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Page: 1/24

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**Trade Policy Review Body**

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## **TRADE POLICY REVIEW**

REPORT BY

THE 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.

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Note: This report is subject to restricted circulation and press embargo until the end of the first session of the meeting of the Trade Policy Review Body on European Union.

## Contents

<b>1 THE EUROPEAN UNION IN THE GLOBAL TRADING SYSTEM .....</b>	<b>3</b>
<b>2 TRADE AND THE ECONOMIC ENVIRONMENT.....</b>	<b>4</b>
2.1 The EU economic environment and its macroeconomic policy .....	4
2.2 Trends in Foreign trade and in FDIs.....	4
<b>3 DEVELOPMENTS IN THE INTERNAL MARKET: THE SINGLE MARKET STRATEGY.....</b>	<b>5</b>
<b>4 TRADE AND INVESTMENT POLICY DEVELOPMENTS SINCE 2015 .....</b>	<b>13</b>
4.1 Trade for All Communication and its implementation.....	13
4.1.1 Transparency in policy making.....	14
4.1.2 An effective EU trade policy that tackles new economic realities.....	14
4.1.3 A trade and investment policy based on values .....	16
4.1.4 The EU negotiating agenda.....	20
<b>5 LOOKING AHEAD .....</b>	<b>23</b>

## 1 THE EUROPEAN UNION IN THE GLOBAL TRADING SYSTEM

1.1. *Trade makes a vital contribution to the EU's economic and external policy and we must make sure that it continues to deliver real benefits for citizens. For this to happen, the multilateral trading system – the very basis of global trade – must be maintained and strengthened*” European Commissioner for Trade Cecilia Malmström.

1.2. The EU continues to actively advance its ambitious trade and investment agenda with partners around the world, at multilateral, plurilateral and bilateral level. The EU's objective is to open markets in order to create conditions for sustainable and mutually beneficial economic growth, and to create economic opportunities for European consumers, workers and entrepreneurs, while remaining vigilant and ensuring a level playing field between domestic and foreign producers and services providers based on genuine competitive advantages.

1.3. The EU trade policy is grounded in broader European 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. In line with the EU's Global Strategy, the EU trade policy 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, responsible and fair trade and well as fair taxation.

1.4. The EU believes that the multilateral trading system has to be at the centre of the global governance framework that WTO Members should collectively nurture and develop. It is only the multilateral trading system that can guarantee inclusive growth and can ensure the expansion of real development opportunities for the poorest and most-vulnerable WTO Members. And it is only the WTO which has the tools and geographic scope to create a level playing field for traders. For this reason, the EU is working with other WTO Members to preserve the integrity of the WTO; and it is for this reason that the EU is helping to lead efforts to prepare outcomes for the 11<sup>th</sup> WTO Ministerial Conference and beyond. The EU is seeking new progress in the WTO on a broad set of issues that matter in today's global economy such as e-commerce and digital trade, domestic support in agriculture, fisheries subsidies, and issues of interest to SMEs that focus on transparency of regulatory measures for trade in goods. Following the entry into force of the Trade Facilitation Agreement, the EU will now concentrate on providing the necessary technical assistance to Developing Countries for its swift implementation.

1.5. Negotiations for plurilateral agreements also deserve recognition as contributors to global trade and economic growth. The EU played a leading role in the successful negotiations to update the Information Technology Agreement (ITA-2) that, besides promoting economic growth, also contributes to enhancing innovation and digitalization. The EU is furthermore committed to concluding the Environmental Goods Agreement (EGA) considering that such an agreement would support efforts to address urgent climate and environmental challenges. Equally, the EU is committed to advance the Trade in Services Agreement (TiSA) negotiations, aiming to enhance services trade by tackling existing market barriers.

1.6. The EU is pursuing a progressive trade and investment agenda, where, besides increased transparency and better understanding and communication of the gains of trade, the following elements are crucial: (1) making sure that benefits from trade are shared more equally; and (2) establishing a comprehensive, fair and effective regulatory interface between trade and investment and issues such as labour or environment.

1.7. The EU is undergoing an economic recovery, although its pace has not yet achieved its full potential, especially when it comes to creating jobs for the young and reducing inequality. During the period under review, the EU has faced several broader challenges, including heightened migration flows and the 2016 U.K. referendum.

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## 2 TRADE AND THE ECONOMIC ENVIRONMENT

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

2.1. Since the last review, the economy of the European Union has maintained its course of moderate recovery benefiting from a number of factors, including low oil prices, past depreciation of the euro and accommodative monetary policy. The European economy has proved resilient to numerous challenges, despite rising geopolitical uncertainty.

2.2. In 2016, GDP growth was around 1.8% compared to 2.2% in 2015. Looking forward and on the basis of the 2017 winter forecast<sup>1</sup>, the European Commission expects growth to continue at about the same pace in 2017 and 2018 as in 2016. Private consumption is expected to continue being the backbone of the EU expansion driven by employment growth and a stronger rise in wages.

2.3. The labour market continues to recover, demonstrated by the falling unemployment rate in the EU which declined from 9.4% in 2015 to 8.5% in 2016 and is expected to decline further to 8.1% in 2017 and 7.8% in 2018, yet still above pre-crisis level.

2.4. Risks to the economic outlook include policy and political uncertainties both within and outside the EU.

2.5. Since the start of the global economic and financial crisis, the European Commission, together with the European Investment Bank, launched the Investment Plan for Europe to boost growth, employment and investment.

2.6. At the heart of the Investment Plan, a European Fund for Strategic Investments was created in 2015, with an initial €21 billion backed by the EU (an EU budget guarantee of €16 billion and a contribution from the European Investment Bank of €5 billion). Thanks to a multiplier effect achieved by attracting private and public investors, this should trigger investments of more than €315 billion over three years. Already after one year and a half, the Plan is expected to mobilize over €154 billion of new investments across the EU, from large infrastructure projects to local small and medium-sized companies in need of capital to expand their ideas. Given the success of the Plan so far, in September 2016 the European Commission announced its ambition to double the duration and financial capacity of the EFSI. Specifically, the Commission submitted a legal proposal<sup>2</sup> to increase the EFSI investment target from €315 billion to at least half a trillion euro in investments and extend the initial three-year period (mid-2015 to mid-2018) to the end of 2020 (the so called EFSI 2.0 proposal).

### 2.2 Trends in Foreign trade and in FDI's

2.7. The EU is the world's largest trading block and the world's largest trader of manufactured goods and services.

2.8. In 2015, the EU recorded a surplus with the rest of the world amounting to €60 billion in trade in goods and of €151 billion in trade in services.

2.9. The EU exported 20.7% of its goods to the United States, its main commercial partner, while 9.5% went to China and 8.4% to Switzerland. In services, EU28 exports are directed primarily to the United States (25.8%) and Switzerland (14.3%). The EU imported 20.3% of its goods from China, 14.4% from the United States and 7.9% from the Russian Federation. In services, the United States is the EU's leading supplier (31.6%), followed by Switzerland (10.6%) and China (3.8%).

2.10. As a share of GDP, in 2015, the trade surplus did not change significantly compared to the previous couple of years, remaining in the range of 34%, although very large differences were registered among the EU Member States.

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<sup>1</sup> [https://ec.europa.eu/info/publications/european-winter-economic-forecast-2016\\_en](https://ec.europa.eu/info/publications/european-winter-economic-forecast-2016_en).

<sup>2</sup> COM(2016)597 final.

**Table 1. EU28 trade in goods and services, 2014 and 2015**

(€ billion)

	Exports		Imports		Trade balance	
	2014	2015	2014	2015	2014	2015
Trade in goods	1,703	1,789	1,692	1,729	11	60
Trade in services	765	811	602	660	163	151

Source: EUROSTAT (Trade in goods based on merchandise trade; trade in services on Balance of Payment methodology).

2.11. Table 2 summarizes the EU FDI inward and outward stocks and flows with Extra-EU28. It shows that in 2015 Extra-EU28 inward FDI stocks increased by more than 20% compared to inward stocks in 2014 and inward flows amounted to almost €470 billion, significantly higher compared to 2014. The outward FDI stocks reached almost €6,900 billion, compared to €6,000 billion in 2014. The main three leading sources of FDI are the United States, Switzerland and Japan, while the leading destinations of EU FDI are the United States, Brazil and Switzerland.

**Table 2. EU28 FDI inward and outward stocks and flows with the world**

(€ billion)

	Stocks		Flows	
	2014	2015	2014	2015
Inward	4,758	5,842	99	467
Outward	6,000	6,894	58	529

Source: EUROSTAT.

### 3 DEVELOPMENTS IN THE INTERNAL MARKET: THE SINGLE MARKET STRATEGY

3.1. The EU is a very open market as demonstrated by a Trade-to-GDP ratio of 34.1%<sup>3</sup> in 2015 and an overall simple tariff applied level of 5.1%<sup>4</sup>. Nevertheless, the EU is constantly working on adopting and/or enforcing initiatives integrating its internal market more deeply, and in so doing, for further opening its market.

