Early warning report on potentially trade restrictive measures

March 2009

Report to the 133 Committee

This is the second report on new potentially trade restrictive measures planned or implemented by our trading partners in the face of the economic crisis. In response to the recent request from Member States in the 133 Committee to report, DG Trade has asked the European Commission Delegations / Market Access Teams in G-20 countries and other key EU markets to coordinate locally the monitoring and gathering of information. The report below provides an overview of the second batch of data received during the first weeks of March 2009. It is complemented with input from business associations. In preparation for the G-20 summit, we draw the conclusion that although worrying signs persist, there is no evidence of an escalation in trade restrictive measures. However, we should remain vigilant in the months to come and use all opportunities to address these measures put in place so far.

It is now clear that there has been 'real' contraction in global trade activity since November 2008 and that this was not solely driven by a downward correction in commodity and energy prices. The fall was mainly driven by a sharp reduction of imports and exports from/to developing and emerging economies. In addition it is becoming clear that Asia has been the most affected region so far.

A global scenario of shrinking economies, slumping trade activity and rising unemployment could lead to political pressure to resort to protectionism. Given this challenging trade environment, the European Commission is continuing to keep an inventory of potentially trade restrictive or trade distortive measures planned or implemented by our key trading partners[1]. Working closely with Member States and business through the Market Access Teams in European Commission Delegations on this particular exercise helped identify specific new or potential market barriers. In addition, DG Trade has liaised with European business associations in Brussels who have contributed to the exercise.

This is the second report providing an overview of the data collected since February. As in the February report we have included measures that are planned, are to be implemented, or are already implemented. In some cases the measures previously

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[1] Requests for reports were sent to EC Delegations in: USA, China, Japan, Canada, Hong-Kong, South Korea, Mexico, Columbia, Singapore, Russia, India, Australia, Thailand, Saudi Arabia, Brazil, Turkey, Indonesia, Malaysia, Norway, South Africa, Philippines, Israel, Venezuela, Ukraine, Chile, Nigeria, Argentina, Algeria, Vietnam, Egypt, Kazakhstan, New Zealand, Switzerland (Bern), Tunisia, Morocco, Taiwan.

reported have been complemented with further information from the Delegations and for some of them it is difficult to determine the trade distortive impact until a more detailed assessment is carried out[2].

In the February report we concluded that for the moment there is no generalised race towards protectionism. The March report confirms this observation. New potentially restrictive and distortive measures continue to be rather limited. However the emergence of additional protectionist measures, whose impact still needs to be determined, confirms that there are no grounds for complacency. We should continue to be vigilant and regularly monitor the situation.

It is important to consider how the information gathered from our Market Access teams and included in this report fits into the broader monitoring of the developments of the global trading environment.

First, the data collected via the Market Access Teams, and additional sources including business associations, complements the monitoring exercise of the WTO, which we consider very useful for generating peer pressure. The second report of the WTO Trade Policy Review Body (TPRB) will mark a very important stage in this process.

Second, the upcoming G-20 summit in London is a key opportunity for all G20 participants to reaffirm their commitment to resist protectionist pressures, to keep trade flowing, and to make further progress towards concluding the DDA.

Third, in addition to monitoring, the report provides an important tool to maximise efforts to tackle barriers at an early stage. The report focuses on EU key markets and EU export interests, allowing us to identify specific measures that are particularly problematic for EU exporters at an early stage. They need to be tackled in a systematic and determined manner. On this basis progress can be achieved by using the wide range of instruments available: from the case-by-case work of Local Market Access Teams and trade diplomacy to the formal routes of dispute settlement panels and the Trade Barriers Regulation.

Finally, while reporting on potentially trade restrictive and trade distortive measures in key third country markets, we should also be aware that our trading partners are equally following closely measures taken by the EU, of which some have raised serious concerns. The temporary reintroduction of export refunds for milk products (butter, skimmed milk powder, whole milk powder and some cheeses) due to the recent fall in world prices has provoked strong reactions from trading partners. Moreover, some aspects of the proposals considered by some EU Member States to support sectors affected by the crisis (notably the car sector) have also raised questions and concerns. However, all sectoral policy actions taken within the EU must be in conformity with existing EU rules, and the EU-wide guidelines established in the European Recovery Plan that aim to minimize the distortive effects on markets functioning (namely avoiding promotion of purchases of national products, services or capital and preference in public procurement contracts to tenders offering/using national products).

[2] Measures were first identified according to their date of announcement. The G20 leaders' commitment on 16 November 2008 to avoid protectionism has been selected as a starting period for identifying potentially trade restrictive or distortive policy measures announced, planned or implemented after this date.

Furthermore, on 26 February the Commission presented a Communication giving further guidance on the design of measures for the automotive industry. The Communication stressed that these should contribute to tackling the structural problems of the industry and should not be protectionist. In practice, this EU framework for measures targeting specific sectors led to the eventual withdrawal of controversial elements in the initial rescue packages.

This note is organised as follows. Section 1 outlines the most recent developments in terms of new measures reported in March 2009. Section 2 presents an incremental approach in assessing all trade policy measures reported since the beginning of this exercise. In section 3 we focus on actions to tackle the problems identified. Finally in section 4 we present our concluding remarks.

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

While in most of the countries monitored there have not been additional openly trade restrictive and distortive measures since the last report presented on 20 February 2009 some new relevant policy developments have been identified.

Tables 1, 2 and 3 give an overview of these newly reported measures. The classification reflects the state of play: while some of these policy measures are clearly trade restrictive and trade distortive, other may not have an impact on trade or even stimulate trade. Measures which are planned but not yet officially adopted or implemented are put in *italics*.

