



Trade Policy Review Body

TRADE POLICY REVIEW

REPORT BY THE SECRETARIAT

THE EUROPEAN UNION

This report, prepared for the twelfth Trade Policy Review of the European Union, has been drawn up by the WTO Secretariat on its own responsibility. The Secretariat has, as required by the Agreement establishing the Trade Policy Review Mechanism (Annex 3 of the Marrakesh Agreement Establishing the World Trade Organization), sought clarification from the European Union on its trade policies and practices.

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SUMMARY

1. Overall, the EU remains an open and transparent economy and, as one of the biggest economies and trading entities in the world, plays a critical role in the multilateral trading system. Croatia became the 28th member State of the EU in July 2013. Although each member State has varying degrees of competence in several areas that affect trade and investment, such as taxation, the EU has exclusive competence for trade and investment and the EU economy is highly integrated and functions as a single market. Extra-EU trade is critical to the economy, with trade in goods and services equivalent to about 35% of EU GDP in 2013. Furthermore, exports have continued to grow as they increased in both nominal and real terms since 2009. On the other hand, the value of imports declined in 2013 relative to 2012.

2. Since the last Trade Policy Review of the EU in 2013, developments have continued to be dominated by low and fragile growth, with no increase in GDP in 2013 and 1.3% in 2014, and by the evolution of the monetary crisis in the euro area. The main macroeconomic indicators of most member States have improved, but some member States have seen only modest improvements. Furthermore, unemployment remains high, investment has been stagnant, and inflation has slipped into deflation in some periods. As a result, in early 2015, the European Central Bank began a period of monetary easing through its expanded asset purchase programme which has been extended to include bonds issued by euro area central governments, agencies, and European institutions. Combined monthly asset purchases are to amount to €60 billion and the intention is to continue the programme until at least September 2016. In addition, the Commission has initiated an Investment Plan for Europe which includes a European Fund for Strategic Investments to support the real economy. The Plan aims to mobilize an additional €315 billion in the period 2015-17 for strategic investments, such as in infrastructure. At the member State level, labour market reforms have also started to produce results with some improvements in employment, which is partly the result of lower earnings in some member States.

3. Although the focus of EU policy has been on macroeconomic developments, trade and trade-related policies have continued to evolve. The EU is engaged in trade negotiations with some trading partners, particularly the United States and Japan, and has concluded negotiations with others, including Canada. It has also continued to apply its GSP and GSP+ schemes for developing and its everything-but-arms scheme for least developed countries. The cumulative effect of the various preferential arrangements already in place or under negotiation would mean that only a few countries and territories will be trading with the EU on an MFN basis (although the GSP does not cover all products for all beneficiaries). Furthermore, the EU's deep and comprehensive trade agreements and its economic partnership agreements go beyond basic terms for trade in goods and services and include trade-related policies in areas such as investment, non-tariff barriers, and intellectual property.

4. In the WTO, the EU has continued to be one of the most active Members and has often stated its commitment to concluding the DDA. The EU, along with the member States, contributes a significant amount to aid for trade. At end-March 2015, the process of ratification of the Agreement on Trade Facilitation was under way in the EU.

5. There are significant differences among member States in the time and cost required to import and export but this is mainly due to differences in non-customs related factors, such as infrastructure, rather than customs procedures and requirements. Furthermore, the EU is implementing an electronic customs initiative that includes an automatic import/export system and single window, which will help to further reduce the time needed to process documentation. In addition, the system of authorised economic operators has continued to expand and the network of mutual recognition agreements for AEOs now includes China. On the other hand, the growing number of preferential trade agreements and schemes between the EU and other trading partners requires a considerable body of law on rules of origin.

6. The MFN tariff profile of the EU has not changed over the past two years as the small changes to the simple average tariff are a reflection of changes in *ad valorem* equivalents of non-*ad valorem* tariffs caused by changes in unit prices. Therefore, the average tariff remains at 6.5% with considerable differences from one product group to another: nearly one quarter of tariff lines are duty free; while agricultural products have a higher average level of protection and greater variation from one tariff line to another.

7. At end-November 2014, the EU had a total of 108 anti-dumping and 14 countervailing measures in force while it has not applied any safeguard measures since 2008. However, at 16, the number of anti-dumping investigations initiated during the review period was about half the number in the previous two years although the number of countervailing duty investigations, at 6, remained about the same.

8. The process of harmonization of EU standards and technical requirements has continued with the Alignment Package of eight directives in February 2014, which included directives on low voltage electrical equipment and electromagnetic compatibility. In addition, other legislation adopted in 2013 and 2014 covered alignments of standards in other areas, including radio equipment and recreational craft. Although there have been no major changes in sanitary and phytosanitary measures, the Commission has adopted a proposal for a package of measures affecting the agri-food chain.

9. Export credits and other supports to industry and services provided by the member States fall under EU rules on state aid. Although state aids which favour certain undertakings or the production of certain goods are, in principal, prohibited by the Treaty on the Functioning of the EU, there are a number of exemptions and exceptions and specific rules for services of general economic interest. These state aid rules are undergoing reform based on the Communication from the Commission on State Aid Modernisation that aims to streamline the rules, allow better targeting, and improve enforcement. The overall trend for the total level of state aids has been declining for several years although the total, at over €62 billion (excluding transport), remains significant. In addition to regular state aids, state aids related to the financial crises that started in 2008 continued to be used in 2013 and 2014 and the rules were revised in the 2013 Banking Communication from the Commission. Effective use of crisis-related aid has been much less than the amounts approved by the Commission: authorization for guarantees reached €3,893 billion; but outstanding guarantees peaked at €835.8 billion in 2009; and, as at October 2014, called-in guarantees were €3.1 billion.

10. To a large extent, direct taxes are the responsibility of the member States, and the systems and rates of income tax, corporation tax, and social contributions vary from one to another. Overall, the high level of social contributions by employers relative to profits may act as a disincentive to job creation. Although there is a common system and a minimum standard rate for value added tax there remains a considerable amount of flexibility in the rules and derogations from the rules which "prevent a coherent system of VAT rates in the EU from being applied".

11. There are common rules on government procurement that are applicable through the EU, but differences in the data provided by member States make it difficult to draw conclusions about spending in one State compared to another. A series of new directives were agreed in 2014 which have reformed the legal framework and their provisions are being transposed into national laws in the member States. The package is intended to improve transparency and enforcement, and simplify procedures. Among other changes, the package reinforces rules on aggregation of below-threshold procurement contracts, introduces the concept of life-cycle costing that includes environmental externalities, and applies specific rules to concessions contracts.

12. Intellectual property is very important to the EU economy and a main driver of growth that is governed by an extensive body of legislation at both the EU and member State levels. At the EU level, under the 2011 Blueprint for intellectual property rights, the Framework Programme for Research and Innovation for 2014-2020, and other official papers, the review and modernisation of legislation has continued with several directives which are being transposed into national laws in the member States. Preparatory work for the implementation of the unitary patent package has also followed its course. In addition, the review of the EU trademark regime and consideration of a proposed directive on the protection of trade secrets are well advanced. The Court of Justice of the EU has continued to develop its jurisprudence in several key areas of intellectual property rights, including by clarifying the patentability of human stem cells.

13. The Common Agricultural Policy underwent significant reform with the adoption of several directives and implementing rules covering direct payments to agricultural producers, market measures, and rural development while export refunds for all agricultural products were set at zero from July 2013. Although the reform in the CAP may reduce distortions to production in the EU, the total funding for agriculture and rural development will remain over €50 billion a year. Furthermore, as with earlier reforms, market access measures, including tariffs, tariff quotas, and

the use of the special agricultural safeguard are not directly affected and, therefore, agricultural producers will continue to be insulated from changes in international prices.

14. In the aftermath of the global financial crisis, legislative reform affecting the financial sector, particularly prudential measures, has continued under three pillars: rules for global banking; rules aimed at establishing a safer and growth enhancing financial sector; and rules aimed at completing banking union to strengthen the Euro. Several directives and regulations have been introduced under each pillar with proposals for more from the Commission.

15. In telecoms, the transposition into national laws of the regulatory framework described in previous Reviews has been completed while related rules have been adopted at the EU level. Further legislative changes under the Connected Continent Package were proposed by the Commission in September 2012 and are under discussion in the Parliament and Council.

16. Distribution services are one of the largest services sectors in the EU with wholesale and retail trade accounting for over 11% of GDP and nearly 15% of employment in the EU. The sector is characterized by increasing concentration and vertical integration. To a large extent, distribution services are regulated by the member States through a combination of laws, including those relating to labour, competition, and establishment. However, several EU level laws are applicable, including the Services Directive and, in recognition of the importance of distribution services to the EU economy and to the operation of internal market policy, further EU policies are currently being developed.

17. Audiovisual services along with other creative industries, contribute about 2.6% to the GDP of the EU. The principal rules regulating the sector are the Audiovisual Media Services Directive and two communications from the Commission on control of state aid to public broadcasters, and supports for films and other audiovisual works.

18. As noted in the previous Trade Policy Review, the EU is a highly integrated economic unit with common policies and laws covering most trade-related areas. Furthermore, integration is increasing and, despite macroeconomic and fiscal problems affecting some member States, overall the EU has an open and transparent trade and investment regimes. However, the economic recovery remains fragile and there remain significant differences among the 28 member States in some policy areas, including direct taxation, state enterprises, fiscal policy, and government procurement, all of which affect trade and investment.

1 ECONOMIC ENVIRONMENT

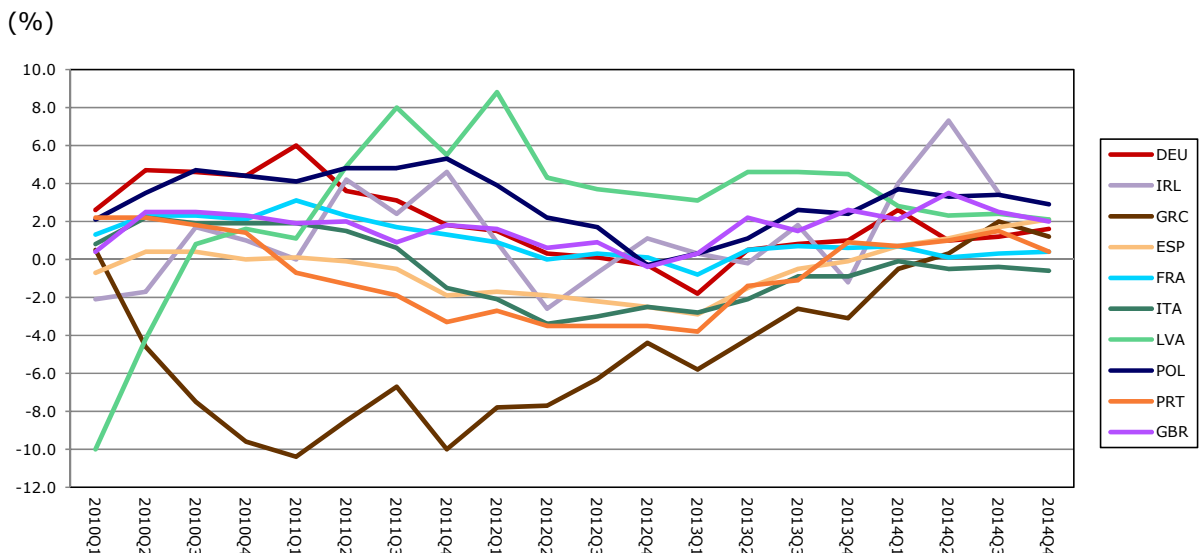
1.1 Recent Economic Developments

1.1.1 Overview of GDP growth

1.1. During the period under review (2013-14), the EU's recovery from the global financial crisis has been slow and fragile but improving; with EU GDP expected to grow by 1.3% in 2014 compared to zero in 2013; and economic growth in the euro-area expected to be 0.8% in 2014, compared to a contraction of 0.5% in 2013.

1.2. The EU's recovery from the crisis began in 2013Q2. Despite low growth rates in 2014, most EU member States were out of recession except for Croatia, Cyprus, Finland, and Italy (Table A1.1). Among the member States, Ireland's growth was the strongest with year-on-year rates of 7.3% in 2014Q2 and 3.5% in 2014Q3.¹ The main EU economies followed different paths; growth in the United Kingdom has been relatively strong and accelerated since 2014Q2; after recovering strongly in 2014Q1, the German economy slowed down considerably; France has been in a protracted period of stagnation; Spain exited recession in 2014; and although Italy's GDP continued to shrink it was at a slower pace than before (Chart 1.1). Member States in the central and eastern EU continued to grow during the review period, with Poland being the only country exhibiting positive growth during the crisis and thereafter.

Chart 1.1 GDP growth rate of selected EU members, 2011-14



Note: Year-on-year rate. Data not seasonally adjusted. No data available for Ireland, 2014Q4.

Source: Eurostat online database. Viewed at: <http://ec.europa.eu/eurostat/data/database>.

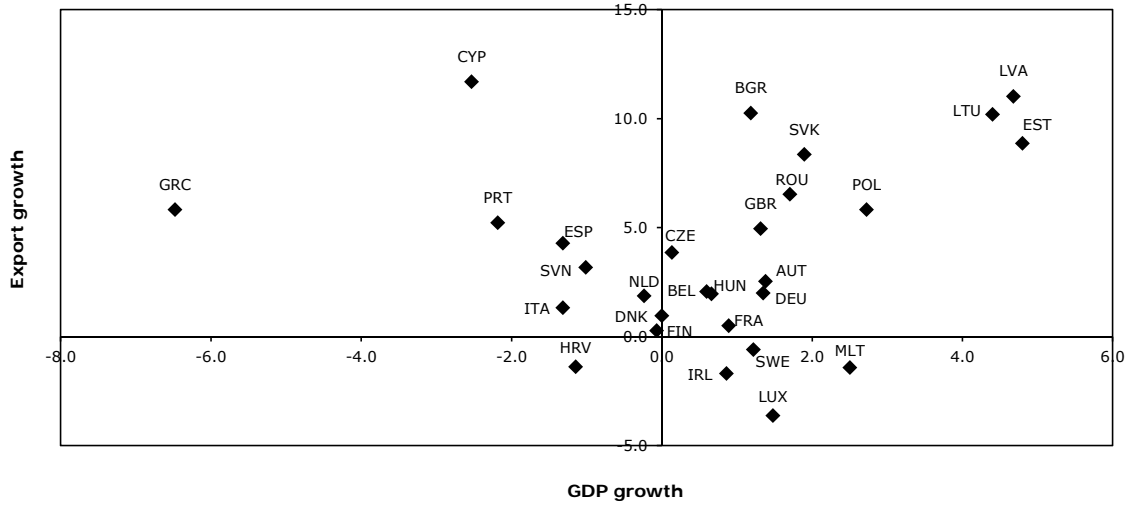
1.3. Exports, including intra- and extra-EU exports, provided cushions for economic downfalls in the EU and its member States. In particular, it was a major pulling force of growth in the period 2010-13 (Chart 1.3). Among the member States, a strong positive correlation between GDP and export growth is found in the Baltic countries, countries in central and eastern EU (e.g. Poland) as well as the U.K. (Chart 1.2). Net exports in Greece, Spain, and Italy were the only positive contributor to GDP growth (Table A1.2). However, the Commission estimated that the effect of net exports on growth is diminishing², in view of the uncertainties lingering around external demands as well as expected import growth with a rebound in domestic demand (see below).

¹ Ireland successfully exited the IMF/EU/ECB programme of assistance on 16 December 2013.

² European Commission (2015), *European Economic Forecast, Winter 2015*. Viewed at: http://ec.europa.eu/economy_finance/publications/european_economy/2015/pdf/ee1_en.pdf.

Chart 1.2 Growth rates of GDP and exports, 2010-13

Average annual growth rates, %

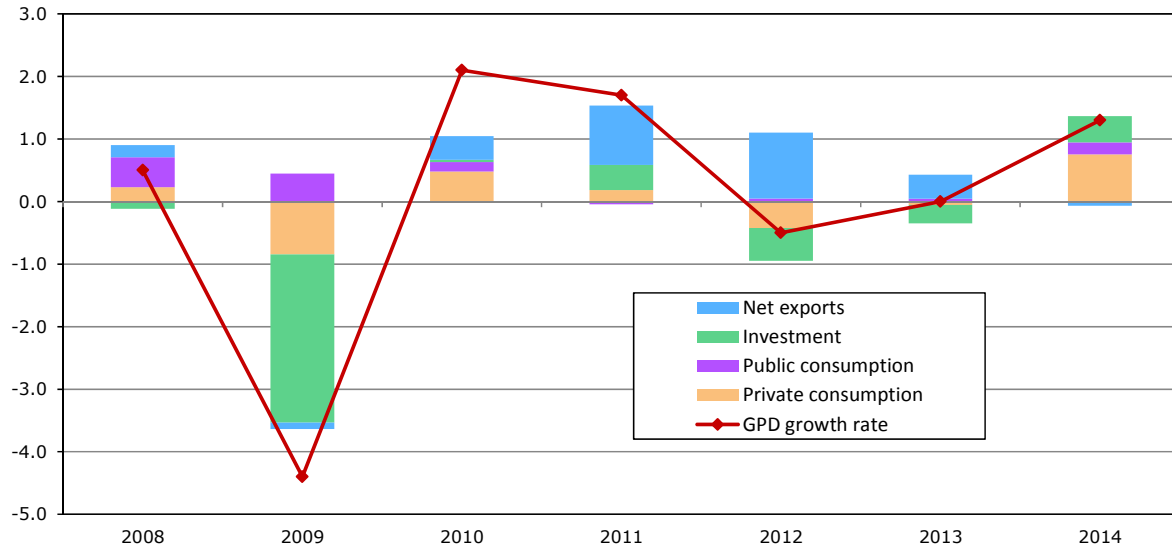


Source: WTO Secretariat calculations, based on data available in Eurostat online database. Viewed at: <http://ec.europa.eu/eurostat/data/database>.

1.4. Domestic demand, mainly in private consumption, rebounded in 2014 and has again become the major driver of GDP growth (Chart 1.3). Up until 2014Q4, private consumption growth has been positive for six consecutive quarters. The acceleration of private consumption reflects the improvement in real gross disposable income due to falling headline inflation, as well as the moderate improvement in the labour market (section 1.1.2.2). In 2014, private consumption increased in Germany, the U.K., and Spain, whereas it is expected to contract in Greece, Cyprus, and Croatia; but remained weak in France and Italy (Table A1.2).

Chart 1.3 EU-28 GDP growth and components' contributions, 2008-14

(%)



Source: Eurostat database, and DG ECFIN database.

1.5. Investment remains weak in the EU. In 2014Q3, gross fixed capital formation continued to contract in the euro area, and remained broadly stable throughout the EU after a slight contraction the previous quarter. The slow growth in investment in equipment and construction were the main

contributors to investment in the EU.³ In response to the weakness of investment, the EU launched an Investment Plan which is expected to mobilize at least €315 billion over the next three years, with an aim of supporting the real economy and SMEs. The Investment Plan is intended to support "strategic investments" in infrastructure, including broadband and energy networks, transport infrastructure, renewable energy, and research and innovation.⁴

1.6. Government consumption expanded but at a moderate pace in 2014, reflecting consolidation efforts in some member States (section 1.1.2.1). This was especially so in countries with sizeable adjustment needs such as Italy, Greece, Portugal, Slovenia, Cyprus, and Croatia.

1.7. Although some indicators show signs of improvement, the general outlook for the EU's economic recovery remains fragile. Domestic demand, notably investment, remains weak as shown by the Economic Sentiment Indicator and the Purchasing Managers Composite Index; and unemployment is still high; in particular the number of persons unemployed for more than 24 months which has increased.⁵ Additionally, economic and geopolitical uncertainty surrounding some of its major trading partners could affect exports. On the positive side, a number of recent developments (e.g. depreciation in the euro, the fall in oil prices, the ECB's quantitative easing programme, and improvement in financial conditions) should improve the economic outlook. Taking all these factors into account would suggest that continuing and deepening the ongoing structural reforms are necessary for a stronger recovery in the EU economy.

1.1.2 Structural reforms

1.8. During the review period, a number of structural reforms have taken place in the EU member States in order to enhance competitiveness, covering, *inter alia*, fiscal consolidation, labour-market reform, education, and social welfare. The pace and focus of structural reform vary among member States, although, according to the OECD, the overall pace of reform is well above the pace observed before the crisis.⁶

1.1.2.1 Fiscal governance improvement

1.9. Fiscal consolidation includes measures to discipline public expenditure and to broaden fiscal sources.⁷ In the 2014 Interim Report on policy reform, the OECD stated that many actions taken in 2012-13 supported fiscal consolidation efforts although the reforms tended to concentrate on areas that did not involve substantial up-front budgetary costs.⁸ Some of the reforms were also linked to labour market reforms (section 1.1.2.2), such as changes in the beneficiary systems.

1.10. In the wake of rapidly rising national debt and in response to some EU countries' failure to meet the fiscal targets set out in the EU rules, a number of new rules were introduced, notably the "Six Pack", "Two Pack" and the Treaty on Stability, Coordination and Governance (TSCG)⁹, which are aimed at, *inter alia*, enhancing economic governance through better budgetary surveillance, and swifter sanction against infringements.¹⁰ Under the Excessive Deficit Procedure (EDP), member States are required to reduce their fiscal deficits and/or public debts. The rules to correct excessive deficits were reinforced, in particular by requiring that, if a member State has a debt-to-GDP ratio greater than 60%, it must reduce the excess by at least 5% a year on average over

³ Equipment investment and construction investment in the euro area continued to shrink.

⁴ European Commission document COM(2014) 903 final, 26 November 2014. Viewed at: <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52014DC0903&from=EN>.

⁵ European Commission (2015), *European Economic Forecast, Winter 2015*. Viewed at: http://ec.europa.eu/economy_finance/publications/european_economy/2015/pdf/ee1_en.pdf.

⁶ OECD (2014), *Economic Policy Reforms 2014: Going for Growth Interim Report*. Viewed at: http://www.oecd-ilibrary.org/economics/economic-policy-reforms-2014_growth-2014-en [10/01/15].

⁷ The OECD defines fiscal consolidation as a policy aimed at reducing government deficits and debt accumulation. Detailed explanations can be found at: <http://www.oecd.org/tax/public-finance/choosing-fiscal-consolidation-instruments.htm> [10/01/2015].

⁸ OECD (2014), *Economic Policy Reforms 2014: Going for Growth Interim Report*. Viewed at: http://www.oecd-ilibrary.org/economics/economic-policy-reforms-2014_growth-2014-en [10/01/15].

⁹ The Treaty on Stability, Coordination and Governance (TSCG) is an intergovernmental treaty which has 25 contracting parties, including all member States in the euro area. Croatia, the Czech Republic, and the United Kingdom are not contracting parties to the TSCG.

¹⁰ European Commission document MEMO/13/318, 10 April 2013. Viewed at: http://europa.eu/rapid/press-release_MEMO-13-318_en.pdf [13/10/15].

three years. In addition, euro area member States that breach the 3% of GDP deficit reference value and/or the debt criteria are subject to extra surveillance as laid out in the "Two Pack". Surveillance in the preventive arm of the fiscal rules, which encourages member States to maintain sound fiscal policies over the medium-term, was also reinforced. Member States are required to attain a country-specific medium-term objective (MTO), set out by them respecting a country-specific limit. To that end, member States must deliver a minimum annual fiscal adjustment according to their cyclical conditions and comply with the "expenditure benchmark".

1.11. During the period under review, Austria, Belgium, Bulgaria, the Czech Republic, Denmark, Finland, Germany, Hungary, Italy, Latvia, Lithuania, Luxembourg, the Netherlands, Romania, and Slovakia exited the EDP, leaving 11 member States subject to EDP measures. Estonia and Sweden were not subject to the EDP.¹¹ The Commission, in early 2015, estimated that the deficit-to-GDP ratios should have decreased further in 2014 to 3% of GDP in the EU and 2.6% of GDP in the euro area, though to a lesser extent than in 2013. The debt-to-GDP ratio is expected to broadly stabilise around 2014-2015 in the EU and in the euro area, albeit at relatively high levels of 88% and 94% respectively.¹²

1.12. Fiscal consolidation was largely achieved through increasing revenue in 2013 and lowering expenditure in 2014. Revenue-to-GDP ratio in the EU peaked in 2013 at 45.4% with a small decline projected in the years thereafter. In the euro area, revenues are projected to peak in 2014 at 46.6% of GDP and to broadly stabilize in the following years. This is largely due to higher revenues from indirect taxes coming from the acceleration of private consumption. However, despite a recommendation by the OECD, little action has been taken to limit the use of reduced rates of value-added tax (VAT) (section 3.3.3): only France was reported to have increased some reduced rates (for catering, prepared food products, transport, and renovation work) from 7% to 10% in 2014. The downward trend of expenditure was confirmed as the expenditure-to-GDP ratio fell from 49.9% in 2010 to 48.1% in 2014.¹³ The decrease in expenditure mainly resulted from cost-containment in public wages and lower interest expenditure.

1.13. As the OECD noted, implementing consolidation measures may have adverse side-effects such as weakening domestic demand for consumption and investment, as well as demand for imports. However, as there may be a trade-off between consolidation and other policy objectives, the OECD suggested boosting the scope for efficiency gains through structural reforms.¹⁴ Some research has also argued that the impact of fiscal consolidation on trade is limited: only 4.1% of the total value of public procurement published in the *Tenders Electronic Daily* (TED) in 2011 was awarded directly cross-border to foreign suppliers.¹⁵

1.1.2.2 Labour market reforms

1.14. During the period under review, a number of measures to improve the functioning of labour markets were adopted. These measures cover areas including early retirement schemes, employment protection legislation, and activation and assistance for those not working.

1.15. There have been some reforms affecting the labour market such as decentralized wage bargaining and more flexible wage arrangements, especially in some member States: in Greece and Spain, collective agreements at the enterprise level were given more priority than those at the sector level; conditions for justified dismissals have been eased in France, Portugal, Slovenia, and

¹¹ European Commission online information, "The corrective arm". Viewed at: http://ec.europa.eu/economy_finance/economic_governance/sgp/corrective_arm/index_en.htm [14/01/15].

¹² See European Commission (2015), *European Economic Forecast, Winter 2015*, viewed at: http://ec.europa.eu/economy_finance/publications/european_economy/2015/pdf/ee1_en.pdf; also see European Commission document COM(2014) 902 final, 28 November 2014, viewed at: http://ec.europa.eu/europe2020/pdf/2015/ags2015_en.pdf [15/01/15].

¹³ The figure for 2014 is an estimated number. A similar trend is also observed in the euro area.

¹⁴ Boris Cournède, Antoine Goujard, Álvaro Pina, and Alain de Serres (2013), *Choosing fiscal consolidation instruments compatible with growth and equity*, OECD Economic Policy Paper, No. 07/42. Viewed at: http://www.oecd-ilibrary.org/economics/choosing-fiscal-consolidation-instruments-compatible-with-growth-and-equity_5k43nxq6dzd4-en [13/10/15].

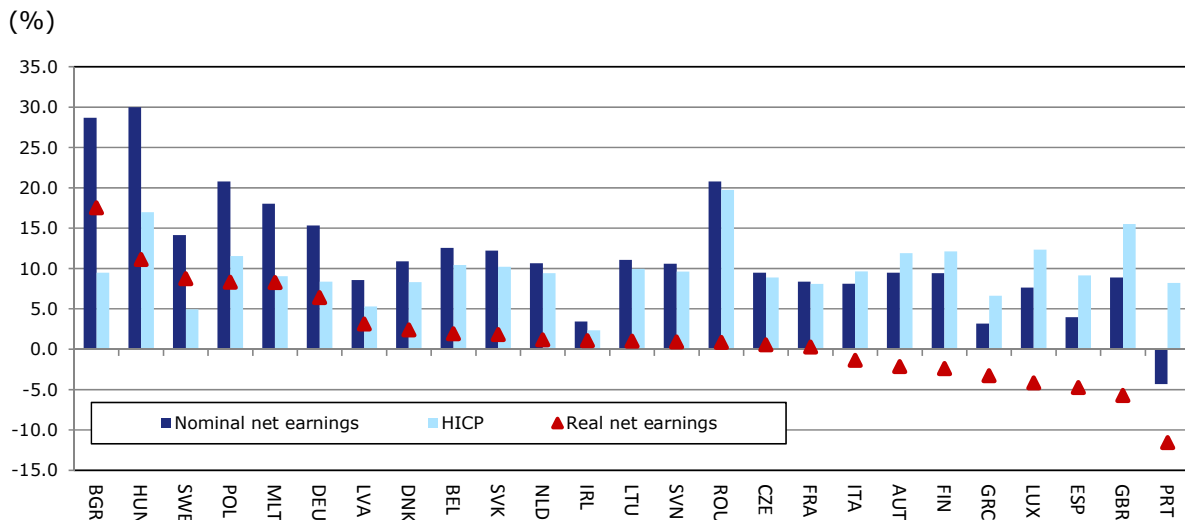
¹⁵ Kutlina-Dimitrova, Zornitsa, and Csilla Lakatos (2014), *Determinants of Direct Cross-border Public Procurement in EU Member States*, DG Trade Chief Economist Note, issue 2. Viewed at: http://trade.ec.europa.eu/doclib/docs/2014/july/tradoc_152700.pdf.

Spain; and Italy initiated a comprehensive reform aimed at reducing segmentation as well as extending the scope of welfare rights.

1.16. In order to encourage higher participation in the labour market, a number of countries reformed their beneficiary systems, including reforms to the pension schemes (e.g. Poland), and the introduction of universal unemployment benefit in Italy. The terms of unemployment benefits have been tightened and linked to other Active Labour Market Policy (ALMP) in member States, such as in the Czech Republic and Spain. Taxes on labour income have also been eased in some member States, for example the Netherlands reduced the top rate of income tax in 2012, and several member States reduced social security contributions for self-employed workers (e.g. France).

1.17. Some indicators suggest that labour markets in the EU have become more flexible. Over the period 2010-13, real income of workers (indicated by the net earnings of a single person without children adjusted for inflation) decreased in several EU member States. The largest decreases were found in Portugal, followed by the United Kingdom, Spain, Luxembourg, and Greece. On the other hand workers in Hungary, Sweden, and Poland enjoyed a notable increase in their real income (Chart 1.4).

Chart 1.4 Cumulative growth of net earnings – nominal and adjusted for HICP inflation, 2010-14



Note: 2010-2013 cumulative growth for Bulgaria, Malta, Latvia, Lithuania, and Romania.

Source: Information provided by the European Commission, calculations based on Eurostat data.

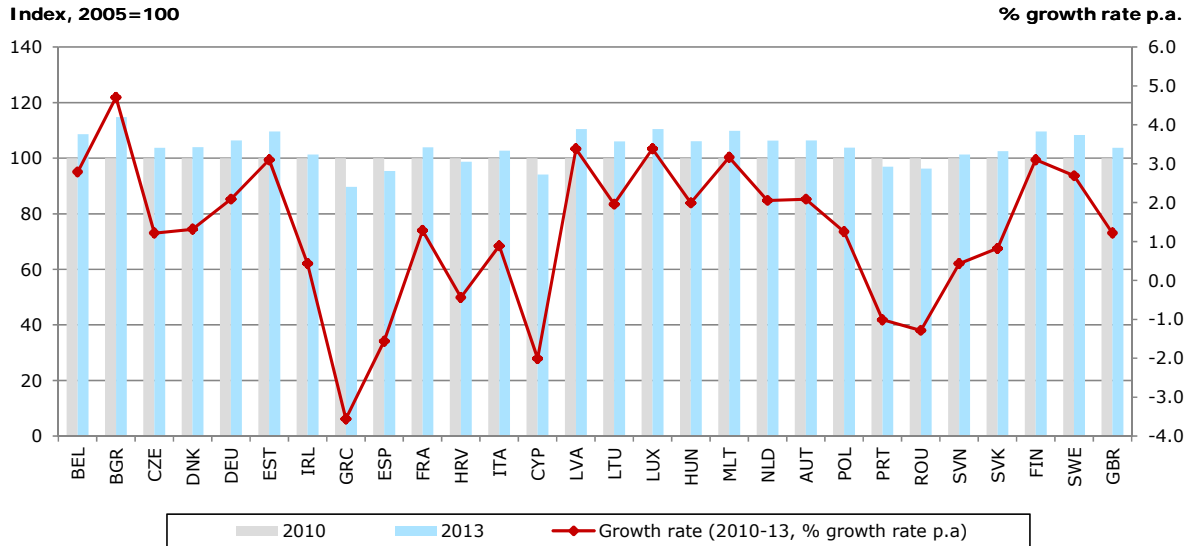
1.18. These labour market reforms have started to show results: employment picked up faster and more strongly in response to the rebound in economic activity, compared to the usually lagged response in previous crises. A rise in employment was observed in a large majority of member States, including those with the highest unemployment rates: in 2014Q3, employment in Greece grew 1.7% on a quarter-on-quarter basis, 1.4% in Portugal, and 0.3% in Spain; long-term unemployment also fell in 2014Q3.

1.19. Labour market reforms, including support measures for training and education that aim to enhance productivity, should contribute to greater competitiveness, at least as indicated by Unit Labour Costs (ULCs).¹⁶ Slower growth or a decline in ULCs does not necessarily suggest lower earnings, as it may be the result of improved labour productivity (Chart 1.5). In particular, in

¹⁶ Unit Labour Costs (ULCs) are defined as the average cost of labour per unit of output and are calculated as the ratio of total labour costs to real output. A rise in ULCs represents an increased reward for labour's contribution to output. ULCs should not be interpreted as a comprehensive measure of competitiveness, but as a reflection of cost-competitiveness. ULC measures deal exclusively with the cost of labour which, though important, should also be considered in relation to changes in the cost of capital, especially in advanced economies. Viewed at: <http://stats.oecd.org/glossary/detail.asp?ID=2809>.

Greece, Portugal, Spain, and Romania, ULCs fell in 2013, which indicated improvements in competitiveness and the terms-of-trade (for both intra- and extra-EU exports).

Chart 1.5 Nominal unit labour costs (index), 2010 and 2013

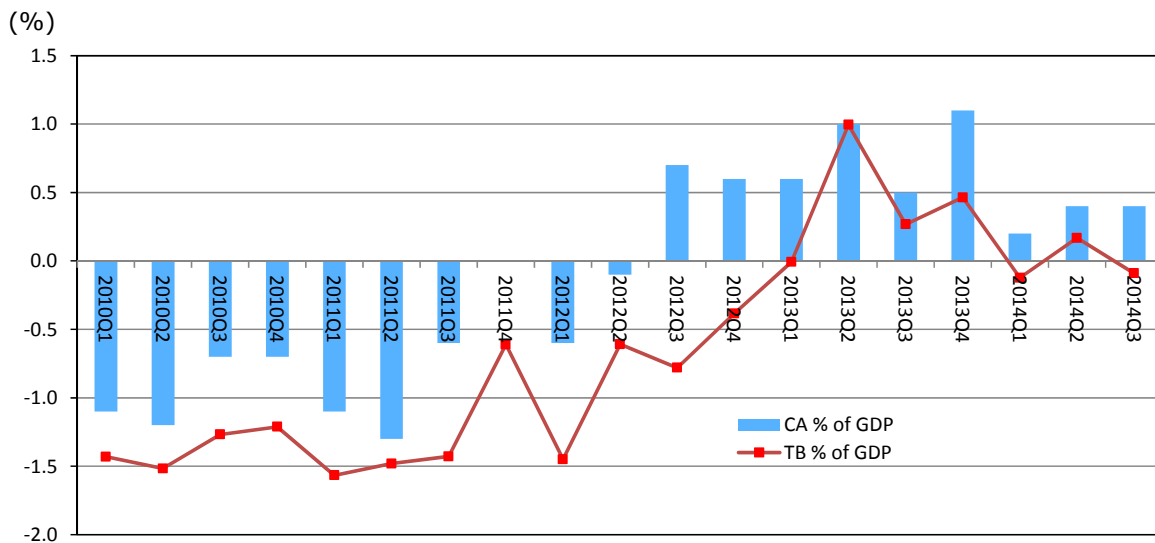


Source: Eurostat online database. Viewed at: <http://ec.europa.eu/eurostat/data/database>.

1.1.2.3 Current account imbalance

1.20. The current account imbalances of most EU member States have narrowed substantially since they peaked before the crisis started in autumn 2008; the sharp decline in oil prices since June 2014 further strengthened the current account surplus for the EU as a whole (Chart 1.6). However, the OECD has argued that the narrowing in current account imbalances can be caused by cyclical factors such as negative output gaps, while the structural component of such imbalance appears not to have changed much.¹⁷

Chart 1.6 Current account and trade balance as a share of GDP, 2011Q1-2014Q3



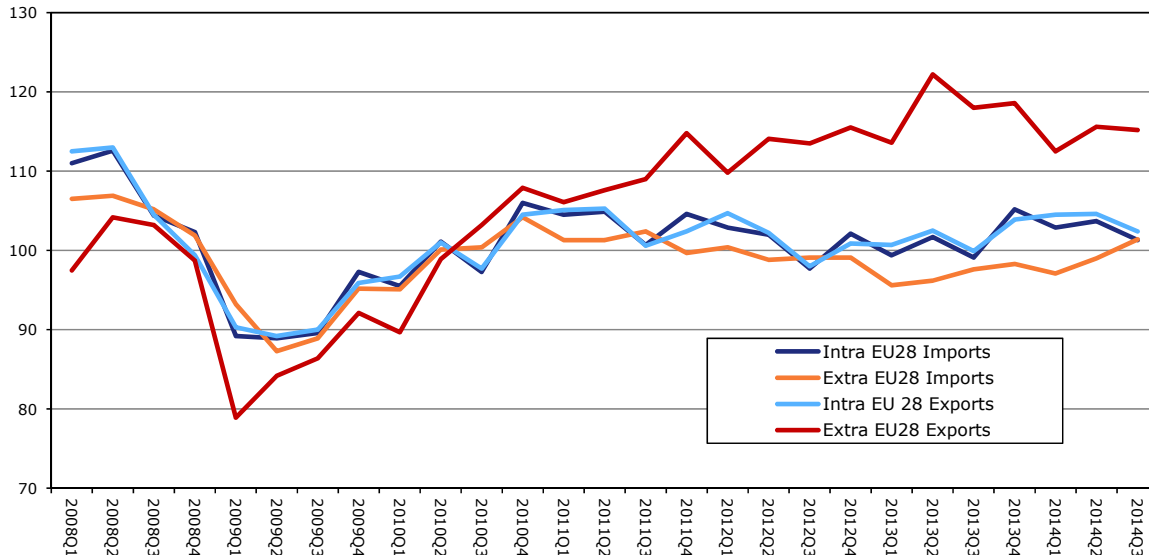
Source: Eurostat online database. Viewed at: <http://ec.europa.eu/eurostat/data/database>.

¹⁷ OECD (2014), Economic Policy Reforms 2014: *Going for Growth Interim Report*. Viewed at: http://www.oecd-ilibrary.org/economics/economic-policy-reforms-2014_growth-2014-en [10/01/15].

1.2 Trade Performance

1.21. International trade remained an important driver of economic growth in the EU for the period 2010-13 (Chart 1.3). Taking the EU-28 as a whole, by late-2010 the extra-EU export volume, which measures exports in real terms, had fully recovered from the global financial crisis and has continued to grow since then as the volume of extra-EU exports increased 25.5 percentage points since 2010Q1. However, extra-EU imports have been subdued reflecting weak domestic demand, especially the shortfall of investment (Chart 1.7).

Chart 1.7 EU-28 trade volume (index), 2008Q1-2014Q3



Note: Base year 2000, index value in 2000=100. Data has not been seasonally adjusted.

Source: Eurostat online database. Viewed at: <http://ec.europa.eu/eurostat/data/database>.

1.22. The recent depreciation of the euro relative to the EU's major trading partners is also expected to strengthen the competitiveness of the EU and euro area exporters. However, the impact of a weak euro, as the Commission forecasts, remains moderate because only about half of the change in exchange rates is usually passed through to export prices. Considering the expected increase in imports due to domestic demand growth, it is expected that net exports will contribute little to GDP growth over the next few years.¹⁸

1.2.1 Intra-EU trade

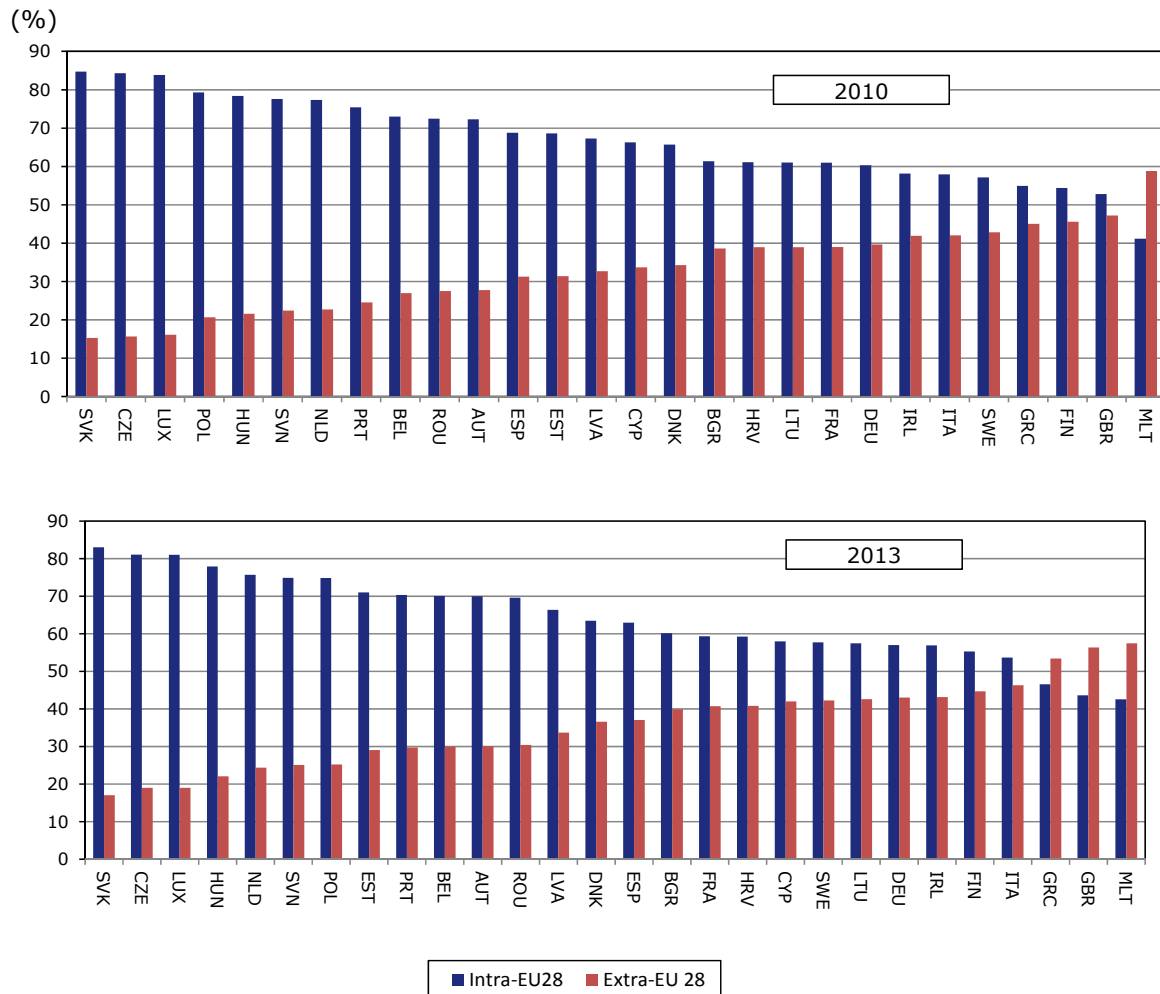
1.23. During the period under review, intra-EU trade in real terms has not yet recovered to pre-crisis levels (Chart 1.7), which reflects the weak economic activity in the region. However, despite the growth in extra-EU exports and the decline/stagnation in intra-EU trade, the nominal value of intra-EU trade remains much greater than the value of extra-EU trade. In 2013, intra-EU exports accounted for €2,839 billion compared to €1,738 billion for extra-EU exports.

1.24. The share of intra-EU exports in total exports varies among member States, but in most cases is above 50% (except Greece, the United Kingdom, and Malta in 2013). Intra-EU exports from member States in the central- and eastern-EU such as the Czech Republic, Estonia, and Poland accounted for the majority of their total exports (Chart 1.8).

1.25. The composition of intra-EU merchandise trade did not change much during the review period (Table A1.5): machinery and transport equipment accounted for the largest share (33% in 2013), followed by other manufactured goods (26%), and chemicals (16%).

¹⁸ European Commission (2015), *European Economic Forecast, Winter 2015*. Viewed at: http://ec.europa.eu/economy_finance/publications/european_economy/2015/pdf/ee1_en.pdf.

Chart 1.8 Intra- and extra-EU exports, 2010 and 2013



Source: Eurostat online database. Viewed at: <http://ec.europa.eu/eurostat/data/database>.

1.26. As with intra-EU merchandise trade, for most EU member states, intra-EU trade in services accounted, on average, for more than half of their international transactions. The largest surplus of intra-EU services trade in 2013 was recorded by Luxembourg (€18.0 billion), followed by the U.K. (€12.0 billion) and the Netherlands (€10.6 billion). Germany recorded the highest deficit (€40.0 billion) and it was the biggest intra-EU trader of services, accounting for 18% of intra-EU imports and 12% of intra-EU exports.¹⁹ Some observers, such as the OECD, stated that removing internal barriers would significantly boost intra-EU trade in services, and thus achieve higher economic growth.²⁰ The Commission noted that the Single Market Acts I and II have addressed such issues.

1.2.2 Extra-EU trade

1.27. Extra-EU trade continued to grow in both nominal and real terms during the period under review. However the EU's share of world trade in goods and services has continued to decline: in 2013 EU exports of goods and services accounted for 16.4% of world trade, a decrease from 19.5% in 2004 and 17.3% in 2010.²¹ For the period 2010-13, the EU's share of world merchandise trade decreased slightly, from 15.8% in 2010 to 15% in 2013.

¹⁹ Eurostat data extraction. Viewed at: http://appsso.eurostat.ec.europa.eu/ITS_services_balance.

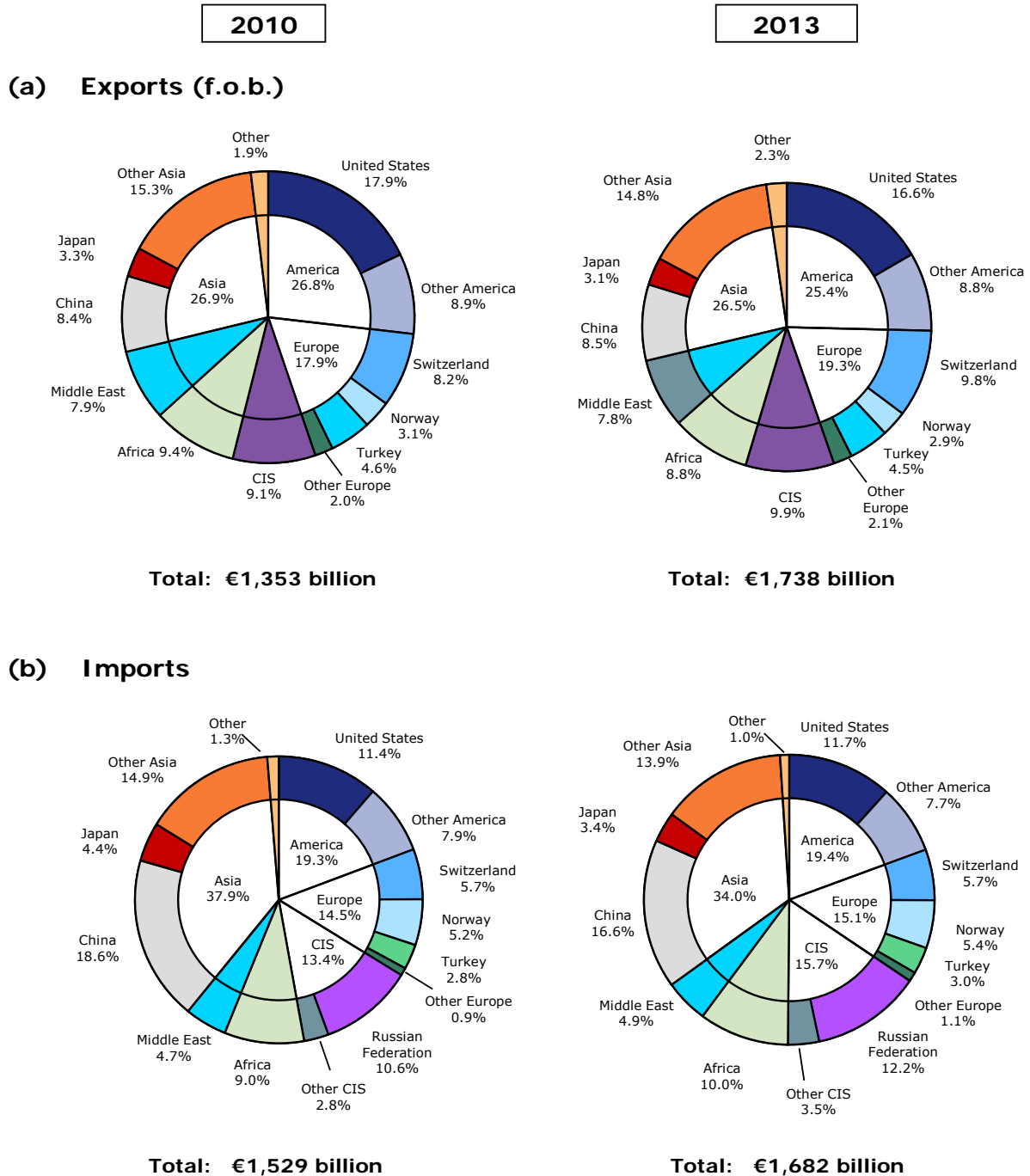
²⁰ OECD (2014), *Economic Surveys: European Union 2014*. Viewed at: http://www.oecd-ilibrary.org/economics/oecd-economic-surveys-european-union-2014_eco_surveys-eur-2014-en.

²¹ European Commission online information, "EU position in world trade". Viewed at: http://trade.ec.europa.eu/doclib/docs/2006/september/tradoc_122532.pdf [09/01/15].

1.28. Regarding merchandise trade, the United States remains the biggest market for EU exports, accounting for 16.6% of the EU's exports to the world in 2013, followed by Switzerland with 9.8%. Asia, including China (8.5%) and Japan (3.1%), was the largest regional market for EU goods, accounting for 26.5% in 2013 (Chart 1.9).

Chart 1.9 Direction of merchandise trade, 2010 and 2013

(%)



Source: WTO Secretariat calculations, based on Eurostat data.

1.29. Asia remained the largest source of EU imports with 34% of total EU imports in 2013, although this was a decrease from 37.9% in 2010 (Chart 1.9). Although the import value increased in current prices, the volume of EU imports, measured in real terms, dropped 3.2

percentage points during 2010-13 (Chart 1.7).²² By country, China was the biggest source of imports, accounting for 16.6%, followed by the Russian Federation (12.2%), the United States (11.7%), Switzerland (5.7%), and Norway (5.4%).

1.30. With regard to composition of merchandise trade, manufactured goods accounted for the largest share of EU exports and imports. Transport equipment was the largest category accounting for 16.4% of total exports in 2013, up from 15.5% in 2010. Machinery as a whole, including electrical (4.5%), non-electrical (12.5%), and power generating machinery (3.0%) accounted for the largest share of EU exports. Chemical products accounted for 15.7% of exports in 2013 (Chart 1.10).

1.31. Other than manufactured goods, nearly 30% of the 2013 value of imports was fuels, up from 25.2% in 2010. This increase in import value for fuels reflected higher prices in 2010-13.

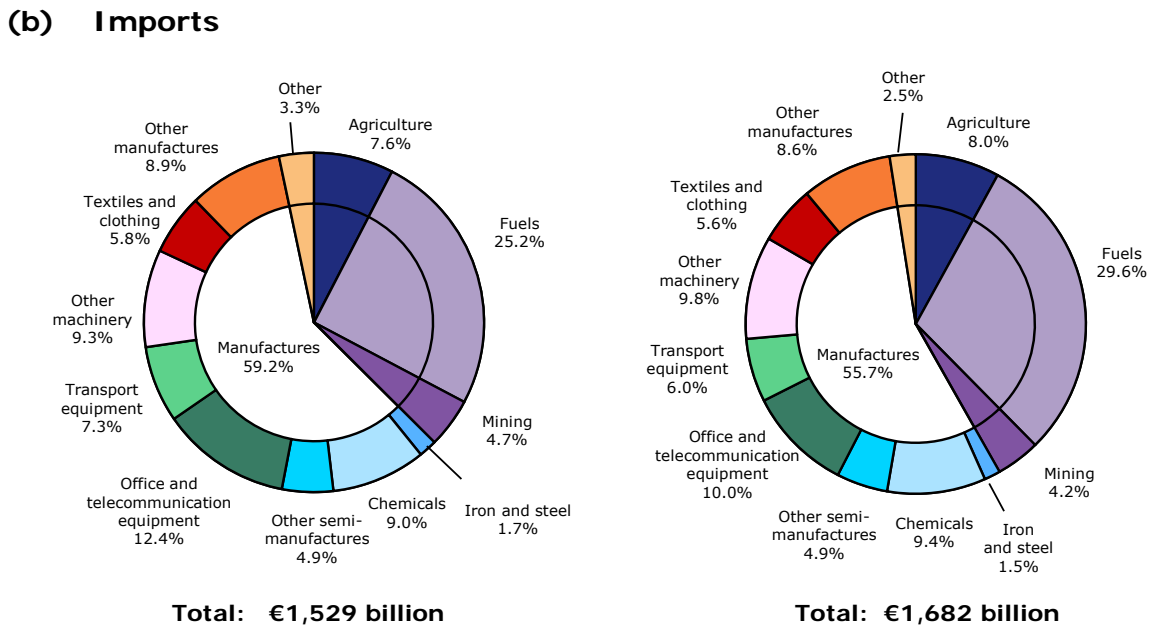
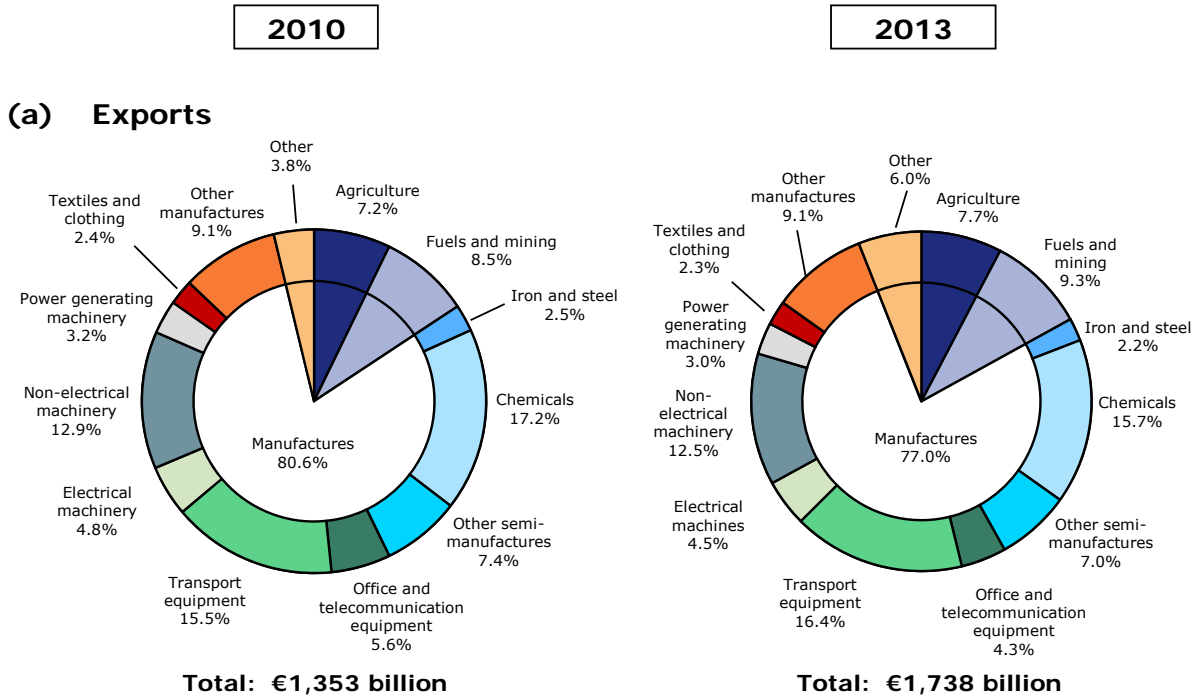
1.32. Regarding extra-EU trade in services, exports in 2013 grew by 5% compared to the previous year, reaching €709.7 billion (Table 1.1). During the period 2012-13, the EU remained a net exporter of services. The surplus in EU services trade in 2013 was €178 billion, up from €160.9 billion in 2012. It has been argued that the EU's services trade would be significantly larger if one took account of services embedded in manufactured goods exports were taken into account.²³

²² The Commission pointed out that the EU's import volume has reached the same level as in mid-2010, according to the latest available data.

²³ Cernat, Lucian, and Zornitsa Kutlina-Dimitrova (2014), *Thinking in a box: A 'Mode 5' approach to services trade*, Journal of World Trade, vol 48(6), pp. 1109-26. Viewed at: <https://www.kluwerlawonline.com/abstract.php?area=Journals&id=TRAD2014039>.

Chart 1.10 Composition of merchandise trade, 2010 and 2013

(%)



Note: Product groups categorized by SITC, Rev.4

Source: WTO Secretariat calculations, based on Eurostat data.

Table 1.1 Extra-EU trade in services, components and partners, 2012-13

	Export		Import	
	2012	2013 ^a	2012	2013 ^a
Total (€ billion)	675.8	709.7	514.9	531.6
	% of total			
Manufacturing services on physical inputs owned by others	3.01	2.96	1.39	1.16
Maintenance and repair services n.i.e.	1.02	1.21	0.54	1.39
Transport	21.03	20.08	23.24	23.00
Sea transport	11.26	10.81	11.33	10.63
Air transport	6.75	6.06	7.82	8.27
Other modes of transport	2.67	2.79	3.58	3.40
Travel	14.20	14.50	17.55	16.82
Business	2.57	2.47	3.98	3.84
Personal	11.63	12.03	13.57	12.98
Construction	1.65	2.08	1.12	1.00
Insurance and pension services	4.64	4.45	2.15	2.09
Direct insurance	3.44	2.92	0.74	0.83
Reinsurance	0.73	1.09	1.24	1.02
Financial services	10.27	10.40	5.55	5.71
Financial services explicitly charged and other financial services	8.23	8.37	4.79	4.83
Financial intermediation services indirectly measured (FISIM)	2.04	2.03	0.76	0.88
Charges for the use of intellectual property n.i.e.	5.35	5.05	8.51	8.34
Telecommunications, computer, and information services	11.23	11.36	8.36	8.81
Telecommunications services	2.67	2.54	2.46	2.45
Computer services	8.14	8.28	5.50	5.90
Information services	0.42	0.54	0.39	0.46
Other business services	24.88	25.12	28.51	28.65
Research and development services	3.84	4.00	5.25	5.21
Legal services	0.89	0.78	0.52	0.53
Accounting, auditing, bookkeeping, and tax consulting services	0.69	0.61	0.73	0.52
Business and management consulting and public relations services	4.33	4.16	4.88	4.74
Advertising, market research, and public opinion polling services	1.96	2.12	2.66	2.64
Architectural services	0.31	0.15	0.13	0.06
Engineering services	3.05	3.10	1.15	1.11
Scientific and other technical services	1.27	0.97	0.97	0.86
Waste treatment and de-pollution, agricultural and mining services	0.88	1.22	0.32	0.39
Operating leasing services	1.33	1.38	1.27	1.36
Trade-related services	1.27	1.55	3.85	4.29
Other business services n.i.e.	5.08	5.08	6.78	6.93
Personal, cultural, and recreational services	1.12	1.28	1.71	1.81
Audiovisual and related services	0.66	0.85	0.91	0.86
Personal, cultural, and recreational services other than audiovisual and related services	0.46	0.42	0.80	0.95
Government goods and services n.i.e.	1.31	1.21	1.31	1.17
Services not allocated	0.28	0.30	0.07	0.06
Selected trading partners/region				
European Free Trade Association	17.82	17.85	12.66	13.05
Iceland	0.14	0.10	0.15	0.18
Liechtenstein	0.13	0.11	0.07	0.06
Norway	3.56	3.62	2.49	2.62
Switzerland	13.99	14.02	9.96	10.19
Turkey	1.46	1.48	2.81	2.89
Russian Federation	4.26	4.32	2.70	2.69
Africa	7.04	6.46	7.10	6.66
Northern Africa	2.13	1.93	3.50	3.19
Egypt	0.54	0.45	1.11	0.98
Morocco	0.47	0.44	0.88	0.86
Central and South Africa	4.91	4.53	3.60	3.47
South Africa	1.10	1.01	0.85	0.85
Northern America	28.03	27.95	32.71	32.27
Canada	2.58	2.46	2.16	2.14
United States	25.43	25.46	30.49	30.07
Mexico	1.13	1.07	0.69	0.71

	Export		Import	
	2012	2013 ^a	2012	2013 ^a
Argentina	0.62	0.57	0.47	0.42
Brazil	2.34	2.08	1.27	1.18
Asia	23.01	23.80	22.93	23.02
China	3.71	4.09	3.88	3.93
Hong Kong, China	1.45	1.38	1.78	1.83
Japan	3.55	3.49	3.05	2.75
Chinese Taipei	0.67	0.65	0.57	0.62
India	1.74	1.62	2.44	2.30
Australia	2.82	2.65	1.67	1.54
New Zealand	0.36	0.30	0.31	0.26

a Provisional data.

Note: Data reported according to BPM6.

Source: Eurostat online database. Viewed at: <http://ec.europa.eu/eurostat/data/database>.

1.33. The major activities of services trade were recorded under "other business services": in 2013, "other business services" accounted for 25% of exports and 28% of imports of services (Table 1.1).²⁴ Other business services, professional services and technical services (e.g. legal services, accounting services, architectural services, engineering services, etc.) accounted for 10.9% of exports and 9.6% of imports in 2013, with a surplus of €26 billion. Financial services together with insurance and pension services generated the biggest services trade balance in 2013, with a surplus of €64 billion (35% of EU total services trade surplus).

1.34. In services the U.S. remained the largest trading partner, accounting for 25% of exports and 30% of imports in 2013. Switzerland accounted for around 14% of exports and 10% of imports. Asian economies, including China; Hong Kong, China; India; Japan; and Chinese Taipei, accounted for 23% of exports and imports, respectively.

1.35. The U.K. was the largest services exporter among the EU member States, accounting for 33.9% of total services exports in 2013. The U.K. recorded the highest surplus of services trade with €92 billion, followed by Spain (€48 billion), and Luxemburg (€22 billion). Germany and Finland were the only EU member States with a deficit in services trade in 2013.²⁵

1.3 Foreign Direct Investment

1.36. The EU as a whole continues to be the largest recipient and supplier of foreign direct investment (FDI) in the world, although it is a net investor. As at end 2013, it held €4,900 billion FDI stocks outside the EU against €3,778 billion in stocks held inside the EU.

1.37. Flows of FDI have gradually recovered since the onset of the global financial crisis. In 2013, the outbound flow reached €478 billion, and the inbound flow was €523 billion, compared to €332 billion and €274 billion respectively in 2009, (however, differences in methodologies make such a comparison tentative).²⁶

²⁴ Data on the EU's services trade for 2012-13 is based on BPM6 services' classification, and is available on Eurostat online database. The data organized according to BPM6 is not directly comparable with data organized according to other classifications (e.g. services trade reported in the previous Review of the EU). Also see Eurostat online information, "Measuring international trade in services - from BPM5 to BPM6", viewed at: http://ec.europa.eu/eurostat/statistics-explained/index.php/Measuring_international_trade_in_services_-_from_BPM5_to_BPM6 [31/03/15].

²⁵ Eurostat data extraction. Viewed at: http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=bop_its6_det&lang=en.

²⁶ Data on EU's FDI in 2013 is based on BPM6 whereas the FDI data in 2009 is based on BPM5. The methodological changes in compilation make the values of FDI, both in terms of flows and stocks, not directly comparable under different presentations (i.e. BPM6 versus BPM 5). In the case of FDI, treatments to the recording of reverse investment and of permanent debt are significantly different, which also cause the non-comparability. For a detailed explanation, see IMF document, *FAQs on Conversion from BPM5 to BPM6*. Viewed at: <https://www.imf.org/external/pubs/ft/bop/2007/bpm6faq.pdf>.

Table 1.2 Foreign direct investment flows, 2013

(€ million)

	Outbound	Inbound
Intra-EU FDI	294,807.40	247,710.10
Extra EU FDI	477,509.90	523,020.00
European Free Trade Association	36,441.60	34,266.80
Iceland	-378.9	407.6
Liechtenstein	326.5	-552.6
Norway	8,022.30	5,004.00
Switzerland	28,472.00	29,406.80
Turkey	934.5	2,577.40
Russian Federation	4,685.40	-2,333.40
Euro-Med Partnership Countries	13,592.90	7,285.80
Egypt	1,795.00	2,469.70
Morocco	233.3	414.1
Africa	24,467.10	6,662.80
Central and South Africa	11,200.40	3,021.50
South Africa	2,339.60	410.6
Nigeria	2,299.60	127.1
America	347,444.40	447,385.10
Canada	8,146.20	13,493.10
United States	225,200.50	421,242.30
Mexico	20,334.20	3,668.90
Chile	4,705.20	886.5
MERCOSUR	38,276.40	7,674.00
Argentina	4,486.50	349.9
Brazil	37,828.70	9,637.40
Asia	46,381.90	43,772.40
China ^a	17,101.50	4,753.20
Hong Kong, China	10,018.90	3,952.40
Japan	5,104.80	14,796.90
Korea, Republic of	1,220.90	1,250.30
Chinese Taipei	773.9	61.2
India	4,300.70	1,409.20
ASEAN	14,131.90	7,783.10
Malaysia	1,940.60	617.5
Philippines	282.7	204
Singapore	10,974.50	6,817.10
Thailand	-2,792.90	304.9
Gulf Arabian Countries	6,565.10	9,291.10
Australia	10,371.30	6,228.30
New Zealand	766	33.6

Note: Data reported according to BPM6.

Source: Eurostat online database. Viewed at: <http://ec.europa.eu/eurostat/data/database>.

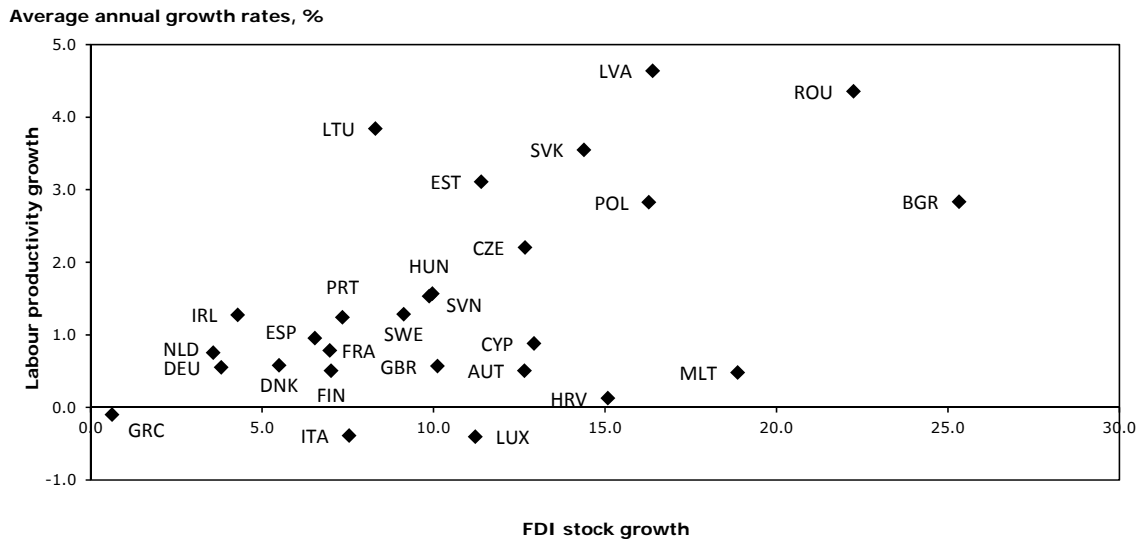
1.38. The EU's FDI flows to advanced economies reverted to significant growth in 2013; the United States accounted for 47% of outward FDI flows in 2013; Switzerland for 6% and Australia for 2%. Among emerging markets, Brazil accounted for 7.9%, Mexico for 4.3% and China for 3.6% (Table 1.2).

1.39. The United States is the largest sources of inward FDI into the EU, both in terms of stocks and flows (Table A1.10). Among the member States, Germany, France, the Netherlands, and Luxembourg are the main locations of FDI stocks.

1.40. FDI can be an important source of productivity gains, and higher labour productivity may contribute to further FDI growth. In the period of 2003-12, labour productivity grew strongly in the EU's eastern member States, as did FDI stocks (Chart 1.11). In view of encouraging FDI and productivity gains, the OECD suggested that the EU member States further reduce barriers to business such as specific equity restrictions, approval requirements and other operation restrictions (section 2.4.1).²⁷

²⁷ OECD (2014), Economic Surveys: European Union 2014. Viewed at: http://www.oecd-ilibrary.org/economics/oecd-economic-surveys-european-union-2014_economic_surveys-eur-2014-en.

Chart 1.11 FDI and labour productivity growth, 2003-12



Note: No data available for Belgium; data for Lithuania available for 2005-12. FDI data include intra-EU FDI; data reported according to BPM5.

Source: Eurostat online database. Viewed at: <http://ec.europa.eu/eurostat/data/database>.

2 TRADE AND INVESTMENT REGIME

2.1 Legal and Institutional Framework¹

2.1. There have been no major changes in the legal and institutional framework for trade and investment policies in the EU since the last Review in 2013. In accordance with the Treaty on the Functioning of the European Union (TFEU), the Common Commercial Policy (CCP) remains the exclusive competence of the EU.² In addition, customs union, agricultural and fisheries policy, internal market, and consumer protection, among others, are areas where the EU has exclusive or shared competence.³

2.2. The scope of common commercial policy covers trade in goods, trade in services, the commercial aspects of intellectual property rights, foreign direct investment, and trade defence measures.⁴ In these areas, member States may act individually only when authorized by the EU. In the areas of shared competences (e.g. consumer protection, transport, etc.), the EU member States retain varying degrees of independent regulatory authority, depending on whether, and to what extent, the EU has already adopted measures. Hence, the adoption of national measures in these areas may affect trade within the EU, and with non-EU countries.

2.3. The EU's trade and trade-related policies are formulated and implemented by means of two types of legislation: primary legislation (e.g. treaties and other agreements of similar status), and secondary legislation. Secondary legislation can take the form of:

- regulations (with general application) that are binding and directly applicable to all member States;
- directives that require transposition into national law and practice;
- decisions that are binding on those addressed in the decision; and
- recommendations and opinions, that are based on primary legislation but are not legally binding.

2.4. Some outside observers have pointed out that using the form of directives may increase the EU-origin regulatory burdens through the domestic legal acts needed to transpose directives into national law which may increase the probability of non-uniform application of EU rules.⁵ The Commission indicated that trade policy is administered, in general, in the form of regulations that ensure the uniform implementation of the common commercial policy throughout the EU.

2.5. The EU's trade policy is decided through the "ordinary legislative procedure" under which the Commission puts forward legislative proposals to the European Parliament and the Council which may, in turn, propose amendments.

2.6. The Commission implements trade policy through "delegated acts" and "implementing acts".⁶ Under "delegated acts", the legislators (i.e. the Council and the European Parliament) delegate power to the Commission to adopt non-legislative acts of general application, in order to supplement or amend certain non-essential elements of the legislative act. Under "implementing acts", the Commission, where specified in the primary legislation, acquires the necessary implementing powers in instances where uniform conditions for implementing legally binding EU acts are needed. The Commission's exercise of implementing powers is controlled by the member

¹ The legal and institutional framework of the EU does not extend to all territories under the jurisdiction of all member States. According to some member States, their membership of the WTO includes some territories for which they have jurisdiction, but these territories are not covered by their membership of the EU. This report does not cover these territories.

² Article 3(1), the Treaty on the Functioning of the European Union (TFEU).

³ For detailed competences of the EU, see: Europa online information. Viewed at: http://europa.eu/legislation_summaries/institutional_affairs/treaties/lisbon_treaty/ai0020_en.htm; and European Commission's European citizens' initiative online information. Viewed at: <http://ec.europa.eu/citizens-initiative/public/competences/faq>.

⁴ Article 207 (1), TFEU.

⁵ OECD (2014), OECD Economic Survey: European Union, April 2014. Viewed at: http://www.oecd-ilibrary.org/economics/oecd-economic-surveys-european-union-2014_eo_surveys-eur-2014-en.

⁶ Articles 290 and 291(2), TFEU.

States through "comitology", the procedure whereby committees composed of representatives from member States assist the Commission in executing the "implementing powers" conferred upon it by the legislators. The rules of "comitology" have not changed since March 2011.⁷

2.7. The adaptation of trade instruments to the new "comitology" rules has been completed on the Trade Omnibus I and II Regulations, and entered into force on 20 February 2014.⁸ According to the Commission, the Trade Omnibus Regulations form part of the alignment of legislation to the new regime for implementing and delegating acts introduced by the Lisbon Treaty. Omnibus I covers 22 pieces of legislation, largely on trade defence instruments (the anti-dumping regulation, safeguard legislation etc.); whereas Trade Omnibus II concerns seven pieces of legislation, largely on trade relations (e.g. EPAs). The Commission made proposals for a codification of the acts concerned by Trade Omnibus I and II in order to improve the legibility of those acts.⁹

2.8. Before commencement of trade negotiations with a non-EU territory or territories, the Commission must acquire prior authorization from the Council whose decisions are taken by qualified majority voting (QMV).¹⁰ The Commission must conduct negotiations in consultation with a special committee appointed by the Council (usually the Trade Policy Committee), and within the framework of relevant Council negotiating directives. The Commission must regularly report the progress of negotiations to the special committee and the European Parliament.

2.9. On ratification of trade agreements, the European Parliament and the Council vote on trade agreements as a whole. The European Parliament ratifies trade agreements by simple majority, while the Council generally needs a qualified majority to give consent. Unanimity in the Council is required for agreements on trade in services, commercial aspects of intellectual property rights, and foreign direct investment that include provisions for the adoption of internal rules. Unanimity in the Council is also required for the negotiation and conclusion of agreements on trade in cultural and audiovisual services, and in social, education and health services.¹¹ For agreements that go beyond the competence of the EU (e.g. CCP), ratification by the national parliaments of individual member States may be required.

2.10. The Council may agree to the provisional application of a trade agreement, where parliamentary consent is not required. However, if the European Parliament were to refuse to consent to the conclusion of an agreement, the decision on provisional application would need to be reconsidered by the Council.

2.11. During the period under review, Croatia became the 28th member State of the EU. Accession negotiations are ongoing with Turkey, Montenegro, and Serbia while negotiations with Iceland have been on hold since May 2013.

2.2 Trade Policy Objectives and Consultation

2.12. The TFEU describes common commercial policy as an integral part of the EU's overall external action. The EU's trade policy is required to address developmental, environmental, and social objectives, and contribute to the objectives set out in the Treaty on the European Union, including development and consolidation of democracy and the rule of law, and respect of human rights. Since its last TPR, the objectives of the EU's trade policy remain largely unchanged, which

⁷ The new "comitology" rules came into effect on 1 March 2011. See Regulation (EU) No. 182/2011 of the European Parliament and of the Council, 16 February 2011 (OJ L 55/13, 28 February 2011), also see WTO document WT/TPR/S/248/Rev.1 of 1 August 2011, chart II.1.

⁸ Regulation (EU) No. 37/2014 of the European Parliament and of the Council, 15 January 2014 (OJ L 18/1, 21 January 2014), and Regulation (EU) No. 38/2014 of the European Parliament and of the Council, 15 January 2014 (OJ L 18/52, 21 January 2014).

⁹ For example, the Commission made a proposal of codification of anti-dumping regulations. See European Commission document COM(2014) 667 final, 28 October 2014.

¹⁰ Under the qualified majority voting (QMV) system there are 352 votes divided among the member States roughly according to population with 260 votes required for a QMV. Germany, France, Italy, and the United Kingdom have 29 votes each; Spain and Poland have 27 votes each; Romania has 14 votes; the Netherlands has 13 votes; Belgium, the Czech Republic, Greece, Hungary, and Portugal have 12 votes each; Austria, Bulgaria, and Sweden have 10 votes each; Denmark, Croatia, Finland, Ireland, Lithuania, and Slovakia have 7 votes each; Cyprus, Estonia, Latvia, Luxembourg, and Slovenia have 4 votes each; and Malta has 3 votes.

¹¹ Article 207(4), TFEU.

sees trade as a "powerful engine for growth and job creation" and will "tailor trade and investment policy for those countries most in need".¹²

2.13. DG Trade maintains the Civil Society Dialogue, which provides registered stakeholders with an opportunity to participate in meetings with the Commission on trade and trade-related issues. In addition, DG Trade holds public consultations on major policy initiatives where participation is open to EU and non-EU parties. Proposed regulations are published in *the Official Journal of the European Union* in the C series; and the final regulations are published in the L series. The Commission indicated that its major political priorities, including legislative proposals, are presented in its Annual Work Programme; roadmaps are also available on the internet providing details of the content and timing of each planned regulatory initiative, including public stakeholder consultations and impact assessments.¹³

2.14. The Commission carries out impact assessment analysis to support its decision-making for all proposals with significant direct impact, including in the trade policy area.¹⁴ In terms of trade agreements, up to four major types of evaluation may be conducted during the life of a trade agreement. At the stage of negotiations, the Commission carries out "trade sustainability impact assessments" (SIAs) to analyse the economic, environmental and social impacts of the proposed trade agreements for both the EU and its trading partners. SIAs, which inform on-going negotiations, are independent studies conducted by external consultants, involving comprehensive consultation of stakeholders and taking into account their knowledge and concerns both in the EU and in the trading partner. SIAs are also published online.¹⁵ Once the negotiations are concluded and before signature of the agreement, an economic analysis on the consequences of the proposed deal for the EU is prepared for the European Parliament and the Council. After sufficient time has passed, the Commission will carry out an *ex-post* evaluation of a trade agreement.¹⁶

2.3 Trade Agreements and Arrangements

2.3.1 WTO

2.15. According to the Commission, the EU continues to see the WTO and the multilateral trading system as the centrepiece of its trade policy, and attaches great importance to the conclusion of negotiations on the Doha Development Agenda. In this regard, the EU has firmly underlined the importance of preparing a post-Bali work programme within the prescribed deadline, which puts the WTO on a firm path towards the conclusion of the Round.

2.16. The EU is an original Member of the WTO and each EU member State is also a Member. The Commission considers that the WTO remains the EU's most important asset in dealing with globalization, particularly in times of crisis.¹⁷ The EU, through the European Commission, represents all the member States in the WTO. The EU is a contracting party to the Agreement on Government Procurement (GPA), a participant in the Information Technology Agreement (ITA), and a signatory to the Agreement on Trade in Civil Aircraft. The trade policies of the EU have been reviewed eleven times by the WTO; the last review was in July 2013.

2.17. The current certified tariff schedule is the EU-15, effective 27 October 2012.¹⁸ The EU's tariff concessions and agricultural commitments regarding agricultural market access, domestic support, and export subsidies to reflect the enlargement from 15 to 28 member States have not yet been formally agreed in the WTO. The EU submitted its EU-25 schedule for certification on

¹² European Commission documents COM (2010) 612 final, 9 November 2010, COM (2012) 22 final, 27 January 2012, and Commission contribution to the February 2013 European Council Debate on Trade, Growth and Jobs, (viewed at: http://trade.ec.europa.eu/doclib/docs/2013/april/tradoc_151052.pdf).

¹³ European Commission online information, "European Commission at work". Viewed at: http://ec.europa.eu/atwork/key-documents/index_en.htm.

¹⁴ European Commission online information, "Impact Assessment". Viewed at: http://ec.europa.eu/smart-regulation/impact/index_en.htm.

¹⁵ European Commission online information, "Sustainability impact assessments". Viewed at: <http://ec.europa.eu/trade/analysis/sustainability-impact-assessments/assessments/>.

¹⁶ European Commission document COM(2012) 22 final, 27 January 2012. Viewed at: http://trade.ec.europa.eu/doclib/docs/2012/january/tradoc_148992.EN.pdf.

¹⁷ Commission Contribution to the February 2013 European Council Debate on Trade, Growth and Jobs, (viewed at: http://trade.ec.europa.eu/doclib/docs/2013/april/tradoc_151052.pdf).

¹⁸ WTO document WT/Let/868, 30 October 2012.

25 April 2014¹⁹ and has initiated the procedures for the EU-28 schedule (section 3.1.4.1). With regard to the certified EU-25 services schedule, 18 EU member States have ratified the schedule.²⁰

2.18. In February 2015, the EU began the process of accepting the protocol for the amendment to the Marrakesh Agreement for the WTO Agreement on Trade Facilitation (TFA).²¹

2.19. The EU submitted numerous notifications to the WTO during the review period, covering, *inter alia*, agriculture, trade remedies, technical regulations, regional trade agreements, and preferential rules of origin (Table A2.1). 12 notifications on measures of trade in services were submitted for the sake of transparency.²²

2.20. During the period under review, the EU was involved in seven new dispute settlement cases as a respondent, and in seven new cases as a complainant under the Dispute Settlement Mechanism (Table A2.2). In addition, the EU was a third party in nine new cases.

2.3.2 Regional and preferential agreements

2.3.2.1 Reciprocal preferences

2.21. The EU considers that negotiating bilateral agreements with key partner countries is a key priority for the EU to open up more market opportunities, and thus achieve economic growth and job creation.²³ As at end-December 2014, the EU had notified to the WTO 37 regional trade agreements (RTAs) in force²⁴, among which 23 agreements cover goods and 14 cover goods and services.

2.22. During the period under review, the EU began application of four new bilateral trade agreements.²⁵ All these agreements cover broader topics than tariff concession as summarized below.

2.23. The Association Agreements, including the "deep and comprehensive free trade agreements" (DCFTA) with Georgia and Moldova, have been applied since 1 September 2014.²⁶ According to the EU, DCFTA goes beyond "pure" trade (i.e. removals of import and export duties, and removal of obstacles to trade in services), it "comprehensively" covers areas of trade-related policies such as public procurement, competition, intellectual property; and approximates the trade and trade-related policies of these partners in line with the EU *acquis*, in areas such as sanitary and phytosanitary (SPS) measures, technical requirements and standards, customs procedures and trade facilitation.²⁷

2.24. Application of the Association Agreement between the EU and the Central American region (i.e. Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua, and Panama as one party) started in 2013. The Agreement is the first region-to-region Association Agreement which relies on three mutually-reinforcing pillars, namely political dialogue, cooperation, and a trade agreement.²⁸ The

¹⁹ WTO document G/MA/TAR/RS/357, 25 April 2014.

²⁰ WTO document S/C/M/111, 21 November 2012.

²¹ European Commission document, COM(2015) 50 Final, 6 February 2015.

²² The EU states that, given there is no common understanding among WTO Members on when a measure "significantly affects trade in services" within the meaning of GATS Article III:3 and that the EU cannot make a positive determination on this issue, the EU notifies measures that may be relevant to trade in services without prejudice to the interpretation of the phrase "significantly affects trade in services" in Article III:3.

²³ European Commission document, MEMO/13/1080, 3 December 2013. Viewed at: http://trade.ec.europa.eu/doclib/docs/2012/november/tradoc_150129.pdf.

²⁴ WTO online information, "RTA Database". Viewed at: <http://rtais.wto.org/UI/PublicAllRTAList.aspx>.

²⁵ These four association agreements are under provisional application due to pending completion of parliamentary formality on both sides.

²⁶ Both Association Agreements were signed on 27 June 2014.

²⁷ European Commission online information. Viewed at: <http://ec.europa.eu/trade/policy/countries-and-regions/countries/georgia/>, and http://eeas.europa.eu/delegations/moldova/documents/eu_moldova_argumentaire_en.pdf.

²⁸ WTO document WT/REG332/N/1, and S/C/N/680, 27 February 2013.

trade pillar includes tariff concessions, services trade concessions, SPS measures, government procurement, and protection of intellectual property rights (including geographical indications).²⁹

2.25. The FTA with Colombia and Peru has also been applied since 2013. This FTA contains provisions on, *inter alia*, tariff concessions, services trade concessions, government procurement, SPS measures, TBT measures, IPR protection, and trade and sustainable development, as well as a comprehensive dispute settlement mechanism.³⁰

2.26. During the period under review, the EU concluded FTA negotiations with Canada (September 2014), Ecuador (July 2014), and Singapore (October 2014). With regard to ongoing negotiations, the EU launched new negotiations with Japan (March 2013), Morocco (March 2013), Thailand (March 2013) and the United States (July 2013). The EU continues negotiating FTAs with India, Malaysia, MERCOSUR, and Viet Nam.

2.27. The EU's reciprocal trade relations with the African, Caribbean and Pacific (ACP) countries are governed by Economic Partnership Agreements (EPAs). The EPA process involves seven regional configurations: CARIFORUM, Pacific, Central Africa, West Africa, Southern African Development Community (SADC), East African Community (EAC), and Eastern and Southern Africa (ESA).

