SUMMARY

1. This 14th Trade Policy Review report of the European Union (EU) covers developments in EU trade policy during the period March 2017-September 2019. "EU" in this connection means the EU-28.

2. Real GDP growth in the EU was relatively strong in 2017-18, but slowed somewhat in the second half of 2018 due to several factors, including weakness in the manufacturing sector, escalating trade tensions, and the prospect of the United Kingdom's withdrawal from the EU. Annual GDP growth is expected to decline from 2.0% in 2018 to 1.4% in 2019 and to increase to 1.6% in 2020. Significant progress has been made in recent years regarding the reduction of unemployment and poverty, the correction of macroeconomic imbalances, and the improvement of the fiscal positions of EU member States. While discussions on an EU digital services tax regime were suspended, several EU member States introduced such a tax at the national level. The relatively positive recent growth performance of the EU economy provides an opportunity to focus on certain long-term challenges that need to be addressed to support stronger and more inclusive growth by improving productivity and boosting investment. In this regard, recent policy initiatives aim to better exploit the potential of the EU's single market, which remains fragmented, especially in services, energy and the digital economy.

3. Extra-EU trade in goods and services as a share of EU-GDP was nearly 35% in 2018. The share of the EU in world trade in goods and services was 16.7% in 2017-18 and has been on a declining trend during the last two decades. The EU remains the most important trading partner for some 80 economies. While EU merchandise trade with third countries continued to grow, the merchandise trade balance recorded a deficit in 2018 mainly due to the large deficit in fuel products. The United States, China and Switzerland continued to be the main destinations of EU merchandise exports. The EU was a net exporter of services, and its surplus in services trade increased during the review period. The United States and China are the EU's main partners in services trade.

4. The scope of the EU's exclusive competence to conclude international trade agreements was clarified by an opinion of the Court of Justice of the EU (CJEU). In light of this opinion, the exclusive EU competence to conclude international trade agreements is now understood to cover the following matters: trade in goods; trade in services, including all transport services other than air transport; trade-related aspects of intellectual property; public procurement; market access and investment protection in relation to foreign direct investment (FDI); and the termination of member State bilateral investment agreements for the parts concerning exclusive competence.

5. In March 2017, the United Kingdom notified its intention to withdraw from the EU under Article 50 of the Treaty on European Union on 31 March 2019. While negotiations under Article 50 have resulted in an agreement on the terms of the withdrawal, this agreement had not yet been ratified at the time of the circulation of this report. On 29 October 2019, the European Council, in agreement with the United Kingdom, decided on an additional extension of the period provided for in Article 50(3), until 31 January 2020.

6. The EU pursues "a balanced and progressive trade policy to harness globalisation", premised on the idea that global trade is a key contributor to a competitive and prosperous EU but needs to be proactively shaped and managed to ensure that it is fair, projects values and remains firmly anchored in a rules-based system. The first main objective of this policy is to conclude new trade partnerships to build progressive rules for global trade and to use trade policy to promote universal values regarding environmental, social and labour protection and fundamental rights, and preserve the right to regulate in the public interest. Aside from the negotiation and conclusion of bilateral trade agreements, a noteworthy development relating to this first objective is that gender issues have begun to figure more prominently in EU trade policy. In addition, an Action Plan was adopted to improve the implementation and effectiveness of provisions on sustainable development in the EU's free trade agreements (FTAs).

7. A second main objective of the balanced and progressive trade policy is to protect EU interests and ensure fairness through a robust trade and investment policy. This was reflected in, *inter alia*, reforms of the EU's trade remedies' instruments, discussion and proposals on the need to combat unfair subsidy practices, discrimination and lack of reciprocity in government procurement, and the adoption of a new mechanism for the screening of FDI from third countries. A third main objective

is to deliver effective agreements through a transparent and inclusive negotiation process. In this regard, the EU institutions took steps to enhance transparency in the negotiation of trade agreements, such as by publishing texts of (draft) negotiating directives. The EU also adopted a new approach to the architecture of bilateral trade agreements. This approach envisages the negotiation of two separate agreements: an FTA which will cover matters within the exclusive competence of the EU and which will be concluded only by the EU, and an Investment Protection Agreement which will include both matters in which the EU has exclusive competence and matters in which the EU and its member States share competences and which will be concluded by the EU and the member States.

