed concrete for concrete construction, steel

[23] Mainly hot rolled sheet, coil steel, hot rolled sheet, coil steel for gas cylinder, zinc aluminium - coated sheet and coil steel.

[24] Notifications G/TBT/N/IDN/23 and G/TBT/N/IDN/24.

wire rope, profile steels, electrolysis tin coated thin steel sheets, rubber seals for LPG steel cylinder valve, and black malleable cast iron threaded pipe fittings**. *In December 2011 there were 86 obligatory SNIs. The National Standardization Agency (BSN) said that the agency would issue 40 new obligatory standards in 2012 covering steel, ceramics, and textile products.***

- Increased costs and delays for European tyre exports to Indonesia. Ministry of Industry / Indonesian National Standards Agency (SNI) began to require on-site inspections of tyre manufacturing plants in Europe for allowing tyre exports from these factories to Indonesia. Ministry of Industry recently indicated that it would join the international standard UN-ECE for tyres in 2011 or early 2012. This is supported by an EU-funded technical assistance project that began in October 2009 and will be continued under EU-ASEAN cooperation programmes**. Ministry of Trade Regulation 40/2011 and 03/2012 require a pre-shipment inspection of tires to be imported into Indonesia by Indonesian inspectors and the implementation of national standards. A delay of implementation has been agreed to accommodate immediate trade concerns and allow for adjustment time of three to six months.**
- 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. As of 1 January 2011 only Indonesian vessels have the right to transport passengers and cargo within the country. Government Regulation No. 22 of 2011 was adopted in April 2011 to amend Government Regulation No. 20 of 2010 on Water Transport so as to exempt upstream oil and gas vessels from the cabotage rule of Law No. 17 of 2008 on Shipping (reduction in scope for Law No. 17).
- The Trade Ministry Decree 62/2009 obliging companies to put a label using Bahasa Indonesia to certain goods prior to importation has been implemented more vigorously since June 2010. The accelerated implementation concerns electronics, footwear, telecom equipment, household equipment, and motor vehicle spare parts). On 1 September 2010 the Decree was enforced for new products and in April 2011 for existing products. Goods affected include clothes, footwear, electronic and telecommunication equipment, spare parts for motor vehicles, construction material, lamps, photocopy machines. The label needs to contain information about the safety, health and environment aspects as well as the means of use and detail usage specification and warnings. It shall also include the name and address of the importer, for the imported products. Discussions are ongoing on allowing stickering following import, but before marketing. It seems that, depending on the products, stickering could be allowed.
- **On 08/11/2011 Indonesia notified the WTO of the new BPOM's regulation regarding Cosmetic Import Control (G/TBT/N/IDN/51), which was issued in 20 April 2011. The required notification of every shipment of cosmetics imports causes concern to some companies as under the new regulation all documents, e.g. invoice etc will have to carry exactly the same product details as the product**

registration. In addition, the article 5 point (2) of the regulation requires a Certificate of Analysis (results of the quality control done by the manufacturer) to receive the Import License. This requirement is valid for every shipment and every batch of product and generates additional costs and lead-time.

- From August - September 2008 the Indonesian Food and Drug Regulatory Agency (BPOM) started to enforce the requirement that all foodstuffs, pharmaceuticals and cosmetics must be approved and registered. BPOM seems to recognise to a certain extent the long delays in registration and has committed to reduce the time to 3 months (the legal requirement is 45 days). Lately, further positive changes have been noted in that daily quotas for the number of dossiers are no longer in place; there is an electronic queuing system and a self-assessment system, which facilitates registration. The current main bottleneck is formed by the need to receive a hard copy of the certificate and the inconsistent decision-making. These requirements are no longer applying to cosmetics: Decree 1176/2010 of September 2010 replaced the registration requirement with a notification requirement.
- The Ministry of Maritime Affairs and Fisheries issued a Ministerial Decree 15/2011 to revise the Ministerial Decree 17/2010, specifying the types of fishery products that can be imported, such as the amount and type of fish that could be processed by canning factories, by factories for export purposes, by the manufacturing industry and by traditional processing units. The regulation also covered fish unavailable in Indonesian waters and restricted general importers and non-processing factories, such as restaurants or hotels, from importing fish products by requiring certificates of good manufacturing practices for importers, which among other things required value to be added to imported products. The Decree 15/2011 has led to creation of a supply shortage of shrimps and mackerel where domestic production is not yet sufficient, also affecting the exports of fisheries. The Decree also bans the imports of dory fish fillets that domestic industry can not produce.
- The ministerial decree of 17/2010 on aquaculture quality control and safety specifies the quality and safety standards of imported fish. Importers should secure import licenses before importing fish into Indonesia.

Japan:

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

Kazakhstan:

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

Malaysia:

- Exporting meat products to Malaysia is facing increasingly serious non-tariff barriers, in the form of new and stricter (but non-transparent) Halal requirements, a cumbersome, costly and non-transparent inspection regime (in force since January 2010; since 1 July 2011 for pork) and unclear and often contradictory information from the competent authorities. For pork, moreover, since 1 July 2011 an illegal quota has been implemented on two of the ten cuts allowed for import from the EU (pork belly, spare ribs).

Russia:

- A new road tax on all foreign transport as of 1 February 2009 was introduced by the Government Resolution No. 1007 of 24 December 2008. It applies to freight vehicles weighing over 3.5 tonnes. On 20 May 2009 a Decree was adopted to amend the Resolution by lifting the road charges for 14 EU Member States. The Government Resolution N. 480 of 20 June 2011 transferred the authority to collect the road tax from the Federal Service of Transport Surveillance to the Federal Customs Service.
- The Government Anti-Crisis Plan for 2009 of 10 June 2009 foresaw toughening of customs control over imports of foreign steel. Customs clearance procedures for rolled steel imports were to be reviewed so as to prevent undervaluation and wrongful declaration of goods. Customs points, which organize clearance of imported pipes and rolled steels, were to be equipped so as to permit the conduct of radiological and phytosanitary control.
- Licensing of companies operating in the market for alcoholic beverages – the majority of companies, both Russian and foreign, are in the process of renewing their wholesale licences in the coming months. The Federal Service for Regulation of Alcohol Market (FRS) continues to create hurdles to the approval process. In particular, the FRS has not accepted any application for the renewal of wholesale licences earlier than 18 calendar days prior to a licence's expiry. The FRS exercises an excessive administrative discretion in the process of renewing licences which puts at risk the business continuity of many operators. At the same time, on 22 July 2011 the Government's Sub-Commission for customs tariff and nontariff regulation and

protective measures in foreign trade, headed by First Deputy Prime Minister Viktor Zubkov, supported the draft Decision of the Commission of the Customs Union to cancel licensing for import of alcoholic beverages. According to the Sub-Commission, the measure should eliminate dual licensing of alcohol beverages.

- *Projected technical regulation on safety of alcoholic beverages threatens to unfairly discriminate foreign producers in several aspects (labeling, certification, etc). The details of technical specifications are still to be determined in light of numerous potential barriers to trade that the draft proposes.* At the same time, a framework regulation for the operation of the alcohol sector on the Russian market has been adopted. On 20 July 2011, President Medvedev signed into law the bill amending the Federal Law 'On state regulation of production and turnover of ethanol and alcohol products'. This law, although imposes more stringent conditions for beer product, is in principle non-discriminatory.
- **draft Technical Regulation on Alcohol Product Safety (TR) of the Belarus-Kazakhstan-Russia Customs Union (CU) that was published on 19 October 2011 raises concern as regards the declaration of compliance, the notification procedure, the ban on PET, labelling and the definitions applied in the draft Regulation.**
- **The Russian Government's Decision No 1079 of 21.12. 2011 says that low-alcohol beverages (up to 9% strength) should be labelled with a special pink-coloured federal marks of 63x21 mm The applicant should submit a report on its previous use of such marks and an estimate of its need for such marks (forms of these documents are approved).**
- **The Russian Government's Decree No 1230 of 30.12.2011 says that imported low-alcohol beverages (up to 9% strength) should bear grey-yellow coloured excise marks f 63[21 mm with a blank space in order to put information about this alcoholic beverage.**

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

South Africa

- **On 1 March new mandatory food labelling regulation came into force (regulation R 146, which replaces R 2034 under the Foodstuffs, Cosmetics and Disinfectants Act of 1972). The entry into force was delayed by one year to allow enough time for industry to effect changes. The regulation is aimed at preventing the use of**

misleading or ambiguous food labels and applicable to both locally manufactured foodstuffs and imports. Mandatory information is now required on food labels, which include the name and address of the manufacturer, importer or distributor, instructions for use, net content, country of origin, batch identification, use by date, nutrient analysis by mass, a list of ingredients, and a list of common allergens. In addition, the regulation prohibits the use of certain descriptions on packaging and labels, which could mislead consumers. These include words, pictorial images, marks, logos, or descriptions that create the impression that foodstuffs are endorsed by health practitioners or organisations (excluding religious institutions). Specific words and phrases that are prohibited from use for nutritional claims are "healthy", "wholesome" or "nutritious" and other words or symbols that imply health-giving properties, the word "cure" or other medicinal claims. Statements to the effect of being healthy, additive-free or veterinary medicine-free, or which indicates the more humane treatment or rearing of animals – including "grain-fed", "country reared", "free range", "organic", "pure" may only be used for products which qualified as such and are regulated under SA's Agricultural Product Standards Act or by the National Regulator for Compulsory Specifications Act. The use of statements not regulated under this legislation, such as "fresh", "natural", "nature's", "pure", "original", "traditional", "authentic", "real", "genuine", "homemade", "premium", "finest", "quality", is banned, unless the products are compliant with the criteria of the UK's Food Standards Agency.

Thailand

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

Turkey:

- New import procedures were introduced on 1 January 2009. These new procedures entailed a major change in the treatment of imports originating from third countries. Turkey required that products in free circulation in the EU with third country origin be subject to conformity assessment checks by either the Undersecretariat of Foreign Trade's (now Ministry of Economy) or by the Turkish Standard Institute (TSE) depending on product categories. The implementation of the related Communiqués on Standardisation in Foreign Trade (conformity assessment requirement for goods in free circulation) were repetitively prolonged for 2010 and 2011. This measure affected numerous products such as electrical devices, batteries, toys, medical devices, radio and telecommunications, construction products, machinery, lifts, pressure equipment, transportable pressure equipment, pressure vessels, appliances burning gaseous fuels, hot water boilers. In the last two years the Ministry of Economy started to implement a risk-based import control system called TAREKS in a staged way and the treatment of third country origin imports in free circulation in the EU has been relaxed for the following group of products in 2012: Radio Telecommunication and Terminal Equipment- R&TTE, Toys, Personal Protective Equipment , Construction Products , Batteries and Medical Devices. These products can now enter Turkey from the EU without conformity assessment checks even if they are with third-country origin. The pre-requisite here is to be registered on the TAREKS system of the Ministry. However, third-country products under the control of TSE, hence, machinery, electrical equipment, lifts, pressure equipment, transportable pressure equipment, pressure vessels, appliances burning gaseous fuels and hot water boilers are still subject to conformity assessment checks even if they come via the EU.

- Requirement for reciprocity for Good Manufacturing Practices (GMP) certificates to be submitted for receiving the market authorisations for pharmaceutical products. The circular entered into force on 1 March 2010. Turkey does not approve the EU GMP certificates. In order to obtain a Turkish GMP certificate, manufacturers are required to submit numerous documents in Turkish about their manufacturing sites, which would be subject to subsequent inspection by Turkish authorities.
- **The legislation implementing the State aid law, whose aim is to ensure the compatibility of state aids with the related provisions of the agreements between Turkey and European Union, was originally scheduled to be enacted by the end of September 2011. However, a decree-law issued in November 2011 stipulated that this legislation would only have to enter into force by the end of June 2013. The said implementing legislation has been prepared, but was not adopted yet.**

United States:

- A draft bill (H.R. 6969) was introduced in Congress in 2009 to amend the Internal Revenue Code (the Neal bill) and deny a tax deduction for excess reinsurance premiums with respect to US risks paid to affiliated insurance companies that are not subject to US taxation. The bill risks creating unfair tax disadvantages to EU-owned US subsidiaries compared to US-owned companies.
- The US House of Representatives Ways and Means Subcommittee on Select Revenue Measures held a hearing on 14 July 2010 regarding international reinsurance transactions and competing proposals to reform their US tax treatment. These proposals would affect European insurance companies operating in the US that conduct reinsurance transactions to diversify risk and hurt legitimate reinsurance transactions by raising insurance premiums for US consumers. ***The Neal Bill was reintroduced in the current Congress in late 2011 (HR 3157), but Congressman Neal is no longer Chairman of the Tax Subcommittee on Ways and Means, which weakens the bill's chances of advancing in the legislative process. In this year's Presidential budget proposal released in February 2012, the Administration opted for a more restrictive proposal in line with the Neal bill which would deny an even larger share of tax deductions for reinsurance than their initial proposal. In addition, a similar bill was introduced by Congressman Doggett Lloyd, H.R. 64,***

which would prohibit a reduction under any treaty of the United States of tax withholding for a tax deductible payment to a parent company unless there would be a similar reduction for payments made directly to the foreign parent corporation of such entities. To date, the bill has not advanced in the legislative process.

- ***Food Safety Modernization Act: new upcoming implementing regulations may entail excessive burderns for EU exporters regarding registration of food facilities, designated agents, inspections and re-inspections of food facilities***

Vietnam:

- Decree number 26/ND-CP/2009 providing guidance on the implementation of several articles of the Law on Excise Duty was issued on 16 March 2009. While the law establishes a single, non-discriminatory duty to be applied to both foreign and local products, the decree outlines an 'exception to the rule' in cases where the producer is selling non-imported products to a 'business and trading establishment'. The price reference is the production price (with some conditions). In practice, this could amount to a tax cut of up to 10% for local wines and spirits products.
- Circular 122 on price controls (Ministry of Finance): enacted on 12 August 2010 and entered into force 1 October 2010. All businesses are required to register their selling prices and changes to these with competent state authorities. This will create an additional administrative burden for retailers and wholesalers in Vietnam trading in the listed products. The circular does not in particular target imported products but the result is that certain products from European producers, in particular baby infant formula, will be affected. The likely consequence is that all actors in the market will be forced to follow the same set of norms in price calculation and consequently profit determination, without taking into account the fact that companies may accept different risks in carrying out their businesses and, as a result, expect different rates of profit. This does not seem to be in line with the fundamental principles of a market economy. It should be noted that circular 122 was previously applicable to state-owned enterprises only.

- Decision of the Ministry of Industry and Trade 1899/QD-BCT of 16 April 2010 to promulgate the list of “non-essential” imported commodities, consumer goods not encouraged for import. The list contains around 1500 tariff lines and is understood, in practice, to restrict importers´ access to foreign exchange through official channels, thereby restricting imports. The publication of the list was followed by a dispatch by the State Bank of Vietnam (ref. 3215/NHNN-CSTT) on 29 April 2010 instructing Credit Institutions to consider, strictly control and restrict the provision of foreign currency loans for making payment for the import of goods items belonging to the list in 1899/QD-BTC. A new list of commodities “not encouraged for import” was published on 25 March 2011, replacing the list which had been in force since 16 April 2010. The previous list covered around 1500 products, such as meat and offal products, wines and spirits, machinery and mechanical appliances, electrical machinery and equipment, vehicles. The new list, which was effective upon signature, expands product coverage to certain products in the categories live animals, fish and crustaceans, dairy products, sugars and sugar confectionary, miscellaneous edible preparations, table salt, miscellaneous chemical products and miscellaneous manufactured articles.

- Decision of the Ministry of Industry and Trade 2840/QD-BCT of 28 May 2010 to promulgate a list of machinery, equipment, supplies and materials which can be produced domestically. Ministries, sectors and the People's Committees are to use these lists to monitor the discouragement of imports and the limitation of access to foreign currency. Ministries and other authorities are to instruct agencies, units and enterprises to select and use the list in tender activities of investment projects using the state budget in line with the spirit of the Prime Minister's Directive no. 494/CT-TTg dated 20 April 2010.

- Prime Minister instructions (ref. 8646/VPCP-KTTH) of 3 December 2009 to implement strictly the measures to boost exports, and at the same time, based on the needs to ensure food safety, to develop and issue immediately the necessary regulations in combination with taxation measures to enhance the management and limit the imports of “non-essential” products in order to drastically reduce the import surplus. Addressed to The State Bank of Vietnam and to Ministries of Industry & Trade, Finance, Public Security, Planning & Investment, Agriculture & Rural Development, Health, Justice, Transport, and Science & Technologies.

- Government Resolution no. 18/NQ-CP dated 6 April 2010 on “key measures to ensure macro-economic stability, curb inflation and achieve a GDP growth rate of approx. 6.5% in 2010, which include: Implement measures on prices”; to restrict foreign currency loans for those goods for which imports are not encouraged; Specify the use of materials and equipment of domestic production to replace imports under projects and works; Promulgate the list of “inessential” import goods, non-encouraged import of consumer goods; Take measures to control foreign currency loans for the import of these items.

- **Vietnam's Circular 30 on type approval certification and declaration of conformity for IT and telecommunications products requiring equipment to be tested by designated labs located in Vietnam.**

- ***Vietnam started preparations in January 2012 for a new draft Law on Pricing. The law aims to address limitations in the 2002 Ordinance on Pricing and create a comprehensive legal framework for price administration in the context of a socialist-oriented market economy, according to the drafting agency, the Ministry of Industry and Trade's Price Administration Department.***

II.1. Government procurement restrictions

Algeria:

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

Algeria is not a party to the WTO GPA.

Argentina:

- On 30 March 2011, the Argentine Senate approved a bill modifying public procurement law 25.551 (Buy Argentine) which now has to be discussed in the Chamber of Deputies before its final approval. The following provisions could potentially affect EU companies' access to Argentina's public procurement markets: 1) The scope of entities subject to the rules of national preference in tenders will be broadened to include operators with a license for a non public service activity; 2) The national government will have "discretionary" powers to impose the purchase of national goods for strategic or for industrial or economic policy reasons; and 3) All offers will have to be labelled in local currency in order to avoid that local industry may lose a tender due to unfavourable exchange rate conditions.

Argentina is not a party to the WTO GPA.

Australia:

- Two Australian states adopted provisions, which seem to run against the position of the Federal Government. First, the then-Victorian (sub-national level) Labor Government announced on 19 November 2008 (operative from 1 July 2009) that government procurement for declared strategic projects greater than $A250m should be subject to minimum local (Australian and New Zealand) content targets and weighting on local content in tender evaluation. 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. **On 19 December 2011, the Victorian Coalition Government released the final report of the Victorian Competition & Efficiency Commission's (VCEC) inquiry into *A More Competitive Victorian Manufacturing Industry,* along with the Government's response and a new manufacturing strategy. The Government did not support VCEC's recommendation 12.9 (*the Victorian Government remove the preferential aspects of the Victorian Industry Participation Policy*), stating that it "*will retain local content as a criterion in procurement policy and is committed to local content as part of its industry participation policy.*" However, the Government also indicated that it will remove the local content targets.**

- Furthermore, a stimulus package announced on 16 June 2009 by the then-New South Wales Labor 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 PPM of 2.5% or 5% is applied to goods. The preference extends to SMEs with up to 500 employees. **The New South Wales Coalition Government is currently undertaking a review of procurement policy in which it is examining local content preferences "*to assess its effectiveness and to consider whether other proposals and ideas may provide better outcomes for small and medium enterprises".* Consultations are on-going until at least 1 May 2012**

It should be noted that Australia is an observer to the WTO GPA.

Brazil:

- The Brazilian Ministry of Mines and Energy (MME) was to hold the first wind energy auction on 25 November 2009, as part of the ongoing Program of Incentives for Alternative Electricity Sources (PROINFA), a government program that aims to promote the use of renewable technologies in the production of electricity. The Ministry set out the requisites for new electricity generation projects participating in the auction in Administrative Act (Portaria) No. 211, published on 28 May 2009. This act banned the use of imported wind turbines with nominal power up to 2,000kW by bidders participating in the auction. This restriction was modified by MME Administrative Act No. 242 of 25 June 2009, which stated that the use of imported turbines with nominal power under 1,500 kW were not allowed by bidders in the auction.

- On 20 July 2010, Brazilian authorities modified the Brazilian law on public procurement and the facto turning it into a kind of 'buy Brazilian' law. The initially temporary measure was converted into Law 12.349/10 on 15 December 2010 and allows the government to grant up to 25% preference margin (depending on the sector, thresholds to be defined) to products and services produced entirely or partially in Brazil. This is one of the widest preference margins introduced among measures affecting government procurement. Moreover, for goods and services considered of strategic national interest, procurement can be restricted to goods and services developed in Brazil and produced in accordance with the basic productive process. Similarly, although the measure should primarily benefit the pharmaceutical and textile sectors (i.e. a market which was worth R$16 billion (around €7 billion) in 2009 in terms of public procurement contracts), the size of the Brazilian market suggests that the measure should not be underestimated, the more so as it does not seem to be driven by the crisis rationale but rather appears to form part of a wider industrial policy.

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

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

- In line with the above "Plano Brasil Maior" and earlier application of procurement thresholds to the ICT sector, the Decree No. 7.546 of 2 August 2011 establishes specific measures regarding public procurement in the ICT field, whereby purchases can be restricted to equipment and services developed and produced in Brazil and the 25% preference margin applies to domestic bidders.

- **Within the frame of the Plan Brasil Maior II, measures for stimulating the national industry through government procurement were announced. National goods and services will take priority with a preference margin of up to 25 per cent on imported products. The government estimates that it will invest BRL 3.5 billion on medications, pharmaceuticals and biopharmaceuticals in the next 5 years. Furthermore, the purchase of backhoe loaders and motor graders shall amount to BRL 400 million by 2015. Similar measures were already in place applying to textiles and clothing, computing and TLCs sectors.**

Brazil is not a party to the WTO GPA.

Canada:

- The domestic content requirements in Ontario's Feed in Tariff program under its Green Energy Act have been adopted. They are as follows: i) for wind power projects over 10 kW, the requirement will start at 25 percent and increase to 50 percent on 1 January 2012. There are no domestic content requirements for wind power projects 10 kW or less in size; ii) for micro solar PV (10 kW or smaller) projects, the requirement was established at 60 percent as of 1 January 2011; iii) for larger solar PV projects, the requirement was established at 60 percent as of 1 January 2011.
- *On 3 June 2010, the Canadian government announced its National Shipbuilding Strategy. The Strategy encompasses three streams – large ship construction, small ship construction, and repair, refit and maintenance projects. The government intends to use two Canadian shipyards for the procurement of the large ships – one to build combat vessels, the other to build non-combat vessels. The construction of smaller ships will be set aside for other Canadian shipyards. Only the repair, refit and maintenance of ships in the Government fleet will be sourced through competitive tendering. The cost is expected to range around CDN $35 billion, with the bulk ($33 billion) going for the procurement of large ships. The selection of the Canadian shipyards is still pending.*

China:

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

  This 'Buy Chinese' policy was strengthened in 2007 by two implementing decrees[25]. 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)[26] by further eliminating the possibility to buy foreign products,

[25] 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.

[26] 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.

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[27] has been announced.

