



10 December 2019

(19-8494)

Page: 1/24

**Trade Policy Review Body**

Original: English

## **TRADE POLICY REVIEW**

REPORT BY

EUROPEAN UNION

Pursuant to the Agreement Establishing the Trade Policy Review Mechanism (Annex 3 of the Marrakesh Agreement Establishing the World Trade Organization), the policy statement by European Union is attached.

---

## Contents

<b>1 INTRODUCTION .....</b>	<b>3</b>
<b>2 TRADE AND THE ECONOMIC ENVIRONMENT.....</b>	<b>3</b>
2.1 The EU economic environment and its macroeconomic policy .....	3
2.2 Trends in foreign trade and foreign direct investment.....	4
<b>3 DEVELOPMENTS IN THE INTERNAL MARKET.....</b>	<b>5</b>
3.1 The EU's better regulation policy .....	5
3.2 Single market for goods .....	6
3.3 The EU public procurement market .....	6
3.4 Single market for services .....	7
3.5 Capital markets union .....	8
3.6 Digital single market.....	8
3.7 Common agricultural policy.....	10
3.8 Sanitary and phytosanitary requirements .....	11
3.9 New measures for fair taxation.....	11
3.10 Small and medium-sized enterprises .....	12
3.11 The implementation of the EU Environment Action Programme.....	13
3.12 The EU's actions on climate change.....	13
3.13 Clean Energy for all Europeans Package .....	14
3.14 The withdrawal of the United Kingdom from the European Union .....	15
<b>4 TRADE AND INVESTMENT POLICY DEVELOPMENTS .....</b>	<b>16</b>
4.1 Multilateral trade policy .....	16
4.1.1 WTO reform .....	16
4.1.2 WTO negotiations and initiatives.....	18
4.2 The EU bilateral negotiating agenda.....	18
4.3 Promoting a sustainable approach to trade .....	20
4.3.1 Promoting labour rights and environmental protection.....	20
4.3.2 Supporting inclusive growth in developing countries.....	20
4.3.3 Promoting human rights .....	21
4.3.4 Gender equality and economic empowerment of women .....	21
4.3.5 Ensuring responsible management of supply chains .....	21
4.3.6 Promoting fair and ethical trade schemes.....	22
4.3.7 Transparency, anti-corruption and promoting good governance .....	22
4.4 Trade Policy for open and fair trade .....	22
<b>5 LOOKING AHEAD .....</b>	<b>23</b>

## 1 INTRODUCTION

1.1. International trade plays a central role in the EU's economy and drives its prosperity. It accounts for almost 35% of the EU's GDP (2017 figures) and supports more jobs than ever (36 million in 2018, two thirds more than in 2000). Since the last trade policy review in 2017, the EU has benefited and should continue to benefit from the opportunities that open and fair trade provides: creating high quality jobs, paid on average 12% better than in the rest of the economy, supporting EU exports and investment, increasing the competitiveness of EU businesses which strongly benefit from their integration in the global value chains and providing greater choice for EU consumers.

1.2. Preserving a stable and predictable international trading environment based on clear and enforceable rules is of strategic importance for the EU. Without such an environment, trade cannot flourish. The international rules-based trading order with the World Trade Organization (WTO) at its core is facing its biggest crisis in decades. Faced with this critical challenge the EU considers the modernisation of the WTO as a priority. For this reason, the EU presented a comprehensive approach to reforming the WTO in September 2018. It aims to revitalise negotiations; to preserve the dispute settlement system and to ensure better monitoring of its Membership's trade practices. The EU has tabled concrete proposals in these areas together with other WTO Members.

1.3. EU trade policy aims at fostering open, fair and sustainable trade. Openness is necessary to maintain the connection between the Single Market and global sources of growth that support job creation, innovation and upstream integration in global value chains that translates into high value-added exports. Fairness and sustainability are necessary to promote EU principles and values and help maintain EU competitiveness against distortions induced by state capitalist practices and lower standards, while providing protection to EU citizens. In addition to multilateral and plurilateral approaches, the EU pursues market opening through bilateral and regional trade agreements.

1.4. EU trade policy stays firmly grounded in universal fundamental rights and values – like promoting ambitious climate change mitigation, protecting the environment and guaranteeing food safety and security as well as the protection and promotion of labour rights. It does so by also actively promoting the mutual supportiveness between EU trade policy and the multilateral governance on such issues in the United Nations and the International Labour Organisation context. As enshrined in the EU Treaty, the EU has an obligation to ensure a coherent approach in terms of foreign policy. EU trade policy therefore is consistent with its wider foreign policy objectives – that are to pursue a policy that benefits society as a whole – and promotes European and universal standards and values alongside core economic interests, putting a greater emphasis on sustainable development, human rights, consumer protection, and responsible and fair trade.

1.5. The objective of EU trade policy is also to keep foreign markets open and to create opportunities for EU companies through concrete actions towards the implementation of agreements, the enforcement of EU rights under negotiated Free Trade Agreements (FTAs) and further trade negotiations.

1.6. The EU believes in the importance of inclusiveness, transparency and communication to achieve better understanding and awareness by the general public of the gains of trade.

## 2 TRADE AND THE ECONOMIC ENVIRONMENT

### 2.1 The EU economic environment and its macroeconomic policy

2.1. The European economy continued expanding during the period under review. In 2017, economic growth reached 2.6% compared to 2.0% in 2016. However, economic growth slowed to 2.0% during 2018, in particular, due to a less favorable external environment. Growth in the global economy and trade weakened amid tightened global financing conditions, trade tensions, high uncertainty, and an exceptional weakness in the manufacturing sector.

2.2. Looking forward, based on the 2019 summer forecast<sup>1</sup>, the European Commission expects growth of the European economy to continue despite global challenges. Growth is expected to

---

<sup>1</sup> Viewed at: [https://ec.europa.eu/info/sites/info/files/economy-finance/ip108\\_en.pdf](https://ec.europa.eu/info/sites/info/files/economy-finance/ip108_en.pdf).

moderate to 1.4% in 2019 and to increase to 1.6% in 2020. GDP in all EU Member States is expected to grow supported by domestic demand.

2.3. In 2018, the employment rate reached its highest on record and job creation continued to increase in the first quarter of 2019. The EU unemployment rate decreased from 8.6% in 2016 to 6.8% in 2018, its lowest level since 2000, and it further declined to 6.2% in August 2019. Combined with a steady rise in wages, muted inflation and supportive fiscal measures in some Member States, job creation should continue to underpin household spending in 2019 and 2020.

2.4. The EU youth unemployment rate and the rate of young people neither in employment nor in education or training (NEETs) dropped to record low levels (14.6% and 10.2%, respectively in 2018) since the launch of the Youth Guarantee flagship initiative to bring jobs and training opportunities to young people.<sup>2</sup> More than 14 million young people have benefitted from it since 2014. Although the youth unemployment rate remains double the overall unemployment rate, it has been decreasing faster.

2.5. Downside risks to the outlook remain prominent. Externally, these include the risk of a further escalation of trade tensions as well as a more persistent than forecast slowdown in global growth and foreign trade. Domestically, these include a possible negative spillover from the manufacturing recession to other sectors such as services and the uncertainty surrounding the United Kingdom's withdrawal from the EU, *inter alia*.

2.6. The European Fund for Strategic Investments (EFSI), created in 2015, continues supporting investment in the EU. The Fund provides a first loss guarantee under the EU budget to the European Investment Bank Group, allowing it to invest in more projects. The original investment target of EUR 315 billion by mid-2018 was achieved well ahead of time. As of September 2019, it is expected to trigger nearly EUR 433 billion in investments, with around 945,000 small and medium-sized business expected to benefit from improved access to finance. In parallel, low financing costs from an accommodative monetary policy should support investment.

## 2.2 Trends in foreign trade and foreign direct investment

2.7. The EU is the number one trading block in the world, ahead of the United States, China, and Japan. In 2018, the EU accounted for 15.7% (EUR 5.6 trillion) of total world trade in goods and services (see Table 1).

**Table 2.1 Total world trade by reporter (goods and services)**

(EUR billion)

	Imports			Exports			Imports + exports		
	2016	2017	2018	2016	2017	2018	2016	2017	2018
<b>World</b>	<b>16,003</b>	<b>17,104</b>	<b>17,851</b>	<b>15,732</b>	<b>16,969</b>	<b>17,810</b>	<b>31,735</b>	<b>34,072</b>	<b>35,661</b>
EU28	2,446	2,579	2,709	2,616	2,792	2,874	5,062	5,371	5,583
US	2,438	2,554	2,627	1,999	2,074	2,111	4,437	4,628	4,737
China	1,844	2,036	2,252	2,120	2,220	2,344	3,964	4,256	4,595
Japan	717	765	810	741	783	787	1,458	1,548	1,597
<b>% world</b>	<b>2016</b>	<b>2017</b>	<b>2018</b>	<b>2016</b>	<b>2017</b>	<b>2018</b>	<b>2016</b>	<b>2017</b>	<b>2018</b>
EU28	15.3%	15.1%	15.2%	16.6%	16.5%	16.1%	16.0%	15.8%	15.7%
US	15.2%	14.9%	14.7%	12.7%	12.2%	11.9%	14.0%	13.6%	13.3%
China	11.5%	11.9%	12.6%	13.5%	13.1%	13.2%	12.5%	12.5%	12.9%
Japan	4.5%	4.5%	4.5%	4.7%	4.6%	4.4%	4.6%	4.5%	4.5%

Note: Services figure does not include the value of services provided by EU-owned companies established in other countries (i.e. Mode 3).

Source: IMF, WTO, Eurostat/DG Trade (Intra-EU trade excluded).

2.8. As a share of GDP, in 2018, total EU trade did not change significantly compared to previous years, remaining at around 35%. As noted above, there are about 36 million EU jobs which depend

<sup>2</sup> Viewed at: <https://ec.europa.eu/social/main.jsp?catId=1079>.

on EU exports. The share of EU employment supported by sales of goods and services to the rest of the world over total employment increased from 10.1% in 2000 to 15.3% in 2017. This means that one in seven EU jobs is supported either directly or indirectly by extra-EU exports.<sup>3</sup>

2.9. The United States is the EU's largest export market for goods. In 2018, it accounted for EUR 406 billion (21%) of total EU goods exports. Other large export markets are China at EUR 210 billion (11%) and Switzerland at EUR 156 billion (8%). The EU imported EUR 395 billion (20%) of goods from China, EUR 267 billion (14%) from the US and EUR 168 billion (8%) from the Russian Federation.

