



European
Commission

Report from the Commission to the Parliament
and the Council

on Trade and Investment Barriers

1 January 2019 - 31 December 2019

FOREWORD BY PHIL HOGAN

EU TRADE COMMISSIONER

This year's edition of the EU Trade and Investment Barriers Report is published under truly exceptional circumstances. Within just a few months, the severe public health crisis and the economic impact of the COVID-19 pandemic has changed the outlook for our companies dramatically.

COVID-19 has brought the global economy to a standstill, creating enormous shocks to supply and demand across every region and every sector. The WTO has projected that, in the best-case scenario, the volume of trade in goods will fall by 13 % in 2020. The economic crisis has also raised more general questions on global interconnectedness and interdependencies, notably with respect to supply chains.

Our first priority has been to deal with the health crisis, which demands a coordinated effort at EU and at global level. We have urged our global partners, notably those in the G20, to continue coordinating efforts to deal with the COVID-19 crisis.

At global level, it is essential for addressing the health crisis as much as for economic recovery to keep International trade flows and supply chains open and that countries around the world refrain from resorting to protectionist measures in the wake of this crisis. The EU Commission has already demonstrated its commitment to maintaining open trade and avoiding unnecessary disruption of supply chains.

As we move out of the immediate health crisis, trade policy will also be a key asset to support the recovery of the hard hit economy and nurture the Single Market back to health. Trade was an important contributor to recovery from the 2008 financial crisis. This needs to be remembered today, as does the fact that most future economic growth will occur outside the EU. As with everything, it will be important to find the right balance. We should promote a model of strategic autonomy that allows our economy to reap the benefits of openness while making it resilient to external shocks and ensuring that we have the tools to reduce our vulnerabilities.

Keeping trade flows open will be an important element to ensure the EU's economic recovery. As the current economic crisis is likely to result in a significant increase in global trade barriers, the EU must make use of all the tools at its disposal to avoid additional, unnecessary

strain on our economies. This includes strengthening our ongoing efforts to remove trade barriers for EU companies on foreign markets. The present report on trade and investment



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barriers eliminated in 2019 confirms that decisive and coordinated action vis-à-vis third countries is very valuable for our companies to sustain growth and diversify their export markets.

Thanks to the EU Market Access Partnership, which brings together EU companies and trade experts from the EU Commission and Member States, in 2019 we were able to eliminate 40 trade barriers in third countries. Over the years, the cumulative effect of this work is significant for our entrepreneurs. The removal of barriers in the 2014-2018 period has generated about €8 billion in additional exports for EU27 companies in 2019, supporting thousands of jobs in the EU.

At the same time, trade-restrictive actions taken by partner countries in 2019 show a particularly worrying structural change. First, protectionism not only continues to rise, but has become structurally ingrained in our trade relations with many trade partners.

Second, while our efforts are paying off in the agrifood, eliminating barriers in the industrial and service sectors is becoming more and more challenging. This is especially worrying when it comes to sectors that are key to our sovereignty and strategic autonomy, in particular high-tech.

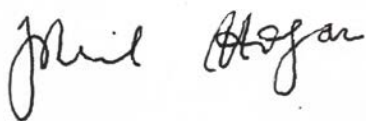
We need a new approach to ensure such barriers are eliminated. This is why, with the creation of the Chief Trade Enforcement Officer, we have decided to take our efforts on enforcement and implementation to the next level. We will step up our action to respond to breaches of trade rules, whether multilateral or bilateral, and we will reinforce dispute settlement actions not least in bilateral agreements with our partners.

Through our Market Access Days in Member States, we will determine, together with our companies and national regulators, tailor-made responses to resolve barriers. We will provide more information than ever for companies to export successfully via our comprehensive Access to Markets (A2M) tool. We will provide practical support to our SMEs through dedicated facilities in our Free Trade Agreements.

All of these trade initiatives are part of a wider effort by the European Union to ensure we build the foundations for resilience, competitiveness and growth; developing mutually beneficial bilateral relations, while taking the internal measures needed to strengthen our economy, and defend it from unfair and abusive practices.

Against this background, our enforcement efforts are part and parcel of trade policy's contribution to broader Commission priorities such as the Green Deal (promoting and enforcing sustainability through our FTAs, contributing to the development of a WTO compatible border adjustment mechanism), the Single Market and industrial policy (designing robust tools to avoid distortions by foreign operators) and technological security (5G security toolbox), to name just a few.

This Commission will engage constructively to secure a prosperous, stable economic future for our stakeholders and citizens, in which the EU maintains its technological sovereignty, enhances its strategic autonomy and delivers on the twin transitions.



PHIL HOGAN
EU COMMISSIONER FOR TRADE



INTRODUCTION

“ *Enforcement of our trade and investment rights is a top Commission priority.* ”

The 10th edition of the Trade and Investment Barriers Report analyses the new barriers faced by EU business in 2019 and those removed for our companies in the same year thanks to the EU Market Access Partnership, which brings together the Commission, Member States and EU

businesses¹. This Partnership identifies barriers that EU firms face in third countries, defines a common strategy to remove them, and follows this strategy through.

To respond to the rise in protectionism, the Commission has made enforcement – along with the sharper focus on the implementation of trade agreements – a top priority. With respect to the traditional market access element, we have strengthened our work by improving coordination among EU institutions and stakeholders and a savvier prioritisation of barriers. Importantly, the Commission has also improved communication efforts to explain, especially to small and medium-sized enterprises (SMEs), how they can use the Market Access Partnership to remove the various barriers they face. This has benefited from our Market Access Days initiative, where in 2019 sessions addressed to companies were held in the Netherlands, Lithuania, Portugal, France and Latvia.

Since 2016, every year has brought improvements to the Report. This year's edition benefits from a much more granular analysis of which type of barriers causes the most problems to our companies, and of a specific focus on the sector that has seen the best results, agri-food.

As in last year's Report, we first analyse the total stock of 438 active² trade and investment barriers, per country and per type of barrier, as reported to the Commission and recorded in the EU's Market Access Database (MADB)³.

¹ The Market Access Partnership was set up in 2007 to deepen cooperation between the Commission, the Member States and EU business both in Brussels and in third countries. It works by means of monthly meetings of the Market Access Advisory Committee (MAAC) and sectorial Market Access Working Groups (MAWGs) in Brussels, and regular meetings of the Market Access Teams (MATs) or trade counsellors' meetings in third countries.

² 'Active' barriers are those that are being actively followed up in the Market Access Partnership (as opposed to resolved barriers that have become inactive once resolved).

We then provide a detailed analysis of the 43 new barriers reported in 2019, describing specific trends in various countries and sectors and assessing potentially affected trade flows.

The next section identifies the tools used to address the 40 barriers successfully resolved in 2019, and provides a review per country, type of measure, and sector. This year's edition offers a special focus on the Mediterranean and Middle East region, explaining how targeted efforts have helped eliminate some of the otherwise rather numerous trade barriers in these countries.

This is followed by a section that delves in more detail into some of the most impactful resolved barriers and also elaborates on the economic gains generated by our Market Access Partnership in 2019 on the basis of economic modelling.

Finally, a specific section is devoted to the relationship with the United States, as we continue to fight the significant barriers that have emerged in this jurisdiction.

Throughout this Report, we have focused not only on partners with the highest number of new and resolved barriers, but have also put emphasis on barriers that affect most trade flows from EU exporters, shedding light on their significance.

1. Methodological note on the inventory of barriers

Our stakeholder-driven approach implies that our Report focuses exclusively on obstacles flagged by our businesses. The Report focuses on trade barriers faced by EU companies in third countries, related trends, and actions taken to remove them in the framework of our Market Access Partnership. While the database and this Report do not prejudge the (il)legality of the recorded measures, these barriers have all been identified as problematic for EU companies and prioritised for further action in our market access work, since they might be discriminatory, disproportionate or otherwise trade-restrictive.

The reader will notice several important running threads throughout the Report. First, the continuing rise in the number of barriers, the multiplication of types of barriers involved and the increasing difficulty of removing many of them points to a new paradigm where protectionism is becoming deeply ingrained in our structural trade relations. Second, barriers are increasingly affecting sectors linked to the EU's technological sovereignty and strategic autonomy. Third, we find that it is increasingly challenging to tackle barriers in the industrial and service sectors. Fourth, protectionist measures are spreading across specific regions.

This requires a radically new approach to defend EU trade interests – one of the top priorities of the von der Leyen Commission.

³ In place during the period under consideration (1 January – 31 December 2019), the Market Access Database (now being replaced by the improved '**Access to Markets**' portal) provides information to companies exporting from the EU about import conditions in third country markets. This includes information not only on trade barriers but also on tariffs and rules of origin, procedures and formalities for importing into third countries, sanitary and phytosanitary (SPS) measures, statistics, and specific export services provided to SMEs.



I. OVERVIEW OF TRADE AND INVESTMENT BARRIERS

At the end of 2019, 438 active trade and investment barriers in 58 third countries⁴ were listed in the EU's Market Access Database⁵. This record figure, together with the increasing lifespan of a number of barriers, points not only to increasing protectionism but also to the fact that protectionism is becoming structurally ingrained in our trade relations with many partners.

A. OVERALL STOCK OF TRADE AND INVESTMENT BARRIERS

“There is a worrying sea change in world trade: protectionism has become ingrained in trade relations.”

Compared to 2018, the top five countries with the highest number of barriers have remained the same. China remains the country with the highest stock of recorded barriers, with 38 obstacles hindering EU export and investment opportunities. Russia came second with 31 barriers currently in

place, followed by Indonesia (25), and the United States (24). India and Turkey share the fifth place, with 23 reported measures.

Other third countries with ten or more trade barriers in place include Brazil (19), South Korea (19), Australia (14), Algeria (12), Thailand (12), Mexico (11), Egypt (10) and Malaysia (10). Figure 1 provides a more detailed breakdown of barriers across the world.

⁴ Algeria, Argentina, Armenia, Australia, Bangladesh, Belarus, Bolivia, Bosnia and Herzegovina, Brazil, Canada, Chile, China, Colombia, Dominican Republic, Ecuador, Egypt, Hong Kong, Iceland, India, Indonesia, Iran, Iraq, Israel, Japan, Jordan, Kazakhstan, Lebanon, Malaysia, Mexico, Morocco, Mozambique, New Zealand, Nigeria, Norway, Oman, Pakistan, Panama, Paraguay, Peru, Philippines, Qatar, Russian Federation, Saudi Arabia, Singapore, South Africa, South Korea, Switzerland, Taiwan, Thailand, Tunisia, Turkey, Uganda, Ukraine, United Arab Emirates, United States of America, Uruguay, Venezuela, and Vietnam.

⁵ Tallying last year's measures (425 active barriers) with 2019 figures (43 new and 40 resolved barriers) would yield 428 barriers. The difference resides in the fact that, to keep track of barriers only partially resolved, the Commission has encoded follow-up active barriers as of 2019, leading to a nominally higher number of barriers while not altering the underlying trends.