3.2. For further strengthening the EU's capacity to take advantage of open markets the EU internal market needs to work better, accompanied by structural reforms, less red tape, better access to finance and more investment in infrastructure, skills and research and development.

3.3. On 28 October 2015, the European Commission presented a new Single Market Strategy<sup>5</sup> which aims at unlocking the full potential of the Single Market.

3.4. The Strategy aims at reviving and modernizing the Single Market in a way that improves the functioning of the markets for products and services, and guarantees appropriate protection for citizens. It is made up of targeted actions in three key areas:

- creating opportunities for consumers, professionals and businesses;
- encouraging and enabling the modernization and innovation that Europe needs;
- ensuring practical delivery that benefits consumers and businesses in their daily lives.

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

3.5. On 19 May 2015, the European Commission adopted the comprehensive Better Regulation Package aiming at reducing the unnecessary costs of regulation. Better regulation is about designing EU policies and laws so that they achieve their objectives at minimum cost. It is a way of working to ensure that policy is prepared, implemented and reviewed in an open, transparent

<sup>3</sup> This ratio does not include intra EU trade.

[http://trade.ec.europa.eu/doclib/docs/2013/may/tradoc\\_151348.pdf](http://trade.ec.europa.eu/doclib/docs/2013/may/tradoc_151348.pdf).

<sup>4</sup> Most recent WTO data: [https://www.wto.org/english/res\\_e/booksp\\_e/tariff\\_profiles16\\_e.pdf](https://www.wto.org/english/res_e/booksp_e/tariff_profiles16_e.pdf).

<sup>5</sup> [http://ec.europa.eu/growth/single-market/strategy\\_en](http://ec.europa.eu/growth/single-market/strategy_en).

manner, informed by the best available evidence and backed up by the comprehensive involvement of stakeholders.

3.6. To ensure that the EU action is effective, the European Commission assesses the expected and actual impacts of policies, legislation, and other important measures at every stage of the policy cycle – from planning to implementation to review and subsequent revision. For example, each time that the EU takes action, the European Commission publishes a roadmap and an inception impact assessment describing the planned initiative and the evaluation of the existing legislation. Later, once they have been implemented for a sufficient period of time, the initiatives are evaluated to check their performance against standard criteria. Stakeholders are able to express their views over the entire life-cycle of a policy.

### ***Reforms towards a more integrated Single Market for Goods***

3.7. The EU Single Market accounts for more than 500 million consumers and 22 million small and medium-sized enterprises (SMEs). The European Commission's main goal is to ensure the free movement of goods within the single market, and to set high safety and health standards for citizens and the protection of the environment. In this respect, in 2016, eleven directives<sup>6</sup>, setting essential requirements for products, entered into application. Furthermore, three Regulations which will become applicable in 2018 have been adopted.<sup>7</sup> Finally, comprehensive guidance on the implementation of EU product rules, the so-called Blue Guide was updated and published in July 2016.<sup>8</sup>

### ***Modernization of the European standardization system***

3.8. As one concrete achievement of the Single Market Strategy, on 1 June 2016 the European Commission adopted a Communication<sup>9</sup> setting out the basis for a single and coherent European Standardisation System that adapts to the changing environment, supports multiple policies and brings benefits and predictability to consumers and businesses. This was followed by a Joint Initiative on Standardisation<sup>10</sup>, signed on 13 June 2016, setting out a shared vision for European standardization with the aim to speed up and better prioritize standard setting across the board. The initiative is driven by stakeholders (EU and EFTA Member States, standardization organizations and bodies, European industry and industry associations, SMEs, and societal stakeholders), with the European Commission playing a mainly coordinating role and building consensus, bringing together the expertise of all parties involved.

### ***Modernization of the EU Intellectual Property (IP) framework, including measures to support the use of IP by SMEs***

3.9. As a concrete action for the implementation of the Single Market Strategy, on 22 November 2016 the European Commission adopted the "Start-up and Scale-up Initiative"<sup>11</sup> that aims at improving the conditions for start-ups and SMEs to grow, creating more jobs and enhancing Europe's competitiveness.

3.10. On IPR the Communication mentions that in 2017-18 the Commission intends to adopt a set of measures to support the use of IPR by SMEs namely:

<sup>6</sup> Low Voltage Directive, Electromagnetic Compatibility Directive, ATEX Directive, Lifts Directive, Simple Pressure Vessels Directive, Measuring Instruments Directive, Non-automatic Weighing Instruments Directive, Civil Explosives Directive, O. J. L 96, 29.03.2014; Radio Equipment Directive OJ L 153, 22.5.2014, Pressure Equipment Directive OJ L 189, 27.6.2014 and Marine Equipment Directive OJ L 257, 28.8.2014.

<sup>7</sup> On cableway installations (Regulation (EU) No. 2016/424, OJ L 81, 31.3.2016, p.1), personal protective equipment (Regulation (EU) 2016/425, OJ L 81, 31.3.2016, p.51) and appliances burning gaseous fuels (Regulation (EU) 2016/426, OJ L 81, 31.3.2016, p.99).

<sup>8</sup> [http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.C\\_.2016.272.01.0001.01.ENG&toc=OJ:C:2016:272:TOC](http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.C_.2016.272.01.0001.01.ENG&toc=OJ:C:2016:272:TOC)

<sup>9</sup> Communication from the Commission to the European Parliament, the Council, the European and Social committee and the committee of the Regions "European standards for the 21st century". <http://ec.europa.eu/DocsRoom/documents/16980>.

<sup>10</sup> [http://ec.europa.eu/growth/tools-databases/newsroom/cf/itemdetail.cfm?item\\_id=8839&lang=en&tpa\\_id=0&title=Commission-takes-steps-to-modernise-EU%27s-standardisation-policy](http://ec.europa.eu/growth/tools-databases/newsroom/cf/itemdetail.cfm?item_id=8839&lang=en&tpa_id=0&title=Commission-takes-steps-to-modernise-EU%27s-standardisation-policy).

<sup>11</sup> <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=COM:2016:733:FIN>.

- streamlining awareness on existing IP Support schemes for SMEs;
- developing an EU IP mediation and arbitration network for SMEs;
- encouraging the creation of European-level insurance schemes for litigation and IP theft;
- improving coordination of IP support funding schemes, possibly by including guidance to Member States.

### ***Reforms towards a more integrated Single Market in services***

3.11. Services are crucial to the Single Market. They account for over 70% of all economic activity in the EU and a similar proportion of jobs. EU companies have the freedom to establish themselves in other EU countries and the freedom to provide services in countries other than the one in which they are established.

3.12. The main EU legal basis is the 2006 Services Directive.<sup>12</sup> It covers services activities accounting for 46% of EU GDP, including in sectors like retail, tourism, construction and business services. It is not limited to services provided between EU countries, however, and also covers services provided within countries.

3.13. Full implementation of the Services Directive means:

- removing red tape and simplifying the establishment of service providers in their home country and abroad;
- simplifying the cross-border provision of services into other EU countries;
- strengthening of the rights of service recipients, in particular consumers;
- easing access to a wider range of services.

3.14. In addition to the Directive, a number of sector specific laws provide the rules for financial services, transport, telecommunications, postal services, broadcasting and patient rights. In particular, in 2016 the EU adopted the fourth railway package which aims to improve the competitiveness of the rail sector and quality of rail services by removing administrative costs, introducing more competition in domestic passenger services and ensuring a level playing field for operators.

### ***Supporting a balanced development of the collaborative economy***

3.15. As announced in the Single Market Strategy and with a view to provide legal clarity and avoid market fragmentation, in June 2016 the European Commission adopted the Communication on the European agenda for the collaborative economy.<sup>13</sup> The Communication provides legal guidance underlying how existing EU legislation like the Services Directive, the e-Commerce directive and the Unfair Commercial Practices Directive apply to the collaborative economy. It issues policy recommendations to Member States and market participants to ensure its balanced development across the EU. It also sets forward-looking actions at EU level e.g. to continue monitoring the regulatory and economic developments, promote the exchange of Member States' best practices, deepen the stakeholders' dialogue, etc.

### ***Mutual recognition of professional qualifications***

3.16. A policy of mutual recognition of professional qualifications between EU Member States has been one of the core policies of the EU since its creation. Professionals and their activities are regulated by Member States at national, regional or sometimes local level.

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<sup>12</sup> <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32006L0123>.

<sup>13</sup> COM(2016)356 final.

3.17. During the period under review, certain amendments to the 2005 Professional Qualifications directive<sup>14</sup> (the EU legal basis for the movement of professionals between Member States) entered into force:

- a. Firstly, modifications sought to enhance the recognition processes through better use of electronic networks (e.g. the European Professional Card, initially applicable to five professions).
- b. Secondly, the Directive put in place a system for secure information exchanges between authorities on any suspension decisions affecting professionals exercising activities with patient safety implications or activities linked to the education and care of minors (the alert mechanism).

