

# BRUSSELS MONITOR

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*A Weekly Review of EU Trade Policy Developments Affecting Japan*

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## *I. WTO Watch*

### **Poor countries suffer as a result of trade dispute over EU sugar exports**

On 21 February 2010, the Kenya Sugar Board stated that a new conflict between three major sugar-exporting nations on the one hand (namely, Australia, Brazil and Thailand) and the EU, on the other hand, over the volume of EU sugar exports, leaves little hope to consumers in Kenya and other sugar deficit nations that they will enjoy a decrease in sugar prices in the near future.

In January 2010, the EU announced plans to export an additional 500,000 tonnes of sugar in the 2009/10 marketing season. The EU argued that its annual export ceiling had increased by almost 100,000 tonnes after its expansion from 15 to 27 Member States. However, Australia, Brazil and Thailand have expressed concerns that this increase in exports will affect sugar prices and lower other countries' export volumes.

Earlier this year, the European Commission described the world sugar market conditions as "exceptional". India and Brazil experienced very bad weather conditions in 2009, which resulted in a shortfall in sugar production in these countries and forced them to buy sugar on the international market. As a result, world sugar stocks have considerably diminished and sugar prices have risen to an unprecedented level, hitting a 29-year high of 30.40 cents per pound. In this respect, the Commission's agriculture spokesman declared the following: "People on the world market are crying out for sugar and we've [the EU] got too much of it". A "very good harvest in the EU in 2009 led to the production of higher than expected quantities of out-of-quota sugar". The spokesman added that "the production cost is below the sale price".

The EU's decision to increase its sugar exports was approved by certain developing countries. On 21 February 2010, the Kenya Sugar Board Chairman Okoth Obado affirmed that "increased supplies to the world market by the EU would have reduced the pressure on prices". However, Australia, Brazil and Thailand argue that the additional out-of-quota exports by the EU are illegal under the WTO rules and should cease immediately. They argue that the additional exports are tantamount to dumping. According to Brazil's ambassador to the WTO Roberto Azevedo, "the sugar that will now be dumped into the international market is the result of surpluses which were accumulated in a succession of inflated crops. Therefore, they [the EU] cannot claim that this surplus is not subsidised because of market conditions today".

Certain sugar deficit nations are already feeling the impact of supply shortfalls. For example, the Kenyan market is currently not receiving sufficient stocks from the Common Market for Eastern and Southern Africa, since producers are diverting their supplies elsewhere. Ordinary shipments to Kenya are priced at about Sh30,000 per tonne whereas the global average amounts to Sh45,000 per tonne.

## *II. European Union: Trade*

### **De Gucht set to push for more Free Trade Agreements**

On 23 February 2010, it was reported that the new European Commissioner for Trade, Karel De Gucht, is scheduled to travel to Asia in early March, in order to provide fresh impetus to the EU's ongoing free trade negotiations in the Asian region. The Commissioner will formally launch negotiations towards a free trade agreement (FTA) with Singapore on 3 March. He will also stop over in Vietnam and India with the aim of convincing those two countries to move forward bilateral trade

liberalisation talks. The trip signals De Gucht's ambitions to put Asia at the heart of his external trade strategy, building on the successful conclusion of the trade deal, which is all but executed, with South Korea last year: the first FTA with the EU in that region.

At the European Parliament in January 2010, Karel De Gucht already promised an ambitious bilateral trade agenda that would "mark a shift to economically important markets, especially in Asia". As the chances of concluding multilateral negotiations in the framework of the Doha round in 2010 have faltered, the new Commissioner aims to give fresh impetus to the implementation of the 'Global Europe' strategy crafted by a predecessor, Peter Mandelson, in 2006. The strategy envisioned the conclusion of ambitious bilateral FTAs that would address tariffs as well as services and non-tariff trade barriers with South Korea, India and the ASEAN.

The launch of bilateral negotiations with Singapore opens the second phase of the implementation of Global Europe: the first was the initialling of the FTA with Seoul, on 15 October 2009. DG Trade's negotiators are now focusing their efforts on bringing new life to the talks with the South-East Asian bloc which have been stalled, since their launch in 2007. Negotiators hope to conclude, in less than two years, a far-reaching agreement with Singapore, that will pave the way for bilateral talks with other countries in the region.