8. In light of recent challenges facing the multilateral trading system, the EU emphasized the importance of preserving an open, rules-based multilateral trading system, with the WTO at its core, and the need for comprehensive reform of the WTO. The EU made numerous notifications during the review period in areas such as agriculture, trade remedies, technical regulations, regional trade agreements and preferential rules of origin. It was a complainant in five new dispute settlement cases and a respondent in one new case.

9. As at 30 September 2019, the EU had 41 FTAs in force with 72 countries. The largest FTA partners, based on data on trade in goods, were Switzerland, Turkey and Norway. During the review period, the FTA with Canada was applied provisionally; the FTA with Japan entered into force; FTAs and Investment Protection Agreements with Singapore and Viet Nam were completed; FTA negotiations were concluded at a political level with Mexico and with Mercosur; negotiations were launched on the modernization of the existing agreement with Chile; and negotiations on comprehensive FTAs were launched with Australia and New Zealand. Aside from the economic opportunities, the EU considers that these FTAs have strategic benefits in an international trading environment that has become more uncertain and unstable.

10. The EU adopted a Joint Statement with the United States in July 2018 in which they agreed, *inter alia,* to work towards the elimination of tariffs, non-tariff barriers, and subsidies on non-auto industrial goods, and towards the reduction of barriers to trade in services, chemicals, pharmaceuticals, medical products and soybeans.

11. The EU Generalized Scheme of Preferences (GSP) provides a general GSP arrangement and two special arrangements. As at 30 September 2019, there were 15 beneficiaries of the EU's general GSP arrangement, 8 beneficiaries of the EU's GSP + arrangement, and 48 beneficiaries of the EU's Everything But Arms arrangement. A mid-term review of the GSP scheme concluded in 2018 that there was no need to amend the GSP Regulation before its expiry on 31 December 2023 but that measures should be taken to improve transparency and inclusiveness in GSP monitoring, both in the EU and in the beneficiary countries, and to promote greater awareness of GSP in beneficiary countries.

12. New EU legislation on the screening of FDI into the EU from third countries was adopted in 2019, against the background of growing concerns regarding the impact on the strategic interests of the EU or its member States of certain types of FDI, especially in cases involving state-owned enterprises and strategic sectors. It provides for a framework for the screening by member States of FDI into the EU on the grounds of security or public order, and establishes a mechanism for cooperation between member States, and between member States and the Commission, regarding FDI from third countries likely to affect security or public order. It does not create a centralized mechanism at EU level for the screening of FDI.

13. The EU's Union Customs Code (UCC) for customs procedures at the border was implemented in 2016, although the application of several elements remain ongoing pending the full functioning of several electronic systems, some of which have faced delays. The EU's single window initiative continues to be gradually implemented. New provisions for low-value consignments are expected to be introduced in 2021.

14. The EU's applied tariff structure did not change significantly since the last Review, and the rates remain nearly identical. The simple average MFN tariff rate remains at 6.3%. MFN applied rates are generally identical, or close, to the WTO bound rates. The agricultural sector continues to stand out in the tariff analysis due to significantly higher rates (14.2% on average), the wide tariff range, and the significant use of non-*ad valorem* rates and tariff quotas. For non-agricultural products, the

fish and fishery products (11.8% simple average) and clothing (11.6%) sectors stand out as the ones with the highest tariff protection among an overall low average of 4.2%.

15. The EU maintains different categories of tariff rate quotas (TRQs) for both agricultural and non-agricultural products. As at 1 January 2019, there were 712 preferential TRQs in place pursuant to FTAs with 26 trading partners, mainly with respect to agricultural products, and 257 conventional TRQs, including WTO TRQs, and about 120 tariff lines for TRQs providing autonomous access. The EU adopted regulations on the apportionment of WTO TRQs quotas between the EU and the United Kingdom, in anticipation of the latter's eventual withdrawal from the EU. In this regard, negotiations under Article XXVIII of the GATT 1994 were initiated.