Moreover, the Chinese National Development and Reform Commission (NDRC) issued in 2009 a notice[28] reminding all authorities to strictly apply the 'Buy Chinese' rules in all procurement financed by the stimulus package. In particular,

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

- 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 to be included in the list of producers allowed to participate in public procurement of innovative products. Very short registration timeframe and stringent selection criteria could potentially hinder access to public procurement to foreign companies. *On 10 April 2010, the 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. On the occasion of the third EU-China High-Level Economic Dialogue of 21 December 2010, China gave very positive signals on the IPR elements, namely that foreign and domestic products*

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

[28] 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).

will be treated equally and laws and regulations will be amended accordingly. China also recognised the problems related to implementation at the provincial level and committed to increasing exchanges and communication to ensure consistency in implementation at central and local levels. China also made additional commitments on the procurement side at the recent visit of the Chinese President to the US, namely that there will not be any link between procurement and IP. Following these announcements, the Ministry of Finance announced the suspension of three key pieces of legislation linking indigenous innovation to government procurement, namely evaluation measures on indigenous innovation products for government procurement, administrative measures on budgeting for the procurement of indigenous innovation products and administrative measures on government procurement contracts for indigenous innovation products.

- *In the framework of the wind turbine manufacturing industry consolidation, China is considering draft legislation on the entry standards for public procurement. If the legislation were adopted as it is in the draft, only three Chinese manufactures would remain on the market and no European company would any longer qualify for public tenders.*

- **Concessionary bidding mechanism for wind power equipment and development projects discriminating de facto foreign companies: there is no transparency on the bidding procedure and on the evaluation assessment; the international track record of the equipment provided is not taken into account; the system is exclusively based on the unit price of the equipment rather than on the average life cost of it; only certain sizes of turbines are allowed regardless of the specificities of the individual location.**

- **In jure and de facto discrimination against foreign companies supplying equipment in the railways sector: bidding system restricts foreign companies to be qualified for bidding for rolling stock projects, signalling and has prevented also joint ventures from obtaining a license or qualification to bid.**

- **On 24 February 2012, the Chinese Ministry of Industry and Information (MIIT) has released a preliminary list for official government automotive fleet purchases that only features local Chinese car brands. The new catalogue lists 412 domestically produced automotive models exclusively built under local Chinese brands. The list excludes models built under joint ventures (JVs) with foreign companies including European automakers. This measure can significantly reduce market access to government procurement for European automakers producing in China. Some experts estimate Government automotive purchases in China at around 10 % of the auto market (14 million passenger vehicles sold in 2011). Furthermore, market research shows that foreign brands account for at least 60% of this market (including European brands such as Audi).**

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[29].

Ecuador:

- The Ecuadorian Constitution (30 September 28, 2008) stipulates in Article 288 the "prioritization of domestic products and services in public procurement". The National Procurement System Organic Law31 establishes as one of its aims to be a "dynamic element of production" (Article 9) and it also states that "specifications of a public procurement will contain evaluation points that encourage national or local participation, by a preferential margin, for suppliers' works, goods and services, including consultancy, according to the parameters set by the Ministry of Industry and Competitiveness" (Article 25).

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

Ecuador is not a member of the WTO's Plurilateral Agreement on Government Procurement (GPA).

India:

- **On 15 February 2012 the Ministry of Communications and Information Technology notified a new preference policy to domestically manufactured electronic goods in procurement due to security considerations and in public procurement. The new policy on mandatory preferences covers a wide range of electronic products (which may include both hardware and software) for the purpose of government procurement as well as products that have undefined, and hence possibly quite widely interpreted "security implications." The mandatory preferences seem to cover public procurement, "Government Licensees" and possibly private operators as well. The notification also defined the progressively increasing value-addition requirements which are to be met by**

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

[30] http://www.asambleanacional.gov.ec/documentos/constitucion_de_bolsillo.pdf

[31] http://constituyente.asambleanacional.gov.ec/documentos/informe_mayoria_contratacion_publica.pdf

the electronic products in order to qualify as being domestically manufactured. The prescribed domestic value-addition should increase from 25% in the first year to 45% in the fifth year.

- **Local content requirements where observed for railway safety technology regarding 100% local content requirements for the Governmental procurement of certain railway safety technology products (e.g. axle counters)**

Indonesia:

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

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

- Ministry of Industry Decree 04/2009 (dated 15 January 2009) stipulates a domestic content obligation for electric power generation infrastructure construction.
    - 1) Article 6-8: Coal and water power generators with less than 100 MW shall be constructed and managed by a national company, and with above 100 MW it can be a foreign company but it must work together with a national company. For geothermal power, the limit is 110 MW for similar conditions.
    - 2) The buyer of these construction services must give a price preference to locally produced goods and services. The size of discount depends on the category of costs, between 7.5 – 30%
    - 3) The attachment of this regulation stipulates the required levels of domestic content for the different sectors - coal, water power, geothermal and distribution, as well as for different sub-categories of goods and services. The

local content requirements range from 15% up to 96% for different categories, but mostly are above 50%.

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

- In August 2010, a new Presidential Regulation (PerPres 54/2010) was adopted. This would just be an interim measure, however, setting up principles for implementing legislation to be adopted thereafter. Consequently, a new Law on government procurement started being discussed in the Parliament in December 2010. Several elements of the Presidential Regulation and of the Law raise concerns: i) local content: the Regulation sets a 40% requirement on local goods and services across the board. The Law does not specify local content requirements by amount or percentage, yet there exists a general principle that 'contractors have to bear in mind the use of domestic products and the role and independence of national companies'. It can be assumed that the implementing regulations following the Law will apply local content percentages set by the Regulation. ii) Partnership obligations: the Regulation provides that foreign companies can only participate in procurement of construction projects with a value higher than approximately 11 million US$ and in procurement of goods and services beyond a value of 2 million US$ and in partnership with a domestic company. These provisions could also be included in the Law's implementing regulations. iii) Scope: the Law is intended to go beyond the usual definition of government procurement by also including goods and services of general for public interest provided by the private sector and/or service providers. This means that the law explicitly states that local content requirement would also apply to public-private partnerships, particularly in the infrastructure sector. It further implies that procurement by private companies, e.g. in telecom and electricity sectors, would be considered as government procurement, thus Regulation and the Law would apply as horizontal legislation.

- **Minister of Industry Regulation No 15/2011 on Guideline for Using Domestic Product in Procurement of Goods/Services for the Government, dated February 21, 2011 foresees a list of inventory of locally produced goods/services to be issued by the Ministry of Industry. Local content values shall be verified by an independent surveyor, appointed by the Minister, and an official, appointed by the Secretary General of the Ministry of Industry.**
- **Minister of Industry Regulation No 16/2011 on Provision and Procedure for Counting Local Content, dated February 21, 2011 sets precise rules on calculating local content in goods and services.**

Indonesia is not a party to the WTO GPA.

Kazakhstan:

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

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

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

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

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

- The Government plans to set up administrative punishment for entities violating local content clauses in the procurement law were implemented in the LC Law of December 2009. In particular, the law established fines for violation of the state procurement legislation. In addition, on 25 February 2009 the Kazakh government published a list of companies subject to mandatory monitoring of procurements.

- **Government Order 1729 from 30/10/2009, amended on 27/06/2011 provides that all hospital needs are served through the central tender process organized under state owned organization called SK Farmacia. It collects centrally the required volumes from regional hospitals and the bids. The problem with this arrangement is that if the molecule is produced locally in Kazakhstan, the local**

producer gets the whole tender volume regardless of the prices proposed by other participants. In other words, the local producer gets the exclusive right to supply the state and the non-local producers are automatically excluded from the process.

Kazakhstan is not a party to the WTO GPA.

Nigeria:

- Government instructions of 30 March 2011 direct all federal administration and agencies to favour locally produced and assembled goods in public procurement. *A consumer credit facility is planned, and will be made available to locally-made goods.*

Nigeria is not a party to the WTO GPA.

Paraguay:

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

Paraguay is not a party to the WTO GPA.

Russia:

- Instruction n° 427 of 5 December 2008 by the Ministry of Economic Development "On the Conditions for Access of Foreign Origin Commodities for the Purposes of Placing Orders for Commodity Supplies for the Government and Municipal Use" determines conditions for access to the Russian market for a large number of goods and services from foreign countries: agricultural products, hunting products; agricultural and hunting services, food products and beverages, textile products, clothes, fur and fur products, leather and leather products, saddlery products, shoes, organic and non-organic synthesis products, rubber and plastics articles, machines and equipment, cars, trailers and semi-trailers, car bodies, components and accessories and others. In fact it legitimizes the preferences for goods produced in Russia, by enabling the national producers to win bidding with a price which is up to 15% higher than that of a foreign producer. The new 'Buy Russian' provision was considered as an anti-crisis measure, which would only apply for a limited period of time. The Federal Law On State Procurement No. 94-FZ establishes national regime for foreign firms on the basis of reciprocity with foreign countries. Despite initial time-limit of 2010, the law was prolonged in January 2011 extending its validity until the end 2011. **The Ministry of Economic Development's Instruction No 120 of 12.03.2012 was a modified version of the Ministry's Instruction No 427. In spite of its previously stated intention to radically curtail the preferences for domestic producers in public procurement, a large number of goods from the list remained intact. Only Russian producers of agricultural products were devoid of some preferences. It is remarkable that the Federal Antimonopoly Service criticised the draft Instruction, which was sent to it for coordination, as anti-competitive.** ***(MED's Instruction No 120 of 12.03.2012 is still to be registered by the Justice Ministry, thus could be modified).***

- Continued use of single-source procurement procedures creates ample opportunities to apply the Buy Russian principle through direct contracting According to the Economic Development Ministry's estimate, from the total value of public procurement in 2011 of RUR8.3 trillion, RUR3.6 trillion was spent without tenders or auctions. The value of these public procurement orders received without competition by 'single suppliers' increased for one year tenfold. Some experts blame for this mostly the defence order (purchases of arms and ammunition). In addition, the single-source procedures were further expanded in the Agreement on Government Procurement signed by the Customs Union members (Russia, Belarus, Kazakhstan) listing 27 instances for single-source public procurement. Such procedures can now be implemented by order or a decision of a President of a Customs Union member state or a Government decision on behalf of the President. In light of an ongoing revision of public procurement legislation in Russia, it cannot be excluded that the new legislation will further expand application of Buy Russian.

- ***President-elect Putin on 04.04.2012 said that the federal and regional authorities, municipalities and companies, who are financed from the state coffers, should buy automobiles that are only manufactured in the CU of Russia, Belarus or Kazakhstan. The MED and MIT are preparing related amendments to the Public Procurement Law.***

- The Government Anti-Crisis Plan 2009 envisaged measures to increase the demand for domestically manufactured goods by providing support to 'systemic companies' (343 companies including Gazprom, Russian Railways Co, Aeroflot, RusAl, AvtoVAZ, GAZ) in public procurement. Additional funds were allocated on purchases of automobiles by Government bodies and local administration, as well as for the implementation of the 'cash-for-clunkers' programme.

Agriculture Ministry Order 82 from 3 March 2009 - Russian authorities discriminate in granting Russian banking loans (with interest subsidies) to farmers depending on the origin of agricultural equipment purchased. It could be considered as formal discrimination with regard to imported agricultural machines. In 2010, such interest subsidies provided by the Agriculture Ministry should amount to 3.5bn roubles, which should attract estimated 70bn roubles for purchasing *domestically produced* agricultural machinery.

Subsidies for executive bodies, regional authorities, militia, communal services and medical establishments were granted to buy *locally produced passenger cars, transportation cars and special vehicles* (32.5bn roubles in 2009, 20bn roubles for 2010).

The anti-crisis plan envisages a working out of measures to stimulate the demand for *locally produced steel* products from the construction industry, the machine-building sector and the fuel-and-energy complex.

The anti-crisis plan called for further steps in order to increase the demand for domestically manufactured goods from the Federal Government, private business and the population.

- **The Eurasian Economic Commission Regulation No 5 of 25 January 2012 "On Placement of Orders and Conclusion of Agreements to Supply Goods, Execute Orders and Render Services for needs of the Eurasian Economic Commission" does not specify foreign companies' access to public procurement. Meanwhile, Point 2 of Paragraph 4 says that one of the principles of public procurement should be "equality, fairness, lack of discrimination and unjustified restrictions of competition in relation to participants of public procurement'. At the same time, opportunities for arbitrary decisions are provided by the provisions regulating direct purchases of goods and services from single suppliers. Paragraph 6 says that "during the formation of the Commission until 1 July 2012, the authority to approve the list of the only suppliers of goods, works and services shall be carried out by Chairman of the Board".**

Russia is not a party to the WTO GPA.

South Africa:

- South Africa implements a preferential public procurement regime, which aims to address past discriminatory policies and practices of apartheid. On 8 June 2011 new Preferential Procurement Regulations were published. The principal change to the regulations is their alignment with the Broad-based Black Economic Empowerment

Act of 2003 and its associated Codes of Good Practice. The changes to the rules are largely cosmetic. Tenders are decided on a point-based system, which awards 90 points on price and 10 points on empowered status for large contracts (>€51 000). For contracts smaller than €51 000, that scoring ratio is 80:20. The scoring ratios have not been changed. However, empowerment status is now determined not only on the basis of black shareholding, but also by means of a scorecard that measures a broader set of empowerment criteria, including management, employment equity, contribution towards the development of black skills, preferential procurement by firms from black enterprises, the assistance of small black-owned enterprises and contribution towards socio-economic development**. The new rules came into effect in December 2011.**

- **In December 2011, provisions for the designation of sectors from which government will exclusively procure locally were also been finalised and will now come into force. The sectors earmarked for exclusive local procurement are power pylons, railway rolling stock, buses (bus bodies), canned and processed vegetables, clothing and textiles, footwear and leather products, and television set top boxes.** ***A second round of designations is expected to be announced in the first half of 2012, with pharmaceuticals, electrical cables and yellow cables, and office and school furniture touted for designation. The level of local content for designated sectors varies between 35% and 60%, and is determined on a product-specific basis.***
- In a separate development and as part of a larger plan to overhaul procurement policies to support industrialisation and job creation objectives, government plans to streamline and consolidate two supplier schemes – the Competitive Supplier Development Package (CSDP) and the National Industry Participation Programme (NIPP) – to better align foreign supplier participation in the South African economy to achieve the above goals. The programmes cover procurement areas that are traditionally the domain of foreign suppliers, because of insufficient or non-existing local production capacity. The schemes are currently voluntarily invoked by government departments and parastatals when they put out tenders. It is unclear at this stage whether the new programmes will be brought under the ambit of the Preferential Policy Procurement Framework Act (PPPFA), or whether new legislation will be created. The programmes impose offset conditions on foreign suppliers awarded government contracts, to either invest in the local economy or undertake other actions that will enhance local production and/or stimulate exports. The commitments are in line with government objectives to promote localisation, job creation and black economic empowerment. Some of the means identified to achieve these goals are through greenfield and brownfield investments; technology transfer; sourcing of locally manufactured inputs; local skills development. The Trade and Industry Department, which is tasked with drafting the rules, has indicated that offset commitments will have to be focused in the particular sector within which a tender is won. The value of the "offset" commitments required is determined as a percentage of the size of the contract. For the NIPP that level is 30% of the value of the contract; under the CSDP the level is 60%, set to increase to 70%. The new offset participation ratio of the consolidated programme still to be determined.

South Africa is not a party to the WTO GPA.

Turkey:

- Turkey's public procurement legislation allows for a 15% price preference in favour of domestic suppliers when participating in tenders as well as for set asides for Turkish goods and suppliers. The domestic price advantage clause continued to be frequently used in 21% of the overall contract value above the threshold in 2010. The amendment to the Public Procurement Law in February 2011 partially revised the application of the domestic advantage clause. Accordingly, procuring entities may grant 15% domestic price advantage to domestic or international bidders in supply tenders if they offer domestically produced goods. Although this revision reduces the discrimination against the foreign tenderers, existence of such a preferential provision remains to be an obstacle to fair competition.

Turkey is not a party to the WTO GPA.

United States:

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

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

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

As regards the application the rules apply to:

- State procurement entities not covered by the US GPA commitments as well as the procurement by the States not committed under the GPA;
- States covered by the GPA will have to admit bidders coming from GPA Parties if the procurement in question is covered by the US GPA commitment.

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

Following the adoption of ARRA, the U.S. Administration has issued two sets of implementing rules and guidance aiming at further clarifying the new provisions. These have been subject to a two-month stakeholder consultation. **No change was done in the implementation of the Act, except an increase from 787 to 840bn USD of the expenditure, in 2011.**

- ***The current Senate Transportation legislation that is being negotiated may contain a "Buy-America" amendment sponsored by Senators Sherrod Brown and Jeff Merkley. The legislation has not been finalized and so formal amendments have not been formally been enacted into law. The Senate has passed a temporary measure to extend current transportation policies due to lapse, while the comprehensive legislation is still being negotiated.***

Vietnam:

- Prime Minister's Directive no. 494/CT-TTg dated 20 April 2010 on the use of domestic materials and goods in bidding of state-funded projects. It states that for bidding of goods procurement, international bidding shall be held only if domestic goods, materials and equipment can not meet package requirements or those can not be provided locally or sponsors of ODA package require of international bidding.

II.2. Investment and services restrictions

Algeria:

- A series of instructions issued on 20-22 December 2008 introduced stringent procedures for foreign investors and traders in Algeria. The instructions specify that any foreign investment required a majority participation of Algerian capital. Furthermore, all foreign investment would be subject to examination by the National Investment Council; the capital could only be mobilised on the Algerian capital market; and any project would need to result in positive foreign exchange balance for its entire duration. Finally, any company importing goods to the country would be obliged to have a 30% Algerian participation in its capital. It has to be noted though that the initial provision regarding the retroactive character of the requirement has been lifted largely due to the pressure exercised by the European Union.

- The law "La loi de finances complementaire 2009" of 26 July 2009 introduced further restrictions, such as 'Buy Algerian' requirement for all investors benefitting from assistance of Agence Nationale de Developpement des Investissements (ANDI) and a pre-emptive right of re-aquisition of shares sold by foreign investors by the State. The regional agencies of the *Registre national du commerce* have recently been instructed to extend the obligation to have a 51 % minimum requirement for Algerian shareholding to companies already established before the entry into force of the LFC 2009 and who now wish to modify their shareholding composition. While the 2009 loi de finances complémentaire only applied to newly established companies, these new guidelines will make the application of the 51 % rule retroactive and might therefore prevent companies from welcoming new investors.
- One of the implementing acts to the Finance Law 2009, decree no. 09-283 of 12 May 2009, imposes a 40% participation of Algerian capital in the maritime services. The law is in force since 23 May 2011 and applies to already existing companies as well as to new investments in Algeria.

Argentina:

- On 21 February 2011, the Argentine insurance regulator (Superintendencia de Seguros de la Nacion or SSN) issued Resolution Nº 35.615/2011 modifying the regulatory framework for reinsurance in the country, which will enter into force in September 2011. Among its main provisions, the new regulation only authorizes national companies or locally-established branches of foreign companies to provide reinsurance services in the country (cross border supply or consumption abroad of reinsurance services will no longer be possible). By way of derogation, companies can request a waiver from this obligation when they can prove that the degree of risk cannot be covered in the local market. On 26 May 2011, resolution 35794/201-SSN modified the regulatory framework established with the previous resolution. This new regulation allows cross-border supply of reinsurance services both for risks above USD 50 million and for retrocession services. Nevertheless, other restrictions remain in place (e.g. reinsurance abroad of life insurance and transfer abroad of more than 40% of premiums of local reinsurers are not allowed). **The minimum requirements to apply for the waivers, when the degree of risk cannot be covered in the local market, were defined through Resolution 36332 of 12 December 2011.**

- **On 27 October 2011, Resolution 36162/2011 issued by the SSN established the obligation for insurance companies to repatriate investments abroad before 15 December, even though exceptional cases could be considered. The regulation**

stipulates that foreign investments and assets cannot exceed 50% of their total capital.

- **Law 26737 passed on 28 December 2011 restricted the purchase of lands by foreigners, limiting foreign ownership of rural lands to 15% and the maximum land extension to be held by a single foreigner to 1,000 hectares at the so-called "core zone" or its equivalent in other zones of Argentina. Foreign individuals with residence in the country, married to Argentine citizens or with Argentine children are exempted from the provisions. A national registry of rural lands is to be created within six months after the approval of the law, and foreign right-holders would have to register their properties accordingly.**

- **As from 1 April 2012, Argentina's tax and customs authority extended to imports of services the obligation to submit a prior sworn statement, through Resolution 3276/2012. This requirement is applicable for service contracts above USD 100,000, or with instalments over USD 10,000.**

- **President Cristina Fernandez de Kirchner proclaimed on 4 May a Law declaring the expropriation of 51% of shares in YPF S.A., owned by the Spanish company YPF Repsol S.A., and of 51% of shares in Repsol YPF GAS S.A., owned by the Spanish company Repsol Butano S.A., and referring for the expropriation process and price to the Expropriations Law Nº 21499. Shares belonging to other Argentinean and international stakeholders were not expropriated. As the draft law was sent to Congress on 16 April, the companies concerned were forcefully taken by the Government and the Spanish staff at YPF headquarters had to vacate their offices. Until today, Repsol has not been given any compensation, despite the company's efforts to negotiate an amicable solution with the Argentine government.**

- **Resolution 142/2012 published on 25 April 2012 in the Official Gazette (Article 1, paragraph 3) sets a reduced period of 15 days for the handling of foreign currency deriving from intragroup exports, in comparison to longer periods granted when export operations are carried out among independent companies.**

Australia:

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

Brazil:

- On December 15, 2010 the National Council of Private Insurance (CNSP) decided to change the way in which the reinsurance business is conducted in Brazil by introducing two new Resolutions 224 & 225 aimed at protecting the interests of Instituto de Resseguros do Brasil (IRB). Resolution 224 has then been replaced by Resolution 232, which entered into force on 31 March 2011. Under new regulations, insurers can only cede a maximum of 20% to affiliates abroad. The objective is to induce insurers to use local reinsurers, which means also accepting whatever rates and conditions are offered locally.
- **New restriction on legal services, of February 2012. Partnership between Brazilian and foreign law firms is not permitted.**

China:

- As of August 2009, Chinese authorities encourage new airline operators setting up in China to operate Chinese-made aircrafts, as a pre-condition in order to receive an air operator certificate (AOC). Chinese government promotes the local product on domestic market since Chinese aircrafts (MA60) have usually been exported, due to domestic operators' preference for foreign-made aircrafts.
- *China's government is considering plans that could force foreign auto makers to hand over cutting-edge new-energy vehicle technology to Chinese companies in exchange for access to the country's huge market. This would be in conjunction with the MIIT's plan aimed at turning China into the 'world's leader' in developing and producing battery-powered cars and hybrids. The government could compel foreign auto-makers that want to produce critical components (e.g., vehicle traction battery, drive motor, basic materials for complete vehicle control system, battery and motor, etc.) in China to share critical technologies by requiring the companies to "present independent R&D capability and intellectual property rights, with the equity of the Chinese party no less than 51%". The first draft of the MIIT plan did include this requirement, but it remains to be seen if the final document which is expected to be adopted by the State Council in September 2011 still includes this discriminatory provision.*
- *The revision process of the Investment Catalogue was officially announced in April 2010, when the State Council issued a Circular on investment also referring to the Catalogue and pledging to 'open up more areas and encourage foreign investments in high-end manufacturing, new high-tech technology, modern services, energy-saving and environmental protection industries'. The current version of the Catalogue (last modified in 2007) sets up important barriers to investment; this is equivalent to a framework legislation on investments, classifying them according to three categories (encouraged, restricted, prohibited), and providing for facilitations or limitations according to the category. China issued a draft of the Catalogue and opened a public consultation until 30 April 2011. The draft appears not to substantially improve the current level of openness. The final adoption of the Catalogue is expected for the autumn 2011.*

- In February 2011, the State Council announced the setting up of a national security review process for mergers and acquisitions, to enter into force in March 2011. The review raises many questions with regard to the definition of national security, which is defined very broadly with many sectors being included. Furthermore, there is concern with the timeline of the review, possible retroactivity and third party complaints. It is feared that this review will considerably lessen legal security for foreign investor in China.