3.18. At same time, the Directive initiated a process of evaluation of all national professional regulation in the EU Member States. National authorities were invited to review their regulations and subsequently to propose action plans with a view to ensuring that, on the basis of those public interests that the regulations sought to protect, only rules which were justified, proportionate and non-discriminatory should be maintained. This process is on-going since periodic reviews of national regulations are now part of the amending legislation.

### *Reforms in the EU public procurement market*

3.19. Following the adoption of the new rules on public procurement<sup>15</sup> which came into force on 18 April 2014 and were presented in the previous government report, the EU Members States had to put in place national legislation conforming to these rules by 18 April 2016. The European Commission has helped the Member States with this and continues to do so.

### *International Procurement Instrument*

3.20. On 29 January 2016, the European Commission adopted a revised proposal for an International Procurement Instrument<sup>16</sup>, a tool aiming at promoting open access to public procurement markets around the world. This proposal is currently in the legislative process.

### *Capital Markets Union*

3.21. The Capital Markets Union (CMU) is a core component of the Commission's Investment Plan for Europe and encompasses the reforms of the EU financial system needed to enable the flow of private capital to fund the EU's pressing investment challenges – in the domains of infrastructure, energy transition, and particularly in financing growing businesses. CMU seeks to better connect savings to investment and to strengthen the EU financial system by enhancing private risk-sharing, providing alternative sources of financing, and increasing options for retail and institutional investors. Removing obstacles to the free flow of capital across borders will strengthen the Economic and Monetary Union by supporting economic convergence and helping to cushion economic shocks in the euro area and beyond, making the EU economy more resilient. The CMU package consists of both legislative proposals and non-legislative initiatives.

3.22. On 30 September 2015 the Commission adopted an Action Plan on Building a CMU. The action plan sets out a programme of 33 actions and related measures, which aim to establish the building blocks of an integrated capital market in the European Union by 2019.

3.23. As a first result, in April 2016, an amendment to the Solvency II Delegated Act entered into force, lowering the risk charges for insurers' equity and debt investments in infrastructure projects.<sup>17</sup> In December 2016, the European Parliament, the Council and the Commission agreed

<sup>14</sup> O.J. L 255 of 30.09.2005. <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32005L0036>

<sup>15</sup> A directive on public procurement (2014/24/EC replacing directive 2004/18/EC); (ii) a directive on procurement by entities operating in the utilities sectors: water, energy, transport and postal services (2014/25/EC replacing directive 2004/17/EC); (iii) a directive 2014/23/EC on the award of concession contracts.

<sup>16</sup> [http://trade.ec.europa.eu/doclib/docs/2016/january/tradoc\\_154187.pdf](http://trade.ec.europa.eu/doclib/docs/2016/january/tradoc_154187.pdf).

<sup>17</sup> [http://europa.eu/rapid/press-release\\_IP-16-1161\\_en.htm](http://europa.eu/rapid/press-release_IP-16-1161_en.htm).



on revamped prospectus regulation. Several additional legislative acts are expected, including on securitization, on venture capital and on business insolvency.

3.24. Considering the crucial importance of this plan, the Commission is continuously monitoring its developments with a view to identifying the actions that may be further needed.

3.25. On 14 September 2016, the European Commission published a Communication containing the latest state of the play of this package.<sup>18</sup>

3.26. On 20 January 2017 the European Commission launched an online public consultation offering an opportunity for stakeholders to provide targeted input to complement and advance the activities put forward in the CMU action plan, ahead of the 2017 mid-term review of the action plan. The mid-term review of the CMU action plan is scheduled for June 2017, as announced in the European Commission's Work Programme.

### *Digital Single Market strategy (DSM)*

3.27. The Digital Single Market (DSM) initiative provides a major step forward in improving the functioning of the Single Market. For this reason, the European Commission has identified completing the DSM as one of its 10 political priorities. The DSM can create opportunities for new start-ups and existing companies in a market of over 500 million people. Completing the Digital Single Market could contribute €415 billion per year to Europe's economy, create jobs and improve provisions of services. An inclusive DSM also offers opportunities for citizens, provided they are equipped with the right digital skills. Enhanced use of digital technologies can improve citizens' access to information, and improve their job opportunities. It can promote modern open government.

3.28. The DSM strategy, adopted on the 6 May 2015<sup>19</sup>, is built on three pillars and altogether comprises sixteen legislative and non-legislative actions:

- a. Access: better access for consumers and businesses to digital goods and services across Europe;
- b. Environment: creating the right conditions and a level playing field for digital networks and innovative services to flourish;
- c. Economy & Society: maximizing the growth potential of the digital economy.

3.29. The EU is making progress towards a DSM.<sup>20</sup> The legislative actions are currently undergoing the EU's decision-making process involving Member States and the European Parliament. The main developments during the period under review chronologically include:

- a. In December 2015, the European Commission clarified contractual rights to simplify and promote access to digital content and online sales across the EU.<sup>21</sup>
- b. In April 2016, the Digitizing European Industry (DEI) package was launched, designed to help European stakeholders make the most of new technologies and linking up national and regional initiatives<sup>22</sup>. As part of this, the European Commission introduced a Digital Economy and Society Index (DESI) as a composite index that summarizes relevant indicators on Europe's digital performance and tracks the evolution of EU Member States in digital competitiveness. The most recent DESI progress results were published in March 2017.<sup>23</sup>
- c. In May 2016, within the DSM's e-Commerce package<sup>24</sup>, the European Commission took steps to prevent unjustified geo-blocking so that consumers can access online services

<sup>18</sup> [http://ec.europa.eu/finance/capital-markets-union/docs/20160913-cmu-accelerating-reform\\_en.pdf](http://ec.europa.eu/finance/capital-markets-union/docs/20160913-cmu-accelerating-reform_en.pdf).

<sup>19</sup> <https://ec.europa.eu/digital-single-market/en/digital-single-market>.

<sup>20</sup> [https://ec.europa.eu/priorities/digital-single-market\\_en](https://ec.europa.eu/priorities/digital-single-market_en).

<sup>21</sup> COM(2015) 627.

<sup>22</sup> COM(2016) 180.

<sup>23</sup> [http://europa.eu/rapid/press-release\\_MEMO-17-352\\_en.htm](http://europa.eu/rapid/press-release_MEMO-17-352_en.htm).

<sup>24</sup> COM(2016) 320.

and products in other EU countries without additional burden for traders<sup>25</sup>, introduced a proposal aimed at bringing more transparency in pricing of parcel delivery and requiring regulators to assess affordability<sup>26</sup> and proposed a revision of its Consumer Protection Cooperation Regulation.<sup>27</sup> In the same month, the European Commission also issued a Communication on online platforms and set out its position on their innovation opportunities and regulatory challenges.<sup>28</sup>

- d. In July 2016, the European Commission launched a public consultation to develop a Single Digital Gateway<sup>29</sup> that will improve access to online information, procedures and assistance services in order for citizens and professionals to exercise their rights and obligations in Europe more easily.
- e. In September 2016, the European Commission adopted a legislative proposal to adapt EU copyright rules to the realities of the DSM<sup>30</sup> and presented an ambitious overhaul of EU telecoms rules putting connectivity and access to the Internet for all EU citizens at the heart of EU telecoms policy.<sup>31</sup>
- f. In January 2017, the European Commission proposed to update its ePrivacy policy rules<sup>32</sup>, enabling better online protection and new business opportunities. As a further DSM cornerstone, it also adopted a Communication on building a European data economy<sup>33</sup>, which tackles rules and regulations impeding the free flow of data and unjustified data location restrictions, as well as outlining legal issues regarding access to and transfer of data.

3.30. Furthermore, the EU continues to work to reduce the surcharges that telecoms operators impose on customers who use their mobile devices in the EU outside their home country (roaming charges). Since 2007, roaming prices have decreased by more than 90%, and based on legislation currently in the final stages of approval, roaming charges should end for the EU citizens who travel periodically in the EU as from mid-2017. Given the fast-growing share of online activity using mobile devices, these measures will effectively remove a barrier to the use of digital services within the EU and represent an important step towards the consolidation of the digital single market.

### *Common agricultural policy*

3.31. The agriculture sector is fundamental to European identity and European prosperity, as President Juncker highlighted in his State of the Union address in September 2016.<sup>34</sup> Farmers are economic actors; they are also caretakers of the rural environment and defenders of the EU's food security. That is why the EU policy on agriculture, mirroring the way the EU approaches its trade policy, has always been about more than just economics.

