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REPORT BY THE SECRETARIAT

EUROPEAN UNION

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

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Document WT/TPR/G/442 contains the policy statement submitted by European Union.

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SUMMARY

1. The European Union, as a political and economic union of 27 countries, allows most goods, services, capital, and persons to move freely within its territory. The period under review was characterized by a major change in development and political goals and priorities led by the adoption of, *inter alia*, the European Green Deal, a Europe fit for the digital age, and a new political agenda to reinforce the European Union's global influence and leadership in the world. Policies and agendas under these strategies are expected to shape not only the political landscape but also impact many trade and investment policies. While many of these concrete measures are still a work in progress (e.g. the Carbon Border Adjustment Mechanism, green taxation, and green government procurement), certain new measures have already been adopted (e.g. the Digital Services Act (DSA) and the Digital Markets Act (DMA)). Furthermore, these strategies, as well as the impact of the COVID-19 pandemic and the war in Ukraine, led to the review of various EU policies and practices, including in the areas of trade, agriculture, and energy. Temporary measures applying notably to exports and state aid, and also additional funding through the European Union's budgets, were specific to the pandemic response. Another notable development during the review period was the withdrawal of the United Kingdom from the European Union in early 2020.

2. The EU economy had many years of stability and growth prior to the pandemic, when GDP growth averaged 2.1%; however, since then, there has been increased volatility and uncertainty and real GDP declined by 5.7% in 2020. In 2021, a strong recovery occurred with GDP growth reaching 5.4%. Despite another shock in early 2022 due to the war in Ukraine, GDP growth remained strong. Reform of the European Union's economic governance framework advanced during the review period with a proposal to facilitate effective economic surveillance through a new common framework, which among other things will have a medium-term focus and a more risk-based approach to surveillance with greater attention on high debt ratios. With respect to EU employment, despite a slight downturn in 2020 due to the pandemic, the subsequent increase in 2021 was significant as employment rates in a majority of member States exceeded pre-pandemic levels and unemployment reached an all-time low.

3. In terms of external trade, the European Union remained the world's top trader, with EUR 6.28 trillion traded in goods and services in 2021. International trade was the equivalent of 21.5% of EU GDP. The trade surplus in goods contracted significantly in 2021 to EUR 56.8 billion on account of a significant increase in the value of imports largely due to higher cost of energy imports. For services trade, after a contraction in 2020, a recovery ensued in 2021, with exports increasing by 16% and imports by 4% from 2020 levels. The stronger recovery of exports over imports led to a slight widening of the services trade surplus to EUR 122 billion in 2021. China, Switzerland, the United Kingdom, and the United States were the European Union's main trading partners. There were no major changes in the ranking of the European Union's main trading partners during the period under review.

4. In February 2021, the European Union adopted a new trade strategy entitled An Open, Sustainable, and Assertive Trade Policy, which is articulated around the principles of open and fair trade but also seeks to achieve an "open strategic autonomy". Under this approach, the European Union prioritizes multilateral cooperation but intends to act autonomously if needed. To support the strategy's implementation, the Commission developed various proposals for regulations during the review period, some of which had been already approved, e.g. a regulation regarding foreign subsidies and another on countermeasures to ensure enforcement of international trade agreements.

5. The multilateral trading system remains an integral component of EU trade policy, and the reform of the WTO is one of the European Union's priority actions. During the review period, the European Union continued to actively contribute to the WTO's core functions, including as one of the main donors for capacity-building and technical assistance activities. The European Union promoted discussions through joint proposals/initiatives on, *inter alia*, domestic regulation of trade in services, e-commerce, investment facilitation, transparency, trade and environment, trade and gender, and MSMEs. The establishment of the Multi-Party Interim Appeal Arbitration Arrangement was also an initiative led by the European Union together with other WTO Members. The ratification process for the Agreement on Fisheries Subsidies is ongoing.

6. As concerns regional and bilateral agreements, the European Union had, as of December 2022, the largest network of RTAs in the world with 44 agreements in place. During the

review period, the European Union signed and implemented the Trade and Cooperation Agreement with the United Kingdom following its withdrawal from the European Union, and also concluded the accession of the Solomon Islands to the EU-Pacific States RTA. The European Union was also engaged in negotiations for new RTAs (i.e. with New Zealand, Australia, and Indonesia) and to update or deepen existing ones (e.g. Chile and Mexico). The European Union sought to strengthen implementation and enforcement by establishing a new internal complaint mechanism – the Single-Entry Point, creating an office for trade enforcement and monitoring – and by enhancing the enforcement mechanism of the Chapters on Trade and Sustainable Development in its RTAs.

7. The European Union also continues to facilitate trade with developing countries mainly through its GSP scheme, which has three components (i.e. standard GSP, the GSP+, and the Everything but Arms (EBA) arrangement) and covered 66 economies as of December 2022. The GSP, except for its EBA component, is expected to expire by the end of 2023 and a proposed regulation for its renewal for the period 2024-34 is under consideration. The proposed regulation contains the main characteristics of the existing programme while making some specific changes for beneficiaries to, *inter alia*, strengthen enforcement and support EU environmental objectives.

8. Regarding foreign investment, in October 2020, the European Union implemented a common framework, which was adopted in 2019, for the screening of FDI for reasons of security and public order. The framework provides for a set of minimum requirements for the functioning of national screening mechanisms and for a cooperation mechanism to share information. Of the transactions that were formally screened in 2021 and had a decision issued, the majority were authorized with or without conditions, and only 1% of transactions were blocked. In December 2020, the European Union concluded an agreement in principle for a Comprehensive Agreement on Investment with China.

9. In the area of customs, new rules on e-commerce removed the VAT *de minimis* exemption on imports of low-value consignments. Facilitating this change, the Import One-Stop Shop (IOSS) was introduced to simplify the declaration and payment of VAT for distance sales of these consignments. A number of IT systems for the facilitation of customs procedures continued to be implemented during the period and the remaining systems are expected to be operational by 2025. The Regulation on the EU Single Window Environment for Customs entered into force in 2022. Applied MFN tariffs have not changed significantly, and rates of duty remain substantially the same; the simple average tariff was 6.5%, but the agricultural sector continued to have rates on average three times higher compared to non-agricultural goods. The number of tariff lines with non-*ad valorem* duties remained significant, at about 10% of all lines. Certain temporary measures on imports, e.g. suspension of certain duties, were instituted to benefit Ukraine in response to the war.

10. The European Union continued to be a significant user of anti-dumping measures and countervailing measures (which the European Union refers to as anti-subsidy measures) and was an increasing target for these measures from third markets during the review period. As of December 2022, 178 anti-dumping and countervailing measures were in place. The sector most impacted during the review period was iron and steel in terms of new investigations. There were few changes in the trade remedies framework, as the previous modernization exercise of 2017-18 continued to be implemented. The surveillance measures the European Union had in place on steel and aluminium products lapsed but an *ex post* monitoring system was introduced. The safeguard measure on steel remained in place during the review period and it was prolonged and amended. An increasing number of sanctions, or restrictive measures, were put in place during the period.

11. Several measures on exports continued to be maintained by the European Union, mainly due to various international conventions. Certain amendments were made to the Regulation on drug precursors and the Regulation on hazardous chemicals to amend the product coverage. There were also temporary export measures imposed by the European Union and most of the member States in response to the COVID-19 pandemic, although these were mainly in place for a very short duration. Through the State Aid Temporary Framework, flexibilities were added for Short-Term Export Credit insurance, thus allowing public authorities to assume risks associated with exports to marketable risk countries. The European Union was also exploring options for an EU strategy on export credits.

12. At the EU level, subsidies are mostly granted to agriculture and regional development and are mainly financed by shared management funds, whose composition was amended for the budget period 2021-27. At the member State level, state aid (not related to COVID-19) continued to be directed to promote environmental protection and energy savings. In response to the COVID-19

pandemic, temporary programmes were put in place to direct additional funds to the private sector, and to simplify rules and provide flexibilities for accessing funds, as well as for the provision of state aid. Member States also increased the amount of state aid in response to the pandemic, which amounted to EUR 320 billion in 2020, up from EUR 135 billion in 2019. For the period 2021-27, additional funding will also be available through the newly established NextGenerationEU recovery programme for which the European Union allocated EUR 806.9 billion. The European Union is also reviewing various state aid guidelines and regulations, including the State Aid General Block Exemption Regulation and the *De minimis* regulation. In 2022, a revised framework on state aid for research, development, and innovation activities was issued and a Temporary Crisis Framework in response to the war in Ukraine was adopted.

13. In the area of technical barriers to trade (TBT), the European Union implemented some legislative changes that were adopted in 2019 to improve and strengthen the functioning of its TBT regime, notably regarding the application of the principle of mutual recognition, market surveillance, labelling, and online sales. During the review period, standardization gained more prominence. In 2022, a new European Standardization Strategy was issued wherein standardization is identified as key strategic tool to achieve EU environmental, digital, and economic objectives.

14. As concerns sanitary and phytosanitary (SPS) measures, the European Union completed the implementation of the Plant Health Law, the Animal Health Law, and the Regulation on Official Controls, all adopted in previous years to simplify and harmonize its SPS regime. In March 2021, the European Union also amended the General Food Law to improve transparency and public participation in the risk assessment and approval procedures for products, and in January 2022 started applying updated rules (adopted in 2018) on the manufacturing, trade, sale, and use of veterinary medicinal products, including on the use of antimicrobials. In May 2020, the European Union adopted the Farm to Fork Strategy, which, *inter alia*, identifies the areas of action to achieve a sustainable EU food system during the period 2020-24, including possible reforms on feed additives, pesticides, plant protection, and animal welfare, as well as the establishment of a new legislative framework for sustainable food systems.

15. The European Union's legal framework on government procurement remained broadly the same during the review period. Expenditure on government procurement remained robust, amounting to EUR 2,388 billion or about 13.7% of GDP. The European Union adopted a regulation on foreign subsidies (i.e. subsidies by a third country), which will apply from July 2023, to address situations where a company receiving foreign subsidies causes distortions to the internal market through, *inter alia*, its participation in EU public procurements, or the acquisition of an EU company or assets affecting the market structure. For competition, a notification-based tool was introduced as part of this regulation to notify *ex ante* financial contributions received from a non-EU government prior to concluding a concentration. A new Vertical Block Exemption Regulation and new Vertical Guidelines aimed at allowing undertakings to self-assess conformity with competition laws were also introduced.

16. Intellectual property rights (IPRs) remained of growing importance to the EU economy, both in terms of employment and contribution to GDP. Developments in the area of IPRs during the period include the issuance of new Guidelines on EU trademarks and on registered Community designs, as well as the adoption of two package proposals for the modernization of design protection legislation. Regarding geographical indications, two proposals – one for a Regulation on craft and industrial products, and one for a Regulation on wine, spirit drinks, and agricultural products – were adopted, as were quality schemes for agricultural products.

17. In agriculture, the previous Common Agricultural Policy (CAP) continued to be applied on a transitional basis as the new CAP was approved and entered into force in January 2023. The new CAP brings together the agricultural and rural development policies of the European Union, strengthening the focus on measures addressing climate and environmental concerns, and uses a more results-based approach. CAP Strategic Plans at the member State level will detail specific measures, based on identified needs and intervention strategies. Overall funding under the CAP remains largely unchanged, and the European Agriculture Guarantee Fund and European Agricultural Fund for Rural Development continue to finance implementation. The European Union did not grant export subsidies during the review period, and the provision allowing for export refunds in exceptional circumstances has now been legally removed. There were no substantial changes regarding market access for agricultural products.

18. The Common Fisheries Policy and its implementation mechanisms remain in place, but regulations regarding its funding were updated with the European Maritime, Fisheries and Aquaculture Fund replacing the European Maritime and Fisheries Fund from 2021. While the type of support provided did not fundamentally change, some additional capacity-enhancing activities are no longer eligible for funding. The European Union continues to implement policies to address IUU fishing both domestically and with international partners. The revision of the European Fisheries Control system remains pending. In 2021, the Commission adopted an EU Forest Strategy for 2030 and in late 2022, the Council and the Parliament reached a provisional agreement on a regulation aiming to prevent deforestation and forest degradation, but its adoption remains pending.

19. The importance of energy and climate policies gained further impetus during the review period with the shift towards renewable and low-carbon energy, improving energy security, and reducing emissions to achieve climate neutrality. The 2021 Fit-for-55 package aims to align these policies with the climate-related goals of the European Green Deal and the Climate Law, which includes targets for GHG emission reductions. The package contains many policy initiatives that focus on emissions reduction through various channels from the demand- and supply-side, including complementing the Emissions Trading System with a Carbon Border Adjustment Mechanism, or reforming energy taxation. Most recently, the REPowerEU plan aims to diversify the energy supply, save energy, and facilitate an increase in clean energy generation. The Plan includes faster permitting rules for renewable energy projects and supporting the development of renewable hydrogen. A number of regulations established minimum storage levels for natural gas, voluntary gas demand reduction targets, and a cap for market revenues from electricity generation in 2022.

20. According to the OECD, the overall restrictiveness of EU member States' external services trade regime remains relatively low. Developments during the period include the entry into force of adjustments to the regulatory framework for the posting of workers and the adoption of the DSA and the DMA in 2022. The DSA harmonizes the rules applicable to "intermediary services" in the internal market with the objective of ensuring a transparent, safe, predictable, and trusted online environment. It introduces due diligence requirements and systems for handling internal complaints, regulates online advertising, and exempts intermediary service providers from liability regarding content, except in some circumstances; it furthermore contains additional rules for very large online platforms and online search engines. Separately, the DMA contains provisions aimed at restricting anti-competitive practices of certain "gatekeepers", i.e. undertakings that provide core platform services.

21. The financial services regulation continued to focus on enhancing resilience and transparency. Regarding the Capital Markets Union, the prudential regulation of investment firms was finalized in 2019, as efforts to integrate national capital markets continued with discussions of various proposals. A number of equivalence decisions regarding capital markets were taken during the review period. Regarding digital financial services, a regulation on digital operational resilience of financial entities was adopted, while efforts to regulate crypto-assets continued. As a response to the COVID-19 pandemic, the European Union made certain changes to financial sector regulation with the aim of facilitating continued access to capital and supporting economic recovery.

22. The Commission considers that capital markets will have to play an important role in achieving the objectives of the European Green Deal. Since 2020, the Taxonomy Regulation has defined which economic activities and investments qualify as sustainable or contributing to the low-carbon transition in this context, with an amended Sustainable Finance Disclosure Regulation aiming to limit "greenwashing" of financial instruments. Discussions regarding rules for Green Bonds have advanced.

23. During the review period, reforms in road transport services expanded certain rules to transport operators of small vehicles and amended rules applying to cabotage operations, working conditions and requirements for drivers, and the posting of drivers. In the area of rail transport, reforms agreed under the fourth EU Railway Package in 2016 were phased in, while for air transport, the Commission approved a revised proposal to reform the "Single European Sky", which also aims to address carbon emissions. Several air transport agreements were concluded or signed, among them a comprehensive EU air transport agreement with the Association of Southeast Asian Nations (ASEAN). In the area of maritime transport, the reform affecting the provision of port services has been applied since 2019.

24. Regarding telecommunications, the European Electronic Communications Code (EECC) entered into force in 2020 and continues to be transposed by some member States. The abolition of roaming charges for customers travelling occasionally within the European Union was evaluated and extended until 2032, while newly established termination rates for intra-EU calls are being phased in until 2024. Many member States implemented, or plan to implement, measures contained in a new toolbox to mitigate certain cybersecurity risks related to 5G, and some amended or implemented new laws addressing risks related to high-risk vendors. Complementary to these efforts, the new Directive on the Security of Network and Information Systems (NIS 2) replaced an earlier Directive and will be transposed by member States by mid-October 2024.

1 ECONOMIC ENVIRONMENT

1.1 Main features of the economy[1]

1.1. The European Union, as a political, economic, and monetary[2] union of 27 countries, established a single market that allows most goods, services, capital, and persons to move freely within its territory. Harmonized regulations, elimination of internal customs barriers, a common agricultural policy, the euro currency, and undertaking multilateral trade liberalization as a group are just some of the common policies. Guiding its direction and policies on the economy and trade, the Treaty on European Union provides that the European Union will pursue "balanced economic growth and price stability, a highly competitive social market economy, aiming at full employment and social progress, and a high level of protection and improvement of the quality of the environment" (Article 3).

1.2. The European Union, as a bloc, remains the world's largest trader in both goods and services.[3] Like other developed economies, the European Union is heavily reliant on the services sector as the main component of its economy, accounting for 73% of gross value added (GVA). Growth in services trade has also increased in importance in recent years as internal and external barriers to services trade have fallen. The contribution of services as inputs to manufacturing and the digital transformation has increased the European Union's reliance on services in recent years.[4]

1.3. EU external trade in goods is dominated by imports of primary products and exports of machinery and transport equipment. Statistics on global value chains also demonstrate that sourcing was most prevalent from one EU member States to another, thus further emphasizing the benefits of the single market.[5]

1.4. The EU economy has been particularly impacted by the combined effects of the COVID-19 pandemic and by the war in Ukraine. Compared to other large economies, the European Union has been more deeply affected due to its reliance on energy imports, proximity to the conflict zone, and higher exposure from trade value chains and financial products. The EU member States to the east are increasingly more vulnerable due to their energy dependency, services exports, and asset exposure.[6]

1.2 Recent economic developments

1.5. The EU economy had many years of stability and growth prior to the pandemic, whereby GDP growth averaged 2.1% and labour productivity was regularly improving. During the review period, a number of events led to increased volatility and uncertainty. The COVID-19 pandemic resulted in the largest recession since the 2008-09 financial crisis and real GDP declined by 5.7% in 2020 (Chart 1.1, Table 1.1). However, in part due to lessons learned from the earlier crisis and swift measures put in place by the EU member States, the reopening in 2021 resulted in a stronger recovery and GDP rebounded to a 5.4% growth in 2021. Despite another shock in early 2022 due to the war in Ukraine, EU GDP has exhibited strong growth in 2022, estimated at 3.6%.

1.6. The 2020 pandemic-driven recession resulted in a large reduction in consumption expenditures due to closures and a decline in both imports and exports due to lower demand (Chart 1.1). Since 2020, pent up demand has driven the recovery and private consumption and investment; in particular, it continued to drive GDP growth throughout 2021.[7] In early 2022, private consumption

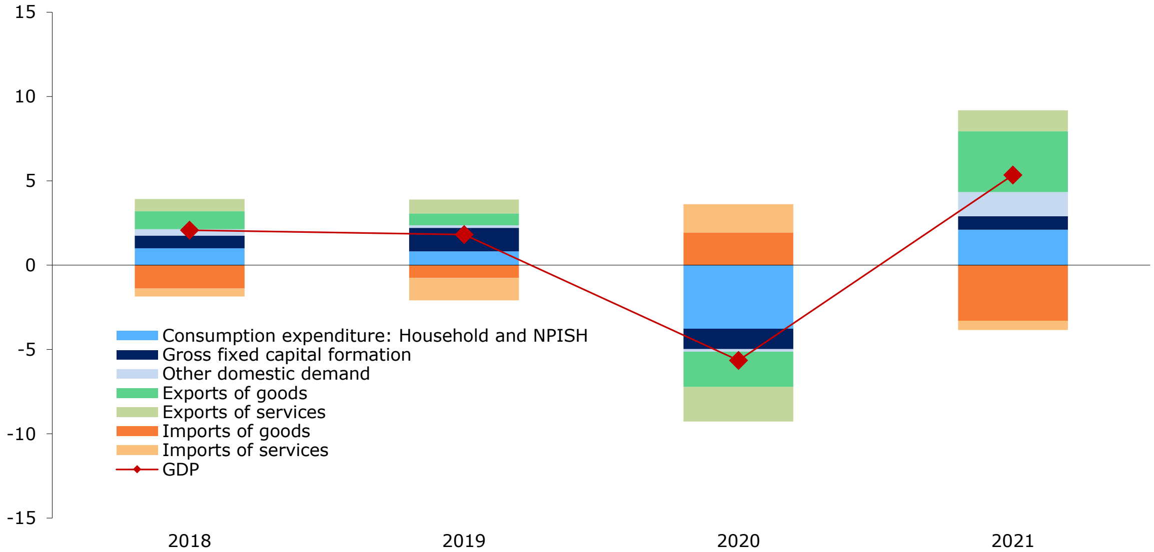
[1] All data and references are to EU-27, unless otherwise indicated.
[2] As of 1 January 2023, 20 EU member States are members of the eurozone.
[3] In terms of both internal and external trade.
[4] National Board of Trade Sweden (2016), *Report: The Servicification of EU Manufacturing*. Viewed at: https://www.kommerskollegium.se/en/publications/reports/2016/the-servicification-of-eu-manufacturing/; and European Commission (2021), *Trade Policy Review: An Open, Sustainable and Assertive Trade Policy*. Viewed at: https://trade.ec.europa.eu/doclib/docs/2021/april/tradoc_159541.0270_EN_05.pdf.
[5] Eurostat, *Global Value Chains*. Viewed at: https://ec.europa.eu/eurostat/web/economic-globalisation/globalisation-in-business-statistics/global-value-chains.
[6] European Commission (2022), *European Economic Forecast, Spring 2022*. Viewed at: https://economy-finance.ec.europa.eu/document/download/e24bc7cf-ab4f-4a63-bfe2-b49a56d6b467_en?filename=ip173_en.pdf.
[7] European Commission (2022), *European Economic Forecast, Spring 2022*.

decreased, in part due to higher inflation, and a build-up of inventories was registered. The EU economy demonstrated particular resilience with deceleration of growth in the latter part of 2022.

1.7. GDP growth varies considerably among member States (Table 1.1). The downturn in 2020 resulted in negative GDP growth for all member States except Ireland, where a 6.2% growth in GDP was achieved, mostly due to multinational enterprise (MNE) transactions. In 2021, all member States' GDP had recovered but there were important variations ranging from 2.5% growth in Germany to 13.6% in Ireland. Germany's share in EU GDP was about 20% in 2021, followed by France, Italy, and Spain.[8] While many pandemic-related restrictions were lifted in 2021, there were still some measures in place that created a drag on the EU economy. Furthermore, certain sectors, such as contact-intensive services (e.g. hotels, recreation, and culture), were harder hit and were still lagging in the recovery compared to other sectors. EU member States with higher dependence on contact-intensive services were expected to recover more slowly.[9] Ireland continued to have high volatility in its GDP in 2022, in particular due to large MNE transactions.

Chart 1.1 Contribution to GDP growth, 2018-21

(percentage point change on previous period)



Source: Eurostat, *Main GDP Aggregates* (nama_10_gdp). Viewed at: https://ec.europa.eu/eurostat/data/database.

Table 1.1 Selected economic indicators, 2018-21

	GDP at current market prices (2021)	Real GDP growth (%)				GDP per capita (2021)		Share in gross value added, % (2021)[a]		
	(EUR billion)	2018	2019	2020	2021	EUR at current prices	PPS[b]	Ag., forestry and fishing	Industry[c]	Services
EU-27	14,522	2.1	1.8	-5.7	5.4	32,430	32,425	1.8	25.1	73.1
Austria	406	2.4	1.5	-6.5	4.6	45,370	39,285	1.4	28.9	69.8
Belgium	502[d]	1.8	2.2	-5.4[d]	6.1[d]	43,340[d]	38,946[d]	0.7[d]	22.0[d]	77.2[d]
Bulgaria	71	2.7	4.0	-4.0	7.6	10,330	18,723	5.0	23.8	71.2
Croatia	58[d]	2.8	3.4	-8.6	13.1[d]	14,750[d]	22,638[d]	3.5[d]	23.8[d]	72.7[d]
Cyprus	24[d]	5.6	5.5	-4.4	6.6[d]	26,680[d]	29,098[d]	1.9[d]	14.9[d]	83.2[d]
Czech Rep.	238	3.2	3.0	-5.5	3.5	22,270	29,498	2.0	33.3	64.7

[8] As measured in PPS terms.
[9] IMF (2022), *2021 Article IV Consultation with Member Countries on Common Euro Area Policies*. Viewed at: https://www.imf.org/en/Publications/CR/Issues/2022/02/07/Euro-Area-Policies-2021-Article-IV-Consultation-with-Member-Countries-on-Common-Euro-Area-512879.

	GDP at current market prices (2021) (EUR billion)	Real GDP growth (%)				GDP per capita (2021)		Share in gross value added, % (2021)[a]		
		2018	2019	2020	2021	EUR at current prices	PPS[b]	Ag., forestry and fishing	Industry[c]	Services
Denmark	337	2.0	1.5	-2.0	4.9	57,520	43,300	1.0	22.2	76.8
Estonia	31	3.8	3.7	-0.6	8.0	22,580	27,564	2.3	26.4	71.3
Finland	251	1.1	1.2	-2.2	3.0	45,360	36,486	2.6	28.4	69.0
France	2,501	1.9	1.8[d]	-7.8[d]	6.8[d]	36,660	33,734	1.9	18.8	79.4
Germany	3,602[d]	1.0	1.1[d]	-3.7[d]	2.6[d]	43,290[d]	38,968[d]	0.9[d]	29.6[d]	69.5d
Greece	182[d]	1.7	1.9	-9.0[d]	8.4[d]	17,010[d]	20,728[d]	4.4[d]	17.5[d]	78.0d
Hungary	154[d]	5.4	4.9	-4.5	7.1[d]	15,840[d]	24,471[d]	4.0[d]	28.7[d]	67.4[d]
Ireland	426	8.5	5.4	6.2	13.6	84,940	71,989	1.1	40.1	58.8
Italy	1,782	0.9	0.5	-9.0	6.7	30,150	30,750	2.2	25.1	72.8
Latvia	34	4.0	2.6	-2.2	4.1	17,890	23,587	4.7	22.7	72.6
Lithuania	56	4.0	4.6	0.0	6.0	20,000	28,750	3.7	28.3	68.0
Luxembourg	72[d]	1.2	2.3	-0.8	5.1[d]	112,780[d]	88,415[d]	0.2[d]	12.4[d]	87.4[d]
Malta	15	6.2	5.9	-8.3	10.3	28,310	32,056	0.5	14.1	85.5
Netherlands	856[d]	2.4	2.0	-3.9	4.9[d]	48,840[d]	42,344[d]	1.7[d]	20.3[d]	78.0[d]
Poland	575	5.9	4.4	-2.0	6.8	15,060	24,978	2.6	32.0	65.4
Portugal	214[d]	2.8	2.7	-8.3	5.5[d]	20,840[d]	24,332[d]	2.5[d]	22.7[d]	74.8[d]
Romania	240[d]	6.0	3.9	-3.7	5.1[d]	12,560[d]	23,625[d]	4.8[d]	30.8[d]	64.4[d]
Slovak Rep.	99	4.0	2.5	-3.4	3.0	18,110	22,376	2.0	31.6	66.4
Slovenia	52	4.5	3.5	-4.3	8.2	24,770	29,211	1.9	32.4	65.7
Spain	1,207[d]	2.3	2.0	-11.3[d]	5.5[d]	25,500[d]	27,251[d]	2.9[d]	22.5[d]	74.6[d]
Sweden	537	2.0	2.0	-2.2	5.1	51,560	40,096	1.5	24.3	74.2

a 2020 instead of 2021 for EU-27 and Sweden.
b In EUR, measured on the basis of purchasing power standards (PPS).
c Including construction.
d Provisional.

Source: Eurostat, *GDP and Main Components* (nama_10_gdp), (nama_10_a64), (nama_10_pc). Viewed at: https://ec.europa.eu/eurostat/web/main/data/database.

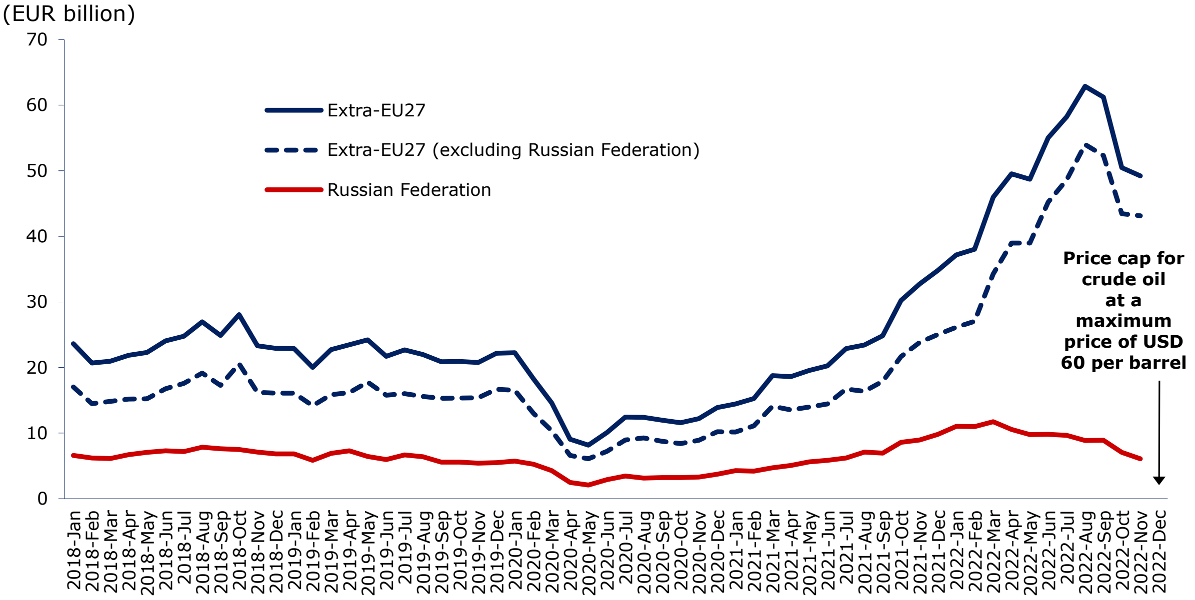
1.8. The economic upturn in 2021 was aided by coordinated monetary and fiscal policy measures aimed at turning the recovery into sustained economic growth. On the other hand, global developments still had an important impact, i.e. supply side constraints were still prevalent and affected commodity prices, energy in particular, leading to higher inflation, which reached 2.9%. In early 2022, the war in Ukraine created further pressures on the supply side, including rising prices and greater uncertainty. Inflation reached a high of 11.1% in November 2022, mainly due to a sharp rise in energy prices, which reached a high of 42% as part of Harmonised Index of Consumer Prices (HICP).[10]

1.9. The European Union's reliance on imported energy products also had a particular influence on several parts of its economy. Imports of higher-priced energy products affected the trade balance and the wider economy as the value of imported energy more than doubled since mid-2021 before falling slightly in fourth quarter 2022 (Chart 1.2). The composition of imports in value terms has changed; pre-pandemic, energy products accounted for about 15% of imports, whereas in second quarter 2022 it was over 22%, reflecting price developments. While the imported value of energy products has increased significantly since 2019, the volume remained relatively stable.[11]

[10] Eurostat (2022), "Annual Inflation Down to 10.1% in the Euro Area", 139/2022, 16 December. Viewed at: https://ec.europa.eu/eurostat/documents/2995521/15701156/2-16122022-AP-EN.pdf/4eaa941a-8c7d-af89-37da-f29f1167c24c.

[11] Eurostat, *EU Imports of Energy Products – Recent Developments*. Viewed at: https://ec.europa.eu/eurostat/statistics-explained/index.php?title=EU_imports_of_energy_products_-_recent_developments.

Chart 1.2 Energy imports (extra-EU)



Note: Energy imports refer to coal (HS 270111, HS 270112, HS 270119), crude petroleum (HS 2709), natural gas (HS 271111, HS 271121), and electrical energy (HS 271600).

Source: Eurostat, *International Trade in Goods – Overview*. Viewed at: https://ec.europa.eu/eurostat/web/international-trade-in-goods.

1.2.1 Fiscal developments

1.10. Moving towards a deeper or strengthened fiscal integration has been a long-term undertaking of the European Union and one that is still a work in progress. Certain EU fiscal rules have been in place since the early 1990s through the Maastricht Treaty, i.e. the requirements for member States to keep their government deficits below 3% of GDP and the debt-to-GDP ratio below 60%. Since 1997, the Stability and Growth Pact (SGP) has expanded upon this by monitoring and coordinating national fiscal and economic policies for deficit and debt criteria, so as to prevent excessive government deficits. As noted in previous Reviews, regulations in the so-called "Six Pack" and "Two Pack" further strengthened certain fiscal measures during the eurozone crisis, which have led to better coordination of economic policies and strengthened budget surveillance.

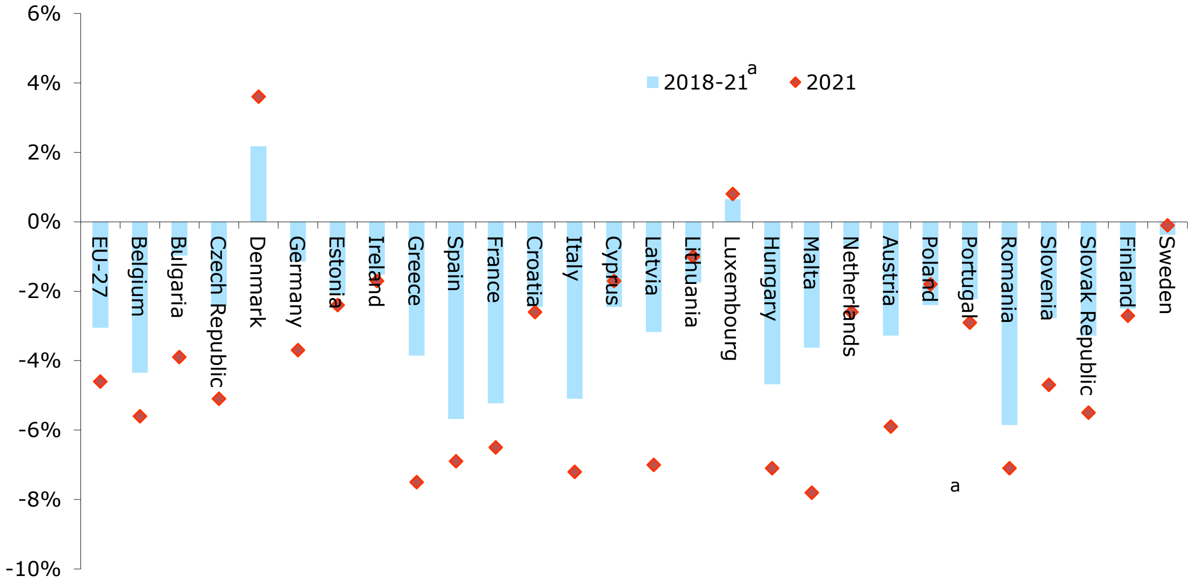
1.11. The changing economic environment in response to the pandemic and the war in Ukraine has had a profound impact on the fiscal landscape. Part of the pandemic response involved significant support measures (Section 3.3.1), but there has also been increased coordination between EU and member State policies, not only among member States as was the case previously. Various supports at the EU level, combined with additional national support measures, have led to rising debt-to-GDP ratios, i.e. around 90%, which were last seen in the 2008-09 financial crisis.

1.12. Government gross debt in the European Union climbed steadily from about 80% of GDP in the first quarter of 2020 to its highest level of 90% in the first quarter of 2021 on account of the pandemic, and thereafter declined steadily, but as of the third quarter of 2022 was 85% of GDP and had not yet reached pre-pandemic levels (Table A1.1).[12] There were also important divergences among the member States, ranging from 24.5% in Sweden to 206.3% in Greece in 2020. Growing government deficits were the norm during the review period, a situation that deteriorated further in 2021 for most member States (Chart 1.3). Thus, many member States did not adhere to the government deficit reference of 3% of GDP and debt-to-GDP ratio below 60% or progressed towards it in 2021, although the Commission considered that a decision on whether to place member States

[12] Eurostat (2023), "Government Debt Down to 93.0% of GDP in Euro Area", 12/2023, 23 January. Viewed at: https://ec.europa.eu/eurostat/documents/2995521/15725185/2-23012023-AP-EN.pdf/02f734a3-f3fe-df4d-db84-f1671933a5c6#:~:text=At%20the%20end%20of%20the,from%2086.4%25%20to%2085.1%25.

under the excessive deficit procedure should not be taken in view of the exceptional uncertainty, including for designing a detailed path for fiscal policy (Section 1.2.2).

Chart 1.3 General government deficit/surplus as % of GDP



a Simple average of four years.

Source: Eurostat, *General Government Deficit/Surplus (TEC00127)*. Viewed at: https://ec.europa.eu/eurostat/web/main/data/database.

1.2.2 EU economic governance, policy direction, and reforms

1.13. Reforming the European Union's economic governance framework, i.e. the promotion of sound fiscal policies and coordination of economic policies, advanced during the review period. The Commission launched a review process in February 2020, and a communication on proposed reform was issued in November 2022.[13] The overall goal of the proposed reform is to facilitate effective economic surveillance through a new common framework. The Communication, in which discussions are ongoing among stakeholders, outlines an improved governance architecture and a number of other changes that will have an impact on key economic policy issues. The main elements are (i) national plans based on an expenditure rule as a single operational indicator; (ii) more gradual adjustment supported by reforms and investment; (iii) a focused and streamlined surveillance framework, including for the operation of enforcement procedures; and (iv) a more risk-based surveillance framework, with adjustment paths that ensure that high debt ratios are on a plausibly and continuously declining path.

1.14. The 3% and 60% of GDP reference values of the Treaty are maintained; however, a medium-term focus and a more risk-based approach to surveillance, with greater attention on high debt ratios, are being introduced. Member States are responsible for proposing medium-term fiscal structural plans that not only address fiscal matters but also reform and investment provisions. The move towards a risk-based surveillance framework is another new aspect that is expected to give a greater focus on highly indebted member States. Introduction of more transparent and effective enforcement, i.e. enhanced sanctions through the effective use of financial sanctions, improved reputational sanctions, and the use of macroeconomic conditionality such as suspension of EU financing, are other new elements. At the end of 2022, discussions were ongoing.

1.15. The European Semester[14] continued its coordination and surveillance of economic and social policies throughout the review period. Periodic discussion and coordination of economic, social, and budgetary plans of member States have allowed greater monitoring and identification of potential

[13] European Commission Communication COM(2022) 583 final.
[14] The European Semester is a framework for the coordination and surveillance of economic and social policies of EU member States.

macroeconomic imbalances. In response to the COVID-19 pandemic, the European Semester was impacted by the activation of the escape clause of the SGP in March 2020, which allowed member States to temporarily deviate from the normal budgetary requirements. As of the end of 2022, these temporary deviations were still in place and would continue to apply in 2023, and be deactivated as of 2024. The European Semester has been adapted to work alongside other new instruments that were created as part of the pandemic response, i.e. the Recovery and Resilience Facility's plans, during 2022. Moreover, in 2022, the European Semester also coordinated the response to the war in Ukraine and its impact on energy markets. As a consequence, recommendations were agreed for taking action in terms of energy and fiscal policy measures. The European Semester is expected to continue as the overarching framework but be adapted to the emerging consensus following the economic governance review.

1.16. The European Union has set out its common Policy Objectives and Priorities for 2020-2024, which identify its political goals or top priorities.[15] Several of these policy objectives have an impact on the European Union's economic policy direction, including ensuring a full recovery from the COVID-19 pandemic; prioritizing actions that accelerate the transition to a fairer, healthier, greener, and more digital society; and strengthening the economy to make it more resilient and robust. As part of this policy direction, six broad strategic priorities have been identified, each with a number of plans, sub-components, strategies, or agendas that contribute to the overall objective:

- An economy that works for people – Ensuring social fairness and prosperity;
- A Europe fit for the digital age – Empowering people with a new generation of technologies;
- A stronger Europe in the world – Reinforcing responsible global leadership;
- Promoting our European way of life – Protecting citizens and values;
- A European Green Deal – Striving to be the first climate-neutral continent; and
- A new push for European democracy – Nurturing, protecting and strengthening democracy.[16]

1.17. Many specific agendas under each strategy have already begun, while others are in various stages of implementation, and some have been completed. Those relating to the European Union's economic policies are elaborated in this section, and others are taken up in the relevant parts of this report. One such economic policy is the movement towards a circular economy. In March 2020, the European Union issued a communication on the circular economy and its action plan, which sets out to mainstream the circular economy and make sustainable products, services, and business models the norm.[17] Through the action plan, the policy addresses a number of issues such as designing a sustainable product policy framework, improving waste prevention policies, and addressing key product value chains. The European Green Deal includes a number of proposals for reducing greenhouse gas emissions through climate, energy, and transport policies (see also Section 4).[18]

1.18. Another initiative to be addressed as part of the strategy on "An economy that works for people" is a new framework for business taxation in the European Union.[19] In May 2021, a Communication on Business Taxation for the 21st Century was issued, outlining the European Union's vision for a new business tax system based on fair and sustainable growth and effective taxation. One of the concrete steps taken thus far was a Commission Recommendation on the tax treatment

[15] European Commission (2020), *Joint Conclusions of the European Parliament, the Council of the European Union and the European Commission on Policy Objectives and Priorities for 2020-2024*. Viewed at: https://commission.europa.eu/strategy-and-policy/strategic-planning/joint-priorities-eu-institutions-2021-2024_en.

[16] European Commission, *6 Commission Priorities for 2019-24*. Viewed at: https://commission.europa.eu/strategy-and-policy/priorities-2019-2024_en.

[17] European Commission Communication COM(2020) 98 final.

[18] A presentation to the Committee on Trade and Environment in October 2022 includes selected initiatives, i.e. a proposal for a Carbon Border Adjustment Mechanism (CBAM), a proposal for a new regulation on waste shipments, and a green claims initiative.

[19] European Commission Communication COM(2021) 251 final.

of losses during the COVID-19 crisis that particularly benefits SMEs, which have been less able to cope.[20] Other legislative proposals on a number of business tax reform matters are expected to be forthcoming during 2023-24.

1.2.3 Monetary and exchange rate policies

1.19. The European Central Bank (ECB) and the national central banks of the euro area member States, which together form the Eurosystem, are responsible for monetary policy for the euro area. As of 1 January 2023, 20 of the 27 EU member States were using the euro; Croatia joined on 1 January 2023.[21] The Governors of the central banks of EU member States outside the euro area take part in the ECB General Council, which has advisory and coordination functions. The main aim of the ECB is price stability; it takes decisions to maintain a 2% inflation target in the eurozone.

1.20. In January 2020, the ECB began a review of its monetary strategy policy that was finalized in July 2021. This review made a number of changes from the previous strategy to enable the ECB to better adapt to structural changes in the economy, including adopting a symmetric 2% inflation target instead of the "below but close to 2%" inflation target while confirming the medium-term orientation of monetary policy; modifying the HICP to have full inclusion of owner-occupied housing over time; and acknowledging that especially forceful or persistent monetary policy measures would be required when the economy is close to the lower bound on interest rates.

1.21. In line with its mission, and due to rising inflation in 2022 in particular, the ECB raised interest rates in July, September, November, and December 2022 after not having raised them in 11 years.[22] Compared to previous tightening cycles, the three key ECB interest rates[23] have been increased by larger increments, i.e. from 50 basis points to 75 basis points, and with higher frequency throughout the second half of 2022. At its latest meeting in December 2022, the ECB Governing Council signalled that interest rates would still have to rise significantly and at a steady pace to ensure that inflation returns to the 2% target.

1.22. During the review period, the ECB continued to provide monetary accommodation with one of its long-standing non-standard monetary policy instruments, the asset purchase programme (APP). As a quantitative easing method, the APP has been modified regularly to adapt to the changing inflation outlook and achieve the appropriate monetary policy outcome. After being stopped in January 2019, the ECB resumed APP net purchases in November 2019 at a monthly pace of EUR 20 billion and added a EUR 120 billion envelope in 2020 in response to the pandemic. Thereafter, net purchases under the APP amounted to EUR 150 billion in the first half of 2022 before the programme was discontinued as of 1 July 2022.[24] Total stock in APP bonds was EUR 3.3 trillion at the end of December 2022. To further bolster the response to the pandemic, the ECB created the pandemic emergency purchase programme (PEPP) in March 2020 as another APP but temporary until March 2022.[25] The initial PEPP EUR 750 billion envelope was expanded several times to reach EUR 1,850 billion in total.

1.23. In 2020, the euro appreciated slightly against the US dollar and the Chinese renminbi while remaining broadly stable relative to the Japanese yen and depreciating against the Swiss franc. After the euro strengthened against all major currencies in 2021, it weakened against most of them in 2022, with the exception of the Japanese yen.[26] The ECB did not intervene in the foreign exchange market during the period.

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[20] Commission Recommendation (EU) 2021/801.

[21] EU member States that do not have the euro as their currency are Bulgaria, Czech Republic, Denmark, Hungary, Poland, Romania, and Sweden.

[22] ECB, *Key ECB Interest Rates*. Viewed at: https://www.ecb.europa.eu/stats/policy_and_exchange_rates/key_ecb_interest_rates/html/index.en.html.

[23] These concern the deposit facility, the main refinancing operations, and the marginal lending facility.

[24] ECB (2022), "Monetary Policy Decisions", 21 July. Viewed at: https://www.ecb.europa.eu/press/pr/date/2022/html/ecb.mp220721~53e5bdd317.en.html.

[25] As announced in July 2022, the principal payments from maturing securities purchased under the PEPP will be reinvested until at least the end of 2024.

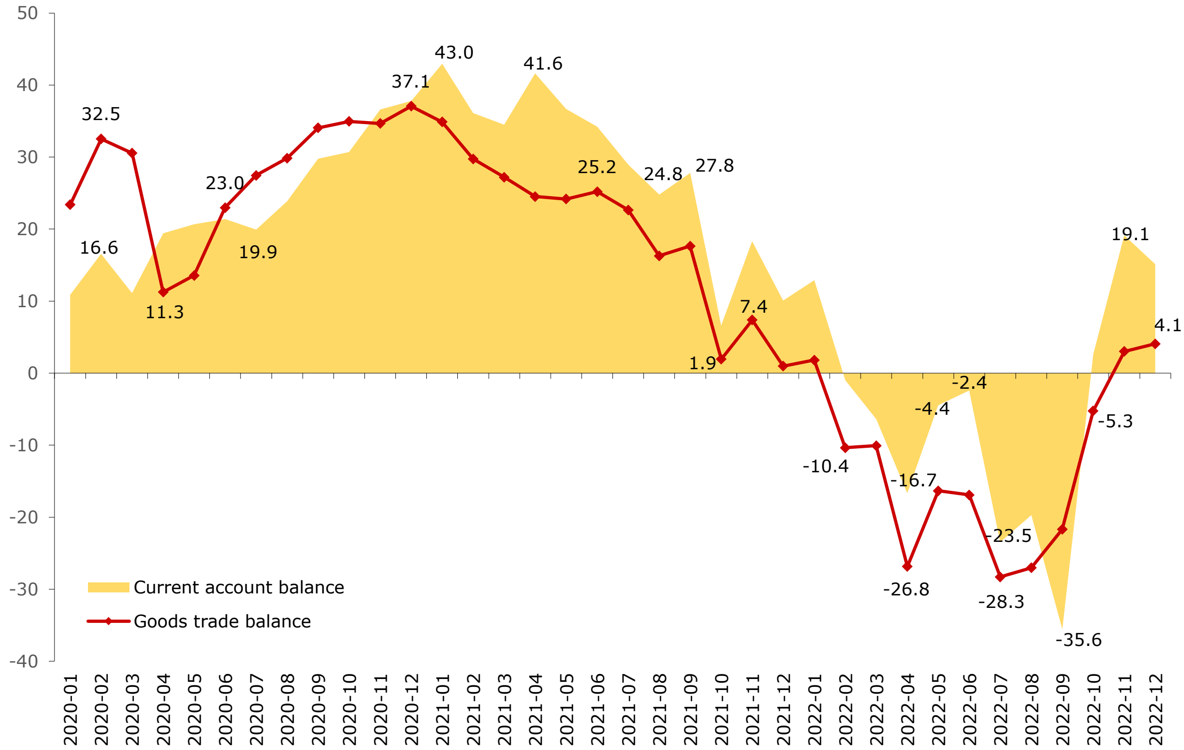
[26] Information provided by the authorities.

1.2.4 Balance of payments, current account

1.24. The European Union has historically, for more than 10 years, had a positive current account balance; however, this changed in the second quarter of 2022 as it turned negative, which persisted for most of 2022 until the fourth quarter when it turned positive again (Chart 1.4). While trade in services and transfers of capital did not change significantly, it was the balance in trade in goods that had the most impact on the change in the current account in 2022. Driven mostly by high prices of imported energy, it was the large and growing deficit in energy products that influenced this trend the most. The Russian Federation has been the single largest source of imported crude petroleum and natural gas to the EU market in recent years, although in 2022, there was less concentration and a larger diversification among supplier countries.[27] While energy imports from the Russian Federation declined in quantity, they increased in value (Section 1.3.1.1). The European Union's bilateral current account deficit with the Russian Federation reached 0.9% of GDP in the second quarter of 2022, the highest level historically.[28] Title Transfer Facility (TTF) gas prices in the European Union peaked in September-October 2022 and have since declined, thus there was an improvement in the current account balance by year end.

Chart 1.4 Current account balance, 2020-22

(EUR billion)



Note: Seasonally and calendar adjusted data.

Source: Eurostat, *European Union and Euro Area Balance of Payments – Monthly Data* (BPM6). [BOP_EU6_M__custom_4007267]. Viewed at: https://ec.europa.eu/eurostat/web/main/data/database.

[27] Eurostat, *EU Imports of Energy Products – Recent Developments*. Viewed at: https://ec.europa.eu/eurostat/statistics-explained/index.php?title=EU_imports_of_energy_products_-_recent_developments.

[28] ECB, "Euro Area Linkages with Russia: Latest Insights from the Balance of Payments", *ECB Economic Bulletin*, Issue 7/2022. Viewed at: https://www.ecb.europa.eu/pub/economic-bulletin/focus/2022/html/ecb.ebbox202207_08~4f1967995f.en.html; and information provided by the authorities.

1.2.5 Employment trends, including gender

1.25. Comparable to the situation of other economic benchmarks, EU employment showed similar trends during the review period with a slight downturn in 2020 due to the pandemic, and a subsequent improvement in 2021 (Table A1.1). The increase in 2021 was significant as the employment rates in a majority of member States (16 of 27) exceeded pre-pandemic levels and reached 73.1% of the working age population, the highest number in more than a decade.[29] Data for 2022 so far indicate continuation of this trend, as the employment rate reached 74.7% in the third quarter of 2022.[30] The unemployment rate dropped to 6% in November 2022, the lowest level since recording began in 2000. The economic recovery has had an overall positive effect on employment with the EU labour market improving significantly. There are still significant variations among the member States with the lowest unemployment rate at 2.8% (Czech Republic) and the highest at 14.8% (Spain) in 2021, and total hours worked and hours per employee lagged, and thus had not yet reached pre-pandemic levels as of the end of 2021. Much of the growth was in public sector employment, i.e. administration, education, health, and social work.

1.26. According to several studies, EU policy response to the pandemic, in particular job retention schemes, at the EU and member State levels, has contributed favourably to the employment situation and the recovery of the labour market has been more responsive compared to earlier recessions. A 2022 IMF report cites a mitigation factor of 2.5 percentage points in unemployment or 4 million workers in 2020 in the eurozone, due to various job retention schemes, i.e. short-term work, furlough, and wage subsidy schemes.[31] While some of these schemes existed pre-pandemic, all EU member States responded with new schemes or adjustments during the pandemic. Many schemes were temporary and some have already been lifted; however, others are permanent and may still act as a buffer in the EU job market. At the beginning of the pandemic, an estimated 20% of the euro area workforce was covered by some type of job retention scheme; this had fallen to an estimated 1.6% as of end-2021. At end-2022 these job retention scheme supports returned to pre-crisis levels of about 0.3%.[32]

1.27. The importance of trade, in particular exports, in supporting EU employment is significant; in 2019, an estimated 38.1 million EU jobs were supported by extra-EU exports, i.e. more than 18% of total EU employment.[33] Furthermore, jobs supported by exports paid 12% higher wages compared to other jobs.[34] However, there was a gender gap in the employment supported by exports, as 38% of the jobs were occupied by women and 62% by men, and women had a lower wage premium, 8%, compared to 11% for men.[35]

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[29] Eurostat, *Employment and Activity by Sex and Age – Annual Data*. Viewed at: https://ec.europa.eu/eurostat/databrowser/view/lfsi_emp_a/default/table?lang=en.

[30] Eurostat, *Employment and Activity by Sex and Age – Quarterly Data*. Viewed at: https://ec.europa.eu/eurostat/databrowser/view/lfsi_emp_q/default/table?lang=en.

[31] IMF (2022), *European Labor Markets and the COVID-19 Pandemic*. Viewed at: https://www.imf.org/en/Publications/Departmental-Papers-Policy-Papers/Issues/2022/03/02/European-Labor-Markets-and-the-COVID-19-Pandemic-Fallout-and-the-Path-Ahead-512327.

[32] ECB, *Economic Bulletin*, Issue 1, 2023; Issues 4 and 7, 2022; and Issue 2, 2021. Viewed at: https://www.ecb.europa.eu/pub/economic-bulletin/html/index.en.html.

[33] European Commission (2021), *EU Exports to the World: Effects on Employment*. Viewed at: https://op.europa.eu/en/publication-detail/-/publication/39e902df-4371-11ec-89db-01aa75ed71a1/language-en.

[34] European Commission (2021), Chief Economist Note: "More Important Than Ever: Employment Content of Extra-EU Exports". Viewed at: https://trade.ec.europa.eu/doclib/docs/2018/november/tradoc_157517.pdf.

[35] European Commission (2019), Chief Economist Note: "Female Participation in EU Exporting Activities: Jobs and Wages". Viewed at: https://trade.ec.europa.eu/doclib/docs/2019/september/tradoc_158372.pdf; and "Gender Patterns of EU Exports: Jobs and Wage Differentials". Viewed at: https://www.researchgate.net/publication/361852945_gender_patterns_of_eu_exports_jobs_and_wage_differentials_1.

1.3 Developments in trade and investment

1.3.1 Trends and patterns in merchandise and services trade (extra-EU trade)

1.28. In terms of external trade, the European Union remains the world's top trader, with EUR 6.28 trillion traded in goods and services in 2021. The European Union accounted for 16.6% of world exports, and 15.8% of world imports (goods and services combined).[36] International trade in goods and services was the equivalent of 21.5% of the European Union's GDP, which was similar to world averages.[37] This percentage had climbed slightly in recent years, reflecting the higher growth in trade relative to its economy. Services comprised 31.2% of total exports, thus goods exports still dominated at nearly 70%, but the European Union had a relatively higher percentage of services trade compared to other economies.[38]

1.3.1.1 Trends in merchandise trade

1.29. For the 10th consecutive year the European Union registered an external trade surplus in goods although this level (EUR 56.8 billion) contracted significantly in 2021 compared to the prior two years in which the surplus was EUR 215.7 billion and EUR 191.1 billion, respectively. The contraction in 2021 was largely attributable to a significant rise in the value of imports, which increased 23.7%, compared to the growth in exports, which was about half that level (12.8%) (Tables A1.2 and A1.3).[39] However, this rise was not necessarily due to a rise in the volume of imports, but rather the increase in the price of energy products contributed significantly to the higher value. Despite not rising as much as imports, EU exports reached a record level of EUR 2.18 trillion in 2021. EU trade in goods is highly dominated by non-agricultural products, accounting for more than 90% of the value, for both imports and exports. During the last three-year period, agricultural goods accounted for about 9% of total merchandise trade.[40]

1.30. In recent years, the top main sources of EU imports were China, the United States, the Russian Federation, and Switzerland. Thus, with the exception of Switzerland, the three largest conducted trade through MFN conditions and not preferential trade agreements. After its withdrawal from the European Union (Brexit) and the transition period, the United Kingdom was also one of the European Union's top trading partners (Chart 1.5, Table A1.4). Imported products from these major suppliers tended to be segregated or specialized, with very little overlap (e.g. imports from China were concentrated in telecommunications equipment, computers, and electrical machinery). On the other hand, the second-largest supplier, the United States, provided mainly medicinal and pharmaceutical products, crude petroleum, and motors and engines. The vast majority of all imports from the Russian Federation were energy products, i.e. crude petroleum and natural gas.

1.31. The European Union's main export markets in 2021 were the United States, the United Kingdom, and China (Table A1.5). The share of EU exports to the United States and China increased slightly over the period, whereas trade with the United Kingdom declined, although pre-Brexit data may not be directly comparable. Increased exports to the United States were mainly mineral fuels and machinery, and to China, mainly cars and vehicles.

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[36] European Commission (2022), *DG Trade Statistical Guide*, August. Viewed at: https://op.europa.eu/en/publication-detail/-/publication/d9ba7625-2fe7-11ed-975d-01aa75ed71a1/language-en/format-PDF/source-276859603.

[37] Eurostat, *World Trade in Goods and Services – An Overview*. Viewed at: https://ec.europa.eu/eurostat/statistics-explained/index.php?title=World_trade_in_goods_and_services_-_an_overview&oldid=553988.

[38] Eurostat, *World Trade in Goods and Services – An Overview*.

[39] Eurostat (2022), *Key Figures on Europe, 2022 Edition*. Viewed at: https://ec.europa.eu/eurostat/documents/3217494/14871939/KS-EI-22-001-EN-N.pdf/9ad193b2-fb0e-7ef3-2200-053f845df1be?t=1657630160989.

[40] European Commission (2022), *DG Trade Statistical Guide*, August.

1.32. On account of the COVID-19 pandemic and the war in Ukraine, important shifts occurred. The most prevalent shift in terms of product composition of exports was an increase in chemical sector exports, mainly pharmaceuticals due to the pandemic, and a decline in transport equipment exports, both for vehicles and aircraft, although this initial downturn improved slightly in 2021 (Chart 1.6). The composition of EU imports remained dominated by two categories: computer, electronic and optical products; and crude petroleum and natural gas.

1.33. EU trade in COVID-19-related products grew throughout the period.[41] Between 2019 and 2021, imports of COVID-19-related goods increased by 12% and exports by 9%; the main trading partners were the United States and Switzerland, both for imports and exports. The European Union was a net exporter of medical consumables and diagnostic testing equipment, while it was a net importer of protective garments and sterilization products. Medical consumables were mainly exported to Switzerland, the United Kingdom, and China; protective garments were imported mostly from China.[42]

1.34. More recently, in 2022, trade with the Russian Federation was noticeably impacted by the war in Ukraine and resulting sanctions and related measures. In 2021, the Russian Federation was the European Union's third-largest partner for imports, and the fifth largest for exports with a growing bilateral trade deficit. Based on partial year 2022 data (February-September), EU exports to the Russian Federation have fallen significantly, from 4% to 1.8% of total extra-EU exports compared to the same period in 2021, with all product categories showing significant declines except for vegetable products, which increased slightly.[43] The most significant declines were precious stones and metals, including gold, which fell by over 70%; and computers, telephones/cell phones, motor vehicles and their parts, and aircraft, which declined the most in overall value terms.[44] It is noteworthy that most of these categories had a relatively high incidence of sanctions applied compared to other categories. On the other hand, imports rose in value terms, due to higher energy prices, by 73% in 2021 over 2020, and then peaked in March 2022. Thereafter, there was a steady decline in imports from the Russian Federation for the remainder of 2022; this in particular concerned declines for imported coal, natural gas, petroleum oils, fertilizers, and iron and steel.[45]

[41] Eurostat, *EU Trade in COVID-19 Related Products*. Viewed at: https://ec.europa.eu/eurostat/statistics-explained/index.php?title=EU_trade_in_COVID-19_related_products.

[42] Eurostat, *EU Trade in COVID-19 Related Products*.

[43] Eurostat (2023), "EU Trade with Russia Declined Strongly", 25 January. Viewed at: https://ec.europa.eu/eurostat/web/products-eurostat-news/w/ddn-20230125-2#:~:text=Considering%20seasonally%20adjusted%20values%2C%20both,from%204.0%25%20to%201.8%25.

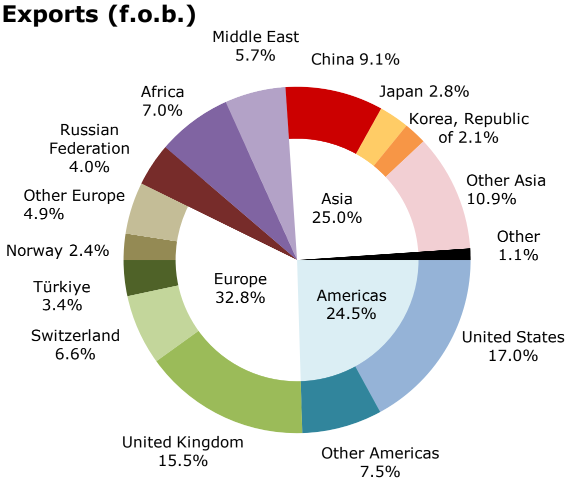
[44] Eurostat, *International Trade in Goods*. Viewed at: https://ec.europa.eu/eurostat/web/main/home.

[45] Eurostat (2023), "EU Trade with Russia Declined Strongly", 25 January.

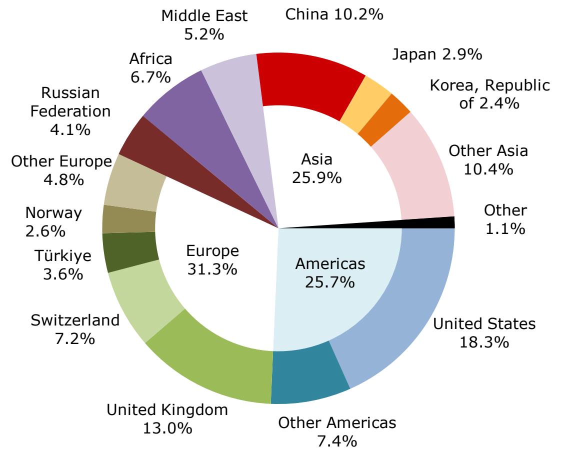
Chart 1.5 Direction of merchandise trade, 2018 and 2021

2018 **2021**

Exports (f.o.b.)

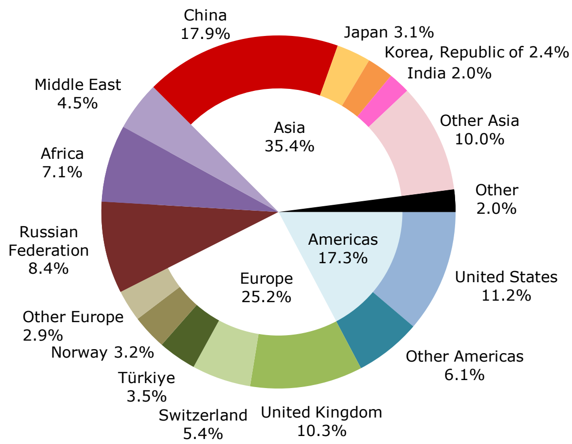


Total: EUR 2,059.8 billion

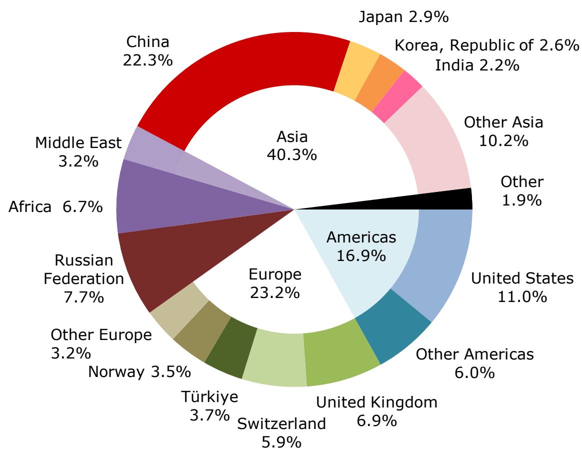


Total: EUR 2,180.9 billion

Imports (c.i.f.)



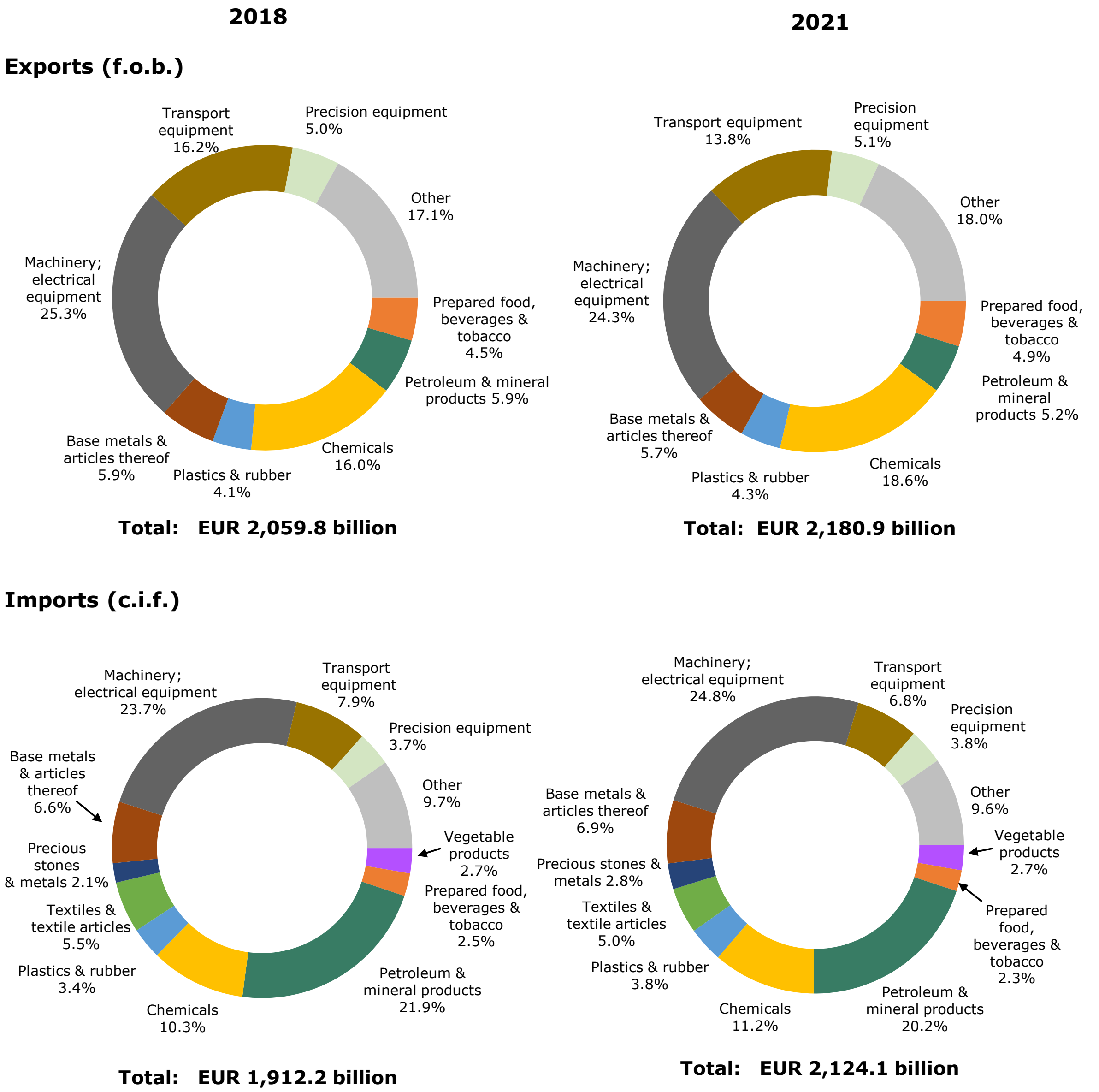
Total: EUR 1,912.2 billion



Total: EUR 2,124.1 billion

Source: WTO Secretariat calculations, based on Eurostat, *International Trade in Goods*. Viewed at: https://ec.europa.eu/eurostat/web/main/data/database.

Chart 1.6 Product composition of merchandise trade, by main HS sections, 2018 and 2021



Source: WTO Secretariat calculations, based on Eurostat, *International Trade in Goods*. Viewed at: https://ec.europa.eu/eurostat/web/main/data/database.

1.3.1.2 Trends in services trade

1.35. The services sector continued to be the main component of the EU economy accounting for the largest share of GVA in 2021 (Table 1.1). After a contraction in 2020, EU services trade recovered in 2021, with exports increasing by 16% and imports by 4% from 2020 levels. The slower recovery on imports can be attributed to the travel sector, which had not yet recovered to pre-pandemic levels in 2021. On the export side, travel services had also not recovered, but other sectors such as transport services and telecommunications, computer, and information services exceeded historic levels and overcompensated for the lower level of travel services. The stronger recovery of exports over imports led to a slight widening of the services trade balance to EUR 122 billion in 2021, similar to the level in 2018 (Table 1.2). The European Union remained the world's top trader of services in 2021, accounting for about one quarter of world imports and exports (24% and 25%, respectively).[46]

1.36. The main services sectors traded by the European Union continued to be other business services (technical, professional, R&D, and other services); telecommunications, computer and information services; and transport services for both imports and exports (Table 1.2). However, charges for the use of intellectual property were a significant category for services imports.[47] Transport services, in particular air transport, were negatively impacted by the COVID-19 pandemic in 2020 and recovered better than most sectors in 2021, especially on exports, which reached record levels. This was attributed to the growth of sea transport, i.e. shipping, and a recovery of air transport. Another strong sector that had significant trade growth during the period was computer services, which expanded and grew during the pandemic.

1.37. Both imports and exports of services, while spread across many countries, remain highly concentrated in the top three trading partners (the United States, the United Kingdom, and Switzerland), which accounted for over 50% of extra-EU trade in services (both imports and exports) (Table 1.3). The United States and the United Kingdom were the principal trading partners for service exports in 2020 and 2021. Comparing adjusted historical figures, albeit when the United Kingdom was part of the European Union, the services interlinkages between the United Kingdom and the European Union remain strong post-Brexit.

1.38. The European Union reports experimental statistics on services trade by mode of supply.[48] The latest available data (2018) indicates that the majority of services imports and exports, almost 60%, are conducted through mode 3, commercial presence. This was particularly the case for distribution and transport services. Mode 1, cross-border supply, accounted for the next largest share, about 30%, where other business services (R&D, accounting, legal, and engineering services) and transport predominated. Luxembourg was the member State that used mode 1 the most for exports, mainly for the provision of financial services.

Table 1.2 Extra-EU trade in services, by sector

	Value (EUR billion)				% of total			
	2018	2019	2020	2021	2018	2019	2020	2021
Trade balance	**135.0**	**50.7**	**9.4**	**122.3**	**n.a.**	**n.a.**	**n.a.**	**n.a.**
Services exports	**994.7**	**1,071.9**	**919.1**	**1,067.1**	**100.0**	**100.0**	**100.0**	**100.0**
Manufacturing services on physical inputs owned by others	27.7	27.1	25.7	28.9	2.8	2.5	2.8	2.7
Maintenance and repair services n.i.e.	17.6	20.7	18.2	18.0	1.8	1.9	2.0	1.7
Transport	176.2	185.2	155.5	211.1	17.7	17.3	16.9	19.8
Travel	157.6	164.6	54.4	64.4	15.8	15.4	5.9	6.0
Construction	14.8	14.4	10.2	9.7	1.5	1.3	1.1	0.9
Insurance and pension services	20.5	21.6	22.6	26.7	2.1	2.0	2.5	2.5
Financial services	73.7	78.9	80.3	88.3	7.4	7.4	8.7	8.3
Charges for the use of intellectual property n.i.e.	82.1	88.9	80.6	98.4	8.3	8.3	8.8	9.2
Telecommunications, computer, and information services	149.5	174.8	186.3	220.8	15.0	16.3	20.3	20.7
Telecommunications services	17.6	16.2	14.5	14.4	1.8	1.5	1.6	1.3
Computer services	122.9	149.0	163.1	196.2	12.4	13.9	17.7	18.4
Information services	9.0	9.5	8.7	10.2	0.9	0.9	0.9	1.0
Other business services	246.9	264.7	254.1	265.5	24.8	24.7	27.6	24.9
Research and development services	44.4	48.8	55.5	46.8	4.5	4.5	6.0	4.4
Professional and management consulting services	77.3	82.1	83.8	92.9	7.8	7.7	9.1	8.7

[46] WTO (2022), *World Trade Statistical Review 2022*. Viewed at: https://www.wto.org/english/res_e/publications_e/wtsr_2022_e.htm.

[47] This mainly concerns transactions between Ireland and the United States for intellectual property linked to multinationals. Information provided by the authorities.

[48] Eurostat, *Services Trade Statistics by Modes of Supply*. Viewed at: https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Services_trade_statistics_by_modes_of_supply.

	Value (EUR billion)				% of total			
	2018	2019	2020	2021	2018	2019	2020	2021
Technical, trade-related, and other business services	125.3	133.8	114.9	125.7	12.6	12.5	12.5	11.8
Personal, cultural, and recreational services	14.3	14.6	13.1	15.4	1.4	1.4	1.4	1.4
Government goods and services n.i.e.	7.4	7.7	7.4	6.6	0.7	0.7	0.8	0.6
Services not allocated	6.5	8.8	10.6	13.3	0.7	0.8	1.2	1.2
Services imports	**859.6**	**1,021.1**	**909.7**	**944.9**	**100.0**	**100.0**	**100.0**	**100.0**
Manufacturing services on physical inputs owned by others	17.0	17.3	18.7	20.2	2.0	1.7	2.1	2.1
Maintenance and repair services n.i.e.	14.9	17.0	14.0	13.9	1.7	1.7	1.5	1.5
Transport	139.8	144.9	127.9	166.1	16.3	14.2	14.1	17.6
Travel	109.5	114.9	42.3	45.3	12.7	11.3	4.7	4.8
Construction	8.3	7.1	5.9	5.9	1.0	0.7	0.6	0.6
Insurance and pension services	19.5	20.3	21.1	25.6	2.3	2.0	2.3	2.7
Financial services	59.5	63.5	70.9	82.7	6.9	6.2	7.8	8.8
Charges for the use of intellectual property n.i.e.	126.8	144.2	138.4	170.9	14.8	14.1	15.2	18.1
Telecommunications, computer, and information services	68.9	80.3	83.0	87.9	8.0	7.9	9.1	9.3
Telecommunications services	15.7	15.0	13.9	13.8	1.8	1.5	1.5	1.5
Computer services	48.2	59.9	63.8	67.5	5.6	5.9	7.0	7.1
Information services	5.0	5.4	5.2	6.5	0.6	0.5	0.6	0.7
Other business services	277.7	392.9	374.6	314.6	32.3	38.5	41.2	33.3
Research and development services	75.1	175.6	159.4	81.8	8.7	17.2	17.5	8.7
Professional and management consulting services	88.0	94.5	109.7	121.5	10.2	9.2	12.1	12.9
Technical, trade-related, and other business services	114.6	122.9	105.6	111.2	13.3	12.0	11.6	11.8
Personal, cultural, and recreational services	13.5	13.4	9.3	9.6	1.6	1.3	1.0	1.0
Government goods and services, n.i.e.	4.4	4.5	3.7	3.1	0.5	0.4	0.4	0.3
Services not allocated	-0.2	0.7	-0.1	-0.8	0.0	0.1	0.0	-0.1

n.a. Not applicable.

Source: Eurostat, *International Trade in Services* (since 2010) (BPM6). Viewed at: https://ec.europa.eu/eurostat/data/database.

Table 1.3 Extra-EU trade in services, by partner

	EUR billion				% of total			
	2018	2019	2020	2021	2018	2019	2020	2021
Services exports	994.7	1,071.9	919.1	1,067.1	100.0	100.0	100.0	100.0
United States	187.9	208.4	184.8	237.8	18.9	19.4	20.1	22.3
United Kingdom	209.8	221.2	185.6	204.5	21.1	20.6	20.2	19.2
Switzerland	109.1	114.2	104.7	115.4	11.0	10.7	11.4	10.8
China	48.1	53.2	47.4	59.1	4.8	5.0	5.2	5.5
Japan	27.9	30.8	27.3	31.0	2.8	2.9	3.0	2.9
Singapore	31.6	30.6	21.6	25.1	3.2	2.9	2.4	2.4
Russian Federation	26.7	28.5	23.6	25.1	2.7	2.7	2.6	2.4
Norway	24.8	26.4	20.3	22.6	2.5	2.5	2.2	2.1
Hong Kong, China	14.7	16.4	17.0	21.5	1.5	1.5	1.8	2.0
India	14.9	15.5	13.8	19.2	1.5	1.4	1.5	1.8
Australia	17.8	18.2	16.2	18.9	1.8	1.7	1.8	1.8
Canada	19.4	21.7	16.0	17.4	1.9	2.0	1.7	1.6
United Arab Emirates	12.7	13.7	11.8	15.1	1.3	1.3	1.3	1.4
Korea, Republic of	12.4	13.7	11.8	13.4	1.2	1.3	1.3	1.3
Brazil	14.4	15.3	12.5	13.0	1.4	1.4	1.4	1.2
Türkiye	12.3	12.8	11.0	12.8	1.2	1.2	1.2	1.2
Mexico	12.8	13.8	10.5	11.5	1.3	1.3	1.1	1.1
Israel	7.7	9.5	7.5	9.8	0.8	0.9	0.8	0.9
Saudi Arabia, Kingdom of	11.4	10.9	8.7	9.3	1.1	1.0	1.0	0.9
South Africa	7.0	7.7	6.9	7.9	0.7	0.7	0.8	0.7

	EUR billion				% of total			
	2018	2019	2020	2021	2018	2019	2020	2021
Services imports	**859.6**	**1,021.1**	**909.7**	**944.9**	**100.0**	**100.0**	**100.0**	**100.0**
United States	202.0	229.3	263.4	325.7	23.5	22.5	29.0	34.5
United Kingdom	166.7	179.3	166.6	175.0	19.4	17.6	18.3	18.5
Switzerland	67.1	65.1	59.1	64.7	7.8	6.4	6.5	6.8
China	31.0	33.4	31.9	38.6	3.6	3.3	3.5	4.1
Singapore	23.1	26.4	28.9	32.4	2.7	2.6	3.2	3.4
India	16.2	18.1	17.7	20.7	1.9	1.8	1.9	2.2
Cayman Islands	20.4	23.6	12.3	17.7	2.4	2.3	1.3	1.9
Japan	14.8	16.2	12.9	15.4	1.7	1.6	1.4	1.6
Canada	15.0	14.3	12.4	13.7	1.7	1.4	1.4	1.4
Norway	13.8	15.1	11.8	13.3	1.6	1.5	1.3	1.4
Hong Kong, China	10.6	11.6	11.3	12.8	1.2	1.1	1.2	1.4
Türkiye	12.9	14.1	7.9	11.4	1.5	1.4	0.9	1.2
United Arab Emirates	11.9	11.9	9.5	11.0	1.4	1.2	1.0	1.2
Russian Federation	12.7	12.8	8.9	10.6	1.5	1.3	1.0	1.1
Korea, Republic of	7.0	7.6	6.5	8.0	0.8	0.7	0.7	0.8
Marshall Islands	4.3	4.7	4.5	7.8	0.5	0.5	0.5	0.8
Australia	7.4	8.0	6.2	7.0	0.9	0.8	0.7	0.7
Israel	5.8	6.5	5.9	6.9	0.7	0.6	0.6	0.7
Chinese Taipei	3.8	4.1	4.4	6.4	0.4	0.4	0.5	0.7
Bermuda	37.7	95.3	53.8	6.2	4.4	9.3	5.9	0.7

a According to 2021 data.