China	38
Russian Federation	31
Indonesia	25
United States of America	24
India	23
Turkey	23
Brazil	19
South Korea	19
Australia	14
Algeria	12
Thailand	12
Egypt	11
Mexico	11
Malaysia	10
Philippines	8
Saudi Arabia	8
South Africa	8
Vietnam	8
Canada	7
Hong Kong	7
Pakistan	7
Argentina	6
Chile	6
Israel	6
Lebanon	6
Morocco	6
Nigeria	6
Uruguay	6
Colombia	5
Iran	5
Japan	5
Switzerland	5
United Arab Emirates	5
Paraguay	4
Taiwan	4
Tunisia	4
Ukraine	4
Venezuela	4
Peru	3
Belarus	2
Dominican Republic	2
Kazakhstan	2
New Zealand	2

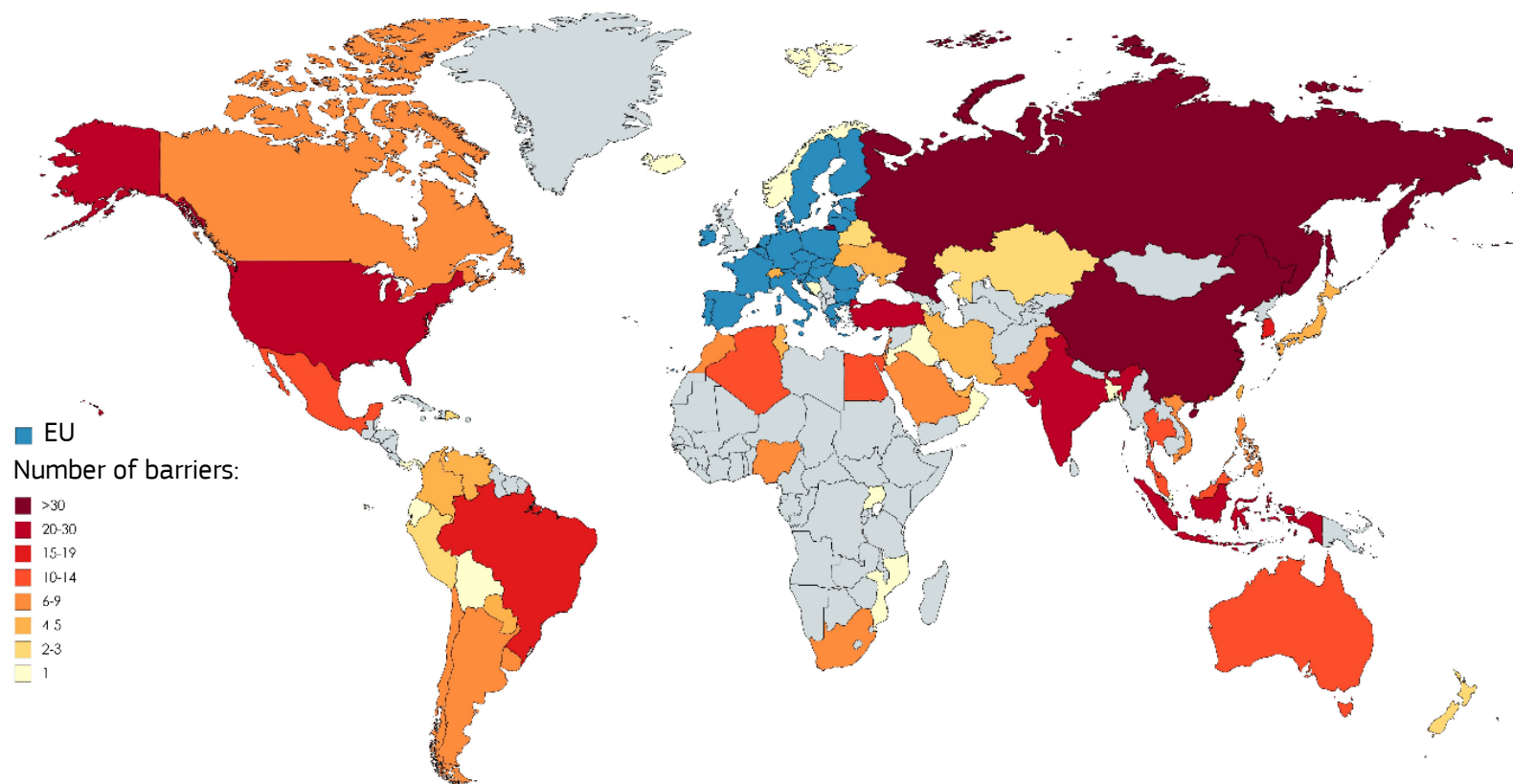


Figure1⁶: Geographical breakdown of trade and investment barriers in the MADB

⁶ Created using mapchart.net ©

B. OVERALL STOCK OF TRADE AND INVESTMENT BARRIERS PER TYPE OF MEASURE

Figure 2 shows that in 2019, for the first time, border measures (229 or 52%) are more numerous than behind-the-border measures (188 or 43%)⁷. This is a sign that partners are resorting to a wider panoply of *types* of barrier to achieve protectionist goals.

Partners resort to wider, cruder barriers than ever to achieve protectionist goals.

Border measures are restrictions that directly affect imports and exports at customs level, whether through sanitary and phytosanitary (SPS) measures (102 barriers), tariff increases and quantitative restrictions (73), administrative procedures and import licensing (38), export taxes and restrictions (16), or trade remedies not in line with international obligations (14).

Behind-the-border measures affect products after importation through restrictions related to unjustified technical barriers to trade (TBT) concerning trade in goods (78), intellectual property rights (34), government procurement (25), services (22 barriers) and investments (15).

Thanks to the much more granular categorisation of trade barriers, we are presenting for the first time a disaggregated view of specific barrier types affecting our companies.

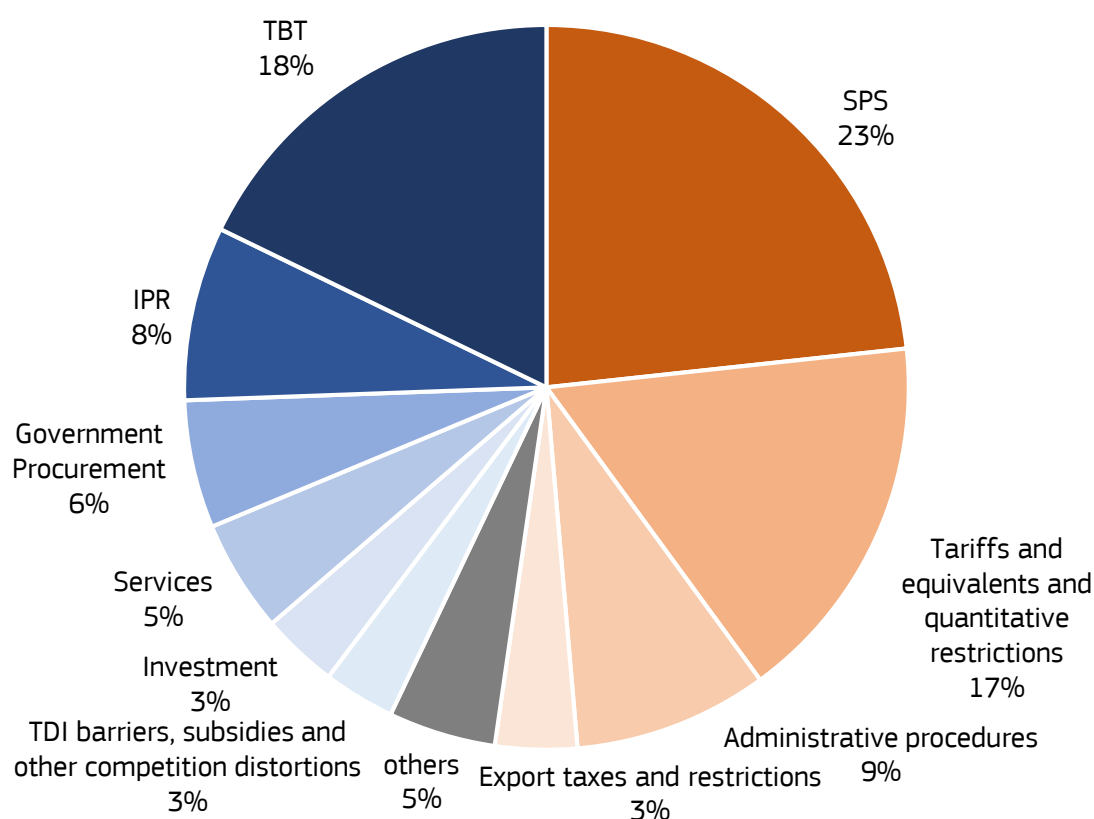


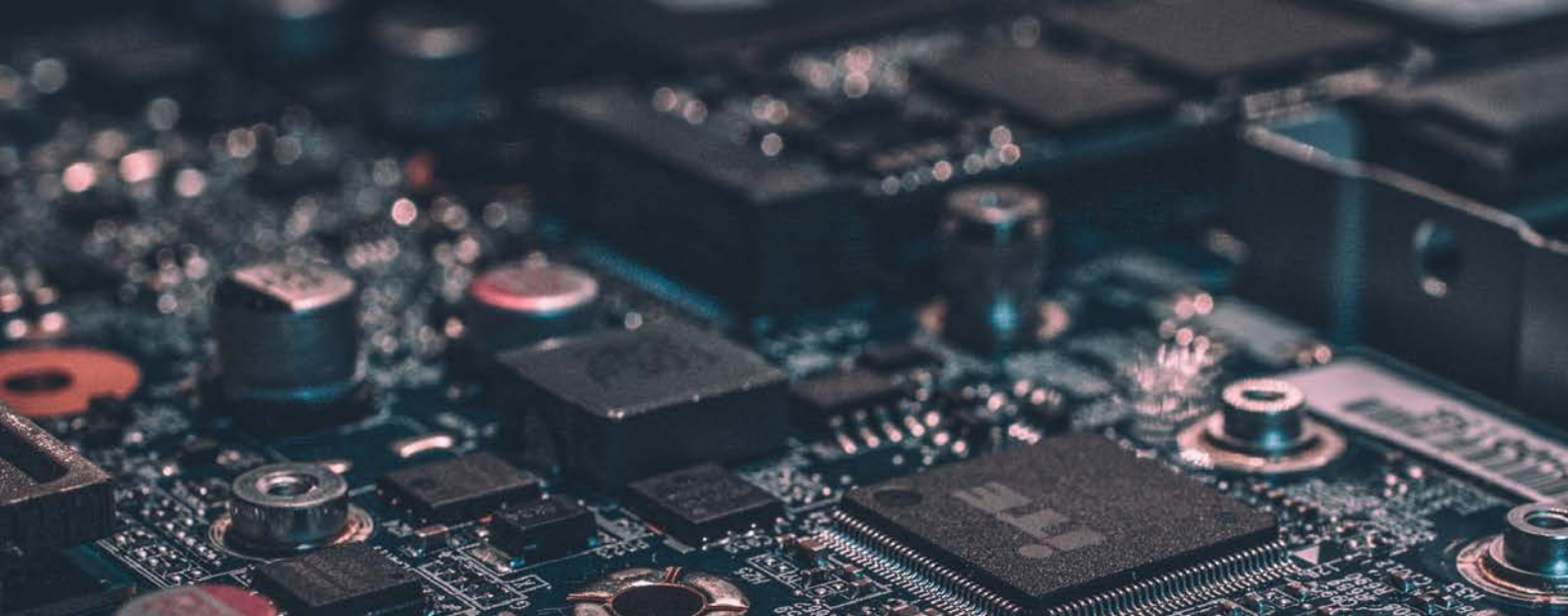
Figure 2: Breakdown of trade and investment barriers recorded in the MADB per type of measures, in percentage of the total stock of barriers

(Border measures are in shades of brown, behind-the-border measures in shades of blue)

⁷ The remaining 21 barriers (5% of the total stock), are classified in the category 'other measures'.

2. The case of local content requirements

Local content requirements (LCR) commit foreign companies to using a certain amount of goods or services produced locally. LCRs are embedded in many types of barrier, affecting e.g. preferential loans, public procurement, or conditions affecting foreign direct investment (FDI). In order to identify these highly distortive provisions, the MADB has been improved so that the LCR component of any kind of barrier can be readily tallied. Thanks to this approach, we are able to show that by the end of 2019, a very significant proportion (7%) of all barriers had an LCR component. This calls for attentive focus by the EU on these practices.