3.32. In this framework and as announced in the previous government report, the EU has reformed its Common Agricultural Policy (CAP) for the period 2014-2020. This is a continuation of the reform process started 25 years ago. It promotes the use of less trade-distorting policy instruments, decreases both the administered prices and completely eliminates the system for some products. Most support to farmers is now granted in the form of decoupled direct payments with no obligation to produce. This trend is reflected in the changes in the structure of the CAP budget whereby the share of market support measures (including export refunds) declined from 100% of total CAP expenditure in 1980 to below 5% in 2015. As presented in paragraph 4.21. the EU is no longer granting export subsidies and since July 2013 all export refund rates have remained at zero.

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<sup>25</sup> Proposal for a Regulation of the European Parliament and of the Council on addressing geo-blocking and other forms of discrimination based on customers' nationality, place of residence or place of establishment within the internal market and amending Regulation (EC) No 2006/2004 and Directive 2009/22/EC.

<sup>26</sup> COM(2016) 285.

<sup>27</sup> [http://ec.europa.eu/consumers/enforcement/cross-border\\_enforcement\\_cooperation/index\\_en.htm](http://ec.europa.eu/consumers/enforcement/cross-border_enforcement_cooperation/index_en.htm).

<sup>28</sup> COM(2016) 288.

<sup>29</sup> [http://ec.europa.eu/growth/tools-databases/newsroom/cf/itemdetail.cfm?item\\_id=8896](http://ec.europa.eu/growth/tools-databases/newsroom/cf/itemdetail.cfm?item_id=8896).

<sup>30</sup> COM(2016) 593, COM(2016) 594.

<sup>31</sup> COM(2016) 590.

<sup>32</sup> COM(2017) 10.

<sup>33</sup> COM(2017) 9.

<sup>34</sup> [https://ec.europa.eu/priorities/state-union-2016\\_en](https://ec.europa.eu/priorities/state-union-2016_en).

3.33. Market intervention measures are maintained in the current CAP but only as a safety net mechanism, which means that they will only be used in the event of a serious crisis in the market. At the same time, long-term price developments on global markets also contributed to the reduced role of the EU's market intervention measures. For instance, the EU has abolished the last quota systems in the CAP. After having ended the dairy quotas in March 2015, the EU will end the sugar quota by September 2017.

3.34. This policy trend is reflected in the EU's notified domestic support to the WTO where the current total Aggregate measurement of support (AMS) has decreased dramatically and most CAP support is notified as Green Box-compliant decoupled income support.

### *New customs procedures*

3.35. As anticipated in the previous government report, on 1 May 2016, the Union Customs Code (UCC) started to be applied. It represents a key element of the modernization of customs and serves as the new framework regulation of rules and procedures for customs throughout the EU. While its substantive provisions have applied since 1 May 2016, a transitional period will apply until the end of 2020 because its full implementation requires the development of several new IT systems.

3.36. The UCC will have an impact on trade, enhancing the competitiveness of European businesses. It will create a paperless environment for customs and trade, ensuring trade facilitation and reducing costs for business simplifying customs rules and procedures, further harmonize decision-making procedures to facilitate more efficient customs transactions. At the same time it will protect the flow of goods transiting or moving in and out of the Union. The UCC upgraded the concept of "authorized economic operators" (AEO). As a key concept it provides the significant advantage of widespread use of simplifications and allows AEOs to benefit from reduced levels of customs controls and also advantages beyond the simplified procedures already in place. Also the so-called special procedures like inward/outward processing and storage have been streamlined and improved to generate growth and jobs.

### *New measures for fair taxation*

3.37. In January 2016, the European Commission adopted the Anti-Tax Avoidance Package defining new rules to coordinate an EU wide response to corporate tax avoidance, following global standards developed by the OECD in autumn 2016.<sup>35</sup>

3.38. While taxation remains under the competence of each EU Member State, the Package called on Member States to take a more coordinated stance against companies that seek to avoid paying their fair share of tax and to implement the international standards against base erosion and profit shifting. The key features of the new proposals include:

- legally-binding measures to block the most common methods used by companies to avoid paying tax (adopted by Member States in June 2016);
- a recommendation to the EU Member States on how to prevent tax treaty abuse;
- a proposal for the EU Member States to share tax-related information on multinationals operating in the EU (adopted by Member States in March 2016);
- actions to promote tax good governance internationally;
- a new EU process for listing third countries that refuse to play fair. The first EU list will be published by the end of 2017.

3.39. In July 2016, the European Commission presented further measures to counteract tax abuse in the wake of the Panama Papers revelations. These included a proposal to strengthen EU anti-money laundering provisions and a proposal to grant tax authorities access to key anti-money laundering information. The European Commission also set out the next priority areas for action in the fair taxation agenda, including more oversight of advisors and intermediaries, which will be proposed in 2017.

<sup>35</sup> <http://www.oecd.org/ctp/beps/>.

3.40. In October 2016, the European Commission proposed another Package of corporate tax reforms. This included the re-launch of the Common Consolidated Corporate Tax Base and a single EU system for companies to calculate their taxable profits. The European Commission also proposed improved mechanisms for resolving double taxation disputes in the Single Market, as well as measures to tackle hybrid mismatch arrangements in relation to non-EU countries.

3.41. Collectively, these measures will hamper aggressive tax planning, boost transparency between the EU Member States and ensure fairer competition for all businesses in the Single Market.

### *The implementation of the EU environmental action programme*

3.42. Over the past decades the EU has put in place a broad range of environmental legislation. As a result, air, water and soil pollution has significantly been reduced. Chemicals legislation has been modernized and the use of many toxic or hazardous substances has been restricted. Today, EU citizens enjoy some of the best water quality in the world and over 18% of EU's territory has been designated as protected areas for nature. However, significant challenges remain for which the EU is taking action including at the international level.

3.43. The 7<sup>th</sup> Environment Action Programme, presented in the previous government report, will guide European environment policy until 2020.

3.44. On 2 December 2015, the European Commission adopted an ambitious new Circular Economy Package. It is aimed at using resources in a more sustainable manner for the benefit of both the economy and the environment, and to contributing to the sustainable development Goals under the 2030 Agenda for sustainable development, notably on responsible consumption and production. The Package is now being implemented with a range of concrete actions. In this context, the EU is in the process of adopting new rules on waste, while a strategy on plastics use, reuse and recycling (including the issue of marine litter) is expected in the course of 2017.

3.45. An Action Plan against wildlife trafficking was presented in February 2016 focusing on greater enforcement, better cooperation and more effective prevention, and including measures to strengthen the EU's contribution to global efforts.

3.46. The most prominent examples of EU instruments with environmental objectives are the Timber Regulation and related Forest Law Enforcement Governance and Trade (FLEGT) Voluntary Partnership Agreements addressing trade in illegal timber, and the EU Regulation addressing illegal, unreported and unregulated (IUU) fishing. With reference to the EU FLEGT Action Plan, in May 2016 the European Commission published the results of an independent evaluation of its implementation during the period 2003-2014. The evaluation showed that it has been an innovative response to the challenge of illegal logging and has improved forest governance in all targeted countries. A number of Voluntary Partnership Agreements (VPAs) with selected timber exporting countries that commit themselves to trade only in verified legal timber covered by FLEGT licenses are concluded or under negotiation.<sup>36</sup> As of end of February 2017, the EU has signed VPAs with the following six countries: Cameroon, Central African Republic, Ghana, Liberia, Republic of Congo and Indonesia. Negotiations are ongoing with the following nine countries: Côte d'Ivoire, Democratic Republic of Congo, Gabon, Guyana, Honduras, Laos, Malaysia, Viet Nam and Thailand. The FLEGT VPA with Indonesia has been operational since 15 November 2016.

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

3.47. The Paris Agreement on Climate Change (COP21) sketches out the road towards a transition to a low greenhouse gas emission, resource efficient, and climate resilient global economy. This transition demands a fundamental shift in technologies, energy systems, business and investment behaviour, and ultimately, in society as a whole. To date, 190 countries have submitted their national plans (indicative nationally determined contributions).

3.48. The EU's leadership ahead of and during COP21, including through its collective diplomatic outreach under the framework of the 2015 climate diplomacy action plan, contributed to the

<sup>36</sup> <http://www.euflegt.efi.int/home/>.

positive outcome. In particular, the EU and its Member States played a critical role in shifting negotiations dynamics at the crucial stage of COP21 and, as a result, the Paris Agreement entered into force on 4 November 2016, after the EU had ratified it. In November 2016, at the meeting held in Marrakech (COP22), the EU committed itself to defend and implement the Paris Agreement, continuing to lead the way towards a more sustainable and competitive economy.

3.49. Climate change has been central to the EU's actions for several years. In this respect, as an integral policy of the European Energy Union, the EU has developed the "EU Climate action - decarbonizing the economy"<sup>37</sup> for implementing at EU level the measures aimed at reaching the goals set in COP21, as well as in the Agenda 2030.