Source: Eurostat, *International Trade in Services* (since 2010) (BPM6).

1.3.2 Trends and patterns in FDI (extra-EU)

1.39. The European Union remained a top provider and source of FDI during the period and ranked first in the world in terms of outward stock and second in terms of inward stock, although FDI flows remained largely below pre-pandemic levels in 2020 and 2021, particularly inward flows remained at low levels.[49] The United Kingdom remains a significant investor in the EU market, although now it is considered an external source/destination after Brexit. The European Union's trends in FDI over the review period mirrored world flows, which saw a significant downturn in FDI due to the pandemic in 2020, and a subsequent rebound or recovery in 2021. However, the European Union's recovery lagged world levels, in part due to slower improvement of mergers and acquisitions.[50] Preliminary figures for the first half of 2022 indicate a continued strong recovery in the first quarter, but a slowdown in the second.[51] The upturn was largely driven by acquisition of equity stakes in existing companies and modest increases in greenfield projects.[52]

1.40. There were significant fluctuations in FDI flows with negative flows in 2018 turning positive in 2019 and a substantial increase in inflows in 2020, mainly attributed to the United States (Table A1.6). In 2021, there was a reversal in inflows in particular, a significant negative overall inflow amount attributed mainly to the United States. On the other hand, outflows were lower in 2020 compared to 2019, and this continued in 2021 with slightly lower outflows. The recovery in outflows was largely attributed to the Netherlands and Germany, with the Netherlands moving from negative (disinvestment) in 2020 to significant positive (investment) in 2021.[53] Despite EU FDI levels not yet recovering to pre-pandemic levels, the annual number of investment transactions, i.e. mergers and acquisitions, and greenfield investments, has continually risen in recent years.[54]

1.41. In terms of partners, the United States remained the European Union's top partner for FDI stocks, accounting for 32.6% of total foreign investment in the European Union, followed by the United Kingdom (18.7%) and Switzerland (8.1%) in 2021 (Table A1.7). FDI inflows by partner were more unpredictable, as they have changed significantly over the last three-year period. In 2020, the United States, the United Kingdom, and United Arab Emirates were the top partner countries for inward investment but in 2021 there was a significant reversal, i.e. divestment with respect to the

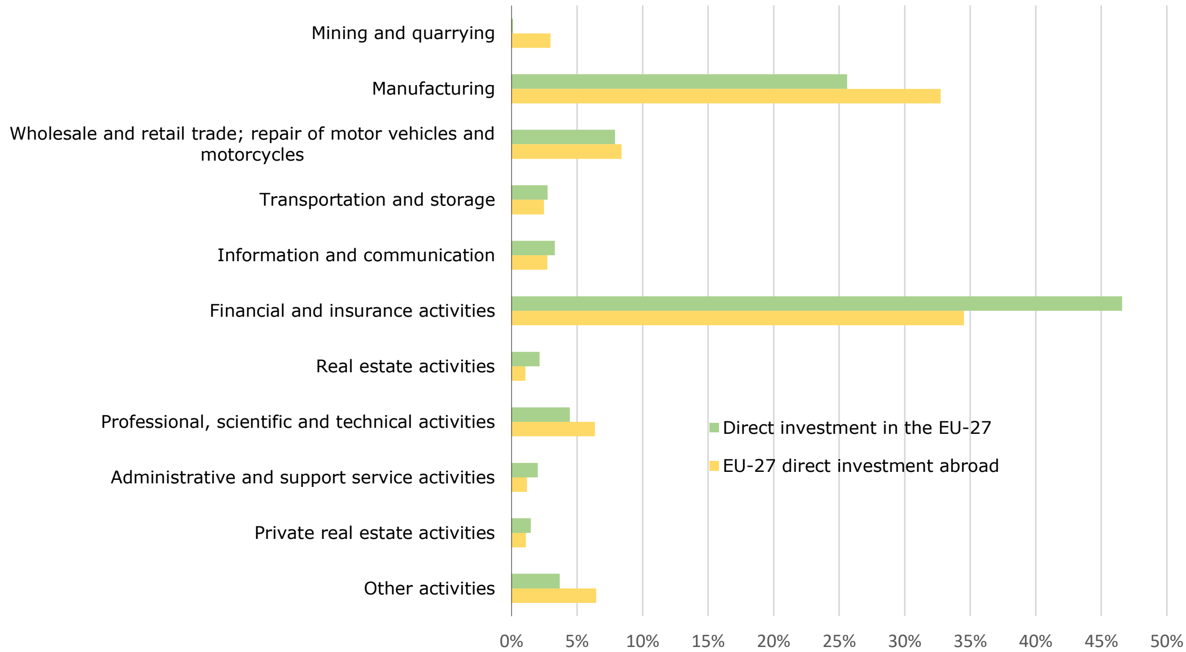
[49] UNCTAD (2022), *World Investment Report 2022*. Viewed at: https://unctad.org/webflyer/world-investment-report-2022.
[50] UNCTAD (2022), *World Investment Report 2022*.
[51] OECD, *FDI in Figures, October 2022*. Viewed at: https://www.oecd.org/investment/investment-policy/FDI-in-Figures-October-2022.pdf.
[52] Staff Working Document SWD(2022) 219 final.
[53] OECD, *FDI in Figures, October 2022*.
[54] European Commission Report COM(2022) 433 final.

United States and the United Kingdom, and Canada and the Cayman Islands were the most significant sources of positive inward investment flows (Table A1.6).[55] Certain offshore financial centres, e.g. Bermuda, Cayman Islands, Singapore, and Barbados, have also been significant destinations or sources of investment flows in recent years. Investments from China and Japan, while having improved in 2020-21, have not yet recovered to historic levels and in the case of China have further deteriorated in 2021.

1.42. In terms of sectors, manufacturing and financial and insurance activities were the main sectors for FDI in 2019; they each accounted for 25% of the total direct investment in the EU; other sectors accounted for relatively low levels, i.e. mostly below 5% (Chart 1.7).

Chart 1.7 Extra-EU FDI positions, by economic activity, 2019

(% of all economic activities)



Source: Eurostat, *Balance of Payments* (bop_fdi6_pos). Viewed at: https://ec.europa.eu/eurostat/web/main/data/database.

[55] Eurostat, *EU Direct Investment Positions, Flows and Income, Breakdown by Partner Countries* (BPM6). Viewed at: https://ec.europa.eu/eurostat/databrowser/view/BOP_FDI6_GEO__custom_4053337/default/table?lang=en.

2 TRADE AND INVESTMENT REGIMES

2.1 General framework

2.1. The general legal and institutional framework governing the functions of the European Union, including with respect to its trade and investment policies did not change during the review period. In 2020, the United Kingdom withdrew from the European Union (Section 2.3.2).

2.2. The European Union has the exclusive competence of the customs union and common commercial policy (i.e. trade policy *vis-à-vis* non-EU countries) pursuant to the Treaty on the Functioning of the European Union (TFEU).[1] The common commercial policy comprises four main areas: trade in goods and services, the commercial aspects of intellectual property, foreign direct investment (FDI), and public procurement.[2] The European Union also has the exclusive competence to conclude international agreements with third countries in the area of trade, as it does in any other areas of exclusive competence.[3] The process for the conclusion of a trade agreement has not changed since the last Review.

2.3. The European Union's main institutions are the European Council, the Council of the European Union (commonly known as the Council), the European Parliament, and the European Commission, with the latter being the European Union's main executive body. The European Commission is the entity responsible for initiating the process of adopting any new legislation (i.e. regulation, directive, or decision), either through an ordinary legislative procedure by both the European Parliament and the Council, or a special legislative procedure in specific cases and when provided for in EU Treaties. As a complement to these EU legal acts, the Commission can adopt "delegated acts" and "implementing acts". These acts have their own adoption procedures.[4] All EU legislation is publicly available on the EU Law website EUR-lex.[5]

2.4. During the review period, the European Union embarked on a new development strategy under the European Green Deal (2019) with the aim of becoming a carbon-neutral economy by 2050. This target became binding in July 2021 with the adoption and entry into force of the Regulation establishing the framework for achieving climate neutrality (European Climate Law).[6] In addition to the European Green Deal, the European Union adopted a Digital Strategy (2020 and 2021) to maximize the benefits of technological progress, and a new political agenda (2019) to become "stronger in the world" by reinforcing its global influence and leadership.[7] These strategies, in particular the European Green Deal, imply significant changes and coordination across sectors and policy areas, and have led to the review of various EU policies including, *inter alia*, its agriculture, energy, industrial, and trade policies.

[1] The TFEU defines the role and competences of the European Union according to three main categories: (i) exclusive competences; (ii) shared competences with its member States; and (iii) supporting competences. Exclusive competence means that the European Union is the only one that can enact and adopt legally binding acts in these areas. Member States can do so only if empowered by the European Union, or to implement EU legal acts. For more details, see WTO document WT/TPR/S/395/Rev.1, 7 July 2020, Section 2.1.

[2] European Commission, *Making Trade Policy*. Viewed at: https://policy.trade.ec.europa.eu/eu-trade-relationships-country-and-region/making-trade-policy_en.

[3] TFEU, Article 3. The European Union may also conclude international agreements outside areas of its exclusive competence (Article 216). For more details on the process to conclude trade agreements, see WTO document WT/TPR/S/395/Rev.1, 7 July 2020, Section 2.1.

[4] For more details, see WTO document WT/TPR/S/395/Rev.1, 7 July 2020, Section 2.1.

[5] The EUR-lex website can be viewed at: https://eur-lex.europa.eu/homepage.html. EUR-lex also publishes, *inter alia*, the documents used to prepare EU legislation (e.g. Commission proposals), as well as EU case law.

[6] Regulation (EU) 2021/1119.

[7] European Commission (2019), *Political Guidelines for the Next European Commission 2019-2024 by Ursula von der Leyen*, 16 July.

2.5. During this period, the European Union also took steps to strengthen governance across member States and achieve an effective functioning of the Union.[8] In 2019, it introduced a new mechanism, the European Rule of Law, with a view to preventing rule of law problems in member States and enhance its ability to address them.[9] The mechanism provides for an annual review of the rule of law in member States based on a dialogue process between EU institutions, national authorities, and other stakeholders, and for the preparation of an annual report (Rule of Law Report, last published in July 2022) that serves as the basis for discussion. To complement this mechanism, the European Union adopted a regulation in December 2020 (entry into force on 1 January 2021) on the rule of law conditionality that allows the European Union to withhold funds from member States that have breached the rule of law in a way that affects, or seriously risks affecting, the EU budget or its financial interests.[10]

2.2 Trade policy formulation and objectives

2.6. The European Commission is in charge of formulating, coordinating, and implementing EU trade policy. During the review period, the European Union updated its trade strategy (and objectives) and took various steps to support its implementation. The new policy – An Open, Sustainable, and Assertive Trade Policy[11] – was published in February 2021 following a public consultation process.[12] The policy sets the European Union's priorities until 2030 and replaces the Trade for All Strategy that had been in place since 2015.

Chart 2.1 An Open, Sustainable, and Assertive Trade Policy 2021-30

Three objectives	1. Support the recovery and transformation of the economy in line with the European Union's green and digital objectives.	2. Shape global rules for a more sustainable and fairer globalization.	3. Increase the European Union's capacity to pursue its interests and enforce its rights, autonomously if needed.
Six areas of action	1. Reforming the WTO and restoring its dispute settlement mechanism.		
	2. Supporting the transition towards a greener economy and promoting value chains that are sustainable, and in line with EU standards.		
	3. Supporting the digitalisation of the economy and trade in services.		
	4. Strengthening the European Union's ability to shape world's regulations and increasing its collaboration with its partners, notably the United States.		
	5. Deepening its relations with African and neighbouring countries.		
	6. Strengthening the implementation and enforcement of EU trade agreements at the multilateral, regional and bilateral levels.		

Source: European Commission Communication COM(2021) 66 final.

2.7. The European Union is a firm and long-standing advocate for open and fair trade and considers it as instrumental for economic prosperity.[13] The new policy remains guided by these principles but follows a different approach regarding interactions with third countries. Under this policy, the European Union intends to enhance its capacity to act autonomously, if needed, to pursue its interest

[8] These actions were based on the European Commission Communications COM(2019) 163 and COM(2019) 343.

[9] European Commission, *Rule of Law Mechanism*. Viewed at: https://ec.europa.eu/info/policies/justice-and-fundamental-rights/upholding-rule-law/rule-law/rule-law-mechanism_en.

[10] Regulation (EU, Euratom) 2020/2092. In March 2021, Poland and Hungary challenged the regulation in the Court of Justice of the European Union (CJEU), but both appeals were dismissed in February 2022.

[11] European Commission Communication COM(2021) 66 final.

[12] European Commission (2020), *Trade Policy Review 2020: Summary of Contributions Received*, 1 December 2020.

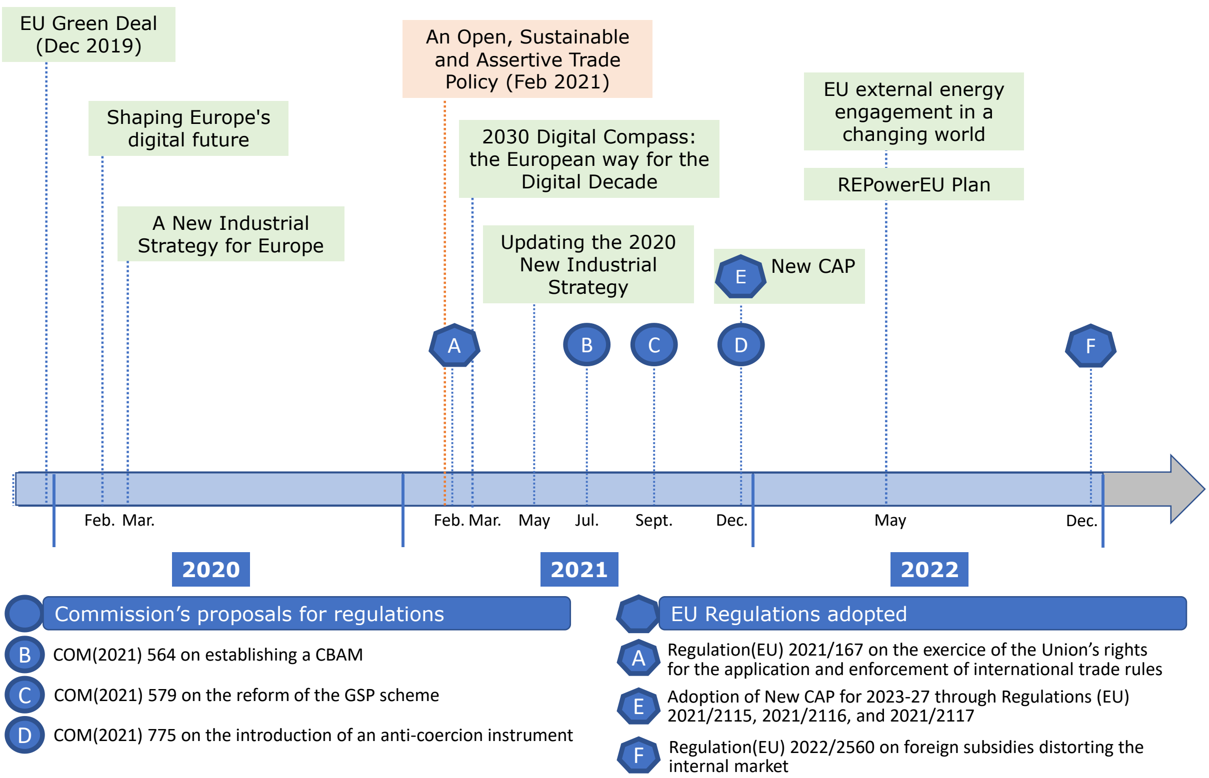
[13] European Commission (2019), *Political Guidelines for the Next European Commission 2019-2024 by Ursula von der Leyen*, 16 July.

in strategic areas. This guiding principle is referred to as "open strategic autonomy" and is further defined as the European Union's intention of "cooperating multilaterally wherever [it] can" and "acting autonomously wherever [it] must".[14] Through this new approach, the European Union is seeking to, *inter alia*, address growing concerns regarding the EU dependency on third parties in certain areas deemed of strategic importance and the impact on its ability to take decisions, and to enforce third parties' obligations under international agreements.[15] The policy identifies three objectives for the medium term and six areas of action to achieve them (Chart 2.1).

2.8. Regarding the multilateral trading system, the new strategy reflects the key role that the WTO continues to play in EU trade policy. The strategy describes the reform of the WTO as one of the European Union's key priority actions (objective No. 2 and area of action No. 1), and includes a dedicated Annex in this regard. It also stresses the importance for the European Union of taking a leading role in the development of trade rules in the WTO on, for example, fossil fuel subsidies and digital trade, to advance its green and digital transitions.

2.9. To support the implementation of its new trade strategy, in 2021 the Commission submitted proposals for regulations to the Parliament and the Council (Chart 2.2), including measures to counteract foreign practices considered as unfair or coercive.

Chart 2.2 Main policy developments in trade and selected areas, 2019-22



Source: WTO Secretariat based on EU communications and legislation.

[14] European Commission (2021), *Fact Sheet: An Open, Sustainable and Assertive Trade Policy – Open Strategic Autonomy*. Viewed at: https://trade.ec.europa.eu/doclib/docs/2021/february/tradoc_159434.pdf.
[15] European Commission Communication COM(2021) 66 final.

2.10. The proposed measures include:

- an anti-coercion instrument to counteract economic coercion by third countries through measures affecting trade or investment (area of action No. 6)[16];

- a mechanism to address foreign subsidies (i.e. subsidies by a third country) that distort the internal market, in particular through government procurement and subsidized investments (area of action No. 6)[17];

- a Carbon Border Adjustment Mechanism (CBAM) for imports of certain goods (i.e. aluminium, cement, iron and steel, fertilizers, electricity, and hydrogen) (area of action No. 2)[18];

- the review of the generalized scheme of tariff preferences (area of action No. 2, Section 2.3.2.2)[19]; and

- the ability to apply EU countermeasures to ensure the implementation and enforcement of international trade agreements (area of action No. 6).

2.11. As of January 2023, only the last proposal (the revision of the Enforcement Regulation) and the proposal on foreign subsidies had been enacted. The other proposed regulations were still under discussion with the Parliament and the Council.[20] The regulation on foreign subsidies entered into force in January 2023 and will start applying on 12 July 2023 (Sections 2.4.1, 3.3.4, and 3.3.6).[21] The revision of the Enforcement Regulation entered into force on 13 February 2021 and seeks to address the possible inability to enforce EU rights due to the absence of a final ruling resulting from the blockage of dispute settlement procedures at the multilateral or bilateral level. The regulation amends Regulation (EU) 654/2014 to enable the European Union to apply countermeasures (e.g. suspend tariff concessions) in these situations, and in particular when a third country breaches its obligations under a WTO Agreement and the dispute settlement procedure is blocked because of the current inoperability of the Appellate Body.[22]

2.12. In addition to the review of its trade policy, the Commission has updated its strategy in various areas to support the EU environmental and digital objectives, and adapt them to the most recent geopolitical developments, notably the war in Ukraine. Some of these strategies have implications for trade, such as the new energy (Section 4.4) and industrial strategies. Under the updated industrial strategy of 2021, the European Union seeks, *inter alia*, to reduce dependencies from third countries for its value chains in strategic areas by diversifying suppliers, substituting inputs, and pursuing international alliances.[23] These dependencies have been identified in energy-intensive (e.g. raw materials and chemicals), health (e.g. active pharmaceutical ingredients), and advanced technologies (e.g. semiconductors, lithium batteries, and hydrogen) sectors. During the review period, the European Union also updated its common agricultural policy (Section 4.1, Chart 2.2).

[16] European Commission Proposal COM(2021) 775 final.
[17] European Commission Proposal COM(2021) 223 final. This Regulation was adopted on 14 December 2022.
[18] European Commission Proposal COM(2021) 564 final.
[19] European Commission Proposal COM(2021) 579 final.
[20] European Commission Proposal COM(2019) 623 final. This Regulation was adopted on 10 February 2021 and entered into force on 13 February 2021 (Regulation (EU) 2021/167).
[21] Regulation (EU) 2022/2560.
[22] European Parliament (2022), *Exercise of the Union's Rights for the Application and Enforcement of International Trade Rules*, Legislative Train, 20 October.
[23] European Commission Communication COM(2021) 350 final.

2.3 Trade agreements and arrangements

2.3.1 WTO

2.13. The WTO and multilateral cooperation are critical components of EU trade policy. The European Union is a founding Member of the WTO[24], and as the world's top trader, it plays a key role in the WTO's work and functioning. During the review period, it continued to actively contribute to the WTO's core functions and the regular activities of committees, including as one of the main donors for capacity-building and technical assistance through various funds, notably the Aid-for-Trade initiative.[25] It promoted discussions and co-sponsored proposals/initiatives on, *inter alia*, domestic regulation of trade in services, e-commerce, investment facilitation, and transparency requirements in agriculture. More recently, it also sought to advance discussions on trade and environment and co-sponsored initiatives on a fossil fuel subsidy reform, plastics pollution and environmentally sustainable plastics trade, and trade and environmental sustainability. It participates in the Informal Working Group on trade and gender and on MSMEs, and has co-sponsored ministerial declarations in both areas.[26]

2.14. In the area of negotiations, the European Union was actively engaged in MC12. Its main focus areas were trade and health, WTO reform, e-commerce, fisheries subsidies, food security, and trade-distorting policies in agriculture.[27] The European Union is also taking the necessary steps to ratify the Agreement on Fisheries Subsidies.[28]

2.15. The European Union is closely involved in the discussions regarding the reform of the WTO and restoration of the functions of the Appellate Body, which is one of its priorities. It has submitted joint proposals for improving WTO notification and transparency rules, and on Appellate Body appointments and functioning. In 2020, the European Union also led, together with 18 other WTO Members, the initiative to establish the Multi-Party Interim Appeal Arbitration Arrangement (MPIA) to ensure the resolution of disputes pending the restoration of the Appellate Body. Under the MPIA, panel reports in disputes where both parties are MPIA participants can be reviewed on appeal by independent arbitrators pursuant to Article 25 of the WTO's Dispute Settlement Understanding (DSU). As of December 2022, the MPIA covered 25 WTO Members (counting the European Union as one) and had dealt with one appeal.[29]

2.16. The European Union is one of the most frequent users of the WTO dispute settlement mechanism.[30] During the review period (October 2019-December 2022), it raised eight complaints, and was a respondent in six cases (Table A2.1). In March 2021 and with a view to resolving the Airbus-Boeing dispute, the European Union and United States agreed to suspend for four months all countermeasures on EU and US exports that were allowed under the WTO Appellate Body rulings of 2018 and 2019.[31] In June 2021, both parties reached an Understanding on a Cooperative Framework for Large Civil Aircraft, under which they agreed to, *inter alia*, establish a working group to pursue discussions on this issue and expressed their intention to extend the suspension of all countermeasures to five years.[32] More recently, in January 2022, the European Union and the United States agreed to resort to arbitration pursuant to Article 25 of the DSU in the 2018 disputes regarding certain measures on steel and aluminium (DS548 against the United States), and additional duties on certain products (DS559 against the European Union). The pending disputes

[24] Each EU member State is also a WTO member.

[25] See e.g. the latest Aid-for-Trade report: OECD/WTO (2022), *Aid for Trade at a Glance 2022: Empowering Connected, Sustainable Trade*. Other funds supported by EU member States include the WTO Global Trust Fund and the Trade Facilitation Agreement Facility.

[26] WTO documents WT/MIN(21)/4, 10 November 2021; and WT/MIN(21)/1, 27 October 2021.

[27] WTO document WT/MIN(22)/ST/22, 12 June 2022; and European Commission (2022), *Annual Activity Report 2021-Directorate-General for Trade*, 1 April.

[28] European Commission Proposal COM(2022) 582 final.

[29] In October 2022, Colombia initiated an MPIA arbitration under Article 25 of the DSU with regard to the interpretation of certain issues under the Panel Report in DS591, *Colombia – Anti-Dumping Duties on Frozen Fries from Belgium, Germany and the Netherlands* (WTO document WT/DS591/7, 10 October 2022). The arbitration award in these proceedings was circulated on 21 December 2022.

[30] As of December 2022, the European Union has been involved in 201 dispute settlement cases, 110 as complainant and 91 as defendant. WTO, *Disputes by Member*. Viewed at: https://www.wto.org/english/tratop_e/dispu_e/dispu_by_country_e.htm.

[31] European Commission (2021), *Fact Sheet – EU-US Disputes on Large Civil Aircraft*, and *Understanding on a Cooperative Framework for Large Civil Aircraft*.

[32] In this regard, the Commission indicated that the suspension of countermeasures remained in force.

before the panel were thereby terminated.[33] The two parties also requested to suspend the arbitrations indefinitely until further notice, allowing for a possible resumption in the future. In that case, the arbitrations would resume at the point at which the panel proceedings were terminated. These developments followed the parties' announcement in October 2021 of the launch of discussions on a Global Arrangement on Sustainable Steel and Aluminium to address the issue of overcapacity in these industries and facilitate the reduction of carbon emissions in their production processes.[34]

2.17. During the review period, the European Union continued to promote and actively contribute to greater transparency in the WTO as reflected in its high number of notifications – nearly 1,000.[35] Approximately 40% of notifications relate to the SPS Agreement (368) and one third relate to the TBT Agreement (301). Other notifications fell under the Agreement on Agriculture (41), the Anti-Dumping Agreement (38), and the Agreement on Subsidies and Countervailing Measures (41 related to subsidies and 26 related to countervailing measures). The most recent notifications submitted during this period are listed in Table A2.2.

2.18. The European Union has accepted the Protocol amending the TRIPS Agreement and the Agreement on Trade Facilitation. At the plurilateral level, it is party to the Agreement on Government Procurement, the Information Technology Agreement and its expansion, the Agreement on Trade in Civil Aircraft, and the Agreement on Trade in Pharmaceutical Products of 1994.

2.3.2 Regional and preferential agreements

2.3.2.1 Reciprocal preferences

2.19. Free trade agreements, or regional trade agreements (RTAs) as they are referred to in the WTO, are a key component of the EU trade policy.[36] With 44 RTAs currently in place, the European Union has the largest network of RTAs in the world (Chart 2.3). This network covers 76 economies, including some of the main EU trading partners (e.g. Switzerland and the United Kingdom)[37], and accounted for about 44% of the European Union's total merchandise trade in 2021.[38]

2.20. Under its RTAs, the European Union has eliminated duties on 78.4% to 99.9% of its tariff lines, compared to 27% of tariff lines under its MFN regime (Table 3.5). Yet, most of duty-free imports took place under the MFN regime. In 2021, about half (55%) of the European Union's total imports were duty-free on an MFN basis, and 15% of imports were duty-free by virtue of RTAs.[39] In addition to trade in goods, EU RTAs include almost systematically (since 2010) provisions on the liberalization of trade in services and investment, as well as competition, e-commerce, government procurement, intellectual property, and sustainable development (i.e. environment and labour).[40]

[33] WTO documents WT/DS548/19-22 and WT/DS559/7-10, 21 January 2022.

[34] European Commission (2021), *Joint EU-US Statement on a Global Arrangement on Sustainable Steel and Aluminium Brussels*, 31 October.

[35] During the review period, the European Union submitted 927 notifications, including addenda and corrigenda for TBT- and SPS-related notifications.

[36] RTAs are defined at the WTO as trade agreements providing for reciprocal preferences among its parties.

[37] In 2020, the European Union's top five trading partners for trade in goods and services were the United States (18.4% of the total goods and services trade), the United Kingdom (14.6%), China (12.3%), Switzerland (7.6%), and the Russian Federation (3.7%). European Commission, *Top Trading Partners*. Viewed at: https://trade.ec.europa.eu/doclib/docs/2006/september/tradoc_122530.pdf.

[38] WTO Secretariat calculations. Trade in goods with RTA partners include trade with Ceuta and Melilla, and exclude that with Armenia (whose RTA covers only trade in services).

[39] Calculations by the WTO Secretariat.

[40] All RTAs concluded since 2010 contain provisions in these areas, except for those involving African countries. About half of all RTAs concluded by the European Union cover trade in services. WTO RTA database. Viewed at: https://rtais.wto.org/UI/publicPreDefRepByCountry.aspx.

Chart 2.3 European Union's RTA network, as of December 2022

The Americas
(6 RTAs, 26 economies)

Canada, Mexico

CARIFORUM (i.e. Antigua and Barbuda, Bahamas, Barbados, Belize, Dominica, Dominican Republic, Grenada, Jamaica, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Guyana, Suriname, Trinidad and Tobago)

Central America (i.e. Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua, Panama)

Andean Countries (i.e. Colombia, Ecuador, Peru), Chile

The Europe & the CIS region
(19 RTAs, 19 economies)

Andorra, Faroe Islands, Iceland, Liechtenstein, Norway, San Marino, Switzerland, United Kingdom

Albania, Bosnia and Herzegovina, UNMIK/Kosovo*, North Macedonia, Montenegro, Serbia

Armenia, Georgia, Republic of Moldova, Türkiye, Ukraine

Africa & the Middle East
(14 RTAs, 23 economies)

Algeria, Egypt, Tunisia, Morocco

Cameroon, Côte d'Ivoire, Ghana, ESAS (i.e. Comoros, Madagascar, Mauritius, Seychelles, Zimbabwe), SADC (i.e. Botswana, Eswatini, Lesotho, Mozambique, Namibia, South Africa)

Israel, Jordan, Lebanon, Palestine, Syrian Arab Republic

Asia Pacific
(5 RTAs, 8 economies)

Japan, Republic of Korea

Singapore, Viet Nam

Pacific States (i.e. Fiji, Papua New Guinea, Samoa, Solomon Islands)

Note: Reference to Kosovo should be understood to be in the context of the United Nations Security Council Resolution 1244 (1999).
ESAS = Eastern and Southern African States; SADC = Southern African Development Community.
For Europe and the Commonwealth of Independent States (CIS) region, RTAs with Norway, Liechtenstein, and Iceland are counted separately.
The application of RTA with the Syrian Arab Republic has been partially suspended since 2011 for trade in crude oil, petroleum products, gold, precious metals, and diamonds.

Source: WTO Secretariat based on the WTO RTA database. Viewed at: http://rtais.wto.org.

2.21. During the review period, the main development in this area was the signature and entry into force in 2021 of the Trade and Cooperation Agreement between the European Union and the United Kingdom. Other developments included the entry into force of RTAs that were concluded with Singapore and Viet Nam, and the accession in May 2020 of the Solomon Islands to the EU-Pacific States RTA. These four agreements (including the accession) were notified to the WTO in 2020 and 2021. The European Union further notified the accession of Comoros to the EU-Eastern and Southern Africa States RTA, and the accession of Samoa to the EU-Pacific States RTA, whose provisional application had already begun.[41] As of December 2022, the European Union had notified virtually all of its trade agreements.[42]

2.22. The RTAs with Singapore (signed in October 2018) and Viet Nam (signed in June 2019) entered into force on 21 November 2019 and 1 August 2020, respectively. Both agreements cover trade in goods and services. In these RTAs, the European Union committed to liberalize about 99% of its tariff lines over a transition period ending in 2025 under the EU-Singapore RTA and 2027 under the EU-Viet Nam RTA. Both RTAs include provisions on TBT, SPS, trade remedies, and intellectual property, as well as on issues not covered or with limited coverage under WTO Agreements such as electronic commerce, competition, investment liberalization, government procurement, sustainable development (i.e. environment and labour), and non-tariff barriers to trade and investment in the

[41] The EU-Samoa and EU-Comoros RTAs have been provisionally applied since December 2018 and February 2019, respectively.

[42] All RTAs in Chart 2.3 have been notified to the WTO, except for the EU-Kosovo RTA. Reference to Kosovo should be understood to be in the context of the United Nations Security Council Resolution 1244 (1999). WTO RTA database. Viewed at: https://rtais.wto.org/UI/publicPreDefRepByCountry.aspx.

renewable energy sector. Both RTAs were considered in 2021 in the WTO Committee on RTAs and their factual presentations are publicly available in the WTO website.[43] In both cases, the parties signed in parallel an agreement on investment protection but had not ratified it yet.

2.3.2.1.1 New RTAs

European Union–United Kingdom (2021)

2.23. The Trade and Cooperation Agreement with the United Kingdom (EU-UK RTA) is the European Union's most recent RTA in force.[44] The United Kingdom ceased to be an EU member in early 2020, when the Withdrawal Agreement entered into force. The withdrawal was followed by a transition period ending on 31 December 2020, during which the parties negotiated the new RTA to ensure the continuity of their trade relationship.[45] The EU-UK RTA was signed on 30 December 2020 and entered into force on 1 May 2021 but has been provisionally applied since the end of the transition period.

2.24. The EU-UK RTA covers trade in goods and services but also includes, *inter alia*, provisions on competition, subsidies, labour, environment, state-owned enterprises, digital trade, energy and raw materials, investment liberalization, intellectual property, public procurement, SMEs, and sustainable development. In trade in goods, the Agreement provides for duty-free and quota-free access to all products originating in the European Union and the United Kingdom since its date of application. The Agreement provides for bilateral cumulation to meet origin rules but not for cumulation with third countries. Moreover, imports from the United Kingdom to the European Union are subject to all customs formalities, including controls for SPS purposes. The Agreement reaffirms WTO commitments regarding the use of trade remedies and has provisions on SPS and TBT, including specific TBT provisions on cars, chemicals, medicines, wine, and organic food, seeking to further facilitate trade for these products.

2.25. In trade in services, the European Union made broader commitments than in its GATS schedule, while maintaining sector-specific reservations, as well as exclusions for public and audiovisual services, and certain transport services. Moreover, UK services providers now have to comply with EU or individual member States' regulations. Regarding mode 4, the European Union made some commitments regarding the movement of professionals for certain business purposes (e.g. intra-corporate transferees, contractual services suppliers, short-term business visitors). No commitments were made regarding the recognition of professional qualifications. However, the EU-UK RTA includes a framework with guidelines for the negotiation of future recognition arrangements (on a case-by-case basis and for specific professions). In digital trade, the Agreement prohibits the application of data localization requirements or mandatory disclosure of source code.[46]

2.26. The Agreement does not cover trade in goods between the European Union and Northern Ireland, which is regulated by the Protocol on Ireland/Northern Ireland under the Withdrawal Agreement. Northern Ireland is part of the UK customs territory but, under the Protocol, a limited set of EU rules for goods applies to and in the United Kingdom in respect of Northern Ireland to avoid a hard border on the island of Ireland and safeguard the 1998 Good Friday (Belfast) Agreement.[47]

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[43] WTO documents WT/REG406/1, 27 July 2021; and WT/REG402/1, 11 January 2021.

[44] Trade and Cooperation Agreement between the European Union and the European Atomic Energy Community, of the one part, and the United Kingdom of Great Britain and Northern Ireland, of the other part, 30 April 2021. Viewed at: CELEX:22021A0430.

[45] During the transition period, EU legislation continued to apply to and in the United Kingdom.

[46] European Commission (2020), *EU-UK Trade and Cooperation Agreement: A New Relationship, with Big Changes*.

[47] European Council Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community, Protocol on Ireland/Northern Ireland. Further information on the Protocol on Ireland/Northern Ireland can be found at: https://commission.europa.eu/strategy-and-policy/relations-non-eu-countries/relations-united-kingdom/eu-uk-withdrawal-agreement/protocol-ireland-and-northern-ireland_en.

European Union–Pacific States, accession of the Solomon Islands (2020)

2.27. The Solomon Islands acceded on 7 May 2020 to the Interim Partnership Agreement between the European Union and the Pacific States (Fiji, Papua New Guinea, and Samoa), which has applied on a provisional basis since 2009 for Papua New Guinea, 2014 for Fiji, and 2018 for Samoa.[48] For the Solomon Islands, the Agreement started to be provisionally applied 10 days after its accession. This RTA covers only trade in goods and provides for the elimination of duties on a reciprocal basis between the European Union and the Solomon Islands. Under the Agreement, the Solomon Islands agreed to liberalize 80.5% of its tariff lines over a transition period of 18 years ending in 2038[49], while the European Union committed to provide duty-free and quota-free market access for all goods, except arms, from the Solomon Islands. Prior to the date of application of the Agreement, the Solomon Islands received such treatment under the EU Generalised System of Preferences (GSP) (see below). The RTA provides for bilateral cumulation, and for cumulation under certain conditions with African, Caribbean and Pacific (ACP) States[50], and the Overseas Countries and Territories (OCTs); and it includes further flexibilities in the rules of origin for processed fishery products from the Pacific States. It also includes provisions on trade remedies, TBT, SPS, and dispute settlement.

2.28. In 2020, the European Union added the Solomon Islands to the list of beneficiary countries under the Council's Market Access Regulation while the EU-Pacific States RTA entered formally into force (Section 2.3.2.1). Under this regulation, the European Union grants duty-free and quota-free market access for all goods, except arms, to countries that had concluded the negotiations for an Economic Partnership Agreement (EPA) but had yet to sign or ratify the Agreement.[51]

2.29. The Solomon Islands is a beneficiary of the EU GSP scheme (Everything but Arms (EBA) arrangement) but will graduate from LDC status in December 2024 and will therefore cease to be eligible after a transition period of three years. In the meantime, the EBA will continue to apply in parallel to the RTA.[52]

2.3.2.1.2 Updates of existing RTAs and ongoing negotiations

2.30. During the review period, the European Union sought to update and deepen some of its existing agreements, notably those with Chile, Mexico, and Switzerland.

2.31. In December 2022, the European Union concluded the negotiations with Chile to modernize their existing RTA. The new RTA includes, *inter alia*, a chapter on digital trade, trade and sustainable development, and energy and raw materials (the latter improving market access conditions to lithium for the European Union).[53] In April 2020, the European Union and Mexico concluded technical negotiations for public procurement, which were the only ones pending following the conclusion in 2018 of the agreement in principle on the trade part of the modernized EU-Mexico Global Agreement. In both cases, the final texts of the agreements are being reviewed. Once in force, these agreements are expected to replace those currently in place since 2003 for Chile and 2000 for Mexico.[54]

2.32. In January 2021, the European Union also resumed discussions with Switzerland, one of its main trading partners, on the prospects of an Institutional Framework Agreement (IFA). The IFA intended to update and streamline the functioning of various legal instruments (i.e. agreements on the free movement of persons, air and land transport, agricultural goods, and conformity

[48] WTO document WT/REG408/N/1, WT/REG409/N/1, 30 October 2020.
[49] Council Decision (EU) 2020/409; and information provided by the Commission.
[50] Cumulation may be also extended upon request to neighbouring developing countries (other than an ACP State) of a Pacific State.
[51] Regulation (EU) 2016/1076.
[52] In the absence of the RTA, the Solomon Islands would have ceased to be eligible for the EBA arrangement in 2024 and removed from the list of beneficiaries three years later. European Commission Joint Report JOIN(2020) 3 final.
[53] The text of this agreement can be viewed at: https://policy.trade.ec.europa.eu/eu-trade-relationships-country-and-region/countries-and-regions/chile/eu-chile-agreement/text-agreement_en.
[54] The text of the agreement in principle can be viewed at: https://policy.trade.ec.europa.eu/eu-trade-relationships-country-and-region/countries-and-regions/mexico/eu-mexico-agreement/agreement-principle_en.

assessment) governing their trade relationship[55] by providing, *inter alia*, for the establishment of a dispute settlement mechanism, the adoption of rules on state aid, and the alignment with current and future EU rules. The negotiations of the IFA were concluded in 2018 but the Agreement was not signed pending clarification of some issues raised by Switzerland. In May 2021, Switzerland decided to terminate the negotiations. As a result, the chapter on medical devices under the EU-Switzerland mutual recognition agreement (MRA) on conformity assessments was not updated, which led to the inoperability of the MRA provisions related to these goods.[56] Since March 2022, the parties have been engaged in exploratory talks seeking to agree on a common approach to various institutional issues.[57]

2.33. During the review period, the European Union also made some specific changes to its RTA with the Republic of Moldova and advanced discussions on the implementation of the RTA signed with Kenya. In January 2020, the European Union and the Republic of Moldova agreed to increase on a reciprocal basis the volume of some products subject to annual duty-free tariff rate quotas (TRQs) under the EU-Republic of Moldova RTA. The European Union increased the TRQs for grapes and plums from the Republic of Moldova, and introduced a new TRQ for cherries, while the Republic of Moldova agreed to gradually increase the volume of TRQs for EU exports of pork, poultry, dairy, and sugar.[58] The European Union also agreed to increase the volume for wheat, barley, maize, and cereal processed that would trigger a safeguard mechanism specific to processed and non-processed agricultural products. In 2022, the European Union further increased on a unilateral basis the quantities of the products from the Republic of Moldova subject to TRQs under their RTA.

2.34. In February 2022, the European Union and Kenya, a member of the East African Community (EAC), agreed to move forward with the bilateral implementation of the RTA – or interim EPA – after a decision taken in February 2021 by the EAC[59] allowed it to do so. Under this decision, EAC countries participating in the RTA negotiations (i.e. Burundi, Kenya, Rwanda, Tanzania, and Uganda) can engage individually with the European Union with the view of implementing the EU-EAC RTA. The RTA between the European Union and the EAC countries was concluded in 2014 but has not entered into force as the ratification threshold had not been reached yet. Currently, Kenya is the only EAC participating country that had signed and ratified it. Pending the entry into force of an EU-EAC RTA, the trade relationship between the European Union and EAC countries is regulated by the EU GSP, particularly with regard to LDCs, and the Market Access Regulation for Kenya (Section 2.3.2.2).

2.35. The European Union is also engaged in negotiations to deepen its agreement with the Eastern and Southern African States (Comoros, Madagascar, Mauritius, Seychelles, and Zimbabwe) and since October 2022 it has been negotiating with Japan on the addition of rules on cross-border data flows to their existing RTA. Moreover, the European Union is seeking to modernize its agreements with Tunisia and Morocco.[60] In 2020, Angola requested to join the EU-SADC RTA. The same year, Timor-Leste requested to accede to the EU-Pacific Islands RTA, and in 2022 Tuvalu and Niue did so too, thus joining Tonga in this procedure.

2.36. In addition, in June 2022, the European Union concluded negotiations for an RTA with New Zealand[61] and resumed those for an agreement with India. It also had ongoing negotiations for RTAs with Australia and Indonesia. Regarding the EU-Mercosur RTA, the Commission indicated that

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[55] The trade relationship between the European Union and Switzerland is mainly governed by the EU-Switzerland FTA of 1972 and seven sectoral agreements of 1999 (known as Bilateral Agreements I), covering (i) free movement of persons; (ii) technical barriers to trade (i.e. MRA); (iii) government procurement; (iv) trade in agricultural goods; (v) scientific and technological cooperation; (vi) air transport; and (vii) land transport.

[56] European Commission (2021), "Notice to Stakeholders: Status of the EU-Switzerland Mutual Recognition Agreement (MRA) for Medical Devices", 26 May.

[57] Information provided by the Commission.

[58] Decision No. 1/2020 of the EU-Republic of Moldova Association Committee in Trade Configuration, of 23 January 2020 concerning the update of Annex XV (Elimination of customs duties) to the Association Agreement between the European Union and the European Atomic Energy Community and their Member States, of the one part, and the Republic of Moldova, of the other part.

[59] East African Community (2021), *Communiqué of the 21st Ordinary Summit of the East African Community Heads of State*, 27 February. Viewed at: https://www.eac.int/communique/1942-communiqu%C3%A9-of-the-21st-ordinary-summit-of-the-east-african-community-heads-of-state.

[60] European Commission Communication COM(2021) 66 final.

[61] The text of the EU-New Zealand RTA can be viewed at: https://policy.trade.ec.europa.eu/eu-trade-relationships-country-and-region/countries-and-regions/new-zealand/eu-new-zealand-agreement/text-agreement_en.

some technical work to finalize the agreement, including the text's legal revision, has been undertaken since June 2019, when the agreement was concluded at the political level.

2.3.2.1.3 RTA enforcement

2.37. During the review period, the European Union took various steps to strengthen the enforcement of commitments taken by its partners under its RTAs. At the institutional level, it created in July 2020 the position of Chief Trade Enforcement Officer (CTEO) within the Commission to monitor and enforce the implementation of RTAs and any other trade agreements or arrangements (including at the multilateral level). In November 2020, it also established a new complaints mechanism, the Single-Entry Point, under which EU-based stakeholders can submit complaints regarding the non-compliance with commitments on market access and sustainability (if any) taken under the WTO, RTAs, or the GSP scheme. This mechanism does not deal with complaints seeking the imposition of trade remedy measures, which are dealt with separately. In the area of monitoring and transparency, the Commission revamped in 2021 its annual report on the implementation of EU Trade Agreements to include enforcement actions, as well as information on trade and investment barriers faced by EU exporters. Prior to 2021, this information was presented in the annual Trade and Investment Barriers Report, now superseded.

2.38. During this period, the Commission also reviewed and updated its 2018 action plan[62] on the implementation and enforcement of the Chapters on Trade and Sustainable Development (TSD) in EU RTAs.[63] The new strategy was published in June 2022 and seeks to strengthen the role of TSD chapters and, more broadly, of EU RTAs in promoting "green and just economic growth".[64] To this end, the strategy identifies the following policy priorities: (i) be more proactive in the cooperation with partners; (ii) pursue a country-specific approach to identify TSD priorities; (iii) extend sustainability considerations to other chapters of trade agreements; (iv) improve the monitoring of the implementation of TSD commitments; (v) reinforce the role of civil society; and (vi) strengthen the enforcement of TSD commitments by, *inter alia*, extending the application of the RTA's dispute settlement mechanism to these provisions. These priorities are to be integrated in ongoing and future negotiations. In this regard, the Commission indicates that the forthcoming EU-New Zealand RTA is the first EU RTA that foresees the possibility of temporary sanctions (e.g. suspension of trade concessions) in case of non-compliance with a ruling regarding the violation of core TSD commitments (i.e. the ILO fundamental principles and rights at work, and the Paris Agreement on Climate Change).[65]

2.39. The European Union had four ongoing bilateral disputes initiated under its RTAs with the Republic of Korea (consultations requested in 2018), Ukraine (January 2019), SADC (June 2019), and Algeria (2020). A panel report has been issued for each of these proceedings, except for the one under the EU-Algeria RTA.[66]

2.3.2.2 Unilateral preferences

2.40. The European Union facilitates trade with developing countries by granting them unilateral preferences under various schemes, the main one being its GSP. During the review period, the main developments in this area were the preparation of a new regulation for the GSP, the extension of the preferential arrangement for Western Balkans economies, and the update of the list of beneficiaries under some of the schemes.

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[62] European Commission (2018), "Commissioner Malmström Unveils 15-Point Plan to Make EU Trade and Sustainable Development Chapters More Effective", 27 February. Viewed at: https://policy.trade.ec.europa.eu/news/commissioner-malmstrom-unveils-15-point-plan-make-eu-trade-and-sustainable-development-chapters-more-2018-02-27_en.

[63] The European Union has included TSD-related provisions in all its RTAs since the EU-Republic of Korea RTA, concluded in 2010 and in force since 2011. Of these RTAs, 11 include a dedicated chapter on TSD (in chronological order): Republic of Korea (signed in 2010), Central America (2012), Colombia, Peru, and Ecuador (2012), Canada (2016), Georgia (2014), the Republic of Moldova (2014), Ukraine (2014), Japan (2018), Singapore (2018), Viet Nam (2019), and United Kingdom (2020).

[64] European Commission Communication COM(2022) 409 final.

[65] EU-New Zealand RTA, Article 26.16.

[66] European Commission, *Bilateral Disputes*. Viewed at: https://policy.trade.ec.europa.eu/enforcement-and-protection/dispute-settlement/bilateral-disputes_en.

2.41. The GSP comprises three different preferential arrangements, the standard GSP, the GSP+, and the EBA, each providing for distinct benefits and conditions depending on the country's level of development.[67] Countries that no longer meet the eligibility conditions are removed from the list of beneficiaries, or may be subject to a temporary withdrawal of preferences. In addition, the GSP legislation provides for a safeguard mechanism that allows the European Union to reintroduce duties on imports from a GSP beneficiary.[68] In accordance with these provisions, the European Union suspended (until further notice) in August 2020 the tariff preferences on selected products imported from Cambodia based on human rights concerns[69], and in June 2022, it extended until December 2023 the suspension of preferences on certain products from India, Indonesia, and Kenya, which had become sufficiently competitive according to the product graduation criteria.[70] This measure (in place since 2019) was set to expire in December 2022. In January 2022, the European Union lifted the safeguard measure imposed in 2019 on imports of indica rice from Cambodia and Myanmar.[71]

2.42. In 2022, the list of GSP beneficiaries comprised 66 countries (down from 71 in 2019), of which the majority fell under the EBA arrangement.[72] During the review period, the European Union removed from this list Equatorial Guinea, Nauru, Samoa, Tonga (January 2021), and Armenia (January 2022) because they ceased to qualify for the GSP scheme following their graduation to a higher income status.[73] Except for Samoa, these countries do not have an RTA in place for trade in goods with the European Union, and so following their graduation from the GSP scheme, their imports enter the EU market under the MFN regime. Other changes involved Uzbekistan, which in April 2021 transitioned from the standard GSP to the GSP+ scheme. Viet Nam was expected to be removed in January 2023 from the list of beneficiaries of the standard GSP. After this date, its trade relationship with the European Union will be exclusively regulated by their RTA.

2.43. In September 2021, the Commission submitted to the Parliament and the Council a proposal for a regulation for a new GSP scheme.[74] The proposal seeks to renew the GSP scheme for the period 2024-34, which except for its EBA component, is set to expire on 31 December 2023 under the current GSP regulation (Regulation (EU) 978/2012, in place since 2012). The proposed regulation maintains the main characteristics of the GSP scheme and its three components but seeks to make some specific changes to better reach the intended beneficiaries, and support EU environmental objectives. It proposes, *inter alia*, to (i) lower the internal product graduation threshold for the standard GSP to ensure preferences are granted to those in greater need; (ii) remove the economic vulnerability criterion under the GSP+ arrangement; (iii) increase the number of ratified international conventions from 27 to 32 for the GSP+ (including the Paris Agreement); (iv) extend the application of international conventions on environmental and good governance to all GSP beneficiaries (not only GSP+ as is currently the case); (v) require an action plan for the implementation of the conventions under GSP+ to improve compliance; and (vi) establish urgent procedures for the withdrawal of preferences in cases of grave violations of the GSP relevant conventions. The legislative process is ongoing, but it is expected that the Parliament and the Council will adopt the new regulation by late 2023. Once adopted, it will replace the existing one and the new GSP system would enter into force on 1 January 2024.[75]

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[67] For more details on the eligibility conditions for the standard GSP, the GSP+, and the EBA, see WTO document WT/TPR/S/395/Rev.1, 7 July 2020, Section 2.3.2.2.

[68] Regulation (EU) 978/2012, Article 22.

[69] Commission Delegated Regulation (EU) 2020/550.

[70] Commission Implementing Regulation (EU) 2022/1039.

[71] Commission Implementing Regulation (EU) 2019/67. The measure (i.e. a specific duty) was introduced in January 2019 after an EU investigation concluded that indica rice from these countries was being imported in volumes and at prices that were causing serious difficulties for EU industry.

[72] As of 1 January 2022, 47 countries were EBA beneficiaries (48 in 2019), 11 were standard GSP beneficiaries (15 in 2019), and 8 were GSP+ beneficiaries (8 in 2019).

[73] According to the GSP regulation, a country cannot qualify for the GSP if it has been classified by the World Bank as a high-income or an upper-middle-income country for three consecutive years (Regulation (EU) 978/2012, Article 4). These five countries were thus reclassified as upper-middle-income countries. Nauru, Samoa, and Tonga were removed from the standard GSP list of beneficiaries, Armenia from the GSP+ list, and Equatorial Guinea from the EBA list.

[74] European Commission Proposal COM(2021) 579 final.

[75] If the new regulation is not adopted, the standard GSP and the GSP+ arrangements will cease to apply on 1 January 2024.

2.44. In addition to its GSP scheme, the European Union maintains a preferential arrangement for Western Balkans economies to support its policy of Stabilisation and Association Process in the region.[76] Under this arrangement, the European Union grants unilateral preferences to Albania, Bosnia and Herzegovina, Kosovo[77], Montenegro, North Macedonia, and Serbia on a limited number of products, notably vegetables, fruit, and wine. This scheme was set to expire in 2020 but was extended until December 2025[78], and it complements the existing RTAs with these economies.

2.45. The European Union also maintains a scheme of unilateral preferences for OCTs, under which all goods originating in OCTs are duty-free. OCTs are not part of the European Union but benefit from an associate status based on their linkages to three EU member States (i.e. Denmark, France, and the Netherlands).[79] The European Union also continues to grant unilaterally duty-free, quota-free access to all imports, except arms, from ACP countries with which it had concluded negotiations of an EPA but for which signature and ratification are pending, even if in some cases the RTA is being applied on a provisional basis. This scheme is described in Regulation (EU) 2016/1076 (Market Access Regulation), and currently covers 32 countries.[80] During the review period, Comoros (2019) and the Solomon Islands (2020) were included as beneficiaries.

2.46. In accordance with the WTO LDC services waiver, the European Union has also notified additional commitments for LDCs covering all modes of supply.[81] The Commission indicates that these commitments have been in force since 18 November 2018.

2.3.3 Other agreements and arrangements

2.47. During the review period, the European Union put in place trade arrangements of limited scope with the United States. It also signed partnership agreements with Canada on raw materials and with Japan and the Republic of Korea on digital issues.

2.48. In August 2020, the European Union and the United States, its main trading partner, agreed to reduce duties on an MFN basis on a limited number of goods of mutual interest.[82] Under this agreement, the European Union would eliminate tariffs on the imports of live and frozen lobster products (i.e. four tariff lines at the 8-digit level) provided that the United States reduces duties (by half) on certain prepared fish meals, crystal glassware, surface preparations, propellant powders, cigarette lighters, and lighter parts (i.e. six tariff lines at the 8-digit level). The European Union's commitments are also subject to the United States not introducing new measures against the European Union that would undermine the objectives to "create more free, fair, and reciprocal transatlantic trade".[83] These tariff reductions entered into force in December 2020.[84] They were applied retroactively from August 2020 and will expire in July 2025.

2.49. In addition to this arrangement, the European Union and the United States established in June 2021 the EU-US Trade and Technology Council (TTC) to better coordinate their approaches regarding trade, investment, and technology issues. The TTC comprises 10 working groups dealing with (i) technology standards; (ii) climate and clean technology; (iii) secure supply chains (e.g. semi-conductors); (iv) ICT security and competitiveness; (v) data governance and technology platforms; (vi) misuse of technology, threatening security and human rights; (vii) cooperation on

[76] This policy was designed to shape the path for an eventual accession of these economies to the European Union. In addition to this preferential scheme, the policy includes the establishment of an FTA between these economies and with the European Union.

[77] Reference to Kosovo should be understood to be in the context of the United Nations Security Council Resolution 1244 (1999).

[78] WTO document WT/L/1147, 13 July 2022; and Council Regulation (EC) 1215/2009.

[79] Council Decision (EU) 2021/1764.

[80] Regulation (EU) 2016/1076.

[81] WTO documents WT/L/847, 17 December 2011; WT/L/918, 6 December 2013; and S/C/N/840, 18 November 2015. The LDC services waiver allows WTO Members to grant preferential treatment to services and services suppliers from LDCs.

[82] European Commission (2020), *Joint Statement of the United States and the European Union on a Tariff Agreement*, 21 August. Viewed at: https://ec.europa.eu/commission/presscorner/detail/fr/statement_20_1512.

[83] European Commission (2020), *Joint Statement of the United States and the European Union on a Tariff Agreement*, 21 August.

[84] Regulation (EU) 2020/2131.

export controls of dual-use items; (viii) investment screening cooperation; (ix) promoting SME access to and use of digital technologies; and (x) global trade challenges.[85]

2.50. The European Union and Canada signed in June 2021 a strategic partnership on raw materials with a view to diversifying their suppliers and strengthening their supply chains. The partnership builds upon the Bilateral Dialogues on Raw Materials that were established under the EU-Canada RTA.[86] More recently, in August 2022, Canada and Germany signed a joint declaration of intent on establishing a Canada-Germany Hydrogen Alliance to facilitate the bilateral trade of hydrogen, which provides, *inter alia*, that Canada will export hydrogen to Germany by 2025.[87]

2.51. The European Union and Japan concluded in May 2022 a Digital Partnership to promote cooperation on issues of importance to the digital economy, such as artificial intelligence, 5G technologies, the semiconductor industry, and the facilitation of digital trade. In November 2022, the European Union also entered into a Digital Partnership with the Republic of Korea, and agreed on a set of non-binding Digital Trade Principles.[88] The European Union is also planning to conclude a Digital Partnership and an agreement on Digital Trade Principles with Singapore. The parties expect that these Digital Trade Principles will complement the WTO negotiations on e-commerce.

2.4 Investment regime

2.4.1 Regulatory framework

2.52. Foreign investment (as well as investment between EU member States) is governed by the TFEU and permitted in EU member States without restrictions based on the principles of freedom of establishment and free movement of capital (and payments), except when deemed necessary for public policy, public security, health reasons, or other overriding reasons in the general interest, as recognized by CJEU jurisprudence.[89]

2.53. In accordance with these derogations, some EU member States maintain screening mechanisms, as well as other types of requirements, which led to different investment regimes across the European Union.[90] With a view of promoting consistency regarding FDI screening, the European Union adopted in March 2019 a regulation to establish a common framework for the screening of FDI for reasons of security and public order.[91] The regulation started applying on 11 October 2020, and it seeks, *inter alia*, to address concerns regarding FDI on assets deemed critical to EU interests.[92] The regulation provides for a set of minimum requirements for the functioning of national screening mechanisms and for a cooperation mechanism to share information.[93] The regulation also provides for guidelines to identify FDI that is likely to affect security or public order and therefore should be screened. The criteria refer to the effects that a transaction could have on, for instance, infrastructure, technologies, and the supply of inputs deemed as critical to EU economic activities.

[85] European Commission, *Digital in the EU-US Trade and Technology Council*. Viewed at: https://digital-strategy.ec.europa.eu/en/policies/trade-and-technology-council.

[86] European Commission (2021), *Comprehensive Economic and Trade Agreement (CETA) Meeting of the Bilateral Dialogue on Raw Materials – Joint Report*, 15 July 2021. Viewed at: https://trade.ec.europa.eu/doclib/docs/2021/july/tradoc_159726.pdf.

[87] Government of Canada (2022), *Joint Declaration of Intent between the Government of Canada and the Government of the Federal Republic of Germany on Establishing a Canada-Germany Hydrogen Alliance*. Viewed at: https://www.nrcan.gc.ca/climate-change-adapting-impacts-and-reducing-emissions/canadas-green-future/the-hydrogen-strategy/joint-declaration-intent-between-the-government-canada-and-the-government-the-federal/24607.

[88] European Commission (2022), "EU and Korea Sign Digital Trade Principles", 30 November. Viewed at: https://policy.trade.ec.europa.eu/news/eu-and-korea-sign-digital-trade-principles-2022-11-30_en.

[89] TFEU, Articles 49, 52, 54, 63, and 65.

[90] European Parliament (2018), *Briefing – EU Framework for FDI Screening*, European Parliamentary Research Service, January.

[91] The regulation does not apply to portfolio investments in line with EU competences. The European Union has exclusive competence for FDI (Section 2.1), and shared competence for other types of investments (i.e. portfolio investments) and for investor-state dispute settlement.

[92] Regulation (EU) 2019/452.

[93] This framework for the screening of FDI was described in WTO document WT/TPR/S/395/Rev.1, 7 July 2020.

2.54. Under the regulation, EU member States are not required to maintain, or amend, their screening mechanism for FDI, or adopt one. However, the Commission has stressed the importance of implementing one in line with the new EU framework and has strongly encouraged EU member States to do so. It has done so, for instance, in its communication of March 2020 on the role of FDI screening during a public health crisis[94], as well in its communication of April 2022, on FDI from the Russian Federation and Belarus. In the latter, the Commission calls upon EU member States to ensure that such transactions are given particular attention, and further urged them to set up a comprehensive FDI screening mechanism.[95] As of October 2022, 18 EU member States had an FDI screening mechanism in place, compared to 15 at the time of the previous Review (2020), and 7 were in the process of adopting one.[96]

2.55. Since 2020, the Commission has issued two reports on the implementation of the regulation. According to the most recent report, EU member States reported 1,563 requests for authorizations and *ex officio* cases in 2021. Of these transactions, about 29% were formally screened and 71% were deemed ineligible or did not require formal screening. Of the transactions that were formally screened and had a decision issued, the majority were authorized with (23%) or without conditions (73%), and only 1% was blocked. Applications were concentrated in four EU member States, which accounted for about 70% of them.[97]

2.56. In addition, the European Union adopted in December 2022 a regulation to deal with the effects of foreign subsidies on the internal market (i.e. subsidies by a third country) and ensure a level playing field for all companies/investors. The regulation seeks to identify and address situations where a company receiving foreign subsidies causes distortions to the internal market through, *inter alia*, its participation in EU public procurements, or the acquisition of an EU company or assets affecting the market structure (Sections 3.3.4 and 3.3.6). The regulation entered into force on 12 January 2023 and will apply from 12 July 2023.[98]

2.57. The European Union has taken liberalization commitments on investment in about half of its RTAs (Section 2.3.2), as well as under its most recent trade negotiations.[99] These commitments cover both services and non-services sectors, and include market access and non-discrimination obligations, as well as other investment-related provisions such as the prohibition of performance requirements. In these RTAs, the European Union has listed reservations notably with respect to the establishment and operation of investments. These reservations vary across EU member States and affect different sectors of activities (e.g. agriculture, real estate, distribution, cultural, energy, and transportation).

2.58. The European Union has started negotiating provisions on investment facilitation, either as part of wider trade agreements (e.g. with countries of the Eastern and Southern Africa region) or as standalone sustainable investment facilitation agreements (e.g. with Angola).[100] The European Union also participates in the WTO JSI on Investment Facilitation for Development.

2.59. At the EU level, the European Union maintains a limit on foreign equity of 49% for airline companies established within its territory.[101]

[94] European Commission Communication C/2020/1981 final.

[95] European Commission Communication 2022/C 151 I/01. In this communication, the European Commission calls on EU member States to, *inter alia*, systematically use their screening mechanisms to assess investments from the Russian Federation and Belarus on the grounds of security and public order.

[96] European Commission Report COM(2022) 433 final.

[97] European Commission (2022), *Report from the Commission to the European Parliament and the Council: Second Annual Report on the Screening of Foreign Direct Investments into the Union*, COM(2022) 433; and its Accompanying document (Staff Working Document SWD(2022) 219 final).

[98] Regulation (EU) 2022/2560.

[99] WTO RTA database. Viewed at: http://rtais.wto.org/UI/PublicMaintainRTAHome.aspx.

[100] Information provided by the Commission; and European Commission (2022), "EU and Angola Conclude First-ever Sustainable Investment Facilitation Agreement", 18 November.

[101] Regulation (EC) 1008/2008.

2.4.2 Other aspects of the European Union's foreign investment regime

2.60. During the review period, the European Union continued to work at the domestic, bilateral, and multilateral levels to promote a common and coherent approach towards investment protection and the negotiation of related agreements.

2.61. At the domestic level, and as of December 2022, all EU member States had formally terminated intra-EU bilateral investment treaties (BITs) to which they are parties following the 2018 CJEU ruling in *Achmea* (Case C-284/16). Under this ruling, provisions on investor-state arbitration in international agreements between EU member States are incompatible with the EU Treaties.[102] Three EU member States (Austria, Finland, and Sweden) formally terminated their intra-EU BITs with their counterparts on a bilateral basis, while the remaining 23 EU member States that were parties to intra-EU BITs signed in May 2020 an agreement to formally terminate them.[103] The termination agreement entered into force in August 2020 and has been ratified and implemented by all contracting parties. The last ratification took place in October 2022.

2.62. The European Union continued to implement Regulation (EU) 1219/2012, in force since 2013, under which EU member States may maintain BITs concluded prior to the Treaty of Lisbon in 2009[104] until they are replaced by investment agreements at the EU level. The Regulation also allows the Commission to authorize EU member States to negotiate with third countries to amend existing BITs or conclude new ones under certain conditions. In 2020, the Commission published a report on the application of the Regulation (as provided in the latter), where it recommends continuing with the application of these flexibilities considering the slow progress in the negotiation of agreements at the EU level. Until 2022, EU member States had notified approximately 1,400 BITs signed with third countries[105], 6 of which were signed during the 2019-21 period.[106] During the same period, the Commission granted 13 authorizations: 10 to sign new agreements and 3 to amend existing ones.[107]

2.63. At the EU level, the European Union has so far signed two investment protection agreements, one with Singapore (2018) and another with Viet Nam (2019)[108], as well as one RTA – the EU-Canada RTA (2016) – that includes provisions related to investment protection. These agreements have not yet entered into force, as they are awaiting ratification by all EU member States. The EU-Canada RTA has been applied provisionally since 2017, but its provisions on investment protection are exempt from provisional application. The European Union recently concluded negotiations for trade agreements with Mexico and Chile (Section 2.3.2), which also include investment protection provisions. These agreements await signature. Once in force, these 5 agreements will replace 68 existing BITs of member States.

2.64. The European Union was also negotiating a Comprehensive Agreement on Investment with China, and an investment protection agreement with India and Indonesia. The negotiations for the agreement with India were launched in June 2022 and were to be conducted in parallel to those for an RTA.[109] The negotiations with China were concluded in December 2020 with an agreement in principle[110], which includes, *inter alia*, provisions on market access liberalization for EU and Chinese investors, state-owned enterprises, and transparency for state subsidies, as well as provisions prohibiting the forced transfer of technologies. Under the Agreement, the parties committed to negotiate provisions on investment protection within two years of its signature.

[102] CJEU (2018), Case C-284/16, Slowakische Republik (Slovak Republic) v Achmea BV.
[103] Agreement for the Termination of Bilateral Investment Treaties between the Member States of the European Union, 25 May 2020. Viewed at: CELEX:22020A0529(01).
[104] At which time the European Union was given exclusive competence for FDI.
[105] European Commission Notices from Member States PUB/2022/546; and European Commission Report COM(2020) 134 final.
[106] During this period, EU member States also signed two Protocols to existing BITs.
[107] Information provided by the Commission.
[108] These agreements were negotiated following the change in the European Union's approach towards investment negotiations to favour standalone agreements (Section 2.1).
[109] European Commission (2022), "EU and India Kick-Start Ambitious Trade Agenda", 17 June. Viewed at: https://policy.trade.ec.europa.eu/news/eu-and-india-kick-start-ambitious-trade-agenda-2022-06-17_en.
[110] The text of the agreement in principle can be viewed at: https://policy.trade.ec.europa.eu/eu-trade-relationships-country-and-region/countries-and-regions/china/eu-china-agreement_en.

2.65. At the multilateral level, the European Union is participating in discussions under the UN Commission on International Trade Law (UNCITRAL) to reform the Investor-State Dispute Settlement (ISDS) mechanism and establish a Multilateral Investment Court. In the long term, the European Union expects that this Court will replace the mechanisms for dispute resolution included in its trade and investment agreements at the EU level, and is of potential application to all existing BITs at the member State level. The European Union has also been engaged in the discussions to modernize the Energy Charter Treaty (ECT), notably its ISDS mechanism. The ECT comprises 53 signatories, including the European Union and all of its member States except for Italy, and it provides for a multilateral framework to promote cooperation and facilitate commercial relations in the energy sector. In June 2022, the ECT parties reached an agreement in principle for a new ECT.[111] The text amending the ECT was to be adopted during the Energy Charter Conference in November 2022, but its adoption was subsequently postponed. Prior to the conference, some EU member States announced their intention to withdraw from the ECT as they considered its reform was not aligned enough with their environmental objectives.[112] In 2021, the CJEU ruled that the ECT could not be used in intra-EU disputes. The Commission states that it has recently proposed the conclusion of a subsequent agreement to EU member States to address the risk of a conflict between the ECT and the EU Treaties.[113]

2.66. In the area of investment promotion, the European Union (and its member States) continued to encourage investment in general and in selected sectors mainly through grants, and financial instruments (Section 3.3.1). Each EU member State has an Investment Promotion Agency, but there is no agency at the EU level. In the area of taxation, EU average corporate income tax rate (statutory top rates) stood at 21.2% in 2022. In that year, the European Union adopted a minimum effective corporate tax rate of 15% for multinationals with annual revenues exceeding EUR 750 million, which shall be implemented by December 2023 (Section 3.3.1.3). EU member States also maintain double taxation agreements with third countries.[114]

[111] European Commission (2022), "Agreement in Principle Reached on Modernised Energy Charter Treaty", 24 June. Viewed at: https://policy.trade.ec.europa.eu/news/agreement-principle-reached-modernised-energy-charter-treaty-2022-06-24_en

[112] International Institute for Sustainable Development (2022), *Energy Charter Treaty Withdrawal Announcements Reflect Reform Outcome is Insufficient for Climate Ambition*, 7 November. Viewed at: https://www.iisd.org/press.

[113] European Commission Communication COM(2022) 523 final.

[114] European Commission, *Treaties for the Avoidance of Double Taxation Concluded by Member States*. Viewed at: https://taxation-customs.ec.europa.eu/treaties-avoidance-double-taxation-concluded-member-states_en.

3 TRADE POLICIES AND PRACTICES BY MEASURE

3.1 Measures directly affecting imports

3.1.1 Customs procedures, valuation, and requirements

3.1. The EU Customs Union is a unique structure as the Union has exclusive competence on customs legislation and legal acts, but it is the member States that implement the legislation, and operate and oversee the movement of goods into and out of the single market.[1] The customs authorities of the 27 member States have their own officials, electronic systems, and working methods to allow the entry and import into the customs territory of the Union and the exit and export from this territory, of goods on a daily basis. Although they have national competences, there is increasing coordination and harmonization at the EU level, in particular through new electronic systems (Section 3.1.1.3). The European Council, the European Parliament, and the European Commission all have roles in ensuring customs cooperation between and among the member States.

3.2. Customs duties are an important part of the EU budget, accounting for 8% of total revenues in 2021. Pursuant to the European Union's system of own resources, customs revenues are shared between the member States and the Union. Previously, member States were allowed to keep 20% of the customs revenues they collected, but this was changed in the latest directive to 25% for the period 2021-27, thus the Union receives the remaining 75%.[2] Revenues from duties and taxes on imports, excluding VAT, have remained relatively constant during 2019-21, although they dropped slightly in 2020 and amounted to EUR 78.8 billion in 2021, or about 0.5% of GDP (Table 3.1).[3]

Table 3.1 Customs duties and taxes, 2019-21

(EUR billion, unless otherwise indicated)

	2019	2020	2021
Taxes and duties on imports, excluding VAT	77.5	72.7	78.8
Import duties	21.6	19.9	23.1
Taxes on imports, excluding VAT and import duties	55.8	52.8	55.7
Levies on imported agricultural products	0.3	0.3	0.2
Excise duties	55.5	52.5	55.4
VAT[a]	1,002.4	932.4	1,078.3

a Includes all VAT on imports and national products.

Source: Eurostat, *Main National Accounts Tax Aggregates* (gov_10a_taxag). Viewed at: https://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=gov_10a_taxag&lang=en.

3.3. Customs procedures, as outlined in the relevant EU legislation, provide that a customs declaration and/or a temporary storage declaration be filed when goods are brought into the customs territory of the Union. Depending on the mode of transport, an entry summary declaration must be lodged at the customs office of first entry within a specific time limit before the goods are brought into the customs territory of the Union. An arrival notification must be sent to inform the customs office of first entry that the vessel or aircraft has arrived. Thereafter, goods brought into the customs territory shall, from the time of their entry, be subject to customs supervision and may be subject to customs controls, before release of the goods. Where the placing of goods under a customs procedure gives rise to a customs debt, the release of the goods shall be conditional upon the payment of the amount of import duty corresponding to the customs debt or the provision of a guarantee to cover that debt. Some costs are charged to the holder of the goods in case of special circumstances such as customs services performed outside normal working hours or premises, exceptional control measures, and the return, sampling, or destruction of goods.

[1] The EU customs territory includes the customs territory of the Union as defined in Article 4 of Regulation (EU) 952/2013. The United Kingdom withdrew from the European Union on the basis of the "Withdrawal Agreement" (Section 2.3.2.1.1).

[2] New sources of revenue contained therein include national contributions based on the amount of plastic packaging not recycled, and from 2023 possible revenues from the carbon border tax adjustment scheme and a digital levy. Council Decision (EU, Euratom) 2020/2053.

[3] European Commission (2022), *Taxation Trends in the European Union*. Viewed at: https://op.europa.eu/en/publication-detail/-/publication/f85da28f-f5be-11ec-b976-01aa75ed71a1.

3.4. The European Union has 52 agreements on customs cooperation and mutual assistance with 87 other countries.[4] During the review period, three new agreements entered into force with the Solomon Islands, the United Kingdom, and Viet Nam. The agreement with the United Kingdom was particularly important as it provides for an automatic exchange of information.

3.1.1.1 Recent and future developments

3.5. New rules on e-commerce were implemented that contain procedures for the importation of low-value consignments, including removal of the import VAT *de minimis* exemption. As explained in the previous Report, the legal changes were implemented through Commission Delegated Regulation (EU) 2019/1143 in 2019 but were applied only as of 1 July 2021. Thus, low-value consignments, i.e. those not exceeding EUR 22 that were previously imported free of VAT without specific formalities, are now subject to an electronic customs declaration. However, in part to address concerns about fraud, the VAT exemption was removed, effective 1 July 2021, thus VAT is now collected on all shipments, including low-value consignments.

3.6. To facilitate this change, the Import One-Stop Shop (IOSS) was introduced to simplify the declaration and payment of VAT for distance sales of low-value consignments dispatched from third territories and third countries.[5] The IOSS can be used for imported goods not exceeding EUR 150 and it requires the registration of an electronic interface established in the European Union, or an EU-established intermediary. Where the IOSS cannot be used, the European Union has introduced Special Arrangements that act as an alternative simplification. These Special Arrangements are tailored to postal operators and express carriers that complete declarations on behalf of customers.

3.7. Pursuant to the European Union's Import Control System 2 (ICS2) Release 2 (Table 3.3), the new customs pre-arrival security and safety programme, imported goods arriving by air as of 1 March 2023 will be required to submit advance cargo information to customs. Therefore, prior to the goods' loading and arrival, the economic operator is required to submit a complete entry summary declaration. During the period July 2022 to February 2023, conformance testing was undertaken to verify conformity of all importers with the new system. Furthermore, Release 3 of ICS2 is previewed for implementation on 1 March 2024 for goods imported via maritime and inland waterways, roads, and railways where the same pre-arrival information is to be submitted in advance.

3.8. In response to the COVID-19 pandemic, the European Union put in place many measures to ease the burden on customs and further facilitate the flow of goods. In general, these were flexibilities introduced in 2020 using the existing framework and concern matters such as extension of time limits, use of digital signatures, longer periods to amend declarations, use of partial release of shipment provisions for personal protective equipment (PPE), submission of proof of preferential origin (Section 3.1.2.2), use of simplified declarations without prior authorization, alternative identification measures to sealing, and use of temporary admission procedures.[6]

3.9. More recently, as announced in July 2022, the European Union launched a consultation process to reform the customs framework with a particular aim of creating a stronger framework to protect citizens and the single market.[7] It invited businesses and other stakeholders to submit proposals until 14 September 2022, whereafter it is expected that a proposal would be forthcoming in the first half of 2023.

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[4] European Commission, *Customs Cooperate*. Viewed at: https://taxation-customs.ec.europa.eu/customs-4/eu-customs-union-facts-and-figures/customs-cooperate_en.

[5] During the first six months of its operation, the IOSS had 8,000 registered users and generated EUR 1.9 billion. European Commission (2022), "New VAT Rules for Online Purchases Brought €1.9 Billion in Revenues for Member States in Their First Six Months Alone", 15 March. Viewed at: https://taxation-customs.ec.europa.eu/news/new-vat-rules-online-purchases-brought-eu19-billion-revenues-member-states-their-first-six-months-2022-03-15_en.

[6] European Commission, *Guidance on Customs Issues Related to the COVID-19 Emergency*. Viewed at: https://taxation-customs.ec.europa.eu/covid-19-customs-guidance-trade_en.

[7] European Commission (2022), "Commission Seeks Views on Upcoming EU Customs Reform", 22 July. Viewed at: https://taxation-customs.ec.europa.eu/news/commission-seeks-views-upcoming-eu-customs-reform-2022-07-22_en.

3.10. Regarding the EU's policy direction on customs, a strategic foresight document was issued in 2020, *The Future of Customs in the EU 2040*, in which possible future long-term visions were presented along with a number of scenarios (Box 3.1).[8] According to the initiative, it was issued to stay updated with rapidly changing world developments so that the European Union can adapt and anticipate future changes. The European Union also commissioned a report called *Putting More Union in the European Customs*, with 10 recommendations, mainly to address how to manage electronic commerce and EU-wide risks.[9]

Box 3.1 Overview of possible future customs developments

Main insights and recommendations

- To have a centralized, joint governance structure to operationally manage the Customs Union.
- The stakeholders involved in the foresight process believe that harmonization of member States' IT systems, or in the mid to longer term moving to one EU IT system, is crucial for the efficient functioning of EU Customs.
- EU Customs will have to align with the developments in the trade sector and leverage technology to ensure its operations are effective. This will require substantial investment in equipment, infrastructure, research, and innovation.
- The creation of a fully integrated IT Customs system, Smart Border Crossing, common EU Sanctions system, and the implementation of the Single Window as well as the development of the next level Single Window.
- The increased use of technology in the future will require enhanced skills and competencies for customs officers.
- To drive international reforms, EU Customs would need to strengthen its own governance to be able to speak with one voice and have a strong influence within international organizations.
- The full and proper implementation of the UCC and the Customs Action Plan by 2025 will thus provide the foundation for further developing EU Customs in the long term.

Main areas of challenge

- Trade, business support, and protection
- Data management and technology
- Customs capacity and human resources
- Climate change and the sustainable transition
- Future of international relations and geopolitical conflicts
- Customs' contribution to the European project
- COVID-19 and similar future crisis with global impact
- Customs governance

Source: Joint Research Centre (JRC), *The Future of Customs in the EU 2040*.

3.1.1.2 Legal framework and policies

3.11. The European Union's legal framework for customs remains the Union Customs Code (UCC) and its related Acts that were substantially implemented in May 2016 but with ongoing implementation in certain areas since that time. The previous Reviews provided detailed explanations of the UCC and its framework[10], thus discussion here is limited to subsequent developments and ongoing implementation. During the review period, the main area of ongoing work under the UCC was to implement the electronic customs systems (Section 3.1.1.3), which was originally expected in 2020 but was extended until 2025 for a certain number of processes.