2.10. In services, EU exports are directed primarily to the United States (20%), Switzerland (10%), and China (4%), while the EU's leading suppliers are the United States (20%), followed by Switzerland (6%) and China (3%).

2.11. In 2017, EU companies were the source of EUR 7,400 billion outward Foreign Direct Investment (FDI) stocks worldwide, while non-EU companies had FDI stocks in the EU worth around EUR 6,300 billion. The figures remained similar compared to 2016 (see Table 2<sup>4</sup>). The main leading sources of FDI are the United States, Switzerland, Canada, China, and Japan, while the leading destinations of EU FDI are the United States, Switzerland, Brazil and Mexico.

**Table 2.2 EU28 FDI**

(EUR billion)

	Inward		Outward	
	2016	2017	2016	2017
Stocks	6,313	6,295	7,782	7,412
Flows	387	146	357	219

Source: Eurostat.

### 3 DEVELOPMENTS IN THE INTERNAL MARKET

3.1. Marking the 25th anniversary of the Single Market, the European Commission adopted a Communication in November 2018 presenting a fresh assessment of the situation in the Single Market<sup>5</sup> and calling on Member States to renew their political commitment to the Single Market.

3.2. The Communication recalled that, over the last 25 years, the Single Market has made Europe one of the most attractive places to live and to do business. Its four freedoms – the free movement of people, goods, services and capital – have helped improve the citizens' prosperity and strengthen the EU's competitiveness. A deep and integrated EU single market is not just good for the EU and its Member States; it also provides benefits to third countries, our trading partners, giving them access to a single market of over 500 million consumers in which goods can circulate freely.

3.3. To exploit its full potential in the digital era and ensure sustainable growth of the economy, the Single Market needs to function properly and constantly evolve in a rapidly changing world. The following represent the main recent developments in the Single Market.

#### 3.1 The EU's better regulation policy

3.4. EU regulatory policy advanced under the Better Regulation Agenda (designing EU policies and laws in all policy areas so that they achieve their objectives at minimum costs and in a transparent manner), which was adopted in 2015.

3.5. The stocktaking of the agenda was completed in April 2019, acknowledging achievements regarding key measures introduced in the Better Regulation Agenda<sup>6</sup>:

<sup>3</sup> Viewed at: <http://trade.ec.europa.eu/doclib/press/index.cfm?id=1947>.

<sup>4</sup> The data on FDI in 2018 is not available yet.

<sup>5</sup> European Commission, *The Single Market in a changing world - A unique asset in need of renewed political commitment*. Viewed at: <https://ec.europa.eu/transparency/regdoc/rep/1/2018/EN/COM-2018-772-F1-EN-MAIN-PART-1.PDF>.

<sup>6</sup> Viewed at: [https://ec.europa.eu/info/sites/info/files/better-regulation-taking-stock\\_en\\_0.pdf](https://ec.europa.eu/info/sites/info/files/better-regulation-taking-stock_en_0.pdf).

- a. Improved stakeholder participation through (i) feedback opportunities over the entire policy lifecycle, including on draft delegated and implementing acts; (ii) a commitment to consult for a period of 12 weeks on all new proposals and evaluations; and (iii) a new web-based common portal where all stakeholders can obtain information about new initiatives and express their views;
- b. Integrated guidelines and a comprehensive toolbox for the European Commission staff on how to apply better regulation across the policy cycle;
- c. A renewed commitment to evaluate existing legislation before proposing changes ("evaluate first");
- d. An independent Regulatory Scrutiny Board reviewing the quality of all impact assessments and major evaluations, comprising seven full-time members who are not involved in the policymaking process, including three appointed from outside of the EU's institutions;
- e. A new commitment to systematically verify the opportunities for simplification and greater efficiency when revising existing legislation without undermining its purpose;
- f. A REFIT Platform<sup>7</sup> to provide bottom-up support to the Commission in the above task; and
- g. A proposal on the basis of which a new Interinstitutional Agreement on Better Law-Making between the European Parliament, the Council of the European Union and the European Commission was agreed on 13 April 2016.<sup>8</sup>

### 3.2 Single market for goods

3.6. Since the last review in 2017, the EU adopted the *Regulation on the Mutual Recognition of Goods*<sup>9</sup>, which will be applied as of 19 April 2020. The aim is to achieve a fairer and deeper single market for goods through more and better mutual recognition. Companies will be able to use a voluntary declaration to demonstrate that their products meet all the relevant requirements in their country. This will make it easier for the national authorities in the Member States to assess whether the mutual recognition principle should be applied. Furthermore, the envisaged problem resolution mechanism will allow for a faster resolution of disputes between companies and national authorities.

3.7. To further improve the free flow of goods, the European Commission adopted the *Regulation on Compliance and Enforcement*.<sup>10</sup> The aim is to create a fairer internal market for goods through more cooperation among national market surveillance authorities. The new regulation will strengthen the enforcement of EU health, safety and environmental protection rules and the application of harmonised EU legislation in order to keep non-compliant products from being placed on the market.

### 3.3 The EU public procurement market

3.8. Since the previous review, the EU has made progress towards a full electronic procurement system in the EU: as of October 2018, e-submission became mandatory for all contracting authorities and all procurement procedures. As of April 2019, all public buyers should be in a position to receive and process electronic invoices, following the European Standard<sup>11</sup>.

3.9. The European Commission adopted a "Recommendation on the professionalisation of public procurement" in October 2017 and continues to encourage the professionalisation of the procurement systems, through the development of active professionalisation policies. The Commission is also working on updated guidance on socially-responsible public procurement.

<sup>7</sup> Platform members consider suggestions made by citizens and stakeholders.

<sup>8</sup> OJ L 123, 12.5.2016, p. 1.

<sup>9</sup> Regulation (EU) 2019/515, OJ L 91, 29.3.2019, p. 1.

<sup>10</sup> Regulation (EU) 2019/1020, OJ L 169, 25.06.2019, p. 1. The regulation will be applied as of 16 July 2021, except articles 29, 30, 31, 32, 33 and 36, which will be applied as of 1 January 2021.

<sup>11</sup> Pursuant to Directive 2014/55/EU on electronic invoicing in public procurement, OJ L 133, 6.5.2014, p.1, the deadline for the transposition and implementation by all Member States was 17 April 2019.

3.10. On 24 July 2019, the European Commission adopted the Communication "Guidance on the participation of third country bidders and goods in the EU procurement market".<sup>12</sup>

### 3.4 Single market for services

3.11. In June 2018, the EU adopted the *Directive on proportionality test before adoption of new regulation of professions*.<sup>13</sup> Under the Directive, EU Member States should conduct a proportionality test (to ensure that national professional requirements are justified and proportionate) before adopting or amending national rules on professional services. This will ensure that the national rules are not too burdensome for qualified candidates from across the EU to access jobs.

3.12. Following the amendments to the Professional Qualifications Directive<sup>14</sup>, which initiated a process of evaluation of all national professional regulations in the EU Member States, the European Commission adopted a Communication with recommendations on national reforms aiming at improving the regulatory environment for a number of professional services with high growth and jobs potential (i.e. architects, engineers, lawyers).<sup>15</sup>

3.13. Under the Services Directive<sup>16</sup>, Member States have the obligation to notify certain new requirements on services providers. In January 2017, the European Commission proposed legislation<sup>17</sup> to improve this notification procedure. A more effective notification procedure will prevent the introduction of unjustified authorisation schemes or requirements. This legislative instrument will increase the efficiency of the notification procedure, improve the quality and content of the notifications submitted, and cover additional requirements that could constitute barriers to the internal market for services. EU Member States will be obliged to notify measures via the Internal Market Information System before the final adoption, when adjustments can still be made. The proposal is under the EU legislative process.

3.14. In the field of transport services, three "mobility packages" were released in 2017 and 2018, including a number of initiatives aimed at harmonising and simplifying the legal framework applicable to road transport and other modes. These should result in better, and more consistent enforcement of the rules across EU Member States, support social fairness and fair competition, improve the environmental performance of road transport and encourage innovation. A *Regulation on a European Maritime Single Window environment*<sup>18</sup> was adopted and will bring together all reporting obligations associated with a port call, including customs procedures for entry and exit of goods. It will start applying in 2025 and is expected to have a major trade facilitating effect, as it will halve the time used by the shipping sector for reporting. In addition, several other European Commission proposals (on the functioning of the road haulage market, on public procurement of clean vehicles<sup>19</sup> and on electronic freight transport information<sup>20</sup>) aim to develop smart infrastructure, support the roll out of clean vehicles and address the challenges of digitalisation in mobility.

<sup>12</sup> European Commission, Guidance on the participation of third country bidders and goods in the EU procurement market. Viewed at: <https://ec.europa.eu/transparency/regdoc/rep/3/2019/EN/C-2019-5494-F1-EN-MAIN-PART-1.PDF>.

<sup>13</sup> Directive (EU) 2018/958, OJ L 173, 9.7.2018, p. 25.

<sup>14</sup> Directive 2005/36/EC as amended in 2013/55/EU, OJ L 354, 28.12.2013, p. 132.

<sup>15</sup> European Commission, *reform recommendations for regulation in professional services*. Viewed at: <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52016DC0820&from=EN>.

<sup>16</sup> Directive 2006/123/EC, OJ L 376, 27.12.2006, p. 36.

<sup>17</sup> European Commission, on the enforcement of the Directive 2006/123/EC on services in the internal market, laying down a notification procedure for authorisation schemes and requirements related to services, and amending Directive 2006/123/EC and Regulation (EU) No 1024/2012 on administrative cooperation through the Internal Market Information System. Viewed at: <https://secure.ipex.eu/IPEXL-WEB/dossier/document/COM20160821.do>.

<sup>18</sup> Regulation (EU) 2019/1239, OJ L 198, 25.7.2019, p. 64.

<sup>19</sup> European Commission, *amending Directive 2009/33/EU on the promotion of clean and energy-efficient road*. Viewed at: [https://eur-lex.europa.eu/resource.html?uri=cellar:ef8ec14a-c55d-11e7-9b01-01aa75ed71a1.0001.02/DOC\\_1&format=PDF](https://eur-lex.europa.eu/resource.html?uri=cellar:ef8ec14a-c55d-11e7-9b01-01aa75ed71a1.0001.02/DOC_1&format=PDF).

transport vehicles.

