Interim Report

Trade restrictive measures identified in the context of the economic crisis

1 November 2009 - 31 January 2010

Following the G20 commitment to resist protectionist pressures in the context of the global economic downturn, DG TRADE has been actively monitoring the introduction of potentially trade restrictive measures in key third country markets for the EU[1]. The close monitoring of all crisis-related trade policy initiatives remains a crucial aspect of the EU's trade policy through its early warning function but also through the peer pressure it exerts on our EU trade partners with respect to new trade-restrictive measures. Exerting this pressure remains vital in order to ensure that continued domestic difficulties - in particular in view of rising unemployment - do not translate into protectionist measures by trading partners.

This interim report presents the measures identified for the period between 1 November 2009 and 31 January 2010. As in previous full reports, it draws on data provided by Market Access Teams in the EU's main export markets. A full public report will be released in the spring before the next G-20 summit. The data gathered is also transmitted to the WTO secretariat to feed the monitoring exercise that the WTO is conducting at the request of the G-20.

This interim report confirms the conclusions from previous full reports, notably:

- **The general economic picture is starting to improve, but rising unemployment may fuel protectionist policies in the near future.**
- **There are a limited number of new protectionist measures, but the culprits identified in past reports continue to be active.**
- **Russia has used the creation of the Customs Union with Kazakhstan and Belarus, effective from 1 January 2010, to consolidate most of the earlier temporary tariff increases restricting trade.**
- **The decision of Mercosur to increase certain tariffs stands out as a worrisome recent development.**
- **There is a continued risk of widespread recourse to "Buy National" policies.**
- **Certain trade restrictive components of fiscal support schemes still give rise to concerns.**

[1] For the latest report see http://trade.ec.europa.eu/doclib/docs/2009/november/tradoc_145270.pdf.

- **The international community needs to remain vigilant and continue to exert pressure so as to fend off the risk of a protectionist backlash.**

1. The general economic picture is starting to improve, but rising unemployment may fuel protectionist policies in the near future.

The global economy has started to reverse its negative trend and is continuing on its path towards gradual recovery from the crisis. However, there are still a number of worrisome factors. Growth is picking up in a very uneven way in different regions with modest figures for many developed countries. Fiscal constraints are a huge challenge for many economies. And 2010 is expected to be a difficult year in terms of unemployment with rates reaching 10% in the EU and the US and more than 7 million jobs being lost since the beginning of the recession in the US alone. This difficult economic situation may continue to fuel demand for protectionist measures in many countries.

Against this general background, global trade volumes appear to be only marginally increasing and monthly figures still show some uncertainty: the latest figures confirm the upward trend (in October 1.4% and in November 1.1%), although at a much slower pace than the rise observed in September (4.5%). This proves that trade has not yet picked up structurally. Moreover, trade levels are still far from catching up with pre-crisis trends: despite the overall upward trend registered recently, in November trade was still 12% below the peak level of April 2008.

2. There are a limited number of new protectionist measures, but the culprits identified in past reports continue to be active.

At the time of the last report in November 2009, 223 measures were identified as potentially trade restrictive or distortive. Although the peak in the introduction of new measures in relation to the economic crisis seems to have been reached in the course of 2009, the past months reveal that new trade restricting initiatives appear on a regular basis. Recent monitoring by DG TRADE has revealed 41 new relevant measures introduced or planned in 9 key trading partner countries. These cover classical border measures (such as tariff increases or licensing requirements) but also more sophisticated non-tariff measures (such as certification schemes or buy national policies)[2].

The trend identified in previous reports has been confirmed yet again. Countries previously identified as the main users of trade restrictive measures continue to introduce new ones, resorting to the same set of policy tools as in the past months. In this respect, **Argentina** and **Russia** introduced the largest number of trade restrictive measures in the reporting period, with a particular emphasis on border measures,

[2] As the economy starts slowly recovering, it becomes increasingly difficult to draw a distinction between trade restrictive measures introduced in response to the economic crisis and those that have been introduced lately for other policy reasons. This report continues to focus on measures that can somehow be linked to the economic crisis and does not include policy initiatives undertaken for other legitimate reasons, which may nevertheless have an impact on trade flows.

from reference values for imports of goods and import licenses to classical tariff increases.