- The revision process of the Investment Catalogue was officially announced in April 2010, when the State Council issued a Circular on investment, referring to the Catalogue and pledging to "open up more areas and encourage foreign investments in high-end manufacturing, new high-tech technology, modern services, energy-saving and environmental protection industries". The Catalogue, previously revised in 2007, is the equivalent of a framework legislation on foreign investments, classifying them according to three categories (encouraged, restricted, prohibited), and providing for incentives or limitations according to the category. Relatively few changes were made in the 2011 edition of the Catalogue in comparison to the 2007 version, though the changes made were mainly in the sectors highlighted in the 2010 Circular. In total, 3 items were moved to the "encouraged" category, 7 items were moved from the "restricted" category, 1 item was removed from the "prohibited" category. Two items - the construction of villas and express delivery services - were added to the "prohibited" category, whereas the manufacture of automobiles was one of the key industries moved from the "encouraged" category. **In December 2011, a revised Catalogue for Guidance of Foreign Investment was released for entering into force 30 January 2012.**

- *The first draft of the 12th five year plan for new-energy vehicles included provisions that could compel foreign auto-makers that want to produce critical components (e.g., vehicle traction battery, drive motor, basic materials for complete vehicle control system, battery and motor, etc.) in China to share critical technologies by requiring the companies to "present independent R&D capability and intellectual property rights, with the equity of the Chinese party no less than 51%".* ***The recently revised Catalogue for Guidance of Foreign Investment has for the first time formalised this investment restriction on automotive components but limited it to the battery systems by stipulating the following:***

  > ***Manufacture of key parts and components of new energy automobiles: high energy power batteries (with the proportion of foreign investment not exceeding 50%),***

  The final text of the 12th five year plan for new-energy vehicles is expected to be adopted by the State Council in the first semester of 2012, and we will have to be attentive to any further restrictive measures which may further limit foreign investment in the sector.

- **Establishment of a National Security Review Process**: **In February 2011, the State Council announced the setting up of a national security review process for mergers and acquisitions, to enter into force in March 2011. On 1 September 2011, definitive implementing provisions came into force.** Though the establishment of a system to review foreign mergers and acquisitions with a potential impact on national security is not uncommon, the Chinese system raises many questions with regard to the definition of national security, which is defined very broadly with many sectors being included. Furthermore, there is concern with the timeline of the review, possible retroactivity and third party complaints. It is feared that this review will considerably lessen legal security for foreign investor in China. To date, it does not seem that any mergers have been blocked as a result of the introduction of the review system.

Egypt:

- *In October 2009 Egypt announced local content requirements for foreign shipping agency activities. An equity cap of 51% for Egyptian ownership is imposed on those companies licensed to carry out shipping agency activities. Entry into force has initially been postponed to end of October 2010, while a further six-month delay in implementation is foreseen. Companies have received a new grace period until 18 July 2011 then reached an agreement with the authorities, who renewed their licenses.*
- **In Egypt, the number of foreign employees in a company is limited to a maximum 10% of the total number of employees (25% for companies established in free zones). According to the Ministerial Decree 90/ 2011, a work permit for a foreigner can be granted only if an Egyptian substitute cannot be found, and for a maximum of 3 years. Companies also have to employ Egyptian assistants for the foreign experts, and train them.**
- **On 12 March 2012, the Ministry of Tourism issued a decree (151/2012) according to which applications for establishing tourism companies of different categories shall not be accepted for a period of one year, because "there is no need in the country" during the current period. This is an extension of the application of the previous decree84/2011 set to expire in March 2012.**

India:

- *Since the end of 2009, the Department of Telecoms (DoT) has taken a number of steps to increase security requirements in telecoms. The measures taken between March and July 2010 posed fundamental market access questions. The requirements included in the 18 March license amendment to the United Access Service License Agreement already raised fundamental concerns. Notably, telecom equipment providers were required to ensure transfer of technologies within a period of three years and the obligation to substitute Indian engineers for foreign ones within a period of 2 years. The Telecom Service Provider –Vendor/Supplier Agreement imposed in the 28 July Amendment to the United Access Service License Agreement added much more demanding and trade restrictive requirements, including the escrow of source code and sensitive design information and set out very high liability in terms of penal* *provisions. Such requirements were very likely to be commercial deterrents for global ICT companies that exercise great care in protecting such sensitive proprietary information which is at the core of their business. Subsequently, the Government of India agreed to review the provisions in the light of international best practices and see if there could be an alternative mechanism which could be put in place to resolve the issues. In March 2011, India decided to allow telecom operators to – temporarily - choose between a regime based on self certification (but subject to the assessment of DoT) and the new system of prior security clearance (based on the signature of specific template agreement where disclosure of source codes and transfer of technology is foreseen). On 31 May 2011, DoT issued a new license Amendment superseding all prior telecom security-related policies dating back to December 2009. The Amendment reflects some positive developments, including removing (i) the source code escrow and (ii) the transfer of technology requirements, and (iii) the mandatory contractual terms stipulated by the 2010 template agreement. However, the proposed changes raised some new policy issues, including a requirement for mandatory security testing in an Indian laboratory by 2013; inspection of hardware, software, design, development, and manufacturing facilities as well as supply chains; employment of only resident, trained Indian nationals as executives responsible for certain security cases; and the potential for companies to be "blacklisted" from the Indian market, should they fail to comply with certain laws and regulations. Accordingly, a lasting solution that addresses all concerns is yet to be achieved.*

- **Many of the tax provisions included in the Indian Finance Bill 2012 raise serious concerns as the aim at imposing fiscal liabilities on established companies with retroactive effect extending back for as much as half a century, while the Finance Bill also seems to reverse judgments issued in favour of foreign investors by Indian courts or to impact on many currently on-going cases and audits in relevant matters.**

Indonesia:

- Indonesia set up an 80% limit on foreign direct investment in the fisheries sector, according to the Decree 5/2008 of the Ministry of Fisheries.

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

- Ministry of Health Decree 1010/2008 restricts the scope of imported drugs that can be registered and provided that drugs which are currently imported must be manufactured locally within 5 years. The Decree was adopted and became effective on 3 November 2008. Contrary to previous commitments to ensure that existing foreign importers (so called PBF companies) could continue to register their products, the Ministry of Health returned to its original position whereby drugs can only be imported if they fulfil the need and are not manufactured locally; furthermore imported drugs can only be registered by companies having manufacturing facilities in Indonesia. 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.
- Decree 43/2009 on circulation, selling and supervision and control of alcoholic drinks of 15 September 2009 imposes new limitations on national treatment applying to the distribution and retail services. These services can be provided only by companies owned by Indonesian nationals and resident on the territory of Indonesia.
- *A new draft regulation has been prepared on the establishment of data centres for information and electronic transactions. It would provide for limitations on national treatment, since these would have to be operated by Indonesian nationals. Depending on the definition of 'public service', many multi-national companies might be affected.*
- *Draft regulation is being prepared to introduce local content requirement of 50% on oil and gas contractors, who would be obliged to spend 50% of their total project expenditure on local products and services in the framework of the "Indonesia Incorporated" concept in the sector to support these industries in terms of service, financial and human resources procurement.*
- A mining law adopted on 16 December 2008 requires that minerals and coal be processed before export. The Government has one year to put into place the necessary implementing regulations to give effect to the provisions of the law. The Decree on Mining Services entered into force in September 2009 (Decree 28/2009) and stipulates that mining companies need to prioritise the use of local or national (100%-Indonesian owned) mining service companies over foreign-owned ones. Implementing regulations were adopted in February – June 2010 for 1) Mineral and Coal Mining Enterprise Activities, 2) Determination of Mining Area and 3) Forest Area Utilisation Regulation. Government Regulation No. 24 of 2012 on the Amendment to Government Regulation No. 23 of 2010 on the Implementation of Coal and Mineral Mining Business Activities was issued to re-organize the process for issuing mining licenses for non-metal and rock minerals. Presidential Decree 24/2012 obliges foreign holders of mining licenses to cut their stakes to 49 per cent within 10 years of starting production, from 80 per cent.

- In 2010, a new Investment Negative List was issued (presidential regulation 36/2010), encompassing previous sectoral limitation (above) in one new list, while stating grandfathering and hierarchy of regulations. Some sectors were opened up (for instance hospital, education) while others became more restrictive (such as specialised hospital and other health services, from 65 to 67%; some tourism services have been increased from 50 to 51%. International maritime transports for cargo and passengers as well as maritime cargo handling services allow for 60% foreign ownership for ASEAN investors, compared to 49% for non-ASEAN investors. Very Courier/express delivery services are subject to minority foreign ownership (49%) and additionally reflect the restrictions imposed by the Postal Law, i.e. delivery services can only be carried out up until Indonesia's gateways. Foreign ownership limits for large-scale construction services have been raised from 55 to 67%, but only for high risk projects with a value exceeding IDR 1 billion (about US$ 100,000). Operation, construction and management of telecommunication towers are completely closed to foreign investment, in line with Ministerial Regulations issued in 2008 and 2009 in a push for local content requirements in this sector. This also appears to be inconsistent with Indonesia's GATS commitments.

- The Horticulture Law of October 2011 reduced the foreign equity cap from 95%/100% down to 30%. This entails serious implications not only for future investments but also for established investors as the legislation does away with the grandfathering principle.
- In April 2011, the House of Representatives passed a bill to limit the number of foreign accountants operating in the country. Under the bill, a foreign accountant would not be able to receive a business license unless there was a mutual recognition agreement (MRA) between Indonesia and the accountant’s country of origin. The bill also requires that foreign public accounting firms have five local partners for every foreign partner and that foreign public accountants be members of their national public accountant professional associations. Foreign employees must not comprise more than 10 per cent of a public accounting firm’s total employees under the bill. While the bill will tighten requirements for foreign public accountants, the rules for local accountants will be loosened. Aspiring local public accountants would no longer need an accounting degree under the bill. Applicants would only need to complete accounting courses and to pass a certification test jointly administered by several universities and the Indonesian Association of Public Accountants (IAPI).
- **Gov Reg 8/2011 on Multimodal Transportation requires all logistics companies and freight forwarders who perform the multimodal transport (end-to-end transport) services to re-register and obtain a new license. The regulation would also require existing logistics service providers with foreign ownership to divest, based on the interpretation of “foreign legal entities” as the current equity ownership rules as imposed by the DNI mandate minority foreign equity ownership. On 26 Jan 2012, Minister of Transport issued MOTransport Regulation No 8/2012 as an implementing regulation to Gov Reg No 8/2011 on Multimodal Transportation. A registered foreign multimodal transport provider may operate in Indonesia by appointing an agent, and may only operate up to ports open for international trade, ports for crossing country borders, or international airports with air cargo service, or cargo terminals and train stations with trans-country services. Furthermore, foreign businesses cannot**

provide support services, such as handling customs issues. Gov Reg 8/2011 effective on 8 Feb 2012. MOTransport Regulation No. 8/2012 effective on 26 Jan 2012.

- *The Central Bank of Indonesia is considering limiting foreign ownership in banks and introducing requirements for foreign banks to set up offices in Indonesia. The regulation is expected during 2011 with a lengthy transition period. Foreign ownership limits below 50% have been proposed in the media. Bank ownership is currently regulated by the Government Regulation 29/1999, which allows a person or institution, Indonesian or foreigner, to own up to 99% of a bank. Foreigners currently own 50.6% of banks assets. Any single entity trying to own at least 25 percent of shares already needs an approval from the central bank.*

- Payments and settlements of all domestic commercial transactions and obligations should be conducted in Indonesian Rupiahs from May 2012, except for transactions related to the state budget, grants given by or to a foreign state, international commercial transactions (any payment made by or to a counterpart overseas for goods or services with an "overseas component"), bank deposits denominated in foreign currencies, and international finance transactions. Violation of this provision of the Currency Law may attract imprisonment of up to 1 year and a fine of up to IDR 200 million for both payer and payee.

- **Government Regulation 14/2012 implements Law No. 30 of 2009 on Electricity, which requires the government to regulate electric power supply businesses; electric power supply business licenses and operation licenses; compensation for land use; electric power sales prices, network leases, and tariffs; electricity safety, operational feasibility certificates, Indonesian national standards, competency certificates; electric power network use; development and supervision of electric power supply businesses; and administrative sanctions. (Alicia)**

- **Regulation 18/2012 was issued 1 February 2012 (and since in force) to comply with Presidential Regulation No. 9 of 2009 on Financial Institutions. Pursuant to Article 20, foreign business entities may only own up to 85 percent of a Venture Capital Company (PMV) paid-in capital.**

- **As a part of the implementation of Law No. 20/2008 on SMEs, the minimum net asset requirement for foreign investment companies (PMA) has been increased to IDR 10 billion (USD 1,1 Million). This follows the implementation of a circular from BKPM (Indonesian Investment Coordination Board) on minimum net asset requirement for PMA.**

Nigeria:

- The law of 21 April 2010 imposes local content requirement for investment in the oil and gas industry. Nigerian companies would retain a substantial share of contracts and projects awarded in the oil and gas sector and would also obtain preferential treatment in the awarding of oil blocks, oil field licences and oil lifting licences. Minimum

Nigerian content is defined, as are the preferences for Nigerian operators. A Nigerian investor is granted a 10% advantage over a foreign bidder. The Nigerian Content Monitoring Board is set to supervise the compliance with the law. The law builds on the previous local content policy, with the aim of fostering local industry capacity building; it raises, however, questions about the feasibility and implementation.

- ***An announcement was made that a bill on Local Patronage aimed at boosting consumption of "Made in Nigeria" goods and services. International manufacturers will be asked to establish part of the manufacturing process in Nigeria, as part of a company-to-company partnership.***

Russia:

- In April 2008, the Russian Duma approved The Strategic Sectors Law (SSL "Law on Foreign Investment in Companies with Strategic Significance for National Security and Defense") and Federal Law No. 57- FZ amending certain other Russian laws to give effect to the Strategic Sectors Law (the "Amendments Law"). It imposes limitations on foreign investment in Russia in a wide number of sectors deemed of strategic importance to Russia, such as telecoms, aviation, electronics (TV), broadcasting and printed media, as well as extraction of mineral resources from the 'federally important' fields. The Law, although brings certain advantages in terms of greater clarity of procedures, does complicate the process for foreigners to invest in Russia. Albeit recently the procedure of granting permissions has recently been accelerated, the law remains too restrictive by providing too wide a definition of strategic sectors. Furthermore, a 50% participation limit was imposed on foreign participation in strategic business entities (a 10% limit in the extraction sector, and tougher restrictions for businesses controlled by foreign governments and international organisation). A special committee led by PM Putin approves all deals exceeding the limits. For instance in 2009, the Government Commission for foreign investment in strategic sectors considered 39 applications, 20 of which were approved, 2 rejected and 17 referred for further consideration. Amendments to the SSL were until recently limited to clarifications of procedures and some relief for Russian companies, whose foreign-based affiliates are affected by the law. Meanwhile, a significant decline in inflow of foreign investment in 2010-2011 has started to hamper the implementation of the Government's economic plans. Prime Minister Putin-led Government Commission for foreign investment stressed in December 2010 a need to liberalise the SSL.

- The Strategic Sectors Law (SSL, No 57-FZ of 29.04.2008) was approved and entered into force together with the Federal Law No 58-FZ, which amended a number of the Federal Laws to bring them in conformity with the SSL. The most important law among them was the Subsoil Law (No 2395-1 of 21.02.1992), which regulates the most important sector of the Russian economy – the extraction of natural resources. The Amendments imposed even tougher restrictions on foreign access to this sector as compared to other sectors of the Russian economy. The notion of the 'subsoil plot of federal importance' was introduced (e.g. oil fields with more than 70m tonnes of oil each, gas deposits of more than 50bn cubic meters of gas, gold deposits ofg 50 tonnes of gold each, all deposits of diamonds, uranium, nickel, gobal , tantalum, platinum, beryllium amd niobium). A complete ban was imposed on foreign access to the Federal fund of reserve subsoil plots, and mineral resources of the Russian continental shelf (only Rosneft and Gazprom are now permitted to develop them).

- The Ministry of Industry and Trade prepared tougher rules of industrial car assembly. The extension of current deals with foreign car manufacturers is expected to take place in the course of 2012/2013; specific conditions for the prolongation of contracts is as follows: production capacity should be at least 300,000 cars per year within two years after signing the additional agreement for CN codes 8701-8705 (25,000 cars annually are requested now). Alternatively, the producer should modernise the existing production facilities to be able to produce at least 350,000 motor vehicles annually within three years from signing the additional agreement. The car manufacturer should take an obligation to equip at least 30% of motor vehicles locally produced with domestically produced engines and/or gear boxes. In case annual volume of production exceeds 1 million motor vehicles, domestically produced engines and/or gear boxes need to be installed on 200,000 cars. A manufacturer is obliged to establish the production of car body parts, possibly in cooperation with other Russian legal entities, within 48 months after signing the additional agreement. The car manufacturer who builds new production facilities is obliged to comply with the following schedule of production localisation: 30% level of production localisation in the fourth year after signing the agreement; 40% in the fifth year; 60% in the sixth year. The car manufacturer who modernises the existing production facilities is obliged to implement the following schedule of product localisation: 35% level of localisation in the first year; 40% in the second; 45% in the third year; 50% in the fourth year; 55% in the fifth year; 60% in the sixth year. These steps are in line with a large-scale programme of localization of foreign production, which should stimulate foreign companies to share their technologies and knowhow with local producers in order to transform their assembly facilities in Russia into a full-scale production. E.g. the Ministry of Industry and Trade drafted a 'Strategy of pharmaceutical industry' which envisages a broad spectrum of benefits for domestic pharmaceutical firms. Foreign firms could also get the status of 'domestic producer' by not only packaging their medicines, but via organizing production of drug substances in Russia. Foreign producers of telecom equipment and mobile phones (e.g. Nokia, Alcatel-Lucent, Cisco Systems, and Huawei) are requested to reveal source codes of their software in order to enjoy the status of 'domestic producer' for their projects in Russia (Government support, larger market share etc). On 24 December 2010, the Ministry of Economic Development, the Ministry of Industry and Trade and the Ministry of Finance issued a joint Order adopting the above rules of car assembly regime, imposing much higher thresholds of localisation and assembly quantities. Conditions to import parts and components for car assembly are established in foreign car manufacturing firms' individual agreements with the Ministry of Economic Development. Remaining preferential, they aim at promoting locally manufactured final products.

- The Federal Law "On the bases of state regulation of retail trade in the Russian Federation" (No. 381 – FZ of 28 December 2009), which entered into force on 1 February 2010, places as one of its primary goals the support of Russian producers and retailers in their relations with big retail chains. Although the Law does not distinguish between Russian and foreign retailers, it has a certain 'anti-Western' orientation taking into account the large size of Western retail chains which have improved their positions in Russia. The Law imposes a domination threshold on retail chain operations in Moscow, St. Petersburg and other territorial entities (25%) while forbidding those exceeding the limit to expand their business. Retail chains were also deprived of their privilege to collect bonuses from local suppliers (which is quite common practice in other countries). The Law also gives the Government the right under certain conditions to regulate retail prices for essential foodstuffs.

Saudi Arabia

- **Saudi Arabia has intensified its efforts to increase the level of employment of Saudi nationals in the private sector. A new step in this long-term "Saudization" project, the so-called "Nitaqat programme", was introduced on 10 September 2011, with enforcement starting on 26 November 2011. The Nitaqat programme foresees fixed quota of Saudi nationals in all companies with more than 9 employees. The quotas vary from sector to sector. In function of their level of compliance with the quotas companies are categorised as "red", "yellow", "green" or "excellent". Companies in the "red" category are excluded from public procurement contracts. Companies in the "red" and "yellow" categories are excluded from hiring (new) non-Saudi employees.**

South Africa:

- The Government is currently formulating a comprehensive FDI policy with view to preparing a new investment act. Some shifts in the approach to investment were flagged in a discussion document published by the National Treasury. A broader set of criteria will be used for assessment of FDI decisions, notably large M&A applications. These criteria will replace the exchange control procedure currently used to assess M&A applications. The criteria will follow a developmental approach that balances private versus social returns. The policy will pursue aims to protect the tax base and limit options to evade taxes or externalise assets while state-specific regulation, such as BEE, which emphasises "social cohesion and growth imperatives" will carry more weigh when future FDI is considered. No firm timeline has been set for the completion of the process. ***SA has also drafted a new model Bilateral Investment Treaty (BIT), which it proposes to use as the template for all future investment agreement negotiations. (the draft BIT has not been released yet).***

- *SA is currently in the process of amending the Broad-Based Black Economic Empowerment Act of 2003 and their accompanying Codes of Good Practice. The legislation has the overarching objective to transform the economic landscape to more* *accurately reflect the racial demographic of the country. The legislation has been in place since 2004.* ***In 2011 the government embarked on an overhaul to strengthen the law. On 9 December 2011 the Department of Trade and Industry released for public comment the Broad-Based Economic Empowerment Amendment Bill of 2011. The Amendments include a substitution of Section 9 of the principal Act, which makes principled provision by insertion for the Minister to issue (new) Codes of Good Practice that may include, among other provisions "indicators to measure local content" in relation to firm-level procurement. It is anticipated that procurement will now also have the largest weighting in terms of the six elements of the scorecard against which the level of empowerment of firms is measured. Apart from procurement, the other elements are: ownership, employment equity, skills development, enterprise development, and socio-economic development. The new Codes of Good Practice which gives practical effect to the principles of the Act are still under development.***

South Korea:

The National Assembly adopted a law further restricting access of large retailers (so-called "SSMs", or super-super markets affiliated with large enterprises) to retail services. The legislation is deemed to be in breach of Korea's WTO/GATS and FTA commitments. The amendments to the Distribution Industry Development Act excludes SSM's from operating within 1000 meter from traditional market zones. The validity of this measure was also extended from 3 to 5 years**.**

Thailand:

- *In the past few years, Thailand attempted to tighten the law by adding new criteria used to qualify companies as foreign referring not only to "equity ownership limitation" but also to the "majority of voting rights and management controls". These amendments did not pass, but there are some concerns that the government could revisit the issue and try to use the backdoor of sector-specific legislation to introduce the new criteria. There is currently a worrying trend of using sectoral legislation framework to impose foreign dominance criteria by means of both ownership as well as management structure controls.* In June 2011, the National Telecommunication Commission (NTC) announced the reintroduction (previous attempt August 2010) of a draft notification that would introduce foreign dominance criteria in the telecom sector by taking into account such elements as shareholding, management control and supply relationship. The notification has been sent for publication already. The Ministry of Finance is preparing an amendment to the Life and Non-Life Insurance Acts of 2008 which would maintain the foreign dominance criteria so as to restrict foreign participation in insurance companies by means of both ownership as well as management structure control. According to the draft, insurance companies would still be subject to the condition that 75% of shares belong to Thai nationals and that these shares must also carry no less than 75% voting rights.