<sup>20</sup> European Commission, *electronic freight transport information*. Viewed at: <https://ec.europa.eu/transparency/regdoc/rep/1/2018/EN/COM-2018-279-F1-EN-MAIN-PART-1.PDF>.



### 3.5 Capital markets union

3.15. The Capital Markets Union is essential for making the Economic and Monetary Union and the EU Member States' economies more resilient, safeguard financial stability, strengthen the international role of the euro and create new opportunities for businesses and investors across the Single Market. It will lead to consumers having a greater choice of investment products, which will become cheaper and better. It will give SMEs access to more diverse sources of funding and will enable financial services providers to scale up by offering their services across the European Union. In addition, the Capital Markets Union will also help financial services providers to address the challenges posed by technological developments, but also use the opportunities offered by them. In promoting the reorientation of capital flows to more sustainable economic activities, the Capital Markets Union will contribute to achieving the Sustainable Development Goals as well as the objectives of the Paris Agreement on Climate Change.

3.16. The Capital Markets Union takes the form of an action plan launched in 2015 and reviewed in 2017.<sup>21</sup> It consists of a package of both legislative and non-legislative initiatives, aimed at stimulating the development of new EU-wide products and services, through simpler clearer and more proportionate rules, as well as a more efficient supervision of the financial industry.

3.17. Since 2017, the European Commission proposed and agreed with the co-legislators a number of important pieces of financial services legislation. These include among others, a Regulation on standard, transparent and safe securitisation, reviewed rules on prospectus and venture capital funds, as well as proposed and agreed rules on preventive restructuring and a second chance for honest entrepreneurs. Furthermore, the European Parliament and the Council of the European Union reached an agreement on the rules on the distribution of collective investment funds, framework for covered bonds, pan-European personal pension products and reviewed rules governing SME growth markets. In addition, co-legislators reached an agreement on reviewed rules on an EU supervision framework, in view of making supervision more efficient and effective. This review was complemented by a review of the supervisory framework for central counterparties. As part of the 2018 sustainable finance action plan, the European Parliament and the Council reached an agreement regarding sustainability disclosure requirements for asset managers as well as agreed on the creation of a climate-transition and Paris Agreement - aligned benchmarks. The co-legislators are still deliberating on a European Commission proposal to establish a classification of sustainable economic activities as well a proposal on crowdfunding.<sup>22</sup>

### 3.6 Digital single market

3.18. The EU's Digital Single Market strategy adopted in 2015 and almost completed, represents a major step forward in improving the functioning of the EU's Single Market to the benefit of enterprises and consumers from both EU Member States and third countries. The measures create a level playing field and ensure equal treatment for all companies, and improve doing business through harmonising 28, previously different, laws in EU Member States into coherent EU wide legal acts, leading to both cost and timeline savings.

3.19. Important legislative developments during the period under review include:

- a. *Regulation on the Free Flow of Non-Personal Data*<sup>23</sup> harmonizing the rules on non-personal data in all EU Member States. The regulation makes it easier for professional users of data storage or other processing services to switch service providers and to port data, while not creating an excessive burden on service providers or distorting the market.
- b. *Regulation on promoting fairness and transparency for business users of online intermediation services ("P2B Regulation")*<sup>24</sup> creating a fairer and more predictable environment for business users in the EU to grow their business on online platforms and

<sup>21</sup> Viewed at: [https://ec.europa.eu/info/publications/mid-term-review-capital-markets-union-action-plan\\_en](https://ec.europa.eu/info/publications/mid-term-review-capital-markets-union-action-plan_en).

<sup>22</sup> Capital markets union action plan implementing measures. Viewed at: [https://ec.europa.eu/info/business-economy-euro/growth-and-investment/capital-markets-union/capital-markets-union-action-plan\\_en](https://ec.europa.eu/info/business-economy-euro/growth-and-investment/capital-markets-union/capital-markets-union-action-plan_en).

<sup>23</sup> Regulation (EU) 2018/1807, OJ L 303, 28.11.2018.

<sup>24</sup> Regulation (EU) 2019/1150, OJ L 186, 11.7.2019, p. 57.



to reach consumers. It will attract more business users towards using online platforms, which is of particular benefit to many EU SMEs;

- c. *Directive establishing the European Electronic Communications Code*<sup>25</sup> updating the common EU rules on electronic communications networks and services, regulatory authorities and universal service;
- d. *Regulation establishing the Body of European Regulators for Electronic Communications (BEREC) and the BEREC Office*<sup>26</sup> entities ensuring the consistent implementation of the regulatory framework for electronic communications;
- e. *Directive on open data and the re-use of public sector information*<sup>27</sup> making real-time public sector data as well as data from research performing organisations and public undertakings more easily available and usable by machines and humans alike, helping in turn to fuel the development of data-intensive technologies such as artificial intelligence;
- f. *Directive on copyright and related rights in the Digital Single Market*<sup>28</sup> increasing the availability of creative works for people across Europe, ensuring a better-functioning copyright marketplace for creators and modernising EU rules applicable to key exceptions and limitations in the areas of teaching, research and the preservation of cultural heritage, with a focus on digital and cross-border uses;
- g. *Directive on the exercise of copyright and related rights applicable to certain online transmissions of broadcasting organisations and retransmissions of television and radio programmes*<sup>29</sup> simplifying cross-border distribution and retransmission of television and radio programmes across the EU;
- h. *Regulation on the cross-border portability of online content services in the internal market*<sup>30</sup> establishing rules for providers of online content services (films, sports broadcasts, music, e-books and games) with the aim of broadening access to online content services for travellers in the EU;
- i. *Audiovisual Media Services Directive*<sup>31</sup> consisting of among others, a strengthened Country of Origin with more clarity on which EU Member State's rules apply, certain audio-visual rules to extend to video sharing platforms (such as YouTube), better protection of minors against harmful content in the online world, and increased obligations to promote European works for on-demand services;
- j. *Geo-blocking Regulation*<sup>32</sup> addressing unjustified geo-blocking and other forms of discrimination based on customers' nationality, place of residence or place of establishment within the internal market;
- k. *Regulation establishing a single digital gateway*.<sup>33</sup> The purpose of the gateway is to provide access to information on rules and rights that apply to citizens and businesses who want to get active in another EU Member State as well as to procedures and to assistance and problem-solving services;
- l. *New Consumer Protection Cooperation Regulation*<sup>34</sup>, equipping national authorities with the necessary tools to address online infringements, such as the power to remove or block online shopping scams, to conduct test purchases and mystery shopping. The European Commission will be able to coordinate enforcement investigations in the event of

<sup>25</sup> Directive (EU) 2018/1972, OJ L 321, 17.12.2018, p. 36.

<sup>26</sup> Regulation (EU) 2018/1971, OJ L 321, 17.12.2018, p. 1.

<sup>27</sup> Directive (EU) 2019/1024, OJ L 172, 26.6.2019, p. 56.

<sup>28</sup> Directive (EU) 2019/790, J L 130, 17.5.2019, p. 92.

<sup>29</sup> Directive (EU) 2019/789, OJ L 130, 17.5.2019, p. 82.

<sup>30</sup> Regulation (EU) 2017/1128, OJ L 168, 30.6.2017, p. 1.

<sup>31</sup> Directive (EU) 2018/1808, OJ L 303, 28.11.2018, p. 69.

<sup>32</sup> Regulation (EU) 2018/302, OJ L 60I, 2.3.2018, p. 1.

<sup>33</sup> Regulation (EU) 2018/1724, OJ L 295, 21.11.2018, p. 1.

<sup>34</sup> Regulation (EU) 2017/2394, OJ L 345, 27.12.2017, p. 1.

Union-wide infringements of EU consumer protection legislation, e.g. in the field of e-commerce, such as geo-blocking or the portability of online content;

- m. *Two directives on digital contract rules*<sup>35</sup> harmonising key consumer contract law rules across the EU. The harmonised rules apply to contracts for the supply of digital content and digital services and to contracts for the sale of goods and "smart goods". They will reduce the costs for traders selling in multiple EU countries and ensure transparency, certainty, and a high level of protection for consumers when they buy goods and digital content or digital services across the EU. The new rules will begin to apply throughout the EU in January 2022;
- n. Further to *Directive on Security of Network and Information Systems*<sup>36</sup> the *Cybersecurity Act* was adopted<sup>37</sup>, strengthening the role of the European Cybersecurity Agency (ENISA) and establishing a common European Cybersecurity certification framework for IT Services, systems and equipment.

3.20. The EU has also launched a series of initiatives on Artificial Intelligence (AI). These include the adoption of ethics guidelines for trustworthy AI<sup>38</sup> in May 2019. Additionally, the European Commission and the Member States published a *Coordinated action plan on the development of AI in the EU*<sup>39</sup> in order to promote the development of artificial intelligence (AI) in Europe and work on issues around liability of new technology, in the context of a reflection on an appropriate legal framework for AI.

### 3.7 Common agricultural policy

3.21. During the reporting period, the Common Agricultural Policy (CAP) continued on the path towards market orientation and away from trade-distorting support measures. The sugar production quota ended on 30 September 2017.

3.22. The Council and European Parliament also adopted the important legislative initiative on Unfair Trading Practices<sup>40</sup> strengthening the position of small and medium-sized enterprises in the food supply chain. They also agreed on new rules for organic production and labelling of organic products<sup>41</sup> to ensure an update of EU regulations for this growing segment of the agricultural market.

3.23. Based on the Commission proposal for the Multiannual Financial Framework (MFF) for 2021-27, which sets the budgetary framework, and main orientations for the CAP<sup>42</sup>, the Commission adopted proposals for a set of regulations laying down the framework for the CAP during the period 2021-27. For the 2021-27 period, the European Commission is proposing a total CAP budget of EUR 365 billion, a reduction of 5% of annual amounts compared to 2020. The CAP will account for just under one-third of the overall EU budget. The proposed CAP budget will be divided between its two traditional "pillars": direct support for farmers/market measures and rural development. The EU aims to use 40% of the overall financial envelope of the CAP in support of climate objectives.