3. Russia has used the creation of the Customs Union with Kazakhstan and Belarus effective from 1 January 2010 to consolidate most of the earlier temporary tariff increases restricting trade.

If we consider the new trade restrictive measures Russia has introduced in the period between November 2009 and February 2010 (including six extensions of tariff measures previously adopted), with a total of 16 new measures, **Russia** remains a prominent user of trade restrictive measures on the world stage, and is clearly running counter to the general tendency to gradually reduce the use of crisis-related trade restrictions. The new tariff increases have been followed by a number of measures introduced in alleged support of Russia's domestic industry, notably the automotive sector, through company- or sector-specific subsidies and other support schemes aiming at strengthening the demand for domestically produced goods.

With the entry into force of the **Customs Union** between **Russia, Kazakhstan and Belarus** on 1 January 2010, the unilateral tariff increases - initially introduced on a temporary basis in December 2008 as a part of Russia's anti-crisis strategy - have become a permanent feature of the new regime and have also been extended to the other two countries. This is a striking example of an institutionalised protectionist policy, which has a negative impact on trade volumes and exports to the three countries concerned. The establishment of higher duty rates under the Customs Union has had a significant impact not only on EU exports to Russia but also from other third countries. The cost of trading with Kazakhstan has increased substantially as well, as its import tariffs were significantly lower prior to the formation of the Customs Union. In addition, initial experiences seem to suggest that the functioning of the new regime has started to impact heavily on European importers as regards import procedures, notably licensing requirements for a number of products.

The cost of protectionism has not only been high for Russia's trading partners. Inside the Russian administration there seems to be a growing recognition that the trade restrictive policy has not shielded its economy from the crisis. On the contrary, in addition to severely limited trade volumes, it has had little positive impact on Russia's industry, which remains in need of modernisation, while increasing the cost of goods for consumers. The Russian government has begun a review of its anti-crisis measures, which should be completed within the next few months.

4. The decision of Mercosur to increase certain tariffs stands out as a worrisome recent development.

The four permanent members of Mercosur (Brazil, Argentina, Uruguay and Paraguay) recently agreed to raise their external tariffs on a number of items. The increases scheduled include 11 types of dairy products, where tariffs will rise from 11% to 28% *ad valorem,* some textile items with a rise from 14% to 18% and bags, backpacks and suitcases, which will see an increase from 18% to 35%[3]. In

[3] The Mercosur countries decided to extend the validity for a list of exceptions to their common external tariff from 31 December 2010 to 31 December 2011.. The list was originally scheduled to

conjunction with Argentina's wide use of import licences and reference prices, these measures reflect a worrying trend of non-compliance with the G20 commitments, in particular by Argentina.

5. The risk of widespread recourse to Buy National policies is confirmed.

With regard to **government procurement,** two new potentially restrictive measures have been introduced in the last few months. On 17 November 2009, the **Chinese government** adopted the so-called **Indigenous Innovation Product Accreditation System**, whereby all innovative products need to be registered in China in order to qualify for government procurement. The measure seems to be designed to prevent foreign companies from entering the Chinese market, due to a very short registration timeframe and stringent selection criteria. There is still a lot of uncertainty with regard to its implementation as the modalities are not specified: it remains to be seen whether eligible products will be given exclusivity or a preference and whether the measure will be applied to all procuring entities. The measure adds another layer of discrimination against foreign companies, targets strategic sectors, threatens the profitability of investment in China (especially because of the requirement to operate under an independent brand) and imposes the obligation to disclose business secrets.

In the **US**, the House of Representatives adopted a new Jobs Bill on 16 December 2009 including two **Buy America(n)** requirements. The first one mirrors the Buy American language of the American Economic Recovery and Reinvestment Act (ARRA) of February 2009, by stipulating that the allocated funds can be used provided that 'iron, steel and manufactured goods used in the projects are produced in the US'. Formal compliance of the Bill with the WTO Government Procurement Agreement (GPA) is ensured at the federal level; however, it proves problematic with regard to the state level, since not all US states are bound by the GPA. The second Buy America provision applies to highways and public transportation where the conditions applying for waivers have been made more stringent.