Over the past month, there have been developments with regard to announced and/or implemented trade restrictive initiatives in **Russia** and **Indonesia**, as well as in **Argentina**, **China, Egypt, Kazakhstan, Vietnam**, **Syria,** and **Ukraine**. Japan and Taiwan do not plan to introduce border measures but are considering measures to support exporters as well as some specific sector measures that could be distortive.

On the other hand, some of the measures listed are simply the implementation of earlier announced initiatives (and reported already in the February report), such as the Indonesian health decree or the Ukrainian 13% additional surcharge on import duties (which the Ukrainian government seems to re-considering), while others are new initiatives (being proposed and/or being adopted).

Table 1: New potentially trade restrictive and/or distortive measures since February[3]

Argentina:
Establishment of non-automatic licenses on over 200 new product lines
China:
'Buy local' policies by provinces requiring or encouraging authorities and companies to source raw materials or equipment locally.
Measures aimed at sustaining exports in sectoral stimulus packages (e.g. increase of export rebate rates)
Egypt:
Imposition of a 10% import duty on cold rolled flat tin sheets of steel, on top of existing duties.
Indonesia:
Licensing, pre-shipment inspection and registration requirements on 200 iron and steel products.
The Drug Registration Decree (now fully enforced) in disregard of previous commitments to foreign importers.
Proposal for new mandatory standards and certification for iron and steel products.
Increase in import tariffs on some products competing with locally manufactured products.
Prolongation of an import ban on sugar to the end of April.
Japan:
Several subsidy schemes under preparation to support Japanese companies exporting to developing countries, or EU15.
Kazakhstan:
Plans to set up administrative punishment for entities violating local content clauses in the procurement law.
Russia:
Increase in import duties for combine harvesters to 15%, but no less than €120 per 1 kW of engine.
Increase in import duties for cars.
Increase in import duties for rolled steel products and steel tubes.
Increase in import duties on several agricultural products.
Increase in import duties on certain types of dairy products for babies.
Introduction of a seasonal duty on rice and milled products - from 15 February until 15 May 2009.
Reduction of EU poultry quota (on beef and pork, the EU quota has actually been increased).
New road tax on selected foreign transport including EU.
Syria:
Halt on import licenses for cement and review of customs duties on imported products related to engineering industries.
Review of customs duties on cotton thread and fabrics and implementation of minimum prices for imported garments.
Setting of minimum prices for imported products if similar local products are available.
Taiwan:
Mechanism to stimulate exports to China and markets in emerging economies through government funded loans and export insurance. Plan focused on export promotion and addressing SME financing difficulties.
Restructuring programme for DRAM sector (semi-conductor product, computer storage capacity) is likely to involve state support with longer term trade impact in an area where the only European manufacturer Quimonda is under-going bankruptcy procedures.
Ukraine:
Surcharge of 13% on import duties: cars, certain meat products, sugar, wine, textiles, machines and steel.

[3] The list of new measures is in country alphabetical order. A detailed description can be found in the annex of the report.

As in the February exercise several EC Delegations have reported measures whose impact on trade is particularly difficult to assess. They need to be further monitored in the coming months. For instance Russia has adopted a range of support measures, including subsidised interest rates on loans for purchase of domestically assembled cars and loans to agricultural producers, but more information is needed to understand the scope and impact of these measures. Overall the measures that aim at boosting demand such as the Japanese initiative to subsidise car and house purchase are in principle the least trade distortive.

Table 2. Support measures with no immediate or direct impact on trade

Japan:
Subsidies for purchases of cars or homes are offered by local governments.
China:
Stimulus measures (e.g. to boost domestic consumption)

Finally it is important to note that since the beginning of February, Egypt and India have relaxed some restrictions to trade while Japan has been actively engaged in putting in place measures to tackle the disruption of trade finance markets that have been negatively affecting trade since the outbreak of the financial crisis. Also, already at the end of last year Russia introduced import duty decreases for certain machinery and production equipment as well as decreases on export duties for unalloyed nickel and copper cathodes.

Table 3. Trade promoting measures

Egypt:
Reduction of 250 customs tariffs applied to a range of sectors such as engineering, chemical and wood industries (as long as no damage is caused to local products).
Japan:
Launch of 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.
India:
Easing of recent ban on Chinese toys.

You will find a detailed description of these new measures as well as the complete list of all policy measures reported by our Market Access Teams and EC Delegations since January in the annex of the report.

2. Overall Assessment

On the basis of the information received between January and March 2009 the conclusion is that for the moment, despite the sharp reduction of trade activity of recent months, there is still no evidence of an escalation in protectionist measures worldwide.

The measures identified so far vary considerably in terms of magnitude and sectoral reach. Therefore, any assessment on their impact on trade requires further analysis. However, overall it is clear that protectionist responses to the crisis remain confined to a limited number of countries mostly in Latin America (notably **Argentina and Ecuador**) and Eastern Europe (**Russia and Ukraine**). In Asia, where the slump in trade has been so far the most pronounced, **Indonesia** and to a lesser extent **Vietnam** stand out as being the most prone to adopt protectionist measures. With regard to China, further monitoring of measures to stimulate the economy – undertaken both at provincial and central level - is needed, taking into account that details of the sectoral support packages announced have yet to be released.

However, there are reasons to be concerned by developments in **Russia, Indonesia and Argentina**. These three large emerging economies, which have signed up to the G20's commitment for a standstill on protectionist measures at the Washington summit – and are likely to agree to a roll over of that commitment in London - continue to be most active in drawing up new trade restrictive measures not just in terms of their number but also sectoral coverage. These economies are particularly vulnerable to the current economic downturn due to their dependency on trade of commodities whose prices have dropped sharply in recent months (with the slump in world demand) leading to important reductions in export revenues.