3.50. The EU's objective<sup>38</sup> is to reduce greenhouse gas emissions by 80-95% by 2050 compared to 1990. The EU Climate and Energy framework includes a greenhouse gas emissions reduction target of at least 40% below 1990 levels for the year 2030. The EU has also committed itself to dedicating at least 20% of its entire budget from 2014-2020 to climate-related actions.

3.51. The EU was also instrumental in achieving another important milestone, notably the agreement reached in October 2016 by the International Civil Aviation Organisation (ICAO). The agreement aims at implementing a market-based measure which is based on the offsetting of CO<sub>2</sub>-greenhouse gas emissions in order to achieve carbon-neutral growth of international civil aviation as of 2020. The technical details of this new scheme will be finalized over the coming years.

### *An EU agenda for international ocean governance*

3.52. On 10 November 2016<sup>39</sup>, the European Commission and the EU's High Representative, Federica Mogherini, set out a joint agenda for the future of our oceans, proposing 50 actions for safe, secure, clean and sustainably managed oceans in Europe and around the world.

3.53. The Joint Communication is an integral part of the EU's response to the 2030 Agenda for Sustainable Development, in particular to the UN's Sustainable Development Goal 14 'to conserve and sustainably use the oceans, seas and marine resources'. It builds on a widely shared understanding that the framework for ocean governance needs to be strengthened, that pressures on the oceans need to be reduced and that the world's oceans must be used sustainably.

3.54. The Joint Communication proposes ways the EU can step up and play a stronger role at global and regional level in shaping the way oceans are managed and used. It sets out detailed actions to shape international governance in three priority areas:

- improving the international framework for ocean governance;
- reducing human pressures on the oceans and creating the conditions for a sustainable blue economy;
- strengthening international ocean research and data.

## **4 TRADE AND INVESTMENT POLICY DEVELOPMENTS SINCE 2015**

### **4.1 Trade for All Communication and its implementation**

4.1. On 14 October 2015, the European Commission adopted the "Trade for All Communication".<sup>40</sup> The Communication sets out the EU's overall trade strategy and represents the most ambitious negotiating agenda ever pursued by the EU.

4.2. The trade policy agenda contained in the Communication is a response to the new economic and political realities and sets the basis for the EU's actions in the coming years.

<sup>37</sup> [https://ec.europa.eu/commission/priorities/energy-union-and-climate/climate-action-decarbonising-economy\\_en](https://ec.europa.eu/commission/priorities/energy-union-and-climate/climate-action-decarbonising-economy_en).

<sup>38</sup> in the context of the necessary reductions according to the IPPC by developed countries as a group.

<sup>39</sup> [http://ec.europa.eu/maritimeaffairs/policy/ocean-governance\\_en](http://ec.europa.eu/maritimeaffairs/policy/ocean-governance_en).

<sup>40</sup> Trade for All Communication [http://trade.ec.europa.eu/doclib/docs/2015/october/tradoc\\_153846.pdf](http://trade.ec.europa.eu/doclib/docs/2015/october/tradoc_153846.pdf).

4.3. The political commitments undertaken in the Communication can be grouped into four major blocks: (i) transparency, (ii) work on effectiveness of trade policy, (iii) the values agenda, and (iv) the negotiating agenda at multilateral and bilateral level.

#### **4.1.1 Transparency in policy making**

4.4. Transparency is important to the EU. Policymaking needs to be transparent and the debates surrounding various policies need to be based on facts. Furthermore, policymaking must respond to people's concerns. For these reasons, the EU wants to be as open as it can and to make its positions as transparent as possible without nevertheless putting at risk ongoing negotiations.

4.5. To improve transparency, the EU has carried out concrete actions both within its institutions and towards external stakeholders.

4.6. Inside the EU institutions, the EU has adopted specific actions for the implementation of the Better Regulation package. This included the new Regulatory Scrutiny Board, the new REFIT platform<sup>41</sup> – aimed at supporting the process of simplifying EU law and reducing regulatory burdens, for the benefit of civil society, business and public authorities – and new consultation and feedback mechanisms. In March 2016, a new Interinstitutional Agreement on Better Law-Making was adopted by the European Parliament, the Council and the European Commission. Under this new Agreement, the three EU institutions agree to promote simplicity, clarity and consistency in the legislation of the EU as well as to enhance transparency in the legislative process.

4.7. With reference to trade policy, the Better Regulation agenda entails systematic on-line public consultations on all significant trade initiatives; the consultation of stakeholders in the Sustainability Impact Assessments (SIAs); and a commitment to carry out more systematic ex post evaluations after the agreements have been implemented.

4.8. The EU has taken important steps to ensure greater transparency during the different stages of its negotiations for free trade agreements. The Directorate General for Trade of the European Commission has a dedicated webpage "Transparency in action"<sup>42</sup> where detailed information can be found on the ongoing negotiations (explanatory factsheets, reports of negotiating rounds, final texts, etc.).

4.9. The European Commission has also advanced on its commitment for more transparency in Trade Defence Instruments (TDIs). As of January 2016, parties to the newly launched trade defence investigations have had direct instant access to the full non-confidential file via "TRON" (from "TRade ONline"). Since the end of 2016, TRON includes two additional features: it allows interested parties to send their submissions to the Commission and the Commission to send communications – for example preliminary investigation findings – to the interested parties.

4.10. As of May 2016, the European Commission also started providing more information on the executive summaries of complaints and requests for reviews of existing measures to the public at large.

#### **4.1.2 An effective EU trade policy that tackles new economic realities**

4.11. The EU is committed to ensuring that its trade policy is synchronized with the latest global economic and technological developments, as also reflected in other EU policies, and brings about a real positive change for stakeholders. This approach, set out in the Communication, ensures that EU trade policy will:

- a. effectively address issues that affect today's value chain-based economy, like services, digital trade and the temporary movement of service providers;
- b. make sure that consumers, workers and small companies can take full advantage of – and adapt to – more open markets. This would help ensure consumers have confidence

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<sup>41</sup> [https://ec.europa.eu/info/law/law-making-process/overview-law-making-process/evaluating-and-improving-existing-laws/reducing-3\\_en](https://ec.europa.eu/info/law/law-making-process/overview-law-making-process/evaluating-and-improving-existing-laws/reducing-3_en).

<sup>42</sup> <http://trade.ec.europa.eu/doclib/press/index.cfm?id=1395>.



in the products they buy and that small and medium-sized enterprises' needs are specifically addressed in all trade agreements.

4.12. The EU is putting more emphasis and resources on the implementation of the EU's bilateral and plurilateral trade agreements.

4.13. With reference to bilateral agreements, the EU is currently implementing six new generation free trade agreements (Korea, Central America, Columbia-Peru and Ecuador, Georgia, Moldova and Ukraine) and seven Economic Partnership Agreements (CARIFORUM, Cameroon, ESA, Ghana, Ivory Coast, Pacific and SADC EPA Group).

4.14. The EU has already developed some effective ways to share the actual implementation of those agreements with other interested parties, including large and small businesses and EU Member States. These include the multi-pronged Market Access Partnership (MAP), established in its current form in 2007. The MAP has three main parts (the Market Access Advisory Committee and Market Access Working Groups covering specific sectors; and local Market Access Teams in third countries, established as diplomatic trade tools).

4.15. Since November 2015, businesses can use a new tool in the Export Helpdesk and in the Market Access Database to identify the specific rules of origin applied to their products.

4.16. Further efforts are being undertaken as part of the Enhanced Partnership for Implementation of trade agreements with other EU institutions, Member States and stakeholders. It includes jointly reviewing how to best use the existing structures (reinforced MAP but also European Parliament monitoring groups, civil society monitoring mechanisms, economic diplomacy channels in third countries, etc.) to implement trade agreements more effectively. It also looks again at how implementation issues are prioritized and at awareness-raising with stakeholders. In particular, to ensure the Trade and Sustainable Development chapters of its trade agreements are properly implemented, the EU is giving civil society an important role. For each trade agreement the EU is setting up Domestic Advisory Groups (DAG) composed by representatives of workers, employers and non-governmental organizations.

4.17. In December 2016, the European Council reached a compromise regarding the European Commission's 2013 proposal to modernize its trade defence instruments ('TDI'). This enables the Commission, Council and Parliament to start discussions with a view to finding a compromise on the Commission's 2013 proposal. On 9 November 2016, the European Commission presented a proposal introducing changes to the EU's anti-dumping and anti-subsidy legislation, and which would allow the EU to adapt its trade defence instruments (TDIs) to deal with current realities of unfair trade practices in particular due to state induced market distortions in the international trading environment, while fully respecting the EU's international obligations in the legal framework of the WTO.

4.18. With reference to multilateral and plurilateral agreements, the EU has already implemented or is in the process of implementing several recent agreements, notably the revised Information and Technology Agreement (ITA-2), the Trade Facilitation Agreement and the Nairobi Decision on export competition.