Overall, the measures introduced by ARRA with regard to government procurement have set a dangerous precedent. In addition to the domino effect on other trade partners, it has also created a structural problem domestically by spreading trade restrictive provisions to new domestic legislation. Despite the US administration's good intention to ensure GPA compliance, the legislative branch continues to put forward ever more stringent and discriminatory conditions for access to public procurement[4].

Certainly, these new cases further confirm the weakness of the legal framework provided by the WTO and the GPA, the limitations of which still mean that there are few legal instruments for addressing increasing trends in the use of discriminatory procurement practices.

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undergo gradual reductions throughout 2010. The extension came at the request of Argentina, which said it would not be able to make the originally planned tariff adjustments.

[4] On the same day as the Jobs Bill was adopted, a new Buy American Improvement Bill was submitted by a Congressman and a Senator. This bill would further broaden the scope of Buy American provisions. Although the bill has not yet been adopted by either of the two legislative chambers, it confirms the presence of a - at least political - preference towards restricting access to government procurement in the US.

A major new development with respect to government procurement is the **agreement between the US and Canada** on the application of Buy American restrictions to Canada. The agreement, which had been discussed since September 2009, was expected to be signed by 16 February, and grants Canadian exporters access, with immediate effect, to sub-federal procurement markets in the 37 US states covered by the GPA. In addition, Canadian companies will be exempted, from Buy American provisions relating to funds remaining in seven programmes under the American Recovery and Reinvestment Act until September 2011. In exchange, US companies will be granted additional preferential access to government procurement in Canada at provincial level, though not at municipal level. Though Canada is now expected to offer sub-federal access to all GPA parties and the US is expected to offer access to the seven ARRA programmes, for the present the new deal adds a further discriminatory feature to the procurement markets of these two countries, subject to the negotiation of mutually acceptable commitments.

6. Certain trade restrictive components of fiscal support schemes continue to raise concerns.

Stimulus packages can generally be regarded as measures helping to withstand the negative effects of a crisis and therefore, to avoid major slumps in domestic, as well as world demand. However, as set out in previous reports, these measures, while aiming to support national industries, may have a detrimental and discriminatory effect on foreign competitors. The risk of discriminatory use of these support schemes has materialised again in several cases in recent months.

In **Russia**, the government has allocated 11 billion roubles in the federal budget of 2010 for the implementation of a cash-for-clunkers programme. This measure will finance the purchase of 200,000 new cars produced in Russia, thus discriminating against imported cars. The plan is expected to effectively enter into force in March 2010 and last until 1 November 2010 thereby posing an additional challenge for European exporters already affected by significant tariff increases for cars in the course of 2009.

Furthermore, Russia continues to provide wide support to the industry and individual companies as part of the anti-crisis efforts but also with a view to long-term development in the context of Russia's strategy until 2020. Individual subsidies have been allocated to a number of strategic sectors, such as aircraft, defence industry (including aircraft, machinery and weaponry), as well as the automotive (in the form of non-interest loans) and banking sectors and are designed in such a way that they may distort competition to the detriment of imports.

Similarly, **Japan**, as part of the anti-crisis stimulus package, introduced a cash-for-clunkers programme in June 2009, to encourage the purchase of environmentally friendly vehicles of both local and imported origin. However, a discriminatory feature was later added to the programme with the criteria being formulated in such a way that certain foreign produced cars were excluded from eligibility. The programme is due to expire in March 2010. On 3 February, the Ministry of Economy, Trade and Industry (METI) of Japan announced a new extended list of foreign vehicles to be imported under the scrapping scheme, thus it appears that the discriminatory feature of the programme has been partially lifted.