<u>Assessment by sector</u>

In this second report trade restrictive measures continue to be focused on certain sectors such as agricultural and food products, iron/steel/metal, automobile, textiles and toys. The following analysis takes into account the overall picture since the start of our monitoring exercise. The sectoral coverage of border barriers has been most extensive in Argentina, Ecuador, Russia and Indonesia. However, some new sectors are starting to be targeted such as electronics (Taiwan, Indonesia) and home appliances (Argentina).

Agriculture and agri-food

The measures targeting agricultural goods are mainly triggered by the fall in prices of agricultural commodities. Concerning the agri-food sector, the Market Access Teams reported new restrictions on sugar (Egypt and Indonesia), on dairy (Russia and Vietnam), and on poultry meat (Russia). In Russia, and also in Ukraine agri-food imports are severely affected by increased import duties on dairy, meat, agricultural products, rice, etc. In Indonesia, Vietnam and Ecuador the beverage and the wines and spirits sectors seems to be most affected by various trade restrictions.

<u>Table 4. Potential trade restrictive/distortive measures –sectoral coverage[4]</u>

Country/Sector

Country	Textile 1	Toys	Telecom	Agri-Food	Raw Material	Iron, Steel, Metal	Pharma	Auto 2	Services	Other 3
Argentina*	3	1				3		2		3
Australia										1
Canada*				1				1		1
China (sectoral stimulus)*	1		1			2		1	3	3
Ecuador		1		1				1		1
Egypt				2	1	1				1

[4] Tables 4 and 5 include all measures reported since the beginning of the monitoring exercise. Some adjustments have been made according to updated information from EC Delegations.

India*		1				3		1		
Indonesia*	1	1	1	4	1	3	1			1
Russia*				5		1		3		3
Syria	1									1
Taiwan										2
Turkey*			1	1						
Ukraine	1			3		1		1		1
USA*						1			1	1
Vietnam				3		1				2
TOTAL	**6**	**4**	**3**	**20**	**2**	**16**	**1**	**10**	**4**	**21**

* G-20 members

1. Textile sector also include: fabrics and yarn, footwear

2. Auto sector include: cars, motorbikes, tyres

3. Other sectors include: among others, home appliance, electronics, construction, banking

Industrial goods

Broadly, with the exception of toys and textiles, most of the targeted sectors are specialising in durable and equipment goods which have been particularly affected by the credit crunch and the resulting slump in corporate investment and construction.

In the car sector one of the most affected worldwide, various types of measures have been identified: sectoral support (China, South Korea and Japan to some extent) and also border barriers (Russia, Argentina). In terms of steel and other metals sectors, measures have been put in place in Argentina (reference prices and new licensing requirements for steel, LAPI for aluminium), Indonesia (import controls on 200 iron and steel products), Russia (new decree on steel), India, Egypt, Vietnam and China (supporting exports notably through export tax rebate adjustment). In the textile sector, footwear (Ukraine, Argentina, Turkey) seem to be particularly affected at the moment. The hides and skins sector (Argentina) is also affected by new trade restrictive measures.

Assessment by nature of the measures

In March most measures continue to be **border barriers** targeting imports including licenses, quotas and other customs procedures.

While border measures are still prevalent among developing countries, there are now clear indications that more subtle and potentially discriminatory measures have also started to be used by emerging and developing economies. Examples of such measures are growing. Public procurement clauses have been introduced by Kazakhstan and Russia while from China there are reports that some Eastern coastal provinces are giving priority to locally manufactured products (e.g. automobile and home appliances) in local procurement and requiring or encouraging companies to source raw materials or equipment locally. In Indonesia, local requirement clauses[5] as well as new mandatory standards for steel are also being proposed. New distortive road taxes have been adopted in Russia. In terms of barriers to investment, these continue to be confined to Russia and Vietnam[6].

The proliferation of **fiscal stimulus** packages in emerging and developed economies, while necessary to kick start the economy, in some cases include measures that are potentially trade distortive. In China, stimulus packages in 11 sectors (auto, steel, machinery manufacturing, textile, petrochemical, shipbuilding, light industry, ferrous metal, IT, real estate, financial and logistics) have been announced and approved in principle by the State Council although detailed implementation measures have not been made available yet. These packages usually cover the following aspects: domestic consumption expansion; export support (notably though tax rebate rate increase); innovation and domestic production of key technologies and equipment (in particular through special projects and funds); encouraging merger and acquisitions that establish large-scale companies; replacement of out-of-date technology and development of high-tech and energy saving products. In high income developing countries such as Taiwan[7] there seems to be increased pressure to adopt support packages targeting the main export sectors. Measures specifically aimed ar supporting exporters are also becoming more widespread across Asia's largest exporters namely Taiwan, China, Japan. Further scrutiny of the specific contents of fiscal stimulus packages is warranted in order to fully identify whether there are trade distortive elements.

Assessment here is done according to the specific G20 pledge to refrain from raising new barriers to i) investment or ii) to trade in goods and services, iii) imposing new export restrictions, or iv) inconsistent measures to stimulate exports. This classification is also reflected in table 5 and in the annex to this report. In order to have a complete picture we also included an overview of recent development in trade defence instruments and TBT measures.

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[5] 30% local requirement on telecommunication, however this provision has been for the moment postponed by the government.

[6] The barrier in Vietnam has already been removed due to EU pressure.