<sup>35</sup> Directive (EU) 2019/770, OJ L 136, 22.5.2019, p.1 and Directive (EU) 2019/771, OJ L 136, 22.5.2019, p. 28.

<sup>36</sup> Directive (EU) 2016/1148, OJ L 194, 19.7.2016, p. 1.

<sup>37</sup> Regulation (EU) 2019/881, OJ L 151, p. 15.

<sup>38</sup> Viewed at: <https://ec.europa.eu/digital-single-market/en/news/ethics-guidelines-trustworthy-ai>.

<sup>39</sup> Viewed at: <https://ec.europa.eu/digital-single-market/en/news/coordinated-plan-artificial-intelligence>.

<sup>40</sup> Directive (EU) 2019/633, OJ L 111, 25.4.2019, p. 59.

<sup>41</sup> Regulation (EU) 2018/848, OJ L 150, 14.6.2018, p. 1.

<sup>42</sup> European Commission, *laying down the multiannual financial framework for the years 2021 to 2027*. Viewed at: <https://ec.europa.eu/transparency/regdoc/rep/1/2018/EN/COM-2018-322-F1-EN-MAIN-PART-1.PDF>.

3.24. The proposal covers three regulation proposals: CAP Strategic Plan Regulation<sup>43</sup>, CAP Horizontal Regulation<sup>44</sup>, CAP Common Market Organisation Regulation.<sup>45</sup> The CAP reform proposal also includes the repeal of all remaining export subsidy provisions.

### 3.8 Sanitary and phytosanitary requirements

3.25. Since the last review, the EU adopted three major legislative acts in the SPS field, namely the *Regulation on Official Controls*<sup>46</sup>, the *Regulation on Veterinary Medicines*<sup>47</sup> and the *Regulation on transparency and sustainability of risk assessment in the food chain*.<sup>48</sup>

3.26. The *Regulation on Official Controls* will provide a single framework for all official controls along the agri-food chain. Businesses and authorities will benefit from reduced administrative burdens, more efficient processes and strengthened controls. The *Regulation on Veterinary Medicines* will strengthen the EU action in fighting antimicrobial resistance (AMR), which a global threat to public health. It lays down a wide range of measures to fight AMR and to promote the prudent and responsible use of antimicrobials, following the approach of the European One Health Action Plan against AMR.

3.27. The new legislation on transparency and sustainability of risk assessment in the food chain is an important step towards the modernisation of the EU food safety policy; it will ensure greater transparency, strengthen the governance and the scientific cooperation and facilitate the development of comprehensive risk communication.

3.28. During the reporting period, the EU has been developing implementing measures for these regulations as well as for two legislative acts, on plant health<sup>49</sup> and on animal health<sup>50</sup>, which had been adopted during the previous review period.

### 3.9 New measures for fair taxation

3.29. In recent years, the EU adopted several legislative proposals ensuring the proper allocation of taxing rights, limiting profit-shifting and securing, at the same time, a stable business environment for trade by avoiding distortions and double taxation. With the *Anti-Tax Avoidance Directive*<sup>51</sup>, the amendments of the *Directive on Administrative Cooperation*<sup>52</sup> and the EU list of non-cooperative tax jurisdictions<sup>53</sup>, the EU has achieved significant outcomes in recent years to fight against tax avoidance. Rules, such as controlled foreign company provisions, exit tax rules, interest limitations rules and provisions to tackle hybrid mismatches, are efficient tools for ensuring a minimum level of protection against tax avoidance.

<sup>43</sup> European Commission, establishing rules on support for strategic plans to be drawn up by Member States under the Common agricultural policy (CAP Strategic Plans) and financed by the European Agricultural Guarantee Fund (EAGF) and by the European Agricultural Fund for Rural Development (EAFRD) and repealing Regulation (EU) No. 1305/2013 of the European Parliament and of the Council and Regulation (EU) No. 1307/2013 of the European Parliament and of the Council. Viewed at:

[https://ec.europa.eu/commission/sites/beta-political/files/budget-may2018-cap-strategic-plans\\_en.pdf](https://ec.europa.eu/commission/sites/beta-political/files/budget-may2018-cap-strategic-plans_en.pdf).

<sup>44</sup> European Commission, financing, management and monitoring of the common agricultural policy and repealing Regulation (EU) No. 1306/2013. Viewed at:

<https://ec.europa.eu/transparency/regdoc/rep/1/2018/EN/COM-2018-393-F1-EN-MAIN-PART-1.PDF>.

<sup>45</sup> European Commission, amending Regulations (EU) No. 1308/2013 establishing a common organisation of the markets in agricultural products, (EU) No. 1151/2012 on quality schemes for agricultural products and foodstuffs, (EU) No. 251/2014 on the definition, description, presentation, labelling and the protection of geographical indications of aromatised wine products, (EU) No. 228/2013 laying down specific measures for agriculture in the outermost regions of the Union and (EU) No. 229/2013 laying down specific measures for agriculture in favour of the smaller Aegean islands. Viewed at:

<https://ec.europa.eu/transparency/regdoc/rep/1/2018/EN/COM-2018-394-F1-EN-MAIN-PART-1.PDF>.

<sup>46</sup> Regulation (EU) 2017/625, OJ L 95, 7.4.2017, p. 1.

<sup>47</sup> Regulation (EU) 2019/6, OJ L 4, 7.1.2019, p. 43.

<sup>48</sup> Regulation (EU) 2019/1381, OJ L 231, 6.9.2019, p. 1.

<sup>49</sup> Regulation (EU) 2016/2031, OJ L 317, 23.11.2016, p. 4.

<sup>50</sup> Regulation (EU) 2016/429, OJ L 84, 31.3.2016, p. 1.

<sup>51</sup> Directive (EU) 2016/1164, OJ L 193, 19.7.2016, p. 1.

<sup>52</sup> Directive (EU) 2018/822, OJ L 139, 5.6.2018, p. 1.

<sup>53</sup> OJ C 114, 26.3.2019, p. 2.

3.30. The VAT Directive and the Implementing Regulation have been amended<sup>54</sup> recently to tackle tax problems in cross-border e-commerce trade. A level playing field between EU and non-EU established traders is restored by abolishing the small consignment exemption for imported goods. At the same time, VAT obligations are simplified for business by extending the scope of the VAT One Stop Shop, which has proven to be an effective means of collecting VAT. A "marketplace liability" has been introduced to make a platform, which facilitates supplies of goods in certain situations liable to pay VAT instead of the actual seller. This measure will simplify tax collection in cases where it is difficult for tax administrations to enforce collection from non-EU established businesses. At the same time, this enhanced role for marketplaces to collect the VAT will reduce burdens for small businesses, which are thus not required to comply with all the VAT obligations arising from selling goods online to customers located in the EU. These amendments will help tackle VAT losses due to both non-compliance and under-declaration of imported goods. The measures will enter into force on 1 January 2021.

3.31. The *5th Anti-Money Laundering Directive*<sup>55</sup>, which amends the *4th Anti-Money Laundering Directive*<sup>56</sup> (entered into application in June 2017), was adopted in June 2018. The Member States must transpose this Directive by 10 January 2020. These amendments introduce substantial improvement to better equip the Union to prevent the financial system from being used for money laundering and for funding terrorist activities.

3.32. These amendments will enhance transparency by: setting up publicly available registers for companies, trusts and other legal arrangements; enhance the powers of EU Financial Intelligence Units and provide them with access to broad information for the carrying out of their tasks; limit the anonymity related to virtual currencies and wallet providers, but also for pre-paid cards; broaden the criteria for the assessment of high-risk third countries and improve the safeguards for financial transactions to and from such countries; set up central bank account registries or retrieval systems in all Member States; improve the cooperation and enhancement of information between anti-money laundering supervisors, prudential supervisors and the European Central Bank.

### 3.10 Small and medium-sized enterprises

3.33. The EU recognizes the global importance of helping small and medium-sized enterprises (SMEs) to participate more actively in international trade as well as in the internal market.

3.34. The EU recognises the role of SMEs<sup>57</sup> in the EU economy with the "Small Business Act" for Europe (SBA), an overarching framework for guiding SME policy-making for EU Member States. Every year the European Commission prepares an annual SME Performance Review, which is used to monitor and assess countries' progress in implementing the SBA recommendations. The last annual report for 2017/2018<sup>58</sup> provides a synopsis of the size, structure and importance of SMEs to the European economy and an overview of the past and forecasted performance of SMEs from 2018 to 2019. Comparisons with partner countries outside the EU and with the large enterprise sector are also included.

3.35. The European Commission is implementing the programme for Competitiveness of Enterprises and small and medium-sized enterprises (COSME).<sup>59</sup> COSME has been implemented since 2014 through the annual work programmes<sup>60</sup> in which all details can be found about the actions carried out with their main objectives and budget.

3.36. The COSME Loan Guarantee Facility (LGF) was reinforced with additional resources allocated from EFSI for an amount of EUR 550 million in 2017 and a further increased to a total of EUR 770 million in January 2019. An additional top-up of EUR 230 million is under preparation to

<sup>54</sup> Directive (EU) 2018/2057, J L 329, 27.12.2018, p. 3 and Council Implementing Regulation (EU) 2017/2459, OJ L 348, 29.12.2017, p. 32.

<sup>55</sup> Directive (EU) 2018/843, OJ L 156, 19.6.2018, p. 43.

<sup>56</sup> Directive (EU) 2015/849, OJ L 141, 5.6.2015, p. 73.

<sup>57</sup> An EU definition of SMEs, which the Commission follows in its policies (e.g. State aid) was set up in 2003 by Commission Recommendation of 6 May, OJ L 124, 20.5.2003.p.23. It is not legally binding on EU Member States however.

<sup>58</sup> Viewed at: [https://ec.europa.eu/growth/smes/business-friendly-environment/performance-review\\_en](https://ec.europa.eu/growth/smes/business-friendly-environment/performance-review_en).

<sup>59</sup> Regulation (EU) No 1287/2013, OJ L 347, 20.12.2013, p. 33.

<sup>60</sup> Viewed at: [https://ec.europa.eu/growth/smes/cosme/programming-monitoring-evaluation\\_en](https://ec.europa.eu/growth/smes/cosme/programming-monitoring-evaluation_en).

allow for the catering of continued strong market demand and for the digitalisation pilot that will be launched in the framework of the LGF.