16. The EU continues to have several preferential regimes, both reciprocal and unilateral, which offer preferential duties upon importation into the EU. Based on the 2019 preferential duty rates, most partners or recipients receive duty-free access on a large percentage of their exports to the EU. Like the situation with MFN tariffs, access was greater on non-agricultural goods than on agricultural goods. In general, the percentage of duty-free lines increased since the last Review, due to the staged implementation of some agreements and new improved agreements with certain partners. At the same time, the simple average tariff rate slightly decreased for many agreements for the same reason. The share of imports under preferential tariff regimes in total EU imports is relatively low, with unilateral preferential regimes accounting for 3.8% of total imports in 2018, and preferential FTAs accounting for 13%.

17. There were several important legislative developments with respect to the EU's value-added tax (VAT) regime. For example, one set of amendments to the VAT Directive of 2006, which aims to simplify VAT for e-commerce transactions, entails the removal of the VAT threshold of EUR 22, which means that all commercial goods entering the EU will be subject to VAT from 1 January 2021. The amendments also introduce two alternative VAT collection mechanisms.

18. The EU continues to apply several prohibitions, restrictions and licensing requirements on imports which have increased in number over the review period. New or expanded prohibitions or restrictions on imports that took effect during the review period concerned measures on mercury, invasive alien species, certain persistent organic pollutants and cultural goods, for example. A directive on the single use of plastics adopted in 2019 must be transposed by member States by July 2021. A regulation on conflict minerals, adopted in 2017, requires importers of tin, tungsten, tantalum and gold to comply with certain supply chain due diligence requirements as of 1 January 2021.

19. The EU basic anti-dumping and anti-subsidy regulations were amended by two new regulations. The first, adopted in 2017, allows for the use of alternative methods of determining normal value where there are state-induced distortions in the exporting country. The amendments made by the second regulation, adopted in 2018 as part of a comprehensive modernization of EU trade remedy legislation, are more numerous and diverse and concern both procedural aspects, such as the duration of provisional measures, and substantive aspects, such as the calculation of an injury margin. The EU continues to be a significant user of trade remedies, although the number of new anti-dumping and anti-subsidy initiations steadily declined between 2016 and 2018. The steel surveillance measure continued to be in place, followed by the introduction of the steel safeguard measure replacing this measure for certain steel categories in 2018-19. A similar surveillance measure on aluminium was put in place in 2018, citing the vulnerable position of the EU industry.

20. The EU does not impose taxes, charges or levies on exports. It maintains prohibitions or restrictions on the export of about 11 categories of products, many of which are applied pursuant to international agreements, such as CITES and the Montreal Protocol. The scope of export restrictions on mercury was expanded, regulations on certain goods which could be used for capital punishment, torture or other cruel, inhuman or degrading treatment or punishment were replaced and codified into a new regulation, and more stringent measures were put in place for raw ivory. A ban on exports of certain plastic waste to non-EU countries will apply from 2021. The EU continues to regulate the export of certain products, pursuant to its export control legislation on dual-use goods. The EU export control regulation was amended twice during the review period, mainly to update the annexes to reflect certain changes to the international agreements on which it is based. Based on a proposal made by the Commission in 2016, a legislative process is under way to upgrade the EU's export control regime.

21. Export or trade promotion activities are generally within the realms of the EU member States. In addition, most member States also have some form of officially supported export financing, credits, insurance or guarantees. The EU has several provisions on export credit, insurance and guarantee instruments but does not have any all-encompassing legislation, except on short-term official export credits. EU rules on capital requirements were amended during the review period to provide that EU financial institutions subject to these rules are no longer required to include export credits in their leverage ratios.