2.28. As at end-December 2014, EPAs with all CARIFORUM countries (except Haiti), four countries in ESA, Papua New Guinea and Fiji in the Pacific region, and Cameroon in Central Africa are under implementation. In addition, EPAs with West Africa, SADC, and EAC were concluded in 2014, which will replace interim EPAs that some of the partners had concluded with the EU.³¹ Countries that do not apply the EPA in ESA, Central Africa, and Pacific may receive unilateral preferences under the GSP³²; least developed countries (LDCs) continue to benefit from the duty-free and quota-free (DFQF) access to the EU market under the Everything But Arms (EBA) arrangement of the GSP (see section 2.3.3).

2.29. The EU maintains the European Economic Area (EEA) agreement with Iceland, Liechtenstein and Norway, allowing these countries to participate in the internal market for free movement of goods, capital and labour. The EU also has customs unions with Andorra, San Marino, and Turkey.³³ With regard to Switzerland, the EU has several bilateral agreements covering, *inter alia*, the free movement of persons, trade in agricultural products, public procurement, technical barriers to trade, transport, research, taxation of savings, and fighting against fraud.

2.3.3 Unilateral preferences

2.30. The new "Generalised Scheme of Preferences" (GSP) began to apply on 1 January 2014.³⁴ According to the Commission, the new GSP focusses preferences on countries-most-in-need and addresses the issue of preference erosion. The GSP concentrates the benefits on fewer eligible countries - countries classed as high or upper middle income for the most recent three years by the World Bank or countries having equivalent or better preferential access under other arrangements were removed from the list of beneficiary countries.³⁵ Hence, the number of GSP beneficiaries decreased from 178 under the previous GSP to the current 92, and is expected to decrease further. However, some of the removed countries will be covered by other preferential

²⁹ European Commission online information, "EU-Central America association agreement". Viewed at: <http://trade.ec.europa.eu/doclib/press/index.cfm?id=689>.

³⁰ European Commission online information, "Countries and regions: Andean Community". Viewed at: <http://ec.europa.eu/trade/policy/countries-and-regions/regions/andean-community/>.

³¹ The interim EPA between the EU and SADC was never ratified.

³² If the income level of these countries are lower than the upper middle income ranked by the World Bank.

³³ European Commission online information, "Agreements". Viewed at: http://ec.europa.eu/trade/policy/countries-and-regions/agreements/#_customs-unions.

³⁴ Regulation (EU) No. 978/2012 of the European Parliament and the Council, 25 October 2012 (OJ L 303/1, 31 October 2012).

³⁵ The Commission pointed out the distinction between "eligible countries" and "beneficiary countries". According to the Commission, high- or upper-middle-income economies remain "eligible" for the GSP but do not receive tariff preference as "beneficiaries". In case the situation changes (e.g. no longer classified as high- or upper-middle-income, or other preferential arrangements terminated), the "eligible countries" will be back on the list of beneficiaries.

arrangements such as free-trade agreements or economic partnership agreements (see section 2.3.2).

2.31. On the criterion of income level, 20 countries (or customs territories) were removed from the revised GSP list of beneficiaries.³⁶ Moreover, Azerbaijan and Iran (since 23 February 2014); China, Ecuador, Maldives, and Thailand (since 1 January 2015) no longer benefit from the GSP³⁷, and Botswana, Namibia, and Turkmenistan will cease to benefit from 1 January 2016.³⁸ On the criterion of alternative market access, 34 countries are no longer GSP beneficiaries as from the outset³⁹, while, Colombia, Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua, Panama, and Peru will not be among the GSP beneficiaries from 1 January 2016.⁴⁰

2.32. The EU's GSP consists of three arrangements:

- standard GSP, which provides tariff preferences to beneficiary developing countries;
- GSP+, which offers additional tariff reductions to "vulnerable" countries that ratify and effectively implement core international conventions in the fields of human rights, labour rights, environmental protection, and good governance; and
- Everything But Arms (EBA), which offers duty-free and quota-free access for all products except arms and ammunitions from LDCs.

2.33. A GSP beneficiary that meets the criteria specified in the GSP Regulation⁴¹ may formally apply for GSP+ status. GSP+ beneficiary countries are then required to maintain ratification and effectively implement the relevant conventions in order to maintain preferences.⁴² At end-March 2015, there are 13 countries on the GSP+ arrangement (Armenia, Bolivia, Cabo Verde, Costa Rica, El Salvador, Georgia⁴³, Guatemala, Mongolia, Pakistan, Panama, Paraguay, Peru, and the Philippines).⁴⁴ The GSP+ status for Ecuador was terminated at end-2014 when the country exited the GSP. Similarly, Costa Rica, El Salvador, Guatemala, Panama, and Peru will be removed from GSP+ beneficiaries at end-2015 (see above).

2.34. According to Regulation (EU) No. 978/2012, GSP, GSP+ and EBA treatment may be temporarily withdrawn on a number of grounds, including: serious and systematic violation of human and labour rights; exported goods being made by prison labour; serious shortcomings in customs control; serious and systematic unfair trading practices, including those affecting the supply of raw materials that have an adverse effect on the EU's industry and have not been addressed by the beneficiary country; and serious and systematic infringement of the objectives

³⁶ These countries/trading partners are: Argentina; Bahrain; Belarus; Brazil; Brunei Darussalam; Cuba; Gabon; Kazakhstan; Kuwait; Libya; Malaysia; Macao, China; Oman; Palau; Qatar; Russian Federation; Kingdom of Saudi Arabia; United Arab Emirates, Uruguay; and Venezuela. See European Commission online information, viewed at: http://trade.ec.europa.eu/doclib/docs/2013/december/tradoc_152015.pdf [30/03/15].

³⁷ Commission Delegated Regulation (EU), No. 154/2013, 18 December 2012 (OJ L 48/1, 21 February 2013), Commission Delegated Regulation (EU), No. 1015/2014, 22 July 2014 (OJ L 283/20, 27 September 2014), and Commission Delegated Regulation (EU), No. 1421/2013, 30 October 2013 (OJ L 355/1, 31 December 2013)

³⁸ Commission Delegated Regulation (EU), No. 1015/2014, 22 July 2014 (OJ L 283/20, 27 September 2014), and Commission Delegated Regulation (EU), No. 1016/2014, 22 July 2014 (OJ L 283/23, 27 September 2014).

³⁹ These countries are: Algeria, Egypt, Jordan, Lebanon, Morocco, Tunisia, Belize, St. Kitts and Nevis, Bahamas, Dominican Republic, Antigua and Barbuda, Dominica, Jamaica, Saint Lucia, Saint-Vincent and the Grenadines, Barbados, Trinidad and Tobago, Grenada, Guyana, Surinam, Côte d'Ivoire, Ghana, Cameroon, Kenya, Seychelles, Mauritius, Zimbabwe, Namibia, Botswana, Swaziland, Papua New Guinea, Fiji, Mexico, and South Africa. See European Commission online information, viewed at: http://trade.ec.europa.eu/doclib/docs/2013/december/tradoc_152015.pdf [30/03/15].

⁴⁰ Commission Delegated Regulation (EU), No. 1015/2014, 22 July 2014 (OJ L 283/20, 27 September 2014).

⁴¹ Regulation (EU) No. 978/2012, Article 9.

⁴² Article 15, Regulation (EU) No. 978/2012.

⁴³ Georgia's GSP+ status is in a transition period until September 2016 due to alternative market access opportunities through the FTA with the EU. As per Article 5 of the GSP Regulation 978/2012, a GSP beneficiary which begins applying another preferential market access arrangement with the EU is given a 2-year transition period during which it benefits from both the GSP and that new arrangement.

⁴⁴ Commission Delegated Regulation (EU) No. 1/2014, 28 August 2013 (OJ L 1/1 4 January 2014), Commission Delegated Regulation (EU) No. 182/2014, 17 December 2013 (OJ L 57/1, 27 February 2014), and Commission Delegated Regulation (EU) No. 1386/2014, 19 August 2014 (OJ L 369/33, 24 December 2014).

adopted by Regional Fishery Organisations or other international arrangements. If the unfair trading practices are subject to EU anti-dumping or countervailing measures, GSP treatment of the products concerned may not be withdrawn. Temporary withdrawal is preceded by adoption of an implementing act to initiate the procedure for temporary withdrawal, publication of a notice in the *Official Journal* and, during the subsequent investigation, the country concerned must be given "every opportunity to cooperate during the [six month] monitoring and evaluation period".⁴⁵ In June 2013, the EU reinstated Myanmar into the GSP scheme⁴⁶; as at end-March 2015, only Belarus remained temporarily withdrawn from the GSP.

2.35. The EBA arrangement has no expiry date⁴⁷ while the standard GSP and GSP+ beneficiaries are valid for ten years unless they graduate from the scheme.⁴⁸ Products covered in the GSP are reviewed every three years: imports of a particular product section from a beneficiary country no longer have preferential access when they exceed a certain level, defined as a percentage of total imports of that product from all GSP beneficiaries. The current threshold for product graduation is 17.5% (and 14.5% for textiles). Product graduation applies only to standard GSP beneficiaries, not to GSP+ and EBA countries. A total of 44 sectors from eight countries were set to graduate in the period of 2014-16.⁴⁹ However as some of these countries qualified for GSP+ and/or exited the scheme due to income criterion in the meantime, currently only 11 sectors from four countries have effectively graduated.

2.36. Since 2011 the GSP rules of origin remained largely unchanged.

2.37. Regarding other unilateral measures outside the GSP, tariff preferences were granted as the Autonomous Trade Measures (ATMs) to six countries in the Western Balkans in 2000 and subsequently renewed in 2005 and 2011 until the end of 2016.⁵⁰ Specific unilateral preferences were also granted to Moldova in 2008 and subsequently extended until end-2015. In April 2014 Ukraine was granted unilateral preferences based on the EU tariff dismantlement foreseen in the EU-Ukraine DCFTA⁵¹; these preferences apply until the end-2015.⁵²

2.4 Investment Regime

2.4.1 Business environment

2.38. The free movement of goods, persons, services and capital within the EU is essential for the functioning of the internal market.

2.39. The Treaty on the Functioning of the European Union (TFEU) prohibits restrictions on capital movements among EU member States, and between EU and non-EU members⁵³; it also prohibits restrictions on payments among EU member States and between member States and third countries. Exceptions for applying restrictions may be granted in "exceptional circumstances" when such measures are strictly necessary; and the measures must not be applied for longer than six months.⁵⁴

2.40. Under the TFEU, no restrictions are allowed on the "freedom of establishment" of an EU national in the territory of another member State. Freedom of establishment extends to

⁴⁵ Article 19, Regulation (EU) No. 978/2012.

⁴⁶ Regulation (EU) No. 607/2013 of the European Parliament and the Council, 12 June 2013 (OJ L 181/13).

⁴⁷ Regulation (EU) No. 978/2012, Article 43(3).

⁴⁸ The EU will offer at least a one-year transition period for graduation and/or changes in the beneficiaries' list.

⁴⁹ Commission Implementing Regulation (EU) 1213/2012, 17 December 2012 (OJ L 348/11, 18 December 2012).

⁵⁰ European Commission online information, "Autonomous trade measures". Viewed at: http://ec.europa.eu/enlargement/policy/glossary/terms/association-trade-measures_en.htm.

⁵¹ WTO document WT/REG353/N/1, 2 July 2014.

⁵² European Commission online information, "Countries and regions – Ukraine". Viewed at: <http://ec.europa.eu/trade/policy/countries-and-regions/countries/ukraine/> [30/03/15].

⁵³ Restrictions on direct investment from non-EU members that were in place before December 1993 (December 1999 for Bulgaria, Estonia, and Hungary) are exempt from this prohibition. See Article 64(1), TFEU.

⁵⁴ Articles 65 and 66, TFEU.

EU subsidiaries affiliated to non-EU companies⁵⁵, but not to branches or agencies of non-EU companies.

2.41. Despite the common provisions of the EU legislation, a business may face different regulatory restrictions depending on where it is established. It was estimated that up to one-third of the administrative burden linked to EU legislation stems from implementation measures in member States.⁵⁶ Moreover, according to the OECD, the heterogeneity of rule-setting across member States and high national barriers, especially in some services sectors, makes it hard for businesses to adapt to each national regulation.⁵⁷ In June 2013, Germany passed new immigration rules which aim to cut red tape for people in target industries, allowing them to easily obtain recognition of their qualifications in Germany. On the other hand, France passed a bill in the National Assembly in October 2013 imposing penalties on companies that shut down operations deemed economically-viable; at end-March 2015 this bill was still under debate in the French Senate.

2.42. Some member States such as France, Germany, and the United Kingdom maintain FDI review procedures for national security purposes. These procedures were amended during the period under review: in September 2013, Germany streamlined its review mechanism for FDI, reducing data requirements for sector-specific reviews; and in May 2014, France amended the list of activities subject to FDI review. In 2014, Italy and Portugal also amended or adopted new legislation to review investment in strategic sectors such as defence, energy, transport and communication.

2.43. According to the OECD, in 2013, Luxembourg, Portugal, Slovenia, Romania, and the Czech Republic had the most open foreign investment regime among the member States, while Poland and Austria are above the OECD average for restrictions.⁵⁸

2.4.2 Foreign investment regime

2.44. The TFEU provides that foreign investment policy is an integral part of the common commercial policy, which remains an exclusive competence of the EU. During the review period, the EU is still in the process of developing its common investment policy.

2.45. Under the EU exclusive competence, investment agreements with non-EU member States are negotiated at the EU level. In the EU's view, investment negotiations can take two forms: to include investment provisions in the ongoing trade negotiations and make investment protection an integral part of the free-trade agreements (e.g. FTAs with Canada and Singapore); or to pursue stand-alone agreements (e.g. with China and Myanmar). EU member States may be authorized to negotiate and conclude bilateral investment treaties (BITs) with countries not immediately scheduled for EU-wide investment negotiations, or to renegotiate existing agreements; all member States' BITs that entered into force before 9 January 2013 are "grandfathered", according to the Regulation (EU) No. 1219/2012.⁵⁹

2.46. There were some 1,400 BITs between the EU member States and third countries before the TFEU entered into force.⁶⁰ Information about member States' BITs signed/in force is published annually in the Official Journal.⁶¹

2.47. The Commission considers that investor-to-state dispute settlement (ISDS) mechanisms ensure effective enforcement of investment agreements. Investor-to-state dispute settlement forms a key part of member States' BITs, and will be included in future EU investment agreements

⁵⁵ Articles 49 and 54, TFEU.

⁵⁶ European Commission press release, IP/14/682, 18 June 2014. Viewed at: http://europa.eu/rapid/press-release_IP-14-682_en.htm.

⁵⁷ OECD (2014), OECD Economic Survey: European Union, April 2014. Viewed at: http://www.oecd-ilibrary.org/economics/oecd-economic-surveys-european-union-2014_eco_surveys-eur-2014-en.

⁵⁸ OECD online information, "FDI Regulatory Restrictiveness Index". Viewed at: <http://www.oecd.org/investment/fdiindex.htm>.

⁵⁹ EU member States may maintain in force these agreements notwithstanding the EU's competences relating to investment, until they are replaced by investment agreements concluded by the EU.

⁶⁰ European Commission online information, "EU Investment Policy: State of Play". Viewed at: http://trade.ec.europa.eu/doclib/docs/2013/april/tradoc_150853.pdf.

⁶¹ Notice from Member States (OJ C 169/1, 5 June 2014).

with other countries. In preparation for the application of an ISDS mechanism, the EU adopted a regulation to establish a legal and financial framework for investor-to-state dispute settlement on 23 July 2014. This regulation provides legal and financial certainty for foreign investors in the EU when they have dispute complaints against the EU or its member States, and ensures that any final award or settlement award is paid promptly to the investor, regardless of the decisions on the allocation of financial responsibility.

2.5 Aid for Trade

2.48. With regard to development cooperation, the EU's policy aims to reduce and eradicate long-term poverty. In this area, the EU works in a partnership with its member States to complement each other's policies.⁶²

2.49. According to the 2014 EU Aid for Trade Report, the EU, together with its member States, was the world's largest provider of Aid for Trade (AFT) in the world in 2012 (€11.6 billion), accounting for around 32% of total AFT flows.⁶³ Since 2008, the EU and its member States have also exceeded the target to provide €2 billion annually for trade-related assistance (TRA). In 2012, 60% of global TRA commitment was from the EU and its member States, with a total of €2.5 billion; the EU support to trade facilitation represented more than 18% of the EU TRA and almost 5% of EU AFT.

2.50. Building Productive Capacity (BPC) and Trade-Related Infrastructure (TRI) represent the most important components of the collective EU AFT, accounting for 46% each in 2012. Other EU AFT activities include Trade Policy and Regulation (3%) and Other Trade-Related Needs (5%). With regard to geographical coverage, Africa accounted for the largest share of BPC and TRI aid at 36% (€3.9 billion), followed by Asia (17%). The EU actively continues to support capacity building in LDCs; for instance, it participated in the follow-up of the WTO's Trade Policy Review of Myanmar. AFT from the EU to LDCs accounted €1.8 billion in 2012.

2.51. The EU, together with the member States, is the largest donor to trade-facilitation-related assistance under the AFT category of Trade Policy and Regulation. In 2010-12, the region of south Sahara received the most aid for trade facilitation (58.6% of the three-year total) followed by North and Central America (9.8%), Europe (7.5%) and Oceania (6.9%). At the same time, the share in the yearly total of the south Sahara region decreased steadily: from 66% in 2010 to 40% in 2012. Other regions have emerged as priority targets for these programmes: in 2012, South America, Asia, and non-EU European countries accounted for 17%, 11%, and 6%, respectively. In November 2014, the EU collectively contributed €10 million to the Trade Facilitation Support Programme (TFSP), accounting for more than a third of the current total commitment to the TFSP.⁶⁴

2.52. According to the Commission, with regard to improving the effectiveness of AFT, the EU intends to pay more attention to LDCs and countries most in need and the EU will explore approaches to provide increased support to LDCs in order to strengthen their capacities in formulating AFT requests; and supporting developing countries and, in particular, LDCs in making better use of trade needs assessments to improve the effectiveness of AFT actions at the country level.⁶⁵

⁶² Article 208, TFEU.

⁶³ European Commission document SWD(2013) 273, 16 July 2013. Viewed at: http://trade.ec.europa.eu/doclib/docs/2013/november/tradoc_151890.pdf.

⁶⁴ European Commission online information. Viewed at: <http://trade.ec.europa.eu/doclib/press/index.cfm?id=1202>.

⁶⁵ European Commission document, SWD (2013) 273, 16 July 2013. Viewed at: http://trade.ec.europa.eu/doclib/docs/2013/november/tradoc_151890.pdf.

3 TRADE POLICIES AND PRACTICES BY MEASURE

3.1 Measures Directly Affecting Imports

3.1.1 Customs procedures

3.1. The Customs Union is an integral part of the Common Commercial Policy under the exclusive competence of the EU. Customs laws and procedures are harmonized and monitored at the EU level, with the national customs administrations in the member States responsible for implementing the law. The Trade Contact Group is the main framework for regular consultations between the European Commission and economic operators on EU customs matters. The Commission also maintains a website designated for customs consultations.¹

3.2. As of end-2014, the Community Customs Code of 1992 (as amended) and its implementing provisions of 1993 (as amended) are applied as the basic customs legislation of the EU.² In 2008, the Community Customs Code was replaced by the Modernised Customs Code which was to become applicable by 24 June 2013.³ However, the Commission proposed, and the European Parliament and the Council agreed, that the Modernised Customs Code should be repealed before its application. There were several reasons for this decision, including the need to give public administrations and economic operators in the member States the time to make the necessary investments and allow the introduction of electronic processes and the need to align the Customs Code with the Treaty on the Functioning of the European Union (TFEU).⁴ Following the Commission's proposal, the Union Customs Code (UCC) was adopted in 2013 and entered into force on 20 October 2013 with its substantive provisions to apply on 1 May 2016 when the delegated and implementing acts of the Commission are to be adopted and in force.⁵ According to the Commission, "shaping of the provisions within the Acts is done, in line with Articles 290 and 291 of the TFEU, through proper involvement of the member States and the business community. Their involvement started in January 2014 upon the submission of the draft UCC Delegated Act (DA)⁶ and UCC Implementing Act (IA)⁷ that are still under discussion."⁸

3.3. Under the EU legislation, the term "customs procedure" means: release for free circulation; transit; customs warehousing; inward processing; processing under customs control; temporary admission; outward processing; and exportation. Imported goods may be released for customs procedures (e.g. transit or inward processing) or released for free circulation once all formalities are completed and any duties legally due (i.e. tariff duties, value added tax (VAT), and excise duties (section 3.1.5)) are paid or secured.

3.4. Registration with the customs authorities of member States is required for all economic operators established in the EU and involved in the activities covered by the customs legislation, and for non-established economic operators if they perform one of the activities listed in Article 4(3) of the Customs Code Implementing Regulation. An Economic Operator Registration and Identification (EORI) number is issued by the national authorities. EORI numbers are unique to each operator, and recognized throughout the EU.

¹ European Commission online information, "Customs consultations". Viewed at: http://ec.europa.eu/taxation_customs/common/consultations/customs/index_en.htm.

² Council Regulation (EEC) No. 2913/92, 12 October 1992 (OJ L 302, 19 October 1992); and Commission Regulation (EEC) No. 2454/93, 2 July 1993 (OJ L 253, 11 October 1993).

³ Regulation (EC) No. 450/2008 of the European Parliament and of the Council, 23 April 2008 (OJ L 145/1, 4 June 2008).

⁴ European Commission document COM(2013) 193 Final 2013/0104 (COD), 10 April 2013. Viewed at: <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52013PC0193&from=EN>.

⁵ Regulation (EU) No. 952/2013 of the European Parliament and of the Council, 9 October 2013 (OJ L 269/1, 10 October 2013).

⁶ European Commission document TAXUD/UCC-DA/2014-1, Consolidated preliminary draft of the Union Customs Code Delegated Act, 13 January 2014. Viewed at: http://ec.europa.eu/taxation_customs/resources/documents/customs/customs_code/ucc_delegated_act_2014.pdf.

⁷ European Commission document TAXUD/UCC-IA/2014-1, Consolidated preliminary draft of the Union Customs Code Implementing Act, 13 January 2014. Viewed at: http://ec.europa.eu/taxation_customs/resources/documents/customs/customs_code/ucc_implementing_act_2014.pdf.

⁸ EU Commission online information, "The Union Customs Code: a recast of the Modernised Customs Code". Viewed at: http://ec.europa.eu/taxation_customs/customs/customs_code/union_customs_code/index_en.htm [18/12/14].

3.5. Traders, or their representatives that are established in the EU, must lodge import declarations for their imports with the customs office in a member State, either electronically or in writing. Persons that are not established in the EU may lodge customs declarations for transit or for temporary admission.⁹ According to the Commission, more than 98% of customs declarations submitted in the EU are electronic.¹⁰ In accordance with the relevant provisions¹¹, declarants may be authorized, subject to conditions, to lodge incomplete declarations, simplified declarations, or declarations under local clearance procedures.¹²

3.6. According to the Security Amendment to the Customs Code¹³, pre-arrival declarations are encouraged by the EU. The carrier¹⁴ of imported goods must lodge at the "customs office of first entry" electronic Entry Summary Declarations (ENS) for goods from outside the EU, except for goods from countries that have a security agreement with the EU, i.e. Norway, Switzerland, Liechtenstein, and Andorra.¹⁵ In some member States, an ENS may be accepted at another customs office (customs office of lodgement), if the ENS is electronically communicated or made available to the customs office of entry.¹⁶ The ENS must be submitted electronically in advance; otherwise, the imported goods should be declared upon arrival at the border, which may delay customs clearance pending the results of risk analysis for safety and security purposes.

3.7. When customs procedures involve more than one customs authority in the EU, a single authorization may be granted for a customs procedure with economic impact (e.g. customs warehousing, inward processing, processing under customs control, temporary importation, outward processing) or end-use relief. A person may also apply for a single authorization for simplified procedures which allows the applicant to use local clearance procedures or the simplified declaration procedure in more than one member State.¹⁷ The current single authorization for simplified procedures will be replaced by authorization for centralised clearance under the UCC.¹⁸

3.8. The Commission notes that the UCC (and the related delegated and implementing acts) will streamline customs legislation and procedures, offer greater legal certainty and uniformity to businesses, simplify customs rules and procedures and facilitate more efficient customs transactions in line with modern-day needs, and complete the shift by Customs to a paperless and fully electronic environment.

3.9. The EU continues to implement its electronic customs initiative which, *inter alia* aims to improve the efficiency and effectiveness of customs procedures, hence to facilitate trade.¹⁹ The electronic customs initiative is comprised of a number of individual projects, such as the Automatic Import/Export System and the Single Window. The EU Single Window is an initiative with a phased

⁹ A non-established person is permitted to lodge a customs declaration for release for free circulation provided that he appoints a customs representative established in the EU unless there are not some specific requirements that the declaration is lodged by a specific person.

¹⁰ European Commission online information, "the EU Customs Union". Viewed at: http://europa.eu/pol/pdf/flipbook/en/customs_en.pdf.

¹¹ Commission Regulation (EC) No. 1192/2008, 17 November 2008 (OJ L 329, 6 December 2008). See also Community Customs Code, and Article 253, Customs Code Implementing Provision, Article 76.

¹² Using a simplified declaration procedure or the local clearance procedure is conditional on the lodging of electronic customs declarations and notifications.

¹³ Regulation (EC) No. 648/2005 of the European Parliament and of the Council, 13 April 2005 (OJ L 117/13, 4 May 2005); and Commission Regulation (EC) No. 1875/2006, 18 December 2006 (OJ L 360/64, 19 December 2006).

¹⁴ The carrier is the person who brings, or who assumes responsibility for the carriage of, the goods into the EU. See Articles 36b(3) and 183 of Customs Code.

¹⁵ Article 181c of the Customs Code Implementing Regulation sets out several exceptions.

¹⁶ A list of the member States that allow an ENS to be lodged in an office other than the customs office of entry is available from the European Commission online information. Viewed at: http://ec.europa.eu/ecip/documents/procedures/ics_office-lodgment-overview_en.xls.

¹⁷ Article 1(13), CCIP.

¹⁸ European Commission online information, "Single Authorisation for simplified procedures (SASP)/Centralised Clearance". Viewed at: http://ec.europa.eu/taxation_customs/customs/procedural_aspects/general/centralised_clearance/index_en.htm [23/11/2014].

¹⁹ European Commission online information, "Electronic Customs". Viewed at: http://ec.europa.eu/taxation_customs/customs/policy_issues/electronic_customs_initiative/index_en.htm.

implementation approach²⁰: the scope of the first phase was defined as the automated acceptance of electronic certificates; a pilot project accepting veterinary certificates (the Common Veterinary Entry Document (CVED)) was initiated in 2012 and has become operational since March 2014.

3.10. As indicated by the World Bank's *Doing Business*, the time needed to complete import process varies among member States: in more than half of the EU member States it takes less time than the OECD average; whereas for the others it takes more time; e.g. up to 19 days for Hungary.²¹ The Commission pointed out that this time measurement covers the activities of customs as well as other bodies involved in the importing process (e.g. inland transport, port and terminal handling), and is calculated "from the vessel's arrival at the port of entry to the cargo's delivery at the warehouse". As reported by the Commission, a pilot project was carried out for measuring the time needed for customs to process a standard import customs declaration (from acceptance to the release of goods), which showed that 88% of import declarations lodged electronically under normal procedures were processed within one hour. Furthermore, customs procedures must be uniformly implemented although some variations in administration may occur. According to the Commission, any practices in a member State that are not in compliance with the EU customs legislation will be investigated by the Commission, and infringement procedures may be launched if necessary.

3.11. The EU member States may grant authorized economic operator (AEO) status, based on common criteria,²² to interested economic operators involved in activities covered by customs legislation. There are three types of AEO certificates: AEO-C (AEO certificate – Customs simplifications); AEO-S (AEO certificate – Security and safety); and AEO-F (AEO certificate – Full).²³ The benefits of AEO status depend on the type of certificate granted to the economic operator²⁴, and could include fewer customs controls, or easier admittance to simplified customs procedures. Participation in the authorized economic operator programme is voluntary, and only open to economic operators established in the EU. Economic operators from third countries can apply in the EU if they have subsidiaries established and having customs related activities in the EU.

3.12. AEO status granted by one member State is recognized by other member States.²⁵ When an AEO applies for a specific authorization for simplified procedure, the conditions and criteria which have already been examined are not examined again. As of 15 January 2015, 15,034 applicants had been granted AEO status.²⁶

3.13. The EU has signed AEO mutual recognition agreements (MRAs) with Switzerland (July 2009), Norway (September 2009), Japan (October 2010), Andorra (January 2011), the United States (June 2012), and China (May 2014). Benefits of mutual recognitions vary among different MRAs, but in general they include fewer physical and documentary controls so as to avoid duplication of security and compliance controls. The MRAs on AEOs concerns only holders of AEO-S and AEO-F certificates in the EU.

3.14. Article 52 of the UCC states that customs authorities shall not impose charges for the performance of customs controls or any other application of the customs legislation during the official opening hours of their competent customs offices; the same article also establishes that customs authorities may have the right to charge certain fees where a specific service is actually

²⁰ European Commission online information, "Electronic Customs: Individual Projects". Viewed at: http://ec.europa.eu/taxation_customs/customs/policy_issues/electronic_customs_initiative/it_projects/index_en.htm.

²¹ World Bank online information, "Doing Business, Trading across border". Viewed at: <http://www.doingbusiness.org/data/exploretopics/trading-across-borders>.

²² Articles 5a (2), Council Regulation (EEC) No. 2913/92, 12 October 1992 and Article 14h-k, Commission Regulation (EEC) No. 2454/93, 2 July 1993.

²³ AEO – Full (Customs simplifications + Security and Safety).

²⁴ Article 14a, Commission Regulation (EEC) No. 2454/93, 2 July 1993.

²⁵ This does not automatically allow AEO to benefit from simplifications provided for in the customs rules in the other EU member States.

²⁶ Among which AEO-F, 7,508; AEO-C, 6,982; and AEO-S, 544.

provided to the operator. However the Court of Justice of the EU (CJEU) rules that the fee must be proportionate and directly linked to the service provided.²⁷

3.15. Under the EU customs legislation, national customs administrations must issue, upon request, advance written rulings on tariff classification and origin matters.²⁸ Advance rulings, as either binding tariff information (BTI) or binding origin information (BOI), issued by the customs authorities of one member State are binding throughout the EU. BTIs are generally valid for six years, and BOIs for three years. The Commission maintains a public online database of advance written rulings on tariff classification.²⁹

3.16. Appeals against customs matters must be lodged in the member State where the decision under dispute has been taken. Procedures for appeals are set out in national customs legislation, and vary across member States. Most member States require administrative review before a decision can be appealed judicially. The review by national courts of a decision taken by the customs administration of one member State is not binding on the customs administrations of other member States. However, the Commission notes that national courts regularly refer cases concerning tariff classification matters and interpretation of the EU customs provisions to the Court of Justice of the EU.³⁰ A recent CJEU ruling affirmed that everyone's right must be heard before the adoption of any decision liable to adversely affect his interest, and this right can be relied on directly by individuals before national courts. This ruling also specified the conditions that customs authorities must observe to ensure the rights as well as the consequences in case of infringement.³¹ According to the Commission, this "right to be heard" before an adverse decision taken by the customs authorities is adequately reflected in the provisions of the UCC.³²

3.17. According to the Commission, as at end-March 2015, the EU was in the process of preparing its full and timely implementation of the WTO Trade Facilitation Agreement.

3.1.2 Customs valuation

3.18. There have been no changes in customs valuation legislation since the last Review. According to the Commission, the rules set out in the WTO Customs Valuation Agreement have been transposed directly into applicable EU legislation, i.e. Articles 28 to 36 of the Customs Code, and its related Implementing Provisions (Articles 141 to 181a and annexes 23 to 29).

3.19. The transaction value is the primary basis for customs value determination. The transaction values used are c.i.f. values. Around 95% of all import declarations are accepted in accordance with the transaction value method.

3.20. The Customs Valuation Section of the Customs Code Committee³³ publishes a compendium which contains commentaries and committee conclusions on specific valuation topics, including the interpretation of certain rules on customs valuation brought to the attention of the Committee. The compendium also provides an overview of European Union Court of Justice rulings in relation to

²⁷ See for example case 340/87 Commission vs. Italy, viewed at: <http://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1424936029687&uri=CELEX:61987CJ0340>; also European Commission press release IP/13/1104, viewed at: http://europa.eu/rapid/press-release_IP-13-1104_en.htm.

²⁸ Article 12, Council Regulation (EEC) No. 2913/92, 12 October 1992.

²⁹ European Commission online information, "European Binding Tariff Information". Viewed at: http://ec.europa.eu/taxation_customs/dds2/ebti/ebti_home.jsp?Lang=en.

³⁰ European Commission online information, "European Court of Justice case law". Viewed at: http://ec.europa.eu/taxation_customs/common/infringements/case_law/index_en.htm.

³¹ Court of Justice of the EU joined cases Joined cases C-129/13 (Kamino International Logistics BV) and C-130/13 (Datema Hellmann Worldwide Logistics BV v Staatssecretaris van Financiën), 3 July 2014. Summary can be found on Case Law in the field of Customs Union Law (Cases 2010-2014), viewed at: http://ec.europa.eu/taxation_customs/resources/documents/common/infringements/case_law/court_cases_customs_2010-2014.pdf.

³² Article 22.6, UCC.

³³ The Customs Code Committee is the mechanism for controlling the Commission exercising its implementing powers on the customs related matters by member States according to the "Comitology" (see section 2.1). Rules of procedure for the Customs Code Committee can be found in the European Commission document TAXUD/A2/2011/011 Final, 30 May 2012, viewed at: http://ec.europa.eu/taxation_customs/resources/documents/customs/procedural_aspects/general/community_code/rulesofprocedureofthecommittee_en.pdf.

customs valuation. Although the last update of the compendium was published in September 2008³⁴, according to the Commission, additional guidance continues to be developed.

3.1.3 Rules of origin

3.21. The EU maintains non-preferential and preferential rules of origin (RoO). During the period under review, the rules of origin remained largely unchanged.³⁵

3.1.3.1 Non-preferential rules

3.22. Non-preferential rules of origin are applied for the purposes of, *inter alia*, implementation of anti-dumping and countervailing measures, quantitative restrictions, MFN tariff quotas, origin marking, contingency measures, and government procurement.

3.23. For non-preferential rules, in cases where more than one country is involved in the production of a good, the country of origin is determined as the country where the product underwent its "last substantial transformation", i.e. where the product "underwent their last, substantial, economically justified processing or working in an undertaking equipped for that purpose and resulting in the manufacture of a new product or representing an important stage of manufacture".³⁶

3.1.3.2 Preferential rules

3.24. Preferential rules of origin are those related provisions set out in unilateral trade arrangements (e.g. the GSP) and reciprocal trade arrangements. The EU's preferential rules of origin vary among different reciprocal trade arrangements.³⁷ However, there are general rules that are applied in most cases while exceptions to the application of the "general rules" differ from one trade arrangement to another.³⁸ Compared to those previously applied, the new GSP rules of origin have been simplified and modernized. The Commission indicates that the EU has been considering expanding its GSP-style RoO to other trade arrangements.

3.25. In cases where more than one country is involved in producing a product, under preferential rules, non-originating materials may obtain originating status as long as they have undergone "sufficient working or processing". The origin rules for "sufficient working or processing" are provided in the table of "list rules"³⁹, which may be expressed as:

- a change of HS tariff heading or subheading criterion;
- specific processing criterion; or
- value added or *ad valorem* criterion.

³⁴ European Commission online information, "Value of declared goods". Viewed at:

http://ec.europa.eu/taxation_customs/customs/customs_duties/declared_goods/european/index_en.htm.

³⁵ Small changes have been made such as Myanmar being reinstated in the GSP rules of origin, some adaptations in the rules of origin in the GSP framework and non-preferential list rules for solar panels were amended. See Regulation (EU) No. 607/2013 of the European Parliament and of the Council, 12 June 2013 (OJ L 181/13, 29 June 2013); Commission Implementing Regulation (EU) No. 530/2013, 10 June 2013 (OJ L 159/1, 11 June 2013); and Commission Implementing Regulation (EU) No. 1357/2013, 17 December 2013 (OJ L 341/47, 18 December 2013).

³⁶ Article 24, Council Regulation (EEC) No. 2913/92, 12 October 1992.

³⁷ European Commission online information, "DG TAXUD: Arrangements list". Viewed at:

http://ec.europa.eu/taxation_customs/customs/customs_duties/rules_origin/preferential/article_779_en.htm.

³⁸ For a detailed summary, see the HMRC Notice 828, "Tariff Preferences: Rules of origin for various countries", 3 September 2013. Viewed at: <https://www.gov.uk/government/publications/notice-828-tariff-preferences-rules-of-origin-for-various-countries/notice-828-tariff-preferences-rules-of-origin-for-various-countries>.

³⁹ European Commission online information, "List Rules". Viewed at:

http://ec.europa.eu/taxation_customs/customs/customs_duties/rules_origin/preferential/article_776_en.htm [18/12/14].

3.26. Regarding the value added criterion for obtaining originating status, there are several rules on cumulation of origin. Cumulation allows countries to work together while the preference is still maintained:

- a. bilateral cumulation: materials originating in the donor country or partner country may be used for cumulation purposes;
- b. diagonal or regional cumulation: materials originating in a third country belonging to a system or group of cumulation may be used for cumulation purposes; and
- c. full cumulation: processing operations carried out in the countries belonging to a system or group of cumulation may be considered together for cumulation purposes.

3.27. Bilateral cumulation is applied to reciprocal trading agreements as well as to unilateral regimes such as the GSP and the Autonomous Trade Measures (ATMs). The EU's overseas countries and territories (OCT), ACP countries (including South Africa) as well as Algeria, Morocco, and Tunisia have access to full cumulation. Common origin is established for industrial products in the European Economic Area.

3.28. Diagonal cumulation prevails in the agreements with EFTA countries, the Faroe Islands, Mediterranean countries, Turkey, and the Western Balkans.⁴⁰ As a form of diagonal cumulation, GSP beneficiary countries may use materials under cumulation of origin with countries in the same regional group; there are four regional groups in the GSP rules, and GSP countries belonging to the SAARC and ASEAN region may also use diagonal cumulation upon request.⁴¹

3.29. Under the cumulation rules, a GSP beneficiary country may also use materials falling within HS chapters 25-97 which originated in Norway, Switzerland, Liechtenstein, and Turkey once that country fulfils certain conditions. Additionally, GSP beneficiary countries may apply to the Commission for cumulation extension to countries that have free trade agreements with the EU. At end-March 2015, no application was submitted to the Commission from GSP beneficiaries for extended cumulation with the EU's FTA partners.

3.30. Regarding the value-added criterion of GSP rules of origin, LDCs are allowed to have up to 70% of non-originating materials in most industrial and processed agricultural exports; other GSP beneficiary countries may also have up to 70% for products from 28 HS chapters⁴² and up to 50% for others. For most apparel products originating in LDCs, a single transforming requirement replaces the previous double transformation requirement.⁴³

3.31. In those trade arrangements where diagonal cumulation is provided for, it is not necessary that the processing carried out on the materials imported from other countries in the same cumulation system satisfies the list rules as long as the minimal operation requirements are satisfied. If the minimal operation requirements are not satisfied cumulation is still possible; the country of origin is determined in the case of GSP regional cumulation, by the highest share of the customs values of the materials originating in the countries of the regional group.

3.32. The working or processing considered insufficient to confer origin ("minimal operation") is defined in the relevant articles of the individual preferential trade arrangements. In general,

⁴⁰ Currently there are two diagonal cumulation zones between the EU and its trading partners: one allowing for diagonal cumulation between the EU, the EFTA countries, the Faroe Islands, Turkey, and the Mediterranean countries; the other allowing for diagonal cumulation between the EU, Turkey, and the Western Balkans.

⁴¹ See European Commission online information, "Generalised Scheme of Preferences". Viewed at: http://ec.europa.eu/taxation_customs/customs/customs_duties/rules_origin/preferential/article_781_en.htm [18/12/14]. Under regional cumulation, cases may occur that the input materials from other countries in the region are "graduated" or "excluded" from the GSP, thus not eligible for preference.

⁴² The rule of origin for all products of HS chapters 42, 45, 46, 47, 48, 49, 66, 89, 91, 92, 94, and most of products of HS chapters 25, 27, 34, 40, 43, 44, 68, 70, 71, 82, 83, 86, 88, 84, 85, 90, 95, 96 refers to threshold of 70% maximum non-originating materials for both LDC and non-LDCs.

⁴³ European Commission Regulation (EU) No. 1063/2010, 18 November 2010 (OJ L 307/1, 23 November 2010).

operations are considered "simple" when neither special skills nor machines, apparatus or tools especially produced or installed for those operations, are required.⁴⁴

3.33. In cases where no other rules prevail, non-originating products or materials that do not satisfy the sufficient operation requirements may be "tolerated". The "tolerance" level varies among preferential regimes. For GSP beneficiaries, 15% of the weight of the product or the *ex-works* price is the maximum "tolerance" level, if those materials were non-originating in the beneficiary country.⁴⁵

3.34. In most free trade agreements, direct transport from beneficiary territories is still required for goods to maintain the preference. However, direct transport is no longer required under recent agreements, and for GSP origin goods, it is conditional on non-alteration. Storage of products and splitting of consignments may now be possible under the supervision of the customs authorities of the transit countries, hence, GSP benefits may be maintained in cases where goods are moved through regional distribution hubs.⁴⁶

3.35. Binding origin information (BOI) decisions may be issued by the customs authorities in the member States when importers are uncertain about the origin of products. BOIs are binding in all member States in respect of imported goods, provided the goods and the circumstances determining the acquisition of origin are identical in every respect to what is described in the BOI. BOIs are valid for three years after issuance.

3.1.4 Tariffs

3.1.4.1 WTO bound tariffs

3.36. All EU tariff lines are bound. Applied rates, in general, are at their bound rates (Table 3.1). The simple average bound tariff rate is 6.5%.

3.37. The current certified Schedule of Concessions is the EU-15.⁴⁷ The EU has circulated the EU-25 schedule in the WTO.

3.1.4.2 MFN tariffs

3.38. The EU offers MFN or better treatment to WTO and non-WTO Members. The Commission indicated that no changes have been made in applied tariff rates since the last Review; changes in the average rates reflect only the changes of tariff codes, and the changes in world price of certain goods subject to non-*ad valorem* rates.

3.39. Under the TFEU, common customs tariff duties are set by the European Parliament and the Council, or the Council based on a proposal from the Commission.⁴⁸ The tariff nomenclature, known as the Combined Nomenclature, is based on the Harmonized Commodity Description and Coding System (HS), but is further specified at an eight-digit level. In addition to publishing tariff information in the L-Series of the *Official Journal of the European Union*⁴⁹, the EU maintains a public online database that integrates tariff rates and other measures, including quantitative restrictions and contingency measures, applied to imports (and exports). According to the Commission, the database (TARIC) "secures the uniform application [of these measures] by all

⁴⁴ Operations such as preserving operations to ensure that a product remains in good condition during transport and storage, breaking-up and assembly of packages, simple mixing of products, or simple assembly of parts are considered to be minimal operations ("simple").

⁴⁵ 15% of the product weight for products of HS chapters 2, and 4-24 other than processed fishery products of chapter 16, 15% of the *ex-work* price for products under other HS chapters, and products under HS chapters 50-63 are subject to specific tolerance rules.

⁴⁶ European Commission Regulation (EU) No. 1063/2010, entered into force 1 January 2011.

⁴⁷ WTO document WT/Let/868, 30 October 2012.

⁴⁸ Article 31, TFEU.

⁴⁹ The latest version is contained in Commission Implementing Regulation (EU) No. 1101/2014, 16 October 2014 (OJ L 312, 31 October 2014).

member States and gives all economic operators a clear view of all measures to be undertaken when importing or exporting goods."⁵⁰

3.40. The 2014 tariff schedule is coded on the HS 2012 basis⁵¹, comprising 9,379 lines at the eight-digit level: around one-quarter of all tariff lines are duty free; approximately 7% of lines are "nuisance" rates, and tariff quotas cover around 5% of tariff lines (Table 3.1). The simple average applied MFN tariff rate, including the *ad valorem* equivalents (AVEs) of non-*ad valorem* tariff rates, was 6.4%. Based on the relevant WTO definition, the average applied rate for agriculture fell to 14.4% from 15.2% in 2011 and 17.8% in 2008. This reflects increases in prices of agricultural products and the resulting reduction in the AVEs of non-*ad valorem* tariff rates applied on such products. The average applied rate for non-agricultural products was 4.3%.

Table 3.1 Structure of MFN tariffs in the EU-28, 2011, 2013 and 2014

(%)

	MFN applied			Final Bound (2014)
	2011 ^a	2013 ^b	2014 ^{c, d}	
Bound tariff lines (% of all tariff lines)	100.0	100.0	100.0	100.0
Simple average tariff rate	6.4	6.5	6.4	6.5
Agricultural products (WTO definition)	15.2	14.8	14.4	14.6
Non-agricultural products (WTO definition)	4.1	4.4	4.3	4.4
Agriculture, hunting, forestry and fishing (ISIC 1)	8.7	8.6	7.7	8.5
Mining and quarrying (ISIC 2)	0.2	0.2	0.2	0.3
Manufacturing (ISIC 3)	6.3	6.4	6.4	6.5
Duty free tariff lines (% of all tariff lines)	25.0	24.7	25.1	23.9
Simple average rate of dutiable lines only	8.5	8.7	8.6	8.6
WTO tariff quotas (% of all tariff lines)	4.9	5.0	5.0	5.0
Non- <i>ad valorem</i> tariffs (% of all tariff lines)	10.5	10.7	10.6	10.7
Non- <i>ad valorem</i> tariffs with no AVEs (% of all tariff lines)	2.9	2.9	3.1	3.1
Domestic tariff peaks (% of all tariff lines) ^e	5.7	5.8	5.6	5.6
International tariff peaks (% of all tariff lines) ^f	8.7	9.1	8.5	8.8
Overall standard deviation of applied rates	10.3	10.3	12.0	12.1
Nuisance applied rates (% of all tariff lines) ^g	8.8	7.0	6.9	7.1
Number of lines	9,294	9,376	9,379	9,379
<i>Ad valorem</i>	8,319	8,370	8,382	8,372
Duty free lines	2,319	2,312	2,356	2,244
Non- <i>ad valorem</i>	975	1,006	997	1,007
Specific	553	576	651	661
Compound	193	201	199	201
Alternate	59	59	64	62
Other ^h	170	170	83	83

- a *Ad valorem* equivalents (AVEs) were estimated based on 2010 import data at the eight-digit tariff from Eurostat database. In case of unavailability, the *ad valorem* part is used for compound and alternate rates.
- b *Ad valorem* equivalents (AVEs) were estimated based on 2012 import data at the eight-digit tariff from Eurostat database. In case of unavailability, the *ad valorem* part is used for compound and alternate rates.
- c *Ad valorem* equivalents (AVEs) were estimated based on 2013 import data at the eight-digit tariff from Eurostat database. In case of unavailability, the *ad valorem* part is used for compound and alternate rates.
- d Suffixes are not incorporated in a new tariff submission format to WTO Secretariat (IDB unit) as of 2014: (1) duty rates of 1st January are taken for tariff lines related to seasonal rates; and (2) the highest tariff has been given for tariff lines depending on characteristics of the product.
- e Domestic tariff peaks are defined as those exceeding three times the overall simple average applied rate.
- f International tariff peaks are defined as those exceeding 15%.
- g Nuisance rates are those greater than zero, but less than or equal to 2%.
- h Other includes Agricultural Components (EA), Additional Duties For Sugar (AD S/Z), Additional Duties For Flour (AD F/M) and Entry Prices (EP).

Note: All tariff calculations exclude in-quota lines. Year 2011 tariff schedules is based on HS2007 nomenclature and Years 2013 and 2014 schedules are based on HS2012.

Source: WTO Secretariat.

⁵⁰ European Commission online information, "Online customs tariff database (TARIC)". Viewed at: http://ec.europa.eu/taxation_customs/customs/customs_duties/tariff_aspects/customs_tariff/index_en.htm.

⁵¹ European Commission Explanatory notes to the Combined Nomenclature of the European Union (2011/C 137/01), 6 May 2011. Viewed at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2011:137:FULL:EN:PDF>

Table 3.2 Summary statistics of MFN tariffs, 2014

	Number of lines	Simple average (%)	Tariff range (%)	Standard deviation	Share of duty free lines (%)	Share of non- <i>ad valorem</i> tariffs (%)
Total	9,379	6.4	0-635.4	12.0	25.1	10.6
HS 01-24	2,444	14.4	0-635.4	21.5	15.3	38.4
HS 25-97	6,935	3.8	0-39	3.7	28.6	0.8
By WTO category						
WTO agricultural products	2,069	14.4	0-635.4	23.5	19.2	46.5
Animals and products thereof	351	20.2	0-288.9 ^a	28.5	15.1	68.7
Dairy products	152	36.1	1-635.4 ^b	59.6	0	98.7
Fruit, vegetables, and plants	503	13.1	0-183.5	14.2	11.9	17.1
Coffee, tea, and cocoa and cocoa preparations	47	12.5	0-65.2	10.3	14.9	51.1
Cereals and preparations	230	15.7	0-75.8	12.0	8.7	80.0
Oils seeds, fats, oil and their products	174	6.4	0-117.1	12.7	35.6	6.9
Sugars and confectionary	44	25.7	0-119.7	29.9	4.5	88.6
Beverages, spirits and tobacco	303	13.6	0-116.2	17.8	18.2	55.8
Cotton	6	0	0	0	100.0	0
Other agricultural products, n.e.s.	259	5.2	0-85.8	10.3	51.0	22.0
WTO non-agricultural products	7,310	4.3	0-26	4.4	26.8	0.5
Fish and fishery products	494	12.0	0-26	6.4	8.1	0
Minerals and metals	1,442	2.0	0-12	2.5	50.8	0.7
Chemicals and photographic supplies	1,230	4.4	0-17.3	2.7	24.9	0.3
Wood, pulp, paper and furniture	438	1.2	0-10.5	2.3	73.5	0
Textiles	850	6.6	0-12	2.4	1.9	0.1
Clothing	341	11.6	6.3-12	1.3	0	0
Leather, rubber, footwear and travel goods	264	5.0	0-17	4.7	21.6	0
Non-electric machinery	882	1.9	0-9.7	1.4	20.9	0
Electric machinery	447	3.1	0-14	3.1	21.7	0
Transport equipment	253	5.0	0-22	5.0	11.9	0
Non-agricultural products, n.e.s.	620	2.6	0-14	2.0	25.2	3.2
Petroleum	49	2.5	0-4.7	2.0	38.8	0

a The tariff peak is calculated on a tariff line for which imports in 2013 were 2 tonnes. The next tariff peak in the same sector is 143.2%.

b The tariff peak is calculated on a tariff line for which imports in 2013 were 22 tonnes. The next tariff peak in the same sector is 93.5%.

Note: Calculations for averages are based on the national tariff line level (8-digit), excluding in-quota rates. Tariff schedule is based on HS2012. *Ad valorem* equivalents (AVEs) were estimated based on 2013 import data at the 8-digit tariff from Eurostat database. In case of unavailability, the *ad valorem* part is used for compound and alternate rates.

Source: WTO Secretariat calculations, based on IDB database and Eurostat database.

3.41. Around 11% of tariff lines are non-*ad valorem*, mostly on agricultural products (Table 3.1 and section 4.2). Agricultural imports continue to face complex tariff structures such as entry price systems and the "Meursing Table". On average, non-*ad valorem* rates continue to provide higher protection than *ad valorem* rates. All rates above 100% are AVEs relating to agricultural goods, applying to, *inter alia*, whey and modified whey (635%), prepared or preserved poultry (288.9% and 143.2%), prepared or preserved mushrooms (183.5% and 159.5%), live poultry (156.4%), isoglucose (119.7%), and grape juice (116.2%) (Table 3.2). Apart from agricultural products, non-*ad valorem* tariff rates apply on 35 tariff lines, including mostly glass and watches, watch and clock movements, and watch cases.

3.42. The highest rates for non-agricultural products apply on motor vehicles (22%) and on fish (26%), which are the same as in the previous Review. Tariffs on these goods are *ad valorem* rates, offering certainty to traders.

3.43. The Secretariat used average unit values to estimate the AVE of non-*ad valorem* tariff rates. The data used to calculate import unit values are from Eurostat for 2013. The analysis excludes 294 lines for which AVEs could not be estimated.⁵² In the context of this Review, the Commission expressed reservations about the Secretariat's methodology for estimating AVEs.⁵³

3.1.4.3 Tariff suspensions and tariff rate quotas

3.44. The Commission note that tariff suspensions may be granted for products unavailable within the EU, whereas tariff quotas for goods produced in insufficient quantities within the EU.⁵⁴ These measures permit the total or partial waiver of duties applicable to imported goods for an unlimited quantity (tariff suspension) or a limited quantity (tariff quotas). No tariff suspensions or quotas are granted for finished products.⁵⁵

3.45. According to the Commission, tariff suspensions and tariff quotas allow enterprises to obtain supplies at a lower cost for a certain period, thus stimulating economic activity and improving competition in the EU.

3.46. Any business located in the EU may apply for a tariff suspension/quota through the designated national authorities to the Commission. The requests are examined by the Commission with the aid of the Economic Tariff Questions Group representing the competent authorities of each member State. The Council may approve tariff suspensions and quotas on the basis of proposals from the Commission. According to one study, the tariff suspension scheme operated in the EU serves its objective of allowing EU enterprises to obtain supplies at a lower cost.⁵⁶

3.47. According to the Commission, as a general rule, autonomous tariff suspensions are opened for a period of five years, and are automatically prolonged if they are sufficiently used.⁵⁷ The Commission noted that an early termination of these measures is possible if economic circumstances change or interested parties request that they be deleted. Lists of products under tariff suspension/quota are amended twice a year. Currently there are around 1,800 tariff suspensions and 140 tariff quotas in force.⁵⁸ Products covered include fishery products, basic chemicals, components for the microelectronics industry, and components for heavy and industrial machinery.

⁵² AVEs were not estimated for those lines with no imports or no entry prices; regarding compound or alternate tariffs, only the *ad valorem* component was used for the analysis.

⁵³ The Commission indicates that any calculation of AVEs has shortcomings that can lead to distortions in the characterization of the actual level of tariff protection. The Commission notes that it is therefore important to treat results of AVE calculations with great caution, bearing in mind that the result can be influenced by several elements, including: the base period and partners chosen; commodity prices; exchange rates; shocks in specific markets; treatment of mixed tariffs and tariff lines for which trade data are not available; and the extent to which preferential trade is included in the unit value calculation.

⁵⁴ See European Commission communication concerning autonomous tariff suspensions and quotas 2011/C 363/02), (OJ C 363/6, 13 December 2011).

⁵⁵ Some of the parts and components that are highly technical, sophisticated and used without major modification could be considered as "finished" products; however, tariff suspensions could be granted for those "finished" products as components in the final products, provided the added value of such an assembly operation is sufficiently high. Paragraph 2.5.3, European Commission Communication on autonomous tariff suspensions and quotas (2011/C 363/02), (OJ C 363, 13 December 2011).

⁵⁶ European Commission (2013), *Evaluation of the Scheme for the Autonomous Suspension of CCT Duties*, Final Report, 5 December 2013. Viewed at: http://ec.europa.eu/taxation_customs/resources/documents/common/publications/studies/evaluation_suspensions_duties.pdf.

⁵⁷ In exceptional cases where a continuation of a tariff suspension implies the lasting need in external supplies or it is too costly to invest in domestic supplies, the Commission may propose an amendment to the Common Customs Tariff. Paragraph 2.3.2, European Commission Communication 2011/C 363/02, 13 December 2011.

⁵⁸ Council Regulation (EU) No. 1387/2013, 17 December 2013 (OJ L 354/201, 28 December 2013); Council Regulation (EU) No. 1388/2013, 17 December 2013 (OJ L 354/319, 28 December 2013); and Council Regulation (EU) No. 1220/2012, 3 December 2012 (OJ L 349/4, 19 December 2012).

3.48. Most MFN tariff quotas are allocated on a "first-come, first-served" basis. When the quotas of the application period for the products in question are used up, normal import duties will be applied. Tariff Rate Quotas are managed centrally by the Commission, and can be consulted on an internet database which is updated every working day.⁵⁹

3.49. The EU grants preferential tariff quotas in accordance with the unilateral or reciprocal trade agreements (Table A3.1). It also operates a number of quotas for agricultural goods (section 4.2).

3.50. The EU has been communicating its TRQs information to the Integrated Data Base (IDB) of the WTO since 2014.

3.1.5 Internal taxes collected at the border on imports

3.51. Value added tax (VAT) and excise duties are two of the internal taxes collected at the EU border (section 3.3.3). The Commission indicated that no taxes other than VAT and excise duties are payable at the EU external border.

3.52. VAT is applied to both domestic and imported goods and services. For imported goods, VAT is assessed on the customs value plus duties, other charges, and incidental expenses. VAT on imports, in general, must be paid at the time of customs clearance. Imported goods are in free circulation once the applicable duties have been paid and the customs' formalities complied with. However, traders need to cope with different import VAT rules depending on the member State of importation rather than on the point of entry (section 3.3.3).

3.53. Domestic and imported alcoholic beverages⁶⁰, manufactured tobacco products, energy products (e.g. petrol, gas oil, natural gas) and electricity are subject to excise. Excise duty on imports is usually collected at the EU border unless the goods are placed under an excise duty suspension arrangement, which allows payment to be deferred. Excise duties are specific taxes. The classification and the rules for the holding and movement of untaxed excise goods are harmonized. The rates applied on these products vary across member States, but must be at least equal to the minimum rates established in the EU legislation.

3.1.6 Import controls and restrictions

3.54. The EU import licensing system is based on the premise that no import licences are required except where specific products from certain origins are subject to quantitative restrictions (for a list of those products see next paragraph) and for safeguard measures against injurious imports pursuant to either GATT Article XIX or international commitments. A prior surveillance system is maintained on the basis of Council Regulation No. 260/2009⁶¹ but, in 2013 and 2014 no products have been subjected to it. The Commission applies this surveillance system with the purpose of "improving transparency of import trends of the products concerned, but with no limits on access to the EU market".⁶² On this basis, statistical controls and further controls on the origin of the products may be performed.

3.55. The EU does not maintain quantitative restrictions on imports from WTO Members and countries with which the EU has bilateral agreements. Import quotas are applied to certain steel products from Kazakhstan, and certain textiles from Belarus and the Democratic People's Republic of Korea.

3.56. Most of the import licensing schemes, notably those linked to quotas, concern agricultural products (section 4.2).

⁵⁹ European Commission online information, "Tariff quota consultation". Viewed at: http://ec.europa.eu/taxation_customs/dds2/taric/quota_consultation.jsp?Lang=en.

⁶⁰ The general principle is that excise duty is only due on alcohol intended for human consumption as a beverage.

⁶¹ Council Regulation (EC) 260/2009 of 26 February 2009 on the Common Rules for Imports (codified version), OJ L 84; 31.03.2009. Viewed at: http://trade.ec.europa.eu/doclib/docs/2009/april/tradoc_142728_Reg-260.en.L84-2009.pdf.

⁶² Source: WTO notification G/LIC/N/3/EU/3 dated 6 November 2014.

3.57. The EU also maintains import restrictions on security and environmental grounds. Some such controls/restrictions stem from treaties and international conventions to which it, and/or its member States, are a party. That is the case of the Vienna Convention for the Protection of the Ozone Layer and the Montreal Protocol on Substances that Deplete the Ozone Layer. In principle, imports (and exports) of such Ozone Depleting substances (ODS) are prohibited but there are exemptions to that prohibition, and those exemptions are subject to an import licensing scheme.⁶³ Licences are issued by the European Commission. The Regulation prohibits the import of ODS and of products and equipment containing or relying on ODS from any country not party to the Montreal Protocol. In addition, some territories of member States of the EU are excluded from ratification of the Montreal Protocol or its amendments and therefore trade with these territories may be limited or prohibited. Imports for the following uses are subject to quotas: essential laboratory and analytical uses; halons for critical uses; feedstock uses; and process agent uses. The allocation mechanism is based on grand fathering and a *pro rata* repartition of a set-aside portion among new entrants.⁶⁴

3.58. Another case of import restrictions based on environmental grounds is the controls and restrictions stemming from the Convention on International Trade in Endangered Species of Wild Fauna and Flora. The EU has entered into bilateral "Forest Law Enforcement Governance and Trade Voluntary Partnership Agreements" with a number of countries, through which imports of specific timber and timber products from such countries will be subject to a licensing scheme.

3.59. The measures taken in application of the Kimberley Process Certification Scheme on Rough Diamonds is another example of a licensing scheme stemming from international obligations. The EU as a whole is a single participant in the Kimberley Process Certification Scheme. The Kimberley Process establishes minimum requirements for an international scheme of certification for rough diamonds with a view to breaking the link between armed conflict and the trade in rough diamonds. Import licences are granted by designated "Union Authorities" (there are six such authorities located in Antwerp, Belgium; London, U.K.; Idar-Oberstein, Germany; Prague, the Czech Republic; Bucharest, Romania; and Sofia, Bulgaria). The licences are granted, provided that⁶⁵: the rough diamonds are accompanied by a certificate validated by the competent authority of a participant (i.e. of the Kimberley Process), the rough diamonds are contained in tamper-resistant containers, and the seals applied at export by that participant are not broken, the certificate clearly identifies the consignment to which it refers.

3.1.7 Contingency measures

3.1.7.1 Overview

3.60. Contingency measures, or trade defence measures in EU parlance⁶⁶, are part of the Common Commercial Policy (CCP) under the exclusive competence of the EU. During the period under review, the institutional and legislative framework for contingency measures in the EU remained largely unchanged.

3.61. Legislation on contingency measures includes Regulation No. 1225/2009 on anti-dumping (known as "Basic Anti-dumping Regulation"), Regulation No. 597/2009 on countervailing measures (known as "Anti-subsidy Regulation"), and Regulations No. 260/2009 and No. 625/2009 on safeguards. Regulation No. 427/2003 on transitional product-specific safeguards for imports from China expired in December 2013.⁶⁷ Currently, the EU is in the process of modernizing its trade defence instruments (anti-dumping and countervailing only) with the objective of improving

⁶³ Regulation (EC) No. 1005/2009 of the European Parliament and of the Council of 16 September 2009 on substances that deplete the ozone layer (OJ L 286, 31.10.2009); for a list of the products subject to the scheme and a detailed description of the licensing regime see WTO document G/LIC/N/3/EU/3 dated 6 November 2014 pp. 24-30.

⁶⁴ Commission Regulation No. 537/2011 of 1st June 2011 OJ L147/4 of 2 June 2011.

⁶⁵ The detailed procedures and requirements of this scheme are set up in Council Regulation (EC) No. 2368/2002 of 20 December 2002 implementing the Kimberley Process certification scheme for the international trade in rough diamonds (O.J. L 358, 31.12.2002, p. 28).

⁶⁶ See European Commission online information. Viewed at: <http://ec.europa.eu/trade/policy/accessing-markets/trade-defence/> [18/12/14].

⁶⁷ Council Regulation (EC) No. 427/2003, 3 March 2003 (OJ L 65, 8 March 2003).

transparency in investigations and, in particular, regarding analogue country, injury margin, expiry reviews and the EU's interest.⁶⁸

3.62. According to the Commission, around 0.3% of the total volume of imports into the EU was subject to contingency measures in 2013. During the last five years, the chemical, and iron and steel industries were the sectors most affected by contingency measures adopted in the EU (Table A3.2).

3.1.7.2 Anti-dumping and countervailing

3.63. At end November 2014, the EU had 108 anti-dumping (AD) and 14 countervailing (CV) measures in force, affecting 27 trading partners. These measures include new measures, extended measures, and measures imposed from circumventions. Some AD measures have been in place for longer than ten years. The Commission maintains public websites to provide information on investigations⁶⁹, and on notices and adopted measures.⁷⁰

3.64. An industry within the EU may lodge a complaint with the Commission which may then initiate an investigation.⁷¹ If the investigation determines there is dumping or subsidies in production and/or export of the products concerned, causality between the imports and injury, or threat thereof to the EU's industry, and that the imposition of a contingency measure is not against EU interests, the Commission may adopt contingency measures. The adoption of contingency measures is subject to the new "comitology" rules (section 2.1) and requires consultations of a committee composed of member State representatives; member States can only oppose measures with a qualified majority.

3.65. Provisional measures may be imposed no earlier than 60 days from the initiation of the proceeding. The provisional duties apply the "lesser duty" principle, i.e. the amount of the duty should be the lesser of the dumping margin and the level determined necessary to "remove the injury".

3.66. Provisional duties must be secured by a guarantee. Upon provision of the guarantee, imports of the product concerned will be released for free circulation in the EU. Provisional duties may be imposed for six months, up to a maximum of nine months.

3.67. Definitive anti-dumping or countervailing measures are usually imposed for a fixed period of five years, subject to expiry reviews and, if no expiry review is requested, the measure expires automatically. Expiry reviews may be initiated at the request of an EU industry or on the Commission's initiative. If the expiry review determines the measure should be retained, the duties normally remain in force for another five years.⁷² The Commission indicated that the average duration of AD measures in the EU is around six years (for the period 2002-mid-2014).

3.68. AD or CV measures may be terminated before their expiry. After the measures have been imposed for longer than one year, an interim review may be requested by an exporter, importer, or by EU producers.⁷³ Anti-dumping measures against certain trading partners may be terminated in an expiry review or an interim review while being retained for others. The threshold for

⁶⁸ European Commission document MEMO/13/319, 10 April 2013. Viewed at: http://europa.eu/rapid/press-release_MEMO-13-319_en.htm.

⁶⁹ European Commission online information, "Trade Defence: Investigation". Viewed at: <http://trade.ec.europa.eu/tidi/index.cfm>.

⁷⁰ European Commission online information, "Trade Defence: Notice board". Viewed at: <http://trade.ec.europa.eu/tidi/notices.cfm>.

⁷¹ An EU industry is referred to EU producers as a whole of the like products or to those whose collective output of the products constitutes a major proportion of EU production. In this context, a major proportion is defined as being at least 25% of total EU production of the like product.

⁷² An expiry review can result in either the repeal or continuation of the duties in force, but not in a change in the level or form of the duties. Changes in the level or form of the contingency measures can be carried out through interim reviews.

⁷³ Interim reviews may also be carried out on the initiative of the Commission or at the request of member States. See Article 11.3 of the Basic Anti-dumping Regulation.

terminating AD measures is where the dumping margin is determined to be less than 2% of the export price.⁷⁴

3.69. During the period under review, the EU initiated 16 new AD investigations, around half the number of the last review period (Table 3.3). The Commission noted that during the period 2009-13, around 53% of investigation cases turned into definitive measures.

Table 3.3 Anti-dumping investigations and measures imposed, 2010-14

	2010	2011	2012	2013	2014
Investigation initiations	15	17	13	6	10
Provisional measures	9	10	8	5	1
Definitive measures	6	11	3	12	1
Expired measures ^a	14	18	14	6	2
Confirmation of measure following expiry review	10	8	12	5	4
Termination of measure following expiry/interim review	3	3	6	8	2

a Measures that expired automatically after their five-year imposition, not including the extended measures that automatically expired after the extension.

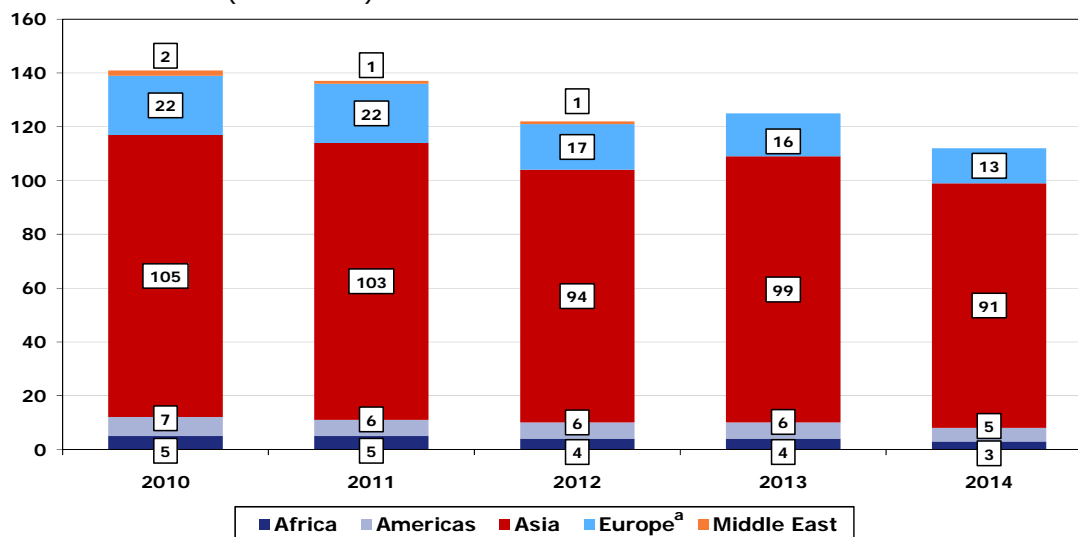
Note: As at end November 2014.

Source: WTO Secretariat; and European Commission online information. Viewed at: <http://trade.ec.europa.eu/tdi/notices.cfm>.

3.70. A total of 12 new definitive AD measures were adopted in 2013, affecting 8 trading partners. The majority of AD measures in force in recent years were on imports from Asia, in particular China. Over the past five years, Asia accounted for 79% of the AD measures imposed, with other European countries outside the EU accounting for 14% (Chart 3.1).

Chart 3.1 Anti-dumping measures in force, by region, 2010-14

Number of measures (cumulated)



a Non-EU European countries including Armenia, Belarus, Russian Federation, Kazakhstan, Republic of Moldova, and Ukraine.

Note: As at end November 2014.

Source: WTO Secretariat, based on information provided by the European Commission.

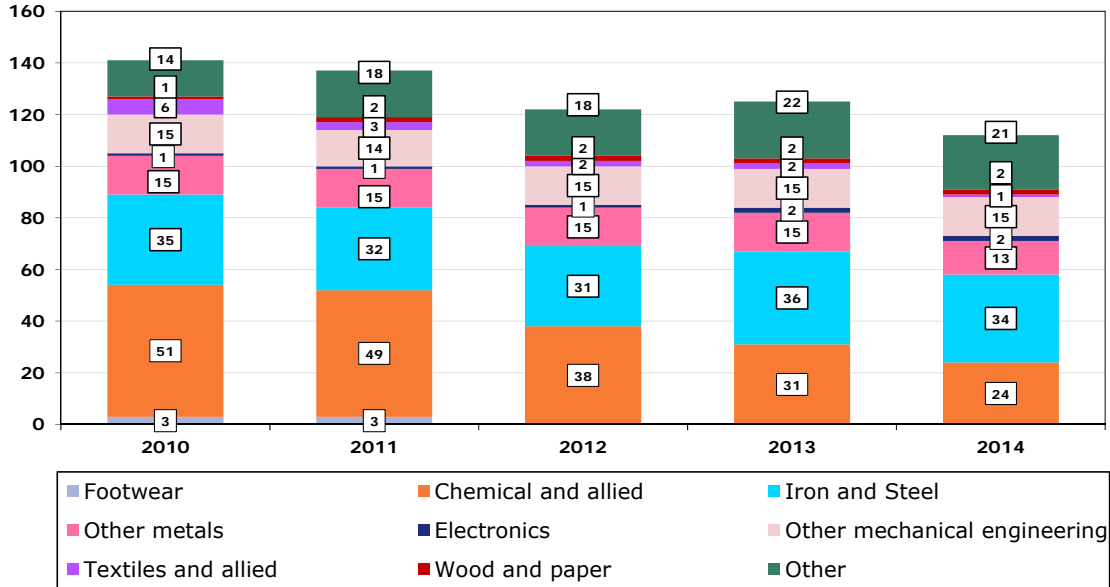
3.71. In terms of sectors affected by AD measures imposed over the last five years, chemicals, and iron and steel accounted for most measures. Products subject to AD measures include biofuels, steel ropes and cables, oxalic acid, and tube and pipe fittings. Two measures on biodiesel

⁷⁴ Article 9(3), Council Regulation (EC) No. 1225/2009, 30 November 2009 (OJ L 343/51, 22 December 2009).

that were imposed in November 2013 were subject to dispute settlement proceedings in the WTO (Table A2.2).

Chart 3.2 Anti-dumping measures in force, by product, 2010-14

Number of measures (cumulated)



Note: As at end-November 2014.

Source: WTO Secretariat, based on information provided by the European Commission.

3.72. Some of the highest definitive AD duties that resulted from original investigations or reviews between July 2012 and June 2014 concern, *inter alia*, certain iron and steel fasteners from China (74.1%), molybdenum wires (64.3%), certain tungsten electrodes from China (63.5%), certain open-mesh fabrics of glass fibres from Chinese Taipei, India and Indonesia (62.9%), solar panels from China (64.9%), and peroxosulphates from China (71.8%).⁷⁵

3.73. Initiations of countervailing investigations remained at broadly similar levels since the previous review (Table 3.4). During 2013-14, four new definitive measures were imposed from the cases initiated in the previous year (Table A3.2).

Table 3.4 Countervailing investigations and measures imposed, 2010-14

	2010	2011	2012	2013	2014
Investigation initiations	3	4	6	5	2
Provisional measures	4	0	1	1	1
Definitive measures	3	2	0	3	1
Expired measures ^a	0	3	0	0	0
Confirmation of measure following expiry review	1	0	0	1	0
Termination of measure following expiry review	0	1	0	2	0

a Measures that expired automatically after their five-year imposition, not including the extended measures that automatically expired after the extension.

Note: As at end November 2014.

Source: WTO Secretariat; and European Commission online information. Viewed at: <http://trade.ec.europa.eu/tidi/notices.cfm>.

⁷⁵ Only AD duties in the form of *ad valorem* duties were considered. See WTO documents G/ADP/N/237/EU, 8 April 2013; G/ADP/N/244/EU, 20 September 2013; G/ADP/N/252/EU, 14 March 2014; and G/ADP/N/259/EU, 5 September 2014.

3.74. Newly-opened investigations in 2013 covered solar glass, glass fibre products panels, and polyester staple fibres (PSF). There are 16 countervailing measures in force, three of which have lasted longer than ten years through various extensions, concerning Indian-origin products of polyethylene terephthalate (PET), sulphalinic acid, and graphite electrode systems (Table A3.2).

3.75. The EU may not impose AD or CV measures on imports from Iceland, Liechtenstein or Norway, except for fish and other goods that are outside the free movement of goods scope of the European Economic Area.

3.1.7.3 Safeguards

3.76. The legislative framework for safeguard measures remained largely unchanged during the period under review. No safeguard measures have been applied since 2005.

3.77. The Commission is in charge of conducting safeguard investigations in cooperation with member States. The adoption of definitive safeguard measures is not subject to the standard regime under the new "comitology" rules; the adoption of definitive safeguard measures requires a positive opinion voted by qualified majority of a committee composed of member State representatives, as opposed to general "comitology" rules which require a qualified majority to reverse a Commission proposal to adopt AD/CV measures.

3.78. Under the relevant safeguard legislation, the Commission may decide to impose surveillance if the "trend in imports of a product originating in a third country threatens to cause injury to EU producers". During the period under review, no surveillance measures were applied to WTO Members. Simple surveillance is applied to textile imports from Belarus and DPR Korea on the basis of Regulation No. 517/94.⁷⁶

3.79. Provisions including related implementing regulations on safeguards are also contained in recent applied/concluded free trade agreements (FTAs), as well as in the Generalised Scheme of Preferences (GSP). The Commission indicated that safeguards measures in accordance with provisions in FTAs or GSP have not applied to any cases.

3.1.8 Technical regulations and standards

3.80. As was noted in the last Review, a considerable amount of legislation on technical requirements and conformity assessment is harmonized at the EU level with the objective of ensuring the free movement of goods while maintaining a high level of health and safety, and protection of consumers and the environment within the Union.⁷⁷ The EU system of technical regulations, standards and conformity assessment is outlined in the Blue Guide on the implementation of EU product rules which was first published in 2000 and most recently in 2014.⁷⁸

3.81. Since 1985, the EU approach to technical regulations and standards has been to set out in legislation the essential requirements for a particular product. Harmonized standards are then developed as a means to meet these essential requirements. Compliance with the relevant harmonized standard is voluntary but provides a presumption of conformity with the essential requirements. A product which does not comply with the relevant harmonized standards, but meets the essential requirements may be marketed in Europe.⁷⁹ In the majority of such cases, the producer may use the same conformity assessment procedures as would be used to show the product is manufactured in compliance with harmonized standards. However, for toys, high-risk machinery, and specific issues related to the use of radio frequencies, third-party conformity assessment is required if the product is not manufactured in compliance with harmonized standards (see below). In the absence of more specific safety legislation at EU level, consumer goods are subject to the safety requirements set out in the General Product Safety Directive. These goods include, *inter alia*, childcare products, textiles, and several other consumer goods.

⁷⁶ Council Regulation (EC) No. 517/94, 7 March 1994 (OJ L 67/1, 10 March 1994).

⁷⁷ WTO document WT/TPR/S/284/Rev.2 of 28 November 2013, section 3.1.8.

⁷⁸ European Commission (2014), *The 'Blue Guide' on the implementation of EU product rules 2014*, Ref. Ares (2014) 1025242 – 02/04/2014.

⁷⁹ The postal service sector is the only services sector to which harmonised standards apply (see Table 3.6).

3.82. The principal legislation setting the basis for technical requirements, standards, conformity assessment, and accreditation in the EU are set out in Table 3.5.

Table 3.5 Legal basis for technical requirements, standards, conformity assessment, and accreditation in the EU at end-2014

Legislation	
Regulation (EC) No. 765/2008	Lays down rules on the organization and operation of accreditation for conformity assessment bodies. The Regulation provides a framework for market surveillance, a framework for controls on products from third countries, and lays down the general principles for CE marking.
Decision No. 768/2008/EC	Sets out a common framework for the marketing of products. The Decision is a political commitment rather than applicable legislation, but it does require the European Parliament, Council, and Commission to adhere to its principals when preparing legislation.
Regulation (EC) No. 764/2008	Lays down the rules and procedures to be followed by the competent authorities of a member State for decisions which may hinder the free movement of a product lawfully marketed in another member State. The Regulation also provides for the establishment of Product Contact Points in the member States.
Regulation (EU) No. 1025/2012	Establishes rules for cooperation between European standardization organizations, national standardization bodies, member States, and the Commission. It also sets out rules for the establishment of European standards and European standardization deliverables for products and services, the identification of ICT technical specifications eligible for referencing, the financing of European standardization, and stakeholder participation in European standardization.
Directive 2001/95/EC	Applies principally to products which are not covered by harmonization legislation and sets up the rapid alert system (RAPEX) between the member States and the Commission and associated measures for products deemed to be dangerous.

Source: European Commission.

3.83. In addition to the basic rules in Table 3.5, there are Articles 34 to 36 of the TFEU (prohibiting quantitative restrictions and measures with equivalent effect) and case law from the Court of Justice of the EU on mutual recognition of technical requirements and on the general principle of the free movement of goods.⁸⁰

3.84. As noted in Table 3.5, the legal basis for the development of standards in the EU is Regulation (EU) No. 1025/2012 which outlines the procedures to be followed in the development of standards and similar documents ("other deliverables") by the European standards organizations (ESOs) and national standardization bodies. The three ESOs recognized in the Regulation are the European Committee for Standardization (CEN), the European Committee for Electrotechnical Standardization (Cenelec), and the European Telecommunications Standards Institute (ETSI). The Commission may make a formal request to the standardization organizations for development of a standard following consultation with interested parties, submission to the Committee on Standards, and subsequent approval by the member States (comitology procedures).

3.85. Regulation (EU) No. 1025/2012 also requires each national standardization body in the EU to make its work programme publicly available. Draft standards developed by a member State's standardization body must be notified to the relevant ESOs that will then circulate the list of national initiatives to the national standardization bodies of the other member States. The national standardization bodies may not object to a subject for standardization in their work programme from being considered at the EU level in accordance with the rules laid down by the ESOs (including a standstill period). When a European standard has been developed and adopted by the relevant ESO, any conflicting national standard must be withdrawn in order to ensure the overall coherence of the European standardization system.

⁸⁰ Most notably the Cassis de Dijon case (Judgment of the European Court of Justice of 20 February 1979 - Rewe-Zentral AG v Bundesmonopolverwaltung für Branntwein - Reference for a preliminary ruling: Hessisches Finanzgericht - Germany - Measures heaving an effect equivalent to quantitative restrictions - Case 120/78).

3.86. The Commission maintains an online database of requests for standards⁸¹ and publishes an annual European standardization work programme.⁸² It also provides a list of national standardization bodies in the member States.⁸³

3.87. Currently, harmonized standards apply to 11 different areas covering 31 product groups and one service area (Table 3.6 includes references to harmonized standards in the EU as at end-2014).

3.88. On 26 February 2014 an "Alignment Package" consisting of eight directives was adopted, and published in the Official Journal of the European Union on 29 March 2014.⁸⁴ These directives cover low voltage electrical equipment, electromagnetic compatibility, equipment in potentially explosive atmospheres, lifts, simple pressure vessels, measuring instruments, non-automatic weighing instruments, and civil explosives and will become applicable in April 2016. In addition, in 2013 and 2014, legislation was adopted in the areas of pyrotechnic articles, recreational craft, radio equipment, and pressure equipment. The Commission also noted that further proposals for alignments of standards are pending on medical devices, gas appliances, cableways and personal protective equipment.

Table 3.6 Harmonized standards in the EU, December 2014

Subject	Legal basis
Chemicals Chemical substances Explosives for civil use Pyrotechnic articles	Regulation (EC) No. 1907/2006 Council Directive 93/15/EEC, and Directive 2014/28/ ^a Directive 2007/23/EC, and Directive 2013/29/EU ^b
Conformity assessment and managements systems New Legislative Framework (NLF) and Eco-Management and Audit Scheme (EMAS)	Regulation (EC) No. 765/2008, Decision No. 768/2008/EC, and Regulation (EC) No. 1221/2009
Construction Construction products (CPD/CPR)	Council Directive 89/106/EEC, and Regulation (EU) No. 305/2011
Consumers and workers protection Cosmetics products General product safety Personal protective equipment (PPE) Toys safety	Regulation (EC) No. 1223/2009 Directive 2001/95/EC Council Directive 89/686/EEC Directive 2009/48/EC
Energy efficiency Ecodesign and energy labelling	Directive 2009/125/EC, and Directive 2010/30/EU
Electric and electronic engineering Electromagnetic compatibility (EMC) Equipment for explosive atmospheres (ATEX) Low Voltage Devices (LVD) Radio and Telecommunications Terminal Equipment (RTTE) Restriction on the use of certain hazardous substances (RoHS) in electrical and electronic equipment	Directive 2004/108/EC, and Directive 2014/30/EU ^a Directive 94/9/EC, and Directive 2014/34/EU ^a Directive 2006/95/EC, and Directive 2014/35/EU ^a Directive 1999/5/EC, and Directive 2014/53/EU ^c Directive 2011/65/EU
Healthcare engineering Active implantable medical devices In-vitro diagnostic medical devices Medical devices (MDD)	Directive 90/385/EEC Directive 98/79/EC Directive 93/42/EEC
Measuring technology Measuring instruments (MID) Non-automatic weighing instruments (NAWI)	Directive 2004/22/EC, and Directive 2014/32/EU ^a Directive 2009/23/EC, and Directive 2014/31/EU ^a
Mechanical engineering and means of transport Cableway installations designed to carry persons Equipment for explosive atmospheres (ATEX) Gas appliances (GAD) Inspection of pesticide application equipment Lifts Machinery (MD)	Directive 2000/9/EC Directive 94/9/EC, and Directive 2014/34/EU Directive 2009/142/EC Directive 2009/128/EC Directive 95/16/EC, and Directive 2014/33/EU ^a Directive 2006/42/EC

⁸¹ See: http://ec.europa.eu/enterprise/standards_policy/mandates/database/ [December 2014].

⁸² European Commission (2014), *Communication from the Commission to the European Parliament, the Council and the European Economic and Social Committee – The annual Union work programme for European standardisation for 2015*, COM(2014) 500 final. This programme and programmes for earlier years are available from: http://ec.europa.eu/enterprise/policies/european-standards/standardisation-policy/index_en.htm [December 2014].

⁸³ OJ 2013/C 279/08.

⁸⁴ OJ L 96 29 March 2014.

Subject	Legal basis
Pressure equipment (PED)	Directive 97/23/EC, and Directive 2014/68/EU ^d
Rail system: interoperability	Directive 2008/57/EC
Recreational craft	Directive 94/25/EC, and Directive 2013/53/EU ^e
Simple pressure vessels (SPVD)	Directive 2009/105/EC, and Directive 2014/29/EU ^a
Services	
Community postal services	Directive 97/67/EC
Sustainability	
Packaging and packaging waste	Directive 94/62/EC

- a To be applied from 20 April 2016.
- b To be applied from 1 July 2015.
- c To be applied from 13 June 2016.
- d To be applied from 1 June 2015 for classification of substances and 19 July 2016 for other provisions.
- e To be applied from 18 January 2016.

Source: EU Commission online information. Viewed at: http://ec.europa.eu/enterprise/policies/european-standards/harmonised-standards/index_en.htm, and http://ec.europa.eu/enterprise/policies/single-market-goods/internal-market-for-products/new-legislative-framework/index_en.htm [December 2014].