4.19. The EU was among the first participants to implement the tariff elimination agreed in the expansion of the ITA-2. The expansion provided for eliminating tariffs on 577 tariff lines over a period of seven years. However, as of 1 July 2016 the EU has already voluntarily eliminated tariffs on 451 lines and expects that all WTO Partners will implement as soon as possible.

4.20. The EU ratified the Trade Facilitation Agreement in October 2015 and has established its National Trade Facilitation Committee. Furthermore, the EU started delivering on its promise to provide technical assistance to developing countries by donating to international organizations involved in mapping A-B-C commitments, like the World Bank, and performing needs assessments and donor-recipient match making, like the WTO Trade Facilitation Facility.

4.21. The EU has fully complied with the Nairobi Ministerial Decision on Export Competition since the date of adoption of the Decision. No export subsidies have been granted during the period in question – all export refund rates have remained at zero since July 2013. There are no agricultural

exporting state-trading enterprises or export financing schemes benefiting agricultural products in the EU apart from a few horizontal export financing programmes run by certain EU Member States, where the share of agricultural exports is marginal.

4.22. The EU is consistently pursuing services trade liberalization in the ongoing bilateral negotiations, covering a number of services sectors such as telecommunications, transport, financial services and the movement of service providers abroad to temporarily provide services (the so-called Mode 4). The EU has also been actively engaged in the negotiations of the plurilateral Trade in Services Agreement (TiSA) - see later under paragraph 4.84.

4.23. Since 2015, the EU has been updating its approach on digital trade by covering new areas such as electronic procurement, electronic contracts and online consumer protection.

4.24. With respect to public procurement, the EU has included in all its FTAs an ambitious chapter on public procurement, building on the WTO Government Procurement Agreement (GPA) and with an aim to increase the opportunities for EU and third parties businesses to get further access to each other's procurement markets and also to promote transparency and good governance.

4.25. The EU will propose dedicated SME provisions in all its ongoing and future negotiations for free trade agreements.

#### **4.1.3 A trade and investment policy based on values**

4.26. The "Trade for All" Communication has broadened and deepened the agenda in areas like trade and sustainable development, human rights, anti-corruption, while establishing a reformed approach towards investment protection.

##### **4.1.3.1 A more responsive approach to the public's expectations on regulation and investment**

4.27. Today Europeans have access to products and services from all continents thanks to easier travel and digital networks. New trade agreements can further expand choice and lower prices but, at the same time, the EU must remain vigilant and respect consumer demands to ensure that traded products and services are safe and have been produced respecting human rights, labour rights and the environment.

4.28. The EU, in line with its established trade policy, ensures that no EU trade agreement will lead to lower levels of consumer, environmental or social and labour protection than offered today in the European Union, nor that they will constrain the ability of the EU and Member States to take measures in the future to achieve legitimate public policy objectives on the basis of the level of protection they deem appropriate.

4.29. The EU has also enhanced the analysis of the impact of trade policy on consumers both in impact assessments and ex-post evaluations.

##### **4.1.3.2 A reformed approach to investment protection policy**

4.30. The EU is modernizing its traditional approach to investment protection and the associated investment dispute resolution system, introducing changes to ensure that the right of governments to regulate is guaranteed in its bilateral trade and investment agreements and that it replaces the current private investor-state dispute settlement system by an investment court system, thereby improving transparency, accountability, consistency and legitimacy.

4.31. This reformed approach to investment dispute resolution and to investment protection rules provides a stronger focus on the state's right to regulate, and is embedded in the CETA and the EU-Vietnam agreements. It is the intention of the EU to include these reforms in all future trade and investment deals.

4.32. The new approach aims to increase citizens' confidence in the system by establishing an investment court system built on similar principles to domestic and international courts, and subject to democratic principles and public scrutiny. In parallel, together with other interested



partners, the EU is pursuing the concept of setting up a multilateral investment court. The idea is that, over time, such a multilateral investment court could replace the bilateral investment court systems included in EU agreements and the investment dispute settlement mechanisms included in EU Member States' investment treaties, as well as those included in investment treaties concluded between third countries.

#### **4.1.3.3 The EU's trade policy and sustainable development, human rights and good governance**

4.33. The EU Treaties require that the EU promotes its principles and values, including the development of poorer countries, social and environmental protection, and respect for human rights, in its external action.

4.34. The EU is in the lead on using trade policy to promote the social and environmental pillars of sustainable development. This is done in a positive, incentive-based way and moving on a range of projects and at different levels.

4.35. At a multilateral level and as a WTO Member, the EU is actively involved in the work of the WTO Committee on Trade and Environment and promotes WTO efforts aiming at liberalizing trade in goods and services which can deliver environmental benefits. In particular, the EU, together with 17 other WTO Members, is participating in plurilateral negotiations for an Environmental Goods Agreement (EGA). The EU actively supports WTO negotiations on fisheries subsidies, with the objective of contributing to Sustainable Development Goal (SDG) 14.6. (see later under section 4.1.4.1). The EU is also actively involved in the work of the WTO Committee on Trade and Development, making a considerable effort to ensure the proper functioning of this Committee.

4.36. At a bilateral level, the EU integrates labour and environmental considerations when negotiating its trade agreements, through a dedicated chapter on trade and sustainable development. Recent bilateral agreements with such chapters include those with Canada, South Korea, Central America, Colombia, Peru and Ecuador, Singapore, Ukraine, Georgia and Moldova. Trade and Sustainable Development chapters include commitments to ratify and effectively implement fundamental International Labour Organization conventions and Multilateral Environmental Agreements, as well as commitments to 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.

4.37. At a unilateral level, the special incentive arrangement for sustainable development and good governance of the EU Generalised System of Preference (GSP+) provides increased market access to eligible countries, without asking the trading partner to do the same and conditional on their ratification and effective implementation of a number of labour conventions, environmental agreements, human rights and good governance instruments.

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

4.38. The EU is the most open market for developing countries' exports and is at the forefront of using trade policy to promote inclusive growth and sustainable development in the poorest countries. For example the Everything But Arms (EBA) initiative, opens the EU market in full to Least Developed Countries, without tariffs or quotas, has been effective. Studies<sup>43</sup> have shown the EBA scheme has increased the exports of products granted duty-free access to the EU to Least Developed Countries by up to 10%.

4.39. The EU Generalised System of Preferences (GSP) also represents a flagship of the EU trade policy instrument to support sustainable development and good governance in developing countries, granting special tariff rate cuts to developing countries. The EU has relaxed its rules of origin in the GSP, making them simpler, easier to comply with and offering greater possibilities for sourcing based on regional and trans-regional cumulation between countries.

<sup>43</sup> <http://trade.ec.europa.eu/doclib/html/153595.htm>.

4.40. On 28 January 2016, the European Commission presented its first report on the implementation of the GSP. The Report presents the three arrangements of the GSP, their current beneficiaries and some basic trade statistics. It is accompanied by a detailed progress report on the EU Special Incentive Arrangement for Sustainable Development, Human Rights and Good Governance (GSP+) with regard to the 14 beneficiaries. The next biennial report on the impact of GSP is due in December 2017.

4.41. The EU and its Member States collectively drive global 'Aid for trade' efforts as the world's largest donor accounting for more than a third of global support, to the current tune of €12 billion per year. As a component of Official Development Assistance, EU Aid for Trade is programmed according to beneficiary needs, but with clear priorities, including support for implementing the Trade Facilitation Agreement and an ongoing commitment to prioritize the Least Developed Countries. Moreover, in its recent Communication on a New European Consensus on Development<sup>44</sup> the EU committed itself to further coordinate development cooperation programmes (such as Aid for Trade) with trade policy tools to support sustainable development, including inclusive growth.

4.42. Trade Related Assistance as part of the larger Aid for Trade support is another key tool to support the economic integration role of regional organizations. The EU helps to improve public institutions capacity and to foster reform of trade policies in third countries according to the beneficiaries' priorities. Support for trade facilitation measures, now delivered at the regional level for example, not only helps countries meet their commitments under the WTO Trade Facilitation Agreement, but also contributes to regional integration allowing businesses in the beneficiary countries to integrate into regional value chains as a first step to participating in global chains. The EU's and its Member States' commitments for Trade Related Assistance reached €3 billion in 2014 (latest figures), significantly exceeding the annual target of €2 billion by 2010 established by the EU at the 2005 Ministerial Conference in Hong Kong and formalized in the EU Aid for Trade Strategy of 2007.<sup>45</sup>

4.43. On the multilateral level, on 18 November 2015, the EU notified the WTO of its preferential treatment of services exports from the Least Developed Countries, in the framework of the LDC services waiver decision. The preferences granted by the EU include both elements of the services offer made in the context of the Doha Round and elements from the recent development oriented FTAs.

### *Ensuring responsible management of supply chains*

4.44. In the EU's view, the responsible management of global supply chains is essential to align trade policy with European values.

4.45. The EU has already taken steps with specific partners and on specific issues and will continue developing its efforts in the future.