The Singapore FTA is strategically important for the Commission since it is hopeful that it will break a current deadlock with ASEAN countries, by convincing Vietnam to follow suit. EU-ASEAN liberalisation talks have been suspended since March 2009 because of the human rights situation in Burma. On his way to Singapore, De Gucht will stop over in Hanoi, aiming to bring the Vietnamese to the negotiating table. Vietnam has privately signalled its interest in a bilateral FTA but has not yet made a decision, according to a Commission source. Vietnam is seen as the most promising economy in the South-East Asian region, with a growth forecast of more than 6.5% in 2010.

European investors are even more interested in the huge Indian market and in the outcome of the ongoing FTA talks with India. Ahead of a new round of talks, De Gucht will wrap up his tour in New Delhi, on 4 March, hoping to provide a political push as negotiators still struggle to agree on the content of the future agreement that both sides have promised to conclude this year (a not very likely scenario). Public procurement and high tariffs in India remain key concerns for the European negotiators.

It was also reported on 23 February that the EU and Central America have resumed talks for an FTA. The negotiations, to discuss preferential trade access, have been scheduled for the period 22-26 February in Brussels. The Commission says the negotiations are "already very advanced", and it expects "a rapid conclusion". There will also be political dialogue between the EU, and the representatives of the following countries: Guatemala, El Salvador, Honduras, Nicaragua, and Costa Rica, on, among other topics, climate change.

### ***III. EU Competition***

#### **Competition authorities raid automotive parts suppliers in US, EU and Japan**

On 25 February 2010, Yazaki and Leoni, two automotive parts suppliers, confirmed that officials from the European Commission's Directorate-General for Competition had conducted surprise inspections at their European facilities on 24 February. Such surprise investigations, often called "dawn raids", are typically a sign that the Commission is investigating the raided companies on

suspicion of having infringed EU competition law. Most often, the Commission conducts such raids when it suspects that the companies have engaged in a secret cartel, though it is also possible that the Commission suspects that one or more of the companies could have abused their dominant position, another violation of competition law.

Yazaki, a Japanese supplier of parts, confirmed that its London offices were raided by the Commission, while the US Federal Bureau of Investigation (FBI) and Japanese antitrust officials confirmed that they had visited Yazaki's US and Japanese facilities. Leoni, a cable and wiring specialist, has also confirmed that the Commission visited its premises in France and Germany.

Japanese officials indicated that they had conducted raids on Sumitomo Electric and Furukawa Electric as well, while the FBI added that they had also visited the US facilities of Tokai Rika and Denso. Officials from the US Department of Justice confirmed that the FBI raids were a part of a coordinated investigation involving the European Commission and other national authorities, leaving open the possibility that others apart from the US, the EU and Japan could be involved.

While such dawn raids are typically part of investigations which, eventually, lead to infringement decisions fining companies for illegal conduct, the investigation process can take several years, and the fact that a company has been raided is not necessarily an indication that they have committed an infringement.

The level of coordination between the various US, EU and Japanese authorities is an indication of the growing trend towards cooperation between antitrust agencies, in recognition of the fact that competition law infringements rarely take place solely within a single jurisdiction. It is expected that this type of global cooperation will grow further, as national authorities continue to try to tackle multinational cartels.

#### ***IV. European Union: Regulatory***

##### **Commission consults on usefulness of *audio equipment* as part of *ecodesign sound & imaging equipment* product group**

On 16 February 2010, the European Commission's Directorate-General for Entrepreneurship and Industry circulated a questionnaire to parties interested in the product group "sound and imaging equipment". Businesses may well be aware that this is one of the product groups being scrutinised for eventual subjection to either voluntary or binding eco-friendly implementing measures under the EU's Ecodesign Directive. Addressed to stakeholders, the questionnaire seeks to establish whether audio equipment should be a further product that ought to be considered within the product group sound and imaging equipment.

Audio-visual consumer goods exporters may already know that sound and imaging equipment currently includes DVD/video players and recorders, video projectors and games consoles. This is a growth market, and a sector with high energy consumption. It is also a sector with a high potential for energy savings, and a potential for other environmental improvements, such as extended lifetime.

An *ecodesign* preparatory study was already launched for this category of products at the beginning of January 2009, in order to analyse whether and which *ecodesign* requirements should be set for this type of energy-using equipment. The ongoing preparatory study (scheduled to be accepted by the

Commission in mid-2010) is looking at, among other factors, product definitions, economic and market data, user behaviour and environmental and economic aspects.