II. NEW TRADE AND INVESTMENT BARRIERS REPORTED IN 2019

Unfortunately, the increase in new measures continues apace. The 43 new barriers registered in 2019 in 22 third countries⁸ were almost on a par with the 45 reported in 2018. This continuing and significant increase signals that protectionism has structurally become part of the very fabric of international trade relations. This new reality can have a profound effect on our trade flows.

Trade flows affected by barriers reported in 2019 amount to EU-27 exports worth about €35.1 billion (see Box 3).

3. Methodological note on the quantification of potentially affected trade

The trade flows potentially affected are quantified based on EU export figures for the relevant Harmonised System tariff codes, capturing the trade that happens despite the barrier. All quantitative data refer to the 27 current EU Member States.

The impact is likely to be somewhat underestimated, however, because:

- these figures do not include service barriers, or barriers where the product coverage is not easily identifiable.
- some goods and services affected by the measures may be enabling elements for other sectors of activity (the high-tech sector for example).

More generally, analysis of non-tariff barriers and their impact remains challenging. The main reason is that non-tariff barriers are characterised by different degrees of restriction. Other than outright bans, most trade-restrictive measures do not fully eliminate trade, but reduce it. Moreover, restrictions regarding the same products or services may overlap. As a result, additional barriers may not necessarily mean additional impact, nor does the removal of one barrier imply automatic improvement in market access.

⁸ Algeria, Australia, Brazil, China, Colombia, Dominican Republic, Egypt, Hong Kong, Indonesia, Kazakhstan, Lebanon, Malaysia, Mexico, Morocco, Pakistan, Philippines, Qatar, Saudi Arabia, Singapore, South Korea, Taiwan, and Turkey.

A. NEW BARRIERS REPORTED IN 2019 PER THIRD COUNTRY

“Two facts stand out: a contagion effect in the Mediterranean and Middle East, and China's top presence - a long-term negative trend.”

Table 1 and Figure 3 provide an overview of the geographical breakdown of new barriers recorded in 2019. The highest number of new barriers were reported in our trade and investment relations with Saudi Arabia and Lebanon, which both registered five new barriers. China and Algeria follow closely, with four and three new barriers registered, respectively. Two barriers have been

reported in Singapore, South Korea, Malaysia, Kazakhstan, Egypt, Morocco, Turkey and Australia. The remaining ten barriers were recorded for other third countries. Looking at the regional trends, we observe that a vast majority of the new barriers in 2019 was imposed in the Mediterranean and Middle East region⁹ (20) and in Asia (17).

Compared with 2018, two facts stand out: a contagion effect emerging in the Mediterranean and Middle East region, and the continued presence of China at the top of the list, highlighting a long-term negative trend.

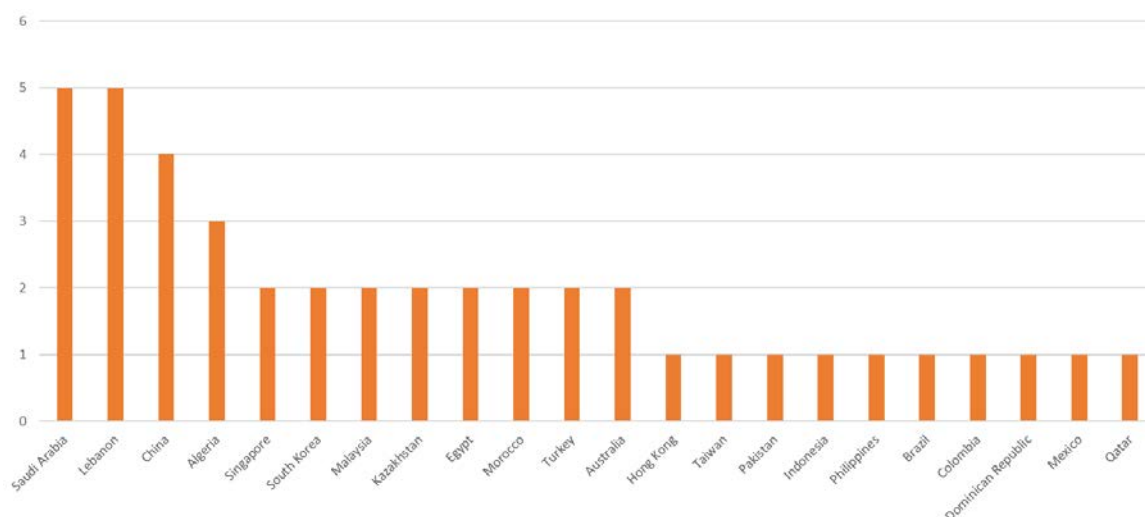


Table 1: Geographical breakdown of new barriers reported in 2019

⁹ Nine countries of the region were involved in at least one new or resolved barrier in 2019: Algeria, Morocco, Tunisia, Egypt, Lebanon, Turkey, Saudi Arabia, the UAE and Qatar. Besides, Jordan and Oman have one barrier each, recorded in the overall stock of barriers as of 31.12.2019.



Figure 3: Geographical breakdown of new barriers reported in 2019, per region

Emphasising the economic weight of new barriers, Figure 4 illustrates the estimated trade flows affected against the number of barriers recorded in 2019 for each partner country and region. It shows that Asia - predominantly China, also South Korea - and the Mediterranean & Middle East region rank the highest regarding both the number of new barriers and the magnitude of trade flows affected in 2019. These two regions account for almost €30 billion of the €35.1 billion of trade affected by new barriers (85% of the total), and for 35 barriers (over 80% of all barriers).

Australia comes third, with one high-impact barrier for motor vehicles.

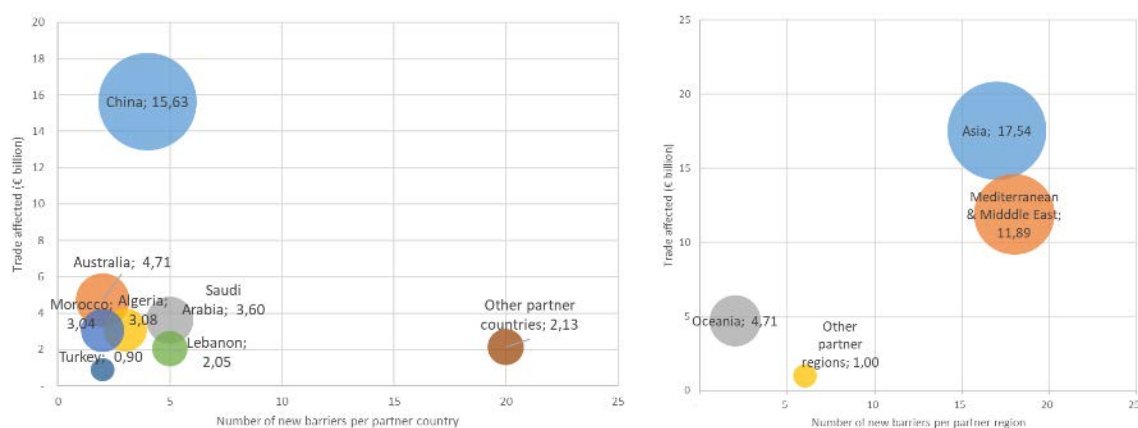


Figure 4: Number of new barriers reported and trade affected, selected partner countries and regions

Table 2 shows the trade flows affected for all 22 partner countries that resorted to new trade barriers in 2019. However, the assessment of the economic impact of new market access barriers may not at times fully reflect the real impact of obstacles. This might be the case concerning barriers in services or of horizontal nature, which are difficult to quantify, or when it comes to overlapping restrictions covering the same products.

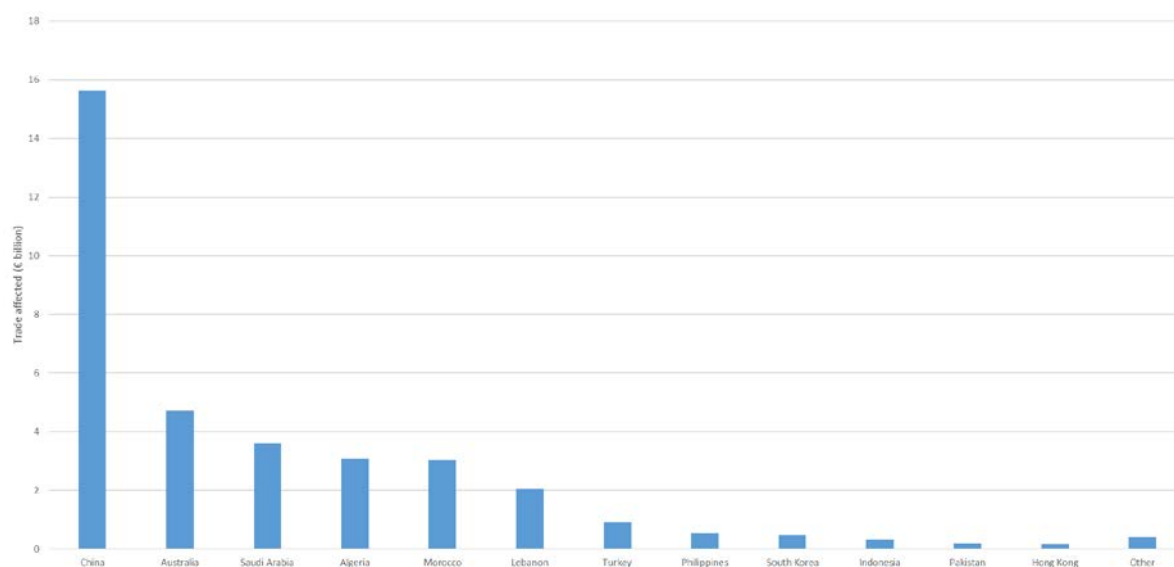


Table 2: EU-27 Trade flows affected by new barriers reported in 2019 by partner countries, (€ billion)

Due to the sheer size of its economy and the key sectors impacted (including strategic ones for the EU), the implications of China's trade policy are immediately apparent, potentially hampering over €15.5 billion of EU trade.

B. NEW BARRIERS REPORTED IN 2019 PER TYPE OF MEASURE

A breakdown of the 43 new barriers per type of measure shows a preponderance of new border measures (65%) over behind-the-border measures (28%): again, the panoply of protectionist measures used is increasingly wide.

A key feature in 2019 is that SPS measures alone represent one third of all new barriers. A more detailed analysis reveals that animal health reasons are the most frequent (5 barriers)¹⁰, followed by plant health reasons and public health reasons (2 each). On occasion, SPS restrictions combine several of these features (4).

Other border measures are primarily relative to increased custom duties, tariffs and quotas (7 barriers) and administrative procedures (7). This year, one new barrier was also reported in the field of export restrictions (1).

Behind-the-border measures are mostly Technical Barriers to Trade (9), with also some instances of intellectual property rights (IPR) issues (1), trade remedies not in line with international obligations (1) and impeded access to government procurement for EU companies (1).

¹⁰ For SPS, new barriers were raised where third countries banned exports from the whole territory of certain EU Member States, instead of limiting restrictions to areas affected by the animal disease. EU regionalisation policy was not recognised. The EU has worked to tackle these barriers and continues to work on similar barriers raised before 2019.