[7] Taiwan has focused on stimulating domestic demand - infrastructure, export stimulus, domestic consumption. Support for industrial sectors appears currently to be comparable to initiatives undertaken in EU and US. Government support is being contemplated for LCD and DRAM sectors.

Table 5. Potential trade restrictive/distortive measures by country [8]

Country/measures

Country	New barriers to investment	Border barriers	Behind the border measures	New export restrictions	Measures to stimulate exports	Other measures
Argentina*[9]		3				
Australia			1			
Brazil*						1
Canada*						1
China*					1	2
Ecuador		1				
Egypt		2				
Hong Kong						
India*		3	1			
Indonesia*		7	1	1		
Japan*			1		1	2
Kazakhstan [10]						1
Russia*	1	7	2			
South Korea*					1	3
Syria		3				
Taiwan					1	1
Turkey*		1				
Ukraine		1				
USA*						1
Vietnam	1	4	1			
TOTAL	**2**	**31**	**9**	**1**	**5**	**11**

* G-20 members

[8] This table shows barriers identified by type of measure. Most measures affect several sectors, therefore Table 4 above appears to identify a larger number of measures.

[9] For Argentina, this time information may differ from the last report because measures have been collected as a whole instead of being reported separately.

[10] Administrative punishment for entities violating local content clauses in the procurement law.

Our Market Access Teams have reported an increased use of trade defence instruments.

Increase of TDI

The use of trade defence instruments ("TDI"), i.e. anti-dumping, countervailing, and safeguard measures, is not as such protectionist. On the contrary, TDI measures constitute the appropriate legal instrument agreed at WTO level to remedy unfair competitive behaviour by exporters in third countries, export subsidies, or a sudden and unexpected surge in imports from third countries causing injury to the domestic industry of another country.

Nevertheless, in times of financial and economic crisis, while the number of potential cases may increase, there may be a tendency to use TDI measures in a way which is not in conformity with the relevant WTO rules as an additional means to protect domestic industries. The Commission constantly monitors any such potential abuse of TDIs by third countries, and if it considers that the WTO rules have not been respected it will respond at technical and political level to remedy these abuses.

If a clear pattern emerges that a certain country or countries systematically abuse TDI rules for protectionist purposes, the Commission will not hesitate to react strongly and this may also be reflected in further editions of this report.

Increase of TBT notifications

The number of TBT notifications has also been steadily growing, and this increase might raise questions as regards a possible link with the economic crisis.

While there is not yet specific evidence pointing in this direction, a wish to protect national markets and production might be one explanation for the rapidly increasing number of TBT notifications from third countries (318 in the first two months of 2009 alone as compared to 235 in the first quarter of 2008), as well as the increasing number of TBT cases which we are actively dealing with as trade concerns. These cases are usually brought to our attention by European stakeholders and other Commission services and typically deal with issues such as: introduction of conformity assessment procedures that are more burdensome and time consuming than necessary, introduction of stricter national standards in fields where international standards are the norm, or the sudden implementation of existing measures that had been either suspended or not enforced previously.

3. Steps to tackle problems identified

Since the start of this exercise in January 2009, DG Trade in close coordination with EC Delegations, has been vigilant and active in addressing the most urgent issues raised by our Market Access Teams. Our monitoring efforts have been complemented by information coming from Member States and European business organisations. The European Commission is also cooperating with international partners to ensure the implementation of the G-20 standstill on potentially protectionist measures.

Below are some examples of our concerted actions on the most urgent pieces of legislation:

<u>Through the WTO</u>

The Commission intends to raise in regular WTO committees specific restrictive measures that do not comply with relevant WTO provisions, and which have potentially negative implications on EU exporters. It is also monitoring carefully the use of TDI measures by trading partners. Such an approach has already been adopted:

- in the Committee on Import Licensing: concerning recently introduced Indonesian import licensing measures, DG Trade has analysed from a WTO legal perspective the Indonesia regulation on the 'import of certain goods' with regard to entry port restrictions, import licenses, and pre-shipment inspections. Following our analysis, a joint EU-US submission on Indonesia was sent to the WTO in February. A similar submission on the Argentinean non-automatic import licensing obligations is also being prepared.
- in the TRIMs Committee: In the coming months, if the proposed measures are adopted and ascertained as incompatible with the TRIMs agreement, action will be taken concerning local content requirements by Indonesia on pharmaceuticals and telecommunications equipment and by Venezuela on cars.
- In the Balance of Payments Committee: action could be taken with regard to trade measures in Ecuador (restrictions from additional tariffs to quotas affecting a large number of products) and Ukraine (law on temporary 13% import surcharge) – although according to the latest information (20 March) the latter measure is being re-considered by Ukraine.

In order to maximize the efficiency of such interventions and to generate more peer pressure, we have started building alliances with other affected WTO members.

<u>Through the Market Access Cooperation with international partners</u>

Under the Market Access Cooperation initiative with third countries, we have been collaborating with the US and Japan through two video conferences which took place in the second half of March.

With the US, we have discussed the WTO TPRB second report and the G20 pledge monitoring. With regard to the WTO, both sides agreed to continue cooperation on specific measures by third countries

With Japan, we have exchanged information on our respective monitoring exercises, and both partners committed themselves to work together. Both parties share similar concerns and common commitments with regards to a successful G-20 summit, the commitment to conclude a DDA deal, and the support for the TPRB monitoring exercise. Cooperation and bilateral contacts should be reinforced, both related to TPRB and to specific cases to be pursued.