3.12. The UCC provides the overall legal framework for the European Union's customs rules and procedures by combining EU legislation in one package and is expected to lead to greater harmonized application and simplicity. It is complemented by three subsidiary acts and a work programme (Table 3.2). There have been a number of amendments to the subsidiary acts for various purposes but the overall framework has not changed.

[8] Joint Research Centre (JRC), *The Future of Customs in the EU 2040*. Viewed at: https://publications.jrc.ec.europa.eu/repository/bitstream/JRC121859/the_future_of_customs_in_the_eu_2040_report_final2_online_1.pdf.

[9] Wise Persons Group on the Reform of the EU Customs Union (2022), *Putting More Union in the European Customs: Ten Proposals to Make the EU Customs Union Fit for a Geopolitical Europe*. Viewed at: https://taxation-customs.ec.europa.eu/system/files/2022-03/TAX-20-002-Future%20customs-REPORT_BIS_v5%20%28WEB%29.pdf.

[10] WTO documents WT/TPR/S/395/Rev.1, 7 July 2020; and WT/TPR/S/357/Rev.1, 13 October 2017.

Table 3.2 EU framework legislation on customs and main amendments 2020-22

Legislation	Overview	Legal reference	Main amendments 2020-22
Union Customs Code (UCC)	Main customs law	Regulation (EU) 952/2013	None
UCC Delegated Act (UCC DA)	Supplementing non-essential elements of the UCC	Commission Delegated Regulation (EU) 2015/2446	Definition of intrinsic value, express consignment, express carrier; formalities for military movements; amendments to the time limits for lodging entry summary declarations; facilitation for the import and export of human organs for transplants, entry summary declaration for ICS 2; amendments due to the United Kingdom's withdrawal from the European Union; harmonization of common data requirements for the exchange and storage of information in relation to customs declarations; declaration of certain low-value consignments; and amendments to non-preferential origin related rules
UCC Transitional Delegated Act	Provides transitional measures until the IT systems are fully operational	Commission Delegated Regulation (EU) 2016/341	Amends definition of express consignments and rules regarding member States' obligations to report on the progress regarding IT developments
UCC Implementing Act (UCC IA)	Ensures uniform implementation of the UCC and harmonized application by member States	Commission Implementing Regulation (EU) 2015/2447	Procedures for low-value consignments, issues related to the deployment of ICS 2, procedural rules for the movement of military goods, criterion for the status of authorized economic operator, consequential changes due to the United Kingdom's withdrawal from the European Union, harmonization of formats and codes for common data requirements
UCC Work Programme	Development and deployment of the electronic systems	Commission Implementing Decision (EU) 2019/2151	None
Regulation on the EU Single Window Environment for Customs	To establish the EU Single Window Environment for Customs and its components, the National Single Windows, the central EU Customs Single Window Certificates Exchange system (EU CSW-CERTEX) for the Government-to-Government (G2G) and Business-to-Government (B2G) functionalities	Regulation (EU) 2022/2399 Entry into force from 12/12/2022	None

Source: Compiled by the WTO Secretariat from the regulations listed.

3.13. During the early part of the review period, EU customs policy and direction were guided by the multiannual action programme Customs 2020 until 31 December 2020. It was geared towards computerization, facilitating trade, reducing costs, and improving the harmonized functions of Customs.[11] With a budget of EUR 523 million over the period 2014-20, it has been credited with improving risk management to enable more targeted customs controls, offering more support to customs authorities through training and competency standards, and developing 56 IT systems supporting businesses and national customs administrations.[12]

3.14. In March 2021, a new regulation on the Customs programme 2021-27 (Regulation (EU) 2021/444) was approved by the Commission to continue the Customs programme for greater cooperation and enhanced capacities. It repealed the earlier Regulation on Customs 2020 and was made retroactive to 1 January 2021 with a continuation until 31 December 2027. It has an overall expected budget of EUR 950 million and four specific objectives over the period: (i) preparation and

[11] Regulation (EU) 1294/2013.
[12] Taxation and Customs Union, *Customs 2020*. Viewed at: https://taxation-customs.ec.europa.eu/system/files/2022-04/TAXUD-Infographic-CUSTOMS2020_1.pdf.

uniform implementation of customs legislation and policy; (ii) customs cooperation; (iii) administrative and IT capacity-building, including human competency and training, as well as the development and operation of European electronic systems; and (iv) innovation in the area of customs policy.[13]

3.15. The Regulation on the EU Single Window Environment for Customs (Regulation (EU) 2022/2399) entered into force on 12 December 2022. The initiative has run so far in pilot mode and the Regulation makes it mandatory for all EU member States to join the Government-to-Government component of the initiative by early 2025, i.e. the first phase. In the second phase, previewed for 2031, a Business-to-Government scheme is to be put in place.[14] Further, the Regulation allows member States to develop their single window systems as they see fit so long as the basic EU functionalities are in place.

3.1.1.3 Electronic systems

3.16. The European Union's electronic IT systems for customs remain one of the outstanding items of the UCC with ongoing implementation. Furthermore, the deadlines and expected operationalization of several systems have been delayed several times. The most recent decision setting out the revised target dates was established in December 2019; it set target dates of 2020, 2022, and 2025.[15] Most of the 17 systems are to be developed at the trans-European level by the Commission but may involve certain member State updates as well (11), whereas 3 have a hybrid involvement of both the Commission and member States, and 3 are to be developed exclusively by member States.

3.17. As of December 2022, 6 of the 17 systems were fully implemented (Table 3.3). According to a Commission progress report, "the projects continue to be mostly on track and feasible for completion in line with the planning" but "the challenges to meet the legal deadlines are situated primarily on the side of the Member States".[16]

Table 3.3 Overview and implementation of electronic systems under the UCC, December 2022

Electronic system	Description	Deployment		Member State status
		Start date	End date	
1. UCC Registered Exporter System (REX)	Registered exporters under GSP	01/01/2017	Implemented	Completed
2. UCC Binding Tariff Information System (BTI)	Alignment, monitoring and surveillance of binding tariff information	2017-19	01/12/2023	In progress
3. UCC Customs Decisions	Processes for customs decisions, decision-making and decision management	02/10/2017	Implemented	Completed
4. Direct trader access to European Information Systems (UUM&DS)	Services for user-to-system interfaces	02/10/2017	Implemented	Completed
5. UCC Authorised Economic Operators System (AEO) upgrade	Implements business processes related to AEO applications and authorizations	2018-19	Implemented	Completed
6. UCC Economic Operator Registration and Identification System upgrade (EORI2)	Upgrade of the existing EORI	05/03/2018	Implemented	Completed
7. UCC Surveillance 3	Upgrade of the existing Surveillance 2+ system	01/10/2018	Implemented	In progress
8. UCC Proof of Union Status (PoUS)	New system to store, manage and retrieve the Proofs of Union Status	01/03/2024, 02/06/2025	01/03/2024, 02/06/2025	Not started
9. UCC New Computerised Transit System (NCTS) upgrade	Upgrade existing NCTS to new UCC requirements	2021-2024	2023-2025	For phase 5, 14 completed technical specifications

[13] Regulation (EU) 2021/444.
[14] European Commission, *The EU Single Window Environment for Customs*. Viewed at: https://taxation-customs.ec.europa.eu/eu-single-window-environment-customs_en.
[15] Commission Implementing Decision (EU) 2019/2151.
[16] European Commission Report COM(2021) 791 final.

Electronic system	Description	Deployment		Member State status
		Start date	End date	
10. UCC Automated Export System (AES)	System for exports and exit	01/03/2021	01/12/2023	27 planned to start operations during 2021-23
11. UCC Information Sheets (INF) for Special Procedures	Develop a new trans-European system to streamline INF data management	01/06/2020	Implemented	Completed
12. UCC Special Procedures	Harmonizes Special Procedures across the Union	01/03/2021, To be defined	01/12/2023, To be defined	Component 1, 9 completed; component 2, 14 completed
13. UCC Notification of arrival, presentation notification and temporary storage	Further defines the processes for arrival, presentation, and temporary storage	To be defined	To be defined	3 components completed by 1, 6, and 4 member States
14. UCC National Import Systems upgrade	Relates to all other processes of the import domain	To be defined	To be defined	15 completed technical specifications
15. UCC Centralised Clearance for Import (CCI)	Centralised clearance for goods under a customs procedure	01/03/2022, 02/10/2023	01/12/2023, 02/06/2025	For phase 1, 8 have completed
16. UCC Guarantee Management (GUM)	Assurance of real time allocation and management of the guarantees across member States	02/10/2023, To be defined	02/06/2025, To be defined	7 have deployed
17. UCC Import Control System (ICS 2)	Strengthening the safety and security of supply chains	2021-2024	2021-2024	For release 1, 27 started operations in October 2021

Note: "To be defined" is as mentioned in the Work Programme and is dependent upon the member States, national plans, or other processes and systems.

Source: Commission Implementing Decision (EU) 2019/2151; and European Commission, *UCC – Work Programme*. Viewed at: https://taxation-customs.ec.europa.eu/customs-4/union-customs-code/ucc-work-programme_en; European Commission Report COM(2021) 791 final; and information provided by the authorities.

3.1.1.4 Trade facilitation

3.18. EU member States ratified the WTO Agreement on Trade Facilitation Agreement (TFA) in 2015 and were parties to the TFA when it entered into force in 2017. The Commission and member States have been supportive of implementation and have provided grants, technical assistance, capacity-building, and other support to developing and LDC WTO Members since the beginning and throughout the review period.[17] The latest information on assistance and support submitted to the Committee on Trade Facilitation shows that the European Union has supported 139 countries through bilateral or regional initiatives. Total budgeted spending was EUR 447 million on regional initiatives and EUR 368.4 million on single-country programmes.[18] Notifications during the 2017-21 period provide details on member State trade facilitation assistance.[19]

3.19. The European Union joined the initiative of a group of Members pledging accelerated implementation of certain TFA provisions[20] to support the global COVID-19 response. The European Union was one of 25 Members committed to accelerated implementation and requested other Members to do the same.[21] In another communication, the European Union proposed that WTO Members share their experiences about reforms and changes made in response to the pandemic so that it could be compiled for discussion in the Committee.

3.20. Since implementation of the TFA, the European Union has made notifications to the Committee with respect to Articles 1.4 (Publication of information), 10.4.3 (Single window),

[17] The European Union also provides assistance on a regional basis and to non-WTO Members as well.

[18] WTO documents G/TFA/N/EU/2/Add.3 and Corr.1, 16 December 2021 and 3 February 2022. As reported therein, even though it may be an overestimate as some figures refer to a whole package including a TF component without a separate budget.

[19] WTO documents G/TFA/N/EU/2, 20 July 2017; G/TFA/N/EU/2/Add.1, 28 September 2018; G/TFA/N/EU/2/Add.2, 14 June 2019; and G/TFA/N/EU/2/Add.3, 16 December 2021.

[20] Articles 1, 7.1, 7.3, 7.8, 8, 10.1, 10.2, and 10.4 in the latest revision of the proposal.

[21] Based on latest revision, WTO document G/TFA/W/25/Rev.9, 8 April 2022.

10.6.2 (Customs brokers), 12.2.2 (Exchange of information contact point), 22.1 (Assistance and support for capacity-building), and 22.2 (Contact points and information for providing assistance).[22]

3.21. EU provisions on various TFA elements are included in the UCC or its subsidiary legislation with varying degrees of developments and reforms ongoing (Section 3.1.1.3 for electronic systems/single window). With respect to advance rulings, the European Union has had binding tariff information (BTI) in place for many years. BTIs are issued by member State customs authorities and are valid for three years. Information on BTIs is shared among member States and with the public through the European Binding Tariff Information (EBTI) database.[23] A similar process is in place for the determination of origin through the Binding Origin Information (BOI) procedure although there is no electronic system and these are requested and issued in paper form. However, an IT system for the management of BOI and Binding Value Information (BVI) (see below) is planned to be developed and become operational by 2025. In 2018, the Commission initiated exploratory consultations on the interests for BVI; it was followed by a feasibility study in 2020. It is expected that implementing regulations on establishing the BVI will be adopted in the second quarter of 2023, with the aim of making the BVI system operational by 2025 once the IT management system for BOI and BVI becomes available.[24]

3.22. The EU Authorised Economic Operator (AEO) Programme has been in place for over a decade and it continued to operate with more than 18,100 valid authorizations in 2022. There remain two types of AEO, one for customs simplification programmes (AEOC) and another for security and safety (AEOS), with the possibility to have both AEOC and AEOS status. About half the authorizations are for AEOC (47%) and half for AEOC/AEOS combined (49%); only 4% are for AEOS.[25] Once the AEO status is achieved, the benefits include fewer controls (both physical and document based controls), prior notification and priority treatment, and Customs simplifications. At present, there is no mutual recognition with third countries for AEOC, but there is for AEOS. Mutual recognition covering the AEOS status has been concluded with China, Japan, Norway, Switzerland, the United States, and most recently the Republic of Moldova, which entered into force on 1 November 2022. The mutual recognition decision with Canada was signed on 28 October 2022 but will only become operational once the automatic data exchange is established, which is expected for 2023. Negotiations are currently ongoing with Türkiye and Singapore. These agreements only cover the AEO status for security and safety. As part of its efforts to facilitate legitimate trade, the Commission plans further improvements of its trusted trader programme.[26] For future agreements, the emphasis on monitoring the compliance with the respective programmes will be further enhanced, according to the Commission.

3.23. The European Union's system of risk management has undergone further development during the review period (see Section 3.1.1.5 on undervaluation). In January 2022, the European Union's new risk management system, Customs Risk Management System (CRMS2), was launched through a new electronic interface. CRMS2 is part of the EU-wide common risk management framework and was put in place to facilitate the exchange of risk-related information between customs administrations. It connects 660 customs offices and national centres and 2,680 customs officers and risk experts.[27] The Commission has established common risk criteria and standards for identifying high-risk goods, but has not made this publicly available. As part of the Commission's methodologies, there may be priority control areas established on the basis of the type of goods, traffic routes, means of transport, type of economic operators, and type of customs procedure.

[22] WTO document symbol series G/TFA/N/EU/1 and G/TFA/N/EU/2, including addenda, revisions, etc.

[23] European Commission, *European Binding Tariff Information (EBTI)*. Viewed at: https://ec.europa.eu/taxation_customs/dds2/ebti/ebti_home.jsp?Lang=en.

[24] European Commission, *Strategic Plan 2020-2024: DG Taxation and Customs Union*. Viewed at: https://commission.europa.eu/system/files/2020-10/taxud_sp_2020_2024_en.pdf.

[25] European Commission, *What Is AEO?* Viewed at: https://taxation-customs.ec.europa.eu/customs-4/aeo-authorised-economic-operator/what-aeo_en.

[26] European Commission, *Strategic Plan 2020-2024: DG Taxation and Customs Union*.

[27] Information provided by the authorities.

3.1.1.5 Customs valuation

3.24. The EU customs valuation legislation did not undergo significant changes during the review period and the last substantial revisions were as a result of the implementation of the UCC and its related regulations in 2016.[28] Thus, the main framework remains intact with the primary valuation method being the transaction value, followed by the other valuation methodologies applied in sequential order as per WTO and EU rules.[29] However, there have been developments in the guidance and practice for EU customs valuation.

3.25. In September 2020, the Commission published a new Guidance document on customs valuation that provides explanations (not legally binding) on the application of Articles 128, 136, and 347 of the UCC IA.[30] It clarifies the sale for export provisions under the transaction value and how payments for royalties and licence fees are to be taken into account for the customs value, among other things. This document was published in the European Union's Compendium of customs valuation texts.[31]

3.26. The Compendium contains all guidance concluded by the European Union's Customs Code Committee and the Customs Expert group – Customs Valuation Section, as well as summaries of the Court of Justice of the European Union judgements relevant for customs valuation. The guidance texts in the Compendium are of an explanatory nature and are not legally binding. The aim of the Compendium is to support the member States' customs administrations and all interested parties in the uniform application of the EU customs valuation legislation. The Compendium is updated regularly, with the most recent version published in July 2022.[32]

3.27. Customs undervaluation remains an important issue that is addressed by the European Union and its member States. Ongoing evaluation and controls of the EU Budget in recent years have recognized that undervaluation fraud has impacted, and continues to impact, customs revenues. The European Anti-Fraud Office (OLAF) has investigated many customs undervaluation cases in recent years, mainly concerning textiles and shoes imported from China and circulated and distributed through several member States. For example, a 2021 investigation case by OLAF involving undervaluation fraud of imports of textiles and footwear into the Netherlands and Belgium indicated that EUR 27 million was outstanding.[33]

3.28. In response to those findings, the Commission and member States have elaborated common financial risk criteria (FRC) to be applied by member States when controlling goods for release for free circulation. The decision establishing the FRC was adopted in 2018 and started to be implemented in 2019. One of the criteria aims at addressing the risk of undervaluation and includes the methodology and findings identified during common actions and joint investigations. The purpose of the criteria is that they have to be applied by all the member States and they define a level of risk, which will guide the decision to carry out a control or not. It is thus a first attempt towards a systematic common approach on risk-based controls covering the risk of undervaluation fixed in law (see also Section 3.1.1.5).

3.29. Following previous exploratory work in 2018, the Commission plans to offer binding rulings on customs valuation, so-called BVI (Section 3.1.1.4).

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[28] WTO document WT/TPR/S/357, 17 May 2017, Section 3.1.2.

[29] The transaction value of identical goods; transaction value of similar goods; deductive method; computed method; and fall-back method (UCC, Article 74).

[30] European Commission, *UCC – Guidance Documents*. Viewed at: https://taxation-customs.ec.europa.eu/customs-4/union-customs-code/ucc-guidance-documents_en.

[31] For example, on the domestic sale principle.

[32] European Commission, *Compendium of Customs Valuation Texts*. Viewed at: https://taxation-customs.ec.europa.eu/system/files/2022-07/2022%20EU%20Valuation%20Compendium%20EN.pdf.

[33] For a similar examination by OLAF in 2020, *The OLAF Report 2020*. Viewed at: https://anti-fraud.ec.europa.eu/system/files/2021-12/olaf_report_2020_en.pdf. OLAF, *The OLAF Report 2021*. Viewed at: https://anti-fraud.ec.europa.eu/system/files/2022-09/olaf-report-2021_en.pdf.

3.30. On 24 June 2020, the European Union notified the WTO of changes to its customs valuation legislation as implemented by the UCC on 1 May 2016. Pursuant to Article 22.2 of the Agreement on Implementation of Article VII of GATT 1994, the notification indicates that the customs valuation provisions are contained in Articles 69-76 of the UCC; Articles 127-146, Article 347, and Annexes 23-01 and 23-02 of the UCC IA; Article 71 of the UCC DA; and Article 6 of the UCC Transitional Delegated Act.[34]

3.1.2 Rules of origin

3.31. Rules of origin are maintained by the European Union for non-preferential and preferential trade. During the review period, there were changes to both preferential and non-preferential rules of origin. Like many other policy areas, certain aspects of rules of origin were impacted by the COVID-19 pandemic and the European Union adjusted policy accordingly. As part of this response, the Commission put in place changes regarding certificates of proof of preferential origin, which were negatively impacted due to the necessity to obtain signed, stamped, paper documents and submit them to Customs. The flexibilities put forth to alleviate this situation include (i) acceptance of copies, either in paper or electronic form; (ii) retrospective issuance of certificates; and (iii) greater use of approved exporter status. All flexibilities remain in place.

3.1.2.1 Non-preferential

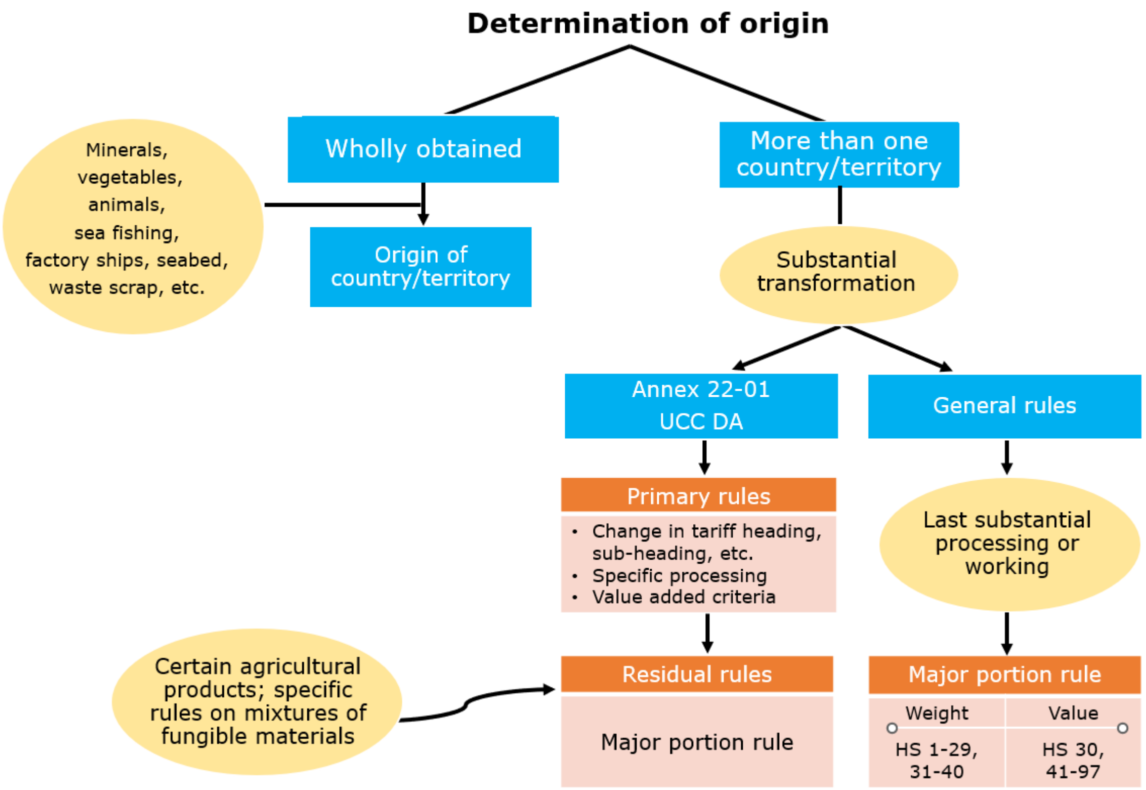
3.32. The European Union's non-preferential rules of origin are set out in Articles 60-61 of the UCC and further expanded upon in Articles 31-36 of the UCC Delegated Act (UCC DA), including Annex 22-01. Chart 3.1 outlines the rules and the process for determining origin. Essentially, the wholly obtained principle can be applied to certain goods when only one country/territory is involved in the production. When more than one country/territory is involved, the origin is determined by the criterion of the last substantial transformation either through the primary/residual rules listed in Annex 22-01 for certain products of 37 HS chapters or alternatively through the general rules and major portion rule, serving as a residual rule. The UCC DA was amended four times during the review period with one amendment focusing on changes to non-preferential rules of origin.[35] The amendments involved both technical adjustments and more substantial elements, as follows:

- Under the wholly obtained method, vegetables must be both grown and harvested in the respective country/territory;
- When general rules are applied followed by the major portion rule, goods in HS Chapters 1-29 and 31-40 will be determined using weight and not value of the contributing goods;
- Where the last transformation involves minimal operations, the major portion rule will apply, either using weight or value depending on HS chapter;
- The amended definition of "essential spare parts" removed the reference to goods previously exported; and
- Annex 22-01 was updated to incorporate the new HS22 nomenclature.

3.33. These amendments have not been notified to the Committee on Rules of Origin as of October 2022.

[34] WTO document G/VAL/N/1/EU/1, 30 June 2020.
[35] Commission Delegated Regulation (EU) 2021/1934.

Chart 3.1 Non-preferential rules of origin



Source: Compiled by the WTO Secretariat from the UCC and UCC DA.

3.1.2.2 Preferential

3.34. Preferential rules of origin are contained in various of the European Union's bilateral or regional agreements. In order to benefit from the preferential rates of duty, the imported goods must meet the specific rules of origin contained therein. Since the previous Review, the main developments were new FTAs or EPAs that entered into force with their own unique rules of origin. The other long-standing agreements have not changed; thus their preferential rules of origin remain as outlined previously.[36] The only exceptions were the agreements with Ukraine, Overseas Countries and Territories (OCTs), and the underlying Regional Convention on pan-Euro-Mediterranean preferential rules of origin (PEM Convention), which have been revised (see below).[37]

3.35. Although the various agreements contain unique preferential rules of origin, there are a number of common elements that the European Union uses in most of its agreements (Box 3.2). It continues to use all the different types of list rules, but in recent FTAs these rules have been simplified and made more flexible, allowing more non-originating input to reflect new economic realities and integration of industry with the global value chains, while ensuring that significant processing is conducted in a Party. Moreover, whenever relevant, there are alternative rules of origin to facilitate compliance with these rules for economic operators (Table 3.4). Rules on cumulation typically vary among the preferential agreements. The PEM Convention allows for diagonal cumulation. Thus, in addition to all agreements having bilateral cumulation on originating products, some have diagonal cumulation (e.g. PEM area or in the case of the new EPAs). There has been a shift in recent years with respect to proof of origin, whereby older agreements typically require government forms (EUR-MED, EUR.1) that require a stamp or other approval by officials, to self-certification of origin documents. In parallel with the development of the REX system, which had initially been used for GSP origin processing, in recent FTAs the exporters need to be registered in

[36] WTO document WT/TPR/S/395/Rev.1, 7 July 2020, Table 3.2.
[37] The rules of origin for GSP were amended slightly to reflect the new HS nomenclature. The Annexes in the UCC DA were updated by Commission Delegated Regulation (EU) 2021/1934.

the REX system to be entitled to self-certify that their products are originating, e.g. the United Kingdom and OCTs.[38] This is expected to be expanded to other agreements in the future.

Box 3.2 Main preferential rules of origin elements as contained in EU preferential agreements

List rules	– Wholly obtained requirement; – Change in tariff classification; – Value or weight limitation; – Specific working or processing; – Combination of one or more of the above rules.
Tolerance	Permits the use of non-originating materials up to a certain percentage or threshold: – General tolerance up to a percentage based on value or weight of the final product; – Specific tolerance rules apply to textiles and textile articles of HS Chapters 50 to 63.
Minimal operations	A list of minimal operations is included that defines the working or processing regarded as insufficient to confer origin.
Transport	Goods must be transported directly, i.e. from one party's territory to another (with limited exceptions – old EU FTAs). Consignments can be split in a third party under customs control while retaining the originating status of a product, provided that the product is not altered (non-alteration rule – recent EU FTAs).
Cumulation	– Bilateral; – Diagonal; – Regional; – Extended; – Full.
Territoriality	With limited exception, to obtain originating status, the working or processing on a good must be carried out without interruption in the territory of the European Union or partner country covered by the preferential agreement.
"No drawback" rule	Prevention of refunding duties due to drawback. Most agreements prohibit drawback with some allowing partial drawback over a transition period.
Proof of origin	– Government certificates (EUR.1, EUR-MED); – Self-certification (Approved Exporter, Registered Exporter (REX).

Source: *Preferential Trade: Guidance on the Rules of Origin*. Viewed at: https://taxation-customs.ec.europa.eu/system/files/2022-08/Guidance%20Preferential%20Origin%20%28Helsinki%29%20July%202022%20.pdf.

Table 3.4 Overview of new preferential rules of origin

Partner	Summary	Reference
Singapore	List rules: specific work or processing listed by HS chapter/subheading Cumulation: bilateral with ASEAN countries if applying a preferential agreement with the European Union (some materials are excluded), and with ASEAN countries benefitting from the GSP (limited to some products) Tolerance: most of agriculture[a], 10% of the weight, for non-ag, 10% of the value, except textiles[b] that have specific thresholds Non-originating materials not subject to drawback, or exemption from, customs duties	OJ, L 294, 14/11/2019
Viet Nam	List rules: specific work or processing listed by HS chapter/subheading Cumulation: bilateral, with ASEAN countries if applying a preferential agreement with the European Union (limited to squid and octopus), and for textile products (limited to products of Chapter 61 and 62) with fabrics originating in the Republic of Korea. Tolerance: most of agriculture[a], 10% of the weight, or of the value, for non-ag, 10% of the value, except textiles[b] that have specific thresholds	OJ L 186, 12/06/2020
United Kingdom	List rules: product specific rules by HS chapter/subheading Cumulation: bilateral Tolerance: most of agriculture[a], 15% of the weight, for non-ag, 10% of the value, except textiles[b] that have specific thresholds	OJ L 149, 30/04/2021

[38] Some agreements allow a registered/approved exporter status in lieu of REX.

Partner	Summary	Reference
Ukraine	Replacing the rules of origin in the Association Agreement with the relevant parts of the PEM Convention	OJ L 20, 23/01/2019
Overseas Countries and Territories (OCT)	List rules: specific work or processing listed by HS chapter/subheading Cumulation: bilateral, EPA countries (materials and processing) except South-Africa, GSP countries (Everything but Arms (EBA) and standard GSP where duties are 0%) with some exceptions of products and materials Tolerance: most of agriculture[a], 15% of the weight, for non-ag, 15% of the value, except textiles[b] that have specific thresholds	OJ L 355, 07/10/2021
ACP EPA	List rules: product specific rules by HS chapter/subheading, single transformation for textiles and clothing Cumulation: bilateral, diagonal between the parties of ACP EPA States, OCTs, South Africa (for duty-free, quota-free materials); origin quota with more flexible rule for tuna Tolerance: 15% in value	OJ C 69, 22/02/2019 OJ C 131, 24/03/2022 OJ C 211, 30/05/2022 OJ C 156, 8/05/2020 OJ C 407, 12/11/2018 OJ C 520, 27/12/2021

a Chapters 2 and 4 to 24 but excluding processed fish of Chapter 16.
b Chapters 50-63.

Source: Compiled by the WTO Secretariat based on the relevant agreements.

3.36. In addition, the PEM Convention, which many of the EU FTAs use as a basis for origin determination, underwent changes during the review period. At present, the PEM covers 23 Contracting Parties, mostly in the Euro-Mediterranean area, and harmonizes rules of origin to offer greater benefits, such as diagonal cumulation among its members. The PEM is an important part of the European Union's origin framework, as more than 40% of its preferential trade is determined through PEM origin rules.[39] The European Union has led efforts to revise, modernize, and simplify the PEM for many years but full agreement of all the parties has not been achieved. As a result, in 2020, there was an initiative to proceed with a majority of the PEM parties to start applying the new revised rules on a provisional basis while maintaining discussions to reach full agreement of all the parties.

3.37. This led to the so-called "Transitional rules of origin applicable in the PEM area", which are being applied along with the PEM Convention rules. Overall, the transitional rules provide more flexibility and are less stringent, except for products containing sugar, the limitation of non-originating sugar is expressed in weight instead of value. The main changes include a move to full cumulation whereby several countries can contribute to the preferential origin criteria[40]; thresholds for non-originating materials (tolerance) were increased from 10% to 15%[41]; and the "direct transport" rule was relaxed. The transitional rules were adopted in respect of 21 parties on 7 December 2020 with an expected target date for implementation of 1 September 2021. As of 1 September 2021, eight parties had implemented the new rules and the European Economic Area (EEA) had accepted them thereafter with retrospective effect.[42] Since that point in time, an additional five parties have adopted the changes.[43] As of end-2022, the European Union and 13 partners were applying the transitional rules and it was expected a number of others would apply it during 2023.

3.38. The Commission regularly publishes an overview or matrix of diagonal cumulation among the parties of the PEM, the latest one is from 2021.[44] The transitional rules are applicable in parallel with the PEM Convention and a matrix on diagonal cumulation in the framework of the transitional rules is also regularly published by the Commission.[45] Due to the United Kingdom's withdrawal from the

[39] European Commission, *Guidance: Transitional PEM Rules of Origin*, TAXUD/E4/AM/GD. Viewed at: https://taxation-customs.ec.europa.eu/document/download/f8214b8d-2179-4600-8692-a1aeb3ff9ab0_en?filename=PEM%20transitional%20RoO%20-%20Guidance%20V1_25.08.2021.pdf.
[40] Special rules apply for textile products.
[41] Special rules apply for textile products.
[42] Albania, Faroe Islands, Georgia, Iceland, Jordan, Palestine, Norway, and Switzerland.
[43] Kosovo*, Republic of Moldova, North Macedonia, Montenegro, and Serbia. *References to Kosovo shall be understood to be in the context of Security Council Resolution 1244 (1999).
[44] European Commission Notice PUB/2021/751.
[45] European Commission Notice PUB/2022/1286.

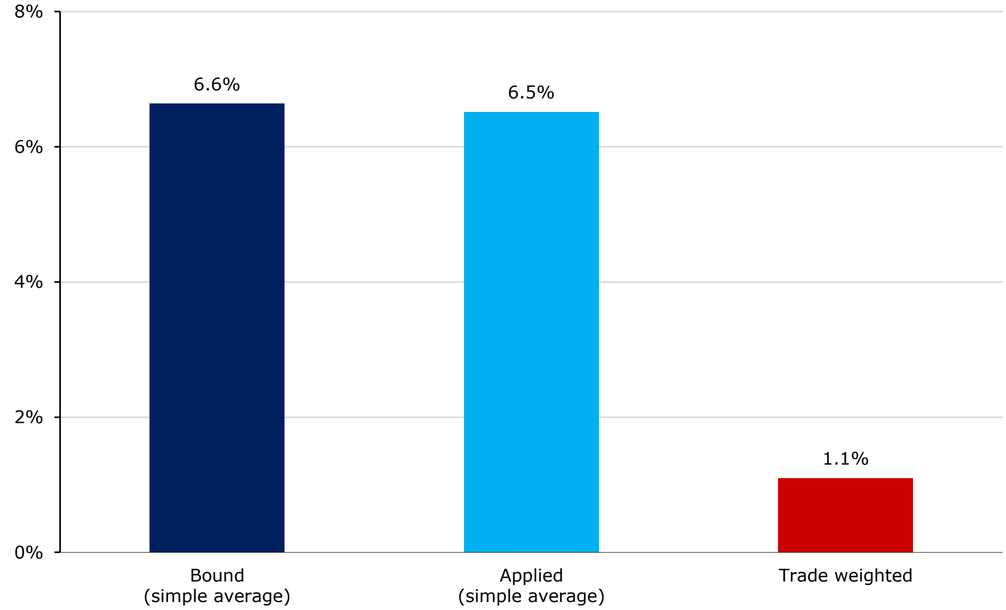
European Union (Brexit), the inclusion or exclusion of UK OCTs for diagonal cumulation with OCTs, GSP, and ACP EPA countries ceased as from 31 January 2020.[46]

3.39. Five notifications on preferential rules of origin were made to the Committee on Rules of Origin pursuant to paragraph 4 of Annex II of the relevant Agreement during the review period. These concerned the FTAs with Central American countries, Singapore, and Viet Nam, and the EPAs with Pacific States and Eastern and Southern Africa States.[47]

3.1.3 Tariffs

3.40. The European Union continued to apply tariffs on a majority of MFN trade, with an overall average applied rate of 6.5% (Chart 3.2). Bound rates were almost at the level of applied rates, i.e. 6.6%, thus very little binding overhang. However, the overall trade-weighted average was 1.1%, around one sixth of the simple average, reflecting significant trade in products that are duty-free or have relatively lower duties. Compared to other WTO Members' tariff averages[48], the European Union ranked 28th overall (lowest to highest averages), and had the third-highest average of the four Members in the TPR three-year review cycle, behind the United States and Japan, but ahead of China.[49]

Chart 3.2 Tariff averages, 2022



Note: Trade weighted averages were estimated using 2021 import data at the 8-digit level from Eurostat database.

Source: WTO Secretariat calculations based on IDB and Eurostat database; and information provided by the authorities.

3.1.3.1 Applied rates

3.41. The applied tariff structure and profile have not changed significantly since the previous Review; the rates of duty remain substantially the same. The simple average tariff rate increased slightly from 6.3% to 6.5% on account of the changes in *ad valorem* equivalents (AVEs) calculated for the non-*ad valorem* duties (Table 3.5). The number of non-*ad valorem* duties remained

[46] European Commission Notice PUB/2022/220.
[47] WTO documents G/RO/N/201, 21 July 2020; G/RO/N/202, 22 July 2020; G/RO/N/211, 4 February 2021; G/RO/N/219, 29 April 2021; and G/RO/N/222, 29 April 2021.
[48] Simple average of the *ad valorem* or *ad valorem* equivalent (AVE) HS six-digit duty averages.
[49] WTO, *World Tariff Profiles 2022*. Viewed at: https://www.wto.org/english/res_e/booksp_e/world_tariff_profiles22_e.pdf.

significant at about 10% of all tariff lines, thus this had an impact on the overall averages.[50] Other indices, such as the percentage of duty-free lines (27%) and percentage of lines with tariff peaks (6%), have been impacted by nomenclature changes, i.e. the addition of more lines created statistical discrepancies, whereas the underlying situation has not essentially changed. The number of duty-free lines increased slightly in absolute terms due to the ongoing implementation of staged reductions pursuant to the ITA II. The applied rates remained at or below the level of their WTO bindings for all products.[51]

3.42. In terms of sectors, high tariffs remain prominent in the agricultural sector, in particular in the dairy, animal and animal products, and sugar and confectionery subsectors (Table 3.6). Tariff peaks, or extremely high tariffs exist in these subsectors as well as in the beverage, fruit and vegetable, and other subsectors mainly due to high AVEs for products with specific or compound duties. Again, the highest tariffs result from the calculation of AVEs in nearly all cases and have led to a few outlying very high tariffs. On the other hand, many industrial sectors have very low tariff averages, i.e. metals, wood, machinery, and petroleum; the exceptions are fish and fish products and clothing, which have averages above 10%. Significant differences exist in the overall tariff averages for agricultural versus non-agricultural products, as agricultural tariff averages are more than three times (14.9%) higher than non-agriculture tariffs (4.3%). The use of non-*ad valorem* tariffs, i.e. specific, compound, mixed, agricultural components, additional duties, and entry prices, is prevalent in the agricultural sector.

3.43. In accordance with the EU policy on establishing a common organization of certain agricultural markets, the import duties on certain cereals are subject to change based on representative c.i.f. import prices. In April 2020, the Commission amended the import prices on cereals per the policy and respective procedures, and subsequently amended them several more times during the period from April to August 2020.[52] On 26 August 2020, the methodology for fixing the import duties resulted in zero import duties, subject to certain end-use and transport criteria, which remained in place for the rest of the review period.[53] Import duty rates on husked rice were also adjusted during the review period. The European Union changed the rates several times during the review period, the latest on 8 September 2022, pursuant to the agreement reached with the United States as a result of EU enlargement and negotiations under Article XXIV/XXVIII GATT 1994 on a mechanism that adjusts the import duty based on parameters such as import reference levels.[54]

Table 3.5 Structure of MFN tariffs, 2022

(%)

		MFN applied		Final bound
		2019[a]	2022[b]	2022[b]
1.	Bound tariff lines (% of all tariff lines)	100.0	100.0	100.0
2.	Simple average tariff rate	6.3	6.5	6.6
	Agricultural products (WTO definition)	14.2	14.9	15.1
	Non-agricultural products (WTO definition)	4.2	4.3	4.4
	Agriculture, hunting, forestry and fishing (ISIC 1)	7.7	8.1	8.8
	Mining and quarrying (ISIC 2)	0.2	0.2	0.2
	Manufacturing (ISIC 3)	6.2	6.5	6.6
3.	Duty-free tariff lines (% of all tariff lines)	27.0	26.7	25.6
4.	Simple average rate of dutiable lines only	8.7	8.9	9.0
5.	WTO tariff quotas (% of all tariff lines)[c]	4.5	4.7	4.7
6.	Non-*ad valorem* tariffs (% of all tariff lines)	10.7	10.5	10.6
7.	Non-*ad valorem* tariffs with no AVEs (% of all tariff lines)	3.1	1.8	1.8
8.	Domestic tariff peaks (% of all tariff lines)[d]	5.5	5.9	6.2
9.	International tariff peaks (% of all tariff lines)[e]	8.5	9.3	9.5
10.	Overall standard deviation of applied rates	10.0	10.1	10.2
11.	Nuisance applied rates (% of all tariff lines)[f]	6.8	6.9	7.0

[50] Both in terms of higher AVEs for many products, and the ability to include more AVEs in the calculations compared to 2019 (due to better availability of data).

[51] Both the bound and applied rates analysed were submitted by the European Union in their IDB submission. An analysis with WTO certified bound rates was not possible, as the last bound schedule was in HS02 and reflects the EU25 schedule.

[52] Commission Implementing Regulation (EU) 2020/573.

[53] Commission Implementing Regulation (EU) 2020/1221.

[54] The latest adjustment is contained in Commission Implementing Regulation (EU) 2022/1481.

	MFN applied		Final bound
	2019[a]	2022[b]	2022[b]
Number of lines	9,533	9,736	9,736
Ad valorem	8,512	8,718	8,701
Duty-free lines	2,572	2,603	2,495
Non-*ad valorem*	1,021	1,018	1,035
Specific	674	675	685
Compound	199	200	202
Mixed	64	64	62
Other[g]	84	79	86

a *Ad valorem* equivalents (AVEs) were estimated based on 2018 import data (extra-EU-28) at the 8-digit tariff from Eurostat database. In case of unavailability, the *ad valorem* part is used for compound and mixed rates. Duty rates under ITA Expansion (as of 1 July 2017) were taken into account in calculations.
b AVEs were estimated based on 2021 import data (extra-EU-27) at the 8-digit tariff from Eurostat database. In case of unavailability, the *ad valorem* part is used for compound and mixed rates. Duty rates under ITA Expansion (as of 1 July 2022) were taken into account in calculations.
c Information based on Official Journal of the European Union L 385 (29 October 2021).
d Domestic tariff peaks are defined as those exceeding three times the overall simple average applied rate.
e International tariff peaks are defined as those exceeding 15%.
f Nuisance rates are those greater than zero, but less than or equal to 2%.
g Other includes Agricultural Components (EA), Additional Duties for Sugar (AD S/Z), Additional Duties for Flour (AD F/M), and Entry Prices (EP).

Note: All tariff calculations exclude in-quota lines. Year 2019 and 2022 tariff schedules are based on HS17 and HS22, respectively. Both the bound and applied rates analysed here were submitted by the European Union in their IDB submission. An analysis with WTO certified bound rates was not possible, as the last bound schedule was in HS02 and reflects the EU25 schedule.

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

Table 3.6 MFN applied tariff summary, 2022

	Number of lines	Average (%)	Range (%) MFN applied	Duty free (%)	Non-*ad valorem* (%)
Total	9,736	6.5	0-149	26.7	10.5
HS 01-24	2,539	14.7	0-149	15.1	37.8
HS 25-97	7,197	3.7	0-40.3	30.8	0.8
WTO agricultural products	2,126	14.9	0-149	18.9	46.2
Animals and products thereof	354	22.0	0-101.5	15.0	68.6
Dairy products	153	35.8	1.5-148.6	0.0	99.3
Fruit, vegetables, and plants	515	12.7	0-112.9	11.8	15.5
Coffee and tea	47	11.4	0-18.7	14.9	51.1
Cereals and preparations	227	16.5	0-75.9	8.8	79.7
Oils seeds, fats, oil and their products	183	5.2	0-39.6	34.4	7.1
Sugars and confectionery	44	24.0	0-98.1	4.5	88.6
Beverages, spirits and tobacco	337	13.1	0-149	16.6	57.6
Cotton	6	0.0	0.0	100.0	0.0
Other agricultural products, n.e.s.	260	6.2	0-124.2	51.2	21.9
WTO non-agricultural products	7,610	4.3	0-26	28.9	0.5
Fish and fishery products	530	11.7	0-26	8.3	0.0
Minerals and metals	1,454	2.0	0-12	50.1	0.7
Chemicals and photographic supplies	1,351	4.4	0-17.3	25.2	0.3
Wood, pulp, paper and furniture	495	1.4	0-10.5	72.1	0.0
Textiles	847	6.6	0-12	2.0	0.1
Clothing	333	11.6	6.3-12	0.0	0.0
Leather, rubber, footwear and travel goods	259	5.0	0-17	22.0	0.0
Non-electric machinery	904	1.9	0-9.7	23.2	0.0
Electric machinery	478	2.1	0-14	37.4	0.0
Transport equipment	322	6.0	0-22	10.6	0.0
Non-agricultural products, n.e.s.	591	2.1	0-9.5	36.5	3.4
Petroleum	46	2.5	0-4.7	39.1	0.0
By HS chapter					
01 Live animals and products	965	17.5	0-148.6	11.5	39.7
02 Vegetable products	560	9.1	0-111.4	27.0	26.8
03 Fats and oils	137	6.9	0-39.6	17.5	8.8
04 Prepared food, beverages and tobacco	877	16.4	0-149	11.1	47.3
05 Mineral products	230	0.8	0-8	73.0	1.3
06 Chemicals and products thereof	1,262	4.4	0-40.3	26.2	2.1
07 Plastics, rubber, and articles thereof	303	4.6	0-6.5	21.5	0.0
08 Raw hides and skins, leather, and its products	130	3.1	0-9.7	34.6	0.0
09 Wood and articles of wood	266	2.4	0-10	50.0	0.0
10 Pulp of wood, paper and paperboard	194	0.0	0.0	100.0	0.0
11 Textiles and textile articles	1,143	8.0	0-12	3.5	0.1

	Number of lines	Average (%)	Range (%) MFN applied	Duty free (%)	Non-*ad valorem* (%)
12 Footwear, headgear, etc.	106	8.2	0-17	1.9	0.0
13 Articles of stone, plaster, cement	242	4.0	0-12	14.0	2.9
14 Precious stones and metals, pearls	58	0.6	0-4	81.0	0.0
15 Base metals and articles thereof	960	1.9	0-10	51.6	0.0
16 Machinery, electrical equipment, etc.	1,394	1.9	0-14	29.6	0.0
17 Transport equipment	338	5.9	0-22	10.7	0.0
18 Precision equipment	295	1.7	0-6.7	46.1	6.8
19 Arms and ammunition	22	2.2	0-3.2	18.2	0.0
20 Miscellaneous manufactured articles	235	2.6	0-10.5	25.1	0.0
21 Works of art, etc.	19	0.0	0.0	100.0	0.0

Note: Calculations are based on national tariff line level (8-digit), excluding in-quota rates and including AVEs. The tariff schedules are based on HS22 nomenclature, consisting of 9,738 tariff lines (at the 8-digit tariff line level). AVEs were estimated based on 2021 import data (extra-EU-27) at the 8-digit tariff. In case of unavailability, the *ad valorem* part is used for compound and mixed rates.

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

3.1.3.2 Nomenclature, bound rates, and concessions

3.44. During the review period the European Union regularly updated its tariff nomenclature, i.e. Combined Nomenclature (CN), and made substantial amendments to implement the WCO's HS22 changes on 1 January 2022.[55] This update of the CN also incorporated the gradual reduction of duty rates under the ITA Expansion Agreement, included requirements for statistics and commercial policy, and amended classifications of certain pharmaceutical substances. As of end-2022 the European Union was under waiver for HS07, HS12, HS17, and HS22 changes to its schedule.

3.45. Furthermore, as a consequence of Brexit, the European Union and the United Kingdom had initiated Article XXVIII negotiations in 2018 to modify their respective schedules with respect to the concessions on tariff rate quotas (TRQs) for agricultural (Part I, Section I-B) and non-agricultural products (Part I, Section II).[56] There was agreement between them to apportion the TRQs, as outlined in Annex I of the European Union's submission, according to the respective trade flows during a representative three-year period. As at December 2022, the negotiations were still underway with one Member and the proposed amendments to the schedule had not been finalized, nor certified, pending a reservation.[57] The European Union's Schedule CLXXV (draft) has also undergone Article XXIV:6 negotiations in earlier years as a result of enlargement; the last two renegotiations from 2006 and 2013 have been concluded but not yet certified.[58] Thus, the latest EU bound schedule is from 2016 and updated in the HS02 nomenclature.[59]

3.1.3.3 Tariff rate quotas

3.46. There were changes to EU TRQ system during the review period, in part due to Brexit with the subsequent reallocation of quota volumes between the United Kingdom and the European Union, which was implemented after the end of the transition period, but also due to new initiatives taken, to improve the smooth management of TRQs, reduce speculation, and improve the ability to detect violations. EU TRQs continue to be used in three broad areas for different policy reasons: WTO TRQs, preferential TRQs, and autonomous TRQs (Section 3.1.3.4) (Table 3.7).[60]

[55] Commission Implementing Regulation (EU) 2021/1832.
[56] WTO document G/SECRET/42, 24 July 2018 and addenda; and G/SECRET/44, 21 December 2018.
[57] WTO document G/L/1385, 19 March 2021 and addenda have extended the six-month negotiating timeline until 1 July 2023.
[58] WTO documents G/MA/W/123/Rev.9, 18 March 2022; and G/MA/TAR/RS/506, 17 October 2017 and addenda. The latter proposed rectifications and modifications contain the changes to the EU Schedule on export subsidies, ITA Expansion, and Article XXVIII outcome on poultry, in addition to the enlargement outcomes.
[59] WTO document WT/Let/1220, 14 December 2016.
[60] The European Union also administers a TRQ pursuant to a bilateral agreement with the Russian Federation for the importation of certain spruce and pine wood. The TRQ is in response to an export quota from the Russian Federation that offers lower duties for exports to the European Union pursuant to the Russian Federation's WTO Accession Protocol.

Table 3.7 Overview of EU TRQs, by type, 2022

	WTO (Agriculture and non-Ag)	Autonomous	Preferential
Main elements	Implementing WTO concessions	Temporary access under quota at lower duty rates to meet insufficient supply by EU industry and to ensure adequate fishery products for the processing industry	Providing preferential access from FTA or other preferential agreement partners subject to origin criteria
Number of quota categories (or partners)	124 agriculture[a] 18 non-agriculture[a]	158	48 partners
Overseen by	DG TAXUD and DG AGRI	DG TAXUD and DG MARE	DG TAXUD
Main legislation	Regulation (EU) 1308/2013; Council Regulation (EC) 32/2000; Commission Delegated Regulation (EU) 2020/760 and Commission Implementing Regulation 2020/761 (for licence management); Commission Delegated Regulation (EU) 2020/1987 and Commission Implementing Regulation 2020/1988 for FCFS; Commission Delegated Regulation (EU) 2016/1237 and Commission Implementing Regulation 2016/1239	Council Regulations (EU) 2021/2283 and (EU) 2020/1706	Respective bilateral or regional agreement
Allocation method	First come, first served and country allocation through licences	First come, first served	Allocated to the partner country

a Although one was not open or used.

Source: Compiled by the WTO Secretariat in part from TARIC database and WTO document G/AG/N/EU/76, 15 March 2022.

3.47. EU TRQs are established per the regulation on the establishment of a common organization of markets in agricultural products from 2013, Regulation (EU) 1308/2013. It continues to provide the basic mandate and stipulates rules for tariff quota management and administration. However, it has recently been supplemented by four new regulations that replace or amend many of the TRQ management provisions for agricultural TRQs subject to licences and the "first come, first served" allocation method (Box 3.3). In some instances, the new management rules simply consolidate and reference previous rules in one place, but new provisions were also established, e.g. for the lodging of securities; managing over-demanded quotas; and facilitating new importers, in particular SMEs, to establish a new electronic system and transfer rights. Thus, taken in their entirety, the combined changes represent some of the most significant developments in TRQ administration in many years.[61]

3.48. The new rules also establish the Licence Operator Registration and Identification (LORI) electronic system, which requires prior compulsory registration for operators that wish to apply for a licence for certain TRQs that are deemed highly sensitive and/or highly demanded. At present, the LORI system is mainly applicable to poultry and poultry products, as well as to garlic. By registering operators in advance in the electronic system, it is expected that this would improve TRQ management by reducing speculation, discouraging circumvention, and promoting more efficient allocation. At the request of the Commission, member States gave their feedback on the practical effects of the introduction of LORI, highlighting in several cases a reduction in the number of applicants, which seems related to the reduction of speculative applicants. The list of TRQs subject to LORI registration may be expanded by implementing Regulations amending

[61] Furthermore, the most significant change of the licence regime for certain agricultural products was the change from a licensing management system to a first come, first served system for 21 TRQs, enacted by Commission Delegated Regulation 2020/1987 and Commission Implementing Regulation 2020/1988. See also WTO document G/AG/N/EU/72, 7 February 2022.

Commission Implementing Regulation (EU) 2020/761. In this sense, an amendment to make two poultry TRQs subject to LORI registration was recently implemented in January 2023.

Box 3.3 Main new legislation on TRQs, 2020-22

Legislation	Overview
TRQ management	
Commission Delegated Regulation (EU) 2020/760	Specific rules for transferability of a quota; rules for proof of minimum experience in that trade; for sensitive and high in demand quotas, a reference quantity for maximum quantities can be established with rules and proof for the reference quantity; rules on export licences; prior application and registration for high demand quotas in a dedicated electronic system; lodging and release of securities; setting up the LORI electronic system, etc.
Commission Implementing Regulation (EU) 2020/761, as amended	Sets out conditions for the administration of import tariff quotas subject to licences including quota periods, quantities, securities to be lodged, issuance and validity of licences, etc. There have been eight amendments; some amend concessions as a result of WTO Article XXVIII negotiation outcomes, while others are technical corrections.
Commission Delegated Regulation (EU) 2020/1987	Consolidates and simplifies EU rules governing management of TRQs subject to the first-come, first-served allocation method regarding the lodging and release of securities.
Commission Implementing Regulation (EU) 2020/1988	Sets out conditions for the administration of import tariff quotas subject to the first-come, first-served allocation method including quota periods, requirements for processing, end-use and quality, procedures to lodge a security, etc.
Brexit related	
Regulation (EU) 2019/216	Provides the basic rules for the apportionment of WTO TRQs following the withdrawal of the United Kingdom from the Union. The 2022 amendment adjusts the high-quality beef TRQ for Paraguay.
Commission Implementing Regulation (EU) 2019/386	Implementation of the TRQs apportioned in Regulation (EU) 2019/216. The 2020 amendment adjusts implementation for those quotas where the quota period commences before and straddles the implementation of the new apportioned TRQs.
Autonomous	
Council Regulation (EU) 2020/1706	Provides for autonomous tariff quotas for certain fishery products under 33 quota categories for the period 2021-23.
Council Regulation (EU) 2021/2283	Provides for autonomous tariff quotas where there is insufficient EU production.
Preferential	
Regulation 2020/2172	Extends or slightly amends the preferential access given through tariff quotas provided to the countries/territories under the Stabilisation and Association process until 31 December 2025.

Source: Compiled by the WTO Secretariat based on information from the Regulations.

3.49. As a result of the United Kingdom's withdrawal from the European Union in February 2020 and the applicable transition period up until end December 2020, the European Union's TRQs applied likewise to the United Kingdom as if it was still a member of the European Union during that time. Thereafter, on 1 January 2021, both parties implemented their agreed apportionment of TRQs.[62] The European Union's applied regime for WTO TRQs remains largely unchanged in structure and continued to mirror its bound commitments, although a majority of the quantities were reduced.[63] The apportionment involved a range of percentage allocations from 0% to 100%, but the

[62] Commission Implementing Regulation (EU) 2019/386.
[63] For details, including new quantities, of the proposed new apportioned TRQs in the EU schedule, see European Commission, *Brexit TRQ Apportionment*. Viewed at:

average was 78% retained by the European Union, and about 30% of all TRQ groupings kept the full EU allocation.[64] As a result of the agreement with the United Kingdom and proposed amendments to its schedule, the European Union excludes goods originating in the United Kingdom from all of its existing WTO TRQs. The WTO process to finalize the TRQ volumes in the schedule remained ongoing as of December 2022.

3.50. The European Union's WTO TRQs are in two categories: (i) agricultural, per schedule I-B and the Agreement on Agriculture; and (ii) other, for certain non-agricultural products (Table 3.8). There have been no significant changes, except as outlined above, and the number of quota categories and products subject to TRQs has not substantially changed since the previous review period.[65] There are 18 product categories for non-agricultural TRQs that mostly impact the fish sector, but there are also some on metals, glassware, textiles, and wood. Agricultural TRQs are quite diverse and are used for a wide range of agricultural goods from basic commodities to processed foods and beverages. The use of TRQs has not shown any particular trends, as about 30% of agricultural TRQs are fully utilized, comparable to the previous Review, and about 25% have not been used at all (i.e. 0% fill rate); the overall average fill rate was 39%.

Table 3.8 Overview of WTO TRQs, 2022

Agriculture	
Number of quota categories	124[a]
Main products covered	Meat, dairy, cereals, fruits, vegetables, processed ag products
Percentage allocated by licences vs. first-come, first-served	35% vs 65%
Average fill rate	39%
Percentage of lines with 100% fill	29%
Percentage of lines with 0% fill	25%
Non-agriculture	
Number of quota categories	18[a]
Main products covered	Fish, fish products
Average fill rate	51.5%
Percentage of lines with 100% fill	41%
Percentage of lines with 0% fill	41%

a Although one was not open or used.

Note: Quota fill rates are for calendar or marketing year 2021.

Source: TARIC database; and WTO document G/AG/N/EU/76, 15 March 2022.

3.1.3.4 Temporary rates, duty suspensions, and additional duties

3.51. The European Union has regularly and consistently offered temporary duty suspensions or lower tariff rates on certain products as part of its trade policy in recent decades. Generally, these take two broad forms: (i) quantitative measures implemented through autonomous TRQs (Section 3.1.3.3); and (ii) temporary suspension of MFN customs duties. Furthermore, the European Union has taken a number of other initiatives to temporarily reduce duties in response to unprecedented crises during the review period.

3.52. The EU policy on the regularized temporary duty suspensions for the benefit of EU industry is directed by a 1999 communication on procedures and guiding principles, as last updated by a 2011 communication on procedures and guiding policy principles, which sets out that temporary suspensions are an exception to the general rule and that they should be non-discriminatory and

https://agriculture.ec.europa.eu/document/download/4b2651cc-d034-4d60-9cce-e2eb02d54b0d_en?filename=trq-apportionment_en.pdf. Similar information for the WTO process was circulated in WTO document G/SECRET/42 and its addenda. The Article XXVIII negotiations have not been concluded, thus the changes are not yet approved, nor certified, and thus remain restricted, although the European Union has implemented them.

[64] Analysis of the EU TRQ apportionment document. Viewed at: https://agriculture.ec.europa.eu/document/download/4b2651cc-d034-4d60-9cce-e2eb02d54b0d_en?filename=trq-apportionment_en.pdf.

[65] Table A3.1 of WTO document WT/TPR/S/395/Rev.1, 7 July 2020 is indicative in terms of products covered and rates, although most quota quantities have changed due to apportionment.

open to all enterprises.[66] Furthermore, the policy generally excludes the consideration of finished goods intended for sale to consumers and states that the specific interests of SMEs will be given special attention.

3.53. Two Regulations in place since 2013 had been amended biannually.[67] They remained in place during the review period until they were replaced, in December 2021, by two new Regulations structured in a similar fashion, i.e. one covering the suspension of duties and the other autonomous tariff quotas.[68] The Regulation on duty suspensions covers 2,330 products with 98% having a zero rate of duty; the majority are in the chemicals sector. For autonomous TRQs, there are 123 quota categories with 98% having a zero rate of duty, and the majority are in the chemicals sector.

3.54. The suspensions and TRQs became effective on 1 January 2022, but both were subsequently amended in June 2022 with changes coming into force as of 1 July 2022.[69] For autonomous TRQs, the Commission added five new quota orders, closed three existing orders, and amended the existing description of two orders. As for the duty suspensions, the amendments added 55 new product categories, deleted 8 suspensions, and amended the existing product description and/or classification for 18 product categories.

3.55. Temporary import customs duty and VAT relief was sought by certain member States in order to combat the COVID-19 pandemic, and the Commission responded with a decision in April 2020 to allow this relief on imports of certain goods[70] needed to combat the pandemic during the period 30 January 2020 to 31 July 2020. The Decision was subsequently amended several times, upon request of certain member States to extend the deadline continuously until 31 December 2022.[71] The member States that requested the application of the Decision should fulfil reporting obligations related to the goods imported. Italy implemented duty and VAT waiver within the context of the aforementioned Decisions from January 2020.

3.56. In response to the war in Ukraine, the Commission passed a decision in July 2022, retroactive to 24 February 2022, to allow duty-free and VAT-free imports of certain goods destined to help Ukrainians. The goods, although not definitively listed, include those provided free of charge to benefit persons fleeing the war in Ukraine (e.g. food, blankets, generators, and tents) imported by state organizations (public bodies) or charitable/philanthropic organizations approved by member State authorities.[72] The Decision was in place until 31 December 2022 and applied to 18 member States for the alleviation of customs duties.[73] In December 2022, 10 member States requested for its extension. The Commission examines member State requests and studies the possibility for a new Decision granting duty relief and VAT exemption on goods to be distributed or made available free of charge to persons fleeing the war in Ukraine and to persons in need in Ukraine.

3.57. Another regulation adopted during the period was to benefit Ukraine.[74] In May 2022, a regulation was passed on temporary measures that further liberalized trade and provided other concessions to Ukraine; it entered into force on 4 June 2022 and is set to expire on 5 June 2023. Pursuant to the European Union's Association Agreement with Ukraine, additional concessions were made on (i) removal of import duties on industrial products; (ii) suspension of the entry price system on fruit and vegetables; (iii) the suspension of TRQs and products subject to them enter duty-free; (iv) relief from anti-dumping duties; and (v) temporary suspension of the European Union's

[66] European Commission Communications 98/C 128/02 and 2011/C 363/02 concerning autonomous tariff suspensions and quotas.

[67] Council Regulation (EU) 2019/998; and Council Regulation (EU) 2019/999.

[68] Council Regulation (EU) 2021/2278; and Council Regulation (EU) 2021/2283.

[69] Council Regulation (EU) 2022/972; and Council Regulation (EU) 2022/1008.

[70] The indicative list of goods covered includes medical devices, medical consumables, masks, protective clothing, soap, disinfectant, test kits, medicines, vaccines, and laboratory articles. For a detailed listing see "COVID-19 – Indicative List of Products Eligible to be Imported Duty – VAT Free". Viewed at: https://taxation-customs.ec.europa.eu/system/files/2022-01/EU%20Indicative%20List%20Decision%20Covid19-C2020_491%20-%2011%20Jan%202022%20.pdf.

[71] Commission Decision (EU) 2022/1511.

[72] Commission Decision (EU) 2022/1108.

[73] Duty-free imports apply only to Austria, Croatia, the Czech Republic, Estonia, Finland, France, Greece, Hungary, Ireland, Italy, Lithuania, Luxembourg, Malta, the Netherlands, Poland, Romania, Slovak Republic, and Slovenia.

[74] Regulation (EU) 2022/870.

safeguard regulation. Ukraine is thus exempt from the existing steel safeguard measures that have been in place since 2018/2019.

3.58. As a result of the agreement concluded in November 2020 between the United States and the European Union regarding tariffs on certain products, the European Union temporarily eliminated duties, on an MFN basis, for four CN lines of fresh and frozen lobster during the period 1 August 2020 to 31 July 2025.[75] Other duty suspension measures or special import tariff regimes elaborated in previous reports, i.e. on certain parts and components for aircraft and for fixing representative prices for poultry meat, egg products, and egg albumin remained in force without any significant amendments.[76]

3.59. In July 2022, the Commission proposed to suspend tariffs on inputs for nitrogen fertilizers until 31 December 2024. Thereafter, in December 2022, the Council adopted measures on certain nitrogen fertilizer inputs[77], which have been applied since 17 December 2022.[78] The duties on these products are initially suspended for a period of six months, i.e. until 17 June 2023, and will be evaluated by 17 May 2023 with a view to possible extension.

3.1.3.5 Preferential rates

3.60. The European Union's preferential tariff rates are a result of the reciprocal and unilateral agreements that it has with partners giving lower or preferential duties. Since the previous Review, new agreements have entered into force with the United Kingdom and Viet Nam (Section 2)[79], thus the scope and number of preferential tariffs have increased. The agreement with the United Kingdom is comprehensive, resulting in 100% duty-free lines for all products. The agreement with Viet Nam has 84% duty-free lines, although it is still early in implementation, thus preferential tariff rates are still being phased in. However, the overall averages on tariff rates and percentages of duty-free lines remain largely unchanged.[80] On average, 89% of total tariff lines are duty-free as a result of the agreements, but there is a significant difference between agricultural (70%) and non-agricultural products (94%). In general, there is less coverage of agricultural products and higher rates applied when covered under the agreements. This is most pronounced in the FTAs with Algeria, Ceuta-Melilla, Faroe Islands, Liechtenstein, Norway, Switzerland, Syrian Arab Republic, and Tunisia, where the coverage of agricultural duty-free tariff lines is very low, i.e. less than 40%, and/or significant tariff rates remain on agricultural goods when covered (Table 3.9).

Table 3.9 Tariffs under preferential agreements, 2022

	Simple average tariff rate (%)			Duty-free lines as a percentage of total tariff lines (includes MFN duty-free lines) (%)		
	Overall	WTO agri.	WTO non-agri.	Overall	WTO agri.	WTO non-agri.
MFN	**6.5**	**14.9**	**4.3**	**26.7**	**18.9**	**28.9**
Algeria	2.7	12.9	0.0	84.5	29.4	99.9
Andorra	0.0	0.2	0.0	98.8	94.6	100.0
Canada[a]	0.4	1.7	0.0	96.9	88.6	99.3
Central America[a]	1.2	5.9	0.0	93.6	70.9	99.9
Ceuta-Melilla	2.8	13.0	0.0	84.9	31.0	99.9
Chile	2.1	9.9	0.0	90.0	55.2	99.8
EU-Colombia-Peru-Ecuador						
Colombia[a]	1.0	5.0	0.0	94.6	75.4	100.0
Ecuador	1.0	4.8	0.0	94.0	73.0	99.8
Peru[a]	0.7	3.5	0.0	95.7	80.5	99.9

[75] Regulation (EU) 2020/2131.
[76] Council Regulation (EU) 2018/581; and Commission Implementing Regulation (EU) 2022/2467.
[77] The conventional rates of duty on these items (CN 2814 10 00, 3102 10 10, and 3102 10 90) are autonomously suspended except for Belarus and the Russian Federation.
[78] Council Regulation (EU) 2022/2465.
[79] The FTA with Singapore entered into force in late 2019 and it was not possible to be included in the detailed tariff analysis of the previous Review.
[80] The statistics generally note a slight deterioration when in fact nearly nothing has changed. This is a result of a slight increase in AVEs as noted in Section 3.1.3.1 and changes in nomenclature that have adjusted the number of lines relative to the number of duty-free lines.

	Simple average tariff rate (%)			Duty-free lines as a percentage of total tariff lines (includes MFN duty-free lines) (%)		
	Overall	WTO agri.	WTO non-agri.	Overall	WTO agri.	WTO non-agri.
EFTA						
Iceland[b]	1.5	5.9	0.2	90.2	73.8	94.8
Liechtenstein[b]	2.7	11.7	0.3	82.0	38.0	94.3
Norway[b]	2.7	12.0	0.3	81.9	39.0	93.9
Switzerland	3.0	11.0	0.8	82.1	39.6	93.9
Egypt	0.2	0.7	0.0	99.0	95.9	99.8
EPA[c]	0.0	0.1	0.0	98.9	95.8	99.8
Faroe Islands	3.5	14.5	0.5	79.6	21.6	95.8
Georgia	0.0	0.2	0.0	98.8	94.5	100.0
Israel	0.6	2.6	0.1	95.6	81.1	99.6
Japan[a]	0.3	0.4	0.3	95.6	95.9	95.5
Jordan	0.7	0.2	0.8	94.0	95.1	93.7
Korea, Republic of[a]	0.1	0.3	0.0	99.5	97.6	100.0
Lebanon	0.2	1.1	0.0	97.2	87.4	100.0
Mexico	2.0	9.2	0.0	90.7	58.1	99.8
Moldova, Republic of[a]	0.0	0.2	0.0	98.8	94.4	100.0
Morocco	0.1	0.5	0.0	98.5	93.2	100.0
Overseas Countries and Territories	0.1	0.6	0.0	98.7	94.0	100.0
Palestine	0.0	0.1	0.0	98.8	94.6	100.0
San Marino	0.0	0.0	0.0	99.9	99.9	99.9
Singapore	1.6	5.0	0.7	79.5	58.6	85.3
South Africa	0.8	3.8	0.0	94.6	77.3	99.4
Syrian Arab Republic	3.6	14.0	0.8	78.4	24.1	93.6
Tunisia	2.7	12.7	0.0	84.5	29.6	99.8
Türkiye	1.8	8.8	0.0	90.5	56.8	99.9
Ukraine[a]	1.1	4.8	0.0	93.1	77.2	97.5
United Kingdom	0.0	0.0	0.0	100.0	100.0	100.0
Viet Nam	1.1	2.7	0.6	84.1	78.6	85.7
Western Balkans[e]						
Albania	0.4	1.3	0.1	97.2	91.3	98.8
Bosnia and Herzegovina	0.4	1.3	0.1	97.2	91.3	98.8
Kosovo[d, e]	0.3	1.3	0.0	97.8	91.3	99.7
Montenegro	0.4	1.3	0.1	97.2	91.4	98.8
North Macedonia, Rep. of	0.3	1.3	0.0	97.7	91.3	99.5
Serbia	0.4	1.3	0.1	97.3	91.3	98.9
GSP	4.3	13.2	1.9	57.6	24.7	66.7
India[f]	4.9	13.2	2.7	48.7	24.7	55.4
Indonesia[f]	4.4	13.4	2.0	56.1	23.6	65.2
Kenya[f]	4.3	13.2	1.9	57.5	24.5	66.7
GSP+	2.1	9.7	0.0	89.2	54.4	99.0
LDC (EBA)[g]	0.0	0.0	0.0	99.8	100.0	99.8

a The tariff phase-out period is not yet over.
b For Iceland, Liechtenstein, and Norway, the lowest rate contained in either the EEA or bilateral agreement was used for the calculations.
c Includes CARIFORUM, Central Africa, Eastern and Southern African States (ESAS), Pacific, Southern African Development Community (SADC), and West Africa EPAs.
d References to Kosovo shall be understood to be in the context of Security Council Resolution 1244 (1999).
e For Albania, Bosnia and Herzegovina, Kosovo*, Montenegro, North Macedonia, and Serbia, the lowest rate contained in either the West Balkan FTA or bilateral agreement was used for the calculations. *References to Kosovo shall be understood to be in the context of Security Council Resolution 1244 (1999).
f Sector graduations from the Standard GSP are taken into account.
g Exceptions to duty-free treatment under EBA for Cambodia and Myanmar on rice were in effect during January 2019 to January 2022 and have since expired. The exception to duty-free treatment for sugar cane from Cambodia has been in effect since August 2020.

Note: All tariff calculations exclude in-quota lines. If no preferential rate was applied, the corresponding MFN rate was used for the calculations. In the case of unavailability, the *ad valorem* part was used for compound and mixed rates. 0.0 refers to >0 and <0.05; 100.0 refers to >99.55 and <100. For Ukraine, the rates do not include temporary measures.

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

3.1.4 Other charges affecting imports

3.61. The main other charges on imports in the European Union are value added tax (VAT) and excise duties that are collected at the border. While these remain the main indirect taxes, with a common system at the level of the Union, member States may apply other indirect taxes that are charged on imports, although these are rather limited.[81]

3.1.4.1 VAT

3.62. The collection of VAT, on both imported and national products, amounted to EUR 1.1 trillion, or 7.4% of EU's combined GDP in 2021; it remained an important source of revenue, i.e. about 10% of total EU revenues.[82] There was a slight decline of VAT revenues in 2020, otherwise they remained at about EUR 1 trillion during 2019-21 (Table 3.1).[83] The Commission has undertaken extensive reforms and policy initiatives on VAT in recent years and there have also been additional temporary modifications as a result of the pandemic.

3.63. The main legislation is the EU VAT Directive, which provides the basic framework or common system for VAT, but it is the member States that set the rates and collect VAT within its parameters. Rates on standard VAT varied slightly among member States with the lowest rate at 17% (Luxembourg) and the highest at 27% (Hungary), but reduced rates of VAT were more variable (Table 3.10). Rates are allowed to go above, with no maximum, but must remain at or above the minimum levels; special limitations apply for the application of reduced and super reduced rates.

3.64. The EU VAT Directive has undergone various modifications in recent years with an intentional shift of payment collection from the member State of the supplier to the member State of the consumer. This in part removes some distortions or incentives with respect to establishing presence in lower tax jurisdictions and has allowed greater diversity and flexibility in VAT rates through recent amendments. The most significant changes were implemented in April 2022 and include (i) expanding the list whereby reduced VAT rates may apply; (ii) removing the possibility to apply lower VAT to goods and services deemed detrimental to the environment (by 2030 or 2032[84]); and (iii) expanding the application of derogations and exemptions to all member States.[85] A number of VAT border facilitation measures were also implemented during the period in response to the e-commerce package. The removal of the VAT exemption on low-value consignments was implemented in July 2021 along with the establishment of the IOSS and Special Arrangements systems for their collection (Section 3.1.1.1).

3.65. In response to the pandemic, an EU decision allowed certain member States to temporarily suspend VAT, as well as customs duties, on certain imports (Section 3.1.3.4). In addition to this measure, the response on VAT has been broader and extends beyond import relief for certain goods. A Council Directive from December 2020 allowed member States to apply reduced VAT on certain diagnostic medical devices or services that applied to intra-Community and domestic supplies.[86] Further, many member States granted other temporary relief from VAT such as rate reductions, easing of payment terms, deferment, and temporary exemptions.[87] Similar special provisions have also been implemented to address the impact of the war in Ukraine and grant relief from VAT and customs duties under certain conditions (Section 3.1.3.4).

3.66. The Commission has undertaken a number of initiatives to address VAT fraud, in particular as it relates to e-commerce, during the review period. Two directives from February 2020 promote cooperation between member State tax authorities, require information from payment service providers, and establish electronic standard forms for data transmission in order to make improvements in the detection of e-commerce VAT fraud.[88] Importantly, they establish the Central Electronic System of Payment information (CESOP), which is a centralized database to store the

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[81] For example, there are taxes on imports of fertilizers levied by Sweden, luxury items by Greece, and coal by the Netherlands. For a complete list, see European Commission, Taxes in Europe Database. Viewed at: https://ec.europa.eu/taxation_customs/tedb/taxSearch.html.

[82] European Commission, *Customs Duties Mean Revenue*. Viewed at: https://taxation-customs.ec.europa.eu/customs-4/eu-customs-union-facts-and-figures/customs-duties-mean-revenue_en.

[83] Eurostat, *Main National Accounts Tax Aggregates* (gov_10a_taxag). Viewed at: https://ec.europa.eu/eurostat/databrowser/view/gov_10a_taxag/default/table?lang=en.

[84] 1 January 2030 for fossil fuels, other goods with a similar impact on greenhouse gas emissions, such as peat, and wood used as firewood; 1 January 2032 for chemical pesticides and chemical fertilisers.

[85] Council Directive (EU) 2022/542.

[86] Council Directive (EU) 2020/2020.

[87] OECD, "Country Tax Measures during the COVID-19 Pandemic". Viewed at: https://www.oecd.org/tax/covid-19-tax-policy-and-other-measures.xlsm.

[88] Council Directive (EU) 2020/284; and Council Regulation (EU) 2020/283.

required information and make it available to member State authorities. According to the Commission, the transmission of data must start on 1 January 2024.

3.67. Another recent development is the VAT in the Digital Age initiative.[89] The Commission launched a process of modernizing VAT, in particular on reporting and e-invoicing, VAT treatment of the platform economy, and single EU VAT registration. A public consultation period commenced in January 2022 and a proposal was adopted in December 2022.[90]

3.68. According to the European Union's Action Plan for Fair and Simple Taxation Supporting the Recovery Strategy, other reforms of VAT include updating the rules on financial services and insurance and amending the special arrangements for travel agents and tour operators during 2022-23.[91] A public consultation on the review of financial and insurance services took place from February to May 2021. A study has been launched to assess the functioning of the travel agent scheme, the VAT rules for passenger transport and the exemption for goods purchased by non-EU travellers. The study is expected to be concluded in the first quarter of 2023.

Table 3.10 VAT rates applied in member States, 2022

(%)

Member state	Super reduced	Reduced	Standard	Parking rate	Temporary
Austria	..	10 / 13	20	13	5[b]
Belgium	..	6 / 12	21	12	
Bulgaria	..	9	20	..	..
Croatia	..	5 / 13	25	..	..
Cyprus	..	5 / 9	19	..	..
Czech Republic	..	10 / 15	21	..	..
Denmark	..	..	25	..	..
Estonia	-	9	20	..	..
Finland	..	10 /14	24	..	..
France	2.1	5.5 / 10	20	..	..
Germany	..	7	19	..	..
Greece	..	6 / 13	24	..	..
Hungary	..	5 / 18	27	..	..
Ireland	4.8	9 / 13.5	23	13.5	21[a]
Italy	4	5 / 10	22	..	..
Latvia	..	5 / 12	21	..	..
Lithuania	..	5 / 9	21	..	..
Luxembourg	3	8	17	14	
Malta	..	5 / 7	18	..	..
Netherlands	..	9	21	..	..
Poland	..	5 / 8	23	..	..
Portugal	..	6 / 13	23	13	
Romania	..	5 / 9	19	..	..
Slovak Republic	..	10	20	..	..
Slovenia	..	5 / 9.5	22	..	..
Spain	4	10	21	..	..
Sweden	..	6 / 12	25	..	..

.. Not available.

a For the period 9 September 2020 to 28 February 2021.
b For the period 1 July 2020 to 31 December 2021.

Source: "VAT rates applied in the Member States of the European Union, Situation at 1st January 2021". Viewed at: https://taxation-customs.ec.europa.eu/document/download/231d5d92-160f-4a7f-a104-5a87aba97735_en?filename=vat_rates_en.xls; and "VAT rules and rates". Viewed at: https://europa.eu/youreurope/business/taxation/vat/vat-rules-rates/index_en.htm#shortcut-5.

[89] European Commission (2022), "Commission Launches Call for Feedback on Plans to Bring the EU's VAT Rules into the Digital Age", 21 January. Viewed at: https://taxation-customs.ec.europa.eu/news/commission-launches-call-feedback-plans-bring-eus-vat-rules-digital-age-2022-01-21_en.
[90] European Commission, *VAT in the Digital Age*. Viewed at: https://taxation-customs.ec.europa.eu/taxation-1/value-added-tax-vat/vat-digital-age_en.
[91] European Commission Communication COM(2020) 312 final.

3.1.4.2 Excise

3.69. Excise duties continued to be applied on a number of goods in the European Union. Revenues from excise were EUR 55.4 billion in 2021, or 0.4% of GDP, with Germany accounting for about half of the excise duties collected.[92] There were several developments during the review period, with the majority pertaining to the excise duty structures on alcohol and alcoholic beverages and the modernization of the excise Directive on the general arrangements of excise duties. The Commission also launched a number of initiatives or reviews on the existing excise duty legislation.