- *Similarly, a new draft law on logistics services business intends to apply both ownership as well as management structure restrictions in its application eligibility criteria. Such conditions include a criteria requiring at least 70% of shares in the companies be owned by locals, and a management structure criteria requiring that 70% of the directors must be Thai nationals in order to be eligible for the privilege benefits.*

Unites States:

- Foreign ownership of US airlines: the US Code 40102 establishes that 75% of the voting rights in a US carrier must be owned by persons who are citizens of the United States. **The provision was reauthorized in 2011, Public Law No: 112-95, but the provision was not changed.**

Ukraine:

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

Vietnam:

- On 1 August 2011, a decree No. 46 on employment and administration of foreign employees entered into force. It conditions extension of work permits for foreign workers with employment of local labour force.

III. EXPORT RESTRICTIONS

Algeria:

- Restriction on exports (metal scrap, leather and cork), and prohibition to export subsidized agricultural and food products: cereals (wheat and barley), flour and milk.

Argentina:

- **Law 26732, passed by the national Congress on 28 December 2011, extended for five years the export tax on hydrocarbons which had been established by Law 25561 in 2002.**

- **Decree 7, issued on 7 January 2012, extended the 5% export tax on bovine hides and skins until end 2015 (CC 4101.20, 4101.50, 4101.90, 4104.11, 4104.19, 4104.41 and 4104.49).**

Belarus:

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

Brazil:

- *Presidential administration is reportedly considering creating an iron ore export tax meant to spur investment in local steel production and reduce reliance on commodities exports. According to market analysts, given the current tight world market conditions, driven by a continuously growing demand, if Brazil (world's second largest exporter) decides to restrict its supplies to reallocate them for domestic use, it could lead prices to jump from their current already extreme prices to the range of USD 220-230/tonne in H1 2012*

China:

- China updated the export quota of rare earths, as introduced in 2009, for the first semester of 2011: these represent a reduction by 35.2% on the quota allocated by MofCOM (Ministry of Commerce) for the first semester of 2010. The reduction of the quotas was higher for foreign-invested exporting companies (-38,4%) than for domestic exporting companies (-34%). Following the setting up of quotas for the second semester, the total quota size for 2011 remains at the same level as that for 2010, but in fact it represents a strong reduction of the quota for exports of rare earths because the list of products covered by the quota now includes “ferro-alloys” that were not included until now. Some estimates indicate that by including this new category of products in the quota, China in fact reduced the 2011 rare earth export quota by as much as 30%, while passing the message that the 2011 quota was not reduced when compared to that of 2010. **The 2012 rare earths quota added conditions to qualify for export licenses.**

Egypt:

- On 20 September 2010, the Ministerial Decree 450/2008 imposing the ban on exports of rice was extended until 1 October 2011. Any surplus rice is allowed for export after meeting domestic demand, with an export duty set at the level of 2,000 EGP/tonne

(HS 100610 to 100640). Broken rice (HS 100640) can be exported at 100 EGP/tonne. An export quota for export of milled rice (HS 100630) has been set at 100,000 tonnes every two months. The system is managed through export licence system. **On 19 September 2011, Ministerial Decree 466/2011 prolonged until 1st of October 2012 the export ban on rice introduced by the decree 450/2008.**

- Since June 2011, higher export duties on certain industrial raw materials are applicable, as specified by the Ministerial Decrees 277 and 278/2011. Export duties on crude marble (HS 2515.11) and granite (HS 2516.11) were raised from 80 EGP/ton to 150/ton; and for unwrought lead, lead waste and scrap (HS 78.01 and 78.02) from 2,000 to 3,000 EGP/ton. **The measure was set to apply for 6 months in the case of marble and granite, and for one year in the case of the other materials. For marble and granite, the Ministerial Decree 707/2011 has extended until 12/12/2012 the application of the 150 EGP duties.**

India:

- An export tax of 5% on iron ore was re-introduced (from the previous 0% regime). At the same time, the export tax on iron ore concentrates was increased from 5% to 10%. Both measures apply as of 24 December 2009. On 29 April 2010, India increased the tax from 10% to 15%. On 1 March 2011, the export duty on iron ore fines and lumps (other than pellets, HS 260111 and 260112) was raised from 5% and 15% to a unified rate of 20%. **This unified rate was further raised to 30% with effect from 30 December 2011.**
- On 1 March 2011, India introduced an export duty of 10% on de-oiled rice ban cake.
- On 18 February 2011, India prohibited exports of milk and cream, concentrated or containing added sugar or other sweetening matter including skimmed milk powder, whole milk powder, dairy whitener and infant milk foods (HS 0402). Also on the same date, India extended export prohibition on exports of Casein, caseinates and other casein derivatives; casein glues (HS 3501).
- On 16 March 2011, India reduced the Minimum Export Price (MEP) of onions (HS 0703 10 10) other than Bangalore Rose onions and Krishnapuram onions from $350 metric ton to $275 per metric ton. On 7 September 2011, a singles MEP was fixed for all varieties of onions, including Bangalore Rose onions and Krishnapuram onions at 475 $/metric ton. As of 9 September 2011, export of all varieties of onions is prohibited with immediate effect till further notice.
- **The export duty on chromium ores and concentrates all sorts was increased from Rs. 3000 per tonne to 30% ad valorem.**

Indonesia:

- Ministry of Fisheries Decree 5/2008 on Catch Fishing Business requires both domestic and foreign fisheries companies to set up fish-processing industry in Indonesia. According to the press statement, caught fish has to be processed domestically first before exportation. The stated purpose is to create added value to the Indonesian fisheries sector and to create jobs.
- The regulation No. 67/2010 introduced a progressive export duty on cocoa, fluctuating between 0% and 15% depending on the world market price. The funds from the export tax would be used for developing the national cocoa industry.
- Decree 36/2009 of 11 October 2009 introduced export controls on raw rattan. **Ministry of Trade extended the decree 36/2009 on Rattan Exports that expired in August 2011 to ban again the exports of raw rattan from Jan 2012 (MoT Reg 35/2011).**
- **On September 30 2011 Bank Indonesia issued three regulations that reflect its foreign exchange policies. The regulations are the Regulation on Foreign Exchange Export Proceeds and Foreign Exchange Debt Drawdowns (13/20/PBI/2011); the Regulation on Monitoring of Banks' Foreign Exchange Activities (13/21/PBI/2011); and the Regulation on Foreign Exchange Debt Drawdown Reporting Obligation (13/22/PBI/2011). Regulation 13/20 stipulates that all foreign exchange export proceeds must be received and deposited by the exporter in a foreign exchange bank. For monitoring purposes, Bank Indonesia also requires that exporters report their export activities to foreign exchange banks, which in turn are required to pass on the information to Bank Indonesia. Regulation 13/21 became effective immediately, whereas Regulation 13/20 and Regulation 13/22 were effective on January 2 2012.**
- **Minister of Energy and Mineral Resources (ESDM) Regulation No. 7 of 2012 on Increasing Value-Added Minerals Through Processing and Refining bans the exports of unprocessed minerals, except coal, from 2014.**
- **Ministry of Trade Regulation No. 13/M-DAG/PER/3/2012 was issued in March 2012 (in force as of July 2012) to address current uncertainties regarding the legality of exports and their restriction or limitation. This was previously regulated by No. 558/MPP/Kep/12/1998 ('1998 Regulation') The regulation stipulates three types of goods for export (Article 2(1)): goods free for export, limited export goods, and restricted export goods. Article 4(2) allows the Minister to limit the quantity or type of exported goods based on national security or national interests (a); human health, animals, plants or environmental safeguards (b); international agreements or treaties (c); shortage of goods or conservation purposes (d); the export destination's market capacity (e); and raw material shortages (f). Decisions to restrict goods are to be based on similar considerations (4(3)): threats to national security and interests; intellectual property rights protection; human life and health protection; environmental destruction; and the implementation of international agreements or treaties. The regulation also requires businesses to provide the following documentation: recognition as a**

registered exporter; export approval; surveyor's report; certificate of origin; and other supporting documents required by legislation. They will also have to supply monthly reports to the Ministry.

Kazakhstan:

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

Pakistan:

- On 13 April 2009 Pakistan imposed 15% regulatory duty on export of molasses. Molasses is used to feed production but is also an important feedstock for bio-ethanol production. The decision has been taken to encourage ethanol production in Pakistan, which has witnessed increasing export trend to other markets owing to unprecedented fuel price hike.

Russia:

- The Russian Government increased export duty (from 5% to 20%) on some categories of magnesium scrap, but not less than 138 euros/tonne. In force since 2 November 2009 by Government Decree No. 771 of 2 October 2009.
- The Russian Government's Commission for the External Trade Protection Measures took a decision about the increase of export duty on copper (from 0% to 10%) and nickel (from 5% to 10%), which are in force since December 2010 (Government Decree No. 892 and No. 893 of 12 November 2010). The Russian Government links the increase to the price of nickel and copper on LME. The *export duties on potash fertilisers are being considered.*
- In August 2010, the Russian Government revised upwards the export duties on oil and some oil products, in accordance with the increased world oil price (Government. Decree No. 652 of 26 August 2010). A further upward revision of the duty took place in February 2011, with export duty for oil set at USD 346.6 per tonne. New methodology for calculating export duties on petroleum products was introduced in February 2011. The rate of export duty on heavy petroleum products is set at 46.7% of the rate for crude oil, while the rate of export duty on light petroleum is set at 67% of the rate for crude oil. By 2013 the rates of export duties on heavy and light petroleum products will be equalized at the level of 60% of the export duty on crude oil. *The Finance Ministry is also actively lobbying for increase in export duty for gas from the existing 30% (flat rate) to 35%.*
- The Russian Government introduced a prohibitive export duty on petrol amounting to USD 415.8 per ton in order to reduce the deficit of petrol in some regions of Russia. **An elevated rate of the export duty on petrol will remain in place in 2012. In April the rate of export duty on petrol is $414.6 per tonne.**
- **The government issued the decree designating the port of Magadan as the sole exit point for ferrous metal scrap in the Far East.**

South Africa

- An export tax of 5% on unpolished diamonds has been in place since November 2008. The purpose of the tax is to stimulate the local diamond polishing industry and to create jobs.

Turkey:

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

Vietnam:

- Decree 109/2010/ND-CP which was announced on 4 November 2010 and entered into force on 1 January 2011, exporters of rice must meet more strict requirements regarding storage and rice processing facilities. There is one positive aspect of this Decree 109/2010/ND-CP, i.e. this legislation allows foreign-invested enterprises to participate in rice exports.
- **Circular 157/2011/TT-BTC was enacted by the Ministry of Finance on 14 November 2011 and took effect from 1 January 2012. This Circular also enacts a list of 87 products subject to export duties. They are mainly mineral products such as iron ores, metal scraps, and various kinds of monumental or building stones. 16 new products are added to the list of products subject to export tariffs as compared to the previous legislation.**

IV. MEASURES TO STIMULATE EXPORTS

Brazil:

- Sovereign wealth fund was introduced, aiming to protect the country from the global financial crisis and to help Brazilian companies to boost trade and to expand overseas.
- Decision to increase the number of exporting companies with access to the government's export financing programmes. *As part of the new industrial plan*

launched on 2 August 2011 ("Brasil Plano Maior), the Government announced that that the time lag for export refunds to be made available to exporters will be significantly reduced.

- An additional credit line (R$80 billion, US$ 43.6 billion) was opened by the National Development Bank on 10 December 2009.

- On 6 September 2010, the Government adopted a decree (*Medida Provisoria* N - 501) increasing funds allocated to the BNDES (National Bank for Development) to fund exporting operations by Small and Medium Enterprises. Funds passed from R$45 billion to 90 billion (over €40 billion). BNDES funds directly or indirectly (through financing operators) exporting operations at interest rates below market levels. Under certain circumstances it grants non-refundable funds.

- A stimulus package is planned to help boost exports from Brazil. It would include creation of a subsidiary of the BNDES, Eximbank, which would provide mechanism of funding and guarantee to exports, continuation of fiscal exemptions for companies 'preponderantly export-orientated', a system of integrated drawback to buy inputs tax-free and a simplified import-export procedure for SMEs. On 5 May 2010, the Brazilian government released details about the export stimulus package. The package establishes EXIM Brazil, a subsidiary of the National Bank for Economic and Social Development (BNDES) which will be in charge of financing exports. A new public export credit agency, Empresa Brasileira de Seguros (EBS), has also been created. The capital of EBS will have an initial capital of 17 billion Reais (obtained by merging already existing funds for infrastructures and export credit). The package also accelerates the refund of fiscal credits to exporting companies. Exporting companies are entitled to fiscal refunds for all components of a final product which is destined to export. Exporting companies are now to receive fiscal credit refunds within 30 days after submitting the request (the time lag is currently around 5 years). Companies with a minimum of 30% of their turnover generated through exports will be entitled to receive such fiscal credit refund. The package establishes a limit to the refunds of 50% of the total fiscal credit accumulated by an exporting company (until now, companies were entitled to 100% refunds). Furthermore, as part of the package, in November 2010, Brazilian tariff on auto parts used for domestic production will increase from the current 9 to 11% duty to 14-18% (full TEC duty). The move is foreseen in the export stimulus package, released in May 2010, which intended to eliminate within 6 months the 40% import duty reduction applied so far to imported auto parts used to produce cars in Brazil. This exemption, which aimed at reducing the trade deficit in the sector, had been in force for 10 years.

- **A second phase of the Plano Brasil Maior was announced in April 2012 with a package of measures geared to promote manufacturing industry and competitiveness. Within this context, for foreign trade sectors competing with imported products, the government announced the expansion of the Export Financing Program (PROEX), which will make BRL 3.1 billion available to ease trade operations.**

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:

- **Export subsidies are reported to be granted to Egyptian products up to the level of 10% of the local value-added, in order to encourage the use of local inputs. According to the authorities, such subsidies are targeted at companies with low profit margins and low energy consumption, however in practice they seem to apply in an undifferentiated manner.**

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.

Indonesia:

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

Japan:

- In June 2010 the Government of Japan announced the "New Growth Strategy". One of the key policy measures to stimulate the economy's growth is the promotion of infrastructure-related exports to emerging economies. It aims to create infrastructure-related business worth Yen 19.7 trillion ($225 billion) in the next ten years. On 10 September 2010, the Cabinet adopted the "The economic measures for realisation of New Growth Strategy", which, inter alia, aims to expand the types of projects covered under the JBIC scheme. The Government expanded the scope of the JBIC scheme to ten categories, adding such areas as efficient power generation, efficient electricity transmission, water treatment and carbon capture and storage. It also expanded the scope of railway projects to include not only high-speed rail but also subway and monorails. JBIC will be required to make such investment and loans in cooperation with private-sector financial institutions.
- JBIC launched on 1 April 2011, "E-FACE "(Enhanced Facility for Global Cooperation in Low Carbon Infrastructure and Equity Investment)" with the view to promoting a package of infrastructure related exports to emerging countries. The scheme aims at mobilizing private capital through JBIC's equity participation, guarantee functions and loans. It was created in response to i) the "New Growth Strategy" (June 2010), ii) the Cabinet decision on the "The three step economic measures for the realisation of New Growth Strategy"(10 September 2010) and iii) the Cabinet decision on the promotion of infrastructure related package exports (10 December 2010). The "E-FACE" has integrated and expanded the existing schemes of JBIC such as the "FACE" (Facility for Asia Cooperation and Environment) and the "LIFE initiative" (Leading Investment to Future Environment Initiative). The "E-FACE" will cover such projects as: i) infrastructure package exports: clean energy, railway, water treatment, smart grids; ii) investment promotion in emerging countries: M&A and natural resource exploitation projects; iii) environment and energy saving: efficient power generation, efficient electricity transmission, carbon capture and storage. In the past, JBIC's investment finance was limited, in principle, to projects in emerging countries but it is now available also for some projects in developed countries after the revision of the ministerial ordinance concerning the implementation rules on the Law concerning the Japan Finance Corporation (16 November 2010). In addition to high-speed trains and nuclear power plants which have been already eligible as projects for developed countries (from 28 April 2010), the projects (for developed countries) which have become newly eligible for JBIC's schemes are city trains (subway and monorails), water treatment facilities, power generation using renewable, electricity conversion/transmission facilities and smart grids. On 28 April 2011 a Japan Bank for International Cooperation Act entered into force, separating the Bank from the Japan Finance Corporation (JFC). On 15 July 2011, a ministerial ordonance was adopted by the Cabinet to expand the scope of lending and investment operations of the JBIC. The ordinance set out the scope of the JBIC operations as follows: i) export finance for developed countries (e.g. export of vessels, aircraft and infrastructure related exports, such as railways); ii) investment finance to support M&A by Japanese companies (if the purpose is management control or tie-up of/with foreign companies engaged in infrastructure related business or foreign companies which posess advanced

technologies); iii) project finance for projects in developed countries (including natural gas power generation).

Kazakhstan:

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

Malaysia:

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

Philippines:

- In the framework of the government's stimulus fund to finance export development and promotion, as well as capacity-building of small- and medium-sized exporters, the Export Development Council (EDC) released only PHP 200 million out of foreseen 1 billion. Nineteen projects were approved so far involving inter alia the following: international trade fair participation, capacity building, common service facility, product development training, and collateral. These 19 projects are reportedly worth PHP 242 million, the disbursement of which is planned until December 2010. The EDC expects the Export Support Fund to continue in a self-sustainable manner. With the President's approval of the Philippine Export Development Plan 2011-2013 last July, the government allocated an amount of PHP 80 million for another Export Support Fund for the year 2011 (though this has yet to be released).
- In July 2011, the President approved the Philippines Export Development Plan 2011-2013, allocating PHP 80 million to the Export Support Fund for 2011.

Russia:

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

Switzerland:

- *The Swiss Parliament is debating the reintroduction of export credit support for exports of breeding cattle. Export subsidies for breeding cattle were paid by Switzerland until 2009 but were terminated given the prohibition of export subsidies by WTO law. The agricultural lobby has succeeded since in putting forward a parliamentary proposal to reintroduce export subsidies of around 4 million CHF per year. Both chambers of the Swiss parliament have accepted the subsidy as a matter of principle but details of the bill remain to be determined between the two chambers. The Swiss government has repeatedly pronounced its opposition against the reintroduction of the subsidy.*

South Korea:

- The government and the Korea Export Insurance Corporation plan to invest an additional 3 trillion won into troubled exporters that suffer from the weak won and a falling global demand have been implemented.
- In January 2011, the state-run Korea Trade Insurance Corporation announced its plan to offer payment guarantee coverage worth KRW 86 trillion to SMEs throughout 2011, up by 16% from the previous year.
- In April 2011, the Korea Trade Insurance Corporation announced that it would offer payment guarantee coverage worth USD 1.03 billion to 10 large container ships being built by Hyundai Heavy Industries Co. for the Hapag-Lloyd, the world's fourth-largest container operator with 137 vessels. This was in order for Hyundai Heavy Industries

Co. to secure financing from various lenders for the Hapag-Lloyd AG deal. The Korea Trade Insurance Corporation said that it would continue to offer export insurance coverage for ship orders won by local yards, which were expected to win new orders as global trade recovers from the 2008 worldwide financial crisis.

- **According to the Ministry of Knowledge Economy (MKE) in its report on 2012 trade strategies published on 3 February, 2012, the Korean government will be supporting 100,000 first-time exporters and domestic firms with insufficient experience in exports to expand its global trade figures to two trillion dollars by 2020. The government will raise the number of export-oriented SMEs from current 80,000 (as of late 2010) to 100,000. The strategy also consists of increasing subsidies for export consulting, dispatching more trade expeditions, and selecting model firms (with export targets of five million dollars) and robust firms (with export targets of $50 million). Trade insurances for SMEs will be increased from 19 trillion won ($16.97 billion) last year to 50 trillion won, while government support for mid to large-sized projects will increase from 14 trillion won to 50 trillion won. According to this report, the trade insurance and the Export-Import Bank of Korea will open up more than 60 per cent of their loan and credit lines with the first half of 2012, in efforts to help domestic exporters overcome external uncertainties.**

Taiwan:

- Taiwan has pursued three main programmes to stimulate its economy, including one on stimulating and promoting exports. The measures are currently viewed as relatively non-discriminatory. On 25 December 2008 the Cabinet announced an export stimulus package totalling NT$8.53billion (US$ 258.7 million, €182.7 million) to be used through 2012. The main focus of the package, developed by the Bureau of Foreign Trade, 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, was to 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 was dedicated be used to target the markets of India, Russia, Brazil, Vietnam, Indonesia, Malaysia and those of the Middle Eastern countries. This plan, focused on export promotion and addressing SME financing difficulties, is relatively in line with measures seen globally. As such it is not seen as particularly objectionable. In December 2011 MOEA earmarked NT$5 billion (120 M EUR) for additional export credit.

V. OTHER MEASURES

V.1. Stimulus Packages

Algeria:

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

Brazil:

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

- The Brazilian Development Bank undertook on 26 August 2009 a reduction of interest rates on public financing of exports of capital goods within the framework of the existing rules on pre-shipment financing for exporters (PROEX). On the same day the benefits of the system were extended to small and medium-sized enterprises.

- In the framework of the "Brasil Plano Maior" launched on 2 August 2011, it was announced that 3% of the revenues coming from exports would be redistributed to the benefit of the manufacturing industry.

- The key measure of the Brasil Plano Maior of 2 August 2011 concerns payroll-tax cuts for textile, footwear, mobile and software producers, who are exempted from the payment of the 20% social security tax. Tax cuts should amount to 25 billion reais (€ 11 billions) and were presented as a pilot project which could be soon extended to other sectors. The Government will partially recover some of the money by introducing a new tax on profits (amounting to 1.5% for textiles and footwear producers, and 2.5% on mobiles and software ones).

- **On April 4, 2012, Brazil launched a new stimulus package (Brasil Maior II), which worth about BRL 60.4 billion (€ 25.3 billion), equivalent to 1.5% of GDP, and include a mixture of fiscal incentives, comprising lowering payroll taxes for employers in hard-hit industries and increasing tariffs on products that have been gaining market space. Other measures include giving preference to national goods in public procurement; more liberal rules for trade financing; incentives for the IT industry; tax incentives for innovation in the automotive industry; tougher enforcement of trade regulations against unfair trade practices. Furthermore, the government will transfer BRL 45 billion (€ 18.8 billion) to the state development bank, BNDES, to use for subsidised loans to industry to foster local production and technological innovation.**

- **On April 15, 2012, Brazil issued Decree 7761/2012 setting regulations on the new industrial and trade regime for the automotive sector. The main points are:**
  (1) the new sectoral industrial and trade regime will be valid for four years (2013-2017) and will provide incremental reduction on the supplementary 30-percentage points to the range of tax on manufactured goods (IPI) applying to automobiles, trucks and buses, introduced in October 2011 through December 2012, for carmakers that reach investment and onshore production requirements;

  (2) automobile manufacturers must meet at least three of the following four criteria to be eligible for the new industrial and trade regime: (a) investing at least 0.15% of gross revenue in research and development; (b) investing at least 0.5% of revenue in engineering; (c) having at least eight of the 12 production steps for light vehicles onshore, and 10 of the 14 production steps in the case of heavy vehicles (final assembly, stamping, welding, painting, trimming, plastic injection, engine assembly, transmission assembly, component assembly, chassis assembly, body assembly); and (d) carrying out energy-efficiency evaluations for at least 25% of vehicles. Those criteria will become stricter during every year of the plan: by 2017, manufacturers will need to invest 0.5% of revenue in R&D, and double their engineering investment to 1% of revenue; locate 10 production processes onshore for light vehicles and 12 processes for heavy vehicles and provide energy-efficiency measures for 100% of their local production;

  (3) for purposes of obtaining the incremental reduction on the supplementary 30-percentage points to the IPI range, automobile manufacturers must carry the production steps established in the criteria (c) above with at least 65% of regional/local content based on production and labour value-added indexes;

(4) an stepping-up regional/local content requirement will be allowed for newcomers (45% to 65% in ten years), limited to a maximum of 50% of the nominal capacity of their planned onshore production during the period of installation of their local industrial facilities/supply chains, provided that they comply with research and development investment and fuel-efficiency criteria.