4.46. For example the EU works closely with the International Labour Organization and the Organization for Economic Development and Cooperation (OECD) to promote responsible business conduct.

4.47. The EU will also continue stimulating and facilitating Corporate Social Responsibility and is willing to use its trade instruments, from bilateral agreements to export control and its trade and development program, pro-actively in this regard.

4.48. The EU continued its engagement in the Bangladesh Sustainability Compact<sup>46</sup>, launched in July 2013 to improve labour rights and occupational safety and health in the ready-made garment sector in response to the Rana Plaza tragedy, as well as in the Myanmar Labour Rights Initiative.

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<sup>44</sup> <http://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1479423270893&uri=COM:2016:740:FIN>.

<sup>45</sup> <http://trade.ec.europa.eu/doclib/html/141470.htm>.

<sup>46</sup> [http://trade.ec.europa.eu/doclib/docs/2013/july/tradoc\\_151601.pdf](http://trade.ec.europa.eu/doclib/docs/2013/july/tradoc_151601.pdf).

### *Promoting fair and ethical trade schemes*

4.49. The EU considers that private sustainability schemes can be beneficial for sustainable development, providing information to consumers who can alter their buying habits according to their principles. For this reason, the EU is working to better promote fair and ethical trade schemes with a view to raising awareness on both the supply and the demand side and developing, by this means, more sustainable trade opportunities for small producers in third countries.

4.50. Fair and ethical trade schemes are promoted by implementing recently concluded free trade agreements and through the network of EU delegations. The EU has also launched a new project with the International Trade Centre on fair and ethical trade<sup>47</sup>, involving a study of the demand for certified products in the EU and the design of an 'EU City for Fair and Ethical Trade' award. This project will complement past work done with the International Trade Centre to promote small businesses' participation in private sustainability assurance schemes.

4.51. In order to stop human rights abuses and armed conflict financed by trade in minerals, the EU Institutions, in November 2016, reached an agreement on the final shape of an EU regulation on conflict minerals, which aims to stop the financing of armed groups in developing countries through the trade of tin, tantalum, tungsten and gold. The regulation will ensure that the vast majority of these minerals and metals imported into the EU are sourced responsibly. The Regulation is expected to enter into force in June 2017.

### *Promoting and defending human rights*

4.52. Human rights considerations have increasingly been incorporated into the EU's bilateral free trade agreements, into unilateral preferences and into EU export controls policy. For example, in cases of serious and systematic violations of human rights, beneficiary countries have lost their preferences under the GSP scheme (e.g. Sri Lanka, Belarus, Myanmar/Burma) until the situation improves.

4.53. The European Commission has also developed guidelines to help examine the impact of trade policy initiatives on human rights in both the EU and partner countries.

4.54. By way of implementing the EU Action Plan on Human rights<sup>48</sup>, respective impacts are regularly assessed in all Impact Assessments, Sustainability Impact Assessment (SIA) and ex post evaluations.

4.55. The EU further strengthened the trade rules applicable to goods that could be used for capital punishment or torture, adopting on 23 November 2016 Regulation (EU) No 2134/2016 of the European Parliament and of the Council. The 2016 Regulation is an important amendment to the Council Regulation No 1236/2005.<sup>49</sup> The strengthened text comprises a specific set of rules for the export controls applied to prevent listed medicinal products from being used for capital punishment in a third country, including an EU general export authorization. It also imposes new restrictions on supplying brokering services related to any listed goods located in a third country, on supplying certain other services to third countries and on promoting certain goods in trade fairs in the EU.

4.56. Moreover, on 28 September 2016, the European Commission has proposed an ambitious modernization of the EU's policy on export controls of dual use goods<sup>50</sup>, including, in pursuance of its values agenda, the prevention of the misuse of digital surveillance and intrusion systems that result in human rights violations.

<sup>47</sup> <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2009:0215:FIN:EN:PDF>.

<sup>48</sup> [https://ec.europa.eu/anti-trafficking/eu-policy/action-plan-human-rights-and-democracy-2015-2019\\_en](https://ec.europa.eu/anti-trafficking/eu-policy/action-plan-human-rights-and-democracy-2015-2019_en).

<sup>49</sup> O.J. L 338, 13.12.2016 - <http://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1482153375409&uri=CELEX:32016R2134>.

<sup>50</sup> <http://trade.ec.europa.eu/doclib/events/index.cfm?id=1562>.

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

4.57. The EU has an ambitious agenda on gender equality and the economic empowerment of women. Trade policy contributes to achieving the goals of this agenda through specific as well as horizontal means, such as the increased focus on facilitating SMEs' participation in international trade and on the importance of digital trade.

4.58. Since 2013, the EU has been systematically looking at the impact of trade policy initiatives on gender equality and women's rights in its evaluations (impact assessments, sustainability impact assessments and ex post evaluations).

4.59. Commitments with regard to gender equality are an integral part of the Trade and Sustainable Development chapters of the EU's recently negotiated free trade agreements. Adherence to the relevant International Labour Organization norms as well as the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) are a requirement built into the GSP+.

***Fighting against corruption and promoting good governance***

4.60. Corruption is a plague on economies and societies. It holds countries back from development, distorting public procurement, wasting scarce public funds, discouraging investment, hampering trade, and creating unfair competition. It undermines the rule of law and the trust of citizens.

4.61. EU trade policy contributes to the fight against corruption, for example by increasing the transparency of regulations and procurement processes and by simplifying customs procedures.

4.62. Under the GSP+ the EU offers trade preferences to countries that ratify and implement international conventions relating to good governance, including the UN Convention Against Corruption. Trade agreements could be used further to tackle corruption and ensure international conventions and principles are implemented in practice.

4.63. The EU is in the process of developing further its approach on how to combat corruption relating to trade and investment.

**4.1.4 The EU negotiating agenda****4.1.4.1 Reinvigorating the multilateral trading system**

4.64. The EU seeks to promote economic growth and job creation by pursuing a progressive trade and investment agenda as well as advocating sustainable development in the multilateral context.

4.65. The EU is actively engaged in advancing multilateral post-Nairobi negotiations with a view to preparing outcomes for the 11th WTO Ministerial Conference (MC11). In this regard, the EU is contributing and often leading discussions on numerous topics including fisheries subsidies, e-commerce, domestic support in agriculture, domestic regulation in services and issues of interest to SMEs such as an initiative on facilitating SME trade focusing on transparency of regulatory measures for trade in goods. The EU firmly believes in the importance of advancing on these issues in the WTO, which would provide important development benefits and would help boost international trade.

4.66. Building on the agreements reached in Nairobi, the EU is supporting efforts to reinvigorate the WTO's negotiating function with the objective of safeguarding the centrality of the WTO and the multilateral trading system.

4.67. The EU seeks to reinvigorate the WTO on the basis of three principles.

4.68. First, the EU sees the WTO as playing a central role in developing and enforcing the rules of global trade - from intellectual property to customs, from digital trade to good regulatory practices – that will also reinforce the principle of sustainable development.

4.69. Second, the EU sees a need to pursue results through a more focused approach. In particular, after Nairobi, issues-based negotiations seem a more promising way to advance the WTO agenda than another broad and complex round. The EU is using such an approach to break new ground at the WTO, and to spark WTO debates regarding existing Doha issues, as well as in areas which are part of the global trade reality, and where commitments have been taken in the context of free trade agreements.

4.70. Third, the EU believes that when multilateral progress is not possible, subsets of WTO members should be able to advance on given issues, while keeping the door open for interested WTO members to join at a later stage. This would allow for new plurilateral agreements under the WTO umbrella and would make it easier to anchor in the WTO those plurilateral agreements that are currently negotiated outside the organization.

4.71. In more detail, the EU is playing a leading role in the following on-going initiatives.

#### **Fisheries subsidies negotiations**

4.72. The EU is dedicated to making progress on disciplining fisheries subsidies in the WTO. The EU believes that fisheries subsidies, like other types of subsidies, can only effectively be addressed through a multilateral agreement covering all WTO Members. The fact that the sustainability of global fisheries is at stake further reinforces the need for multilateral action.

4.73. The 2030 Agenda for Sustainable Development agreed by the global community and notably the UN Sustainable Development Goal (SDG) 14.6 sets out the objective to prohibit by 2020 certain forms of fisheries subsidies which contribute to overcapacity and overfishing, to eliminate subsidies that contribute to illegal, unreported and unregulated (IUU) fishing and to refrain from introducing new such subsidies. SDG 14.6 further recognizes that appropriate and effective special and differential treatment for developing and least developed countries should be an integral part of the WTO fisheries subsidies negotiation.

4.74. Thus, there is a clear call for a multilateral process on fisheries subsidies to deliver on SDG 14.6. For this reason in October 2016 the EU tabled a concrete textual proposal to ban certain capacity-enhancing subsidies and subsidies linked to IUU fishing. The proposal also provides for enhanced transparency and notification requirements and foresees special and differential treatment that would allow developing and least developed countries to derogate from such a ban under certain conditions linked to a sustainable management of the relevant fisheries.