<u>Through diplomatic efforts</u>

- In the case of the Ukrainian draft law on temporary 13% import surcharge on valid import duties for certain goods, high level talks have taken place with Ukrainian officials, and it seems that the Ukrainian government intends to remove the surcharges (except for imported cars and refrigerators).

- In the case of Ecuador, coordinated dialogues involving the European Commission Delegation and EU Member States have taken place with Ecuadorian authorities to find solutions to reduce the economic impact of these import restrictions.

- In India, some of the main trade restrictive (recent and longstanding) measures in place have been included in the priority list presented to Member States at the 133 committee together with material to support common messages and synchronised efforts to tackle the issues on the list.

- An ad hoc meeting of the bilateral trade and investment working group with Indonesia was recently held in Jakarta to address, among other things, the recent protectionist measures taken by Indonesia.

<u>Through work in Market Access Teams</u>

- In India, our joint efforts have proven successful in contributing to the delay in implementation of import restrictions on steel and steel products. This positive step has been made possible locally through close cooperation and coordination between the Commission, the EC Delegation and Member States on the one hand, and with like-minded countries such as Japan and South Korea on the other.

- In Vietnam, the European Commission Delegation has succeeded in lobbying effectively for the removal of a newly introduced automatic licensing regime, or the delay in issuance of licenses for the establishment of foreign banks.

- In Argentina, a specific Market Access Team was recently created to tackle the issue of non-automatic licensing. Following the first meetings, several actions at bilateral level have been undertaken. There may be a possibility to also address our concern at the multilateral level as well.

- Potential impact of trade restrictive measures on services has also been discussed during the two working groups on services and distribution in February. Although for the moment it is very difficult to assess the exact impact of the crisis on the services sector, it was concluded that further monitoring should be concentrated in this particular area so that we better understand how the sectors are affected.

This shows that progress can be achieved by using the wide range of instruments available: from the case-by-case work of Local Market Access Teams to the formal routes of dispute settlement panels and the Trade Barriers Regulation.

Finally, working closely with Member States and business through the Market Access Strategy has proven effective and should continue to give results in our market access work to ensure that the world trade environment remains open.

4. Conclusion

In this report we have presented an updated assessment of potentially trade restrictive measures planned or implemented by our key trade partners. Several issues should be highlighted.

While the trend towards protectionism is of concern, to date, the contractions in trade volumes observed in recent months are a consequence of the global recession, not protectionism. Nevertheless, potentially trade restrictive measures have increased and the full effects of the recession have not yet been felt, raising concerns for the future.

The EU should forcefully promote open trade as a complement to fiscal stimulus. G-20 countries should strive to keep markets open and promote further opening of global markets through support for the early conclusion of the Doha Round.

The EU, building on the commitments taken at the spring European Council, must use the upcoming meeting of the G20 in London to reaffirm a strong common stance against protectionism in line with the standstill commitment agreed at Washington and support the effective monitoring mechanism established under the WTO. This requires collective determination and actions to implement this commitment at the highest political level.

Annex: Overview of measures currently in place or planned in key trade partners

ANNEX

1.1. NEW BARRIERS TO INVESTMENT

Vietnam:

- Delayed issuance of licenses for the establishment of 100% foreign owned banks. To date, five 100 % foreign owned entities have been licensed. The barrier has already been removed due to EU pressure.

Russia:

- There are currently 45 applications from foreign investors awaiting permission from Putin Commission to invest in strategic sectors (Federal Law #57). The Law seriously complicates the process for foreigners to invest in Russia. There are attempts by the advocates of state control in the Government to accommodate the Law for further toughening of state control over the key economic sectors.

1.2. BARRIERS TO TRADE IN GOODS AND SERVICES

1.2.1. BORDER BARRIERS

Argentina:

- Import Licences
  - In October, the Government implemented the requirement of non automatic import licenses for ovens and TV/video sets (Customs Codes 8516.60.00 and 8528.72.00), and in November the requirement for a Certificate of Imports (CIM) for metallurgic products, yarns and fabrics, footwear.
  - In December 2008 the Government announced that it will increase the use of non-automatic licenses for sensitive sectors (footwear, textiles, etc.) and in January, licenses (the so called "Certificado de Importación" or CIN) for imports of tyres.
  - In February, the Government updated the list of merchandise subject to automatic import licenses (LAPI) in which it included, for example, aluminium bars.
  - On 5 March Argentina extended the coverage of import licenses to 200 new product lines. Non-traditional sensitive goods (air conditioners, furniture, machinery, etc) have been included.
- Reference prices (covering around 24,000 products)
  - Since September 2008, an update of reference values for imports took place in order to avoid commercial fraud (under invoicing) for several sectors, such as textiles, metallic products, and tyres.

  - 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 set new revised "reference prices" for toys, textiles, footwear, steel, etc.) The customs administration also set alerts to increase border controls for sensitive goods.

  - In January 2009, reference prices were set for steel pipes. In February, for glass fiber discs, cotton fabrics, backpacks, drive-axles, guitars, flash memories, etc.

- <u>Tariff increases</u>

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

Indonesia:

- A regulation which entered into force on 15 December 2008 imposed burdensome requirements on imports on 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. Sectors affected: clothing/textiles, electronics, toys, footwear and food/beverages. It became effective for clothing and textiles on 1 Jan 2009 and for other products on 1 February 2009. The economic impact for EU exporters could be estimated at EUR 630 million[11].

- Ministry of Trade Decree 8/2009 (08/M-DAG/PER/2009) requires that 200 iron and steel products can only be imported by licensed importers and that all shipments must undergo a pre-shipment inspection The Decree was adopted on 18 February 2009 and is valid until 31 December 2010. EU exports of iron and steel in 2007 amounted to about EUR 261 million[12].