22. The EU provides incentives in the form of subsidies and state aid, granted both out of the EU budget and by member States. At the EU level, the two largest areas of expenditure during the 2017-18 period were agriculture, and structural operations, mainly through the European Structural and Investment Funds (ESIF). The ESIF amount to EUR 644 billion during 2014-20, of which 71.6% is EU financing (EUR 461 billion) and 28.4% is EU co-financing (EUR 183 billion). The ESIF comprise six funds: the European Regional Development Fund (43.3% of the total ESIF budget); the European Agricultural Fund for Rural Development (23.5%); the European Social Fund(18.7%); the Cohesion Fund (11.6%); the European Maritime and Fisheries Fund(2.0%); and the Youth Employment Initiative (1%). The European Commission is currently evaluating most of the state aid rules in order to take stock of the results of the reforms implemented since 2012 pursuant to the State Aid Modernization initiative. The total amount of state aid (excluding transport and agriculture) provided by member States increased from EUR 91 billion in 2014 to almost EUR 111 billion in 2017, largely due to an increase in aid for environmental protection (including energy saving).

23. Some important changes were made during the review period to the basic legislative framework regarding technical requirements, standards, conformity assessment and accreditation. Firstly, a new regulation was adopted in 2019 which aims to improve the application of the principle of the mutual recognition of goods. It provides, in particular, that member States that use existing technical regulations to restrict market access for products lawfully marketed in another member State must justify their position with technical and scientific evidence, and must grant the economic operators affected an opportunity to provide comments. Secondly, another regulation adopted in 2019 aims to enhance cooperation between national market surveillance authorities by providing for information-sharing mechanisms between them regarding illegal products and ongoing investigations.

24. Regarding sanitary and phytosanitary measures, a new regulation was adopted in 2017 on official controls on products of animal origin intended for human consumption. It includes rules for the performance of official controls and other control activities by the competent authorities of the member States, sets out the requirements to be fulfilled for the entry into the EU of consignments of animals and goods from third countries, and empowers the Commission to adopt delegated acts concerning those requirements. The Animal Health Law of 2016 is to become applicable on 21 April 2021, and the Plant Health Law of 2016 on 14 December 2019, except for certain provisions relating to a phytosanitary certificate for exports.

25. In the area of competition policy, the main legislative development during the review period was the adoption of a directive that strengthens the competences of national competition authorities in the enforcement of EU competition law. The Commission commenced the review of the Vertical Block Exemption Regulation, which will expire in May 2022. In relation to anti-competitive agreements and abuse of dominant position, the Commission adopted several decisions concerning large firms in the digital services market, and took action to ensure competition in gas supply markets. It also adopted several important decisions in merger cases.

26. One of the main developments in the area of government procurement was the adoption by the Commission, in October 2017, of a public procurement strategy which aims at further improving EU public procurement practices by working with public authorities and other stakeholders and which includes three initiatives: (i) a mechanism for large infrastructure projects, to provide clarity and guidance to public authorities on public procurement; (ii) a recommendation to professionalize public buyers; and (iii) a consultation on guidance on public procurement of innovation. To harmonize procedures and processes, the Commission introduced the European Single Procurement Document.

27. Regarding intellectual property, several legislative measures were put in place during the review period, notably with respect to copyrights and related rights: (i) the Directive on copyright in the Digital Single Market; (ii) the Directive on television and radio programmes; (iii) the Regulation on cross-border portability of online content services in the internal market; and (iv) the Directive

and Regulation to implement the Marrakesh Treaty, aimed at giving blind and visually impaired or otherwise print-disabled people better access to printed materials. The unitary patent package has not yet entered into force. In May 2019, the EU adopted amendments to its rules on supplementary protection certificates for medicinal products. Various measures were taken during the review period to implement substantive reforms to EU trademark legislation, based on a regulation modernizing the EU legal framework for EU trademarks and a directive further harmonizing national trademark laws, adopted in 2015. Given the importance of geographical indications (GI) for the EU's external trade, the EU has sought to include a comprehensive section on GI protection for agricultural products, in addition to wines and spirits, in the more recent generation of FTAs. Regarding undisclosed information, nearly all EU member States adopted legislation to implement the Trade Secrets Directive adopted in June 2016.