#### **Horizontal subsidies negotiations**

4.75. The EU also believes that the WTO needs to play a central role in addressing other types of subsidies.

4.76. The importance of the issue was showcased by G20 leaders in their Hangzhou statement, where the question of overcapacity was raised, including regarding links with subsidies. The EU together with other interested WTO members has sparked a debate in the WTO Committee on Subsidies and Countervailing Measures (SCM) in order to deepen the analysis regarding the impact of subsidies on overcapacity, with a view to identifying possible new disciplines to improve the SCM agreement.

#### **Domestic support for agriculture**

4.77. Building on the success at the Nairobi Ministerial the EU is constructively participating in the preparations for MC11, including on Domestic Support with the aim of preparing way forward regarding limiting trade distorting support across all WTO Members.

#### **Advancing the E-commerce discussions in the WTO**

4.78. The EU believes in the benefits that e-commerce and digital trade can bring for global economic development and that, in this context, the WTO should function as a central forum for preparing new regulatory disciplines affecting trade.

4.79. The EU considers that a set of multilateral rules would benefit the entire WTO membership, also enhancing access of traders from developing countries to global markets and, therefore, would like to see progress in the WTO in this area. The expansion of the digital economy could clearly offer new opportunities to promote inclusive economic growth, connecting rural and urban economies, opening new channels for trade for landlocked countries, and facilitating the participation of women and micro enterprises in the formal economy.

#### **Helping SMEs reap the benefits of trade**

4.80. The EU recognizes the importance of having clear principles included in trade negotiations, both at multilateral and at bilateral level, related to domestic regulation with the aim to lower barriers to trade. For example, the EU monitors that certain market access obligations in services sectors which imply licensing and qualification requirements and procedures, and technical standards, are not applied in a discriminatory basis, giving rise to hidden protectionism, and thus, constituting an unjustified barrier to trade.

4.81. The EU is also playing a leading role in the WTO in promoting good regulatory practices and transparency in trade in goods, with the objective of making markets more open and friendly to small businesses. In this regard, the EU is spearheading efforts to develop appropriate measures and to establish a web portal which would make information regarding regulatory requirements in export markets more easily accessible to SMEs.

#### **4.1.4.2 Advancing in plurilateral initiatives**

##### **EGA negotiations**

4.82. The EU has played a leading role in the negotiations for an Environmental Goods Agreement (EGA). The aim of an EGA is to (i) eliminate tariffs on a broad range of environmental goods used, among other things, for renewable energy generation, waste management, water treatment and air pollution control, and (ii) address non-tariff issues in the sector and services linked to environmental goods through a future work programme.

4.83. The EU will continue working with all WTO members involved to bridge the gaps in the negotiations and reach an agreement as soon as possible, considering the importance of an EGA to contribute to address climate change and environmental changes.

##### **TiSA negotiations**

4.84. During the period under review, the EU – together with 22 other WTO members – was actively engaged in the negotiations for a Trade in Services Agreement (TiSA), aiming to enhance market access and establish strong, transparent and effective horizontal and sectoral disciplines facilitating global trade in services. The EU is ready to advance negotiations further in 2017.

#### **4.1.4.3 The bilateral negotiating agenda**

4.85. In recent years, the EU has developed an ambitious bilateral agenda, which complements and reinforces its efforts within the multilateral trading system. Throughout the process, the EU is paying particular attention to the scope and depth of its trade agreements, to ensure they take into account the needs of today's economy, as well as of the economic realities of its partners and paying attention to full compliance with WTO rules, while supporting and promoting EU values and standards: the promotion of human rights, health and consumer protection and sustainable development, including labour rights and environmental protection.

4.86. In the reviewed period, important milestones were achieved.

4.87. As an integral part of its development policy towards the African, Caribbean and Pacific (ACP) countries, the EU concluded a series of Economic Partnership Agreements (EPAs) with Parties in the African, Caribbean and Pacific regions. By March 2017, seven EPAs have been signed and are being applied. During the period under review the following EPAs began to be applied:



- In September 2016, the EU-Ivory Coast EPA;
- In October 2016, the Southern Africa Development Community (SADC) EPA;
- In December 2016, the EU-The Ghana EPA.

4.88. The following EPAs are currently in the process of being signed: (i) the EU-West Africa EPA, initialled by the EU and ECOWAS/WAEMU on behalf of 16 West African countries; (ii) The EU-East African Community (EAC) EPA between the EU and Burundi, Kenya, Rwanda, Tanzania and Uganda.

4.89. The Protocol of Accession of Ecuador to the agreement between the EU and Peru and Colombia was signed on 11 November 2016 and is applied between Ecuador and the EU as of 1 January 2017.

4.90. On 30 October 2016, the EU and Canada signed the Comprehensive Economic and Trade Agreement (CETA) and on 15 February 2017 the European Parliament gave its consent, allowing for its provisional application to start soon.

4.91. The negotiations for a comprehensive free trade agreement with Singapore were completed in October 2014. The European Commission is currently waiting for an opinion of the European Court of Justice on the EU's competence to sign and ratify the agreement before the approval procedure of the agreement is launched.

4.92. Negotiations for the EU-Viet Nam free trade agreement were concluded at the end of 2015; it is expected to start being applied in the course of 2018.

4.93. Negotiations for an EU-Japan free trade agreement were launched in 2013. Seventeen rounds of talks have already taken place and the negotiations are well advanced. The EU's objective is to conclude an agreement as soon as possible.

4.94. Negotiations between the EU and the U.S. for a Transatlantic Trade and Investment Partnership (TTIP), launched in 2013, continued during the years under review. Fifteen rounds of talks had taken place by October 2016. The negotiations were launched in order to contribute to addressing the challenges of today's global trading environment, to deliver growth, including in third countries' markets and to reinforce the transatlantic partnership

4.95. During the period under review, the EU launched negotiations with the Philippines and Indonesia. The EU also continued negotiations on an agreement on GI protection and on an investment agreement with China and on an investment protection agreement with Myanmar.

4.96. Negotiations for two new Deep and Comprehensive Free Trade Agreements – deepening and expanding the existing Agreements – were launched in October 2015 with Tunisia.

4.97. Negotiations for an Association Agreement – deepening and expanding the existing Agreement – were launched in June 2016 with Mexico. In 2016, the EU also reactivated its negotiations with Mercosur.

## 5 LOOKING AHEAD

5.1. In these uncertain times, with risk of protectionism on the rise, the EU remains committed to preserving the integrity of the WTO rules-based system and expects the same from the other WTO Members.

5.2. The EU will continue to ensure clear governance and full coherence between its internal economic policies, intended to promote competitiveness and innovation, and its external dimension aimed at enhancing opportunities internationally.

5.3. The EU is fully committed to reinvigorating the multilateral system. First, it will work on a daily basis to ensure respect of the WTO's core functions, particularly to promote transparency and knowledge-sharing, openness of markets, the establishment of trade disciplines, and the delivery of technical assistance and capacity building. Secondly, it will work towards preparing meaningful

deliverables for MC11. Now more than ever, the WTO needs to be able to reassert its role and deliver on issues of importance to its members as well as to set the rules to shape globalization.

5.4. The EU will continue playing an active role in implementing Agenda 2030 for Sustainable Development and the SDGs within the EU and in development cooperation with partner countries. In particular, the EU will continue its efforts to implement the Trade and Sustainable Development chapters of its trade agreements more effectively, including through civil society mechanisms.

5.5. The EU and its Member States have begun a review of their 2007 joint Aid for Trade strategy, with a view to increasing the mutual supportiveness between development co-operation and trade agenda. The review is expected to be completed in the second half of 2017. The revised strategy would remain linked to the Aid-for-Trade Initiative and respond to the new 2030 Agenda, with the aim of further fostering EU values of social protection and environmental sustainability together with inclusive economic growth. The revised strategy might also seek to introduce differentiation in addressing in a more strategic manner the specific trade-related needs of various partner countries, notably the LDCs.

5.6. The EU and its Member States will continue to adopt proper actions for the implementation of COP21 and for turning commitments into actions on the ground.

5.7. The European Commission's Directorate General for Trade has set up an annual implementation report on FTAs which, as of 2017, is intended to report annually on the implementation of the EU's most significant bilateral trade agreements and give more in-depth analysis ex-post of their effectiveness. This annual reporting system will give greater visibility and coherence to the on-going work under each individual agreement implemented by the EU and a given third-country or region.

5.8. For the next few years, the EU's list of ongoing and planned bilateral negotiations is one of the most ambitious in the world, covering partners such as Japan, Mexico, Mercosur, India, several South East Asian (ASEAN) countries, Tunisia, Morocco, Turkey, Australia, New Zealand and Chile.

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