- From August - September 2008 the Indonesian food and drug regulatory agency started to vigorously enforce the requirement that all foodstuffs must be approved and registered. It is reported that it can take 6 to 9 months to register a product. BPOM seems to recognise to a certain extent the long delays in registration and has committed itself to reducing the time to 3 months (the legal requirement is 45 days).

- Ministry of Health Decree 1010/2008 restricts the scope of imported drugs that can be registered and obliges drugs that are currently imported to be manufactured locally within 5 years. The Decree was adopted and became effective on 3 November 2008. Contrary to previous commitments to ensure that existing foreign importers (so called PBF companies) could continue to register their products, the Ministry of Health has back tracked to its original position that drugs can only be imported if they fulfil a need and are not manufactured locally and imported drugs can only be registered by companies

[11] Please note that it is calculated at HS 4 digit level leading to clear overestimation.

[12] HS chapters 72 and 73.

having manufacturing in Indonesia. EU exports of pharmaceuticals to Indonesia amounted to EUR 145 million in 2007[13].

- Ministry of Industry is proposing, through two decrees, to introduce mandatory standards and certification for a number of iron and steel products[14]. The requirements apply to both imported and domestically manufactured products. The two draft decrees have been notified under the WTO TBT Agreement[15]. It is not clear when they would be enacted. EU exports of iron and steel[16] in 2007 amounted to about EUR 261 million.

- Ministry of Finance Decree 19/2009 raises 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.). Manufactured products, such as 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 are reduced mainly on input products needed for local manufacturing (e.g. dairy products and base chemicals). The Decree was adopted on 13 February 2009.

- The Ministry of Trade has decided to prolong an import ban on sugar. Imports were to be allowed from 1 January 2009, but the import ban was prolonged to the end of April. In 2008, the Ministry of Trade only allowed imports of sugar during 3 months after previously promising to keep imports open for 6 months. The ban mainly affects the EU food and beverage manufacturing industry established in Indonesia as they need reliable access to high quality sugar for their manufacturing processes.

Ukraine:

- Ongoing discussions on a temporary 13% import surcharge on valid import duties for certain goods justified on Balance of Payment equilibrium grounds. The law imposing the new tariffs was passed by the Parliament on 23 December 2008 but vetoed by the President. On 4 February 2009 the Parliament did not override the President's veto but adopted a slightly modified version of the law which imposes tariff increases on a number of products (meat, sugar, alcoholic beverages, some garments, steel, machines, buses, and cars) that cover at least 14.3% of EU exports. The President signed the law on 20 February 2009, and it entered into force on 6 March. Ukraine notified the measure to the WTO on 4 March. However, according to the latest information (20 March) the Ukrainian government has repealed the 13% surcharge, with the exception of passenger cars and refrigerators (if so, this decision will be in force 10 days after publication). It remains to be seen if this measure is in line with the Constitution. The government is also said to be drafting a law repealing the measures across the board.

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

[14] mainly Hot Rolled Sheet, Coil Steel, Hot Rolled Sheet, Coil Steel for Gas Cylinder, Zinc Aluminium - Coated Sheet and Coil Steel.

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

[16] HS chapters 72 and 73.

Turkey:

- Adoption of new import procedures, in place since 1 January 2009. These new procedures entail a major change in the treatment of imports originating from third countries. Turkey requires products manufactured outside the EU to be subject to the conformity assessment of the Turkish Standard Institute.

Russia:

- New Decree on Harvesters (# 12 of 9 January 2009, entered into force on 15 February 2009). Russia has raised import duties for combine harvesters to 15%, but no less than €120 per 1 kW of engine[17].

- Increased import duties for cars (Decree 903 of 05 December 2008, valid for 9 months, entered into force on 12 January 2009). The duty increases are between 5 % and, in certain cases, 20 % ad valorem. Changes to the specific duties represent in certain cases (specifically for trucks) an increase of up to 400%. Steepest increases are for used cars, but new cars are hit across the board. On top of this, the rouble has been devalued which makes imported cars very expensive.

- New Decree on Steel (# 9 of 9 January 2009, entered into force on 14 February 2009, for 9 months, until 14 October 2009): a decision to raise 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).

- Increased import duties on several agricultural products: 3 decrees were published on 31 January 2009, entering into force one month after publication, which increased import duties by 5 % on soy meal for a period of 9 months (Decree # 70), increased import duties on butter and other dairy fats by 15% but not less than 0.35 euro per 1 kg (Decree # 71) - 15% , and increased duties on certain types of milk and cream by 20%. (Decree # 72)

- New Decree # 173 from 26 February 2009 on certain types of dairy products for babies. The decree raises the import duty from 5% to 15% and takes effect at the end of April 2009

- New Decree # 179 from 14 February 2009 on seasonal duties on rice and milled products from rice. The decree introduces 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.

- Meat quotas (Decree # 918 of 8 December 2008), EU poultry quota is reduced from 236.4 thousand tonnes to 185.8 thousand tonnes (on beef and pork, the quota has actually been increased). Recent request by Russia to redistribute some of the unused frozen beef quota from EU to other countries.

Vietnam:

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

- The Vietnam Steel Association has proposed the government to increase tariffs on imported steel pipes to 10% and galvanised steel sheets to 12% from the current 5% and 7% respectively. The proposal was submitted to the Ministry of Finance and the Ministry of Industry and Trade in the first week of January 2009.