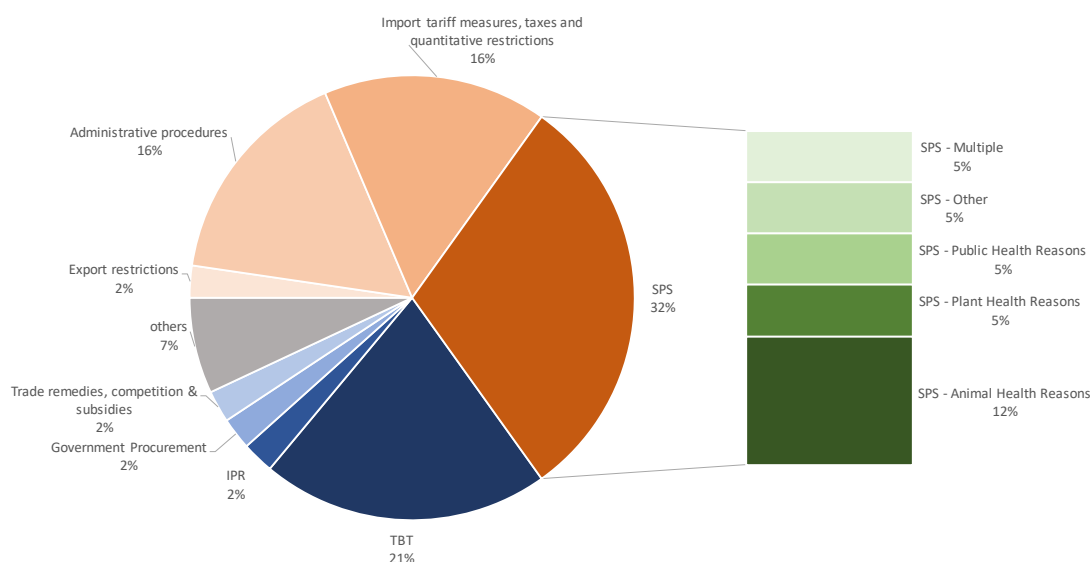


Figure 5: Breakdown of new trade and investment barriers reported in 2019 per type of measure, in percentage of the number of new barriers

(Border measures are in shades of brown, behind-the-border measures in shades of blue)

This breakdown points to the use of cruder, less sophisticated border measures to hamper trade. Running counter to the longer-term trend, partners appear to be more comfortable with these blatantly protectionist measures rather than counting solely on more elusive behind-the-border measures, underlining that such behavior is becoming more structurally ingrained in trade policy for many of them.

C. NEW BARRIERS REPORTED IN 2019 PER SECTOR

The new barriers reported in 2019 affected EU trade in 17 sectors of economic activity, some of these sectors being touched by multi-sectors barriers.

The highest number of new barriers were recorded in *agriculture and fisheries* (16), followed by 9 *horizontal* or *multi-sector* measures. The *ICT* and *automotive* sectors both faced the emergence of three new barriers in 2019, while the *pharmaceuticals* and *wood, paper and pulp* industries each saw two new hurdles appear. Finally, several other sectors were each affected by one newly imposed barrier to trade: *mineral products, iron, steel and non-ferrous metals, textiles and leather, ceramics and glass, cosmetics, shipbuilding, wines & spirits* and *other industries*.

“An overwhelming majority of new barriers affect sectors linked to our technological sovereignty and strategic autonomy.”

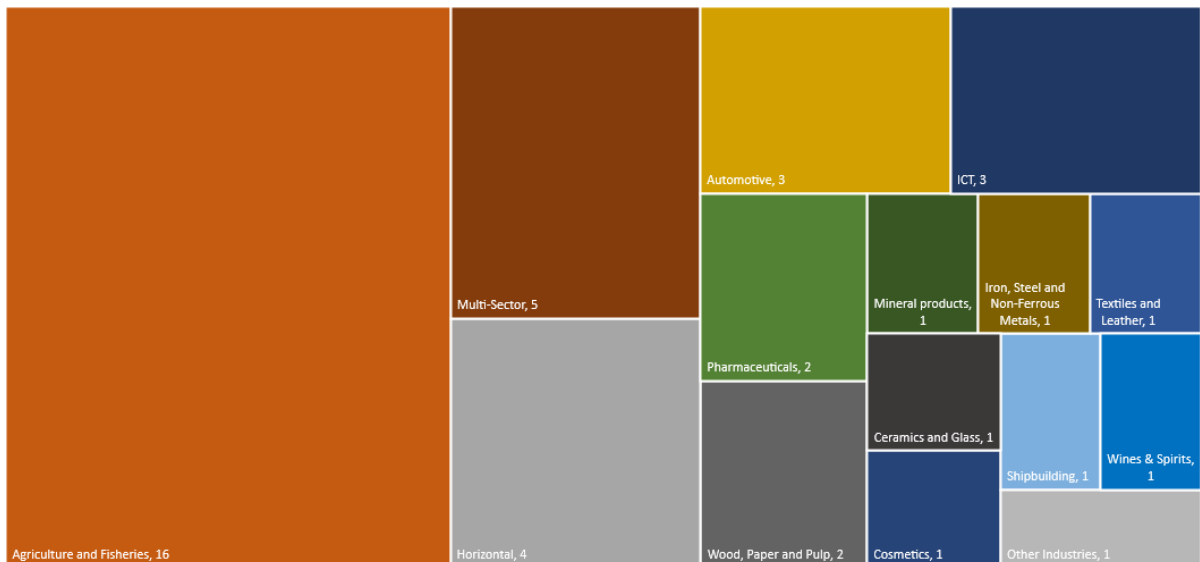


Figure 6: Sectorial breakdown of trade and investment barriers reported in 2019 (number of barriers)

Beyond the number of measures, the analysis of trade affected sheds more light on the actual weight of each barrier. As shown in Figure 7, industrial sectors accounted for more than 85% of trade flows affected, while barriers in the sectors *ICT* (€15 billion), *automotive* (€5.7 billion) and *electronics* (€2.6 billion) make two thirds of all EU27 exports affected by new reported barriers. These are sectors which are directly linked to the EU's technological sovereignty and strategic autonomy.

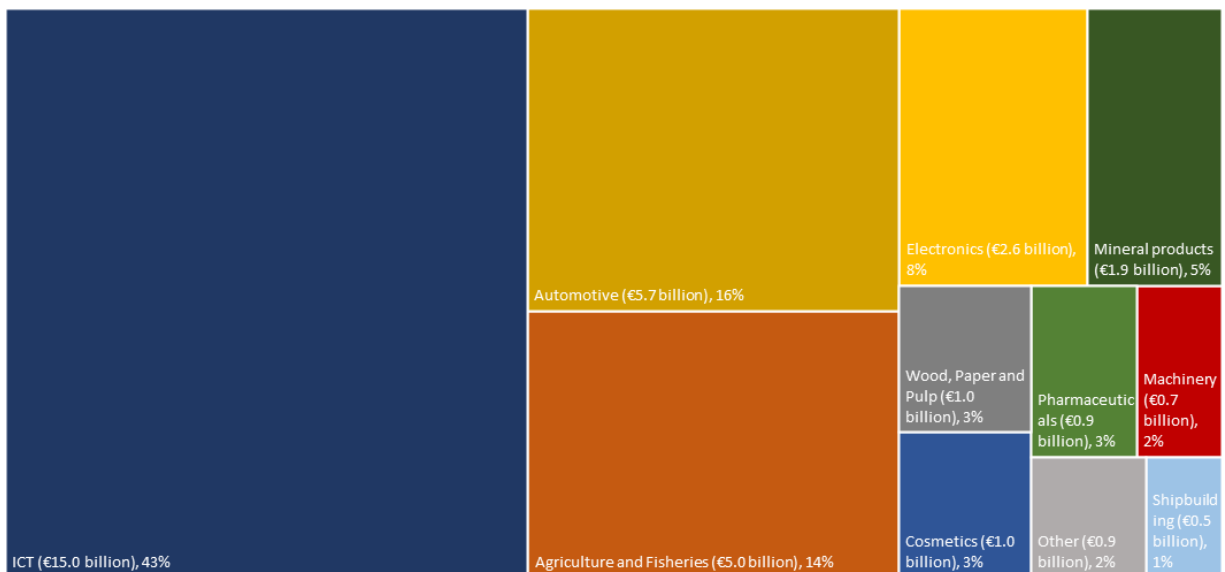


Figure 7: EU-27 trade flows affected by barriers reported in 2019, per sector¹¹ (in € billion and percentage)

Protectionist trends affecting our high-tech sectors, already spotted last year, continue unabated in 2019. If not effectively addressed, these barriers constitute an objective threat not only to the competitiveness of EU firms, but to the EU's position as a global technological leader.

¹¹ 'Other' includes the following sectors: ceramics and glass, chemicals, construction industry, wines & spirits, textiles and leather, iron, steel and non-ferrous metals, and other industries.



III. QUALITATIVE ANALYSIS OF NEW BARRIERS REPORTED IN 2019

A. CHINA

In 2019, China has continued to introduce numerous trade restrictions in high-tech industries, whose impact ripples across many other sectors – the €15 billion of trade potentially affected thus underestimates the size of this barrier. These measures, like the previous ones related to implementing China's cybersecurity policies, are closely aligned with China's other policy objectives of protecting the domestic market and developing capacity and technologies under the Made in China 2025 strategy. There are no immediate signs of this trend subsiding in the near future.

The **Draft for Cybersecurity Review Mechanism** was published in May 2019. Under this draft, commercial contracts could be made conditional on the affected party successfully passing the review. As the draft does not indicate what type of information and material will be subject to review and inspection, strong provisions would be needed to ensure full protection of intellectual property rights and avoid transfer of business sensitive information.

Draft Measures on the Security Assessment of the **Cross-Border Transfer of Personal Information and Administrative Measures on Data Security** were published in June 2019. The Measures appear to go beyond their own legal basis in the Cybersecurity Law (CSL) when they would extend the scope of data localisation requirement. Furthermore, it is not clear how data transfers within a single (multinational) business group would be treated. The key provisions in the drafts remain vague and it is not clear how the proposed measures would apply in relation to other measures/guidelines/standards applying to data.

Market access in telecom networks in China is a growing and significant concern for the EU, as 5th-generation (5G) networks are rolled out. Based on the information available of the early tendering results, outcomes overwhelmingly favour Chinese network providers. These results do not seem to reflect the competitive position of EU vendors, indicating the existence of harmful market access barriers in this sector.

In 2019, China Shipbuilding Group was created using state subsidies and local content requirements. In line with the 'Made in China 2025' plan, China's goal is to become dominant in the field of high-tech ships and marine equipment.

In the **SPS** area, China has restrictions in place on **ash wood** products (logs and lumber) from Europe due to the risk of the ash dieback fungus in Europe. The restriction of imports has no clear phytosanitary rationale and effective risk mitigation measures are available.

The EU is closely following the application of the **social credit system** in the economic sphere. The implementation of the social credit system aims at a unified system assigning a score to each individual and each business. While still being developed, this could become a formidable and horizontal market access barrier for EU companies as businesses might face challenges to comply with a heightened regulatory scrutiny and with some rating requirements going beyond regulatory scrutiny. All the more so as these requirements may be (even just de facto) more difficult to fulfil for foreign companies. The social credit system could also have repercussions beyond trade.

4. China backgrounder: a systemic rival and economic competitor

Across the EU, the perception of China has changed, with increasing awareness of the challenges posed by China and its state-led model and the lack of a level playing field in economic relations. This was reflected in the Joint (Commission and High Representative) Communication adopted on 12 March 2019, which for the first time referred to China as a 'systemic rival and an economic competitor'. The Communication proposed concrete actions to rebalance our relationship with China, through continued engagement but also through domestic actions (including reviving the International Procurement Instrument, identifying gaps in our regulatory framework and implementing the FDI screening mechanism). Work to implement the 10 actions identified in the Communication is ongoing across the Commission.