28. In agriculture, the 2013 reforms of the Common Agricultural Policy (CAP) have been fully applied since 2015, and the structure of the agricultural policies has remained the same: the European Agriculture Guarantee Fund (EAGF) covers direct payments and market measures (Pillar I) and the European Agricultural Fund for Rural Development (EAFRD) finances the EU contribution to rural development programmes (Pillar II). The main legislative change during the review period was the Omnibus Agricultural Provisions Regulation, adopted in December 2017, which made certain technical amendments to the four Basic Acts of the CAP on direct payments, rural development, common market organization, and horizontal regulation (financing, management and monitoring of the CAP). Legislative proposals for the reform of the CAP beyond 2020 were submitted by the Commission in 2018 and are currently under discussion. These include proposals relating to the general and specific objectives to be pursued through support funded under the EAGF and the EAFRD. No export subsidies were provided during the review period, and, as part of the broader revised EU-28 Schedule certification exercise, the EU submitted the changes to its WTO commitments to revise its export subsidy commitment levels pursuant to the Nairobi Ministerial Conference Decision. There were no substantial changes during the review period regarding market access for imports of agricultural products into the EU.

29. Regarding fisheries, there were no significant changes during the review period in the management of fisheries under the reformed Common Fisheries Policy (CFP), which has been in effect since 2014. The Commission conducted a comprehensive assessment of the implementation of the CFP, considering the CFP's objective of restoring and maintaining fish stocks at sustainable levels by 2020. While tariff protection on an MFN basis is relatively high, the EU grants preferences on a reciprocal or unilateral basis, to major fishery suppliers. The EU adopted a new regulation in December 2017 on the sustainable management of external fishing fleets. Regarding international cooperation, it signed ocean partnership agreements with China and Canada and, together with nine other countries, signed an Agreement to Prevent Unregulated Commercial Fishing on the High Seas in the Central Arctic Ocean. As at October 2019, the EU had 12 Sustainable Fisheries Partnerships Agreements with partner countries, in addition to the Northern Agreements with Norway, Iceland and the Faroe Islands.

30. Key objectives of the EU's energy policy, as defined in the Energy Union Package adopted in 2015, are: improving security of energy supply; completing the internal energy market; boosting energy efficiency; decarbonizing the economy and becoming the world leader in renewable energy; and promoting research, innovation and competitiveness. New legislation adopted during the review period relating to these objectives includes new rules on the security of gas supply and electricity risk preparedness, a revision of the gas Directive, a regulation and a directive on the internal market for electricity, amendments to the Energy Efficiency Directive, and a directive on the promotion of the use of energy from renewable sources. The 2030 Climate and Energy Policy Framework, adopted in 2014, has the following targets for 2030: reduce greenhouse gas emissions domestically by at least 40% compared to 1990 levels; reach a share of at least 32% in renewable energy; and increase energy efficiency by at least 32.5% at EU level. In 2018-19, the EU adopted a new comprehensive legislative framework for energy and climate change policies.

31. With respect to manufacturing, apart from developments relating to specific sectors (automobiles, chemicals, and steel) a notable development during the review period was the growing interest in the role of industrial policy. In September 2017, the EU formulated a renewed Industrial Policy Strategy, "Investing in a smart, innovative and sustainable industry", which aims to integrate all existing and new horizontal and sector-specific industrial policy initiatives into one comprehensive strategy. The Strategy proposed measures relating to: cybersecurity; the free flow of non-personal data; the circular economy; modernization of the intellectual property rights framework;

improvement of the functioning of public procurement markets; extension of the skills agenda to new key industry sectors; sustainable finance; a balanced and progressive trade policy and a EU framework for the screening of FDI; the secure, sustainable and affordable supply of critical raw materials; clean, competitive and connected mobility; and the exploitation of key enabling technologies. Many of the measures envisaged in this Strategy were adopted in 2018-19. In March 2019, the European Council invited the Commission to present, by the end of 2019, a long term-vision for the EU's industrial future.