Also **India** has recently resorted to support measures which raise some doubts. In January, the Indian trade ministry announced the adoption of a € 73 million incentive scheme for exporters, which targets in particular the engineering, textiles, chemicals and electronics sectors. The measure establishes a duty-free regime for input products and it seems that there is not always a clear link between the duty or tax to be paid for those inputs and the amounts refunded to exporters.

7. Conclusion: the international community needs to remain vigilant and continue to exert pressure so as to fend off the risk of a protectionist backlash.

The findings of this interim report show that although the economic crisis is receding, it is important to remain vigilant so as to ensure that protectionist tendencies do not undermine the signs of economic recovery. The worsening situation on the job market has the potential to fuel protectionist tendencies for some time more.

World trade is therefore not yet out of the woods. Monitoring of potentially trade restrictive measures adopted in the context of the crisis will thus remain a priority of EU trade policy, at least until the recovery is set on a firm path and again generates jobs and growth. The Commission will continue to work on the basis of the reporting and monitoring activities set up at the outbreak of the crisis and will also keep on addressing the identified measures through its various trade policy tools including in the framework of the Market Access Strategy.

The next DG TRADE report, to be released before the G-20 summit in June 2010, will provide a comprehensive picture of trade restrictive practices in the first half of 2010.

New cases received since November 2009.

In italic: planned measures

Country	Date of adoption	Measure
Argentina	4 November 2009	Set reference prices for imports of fungicides and food grinders.
	4 November 2009	Set reference values for imports of CDs.
	4 November 2009	Set reference values for imports of motorcycle parts from India, China and South East Asia.
	9 November 2009	Set reference values for imports of denim from China.
	11 November 2009	Set import license requirement for stamps-photos, labels, ballast and water pumps.
	13 November 2009	Set reference value for imports of wheels – steel rims from China at USD 3.14 per kg (FOB).
	17 November 2009	Set reference values for imports of glasses and their parts from India, China and South East Asia.
	17 November 2009	Set reference values for imports of wire from India, China, MERCOSUR and other LATAM countries.
	19 November 2009	Applied specific duty to laminated steel from Korea, South Africa, Australia and Taiwan.
	30 November 2009	Set reference values for imports of strollers from China, India and South east Asia.
	9 December 2009	Set reference values for imports of hinges and parts thereof from China, India and South east Asia.
China	17 November 2009	Indigenous Innovation Product Accreditation List: The new regime consists of an accreditation list on which only holders of IP rights registered for the first time in China are permitted. The accreditation list would apply to public procurement of innovative products. Very short registration timeframe and stringent selection criteria seem to be hinder access to public procurement for foreign companies.
Egypt	October 2009	Further modification of export restrictions on rice.

		Export is now possible only for holders of export licences, which can be obtained after a procedure of public tender. This scheme establishes an overall annual export quota of 100,000 tonnes, sets an annual limit per license (i.e. by company) of 34,000 tonnes, sets up an auction system for export licenses which may not be transferred from one company to another and reduces the export tax from EGP 2,000 per tonne to EGP 1,000 (125 €).
India	24 December 2009	Increased the export tax on iron ore from 0% to 5%. Export tax on Iron Ore Concentrates has been increased from 5% to 10%.
	12 January 2010	Announced a €73 million incentive scheme for exporters targeting over 2000 products from sectors such as engineering, textiles, chemicals and electronics, which will be allowed duty free imports of inputs.
Indonesia	15 September 2009	Restricted sales of alcohol: Decree 43/2009 on supply, circulation, selling and supervision and control of alcoholic drinks stipulates that imports, distribution and selling of alcohol can only be done by companies owned by Indonesian nationals situated in the territory of Indonesia. Entry into force: 1 January 2010.
	15 September 2009	Pre-shipment inspections and reporting on imports of sheet glass: Regulation 40/2009 requires all sheet glass (except certain categories, such as samples or goods for technical research, etc) to be technically verified in the country of origin. The verified containers need to be sealed and marked by labels.
	11 October 2009	Decree 36/2009 on export controls of raw rattan enters into force on 11 October 2009.
	November 2009	*The Minister of Marine Affairs and Fisheries announced the ban of shrimps imports because they are hurting local companies. The measure targets Indonesian imports of vaname shrimps from the US.*
	December 2009	*KPPU (anti-monopoly commission) is preparing a guideline that prohibits principals to establish a minimum selling price for retailers. Until now, minimum prices are set by the principals on imported goods which permit well-known brands*

