
SUMMARY

1. The EU, as a single entity, remains the largest trading bloc in the world and imports and exports continued to increase in 2011-12, although its share of world trade is declining due to faster growth in other countries. The EU is also an open economy with extra-EU trade in goods and services representing over 33% of GDP in 2011. Its rules and procedures are also transparent and, despite the wide diversity among its member States in terms of their economies, legal systems, and public institutions, it is a highly integrated economic unit with a single trade policy and common legislation in most trade-related areas.

2. The focus of EU policy over the past two years has been on the financial crises and there have been relatively few changes to trade policies, laws, or institutions in other areas. However, the fact that there has been no retreat into protectionism is, in itself, a positive sign. Among the causes of the crises were lack of appropriate fiscal reforms in a context of easy access to credit and low borrowing costs relative to economic growth for governments and the private sector which resulted in unsustainable levels of private and/or public sector debt and some banks' exposure to such debts. A related factor that exacerbated the crises was a decline in competitiveness in some member States as their unit labour cost and real effective exchange rates rose relatively quickly.

3. At both the EU and member State levels, steps are being taken to reduce public deficits and improve economic governance. The full implementation of those measures is expected to support economic recovery in 2013 and 2014.

4. In terms of customs procedures, the EU has been steadily moving towards an EU-wide system of electronic procedures with centralized clearance, with an ultimate deadline of 2020. Single authorizations for simplified procedures became more widely used during the review period. For goods coming from outside the EU, it is now possible to complete customs formalities at the port of arrival when the destination is in another member State while an "Entry Summary Declaration" may now be lodged at the destination instead of at the point of first entry. The first project of the Single Window is expected to be in place in 2014.

5. There have not been any major changes to tariffs or market access generally in the EU. Although there are a large number of duty-free tariff lines and the average MFN tariff is 6.5%, some sectors, particularly agriculture, remain relatively well protected, sometimes by complex or seasonal tariffs. However, relatively few countries trade with the EU on an MFN basis as the EU has a considerable number of trade agreements with other countries as well as a GSP and GSP+, and EBA schemes.

6. Different member States charge different rates of value added tax and excise duties while corporate and personal taxation systems and rates of tax vary widely from one member State to another. The complexity of the taxation system, including collection and payment, for example for VAT, can result in additional compliance costs for economic operators while the application of reduced VAT rates for some products results in significant revenue transfers to some sectors that are typically not traded. If all reduced rates were removed, the standard rate of VAT could in certain member States theoretically be dropped by up to 7.5% without any impact on overall revenue.

7. There is little official information available at the EU level on state-owned or controlled enterprises although some sources indicate that there are several hundred among the member States. The total number may have increased over the past few years as a number of banks have been taken over by some member States in response to the financial crises. Of course, the definition of a "state-owned or controlled" enterprise is not the same as a "state-trading enterprise" in the sense of Article XVII of GATT and the Understanding on the Interpretation of Article XVII. However, many of these state-owned enterprises in the EU member States are commercial entities which have effects on trade and investment.

8. Although there are extensive data for the EU on procurement above the thresholds set out in EU law and the Government Procurement Agreement, a considerable proportion of public procurement takes place below these thresholds. It is not clear how procurement takes place below the threshold because of differences in reporting among member States, including procurement by sub-national authorities and state-owned enterprises. This problem is not peculiar

to the EU, but public procurement is a large portion of GDP in the EU and some member States have federal structures with a significant proportion of procurement taking place at sub-federal level.

9. To a large extent, SPS measures are harmonized at EU level as is EU legislation on technical requirements. However, there remain significant differences in some areas among Member states. As noted by the Commission: "Technical obstacles to the free movement of goods within the EU are still widespread." During the review period, the EU had an agreement on conformity assessment and acceptance enter into force, which not only aligns legislation on technical requirement but also foresees the possibility of mutual market access of specific products that are lawfully placed on partners' markets.