Canada:

- 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 has been 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 has been continued and the rebate rate for certain IT products has been raised. Innovation and IPR protection for technologies are emphasised.
- Stimulus plan on automobiles (restructuring around 2-3 big firms producing around 2 million cars) and steel (restructuring around five major companies which would represent more than 45% of the domestic capacity by 2011). China may use the opportunity to accelerate the process of restructuring of these domestic industries.
- China will take a range of measures including a hike in export tax rebates, credit support and elimination of outdated capacity to prop up its light industry according to an industry stimulus and revival action plan outlined on 18 May 2009. The authorities will further hike export tax rebates on some light industry products that do not form part of "high pollution, high energy consumption and capital intensive industries", said the detailed action plan released by the State Council. The government intended to extend financing support such as issuing credit lines to companies which have good track record but are temporarily short of liquidity, to help them weather the economic downturn. In particular, the plan said, the government would offer a proactive credit and guarantee policy to support well performing small- and medium-sized enterprises (SME) to create jobs. According to the plan, the government aims to form another 10 large companies in the sector through industry consolidation, each with annual sales revenue exceeding 15 billion Yuan.
- Stimulus plan in the shipbuilding sector aiming at raising the shipbuilding capacity. Specific measures:

- provides ship-owners competitive bank loans until 2012 to encourage fleet renewal and replacement
- support to increase credit funds for ship export buyers (commercial loans and credit facilities) at preferential lending rate
- offers a 17% subsidy on ship prices for domestic ocean going ships´ buyers till 2012
- offers working capital at preferential interest rate to shipbuilders and provides mortgage financing for ships under construction.

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

- *Support measures in favour of the tyre industry and its upstream and downstream processing announced in the press in the wake of the US decision to impose special safeguard measures on tyres imported from China.*

- China Southern Airlines received 1,5 billion yuan cash injection. The fund is the last instalment of capital that the government extended to the top three carriers. The Nation's three major carriers had received a total of 15 billion yuan as part of a package from the central government in 2008.

- The State Council approved a plan proposed by the country's state-owned assets regulator to set up an asset management firm to push ahead with restructuring of state-owned enterprises (SOE). The new entity will be a domestically-oriented sovereign wealth fund, set up to better manage state-owned assets in the industrial sector. The new company is said to have registered capital of R%B 20 billion and initial funding will be from the state-owned assets management budget and dividends paid by the central SOEs.

- In June 2010 a subsidy for the high-tech industry was introduced. It is contingent on export performance in that it would be granted in the form of a one-year special loan rate based on export performance in 2009. To be eligible, a company should export technology for a value of RMB 100,000 and the maximum total subsidy would amount to RMB 5,000,000.

- **China launched its 12th five-year plan (2011-2015) with the objective to upgrade and restructure traditional industries (equipment manufacturing, shipbuilding, automobile, iron/steel and non-ferrous metals, building, petrochemicals, light industries, and textiles) and to foster seven Strategic Emerging Industries (energy conservations, new-generation IT, Bio-technology, high-end manufacturing equipment, new energy, new materials and new-energy vehicles).**

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.

India:

- The annual supplement to the Foreign Trade Policy announced by the Commerce Minister on 23 August 2010 announced a stimulus package to the tune of Rs. 1,052 crores (€0.16 billion). The major beneficiaries of these incentives are labour intensive sectors such as handlooms, silk, carpets, textiles, handicrafts, sports goods, toys, leather and leather manufacturers and some bicycle parts. In addition, certain new engineering and electronic items, finished leather, rubber products, other oil meals, castor oil derivatives, packaged coconut water, coconut shell worked items, instant tea and CNSL cardanol have been included for benefits under export incentive schemes. Some of the schemes which provide subsidies have been given extension. These scheme are Duty Free Entitlement Pass Book (DEPB) Scheme (initially extended until 30 June 2011 and subsequently until September 2011). Zero duty Export Promotion Capital Goods (EPCG) Scheme extended by one year to March 31, 2011 and Benefits under Market Linked Focus Product (MLFP) Scheme for garment exports to EU extended from October 2010 to March 2011. The facility of interest subvention of 2%, currently available for handicrafts, handlooms, carpets and SMEs, is being extended for a number of specified products pertaining to leather and leather manufacturers, jute manufacturing including floor covering, engineering goods and textile sector for the year 2010-11. Additionally, on 23 August 2011 it was announced that the EPCG Scheme was also extended by one year until 31 March 2012.

- India approved on 25 October 2012 the National Manufacturing Policy 2011, the first of its kind in the country, to increase manufacturing's share of national output as it aims to create millions of jobs and add capacity to sustain brisk economic growth through the next decade. The policy provides an umbrella for the draft National Telecom Policy 2011, which aims at the promotion of domestic production of telecommunication equipment to meet 80% of the Indian telecom sector's demand through domestic manufacturing with a value addition of 65% by 2020. The document suggests that government procurement could be a preferred tool for supporting the development of domestic manufacturing capabilities. For the specific case of the telecom sector, earlier policy recommendations on telecom equipment published by Telecom Regulatory Authority of India on 12 April 2011 confirm the intended major role of government procurement for supporting domestic production.

Japan:

- The "New Growth Strategy" of June 2010 and its implementing guidelines "The three step economic measures for the realisation of New Growth Strategy" foresees a number of measures to stimulate the economic growth, inter alia, to counter the yen's appreciation and deflation. *The programme foresees introducing a subsidy scheme to promote construction of R&D facilities and factories producing components for eco-friendly vehicles.*

- METI introduced in April 2010 a 100 billion yen ($1.2 billion) R&D subsidy scheme for small and medium-sized manufacturers. The scheme is to provide support for R&D (of core manufacturing technologies/methods as molding and casting), business development and marketing for SMEs. Through such measures, METI aims to protect employment and prevent an outflow of SMEs from Japan.

Kazakhstan:

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

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

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

Mexico:

- Early January 2009, President Felipe Calderon unveiled a 25-point economic plan to mitigate the impact of the US crisis on the ailing Mexican economy and preserve employment. This is the 5th counter-crisis plan that the President has announced since the effects of the crisis have become apparent, with exports' figures down 29%, investment down more than 10%, consumption off nearly 7%. This package in Mexico was provided in the form of utility rates discounts, tax breaks and spending programmes. In its efforts to strengthen domestic economy, the national government planned new investments in infrastructure development, housing, agriculture and diversification of exports. Mexico has since then, experienced a strong economic rebound based on strong export growth, in particular exports to the United States. The economy grew by 3,9% in 2011.

Russia:

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

include subsidising of 100% of CBR refinancing rate for banking credits to meat and milk producers, and additional capitalization of Rosselkhozbank (45bn roubles) and Rosagrolizing (25bn rouble), which grant lax credits to framers and organize leasing of agricultural machines and equipment. In 2010, the federal budget allocated 107.6bn roubles on state support for the agriculture sector in 2010. Of this amount, be 79.4bn roubles will be spent to subsidise interest payments on loans. Amendments to the federal budget for 2011 increase an allocation of funds to support the agricultural sector by 13 billion roubles. Total agricultural support will amount to 150 billion roubles in 2011. In addition, Rosselkhozbank and Sberbank reserved 100 billion roubles and 50 billion roubles, respectively, to provide credit resources to agricultural producers.

- Military-industrial complex, according to the Government Anti-Crisis Plan, is to receive 969 billion roubles in subsidies in 2009, or 38% more than in 2008. Subsidies are to boost capitalization of the leading firms, such as MiG, Gorbunov and Khrunichev. Other subsidies are to prevent bankruptcies of enterprises producing weaponry. Strategic enterprises of the military industrial complex were included in the list of enterprises, whose loans are provided by government guarantees (47bn roubles are allocated for 2010; Attachment 20 to the Federal Law No 308-FZ of 02 December 2009). The Government allocated 40bn roubles to support the enterprises which operate the state defence order (together with 'systemic enterprises') The Government also allocated 2.4bn roubles to increase the authorized capital of the United industrial corporation 'Oboronprom' ('Defence Industry'). The military sector receives in 2011, respectively, 2.4 billion roubles for state-owned enterprises and 1 billion roubles to cover the costs of innovation and investment aimed to manufacture high-tech products.

- 325 million roubles are allocated in 2009 in order to subsidise interest rates on banking credits for the wood sector, and to create seasonal reserves of rough wood and fuels. The federal budget for 2010 allocates 1bn on subsidies to reimburse interest payment on loans received in 2009 – 2011 and used for technical modernization (together with companies producing equipment in other sectors, such as combines and agricultural equipment, gas and oil equipment). The federal budget allocates about 50m roubles on several pilot projects to reform the wood-processing industry. The timber industry receives a subsidy covering partial reimbursement of loans for the creation of intra-seasonal supplies of wood, raw materials and fuel (650 million roubles), and other subsidies to Russian enterprises to the amount of 3 billion roubles in 2011.

- By Government Decree No. 690 of 20 August 2009 Russian airlines received ¾ compensation of their lease payments for Russian aircraft and ¾ of their interest payments on credits in roubles, obtained in 2002-2005 for purchasing Russian aircraft. The 2010 federal budget allocates 788m roubles on these needs. The 2010 federal budget allocates 2.5bn roubles to subsidies discounts for passengers on flights from the Far East in the European part of Russia and back. 5bn roubles are allocated by the 2010 federal budget to grant subsidies to airlines for reimbursement of their income shortfall caused by their carrying of passengers of airlines who were denied flight licenses (Federal Law No 308- FZ). For the aircraft (incl. helicopter) manufacturers, subsidies for partial reimbursement of interest on bank loans used for technical modernisation and leasing payments amount in 2011 to 0.9 billion in 2011. Similarly, a subsidy was allocated in 2011 at the level of 1.53 billion roubles to Russian firms purchasing Russian airplanes for use by Russian airlines. Furthermore, Russian producers of aircraft engines received similar support to the amount of 289 million roubles in 2011. Other transport companies in the transport engineering sector receive support (partial bank loan reimbursement) for technological modernisation purposes to the amount of 1.5 billion roubles in 2011. Similar support has been granted to transport, shipping, transport and fishing companies for partial reimbursement of payments under leasing contracts to acquire civil ships manufactured by Russian shipyards to the amount of 70 million roubles in 2011.

- Government subsidies to domestic producers: the Government adopted a plan of industry support in the economic crisis for 2010. The plan's priorities include support to systemic companies (40 billion roubles), purchases of vehicles for the public sector (20 billion roubles), and support to the housing and utilities sector (15 billion roubles) A total of 195 billion roubles (€4.6bn) will be spent. For enterprises of textiles industry, which used bank loans for modernisation purposes, the amount of subsidy in 2011 reaches 250 million roubles.

- The Doctrine of food security of the Russian Federation (approved by the Presidential Decree No. 120 of 30 January 2010) establishes criteria of Russian food security in the form of minimal market share of domestically produced food products: for grain – at least 95%, sugar – at least 80%, vegetable oil – at least 80% (up from current 58%), meat and meat products – at least 85% (up from current 66%), milk and dairy products – at least 90% (up from current 82%), fish and fish products – at least 80% (up from current 63%), potato – at least 95%, and dietary salt – at least 85%. The Government plans to spend annually more than 100bn roubles on subsidies to the agriculture sector in order to achieve these import-substitution goals (the Government allocated 107.6bn roubles on the implementation of state programme of support to agriculture in 2010).

- **The government approved the program for development of coal industry until 2030. Total amount of financing to the program will be 3,700 billion roubles, including 251.8 billion roubles of budget funds.**

- ***President-elect Putin announced a number of measures aimed at supporting the domestic ship-building industry. About 400 billion roubles of the federal budget money will be allocated to support the sector within the next ten years.***

- ***The Ministry of Agriculture presented a draft strategy on the development of food processing industry until the year 2020. The industry is expected to receive investments totalling 700 billion roubles within the next eight years.***

Saudi Arabia:

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

South Africa:

- **The next implementation phase of the Second Industrial Policy Action Plan was released in March 2012. For the period 2012/13 to 2014/15, the IPAP has been clustered into three areas encompassing the following sectoral segments: (1) metal fabrication, capital and transport equipment sectors, upstream oil and gas; green and energy saving industries; agro-processing and boatbuilding; (2) automotive products and components and medium and heavy commercial vehicles; plastics, pharmaceuticals and chemicals; clothing, textiles, leather and footwear; biofuels; forestry, paper, pulp and furniture; creative and cultural industries; business process services; and (3) nuclear; advanced materials; aerospace and defence; and electro technical and ICT. Sectors earmarked for specific attention in the latest implementation period are renewable energy, agro-processing and transport equipment sectors. New funding of R5.8bn has been made available over the next four years under a new incentive scheme: the Manufacturing Competitiveness Enhancement Programme (MCEP). The programme will provide grant finance to upgrade production facilities, process, product and personnel; tax breaks (conditional to retaining baseline employment); and capital investment, working capital, value chain localisation and supplier development support. The MCEP in complement with already existing multiannual funding (including a distressed fund, automotive programme; clothing and textiles incentive scheme and metal fabrication investment fund) brings total funding to be disbursed until 2015 to some R100bn. In addition, tax allowances under Section 12l of the Income Tax Act are also deployed to incentivise the expansion of productive capacity in the manufacturing sector. Tax allowances worth R4.5bn have been granted over a 15-month period since the inception of the scheme in 2010. Apart from funding support, efforts are also focused on realigning government and private procurement guidelines to increase purchases of local goods; and ongoing developmental tariff reform (i.e lowering tariffs or creating rebates on intermediates to lower the cost of inputs into manufacturing and selective duty increases to protect value-added manufacturing capacity)**

- The Industrial Development Corporation (IDC) has become an increasingly important partner in the funding activities under the IPAP. Apart from the R6.1bn "distress fund", established in 2009 to assist companies experiencing difficulty (food, mining, automotive, wood, paper, textile and clothing, chemicals, metal, machinery, financial, media and film sectors) it also administers other significant industrial funding programmes. **Two new funds were announced in 2011: a new green energy fund**

(R25bn) to support the establishment of green industries and the new Gro-E Scheme (R10bn) primarily geared at job creation. The IDC envisages to inject a further R70 billion into the economy under the current funding 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 production-based incentive scheme.
- Since 14 June 2010 the Automotive Investment Scheme (AIS) makes available cash grants to investment projects by vehicle and component manufacturers for a total value of R 2.69 billion over the next three years. It is the first step in the implementation of the Automotive Production and Development Programme (APDP), which envisions a shift from an export-based incentive to a local manufacturing incentive, including through tariff protection for build up vehicles (25%) and components (20%) to discourage imports over locally-produced vehicles; a local assembly allowance that enables certain duty-free imports; and a production incentive in the form of a tradable duty credit.
- **The Department of Trade and Industry in January 2012 also put forward for public comment a Special Economic Zones Bill (2011). The SEZ policy is set to replace the Industrial Development Zone Programme of 2000, whose impact the government regards as having been modest and too limited in terms of geographical targeting. The overarching objective is to attract investment and promote trade, industrialisation and economic growth. The plan dovetails with the government's existing Industrial Policy Action Plan and the New Growth Path industrialisation programme. A Special Economic Zones Fund will be set up to support the promotion and development of SEZs. In addition a package of incentives is mooted to support the programme.**

South Korea:

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

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

  - Stage 1: R&D and commercialization

  To promote R&D projects and their commercialization, the government will increase fiscal support from 2.0 trillion won in 2009 to 2.8 trillion in 2013, along with 300 billion won funds set up by the KDB (Korea Development Bank). SMEs doing projects in stage 1 will access fiscal funds exclusive for them, which will be expanded 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.

- Green New Deal: In January 2009, the government announced the "Green New Deal", an ambitious project aimed at pushing a "low-carbon, green-growth" policy and spending 107 trillion won ($87 billion) on a variety of projects to reduce emissions and develop cutting-edge technologies and other areas. Key areas of green technologies that South Korea plans to focus on include solar cell, hydrogen fuel cell, wind energy, and light-emitting diodes or LEDs, which are used in making energy-efficient bulbs and other products. As part of efforts to push this project, in late April 2009, the MKE (Ministry of Knowledge Economy) announced the "2009 Plan on the Implementation of the New and Renewable Energy Technology Development, Utilization and Diffusion". In the press release, the MKE pointed to the problem with the increase in the number of imported products, underlining the Ministry's active engagement in installing and diffusing locally manufactured products for the government-sponsored large-scale projects. Furthermore, in this press release, the MKE clearly indicated that they would reinforce the certification standards for solar module and solar collector functions (6 product items), in order to "prevent the low-priced imported products surging and the resulting accidents occurring" and to "discourage the increase of imported products". In February 2011, the MKE announced (in its press release on 23/Feb/2011, entitled 'MKE scheme for the establishment of the renewable energy test beds") its mid-term scheme for selecting 5 test-beds and investing KRW 48 billion from 2011 to 2013 in their infrastructure and facilities, for the purpose of the prior verification and assessment of new green technologies. In March 2011, the MKE unveiled its scheme for fund raising of KRW 100 billion to support fostering of "Global Star Enterprises" in the field of renewable energy, as a follow-up measure to its earlier announcement of the "Development Strategy for Renewable Energy Industry" on 10 October 2010. The MKE also signed with some leading enterprises (including both large enterprises and SMEs) concerned and financial institutions a MoU on Renewable Energy Shared Growth Guarantee Fund. The MKE planned to invest KRW 3 trillion of the development of core technologies and strategic R&D over the next 5 years, under the so-called "Triple 15

Strategy" of achieving 15 % of the world's market share until 2015 in solar and wind energy sectors.

- ***Energy R&D: In March, 2012, the MKE announced its scheme for investing KRW 1.821 trillion for the implementation for the "2012 Energy R&D Plans" which include the mid- and the long-term projects relating to: nuclear power safety related technologies; electric power supply and management technologies; new renewable energy technologies.***

- Shipbuilding and Marine Industry: In February 2009, the Ministry of Knowledge Economy (MKE) submitted a plan to the National Assembly which indicated the possibility of providing support measures to the troubled local shipbuilding and automotive industries, on the condition that they reduce production costs through restructuring. In April 2009, the government announced a massive package program to assist the shipbuilding industry. Total amount of KRW 9 trillion would be provided to "excellent shipbuilding companies and their partners". In July 2009, the state-owned Korean Asset Management Corporation (KAMCO) started the implementation of a sale-and-leaseback scheme for Korean shipping companies. Participating companies improve their liquidity position as they may sell and lease back part of their fleet. In the first round of this scheme, shipping companies successfully offered 62 ships to KAMCO. When business improves, the companies have the option to buy back sold ships. In addition, the Export Import Bank of Korea would provide loans of up to 4.7 trillion for the purchase of ships constructed by financially stricken local shipping companies. In March 2011, the Ministry of Land, Transport and Maritime Affairs (MLTM) announced the nation's long-term vision for the marine industry. The MLTM set a policy goal of "making Korea become one of the most powerful marine nations in the world by 2020 as a means of accumulating the nation's wealth", based on 4 strategies and 22 projects. The MLTM's long-term vision and the comprehensive schemes (relevant details also available in the MLTM public announcement in December 2010 entitled the "long-term development planning for the marine industry") encompass a wide range of the marine industry-related aspects, from the transportation to the marine plant services. Notably as regards the marine plant services, the MLTM said that they planned to foster the marine plant services in order to stimulate the growth of the shipbuilding industry.

- Automobile Industry: Most noteworthy was the current government's high commitment to offering full support to help Korean firms secure about 10 % of the global electric car market by 2015, since October 2009. The MKE targeted mass production of electric cars from 2011 instead of 2013 set earlier, by allocating KRW 400 billion (341 million dollars) between October 2009 and 2014 to support the development of high-performance batteries and other related systems. According to another public source, the MKE also planned to invest jointly with the private sector KRW 1.4 trillion in total for the battery plants for electric cars, so that Korea becomes the world's largest electric car manufacturing country, accounting for 40% of the world's total production in the long term. The government said it would help local carmakers produce 1.4 million electric cars and export 1 million units by 2015, and produce up to one million electric cars by 2020. On the back of full support from the government, within a year, Hyundai displayed Korea's first electric car, the BlueOn. On 10 September 2010, Hyundai Motors, controlling more than 70% of the local auto market and also the world's 5th largest automaker (in terms of sales), promoted the first viewing of the car, the nation's first full-speed car. According to the local press, KRW 40 billion (approximately USD 35 million) was invested in the development of BlueOn over a one year period. Out of KRW 9.4 billion allocated for the R&D investment in the electric car production in 2010, the Korean government reportedly invested KRW 8.5 billion (90%) in automotive car parts producers (mostly small and medium-sized enterprises) engaged in the development of electric vehicle parts for BlueOn. According to the MKE press release dated 11 August, 2011, the Ministry started to embark upon the development of mid-sized electric vehicles from August 2011, as a follow-up to the announcement of the "MKE Green Car Industry Strategy" in December 2010. The MKE unveiled the scheme for investing KRW 70 billion in establishing the electric vehicle production system earlier than initially planned, in order to get ahead in the global market competition.

- Support for SMEs: In November 2009, within the framework of the robust support plan for SMEs, the government announced a plan to develop and support 300 SMEs with high growth potential known as the 'hidden champions' into competitive global players by 2020. In July 2010, the Small and Medium Enterprises Administration (SMEA) designated 81 export-oriented SMEs as beneficiaries of the programme entitled "Promoting Globally Competitive Small Enterprises". Under this programme, those selected SMEs are to receive intensive supports entailing R&D, export financing and marketing overseas, with an aim of making them "global power-SMEs" with exports worth more than USD 50 million. In July 2010, the SMEA announced support measures for "green SMEs". In recognition of the significance of SMEs' role in green-growth industry sectors, the SMEA decided to support "green SMEs" specialised in core green parts/components and materials in various aspects, with the aim of nurturing up to 1000 "green SMEs" by 2013. The SMEA plans to expand the scale of policy fund and banking guarantee, and also to increase an investment fund in the area of green growth from KRW 105 billion in 2009 to KRW 1.1 trillion in 2013. In addition, the SMEA planned to select 200 green technologies developed by SMEs every three years and provide financial support in view of R&D. In August 2010, the MKE announced "Measures to Promote Green Certification", pursuant to Article 32 of the "Low-Carbon, Green-Growth Framework Act (effective from 14 April 2010)". This was mainly in order to specify the scope of products and technologies, etc. to benefit from various support measures. Such measures included financial support for green-certified companies, on a mid- and long-term basis. More specifically, it entails: extending loans for the purpose of disseminating new renewable energy; providing linkage to SME policy fund; intensive support for technology guarantee; support for export financing and insurance. In February 2011, the MKE said in its press release that it would reimburse 50% of the quality inspection and product certification fees (up to KRW 1 million) for green-certified SMEs. This was in order to reduce alleviate cost burdens incurred in the process of SMEs' obtaining the green certification. The

MKE expected about 300 local SMEs to be certified as green and to benefit from this government's financial assistance programme in 2011.