### 3.11 The implementation of the EU Environment Action Programme

3.37. The EU Environment Action Programme provides strategic guidance and ensures predictable and coordinated action for Europe's environment and climate policy. The 7th Environment Action Programme ("7th EAP") entered into force in 2014 and runs until the end of 2020. The 7th EAP has been a crucial governance tool, with strong links to national environment strategies and has led to more coherent and effective policy-making. The findings from the 7th EAP Evaluation<sup>61</sup> will inform future decisions about a successor environment action programme.

3.38. The Circular Economy Action Plan (CEAP), which was adopted in 2015 and established a comprehensive framework introducing measures covering the whole product lifecycle from production via consumption to waste management and the market for secondary raw materials, is now fully implemented. On 4 March 2019, the European Commission adopted a comprehensive report on the implementation of the CEAP.<sup>62</sup> The report on the implementation of the Circular Economy Action Plan presents the plastics strategy as an example of where a systemic approach was successfully adopted to tackle barriers and challenges in a material specific lifecycle. In January 2018, the EU adopted the *EU Strategy for Plastics in a Circular Economy*.<sup>63</sup> The strategy pursues an ambitious approach for plastic packaging recyclability and contains a strong response to the problem of microplastics, which are a significant source of marine pollution. By 2030, all plastic packaging should be reusable or recyclable. Furthermore, the strategy calls for global action to reduce plastics pollution.

3.39. In the area of biodiversity, as regards the implementation of the Regulation on the prevention and management of the introduction and spread of invasive alien species<sup>64</sup>, the EU adopted *Commission Implementing Regulation updating the list of invasive alien species of Union concern*<sup>65</sup> increasing the number of invasive alien species of Union concern subject to the restrictions to 49 and *Commission Delegated Regulation on risk assessments in relation to invasive alien species*<sup>66</sup> specifying the elements to be covered by the risk assessments.

3.40. Furthermore, the European Commission adopted the Communication on *Stepping up EU Action to Protect and Restore the World's Forests*.<sup>67</sup> The overall aim is to protect and grow the world's forest cover to improve public health and livelihoods. This is in line with the EU's broader objective to halt global forest cover loss by 2030 and with the EU's existing international commitments. Halting deforestation and forest degradation, combined with sustainable restoration, re- and afforestation activities, provide opportunities for economic development. This requires putting a particular emphasis on the sustainable production and consumption of agricultural and forest-based products.

### 3.12 The EU's actions on climate change

3.41. The EU has put climate action as a central policy objective. The EU is on track to keep its 2020 greenhouse gas emissions well below the target and finalised the legislative framework to deliver on its objectives for 2030. This should allow the EU to adopt an ambitious long-term strategy, striving for climate neutrality in line with the Paris Agreement and confirming Europe's commitment to lead in global climate action to the UNFCCC by 2020. Transitioning to a low greenhouse gas emission, resource efficient, and climate resilient economy will require a transformative effort

<sup>61</sup> Viewed at: <https://ec.europa.eu/environment/action-programme/evaluation.htm>.

<sup>62</sup> European Commission, *implementation of the Circular Economy Action Plan*. Viewed at: <https://ec.europa.eu/transparency/regdoc/rep/1/2019/EN/COM-2019-190-F1-EN-MAIN-PART-1.PDF>.

<sup>63</sup> European Commission, *A European Strategy for Plastics in a Circular Economy*. Viewed at: <https://op.europa.eu/en/publication-detail/-/publication/2df5d1d2-fac7-11e7-b8f5-01aa75ed71a1>.

<sup>64</sup> Regulation (EU) 1143/2014, OJ L 317, 4.11.2014, p. 35.

<sup>65</sup> Regulation (EU) 2017/1263 (EU) 2017/1263, OJ L 182, 13.7.2017, p. 37.

<sup>66</sup> Commission Delegated Regulation (EU) 2018/968, OJ L 174, 10.7.2018, p. 5.

<sup>67</sup> European Commission, *Stepping up EU Action to Protect and Restore the World's Forests*. Viewed at: [https://eur-lex.europa.eu/resource.html?uri=cellar:a1d5a7da-ad30-11e9-9d01-01aa75ed71a1.0001.02/DOC\\_1&format=PDF](https://eur-lex.europa.eu/resource.html?uri=cellar:a1d5a7da-ad30-11e9-9d01-01aa75ed71a1.0001.02/DOC_1&format=PDF).

demanding a fundamental shift in technologies, energy systems, business and investment behaviour, and ultimately, in society as a whole.

3.42. The climate and energy framework was revised upwards in 2018 setting three updated key targets for the year 2030: at least a 40% cut in greenhouse gas emissions from the 1990 level: at least a 32% share for renewable energy and at least a 32.5% improvement in energy efficiency. Both the renewable energy and the energy efficiency targets are subject to an upward review clause by 2023.

3.43. A transparent and dynamic governance process has been developed to help deliver the Energy Union, including the 2030 climate and energy targets, in an efficient and coherent manner. This approach for the period up to 2030 helps ensure regulatory certainty for investors and coordinate EU Member States' efforts.

3.44. In 2018, the EU adopted a directive revising the EU Emission Trading System for the period 2021-2030 (so-called "phase 4")<sup>68</sup>, including a reduction of the number of quotas by 2.2% per year from 2021, instead of 1.74% at present. It includes strict, predictable and equitable rules to prevent risks of carbon leakage.

### 3.13 Clean Energy for all Europeans Package

3.45. The EU Clean Energy Package sets the EU energy efficiency and renewable energy ambitions for the 2030 horizon. It also updates the rules that govern the functioning of the internal electricity market and the transmission and distribution grids.

3.46. The package, proposed by the European Commission in November 2016, included several legislative proposals, which have partially entered into force and are partially awaiting the final step in the legislative process:

- a. The *Regulation on Governance of the Energy Union and Climate Action*<sup>69</sup> aims to set up a governance system allowing the EU Member States to achieve the 2030 objectives and targets, for energy and climate in a coherent and most efficient way. It creates more transparency and predictability, also for investors. It aims to significantly reduce the administrative burden for national and EU stakeholders;
- b. *Electricity market design legal acts*<sup>70</sup> - Electricity market Regulation and the Electricity market Directive; the Regulations on Risk Preparedness and on the Agency for the Cooperation of Energy Regulators (ACER) - will make the energy market fit for the future and allow for new flexibility in the energy system with a view to facilitating an increased uptake of renewable energy. The new rules are designed to empower energy consumers to play an active role in driving the energy transition and to fully benefit from a less centralised, and more digitalised and sustainable energy system. The new rules not only enable the active participation of consumers but they also put in place a strong framework for consumer protection. By allowing electricity to move freely to where it is most needed, energy generation will be optimised and society will increasingly benefit from cross-border trade and competition, thus keeping energy costs and prices in check.
- c. The revised *Renewable Energy Sources Directive*<sup>71</sup> introduces a new approach to address emissions from indirect land-use change ("ILUC") associated to the production of biofuels, bioliquids and biomass fuels. It includes a binding renewable energy target for the European Union for 2030 of 32% with an upwards revision clause by 2023. The rules also serve also to create an enabling environment to accelerate the penetration of renewable energy, as well as public and private investment in innovation and modernisation in all key sectors. The criteria determining high ILUC-risk feedstock for biofuels and the criteria

<sup>68</sup> Directive (EU) 2018/410, OJ L 76, 19.3.2018, p. 3.

<sup>69</sup> Regulation (EU) 2018/1999, OJ L 328, 21.12.2018, p. 1.

<sup>70</sup> Viewed at: <https://ec.europa.eu/energy/en/topics/markets-and-consumers/market-legislation/electricity-market-design>.

<sup>71</sup> Directive (EU) 2018/2001, OJ L 328, 21/12/2018, p. 82.



for certifying low ILUC-risk biofuels, bioliquids and biomass fuels are detailed in Commission Delegated Regulation (EU) 2019/807<sup>72</sup>;

- d. The revised *Energy Efficiency Directive*<sup>73</sup> includes an energy efficiency target for the EU for 2030 of 32.5% with an upwards revision clause by 2023. The extension of the energy saving obligation beyond 2020 aims to attract investments in the energy market and encourage the uptake of innovative technologies and services which will stimulate the demand for energy efficiency improvement measures.
- e. The *Energy Performance in Buildings Directive*<sup>74</sup> aims to accelerate the cost-effective renovation of existing buildings, with the vision of a decarbonised building stock by 2050 and the mobilisation of investments. It also supports electro-mobility infrastructure deployment in buildings' car parks and introduces new provisions to enhance smart technologies and technical building systems, including automation.
- f. *Energy labelling and eco-design measures* under the EU's energy labelling framework regulation<sup>75</sup> and the EU's Ecodesign Directive<sup>76</sup>: The energy labelling measures and eco-design measures have been prepared for adoption for domestic refrigerators and freezers, lighting products, televisions and electronic displays, washing machines and washer-dryers, commercial refrigerators and freezers. These measures are progressively submitted to the Council and Parliament for scrutiny, and is planned to be adopted in 2019. Eco-design (only) measures have also been prepared for enterprise servers, electric motors, power transformers, external power supplies, and welding equipment. These measures will help consumers to choose the most energy efficient appliances.

### 3.14 The withdrawal of the United Kingdom from the European Union

3.47. On 29 March 2017, the United Kingdom notified the European Council of its intention to leave the European Union. To provide for an orderly withdrawal and give legal certainty to businesses, citizens, and stakeholders as to how the disentanglement of the United Kingdom from the EU will work, a Withdrawal Agreement<sup>77</sup> was negotiated between the EU and the United Kingdom. On 25 November 2018, the European Council endorsed the Withdrawal Agreement. Before it can enter into force, the Withdrawal Agreement needs to be ratified.

3.48. On 29 October 2019, the European Council decided, in agreement with the United Kingdom, to further extend the two-year period provided for by Article 50(3) of the Treaty on European Union, until 31 January 2020. In the event that the Withdrawal Agreement is not approved by the House of Commons in the United Kingdom by the withdrawal date, all Union primary and secondary law will cease to apply to the United Kingdom. The United Kingdom will then become a third country. Should the United Kingdom ratify the Withdrawal Agreement at any stage before 31 January 2020, the withdrawal will take place on the first day of the month following the completion of the ratification procedures.