3.70. Since 1992, the European Union has common horizontal rules on excise duties for three categories of goods: alcohol, tobacco, and energy products. For these goods, harmonized minimum rates are set by the Commission, but member States may add or charge additional rates above these levels. For the majority of products subject to the horizontal rules, there have only been minor changes in rates since the previous Review (Table A3.1). Details on member State excise duties, including those that go beyond the EU harmonized excise duty rates, can be accessed at the Taxes in Europe Database (https://ec.europa.eu/taxation_customs/tedb/taxSearch.html).

3.71. Certain member States also charge excise duties on products other than the common horizontal products, e.g. on coffee, non-alcoholic beverages, chemicals, mobile telephony, cement, and automobiles. This information has not changed significantly since it was reported in the previous Review[93] and updated information can also be found in the Taxes in Europe Database. Also, a number of, mostly temporary, adjustments to excise duty rates were made by certain member States as part of the pandemic response.[94]

3.72. Council Directive 2008/118/EC on the general arrangements for excise duty is set to be replaced by the new Council Directive (EU) 2020/262 (recast) as of 13 February 2023. The main novelty brought about by the new Directive is the extension of the use of the computerised system to the movements of excise goods that have been released for consumption in the territory of one member State and are moved to the territory of another member State in order to be delivered there for commercial purposes. The use of the computerized system will simplify the monitoring of such movements and ensure the proper functioning of the internal market. Currently the system is used only for the movement of excise goods under duty suspension. The new Directive is aimed at modernizing rules and improving fair competition; it furthermore clarifies territorial application, as well as stipulates general rules for suspension of duty and rules for movement when under suspension, rules when excise goods are moved between member States, conditions for tax warehousing, and formalities for exported goods. Since inception, the Directive has been amended once in 2022 to allow member States to exempt from payment of excise duty excise goods supplied in tax-free shops situated in the French terminal of the Channel Tunnel.[95]

3.73. A related decision from January 2020 covers improvements to the Excise Movement and Control System (EMCS), a computerized system for the surveillance of goods subject to excise duties.[96] The new decision extends the existing system to cover the movement of excise goods that have already been released for consumption in the territory of one member State and are moved to the territory of another member State in order to be delivered for commercial purposes. The EMCS system is a shared undertaking between the Union and member States, including costs, and has both common and national specifications. The system allows for the exchange of information on the movement of excise goods and assists the authorities carrying out the necessary verifications. Work on the enhancement of the system is ongoing and it will take effect from 13 February 2023. Further modifications of the system are foreseen, with an alignment of EMCS functionalities with the UCC Automated Export System (AES) planned for February 2024.

[92] Eurostat, *Main National Accounts Tax Aggregates* (gov_10a_taxag).
[93] WTO document WT/TPR/S/395/Rev.1, 7 July 2020, Table A3.2.
[94] For example, Estonia reduced the rates on electricity and natural gas; Hungary exempted disinfectant without denaturing for holders of a tax warehouse permit; Germany enhanced provisions for deferring tax payments and reducing prepayments; and Poland introduced a temporary tax waiver on certain tobacco excise products. OECD, "Country Tax Measures during the COVID-19 Pandemic". Viewed at: https://www.oecd.org/tax/covid-19-tax-policy-and-other-measures.xlsm.
[95] Council Directive (EU) 2022/543.
[96] Decision (EU) 2020/263.

3.74. In its Action Plan for Fair and Simple Taxation Supporting the Recovery Strategy, the Commission proposed an e-commerce package for excise duties, as currently the existing regulatory aspects and high costs prohibit distance selling of excisable goods.[97] A new project group on intra-EU distance selling of excise goods was launched to explore solutions for the simplification of current procedures while limiting fraud.

3.75. Minimum excise duty rates on alcohol products remain in place for all EU member States, although many apply rates at higher level, often with significant variation between them.[98] These minimum rates have not been updated since 1992, thus the Commission launched a public consultation process in April 2022 in the context of the evaluation of Council Directive 92/84/EEC.[99] Based on the feedback and consultations with member States, the Commission is expected to prepare an evaluation report in the second quarter of 2023. Although rates have not yet been adjusted, the Commission made other changes in the structure and categories for excise duties on alcohol and alcoholic beverages in July 2020; these were mainly in support of small independent producers (Box 3.4).[100]

3.76. With respect to tobacco products, the Commission published an evaluation of the existing Council Directive on tobacco excise duties (Tobacco Taxation Directive)[101] in February 2020. The Evaluation Report indicated that the current rules do not fully achieve their objectives in relation to the proper functioning of the internal market and at the same time a high level of health protection and that they are not able to cope with market developments and the impact of the entry into the market of new products. On 2 June 2020, the Council adopted a set of conclusions on the review of the Tobacco Taxation Directive based on the findings from the evaluation. The Council invited the Commission to submit a legislative proposal for the revision of the Directive on the basis of an impact assessment. In light of this, the Commission is currently finalizing an assessment on the revision of the Directive and plans to present a legislative proposal in 2023.[102]

3.77. The European Union launched a review of the Energy Tax Directive in 2021 in order to better align energy taxation with energy and climate policies and this included proposals that would amend certain aspects related to energy excise duties (Section 4.4.1). Public consultation and feedback has been finalized and a proposal for a revised directive has been circulated. As of end-2022, discussions were ongoing among member States in the Council with a view to agreeing to a compromise proposal.

3.78. Member States have recently made adjustments in terms of energy excise taxes in response to the energy crisis and pursuant to the EU Communication on "Security of supply and affordable energy prices". A number of proposals are contained in the Communication, among them a recommendation to lower taxes as one way to alleviate the high cost of energy.[103] According to one study, as of October 2022, 12 member States have reduced excise duties on petrol to a level lower than what it was a year ago; a similar situation occurred with respect to the excise duty on diesel fuel.[104] One member State, Hungary, has lowered the excise duty on petrol below the minimum rate.[105]

[97] European Commission Communication COM(2020) 312 final.

[98] According to the European Union's Annual Report on Taxation, 2022, excise duties on alcohol vary significantly, e.g. from EUR 0 on still wine (15 member States) to EUR 4.24 per litre in Ireland. Viewed at: https://op.europa.eu/en/publication-detail/-/publication/22508340-1149-11ed-8fa0-01aa75ed71a1/language-en/format-PDF/source-262413960.

[99] European Commission, "Excise duty on alcohol and alcoholic beverages – evaluation of excise duty rates and tax structures". Viewed at: https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/13249-Excise-duty-on-alcohol-and-alcoholic-beverages-evaluation-of-excise-duty-rates-and-tax-structures_en.

[100] Council Directive (EU) 2020/1151.

[101] Council Directive 2011/64/EU.

[102] Staff Working Document SWD(2020) 33 final.

[103] European Commission Communication COM(2022) 138 final.

[104] Bruegel, *National Fiscal Policy Responses to the Energy Crisis*. Viewed at: https://www.bruegel.org/dataset/national-policies-shield-consumers-rising-energy-prices.

[105] ACEA, "Excise duties on petrol, by EU country". Viewed at: https://www.acea.auto/figure/excise-duties-petrol-by-eu-country-1000-litres/; and CEE Legal Matters (2022), "Hungarian Government Cuts Excise Duty on Fuel", 24 March. Viewed at: https://ceelegalmatters.com/hungary/19571-hungarian-government-cuts-excise-duty-on-fuel.

Box 3.4 Main changes in alcohol excise duties, 2020-22

– Exception for excise below the minimum level for low-strength beer is maintained but at a higher threshold of 3.5% vol; – Reference for beer of hectolitre/degrees Plato for the determination of excise is further refined to include measurement after added ingredients. A grace period until 31 December 2030 is allowed for member States that did not take this into consideration as of 29 July 2020; – Reduced rates of excise duty for small independent producers of beer is also extended to small independent producers of wine and other fermented beverages (i.e. produced from fruit). A higher threshold for the reduced rates applies to the wine sector in Malta; – The terms "sparkling wine" and "other sparking fermented beverages" are more clearly defined and updated in HS(CN) codes; – A reduced rate for ethyl alcohol produced from fruit may be applied; – Certain exemptions from harmonized excise duty for products used in the manufacture of food supplements; and – Clarification of the conditions for mutual recognition of partially denatured alcohol to ensure uniform application of the exemption.	Council Directive (EU) 2020/1151
Certification and self-certification of independent small producers of alcoholic beverages	Commission Implementing Regulation (EU) 2021/2266
Exception for Portugal, may apply a reduced rate of excise duty on certain products produced in the autonomous regions of Madeira and of the Azores until 31 December 2027	Council Decision (EU) 2020/1790
Exception for France, may apply a reduced rate of indirect taxes on 'traditional' rum produced in Guadeloupe, French Guiana, Martinique and Réunion until 31 December 2027	Council Decision (EU) 2020/1791

Source: Compiled by the WTO Secretariat from the instruments listed in Table.

3.1.5 Import prohibitions, restrictions, and licensing

3.1.5.1 Prohibitions and restrictions

3.79. Certain goods are prohibited or restricted when imported into the European Union due to various regulations, but the majority emanate from international conventions designed to track or protect the movement of goods, i.e. hazardous chemicals, protected plant and animal species, wastes, etc. There were 15 categories of such goods in 2022, most of which had been notified by the European Union as quantitative restrictions (Table 3.11). There has not been any substantial changes as the same categories of products have had prohibitions or restrictions for many years although there were minor amendments for product coverage, technical adjustments, etc. Further, a number of prohibitions or restrictions were imposed as sanctions in the context of the war in Ukraine (Section 3.1.7.1).

3.80. In 2020 and 2021, amendments were introduced to the Regulation on goods used for capital punishment, torture, or other cruel, inhuman or degrading treatment or punishment, with a view to updating the competent authorities and the applicable destination countries. The Regulation on hazardous chemicals and the Regulation on wastes were amended to change the product coverage in their annexes, and the Regulation implementing the Kimberley Process certification scheme for diamonds was amended three times to update the participants and competent authorities and to reflect the United Kingdom's withdrawal from the European Union.

3.81. As noted in the previous Review, the EU Directive on single-use plastics was approved in 2019 with varying dates for implementation.[106] Member States had to transpose most of the measures by 3 July 2021 including the prohibition to place certain single-use plastics on the market.[107] The Commission is monitoring the implementation of these measures. The Directive puts extended responsibilities on importers of certain goods, as well as producers, requiring them to cover the cost

[106] Directive (EU) 2019/904. This Directive was complemented by five subsequent regulations or decisions to aid implementation and monitoring, e.g. on calculating and verifying waste.
[107] This includes products such as cutlery, straws, and food and beverage containers.

of litter clean-up and awareness programmes. The Commission has started preparing guidelines on the implementation of the costs of litter clean-up.

3.82. The Conflict Minerals Regulation (tin, tungsten, tantalum, or gold) entered into force on 1 January 2021 and aims to curb the illicit trade in certain minerals that can finance armed conflict.[108] It requires importers of these minerals from designated areas to conduct due diligence on their supply chains. This requires them to follow a five-step framework as designated by the OECD that includes risk assessment, audit, and reporting. The Regulation is enforced by member States through *ex post* checks. In case of non-compliance, member States have different measures at their disposal, such as reminders and administrative fines, to address this.

3.83. Imports of bananas from certain Latin American countries continued to be subject to a Banana Stabilisation Mechanism (BSM) until 31 December 2019 when the mechanism expired. Since its expiry, the final fixed customs duty level of EUR 75/tonne has been maintained.

Table 3.11 Prohibitions or restrictions on imports, 2022

Product	Measure	Number of CN lines	Rationale	Legislation
Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH)	Restriction	76	To ensure a high level of protection of human health and the environment	Regulation (EC) 1907/2006
Substances that deplete the ozone layer	Prohibition/restriction	100	Montreal Protocol	Regulation (EC) 1005/2009; Commission Regulation (EU) 2017/605
Certain hazardous chemicals	Prohibition/restriction	..	Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade, Stockholm Convention on Persistent Organic Pollutants	Regulation (EU) 649/2012; Commission Delegated Regulation (EU) 2022/643
Persistent organic pollutants	Prohibition/restriction	..	Stockholm Convention on Persistent Organic Pollutants	Regulation (EU) 2019/1021
Cultural goods	Prohibition	..	To protect against the trafficking of such materials	Regulation (EU) 2019/880; Commission Implementing Regulation (EU) 2021/1079
Certain animal and plant species	Prohibition/restriction	693	CITES	Council Regulation (EC) 338/97, Commission Regulation (EU) 2019/2117, Regulation (EU) 2019/1010
Fluorinated greenhouse gases, their mixtures and concerned products and equipment	Prohibition/restriction	268	Montreal Protocol	Regulation (EU) 517/2014

[108] Regulation (EU) 2017/821.

Product	Measure	Number of CN lines	Rationale	Legislation
Invasive alien species (IAS)	Prohibition/restriction	21	To prevent negative consequences to the environment	Regulation (EU) 1143/2014; Regulation (EU) 2016/1141; and Commission Implementing Regulation (EU) 2017/1263
Mercury, mercury compounds, and mercury waste	Prohibition/restriction	5	Minamata Convention on Mercury	Regulation (EU) 2017/852
Certain goods which could be used for capital punishment, torture or other cruel, inhuman or degrading treatment or punishment	Prohibition/restriction	36	Protection of human life or health, protection of public morals	Regulation (EU) 2019/125; Commission Delegated Regulation (EU) 2020/621; Commission Delegated Regulation (EU) 2021/139
Wastes	Prohibition/restriction	718	Basel Convention for the Control of Transboundary Movements of Hazardous Waste and their Disposal OECD Decision on the control of transboundary movements of wastes destined for recovery operations	Regulation (EC) 1013/2006 and amendments
Rough diamonds	Prohibition/restriction	3	Kimberley Process certification scheme for rough diamonds	Council Regulation (EC) 2368/2002
Cat and dog fur	Prohibition	170	Harmonizes at the Union level national bans concerning the import to and export from the Union of cat and dog fur, and products containing such fur in order to eliminate obstacles to the functioning of the internal market and to restore consumer confidence in the fact that the fur products which consumers buy do not contain cat and dog fur	Regulation 1523/2007
Seal products	Prohibition/restriction	128	..	Commission Implementing Regulation (EU) 2015/1850
Fish of vessels from Cambodia, Comoros, and Saint Vincent and the Grenadines	Prohibition	419	EU Regulation to fight against Illegal, Unregulated and Unreported (IUU) fishing	Council Regulation (EC) 1005/2008; Council Implementing Decision of 24 March 2014; Council Implementing Decision (EU) 2017/1332; Council Implementing Decision (EU) 2017/1333; and Council Implementing Decision (EU) 2016/1818

.. Not available.

Source: WTO document G/MA/QR/N/EU/6, 7 October 2022; and TARIC database.

3.1.5.2 Import licensing

3.84. The European Union continued to impose import licences on 10 categories of products, mainly for the administration of TRQs or quota regimes (2), surveillance regimes (2), or to monitor or control certain imports (6). The overall framework and the products subject to licensing did not change during the review period although the surveillance mechanisms that were in place on iron & steel and aluminium since 2016 lapsed in May 2020. They were replaced by a monitoring system that is described as an *ex post* system based on actual import data that are reported monthly.[109] Retrospective Union surveillance was also adopted for imports of bioethanol in November 2020.[110] Although the regulation later expired, imports of bioethanol continued to be informally monitored.

3.85. The European Union has different licensing regulations in place with respect to each (Table 3.12). The regulations have, for the most part, not changed substantially except for the TRQ and licensing regime for certain agricultural products.[111] The licensing regime for timber, i.e. Forest Law Enforcement Governance and Trade (FLEGT), remains operational only for Indonesia, although the European Union continues to negotiate additional Voluntary Partnership Agreements with other countries.

3.86. The Integrated System for Managing Exports and Import Licences, or Système Intégré de Gestion de Licences (SIGL), provides a system of licensing for certain EU imports, i.e. aluminium, steel, textiles, and wood. However, due to the expiry of surveillance of aluminium and steel, it ceased to cover these products as of 15 May 2020. According to its mandate, it facilitates the prior surveillance documents and licences and allows importers to obtain quota fill levels.

Table 3.12 Products subject to import licensing, 2022

Product	Regime	Automatic/ non-automatic	Legislation
Textiles	Autonomous regime governing imports from the Democratic People's Republic of Korea; outward processing traffic arrangements; surveillance regime	Non-automatic	Regulation (EU) 2015/936; Commission Implementing Regulation (EU) 2016/2148; and Council Regulation (EU) 2017/1509
The European Union maintains licensing requirements only for rice; hemp seeds for sowing, raw hemp, hemp seeds not for sowing; and ethyl alcohol of agricultural origin. However, when it comes to the management of agricultural TRQs, the European Union manages them through a licensing system for cereals and rice; sugar; milk and milk products; beef and veal; pigmeat; poultry meat; eggs and products in the egg sector and egg albumin; garlic; preserved mushrooms; ethyl alcohol from agricultural origin; and hemp.	To monitor trade flows and administer TRQs	Non-automatic	Commission Delegated Regulation (EU) 2016/1237; Commission Implementing Regulation (EU) 2016/1239; Commission Delegated Regulation (EU) 2020/760; and Commission Implementing Regulation (EU) 2020/761
Fluorinated gases including hydrofluorocarbons (HFCS)	Licensing and quota system	Non-automatic	Regulation (EU) 517/2014; and Commission Implementing Regulation (EU) 2019/661

[109] Steel and aluminium monitoring. Viewed at: https://webgate.ec.europa.eu/siglbo/post-surveillance.
[110] Commission Implementing Regulation (EU) 2020/1628.
[111] A change from licensing management system to a first come, first served system for 21 TRQs.

Product	Regime	Automatic/ non-automatic	Legislation
Ozone-depleting substances (ODS) (controlled substances)	To control prohibited or restricted ODS goods	Non-automatic	Regulation (EC) 1005/2009
Rough diamonds	To implement the Kimberley Process Certification Scheme	Non-automatic	Council Regulation (EC) 2368/2002
Waste shipment	To control the import of waste and hazardous waste pursuant to the Basel Convention	Automatic	Regulation (EC) 1013/2006
Timber and timber products	To ensure that only legally harvested timber, and products made thereof, is exported to the European Union from countries operating the FLEGT licensing scheme	Automatic	Council Regulation 2173/2005; and Commission Regulation (EC) 1024/2008
Endangered species (CITES)	To control imports of endangered species listed in CITES	Non-automatic	Council Regulation (EC) 338/97; Commission Regulation (EC) 865/2006; Commission Implementing Regulation (EU) 792/2012; and Commission Implementing Regulation (EU) 2017/1915
Bluefin tuna (catch documentation)	To regulate stocks of bluefin tuna, improve the quality and reliability of statistical data, and prevent, deter, and eliminate illegal fishing	Non-automatic	Regulation (EU) 640/2010 and Regulation (EU) 2017/2107
Drug precursors	To monitor trade and authorize imports of drug precursors	Automatic	Commission Delegated Regulation (EU) 2016/1443; and Commission Delegated Regulation (EU) 2018/729

Source: WTO documents G/LIC/N/3/EU/11, 27 September 2022; G/MA/QR/N/EU/6, 7 October 2022, and TARIC database.

3.87. The European Union has regularly made notifications to the Committee on Import Licensing during the review period. There were three annual replies to the questionnaire on import licensing procedures and six notifications of changes of regulations or procedures on import licensing.[112] The notifications on changes to regulations on import licensing largely overlap with the TRQ allocation and administration text, thus, have been identified and discussed in Section 3.1.3.3. These changes all pertain to licences used to control quantitative measures or TRQs on agricultural imports (Box 3.5).

[112] WTO documents G/LIC/N/3/EU/9, G/LIC/N/3/EU/10, G/LIC/N/3/EU/11, G/LIC/N/2/EU/13, G/LIC/N/2/EU/14, G/LIC/N/2/EU/15, G/LIC/N/2/EU/16, G/LIC/N/2/EU/17, and G/LIC/N/2/EU/18.

Box 3.5 Changes in EU licensing rules, 2020-22

Commission Delegated Regulation (EU) 2020/760 of 17 December 2019 supplementing Regulation (EU) 1308/2013 of the European Parliament and of the Council as regards the rules for the administration of import and export tariff quotas subject to licences and supplementing Regulation (EU) 1306/2013 of the European Parliament and of the Council as regards the lodging of securities in the administration of tariff quotas
Commission Implementing Regulation (EU) 2020/761 of 17 December 2019 laying down rules for the application of Regulations (EU) 1306/2013, (EU) 1308/2013 and (EU) 510/2014 of the European Parliament and of the Council as regards the management system of tariff quotas with licences
Commission Implementing Regulation (EU) 2019/386 of 11 March 2019 laying down rules with regard to the apportionment of tariff rate quotas for certain agricultural products included in the WTO schedule of the Union following the withdrawal of the United Kingdom from the Union and with regard to import licences issued and import rights allocated under those tariff rate quotas
Commission Implementing Regulation (EU) 2021/760 of 7 May 2021 amending Implementing Regulations (EU) 2020/761 and (EU) 2020/1988 as regards the management system of some tariff quotas with licences and repealing Implementing Regulation (EU) 2020/991
Commission Implementing Regulation (EU) 2021/254 of 18 February 2021 amending Implementing Regulations (EU) 2020/761 and (EU) 2020/1988 and Regulations (EC) No. 218/2007 and (EC) 1518/2007 as regards imports of products originating in the United Kingdom and excluding those products from the tariff quotas with ongoing quota periods
Commission Implementing Regulation (EU) 2021/1406 of 26 August 2021 amending Implementing Regulation (EU) 2020/761 and applicable to certain import tariff quotas for poultry meat and amending Implementing Regulation (EU) 2020/761 with regard to the quantities of cheese available for export licences to the USA
Commission Implementing Regulation (EU) 2021/1401 of 25 August 2021 amending Implementing Regulations (EU) 2020/761 and (EU) 2020/1988 as regards the quantities that may be imported under certain tariff quotas

Source: EU notifications on import licensing.

3.1.6 Anti-dumping, countervailing, and safeguard measures

3.1.6.1 Anti-dumping and countervailing duties

3.88. The European Union continued to be a significant user of trade remedies during the review period as new investigations of anti-dumping (AD) and anti-subsidy (AS)[113] measures continued unabated despite the challenges of the COVID-19 pandemic (Chart 3.3). However, while the pandemic did not have an impact on the pace of investigations, there were other impacts. One impact was on verifications due to travel restrictions, whereby the Commission changed to verifying company data by remote cross-checking by videoconference in lieu of on-site visits. Another effect was the use of suspension provision during the pandemic, reportedly to address supply chain disruptions in one case. Nevertheless, trade remedies, or trade defence instruments (TDIs) as the European Union refers to them, continued to be an important trade policy tool. At the end of 2022, there were 178 AD and AS measures in place that supported 440,706 direct jobs.[114]

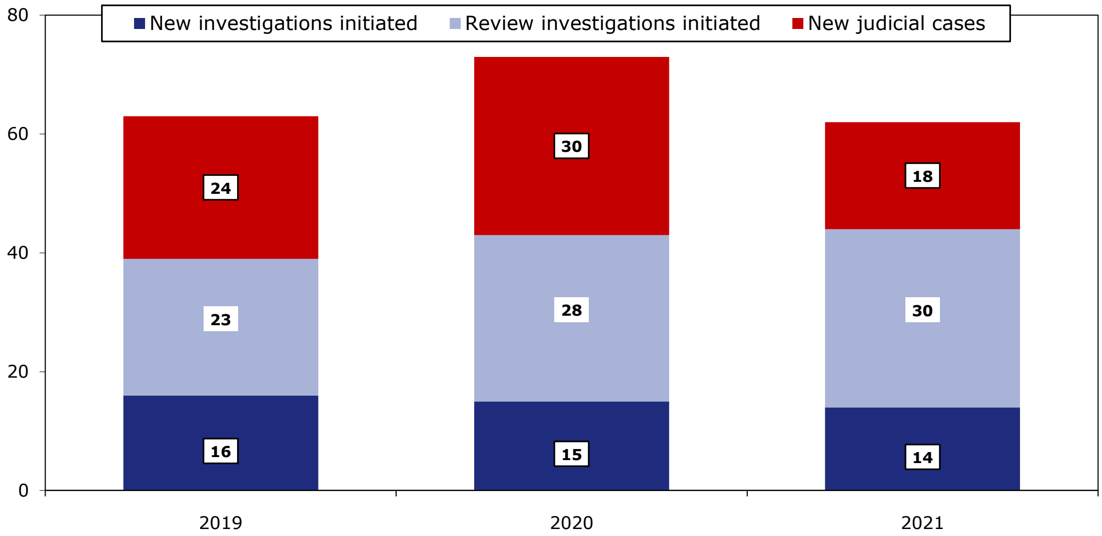
3.89. Modernization of the European Union's TDIs has occurred in recent years and was examined in the last two Reviews. However, since 2018 there have been few changes and the Commission has proceeded with operationalizing all the elements from that earlier initiative. The Commission's work on trade remedies during the review period focused on carrying out investigations and implementing the legislative changes from 2017 and 2018, utilizing new tools due to the pandemic and implementing recommendations from the European Court of Auditors' (ECA) audit on TDIs in 2020.

[113] The European Union refers to countervailing measures as anti-subsidy measures, thus this terminology will be used throughout the section.

[114] European Commission Report COM(2022) 470 final.

Chart 3.3 Overview of Anti-dumping and anti-subsidy activity, 2019-21

(Number)



Source: Annual Reports from the Commission to the European Parliament and the Council on the EU's Anti-Dumping, Anti-Subsidy and Safeguard activities (2019-21) and accompanying Staff Working Documents SWD(2020) 71 final, SWD(2021) 234 final, and SWD(2022) 294 final.

3.1.6.1.1 Regulatory and policy developments

3.90. The European Union's main trade remedy legislation for anti-dumping and countervailing measures, known as the "basic anti-dumping Regulation" and the "basic anti-subsidy Regulation", have not substantially changed since the significant amendments of 2017 and 2018, as outlined in the previous Review.[115] There has only been a small amendment to each due to a clause in the 2018 amendments that required the Commission to review the pre-disclosure period up until June 2020 with a view to changing the length of time. Thus, a Regulation was issued on 4 June 2020 making amendments to Articles 19 and 29, respectively, of the two basic Regulations to establish a pre-disclosure period of four weeks where the Commission announces whether it will impose provisional AD and AS duties.[116]

3.91. The inclusion of social and environmental standards in the 2017/18 amendments was a novel development whereby the Commission can take these into account when selecting an appropriate representative country to construct a non-distorted normal value and when calculating an injury margin. The provisions were used, albeit not extensively thus far, during the review period (Table 3.13). This was because other issues were decisive and hence the need to take social and environmental standards into account did not arise, e.g. undertakings refused for other reasons, or data available for only one suitable representative country. The most used provision is the incorporation of the cost of compliance with environmental and labour provisions when establishing the injury margin; thus far, these mostly result from the additional compliance costs with the EU Emissions Trading System (ETS).

[115] Regulation (EU) 2016/1036; and Regulation (EU) 2016/1037.
[116] Commission Delegated Regulation (EU) 2020/1173.

Table 3.13 Overview of social and environmental standards use in TDI, 2019-21

(No. of cases, except as otherwise indicated)

	2019	2020	2021
Selection of an appropriate representative country, investigation	n.p.	n.p.	n.p.
Selection of an appropriate representative country, expiry review	1	n.p.	n.p.
Cost of compliance with environmental agreements and labour conventions incorporated	1	2	5
Additional costs added for future compliance of EU producers (% or EUR per quantity)	3.7%	EUR 6-EUR 10 per tonne; EUR 1.5-EUR 6 per tonne	n.p.
Undertaking offers	n.p.	n.p.	n.p.

n.p. Not provided.

Source: European Commission Report COM(2020) 164 final, and Staff Working Documents SWD(2021) 234 final and SWD(2022) 294 final.

3.92. The ECA conducted an audit of the Commission's TDI activities during 2016-19 and issued its report with recommendations in July 2020. The overall conclusion was positive and noted that the procedures were followed and there was successful execution of the relevant regulations and policies. Nevertheless, a number of improvements were recommended regarding the confidentiality status of documents, as well as to raise greater awareness to stakeholders, improve guidance on competition aspects, improve monitoring and evaluation, launch more self-initiated investigations, and use criteria to respond to measures by third countries.[117] By end-2022, the Commission had addressed and implemented the recommendations and will continue to raise awareness of the TDIs among industry. An evaluation of the effectiveness of the TDIs, as called for by the ECA, is programmed for 2025.

3.93. Another element that was emphasized as part of EU policy during the review period was addressing fraud and circumvention through improved trade enforcement. To address some of these issues, the Commission continued to include a special monitoring clause in regulations imposing measures, in particular for those with a high risk of circumvention. Special monitoring has become more common, and by end-2021 there were 54 TDI measures subject to such monitoring.[118] The Commission has also carried out anti-circumvention and anti-absorption investigations in recent years to address these growing problems. It also closely monitors price undertakings to ensure they are complied with properly.

3.94. In terms of policy direction, the European Union has increasingly focused its efforts in recent years on addressing what it considers complicated or opaque subsidy practices in third countries.[119] In 2020, for the first time, the Commission imposed countervailing duties on goods produced in one country that received financial support, i.e. subsidies, from another country, so called cross-border financial support. Also in March 2022, the Commission countervailed preferential financing provided by China to Indonesia, as part of a complex subsidy arrangement designed for export of stainless steel cold-rolled flat products to the European Union. To further address this issue and as part of its efforts to reform the WTO, the European Union issued a concept paper and made other proposals to improve the multilateral trading system in which a few of these relate specifically to trade remedies, including the need to address the most trade-distorting types of subsidies and to improve coverage of the activities of SOEs, in particular how subsidy rules apply.[120]

[117] ECA (2020), *Trade Defence Instruments: System for Protecting EU Businesses from Dumped and Subsidized Imports Functions Well*, Special Report 17. Viewed at: https://op.europa.eu/webpub/eca/special-reports/trade-defence-instruments-17-2020/en/.

[118] European Commission Report COM(2022) 470 final.

[119] European Commission Report COM(2021) 496 final.

[120] European Commission (2021), *Reforming the WTO: Towards a Sustainable and Effective Multilateral Trading System*. Viewed at: https://trade.ec.europa.eu/doclib/docs/2021/april/tradoc_159544.1329_EN_02.pdf.

3.1.6.1.2 Trends in usage

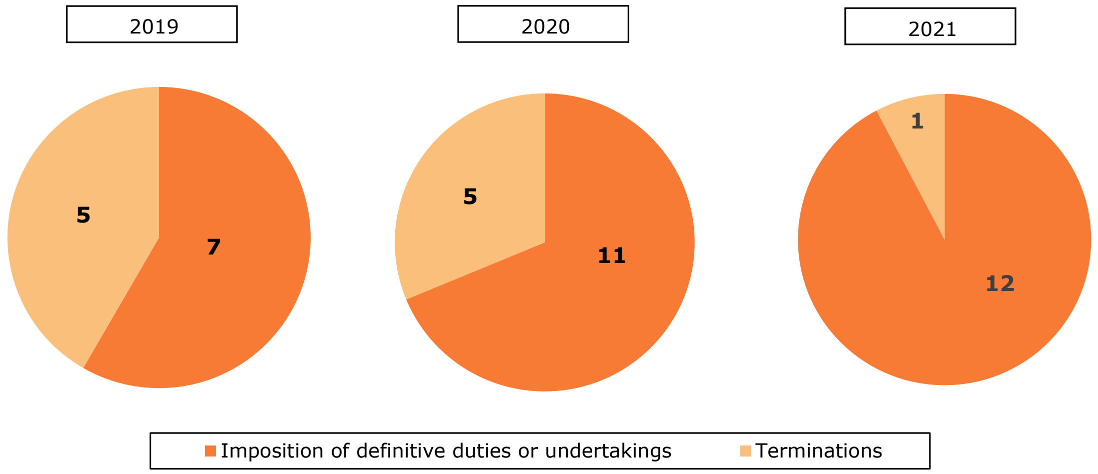
3.95. Since the inception of the WTO, the European Union has been one of the top users of AD and AS measures[121], ranking third overall in AD since 1995, and second for AS. During the last three-year period, the European Union ranked fifth among WTO Members as a user of AD and third in AS, thus ranking slightly lower relative to other Members due both to lower usage by the European Union and a higher number of initiations by other WTO Members.[122] The European Union has also been an increasing target for trade defence measures from third-country users. It has responded by taking a role in defending EU industries that have been the target of such investigations through various tools used such as registering as an interested party, diplomatic response, raising the matter in the respective WTO Committee, or possibly filing a case before the DSB.

3.96. In 2020, despite the implications brought on by the COVID-19 pandemic, the use of EU TDIs remained resilient, and usage remained similar as in 2019. In 2021, there was one fewer initiation, but essentially the European Union's use of TDI remained stable over the period. At the end of 2022, the European Union had 153 AD measures and 25 AS measures in force.[123]

3.97. During the last three-year period, there has been a trend towards a greater percentage of definitive duties or undertakings imposed.[124] In 2019, 58% of investigations resulted in duties or undertakings and this gradually increased to 92% in 2021 (Chart 3.4). There was only one termination out of 13 cases in 2021.

Chart 3.4 Outcome of new investigations concluded, 2019-21

(Number)



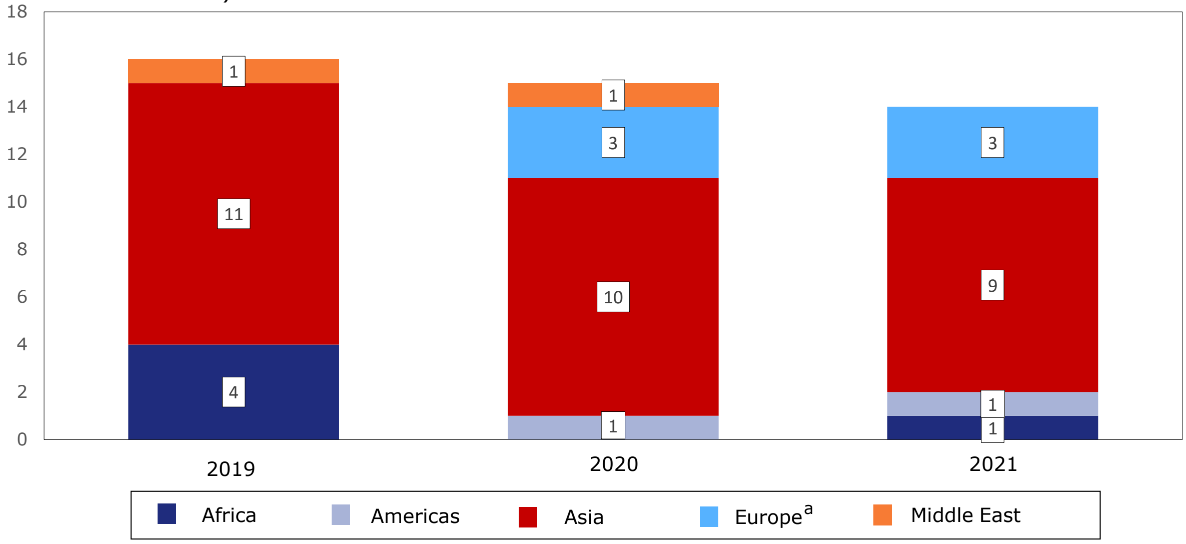
Source: Annual Reports from the Commission to the European Parliament and the Council on the EU's Anti-Dumping, Anti-Subsidy and Safeguard activities (2019-21) and accompanying Staff Working Documents SWD(2020) 71 final, SWD(2021) 234 final, and SWD(2022) 294 final.

3.98. Concerning new investigations initiated by country or region of export, the Asian region continued to be the dominant source of potentially dumped or subsided goods based on the number of new investigations filed (Chart 3.5). This has been a consistent trend for many years, and reflects that China has accounted for the vast majority of cases. Since 2020 there has been some growth in cases against European countries, i.e. three cases each in 2020 and 2021 concerning the Russian Federation and Türkiye.

[121] Measured both in terms of number of investigations initiated and measures imposed.
[122] WTO Statistics on Anti-dumping. Viewed at: https://www.wto.org/english/tratop_e/adp_e/AD_InitiationsByRepMem.xlsx.
[123] Staff Working Document SWD(2022) 294 final.
[124] As reported in the annual reports.

Chart 3.5 New investigations initiated by country of export by region, 2019-21

(Number of measures)



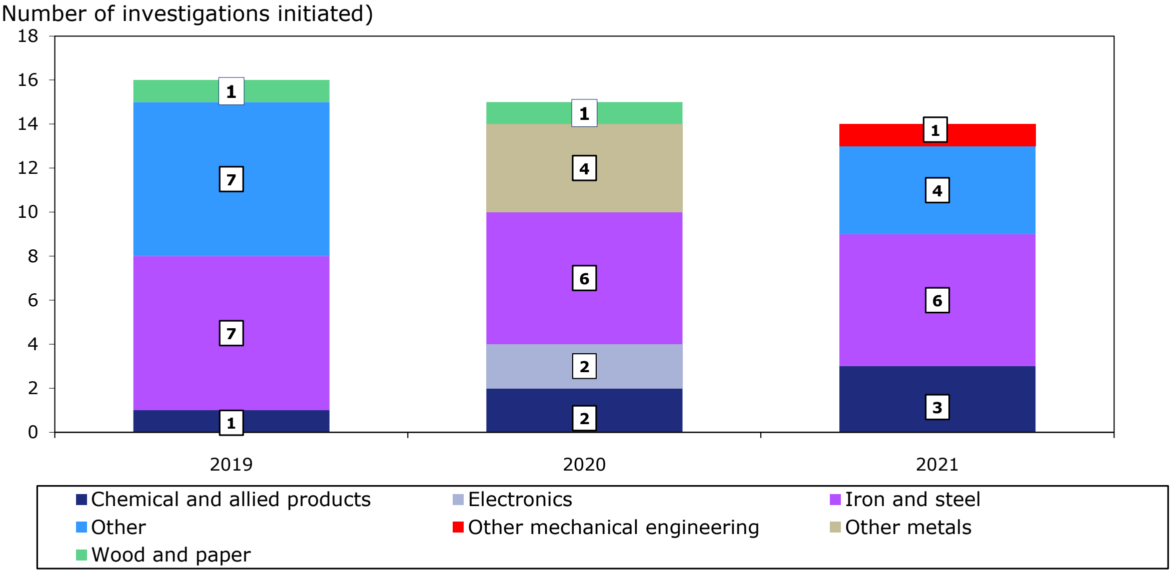
a Non-EU European countries include the Russian Federation and Türkiye.

Source: Annual Reports from the Commission to the European Parliament and the Council on the EU's Anti-Dumping, Anti-Subsidy and Safeguard activities (2019-21) and accompanying Staff Working Documents SWD(2020) 71 final, SWD(2021) 234 final, and SWD(2022) 294 final.

3.99. Consistent with the global situation on measures applied to the iron and steel sector, as well as references to overcapacity, the sector has been the most impacted by trade remedies over the period (see also Section 3.1.6.1), although the number of cases is less than in the previous Review and demonstrates some stabilization (Chart 3.6).[125]

Chart 3.6 Anti-dumping and anti-subsidy investigations initiated by product sector, 2019-21

(Number of investigations initiated)



Source: Annual Reports from the Commission to the European Parliament and the Council on the EU's Anti-Dumping, Anti-Subsidy and Safeguard activities (2019-21) and accompanying Staff Working Documents SWD(2020) 71 final, SWD(2021) 234 final, and SWD(2022) 294 final.

[125] WTO document WT/TPR/S/395/Rev.1, 7 July 2020, Chart 3.4.

3.1.6.2 Safeguards

3.100. The European Union has had sporadic, albeit little, use of safeguard measures. It has imposed only six safeguard measures since inception, the last one in 2018 (which remains in place). Prior to that, the previous case was in 2010.[126] As noted in the previous Review, the safeguard measure from 2018 remains in place on certain steel products with provisional measures applied since 2018 and definitive measures since 2019.[127] On the other hand, the surveillance measures the European Union had in place on steel and aluminium products since 2016 and 2018, respectively, have lapsed as of 15 May 2020 and have been replaced by a new *ex post* monitoring system (Section 3.1.5.2).[128] The safeguard measures under GSP (Everything but Arms (EBA)) that applied bilaterally to Cambodia and Myanmar on indica rice also lapsed as of 18 January 2022 (Section 2).

3.101. The EU framework for safeguards comprises two basic safeguard regulations, one for WTO Members and the other for non-Members (Table 3.14). There is also a regulation specific to textile products and another for bilateral safeguards in preferential trade agreements. These main rules have not changed for many years. The European Union's basic safeguard regulation, which incorporates provisions of the WTO Agreement on Safeguards, is a codified version from 2015 but the main elements have been in place since the commencement of the WTO.

Table 3.14 Main safeguards regulations, 2022

Legal instrument	Description
Regulation (EU) 2015/478	Basic safeguard regulation (excludes textile products)
Regulation (EU) 2015/755	Basic safeguard regulation applying to certain non-WTO Members (excludes textile products)
Regulation (EU) 2019/287	Governs bilateral safeguards in preferential agreements – Japan, Singapore, and Viet Nam
Regulation (EU) 2015/936	Safeguards for textile products

Source: Compiled by the WTO Secretariat from the regulations listed.

3.102. The safeguard measure on steel remained in place during the review period although it was examined for prolongation in January 2021 on request of several EU member States. The remedy in place at that time was the imposition of TRQs, with an increase of the quota volume by 3% annually, and an out-of-quota duty rate of 25% on 26 steel product categories. The review showed that the industry continued to decline or worsen, losses ensued, and the safeguard measures remained in place for three years. The review resulted in keeping the measures in place, with an annual TRQ growth rate of 3%, for an additional three years, i.e. until 30 June 2024, but to also conduct an additional investigation that could terminate the measures after two years, i.e. by 30 June 2023.[129]

3.103. Thereafter, in March 2022, the Commission adjusted the TRQ volumes to take into account an import ban on steel that was put in place on products from Belarus and the Russian Federation as a result of sanctions.[130] The quota allocations to these countries were reallocated to other suppliers subject to the safeguard measure.[131] Further, in April 2022, the Commission made further examinations to incorporate certain EPA countries within the scope of the safeguard measure as they were previously excluded due to provisions of the EPA. This resulted in one EPA country, South Africa, being brought under the safeguard measure for three steel product categories as from 1 May 2022.[132] Other adjustments were made to the country coverage in December 2020 for the United Kingdom in response to Brexit and in May 2022 as Ukraine was temporarily removed from the safeguard measure (Section 3.1.3.4).[133]

[126] WTO, *Safeguard Initiations by Reporting Member*. Viewed at: https://www.wto.org/english/tratop_e/safeg_e/SG_InitiationsByRepMember.pdf.
[127] Commission Implementing Regulation (EU) 2019/159.
[128] European Commission, *Steel and Aluminium Monitoring*. Viewed at: https://webgate.ec.europa.eu/siglbo/post-surveillance.
[129] Commission Implementing Regulation (EU) 2021/1029.
[130] Council Regulation (EU) 2022/355; and Council Regulation (EU) 2022/428.
[131] Commission Implementing Regulation (EU) 2022/434.
[132] Commission Implementing Regulation (EU) 2022/664.
[133] Commission Implementing Regulation (EU) 2020/2037; and Regulation (EU) 2022/870.

3.104. Another amendment to the steel safeguard measures regulation was made in July 2022 as a result of a review investigation. The Commission consulted with interested parties and made the following adjustments: (i) for two product categories, the quota was globalized and country-specific allocations removed; (ii) access to any residual quota in the fourth quarter was adjusted to prevent crowding out; (iii) modification of developing countries subject to the measure (by product category); and (iv) increase in liberalization by adjusting the annual TRQ growth rate from 3% to 4%.[134]

3.105. After adjudication of the steel safeguard in the DSB, on 24 August 2022 the European Union informed interested parties of planned implementation of the measures.[135] It was the Commission's intention to amend or supplement the steel safeguard regulation (Commission Implementing Regulation (EU) 2019/159) based on submissions and input from interested parties. On 13 January 2023, the Commission published Commission Implementing Regulation (EU) 2023/104 whereby it implemented the panel report.

3.106. During the review period, the European Union continued to use the special safeguard provisions for agricultural products (Section 4.1).

3.1.7 Other measures affecting imports

3.1.7.1 Sanctions (on imports and exports)

3.107. The use of sanctions, or restrictive measures, by the European Union as one of the tools to pursue the objectives of the EU Common Foreign and Security Policy (CFSP) and/or to implement UN Security Council Resolutions continued during the review period. Under the CFSP, the European Union can adopt autonomous EU sanctions, additional measures to UN sanctions (thus creating mixed sanctions regime), and transpose binding UN measures into EU legislation. European Union restrictive measures are taken towards governments, entities, groups or organizations, or individuals in a targeted manner to avert or minimize the impact on those not responsible for the sanctioned behaviour or policies. The imposition of EU sanctions is directed by the "guidelines on the implementation and evaluation of restrictive measures".[136] The implementation of EU sanctions is a national responsibility, and violations of sanctions and their penalties have traditionally been subject to various member State rules. However, in November 2022 the EU Council added the violation of sanctions to the list of "EU crimes" and in December 2022 the Commission proposed a new instrument (Directive) containing minimum rules concerning the definition of criminal offences and penalties for the violation of EU restrictive measures, thus moving towards the harmonized enforcement of restrictive measures.

3.108. There has been a significant increase in the number of sanctions regimes, restrictive measures, and legal instruments put in place, largely as a result of the war in Ukraine. Thus, the majority of new measures impact trade and the movement of persons or capital to/from Belarus, the Russian Federation, and the territories outside the government's control. As the war has carried on, the number and scope of the restrictive measures have increased significantly. Not only do measures include the more traditional actions like freezing assets, travel bans, import/export prohibitions or restrictions, and arms embargoes, but they have been expanded to include prohibiting access to export credits and guarantees, air space, port facilities, and services and technology.[137]

[134] Commission Implementing Regulation (EU) 2022/978.
[135] European Commission Notice 2022/C 320/21.
[136] European Council (2018), *Guidelines on Implementation and Evaluation of Restrictive Measures (Sanctions) in the Framework of the EU Common Foreign and Security Policy*. Viewed at: https://data.consilium.europa.eu/doc/document/ST-5664-2018-INIT/en/pdf.
[137] EU Sanctions Map. Viewed at: https://sanctionsmap.eu/#/main.

3.109. As the measures are constantly changing in response to various situations, the EU Sanctions Map provides the current situation with respect to each sanction regime.[138] The data.europa.eu website provides a consolidated list of persons, groups, and entities subject to financial sanctions.[139]

3.1.7.2 Other measures

3.110. As noted in the previous Review, the European Union has applied additional duties on certain products originating in the United States since June 2018 following consultations that did not reach a satisfactory solution pursuant to the Agreement on Safeguards.[140] The matter was subsequently brought to the DSU by the United States.[141] The two regulations implementing these measures remain in place but the rebalancing measures are currently suspended from 1 January 2022 until 31 December 2023.[142]

3.2 Measures directly affecting exports

3.2.1 Customs procedures and requirements

3.111. The EU customs procedures for export, i.e. for goods taken out of the customs territory of the Union, are contained in the UCC Title VIII and expanded upon in the UCC DA Title VIII and the UCC IA. When goods leave that customs territory, a pre-departure declaration must be lodged within a specific time limit. The pre-departure declaration shall take the form of a customs declaration or a re-export declaration or an exit summary declaration to be lodged at the customs office of exit as specified in the customs legislation. The pre-departure declaration is submitted electronically through the AES. In the member States where the AES has not yet been implemented, the pre-departure declaration is submitted electronically through the Export Control System (ECS) until they gradually implement the AES by the final deployment date (1 December 2023). Once the pre-departure declaration is accepted and the goods are presented to the competent customs authority, they may be subject to customs controls before they are released for export. Certain charges or refunds may also be applicable.

3.112. The last formal legislative amendment to the export procedures since the previous Review was as a consequence of Brexit. It concerns the time limits specified for lodging exit summary declarations, which, since the end of the transition period, also apply for cargo movements between the EU customs territory and any port in the North Sea. These modifications were introduced to adapt to the post-Brexit situation for the United Kingdom, Northern Ireland, the Channel Islands, and the Isle of Man as they are outside the EU customs territory since the end of the transition period.[143]

3.113. As noted in Section 3.1.1.3, the European Union is still in the process of implementing electronic systems to facilitate trade as specified by the UCC. One of the projects of the UCC Work Programme is the UCC AES. The two components of the project are the "Trans-European AES" and the "National Export System upgrade". They were scheduled for initial deployment in March 2021 with an end date of December 2023. At that time, it is expected there would be fully automated export procedures and exit formalities.

3.2.2 Taxes, charges, and levies

3.114. The European Union does not currently impose any taxes, charges, or levies on exports, except for certain services.

[138] EU Sanctions Map.
[139] Dataset: Consolidated List of Persons, Groups and Entities Subject to EU Financial Sanctions. Viewed at: https://data.europa.eu/data/datasets/consolidated-list-of-persons-groups-and-entities-subject-to-eu-financial-sanctions?locale=en.
[140] Commission Implementing Regulation (EU) 2018/724; and Commission Implementing Regulation (EU) 2018/886.
[141] WTO DS559.
[142] Joint EU-US Statement on a Global Arrangement on Sustainable Steel and Aluminium.
[143] Commission Delegated Regulation (EU) 2020/2191.

3.2.3 Export prohibitions, restrictions, and licensing

3.2.3.1 Prohibitions, restrictions, licensing

3.115. The European Union maintains 16 categories of goods where export measures are imposed on a regular basis, mostly maintained due to various international conventions established for conservation or protection reasons. The main development during the period was the imposition of many temporary restraints and surveillance measures, the majority of which were in respect of goods related to the COVID-19 pandemic. There were also amendments of CITES coverage, revision of dual-use export controls (see below), and a significant increase in the imposition of restrictions due to bilateral sanctions (Section 3.1.7).

3.116. Export restrictions, prohibitions, and licensing requirements mainly impact the chemicals and fishery sectors where numerous international conventions often dictate measures for the protection of human, plant, or animals, e.g. the Montreal Protocol, CITES, and the Rotterdam Convention. The fishery measures are mostly certificates or licences for conservation of fish stocks. All the measures have been in place for many years, and most were notified during the period as quantitative restrictions (Table 3.15).

3.117. Changes to the existing export measures during the review period were mainly minor updates. With respect to the Regulation on drug precursors, amended in 2020 and 2022, new chemicals were added to its coverage; a similar update was made to the Regulation on hazardous chemicals, where there were amendments to the annexes on product coverage; the Regulation pertaining to goods that could be used for capital punishment was amended twice with respect to the competent authorities and to the applicable destination countries; the annexes to the Regulation on wastes were amended to include certain plastics' wastes as a result of the Basel Convention amendments; and the Regulation relating to diamonds per the Kimberley Process was amended three times to update the participants and competent authorities and to make adjustments due to Brexit.

3.118. In response to the COVID-19 pandemic, the European Union and most of the member States imposed various types of temporary export measures during the review period (Table 3.16). The vast majority have since expired, and most were in place for a very short duration in the first half of 2020. However, as at October 2022, the European Union still had export surveillance measures in place on COVID-19 vaccines and their active ingredients until end-2023. The measures by the European Union and member States were mostly prohibitions for medicinal products, PPE, medical equipment, and disinfectants. Some measures have been notified to the WTO.

3.119. Additionally, the European Union maintains export quotas to help administer import quotas opened to EU exporters in third markets as a result of international agreements. Two export quotas exist, established through bilateral agreements and administered through export licences by the European Union: one for cheese exported to the United States, and one for milk powders exported to the Dominican Republic as a result of the EPA with the CARIFORUM States.[144]

Table 3.15 Prohibitions, restrictions, or licensing on exports, 2022

Product	Measure	Number of CN lines	Rationale	Legislation
Hops	Export certificate	2	..	Regulation (EU) 1308/2013
Drug precursors	Prohibition/ restriction	67	..	Council Regulation (EC) 111/2005 and amendments
Cat and dog fur	Prohibition	170	Harmonizes at the Union level national bans concerning the import to and export from the Union of cat and dog fur, and products containing such fur in order to eliminate obstacles to the functioning of the internal market and to restore consumer confidence in the fact that the fur products which consumers buy do not contain cat and dog fur	Regulation (EC) 1523/2007

[144] Commission Implementing Regulation (EU) 2020/761.

Product	Measure	Number of CN lines	Rationale	Legislation
Substances that deplete the ozone layer	Prohibition/ restriction	91	Montreal Protocol	Regulation (EC) 1005/2009 and Commission Regulation (EU) 2017/605
Certain hazardous chemicals	Prohibition/ restriction	140	Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade Stockholm Convention on Persistent Organic Pollutants	Regulation (EU) 649/2012; and Commission Delegated Regulation (EU) 2022/643
Fluorinated greenhouse gases, their mixtures and concerned products and equipment	Prohibition/ licensing	..	Montreal Protocol on Substances that Deplete the Ozone Layer, as last amended and adjusted	Regulation (EU) 517/2014
Certain animal and plant species	Prohibition/ restriction/ licensing	633	CITES	Council Regulation (EC) 338/97; Commission Regulation (EU) 2019/2117; and Regulation (EU) 2019/1010
Mercury, mercury compounds, and mercury waste	Prohibited	38	Minamata Convention on Mercury	Regulation (EU) 2017/852
Certain goods which could be used for capital punishment, torture or other cruel, inhuman or degrading treatment or punishment	Prohibition/ restriction	68	Protection of human life or health, protection of public morals	Regulation (EU) 2019/125; Commission Delegated Regulation (EU) 2020/621; Commission Delegated Regulation (EU) 2021/139
Wastes	Prohibition/ restriction	717	Basel Convention for the Control of Transboundary Movements of Hazardous Waste and their Disposal OECD Decision on the control of transboundary movements of wastes destined for recovery operations	Regulation (EC) 1013/2006 and its amendments
Rough diamonds	Prohibition/ licensing	3	Kimberley Process certification scheme for rough diamonds	Council Regulation (EC) 2368/2002
Certain cultural goods	Restriction	68	Protection of treasures of artistic, historic or archaeological value	Council Regulation (EC) 116/2009
Bluefin tuna (catch documentation)	Licensing	5	International Convention for the Conservation of Atlantic Tunas (ICCAT)	Regulation (EU) 640/2010; and Regulation (EU) 2017/2107
Dissostichus spp. (catch documentation)	Licensing	6	Commission for the Conservation of Antarctic Marine Living Resources (CCAMLR)	Council Regulation (EC) 1368/2006
Fishery products as defined in the Regulation (catch certificate)	Licensing	419	EU Regulation to fight against Illegal, Unregulated and Unreported (IUU) fishing	Council Regulation (EC) 1005/2008; Council Implementing Decision (EU) 2014/170; Council Implementing Decision (EU) 2017/1332; Council Implementing Decision (EU) 2017/1333; and Council Implementing Decision (EU) 2016/1818
Fish of vessels from Cambodia, Comoros, and Saint Vincent and the Grenadines	Prohibition	359	EU Regulation to fight against Illegal, Unregulated and Unreported (IUU) fishing	Council Regulation (EC) 1005/2008; Council Implementing Decision (EU) 2014/170; Council Implementing Decision (EU) 2017/1332; Council Implementing Decision (EU) 2017/1333; and Council Implementing Decision (EU) 2016/1818

.. Not available.

Source: WTO document G/MA/QR/N/EU/6, 7 October 2022; and TARIC database.

Table 3.16 Pandemic-related temporary export prohibitions, restrictions or licensing requirements, 2020-22

Measure	Description	Applicable by	Start date	End date	References
Non-automatic licensing	Vaccines against SARS-related coronaviruses and their active substances	EU	30 January 2021	31 December 2021	Commission Implementing Regulations (EU) 2021/1728, (EU) 2021/521, (EU) 2021/111, (EU) 2021/442, (EU) 2021/734, (EU) 2021/1071, (EU) 2021/1728
Export surveillance	Vaccines against SARS-related coronaviruses and their active substances	EU	1 January 2022	31 December 2023	Commission Implementing Regulation (EU) 2021/2071
Export authorization required or prohibited	Personal Protective Equipment (PPE)	EU	14 March 2020	26 April 2020	Commission Implementing Regulation (EU) 2020/402, and amendment

Note: Certain member State measures can also be identified in the sources listed.

Source: References listed in the table; WTO documents G/MA/QR/N/EU/5, 7 October 2020, including addenda, and G/MA/QR/N/EU/4, 28 September 2018, including addenda; ITC Market Access Map, temporary COVID measures; and TARIC database.

3.2.3.2 Export controls

3.120. The European Union maintains export control measures, including on dual-use goods and technologies, pursuant to its regulations, which are based on the underlying international conventions, i.e. multilateral export control regimes.[145] Member States also may have legislation on export controls that go beyond the EU harmonized rules. The main developments over the period were the adoption of the new modernized export control regulation, updates to the EU Control List, and the treatment of the United Kingdom as a consequence of Brexit.

3.121. Controls on exports of dual-use goods, i.e. those with both civil and military purposes, are imposed on goods if they are listed in the EU Control List. The List has about 1,884 items covering a variety of sectors including metals, chemicals, electronics, and machinery, and is structured into 10 main categories: 0-Nuclear materials, facilities and equipment; 1-Special materials and related equipment; 2-Materials processing; 3-Electronics; 4-Computers; 5-Telecommunications and information security; 6-Sensors and lasers; 7-Navigation and avionics; 8-Marine; and 9-Aerospace and propulsion.[146] Inclusion in the List means an authorization is required for the export of the dual-use item. Certain non-listed items may also be subject to the same authorizations under specified conditions.[147] The European Union maintains four types of authorizations that may be used to export: EU General Export Authorisations (EUGEAs)[148], National General Export Authorisations

[145] These include the UN Security Council Resolution 1540, the Nuclear Non-Proliferation Treaty, the Chemical Weapons Convention, the Biological Weapons Convention, the Australia Group, the Wassenaar Arrangement, the Nuclear Suppliers Group, and the Missile Technology Control Regime.

[146] It also applies to certain services.

[147] This is when the exporter has been informed that the product will be used in the development of weapons, explosives, or missiles; for a military end-use; or as parts and components of military items. It also applies to cyber-surveillance items if they are intended for repression, violation of human rights, or contradict international humanitarian law.

[148] EUGEAs are provided for in the dual-use export control regulation whereby certain destinations are allowed more simplified procedures for authorizations due to lower risks. The Annex specifies the various EUGEAs and the applicable dual-use items including any conditions. Union General Export Authorisation No. EU001, for example, is the most extensive covering the entire EU Control List for exports to Australia, Canada, Iceland, Japan, Liechtenstein, New Zealand, Norway, Switzerland, the United Kingdom, and the United States.

(NGEAs), global licences[149], and individual licences. However, the vast majority of goods are exported under individual licences, i.e. granted to one exporter in respect of a single consignment.

3.122. The modernization of the EU export control regime commenced in 2016 and resulted in a new regulation on dual-use export controls (Regulation (EU) 2021/821), which entered into force in September 2021 and replaced the previous regulation (Council Regulation (EC) 428/2009) on the same subject (Table 3.17). The previous regulation was amended several times and according to the Commission needed to be recast in the interest of clarity, effectiveness, and efficiency. According to the Commission, the new regulation takes into account the European Union's international obligations and commitments on dual-use goods and makes other improvements. Among the new elements are strengthened guidance to exporters, in particular SMEs; stakeholder Internal Compliance Programmes (ICP) requirements; enhanced member state coordination and effective enforcement in response to threats; updated definitions; simplified licensing procedures; shorter licence validity of two years; provisions on capacity-building and training; and the introduction of a novel "human security" dimension in response to cyber-surveillance technologies.

3.123. Prior to the entry into force of the new export control legislation, Council Regulation (EC) 428/2009 was updated in December 2020 to incorporate a revised EU Control List, which was subsequently incorporated into the new regulation. The 2020 modifications introduced new controls on certain cyber-surveillance technologies, sub-orbital craft, and certain chemicals.

3.124. In October 2021 amendments were made to the new regulation to again update its Annex I on the EU Control List.[150] The amendments were in response to the underlying dual-use controls put in place by the Australia Group, the Missile Technology Control Regime, the Nuclear Suppliers Group, the Wassenaar Arrangement, and the Chemical Weapons Convention. Consequential changes were made to Annex IV as a result of the Annex I amendments.

3.125. In March 2019, the European Union adopted Regulation (EU) 2019/496, which amended the old export control regulation to provide for transitional measures on dual-use controls for the United Kingdom due to its pending withdrawal from the Union, as a so-called "contingency plan". Thereafter, once a withdrawal agreement was reached and pending the expiry of the transition period, the European Union took additional steps to maintain continuity on export controls *vis-à-vis* the United Kingdom as it was an important destination for EU dual-use goods and was likewise a party to the underlying international agreements. Regulation (EU) 2020/2171 was approved in December 2020 to add the United Kingdom to the list of countries in Union General Export Authorisation No. EU001, which allows simplified controls to low-risk destinations and avoids unnecessary procedures. Furthermore, special practices were put in place between UK and EU authorities to take into account the unique situation that persists with respect to the export of dual-use items from Northern Ireland. The two regulations were transitional in nature and have been superseded by the new regulation on dual-use export controls, which continues to treat the United Kingdom as a one of the countries included under Union General Export Authorisation No. EU001.

Table 3.17 Main legislation on export controls, 2022

Legal instrument[a]	Description
Regulation (EU) 2021/821	Establishes the new EU rules for the control of exports, brokering, technical assistance, transit and transfer of dual-use items, replacing the 2009 regulation
Commission Delegated Regulation (EU) 2022/1	Updates the common list of dual-use items in Annex I to incorporate changes made in 2020 by international non-proliferation regimes

[149] This is in respect of one exporter that exports a type or category of dual-use items to one or more specified end users.
[150] Commission Delegated Regulation (EU) 2022/1.

Legal instrument[a]	Description
Commission Delegated Regulation (EU) 2022/699	Removes the Russian Federation from the scope or destination of certain export authorization lists
Regulation (EU) 258/2012	Implements the UN Firearms Protocol that aims to combat the illicit manufacture and trafficking of firearms, their parts and components

a A number of other regulations were adopted on export control during the review period, but they relate to the war in Ukraine and the European Union's Common Foreign and Security Policy (CFSP) response (Section 3.1.7).

Source: Compiled by the WTO Secretariat from the respective regulation.

3.126. In addition to the EU measures, member States may impose additional controls due to public security or human rights concerns. Certain member States have adopted additional measures and the European Union regularly publishes an information note in the Official Journal in conformity with Articles 4, 6, 7, 9, 11, 12, 22, and 23 of Regulation (EU) 2021/821. The latest notice from February 2022 indicates:

- 8 member States have legislation that either fully or partially extend authorization requirements to non-listed dual-use items;
- 14 member States extended authorization for brokering services to non-listed dual-use items;
- 15 member States extended the possibility of transit prohibitions, either fully or partially, to non-listed dual-use items;
- 11 member States implemented additional controls on non-listed goods for reasons of public security, terrorism, etc.;
- 9 member States took additional measures on intra-EU transfer controls; and
- 8 member States issued or modified national general export authorizations.[151]

3.127. Dual-use related exports accounted for about 2%-3% of EU total exports during the review period. In 2020, the latest figures available, these exports accounted for 2.7% of total intra- and extra-EU exports, or EUR 128 billion. During the period 2018-20, there was a decline in both applications and authorizations due to Brexit and the lack of UK data since 2019 (Table 3.18). Regarding markets, there was no change in trade patterns for products subject to export controls as the main destinations remained the United States, China, and Switzerland. As of 2022, there were 1,373 CN lines where the European Union required authorizations for export of dual-use controlled goods.[152]

Table 3.18 Controlled dual-use exports, 2018-20

	2018	2019	2020
Dual-use related trade (exports)			
Value (EUR billion)	164	119	128
% of total trade	3.0	2.3	2.7
Controlled export volume (number)			
Applications (with notifications)	44,599	36,002	40,112
Authorizations	28,186	22,066	20,876
Denials	791	603	559
Controlled export value (EUR billion)			
Applications	50.7	40	38.4
Authorizations	41.5	31.5	31

[151] Information Note PUB/2021/944.
[152] Information obtained from TARIC database.

	2018	2019	2020
Top three destinations of dual-use related trade (exports)	United States; China; Switzerland	United States; China; Switzerland	China; United States; Switzerland
Top three licence types by volume (%)	Individual licences (74%); EUGEAs (14%); NGEAs (3%)	Individual licences (73%); EUGEAs (17%); NGEAs (4%)	Individual licences (61%); EUGEAs (31%); NGEAs (3%)

Note: Does not include services or intangible technology transfers.
EUGEAs: EU General Export Authorisations.
NGEAs: National General Export Authorisations.

Source: European Commission Communications COM(2021) 42 final, COM(2021) 716 final, and COM(2022) 434 final.

3.2.4 Export support and promotion

3.128. There have not been significant changes in the European Union's support and promotion for exports since the previous Review. The European Union provides basic information and tools like information on tariffs, barriers, and procedures through its Access2markets portal (https://trade.ec.europa.eu/access-to-markets/en/home), while the member States operate export promotion authorities at the national or sub-national level. Many of these are also active in related activities such as investment promotion. The export promotion authorities have not changed significantly and remain as reported in the previous Review.[153] The Access2markets portal also provides tutorials, statistics, company stories, and information specific to SMEs. It has recently been expanded to also cover sectors and the Single-Entry Point mechanism for solving market access barriers for EU exporters. Additionally, the European Union supports certain networks or desks aimed at giving support to exporters (Table 3.19); they provide advice and support in their respective area or region to businesses.

Table 3.19 Network support for exporters, 2022

Network support	Webpage
Enterprise Europe Network	http://een.ec.europa.eu/
European IPR desk	https://www.iprhelpdesk.eu/
IPR SME Helpdesks in China, Latin America and South East Asia	http://www.ipr-hub.eu/
EU Asia Business Link (EALink) – Resource Library	http://www.ealink.eu/
EU SME Centre	http://www.eusmecentre.org.cn/
EU Japan Centre	http://www.eu-japan.eu/
EU Gateway – Business Avenues	https://www.eu-gateway.eu
European ASEAN Business Centre (EABC)	http://www.eabc-thailand.eu/
EU-Indonesia business network (EIBN)	http://www.eibn.org/
EU-Viet Nam Business Network (EVBN)	http://evbn.org/
ELAN Program (European and Latin American Business Services and Innovation Network)	http://www.elanbiz.org/

Source: European Commission, REA, *Support for Exporters*. Viewed at: https://ec.europa.eu/chafea/agri/en/enter-new-markets/support-for-exporters.

3.2.5 Export finance, insurance, and guarantees

3.129. Most EU member States maintain at least one officially supported Export Credit Agency[154], with the exception of Cyprus, Ireland[155], and Malta. The agencies, some operating as branches of private companies under a public mandate and others largely as government-administered agencies, remain largely the same as reported in the previous Review although in some cases their role has changed or expanded.[156] Some member States have specific regulatory requirements for Export Credit Agencies while other mainly operate under EU and international guidelines or best practices.

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[153] WTO document WT/TPR/S/395/Rev.1, 7 July 2020, Table 3.11; and European Commission, *Exporter Enquiries*. Viewed at: https://policy.trade.ec.europa.eu/contacts/exporter-enquiries_en.
[154] Export Credit Agency within the meaning of Regulation (EU) 1233/2011.
[155] Ireland has a Credit Guarantee Scheme applicable only to SMEs. Department of Business, Enterprise, and Innovation, Ireland, *Credit Guarantee Scheme: Information Booklet*. Viewed at: https://enterprise.gov.ie/en/publications/publication-files/sme-cgs-information-booklet.pdf.
[156] WTO document WT/TPR/S/395/Rev.1, 7 July 2020, Table A3.3; and OECD, *Official Export Credit Agencies*. Viewed at: https://www.oecd.org/trade/topics/export-credits/documents/links-of-official-export-credit-agencies.pdf.

The products and offerings among the various Export Credit Agencies also vary, sometimes reflecting a sectoral approach or national interests.

3.130. As in previous times of uncertainty, such as the 2008-09 financial crisis, the COVID-19 pandemic has also caused renewed interest in the role of Export Credit Agencies and their potential need to fill a gap in financing in uncertain times. The European Union's Export Credit Agencies were no exception, with requests from member States to have a more secure method of export guarantees during the pandemic and improve liquidity. Further, according to a survey by the OECD, there was also a particular interest in providing export financing support to SMEs, as they were especially vulnerable.

3.131. In response to the pandemic, the Commission took various initiatives with respect to export finance, insurance, and guarantees. Through the first amendment on 3 April 2020 of the State Aid Temporary Framework, which was initially adopted on 19 March 2020, the Commission added flexibility for member States by temporarily removing all countries from the list of marketable risk countries set out in the Annex of the Short-Term Export Credit insurance communication (STEC Communication)[157], thereby allowing public authorities to assume all commercial and political risks associated with exports to such countries. Such exemption was in force between 3 April 2020 until the end of 2020 initially and was subsequently extended until 31 March 2022.[158] Certain member States also took initiatives during the pandemic to facilitate export finance (Table 3.20).

3.132. As part of its trade policy, the European Union expressed that it would "explore options for an EU strategy for export credits". In March 2022, the Council approved a framework for officially supported export credits that considers designing a comprehensive EU strategy on public finance for exports and discussing the creation of a potential EU export credit facility.[159] To this end, the European Commission has launched a Feasibility Study on the options for an EU strategy for export credits as well as an exploratory exercise for the enhanced coordination of EU financial tools, with initial outcomes to be expected in the course of 2023.

Table 3.20 Selected EU member State programmes specific to export guarantees or finance in response to the COVID-19 pandemic

Country/Export Credit Agency	Programmes	Start date	End date
Germany (Euler Hermes)	Platform State guarantee of trade credit insurers; Enhanced short-term insurance to cover more countries	30/03/2020	31/12/2020
France (Bpifrance)	State guarantee to banks on corporate loan portfolios; Cap Francexport reinsurance of trade credit insurers; Enhanced short-term insurance to cover more countries	12/04/2020	31/12/2020
Italy (SACE)	Reinsurance of trade credit insurers; Business Financing; Plan for the Promotion of Made in Italy	13/08/2020	31/12/2020
Czech Republic (EGAP)	Additional financing for export guarantees to large companies	..	..

.. Not available.

Source: European Commission (2020), "State Aid: Commission Approves €2 Billion Italian Guarantee Scheme to Support Trade Credit Insurance Market in the Context of the Coronavirus Outbreak", 13 August. Viewed at: https://ec.europa.eu/commission/presscorner/api/files/document/print/en/ip_20_1478/IP_20_1478_EN.pdf; and "State Aid: Commission Approves €10 Billion French Guarantee Scheme to Support Domestic Credit Insurance Market in Coronavirus Outbreak". Viewed at: https://ec.europa.eu/commission/presscorner/api/files/document/print/en/ip_20_650/IP_20_650_EN.pdf; "Demand for Federal Guarantees". Viewed at: https://www.exportkreditgarantien.de/en/news/pressemitteilung-bmwk/escape-clause.html; Government of France, *Support Plan for French Exporters*. Viewed at: https://www.economie.gouv.fr/files/files/PDF/2020/Support_plan_for_French_exports.pdf; and Government of the Czech Republic (2022), "Measures Adopted by the Czech Government against the Coronavirus", 9 February. Viewed at: https://www.vlada.cz/en/media-centrum/aktualne/measures-adopted-by-the-czech-government-against-coronavirus-180545/.

[157] Formally known as the "Communication from the Commission to the Member States on the application of Articles 107 and 108 of the TFEU to short-term export credit".
[158] European Commission Communications C(2020) 2215, point 17; C(2020) 7127, point 32; C(2021) 564, point 36; and C(2021) 8442, point 62.
[159] European Council (2022), "Council Conclusions on Export Credits", 7101/22. Viewed at: https://data.consilium.europa.eu/doc/document/ST-7101-2022-INIT/en/pdf.

3.133. As noted in the previous Review, officially supported export credits and financing are issued through public bodies, or publicly administered entities, in member States although the European Union maintains overarching instruments or rules providing a level playing field or certain common parameters (Table 3.21). It also directs policy and represents the interests of the European Union in international bodies, typically through the coordinating body established by the Council known as the Export Credits Group. The European Union's basic legal framework on the subject matter has not changed significantly, although there have been some developments.

3.134. One of the cornerstones of the export credit framework is the Arrangement on Officially Supported Export Credits, as administered by the OECD, and incorporated into EU law through Regulation (EU) 1233/2011, including amendments. Although described as a "gentleman's agreement"[160] among the parties[161], the Arrangement is binding on member States through the above-mentioned Regulation. The Arrangement's main elements include limitations on financing terms and conditions and on the use of tied aid. Recent amendments to the Arrangement on 1 January 2022 concerned (i) new restrictions on export credit and tied aid support for coal-fired power plants; (ii) removal of the Coal-Fired Sector Understanding (CFSU); and (iii) extension of the sunset clause from 31 December 2021 to 31 December 2027. As of end-February 2023, Commission Delegated Regulation (EU) 2022/262, implementing the amendments, entered into force.

3.135. Discussions at the OECD on export credits have also led to the sharing of good practice, sector understandings, arrangements, or recommendations, which are also non-binding except when incorporated into EU regulations. The sectoral understandings cover ships, nuclear power plants, civil aircraft, renewable energy, climate change mitigation and adaptation, water projects, and rail infrastructure. Prior to the latest amendments of the Arrangement, there was a Coal-Fired Electricity Generation Sector Understanding but now this has been incorporated as a prohibition in the Arrangement and as part of the Commission Delegated Regulation noted above, thus Export Credit Agencies cannot provide support for the export of new coal-fired electricity generation plants or parts thereof. This change reportedly does not change existing practice for EU Export Credit Agencies as they have followed the Understanding since 2016 and have not provided credits for such exports since that time.[162]

3.136. In line with its policy initiatives such as the European Green Deal and commitments under the Paris Agreement, the European Union has increased its environmental dimension in many areas, including export credits. The OECD Recommendation on Common Approaches for Officially Supported Export Credits and Environmental and Social Due Diligence requires identification of potential environmental impacts and to follow certain guidelines when screening export credit applications so as to not have a negative impact on the environment. All 20 EU Export Credit Agencies reporting under Regulation (EU) 1233/2011 have reported compliance with this Recommendation. Furthermore, some member States have gone beyond OECD Recommendations or Understandings to require a higher level of scrutiny for environmental impact or have joined the E3F (the Export Finance for Future) coalition. Nine EU member States are signatories to the E3F and have pledged their support to end official trade and export finance for thermal coal-related infrastructures and review ways to phase out similar measures for the fossil-fuel sector.[163]

3.137. With respect to short-term export credit insurances, i.e. with a maximum risk period of less than two years, the 2012 STEC Communication[164] continued to be applied throughout the review period (its period of application was extended in 2018[165] and 2020[166]) and until 31 December 2021,

[160] OECD. "Arrangement and Sector Understandings". Viewed at: https://www.oecd.org/trade/topics/export-credits/arrangement-and-sector-understandings/#:~:text=Arrangement%20on%20Officially%20Supported%20Export,Kingdom%20and%20the%20United%20States.

[161] Australia, Canada, the European Union, Japan, the Republic of Korea, New Zealand, Norway, Switzerland, Türkiye, the United Kingdom, and the United States.

[162] European Commission Annual Review COM(2022) 115 final.

[163] The signatories are Belgium, Denmark, Finland, France, Germany, Italy, Netherlands, Spain, Sweden, and the United Kingdom. EKN, *The Export Finance for Future "E3F"*. Viewed at: https://www.ekn.se/en/what-we-do/sustainability/climate/e3f/; and *Statement of Principles, Export Finance for the Future*. Viewed at: https://credendo.com/sites/default/files/media/files/2022-07/Statement%20of%20principles%20E3F.pdf.

[164] European Commission Communication 2012/C 392/01.

[165] European Commission Communication C/2018/8535.

[166] European Commission Communication C/2020/4355.

but it was replaced and amended by a new communication (the 2021 STEC Communication[167]) at the end of 2021 following a review. The 2021 STEC Communication preserves the main elements of the previous communications on the subject, i.e. it ensures that state involvement in export credits does not distort the market and creates a level playing field among the member State entities, but makes slight adjustments such as modifying the eligibility criteria for SMEs, which in certain circumstances may benefit from state insurance. While under the 2012 STEC Communication, this possibility existed with regard to SMEs with an annual export turnover up to EUR 2 million, in the 2021 STEC Communication the threshold has been increased to EUR 2.5 million.

Table 3.21 EU instruments on export credits, financing, or guarantees

Instrument	Description
Regulation (EU) 1233/2011, as amended	Applies the OECD's Arrangement on Officially Supported Export Credits to member States (official export supports with repayment terms of 2 years or more) and requires annual reporting of export-credit activities
Council Directive 98/29/EC	Rules on export credits involving a total risk period of two years or more
European Commission Communication C/2021/8705	Rules on export credits with a maximum period of less than two years
Council Decision 2006/789/EC	Establishes norms on duration of credits, percentage of local expenditure, etc.
Council Decision 82/854/EEC	Specific rules on subcontracts when there are parties other than member States

Source: Compiled by the WTO Secretariat from the respective EU instrument.

3.138. Data on EU export credits are to be provided to the Commission pursuant to Regulation (EU) 1233/2011 and are reported and published annually, although there have been gaps in data in recent years. Reporting for 2020 is the most comprehensive to date, in part due to a new reporting template and also as a result of an improved dialogue with member States. In 2020, there were 20 EU member States that reported officially supported export credits per the definition in Regulation (EU) 1233/2011, i.e. with repayment period of two years or more, with a total pure cover of EUR 362 trillion and official financing support of EUR 85 billion (Table 3.22). The OECD also reports on certain export credit statistics, although on a different basis, thus figures are not directly comparable but demonstrate similar trends (Table 3.23). Germany, Italy, and France were the largest users of export credits during 2019-20. While there were some yearly fluctuations, the use of export credits did not change substantially during the period 2019-20. However, when examining data over a longer period, some of the most significant users, e.g. France and Germany, have shown declines in export credits in recent years.[168]

Table 3.22 Official export credit support as reported pursuant to Regulation (EU) 1233/2011, largest contributors, 2019-20

(EUR million)

Member State	In the form of pure cover		In the form of official financing support	
	2019	2020	2019	2020
Germany	87,914	85,022	18,183	14,768
France	59,174	59,635	12,626	12,648
Italy	58,859	58,991	36,801	37,317
Denmark	n.p.	46,833	1,264	n.p.
Sweden	27,573	32,010	7,286	6,904
Finland	25,489	n.p.	7,165	7,561
Total EU	..	361,585	..	85,226

.. Not available.
n.p. Not provided.

Source: European Commission Annual Reviews COM(2021) 395 final and COM(2022) 115 final; and information provided by the authorities.

[167] European Commission Communication C/2021/8705.
[168] OECD, *Export Credit Statistics – Trends and Cashflow*. Viewed at: https://www.oecd.org/trade/topics/export-credits/documents/Table%20I-V%20for%20web%202020%20data(E).pdf.