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

- Semiconductors Industry: On 9 September 2010, the MKE announced its scheme for providing financial support (up to KRW 1.7 trillion, including investments from private sector) for R&D of the domestic semiconductors industry. This is specifically in order to develop the nation's "core system semiconductors and equipment" into the competitive export item in the global market by 2015. The scheme includes fund-raising up to KRW 150 billion involving the government and the semiconductor companies. In September 2011, the MKE, in cooperation with Samsung Electronics and Hynix Semiconductor, created a 1.35 trillion won Semiconductor Fund. **In March 2012, the MKE announced its planning to "actively support the semiconductors industry" in 2012, by providing financial support worth KRW 1.15 trillion for: R&D investment; human resources development; assessment of SME product function and support for their exportation. The MKE scheme also entailed the support for the Semiconductor Fund, and for the establishment of semiconductors industrial clusters.**

- Steel Industry: On June 10, 2011, the MKE announced its "strategies for upgrading steel industry" to overcome its weakness in high-end products manufacturing. As part of its broad range of measures, the MKE would select 30 steel products based on its consideration to their respective industrial impacts which will be gradually subject to the nation's intensive care and fostering planning for the purpose of quality upgrading. In addition, the MKE would provide financial support worth KRW 100 billion in total until 2019, with the aim of manufacturing of the world's best eco-friendly smart steel plates under the "World Premier Materials" project. Particularly in order to achieve a "Green-Steel Industry" in Korea, the MKE would provide KRW 150 billion, accounting for 54% of the total R&D costs, possibly from 2012 for 8 years, to develop CO_2-free technologies for steels.

Taiwan

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

- **<u>LED industries</u>: on 14 December 2011 Industrial Development Bureau of the Ministry of Economic Affairs announced its intention to help domestic LED industries in R&D by investing more than NT$2.5 billions (USD 83 million) and creating more than 500 job opportunities.**

- **<u>Solar industries</u>: on 13 December 2011, MOEA announced its intention to assist the Taiwanese solar industry in participating international bids by setting up solar factories abroad. The potential places might be located in Middle East, Eastern Europe and Southeast Asia. Taiwanese companies have expressed their interest.**

- **On 27 December 2011 the Bureau of Energy of the Ministry of Economic Affairs of Taiwan published a subsidy scheme for consumer purchasing certain Made in Taiwan energy saving household appliances in the period 1 January-31 March 2012 (of 2000NTD (about 50EUR) subsidy per purchase). Concerns regarding this measure had been raised in the WTO by EU and other members.**

Turkey:

- The decree on the “incentive scheme”, which entered into force in July 2009, is to be amended with a new package announced by the Prime Minister in April 2012. The new package brings novelties in addition to the former one. It will enter into force retroactively, beginning from January 2012 or even mid-2011. The new package increased the regional categories from four to six zones, according to provincial socio-development index (instead of NUTS-II classification used by its predecessor). It also introduces the new category of "strategic investments" to existing schemes (general, large and regional investments) and additional instruments, "VAT refunds, support for employees’ social security premium contributions (in Region VI) and support for personal income tax (in Region VI)". Furthermore, the package supports investments in organised industrial zones (OIZs) with additional incentives to encourage clustering and technology creation. While large investments remain to be supported for the same sectors favoured as before (including automotive, chemicals, transit pipelines, electronics, and pharmaceuticals), incentives for "strategic investments" are clearly designed to reduce current account deficit, by employing an import substitution policy. The legal text of the package was not published at the time of writing; consequently, its conformity with EU disciplines remains to be confirmed.

- Law on the Encouragement of Investments and Employment and on the Amendment of Certain Laws supports investment in Turkey’s 49 least developed provinces defined as provinces whose GDP/capita reaches at most 1,500 USD. It resorts to incentives such as income and corporate tax rebates, free distribution of land, reimbursement of employer insurance premium. 20% of electricity costs of undertakings operating in the manufacturing, mining, stock-breeding, tourism and health sectors are also to be covered by the Treasury Under-Secretary. These incentives ended by the end of 2008. However, the date on which the incentives can be absorbed has been extended to 31 December 2012.

- While free trade zones remain to be aligned, a government decision encourages investment, from early June 2011, in organised industrial zones (OIZs) by subsidising the allocation of land based on rates varying between 50 and 100%, depending on the type of region concerned. The system comprises four regions, categorised according to their level of socio-economic development. 264 OIZs are expected to benefit.

- **Decree-law no. 663, from November 2011, creates a Directorate General for Health investments within the Ministry of Health. The DG's duties include support foreign and local investment for developing and producing high-tech medical devices, products and services (article 13 f). Financial and other aid to the local industry is explicitly provided for, including measures to support local R&D, to develop the local industry's technological infrastructure, and to ensure the transfer of technology from abroad (article 50).**

Ukraine:

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

United States:

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

Vietnam:

- The government is implementing a US $8 billion stimulus package to spur the economy. The funds are mainly spent on: (i) a 4% interest subsidy program for loans to SMEs; (ii) a zero interest loans program for the poor; (iii) a loans program for Vietnamese enterprises to invest in new technology, environmentally friendly technologies and expand scale of production & business; (iv) tax cut on goods and tax break for individuals and companies; (v) increase of minimum salary by 20% for public servants and increase of 5% in pension and social benefits. Following the USD 8 billion stimulus package in 2009, the government in November 2009 decided to continue stimulus measures in 2010 on a smaller scale in order to maintain the recovery of its economic growth. The measures mainly aim at providing subsidies of interest rates of loans by companies operating in Vietnam on non-discriminatory basis. The government offers a 2%-subsidy to short term loans (loans having a maturity date as early as 60 to 120 days from the date of inception of the loan) during the first quarter of 2010 and 2%-subsidy to medium and long term loans in the entire 2010. The total amount planned for this subsidy is not known, neither is the current disbursement rate of the subsidy loans.

V.2. Other

Canada:

- 'The ice cream initiative': Canadian dairy producers instituted a CDN 13$ million/year programme to encourage Canadian dairy processors to use 100% Canadian dairy products in the manufacture of ice cream, instead of imported products, including imported butter-oil blends. The programme will give dairy processors a rebate on their cost of buying Canadian milk products. Contracts would be renewed annually and cover production from 1 January to 31 December with a start of 1 January 2009. Canada has also introduced a new special class of milk pricing (class 4M), which grants Canadian processors raw milk at subsidized prices well below international market levels for the processing of milk protein concentrates designed specifically for use in the manufacturing of cheese, thereby encouraging processors to use domestic product over imports.

China:

- Measures announced include references to funding of external expansion of Chinese companies.
- China is scheduled to build three to four major oil refining plants in the Yangtze River Delta in eastern China and the Pearl River Delta in southern China by 2011. In addition to boosting processing capacity, the government wants to make existing facilities more environmentally friendly.

Japan:

- The Ministry of Agriculture (MAFF) set up a campaign 'Food Action Nippon' in October 2008 to promote domestic agricultural products, raise the Japanese food self sufficiency by 1% per year in order to reach 45% by 2015 and address concerns on the safety of imported products. MAFF subcontracted the world biggest advertising company, Dentsu to conduct the nationwide campaign through various media tools by using celebrities and famous athletes. New GoJ under DPJ is aiming at more ambitious target of raising the food self sufficiency rates up to 50% in ten years and therefore expected to carry out even stronger campaign.

Mexico:

- 'Made in Mexico' campaign: In February 2009, the Mexican Ministry of Economy launched a made in Mexico campaign, in an effort to promote Mexican exports and increase internal consumption of Mexican-made products. The Ministry designed a specific logo and published a list of requirements to be met for the logo to appear on the product.

Vietnam:

- The Law on Royalties (which was ratified on 25 November 2009 and entered into force on 1 July 2010), the National Assembly's Resolution numbered 928/2010/UBTVQH12 (which was approved on 19 April 2010 and entered into force on 1 July 2010) and the government's decree numbered 50/2010/ND-CP of 14 May 2010 guiding the implementation of the Law on Royalties (which was announced on 14 May 2010 and entered into force on 1 July 2010) make substantial amendments to legal provisions on royalties. Accordingly, metallic and non-metallic minerals, crude oil, coal and natural gas, products of natural forests, natural aquatic products, surface and underground water are all royalty taxable with effective royalty rates. There are following major amendments: (i) First, the Law on Royalties numbered 45/2009/QH12 of 25 November 2009 allows a much higher range of royalty rates, based on which the government shall fix practical royalties applicable for certain period of time. This range of royalty rates is on average three times higher than the previous rates depending on different types of natural resources (e.g. range of royalty rates for: gold increased to 9-25% from the previous 2-6%; iron & manganese rose to 7-20% from 1-5%; crude oil increased to 6-40% from the previous 6-25%; natural mineral water increased to 8-10% from 0-5% etc). (ii) Second, the government sets higher royalty rates on practical application (e.g. royalty rate for: gold increased to 15% from the previous 6%; iron & manganese rose to 11% from the previous 5%;

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

VI. SUSPENDED/TERMINATED MEASURES

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. This measure was annulled through a note of 24 March 2011.

Argentina:

- **Decree 1192/2010 of 28 September 2010, adopting MERCOSUR Decision 25/2009 which temporarily increased import taxes on dairy products up to 28%, until 31 December 2011. As from that date, the applicable import tax for the concerned tariff lines is 16% (CC 0402.10, 0402.21, 0402.29, 0402.99, 0404.10, 0406.10 and 0406.90).**
- **Resolution 1243/2011 introduced an export tax of 1% applied to a set of fish products (0304.19.19, 0304.19.90, 0304.29.10, 0304.99.00, 0305.49.90, 1604.19.00, 1604.20.90, 1605. 90.00.) which is a decrease from 10% to 2.5% and 1%.**

Belarus:

- The Decree 320 of 18 June 2009 'On temporary increase of import tariffs' enacted a temporary (9 month) increase of import tariffs on imported trucks (including tractors) to 25% for the new items and 50% for used items. The Government also eliminated temporary import tariffs on new, environmentally friendly trucks. (The Decree defined obligatory threshold levels of CO2, hydrocarbon and nitric oxide to that purpose.) The Decree stated as its objectives the protection of domestic producers and widening of the range of transport modes that comply with European safety and quality standards. Tractors and trucks traditionally belong to the two top Belarusian export products, accounting for 10% of all exports (coming second to petroleum, which accounts for 32%). The measure is no longer in place.

- On 21 April 2009, with a presidential edict No. 214 Belarus raised import duties on a wide range of consumer goods: for 9 months, 40% duty on imported meat and 30% duty on imported grape wines; 25% duty on butter, fats, starch and ice cream; 30 % duty on textiles (not applicable for goods imported from the EU-Member States, Turkey, Switzerland and Lichtenstein). The edict raised the import duty on some home appliances from 25 to 40 %. Wood products were also affected by import duties raised to 25-30%. For a period of 6 months, the edict imposed a 180 % import duty on vegetables (potatoes, onions, carrots, cabbages and beets). The measure is no longer in force.

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 three inshore fisheries scientific research craft. The measure has been implemented and not repeated.
- Canadian government announced initiatives that could possibly introduce subsidies to various industries. For the automotive industry there is an offer of short-term repayable loans to the industry; creation of a $12 billion credit facility to support vehicle and equipment financing; $170 million over two years to support innovation and marketing for the forestry sector; $500 million over five years to facilitate new agricultural initiatives; $50 million over three years to strengthen slaughterhouse capacity; as well as measures to enhance the resources and scope of action available to Export Development Canada (EDC). GM has now repaid the loan portion of its support to the governments of Canada and Ontario in full, with interest and ahead of schedule. The federal and Ontario governments have also reduced their share in the company from 11.7 per cent to nine per cent. Chrysler meanwhile, continues to work toward repaying its loans.

China:

- ***EU delegation was informed on 12 April that the NDRC had postponed sine die a draft on "Provisional measures for the administration of implantable medical consumables price, NDRC, Exposure draft, August 2011". This draft was being discussed with industry representatives, including the EU industry. The system proposed is a mark up on CIF import prices (for importing companies) or ex factory prices (for goods produced in China). This draft imposes a price control system by***

limiting companies' mark up at 60% (of the CIF price or ex-factory price) with a maximum amount of RMB 6.000. The measure is due to enter into force on 1 July 2012. Most EU medical devices exported to China are still produced in the EU. The EU industry claims that the measure is discriminatory for them vis-à-vis domestic producers as CIF import prices do not cover locally incurred Selling General and Administrative costs (SG&A).

Ecuador:

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

Egypt:

- A 10% import duty was imposed on cold rolled flat tin sheets of steel, on top of existing duties, to stabilise the local market price. This preventive measure (Ministerial Decree No. 124/2009) applied from February 2009 for one year to rolled steel sheets either cold rolled or galvanised or pre-painted[32]. Egypt applied the *erga omnes* measure, considered to be compatible with the WTO as the duty remained below the bound rate. The measure was suspended through a Ministerial Decree No. 336 in April 2009.

[32] 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.

- 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). The ban has expired and is no longer in force.

- The government announced a fiscal package aimed at addressing the impact of the global crisis on the domestic economy (1 December 2008 and disbursed essentially during the first half of 2009). The EG Government has announced a package of incentives of LE 15 Billion (€ 2 Billion) to support the manufacturing and export activities as well as stabilizing the prices of natural gas and electricity to all factories. This package includes other measures such as eliminating trade barriers, increasing tax exemptions (i.e. exempting car component imports from customs fees), and reviewing planned increase in the prices of energy. An initial LE 15 billions has been unblocked to tackle the global financial crisis. Around EGP10 billion will be spent on infrastructure in FY2008/09 (this will likely extend into the second half of 2009), while a further EGP5 billion will go on export subsidies (EGP3 billion) and the reduction of investment-related tariffs (c. EGP2 billion). The Export Development Fund will also receive LE 3 billion of financial assistance. Several sectors will be affected by 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.

  The measure expired.

- 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. However, in October 2010, import duties were revised and partly reintroduced, as per Ministerial Decree 1035/2010. While raw sugar is subject to 0% import duty, imports of white sugar now face a 10% duty. In January 2011, a specific duty was added to the existing 10% levy, in the amount of LE500 (€70) per tonne. **In February 2012, Ministerial Decree 165/2012 exempted raw sugar from customs duties until 31.12.2012.**

Hong Kong:

- February 2010: A new round of relief measures was revealed which was expected to 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. Those measures were terminated end of 2010.

India:

- Import licensing: in January 2009, several products were brought back onto the “free” list of imports (including seamless tubes/pipes, parts and accessories of motor vehicles and carbon black – only the upmarket segment of the latter being liberalised). Hot rolled coils were moved back to 'free' list on 8 January 2010. This used to be placed under 'restricted' list since 21 November 2008. Through notification 08/2009-2014, India moved carbon black (2803 00 10) and other polyesters (5402 47 00) back to 'free' list. On 26 May 2010, after keeping radial tyres under the restricted category for nearly 18 months, India moved radial tyres back to "Free" category. Recently, through a notification dated 8 July 2010, India also moved articles of iron and steel (HS 7326 90 99) back to "Free" category.
- India decided on 26 January 2009 to ban the import of Chinese toys for six months, without indicating any official reason. Chinese toys account for half of India’s toy market. On 27 January 2010 India issued a notification on import policy for toys. Imports are free for all countries provided they fulfil the necessary conditions such as conformity to standards prescribed in ASTM F 963 or standards prescribed by ISO. Certificate of conformance from manufacturers that toys are tested by independent labs, which are accredited under ILAC, MRA and meet the specifications.
- On 9 April 2010, an export tax on raw cotton and cotton waste at Rs. 2500/tonne and 3% respectively, was introduced. It was revoked in April 2011.
- On 2 August 2011, the government lifted the export ban on cotton – including raw cotton, noting factors such as the availability of huge stocks and the fall in local prices. However, the conditions of registering export contracts with DGFT remain unchanged.

Indonesia:

- Local content requirement and discrimination in maritime and shipping services has been removed to some extent. Pelindo (State-owned port operator) has withdrawn the circular letter which would have given a 5% discount on port services only to Indonesian flagged ships. Now also foreign-flagged ships receive the discount.

- On 31 August 2009, the Food and Drug Safety Agency of Indonesia (BPOM) adopted a 'Halal Regulation' (HK.00.05.1.23.3516) that regulates ('for consumer protection') the registration for drugs, traditional drugs, cosmetics, food supplements and food containing un-halal substances and/or alcohol. These need to receive a marketing license from BPOM before they can be sold to Indonesian consumers. The Decree listed non-permitted substances from a wide range of animals not approved by sariah law or not slaughtered in halal way. For some products (alcohol, emergency drugs) labelling is required, other products are simply banned from Indonesian markets. A revision of this regulation took place and since 5 July 2010 a new Regulation on Information Disclosure of Origins of Certain Materials, Alcohol Substance and Expiration Date Deadline Mark/Label on Drugs, Traditional Medicine, Food Supplement and Food Products is in force. Halal inspections have been abandoned, while a label is required with declaration of certain materials made of pork, or having gone through a process which encounter certain materials made of pork, as well as alcohol and an expiry date. Halal declaration is voluntary. The measure no longer poses an obstacle to trade.

  - Regulation 45/2009 on import licenses entered into force on 1 January 2010. The new regimes introduced two different kinds of licenses: a general import license (API-U) for the import of products that are to be distributed to other parties; and a producer import license (API-I) fir the import of products that are to be self-utilised and/or be used in a production process and that shall not be traded or transferred to other parties. This measure, though horizontal in kind, was likely to have a bigger impact on pharmaceutical companies. Decree 45/2009 was amended by Minister of Trade Regulation No. 39/2010, issued on 4 October 2010. With the introduction of Regulation No. 39/2010 of 4 October 2010, the Indonesian authorities have changed their previous practice and now allow economic operators to import both finished goods for sale on the domestic market and raw materials for production, under the same legal entity. Decree 39 entered into force on 1 January 2011. The measure is no longer considered as restrictive to trade.

  - Ministry of Trade Decree 19/2009 requires electronics and telecommunications producers to have six service centres in Indonesia. Utilization manual and warranty cards are required to be in Indonesian language. The decree was in force since 26 August 2009.

  - Obligation for exporters of certain products (palm oil, minerals, also coal, coffee, cocoa and rubber) to obtain letters of credit from local banks for export transactions exceeding US$ 1 million. In addition, exporters will be barred from receiving payment from foreign customers through overseas bank accounts. Companies with existing long-term contracts have been granted postponement until end of August 2009. For palm oil, minerals, and metals, full implementation began on 1 April 2009. However, companies with existing long-term contracts have been granted a postponement until 1 September. All coffee, cocoa and rubber exporters were exempted until 1 September 2009. Several commodities exporters have requested for additional delays to the requirement beginning on 1 September

2009. Ministry of Trade has commented that several exporters are likely to receive a delay. This obligation was cancelled in 2010 before it was effectively applied.

- A fiscal stimulus package was adopted in 2009 with measures aiming at improving the purchasing power, strengthening competitiveness and increasing job opportunities. The duty drawbacks for some industrial sectors have also been included. The stimulus package was discontinued in 2010.

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Japan:

- Some local governments (among them: Tokyo Metropolitan Government, Kanagawa Prefecture, Akita Prefecture) offered subsidies for purchases of cars. The car acquisition subsidy schemes were launched mostly in April 2009; Kanagawa Prefecture began providing subsidies in April 2009 (possibly up to 700,000 yen) to individuals buying electric vehicles.

Kazakhstan:

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

Mexico:

- On 6 July 2011, Mexico and the US signed an agreement to end the long-standing trade dispute over trucking. The three-year long Memorandum of Understanding will allow Mexican trucking companies, who have already completed the necessary paperwork, to send their trucks into the US, starting in August of this year. Following the approval of the first cross-border permit for a Mexican trucking company in October 2011, the Mexican Ministry of Economy lifted the retaliatory tariffs it had imposed on 99 US products (mainly agricultural) since 2009,[33].

Paraguay:

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

Russia:

- Civil Aircraft Decree No. 379 of 30 April 2009 modified import customs duties on certain types of civil aircraft: it increased the duty to 20% for planes capable to carry more than 29, but less than 200 passengers, and reduced the duty to 0% for planes capable to carry less than 19 passengers. Decreased under the Customs Union's Single Customs Tariff to 0%.
- Decree No. 809 of 14 October 2009 extended for a period of 9 months the tariff on ferrous metals waste and scrap (extends measures of 7 November 2008 introduced by Decree No. 813). Under the Customs Union the duty rate was lowered to 0%.
- Decree No. 742 of 15 September 2009 establishes a temporary import duty of 5% for 9 months, on the following types of equipment: water boilers, internal combustion engines, air and vacuum pumps, etc. Previously all these types of equipment were imported on a duty-free basis (0%). The measure enters into force one month after official publication of the Decree. Under the Customs Union's Single Customs Tariff, the duty rate was restored to 0%.
- The Russian Government considered restoring the import duty of 5% on certain types of goods for medical purposes. Set at 0% under the Customs Union's Single Customs Tariff.

[33] It should be noted that Mexico had its full right under the NAFTA to impose these tariffs and to reinstall retaliatory measures if there is any deviation from the agreement, or if the programme is terminated.

- An increase of tariff for pesticides to 20%, as reported before the establishment of the Customs Union, has not taken place.
- An increase of tariffs for tyres for trucks to 25%, as reported before the establishment of the Customs Union, has not taken place.
- An increase of import tariffs for tyres for passenger vehicles to 30%, as reported before the establishment of the Customs Union, has not taken place.
- By Decision of Russia's Highest Arbitration Court of 12 October 2009, restrictions on customs clearance points for exports of metal scrap were abolished. The Federal Customs Service issued an Order No. 1514, in force from end of April 2009, which restricts customs clearance points for exports of metal scrap. It leaves now only one single land crossing point on the western border, thus contradicting the provisions of the EU-Russia bilateral steel agreement. A justification for limiting the customs clearance points for exports of scrap is based on request from Russian metallurgical industry, which is in a shortage of raw materials.
- Decree No. 671, in force from 4 September 2009 set tariffs for laundry equipment for 9 months at 5-10% rate. These increases are not reflected in the Single Customs Tariff. The decree is no longer in force.
- The Government Decision No. 273 of 31 March 2009 introduced increased duties on certain imported liquid crystal displays (LCDs, code 8529 90 870 9) from 10% to 15% for a period of 9 months. The increase entered into force 1 month after publication date. Under the Common Single Tariff, the duty was brought back to 10%.
- Decree No. 616, which entered into force on 14 August 2009, established a tariff on bodies for specific motor vehicles at 15% but not less than €5000 per piece. Under the Customs Union's Single Customs Tariff, the duty rate was set at 5%.
- Cash-for-clunkers plan: the Government allocated 11bn roubles in the 2010 federal budget for the implementation of the cash-for-clunkers plan. The plan could provide co-financing for the purchases of 200,000 new cars produced in Russia in 2010 and is expected to be launched in March 2010. Owners of cars older than 10 years could exchange their cars for 50,000 rouble vouchers valid for purchases of new cars 20 January 2010. The plan was extended in the summer 2010 (additional RUR 11bn) and subsequently to 2011 (RUR 13.5 bn allocated in the 2011 federal budget). The validity of the plan was prolonged in November 2010, for one year. Subsidies under the scheme in 2011 amounted to 16.6 bn roubles. About 500,000 new cars produced in Russia were purchased over this period and 600,000 old cars have been scrapped. The programme was completed in June 2011.
- In December 2009, Deputy Minister of Industry and Trade Stanislav Naumov revealed that the Ministry was considering increasing the existing preferential import duties on car parts and components (0-5%) in order to stimulate their local production. These plans have not materialised in that no erga omnes duty increase took place. However, new rules of car assembly regime specify in individual deals with foreign car producers the exact import conditions for car parts.