At the EU-China Summit in Brussels on 9 April 2019, the Joint Statement included important commitments on the reform of the World Trade Organization (WTO) (i.e. on strengthening rules on industrial subsidies), as well as on making decisive progress in the Comprehensive Agreement on Investment negotiations in 2019, with a view to concluding them in 2020, and on seeking faster progress for China to join the WTO Agreement on Government Procurement (GPA). Importantly, the Joint Statement explicitly called for concrete results in barrier removal.

B. MEDITERRANEAN AND MIDDLE EAST REGION

The geographic proximity, historical ties and interconnected value chains with the EU, involving in many cases SMEs, make frictionless trade with this region particularly important. As already reported in 2018, unfortunately, the region saw rising trends of protectionism driven by economic instability or structural problems. New measures appeared again in Algeria, and protectionist attitudes spread to Lebanon and Morocco, while they also intensified in Turkey and Saudi Arabia¹².

1. Algeria

Since 2015, the Algerian authorities have introduced a significant number of import restrictive measures with a very negative impact on EU exports and in breach of their obligations under the bilateral Association Agreement. This trend continued in 2019, with three new barriers introduced.

In September 2019, on top of earlier trade restrictive measures, the authorities issued instructions to commercial banks to the effect that **letters of credit** for certain imports (mobile phones, kits for home appliances) **may only be issued subject to cumbersome conditions**. The same circular provided that these rules would be extended to all imports by

¹² As will be shown in subsequent sections, some of these barriers have been successfully resolved in the past year.

the end of 2019. Thanks to coordinated action by all EU stakeholders (see Box 8), new circulars were issued on 25 December 2019 by the competent authorities introducing some flexibilities in the application of these measures.

A **special custom surcharge (DAPS)** was applied by a decree signed by the Minister of Trade in January 2019 to a wide list of goods (between 30% and 200% of the value of the goods). The list can change frequently according to the evolving needs of domestic industry.

In May 2019, the Algerian Ministry of Industry told carmakers conducting assembling operations in the country that a value-based **quota on the import of car parts** would be established without notice and with retroactive effect. The decision may cause the interruption of assembling operations for lack of parts.

2. Morocco

The EU has been closely monitoring the situation to assess the actual impact of the introduction of the **conformity-marking requirement** on EU exports. At our initiative, a constructive dialogue took place between the EU and Moroccan experts, following which the Moroccan authorities engaged in clarifying the application of the requirements for EU operators, addressing a large part of their market access concerns. Other issues such as the **new requirements for pharmaceutical products** and the externalisation of conformity assessment procedures were also addressed in these meetings.

3. Lebanon

Against a backdrop of socio-economic, financial and political crisis, new trade barriers had been introduced, notably the **temporary duty of 3% on almost all imports** and **additional duties** (ranging from 7% to 20%) **on imports of some selected products** such as marble, canned food or furniture. A mandatory requirement for **registration of factories** for certain products including textiles was also established, and the Lebanese authorities did not take corrective action in 2019 on a measure that would impose **customs duties on imports from the EU of oil/petroleum products**.

A new horizontal measure on the **legalisation of invoices** also added one additional barrier to market access. These measures have been subject to intense discussions and exchanges of letters with Lebanese authorities. **Lebanon** eventually removed the double customs certification requirement for imports, introduced in 2019, about which the EU had repeatedly expressed concerns.

4. Turkey

In 2019, the additional duties applied by Turkey seriously disturbed the functioning of the Customs Union, as they forced EU producers to submit certificates of origin. Turkey continued to extend these duties to more products, leading to a sharp rise in such certificates issued by responsible authorities, which represents a direct cost as well as significant uncertainty for all operators concerned.

In April 2019, Turkey reintroduced the **export restriction on copper scrap**. The current application of the export-licensing regime amounts to a de facto ban as the conditions required are difficult to fulfil and not in line with Turkish obligations under the Customs Union.

Another newly introduced barrier concerned an **amendment to the Cosmetics Regulation** that would move the framework of the Turkish cosmetic regulatory system from an in-market control to a pre-registration system. A detailed safety assessment – including the disclosure of sensitive data – was even required in order to market cosmetic products in Turkey. This runs counter to Turkey's obligations under the Customs Union agreement.

5. Turkey backgrounder

In 2019, Turkey remained the EU's fifth-largest trading partner overall, while the EU remains by far Turkey's most important trading partner. In particular, the entry into force in 1996 of the EU-Turkey Customs Union agreement has led to a substantial increase in trade between the EU and Turkey over previous decades. This agreement ensures the free movement of all industrial goods and certain processed agricultural products between the EU and Turkey. It also requires Turkey's alignment with the EU's external customs tariffs and rules for imports from third countries, as well as with commercial policy, competition policy, intellectual property rights and EU technical legislation related to the scope of the Customs Union. Problems have started to accumulate in recent years. The Commission of course continues to insist on Turkey's compliance with the agreed Customs Union rules and the non-discriminatory implementation of the Additional Protocol to the Association Agreement towards all Member States, including the Republic of Cyprus.

In 2019, the Commission continued to make use of all means available to raise these concerns, including at the Customs Union Joint Committee and other bilateral meetings. Regarding the continued Turkish policy of forced localisation in the pharmaceutical sector, the EU launched a WTO case for the first time ever against a candidate country.

5. Saudi Arabia

In Saudi Arabia, EU companies face numerous market access trade barriers, such as the procedure for acquiring the **Saudi Quality Marks** (in particular for ceramic tiles). New SPS import conditions for EU **fruit and vegetable exports** also create unnecessary administrative burdens and costs. These barriers are systematically raised by the Commission at the WTO and in bilateral contacts with Saudi Arabia, and remain key issues on the agenda of the EU-Gulf Cooperation Council trade and investment dialogue.

Thanks to swift interventions before entry into force, two draft technical regulations that emerged as new barriers in 2019 were solved within the same year, related respectively to **added sugar upper limits** in some food products, and to **traffic light labelling**. While partial progress was recorded for certain Member States in 2019, Saudi Arabia continues to impose **temporary country-wide bans on the import of live animals** in cases of animal disease outbreaks, not following the OIE¹³ international standards.

C. AUSTRALIA

Australia's fuel quality is among the worst in the OECD, and ranked 70th in the world. In particular, the **sulphur content** of unleaded gasoline is currently 15 times the EU standard. This poor-quality fuel is in fact **incompatible with the latest, high-efficiency Euro 6 engines**, meaning some EU manufacturers have had to de-tune engines, or even replace engines of some models with older, more polluting standards.

The standards were due to expire in 2019, but the Australian government has no concrete plans to address fuel efficiency. This appears to be connected to the cost associated with

¹³ World Organisation for Animal Health, which uses its historical acronym OIE ('Office International des Epizooties')

upgrading Australia's gasoline-refining capacity to the standard required. The relevant industry does not seem willing to make this investment in the absence of government support.

D. SOUTH KOREA

Since early 2019, EU suppliers of **ballast water management systems** have encountered a new barrier due to lack of recognition of tests performed outside Korea as part of the type approval process for the installation of such systems on Korean-flagged vessels. Since all new vessels from September 2018 have to be equipped with a ballast water management system, and all existing vessels up to 2024 must be retrofitted with such a system, the market at stake is very large. The asymmetry in the certification procedures between the EU and Korea has been raised bilaterally with Korea.

Second, imports of **baby garments** have become increasingly difficult in 2019. A new set of guidelines, 'Updated safety confirmation criteria for textile products for infants' establishes exceptionally stringent procedures, yet was not notified through the WTO platform. It has led to a significant number of additional recertification procedures and testing, and to exponential re-testing costs. The Korean Customs Service agreed to follow up on written comments by the EU, and the Commission will actively pursue the resolution of this barrier.



IV. TRADE AND INVESTMENT BARRIERS RESOLVED IN 2019

A. EU STRATEGY TO ADDRESS TRADE AND INVESTMENT BARRIERS

In order to remove trade barriers, the EU's Market Access Strategy resorts to a variety of tools.

Tool 1: Diplomatic action. There is a stream of diplomatic work, where the Commission, the European External Action Service, the EU Member States and industry engage in close collaboration through the network of EU delegations and Member State embassies in third countries. This encompasses a wide variety of activities, ranging from technical trade projects to formal demarches such as high-level missions of Commissioners and ministerial and presidential actions. Wherever it enhances the effectiveness of our work, action is coordinated with like-minded partners.

Tool 2: Dispute settlement. Regular WTO committee work is complemented by the Commission's robust activity in the context of dispute settlement. The EU has also ensured the correct implementation of WTO rulings by third countries, vigilantly monitoring that these rulings are properly implemented. The launch in 2019 of proceedings with Ukraine under the Association Agreement (wood export ban), with the Southern African Customs Union under the Economic Partnership Agreement (poultry), as well as the launch of WTO dispute settlement cases against Indonesia (export restrictions on raw materials) and the US (trade defence measures on ripe olives) demonstrate that the Commission does not hesitate to resort to bilateral dispute settlement as provided for in its free trade agreements, nor to multilateral dispute settlement. Furthermore, the Commission has made a formal proposal to strengthen the Enforcement Regulation¹⁴, which allows the EU to take certain countermeasures in case there are obstacles to the proper functioning of bilateral or multilateral dispute settlement. Finally, as an additional tool, the Commission can also, at the request of exporters, make use of the procedure provided for by the Trade Barrier Regulation (TBR).

¹⁴ Commission proposal COM(2019) 623, 12.12.2019

Tool 3: EU free trade agreements (FTAs). Barriers detected via our market access work are channelled directly into trade negotiations, or – where FTAs exist – into the relevant implementation mechanisms, to ensure that market access priorities are effectively addressed. The Commission has also reinforced its implementation and enforcement efforts in order to ensure that businesses, including SMEs, can take advantage of existing commitments. The EU has the tools, and uses them effectively to eliminate trade barriers, improve the protection and enforcement of intellectual property rights (IPR), bring dispute settlement action and impose trade defence measures in cases of unfair trade, and has improved coordination of these various pillars of its enforcement activities.

Importantly, our Market Access Partnership also serves as an early warning system to prevent barriers even before they could occur.

B. BARRIERS RESOLVED IN 2019 PER THIRD COUNTRY

Thanks to the combined efforts of all stakeholders in our Market Access Partnership, a total of 40 barriers were fully or partially resolved in 2019 in 22 different third countries and in nine sectors of economic activity, as well as horizontally. When accounting for all quantifiable barriers, EU exports concerned by the removed trade barriers in 2019 reached €19.4 billion for the EU-27.

Figure 8 shows third countries where barriers were successfully tackled. Saudi Arabia ranks first in line with five barriers resolved in 2019, followed by Egypt, Singapore, and Russia (three each). Two barriers were removed in Australia, Canada, China, Japan, South Korea, Mexico, Ecuador, and the United Arab Emirates. Ten additional trade barriers faced by EU companies in ten other third countries were also removed in 2019.



Figure 8: Geographical breakdown of barriers resolved in 2019

Based on the value of trade affected (Table 3) of removed barriers, the most significant obstacles were removed in China, corresponding to a share of 63% of all trade flows affected, followed by Saudi Arabia and the United Arab Emirates, representing roughly 17%. It is worth noting, however, that trade flows in some countries or regions might be underestimated here, as resolved barriers with horizontal product coverage are more difficult to estimate.