3.89. In the absence of EU harmonized technical regulations, member States may develop and apply national technical regulations subject to the procedures set out below. Directive 98/34/EC requires member States to notify a draft technical regulation to the Commission and other member States. This procedure was originally set up in 1983 through Council Directive 83/189/EEC. The Commission maintains an online database of these notifications which can be consulted by the public.⁸⁵ Following notification, there is a three-month standstill period during which the draft may not be adopted. This period may be extended by up to 6 months if a member State or the Commission issues a detailed opinion and up to 12 to 18 months if the Commission decides to block the draft technical regulation while harmonization work at the EU level continues. The Commission reports to the EU Parliament, the Council and the European Economic and Social Committee on the operation of Directive 98/34/EC. At end-2014, the most recent report was for the 2009-10 period.⁸⁶

3.90. Goods legally put on the market (i.e. either produced or imported) in one member State are subject to the principle of mutual recognition, which allows them to be marketed in another member State even if they do not conform to the second member State's technical regulations. The free movement of goods may be limited where a member State can show that refusal is "justified on grounds of public morality, public policy or public security; the protection of health and life of humans, animals or plants; the protection of national treasures possessing artistic, historic or archaeological value; or the protection of industrial and commercial property"⁸⁷ or by reason of one of the imperative requirements recognized by the Court of Justice of the EU (CJEU).⁸⁸ However, as noted by the Commission, the CJEU requires that such rules must be necessary in order to attain the intended legitimate objectives, and be in conformity with the principles of proportionality, whereby the least-restrictive measure is to be used.

3.91. Regulation (EC) No. 764/2008 aims to ensure the correct application of the mutual recognition principle in individual cases. Pursuant to the Regulation, member States that use existing technical regulations to restrict market access for products lawfully marketed in another Member State must justify their position with technical or scientific evidence, and must grant the economic operators affected an opportunity to provide comments. Furthermore, the Commission publishes "a non-exhaustive list of products which are not subject to Community harmonization legislation" as well as a list of the contact points in each Member State.⁸⁹ In 2014 the European

⁸⁵ See <http://ec.europa.eu/enterprise/tris/en/search/> [February 2015].

⁸⁶ EU Commission (2011), *Report from the Commission to the European Parliament, the Council and the European Economic and Social Committee – The Operation of Directive 98/34/EC in 2009 and 2010*, COM(2011) 853 final, 7 December. Viewed at: <http://ec.europa.eu/growth/tools-databases/tris/en/the-9834-and-you/being-informed/reports/> [February 2015].

⁸⁷ TFEU, Article 36.

⁸⁸ For examples of the requirements recognized by the CJEU see Commission online information. Viewed at: http://ec.europa.eu/internal_market/capital/framework/treaty/index_en.htm [February 2015].

⁸⁹ The list can be consulted on European Commission online information, "DG Enterprise: Mutual recognition". Viewed at: http://ec.europa.eu/enterprise/policies/single-market-goods/free-movement-non-harmonised-sectors/mutual-recognition/index_en.htm [December 2014].

Commission received 258 notifications from member States on decisions which have the effect of non-application of mutual recognition, as established by the procedural rules of Regulation (EC) No. 764/2008.⁹⁰ The Commission also stated that it was preparing a report on the application of the principle of mutual recognition in goods which is expected to become available during 2015.

3.92. At the EU level, the requirements for accreditation of conformity assessment bodies are set out in Regulation (EC) No. 765/2008 on accreditation and market surveillance. Under the Regulation, each member State must appoint a single national accreditation body which cannot be involved in conformity assessment activities itself, cannot compete with other accreditation bodies, and must operate on a not-for-profit basis. A national accreditation body must be a member of the European cooperation for Accreditation (EA) "whose main mission is to promote a transparent and quality-led system for the evaluation of the competence of conformity assessment bodies throughout Europe" and which "manages a peer evaluation system among national accreditation bodies from the member States and other European countries"^{91,92}. The national authorities are required to recognize the equivalence of the services delivered by other national accreditation bodies that have passed their peer review and accept the accreditation certificates issued by those bodies as well as the certificates or test reports issued by the conformity assessment bodies accredited by them.⁹³

3.93. Conformity assessment of a product covered by EU harmonized legislation depends on the level of risk associated with it. Low-risk products require a manufacturer's or supplier's declaration of conformity, while high-risk products are subject to conformity assessment by the relevant notified conformity assessment bodies. These notified conformity assessment bodies are certification, inspection, and testing bodies designated by member States to perform specific conformity assessment activities mandated under EU product legislation.⁹⁴ The designation of notified bodies by member States involves a technical assessment of their competence and adequacy of their organization and procedures, typically based on accreditation, and a political decision whereby member States take responsibility for the operation and supervision of the notified body. Some products which are not specifically covered by EU harmonized legislation are subject to the General Product Safety Directive and are not subject to any specific conformity assessment process.⁹⁵

3.94. Under the Rapid Alert System for non-food dangerous products (RAPEX), the authorities of the EU member States and the EFTA countries exchange information on products deemed to pose a risk to health and safety and measures taken to address these risks. Measures taken by producers and distributors are also reported (Table 3.7).

3.95. Between 1 January 2013 and 31 December 2014, the EU submitted 196 notifications under Article 10.6 (including revisions, addenda, and corrigenda) to the TBT Committee and individual member States submitted another 68.⁹⁶ The EU also submitted one notification under Article 10.7 on agreements with other WTO Members regarding a Protocol to the Euro-Mediterranean Agreement on Conformity Assessment and Acceptance of Industrial Products with Israel.⁹⁷

3.96. In 2013 and 2014, some WTO Members used the TBT Committee to raise specific trade concerns relating to notifications made by the EU or the member States. During these two years,

⁹⁰ The principle of mutual recognition is just one aspect of the application of the rules on free movement of goods in the non-harmonized area established by the Treaty (Arts. 34 – 36 TFEU). Thus, there are no indicators *per se* on infringements or cases before the Court on grounds of "mutual recognition".

⁹¹ Whereas (23), Regulation No. 765/2008.

⁹² EA members are the national accreditation bodies of the member States and Iceland, Montenegro, Norway, Serbia, Switzerland, The former Yugoslav Republic of Macedonia, and Turkey. The associate members are the national accreditation bodies of Albania, Algeria, Belarus, Bosnia and Herzegovina, Egypt, Georgia, Israel, Jordan, Kosovo, Morocco, Moldova, Tunisia, and Ukraine.

⁹³ Article 11, Regulation (EC) No. 765/2008.

⁹⁴ The designation of a conformity assessment body takes the form of a notification from the member State concerned to the Commission and other member States, hence the term "notified" conformity assessment body.

⁹⁵ WTO document WT/TPR/S/284/Rev.2 of 28 November 2013, paras 3.98, and 3.103.

⁹⁶ 1 from Croatia, 18 from the Czech Republic, 5 from Denmark, 1 from Estonia, 1 from Finland, 18 from France, 1 from Germany, 3 from Hungary, 2 from Ireland, 1 from Latvia, 8 from Lithuania, 1 from the Netherlands, 7 from Sweden, and 1 from the United Kingdom.

⁹⁷ WTO document G/TBT/10.7/N/121 of 7 February 2013 and WT/TPR/S/284/Rev.2 of 28 November 2013, para.3.102.

seven concerns were raised which had been raised previously⁹⁸ and a further seven were raised for the first time.⁹⁹

Table 3.7 RAPEX reporting 2010-14

	Consumer products			Professional products		
	Serious risk	Other risk	For information	Serious risk	Other risk	For information
2010	1,963	38	243	7	6	7
2011	1,556	58	189	17	2	6
2012	1,938	104	236	31	2	4
2013	1,981	89	294	27	2	0
2014	2,038	112	159	29	1	2

Source: RAPEX Annual Reports 2010-14. Viewed at: http://ec.europa.eu/consumers/consumers_safety/safety_products/rapex/reports/index_en.htm [March 2015].

3.97. The EU has also used the TBT Committee to raise its own concerns with measures proposed or implemented by other Members, in particular in areas of foodstuffs and beverages, cosmetics, medical devices, ICT and electrical equipment industries, tyres, and textiles. Some of these concerns had also been raised before 2013.¹⁰⁰

3.1.9 Sanitary and phytosanitary measures

3.98. To a large extent, legislation on SPS measures in the EU has been harmonized and the majority of measures are taken by the EU – although member States can, and occasionally do, take specific measures in specific circumstances.¹⁰¹ The principal legislation on SPS measures is set out in Table 3.5.

3.99. There have been no major changes to the legislative framework for SPS measures since the last Review.¹⁰² However, on 6 May 2013 the Commission adopted a proposal for a package of measures which, according to the Commission, allows for simplification, modernization, increased consistency, and convergence with international standards of EU health and safety standards for the agri-food chain. The package of proposals was notified to the SPS Committee of the WTO on 17 May 2013 and, at the beginning of 2015, was going through the normal consultative and legislative process for regulations of the European Parliament and Council.¹⁰³

⁹⁸ Directive 2004/24/EC on Traditional Herbal Medicinal Products (WTO TBT Information Management System ID 265); France – Loi No. 2010-788: The National Commitment for the Environment (Grenelle 2 Law) (ID 306); Directive 2009/28/CE, Renewable Energy Directive (EU - RED) (ID 307); Issue with respect to honey containing pollen from genetically modified maize MON810, Ruling from ECJ (ID 322); Directive 2011/62/EU of the European Parliament and of the Council amending Directive 2001/83/EC on the Community code relating to medicinal products for human use, as regards the prevention of the entry into the legal supply chain of falsified medicinal products (ID 334); Draft Implementing Regulations amending Regulation (EC) No. 607/2009 laying down detailed rules for the application of Council Regulation (EC) No 479/2008 as regards protected designations of origin and geographical indications, traditional terms, labelling and presentation of certain wine sector products (ID 345); and Draft Commission Regulation implementing Directive 2009/125/EC of the European Parliament and of the Council with regard to ecodesign requirements for directional lamps, light emitting diode lamps and related equipment (ID 365).

⁹⁹ Tobacco products, nicotine-containing products and herbal products for smoking. Packaging for retail sale of any of the aforementioned products (ID 377); Ireland - Proposal to introduce standardized/plain packaging of tobacco products in Ireland (ID 380); Transformation of still wine into sparkling wine EC Regulation 479/2008 of 29 April 2008 (ID 381); Implementing Regulation (EU) No 481/2012 laying down rules for the management of a tariff quota for high-quality beef (ID 382); Proposal for a Regulation on Fluorinated Greenhouse Gases (ID 391); Revised Proposal for the Categorization of Compounds as Endocrine Disruptors of 19 February 2013 by DG Environment (ID 393); and Italy - Testing requirement on import of steel cutlery products (ID395).

¹⁰⁰ WTO TBT Information Management System <http://tbtime.wto.org/Default.aspx?Lang=0> [February 2015].

¹⁰¹ WTO document WT/TPR/S/284/Rev.2 of 28 November 2013, section 3.1.9.

¹⁰² WTO document WT/TPR/S/284/Rev.2 of 28 November 2013, paragraphs 3.110 to 3.127.

¹⁰³ Commission online information. Viewed at: http://ec.europa.eu/dgs/health_consumer/pressroom/animal-plant-health_en.htm [January 2014] and WTO documents G/SPS/N/EU/43, 44, 45, 46 and Add.1 to each document (on animal health, plant health, plant

Table 3.8 Principal SPS legislation in the EU in 2015

Legislation	Last amended	
Regulation (EC) No. 178/2002	2014	The General Food Law. Applies to safety of food and feed in the internal market, established a framework for controlling and monitoring the risks and their prevention and management, and created the European Food Safety Authority (EFSA) for the control and evaluation of food and feed.
Regulation (EC) No. 852/2004	2009	On the hygiene of foodstuffs. General rules for food business operators on the hygiene of foodstuffs, putting primary responsibility on the operators, implementation of procedures based on the HACCP principles and good hygiene practice, and ensuring imported foods are at least the same, or equivalent, hygiene standard as food produced in the EU
Regulation (EC) No. 853/2004	2014	Supplementing Regulation (EC) No. 852/2004. Setting out specific rules on hygiene for food of animal origin for food business operators and applying to unprocessed and processed products of animal origin.
Regulation (EC) No. 854/2004	2014	Setting out specific rules on the organization of official controls on products of animal origin intended for human consumption. The Regulation applies in addition to Regulation (EC) No. 882/2004.
Regulation (EC) No. 882/2004	2014	On official controls for verification of compliance with feed and food law, animal health, and animal welfare rules. The Regulations sets out general rules for the performance of official controls to verify compliance with rules aiming, in particular, at: (a) preventing, eliminating or reducing to acceptable levels risks to humans and animals, either directly or through the environment; and (b) guaranteeing fair practices in feed and food trade and protecting consumer interests, including feed and food labelling and other forms of consumer information.
Directive 2002/99/EC	2013	Setting out rules for the production, processing, distribution, and introduction of products of animal origin for human consumption. The Directive lays down the general animal health rules governing all stages of the production, processing and distribution within the EU and the introduction from third countries of products of animal origin and products obtained therefrom intended for human consumption.
Directive 2000/29/EC	2014	Protective measures against the introduction into member States from other member States or third countries of organisms which are harmful to plants or plant products. <i>Inter alia</i> , it also concerns: protective measures against the spread of harmful organisms within the EU by means related to movements of plants, plant products and other related objects within a member State; and the model of 'Phytosanitary Certificates' and 'phytosanitary certificates for Re-export' or their electronic equivalent issued by member States under the International Plant Protection Convention (IPPC).

Source: EU Commission.

3.100. The main regulatory committee involved in the development of SPS measures in the EU is the Standing Committee on Plants, Animals, Food and Feed (which replaced the Standing Committee on the Food Chain and Animal Health, and the Standing Committee on Plant Health).¹⁰⁴

reproductive material, and official controls respectively). See also WTO documents G/TBT/N/EU/116 and 117 (on plant reproductive material and official controls respectively).

¹⁰⁴ Regulation (EU) No. 652/2014, Article 48.

The European Food Safety Authority (EFSA) is an independent risk assessment body of the EU, which provides scientific advice on existing and emerging risks related to SPS matters, including food safety, and the authorization of genetically-modified organisms. The Food and Veterinary Office (FVO) of the Commission is responsible for audits, inspections, and related activities to assess compliance with EU food safety and quality, animal health and welfare, and plant health legislation within the European Union, and compliance with EU import requirements in third countries exporting to the EU.

3.101. In addition to the authorities at the EU level, each member State has its own authorities responsible for food safety, animal and plant health, and the environment.

3.102. EU member States are members of the *Codex Alimentarius* Commission, the World Organization for Animal Health (OIE), and contracting parties to the International Plant Protection Convention (IPPC). The EU itself is a member of Codex and a contracting party to the IPPC.

3.103. Since the last Review¹⁰⁵, agreements on deep and comprehensive free trade areas (DCFTA) have been signed and are provisionally in force with Georgia and Moldova. These agreements include provisions relating to SPS measures. In addition, the Association Agreement between the EU and the Central American region (Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua, and Panama) and the FTA with Colombia and Peru also include provisions on SPS measures (Section 2.3.2).

3.104. According to the Commission, SPS measures taken in the EU are normally based on international standards or, in other cases - including the absence of an international measure - based on the scientific opinion of the EFSA.

3.1.9.1 Live animals and animal products

3.105. To be eligible to export live animals or products of animal origin to the EU, the competent authority of the exporting country must be formally recognized by the Commission as being able to "ensure credible inspection and controls throughout the production chain, which cover all relevant aspects of hygiene, animal health and public health."¹⁰⁶ The addition of a third country, territory, zone or compartment to the list of approved exporters usually requires a visit from the FVO. For certain food products which may pose a risk to public health (such as meat, and aquaculture), the Commission must approve the residue monitoring programme, the salmonella control programme for poultry and poultry products, and other requirements depending on the animal and/or product. The Commission then prepares draft legislation to include the third country, territory, zone or compartment on the lists for animal and public health status provided the Standing Committee on Plants, Animals, Food and Feed agrees.¹⁰⁷

3.106. An establishment from a third country that wishes to be added to the list of eligible exporters is first required to contact its national authorities that may then make a request to the FVO through its competent national authority.

3.107. As noted in the last Review, an import consignment of live animals or animal products must be accompanied by a health certificate stating that the products or animals meet EU import requirements.¹⁰⁸ The consignment must undergo official controls at an approved Border Inspection Post (BIP). It may also be subject to additional controls in the member State of destination. The official border controls include documentary, identity, and physical checks.¹⁰⁹ The frequency of physical checks may be reduced for products of animal origin subject to EU harmonized requirements, taking into account the risk profile of the product concerned.¹¹⁰ Imports of live

¹⁰⁵ WTO document WT/TPR/S/284/Rev.2 of 28 November 2013, para. 3.114.

¹⁰⁶ Commission (2007), *EU import conditions for fresh meat and meat products*, Directorate-General for Health and Consumers.

¹⁰⁷ Commission Regulation (EC) No. 798/2008, Annex 1.

¹⁰⁸ WTO document WT/TR/S/284/Rev.2, section 3.115-118.

¹⁰⁹ Consignments of live animals and products of animal origin must also be accompanied by the model health certificate set out in EU legislation for the relevant species or product. In the absence of an EU model health certificate for a particular species or product, member States may establish their own import requirements.

¹¹⁰ Decision 94/360/EC, 20 May 1994 (OJ L 158, 25 June 1994).

animals must be notified to the BIP at least 24 hours before arrival and imports of products of animal origin must be notified before arrival. Notifications must be submitted electronically through the TRAdE Control and Expert System (TRACES)¹¹¹ which is an electronic communication tool that allows all veterinary inspectors in BIPs to manage the outcome of the border controls carried out and to trace specific consignments to their destination. A list of countries and products subject to special import conditions is maintained and published by the Commission.¹¹²

3.1.9.2 Plants and plant products

3.108. Imports into the EU of most plants and plant products from most countries do not require prior approval or notification although they are subject to rules on food safety and customs procedures and inspection. The competent authorities in the member States must be notified of imports of some food and feed products of non-animal origin from specified third countries which must enter the EU through designated points of entry where they are subject to additional controls.¹¹³ The list of products and exporting countries is reviewed quarterly. Furthermore, for phytosanitary reasons, imports of certain plants and plant products must be accompanied by a phytosanitary certificate from the competent authority of the exporting country and are subject to special requirements, or may be prohibited if originating from specified areas.¹¹⁴

3.1.9.3 Rapid Alert System for Food and Feed

3.109. The Rapid Alert System for Food and Feed (RASFF) allows food and feed authorities of the member States and the Commission to exchange information about measures taken in response to direct and indirect risks to human health from food, and human and animal health and the environment from feed.¹¹⁵ Member States notify risks detected in products already on the market (market notifications) and when products are refused entry into the EU (border rejections).

Table 3.9 RASFF notifications, 2011-14

Year	Alert ^a	Border rejection ^b	Information ^c	Information for attention ^d	Information for follow-up ^e
Original notification					
2011	617	1,824	0	718	551
2012	526	1,715	0	682	509
2013	585	1,443	0	680	429
2014	732	1,358	0	609	398
Follow-up notification					
2011	2,265	1,053	421	480	1,126
2012	2,312	906	74	663	1,326
2013	2,376	525	1	763	1,493
2014	3,288	581	2	670	1,368

- a Alert notifications are sent when a food or feed presenting a serious health risk is on the market and when rapid action is required.
- b Border rejections concern food and feed consignments that have been tested and rejected at the external borders of the EU (and the EEA) when a health risk has been found.
- c Information notifications are used when a risk has been identified about food or feed placed on the market, but the other members do not have to take rapid action.
- d Information notifications for attention are related to a product that is present only in the notifying member country, or has not been placed on the market, or is no longer on the market.
- e Information notifications for follow-up are related to a product that is, or may be placed on the market on another member country.

Source: Commission for 2014 and Commission (2014), *RASFF - The Rapid Alert System for Food and Feed - 2013 Annual Report*, Publications Office of the EU, pp 15-16.

¹¹¹ See: http://ec.europa.eu/food/animal/diseases/traces/about/index_en.htm [March 2015].

¹¹² The list of products and exporting countries may be found at: http://ec.europa.eu/food/animal/bips/special_imports_en.htm [February 2015].

¹¹³ Commission Regulation (EC) No. 669/2009, Annex I

¹¹⁴ Council Directive 2009/29/EC, Annexes III, IV, and V.

¹¹⁵ Article 50 of the General Food Law sets out the criteria for notification to the RASFF.

3.1.9.4 The SPS Committee of the WTO

3.110. The European Union and each member State have notified enquiry points under the SPS Agreement.¹¹⁶ The Directorate General for Health and Food Safety of the European Commission is the EU notification authority.¹¹⁷

3.111. In 2013 and 2014, the EU made a total of 151 notifications to the Committee on Sanitary and Phytosanitary Measures in the WTO, of which: 1 was a corrigendum, 68 were addenda, 8 were emergency notifications, and the remaining 74 were regular notifications. They also included the Commission proposals for the agri-food chain referred to above. During this period, France was the only member State to notify an SPS measure with an addendum.¹¹⁸ During this period WTO Members also used the SPS Committee to raise ten new specific trade concerns about measures taken in the EU or a member State¹¹⁹ and referred to three concerns that had been raised earlier.¹²⁰ The Commission noted that the EU has also used the Committee to raise its concerns with SPS measures taken by other WTO Members, in particular trade restrictions related to BSE and measures introduced by India and the Russian Federation.

3.2 Measures Directly Affecting Exports

3.2.1 Export procedures and requirements

3.112. In general, procedures applied to exports are similar to those applied to imports (section 3.1.1). Simplified procedures may also be granted to exporters.

3.113. Traders or their representatives must log, either in writing or electronically, pre-departure declarations for safety and security purposes. The pre-departure declaration can be based on the export declaration complemented, where appropriate by security-related data, or on an exit summary declaration.

3.2.2 Export taxes, charges, and levies

3.114. The EU does not impose export-related duties or taxes. Inward processing under the drawback system will be eliminated when the UCC applies.¹²¹

3.2.3 Export prohibitions, restrictions, and licensing

3.115. There are few EU export restrictions.¹²² Dual-use items export control and diplomatic trade measures (with partial overlaps between the two regimes) are further detailed in this section. Regarding waste shipments, a description is included in section 3.2.5.

3.2.3.1 Dual-use items export control regime

3.116. Dual-use export controls implement international commitments to prevent the proliferation of Weapons of Mass Destruction (WMD), in particular under UN Security Council Resolution 1540 (2004), international agreements such as the Chemical Weapons Convention (CWC), the Biological

¹¹⁶ WTO document G/SPS/ENQ/26, 11 March 2011.

¹¹⁷ WTO document G/SPS/NNA/16, 11 March 2011.

¹¹⁸ WTO document G/SPS/N/FRA/8/Add.1 of 11 January 2013.

¹¹⁹ Ban on Bisphenol A (France) (WTO SPS Information Management System ID 346); EU quarantine measures on certain pine trees and other products (ID 348); Prohibition on use and sale of treated seeds (ID 350); EU temperature treatment requirements for imports of processed meat products (ID 351); EU renewal of GMO approvals (ID 353); EU import requirements for orchid tissue culture plantlets in flasks (ID 355); Phytosanitary measures on citrus black spot (ID 356); EU ban on mangoes and certain vegetables from India (ID 374); EU withdrawal of equivalence for processed organic products (ID 378); and EU revised proposal for categorization of compounds as endocrine disruptors (ID 382). See: WTO SPS Information Management System. Viewed at: <http://spsims.wto.org/>.

¹²⁰ EU Court of Justice ruling regarding pollen derived from GMOs (ID 327); Maximum residue levels of pesticides (ID 306); and Application and modification of the EU Regulation on Novel Foods (ID 238). See: WTO SPS Information Management System. Viewed at: <http://spsims.wto.org/>.

¹²¹ Operation may continue under the inward processing procedure. This procedure may be used even if non-EU goods are not intended for re-export from the EU.

¹²² For an exhaustive list of these measures see notification G/MA/QR/N/EU/2.

and Toxin Weapons Convention (BTWC) and the Nuclear Non-Proliferation Treaty (NPT), and multilateral export control regimes such as the Wassenaar Arrangement (WA), the Nuclear Suppliers Group (NSG), the Australia Group and the Missile Technology Control Regime (MTCR). The EU is not a member of the MTCR and the WA arrangement, but EU member States participate in those regimes. In the NSG, the EU, represented by the EU Commission, has observer status, while it is a full member in the Australia Group. The decisions of the regimes regarding the lists of items to control are integrated into EU law.

3.117. The EU export control regime for dual-use items is governed by Regulation (EC) No. 428/2009, Regulation (EU) No. 599/2014 of the European Parliament and of the Council of 16 April 2014 and Commission Delegated Regulation (EU) No. 1382/2014 of 22 October 2014. These regulations provide common EU control rules, a common EU control list and harmonized policies for implementation. Under the EU regime, the export of dual-use items is subject to control and dual-use items may not leave the EU customs territory without an export authorization. The requirement for an export authorization applies to:

- dual-use items listed in the EU Control List, in Annex I to the Regulation. The EU Control List is based on the lists adopted by international export control regimes listed above;
- non-listed items may also be controlled under the so-called "catch-all"/end-use clause, under certain conditions listed in the relevant articles of the Regulation.

3.118. EU member States may exceptionally impose additional controls on non-listed dual-use items for reasons of public security or human rights consideration (Article 8 of the Regulation). Such measures are listed in the C series of the *Official Journal of the European Union*.¹²³

3.119. In specific cases, the export of dual-use items may be subject to additional EU restrictive measures (sanctions). Such measures currently apply with respect to trade of dual-use items with the Russian Federation, Democratic People's Republic of Korea, Iran, and Syria.

3.120. Article 215 of the Treaty on the Functioning of the European Union (TFEU) provides a legal basis for the interruption or reduction, in part or completely, of the Union's economic and financial relations with one or more third-countries, where such restrictive measures are necessary to achieve the objectives of the Common Foreign and Security Policy (CFSP). These may also pertain to the export of dual-use items, as indicated above.

3.121. The Regulations on export controls are binding and directly applicable throughout the EU, but the member States need to take certain measures in order to implement some of their provisions, e.g. in relation to breaches and applicable penalties, and an overview of national measures is published at regular intervals. Dual-use items may be traded freely within the EU, except for some particularly sensitive items, where transfer within the EU is subject to prior authorization (see Annex IV of the Regulation). The Regulations set-up an EU network of export control authorities and contains provisions supporting the exchange of information as well as administrative cooperation among the member States and increasing transparency across the EU. Additional provisions also deal with specific control measures to be introduced by exporters, such as record-keeping and registers.

3.122. There are four types of export authorization in place in the EU export control regime:

- EU General Export Authorizations (EUGEAs), that allow for the export of dual-use items to certain destinations under certain conditions (see Annex II of the Regulation). There are currently 6 EU GEAs in place;
- National General Export Authorisations (NGEAs), that may be issued by EU member States if they are consistent with existing EUGEAs and do not refer to items listed in Annex IIg of Regulation (EC) 428/2009. Such authorizations are currently applied in France, Germany, Greece, Italy, the Netherlands, and the U.K.;

¹²³ See: http://ec.europa.eu/trade/import-and-export-rules/export-from-eu/dual-use-controls/index_en.htm.

- Global licences, that may be granted by a national authority to an exporter and may cover multiple items to multiple countries of destination or end-users; and
- Individual licences that may be granted by a national authority to one exporter to cover exports of one or more dual-use items to one end-user or consignee in a third country.

3.123. In legal terms, Regulation (EU) No. 599/2014, which allows the Commission to update the Annex I (the EU Control List) has been a major change to the framework for EU export control policy in 2014 and cleared the way for the Commission to incorporate modifications agreed by the multilateral export control list from 2011 to 2013. Also, on 24 April 2014 the Commission issued a Communication to the Council and the European Parliament entitled "The Review of export control policy: ensuring security and competitiveness in a changing world."¹²⁴ The Communication does not contain legislative proposals: these are deferred to a second stage, after the conduct by the Commission of an impact assessment to identify the most suitable regulatory and non-regulatory actions. The Communication starts from the premise that the adoption of the first EU strategy against weapons of massive destruction (WMD) was conceived ten years ago and should now be adapted to face a changing technological, political, and economic environment. It then maps out policy options to that effect, identifies growing proliferation threats from both States and non-State actors, and links these with technological and IT developments, as well as an increasing vulnerability of interconnected global trading and information systems. In this context security has become key elements of supply chains. According to the Communication, the frontier between civil and military technologies is increasingly blurred and, as a result, trade in dual-use items is growing.

3.2.4 Export credit, insurance, and promotion

3.124. Export credit policy falls under the scope of common commercial policy. In practice, the EU works in the area of export credits in partnership with the member States.

3.125. Export credits in the EU, mainly taking the form of credit insurance, are provided at the member State level. Most member States of the EU have their own agencies to provide export credits, providing short-term (up to two years), and long-term (more than two years) credit insurance (Table A3.3).

3.126. As detailed in the Commission Communication on short-term export-credit insurance, state insurers¹²⁵ cannot provide insurance against marketable risks.¹²⁶ Marketable risks are those commercial and/or political risks in the countries listed in the Annex to the Communication. The Annex was amended in January 2015, continuing to exclude Greece from countries with marketable risks until 30 June 2015.¹²⁷ The Commission stated that this is a response to the lack of sufficient private capacity of insurance/reinsurance which still caused difficulties in covering all economically justifiable risks particularly for small- and medium-sized exporters. Therefore from the EU perspective, marketable risk countries include Australia, Canada, Iceland, Japan, New Zealand, Norway, Switzerland, the United States, and the EU member States (except Greece).

3.127. State insurance against non-marketable risks, i.e. short-term export credit to countries outside the list of marketable countries as well as long-term credit, are subject to the state aid control under EU competition legislation. EU member States are allowed to draw up schemes providing credit insurances for small- and medium-sized exporters with small turnovers, for single-risk cover with a maximum of two years, or in case of general shortage of export credit insurance. However, such schemes must be notified to the Commission for state-aid assessment, and be

¹²⁴ For the full text of the Communication see: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2014:0244:FIN:EN:PDF>.

¹²⁵ A State insurer is defined as a company or other organization that provides export-credit insurance with the support of, or on behalf of, a member State, or a member State that provides export-credit insurance.

¹²⁶ European Commission, *Communication from the Commission to the Member States on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to short-term export-credit insurance*, 8 January 2013 (OJ C 392/1, 19 December 2012).

¹²⁷ Communication from the Commission amending the Annex to the Communication from the Commission to the member States on the application of Article 107 and 108 of the Treaty on the Functioning of the European Union to short-term export-credit insurance (OJ C 28/1, 28 January 2015).

subject to approval by the Commission before implementation. According to the Commission, data of the scale of non-marketable short-term export credits is not available at the EU level.

3.128. In the area of medium- and long-term insurance, the EU is a participant to the OECD Agreement on Officially Supported Export Credits.¹²⁸ The OECD Agreement sets limits on the repayment terms which are generally 10 years for most countries and sectors, but are shorter for higher- income countries; the Arrangement also sets a limit on the length of the grace period of six months. According to the OECD, in 2013 EU member States provided a total of US\$36.1 billion long-term export credits, of which Germany accounted for the largest proportion with US\$10.97 billion, followed by Italy (US\$5.34 billion), France (US\$4.26 billion), United Kingdom (US\$3.73 billion), and Sweden (US\$3.21 billion).

3.129. The EU set the export refund at zero for all agricultural products on 13 July 2013 (section 4.2).

3.130. Export promotion remains a competence of the EU's member States. The EU continues implementing its 2006 market access strategy in partnership with the member States to target market access barriers to third countries.¹²⁹

3.2.5 Waste shipment trade regime

3.131. To address the problem of uncontrolled transport of waste, Regulation (EC) No. 1013/2006 of 14 June 2006 on shipments of waste lays down procedures for transboundary shipments (i.e. transport) of waste. This Regulation implements into EU law the provisions of the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal¹³⁰, as well as the OECD decision concerning the control of transboundary movement of wastes destined for recovery operations.¹³¹ The Regulation includes a ban on the export of hazardous wastes to non-OECD countries ("Basel ban") as well as a ban on the export of waste for disposal.

3.132. Different regimes apply to shipments of wastes for disposal and for recovery, as well as to hazardous and "green-listed" non-hazardous wastes. The shipment of hazardous wastes and wastes destined for disposal is subject to a notification procedure and requires the prior consent of all relevant competent authorities of the countries of dispatch, transit, and destination. However, as a general rule, shipments of "green-listed" waste for recovery within the EU, to OECD and certain non-OECD countries do not require the consent of the authorities.

3.133. Despite the Regulation, illegal shipments of waste are still a significant problem (some estimates suggest that the overall non-compliance rate with the Regulation could be around 25%). To strengthen member States' inspection systems, this Regulation was amended in 2014 through Regulation (EU) No. 660/2014 of 15 May 2014¹³² which requires EU member States to establish inspection plans, including a minimum set of elements and based on a risk assessment. It also provides enhanced powers to the authorities involved in inspections to decide, on the basis of evidence, whether a carried substance or object is waste and whether a shipment can be considered an illegal shipment of waste. Member States are required to apply the new changes beginning in 2016/17.

3.2.6 Diplomatic measures

3.134. According to the Commission the use of measures in certain circumstances against third countries, individuals or entities, is an essential EU foreign policy tool to be used to pursue

¹²⁸ OECD (2014), *Agreement on Officially Supported Export Credits*, TAD/PG(2014)6, 24 July 2014. Viewed at:

[http://www.oecd.org/officialdocuments/publicdisplaydocumentpdf/?doclanguage=en&cote=tad/pg\(2014\)6](http://www.oecd.org/officialdocuments/publicdisplaydocumentpdf/?doclanguage=en&cote=tad/pg(2014)6).

¹²⁹ European Commission document COM(2007) 183 final, 18 April 2007. Viewed at: http://trade.ec.europa.eu/doclib/docs/2007/april/tradoc_134507.pdf.

¹³⁰ For the full text of the Convention see: <http://www.basel.int/TheConvention/Overview/TextoftheConvention/tabid/1275/Default.aspx>.

¹³¹ Decision of the OECD Council C (2001)107/final as amended by decision C (2004) of, a consolidated version of this decision can be viewed at: <http://www.oecd.org/environment/waste/30654501.pdf>.

¹³² Official Journal L189 of 27 June 2014. Viewed at: <http://eur-lex.europa.eu/legal-content/FR/TXT/PDF/?uri=CELEX:32014R0660&from=EN>.

objectives in accordance with the principles of the Common Foreign and Security Policy (CFSP). Some EU measures result from resolutions adopted by the UN Security Council under Chapter VII of the UN Charter. However, the EU may also decide to apply autonomous measures within the framework of the CFSP. The decision-making process is the following: there should first be a political agreement by the European Council for new or amended measures before legal acts are formally proposed; if there is an agreement, the Council first adopts, by unanimity, a CFSP Decision under Article 29 of the Treaty on the European Union (TEU), on a formal proposal by the member States or by the High Representative of the Union for Foreign Affairs and Security Policy (HRVP) (via the European External Action Service (EEAS)). The measures foreseen in that Council Decision are either implemented at EU level or at national level.

3.135. When the measures are implemented at EU level, the HRVP and the Commission, under Article 215 of TFEU, make joint proposals for regulations and implementing measures that can, depending on the specific cases, affect EU economic relations with a third country. These regulations are adopted by the Council, acting by qualified majority. Such Regulations are binding and directly applicable throughout the EU, and they are subject to judicial review by the Court of Justice and the General Court in Luxembourg. Other measures, such as arms embargoes or visa bans, are implemented directly by the member States, which are legally bound to act in conformity with CFSP Council Decisions.

3.136. Council Decisions on EU autonomous sanctions or EU additions to UN sanctions are reviewed at regular intervals, usually once a year, to ensure measures are adjusted as needed, in line with developments affecting the stated objectives and the effectiveness of the measures.¹³³

3.137. All EU restrictive measures can be found on the EEAS webpage.¹³⁴ All measures and regulations are published in the *Official Journal of the EU*. According to the Commission, during the review period, the EU adopted new measures but has also reduced the scope of existing sanctions:

- new measures adopted (in the sense that the geographical coverage is affected):
 - Central African Republic (December 2013) (UN based¹³⁵): embargo on arms and related materiel; ban on provision of certain services (financial technical assistance transport related to arms); and the legal framework for an asset freeze (although no persons are specifically listed yet);
 - Yemen (December 2014) (UN based¹³⁶): asset freeze and visa ban;
 - Ukraine: restrictive measures in response to events in Crimea and Sevastopol (import embargo, investment ban, export restrictions, prohibition of services relating to infrastructure and the tourism sector) (since June 2014); restrictive measures in respect of actions relating to Ukraine (asset freeze) (since March 2014); freezing of funds and economic resources of certain persons (since March 2014); and
 - Russian Federation (since July 2014): embargo on arms and related materiel; embargo on dual-use goods and technology if intended for military use or for a military end-user; ban on imports of arms and related materiel; ban on provision of certain services related to arms and related material; ban on provision of certain services related to dual-use goods and technology; (deep water, Arctic and shale-oil-related) controls on export of certain equipment for the oil industry; controls on provision of certain related services etc;
- reduction of existing scope of sanctions:

¹³³ EU External Action Service (EEAS) online information. Viewed at: http://eeas.europa.eu/cfsp/sanctions/index_en.htm [March 2015].

¹³⁴ See http://www.eeas.europa.eu/index_en.htm [March 2015].

¹³⁵ UN Security Council S/RES/2127(2013), 5 December 2013.

¹³⁶ UN Security Council S/RES/2140(2014), 26 February 2014.

- Myanmar: all measures repealed in April 2013 except an embargo on arms and related items; a ban on exports of equipment for internal repression; and a ban on provision of certain services;
- Serbia and Montenegro: repealed in October 2014, specific restrictive measures directed against Mr Milosevic and persons associated with him; and
- Republic of Guinea (Conakry): arms embargo, embargo on equipment which might be used for internal repression lifted on 14 April 2014; there remains an asset-freeze, and visa ban on persons identified by the International Commission of Inquiry.

3.3 Measures Affecting Production and Trade

3.3.1 Subsidies

3.3.1.1 EU level support

3.138. At the EU level, support is primarily provided under agriculture and regional policy instruments. According to the Commission, regional policy is an investment policy with the goal of supporting job creation, competitiveness, economic growth, improved quality of life, and sustainable development.¹³⁷ Most support under regional policy is provided through the European Regional Development Fund (ERDF), the European Social Fund (ESF), the Cohesion Fund (CF), and the European Agriculture Fund for Rural Development (EAFRD). The legal basis for these funds may be found in several regulations by the Parliament and Council, along with delegated and implementing acts by the Commission. In addition, the European Agriculture Guarantee Fund (EAGF) provides for direct payments and market measures related to agriculture (see Section 4.2), and the European Maritime and Fisheries Fund provides public support to the fishery and aquaculture sector and for the implementation of the integrated maritime policy in Regulation (EU) No. 508/2014 of the European Maritime and Fisheries Fund.

3.139. The rules on EU aid are reviewed every seven years and the current package was adopted on 17 December 2013 (along with Regulation (EU) 1305/2013 on support for rural development by the EAFRD):

- Regulation (EU) No. 1303/2013 laying down common provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund and laying down general provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund, and the European Maritime and Fisheries Fund and repealing Council Regulation (EC) No. 1083/2006;
- Regulation (EU) No. 1301/2013 on the European Regional Development Fund and on specific provisions concerning the investment for growth and jobs goal and repealing Regulation (EC) No. 1080/2006;
- Regulation (EU) No. 1304/2013 on the European Social Fund and repealing Council Regulation (EC) No. 1081/2006;
- Regulation (EU) No. 1299/2013 on specific provisions for the support from the European Regional Development Fund to the European territorial cooperation goal;
- Regulation (EU) No. 1302/2013 amending Regulation (EC) No. 1082/2006 on a European grouping of territorial cooperation (EGTC) as regards the clarification, simplification and improvement of the establishment and functioning of such groupings; and
- Regulation (EU) No. 1300/2013 on the Cohesion Fund and repealing Council Regulation (EC) No. 1084/2006.

¹³⁷ European Commission online information. Viewed at: http://ec.europa.eu/regional_policy/index_en.cfm [January 2015].

3.140. As at December 2014, the budget provision for the 2014-2020 Cohesion Policy was €347.6 billion which, when combined with the contributions from member States, is likely to reach almost €500 billion. By the end of 2014 operational programmes had been submitted by the 28 member States and 154 programmes had been adopted with €16.8 billion committed by the EU.

3.141. The last notification from the EU on subsidies and member States' addenda provided data up to end-2012 showing that, leaving the Common Agricultural Policy and Common Fisheries Policy aside, subsidies under the ERDF, ESF, and CF were greatest in 2012 with €29.4, €11.3, and €8.7 billion respectively.¹³⁸

3.3.1.2 State aid

3.142. Under Articles 107 to 109 of the TFEU, state aids which favour certain undertakings or production of certain goods are, in general, prohibited as incompatible with the internal market. However, there are a number of exemptions and the Commission is responsible for preparing detailed rules on compatibility of state aids with the internal market, examining notifications of aid schemes (which should be approved before aid may be provided), setting general exemptions from the notification requirements, and recovering incompatible state aid.

3.143. A set of interrelated instruments (Council regulations, and Commission guidelines and notices) provides guidance on the application of the articles of the TFEU on state aid. In May 2012, the Commission published the "State Aid Modernisation (SAM)", a Communication to the Parliament, the Council, the European Economic and Social Committee, and the Committee on the Regions outlining a plan for reform of these rules and guidelines. The Communication noted the link between state aid and the Europe 2020 growth strategy and sets out the objectives for the SAM which include:

- better targeting of aid to areas that would improve growth, such as some infrastructure programmes, while improving controls to limit distortions to competition and improving the functioning of the internal market. The Communication proposes that common principles be established for assessment of compatibility of aid with the internal market and streamlining of guidelines consistent with these common principles;
- focusing enforcement on cases with most impact by reviewing the *de minimis* Regulation, the Enabling Regulation and General Block Exemption Regulations (on categories of aid compatible with the internal market and, therefore, exempt from prior notification) while emphasising the need for compliance by member States and *ex post* controls by the Commission; and
- streamlining rules and allowing faster decisions through clarification and simplification of the rules and modernizing the regulation on complaints and market information.¹³⁹

3.144. Under SAM the Commission has held consultations (open to all interested parties) and adopted new guidelines on state aid in several sectors, and introduced, amended, or revised several regulations. Table 3.10 sets out the changes to the rules and guidelines on state aid which became applicable in 2013 and 2014, including those under SAM.¹⁴⁰

3.145. Under Article 107.3(a) and (c) of the TFEU and Commission Guidelines on regional State aid for 2014-20, the Commission may approve aid to disadvantaged areas within the EU, the goal of which is to achieve increased economic activity in the assisted areas which "outweigh potential

¹³⁸ WTO document G/SCM/N/253/EU, 29 July 2013. Subsidies granted by individual member States are contained in addenda to this notification.

¹³⁹ Commission (2012), *Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions - EU State Aid Modernisation (SAM)*, COM/2012/0209 final.

¹⁴⁰ For a detailed list of rules on state aid as at 15 April 2014, see Commission (2014), *EU Competition Law – Rules applicable to State Aid – Situation as at 15 April 2014*, Luxembourg, Office for Official Publications of the European Union.

negative effects in terms of restrictions to trade and competition within the internal market."¹⁴¹
The most recent guidelines entered into force on 1 July 2014 (see below).¹⁴²

Table 3.10 Changes to EU rules on state aid, 2013 and 2014

Title/reference	Entry into force	Note
General		
Commission Regulation (EU) No. 651/2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty OJ L 187/1 26/06/2014	01/07/2014	<ul style="list-style-type: none"> • The general block exemption regulation • Increase in thresholds for notifying aid • Improved <i>ex post</i> controls and monitoring • Transparency through publications of lists of aid beneficiaries
Council Regulation (EU) No. 733/2013 amending Regulation (EC) No. 994/98 on the application of Articles 92 and 93 of the Treaty establishing the European Community to certain categories of horizontal State aid OJ L 204/11 31/07/2013	20/08/2013	<ul style="list-style-type: none"> • Enabling regulation • New categories exempt from prior notification include innovation, culture, natural disasters, sport, broadband, etc
Council Regulation (EU) No. 734/2013 amending Regulation (EC) No. 659/1999 laying down detailed rules for the application of Article 93 of the EC Treaty OJ L 204/15 31/07/2013	20/08/2013	<ul style="list-style-type: none"> • Procedural regulation • Objective to improve time required for handling complaints, and the transparency and conduct of sector enquiries as well as cooperation with national courts
Commission Regulation (EU) No. 372/2014 amending Regulation (EC) No. 794/2004 as regards the calculation of certain time limits, the handling of complaints, and the identification and protection of confidential information OJ L 109/14 12/04/2014	22/04/2014	<ul style="list-style-type: none"> • Implementing regulation amendment • Introduces a new mandatory complaint form, and measures relating to confidential information
Commission Regulation (EU) No. 1407/2013 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to <i>de minimis</i> aid OJ L 352/1 24/12/2013	01/01/2014	<ul style="list-style-type: none"> • Aid which does not exceed <i>de minimis</i> amounts does not have to be notified • General <i>de minimis</i> limit is €200,000 over three years, or €100,000 for road transport undertakings • Companies undergoing financial difficulty no longer excluded • Subsidised loans of up to €1 million may also be deemed <i>de minimis</i>
Communication from the Commission amending the Communications from the Commission on EU Guidelines for the application of State aid rules in relation to the rapid deployment of broadband networks, on Guidelines on regional State aid for 2014-2020, on State aid for films and other audiovisual works, on Guidelines on State aid to promote risk finance investments and on Guidelines on State aid to airports and airlines OJ C 198/02 27/06/2014		<ul style="list-style-type: none"> • Transparency Communication • Member States shall establish websites for the publication of information on all aid measures and their beneficiaries, except for aid awards of less than €500,000
Sectoral (including agriculture and fisheries)		
Communication from the Commission on State aid for films and other audiovisual works OJ C 332 15/11/2013	15/11/2013	<ul style="list-style-type: none"> • Cinema Communication • Allows aid for a wider scope of activities, highlights member States' discretion in defining cultural activities worthy of support, introduces the possibility to give more aid to cross-border productions and promotes film heritage
EU guidelines for the application of state aid rules in relation to the rapid deployment of broadband networks OJ C 25/1 26/01/2013	16/01/2013	<ul style="list-style-type: none"> • Broadband Guidelines • Reinforcement of open access obligations and improved transparency rules

¹⁴¹ Commission (2013), Staff Working Document – Executive Summary of the Impact Assessment - Accompanying the document Communication from the Commission Guidelines on regional state aid for 2014 – 2020, C(2013) 3769 SWD, (2013) 214.

¹⁴² Guidelines on regional State aid for 2014-2020, OJ C 209 23/07/2013.

Title/reference	Entry into force	Note
Communication from the Commission - Guidelines on State aid to airports and airlines OJ C 99/03 04/04/2014	04/04/2014	<ul style="list-style-type: none"> • Operating aid to regional airports (with less than 3 million passengers a year) allowed for a transitional period of 10 years under certain conditions • State aid for investment in airport infrastructure allowed if there is a genuine transport need and public support is necessary to ensure the accessibility of a region, maximum permissible aid intensities depend on the size of an airport, the aim is to avoid overcapacity and/or duplication • Simplified rules for start-up aid for airlines to fly to new destinations, limited in time
EU Guidelines for State aid in the agricultural and forestry sectors and in rural areas 2014 to 2020 OJ C 204/01 01/07/2014	01/07/2014	<ul style="list-style-type: none"> • Adopted for the programming period 2014 - 2020 • Transparency provisions for publishing member State decisions on aid • New provisions on the common assessment principles (incl. effectiveness of the aid, appropriateness, incentive effect) • Chapter on forestry provides for more detailed provisions on the respective forestry measures • The Commission reserves the right to seek additional information on existing aid schemes on a case by case basis, where this is necessary to enable it to fulfil its responsibilities under Article 108(1) of the Treaty
Commission Regulation (EU) No. 702/2014 declaring certain categories of aid in the agricultural and forestry sectors and in rural areas compatible with the internal market in application of Articles 107 and 108 of the Treaty on the Functioning of the European Union OJ L 193/1 01/07/2014	01/07/2014	<ul style="list-style-type: none"> • Subject to limits, exempts from notification aid for agricultural enterprises, cultural and heritage conservation, repairing damage from natural disasters, research and development, and forestry • Certain measures are limited for SMEs (e.g. investment aid, start-up aid), certain measures can apply to large undertakings too (e.g. forestry measures, natural disaster measures) • New categories exempt from prior notification (e.g. certain forestry measures, and natural disaster schemes) • To ensure transparency, member States should be required to establish comprehensive state aid websites, at regional or national level, setting out summary information about each aid measure exempted under this Regulation. That obligation should be a condition for the compatibility of the individual aid with the internal market
Commission Regulation (EU) No. 1408/2013 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to <i>de minimis</i> aid in the agriculture sector OJ L 352/9 24/12/2013	01/01/2014	<ul style="list-style-type: none"> • Aid which does not exceed €15,000 to an undertaking over a 3 year period does not have to notified • List of criteria for determining when two or more enterprises within the same member State are to be considered a single undertaking
Commission Regulation (EU) No. 717/2014 of 27 June 2014 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to <i>de minimis</i> aid in the fishery and aquaculture sector OJ L 190/45 28/06/2014	01/07/2014	<ul style="list-style-type: none"> • Aid which does not exceed €30,000 to an undertaking over a 3-year period does not have to notified • <i>De minimis</i> aid cannot be granted, in particular, for the purchase of fishing vessels, for the modernization or replacement of main or ancillary engines of fishing vessels, to operations increasing the fishing capacity of a vessel, to the construction of new fishing vessels or importation of fishing vessels
Commission Regulation (EU) No. 1388/2014 of 16 December 2014 declaring certain categories of aid to undertakings active in the production, processing and marketing of fishery and aquaculture products compatible with the internal market in application of Articles 107 and 108 of the Treaty on the Functioning of the European Union OJ L 369/37 24/12/2014	01/01/2015	<ul style="list-style-type: none"> • Subject to limits, exempts from notification aid for the fishery and aquaculture sector which could have been supported by the European Maritime and Fisheries Fund (EMFF) and which respects the rules of the EMFF • Only covers aid to SMEs (with the exception of aid to make good the damage caused by natural disasters)

Title/reference	Entry into force	Note
Horizontal		
Guidelines on regional State aid for 2014-2020 OJ C 209/1 23/07/2013	01/07/2014	<ul style="list-style-type: none"> • Increase in geographic and population coverage of regional aid • Reduced aid categories requiring prior notification to the Commission • All notified large aid measures will be subject to in-depth assessment of their incentive effect, proportionality, contribution to regional development and effects on competition • A stricter approach on aid for investments made by large enterprises in the more developed assisted areas • Anti-relocation provisions
Communication from the Commission – Guidelines on State aid for environmental protection and energy 2014-2020 OJ C 200/01 28/06/2014	01/07/2014	<ul style="list-style-type: none"> • From 2015-16, pilot phase of competitive bidding procedures for renewable energy • Foresees switch to feed-in premiums to replace feed-in tariffs for electricity from renewables • Provisions on support for some energy intensive sectors • Provisions on improvements for cross border energy infrastructure • Permits aid to secure adequate electricity generation when there is a real risk of insufficient electricity generation capacity
Communication from the Commission – Guidelines on State aid to promote risk finance investments OJ C 19/4 22/01/2014	01/07/2014	<ul style="list-style-type: none"> • Expands scope to include (i) SMEs, (ii) small mid-caps, and (iii) innovative mid-caps^a • Sets out criteria for aid over €15 million • Expands range of means to provide aid • Private sector participation from 10-60% depending on age and risk profile
Framework for State aid for research and development and innovation OJ C 198/1 27/06/2014	01/07/2014	<ul style="list-style-type: none"> • Notification thresholds increased • Higher aid levels permissible • Simplified assessment for R&D projects co-financed by the EU • Clearer criteria for non-economic activities
Guidelines on State aid for rescuing and restructuring non-financial undertakings in difficulty OJ C 249/1 31/07/2014	01/08/2014	<ul style="list-style-type: none"> • New rules allowing temporary (at most 18 months) restructuring support for SMEs on the basis of a simplified restructuring plan, favouring measures that are less distortive, such as loans and guarantees, over structural aid, such as direct grants or capital injections • Member States will have to demonstrate that the aid is needed to prevent hardship and that the granting of restructuring aid will make a difference in that respect • New rules ensuring that investors pay a share of the costs of the firm's restructuring ("burden sharing"). Company investors will be primarily responsible for covering incurred losses before any state aid is granted, and the State will receive a fair return on its investment if the restructuring plan succeeds.
Communication from the Commission - Criteria for the analysis of the compatibility with the internal market of State aid to promote the execution of important projects of common European interest OJ C 188/2 20/06/2014	01/07/2014	<ul style="list-style-type: none"> • Sets out the criteria the Commission will use to assess whether a project is important and of common European interest

- a 'Mid-cap' means an undertaking whose number of employees does not exceed 1,500; 'small mid-cap' means an undertaking whose number of employees does not exceed 499, [...], the annual turnover of which does not exceed €100 million or the annual balance sheet of which does not exceed €86 million, and 'innovative mid-cap' means a mid-cap whose R&D and innovation costs [...] represent (a) at least 15% of its total operating costs in at least one of the three years preceding the first investment under the risk finance State aid measure, or (b) at least 10% per year of its total operating costs in the three years preceding the first investment under the risk finance State aid measure (Section 2.3 of Communication from the Commission – Guidelines on State aid to promote risk finance investments).

Source: Commission; Commission online information on State Aid Modernisation (viewed at: http://ec.europa.eu/competition/state_aid/modernisation/index_en.html [January 2014]); and press releases (viewed at http://ec.europa.eu/competition/state_aid/what_is_new/news.html [March 2014]).

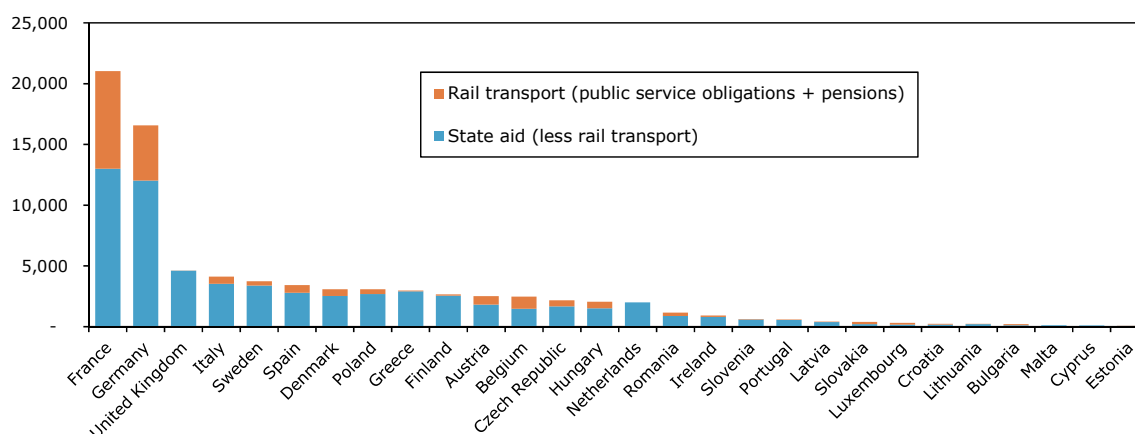
3.146. The Commission regularly publishes the State Aid Scoreboard which is based on annual reports by the member States under Commission Regulation (EC) No. 794/2004. According to the

Scorecard, non-crisis-related state aid in 2013 was €63 billion. The biggest categories were environmental protection, regional development, research, and development and innovation, and the agricultural sector. In addition, €42 billion in aid was provided for rail transport (€19 billion for public service obligations and pensions, and €23 billion for infrastructure and other aid) (Table 3.11).

3.147. In absolute terms, in 2013, France, Germany, the United Kingdom, and Italy provided over half the total for non-crisis-related state aid in the EU (including support for public service obligations and pensions for rail transport) (Chart 3.3). In some member States, a significant portion of this aid was for public service obligations for rail transport (see below). As a proportion of GDP, non-crisis-related state aid varied from one member State to another: from 0.2% of GDP in the U.K. and Italy in 2013; to 1.6% in Greece, Hungary, and Slovenia and 1.8% in Malta. In per capita terms, aid also varied: from over €400 per person in Denmark, Finland, and Luxembourg in 2013; to less than €100 in Bulgaria, Croatia, Estonia, Italy, Lithuania, Poland, Portugal, Romania, Slovakia, Spain, and the U.K.

Chart 3.3 State aid (including railway support transport for pensions and public service obligations), 2013

(€ million)



Source: Commission online information. Viewed at: http://ec.europa.eu/competition/state_aid/scoreboard/index_en.html [January 2015].

3.148. Non-crisis-related state aid in the EU has been declining unsteadily since it peaked in 1997 at €114 billion. The unsteady downward trend has continued in recent years with reductions in aid under most of the principal headings except environment, social support to consumers, and closure aid (Table 3.11).

Table 3.11 Non-crisis-related state aid in the EU, 2008-13

(€ million)

	2008	2009	2010	2011	2012	2013
Total State aid (excluding transport)^a	76,605	79,443	73,010	66,353	66,740	62,737
Agricultural and fisheries						
Agriculture aid reported to DG Agriculture and Rural Development	11,879	10,933	9,372	8,961	8,861	8,095
Agriculture aid reported to DG Competition	24	197	186	296	371	242
Aid granted to fisheries and aquaculture, reported by DG Maritime and Fisheries Affairs	292	209	135	112	84	70
Total agricultural and fisheries	12,195	11,338	9,693	9,369	9,317	8,407
Horizontal objectives						
Compensation for damage caused by natural disasters	13	4	43	113	35	85
Culture	1,570	1,650	1,820	1,952	2,301	2,427
Employment	3,297	2,851	2,897	2,797	2,827	2,856
Environmental protection incl. energy saving	14,124	15,458	14,723	13,326	14,414	14,912
Heritage conservation	22	45	69	77	45	86

	2008	2009	2010	2011	2012	2013
Promotion of export and internationalization	356	299	291	325	288	227
Regional development	13,809	15,832	13,529	12,430	11,538	11,369
Research, development, innovation	9,580	11,727	11,415	10,405	9,634	8,291
SME including risk capital	6,635	5,407	4,202	3,686	3,826	3,273
Social support	888	1,166	2,215	3,501	3,266	3,336
Training	902	1,040	906	939	1,104	841
Other	215	258	440	151	175	203
Total horizontal objectives	51,408	55,737	52,551	49,701	49,453	47,906
Sectoral development, rescue & restructuring, and closure aid						
Sectoral development	12,388	11,466	10,234	5,503	6,102	4,619
Rescue & restructure	617	1,079	703	560	694	504
Closure aid	22	20	16	1,516	1,515	1,542
Total sectoral aid	13,027	12,564	10,953	7,579	8,312	6,665
Transport (excluding railways)						
Road	420	213	149	235	249	123
Maritime transport	2,210	1,675	1,558	1,530	1,270	1,010
Inland water transport	11	11	19	23	18	20
Air transport	397	941	277	165	284	194
Other transport	367	321	235	221	79	41
Total transport aid (excl. railways)	3,405	3,160	2,237	2,174	1,899	1,387
Railways support^b						
Public service obligations and pensions	..	..	..	..	18,928	22,191
Infrastructure	..	..	..	..	19,008	23,354
Total railways support	..	..	..	..	41,119	42,315

.. Not available.

- a The total figure for state aid does not include transport aid, agriculture aid reported to DG Competition, nor railways support.
- b The Commission noted that railways support includes a significant amount that is not classified as state aid.

Source: Commission (2104), *State Aid Scoreboard 2014*. Viewed at: http://ec.europa.eu/competition/state_aid/scoreboard/index_en.html [January 2014].

3.3.1.3 Public service obligations and services of general economic interest

3.149. Services of general economic interest (SGEI)¹⁴³ are defined as "services of an economic nature that public authorities identify as being of particular importance to citizens, but which are not supplied by market forces alone, or at least not to the extent and under the conditions requested by society" and "their provision may therefore require public intervention" in order to meet public service obligations (PSO) imposed by a member State on one or more providers.¹⁴⁴

3.150. In December 2011, the Commission adopted a new package of state aid rules for SGEIs. The first parts of the package include reforms to the legislation on aids to SGEI and were adopted on 20 December 2011, and the final part of the package was adopted on 25 April 2012. The measures include:

- a Communication from the Commission setting out the general background, providing explanations of key issues and giving an overview of the concepts of state aid relevant to SGEIs¹⁴⁵;
- a Commission Decision specifying the conditions under which compensation to companies for the provision of public services is compatible with state aid rules (a clearly defined public service mandate and no overcompensation) and is exempted from notification (i.e. the right to provide aid without prior approval by the Commission). The exemption was extended from hospitals and social housing to cover other categories and the

¹⁴³ Communication from the Commission 2012/C 8/02, Commission Decision 2012/21/EU, Communication from the Commission 2012/C 8/03, and Commission Regulation (EU) No. 360/2012.

¹⁴⁴ Pesaresi N, Sinnaeve A, Guigue-Korppen V, Wiemann J, Radulescu M (2012), *The New state aid rules for services of general Economic Interest (SGEI)*, Competition policy newsletter 2012-1, DG Competition, p.1. Viewed at: http://ec.europa.eu/competition/publications/cpn/2012_1_9_en.pdf [December 2014].

¹⁴⁵ Communication from the Commission on the application of the European Union state aid rules to compensation granted for the provision of services of general economic interest, OJ C 8 11/01/2012.

notification threshold was reduced from €30 million to €15 million for aid directed towards public service providers in other categories¹⁴⁶;

- Communication from the Commission setting out a framework for state aid in the form of public service compensation which specifies the conditions under which compensation not covered by the Decision is compatible with state aid rules. *Inter alia*, the Communication requires that the public service obligations for an SGEI be clearly set out by the authorities in the member State, comply with EU public procurement rules, and the aid does not exceed the cost of meeting the public service obligation plus a reasonable profit¹⁴⁷; and
- Commission Regulation on *de minimis* levels of support which exempts from notification aid for SGEI of up to €500,000 per company over a 3 year period.¹⁴⁸

3.3.1.4 Crisis-related state aid

3.151. From 2008 to 2010, in response to the financial crisis, the Commission adopted communications setting out sector-specific temporary rules on banking, recapitalization, impaired assets, and restructuring as well as horizontal rules in the Temporary Framework for state aid measures to support access to finance (or aid to the real economy). The Temporary Framework went through a number of changes before expiring in December 2011.¹⁴⁹

3.152. With effect from 1 August 2013, a new Banking Communication from the Commission replaced the 2008 Banking Communication and amended and supplemented the communications on recapitalization, impaired assets, and restructuring. The 2013 Banking Communication reasserted the importance of financial stability and noted the continuing fragility of the economic recovery in the EU. It also noted that "the financial sectors in some member States face further challenges in accessing term funding and in asset quality, stemming from the economic recession and public or private debt deleveraging. The stress in financial markets and the risk of wider negative spill-over effects persist."¹⁵⁰ The main changes in the 2013 Banking Communication include:

- a requirement for a restructuring plan, which must include the bank raising capital itself, before it can receive state recapitalization. Temporary approval without a restructuring plan is still possible if the supervisory authority can confirm that immediate action is required;
- in the event that a bank's viability cannot be restored, a plan to wind-down the bank must be submitted;
- a requirement that shareholders and subordinated debt-holders contribute to meeting a capital shortfall before public recapitalization or asset-protection measures can be taken unless they have already done so or financial stability is at risk; and
- new and stricter rules on executive remuneration policies for failed banks.

¹⁴⁶ Commission Decision of 20 December 2011 on the application of Article 106(2) of the Treaty on the Functioning of the European Union to State aid in the form of public service compensation granted to certain undertakings entrusted with the operation of services of general economic interest, OJ L 7 11/01/2012.

¹⁴⁷ Communication from the Commission – European Union framework for State aid in the form of public service compensation (2011), OJ C 8 11/01/2012.

¹⁴⁸ Commission Regulation (EU) No. 360/2012 of 25 April 2012 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to *de minimis* aid granted to undertakings providing services of general economic interest (Text with EEA relevance), OJ L 114 26/04/2012.

¹⁴⁹ The first Communication on the temporary framework was Communication from the Commission – Temporary Community framework for State aid measures to support access to finance in the current financial and economic crisis (OJ C 16 22/01/2009), and the last was Communication of the Commission – Temporary Union framework for State aid measures to support access to finance in the current financial and economic crisis (OJ C 6 11/01/2011).

¹⁵⁰ Communication from the Commission on the application, from 1 August 2013, of State aid rules to support measures in favour of banks in the context of the financial crisis ('Banking Communication'), OJ C 216 30/07/2013.

3.153. From October 2008 to October 2014, the Commission took more than 450 decisions on state aid measures to the financial sector, including authorization for a total of €3,893 billion in guarantees. However, effective use was less than one-quarter of the amount approved: outstanding guarantees peaked in 2009 at €835.8 billion and have declined considerably since then. Furthermore, as at October 2014, €3.1 billion of the guarantees have actually been called in.

3.154. Requests for, and use of, crisis-related state aid has varied from one member State to another: for some, no approval was given for crises-related aid (Bulgaria, Czech Republic, Estonia, Malta, Romania, and Croatia (which acceded to the EU in 2013)); for Poland, and Slovakia aid was approved but not used; and for Lithuania, Hungary, Finland, and Sweden relatively little aid was used. Among the other member States, use of instruments varied considerably in both nominal terms (Table 3.12) and relative to GDP. Compared to GDP: in Ireland, total guarantees and liquidity measures peaked at 174% in 2009, and recapitalization and asset-relief peaked at 25% in 2010; and in Greece total guarantees and liquidity measures peaked at 34%, and recapitalization and asset relief at 16% in 2012.

Table 3.12 Use of crisis-related aid in selected EU member States, 2008-13

(€ billion)

	Belgium	Denmark	Germany	Ireland	Greece	Spain	France	Italy	Cyprus	Latvia	Luxembourg	Netherlands	Austria	Portugal	Slovenia	Sweden	UK	TOTAL EU-27	
Guarantees																			
2008	9.0	145.0	19.1	180.3	-	-	8.7	-	-	-	0.4	0.9	2.4	1.2	-	0.3	33.5	400.8	
2009	46.8	6.4	135.0	284.3	1.5	36.1	92.7	-	0.6	0.5	1.6	36.0	15.5	5.2	1.0	14.3	158.2	835.8	
2010	32.8	22.3	132.0	196.3	26.7	55.8	91.5	-	2.8	0.2	1.4	40.9	19.3	5.0	2.2	19.9	150.7	799.8	
2011	26.4	23.0	34.7	110.5	56.3	61.7	71.8	10.9	2.8	0.1	1.2	33.2	17.1	8.5	1.6	14.0	115.2	589.0	
2012	45.6	1.2	10.0	83.5	62.3	72.0	53.4	85.7	2.3	0.0	1.9	19.4	11.8	16.6	0.2	4.4	21.9	492.3	
2013	36.9	0.7	3.0	37.2	47.8	53.6	46.9	81.7	1.0	-	3.8	12.4	2.4	14.4	0.1	1.3	9.1	352.3	
Liquidity measures other than guarantees																			
2008	-	0.6	3.6	-	0.5	2.3	-	-	-	1.0	-	13.2	-	1.1	-	-	-	22.2	
2009	-	2.0	-	-	4.3	19.3	-	-	-	1.0	0.1	30.4	-	3.7	-	-	6.9	70.1	
2010	-	0.7	4.7	-	6.9	19.0	-	-	-	0.9	0.1	7.9	-	3.8	-	-	18.5	62.6	
2011	-	-	-	0.1	6.6	13.5	-	-	-	0.8	0.1	3.8	-	2.5	-	-	33.3	60.6	
2012	-	-	-	0.7	2.8	3.5	-	-	-	0.6	0.1	3.8	-	0.2	-	-	32.7	44.3	
2013	-	0.0	-	0.9	2.3	0.2	-	-	-	0.6	0.1	3.8	-	-	-	-	26.8	34.6	
Recapitalization measures																			
2008	16.9	0.5	20.0	-	-	-	13.2	-	-	-	2.5	14.0	0.9	-	-	0.3	49.4	117.7	
2009	3.5	8.0	32.9	11.0	3.8	1.3	9.3	4.1	-	0.4	0.1	-	5.9	-	-	0.5	9.7	90.7	
2010	-	1.9	6.7	35.3	-	9.5	-	-	-	0.1	-	4.8	0.6	-	-	-	34.6	93.4	
2011	-	0.3	3.6	16.5	2.6	8.5	-	-	-	-	-	-	-	-	0.3	-	3.2	35.0	
2012	2.9	-	0.9	-	30.9	40.4	2.6	2.0	1.8	0.0	-	-	2.0	6.8	0.5	-	-	90.8	
2013	-	-	-	-	3.5	2.1	-	1.9	-	-	-	4.2	1.8	1.1	2.4	-	3.3	20.5	
Asset relief interventions																			
2008	-	-	9.8	-	-	-	-	-	-	-	-	-	-	-	-	-	-	9.8	
2009	7.7	-	24.8	-	-	-	1.2	-	-	-	-	5.0	0.4	-	-	-	40.4	79.5	
2010	-	-	45.0	2.6	-	2.9	-	-	-	0.4	-	-	-	3.1	-	-	-	54.0	
2011	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
2012	9.4	-	0.4	-	-	25.5	-	-	-	-	-	-	0.1	-	-	-	-	35.4	
2013	-	0.0	-	0.9	2.3	0.2	-	-	-	0.6	0.1	3.8	-	-	-	-	26.8	34.6	

Note: -Zero, 0.0 is greater than zero but rounded to 0.0.

Other member States either did not use crisis-related aid (Bulgaria, the Czech Republic, Estonia, Malta, Poland, Romania, and Slovakia) or relatively small amounts (Lithuania, Hungary, and Finland) while Croatia acceded to the EU in 2013 and has not sought authorization of crisis-related aid.

Source: Commission State Aid Scoreboard 2014 - Aid in the context of the financial and economic crisis http://ec.europa.eu/competition/state_aid/scoreboard/financial_economic_crisis_aid_en.html [March 2015].

3.3.2 Competition policy and regulatory issues

3.3.2.1 Overview

3.155. The basic competition policy framework has remained unchanged since the previous Review. Articles 101-109 of the TFEU provide the basic competition principles: Article 101 prohibits agreements between two or more independent market operators that restrict competition; and Article 102 prohibits firms holding a dominant position from abusing that position. The main rules on procedures are found in Council Regulation (EC) 1/2003, which implements the rules laid down by Articles 101 and 102. Article 106(2) of the TFEU allows limited exceptions to the Treaty competition rules in favour of undertakings entrusted with the operation of services of general economic interest. Council Regulation No. 139/2004 set-out the rules on procedures for review of mergers and acquisitions.

3.156. Under Article 105 of the TFEU, the Commission may conduct investigations and take decisions either following receipt of a complaint or on its own initiative when it suspects there may have been a violation of the Treaty concerning competition policy. The Court of Justice reviews the Commission's activities and may rule against the Commission's decisions.

3.157. The responsibility for public enforcement of competition policy across the EU is shared by the Commission and the national competition authorities of the member States. The Commission cooperates with member States' national competition authorities through the European Competition Network (ECN), established to enhance the efficiency of policy application within the system of shared jurisdiction. Within the ECN, the Commission and member States' competition authorities share information and attempt to agree on effective allocation of cases, which should be dealt with by a single competition authority as often as possible, either that of a member State or the Commission. Where an agreement or practice substantially affects competition in more than one member State, the Network members seek to ensure that the case is assigned to the authority which is well placed to deal with it. The Commission is particularly well placed if one or several agreement(s) or practice(s) have effects on competition in more than three member States.

3.158. Subject to certain conditions, the parties can bring an action for annulment of Commission decisions before the General Court (on grounds of fact or law). Appeals on points of law only may be brought before the Court of Justice against judgements and orders of the General Court.

3.3.2.2 Antitrust

3.3.2.2.1 Anti-competitive agreements

3.159. Article 101 of the TFEU prohibits agreements between undertakings that restrict competition, with the provision that this prohibition may be declared inapplicable for agreements that contribute to improving production or distribution of goods, or promote technical or economic progress while allowing consumers a fair share of the benefits. It does not apply to agreements of minor importance (*de minimis*) where the aggregate market share of the undertakings is small (less than 10% in cases of horizontal agreements, or 15% for vertical agreements). The Commission has also published guidelines on the applicability of Article 101 on horizontal cooperation agreements between actual or potential competitors, such as agreements on product standardization or joint R&D. Certain types of vertical agreements can improve economic efficiency within a production or distribution chain by facilitating better coordination between the participating undertakings, leading to a reduction in the transaction and distribution costs of the parties and to an optimization of their sales and investment levels. The Commission therefore adopted Regulation (EU) No. 330/2010 of 20 April 2010 on the application of Article 101(3) of the TFEU to categories of vertical agreements and concerted practices. The block exemption regulation (BER) contains certain requirements that must be fulfilled before a particular vertical agreement is exempt from the prohibition of Article 101(1) TFEU. The first requirement is that the agreement does not contain any of the hard core restrictions set out in the BER. The second requirement concerns a market share cap of 30% for both suppliers and buyers. Thirdly, the BER contains conditions relating to three specific restrictions (non-compete obligations during the contract, non-compete obligations after termination of the contract and the exclusion of specific brands in a selective distribution system). Furthermore, through Commission Regulation (EC) No. 316/2014 of

21 March 2014, the block exemption, from which certain kinds of licensing agreements for transfer of technology benefited, has been renewed for 12 years. Under this new Regulation, certain types of clause are no longer automatically exempted from antitrust rules but have to be assessed case-by-case. This is the case for clauses that allow the licensor to terminate a non-exclusive agreement if the licensee challenges the validity of the intellectual property rights, and clauses that force a licensee to license any improvements it makes to the licensed technology to the licensor on an exclusive basis. This regulation is complemented by Commission guidelines on the application of Article 101 of the TFEU to technology transfer agreements. They provide new guidance on patent pools (the creation of, and licensing from, patent pools now benefits from a safe harbour in view of the often pro-competitive nature of patent pools) and on settlement agreements (settlement agreements in the context of technology disputes are, as in many other areas of commercial disputes, in principle a legitimate way to find a mutually-acceptable compromise to a bona fide legal disagreement but their individual terms and conditions may be caught by Article 101(1)).

3.160. In the context of the current economic downturn, a number of undertakings in various industries cited the economic crisis and overcapacity problems as justifications for agreements that restrict competition, for example, by jointly reducing output. The Commission pointed out¹⁵¹ that such crisis cartels, or industrial restructuring agreements, despite their seeming remedy to overcome the effects of crisis, cannot be justified by economic downturns. It further stressed that not only are they in principle a restriction of competition under Article 101(1), but also are unlikely to be exempted under Article 101(3).¹⁵²

3.161. Since 2008, companies found to have participated in a cartel can settle their case by acknowledging their involvement in the cartel and having a reduced fine in return, and under certain stringent conditions, no fine at all. This so called "leniency policy" is considered by the competition authorities as a very efficient implementation tool to detect and dismantle cartels since the penalties for breaching competition law can be very severe (to date the largest fine imposed on a single company is over €896 million, and the largest fine imposed on all members of a single cartel is over €1.3 billion).

3.162. In order to obtain total immunity under the leniency policy, a company which participated in a cartel must be the first one to inform the Commission of an undetected cartel by providing sufficient information to allow the Commission to launch an inspection at the premises of the companies allegedly involved in the cartel. Companies that do not qualify for immunity may benefit from a reduction of fines if they provide evidence that represents "significant added value" to that already in the Commission's possession and have terminated their participation in the cartel. Evidence is considered to be of a "significant added value" for the Commission when it reinforces its ability to prove the infringement. The first company to meet these conditions is granted a 30% to 50% reduction, the second 20% to 30% and subsequent companies up to 20%. The Commission also uses a "settlement" procedure to speed up the procedure for adoption of a cartel decision when the parties admit to the Commission's objections, and in return receive a 10% reduction in the fine.

3.163. The main recent regulatory development for leniency policy concerns the coordination with other competition authorities to which parallel leniency requests have been submitted. A leniency applicant must inform the Commission about any other applications it has filed or intends to file with other competition authorities. The purpose of this information is to enable the Commission to coordinate its investigation with other competition authorities. The Commission will only discuss information received under the Leniency Notice with other competition authorities pursuant to a confidentiality waiver provided by the leniency applicant. In order to facilitate the provision of waivers and to increase their uniformity worldwide, the International Competition Network (ICN) adopted Waiver Templates and an Explanatory Note in 2014. DG Competition has fully endorsed¹⁵³ this guidance and accordingly requests that leniency applicants provide a full waiver of confidentiality using the ICN template.

¹⁵¹ See for instance the speech by former Commissioner responsible for Competition Policy before the International Bar Association Antitrust Conference/Madrid on 15 June 2002 "Higher Duty for Competition Enforcers". Viewed at: http://europa.eu/rapid/press-release_SPEECH-12-453_en.htm.

¹⁵² OECD (2011c), Global Forum on Competition: Crisis Cartels, DAF/COMP/GF(2011)11, 18 October. Viewed at: <http://www.oecd.org/daf/competition/cartelsandanticompetitiveagreements/48948847.pdf>.

¹⁵³ See: <http://ec.europa.eu/competition/cartels/leniency/leniency.html>.

3.164. The overall trend is two applications for immunity and two applications for reduction of fines per month. Before the introduction of the first leniency programme in 1996, the Commission adopted 34 cartel decisions - that is on average one cartel decision per year. Since the entry into force of the 1996 Leniency Notice, the Commission adopted on average four to six cartel decisions per year, (out of which three to four were leniency generated), and one to two are ex-officio cases. Between 2010 and 2014, out of the 30 decisions that have been adopted, 17 have been based on settlement procedures.

3.165. The number of cartel cases decided by the Commission during the period under review was five in 2012, four in 2013 and nine in 2014 involving respectively 37, 19 and 48 individual undertakings/associations. The global amount of the fines imposed annually was €1.875 billion in 2012, €1.882 billion in 2013 and €1.689 billion in 2014. The largest fines by cartel case were €1.470 billion in 2012 (TV and computer monitor tube cartel), €669 million in 2013 (yen interest rate derivative cartel), and €953 million in 2014 (automotive bearings cartel). The largest individual fines were €705 million in 2012 (Philips for the TV and computer monitor tubes cartel), €465 million in 2013 (Deutsche Bank AG for the euro interest rate derivative cartel) and €370 million in 2014 (Schaeffler for the automotive bearings cartel).

3.166. In 2013-14 the Commission applied the anti-cartels rules to a variety of sectors, notably to financial services (the Euribor, Tibor, Libor and Credit Defaults Swap cases), the automobile industry (the wire harnesses case), the electronic industry (the colour display tubes case, the colour pictures tubes case and the smart card chips case), the food industry (the North Sea shrimps traders case) and the electronic publishing sector (the e-book case).

3.3.2.2.2 Abuse of dominant position

3.167. In order to establish whether a firm is abusing a dominant position pursuant to Article 102 TFEU, the Commission must first assess dominance and therefore define the relevant market. The relevant market has two dimensions: the product market (all products/services which the consumer considers to be a substitute for each other due to their characteristics, their prices and their intended use), and the geographic market (area in which the conditions of competition for a given product are homogenous). In that context market shares are a useful first indication of the market power of each firm in comparison to the others. The Commission's view, as expressed in its Guidance Paper on its enforcement priorities concerning abusive exclusionary conduct by dominant undertakings¹⁵⁴, is that the higher the market share, and the longer the period of time over which it is held, the greater the probability that there is a preliminary indication of dominance. If a company has a market share of less than 40%, it is unlikely to be dominant. The assessment of dominance by the Commission takes factors into account other than just the market shares of a company, including: constraints imposed by existing supplies from actual competitors; constraints imposed by the credible threat of future expansion by actual competitors or entry by potential competitors (i.e. the ease with which other companies can enter the market and whether there are any barriers to this); the existence of countervailing buyer power (i.e. constraints imposed by the bargaining strength of the undertaking's customers); the overall size and strength of the company and its resources; and the extent to which it is present at several levels of the supply chain (vertical integration).

3.168. Although a dominant company is as entitled to compete as any other company, it has a special responsibility to ensure that its conduct does not distort competition. Examples of behaviour that may amount to abuse include: requiring that buyers purchase all units of a particular product only from the dominant company (exclusive purchasing); setting prices at a loss-making level (predation); refusing to supply input indispensable for competition in an ancillary market; tying; loyalty rebates; and charging excessive prices.

3.169. Between 2012 and 2015 the Commission has applied the rules on abuse of dominant position to traditional (e.g. energy) as well as non-traditional sectors (e.g. telecom, financial services, and digital technology), and has targeted a variety of regions, increasingly in the newer member States. Examples of such cases include: the Gazprom gas case, and the BEH, CEZ and OPCOM electricity cases (energy sector); the Multilateral Interchange Fees (MIF) cases on fees charged by credit card companies (financial services); the ongoing Google case on web search, online search advertising and online search advertising intermediation and the Microsoft case on

¹⁵⁴ OJEU C 45/7, 24 February 2009.

the non-availability of a "choice screen" to select a browser (digital technology); the non-competition agreement between Telefonica and Portugal Telecom case and the Slovak Telecom case (telecom sector); and the Standard Essential Patents (SEP) cases with Motorola and Samsung (telecom equipment sector).¹⁵⁵

3.170. One issue relating to the application of the rules on abuse of dominant position is anti-competitive behaviour as it relates to intellectual property. The request for a preliminary ruling lodged by a German court in 2013 is interesting in this regard. The case centres around the conduct of standard-essential patent (SEP) holders who have given a commitment to grant licences to third parties on fair, reasonable and non-discriminatory (FRAND) terms. In an Opinion delivered on 20 November 2014 to the European Union Court of Justice, the Advocate General stated that the fact that a company owns a SEP does not necessarily mean that it holds a dominant position. He also proposed that the Court of Justice rule that, where the proprietor of an SEP has made a commitment to a standards body to grant third parties a licence on FRAND terms, it constitutes an abuse of a dominant position for that proprietor to request corrective measures or to seek an injunction against a company that has infringed the SEP, where it is shown that the SEP-holder has not honoured its commitment even though the offending company has shown itself to be objectively ready, willing and able to enter into such a licensing agreement.¹⁵⁶

3.171. Following the investigation, the Commission may issue a statement of objections (SO). This document informs the parties of the objections raised by the Commission and gives the companies the possibility to exercise their right of defence. If the Commission's concerns are not – or only partly – dispelled it drafts a decision prohibiting the identified infringement (according to Article 7 of the Antitrust Regulation). The draft is then submitted to the Advisory Committee composed of representatives of the member States' competition authorities. If fines are proposed in the draft decision, the Advisory Committee meets a second time to specifically discuss them. The starting point for the fine is the percentage of the company's annual sales of the product concerned in the infringement (up to 30%). This is then multiplied by the number of years and months the infringement lasted. The fine can be increased (e.g. repeat offender) or decreased (e.g. limited involvement). The maximum level of fine is capped at 10% of the overall annual turnover of the company. Finally, the draft decision is submitted to the College of Commissioners which adopts the decision.

3.172. Alternatively, the Commission may take a commitment decision. This is a quick way to restore effective competition to the market. Under commitment decisions, the Commission does not have to prove an infringement of the antitrust rules and imposes no fines. It voices its concerns and parties can come forward with commitments to address these concerns. If the Commission, after consulting market participants, finds these commitments sufficient, it takes a decision to make them legally binding. The commitments are usually valid for a specific period of time but if the companies breach them they may be fined.

3.3.2.2.3 Application of antitrust rules to specific sectors

3.173. While the main principles of the EU treaties generally apply, a diminishing number of sectors are regulated separately in view of their specificities. During the period under review those sector-specific rules have been modified for agriculture and maritime transport. As far as agriculture is concerned, EU regulation 1308/2013 of 17 December 2013, taking into account the reform of the Common Agricultural Policy in 2013, modified the application of competition rules to the agricultural sector. It introduced new derogations based on efficiencies for joint negotiations through producer organizations in the olive oil, beef and veal and arable crops sectors, a new derogation for agreements in situations of extreme crisis that have not been remedied by public intervention, and some specific derogations. With regard to maritime transport, EU regulation 697/2014 of 4 June 2014 prolongs the block exemption established by a previous regulation for six more years with unchanged conditions.

¹⁵⁵ In total between 2011 and 2014 the Commission closed 25 cases on abuse of dominant position including rejections and 16 cases excluding rejections. These figures are based on an individual cases count and may comprise cases where other articles of the treaties have been invoked; they should therefore be read with caution.

¹⁵⁶ CJUE, Case C-170/13 – Huawei Technologies v ZTE Corp., Opinion of the Advocate General delivered on 20 November 2014.

3.174. Under Council Regulation (EC) No. 1/2003, when circumstances suggest that competition may be restricted or distorted in a certain sector, the Commission may conduct its inquiry into the particular sector and request information. In this context the Commission published in October 2014 the results of a study about the evolution of choice and innovation in food products in Europe during the last decade. According to the study the entry of new competitors always increases choice and innovation. In many member States, retail markets are not overly concentrated, and the retailers' bargaining power does not seem to have a negative impact on choice and innovation. Finally, while choice for European citizens has continuously increased in shops since 2004, the number of innovations reaching the consumer each year has decreased since 2008 – largely due to the economic crisis.