- **The CU Commission adopted the decision N 917 from 25 January 2012 extending an application of import duties on certain types of paper and cardboard starting from 22 February 2012.**
- **The government issued the decree N 88 from 6 February 2012 listing all export duties applied in the Russian Federation.**

South Korea:

- In December 2008, the government unveiled an outline of industry support measures to be taken, with a view to covering liquidity and corporate tax exemptions to the nation's 9 key industries, namely automotive, semiconductors, petro-chemicals, textiles, shipbuilding, steel, displays, mobile phones and machinery. The Ministry of Knowledge Economy confirmed that this scheme was valid until 31 December 2009.
- Support for automobile industry: limited to tax cuts on car purchases mainly to boost sluggish private consumption. The Korean Government temporarily reduced the individual consumption tax on car purchases by 30% between December 2008 and June 2009.
- **In July 2010, the SMEA also confirmed its selection of 239 SMEs to benefit from the so-called "SMEs Innovative Technology Development Programme to grant KRW 34.7 billion in total. The SMEA aimed at facilitating technological innovation for SMEs suffering from a lack of financial resources (despite their potential). Under the ceiling of 75% of the total cost required for the development of technology within one year, this project would provide up to KRW 250 million for one year; Programme has been expired.**
- **On June 15 2011, the MKE announced its plan to provide SMEs, which have difficulty in importing raw materials (mainly due to high oil prices, etc), with the so-called "urgent management stabilisation fund" worth KRW 100 billion. In addition, the MKE would have the state-run Korea Trade Insurance Corporation operate the import insurance coverage. It would be implemented also in the second half of the year, and where necessary, subject to further changes as to the amount of the fund and its operation planning in the coming months. Programme expired.**

Switzerland:

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

Taiwan:

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

Ukraine:

- The 13% surcharge on cars and refrigerators, adopted by Ukraine for balance-of-payments reasons, expired on 7 September 2009.
- New initiatives to replace the expired 13% surcharge under discussion for a few months have been abandoned. Draft Law No. 5080 "On amendments to certain Laws of Ukraine on taxation (regarding support of employment level in Ukraine in the conditions of the world financial crisis)", foresaw an introduction of temporary charge on agrarian and automobile products in amount of 10% is registered in the Parliament. Transport vehicles and bodies to them (and some further products) were considered.
- Draft Law No 4767 "On amendments to certain Laws of Ukraine (regarding temporary surcharge to the valid import duty rates" was not adopted. The objective was to introduce a framework law which, in line with constitutional requirements, would provide the possibility to the Parliament to introduce additional surcharges (for the period of 12 months) if the balance of payment situation requires it.
- The Government, seeking to support the steel and chemical sectors, extended till the end of 2009 a number of preferences for them, which are envisaged by the corresponding Government's Resolution No 925 of 14 October 2008 and Memorandum signed between metallurgical and chemical enterprises and the Government. In particular, the preferences foresaw introduction of moratorium for increase of railroad transportation tariffs, reduction of prices for coking coal, cancellation of target surcharge for gas and suggestion to the National Electricity Regulation Commission to stop from 1 November 2008 increase of prices for electric power. The measure has now expired.
- Moratorium on any rise in prices and tariffs for medicines during the financial crisis until the level of minimum wages and pensions is set at the level of the living wage and all debts on wages and scholarships are repaid. According to the Law No. 3426 passed by the Parliament, domestically produced medicines should be sold at prices regulated by the state, while foreign medicines should be sold at the prices set as of 1 July 2008. The President of Ukraine vetoed the legislation; in the absence of a sufficient majority in the Parliament to overcome the veto, the measure did not enter into force.
- Requirement of a mandatory conclusion of agreements for packaging waste utilization by importers with one state company "Ukrecocomresursy", which basically creates a monopoly and contradicts with the principles of free market competition without an obvious reason. In spite of the Presidential Decree No. 718/2009 of 8 September 2009 that terminated certain provisions of the Resolutions of the Cabinet of Ministers of

Ukraine No. 915 of 26 July 2001 ("On Implementation of the System of Collecting, Sorting, Transportation, Recycling and Utilization of Wastes as Secondary Raw Materials") and No. 508 of 20 May 2009 (which introduced changes to the Resolution No. 915), de facto it is not being implemented and the Joint Order of the Ministry of Economy of Ukraine, Ministry of Environmental Protection and the State Customs Service No. 789/414/709 of 30 July 2009 (issued on the basis of the Government's Resolutions) is still de facto applied. On 23 December 2009 the Ukrainian Administrative Court of Kyiv invalidated the said Joint Order, thus removing the trade restrictive provisions.

- According to the Government's Resolution "On amendments to the resolution on public procurement of goods, works and services" of 24 June 2009, goods, works and services are to be purchased from the domestic producers or their representatives, dealers, distributors and only if such goods, works and services are not produced in Ukraine, they can be purchased from non-residents or their official representatives. This measure was in force until 1 January 2011. Earlier the Constitutional Court ruled as unconstitutional the Law No. 694-VI "On amendments to the certain Laws of Ukraine to minimise the impact of the financial crisis on the development of domestic industry" of 18 December 2008 that contained the same provision. But since the Resolution is in force, it is still valid. A new Public procurement law removing the discrimination provision was adopted in July 2010.
- On 11 March 2009 the Cabinet of Ministers approved Resolution No. 264 "On enlargement of internal market for domestic producers of machine-building for agriculture complex", which envisages that agricultural equipment purchased with state funds should only be purchased from domestic producers. The Resolution was further complemented by the Decree No. 328 "On state support in 2009 of domestic machine-building for agriculture complex", which lays down more detailed operational instructions on public procurement for state institutions. The measure expired.
- **The export ban on grain, introduced in the summer 2010, has been replaced with an export duty since 1 July 2011. On 10 June 2011, Viktor Yanukovich, President of Ukraine, signed the law No. 3387-VI “On making of amendments to the Tax Codex of Ukraine and adoption of tariffs of the export duties for several varieties of grains”, which imposed 9-14% customs duties for grain exports until 2012. In particular, the law specifies that the Government imposes the export duties till 1 January 2012, for the following grain varieties: wheat, meslin and emmer wheat - 9% of the customs cost, but not less than 17 EUR/ton; barley – 14%, but not less than 23 EUR/ton; maize – 12%, but not less than 20 EUR/ton. The measure expired as of 1 January 2012**

United States:

- On 17 July 2009 the House of Representatives passed H.R. 3183, "Appropriations for Energy and Water Development and Related Agencies Act of 2010 ". The House also adopted a "Manager's amendment" - made up of a series of 10 amendments including a so called Kissell/Pastor Amendment, which says: "None of the funds made available in this Act may be used to purchase passenger motor vehicles other than those manufactured by Ford, GM or Chrysler" . This discriminatory provision has been removed during the conference process.

- Discriminatory Buy America provisions in the Jobs for Main Street Act, adopted on 18 March 2010, have been abandoned.
- Restrictions on foreign entity related to funding of energy-related researched projects have been reversed on 17 December 2009.
- The draft Foreign Manufacturers Legal Accountability Act of 2009, which lapsed due to the Congress elections in November 2010 aimed to further protect U.S. consumers and businesses from injuries caused by defective products manufactured abroad. It would require the heads of federal government agencies such as the Food and Drug Administration to pass regulations requiring that foreign manufacturers of products regulated by their agencies register an agent who will accept service of process in case of damage litigation. Regulators could exclude manufacturers who only import a minimal amount of products into the United States. The Bill would create an obligation that these foreign manufacturers consent to the jurisdiction of the courts in the state where their agent is located. Foreign Manufacturers Legal Accountability Act of 2010 in the House version was very similar to the Foreign Manufacturers Legal Accountability Act of 2009. It required establishing a registered agent in the United States who would be authorized to accept service of process on behalf of foreign manufacturers for the purpose of all civil and regulatory actions in state and federal courts. The House Energy and Commerce Committee 21 July 2010 passed H.R.467, which contained an import ban on products of those manufacturers who failed to register an agent in the US. There was a similar pending legislation in the Senate (S.1606) which sought to remove this provision, while looking at the possibility to establish an import threshold exempting minor exporters from the requirements. Due to the November 2010 elections to the Congress, no further action on the draft was taken. In relation to the objectives of the Act, the U.S. Supreme Court issued two opinions, on 27 June 2011, in which it declined to expand the jurisdictional reach of U.S. courts over foreign manufacturers, including foreign subsidiaries of U.S. companies whose products may end up in the U.S. In *Nicest*, the Supreme Court reversed (5 to 3) a decision of the New Jersey Supreme Court denying the New Jersey Court specific jurisdiction over a U.K. manufacturer whose product had been involved in a workplace accident. In a unanimous decision, the Supreme Court in *Goodyear* concluded that a North Carolina court did not have jurisdiction, under a theory of general jurisdiction, over foreign subsidiaries of a U.S. company that manufactured tires in Turkey that were allegedly involved in a bus accident in France, killing two North Carolina residents.
- Financial Services and General Government Appropriations bill (S 1432, HR 3170) The Senate Appropriations Committee and the full House passed their own versions of the Financial Services and General Government Appropriations bill (S 1432, HR 3170), which would prohibit inverted companies from receiving funds through contracts with federal government agencies. The specific language states: None of the

funds appropriated or otherwise made available by this or any other Act may be used for any Federal Government contract with any foreign incorporated entity which is treated as an inverted domestic corporation or any subsidiary of such an entity. Although the Senate version of the bill states consistency with international obligations (the prohibition in subsection (a) shall not apply to the extent that it is inconsistent with the United States obligations under an international agreement), the House version of the bill, which has already passed in the House of Representatives, does not. This provision will only apply to the appropriations funds for the fiscal year of 2010. Currently there are only a couple of companies that would be negatively affected (that recently inverted to become European companies), but this does not mean that there will not be more in the future. Due to the November 2010 elections to the Congress, no further action on the draft was taken.

- The “National Defense Authorization Act for Fiscal Year 2010” included three provisions that would introduce either 'Buy American' requirements or otherwise imply set-asides or protection for U.S. providers of goods or services. Due to the November 2010 elections to the Congress, no further action on the draft was taken.
- 'Buy American' provisions on steel and iron and manufactured goods and 'Hire American' provisions were expected to be included in the economic stimulus legislation. Concrete negative effects of these provisions to the procurement possibilities of European companies in the US market have already been reported. Due to the November 2010 elections to the Congress, no further action on the draft was taken.
- On 30 July 2010, the House of Representatives passed the Assistance, Quality and Affordability Act (HR 5320), which included new Buy American requirements. Notably, the funds made available by a State loan could be used for a project for the construction, alteration, maintenance, or repair of a public water system if the steel, iron, and manufactured goods used in such project are produced in the US. This legislation intended to fund various drinking water projects set up by US states and municipalities, which are not covered by the Government Procurement Agreement. Due to the November 2010 elections to the Congress, no further action on the draft was taken.
- In the House of Representatives, Rep. Lipinski introduced HR 4351 and Senator Feingold in the Senate introduced S 2890, Buy American Improvement Act, which proposed to eliminate reasonable costs exception in 1933 Act and replacing it with 25% of project cost, as well as other preferences for domestic suppliers. Due to the November 2010 elections to the Congress, no further action on the draft was taken.
- The House of Representatives approved on 23 September 2010 a temporary, three-month extension of Federal Aviation and Administration Act (FAA) programs, allowing more time for Congress to debate a permanent reauthorisation bill for the FAA. This means that the issues relating to airline ownership, mobile voice communication in aircraft and foreign repair stations are not yet off the table. On 29 and 30 July 2010 the House and Senate respectively passed another extension of the current Federal Aviation and Administration Act authorization until 30 September

2010. It is of concern because the House bill contains more restrictive language on foreign ownership and control of US airlines, inspection of foreign repair stations by the US government and a sunset clause for anti-trust immunity for airline alliances. The text approved by the Senate has less stringent provisions. Due to the November 2010 elections to the Congress, no further action on the draft was taken.

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

qualified for cellulosic biofuel producer credits because the fuel is produced and used in the U.S. and is "derived from lignocellulosic or hemicellulosic matter that is available on a renewable or recurring basis." Current legislation in force, Tax Relief, Unemployment Insurance Reauthorisation, and Job Creation Act of 2010 (H.R.4853) renewed tax reliefs for alternative energy production but removed black liquor fuel as an eligible fuel.

- Jones Act: on 17 July 2009 Customs and Border Protection (CBP) published a "Proposed Modification and Revocation of Ruling Letters Relating to the Customs Position on the Application of the Jones Act to the Transportation of Certain Merchandise and Equipment between Coastline Points", which proposed to remove exemptions to the Jones Act for certain offshore activities involving foreign flag vessels and thereby change long-standing interpretations of rules for vessels in the offshore oil and gas industry. The notice provided only a 30-day comment period and letters were sent to CBP by Ambassador Bruton, the Consultative Shipping Group and the European Community Shipowners' Association (ECSA), among others, requesting an extension of the deadline so the impact could be fully examined. ECSA's request was denied. However on 15 September 2009 CBP withdrew the proposal based upon its consideration of 141 comments received both in favor of and against the proposal, and on additional research. Due to the November 2010 elections to the Congress, no further action on the draft was taken.

- New piece of legislation would force the administration to reduce trade barriers in other countries before allowing other countries to sell their products in the US market. The Reciprocal Market Access Act would essentially add 'common sense' reforms to the process by which goods are exchanged between the United States and other countries. The bill would instruct US trade negotiators to eliminate foreign market barriers - including non-tariff barriers - before reducing US tariffs. It also would provide enforcement authority to reinstate the tariff if the foreign government does not honour its commitment to remove its barriers. The lawmakers indicated their legislation is particularly targeted at the ongoing World Trade Organization Doha Development Agenda trade negotiations. US negotiators currently do not have the flexibility to trade a tariff reduction for elimination of a non-tariff barrier, the lawmakers said. To correct that, the bill would require the President to provide a certification to the Congress, in advance of agreeing to a modification of any existing duty on any product, that sectoral reciprocal market access has been obtained; if trading partners do not grant similar market access or if they erect new barriers to US exports, the United States may withdraw tariff concessions. The process would be triggered by either a private-sector or Congressional petition. Due to the November 2010 elections to the Congress, no further action on the draft was taken.

- *The Berry Amendment Extension Act (H.R. 3116) extends certain "Berry Amendment" restrictions placed on military acquisitions by the Department of Defence to the Homeland Security Department. The original Berry Amendment requires the U.S. Department of Defence to procure certain goods, such as textiles, clothing, tents and cotton, from domestic sources. The legislation includes a clause requiring consistency with international obligations.*

- *The House of Representatives passed the Congressional Made in America Promise Act of 2009 (H.R. 2039), which clarifies that the Buy American Act of 1933 extends to the Legislative branch. The bill also prohibits application of any of the exceptions to requirements of the Act (public interest, unreasonable cost, unavailable supply, etc.) for all products bearing the Congressional Seal.*
- **On 22 May 2009 the United States Department of Agriculture (USDA) presented a 'Dairy Export Incentive Program' for the period from July 2008 through 30 June 2009. The programme is equivalent to the US WTO commitments for agricultural export. Some countries and regions will be excluded from the programme and quantities may be limited depending on the budget. USDA's Foreign Agricultural Service is in charge. The programme originally was introduced in 1985 and was reauthorized by the Food, Conservation and Energy Act of 2008, the so-called 'Farm Bill'. The programme has been extended for the period July 2010 – June 2011 and the beneficiary products are non-fat fry milk, butterfat and various cheeses. While the programme officially lapsed, applications are still being accepted to distribute the remainder of funds.**
- On 25 March 2010 a proposal for a bill was tabled, to extend for five additional years the existing subsidies and protection for US ethanol. The bill would extend three measures, the Volumetric Ethanol Excise Tax Credit, the Small Ethanol Producers Tax Credit, and a special tariff on imported ethanol. It would also extend the Cellulosic Ethanol Production Tax Credit for three years. Current legislation in force, Tax Relief, Unemployment Insurance Reauthorisation, and Job Creation Act of 2010 (H.R. 4853) renewed the Alternative Fuel Mixture Credit but effectively removed black liquor fuel as an eligible fuel. **The Volumetric Ethanol Excise Tax Credit, Small Ethanol Producer Credit, Biodiesel Tax Credit, Small Agri-Biodiesel Producer Credit and Renewable Diesel Tax Credit, administrated by IRC, expired in December 31, 2011. The Credit for Production of Cellulosic Biofuel and Special Depreciation Allowance for Cellulosic Biofuel Plant Property, administrated by IRC, are expected to expire in December 31, 2012.** ***Biorefinery Assistance and Repowering Assistance, which offers grants to biorefineries that use renewable biomass to reduce or eliminate fossil fuel use, administrated by the Rural Business-Cooperative Service (RBS), are expected to expire at the end of FY2012. Bioenergy Program for Advanced Biofuels administrated by the Rural Business-Cooperative Service (RBS), which provides payments to producers to support and expand production of advanced biofuels, is expected to expire at the end of FY2012.***

Vietnam:

- On 10 February 2009 the Ministry of Finance announced an increase on the tariff levied on newsprint from 20% to 29% and on printing/writing paper from 25% to 29%, except on that coming from members of the Association of Southeast Asian Nations (ASEAN). In a further step to protect local industry, the Ministry of Industry and Trade proposed end of March 2009 to raise the import duty on newsprint, printing and writing paper imported from ASEAN countries from 3% to 5%. The measure has been withdrawn.

- After pressure from local steel producers and the Vietnam Steel Association, the Vietnamese Ministry of Finance issued Circular 75/2009/TT-BTC of 13 April 2009 and Circular 216/2009/TT-BTC of 12 November 2009 revising up the MFN import tariffs on several construction steel products. In detail, import duties on alloy steel products (under HS Headings of 7227900000, 7228301000, 7228309000, 7228401000, and 7228409000) were increased from 5% to 10%. While the new rates are 5% higher than the previous rates, they are 2-5% lower than the rates proposed by the Vietnam Steel Association. The measure has been withdrawn.

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).

- **The 2012 Financial Law promotes foreign investment by providing inter alia VTA exemption under certain conditions for banks and financial institutions; cancellation of certain banking taxes; and lowering fiscal pressure and simplification and harmonization of financial procedures.**

Australia:

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

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

Brazil:

- On 14 September 2010, a tariff-rate quota of 250.000 tons for cotton not carded or combed (5201.00.20 and 52.01.00.90), at 0% duty for the period of 1 October until 31 May 2011. This period has been extended until 30 June 2011.
- On 11 February 2011, a tariff-rate quota (TRQ) of 150 Tons of Terephthalic acid and its salts (2917.36.00) at 0% duty was adopted. A new TRQ of 135.000 Tons was adopted until 31 December 2011.
- On 1 April 2011 some tariffs have been decreased: Vinyl acetate (2915.32.00) from 12 to 2% and carbon electrodes (8545.90.10) from 12 to 2%.
- On 17 May 2011, a TRQ of 3.000 Tons (for a period of 6 months) of 4,4′-Isopropylidenediphenol (bisphenol A, diphenylolpropane) and its salts (29.07.23.00) and a TRQ of 30.000 Tons (until 31 December 2011) of some Flat-rolled products of steel with a thickness of 29,45 mm (7208.51.00 - Ex 005) at 2% were adopted.
- On 14 June 2011, a TRQ of 3.000 Tons (for a period of 3 months) of Mixed alkylbenzenes (3817.00.10 – Ex 001) at 2% was adopted.
- On 21 June 2011, a TRQ of 6.000 Tons (for a period of 12 months) of Titanium oxides (2823.00.10) at 2% was adopted.
- On 16 August the Brazilian Congress approved a draft bill (PLC 116) on the elimination of regulatory restrictions for the provision of triple play (pay-TV) services by telecommunication operators, which was causing a discrimination against cable-TV operators that did not face any such restrictions. This will be an important step to foster the major investments on broadband development that will be needed throughout the country.

China:

- Trade facilitation measures announced include customs and quarantine clearance in 24 hours and reduced costs for textiles, clothing and agricultural products border inspections[34].

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)

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

and non-locally produced wood. These items will be exempted from customs fees (the current tariff issued in April 2008 is equal to 20%). According to the modifications, the customs tariff will often be reduced by up to 2%. The customs reduction has been applied to all sectors which demanded a reduction in tariffs (such as engineering, chemical and wood industries) as long as no damage is caused to local products.

India:

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

Indonesia:

- 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.
- Decree 1176/2010 adopted in September 2010 provides for notification of cosmetics instead of pre-marketing registration, thus easing exporting procedures.
- By ministerial decree PMK 80/PMK.011/2011 the government temporarily scrapped import duties for 182 raw materials and capital goods to lower costs for local manufacturers. The 182 products, which will be exempt from import duties between April 18 and Dec. 31 2011, include 59 items in the chemical industry, one food item (soybean oil), 91 machinery items, 16 electronic items, 13 shipping items. Some of these reductions came after dialogue with European business arguing products were not in direct competition with the Indonesian industry. As of Jan. 1, 2012, import duties for all of the goods will return to 5 per cent. **According to the ministerial decree PMK 213/2011, effective in January 2012, most of the import tariffs remained at 0% (import tariffs for textile machinery and few other products were raised from 0% to 5%).**
- Ministry of Health issued a decree 1799/2010 that provides a response to Decree 1010/2008 so that research-based companies previously classified as pharmaceutical wholesalers (PBFs) can now apply for a pharmaceutical industry licence if

undertaking any manufacturing stage (procurement of raw and packaging materials, production, and packaging, quality control and quality assurance). Still to be clarified is whether companies conducting R&D abroad will fall within the scope of the decree.

- Decree 1176/2010 of September 2010 replaced the registration requirement with a notification requirement for cosmetics.

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 . The role of the programme is progressively diminishing.

- **The Organization for Small & Medium Enterprises and Regional Innovation Japan (SME Support, JAPAN) announced on 15 December 2011 that it will create investment funds jointly with the private sector (e.g. banks and trading houses) to support SMEs for their overseas expansion and M&A. The SME Support, which is an independent administrative agency under METI, aims to support SMEs to cope with the stronger yen and intensifying global competition. This scheme is also a part of the GoJ's East Japan Earthquake Reconstruction process.**

- **On March 15 2012, the SME Support opened a tender for investments into the following two types of funds. The one is the funds for overseas expansion which amount to Yen 5 billion yen (50% of which will be funded by the GoJ). The other funds are to help SMEs with acquisitions and the establishment of joint ventures overseas. The M&A funds are expected to be around Yen 4 billion, half of which will be subsidised by the GoJ. The SME Support is currently assessing the applications and the date of the start of the funds is not known yet.**

- **On 5 October 2011, JBIC agreed with three Japanese major banks to set up an M&A credit line totalling $43 billion as part of the "Emergency measure package against the Yen's appreciation" to support overseas business expansion through M&A" announced by Ministry of Finance on 24 August 2011. On 23 February 2012, JBIC approved the first M&A credit line under the scheme to extend low-**

interest dollar loans to Sony Corp. and Toshiba Corp. JBIC will provide $819 million loan to Sony for full acquisition of Sony Ericsson mobile phone joint venture. Toshiba will receive $600 loan for the takeover of Landis+Gyr AG (Switzerland).