- Automatic licensing regime for exports of rice, minerals and imports of key consumer goods was re-enacted in January 2009 for imports by the Vietnamese Ministry of Industry and Trade (MOIT). So far, no complaint has been made as regards this because of the fast registration procedure by MOIT. The new decree also establishes a difference between 'essential and 'non essential' imports, clearly signalling that Vietnam is preparing to identify the imports that are not key to the continuing development of the country.

- A proposal for higher import tariffs on milk products. The Ministry of Agriculture and Rural Development (MARD) suggested hiking tariffs on liquid milk from the current 5% to 18 % and to 10-34% on condensed and powdered milk, from the current 3-7%. Should the rise in tariff rates be implemented, the price on imported diairy products in Vietnam would increase, hurting EU' dairy exports to the country.

- The Ministry of Finance has 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).

Ecuador:

- On 22 January 2009 Ecuador adopted import restrictions from additional tariffs to quotas affecting a large number of products, including cosmetics, perfumes, alcoholic beverages, plastic articles, electrical products and car parts. This measure has been taken in response to current Balance of pPayment difficulties of Ecuador. A notification of this measure has been received by the Balance of Payments Committee at the WTO in February 2009.

Egypt:

- On 23 January 2009 the government imposed an additional duty of 70 euros per ton on imports of white sugar.

- A 10% import duty imposed on cold rolled flat tin sheets of steel, on top of existing duties, to stabilise the local market price. This is a preventive measure (Ministerial Decree 124/2009) applied from February 2009 for one year on rolled steel sheets either cold rolled or galvanised or prepainted[18]. Egypt applies the *erga omnes* measure, considered to be compatible with the WTO as the duty remains below the bound rate. The measure is said to be temporary.

India:

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[18] 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.

- Increased use of licences: 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 G-20 declaration on standstill, several products were moved from the "free" to the "restricted" list of imports involving import licences. In January, 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). Steel products were also put on the list of restricted imports, for which an import licence is requested.

- Ban on Chinese toys: India decided on 26 January 2008 to ban the import of Chinese toys for six months, without indicating any official reason. Chinese toys account for half of India's toy market. Recently, India eased the ban on Chinese toys, saying shipments fulfilling international safety requirements and duly certified would be allowed to enter the Indian market. It also specified that Indian producers would have to meet the same criteria. The implementation remains to be seen and according to press reports citing government sources, only 10% of Chinese exports would fulfil these criteria. This new approach seems more in line with WTO rules.

Syria:

- A halt on import licenses for cement and review of customs duties on imported products related to engineering industries.

- Review on customs duties on cotton thread and fabrics and implementation of minimum prices for imported garments.

- Minimum prices set for imported products if similar local products are available.

1.2.2. BEHIND THE BORDER BARRIERS

Russia:

- A new road tax on all foreign transport as of 1 February 2009. It applies to freight vehicles weighing over 3.5 tonnes. Government Resolution No. 1007 of 24 December 2008 entered into force on 1 February 2009.

- The Russian Government issued a decree related to the application of procurement procedures, giving discriminatory advantages to domestic suppliers.[19]

Indonesia:

- In November 2008 the Ministry of Communications published a draft Decree on its web-site (for public consultation) that imposes a minimum 30% local content requirement on telecom equipment acquired by local operators. The Decree has

[19] Russia is not yet a WTO member and not a member of the GPA.

still not been adopted, and our latest information indicates that the Indonesian government might be re-considering the local content requirement.

US:

- "Buy American" provisions on steel and iron, and "Hire American" provisions to be included in the economic stimulus legislation.

Japan:

- The Ministry of Agriculture (MAFF) has 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. A small trial campaign has been launched in one prefecture (from 19 February till 15 March).

Kazakhstan:

- The Government plans to set up administrative punishment for entities violating local content clauses in the procurement law. On 25 February the Kazakhstan government published a list of companies subject to mandatory monitoring of procurements.

Vietnam:

- A draft decree on the new law on excise duties (SCT) was published in February 2009. While the law establishes a single, non-discriminatory duty to be applied to both foreign and local products, the draft 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 in some cases to a tax cut of up to 10% for local wines and spirits products.

India:

- Several steps have been taken to shelter local steel producers from foreign competition. Most worrying are the steel certification requirements adopted in September 2008, which will make it mandatory for 17 steel products to meet new national standards and be certified by the Bureau of Indian Standards (BIS).

Australia:

- The State of Victoria (sub-national level) announced that Victorian Government procurement for declared strategic projects greater than $A250m should be subject to local (Australian and New Zealand) content requirements. The measure will have a potential adverse impact over a broad range of sectors. Specifically in relation to passenger rail rolling stock, the measure will potentially adversely impact on previous and existing EU-based suppliers to the Victorian Government.

China:

- There have been reports that a number of Eastern coastal provinces in China are giving priority to locally manufactured products (e.g. automobile and home appliances) for local procurement and purchases and requiring companies to source raw materials or equipment locally. Many of these "encouragements" seem be done through personal contacts rather than translated in a written form[20]. It is to be noted that such 'provincial' protectionism would affect both foreign and domestic companies. The EC Delegation will continue to monitor the situation.

1.3. NEW EXPORT RESTRICTIONS

Indonesia:

- A new mining law adopted on 16 Dec 2008 requires that minerals and coal must be processed before export. The Government has 1 year to put into place the necessary implementing regulations to give effect to the provisions of the law.

1.4. MEASURES TO STIMULATE EXPORTS

China:

- Increased VAT refunds and various forms of support in major economic sectors.