This latest request for stakeholder comments, in the form of a questionnaire, was introduced at the second stakeholder meeting held in Brussels on 8 February 2010. The results obtained from the questionnaire exercise are intended to be presented at the final stakeholder meeting, expected to take place in May 2010.

The questionnaire starts with the basics, requesting, for example, the recipient's own definition of audio equipment (or link to a definition). This is no doubt an important consideration, as it will determine the kinds of product that could eventually fall within the scope of implementing ecodesign measures. It also asks which audio products should be exempted from the definition, with due justification having to be provided in respect thereof.

Further on, more detailed data is requested, which the respondent may have available, on volume of sales, environmental impact and potential for improvement, for the types of audio equipment which the Commission has itself named and listed. These are: amplifiers, speakers including subwoofer, home theatre system, audio digital signal processor, radio and tuner. Other questions ask for figures on actual energy consumption per product, comments on the different power modes (standby, idle, etc.) and any energy savings potential per audio product listed. There are also sections asking for the existing standards and legislative measures in place, which the respondent may already know about.

Businesses interested in filling out the questionnaire should send their responses to it, or to specific parts of it, with related data or any comments on audio equipment, at the latest by 15 April 2010. The e-mail address to which it should be sent is [entr-ecodesign@ec.europa.eu](mailto:entr-ecodesign@ec.europa.eu), with the subject line "audio equipment".

Businesses who would like to examine this matter more deeply before considering whether to respond can visit the following web address for more information on the ecodesign process, and on sound and imaging equipment. The questionnaire is also available at this address: [http://ec.europa.eu/enterprise/policies/sustainable-business/sustainable-product-policy/ecodesign/product-groups/sound-imaging/index\\_en.htm](http://ec.europa.eu/enterprise/policies/sustainable-business/sustainable-product-policy/ecodesign/product-groups/sound-imaging/index_en.htm).

As for next steps, the final report from the sound and imaging equipment preparatory study is scheduled to be produced around the middle of this year, and accepted by the Commission shortly thereafter. Implementing measures (if any) could well be drawn up and proposed by the end of 2010 or at the beginning of 2011.

## V. *EU Institutions*

### **EU set to launch 'Europe 2020' strategy**

In a show of mutual support, José Manuel Barroso, on behalf of the European Commission, and José Luis Rodríguez Zapatero, on behalf of the Spanish Presidency of the EU, have praised each other's initiatives in respect of the upcoming "EU2020" programme and the strategy for electric vehicles. While Zapatero's aim is to make Europe a leader in electric vehicles (over countries such as China and Japan), the EU2020 programme is being seen as a replacement for the largely unsuccessful Lisbon Strategy. Under the EU2020 programme, Member States will take on a much more active role, with European Council President Herman Van Rompuy becoming directly involved in setting up

regular meetings between the Member States. It is hoped that EU2020 will be a means of dragging Europe out of the economic crisis and ensuring that future crises within the euro zone may be averted.

In a bid to ensure a positive alignment between the Spanish Presidency's electric cars strategy and the larger EU 2020 strategy, Commission President José Manuel Barroso has tried to reassure EU stakeholders. According to him, Spain's plan to roll out electric cars will be an "essential part" of the Commission's forthcoming ten-year growth and jobs strategy. Barroso made a statement to this effect in Madrid on 23 February 2010 after the meeting between the new Commissioners and the Spanish Presidency and a week ahead of the release of the Commission's detailed proposals on Europe 2020.

"Europe has to do more than simply survive this crisis. The EU has to start on a new road and not be left behind," Barroso said, adding that Spanish Prime Minister José Luis Rodríguez Zapatero had also put forward ideas on energy security and digital policy. "All of these are contributions we owe to Spain, which are essential for proposals the Commission is coming forward with." The EU executive will publish details of the Europe 2020 strategy on 3 March, three weeks before it is to be formally approved in the European Council, scheduled for later that same month.

Zapatero, for his part, has been meeting with industry leaders to promote the idea of electric cars and make Europe a leader in electric car production. In Madrid on 23 February, he said the new strategy should take into account "all aspects relating to the economy, to energy, common energy policies, the internal market, digital agenda, industries that can cooperate and coordinate in emergent sectors". Interestingly, he pledged his support to the Commission, saying it was the only institution capable of overseeing what he called the "European method" of coordination. However, EU leaders had, on 11 February, decided that the new plan – to replace the more or less failed Lisbon Strategy – would be led by Member States. European Council President Herman Van Rompuy has indicated that he will make it his business to set up monthly meetings of EU leaders to reinforce oversight of the strategy in a bid to overcome what most see as Lisbon's great failure – a lack of governance.