Table 3.23 Export-credit statistics, as reported by the OECD, 2019-20

(SDR million)

	Net operating cash flow for all types, all maturities		Net operating cash flow for insurance/guarantee products		Net operating cash flow for direct lending products	
	2019	2020	2019	2020	2019	2020
Austria	89.8	118.0	102.2	130.8	0	0
Belgium	36.5	26.7	51.2	48.6	0.4	0.4
Czech Republic	-64.4	-54.7	-124.5	-82.2	77.7	43.5
Denmark	127.2	230.6	121.9	231.4	28.0	24.0
Estonia	0.2	0.7	0.2	0.7	n.p.	n.p.
Finland	106.7	162.8	115.4	172.7	n.p.	n.p.
France	434.5	262.0	434.5	262.0	0	0
Germany	518.7	413.2	591.7	486.4	n.p.	n.p.
Greece	-0.1	-0.6	1.0	0.9	n.p.	n.p.
Hungary	99.6	-2.3	99.0	2.1	17.6	7.9
Italy	321.7	342.5	393.0	414.1	n.p.	n.p.
Latvia	-0.2	-0.1	0	0.2	n.p.	n.p.
Lithuania	0	0.1	0	0.1	n.p.	n.p.
Luxembourg	0	-27.7	1.6	-25.1	n.p.	n.p.
Netherlands	6.2	55.6	15.6	66.0	n.p.	n.p.
Poland	12.8	23.5	14.8	25.7	n.p.	n.p.
Portugal	26.9	19.7	27.9	20.6	n.p.	n.p.
Slovak Republic	8.4	-7.4	-1.1	-7.2	13.9	4.5
Slovenia	2.2	1.3	3.9	3.2	n.p.	n.p.
Spain	231.4	55.7	240.5	63.4	n.p.	n.p.
Sweden	-21.0	247.2	-1.3	266.5	n.p.	n.p.

n.p. Not provided.

Source: OECD, *Export Credit Statistics – Trends and Cashflow*. Viewed at: https://www.oecd.org/trade/topics/export-credits/statistics/; and https://www.oecd.org/trade/topics/export-credits/documents/Table%20I-V%20for%20web%202020%20data(E).pdf.

3.3 Measures affecting production and trade

3.3.1 Incentives

3.139. Subsidies are granted at the EU level as well as at the member State level through state aid to promote business activities and achieve EU policy objectives in various areas.[169] The European Union notifies both categories of subsidies on a regular basis to the WTO in accordance with Article 25.1 of the Agreement on Subsidies and Countervailing Measures and Article XVI:1 of the GATT 1994. The most recent notification providing information on subsidies at the EU level was submitted in July 2021 and was followed by 27 addenda, each referring to an EU member State.[170]

3.140. During the review period and in response to the COVID-19 pandemic, the European Union implemented specific initiatives to support businesses to mitigate the negative effects of the pandemic (e.g. Coronavirus Response Investment Initiatives) and also provided further flexibilities regarding state aid to facilitate access to liquidity and other support measures (e.g. loans and guarantees) for eligible beneficiaries (i.e. Temporary Framework for State Aid). Some state aid rules and guidelines are also undergoing review.

3.3.1.1 Subsidies at the EU level

3.141. At the EU level, subsidies are mostly granted to agriculture and regional development mainly through long-established shared management funds known as European Structural and Investment Funds (ESIFs)[171], most of which are referred to as Common Provision Regulation Funds (CPRFs)

[169] These policy objectives have been described in previous Reviews.
[170] WTO documents G/SCM/N/372/EU, 16 July 2021, and addenda.
[171] Regulation (EU) 1303/2013. For a detailed description of these funds, see WTO document WT/TPR/S/395/Rev.1, 7 July 2020, Section 3.3.1.

under the 2021-27 EU budget, as per the new regulation that governs them.[172] These funds are managed by both the European Commission and national authorities in member States, with the latter overseeing the implementation of the programme. Subsidies are granted mainly through six shared management funds (i.e. CPRFs and ESIF): (i) the European Regional Development Fund; (ii) the European Agricultural Fund for Rural Development; (iii) the European Social Fund Plus (ESF+) (previously known as the European Social Fund, see below); (iv) the European Maritime, Fisheries and Aquaculture Fund (previously known as the European Maritime and Fisheries Fund, see below); (v) the Cohesion Fund; and since 2021, (vi) the Just Transition Fund (Table 3.24). Compared to the previous EU budget (2014-20), the European Union modified the composition of some of these funds. It established the Just Transition Fund to provide support to the private sector to mitigate the effects of climate change and economic diversification[173], and also consolidated two existing funds, the European Social Fund and the Youth Employment Initiative, into one fund, the ESF+[174], and also expanded the coverage of the former European Maritime and Fisheries Fund to include aquaculture activities and renamed it accordingly.

3.142. For the period 2014-20, the amount approved for the ESIFs was EUR 740 billion[175], of which the European Regional Development Fund (42%) and the European Agricultural Fund for Rural Development (27%) accounted for the largest shares. For the ongoing budget period 2021-27, the mentioned six shared management funds were allocated EUR 494 billion. Moreover, under the budget period 2021-27, the European Union established the NextGenerationEU (NGEU) programme to support the economic recovery following the COVID-19 pandemic. The amount allocated to the NGEU is EUR 806.9 billion (in current prices) for the period 2021-27, most of which are destined for the Recovery and Resilience Facility (RRF) – its main instrument (see below) – and the remaining for complementing other funds (e.g. European Agricultural Fund for Rural Development).[176]

3.143. Support measures under these funds can take the form of grants or direct payments, and financial instruments such as loans, guarantees, and equity.

Table 3.24 Common Provision Regulation and European Structural and Investment Funds, 2022

Fund	Main form of assistance	Focus	Budget planned 2021-27 (EUR billion, current prices)
European Regional Development Fund	Grants and financial instruments (loans, guarantees for loans, and equity participation)	Innovation, digitalization, and green technologies	226
Cohesion Fund	Grants and financial instruments	Environment and Transport	48
European Social Fund Plus	Grants and financial instruments	Skills and social inclusion	99.3
European Agricultural Fund for Rural Development	Grants (for farmers) and financial instruments	Rural development	87.4[a] (plus 8.1 billion from NGEU)

[172] The European Agricultural Fund for Rural Development, an ESIF, is not considered as part of the Common Provision Regulation Funds. The funds that are considered as Common Provision Regulation Funds are those that are covered by a common set of regulations under the Common Provision Regulation (Regulation (EU) 2021/1060), established in 2021, which covers eight funds.

[173] Regulation (EU) 2021/1056.

[174] In addition to the European Social Fund and the Youth Employment Initiative, the ESF+ also comprises the Fund for European Aid to the most Deprived, and the European Programme for Employment and Social Innovation. Both were classified separately in the EU budget for the period 2014-20.

[175] European Commission Cohesion Open Data Platform, *2014-2020 ESIF Overview.* Viewed at: https://cohesiondata.ec.europa.eu/overview/14-20. The ESIF amount covers the European Regional Development Fund, Cohesion Fund, European Social Fund, European Agricultural Fund for Rural Development, European Maritime and Fisheries Fund, and Youth Employment Initiative.

[176] European Commission (2021), *The EU's 2021-2027 Long-term Budget and NextGenerationEU: Facts and Figures*, April.

Fund	Main form of assistance	Focus	Budget planned 2021-27 (EUR billion, current prices)
European Maritime, Fisheries and Aquaculture Fund	Grants allocated based on calls for proposals and for tendering	Fisheries and aquaculture	6.1
Just Transition Fund	Grants and financial instruments	Transition to a climate-neutral economy	8.5[a] (plus 10.9 billion from NGEU)

a Excluding funding from NGEU.

Source: Figures as published in *The EU's 2021-2027 Long-term Budget and NextGenerationEU: Facts and Figures.* Figures are before transfers.

3.144. In the agricultural sector, in addition to the European Agricultural Fund for Rural Development, support continues to be financed by the European Agriculture Guarantee Fund (EAGF) (Section 4.1), which is the main source of support for this sector.

3.145. In April 2020, the European Commission put into force the Coronavirus Response Investment Initiative (CRII) to direct EUR 37 billion under the ESIFs to mitigate the immediate negative economic effects of the COVID-19 pandemic.[177] This initiative was complemented by the CRII+, adopted the same month, to further simplify and provide flexibilities to the access of these funds.[178] Flexibilities, some of which temporary, were also adopted for agriculture, to support, for example, the wine, fruit and vegetables, and dairy sectors.[179] In addition, in December 2020, the European Union adopted the Recovery Assistance for Cohesion and the Territories of Europe initiative know as REACT-EU, which extends crisis-repair measures delivered through the CRII and CRII+ initiatives.[180] The REACT-EU funds amount to about EUR 50 billion (current prices) (from the NGEU) and are available as a complement to the 2014-20 allocations for the European Regional Development Fund and European Social Fund.[181] Funds are to be used until end-2023 and are intended to support projects that foster economic recovery and the green and digital transitions.

3.146. In addition to these funds, the European Union maintains several other funds intended to support entrepreneurs and businesses activities in general and in various areas such as research and innovation, climate and digital transition, and recovery and resilience, which were given further importance (or are new) under the budget 2021-27 in accordance with EU environmental and digital objectives (Table 3.25).[182]

Table 3.25 Other selected support programs/funds, 2022

Programme/Fund	Main form of assistance	Focus	Budget planned 2021-27 (EUR billion, current prices)
InvestEU fund	Guarantees, equity participation, and capacity-building	Recovery and resilience	4.4[a] (plus 6.1 billion from NGEU)
European Agricultural Guarantee Fund	Direct payments, and other market measures (e.g. establishment of minimum prices and storage subsidies)	Agriculture	291.1
Horizon Europe	Grants	Research and technology	90.1[a] (plus 5.4 billion from NGEU)
Connecting Europe Facility	Grants allocated based on calls for proposals and for tendering	Transport, energy, digital infrastructure	33.7
Digital Europe Programme	Grants allocated based on calls for proposals and for tendering	Digital technology	8.4

[177] Regulation (EU) 2020/460.
[178] Regulation (EU) 2020/558.
[179] WTO document G/SCM/N/372/EU, 16 July 2021.
[180] Regulation (EU) 2020/2221.
[181] Regulation (EU) 2020/2221.
[182] European Commission (2021), *The EU's 2021-2027 Long-Term Budget and NextGenerationEU: Facts and Figures*, April.

Programme/Fund	Main form of assistance	Focus	Budget planned 2021-27 (EUR billion, current prices)
Creative Europe programme	Grants allocated based on calls for proposals and for tendering	Cultural and audio-visual sectors	2.5
European Atomic Energy Community Research and training programme	Grants	Research and innovation	2

a Excluding funding from NGEU.

Source: WTO document G/SCM/N/372/EU, 16 July 2021; *The EU's 2021-2027 Long-term Budget and NextGenerationEU: Facts and Figures*; and information provided by the Commission.

3.147. In the area of energy, total subsidies (at the EU and member State levels) for all types of energy (fossil fuels, nuclear, and renewables) rose between 2020 and 2021 from EUR 173 billion to EUR 184 billion, which was mostly due to an increase in energy demand as economic activities began to recover according to a recent report by the European Commission.[183] The report further estimates an increase in the amount of such subsidies reflecting the rise in energy prices.

3.3.1.2 State aid

3.148. State aid is governed by the Treaty on the Functioning of the European Union (TFEU) (Articles 107-109), as well as various regulations and guidelines of general and sectoral application adopted to a large extent following the State Aid Modernisation (SAM) reform of 2012 to 2014.[184] State aid is in general prohibited under the TFEU, and allowed only under certain conditions subject to prior notification to and approval by the European Commission. Only approved state aid can be implemented. To be approved, state aid must comply with certain criteria to ensure it is compatible with the functioning of the internal market.[185] Certain categories of state aid are exempted from the requirements of prior notification if they meet the conditions under Commission Regulation (EU) 651/2014, known as the State Aid General Block Exemption Regulation (GBER), or Commission Regulation (EU) 1407/2013, known as the *De minimis* regulation.[186] Both regulations were to expire in December 2020 and have been extended until December 2023.[187]

3.149. Currently, various state aid guidelines and regulations, including the GBER and the *De minimis* regulation, are undergoing review to be updated. The adoption of these two legal instruments is expected during 2023, according to the Commission. The review was launched following the completion of an evaluation – the "fitness check" – of the SAM reform launched by the Commission in 2019.[188] This assessment found that some specific changes to these exemptions are needed to integrate the objectives of the European Green Deal and the European Industrial and Digital Strategies.

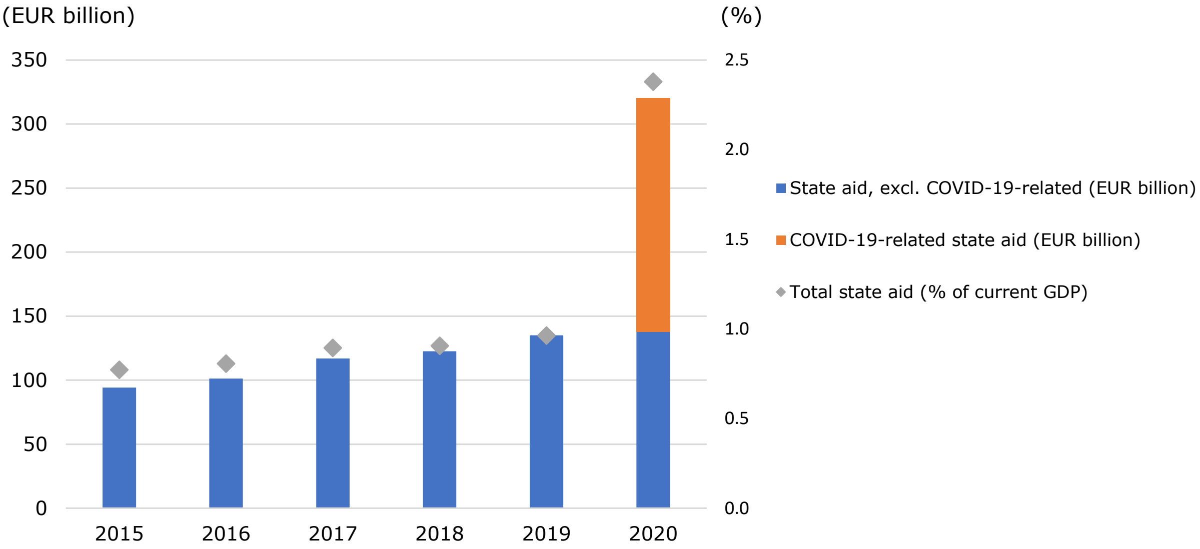
3.150. The review of the GBER was launched in March 2021, and a proposal is currently being prepared by the Commission to ensure that public funding contributes to the achievement of EU current objectives. Pending the completion of its review, the current GBER was amended in 2021 to, *inter alia*, expand its coverage to include state aid granted for projects funded by certain EU-managed programmes (e.g. InvestEU Fund, Horizon Europe) (Table 3.25) and state aid measures designed to support the green and digital transition, and that also contribute to the economic recovery from the effects of the COVID-19 pandemic (e.g. aid for energy-efficiency projects in buildings, 4G and 5G mobile networks, and digital connectivity infrastructure).[189] These new categories of state aid are exempted from the prior notification and approval procedure, and can be directly implemented by EU member States and be reported *ex post*.

[183] European Commission Report COM(2022) 642.
[184] For a list of legislation and guidelines, see WTO document WT/TPR/S/317/Rev.1, 21 October 2015.
[185] For a list of these criteria, see WTO document WT/TPR/S/395/Rev.1, 7 July 2020, Section 3.3.1.
[186] Under the *De minimis* rule, State aid to companies not exceeding EUR 200,000 over a three-year period is exempted from the notification requirement.
[187] Commission Regulation (EU) 2020/972.
[188] European Commission, *State Aid Modernisation.* Viewed at: https://competition-policy.ec.europa.eu/state-aid/legislation/modernisation/fitness-check_en.
[189] Commission Regulation (EU) 2021/1237.

3.151. In October 2022, the European Commission also published a revised framework regarding state aid for research, development, and innovation (RDI) activities.[190] This new RDI framework simplifies and updates the existing rules, in place since 2014, and aligns them to the current EU objectives, notably those under the European Green Deal and the Industrial and Digital Strategies (Section 2). Thus, for example, the communication amends the definition of RDI activities eligible for support to include activities with respect to digital technologies and related to digitalization. In addition, the 2022 RDI framework seeks to enhance the coordination between the funding provided at the EU and the member State levels.

3.152. During the review period, state aid more than doubled to support businesses to mitigate the effects of the COVID-19 pandemic compared to previous years. According to the most recent data available, EU member States spent EUR 320 billion in state aid in 2020 (or 2.4% of EU GDP in that year), up from EUR 135 billion in 2019 (Chart 3.7). About 57% of total state aid was provided in response to the COVID-19 pandemic.[191]

Chart 3.7 Total state aid, 2015-20



Source: European Commission, *State Aid Scoreboard 2021*. Viewed at: https://competition-policy.ec.europa.eu/state-aid/scoreboard_en. The data exclude state aid related to railways, services of general economic interest, and crisis aid to the financial sector, which are subject to limited reporting obligations on member States.

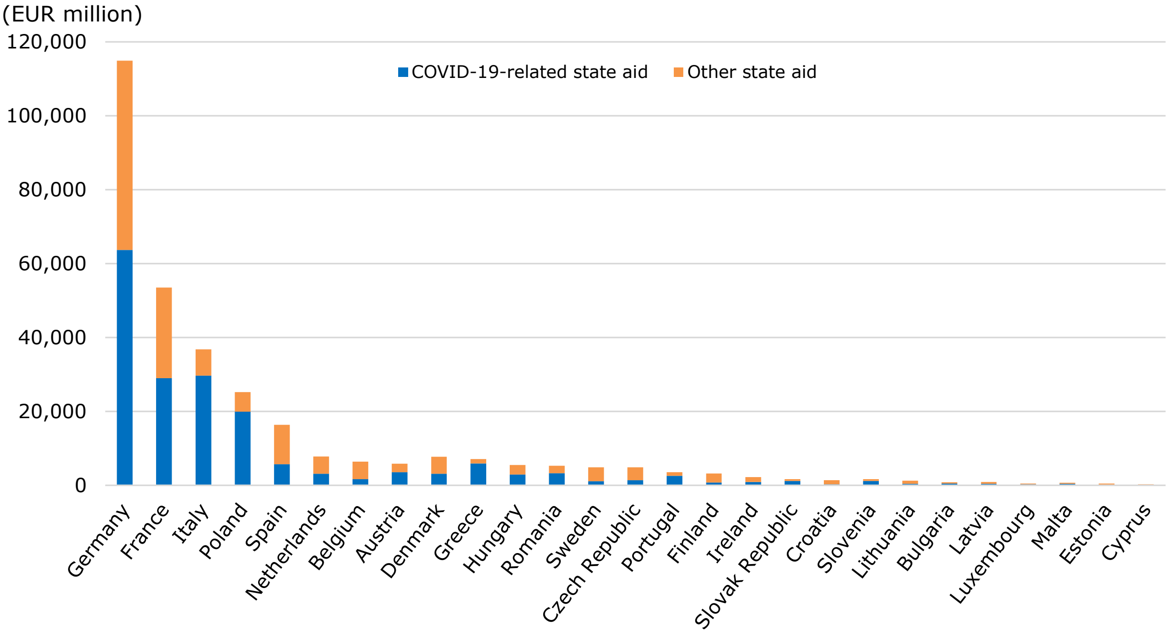
3.153. The amount of state aid was to a large extent positively correlated to the size of the economies of EU member States, with Germany (EUR 114.9 billion spent in state aid in 2020), France (EUR 53.5 billion), and Italy (EUR 36.8 billion) leading the group. Together, these three EU member States accounted for about two thirds of the total state aid spent in the European Union in 2020. They were also, together with Poland, those that granted the largest amount (in absolute terms) of COVID-19-related state aid in that year (Chart 3.8). According to the European Commission, COVID-19-related aid spent by EU member States was to a large extent positively correlated to the economic damage they experienced.[192]

3.154. Non-COVID state aid increased by about 2.5% between 2019 and 2020, totalling 137.5 billion in 2020, and continued to be mainly directed to promote environmental protection and energy savings. In that year, state aid based on environmental considerations accounted for about half (EUR 68.7 billion) of the total non-COVID state aid, and was the main aid objective for the majority of EU member States. Other areas supported through state aid were RDI, regional

[190] European Commission Communication COM(2022) 138 final.
[191] The United Kingdom has been excluded from all calculations on state aid.
[192] European Commission (2022), *State Aid Scoreboard 2021 Report*, September.

development, culture, and agriculture, forestry, and rural areas.[193] State aid spent on agriculture (only) amounted to about EUR 5.6 billion in 2020.

Chart 3.8 State aid by EU member State, 2020



Source: European Commission, *State Aid Scoreboard 2021*. Viewed at: https://competition-policy.ec.europa.eu/state-aid/scoreboard_en. The data exclude state aid related to railways, services of general economic interest, and crisis aid to the financial sector, which are subject to limited reporting obligations on member States.

3.155. In terms of support measures, most of the state aid granted during the review period continued to be in the form of direct grants (23% of total aid in 2020) and a combination of grants and loans at subsidized rates (20%). They were followed by loan guarantees and tax advantages, whose use declined in favour of the former compared to previous years.[194]

3.156. In addition to their general state aid measures, EU member States maintain a long-established aid framework for the rail sector to support its transport services obligations, pension system, and infrastructure. Aid to this sector increased sharply between 2019 and 2020, going from EUR 49.4 billion to EUR 58.3 billion, driven by an increase in the support granted to the sector services obligations and its pension system.[195]

3.157. Some EU member States also implemented state aid measures for the financial sector, under a framework that was established following the 2008 financial and economic crisis and has been prolonged since. Aid under this programme has steadily declined since 2011, and this trend continued during the review period. Aid disbursed to this sector by EU member States decreased from about EUR 85 billion in 2019 to EUR 63 billion in 2020.

3.158. In March 2020, the European Union adopted the State Aid Temporary Framework to facilitate access to state aid to mitigate the economic effects of the COVID-19 pandemic. The framework set the conditions for granting COVID-19-related state aid in accordance with TFEU state aid rules.[196] It was discontinued in June 2020, except for the provisions regarding the implementation of investment and solvency support measures, which will be maintained until December 2023. In

[193] European Commission (2022), *State Aid Scoreboard 2021 Report*, September.
[194] WTO Secretariat calculations based on State Aid Scoreboard data available in Eurostat. In 2020, the category "other aid instruments (non-repayable)" accounted for 16% of the total state aid but was driven by an aid scheme implemented by one single EU member State.
[195] WTO Secretariat calculations based on State Aid Scoreboard data available in Eurostat. Totals do not include figures for the United Kingdom.
[196] European Commission, *State Aid Temporary Framework.* Viewed at: https://competition-policy.ec.europa.eu/state-aid/coronavirus/temporary-framework_fr.

March 2022, the European Commission also adopted a Temporary Crisis Framework in response to the war in Ukraine to provide flexibility in the use of state aid. The framework has been amended twice since its adoption and will be in place until December 2023.[197]

3.159. In 2021, the European Union established the RRF under the NextGenerationEU programme. The RRF was allocated EUR 723.8 billion (in current prices) for the period 2021-27, and can be used to finance projects provided applicable state-aid rules are complied with.[198]

3.3.1.3 Taxation

3.160. Tax policies are defined and implemented by EU member States, against the backdrop of the EU Treaties but the European Union also exercises shared competence in this area, as such policies may affect trade in goods and services within the internal market.[199] During the review period, tax revenue (in absolute terms) declined for the first time since the 2009 financial crisis due to the contraction of economic activities following the COVID-19 pandemic, and the introduction of tax measures to support businesses' liquidity.[200] According to the European Commission, all EU member States implemented such measures in response to the COVID-19 pandemic, which included temporary tax reliefs and reductions (e.g. VAT), as well as tax cuts and deferrals (e.g. corporate and income taxes). Tax revenue decreased by about 5% in 2020 but recovered in 2021 by 11%, exceeding pre-pandemic values. The main sources of tax revenue remained the personal income tax and the VAT, which amounted to EUR 1,423 billion and EUR 1,078 billion in 2021, respectively. Revenue from corporate taxes totalled EUR 422 billion (Table 3.26).

Table 3.26 Taxes in the EU-27, 2019-21

(EUR billion)

	2019	2020	2021	% of GDP in 2021
Total tax receipts	3,773	3,589	3,992	27.5
a. Taxes on production and imports	1,916	1,801	2,009	13.8
i. Taxes on products:	1,569	1,458	1,645	11.3
- Value added type taxes (VAT)	1,002	932	1,078	7.4
- Taxes and duties on imports excluding VAT	77	73	79	0.5
Import duties	22	20	23	0.2
Taxes on imports excluding VAT and import duties	56	53	56	0.4
- Taxes on products, except VAT and import taxes	489	453	487	3.4
ii. Other taxes on production	347	342	364	2.5
b. Current taxes on income, wealth, etc.	1,819	1,751	1,937	13.3
i. Taxes on income	1,740	1,676	1,863	12.8
of which:				
- Taxes on individual or household income (including holding gains)	1,350	1,332	1,423	9.8
- Taxes on the income or profits of corporations (including holding gains)	372	327	422	2.9
ii. Other current taxes	79	75	74	0.5
c. Capital taxes	37	37	46	0.3

Note: Includes taxes on production and imports collected by the institutions and bodies of the European Union, mainly in the context of the customs union. Social contributions are excluded.

Source: Eurostat, *Government Statistics* (gov_10a_taxag_custom_4524569). Viewed at: https://ec.europa.eu/eurostat/web/main/data/database.

3.161. The main priorities of the European Union in this area remain: ensuring the good functioning of the internal market, as well as fair competition and non-discrimination in tax application.[201] The European Union maintains a common legal framework for the application of the VAT but its collection

[197] European Commission, *Temporary Crisis Framework.* Viewed at: https://competition-policy.ec.europa.eu/state-aid/ukraine_en.

[198] Regulation (EU) 2021/241.

[199] The European Union exercises shared competence for indirect taxes and to a certain extent for direct taxes (TFEU, Article 113; and information provided by the Commission).

[200] European Commission (2021, 2022), *Annual Report on Taxation 2021, Review of Taxation Policies in the EU Member States*, May; and *Annual Report on Taxation 2022, Tax Policies in the European Union*, June.

[201] European Commission, *Taxation*. Viewed at: https://european-union.europa.eu/priorities-and-actions/actions-topic/taxation_en.

and rates' determination remain the responsibility of EU member States (Section 3.1.4). In the area of direct taxation, the common legal framework is still very much under development, and both personal and corporate income tax regimes still vary significantly across EU member States. However, the European Union has adopted some directives establishing common standards in this area dealing with double taxation, exchange of information, and corporate tax avoidance.[202]

3.162. During the review period, corporate income tax rates (statutory top rates) varied between 10% (Bulgaria) and 35% (Malta), and the EU average continued its downward trend and declined slightly to 21.2% in 2022 from 21.9% in 2019. Effective average rates were even lower (19% in 2021, latest estimate).[203] Such decline was mainly due to reductions in the top rates implemented by Belgium, France, and Greece. According to OECD estimates (including almost 120 economies), the world average (statutory) corporate income tax rate was 20% in 2022.[204]

3.163. In December 2022, the European Union took an important step towards levelling the playing field in corporate taxation and adopted Council Directive (EU) 2022/2523, which seeks to ensure that multinationals operating in its territory are subject to a minimum effective corporate tax rate of 15%. This rate is expected to apply to multinationals with annual revenues (from both domestic and international activities) exceeding EUR 750 million.[205] EU member States shall implement this directive by December 2023, except for some provisions that will begin to apply later, in December 2024. As of January 2023, four EU member States had corporate tax rates lower than 15%: Bulgaria (10%), Hungary (10.8%), Ireland (12.5%), and Cyprus (12.5%). This Directive is based on the OECD initiative for a world minimum corporate tax rate, which has been agreed so far by almost 140 economies and is part a broader package of measures on international taxation.[206]

3.164. In May 2021, the European Commission published a communication entitled "Business Taxation for the 21st Century" that identifies actions and priorities to achieve a comprehensive and modern business tax system.[207] The communication proposes *inter alia* the development of an EU common legal framework (i.e. EU single rulebook) for corporate tax. As part of the European Green Deal (Section 2), the European Union is also promoting the development of green taxation, which includes taxes on energy, transport, pollution and resources.[208]

3.3.2 Standards and other technical requirements

3.3.2.1 Standards

3.165. The functioning of the TBT regime in the European Union is based on the principles of harmonization and mutual recognition, which have been instrumental to ensure the free movement of goods within the internal market.

3.166. Standards are developed at the EU and member State levels, but the vast majority is done at the EU level, according to the Commission. The functioning of the EU standardization system is decentralized and mostly market-driven but regulated at the EU level. Its legal and institutional framework is articulated around four main pieces of legislation, each of which regulates one specific

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[202] Council Directive (EU) 2016/1164.

[203] European Commission (2022), *Taxation trends in the European Union – Data for the EU Member States, Iceland, Norway: 2022 edition*, June.

[204] OECD (2022), *Corporate Tax Statistics*, Fourth Edition.

[205] Shipping companies are exempted from this framework, as well as governmental entities, international organizations, pension funds, and non-profit organizations.

[206] European Council (2022), "International Taxation: Council Reaches Agreement on a Minimum Level of Taxation for Largest Corporations", 12 December. Viewed at: https://www.consilium.europa.eu/en/press/press-releases/2022/12/12/international-taxation-council-reaches-agreement-on-a-minimum-level-of-taxation-for-largest-corporations/; and OECD, *Members of the OECD/G20 Inclusive Framework on BEPS Joining the Statement on a Two-Pillar Solution to Address the Tax Challenges Arising from the Digitalisation of the Economy*. Viewed at: https://www.oecd.org/tax/beps/oecd-g20-inclusive-framework-members-joining-statement-on-two-pillar-solution-to-address-tax-challenges-arising-from-digitalisation-october-2021.pdf.

[207] European Commission Communication COM(2021) 251 final.

[208] European Commission, *Green Taxation*. Viewed at: https://taxation-customs.ec.europa.eu/green-taxation-0_en.

aspect of the system.[209] Three are the basis for the EU "New Legislative Framework" (NLF)[210], covering (i) standards' harmonization across the European Union (Decision 768/2008/EC); (ii) the application of the mutual recognition principle for goods not regulated at the EU level (Regulation (EU) 2019/515); and (iii) accreditation and market surveillance (Regulation (EC) 765/2008). The other covers the institutional and procedural aspects of standardization (Regulation (EU) 1025/2012). These pieces of legislation were not subject to any significant change during the review period, except for Regulation (EU) 2019/515.

3.167. Regulation (EU) 2019/515 (adopted in March 2019) entered into force in April 2020 and replaced Regulation (EC) 764/2008, in place since 2010. The new regulation seeks to streamline the application of mutual recognition for goods that are already being lawfully sold in another EU member State by improving control procedures and transparency. It provides, for instance, for a specific procedure to assess whether a good can be sold in an EU member State based on the principle of mutual recognition, and for the establishment of a product contact point in each EU member State to provide information to economic actors on the application of this principle.[211] In addition, in July 2021, the European Union started implementing Regulation (EU) 2019/1020 (see below) to enhance its current regime regarding, notably market surveillance, labelling and online sales. In June 2022, the Commission also issued the new version of the Blue Guide, which is a comprehensive manual for the application of rules governing the EU standardization and conformance system.[212] Pursuant to the Agreement on the European Economic Area (EEA), these rules also apply to Iceland, Liechtenstein, and Norway.

3.168. During the review period, the European Union identified standardization as a key strategic tool to achieve its objectives under the European Green Deal, as well as under its new digital, industrial, and trade strategies (Section 2.1). To complement these strategies (and as provided in its Industrial Strategy), the European Union launched in February 2022 a new strategy on standardization entitled "Setting global standards in support of a resilient, green and digital EU single market".[213] Under this new strategy, the European Union identifies six areas of action for the short, medium, and long term: (i) address standardization existing needs in strategic areas and anticipate new ones; (ii) improve governance and ensure inclusive participation in the European standardization system; (iii) strengthen the role of the European Union in shaping international standards; (iv) support innovation to identify new standardization needs; (v) promote the training of the future generation of standardization experts; and (vi) ensure the EU standardization system is aligned with EU policy objectives and values. In addition, during the review period the European Union continued its work in promoting the development of environmental (e.g. hydrogen, critical raw materials in batteries) and digital standards (e.g. artificial intelligence, cybersecurity, and chips).[214]

3.169. The development of European standards is entrusted to three private standardization organizations: the European Committee for Standardisation (CEN), the European Committee for Electrotechnical Standardisation (CENELEC), and the European Telecommunications Standards Institute (ETSI). These European standardization organizations (ESOs) are the only entities authorized to develop European standards. The members of CEN and CENELEC are the national standardization bodies (for CEN) and national electrotechnical committees (for CENELEC) of all EU member States, the United Kingdom, North Macedonia, Serbia, Türkiye, Iceland, Norway, and Switzerland. For ETSI, its members comprise entities from the private and public sectors, including national standardization bodies. However, due to the structure of the membership, national standardization bodies have a limited role in the decision-making process when developing a European standard.[215] In order to address this issue, the Commission published in February 2022

[209] These legislations are complemented by, *inter alia*, the TFEU (Articles 34-36) and CJEU jurisprudence.
[210] For more details on the NLF and its three legal instruments, see WTO document WT/TPR/S/395/Rev.1, 7 July 2020, Section 3.3.2.
[211] For more details on this legal instrument, see WTO document WT/TPR/S/395/Rev.1, 7 July 2020, Section 3.3.2.
[212] European Commission Notice C/2022/3637.
[213] European Commission Communication COM(2022) 31 final.
[214] European Commission Communication COM(2019) 486 final; European Commission Notices C/2020/8860 and C/2022/546.
[215] European Commission Report COM(2022) 30 final.

(in parallel to its new strategy on standardization) a proposal to amend the governance structure of ESOs.[216] In addition of standards, ESOs produce other technical deliverables.[217]

3.170. The process for developing a new European standard starts with a proposal to an ESO made by any stakeholders, in general an industry association, or the Commission.[218] European standards mandated by the Commission are known as European harmonised standards (see below). Standards approved by an ESO are published as a European standard, and each EU member State (through their ESOs) must adopt it as a national standard and withdraw any conflicting national standard to ensure coherence across the European Union. The ESOs also conduct a review process every five years to assess whether any specific standard shall be withdrawn, reconfirmed, or revised.[219] In 2022, the development of a standard (up to its publication) took approximately 31 months.[220] Compliance with European standards, including European harmonised standards, is voluntary.

3.171. In 2022, the CEN and CENELEC issued 1,626 new European standards, of which 48% (or 791) were identical to international standards. In total, in that year, the CEN and CENELEC catalogues contained 24,169 European standards (up from 22,773 in 2019), of which almost half (45% or 11,026 European standards) were identical to international standards (Table A1.2).[221] CEN is the main developer of European standards.

3.172. When no European standards are available, national standardization bodies may adopt national standards without going through the ESOs. EU member States must inform the Commission of any draft standard before its adoption to assess compatibility with EU legislation.[222]

3.3.2.2 Technical requirements and European harmonised standards

3.173. Technical requirements are developed in parallel to standards at the EU and member State levels, but most of the regulatory activity takes place at the EU level, according to the Commission. For goods regulated at the EU level, technical requirements are established through EU legislation (i.e. regulations or directives). EU technical legislation is designed according to two long-established approaches: the "new approach" (integrated into the NLF) and the "old approach".[223] Under the "new approach", the scope of the legislation is limited to the "essential" requirements (i.e. minimum requirements based in general on health, safety, and performance reasons) of a product, while under the "old approach" the legislation includes all specific technical requirements. The European Union has developed directives for 27 product categories based on the "new approach" and for some 700 individual products based on the "old approach"[224]; together they cover most manufacturing goods. The "old approach" is used for, *inter alia*, vehicles, chemicals, pharmaceuticals, and cosmetics, while the coverage of the legislation under the "new approach" includes construction products, electrical and electronic products, medical devices, machinery, and toys. All imported and domestically produced goods must comply with the corresponding requirements to be sold in the EU market. Manufacturers are responsible for demonstrating that their products comply with these requirements through the conformity assessment procedure provided in the EU legislation. These procedures vary with the product and may require the involvement of a third party.

[216] European Commission Proposal COM(2022) 32 final.
[217] Regulation (EU) 1025/2012 defines a European standardization deliverable as a technical specification adopted by an ESO, other than European standards, and with which compliance is voluntary.
[218] Requests, other than those by the Commission, are channelled through the national standardization bodies (for CEN), the national committees (for CENELEC), or directly by private stakeholders (for ETSI) of the EU member State concerned. If the request is accepted, standards are drafted by a technical committee, and subject to public consultation of 12 weeks, with the possibility of an extension of 4 weeks.
[219] CEN/CENELEC, *European Standards*. Viewed at: https://www.cencenelec.eu/european-standardization/european-standards/.
[220] CEN/CENELEC, *CEN/CENELEC in Figures*. Viewed at: https://www.cencenelec.eu/stats/CEN_CENELEC_in_figures_quarter.htm.
[221] Information provided by the Commission.
[222] Directive (EU) 2015/1535, Article 5.
[223] For a detailed description of the two approaches, see WTO document WT/TPR/S/395/Rev.1, 7 July 2020.
[224] Legislation based on the "new approach" focuses on essential requirements and leaves the technical specifications to European harmonised standards. European Commission Notice C/2022/3637.

3.174. Manufacturers can use European harmonised standards as a tool for compliance. European harmonised standards are developed broadly in the same way as other European standards[225], but are designed to support the implementation of EU legislation under the "new approach"[226], and as such are based on a product's essential requirements. After a European harmonised standard is published by the ESO, the Commission will publish it as an Implementing Act in the Official Journal of the European Union (OJEU) if it meets the terms of the standardization request. In 2022, about 13% of all European standards were published as harmonized ones (Table A3.2), and it took on average close to 16 months between the ESOs' approval of the request for a European harmonised standard and its publication in the OJEU.[227]

3.175. Manufacturers that decide to use European harmonised standards published in the OJEU are granted the presumption of conformity with the essential requirements in the EU legislation and in most cases allowed to use a self-certification procedure.[228] If the product complies with these requirements, manufacturers can issue an EU declaration of conformity whereby they declare the product meets the essential requirements in accordance with EU legislation and can affix the CE marking[229] in the product. Manufacturers not using such European harmonised standards must in certain cases show compliance with the product requirements by having recourse to a conformity assessment conducted by a third party.

3.176. The CE mark is mandatory for the 27 product categories covered by the "new approach" legislation and for which a European harmonised standard exists. Since July 2021, certain products subject to CE marking and listed in Article 4 of Regulation (EU) 2019/1020, including those sold online, must also have a label containing, *inter alia*, the contact details of a responsible economic operator within the European Union for customs and market surveillance purposes.[230]

3.177. In addition, labelling and other marking requirements may apply to certain non-food products, regardless of whether they are subject to the CE mark.[231] These requirements apply equally to both imported and locally produced goods based on health, safety, or environmental considerations, and include energy rating labels, safety labels for toys and chemicals substances, and markings for waste from electrical and electronic equipment (WEEE) for electrical appliances. Labelling requirements also apply to textiles, footwear, and cosmetics.[232] Since July 2021, plastic cups and certain sanitary and tobacco products are also subject to a single-use plastic marking based on waste management and environmental grounds.[233]

3.178. The European Union also maintains a standardized packaging regime for tobacco. Under this regime, all tobacco products must be sold in plain packaging with a health warning (including pictures) covering at least 65% of the front of the package, and the entire back.[234]

3.179. For goods not regulated at the EU level, EU member States can develop and establish national technical requirements. The free movement of these goods is ensured by the application of the mutual recognition principle. Under this principle, any product that is (lawfully) sold in one EU member State can be sold in another. These products have also to comply with the safety requirements of the General Product Safety Directive (GPSD) 2001/95/EC.[235] In June 2021, the European Union issued a proposal for a new GPSD regulation to update and modernize the existing one by, *inter alia*, extending the application of market surveillance provisions to goods regulated at the EU level (i.e. covered by European harmonised standards) to create one single regime for all

[225] Contrary to other European standards, European harmonised standards must also be assessed by an independent group of experts to check compliance with the Commission standardization mandate.
[226] The "old approach" does not use standards.
[227] Information provided by the Commission.
[228] In this regard, the Commission indicates that these cases are described in the relevant NLF legislation.
[229] Where CE stands for "conformité européenne".
[230] Regulation (EU) 2019/1020, Article 4.
[231] Food products have their own labelling system (Section 3.3.3).
[232] Your Europe, *Labels and Markings*. Viewed at: https://europa.eu/youreurope/business/product-requirements/labels-markings/index_en.htm; and Regulation (EC) 1223/2009.
[233] Commission Implementing Regulation (EU) 2020/2151.
[234] Directive 2014/40/EU.
[235] Some provisions of this directive may also apply to products regulated at the EU level when certain aspects of product safety are not covered by EU legislation (Directive 2001/95/EC, Article 1).

non-food goods (i.e. EU regulated and non-regulated goods). The proposed regulation would also cover new technology-related products and products sold online.[236]

3.180. At the EU level, the Directorate-General for Internal Market, Industry, Entrepreneurship and SMEs within the European Commission is the EU National Notification Authority and Enquiry Point under the TBT Agreement.[237] From 1 October 2019 to 31 December 2022, the European Union made 261 new regular TBT notifications (and 40 revisions and corrigenda). These measures covered, *inter alia*, food, chemicals, pesticides, fertilizers, electrical and electronic equipment, cosmetics, vehicles, and construction materials, and were mostly based on health, safety, and environmental considerations. One notification refers to the adoption of emergency technical regulations involving chemical substances.[238]

3.181. The European Union is one of the most frequent users of the TBT specific trade concerns (STC) system. It has raised so far the largest numbers of STCs after the United States and it is followed by Canada and China. It is also the main WTO Member subject to STCs, followed by China, the United States, and India. During the review period, WTO Members raised 41 new STCs related to EU TBT measures, as well as 14 other recurrent concerns raised for the first time prior to October 2019 (e.g. labelling requirements for wine, and maximum residue levels (MRLs) for pesticides). The European Union raised 78 STCs on TBT measures against other WTO members in the TBT Committee.[239]

3.3.2.3 Conformity system and market surveillance

3.182. The European Union maintains a uniform framework for accreditation that is supported by the European Co-operation for Accreditation (EA). The EA comprises 49 members, which include the national accreditation bodies of all EU member States.[240] The EA provides technical assistance to the Commission and manages a peer evaluation system to assess its members' compliance with all EA relevant requirements to ensure the equivalence of accreditation services across the European Union. The EA is also responsible for implementing the EA multilateral agreement of mutual recognition (EA MLA).

3.183. Under the EU accreditation framework, each EU member State must have only one accreditation body, which must be a member of the EA and have passed EA peer evaluations. National accreditation bodies must conduct their activities in accordance with the principle of non-competition.[241] Based on this principle, they cannot provide accreditation services across the border (with some exceptions), and conformity assessment entities can only request accreditation to the national accreditation body of the EU member State where they are located.[242] National accreditation bodies of all EU member States are signatories to the EA MLA, and therefore once a conformity assessment entity has been accredited in one EU member State its accreditation is recognized as equivalent in all EU member States and any other EA MLA signatory.

3.184. The EA MLA is recognized by the International Accreditation Forum (IAF) and International Laboratory Accreditation Cooperation (ILAC). Based on these arrangements, certain accreditations services delivered by EA MLA signatories are recognized by the signatories to the ILAC and IAF mutual recognition arrangements.

3.185. In the area of metrology, the European system of measurements follows the international system of units. At the EU level, the European Association of National Metrology Institutes coordinates the metrological activities of its members, and the European Cooperation in Legal Metrology promotes cooperation among national authorities in this area. In both cases, members are the corresponding national authorities/bodies in EU member States and EFTA countries.

[236] European Commission Proposal COM(2021) 346 final.
[237] WTO document G/TBT/ENQ/38/Rev.1, 8 July 2011.
[238] WTO SPS and TBT Platform. Viewed at: https://epingalert.org/.
[239] WTO Trade Concerns Database. Viewed at: https://tradeconcerns.wto.org/en.
[240] Some of the other members are Tunisia, Algeria, Egypt, Türkiye, Israel, and Georgia.
[241] Regulation (EC) 765/2008. Last amended in 2019 by Regulation (EU) 2019/1020. This amendment entered fully into force on 16 July 2021.
[242] Regulation (EC) 765/2008, Articles 6 and 7.

3.186. To complement its conformity system, the European Union maintains a common framework of market surveillance for non-food products in circulation in the EU market (i.e. products that have been already introduced in the EU market). Under this framework, market surveillance activities are conducted by EU member States to identify non-compliant goods so that they can be recalled or withdrawn from the EU market. For imported goods, controls are conducted at the border in collaboration with customs authorities, and if a product is found non-compliant with EU legislation it is not released into circulation.[243] To support market surveillance activities, the European Union maintains an alert system – the Safety Gate (previously known as the Rapid Alert System (RAPEX)) – through which national authorities share information and issue notifications on dangerous non-food products offered in the EU market. In 2021, Safety Gate received about 2,000 notifications involving mainly vehicles (26%), toys (20%), electrical appliances and equipment (9%), jewellery (9%), and protective equipment (8%). In April 2021, the European Union introduced a new surveillance tool, the "e-surveillance web crawler", to detect online offers of dangerous goods reported in the Safety Gate system.[244]

3.187. In July 2021, the European Union also started to implement Regulation (EU) 2019/1020, which was adopted in June 2019 to strengthen the EU market surveillance mechanism. The new regulation amends some existing aspects of the existing system but has also some new features. The regulation introduces, for instance, provisions for goods sold online, additional labelling requirements, and control procedures for imported goods. It also establishes a Union Product Compliance Network as a forum to coordinate and cooperate on market surveillance issues between EU member States and the Commission. The regulation applies to all non-food products regulated at the EU level.

3.188. In the area of international regulatory cooperation, the European Union has mutual recognition agreements (MRAs) for the acceptance of conformity assessment results with seven countries: Australia, Canada, Israel, Japan, New Zealand, Switzerland, and the United States.[245] These MRAs cover conformity assessments for selected products such as electrical and electronic equipment, telecommunication equipment, and toys.[246] In some cases, these MRAs also provide for the mutual recognition of compliance with respect to the use of goods manufacturing or laboratory practices. During the review period, the European Union did not conclude any new MRAs and announced that the mutual recognition provisions for medical devices under the MRA with Switzerland ceased to apply on 26 May 2021 (Section 2.3).[247]

3.189. In addition to these MRAs, the European Union has an Agreement on Conformity Assessment and Acceptance of Industrial Products (ACAAs) with Israel.[248] The ACAA provides for the alignment of Israel's relevant legislation to that of the European Union for good manufacturing practices for pharmaceutical products.[249] The European Union intends to conclude further ACAAs with candidate countries for EU membership, potential candidate countries, and EU neighbouring countries. Since 2019, preparations to start negotiations have been ongoing for an ACAA with Ukraine.

3.3.3 Sanitary and phytosanitary requirements

3.190. The large majority of SPS legislation in the European Union is coordinated and developed at the EU level. This legislation is vast and comprehensive in its coverage of food safety, and animal

[243] European Commission Notice C/2022/3637.
[244] European Commission (2022), *Safety Gate 2021 Results*, February.
[245] European Commission Notice C/2022/3637. These MRAs are standalone agreements except in the case of Canada, for which the agreement takes the form of a Protocol under the European Union-Canada RTA.
[246] European Commission, Mutual Recognition Agreements. Viewed at: https://single-market-economy.ec.europa.eu/single-market/goods/international-aspects-single-market/mutual-recognition-agreements_en.
[247] European Commission (2021), *Notice to Stakeholders: Status of the EU-Switzerland Mutual Recognition Agreement (MRA) for Medical Devices*, 26 May.
[248] The ACAA with Israel takes the form of a protocol under the European Union-Israel RTA.
[249] The Commission indicates that the provisions for the mutual recognition of conformity assessment results under the ACAA are not operational.

and plant health, and has been gradually reformed since 2013 to simplify it and build a system that covers the entire food chain.[250]

3.191. The EU SPS legal framework comprises legislation of general application, as well as of product- and issue-specific, for food safety, and animal and plant health. The main SPS regulations of general application are (i) Regulation (EC) 178/2002 (General Food Law); (ii) Regulation (EU) 2016/429 (Animal Health Law); (iii) Regulation (EU) 2016/2031 (Plant Health Law); and (iv) Regulation (EU) 2017/625 on Official Controls.[251] During the review period, and as part of the reform process, the European Union completed the implementation of the Plant Health Law, the Animal Health Law, and the Regulation on Official Controls, all three adopted during the period 2016-19.

3.192. The Animal Health Law (adopted in 2016) became fully applicable in April 2021 and deals with the prevention and control of transmissible animal diseases. The Law details the requirements for the entry of animals and animal products to the European Union. The Regulation on Official Controls (adopted in 2017) started to be applied in December 2019 and became fully operational in April 2022 to create a single framework for all official controls along the food and feed chain. The Plant Health Law also started to be applied in December 2019, except for a few provisions that became operational in January 2021. The Regulation modernizes the plant health regime to better detect pests at an early stage and prevent their spreading.[252] The General Food Law regulates the entire food chain to ensure the safety of food and feed. In March 2021, the General Food Law was amended through the entry into application of Regulation (EU) 2019/1381[253] (Transparency Regulation) to improve transparency and public participation in food risk assessment and approval procedures of products. The Regulation (adopted in June 2019) provides for public access to scientific studies submitted to the European Food Safety Authority by the applicant during the process of risk assessment and for public consultations during the approval process when such authorization is required.

3.193. These regulations are complemented by other EU legal instruments containing requirements to be applied throughout the European Union and covering, *inter alia*, food and feed hygiene, labelling, food contact materials and packaging, food and feed additives, genetically modified organisms (GMOs), organic food, and residues of pharmacologically active substances (used in veterinary medicines), pesticides, and contaminants.

3.194. Moreover, in May 2020 the Commission adopted the Farm to Fork Strategy to support the ongoing reform process and the EU sustainability objectives.[254] The Strategy is considered a key component of the European Green Deal and has some implications for the EU SPS regime. The Strategy identifies the areas of action to achieve a sustainable EU food system and comprises an action plan for the period 2020-24 that provides for, *inter alia*, the reform of the legislation on feed additives, pesticides, food contact materials, plant protection, animal welfare, and marketing standards for agricultural and fishery (including aquaculture) products. As part of this action plan, the Commission is also expected to propose new legislation to extend the scope of the requirement on origin labelling, introduce a standardized mandatory front-of-pack nutrition labelling, and establish a sustainable food labelling framework to inform consumers about the sustainability aspects of food products. This strategy also sets EU targets for reducing the use of chemical pesticides (and their risk), antimicrobials, and fertilisers by 2030[255], and foresees to integrate environmental considerations in the assessment requests for import tolerances for pesticides not approved in the European Union. As announced in the Strategy, the Commission plans to present a new legislative framework for sustainable food systems in 2023 to, *inter alia*, incorporate

[250] European Commission (2013), "Smarter Rules for Safer Food: Commission Proposes Landmark Package to Modernise, Simplify and Strengthen the Agri-food Chain in Europe", 6 May. Viewed at: https://ec.europa.eu/commission/presscorner/detail/en/MEMO_13_398.

[251] For a description of these legal instruments, see WTO document WT/TPR/S/395/Rev.1, 7 July 2020, Section 3.3.3.

[252] European Commission (2017), *Ensuring Food Is Safe – The Veterinary and Phytosanitary System of the European Union Explained*.

[253] With the exception of some institutional provisions, which became applicable in July 2022.

[254] European Commission Communication COM(2020) 381 final.

[255] Under the Strategy, the European Union intends to reduce by 50% the use and risk of chemical pesticides by 2030, by 50% the use of more hazardous pesticides, by 20% the use of fertilisers by 2030, and by 50% sales in the EU market of antimicrobials for farmed animals and in aquaculture by 2030.

sustainability in all food-related policies, as well as a proposal for the setting of EU-level targets for food waste reduction.

3.195. At the institutional level, there have been no significant changes since the previous Review. The European Commission, through its Directorate-General for Health and Food Safety (DG SANTE), is responsible for the formulation of SPS-related policies and for monitoring their application and enforcement in EU member States. DG SANTE is also the National Notification Authority and Enquiry Point under the SPS Agreement. EU member States have also notified an enquiry point.[256]

3.196. Three EU agencies continue to support the work of the Commission in this area: (i) the European Food Safety Authority (EFSA); (ii) the European Medicines Agency (EMA); and (iii) the European Chemicals Agency. The EFSA is the EU agency responsible for providing independent advice to the Commission regarding food safety based on scientific evidence. The EMA is the EU agency responsible for evaluating the applications for marketing authorizations for certain human and veterinary medicines regulated at the EU level to be sold in the European Union and for making a recommendation to the Commission, which is ultimately responsible for their approval.[257] The EMA also has monitoring and advisory functions. The European Chemicals Agency is the EU agency responsible for providing scientific/technical support to the Commission regarding the development of EU legislation on chemicals, as well as for preparing the corresponding implementing legislation.

3.197. The European Union applies SPS-related requirements for the entry into the European Union of animals, germinal products, products of animal origin, animal by-products, composite products, food and feed of non-animal origin, and plants. Requirements vary depending on the animal/product based on their risk for human, animal, and plant health, and have remained broadly the same for most of these goods since the previous Review. In general, these goods must be accompanied by a health or phytosanitary certificates to enter the EU market and are subject to control upon their arrival at an EU border control post. In addition, some products are required to originate from third countries, which are approved by the Commission, and, in some cases, from an approved establishment to be sold in the EU market. Prior to their import, businesses must also pre-notify the border control post of first arrival into the European Union by submitting through the European Union's Trade Control and Expert System (TRACES) a "common health entry document", which will include the references of the corresponding health or phytosanitary certificate. Border controls are planned based on this registration. Consignments are allowed to enter the European Union subject to satisfactory documentary, identity, and physical checks (when required). The European Union participates in the International Plant Protection Convention (IPPC) ePhyto platform for electronic phytosanitary certification, which facilitates the electronic exchange of SPS-related documentation between participating countries.

3.198. Based on animal and public health grounds, most animals, products of animal origin (intended for human consumption), animal by-products, non-shelf-stable composite products, and certain shelf-stable composite products (i.e. products containing processed products of animal origin and plant origin) require a health certificate to enter the European Union, and for their subsequent circulation within its territory.[258] The import of meat is also subject to additional documentary requirements. Since April 2021, the entry into the European Union of certain shelf-stable composite products must be accompanied by a private attestation, which must be prepared and signed by the importer confirming that the consignment complies with all applicable requirements. Imports to the EU market of animals and products of animal origin must originate from a registered or approved establishment by the European Union, as required. Composite products are also subject to specific rules in this regard.[259] The European Union maintains labelling requirements in relation to animal welfare (i.e. animal farming conditions) for table eggs. This is the only product subject to such requirement at the EU level.[260]

3.199. Regarding veterinary medicines, the European Union started applying in January 2022 Regulation (EU) 2019/6, which was adopted in 2018. The Regulation updates the rules on the

[256] WTO documents G/SPS/ENQ/26 and G/SPS/NNA/16, 11 March 2011.
[257] EMA, *Authorization of Medicines*. Viewed at: https://www.ema.europa.eu/en/about-us/what-we-do/authorisation-medicines.
[258] Regulation (EU) 2016/429, Article 229.
[259] European Commission, *EU Entry Conditions for Composite Products*. Viewed at: https://food.ec.europa.eu/horizontal-topics/international-affairs/eu-entry-conditions/composite-products_en.
[260] European Commission, *Animal Welfare Labelling*. Viewed at: https://food.ec.europa.eu/animals/animal-welfare/other-aspects-animal-welfare/animal-welfare-labelling_en.

manufacturing, trade, sale, and use of veterinary medicinal products and includes provisions to stimulate innovation in this area and regulate the use of antimicrobials. In this regard, both importers and domestic business are, for instance, subject to a prohibition on the use of antimicrobial medicinal products in animals to promote growth or increase yield. The Commission indicates that this provision is not yet operational.

3.200. Based on plant health grounds, the importation of plants for planting (including certain seeds), cut flowers, most fruits and vegetables, and certain plant products (e.g. wood) requires a phytosanitary certificate issued by the relevant official plant health authority of the exporting or re-exporting country. Since December 2019 with the implementation of the Plant Health Law, this requirement, as well as that for a plant passport (see below), was further harmonized and extended to all plants intended for planting. A phytosanitary certificate is also now required for used agricultural or forestry machineries and vehicles (imported from all countries except Switzerland). Five fruits (bananas, coconuts, durians, dates, and pineapples) are currently exempted from a phytosanitary certificate.[261] Once in the EU market, all plants for planting and certain seeds, fruits, and wood products have their phytosanitary certificate replaced by a plant passport, which is required to allow these goods to move within the European Union.[262] The Plant Health Law also harmonizes the format of the plant passport. The European Union prohibits the entry of certain plants and plants products to guarantee the phytosanitary protection in its territory; for those posing a "high risk" of contamination with an EU quarantine pest the prohibition is applied on a provisional basis pending a risk assessment.[263]

3.201. For pesticides, only products containing active substances complying with the criteria under Regulation (EC) 1107/2009 can be sold in the EU market or be used on food or feed of plant and animal origin. In this regard, the Commission indicates that MRLs are based on good agricultural practices following an EFSA risk assessment. If a risk is identified, the MRL application is rejected, and the levels are set at technical zero.[264] In the absence of a specific MRL, a default level applies. Importers (or any other stakeholder) may request an "import tolerance" for substances not in the list of EU-approved substances, as well as for approved ones.[265] If EFSA concludes that the import tolerance is safe for consumers and does not present an environmental concern, the import tolerance can be granted. Certain contaminants in food and feed are also subject to maximum levels for several categories of products such cereals, infant food, lettuce, and milk.[266] Maximum levels for contaminants and residues of pesticides are updated regularly. In 2021, the Commission adopted 4 regulations amending the maximum levels for certain contaminants, and 22 regulations amending those for residues of certain pesticides.[267]

3.202. GMOs for cultivation, and for food and feed use are authorized at the EU level subject the Commission's approval, but EU member States may prohibit or restrict GMOs for cultivation under certain conditions.[268] During the review period, the legal framework for the approval of GMOs was not subject to any change. In 2022, the European Union authorized six GMO crops (two maize, two soybeans, one oilseed rape, and one cotton) and renewed one authorization (cotton), all used for food and animal feed.[269] In total, 19 new authorizations for GMO crops were issued between 2020 and end-2022 and another 7 were renewed, all for food and animal feed. Authorizations are valid for 10 years.

[261] Commission Implementing Regulation (EU) 2019/2072, Annex XII, Part C.
[262] Regulation (EU) 2016/2031, Annexes XIII and XIV.
[263] Regulation (EU) 2016/2031, Articles 40 and 42.
[264] The Commission further indicate that MRLs are regularly set to harmonize the EU legislation with international standards set by the WHO/FAO Codex Committee on Pesticide Residues (CCPR). Codex MRLs are integrated into EU legislation provided that levels are sufficiently substantiated by data and are safe for consumers.
[265] Regulation (EC) 396/2005, Article 3.
[266] Commission Regulation (EC) 1881/2006.
[267] Information provided by the Commission, and European Commission, *EU Legislation on MRLs* and *Contaminants*. Viewed at: https://food.ec.europa.eu/plants/pesticides/maximum-residue-levels/eu-legislation-mrls_en; and https://food.ec.europa.eu/safety/chemical-safety/contaminants/legislation_en.
[268] European Commission, *GMO Authorisations for Cultivation*. Viewed at: https://food.ec.europa.eu/plants/genetically-modified-organisms/gmo-authorisation/gmo-authorisations-cultivation_en.
[269] Information provided by the Commission.

3.203. The European Union requires specific labelling for all food products (imported or locally produced) to be sold in the EU market, including products sold online. Label requirements are described in Regulation (EU) 1169/2011, and include information about the ingredients and their content, allergens, and in some cases the food's country of origin or place of provenance (e.g. fresh, chilled, frozen meat of swine, sheep, goats, and poultry). Certain food products are subject to additional labelling requirements for safety and transparency reasons, and include GMOs, food for infants and young children, fishery products, beef, and wine and spirits. The European Union also applies requirements for the materials used in food packaging (i.e. materials intended to come into contact with food).

3.204. EU member States are responsible for the enforcement of EU SPS legislation, including import controls at the borders, and their performance in this regard is audited by the Commission through DG SANTE. Competent authorities in EU member States shall conduct checks upon the arrival at the first EU border control post (BCP) on the consignments of animals, products of animal origin, and plants and plant products. Since December 2019 when Regulation (EU) 2017/625 became applicable, all checks regardless of the type of good have been channelled through the BCP at EU entry points, and controls procedures have been harmonized across regulated goods.[270] Import controls and their frequency are based on risk analysis, and in certain cases they may be applied temporarily or at a predefined frequency to goods from certain countries. Currently the European Union applies temporary border controls, subject to periodical review, to certain food and feed of non-animal origin (e.g. peanuts, tea, peppers) from 24 countries, and controls at a reduced frequency to 68 products (e.g. cut flowers from certain African and Latin American countries).[271]

3.205. In the area of market surveillance, the European Union maintains the Rapid Alert System for Food and Feed (RASFF) through which EU member States can share information on any product in the EU internal market or at the border that may pose a threat to public health. In 2021, 4,607 notifications were submitted to RASFF with pesticide residues being the most reported issue (1,231 notifications), followed by pathogenic microorganisms (mainly Salmonella) (863 notifications). Of the total notifications, 32% involved products that were blocked and rejected at the EU border for presenting a serious risk to public health.[272] In addition to RASFF, the European Union has two other alert systems: the Animal Disease Information System (ADIS) to share information on outbreaks of infectious animal diseases; and the European Union System for Plant Health Interceptions (EUROPHYT) to share information on the interceptions of harmful organisms in imported plants and plant products.

3.206. At the WTO, the European Union contributes significantly to the work of the WTO SPS Committee and transparency, through the submission of notifications. From 1 October 2019 to 31 December 2022, the European Union made 257 new SPS-related notifications (and 111 addenda, corrigenda, and revisions). The majority (about 86%) of measures were notified based exclusively on food safety grounds. Eleven notifications during this period referred to the adoption of emergency SPS measures for animal or plant health reasons.[273] During the same period, the European Union raised 26 STCs on SPS measures applied by other WTO Members, and WTO Members raised 32 STCs on SPS measures applied by the European Union, of which almost half were related to MRLs of pesticides or maximum limits of contaminants. Five concerns regarding EU measures had already been raised prior to October 2019, of which some referred to MRLs for certain chemicals, endocrine disruptors, and pharmacologically active substances (used in veterinary medicines). As of December 2022, the European Union (and the United States) had raised the largest number of STC concerns in the area of SPS, followed by Brazil and Canada. The European Union was also the main respondent of STCs, followed by the United States and China.[274]

3.207. In the area of international cooperation, the European Union is member of the IPPC, and Codex Alimentarius. All EU member States are also members of the Codex Alimentarius, the IPPC,

[270] Regulation (EU) 2017/625, Articles 47-55 and 61.

[271] Commission Implementing Regulation (EU) 2019/1793, Annex I; and European Commission (2020), *Notification of Reduced Plant Health Checks for Certain Products (Commission Regulation (EC) 1756/2004), Period 1 January to 31 December 2021*, 18 December.

[272] European Commission (2021), *Alert and Cooperation Network – 2021 Annual Report*.

[273] WTO SPS and TBT Platform. Viewed at: https://epingalert.org/.

[274] WTO Trade Concerns Database. Viewed at: https://tradeconcerns.wto.org/en. As of December 2022, the European Union and United States had raised 156 and 157 SPS STCs, respectively.

and the World Organization on Animal Health (WOAH), where the Commission is responsible for coordinating the position of all EU member States.

3.208. In February 2022, the European Union and the United States agreed to mutually recognize as equivalent the SPS standards in relation to the production and sale of bivalve molluscs (e.g. mussels, clams, oysters, and scallops). The agreement applies to two US states and two EU member States, and according to the Commission, it will allow the two countries to resume bilateral trade in these products after 11 years.[275]

3.3.4 Competition policy

3.209. The European Commission is in the process of undertaking an extensive review of existing legislation and regulation on competition. Its Communication on Competition Policy calls for strong and effective competition policy and highlights the role it can play in achieving targets related to green, digital, and resilient single market.[276]

3.210. In December 2020, the Commission presented two drafts related to digitization of markets and services – the Digital Services Act (DSA)[277] and the Digital Markets Act (DMA)[278] (described in Section 4.5). The DMA contains provisions aimed at restricting anti-competitive practices, although the proposed legislation is considered not to be part of competition policy, *per se*.

3.211. A new Regulation (2022/2560) on foreign subsidies distorting the internal market, adopted in November 2022[279], aims at ensuring a level playing field and confers upon the Commission the power to investigate sources of financial means granted by non-EU governments to undertakings active in the territory of the Union. In the competition area, the Regulation introduces a notification-based tool under which undertakings have to notify *ex ante* the financial contributions received from a non-EU government prior to concluding a concentration (mergers, acquisitions, joint ventures, etc).[280]

3.212. The Commission also adopted a new Vertical Block Exemption Regulation as well as new Vertical Guidelines aimed at allowing undertakings to self-assess the conformity of their actions with competition laws, especially considering the digitization of marketplaces.[281]

3.213. On 8 December 2022, the European Commission adopted two regulations extending the period of validity of the horizontal block exemption regulations on research and development and on specialization agreements (together, HBERs). The HBERs were due to expire on 31 December 2022 and the Commission prolonged them until 30 June 2023 to avoid legal uncertainty pending adoption of new texts of the regulations and new guidelines in the first half of 2023.

3.3.4.1 Competition policy during emergencies

3.214. The Commission has acknowledged the exceptional emergency created by the COVID-19 pandemic and the need for business cooperation to deliver critical products and services. To this end, the European Competition Network (ECN) published a statement announcing that they would not actively intervene against "temporary and necessary" measures put in place to overcome the

[275] Commission Implementing Regulation (EU) 2022/158.
[276] European Commission Communication COM(2021) 713 final.
[277] European Commission Proposal COM(2020) 825 final.
[278] Regulation (EU) 2022/1925 of the European Parliament and of the Council on contestable and fair markets in digital sector and amending Directives (EU) 2019/1937 and (EU) 2020/1828 (Digital Markets Act). Viewed at: https://data.consilium.europa.eu/doc/document/PE-17-2022-INIT/en/pdf.
[279] European Council (2022), "Council Gives Final Approval to Tackling Distortive Foreign Subsidies on the Internal Market", 28 November. Viewed at: https://www.consilium.europa.eu/en/press/press-releases/2022/11/28/council-gives-final-approval-to-tackling-distortive-foreign-subsidies-on-the-internal-market/.
[280] Notification requirements apply only when the acquired company, one of the merging parties or the joint venture generates an EU turnover of at least EUR 500 million, and the transaction involves parties granted foreign financial contributions from any number of non-EU countries of at least EUR 50 million in the previous three years. Regulation (EU) 2022/2560.
[281] Commission Regulation (EU) 2022/720; and European Commission Communication C/2022/4238, 2022/C 248/01.

crisis and noted that such measures most probably would not amount to violations of competition norms under Article 101 of the TFEU.[282] In October 2022, in light of the improved public health situation the Commission withdrew the Temporary Framework setting out the main criteria that the Commission would use when assessing cooperation of businesses helping to alleviate the consequences of the pandemic.[283] At the same time, the Commission adopted a Revised Informal Guidance Notice explaining how businesses can seek informal guidance from the Commission on the application of competition provisions.[284]

3.215. Regarding the war in Ukraine, the ECN published a statement announcing that it will not intervene when specific and targeted actions are taken to mitigate the disruptions created by the war.[285] Nevertheless, the ECN noted the need to sustain market prices, especially for products of an essential nature.

3.3.4.2 Anti-competitive agreements and abuse of a dominant position

3.216. Competition enforcement action of the Commission and national competition authorities relating to anti-competitive agreements and abuse of a dominant position continues to be based on Articles 101 and 102 of the TFEU and Council Regulation (EC) 1/2003, as well as sector-specific rules. Most cases are investigated or submitted by the competition authorities of the member States. The Commission opened infringement proceedings against 22 member States in 2021 for not incorporating into national law the so-called ECN+ Directive further strengthening the role of national competition authorities in enforcing EU competition law.[286] Currently, 23 member States have fully transposed the ECN+ Directive, 2 have partially transposed it, and 2 have not yet adopted any implementing measure.

3.217. The Commission has upgraded the "eLeniency" tool used to submit leniency applications online. The revised tool allows parties to be easily notified of, and have access to, information and documents relevant to leniency proceedings. Confidentiality and security are guaranteed as only pre-authorized users on a case-by-case basis will have access to the documents online.[287]

3.3.4.3 Mergers and acquisitions

3.218. Merger control is still based on Council Regulation (EC) 139/2004 of 20 January 2004. The Commission is, however, working on simplifying the procedure for specific categories of cases, through amendments in the Merger Implementing Regulation[288], its Annexes containing, *inter alia*, the notification forms and the Notice on Simplified Procedure.[289,290] The adoption and entry into force of these revised legal texts is expected for 2023. The Commission also published new Guidance on the application of the referral mechanism set out in Article 22 of the Merger Regulation to certain categories of cases.[291] It is now explicitly clarified that the Commission will encourage and accept referrals of some categories of cases even though these are not notifiable based on the legislation of the referring member State in case the criteria of Article 22 of the Merger Regulation are met.

[282] European Competition Network, *Antitrust: Joint Statement by the European Competition Network (ECN) on Application of Competition Law during the Corona Crisis*. Viewed at: https://ec.europa.eu/competition/ecn/202003_joint-statement_ecn_corona-crisis.pdf.
[283] European Commission Communication C/2020/3200.
[284] European Commission Notice C/2022/6925 final.
[285] European Competition Network, *Antitrust: Joint Statement by the European Competition Network (ECN) on the Application of Competition Law in the Context of the War in Ukraine*. Viewed at: https://competition-policy.ec.europa.eu/system/files/2022-03/202203_joint-statement_ecn_ukraine-war.pdf.
[286] Directive (EU) 2019/1.
[287] European Commission (2022), "Antitrust: Commission Upgrades eLeniency Tool to Grant Companies Online Access to Leniency and Settlement Documents", 30 September. Viewed at: https://ec.europa.eu/commission/presscorner/detail/en/ip_22_5845.
[288] Commission Regulation (EC) 802/2004, p. 1 as amended by Commission Regulations (EC) 1033/2008 and (EU) 1269/2013.
[289] European Commission Notice 2013/C 366/04.
[290] European Commission Communication (*Annex 1)* C(2022) 2918 final.
[291] European Commission Communication C/2021/1959 final.

3.3.4.4 Statistics on competition enforcement

3.219. Tables 3.27 and 3.28 provide relevant statistics on competition enforcement in the European Union. Anti-trust investigations have remained relatively constant over the period 2019-21 and the majority of cases concerned anti-competitive agreements. Merger notifications have likewise remained relatively steady during 2019-22 with some fluctuations during 2020-21 and the majority of cases were cleared, i.e. compatible, in the Phase I investigation.

Table 3.27 Anti-trust cases, investigations, decisions, and fines, 2019-22

	Note	2019	2020	2021	2022
Commission investigations		19	12	18	
National competition authority (NCA) investigations		119	126	127	..
Submitted by NCAs		82	84	83	..
A. 101	Anti-competitive agreements	69.51%	73.81%	72.29%	..
A. 102	Abuse of dominant position	23.17%	20.24%	22.89%	..
A. 101/102	Combined	7.32%	5.95%	4.82%	..
Commission					
Cartel cases decided	Number	5	3	10	1*
Fines imposed (not adjusted for Court judgements)	EUR million	1,485	288	1,746	31*

.. Not available.

* Up to 12 July 2022.

Source: European Commission, *European Competition Network, Statistics*. Viewed at: https://competition-policy.ec.europa.eu/european-competition-network/statistics_en; and *Cartel Statistics*. Viewed at: https://competition-policy.ec.europa.eu/cartels/statistics_en.

Table 3.28 Merger notifications and decisions, 2019-22

	2019	2020	2021	2022
Notified cases	382	361	405	371
Withdrawn	12	9	12	12
Phase I decisions				
Out of scope	0	1	0	0
Compatible	343	334	384	354
Compatible with remedies	10	13	7	10
Phase II decisions				
Compatible	0	1	0	0
Compatible with remedies	6	3	4	2
Prohibited	3	0	0	2

Source: DG Competition, *Mergers Cases Statistics*. Viewed at: https://competition-policy.ec.europa.eu/mergers/statistics_en.

3.3.4.5 Sector inquiries and reports

3.220. Another relevant development relates to specific sector inquiries carried out by the Commission.[292] These inquiries help the Commission to decide whether formal investigation procedures should be launched. During the review period, the Commission finalized its inquiry into the sector of Internet of Things (IoT) for consumer-related products and services in the European Union. The published report highlighted several competition-related issues.[293]

3.3.4.6 International cooperation

3.221. The European Union cooperates with the competition authorities of different countries at both bilateral and multilateral levels with the aim of enforcing EU competition rules at a global level, bearing in mind the increased number of cross-border mergers and acquisitions and global cartel

[292] European Commission, *Antitrust: Ex Officio Investigations and Sector Inquiries*. Viewed at: https://competition-policy.ec.europa.eu/antitrust/sector-inquiries_en.

[293] European Commission Report COM(2022) 19 final.

arrangements.[294] The European Union signs regional trade agreements containing competition policy chapters as well as bilateral cooperation agreements with competition authorities of third countries. During the review period, the European Union and the United Kingdom concluded, as part of their Trade and Cooperation Agreement, a competition chapter that lists anti-competitive practices that respective competition law provisions should address and envisages cooperation between the relevant competition authorities.[295] Moreover, the Terms of Reference of the EU-China Competition Policy Dialogue, approved in April 2019[296], were the basis for the adoption of two guidelines on the cooperation for the investigation of merger[297] and anti-monopoly cases.[298] Together with the United States' competition authorities, DG Competition also launched a Joint Technology Competition Policy Dialogue in the context of the EU-US Trade and Technology Council. The published joint statement reaffirms the intention to cooperate in the competition policy area, including on enforcement issues in general and in technological sector specifically.[299] At the multilateral level, the European Union cooperates with, *inter alia*, the OECD, the International Competition Network (ICN), and UNCTAD.

3.3.5 State trading, state-owned enterprises, and privatization

3.222. The European Union has notified to the WTO two state trading enterprises within the meaning of Article XVII of the GATT 1994 and the Understanding on its interpretation.[300] The two entities are Systembolaget AB (Sweden) and Alko Oy (Finland), and have exclusive rights for the retail sale of alcoholic beverages in their domestic markets. Since 2019, Systembolaget has also the exclusive right for the retail sale of non-beverage alcoholic preparations. The most recent notifications (2020 and 2022) cover the period 2019-21 and include data on the trading activities of these entities since 2014. Both entities are engaged in import activities.

3.223. As indicated at the time of the previous Review, SOEs are an important component of the EU economy, but their number and contribution in terms of output and employment differ greatly across EU member States.[301] Their number range approximately from very few dozens to hundreds of enterprises when considering ownership (majority and minority) by central governments. In certain EU member States, subcentral governments are also (majority and minority) shareholders of enterprises, which can raise the number of entities with state participation to more than 1,000. Consolidated and comparable data at the EU level in this area remain limited (see below), and the most recent estimates publicly available were presented in the previous Review. In this regard, the Commission indicated that it is planning to undertake work on SOEs by EU member States and sector this year. SOEs operate in general on a commercial basis to achieve commercial and/or social objectives, and in most EU member States, their operations are primarily concentrated in the transport, energy, and utility sectors.[302] Some of these SOEs, in particular those in the energy sector, also conduct businesses outside the European Union.

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[294] The list of all of the European Union's bilateral arrangements with third countries can be viewed at: https://competition-policy.ec.europa.eu/international/bilateral-relations_en.

[295] Trade and Cooperation Agreement between the European Union and the European Atomic Energy Community, of the one part, and the United Kingdom of Great Britain and Northern Ireland, of the other part, Articles 358-362.

[296] *Terms of Reference of the EU-China Competition Policy Dialogue between on the one side the Directorate-General for Competition of the European Commission and on the other side the State Administration for Market Regulation of the People's Republic of China*. Viewed at: http://ec.europa.eu/competition/international/bilateral/agreement_tor_china_2019.pdf.

[297] *Practical Guidance for Cooperation on Reviewing Merger Cases between Directorate-General for Competition and of European Commission and State Administration for Market Regulation of P.R. of China*. Viewed at: https://competition-policy.ec.europa.eu/system/files/2021-06/practical_guidance_merger.pdf.

[298] *Practical Guidance for Cooperation on Investigating Anti-Monopoly Cases between Directorate-General for Competition and of European Commission and State Administration for Market Regulation of P.R. of China*. Viewed at: https://competition-policy.ec.europa.eu/system/files/2021-06/practical_guidance_antimonopoly.pdf.

[299] EU-U.S. Joint Technology Competition Policy Dialogue (2021), *Inaugural Joint Statement between the European Commission, the United States Department of Justice Antitrust Division and the United States Federal Trade Commission*. Viewed at: https://competition-policy.ec.europa.eu/system/files/2021-12/EU-US_Joint_Dialogue_Statement_12.6.21_1.pdf.

[300] WTO documents G/STR/N/18/EU, 6 July 2020, and G/STR/N/19/EU, 30 June 2022. At the time of the previous Review, the European Union had notified these two entities, as well as third entity that operates in the United Kingdom.

[301] WTO document WT/TPR/S/395/Rev.1, 7 July 2020, Section 3.3.5.

[302] WTO documents WT/TPR/S/395/Rev.1, 7 July 2020; and WT/TPR/S/357/Rev.1, 13 October 2017.

3.224. According to the Commission, there were no significant changes in this area. The European Union does not maintain a common legal framework specific to SOEs operations and governance. SOEs are regulated at the national level by EU member States but are subject to the EU rules on non-discrimination, competition, and state aid.[303]

3.225. At the EU level, public undertakings, as they are referred to in the TFEU, are also subject to some specific reporting obligations, notably regarding the establishment of a separate account system and the recording of some specific financial information to ensure transparency with respect to public funds.[304] EU member States are also required to publish data on contingent liabilities of public corporations owned by central governments, as well as on information on their participation in them as part of their budgetary frameworks.[305] Other consolidated and comparable information on SOEs, notably on their number and activities at the EU level remains limited. This information is in general – though not always – made available on an individual basis by EU member States. According to the OECD, as of 2021, most EU member States published annual reports on their SOE activities.[306] These reports, when available (in general online), vary in their format and coverage, which limit their comparability. In addition, these reports are published in the national language of the corresponding EU member State and do not always have an English version.[307]

3.226. Privatization plans are defined at the member State level and based on, *inter alia*, fiscal, efficiency, or public interest considerations.[308] During the review period, two member States had privatization plans. In general, EU member States were focusing on the implementation of measures to improve good governance.[309]

3.3.6 Government procurement

3.227. Based on the most recent data available, in 2020, total general government procurement expenditure on works, goods, and services in the European Union (excluding utilities) amounted to EUR 2,388 billion (above and below government procurement thresholds), or about 13.7% of GDP.[310] The total value of government procurement in the European Union for 2020 as published on Tenders Electronic Daily (TED), the online platform used for the publication of procurement-related information at the EU level, which includes defence and utilities (above government procurement thresholds), was about EUR 800.54 billion, 3% more than in 2019.