Taiwan

- Taiwan has pursued three main programmes to stimulate its economy, including one on stimulating exports. The measures are currently viewed as relatively non-discriminatory. On 25 December 2008 the Cabinet announced an export stimulus package totalling NT$8.53billion[21] to be used through 2012. The main focus of the package, developed by the Bureau of Foreign Trade, is to be on stimulating exports to China and markets in emerging economies. The program of stimulus is named the 'New Zheng He Plan'. The bulk of the funds, NT$5.58 billion, will be used between 2009 and 2010 and are 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 focused specifically on boosting exports of foodstuffs to China. The majority of the rest of the funds, around NT$1.8 billion will be used to target the markets of India,

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[20] One exception is a report that was issued in a press conference that took place in Anhui province on 7 January 2009 and was made publicly available (http://www.ahzwgk.gov.cn/XxgkNewsHtml/OA001/200901/OA001011502200901001.html)

The Director of the economic and trade committee of Anhui province, Zhao Bingyun, announced eight measures that specifically spell out encouragements for provincial authorities and local enterprises to purchase products made locally.

[21] US$ 258.7 million, Euro 182.7 million.

Russia, Brazil, Vietnam, Indonesia, Malaysia and those of the Middle Eastern countries. This current plan focused on export promotion and addressing SME financing difficulties is relatively in line with measures seen globally. As such it is not seen as particularly objectionable. However there are currently indications that the government may be considering more direct export stimulus measures. This will continue to be monitored.

Japan:

- On the basis of a public notice issued by the Ministry of Finance on 25 December 2008, the Japan Bank for International Cooperation (JBIC), a subsidiary to the government-owned Japan Finance Corp., has initiated a scheme on 'Credit for exports to developing countries'. The scheme will be in force until the end of March 2010. Japanese companies exporting goods and services to developing countries are eligible to receive loans. This should be further monitored.

South Korea:

- The government and the Korea Export Insurance Corporation are planning to invest an additional 3000 billion won into troubled exporters that suffer from the weak won and falling global demand.

2. OTHER MEASURES

China:

- Measures announced include references to funding of external expansion of Chinese companies, which need to be monitored closely.

US:

- Draft bills have been presented to the House and the Senate concerning taxation of international reinsurance transactions emanating from US domestic companies and reinsured to foreign incorporated affiliates. These bills create unfair tax disadvantages for EU owned US subsidiaries compared to US owned companies. Senate Finance Committee Staff draft issued for comments by 28 February 2009.

Brazil:

- Sovereign wealth fund was announced, aiming to protect the country from the global financial crisis, and to help Brazilian companies to boost trade and to expand overseas.

Canada:

- In the recent federal budget, the Canadian government announced initiatives that could possibly apply 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; enhance the resources and scope of action available to Export Development Canada (EDC).

Japan:

- Some local governments are offering subsidies for purchases of cars or homes. The Kanagawa Prefecture will begin providing subsidies in April 2009 (possibly up to 700,000 yen) to people buying electric vehicles.

- The Japanese government is now preparing several subsidy schemes to support Japanese companies including loans for Japanese companies exporting goods and services to developing countries, loans for investment projects in developing countries, loans and guarantees for Japanese firms in industrial countries, including EU15 and government guarantees for possible losses on acquisitions.

South Korea:

- The government unveiled, in December 2008, an outline of industry support measures to be taken in the coming months, with a view to covering liquidity and corporate tax exemptions to the nation's 9 key industries, namely auto, semiconductors, petro-chemicals, textiles, shipbuilding, steel, displays, mobile phones and machinery.

- On 25 February the Ministry of Knowledge Economy (MKE) submitted a plan to the National Assembly which indicated the possibility of providing support measures to the troubled local automotive and shipbuilding industries on the condition that they reduce production costs through restructuring. Regarding the shipbuilding industry, the nature of the incentives remains unclear. Therefore it is too early to make any judgements on possible trade-distorting effects.

- Green New Deal announced on 6 January 2009: to be monitored closely.

Taiwan:

- The government is under pressure to support local champions, and is using the need to intervene to strategically restructure and consolidate industries – notably in the LCD and DRAM sectors (DRAM is a semi-conductor product for computer storage capacity, and thus at the basis of a wide variety of high tech products). The latter restructuring programme is aimed at consolidating the DRAM sector by combining different Taiwanese companies and involving US and Japanese producers, also in view of the heavy competition from South Korea. The restructuring is likely to involve state support with the aim to increase the competiveness of the Taiwanese DRAM industry, but all necessary details are not yet known. There are only very few DRAM producers in the world. The development in Taiwan is of particular interest in light of the present bankruptcy procedures of the only European competitor in the DRAM sector. Quimonda (DE) had 12,000 employees, of which about 7000 in the EU. After it declared bankruptcy in January its future is presently uncertain. While these Taiwanese restructurings do involve state support they might be comparable to initiatives being under taken in the EU and US. Since no firm plans have been agreed yet, the details will need to be followed closely.

3. COUNTRIES THAT ARE FACILITATING TRADE

Mexico:

- Unilateral decision to gradually eliminate, by 2013, tariff lines on over 70% of products. Has also engaged in an ambitious plan to modernise its customs infrastructure and procedures.

Tunisia:

- As part of an economic stimulus plan presented on 23 December 2008, the government announced a reduction of customs duties to boost the companies' competitiveness.

China:

- Trade facilitation measures announced include customs and quarantine clearance in 24 hours, reduced costs for textiles, clothing and agricultural products border inspections[22].

Egypt:

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

Japan:

- The Japanese government is launching 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 dollars 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 dollar pool is seen supporting annual funding demand of around 4 billion dollars. 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 the money.

[22] This has been announced but - details of the implementation are still missing.