3.175. In December 2014, DG Competition published its fifth monitoring exercise on patent settlements in the pharmaceutical sector¹⁵⁷ which focused on patent settlements concluded between originator and generic companies in 2013 as such settlements may delay the market entry of cheaper generic medicines. According to the report, the number of settlements that may give rise to antitrust concerns has remained continuously low which demonstrates the industry's increased awareness of potentially problematic practices. The report also found that the overall number of patent settlements remained high compared to the previous monitoring periods, which indicates that companies can successfully settle their disputes within the boundaries of the EU antitrust rules. Between January and December 2013, 146 patent settlement agreements were concluded between originator and generic companies, as compared to a total of 183 in 2012, and 120 in 2011.

3.176. So far the Commission has closed three formal antitrust proceedings with respect to patent settlements. In June 2013 the Commission imposed a fine of €93.8 million on Danish pharmaceutical company Lundbeck and fines totalling €52.2 million on several producers of generic medicines for agreeing to delay the market entry of cheaper generic versions of the antidepressant citalopram.¹⁵⁸ For similar practices, the Commission also imposed fines on the U.S. pharmaceutical company Johnson & Johnson (J&J) and on Novartis of Switzerland (December 2013)¹⁵⁹ and on the French pharmaceutical company Servier and five producers of generic medicines - Niche/Unichem, Matrix, Teva, Krka and Lupin – (July 2014).¹⁶⁰

3.3.2.2.4 Private enforcement

3.177. Following a Commission proposal of June 2013, Directive 2014/104/EU on antitrust damages actions was adopted by the Council on 10 November 2014 and signed into law on 26 November 2014. The Directive sets out a number of measures to facilitate damages actions. In particular national courts will have the power to order companies to disclose evidence when victims claim compensation. Decisions of national competition authorities finding an infringement will automatically constitute proof before national courts of all member States that the infringement occurred. Rules on limitation periods (i.e. the period of time within which victims can bring an action for damages) will be clarified and so will the liability rules in cases where price increases due to an infringement are "passed on" along the distribution or supply chain.

3.3.2.2.5 Selected decisions of national competition agencies

3.178. A large proportion of antitrust cases within the European Competition Network are investigated by national competition agencies (NCA). Thus, in 2013, out of the 121 case investigations of which the ECN was informed, 116 were carried out by an NCA.¹⁶¹

3.179. For example, on 27 February 2014, the Italian competition authority fined Roche and Novartis over €180 million for cartelizing the sales of two major ophthalmic drugs. The companies were found to have colluded to exclude the cheaper medicine (Avastin), used in the treatment of

¹⁵⁷ Commission (2014), *5th Report on the Monitoring of Patent Settlements (period: January-December 2013)*, 5 December 2014. Viewed at: http://ec.europa.eu/competition/sectors/pharmaceuticals/inquiry/patent_settlements_report5_en.pdf.

¹⁵⁸ European Commission, Case AT.39226, 19 June 2013.

¹⁵⁹ European Commission, Case AT.39685, 10 December 2013.

¹⁶⁰ European Commission, Case AT.39612, 9 July 2014.

¹⁶¹ For further details on decisions of NCAs, see: <http://ec.europa.eu/competition/ecn/competitionauthorities.html>.

the most common eyesight condition in the elderly as well as other serious sight problems, and channelling demand towards the more expensive drug (Lucentis), through an artificial distinction between the two products. The anti-competitive agreement was found to cause the Italian National Health Service to sustain additional expenses estimated at over €45 million in 2012.

3.180. The French competition agency has also investigated practices aimed at delaying the development of cheaper medicines. For example, on 14 May 2013, it fined Sanofi-Aventis a total of €40.6 million for implementing a denigration strategy. This strategy was aimed at limiting entry into the market of generic versions of Plavix in favour of Sanofi-Aventis' products, i.e. the originator Plavix medicine and its generic version marketed by Sanofi-Aventis, Clopidogrel Winthrop. The company was found to have implemented a global and structured communication strategy, aimed at stopping the generic substitution process at two key stages: at the prescription stage, by convincing doctors to insert the indication "non-substitutable" to the prescriptions, so as to limit the substitution of Plavix by a generic medicine; and at the substitution stage itself, by encouraging pharmacists to substitute Plavix by Clopidogrel Winthrop, to the detriment of other generic competitors.¹⁶²

3.3.2.3 Mergers and acquisitions

3.181. The EU Merger Regulation (EC)139/2004 requires examination of whether a concentration would significantly impede effective competition, notably through the creation or strengthening of a dominant position. In such cases, the concentration may be prohibited or conditionally approved. Therefore, all concentrations with a "Community dimension" are subject to review by the Commission before being approved. A merger with a "Community dimension" is defined as a merger where the parties have a combined worldwide turnover of €5 billion and each party has a Community-wide turnover of €250 million. In accordance with the stand-still obligation, no merger with a Community dimension may proceed unless approved by the Commission. Most mergers are approved within the initial (first phase) period, without the need for an in-depth (second phase) investigation. In 2012, 263 out of 283 merger notifications were cleared in the first phase (Table 3.13)

Table 3.13 Approved and prohibited mergers, 2013 and 2014

	2013	2014
Mergers approved in 1 st phase	252	280
Mergers approved after 2nd-phase investigation	4	7
Prohibited mergers	2	0
Total of merger notifications	277	303

Source: Information provided by the authorities.

3.182. On 1 January 2014, the merger simplification package entered into force.¹⁶³ It simplifies certain procedures for notifying mergers under the EU Merger Regulation notably by updating the notice on a simplified procedure for treatment of certain mergers. Under this notice, companies can use a shorter notification form for certain categories of mergers that are generally unlikely to raise competition problems. The market share threshold for treatment under the simplified procedure for mergers between firms competing in the same market has been raised from 15% to 20%. For mergers between firms active in upstream and downstream markets - such as between a producer of car parts and a car manufacturer - the threshold has been raised from 25% to 30%. The Commission also wants to make it possible to treat a case as simplified where the combined market share of two firms active in the same market is above the 20% threshold but the increase in market share resulting from the merger is very small. The changes allow up to 70% of all notified mergers to qualify for review under the Commission's simplified procedure, i.e. about 10% more than before the reform. This could result in savings for the merging companies concerned, cutting lawyers' fees by up to one-half and reducing preparatory in-house work. In addition, the Commission reduced the net amount of information required to notify all mergers.

¹⁶² French Competition Authority, Decision, 14 May 2013.

¹⁶³ This package, announced on 5 December 2013, is composed of a revised implementing regulation, Regulation (EU) 1269/2013 of 5 December 2013) and the Commission Notice of 5 December 2013 on a simplified procedure for treatment of certain concentrations under Council Regulation (EC) No 139/2004.

3.183. Following a public consultation launched in June 2013, in July 2014 the Commission issued a white paper entitled "Towards more effective merger control"¹⁶⁴ on possible future improvements of the EU Merger Regulation in two areas: minority shareholdings - also called structural links; and the transfer of cases between the Commission and national competition authorities. The current Merger Regulation applies only to transactions leading to an acquisition of control over a company. The white paper elaborates on whether the Merger Regulation should be amended to allow the Commission to look also at non-controlling minority shareholdings because experience shows that, in some specific instances, the acquisition of a non-controlling minority stake can harm competition and consumers. For example, if in a concentrated market one firm acquires a 20% stake in a competitor, it may influence the latter's competitive conduct even without gaining control, for example through having a seat on the board, or it may have fewer incentives to compete because it shares the target's profits. A minority stake owned by a firm in a company that supplies an important input to the acquirer's competitors may also lead to supply problems for those competitors.

3.184. The Commission proposes to use a "targeted transparency system". Under this system an undertaking would be required to submit an information notice to the Commission if it is considering the acquisition of a minority shareholding that qualifies as a "competitively significant link". The Commission would decide whether further investigation of the transaction is warranted and member States would consider whether to request a referral on the basis of this information notice. The parties would only be required to submit a full notification if the Commission decided to initiate an investigation and the Commission would only issue a decision if it had initiated an investigation. In order to provide parties with legal certainty, they should be able to voluntarily submit a full notification. The Commission believes that such a system would allow potentially problematic transactions to be targeted from the outset, namely through the identification of transactions which create a "competitively significant link", and it would ensure that the transactions thus identified could be effectively controlled by the Commission, even without the need for a full notification obligation. Any agreements entered into between the acquirer of the minority shareholding and the company partially acquired remain subject to assessment under Articles 101 and 102 TFEU unless they constitute "ancillary restraints", i.e. restrictions directly related and necessary to the implementation of the acquisition.

3.185. Regarding case referrals between the Commission and national authorities, the Merger Regulation allows cases to be referred from member States to the Commission or vice versa, provided none of the authorities involved objects to the referral. The white paper suggests ways to streamline this system to avoid any delays and further improve its effectiveness. For instance one or more member State(s) that are competent to review a transaction under their national law could request a referral to the Commission within 15 working days from the date the transaction was notified or made known to them. The Commission would then be able to decide whether or not to accept the referral, and, if so, would then have competence for the whole EEA. However if one or more competent Member State(s) opposed the referral, the Commission would renounce jurisdiction for the whole EEA and the Member State(s) would retain their jurisdiction. The Member State(s) would not have to give reason for opposing the referral.

3.3.2.4 International cooperation

3.186. As companies increasingly engage in cross-border deals affecting several countries, the EU cooperates with competition authorities outside its jurisdiction. The EU's competition agreements and the cooperation arrangements with the United States (1995, 1998 and 2011), Canada (1999), Japan (2003), and the Republic of Korea (2009) enable the parties to share mainly non-confidential information. The Agreement with Switzerland that was signed in 2012 and entered in force on 1 December 2014, goes beyond previous cooperation with other jurisdictions, since it allows a broader scope of information exchange, even without the consent of the companies involved. In addition to the agreements mentioned above, the EU has concluded bilateral agreements and/or memoranda of understanding specifically dedicated to competition issues (so called "dedicated agreements") with Brazil (2009), China (2012), India (2013) and the Russian Federation (2011).

¹⁶⁴ European Commission (2014), *White Paper – Towards more effective EU merger control*, COM(2014)449 final, 9 July. Viewed at: http://ec.europa.eu/competition/consultations/2014_merger_control/mergers_white_paper_en.pdf.

3.187. Competition provisions have also been included in numerous general cooperation or association agreements or trade agreements. That is the case of agreements with: Albania; Algeria; Armenia; Azerbaijan; CARICOM; Bosnia and Herzegovina; Canada; Central America; Chile; Colombia and Peru; Egypt; the Faroe Islands; FYROM; Georgia; Iceland; Liechtenstein; Norway; Israel; Jordan; the Republic of Korea; Lebanon; Mexico; Moldova; Montenegro; Morocco; the Russian Federation; Serbia; South Africa; Singapore; Tunisia; and Turkey.

3.188. The EU has also been supportive of greater multilateral cooperation through the International Competition Network (ICN), the UNCTAD Intergovernmental Group of Experts on Competition Policy, and the OECD Competition Committee. The EU considers that these multilateral fora provide an important platform to promote open competition and fight protectionism; this enables competition authorities worldwide to respond to cases more efficiently through coordinated inspections across several jurisdictions.

3.3.3 Taxation

3.189. In the EU, customs duties and other measures directly related to trade are harmonized (Section 3.1)¹⁶⁵ and there is a common system for value-added-tax. However, direct taxes are not harmonized at the EU level and member States are free to choose the tax systems most appropriate to their situations. The main priority, at the EU level, has been to eliminate tax obstacles to all forms of cross-border economic activity and continue efforts to prevent harmful tax competition.¹⁶⁶ Furthermore, the Commission has proposed a directive which would allow companies operating cross-border in the EU to comply with a single Common Consolidated Corporate Tax Base. This directive is currently under discussion with the member States in the Council.¹⁶⁷

3.190. For the EU-28 in 2012, total tax receipts and social contributions were the equivalent of around 39.6% of GDP, or €5,140 billion. Income taxes (i.e. taxes on individual or household income) were the most important, followed by employers' social contributions, and VAT (Table 3.14).

Table 3.14 Tax and social contributions in the EU-28, 2007-12

(€ billion)

	2007	2008	2009	2010	2011	2012
Total tax receipts	3,397	3,360	3,029	3,182	3,337	3,470
Value added type taxes (VAT)	879	868	789	867	909	927
Excise duties and consumption taxes	300	295	287	299	307	316
Taxes on land, buildings and other structures	1278	124	126	124	132	152
Taxes on individual or household income including holding gains	1,163	1,178	1,100	1,117	1,158	1,223
Taxes on the income or profits of corporations including holding gains	414	379	260	291	317	322
Actual social contributions	1,549	1,593	1,546	1,588	1,638	1,685
Employers' actual social contributions	894	917	885	912	937	960
Employees' social contributions	473	484	463	476	499	518
Social contributions by self- and non-employed persons	182	192	198	200	202	206

Source: Eurostat online database. Viewed at:

http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=gov_a_tax_ag&lang=en
[February 2015].

3.191. Taxes and social contributions among the member States vary considerably in economic importance (total tax receipts and social contributions are the equivalent of 27% of GDP in Lithuania and 48% in Denmark) and structure (in Denmark income tax accounts for about half of

¹⁶⁵ Directive 2006/112/EC, Council Implementing Regulation (EU) No. 282/2011.

¹⁶⁶ DG Taxation and Customs Union online information. Viewed at:

http://ec.europa.eu/taxation_customs/taxation/gen_info/tax_policy/index_en.htm [December 2014].

¹⁶⁷ EU Commission, (2011), *Proposal for a Council Directive on a Common Consolidated Tax Base (CCCTB)*, COM(2011) 121/4 2011/0058 (CNS). For more information see http://ec.europa.eu/taxation_customs/taxation/company_tax/common_tax_base/index_en.htm [February 2015].

total tax and social contribution and in Estonia employers' social contributions account for about one-third) (Table 3.15).

3.3.3.1 Income tax

3.192. The systems of income tax vary from one member State to another with different categories of income subject to income tax, different rates of tax and different treatment of expenses that may be deducted from gross income. In addition, local taxes on income may also apply, and can represent a considerable part of the charge on income: in Denmark the average local tax is higher than the highest rate of income tax (Table 3.15).

Table 3.15 Income tax and employee social contributions in the EU

(% of GDP for 2012, tax rates 2014)

Member State	Income tax ¹ % GDP	Employee social contributions ¹ % GDP	Tax system ^{2,3,4}	Top rate of income tax ^{2,3,4} %	Income for maximum income tax (single person) ^{2,3,4}	Note ^{2,3,4}
Belgium	12.7	4.4	Progressive 5 brackets	53.7	€36,300	<ul style="list-style-type: none"> •25% withholding tax on interest income •Municipal surcharge average 7.4%
Bulgaria	2.9	2.4	Flat rate	10.0		<ul style="list-style-type: none"> •Most interest income exempt
Czech Rep.	3.8	3.2	Flat rate	22.0		<ul style="list-style-type: none"> •Surcharge of 7% on income over CZK1,245,216 (€46,119) •Spending allowance of up to CZK800,000 or 600,000 for rental income
Denmark	24.5	0.9	Hybrid system	55.6	DKK449,100 (€46,443)	<ul style="list-style-type: none"> •Local income taxes average 25.6% •Health tax of 5%
Germany	8.8	6.4	Progressive 3 brackets	47.5	€250,000	<ul style="list-style-type: none"> •2nd bracket rate is 42% for income over €52,881 •Solidarity surcharge of 5.5%
Estonia	5.3	0.8	Flat rate	21.0		
Ireland	9.7	1.1	Progressive 2 brackets	48.0	€32,800	<ul style="list-style-type: none"> •Levy of up to 7% on income over €16,016 •Deposit interest tax of 41%
Greece	7.0	4.6	Progressive 3 brackets	46.0	€42,000	<ul style="list-style-type: none"> •Tax credits €100 per €1,000 of income up to €42,000 •Additional tax on: dividends 10%; interest 15%; royalties 20% •Interest on Greek Government bonds and treasury bills exempt
Spain	7.7	1.7	Progressive 7 brackets	52.0	€300,000	
France	8.5	4.2	Progressive 5 brackets	50.3	€150,000	<ul style="list-style-type: none"> •Tax on real estate gains of 19%
Croatia	3.7	5.3	Progressive 3 brackets	47.2	HRK105,600 (€13,834)	<ul style="list-style-type: none"> •Exemption for interests on savings, on deposits and on securities under certain conditions, and capital gains on movable property
Italy	12.2	2.4	Progressive 5 brackets	47.9	€75,000	<ul style="list-style-type: none"> •Regional surcharge of 1.23-1.73%, municipalities surcharge of 0.9%, additional surcharge of 3% on income over €300,000
Cyprus	4.0	2.5	Progressive 4 brackets	35.0	€60,000	<ul style="list-style-type: none"> •Temporary special contribution (shared with employers) at progressive rates up to 3.5% on income over €4,500 •Exemption for some capital gains and interest income
Latvia	5.7	2.6	Flat rate	24.0		<ul style="list-style-type: none"> •Capital gains tax of 15% •Income from dividends, interest, insurance funds, and other capital investments 10%
Lithuania	3.5	2.2	Flat rate	15.0		<ul style="list-style-type: none"> •Progressive basic allowance from LTL6,840 (€1,975) for incomes of LTL12,000 (€3,464) or less falling to zero for incomes of LTL38,304 (€11,058)

Member State	Income tax ¹ % GDP	Employee social contributions ¹ % GDP	Tax system ^{2,3,4}	Top rate of income tax ^{2,3,4} %	Income for maximum income tax (single person) ^{2,3,4}	Note ^{2,3,4}
Luxembourg	8.6	5.2	Progressive 18 brackets	43.6	€100,000	<ul style="list-style-type: none"> •Employment fund surcharge of up to 7% •Withholding tax on interest 10% •Withholding tax on dividends of 15%
Hungary	5.4	5.1	Flat rate	16.0		<ul style="list-style-type: none"> •Income includes sale of real estate, dividends, and interest
Malta	6.7	2.7	Progressive 4 brackets	35.0	€60,000	
Netherlands	7.7	7.0	Progressive 4 brackets	52.0	€56,531	<ul style="list-style-type: none"> •Privately held assets deemed income 4% of net value taxed at 30% for deemed income over €21,139 •Capital gains tax 22%-25%
Austria	10.1	6.1	Progressive 3 brackets	50.0	€60,000	<ul style="list-style-type: none"> •Withholding tax of 25% on capital gains of financial assets, interest income, dividends, immovable property
Poland	4.6	4.9	Progressive 2 brackets	32.0	PLN85,528 (€20,374)	<ul style="list-style-type: none"> •Withholding tax of 19% on dividends and interest
Portugal	5.9	3.6	Progressive 5 brackets	56.5	€80,000	<ul style="list-style-type: none"> •Surcharge of 3.5% •Solidarity surcharge at 2.5% for income €80,000-250,000 and 5% on income over €250,000
Romania	3.5	2.9	Flat rate	16.0		<ul style="list-style-type: none"> •Income includes salaries, independent activities, lease operations, dividends, interest, transfer of securities, pensions, liquidation of a legal person, prizes, etc
Slovenia	5.8	7.7	Progressive 4 brackets	50.0	€70,907.20	<ul style="list-style-type: none"> •25% on interest income, dividends, property rents, capital gains
Slovakia	2.6	3.0	Progressive 2 brackets	25.0	€35,022.31	<ul style="list-style-type: none"> •Withholding tax of 19% on income from investments, interest, pension insurance
Finland	13.0	3.1	Progressive 5 brackets	51.5	€100,000	<ul style="list-style-type: none"> •Municipal income tax (flat rate) average 19.74% •Church tax 1-2% •Income from dividends, rent, interest, capital gains, timber sales, 30% up to €40,000, 32% over €40,000
Sweden	15.2	0.1	Progressive 2 brackets	56.9	SEK602,600 (€69,949)	<ul style="list-style-type: none"> •Municipal income tax average 31.73%
U.K.	9.7	3.2	Progressive 3 brackets	45.0	£150,000 (€176,580)	<ul style="list-style-type: none"> •2nd bracket rate is 40% for income of £31,866-150,000 •Capital gains tax 18% up to £32,010, 28% over £32,010

Source: 1. Eurostat online database [gov_a_tax_ag]. Viewed at: http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=gov_a_tax_ag&lang=en [February 2015];
2. Eurostat (2014), *Taxation trends in the European Union - Data for the EU Member States, Iceland and Norway*, Edition 2014;
3. EU online information, *Your Europe, Income taxes abroad*. Viewed at: http://europa.eu/youreurope/citizens/work/taxes/income-taxes-abroad/index_en.htm [February 2015]; and
4. Member States' official tax sites.

3.3.3.2 Corporation tax

3.193. Corporation tax rates vary from 10% in Bulgaria to 35% in Malta. However, as in many other jurisdictions, differences in calculating allowable expenses, depreciation allowances, and other factors can mean that the effective tax on profits may be different to the nominal rate of tax. In addition to corporation tax, employers usually make significant social contributions which, for most member States, are greater than their corporation tax payments. Therefore, a decision to invest in a member State in a labour-intensive enterprise could be influenced more by the expected employer social contribution than the rate of corporation tax.

3.194. The World Bank/PwC report on paying taxes defines taxes broadly to include all mandatory contributions to government and local authorities, and applies them to a standardized corporation for comparison among different countries. The report shows a considerable difference between the nominal rate and the actual deductions from profits – and that, for most member States, the charges related to labour are more important than taxes on profits (Table 3.16).¹⁶⁸

Table 3.16 Corporation tax and employer social contributions

(% of GDP for 2012, tax rates 2014)

Member State	Corporation tax ¹ % GDP	Employer social contributions ¹ % GDP	Nominal rate ^{2,3} %	Profit tax ⁴ %	Labour taxes ⁴ %	Other ⁴ %
Belgium	3.1	8.9	33.99	6.5	50.7	0.6
Bulgaria	1.9	4.2	10	6.0	20.2	1.8
Czech Rep	3.3	9.9	19	7.6	38.4	2.5
Denmark	3.0	0.1	24.5	20.3	3.0	2.7
Germany	2.7	6.8	30	23.3	21.2	4.3
Estonia	1.4	10.6	21	8.4	39.3	1.9
Ireland	2.4	3.1	12.5	12.4	12.1	1.4
Greece	1.1	4.8	26	18.2	31.0	0.7
Spain	2.2	8.4	30	21.9	35.7	0.6
France	2.3	11.6	33.33/36.6	7.4	51.7	7.5
Croatia	2.0	6.0	20	0.0	17.1	1.7
Italy	2.3	9.3	27.55	19.9	43.4	2.1
Cyprus	6.3	6.2	12.5	9.6	12.0	1.6
Latvia	1.6	5.8	15	4.9	27.2	2.9
Lithuania	1.3	7.3	15	6.1	35.2	1.3
Luxembourg	5.3	4.9	21	4.2	15.6	0.4
Hungary	1.3	7.7	19	11.8	34.3	1.9
Malta	6.3	2.8	35	30.3	10.7	0.6
Netherlands	2.1	5.4	25	21.1	17.6	0.3
Austria	2.4	7.0	25	15.4	34.3	2.3
Poland	2.1	4.9	19	13.1	24.7	0.9
Portugal	2.8	5.1	23	15.1	26.8	0.5
Romania	2.2	5.7	16	10.7	31.5	1.0
Slovenia	1.3	5.8	17	12.5	18.2	1.3
Slovakia	2.4	6.8	22	8.5	39.7	0.4
Finland	2.2	9.2	20	14.5	24.2	1.3
Sweden	2.7	7.3	22	13.4	35.5	0.5
U.K.	2.9	4.5	21	20.9	11.3	1.5

Source: 1. Eurostat online database [gov_a_tax_ag]. Viewed at: http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=gov_a_tax_ag&lang=en [February 2015].
 2. Eurostat (2014), *Taxation trends in the European Union - Data for the EU Member States, Iceland and Norway*, Edition 2014.
 3. Member States' official tax sites, and
 4. World Bank/PwC (2014), *Paying Taxes 2015*, p. 144.

3.195. In addition to the taxes and social contributions paid to the state or local authorities, the cost to a corporation also depends on the time required to comply with tax payments which also varies from one Member state to another from as low as 55 hours in Luxembourg to 454 hours in Bulgaria.¹⁶⁹

3.3.3.3 Value added tax

3.196. The VAT Directive (Council Directive 2006/112/EC) sets out a common system for VAT in the EU. The VAT Directive has been amended several times, including in July 2013 when, following

¹⁶⁸ World Bank/PwC (2014), *Paying Taxes 2015*, pp. 121-124.

¹⁶⁹ World Bank/PwC (2014), *Paying Taxes 2015*, p. 145.

a Communication from the Commission on the future of VAT¹⁷⁰, the Council adopted two directives to address fraud.¹⁷¹

3.197. In principle, supplies of goods and services are subject to a standard rate of at least 15% but Member states may apply reduced rates of at least 5% on goods and services listed in Annex III to the VAT Directive.¹⁷² They are also required to exempt from VAT activities listed in Article 132-137 of the VAT Directive (principally activities in the public interest (e.g. postal services, hospital and medical care, and children's education) as well as some financial transactions). As noted by the Commission "these simple rules are however complicated by a multitude of derogations granted to certain member States, in some instances a majority of member States. These derogations were granted during the negotiations preceding the adoption of the VAT Rates Directive of 1992 and in the Acts of Accession to the European Union. Overall, such derogations prevent a coherent system of VAT rates in the EU from being applied."¹⁷³

3.198. Reflecting the differences among the member States in the product coverage and rates of VAT, the importance of VAT to Government revenues varies substantially from one member State to another, from 12.4% of GDP in Croatia to 5.5% in Spain (Table 3.17).

Table 3.17 VAT in the EU

(% of GDP for 2012, tax rates 2014)

Member State	VAT ¹ % GDP	Standard rate ² %	Reduced rate(s)/parking rate ² %	Zero rated ²
Belgium	7.2	21	6/12	Yes
Bulgaria	9.4	20	9	-
Czech Rep	7.2	21	15	-
Denmark	10.0	25	-	Yes
Germany	7.3	19	7	-
Estonia	8.7	20	9	-
Ireland	6.2	23	4.8/9/13.5	Yes
Greece	7.1	23	6.5/13	Yes
Spain	5.5	21	4/10	-
France	7.0	20	2.1/5.5/10	-
Croatia	12.4	25	5/13	-
Italy	6.1	22	4/10	Yes
Cyprus	8.9	19	5/9	-
Latvia	7.1	21	12	-
Lithuania	7.7	21	5/9	-
Luxembourg	7.1	15	3/6	-
Hungary	9.4	27	5/18	-
Malta	7.8	18	5/7	Yes
Netherlands	7.0	21	6	-
Austria	8.0	20	10	-
Poland	7.3	23	5/8	-
Portugal	8.5	23	6/13	-
Romania	8.5	24	5/9	-
Slovenia	8.2	22	9.5	-
Slovakia	6.1	20	10	-
Finland	9.2	24	10/14	Yes
Sweden	9.3	25	6	Yes

¹⁷⁰ COM (2011)851.

¹⁷¹ Council Directives 2013/42/EU and 2013/43/EU.

¹⁷² Subject to certain conditions and procedures, member States may also apply a reduced rate to the supply of natural gas, electricity and district heating. By way of a derogation from the normal rules, certain member States have been authorized to maintain reduced rates, including those lower than the minimum or zero rates, in certain areas. These derogations were granted during the negotiations preceding the adoption of the VAT Rates Directive of 1992 or the Acts of Accession to the EU. Most of them apply until adoption of a definitive VAT system. The main objective of these derogations is to ensure the gradual transition towards the application of uniform rules.

¹⁷³ Commission online information. Viewed at: http://ec.europa.eu/taxation_customs/taxation/vat/how_vat_works/rates/index_en.htm [February 2015].

Member State	VAT ¹ % GDP	Standard rate ² %	Reduced rate(s)/parking rate ² %	Zero rated ²
U.K.	7.3	20	5/17.5	Yes

Source: 1. Eurostat online database [gov_a_tax_ag]. Viewed at: http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=gov_a_tax_ag&lang=en [February 2015];
2. Eurostat and European Commission (2014), *VAT Rates Applied in the Member States of the European Union*, taxud.c.1(2014)2276174-EN.

3.199. Provided conditions are met (mainly proof of export/supply in another member State), VAT on exports outside the EU and on sales to another EU member State are zero-rated, while imports are charged VAT at the point of entry into the EU or on acquisition of the goods for goods from another EU member State.

3.200. As noted in the last Review, the application of different VAT rates for different goods and services adds to compliance costs although reduced rates, zero-rating, and exemptions can translate into significant subsidies. Furthermore, a simplified system which applied a single VAT rate at, or possibly even below the minimum standard rate of 15%, if applied to all goods and services, could result in no reduction in revenue while simplifying compliance costs and reducing economic distortions among sectors.¹⁷⁴

3.3.3.4 Excise duties

3.201. All member States apply excise duties on alcoholic beverages, manufactured tobacco products, and energy products. Council Directive 2008/118/EC established the general arrangements for excise duties on these products while other directives set out minimum rates that may be applied.¹⁷⁵

3.202. The structure of excise duties and the rates applied vary from one member State to another and are regularly published by the Commission¹⁷⁶ while the economic importance of excise duties varies from as low as 0.2% of GDP in Luxembourg to as high as 5.1% in Bulgaria.

3.3.3.5 Vehicle tax

3.203. To date the European Union has not harmonized the vehicle tax regime, however EU law restricts member States' flexibility in applying consumption tax to vehicles. As such, each member State applies its own national transportation taxes, mainly through registration taxes levied on the car purchase, and circulation taxes – levied annually on car ownership. On cars, 19 member States apply registration tax and 21 apply circulation tax. In recent years such tax rates have been more commonly linked to the car's CO₂ emissions, utilization of alternative energy fuels and other features promoting environmentally-friendly vehicles. Estonia, Slovakia, the Czech Republic, and Lithuania do not apply vehicle tax on passenger cars. Among the member States, total revenue from vehicle taxation, as a percentage of GDP, ranged between 0.01% and 0.13% in 2012, averaging at around 0.05% in the EU.¹⁷⁷

3.3.4 State enterprises¹⁷⁸

3.204. As in other countries, there are some enterprises in the member States of the EU which are wholly- or partly-owned and/or controlled by a member State or other public authority or which have been granted some right or privilege and which provide goods or services to

¹⁷⁴ WTO document WT/TPR/S/284/Rev.2 of 28 November 2013, Section 3.1.5.

¹⁷⁵ Council Directive 92/83/EEC, Council Directive 92/84/EEC, Commission Regulation (EC) No. 3199/93, Council Directive 95/59/EC, Council Directive 92/79/EEC, Council Directive 92/80/EEC, and Council Directive 2003/96/EC.

¹⁷⁶ See Commission (2014), *Excise Duty Tables*, Ref 1041, July. Viewed at: http://ec.europa.eu/taxation_customs/taxation/excise_duties/index_en.htm [December 2014].

¹⁷⁷ Taxation Paper No. 48 from DG Taxation and Customs Union, 2014 and Eurostat, *taxation trends in the European Union - Data for the EU member States, Iceland and Norway*, Edition 2014.

¹⁷⁸ State enterprises are not necessarily state-trading enterprises in the sense of Article XVII of GATT 1994 or the Understanding on the Interpretation of Article XVII.

businesses or the public which could be provided by the private sector but, for a variety of reasons, the private sector may not offer adequate coverage or may not be involved at all.

3.205. Under Article XVII.4(A) of GATT 1994 and paragraph 1 of the Understanding on the Interpretation of Article XVII, the EU has notified a state trading enterprise to the Working Party on State Trading Enterprises: Systembolaget AB of Sweden, which is a retail monopoly for sales of alcoholic beverages to the general public in Sweden.¹⁷⁹

3.206. In a 2014 report by the OECD, a state-owned enterprise was defined as an autonomous public entity involved in commercial activities and controlled, directly or indirectly, by central Government. Based on this definition, at end-2012, the member States of the EU covered by the report¹⁸⁰ had 1,652 majority-owned enterprises and statutory corporations, employing over 4 million people and valued at US\$847 billion. In addition, there were 74 publicly-listed enterprises in which the central Government had holdings of between 10 and 50% that employed 2.3 million people and had a total market value of US\$648 billion (Table 3.18).

Table 3.18 State-owned enterprises in selected member States end-2012¹⁸⁰

		Total	Primary sectors	Manufacturing	Finance	Telecoms	Electricity and gas	Transport	Other utilities	Real estate	Other activities
Majority-owned listed entities											
No.		38	5	5	4	2	11	8	2	1	-
Employed	'000	764	115	121	164	21	297	42	3	2	-
Market Value	US\$bn	351	104	10	59	10	151	11	1	4	-
Minority-owned listed entities											
No.		74	4	23	19	8	7	8	1	-	4
Employed	'000	2,256	52	552	296	483	288	566	-	-	18
Market Value	US\$bn	648	30	108	270	140	66	32	-	-	2
Majority-owned non-listed entities											
No.		1,344	125	133	85	8	77	188	145	82	501
Employed	'000	1,885	34	78	83	4	122	792	240	5	528
Value	US\$bn	441	15	13	94	1	97	122	14	15	70
Statutory corporations											
No.		270	59	21	9	1	7	45	15	6	107
Employed	'000	1,576	16	4	1	-	3	927	178	4	442
Value	US\$bn	54	9	-	-	-	3	15	-	4	24

Note: - means zero.

Source: OECD (2014), *The Size and Sectoral Distribution of SOEs in OECD and Partner Countries*, OECD Publishing. <http://dx.doi.org/10.1787/9789264215610-en> [December 2014].

3.207. The European Union does not have a legal definition of a "state-owned enterprise", but several articles of the TFEU refer to "public undertakings." The Treaty is neutral on the issue of ownership, including ownership of public undertakings: Article 345 states that the EU Treaties "in no way prejudice the rules in member States governing the system of property ownership". Article 106 of the TFEU also states that "in the case of public undertakings and undertakings to which member States grant special or exclusive rights, member States shall neither enact nor maintain in force any measures contrary to the rules contained in the Treaties, in particular to those rules provided for in Article 18 and Articles 101 to 109". (where Article 18 is on non-discrimination, and Articles 101 to 109 are on competition policy). Article 106 assigns to the Commission the responsibility for ensuring its application. The TFEU also includes several provisions providing limited exemptions to the general rules for public and private undertakings operating services of

¹⁷⁹ WTO document G/STR/N/15/EU of 30 June 2014.

¹⁸⁰ Austria, Belgium, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, the Netherlands, Poland, Portugal, Slovenia, Spain, Sweden, and the United Kingdom but excluding Luxembourg and Slovakia.

general economic interest (e.g. water, energy, transport, and telecommunications) and for revenue producing monopolies.

3.208. Commission Directive 2006/111/EC on the transparency of financial relations between member States and public undertakings, defines a "public undertaking" as "any undertaking over which the public authorities may exercise directly or indirectly a dominant influence by virtue of their ownership of it, their financial participation therein, or the rules which govern it. A dominant influence on the part of the public authorities shall be presumed when these authorities, directly or indirectly, in relation to an undertaking: (a) hold the major part of the undertaking's subscribed capital; or (b) control the majority of the votes attaching to shares issued by the undertaking; or (c) can appoint more than half of the members of the undertaking's administrative, managerial or supervisory body."

3.209. Under the Directive, member States are required to report to the Commission financial relations between public authorities and public undertakings for those public undertakings with turnover of more than €40 million (or balance sheet total of €800 million for public credit institutions) and more detailed information on manufacturing public undertakings with turnover of more than €250 million.

3.210. The Commission does not maintain a list of large public undertakings (e.g. with operating revenues greater than €1 billion) in the EU. However, information from various sources, including the OECD, indicates that there are a considerable number of public undertakings in the EU which the member States could control, e.g. through full ownership, majority holdings, or through their statutory nature, although potential control does not necessarily imply any influence by the public authorities in the commercial activities of an undertaking.

3.211. A report on the trade effects and policy implications of state-owned enterprises noted the different levels of state ownership among the largest enterprises in the world in 2011. Using the Forbes 2000 list of the largest publicly-listed companies in the world¹⁸¹, the report states that, for the EU member States in the OECD, 24 enterprises were classed as state-owned enterprises out of a total of 427 listed companies in the Forbes 2000 list, compared to 41 out of 1,500 for the OECD as a whole.¹⁸²

3.212. As a result of the financial crisis in the EU, some member States took holdings in financial companies in order to maintain the stability of the sector, including some on the Forbes 2000 list, such as: Royal Bank of Scotland in the United Kingdom; Dexia Group in Belgium, Bankia in Spain, and AIB Banks in Ireland.

3.213. In other cases, governments or other public authorities have majority holdings in suppliers of public services of general economic interest, or they have statutory corporations which provide such services. In transport, some of these public undertakings include SNCF and Aéroport de Paris in France, and Deutsche Bahn in Germany. In energy-related areas, they include Verbund in Austria, CEZ Group in the Czech Republic, EDF in France, the Public Power Corporation in Greece, PGNiG Group in Poland, and Fortum in Finland. In other cases, the Government may own or control undertakings for investment and development reasons, such as through the Groupe Caisse des Dépôts in France.

3.3.5 Government procurement

3.214. Estimates made by the Commission put total public procurement expenditure by the general government sector on works, goods, and services (excluding utilities)¹⁸³ for 2013 at €1,786.61 billion, 0.67% higher than in 2012. This represented 13.7% of EU GDP in 2013. A large part of this procurement is subject to public procurement rules, either national or EU disciplines.

¹⁸¹ Forbes online information. The World's Biggest Public Companies. Viewed at: http://www.forbes.com/global2000/#page:1_sort:0_direction:asc_search:filter:All%20industries_filter:All%20countries_filter:All%20states [February 2015].

¹⁸² Kowalski P., Büge M., Sztajerowska M., Egeland M. (2013), *State-Owned Enterprises – Trade Effects and Policy Implications*, OECD Trade Policy Papers, No. 147, OECD Publishing, Table A1. Viewed at: <http://dx.doi.org/10.1787/5k4869ckqk7l-en> [February 2015].

¹⁸³ Since 2013 the Commission excludes expenditures by utilities from these statistics due to the reported questionable reliability of the available figures.

Public contracts subject to EU disciplines (i.e. above the thresholds) accounted for around €422.8 billion in 2013 including utilities, 5.3% more than in 2012. Excluding utilities, the increase was 3.6% from €328.77 billion in 2012 to €340.72 billion in 2013.¹⁸⁴

3.215. All procurement carried out in the EU above specified thresholds must comply with the requirements of the EU Directives on procurement, which are reflected in relevant legislation and regulations of the EU member States. The pre-existing legal framework (Directive 2004/18/EC on the procedures for the award of public work contracts, public supply contracts, and public services contracts, and Directive 2004/17/EC, known as the Utilities Directive, on procurement procedures of entities in the domains of water, energy, transport, and postal sectors) was replaced by a new set of directives, whose transposition into national law by the member States is ongoing: namely Directives 2014/23/EU on the award of concession contracts; 2014/24/EU on public procurement; and 2014/25/EU on procurement by entities operating in the water, energy, transport and postal services sectors. Those directives entered into force as of 17 April 2014 with up to 24 months for transposition, except for the provisions on e-procurement where it is 30 months.

3.216. According to these Directives, above-threshold public procurement must be advertised EU-wide and must follow uniform procedures. The latest thresholds on procurement of supplies, services, and construction works, as specified in Commission Regulation (EC) No. 1336/2013 of 13 December 2013, amending Directives 2004/17/EC, 2004/18/EC, and 2009/81/EC entered into force on 1 January 2014 (Table 3.19).

Table 3.19 Minimum public procurement thresholds, 2014-15

Relevant directive	Authorities concerned	Type of procurement	Thresholds (€)
Utilities Directive (water, energy, transport and postal services)		Works contracts	5,186,000
		All supplies and services contracts, all design contests	414,000
Classical Directive (contracts for public works, public supply and public service)	Central government authorities	Works contracts, works concessions contracts, subsidized works contracts	5,186,000
		All contracts concerning services listed in Annex II B, certain telecommunications services and R&D services; all design contests concerning these services and all subsidized services	207,000
		All contracts and design contests concerning services listed in Annex II A except contracts and design contests concerning certain telecommunications services and R&D services	134,000
		All supplies contracts awarded by contracting authorities not operating in the field of defence	134,000
		Supplies contracts awarded by contracting authorities operating in the field of defence	Concerning products listed in Annex V: 134,000 Concerning other products: 207,000
	Sub-central contracting authorities	Works contracts, works concessions contracts, subsidized works contracts	5,186,000
	All service contracts, all design contests, subsidized service contracts, all supplies contracts	207,000	

Source: Commission Regulation (EC) No. 1336/2013, 13 December 2013, amending Directives 2004/17/EC and 2004/18/EC and 2009/81/EC; and WTO document GPA/W/325/Add.5, 7 January 2014.

¹⁸⁴ For more statistical elements see: http://ec.europa.eu/internal_market/publicprocurement/docs/modernising_rules/20141105-indicators-2012_en.pdf.

3.217. There are "aggregation rules" in the procurement Directives regarding below-threshold procurement. For example, contracting authorities are required to aggregate the value of separate contract lots for works or services to be awarded at the same time for a particular project. The value of each of the individual contracts may be less than the relevant EU financial threshold, but, the total value of these contracts may exceed the threshold. In such a case, the Directive will generally apply to the award of each sub-threshold contract.

3.218. Aggregation techniques are intended to improve cost-savings and the efficiency of procurement. In the EU, the most common instruments used for this purpose are framework agreements which establish the contractual terms that will apply to subsequent orders made for a period of time. Another aggregation technique used is centralized purchasing which involves centralized procurement bodies (CPBs) purchasing on behalf of others, collaboration between procurers, and the use of service providers/entities to manage the purchasing process.

3.219. The use of framework agreements has increased in recent years. As of 2011, framework agreements constituted nearly 25% of the total value of all contracts awarded above the EU-thresholds. In terms of numbers, they represent 1 in 6 of all contracts awarded. Centralized purchasing accounts for around 5% of the market in terms of the number of awards, and around 20% of the total value of contracts awarded between 2009 and 2011. The value of procurement subject to framework agreements has been increasing and, in many instances, a combination of CPBs and the use of framework agreements have been observed: more than half of all centralized purchases are carried out through a combined use of CPBs and framework agreements.

3.220. Public procurement policy in the EU aims to achieve the best value for money through open, transparent and non-discriminatory procedures, consistent with the underlying objectives of the internal market. The applicable rules also mention other aspects such as social, innovation, and environmental considerations that can be incorporated into technical specifications, selection and award criteria, as well as contract-performance clauses. The new directives contain several new provisions described in more detail below.

3.221. The new directives have maintained separate disciplines for procurement carried out by public authorities and utility operators in the water, energy, transport, and postal services (so called "utilities"). While in some member States utilities are private-sector companies operating in a commercial environment, in others they are state-owned monopolies or oligopolies, or they compete with private companies. Private contracting entities in the utilities sector may also be covered by the Utilities Directive if they have a special or exclusive right granted by member States. According to the authorities¹⁸⁵, given the variety of ways that member States can influence the behaviour of these entities and the nature of the markets in which they often operate, the Utilities Directive is intended to ensure a fair balance in the application of procurement rules in the utilities sector.

3.222. In specific utility markets, where entities operate in a competitive environment to which market access is not restricted, the Utilities Directive grants exemptions from the procurement rules, upon the Commission's approval, when it considers the existing competitive conditions ensure that contracting entities, state-owned or private, buy according to commercial considerations without favouring their national industry. In such cases, it is considered that procurement regulation is not needed. During the period under review, the Commission approved some member States' requests to exempt specific markets.

3.223. One of the significant elements of the three new directives on public procurement is the new directive on concessions. Concessions are partnerships between the public sector and mostly-private companies, where the latter exclusively operate, maintain and carry out the development of infrastructure (ports, parking garages, toll roads) or provide services (which may be of general economic interest, such as energy and waste disposal for example). According to some studies, over 60% of all Public Private Partnerships (PPP) contracts in Europe are to be qualified as concessions. However, the fact that member States use different labelling for concessions, and the current lack of transparency on their award, makes systematic and precise measuring of their economic and social importance difficult.

¹⁸⁵ See for instance: Europe Economics (2011), *Taking stock of utilities procurement – A report for DG Internal Market*, London, 11 February. Viewed at: http://ec.europa.eu/internal_market/publicprocurement/docs/modernising_rules/taking-stock-utilities-procurement_en.pdf.

3.224. Previously, EU level disciplines on the award of service concessions were not very clear, although the general principles of transparency and equal treatment under the TFEU applied. The Commission's assessment is that this loophole gave rise, in the past, to serious distortions of the Single Market such as direct awards of concessions contracts without transparency or competition (with associated risks of national favouritism, fraud and corruption) and generated considerable economic inefficiencies.¹⁸⁶ Directive 2014/23/EU takes account of the specific features of concessions as compared to public contracts which have been identified as justifying specific rules for their award.

3.225. The main novel features of the Directive include:

- a clearer definition of a concession which is based on rulings by the Court of Justice of the EU;
- the coverage of concessions for works and services, both in the utilities sector (except for water services) and in the classic sectors (i.e. all other sectors not covered by utilities);
- the compulsory publication of concession notices in the *Official Journal of the EU* when their value is equal to or greater than €5,186,000;
- a framework for dealing with changes to concessions' contracts during their term;
- the establishment of obligations with respect to the selection and award criteria to be followed by entities awarding concessions (these rules aim to ensure that such criteria are published in advance, are objective and non-discriminatory and, in general, they are simpler and more flexible than similar provisions currently applicable to public contracts);
- no standard mandatory award procedures (negotiations always possible) but instead establishment of certain general guarantees aimed at ensuring transparency and equal treatment (notably, in case of negotiations); and
- application of the Remedies Directives (Directives 89/665/EEC and 92/13/EC, as amended by Directive 2007/66/EC) to all concessions covered by the Directive.

3.226. The two remaining directives of the package – Directive 2014/24/EU on public procurement and Directive 2014/25/EU on procurement by entities operating in the water, energy, transport and postal services sectors – introduce a number of rules and procedures aimed at simplifying the previous framework. They broaden the possibilities for negotiation: the competitive procedure with negotiation may be used if justified by the specific circumstances in relation to the nature, complexity, or the legal and financial make-up of a given project. The required tender documentation is reduced, notably through the compulsory acceptance of self-declarations from bidders (through a standardized European Single Procurement Document); only the winning bidder will have to submit formal evidence (certificates and attestations). The minimum deadlines to submit tenders are shortened. The mandatory use of means of electronic communication in public procurement is aimed at increasing accessibility to procurement in order to allow EU companies – especially SMEs – to exploit the full benefits of the Digital Single Market and to bring efficiency gains (the authorities estimate the savings to be €100 billion annually on total EU public procurement¹⁸⁷).

3.227. Local and regional authorities will be able to advertise their contracts via less burdensome prior-information notices (instead of contract notices) and will have the possibility to agree with pre-selected bidders on the deadlines applied in their procurement procedures. A simplified regime (higher threshold of €750,000 - no obligation to respect the EU rules on technical specifications, possibility to take into account all quality and continuity criteria considered necessary for the services in question, and to eliminate price as the sole award criterion for such services) will be put in place for social, health, cultural, and assimilated services. This simplified regime will also apply to legal services, hotels and restaurant services, and catering and canteen services. In the meantime, services that were, under previous rules, subject to lighter obligations (so called "non-priority" or "B" sectors, such as water transport, and agricultural and forestry services), will be

¹⁸⁶ European Commission (2014), *Directive of the European Parliament and of the Council on the Award of Concession Contracts – Frequently Asked Questions*, Press release, 15 January. Viewed at: http://europa.eu/rapid/press-release_MEMO-14-19_en.htm?locale=en.

¹⁸⁷ European Commission (2014), *Revision of Public Procurement Directives - Frequently Asked Questions*, 15 January. Viewed at: http://europa.eu/rapid/press-release_MEMO-14-20_en.htm?locale=en.

subject to the full set of rules of the Directives as the principle is now established that all services not explicitly listed in the "new simplified regime" annex to the Directives will fall under the full regime of the new Directives. On the basis of the principles set out in the relevant case-law of the Court of Justice, the Directives clarify the conditions under which cooperation between public entities is exempt from the application of the Directives in order to avoid exemptions resulting in a distortion of competition in relation to private economic operators.

3.228. Regarding the environmental aspects of procurement, the concept of "life-cycle costing" introduced in the Directives is aimed at encouraging public authorities to consider the full life-cycle of products in their purchasing decisions. The life-cycle cost concept includes internal costs and costs imputed to environmental externalities (including the CO₂ footprint) linked to the product, service or works during its/their life cycle, provided their monetary value can be determined and verified. In their award decisions, contracting authorities may take into account criteria linked to the production process of the works, services or supplies to be purchased such as the inclusion of vulnerable and disadvantaged people or the use of non-toxic substances. In addition, contracting authorities may require that works, supplies, or services bear specific labels certifying environmental, social or other characteristics, as long as the label requirements only concern criteria which are linked to the subject-matter of the contract and are appropriate to define characteristics of the works, supplies or services and that equivalent labels are accepted.

3.229. The new legislative framework also contains a series of provisions regarding the incorporation of other public policy objectives. First, to favour social inclusion, the current contracts' reservation in favour of sheltered workshops has been extended to economic operators whose main aim is the social and professional integration of disabled and disadvantaged workers; and the minimum required percentage of disabled or disadvantaged employees is reduced from 50% to 30%. Second, regarding innovation, all procedures may now take account of the total life-cycle cost of purchases when tenders are being evaluated. Thus, innovative bids may be awarded more points in the light of their long-term financial benefits. Innovation in social and health services will be encouraged by the simplified system, which is more flexible.

3.230. The competitive dialogue procedure has been simplified for technically and financially complex projects. A new procedure, called the "innovation partnership", will enable public purchasers to select partners on a competitive basis and have them develop an innovative solution tailored to their requirements: the competitive phase will take place at the very beginning of the procedure, when the most suitable partner(s) are selected on the basis of their skills, abilities and price; and the partner(s) will develop the new solution, as required, in collaboration with the contracting authority. This research and development phase can be divided into several stages, during which the number of partners may be gradually reduced, depending on whether they meet certain predetermined criteria. The partner will then provide the final solution (commercial phase). Pre-commercial public procurement and innovation partnerships are two alternative approaches that correspond to different needs and/or situations. An innovation partnership is a genuine public procurement procedure with full legal guarantees, while a pre-commercial procurement is an exemption and falls outside the scope of the Directive. Finally, specific provisions for cross-border joint procurement will enable buyers from various member States to make joint purchases. Aggregating demand is intended to make it easier to share the risks associated with innovative projects and attract more risk capital.

3.231. The new Directives also contain a series of provisions designed to fight corruption and to ensure more transparency. In particular member States now have an obligation to take steps to prevent, identify, and address conflicts of interest which are precisely defined. The prior consultation phases, which could lead to situations that favour the companies involved, are now more stringently regulated; the public purchaser must take the necessary steps to ensure that the participation of a previously-consulted company does not affect competition within the tender procedure concerned; and, in particular, any information to which the company may be party as a result of its prior involvement must be sent to the other participating companies. However, this company may be excluded only as a last resort and if it is impossible to guarantee equal treatment for participating companies by any other means.

3.232. The grounds for excluding enterprises from public procurement have been enlarged and reinforced. In addition to conviction for fraud and corruption, they now include situations where a company has unduly influenced the decision-making process, false statements in connection with the procedure for the award of a public contract, and agreements to distort competition. Exclusion

may also be imposed by a member State. Since modifying contracts during their term without calling a new tender procedure may breach the rules on public procurement, the applicable rules in that regard have been clarified and simplified to try to remove any doubt in this regard.

3.233. Instead of creating a single oversight body in each member State, the Directives provide for increased monitoring at the national level and for an obligation on member States to transmit to the Commission every three years a monitoring report covering information on the sources of wrong application, legal uncertainties, level of SME participation, prevention, detection and adequate reporting of procurement fraud, corruption and conflicts of interest, and other serious irregularities.

3.234. Regarding e-procurement, the Commission notes that public buyers who have already made the transition to e-procurement commonly report savings of 5% to 20%. Given the size of the total procurement market in the EU, each 5% saved could return around €100 billion to the public purse. Therefore, the new Directives make the use of e-procurement progressively mandatory by March 2016 for electronic notification and electronic access to tender documents; by March 2017 for electronic submission of offers for central purchasing bodies; and by September 2018 for electronic submission of offers for all contracting authorities. Tools and devices used for electronic communication are required to be non-discriminatory, generally available, and interoperable.

3.235. The new Directives require that member States keep up-to-date all the information about certificates required in their country in public procurement procedures and place them on the E-Certis database.¹⁸⁸ The Directives also contain provisions on dynamic purchasing systems (electronic systems allowing public purchasers to consult a large number of potential suppliers of standardized, "off-the-shelf" works, supplies or services), electronic auctions, and electronic catalogues.

3.236. Finally, regarding the utilities sectors the new Directives seek to clarify and improve the mechanism for exemption from the procurement rules provided for in the current Article 30 of Directive 2004/17/EC. They further define the notion of "special and exclusive rights" and exclude from their scope activities related to the exploration for oil and gas, because this sector has consistently been found to be exposed to competition.

3.237. Procurement according to EU rules (e.g. above the stipulated thresholds) must be published in the *Official Journal* (S series) which may be accessed online through the TED website.¹⁸⁹ Member States' total expenditure on procurement is described in Table 3.20. The Commission indicated that differences in percentages of procurement published in the *Official Journal* might be explained by, for example, the small value of individual contracts, and the various degrees of centralization among member States: most of the smaller contracting authorities may never make a purchase large enough to fall into the scope of the Directives, and member States with a generally higher degree of centralization are more likely to have tender invitations published in the *Official Journal* because procurement tends also to be centralized.¹⁹⁰ The Commission also pointed out that publication requirements for below-threshold procurement vary among member States, and are established on a voluntary basis at EU-level. In some member States, contracting entities thus publish below-threshold procurement, whereas some publish above-threshold procurement only.

¹⁸⁸ <http://ec.europa.eu/markt/ecertis/login.do?selectedLanguage=en>.

¹⁸⁹ Tenders Electronic Daily, Supplement to the *Official Journal of the European Union* online information. Viewed at: <http://ted.europa.eu/>.

¹⁹⁰ European Commission (2011), *Evaluation Report- Impact and Effectiveness of EU Public Procurement Legislation SEC(2011) 853 final*, 27 June. Viewed at: http://ec.europa.eu/internal_market/publicprocurement/docs/modernising_rules/er853_1_en.pdf.

Table 3.20 Publication rate in terms of GDP and total expenditure on works, goods and services (excluding utilities), 2012-13

	2012		2013	
	% Tot. exp.	% GDP	% Tot. exp.	% GDP
Austria	9.65	1.07	11.82	1.33
Belgium	16.60	2.28	19.06	2.59
Bulgaria	54.93	5.96	64.61	7.77
Croatia	..	..	25.08	3.08
Cyprus	29.77	2.21	29.29	1.94
Czech Republic	31.88	4.70	28.33	4.07
Denmark	39.89	5.61	37.28	5.06
Estonia	39.35	5.63	31.48	4.14
Finland	19.24	3.31	18.87	3.36
France	18.88	2.78	18.48	2.75
Germany	5.97	0.86	6.40	0.94
Greece	18.03	1.76	20.94	1.87
Hungary	48.07	6.38	51.93	7.28
Ireland	12.51	1.21	15.67	1.48
Italy	15.50	1.60	19.54	1.97
Latvia	57.72	6.74	51.90	5.90
Lithuania	33.43	3.51	37.95	3.75
Luxembourg	10.44	1.29	10.37	1.25
Malta	33.78	3.48	35.75	3.44
Netherlands	8.11	1.85	7.60	1.72
Poland	35.31	4.42	47.52	5.73
Portugal	14.32	1.53	15.73	1.64
Romania	34.26	4.11	28.86	3.24
Slovakia	36.22	4.28	57.03	6.71
Slovenia	26.07	3.23	48.18	6.07
Spain	15.99	1.63	13.40	1.31
Sweden	22.40	3.64	22.79	3.72
United Kingdom	34.02	4.92	32.90	4.76
EU-average	18.53	2.54	19.07	2.61

.. Not available.

Source: Information provided by the authorities.

3.238. In 2011, approximately 41% of the value of contract award notices published in the OJ/TED was attributable to works contracts, 35% was spent on services, and 24% on goods. In terms of number of contracts the respective shares are 17% for works, 36% for supplies, and 47% for services. Open competition remains the most common type of procedure. The value of contracts awarded following this type of procedure accounted for 51% of the value of all contracts awarded and published in 2011 (4% more than in the previous year), representing approximately 75% of all contract award notices (2% more than in the previous year). The second most popular procedure in terms of its share of the total value of contracts published is the restricted procedure (21% of the total value, against 22% reported in 2010), followed by negotiation with competition at 12%, competitive dialogue at 8%, and negotiation without competition at 4%.

3.239. Directive 2007/66/EC (Remedies Directive) provides legal remedies for breaches of EU procurement law, including a "standstill period," which requires contracting bodies to provide at least 10 days after deciding the winning bid before it can be signed, and more stringent rules against illegal direct awards of public contracts so that illegally-awarded contracts may be rendered ineffective (or null and void) by national courts. The Commission is actively monitoring the respect of EU rules by member States through infringement procedures and has opened numerous cases in recent years against a great number of member States. Since the thresholds of EU rules are aligned with that of the GPA and their substantive provisions are broadly similar to that of the GPA, these infringement procedures can be expected to contribute to the proper implementation of the GPA as well.

3.240. Approximately 20.8 million SMEs are registered in the EU, representing 99.8% of all enterprises, and they produce more than a half of European GDP. Due to this, SMEs are the prime focus of European public policy with one of the objectives being the facilitation of their access to public procurement. Between 2009 and 2011, an estimated 56% of all public procurement contracts above the EU-thresholds were awarded to SMEs (or groupings of companies led by an SME). In terms of the aggregate value of contracts awarded, this corresponded to a 29% market share. This figure is slightly below the estimates of the previous three-year period (2006-2008). Between 2009 and 2011, 1.3% of all contracts above thresholds were awarded to economic operators located in a foreign country. In terms of the aggregate value of these contracts, this corresponds to 3.1% of all above-threshold procurement. Interestingly, the analysis does not reveal a significant difference between the proportions of SMEs among the companies winning domestic or direct cross-border contracts. SMEs won 56% of domestic public contracts and 54% of cross-border contracts. In terms of value, SMEs' share was lower in cross-border procurement (22%) than domestic procurement (29%).¹⁹¹

3.241. The public procurement reform in 2014 introduced specific legislative measures to improve SMEs' access to public procurement markets. These measures include in particular an encouragement to divide contracts into lots and the limitation of the turnover required to participate in a tender procedure. The sub-division of public purchases into lots facilitates access by SMEs both quantitatively (the size of the lots may better correspond to the productive capacity of the SME) and qualitatively (the content of the lots may correspond more closely to the specialised sector of the SME). The division of contracts into lots is encouraged through the "apply or explain" principle, i.e. when contracting authorities deem that the division would not be appropriate, an individual report or the procurement documents should contain an indication of the main reasons for the contracting authority's choice. Such reasons could be that the contracting authority finds that the division could risk restricting competition, or rendering the execution of the contract excessively technically difficult or expensive, or that the need to coordinate the different contractors for the lots could seriously undermine the proper execution of the contract. As far as proof of financial capacity of the economic operator is concerned, the turnover requirements are limited to a maximum of twice the estimated value of the contract, except in duly-justified cases. For its part, the new Directive on concessions is also for the benefit of SMEs, *inter alia* through improving access to information and favouring their participation in consortia and as subcontractors.

3.3.5.1 GPA and international procurement

3.242. On 2 December 2013, and following the consent given by Parliament on 19 November 2011, the Council adopted Decision 2014/115/EU approving the Protocol Amending the revised WTO Agreement on Government Procurement.¹⁹² In the conclusion of the GPA renegotiation, enhanced EU commitments provide for further market access opportunities for suppliers offering goods and services originating in GPA Parties' economies. New sectors and contracting authorities/entities are now included in the EU schedules, for instance, the European External Action Service at EU level and a number of central government contracting authorities and sub-central entities of member States.¹⁹³

3.243. The coverage of the GPA is somewhat different from that of the Directives. The GPA covers entities, goods, and services, including construction services, as specified in EU's Appendix I. In 2011, out of the total €335.4 billion above-threshold procurement in the EU, some €237.2 billion was open to GPA Parties.¹⁹⁴

3.244. The value of EU contracts covered by the GPA for the most recent years available is described in Table 3.21.

¹⁹¹ PwC, ICT, GHK, Ecorys (2014), *SMEs' access to public procurement markets and aggregation of demand in the EU*, a study commissioned by the European Commission, DG Internal Market and Services, February. Viewed at: http://ec.europa.eu/internal_market/publicprocurement/docs/modernising_rules/smes-access-and-aggregation-of-demand_en.pdf [March 2015].

¹⁹² Council Decision 2014/115/EU on the conclusion of the Protocol Amending the Agreement on Government Procurement, OJEU L68/1 07/03/2014.

¹⁹³ WTO document GPA/113, 2 April 2012.

¹⁹⁴ EU Statistical Report for 2011 reported under Article XIX:5 of the Agreement on Government Procurement. Viewed at: https://www.wto.org/english/tratop_e/gproc_e/notnat_e.htm#statPro.

Table 3.21 EU procurement and GPA key figures, 2009-11

(€ billion)

EU procurement	2009	2010	2011
Value of contracts covered by GPA	250.84	227.94	237.18
Value of contracts above thresholds	353.40	318.81	335.37
Value of contracts awarded under Article XV GPA (i.e. limited tendering contracts)	14.45	9.87	7.26
Total expenditures on goods and services	2,346.01	2,416.55	2,405.88

Source: WTO documents GPA/108/add 7 and GPA/114/add 5, both dated 22 October 2014.

3.245. In addition to the GPA, the EU has also been playing a leading role in various negotiation initiatives where government procurement is an important element. In the discussions that have taken place in the WTO Working Party on GATS Rules, the EU circulated proposals on various aspects of government procurement in services, including the extension of MFN principle to government procurement, the scheduling of market access commitments, procedural rules, special and differential treatment for developing countries, etc. In the plurilateral negotiations on the Trade in Services Agreement (TISA), the EU tabled a proposal to cover government procurement obligations and stipulated that service providers established in another TISA signatory's territory would be afforded national treatment for government procurement contracts.

3.246. The EU has also signed a number of bilateral agreements that include chapters on government procurement with Albania (2006), Bosnia and Herzegovina (2008), Chile (2003 for goods, 2005 for services), FYROM (2004), Israel (2000), Jordan (2002), Republic of Korea (2011), Mexico (2000), Montenegro (2008 for goods, 2010 for services), South Africa (2000) and Switzerland and Liechtenstein. The plurilateral European Economic Area (EEA) (1994) and EU CARIFORUM (2008) agreements, as well as the bilateral agreements with Iraq (2012), Georgia (2014) and Moldova (2014) also have substantial provisions on government procurement.

3.247. FTAs including substantial procurement chapters have been negotiated with Central America and the Andean countries and were first concluded with Colombia and Peru. In 2014 the CETA agreement with Canada was finalized. EU also finalised its agreement with Singapore.

3.248. As reported in the previous Review, in March 2012 the Commission tabled a proposal aimed at improving the conditions under which EU businesses can compete for public contracts in third countries, confirming the legal status of bidders, goods and services from countries that have an international agreement with the EU in the area of public procurement, and clarifying the rules applicable to bidders, goods and services not covered by these agreements. The proposal also foresees that, if an EU investigation were to show "recurring and serious discrimination" against EU companies, the Commission should invite the third party to negotiations aiming at finding a solution. As a last resort, and only if the Partner shows no willingness to engage, the EU would be able to temporarily close its market to goods and services from that third-country partner regarding public procurement contracts worth €5 million or more excluding VAT.¹⁹⁵

3.249. In January 2014, the European Parliament put forward several amendments to these proposals. In particular, it recommended that the exception foreseen for developing countries should be extended to countries considered "to be vulnerable due to a lack of diversification and insufficient integration within the international trading system and in the world economy." The Commission has announced in its work programme for 2015 the decision to review and amend its proposal in order to simplify the procedures, shortening timelines of investigations and reducing the number of actors in implementation.

3.3.5.2 Other developments

3.250. On 16 April 2014, the European Parliament and the Council reached agreement on the Directive 2014/55/EU on e-invoicing in public procurement. The Directive was to enter into force on 26 May 2014. The Directive calls for making the receipt and processing of electronic invoices in public procurement obligatory, and for the development of a new European e-invoicing standard

¹⁹⁵ WTO document WT/TPR/S/284/Rev2, paragraph 3.223.

by the European Committee for Standardisation (CEN). This new European standard is to become mandatory four-and-a-half years after the entry-into-force of the Directive. However, member States will have the possibility to postpone the deadline by a further 12 months for regional and local authorities due to the special requirements for these bodies, such as their more limited resources and potentially less-developed infrastructure. The resulting savings are estimated at around €64.5 billion per year for businesses.

3.251. In addition to these e-procurement aspects of the new legislative package, on 26 June 2014, the Commission presented a roadmap, based on its 24 July 2013 communication on the defence and security sector¹⁹⁶, for measures to strengthen the Single Market for defence, to promote a more competitive defence industry, and to foster synergies between civil and military research. The roadmap suggests to complement the pre-existing legal framework, directive 2009/81/EC of 13 July 2009 "on the coordination of procedures for the award of certain works contracts, supply contracts and service contracts by contracting authorities or entities in the fields of defence and security" (so-called defence procurement directive)¹⁹⁷ by clarifying the exclusions from the Defence Procurement Directive and by identifying and countering unjustified discriminatory offset requirements in procurement. In parallel, the Commission will look together with member States and industry at ways of promoting cross-border market access for SMEs by non-discriminatory means.

3.3.6 Intellectual property rights

3.252. For the EU, a knowledge-based economy, intellectual property rights (IPRs) are generally considered a vital backbone of the economy and a main driver for growth, as they are seen as a key element to ensure that creativity and innovation are rewarded. The conclusions of the European Council held on 20-21 March 2014¹⁹⁸ have reiterated that "intellectual property and patenting were key drivers for growth and innovation"; however, they also noted that "despite its leading role in a number of technology industries, the European Union was lagging behind in patenting".

3.253. This finding is backed by the continuing decrease of the European Patent Office (EPO) share of total worldwide patent filings: in the period from 2012 to 2013, it went down by 0.4% to 5.8%.¹⁹⁹ The importance of IPR protection in the EU continues to be reflected by the high number of applications and titles granted. For example, in 2014, the EPO recorded a 3.1% increase in patent filings, while the number of patents granted decreased also by 3.1%. In total numbers, applications went up from 266,000 to 274,174, with about two-thirds of applications submitted by inventors from non-EPO countries of origin, and the number of patents granted amounted to 64,613 in 2014, as compared to around 66,700 in 2013.²⁰⁰ In the field of trademarks, the Office for Harmonization in the Internal Market (OHIM) reported an annual growth of 6% in applications in 2013. According to OHIM statistics, annual applications for Community trademarks went up from 107,927 in 2012 to more than 114,000 in 2013 of which 16% resulted from an international application designating the EU under the Madrid Protocol administered by the World Intellectual Property Organization (WIPO); registrations increased from 95,630 to 98,075 during the same period. In November 2014, there were 1,080,000 registered Community trademarks in total.²⁰¹

3.254. According to a joint OHIM/EPO report published in September 2013²⁰², around 39% of total economic activity in the EU (worth some €4.7 trillion annually) is generated by IPR-intensive

¹⁹⁶ For the full text of the communication see: <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52013DC0542>.

¹⁹⁷ For the full text of the directive see: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:216:0076:0136:en:PDF>.

¹⁹⁸ EUCO 7/1/14/Rev.1 of 21 March 2014, para. 11; viewed at: http://www.consilium.europa.eu/uedocs/cms_Data/docs/pressdata/en/ec/141749.pdf.

¹⁹⁹ WIPO, World Intellectual Property Indicators 2014. Viewed at: http://www.wipo.int/edocs/pubdocs/en/wipo_pub_941_2014.pdf.

²⁰⁰ See EPO Annual Report 2014. Viewed at: <http://www.epo.org/about-us/annual-reports-statistics/annual-report/2014.html>.

²⁰¹ OHIM statistics. Viewed at: https://oami.europa.eu/tunnel-web/secure/webdav/quest/document_library/contentPdfs/about_ohim/the_office/SSC009-Statistics_of_Community_Trade_Marks-2014_en.pdf.

²⁰² For the full text of the report see: http://ec.europa.eu/internal_market/intellectual-property/docs/joint-report-epo-ohim-final-version_en.pdf.

industries. Approximately 26% of all employment (56 million jobs) is provided directly by these industries, while a further 9% of jobs are indirectly generated by IPR-intensive industries. Adapting a methodology previously used by the U.S. Patent Office, the study makes an attempt to quantify the overall contribution made by IPR-intensive industries to the EU economy in terms of output, employment, wages and trade, taking into account the major IP rights (copyright and related rights, patents, trademarks, geographical indications (GI) and designs). An overview of its main results are provided in Table 3.22.

3.255. The EU is also a major player in the International Union for the Protection of New Varieties of Plants (UPOV) with regard to the granting of plant breeder rights. The Community Plant Variety Office (CPVO) reported a continuous growth in applications for plant variety rights. According to CPVO statistics, annual applications for Community plant variety rights went up from 1,825 in 2005 to 3,626 in 2014. This corresponds to more than 51,650 applications from 1995 to 2014 for 1,815 different botanical species/genera. At end 2014, a total of 22,572 protected varieties were registered under the Community Plant Variety Rights System.

3.256. The core role of knowledge-based industries that rely on IPRs had already been recognized by the "Europe 2020" Strategy²⁰³, as well as, in particular, by "Horizon 2020", the EU's new Framework Programme for Research and Innovation for the period 2014-2020.²⁰⁴ It makes €80 billion of funding available over seven years and establishes clear rules for the exploitation and dissemination of IPRs resulting from research projects conducted within this framework. At the same time, it acknowledges the need to ensure open access to scientific publications and to promote open access to research data that result from publicly-funded research under this programme.

Table 3.22 Contribution of the IP- industries to EU employment, GDP and trade and average wage premium of IP-intensive industries, 2008-10

(%)

IP right	Share of total EU direct employment	Share of total direct and indirect employment	Share of total EU GDP	Average wage premium compared to non-IPR-intensive industries	Share of EU exports	Share of EU imports
All-IPR industries	25.9	35.1	38.6	41	90.4	88.3
Copyright-intensive industries	3.2	4.13	4.2	69	4.2	2.7
Patent-intensive industries	10.3	16.1	13.9	64	70.6	68.6
Trade mark-intensive industries	20.8	28.9	33.9	42	75.5	75.7
GI-intensive industries	0.2	..	0.1	46	0.8	0.1
Design-intensive industries	12.2	17.4	12.8	31	53.4	46

.. Not available.

Source: "Intellectual Property Rights Intensive Industries: Contribution to Economic Performance and Employment in the European Union, Industry-Level Analysis Report", joint OHIM/EPO study of September 2013.

3.257. The IPR regime in the EU is governed both by EU legislation and legislation in member States. Based on Article 118 of the TFEU, the EU has put in place an extensive body of intellectual property legislation. Table A3.5 in the Annex provides an overview of the principal legislative measures adopted by the EU, as well as their status of notifications to the WTO. Member States'

²⁰³ See Europe 2020, Communication from the European Commission of 3 March 2010 (COM(2010)2020 final); for further information, see http://ec.europa.eu/europe2020/index_en.htm.

²⁰⁴ Regulation (EU) No. 1291/2013 of the European Parliament and of the Council of 11 December 2013 establishing Horizon 2020 - the Framework Programme for Research and Innovation (2014-2020) and repealing Decision No.1982/2006/EC, OJEU L347/104 of 20 December 2013.

legislation implements and complements, where appropriate, EU legislation and commitments under international agreements. The EU is an observer to WIPO, while its member States are WIPO member States. The EU and 24 of its member States²⁰⁵ are also UPOV Contracting Parties.

3.3.6.1 Copyright and related rights

3.258. Copyright has a significant economic and social impact in the EU economy. For example, the value of the recorded music market in the EU amounted to approximately €4.32 billion in 2013, witnessing a marginal growth for the first time after years of declining sales²⁰⁶; at the same time, a significant growth of 13.3% in revenues generated by digital music was reported.²⁰⁷ Based on 2011 data, an external report published in September 2014²⁰⁸ found that the core creative industries²⁰⁹ in the EU generated €558 billion in value added to GDP, i.e. approximately 4.4% of the EU's total GDP. According to this report, the same industry represented approximately 8.3 million full-time equivalent jobs, or 3.8% of total European workforce. Compared to an earlier report launched in 2010 and based on 2008 data, the value added of the core creative industries to the total GDP thus remained unchanged, whereas the number of jobs in this industry saw a slight decrease of 2.4%.

3.259. Based on its 2011 blueprint for IPRs²¹⁰, the EU is continuing the review and modernization of its legislative framework under which copyright and related rights can be protected and enforced. As part of this process, Directive 2014/26/EU on Collective Management of Copyright and Related Rights and Multi-Territorial Licensing of Rights in Musical Works for Online Use in the Internal Market was adopted on 26 February 2014.²¹¹ EU member States are required to implement the Directive into national law by April 2016. Its main objective is to establish a coordinated framework that provides for sound and transparent management of copyright and related rights by collective management organizations; it also aims at facilitating cross-border licensing of authors' rights in musical works for online use so that these can be distributed across the EU while ensuring that the revenues due to the authors are collected.²¹²

3.260. Also as part of the legislative reform process of the EU copyright rules in order to adapt them to the digital age, the Commission initiated a public consultation that was held from December 2013 to March 2014. A broad range of themes was covered by these consultations, including: issues raised by territoriality in the Union market; the need for further harmonization; the application of limitations and exceptions to copyright in the digital age; the fragmentation of the EU copyright market; and how to improve the effectiveness and efficiency of enforcement while underpinning its legitimacy in the wider context of copyright reform. The results of the consultation were published in July 2014.²¹³

3.261. As foreshadowed in its Communication on Content in the Digital Single Market²¹⁴, the Commission also commissioned a series of external technical studies that examined legal and economic issues related to the creation of a comprehensive framework for copyright in the Digital Single Market. The studies covered the following topics:

²⁰⁵ Except Cyprus, Greece, Luxembourg and Malta.

²⁰⁶ Source: IFPI, Music Report 2014. Viewed at: <http://www.billboard.com/biz/articles/news/global/5937645/ifpi-music-report-2014-global-recorded-music-revenues-fall-4>.

²⁰⁷ Source: IFPI, Digital Music Report 2014. Viewed at: <http://www.ifpi.org/downloads/Digital-Music-Report-2014.pdf>.

²⁰⁸ The Economic Contribution of the Creative Industries to EU GDP and Employment, prepared by TERA Consultations, viewed at: <http://www.forum-avignon.org/sites/default/files/editeur/2014-Oct-European-Creative-Industry-GDP-Jobs-full-Report-ENG.pdf>.

²⁰⁹ Creative industries include information services such as publishing activities (books, periodicals and software), motion pictures, video and television programme production, sound-recording and music-publishing activities, programming and broadcasting activities, computer programming, architectural and engineering services, advertising, design activities, photographic activities, translation and interpretation activities, creative, arts and entertainment activities.

²¹⁰ See 2013 EU TPR Report, WT/TPR/284/Rev.2, para.3.241.

²¹¹ OJEU L84/72, 20 March 2014; also notified to the WTO (IP/N/1/EU/3 and IP/N/1/EU/C/9).

²¹² For a detailed description see the previous EU Review, WT/TPR/284/Rev.2, para. 3.248.

²¹³ For the full report of this public consultation see http://ec.europa.eu/internal_market/consultations/2013/copyright-rules/docs/contributions/consultation-report_en.pdf

²¹⁴ COM(2012) 789 final of 18 December 2012.

(i) the application of Directive 2001/29/EC on copyright and related rights in the information society (December 2013).²¹⁵ It assessed the extent to which the implementation of the Directive responds to the realities of digital markets and evaluated whether further harmonization of national copyright provisions is needed in order to support the cross-border exchange of services and information in the EU;

(ii) an "Economic Analysis of the Territoriality of the Making Available Right in the EU" (March 2014).²¹⁶ Among the key issues discussed were whether the current legal framework for copyright and related rights needed to be updated in order to deal with the provision of online on-demand service, if territorial licensing hampers EU-wide dissemination of content, and how territorial licensing relates to social welfare;

(iii) the Making Available Right and its Relationship with the Reproduction Right in Cross-Border Digital Transmissions (December 2014).²¹⁷ It focused on the link between the making available right and the reproduction right and looked into accompanying measures, including legislative changes, that might be needed in cases where the recommendations of the above-mentioned study were implemented;

(iv) "Assessing the Economic Impacts of Adapting Certain Limitations and Exceptions to Copyright and Related Rights in the EU". Published in October 2013, the first part proposed a methodology to assess exceptions and limitations to copyright.²¹⁸ The second part, published in June 2014, looked into specific policy options²¹⁹; and

(v) the Legal Framework of Text and Data Mining (March 2014) which examined how such data analysis activities were covered by the EU's present legal framework, be it under copyright legislation or that related to database protection.²²⁰

3.262. In its aforementioned Communication on Content in the Digital Single Market, the Commission had indicated that, in addition to completing its efforts to review the EU's copyright legislation, it would address a number of issues in parallel which required rapid progress, including through a structured stakeholder dialogue with the assigned objective of delivering practical industry-led solutions to these issues that do not prejudice further public policy action. The subsequently launched "Licences for Europe" stakeholder dialogue explored the possible limits of innovative licensing and technological solutions in making EU copyright law and practice fit for the digital age. The closing event on 13 November 2013 translated into ten voluntary pledges by the industry (Box 3.1).²²¹ Their implementation will be monitored by the Commission.

3.263. A Commission-led dialogue with the private sector and encouragement to voluntary pledges during the period under review also resulted in the adoption, on 17 February 2014, of "Key Principles and Recommendations on the Management of the Author Resale Right" by representatives of collecting management organizations, authors and art market professionals (art dealers, galleries, auctioneers).²²² The objective is to improve the operation of the resale right in the Union market, including through enhanced transparency, regarding the collection and distribution of resale right, as well as through raising awareness among artists and dealers about the existence and functioning of this right.

²¹⁵ For the full text of the study see:

http://ec.europa.eu/internal_market/copyright/docs/studies/131216_study_en.pdf.

²¹⁶ For the full text of the study see:

http://ec.europa.eu/internal_market/copyright/docs/studies/1403_study1_en.pdf.

²¹⁷ For the full text of the study see:

http://ec.europa.eu/internal_market/copyright/docs/studies/141219-study_en.pdf.

²¹⁸ For the full text of the study see:

http://ec.europa.eu/internal_market/copyright/docs/studies/131001-study_en.pdf.

²¹⁹ For the full text of the study see:

http://ec.europa.eu/internal_market/copyright/docs/studies/140623-limitations-economic-impacts-study_en.pdf.

²²⁰ For the full text of the study see:

http://ec.europa.eu/internal_market/copyright/docs/studies/1403_study2_en.pdf.

²²¹ For the full text of the pledges see http://ec.europa.eu/internal_market/copyright/docs/licences-for-europe/131113_ten-pledges_en.pdf.

²²² For the full text of the principles and recommendations see http://ec.europa.eu/internal_market/copyright/docs/resale/140214-resale-right-key-principles-and-recommendations_en.pdf.

3.264. The Court of Justice of the European Union (CJEU) further developed its jurisprudence in the field of copyright and related rights in a number of landmark cases. For example, in line with its earlier jurisprudence, the Court upheld in a preliminary ruling of 11 July 2013 that imposing private copying levies on the first sale of blank media such as CDs and DVDs is not precluded by EU law (Directive 2001/29/EC)²²³ as it constitutes a means of ensuring that rightholders receive fair compensation for reproductions of protected works made by virtue of the private copying exception. Such levies may be applied indiscriminately to the first placing on the market of recording media suitable for reproduction provided that they may be effectively reimbursed if the final use of those media is not for the purpose of private copying. The Court will have an opportunity to further develop its case law in matters related to private copying levies: on 10 September 2014, the Spanish Supreme Court referred a question regarding the compatibility of the system introduced by Royal Decree 1657/2012 with Directive 2001/29/EC.²²⁴

Box 3.1 Voluntary pledges by the copyright industry

Issues	Industry pledges
Cross-border access and portability of services	<ol style="list-style-type: none"> 1. Audiovisual industry to continue to work towards further development of cross-border portability of films, TV programmes and other audiovisual content. 2. Publishers, booksellers and authors to promote cross-border access, interoperability and discoverability of e-books.
Licensing and user-generated content	<ol style="list-style-type: none"> 3. Record producers to offer a new EU-wide licence enabling background music on websites; collective management organizations to spread best practice regarding licensing schemes. 4. Print industry to provide new licensing solutions that allow users to know what they are able to do with text and images and to seek permission through streamlined licensing solutions if needed. 5. Web "self-publishers" to be provided with machine-readable identification to their content in order to facilitate claims and acknowledgement of authorship and associated rights. 6. Press publishers to engage with readers to improve user experience, including via the uptake of user-generated content in their online publications and services.
Audiovisual heritage	<ol style="list-style-type: none"> 7. How to digitize, restore and make available European film heritage, including as regards cost-sharing and remuneration, agreed between film heritage institutions and film producers. 8. Broadcasters and rightholders to find solutions for the digitization and making available of broadcasters' TV footage archives. 9. Audiovisual producers to adopt interoperable audiovisual work identifiers to support rights management, including licensing and remuneration, and thus to facilitate distribution and discoverability of such works.
Text and data mining	<ol style="list-style-type: none"> 10. Scientific publishers to apply a licensing clause for material subscribed to by research institutions that authorize researchers to mine data and text for non-commercial scientific purposes and at no additional cost.

Source: WTO Secretariat.

3.265. Defining the scope of exceptions to copyright has also been the subject of several CJEU judgments. On 5 June 2014, the Court ruled, for example, that the exemption in Article 5 of Directive 2001/29/EC extended to copies on a user's computer screen and copies on the internet cache of a computer's hard disk that were made by an end-user in the course of viewing a website. As such copies were temporary, transient or incidental in nature, and constituted an integral part of a technological process, they could be made without the rightholder's

²²³ Case C-521/11 - Amazon v Austro-Mechana Gesellschaft zur Wahrnehmung mechanisch-musikalischer Urheberrechte Gesellschaft GMBH. Viewed at: <http://curia.europa.eu/juris/document/document.jsf?text=&docid=139407&pageIndex=0&doclang=EN&mode=req&dir=&occ=first&part=1&cid=365095>.

²²⁴ Viewed at: <http://www.lawblogs.net/go/spanish-supreme-court-refers-questions-to-cjeu-on-private-copying-levies>.

authorization.²²⁵ This ruling was seen as a major clarification both for internet users in Europe, but also for companies that aim for an expansion of their activities in the internet economy.

3.266. Among the relevant developments in EU member States are amendments to the copyright law in Spain that were adopted on 4 November 2014.²²⁶ One of the changes introduced by the amended law requires website owners to remove links to copyright-infringing material in case of large-scale infringing websites offering hyperlinks through an active and non-neutral activity, so long as they are not carrying out mere technical intermediation. Changes to the copyright law also include what has become known as the "Google Tax": as of January 2015, online content aggregators benefit from an exception to copyright in order to post excerpts of news articles online; this exception is, however, subject to the payment of compensation to the organization representing newspapers. Google responded by announcing, on 11 December 2014, that it will close its news service in Spain. In Germany, for example, the introduction of an "ancillary copyright law for press publishers" in a 2013 amendment of the Copyright Law²²⁷ led to the removal of newspapers concerned from Google News. Subsequently, publishers requested to be relisted as they had witnessed a decrease in traffic.²²⁸ On the other hand, instead of adopting legislative measures, an agreement was reached in France on 1 February 2013 that allows the display of news content in Google's search result in exchange for a payment of €60 million to French publishers.²²⁹

3.267. As regards infringement procedures, the Commission formally requested France, Poland and Romania in July 2014, as well as Cyprus and Luxembourg in October 2014, to fully implement Directive 2011/77/EU of the European Parliament and of the Council of 27 September 2011 amending Directive 2006/116/EC on the term of protection of copyright and certain related rights. Among others, the Directive extends the term of protection for performers and sound recordings from 50 to 70 years. Despite the expiration of the deadline for implementation in November 2013, no implementing measures had been notified to the Commission by the member States concerned. Another request was addressed to Italy on 28 March 2014 urging it to respect EU rules on copyright protection of designs under the Directive 98/71/EC on the legal protection of designs.

3.268. On 30 April 2014, the European Union signed the 2013 Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired, or Otherwise Print Disabled that was concluded under the auspices of WIPO. On 21 October 2014, the Commission proposed the ratification, on behalf of the EU, of the Marrakesh Treaty which is due to enter into force upon acceptance by 20 WIPO member States.²³⁰ The Treaty provides for a mandatory exception to copyright under which copies can be produced, distributed or made available in accessible format to visually impaired persons without the authorization of the rightholder. Books in formats such as Braille, large print, e-books and audio books with special navigation tools can thus be exchanged across borders within the EU and with third countries. The Beijing Treaty on Audiovisual Performances, adopted at a WIPO Diplomatic Conference in June 2012, was signed by the EU and 22 member States.²³¹

²²⁵ Case C-360/13 - Public Relations Consultants Association Ltd v Newspaper Licensing Agency Ltd and Others.

²²⁶ The Spanish version of the law is available on WIPO Lex at <http://www.wipo.int/edocs/lexdocs/laws/es/es/es178es.pdf>.