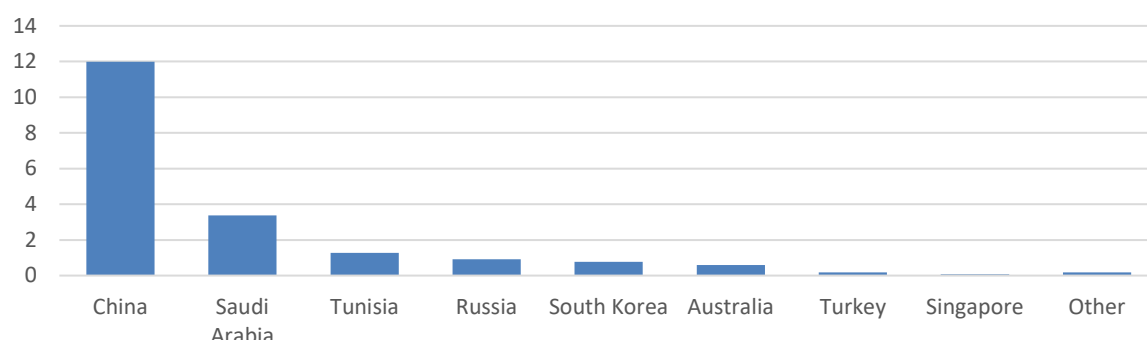


Table 3: EU-27 trade flows affected by barriers resolved in 2019 by partner countries, (€ billion)¹⁵

Even in the currently most challenging of environments for trade, such as China and the Mediterranean & Middle East region, our strategy can yield tangible results for EU exporters, in particular SMEs active in the agrifood sector.

C. BARRIERS RESOLVED IN 2019 PER TYPE OF MEASURE

Our Market Access Partnership efforts have contributed more considerably to the removal of SPS matters (24) in the agriculture and fisheries sector. Other border measures were also removed, namely import tariff measures (3), customs administrative procedures (2), and export restrictions (2). Behind-the-border obstacles addressed were impacting EU businesses in the form of Technical Barriers to Trade (6 measures), IPR (1 barrier), and one barrier in trade in services was also successfully resolved in 2019.

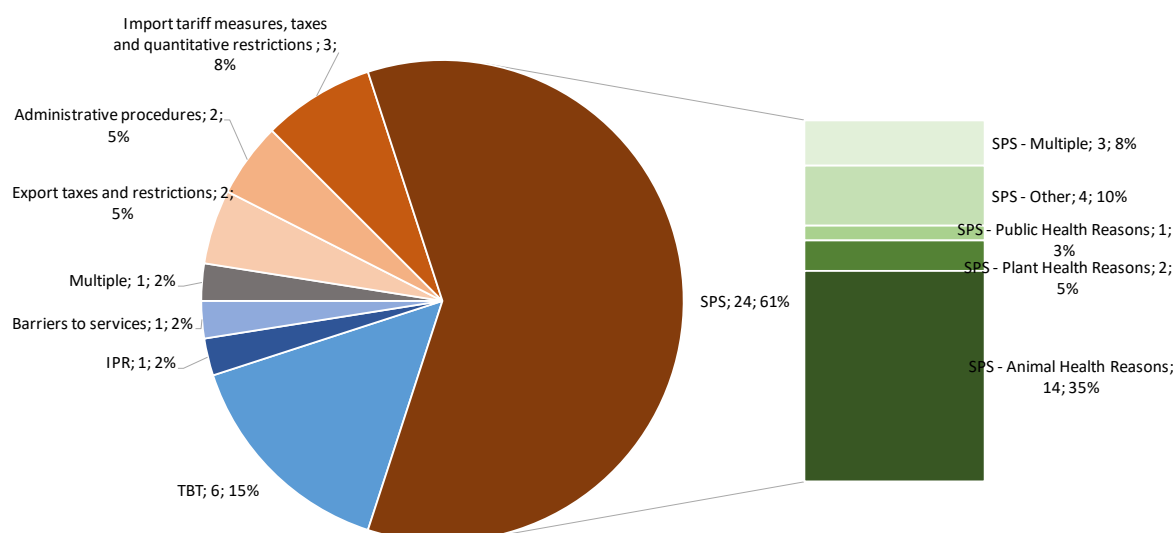


Figure 9: Breakdown of barriers resolved in 2019 per type (number of measures)

¹⁵ 'Other countries' include Egypt, Ecuador, Kazakhstan, the UAE, Canada, Thailand, Indonesia, Japan, Mexico, Moldova, South Africa, and Iran.

In 2019, significant progress was achieved in removing SPS barriers. Conversely, types of measure that typically apply to industrial sectors or services proved challenging to resolve. This calls for a more robust approach from our side, as well as increased focus in the coming years.

D. BARRIERS RESOLVED IN 2019 PER SECTOR

“ *Many agrifood obstacles have been removed but it is ever more challenging to tackle barriers in industry and services.* ”

Figure 10 gives an overview of the number of barriers resolved in the various areas of economic activity. Agriculture and fisheries was the sector with the most measures resolved (26). These include the SPS matters fully or partially resolved (24) and two technical regulations (notably, one on ‘traffic light’ labelling).

The *wines and spirits* sector accounted for three resolved barriers, and the *cosmetics* sector for two. Individual barriers were resolved respectively in the *ICT*, *communication services*, *textiles and leather*, *wood, paper and pulp*, and *iron & steel* sectors.

Finally, a total of three barriers were also addressed that were either fully *horizontal* or affected *various industries*.

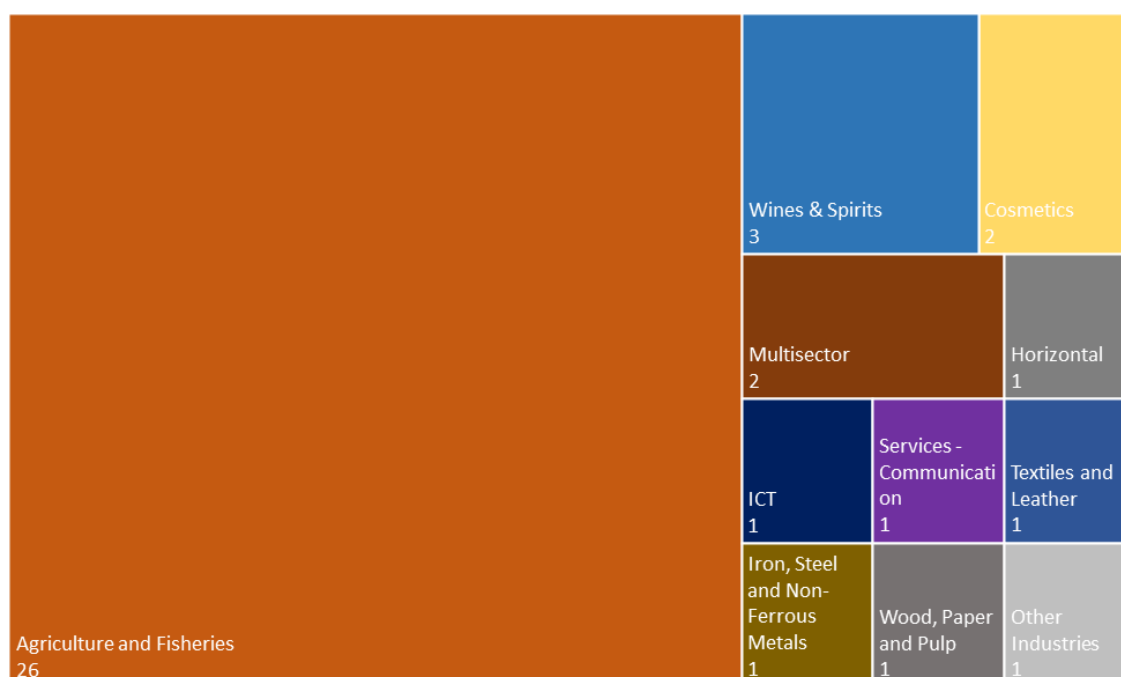


Figure 10: Sectorial breakdown of barriers resolved in 2019 as recorded in MADB (number of barriers)

Based on calculations of affected trade flows, Figure 11 displays the economic weight of the resolved barriers in the different sectors, highlighting that their resolution in 2019 could positively affect EU exports first and foremost the *agriculture and fisheries* sector, which corresponds to 72% percent of the overall potentially affected trade flows, which corresponds to €14.1 billion. The *wines & spirits* (€2.5 billion) and *cosmetics* (€1.5 billion) sectors also benefited considerably from the removal of barriers.

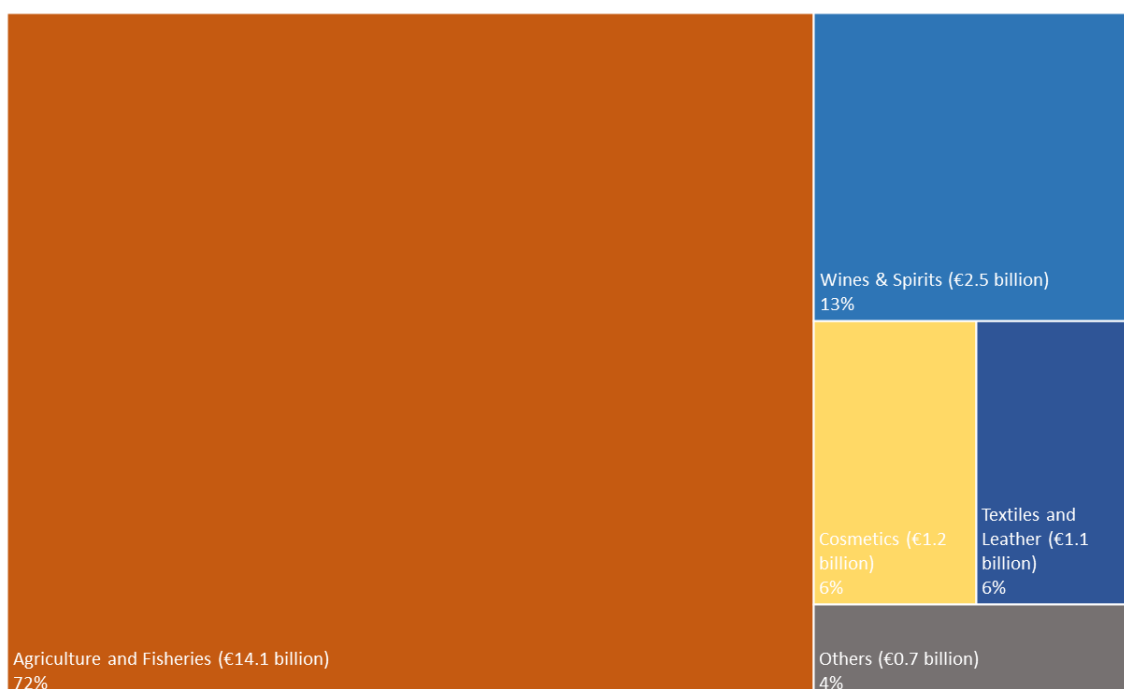


Figure 11: EU-27 trade flows affected by barriers resolved in 2019, per sector¹⁶ (in € billion and percentage)

The quantifiable effectiveness of the EU strategy to remove SPS barriers and to grant market access to EU exports in 2019 stems from a multi-pronged approach. Aside from the measures mentioned under Section V, Box 6 below illustrates some success stories of such an approach.

6. Solving SPS barriers – some success stories

Japan - agrifood

Ban on imports of beef due to BSE¹⁷

For over 20 years, Japan imposes a ban on imports of beef from countries notifying a BSE outbreak. Such measures are considered disproportionate, and Japan has not provided a risk assessment based on science for justifying more stringent measures than the OIE standard. In recent years, dialogue with the Japanese authorities has led to the lifting of BSE-related ban for several EU Member States. In 2019, after several years of discussion, Japan lifted the ban on beef from Croatia and accepted beef from animals above 30 months from Ireland. The new bilateral structures set up by the EU-Japan Economic Partnership Agreement open further possibilities for the Commission to request more tangible results on this issue with Japan and to lift remaining barriers.