3.49. Given the uncertainty about when and under which conditions the United Kingdom will withdraw from the EU, the EU needs to prepare for a withdrawal without a Withdrawal Agreement (no-deal scenario). The no-deal scenario means that trade between the EU and the United Kingdom will take place on MFN terms and that EU trade agreements with third countries will cease to apply to the United Kingdom as of the United Kingdom's withdrawal.

<sup>72</sup> OJ L 133, 13.03.2019, p. 1

<sup>73</sup> Directive (EU) 2018/2002 of the European Parliament and of the Council of 11 December 2018 amending Directive 2012/27/EU on energy efficiency, OJ L 328, 21/12/2018, p. 210.

<sup>74</sup> Directive (EU) 2018/844 amending Directive 2010/31/EU, OJ L 156, 19/06/2018, p. 75.

<sup>75</sup> Regulation (EU) 2017/1369, OJ L 198, 28.7.2017, p. 1

<sup>76</sup> Directive 2009/125/EC, OJ L 285, 31/10/2009, p. 10.

<sup>77</sup> Viewed at: [https://ec.europa.eu/commission/sites/beta-political/files/consolidated\\_withdrawal\\_agreement.pdf](https://ec.europa.eu/commission/sites/beta-political/files/consolidated_withdrawal_agreement.pdf).



3.50. The European Commission has published a number of communications<sup>78</sup> and notices<sup>79</sup> covering a broad range of policy areas, which aim to prepare businesses, citizens and stakeholders for the withdrawal of the United Kingdom under a no-deal scenario.

3.51. The Withdrawal Agreement includes a transition period during which the EU law would apply in and to the United Kingdom as if it were still a Member State. This means that the United Kingdom would continue to participate in the EU Customs Union and the Single Market and all Union policies including trade policy. The United Kingdom would remain bound by the obligations stemming from the EU's international agreements, including FTAs. The EU's WTO commitments and schedules would continue to cover the United Kingdom during the transition period.

3.52. The EU trade policy will not change as a result of the United Kingdom's withdrawal. The EU will honour its obligations and the EU's WTO schedules will remain in place. However, the United Kingdom's withdrawal from the EU will have implications in the WTO context. Quantitative commitments under the goods schedule need to be apportioned. To this end, as early as October 2017, the EU and the United Kingdom engaged jointly with other WTO Members on the envisaged approach of apportionment of tariff-rate quotas with the key principle of maintaining the existing level of market access to the EU27 and the United Kingdom. The negotiations under the Article XXVIII<sup>80</sup> procedure are currently ongoing with the relevant WTO Members.

3.53. The Withdrawal Agreement is accompanied by a Political Declaration<sup>81</sup>, which was agreed by negotiators and endorsed by the European Council. It sets out the framework for the future relationship between the EU and the United Kingdom, allowing for a range of outcomes. The EU aims to have as close as possible a partnership with the United Kingdom in the future in line with the Political Declaration.

## 4 TRADE AND INVESTMENT POLICY DEVELOPMENTS

4.1. During the period under review, EU trade policy continued to be guided by the Trade for All Communication<sup>82</sup>, adopted in October 2015.

### 4.1 Multilateral trade policy

#### 4.1.1 WTO reform

4.2. The EU firmly believes that the World Trade Organization (WTO) remains the cornerstone of the multilateral trading system and is indispensable for ensuring free and fair trade. Presently, however, the rules-based multilateral trading system with the WTO at its heart is facing the deepest crisis since its inception, with the continued blockage of WTO Appellate Body Members' appointments and the escalation of unilateral measures and mercantilist deals. The origin of this crisis, however, lies in the collective inability of the Membership to update the WTO rulebook in order to address the economic and technological changes of the past few decades.

4.3. Considering that the only and best way to deal with current global trade challenges is by preserving and strengthening the multilateral trading system, resisting any move to managed trade, the EU took the initiative to propose a comprehensive reform of the three main functions of the WTO (rulemaking, dispute settlement and monitoring/deliberation). Following the call of the European Council (27-28 June 2018), the European Commission presented, on 18 September 2018, an approach to make the WTO more relevant and fit for a changing world. To this end, the EU is engaging with the Membership on its approach and submitted textual proposals in various areas.

### *Dispute settlement*

4.4. The EU's priority in its reform efforts has been to preserve and strengthen the main features of the dispute settlement system, which risked paralysis, at the time of writing, by the end of 2019

<sup>78</sup> Viewed at: [https://ec.europa.eu/info/brexit/brexit-preparedness/other-preparedness-activities\\_en](https://ec.europa.eu/info/brexit/brexit-preparedness/other-preparedness-activities_en).

<sup>79</sup> Viewed at: [https://ec.europa.eu/info/brexit/brexit-preparedness/preparedness-notice\\_en](https://ec.europa.eu/info/brexit/brexit-preparedness/preparedness-notice_en).

<sup>80</sup> WTO document G/SECRET/42, 24 July 2018.

<sup>81</sup> Viewed at: [https://ec.europa.eu/commission/sites/beta-political/files/revised\\_political\\_declaration.pdf](https://ec.europa.eu/commission/sites/beta-political/files/revised_political_declaration.pdf).

<sup>82</sup> Viewed at: [http://trade.ec.europa.eu/doclib/docs/2015/october/tradoc\\_153846.pdf](http://trade.ec.europa.eu/doclib/docs/2015/october/tradoc_153846.pdf).

if the appointment of Appellate Body members remained blocked. To that end, the EU, together with a coalition of 13 WTO Members, submitted proposals<sup>83</sup> to the WTO in November 2018, which addressed concerns of the Members blocking appointments and were discussed in a dedicated process facilitated by the Ambassador of New Zealand.

### ***Negotiating function***

4.5. The failure of the 11<sup>th</sup> Ministerial Conference in December 2017 in Buenos Aires (MC11) to find compromises confirmed the blockage of the WTO's negotiating function. In response to the impossibility to conclude any ongoing negotiation or start discussing new issues, several groups of Members, comprising a wide range of developed and developing countries, initiated various strands of plurilateral work. In the case of e-commerce and domestic regulation, these initiatives have led to the start of WTO negotiations in the meantime.

4.6. While this has breathed some oxygen into the system, the multilateral trade rule book needs updates in more chapters than those addressed in the Buenos Aires initiatives. Updates are essential, in particular, to address distortions caused by non-market policies and practices, which are core underlying reasons of current trade tensions.

4.7. The EU considers that updating the rules on industrial subsidies in the Agreement on Subsidies and Countervailing Measures is fundamental for modernising WTO rules. The present rules are not sufficient for addressing practices which developed since the crafting of the Agreement and have led to serious distortions. With a view to eventually preparing WTO negotiations in this area, the EU has undertaken exploratory talks with various Members in different formations.

### ***Monitoring and regular work***

4.8. Reinvigorating the so-called regular work in the WTO's councils and committees can also contribute to addressing the challenges the organisation faces and to maintaining it as the institutional bedrock for international trade relationships. The potential for useful work of the regular WTO bodies is overall under-utilised. Making this regular work respond more effectively to the interests of stakeholders would help keep the WTO relevant.

4.9. To this end, the EU advocates improving Members' collective compliance with their notification obligations. Together with other Members, in November 2018 the EU co-sponsored a proposal, originally put forward by the United States, to improve notification compliance in the area of trade in goods.<sup>84</sup> The proposal responds to the long-standing problem of significant delays in submitting some notifications. It suggests a two-fold solution by increasing focus on assistance for developing countries who encounter capacity constraints for fulfilling their transparency requirements on the one hand, and applying administrative measures as a consequence where obligations are neglected for reasons other than capacity constraints.

4.10. In the same vein, the EU, together with other Members, made a proposal to the General Council in July 2019 to develop guidelines for WTO councils and committees in which Members raise and discuss trade concerns.<sup>85</sup> Despite the significant amount of time and resources that many Members put into alleviating concerns on trade measures at a pre-litigation stage, the outcomes are often inadequate. To make discussions more effective, the EU and others proposed to streamline meeting arrangements, strengthen Members' engagement and promote additional informal avenues for dialogue.

4.11. Finally, the EU is of the view that active participation of Members in formal, as well as informal, meetings of the regular bodies is essential for a dynamic organisation. The EU seeks to lead by example by contributing to the monitoring and deliberative work of these bodies and engaging in dialogue with all parts of the Membership.

---

<sup>83</sup> WTO documents WT/GC/W/752/Rev.2 and WT/GC/W/753/Rev.1, 11 December 2018.

<sup>84</sup> WTO document JOB/CTG/14/Rev.2, 27 June 2019.

<sup>85</sup> WTO document WT/GC/W/777/Rev.4, 21 October 2019.

#### **4.1.2 WTO negotiations and initiatives**

4.12. The only ongoing multilateral negotiation stemming from the Doha Development Agenda, the negotiation to discipline fisheries subsidies aims at prohibiting fisheries subsidies, which contribute to overcapacity and overfishing and eliminating subsidies that contribute to illegal, unreported and unregulated fishing. The EU has taken a leading position in advancing this important work and is committed to finalising negotiations by December 2019, as agreed in Buenos Aires and in line with the UN Sustainable Development Goal 14.6.

4.13. The EU is fully supportive of the work ensuing from the Buenos Aires Joint Statement initiatives launched in the margins of MC11 on e-commerce, domestic regulation in services and investment facilitation. The EU is guided by the approach of "flexible multilateralism", through which plurilateral negotiations should lead to multilateral, MFN-based outcomes. This has somewhat stimulated the WTO's negotiating system and led to constructive meetings or even launch of new negotiations.

4.14. Building on the exploratory work carried out in 2018, the EU was pleased to participate in the launch of plurilateral WTO negotiations under the Joint Statement initiative on e-Commerce in January 2019 in the margins of the World Economic Forum in Davos. The EU aims to negotiate a set of multilateral rules and commitments that would enhance global e-commerce and facilitate business operations, notably for small and medium-sized enterprises, e.g. by ensuring validity of e-signatures and e-contracts and prohibiting unjustified requirements to retain data in a specific location, as well as to enhance consumer trust in the online environment. Committed to making the initiative a success, the EU tabled negotiating proposals on priority issues for business and consumers, such as a set of horizontal digital trade provisions and a set of rules applying to telecommunication services, as well as market access requests in sectors particularly relevant for e-commerce. The EU advocates for a commercially meaningful outcome, broad participation and a negotiating framework that provides some flexibility to the participants.