Government treasuries are under pressure, coping with extra crisis spending and the looming cost of pensions and health care as the working age population shrinks by two million people over the next decade. The EU is also worried by competition from the US, China, India and Japan, which are gaining on the EU's share of the export market. The Commission's 3 March document will likely include a pledge to set a small number of growth and job targets – similar to the Lisbon goals – and the use of EU funding as a reward for reform. The euro zone will come under increased surveillance, with "stringent assessments and peer pressure" to keep countries in check. The singular aim behind Europe 2020 is said to be to support the EU out of the crisis that saw growth dip by over 4% last year and unemployment rise to over 10% so far this year.

## ***VI. Dumping Watch***

### **A. Termination of partial interim review – tungsten electrodes**

On 25 February 2010, the Official Journal published Council Regulation 151/2010 terminating the partial interim review of the anti-dumping measures applicable to imports of certain tungsten electrodes originating in the People's Republic of China.

The product concerned is tungsten welding electrodes, containing 94% or more by weight of tungsten, other than those obtained simply by sintering, whether or not cut to length, falling within CN codes ex 8101 99 10 and ex 8515 90 00 and originating in the People's Republic of China.

It is recalled that by Regulation 260/2007, the Council imposed a definitive anti-dumping duty on imports of certain tungsten electrodes originating in the People's Republic of China. In May 2008, the Commission received a request for a partial interim review from one exporting producer of certain tungsten electrodes originating in the People's Republic of China, namely Shandong Weldstone Tungsten Industry Co. Ltd ("SWT").

Having determined, after consulting the Advisory Committee, that sufficient evidence existed, the Commission initiated a partial interim review limited to the examination of dumping as far as SWT was concerned.

By its letter of 9 November 2009 addressed to the Commission, SWT formally withdrew its request for the partial interim review, in light of the recent economic crisis. The Commission services found that the termination would not affect the actual anti-dumping measures and no compelling arguments were received that termination would be against the EU's interest. On this basis, the Council decided that the review investigation should be terminated, without amending the anti-dumping measures in force.

Council Regulation 151/2010 entered into force on 26 February 2010.

#### **B. Termination of anti-dumping proceeding - ring binder mechanisms**

On 25 February 2010, the Official Journal published Commission Decision 2010/116 terminating the anti-dumping proceeding concerning imports of certain ring binder mechanisms originating in Thailand.

The product concerned is certain ring binder mechanisms, currently classifiable within CN code ex 8305 10 00 and originating in Thailand.

It is recalled that on 11 November 2008, the Commission received a complaint concerning the alleged injurious dumping of imports of certain ring binder mechanisms originating in Thailand. The complaint was lodged by EU producer Ring Alliance Ringbuchtechnik GmbH representing a major proportion, in this case more than 50%, of the total EU production of certain ring binder mechanisms. The Commission, after consultation, initiated an anti-dumping proceeding.

By its letter of 18 December 2009 addressed to the Commission, Ring Alliance Ringbuchtechnik GmbH formally withdrew its complaint. The Commission considered that the proceedings should be terminated since the investigation had not brought to light any considerations showing that such termination would not be in the EU's interest.

Commission Decision 2010/116 entered into force on 26 February 2010.

#### **C. Initiation of partial interim review - polyethylene terephthalate**

On 25 February 2010, the Official Journal published a notice of initiation of a partial interim review of the anti-dumping measures applicable to imports of certain polyethylene terephthalate originating, *inter alia*, in the Republic of Korea.

The product concerned is polyethylene terephthalate having a viscosity number of 78 ml/g or higher, according to ISO Standard 1628-5, currently falling within CN code 3907 60 20 and originating in the Republic of Korea.

It is recalled that the measures currently in force are a definitive anti-dumping duty imposed by Council Regulation 192/2007 on imports of certain polyethylene terephthalate originating, *inter alia*, in the Republic of Korea. The request for a review was lodged by the Polyethylene Terephthalate (PET) Committee of PlasticsEurope, representing seven EU producers. The request was limited in scope to the examination of dumping as far as the exporting producer KP Chemical Group, composed of Honam Petrochemicals Corp. and KP Chemical Corp. (the “KP Chemical Group”), is concerned.