Country-wide ban in the events of outbreaks of HPAI (avian influenza)

The OIE international standards on infection with avian influenza viruses define the cases of outbreaks for which no trade restriction measures should be taken, and those where trade restrictions should be limited to the defined infected areas in the country concerned (rather than including the whole territory). Japan imposes country-wide bans following outbreaks of pathogenic avian influenzas, despite the

¹⁶ 'Others' include ceramics and glass, chemicals, electronics, ICT, iron, steel and non-ferrous metals, wood, paper and pulp and other industries.

¹⁷ BSE: Bovine Spongiform Encephalopathy.

EU's effective and stringent regionalisation measures, in line with the international standard, that should allow trade to continue in all safety.

Some progress was reached as hatching eggs and day old chicks from The Netherlands can be exported to Japan from free zones in the event of HPAI outbreaks. The Commission has a broader engagement with Japan, including in the context of the new bilateral structures under the EU-Japan Agreement, to establish mutual recognition of regionalisation measures related to animal health status. Tangible results on this project are expected within an acceptable delay.

Canada - agrifood

Phytosanitary import conditions for fresh tomatoes

In 2016, Canadian phytosanitary import requirements entered into force related to *Tuta absoluta* (tomato leaf miner) for fresh tomatoes, requiring that green parts of tomatoes are being removed if imported from a country affected with *Tuta absoluta*. In 2019, Spain was the first country authorised to certify shipments of fresh tomato fruit without green parts. There is also interest in exporting tomatoes with green parts, and an application has been made to Canada with control conditions guaranteeing that trade can take place in all safety. This application is still under assessment by Canada.

Unjustified trade restrictions due to non-recognition of country freedom and pest-free areas of EU Member States for the Citrus and Asian longhorned beetles (CLB and ALB)

In 2013, Canada imposed an unjustified ban on the import of plants with a stem diameter of more than 10 mm from the entire EU due to a considered trade risk for transmission of ALB and CLB. Indeed, these pests are well-regulated in the EU, with stringent control measures, and consequently trade partners should recognize the pest free areas.

In response to a Commission request, Canada recognised 21 EU Member States as free from CLB and ALB. The Commission continues to discuss with Canada with the objective to recognise also the pest free areas in the affected EU Member States.

Mexico - agrifood

Fresh fruit and vegetable import restrictions

EU exports of fruit and vegetables to Mexico are impeded by import protocols that include a disproportionate mitigation measure (cold treatment) and pre-shipment inspections in the country of origin paid by the industry (preclearance). Mexico has not yet provided the basis of their risk assessment to apply this wide range of pests and mitigation measures. In addition, the list of measures to mitigate quarantine pests for citrus, apples, pears, kiwis and peaches are numerous and cumbersome. Each product is subject to a case-by-case study, to allow its entry to Mexico.

In 2019, progress on this barrier was seen when Mexico approved imports of pears from Belgium. Mexico also notified the phytosanitary import conditions for kiwi imports from Italy (request pending since 2006) and, in the second half of 2019, published the import conditions on its website, meaning that the market for kiwi from Italy is open.

Long approval procedures for imports of meat of porcine animals

Mexico applies long approval procedures for imports of meat of porcine animals. Progress has been seen in recent years, and in 2019 the Netherlands was allowed to export pork. Mexico has also committed to gradually introducing pre-listing to the authorised Member States, eliminating the need for future establishment audits.

The mirror image of the success in the SPS area is the fact that industrial and service sectors barriers removed in 2019 affected a much lower amount of EU exports. This is the case not least in sectors like high tech which are essential for the technological sovereignty and strategic autonomy of the EU. This indicates that protectionism in these areas is becoming more pervasive, calling for a qualitatively different approach from the EU in order to cement our position not only as the biggest trading block globally, but also as a global technological leader.



V. QUALITATIVE ANALYSIS OF BARRIERS RESOLVED IN 2019

This chapter provides a more in-depth analysis of a selected number of barriers tackled in 2019, focusing on the countries with the most significant trade flows potentially affected by the resolved measures. These are China, the Mediterranean & Middle East region (Tunisia, Egypt, Lebanon, Turkey, the UAE, Saudi Arabia), Russia, Australia, and South Korea. These partners correspond to 98% of trade flows potentially affected by resolved measures in 2019.

A. CHINA

Certification requirements for low-risk food products

The draft certification requirement for low-risk foods was proposed in 2015, and would have required an additional certificate together with the official certification. Official certification or attestation of all products covered by the proposed measure was not based on a scientific assessment of the risk presented by these products and was, therefore, disproportionate. In March 2019 China stated that the notified certification requirement was being suspended while a multilaterally agreed solution is sought in the electronic Working Group 'Codex Committee on Food Import and Export Inspection and Certification Systems' (CCFICS).

However, in late December 2019 China opened a national consultation on a draft regulation on registration of overseas producers of imported food. If implemented, this regulation would impose a very burdensome administrative registration procedure on EU companies exporting foodstuffs to China, irrespective of the risk associated with the foodstuff. The procedure would create bottlenecks, acting as a genuine non-tariff trade barrier.

Longstanding and unjustified import ban on EU bovines/ovines and their products

In 2000, China imposed an import ban on EU bovines/ovines and their products due to bovine and transmissible spongiform encephalopathies (better known as BSE and TSE respectively), and only since year 2014 are restrictions slowly lifted, Member State by Member State. In 2019, imports of beef were authorised for France, Ireland and the Netherlands, albeit with restrictions on the age of eligible animals, on product categories and on number of establishments authorised to export. The Commission continues to follow up with China, with the aim of lifting remaining restrictions for the three Member States authorised and to obtain authorisation for all EU Member States interested in exporting bovine/ovine products to China.

B. MEDITERRANEAN AND MIDDLE EAST REGION

The EU stepped up its engagement in the Mediterranean and Middle East region in recent years to eliminate barriers (see Box 7). Consequently, in the last few years and notably in 2019, several barriers were resolved or reduced.

1. Tunisia

In 2018, a new restrictive measure imposing **import authorisations on a very long list of products** (clothing, cosmetics, agrifood, cleaning products, toys, textiles) was enforced by surprise, impacting €350 million of EU trade flows. These measures imposed de facto non-automatic import licenses, which are quantitative restrictions prohibited under the EU-Tunisia FTA. The measure had not been notified to the WTO and also appeared to be in breach of multilateral rules. In July 2019, following further extensive calls urging the withdrawal of these measures, the Tunisian government communicated its decision to cancel these import-restricting authorisation measures.

2. Egypt

In 2019, as a result of close engagement, Egypt removed the requirement for **veterinary checks of live animals** in the EU prior to export, promised to align BSE-related requirements for meat with the OIE recommendations, accepted EU standards for most of the requirements for **seed potatoes**, and facilitated the procedure for **importing infant formula** from EU Member States classified as 'non-reference' countries.

3. Lebanon

After several interventions concerning the planned **mandatory registration of factories for certain products** envisaged in 2019, Lebanon informed the EU that the decision would not be implemented. Similarly, Lebanon removed the double customs certification requirement for imports, which was introduced in 2019 and about which the EU had repeatedly expressed concerns.

4. Turkey

Under the EU-Turkey Customs Union Agreement, imports from the EU with an A.TR document should in principle be excluded from risk assessment. However, due to the limited information available about this procedure, a large number of such imports currently need certificates of origin. This represents both a direct cost as well as a significant uncertainty for all operators concerned. The Commission nevertheless succeeded in resolving one particular barrier for a category of electronic products produced in EU Member States and that were included in the **Turkish additional duty scheme**.

5. Saudi Arabia

After considering the EU's written comments, Saudi Arabia withdrew the **draft regulation for an added sugar upper limit** in some food products. In addition, Saudi Arabia informed that the **traffic light labelling**, foreseen by the draft regulation providing for nutritional labelling of most packaged food products would be voluntary and not compulsory, as previously intended. Some achievements were also recorded on the SPS front, with three barriers fully or partially addressed: unjustified **import restrictions of bovine and sheep meat** due to BSE, as well as **country-wide bans of live animal imports** due to OIE notification of animal disease outbreaks, were lifted for some Member States. Bilateral certificates were established for **exporting fish, crustaceans and molluscs** to Saudi Arabia, effectively reopening the market for approved operators.

6. United Arab Emirates (UAE)

The Commission and the EU Delegation have made targeted efforts and resolved some of the most important market access barriers in 2019 in the automotive and agrifood sectors: new approval procedures including expensive third party audits, testing and labelling of the products, affecting all individual car parts and certain dairy products, as well as fruit juices.

As a result of EU outreach, the Emirates Authority for Standardization and Metrology (ESMA) confirmed that instead **of registering and testing individual car parts** these expensive requirements could be done at group level of car parts. This dramatically reduced the costs and administrative burden.

The UAE facilitated **the imports of dairy products and fruit juices** from the EU. ESMA recognised the EU food safety system so that these products do not need to be audited in Europe, but only approved by documentary checks. This has significantly reduced the cost of approval, as companies do not need to pay the audit costs of third-party certifiers to the EU. The UAE also recognised the EU approvals for food additives and pesticides, and so the EU business can refer to the EU legislation for any agrifood products.

7. Mediterranean and Middle East region: an EU playbook for barrier removal

The EU used a wide swathe of instruments:

Continuous diplomatic engagement: formal high-level demarches and exchanges of letters with the local authorities (Algeria, Tunisia, Saudi Arabia), high-level visits;

Assertive use of key bilateral meetings: Association Committee meeting (Tunisia), dialogue in the bilateral Trade Sub-Committees (Tunisia, Egypt), series of technical meetings (Egypt, Saudi Arabia), study trips to the EU (UAE);

Action coordinated by the Commission and EU Delegations with Member States, EU business, and when appropriate, including like-minded partners and local stakeholders;

Raising issues consistently at the WTO: Committee on Import Licensing (Tunisia), comments in the TBT framework, cooperation with other WTO members (Saudi Arabia).

C. RUSSIA

The political events of 2014 weigh on EU-Russia relations, including trade, where contacts are limited to the technical level and to exchanges in the WTO. The Commission continues to defend EU interests with all available means, including through WTO dispute settlement panels, while continuing to address trade irritants through bilateral technical contacts.

In this way, three barriers to trade were removed in 2019:

- Russia had put in place an **export ban affecting raw hides and skins** in 2014. In 2019, export quotas on certain categories of **birch logs** were introduced. These measures complicated the access of EU industries to key raw materials. After the Commission repeatedly raised the issue at the WTO Council for Trade in Goods, the WTO Committee on Market Access and bilaterally, Russia did not renew the temporary measures, which lapsed in 2019.

- Russia had put in place higher **excise duties for foreign wines**. After the Commission repeatedly raised the issue at the WTO Council on Trade in Goods, the WTO Committee on Agriculture and bilaterally, Russia adopted a measure that equalised the excise tax for foreign and domestic wines from 1 January 2020. The Commission remains vigilant as to whether the parallel new mechanism to refund the excise duties does not unduly disadvantage imported wines and therefore nullifies the benefits of equalisation of excise taxes.

While these three barriers were removed in 2019, the overall trade relationship with Russia remains problematic, including with new sources of concern (see Box 8).

8. Russia backgrounder – new concerns over horizontal measures

In 2019, Russia continued to be the EU's fourth-biggest trade partner. The policy of import substitution progressively deployed by Russia since 2012 largely coincided with Russia's accession to the WTO. Instead of sustained liberalisation, Russia has progressively put in place numerous measures favouring domestic products and services over foreign ones and incentivising localisation of production in Russia by foreign companies. Related measures often contravene the spirit and/or the letter of WTO rules and are the origin of many trade irritants. EU sanctions, and Russia's counter-sanctions, also have (limited) effects on trade.