32. In financial services, regulatory developments during the review period fell into four categories. Firstly, the EU took steps to reduce risk and enhance the resilience of the banking sector. In May 2019, it adopted a banking reform package which amends core provisions of the Single Rulebook, namely the Capital Requirements Regulation and Directive and the Bank Recovery Resolution Directive, considering international standards. The EU also introduced new measures regarding non-performing loans, which have been on a declining trend in recent years. Secondly, the first two pillars of the Banking Union (the Single Supervisory Mechanism and the Single Resolution Mechanism) are operational; the third pillar (the European Deposit Insurance Scheme), has yet to be established. Thirdly, most of the legislative proposals submitted by the Commission on core aspects of the Capital Markets Union, which aims to develop deeper and more integrated capital markets across the EU, were adopted during the review period. Finally, the Commission issued a communication, setting out its overall approach to equivalence in the area of financial services, and adopted several equivalence decisions with respect to third countries.

33. Regarding construction services, a sector being examined for the first time, the EU is the world's largest trader of construction services (intra- and extra-EU trade), and took several steps in recent years towards regulatory simplification and improving the internal market for the construction sector. The main legislation applicable to this sector is the 2006 Services Directive. Several other EU rules are also relevant to the construction sector, for example the 1996 Directive on the posting of workers in the framework of the provision of services, which was amended in 2018. One recent development is a proposed Directive and Regulation on a services e-card to enhance cooperation in member States but it is currently on hold. The EU has taken GATS commitments for cross-border services in the construction sector and also has made generally improved commitments in its FTAs. According to information from the OECD on services' trade restrictiveness, EU member States were ranked relatively open compared to OECD peers for construction services.

34. During the review period, the EU adopted legislative measures under the first pillar of the Digital Single Market (DSM) Strategy launched in 2015 that address different types of barriers to the growth of cross-border e-commerce. These measures deal with: cross-border portability of online content subscriptions; cooperation between national consumer protection agencies; VAT aspects of e-commerce; unjustified geoblocking; cross-border parcel delivery services; copyright in the DSM; copyright and related rights applicable to certain online transmissions of broadcasting organizations and retransmissions of television and radio programmes; contracts for the supply of digital content and services; and contracts for the sale of goods.

35. The second pillar of the DSM Strategy resulted in a major reform of EU rules on telecommunications infrastructure and services markets with the adoption, in December 2018, of a new European Electronic Communications Code (recast) (EECC). The EECC, which member States are required to transpose by 21 December 2020, amends the four Directives that constitute the current EU telecoms regulatory framework and integrates them into a single legal instrument. It expands the scope of application of EU telecoms regulation in various respects, in line with the principle of technological neutrality and to keep pace with technological developments. It aims to contribute to the creation of the additional capacity in high-speed broadband networks necessary to achieve the strategic Internet connectivity objectives set by the Commission in 2016. The EECC also contains provisions aimed at increasing the coordination and coherence of radio spectrum management, significantly alters the scope of universal service obligations, strengthens consumer protection rights, and reinforces the role of national regulatory authorities. The EECC was accompanied by the adoption of new rules on the role of the Body of European Regulators for Telecommunications.

36. Other measures adopted under the second pillar of the DSM Strategy, include a non-binding Commission Recommendation of 1 March 2018 on measures to effectively tackle illegal content online and a Regulation, adopted in June 2019, on rules to improve the fairness and transparency of online platforms. This Regulation aims to address potential friction arising from the growing

dependence of business users on providers of intermediation services. In June 2019, the EU Cybersecurity Act entered into force. It reinforces the role of the EU Agency for Cybersecurity, and establishes a European cybersecurity certification framework.

37. In audiovisual services, the Audiovisual Media Services Directive was the subject of a comprehensive set of amendments in 2018. The main changes reinforce the country of origin principle, reinforce the existing rules on hate speech and prohibit provocations to commit terrorist acts, introduce additional protections for children, extend certain rules for audiovisual media services to video-sharing platforms, establish rules on the promotion of European content in respect of on-demand audiovisual service providers, introduce more flexibility regarding restrictions on television advertising, and require member States to establish national regulatory authorities or bodies.