²²⁷ See "Achttes Gesetz zur Änderung des Urheberrechtsgesetzes" of 7 May 2013. Viewed at: http://www.bgbl.de/banzxaver/bgbl/start.xav?startbk=Bundesanzeiger_BGBl&jumpTo=bgbl113s1161.pdf#_bgb1_%2F%2F*%5B%40attr_id%3D%27bgbl113s1161.pdf%27%5D_1419337459247.

²²⁸ For a discussion of the state of play in Germany see the report "German publishers vs Google" by Deutsche Welle, viewed at: <http://www.dw.de/german-publishers-vs-google/a-18030444>.

²²⁹ See "Google inks landmark deal with France", reported by Deutsche Welle on 6 February 2013. Viewed at: <http://www.dw.de/google-inks-landmark-deal-with-france/a-16577894>.

²³⁰ See press release IP/14/1185 of 21 October 2014, available at: http://europa.eu/rapid/press-release_IP-14-1185_en.htm?locale=en.

²³¹ State of play of contracting parties on 3 March 2015. Viewed at: http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty_id=841.

3.3.6.2 Industrial property

3.3.6.2.1 Patents

3.269. As noted in the previous TPR report²³² and for the reasons explained therein, the European Parliament and the Council reached a political agreement on the unitary patent package in December 2012. It comprises Regulation (EU) No. 1257/2012 of 17 December 2012 "Implementing Enhanced Cooperation in the Area of the Creation of Unitary Patent Protection"²³³ which will allow a rightholder to get patent protection in 25 member States (except Croatia, Italy and Spain) based on a single request, and Council Regulation (EU) No. 1260/2012 of 17 December 2012 "Implementing enhanced cooperation in the area of the creation of unitary patent protection with regard to the applicable translation arrangements".²³⁴ They will apply from the date of entry into force of the third component of the unitary patent package, i.e. the international Agreement on the Unified Patent Court (UPC Agreement) which was signed by 25 EU member States (except Croatia, Poland and Spain) in early 2013.²³⁵ It establishes the framework for a specialized court with exclusive competence for litigation regarding the unitary patent. Acceptance by 13 member States, including the three member States with the highest number of European patents in force (Germany, France and the United Kingdom) is required for its entry into force. In January 2015, only six member States had ratified the UPC Agreement.²³⁶

3.270. The preparatory work and procedural steps for the implementation of the package are following their course.²³⁷ In particular, two Committees are in charge of preparing technical, regulatory and procedural rules required for its implementation. Next to supervisory functions regarding the tasks to be attributed to the EPO, such as administering requests for unitary patent protection and the Register, the Select Committee is responsible for the setting of the level of renewal fees and their distribution to participating member States. The Preparatory Committee, established by the signatories of the UPC Agreement, is entrusted with the creation of the functional rules that will govern the future Unitary Patent Court, including its procedural rules and the setting of applicable fees, as well as the selection of judges. These two bodies were initially expected to complete their work at the beginning of 2015. However, a second progress report sent to the European Council in June 2014²³⁸ indicated that the Select Committee was aiming for the completion of its work during the first semester of 2015 and the Preparatory Committee for the end of 2015.

3.271. Meanwhile, a number of challenges continue to be discussed in relation to the introduction of the unitary patent. Those include the need to establish a predictable jurisdiction within the UPC the consistency of which had to be supported by the Court of Appeal; the potential impact of the unitary patent on the European patent, i.e. whether the former is going to supersede the latter; the calculation of fees for the unitary patent; the financing and cost-effectiveness of the UPC as a non-EU institution; etc.

3.272. As noted above, Croatia, Italy and Spain decided not to participate in the enhanced cooperation on the unitary patent protection. Spain and Italy filed an action for the annulment of the unitary patent package over language and institutional concerns before the CJEU. The Court dismissed those actions on 16 April 2013.²³⁹ Subsequently, a second set of cases was filed by Spain in March 2013, challenging the conformity of Regulation (EU) No. 1257/2012 (Case C-146/13) and Council Regulation (EU) No. 1260/2012 (Case C-147/13) with EU law and

²³² WT/TPR/S/284/Rev.2, paragraphs 3.257 to 3.265 (pp. 94-96).

²³³ OJEU L361/1, 31 December 2012.

²³⁴ OJEU L361/89, 31 December 2012.

²³⁵ The text of the Agreement on a Unified Patent Court can be accessed at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2013:175:0001:0040:EN:PDF>.

²³⁶ The status of signature and acceptance of the Agreement can be viewed at European Commission online information: http://ec.europa.eu/internal_market/indprop/patent/ratification/index_en.htm.

²³⁷ A detailed description of the "Enhanced European Patent System" is available at: <http://www.unified-patent-court.org/images/documents/enhanced-european-patent-system.pdf>.

²³⁸ For the full text of the report see: <http://www.unified-patent-court.org/images/documents/implementing-second-%20package-report.pdf>.

²³⁹ Joined cases C-274/11 and C-295/11, For the full text of the CJEU decision see : <http://curia.europa.eu/juris/document/document.jsf?jsessionid=9ea7d2dc30d68c78f91671744e61ae6ed219650b618b.e34KaxiLc3qMb40Rch0SaxuObh10?text=&docid=137636&pageIndex=0&doclang=EN&mode=req&dir=&occ=first&part=1&cid=237430>.

consequently seeking their annulment. Among others, Spain contested the delegation of powers to the EPO whose acts are allegedly not subject to judicial review.²⁴⁰ It also considered that the translation arrangements would infringe the principle of non-discrimination enshrined in EU law through the introduction of a scheme that disadvantages persons whose mother tongue is not English, French or German.²⁴¹ In his opinion of 18 November 2014, the Advocate General recommended that both actions be dismissed by the CJEU.²⁴² The CJEU ruling is expected in the first half of 2015.

3.273. Issues related to the patenting of biotechnological inventions continue to play a key role in EU legislation and jurisprudence. As noted in the previous TPR report²⁴³, the Commission therefore decided to set up an expert group to assist it in preparing its annual reports on the development and implications of patent law in the field of biotechnology and genetic engineering²⁴⁴ as required under Directive 98/44/EC on the Legal Protection of Biotechnological Inventions.²⁴⁵ Following the appointment of members of the expert group in December 2013, the group has held nine meetings between December 2013 and February 2015.²⁴⁶ The two main topics of discussion are the patentability of human stem cells and of plant-related inventions.

3.274. In a preliminary ruling released on 18 December 2014²⁴⁷, the CJEU had an opportunity to further clarify the patentability of living material, here human stem cells, under Directive 98/44/EC. Following the approach suggested in the Advocate General's opinion of 17 July 2014²⁴⁸, the Court held that unfertilized human eggs whose division and development have been stimulated by parthogenesis but which, in the absence of paternal DNA, are not capable of developing into a human being do not constitute a human embryo within the meaning of Article 6(2)(c) of Directive 98/44/EC; as such, parthenotes are therefore not automatically excluded from representing a patentable subject matter. The Court thus qualified its earlier ruling in *Oliver Brüstle v Greenpeace e.V.* (Case C-34/10) which defined the concept of "human embryo" in a wide sense.²⁴⁹ Through this important clarification, more stem cell technology is expected to become patentable in the EU.

3.275. Both under the EU Biotechnology Directive 98/44/EC and the European Patent Convention (EPC), plants are deemed patentable if the technical feasibility of the invention is not limited to a variety that can be protected through plant variety rights. In two decisions of 9 December 2010, the Enlarged Board of Appeal of the European Patent Office provided guidance on the conditions under which processes fall within the scope of exclusions from patentability as being essentially biological within the meaning of Article 53(b).²⁵⁰ On the other hand, the patentability of products obtained by essentially biological processes has been confirmed by the Enlarged Board of Appeal. In two decisions of 25 March 2015, the Board found that the exclusion of essentially biological processes for the production of plants from patentability, pursuant to Article 53(b) EPC did not prevent a patent claim for products, such as fruits, seeds and parts of plants, directly obtained from such processes.²⁵¹

²⁴⁰ OJEU C171/15, 15 June 2013.

²⁴¹ OJEU C171/16, 15 June 2013.

²⁴² See CJEU, Press Release No. 152/14 of 18 November 2014. Viewed at: <http://curia.europa.eu/jcms/upload/docs/application/pdf/2014-11/cp140152en.pdf>.

²⁴³ WT/TPR/S/284/Rev.2, para. 3.266.

²⁴⁴ For the full text of the decision, including the detailed mandate of the group see http://ec.europa.eu/internal_market/indprop/docs/invent/dec_121107_biotechninventexpertgroup_en.pdf

²⁴⁵ OJEU L 213/13, 30 July 1998.

²⁴⁶ The minutes of the meetings are available at: http://ec.europa.eu/internal_market/indprop/invent/index_en.htm#maincontentSec1.

²⁴⁷ Case C-364/13 (*International Stem Cell Corporation v Comptroller General of Patents, Designs and Trade Marks*). Viewed at:

<http://curia.europa.eu/juris/document/document.jsf?text=&docid=160936&pageIndex=0&doclang=en&mode=lst&dir=&occ=first&part=1&cid=232540>.

²⁴⁸ See CJEU Press Release No. 109/14 of 17 July 2014. Viewed at: <http://curia.europa.eu/jcms/upload/docs/application/pdf/2014-07/cp140109en.pdf>.

²⁴⁹ See previous TPR report, WT/TPR/S/284/Rev.2, para.3.266.

²⁵⁰ See Decision G 2/07, OJ EPO 3/2012, 130. Viewed at: http://archive.epo.org/epo/pubs/oj012/03_12/03_1302.pdf; and Decision G 1/08, OJ EPO 3/2012, 206, viewed at: http://archive.epo.org/epo/pubs/oj012/03_12/03_2062.pdf.

²⁵¹ See Decisions G 2/12 (so-called "Tomato II" case). Viewed at: <https://register.epo.org/application?documentId=EXBZW10W4599684&number=EP00940724&lng=en&npl=false>; and G 2/13 (so-called "Broccoli II" case), viewed at:

3.276. Of similar interest both for patent rights and their enforcement are the developments regarding the interface between standards and patents. In his opinion of 20 November 2014, the Advocate General recommended that the CJEU decide that, depending on the circumstances, the holder of a standard-essential patent may be required to make a specific licensing offer to the company that is infringing the patent concerned before seeking an injunction.²⁵² This requirement would apply in situations where the rightholder is in a dominant position and has made a commitment to the standards body to grant third parties a licence on fair, reasonable and non-discriminatory terms and where the infringer is ready, willing and able to enter into such a licensing agreement. According to the Advocate General's opinion, seeking corrective measures or an injunction in such a situation would constitute an abuse of a dominant position.

3.3.6.2.2 Supplementary Protection Certificates

3.277. Although closely related to, and conferring the same rights as the basic patent, supplementary protection certificates (SPCs) have been described by the Commission as a *sui generis* IP category that only applies after expiry of the basic patent. Making SPCs available aims to restore effective patent protection for certain regulated products; they are designed to compensate the rightholder for the time it takes from the filing of a patent application to the marketing authorization, and the potentially negative impact resulting from the reduction of the effective period of market exclusivity to recover R&D investment. SPCs are available for medicinal products (Regulation (EC) No. 469/2009) and plant-protection products (Regulation (EC) No. 1610/96).²⁵³

3.278. Among the relevant cases before the CJEU in the field of SPCs, the Court had an opportunity to further elaborate the conditions for obtaining an SPC for medicinal products under Regulation (EC) No. 469/2009 in two judgments issued on 12 December 2013. In the two cases concerned, the Court looked into the question as to whether more than one SPC could be obtained on the basis of the same patent and concluded that there was no such general exclusion in EU law. The first case (C-484/12 - Georgetown University v Octrooicentrum Nederland²⁵⁴) concerned the possibility of obtaining an additional SPC for individual active ingredients where, on the basis of a basic patent and a marketing authorization for a medicinal product consisting of a combination of several ingredients, the patent holder had already obtained an SPC for that combination of active ingredients. In this regard, the Court held that "Article 3(c) of Regulation (EC) No. 469/2009 must be interpreted as not precluding the proprietor from also obtaining a supplementary protection certificate for one of those active ingredients which, individually, is also protected as such by that patent."

3.279. In the second case (C-443/12 - Actavis v Sanofi²⁵⁵), the Court ruled that "where, on the basis of a patent protecting an innovative active ingredient and a marketing authorization for a medicinal product containing that ingredient as the single active ingredient, the holder of that patent has already obtained an SPC for that active ingredient entitling him to oppose the use of that active ingredient, either alone or in combination with other active ingredients, Article 3(c) of Regulation (EC) No. 469/2009 [...] must be interpreted as precluding that patent holder from obtaining – on the basis of that same patent but a subsequent marketing authorization for a different medicinal product containing that active ingredient in conjunction with another active ingredient which is not protected as such by the patent – a second SPC relating to that combination of active ingredients."

<https://register.epo.org/application?documentId=EXBZX31D2974684&number=EP99915886&lng=en&npl=false>.

²⁵² See CJEU Press Release No. 155/14 of 20 November 2014. Viewed at:

<http://curia.europa.eu/jcms/upload/docs/application/pdf/2014-11/cp140155en.pdf>.

²⁵³ For further details, please see previous TPR report, WT/TPR/S/284/Rev.2, para.3.268.

²⁵⁴ Viewed at:

<http://curia.europa.eu/juris/document/document.jsf?text=&docid=145524&pageIndex=0&doclang=en&mode=lst&dir=&occ=first&part=1&cid=157379>.

²⁵⁵ Viewed at:

<http://curia.europa.eu/juris/document/document.jsf?text=&docid=145527&pageIndex=0&doclang=en&mode=lst&dir=&occ=first&part=1&cid=157512>.

3.3.6.2.3 Plant Variety Rights

3.280. In the EU, plant varieties can be protected either under national plant variety right systems or as a Community Plant Variety Right. As regards the latter, Council Regulation (EC) No. 2100/94 of 27 July 1994 on Community Plant Variety Rights²⁵⁶ established a separate regime for the protection of plant variety rights with effect across the EU.²⁵⁷

3.281. The Community Plant Variety Office (CPVO) was entrusted with the grant and administration of Community Plant Variety Rights. CPVO fees are frequently reviewed in order to guarantee a balanced budget of the Office and also to maintain the regime's attractiveness. The following fees apply: €650 for an application; €1,430 to €3,210 for a technical examination, due per growing period and depending on the species to which the plant variety belongs; as well as an annual fee at a flat rate of €300 per variety and per year of protection. The fee for the proceedings before the Board of Appeal amount to €1,500.²⁵⁸

3.3.6.2.4 Trademarks

3.282. As set out in the previous TPR report, trademarks can be registered in the EU either under national trademark systems or as a Community trademark.²⁵⁹ With respect to the former, Directive 2008/95/EC²⁶⁰ codified EU rules providing for the harmonization of the main substantive provisions in national laws in order to ensure an equivalent level of protection in all EU member States. As regards the latter, Council Regulation (EC) No. 40/94 of 20 December 1993 on the Community trade mark, codified as Regulation (EC) No. 207/2009 of 26 February 2009 (the Community Trademark Regulation)²⁶¹, established a separate regime for the registration of unitary rights with equal effect throughout the EU.

3.283. The Office for Harmonization in the Internal Market (OHIM) was entrusted with the registration and administration of Community trademarks. The time needed to process applications has been considerably reduced in recent years. In 2013, the objective of taking no more than 23 weeks from reception of a direct application to registration of a Community trademark was met in 92 to 99% of the cases; where an international application designating the EU was filed with WIPO, the objective of taking no more than 46 weeks to register a Community trademark was met in all cases.²⁶² Currently, for the registration of an individual trademark of up to three classes of goods and services, fees amount to €1,050, or €900 if the application is filed electronically. Renewal fees are €1,500 and €1,350, respectively. The basic fee for a collective mark is €1,800. The opposition fee is €350.

3.284. Against the background of steady growth in the role of trademarks for market success, as well as in their commercial value and number, the Commission had already foreshadowed its intention to review the trademark regime in its 2011 IPR strategy for Europe.²⁶³ The envisaged purpose was to modernize the system, both at EU and at national level, by making it more effective, efficient and consistent overall. Following up on this announcement, the Commission proposed, on 27 March 2013, a draft Regulation amending the Community Trademark Regulation and a draft Directive that recasts the aforementioned Directive 2008/95/EC through the

²⁵⁶ OJEU L 227/1, 1 September 1994.

²⁵⁷ For a description of the protection of plant variety rights in the EU, see also the previous TPR Report, para.3.269, WT/TPR/S/284/Rev.2.

²⁵⁸ For the applicable fees, see Commission Regulation (EC) No. 1238/95 as amended by Commission Implementing Regulation (EU) No. 1294/2014 of 4 December 2014, OJEU L349/30 of 5 December 2014.

²⁵⁹ For more details, including the relationship between the Community trademark and national trademark systems, see WT/TPR/S/284/Rev.2, paras.3.271 to 3.273.

²⁶⁰ OJEU L 299/25, 8 November 2009.

²⁶¹ OJEU L78/1, 24 March 2009.

²⁶² See the statistical data provided by OHIM. Viewed at: https://oami.europa.eu/tunnel-web/secure/webdav/quest/document_library/contentPdfs/about_ohim/quality/external_service_standards_2013_en.pdf.

²⁶³ See the Communication on "A Single Market for Intellectual Property Rights: Boosting creativity and innovation to provide economic growth, high quality jobs and first class products and services in Europe", COM(2011) 287 final of 24 May 2011, available at: http://ec.europa.eu/internal_market/copyright/docs/ipr_strategy/COM_2011_287_en.pdf.

introduction of revised and a large number of new rules harmonizing national trademark laws.²⁶⁴ These initiatives address a number of key issues that had been identified by a comprehensive external report released in 2011.²⁶⁵ They respond to demands for a streamlined and more user-friendly framework, including as regards registration and opposition procedures. Among others, the draft Regulation thus foresees that applications at EU level be centralized through the OHIM e-filing system while suppressing the option of filing for EU-wide protection through national intellectual property offices. The draft Regulation and Directive also aim at increasing legal certainty by updating certain provisions, clarifying ambiguities, as well as the scope and limitations of trademark rights, taking into account the extensive CJEU case law. This includes, for example, the removal of the requirement of "graphic representability" from the definition of a trademark in order to clarify the coverage of non-traditional marks, such as mere sounds; the alignment of absolute grounds for refusal with relevant EU law on geographical indications and the inclusion of protected traditional terms for wine and traditional specialities in the grounds for refusal; as well as a clarification that infringement claims cannot be made against the use of an identical or similar sign that is covered by prior rights in order to bring EU legislation in line with Article 16(1) TRIPS. Finally, the proposed package establishes a legal framework for cooperation between national offices and OHIM. Following the adoption of a first reading position by the EP in February 2014 and a common position by the Council in July 2014, informal negotiations between the Commission, the EP and the Council started in November 2014 with a view to reaching an early second reading agreement on the whole package.

3.285. As regards the aim of providing a more effective basis for enforcing trademark rights by improving the means to combat counterfeit goods transiting the EU's territory, both Article 9(5) of the draft Regulation and Article 10(5) of the draft Directive propose that measures be made available to the rightholder in order "to prevent all third parties from bringing [counterfeit] goods, in the context of commercial activity, into the customs territory of the [Union][Member State where the trademark is registered] without being released for free circulation there,...". These substantive provisions complement the procedural rules on goods in transit, at least insofar as medicines are concerned, in Regulation (EU) No. 608/2013 that introduced revised enforcement measures at the EU's external borders.²⁶⁶ It clarifies that, in the case of medicines merely transiting EU customs territory, "customs authorities should, when assessing a risk of infringement of intellectual property rights, take account of any substantial likelihood of diversion of such medicines onto the market of the Union."²⁶⁷ In other words, customs authorities should not detain medicines in transit if there is no indication for those medicines being directed towards the EU market.

3.286. The Explanatory Memoranda accompanying the draft Community Trademark Regulation and the draft Directive explain the approach suggested here: they recall that the CJEU jurisprudence²⁶⁸ according to which goods could only be classified as counterfeit and as such be detained by Customs authorities if there is proof that they are the subject of a commercial act directed at EU consumers, had been criticized by stakeholders for its implications on rightholders regarding the high burden of proof placed on them and on the fight against counterfeiting more generally. Both Memoranda note the urgent need to put in place a legal framework that enables a more effective fight against counterfeit goods; consequently, they propose to fill the existing gap by making the necessary tools available to rightholders in order to prevent third parties from bringing counterfeit goods into the EU customs territory, "regardless of whether they are released for free circulation".²⁶⁹ In other words, the proposed framework would only enable rightholders to take action against trademark-protected goods in transit to the extent that those are counterfeit;

²⁶⁴ COM(2013) 161 final (viewed at: <http://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX:52013PC0161>) and COM(2013) 162 final (viewed at: <http://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX:52013PC0162>).

²⁶⁵ See "Study on the Overall Functioning of the European Trade Mark System", Max Planck Institute for Intellectual Property and Competition Law, viewed at: http://ec.europa.eu/internal_market/indprop/docs/tm/20110308_allensbach-study_en.pdf.

²⁶⁶ See below para. 3.304.

²⁶⁷ See Recital 11 of Regulation (EU) 608/2013.

²⁶⁸ Joined cases C-446/09 (Philips v LuchengMeijing) and C-495/09 (Nokia v Her Majesty's Commissioners of Revenue and Customs). For more details, see previous TPR report, WT/TPR/S/284/Rev.2, para. 3.303.

²⁶⁹ See Explanatory Memorandum of the draft Community Trademark Regulation, Section 5.3., p.9, COM(2013) 161 final of 27 March 2013; Explanatory Memorandum of the draft Directive, Section 5.1., p.6, COM(2013) 162 final of 27 March 2013.

it would not cover goods transiting EU Customs territory that bear a trademark that is confusingly similar to a trademark registered in the EU, nor would it apply to goods infringing, for example, patent or design rights.

3.287. Among the numerous judgments of the CJEU in the field of trademarks, the Court, in a preliminary ruling of 10 July 2014, pronounced itself on the scope of the aforementioned Directive 2008/95/EC insofar as it concerned the registration of a three-dimensional trademark that consisted of the layout of a retail store.²⁷⁰ In doing so, the Court first recalled the three conditions for a trademark application to be successful: in order to be registered, the trademark must thus (i) constitute a sign; (ii) be capable of graphic representation; and (iii) be capable of distinguishing the goods or services of one undertaking from those of other undertakings. The Court interpreted Directive 2008/95/EC as allowing a representation that depicts the layout of a retail store to be registered as a trademark, provided that it has distinctive character. It considered that the registration of such a sign may extend to retail store services, as long as the latter do not form an integral part of the offer for sale of the goods concerned.

3.288. Another preliminary ruling of the CJEU addressed the issue of international exhaustion of trademarks and is therefore of significance for the EU's trade with third countries.²⁷¹ In its judgment of 17 July 2014²⁷², the CJEU confirmed its findings of 16 July 1998 in *Silhouette Internationale*²⁷³ according to which the EU's trademark regime did not permit member States to provide for international exhaustion of trademarks. In addition, the Court held that this principle was neither affected by the EU's competition rules established in Articles 101 and 102 TFEU, nor by the GATT or the TRIPS Agreement, as Article 6 TRIPS did not provide any guidance regarding the application of the trademark exhaustion regime.

3.3.6.2.5 Geographical indications

3.289. According to the Commission, trade in products carrying a protected geographical indication (GI) is of significant economic relevance to the EU.²⁷⁴ An external report, published by the Commission in March 2013²⁷⁵, found that, in 2010, 20% of all GI-protected products, worth about €11.5 billion, were exported outside the EU, mainly to the US; Switzerland; Singapore; Canada; China; Japan; and Hong Kong, China. As regards sales in the EU, sales of wines with a protected name represented €30.4 billion, followed by agricultural products and foodstuffs (€15.8 billion), spirit drinks (€8.1 billion) and aromatized wines (€31.3 million). Consequently, the then Commissioner for Agriculture and Rural Development estimated that EU GIs were worth €54.3 billion worldwide.²⁷⁶ The study also concluded that the average value premium for GI-protected products was more than double the value of similar products not bearing a GI. Another external study, also published by the Commission in December 2013²⁷⁷, confirmed that, in most cases, GI-protected agricultural products and foodstuffs achieved a price premium over the standard products. This said, a 2014 study on the competitiveness of European wines²⁷⁸, found that EU wines protected by GIs appeared on foreign markets with a wide range of different acronyms; this generated confusion so that retail chains in third countries would not attribute much value to GIs. It therefore recommended to use a single acronym on a worldwide basis for top range wines, and to introduce a country of origin indication for other wines.

²⁷⁰ Case C-421/13 – Apple Inc. v Deutsches Patent- und Markenamt, available at: <http://curia.europa.eu/juris/document/document.jsf?text=&docid=154829&pageIndex=0&doclang=en&mode=lst&dir=&occ=first&part=1&cid=88161>.

²⁷¹ For a discussion of the EU's exhaustion regime, see WT/TPR/S/284/Rev.2, para.3.245.

²⁷² Case C-535/13 – Honda Giken Kaisha v Maria Patmanidi, available at: <http://curia.europa.eu/juris/document/document.jsf?jsessionid=9ea7d2dc30dddb089842c6d346f2a6f8cf672899d3c6.e34KaxiLc3qMb40Rch0SaxuPbhv0?text=&docid=155608&pageIndex=0&doclang=FR&mode=lst&dir=&occ=first&part=1&cid=157574>.

²⁷³ Case C-355/96, available at: <http://curia.europa.eu/juris/showPdf.jsf?jsessionid=9ea7d2dc30d6d139f4c8f77748818a5aa2fccf0c9da5.e34KaxiLc3qMb40Rch0SaxuPbhv0?text=&docid=101178&pageIndex=0&doclang=EN&mode=req&dir=&occ=first&part=1&cid=11497>.

²⁷⁴ See previous TPR Report, WT/TPR/S/284/Rev.2, para.3.277, for more data.

²⁷⁵ Available at: http://ec.europa.eu/agriculture/external-studies/value-gi_en.htm.

²⁷⁶ See news item of 4 March 2013, viewed at: http://ec.europa.eu/agriculture/newsroom/106_en.htm.

²⁷⁷ Available at: http://ec.europa.eu/agriculture/external-studies/added-value-pdo-pgi_en.htm.

²⁷⁸ Available at: http://ec.europa.eu/agriculture/external-studies/2014/eu-wines/exec-sum_en.pdf.

3.290. In the EU, there are three main approaches for protecting GIs: as protected designations of origin (PDOs) or protected geographical indications (PGIs) for wine, spirits, and agricultural and foodstuff products (Table A3.6); as collective Community trademarks²⁷⁹; and through national appellation systems in EU member States. At EU level, unitary GI protection has been established for wines (1970), spirits (1989), aromatized wines (1991) and other agricultural products and foodstuffs (1992). Through these systems, protected names for the products covered enjoy far-reaching protection throughout the EU based on a single application process. The key provisions are laid down for wine in Regulation (EU) No. 1308/2013 of 17 December 2013²⁸⁰, for spirits in Regulation (EC) No. 110/2008 of 15 January 2008²⁸¹, and for agricultural products and foodstuffs in Regulation (EU) No. 1151/2012 of 21 November 2012.²⁸²

3.291. The latter Regulation simplifies and streamlines the pre-existing regime and is aimed at encouraging the diversification of agricultural production, protecting product names from misuse and imitation and helping consumers providing information on product characteristics and farming attributes. It reinforces the existing scheme for PDOs and PGIs by a number of measures, including: faster registration procedures; clarification of the rules on controls; compulsory use of the PDO and PGI logos for products of EU origin from 4 January 2016 onwards; creation of a legal basis for inserting third country GI protected through bilateral agreements into the EU register, as well as of a legal basis for financing the defense of EU logos; and recognition of the role of producer groups. Traditional specialties guaranteed scheme (TSGs) is also simplified and strengthened, notably as in the future only the registration with reservation of a name will be possible. In order to qualify as "traditional", proven usage on the market during at least 30 years (instead of 25) is now required. Finally, the Commission was requested to present two reports to the European Parliament and to the Council no later than in January 2014, one on the case for a new local farming and direct sales labelling scheme and the other on the case for a new optional quality term "product of island farming". These reports were adopted on 6 and 12 December 2013 respectively. They were transmitted by the Commission to the European Parliament and to the Council and discussed in the first half of 2014. No follow-up in terms of legislative measures has been given to these reports.

3.292. Procedures for the application for registration of GIs originating in the EU have been described in previous reports²⁸³ and have not changed during the period under review except for the opposition period for agricultural products and foodstuffs which has been reduced from six to three months. As regards GIs of products of non-EU origin, the application may be sent either directly, or through the authorities of the country where the geographical area is located, to the Commission. No fees are required for applications from third countries. The average registration time for European and foreign GIs, including scrutiny, opposition procedures and procedures for the adoption of the final decision, was around three years under the previous legislative framework. It is expected to become shorter with the implementation of the new time limits for scrutiny and opposition procedures under Regulation (EU) No. 1151/2012 but the concrete impact of the new legislative framework remains yet to be assessed.

3.293. According to the Database of Origin and Registration (DOOR) for agricultural products and foodstuffs administered by the Commission, there are 17 third country names among the 1,206 GIs registered in the EU as of January 2015 (585 PDOs, 621 PGIs), including Café de Colombia and Darjeeling²⁸⁴; 12 of which have been registered since 2011. DOOR is a transparency tool, but has no legal status. Registration with legal authority for PDOs and PGIs for agricultural products and foodstuffs is provided for by the Register of protected designations of origin and protected geographical indications (Article 11 of Regulation (EU) No. 1151/2012). It lists two protected names for spirits from Guatemala and Peru.

²⁷⁹ See explanation provided by the previous report, WT/TPR/S/284/Rev.2, paras. 3.287.

²⁸⁰ OJEU L347/671, 20 December 2013. Viewed at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2013:347:0671:0854:EN:PDF>.

²⁸¹ OJEU L39/16, 13 February 2008. Consolidated version available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CONSLEG:2008R0110:20090120:EN:PDF>.

²⁸² OJEU L343/1, 14 December 2012. Viewed at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2012:343:0001:0029:en:PDF>.

²⁸³ Notably in the previous TPR Report, WT/TPR/S/284/Rev.2, paras. 3.280-3.281, pp. 99-100.

²⁸⁴ DOOR online information. Viewed at: <http://ec.europa.eu/agriculture/quality/door/list.html;jsessionid=pL0hLqLXhNmFQyFl1b24mY3t9dJQPflq3xbL2YphGT4k6zdWn34!-370879141> [January 2015].

3.294. The wine register "E-Bacchus" is a database²⁸⁵ which includes the Register of designations of origin and geographical indications protected in the EU under Regulation (EU) No. 1308/2013. As of January 2015, 1,291 wine names qualified as PDO and 459 as PGI have been registered for EU wine, as well as two PDOs for third-country wine, i.e. Vale dos Vinhedos (Brazil) and Napa Valley (United States). The wine register also lists more than 1,100 third country geographical indications and names of origin protected in the EU in accordance with bilateral agreements on trade in wine that the EU has concluded with a number of trading partners.

3.295. Spirits bearing a GI are registered in Annex III of Regulation (EC) No. 110/2008. "E-spirit Drinks"²⁸⁶, a register of GIs protected in the EU for spirits originating in member States and third countries, listed a total of 343 protected names in January 2015. This includes 336 denominations registered in Annex III of Regulation (EC) No. 110/2008 of which two are third-country names (Ron de Guatemala (Guatemala) and Pisco (Peru)), as well as seven applications for registration, namely for Tequila (Mexico), Russian Vodka (Russian Federation), four Bulgarian Rakyas and Absinthe de Pontarlier (France).

3.296. Given the significant importance of GIs for the EU's external trade, the Commission has sought to include a comprehensive chapter on GI protection in the more recent FTAs. A large number of EU and third-country GIs are thus protected through bilateral agreements that the EU has concluded with its trading partners.²⁸⁷ The EU-Singapore Free Trade Agreement²⁸⁸ represents examples of an agreement for which negotiations were finalized in October 2014. Among others, upon entry into force of the FTA, Singapore will be required to put in place a domestic registration system for GIs. A list of 196 wines, spirits, as well as agricultural products and foodstuffs originating in the EU is entitled to the higher level of protection as provided for by Article 23 TRIPS once they have been applied for and registered in Singapore. In August 2014, the EU also finalized negotiations of a Comprehensive Economic and Trade Agreement (CETA) with Canada.²⁸⁹ Upon entry into force of CETA, Canada has, among others, committed to grant Article 23 TRIPS level of protection to the majority of a list of 145 names protected as GIs in the EU, subject to a partial exception for 21 names conflicting with names already in use in Canada.²⁹⁰

3.297. Furthermore, cooperation activities are being considered or carried out with a number of developing countries, such as in the framework of ECAP III with ASEAN countries.²⁹¹ Under the EPA concluded with CARIFORUM, the establishment of a protection system for GIs is included. Also, the 2012 Memorandum of Understanding between the Commission and the African Regional Intellectual Property Organization (ARIPO)²⁹² aims at enhancing cooperation in order to support

²⁸⁵ Accessible at:

<http://ec.europa.eu/agriculture/markets/wine/e-bacchus/index.cfm?event=pwelcome&language=EN>.

²⁸⁶ Available at: <http://ec.europa.eu/agriculture/spirits/index.cfm?event=searchIndication>.

²⁸⁷ These include agreements with Albania (wine and spirits, 2006); Australia (wine, signed in 2008 and entered into force in 2010); Bosnia and Herzegovina (wine, spirits and foodstuffs, 2008); Canada (wine and spirits, signed in 2003 and entered into force in June 2004); Chile (wine and spirits, 2002); Central America (wine, spirits and foodstuffs, signed in 2012 and provisional entry into force in 2013); Colombia/Peru (wine, spirits and foodstuffs, signed in 2012 and entered into force in 2013), to be joined by Ecuador following agreement reached in 2014; former Yugoslav Republic of Macedonia (wine and spirits, 2001), Georgia (agricultural products and foodstuffs, signed in 2011 and entered into force in April 2012; now incorporated in the Association Agreement/Deep Comprehensive Free Trade Area which entered into force in 2014); Mexico (spirits, 1997); Moldova (agricultural products and foodstuffs, signed in 2012, entered into force in 2013; now incorporated in the Association Agreement/Deep Comprehensive Free Trade Area which entered into force in 2014); Montenegro (wine, spirits, and foodstuffs, 2008), Republic of Korea (wines, spirits, foodstuffs, signed in October 2010 and entered into force in July 2011); Serbia (wine, spirits, and foodstuffs; Stabilisation and Association Agreement entered into force in 2013); Switzerland (wines, spirits, and agricultural products, 2002); and Ukraine (wine, spirits, foodstuffs, signed in 2014, entry into force pending). Although not specifically labelled as GI protection, the wine agreement concluded with the United States in 2006 establishes that names of origin are to be protected on a reciprocal basis.

²⁸⁸ Viewed at: <http://trade.ec.europa.eu/doclib/press/index.cfm?id=961>.

²⁸⁹ Text of the Agreement and other information available at:

<http://ec.europa.eu/trade/policy/in-focus/ceta/>.

²⁹⁰ See Commission Summary of the Final Negotiating Results of December 2014. Viewed at: http://trade.ec.europa.eu/doclib/docs/2014/december/tradoc_152982.pdf.

²⁹¹ For details regarding the EU's technical cooperation activities in the field of geographical indications, see the annual report submitted to the TRIPS Council in WTO Document IP/C/W/601/Add.7.

²⁹² European Commission Administrative Memorandum of Understanding on cooperation between the African Regional Intellectual Property Organization and the Directorate General for Agriculture and Rural

the development of GIs. The EU subsequently organized, together with the African Union Commission, ARIPO and OAPI (Organisation Africaine de la Propriété Intellectuelle), a series of eight workshops on "origin labelling and geographical indications" designed to build capacity and help develop African GIs.

3.298. With respect to GI protection for non-agricultural products, specific systems are currently operated by 15 member States. These laws take various forms, ranging from regional or national regulations on either specific crafts (e.g. ceramics) or all non-agricultural products to product-specific laws (e.g. Solingen knives). Taking into account the current fragmentation of the legal framework and the potentially negative impact on the functioning of the Union market, the Commission, in its 2011 IPR strategy for Europe²⁹³, had already announced its intention to proceed to a thorough analysis of the existing legal framework for GI protection for non-agricultural products in EU member States, and its implications for the Union market. Subsequently, an external study was published by the Commission in March 2013.²⁹⁴ It concluded that existing legal instruments available for producers at national and at European level were insufficient. Following a public hearing in April 2013, the Commission issued, on 15 July 2014, a Green Paper entitled "Making the most out of Europe's traditional know-how: a possible extension of geographical indication protection of the European Union to non-agricultural product."²⁹⁵ The initial results of public consultations held from July to October 2014 were presented and further discussed at a conference organized by the Commission in January 2015. Based on the results of the public consultations, to be published in a detailed report in the first quarter of 2015, as well as the opinions issued by other EU institutions, the Commission will decide on how to proceed with this project.

3.3.6.2.6 Industrial designs

3.299. Next to the protection under the national design systems of EU member States or through international registration at WIPO²⁹⁶, industrial designs can also be registered in the EU as a Community design at the OHIM under Council Regulation (EC) No. 6/2002 of 12 December 2001.²⁹⁷ A Registered Community Design (RCD) is protected throughout the EU for a maximum period of 25 years. Registration and publication fees amount to €350; renewal fees range from €90 (first time) to €180 (fourth time). By early 2015, about 830,000 RCDs have been registered by OHIM, and about 65,000 new designs are applied for each year. Next to registered designs, Regulation (EC) No. 6/2002 also provides for protection of unregistered Community designs for a period of three years from the date of making the design available to the public in the EU.

3.3.6.2.7 Undisclosed information

3.300. As stated in the previous TPR report²⁹⁸, the protection of trade secrets is not harmonized in the EU. Major differences currently encountered in national laws, including with respect to the scope of protection and available remedies, have resulted in a fragmentation of the Union market that negatively affects cross-border collaboration²⁹⁹ and occasionally also impacts on FTA negotiations. Moreover, two external studies and the outcome of a public consultation³⁰⁰ confirmed the strategic importance of trade secrets as one of the categories of IPRs most used by business, while noting the increase in the risk of their misappropriation over the last decade. Backed by these findings, the Commission presented, on 28 November 2013, a Proposal for a Directive on the Protection of Undisclosed Know-How and Business Information (Trade Secrets) Against Their

Development of the European Commission. Viewed at: http://ec.europa.eu/agriculture/developing-countries/gi/memorandum-aripo/text_en.pdf.

²⁹³ Viewed at:

http://ec.europa.eu/internal_market/copyright/docs/ipr_strategy/COM_2011_287_en.pdf.

²⁹⁴ Viewed at: http://ec.europa.eu/internal_market/indprop/docs/geo-indications/130322_geo-indications-non-agri-study_en.pdf.

²⁹⁵ Viewed at: <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=COM:2014:469:FIN>.

²⁹⁶ For more details, see previous TPR Report, WT/TPR/S/284/Rev.2, paras.3.291 to 3.292.

²⁹⁷ OJEU L 3/1, 5 January 2002.

²⁹⁸ WT/TPR/S/284/Rev.2, para. 3.294.

²⁹⁹ See Executive Summary of the Impact Assessment, Commission Staff Working Document SWD(2013) 472 final of 28 November 2013. Viewed at: <http://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX:52013SC0472>.

³⁰⁰ Studies and results of the public consultation are available at: http://ec.europa.eu/internal_market/iprenforcement/trade_secrets/index_en.htm.

Unlawful Acquisition, Use and Disclosure.³⁰¹ With the aim of creating an innovation-friendly environment, the draft Directive proposes that different civil law regimes be harmonized at a minimum level, whilst allowing member States to apply stricter rules. To do so, a common definition of trade secrets in line with Article 39.2 TRIPS would be introduced and EU member States be obliged to make measures, procedures and remedies available to trade secret holders so that they can take action in order to either prevent or obtain redress for the unlawful acquisition, use or disclosure of their trade secret. The new set of rules is thus expected to make it easier for courts to deal with cases of misappropriation of trade secrets, to remove any infringing products from the market and for trade secret holders to obtain damages for illegal action. On 26 May 2014, the Council of the EU reached an agreement on a common position regarding an amended version of the draft Directive.³⁰² In October 2014, the Legal Affairs Committee of the European Parliament began examining the text.

3.301. The regime currently in force in the EU to protect clinical test data, and the approach taken by the European Medicines Agency (EMA) regarding access to such data was set out in the previous TPR report.³⁰³ Since then, the issue of access to clinical trial information has been the subject of two important developments. On the legislative side, Regulation (EU) No 536/2014 of the European Parliament and of the Council of 16 April 2014 on Clinical Trials on Medicinal Products for Human Use³⁰⁴ provides, among others, that a EU database be set up and maintained by the EMA with a view to ensuring an appropriate level of transparency in clinical trials. The EU database shall contain all information submitted in the clinical trials application and during the assessment procedure. In principle, this information shall be publicly accessible unless the confidentiality of the information can be justified for any of the following grounds: protection of commercially confidential information; protection of personal data; protection of confidential information communication between member States in relation to the preparation of the assessment report; or the need to ensure effective supervision of the conduct of clinical trials by member States. In addition, the company or organization carrying out the clinical trials is obliged to submit to the EU database a summary of the results and a layperson summary within one year from the end of the trial in the EU. Where the trial was intended to be used for obtaining a marketing authorization, a full clinical study report shall also be submitted to the EU database within 30 days after the grant of the marketing authorization, the completion of the procedure for granting the authorization, or the withdrawal of the application.³⁰⁵

3.302. In parallel, the EMA adopted, on 2 October 2014, its new policy on publication of clinical data for medicinal products for human use.³⁰⁶ The objective of facilitating public access to clinical trial data after completion of the marketing authorization process is to respond to an increased demand for transparency, to allow researchers to reassess data, to avoid duplication of clinical trials and to foster innovation and the development of new medicines. The policy extends, among others, to clinical data which are submitted, as of January 2015, as part of any new application for marketing authorization. The Terms of Use in Annex 1 specify, however, that the clinical reports may only be used for general information and non-commercial purposes; they may not serve to support an application for marketing authorization or any extension or variation thereof for a product anywhere in the world. Similarly, the user is prohibited from making any unfair commercial use of the clinical reports.

3.303. Pharmaceutical companies will thus be obliged to register clinical trials in the EU and results will be available to the public in accordance with the rules described above. The public disclosure of clinical trial data does not appear to affect the protection of such data against unfair commercial use in the EU, as they are covered by a regime of data exclusivity of up to 11 years during which no competitor can rely on the data in order to obtain marketing authorization. The impact of the EU database and the EMA policy on the protection of clinical trial data in third countries is, however, unclear at this stage. Once published, they would no longer have to be considered as "undisclosed test or other data" within the meaning of Article 39.3 TRIPS and would

³⁰¹ COM(2013) 813 final, available at: <http://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX:52013PC0813>.

³⁰² See Council Press Release of 26 May 2014. Viewed at: http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/intm/142780.pdf.

³⁰³ WT/TPR/S/284/Rev.2, paras.3.295 to 3.297.

³⁰⁴ OJEU L158/1, 27 May 2014.

³⁰⁵ See Article 37 of Regulation (EU) No.536/2014.

³⁰⁶ Available at: http://www.ema.europa.eu/docs/en_GB/document_library/Other/2014/10/WC500174796.pdf.

therefore not have to be protected by other WTO Members. The aforementioned Terms of Use according to which the user of the data agrees not to refer to them in support of an application for marketing authorization in third countries have, however, been designed to address this issue.

3.3.6.3 Enforcement

3.3.6.3.1 Legal basis at EU level

3.304. Enforcement of IPRs in the EU is based on Directive 2004/48/EC on the Enforcement of IPRs (IPRED) and Directive 2001/29/EC on the Harmonisation of Certain Aspects of Copyright and Related Rights in the Information Society.³⁰⁷ Since 1 January 2014, enforcement at the EU borders is governed by Regulation (EU) No. 608/2013 of the European Parliament and of the Council and Commission Implementing Regulation (EU) No. 1352/2013.³⁰⁸ The new Regulation repealed Regulation (EC) No. 1383/2003. It expands the scope of IPR categories for which border measures are made available. To the extent that these are protected under national or EU law, trade names, topographies of semiconductor products and utility models are now also covered by the Regulation. Similarly, the unitary patent is included in its scope. In addition, the Regulation also applies to new types of infringement by extending to circumvention devices, as well as moulds or matrixes to manufacture IPR-infringing goods. These changes are accompanied by the introduction of simplified procedures for the rightholder to take action against goods that are suspected of infringing IPRs.

3.305. Regulation (EU) No. 608/2013 also clarifies the handling of medicines transiting the EU territory in order to address concerns regarding the impact on legitimate trade in generic medicines of provisions in the earlier Regulation (EC) No. 1383/2003. As summarized in the previous EU TPR report³⁰⁹, Brazil and India had both requested consultations in 2010 with the EU and the Netherlands regarding the Customs treatment of medicines in transit through EU ports, produced in India and destined for developing countries.³¹⁰ In line with the European Court of Justice judgment of 1 December 2011³¹¹ and the understanding subsequently laid down in Guidelines adopted by the Commission in February 2012³¹², Recital (11) of the Regulation sets out that "customs authorities should, when assessing a risk of infringement of intellectual property rights, take account of any substantial likelihood of diversion of such medicines [in transit] onto the market of the Union". In the absence of such indicators, there would not be enough grounds for customs authorities to suspect an infringement of intellectual property rights merely because the generic medicines are transiting the EU.³¹³ Pursuant to Article 37, the Commission is also requested to submit a report on the implementation of Regulation (EU) No. 608/2013 by end 2016 that is to cover any relevant incidents concerning medicines transiting EU Customs territory, including an assessment of the potential impact on its commitments on access to medicines under the 2001 Doha Declaration on the TRIPS Agreement and Public Health. Without questioning the usefulness of clarifying the handling of medicines in transit by EU Customs authorities, it needs to be relativized, namely by looking at the importance of goods in transit in the overall context: as Customs statistics for 2013 showed, detention of goods in transit represented only 0.33% of the total number of actions undertaken by customs authorities at the EU's external borders.³¹⁴

3.306. In a judgment of 6 February 2014³¹⁵, the CJEU had an opportunity to interpret the former Customs Regulation (EC) No. 1383/2003 with respect to the circumstances under which trademark

³⁰⁷ OJEU L 157/45, 30 April 2004; and OJEU L 167/10, 22 June 2001.

³⁰⁸ OJEU L 181/15, 29 June 2013, also notified to the WTO in document IP/N/1/EU/E/1, 10 July 2013; and OJEU L 341/10, 18 December 2013.

³⁰⁹ WTO document WT/TPR/S/284/Rev.2, para. 3.303.

³¹⁰ WTO documents WT/DS408/1 and WT/DS409/1, 19 May 2010.

³¹¹ Joined cases C-446/09 (Philips v LuchengMeijing) and C-495/09 (Nokia v Her Majesty's Commissioners of Revenue and Customs).

³¹² Guidelines of the European Commission concerning the enforcement by EU customs authorities of intellectual property rights with regard to goods, in particular medicines, in transit through the EU, available at: http://ec.europa.eu/taxation_customs/resources/documents/customs/customs_controls/counterfeit_piracy/legislation/guidelines_on_transit_en.pdf.

³¹³ For the link with the proposed Community Trademark Regulation and draft Directive harmonizing national trademark laws see above, para. 3.285.

³¹⁴ See Table 3.24.

³¹⁵ Case C-98/13 (Martin Blomqvist v Rolex SA, Manufacture des Montres Rolex SA), available at: <http://curia.europa.eu/juris/document/document.jsf?jsessionid=9ea7d2dc30ddc88b7757b4124b15b74c90c82d>

Matter	Key elements	Brief description or quote from the relevant provisions	Legal basis or source
Provisional measures	Under which circumstances and for what purposes may a judicial/administrative authority authorize provisional measures in the area of intellectual property law?	Provisional measures are ordered by the competent authorities in order to prevent an imminent infringement of an IPR or to forbid the continuation of such an infringement	Article 9(1) of Directive 2004/48/EC
	After what time-period are provisional measures revoked, or otherwise cease to have effect, if proceedings leading to a decision on the merits of the case have not been initiated?	Provisional measures are to be revoked if the applicant does not initiate proceedings leading to a decision on the merits of the case within a reasonable period of time to be determined by the judicial authority ordering the measure, or, in the absence of such determination, within a period not exceeding 20 working days or 31 calendar days	Article 9(5) of Directive 2004/48/EC
Border measures	What types of goods may be subject to border enforcement procedures (e.g. goods infringing trademarks, copyrights, patents, GIs, etc.)?	Border measures apply to goods suspected of infringing a trademark, design, copyright or related rights, geographical indication, patent or utility model, supplementary protection certificate, plant variety right, topography of semiconductor product, or trade name, as well as circumvention devices, products or components and moulds or matrixes to manufacture IPR infringing goods	Article 2 of Council Regulation (EU) No. 608/2013
	Under what circumstances may the competent authorities act upon their own initiative – ex officio – to suspend the release of goods and, if they may do so, must the authorities notify the rightholder?	Ex officio action is possible where the customs authorities have sufficient ground for suspecting that goods infringe an IPR. The rightholder shall be informed in order to enable him to submit an application for action	Article 18 of Council Regulation (EU) No. 608/2013
	Under what circumstances may the authorities allow the re-exportation of infringing goods in an unaltered state or subject goods to a different customs procedure?	Under no circumstances	Article 25 of Council Regulation (EU) No. 608/2013
Criminal procedures	What infringements of intellectual property rights are considered criminal offences (e.g. wilful trademark counterfeiting and copyright piracy on a commercial scale; other IPRs; etc.)?	EU legislation covers only civil and administrative measures. Criminal procedures fall within the competence of EU member States	See Article 2(3) of Directive 2004/48/EC for the definition of its scope in respect of criminal procedures and penalties; Article 1(6) of Regulation (EU) No. 608/2013 which clarifies that member States' laws in relation to criminal procedures are not affected

Matter	Key elements	Brief description or quote from the relevant provisions	Legal basis or source
	What type of criminal sanctions may be imposed?		
	Do private persons have standing to initiate criminal proceedings?		
	Is there a specialized law enforcement unit for IPR crimes? If so please share any information on its size and operational structure.		

Source: WTO Secretariat.

3.3.6.3.2 IPR enforcement at the EU's external borders

3.308. At the external border of the EU, customs authorities may suspend the release of, or detain goods, that are suspected of infringing or found to have infringed IPRs. In most cases, customs authorities act upon applications from rightholders. However, customs may also act ex officio if they have sufficient grounds for suspecting that goods infringe an IPR. In such cases, they will notify the detention/suspension to the importer within one working day and to the rightholder on the same day or promptly thereafter. The rightholder must submit an application for action within four working days of receiving the notification. If no application is submitted within this period, the goods are released.

3.309. Results of customs action are published annually by the European Commission. In particular, the annual reports provide statistical information and data about customs interventions which support the analysis of IPR infringements occurring in the EU. According to the latest report³¹⁸, there were almost 87,000 cases of goods being detained by customs in 2013, which represents more than a 1,000% increase since 2001, due, among others, to internet sales. At the same time, a significantly lower number of articles detained by customs could also be observed since the last report. In total, almost 36 million articles (as compared to more than 114 million articles in 2011) were detained, amounting to a domestic retail value of the originator products of over €768 million (Table 3.24). Clothing accounted for about 12% of the articles detained, followed by other goods (11%), medicines (10%), cigarettes (9%) and packaging materials (8.8%). Due to detentions in the field of medicines, the share of products potentially harmful to human health and safety remained high, amounting to 25.2% in 2013.

Table 3.24 Enforcement of intellectual property rights, 2011-13

	2011	2012	2013
Customs actions			
Applications by rightholders	20,566	23,134	26,865
Number of cases	91,254	90,473	86,854
Number of articles	114,772,812	39,917,445	35,940,294
Domestic Retail Value (€)	1,272,354,795	896,891,786	768,227,929
Breakdown of cases in 2013			(%)
IP right in relation to detained articles	Trademark		93.33
	Patent		2.41
	Design and model right		2.89
	Copyright/related right		0.94
Results	Destruction of goods		76.85
	Court case initiated		15.04
	No action undertaken		4.85
	Pending case		0.31
	Original goods		2.94
	Settlement out of court		0.01

³¹⁸ DG Taxation and Customs Union, Report on EU Customs Enforcement of IPRs 2013. Viewed at: http://ec.europa.eu/taxation_customs/resources/documents/customs/customs_controls/counterfeit_piracy/statistics/2014_ipr_statistics_en.pdf.

Breakdown of cases in 2013		(%)
Cases per procedure	Imports	92.39
	Transit EU	4.88
	Transit	0.33
	Warehouse	1.00
	Transshipment	0.18
	Export	0.06
	Re-export	1.16
	Top 5 categories by articles	Clothing	12.33
Other goods		11.13
Medicines		10.10
Cigarettes		8.95
Packaging material		8.83

Source: European Commission (2014), Report on EU Customs Enforcement of Intellectual Property Rights: Results at the EU Border – 2013. Viewed at: http://ec.europa.eu/taxation_customs/resources/documents/customs/customs_controls/counterfeit_piracy/statistics/2014_ipr_statistics_en.pdf.

3.310. The close cooperation between customs and the private sector is illustrated by the steadily increasing number of applications for action submitted by rightholders to customs, rising from 2,888 in 2004 to 26,865 in 2013; only about 3% of interventions by customs were initiated ex officio. In 92% of the detentions, the goods were destroyed following either an agreement between the holder of the goods and the rightholder or the initiation of a court case by the rightholder to determine the infringement. In the remaining 8% of the cases, the goods were subsequently released because either the rightholder did not take action (4,9%) or the goods were found to be original (2.9%). In more than 92% of the cases, customs action began while the goods were under an import procedure; in almost 5%, goods were discovered while in transit to the EU, and only 0.33% of the cases concerned goods in transit to a declared destination outside the EU.

3.3.6.3.3 IPR enforcement within the EU

3.311. The EU has several Directives containing rules applicable to the (online) enforcement of IP rights, such as Directive 2004/48 (the Enforcement Directive), which establishes general applicable rules regarding IPR enforcement, and Directive 2000/31 (E-commerce Directive), which establishes minimum applicable rules regarding the conditional exemption of liability for internet service providers (ISPs). Certain flexibilities are left to member States in implementing these provisions. For example, in many member States, ISPs cannot store IP addresses for the specific purpose of online copyright enforcement; exceptions include France. Consultations on the civil enforcement of IPRs within the Union market, including the functioning and possible review of the Enforcement Directive, have been held by the Commission since 2011³¹⁹, but have not yet resulted in any concrete action or proposal.

3.312. On 1 July 2014, the Commission adopted a comprehensive set of initiatives to be taken in 2014-2015 in order to enhance the protection and enforcement of IPRs, composed of an EU Action Plan and a Strategy to promote enhanced enforcement standards in third countries which will be introduced in Section 3.3.6.3.4 below.³²⁰ The package aims at ensuring the effective application of the existing framework to combat IPR infringement while acknowledging the need to take a balanced and proportionate approach in order to avoid the abuse of IPR enforcement measures for anti-competitive practices. The ten actions proposed by the EU Action Plan focus on commercial scale IP infringement in the EU. They include raising awareness of all stakeholders with respect to the economic impact of IP infringements, as well as the potential health and safety risks; promoting due diligence by all actors throughout supply chains to reduce the risk of IP infringements; developing further voluntary Memoranda of Understanding to combat online IP infringements; assisting SMEs to enforce their IPRs; fostering cooperation among public authorities; and analysing trends in IP infringements, supported by a biennial report on the

³¹⁹ See previous TPR Report, WT/TPR/S/284/Rev.2, para. 3.307.

³²⁰ COM(2014) 392 final (viewed at: <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52014DC0392&from=EN>) and COM(2014) 389 final (viewed at: <http://ec.europa.eu/transparency/regdoc/rep/1/2014/EN/1-2014-389-EN-F1-1.Pdf>).

economic impact of the EU's IP policy to be published by the Commission. Subsequently, the EU Action Plan was endorsed by the Council in its conclusions of 14 November 2014.³²¹

3.313. As a first step toward implementation of the EU Action Plan, the Commission decided, on 16 September 2014, to set up a Group of Experts on the enforcement of IPRs.³²² Its aim is to ensure member States' involvement in the development and implementation of the EU Action Plan, to share best practices and to enhance cooperation between competent national authorities and the Commission.

3.314. A 2011 Memorandum of Understanding on the sale of counterfeit goods over the internet established a code of practice designed to effectively combat the sale of such goods, including through notice and take-down procedures, and to strengthen collaboration between the signatories.³²³ Those include major internet platform providers, as well as rightholders from various industry sectors. The Commission presented a report on the functioning of the MoU in April 2013, concluding that the MoU was working well, and also suggesting that it be continued for another two years and that its membership be extended.³²⁴ It also expressed an interest in extending the MoU to operators from third countries.

3.315. Launched by the Commission in 2009 to address the steady increase in counterfeiting and piracy³²⁵, the European Observatory on Infringement of IPRs gathers and monitors information regarding counterfeiting and piracy on the EU's internal market, provides a platform to exchange experiences and share best practices in combating counterfeiting and piracy, raises public awareness and supports rightholders in protecting their rights within and outside the EU. By means of Regulation (EU) No. 386/2012 of 19 April 2012³²⁶, the OHIM was subsequently entrusted with tasks related to IPR enforcement³²⁷, including assembling public and private sector representatives of the Observatory. In 2013, the Observatory was fully integrated into OHIM. As stipulated in the above-mentioned EU Action Plan and third country Strategy, the Observatory will also assist the Commission in carrying out the proposed set of actions to strengthen IPR enforcement.

3.3.6.3.4 International cooperation in IPR enforcement

3.316. The Commission adopted, on 1 July 2014, a Communication on Trade, Growth and IP – Strategy for the Protection and Enforcement of IPRs in Third Countries that is designed to implement the EU Action Plan. It builds on and reviews the approach of the earlier Strategy for the Enforcement of IPRs in Third Countries that was adopted by the Commission in 2004.³²⁸ Among the relevant action points to be implemented by the Commission is the collection of data regarding the impact of IPR infringement, including through regular surveys of selected third countries of priority interest to the EU.³²⁹ Furthermore, the Commission proposed that multilateral and plurilateral efforts to improve the existing international framework for the protection and enforcement of IPRs be continued alongside with the inclusion of efficient IPR chapters in bilateral agreements, recognizing though that this will be a challenging task in many countries and that a more limited set of IPR provisions may need to be considered in the case of least developed and poorer developing countries. In parallel, IP dialogues with key third countries should be enhanced. The Commission also asked that better coherence between IPR and other policies be achieved; in serious cases of repeated violation of international commitments or lack of cooperation, this could,

³²¹ Council document 15321/14 of 10 November 2014. Viewed at:

<http://data.consilium.europa.eu/doc/document/ST-15321-2014-INIT/en/pdf>.

³²² C(2014)6449 final, viewed at: http://ec.europa.eu/internal_market/iprenforcement/docs/expert-group/setting-up-expert-group_en.pdf.

³²³ See previous TPR report, WT/TPR/S/284/Rev.2, para.3.308.

³²⁴ COM(2013) 209 final of 18 April 2013. Viewed at: <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52013DC0209&from=EN>.

³²⁵ See previous TPR Report, WT/TPR/S/284/Rev.2, para. 3.309.

³²⁶ OJEU L 129/1, 16 May 2012.

³²⁷ For the complete list of tasks see European Observatory on Infringements of IPRs, Multiannual Plan 2014-2018, Annex 1, available at: <https://oami.europa.eu/ohimportal/en/web/observatory/about-us>.

³²⁸ Viewed at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2005:129:0003:0016:EN:PDF>.

³²⁹ For the latest report, see Commission Staff Working Document SWD(2013) 30 final of 5 February 2013. Viewed at: http://trade.ec.europa.eu/doclib/docs/2013/march/tradoc_150789.pdf.

for example, lead to the restriction of participation in EU-funded programmes for third countries concerned.

3.317. The EU thus continues to fight against counterfeiting and piracy, both unilaterally, and through bilateral, regional, and multilateral agreements. Detailed IPR clauses, particularly on enforcement and border measures, are included in the newer generation of trade agreements concluded or negotiated by the EU, such as most recently the FTA with Singapore³³⁰ and the Comprehensive Economic and Trade Agreement with Canada³³¹ for which negotiations were finalized in 2014; in most cases, these agreements provide for standards that go beyond the minimum level required by the TRIPS Agreement. As regards other countries of key interest to the EU, such as Brazil, China, Indonesia, the Russian Federation and Turkey, challenges and problems raised by EU rightholders are often addressed through structured IP dialogues or IPR Working Groups. In the case of China, this is complemented by a new Action Plan Concerning Customs Cooperation on IPR that was signed for the period 2014 to 2017 on 16 May 2014.³³² Based on the Strategic Framework for Customs Cooperation 2014-2017³³³, it aims at promoting legitimate trade, among others, through the exchange of data and case-specific information, as well as enhanced cooperation between customs authorities and the private sector.

3.318. Based on the above-mentioned Regulation (EU) No. 386/2012, OHIM has also been tasked to build strategies and develop tools to enforce IPRs through international cooperation with IP offices in third countries, as well as to develop technical-assistance programmes for third countries. It operates as an implementing agency regarding projects and dialogues with third countries in the area of IPR enforcement initiated by the Commission. In addition, OHIM has put in place its own cooperation programmes with IP offices in other countries, including Brazil, Mexico, the Russian Federation and Turkey.

³³⁰ See Chapter 11, Sections C and D. Viewed at:

http://trade.ec.europa.eu/doclib/docs/2013/september/tradoc_151761.pdf.

³³¹ See Chapter 22, Sections 3 and 4 of the consolidated text of 26 September 2014. Viewed at:

http://trade.ec.europa.eu/doclib/docs/2014/september/tradoc_152806.pdf.

³³² Viewed at:

http://ec.europa.eu/taxation_customs/resources/documents/customs/policy_issues/international_customs_agreements/china/action_plan_eu_china_ipr_2014_2017.pdf.

³³³ Viewed at:

http://ec.europa.eu/taxation_customs/resources/documents/customs/policy_issues/international_customs_agreements/china/strategic_framework.pdf.

4 TRADE POLICIES BY SECTOR

4.1 Introduction

4.1. This section covers agriculture, financial services, telecommunications, distribution services, and audiovisual services. To some extent, policies affecting these and other sectors are included in other sections such as tariffs, import and export licensing, taxes, and state aid, which are covered in Section 3.

4.2. In agriculture, the process of reform of the Common Agricultural Policy has continued with a significant reform to the system of direct payments, market measures, and rural development with full implementation starting in 2015. Within the new frameworks for direct payments and rural development, each member State has some limited flexibility to decide how to provide the support under the schemes and programmes set out in the legislation. Although they may choose to provide some funds for production linked payments, the reform will continue the trend of declining support under the Amber and Blue boxes while increasing support under the Green Box. Within the EU, the reform will also lead to convergence in the level of support among the member States and, within each member State, among producers. As with earlier reforms, market access measures (tariffs, tariff quotas, and the special agricultural safeguard) have not been directly affected.

4.3. In the aftermath of the global financial crisis, legislative reform affecting the financial sector, particularly prudential measures, has continued under three pillars: rules for global banking; rules aimed at establishing a safer and growth enhancing financial sector; and rules aimed at completing banking union to strengthen the Euro. Several directives and regulations have been introduced under each pillar with proposals for more from the Commission.

4.4. In telecoms, the transposition into national laws of the regulatory framework described in previous Reviews has been completed while related rules have been adopted at the EU level. Further legislative changes under the Connected Continent Package were proposed by the Commission in September 2012 and are under discussion in the Parliament and Council.

4.5. Distribution services are one of the largest services sectors in the EU with wholesale and retail trade accounting for over 11% of GDP and nearly 15% of employment in the EU. The sector is characterized by increasing concentration and vertical integration. To a large extent, distribution services are regulated by the member States through a combination of laws, including those relating to labour, competition, and establishment. However, several EU level laws are applicable, including the Services Directive and, in recognition of the importance of distribution services to the EU economy and to the operation of the internal market policy, further EU policies are currently being developed.

4.6. Audiovisual services along with other creative industries, contribute about 2.6% to the GDP of the EU. The principal rules regulating the sector are the Audiovisual Media Services Directive and two communications from the Commission on control of state aid to public broadcasters, and supports for films and other audiovisual works.

4.7. Fisheries, environmental services, transport services, and pipelines services were comprehensively covered in the previous Review and are not included in this Section. For fisheries, the EU introduced a reform of the Common Market Organization from January 2014 through Regulation (EU) No. 1379/2013 repealing Regulation (EC) No. 104/2000 which will be covered in the next Review.

4.2 Agriculture

4.2.1 Agriculture in the European Union

4.8. Agriculture's contribution to gross value added (GVA) in the EU has been stable at 1.4% in the period 2011-13, although its importance varies from one member State to another: from less than 1% in Belgium, Germany, Latvia, Luxembourg, Slovakia, Sweden and the United Kingdom; to

over 4% in Bulgaria, and Romania.¹ In terms of employment, about 25 million people were regularly engaged in farm work in 2010, but agriculture was the main or full-time activity for less than half of this number. There were about 9.8 million full-time equivalent jobs (or annual work units (AWU)) in agriculture which represents 5% of total employment.²

4.9. In most member States, agriculture production is dominated by family-owned farms where the holders and their family members account for nearly all of those working on farms. The situation varies from one member State to another with the holder plus family members providing over 90% of work in Ireland, Malta, and Poland and non-family workers providing over half of work in the Czech Republic, France, and Slovakia.

4.10. In terms of gross output at basic prices, the value of agricultural production in the EU increased from 2010 to 2013, reaching €403 billion, before declining in 2014 to €392 billion. The changes in the value of production have been driven mostly by changes in prices rather than production. France is the biggest producer in the EU, followed by Germany, Italy, and Spain. In 2014, these four member States contributed nearly 54% to the total value of agricultural production in the EU. The total value of crop production in the EU in 2014 was €203 billion and the total value of production of animal products was €170 billion with wheat the main crop and milk the main animal product (Table 4.1).³

4.11. According to the FAO, in 2012, in value terms, the EU was the second biggest producer, the second biggest exporter, and the biggest importer of agricultural products in the world.⁴ Clearly, developments in agricultural production and trade policies in the EU can have an impact on other countries.

Table 4.1 EU-28, value of agricultural output, 2007-14

(€ billion)

	2007	2008	2009	2010	2011	2012	2013	2014 ^a
All agriculture	353,342	372,678	330,970	353,801	386,692	397,559	402,896	392,281
Crops	193,505	202,449	175,501	192,779	210,489	213,155	213,921	202,664
Cereals	49,922	52,538	36,060	45,426	56,165	59,926	53,848	49,581
Wheat	23,392	25,668	17,229	22,877	26,617	29,457	25,928	24,516
Wine	16,480	17,042	16,157	15,567	17,551	17,197	19,971	18,824
Fruit	22,403	23,836	21,404	22,695	23,078	22,284	24,927	22,463
Plants and flowers	20,110	20,557	19,740	20,548	20,267	19,969	20,191	20,231
Vegetables, horticulture	49,511	49,700	46,708	50,234	47,634	48,650	50,244	49,076
Fresh vegetables	29,401	29,143	26,968	29,685	27,367	28,681	30,054	28,845
Forage plants	21,739	24,682	25,440	25,367	28,333	27,178	27,202	27,091
Animals and animal products	143,409	152,628	137,905	143,384	157,667	165,117	169,438	169,753
Animals	85,558	90,142	85,426	85,125	93,055	99,772	100,183	97,833
Cattle	30,398	31,039	28,442	28,447	31,062	33,628	32,767	31,983
Pigs	29,987	33,003	31,902	31,151	33,706	36,704	37,351	35,639
Poultry	16,090	17,624	16,659	17,140	19,145	20,350	21,302	21,296
Animal products	57,851	62,487	52,479	58,259	64,612	65,344	69,255	71,920
Milk	48,830	53,084	42,216	47,884	53,879	52,174	57,571	60,910

a Values for 2014 estimated.

Source: Eurostat online database (aact_eaa01). Viewed at: <http://ec.europa.eu/eurostat/data/database> [February 2015].

¹ Eurostat online database. Viewed at: http://epp.eurostat.ec.europa.eu/portal/page/portal/statistics/search_database [February 2015].

² European Commission (2013), *How many people work in agriculture in the European Union – An answer based on Eurostat data sources*, EU Agricultural Economic Briefs, No. 8, July.

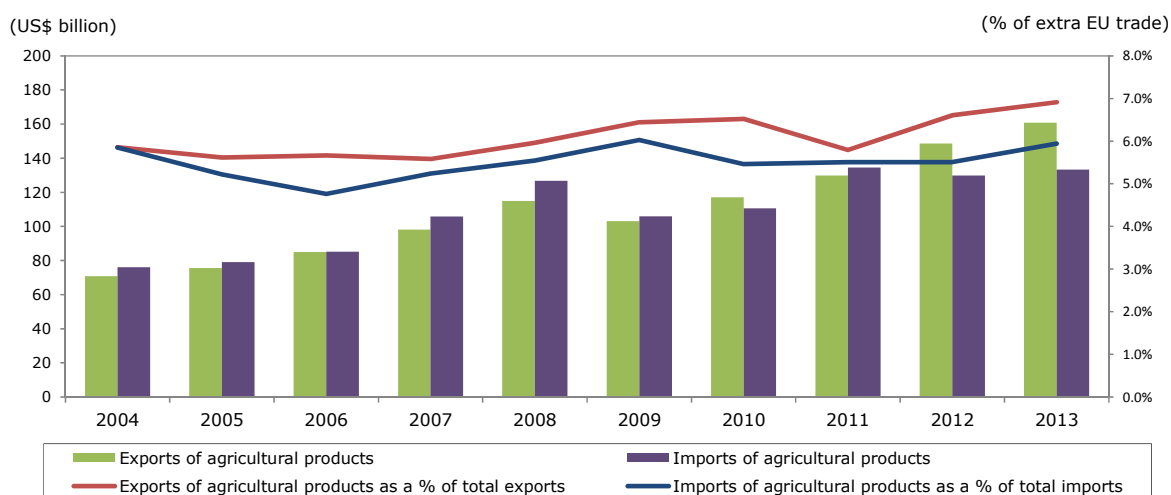
³ Eurostat online database. Viewed at: http://epp.eurostat.ec.europa.eu/portal/page/portal/statistics/search_database [February 2015].

⁴ FAOSTAT online database. Viewed at: <http://faostat3.fao.org/home/E> [October 2014].

4.2.2 Trade

4.12. Trade in agricultural products (WTO definition⁵) is important to the EU economy: contributing 6.6% to total goods exports and 5.5% to total imports in 2013. Since 2009, when exports and imports declined sharply compared to 2008, both recovered initially, but, while exports continued to grow steadily into 2013, imports have declined slightly compared to 2011 (Chart 4.1).

Chart 4.1 Exports and imports of agricultural products, 2004-13



Source: UNSD Comtrade.

4.13. The EU exports and imports a wide variety of agricultural products, although the main exports tend to be of processed products (with the exception of wheat) while imports tend to be of raw materials and animal feed. In 2013, exports of beverages, spirits, and vinegar (HS heading 22) were particularly important with total exports of US\$33.4 billion, representing over 20% of total agricultural exports.

4.14. In 2013, at the HS four digit level, the top three imports were coffee, oil-cake, and soya beans (Table 4.2). The main sources of imports of coffee were Brazil, Switzerland, Viet Nam, and Honduras; of oil-cake, Brazil and Argentina; and of soya beans, Brazil, the United States, and Paraguay.

Table 4.2 Imports of agricultural products, 2008-13

HS 2002	Product		2008	2009	2010	2011	2012	2013
	Total imports of agricultural products	US\$ million	126,692	105,888	110,634	134,575	129,835	133,320
0901	Coffee	'000 tonnes	2,765	2,717	2,789	2,774	2,837	2,858
		US\$ million	8,247	7,338	8,750	13,112	11,749	9,843
2304	Oil-cake	'000 tonnes	22,852	20,706	21,585	20,877	19,535	17,557
		US\$ million	9,709	8,497	8,457	8,938	9,584	9,677
1201	Soya beans	'000 tonnes	14,425	12,903	13,469	12,149	12,122	12,938
		US\$ million	7,530	5,671	5,945	6,586	6,959	7,418
1511	Palm oil	'000 tonnes	4,555	5,351	5,438	4,639	5,707	6,788
		US\$ million	4,389	3,716	4,206	5,034	6,004	6,010
0802	Other nuts, fresh or dried	'000 tonnes	504	501	494	506	494	551
		US\$ million	2,837	2,450	2,827	3,257	3,211	4,024
0803	Bananas, including plantains	'000 tonnes	4,925	4,592	4,601	4,712	4,618	4,915
		US\$ million	4,338	3,850	3,705	3,972	3,710	3,993
1801	Cocoa beans	'000 tonnes	1,453	1,503	1,375	1,555	1,459	1,337

⁵ For the purposes of this Section, the definition of agricultural products is that set out in Annex 1 of the Agreement on Agriculture where fish and fish products are taken to include HS Headings 020840, 03, 051191, 1504, 1603, 1604, 1605, and 230120.

HS 2002	Product		2008	2009	2010	2011	2012	2013
		US\$ million	3,576	4,320	4,535	5,145	4,042	3,501
1005	Maize	'000 tonnes	9,734	2,806	3,867	7,147	8,376	11,116
		US\$ million	2,983	870	1,032	2,294	2,528	3,391
2204	Wine of fresh grapes	'000 tonnes	1,272	1,311	1,373	1,427	1,411	1,461
		US\$ million	3,621	3,254	3,140	3,330	3,210	3,272
2401	Unmanufactured tobacco	'000 tonnes	597	613	597	630	639	597
		US\$ million	2,433	2,771	2,875	3,216	3,150	3,077

Source: UNSD Comtrade.

4.15. In 2013, at the HS four digit level, the top three exports from the EU were distilled alcoholic beverages, wine, and wheat (Table 4.3). The main destinations for exports of distilled alcohol were the United States, Singapore, and the Russian Federation; of wine, the United States, Switzerland, Canada, and Japan; and of wheat, Algeria, Iran, Morocco, and Saudi Arabia.

Table 4.3 Exports of agricultural products, 2008-13

HS 2002	Product		2008	2009	2010	2011	2012	2013
	Total exports agricultural products	US\$ million	114,974	103,095	117,132	129,863	148,593	160,791
2208	Alcohol less than 80% vol.	'000 tonnes	1,122	1,039	1,183	1,376	1,441	1,484
		US\$ million	9,154	7,991	9,378	10,679	13,072	13,294
2204	Wine of fresh grapes	'000 tonnes	1,799	1,665	2,085	2,331	2,272	2,074
		US\$ million	9,205	7,535	8,913	10,231	11,394	11,913
1001	Wheat and meslin	'000 tonnes	18,185	20,603	22,285	17,488	16,187	25,108
		US\$ million	6,157	4,628	5,048	5,361	5,163	7,604
2106	Food preparations n.e.s.	'000 tonnes	868	919	936	1,027	1,088	1,171
		US\$ million	4,725	4,750	4,676	5,115	5,592	6,425
1901	Malt extract	'000 tonnes	701	726	818	942	1,040	1,104
		US\$ million	3,000	2,902	3,282	3,853	4,687	5,760
0203	Meat of swine	'000 tonnes	1,230	1,008	1,260	1,588	1,557	1,609
		US\$ million	3,697	2,896	3,461	4,373	4,853	5,072
0406	Cheese and curd	'000 tonnes	555	577	676	682	771	788
		US\$ million	3,781	3,301	3,948	4,051	4,632	5,024
1806	Chocolate, food prep with cocoa	'000 tonnes	476	442	477	589	615	666
		US\$ million	2,848	2,633	2,913	3,379	4,032	4,459
0402	Milk, cream conc, containing sugar	'000 tonnes	887	916	1,070	1,154	1,195	1,033
		US\$ million	3,445	2,350	3,393	3,804	3,845	4,172
1905	Bread, other bakers' wares	'000 tonnes	642	648	729	793	884	940
		US\$ million	2,677	2,532	2,709	2,926	3,526	3,921

Source: UNSD Comtrade.

4.2.3 Agricultural policies

4.16. Since the past Review of the European Union, the evolution of agricultural policy has continued with the adoption, in December 2013, of the basic regulations for a comprehensive package of reforms⁶, with most of the secondary regulations adopted in March 2014, and full application from 2015.⁷ However, up to the end of 2014, agricultural policy applied in the EU was essentially the same as outlined in the previous Secretariat report with transitional measures applying in 2014.⁸ The European Agriculture Guarantee Fund (EAGF) covers direct payments and market measures, and the European Agricultural Fund for Rural Development (EAFRD) finances the EU contribution to rural development programmes.

⁶ Regulations Nos. 1305/2013 on rural development, 1306/2013 on horizontal issues, 1307/2013 on direct payments, 1308/2013 on market measures, and 1310/2013 on transitional provisions.

⁷ European Commission online information. Viewed at: <http://ec.europa.eu/agriculture/cap-post-2013/> [February 2015].

⁸ WTO document WT/TPR/S/284/Rev.2 of 28 November 2013.

4.2.3.1 Domestic support

4.2.3.1.1 Direct payments

4.17. With the accession of Croatia to the EU, the number of member States that applied the Single Payment Scheme increased to 18⁹, while the others continued to apply the Single Area Payment Scheme (SAPS).¹⁰ Payments under the Single Payment Scheme and the SAPS are not linked to prices or to production. Direct payments linked to production applied only to suckler cows, sheep and goats, and (for four member States) cotton. Member States had some flexibility to direct some of the money available under direct payments to specific objectives and, for those member States that applied the SAPS, to provide complementary national direct payments (Table 4.4).

Table 4.4 Direct payments to agricultural producers in the EU, 2007/08-2011/12

(€ million)

	2007/08	2008/09	2009/10	2010/11	2011/12
Decoupled payments					
Single payment scheme, separate sugar payments	31,346	31,894	31,482	32,913	32,756
Single area payment scheme	3,182	3,752	4,482	5,102	5,968
Other direct aids					
Cereals, oilseeds, protein crops, grass silage and set-aside (including durum wheat, seeds, rice)	1,882	1,839	1,759	183	179
Cotton	248	217	222	247	246
Protein crops, olives, hops, legumes, energy crops	223	192	228	59	47
Fruits and vegetables	0	301	317	211	71
Bananas	277	278	275	278	277
Beef, suckler cows	1,703	1,694	1,674	1,167	1,136
Sheep and goats	404	397	415	127	127
Dairy payments	4	3	0	0	0
Article 69 specific supports, not decoupled as well as Article 68 of Regulation No. 73/2009	427	427	434	871	899

Source: WTO notifications.

4.18. With the application of new rules on direct payments applying from 2015, transitional rules applied in 2014 under Regulation (EU) No. 1310/2013 which provided for a continuation of direct payments under the Single Payment Scheme and the SAPS and allowed member States to provide additional payments for the first hectares (up to 30 ha or the national/regional average). It also allowed member States to increase coupled specific support from 3.5% to 6.5% of their national ceilings.

4.19. The new direct payments scheme has applied since 1 January 2015 as set out in Regulation (EU) No. 1307/2013, and implementing legislation in Commission Regulations (EU) Nos. 639/2014, and 641/2014. Although, the net amounts for direct payments in each member State were initially linked to the previous system of national envelopes, the new system includes convergence in support among member States, allows member States to divert some funding from rural development (EAFRD) to direct payments (and vice versa), and provides some flexibility for funding various direct payment programmes (see Table 4.5 for the net amounts for direct payments in each member State).

⁹ Austria, Belgium, Croatia, Denmark, Finland, France, Germany, Greece, Ireland, Italy, Luxembourg, Malta, the Netherlands, Portugal, Slovenia, Spain, Sweden, and the United Kingdom.

¹⁰ Bulgaria, Cyprus, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Romania, and the Slovak Republic.

Table 4.5 Net amounts for direct payments, 2013-19

(€ million)

	2013	2014	2015	2016	2017	2018	2019
Belgium	569	544	524	510	502	489	482
Bulgaria	582	644	721	789	790	791	793
Czech Republic	903	875	840	839	839	857	857
Denmark	964	926	870	852	834	826	818
Germany	5,287	5,136	4,913	4,881	4,848	4,820	4,793
Estonia	101	110	114	115	124	134	144
Ireland	1,256	1,217	1,215	1,213	1,212	1,211	1,211
Greece	2,345	2,235	2,110	2,087	2,064	2,043	2,022
Spain	5,055	4,895	4,902	4,911	4,926	4,940	4,953
France	7,853	7,359	7,302	7,271	7,239	7,214	7,190
Croatia	95	164	183	202	240	278	316
Italy	4,128	3,953	3,897	3,847	3,797	3,750	3,702
Cyprus	54	51	51	50	50	49	49
Latvia	146	156	181	206	230	255	280
Lithuania	380	393	418	443	467	492	517
Luxembourg	35	34	34	34	34	34	33
Hungary	1,313	1,273	1,277	1,276	1,274	1,274	1,274
Malta	6	5	5	5	5	5	5
Netherlands	831	793	749	737	724	713	701
Austria	716	694	693	692	692	692	692
Poland	3,043	3,362	3,359	3,376	3,392	3,411	3,430
Portugal	567	558	566	574	582	591	599
Romania	1,265	1,429	1,600	1,773	1,801	1,873	1,903
Slovenia	144	139	138	137	136	135	134
Slovakia	386	435	436	439	442	445	449
Finland	539	523	523	523	524	524	525
Sweden	700	697	697	697	698	699	700
United Kingdom	3,058	3,168	3,170	3,176	3,183	3,191	3,201

Note: The crop specific payments for cotton are included in the figures above. The figures are before the application of the financial discipline, and before the amounts of direct payments for POSEI (Programme d'Options Spécifiques à l'Éloignement et l'Insularité (for the outermost regions of the EU)), and SAI (smaller Aegean Islands) in Regulations (EU) Nos. 228/2013 and 229/2013.

Source: For 2013 and 2014 - Council Regulation 73/2009, for 2015 to 2019 - Regulation (EU) No. 1307/2013 (as last amended by Regulation (EU) No. 1378/2014).

4.20. Under the new system of direct payments, farmers may be eligible for payments under a number of different schemes including: the Basic Payment Scheme (BPS) or the SAPS; agricultural practices beneficial for the climate and the environment (Greening); payments for young farmers; payments for areas with natural constraints; redistributive payments; and voluntary support coupled to production. With the exception of voluntary coupled support, eligibility under the BPS or SAPS is a precondition to qualifying for support under the other schemes.

4.21. The total amount each farmer receives under the various schemes may be higher or lower than the amount the farmer received before 2015. For certain small farms, member States may replace the different direct payment schemes with a simplified Small Farmer Scheme. All schemes of direct payments (except the Small Farmers Scheme) are subject to provisions to ensure compliance with basic standards relating to the environment, food safety, animal and plant health and animal welfare (cross-compliance¹¹).

¹¹ Regulation (EU) No. 1306/2013 on the financing, management and monitoring of the common agricultural policy, Regulation (EU) No. 640/2014 with regard to the integrated administration and control system and conditions for refusal or withdrawal of payments and administrative penalties applicable to direct payments, rural development support and cross-compliance and Regulation (EU) No. 809/2014 laying down rules for the application of Regulation (EU) No. 1306/2013.

Basic Payment Scheme (BPS)

4.22. Under the BPS, eligible farmers must hold entitlements and activate them on a corresponding number of eligible hectares to receive payments. As a general rule, only those farmers who were entitled to receive direct payments in 2013 would be allocated entitlements in 2015. However, other groups of farmers may be allocated entitlements, such as farmers starting agricultural activity and young farmers. A member State may also decide to limit the number of entitlements to be allocated, for example by limiting the number of entitlements allocated to a farmer as the lesser of the number of eligible hectares in 2013 and 2015.

4.23. In general, each entitlement in a member State or region, should have the same value from 2015 (the flat rate value) but member States may derogate from this rule provided the values of entitlements converge towards a flat rate by 2019. Furthermore, where a member State decides to apply convergence, it must ensure that, by 2019, no farmer receives less than 60% of the national or regional average. In addition, payments in excess of €150,000 under the Basic Payment Scheme are subject to reductions ("degressivity") of at least 5%, unless the member State takes the option to provide redistributive payments (see below).

4.24. Based on the limits applying to each member State, and the requirements to provide minimum or maximum levels of funding for different schemes, the Commission sets annual national envelopes for the Basic Payment Scheme which could be between about 25% and about 70% of the national ceiling (Table 4.5) depending on how much the member State provides for other schemes of direct payments (Table A4.1).

Agricultural practices beneficial for the climate and the environment (Greening)

4.25. Each member State is required to allocate at least 30% of the national envelope for direct payments for payments for agricultural practices beneficial for the climate and the environment (Greening) (Table A4.1). To qualify for payments, three basic requirements must be met:

- (i) Crop diversification requirements apply to holdings which have more than 10 ha of arable land:
 - For holdings of more than 30 ha, at least three crops must be cultivated, the main crop must occupy no more than 75% of the arable area, and the two principal crops must occupy no more than 95% of the arable area; and
 - For holdings of 10-30 ha at least two crops must be cultivated, and the main crop must occupy no more than 75% of the arable area;

Or, more than 75% of land eligible for the BPS is permanent grassland, used to grow grass, or laying fallow, provided the remaining arable area is 30 ha or less;
- (ii) The ratio of the area under permanent grassland to total agricultural area in each member State or region must not decline by more than 5% compared to a reference based on 2012 data. In addition, each member State is required to designate environmentally sensitive permanent grassland areas which may not be converted or ploughed; and
- (iii) Each holding must include an ecological focus area (EFA) of at least 5% (possibly increasing to 7%) of the arable area for a farm with an arable area of more than 15 ha which could include land left fallow, or land used for terraces, hedges, buffer strips, forestry, green cover, or nitrogen-fixing crops.