10. In the area of intellectual property rights (IPR), the EU is continuing a comprehensive process of reviewing and developing the existing body of legislation in order to move towards a coherent and balanced overall framework. For that purpose, the European Commission's "blueprint" of May 2011 to boost creativity and innovation in the EU proposed a comprehensive strategy for the modernization of the IPR regime. Among the most significant developments during the period under review is the creation of a European patent with unitary effect. It will allow future right holders to request the grant of a patent title that provides uniform protection and is automatically valid in the 25 participating member States. In parallel, a unified patent litigation system will be put in place. The EU's trademark system and copyright regime are also undergoing a major review. As part of this process, the Commission has submitted a number of legislative proposals in the field of copyright, including with respect to the collective management and multi-territorial licensing of copyright, and is reviewing the legislative framework in general. Another important step towards a more coherent regime has been made in the field of geographical indications: a unified framework has been set up to promote quality agricultural products and foodstuffs, including through denominations of origin and geographical indications. That said, the establishment of an equivalent legal framework for the protection of geographical indications for non-agricultural products continues to be under examination. Finally, the imminent adoption of the revised customs regulation aims at strengthening the enforcement of IPRs at the EU's external borders. For this purpose, its scope will be extended, customs procedures be simplified, and further clarity will be provided as regards Customs action in relation to goods transiting the EU. Whether and what type of update of the existing legal framework for the civil enforcement of IPRs within the EU's internal market is needed continues to be subject of an extensive consultation process.

11. During the review period there was no major change in agricultural policy as implementation of the last set of reforms continued. More reform is expected to be decided in 2013 for implementation in 2014. As a result of past reforms and higher international prices for agricultural commodities, the total level of support to the agriculture sector has declined over the past few years and for most products there is now little difference between EU and international prices. However, the EU's reforms have not affected market access conditions and tariffs remain higher than on non-agricultural products and in some cases these tariffs are complex and/or seasonal.

12. Overfishing remains a serious problem for the EU as total allowable catches have regularly exceeded sustainable limits. However, for some time now the EU has been increasing the emphasis on long-term planning and more reform of the Common Fisheries Policy should take place this year.

13. On financial services, the policy objectives for reform have been fourfold: the first is the creation of a banking union through a single supervisory mechanism, a European deposit guarantee system, and a European resolution framework for banks in cases of bankruptcy; the second objective is the reform of financial institutions and markets to improve stability through the establishment of European supervisory authorities, higher capital requirements for banks and insurance companies along with specific regulations on credit rating agencies, auditors, securities markets and derivatives, and speculative trading practices that may lead to excessive market volatility; the third objective is the reinforcement of accountability in the financial system towards consumers; and the fourth is the institution of a financial services tax for some member States. These reforms have maintained third party access and developed new regulatory instruments in that regard such as the notion of equivalence.

14. For environmental services the most notable trade development is the ongoing reform of the legislative framework for concessions in order to ensure more transparency and more competition.

15. On air transport, the rules for the single aviation market are going through a "fitness check" process while other reforms on ground handling, slots, and noise are being considered and the common external aviation policy continues to be extended, particularly through the generalization of the "Community clause". On maritime transport the main developments over the review period relate to competition issues with ongoing revision of state aids and anti-trust guidelines. The third energy package, which has implications for pipeline transport, contains reinforced unbundling and third party access provisions; it entered into force in all its components starting in 2011 and finishing in 2013.

16. The EU is a highly integrated economic unit with common policies and laws for many trade-related areas. As noted, in many areas integration is increasing including foreign investment policy which, as provided for in the Treaty on the Functioning of the European Union (TFEU), is now the exclusive competence of the EU. While the EU is in the processing of developing and implementing its investment policy, member States may maintain in force their investment agreements with third countries that were signed before the entry into force of the TFEU.

17. However, in many areas of EU competence, the member States are responsible for implementing the law and in other areas the member States have competence or share it with the EU. These areas include: monetary policy for countries outside the Euro-zone; corporate and personal taxation; and (at least to some extent) technical regulations, fiscal policy, government procurement, value added tax and excise duties. In addition, the number and importance of state-owned enterprises varies considerably from one member State to another. Overall, therefore, there are several reasons why future trade policy reviews of the EU should pay closer attention to trade-related practices in the member States, not least because they are WTO Members in their own right.