4.15. Clear and enforceable domestic regulation disciplines for services is an important complement to existing liberalisation under the GATS. The process set up under the Joint Statement Initiative on Domestic Regulation allowed significant progress to be made since MC11. This created a real opportunity to conclude more than 20 years of WTO negotiations on this important topic, which would bring tangible benefits to services operators. The next Ministerial Conference in Nur-Sultan in Kazakhstan in 2020 provides a natural deadline for doing this, as confirmed by the Ministerial Statement issued in May 2019 in the margins of the OECD Ministerial Meeting.

4.16. The EU is equally active in and supportive of the structured discussions under the Joint Statement Initiative on Investment Facilitation for Development on developing a multilateral framework on investment facilitation and the Informal Working Group on Micro, Small, and Medium-Sized Enterprises (MSMEs). As the EU believes that trade can be a driver of gender equality, it also supported the Buenos Aires Declaration on Trade and Women's Economic Empowerment.

#### **4.2 The EU bilateral negotiating agenda**

4.17. The EU has continued building its trade network via its bilateral agenda while fully respecting WTO rules. To date, European companies and citizens benefit from free trade agreements with 72 countries under 41 existing agreements. The EU has concluded, and put into operation the EU's two biggest trade agreement in terms of market size. On 21 September 2017, the Comprehensive Economic and Trade Agreement (CETA) between the EU and Canada entered into provisional application. Some provisions, including those on investment protection and the Investment Court System will only enter into force when all EU Member States ratify the agreement. In February 2019, the EU-Japan Economic Partnership Agreement (the EU-Japan EPA) entered into force.

4.18. The two agreements are new generation free trade agreements. They go beyond trade in goods and services; they cover also intellectual property, investments, government procurement, customs and trade facilitation, competition, regulatory cooperation, trade and sustainable development. Moreover, the EU-Japan EPA was the first agreement to include a chapter dedicated to smaller businesses. Together, these agreements will help EU businesses to save up to EUR 1.6 billion in customs duties per year. EU exports to Japan are expected to rise by EUR 13 billion

per year while exports to Canada in 2018 (the first full year of provisional application) increased by 15% in comparison to the preceding 3 years).

4.19. In South East Asia, on 30 June 2019, the EU signed the Free Trade Agreement and the Investment Protection Agreement with Vietnam. The agreement will soon be presented for the ratification procedure. In addition, the EU-Singapore Free Trade Agreement and Investment Protection Agreement, signed in October 2018, is under the ratification process. The EU also continues bilateral free trade agreement negotiations with Indonesia, launched in 2016.

4.20. The Court of Justice confirmed in its opinion 2/15 on the EU-Singapore Free Trade Agreement that the majority of areas covered by this FTA (ranging from trade in goods, to services, to public procurement or sustainable development) fall under the exclusive competence of the EU. Only as regards portfolio investment and the settlement of disputes between foreign investors and states, the EU shares competence with Member States. In view of this, the EU has introduced a new approach to its trade and investment agreements: free trade agreements cover areas where the EU has exclusive competence, while investment protection agreements cover areas of both EU exclusive and shared competence. Japan, Singapore and Vietnam were the first trade and investment partners with whom the EU followed this new approach. In addition, the EU is pursuing negotiations for standalone investment agreements, including with China.

4.21. As regards Africa, in September 2018, Commission President Juncker proposed to deepen the EU's economic and trade relationships with Africa through a new Africa-Europe Alliance for Sustainable Investment and Jobs. The European Commission proposes to boost trade and investment, further attract private investors, support education and skills development for employability, as well as to improve the business climate.

4.22. As of February 2018, the southern African Economic Partnership Agreement, already applied to other countries, entered into provisional application with Mozambique. In February 2019, Comoros ratified the Eastern and Southern African Economic Partnership Agreement and joined the Eastern and Southern Partnership already in implementation since 2012.

4.23. The EU is also active with partners in Latin America. In November 2017, the EU and Chile launched negotiations for an Association Agreement – deepening and expanding the existing Agreement. In 2018, the EU reached a political agreement with Mexico on the modernisation of the current Association Agreement. In June 2019, the EU concluded negotiations with Mercosur for an ambitious, balanced and comprehensive trade agreement.

4.24. In the Pacific, the EU launched negotiations for comprehensive trade agreements with Australia and New Zealand in June 2018.

4.25. At the end of 2018, Samoa completed its accession to the EU-Pacific Economic Partnership Agreement, which is currently implemented by Papua New Guinea and Fiji.

4.26. In the EU's own neighbourhood, the EU is continuing its negotiations on the Deep and Comprehensive Free Trade Agreements with Morocco and Tunisia, which were launched respectively in March 2013 and in October 2015.

4.27. In the reviewed period, the EU also launched negotiations for enhanced, non-preferential trade agreements with Azerbaijan and Kyrgyzstan in 2017, and with Uzbekistan in 2018.

4.28. Finally, during a meeting of Presidents Juncker and Trump in Washington D.C. on 25 July 2018, the two Presidents announced the launch of a new phase in the bilateral EU-US trade relationship. In April 2019, EU Member States adopted the European Commission proposal allowing the EU to enter into formal negotiations for a tariff elimination agreement on industrial goods and an agreement on conformity assessment with the U.S.

4.29. The EU is putting increasing efforts into implementation and enforcement of commitments made under bilateral trade agreements. Following its 2015 commitment, the European Commission published its third annual report on implementation of EU free trade agreements in October 2019.<sup>86</sup>

---

<sup>86</sup> Viewed at: [https://trade.ec.europa.eu/doclib/docs/2019/october/tradoc\\_158387.pdf](https://trade.ec.europa.eu/doclib/docs/2019/october/tradoc_158387.pdf).

This report is complemented by a comprehensive working document which provides detailed information on the implementation of each agreement, including on the work of committees and sub-committees established under the agreements.

4.30. The annual report on implementation of free trade agreement now provides information on the preferential utilisation of the agreement for EU imports based on EU statistics. The EU works closely with its trade partners to obtain reliable statistics on preferential utilisation for EU exports in order to be able to assess the effects of the agreement.

### **4.3 Promoting a sustainable approach to trade**

4.31. The EU Treaties require that the EU's external action promote the principles and international values upon which the European Union is founded, including sustainable development, democracy, the rule of law, and respect for fundamental rights. This is done in a positive, incentive-based way and at different levels.

#### **4.3.1 Promoting labour rights and environmental protection**

4.32. At multilateral level and as a WTO Member, the EU is an active player in the WTO negotiations on fisheries subsidies and in the WTO Committee on Trade and Development. It also is actively involved in the work of the WTO Committee on Trade and Environment and supports efforts to liberalise trade in environmental goods and services.

4.33. At bilateral level, the EU promotes labour and environmental considerations in its trade agreements through dedicated chapters on trade and sustainable development (TSD). Bilateral agreements under implementation that contain such chapters include those with Canada, Central America, Colombia, Ecuador and Peru, Georgia, Moldova, South Korea and Ukraine. Also, the recently signed agreements with Japan, Mexico, Singapore and Vietnam have a TSD chapter, as does the recently concluded agreement with Mercosur. TSD chapters include commitments to ratify and effectively implement fundamental International Labour Organization conventions and Multilateral Environmental Agreements. The chapters also contain specific provisions on the conservation and sustainable management of natural resources (e.g. timber, fish and wildlife) and the promotion of practices favouring sustainable development and responsible business practices. They also aim to prevent the risk of a race to the bottom, by prohibiting derogations from or lack of enforcement of domestic environmental or labour laws in order to encourage trade and investment.

#### **4.3.2 Supporting inclusive growth in developing countries**

4.34. At unilateral level, the EU's Generalised Scheme of Preferences (GSP) removes duties from products coming into the EU market from vulnerable developing countries. Under the general GSP arrangement, the EU grants partial or full tariff reductions on around 66% of tariff lines. The Special Incentive Arrangement for Sustainable Development and Good Governance (GSP+) grants mostly duty-free treatment to essentially the same 66% of tariff lines. The Everything But Arms (EBA) arrangement, also a part of the EU's GSP, gives Least Developed Countries (LDCs) tariff-free, quota-free access to the EU market for all products except arms and ammunition.

4.35. Under the EU's current GSP Regulation, all GSP beneficiary countries (including Everything But Arms beneficiaries) have to respect the principles of fifteen core conventions on human and labour rights. The GSP+ arrangement requires countries to fulfil, ratify and effectively implement a total of 27 international conventions covering core human and labour rights, environmental protection, and good governance. An independent mid-term evaluation concluded in 2018 that the EU's GSP is effective, showing that imports from beneficiary countries have increased substantially. In 2018, the share of EU imports coming from LDCs stood at 2.26%, more than double the overall LDC share of world exports (0.98% in 2017).<sup>87</sup>

4.36. In December 2017, the EU and its Member States updated their joint Aid for Trade (AFT) Strategy to change their collective approach towards supporting developing countries' trade and productive capacities<sup>88</sup>. The objective of the updated strategy is to better align EU AFT interventions

<sup>87</sup> WTO document WT/COMTD/LDC/W/66, 2 October 2018.

<sup>88</sup> Council Conclusions (15573/17) adopted on 11 December 2017.

with actual market-driven opportunities and constraints, to ensure a better quantitative focus on LDCs and to increase the contribution of Aft to sustainable development goals, while supporting a stronger participation of women in the economy. The most recent EU Aid for Trade Progress Report (2019) was presented at the 7<sup>th</sup> Global Aid for Trade Review in July 2019.<sup>89</sup>

4.37. The EU and its Member States collectively constitute the world's largest Aft donor, accounting for more than one-third of global Aft, with collective commitments amounting to EUR 14.5 billion in 2017 (increase of 7.8% compared to 2016). The EU's and its Member States' commitments for Trade Related Assistance reached EUR 4.5 billion in 2017 (increase of 31% compared to previous year).

#### **4.3.3 Promoting human rights**

4.38. The Union's trade policy helps to promote and protect core human rights around the world. EU policy involves various trade policy instruments including the EU's unilateral trade preferences (GSP), bilateral and regional free trade agreements and trade impact assessments and evaluations.

4.39. The EU's free trade agreements concluded with trading partners are linked to the human rights "essential elements" clause contained in the political framework agreements with these countries.