According to the Commission, the applicant has provided *prima facie* evidence showing that, as far as KP Chemical Group is concerned, the continued imposition of the measure at the current level of zero, which has been in place since February 2007 following a combined expiry and partial interim review, is no longer sufficient to counteract the current injurious dumping. Moreover, the Commission has decided that the applicant provided *prima facie* evidence that KP Chemical Group's exports to the EU undercut and undersold EU industry's prices.

All interested parties, if their representations are to be taken into account during the investigation, must make themselves known by contacting the Commission, present their views and submit questionnaire replies or any other information within 37 days of the date of publication of the notice in the Official Journal, unless otherwise specified. All interested parties may also apply to be heard by the Commission within the same 37-day time limit.

The investigation will be concluded within 15 months of the date of the publication of the notice in the Official Journal.

#### **D. Definitive anti-dumping duty - ring binder mechanisms**

On 26 February 2010, the Official Journal published Council implementing Regulation 157/2010 imposing a definitive anti-dumping duty on imports of certain ring binder mechanisms originating in the People's Republic of China following an expiry review.

The product concerned is certain ring binder mechanisms (“RBMs”) consisting of two steel sheets or wires with at least four halfrings made of steel wire fixed on them and which are kept together by a steel cover, currently falling within CN code ex 8305 10 00. They can be opened either by pulling the half rings or with a small steel trigger mechanism fixed to the ring binder mechanism.

It is to be recalled that by Regulation 119/97, the Council imposed definitive anti-dumping duties ranging from 32.5% to 39.4% on imports of certain RBMs originating in the People's Republic of China. By Regulation 2100/2000, the Council amended and increased the above mentioned duties for certain RBMs other than those with 17 or 23 rings, following a review investigation. Following an anti-circumvention investigation, by Regulation 1208/2004, the Council extended the definitive anti-dumping measures to imports of certain RBMs consigned from Vietnam, whether declared as originating in Vietnam or not. Following an anti-circumvention investigation, by Regulation 33/2006, the Council extended the definitive anti-dumping measures to imports of certain RBMs consigned from Lao People's Democratic Republic, whether declared as originating in Lao People's Democratic Republic or not.

On 4 September 2008, a request for a review was lodged by the EU producer Ring Alliance Ringbuchtechnik GmbH representing a major proportion, in this case more than 50%, of the total EU production of ring binder mechanisms. The request was based on the grounds that the expiry of measures would be likely to result in a continuation or recurrence of dumping and injury to the EU industry.

According to the Commission, it was likely that in the event of a resumption of exports by Chinese exporters to the EU, these exports would be priced below the normal value. Consequently, the Commission determined that, should the existing measures be repealed, the dumping from China will be likely to recur. Moreover, the Commission concluded that it would be in the interests of the Union industry to maintain the measures for another five year period.

Following the expiry review, the Council has therefore imposed a definitive anti-dumping duty on imports of certain RBMs, originating in the People's Republic of China, consigned from Vietnam whether declared as originating in Vietnam or not and consigned from the Lao People's Democratic Republic whether declared as originating in the Lao People's Democratic Republic or not. The rate of the definitive anti-dumping duty applicable to the net, free-at-Union-frontier price, before duty, is the difference between the minimum import price of EUR 325 per 1,000 pieces and the net, free-at-Union-frontier price, before duty for mechanisms with 17 and 23 rings. For mechanisms other than those with 17 or 23 rings, the rate of the definitive anti-dumping duty is 51.2% for World Wide Stationery Mfg and 78.8% for all other companies.

Council Regulation 157/2010 entered into force on 27 February 2010.

## ***VII. The Week Ahead***

### **A. Council**

- 1-2 March 2010: Competitiveness Council (Brussels)

### **B. WTO**

- 1-5 March 2010: XII Edition of the International Meeting of Economists on Globalization and Development Problems. Havana, Cuba
- 3-5 March 2010: Second all-Africa Carbon Forum: Conference, Trade Fair and Capacity Development to build on CDM gains on continent organized by IETA, UNEP, UNDP, WB, UNITAR, UNCTAD and UNFCCC. Nairobi, Kenya

### **C. OECD**

- 3-4 March 2010: OECD Secretary-General delivers the alumni inaugural lecture for the Business School, London. 4 March: Keynote speech by the Secretary-General and Panel discussion at Leeds University. United Kingdom.

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