		to keep an image of exclusivity.
Nigeria	November 2009	Introduced special levies on products (2008 - 2012 Tariff Book) which have been traditionally included in the import prohibition list. The levies 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 be applied.
	November 2009	New import bans of bagged cement.
Russia	30 October 2009	Update: Russian Government Decree No. 874 introduced a 5% duty on drops for contact lenses, binding as of 6 January 2010 for 9 months.
	31 October 2009	Russian Government Decree No. 876 introduced a duty increase on propylene (methyl ethylene) terpolymer and tetramer, in force as of 6 January 2010.
	2 November 2009	Update: Government Decree No. 881 introduced a specific duty for rice at 0.12 Euro/kg (up from 0.07Euro/kg), in force since 2 December 2009.
	14 November 2009	Update: Government Decree No. 940 extended for additional 9 months temporary tariffs on harvesters. In force since 14 November 2009.
	14 November 2009	Government Decree No. 931 introduced for additional 9 months the duty on coaches for high speed electric trains.
	16 November 2009	Government Decree No. 932 introduced for 9 months an import tariff on natural rubber (caoutchouc). Entered into force one month after official publication.
	23 November 2009	Russian Government Decree No. 943 adopted measures to protect Russian cutlery producers by introducing a specific safeguard duty of $1.4 per 1kg. Decree entered into force one month after the publication for a period of 3 years.
	28 November 2009	Russian Government Decree No. 959 introduced an increased duty on iron rolled products and iron, for 9 months.
	3 December	Government Decree No. 989 increased import

	2009	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.
	16 December 2009	Update: Government Decree No. 1019 extended a 5% import duty on soybean oil meal for an indefinite period.
	16 December 2009	Update: Government Decree No. 1018 extended a 15% import duty, but not less than €0.35 per 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 of time.
	16 December 2009	Update: 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).
	End of December 2009	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.
	December 2009	Car parts and components for car assembly: 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 produces 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. In December, Deputy Minister of Industry and Trade Stanislav Naumov revealed that the Ministry was also considering increasing the existing preferential import duties on car parts and components (0-5%) in order to stimulate their

		local production.
	January 2010	New import licenses regimes introduced for alcoholic beverages, encrypted products and vitamins.
	20 January 2010	Cash-for-clunkers plan: The Government allocated 10bn roubles in the 2010 federal budget for the implementation of the cash-for-clunkers plan. The plan could provide co-financing for the purchases of 200,000 new cars produced in Russia in 2010 and is expected to be launched in March 2010. Owners of cars older than 10 years could exchange their cars for 50,000 rouble vouchers valid for purchases of new cars.
Ukraine	*January 2010*	*Reports about a new initiative by the Cabinet of Ministers that could reintroduce a surcharge on the import duty applied to motor cars: the initiative seems to be at a very preliminary stage – until now no draft law has been presented to the Parliament – and could be related to the context of the presidential elections.*
USA	2 December 2009	New legislation in the House passed banning the importation of radioactive waste for disposal in the US.
	16 December 2009	*Buy American Provision in The Jobs for Main Street Act. On, the US House of Representatives passed the* Jobs for Main Street Act. *The legislation includes two provisions with the Buy America(n) requirements, one mirroring the Buy American language in last year's stimulus bill and the second tightening the waiver exceptions provided under Buy America (related to highways and public transportation). The measure has been approved in the House of Representatives and still awaits approval in the Senate to enter into force.*

Lifted restrictions

India	8 January 2010.	Moved hot rolled coils back to 'free' list on 8 January 2010. This used to be placed under 'restricted' list since 21 November 2008.
USA	17 December 2009	Department of Energy reverses foreign entity restrictions for funding of energy related research projects.