3.228. According to the latest available data, in 2016-19, 25.7% of procurement below EUR 200 million was cross-border (direct and indirect) and 74.2% of contracts in value were awarded to domestic suppliers.[311] For contracts over EUR 200 million, 32.6% of procurement was

[303] TFEU, Article 106. Undertakings providing services of general economic interest or being revenue-producing monopolies may be exempted from these rules if their application obstruct the undertaking's performance.

[304] Commission Directive 2006/111/EC.

[305] Council Directive 2011/85/EU. Contingent liability data can be found in Eurostat: https://ec.europa.eu/eurostat/web/government-finance-statistics/contingent-liabilities. There are no similar consolidated data for the information on government participation in public and private corporations by individual member. In this regard, some information can be found on national websites as reported in https://ec.europa.eu/eurostat/documents/1015035/16029960/_Listing-of-national-websites_January+2023.pdf/3b5cf635-c441-2ed0-abda-0209c4b1efc9?t=1675176370739.

[306] OECD (2021), *Ownership and Governance of State-Owned Enterprises: A Compendium of National Practices 2021*; and WTO document WT/TPR/S/395/Rev.1, 7 July 2020, Table A3.4.

[307] Some examples include the reports published by Sweden (*Annual Report for State-Owned Enterprises 2021*. Viewed at: https://www.government.se/reports/2022/09/annual-report-for-state-owned-enterprises-2021/), France (*Government Shareholding Agency (APE) Annual Report 2021-2022*). Viewed at: https://www.economie.gouv.fr/files/files/directions_services/agence-participations-etat/Documents/Rapports-de-l-Etat-actionnaire/2022/RapportEtatactionnaire2022ENGL.pdf?v=1673271827), and Lithuania (*SOEs Activity Report 2020/2021*. Viewed at: https://governance.lt/wp-content/uploads/2022/11/VKC-VVI-Metine-Ataskaita_2022_LT_WEB_NEW.pdf).

[308] OECD (2018), *Privatisation and the Broadening of Ownership of State-Owned Enterprises*.

[309] Information provided by the Commission.

[310] *Public Procurement Indicators 2018.* Viewed at: https://ec.europa.eu/docsroom/documents/48156 and information provided by the Commission.

[311] The term "domestic" refers to cases where the supplier is based in the same country as the procuring entity and is not an affiliate of a foreign company (i.e. it is domestically owned).

cross-border (direct and indirect[312]) and domestic suppliers were awarded 67.4% of the contracts in value.[313]

3.229. Based on 2021 data, resort to single sourcing varied across the European Union from 28% of the number of procurement procedures in Cyprus to 1% in Greece.[314] Procurement procedures where only a single bidder submitted a bid varied from 50% of the number of procurement procedures in Poland to 9% in Malta. The data show heavy reliance on the lowest price as the sole award criterion: in Bulgaria, Cyprus, Czech Republic, Estonia, Greece, Lithuania, Malta, Romania, Slovak Republic, and Sweden, more than 80% of the number of procedures were awarded based on the lowest price criterion.

Legislation and its implementation

3.230. The European Union is a Party to the WTO Agreement on Government Procurement, adopted through Council Decision 2014/115/EU, and its member States are covered by the GPA 2012.

3.231. The EU government procurement framework remained unchanged during the review period and is composed of three directives that are known as the "2014 Directives": the Classical Directive, the Concessions Directive, and the Utilities Directive (water, energy, transport, and postal services).[315]

3.232. All procurement carried out in the European Union above specified thresholds must comply with the requirements of the EU Directives on procurement that implement corresponding EU obligations under the GPA 2012. The applicable thresholds were updated with effect from 1 January 2022 (Table 3.29).[316] For government procurement below the thresholds, national rules apply.

Table 3.29 Government procurement thresholds in effect from 1 January 2022

Directive	Type	Threshold in EUR
Concessions Directive		
	All works or services concessions	5,382,000
Classical Directive (contracts for public works, public supply and public service)		
Central government authorities	Works contracts, subsidized works contracts	5,382,000
	All contracts concerning social and other specific services listed in Annex XIV	750,000
	All subsidized services	215,000
	All other service contracts and all design contests	140,000
	All supplies contracts awarded by contracting authorities not operating in the field of defence	140,000
	Supplies contracts awarded by contracting authorities operating in the field of defence	Annex III products 140,000 Other products 215,000

[312] In case of indirect cross-border procurement, the firm awarded the contract is "an affiliate of a foreign company residing in the country which launches the tender". See Z. Kutlina-Dimitrova and C. Lakatos, "Determinants of Direct Cross-Border Public Procurement in EU member States", *Chief Economist Notes*, Issue 2, July 2014. Viewed at: https://trade.ec.europa.eu/doclib/docs/2014/july/tradoc_152700.pdf.

[313] For more detailed data, see European Commission (2021), *Study on the Measurement of Cross-Border Penetration in the EU Public Procurement Market*. Viewed at: https://op.europa.eu/en/publication-detail/-/publication/c7fcd46a-b84d-11eb-8aca-01aa75ed71a1/language-en/format-PDF/source-210260521.

[314] Single Market Scoreboard. Viewed at: https://single-market-scoreboard.ec.europa.eu/business-framework-conditions/public-procurement_en.

[315] Directive 2014/24/EU, Directive 2014/23/EU, and Directive 2014/25/EU, respectively. Other related EU Directives include (i) Directive 2009/81/EC on defence and sensitive security procurement; (ii) the Remedies Directive for the utilities sector (Council Directive 92/13/EEC) and the Remedies Directive for the public sector (Council Directive 89/665/EEC), as modified by Directive 2007/66/EC; and (iii) Directive 2014/55/EU on electronic invoicing in public procurement.

[316] See also the corresponding notification of thresholds in national currencies contained in WTO document GPA/THR/EU/3, 20 December 2021.

Directive	Type	Threshold in EUR
Subcentral contracting authorities	Works contracts, subsidized works contracts All services concerning social and other specific services listed in Annex XIV All other service contracts, all design contests, subsidized service contracts, all supplies contracts	5,382,000 750,000 215,000
Defence Directive		
	Works contracts All supplies and services contracts	5,382,000 431,000
Utilities (Sectors) Directive		
	Works contracts All services concerning social and other specific services listed in Annex XVII All other services contracts, all design contests, all supplies contracts	5,382,000 1,000,000 431,000

Source: European Commission, *Thresholds*. Viewed at: https://ec.europa.eu/growth/single-market/public-procurement/legal-rules-and-implementation/thresholds_en.

3.233. Use of the TED platform is mandatory for public contracts at or above specific thresholds. For public contracts below these thresholds, procuring entities can, but are not required to, publish relevant information on TED. Standard forms (eForms), developed for the publication of notices related to planning, tendering, limited tendering with pre-notification, contract award, contract modification, and change or cancellation of contract notices[317], are expected to become mandatory from October 2023.

3.234. In 2020, the Commission issued a Guidance on the participation of third-country bidders and goods in the EU procurement markets seeking to establish a more balanced approach given that, according to its assessment, a substantial portion of the world's government procurement market is closed to EU suppliers.[318] In this context, a new EU International Procurement Instrument (IPI)[319], aimed at strengthening the international negotiating position of the European Union in the area of government procurement and introducing limitations to participation in EU tenders for suppliers from non-EU countries that have adopted measures restricting access of EU suppliers to their government procurement market, was adopted and entered into force in 2022.

3.235. The IPI empowers the Commission to conduct investigations into third-country procurement measures with the aim of determining whether such measures create access barriers for EU suppliers of goods or services in third-country government procurement markets. Depending on the results of the investigation and following consultations with the third country, the Commission can impose measures to limit access to the EU public procurement market for suppliers from the third country. Specifically, IPI measures can take the form of an exclusion of third-country tenderers from the relevant EU government procurement procedure, or a score adjustment penalty that is applied to a tender submitted by a supplier of the targeted third country. IPI measures apply to EU procurement of works and concessions equal to or over EUR 15 million (net of VAT) and to goods and services equal to or over EUR 5 million (net of VAT). EU procuring entities can be exempted from application of the IPI only if the bids from a third country subject to IPI measures meet the tender requirements or the exemption is justified by an overriding public interest reason. If the relevant third country is a Party to the GPA 2012 or has a bilateral agreement with the European Union, and the procurement is covered, the issue is to be resolved through the mechanisms contained in these agreements.

3.236. Regulation (EU) 2022/2560 to address distortions caused by foreign subsidies in the single market was adopted in 2022. One of the tools under the Regulation concerns EU government procurement procedures with an estimated value of over EUR 250 million. In such cases, suppliers participating in tenders will be required to notify to the Commission all foreign financial contributions that they received in the past three years above EUR 4 million per third country.[320] If, after investigation, the Commission finds that the supplier has received foreign subsidies distorting the single market, it may prohibit the award of a contract to that supplier unless the latter proposes

[317] Commission Implementing Regulation (EU) 2019/1780.
[318] The Guidance can be viewed at: https://op.europa.eu/en/publication-detail/-/publication/c3f90a8b-4bc5-11ea-8aa5-01aa75ed71a1/language-en/format-PDF.
[319] Regulation (EU) 2022/1031.
[320] Regulation (EU) 2022/2560.

commitments fully remedying the distortion caused. Fines might also be imposed in case of non-compliance, supply of incorrect or misleading information, failure to notify, or circumvention.[321]

3.237. The Commission published an updated Notice providing guidance on innovation procurement which, though legally non-binding, suggests a step-by-step approach to procurement of innovation from needs assessment to contract performance, including good practice cases.[322]

3.238. The Commission has developed new voluntary green public procurement (GPP) criteria for several sectors, including for computers, smartphones, and road transport, to facilitate the uptake of such criteria in tender documentation.[323] Though envisaged by the Circular Economy Action Plan[324], no mandatory GPP criteria have been introduced so far. Other new projects related to green government procurement include the Farm to Fork Strategy (sustainable food systems)[325], Level(s) (sustainable building)[326], and Renovation Wave (renovation of buildings).[327]

3.239. Regarding the use of social criteria in government procurement, the European Union has published good practice cases[328] and a guideline on inclusion of social considerations, and has adopted a Directive on accessibility criteria for products and services.[329]

3.240. In response to the COVID-19 pandemic, the Commission published a guideline on existing flexibilities and options for emergency procurement under the Directives, such as the reduction of deadlines in case of open and restricted procedures, and recourse to direct award procedures.[330] The EU Joint Procurement Agreement, set up to procure medicines to fight health emergencies, was extensively used during the pandemic, resulting in 12 joint procurement procedures and more than 200 contracts with a total value of EUR 13 billion.[331] The Commission in 2022 also proposed a new draft Single Market Emergency Instrument under which, where the Commission has launched a procurement procedure on behalf of two or more member States in an emergency situation, member States' procuring entities cannot organize procurement procedures for goods and services already being procured by the Commission.[332]

3.241. As part of its fifth package of sanctions against the Russian Federation, the European Union in 2022 decided to prohibit the participation of Russian nationals and entities in procurement procedures in the European Union.[333]

3.3.7 Intellectual property rights

3.242. Intellectual property rights (IPRs) continue to play a key role for EU business to maintain its competitiveness and play a vital part in the European Union's economy.[334] For the European Union, IPRs represent an important factor underpinning both the response to the COVID-19 pandemic and its recovery and resilience-building efforts, in particular as they play a key role in incentivizing the

[321] For more details on the process of review and decisions the Commission might take, see Chapter 4 of the Regulation (EU) 2022/2560.
[322] European Commission Notice C(2021) 4320 final.
[323] The list of adopted EU GPP criteria can be viewed at: https://ec.europa.eu/environment/gpp/eu_gpp_criteria_en.htm. GPP criteria for the procurement of road transport and office buildings are currently being developed.
[324] European Commission Communication COM(2020) 98 final.
[325] The details of the project can be viewed at: https://ec.europa.eu/food/horizontal-topics/farm-fork-strategy_en.
[326] The details of the project can be viewed at: https://ec.europa.eu/environment/levels_en.
[327] The details of the project can be viewed at: https://energy.ec.europa.eu/topics/energy-efficiency/energy-efficient-buildings/renovation-wave_en.
[328] All 71 cases can be viewed at: https://ec.europa.eu/info/making-socially-responsible-procurement-work-71-good-practice-cases_en.
[329] Directive (EU) 2019/882.
[330] European Commission Communication 2020/C 108 I/01.
[331] European Commission, *Preparedness and Response Planning*. Viewed at: https://ec.europa.eu/health/health-security-and-infectious-diseases/preparedness-and-response_en.
[332] European Commission Proposal COM(2022) 459 final.
[333] Council Regulation (EU) 2022/576. This Regulation allows certain exceptions in Article 5k(2), e.g. for contracts related to the procurement of natural gas and oil, cooperation in space programmes and fuel supply, and retreatment and safety of civil nuclear capabilities.
[334] ECA (2022), *EU Intellectual Property Rights*. Viewed at: https://www.eca.europa.eu/Lists/ECADocuments/SR22_06/SR_EU-IPR_EN.pdf.

knowledge-based and innovation-driven activities necessary for post-pandemic green and digital transitions.[335]

3.3.7.1 Economic relevance of IPRs

3.243. The ever-growing economic importance of IPRs, both in terms of employment and contribution to GDP, was confirmed in a joint report by the European Patent Office (EPO) and the European Union Intellectual Property Office (EUIPO), released in October 2022.[336] Table 3.30 shows that 357 IPR-intensive industries generate almost 47% of the total economic activity (GDP) of the European Union, worth EUR 6.4 trillion. Furthermore, they provide almost 30% of total EU employment. The trademark-intensive industry made by far the biggest contribution both to employment and the European Union's GDP, followed by the design- and patent-intensive industries. For the first time, the report also included data, as subsets of patent- and trademark-intensive industries, on climate change mitigation technology (CCMT) industries, which contribute 14% of EU GDP and 9.3% of employment with a significant positive trade balance.

Table 3.30 Contribution of IP industries, 2017-19 average

	Share of total direct employment (%)	Share of total direct and indirect employment (%)	Share of total GDP (%)	Average wage premium compared to non-IPR-intensive industries (%)	Exports (EUR million)	Imports (EUR million)	Trade balance (EUR million)
All IPR	29.7	39.4	47.1	40.7	2,701,959	2,408,212	223,826
Copyright	6.2	8.2	6.9	49.3	229,082	249,340	-20,258
Patent	11	17.4	17.4	65	1,559,811	1,341,864	217,947
Plant variety	0.9	1.2	1.4	n.a.	43,248	50,743	-7,495
Trade mark	21.1	28.9	38.5	40.4	1,547,270	1,551,618	-4,348
Geographical indications (GI)	n.a.	n.a.	0.1	n.a.	13,126	1,769	11,357
Design	12.9	19.4	15.5	34.4	1,232,068	1,014,158	217,910
CCMT and green	9.3	n.a.	14	n.a.	n.a.	n.a.	36,539

n.a. Not applicable.

Source: EPO/EUIPO (2022), *IPR-intensive Industries and Economic Performance in the European Union – Industry-Level Analysis Report*, 4th edition.

3.244. A further joint report by the EPO and the EUIPO released in February 2021 analysed firm-level data based on IPR ownership rather than industry-level data.[337] It showed that firms that own IPRs have on average 20% higher revenue per employee than firms that do not, and that they pay on average 19% higher wages. It furthermore confirms that the positive effects of IPR ownership are amplified in the case of SMEs. SMEs that own IPRs have a 68% higher revenue per employee than SMEs that do not own any IPRs. Furthermore, firms active in the information and communication, manufacturing, and other services sectors are the most likely to own IPRs.

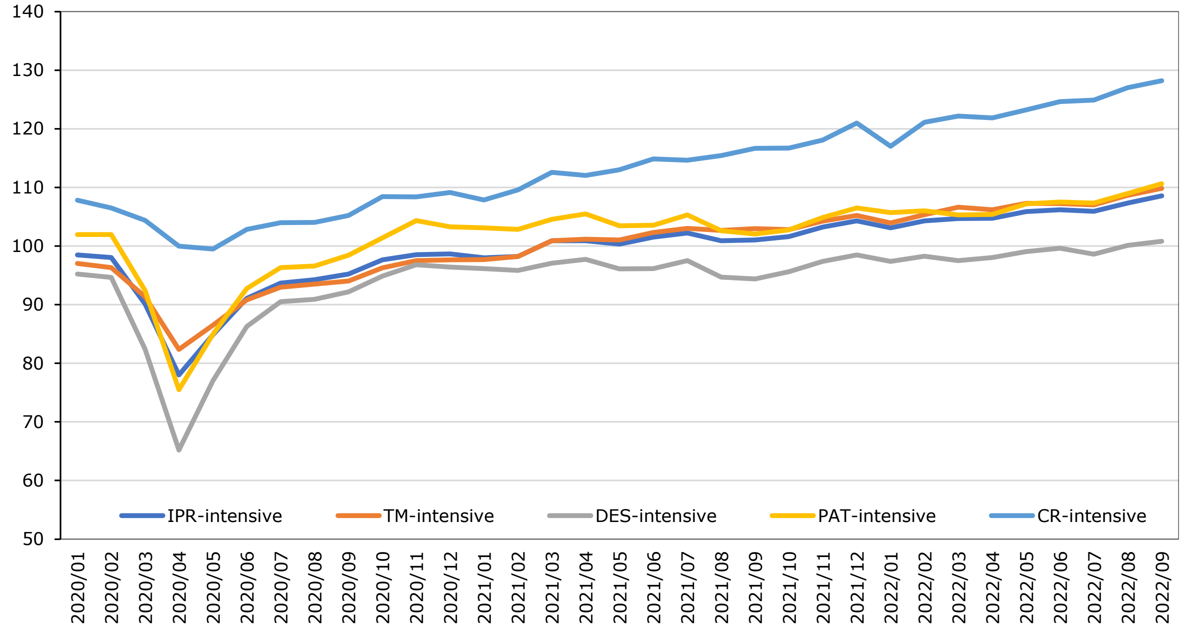
[335] European Commission Communication COM(2020) 760 final.

[336] EPO/EUIPO (2022), *IPR-intensive Industries and Economic Performance in the European Union – Industry-Level Analysis Report*, 4th edition. Viewed at: https://documents.epo.org/projects/babylon/eponet.nsf/0/33DCE530D888258BC12588D7004539D1/$File/ipr-intensive_industries_and_economic_performance_in_the_EU_2022_en.pdf; and EUIPO (2022), *IPR Intensity and Industrial Dynamics*. Viewed at: https://euipo.europa.eu/tunnel-web/secure/webdav/guest/document_library/observatory/documents/reports/2022_IPR_intensity_and_dynamics_report/2022_IPR_intensity_and_dynamics_FullR_en.pdf.

[337] EPO/EUIPO (2021), *Intellectual Property Rights and Firm Performance in the European Union – Firm-level Analysis Report*. Viewed at: https://euipo.europa.eu/tunnel-web/secure/webdav/guest/document_library/observatory/documents/reports/IPContributionStudy/IPR_firm_performance_in_EU/2021_IP_Rights_and_firm_performance_in_the_EU_en.pdf.

Chart 3.9 Indicators of IPR-intensive industries, January 2020-September 2022

(base 2019 = 100)



Note: IPR: intellectual property rights; TM: trademarks; DES: designs; PAT: patents; and CR: copyright.

Source: EUIPO (2022), *Economic Performance of IPR Indicators: September 2022 Update*.

3.245. As regards the economic performance of IPR-intensive industries during the COVID-19 crisis, studies by the EUIPO show a sharp decline followed by swift recovery, with copyright-intensive industries showing the most resilience and outputs beyond pre-crisis levels in the first half of 2022 (Chart 3.9).[338]

3.246. In November 2020, the Commission adopted the Communication "Making the most of the EU's innovative potential – An intellectual property action plan to support the European Union's recovery and resilience" (2020 IP Action Plan).[339] The Action Plan presents proposals for specific measures in five key areas: (i) the protection of IPRs; (ii) the uptake and use of IPRs especially by SMEs; (iii) the facilitation of licensing and sharing of IPRs; (iv) the enforcement of IPRs; and (v) the fight against counterfeiting and piracy. These measures and initiatives are discussed in more detail in the relevant sections.

3.247. During the review period, the European Union contributed actively to discussions and work in the TRIPS Council. In particular, it made important contributions to COVID-19-related agenda items, including a Proposal for a Waiver from Certain Provisions of the TRIPS Agreement for the Prevention, Containment and Treatment of COVID-19 and IP Measures in the Context of COVID-19.[340] In the context of the former discussions, the European Union contributed a proposal and participated actively in the negotiations among a small group of Members. The European Union also submitted comprehensive reports on its technical cooperation activities under Article 67 of the TRIPS Agreement and on incentives provided to the private sector to transfer technology to LDCs under Article 66.2, and it co-sponsored contributions to TRIPS Council discussions relating to, *inter alia*, making MSMEs competitive, IP for investment/financing/funding, public-private collaborations in innovation, and women and intellectual property.

[338] EUIPO (2022), *Economic Performance of IPR Indicators: June 2022 Update*; and various updates – March 2022, December 2021, September 2021, June 2021, and March 2021; and *Economic Impact of COVID-19 Crisis in IPR-intensive Industries*. Viewed at: https://euipo.europa.eu/tunnel-web/secure/webdav/guest/document_library/observatory/documents/reports/2021_Economic_Impact_COVID19/2021_Economic_impact_of_COVID19_crisis_in_IPR_intensive_industries_study_FullR_en.pdf.

[339] European Commission Communication COM(2020) 760 final.

[340] See minutes of the WTO TRIPS Council, WTO documents IP/C/M/93-104.

3.248. The European Union is an observer to the World Intellectual Property Organization (WIPO), and its member States are also WIPO member States. On 26 November 2019, the European Union deposited its instrument of accession to the Geneva Act of the Lisbon Agreement on Appellations of Origin and Geographical Indications (Geneva Act), adopted at Geneva on 20 May 2015. The Geneva Act entered into force on 26 February 2020.[341] The European Union and its member States[342] are contracting parties to the International Union for the Protection of New Varieties of Plants (UPOV).

3.3.7.2 Copyright and related rights

3.249. The European Union's legal framework (*acquis*) for copyright and neighbouring rights is shaped by a set of 13 directives and 2 regulations.[343] The overarching objective of approximating the standards of protection is to harmonize the essential rights of authors, performers, producers, and broadcasters in order to create a sound basis for the free movement of protected creative works and services, offering access to these works within the internal market.

3.250. Digital technologies have a strong impact on the development of the copyright-intensive industry. On 9 March 2021, the European Commission presented a vision and avenues for Europe's digital transformation by 2030, including a Digital Compass strategy that includes Digital Businesses as a focus. In the area of copyright, important legislative steps have been taken to create a single market for copyright-protected digital works.[344] In June 2021, the deadline for the implementation of two recent directives expired: (i) the Directive on Copyright in the Digital Single Market (Directive (EU) 2019/790); and (ii) the Directive on Television and Radio Programmes (Directive (EU) 2019/789). Implementing acts were notified by a majority of member States.[345] The Commission also published several reports with a focus on the online/digital environment.[346]

3.251. As part of its 2020 IP Action Plan, the Commission provided guidance on Article 17 of Directive 2019/790.[347] Article 17 provides that online content-sharing service providers need to obtain an authorization from right holders for the content uploaded on their website. If no authorization is granted, they need to take steps to avoid unauthorized uploads. The guidance provides practical indications on the main provisions of Article 17, helping market players to better comply with national legislations in their implementation.

3.252. The Commission also made available two studies mapping the challenges and opportunities for cultural and creative sectors in the digital decade and a study on copyright and new technologies.[348]

3.253. The Commission also published a report on the availability of copyright-protected works in accessible formats for persons with disabilities, beyond Directive (EU) 2017/1564 implementing the WIPO Marrakesh Treaty.[349] It found a diverse landscape for the availability of accessible formats for persons with disabilities not covered by the Directive and concluded that while it will continue to

[341] For an overview of the status of the European Union's participation in individual WIPO treaties, see WTO document WT/TPR/S/395/Rev.1, 7 July 2020, Table 3.31. See also Lisbon Notifications No. 42 and No. 43. Viewed at: https://www.wipo.int/treaties/en/notifications/lisbon/treaty_lisbon_42.html and https://www.wipo.int/treaties/en/notifications/lisbon/treaty_lisbon_43.html. Regulation (EU) 2019/1753 implements the Geneva Act.

[342] Except Cyprus, Greece, Luxembourg, and Malta.

[343] For an overview of relevant EU legislation, see https://digital-strategy.ec.europa.eu/en/policies/copyright-legislation.

[344] For a description of the main measures taken under these Directives and other legislative measures, see WTO document WT/TPR/S/395/Rev.1, 7 July 2020.

[345] Directive (EU) 2019/790 and Directive (EU) 2019/789.

[346] Viewed at: https://digital-strategy.ec.europa.eu/en/library/reports-collective-management-and-extended-licensing; and https://digital-strategy.ec.europa.eu/en/news/commission-publishes-staff-working-document-reporting-cross-border-portability-online-content.

[347] European Commission Communication COM(2021) 288 final.

[348] European Commission (2022), "Commission Publishes Two Studies to Map the Challenges and Opportunities for Cultural and Creative Sectors in the Digital Decade", 16 March. Viewed at: https://digital-strategy.ec.europa.eu/en/news/commission-publishes-two-studies-map-challenges-and-opportunities-cultural-and-creative-sectors.

[349] European Commission (2022), *Report on the Availability of Copyright Protected Works for Persons with Disabilities*. Viewed at: https://digital-strategy.ec.europa.eu/en/library/report-availability-copyright-protected-works-persons-disabilities.

monitor the effect of recent EU legislation on availability, the Commission does not plan to introduce changes to the scope of the Directive.

3.254. The 2020 IP Action Plan affirms that the Commission will continue to be actively involved in WIPO negotiations with the objective of reaching an agreement on a new treaty that ensures international protection for broadcasting organizations, and work towards securing the European Union's ratification of the WIPO Beijing Treaty (signed by the European Union in 2013), which grants international protection to audiovisual performances.

3.3.7.3 Industrial property

3.3.7.3.1 Patents

3.255. Currently, technical inventions can be protected in Europe either by national patents, granted by the competent national IP authorities in EU countries (National Patent Offices (NPOs)) or by European patents granted centrally by the EPO.[350] The granted European patent is a "bundle" of individual national patents. Reforms are under way in order to create a unitary patent that provides uniform patent protection across participating EU member States. The "unitary patent system" is expected to be launched in June 2023 (see details below).

3.256. The EPO remains among the top five offices that accounted for a combined share of 85.1% of global patent applications in 2020.[351] In 2021, the EPO granted 108,799 patents, and received a new record high of 188,600 applications. While a decrease of patent grants was registered during the pandemic in 2020 (-3%) and 2021 (-18.6%), patent applications remained almost stable in 2020 (-0.6%) and grew by 4.5% in 2021.[352] Most patent applications were in the fields of medical technology, digital communications, and computer technology, with ICT-related fields accounting for over 31% of all applications to the EPO. In 2021, patent applications at the EPO in the field of pharmaceuticals grew by 6.9%.[353]

3.257. Regulation (EU) 1257/2012, as part of the unitary patent package, allows right holders to receive unitary patent protection in up to 25 EU member States, based on a single application.[354] Currently, all EU member States except Croatia and Spain participate in this enhanced cooperation. It will apply from the date of entry into force of the international Agreement on the Unified Patent Court (UPC Agreement). Pending ratification by Germany, the UPC Agreement is currently expected to enter into force on 1 June 2023, initially covering 17 EU member States.[355] This would end a transition period under the Protocol on the Provisional Application of the UPC Agreement, which was put in place from 19 January 2022 onwards as a preparatory step towards full application of all elements of the package.[356] As of June 2023, the UPC would start receiving cases. The 2020 IP

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[350] European Commission, *Patent Protection in the EU*. Viewed at: https://single-market-economy.ec.europa.eu/industry/strategy/intellectual-property/patent-protection-eu_en#:~:text=Currently%2C%20(technical)%20inventions%20can,by%20the%20European%20Patent%20Office%20.

[351] WIPO (2021), *World Intellectual Property Indicators 2021.* Viewed at: https://tind.wipo.int/record/44461.

[352] EPO, *Statistics and Trends* (status: 21 January 2019). Viewed at: https://www.epo.org/about-us/annual-reports-statistics/statistics.html#granted.

[353] EPO, *Insight into Vaccine Technologies*. Viewed at: https://www.epo.org/about-us/annual-reports-statistics/statistics/2021/insight-into-vaccines.html.

[354] European Commission, *The Unitary Patent System*. Viewed at: https://single-market-economy.ec.europa.eu/industry/strategy/intellectual-property/patent-protection-eu/unitary-patent-system_en. Regulation (EU) 1257/2012; Council Regulation (EU) 1260/2012, which deals with applicable translation arrangements; and WTO documents WT/TPR/S/284/Rev.2, 28 November 2013, paras. 3.257-3.267; and WT/TPR/S/357/Rev.1, 13 October 2017, paras. 3.270-3.274.

[355] The text of the Agreement on a Unified Patent Court can be accessed at: OJ:C:2013:175:0001:0040:EN:PDF. As of November 2022, 16 EU countries have ratified the UPCA, with Germany completing its domestic procedures. European Council, *Agreement on a Unified Patent Court (UPC)*. Viewed at: https://www.consilium.europa.eu/en/documents-publications/treaties-agreements/agreement/?id=2013001; and European Commission, *The Unitary Patent System*. Viewed at: https://single-market-economy.ec.europa.eu/industry/strategy/intellectual-property/patent-protection-eu/unitary-patent-system_en.

[356] Unified Patent Court (2022), "Austria Closes the Loop – the Protocol on Provisional Application of the UPC Agreement Has Entered into Force", 19 January. Viewed at: https://www.unified-patent-court.org/news/austria-closes-loop-protocol-provisional-application-upc-agreement-has-entered-force.

Action Plan also tasks the Commission to support a rapid roll-out of the unitary patent system, to create a one-stop shop for patent protection and enforcement across the European Union.

3.258. As part of its Digital Single Market Strategy and 2020 IP Action Plan, the Commission continues to attach importance to removing unnecessary barriers in the market for the licensing of standard essential patents (SEPs). Based on its 2017 Communication to the Institutions on Setting out the EU approach to Standard Essential Patents, the Commission currently strives to improve transparency and predictability in SEP licensing by encouraging industry-led initiatives in the most affected sectors.[357] In support of such efforts, the Commission published several studies including (i) a Pilot study for assessment of Standard Essential Patents; (ii) a Landscape study of potentially essential patents disclosed to the European Telecommunications Standards Institute (ETSI); (iii) a study on "Making the rules: The governance of Standard Development Organisations and their policies on Intellectual Property Rights"; and (iv) a study on the relationship between open source software and standard setting.[358]

3.259. Regarding biotechnological inventions, in July 2017, the Administrative Council of the EPO adopted a decision amending relevant rules of the Implementing Regulations to the European Patent Convention (EPC).[359] The amended rules clarify, *inter alia*, that "under Article 53(b) EPC, European patents shall not be granted in respect of plants or animals exclusively obtained by means of an essentially biological process" (Rule 28(2)). In the review period, the EPO's Enlarged Board of Appeal confirmed that, in light of the agreement between and practice of the 38 Contracting States of the EPC (which all exclude the patentability of plants or animals exclusively obtained by means of an essentially biological process), under the Convention, these products should be considered excluded from patentability.[360]

Supplementary protection certificates

3.260. The EU legal framework offers supplementary protection certificates (SPCs) for medicinal products (Regulation (EC) 469/2009) and plant-protection products (Regulation (EC) 1610/96) as a *sui generis* form of protection that only applies after expiry of the basic patent.[361] They are considered by the European Union as legally distinct from patent protection, including international obligations in this regard, and accordingly as potentially subject to wider exceptions than patent rights as such. According to information provided by the Commission, between 25 and 81 SPC applications were filed annually per member State and more than 26,000 national SPCs have been granted since 1993. The regulations create binding rules at the EU level, while other areas are subject to the applicable national legislation of the EU member States. While no "unitary SPC" existed as of end-2022, optimizing the supplementary protection certificates system to make it more transparent and efficient is one of the goals, and a related Call for Evidence was published in March 2022.[362]

3.261. In the review period, the Commission completed an evaluation of the existing regulations.[363] It found that while SPCs seem to fulfil their purpose generally, the fact that they are nationally administered and managed undermine the effectiveness and efficiency of the SPC system as it created legal uncertainty, red tape, and extra costs for businesses, especially SMEs. The evaluation also describes the overall transparency of the SPC system as suboptimal, especially in a cross-border

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357 European Commission Communication COM(2017) 712 final.

358 European Commission, *Standard Essential Patents*, Viewed at: https://single-market-economy.ec.europa.eu/industry/strategy/intellectual-property/patent-protection-eu/standard-essential-patents_en.

359 EPO, Decision of the Administrative Council of 29 June 2017 amending Rules 27 and 28 of the Implementing Regulations to the European Patent Convention (CA/D 6/17). Viewed at: https://www.epo.org/law-practice/legal-texts/official-journal/2017/07/a56.html.

360 See Case Number: G 3/19 – Referral pursuant to Art. 112(1)(b) EPC by the president of the European Patent Office – "Article 164(2) EPC / Pepper". Viewed at: https://documents.epo.org/projects/babylon/eponet.nsf/0/09D15FA10C1A3A55C125856C0057B988/$File/Referral%20under%20Art.%20112(1)(b)%20EPC_G%2003-19.pdf.

361 WTO document WT/TPR/S/357/Rev.1, 13 October 2017, paras. 3.282-3.287.

362 European Commission, *Medicinal & Plant Protection Products – Single Procedure for the Granting of SPCs*. Viewed at: https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/13353-Medicinal-&-plant-protection-products-single-procedure-for-the-granting-of-SPCs_en.

363 Staff Working Document SWD(2020) 292 final.

perspective. In this regard, the Commission published a new study on the options for a unified SPCs system in Europe.[364]

3.3.7.3.2 Plant variety rights

3.262. Plant varieties can be protected either under national plant variety right systems or as a Community Plant Variety Right (CPVR).[365] National plant variety rights or patents cannot coexist with CPVRs; when a CPVR is granted, the corresponding national title becomes ineffective as long as the CPVR is in force. As regards the latter, Council Regulation (EC) 2100/94 on CPVRs established a separate regime that provides for a unitary right to exploit a plant variety with effect across the European Union via a single application to the Community Plant Variety Office (CPVO). The term of protection is 25 years, and 30 years in the case of potato, vine, and tree varieties, as well as for varieties of the species *Asparagus officinalis* L. and of the species groups flower bulbs, woody small fruits, and woody ornamentals.[366]

3.263. CPVRs are granted and administered by the CPVO. On 28 September 2022, 30,433 titles were in force, with 2,978 titles granted in 2020 and 2,860 in 2021, which represented a slight decrease as compared to a record number of 3,188 in 2019.[367] Just under half of the titles in force were for ornamental crops (13,483), followed by agricultural (9,255) and vegetable (5,395) crops, while the fruit sector ranked last, with only 2,300 titles.

3.3.7.3.3 Trademarks

3.264. Trademarks can be registered in the European Union either under national trademark systems or under the EU trademark system, which provides the right holder with EU-wide protection by means of a single registration at the EUIPO.[368] New Guidelines on EU trade marks and on registered Community designs entered into force on 31 March 2022.[369] Since the European Union's adherence to the Madrid Protocol in 2004, international registration of a trademark at WIPO is also available to persons seeking protection in any country that is a signatory to the Madrid Protocol.

3.265. In 2021, the EUIPO received 197,898 European Union trade mark (EUTM) applications, which shows a steady increase over time (167,700 applications in 2020 and 160,377 applications in 2019).[370] Direct applications amounted to 165,922 in 2021, and applications for international registrations to 31,976, equivalent to 16.2% of the total number of applications. In terms of processing, as in previous years, the number of EUTMs examined, registered, and published reported steady increases over the reporting period, with a marked increase (around 16% on average) in 2021.

3.266. A EUIPO report on Green EU trade marks shows a trend towards use of terms that can be said to be related to the protection of the environment and sustainability in trademark registration, with an increasing share of such filings by non-EU owners. It also shows that SMEs play an important role in bringing "green" goods and services to the marketplace.[371]

[364] European Commission (2022), *Study on the Options for a Unified Supplementary Protection Certificates (SPCs) System in Europe*. Viewed at: https://data.europa.eu/doi/10.2873/63550.

[365] WTO document WT/TPR/S/357/Rev.1, 13 October 2017, paras. 3.285-3.290.

[366] Regulation (EU) 2021/1873.

[367] CPVO, *Statistics*. Viewed at: https://cpvo.europa.eu/en/statistics.

[368] WTO documents WT/TPR/S/357/Rev.1, 13 October 2017, p. 119 et seq., and WT/TPR/S/395/Rev.1, 7 July 2020.

[369] See Decision No. EX-22-1 and https://guidelines.euipo.europa.eu/1935303/1950066/trade-mark-guidelines/1-introduction.

[370] EUIPO, *Consolidated Annual Activity Report 2021*. Viewed at: https://euipo.europa.eu/tunnel-web/secure/webdav/guest/document_library/contentPdfs/about_euipo/annual_report/annual_activity_report_2021_en.pdf. The 2020 and 2019 Reports are available at: https://euipo.europa.eu/ohimportal/en/annual-report.

[371] EUIPO (2021), *Green EU Trade Marks*. Viewed at: https://euipo.europa.eu/tunnel-web/secure/webdav/guest/document_library/observatory/documents/reports/2021_Green_EU_trade_marks/2021_Green_EU_trade_marks_FullR_en.pdf.

3.267. A 2021 EUIPO report on licensing activities by SMEs finds that the average estimated revenue for all SME owners of EUTMs licensing out their EUTMs during the period 2013-17 is EUR 64,924 per year, corresponding to 5.7% of the average turnover for all SMEs in the European Union.[372]

3.3.7.3.4 Designs

3.268. Designs can be protected in the European Union either under national design protection systems or under EU community design legislation.[373] The latter offers protection as an EUIPO registered Community design (RCD) valid for five years and renewable for up to 25 years, or as unregistered Community design (UCD) right for a non-extendable period of three years from the date on which the design was first made available to the public within the European Union.[374] In 2021, a total of 115,563 RCD filings were received, which included 100,975 direct filings and 14,588 international designs via the WIPO Hague System. An increase of 4.18% was reported in the number of examined RCDs, reaching 103,904 designs.[375]

3.269. On 28 November 2022, the Commission adopted two (package) proposals to modernize its legislation on design protection.[376] Based on the 2020 IP Action Plan, they are designed to simplify and streamline the procedure for the EU-wide registration of a design, harmonize procedures, and ensure complementarity with national design systems, and allow reproducing original designs for repair purposes of complex products.[377]

3.3.7.3.5 Geographical indications

3.270. While the harmonization of GI protection within the European Union is advanced with regard to agricultural products, protection for non-agricultural product GIs is currently only available at the national level in a number of member States.[378] On 13 April 2022, the Commission adopted a proposal for a Regulation on GIs for craft and industrial products. The proposal aims to enable producers to protect GIs for those products and their traditional know-how in Europe and beyond.

3.271. Protection for agricultural products at the EU level can be obtained in one of the following ways: as a protected designation of origin (PDO) or a protected GI (PGI) for wines and agricultural products and foodstuffs, or as a GI for spirit drinks.[379] On 31 March 2022, the Commission adopted a proposal for a Regulation on GIs for wine, spirit drinks and agricultural products, and quality schemes for agricultural products. The proposal aims to increase the uptake of GIs across the European Union in order to benefit the rural economy and achieve a higher level of protection for the registered names, especially online.

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[372] EUIPO (2021), *Licensing Activities by SMEs: Evidence from EU Trade Mark Owners*. Viewed at: https://euipo.europa.eu/tunnel-web/secure/webdav/guest/document_library/observatory/documents/reports/2019_Licensing_activities_by_SMEs_evidence_from_EU_trade_mark_owners/2019_Licensing_activities_by_SMEs_evidence_from_EU_trade_mark_owners_Full_en.pdf.

[373] Harmonized through Directive 98/71/EC; Council Regulation (EC) 6/2002; Commission Regulation (EC) 2245/2002; and Commission Regulation (EC) 2246/2002.

[374] EUIPO, *Designs in the European Union*. Viewed at: https://euipo.europa.eu/ohimportal/en/designs-in-the-european-union.

[375] EUIPO, *Consolidated Annual Activity Report 2021*. Viewed at: https://euipo.europa.eu/tunnel-web/secure/webdav/guest/document_library/contentPdfs/about_euipo/annual_report/annual_activity_report_2021_en.pdf.

[376] European Commission Proposals COM(2022) 666 final and COM(2022) 667 final.

[377] European Commission (2022), "Intellectual Property: New Rules Will Make Industrial Designs Quicker, Cheaper and More Predictable", 29 November. Viewed at: https://ec.europa.eu/commission/presscorner/detail/en/ip_22_7216.

[378] For an overview of EU member States' GI protection and enforcement systems, see EUIPO (2017), *Protection and Control of Geographical Indications for Agricultural Products in the EU Member States.* Viewed at: https://euipo.europa.eu/tunnel-web/secure/webdav/guest/document_library/observatory/documents/reports/Enforcement_of_GIs/EUIPO_Geographical_Indications_full_report_en.pdf. GIs for non-agricultural products may also be protected as collective EU trademarks, and under unfair competition laws.

[379] WTO documents WT/TPR/S/357/Rev.1, 13 October 2017, paras. 3.302-3.315, and IP/C/M/86/Add.1, 12 September 2017, para. 6.

3.272. As regards GIs of products of non-EU origin, they may be protected in the European Union through direct application, listing in FTAs or entering in the Geneva Act Register. In the former, the application may be sent either directly, or through the authorities of the country where the geographical area is located, to the Commission. No fees are to be paid for applications from third countries. GIs applied for and entered in the Union registers may be consulted on eAmbrosia (the official database of EU GI registers), while both EU and non-EU GIs protected under agreements can be consulted on the GIview portal.[380] Of the 5,117 GIs, PGIs, and PDOs protected in the European Union, 1,904 originate in non-EU countries, of which 1,679 are protected under agreements.

3.273. Given the importance of GIs for the European Union's external trade, the Commission has sought to include a comprehensive section on GI protection for agricultural products in the more recent generation of FTAs. As a consequence, a large number of EU and third-country GIs are now protected through bilateral and regional agreements. For example, the EU-New Zealand Trade Agreement has been concluded and, once entered into force, it will protect the full list of EU wines and spirits (close to 2,000 names) and 163 of the most renowned EU food GIs. In return, 23 wines and spirits from New Zealand will be protected in the European Union. The Agreement also foresees the opportunity to add more GIs in the future.

3.3.7.3.6 Undisclosed information and access to data

3.3.7.3.6.1 Trade secrets

3.274. Trade secrets are protected under the Directive on the Protection of Undisclosed Know-How and Business Information (Trade Secrets) Against Their Unlawful Acquisition, Use and Disclosure (the Trade Secrets Directive). The 2020 IP Action Plan tasks the Commission to promote data access and sharing, while safeguarding legitimate interests, via clarification of certain key provisions of the Trade Secrets Directive (2016/943) and a review of the Database Directive (96/9/EC).

3.275. In February 2022, the Commission proposed new rules on who can use and access data generated in the European Union across all economic sectors, in the form of a Data Act.[381] Among other things, the aim is to ensure respect for trade secrets in the context of data sharing between businesses, public sector bodies, or consumers. According to the proposal, trade secrets shall only be disclosed if all necessary measures are taken to preserve their confidentiality. The proposal does not affect the legal protection of trade secrets and clarifies that the Database Directive *sui generis* protection does not apply to databases containing data generated by a connected product or related service. The Commission has published a study on the legal protection of trade secrets in the context of the data economy.[382]

3.3.7.3.6.2 Clinical trial data

3.276. The EU legal framework on the protection of clinical trial data provides for a regime of exclusivity periods of eight plus two plus one years, during which generic manufacturers cannot rely on the data submitted by the originator company to the regulatory authorities to obtain marketing approval, nor market the generic product.[383]

3.277. The Clinical Trials Regulation (Regulation (EU) 536/2014) (CTR) became applicable on 31 January 2022. It repealed the Clinical Trials Directive (Directive 2001/20/EC) and related implementing legislation in the EU member States.

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[380] European Commission, *eAmbrosia*. Viewed at: https://ec.europa.eu/info/e-ambrosia-database. GIview. Viewed at: https://www.tmdn.org/giview/.

[381] European Commission, *Data Act: Proposal for a Regulation on Harmonised Rules on Fair Access to and Use of Data*. Viewed at: https://digital-strategy.ec.europa.eu/en/library/data-act-proposal-regulation-harmonised-rules-fair-access-and-use-data.

[382] European Commission (2022), *Study on the Legal Protection of Trade Secrets in the Context of the Data Economy: Final Report*. Viewed at: https://op.europa.eu/en/publication-detail/-/publication/c0335fd8-33db-11ed-8b77-01aa75ed71a1/language-en/format-PDF/source-273349880.

[383] Directive 2004/27/EC. See also WTO document WT/TPR/S/357/Rev.1, 13 October 2017, paras. 3.330-3.334.

3.278. In line with its updated policy on publication of clinical data for medicinal products for human use, since 1 January 2015, the European Medicines Agency (EMA) publishes clinical trial data submitted by pharmaceutical companies to support their requests for marketing authorization; these are assessed by the Committee for Human Medicinal Products.[384] On 5 December 2018, the Agency suspended the publication of clinical trial data as a result of the implementation of the EMA's business continuity plan and it remains suspended as at end-2022 because of the COVID-19 pandemic. The EMA is, however, publishing clinical trial data for COVID-19 medicines in line with its exceptional transparency measures for COVID-19 treatments and vaccines.[385] For the latter, the EMA publishes clinical trial data submitted to the Agency as part of any regulatory procedure as these products follow rapid review procedures and can be subject to early access mechanisms. As a result, companies submit clinical trial data on a regular basis and within different types of regulatory procedures.

3.3.7.4 Enforcement

3.279. The European Observatory on Infringements of IPRs (Observatory) has among its principal tasks to collect and monitor information regarding counterfeiting and piracy in the European Union's internal market, as well as to foster collaboration through a network of public and private sector actors.[386] In order to provide evidence and data required for EU policymakers to take informed decisions, the Observatory hosts several important information resources regarding IPR enforcement, in particular the EUIPO-administered Enforcement Database as the single platform covering IPR enforcement matters.[387]

3.280. In the reporting period, the EUIPO carried out a number of studies highlighting the risks deriving from, and the economic impact of, counterfeiting and piracy in the European Union. Notably, the joint EUIPO/OECD 2022 study on dangerous fakes quantitatively assesses the scope and trends of trade in counterfeit products that pose health, safety, and environmental threats.[388] It finds that apparel products, automotive spare parts, optical and medical apparatuses, and pharmaceuticals are the most frequently occurring dangerous fakes. Postal parcels, driven by the rising popularity of e-commerce, were identified as the most common method of shipping dangerous fakes, thereby significantly complicating screening and detection processes and lowering the risk of detection and penalties.

3.281. These findings are confirmed by other studies, such as the EUROPOL/EUIPO 2022 Intellectual Crime Threat Assessment, which finds that counterfeit and pirated goods worth EUR 119 billion were imported into the European Union in 2019, representing up to 5.8% of EU imports.[389] It also points out that the COVID-19 pandemic has presented new risks for the distribution of substandard and counterfeit goods, including in pharmaceuticals.[390] It draws on the findings reported in a 2021 OECD/EUIPO study that analyses customs seizures in 2017-19 and identifies both the product categories most vulnerable to counterfeiting and main trade routes and transport methods (small parcels in seizure numbers and marine shipping in value).[391] More specific reports address, *inter alia*,

[384] For policy on publication and comparison with the CTR, see relevant sections of EMA, *Clinical Data Publication*. Viewed at: https://www.ema.europa.eu/en/human-regulatory/marketing-authorisation/clinical-data-publication. For an overview of information included in clinical test data, see WTO document WT/TPR/S/395/Rev.1, 7 July 2020.

[385] EMA, *Transparency: Exceptional Measures for COVID-19 Medicines*. Viewed at: https://www.ema.europa.eu/en/human-regulatory/overview/public-health-threats/coronavirus-disease-covid-19/treatments-vaccines/transparency-exceptional-measures-covid-19-medicines.

[386] WTO document WT/TPR/S/357/Rev.1, 13 October 2017, para. 3.343.

[387] The database can be accessed at: https://euipo.europa.eu/ohimportal/da/web/observatory/ip-enforcement-portal-home-page.

[388] OECD and EUIPO (2022), *Dangerous Fakes: Trade in Counterfeit Goods that Pose Health, Safety and Environmental Risks*. Viewed at: https://www.oecd-ilibrary.org/governance/dangerous-fakes_117e352b-en.

[389] EUIPO and EUROPOL (2022), *Intellectual Property Crime Threat Assessment 2022*. Viewed at: https://euipo.europa.eu/tunnel-web/secure/webdav/guest/document_library/observatory/documents/reports/2022_IP_Crime_Threat_Assessment/IP_Crime_Threat_Assessment_2022_FullR_en.pdf.

[390] OECD and EUIPO (2020), *Trade in Counterfeit Pharmaceutical Products*. Viewed at: https://doi.org/10.1787/a7c7e054-en.

[391] OECD and EUIPO (2021), *Global Trade in Fakes: A Worrying Threat*. Viewed at: https://euipo.europa.eu/tunnel-web/secure/webdav/guest/document_library/observatory/documents/reports/2021_EUIPO_OECD_Report_Fakes/2021_EUIPO_OECD_Trate_Fakes_Study_FullR_en.pdf.

the transport methods most subject to misuse and identify best practices for transport and logistics services in preventing the use of their services for IP-infringing activities.[392]

3.282. Enforcement of IPRs in the digital environment remained a topic of particular interest in the reporting period. EUIPO publications addressed topics related to the misuse of e-commerce platforms, including related business models through vendor accounts; social media; online copyright infringement in the music, film, and TV sectors; domain names and cybersquatting; advertisement on IPR-infringing websites; online payments; and novel technologies such as AI and automated content recognition including with regard to their use in fighting IPR infringement.

3.283. Best practices in IPR enforcement are presented in a 2021 EUIPO report.[393] To make case law more accessible, the EUIPO also publishes information on cases related to IP law enforcement, through an online database and reports including with regard to online IPR infringement and dynamic blocking injunctions.[394]

3.284. Importantly, the IP Enforcement Portal as the EU platform to manage customs applications for action (AFA) and deal with IPR enforcement matters permits all right holders, enforcers, and the Commission and its third-country delegations to enter information related to IPR enforcement.[395]

3.3.7.4.1 Enforcement within the European Union

3.285. During the review period, enforcement of IPRs, both in traditional commerce and online, continued to be framed by Directive 2004/48/EC on the Enforcement of IPRs (IPRED) and Directive 2001/29/EC.[396]

3.286. Following the publication of the updated Guidance Communication clarifying the provisions of the IPRED as part of an overall comprehensive package of measures to further improve the application and enforcement of IPR (the "enforcement package")[397] in the previous review period, the Commission continued its work on enforcement through the activities of the Observatory, the preparation of the EU Toolbox against Counterfeiting as announced in the 2020 IP Action Plan and by further expanding public-private sector MoUs on online advertising and IPR and the sale of counterfeit goods on the Internet.[398]

3.287. The reports covering 2020 and 2021 examine the detentions of IPR-infringing goods in the EU internal market. The number of detained items increased from approximately 46 million items

[392] OECD and EUIPO (2021), *Misuse of Containerized Maritime Shipping in the Global Trade of Counterfeits*. Viewed at: https://euipo.europa.eu/tunnel-web/secure/webdav/guest/document_library/observatory/documents/reports/Misuse_of_Containerised_Maritime_Shipping/Misuse_of_Containerised_Maritime_Shipping_en.pdf. EUIPO (2022), *Transport and Logistics – Discussion Paper: Challenges and Good Practices for Transport and Logistics Services to Prevent the Use of Their Services for IP-infringing Activities*. Viewed at: https://euipo.europa.eu/tunnel-web/secure/webdav/guest/document_library/observatory/documents/reports/2022_Transport&Logistics_Discussion_Paper/2022_Transport&Logistics_Discussion_Paper_FullR_en.pdf.

[393] EUIPO (2021), *Interagency Cooperation at National and International Level: An Assessment of Good Practices for Improving IPR Enforcement*. Viewed at: https://euipo.europa.eu/tunnel--web/secure/webdav/guest/document_library/observatory/documents/reports/2021_Interagency_Cooperation/2021_Interagency_Cooperation_at_National_and_International_Level_An_assessment_of_good_practices_for_improving_IPR_enforcement_study_FullR_en.pdf.

[394] EUIPO, *Case-Law*. Viewed at: https://euipo.europa.eu/ohimportal/da/web/observatory/case-law. Gives access to recent case-law, eSearch Case Law, and reports and studies.

[395] EUIPO, *IP Enforcement Portal*. Viewed at: https://euipo.europa.eu/ohimportal/da/web/observatory/ip-enforcement-portal-home-page.

[396] WTO documents WT/TPR/S/317/Rev.1, para. 3.307, Table 3.23; and WT/TPR/S/357/Rev.1, 13 October 2017, para. 3.339 et seq.

[397] European Commission, *Intellectual Property.* Viewed at: https://ec.europa.eu/growth/industry/intellectual-property_en#enforcement_package; and WTO document WT/TPR/S/395/Rev.1, paras. 3.377 and 3.378.

[398] European Commission, *Memorandum of Understanding on Online Advertising and IPR*. Viewed at: https://single-market-economy.ec.europa.eu/industry/strategy/intellectual-property/enforcement-intellectual-property-rights/memorandum-understanding-online-advertising-and-ipr_en; and *Memorandum of Understanding on the Sale of Counterfeit Goods on the Internet*. Viewed at: https://single-market-economy.ec.europa.eu/industry/strategy/intellectual-property/enforcement-intellectual-property-rights/memorandum-understanding-sale-counterfeit-goods-internet_en.

in 2020 to around 53 million in 2021, with a nearly stable value at around EUR 1.3 billion.[399] In 2021, over 99% of those seizures were made in six member States (France, Hungary, Italy, the Netherlands, Portugal, and Spain) and more than 93% of seizures reportedly concerned counterfeit/trademark infringing goods, followed by copyright (6.5%) infringing goods. Top product categories included textiles and clothing, as well as audio/video apparatus.

3.3.7.4.2 Enforcement at the European Union's external borders

3.288. IPR enforcement at the European Union's external borders is governed by Regulation (EU) 608/2013, and Commission Implementing Regulation (EU) 1352/2013 as amended by Commission Implementing Regulation (EU) 2020/2035.[400] The enforcement of IPRs by customs continues to be a priority for the Commission and for member States. At the external border of the European Union, customs authorities may suspend the release of, or detain, goods that are suspected of infringing, or are found to have infringed, IPRs. In most cases, customs authorities act upon applications from right holders. However, they may also act *ex officio* if they have sufficient grounds for suspecting that goods infringe an IPR. In such cases, they will notify the detention/suspension to the importer within one working day, and to the right holder on the same day or promptly thereafter. The right holder must submit an application for action within four working days of receiving the notification. If no application is submitted within this period, the goods are released.

3.289. The European Commission's annual reports provide statistical information and data about customs interventions that support the analysis of IPR infringements occurring in the European Union. According to the latest report, in nearly 70,000 cases, IPR-infringing goods were detained by customs in 2018 and 2020, with a marked temporary increase to around 90,000 cases in 2019 and nearly 75,000 cases recorded in 2021.[401] These represented just under 27 million articles in 2018 and 2020 and approximately 40 million in 2019 and nearly 42 million in 2021.

3.290. In terms of number of counterfeit articles, detentions in sea traffic still stand for the majority of all detained articles, while an increase can also be noted in air, express courier and post. In terms of provenance, China remains the main source (70%) of suspected IPR-infringing goods detained by EU customs, and which were subsequently not released. With regard to value of detained goods, China is at the top of the list, followed by Hong Kong, China and Türkiye, as in previous years.

3.291. Top categories of detained articles in 2021 included packaging materials (with a marked increase to 70%, mainly for cigarette packaging, as compared to 23% in 2020 for perfumes and juices), while mobile phone accessories moved up to 2nd place and toys to 3rd place (occupied in 2020 by foodstuffs and clothing). As in previous years, the majority of the articles (i.e. almost 98% in number of articles and over 92% in value in 2021, as compared to 62% in numbers, and 71% in value in 2020) detained by customs in 2021 and 2020 were suspected of infringing an EUTM, international trademark, or national trademark.

3.292. The majority of detentions resulted in the destruction of goods, and under 4% of detained goods are later found to be genuine or non-infringing. The results by procedure in 2021 are shown in Chart 3.10.

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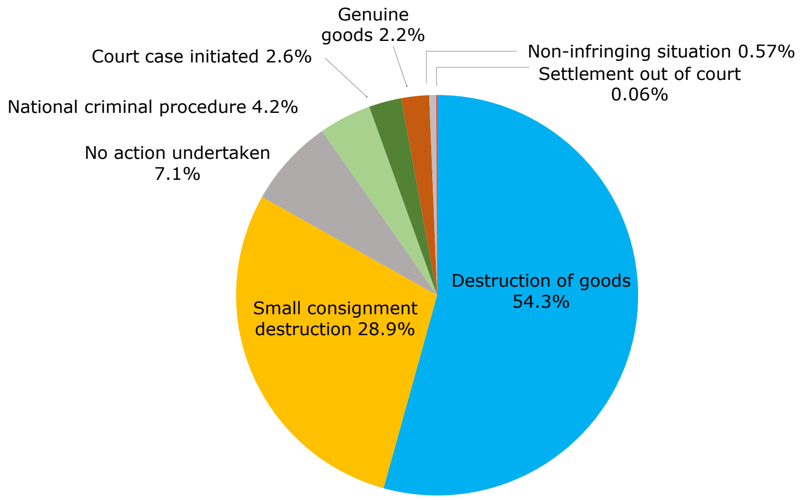
[399] European Commission and EUIPO (2021), *EU Enforcement of Intellectual Property Rights: Results at the EU Border and in the EU Internal Market 2020*. Viewed at: https://euipo.europa.eu/tunnel-web/secure/webdav/guest/document_library/observatory/documents/reports/2021_EU_enforcement_intellectual_property_rights/2021_EU_enforcement_intellectual_property_rights%20_FullR_en.pdf; and (2022), *EU Enforcement of Intellectual Property Rights: Results at the EU Border and in the EU Internal Market 2021*. Viewed at: https://euipo.europa.eu/tunnel-web/secure/webdav/guest/document_library/observatory/documents/reports/2022_EU_enforcement_of_IPRs_2021/2022_EU_enforcement_of_IPRs_results_2021_FullR_en.pdf.

[400] For a more detailed description of older regulations, see WTO document WT/TPR/S/317/Rev.1, 13 October 2017, paras. 3.304-3.305. For an overview of the main provisions relating to border measures, see also ibid., Table 3.23. Commission Implementing Regulation (EU) 2020/2035.

[401] European Commission and EUIPO (2022), *EU Enforcement of Intellectual Property Rights: Results at the EU Border and in the EU Internal Market 2021*. EUIPO (2021), *EU Enforcement of Intellectual Property Rights: Overall Results of Detentions, 2019*. Viewed at: https://euipo.europa.eu/tunnel-web/secure/webdav/guest/document_library/observatory/documents/reports/2021_Enforcement_IP_Detencions/2021_Report_on_overall_EU_detentions_during_2019_FullR_en.pdf.

Chart 3.10 Breakdown of result by procedure, 2021



Source: European Commission (2022), *EU Enforcement of Intellectual Property Rights: Results at the EU Border and in the EU Internal Market 2021*.

3.3.7.4.3 Enforcement at the international level

3.293. The European Union's current strategy to enforce IPRs in non-EU countries has been in place since 2014.[402] In the review period, the Commission published its updated Counterfeit and Piracy Watch List.[403] The Watch List reflects the results of stakeholder consultations. It presents a non-exhaustive list of examples of reported third-country online marketplaces or service providers which allegedly engage in, facilitate or benefit from counterfeiting and piracy. The aim is to encourage the operators and owners, as well as the responsible local enforcement authorities and governments, to take the necessary actions and measures to reduce and/or prevent any IPR infringements, and to raise consumer awareness. Furthermore, a general analysis can be found in the Commission's 2021 report on the protection and enforcement of IPRs in third countries.[404]

3.294. The European Union also aims to include, in its RTAs with third countries, comprehensive IPR chapters offering similar levels of IPR protection and enforcement to those existing in the European Union, taking into account the level of development of the countries concerned. It engages in several active discussions on IP with other countries. The Commission finances and steers several technical cooperation programmes, aimed at strengthening IPR protection and enforcement in third countries. In general, the EUIPO is entrusted with the technical implementation of those cooperation programmes.

[402] WTO document WT/TPR/S/357/Rev.1, 13 October 2017, para. 3.354 et seq.

[403] European Commission (2022), *Counterfeit and Piracy Watch List*. Viewed at: https://circabc.europa.eu/ui/group/d0803128-7d62-40ee-8349-c43ee92745aa/library/b36f701d-2850-4768-9b3e-e487140e11e5/details?download=true.

[404] European Commission (2021), *Report on the Protection and Enforcement of Intellectual Property Rights in Third Countries*. Viewed at: https://trade.ec.europa.eu/doclib/docs/2021/april/tradoc_159553.pdf.

4 TRADE POLICIES BY SECTOR

4.1 Agriculture

4.1. The agricultural sector continues to play an important role in the European Union in terms of employment, trade, and policy support. Crop and animal production (including hunting) accounted for 1.6% of EU gross value added and the manufacturing of food products, beverages, and tobacco products accounted for an additional 2.1% of gross value added in 2020, not including other parts of the value chain such as wholesale, retail, or catering.[1] The total production value of agricultural products increased from EUR 378 billion in 2019 to EUR 401 billion in 2021. The share of crops in total production increased from 56.7% to 60.2%, driven by increases in wheat and maize production values, while the production value of live animals remained broadly stable and that of animal products increased marginally, with both declining as a share of total production (Table 4.1).

Table 4.1 Total production value of agricultural products, 2017-21

(EUR million at producer prices)

	2017	2018	2019	2020	2021
All products	**364,466**	**367,766**	**377,504**	**373,466**	**401,034**
Crops	**206,802**	**214,660**	**219,931**	**217,715**	**241,594**
Cereals (including seeds)	42,654	44,682	47,233	46,986	63,271
Wheat and spelt	20,809	21,005	22,638	22,029	31,239
Barley	7,370	8,032	8,460	8,252	10,158
Grain maize	9,840	11,076	10,946	11,182	15,669
Industrial crops	20,372	18,829	17,844	18,276	24,068
Oil seeds and oleaginous fruits (including seeds)	11,355	10,237	9,649	10,463	15,372
Sugar beet	3,450	2,733	2,746	2,532	2,130
Forage plants	22,407	22,320	24,926	24,521	24,929
Fodder maize	5,164	4,983	5,942	6,061	..
Vegetables and horticultural products	53,349	53,320	57,240	57,114	60,529
Fresh vegetables	32,661	32,747	35,557	35,291	36,895
Plants and flowers	20,687	20,573	21,683	21,823	23,634
Potatoes (including seeds)	10,589	11,953	14,636	12,422	11,979
Fruits	26,808	29,262	27,131	30,043	28,902
Fresh fruit	15,708	17,795	17,032	18,740	17,818
Citrus fruits	4,147	4,144	3,807	4,437	4,366
Grapes	3,154	3,494	3,123	3,062	2,960
Olives	2,660	2,630	1,992	2,442	2,426
Wine	21,644	27,392	23,452	22,700	20,626
Olive oil	6,699	4,652	5,154	3,480	4,989
Other crop products	2,280	2,249	2,315	2,173	2,302
Live animals and animal products	**157,664**	**153,106**	**157,573**	**155,751**	**159,440**
Live animals	**91,217**	**87,638**	**92,101**	**90,561**	**90,836**
Cattle	27,707	27,207	26,231	25,927	27,784
Pigs	37,608	34,101	39,267	38,721	35,589
Poultry	18,999	19,571	19,874	19,286	19,959
Animal products	**66,447**	**65,469**	**65,473**	**65,190**	**68,604**
Milk	54,014	53,074	53,697	53,798	57,351
Eggs	9,580	9,535	9,272	9,105	9,272

.. Not available.

Source: Eurostat, *Economic Accounts for Agriculture – Values at Current Prices* (aact_eaa01). Viewed at: https://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=aact_eaa01&lang=en.

4.2. The share of the agricultural sector in total employment continued to decline and stood at just above 4% in 2020. However, the 2020 share of employment in agriculture varied from around 1% in a number of member States to 22.8% in Romania.[2] Income of farmers compared to wages in the rest of the economy stood at 47% in 2020[3], while total factor productivity in the agricultural sector continued its trend increase. Labour productivity continues to vary strongly across member States (from less than EUR 6,000 per full-time equivalent worker in Romania to more than EUR 70,000 in the Netherlands) in 2019, and remained much higher in the food industry compared to agricultural

[1] Eurostat, *National Accounts Aggregates by Industry* (nama_10_a64); and *National Accounts Employment Data by Industry* (nama_10_a64_e). Viewed at: https://ec.europa.eu/eurostat/data/database.

[2] Eurostat (2020), *Agriculture, Forestry and Fishery Statistics – 2020 edition*. Viewed at: https://ec.europa.eu/eurostat/web/products-statistical-books/-/ks-fk-20-001.

[3] European Commission, *CAP Indicators – Jobs and Growth in Rural Areas*. Viewed at: https://agridata.ec.europa.eu/extensions/DashboardIndicators/JobsGrowth.html.

producers.[4] The food industry sector accounted for an additional 2.4% of total employment, a figure that has remained relatively stable, thereby increasing its share in total agri-food sector employment over the previous decade.[5] During the review period, the number of organic producers and the area under organic farming continued to increase.[6]

4.3. In 2022, Europe faced very dry weather conditions, and according to the European Drought Observatory, as of early September 33% of EU territory was in "warning" condition (experiencing a soil moisture deficit) while 26% were in "alert" (vegetation stress following soil moisture and vegetation deficit).[7] According to the Global Drought Observatory, the most impacted crops were maize, soybeans, and sunflowers.

4.1.1 Trade

4.4. Since the previous Review, the trade surplus in agricultural products (WTO definition) of the EU-27 increased as exports grew faster than imports. The share of agricultural exports in total exports increased from 8% in 2018 to 9% in 2021, as the value of exports increased to EUR 196.1 billion. The leading destination for agricultural exports in 2021 was the United Kingdom, and the most important export products were wine, pigmeat, and spirits. Other major export items included certain food preparations, bakers' wares, malt extract, wheat, cheese, and chocolate.

4.5. Over the same period, the share of agricultural imports in total imports remained broadly constant and stood at 6.1% in 2021, valued at EUR 129.7 billion. Main origins were Brazil and the United Kingdom followed by the United States, being dominated by coffee, soybeans and their oil cakes, and palm oil. Other major items included certain fruits, nuts, and cocoa beans.

4.6. Following Brexit, the relative importance of agricultural trade in total trade has increased as the share of agricultural exports in total exports was 7% for the EU-28 as compared to 8% for the EU-27, in 2018, and the share of agricultural imports in total imports was 5.9% for the EU-28 compared to 6.1% for the EU-27, in 2018. The composition of trade did not fundamentally change except for the importance of spirits in agricultural exports, which declined significantly.

4.1.2 Agricultural policy

4.7. While the recent reform of the Common Agricultural Policy (CAP) for the period following 2020, mentioned in the previous Review, was finalized in 2021, it has been only fully applied as from 1 January 2023. Until the end of 2022, the former framework continued to apply largely unchanged in a transitional manner based on Regulation (EU) 2020/2220, and its structure as well as measures implemented during the review period are described in Section 4.1.3.

4.8. The new CAP brings together the support via direct payments, internal market support, and that under the rural development scheme, incorporating the sustainability objectives of the European Green Deal, the Farm to Fork Strategy referenced therein, and the Biodiversity Strategy 2030. It aims to "ensure a sustainable future for European farmers, provide more targeted support to smaller farms, and allow greater flexibility for member States in adapting the measures to local conditions", according to the Council.[8]

4.9. The reform (i) significantly increases the focus on measures aiming to address challenges relating to the climate, the environment, and animal welfare (including a strengthened system of conditionality for direct payments); (ii) introduces implementation and administrative changes; (iii) makes adjustments to various measures; and (iv) introduces a new concept of social

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[4] European Commission, *CAP Indicators – Productivity*. Viewed at: https://agridata.ec.europa.eu/extensions/DashboardIndicators/Productivity.html.
[5] European Commission, *CAP Indicators – Jobs and Growth in Rural Areas*.
[6] European Commission, *CAP Indicators – Organic Production*. Viewed at: https://agridata.ec.europa.eu/extensions/DashboardIndicators/OrganicProduction.html.
[7] European Commission (2022), *Drought in Europe August 2022 – GDO Analytical Report*. Viewed at: https://edo.jrc.ec.europa.eu/documents/news/GDO-EDODroughtNews202208_Europe.pdf.
[8] European Council (2021), "Council Adopts Fairer, Greener and More Performance-Based Farming Policy for 2023-2027", 2 December. Viewed at: https://www.consilium.europa.eu/en/press/press-releases/2021/12/02/council-adopts-fairer-greener-and-more-performance-based-farming-policy-for-2023-2027/.

conditionality. Importantly, it introduces new CAP strategic plans (CSPs), by member State, combining the planning for all measures under the new framework (Section 4.1.2.2). Nevertheless, while increasing the focus on sustainability and finetuning the framework of support overall, it remains unchanged in terms of the level and composition of support it provides.

4.10. The new CAP uses a more results-based approach compared to the previous policy, measuring overall progress towards defined targets as well as the 10 key objectives contained in the new CAP, and linking funding eligibility to results. While the 10 key objectives contained in the new CAP are in principle unchanged from the 9 objectives and 1 cross-cutting objective of the previous CAP, they play a more important role than previously, according to the Commission. Focusing on social, environmental, and economic goals, they are to (i) ensure a fair income for farmers; (ii) increase competitiveness; (iii) improve the position of farmers in the food chain; (iv) take action on climate change; (v) foster environmental care; (vi) preserve landscapes and biodiversity; (vii) support generational renewal; (viii) facilitate vibrant rural areas; (ix) protect food and health quality; and (x) foster knowledge and innovation.

4.11. The revised CAP for the period 2023-27 is spelled out in three new regulations. The first, Regulation (EU) 2021/2115, outlines the areas of, and mechanisms for, support to agriculture and establishes a requirement for member States to prepare CSPs based on an analysis of strengths and weaknesses, setting out targets, conditions, and the allocation of resources to achieve them. Schemes supporting rural development are incorporated into the same regulation.[9] The second, Regulation (EU) 2021/2116, revised the rules for the financing, management, and monitoring of the CAP, linking funding to results ("outputs" outlined in the CSPs), rather than compliance.[10] The third, Regulation (EU) 2021/2117, amended the framework for the common market organization, quality schemes, geographic indications for wine products, and measures for agriculture in outermost regions.[11]

4.12. The European Agriculture Guarantee Fund (EAGF) continues to finance direct payments and market measures (Pillar 1), and the European Agricultural Fund for Rural Development (EAFRD) continues to finance the EU contribution to support rural development (Pillar 2). The pre-allocated total indicative financial allocations entered by member States in their CSPs under both pillars for the period 2023-27 amount to approximately EUR 52 billion per year, slightly lower compared to the previous period (Table 4.2 and Section 4.1.3). Member States will be able to use their CSPs to plan the transfer of up to 25% of the allocation for direct payments to those for rural development, or vice versa, and in certain cases even higher percentages.

Table 4.2 Allocations for 2023 and beyond

(EUR million)

Calendar year	2023	2024	2025	2026	2027 and subsequent years
Direct payments Article 87(1) 1st para.	38,608.2	38,715.1	38,821.9	38,928.8	38,928.8
of which: Cotton Article 87(1) 2nd para	246.4	246.4	246.4	246.4	246.4
Wine Article 88(1)	1,061.0	1,061.0	1,061.0	1,061.0	1,061.0
Apiculture Article 88(2)	60	60	60	60	60
Hops Article 88(3)	2.2	2.2	2.2	2.2	2.2
Olive oil and table olives Article 88(4)	45.8	45.8	45.8	45.8	45.8
Rural development Article 89(3)	12,108.9	12,108.9	12,108.9	12,108.9	12,108.9
Total	**51,886.1**	**51,993**	**52,099.8**	**52,206.7**	**52,206.7**

Source: Regulation (EU) 2021/2115, various Annexes.

4.1.2.1 The new framework for domestic support from 2023

4.13. Support provided as direct payments under the new CAP remains the main income support tool, but the measures funded differ slightly from those under the previous system. Direct payments

[9] Regulation (EU) 2021/2115.
[10] Regulation (EU) 2021/2116.
[11] Regulation (EU) 2021/2117.

are available for (i) basic income support; (ii) complementary redistributive income support[12]; (iii) complementary income support for young farmers[13]; and (iv) schemes for the climate, the environment, and animal welfare ("eco-schemes"). In addition, there are direct payments for coupled income support[14] and a crop-specific payment for cotton.[15] Member States can continue to establish optional payment schemes for small farmers, outlined in their strategic plans, replacing all other direct payments.[16]

4.14. The new CAP introduces certain changes regarding the eligibility for payments, with many details to be defined in national CSPs under a common framework. The new CAP strengthens requirements for compliance with basic standards for good agriculture and environmental conditions. It adds the requirements in place for obtaining the "greening payments" under the old CAP to the former rules on "cross-compliance" to receive any direct payments, referring to these augmented rules as "conditionality" for receiving direct payments.[17] Member States then define additional criteria for farmers to receive payments under the "eco-schemes", with a similar mechanism in place regarding rural development. According to the Commission, this new "green architecture" provides more opportunities to reward farmers willing to provide public goods. The new Regulation (EU) 2021/2115 also introduces mechanisms for compliance with social conditionality (relating to working and employment conditions or employer obligations). Member States have been given additional time to establish them by January 2025.[18] The failure to comply with these two types of conditionalities by farmers and other beneficiaries will allow for the application of administrative penalties.

4.15. Under basic income support, external and internal convergence of payments continues[19] with member States able to cap basic income support at a maximum of EUR 100,000 compared to EUR 150,000 under the previous CAP. Member States having granted Transitional National Aid (TNA) between 2015-22 (Section 4.1.3.1) will be eligible to continue doing so with maximum amounts declining from 50% of the initial amounts in 2023 to 30% in 2027.[20]

4.16. Member States will have to allocate at least 25% of total allocations for direct payments to "eco-schemes".[21] Regulation (EU) 2021/2115 spells out that member States are to define such voluntary schemes covering at least two objectives spelled out in Article 31, which would go beyond Good Agricultural and Environmental Conditions (GAECs), conditions set by Union or national law, or other conditionality already contained in the Regulation. Farmers committing to adhere to agricultural practices defined in these schemes related to climate and the environment, public and plant health, and animal welfare would then be eligible for a payment on all eligible hectares.

4.17. Under the new CAP, support to specific agricultural sectors was transferred from Regulation 1308/2013 to Regulation 2021/2015, and related measures ("interventions" in the language of the new regulation) will have to be included in the CSPs. Regulation (EU) 2021/2115 outlines the allowed types of measures to support certain sectors in Chapter III of Title III and makes certain adjustments to the lists of previously allowed measures, in particular adding types of measures linked to the environment, animal welfare, or climate objectives. It also introduces changes to assistance limits, *inter alia*, in the fruit and vegetable, olive oil and table olive, or hops sectors, and foresees measures in "other sectors" that were not covered under the aid schemes

[12] Member States will have to allocate at least 10% of allocations for direct payments, with certain flexibilities in place when redistribution needs are addressed by different means (Articles 29 and 98).

[13] This scheme is very similar to the Young Farmers Scheme under the previous CAP, but member States can now set an upper age limit between 35 and 40 in their CSPs, compared to a previous limit of 40.

[14] The scheme broadly continues the scheme of identical name under the previous CAP, with unchanged thresholds in place, and products eligible to receive coupled income support slightly changed from those eligible under Regulation 1307/2013, expanding eligibility of support to table olives.

[15] As before, Bulgaria, Greece, Portugal, and Spain are eligible to use this scheme, but currently no production is taking place in Portugal.

[16] Regulation (EU) 2021/2115, Article 28.

[17] Regulation (EU) 2021/2115, Article 12.

[18] Regulation (EU) 2021/2115, Article 14.

[19] Member States will set a maximum value for all payment entitlements (or for differentiated types of "territories" within a member State) and ensure that all such payments achieve at least 85% of that amount, by 2026.

[20] Regulation (EU) 2021/2115, Article 147.

[21] This share can be lower if allocations under the regional (rural) development programmes exceed the minimum allocation to environmental and climate objectives (35%).

listed in the previous regulation.[22] Between 2023 and 2027, allocations to the wine, apiculture, and hops, as well as olive oil and table olives sectors have been set at EUR 1.17 billion per year (Table 4.2).[23] Some of the support to specific agricultural sectors, such as private storage and public interventions, school schemes, or exceptional measures, continues to be regulated by Regulation 1308/2013, with those interventions or measures not included in national CSPs.

4.18. As part of the CAP reforms, the reserve for crises in the agricultural sector will be replaced by a new "agricultural reserve" in 2023, established in the EAGF. The amount of the agricultural reserve will be EUR 450 million at the beginning of each year and be used "to provide additional support for the agricultural sector for the purposes of market management or stabilization and to respond promptly in the case of crises affecting the agricultural production or distribution".[24] Resources not committed will be carried forward to the subsequent year.