4.26. Alternatively, farmers meeting the requirements for organic production as set out in Regulation (EC) No. 834/2007 are deemed to be entitled to greening payments for the land under organic production.

Redistributive payments

4.27. Each member State may provide up to 30% of its national envelope for redistributive payments. That is, by reducing the amount available for Basic Payments, they can increase

payments for the first 30 ha, or up to the average size provided the average size is greater than 30 ha. Effectively, this would enable a member State to accelerate the process of convergence required under the BPS (Table A4.1).

Young farmers' scheme

4.28. Each member State is required to reserve up to 2% of the national envelope for additional payments to young farmers (defined as 40 years old or less and setting up in farming for the first time as head of an agricultural holding) for a maximum period of five years. The actual period of eligibility for payments under the scheme depends on the date of setting up and the date of application, but cannot exceed five years.

Coupled payments

4.29. Under CAP Reform 2014-2020, crop-specific payments for cotton remain as set out in Table 4.6.

Table 4.6 Crop-specific payments for cotton

	Area ha	Fixed yield tonne/ha	Payment €/ha
Bulgaria	3,342	1.2	2015: 584.88 2016 and onward: 649.45
Greece	250,000	3.2	234.18
Spain	48,000	3.5	362.15
Portugal	360	2.2	228.00

Source: Regulation (EU) No. 1307/2013, Article 58.

4.30. In addition, each member State may reserve up to 8% of the national envelope for coupled-support (or more with Commission approval) to animals and/or specific crops plus an additional 2% for protein crops. Subject to these limits, coupled support may be provided for cereals, oilseeds, protein crops, grain legumes, flax, hemp, rice, nuts, starch potatoes, milk and milk products, seeds, sheep meat and goat meat, beef and veal, olive oil, silkworms, dried fodder, hops, sugar beet, cane and chicory, fruit and vegetables, and short rotation coppice (Table A4.1 and Table A4.2). The Commission noted that coupled support is subject to additional requirements, including that it may only be granted to the extent necessary to create an incentive to maintain current levels of production in the sectors or regions concerned and that it is an annual payment, granted within defined limits and based on fixed areas and yields or on a fixed number of animals.

4.2.3.1.2 Internal market support measures

4.31. For the purposes of this section, internal market support measures are defined as those that work inside the customs territory of the EU to increase prices through reduced production or other supply control measures, or by encouraging consumption. Market access and export measures, which can also lead to positive transfers to producers through higher domestic prices, are dealt with below under export subsidies and market access.

4.32. For the period 2012-2014, there have been few changes to the internal market support programmes in the EU. Intervention and/or private storage aids have been available for common wheat, durum wheat, maize, barley, sorghum, paddy rice, butter, skimmed milk powder, olive oil, beef, pig meat, and sheep and goat meat, subject to various controls and limits, including production quotas for milk and sugar.¹² In practice, no purchases into intervention took place during marketing years 2010/11 to 2013/14 and the use of private storage aids has remained limited (Table 4.7).

¹² WTO document WT/TPR/S/284/Rev.2 of 28 November 2013, section 4.1.3.1.

Table 4.7 Intervention and private storage aids in the EU, 2009/10-2013/14

Marketing year		2009/10	2010/11	2011/12	2012/13	2013/14
Wheat						
Intervention price	€/tonne	101.31	101.31	101.31	101.31	101.31
Purchases	tonnes	240,974	0	0	0	0
Sales	tonnes	23,806	231,866	38,946	0	0
Barley						
Intervention price	€/tonne	101.31	101.31	101.31	101.31	101.31
Purchases	tonnes	5,212,913	0	0	0	0
Sales	tonnes	659,578	4,982,192	398,623	0	0
Maize						
Intervention price	€/tonne	101.31	101.31	101.31	101.31	101.31
Purchases	tonnes	0	0	0	0	0
Sales	tonnes	354,243	214,586	0	0	0
Sugar						
Reference price white sugar	€/tonne	404.40	404.40	404.40	404.40	404.40
Purchases	tonnes	0	0	0	0	0
Sales	tonnes	35,000	0	0	0	0
Private storage aids (entry)	tonnes	0	0	0	0	0
Calendar year		2010	2011	2012	2013	2014
Butter						
Intervention price	€/tonne	2,217.51	2,217.51	2,217.51	2,217.51	2,217.51
Purchases	tonnes	0	0	0	0	0
Sales	tonnes	75,000	1,500	0	0	0
Private storage aids (entry)	tonnes	97,000	104,000	131,000	89,449	22,394
Skimmed milk powder						
Intervention price	€/tonne	1,698.00	1,698.00	1,698.00	1,698.00	1,698.00
Purchases	tonnes	0	0	0	0	0
Sales	tonnes	65,000	145,000	50,000	0	0
Private storage aids (entry)	tonnes	n.a.	n.a.	n.a.	0	17,342
Olive oil						
Private storage aids (entry)	tonnes		44,337	200,000	0	0
Cheese						
Private storage aids (entry)	tonnes	n.a.	n.a.	n.a.	0	51,909
Beef						
Intervention trigger price	€/tonne	1,560.00	1,560.00	1,560.00	1,560.00	1,560.00
Public intervention	2 weeks tonnes	0	0	0	0	0
Private storage aids (entry)	tonnes	0	0	0	0	0
Pig meat						
Private storage aids (entry)	tonnes	0	141,023	0	0	0
Sheep and goat meat						
Private storage aids (entry)	tonnes	0	0	0	0	0

n.a. Not applicable.

Source: European Commission.

4.33. Under CAP Reform 2014-20, the new rules on the common organization of the markets are set out in Regulation (EU) 1308/2013 plus a considerable body of implementing legislation, some of which refers to the detailed operation of internal market support measures, but much of which relates to the establishment of standard import values, entry prices, representative prices, or import duties and other market access measures (including the administration of tariff quotas) on a wide variety of products.

Intervention and private storage aids

4.34. Under Regulation (EU) 1308/2013, public intervention (where the member State takes ownership of the product) may be used for common wheat, durum wheat, barley, maize, paddy

rice, fresh or chilled beef and veal, butter, and skimmed milk powder. Private storage aids (where a private company takes ownership and has a storage contract with the authorities of the member State) may be used for white sugar, olive oil, flax fibre, fresh or chilled beef, butter, cheese, skimmed milk powder, pig meat, and sheep meat and goat meat.¹³ As in the past, the use of either public intervention or private storage aids is usually discretionary: only for common wheat, butter, and skimmed milk powder is it required and then for a limited period for specified maximum quantities (Table 4.8). In most cases, the intervention prices and limits were not changed by the reform – except that the limit for butter purchases was increased from 30,000 to 50,000 tonnes while the period for buying-in butter and skimmed milk powder was increased from six to seven months (it now ends on 30 September). Furthermore, mature cheese and flax fibre have been added to the list of products eligible for private storage aids

Table 4.8 Intervention and private storage aid, 2015

Intervention	Intervention price €/tonne	Period	Limits
Common wheat	101.31	1 Nov–31 May	3,000,000
Durum wheat	101.31	1 Nov–31 May	0
Barley	101.31	1 Nov–31 May	0
Maize	101.31	1 Nov – 31 May	0
Paddy rice	150.00	1 Apr– 31 Jul	0
Beef and veal ^a	1,890.40	All year	0
Butter ^b	2,217.51	1 Mar – 30 Sep	50,000
Skimmed milk powder	1,698.00	1 Mar – 30 Sep	109,000
Private storage aid	Reference price €/tonne		
White sugar	404.40		
Raw sugar	335.20		
Olive oil			
Extra virgin	1,779.00		
Virgin	1,710.00		
Lampante (2 degrees)	1,524.00		
Butter	2,217.51		
Cheese	..		
Skimmed milk powder	1,698.00		
Pig meat	1,509.39		
Sheep and goat meat	..		
Flax fibre	..		

.. Not available.

a The reference price for beef and veal is fixed at €2,224 per tonne and the public intervention price is 85% of the reference threshold (Articles 7.1(d) and 13.1(c) of Regulation (EU) No. 1308/2013).

b The reference price for butter is €246.39 per 100 kg and the public intervention price is 90% of the reference price (Article 7.1(e) of Regulation (EU) No. 1308/2013 and Article 2.1(d) of Council Regulation EU No. 1370/2013).

Source: Regulation (EU) No. 1308/2013 and Council Regulation (EU) No. 1370/2013.

Market disturbance

4.35. In addition to public intervention and private storage aids, CAP Reform 2014-2020 also established a reserve to address threats of market disturbance (crisis reserve) of €400 million in 2011 prices (€424 million in 2014). The fund is financed through reductions in direct payments although any unused amount is added to the following year's budget for direct payments.

4.36. Threats of market disturbance are those "caused by significant price rises or falls on internal or external markets or other events and circumstances significantly disturbing or threatening to disturb the market where that situation, or its effects on the market, is likely to continue or

¹³ The basic rules on intervention and private storage aids are in Regulation (EU) No. 1308/2013. More details are set out in Council Regulation (EU) No. 1370/2013 and, Commission Delegated Regulation (EU) No. 906/2014 for public intervention, and Commission Delegated Regulation (EU) No. 501/2014 for private storage aids.

deteriorate." In such circumstances the Commission may take measures to address the situation, "while respecting any obligations resulting from international agreements."¹⁴

4.37. For measures to address foot-and-mouth disease the EU is to provide 60% of the total funds, for other measures relating to disease control or loss of consumer confidence due to public, animal or plant health risks the EU is to provide 50%. Other measures which may be taken to react to severe imbalance in markets include intervening in the market to reduce supply (market withdrawal, private storage, production planning), divert production (transformation, and processing), increase consumption (free distribution, and promotion), address consumer confidence (quality requirements), and measures to address the spread of pests and diseases or the effects of natural disasters.

4.38. In addition to the general rules on crisis management, specific rules also apply in the event of crises in the fruit and vegetables, and wine sectors.

Fruits and vegetables

4.39. Producer organizations remain the focus of support for the fruits and vegetables sector. To receive funding, a producer organization must be recognized by the authorities of the member State by meeting criteria, including a three to five year operational programme that meets some of the objectives set out in Regulation (EU) No. 1308/2013, Article 33. The operational programme should be funded by an operational fund financed by contributions from the member States or the producer organization itself, with EU assistance limited to 50-60% of the total fund, and at least 10% of spending under an operational programme must cover environmental actions. EU funding is also limited to 4.1-4.6% of the value of marketed production of each producer organization or up to 4.7% for associations of producer organizations.

4.40. EU funding may be increased to 100% of the total fund for market withdrawals when the products are disposed of for free distribution to charities and foundations for food aid or for distribution to penal institutions, schools, hospitals, etc., up to a maximum of 5% of the volume of production marketed by the producer organization. In addition, the School Fruit Scheme, which provides fruit and vegetables to school children, is to continue. A total of €90 million was allocated to the scheme in 2012/13 and 2013/14 at co-financing rates that varied from 50 to 75%.¹⁵ For 2014/2015 the final allocation was €150 million at co-financing rates of 75 to 90%.¹⁶ Finland, Sweden, and the United Kingdom do not participate in the Scheme.

4.41. Member States may contribute up to 80% of the cost of establishing a producer organization's operation fund in cases where there are low levels of organization among producers (National Financial Assistance). Up to 60% of the national financial assistance may be reimbursed by the EU when: (i) the market share of producer organizations in the region is less than 15% of the value of fruit and vegetable production; and (ii) fruit and vegetable production represents 15% or more of the total value of agricultural output.

Dairy

4.42. As envisaged under earlier reforms of the CAP, the quota regime for milk production expired in April 2015. For 2013/14 marketing year, the total quota for the EU was 151 million tonnes while actual deliveries were 144 million tonnes. In Germany, the Netherlands, Poland, Denmark, Austria, Ireland, Cyprus, and Luxembourg deliveries were in excess of quotas. Among the other 20 member States, which had deliveries less than their national quotas, 14 were more than 10% below quota. Levies of €27.83 per 100 kg are applied to production in excess of the quota.

¹⁴ Regulation (EU) No. 1308/2013, Article 219.

¹⁵ DG Agri online information. Viewed at: http://ec.europa.eu/agriculture/newsroom/111_en.htm [November 2014].

¹⁶ DG Agri online information. Viewed at: http://ec.europa.eu/agriculture/newsroom/163_en.htm [November 2014].

4.43. In the 12 months to July 2013, €198.5 million was spent on the School Milk Scheme (€66.7 million from the EU plus €131.8 million by the member States) for 304,421 tonnes of milk.¹⁷

4.44. As reported in the last Trade Policy Review of the EU, the Milk Package was agreed in December 2011 and formalized in March 2012. Under the Package, member States may make it compulsory for farmers and processors to have written contracts. The Package also allows farmers to negotiate collectively with processors with limits on the amount of milk subject to such negotiations: the limits are 3.5% of EU production, or 33% of national production in the member State, or 45% for a member State with production of less than 500,000 tonnes. Twelve member States made contracts compulsory, in six member States a total of 228 producer organizations have been recognized and in four member States producer organizations have negotiated contracts covering between 4% and 33% of milk deliveries. The Package also allows member States to regulate the supply of cheeses with protected designations of origin (PDO) or protected geographical indications (PGI).¹⁸

Other

4.45. The system of annual production quotas for sugar, currently 13.3 million tonnes, is to come to an end in September 2017 along with the minimum price system for sugar beet, currently set at €26.29 per tonne, although sugar will remain eligible for private storage aids (see above). To strengthen the bargaining position of sugar growers, Regulation (EU) No. 1308/2013 requires written contracts between sugar producers and processors.

4.46. At the end of 2015, the existing system of planting rights for vineyards will cease and be replaced by a system of authorizations for vine plantings to run from 2016 to 2030. Under the new system of authorizations, new plantings are limited to a growth of 1% per year compared to the existing total vine area in each member State. In addition to national support measures that existed before end 2014, member States may also support the cost of providing information on responsible consumption of wine and the EU systems of PDOs and PGIs, as well as support for replanting of vineyards following mandatory grubbing-up for health or phytosanitary reasons, and the development of innovative products, processes, and technologies related to the wine sector.¹⁹

4.2.3.1.3 Rural development

4.47. The reform of Pillar II of the CAP, on rural development, is set out in Regulation (EU) No. 1305/2013 and secondary legislation on its implementation.²⁰ According to the Commission, the structure and key characteristics of rural development policy have not been affected by the reform, because, as in the past, it will be implemented through national and/or regional rural development programmes.²¹ The objective of the reform is, during the programming period 2014-20, to give member States more flexibility to develop policies and measures to address their particular situations while ensuring a consistent approach for the implementation of measures supported by the European Agricultural Fund for Rural Development (EAFRD).²² These programmes and measures will be co-funded at rates that vary depending on the type of project and the member State.²³ Therefore, total spending on rural development will be higher than the

¹⁷ DG Agri (2014), *Intervention Report 2013*, 6 November. Viewed at: http://ec.europa.eu/agriculture/milk-market-observatory/pdf/intervention-report-2013_en.pdf [November 2014].

¹⁸ Regulation (EU) No. 261/2012, Commission Implementing Regulation (EU) No. 551/2012, and Commission Delegated Regulation (EU) No. 880/2012; and European Commission online information. Viewed at: http://ec.europa.eu/agriculture/milk/milk-package/index_en.htm [November 2014].

¹⁹ Commission Delegated Regulation (EU) No. 612/2014.

²⁰ See Commission Delegation Regulations (EU) Nos. 807/2014 and 994/2014, Commission Implementing Regulation (EU) No. 808/2014, and European Union Guidelines for State aid in the agriculture and forestry sectors and in rural areas 2014 to 2020.

²¹ European Commission (2013), *Overview of CAP Reform 2014-20*, Agricultural Policy Perspectives Brief, No. 5 December, p. 9.

²² DG Agri online information. Viewed at: http://europa.eu/rapid/press-release_MEMO-14-180_en.htm and http://europa.eu/rapid/press-release_MEMO-13-621_en.htm [November 2014].

²³ Details on the levels and/or rates of co-financing are set out in Annex II of Regulation (EU) No. 1305/2013.

national envelopes for each member State (Table 4.9) due to the national and/or private contributions.

4.48. Although the general objective of Pillar II is rural development, some of the programmes and measures permitted under Regulation (EU) No. 1305/2013 are targeted at farmers and intended to improve efficiency (e.g. investments in physical assets), productivity in the sector (e.g. aid for young farmers), and risk reduction (e.g. aid for restoring production potential after damage by natural disasters, subsidies for insurance premiums, and income stabilization).

4.49. As provided in Articles 48 and 49 of Regulation No. 1307/2013, up to 5% of the national envelope for direct payments may be reserved for additional payments to farmers operating in areas with natural constraints as designated by each member State under rural development. "Areas of natural constraints" (ANC), provided for in Articles 32 and 33 of Regulation (EU) No. 1305/2013, replace the former "less favoured areas" whose designation among member States had been found to be inconsistent by the European Court of Auditors in 2003.²⁴

Table 4.9 National envelopes for rural development, 2014-20

(€ million)

	2014	2015	2016	2017	2018	2019	2020
Belgium	78	78	91	97	97	103	103
Bulgaria	335	335	337	340	340	340	339
Czech Republic	314	313	346	345	343	323	322
Denmark	90	90	136	145	153	152	152
Germany	1,221	1,220	1,407	1,404	1,401	1,398	1,395
Estonia	104	104	111	123	126	127	129
Ireland	313	313	313	313	313	313	313
Greece	605	605	705	703	702	700	698
Spain	1,187	1,186	1,187	1,186	1,184	1,183	1,183
France	1,405	1,636	1,663	1,666	1,668	1,671	1,675
Croatia	332	282	282	282	282	282	282
Italy	1,480	1,483	1,491	1,493	1,496	1,499	1,502
Cyprus	19	19	19	19	19	19	19
Latvia	138	151	153	155	157	159	161
Lithuania	230	230	230	230	230	230	230
Luxembourg	14	14	14	14	14	14	15
Hungary	496	495	489	489	488	487	487
Malta	14	14	14	14	14	14	14
Netherlands	87	87	118	118	118	118	118
Austria	558	559	561	562	564	566	567
Poland	1,570	1,176	1,193	1,192	1,191	1,189	1,187
Portugal	577	578	579	580	581	582	582
Romania	1,150	1,148	1,177	1,187	1,185	1,142	1,140
Slovenia	119	119	119	120	120	120	121
Slovakia	271	213	216	215	215	215	215
Finland	335	337	338	340	342	343	345
Sweden	258	258	249	249	250	250	250
United Kingdom	668	752	756	756	755	756	757
Technical assistance	34	34	34	34	34	34	34

Note: The amounts for rural development include transfers between pillars. Technical assistance is not assigned to member States.

Source: Regulation (EU) No. 1305/2013, Annex I (as last amended by Regulation (EU) No. 1378/2014).

²⁴ Court of Auditors (2003), *Special Report No. 4/2003 concerning rural development: support for less-favoured areas, together with the Commission's Replies*. OJ 2003/C 151/01, Volume 46, 27 June.

4.2.3.2 Export subsidies

4.50. The last notification on export subsidies from the EU is for the marketing year 2012/13²⁵ which indicated that the use of export subsidies had continued to decline in terms of both the budget allocation and the product coverage with poultry meat accounting for nearly all spending (€55.3 million out of a total of €59.05 million). As noted in the notification, 1.35 million tonnes of sugar was exported which did not receive any export refunds but, as this is production in excess of the quota, has been deemed to be a subsidized export.²⁶

4.51. In July 2013, all export subsidy rates were set at zero, and the new rules on the Common Organization of Markets state that "without prejudice to the application of exceptional measures, the [export] refund available should be zero"²⁷ where the exceptional measures which might include export refunds are "significant price rises or falls on internal or external markets or other events and circumstances significantly disturbing or threatening to disturb the market, where that situation, or its effects on the market, is likely to continue or deteriorate"; and "emergency measures to resolve specific problems".²⁸

4.2.3.3 Market access

4.52. Like earlier reforms of the CAP, the current reform did not affect tariffs, tariff quotas, or the use of the special agricultural safeguard. There have been a number of implementing acts under Regulation (EU) No. 1308/2013 on import duties on wheat, rye, maize, and grain sorghum²⁹ and daily regulations establishing standard import values for determining the entry prices for certain fruits and vegetables from different countries³⁰ but, in practice, there have not been any significant changes to the methodology for calculating tariffs on cereals or the entry price system for certain fruits and vegetables.

4.53. On average, bound tariffs on agricultural products (WTO definition) (simple average MFN tariff of 14.4%) remain higher than on non-agricultural products (simple average MFN tariff of 4.3%) and vary considerably from one agricultural product to another with a standard deviation of 23.5 compared to 4.4 for non-agricultural products (Table 3.2). In addition, many agricultural products are subject to non-*ad valorem* duties that can also vary from simple specific duties to more complex forms, such as those in the Meursing Table.³¹ However, imports of agricultural products from least developed countries and from many developing countries can enter the EU at zero or reduced tariffs under the EU's everything-but-arms initiative, its GSP and GSP+ schemes, and its network of trade agreements.

4.54. As in the previous Review, the EU notified 112 separate tariff quotas as being in operation in marketing year 2011/12 and calendar year 2012. Fill rates for these quotas vary considerably from 0 to 100%, although an average fill rate is not very meaningful given the big differences in quota sizes and values. However, the majority of quotas are not filled.³²

4.55. The EU has reserved the right to use the special agricultural safeguard on 539 tariff lines. Actual use has been much less. At end March 2015, the most recent notification on use of the SSG in the EU noted that the volume-based SSG was not invoked in 2012/13 although it was made operational on 15 fruit and vegetable products (corresponding to 28 tariff lines) while the price-based SSG was made operational on 19 tariff lines in the EU schedule (certain poultry and sugar products). In these cases the term "made operational" means prices are monitored and the price-based SSG may be charged if the import price is below the trigger price or, for the volume-based SSG, import volumes are calculated and the volume-based SSG may be charged if the import volume trigger is surpassed.³³

²⁵ WTO document WT/AG/G/N/EU/22 of 17 December 2014.

²⁶ See *European Communities – Export Subsidies on Sugar*, WT/DS265, 266 and 283.

²⁷ Regulation (EU) No. 1308/2013, whereas 159 and Article 196.

²⁸ Regulation (EU) No. 1308/2013, Article 196.

²⁹ For example Commission Implementing Regulation (EU) No. 1206/2014.

³⁰ For example Commission Implementing Regulation (EU) No. 1237/2014, 1231/2014, 1224/2014, etc.

³¹ Regulation (EU) No. 510/2014.

³² WTO document G/AG/N/EU/16 of 14 November 2013.

³³ WTO document G/AG/N/EU/19 of 5 May 2014.

4.2.4 Domestic support levels

4.2.4.1 WTO notifications

4.56. The last notification from the EU on domestic support was for the marketing year 2011/12.³⁴ This, along with earlier notifications, showed a step change in the pattern of support following the successive reforms of the CAP with support in the Amber and Blue Boxes declining while Green Box support increased.

4.57. Within each Box the structure of support has also changed. Within the Amber Box, along with the decline in the current total AMS in 2002/03, 2007/08, and again in 2010/11 compared to each preceding year, support for beef, fruits and vegetables, sugar, and olive oil has declined or disappeared. The change in the structure of support in the Blue Box is not as marked but the decline in the overall level of support, from over €27 billion in 2004/05 to less than €3 billion in 2011/12, is considerable. Support notified in the Green Box has increased reaching nearly €71 billion in 2011/12 (Chart 4.2).

4.2.4.2 OECD monitoring and evaluation of agricultural policies

4.58. Compared to the Amber, Blue and Green Boxes in the WTO, the OECD's annual monitoring and evaluation reports on support to agriculture in OECD countries uses a different methodology to calculate the value of support which is expressed in a number of indicators, including: the Produce Support Estimate (PSE) for gross transfers from consumers and tax payers to agricultural producers; the Total Support Estimate (TSE) for transfers to the agricultural sector in general; and the Single Commodity Transfers (SCT) for transfers to specific commodities. As noted in the last report, the PSE represents the value of transfers to producers, unlike support under the Amber Box, Blue Box and Green Box which measure compliance with WTO commitments.³⁵

4.59. The last monitoring and evaluation report by the OECD includes data for calendar year 2013 but does not include data for the latest reforms of the CAP which started implementation on 1 January 2015³⁶ (Chart 4.3 and Table 4.10).

4.60. The OECD data shows that despite reforms up to, but not including, the reforms of 2014, support to agricultural producers in the EU, while close to the OECD average, remains high in absolute terms and has not declined significantly over the past few years, mainly because, for some products, high tariffs continued to protect producers from changes in international prices as seen by the relatively high levels of market price support and the producer net-protection coefficients (producer NPC). However, as noted by the Commission, the EU has reduced the "potentially most distorting support" from 92% in 1986-88 to 26% in 2011-13.

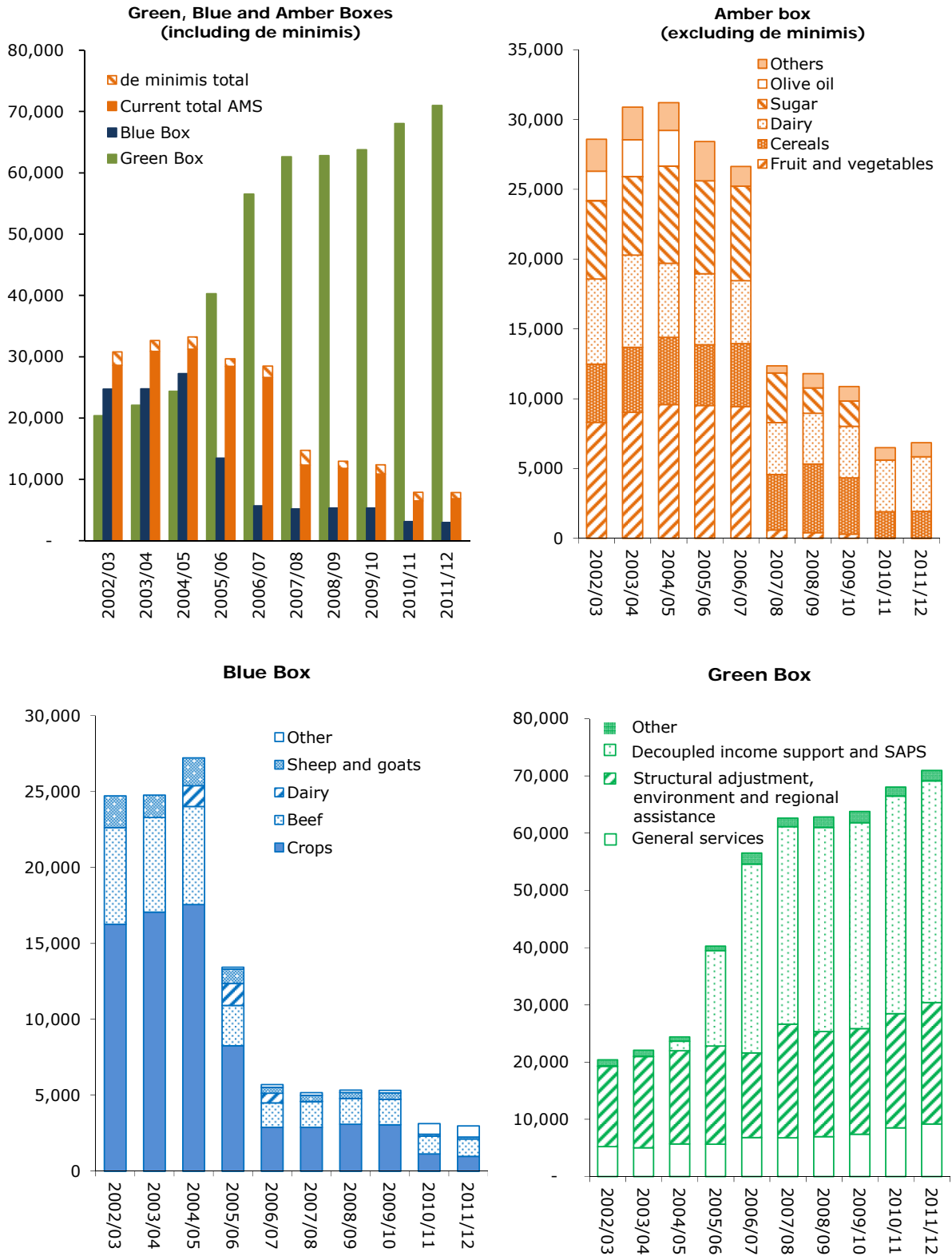
³⁴ WTO document G/AG/N/EU/20 of 22 October 2014.

³⁵ WTO document WT/TR/S/284/Rev.2 of 28 November 2013, paragraph 4.34.

³⁶ OECD (2014), *Agricultural Policy Monitoring and Evaluation 2014: OECD Countries*, OECD Publishing.

Chart 4.2 Domestic support in the EU, 2002/03–2011/12

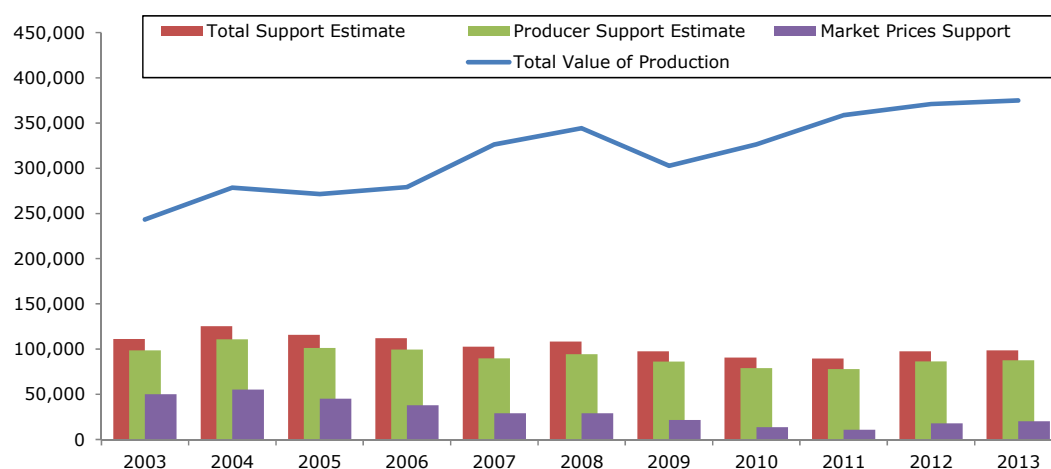
(€ million)



Source: WTO notifications.

Chart 4.3 Support estimates for agriculture in the EU, 2003-13

(€ billion)



Source: OECD Producer and Consumer Support Estimates database.
<http://www.oecd.org/chile/producerandconsumersupportestimatesdatabase.htm> [December 2014].

Table 4.10 OECD indicators for support to agriculture in the EU, 2007-13

(€ million (except producer NPC))

	2007	2008	2009	2010	2011	2012	2013
Total							
Value of production	326,343	344,323	302,616	326,267	358,731	371,000	375,037
TSE	102,641	108,400	97,414	90,661	89,558	97,652	98,811
PSE	89,933	94,345	86,160	78,976	77,907	86,321	87,576
SCT	34,451	34,253	26,848	17,739	14,731	21,532	23,762
MPS	29,183	29,171	21,766	13,823	10,906	18,007	20,278
Producer NPC	1.11	1.10	1.08	1.05	1.03	1.05	1.06
Refined sugar							
Value of production	3,749	3,290	3,581	3,161	4,027	3,819	3,068
SCT	1,832	1,474	626	77	42	52	114
MPS	1,802	1,431	551	0	0	0	55
Producer NPC	1.93	1.77	1.19	1.00	1.00	1.00	1.02
Milk							
Value of production	46,887	50,759	39,315	44,477	50,736	50,070	51,818
SCT	124	5,170	614	730	669	885	780
MPS	-199	4,803	0	0	0	135	0
Producer NPC	1.01	1.11	1.01	1.01	1.01	1.01	1.01
Beef							
Value of production	22,611	24,200	24,034	25,036	26,591	28,686	28,300
SCT	11,980	9,398	9,896	4,563	4,231	9,659	11,879
MPS	9,798	6,975	7,785	2,919	2,592	8,082	10,336
Producer NPC	1.80	1.40	1.48	1.13	1.11	1.39	1.58
Pork							
Value of production	29,704	34,193	30,031	30,373	33,647	36,670	37,375
SCT	-533	86	112	536	23	28	709
MPS	-618	0	0	511	0	0	700
Producer NPC	1.00	1.00	1.00	1.02	1.00	1.00	1.02
Poultry							
Value of production	12,647	13,197	12,907	13,411	14,990	15,689	15,962
SCT	4,655	4,512	4,902	3,852	3,472	3,181	1,588
MPS	4,562	4,417	4,806	3,833	3,453	3,156	1,582
Producer NPC	1.64	1.50	1.59	1.40	1.30	1.25	1.11

	2007	2008	2009	2010	2011	2012	2013
Sheep meat							
Value of production	4,330	4,025	3,742	3,835	4,448	4,727	4,747
SCT	1,460	1,218	1,323	781	317	731	1,186
MPS	1,068	805	839	475	0	413	877
Producer NPC	1.35	1.25	1.29	1.14	1.00	1.10	1.23

Note: Total support estimate (TSE) is the annual monetary value of all gross transfers from taxpayers and consumers arising from policy measures that support agriculture, net of associated budgetary receipts, regardless of their objectives and impacts on farm production and income, or consumption of farm products.

Producer support estimate (PSE) is the annual monetary value of gross transfers from consumers and taxpayers to agricultural producers, measured at the farm-gate level, arising from policy measures that support agriculture, regardless of their nature, objectives or impacts on farm production or income.

Single commodity transfer (SCT) is the annual monetary value of gross transfers from consumers and taxpayers to agricultural producers, measured at the farm-gate level, arising from policy measures directly linked to the production of a single commodity such that the producer must produce the designated commodity in order to receive the transfer.

Market price support (MPS) is an indicator of the annual monetary value of gross transfers from consumers and taxpayers to agricultural producers arising from policy measures creating a gap between domestic producer prices and reference prices of a specific agricultural commodity measured at the farm-gate level.

The Producer Nominal Protection Co-efficient (Producer NPC) is an indicator of the nominal rate of protection for producers measuring the ratio between the average price received by producers (at farm-gate), including payments per tonne of current output, and the border price (measured at farm-gate level).

Source: OECD Producer and Consumer Support Estimates database. Viewed at: <http://www.oecd.org/chile/producerandconsumersupportestimatesdatabase.htm> [December 2014].

4.3 Services

4.3.1 Telecommunications services

4.3.1.1 Statistical overview

4.61. The following tables and Chart provide the main indicators of the EU telecommunication industry in terms of foreign affiliates trade statistics (i.e. of sales by subsidiaries of foreign companies in the EU for inward FATS, and sales of subsidiaries of EU companies abroad for outward FATS), value-added, employment (Table 4.11) and main trading partners (Chart 4.4 and Table 4.12).

Table 4.11 Telecommunications services main economic indicators, 2010-12

	2010	2011	2012
Foreign affiliates sales/turnover^a			
Inward: (€ billion)	..	45	..
% of total inward foreign affiliates ^b	..	9.5	..
Outward: (€ billion)	109	112	..
% of total outward foreign affiliates	11.7	12.0	..
FDI^c			
Inward (€ billion)			
Position	261	171	..
Financial transactions	39	3	..
Outward (€ billion)			
Position	392	640	..
Financial transactions	46	59	..
Inward (% of GDP)			
Position	2.1	1.3	..

	2010	2011	2012
Financial transactions	0.3	0.02	..
Outward (% of GDP)			
Position	3.2	5.1	..
Financial transactions	0.4	0.5	..
Value-added (% of value-added of total economy)	1.6	1.5	1.5
Employment^c			
In 1,000	1,030	1,030	..
Share in total employment in services (%)	0.6	0.6	..
Share in total employment in Information and Communication (%)	16.9	16.6	..

.. Not available.

a FATS inward refers to the sales by foreign affiliates which are located in the EU(28) and are controlled by non-EU(27) entities. FATS outward refers to the sales of affiliates which are established outside the EU (28) and are controlled by EU(27) entities.

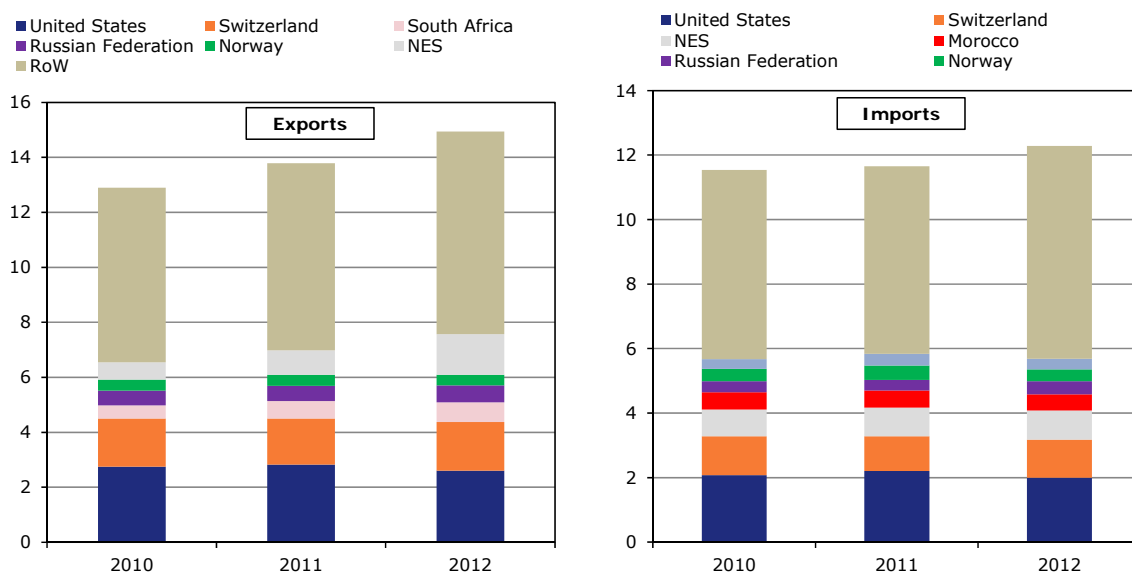
b Community, social and personal services activities and financial intermediation activities are not covered in total inward figures.

c Refers to EU27.

Source: WTO estimates based on Eurostat data (through the ITIP, Integrated Trade Intelligence Portal, services statistics module). Viewed at: <https://i-tip.wto.org/services/Search.aspx>; and information provided by the authorities.

Chart 4.4 EU-28 major extra-EU trading partners of telecommunications services

(€ billion)



Source: WTO-UNCTAD-ITC trade in services database, based on OECD, IMF, EUROSTAT, UNSD and national data, July 2014.

Table 4.12 EU-28 major extra EU trading partners of telecommunications services^a, 2012
(€ million and % of total)

Exports			Imports		
Partner	€ million	% of total	Partner	€ million	% of total
Extra-EU	14,942	100.0	Extra-EU	12,284	100.0
United States	2,605	17.4	United States	1,999	16.3
Switzerland	1,766	11.8	Switzerland	1,180	9.6
South Africa	715	4.8	Morocco	504	4.1
Russian Federation	626	4.2	Russian Federation	411	3.3
Norway	382	2.6	Norway	363	3.0
Brazil	357	2.4	Canada	328	2.7
Turkey	322	2.2	Hong Kong, China	246	2.0
Singapore	294	2.0	Turkey	232	1.9
India	283	1.9	India	229	1.9
Australia	244	1.6	Brazil	211	1.7

a Transmission of sound, images or other information by telephone, telex, telegram, radio and television cable and broadcasting, satellite, electronic mail, facsimile services etc., including business network services, teleconferencing and support services. Value of information transported excluded. Included: cellular telephone services, internet backbone services and online access services, including access to the internet.

Source: WTO-UNCTAD-ITC trade in services database, based on OECD, IMF, EUROSTAT, UNSD and national data, July 2014.

4.62. The tables below describe the penetration rates for various telecom services (Table 4.13), and the revenue and investment in the electronic communications sector (Table 4.14).

Table 4.13 Selected telecommunications indicators for EU-28, 2010-13

	2010	2011	2012	2013
Mobile phone subscribers (% of total telephone subscribers)	72.0	72.9	73.7	74.4
Total telephone subscribers (fixed and mobile) (per 100 inhabitants)	164.7	166.4	167.1	167.4
Broadband internet subscribers (per 100 inhabitants)	25.9	27.2	28.2	29.1
Secure internet servers (no)	304,880	361,796	374,979	349,125
Internet users (per 100 inhabitants)	73.0	75.0	77.0	79.0

Source: International Telecommunication Union (ITU). Viewed at: <http://www.itu.int/en/ITU-D/Statistics/Pages/stat/default.aspx>; and Netcraft (through World Bank).

Table 4.14 Revenues and investment in the electronic communications sector, 2010-12

(€ billion)

	2010	2011	2012
Revenues	327.3	334.7	323.6
Increase	..	2.2%	-3.3%
Investment ^a	38.8	41.5	42.1
Increase	..	6.9%	1.4%

.. Not available.

a The investment figures do not include fees for the acquisition of rights of use of radio frequencies.

Source: Commission document SWD (2014) 249 final.

4.3.1.2 Regulatory framework and policy developments

4.63. The basic regulatory framework of telecommunication services in the European Union dates back to 2002, was amended in 2009³⁷, and has been described in previous TPR reports.³⁸ During the period under review the member States completed the transposition of this legislative package, and several secondary legislations/regulations related to this package have been adopted. In 2010 the European Commission placed the telecommunications policy into a wider framework by adopting the Digital Agenda for Europe (DAE) which is aimed at taking advantage of the potential offered by the rapid progress of digital technologies, notably by setting ambitious targets for the deployment of 4G and broadband networks, but the scope of the Agenda goes beyond telecommunication services to include areas such as e-commerce, and e-government.³⁹ The DAE is itself part of a wider programme, the Europe Strategy 2020 for Smart, Sustainable and Inclusive Growth. In addition to these elements, the main regulatory development regarding telecommunication services is the adoption by the European Commission of a wide-ranging new legislative package, the "Connected Continent Package" in September 2012 and its subsequent, and still ongoing, discussion in the Parliament and the Council.

4.3.1.2.1 Implementation of the 2009 package and related secondary legislation

4.64. The implementation of the 2009 regulatory framework is monitored by an annual report of the Commission.⁴⁰ The main findings of the 2014 edition of this report can be summed up as follows.

4.65. The Commission adopted its Recommendation on termination rates on 7 July 2009⁴¹ which, *inter alia*, recommended the use of BU-LRIC (Bottom-Up Long Run Incremental Cost) as the costing methodology for fixed and mobile termination rates. The Commission recommendations adopted under the Regulatory Framework for Electronic Communications⁴² are not binding, but must be taken into account by the member States' National Regulatory Agencies (NRAs), who are responsible for conducting periodic market analyses and imposing regulatory obligations on operators. The overwhelming majority of NRAs have endorsed the recommended costing methodology in their decisions. However, there remain several NRAs that have yet to notify their decisions to the Commission (a higher number in the case of fixed than mobile termination), but the Commission expects that the decisions concerning termination rates will be notified shortly. The Commission and the Body of European Regulators of Electronic Communications⁴³ (BEREC) are cooperating to take steps to ensure consistency in these markets.

4.66. Regarding markets for wholesale (physical) network infrastructure access and wholesale broadband access, an increasing number of Significant Market Power (SMP) suppliers are now required to provide virtual (i.e. non-physical access) unbundling products with enhanced characteristics in addition to physical products (e.g. in the United Kingdom, Austria, Malta and Denmark). A large number of the most recently notified draft measures took account of the recent Commission Recommendation on consistent non-discrimination obligations and costing methodologies.⁴⁴ This Commission Recommendation was adopted as part of the "Connected Continent" legislative package (which also includes a proposal for a Regulation, which is discussed below) and aims to foster the development of high-speed internet networks by increasing certainty for investors, and reducing divergences among NRAs' regulatory approaches in the treatment of

³⁷ The main legislative instruments of this regulatory framework being Directive 2002/21/EC ("Framework Directive"), Directive 2002/20/EC ("Authorization Directive"), Directive 2002/19/EC ("Access Directive"), Directive 2002/22/EC ("Universal Service Directive"), Directive 2002/58/EC ("Directive on Privacy and Electronic Communications") and the three roaming regulations: Regulation (EC) 717/2007, Regulation 544/2009 and Regulation (EU) 531/2012.

³⁸ In the 2009 report (WT/TPR/S/214 paragraphs 137 to 141) and in the 2011 report (WT/TPR/S/248 paragraphs 95 to 100).

³⁹ For the complete text of the DAE see: [http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52010DC0245R\(01\)&from=EN](http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52010DC0245R(01)&from=EN).

⁴⁰ For the full text of this report see: <https://ec.europa.eu/digital-agenda/en/news/2014-report-implementation-eu-regulatory-framework-electronic-communications>.

⁴¹ Commission recommendation C (2009) 3359 of 7 July 2009.

⁴² In particular Article 19 of Directive 2002/21/EC (Framework Directive).

⁴³ Established by Regulation No. 1211/2009 of the European Parliament and of the Council of 25 November 2009.

⁴⁴ Commission recommendation C(2013) 5761 of 11 September 2013.

next generation access (NGA) networks.⁴⁵ Like the recommendation on termination rates, this Commission Recommendation is addressed to member States. It is not a binding document but NRAs have to take account of it when imposing regulatory remedies, in accordance with the EU Regulatory Framework. The Commission Recommendation on consistent non-discrimination obligations and costing methodologies contains a recommended approach that NRAs should follow when setting obligations on operators with SMP in a particular market, whereby such operators must allow third-party operators to gain access to their electronic communications networks upon payment of a wholesale price, so that these third-party access seekers can reach end-users without having to deploy their own access networks. The Recommendation contains provisions aimed at ensuring greater consistency in the way in which NRAs impose these obligations on SMP operators. In particular, it recommends an approach on how to regulate the price that regulators can impose on SMP operators for granting third-parties wholesale access to their legacy copper networks. The Recommendation aims at providing greater consistency in the ways such prices are set, as well as at stabilizing them over time. At present national regulators apply different ways of calculating wholesale copper access prices, so that the monthly rental price of copper network access⁴⁶ through the imposition of the local loop unbundling (LLU) obligation is regulated in significantly different ways among member States which results in significantly different access prices as well as long-term price trends.

4.67. The Recommendation considers that the application of the costing methodology should result in LLU monthly prices within a band of €8 and €10 (net of all taxes) expressed in 2012 prices. By recommending a specific approach to costing methodologies and by setting common rules on pricing, asset lifetimes and depreciation, the Commission seeks to ensure long-term price stability and more aligned prices across the single market. In addition to the approach to the access prices to copper networks, the Recommendation seeks to encourage investment by recommending that price regulation on access to upgraded high-speed NGA networks (the rollout of which is still ongoing) is not imposed, thus granting SMP operators greater freedom to set prices for wholesale access to NGA networks on the condition that demonstrable constraints against anti-competitive behaviour exist in the retail markets and by instituting strengthened non-discrimination obligations to ensure healthy competition, in particular recommending that wholesale access is provided on the strict basis of the principle of "Equivalence of Inputs" (EoI). In effect, the Commission considers that, on the one hand, copper network owners need stability of income from renting-out their networks to competitors to enable investment in faster NGA networks and that, on the other hand, alternative operators require a more consistent basis for planning pan-EU business operations, based on stable and consistent access prices, as well as other competitive safeguards such as strict non-discrimination rules. Article 8(2) of the 2002/21/EC Directive ("Framework Directive") includes, amongst the policy objectives and regulatory principles for NRAs, the promotion of investment, the elimination of distortions of competition, and the maximization of consumer benefits. The Commission's Recommendations such as those on termination rates and on consistent non-discrimination obligations and costing methodologies provide guidance on how these regulatory objectives can be better achieved in practice and in a consistent way across the EU, through the implementation of regulatory measures.

4.68. Regulators in several member States have continued the trend towards lifting *ex-ante* regulation of certain markets, notably wholesale markets for access and call origination on public mobile and fixed telephone networks and retail markets for publicly available telephone services. Furthermore, the adoption by the Commission of a new recommendation on relevant markets (the third edition since 2003) on October 2014⁴⁷, has reduced the list of markets susceptible to *ex ante* regulation from seven to four, sending a clear signal for further deregulation of the electronic communication sector. The statutory timeframes for reviews (i.e. the reviews conducted in the

⁴⁵ Next Generation Access (NGA) networks are defined in Commission Recommendation 2010/572/EU of 20 September 2010 on regulated access to (NGA) as wired access networks which consist wholly or in part of optical elements and which are capable of delivering broadband access services with enhanced characteristics (such as higher throughput) as compared to those provided over already-existing copper networks. In most cases NGAs are the result of an upgrade of an already-existing copper or co-axial access network. For the full text of the Recommendation please see: http://eur-lex.europa.eu/legal-content/EN/ALL/;ELX_SESSIONID=KbNLJLFPV2qLSfhFBCBpnCZYM3VR2TjSCvvhwGwWFDLvSV4VpL9!1358166493?uri=CELEX:32010H0572.

⁴⁶ I.e. the rental price that regulated SMP operators can charge third party access seekers for access to their copper-based networks.

⁴⁷ Recommendation 2014/7107 EU of 9 October 2014.

context of making determinations of which suppliers are considered to have market power and hence might be subject to some ex-ante regulation due to their position in the market) was a concern for the Commission in several member States. For Luxembourg, the lengths of delays in market reviews overall led the Commission to initiate infringement proceedings.

4.69. Regarding authorization regimes, the 2002 Authorisation Directive⁴⁸ harmonized the procedures and conditions to be fulfilled in order to legitimately provide electronic communications, in line with the principles of transparency, proportionality and non-discrimination. In this regard, the Regulatory Framework establishes a system whereby the provision of electronic communications services and/or network is, in principle, only subject to compliance with the general conditions provided for in the national general authorization, laying down: the right to provide electronic communications services; and the sector specific obligations applicable to all, or to specific types, of electronic communications networks and services. In addition to compliance with the general authorization framework, member States may require providers to submit a notification before starting to exercise the rights stemming from the general authorization. However, this additional notification obligation, currently applied by most member States, is for identification purposes only and providers do not need to obtain any explicit decision to commence activities. Still, the notification requirements remain national, also for cross-border operators, and each member State may modify the conditions applicable to the provision of electronic communications, provided that they are included in the closed list annexed to the Directive. Greece, Romania and Hungary removed certain establishment and guarantee requirements not included among the admissible conditions or dropped additional notification requirements not necessary for provider identification. Despite these successes a few cases concerning the authorization regime are still pending.

4.70. Regarding spectrum management, the Radio Spectrum Policy Programme (RSPP) (Decision 243/2012/EU) was adopted in March 2012. It introduces obligations on member States and the Commission relevant for spectrum management at large. These obligations include: deadlines for member States for the authorization of frequency bands for wireless broadband (in particular the 800 MHz band) and the establishment of a radio spectrum inventory; and a mechanism to assess spectrum supply and demand at EU level. In terms of implementation, delays in assignment of the 800 MHz band are seen as the main obstacles to 4G development.

4.71. The procedures for granting rights of way and the time needed to receive a permit vary among member States, both in law and in practice. This discrepancy is expected to be attenuated with the implementation of the new Directive on the cost reduction of broadband roll-out network infrastructures.⁴⁹ Tacit approval or one-stop-shop best practices are being introduced in a few member States (Greece, Portugal, Romania, Italy). However, electronic submission of requests is still not widely available; and there are big differences for fees for the use of the land. On the other hand, transparency is facilitating access to the physical infrastructure, through mapping (in 12 member States⁵⁰), registers (Denmark, Finland), or databases (Hungary). Access to utility infrastructure is mandated only in Italy, Lithuania, Portugal and Bulgaria. Civil works coordination lowers the cost of deployment in Slovenia, Denmark, Finland, Luxembourg, Greece, Italy, Hungary, France and Cyprus. The situation in the member States is expected to improve in that regard with the progressive transposition of Directive 2014/61/EU of 15 May 2014 on measures to reduce the cost of deploying high-speed electronic communications networks. The Directive aims to reduce by 20-30% the cost of deploying high-speed networks by: (i) making better use of existing infrastructure, including cross-utility, and transparency of existing infrastructure; (ii) better coordinating civil works also through enhanced transparency of planned civil works; (iii) streamlining permit granting; and (iv) making sure that new buildings and buildings undergoing major renovation works are "high-speed broadband-ready", i.e. are equipped with physical infrastructure capable of hosting elements of high-speed networks and organising access of public communications providers to such infrastructure.

⁴⁸ For the consolidated text of the amended authorization directive see: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CONSLEG:2002L0020:20091219:EN:PDF>.

⁴⁹ Directive 2014/61/EU of the European Parliament and of the Council of 15 May 2014 on measures to reduce the cost of deploying high-speed electronic communications networks.

⁵⁰ Portugal, Austria, Germany, the Netherlands, Slovenia, Poland, Czech Republic, Latvia, Greece, Luxembourg, Denmark and Cyprus.

4.72. Regarding access and interconnection, with only a few remaining exceptions, all operators including incumbents, offer IP interconnection products on a commercial basis. Only in a limited number of member States (Austria, Bulgaria, Croatia, Denmark) a specific obligation is imposed on Significant Market Power (SMP)-operators. France and Spain have put in place a reporting obligation for the operators to monitor the IP interconnection market and the dynamics of IP interconnection agreements between operators and Over the Top (OTT) market players. In several member States, tensions were observed between operators and their interconnection partners (transit providers, OTT players) including the question of paid peering. Since interconnection disputes are dealt with by the national regulatory authorities, in the absence of a reporting system, the Commission was, not in a position to provide statistics and details on those disputes.

4.73. Several member States have relaxed their universal service obligations relating to services already delivered by the market or of declining significance, in particular with regard to telephone directories (Belgium, Czech Republic, Italy, Lithuania, and Cyprus), enquiry services (Austria, Belgium, Czech Republic, France, Italy, and Spain), or pay-phones (Belgium, Finland, Latvia, the Netherlands, and Cyprus). In some member States a universal service-provider is no longer designated (e.g. Estonia, Germany, Luxembourg, Poland, Romania, and Sweden). Some member States (Belgium, Croatia, Finland, Malta, Romania, Spain, and Slovenia) have decided to extend their universal-service obligations to include basic broadband (from 144k bps up to 1 and 4 Mbps). When an electronic communications provider is designated as a universal service provider it is predominately the 'former' incumbent. The vast majority of member States have chosen a compensation mechanism solely financed by the electronic communication sector and not by respectively mixed public/sectoral funding. In several member States there has never been an active compensation mechanism.

4.74. Regarding facility-sharing, there has been no major evolution in the regulatory framework but mobile infrastructure sharing agreements between mobile network operators have become common practice in many member States. This ranges from passive sharing (e.g. masts, electricity) to sharing of active network elements (e.g. a radio access network) or even spectrum-sharing. Such agreements are subject to competition rules.

4.75. Finally, regarding net neutrality some members States have followed different approaches, ranging from self-regulation to binding legislation. However, most pending national measures were stopped after the "connected continent" package as the debate is now mainly concentrated on EU-level legislation.

4.3.1.2.2 The "Connected Continent" draft legislative package

4.76. On 11 September 2013, the Commission presented its "connected continent legislative package", composed of two elements: on the one hand a proposal "for a regulation of the Council laying down measures concerning the European single market for electronic communications and to achieve a connected continent" (COM(2013) 627 final) and, on the other, a Recommendation "on Costing Methodologies and Non-Discrimination" (see above). Upon their presentation, the Commission deemed these proposals to be the "most ambitious plan in 26 years of telecoms' market reform" and estimated the macroeconomic gains of a real single telecom market to an annual boost of 0.9% to GDP i.e. the biggest single EU-wide macroeconomic boost available in the next few years. The European Parliament adopted its First Reading Resolution on 3 April 2014 with a number of amendments. As at end-March 2015, discussions in the Council were ongoing.

4.77. To justify its proposal, the impact assessment report of the Commission made a direct reference to the findings of an investigation into the cost of "non-Europe" in telecoms⁵¹ which show that the annual gains which would result from the building of a fully-fledged internal market amount to 0.9% of GDP, or up to €110 billion. These gains could be achieved by means of easier entries in more competitive markets, and through a better exploitation of economies of scale. The main obstacles to the single market which have been identified are the heterogeneity in the implementation of EU telecoms' rules which results in market fragmentation, and the lack of EU standards for interoperability to enable service provision across the EU.

⁵¹ Van Gorp N, Canoy M, Canton E, Meindert L, Volkerink B, Lemstra W, Nooren P, Stokking H (2011), *Steps towards a truly Internal Market for e-communications*, Study prepared for the Commission by Ecorys, TU Delft, and TNO, 14 November, Rotterdam. Viewed at: <http://ec.europa.eu/digital-agenda/en/pillar-i-digital-single-market/action-20-investigate-cost-non-europe-telecoms-market> [March 2015].

4.78. The main provision of the draft regulation may be summarized as per the following paragraphs.

4.79. The proposed regulation aims first at simplifying the requirements for the provision of electronic communications services on a cross-border basis through the establishment of a single initial authorization regime for operating across borders. This would establish a coordinating regulator in the country of origin for the enforcement of authorization conditions, including withdrawal and suspension of the authorization on the model of the EU banking single passport.

4.80. The second major proposal aims at ensuring a consistent approach to decide which markets should be subject to regulatory measures by NRAs by making legally-binding the use of the cumulative "three criteria test", namely: (i) the presence of high and non-transitory structural, legal or regulatory barriers to entry; (ii) that the market structure does not tend towards effective competition within the relevant time horizon, having regard to the state of infrastructure competition, the level of competition, and barriers to entry; and (iii) that current competition law alone does not adequately address market failure(s) in the sector. National regulators would also have to consider all competitive constraints, including from Over the Top players (OTTs).

4.81. A third proposal would give the Commission the power to block national decisions on remedies on cross-border operators in order to ensure a consistent application of EU regulations. A fourth suggested measure would harmonize the technical definitions of non-physical wholesale access products (e.g, bitstream) and to a certain extent the conditions for their regulatory provision.

4.82. In order to tackle fragmented rules, prices and timetables, the draft regulation also contains provisions on the coordination of spectrum assignment. These measures would include harmonizing the timing of spectrum release and the duration of rights, to deal with problems such as overpriced spectrum auctions. Member States would remain in charge, and continue to benefit from related fees from mobile operators, while operating within a more coherent framework.

4.83. The draft regulation also contains specific measures for spectrum assignment for 4G where the EU suffers from a considerable lag and for which congestion is looming. These measures would increase capacity through less onerous authorization conditions, through the removal of unnecessary deployment restrictions and overly complex procedures for granting permits for micro base stations, or wireless hotspot deployment, and through the institution of a right-to-share access to Wi-Fi access points.

4.84. The draft regulation provides for a major overhaul of roaming charges regulation. Incoming call charges while travelling in the EU would be banned. Telecom companies would have the choice to either (i) offer phone plans that apply everywhere in the European Union ("roam like at home"), the price of which will be driven by domestic competition, or (ii) allow their customers to "decouple", that is: opt for a separate roaming provider who offers cheaper rates (without having to buy a new SIM card). These proposals build on the 2012 Roaming Regulation which subjected operators to wholesale price cuts of 67% for data as of July 2014. The package would also ban international call premiums within the EU. In other words, instead of charging a premium for both fixed and mobile calls made from a consumer's home country to other EU countries, telecom companies would not be able to charge more for a fixed intra-EU call than they do for a long-distance domestic call. For mobile intra-EU calls, the price would not be more than €0.19 per minute (plus VAT). Setting higher prices would need to be supported by objectively justified costs. The draft regulation would also institute new consumer and end-users' rights, harmonized across the EU, in areas such as information requirements in contracts and termination thereof.

4.85. Finally the last major element of the draft regulation is constituted by provisions aimed at preserving an "open internet". To address this question at the EU level the Commission suggests that blocking and throttling of internet content should be banned, giving users access to the full and open internet regardless of the cost or speed of their internet subscription. Clear rules for traffic management on the internet, which would have to be non-discriminatory, proportionate and transparent, would be set. However, companies would be allowed to differentiate their offers (for example by speed) and compete on enhanced quality of service but subject to the vital precondition that the quality of open internet must not be impaired. So-called specialized services (such as IPTV, video-on-demand, apps including high-resolution medical imaging, virtual operating

theatres, and business-critical data-intensive cloud applications) with an enhanced level of quality can only be provided if the operator ensures that these services do not come at the detriment of the quality of the open internet.

4.86. Competition is the main driver for investment in high-quality broadband infrastructure and benefits not only individual consumers, but also businesses of all sizes, including SMEs. For example, figures show that new market entrants have driven broadband investment in the EU, rather than national incumbents: incumbents in the EU have a 42% market share of all fixed broadband subscriptions, but only 22% of NGA subscriptions.⁵² Competition also improves the quality of services delivered to consumers and businesses and makes them affordable, which in turn stimulates demand for such services.

4.87. In line with the objectives of the Digital Agenda on fast and ultra-fast broadband penetration, the Commission takes a favourable view as regards State aid measures having the objective to provide adequate broadband coverage at affordable prices for all European citizens. The biggest obstacles to achieving these objectives are the significant "funding gap" and "market failures" which occur when operators consider that there is not enough demand for services requiring such advanced networks. Public financing is therefore considered essential to achieve the Digital Agenda targets. As such intervention risks crowding out private investment, the main objective of State aid control in this sector is to reconcile the conflicting objectives of fostering rapid roll-out of broadband infrastructure and limiting distortions of competition. This is done on the basis of the Broadband Guidelines which were revised in 2013⁵³ to take into account in particular the Digital Agenda targets. The Broadband Guidelines indicate concrete conditions that have to be fulfilled for the public intervention to be considered as not excessively distortive: an open tender process, the choice of the most economically advantageous offer, technological neutrality, use of existing infrastructure, wholesale third party access at prices derived from benchmarking, and a claw-back mechanism to avoid over-compensation.

4.3.2 Audiovisual services

4.3.2.1 Statistical overview

4.88. The following tables and chart provide the main indicators of the EU audiovisual industry in terms of foreign affiliates trade statistics (i.e. of sales by subsidiaries of foreign companies in EU for inward FATS and sales of subsidiaries of EU companies abroad for outward FATS), value-added, employment (Table 4.15) and main trading partners (Chart 4.5 and Table 4.16).

Table 4.15 Motion picture, radio, television and other entertainment activities main economic indicators^a, 2010-12

	2010	2011	2012
Foreign affiliates sales/turnover^{b, c}			
Inward: € billion	10	11	..
% of total inward foreign affiliates ^d	2.4	2.3	..
Outward: € billion	7	8	..
% of total outward foreign affiliates	0.8	0.9	..
FDI			
Inward (€ in billion)			
Position	43	32	..
Financial transactions	2	-2	..
Outward (€ in billion)			
Position	30	42	..
Financial transactions	1	5	..
Inward (% of GDP)			
Position	0.4	0.3	..
Financial transactions	0.02	-0.02	..

⁵² Source: Digital Agenda Scoreboard, 2014.

⁵³ Communication from the Commission on EU Guidelines for State Aids Rules in Relation to the Rapid Deployment of Broadband Networks, 2013/C 25/01. For the full text of these guidelines see: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2013:025:0001:0026:EN:PDF>.

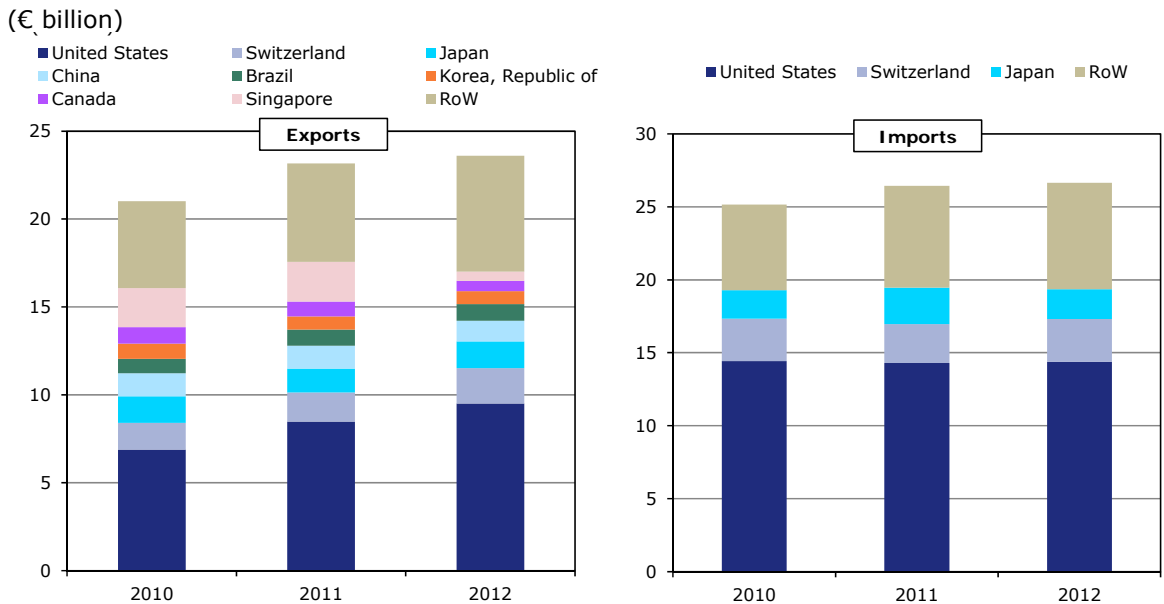
	2010	2011	2012
Outward (% of GDP)			
Position	0.2	0.3	..
Financial transactions	0.01	0.04	..
Value-added (% of value-added of total economy)	1.3	1.2	1.2
Employment			
In 1,000	1,783	1,802	
Share in total employment in services (%)	1.1	1.1	..
Share in total employment in information and communication (%)	29.3	29.0	..

.. Not available.

- a Motion picture, radio, television and other entertainment activities includes production of theatrical and non-theatrical motion pictures whether on film, videotape or disc for direct projection in theatres or for broadcasting on television; supporting activities such as film editing, cutting, dubbing etc.; distribution of motion pictures and other film productions to other industries; as well as motion pictures or other film productions projection. Also included is the buying and selling of distribution rights for motion pictures or other film productions. Also includes the sound recording activities, i.e. production of original sound master recordings, releasing, promoting and distributing them, publishing of music as well as sound recording service activities in a studio or elsewhere.
- b FATS inward refers to the sales by foreign affiliates which are located in the EU(28) and are controlled by non-EU(27) entities.
FATS outward refers to the sales of affiliates which are established outside the EU(28) and are controlled by EU(27) entities.
- c FATS inward refers to motion picture, radio, television, and other entertainment activities.
FATS outward refers to motion picture, video, television programme production, programming and broadcasting activities.
- d Refers to EU(27).

Source: WTO estimates based on Eurostat data (through the ITIP, Integrated Trade Intelligence Portal, services statistics module). Viewed at: <https://i-tip.wto.org/services/Search.aspx>.

Chart 4.5 EU-28 major extra-EU trading partners of other royalties and licence fees



Source: WTO-UNCTAD-ITC trade in services database, based on OECD, IMF, EUROSTAT, UNSD and national data, July 2014.

Table 4.16 EU-28 major extra-EU trading partners of other royalties and licence fees^a, 2012

Exports			Imports		
Partner	€ million	% of total	Partner	€ million	% of total
Extra-EU	23,598	100.0	Extra-EU	26,655	100.0
United States	9,498	40.3	United States	14,398	54.0
Switzerland	2,026	8.6	Switzerland	2,915	10.9
Japan	1,518	6.4	Japan	2,048	7.7
China	1,173	5.0	Australia	238	0.9
Brazil	954	4.0	Canada	206	0.8
Korea, Republic of	730	3.1	Norway	194	0.7
Singapore	526	2.2	Korea, Republic of	128	0.5
Australia	687	2.9	China	110	0.4
Russian Federation	658	2.8	India	61	0.2
Canada	585	2.5	Morocco	58	0.2

a Other royalties and license fees includes international payments and receipts for the authorized use of intangible, non-produced, non-financial assets and proprietary rights (such as patents, copyrights and industrial processes and designs) and with the use, through licensing agreements, of produced originals or prototypes (such as manuscripts, computer programs, and cinematographic works and sound recordings). Audiovisual royalties and licences fees are only a fraction of this wider item but cannot be isolated by the present statistical framework.

Source: WTO-UNCTAD-ITC trade in services database, based on OECD, IMF, EUROSTAT, UNSD and national data, July 2014.

4.89. Tables 4.17 to 4.19 below describe respectively the revenue streams of EU broadcasters (Table 4.17) consumer expenses on audiovisual services in the EU (Table 4.18) and the Video-on-Demand revenues (Table 4.19) available for the last five years.

Table 4.17 Broadcasters' net revenues, 2009-13

(€ million)

	2009	2010	2011	2012	2013	2012/13 %
Public broadcasters (incl. radio)	33,474	33,851	33,724	32,664	32,547	-0.4
Advertising TV	19,613	21,163	21,713	21,151	26,656	-2.3
Thematic channels	9,341	10,047	10,996	10,733	10,839	+0.9
Home shopping channels	2,453	2,610	2,719	2,792	2,813	+0.8
Regional and local TV (estimated)	1,326	1,395	1,350	1,278	1,138	-10.8
Private radio (estimated)	3,388	3,556	3,656	3,665	3,607	-1.6
Total	69,594	72,622	74,158	72,284	71,596	-1.0%

Source: European Audiovisual Observatory.

Table 4.18 Consumer expenses for audiovisual distribution services (incl. taxes)^a, 2009-13

	2009	2010	2011	2012	2013	2012/13%
Cable	11,212	11,844	12,201	12,790	12,869	+0.6
Satellite	13,874	15,689	16,336	16,913	17,255	+2.0
Internet Protocol Television (IPTV)	1,785	2,375	3,222	4,029	4,525	+12.3
Digital Terrestrial Television (DTT)	1,080	1,509	1,602	1,694	1,724	+1.7
Cinema gross box-office	6,087	6,373	6,445	6,570	6,285	-4.3
Total	27,950	31,417	33,362	35,427	36,374	2.7%

a Includes TV subscription, PPV and VoD revenues.

Source: European Audiovisual Observatory.

Table 4.19 VoD online revenues, 2009-13

	2009	2010	2011	2012	2013	2012/13 %
Online on demand TV revenues	189	345	462	673	938	+39.4
Online on demand film revenues	58.9	116.6	185.9	372.1	588.0	+58.0
Total	248	462	648	1,045	1,526	46.1

Source: European Audiovisual Observatory.

4.3.2.2 Regulatory regime

4.90. At EU level there are three main policy instruments regarding audiovisual services: the Audiovisual Media Services Directive (AVMSD) coordinating member States' policies on audiovisual media, which was recently reformed and integrated to a larger cultural support programme, Creative Europe; and two communications by the Commission on the control of state aid granted respectively to public broadcasters and in support of films and other audiovisual works.

4.91. In 2007 the "Television Without Frontiers "(TSF) Directive was replaced by the AVMSD which was codified in 2010⁵⁴, and covers both traditional television services (linear services) and video-on-demand (non-linear services). It establishes a series of requirements covering the identification of media services provider; a prohibition of incitation to hatred; accessibility for people with disabilities; measures for the promotion of European works; and certain qualitative requirements for commercial communications, sponsoring and product placement. It also confirms the "country of origin" principle for determining the national law applicable, which was already contained in the TSF Directive.

4.92. The AVMSD applies to on-demand services, a slightly lighter regulation (so called "graduated approach") in particular regarding the promotion of European works.

4.93. For linear services, Articles 16 and 17 of the Directive require that the majority of transmission time shall be reserved, where practicable, for European works and that broadcasters shall reserve, where practicable, 10% of their transmission time or programming budget to European works produced by independent producers. On the other hand, for non-linear services, Article 13 of the Directive leaves a wider discretion to member States on how to promote European works. They can, for instance, introduce measures regarding the share of European works in catalogues, measures to ensure the prominence of such works, or impose a financial contribution on video-on-demand service providers for the production and rights acquisition of such works. Article 4 of the Directive also allows member States to implement more detailed or stricter rules in the fields coordinated by the AVMSD on media service providers under their jurisdiction, provided those rules are consistent with the general principles of European Union law.

4.94. The implementation of these obligations has given rise to a series of reports, studies and documents; in July 2011 the Commission published its revised guidelines for the implementation of Articles 16 and 17 of the Directive⁵⁵, in May 2012 a report on the implementation of the Directive as a whole⁵⁶, and in September 2012 a report on the implementation of Articles 13, 16 and 17 of the Directive for the promotion of European works.⁵⁷ In addition, in April 2013 the Commission

⁵⁴ Directive 2010/13/EU of the European Parliament and of the Council of 10 March 2010, on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services (Audiovisual Media Services Directive). For the full text of the codified directive see: <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32010L0013&from=EN>.

⁵⁵ For the full text of these guidelines see: <https://ec.europa.eu/digital-agenda/en/news/revised-guidelines-monitoring-application-articles-16-and-17-audiovisual-media-services-avms>.

⁵⁶ First Report from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on the application of Directive 2010/13/EU "Audiovisual Media Service Directive" Audiovisual Media Services and Connected Devices: "Past and Future Perspectives", COM/2012/0203 final, for the full text of this report see: <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52012DC0203&from=EN>.

⁵⁷ First Report on the Application of Articles 13, 16 and 17 of Directive 2010/13/EU for the period 2009 2010 Promotion of European works in EU scheduled and on demand audiovisual media services,

published a green paper on convergence entitled "Preparing for a fully converged audiovisual world: Growth, creation and values"⁵⁸, conducted a public consultation on its basis in the autumn of 2013, and published in September 2014 the resulting contributions⁵⁹, an executive document and a feedback paper.⁶⁰ In July 2014 it also published a summary describing the instruments used by the various member States to promote European content on non-linear channels entitled "Promotion of European Works in Practice".⁶¹ All these documents are aimed at preparing the assessment of the regulatory fitness of the Directive planned in 2015 through a REFIT exercise.

4.95. The main findings of these documents can be summarized as follows:

- the number of linear channels has continued to grow (from 7,522 channels in 2010 to 8,566 in 2014);
- local channels were exempted from the promotion obligations of the Directive; in 2010, only 1,390 of these channels were subject to the promotion obligations of the Directive, i.e. fewer than in 2008 (1,679);
- the average share of European works shown on EU TV channels continued to increase during the reporting period, to achieve 63.8% in 2009 and 64.3% in 2010. This partially offsets the drop registered between 2006 and 2007. The majority proportion of European works set out in Article 16 of the AVMSD was therefore largely met. However, only 8.1 % of these works were non-domestic;
- at Member State level the average share of transmission time devoted to European works during the reference period varied between 44% (Ireland) and 83% (Hungary) in 2009, and between 47.4 % (U.K. and Slovenia) and 81 % (Hungary). The Commission has invited the three member States which did not manage to attain the required proportion (Ireland, Slovenia and the U.K.) to encourage their broadcasters to show more European works. Two member States which registered below 50% averages during the previous reference period, Sweden and Cyprus, were able to reach the threshold in 2010.

4.96. With an average of 34.1% in 2009 and 33.8% in 2010 the share of European independent works broadcast in the EU was well above the 10% proportion laid down in Article 17 of the AVMSD. However, independent works show a moderate but steady downward trend that began in 2006. Recent works registered a slight decrease as well, with 62.1% in 2009, and 61.8% in 2010 of the total volume of European independent works.

4.97. Regarding on-demand services the implementation report revealed a certain lack of uniformity in implementing the promotion of European content obligation. However, at the time of the issuance of the report (September 2012) the commission considered that the on-demand market being still nascent (less than 1% of total TV revenues in 2011) and the degree of information hence available so patchy and incomplete that there was no sufficient data to draw any conclusions on the promotion of European works by on-demand services providers. The report could only state that some member States had imposed specific promotion measures and some had not, and that, according to the information provided by 14 member States, on-demand services reserved a rather high share of their programmes for European works (ranging from almost 37% to 100% in 2010). In addition, five member States reported financial contributions to European productions and six indicated the use of some tools to give prominence to European works.

COM/2012/0522 final, for the full text of this report see: <http://www.ipex.eu/IPEXL-WEB/dossier/document/COM20120522.do>.

⁵⁸ For the full text of this green paper see: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2013:0231:FIN:EN:PDF>.

⁵⁹ For the full text of these contributions see: <http://ec.europa.eu/digital-agenda/en/news/consultation-green-paper-preparing-fully-converged-audiovisual-world-growth-creation-and-values>.

⁶⁰ For the full text of these latter two documents see: <https://ec.europa.eu/digital-agenda/en/news/publication-summaries-green-paper-replies>.

⁶¹ For the full text of this summary see: <https://ec.europa.eu/digital-agenda/news/promotion-european-works-practice>.

4.98. Further reports and studies by the Commission as well as market developments have refined that picture. In particular, the situation described in the document of July 2014 "Promotion of European works in practice" is summarized in Table 4.20.

Table 4.20 Overview of promotion of European content measures adopted by member States for video-on-demand services

Member State	No measures in place	Share of European works in catalogue	Use of tools giving prominence to European works	Financial contribution
Austria	X			
Belgium (French community only)		Simple recommendation taking into account the following criteria: (i) the presence of a substantial offer of European works or the integration of specialized catalogues; (ii) the diversity of European works or the composition of thematic catalogues; (iii) the period of time during which European works remain in the catalogue (if that is a choice of the editor); (iv) the attention paid to films of European filmmakers or to films where the artistic and technical team are of European origin; (v) the period of time during which works forming part of European film heritage are present in the catalogue.	The recommendation suggests the use of the following instruments: advertising inserts and other publicity measures in the electronic programme guide or on the website, a specific section dedicated to European works, advertising programmes on self-promotional channels, magazine articles, promotion related to specific events promoting European works (e.g. European Film Festivals)	X Devoted to production, rights acquisition or film fund acquisition
Bulgaria	X			
Croatia		X With progressively increasing share		
Cyprus		X		
Czech Republic		X as an alternative to financial contribution		X As an alternative to share in catalogue (option not used so far by the operators)
Denmark	X			
Estonia			-Highlighting European works, including works completed within the last five years	
Finland	X			
France		X With progressively increasing share	-Placement of information and materials promoting European programmes including in the home/front page -use of trailers or visuals	X 26%of turnover with an increasing rate over time devoted to production, rights acquisition or financing fund the hearing and visually impaired public
Germany	X			
Greece				
Hungary		X		
Ireland	X			
Italy		X With progressively increasing share as an alternative to financial contribution		X Devoted to production, rights acquisition as an alternative to share in catalogue(option not used so far by the operators)
Latvia	X			
Lithuania		X		
Luxembourg	X			
Malta		X With progressively increasing share		

Member State	No measures in place	Share of European works in catalogue	Use of tools giving prominence to European works	Financial contribution
Netherlands	X			
Poland		X	-Indication of the country of origin in the catalogue -providing possibilities for searching for European programmes -placement of information and materials promoting European programmes	
Portugal	X			
Romania		X	-Indication of the country of origin in the catalogue	
Slovakia		X		
Slovenia		X as an alternative to financial contribution		X Devoted to production, rights acquisition as an alternative to share in catalogue(option not used so far by the operators)
Spain		X		
Sweden	X			
United Kingdom	X			

Source: European Commission document "Promotion of European Works in Practice"; July 2014, compiled in a table form by the Secretariat.

4.99. The April 2013 green paper "Preparing for a Fully Converged Audiovisual World: Growth, Creation and Values", contains some recent data and forecasts on the move towards online consumption of audiovisual content. Connectable TV sets in the EU are expected to grow from 40.4 million devices at end-2012, to a presence in the majority of EU households by 2016; consumer spending on digital videos (movies and series delivered over the internet) reached €364 million in 2011 (+41% as compared to 2010) within a market of physical and digital video amounting to €9,493 million; the unmet demand for video-on-demand services from pay-TV operators from other member States is estimated to be in the range of €760 to €1,610 million annually; and there were 306 video-on-demand service providers in the EU in the third quarter of 2012.

4.100. The EU did not undertake commitments regarding audiovisual services under the GATS nor in any of its Free Trade Agreements. The EU is party to the 2005 UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions.⁶²

4.101. At the EU level, the Creative Europe Programme, which has grouped in a "one-stop-shop" the previously separated Culture, MEDIA, and MEDIA Mundus programmes, devotes 55% of its total €1.46 billion funding to the support of the audiovisual creation in particular in the following areas: capacity building and professional training for audiovisual professionals; development of fiction, animations, and creative documentaries for European cinema and television markets and for other platforms; distribution and sales of audiovisual works in and outside Europe; films festivals; funds for the international co-production of films; and audience development to foster film literacy. The previous media programme for 2007-13 had a total budget of €755 million.

4.102. At the member State level, support measures for audiovisual works are subject, like other state aide measures, to the control of the Directorate General for Competition of the Commission which has formulated specific rules for the sector.

⁶² For the full text of this convention see: http://portal.unesco.org/en/ev.php-URL_ID=31038&URL_DO=DO_TOPIC&URL_SECTION=201.html.

4.103. On 14 November 2013, the European Commission adopted revised criteria for assessing under EU state aid rules, member States' support schemes in favour of films and other audiovisual works.⁶³ The new rules extend the scope of the previous rules that date back to 2001 and, applied only to state aid for film production, to include all phases of an audiovisual work from concept to delivery to audiences. The intensity of the aid that can be granted to a film continues to be limited, in principle, to 50% of the production budget. Distribution and promotion costs may be supported with the same aid intensity. However, coproductions funded by more than one member State may now receive aid up to 60% of the production budget. By contrast there are no limits on aid for script writing or film project development, or for difficult audiovisual works, as defined by each member State in accordance with the subsidiarity principle.

4.104. Under the new rules, member States are still allowed to impose territorial spending conditions on beneficiaries of audiovisual aid measures. Such a restriction to the rules of the EU Single Market is justified by the promotion of cultural diversity, which requires the preservation of the resources and know-how of the industry at national or local level. The revised rules ensure that such territorial obligations remain proportionate to these objectives. In particular, if the aid amount is calculated as a percentage of the budget, member States may require that the equivalent of 160% of the aid amount granted is spent in their territory. The Commission also continues to accept aid awarded as a percentage of the expenditure on production activity in the granting member State. Member States may also require, independently from the aid amount granted, that a minimum level of production activity be carried out in their territory as a condition to receive the aid. This can never be higher than 50% of the production budget. In all situations, as before, no territorial spending obligation can ever exceed 80% of the production budget.

4.105. As of 1 July 2014, the Cinema Communication has been supplemented by state aid rules on the audiovisual sector in the revised General Block Exemption Regulation.⁶⁴ State aid schemes for audiovisual works with an annual budget below €50 million will no longer need to be notified to the Commission. In this way the Commission aims to reduce the administrative burden and speed up procedures. The compatibility conditions for aid to audiovisual works set out in the GBER are based on the Cinema Communication.

4.106. The member States support their audiovisual industries in a variety of ways with budgets allocated from national tax revenues, contributions from television channels, and in some cases grants from lotteries. All have national film institutes or similar bodies that support their film industries. The member States provide an estimated €3 billion per year in film support: €2 billion in grants and soft loans, and €1 billion in tax incentives. Around 80% of this is for film production. France, the U.K., Germany, Italy, and Spain offer the majority of this support.⁶⁵

4.107. Table 4.21 provides more elements at member States level⁶⁶ on these support regimes.

⁶³ Communication from the Commission on State aid for films and other audiovisual works, OJ C 332 of 15 November 2013, p. 1. See [http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52013XC1115\(01\)](http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52013XC1115(01))

⁶⁴ Commission Regulation (EU) No. 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty, OJ L 187 of 26 June 2014, p. 1. See <http://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1404295693570&uri=CELEX:32014R0651>.

⁶⁵ Source: http://europa.eu/rapid/press-release_IP-13-1074_en.htm.

⁶⁶ Like in many other WTO members (see for instance WT/TPR/S/307 pp. 135-137), sub-federal entities, regions and large municipalities have in many instances set up film commissions and films funds. The Korda database of the European Audiovisual Observatory (<http://korda.obs.coe.int/>) maintains a detailed list of those funds and film commissions.