- **On April 1, 2012, the Japan Bank for International Cooperation (JBIC), which used to be the international wing of the Japan Finance Corporation (JFC), was spun off from JFC and became wholly government-owned entity.**

- **In December 2011, the GoJ set out the "Programme for Promoting Japan as an Asian Business Centre and Direct Investment into Japan". This programme was formulated on the basis of the "New Growth Strategy" (June 2010) and the "Strategies to Revitalize Japan"(August 2011). The Programme sets out the following three targets towards 2020: i) to promote the establishment of high value-added sites in Japan (e.g. Asian Regional Headquarters and R&D facilities); ii) to double the number of employees of foreign enterprises and iii) to double the volume of direct investment into Japan. METI established a subsidy scheme for global companies to help them establishing high-value added sites in Japan. The subsidy scheme will cover such costs for survey design, facility(buildings not land), equipment and facility rental charges. The subsidy rate is up to 50% for SMEs and up to one-third for non-SMEs with the ceiling of 1 billion yen. To date, METI has decided to subsidize the projects of 15 foreign companies (8 from the EU).**

- **The subsidy scheme for purchasing eco-friendly cars was re-introduced from December 2011 to 31 January 2013 after it was once terminated in September 2010 due to the exhaustion of the budget. The GoJ will subsidize Yen100, 000 for passenger cars meeting the required fuel efficiency standards and Yen 70,000 for Kei-cars. The total budget of this scheme is Yen 300 billion. The scheme will also cover the cars imported under the PHP (Preferential Handling Procedures).**

Kazakhstan:

- Import duties on aircrafts have been abolished for a transitional period until 1 July 2011.
- The Customs Union Commission eliminated (from 10%) an import duty on capelin.
- On 24 June 2011, Customs Union Commission set a 0% duty on oil imports between the Customs Union member states (from 5%).
- **The Customs Union Commission has lowered import duties on non-alloy steel bars, hot-rolled sections and shape steel-rolled stock at 10% of the customs value.**

The new customs duties were officially announced on January 25.Previously these steel products had a duty rate of 15%.

- **The Board of the Eurasian Economic Commission (EEC) has agreed to impose 5% import duty on certain types of coconut, palm and palm kernel oil shipped in boxes, barrels and cans and packages between 200 kg and 19 tons. The regulation will come into effect if approved by the EEC Council. Now 5% duty is levied on 200-kg oil packages and below, the regulation will significantly increase the upper ceiling for duty-free oil imports. The EEC countries wanted to ensure that the oil was supplied in bulk for further processing, rather than in small packages ready for use.**

Malaysia:

- The International Trade and Industry Ministry of Malaysia (MITI) has announced a review of steel policy, which will ultimately lead to reductions in duties on the imports of steel and the introduction of a set of Malaysian standards for imported steel products. The motivation for the review is to enhance the competitiveness of the Malaysian steel industry. The measures are implemented since 1 August 2009.
- Since 22 April 2009 100% foreign equity is allowed in 27 subsectors of services, including health and social services, tourism, transport, business services, IT. On 27 April 2009 a relaxation of foreign investment conditions in financial services was announced. Foreign equity limits were increased from 49% to 70% for investment banks, insurance companies and *takaful* (Islamic insurance) operators. A higher foreign equity limit above 70% is considered on a case-by-case basis for insurance companies. More flexibility for operations of locally incorporated banks, insurance companies, and takaful operators has been granted.
- On 30 June 2009, the Government announced the liberalisation of the Foreign Investment Committee (FIC) guidelines, including the repeal of FIC Guidelines on the acquisition of interests, mergers and takeovers. The Guidelines originally contained a *bumiputera* equity requirement, whereby *bumiputera* (ethinic Malays) had to hold a combined 30% stake in locally incorporated companies. Following the repeal of the FIC Guidelines, for newly listed companies, the bumiputera requirement is 12.5% and it can be futher reduced if more shares are issued at a later stage. Also, foreign equity limits were raised from 49% to 70% for stock-broking firms and unit trust management companies, and from 70% to 100% for fund management companies providing wholesale services. However, sectors of 'national interest' are not to be liberalised. *Bumiputera* participation requirements continue to exist in banking and insurance, certain manufacturing sectors (I.e. fabrics and apparel of batik, integrated Portland cement), agriculture, defence, energy, telecommunications, water.
- On 10 June 2010 Malaysia introduced the "10th Malaysia Plan" (MP). The MP lays down the government’s policy priorities over the next 5 years, with the goal of achieving high-income nation status by 2020. The plan outlines the government’s approach to a comprehensive economic transformation, on the understanding that successful economic policies of the past will not support the necessary 6% per annum

GDP growth required to reach this goal. This should be achieved through: broad policy and regulatory reforms to support and drive a private-sector led economy; renewed investment in human capital development; a new focus on specialization in key sectors which include oil and gas, palm oil and related products and financial services; bolstering global competitiveness and Trade, including by means of a new Competition Law, the removal of price controls and subsidies and further liberalization (particularly in the services sector) including the expansion of Malaysia's WTO commitments to liberalise 65 services subsectors; and an alleged "shift" in the *bumiputera* policy, with less emphasis on affirmative action policies and more programs to focus support on the bottom 40% of households, with a "market friendly, merit based, transparent and needs-based approach". **In July 2011, the Government announced liberalisation measures in three services sector (healthcare, education and professional services), including the removal of foreign equity restrictions, to take place in phases.**

As announced in October 2011 for the "Budget 2012", the Government will further liberalise 17 services subsectors "in phases" during 2012. This is to allow up to 100% foreign equity participation (but also as low as 40%, in the case of Legal Services). The 17 subsectors are the following: Telecommunication services (Network Service Providers and Network Facilities Providers licences; Telecommunication services (Application Service Providers licence); Courier services; Private hospital services; Medical specialists services; Dental specialists services; Private higher education institution with university status; International school; Technical and vocational secondary education services; Technical and vocational secondary education services (for students with special needs); Skills training centre; Accounting and taxation; Architectural services Engineering services Legal services; Departmental stores and specialty stores; Incineration services.

Mexico:

- In December 2008, the Mexican Government took a unilateral decision to gradually eliminate, by 2013, import tariffs on over 70% of products. The tariff reductions are scheduled to be implemented in five stages, beginning in 2009, with subsequent tariff cuts occurring on the first day of 2010 through 2013. The fourth and last phase of the programme (January 2012) reduced duties on 200 tariff lines, 113 of which saw their duties reduced while the remaining 87 saw their duties drop to zero. Products concerned include liquors, wines, packed fish, television screens, health-related products and clothing. These reductions to import tariffs are in addition to the 200 tariff duties eliminated in December in the context of the elimination of antidumping duties on imports of certain Chinese goods.

- Mexico has also engaged in an ambitious 800 million USD plan to modernise its customs infrastructure, system procedures, organisational structure and regulations The programme places a high priority on trade with Mexico's free trade agreement partners in a more expedited fashion while at the same time deterring smuggling.
- The most ambitious project so far to streamline and consolidate Mexican Customs clearance consists of moving customs processing onto digital platforms. It was launched three years ago as a multi-stage effort to integrate information processing across the many agencies involved in regulating foreign trade and serve as a single electronic entry point for procedures relating to import, export and transit of goods. The Digital Single Window is in operation since January 2011, but the entry into force of the project's final stage, which will oblige all trade operators to submit all the required documentation digitally, is set for June 2012.
- Mexico and Colombia have agreed to relax rules of origin on textiles. On 16 August 2011 Mexico and Colombia agreed again to temporarily relax rules of origin on textiles (Decision No.64). This instrument is valid for one year and allows Colombian producers of certain textiles to use input goods not originated in Colombia in their products to be exported to Mexico.
- Rules of origin have also been eased for cigarettes originating from Chile, allowing for 30% of non-originating content, as well as exempting them 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. Economic Complementation Agreement (ECA no. 55) for the automotive sector between Mexico-Brazil-Argentina-Uruguay-Paraguay. On 30 June 2011, Mexico's Ministry of Economy published in the Official Gazette of the Federation the amendments to the ECA No. 55, for Mexico and Brazil, Argentina and Uruguay. These amendments were incorporated by Mexico and Paraguay since 8 April 2011. These amendments, part of the first Additional Protocol to ECA no. 55, establish that from 1 July 2011 cars, light vehicles, bodies, trailers, semi-trailers and tractors will benefit from free access between these countries. Regarding heavy vehicles and buses, the parties agreed to gradually reduce the respective tariffs until total elimination by 1 July 2020. Earlier this year though, after Brazil threatened to denounce the ECA No. 55 agreement, Mexico agreed to limit car exports to Brazil to roughly $1.55 billion USD a year for three years in the form of duty free quotas, after which both nations will return to free trade in cars
- In August 2009, Mexico consolidated the initiative to exchange of electronic certificates of origin with Colombia, by introducing the necessary modifications in their FTA.
- ***Economic Integration Agreement Mexico-Peru. Peru and Mexico signed an Economic Integration Agreement (EIA) in July 2011. This EIA substitutes the economic complementation agreement (ECA No.8) which had regulated trade relations between the two nations since 1987. Tariffs on all industrial and fishing products will be eliminated in the following 10 years. Peru will gradually remove***

tariffs on 74% of agricultural products originating from Mexico; similarly the latter will gradually eliminate tariffs on 77% of these products which originated in the Andean Nation. The agreement has been ratified by the Senate, and is awaiting publication in the official gazette before it can enter into force.

- Modifications to FTA Mexico-Colombia. In August 2011 Mexico and Colombia deepened their FTA in order to increase trade of several industrial and agricultural products by incorporating such products (mainly agro-industrial) into their tariff relief programme.
- As of 1 June 2011, EU exporters can benefit from importing temporarily to Mexico commercial samples, professional equipment and goods for use at trade fairs free of import duties and charges, thanks to the appointment of the Mexico City Chamber of Commerce as the national guaranteeing and issuing organisation for ATA Carnets in Mexico for the next five years.
- Mexico's Customs Administration will render the second revision of goods imposed in Mexican customs on certain goods more flexible. The physical inspection of the merchandise will be replaced by non-intrusive technological methods such as X-ray, a move which, security factors aside, is expected to accelerate the revision process and therefore cut down on costs related to the storing of goods in Customs warehouses. The measures will be applicable as of September 2011.
- **The governments of Mexico and five Central American countries (Costa Rica, Nicaragua, El Salvador, Guatemala and Honduras) signed a FTA that unifies the existing bilateral FTAs in one body.**
- **Since 2 January 2012, holders of trademarks that have been registered with the Mexican Industrial Property Institute (IMPI) may request the listing of their trademarks at the Mexican Customs Office. The purpose of the listing is to facilitate the identification of goods illegally bearing trademarks registered in Mexico and being imported into the country. The listing will expedite the immobilization of goods and the filing of criminal or administrative legal actions.**
- **Following the elimination of antidumping duties on imports of certain Chinese goods on 12 December, the Ministry of Economy implemented new measures to combat contraband and undervalued goods originating from China and pertaining to the textile footwear and apparels sectors. In addition to pursuing regular anti-dumping and safeguard actions, Mexican customs launched a new price alert system to detect any practices of undervaluation that may adversely affect domestic producers. Imports whose value is below the reference price (provided by the domestic industry) of either the product itself or in some cases the actual raw material used to fabricate the product (such as leather in the case of footwear) will be flagged and the collected data will be used to generate information and risk analysis models that will enable the Mexican authorities to carry out comprehensive audits. Mexican customs indicates that this price alert system will initially focus on 400 textile tariff lines and will subsequently**

incorporate tariff lines of Chapters 61, 62 and 64. The integration of other sensitive sectors such as toys, electrical manufactured goods, steel, wood and possibly pharmaceutical products to the anti-undervaluation strategy is not expected to happen before the second half of 2012.

Nigeria:

- *The Nigerian Parliament is considering a Bill seeking to repeal the Export (Prohibition) Act n°7 of 1989. The act n°7 prohibits exports of beans, cassava tuber, maize, rice, yam tuber and their derivatives.*
- In line with circular of November 2010, import prohibition on cassava, toothpicks, furniture and textiles was removed with the exception of some locally produced items.
- **The 20 February circular brought custom duties for agricultural and electrical machinery and equipment to 0%,**

Paraguay:

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

Russia[35]:

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

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

- Decree No. 696 from 21 August 2009 establishes a zero per cent duty on certain types of medical equipment.
- Decree No. 803 of 5 October 2009, while abolishing CN code 8462 10 100 0 with import duty rate of 10%, introduces two new CN codes 8462 10 100 1 with a zero rate of import duty (stamping presses numerically controlled with automatic loading and unloading for stamping body parts, etc.), and retains the zero rate of import duty for the new CN code 8462 10 100 9 (Other). The measure is for 9 months, and enters into force 2 months after official publication of the Decree.
- The Government extended a 0% import duty on certain types of equipment for metal-processing industry.
- *The Government is considering extending for 9 months a zero import duty set up by Gov. Decree No. 659 of 11 September 2008 for panels for the equipment classified under CN code 8528 (CN codes 8529 90 870 and 8529 90 870 2) and active matrix devices on liquid crystals (CN code 9013 80200 0). The draft Decree also introduces additional measurement unit, namely 'pieces', for CN codes 8529 90 870 1 and 8529 90 870 2.*
- CU Commission Decision No. 279 from 20 May 2010 sets a zero-percent duty on sheets from tropical wood (code 4408 39 310 0).
- Customs Union Commission Decision No. 28 from 18 July 2010 eliminated an import duty on civic aviation planes (code 8802 40 002 2) brought into the territory of the Customs Union under the regime of temporary importation for contracts concluded before 31 December 2013 for the period of five years. Planes with the number of passenger seats between 50 and 111, 160 and 219 are excluded from this decision. The measure entered into force on 18 August 2010. Furthermore, Russia agreed to cancel the import duty on civil aircraft with carrying capacity above 250 passengers.
- The Customs Union Commission Decision No. 348 reduced the import duty rate on wine materials imported in containers of more than 227 litres (codes 2204 29 110 1, 2204 29120 1, etc.) from 20% to 15%.
- CU Commission Decision No. 327 from 20 May 2010 sets a zero-per cent duty on wolfram and metal-ceramics scrap (codes 8101 97 000 0 and 8113 00 400 0).
- CU Commission Decision #278 from 20 May 2010 eliminated a duty on some materials used for production of solar energy modules (code 8541 40 900 1) or a 5% duty (code 7007 19 800 1).
- In February 2010, Russia cancelled the obligatory certification for foodstuffs, cosmetics and perfumery. Instead of special laboratories, which used to conduct tests of these goods, the manufactures have started to indicate quality and safety of their products in voluntary conformity declarations.
- An import duty for certain types of trucks was lowered from 25% to 15% (code 8407 10 102 2).
- An import duty on certain rubber mixes was eliminated (code 4005 99 000 0).

- An import duty on coking coal (2701 12 100 0) was eliminated.
- An import duty on heparin and its acids was eliminated (3001 90 910 0).
- An import duty on certain types of machinery used in the forestry sector (8427 90 000 1) was eliminated.
- An import duty on certain types of railway carriages (8603 10 000 2) was eliminated.
- An import duty on certain types of passenger planes (codes 8802 40 003 2, 8802 40 004 2, 8802 40 004 3) was eliminated in accordance with the Decision of the CU Commission No. 592 from 2 March 2011).
- An import duty on certain chemicals was eliminated (code 2510 20 000 0) in accordance with the Decision of the CU Commission No. 661 from 19 May 2011.
- **Import duties on on two types of chemicals (codes 2711 14 000 1 and 2901 24 100 1) were abolished by the decision N 900 of the CU Commission from 09.12.2011.**
- **Import duty on styrole (code 2902 50 000 0) was abolished for the period of one year starting from 1st January 2012 in accordance with the decision N 846 of the CU Commission from 18 October 2011.**
- **Import duty on terephthalic acid (code 2917 36 000 0) was abolished for the period of one year in accordance with the decision N 845 of the CU Commission from 18 October 2011.**
- **Import duties on apple jams and concentrated apple juices (codes 2007 99 970 1, 2009 79 190 1, 2009 79 300 1) were set at 0% level for the period of nine months starting from 2 January 2012.**
- **The Eurasian Economic Commission issued the decree lifting import duties on industrial equipment and components used for the purposes of construction and maintenance of the nuclear power station in Belarus.**
- **The application of the 5% import tariff on some categories of paper (CU CN Codes: 4810 13 800 9, 48 10 19 900 0, 4810 22 100 0, 4810 29 300 0, 4810 92 100 0) instead of 15% was prolonged until 31.12. 2012. by the CU Commission Decision No 917 of 25 January 2012. The reestablishment of the 15% import duty was originally scheduled for 22.02.2012.**
- **An export duty on nickel was cut by 1.7 times in accordance with the governmental decree signed on 3 February 2012. The rate of export duty on nickel was set at $1,245.5 per tonne effective from 5th March 2012.**
- **The rates of export duty on many tariff lines of raw timber were cut in January 2012.**
- **The CU Commission took the decision to speed up an implementation of uniform export control procedures at the external borders of the Customs Union in accordance with the CU Agreement on single export controls by the member-**

states of the Customs Union. These procedures have to be implemented at national level by the CU countries.

- **The Federal Law No 322-FZ of 16.11. 2011, which amended the Federal Law No 57-FZ, removed some restrictions for foreign investments in strategic sectors of the Russian economy. International financial organizations, which have agreements with Russia or which are established with Russia's participation, were withdrawn from the scope of the Federal Law No 57. The limits that restrict the ownership of shares by foreign investors of strategic enterprises, their possibility of voting in the management bodies of the enterprise, have been somewhat mitigated. Some kinds of business activities were excluded from the list of strategic kinds of activities (e.g. the use by banks of cryptographic means, the use by clinics and hospitals of radiological equipment).**

- Increased import duties on several agricultural products were introduced by means of three decrees published on 31 January 2009, which entered into force one month after publication. The decrees increased import duties by 5% on soy meal for a period of 9 months (Decree No. 70). As of 16 December 2009 the Government Decree No. 1019 extended a 5% import duty on soybean oil meal for an indefinite period. The duty increase was consolidated under the Single Customs Tariff of the Customs Union**. For a short period until 31 July 2011, the duty on soy meal was removed, by the Customs Union Commission Decision N.620 of 7 April 2011.**

South Africa:

- The Government Notice No. 762 of 24 July 2009 introduced a full or partial reduction of MFN tariffs (previously set at the level of 5-10%) on a range of secondary aluminium products (aluminium bars, rods and profiles, aluminium wire, aluminium plates, sheet and strips, as well as aluminium foil). Current applicable duty for these products imported from the EU ranges between 0% and 3.8%, depending on the product.
- The Government Notice No. 815 of 7 August 2009 eliminated the 20% MFN tariff on electric heating resistors and solid plates used in the manufacturing of stoves, hobs and cookers, which are not produced domestically. Additional tariff reductions can be expected (in sectors such as chemicals, machinery and capital equipment) in line with the Government's plan to eliminate import duties on inputs not produced locally, in order to lower costs for downstream manufacturing.

- **On 14 October 2011 the general tariff on imports of lysine and its esters and feed supplements containing by mass 40% or more lysine (classifiable under HS Subheadings 2922.41 and 2309.90.65) was reduced from 10% *ad* valorem to free of duty.**
- **On 14 October 2011 a duty on plastic bags with a low density polyethylene (HS subheading 3923.21.90) was reduced from 15% *ad valorem* to free of duty.**

- **Under the Industrial Policy Action Plan for the period 2012/13 to 2014/15 the government will renew its efforts on improving cross-border infrastructure (road and rail), particularly in relation to the north-south corridor, which links the port of Durban to the DRC. No funding targets were announced.**
- **Large-scale infrastructure investment programmes, including projects to facilitate enhanced exports were announced in the 2012 Budget. These include national rail and port infrastructure improvement projects by Transnet to the tune of R300bn over the next seven years; the development and integration of rail, road and water infrastructure, centred around the Waterberg and Steelpoort areas of Limpopo, to facilitate coal, platinum, palladium, chrome and other minerals exports; and the development of a 16-million-ton-a-year manganese export channel through the Port of Ngqura in the Eastern Cape.**

South Korea:

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

Tunisia:

- On the occasion of the adoption of the 2012 Finance Law (No. 7) of 31 December 2011, the Government renewed the reduction of direct import duties which begun in 2008, and thus reduced the rate of import customs duties on certain raw materials and semi-finished products (article 15, chapter 15-3). **The 2012 Finance Law also suspended import customs duties on seeds and plantations as from 1 January 2012 (article 17).**

USA:

- On 11 August 2010, President Obama signed into law the U.S. Manufacturing Enhancement Act of 2010 (H.R. 4380), known as the Miscellaneous Tariff Bill (MTB), intended to help create jobs and strengthen the manufacturing sector, which he said is a key driver of the economic recovery. The new law amends the harmonized tariff schedule of the US to provide for duty suspensions and reductions (chemical components in particular) until 31 December 2012. According to the White House, the bill will reduce or suspend some tariffs that U.S. companies must pay to import certain materials to manufacture their products. This bill will lower costs for U.S. businesses and lower prices for U.S. consumers, it said. The bill is aimed to boost the US home-based manufacturing and exports, in the context of the President's objective to double US exports over the next five years.

Vietnam:

- On 16 April 2009 the government issued a Decision No. 58/2009/TT-BTC on some tax measures to implement its stimulus policy. The Ministry of Finance enacted a circular in May 2009 to implement a 50% reduction of value-added tax (VAT) on five categories of commodities. The VAT cut is applied on: (i) motorbikes with cylinder capacity of over 125cc; (ii) fibre, cloth and garment products; (iii) footwear & leather products; (iv) certain types of paper (with the exception of printing paper); and (v) cement, brick & fibro cement. The VAT cut of 50% is applicable from 1 May to 31 December 2009. The measure was terminated on 31 December 2009.
- On 4 May 2009 the Ministry of Finance issued a special incentive import duty list to implement Vietnam's commitment on tariff cuts for goods imported from five ASEAN countries namely Brunei, Laos, Malaysia, Myanmar and Singapore as well as Japan (AJCEP). Particularly, automobiles designed to carry passengers including those having separate luggage space and racing automobiles, ambulance automobiles and prisoner automobiles were subject to a duty rate of 9% from 1 December 2008 to 31 March 2009. A duty rate of 8% is being applied from 1 April 2009 to 31 March 2010; 7% from 1 April 2010 to 31 March 2011 and 6% from 1 April 2011 to 31 March 2012.
- Government Resolution no. 18/NQ-CP dated 6 April 2010 on "key measures to ensure macro-economic stability, curb inflation and achieve a GDP growth rate of approx. 6.5% in 2010, which include: Implement measures on prices"; "Guide" the commercial banks to lend foreign currencies for loans for import of "essential" goods for production which cannot be produced domestically.
- Circular 184/2010/TT-BTC entered into force on 1 January 2011: import duty on vehicles having 9-seats or below decreases from 83% to 82%. Import duty on vehicles of 3 litres or above (displacement engine 3,000 cc) and Sport Utility Vehicles (SUV) decreases from 77% to 72%. The MFN import tariffs on some meats and edible meat offal (under the HS headings of 0203, 0206, 0209, and 0210) have been revised down. The tariff reduction is averaged at 1 – 2%.