4.19. Support for rural development previously regulated in Regulation (EU) 1305/2013 is fully incorporated into the revised framework and described in Regulation (EU) 2021/2115, with member States having to spell out planned measures in their CSPs instead of rural development programmes (RDPs). Support may cover a number of additional or restructured areas, including, *inter alia*, (i) voluntary management commitments beneficial for the environment, climate, and animal welfare; (ii) support for on-farm investments; (iii) support to young and new farmers; (iv) support to farmers facing natural or other area-specific constraints or disadvantages resulting from certain mandatory requirements (consolidating the schemes previously part of direct payments and those under rural development);[25] (v) risk management; or (vi) knowledge dissemination (Chapter IV). At least 30% of funding for each RDP must be dedicated to measures relevant for the environment and climate change.[26] Generally, according to the Commission, support will be more closely linked to environmental and climate objectives of the European Union. For the period 2023-27, the annual foreseen contribution from the EU budget amounts to EUR 12.1 billion (Table 4.2).[27]

4.1.2.2 CAP strategic plans

4.20. CSPs covering the period 2023-27 require approval by the Commission prior to starting CAP implementation as of 2023. Within the framework set by Regulation 2021/2115, strategic plans cover all CAP-funded activities a member State intends to implement and that will be funded from the EAGF and the EAFRD, i.e. direct payments, support to specific agricultural sectors, and support for rural development.[28] By the end of 2022, all 28 CSPs had been finalized and published.[29]

4.21. Within a framework set by the new Regulation, the CSPs define certain terms[30] at the member State level (e.g. agricultural activity, agricultural area, eligible hectare, active farmer, young farmer, and new farmer) and spell out in detail the assessment of needs, the intervention strategy (covering the 10 key objectives), specific measures ("interventions" in the language of the new CAP), target and financial plans, the governance system, and some additional elements.[31] Some of these terms were previously defined at the EU level and based on the final CSPs; there were no significant changes in eligibility criteria in member States compared to the previous framework, according to the Commission. In their CSPs, member States also have to define the two conditionality

[22] Commission Delegated Regulation 2022/126 defines additional requirements for certain types of measures.
[23] According to Regulation (EU) 2021/2115, Article 88, member States retain certain flexibilities to shift some of these allocations to the category of direct payments, or vice versa, via their CSPs.
[24] Regulation (EU) 2021/2116, Article 16.
[25] Regulation (EU) 2021/2115, Articles 71, 72, and 154. Designations made under Article 32 of Regulation (EU) 1305/2013 will continue to apply regarding payments for areas facing natural and other specific constrains.
[26] European Commission, *Rural Development*. Viewed at: https://agriculture.ec.europa.eu/common-agricultural-policy/rural-development_en.
[27] Member States can allocate up to 3% of their allocation to the InvestEU fund (Article 81).
[28] Strategic plans do not cover interventions related to cotton.
[29] There is one CSP per member State except for Belgium where there are two for its regions of Flanders and Wallonia. European Commission, *CAP Strategic Plans by Country*. Viewed at: https://agriculture.ec.europa.eu/cap-my-country/cap-strategic-plans-country_en.
[30] Regulation (EU) 2021/2115, Article 4.
[31] Regulation (EU) 2021/2115, Chapter II.

systems (regarding the environment, public and plant health, and animal welfare, as well as regarding working and employment conditions or employer obligations).

4.1.3 Domestic support

4.22. This section outlines the level and composition of domestic support under the CAP in place during the review period (including during the transition period 2021-22 based on Regulation (EU) 2020/2220 laying out the transitional provisions). Domestic support in the European Union comprises direct payments, internal market support, and support for rural development.

4.1.3.1 Direct payments

4.23. Until 2020 as well as during the transition period (i.e. 2021 and 2022), Regulation 1307/2013 continued to establish the rules for direct payments to farmers. The national ceilings for the transition period are spelled out in Regulation (EU) 2020/2220. Regulation 1307/2013 was repealed with the application of the new CAP from the beginning of 2023.

4.24. Member States continued to be able to transfer funding between the EAGF (for direct payments) and the EAFRD (for RDPs) until 2020 and during the transition period. Over the period 2020-22, eight member States transferred funding from under the EAFRD to the EAGF[32], and eight vice versa.[33] In the context of the COVID-19 pandemic, six member States were permitted to review and adjust the amounts and decisions in this regard.[34] Table 4.3 provides an overview of net ceilings for direct payments by member State.

Table 4.3 Net ceilings for direct payments, after transfers, 2015-22

(EUR million)

	2015	2016	2017	2018	2019	2020	2021	2022
Austria	693.1	692.4	691.8	691.7	691.7	691.7	677.6	677.6
Belgium	523.7	509.8	502.1	489.0	481.9	505.3	494.9	472.0
Bulgaria	720.9	788.8	789.6	791.0	792.5	867.1	789.3	799.0
Croatia	183.7	202.9	241.1	279.4	317.6	348.3	365.0	403.2
Cyprus	50.8	50.2	49.7	49.1	48.6	48.6	47.6	47.6
Czech Republic	840.1	839.3	838.5	856.7	856.7	871.8	847.1	847.1
Denmark	870.2	852.2	834.3	826.3	818.3	818.1	801.3	782.3
Estonia	114.4	114.5	123.7	133.9	143.9	169.4	190.7	193.6
Finland	523.3	523.4	523.5	524.1	524.6	524.6	515.7	517.5
France	7,302.1	7,270.7	7,239.0	6,900.8	6,877.2	6,877.2	6,736.4	6,726.4
Germany	4,912.8	4,880.5	4,848.1	4,820.3	4,792.6	4,717.3	4,620.8	4,522.4
Greece	2,109.8	2,087.0	2,064.1	2,043.3	2,022.4	2,022.5	1,981.1	1,980.2
Hungary	1,276.7	1,275.5	1,274.1	1,274.0	1,273.9	1,301.4	1,275.5	1,275.5
Ireland	1,214.8	1,213.3	1,211.8	1,211.4	1,211.0	1,211.1	1,186.3	1,186.3
Italy	3,897.1	3,847.3	3,797.2	3,750.0	3,702.4	3,698.3	3,622.5	3,623.1
Latvia	181.0	205.7	230.3	255.0	279.8	302.5	313.8	318.9
Lithuania	417.9	442.5	467.1	475.3	483.3	517.0	570.0	578.5
Luxembourg	33.6	33.5	33.5	33.5	33.4	35.3	33.4	33.4
Malta	5.2	5.2	5.2	5.2	5.2	5.2	5.2	5.2
Netherlands	749.2	736.8	724.3	682.5	670.8	660.8	661.3	609.7
Poland	3,359.2	3,375.7	3,392.0	3,411.2	3,430.2	3,375.7	3,345.3	3,376.7
Portugal	565.9	574.0	582.1	590.8	599.4	684.5	681.0	685.6
Romania	1,600.0	1,772.5	1,801.3	1,872.8	1,903.2	1,903.2	1,891.8	1,919.4
Slovak Republic	435.5	438.6	441.8	445.2	448.7	392.6	415.3	394.5
Slovenia	138.0	137.0	136.0	135.1	134.3	134.3	131.5	131.5
Spain	4,902.3	4,911.3	4,926.3	4,939.7	4,953.1	4,953.8	4,859.1	4,856.0
Sweden	696.8	697.2	697.6	698.7	699.7	699.8	685.7	685.9
United Kingdom	3,170.7	3,177.3	3,183.6	3,192.2	3,201.4	n.a.	n.a.	n.a.
Total	**41,489**	**41,655**	**41,650**	**41,378**	**41,398**	**38,337**	**37,745**	**37,649**

n.a Not applicable.

Source: Regulation (EU) 1307/2013, as last amended by Regulation 2022/42 of 8 November 2021.

[32] Bulgaria, Croatia, Luxembourg, Hungary, Malta, Poland, Portugal, and Slovak Republic.

[33] Belgium, Czech Republic, Denmark, Germany, Greece, France, Latvia, and the Netherlands, as well as the United Kingdom prior to its withdrawal from the European Union.

[34] Commission Delegated Regulation (EU) 2020/1314. These countries were Belgium, Bulgaria, Denmark, Croatia, Luxembourg, and Portugal.

4.25. Eligibility criteria for direct payments did not change during the review period. To be eligible for payments, farmers must be "active farmers", with certain minimum requirements in place. Following changes described in the previous Review, the option of defining certain activities that would not automatically grant eligibility (a negative list) unless farmers prove that their operations were not marginal was used by eight member States in 2021, using varying criteria and means of verification. Farmers are excluded from these restrictions if they received direct payments below certain thresholds in the previous year (ranging from EUR 0 to EUR 5,000).[35] All direct payment programmes, except the Small Farmers Scheme, continued to be subject to cross-compliance described in previous reviews.

4.26. Direct payments amounted to EUR 37.9 billion in financial year 2021 (for claims made in 2020), out of which decoupled payments accounted for approximately 88%, benefitting 6 million farms. As the number of direct payment beneficiaries continued its gradual trend decrease (-1.1% in 2021), the average amount per beneficiary continued to increase. In 2021, roughly 75% of beneficiaries received less than EUR 5,000, and 0.5% of beneficiaries received more than EUR 100,000 (accounting for 16.4% of total payments). Overall, around 80% of farmers receive 20% of payments, reflecting the uneven distribution of agricultural land.[36]

4.27. According to the CAP indicators, the share of direct support payments in agricultural factor income in 2020 stood on average at 23.3% but varied from 7% in Malta to 49% in Estonia.[37]

4.28. As a response to the COVID-19 pandemic, the Commission introduced certain derogations from some rules for checks relating to direct payments, rural development, and certain market measures in 2020, and put similar measures in place in 2021 and 2022.[38] Commission Implementing Regulation (EU) 2020/531 allowed for higher advances for CAP payments.

Table 4.4 Member State decisions regarding implementation of direct payments in claim year 2022

	BPS/ SAPS[a,b]	Redistributive[b]		Reduction of payments[c]	Young Farm-ers[b]	Voluntary coupled support[d]	
							Sectors
Belgium (Wallonia) Belgium (Flanders)	41.8%	9.6%	First 30 entitlements – EUR 124 n.a.	None Capping at EUR 150,000	1.9%	16.8%	Beef, milk, sheep meat Beef
Bulgaria	47.8%	7.0%	First 30 ha – EUR 70	5% reduction over EUR 150,000, capping at EUR 300,000; DDS	0.3%	15.0%	Beef, fruit and vegetables, milk, protein, sheep meat
Czech Republic	54.8%	n.a.	n.a.	5% reduction over EUR 150,000	0.2%	15.0%	Beef, fruit and vegetables, hops, milk, protein, sheep meat, starch potato, sugar beet
Denmark	63.4%	n.a.	n.a.	5% reduction over EUR 150,000	1.9%	4.2%	Beef
Germany	62.0%	7.0%	First 30 ha – EUR 50, next 16 ha – EUR 30	None	1.0%	n.a.	n.a.
Estonia	65.8%	n.a.	n.a.	5% reduction over EUR 150,000; DDS	0.7%	3.5%	Fruit and vegetables, milk, sheep meat

[35] European Commission (2021), *Direct Payments 2015-2021 – Decisions taken by Member States: State of Play as from June 2021*.
[36] European Commission (2021), *Direct Payments to Agricultural Producers – Graphs and Figures – Financial Year 2020*.
[37] European Commission, *CAP Indicators – Farming Income Support*. Viewed at: https://agridata.ec.europa.eu/extensions/DashboardIndicators/FarmIncome.html.
[38] Commission Implementing Regulations (EU) 2020/532, (EU) 2021/725, and (EU) 2022/1216.

	BPS/ SAPS[a, b]	Redistributive[b]		Reduction of payments[c]	Young Farm-ers[b]	Voluntary coupled support[d]	
							Sectors
Ireland	67.8%	n.a.	n.a.	Capping at EUR 150,000	2.0%	0.3%	Protein
Greece	58.1%	n.a.	n.a.	Capping at EUR 150,000; DDS	2.0%	9.9%	Beef, cereals, fruit and vegetables, nuts, protein, rice, seeds, sheep meat, silkworms, sugar beet
Spain	56.1%	n.a.	n.a.	5% reduction over EUR 150,000; DDS	2.0%	12.0%	Beef, fruit and vegetables, grain legumes, milk, nuts, protein, rice, sheep meat, sugar beet
France	44.0%	10.0%	First 52 entitlements – EUR 50	None	1.0%	15.0%	Beef, cereals, fruit and vegetables, hemp, hops, milk, protein, rice, seeds, sheep meat, starch potato
Croatia	43.0%	10.0%	First 20 entitlements – EUR 68	None	2.0%	15.0%	Beef, fruit and vegetables, milk, protein, sheep meat, sugar beet
Italy	55.1%	n.a.	n.a.	50% reduction over EUR 150,000; capping at EUR 500,000; DDS	2.0%	12.9%	Beef, cereals, fruit and vegetables, milk, olive oil, protein crops, rice, sheep meat, sugar beet
Cyprus	61.0%	n.a.	n.a.	5% reduction over EUR 150,000	1.0%	8.0%	Fruit and vegetables, milk
Latvia	54.9%	n.a.	n.a.	5% reduction over EUR 150,000; DDS	1.2%	14.3%	Beef, cereals, fruit and vegetables, milk, oilseeds, protein, seeds, sheep meat, starch potato
Lithuania	38.8%	15.0%	First 30 ha – EUR 72	None	1.3%	15.0%	Beef, cereals, fruit and vegetables, milk, protein, seeds, sheep meat, sugar beet
Luxembourg	68.0%	n.a.	n.a.	5% reduction over EUR 150,000; DDS	1.5%	0.5%	Protein
Hungary	54.6%	n.a.	n.a.	5% reduction over EUR 150,000; capping at EUR 176,000,	0.4%	15.0%	Beef, fruit and vegetables, milk, protein, rice, sheep meat, sugar beet
Malta	12.4%	n.a.	n.a.	5% reduction over EUR 150,000	0.0%	57.2%	Beef, fruit and vegetables, milk, sheep meat
Netherlands	67.5%	n.a.	n.a.	5% reduction over EUR 150,000	2.0%	0.5%	Beef, sheep meat
Austria	65.9%	n.a.	n.a.	Capping at EUR 150,000; DDS	2.0%	2.1%	Beef, sheep meat
Poland	45.7%	8.3%	First 3 ha – EUR 0, next 27 ha – EUR 40	Capping at EUR 150,000	1.0%	15.0%	Beef, flax, fruit and vegetables, hemp, hops, milk, protein, sheep meat, starch potato, sugar beet
Portugal	37.0%	11.4%	First 10 ha – EUR 120	5% reduction over EUR 150,000, capping at EUR 300,000; DDS	2.0%	19.6%	Beef, fruit and vegetables, milk, rice, sheep meat
Romania	48.9%	5.6%	First 5 ha – EUR 5, next 25 ha – EUR 48	None	1.1%	14.4%	Beef, fruit and vegetables, grain legumes, hemp, hops, milk, protein, rice, seeds, sheep meat, silkworms, sugar beet
Slovenia	54.2%	n.a.	n.a.	5% reduction over EUR 150,000; DDS	1.5%	13.0%	Beef, cereals, fruit and vegetables, milk, sheep meat

	BPS/ SAPS[a, b]	Redistributive[b]		Reduction of payments[c]	Young Farmers[b]	Voluntary coupled support[d]	
							Sectors
Slovak Republic	51.9%	2.7%	First 5 ha – EUR 60, next 10 ha – EUR 45, next 13 ha – EUR 30	5% reduction over EUR 150,000	0.4%	15.0%	Beef, fruit and vegetables, hops, milk, protein, sheep meat, sugar beet
Finland	49.4%	n.a.	n.a.	5% reduction over EUR 150,000	1.0%	19.6%	Beef, cereals, fruit and vegetables, milk, protein, sheep meat, starch potato, sugar beet
Sweden	55.0%	n.a.	n.a.	5% reduction over EUR 150,000	2.0%	13.0%	Beef

n.a. Not applicable.

a BPS = Basic Payment Scheme; SAPS = Single Area Payment Scheme.
b % for BPS/SAPS, redistributive, young farmer payment, and voluntary coupled support refers to percentage of national direct payments ceiling for claim year 2021.
c Reductions of payments are a percentage applying to the total amount of the basic payments (BPS or SAPS). Member States may also deduct the amounts of salaries actually paid for agriculture: DDS = deductions for salaries apply. Capping refers to a 100% reduction at a given value.
d Beef refers to beef and veal, protein refers to protein crops, milk refers to milk and milk products, and sheep meat refers to sheep and goat meat.

Note: 30% of each national ceiling is reserved for greening, therefore, percentage allocations add up to 70% (marginal differences due to rounding) in all cases except Denmark and Slovenia, which allocate some of Pillar I to areas with natural constraints (0.4% of the national ceiling in Denmark and 1.6% in Slovenia).

Source: European Commission (2021), *Direct Payments 2015-2021 – Decisions taken by Member States: State of Play as from June 2021*, and information provided by the Commission.

4.29. Until 2020 and during the transitional period, direct payments continued to be organized by the seven schemes described below as *a* to *g.* As can be seen in Table 4.4, decisions taken by member States result in noticeable variation in overall allocation by scheme.

a) Basic payment scheme and single area payment scheme

4.30. During the review period, member States continued to apply either the basic payment scheme (BPS, 17 Members, 5 choosing the option of regionalizing the scheme[39]) or the Single Area Payment Scheme (SAPS, 10 Members). For beneficiaries, eligibility for these schemes remained a precondition for additional payments under all direct payment schemes. It continues to remain the most important of the direct payment schemes, accounting for between 39% and 69% of total direct payments (with the exception of Malta, see subpoint g) (Table 4.4).

4.31. Among the member States applying the SAPS, nine[40] member States implemented EUR 260 million of TNA[41] in claim year 2020, complementing direct payments with payments from national sources (85% of the total as decoupled direct payments). The provisions for the transition period in 2021 and 2022 continue to limit the maximum amounts payable as TNA to 50% of the amounts payable in 2013 (initial amounts).

b) Greening payment

4.32. Until 2020 and during the transition period, member States still had to allocate 30% of their national ceilings annually for direct payments for "agricultural practices beneficial for the climate and the environment" (greening).[42] These funds were disbursed to farmers entitled to a payment under the BPS or the SAPS and which observed, on all their eligible hectares, either certain specific

[39] European Commission (2021), *Direct Payments 2015-2021 – Decisions taken by Member States: State of Play as from June 2021*. Viewed at: https://agriculture.ec.europa.eu/system/files/2021-07/simplementation-decisions-ms-2021_en_0.pdf. Until its withdrawal from the European Union in 2020, the United Kingdom also had regionalized its scheme.
[40] All of the member States applying SAPS, except Latvia.
[41] TNA ultimately is a remnant of recent EU accession processes where additional national payments were permitted to avoid abrupt decreases in overall available support in accession countries.
[42] Regulation (EU) 1307/2013, Articles 43-47.

practices or "equivalent practices" (in seven member States during 2020). The specific practices related to crop diversification, maintenance of existing permanent grassland, and having an ecological focus area (EFA)[43] on at least 5% of arable land for holdings with more than 15 ha of arable land.

4.33. During this transition period, certain previously existing exemptions to these practices continued to apply for participants in the small farmer scheme and farmers with a large proportion of permanent grassland, while farmers meeting requirements for organic production are entitled *ipso facto* to this payment. The seven member States and regions opting for the use of equivalent practices used a mix of approaches (based on measures and certification schemes) and applied them variedly to the three practices.[44]

4.34. As a response to the war in Ukraine and with the objective of ensuring food security, the Commission introduced, for the year 2022, certain flexibilities regarding the treatment of fallow land, even where it had been grazed or harvested for production purpose or had been cultivated.[45]

c) Young Farmers Scheme

4.35. The Young Farmers Scheme continued to apply until 2020 and during the transition period, providing additional payments to farmers aged 40 or below and who are setting up for the first time (or recently have set up) an agricultural holding. Seven member States and two regions applied additional eligibility criteria relating to certain skills and training. Member States can grant these payments for between 25 and 90 hectares per farmer, at a value of between 25% and 50% of a reference payment per hectare.[46]

4.36. The ceiling for the scheme is set at 2% of the direct payments envelope, and member States have to notify the percentage allocated to the scheme. For 2021, the notified percentages ranged from less than 1% in six member States to the maximum of 2% in nine member States. Overall, the estimated allocations for the scheme in 2021 were 1.4% of total direct payments (an increase from the estimated 1.2% in 2018, 2019, and 2020) (Table 4.4).[47]

d) Redistributive payments and reduction of payments

4.37. Regulation (EU) 1307/2013 foresees an optional redistributive payment of up to 30% of national ceilings, and this continued to apply until 2020 and during the transition period. This scheme allows for an additional payment for a certain number of hectares per farm, resulting in smaller farms receiving a relatively larger payment per hectare. For the claim year 2022, 10 member States applied the redistributive payment scheme to a varying number of hectares (see Table 4.4), with a number of member States increasing payments as compared to claim year 2018.[48]

4.38. At the same time, 22 member States or regions applied one or multiple tranches of reduction of payments for the parts of payments exceeding EUR 150,000, with the reductions being reallocated to the EAFRD. Member States using more than 5% of their annual ceiling for the redistributive payment are eligible not to impose such reduction of payments (Table 4.4).

e) Payments for areas with natural constraints

4.39. As was the case during the previous Review, member States have the option to reserve up to 5% of their national ceiling for support to areas with natural constraints in addition to support

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[43] The types of EFAs are defined in Regulation 1307/2013, Article 46, complemented by Commission Delegated Regulation (EU) 639/2014 (as amended).

[44] European Commission (2021), *Direct Payments 2015-2021 – Decisions taken by Member States: State of Play as from June 2021*.

[45] Commission Implementing Decision (EU) 2022/484.

[46] Regulation (EU) 1307/2013 (as amended), Articles 50 and 51.

[47] European Commission (2021), *Direct Payments 2015-2021 – Decisions taken by Member States: State of Play as from June 2021*.

[48] Regions in the United Kingdom also applied this scheme until the withdrawal of the United Kingdom from the European Union. For 2018 values, see WTO document WT/TPR/S/395/Rev.1, 7 July 2020.

provided under the RDPs. The criteria for designation of such areas remained unchanged. Only two member States have decided to use this option (Note to Table 4.4).

f) Small Farmers Scheme

4.40. The Small Farmers Scheme is an optional scheme, replacing, when used, all other direct payments for its beneficiaries. Fifteen member States applied the Small Farmers Scheme in 2020 and 2021, using varying methods of allocation. Amounts of support provided range from EUR 500 to EUR 1,250 per farmer.[49]

g) Voluntary coupled support (VCS) and payments for cotton

4.41. All member States, except Germany, apply the VCS scheme, a production-limiting scheme applying annual payments based on fixed areas and yields or on a fixed number of animals.[50] On average, member States allocate around 11% of their national ceiling to this scheme, with a number of member States reviewing this allocation during the review period as permitted following changes outlined in the previous Review. However, the levels of support allocated to the scheme have not changed fundamentally from the previous Review, with 10 member States still allocating the maximum percentage allowed (13%), three having received a Commission approval to exceed this maximum, and Malta using a derogation allowing member States to use up to EUR 3 million for the scheme, resulting in 57.2% of its national envelope being allocated to the scheme in 2022. As in 2021, 11 member States made use of the option to apply an additional top-up of up to 2% for protein crops to increase their VCS ceiling of 13% (+2%) in 2022 (Table 4.4).[51]

4.42. According to the Commission, the annual budget remained around EUR 4.2 billion per year allocated via 260 measures, and the most supported sectors in 2021 were the three animal-related sectors, with more than 70% of support provided under this scheme going to beef and veal (38.8%), dairy products (21.4%), and sheep and goat meat (12.8%), followed by protein crops, fruit and vegetables, and sugar beet.[52] Among the 21 sectors covered by VCS, no support was allocated by any member State to short rotation coppice, cane and chicory, and dried fodder.

4.43. In addition to the VCS scheme, the European Union continued to provide payments for cotton in Bulgaria, Greece, and Spain. Payments are limited to a maximum base area and are calculated using a fixed yield and reference amounts (lower in 2021 and 2022, compared to 2020).[53]

4.1.3.2 Internal market support

4.44. The previous system for internal market support measures defined in Regulation (EU) 1308/2013 (and related implementing acts) continued to apply in substance and was extended for the transition period, although Regulation (EU) 2021/2117 already introduced a number of changes from December 2021. These include, *inter alia*, (i) an extension of some intervention periods and an increase in information transparency regarding such interventions; (ii) adjustments to measures affecting olive oil and table olives; (iii) an extension to the scheme of authorizations for vine plantings until 2045 as well as changes to the way authorizations are issued for areas of protected designation of origin or a protected geographical indication; (iv) a number of marketing requirements; (v) some rules regarding producer organizations; (vi) the regulation of supply of agricultural products with a protected designation of origin or protected geographical indication; (vii) an extension of market support measures to address plant pests; and (viii) the establishment

[49] For additional information, see European Commission (2021), *Direct Payments 2015-2021 – Decisions taken by Member States: State of Play as from June 2021*, Table A.4.
[50] Regulation 1307/2013, Article 52.
[51] European Commission (2021), *Direct Payments 2015-2021 – Decisions taken by Member States: State of Play as from June 2021*.
[52] European Commission (2022), *Voluntary Coupled Support – Member States' Support Decisions Applicable for Claim Year 2022*, Informative Note, May. The note contains additional information regarding support for individual sectors.
[53] The reference amounts declined, in EUR/ha, for Bulgaria from 649.15 to 636.13, for Greece from 234.18 to 229.37, for Portugal from 228.00 to 223.32, and for Spain from 362.15 to 354.73. See Regulation 1307/2013, Article 58.

of a single formal legal framework for the setting up and operation of Union market observatories.[54] In addition, the transitional regulation (Regulation (EU) 2020/2220) introduced the option for producing member States to define marketing rules for olive oils.

4.45. As a result, support to specific agricultural sectors continued to be provided during the review period via (i) market interventions and support for private storage; (ii) aid schemes for a number of specific agricultural sectors[55]; (iii) marketing standards and rules for certain products as well as rules for certain producer organizations and interbranch organizations; and (iv) exceptional measures.

4.46. The reserve for crises in the agricultural sector, established in Regulation 1306/2013, was not used in 2020 or 2021 but was activated in 2022 for the first time since its introduction as part of the response to the war in Ukraine (see below).

Market interventions and support for private storage

4.47. Council Regulation (EU) 1370/2013 determines measures on fixing certain aids and refunds related to the common organization of the markets in agricultural products. It defines reference thresholds for a number of sectors[56] as well as related public intervention prices to be used when public intervention in a specific sector is opened. It defines quantitative limitations per public intervention period (defined in Regulation 1308/2013), with limitations for 2020 and 2021 set at 3 million tonnes of common wheat, 50,000 tonnes of butter, and 109,000 tonnes of skimmed milk powder (SMP). Except in certain circumstances, public intervention is usually carried out by tendering with the intervention prices acting as maximum price.

4.48. As a response to the COVID-19 pandemic, intervention purchases were opened for butter (for the first time since 2009) and SMP (the first time since 2018). There were no public intervention purchases for animal products in 2020, 2021, and 2022.[57]

4.49. Temporary private storage aid (PSA) was also opened for butter, SMP, cheese, certain bovine meat, and sheep and goat meat[58] during 2020 in response to the COVID-19 pandemic. Such storage was supported for periods of between two and six months depending on the product, with uptake varying (Table 4.5). Initially estimated at around EUR 80 million, total interventions ultimately amounted to less than EUR 30 million, according to notifications made by the European Union. In 2022, the Commission opened PSA for pigmeat.[59]

Table 4.5 Private storage aid, 2019-22

	Reference price EUR/tonne	Aid for storage 2019 (tonnes)	Aid for storage 2020 (tonnes)	Aid for storage 2021 (tonnes)	Aid for storage 2022 (tonnes)
White sugar	404.40	0	0	0	0
Olive oil	n.a.	21,279	192,166	0	0
Extra virgin	1,779.00	None	Included		
Virgin	1,710.00	Included	Included		
Lampante (2 degrees)	1,524.00	Included	Included		
Flax fibre	0	0	0	0	0
Table olives (since 2022)	n.a.	n.a.	n.a.	n.a.	0
Beef and veal	2,224.00	0	1,959	0	0
Butter	246.39	0	65,019	0	0

[54] There are currently six observatories in place for milk, meat, sugar, crops, fruits and vegetables, and wine. Viewed at: https://agriculture.ec.europa.eu/data-and-analysis/markets/overviews/market-observatories_en.

[55] They cover olive oil and table olives, fruits and vegetables, wine and vine plantings, apiculture, and hops.

[56] Cereals, paddy, sugar, beef and veal, milk and milk products, pigmeat, and olive oil.

[57] In 2019, 102,571 tonnes of SMP from previous intervention purchases were sold. Milk Observatory, *Intervention Reports 2016-2020*. Viewed at: https://agriculture.ec.europa.eu/data-and-analysis/markets/overviews/market-observatories/milk_en.

[58] Commission Implementing Regulations (EU) 2020/597; (EU) 2020/598; (EU) 2020/591; (EU) 2020/596 (repealed by Commission Implementing Regulation (EU) 2020/1028 of 15 July 2020); and (EU) 2020/595 (repealed by Commission Implementing Regulation (EU) 2020/1029 of 15 July 2020), respectively.

[59] Commission Implementing Regulation (EU) 2022/470.

	Reference price EUR/tonne	Aid for storage 2019 (tonnes)	Aid for storage 2020 (tonnes)	Aid for storage 2021 (tonnes)	Aid for storage 2022 (tonnes)
Cheese	n.a.	0	43,669	0	0
Skimmed milk powder	169.80	0	18,300	0	0
Pig meat	1,509.39	0	0	0	46,491
Sheep and goat meat	n.a.	0	15	0	0

n.a. Not applicable.

Note: Data for 2019 and 2020 include the United Kingdom.

Source: Reference prices from Council Regulation (EU) 1370/2013; data for 2020 from European Commission, *Private Storage Scheme*. Viewed at: https://circabc.europa.eu/sd/a/aacdfe67-6e5e-4f84-8f3a-b61b10f38d42/PSA-covid19.pdf; DG Agriculture and Rural Development, *Private Storage Aid for Olive Oil*. Viewed at: https://agriculture.ec.europa.eu/farming/crop-productions-and-plant-based-products/olive-oil/psa-olive-oil_en; and market observatories.

Aid schemes for specific agricultural sectors

4.50. Support in the European Union via operational programmes in the fruits and vegetables sector in 2020 stood at EUR 1.7 billion, an increase of 11% compared to the average for the period 2015-19, primarily directed to investments, quality schemes, and environmental measures.[60]

4.51. Under the temporary exceptional adjustment aid to farmers in the beef and veal sector based on Regulation 2019/1132 described in the previous Review, the European Union made EUR 49.4 million available to Ireland, allowing Ireland to grant financial support to beef farmers affected by market disturbance.

4.52. Support to the apiculture sector, co-funding national apiculture programmes at 50%, continued to the tune of EUR 40 million in 2020, and of EUR 60 million from 2021.

4.53. In response to the COVID-19 pandemic, the European Union also adopted a number of derogations from provisions of Regulation 1308/2013 and flexibilities in the implementation of existing market support programmes (Table 4.6). In addition, member States established a large number of support schemes targeted at the economy at large (and covering the agricultural sector) or the agricultural sector itself, of varying size, in the context of the temporary state aid framework in response to COVID-19 (Section 3.3.1).[61] In 2020, total state aid expenditure to agriculture, fisheries, and aquaculture amounted to approximately EUR 6.3 billion for the EU-27 and the United Kingdom, a slight increase compared to earlier years.[62]

Table 4.6 Market support measures taken as a result of the COVID-19 pandemic

Date	Act	Description
30 April 2020	Commission Delegated Regulation (EU) 2020/592, amended three times in 2020 and 2021	Derogations from certain provisions of Regulation 1308/2013 to address the market disturbance in the fruit and vegetables and wine sectors
30 April 2020	Commission Implementing Regulation (EU) 2020/593	Authorizing agreements and decisions on market stabilization measures in the potatoes sector (derogation from certain competition rules under Article 222 of Regulation 1308/2013 for six months)
30 April 2020	Commission Implementing Regulation (EU) 2020/594	Authorizing agreements and decisions on market stabilization measures in the live trees and other plants, bulbs, roots and the like, cut flowers and ornamental foliage sector (derogation from certain competition rules under Article 222 of Regulation 1308/2013 for six months)
30 April 2020	Commission Implementing Regulation (EU) 2020/599	Authorizing agreements and decisions on the planning of production in the milk and milk products sector (derogation from certain competition rules under Article 222 of Regulation 1308/2013 for six months)

[60] European Commission (2020), *2020 Annual Reports – Fruit and Vegetables Operational Programmes*. Viewed at: https://agriculture.ec.europa.eu/farming/crop-productions-and-plant-based-products/fruit-and-vegetables/sector-reports_en.
[61] WTO documents G/AG/GEN/159, 4 June 2020; and five addenda during 2020 and 2021.
[62] European Commission (2022), *State Aid Scoreboard 2021*. Viewed at: https://competition-policy.ec.europa.eu/system/files/2022-09/state_aid_scoreboard_note_2021.pdf.

Date	Act	Description
30 April 2020	Commission Implementing Regulation (EU) 2020/600, amended in 2021	Derogations regarding implementation of support measures in the sectors of fruit and vegetables, wine, olive oil and table olives, apiculture, and for the school scheme.
30 April 2020	Commission Implementing Regulation (EU) 2020/601	Derogations regarding the validity of vine planting authorizations and the grubbing up in case of anticipated replanting
4 May 2020	Commission Delegated Regulation (EU) 2020/884, amended in 2021	Derogations regarding implementation of support measures in the fruit and vegetables sector and the wine sector
6 July 2020	Commission Implementing Regulation (EU) 2020/975	Authorizing agreements and decisions on market stabilization measures in the wine sector (derogation from certain competition rules under Article 222 of Regulation 1308/2013 for six months)

Source: Compiled by the WTO Secretariat.

Response to the war in Ukraine

4.54. As a response to market disturbances resulting from the war in Ukraine, the Commission allocated EUR 500 million (EUR 350 million of which from the reserve for crises in the agricultural sector). Aiming to improve food security, member States were allowed to support farmers pursuing either (i) circular economy, (ii) nutrient management, (iii) efficient use of resources, or (iv) environmental and climate-friendly production methods, with payments to be made by 30 September 2022. They were also authorized to allocate up to EUR 1 billion from national sources for these interventions.[63]

4.55. Another Delegated Regulation from July 2022 raised the share of union financing in operational programmes of producer organizations to 70% (from 50%), and temporarily allowed for such programmes to spend more than one third on crisis prevention and management measures.[64]

Other

4.56. Additional programmes affecting supply and demand for agricultural goods in the Union continue to apply. They include (i) the School Scheme described in previous Reviews (estimated at EUR 241 million (EU funds as well as public and private national funds) for the 2020-21 school year, among which EUR 121 million for the supply/distribution of fruits and vegetables, and EUR 111 million for the supply/distribution of school milk[65]); (ii) certain domestic food aid under the Fund for European Aid to the Most Deprived (FEAD), which was increased in response to the COVID-19 pandemic; (iii) the Programmes of Options Specifically Relating to Remoteness and Insularity (POSEI programmes, EUR 279 million from the EAGF for the marketing year 2019/2020, of which EUR 127 million went to the bananas sector)[66]; and (iv) funds available to support information provision and promotion measures for agricultural products in the internal market and in third countries (as outlined in Regulation (EU) 1144/2014), which stood at around EUR 200 million per year[67], allocated from the general budget of the Union.[68]

4.57. The new basic Regulation (EU) 2018/848 on organic production and labelling described in the previous Review has applied since the beginning of 2022, one year later than initially anticipated. The Commission published a regulation containing lists of authorized products and substances for, *inter alia*, (i) plant protection products; (ii) fertilizers, soil conditioners and nutrients; (iii) certain feed material; (iv) feed additives and processing aids; (v) products for cleaning and disinfection; (vi) various food additives, other processing aids, or ingredients; and (vii) products and substances

[63] Commission Delegated Regulation (EU) 2022/467.
[64] Commission Delegated Regulation (EU) 2022/1225.
[65] European Commission (2021), *School Scheme Monitoring Report Summary – 2020/21 School Year*. Viewed at: https://agriculture.ec.europa.eu/common-agricultural-policy/market-measures/school-fruit-vegetables-and-milk-scheme/school-scheme-explained_en.
[66] European Commission (2021), Report from the Commission to the European Parliament and the Council on the Implementation of the Scheme of Specific Measures for Agriculture in Favour of the Outermost Regions of the Union (POSEI), COM(2021) 765. Cross-compliance under the CAP applies.
[67] European Commission – Agriculture and Rural Development, "Promotion of EU farm products". Viewed at: https://agriculture.ec.europa.eu/common-agricultural-policy/market-measures/promotion-eu-farm-products_en.
[68] The EU contribution co-finances between 70% and 80% of such programmes (up to 90% in certain circumstances). Since 2020, the duration of support to such promotion measures in the wine sector are no longer limited to five years.

for use in organic production of wine.[69] The Regulation allows for certain flexibilities regarding the temporary authorization of using non-organic or non-authorized substances in organic production in third countries.[70] The expiry of recognized equivalence of a third country already established under the repealed Council Regulation (EC) 834/2007 has been extended to the end of 2026.

4.58. In April 2019, Directive (EU) 2019/633 on unfair trading practices in business-to-business relationships in the agricultural and food supply chain was adopted. This Directive prohibits certain unfair trading practices used by buyers in the agriculture sector, *inter alia*, those relating to late payments, late order cancellations, unilateral changes in conditions, or acts of commercial retaliation.[71] This is completed by an additional set of practices that are prohibited only if they have not been unambiguously agreed between buyer and seller beforehand.

4.1.3.3 Rural development

4.59. While Regulation (EU) 1305/2013 was replaced by the new Regulation (EU) 2021/2115 from January 2023, it continued to apply in the transition period largely unchanged (as during the 2014-20 period previously described), with some additional elements to ensure a smooth transition to the revised CAP. Regarding the implementation of existing RDPs, Regulation (EU) 1305/2013 will also continue to apply until the end of 2025.

4.60. RDPs continued to be implemented at the member State level based on national RDPs that need to incorporate at least four of the six European Focus Areas and be based on measures defined in Annex VI of the Regulation. While regional development aims to support sustainable rural development throughout the European Union, interventions also directly affect the agricultural sector. Programmes are approved by the Commission. In total, there were 114 approved RDPs at the end of 2021, with 20 national programmes and 7 member States with 2 or more regional programmes. From 2023, RDPs will instead be outlined in the CSPs.

4.61. RDPs are co-funded from national resources and the EAFRD. For the period 2014-22, total planned support was EUR 200 billion, of which EUR 136 billion from EU funds and the remainder from national budgets. In response to the COVID-19 pandemic, the NextGenerationEU (NGEU) budget (Section 3.3.1.1) co-funded rural development activities in 2021 and 2022 for EUR 8.1 billion.[72] As a result, the total EU funding envelope for rural development stood at EUR 17.7 billion in 2021 and EUR 18.4 billion in 2022, higher than EUR 14.7 billion in 2019 and 2020.[73]

4.62. Over the period 2014 to FY2020/22, the bulk of the EU funding envelope was allocated to restoring, preserving, and enhancing biodiversity (46.3%), followed by farm viability and competitiveness (21.1%, comprising support for improving economic performance of all farms and the entry of adequately skilled farmers), social inclusion (14.1%), food chain organization (9.8%), and resource efficiency as well as supporting the shift towards a low-carbon and climate-resilient economy (6.1%).[74] In practice, actual spending had reached between 47% (in Malta) and 91% (Luxembourg) of planned expenditures at the beginning of January 2023.[75] State aid is also provided to certain agricultural activities, including some insurance of agricultural activities in some member States.

4.63. In response to COVID-19, Regulation (EU) 2020/872 allowed for the provision of exceptional temporary EAFRD support to farmers and SMEs particularly affected by the COVID-19 crisis in 2020, not exceeding EUR 7,000 per farmer and EUR 50,000 per SME. Total exceptional temporary support

[69] Commission Implementing Regulation (EU) 2021/1165.

[70] Regulation (EU) 2018/848, Articles 25 and 45. For additional information, see also European Commission, *Legislation for the Organics Sector*. Viewed at: https://agriculture.ec.europa.eu/farming/organic-farming/legislation_en.

[71] Directive (EU) 2019/633.

[72] European Commission (2021), *The EU's 2021-2027 Long-Term Budget and NextGenerationEU – Facts and Figures*.

[73] Allocations in 2019 and 2020 also include approximately EUR 750 per year for the United Kingdom.

[74] EU Commission; Regulation (EU) 1305/2013; and European Structural and Investment Funds, Data, "2014-2020: EAFRD Allocation by Focus Area (EU Planned Financing)". Viewed at: https://cohesiondata.ec.europa.eu/2014-2020/ESIF-2014-2020-FINANCES-PLANNED-DETAILS/e4v6-qrrq.

[75] European Structural and Investment Funds, Data. Viewed at: https://cohesiondata.ec.europa.eu/funds/eafrd#top.

was limited to 2% of the total EAFRD contribution to RDPs and amounted to EUR 616 million in FY2021 (support for 2020) and EUR 12 million in FY2022 (for 2021).

4.64. In 2022, Regulation (EU) 2022/1033 also allowed for the provision of exceptional temporary support to farmers and SMEs engaged in processing, marketing, or developing agricultural products, and affected by the impact of the war in Ukraine. Such support would be paid out in a lump sum, during 2023, of not exceeding EUR 15,000 per farmer and EUR 100,000 per SME for activities contributing to food security or addressing market imbalances, and would have to support beneficiaries to pursuing goals related to (i) a circular economy, (ii) nutrient management, (iii) the efficient use of resources, or (iv) environmental and climate-friendly production methods.[76] This support complements similar exceptional measures against market disturbances. Total exceptional temporary support cannot exceed 5% of total EAFRD contributions to RDPs for 2021-22.

4.1.4 Export subsidies

4.65. According to the most recent notifications, the European Union did not grant export subsidies during the review period. Since 2021, the provision for export refunds in exceptional circumstances, whose ceiling had been set to zero since 2013, has also been legally removed from Regulation (EU) 1308/2013.[77] The process of certifying the European Union's revised schedule including elimination of annual export subsidies commitment levels pursuant to the December 2015 Nairobi Ministerial Conference Decision on export competition, mentioned in the previous Review, remains pending.[78]

4.66. No programmes for financing the export of agricultural products exist at the EU level, but most member States operate some programmes for general export financing that may cover agricultural products (Section 3.2.5).[79] According to the European Union's ES:1 notifications, it also did not provide food aid in kind during marketing years 2018/19 and 2020/21.

4.1.5 Export restrictions

4.67. As a response to disruptions in grain supplies resulting from the war in Ukraine, Hungary introduced export restrictions of cereals for food security reasons in March 2022, extending them multiple times before repealing them as of 20 January 2023.[80] For any export (including to the European Union) of certain grains, soybeans, and sunflower seeds, exporters had to submit a request indicating volume and prices for the Minister for Agriculture to approve or reject the request, exercising a "right of first refusal at market price" in case of danger to the public supply or food security. The restriction did not affect humanitarian aid and transit cargo. No request was rejected.

4.1.6 Market access

4.68. During the review period, market access for imports of agricultural products (WTO definition) into the European Union remained broadly unchanged even though in figures it slightly deteriorated as the average applied MFN tariff increased from 14.2% in 2019 to 14.9% in 2022. These increases result from compositional changes in trade flows following the United Kingdom's withdrawal from the European Union and the fact that certain trade flows considered intra-EU at the time of the previous Report are now considered extra-EU, allowing the estimation of AVEs. This increases average tariffs without an actual increase in tariff rates. In 2019, the share of non-*ad valorem* tariff lines with no AVEs stood at 3.1%, declining to 1.8% in 2022. For agricultural products, this development is even more pronounced, as including trade flows with the United Kingdom to estimate non-*ad valorem* AVEs reduced the share of agricultural non-*ad valorem* tariff lines with no AVEs from 13.9% to 7.9%. Affected products are primarily animals and products thereof as well as dairy products.

4.69. Overall, applied (and bound) tariffs remain more than three times as high for agriculture products compared to non-agricultural products, have a higher variance and higher maximum tariffs, and have a lower proportion of duty-free lines and a much higher proportion of non-*ad valorem*

[76] Regulation (EU) 2022/1033.
[77] Removed by Regulation (EU) 2021/2117, Article 1(56).
[78] WTO document G/MA/TAR/RS/506/Add.3, 12 July 2019.
[79] The Commission indicated that all such export financing is done in compliance with the Nairobi Decision on Export Competition.
[80] WTO document G/AG/N/EU/77/Rev.3/Add.1, 14 February 2023.

duties (Section 3.1.3). All exports of agricultural products from LDCs can enter duty- and quota-free, and those from many other developing countries can often enter duty-free or at reduced tariffs (Section 3.1.3).

4.70. Non-*ad valorem* duties can be complex and include specific, mixed, and compound duties; certain products continue to be subject to duties based on agricultural components[81]; other products are subject to tariffs based on flour or sugar contained in them[82]; and some tariffs for alcoholic beverages differ based on category. Some seasonal tariffs are in place that also include mixed duties. Tariffs based on entry prices may be applied, as outlined in Commission Implementing Regulation (EU) 2017/892, to certain fruits and vegetables when the import price (monitored with standard import values published on a Commission website)[83] is below the corresponding level of entry price for the same product in a given period.

4.71. Commission Regulation (EU) 642/2010 allows for tariffs for some cereals to be adjusted based on import prices. Varying import duties in particular for rye, maize, and grain sorghum were in place during 2020, but since 27 August 2020, they have been reset to zero.[84] While tariffs on sorghum were imposed, Commission Delegated Regulation (EU) 2020/1274 introduced a flat-rate reduction of 100% for such imports into Spain from third countries for 2020 in line with Commission Regulation (EC) 1296/2008. Since January 2021, duty-free TRQs for imports of sorghum and maize into Spain and of maize into Portugal have instead been introduced by Commission Delegated Regulation (EU) 2020/760.

4.72. Following the United Kingdom's withdrawal from the European Union and as from January 2021, all TRQs have been apportioned based on recent import shares under such quotas as outlined in the previous Review.[85] Other than that, there were no significant changes to agricultural TRQs in place, while changes were introduced to their administration (Section 3.1.3.3). Overall, 124 WTO TRQs (for marketing years, calendar years, or seasonal) remain in place with a small number of TRQs proposed for removal. Forty-one of these have country-specific allocations. Imports from the United Kingdom are generally excluded from the TRQs. In addition, 4 autonomous TRQs (ATQs) for agricultural products remain in place, covering 16 tariff lines, a slight change from the end of 2019.[86] Information on the allocation of TRQs managed on first come, first served basis is published online in near-real time on the website of DG TAXUD, whereas information on the allocation of the TRQs managed by licences is published on a monthly basis on the Agri-data portal.[87] According to the Commission, 21 TRQs previously managed by licences are now managed on a first come, first served basis.

4.73. The European Union continues to use agricultural special safeguards for certain products according to its schedule of commitments. During the review period, the European Union invoked the price-based special safeguard for six lines of poultry and egg products: three lines in marketing year 2019/20, four in 2020/21, and one in 2021/22.[88] The volume-based mechanism was not invoked, but as in previous years the system was made operational to calculate figures for the trigger volumes for 18 tariff lines (corresponding to 15 products) in the fruit and vegetables sector, which were published in Commission Implementing Regulations. Where imports exceed these trigger values, additional import duties may be imposed for these products. Until 2021, the Commission defined consistent trigger volumes for certain additional import duties on certain fruits and vegetables based on imports expressed as a percentage of the corresponding domestic consumption.

[81] Regulation (EU) 510/2014.
[82] Council Regulation (EEC) 2658/87.
[83] European Commission, *Fruit and Vegetables (Various) Statistics*. Viewed at: https://agriculture.ec.europa.eu/data-and-analysis/markets/overviews/market-observatories/fruit-and-vegetables/fruit-and-vegetables-various-statistics_en.
[84] Commission Implementing Regulations (EU) 2020/573, 2020/615, 2020/864, 2020/959, 2020/1192, 2020/1218, and 2020/1221.
[85] WTO document WT/TPR/S/395/Rev.1, 7 July 2020, Section 3.1.3.3.
[86] Council Regulation (EU) 2021/2283 repealed Council Regulation (EU) 1388/2013, which had been amended three times during the review period, but not with regard to agricultural products. Council Regulation (EU) 2021/2283 was subsequently amended, last by Council Regulation (EU) 2022/2563.
[87] European Commission, Tariff Quota Consultation. Viewed at: https://ec.europa.eu/taxation_customs/dds2/taric/quota_consultation.jsp; and *Trade and Quotas*. Viewed at: https://agridata.ec.europa.eu/extensions/DataPortal/trade.html.
[88] WTO documents G/AG/N/EU/62, 24 July 2020; G/AG/N/EU/70, 23 July 2021; and G/AG/N/EU/80, 26 July 2022.

As from 2022, the Commission can alternatively calculate the triggering volumes on the basis of average imports if the consumption data are not used.[89]

4.1.7 Domestic support levels

4.1.7.1 WTO notifications

4.74. The European Union has submitted DS:1 notifications covering domestic support until marketing year 2019/20, and the last notification still includes information for the United Kingdom. Measures of support provided as a response to the COVID-19 pandemic are therefore already reflected regarding marketing year 2019/20. The notified Total Current AMS stood at EUR 5.3 billion for marketing year 2019/20, compared to EUR 6.9 billion for marketing year 2016/17, well below the European Union's total AMS commitment level. The Commission indicated it would notify the modified Total AMS commitment level following the withdrawal of the United Kingdom from the European Union as part of its DS:1 notification for marketing year 2020/21.

4.75. Notified levels of support remained broadly unchanged between 2013 and 2019 overall. However, compared to the latest available information during the previous Review for marketing year 2016/17, Green Box support increased by more than EUR 6 billion, primarily driven by increases for structural adjustment assistance provided through resource retirement programmes as well as through investment aids, while Amber Box support declined by around EUR 1.6 billion (by around EUR 0.4 billion including *de minimis*) and Blue Box support remained unchanged (Chart 4.1).

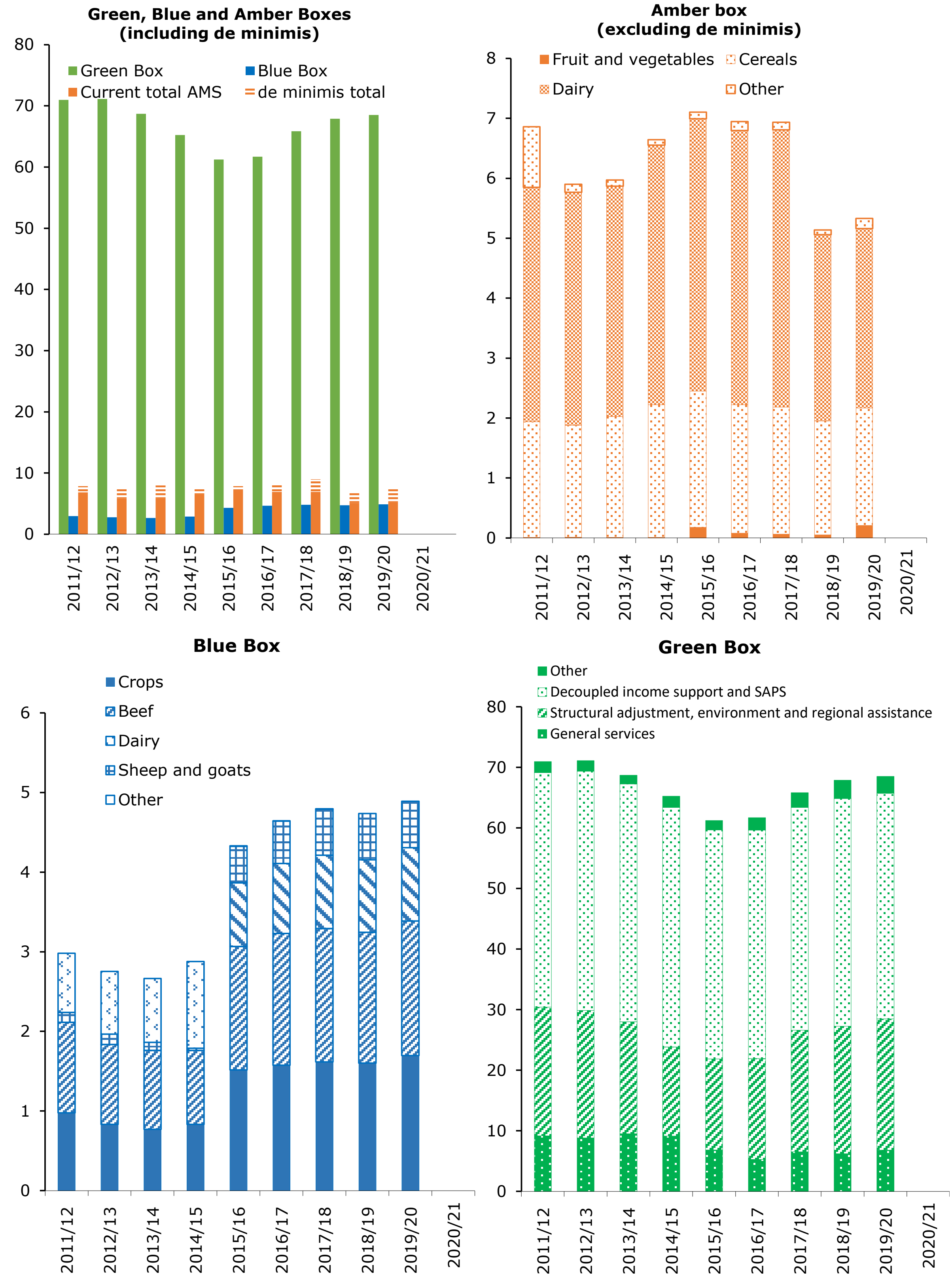
4.76. Between marketing year 2017/18 and 2019/20, noticeable increases in Amber Box support affecting wine, fruits and vegetables, sugar, and beef can be observed, while Amber Box support for SMP, a sector that received significant support in 2017/18 ceased nearly completely as the quantitative limit for interventions was set to zero temporarily.[90] As support to structural adjustment, environment and regional assistance increased between 2016/17 and 2019/20, the composition of Green Box support shifted towards this category during the review period, while payments for relief from natural disasters saw a temporary increase in 2018/19.

4.77. The European Union notified the transitional measures for the implementation of the CAP in WTO document G/AG/N/EU/66 on 9 February 2021. The Commission expects to submit a DS:2 notification for the new CAP during the first quarter of 2023.

[89] Regulation (EU) 2021/2117, Article 182.
[90] WTO document WT/TPR/S/395/Rev.1, 7 July 2020.

Chart 4.1 Domestic support in the European Union 2011/12-2020/21

(EUR billion)



Note: Information provided by the European Union covers the United Kingdom until 31 December 2020.

Source: WTO notifications.

4.1.7.2 OECD assessment

4.78. According to the OECD[91], the total support estimate (TSE) (transfers to the agricultural sector in general) for the EU-28 remained broadly constant in nominal terms between 2018 and 2020, increasing marginally from 0.64% of GDP to 0.66% of GDP. For the EU-27, it is estimated to stand at 0.67% of GDP in 2021, compared to an OECD average of 0.61%. This corresponds to more than 40% of the sector value added. The OECD estimates overall support to agriculture in terms of market outcomes, by estimating the total effective transfers to producers as a result of market price interventions (including trade restrictions), subsidies, and direct payments, and taking stock of general services provided by the Government. These estimates are therefore not directly comparable with domestic support notified to the WTO.

4.79. Between 2017 and 2020, the Producer Support Estimate (PSE) (capturing gross transfers from consumers and taxpayers to agricultural producers) increased in nominal terms and as a share of total gross farm receipts from 18.9% to 19.3%, continuing to consolidate following its long-term decline from 39% in 1986/88 to 34% in 1995/97 and to 19% in 2013/15. The percentage PSE for the EU-27 in 2021 is estimated at 17.6%, compared to an OECD average of 15.9%.

4.80. Market price support (OECD definition) remained roughly constant at around 4% between 2017 and 2020 (EU-28) and is estimated to be 2.7% in 2021 (EU-27). Estimates for Single Commodity Transfers (SCTs) (transfers to specific commodities) increased until 2018 and declined afterwards. For 2021, and the EU-27, SCTs are estimated at 4.0% of the value of production at farm gate. According to OECD estimates, the nominal coefficient of protection generally declined over the review period and varies across sectors partly resulting from international price effects. The sectors with the highest nominal coefficients of protection in 2021 were poultry meat, rice, and beef and veal (Table A4.1).

4.2 Fisheries

4.81. Wild fisheries production fluctuated around 4.6 million tonnes between 2015 and 2018 but fell to around 4 million tonnes in 2019 and 2020, driven by declines in catch of herrings, sardines, and anchovies, which remained the biggest contributor to catch overall. Other important fish caught in the Atlantic Ocean were cods, hakes, and haddocks, as well as other miscellaneous pelagic fish. Catch in the Indian and Pacific Oceans was dominated by tunas, bonitos, and billfishes. The production of aquaculture remained roughly constant at around 1.1 million tonnes (Table 4.7).

Table 4.7 Summary of fishery production, 2015-20

(thousands of tonnes)

	2015	2016	2017	2018	2019	2020
Landings	**4,180.3**	**3,765.1**	**4,654.5**	**4,100.7**	**3,669.3**	**3,548.4**
of which:						
Bivalves and other molluscs and aquatic invertebrates	**177.6**	**187.6**	**172.0**	**200.7**	**180.2**	**148.8**
Crustaceans	**113.5**	**109.6**	**110.1**	**135.8**	**112.0**	**103.9**
Flatfish	**171.0**	**161.9**	**145.8**	**137.0**	**135.0**	**123.9**
Groundfish	**945.8**	**680.4**	**1,532.4**	**961.3**	**776.1**	**835.3**
Blue whiting	355.3	300.8	426.1	461.5	361.1	325.4
Other marine fish	**297.2**	**285.7**	**295.2**	**245.6**	**282.6**	**286.6**
Small pelagics	**2,027.0**	**1,852.5**	**1,917.7**	**1,895.9**	**1,678.0**	**1,610.9**
Herring	655.0	654.4	696.5	740.8	597.7	547.1
Sprat (=Brisling)	530.2	456.9	405.2	431.1	402.0	393.1
Tuna and tuna-like species	**322.4**	**331.5**	**339.7**	**385.5**	**359.1**	**299.9**
Aquaculture	**1,131.3**	**1,146.0**	**1,229.5**	**1,134.8**	**1,126.7**	**1,088.4**
of which:						
Bivalves and other molluscs and aquatic invertebrates	**647.0**	**626.8**	**694.4**	**607.7**	**585.9**	**531.7**
Mussel Mytilus spp	443.5	450.7	461.4	458.3	453.5	406.9
Freshwater fish	**107.7**	**110.0**	**110.6**	**101.4**	**108.9**	**110.5**
Other marine fish	**159.0**	**174.8**	**185.8**	**190.0**	**190.8**	**192.7**
Salmonids	**190.4**	**205.0**	**204.3**	**194.9**	**204.8**	**208.2**

Source: EUMOFA, *Data*. Viewed at: https://www.eumofa.eu/data.

[91] OECD, *Agricultural Policy Monitoring and Evaluation – Country Data*. Viewed at: https://www.oecd.org/agriculture/topics/agricultural-policy-monitoring-and-evaluation/.

4.82. The European Union remains a net importer of fish and fishery products as exports (primarily of fish) oscillated around EUR 6.5 billion between 2017 and 2021, while imports oscillated around EUR 25 billion (Table 4.8). Imports originated primarily in Norway, accounting for more than one quarter, while the largest export destination were the United Kingdom and the United States.

Table 4.8 Trade in fish and fishery products, 2017-21

(EUR million)

Product description	2017	2018	2019	2020	2021
Trade balance	**-18,771**	**-18,930**	**-19,337**	**-17,484**	**-19,361**
Total fish and fishery exports	**6,440.5**	**6,737.5**	**6,874.4**	**6,513.6**	**6,312.9**
(% of total exports)	*0.32*	*0.33*	*0.32*	*0.34*	*0.29*
Fish	3,624	3,821	3,802	3,455	3,073
Crustaceans, molluscs	771	841	887	759	890
Fish and fishery products	1,414	1,437	1,505	1,535	1,583
Other	632	639	681	765	766
Total fish and fishery imports	**25,212**	**25,667**	**26,211**	**23,997**	**25,674**
(% of total imports)	*1.42*	*1.34*	*1.35*	*1.40*	*1.21*
Fish	13,123	13,295	14,030	12,937	13,427
HS 030214 Atlantic salmon (Salmo salar) and Danube salmon (Hucho hucho), fresh or chilled	4,759	4,948	5,063	4,592	5,180
Crustaceans, molluscs	6,829	6,725	6,369	5,578	7,001
HS 030617 Other shrimps and prawns, frozen	2,909	2,782	2,646	2,497	3,079
HS 030743 Cuttle fish and squid, frozen	1,714	1,682	1,625	1,368	1,548
Fish and fishery products	3,986	4,230	4,316	4,095	3,873
HS 160414 Tunas, skipjack and bonito (Sarda spp.), whole or in pieces, but not minced	1,915	1,985	1,993	1,941	1,773
Other	1,274	1,417	1,496	1,387	1,373

Note: Fish and fishery products: HS 03, HS 0508, HS 0511191, HS 150410, HS 150420, HS 1603-05, and HS 230120. Each category refers to fish (HS 0301-0304); crustaceans, molluscs (HS 0306-0308); processed fish and fishery products (HS 1603-1605 and HS 230120); and other (HS 0305, 050800, 051191, 150410, and 150420).

Source: WTO Secretariat calculations, based on Eurostat, *International Trade in Goods*. Viewed at: https://ec.europa.eu/eurostat/web/international-trade-in-goods/data/database.

4.2.1 Fisheries policy

4.83. While there have been no major changes to the Common Fisheries Policy (CFP) since the previous Review, regulations regarding the main funding vehicle for domestic support were revised (Section 4.2.2). The CFP aims to restore and maintain fish stocks at sustainable levels by 2020 and it also applies to aquaculture. According to the Commission[92], fisheries in the European Union have become more sustainable but fisheries resources require further protection. According to the FAO, most of the commercially important fish stocks in the Mediterranean and the Black Sea continue to be overfished, while around 27% of assessed fish stocks in the Northeast Atlantic were fished at biologically unsustainable levels in 2019.[93] A Commission study on the implementation of the CFP was expected to be published by the end of 2022. The EU Common Market Organisation for fishery and aquaculture products, which spells out rules for the marketing of fishery and aquaculture products, was amended as a response to COVID-19 (Section 4.2.2).

4.84. Overall, the conservation of marine biological resources and conclusion of international agreements remain the exclusive competence of the European Union, while the implementation of other fisheries policies and implementation of EU rules fall under shared competence. Regarding aquaculture, the CFP foresees a system of strategic policy coordination in the European Union.

4.85. The European Union manages fish stocks in accordance with the principle of maximum sustainable yield and the annual establishment of total allowable catches (TACs) under multi-annual management plans.[94] All catches of regulated species (regarding size or TACs) have to be landed in Union ports and counted against the quotas, with the use of caught undersized fish regulated as well (landing obligation). The latest agreement on fishing rights in the Atlantic, the North Sea, the Mediterranean, and the Black Sea for 2022 sets limits for over 200 commercial fish stocks, and that

[92] European Commission Communication COM(2021) 279.
[93] FAO (2022), *The State of World Fisheries and Aquaculture 2022: Towards Blue Transformation*.
[94] European Parliament, *EU Fisheries Management*. Viewed at: https://www.europarl.europa.eu/factsheets/en/sheet/115/eu-fisheries-management.

for the Baltic Sea for 10 fish stocks. Technical regulations to ensure targeted fishing and avoid undesired catches are spelled out in Regulation (EU) 2019/1241.

4.86. The proposal to revise the European Fisheries Control System to address deficiencies identified in a regulatory fitness and performance programme (REFIT) evaluation, and mentioned in the previous Review, has not yet been approved by the Parliament and Council.[95] Aiming to prevent, deter, and eliminate illegal, unreported, and unregulated (IUU) fishing, including the marketing of fish and fish products so obtained, the EU IUU regulation applies to all vessels, landings, or transhipments, as well as trade in fish and fish products.[96] The regulation establishing the European Fisheries Control Agency and the SMEFF regulation[97] complement the system aimed at ensuring compliance with the rules of the CFP.

4.87. Changes regarding environmental sustainability in the overall policy framework of the European Union also affect the fisheries sector. The European Green Deal calls for a sustainable blue economy[98], and the Farm to Fork Strategy refers to sustainable fish and seafood production. In 2021, the Commission adopted new guidelines for a more sustainable and competitive EU aquaculture, reflecting priorities of the European Green Deal and the Farm to Fork Strategy.[99]

4.2.2 Domestic support

4.88. The European Union (including its member States) remains one of the largest providers of fishery subsidies, estimated to having provided USD 3.8 billion of subsidies in 2018, or around 11% of global subsidies.[100] Of these, USD 2 billion were estimated to be capacity-enhancing, including fuel subsidies. A separate paper estimated the revenue forgone in terms of fuel taxes not collected due to fuel tax exemptions (see below) at EUR 1.1 billion in 2018 (around USD 1.3 billion).[101] The European Commission pointed out that relevant rules do not allow capacity-enhancing support with limited exceptions (see below) and that it does not consider tax exemptions as subsidies.

4.89. Since 2021, support to fisheries and aquaculture is co-funded via the European Maritime, Fisheries and Aquaculture Fund (EMFAF), which replaced the European Maritime and Fisheries Fund (EMFF).[102] The EMFF continues to support activities under its 2014-20 operational programmes until the end of 2023. For the period 2021-27, the EMFAF has a budget of EUR 6.1 billion, supporting the CFP, the maritime policy, and the agenda for ocean governance. EMFAF provides funding to national programmes approved by the Commission and co-funded by member States, with such programmes providing on average up to 50% of eligible costs (with those percentages varying between 40% and 100% for various eligible activities). These programmes can also include support for the aquaculture sector in line with the multi-annual national strategic plans to develop the sector.

4.90. EMFAF priorities support (i) sustainable fisheries and conservation of aquatic biological resources; (ii) sustainable aquaculture, processing, and marketing of fishery and aquaculture products; (iii) a sustainable blue economy and fishing and aquaculture communities; and (iv) strengthening international ocean governance and sustainable management.[103] Funds are also foreseen for the sustainable development of the outermost regions.[104] These priorities differ in structure, but not fundamentally in substance, from the six priorities spelled out under the EMFF. In addition to the implementation of national programmes by national authorities, an estimated 13%

[95] European Commission Proposal COM/2018/368 final.

[96] Council Regulation (EC) 1005/2008, with the annexed list of products excluded from the definition of "fishery products" amended in 2022.

[97] Regulation (EU) 2017/2403.

[98] In 2021, the Commission adopted a new approach for developing a sustainable blue economy, replacing the 2012 Blue Growth Strategy (European Commission Communication COM(2021) 240).

[99] European Commission (2021), "European Green Deal: Commission Adopts Strategic Guidelines for Sustainable and Competitive EU Aquaculture", 17 May. Viewed at: https://ec.europa.eu/commission/presscorner/detail/en/ip_21_1554.

[100] Sumaila, Ebrahim, Schuhbauer, et al. (2019), "Updated Estimates and Analysis of Global Fisheries Subsidies", *Marine Policy*, Vol. 109.

[101] Carvalho, N. and Guillen, J. (2021), "Economic Impact of Eliminating the Fuel Tax Exemption in the EU Fishing Fleet", *Sustainability*, Vol. 13.

[102] Regulation (EU) 2021/1139.

[103] To achieve these goals, focus areas include sector renewal, small-scale coastal fisheries, the elimination of overcapacity, aquaculture, the protection of marine biodiversity and ecosystems, and an efficient market for fisheries products.

[104] Regulation (EU) 2021/1139, Chapter VI.

of funds are directly managed by the Commission for technical and administrative assistance, including for market intelligence.

4.91. The type of support provided under the EMFAF has not fundamentally changed from the support provided under the EMFF although the new regulation is differently structured. The reform aimed to simplify the delivery of the fund by increasing flexibility of implementing measures. A general condition for eligibility continues to be a legal entity established in a member State (with narrow exceptions), and vessels having to be EU vessels (and having to remain EU vessels for five years after receiving support).[105]

4.92. As a result, the EMFAF regulation spells out, for each of the four priorities, specific objectives and conditions for which support can be granted. At the same time, the EMFAF regulation contains an extended list of activities that are not eligible for funding, including a number of capacity-enhancing measures such as support to increase fishing capacity, the construction of new ports or auction halls, market interventions to support fish prices, or direct restocking. Certain exceptions to supporting the investment in fishing vessels, or the (temporary) cessation of fishing activities, remain foreseen where they contribute to sustainable fishing, energy efficiency, or promoting the adjustment of fishing capacity, with support to these activities not exceeding 15% of the total Union support.[106]

4.93. At least 15% of Union financial support has to be allocated to fostering efficient fisheries control and enforcement, including fighting against IUU fishing, as well as reliable data for knowledge-based decision-making.

4.94. Based on approved national programmes and according to the Commission, slightly more than 50% of funds under shared management (87% of the EUR 6.1 billion) are allocated to priority 1 (sustainable fisheries and aquatic biological resources) and an additional third to priority 2 (sustainable aquaculture, processing, and marketing) for the period 2021-27. Detailed data to compare these commitments with data for the period 2014-20 were not yet available.

4.95. For the period 2014-21, total support planned under the EMFF by member States amounted to EUR 7.8 billion, of which EUR 5.7 billion from the EMFF itself and EUR 2.2 billion from national sources.[107] By the end of 2021, EUR 4.9 billion of EMFF funding had been committed, corresponding to 87.0% of the total EMFF funding available (under shared management), with support related to data collection, processing of fisheries and aquaculture products, productive investments in aquaculture, investments in control, implementation of local development strategies, and support for fishing ports accounting for nearly 58.8% of all commitments.[108] The Commission expects all EMFF funds to be committed by the end of 2023.

4.96. As a response to the COVID-19 pandemic, certain measures were put in place to allow for more flexibilities regarding support for the temporary cessation of fishing activities, regarding COVID-19-related economic losses for aquaculture producers and processing enterprises and in the outermost regions, and adjustments to national operational programmes.[109] Producer organizations were also again allowed to temporarily receive support to manage storage for fishery products, and this mechanism has for the first time been made available to aquaculture products under certain conditions. Such storage aid had earlier expired on 1 January 2019. No additional changes were made to the Regulation on Common Market Organization for fishery and aquaculture products.[110]

4.97. As a response to the war in Ukraine, similar flexibilities were introduced regarding support to mitigate the impact of market disruptions or the temporary cessation of fishing activities, as they relate to the war.[111]

[105] Regulation (EU) 2021/1139, Articles 15 and 61.
[106] Regulation (EU) 2021/1139, Articles 5 and 17-21.
[107] Cohesion Open Data Platform, *European Maritime and Fisheries Fund (EMFF)*. Viewed at: https://cohesiondata.ec.europa.eu/funds/emff/14-20#finance-implementation.
[108] European Commission (2022), *EMFF Implementation Report 2021*. Viewed at: https://oceans-and-fisheries.ec.europa.eu/system/files/2022-11/EMFF-Implementation-report-2021_en.pdf.
[109] Regulation (EU) 2020/560.
[110] Regulation (EU) 1379/2013.
[111] Regulation (EU) 2022/1278.

4.98. Outside this framework but aligned to it, member States are allowed to provide certain state aid to the fisheries and aquaculture sector in certain situations (Section 3.3.1). Member States can provide state aid for certain types of subsidies covered by the fisheries State Aid Guidelines[112], the Fishery and Aquaculture Block Exemption[113], or where they are considered *de minimis* aid (not exceeding EUR 30,000 per beneficiary over any period of three fiscal years with a defined national cap per member State).[114] These exclude subsidies not eligible under the EMFF regulation. They can also grant exemptions on indirect taxes of energy products used for inland water navigation (including inland fishing) and aquaculture. State aid to the fisheries and aquaculture sector amounted to around EUR 49 million in 2019, broadly unchanged from 2014, but were significantly lower in 2020 with EUR 33.6 million.[115]

4.99. The 2015 guidelines for such support are being revised to align to the EMFAF and were expected to be adopted in early 2023. A new block exemption regulation replaced the expiring one in early 2023[116], while the regulation on *de minimis* aid was extended to the end of 2023 pending a more substantial review.

4.100. Under the Energy Taxation Directive (ETD), energy products used for navigation in Community waters (including inland fishing) are exempt from taxation.[117] The Commission has proposed a revision of the ETD that would introduce a minimum tax rate and eliminate the current mandatory exemptions (Section 4.4.1).[118] A study estimated the revenue forgone in terms of fuel taxes not collected due to fuel tax exemptions at EUR 1.1 billion in 2018.[119] No recent official estimate on total fuel tax exemptions in the European Union was available.

4.2.3 Market access

4.101. MFN tariffs on fish and fishery products (WTO definition) remain broadly unchanged and relatively high at 11.7% on average (ranging from 0% to 26%) compared to 6.5% for all products, albeit lower than the average for agricultural products (14.9%). Around 8.3% of tariff lines are duty free, compared to 26.7% overall. Nine tariff lines are subject to seasonal tariff rates. There have been little changes to preferential tariffs for fish and fishery products nor regarding TRQs described in the previous Review (Section 3.1.3). In 2021, there were 12 TRQs for fish and fish products, and some of the 9 tariff lines with seasonal tariff rates also fell under a WTO TRQ. There were also 39 autonomous tariff quotas in place at the end of 2022 (up from 28 in 2019-20) (Section 3.1.3.3).[120] Of the total import value of fish and fishery products, 55.2% enter under preferential tariffs.

4.102. In addition to general food-safety requirements (Section 3.3.3) and related sanitary documentation, fish and fishery products can only be imported from approved countries[121] and approved establishments.[122] Moreover, in line with the IUU regulation, imports must be accompanied by a catch certificate validated by the flag state of the fishing vessel, demonstrating that fisheries products stem from legal sources. Use of a related IT system in place since 2019 remains voluntary but is foreseen to become mandatory as part of the revision of the European Fisheries Control System (Section 4.2.1).

[112] European Commission Communication 2015/C 217/01.
[113] Commission Regulation (EU) 1388/2014.
[114] Commission Regulation (EU) 717/2014.
[115] European Commission (2022), *State Aid Scoreboard Note 2021*. Viewed at: https://competition-policy.ec.europa.eu/system/files/2022-09/state_aid_scoreboard_note_2021.pdf.
[116] Commission Regulation (EU) 2022/2473.
[117] Council Directive 2003/96/EC.
[118] European Commission Proposal COM(2021) 563, p. 15.
[119] Carvalho, N. and Guillen, J. (2021), "Economic Impact of Eliminating the Fuel Tax Exemption in the EU Fishing Fleet", *Sustainability*, Vol. 13.
[120] Council Regulation (EU) 2020/1706. Last amended from 1 November 2022.
[121] Commission Implementing Regulation (EU) 2021/405 includes an updated list.
[122] European Commission, *Integrated Management System for Official Controls – Establishment Lists*. Viewed at: https://webgate.ec.europa.eu/tracesnt/directory/publication/establishment/index#!/.

4.2.4 International agreements and related policies

4.103. The large majority of EU catches continue to take place in EU waters, with the SMEFF regulation continuing to provide a system of authorizing and monitoring the fishing by EU vessels outside EU waters. All EU vessels fishing outside EU waters must be authorized by their flag member State to do so.

4.104. The European Union is a signatory to the United Nations Convention on the Law of the Sea; the UN Fish Stocks Agreement; the Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing; and the Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas. It is also a member of 5 Regional Fisheries Management Organizations (RFMOs) managing highly migratory fish stocks, 13 RFMOs managing other fish stocks (2 more compared to the previous Review), and 2 RFMOs of only advisory status.[123]

4.105. In addition to the domestic EU IUU regulation (Section 4.2.1) and related regulations affecting market access (Section 4.2.3), the European Union also continues to cooperate internationally to address IUU fishing. Regardless of the location of fishing, EU fishing vessels must carry an International Maritime Organization (IMO) identification number and those greater than 12 metres (15 metres for certain vessels operating only nationally or locally) have to employ a satellite-based vessel monitoring system providing data on vessel location.[124] The European Commission has put forward a proposal[125] to ratify the WTO Agreement on Fisheries Subsidies.

4.106. There have been some changes to the bilateral agreements between the European Union and third countries. An agreement with the United Kingdom has been added under the Northern Agreements following the United Kingdom's withdrawal from the European Union, while among the Sustainable Fisheries Partnership Agreements (SFPAs), the fisheries agreements with Liberia (in 2020) became dormant, and others were renewed or reactivated. A new implementing Protocol with Mauritius, and a new Agreement and implementing Protocol with Madagascar are under adoption procedures.[126] A significant share of funding under the EMFAF provides support to third countries under the SFPAs and funds contributions to RFMOs.

4.3 Forestry

4.107. Forest policy is not explicitly mentioned in the EU treaties, but a number of shared competences, such as climate, environment, rural development, and disaster prevention, relate to forests, meaning that within these areas, forests and forestry do not fall within the exclusive competence of member States. As key initiative under the European Green Deal, the Commission published an EU Forest Strategy for 2030 in 2021.[127] The new strategy presents six areas of intervention covering sustainable forest use; protecting, restoring, and enlarging EU forests[128]; monitoring; research and innovation; forest governance; and the enforcement of existing regulations.

4.108. Support to the forestry sector, focusing on the environmental dimension, has been provided under the RDPs and will be covered from 2023 under the CAP strategic plans (Section 4.1.2.2), while Horizon Europe provides support to research and innovation activities relevant for forestry.

4.109. Imports of timber and timber products into the European Union are regulated by the EU Timber Regulation (EUTR) based on due diligence requirements for operators to prevent illegal

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[123] European Commission, *Regional Fisheries Management Organisations (RFMOs)*. Viewed at: https://oceans-and-fisheries.ec.europa.eu/fisheries/international-agreements/regional-fisheries-management-organisations-rfmos_en.

[124] Council Regulation (EC) 1224/2009, Article 9. This also applies to third country fishing vessels greater than 12 m operating in Community waters.

[125] European Commission Proposal COM(2022) 582.

[126] European Commission, *Sustainable Fisheries Partnership Agreements (SFPAs)*. Viewed at: https://oceans-and-fisheries.ec.europa.eu/fisheries/international-agreements/sustainable-fisheries-partnership-agreements-sfpas_en.

[127] European Commission Communication COM(2021) 572.

[128] It includes a roadmap for the planting of 3 billion additional trees, as pledged in the EU biodiversity strategy.

timber to be placed on the market, applicable to domestic and imported products. According to the Forest Law Enforcement, Governance & Trade (FLEGT) regulation[129], imports of forest products from partner countries that voluntarily have become a FLEGT partner country (currently only Indonesia) require a FLEGT licence based on a nationally established verification system. To avoid administrative duplication, under the Timber Regulation such licences are considered as demonstrating compliance with national legal requirements and therefore sufficient for due diligence purposes under the EUTR.

4.110. Going beyond these regulations affecting trade in illegally cut timber, the European Parliament and the Council, in December 2022, reached a provisional agreement on a regulation proposed by the Commission in 2021, aiming to prevent deforestation and forest degradation associated with commodities and products placed on or exported from the EU market. It focuses on creating a level playing field, minimizing the use of products from supply chains associated with deforestation or forest degradation, and increasing demand for "deforestation-free" products.[130] The proposed regulation would cover wood as well as products such as cocoa, coffee, oil palm, cattle, or soya grown on former forest areas that were deforested after December 2020.