Table 4.21 National audiovisual support regimes overview

(€ million)

	Funds			
	Revenues 2009 ^a	Sources of revenues, 2009	Spending by type of activity 2009	Tax incentives and cash rebates schemes (as of June 2011) ^b
Austria	65.1	-Public subsidies: 45.3 -taxes and contrib: 19.4 -others: 0.2	-Creation/prod: 51.2 -distribution: 3 -exploitation: 0.9 -promotion: 0.5 -others: 9.7	Film location Austria (cash rebate programme)
Belgium	45.9	-Public subsidies: 32.9 -taxes and contrib: 12.5 -others: 0.55	-Creation/prod: 43.4 -distribution: 1.6 -exploitation: 0.9 -promotion: 1 -others: 3.5	Federal tax shelter for films
Bulgaria	6.2	-Public subsidies: 6.2 -taxes and contrib: 0 -others: 0	-creation/prod: 5.5 -distribution: 0.1 -exploitation: 0 -promotion: 0.2 -others: 0.4	
Cyprus	1.4	-Public subsidies: 1.4 -taxes and contrib: 0 -others: 0	-creation/prod: 1.2 -distribution: 0 -exploitation: 0 -promotion: 0.1 -others: 0.1	
Czech Republic	17.4	-Public subsidies: 5.4 -taxes and contrib: 6.1 -others: 5.8	-creation/prod: 6.4 -distribution: 1 -exploitation: 1.9 -promotion: 1.5 -others: 6.6	Support programme to the film industry (cash rebate programme)
Denmark	58.5	-Public subsidies: 57.7 -taxes and contrib: 0 -others: 0.7	-creation/prod: 31.2 -distribution: 4 -exploitation: 0.5 -promotion: 1.4 -others: 21.4	
Estonia	5.4	-Public subsidies: 4.2 -taxes and contrib: 1.1 -others: 0.1	-creation/prod: 3.8 -distribution: 0.2 -exploitation: 0.1 -promotion: 0.1 -others: 1.2	
Finland	28.9	-Public subsidies: 1.3 -taxes and contrib: 0 -others: 27.6	-creation/prod: 19.6 -distribution: 1.5 -exploitation: 2.6 -promotion: 0.6 -others: 4.6	
France	610	-Public subsidies: 69.5 -taxes and contrib: 540.5 -others: 0.4	-creation/prod: 387.3 -distribution: 42.3 -exploitation: 78.7 -promotion: 27.9 -others: 73.8	-Tax credit for cinema and TV - International tax credit (so called C2I) -SOFICA (Sociétés de Financement du Cinéma) system
Germany	324.8	-Public subsidies: 180.9 -taxes and contrib: 110.9 -others: 32.9	-creation/prod: 217.6 -distribution: 39.1 -exploitation: 11.1 -promotion: 4.3 -others: 52.7	Deutscher Filmförderfonds (cash rebate programme)
Greece	5.6	-Public subsidies: 3.1 -taxes and contrib: 1.9 -others: 0.6	-creation/prod: 5.7 distribution: 0 -exploitation: 0 -promotion: 1.3 -others: 0.1	

	Funds			
	Revenues 2009 ^a	Sources of revenues, 2009	Spending by type of activity 2009	Tax incentives and cash rebates schemes (as of June 2011) ^b
Hungary	19.5	-Public subsidies: 19.2 -taxes and contrib: 0 -others: 0.3	-creation/prod: 12.5 -distribution: 3.2 -exploitation: 0 -promotion: 0 -others: 3.8	Tax rebate for cinema production
Ireland	35.8	-Public subsidies: 25.7 -taxes and contrib: 8.5 -others: 1.6	-creation/prod: 26.9 -distribution: 0.4 -exploitation: 1.5 -promotion: 0.2 -others: 6	So called "section 481" of the tax code
Italy	126.3	-Public subsidies: 123.5 -taxes and contrib: 0 -others: 3.7	-creation/prod: 100.9 -distribution: 1 -exploitation: 8.3 -promotion: 7.5 -others: 27.9	Tax credit/tax shelter for production, distribution and conversion of theatres to digital technologies
Latvia	3.4	-Public subsidies: 3.3 -taxes and contrib: 0 -others: 0.1	-creation/prod: 2.7 -distribution: 0.1 -exploitation: 0 -promotion: 0.2 -others: 0.4	Riga Film Fund (cash rebate programme)
Lithuania	2.6	-Public subsidies: 2 -taxes and contrib :0 -others: 0.7	-creation/prod: 2 -distribution: 0.2 -exploitation: 0.2 -promotion: 0.1 -others: 0.1	
Luxembourg	6.5	-Public subsidies: 6.5 -taxes and contrib: 0 -others: 0	-creation/prod: 5.3 -distribution: 0.2 -exploitation: 0 -promotion: 0.1 -others: 0.9	Audiovisual Investment Certificate(CIAV) system
Malta	-	-Public subsidies:- -taxes and contrib:- -others:-	-creation/prod:- -distribution:- -exploitation:- -promotion:- -others:-	-Tax credit -cash rebate programme
Netherlands	70.6	-Public subsidies: 43.9 -taxes and contrib: 24.1 -others:2.5	-creation/prod: 59.9 -distribution: 1.1 -exploitation: 0.1 -promotion: 0.1 -others: 9.4	
Poland	35.6	-Public subsidies: 5.1 -taxes and contrib: 26.5 -others: 3.9	-creation/prod: 22.8 -distribution: 1.1 -exploitation: 0.9 -promotion: 2 -others: 8.8	
Portugal	34.6	-Public subsidies: 9.7 -taxes and contrib: 23.9 -others: 0.9	-creation/prod: 8.4 -distribution: 0.3 -exploitation: 0.2 -promotion: 0 -others: 25.7	
Romania	7.5	-Public subsidies: -taxes and contrib: -others:	-creation/prod: -distribution: -exploitation: -promotion: -others:	

	Funds			Tax incentives and cash rebates schemes (as of June 2011) ^b
	Revenues 2009 ^a	Sources of revenues, 2009	Spending by type of activity 2009	
Slovakia	4.3	-Public subsidies: 4.2 -taxes and contrib: 0 -others: 0.1	-creation/prod: 3.4 -distribution: 0.1 -exploitation: 0 -promotion: 0 -others: 0.8	
Slovenia	4.3	-Public subsidies: 4.2 -taxes and contrib: 0 -others: 0.1	-creation/prod: 4.3 -distribution: 0 -exploitation: 0.2 -promotion: 0.3 -others: 0.4	
Spain	145.3	-Public subsidies: 143.6 -taxes and contrib: 0.2 -others: 1.4	-creation/prod: 101.3 -distribution: 4.9 -exploitation: 0.2 -promotion: 9.1 -others: 29.8	Tax rebate for production companies constituted as Agrupamiento de Interès Economico
Sweden	75.9	-Public subsidies: 48.7 -taxes and contrib: 20.6 -others: 6.3	-creation/prod: 43 -distribution: 3.6 -exploitation: 2.2 -promotion: 0.8 -others: 26.33	
United Kingdom	139.9	-Public subsidies: 83.4 -taxes and contrib: 0.9 -others: 55.4	-creation/prod: 54.7 -distribution: 3.7 -exploitation: 3 -promotion: 1 -others: 87.5	Tax rebate for cinema
EU-27	1,882	-Public subsidies: 930.7 -taxes and contrib: 797.6 -others: 146.6	-creation/prod: 1,222.5 -distribution: 112.5 -exploitation: 113.7 -promotion: 60.8 -others: 369.5	

a Including infra-national level funds.

b For a more detailed, though non-exhaustive description of those tax incentives and cash rebates schemes, see box "focus 4 tax incentives measures in Europe, an overview" in Chapter 3 of "public funding for films and audiovisual works in Europe", Susan Newman-Baudais, European Audiovisual Observatory, 2011.

Source: Public funding for films and audiovisual works in Europe", Susan Newman-Baudais, European Audiovisual Observatory 2011, re-compiled by the Secretariat.

4.108. Moreover, most member States maintain some sort of public funding for public service broadcasting. In 2009 the Commission adopted a communication on the application of state aid rules to public services broadcasters in the light of new technological developments, including the multiplication of distribution platforms and technologies.⁶⁷ This communication requires the administration of an *ex ante* test in the form of a public consultation held by the member State concerned in order for it to assess the impact of a new service on the market and to balance against its value for society, and prevent distortions of competition with private operators.

4.3.3 Distribution services

4.3.3.1 Statistical overview

4.109. In 2011, wholesale and retail trade accounted for 11.2% of GDP in the EU and for 14.8% of total employment, making it one of the largest services sectors of the EU economy. In 2011 retail trade turnover reached €5.96 trillion and 4.6% of GDP in the European Union. Employment in the sector accounted for nearly 33 million jobs.

⁶⁷ Com (2009).C257/01 of 2 July 2009 final, for the full text of the communication see: [http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52009XC1027\(01\)&from=EN](http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52009XC1027(01)&from=EN).

4.110. These global figures cover somewhat different situations among the member States. For instance, in 2011 the contribution of retail services to GDP varied from 2.9% in Luxembourg or 3.4% in Germany to 4.9% in Cyprus, with many member States situated around the EU average (then 3.5%).

4.111. The growth rate of the sector also varies with the general economic situation of the member States and with the degree of maturity of the distribution sector. Productivity, and hence employment, also exhibit significant differences: employment in retailing and wholesaling represents a maximum of 18% of employment in Greece; and as little as 11% in Finland.

4.112. In terms of structure, EU grocery sales represent around 50% of the retail sector throughout the EU. In the non-grocery sector, home furniture is the leading category with 11% of total retail sales, followed by health and beauty (including pharmacy) with 9%, and clothing and footwear with 8%. E-commerce is growing fast, but from very low initial levels: the size of the e-commerce market more than doubled between 2009 and 2014 (+119%); but, while it represents an increasing share of the EU retail market, this proportion remains low (6.7% of the overall retail market in 2014 against 3.2% in 2009).⁶⁸ It is nevertheless significant for specific segments such as books, music, second-hand items, and travel. There is also an emerging tendency towards multi-channel retailing using both internet and physical outlets in variable combinations (e.g. the "drive" system for grocery sales).

4.113. The tables and charts below provide the main economic indicators for the distribution services sector, notably in terms of Foreign Affiliates Trade in Services (i.e. of sales by subsidiaries of foreign companies in the EU for inwards FATS, and sales by subsidiaries of EU companies abroad for outward FATS), inward and outward foreign investment, value added, and employment in Table 4.22, and main trading partners in Chart 4.6 and Table 4.23.

Table 4.22 Wholesale and retail trade; repair of motor vehicles and motorcycles main economic indicators, 2010-12^a

	2010	2011	2012
Foreign affiliates sales/turnover^b			
Inward: € in billion	1,000 ^c	1,156	
Outward: € in billion	757	881	..
FDI^d			
Inward (€ in billion)			
Position	504	561	..
Financial transactions	30	27	..
Outward (€ in billion)			
Position	419	547	..
Financial transactions	26	18	..
Inward (% of GDP)			
Position	4.1	4.4	..
Financial transactions	0.2	0.2	..
Outward (% of GDP)			
Position	3.4	4.3	..
Financial transactions	0.2	0.1	..
Value-added (% of value-added of total economy)	11.1	11.2	11.2
Employment^d			
In 1,000	33,011	33,179	32,996
Share in total employment (%)	14.8	14.8	14.8
Share in total employment in services (%)	20.8	20.7	20.6

.. Not available.

a Classified by ISIC, Rev.4 activities. Includes wholesale and retail sale (i.e. sale without transformation) of any type of goods and the rendering of services incidental to the sale of these goods. Wholesaling and retailing are the final steps in the distribution of goods.

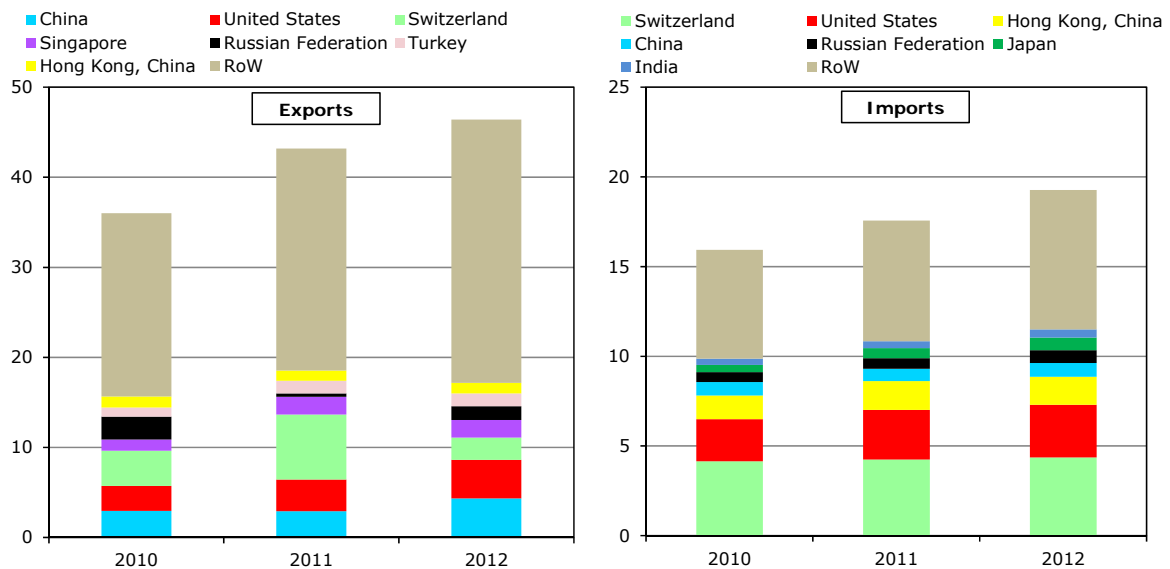
⁶⁸ Source: Euromonitor database.

- b FATS inward refers to the sales by foreign affiliates which are located in the EU(28) and are controlled by non-EU(27) entities. FATS outward refers to the sales of affiliates which are established outside the EU(28) and are controlled by EU(27) entities.
- c Estimate.
- d Refers to EU27.

Source: WTO estimates based on Eurostat data (through the ITIP, Integrated Trade Intelligence Portal, services statistics module). Viewed at: <https://i-tip.wto.org/services/Search.aspx>; and information provided by the authorities.

Chart 4.6 EU-28 major extra-EU trading partners of merchanting and other trade-related services

(€ billion)



Source: WTO-UNCTAD-ITC trade in services database, based on OECD, IMF, EUROSTAT, UNSD and national data, July 2014.

Table 4.23 EU-28 major extra-EU trading partners of merchanting and other trade-related services^a, 2012

(€ million and % of total)

Exports			Imports		
Partner	€ million	% of total	Partner	€ million	% of total
Extra-EU	46,417	100.0	Extra-EU	19,266	100.0
China	4,359	9.4	Switzerland	4,356	22.6
United States	4,266	9.2	United States	2,943	15.3
Switzerland	2,452	5.3	Hong Kong, China	1,563	8.1
Singapore	1,980	4.3	China	757	3.9
Russian Federation	1,502	3.2	Russian Federation	727	3.8
Turkey	1,430	3.1	Japan	697	3.6
Hong Kong, China	1,170	2.5	India	462	2.4
Canada	1,166	2.5	Singapore	385	2.0
Nigeria	1,076	2.3	Norway	344	1.8
India	1,065	2.3	Korea, Republic of	323	1.7

- a Merchanting and commissions of agents, commodity brokers etc. Most distribution services are not covered, e.g. for goods the service margin is covered in the value of goods traded. Merchanting is defined as the purchase of a good by a resident merchant from a non-resident and the subsequent resale of the good to another non-resident. This can result in negative results (i.e. when the value of the good sold is lower than the initial purchase price by the merchant).

Source: WTO-UNCTAD-ITC trade in services database, based on OECD, IMF, EUROSTAT, UNSD and national data, July 2014.

4.114. The sector is characterized by the growing importance of large corporations. In the most mature EU 15 retail market, the eight biggest companies account for between 50% and 80% of the national grocery retail market. The retail market for durable goods (electronics and household appliances) is also characterized by relatively high concentration, with the five largest multinational operators accounting for one third of the market. In the clothing and fashion retail market there are marked differences among member States. In the United Kingdom and in Nordic countries the combined market shares of large clothing retailers is well above 80% while in the southern member States, it stands at about 40%. The decline in the share of traditional small independent retailers is a common phenomenon across the EU, in particular in the grocery sector. A vertical integration tendency coexists with horizontal concentration: wholesale, sourcing and logistics function are increasingly integrated with retail so as to benefit from the efficiencies associated with centralized distribution and the benefits of economies of scale in purchasing. This has allowed distributors to reap the benefits of globalization by increasingly sourcing abroad. This phenomenon concerns not only the large distributors (which have formed buying groups at European level to increase their leverage in prices negotiations) but also smaller retailers that have grouped together in franchise networks. Downstream vertical integration touches areas such as design (e.g. for fashion retail where orders are adjusted immediately in function of the demand expressed in test shops), and private labels where distributors sell goods under their own brand. International developments within and outside EU, as shown in the outward FDI statistics above, is also a major trend as well as diversification into other sectors, such as financial services, travel, mobile phone, and even energy.

4.3.3.2 Regulatory framework

4.115. Distribution services are essentially regulated at the member State level by a mix of regulation at the national level (labour laws, competition, establishment rules, zoning) and of local, mostly municipal, rules (in particular on establishment and zoning). There is also an EU-wide level of regulation beyond the traditional area of competition, as retail, being a service, falls within the ambit of the Services Directive. The general prohibition of economic needs tests and the principles relating to authorization procedures and criteria established by the 2006 Services Directive⁶⁹ have been of particular relevance for the retail sector. The transposition of the Services Directive was finalized in 2009 and it fully benefits third country retailers provided they are established within the EU.

4.116. The Communication on the implementation of the Services Directive⁷⁰ indicated that the absolute prohibition contained in Article 14(5) does not concern planning requirements that serve overriding reasons relating to the public interest. Sometimes these planning requirements take into account economic data such as demand and supply figures. In those cases, the use of economic data and criteria can be justified if the restrictions are necessary and proportionate.

4.117. Therefore the qualification as an economic needs test within the meaning of Article 14(5) needs to be carefully assessed. It cannot apply automatically to all requests for economic data. The Commission is currently engaged in a peer review with the member States which aims to establish best practices in retail establishment. "Competition tests" aimed at assessing local market shares can also be found in various forms. Those competition tests have to abide by the rules set by Article 10(2) of the Directive whereby all the criteria for granting an authorization should be non-discriminatory, justified by an overriding economic reason relating to the public interest, be proportionate to the public interest objective, and be based on objective criteria made public in advance. Some member States provide for national rules or guidelines for those criteria whereas in other member States these are defined at regional or even local level. Concerning the scope of regulations, some apply only to certain submarkets or foresee different provisions according to the relevant retail submarket. Therefore, some authorization schemes or attributions of building permits apply only to retail outlets above a certain threshold specified in square metres but then have derogations, such as for "do-it-yourself" (DIY) shops or garden centres.

⁶⁹ Article 14 paragraph 5 for the prohibition of economic needs test and article 10 paragraph 2 for the authorization conditions of Directive 2006/123 of 12 December 2006 on Services in the Internal Market", so-called "Services Directive, for the full text of the Directive see: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2006:376:0036:0068:fr:PDF>.

⁷⁰ Com (2012) 262 final, dated 8 June 2012, Communication on the Implementation of the Services Directive, a Partnership for New Growth in Services 2012-2015. Viewed at: http://ec.europa.eu/internal_market/services/docs/services-dir/implementation/report/COM_2012_261_en.pdf.

4.118. According to the Commission, while the Services Directive has contributed to simplifying authorization procedures, their complexity, their length and their cost still varies between and within member States. Similarly while the Services Directive has ensured that applications are dealt with more objectively, there are still problems in practice at local level.

4.119. At national level, member States generally provide for different types of authorizations for the opening of retail outlets. Some relate to the compliance of the premises with defined requirements or are linked to the sale of certain products (food, alcohol, tobacco, etc.) others are directly linked to the retail activity. As far as the type of authorization is concerned, two groups of member States can be distinguished: on the one hand, member States such as Germany, Ireland, the Netherlands, Poland, Slovakia, and Slovenia, that rely on general planning provisions and building permits, and which at times resort to partnerships between private investors and public authorities, and, on the other hand, member States such as Romania, Italy, Austria, Belgium, Spain, France, and Greece which apply, in addition to the planning provisions/and building permits, a specific prior authorization procedure to establish retail outlets. There are further differences within these two groups and priorities may vary: the protection of the environment, the vitality of city centres, diversity of offers etc.

4.120. Secondly, regarding distance selling, there is a specific legal framework both at national and EU levels, the latter paying particular attention to cross-border provision of distribution services. A number of Directives have set up a general framework for EU consumer protection based on minimum harmonization with the aim of enhancing consumer confidence also in distance and direct selling, including e-commerce.⁷¹ Specific rules for distance and direct selling are laid down in the Consumer Rights Directive (2011/83/EU), which provides common rights for consumers and establishes common obligations for retailers throughout Europe for these sales channels. This Directive became applicable in June 2014 and has been transposed in all member States. As a result, the member States' national legislation may diverge from the Directive only where this is specifically authorized.

4.121. As regards e-commerce in particular, the Directive on electronic commerce⁷² sets down common rules on the establishment, information requirements, commercial communications, liability of intermediaries, and pre-contractual requirements necessary for the starting up and development of cross-border information society services as well as applying the country of origin control principle. It is worth noting that the country of origin principle does not apply to contractual obligations in consumer contracts and the e-commerce Directive does not cover the issue of differing national taxation regimes or the other main obstacles to cross-border retailing of physical goods.

4.122. Outstanding hindrances to the internal market have been identified by the Commission as undermining cross-border online trade and this will be a core issue for the DSM (Digital Single Market) package which is one of the Commission's top ten policy objectives, as laid out in the Commission's 2015 Work Programme.⁷³

4.123. Another set of rules which can have an impact on retailers' establishment strategies and their capacity to survive and perform in terms of accessibility and affordability concern independent retailers' networks. The possibility for independent retailers to be organized into networks is often crucial. In order to survive, they may need to be able to join or be organized into groups (such as cooperative or franchise groups) that have upstream purchasing power. Networks can be developed both at the national and EU level (for example buying groups of small retailers). There is no specific harmonization of the creation and running of distribution networks at Union level. However, since the organization of non-integrated retailers' networks is based on a series of cooperation agreements between independent retailers (e.g. cooperatives) or between retailers and suppliers (e.g. franchise networks), they can fall within the scope of European or national

⁷¹ Directive 93/13/EEC of 5 April 1993 on unfair terms in consumer contracts; Directive 1999/44/EC of the European Parliament and of the Council of 25 May 1999 on certain aspects of the sale of consumer goods and associated guarantees; Directive 98/6/EC of the European Parliament and of the Council of 16 February 1998 on consumer protection in the indication of the prices of products offered to consumers.

⁷² Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market (Directive on electronic commerce), OJEC 17.7.2000, L178/1, for the full text of the directive see: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32000L0031:en:HTML>.

⁷³ Commission Work Programme 2015 - A New Start, COM(2014) 910 final.

competition rules. In fact, the importance and specificity of these distribution networks have been recognized by European competition rules applicable to horizontal and vertical agreements through the elaboration of Block Exemption Regulations and Guidelines as described in more detail in the competition policy section.

4.124. On 31 January 2013, the Commission adopted its European Retail Action Plan (ERAP).⁷⁴ The Plan describes the challenges faced by the sector (financial crisis, ageing population, development of e-commerce, sustainability challenges and remaining regulatory barriers to a better functioning of the internal market) and suggests a series of actions, mostly of a non-legislative nature, to address these challenges: how to improve consumer access to transparent and reliable information; tackling business to business unfair practices in the food supply chain; identification of best practices in retail establishment; a zero-tolerance policy for member States' restrictions clearly infringing the Services Directive; assessing the feasibility of creating a database on all EU and national level labelling rules and requirements; sustainability; innovation; promoting cards; internet and mobile payments in order to ensure better market integration; and encouraging retailers training and re-skilling policies. Based on the ERAP the Commission has launched a series of consultations with stakeholders and intends to report on the state of implementation of the ERAP in the course of 2015.

4.125. Following the ERAP and its consultation on unfair trading practices, in July 2014 the Commission adopted a green paper on Communication on Tackling unfair trading practices in the business-to-business food supply chain.⁷⁵ The Communication suggests actions for market participants and member States. In particular, the Communication calls on member States to assess the effectiveness of their mechanisms for the enforcement of rules against unfair trading practices.⁷⁶

4.126. In line with the ERAP, a High Level Group of Retail Competitiveness has been set up to advise the Commission on retail policy. It is composed of a wide range of stakeholders in the retail chain.⁷⁷

4.127. Regarding international obligations of the EU for trade in distribution services, the GATS commitments of the EU are substantial and cover all types of distribution as well as virtually all products. Nevertheless, they contain a certain number of restrictions by member States, notably on specific products such as tobacco, firearms, and pharmaceuticals as well as on establishment procedures. To a large extent, the Services Directive has had a positive effect *erga omnes* which is in turn largely reflected in posterior FTAs concluded by the EU⁷⁸ as evidenced by the indexes contained in the WTO Staff Working Paper "Services Trade in Preferential Trade Agreements, a Dataset" which are of 72 (on 100 possible points) for GATS commitments in distribution services and of 88 for the best FTA signed by the EU.⁷⁹

4.3.4 Financial services

4.128. During the period under review the European Union has pursued the adoption and discussion of the large-scale packages of legislative proposals that the Commission had formulated in the aftermath of the financial crisis and that were described in detail in the previous Review,

⁷⁴ Commission (2013), *Setting up a European Retail Action Plan*, Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee on the Regions; COM(2013)36 final.

⁷⁵ Commission (2014), *Tackling unfair trading practices in the business-to-business food supply chain*, Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee on the Regions, COM(2014) 472 final.

⁷⁶ See also the report commissioned by the European Commission: EY, Cambridge Econometrics Ltd, Arcadia International (2014), *The economic impact of modern retail on choice and innovation in the EU food sector*, September, Publications of the EU, Luxembourg.

⁷⁷ Commission online information. Viewed at: <http://ec.europa.eu/transparency/regexpert/index.cfm?do=groupDetail.groupDetail&groupID=2970&NewSearch=1&NewSearch=1&Lang=EN>.

⁷⁸ For a detailed description of EU commitments in distribution services both under the GATS and in FTAs see the I-tip services database [https://i-tip.wto.org/services/\(S\(jq1in3tsyictjkqgvze3txbu\)\)/default.aspx](https://i-tip.wto.org/services/(S(jq1in3tsyictjkqgvze3txbu))/default.aspx).

⁷⁹ For more information on this dataset see: http://www.wto.org/english/tratop_e/serv_e/dataset_/dataset_e.htm.

together with structure of the sector.⁸⁰ During the review period for this report, the Commission has complemented these packages with new proposals, some of which have already been adopted.

4.129. The Commission groups these new regulations, directives and drafts in three pillars: the first pillar aimed at building new rules for the global financial system; the second pillar aimed at establishing a safer, responsible, and growth-enhancing financial sector in Europe; and the third pillar working towards the completion of the Banking Union to strengthen the euro.

4.3.4.1 Legislations aimed at building new rules for the global financial system

4.130. Under the first pillar the Commission includes Regulation (EU) No. 648/2012 on over-the-counter (OTC) derivatives, central counterparties and trade repositories (the European Market Infrastructure Regulation (EMIR)). The objectives of EMIR are to increase transparency in the OTC derivatives market, and to make it safer by reducing counterparty credit risk and operational risk. To increase transparency, the new rules require that (i) detailed information on OTC derivative contracts entered into by EU financial and non-financial firms be reported to trade repositories and made accessible to supervisory authorities, and (ii) trade repositories publish aggregate positions by class of derivatives accessible to all market participants. In the course of the negotiations, the scope of the proposal was widened to cover the reporting of both listed (i.e. non-OTC) and OTC derivatives. To reduce counterparty credit risk, the new rules introduce (i) stringent prudential rules (e.g. how much capital they need to possess), organizational (e.g. role of risk committees), and conduct of business standards (e.g. disclosure of prices) for central counterparties, (ii) mandatory central counterparties clearing for contracts that have been standardized (i.e. they have met predefined eligibility criteria), (iii) risk-mitigation standards for contracts not cleared by a CCP (e.g. exchange of collateral). Finally, to reduce operational risk (i.e. the risk of loss resulting from inadequate or failed internal processes, people and systems, or from external events) the proposal requires the use of electronic means for the timely confirmation of the terms of OTC derivatives contracts. This allows counterparties to net the confirmed transaction against other transactions and ensure accurate bookkeeping.

4.131. A second element of the first pillar is Directive 2014/49/EU on deposit guarantee schemes (DGS) which amends and recasts a previous directive. It ensures depositors will continue to benefit from a guaranteed coverage of €100,000 in case of bankruptcy backed by funds to be collected in advance from the banking sector. It creates, for the first time since the introduction of the guarantee scheme in 1994, financing requirements under which: the target level for *ex ante* funds of DGS has been set to 0.8% of covered deposits (i.e. about €55 billion) to be collected from banks over a 10-year period. In addition, access to the guaranteed amount will be easier and faster as repayment deadlines will be gradually reduced from the current 20 working days to 7 working days in 2024.

4.132. One of the effects of these new rules is to give EU citizens the choice of the best savings products available in any EU country without worrying about differences in the level of protection. The new Directive also requires financial institutions to provide better information to depositors to ensure that they are aware of how their deposits are protected by the guarantee schemes.

4.133. The third element of the first pillar is Regulation (EU) No. 462/2013 and Directive 2013/14/EU on credit-rating agencies (CRAs).⁸¹ The rules set out in the Regulation and Directive pursue five distinct objectives. The first objective is to reduce overreliance on credit ratings, in particular on external ratings, by requiring financial institutions to strengthen their own credit risk assessment. European supervisory authorities are requested to avoid references to external credit ratings⁸² and will be required to review their rules and guidelines and, where appropriate, to

⁸⁰ WTO document WT/TPR/S/284/Rev.2, section 4.3.1, 28 November 2013.

⁸¹ Regulation EU No. 462/2013 of the European Parliament and of the Council of 21 May 2013 amending regulation (EC) No. 1060/2009 on credit-rating agencies; Directive 2013/14/EU of the European Parliament and of the Council of 21 May 2013 amending Directive 2003/41/EC on the activities and supervision of institutions for occupational retirement provision; Directive 2009/65/EC on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS); and Directive 2011/61/EU on alternative investment funds managers in respect of over-reliance on credit ratings.

⁸² Detailed guidelines were issued in that regard, see: <https://www.eba.europa.eu/regulation-and-policy/external-credit-assessment-institutions-ecai/discussion-paper-on-the-use-of-credit-ratings-by-financial-intermediaries>

remove credit ratings where they have the potential to create "mechanistic effects". The second objective is to improve the quality of ratings of sovereign debt of EU member States. To achieve this objective and to avoid market disruption, rating agencies will set up a calendar indicating when they will rate member States and which will be limited to three per year for unsolicited sovereign ratings. Deviations remain possible in exceptional circumstances and when appropriately explained. These ratings will only be published after the close of business and at least one hour before the opening of trading venues in the EU. Furthermore, investors and member States will be informed of the underlying facts and assumptions on each rating which will facilitate a better understanding of credit ratings in member States.

4.134. The third objective of the CRA legislations is to make credit-rating agencies more accountable for their actions by holding a rating agency liable in cases where it infringes intentionally or with gross negligence the CRA Regulation, thereby causing damage to an investor or an issuer. The fourth objective is to reduce conflicts of interest due to the issuers' remuneration model. To do so the regulation introduces a mandatory rotation for some complex structured financial instruments, re-securitization, and limitations to the shareholding of rating agencies. To mitigate the risk of conflicts of interest, the new rules also require CRAs to disclose publicly if a shareholder with 5% or more of the capital or voting rights holds 5% or more of a rated entity, and prohibit a shareholder of a CRA with 10% or more of the capital or voting rights from holding 10% or more of a rated entity. To ensure the diversity and independence of credit ratings and opinions, the regulation prohibits ownership of 5% or more of the capital or the voting rights in more than one CRA, unless the agencies concerned belong to the same group (cross-shareholding). The fifth objective of the CRA legislations is the publication of ratings on a European Rating Platform in order to improve comparability and visibility of all ratings for any financial instrument rated by rating agencies registered and authorized in the EU. This is also meant to help investors make their own credit risk assessment and contribute to more diversity in the rating industry. As part of the package, the Commission will also review the situation in the rating market and report to the European Parliament and the Council with regard to the feasibility of creditworthiness assessments of sovereign debt of EU member States and a European credit rating Foundation.

4.135. The fourth element of the first pillar is the so-called "single rulebook" of prudential requirements for banks' capital, liquidity and leverage and stricter rules on remuneration and improved transparency which is contained in Regulation (EU) No. 575/2013 and Regulation (EU) No. 648/2012 (the Capital Regulation Requirement (CRR))⁸³, and Directive 2013/36/EU (CRD IV).⁸⁴ The single rulebook is essentially a transposition of the Basel III standards, but it extends them beyond the "internationally active banks" targeted by those standards, to include investment firms. In addition to the Basel III rules (better and more capital, more balanced liquidity, leverage limitations, capital requirements for derivatives and so-called counter-party credit risk and capital buffers), the package introduces a number of important changes to the banking regulatory framework. The Directive strengthens the relationship between the variable (or bonus) component of remuneration and the fixed component (or salary). From 1 January 2014 onwards, the variable component of total remuneration shall not exceed 100% of the fixed component of the total remuneration of material risk-takers so as not to reward irresponsible risk-taking. Exceptionally, and under certain conditions, shareholders may increase this maximum ratio to 200%. The Directive also strengthens the requirements with regard to corporate governance arrangements and processes and introduces new rules aimed at increasing the effectiveness of risk oversight by boards, improving the status of the risk-management function, and ensuring effective monitoring by supervisors of risk governance.

4.136. Based on the assumption that diversity in board composition should contribute to effective risk oversight by boards, providing for a broader range of views and opinion and therefore avoiding the phenomenon of group-think, the Directive introduces a number of requirements, in particular as regards gender balance. The Directive also improves transparency regarding the activities of banks and investment funds in different countries, in particular as regards profits,

⁸³ Regulation (EU) No. 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No. 648/2012.

⁸⁴ Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC.

taxes, and subsidies in different jurisdictions. This is aimed at regaining the trust of EU citizens in the financial sector. Finally, in addition to the various capital-buffers foreseen by the Basel III standards, the directive institutes two additional buffers, namely a "systemic risk buffer" and an "other systemic institution buffer".

4.137. The Regulation creates the so-called "single rulebook" i.e. the single set of harmonized prudential rules which banks throughout the EU must respect. EU heads of state and government had called for a "single rulebook" in the wake of the crisis. It is aimed at ensuring uniform application of Basel III in all member States, at closing regulatory loopholes, and thus at contributing to a more effective functioning of the internal market. The new rules remove a large number of national options and discretions from the CRD, and allow member States to apply stricter requirements only where these are justified by national circumstances (e.g. real estate), needed on financial stability grounds or because of a bank's specific risk profile.⁸⁵

4.138. The fifth element of the first pillar is the enhanced framework for securities' market and is composed of Directive 2014/65/EU on markets in financial instruments (MIFID 2)⁸⁶, and Regulation (EU) No. 600/2014 on markets in financial instruments (MIFIR).⁸⁷

4.139. The MIFID/R package first introduces a market structure framework which ensures that wherever appropriate, trading takes place on regulated platforms. It further ensures that investment firms operating an internal matching system which executes client orders in shares, depositary receipts, exchange-traded funds, certificates and other similar financial instruments on a multilateral basis must be authorized as a multilateral trading facility (MTF). It also introduces a new multilateral trading venue, the Organised Trading Facility (OTF), for non-equity instruments to trade on organized multilateral trading platforms. The neutrality of OTF operators is ensured through restrictions on the use of own-capital, including matched principal trading, and restrictions on the circumstances in which they can exercise discretion in their execution policy. Second, MIFID2 increases equity and non-equity market transparency notably by the obligation for trading venues to make pre- and post-trade data available on a reasonable commercial basis and through the establishment of a consolidated tape mechanism for post-trade data. These rules are accompanied by the establishment of an approved reporting mechanism (ARM) and an authorized publication arrangement (APA) for trade reporting and publication. Third, MIFID2 provides for strengthened supervisory powers and a harmonized position-limits regime for commodity derivatives to improve transparency, support orderly pricing and prevent market abuse.

4.140. Fourth, the MIFID/R establishes a harmonized EU regime for non-discriminatory access to trading venues and central counterparties (CCPs). Smaller trading venues and newly-established CCP will benefit from optional transition periods. Fifth, it introduces trading controls for algorithmic trading activities. These safeguards include the requirement for all algorithmic traders to be properly regulated and to provide liquidity when pursuing a market-making strategy. In addition, investment firms which provide clients with direct electronic access to a trading venue will be required to have in place systems and risk controls to prevent trading by clients that may contribute to a disorderly market or involve market abuse. Sixth it provides for reinforced investor protection achieved by introducing better organizational requirements, such as client-asset-protection or product-governance, which also strengthens the role of management bodies. The new regime also provides for strengthened conduct rules such as an extended scope for the appropriateness tests and reinforced information to clients. Additionally, it institutes a harmonized regime of administrative sanctions. Finally, regarding access to the EU markets for firms from third countries, it institutes a harmonized regime based on an equivalence assessment of third-country jurisdictions by the Commission. The regime applies only to the cross-border provision of investment services and activities provided to professional and eligible counterparties. For a transitional period of three years and pending equivalence decisions by the Commission, national third-country regimes continue to apply.

⁸⁵ For a detailed description of the rules contained in the "single rulebook" see, for instance: <http://www.eba.europa.eu/regulation-and-policy/single-rulebook>.

⁸⁶ Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU.

⁸⁷ Regulation (EU) No. 600/2014 of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Regulation (EU) No. 648/2012.

4.141. The sixth element of the first pillar is the enhanced framework to prevent market abuse, so-called MAD/R, which is itself composed of a directive, so-called MAD⁸⁸ and of a regulation, so-called MAR.⁸⁹ This package is aimed at fighting insider-dealing and market-manipulation as well as updating and strengthening the existing rules and ensuring minimal criminal sanctions for market abuse. The scope of the market-abuse provisions is now extended to all financial instruments which are traded on organized platforms and over-the-counter, and the rules have been adapted to new technologies. They now explicitly ban the manipulation of benchmarks such as EURIBOR and LIBOR and reinforce the cooperation between financial and commodity-regulators. Sanctions foreseen are tougher and more harmonized than in the previous regulatory setting.

4.142. The seventh element of the first pillar is the Bank Recovery and Resolution Directive, BRRD.⁹⁰ It harmonizes and upgrades the tools for dealing with bank crises across the EU. Banks will be required to prepare recovery plans to overcome financial distress, while authorities will lay out plans to resolve failed banks in a way which preserves their most critical functions and avoids taxpayers having to bail them out. Authorities are granted a set of powers to intervene in the operations of banks to avoid them failing. If they do face failure, authorities are equipped by the directive with new comprehensive powers and tools to restructure them, allocating losses to shareholders and creditors following a clearly defined hierarchy.

4.143. National resolution funds are set up, to be replaced for euro Area member States by the Single Resolution Fund as of 2016. The directive sets out precise arrangements for how home and host authorities of banking groups are to cooperate in all stages of cross-border resolution, from resolution planning to resolution itself, with a strong role for the European Banking Authority to coordinate and mediate in case of disagreements. The rulebook set out in the BRRD will be further complemented by technical rules to be developed by the European Banking Authority on, for instance, concrete information requirements for recovery and resolution plans and securing accurate valuations of assets and losses at the point of resolution.

4.144. In addition to these adopted legislations, the commission has completed the first pillar by a communication on shadow banking⁹¹ and two new legislative proposals, as yet unadopted, namely a proposal on money market funds⁹² in September 2013, a regulation on structural measures improving the resilience of EU credit institutions⁹³ in January 2014 and a Proposal for a Regulation on Reporting and Transparency of Securities Financing Transactions.⁹⁴

4.3.4.2 Legislations aimed at establishing a safe, responsible and growth enhancing financial sector in Europe

4.145. The second pillar of the post-financial crisis regulatory packages is aimed at "establishing a safe, responsible and growth-enhancing financial sector in Europe", it is composed of six legislative elements adopted since the previous Review and six legislative elements as yet unadopted.

⁸⁸ Directive 2014/57/EU of the European Parliament and of the Council of 16 April 2014 on criminal sanctions for market abuse (market abuse directive).

⁸⁹ Regulation (EU) No. 596/2014 of the European Parliament and of the Council of 16 April 2014 on market abuse (market abuse regulation) and repealing Directive 2003/6/EC of the European Parliament and of the Council and Commission Directives 2003/124/EC, 2003/125/EC and 2004/72/EC.

⁹⁰ Directive 2014/59/EU of the European Parliament and of the Council of 15 April 2014 establishing a framework for the recovery and resolution of credit institutions and investment firms and amending Council Directive 82/891/EEC, and Directives 2001/24/EC, 2002/47/EC, 2004/25/EC, 2005/56/EC, 2007/36/EC, 2011/35/EU, 2012/30/EU and 2013/36/EU, and Regulations (EU) No. 1093/2010 and (EU) No. 648/2012, of the European Parliament and of the Council.

⁹¹ Communication from the Commission to the Council and the European Parliament "Shadow Banking – Addressing New Sources of Risk in the Financial Sector", COM/2013/0614 final. Viewed at: <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52013DC0614&from=EN>.

⁹² Proposal for a Regulation of the European Parliament and of the Council on Money Market Funds, COM/2013/0615 final - 2013/0306 (COD) of 4 September 2013. Viewed at: <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52013PC0615&from=EN>.

⁹³ Proposal for a Regulation of the European Parliament and of the Council on Structural Measures Improving the Resilience of EU Credit Institutions, Com (2014) 43 final of 29 January 2014. Viewed at: <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52014PC0043&from=EN>.

⁹⁴ Proposal for a Regulation of the European Parliament and of the Council on Reporting and Transparency of Securities Financing Transactions, COM(2014)040 final of 29 January 2014, viewed at: <http://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:52014PC0040&from=EN>.

4.146. The first adopted element of this second pillar is the new European supervisory framework for insurers, so-called Omnibus II⁹⁵ adopted in April 2014. The directive is called Omnibus II because an earlier Directive, known as "Omnibus I" enacted technical amendments to 11 Directives incorporating into banking and securities directives references to the European Supervisory Authorities (the European Banking Authority (EBA) and the European Securities and Markets Authority (ESMA)), thus operationalizing their powers as granted in their founding directives. Omnibus II does the same for the insurance sector, operationalizing the powers of the European Insurance and Occupational Pensions Authority (EIOPA) via changes to the Solvency II Directive.

4.147. It was decided in the course of the legislative process to also include in Omnibus II elements changing some substantive aspects of the Solvency II regime. These amendments include the provision of specific tasks for EIOPA and for ESMA. In particular, it clarifies the role of EIOPA in ensuring harmonised technical approaches for the calculation of technical provisions and capital requirements. In addition it defines the appropriate areas in which EIOPA (for Solvency II) and ESMA (for the Prospectus Directive) will be able to propose technical standards as an additional tool for supervisory convergence and a view to developing a single rulebook to ensure strengthened stability, equal treatment, lower compliance costs and to prevent regulatory arbitrage. It also details how EIOPA and ESMA will settle disagreements between national supervisors in a balanced way, in those areas where common decision-making processes or cooperation between national supervisors already exist in sectoral legislation. Furthermore, the Omnibus II Directive contains a package of measures to provide clarity on the treatment of insurance products with long-term guarantees in order to mitigate the effects of artificial volatility. These measures include: a matching adjustment, a volatility adjustment, extrapolation of the risk-free interest rate, two specific transitional measures, and extension of the recovery period. In this way the Directive ensures that the insurance industry can continue offering long-term guaranteed products.

4.148. Finally, the Omnibus II Directive also contains transitional measures in certain areas including on transitional third-country equivalence if deemed necessary to avoid market disruption and to allow a smooth transition to the new regime under Solvency II.

4.149. The second adopted element of the second pillar is the Directive on disclosure of non-financial and diversity information by large companies and groups.⁹⁶ Companies concerned will need to disclose information on policies, risks and results as regards environmental matters, social and employee-related aspects, respect for human rights, anti-corruption and bribery issues, and diversity on boards of directors. The Directive gives companies significant flexibility to disclose relevant information in the way that they consider most useful, or in a separate report. Companies may use international, European or national guidelines which they consider appropriate (for instance, the UN Global Compact, ISO 26000, or the German Sustainability Code). The new rules will only apply to large companies with more than 500 employees. This Directive also represents a first step towards the implementation of the European Council conclusions of 22 May 2013 on the need for further transparency on tax matters and for ensuring country-by-country reporting by large companies and groups.

4.150. The third adopted element of the second pillar is the Directive on the transparency and comparability of payment account fees, payment account switching and access to a basic payment account.⁹⁷ This Directive guarantees three basic rights for consumers. The first such right is the right of access to payment account: all EU consumers, without being residents of the country

⁹⁵ Directive 2014/51/EU of the European Parliament and of the Council of 16 April 2014 amending Directives 2003/71/EC and 2009/138/EC and regulations (EC) No. 1060/2009, (EU) No. 1094/2010 and (EU) No. 1095/2010 in respect of the powers of the European Insurance and Occupational Pensions Authority (EIOPA) and of the European Securities and Markets Authority. Viewed at: <http://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32014L0051&from=EN>.

⁹⁶ Directive 2014/95/EU of the European Parliament and of the Council of 22 October 2014 amending Directive 2013/34/EU as regards disclosure of non-financial and diversity information by certain large undertakings and groups. Viewed at: <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32014L0095&from=EN>

⁹⁷ Directive 2014/92/EU of the European Parliament and of the Council of 23 July 2014 on the comparability of fees related to payment accounts, payment account switching and access to payment accounts with basic features. Viewed at: <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32014L0092&from=EN>.

where the credit institution is located and irrespective of their financial situation, have a right to open a payment account that allows them to perform essential operations, such as receiving their salary, pensions and allowances or payment of utility bills etc. The second right is the comparability of payment account fees. The third is the right to switch payment account through the establishment of a simple and quick procedure for consumers who wish to switch their payment account to one with another payment service provider within the same Member State and to assist consumers who hold a payment account with a bank and want to open another account in a different country. The Directive provides for further work by the Commission to develop guidelines in order to facilitate the disclosure of non-financial information by companies, taking into account the best current practice, international developments and related EU initiatives.

4.151. The fourth adopted element of the second pillar are two Regulations on venture capital funds⁹⁸ and on European social entrepreneurship funds.⁹⁹ The Regulations create a special EU passport for all operators that invest in start-up SMEs and social businesses. Once a set of requirements is met, fund managers can market their funds to professional investors and high-net-worth individuals across the EU, without the need to be fully authorized under the Alternative Investment Fund Managers Directive. Two new fund labels were created, one for venture capital funds investing in unlisted SMEs (EuVECA), the other for funds investing in social businesses (EuSEF). Under the new rules, fund managers will need to register with the competent authority in their home member State, but will then be able to market their venture capital and social entrepreneurship funds throughout the whole of the EU.

4.152. The fifth adopted element of the second pillar is the Regulation on key information for Packaged Retail and Insurance-Based Investment Products (so-called PRIIPs).¹⁰⁰ The Regulation institutes a new pre-contractual information document for retail consumers. This document will have to be given to all retail consumers before they buy an investment product offered to them by a bank, an insurance company or an investment fund. The new information document will have to indicate what the product invests in, what its risks and potential rewards are and what total costs will come the consumers' way in the course of the product's life cycle.

4.153. The sixth and last adopted element of the second pillar is the Directive on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS V).¹⁰¹ The new rules are aimed at strengthening the protection of investors *vis-à-vis* managers of UCITS funds and their depositaries. In order to do so UCITS V first strengthens the rules on eligible entities that can act as a depositary. Only national central banks, credit institutions and regulated firms with sufficient capital and adequate infrastructure will be eligible as UCITS depositaries and will hold for safe-keeping all UCITS assets. Second, UCITS assets will be protected in the event of insolvency of the depositary through clear segregation rules and safeguards provided by the insolvency law of the member States. Third, the depositary's liability has been strengthened. The depositary will be liable for any loss of UCITS assets held in custody. Unlike under the AIFMD, this liability cannot be contractually discharged. The UCITS investors will always have the right of redress directly against the depositary and will not have to rely on the management company's ability to accomplish this task. Investors' rights are further strengthened by the prohibition for the depositaries (and their delegates) to reuse for their own account the assets held in custody. Fourth remuneration policies for all risk-takers involved in managing UCITS funds have been introduced so that remuneration practices do not encourage excessive risk-taking and instead promote sound and effective risk management. The transparency of the remuneration practices will be enhanced. The remuneration policies are in line with those in

⁹⁸ Regulation (EU) No 345/2013 of the European Parliament and of the Council of 17 April 2013 on European venture capital funds. Viewed at: <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32013R0345&from=EN>.

⁹⁹ Regulation (EU) No 346/2013 of the European Parliament and of the Council of 17 April 2013 on European social entrepreneurship funds, viewed at : <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32013R0346&from=EN>.

¹⁰⁰ Regulation 1286/2014 of the European Parliament and of the Council of 26 November 2014 on key information for Packaged Retail and Insurance-based Investment Products. Viewed at : http://www.fktk.lv/texts_files/3_Regulation_1286_2014_PRIIPs.pdf.

¹⁰¹ Directive 2014/91/EU of the European Parliament and of the Council of 23 July 2014 amending Directive 2009/65/EC on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS) as regards depositary functions, remuneration policies and sanctions. Viewed at: <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32014L0091&from=EN>.

the Alternative Investment Fund Managers Directive. Finally, the fifth Directive strengthens the existing regime to ensure effective and harmonised administrative sanctions. The use of criminal sanctions is framed so as to ensure the cooperation between authorities and the transparency of sanctions. A harmonized system of strengthened cooperation will improve the effective detection of breaches of UCITS rules, including secure communication channels for the reporting of such breaches ("whistleblowing").

4.154. The Commission has completed the second pillar package by six new proposals as yet unadopted.

4.155. The first unadopted proposal is a July 2012 revised insurance mediation directive proposal, so called IMD.¹⁰² The goal of the proposal is to upgrade consumer protection in the insurance sector by creating common standards across insurance sales and ensuring proper advice.

4.156. The second unadopted element of the second pillar is a February 2013 proposal for a strengthened regime on anti-money-laundering composed of one draft directive on the prevention of the use of the financial system for the purpose of money-laundering and terrorist-financing¹⁰³ and of a draft regulation on information accompanying transfers of funds.¹⁰⁴ It is worth noting that the co-legislators reached political agreement on both the Directive and the Regulation on 16 December 2014. According to the Commission both proposals fully take into account the latest Recommendations of the Financial Action Task Force (FATF), the world anti-money-laundering body, and go further in a number of fields. They provide for a more targeted and focused risk-based approach.

4.157. The third unadopted element of the second pillar is a June 2013 proposal of regulation on long-term investment funds.¹⁰⁵ Political agreement was reached by the co-legislators on this text at the end of December 2014. It will provide for a new investment fund framework designed for investors who want to put money into companies and projects for the long-term.

4.158. The fourth unadopted element of the second pillar is two July 2013 legislative proposals for revised rules on innovative payments services, a draft regulation on interchange fees for card-based payment transactions¹⁰⁶ and a draft directive on payment services in the internal market.¹⁰⁷ The draft revised Payment Services Directive (PSD) facilitates and renders more secure the use of low cost internet payment services by including within its scope new so-called payment initiation services. These are services that operate between the merchant and the purchaser's bank, allowing for cheap and efficient electronic payments without the use of a credit card.

4.159. The draft regulation on interchange fees, for its part, would introduce maximum levels of interchange fees for transactions based on consumer debit and credit cards and ban surcharges on these types of cards. Surcharges are the extra charge imposed by some merchants for the payment by card and are common notably for purchases of airline tickets.

4.160. The fifth unadopted element of the second pillar is a September 2013 proposal for a regulation of financial benchmarks such as LIBOR and EURIBOR.¹⁰⁸ This proposal is aimed at

¹⁰² Proposal for a Directive of the European Parliament and of the Council on Insurance Mediation (recast), COM(2012)0360 final of 3 July 2012. Viewed at: <http://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:52012PC0360&from=EN>.

¹⁰³ COM (2013) 045 final of 5 February 2013. Viewed at: <http://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:52013PC0045&from=EN>.

¹⁰⁴ COM(2013) 044 final of 5 February 2013. Viewed at: <http://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:52013PC0044&from=EN>.

¹⁰⁵ COM (2013) 0214 of 26 June 2013. Viewed at: <http://eur-lex.europa.eu/legal-content/FR/TXT/PDF/?uri=CELEX:52013PC0462&from=EN>.

¹⁰⁶ Proposal for a Regulation of the European Parliament and of the Council on Interchange Fees for Card-Based Payment Transactions, COM (2013) 0550 final of 24 July 2013. Viewed at: <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52013PC0550&from=EN>.

¹⁰⁷ COM (2013) 0547 final of 24 July 2013, Proposal for a Directive of the European Parliament and of the Council on Payment Services in the Internal Market and amending Directives 2002/65/EC, 2013/36/EU and 2009/110/EC and repealing Directive 2007/64/EC. Viewed at: <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52013PC0547&from=EN>.

¹⁰⁸ COM (2013) 0641 final of 18 September 2013 Proposal for a Regulation of the European Parliament and of the Council on Indices Used as Benchmarks in Financial Instruments and Financial Contracts. Viewed at: <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52013PC0641&from=EN>.

restoring confidence in the integrity of benchmarks. A benchmark is an index (statistical measure), calculated from a representative set of underlying data, that is used as a reference price for a financial instrument or financial contract or to measure the performance of an investment fund.

4.161. Finally the last unadopted element of the second pillar is constituted by two proposals made in March 2014. The first is aimed at the long-term financing of the European economy¹⁰⁹ and is not yet formalized into a legislative proposal. The second is a draft Directive on revised rules for occupational pension funds.¹¹⁰

4.3.4.3 Legislations aimed at completing the Banking Union to strengthen the Euro

4.162. Finally, the third and last pillar of the post-financial crisis legislative agenda of the Commission is geared at completing the banking union to strengthen the euro. It is composed of two elements both of which have been adopted by the Parliament and the Council and entered into force, namely the Single Supervision Mechanism (SSM) and the Single Resolution Mechanism (SRM).

4.163. The Single Supervision Mechanism is contained in two Regulations, Regulation EU 1024/2013 of 15 October 2013 Conferring Specific Tasks on the European Central Bank (ECB) concerning Policies Relating to the Prudential Supervision of Credit Institutions¹¹¹ and Regulation EU 1022/2013 of 22 October 2013 amending Regulation 1093/2010 establishing a European Supervisory Authority (European Banking Authority-EBA).¹¹² The SSM entered into force on 4 November 2014. The establishment of the SSM together with a common bank resolution mechanism, underpinned by a single rulebook, is a first step towards a banking union. The SSM applies to all the euro area member States and is open to the participation of other member States who wish to embark on a path of deeper integration for supervision. Non-euro area member States may decide to join the SSM by establishing a close cooperation between their competent authorities and the ECB. In that case they may, on an equal footing with the euro-area member States, participate in the activities of the newly-created Supervisory Board which is in charge of planning and executing the supervisory tasks conferred upon the ECB.

4.164. The Regulation confers key supervisory tasks and powers to the ECB over all the credit institutions established within the euro area. The ECB carries out its tasks within an SSM composed of the ECB and competent national authorities. Within the SSM, the ECB will be responsible for the supervision of all 6000 banks of the euro area. In particular the ECB shall ensure the coherent and consistent application of the Single rulebook in the euro area. The ECB will directly supervise banks having assets of more than €30 billion or constituting at least 20% of their home country's GDP or which have requested or received direct public financial assistance from the EFSF (European Financial Stability Facility) or the ESM. The ECB will monitor the supervision by national supervisors of less significant banks. The ECB may at any moment decide to directly supervise one or more of these credit institutions to ensure consistent application of high supervisory standards. The work of national supervisors is integrated into the SSM: for instance, the ECB will send instructions to national supervisors, and national supervisors have a duty to notify the ECB of supervisory decisions of material consequence. The governance structure of the ECB will consist of a separate Supervisory Board supported by a steering committee, the ECB Governing Council, and a mediation panel to solve disagreements that may arise between competent national authorities and the Governing Council. Clear separation between the ECB's monetary tasks and supervisory tasks is fully ensured. For cross-border banks active both within and outside member States participating in the SSM, existing home/host supervisor coordination procedures will continue to exist as they do today. To the extent that the ECB has taken over

¹⁰⁹ COM (2014) 0168 of 27 March 2014, Communication from the Commission to the European Parliament and the Council on Long-Term Financing of the European Economy. Viewed at: <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52014DC0168&from=EN>.

¹¹⁰ COM (2014) 0167 final of 27 March 2014, proposal for a Directive of the European Parliament and of the Council on the Activities and Supervision of Institutions for Occupational Retirement Provision-IORP-(recast). Viewed at: http://eur-lex.europa.eu/resource.html?uri=cellar:33cb1b95-b6c8-11e3-86f9-01aa75ed71a1.0002.01/DOC_1&format=PDF.

¹¹¹ OJ L 287 of 29 October 2013, for the full text of the regulation see: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2013:287:0063:0089:EN:PDF>.

¹¹² OJ L 287 of 29 October 2013, for the full text of the regulation see: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2013:287:0005:0014:EN:PDF>.

direct supervisory tasks, it will carry out the functions of the home and host authority for all participating member States.

4.165. The rules on the functioning of the EBA have been adapted and its role reinforced. The EBA will continue developing the single rulebook applicable to all member States. In order to foster consistency and efficiency of supervisory practices across the whole Union, it will develop a single supervisory handbook. It will also ensure that regular stress-tests are carried out to assess the resilience of European banks. There will be safeguards for non-euro-zone member States by means of double majority voting requirements for EBA decisions on mediation and on technical standards. This ensures that decisions are backed by both a majority of the participating and the non-participating member States. The second element of the third pillar is the Single Resolution Mechanism (SRM) which is contained in Regulation (EU) 806/2014 of 15 July 2014.¹¹³ The Single Resolution Mechanism will complement the SSM and will ensure that – notwithstanding stronger supervision – if a bank subject to the SSM faces serious difficulties, its resolution can be managed efficiently with minimal costs to taxpayers and the real economy. The SRM will apply to all banks in the euro area and other member States that opt to participate.

4.166. The division of powers of the Single Resolution Board and national resolution authorities broadly follows the division of supervisory powers between the ECB and national supervisors in the context of the SSM. The decision to resolve a failing bank will in most cases start with the ECB notifying that a bank is failing to the Board, the Commission, and the relevant national resolution authorities. The Board will then adopt a resolution scheme including the relevant resolution tools and any use of the Fund. Before the Board adopts its decision, the Commission will assess its compliance with State-aid rules. The Commission will then assess the Board's decision against the resolution objectives and either endorse or object to the resolution scheme. Only when the Commission significantly modifies the amount of resources drawn from the Single Fund or contests the public interest in resolving the bank and considers it could be put into normal insolvency instead, will this be subject to approval or objection by the Council (silence procedure). Where the Council or the Commission object to the resolution scheme, the Board will have to amend the resolution scheme. The resolution scheme will then be implemented by the national resolution authorities, in accordance with national law, including relevant provisions transposing the Bank Recovery and Resolution Directive.

4.167. The Single Resolution Fund will be constituted from contributions from all banks in the participating member States. It will be administrated by the Board. The Fund has a target level of €55 billion and can borrow from the markets if decided by the Board. It will reach the target level over eight years. During the transition, the Fund will comprise national compartments, the resources accumulated in which will be progressively mutualized, starting with 40% of these resources in the first year. The Fund and the decision-making on its use is regulated by the SRM Regulation, while the transfer of contributions raised nationally towards the Single Fund and the mutualization of the national compartments is set out in an inter-governmental agreement established among the participating member States.

4.168. Finally negotiations on a financial transaction tax are still ongoing within the specific legal framework of "enhanced cooperation" among 11 member States and the Commission.¹¹⁴

¹¹³ Regulation (EU) No. 806/2014 of the European Parliament and of the Council of 15 July 2014 Establishing Uniform Rules and a Uniform Procedure for the Resolution of Credit Institutions and Certain Investment Firms in the Framework of a Single Resolution Mechanism and a Single Resolution Fund and amending Regulation (EU) No. 1093/2010. Viewed at: <http://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32014R0806&from=EN>.

¹¹⁴ WT/TPR/S/284/Rev.2, para. 4.103 and Table 4.23, 28 November 2013.

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5 APPENDIX TABLES

Table A1.1 GDP growth rates of EU member States, 2012-14

(%)

	2012 Q1	2012 Q2	2012 Q3	2012 Q4	2013 Q1	2013 Q2	2013 Q3	2013 Q4	2014 Q1	2014 Q2	2014 Q3	2014 Q4
EU28	0.3	-0.7	-0.6	-0.9	-1.3	0.0	0.5	0.9	1.4	1.2	1.3	1.2
BEL	0.4	0.1	-0.1	0.0	-0.4	0.3	0.6	0.6	1.2	1.0	1.0	1.0
BGR	0.9	0.3	0.9	-0.1	0.2	-0.4	1.2	3.0	1.1	2.1	1.9	1.6
CZE	0.5	-1.1	-1.4	-1.1	-2.7	-1.4	0.3	0.8	2.3	2.1	2.5	1.2
DNK	0.2	-1.3	-0.2	-1.3	-1.5	-0.6	-0.2	0.3	1.2	0.4	1.1	1.3
DEU	1.5	0.3	0.1	-0.3	-1.8	0.5	0.8	1.0	2.6	1.0	1.2	1.6
EST	5.8	5.2	4.0	3.8	3.9	0.8	0.3	1.7	0.5	2.3	2.4	3.0
IRL	0.9	-2.6	-0.7	1.1	0.3	-0.2	1.8	-1.2	4.0	7.3	3.5	..
GRC	-7.8	-7.7	-6.3	-4.4	-5.8	-4.2	-2.6	-3.1	-0.5	0.3	2.0	1.2
ESP	-1.7	-1.9	-2.2	-2.5	-2.9	-1.5	-0.5	-0.1	0.7	1.1	1.7	2.1
FRA	0.9	0.0	0.3	0.1	-0.8	0.5	0.7	0.6	0.7	0.1	0.3	0.4
HRV	-1.3	-2.9	-2.0	-2.5	-1.8	-0.5	-0.5	-1.1	-0.6	-0.8	-0.5	0.3
ITA	-2.1	-3.4	-3.0	-2.5	-2.8	-2.1	-0.9	-0.9	-0.1	-0.5	-0.4	-0.6
CYP	-1.3	-2.4	-2.2	-3.6	-5.4	-6.0	-5.0	-4.9	-3.4	-1.7	-2.1	-2.0
LVA	8.8	4.3	3.7	3.4	3.1	4.6	4.6	4.5	2.8	2.3	2.4	2.1
LTU	3.9	2.0	5.1	4.3	3.1	3.7	3.0	3.3	3.3	3.4	2.7	2.4
LUX	-2.0	0.7	-0.4	0.9	2.0	2.4	2.7	1.0	2.5	1.3	4.0	..
HUN	-0.4	-1.4	-1.5	-2.5	-0.7	1.2	2.2	3.2	3.8	4.1	3.3	3.4
MLT	0.5	3.9	2.2	3.3	2.4	3.9	2.1	2.5	3.2	3.3	3.7	4.0
NLD	-1.5	-1.2	-1.9	-1.7	-1.8	-1.4	-0.6	1.0	0.0	1.1	1.0	1.0
AUT	1.3	0.2	0.5	1.6	-0.5	0.0	0.4	0.9	0.5	0.6	0.4	-0.2
POL	3.9	2.2	1.7	-0.3	0.3	1.1	2.6	2.4	3.7	3.3	3.4	2.9
PRT	-2.7	-3.5	-3.5	-3.5	-3.8	-1.4	-1.1	0.9	0.7	1.0	1.5	0.4
ROU	0.2	2.1	-0.5	0.8	2.1	1.4	4.2	5.2	4.1	1.6	3.3	2.6
SVN	-0.4	-3.5	-3.1	-3.4	-4.5	-1.3	-0.3	2.1	2.1	2.9	3.2	2.4
SVK	2.5	2.1	1.7	0.3	0.9	1.3	1.5	2.0	2.3	2.6	2.4	2.4
FIN	0.6	-1.2	-1.8	-3.1	-3.6	-1.2	-0.4	-0.1	0.1	-0.4	0.0	-0.1
SWE	0.4	-0.2	-1.1	-0.3	0.4	0.8	1.4	2.5	1.7	1.9	2.3	2.7
GBR	1.6	0.6	0.9	-0.4	0.3	2.2	1.5	2.6	2.1	3.5	2.5	2.0

.. Not available.

Note: Year-on-year rate. Including provisional figures.

Source: Eurostat online database. Viewed at: <http://ec.europa.eu/eurostat/data/database>.

Table A1.2 GDP growth and components contributions, 2008-14

(%age point)

		2008	2009	2010	2011	2012	2013	2014
EU28	GDP	0.5	-4.4	2.1	1.7	-0.5	0	1.3
	Private consumption	0.2	-0.8	0.5	0.2	-0.4	-0.1	0.8
	Public consumption	0.5	0.4	0.2	0.0	0.0	0.0	0.2
	Investment	-0.1	-2.7	0.0	0.4	-0.5	-0.3	0.4
	Net exports	0.2	-0.1	0.4	0.9	1.1	0.4	-0.1
Belgium	GDP	1.0	-2.6	2.5	1.6	0.1	0.3	1.0
	Private consumption	0.9	0.1	1.4	0.3	0.4	0.2	0.5
	Public consumption	0.6	0.3	0.3	0.2	0.3	0.3	0.2
	Investment	0.7	-1.8	0.0	0.9	0.0	-0.5	0.8
	Net exports	-1.3	-0.3	0.5	-0.3	0.1	0.8	0.5
Bulgaria	GDP	5.8	-5.0	0.7	2.0	0.5	1.1	1.7
	Private consumption	2.5	-4.2	0.3	1.1	2.4	-1.5	0.9
	Public consumption	-0.2	-1.3	0.3	0.3	-0.2	0.4	0.3
	Investment	6.3	-5.8	-5.3	-1.1	0.4	0.0	0.5
	Net exports	-2.2	9.6	5.4	1.4	-2.3	2.6	-0.6
Czech Republic	GDP	2.7	-4.8	2.3	2.0	-0.8	-0.7	2.0
	Private consumption	1.3	-0.3	0.5	0.1	-0.9	0.2	0.7
	Public consumption	0.2	0.6	0.1	-0.6	-0.2	0.4	0.3
	Investment	0.8	-2.9	0.4	0.3	-0.8	-1.1	0.8
	Net exports	0.8	0.5	0.5	1.9	1.3	0.0	-0.1
Denmark	GDP	-0.7	-5.1	1.6	1.2	-0.7	-0.5	1.0
	Private consumption	0.2	-1.6	0.4	0.1	0.2	0.0	0.2
	Public consumption	0.8	0.8	0.4	-0.4	0.0	-0.1	0.3
	Investment	-0.8	-3.3	-0.8	0.1	0.1	0.2	0.4
	Net exports	-0.4	1.2	0.5	0.5	-0.4	-0.3	-0.2
Germany	GDP	1.1	-5.6	4.1	3.6	0.4	0.1	1.6
	Private consumption	0.3	0.0	0.3	1.3	0.4	0.5	0.6
	Public consumption	0.6	0.5	0.3	0.1	0.2	0.1	0.2
	Investment	0.2	-2.0	1.0	1.4	-0.1	-0.1	0.6
	Net exports	0.0	-2.6	1.3	0.7	1.3	-0.5	0.4
Estonia	GDP	-5.3	-14.7	2.5	8.3	4.7	1.6	2.1
	Private consumption	-2.6	-8.3	-0.9	1.3	2.6	1.9	2.3
	Public consumption	0.7	-0.6	-0.1	0.3	0.6	0.5	0.3
	Investment	-4.8	-11.4	-0.6	7.0	2.7	0.7	-0.3
	Net exports	5.0	8.1	2.8	0.5	-4.2	-0.7	-0.1
Ireland	GDP	-2.6	-6.4	-0.3	2.8	-0.3	0.2	..
	Private consumption	-0.1	-2.8	0.2	-0.5	-0.7	-0.2	0.2
	Public consumption	0.2	-0.5	-1.0	-0.4	-0.2	0.0	0.3
	Investment	-2.5	-4.6	-3.5	-0.4	0.8	-0.4	1.3
	Net exports	1.1	3.4	3.2	5.7	-0.8	0.6	3.0
Greece	GDP	-0.4	-4.4	-5.4	-8.9	-6.6	-3.9	0.8
	Private consumption	2.0	-0.7	-4.9	-7.4	-5.5	-1.4	1.0
	Public consumption	-0.4	0.3	-1.0	-1.4	-1.1	-1.4	-0.2
	Investment	-1.7	-3.1	-4.4	-2.9	-4.4	-1.1	0.1
	Net exports	-0.1	2.8	2.5	2.8	3.2	1.1	0.8
Spain	GDP	1.1	-3.6	0.0	-0.6	-2.1	-1.2	1.4
	Private consumption	-0.4	-2.1	0.1	-1.2	-1.7	-1.3	1.3
	Public consumption	1.0	0.8	0.3	-0.1	-0.8	-0.6	0.1
	Investment	-1.2	-4.9	-1.2	-1.5	-1.7	-0.7	0.6
	Net exports	1.6	2.8	0.5	2.1	2.2	1.4	-0.8

		2008	2009	2010	2011	2012	2013	2014
France	GDP	0.2	-2.9	2.0	2.1	0.3	0.3	0.4
	Private consumption	0.2	0.1	1.0	0.3	-0.2	0.1	0.3
	Public consumption	0.3	0.5	0.3	0.2	0.4	0.5	0.4
	Investment	0.2	-2.1	0.5	0.5	0.1	-0.2	-0.3
	Net exports	-0.3	-0.3	-0.1	0.0	0.7	0.1	-0.3
Croatia	GDP	2.1	-7.4	-1.7	-0.3	-2.2	-0.9	-0.4
	Private consumption	0.8	-4.3	-0.9	0.2	-1.8	-0.7	-0.4
	Public consumption	-0.1	0.4	-0.3	-0.1	-0.2	0.1	-0.4
	Investment	2.5	-4.0	-3.8	-0.6	-0.7	-0.2	-0.7
	Net exports	-1.5	4.1	3.1	-0.1	1.2	0.0	1.0
Italy	GDP	-1.0	-5.5	1.7	0.6	-2.8	-1.7	-0.4
	Private consumption	-0.6	-0.9	0.8	0.0	-2.5	-1.7	0.2
	Public consumption	0.2	0.1	0.1	-0.4	-0.3	-0.1	-0.1
	Investment	-0.7	-2.1	-0.1	-0.4	-1.5	-1.0	-0.5
	Net exports	0.2	-1.3	-0.2	1.2	2.8	0.9	0.3
Cyprus	GDP	3.6	-2.0	1.4	0.3	-2.4	-5.4	-2.3
	Private consumption	5.1	-4.4	0.8	1.2	-0.5	-4.1	-0.8
	Public consumption	0.9	1.1	-0.3	0.1	-0.5	-0.9	-0.8
	Investment	2.3	-3.8	-1.2	-2.1	-3.9	-2.6	-1.5
	Net exports	-5.5	6.1	-1.1	2.3	1.6	4.5	0.4
Latvia	GDP	-3.2	-14.2	-2.9	5.0	4.8	4.2	2.4
	Private consumption	-4.9	-9.6	1.9	1.9	1.9	3.8	2.0
	Public consumption	0.4	-2.1	-1.5	0.6	0.1	0.5	0.2
	Investment	-3.4	-10.6	-4.5	4.6	3.2	-1.3	0.3
	Net exports	7.1	11.5	0.2	-5.6	2.3	0.7	0.2
Lithuania	GDP	2.6	-14.8	1.6	6.1	3.8	3.3	2.9
	Private consumption	2.4	-11.3	-2.3	2.9	2.2	2.6	3.1
	Public consumption	0.0	-0.3	-0.7	0.1	0.2	0.3	0.4
	Investment	-1.2	-10.1	0.2	3.3	-0.3	1.2	1.3
	Net exports	-1.0	11.9	-0.2	0.2	4.0	0.4	-1.2
Luxembourg	GDP	0.5	-5.3	5.1	2.6	-0.2	2.0	..
	Private consumption	0.0	0.3	0.7	0.4	0.6	0.5	0.8
	Public consumption	0.4	0.6	0.5	0.2	0.6	0.8	0.6
	Investment	1.8	-2.4	0.0	2.4	0.4	-0.8	0.4
	Net exports	-0.5	-2.0	0.8	-1.1	-0.3	1.5	1.2
Hungary	GDP	0.9	-6.6	0.8	1.8	-1.5	1.5	3.6
	Private consumption	-0.6	-3.6	-1.5	0.4	-1.0	0.0	0.9
	Public consumption	0.7	0.3	-0.1	0.0	-0.3	0.7	0.3
	Investment	0.3	-1.9	-2.2	-0.4	-0.8	1.0	2.7
	Net exports	0.7	2.6	1.3	2.0	1.4	0.4	-0.8
Malta	GDP	3.3	-2.5	3.5	2.3	2.5	2.7	3.5
	Private consumption	-0.1	1.1	-0.1	1.4	0.3	0.9	1.3
	Public consumption	2.2	-0.7	0.3	0.6	1.2	0.1	1.2
	Investment	-2.0	-2.3	4.8	-3.8	-0.1	0.4	1.7
	Net exports	0.0	-1.1	-1.2	4.4	4.5	-0.4	-0.9
Netherlands	GDP	2.1	-3.3	1.1	1.7	-1.6	-0.7	0.8
	Private consumption	0.5	-0.8	0.0	0.1	-0.6	-0.7	0.0
	Public consumption	1.0	1.0	0.3	-0.1	-0.4	-0.1	0.0
	Investment	1.0	-2.0	-1.2	1.1	-1.2	-0.8	0.3
	Net exports	-0.1	-1.0	1.0	0.9	0.6	1.1	0.4
Austria	GDP	1.5	-3.8	1.9	3.1	0.9	0.2	0.3
	Private consumption	0.4	0.3	0.8	0.4	0.3	-0.1	0.2
	Public consumption	0.7	0.5	0.1	0.0	0.1	0.1	0.2
	Investment	0.3	-1.7	-0.5	1.5	0.1	-0.3	0.2
	Net exports	0.7	-2.1	1.0	0.3	0.3	0.9	-0.5

		2008	2009	2010	2011	2012	2013	2014
Poland	GDP	3.9	2.6	3.7	4.8	1.8	1.7	3.3
	Private consumption	3.7	2.1	1.7	1.8	0.5	0.6	1.8
	Public consumption	0.9	0.7	0.6	-0.4	0.0	0.4	0.4
	Investment	1.8	-0.4	-0.1	1.8	-0.3	0.2	1.7
	Net exports	-1.2	2.9	-0.5	0.9	2.1	1.4	-0.8
Portugal	GDP	0.2	-3.0	1.9	-1.8	-3.3	-1.4	0.9
	Private consumption	0.9	-1.5	1.6	-2.4	-3.4	-0.9	1.4
	Public consumption	0.1	0.5	-0.3	-0.8	-0.8	-0.4	-0.1
	Investment	0.1	-1.7	-0.2	-2.6	-2.8	-1.0	0.4
	Net exports	-1.1	0.9	-0.1	4.3	3.6	1.0	-0.8
Romania	GDP	8.5	-7.1	-0.8	1.1	0.6	3.4	2.9
	Private consumption	4.8	-6.4	0.6	0.5	0.8	0.7	3.1
	Public consumption	1.1	0.6	-0.9	0.1	0.1	-0.7	0.4
	Investment	6.3	-14.1	-0.6	0.8	0.0	-2.2	-1.3
	Net exports	-1.0	6.9	-0.1	-0.1	1.1	4.3	0.6
Slovenia	GDP	3.3	-7.8	1.2	0.6	-2.6	-1.0	2.6
	Private consumption	1.2	0.5	0.5	-0.1	-1.7	-2.2	0.3
	Public consumption	0.9	0.4	0.0	-0.3	-0.3	-0.2	-0.4
	Investment	2.0	-6.5	-3.3	-1.0	-1.8	0.4	1.1
	Net exports	0.2	1.9	2.1	1.4	2.9	1.0	1.5
Slovakia	GDP	5.4	-5.3	4.8	2.7	1.6	1.4	2.4
	Private consumption	3.3	-0.3	0.1	-0.4	-0.3	-0.4	1.2
	Public consumption	0.9	1.2	0.3	-0.4	-0.4	0.4	0.8
	Investment	0.4	-4.8	1.6	2.8	-2.2	-0.6	0.8
	Net exports	-0.5	2.2	0.4	1.7	5.8	1.4	-0.2
Finland	GDP	0.7	-8.3	3.0	2.6	-1.4	-1.3	-0.1
	Private consumption	1.0	-1.3	1.6	1.6	0.1	-0.4	0.1
	Public consumption	0.3	0.3	0.0	0.0	0.2	0.4	0.0
	Investment	0.1	-3.1	0.2	0.9	-0.6	-1.1	-0.9
	Net exports	-0.2	-2.1	0.0	-1.5	-0.1	0.3	0.7
Sweden	GDP	-0.6	-5.2	6.0	2.7	-0.3	1.3	..
	Private consumption	0.1	0.2	1.8	0.9	0.4	0.9	1.1
	Public consumption	0.3	0.6	0.3	0.2	0.3	0.2	0.4
	Investment	0.1	-3.3	1.3	1.3	-0.1	-0.1	1.0
	Net exports	-0.6	-1.1	0.4	-0.2	0.3	0.2	-0.9
United Kingdom	GDP	-0.3	-4.3	1.9	1.6	0.7	1.7	2.6
	Private consumption	-0.3	-2.0	0.2	0.1	0.7	1.1	1.5
	Public consumption	0.4	0.2	0.0	0.0	0.5	-0.1	0.3
	Investment	-0.9	-2.6	1.0	0.4	0.1	0.5	1.2
	Net exports	0.9	0.7	-0.8	1.3	-0.8	0.0	-0.6

.. Not available.

Note: Including provisional and estimated figures.

Source: Eurostat database, and DG ECFIN annual macroeconomic database (AMECO).

Table A1.3 Import volume (index), 2007-13^a

	2007	2008	2009	2010	2011	2012	2013
Belgium	108.4	106.8	93.6	100.0	104.9	103.7	104.0
Bulgaria	99.5	126.8	96.8	100.0	109.7	116.1	121.6
Czech Republic	96.9	101.5	84.4	100.0	107.2	103.8	102.9
Denmark	119.9	120.0	99.8	100.0	103.2	103.5	105.2
Germany	100.7	100.8	88.5	100.0	104.8	101.1	101.6
Estonia	129.1	114.0	85.3	100.0	123.0	130.0	130.0
Ireland	135.2	124.4	103.7	100.0	98.1	95.9	96.8
Greece	127.9	127.2	112.3	100.0	87.5	84.7	83.2
Spain	121.4	114.8	92.6	100.0	99.9	92.5	91.7
France	107.8	107.4	93.9	100.0	103.0	100.2	98.1
Croatia	130.0	132.4	105.3	100.0	98.4	95.6	96.7
Italy	111.2	105.4	88.5	100.0	99.4	90.9	87.6
Cyprus	99.9	109.6	93.3	100.0	90.4	79.3	67.9
Latvia	131.9	119.2	84.8	100.0	123.4	133.5	134.6
Lithuania	111.5	117.1	85.3	100.0	113.5	117.5	125.4
Luxembourg	108.9	115.5	105.7	100.0	102.5	101.8	99.1
Hungary	106.2	110.0	87.7	100.0	106.6	105.4	109.4
Malta	91.9	92.1	86.5	100.0	110.8	121.8	109.6
Netherlands	99.6	103.0	90.6	100.0	102.1	104.2	103.2
Austria	104.9	104.3	89.4	100.0	106.5	104.6	103.5
Poland	95.0	104.3	87.2	100.0	105.0	103.7	104.6
Portugal	103.2	105.8	92.9	100.0	94.6	87.8	91.2
Romania	115.2	121.1	89.0	100.0	108.0	104.8	106.7
Slovenia	106.7	111.5	90.9	100.0	105.0	100.9	104.3
Slovakia	93.6	100.8	86.2	100.0	110.6	114.0	117.3
Finland	119.3	120.5	92.8	100.0	105.7	100.7	101.4
Sweden	105.2	103.8	84.4	100.0	105.0	101.9	97.8
United Kingdom	113.0	106.0	92.5	100.0	100.4	103.7	97.8

a Including intra-EU imports.

Note: Base year 2010.

Source: Eurostat online database. Viewed at: <http://ec.europa.eu/eurostat/data/database>.

Table A1.4 Export volume (index), 2007-13^a

	2007	2008	2009	2010	2011	2012	2013
Belgium	105.7	103.6	92.0	100.0	104.0	103.3	106.0
Bulgaria	89.5	96.5	83.0	100.0	120.4	120.0	134.0
Czech Republic	94.6	100.5	84.4	100.0	109.8	111.6	112.0
Denmark	108.6	109.8	97.6	100.0	104.0	102.1	102.9
Germany	106.0	105.7	86.9	100.0	106.4	106.5	106.1
Estonia	95.8	96.7	80.0	100.0	126.7	129.6	129.0
Ireland	100.6	96.9	96.9	100.0	101.4	99.0	95.0
Greece	95.9	98.8	92.5	100.0	104.1	115.0	118.5
Spain	100.2	100.4	89.4	100.0	108.7	109.5	113.4
France	107.9	106.6	91.0	100.0	102.9	102.6	101.5
Croatia	100.9	101.7	87.0	100.0	101.0	98.7	95.9
Italy	115.2	111.2	90.3	100.0	104.6	104.8	104.0
Cyprus	94.2	94.0	91.8	100.0	116.1	118.9	139.3
Latvia	85.5	93.4	83.3	100.0	122.4	138.4	136.8
Lithuania	83.5	98.5	84.2	100.0	113.6	123.6	133.8
Luxembourg	106.4	114.0	109.0	100.0	96.2	101.6	89.5
Hungary	102.5	106.3	88.4	100.0	107.2	105.5	106.3
Malta	111.1	99.4	81.6	100.0	104.6	119.8	95.8
Netherlands	97.6	100.3	89.4	100.0	101.0	104.8	105.7
Austria	106.2	106.3	86.9	100.0	106.0	106.2	107.8
Poland	89.0	96.0	86.9	100.0	107.2	111.9	118.5
Portugal	106.1	105.2	89.3	100.0	108.0	111.4	116.5
Romania	84.2	90.9	83.8	100.0	110.5	107.6	120.9
Slovenia	102.5	105.1	88.9	100.0	107.5	105.9	109.8
Slovakia	86.3	96.3	83.6	100.0	112.2	122.7	127.2
Finland	126.1	126.8	93.6	100.0	101.4	100.9	100.8
Sweden	107.8	107.0	85.9	100.0	106.6	103.4	98.2
United Kingdom	109.6	106.2	89.7	100.0	108.4	102.9	115.6

a Including intra-EU exports.

Note: Base year 2010.

Source: Eurostat online database. Viewed at: <http://ec.europa.eu/eurostat/data/database>.

Table A1.5 Intra-EU merchandise trade by product groups, 2010-13

(€ billion)

	Export				Import			
	2010	2011	2012	2013	2010	2011	2012	2013
Food, drinks and tobacco	247.7	269.7	282.7	296.3	244.2	265.5	279.4	290.5
Raw materials	93.4	109.0	107.3	103.7	96.8	114.6	109.7	107.2
Mineral fuels, lubricants and related materials	174.7	226.4	260.4	250.2	177,0	232.5	263.0	256.0
Chemicals and related products, n.e.s.	414.0	448.0	459.3	459.9	416.9	450.5	458.9	460.0
Other manufactured goods	693.2	771.9	748.5	745.2	652.0	726.1	706.7	699.7
Machinery and transport equipment	891.2	960.9	945.2	947.8	869.3	937.2	920.1	924.0
Commodities and transactions in the SITC	42.9	36.5	38.1	35.4	28.6	27.9	32.1	24.6
Total	2,557.1	2,822.4	2,841.5	2,838.5	2,484.8	2,754.3	2,770.1	2,762.0

Source: Eurostat online database. Viewed at: <http://ec.europa.eu/eurostat/data/database>.

Table A1.6 Merchandise exports by destination, 2010-13

(€ billion)

	2010	2011	2012	2013
Total	1,353	1,554	1,684	1,738
	(%)			
America	26.8	25.7	26.4	25.4
United States	17.9	17.0	17.4	16.6
Other America	8.9	8.7	9.0	8.8
Brazil	2.3	2.3	2.4	2.3
Canada	2.0	1.9	1.9	1.8
Mexico	1.6	1.5	1.7	1.6
Europe	17.9	19.1	17.5	19.3
EFTA	11.5	12.3	11.1	12.8
Switzerland	8.2	9.2	8.0	9.8
Norway	3.1	3.0	3.0	2.9
Other Europe	6.5	6.7	6.5	6.5
Turkey	4.6	4.7	4.5	4.5
Commonwealth of Independent States (CIS)	9.1	9.8	10.3	9.9
Russian Federation	6.4	7.0	7.3	6.9
Ukraine	1.3	1.4	1.4	1.4
Africa	9.4	8.8	8.9	8.8
South Africa	1.6	1.7	1.5	1.4
Algeria	1.2	1.1	1.3	1.3
Morocco	1.0	1.0	1.0	1.0
Middle East	7.9	7.5	7.4	7.8
United Arab Emirates	2.1	2.1	2.2	2.6
Saudi Arabia, Kingdom of	1.7	1.7	1.8	1.9
Israel	1.1	1.1	1.0	1.0
Asia	26.9	27.1	27.1	26.5
China	8.4	8.8	8.6	8.5
Japan	3.3	3.2	3.3	3.1
Six East Asian Traders	8.6	8.4	8.7	8.7
Korea, Republic of	2.1	2.1	2.2	2.3
Hong Kong, China	2.0	2.0	2.0	2.1
Singapore	1.8	1.8	1.8	1.7
Other Asia	6.7	6.7	6.5	6.1
India	2.6	2.6	2.3	2.1
Australia	2.0	2.0	2.0	1.8
Other	1.9	2.0	2.3	2.3

Source: Eurostat. Viewed at:

http://epp.eurostat.ec.europa.eu/portal/page/portal/statistics/search_database.