4.40. In the context of the Alliance for Torture-Free Trade, the EU continues efforts within the United Nations to ban or control worldwide trade in products used for torture and capital punishment. In September 2018, during the Alliance's first Ministerial, members agreed to work towards an UN instrument (such as a binding convention) and in June 2019 the UN passed a resolution launching the process to this effect.

#### **4.3.4 Gender equality and economic empowerment of women**

4.41. The EU is committed to gender equality, to which various policy areas, including trade, can contribute. The EU supported the adoption of the Joint Declaration on Trade and Women's Economic Empowerment at the 11<sup>th</sup> WTO Ministerial Conference in Buenos Aires in December 2017. In this context, the EU co-hosted a workshop on Women and Digital Trade in Geneva on 1st July 2019 to discuss the opportunities and challenges for women in digital trade. The EU's updated Aid for Trade strategy also explicitly recognises gender equality as a fundamental human right, putting women's economic empowerment at its forefront.

4.42. EU trade agreements contain commitments related to the implementation of fundamental ILO conventions targeting non-discrimination in employment (ratification and implementation of ILO Conventions 100 and 111 on equal remuneration and non-discrimination), in a specific chapter on Trade and Sustainable Development. In addition, the EU is negotiating specific provisions on trade and gender equality in the context of the modernisation exercise of EU Chile Association Agreement. Such provisions will help acquiring a better understanding of the constraints and opportunities faced by women in the trade arena, as well as sharing best practices. The EU and Canada are cooperating along the same lines in the context of the EU-Canada Comprehensive Economic and Trade Agreement (CETA).

4.43. The GSP+ scheme includes the UN "Convention on the Elimination of All Forms of Discrimination against Women".

#### **4.3.5 Ensuring responsible management of supply chains**

4.44. All recently concluded trade agreements by the EU contains specific provisions on Corporate Social Responsibility/Responsible Business Conduct (CSR/RBC), committing the parties to promoting internationally agreed instruments in this area. This also translates into dedicated implementation activities with FTA partner countries building on the expertise and leverage of relevant international organisations and stakeholders.

4.45. In 2018, the EU launched the "Responsible Supply Chains in Asia" pilot project funded under the EU Partnership Instrument for three years and developed by the EU together with the ILO and

---

<sup>89</sup> Viewed at: [https://ec.europa.eu/europeaid/eu-aid-trade-progress-report-2019\\_en](https://ec.europa.eu/europeaid/eu-aid-trade-progress-report-2019_en).



OECD. The EU launched a similar project to promote CSR/RBC and Business and Human Rights in selected Latin America countries. The project started in early 2019 for 4 years.

4.46. Regarding horizontal due diligence legislation, in 2018, for the first time, listed companies, banks and insurance companies with more than 500 employees were required to disclose non-financial information in their management reports relating to environmental, social and labour issues, respect for human rights, anti-corruption and bribery issues.<sup>90</sup> The non-financial statement should include information on the due diligence processes implemented by the company, as well as on the principal risks linked to the company's operations, including, where relevant and proportionate, how the company manages those risks. The so-called conflict minerals regulation of 2017 will help to ensure that EU imports of tin, tantalum, tungsten and gold and the minerals containing them do not contribute to armed conflict and associated human rights abuses along the supply chain. It will start to apply on 1 January 2021.

#### **4.3.6 Promoting fair and ethical trade schemes**

4.47. The EU continues to promote fair and ethical trade schemes with a view to raising awareness on both the supply- and the demand-side and on developing more sustainable trade opportunities for small producers in third countries. The EU has introduced initiatives which aim to recognise cities' positive impact in social, economic and environmental sustainability in international trade. In 2017, the "EU Cities for Fair and Ethical Trade Award" was set up as a project.

4.48. In addition, a market study on consumer demand for fair and ethical products was finalised and presented in May 2018. The study focused on selected EU Member States and concluded that sustainable product sourcing has become a top priority for retailers who are increasingly "greening" their supply chains, adopting fair and ethical trade criteria and applying sustainability standards in overwhelming numbers.

4.49. Fair and ethical trade schemes are promoted as part of the EU's concluded bilateral trade agreements and through the network of EU delegations.

#### **4.3.7 Transparency, anti-corruption and promoting good governance**

4.50. The EU is committed to transparency as it considers it essential to ensure inclusiveness, legitimacy and accountability and facilitates a mutual understanding of policy in any area by enhancing public trust. To pursue a pro-active transparency policy the European Commission publishes all its draft negotiating directives, reports of negotiating rounds and other relevant documents. In addition, to engage with civil society, public stakeholder events on trade are regularly organised with representatives of non-governmental organisations, trade unions, business organisations and other groups. In this way, the European Commission receives concrete substantive input to improve its trade policy and to make it evidence-based.

4.51. EU trade policy also contributes to the prevention and fight against corruption, for instance by increasing the transparency of regulations and procurement processes, or by simplifying customs procedures. The modernised trade agreement with Mexico, for which an agreement in principle was announced on 28 April 2018, contains provisions which seek to fight corruption, notably by making active and passive bribery of public officials a criminal offence, as foreseen in the UN Convention Against Corruption. There are also detailed provisions to tackle money laundering.

### **4.4 Trade Policy for open and fair trade**

4.52. While the EU is one of the most open economies in the world, it also believes in fair trade. The EU continued to stand against unfair and illegal practices and state subsidies, aiming at ensuring a level playing field to its economic operators.

4.53. The EU took several significant measures to achieve open but fair trade:

- a. *Trade defence area:* There were two changes to the EU's basic anti-dumping and anti-subsidy legislation in December 2017 and June 2018 respectively. *The first of these*

<sup>90</sup> Directive 2014/95/EU amending Directive 2013/34/EU, OJ L 330, 15.11.2014, p. 1.



*changes to the antidumping rules*<sup>91</sup> introduced a new methodology to calculate the normal value of goods subject to investigation, in case of significant distortions induced by the authorities of the exporting country. At the same time there was also a *strengthening of the anti-subsidy rules*<sup>92</sup>, which allow the European Commission to better capture the full magnitude of subsidisation by making it possible to also address subsidies identified during the course of an investigation. The second set of changes, in June 2018, involved a *modernisation of the trade defence instruments*<sup>93</sup> and introduced *inter alia*, shorter investigation deadlines, more transparent investigations as well as, rules more adapted to face the challenges of the global economy, i.e. the existence of raw materials distortions, which more and more plague today's commercial exchanges.

- b. *Regulation on Screening of Foreign Direct Investment*<sup>94</sup>: The regulation entered into force on 10 April 2019. It will become fully applicable as of 11 October 2020. In some exceptional cases (foreign investment affecting critical technologies, infrastructure, supply of critical inputs or access to sensitive data), it will help European Union safeguard its security interests from foreign investment targeting the acquisition of critical European assets. The EU screening framework does not replace or duplicate existing national mechanisms, and hence does not add red tape for investors. It is not targeted against investors from any particular country: non-discrimination is a key principle of the new Regulation and screening mechanisms of EU Member States will need to respect this principle. In addition, requirements applying to national screening mechanisms include rules on transparency, confidentiality of information exchanged, possibility of recourse against screening decisions, and measures to identify and prevent circumvention by foreign investors.
- c. In the context of a growing number of trade tensions and protectionist measures, the EU continued defending interests of its companies in the global market and ensured<sup>95</sup> that European products are not blocked through barriers to trade. The latest Trade and Investment Barriers Report<sup>96</sup> shows that 123 barriers hindering EU exports opportunities have been removed since 2014. In the Report, the European Commission elaborated on the EU's wide toolbox to tackle market access barriers, including dispute settlement where appropriate, providing specific examples from the report about cases which have led to the resolution of barriers.
- d. Following the European Council conclusions of March 2019<sup>97</sup>, the EU resumed discussions on the International Procurement Instrument (IPI) and the legislative process is ongoing. IPI aims at improving access of EU economic operators to public procurement and concessions markets in third countries.

## 5 LOOKING AHEAD

5.1. The WTO is facing its deepest crisis since the end of the Second World War, with the risk of paralysis of the dispute settlement system and a growing recourse to unilateral, WTO-inconsistent measures. For the EU, the collapse of the multilateral system, which has for decades underpinned prosperity across the world and, moreover, rising living standards in developing countries, must be avoided at all costs.

5.2. The only way to achieve this is by strengthening and reforming the WTO in a way that allows that all members make a renewed commitment to an updated balance of rights and obligations. The EU's reform proposals have this aim in view, in terms of all three pillars of WTO action: dispute settlement, deliberative discussions and negotiations.

5.3. Demonstrating the value of the negotiating function is of particular importance. Any successful WTO reform must deliver strengthened rules on non-market policies and practises that are distorting

<sup>91</sup> Regulation (EU) 2017/2321, OJ L 338, 19/12/2017, p. 1.

<sup>92</sup> Regulation (EU) 2017/2321, OJ L 338, 19/12/2017, p. 1.

<sup>93</sup> Regulation (EU) 2018/825, OJ L 143, 7.6.2018, p. 1.

<sup>94</sup> Regulation (EU) 2019/452, OJ L 79, 21/3/2019, p. 1.

<sup>95</sup> Viewed at: [http://trade.ec.europa.eu/doclib/docs/2019/june/tradoc\\_157929.pdf](http://trade.ec.europa.eu/doclib/docs/2019/june/tradoc_157929.pdf).

<sup>96</sup> Viewed at: [http://trade.ec.europa.eu/doclib/docs/2019/june/tradoc\\_157929.pdf](http://trade.ec.europa.eu/doclib/docs/2019/june/tradoc_157929.pdf).

<sup>97</sup> Viewed at: <https://data.consilium.europa.eu/doc/document/ST-1-2019-INIT/en/pdf>.

trade, such as industrial subsidies and forced technology transfers, which are the root causes of current trade tensions. The EU will continue to work towards this goal.

5.4. At the same time the EU will continue to support the ongoing negotiations under the WTO's aegis, including multilateral negotiations such as on fisheries subsidies and the plurilateral Joint Statement Initiatives, including the e-commerce in particular, which is one of the examples how WTO Members can work together and achieve meaningful results, although in a non-traditional way.

5.5. In parallel, the EU will also continue to use its bilateral trade agenda to promote our values on sustainable development with social and environmental standards and sending a signal to the world that we are committed to open, fair and well-regulated markets hereby contributing to the preservation of a rules based global governance system.

---