A new reform of public procurement is ongoing, with the explicit aim of increasing the share of Russian goods and services in procurement not only by governmental bodies, but also by state-owned enterprises. This is a significant cause for concern for key EU export sectors such as medicinal products, medical devices, machinery or motor vehicles, and consequently the Commission is closely monitoring developments to ensure that the measures are in line with Russia's WTO commitments. The prospect of new legislative initiatives in the area of unique identification, tracking and tracing for many categories of goods are also a very significant source of concern and attract close attention from the Commission.

D. SOUTH KOREA

Two barriers were removed in South Korea in 2019: one fully, for cosmetics, the second partially, for bovine meat.

Korea's National Fire Agency wanted to classify most cosmetics as dangerous products, leading to strict storage and distribution requirements that the industry considered unrealistic. The issue was raised at the EU-Korea Trade in Goods Committee meeting, and in February 2019, Korea excluded cosmetics from the scope of application.

South Korea does not import beef and other products from EU Member States due to BSE-related **restrictions**, yet resumed imports from other countries with the same OIE status as the EU. Korea's unjustified and discriminatory measures have been raised with Korea in many bilateral meetings at different levels, as well as in the general session of the WTO SPS Committee. Imports from Denmark and the Netherlands were approved in 2019, partially resolving the barrier. Yet imports from other Member States remain blocked and the Commission is committed to swiftly lifting this unjustified, discriminatory barrier.

E. AUSTRALIA

Two barriers were successfully addressed in Australia in 2019, in relation to cosmetics and to steel testing standards.

Australia envisaged amendments to the 2017 Chemicals Bill regarding the **testing for new chemical ingredients of cosmetics**. The EU Delegation sent a letter to Australian authorities stressing the importance of ensuring alignment between the Australian and EU legal frameworks. The Industrial Chemicals Act 2019 was made law in March 2019, and is aligned with EU practice.

Standards Australia (the recognised national standards body) initiated a consultation on four draft steel-testing standards proposing possible deviation from ISO testing requirements to the Australian standard. The issue was raised during EU-Australia TP Dialogues. In December 2019, the drafting process for ISO 17607 was abandoned.

F. IMPACT OF THE BARRIERS RESOLVED

In previous chapters of this Report, we analysed the trade flows linked to barriers resolved in 2019 (see Box 3).

In addition, the Report includes the results of a more refined analysis based on an econometric assessment of the increase in EU exports to partner countries that have imposed a barrier, after the barrier was removed. In order to do so, a regression analysis has been used to quantify the impact¹⁸.



EU action generated at least €8 billion additional exports in 2019, helping support more than one hundred thousand jobs.

The result of this econometric analysis might not show the full impact of the Market Access Strategy, as the methodology does not allow us to include complex horizontal barriers affecting goods, nor barriers beyond goods (for instance, services, public procurement, investment, or intellectual property rights) that may affect directly or indirectly a variety of products via trade and investment flows.

Results show that on average the removal of this subset of barriers¹⁹ has generated tangible benefits for EU exporters. The estimates point to an average increase in exports of about 60%, after removal of the barriers. This implies, in value terms, that the removal of barriers in the period 2014 to 2018 generated about €8 billion in additional exports for EU companies in 2019. This is in the same order of magnitude of the benefits of trade barrier removal in previous years and is comparable to the expected increase in EU exports resulting from some of our trade agreements.

¹⁸ More specifically, we adopted a difference-in-difference methodology and analysed the impact on trade flows only between the EU and the countries that had imposed the barrier on the specific products involved relative to a counterfactual (EU exports to the rest of the world, excluding the country that had the barrier in place).

¹⁹ The analysis includes one hundred barriers removed from 2014 to 2018. It does not cover the barriers removed in 2019 as we need at least one full year of data after barrier removal to establish the impact on trade.

VI. A LOOK AT THE UNITED STATES OF AMERICA


The EU and the United States are each other's most important trade and investment partner, based on a historic commitment to open markets and representing the largest and deepest bilateral economic relationship in the world. EU and US tariffs are low (they average 3% or less) and our service markets are comparably open. The supply chains of EU and US companies are truly transatlantic. Also, global challenges are only properly overcome when the US and EU work together. This relationship is now faced with a set of new challenges, however.

In 2019, trade tensions increased following the imposition by the US of tariffs on \$7.5 billion of EU goods after the WTO ruled in favour of the US in the Airbus case. The Commission expressed regret about the US decision to go ahead with the imposition of tariffs, as it had submitted a proposal to resolve the dispute in line with WTO requirements. The Commission also reminded the US that its decision to impose tariffs would effectively compel the EU to avail itself of its retaliation rights when the WTO arbitrator would deliver the Boeing award in the parallel case later in 2020.

Regarding the anti-subsidy anti-dumping duties imposed by the US on ripe olives from Spain, WTO consultations took place in March 2019 but failed to resolve the dispute, so that in May 2019 the EU requested the establishment of a panel. The duties are in place since 1 August 2018, and are depriving the Spanish companies from access to the US market.

On a positive note, some tensions created by the US investigation into the national security dimension of imports of cars and car parts were defused when the 13 November 2019 deadline for the US to take measures passed without a formal decision by the President. The Commission will remain vigilant on this file, as the EU rejects the notion that passenger vehicle trade from the EU could constitute a national security threat to the US.

On the other hand, the pressures on transatlantic trade continued due to the imposition by the US in June 2018 of tariffs on EU steel and aluminium on alleged national security grounds. The EU has adopted rebalancing tariffs on US exports to the EU, which it has offered to rescind as soon as the US side is able to lift its tariffs. In January 2020, the US expanded the steel and aluminium tariffs to certain derivative products; the EU reacted in April 2020 by imposing rebalancing measures on three US products (certain types of lighters, certain types of plastic fittings for furniture and coachwork and playing cards). The Commission notes that similar duties imposed by the US on partners such as Mexico and Canada were withdrawn in the course of 2019 by the US.



While no barriers were resolved with the US in 2019, our comprehensive efforts continue.

The Commission also expressed regret at the demise of the WTO Appellate Body on 11 December 2019, essentially due to continued US opposition to the reappointment of its members. It also noted that this represented a very serious blow to the international rules-based trade system and to the fundamental balance of commitments accepted by WTO members at the end of the Uruguay Round. The EU shares the US view that the WTO system needs to be reformed in depth, and urgently, and this year proposed an interim appeal arrangement to those partners who are willing to continue to resolve WTO disputes in a binding and independent process with the possibility of appeal.

The Commission maintains its concerns about two specific provisions of the US Tax Cuts and Jobs Act 2017, the Base Erosion and Anti-abuse Tax (BEAT), which has some discriminatory aspects, and the Deduction for Foreign Derived Intangible Income (FDII), which may constitute a prohibited subsidy. In 2019, implementing rules for both acts were adopted by the US administration.

The Commission took note of the bilateral and regional trade agreements signed by the US with third countries in the course of 2019. The Commission considers that these agreements raise several concerns as regards the respect for multilateralism and global free trade rules. First, the Commission has doubts whether the limited deal reached between the US and Japan on agriculture and digital trade in September 2019 would meet WTO standards for free trade agreements. Second, the Commission is concerned that the restrictive rules of origin for cars and car parts included in the United States-Mexico-Canada Agreement could lead to a diversion of trade and investment flows that will negatively impact global supply chains and increase costs for producers and clients. Third, the Commission is concerned about the 'phase one' trade agreement concluded between the US and China in December 2019, particularly by its large purchase obligations that are at odds with free market principles and the non-discrimination obligations of the WTO.

The Commission is concerned about the final rule published by the US Department of Commerce (DOC) on 3 February 2020 stipulating that the DOC may treat a foreign country's currency undervaluation as a countervailable subsidy for the purposes of US countervailing duty (CVD) proceedings. The Commission will monitor the implementation of the rule to ensure that free-floating currencies like the euro are not unduly caught up in US CVD proceedings. The Commission is equally worried about the initiation of antidumping and CVD investigations launched by the DOC on 9 January 2020 regarding imports of forged steel fluid end blocks from Germany and Italy. The DOC investigations include several alleged EU subsidies, including for the first time free allocation of allowances under the EU Emission Trading System (ETS), as countervailable subsidies. The Commission will follow these proceedings with a view to ensuring that the ETS principle is not called into question.

In May 2019, the US activated Title III of the Helms-Burton Act²⁰ and opened the way for actions under Title IV, in breach of the 1998 EU-US agreement. The administration has started to apply actions against EU company executives. The EU reiterates its strong opposition to the extraterritorial application of US measures under Titles III and IV of the Act – such as the US refusal to deny entry to representatives of EU companies – which are contrary to international law.

Finally, the Commission will closely watch the development of investigations launched in July 2019 by the US into the French digital service tax under Section 301 of the Trade Agreements Act of 1974. Besides its general concern about the use of unilateral approaches that are at odds with the rules-based multilateral trading system, the Commission considers that any trade measures should be suspended to allow the OECD process on a global digital service tax to be successfully concluded.

Against this challenging background, the EU is fully committed to working on a positive agenda with the US to facilitate trade and investment, eliminate unnecessary red tape and deliver deep reform of the WTO system. The case for regulatory cooperation between the EU and the US is as compelling today as it has ever been.

²⁰ The Cuban Liberty and Democratic Solidarity (Libertad) Act of 1996 (Helms-Burton Act) is a US federal law which strengthens the US embargo against Cuba by extending the territorial application of the initial embargo to apply to foreign companies trading with Cuba.



VI. CONCLUSION

This Report gives an overview of trade and investment barriers directly affecting EU businesses, as reported and addressed through the EU's enhanced Market Access Partnership between the Commission, the Member States and EU business.

In 2019, the overall number of barriers kept increasing, a sign that protectionism has now become ingrained in trade relations with many partners. With 438 active barriers on record at the end of 2019 in the EU Market Access Database, this constitutes a qualitatively different trade context, requiring a paradigm shift in the way the EU pursues and defends its legitimate interests.

The EU-27 trade flows affected by the 43 new barriers in 2019 are estimated to reach as high as €35.1 billion, hampering primarily the ICT, automotive and electronics sectors. These are highly strategic domains related to EU technological sovereignty.

“ *A new EU approach is necessary to defend our interests in a polarised and uncertain environment.* ”

EU action to remove barriers was successful, with 40 barriers removed in 2019. Detailed econometric analysis shows that barrier removal work generated at least €8 billion additional export for EU companies, a figure comparable to the benefits of some of our FTAs.

At the same time, most breakthroughs took place in the agrifood sector, while removal of key industrial and services barriers proved more challenging. This also calls for a reshaping of the EU's approach to ensure barrier removal, enforcement and implementation.

From a geographical perspective, salient points also emerged. In 2019, **China** ranked again first with the highest total number of barriers (38). And while two agrifood barriers were removed, four new barriers with major economic impact in strategic sectors (data, cybersecurity, telecoms) were added. The **Mediterranean & Middle East** region represents almost half of all the new barriers recorded in 2019, unfortunately substantiating the fears of increasingly virulent protectionism in this area of the world. The situation in **Russia** remained challenging, while three barriers were resolved. New and resolved barriers in **Australia** and **South Korea** contributed to the 2019 tally and represented a sizeable share of the EU trade flows potentially affected.

Finally, after the large increase in market access barriers in 2018, the situation with **the United States** did not improve in 2019. While no barriers were resolved in 2019, our comprehensive efforts continue.

As illustrated in this Report, there seems to be a paradigm shift, with protectionism becoming ingrained in trade relations, barriers affecting sectors at the heart of the EU's technological sovereignty, increasing challenges in addressing industrial and services barriers, and barriers spreading across specific regions in a sort of contagion effect. This calls for a new EU approach to defending our interests as we stand up for our rights in an increasingly polarised and uncertain trading environment.