Table A1.7 Merchandise exports by product group, 2010-13

(€ billion)

	2010	2011	2012	2013
Total	1,353	1,554	1,684	1,738
	(%)			
Primary products	15.7	16.7	17.6	17.0
Agriculture products	7.2	7.3	7.5	7.7
Food	5.9	6.0	6.2	6.3
Raw materials	1.3	1.3	1.4	1.3
Fuels and mining products	8.5	9.4	10.1	9.3
Fuels	5.8	6.4	7.5	7.0
Non-ferrous metals	1.5	1.7	1.5	1.4
Ores and other minerals	1.2	1.3	1.2	0.9
Manufactures	80.6	79.0	79.2	77.0
Iron and steel	2.5	2.6	2.5	2.2
Chemicals	17.2	16.4	16.4	15.7
Pharmaceuticals	6.9	6.7	6.7	6.5
Plastics	2.4	2.3	2.2	2.2
Other chemicals	7.9	7.5	7.5	7.0
Other semi-manufactures	7.4	7.1	7.0	7.0
Machinery and transport equipment	41.9	41.5	41.8	40.7
Office and telecommunication equipment	5.6	5.1	4.7	4.3
Electronic data processing and office equipment	1.8	1.6	1.6	1.4
Integrated circuits and electronic components	1.1	1.0	0.9	0.9
Telecommunication equipment	2.7	2.6	2.3	2.0
Transport equipment	15.5	15.7	16.4	16.4
Automotive products	9.9	10.4	11.0	10.9
Other transport equipment	5.6	5.2	5.4	5.4
Other machinery	20.9	20.7	20.6	20.0
Electrical machinery	4.8	4.6	4.5	4.5
Non electrical machinery	12.9	13.2	12.9	12.5
Power generating machinery	3.2	3.0	3.1	3.0
Textiles	1.1	1.1	1.0	1.0
Clothing	1.2	1.3	1.3	1.3
Other manufactures	9.1	8.8	9.2	9.1
Other products	3.8	4.4	3.2	6.0

Source: Eurostat. Viewed at:
http://epp.eurostat.ec.europa.eu/portal/page/portal/statistics/search_database.

Table A1.8 Merchandise imports by origins, 2010-13

(€ billion)

	2010	2011	2012	2013
Total	1,529.4	1,725.0	1,796.3	1,682.4
	(%)			
America	19.3	19.5	19.5	19.4
United States	11.4	11.1	11.5	11.7
Other America	7.9	8.4	8.0	7.7
Brazil	2.2	2.3	2.1	2.0
Canada	1.6	1.8	1.7	1.6
Mexico	0.9	1.0	1.1	1.0
Europe	14.5	14.6	15.2	15.1
EFTA	11.0	11.1	11.7	11.2
Switzerland	5.7	5.5	6.0	5.7
Norway	5.2	5.4	5.6	5.4
Other Europe	3.5	3.6	3.4	3.9
Turkey	2.8	2.8	2.7	3.0
Commonwealth of Independent States (CIS)	13.4	15.2	15.4	15.7
Russian Federation	10.6	11.7	12.0	12.2
Kazakhstan	1.0	1.3	1.4	1.4
Africa	9.0	8.8	10.4	10.0
Algeria	1.4	1.6	1.8	1.9
Nigeria	0.9	1.4	1.8	1.7
Libyan Arab Jamahiriya	1.9	0.6	1.8	1.4
Middle East	4.7	5.9	5.2	4.9
Saudi Arabia, Kingdom of	1.1	1.6	1.9	1.8
Asia	37.9	35.2	33.5	34.0
China	18.6	17.1	16.3	16.6
Japan	4.4	4.1	3.6	3.4
Six East Asian Traders	8.7	7.4	7.2	7.2
Korea, Republic of	2.6	2.1	2.1	2.1
Chinese Taipei	1.6	1.4	1.3	1.3
Malaysia	1.2	1.1	1.0	1.1
Singapore	1.2	1.1	1.2	1.0
Thailand	1.1	1.0	0.9	1.0
Other Asia	6.2	6.6	6.4	6.7
India	2.2	2.3	2.1	2.2
Viet Nam	0.6	0.8	1.0	1.3
Other	1.3	0.7	0.8	1.0

Source: Eurostat. Viewed at:
http://epp.eurostat.ec.europa.eu/portal/page/portal/statistics/search_database.

Table A1.9 Merchandise imports by product groups, 2010-13

	2010	2011	2012	2013
Total (€ billion)	1,529	1,725	1,796	1,682
	(%)			
Primary products	37.5	41.3	42.2	41.8
Agriculture products	7.6	7.8	7.5	8.0
Food	6.1	6.2	6.2	6.6
Raw materials	1.5	1.5	1.3	1.4
Fuels and mining products	29.9	33.6	34.7	33.8
Fuels	25.2	28.6	30.5	29.6
Non-ferrous metals	2.4	2.5	2.0	2.1
Ores and other minerals	2.3	2.5	2.1	2.1
Manufactures	59.2	55.3	53.7	55.7
Iron and steel	1.7	2.0	1.5	1.5
Chemicals	9.0	9.0	9.1	9.4
Pharmaceuticals	3.1	3.1	3.3	3.4
Plastics	1.1	1.1	1.1	1.2
Other chemicals	4.7	4.8	4.7	4.7
Other semi-manufactures	4.9	4.9	4.7	4.9
Machinery and transport equipment	28.9	25.4	24.9	25.8
Office and telecommunication equipment	12.4	10.3	9.8	10.0
Electronic data processing and office equipment	4.6	3.8	3.9	4.1
Integrated circuits and electronic components	2.8	2.2	1.5	1.3
Telecommunication equipment	4.9	4.3	4.4	4.6
Transport equipment	7.3	6.0	5.9	6.0
Automotive products	2.9	2.9	2.8	2.9
Other transport equipment	4.4	3.1	3.2	3.2
Other machinery	9.3	9.2	9.2	9.8
Electrical machinery	3.8	3.6	3.6	3.9
Non-electrical machinery	3.7	3.9	3.8	3.9
Power generating machinery	1.8	1.7	1.9	2.0
Textiles	1.3	1.3	1.2	1.3
Clothing	4.5	4.3	4.0	4.3
Other manufactures	8.9	8.3	8.3	8.6
Other products	3.3	3.4	4.1	2.5

Source: Eurostat. Viewed at: http://epp.eurostat.ec.europa.eu/portal/page/portal/statistics/search_database.

Table A1.10 Inward FDI stocks, 2013

(€ million)

	Intra-EU	Extra EU
European Union (28 countries)	5,933,069.6	3,777,966.8
Belgium	..	..
Bulgaria	29,240.7	7,511.0
Czech Republic	86,576.1	11,732.7
Denmark	53,359.4	18,670.7
Germany	483,026.0	188,812.0
Estonia	12,292.6	2,923.9
Ireland	216,059.0	70,883.0
Greece	14,346.0	2,924.0
Spain	379,471.0	93,743.0
France	408,220.0	159,771.0
Italy	229,716.2	31,984.2
Cyprus	14,698.0	31,276.0
Latvia	8,065.0	3,505.0
Lithuania	10,392.9	2,327.0
Luxembourg	472,209.7	672,967.9
Hungary	112,861.9	68,875.8
Malta	99,907.6	33,678.4
Netherlands	1,587,159.0	1,559,387.0
Austria	..	..
Poland	144,755.5	15,449.8
Portugal	..	..
Romania	54,439.7	5,701.2
Slovenia	7,343.0	1,583.0
Slovakia	..	..
Finland	58,288.7	4,916.6
Sweden	211,878.3	70,311.2
United Kingdom	..	..

.. Not available.

Note: Data reported according to BPM6.

Source: Eurostat online database. Viewed at: <http://ec.europa.eu/eurostat/data/database>.

Table A2.1 Selected notifications to the WTO, January 2013-March 2015

Legal provision	Description of requirement	Frequency	WTO document
General Agreement on Tariffs and Trade 1994			
Article XXVIII:5	Reservation of rights to modify schedule	Ad hoc	G/MA/291, 4 August 2014
Article XVII:4(a) and paragraph 1 of the Understanding on the Interpretation of Article XVII	State-trading enterprises and products traded by them	Every two years (new and full notifications)	G/STR/N/15/EU, 30 June 2014
Article XXIV:7(a)	Customs unions and free-trade areas	Ad hoc	WT/REG354/N/1, 3 July 2014 WT/REG353/N/1, 2 July 2014 WT/REG352/N/1, 2 July 2014 WT/REG337/N/1, 25 April 2013 WT/REG333/N/1/Rev.1, 21 March 2013 WT/REG332/N/1, 27 February 2013
Agreement on Agriculture			
Article 18.2	Imports under tariff quotas (Table MA:2)	Annual	G/AG/N/EU/16, 14 November 2013 (covers the marketing years 2011/12 and the calendar years 2012)
Article 5.7 and 18.2	Special safeguard (Table MA:5)	Annual	G/AG/N/EU/19, 5 May 2014 (covers the marketing year 2012/13) G/AG/N/EU/13, 12 June 2013 (covers the marketing year 2011/12)
Article 18.2 and 18.3	Domestic support	Annual/ad hoc (DS:1, and DS:2)	G/AG/N/EU/20, 22 October 2014 (covers the marketing year 2011/12) G/AG/N/EU/17, 13 February 2014 (covers the marketing year 2010/11) G/AG/N/EU/10/Rev.1, 13 February 2014 (covers the marketing year 2009/10)
Article 18.2	Export subsidies (Tables ES:1, ES:2, and ES:3)	Annual	G/AG/N/EU/22, 17 December 2014 (covers the marketing years 2012/13) G/AG/N/EU/18, 17 December 2014 (covers the marketing years 2011/12) G/AG/N/EU/14, 13 June 2013 (covers the marketing years 2010/11)
Article 16.2	Possible negative effects of the reform programme on least-developed and net food-importing developing countries	Annual	G/AG/N/EU/21, 31 October 2014 (covers the calendar years 2012 and 2013) G/AG/N/EU/15, 4 September 2013 (covers the calendar years 2010 and 2011)
Agreement on the Application of Sanitary and Phytosanitary Measures			
Article 7 and Annex B, paragraph 5	Proposed and adopted SPS regulations	Ad hoc	Several notifications (series G/SPS/N/EU)
Agreement on Technical Barriers to Trade			
Articles 2, 3, 5, and 7	Proposed and adopted technical regulations and conformity assessment procedures	Prior to or, for urgent problems, immediately after the measure is taken	Several notifications (series G/TBT/N/EU)

Legal provision	Description of requirement	Frequency	WTO document
Article 10.7			G/TBT/10.7/N/121, 7 February 2013
Paragraph J of the Code of Good Practice for the Preparation, Adoption and Application of Standards	Work programme of bodies that have accepted the Code	Semi-annual	ISO/IEC, WTO TBT Standards Code Directory
Agreement on Implementation of Article VI of the GATT 1994 (Anti-Dumping Agreement)			
Article 16.4	Anti-dumping actions	Semi-annual	G/ADP/N/265/EU, 31 March 2015 G/ADP/N/259/EU, 5 September 2014 G/ADP/N/252/EU, 14 March 2014 G/ADP/N/244/EU, 20 September 2013 G/ADP/N/237/EU, 8 April 2013
Article 16.4	Anti-dumping actions	Ad hoc	G/ADP/N/267, 22 January 2015 G/ADP/N/266, 18 December 2014 G/ADP/N/264, 21 November 2014 G/ADP/N/255, 24 March 2014 G/ADP/N/251, 19 December 2013 G/ADP/N/250, 15 November 2013 G/ADP/N/248, 14 October 2013 G/ADP/N/242, 30 May 2013 G/ADP/N/240, 15 March 2013
Article 18.5	New or changes to laws or regulations relevant to the Agreement and in the administration of such laws and regulations	Ad hoc	G/ADP/N/1/EU/1/Rev.1, 10 April 2014 G/ADP/N/1/EU/2, 17 January 2013
Agreement on Rules of Origin			
Annex II, paragraph 4	Preferential rules of origin	Once, then changes and new rules	G/RO/N/121-123, 14 October 2014 G/RO/N/90, 93-94, 9 April 2013
Agreement on Import Licensing Procedures			
Articles 1.4(a), 5, and 8.2(b)	Import licensing procedures	Ad hoc	G/LIC/N/1/EU/4, 14 August 2013 G/LIC/N/1/EU/5, 13 August 2013 G/LIC/N/1/EU/3, 13 August 2013 G/LIC/N/2/EU/5, 14 August 2013 G/LIC/N/2/EU/3, 14 August 2013 G/LIC/N/2/EU/4, 13 August 2013
Article 7.3	Questionnaire	Annual	G/LIC/N/3/EU/3, 6 November 2014 G/LIC/N/3/EU/2, 9 December 2013
Agreement on Subsidies and Countervailing Measures			
Article 25.1	Subsidies	Every two years (new and full notifications)	G/SCM/N/253/EU, 29 July 2013
Article 25.11	Countervailing duties actions	Semi-annual	G/SCM/N/274/EU, 5 September 2014 G/SCM/N/267/EU, 11 March 2014 G/SCM/N/259/EU, 23 September 2013 G/SCM/N/250/EU, 8 April 2013
Article 25.11	Countervailing duties actions	Ad hoc	G/SCM/N/286, 20 March 2015 G/SCM/N/283, 21 January 2015 G/SCM/N/280, 17 November 2014 G/SCM/N/270, 14 March 2014 G/SCM/N/268, 17 January 2014 G/SCM/N/264, 9 October 2013 G/SCM/N/257, 16 May 2013 G/SCM/N/255, 15 March 2013

Legal provision	Description of requirement	Frequency	WTO document
Agreement on Safeguards			
Article 12.1(a)	Initiation/termination of an investigation	Ad hoc	Last notification in 2011
Article 12.6	Legislation	Ad hoc	G/SG/N/1/EU/1, 17 February 2014
General Agreement on Trade in Services			
Article III:3	New or changes to laws or regulations that significantly affect trade in services	Annual	S/C/N/794-802, 18 March 2015 S/C/N/720-726, 13 February 2014 S/C/N/684-688, 13 March 2015
Articles III:4 and IV:2	Contact and enquiry points	Once, then changes	Last notification in 2009
Article V:7(a)	Economic integration agreements	Ad hoc	S/C/N/745, 3 July 2014 S/C/N/744, 2 July 2014 S/C/N/743, 2 July 2014 S/C/N/716, 6 January 2014 S/C/N/693, 25 April 2013 S/C/N/681/Rev.1, 21 March 2013 S/C/N/680, 27 February 2013
Agreement on Trade-Related Aspects of Intellectual Property Rights			
Article 63.2	Laws and regulations	Once, then changes	Several notifications (series IP/N/1/EU), Last notification in 2014
Article 69	Contact points	Once, then changes	Last notification in 2011
TRIPS Council meeting of 22-25 July 1996	Contact points for technical cooperation	Once, then changes	Last notification in 2011
Agreement on Government Procurement			
WTO document GPA/1, Annex 3	National threshold	Biennial	GPA/W/325/Add.5, 7 January 2014
Article XIX:5	Procurement statistics	Annual	GPA/114/Add.5, 22 October 2014 GPA/108/Add.7, 22 October 2014 GPA/102/Add.7, 25 March 2013
Other			
GATT document L/4903 (Decision of 28 November 1979)	MFN derogation in favour of developing countries	Ad hoc	WT/COMTD/N/41, 21 January 2013
WTO document G/L/59 (Decision on Notification Procedures for Quantitative Restrictions)	Quantitative restrictions	Biennial	G/MA/QR/N/EU/2, 9 October 2014 G/MA/QR/N/EU/1, 8 May 2013

Source: WTO Secretariat.

Table A2.2 Status of dispute-related WTO matters involving the EU, March 2013– February 2015

Subject of dispute	Raised by/against (WTO document)	Request for consultations	Panel established/ panel report circulated	AB report circulated ^a	Other developments
As respondent					
Countervailing measures on certain polyethylene terephthalate	Pakistan (WT/DS486)	05.11.2014	No		Consultations held 17.12.2014
Anti-dumping measures on biodiesel from Indonesia	Indonesia (WT/DS480)	10.06.2014	No		In consultations
Certain measures relating to the energy sector	Russian Federation (WT/DS476)	30.04.2014	No		In consultations
Cost adjustment methodologies and Certain anti-dumping measures on imports from the Russian Federation	Russian Federation (WT/DS474)	23.12.2013	Panel established 22.07.2014		
Anti-dumping measures on biodiesel from Argentina	Argentina (WT/DS473)	19.12.2013	Panel composed 23.06.2014		In consultations
Measures on atlanto-scandian herring	Denmark (WT/DS469)	04.11.2013	n.a.		Withdrawn (mutually agreed solution) on 21.08.2014
Certain measures on the importation and marketing of biodiesel and measures supporting the biodiesel industry	Argentina (WT/DS459)	15.05.2013	No		In consultations
Certain measures affecting the renewable energy generation sector	China (WT/DS452)	05.11.2012	No		The EU accepted the request of Japan to join the consultations on 19.11.2012. Australia and Argentina requested to join the consultations on 19.11.2012.
Certain measures concerning the importation of biodiesels	Argentina (WT/DS443)	17.08.2012	No		
Anti-dumping measures on imports of certain fatty alcohols from Indonesia	Indonesia (WT/DS442)	30.07.2012	Panel composed on 18.12.2014		
Seizure of generic drugs in transit	Brazil (WT/DS409)	12.05.2010	No	n.a.	In consultations
Seizure of generic drugs in transit	India (WT/DS408)	11.05.2010	No	n.a.	In consultations
Anti-dumping measures on certain footwear	China (WT/DS405)	04.02.2010	18.05.2010/ 28.10.2011	No	Implementation notified by respondent on 17.12.2012
Measures prohibiting the importation and marketing of seal products	Norway (WT/DS401)	05.11.2009	21.04.2011	22.05.2014	Reasonable period of time expires on 18.10.2015
Measures prohibiting the importation and marketing of seal products	Canada (WT/DS400)	02.11.2009	25.03.2011	22.05.2014	Reasonable period of time expires on 18.10.2015
Definitive anti-dumping measures on certain iron or steel fasteners	China (WT/DS397)	31.07.2009	23.10.2009/ 03.12.2010	15.07.2011	Implementation notified by respondent on 23.10.2012
Certain measures affecting poultry meat and poultry meat products	United States (WT/DS389)	16.01.2009	19.11.2009	n.a.	None

Subject of dispute	Raised by/against (WTO document)	Request for consultations	Panel established/ panel report circulated	AB report circulated ^a	Other developments
Expiry reviews of anti-dumping and countervailing duties imposed on imports of PET	India (WT/DS385)	04.12.2008	No	n.a.	None
Tariff treatment of certain information technology products	Chinese Taipei (WT/DS377)	12.06.2008	23.09.2008/ 16.08.2010	No	Implementation notified by respondent on 20.07.2011
Tariff treatment of certain information technology products	Japan (WT/DS376)	28.05.2008	23.09.2008/ 16.08.2010	No	Implementation notified by respondent on 20.07.2011
Tariff treatment of certain information technology products	United States (WT/DS375)	28.05.2008	23.09.2008/ 16.08.2010	No	Implementation notified by respondent on 20.07.2011
Certain measures prohibiting the importation and marketing of seal products	Canada (WT/DS369)	25.09.2007	25.03.2011		Panel established, but not yet composed on 25.03.2011
Regime for the importation of bananas	Panama (WT/DS364)	22.06.2007	No		Settled or terminated (withdrawn, mutually agreed solution) on 08.11.2012
Regime for the importation of bananas	Colombia (WT/DS361)	21.03.2007	No		Settled or terminated (withdrawn, mutually agreed solution) on 08.11.2012
Measures affecting the tariff quota for fresh or chilled garlic	Argentina (WT/DS349)	06.09.2006			In consultations on 06.09.2006
Definitive safeguard measure on salmon	Norway (WT/DS328)	01.03.2005			In consultations on 01.03.2005
Measures affecting trade in large civil aircraft	United States (WT/DS316)	06.10.2004	20.07.2005/ 30.06.2010	18.05.2011	Compliance proceeding on-going on 13.04.2012
Aid for commercial vessels	Korea, Republic of (WT/DS307)	13.02.2004			In consultations on 13.02.2004
Measures affecting imports of wine	Argentina (WT/DS263)	04.09.2002			In consultations on 04.09.2002
Provisional safeguard measures on imports of certain steel products	United States (WT/DS260)	30.05.2002	16.09.2002		Panel established, but not yet composed on 16.09.2002
Generalized System of Preferences	Thailand (WT/DS242)	07.12.2001			In consultations on 07.12.2001
Tariff-rate quota on corn gluten feed from the United States	United States (WT/DS223)	25.01.2001			In consultations on 25.01.2001
Measures affecting soluble coffee	Brazil (WT/DS209)	12.10.2000			In consultations on 12.10.2000
As complainant					
Tariff treatment of certain agricultural and manufacturing products	Russian Federation (WT/DS485)	31.10.2014	No		Consultations held on 27.11.2014
Recourse to article 22.2 of the DSU in the U.S. — Clove cigarettes dispute	Indonesia (WT/DS 481)	13.06.2014	No		

Subject of dispute	Raised by/against (WTO document)	Request for consultations	Panel established/ panel report circulated	AB report circulated ^a	Other developments
Anti-dumping duties on light commercial vehicles from Germany and Italy	Russian Federation (WT/DS479)	21.05.2014	Panel composed on 18.12.2014. Timetable not yet available		
Measures on the importation of live pigs, pork and other pig products from the European Union	Russian Federation (WT/DS475)	08.04.2014	23.10.2014		
Certain measures concerning taxation and charges	Brazil (WT/DS472)	19.12.2013	Panel established, but not yet composed (at the time of writing)		
Recycling fee on motor vehicles	Russian Federation (WT/DS462)	09.07.2013	Panel established, but not yet composed		
Measures imposing anti-dumping duties on high-performance stainless steel seamless tubes ("HP-SSST") from the European Union	China (WT/DS460)	13.06.2013	11.09.2013		
Measures affecting the importation of goods	Argentina (WT/DS438)	25.05.2012	28.01.2013	n.a.	
Measures related to the exportation of rare earths, tungsten and molybdenum	China (WT/DS432)	13.03.2012	23.07.2012	n.a.	Panel report under appeal from Canada (05.02.2013) and the EU (11.02.2013)
Measures relating to the feed-in tariff program	Canada (WT/DS426)	11.08.2011	20.01.2012/19.12.2012	n.a.	Panel report under appeal on 05.02.2013
Definitive anti-dumping duties on X-ray security inspection equipment from the European Union	China (WT/DS425)	25.07.2011	20.01.2012/26.02.2013		
Anti-dumping measures on imports of stainless steel sheet and strip in coils from Italy	United States (WT/DS424)	01.04.2011	n.a.		
Provisional anti-dumping duties on certain iron and steel fasteners	China (WT/DS407)	07.05.2010	No	n.a.	In consultation
Taxes on distilled spirits	Philippines (WT/DS396)	29.07.2009	19.01.2010	21.12.2011	Implementation notified by respondent on 28.01.2013
Measures related to the exportation of various raw materials	China (WT/DS395)	23.06.2009	21.12.2009	30.01.2012	Implementation notified by respondent on 28.01.2013
Certain taxes and other measures on imported wines and spirits	India (WT/DS380)	22.09.2008	No	n.a.	None
Customs valuation of certain products from the European Communities	Thailand (WT/DS370)	25.01.2008	No	n.a.	
Measures affecting trade in large civil aircraft – second complaint	United States (WT/DS353)	27.06.2005	17.02.2006/31.03.2011	12.03.2012	Compliance proceedings ongoing on 23.10.2012
Countervailing duties on olive oil, wheat gluten and peaches	Argentina (WT/DS330)	29.04.2005			In consultations

Subject of dispute	Raised by/against (WTO document)	Request for consultations	Panel established/ panel report circulated	AB report circulated ^a	Other developments
Section 776 of the Tariff Act of 1930	United States (WT/DS319)	05.11.2004			In consultations on 05.11.2004
Measures affecting trade in large civil aircraft	United States (WT/DS317)	06.10.2004	20.07.2005		Panel composed on 20.07.2005
Anti-dumping measures on imports of certain products from the European Communities	India (WT/DS304)	08.12.2003			In consultations on 08.12.2003
Laws, regulations and methodology for calculating dumping margins (zeroing)	United States (WT/DS294)	12.06.2003	19.03.2004/ 31.10.2005. Then Article 21.5 circulated on 17.12.2008	18.04.2006. then Article 21.5 circulated on 14.05.2009	Report(s) adopted, with recommendation to bring measure(s) into conformity on 02.07.2012

n.a. Not applicable.

a AB refers to Appellate Body.

Source: WTO Secretariat.

Table A3.1 Tariffs under preferential agreements (2014)

	Simple average tariff rate (%)			Duty-free rates as a percentage of total tariff lines in each category (%)		
	Overall	WTO Agri.	WTO Non-Agr.	Overall	WTO Agri.	WTO Non-Agr.
MFN	6.4	14.4	4.3	25.1	19.2	26.8
Albania	0.3	1.1	0.1	97.5	92.2	98.9
Algeria	2.5	12.2	0.0	84.4	29.5	99.9
Andorra	0.0	0.2	0	99.0	95.3	100.0
Bosnia and Herzegovina	0.3	1.0	0.1	97.5	92.3	98.9
Central America	1.5	7.3	0.0	90.3	58.2	99.3
Ceuta-Melilla	2.6	12.4	0.0	84.7	31.2	99.8
Chile	1.9	9.0	0.0	89.9	55.1	99.8
Colombia	1.2	5.6	0.0	93.3	69.8	99.9
EEA	3.0	13.4	0.3	78.6	24.1	94.1
Egypt	0.2	0.8	0.0	99.0	95.7	99.9
EPA	0.0	0.1	0.0	99.0	96.5	99.8
CARIFORUM	0.0	0.1	0.0	99.0	96.5	99.8
<i>CARIFORUM-Haiti</i>	<i>6.4</i>	<i>14.4</i>	<i>4.3</i>	<i>25.1</i>	<i>19.2</i>	<i>26.8</i>
Eastern and Southern Africa (ESA)	0.0	0.1	0.0	99.0	96.5	99.8
Faroe Islands	3.3	13.9	0.6	79.5	21.8	95.8
FYROM	0.3	1.1	0.0	97.9	92.2	99.5
Iceland	4.8	7.6	4.1	34.3	57.0	27.9
Israel	0.6	2.5	0.1	95.8	82.0	99.7
Jordan	0.7	0.2	0.8	94.3	95.8	93.8
Korea, Republic of	0.5	1.0	0.3	92.8	92.2	92.9
Lebanon	0.2	1.1	0.0	97.5	88.5	99.9
Liechtenstein	5.7	11.3	4.3	29.3	36.5	27.2
Mexico	1.8	8.4	0.0	90.6	57.8	99.9
Moldova	0.0	0.0	0	99.7	98.6	100.0
Montenegro	0.3	1.0	0.1	97.5	92.3	98.9
Morocco	0.1	0.4	0	99.5	97.7	100.0
Norway	5.9	12.1	4.3	28.3	33.3	26.8
Overseas countries & territories	0.1	0.4	0	98.9	94.8	100.0
Palestinian Authority	0.0	0.0	0	99.8	98.9	100.0
Papua New Guinea	0.0	0.1	0.0	99.0	96.5	99.8
Peru	1.1	5.1	0.0	93.8	72.1	99.9
San Marino	0.0	0.1	0.0	99.1	96.3	99.9
Serbia	0.3	1.1	0.1	97.6	92.2	99.1
South Africa	1.3	4.3	0.5	89.4	73.6	93.8
Switzerland	2.8	10.5	0.8	82.1	39.6	94.1
Syria	3.4	13.5	0.8	78.4	24.2	93.8
Tunisia	2.5	12.0	0.0	84.3	29.8	99.8
Turkey	1.6	8.0	0.0	90.4	56.4	99.9
GSP	4.1	12.5	1.9	57.0	25.1	66.1
China ^a	6.2	14.0	4.2	26.1	20.5	27.6
India ^a	4.8	12.6	2.7	48.7	23.6	55.8
Indonesia ^a	4.3	12.9	2.1	54.0	22.5	62.9
Nigeria	4.1	12.5	2.0	56.9	25.1	66.0
Thailand ^a	4.4	13.5	2.0	56.8	24.5	65.9
Ukraine ^a	4.1	12.5	1.9	56.8	25.1	65.7
GSP+	1.8	8.9	0.0	89.1	54.4	99.0
EBA	0.0	0	0.0	99.8	100.0	99.8

a Sector graduations from Standard GSP are taken into account.

Note: 0.0 refers to >0 and <0.05.

All tariff calculations exclude in-quota lines. If no preferential rate is applied, the corresponding MFN rate is used for the calculations. The 2014 tariff is based on HS12 nomenclature consisting of 9,379 tariff lines (at 8-digit tariff line level). *Ad valorem* equivalents (AVEs) were estimated based on 2013 import data at the 8-digit tariff from Eurostat database. In case of unavailability, the *ad valorem* part is used for compound and alternate rates.

Source: WTO Secretariat calculations based on IDB database and Eurostat database.

Table A3.2 Contingency measures, January 2007-November 2014

Partner affected	Initiation of investigation	Imposition of measures	Withdrawn	Product description	Sector
Anti-dumping					
Measures in force (within five-year period)					
Korea, Republic of	12-Aug-09	11-May-10		Steel ropes and cables	Iron and Steel
China	18-Mar-09	16-Jun-10		Cargo scanning systems	Electronics
China	08-Apr-09	16-Jun-10		Molybdenum wires	Other metals
China	11-Aug-09	28-Oct-10		Sodium gluconate	Chemical and allied
China	13-Aug-09	28-Oct-10		Aluminium road wheels	Other mechanical engineering
China	08-Sep-09	01-Dec-10		Polyester high tenacity filament yarn	Textiles and allied
China	02-Oct-09	22-Dec-10		Ironing boards	Other
China	17-Dec-09	15-Mar-11		filament glass fibre products	Other
Canada	12-Aug-10	11-May-11		Biodiesel	Other
China	17-Feb-10	13-May-11		Melamine	Chemical and allied
Bosnia and Herzegovina	17-Feb-10	14-May-11		Zeolite A powder	Chemical and allied
China	18-Feb-10	14-May-11		Coated fine paper	Wood and paper
Malaysia	28-Oct-10	26-Jul-11		Fasteners, iron or steel	Iron and steel
China	20-May-10	09-Aug-11		Open mesh fabrics of glass fibres	Other
Thailand	20-May-10	09-Aug-11		Ringbinder mechanisms	Other mechanical engineering
China	19-Jun-10	16-Sep-11		Ceramic tiles	Other
India	13-Aug-10	11-Nov-11		Fatty alcohols and their blends	Chemical and allied
Indonesia	13-Aug-10	11-Nov-11		Fatty alcohols and their blends	Chemical and allied
Malaysia	13-Aug-10	11-Nov-11		Fatty alcohols and their blends	Chemical and allied
China	30-Sep-10	21-Dec-11		Seamless pipes and tubes of stainless steel	Iron and steel
Malaysia	18-May-11	13-Jan-12		Molybdenum wires	Other metals
India	26-Jan-11	19-Apr-12		Oxalic acid	Chemical and allied
China	26-Jan-11	19-Apr-12		Oxalic acid	Chemical and allied
Malaysia	11-Nov-11	25-Jul-12		Open mesh fabrics of glass fibres	Other

Partner affected	Initiation of investigation	Imposition of measures	Withdrawn	Product description	Sector
China	12-Aug-11	10-Nov-12		Aluminium radiators	Other mechanical engineering
Chinese Taipei	24-May-12	17-Jan-13		Open mesh fabrics of glass fibres	Other
Thailand	24-May-12	17-Jan-13		Open mesh fabrics of glass fibres	Other
Russian Federation	01-Nov-11	30-Jan-13		Tube and pipe fittings, of iron or steel	Iron and steel
Turkey	01-Nov-11	30-Jan-13		Tube and pipe fittings, of iron or steel	Iron and steel
United States	25-Nov-11	23-Feb-13		Bioethanol	Chemical and allied
Philippines	14-Jun-12	13-Mar-13		Stainless steel fasteners and parts thereof	Iron and steel
China	18-Dec-11	14-Mar-13		Aluminium Foil in small rolls	Other metals
China	21-Dec-11	19-Mar-13		Organic coated steel products	Iron and steel
Chinese Taipei	07-Jul-12	06-Apr-13		Silicon metal (silicon)	Other metals
China	16-Feb-12	15-May-13		Threaded tube or pipe cast fittings of malleable cast iron	Iron and steel
Thailand	16-Feb-12	15-May-13		Threaded tube or pipe cast fittings of malleable cast iron	Iron and steel
China	16-Feb-12	16-May-13		Ceramic tableware and kitchenware	Other
Indonesia	27-Sep-12	06-Jun-13		Bicycles	Other mechanical engineering
Malaysia	27-Sep-12	06-Jun-13		Bicycles	Other mechanical engineering
Sri Lanka	27-Sep-12	06-Jun-13		Bicycles	Other mechanical engineering
Tunisia	27-Sep-12	06-Jun-13		Bicycles	Other mechanical engineering
India	10-Aug-12	09-Nov-13		Stainless steel wire	Iron and steel
Argentina	29-Aug-12	26-Nov-13		Biodiesel	Other
Indonesia	29-Aug-12	26-Nov-13		Biodiesel	Other
China	06-Sep-12	06-Dec-13		Solar panels (crystalline silicon photovoltaic modules and key components)	Electronics
China	28-Feb-13	15-May-14		Solar glass	Other
Indonesia	10-Apr-13	21-Dec-13		Open mesh fabrics of glass fibres	Other
India	10-Apr-13	21-Dec-13		Open mesh fabrics of glass fibres	Other
Measures in force through extension (after five-year period)					
China	01-Feb-89	28-Jul-90		Silicon metal (silicon)	Other metals

Partner affected	Initiation of investigation	Imposition of measures	Withdrawn	Product description	Sector
China		27-Sep-90		Tungsten carbide and fused tungsten carbide	Chemical and allied
China		09-Sep-93		Bicycles	Other mechanical engineering
Russian Federation	09-Jun-94	23-Aug-95		Ammonium nitrate	Chemical and allied
China	03-Feb-94	03-Apr-96		Tube and pipe fittings, of iron or steel	Iron and steel
China	19-Apr-96	18-Jan-97		Bicycles (parts)	Other mechanical engineering
China	28-Oct-95	24-Jan-97		Ringbinder mechanisms	Other mechanical engineering
China	20-May-98	17-Aug-99		Steel ropes and cables	Iron and steel
Ukraine	20-May-98	17-Aug-99		Steel ropes and cables	Iron and steel
Chinese Taipei	30-Jul-99	14-Apr-00		Tube and pipe fittings, of iron or steel	Iron and steel
India	06-Jul-01	25-Jul-02		Sulphanilic acid	Chemical and allied
China	06-Jul-01	25-Jul-02		Sulphanilic acid	Chemical and allied
Korea, Republic of	01-Jun-01	24-Aug-02		Tube and pipe fittings, of iron or steel	Iron and steel
Malaysia	01-Jun-01	24-Aug-02		Tube and pipe fittings, of iron or steel	Iron and steel
Ukraine	29-Jun-01	27-Sep-02		Welded tubes and pipes of iron or non-alloy steel	Iron and steel
Indonesia	19-Dec-02	11-Mar-04		Sodium cyclamate	Chemical and allied
China	19-Dec-02	11-Mar-04		Sodium cyclamate	Chemical and allied
Moldova	30-Jul-03	24-Apr-04		Steel ropes and cables	Iron and steel
Viet Nam	01-Oct-03	01-Jul-04		Ringbinder mechanisms	Other mechanical engineering
China	22-May-03	19-Aug-04		Polyethylene terephthalate (PET)	Chemical and allied
India	21-Aug-03	18-Sep-04		Graphite electrode systems	Other
Morocco	18-Feb-04	30-Oct-04		Steel ropes and cables	Iron and steel
China	19-Aug-03	12-Nov-04		Okoumé plywood	Wood and paper
Indonesia	03-Mar-04	01-Dec-04		Tube and pipe fittings, of iron or steel	Iron and steel
Sri Lanka	03-Mar-04	01-Dec-04		Tube and pipe fittings, of iron or steel	Iron and steel
China	29-Apr-04	21-Jul-05		Hand pallet trucks and their essential parts	Other mechanical engineering
China	30-Apr-04	21-Jul-05		Barium carbonate	Chemical and allied
China	10-Jul-04	07-Oct-05		Trichloroisocyanuric acid (TCCA)	Chemical and allied

Partner affected	Initiation of investigation	Imposition of measures	Withdrawn	Product description	Sector
China	24-Aug-04	19-Nov-05		Stainless steel fasteners and parts thereof	Iron and steel
Chinese Taipei	24-Aug-04	19-Nov-05		Stainless steel fasteners and parts thereof	Iron and steel
Laos	13-Apr-05	12-Jan-06		Ringbinder mechanisms	Other mechanical engineering
China	30-Oct-04	27-Jan-06		Tartaric acid	Chemical and allied
Philippines	05-Aug-05	29-Apr-06		Tube and pipe fittings, of iron or steel	Iron and steel
Russian Federation	31-Mar-05	29-Jun-06		Seamless pipes and tubes of iron or steel	Iron and steel
Ukraine	31-Mar-05	29-Jun-06		Seamless pipes and tubes of iron or steel	Iron and steel
China	28-Apr-05	27-Jul-06		Lever arch mechanisms	Other mechanical engineering
China	25-Jun-05	14-Sep-06		Chamois leather	Other
Korea, Republic of	20-Apr-06	19-Jan-07		Silicon metal (silicon)	Other metals
China	17-Dec-05	13-Mar-07		Tungsten electrodes	Other metals
China	04-Feb-06	26-Apr-07		Ironing boards	Other
Thailand	28-Mar-06	20-Jun-07		Sweet corn (prepared or preserved in kernels)	Other
China	13-Jul-06	11-Oct-07		Peroxosulphates (persulphates)	Chemical and allied
China	30-Nov-06	28-Feb-08		Ferro-silicon	Other metals
Russian Federation	30-Nov-06	28-Feb-08		Ferro-silicon	Other metals
South Africa	21-Dec-06	13-Mar-08		Manganese dioxides	Other metals
China	05-Sep-07	02-Dec-08		Monosodium glutamate ^a	Chemical and allied
China	04-Sep-07	03-Dec-08		Citric acid ^a	Chemical and allied
Belarus	26-Sep-07	19-Dec-08		Welded tubes and pipes of iron or non-alloy steel ^a	Iron and steel
China	26-Sep-07	19-Dec-08		Welded tubes and pipes of iron or non-alloy steel ^a	Iron and steel
Russian Federation	26-Sep-07	19-Dec-08		Welded tubes and pipes of iron or non-alloy steel ^a	Iron and steel
China	20-Oct-07	30-Dec-08		Citrus fruits	Other
China	09-Nov-07	31-Jan-09		Fasteners, iron or steel ^a	Iron and steel
China	16-Feb-08	13-May-09		PSC wires and strands ^a	Iron and steel
China	16-Feb-08	14-May-09		Candles, tapers and the like ^a	Other
China	08-May-08	05-Aug-09		Wire rod ^a	Iron and steel

Partner affected	Initiation of investigation	Imposition of measures	Withdrawn	Product description	Sector
United States	13-Jun-08	10-Jul-09		Biodiesel ^a	Other
China	09-Jul-08	06-Oct-09		Seamless pipes and tubes of iron or steel ^a	Iron and steel
Brazil	12-Jul-08	06-Oct-09		Aluminium foil ^a	Other metals
China	12-Jul-08	06-Oct-09		Aluminium foil ^a	Other metals
Thailand	20-Sep-08	16-Jun-09		Hand pallet trucks and their essential parts	Other mechanical engineering
New investigation initiated during the review period (2013-14)					
Indonesia	29-Nov-13			Monosodium glutamate	Chemical and allied
Turkey	15-Feb-14			Rainbow trout	Other
Chinese Taipei	26-Jun-14			Stainless steel cold-rolled flat products	Iron and steel
China	26-Jun-14			Stainless steel cold-rolled flat products	Iron and steel
United States	14-Aug-14			Grain oriented flat-rolled products of silicon-electrical steel	Iron and steel
Russian Federation	14-Aug-14			Grain oriented flat-rolled products of silicon-electrical steel	Iron and steel
Korea, Republic of	14-Aug-14			Grain oriented flat-rolled products of silicon-electrical steel	Iron and steel
Japan	14-Aug-14			Grain oriented flat-rolled products of silicon-electrical steel	Iron and steel
China	14-Aug-14			Grain oriented flat-rolled products of silicon-electrical steel	Iron and steel
China	04-Sep-14			Acesulfame potassium (ACE-K)	Chemical and allied
Russian Federation	08-Oct-14			Aluminium foil in big rolls	Other metals
Measures terminated^b					
Chinese Taipei	31-Mar-01	18-Jun-02	12-Jun-07	Compact disks - recordable (CD-Rs)	Electronics
Russian Federation		04-Mar-95	31-Jul-07	Urea	Chemical and allied
Korea, Republic of		01-Apr-95	29-Aug-07	Colour television receivers	Electronics
Malaysia		01-Apr-95	29-Aug-07	Colour television receivers	Electronics
China		01-Apr-95	29-Aug-07	Colour television receivers	Electronics
Thailand		01-Apr-95	29-Aug-07	Colour television receivers	Electronics
Belarus	03-Aug-94	30-Jul-96	10-Oct-07	Polyester staple fibres	Textiles and allied
Thailand	05-May-00	04-Aug-01	31-Oct-07	Steel ropes and cables	Iron and Steel
Turkey	05-May-00	04-Aug-01	31-Oct-07	Steel ropes and cables	Iron and Steel

Partner affected	Initiation of investigation	Imposition of measures	Withdrawn	Product description	Sector
China	09-Nov-00	06-Feb-02	30-Jan-08	Ferro molybdenum	Other metals
Belarus	21-Oct-00	19-Jan-02	18-Mar-08	Urea	Chemical and allied
Croatia	21-Oct-00	19-Jan-02	18-Mar-08	Urea	Chemical and allied
Libya	21-Oct-00	19-Jan-02	18-Mar-08	Urea	Chemical and allied
Ukraine	21-Oct-00	19-Jan-02	18-Mar-08	Urea	Chemical and allied
Russian Federation	28-May-04	27-Aug-05	22-May-08	Grain oriented electrical steel sheets (big + small)	Iron and Steel
Norway	19-Dec-02	11-Mar-04	13-Aug-08	Trout (large rainbow trout)	Other
Turkey	29-Jun-01	27-Sep-02	19-Dec-08	Welded tubes and pipes of iron or non-alloy steel	Iron and Steel
F.Y.R. Macedonia	30-Nov-06	28-Feb-08	30-Dec-09	Ferro-silicon	Other metals
China	13-Oct-95	18-Feb-98	16-Dec-10	Glyphosate	Chemical and allied
Malaysia	09-May-01	30-Sep-04	16-Dec-10	Glyphosate	Chemical and allied
Chinese Taipei	09-May-01	30-Sep-04	16-Dec-10	Glyphosate	Chemical and allied
China		11-Dec-93	13-May-11	Magnesia (deadburned)	Other metals
China	19-Dec-03	17-Mar-05	09-Jun-11	Polyester staple fibres	Textiles and allied
China	30-Apr-04	29-Jul-05	03-Sep-11	Castings	Iron and Steel
South Africa	20-May-98	17-Aug-99	10-Feb-12	Steel ropes and cables	Iron and Steel
China	23-Nov-92	21-Jan-95	27-Jun-12	Furfuraldehyde	Chemical and allied
Croatia	31-Mar-05	29-Jun-06	05-Jul-12	Seamless pipes and tubes of iron or steel	Iron and Steel
China	30-Jun-05	29-Sep-06	14-Jul-12	Plastic sacks and bags	Other
Thailand	30-Jun-05	29-Sep-06	14-Jul-12	Plastic sacks and bags	Other
United States		02-Feb-94	26-Mar-13	Ethanolamines	Chemical and allied
India	06-Nov-99	30-Nov-00	24-May-13	Polyethylene terephthalate (PET)	Chemical and allied
Indonesia	06-Nov-99	30-Nov-00	24-May-13	Polyethylene terephthalate (PET)	Chemical and allied
Malaysia	06-Nov-99	30-Nov-00	24-May-13	Polyethylene terephthalate (PET)	Chemical and allied
Chinese Taipei	06-Nov-99	30-Nov-00	24-May-13	Polyethylene terephthalate (PET)	Chemical and allied
Thailand	06-Nov-99	30-Nov-00	24-May-13	Polyethylene terephthalate (PET)	Chemical and allied
Russian Federation	05-May-00	04-Aug-01	18-Dec-13	Steel ropes and cables	Iron and Steel

Partner affected	Initiation of investigation	Imposition of measures	Withdrawn	Product description	Sector
Ukraine	04-Feb-06	26-Apr-07	24-Jul-13	Ironing boards	Other
China	17-Aug-06	15-Nov-07	14-Feb-14	Dicyandiamide	Chemical and allied
China	02-Mar-94	05-Jun-96	19-Aug-14	Powdered activated carbon	Chemical and allied
Measures expired^c					
China	20-Dec-00	05-Mar-02	01-Mar-07	Zinc oxides	Chemical and allied
Indonesia	18-May-01	08-Jun-02	05-Jun-07	Ringbinder mechanisms	Other mechanical engineering
Russian Federation	01-Jun-01	24-Aug-02	15-Aug-07	Tube and pipe fittings, of iron or steel	Iron and Steel
India	09-Nov-01	28-Nov-02	23-Nov-07	Polyester textured filament yarn (PTY)	Textiles and allied
Norway	23-Oct-04	20-Jan-06	19-Jul-08	Salmon	Other
China	27-Jun-02	20-Sep-03	21-Sep-08	Para-cresol	Chemical and allied
China	17-May-00	19-Jul-01	18-Oct-08	Lamps (integrated electronic compact fluorescent)	Electronics
Pakistan	10-Sep-04	09-Jun-05	18-Oct-08	Lamps (integrated electronic compact fluorescent)	Electronics
Philippines	10-Sep-04	09-Jun-05	18-Oct-08	Lamps (integrated electronic compact fluorescent)	Electronics
Viet Nam	10-Sep-04	09-Jun-05	18-Oct-08	Lamps (integrated electronic compact fluorescent)	Electronics
Russian Federation	12-Oct-02	24-Dec-03	25-Dec-08	Silicon metal (silicon)	Other metals
Pakistan	18-Dec-02	04-Mar-04	05-Mar-09	Bed linen	Textiles and allied
Faroe Islands	19-Dec-02	11-Mar-04	11-Mar-09	Trout (large rainbow trout)	Other
Australia	22-May-03	19-Aug-04	20-Aug-09	Polyethylene terephthalate (PET)	Chemical and allied
Korea, Republic of	07-Oct-99	28-Dec-00	18-Mar-10	Polyester staple fibres	Textiles and allied
Saudi Arabia, Kingdom of	19-Dec-03	17-Mar-05	18-Mar-10	Polyester staple fibres	Textiles and allied
China	21-Dec-06	20-Mar-08	21-Mar-10	Compressors	Other mechanical engineering
China		17-Jun-93	26-May-10	Magnesium oxide (caustic magnesite)	Chemical and allied
Viet Nam	29-Apr-04	14-Jul-05	15-Jul-10	Bicycles	Other mechanical engineering
United States	28-May-04	27-Aug-05	28-Aug-10	Grain oriented electrical steel sheets (big + small)	Iron and Steel
China	17-Jun-04	16-Sep-05	17-Sep-10	Polyester filament apparel fabrics (finished)	Textiles and allied
United States	13-Oct-04	07-Oct-05	07-Oct-10	Trichloroisocyanuric acid (TCCA)	Chemical and allied
India	20-May-98	17-Aug-99	17-Nov-10	Steel ropes and cables	Iron and Steel

Partner affected	Initiation of investigation	Imposition of measures	Withdrawn	Product description	Sector
Indonesia	24-Aug-04	19-Nov-05	20-Nov-10	Stainless steel fasteners and parts thereof	Iron and Steel
Thailand	24-Aug-04	19-Nov-05	20-Nov-10	Stainless steel fasteners and parts thereof	Iron and Steel
Viet Nam	24-Aug-04	19-Nov-05	20-Nov-10	Stainless steel fasteners and parts thereof	Iron and Steel
China	09-Sep-04	08-Dec-05	09-Dec-10	Granular polytetrafluoroethylene (PTFE) resin	Chemical and allied
Russian Federation	09-Sep-04	08-Dec-05	09-Dec-10	Granular polytetrafluoroethylene (PTFE) resin	Chemical and allied
China	07-Jul-05	06-Oct-06	31-Mar-11	Footwear with uppers of leather	Footwear
Macau, China	06-Sep-07	01-May-08	31-Mar-11	Footwear with uppers of leather	Footwear
Viet Nam	07-Jul-05	06-Oct-06	31-Mar-11	Footwear with uppers of leather	Footwear
China	13-Jul-04	12-Oct-05	25-Jun-11	Magnesia bricks	Other
China	20-May-94	04-Apr-96	08-Jul-11	Coumarin	Chemical and allied
India	08-Apr-04	31-Dec-04	08-Jul-11	Coumarin	Chemical and allied
Indonesia	29-Mar-06	10-Nov-06	08-Jul-11	Coumarin	Chemical and allied
Malaysia	29-Mar-06	10-Nov-06	08-Jul-11	Coumarin	Chemical and allied
Thailand	08-Apr-04	31-Dec-04	08-Jul-11	Coumarin	Chemical and allied
Belarus		24-Oct-92	12-Jul-11	Potassium chloride	Chemical and allied
Russian Federation		24-Oct-92	12-Jul-11	Potassium chloride	Chemical and allied
China		13-Apr-94	25-Aug-11	Silicon carbide	Chemical and allied
Korea, Republic of	02-Jun-05	31-Aug-06	01-Sep-11	Refrigerators (side-by-side)	Other mechanical engineering
China	09-Aug-02	31-Oct-03	10-Nov-11	Furfuryl alcohol	Chemical and allied
Algeria	26-Jun-99	22-Sep-00	22-Dec-11	Urea ammonium nitrate solutions	Chemical and allied
Belarus	26-Jun-99	22-Sep-00	22-Dec-11	Urea ammonium nitrate solutions	Chemical and allied
Russian Federation	26-Jun-99	22-Sep-00	22-Dec-11	Urea ammonium nitrate solutions	Chemical and allied
Ukraine	26-Jun-99	22-Sep-00	22-Dec-11	Urea ammonium nitrate solutions	Chemical and allied
Korea, Republic of	06-Nov-99	30-Nov-00	28-Feb-12	Polyethylene terephthalate (PET)	Chemical and allied
China	19-Jan-06	17-Apr-07	18-Apr-12	Strawberries (frozen)	Other
Ukraine	29-Oct-99	25-Jan-01	17-Jun-12	Ammonium nitrate	Chemical and allied
China	07-Apr-06	21-Jun-07	22-Jun-12	Saddles	Other mechanical engineering

Partner affected	Initiation of investigation	Imposition of measures	Withdrawn	Product description	Sector
Chinese Taipei	13-Jul-06	11-Oct-07	12-Oct-12	Peroxosulphates (persulphates)	Chemical and allied
United States	13-Jul-06	11-Oct-07	12-Oct-12	Peroxosulphates (persulphates)	Chemical and allied
Brazil	19-Feb-04	18-Nov-04	07-Nov-12	Polyethylene terephthalate film (PET film)	Chemical and allied
India	27-May-00	23-Aug-01	07-Nov-12	Polyethylene terephthalate film (PET film)	Chemical and allied
Israel	19-Feb-04	18-Nov-04	07-Nov-12	Polyethylene terephthalate film (PET film)	Chemical and allied
China	06-Sep-06	05-Dec-07	06-Dec-12	Silico-manganese	Other metals
Kazakhstan	06-Sep-06	05-Dec-07	06-Dec-12	Silico-manganese	Other metals
China		04-May-95	13-Dec-12	Lighters (non-refillable & refillable)	Other mechanical engineering
Chinese Taipei	08-May-98	29-Jan-99	13-Dec-12	Lighters (non-refillable & refillable)	Other mechanical engineering
Viet Nam	26-Jun-12	27-Jun-12	13-Dec-12	Lighters (non-refillable)	Other mechanical engineering
India	11-Nov-06	26-Jan-08	27-Jan-13	Dihydromyrcenol	Chemical and allied
Egypt	30-Nov-06	28-Feb-08	01-Mar-13	Ferro-silicon	Other metals
Kazakhstan	30-Nov-06	28-Feb-08	01-Mar-13	Ferro-silicon	Other metals
China	20-Dec-06	18-Mar-08	19-Mar-13	Coke (over 80mm)	Other
Thailand	29-Jun-01	27-Sep-02	20-Dec-13	Welded tubes and pipes of iron or non-alloy steel	Iron and steel
India	01-Jul-97	26-Jun-98	23-Dec-13	Synthetic fibre ropes	Textiles and allied
Thailand	03-Feb-94	03-Apr-96	05-Sep-14	Tube and pipe fittings, of iron or steel	Iron and steel
Armenia	12-Jul-08	06-Oct-09	07-Oct-14	Aluminium foil	Other metals
Countervailing Measures in force (within five-year period)					
Iran	03-Sep-09	29-Sep-10		Polyethylene terephthalate (PET)	Chemical and allied
Pakistan	03-Sep-09	29-Sep-10		Polyethylene terephthalate (PET)	Chemical and allied
UAE	03-Sep-09	29-Sep-10		Polyethylene terephthalate (PET)	Chemical and allied
India	01-Apr-10	28-Apr-11		Stainless steel bars	Iron and steel
China	17-Apr-10	14-May-11		Coated fine paper	Wood and paper
Canada	12-Aug-10	11-May-11		Biodiesel	Other
China	22-Feb-12	19-Mar-13		Organic coated steel products	Iron and steel
India	10-Aug-12	08-Sep-13		Stainless steel wire	Iron and steel

Partner affected	Initiation of investigation	Imposition of measures	Withdrawn	Product description	Sector
China	08-Nov-12	06-Dec-13		Solar panels (crystalline silicon photovoltaic modules and key components)	Electronics
China	27-Apr-13	15-May-14		Solar glass	Other
Measures in force through extension (after five-year period)					
India	06-Nov-99	30-Nov-00		Polyethylene terephthalate (PET)	Chemical and allied
India	06-Jul-01	25-Jul-02		Sulphanilic acid	Chemical and allied
India	21-Aug-03	18-Sep-04		Graphite electrode systems	Other
United States	13-Jun-08	10-Jul-09		Biodiesel	Other
New investigation initiated during the review period (2013-14)					
China	14-Aug-14			Stainless steel cold-rolled flat products	Iron and steel
Turkey	15-Feb-14			Rainbow trout	Other
Measures terminated					
India	17-May-02	05-Jun-03	06-Nov-07	Compact disks - recordable (CD-Rs)	Electronics
Korea, Republic of	25-Jul-02	22-Aug-03	09-Apr-08	DRAMs	Electronics
India	12-Sep-97	09-Oct-98	12-Aug-11	Antibiotics (broad spectrum)	Chemical and allied
Measures expired					
Indonesia	18-May-01	08-Jun-02	05-Jun-07	Ringbinder mechanisms	Other mechanical engineering
India	09-Nov-01	28-Nov-02	23-Nov-07	Polyester textured filament yarn (PTY)	Textiles and allied
India	18-Dec-02	17-Jan-04	18-Jan-09	Bed linen	Textiles and allied
Brazil	19-Feb-04	18-Nov-04	09-Mar-11	Polyethylene terephthalate film (PET film)	Chemical and allied
India	21-Nov-98	10-Dec-99	09-Mar-11	Polyethylene terephthalate film (PET film)	Chemical and allied
Israel	19-Feb-04	18-Nov-04	09-Mar-11	Polyethylene terephthalate film (PET film)	Chemical and allied

- a Pending the outcome of ongoing expiry review.
b Terminated following a review investigation.
c Expired with no review investigation.

Note: The measures in this table are listed by trading partner affected, including measures extended to other partners following anti-circumvention investigations.

Source: WTO Secretariat, and European Commission online information.

Table A3.3 Official export credit agencies of the EU member States, 2014

Country	Agency	Business model	Internet link
Austria	Oesterreichische Kontrollbank AG (OeKB)	Private sector	http://www.oekb.at
Belgium	Office national du Dueroire Nationale Delcrederedienst (ONDD)	Stand-alone government agency	http://www.delcrederedueroire.be/en/
Bulgaria	Bulgarian Export Insurance Agency (BAEZ)	Stand-alone government agency	..
Croatia	Croatian Bank for Reconstruction and Development	..	http://www.hbor.hr
Cyprus	Export Credit Insurance Service (ECIS)	Stand-alone government agency	http://www.mcit.gov.cy/mcit/trade/ts_nsf/index_gr/index_gr?OpenDocument
Czech Republic	Export Guarantee and Insurance Corporation (EGAP)	Stand-alone government agency	http://www.egap.cz
	Czech Export Bank		http://www.ceb.cz
Denmark	Eksport Kredit Fonden (EKF)	Stand-alone government agency	http://www.ekf.dk
Estonia	KredEx		http://kredex.ee/en/
	Credit & Export Guarantee Fund Estonia	Stand-alone government agency	..
Finland	Finnvera Oyj	Stand-alone government agency	http://www.finnvera.fi
	Finnish Export Credit Ltd (FEC)	..	http://www.fec.fi
France	Compagnie française d'Assurance pour le commerce extérieur (COFACE)	Private sector	http://www.coface.fr
Germany	AuslandsGeschäftsAbsicherung der Bundesrepublik Deutschland	..	http://www.agaportal.de/en/index.html
	Euler Hermes Kreditversicherungs-AG (EH)	Private sector	http://www.hermes-kredit.com
Greece	Export Credit Insurance Organisation (ECIO)	Stand-alone government agency	http://www.ecio.gr
Hungary	Hungarian Export Credit Insurance Ltd and Hungarian Export-Import Bank plc (MEHIB)	Stand-alone government agency	http://www.exim.hu/en/
Ireland	The Insurance Corporation of Ireland (ICI)	Government department	..
Italy	Istituto per i Servizi Assicurativi del Credito all'Esportazione (SACE)	Stand-alone government agency	http://www.sace.it/GruppoSACE/content/it/index.html
Latvia	Latvian Guarantee Agency (LGA)	Stand-alone government agency	http://www.lga.lv/
Lithuania	INVEGA	Stand-alone government agency	..
Luxembourg	Office du Dueroire (ODD)	Stand-alone government agency	http://www.dueroire.lu
Malta	Malta Export Credit Guarantee Company	Stand-alone government agency	..
Netherlands	Atradius	Private sector	http://atradius.com/nl/en/dutchstatebusiness/index.jsp
Poland	Korporacja Ubezpieczeń Kredytów Eksportowych (KUKE)	Stand-alone government agency	http://www.kuke.com.pl
Portugal	Companhia de Seguro de Créditos S.A. (COSEC)	Private sector	http://www.cosec.pt
Romania	Eximbank of Romania (EXIM R)	Majority state ownership	..
Slovakia	Export-Import Bank of the Slovak Republic (EXIMBANKA)	Stand-alone government agency	http://www.eximbanka.sk
Slovenia	Slovenska izvozna in razvojna banka, d.d. (SID)	Government-owned bank	http://www.sid.si/home

Country	Agency	Business model	Internet link
Spain	Compañía Española de Seguros de Crédito a la Exportación (CESCE)	Majority state ownership	http://www.cesce.es
	Secretaría de Estado de Comercio (Ministerio de Economía)	Government department	http://www.mcx.es
Sweden	Exportkreditnämnden (EKN)	Stand-alone government agency	http://www.ekn.se
	AB Svensk Exportkredit (SEK)	..	http://www.sek.se/en
United Kingdom	U.K. Export Finance	Government department	http://www.ukexportfinance.gov.uk

.. Not available.

Source: OECD online information, "Official Export Credits Agencies", viewed at: <http://www.oecd.org/trade/exportcredits/eca.htm>; and information provided by the European Union.

Table A3.4 Tax and social contributions in the EU in 2012

(€ million)

	Tax receipts and social contribution as % of GDP	Total tax receipts	Value added type taxes (VAT)	Excise duties and consumption taxes	Taxes on land, buildings and other structures	Taxes on individual or household income	Taxes on the income or profits of corporations	Actual social contributions	Employers' actual social contributions	Employees' social contributions	Social contributions by self- and non-employed persons
European Union 28	39.6	3,469,715	926,909	316,312	152,321	1,222,546	322,005	1,684,614	959,953	518,346	206,315
Belgium	45.4	115,608	26,896	6,834	4,663	47,801	11,680	55,073	33,434	16,515	5,124
Bulgaria	27.7	8,209	3,740	2,032	123	1,171	756	2,861	1,683	975	204
Czech Republic	35.0	29,720	11,050	3,480	320	5,759	5,065	23,833	15,216	4,847	3,770
Denmark	48.2	116,366	24,422	8,294	3,335	60,049	7,466	2,316	190	2,126	..
Germany	39.4	628,360	194,040	48,270	12,010	234,580	72,140	421,340	180,020	170,080	71,240
Estonia	32.5	3,659	1,508	..	59	931	252	2,000	1,845	137	18
Ireland	28.7	39,849	10,219	832	1,435	15,915	4,005	7,186	5,023	1,864	298
Greece	33.8	44,376	13,713	7,023	386	13,446	2,174	20,972	9,270	8,816	2,886
Spain	32.5	219,525	57,057	22,142	11,231	79,728	22,246	123,206	86,520	17,837	18,849
France	45.0	571,944	142,499	45,158	52,163	172,073	45,983	346,376	235,111	84,376	26,889
Croatia	35.9	10,652	5,403	1,484	288	1,621	877	5,032	2,629	2,326	77
Italy	44.0	477,104	95,473	37,187	22,629	191,768	35,284	212,760	145,703	37,659	29,398
Cyprus	35.3	4,630	1,578	575	68	708	1,114	1,620	1,100	446	75
Latvia	27.9	4,338	1,583	714	148	1,268	357	1,878	1,282	585	11
Lithuania	27.2	5,366	2,521	918	86	1,160	433	3,612	2,397	717	499
Luxembourg	39.3	11,919	3,064	82	28	3,699	2,257	4,961	2,104	2,249	608
Hungary	39.2	25,175	9,084	3,439	349	5,231	1,252	12,838	7,487	4,922	429
Malta	33.5	1,890	536	208	..	462	431	414	190	188	37
Netherlands	39.0	138,028	41,699	9,007	3,348	45,900	12,740	95,780	32,608	41,726	21,446
Austria	43.2	86,771	24,563	7,513	707	31,076	7,263	46,114	21,487	18,795	5,832
Poland	32.5	77,623	27,881	14,366	3,283	17,421	8,125	46,764	18,840	18,542	9,382
Portugal	32.4	38,468	13,995	3,803	1,202	9,796	4,630	14,999	8,417	6,011	571
Romania	28.5	25,655	11,212	4,133	522	4,582	2,852	11,792	7,496	3,780	516
Slovenia	37.6	7,912	2,889	1,583	184	2,065	446	5,380	2,061	2,706	614
Slovakia	28.3	11,227	4,328	1,973	215	1,862	1,715	8,929	4,810	2,138	1,981
Finland	44.3	59,621	17,640	7,517	..	24,989	4,213	25,524	17,698	5,963	1,863
Sweden	44.4	150,258	37,861	10,587	3,266	61,931	11,013	30,685	29,715	302	667
United Kingdom	36.7	555,464	140,457	67,159	30,274	185,555	55,236	150,369	85,618	61,720	3,031

.. Not available.

Source: Eurostat online database [gov_a_tax_ag]. Viewed at: http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=gov_a_tax_ag&lang=en [February 2015]

Table A3.5 Summary of the main legislation on intellectual property rights, 2015

Intellectual property right	Legislative measure	Notification to Council for TRIPS pursuant to Article 63.2 TRIPS
Copyright and related rights	<ul style="list-style-type: none"> • Directive 96/9/EC of 11 March 1996 on the legal protection of databases • Directive 2001/29/EC of 22 May 2001 on the harmonization of certain aspects of copyright and related rights in the information society • Directive 2012/28/EU of 25 October 2012 on certain permitted uses of orphan works • Directive 2006/115/EC of 12 December 2006 on rental right and lending right and on certain rights related to copyright in the field of intellectual property • Directive 2006/116/EC of 12 December 2006 on the term of protection of copyright and certain related rights, as amended by Directive 2011/77/EU of 27 September 2011 • Council Directive 93/83/EEC of 27 September 1993 on the coordination of certain rules concerning copyright and rights related to copyright applicable to satellite broadcasting and cable retransmission • Directive 2001/84/EC of 27 September 2001 on the resale right for the benefit of the author of an original work of art • Council Directive 2009/24/EC of 23 April 2009 on the legal protection of computer programmes • Council Decision 2000/278/EC of 16 March 2000 on the approval, on behalf of the European Community, of the WIPO Copyright Treaty and the WIPO Performances and Phonograms Treaty • Directive 2014/26/EU of the European Parliament and of the Council of 26 February 2014 on collective management of copyright and related rights and multi-territorial licensing of rights in musical works for online use in the internal market • National laws of EU member States 	<p>IP/N/1/EEC/C/2 IP/N/1/EU/C/1</p> <p>IP/N/1/EU/C/2 IP/N/1/EU/C/3</p> <p>IP/N/1/EU/C/4</p> <p>IP/N/1/EU/C/5</p> <p>IP/N/1/EU/C/6</p> <p>IP/N/1/EU/C/7</p> <p>IP/N/1/EU/C/8</p> <p>IP/N/1/EU/C/9</p>
Trademarks	<ul style="list-style-type: none"> • Council Regulation (EC) No. 1992/2003 of 27 October 2003 amending Regulation (EC) No. 40/94 on the Community trademark to give effect to the accession of the European Community to the Protocol relating to the Madrid Agreement concerning the international registration of marks adopted at Madrid on 27 June 1989 • Directive 2008/95/EC of 22 October 2008 to approximate the laws of the member States relating to trademarks • Council Regulation (EC) No. 207/2009 of 26 February 2009 on the Community trademark • Commission Regulation (EC) No. 2082/2004 of 6 December 2004, amending Regulation (EC) No. 216/96 laying down the rules of procedure of the Boards of Appeal of the Office for Harmonization in the Internal Market (Trademarks and Designs) • Commission Regulation (EC) No. 355/2009 of 31 March 2009 amending Regulation (EC) No. 2869/95 on the fees payable to the Office for Harmonization in the Internal Market (Trademarks and Designs) and Regulation (EC) No. 2868/95 implementing Council Regulation (EC) No. 40/94 on the Community trademark • National laws of EU member States on trademarks: national trademark systems exist in parallel to the Community trademark system 	<p>IP/N/1/EEC/T/2</p> <p>IP/N/1/EU/T/1</p> <p>IP/N/1/EU/T/2 IP/N/1/EU/T/3</p> <p>IP/N/1/EEC/T/4</p>

Intellectual property right	Legislative measure	Notification to Council for TRIPS pursuant to Article 63.2 TRIPS
Geographical indications	<ul style="list-style-type: none"> • <u>Wines</u>: Regulation (EU) No 1308/2013 of the EP and of the Council of 17 December 2013 establishing a common organization of the markets in agricultural products • Commission Regulation (EC) No. 607/2009 of 14 July 2009, laying down certain detailed rules regarding protected designations of origin and geographical indications, traditional terms, labelling and presentation of certain wine sector products • <u>Spirits</u>: Regulation (EC) No. 110/2008 of the EP and of the Council of 15 January 2008 on the definition, description, presentation, labelling and the protection of geographical indications of spirit drinks • <u>Agricultural products and foodstuffs</u>: Council Regulation (EU) No. 1151/2012 of 21 November 2012 on quality schemes for agricultural products and foodstuffs • For the protection as collective trademarks, see Regulation (EC) No. 207/2009 of 26 February 2009 on the Community trademark • National laws of the EU member States, and the Appellation System of certain EU member States 	<p>Not notified</p> <p>IP/N/1/EEC/4 and IP/N/1/EEC/G/5</p> <p>IP/N/1/EEC/4 and IP/N/1/EEC/G/6</p> <p>IP/N/1/EU/G/3</p> <p>IP/N/1/EU/T/2</p>
Industrial designs	<ul style="list-style-type: none"> • Directive 98/71/EC of 13 October 1998 on the legal protection of designs • Council Regulation (EC) No. 6/2002 of 12 December 2001 on Community designs, as amended by Council Regulation (EC) No. 1891/2006 of 18 December 2006 • Commission Regulation (EC) No 2245/2002 of 21 October 2002 implementing Council Regulation (EC) No. 6/2002, as amended by Commission Regulation (EC) No 876/2007 of 24 July 2007 • Commission Regulation (EC) No 2246/2002 of 16 December 2002 on the fees payable to the Office for Harmonization in the Internal Market (Trademarks and Designs) in respect of the registration of Community designs, as amended by Commission Regulation (EC) No. 877/2007 of 24 July 2007 • Council Decision 2006/954/EC of 18 December 2006 approving the accession of the EC to the Geneva Act of the Hague Agreement concerning the international registration of industrial designs, adopted in Geneva on 2 July 1999 • National laws of EU member States: national industrial design systems exist in parallel with the Community design system 	<p>IP/N/1/EU/D/1 IP/N/1/EU/D/2</p> <p>IP/N/1/EU/D/3</p> <p>IP/N/1/EU/D/4</p> <p>IP/N/1/EU/D/5</p>
Patents	<ul style="list-style-type: none"> • Regulation (EU) No. 1257/2012 of 17 December 2012 implementing enhanced cooperation in the area of the creation of unitary patent protection • Regulation (EU) No. 1260/2012 of 17 December 2012 implementing enhanced cooperation in the area of the creation of unitary patent protection with regard to the applicable translation arrangements • Directive 98/44/EC of 6 July 1998 on the legal protection of biotechnological inventions • Regulation (EC) No. 1901/2006 of 12 December 2006 on medicinal products for paediatric use and amending Regulation (EEC) No. 1768/92, Directive 2001/20/EC, Directive 2001/83/EC and Regulation (EC) No. 726/2004 • Regulation (EC) No. 816/2006 of 17 May 2006 on compulsory licensing of patents relating to the manufacture of pharmaceutical products for export to countries with public health problems • National patent laws of the EU member States and the European Patent Convention (EPC) exist alongside and in parallel with the European patent system 	<p>IP/N/1/EU/P/1</p> <p>IP/N/1/EU/P/8</p> <p>IP/N/1/EEC/P/4 IP/N/1/EU/P/2</p> <p>IP/N/1/EEC/P/5</p>
Supplementary protection certificates	<ul style="list-style-type: none"> • Regulation (EC) No 469/2009 of 6 May 2009 concerning the supplementary protection certificate for medicinal products • Regulation (EC) No 1610/96 of 23 July 1996 concerning the creation of a supplementary protection certificate for plant protection products 	<p>IP/N/1/EU/P/3</p> <p>IP/N/1/EU/P/4</p>

Intellectual property right	Legislative measure	Notification to Council for TRIPS pursuant to Article 63.2 TRIPS
Plant varieties	<ul style="list-style-type: none"> • Council Regulation (EC) No. 2100/94 of 27 July 1994, as amended by Council Regulation (EC) No. 15/2008 • Commission Regulation (EC) No. 874/2009 of 17 September 2009, establishing implementing rules for the application of Council Regulation (EC) No. 2100/94 as regards proceedings before the Community Plant Variety Office • Commission Regulation (EC) No. 1238/95 of 31 May 1995 establishing implementing rules for the application of Council Regulation (EC) No. 2100/94 as regards the fees payable to the Community Plant Variety Office, as amended by Commission Regulation (EC) No. 572/2008 of 19 June 2008 and Commission Implementing Regulation (EU) No. 510/2012 of 15 June 2012 • Commission Regulation (EC) No. 1768/95 of 24 July 1995, establishing implementing rules on the agricultural exemption provided for in Article 14(3) of Council Regulation (EC) No. 2100/94, as amended by Commission Regulation (EC) No. 2605/98 of 3 December 1998 • National laws of EU member States: national systems work in parallel with the Community system 	<p>IP/N/1/EEC/P/3</p> <p>IP/N/1/EU/P/5</p> <p>IP/N/1/EU/P/6</p> <p>IP/N/1/EU/P/7</p>
Protection of layout designs	<ul style="list-style-type: none"> • Council Directive 87/54/EEC of 16 December 1986 on the legal protection of topographies of semiconductor products • Council Decision 94/824/EC of 22 December 1994 on the extension of the legal protection of semiconductor products to persons from a Member of the WTO 	<p>IP/N/1/EEC/1/Rev.1 and IP/N/1/EEC/L/1</p> <p>IP/N/1/EEC/1/Rev.1 and IP/N/1/EEC/L/2</p>
Undisclosed information and clinical trial data	<ul style="list-style-type: none"> • Directive 2001/83/EC of 6 November 2001 on the Community code relating to medicinal products for human use, as amended by Directive 2004/27/EC of 31 March 2004 • Regulation No. 726/2004 of the EP and of the Council of 31 March 2004 laying down Community procedures for the authorization and supervision of medicinal products for human and veterinary use and establishing a European Medicines Agency • National laws of the EU member States 	<p>IP/N/1/EU/U/1</p> <p>IP/N/1/EU/U/2</p>
Enforcement	<ul style="list-style-type: none"> • Directive 2004/48/EC of 29 April 2004 on the enforcement of IPRs • Regulation (EU) No 608/2013 of the EP and of the Council of 12 June 2013 concerning customs enforcement of IPRs • National laws of EU member States 	<p>IP/N/1/EEC/2 and IP/N/1/EEC/E/4</p> <p>IP/N/1/EU/E/1</p>

Source: WTO Secretariat.

Table A3.6 Term of protection of major intellectual property rights, 2015

Type of rights	Term of protection	Competent agency at the EU level
<p>Copyright</p> <ul style="list-style-type: none"> • Authors' right • Work published in volumes • Works that have not been lawfully made available to the public within 70 years from their creation • Cinematographic or audiovisual works^a • Performers • Producers of phonograms • Producers of a film^b • Broadcasting organizations 	<ul style="list-style-type: none"> • Life of the author plus 70 years irrespective of the date the work was lawfully made available to the public. In the case of joint authorship the term should be calculated after the death of the last surviving author. In the case of anonymous or pseudonymous works, 70 years after the work is lawfully made available to the public. If the pseudonym does not leave any doubt as to the identity of the author, then protection is for the life of the author plus 70 years irrespective of the date the work was lawfully made available to the public • Protection runs from the time the work was lawfully made available to the public • Protection should be terminated • Protection expires 70 years after the death of the author • Protection expires 50 years after the date of the performance. However, if a fixation of the performance is lawfully published or lawfully communicated to the public within this period, the rights expire 70 years from the date of the first such publication or the first such communication to the public, whichever is the earlier • Protection expires 50 years after the fixation is made. However, if the phonogram has been lawfully published within this period, the rights expire 70 years from the date of the first lawful publication. If no lawful publication has taken place, and the phonogram has been lawfully communicated to the public within this period, the rights will expire 70 years from the date of the first lawful communication to the public • Protection expires 50 years after the fixation is made. However, if the film is lawfully published or lawfully communicated to the public during this period, the rights will expire 50 years from the date of the first such publication or the first such communication to the public, whichever is the earlier • Protection expires 50 years after the first transmission of a broadcast whether transmitted by wire or over the air, including by cable or satellite 	<p>Copyright is protected without registration</p>

Type of rights	Term of protection	Competent agency at the EU level
<ul style="list-style-type: none"> Photographs^c 	<ul style="list-style-type: none"> Life of the author plus 70 years no matter when it was lawfully made available to the public. In the case of joint authorship, the term should be calculated after the death of the last author. In the case of anonymous or pseudonymous works, 70 years after the work is lawfully made available to the public. If the pseudonym does not leave any doubt as to the identity of the author then protection is for the life of the author plus 70 years no matter when the work was lawfully made available to the public 	
<p>Patents Any inventions, in all fields of technology, that are new, involve an inventive step, and are susceptible of industrial application</p>	20 years from the date of filing; under a supplementary protection certificate, an additional period of market exclusivity of up to five years may be granted for medicinal and plant protection products; an extension of another six months is available under paediatric legislation	European Patent Office (EPO) for European patent and unitary patents
<p>Plant varieties Plant varieties which are distinct, uniform, stable, and new</p>	Plant varieties for 25 years, wine and tree species for 30 years. Protection may be extended for 5 years	Community Plant Variety Office (CPVO)
<p>Trademarks Any signs represented graphically, particularly words, including personal names, designs, letters, numerals, the shape of goods or their packaging, provided that such signs are capable of distinguishing the goods or services of one undertaking from those of other undertakings</p>	10 years from the date of filling of application, may be renewed for an indefinite number of 10-year periods	Office for Harmonization in the Internal Market (OHIM) for Community trademarks
<p>Geographical indications Indications which identify a good as originating in the territory of a Member or a region or locality in that territory, where a given quality, reputation or other characteristics of the good are essentially attributable to its geographical origin</p>	For GIs protected as Community collective trademarks: 10 years from the date of filling of application, may be renewed for an indefinite number of 10 year periods. For GIs protected as PDO/PGI, the term of protection is indefinite, unless the geographical indication ceases to be protected	European Commission DG Agriculture and DG Trade. OHIM for Community collective trademarks

Type of rights	Term of protection	Competent agency at the EU level
Industrial designs Designs that are new and have individual character. A design is considered new if no identical design (i.e. one whose features differ only in immaterial details) has been made available to the public. It has individual character if the overall impression it produces on the informed user differs from the overall impression produced on such a user by any design which has been made available to the public	Registered design: one or more periods of 5 years, up to a maximum of 25 years from the date of filing. Unregistered design: 3 years after publication	OHIM for Community designs
Undisclosed test or other data Data the origination of which involves considerable effort and which must be submitted to regulatory authorities in order to obtain marketing approval of pharmaceutical or of agricultural chemical products which utilize new chemical entities	8-11 years of data and marketing protection	European Medicines Agency (EMA) grants marketing authorization

- a The principal director of a cinematographic or audiovisual work is considered the author or one of its authors. Member States are free to designate other co-authors. Irrespective of whether these persons are designated as co-authors, the term of protection expires after the death of the last of the following persons to survive: the principal director, the author of the screenplay, the author of the dialogue and the composer of music specifically created for use in the cinematographic or audiovisual work.
- b The term "film" designates a cinematographic or audiovisual work or moving images, whether or not accompanied by sound.
- c Photographs are protected under Community law only if they are the author's own intellectual creation. Member States may provide protection for other photographs.

Source: WTO Secretariat.

Table A4.1 Implementation of direct payments in the EU in 2015

Member State/region	National envelope 2015 ^a	Transfer to Pillar II 2015	Transfer to Pillar I 2015	Basic payments 2015 ^b	Degressivity	Internal convergence	Greening	Young farmers' scheme	Redistributive payment	Voluntary coupled support ^c	Natural constraints support	Small farmer scheme
	€ million	% of envelope	% of envelope	% of envelope			% of envelope	% of envelope	% of envelope	% of envelope	% of envelope	
General rules					Over €150,000 subject to minimum reduction of 5% If redistributive applied (> 5%), no need to reduce payments	Flat rate 2015 (BPS or SAPS) Alternatives: 1) flat rate 2019 2) by 2019 no entitlement should be less than 60% of region average 3) same as 2) but losses of value limited to 30%	30% mandatory	Up to 2%	Up to 30%	Up to 8% (+ 2% for protein crops) or more with Commission approval	up to 5%	
Belgium	524	-	-	42.11%	€150,000, reduction of 100% (only Flanders)	Alternative 3	30%	1.89%	9.34% (only applicable in Wallonia)	16.66%	-	No
Bulgaria	721	-	-	47.46%	€150,000, reduction of 5%; €300,000, reduction of 100%	Flat rate 2015 (SAPS)	30%	0.47%	7.07%	15.00%	-	Yes
Czech Republic	870	-	-	54.80%	€150,000, reduction of 5%	Flat rate 2015 (SAPS)	30%	0.20%	-	15.00%	-	No
Denmark		-	-	64.90%	€150,000, reduction of 5%	Alternative 2	30%	2.00%	-	2.77%	0.33%	No
Germany	4,913	-	-	62.00%	-	Flat rate 2015 (BPS)	30%	1.0%	7.00%	-	-	Yes
Estonia	114	-	-	65.47%	€150,000, reduction of 5%	Flat rate 2015 (SAPS)	30%	0.30%	-	4.23%	-	Yes
Ireland	1,215	-	-	68.00%	€150,000, reduction of 100%	Alternative 2	30%	2.00%	-	-	-	No
Greece	2,110	-	-	60.63%	€150,000, reduction of 100%	Alternative 3	30%	2.00%	-	7.37%	-	Yes
Spain	4,902	-	-	55.92%	€150,000, reduction of 5%	Alternative 3	30%	2.00%	-	12.01%	-	Yes
France	7,302	3.00%	-	48.99%	-	Alternative 3	30%	1.00%	5.01%	15.00%	-	No
Croatia	183	-	15.0%	43.00%	-	Alternative 2	30%	2.00%	10.00%	15.00%	-	Yes
Italy	3,897	-	-	58.00%	€150,000, reduction of 5%, €500,000, reduction of 100%	Alternative 3	30%	1.00%	-	11.00%	-	Yes
Cyprus	51	-	-	61.12%	€150,000, reduction	Flat rate 2015 (SAPS)	30%	1.00%	-	7.88%	-	No

Member State/region	National envelope 2015 ^a	Transfer to Pillar II 2015	Transfer to Pillar I 2015	Basic payments 2015 ^b	Degressivity	Internal convergence	Greening	Young farmers' scheme	Redistributive payment	Voluntary coupled support ^c	Natural constraints support	Small farmer scheme
Latvia	181	7.5%	-	54.30%	of 5% €150,000, reduction of 5%	Flat rate 2015 (SAPS)	30%	1.50%	-	14.20%	-	Yes
Lithuania	418	-	-	38.25%	-	Flat rate 2015 (SAPS)	30%	1.75%	15.00%	15.00%	-	No
Luxembourg	34	-	-	68.02%	€150,000, reduction of 5%	Alternative 2	30%	1.50%	-	0.48%	-	No
Hungary	1,277	-	-	54.80%	€150,000, reduction of 5%, €176,000, reduction of 100%	Flat rate 2015 (SAPS)	30%	0.20%	-	15.00%	-	Yes
Malta	5	-	-	12.36%	€150,000, reduction of 5%	Flat rate 2015 (BPS)	30%	0.40%	-	57.24%	-	Yes
Netherlands	749	-	-	67.53%	€150,000, reduction of 5%	Alternative 1	30%	2.00%	-	0.47%	-	No
Austria	693	-	-	65.90%	€150,000, reduction of 100%	Alternative 1	30%	2.00%	-	2.10%	-	Yes
Poland	3359	-	25.0%	45.70%	€150,000, reduction of 100%	Flat rate 2015 (SAPS)	30%	1.00%	8.30%	15.00%	-	Yes
Portugal	566	-	-	47.23%	€150,000, reduction of 5%	Alternative 3	30%	2.00%	-	20.77%	-	Yes
Romania	1,600	-	-	50.74%	-	Flat rate 2015 (SAPS)	30%	1.79%	5.18%	12.28%	-	Yes
Slovenia	138	-	-	54.00%	€150,000, reduction of 5%	Alternative 3	30%	1.00%	-	15.00%	-	Yes
Slovakia	436	-	21.3%	56.45%	€150,000, reduction of 5%	Flat rate 2015 (SAPS)	30%	0.55%	-	13.00%	-	No
Finland	523	-	-	49.00%	€150,000, reduction of 5%	Alternative 1	30%	1.00%	-	20.00%	-	No
Sweden	697	-	-	55.00%	€150,000, reduction of 5%	Alternative 2	30%	2.00%	-	13.00%	-	No
U.K.	3,170	10.8%	-	66.63%	-	-	30%	1.71%	-	1.66%	-	No
England					€150,000, reduction of 5%	Flat rate 2015 (BPS)						
Scotland					€150,000, reduction of 5%, €600,000, reduction of 100%	Alternative 1						
Wales					€150,000, reduction of 15%, €200,000, reduction of 30%, €250,000, reduction of 55%, €300,000, reduction of 100%	Alternative 1						
Northern Ireland					€150,000, reduction of 100%	Alternative 2						

a According to Annex III of Regulation (EU) No. 1378/2014 (see footnote Table 4.5).

b Applicable only on the amounts of basic payment (BPS or SAPS).

c See Table A4.2 member States and sectors supported.

Source: European Commission (based on preliminary data, subject to verification).

Table A4.2 Voluntary coupled support – member States and sectors supported (claim year 2015)

Sector	Belgium (Flanders)	Belgium (Wallonia)	Bulgaria	Czech Republic	Denmark	Estonia	Ireland	Greece	Spain	France	Croatia	Italy	Cyprus	Latvia	Lithuania	Luxembourg	Hungary	Malta	Netherlands	Austria	Poland	Portugal	Romania	Slovenia	Slovakia	Finland	Sweden	U.K.
Beef and veal	√	√	√	√	√	√		√	√	√	√	√		√	√		√	√	√	√	√	√	√	√	√	√	√	√
Cereals								√		√		√		√										√		√		
Flax																					√							
Fruit and vegetables			√	√		√		√	√	√	√	√	√	√	√		√	√			√	√	√	√	√	√	√	
Grain legumes								√	√			√											√					
Hemp										√											√		√					
Hops				√						√											√		√		√			
Milk and milk products		√	√	√		√			√	√	√	√	√	√	√		√	√			√	√	√	√	√	√	√	
Nuts									√																			
Oilseeds												√		√														
Olive oil												√																
Protein crops			√	√			√	√	√	√	√	√		√	√	√	√				√		√	√		√		
Rice								√	√			√					√					√	√					
Seeds								√		√				√									√					
Sheep meat and goat meat		√	√	√		√		√	√	√	√	√	√	√	√		√	√	√	√	√	√	√		√	√		√
Silkworms								√															√					
Starch potato				√						√				√							√					√		
Sugar beet				√				√	√		√	√					√				√		√		√	√		

Source: European Commission.