4.111. Replacing and repealing the EUTR, the proposed new regulation builds on both the EUTR and FLEGT regulations, which both underwent a fitness check evaluation in 2020. The proposed regulation would require products to be (i) "deforestation-free" (produced on land that was not subject to deforestation or forest degradation after 31 December 2020); (ii) produced in compliance with national laws ("legality"); and (iii) accompanied by due diligence statements. It would therefore build on and strengthen the existing due diligence and monitoring systems contained in the EUTR regarding the legal status of timber but adding the requirement of products being "deforestation-free". Wood covered by a FLEGT licence would continue to be considered as having met the legality requirement.

4.4 Energy

4.4.1 Sustainable energy and climate

4.112. The European Union continues its efforts of sustainable economic transformation as initially spelled out in the first EU Strategy for Sustainable Development in 2001, and most recently deepened in the European Green Deal and the Climate Law as well as the REPowerEU Plan. The key objectives of the European energy policy consist of completing the internal market while ensuring a fundamental shift towards an energy-efficient, cost-effective, and reliable system based on renewable and low-carbon energy, improving energy security, reducing emissions, and ultimately achieving climate neutrality by 2050.

4.113. A 2022 report by the European Environmental Agency found that the European Union had on average achieved its three targets for 2020 (i) of reducing greenhouse gas (GHG) emissions compared to the 1990 levels by 20% (they declined by 31.9%); (ii) at least 20% of gross energy consumption being from renewable sources (actually 22.1%); and (iii) a 20% reduction in primary and final energy consumption compared to a baseline (an actual reduction for both of more than 23.5% in 2020).[131] At member State level, however, achievements of these targets varied. While these achievements partially reflect the significant impacts of the COVID-19 pandemic on the economy and therefore energy use in 2020, they also hold for 2021, using preliminary data.[132]

4.114. In 2021, the European Commission published the Fit-for-55 package, aiming to ensure EU policies align with the climate-related goals of the European Green Deal and the Climate Law, which includes an intermediate target of 55% GHG emission reduction by 2030 and becoming climate-neutral by 2050 (Section 1).[133] The package contains the Fit-for-55 communication as well as 16 energy- and climate-related legislative proposals that are currently in various stages of

[129] Council Regulation (EC) 2173/2005.

[130] European Commission Proposal COM(2021) 706, p. 9.

[131] These targets had been set by the European Council (2007), 8/9 March 2007: Presidency Conclusions, 7224/1/07 REV 1. Viewed at: https://www.consilium.europa.eu/ueDocs/cms_Data/docs/pressData/en/ec/93135.pdf.

[132] European Environmental Agency (2022), *Trends and Projections in Europe 2022*, EEA Report 10/2022.

[133] European Commission, *Delivering the European Green Deal*. Viewed at: https://ec.europa.eu/info/strategy/priorities-2019-2024/european-green-deal/delivering-european-green-deal_en.

discussion. The proposals relating to energy primarily focus on emission reductions through multiple channels such as, *inter alia*, phasing out coal, accelerating the roll-out of renewables, increasing energy efficiency, and decarbonizing gas across various industries. The package also includes proposals to increase and broaden targets for emissions reductions; revise the Emissions Trading System, including expanding it to other sectors and complementing it with the Carbon Border Adjustment Mechanism; and establish a Social Climate Fund to cushion the impact of the introduction of the emissions trading in the building and road transport sectors on the vulnerable. Member States will be required to update their national energy and climate plans[134] by 2023 and 2024, and to publish a national Social Climate Plan.

4.115. An important element of the transition to more sustainable energy use relates to efforts to increase energy efficiency, which the European Green Deal stresses as one of the priorities. Amendments to the Energy Efficiency Directive (Directive 2012/27/EU) in 2018 increased the ambition of the improvement target to at least 32.5% by 2030 (relative to modelling projections for 2030).[135] As part of the Fit-for-55-package in 2021, the Commission proposed a new Energy Efficiency Directive[136] that would establish a more ambitious target for 2030 based on a 2020 baseline projection, according to the Commission (the REPowerEU Plan upped this target further (Section 4.4.5)). If adopted as proposed, a separate reform of the current Energy Taxation Directive (ETD) would, *inter alia*, set minimum excise duty rates for energy products based on their energy content and environmental performance and eliminate the current mandatory excise duty exemptions for fuels used for waterborne navigation, including fishing (Section 4.2.2).[137]

4.116. In the revised Renewable Energy Directive, the European Union has also established a target for a renewable energy share of at least 32% of gross final consumption by 2030.[138] The Directive also establishes a minimum share per member State, applicable since 2021. In 2021, the Commission proposed to increase this target to 40%[139], with the REPowerEU Plan proposing to increase this target further (Section 4.4.5). At the same time, the biodiversity strategy aims to limit the use of whole trees, food, or feed crops for energy.[140] In mid-2022, based on a Commission Delegated Regulation, labelling of investments in gas and nuclear power plants, subject to strict conditions, was included in the EU taxonomy for sustainable activities (Section 4.5.1.2.4) that favour the transition to a carbon-neutral economy with effect from January 2023.[141] At the end of 2022, the Council agreed to faster permit-granting processes for renewables (Section 4.4.5).

4.117. The Horizon Europe programme for research and innovation replaced the Horizon 2020 framework (Section 3.3.1.1) and continues to promote energy and climate-related research. The programme allocates approximately EUR 15.1 billion for research and development in the areas of climate, energy, and mobility for the period 2021-27. Around EUR 7 billion are dedicated to energy, but research funded in other areas would potentially also be relevant to the energy sector.

4.118. In February 2022, the Commission adopted new Guidelines on State Aid for climate, environmental protection and energy[142] as spelled out in the European Green Deal to facilitate achieving the Deal's objectives, specifying 14 potentially compatible types of specific aid measures. On 20 July 2022, the Commission also amended the state aid Temporary Crisis Framework (Section 3.3.1.2) to include measures aimed at accelerating the roll-out of renewable energy and some aimed at decarbonizing industrial processes, as outlined in the REPowerEU Plan. Detailed data on state aid provided to the energy transition were not yet available. In 2020, the total state aid expenditure for environmental protection including energy savings amounted to nearly EUR 80 billion.[143]

[134] These plans were first prepared based on a requirement in Regulation (EU) 2018/1999, Article 3.
[135] Directive (EU) 2018/2002.
[136] European Commission Proposal COM(2021) 558.
[137] European Commission Proposal COM(2021) 563.
[138] Directive (EU) 2018/2001.
[139] European Commission Proposal COM(2021) 557.
[140] European Commission Communication COM(2020) 380, p. 10.
[141] Commission Delegated Regulation (EU) 2022/1214. The Taxonomy Regulation (Regulation (EU) 2020/852) and delegated regulations outline which economic activities and investments qualify as contributing to a low-carbon transition.
[142] European Commission Communication C/2022/481.
[143] European Commission (2022), *State Aid Scoreboard 2021*. Viewed at: https://competition-policy.ec.europa.eu/system/files/2022-09/state_aid_scoreboard_note_2021.pdf.

4.4.2 Production, consumption, and trade

4.119. The European Union's import dependency on energy remains high and stood at 57.5% in 2020[144] with net imports significantly larger than primary production as measured in thousand tonnes of oil equivalent (ktoe) (Table 4.9).

4.120. During the review period, the composition of primary energy production continued to shift towards renewables, which accounted for 41% of total primary energy production in 2021 (up from 35% in 2018) (Table 4.9), while the share of energy generated from all fossil fuels declined. It was too early to identify trends in changes of the composition following the war in Ukraine. Renewable energy sources accounted for 38% of the electricity produced in 2020 (up from 33% in 2018), making it the largest power source of electricity for the first time. Nuclear energy accounted for roughly one quarter of the electricity produced.[145]

4.121. In terms of final energy consumption, oil and petroleum products continued to account for the largest share despite a small decline, while the share of electricity remained broadly constant at around 23% and the share of gas in energy consumption increased marginally to 22.6% in 2021. The share of renewables and biofuels increased from 10.8% in 2018 to 11.7% in 2021, continuing its upward trend (Table 4.9). Overall, the share of renewable energy in gross final consumption of energy reached 22.1% in 2020 and 21.8% in 2021.[146]

Table 4.9 Energy balances

(% unless otherwise indicated)

	2015	2016	2017	2018	2019	2020	2021
Primary production (ktoe)	**657,243**	**641,422**	**639,862**	**636,626**	**617,634**	**572,924**	**595,730**
Solid fossil fuels	20.4	19.4	19.2	18.2	16.2	14.6	15.3
Peat and peat products	0.3	0.2	0.3	0.5	0.3	0.1	0.1
Oil shale and oil sands	0.5	0.6	0.7	0.7	0.5	0.4	0.4
Natural gas	11.0	11.1	10.4	9.3	8.4	7.2	6.4
Oil and petroleum products (excluding biofuel portion)	4.3	3.9	3.9	3.9	3.7	3.7	3.1
Renewables and biofuels	30.5	31.7	32.9	34.5	36.8	40.7	40.9
Hydro	4.4	4.6	4.0	4.6	4.5	5.2	5.0
Geothermal	1.0	1.0	1.1	1.1	1.1	1.2	1.1
Wind	3.4	3.6	4.2	4.3	5.1	6.0	5.6
Solar thermal	0.7	0.7	0.7	0.7	0.8	0.8	0.8
Solar photovoltaic	1.2	1.3	1.4	1.5	1.6	2.1	2.3
Ambient heat (heat pumps)	0.9	1.1	1.7	1.8	2.0	2.3	2.5
Bioenergy	18.8	19.4	19.9	20.5	21.7	23.1	23.6
Non-renewable waste	1.9	2.1	2.1	2.1	2.2	2.4	2.3
Nuclear heat	31.0	30.7	30.5	30.7	31.8	30.6	31.3
Net imports (ktoe)	**834,496**	**843,368**	**882,210**	**886,434**	**908,008**	**792,350**	**811,827**
Solid fossil fuels	11.5	10.9	10.7	10.4	8.2	6.3	7.5
Natural gas	26.4	28.1	30.1	30.5	33.1	34.5	35.0
Oil and petroleum products (excluding biofuel portion)	61.7	60.4	58.7	58.3	58.1	58.1	56.5
Renewables and biofuels	0.4	0.5	0.5	0.6	0.6	0.8	0.9
Non-renewable waste	0.0	0.1	0.1	0.1	0.1	0.1	0.1
Final consumption (ktoe)	**908,986**	**927,276**	**940,180**	**942,191**	**937,524**	**885,118**	**940,091**
Solid fossil fuels	2.6	2.6	2.5	2.4	2.1	2.2	2.0
Manufactured gases	0.5	0.5	0.5	0.5	0.5	0.5	0.5
Natural gas	21.2	21.6	21.5	21.4	21.2	21.9	22.6
Oil and petroleum products (excluding biofuel portion)	37.2	37.0	36.7	36.5	36.9	35.0	34.8
Renewables and biofuels	9.9	9.8	10.3	10.8	11.1	11.7	11.7
Non-renewable waste	0.4	0.4	0.4	0.5	0.5	0.6	0.5
Electricity	23.2	23.0	22.9	22.9	22.7	23.2	22.7
Heat	5.0	5.1	5.0	4.9	4.9	5.0	5.0

Source: Eurostat, *Energy* (data cut-off 16 January 2023). Viewed at: https://ec.europa.eu/eurostat/databrowser/view/nrg_bal_c/default/table?lang=en.

[144] Eurostat, *From Where Do We Import Energy?* Viewed at: https://ec.europa.eu/eurostat/cache/infographs/energy/bloc-2c.html.

[145] Eurostat, *Complete Energy Balances*, Variable NRG_BAL_C. Viewed at: https://ec.europa.eu/eurostat/databrowser/view/NRG_BAL_C/.

[146] Eurostat, *Renewable Energy Statistics*. Viewed at: https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Renewable_energy_statistics.

4.122. According to the Commission communication Save Gas for a Safe Winter[147], the geographic composition of EU gas imports shifted significantly during 2022, as imports of liquified natural gas (LNG) and certain pipeline gas increased. LNG imports during the first half of 2022 were 24.3 billion cubic metres (bcm) higher compared to the same period a year earlier (of which 3 bcm from the Russian Federation), while pipeline imports from the Russian Federation fell by 28 bcm as those from other sources increased by 14 bcm. By the third quarter of 2022, the composition of total gas imports (pipeline and LNG) had changed significantly from the third quarter of 2021, with the share of imports from the Russian Federation having declined from 43% to 16% and the share of LNG imports having increased from 18% to 39% over the same period.[148] Initiatives to foster further LNG imports are under way (Section 4.4.4).

4.123. As from 5 December 2022, the European Union no longer allowed the import of seaborne crude oil from the Russian Federation, while the import of refined petroleum products from the Russian Federation has been prohibited (with limited exceptions) since 5 February 2023.[149] Since 5 December 2022, transporting such oil as well as insuring vessels carrying such crude oil by European firms are also prohibited unless the purchase price of the oil is below a maximum price set by the Commission in line with G7 Price Cap Coalition decisions first taken on 2 December 2022.[150]

4.124. Imports of electricity, crude oil, and natural gas (gaseous and liquified) from outside the European Union are duty free, while there are some tariffs on certain petroleum oils.

4.4.3 Regulation of the internal market

4.125. The Treaty on the Functioning of the EU (TFEU) continues to provide the basis for the division of competence between the Union and its member States (Section 2). In the area of energy, this competence is shared.[151] A key policy remains the completion of an Energy Union, aiming to increase energy security, sustainability, and competitiveness, whose five dimensions remain in place to (i) improve security of energy supply through diversification and cooperation among EU member States; (ii) complete the internal energy market; (iii) boost energy efficiency and reduce dependency on imports; (iv) decarbonize the economy; (v) and promote research and innovation in low-carbon and clean energy technologies, to support the energy transition and improve competitiveness.[152]

4.126. While the main EU framework for energy in the areas of electricity and gas has remained broadly unchanged from the time of the previous Review, some developments regarding its implementation have taken place. The electricity market continues to be regulated by Regulation (EU) 2019/943 and Directive 2019/944, both described in the previous Review[153], while the gas market is regulated by Directive 2009/73/EC, as amended, and Regulation (EC) 715/2009. Regulation 715/2009 was amended to introduce mandatory certification of gas storage operators in 2022 (Section 4.4.5). In addition, Regulation (EU) 2019/941 put in place a mechanism for member States to cooperate and prevent, prepare for, and manage potential electricity crises.[154] The European Union Agency for the Cooperation of Energy Regulators (ACER) continues to work towards the integration and completion of the internal markets for electricity and natural gas.[155] The role that ACER will play in the future hydrogen and decarbonized gas markets remains under discussion, according to the Commission.

4.127. Transmission System Operators (TSOs) for electricity and gas are certified by national regulatory authorities to ensure compliance with certain conditions including the unbundling obligation and independence of the transmission and TSOs under the Gas and Electricity Directives.

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[147] European Commission Communication COM(2022) 360.

[148] Market Observatory for Energy (2022), *Quarterly Report on European Gas Market – Q3-2022*. Viewed at: https://energy.ec.europa.eu/data-and-analysis/market-analysis_en.

[149] Council Regulation (EU) 2022/879. Certain exceptions apply to Bulgaria, Croatia, and the Czech Republic.

[150] Regulation (EU) 833/2014, Article 3n (as amended).

[151] For a short overview, see WTO document WT/TPR/S/395/Rev.1, 7 July 2020, Section 4.2.

[152] European Commission Communication COM(2015) 80. Also see WTO document WT/TPR/S/395/Rev.1, Section 4.2.

[153] WTO document WT/TPR/S/395/Rev.1, 7 July 2020, Section 4.2.

[154] Regulation (EU) 2019/941. It is based on European Commission Proposal COM(2016) 862 mentioned in the previous Review.

[155] Regulation (EU) 2019/942.

TSOs from third countries also undergo scrutiny, with national regulatory authorities having to take into consideration an opinion of the European Commission regarding compliance with the unbundling conditions before formal certification at member State level. The Commission opinion considers, *inter alia*, whether certification would put at risk the energy supply in the European Union.[156] European rules are in place to ensure non-discriminatory network access (including for gas storage) as well as congestion management, with national regulatory authorities establishing certain terms and conditions or procedures. National regulatory authorities also establish transmission or distribution tariffs (and/or their methodologies).[157]

4.128. TSOs in the European Union are organized in the European Network of Transmission System Operators for Electricity (ENTSO-E)[158] and the European Network of Transmission System Operators for Gas (ENTSOG)[159], which promote cooperation among TSOs, provide technical inputs into the drafting of network codes (i.e. binding Commission regulations), and undertake other coordinating functions such as forecasting. Since 2019, gas pipelines entering or leaving the European Union must also comply with national rules in line with the amended Gas Directive, aiming to ensure fair and open access and avoiding any abuse of a dominant position.[160]

4.129. According to the European Green Deal, energy infrastructure is a key enabler for the energy transition and in 2022 a revised Trans-European Networks for Energy (TEN-E) regulation was published, aiming to reflect expected necessary changes to the energy system resulting from objectives spelled out in the European Green Deal.[161] The TEN-E links the energy infrastructure of EU member States and the regulation identifies 11 priority corridors that would connect currently isolated areas, strengthen existing cross-border connections, and support integrating renewable energy. According to the revised regulation, the categories of energy networks include those for electricity, gas, hydrogen, electrolyser facilities, and carbon dioxide, a change from those identified in the previous regulation.[162] As under the previous regulation, projects of common interest will be identified, but these will be complemented with projects of mutual interest, linked to energy networks in third countries. The Connecting Europe Facility for energy foresees the provision of EUR 5.8 billion for investments into the energy infrastructure that contribute to the achievement of projects of common interest and those of mutual interest, as well as "cross-border projects in the field of renewable energy"[163], over the period 2021-27.[164] Regarding the connection of electricity networks, an electricity interconnection target[165] of 15% by 2030 (as measured by the indicators spelled out in Regulation (EU) 2018/1999) is in place for each member State.

4.130. To establish a new regulatory framework for competitive decarbonized gas markets, the Commission adopted proposals for a new Gas Market and Hydrogen Directive and Regulation to recast the current Directive and Regulation for the gas market to also include renewable gas and hydrogen.[166] These efforts are linked to the Hydrogen Strategy, which contributes to the European Green Deal and builds on the new Industrial Strategy as well as the European Union's recovery plan (Section 3.3.1.1) by ensuring hydrogen can play a role in decarbonizing the economy. Outlining the need for international cooperation, the strategy aims to establish a regulatory framework and to incentivize supply and demand in "lead markets", while also establishing infrastructure with non-discriminatory access to make widespread use of hydrogen feasible, for example in transport.

4.131. In light of energy prices that were rising even before the war in Ukraine, the European Commission approved a toolbox of measures in October 2021. It includes measures that allow

[156] Directive (EU) 2019/944, Article 53, and Directive 2009/73/EC, Article 11.
[157] Directive (EU) 2019/944, Article 59, and Directive 2009/73/EC, Article 41.
[158] ENTSO-E. Viewed at: https://www.entsoe.eu. TSOs from non-EU member States also participate in ETNSO-E.
[159] ENTSOG. Viewed at: https://www.entsog.eu.
[160] Directive 2009/73/EC, Article 34. Amended by Directive (EU) 2019/692.
[161] Regulation (EU) 2022/869.
[162] The previous regulation also included a category of oil, and did not include those for hydrogen and electrolyser facilities.
[163] Regulation (EU) 2021/1153, Article 7.
[164] European Commission, *About the Connecting Europe Facility*. Viewed at: https://cinea.ec.europa.eu/programmes/connecting-europe-facility/about-connecting-europe-facility_en#cef-energy.
[165] Defined as the ratio of cross-border capacity to installed generation capacity. European Commission, *Electricity Interconnection Targets*. Viewed at: https://energy.ec.europa.eu/topics/infrastructure/electricity-interconnection-targets_en.
[166] European Commission Proposals COM(2021) 803 and COM(2021) 804.

member States to provide certain income support (and tax reductions) to vulnerable households (and protecting them from disconnections), as well as support to companies in line with state aid rules. It also puts emphasis on the application of competition rules, and foresees reviewing the electricity market system in general, where currently the marginal unit cost of additional electricity generated (i.e. from gas) sets electricity prices, a mechanism that had led to extensive discussions regarding how to deal with windfall profits for other electricity producers. The toolbox also already outlines plans to improve the security of supply via energy storage and purchasing of gas reserves.[167]

4.132. During 2021 and 2022, member States made use of the measures contained in the toolbox to varying degrees, including following the start of the war in Ukraine and the resulting disruptions in energy markets. Such measures included support to the most vulnerable households (and at times firms) (Section 4.4.5).

4.133. Overall, energy subsidies were broadly stable between 2019 and 2020 where they reached EUR 173 billion, but increased in 2021 according to preliminary data, as energy subsidies for renewable sources of energy increased, as did subsidies for "all energies" (either not allocatable or related to energy efficiency). More than half of total energy subsidies in 2020 were for energy production (including transmission and storage), and about one third for all types of energy demand. Income and price support for renewable energies (mostly feed-in tariffs and premiums) and tax expenditures for fossil fuels accounted for 41% and 20% of total subsidies in 2020.[168] During 2022, 15 member States reduced VAT rates on gas, electricity, or transport fuels.[169]

4.4.4 Relations with third countries

4.134. The European Union published a Communication on the EU External Energy Engagement in a Changing World[170], linking various objectives. To strengthen energy security and resilience, it aims to diversify the EU's gas supply (as well as other energy) away from the Russian Federation, develop renewable hydrogen trade, and prioritize energy savings and efficiency. It also spells out the objective of leading the global green and just energy transition, including by promoting renewable technologies and efficiency abroad with funding from the Global Gateway initiative, and to develop raw material value chain partnerships with third countries to ensure diversity of supply of critical raw materials. It also foresees support to Ukraine and other countries regarding the effects of the war in Ukraine.

4.135. All EU member States (except Italy) are members of the Energy Charter Treaty. The adoption of amendments to the Treaty planned for November 2022 was postponed (Section 2.4.2).

4.4.5 Energy security and affordability

4.136. As a response to the war in Ukraine, the European Union undertook important policy changes to ensure energy security at affordable prices. To save energy, facilitate the increase in the generation of clean energy, and diversify the origin or energy imports/supplies, the Commission published the REPowerEU Plan in May 2022.[171] Some of the Plan's short-term measures include setting certain targets for gas storage prior to the winter months, establishing a platform for common gas purchases, accelerating renewable energy projects[172], and encouraging citizens to use less energy. Over the longer term, it makes available significant resources (close to EUR 300 billion) under the Recovery and Resilience Fund for investments and policy reforms (including for faster approval of renewable energy projects), proposed to increase the target for the use of renewable energy[173], and foresees efforts to improve the regulatory framework for, and production of,

[167] European Commission Communication COM(2021) 660.
[168] European Commission Report COM(2022) 642.
[169] European Commission (2022), *Study on Energy Subsidies and Other Government Interventions in the European Union* – 2022 edition, p. 52.
[170] European Commission Joint Communication JOIN(2022) 23.
[171] European Commission Communication COM(2022) 230.
[172] The framework to accelerate the deployment of renewable energy was adopted in late December 2022 with Council Regulation (EU) 2022/2577.
[173] The Council confirmed that it maintained a target of 40% as part of its general approach in late December 2022. Council of the EU, "REPowerEU: Council Agrees on Accelerated Permitting Rules for Renewables", 19 December. Viewed at: https://www.consilium.europa.eu/en/press/press-releases/2022/12/19/repowereu-council-agrees-on-accelerated-permitting-rules-for-renewables/.

hydrogen.[174] REPowerEU also proposes to increase the revised target for energy efficiency under the Energy Efficiency Directive from 9% to 13% (Section 4.4.1).

4.137. Regulation (EU) 2022/1032 established minimum storage levels for natural gas in gas storage facilities by amending Regulation (EU) 2017/1938 concerning measures to safeguard the security of gas supply.[175] It also introduced mandatory certification of storage system operators considering the risk to the security of energy supply in the Union (in terms of ownership, supply or commercial relationships, or rights and obligations relating to agreements with third countries), by amending Regulation (EC) 715/2009.

4.138. Council Regulation (EU) 2022/1369 established a voluntary gas demand reduction of 15% for the period 1 August 2022 to 31 March 2023, but also introduced the possibility of making this reduction mandatory in case the Commission declares a Union alert.[176] Member States are allowed to choose appropriate measures, ensuring that they do not unduly distort competition and functioning of the internal gas market, do not affect energy security of another member State, and protect consumers.[177]

4.139. Similarly, Council Regulation (EU) 2022/1854 establishes best endeavour targets of reducing total monthly electricity consumption by 10% compared to the preceding five years on a rolling basis (while allowing for demand increases resulting from substitution from gas and fossil fuels towards electricity). It also sets binding targets for electricity reduction of 5% during peak hours, with member States allowed to define such peak hours and to choose appropriate measures to achieve such reduction as long as certain conditions related to competition in the electricity market and non-discrimination are met.

4.140. The Regulation also establishes a cap for market revenues from electricity generation at EUR 180 per MWh of electricity produced. Member States are given certain discretion as to whether to apply such caps to small producers (with installed capacity of up to 1 MWh), or only to 90% of market revenues exceeding the cap. Revenues from the implementation of this cap are to be used to compensate final electricity customers in a targeted manner. The Regulation also sets the framework for member States to establish a temporary tax (solidarity contribution) on profits in the crude petroleum, natural gas, coal, and refinery sectors.[178]

4.141. During 2022, some member States took additional temporary measures and introduced a cap on gas prices or on the increase of gas prices for consumers. In December 2022, the Council adopted Council Regulation (EU) 2022/2578[179], establishing a market correction mechanism from 15 February 2023, which would be activated if, for three working days, the front-month price on the Title Transfer Facility (TTF) exceeds EUR 180 per MWh and is EUR 35 higher than a reference price for LNG on global markets. This Regulation complements another regulation establishing a mechanism for joint purchases of gas, the more efficient use of pipelines, further defining the rules for implementing the solidarity mechanism among member States for the allocation of gas foreseen by Regulation (EU) 2017/1938, and initiatives to address price volatility. Under that Regulation, member States will have to bring 15% of their gas storage filling obligation under EU demand aggregation and joint purchasing.[180] A tool to operationalize this obligation is being put in place according to the Commission.

4.142. Following the energy market upheavals resulting from the war in Ukraine, some member States also intervened in national markets (e.g. where operators were overburdened by operating losses resulting from low-cost delivery obligations in the wake of significantly increasing energy spot

[174] European Commission, *REPowerEU: Affordable, Secure and Sustainable Energy for Europe*. Viewed at: https://ec.europa.eu/info/strategy/priorities-2019-2024/european-green-deal/repowereu-affordable-secure-and-sustainable-energy-europe_en.

[175] Gas storage facilities had to be filled to at least 80% by 1 November 2022, and to 90% by each 1 November from 2023. Member States without underground storage facilities are required to make arrangements in neighbouring countries to store at least 15% of the average annual gas consumption over the preceding five years.

[176] Flexibilities apply to certain member States as outlined in the Regulation.

[177] Council Regulation (EU) 2022/1369.

[178] Council Regulation (EU) 2022/1854.

[179] Council Regulation (EU) 2022/2578.

[180] Council Regulation (EU) 2022/2576, Article 10.

prices as long-term supply from Gazprom was interrupted).[181] In addition, the European Markets and Securities Authority (ESMA) proposed temporary amendments to the rules regarding collateral in the trading of energy derivatives to avoid the emergence of a liquidity crunch.[182] Some member States also took measures with respect to strategic infrastructure owned by Gazprom.

4.143. SOEs continue to play an important (if not increasing) role in the European Union's energy sector (Section 3.3.5).

4.144. In recent FTAs and to varying degrees, the European Union covered trade in raw materials and energy goods for the climate transition, included disciplines to remove tariffs and/or non-tariff barriers to trade and investment in renewable energy generation, or put in place a framework for (regulatory) cooperation.[183] According to the Commission, further alignments of the Energy and Raw Materials chapter towards the objectives of the European Green Deal continue.

4.5 Services

4.145. Services dominate the European Union economy, accounting for roughly 70% of GDP and a similar share of its employment.[184] Efforts to integrate services markets in the European Union continue, and a recent study by the European Commission found that overall, for 13 service sectors among those covered by the Services Directive[185], restrictions declined between 2006 and 2017. However, it pointed out that progress in removing restrictions has remained limited overall and that the Single Market for services remains fragmented.[186]

4.146. Different authorization schemes remained the most prevalent barriers in place, and for the majority of sectors, such schemes had declined little by 2017, although a relatively consistent improvement in the availability of electronic procedures was identified. The study found it noteworthy to highlight the large diversity of regulatory approaches across sectors and member States, which seems to offer scope for learning and further regulatory simplification.[187]

4.147. A separate assessment reviewed restrictions in seven professional services sectors in more detail. It confirmed these findings and indicated that in some professions, some member States had actually increased regulatory restrictions. It also updated previous reform recommendations to increase competitiveness of the Single Market for services, recommendations that are complementary to actions identified in the Industrial Strategy such as a harmonized regulation of key business services (Section 2.2).[188]

4.148. The fragmentation of the services sector has wider economic effects as services play an important role as inputs into other sectors of the economy with manufactured products increasingly offered jointly with services.[189] For example in 2015, the share of services-related employment in manufacturing was estimated to range from 26% in the Slovak Republic to 59% in Germany and 60% in Luxembourg.[190] The impact of reforms in the services sector implemented between 2006

[181] Prominent cases are the energy utility companies of Uniper in Germany and Electricité de France.

[182] ESMA, *Final Report – Emergency Measures on Collateral Requirements – Draft Regulatory Technical Standards Amending Commission Delegated Regulation (RTS) 153/2013*.

[183] European Commission, *Sustainable Development in EU Trade Agreements*. Viewed at: https://policy.trade.ec.europa.eu/development-and-sustainability/sustainable-development/sustainable-development-eu-trade-agreements_en.

[184] European Commission, *Internal Market, Industry, Entrepreneurship and SMEs*. Viewed at: https://ec.europa.eu/growth/single-market/single-market-services_en.

[185] Directive 2006/123/EC.

[186] European Commission (2021), *Mapping and Assessment of Legal and Administrative Barriers in the Services Sector – Summary Report*. Viewed at: https://op.europa.eu/en/publication-detail/-/publication/6d8d8858-a756-11eb-9585-01aa75ed71a1/language-en.

[187] European Commission (2021), *Mapping and Assessment of Legal and Administrative Barriers in the Services Sector – Summary Report*.

[188] European Commission Communication COM(2021) 385. The analysis covers architects, civil engineers, accountants and tax advisers, lawyers, patent/trademark agents, real estate agents, and tourist guides.

[189] Joint Research Centre (2022), *A General Equilibrium Analysis of the Economic Impact of the Post-2006 EU Regulation in the Services Sector*, JRC Working Papers on Territorial Modelling and Analysis 03/2022.

[190] Copenhagen Economics (2018), *Making EU Trade in Services Work for All – Enhancing Innovation and Competitiveness Throughout the EU Economy*, p. 44.

and 2017 are estimated to increase GDP beyond trend growth and in real terms by a cumulative 2.7% in 2027. Ambitious additional reforms after 2017 could potentially increase GDP by an additional 2.5% on top of that increase, while less ambitious reforms could lead to lower additional increases of 1.1%.[191] Overall, services in the European Union are reported to remain relatively more expensive compared to other economies.[192]

4.149. The overall restrictiveness in EU member States to services trade with non-EU Members remains relatively low according to the OECD Services Trade Restrictiveness Index (STRI), and it continues to differ across member States as well as across services sectors. At the same time, restrictions among the members of the European Economic Area (the EU member States, plus Iceland, Liechtenstein, and Norway) remain significantly lower than those *vis-à-vis* the rest of the world.[193]

4.150. The European Union participates in the Joint Statement Initiative (JSI) on Services Domestic Regulation and to reflect commitments made, it submitted its pre-finalization schedule of specific commitments, which was approved by a Council Decision on 25 November 2022.[194]

Regulatory developments

4.151. As part of a digital services package proposed by the Commission to establish a single market for digital services, the Digital Services Act (DSA) entered into force on 16 November 2022, complementing the Digital Markets Act, which entered into force on 1 November.[195] The DSA harmonizes the rules applicable to "intermediary services" in the internal market with the objective of ensuring a transparent, safe, predictable, and trusted online environment. Except in certain circumstances, intermediary services are exempt from liability as for content hosted on their platforms. The DSA prohibits EU member States from forcing intermediary services to monitor third-party content while introducing due diligence obligations regarding transparency for such services. Under the DSA, very large online platforms (VLOPs) and very large online search engines (VLOSEs), will be subject to special rules (see below) and will be directly supervised at the EU level, by the European Commission, with national "digital service coordinators" responsible for enforcing the DSA in respect of other intermediary services. The Act also establishes an advisory European Board for Digital Services composed of national digital services coordinators and foresees establishing rules on penalties.[196]

4.152. The DSA introduces due diligence requirements for all intermediary service providers, including establishing points of contact, and certain reporting requirements to national competent authorities. They are also required to spell out scope, terms, and conditions applying to possible content restrictions up-front and enforce them in a non-arbitrary way, observing fundamental rights.[197] The DSA also introduces additional requirements for hosting services, including online platforms, to establish a mechanism for allowing to easily report, and then address, illegal content, as well as notification requirements in case of suspected criminal offences. It requires online platforms to establish an internal complaint-handling system for decisions regarding content moderation as well as access to information or the service, and to report on such complaints. Enterprises classified as micro and small are exempt from many of these rules applying to services or platforms, unless they are designated as VLOPs (see below).

4.153. With a view to empower users, counter disinformation, and protect minors, the DSA also regulates online advertisements, ensuring they are clearly marked, and gives users the opportunity to understand and change targeting parameters. It also bans certain types of targeted ads on online platforms. The DSA likewise requires online platforms to allow consumers to conclude distance

[191] Joint Research Centre (2022), *A General Equilibrium Analysis of the Economic Impact of the Post-2006 EU Regulation in the Services Sector*, JRC Working Papers on Territorial Modelling and Analysis 03/2022.

[192] Copenhagen Economics (2018), *Making the EU Trade in Services Work for All – Enhancing Innovation and Competitiveness throughout the EU Economy*, p. 38.

[193] OECD (2022), *OECD Services Trade Restrictiveness Index: Policy Trends up to 2022*, pp. 17-18.

[194] Council Decision (EU) 2022/2384.

[195] Regulation (EU) 2022/2065.

[196] Regulation (EU) 2022/2065, Article 52.

[197] Regulation (EU) 2022/2065, Article 14.

contracts to collect and protect certain data of traders and consumers, and to ensure relevant product information is easily accessible.

4.154. The DSA contains additional rules for VLOPs or VLOSEs, due to the large reach of such entities (DSA, Section 5). Such entities are defined as those having more than 45 million monthly active recipients in the Union and need to be designated as such (Article 33). These entities are required to assess the risks (and establish mitigation systems) emanating from their service provision (including concerning recommendation systems, content moderation, advertising, and data-related practices) regarding the dissemination of illegal content, negative effects on fundamental rights, electoral processes, civic discourse, and public security, and negative effects relating to gender-based violence or the protection of public health and minors. The DSA also establishes a mechanism for the Commission to require additional interventions of specific service providers in response to a crisis (Article 36), an article introduced in the context of the war in Ukraine and related manipulation of online information, but holding relevance also in similar crises. VLOPs and VLOSEs are required to allow their users to choose a recommendation system not based on profiling and to transparently present certain information regarding advertising for public scrutiny. They are required to establish a separate "compliance function", are subject to an audit requirement at their own expense regarding the Regulation's obligations, and have to pay a supervisory fee (Article 43) to the Commission, which also has the powers to impose fines of up to 6% of the annual worldwide turnover of the provider of the relevant VLOPs or VLOSEs.

4.155. The DSA entered into force on 16 November 2022 and will be directly applicable across the European Union from 17 February 2024. The special rules for VLOPs or VLOSEs apply earlier, four months after their designation as such by the Commission, with the Commission expected to designate the first such platforms and/or search engines during 2023. All online platforms had to publicly report on their user numbers in the Union by 17 February 2023.

4.156. Some implementing regulations regarding investigation and enforcement by the Commission, the right to be heard (for VLOPs or VLOSEs), and information disclosure under the DSA as well as delegated acts are expected to be proposed by the Commission in the course of 2023.[198]

4.157. In anticipation of the DSA entering into force, the Commission and a number of large platforms, search engines, and other players agreed on a "strengthened Code of Practice on Disinformation" in June 2022, updating an earlier code from 2018. The objective of this code is for the signatories to limit the amount of reproduced disinformation, including by addressing manipulative behaviour, and in particular to stop monetization of such content being shared, as well as to increase the transparency regarding political advertising.[199]

4.158. Separately from the DSA, the Digital Markets Act (DMA) concerns "gatekeepers", i.e. undertakings that provide core platform services (e.g. search engines, social networks, and advertising systems) and (i) have a considerable impact on the internal market; (ii) whose core platforms are used by business users to reach end users; and (iii) have a well-established position in their operations (or are expected to have such a position in the near future). The DMA entered into force on 1 November 2022 and will start applying from 1 May 2023. The DMA contains provisions aimed at restricting anti-competitive practices, although the proposed legislation is considered not to be part of competition policy (Section 3.3.4).

4.159. To facilitate the temporary movement of health professionals in response to the COVID-19 pandemic, the Commission issued in May 2020 a Communication regarding the application of Directive 2005/36/EC (regarding the recognition of professional qualifications) to health professionals. The Commission also issued a recommendation in April 2022 to help facilitate professional recognition, and the exercise of regulated professions, for people having fled from Ukraine as a result of the war.[200] Both cases foresee employing professionals with a different status

[198] European Commission, *Have Your Say – Digital Services Act – Implementing Regulation*. Viewed at: https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/13565-Digital-Services-Act-implementing-regulation_en.

[199] European Commission, *The 2022 Code of Practice on Disinformation*. Viewed at: https://digital-strategy.ec.europa.eu/en/policies/code-practice-disinformation.

[200] Commission Recommendation (EU) 2022/554.

than that of a full professional where such professionals do not meet training requirements outlined in Directive 2005/36/EC.

4.160. In 2020, the adjustments to the regulatory environment for the posting of workers reported in the previous Review entered into force.[201] The reform aimed at protecting workers regarding working conditions as well as health and safety, and expanded the coverage of Directive 96/71/EC to also include the posting of workers under certain temporary employment or placement agency arrangements. It also introduced a requirement for workers posted in another member State for more than 12 months (a period that can be extended to 18 months) to have access to the same legal terms and conditions of employment as those under national employment contracts. These time frames apply to a specific position (i.e. "the same task at the same place"), rather than a particular employee holding a post.

4.161. In April 2021, as no agreement was reached by the co-legislator, the Commission withdrew a 2017 proposal for a "services e-card" that aimed to facilitate the provision of services in other member States and to ensure even treatment between domestic and foreign service providers.[202] The proposal for a notification and consultation procedure for draft legislation regarding authorization schemes and requirements related to services, outlined in the 2015 plan to improve the single market[203], was withdrawn at the same time.

4.5.1 Financial services

4.5.1.1 Overview

4.162. Financial services accounted for 4.5% of gross value added in 2021, although the sector's importance varied among member States from less than 3% to more than 25%. While the number of credit institutions continued to decline (in particular small ones), total bank assets in the EU-27 increased from EUR 30 trillion at the end of 2018 to EUR 35 trillion at the end of 2021, representing 242.6% of GDP.[204] Total assets of the insurance sector (for the European Economic Area) increased from EUR 8.9 trillion in 2018 to EUR 10.7 trillion in 2020[205] as Gross Written Premiums as a share of GDP varied from 0.7% in Romania to 6.4% in Malta.[206] Other financial institutions, often called shadow banks, accounted for 22% of liabilities of the euro area financial sector.[207] Although generally increasing, the size of non-bank lending remained low as a share of total bank lending.[208]

4.163. Financial integration in the European market continued to increase during the review period. According to the 2022 European Financial Stability and Integration Review[209], quantity and price-based indicators of financial integration dipped strongly at the outset of the COVID-19 pandemic but recovered swiftly and exceeded pre-pandemic levels by the end of 2020. However, both indicators still have not reached the levels from prior to the global financial crisis. The share of assets held by the largest five credit institutions increased in the majority for member States between 2018 and 2020, when it ranged from around 30% to more than 95%.[210]

4.164. Holdings of cross-border equity and debt also continued to increase during the review period, as did cross-border FDI and portfolio investments. European investors continue to exhibit a bias towards investing in their "home" member State as opposed to other member States, but that bias

[201] Directive (EU) 2018/957.
[202] European Commission Notice PUB/2021/261.
[203] European Commission Communication COM(2015) 550.
[204] Eurostat, *Financial Balance Sheets – Annual Data*. Viewed at: https://ec.europa.eu/eurostat/databrowser/view/NASA_10_F_BS__custom_3816788/default/table?lang=en.
[205] EIOPA, *Insurance Statistics*. Viewed at: https://www.eiopa.europa.eu/tools-and-data/statistics-and-risk-dashboards/insurance-statistics_en.
[206] EIOPA (2022), *European Insurance Overview 2022*. Viewed at: https://www.eiopa.europa.eu/document-library/report/european-insurance-overview-2022_en.
[207] ECB, *Euro Area Economic and Financial Developments by Institutional Sector: Second Quarter of 2022*. Viewed at: https://www.ecb.europa.eu/press/pr/stats/ffi/html/ecb.eaefd_full2022q2~37a1e8c575.en.html.
[208] EBA (2022), *Final Report on Response to the Nonbank Lending Request from the CfA on Digital Finance*, EBA/Rep/2022.
[209] Staff Working Document SWD(2022) 93 final/2.
[210] ECB (2022), *Financial Integration and Structure in the Euro Area – Statistical Annex*, p. 41. Viewed at: https://www.ecb.europa.eu/pub/pdf/fie/ecb.fie202204_annex~b0778eef8f.en.pdf.

declined during the review period, especially for euro area countries. Data indicate that this home bias differs widely across member States, is lower for euro area countries as compared to other member States, and that it is generally higher for equity investments as compared to debt investments. The comparable home bias for investment in the European Union (as compared to outside the European Union) is generally much stronger according to this analysis.

4.165. Financial services are regulated at the EU level, with Directives and Regulations complemented by additional rules or guidelines issued by the Commission, the European Supervisory Authorities (ESAs), and national authorities. The three ESAs are the European Banking Authority (EBA), the European Insurance and Occupational Pensions Authority (EIOPA), and the European Securities and Markets Authority (ESMA).[211] The ESAs are tasked with developing and implementing a consistent regulatory framework in their relevant areas of competency, although ESMA also has some direct supervisory functions.[212] Still, some observers consider that a general review to regulate financial services according to the risks they pose (rather than by type of instrument) would be required to establish a more efficient and consistent regulatory framework.[213]

4.166. The European Systemic Risk Board at the ECB, together with the ESAs, is tasked to prevent and mitigate systemic risks to ensure stability of the overall financial system.[214] The Anti-Money Laundering and Countering the Financing of Terrorism (AML/CTF) Legislative Package currently under discussion proposes to establish an Authority for AML/CTF that would directly supervise some entities while collaborating with national authorities on others.[215] In September 2022, the European Systemic Risk Board issued a warning that risks to financial stability have increased, calling for prudent risk management practices across all financial sectors.[216]

4.167. Overall, according to the ECB, the banking sector remained financially sound at the end of 2021. Capital Adequacy Ratios remained well above the minimum and varied across banks, member State, and types of lenders, with the average Tier-1 ratio at 16.0% at the end of the third quarter of 2022 for banks in member States participating in the Single Supervisory Mechanism (SSM) (Section 4.5.1.2.1). For those banks, Non-Performing Loans (NPL) ratios continued to decline and stood at 1.8% in Q3-2022.[217] More detailed information for institutions directly supervised by the ECB indicate that NPL ratios differed across member States and types of lenders.[218] The net-stable funding ratio for those institutions stood at 127.1 in Q3-2022. Return on assets and equity for banks in member States participating in the SSM stood on average higher at the end of 2021 compared to early 2019, having recovered from low values in 2020, with wide variance across member States and types of lenders.

4.168. The ECB's first climate stress test estimated potential losses of around EUR 70 billion to the banks included in the assessment, in case of a disorderly transition to a low-carbon economy. It stressed that this assessment likely understated actual climate-related risks due to a variety of factors. It also found that most banks do not yet sufficiently consider climate risks in credit risk assessment or stress tests.[219]

4.169. At the end of 2021, reinsurance and insurance companies overall were well capitalized, and although Solvency Capital Requirement (SCR) ratios varied significantly across companies, insurance types, and countries, they remained well above the regulatory minimum of 100% with a median SCR

[211] Regulation (EU) 2019/2175 amended certain powers and tasks, governance structure, and budgetary processes of ESAs via the three ESA regulations: Regulations (EU) 1093/2010, (EU) 1094/2010, and (EU) 1095/2010.

[212] ESMA supervises credit rating agencies, trade repositories, and securitization repositories, as well as certain data reporting services providers, benchmark administrators, and third-country central counterparties. ESMA, *Supervision and Convergence*. Viewed at: https://www.esma.europa.eu/supervision/supervision.

[213] Navid, K. (2022), "How Many Single Rulebooks? The EU's Patchwork Approach to Ensuring Regulatory Consistency in the Area of Investment Management", *European Business Organization Law Review*, Vol. 23, pp. 347-390.

[214] European Commission Report COM(2022) 228 final.

[215] European Commission Proposal COM(2021) 420.

[216] ESRB, Warning on Vulnerabilities in the Union Financial System, September 22. ESRB(2022/7).

[217] ECB, *Publication – Banking Supervision*. Viewed at: https://sdw.ecb.europa.eu/.

[218] ECB, *Supervisory Banking Statistics – Selected Supervisory Indicators*. Viewed at: https://sdw.ecb.europa.eu/reports.do?node=1000006518.

[219] ECB (2022), "Banks Must Sharpen Their Focus on Climate Risk, ECB Supervisory Stress Test Shows", 8 July. Viewed at: https://www.bankingsupervision.europa.eu/press/pr/date/2022/html/ssm.pr220708~565c38d18a.en.html.

ratio of more than 150% for all member States.[220] Profitability in 2021 also was comparable to that in 2019 and higher than in 2018, following a dip in 2020. Likewise, gross written premiums in 2021 were higher than in 2019.

4.170. Following the start of the war in Ukraine, the European Union prohibited all transactions with the Central Bank of the Russian Federation related to the management of the Bank's reserves and assets[221] and froze the assets of a number of commercial banks.[222] It also banned 10 Russian and 4 Belarusian banks from making or receiving international payments using SWIFT.[223]

4.5.1.2 Regulatory developments

4.5.1.2.1 Banking Union

4.171. Bulgaria and Croatia joined the Banking Union on 10 July 2020. Two of its pillars (the SSM and the Single Resolution Mechanism (SRM)) remain in place, while limited progress was made regarding its third pillar (a common system for deposit protection).[224] Meanwhile, harmonized deposit protection schemes continue to operate at member State level.[225]

4.172. Under the SSM, banks in the euro area (as well as Bulgaria and Croatia, which opted to do so in 2020) are ultimately supervised by the ECB, based on guidelines and recommendations prepared by the EBA and the Joint Committee of the ESAs. The ECB directly supervises 113 Significant Banks[226], holding almost 82% of banking assets in participating countries, while smaller banks are regulated by national authorities in close cooperation with the ECB.[227] Banking licences for all credit institutions established in the member States participating in the SSM are issued in line with harmonized prudential requirements (regarding capital, liquidity, internal risk management, and governance) by national competent authorities in close cooperation with the ECB, with licensed institutions able to operate throughout the Union. Regulatory approaches to licensing third-country bank branches differ across EU member States, using approaches treating them like subsidiaries, like branches, or using a mix of these approaches.[228]

4.173. An essential part of the SRM is the Single Resolution Fund (SRF), established under the control of the Single Resolution Board (SRB). It is funded from banks' contributions, which stood at EUR 66 billion in July 2022, with the target size of 1% of covered deposits to be reached by 2023.[229] To further strengthen the SRM, the Eurogroup members agreed in late 2020 to accelerate the establishment of a common backstop to the SRF in the form of a credit line from the European Stability Mechanisms' (ESM) to replace the Direct Recapitalisation Instrument.[230] In 2022, the SRB decided to undertake resolution actions regarding two subsidiaries of Sberbank Europe AG, which

[220] EIOPA (2022), *Financial Stability Report June 2022*.

[221] Council of the European Union (2022), "Russia's Military Aggression against Ukraine: Council Imposes Sanctions on 26 Persons and One Entity", 28 February. Viewed at: https://www.consilium.europa.eu/en/press/press-releases/2022/02/28/russia-s-military-aggression-against-ukraine-council-imposes-sanctions-on-26-persons-and-one-entity/.

[222] Council Implementing Regulation (EU) 2022/581.

[223] European Council, *EU Sanctions against Russia Explained*. Viewed at: https://www.consilium.europa.eu/en/policies/sanctions/restrictive-measures-against-russia-over-ukraine/sanctions-against-russia-explained/.

[224] For a more detailed description, see WTO document WT/TPR/S/395/Rev.1, 7 July 2020.

[225] Directive 2014/49/EU.

[226] As of 1 November 2022. The SSM regulation spells out criteria for banks to be classified as "significant" that relate to size, economic importance, cross-border activities, and direct public financial assistance. ECB, *List of Supervised Entities*. Viewed at: https://www.bankingsupervision.europa.eu/ecb/pub/pdf/ssm.listofsupervisedentities202212.en.pdf?7dce5c7620d8f5efc8b801e9e0cc1497.

[227] ECB, *Single Supervisory Mechanism*. Viewed at: https://www.bankingsupervision.europa.eu/about/thessm/html/index.en.html.

[228] For additional information, see European Banking Authority (2021), *Report on the Treatment of Incoming Third Country Branches*, EBA/REP/2021/20. Viewed at: https://www.eba.europa.eu/sites/default/documents/files/document_library/Publications/Reports/2021/1015664/Report%20on%20third%20country%20branches.pdf.

[229] Single Resolution Board, *Single Resolution Fund*. Viewed at: https://www.srb.europa.eu/en/single-resolution-fund.

[230] Eurogroup (2020), "Statement of the Eurogroup in Inclusive Format on the ESM Reform and the Early Introduction of the Backstop to the Single Resolution Fund", 30 November.

were sold to other banking groups while it decided that no resolution was necessary for the European headquarters of Sberbank.[231]

4.174. Efforts to enhance the resilience of the banking sector also continued. The single rulebook for the banking sector was expanded and some of its contents updated during the review period, including changes to the Anti Money Laundering Directive (AMLD)[232] and Wire Transfer Regulation (WTR).[233] The revised regulatory framework for investment firms (IFR and IFD) entered into application in June 2021 (Section 4.5.1.2.3). The revised Capital Requirements Regulation (CRR)[234], Capital Requirements Directive (CRD)[235] and the Bank Recovery and Resolution Directive (BRRD)[236], described in the previous Review, also were transposed by member States and started to be applied.

4.175. As a response to the COVID-19 pandemic, the European Union adopted Regulation (EU) 2020/873, amending the CRR to facilitate lending while ensuring resilience. For example, it allowed credit institutions to favourably treat unrealized gains or losses on debt of public institutions until the end of 2020, or to align the minimum coverage requirements for NPL guaranteed by public institutions with those guaranteed by official export credit agencies. In December 2020, the Commission also adopted an NPL action plan focused on reducing risks[237], which also aims to further develop secondary markets for distressed assets and reform the European Union's corporate insolvency and debt recovery legislation (Section 4.5.1.2.3).

4.176. To finalize the implementation of the Basel III agreement, two new regulatory proposals were adopted by the Commission in October 2021, proposing to amend the CRR and CRD.[238]

4.5.1.2.2 Insurance

4.177. The insurance sector continues to be primarily regulated by the Solvency II Directive and its Delegated Regulation, containing risk-based prudential regulations, with companies supervised by national supervisory authorities where they are established. For the supervision of insurance undertakings as part of a group established in a non-EU State, as well as for reinsurance companies, a procedure for assessing regulatory equivalence and supervisory cooperation is in place.[239] The Directive also contains rules on reorganizing and winding up insurance companies (Title IV).

4.178. While the framework has not undergone major changes during the review period, Directive (EU) 2019/2177[240] amended the Solvency II Directive by introducing a requirement for national competent authorities to notify to the EIOPA newly establishing insurance operators with relevant operations in other member States, as well as cases of deteriorating financial conditions or increasing risks facing cross-border providers of insurance services. In the latter case, the amendments also introduced a right of EIOPA to establish collaboration platforms to strengthen the exchange of information and to enhance collaboration.

4.179. Looking forward, two Commission proposals aim to strengthen the framework by (i) introducing more risk-sensitivity and proportionality, in particular the new category of low-risk profile undertakings, improving the approach to supervision (including for groups and cross-border), and including macro-prudential and climate-related tools[241]; and (ii) establishing a framework for

[231] Single Resolution Board, *Cases*. Viewed at: https://www.srb.europa.eu/en/cases.
[232] Directive (EU) 2015/849 amended by Directive (EU) 2019/2177.
[233] Regulation (EU) 2015/847 amended by Regulation (EU) 2019/2175.
[234] Regulation (EU) 575/2013 reviewed through CRR II or Regulation (EU) 2019/876.
[235] Directive 2013/36/EU (CRD IV) reviewed through CRD V or Directive (EU) 2019/878.
[236] Directive 2014/59/EU reviewed through BRRD II or Directive (EU) 2019/879.
[237] European Commission Communication COM(2020) 822.
[238] European Commission Proposals COM(2021) 665 regarding global systemically important institution, and COM(2021) 664 regarding requirements for credit risk, credit valuation adjustment risk, operational risk, market risk, and the output floor.
[239] There were no changes to these equivalence decisions during the review period. EIOPA, *International Relations and Equivalence*. Viewed at: https://www.eiopa.europa.eu/browse/regulation-and-policy/international-relations-and-equivalence_en#Equivalence.
[240] Directive (EU) 2019/2177.
[241] European Commission Proposal COM(2021) 581. As spelled out in the Strategy for Financing the Transition to a Sustainable Economy, this proposal would require insurers to identify material exposure to climate change risks and assess potential business impacts and task EIOPA to assess the possibility to introduce a dedicated prudential treatment of such risks.

the recovery and resolution of insurance and reinsurance undertakings.[242] A general compromise regarding updated rules for insurance companies was adopted by the Council in 2022[243] and both proposals are currently being discussed in the European Parliament.

4.5.1.2.3 Capital Markets Union

4.180. Complementing the Banking Union, regulatory efforts to integrate capital markets also continued during the review period. A number of Regulations and Directives were amended in substance, in particular the Benchmark Regulation (regarding "third-country benchmarks", the supervision of critical benchmarks, and regarding climate-related benchmarks); the Markets in Financial Instruments Regulation (MiFIR)[244]; and the Directive regarding undertakings for collective investment in transferable securities.[245]

4.181. As part of these changes, amendments to the Markets in Financial Instruments Directive II (MiFID II)[246] and the Prospectus Regulation (temporarily introducing a "recovery prospectus" until the end of 2022[247]) aimed to reduce the costs of obtaining capital and were included in a Capital Markets Recovery Package[248] adopted by the European Union in early 2021. The Package was designed to allow capital markets play a stronger role in supporting economic recovery from the COVID-19 pandemic and also included the amendments to the securitization framework mentioned below.

4.182. The new 2020 Capital Markets Union (CMU) Action Plan[249] outlines further changes and aims to (i) facilitate access to finance; (ii) increase the security of savings and long-term investments; and (iii) integrate national capital markets into a genuine single market.

4.183. To facilitate access to finance under the first objective of the CMU Action Plan, the Commission, for example, adopted a proposal for a European Single Access Point in November 2021 that would make all financial and sustainability-related information that companies are required to publish, as well as information on investment products, available to investors[250], and included the dimension of access to finance in its review of the prudential regulatory framework for banks and insurance companies.[251] It made proposals to amend fund rules for European Long-term Investment Funds[252] and alternative investment funds[253] and is aiming to scale-up the securitization market in the European Union, having amended and supplemented the Securitization Regulation in 2021.[254] Furthermore, in December 2022, the Commission adopted a proposal for a Directive aiming to streamline the listing process (including for SMEs) and enhance visibility of listed companies.[255]

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[242] European Commission Proposal COM(2021) 582.

[243] European Council (2022), "Solvency II: Council Agrees Its Position on Updated Rules for Insurance Companies", 17 June. Viewed at: https://www.consilium.europa.eu/en/press/press-releases/2022/06/17/solvency-ii-council-agrees-its-position-on-updated-rules-for-insurance-companies/.

[244] Provisions pertaining to the operational requirements for data reporting service providers (DRSPs) and the competences of competent authorities with respect to DRSPs were transferred from MiFID II (Directive 2014/65/EU) to the MiFIR (Regulation (EU) 600/2014) in late 2019.

[245] Directive (EU) 2019/1160.

[246] Directive 2014/65/EU amended by Directive (EU) 2021/338.

[247] Regulation (EU) 2017/1129.

[248] European Council (2021), "Capital Markets Recovery Package: Council Adopts First Set of Measures to Help Companies Access Funding", 15 February. Viewed at: https://www.consilium.europa.eu/en/press/press-releases/2021/02/15/capital-markets-recovery-package-council-adopts-first-set-of-measures-to-help-companies-access-funding/.

[249] European Commission Communication COM(2020) 590.

[250] Package description. Viewed at: https://ec.europa.eu/info/publications/211125-capital-markets-union-package_en.

[251] In particular, the Commission intends to ensure that the prudential frameworks for banks and insurance companies does not hamper long-term equity investments by the institutions within the scope of these frameworks.

[252] European Commission Proposal COM(2021) 722 final.

[253] European Commission Proposal COM(2021) 721 final.

[254] Part of the Capital Markets Recovery Package and as response to COVID-19, Regulation (EU) 2017/2402 was amended by, *inter alia*, certain regulatory obstacles to securitisation of non-performing exposures.

[255] European Commission Proposal COM(2022) 760.

4.184. Efforts to improve financial literacy, data disclosure, and transparency of pension schemes contribute to the second objective of the CMU Action Plan and making the European Union "an even safer place for individuals to save and invest long-term", according to the Commission.[256]

4.185. Regarding the third objective of the CMU Action Plan, i.e. integrating national capital markets, the Plan calls for the establishment of an "enhanced" Single Rule Book for EU capital markets. In addition, the Commission is developing a Directive to tackle burdensome withholding tax procedures, to make them simpler and faster and thus support cross-border investment.[257] In addition, major discrepancies in national substantive insolvency laws (for corporate insolvency) of member States continue to pose a challenge to the establishment of a well-functioning CMU, and affect recovery rates of loans.[258] In December 2022, the Commission adopted a legislative proposal to harmonize targeted aspects of the corporate insolvency framework as well as procedures to make it easier and faster for cross-border investors to recover value.[259] This pillar also includes the Commission working towards enhancing the efficiency of cross-border settlement services by reviewing the Central Securities Depositories Regulation.[260] To establish a comprehensive post-trade "consolidated tape" for ETFs, bonds, and derivatives, the Commission proposed to amend the Markets in Financial Instruments Regulation.[261]

4.186. Prior to the adoption of the current CMU Action Plan, the reforms to the prudential regulation of investment firms mentioned in the previous Review were finalized in late 2019.[262] While the largest systemic investment firms continue to be authorized and regulated as banks (and are subject to the same capital, liquidity, and risk management rules), a more tailored prudential framework (including requirements) applies to the other investment firms in a way that is proportionate to their size, nature, complexity, risk profile, and business model. While smaller investment firms that qualify as "small and non-interconnected" can be exempted from certain requirements, other firms are subject to capital requirements mirroring the risk they pose to clients, markets, and the firm itself. Medium-sized or large firms that offer "bank-like" services and could still pose risks to financial stability could also remain subject to the banking rules without having to be authorized as banks, possibly at their supervisor's request.

4.187. The common rules on the issue and supervision of covered bonds mentioned in the previous Review were also finalized with the issuance of Regulation (EU) 2019/2160 and Directive (EU) 2019/2162 and have been applied from 8 July 2022 with the Commission required to report on its implementation by 2025. The Commission will also report in 2024 on whether and how a regulatory equivalence regime could be introduced for third-country credit institutions issuing covered bonds.

4.188. In addition, reporting requirements for securities financing transactions entered into force in 2020 after Reporting Technical Standards under the Regulation on Transparency of Securities

[256] European Commission, *Capital Markets Union 2020 Action Plan*. Viewed at: https://finance.ec.europa.eu/capital-markets-union-and-financial-markets/capital-markets-union/capital-markets-union-2020-action-plan_en.

[257] European Commission, *Withholding Taxes – New EU System to Avoid Double Taxation*. Viewed at: https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/13031-Withholding-taxes-new-EU-system-to-avoid-double-taxation_en.

[258] EBA (2020), *Report on the Benchmarking of National Loan Enforcement Frameworks*, EBA/Rep/2020/29. Viewed at: https://www.eba.europa.eu/sites/default/documents/files/document_library/About%20Us/Missions%20and%20tasks/Call%20for%20Advice/2020/Report%20on%20the%20benchmarking%20of%20national%20loan%20enforcement%20frameworks/962022/Report%20on%20the%20benchmarking%20of%20national%20loan%20enforcement%20frameworks.pdf.

[259] European Commission Proposal COM(2022) 702.

[260] According to the Commission, the proposed changes will ensure more proportionate and effective rules to reduce compliance costs and regulatory burdens for Central Securities Depositories, as well as facilitate their ability to offer a broader range of services cross-border, while improving their cross-border supervision. European Commission Proposal COM(2022) 120.

[261] Regulation (EU) 600/2014; European Commission Proposals COM(2021) 726 and COM(2021) 727.

[262] Regulation (EU) 2019/2033 (Investment Firms Regulation (IFR)) and Directive (EU) 2019/2034 (Investment Firms Directive (IFD)), applying to firms authorized and supervised under Directive 2014/65/EU (generally known as Markets in Financial Instruments Directive 2 (MiFID II)). Coordination of regulation of investment firms is done by EBA and ESMA, with firms supervised by national competent authorities.

Financing Transactions (SFTR)[263] were adopted in 2019.[264] According to the Strategy on Supervisory Data in EU Financial Services, efforts are under way to encourage regulatory data sharing and reuse to limit the reporting burden while improving the effective use of regulatory supervision.[265]

4.189. During the review period, a number of new regulatory equivalence decisions regarding capital markets were taken in the areas of auditing (South Africa and China), the classification of certain exposures to calculate capital requirements (Bosnia, North Macedonia, Serbia, and the Republic of Korea), central securities depositories (the United Kingdom, temporarily until June 2021), and over-the-counter (OTC) derivatives (regarding markets (the United States), legal, supervisory, and enforcement arrangements (Australia; Brazil; Canada; Hong Kong, China; the United States; and Singapore), and central counterparties (the United States, and the United Kingdom (temporarily, until 2025)).

4.5.1.2.4 Sustainable and digital finance

4.190. The Commission considers that financial markets will have to contribute to achieving the objectives of the European Green Deal, requiring incorporating sustainability risks and impacts into their operations. The 2018 Sustainable Finance Action Plan spelled out key activities to reorient capital flows towards sustainable investments, manage financial risks related to environmental issues, and increase related transparency[266], with the Strategy for Financing the Transition to a Sustainable Economy building on and complementing it since July 2021.[267] In 2020, the Commission published a Digital Finance Strategy for the EU until 2024[268], recognizing the role that digital finance can play in improving access to finance, supporting economic recovery, and mobilizing funding in support of the European Green Deal and Industrial Strategy.

4.191. In 2019 the Benchmark Regulation was amended to also include climate-related benchmarks[269] (see above) and a Sustainable Finance Disclosure Regulation (SFDR), applying to both financial market participants and investment products, was approved in 2019 aiming to limit "greenwashing" of financial investments.[270] Six additional Commission Delegated Acts (contained in the so-called April 2021 package) expanded requirements for financial firms that include assessing sustainability risks, or considering clients' sustainability preferences.

4.192. A key element of these efforts is the ability to define what economic activities and investments qualify as sustainable or contributing to a low-carbon transition, and can be used by companies and investment firms to determine the "greenness" of their operations or investments. The Taxonomy Regulation[271], which entered into force in 2020, defines six specific environmental objectives: (i) climate change mitigation; (ii) climate change adaptation; (iii) the sustainable use and protection of water and marine resources; (iv) the transition to a circular economy; (v) pollution prevention and control; and (vi) the protection and restoration of biodiversity and ecosystems. The Regulation sets out criteria for an activity to be classified as significantly contributing (and not significantly harming) these objectives, and also amended the SFDR. In 2021, it was complemented by Commission Delegated Regulations establishing the technical screening criteria for determining the conditions under which an economic activity qualifies as contributing substantially to two of the six objectives: climate change mitigation and climate change adaptation (applicable since early 2022)[272], and another one defining what and how to disclose.[273] According to the Strategy for Financing the Transition to a Sustainable Economy, the Commission plans to develop another Taxonomy Delegated Act covering the remaining four environmental objectives.

[263] For additional information on the SFTR, see WTO document WT/TPR/S/357/Rev.1, 7 July 2020.
[264] Commission Implementing Regulation (EU) 2019/363.
[265] European Commission Communication COM(2021) 798. EBA (2021), *Final Report on a Feasibility Study of an Integrated Reporting System Under Article 430c CRR*, EBA/REP/2021/38.
[266] European Commission Communication COM(2018) 097 final.
[267] European Commission Communication COM(2021) 390 final.
[268] European Commission Communication COM(2020) 591 final.
[269] Regulation (EU) 2019/2089.
[270] Regulation (EU) 2019/2088.
[271] Regulation (EU) 2020/852.
[272] Commission Delegated Regulation (EU) 2021/2139.
[273] Commission Delegated Regulation (EU) 2021/2178.

4.193. In April 2022, the Council agreed to a Commission proposal to establish clear rules for environmentally sustainable bonds (green bonds)[274], pending discussions with Parliament. The Commission also aims to clarify the operations of Environmental, Social and Governance (ESG) rating providers and transparency on the characteristics and methodology of ESG ratings, and is planning to propose legislation during 2023 based on an impact assessment. In June 2022, the European Parliament and Council agreed to a Commission proposal for a Corporate Sustainability Reporting Directive (CSRD) introducing obligations for companies to report on European Sustainability Reporting Standards.[275]

4.194. The Digital Finance Strategy builds on the 2018 Fintech Action Plan[276] and has four objectives: (i) tackle fragmentation in the Digital Single Market; (ii) ensure the regulatory framework facilitates digital innovation; (iii) establish a common financial data space to promote data-driven innovation; and (iv) address other risks by ensuring a level regulatory playing field for existing and new financial services.

4.195. To tackle fragmentation and remove barriers to the cross-border provision of digital financial services, the Commission aims to introduce passporting in key areas relevant to digital finance. This includes the Crowdfunding Regulation mentioned in the 2018 Fintech Action Plan that entered into force in 2020.[277] It also foresees establishing trusted digital identities for all residents in the European Union. Key elements of facilitating digital innovation include efforts to regulate crypto-asset markets (MICA)[278] or reviewing the prudential treatment of intangible assets such as software. Creating a common financial data space will include automated real-time access to regulated financial information, the use of technology for reporting and supervision (using Regulatory Technology and Supervisory Technology), and developing an open finance framework that will include a review of the Payment Services Directive as spelled out under the Commission's Retail Payments Strategy.[279] Addressing other related challenges and risks, the Commission also aims to ensure the regulatory framework for digital finance contributes to protecting consumers and ensuring financial stability, using the "same activity, same risk, same rules" principle. In this area, Regulation (EU) 2022/2554 on digital operational resilience (DORA) applying to all financial entities was adopted in December 2022[280], complementing ongoing efforts to improve cybersecurity.[281]

4.5.2 Transport services

4.196. Economic activities of transportation and storage accounted for 4.9% of gross value added in 2021, and 5.3% of total employment, broadly unchanged from before the review period.[282] In 2021, transport services accounted for 19.8% of services exports, and 17.6% of services imports (Section 1.3.1.2).

4.197. The market for transport services in the European Union is generally open but certain restrictions remain in place. Restrictions to trade in transport services vary significantly across member States but are on average slightly lower than those in other OECD countries, and they increased marginally between 2018 and 2021, in many instances related to horizontal policy changes.[283] Intra-European Economic Area (EEA) services trade restrictiveness for transport services is consistently significantly lower than that for trade with third countries. The regulatory restrictiveness for non-EU FDI in transport services (as well as its three sub-components: air,

[274] Proposal for a Regulation of the European Parliament and of the Council on European Green Bonds COM(2021) 391. The proposed regulation would see ESMA supervise external reviewers of green bonds.
[275] European Commission Communication COM(2021) 189.
[276] European Commission Communication COM(2018) 109. The Action Plan contributes to building a Capital Markets Union and a Digital Single Market.
[277] Regulation (EU) 2020/1503.
[278] European Commission Proposal COM(2020) 593. The proposed MICA regulation would see the EBA supervise issuers of significant asset-referenced tokens and of significant e-money tokens. A second proposal (COM(2021) 0422) aims to allow for the tracing of crypto-asset transfers.
[279] European Commission Communication COM(2020) 592.
[280] Regulation (EU) 2022/2554. The DORA regulation foresees one of the ESAs supervise each critical ICT third-party service provider.
[281] The Commission is currently reviewing Directive (EU) 2016/1148.
[282] Eurostat, National Accounts Aggregates by Industry (nama_10_a64); and National Accounts Employment Data by Industry (nama_10_a64_e). Viewed at: https://ec.europa.eu/eurostat/data/database.
[283] OECD, *Services Trade Restrictiveness Index*.

surface, and maritime transport services) was in 2019 lower for all EU member States compared to the corresponding average restrictiveness of third-country FDI in non-EU OECD Members.[284]

4.198. During the review period, notable reforms took place in the road transport services sector, while in the area of rail transport services, the reforms agreed under the fourth EU Railway Package in 2016 were phased in. In 2020, the Commission approved a revised proposal to reform the "Single European Sky". The proposed reforms of the EU Emission Trading System (ETS) in the context of the Fit-for-55 package (Section 4.4.1) would extend the system to maritime transport, increase the ambition of reduction targets for aviation, and introduce a self-standing ETS for road transport. As a response to the COVID-19 pandemic, a number of (temporary) measures were introduced.

4.199. The development of infrastructure for the provision of transport services also continues. The Trans-European Transport Network (TEN-T) defines major transport corridors and infrastructure, divided into a "core" and "comprehensive" network for efficient intra-European transport and connecting the network to neighbouring countries.[285] Policies to support the completion of the core network by 2030 (and the comprehensive network by 2050) by closing gaps and addressing bottlenecks, are under way. In 2019, the TEN-T regulation was amended to include network connections in Armenia, Azerbaijan, Belarus, the Republic of Moldova, and Ukraine. Following a review of the TEN-T policy in 2019, the Commission proposed a revised TEN-T regulation in 2021 (amended in 2022) that, *inter alia*, reflects policy developments regarding emissions (the European Green Deal and the Climate Law) or sustainable mobility (Sustainable and Smart Mobility Strategy); includes measures related to interoperability, accessibility, urban nodes, and climate resilience; and puts additional emphasis on user services.[286] According to the Commission, it is expected to be adopted towards the end of 2023. For the budget period 2021-27, the Connecting Europe Facility, originally established in 2013, is one of the main programmes providing funding to build, develop, modernize, and complete the various trans-European networks, including transport networks.[287] In addition, the Global Gateway initiative aims to mobilize up to EUR 300 billion between 2021 and 2027 for investments in infrastructure projects, including transport, incorporating key objectives of EU cross-cutting policies including those related to good governance and the environment.[288]

4.5.2.1 Road transport services

4.200. The road transport sector continues to dominate overall intra-EU transport services, moving around 77% of goods transported by land in 2020[289], or around 20% of the total value of all external trade.[290] It remains dominated by MSMEs[291], and nearly two thirds of road transport in the European Union is national. To operate, a transport service company needs to obtain a "community license", allowing it to operate freely within the Union, with intra-EU cross-border transport services fully liberalized and certain restrictions to cabotage in "host" member States (i.e. transport within a member State that is not the State of registration of a company) continuing to apply.

4.201. Road transport services between EU member and non-member States continue to be mostly regulated by bilateral agreements, as well as the European Conference of Ministers of Transport (ECMT) agreement for service providers from third countries. Based on the European Economic Area (EEA) Agreement with Norway, Iceland, and Liechtenstein, the EU *acquis* regarding road transport

[284] OECD, *FDI Regulatory Restrictiveness Index*. Viewed at: https://stats.oecd.org/Index.aspx?datasetcode=FDIINDEX#. The only exception is the regulatory restrictiveness for FDI in surface transport services in Sweden, which is higher compared to the non-EU OECD average.

[285] Regulation (EU) 1315/2013.

[286] European Commission Proposal COM(2021) 812, as well as Amended Proposal COM(2022) 384.

[287] Regulation (EU) 2021/1153.

[288] European Commission Joint Communication JOIN(2021) 30. The Global Gateway initiative aims to build sustainable infrastructure in the priority areas of digital, climate and energy, transport, health, and education and research.

[289] Eurostat, *Freight Transport Statistics – Modal Split*. Viewed at: https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Freight_transport_statistics_-_modal_split.

[290] Eurostat, *International Trade in Goods by Mode of Transport*. Viewed at: https://ec.europa.eu/eurostat/statistics-explained/index.php?title=International_trade_in_goods_by_mode_of_transport.

[291] Eurostat, *F5 Sectoral Analysis of Employment by Enterprise Size Class, Transportation and Storage (NACE Section H), EU, 2019*. Viewed at: https://ec.europa.eu/eurostat/statistics-explained/index.php?title=File:F5_Sectoral_analysis_of_employment_by_enterprise_size_class,_Transportation_and_storage_(NACE_Section_H),_EU,_2019.png.

(including recent changes) also applies there. The Land Transport Agreement between the European Union and Switzerland provides the framework for bilateral road transport relations. After the United Kingdom's withdrawal from the European Union, following an international transport operation, UK service providers are allowed to undertake two operations (among which one national cabotage operation) within the European Union before returning to the United Kingdom.[292] On 28 June 2022, the European Union signed road transport agreements with Ukraine and the Republic of Moldova, allowing Ukrainian, Moldovan, and EU hauliers to transit through and operate between each other's territories, without the need for permits for these operations.

4.202. Generally, bilateral agreements cover bilateral transport quotas as well as bilateral transit quotas with third countries, and some agreements could potentially cover domestic cabotage, meaning that potential transport by non-EU carriers from a third country to an EU member State via other EU member States, or between two EU member States, would have to be covered by multiple bilateral agreements, or "multilateral" quotas under the ECMT.[293] Depending on the nationality of drivers and their destinations, visa requirements also apply.

4.203. The 2017 Opinion 2/15 of the Court of Justice of the European Union (CJEU) clarified that the commitments relating to road transport and linked auxiliary services under the EU-Singapore FTA fall under exclusive competence of the Union, as they may affect or alter common EU rules.[294] According to the Commission, there are no plans to replace such provisions in bilateral agreements between EU member States and third countries with EU-wide agreements.

4.204. As a major reform during the review period, a set of acts approved in 2020 changed regulations for (i) internal market access[295]; (ii) working conditions and requirements for drivers[296]; and (iii) the posting of drivers[297] (i.e. drivers carrying out their work in the territory of a member State other than the State in which they normally work[298]).

4.205. The regulation affecting market access expands some of the applicable rules also to smaller motor vehicles with a permissible load exceeding 2.5 tonnes (previously 3.5 tonnes), as the use of such vehicles had significantly increased, according to the Commission. While certain financial requirements remain more flexible for such smaller undertakings (i.e. those with permissible load of vehicles between 2.5 and 3.5 tonnes), rules for operator licensing (obtaining a community licence) and access to the profession fully apply. At the same time, the reform removed the possibility for member States to introduce additional requirements for road transport operators, thereby harmonizing requirements across the Union.

4.206. The regulation also clarified rules regarding cabotage, introducing a minimum time of four days between two cabotage operations in the same member State. Following the reform, transport service companies are still allowed to undertake three cabotage operations in any member State, within seven days following the completion of an international (i.e. cross-border) transport operation. Where a vehicle enters a member State empty, only one cabotage operation is permitted within three days.[299]

4.207. To ensure a more coherent application of these rules, the reform also aims to address the use of letterbox companies, by setting harmonized requirements for vehicles and drivers to return to their place of establishment in specified intervals.

[292] Trade and Cooperation Agreement between the European Union and the European Atomic Energy Community, of the one part, and the United Kingdom of Great Britain and Northern Ireland, of the other part, Article 462.

[293] In 2018, the share of intra-EU transport using a multilateral quota was estimated to be 21.8% for carriers from the Western Balkans and Türkiye, and 14.2% for carriers from Commonwealth of Independent States countries. International Transport Forum (2020), *Report on European Road Freight Transport Markets and ECMT Multilateral Quota Perspectives – Update 2019/2020*. Viewed at: https://www.itf-oecd.org/sites/default/files/docs/tr20201_final.pdf.

[294] CJEU, Opinion 2/15 of the Court (Full Court), 16 May 2017. Viewed at: https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A62015CV0002%2801%29.

[295] Regulation (EU) 2020/1055.

[296] Regulation (EU) 2020/1054.

[297] Directive (EU) 2020/1057.

[298] Directive 96/71/EC, Article 2.

[299] Regulation (EC) 1072/2009, Article 8.

4.208. The proposed reform of the ETS that forms part of the Fit-for-55 package could introduce a self-standing emissions trading system for fuel distribution for the road transport sector by 2025, managed by fuel distributors as regulated entities.[300]

4.5.2.2 Rail transport services

4.209. Rail transport is seen as a cornerstone for greening the European Union and making transport systems more sustainable.[301] "Europe's Rail Joint Undertaking" is among the activities established under the European research funding programme Horizon Europe (Section 3.3.1.1) and funded from the EU budget with up to EUR 600 million until 2027. In addition to the general objectives of Horizon Europe (addressing climate change, sustainable development, and EU competitiveness), the undertaking contributes to achieving a Single European Railway Area that would be more attractive and integrated into the wider mobility system, and to support the development of a strong and globally competitive European rail industry.[302] The proposed revised TEN-T regulation would also aim to integrate the rail freight corridors[303] into the European transport corridors.

4.210. There are no foreign ownership limits for investment in the rail transport sector in place in EU member States, although some member States limit the proportion of shares foreign investors can acquire in publicly controlled firms.[304] State-owned enterprises continue to play an important role in the railway sector (Section 3.3.5). A bilateral agreement with Switzerland regulates international rail traffic for passengers and goods.

4.211. Following the adoption of the fourth EU Railway Package in 2016 that was described in an earlier Review[305], some of its provisions were phased in during the review period, with the provisions regarding the competitive award of public rail service contracts being phased in until the end of 2023. The reform aimed at reducing the cost of intra-European rail operations. Directive (EU) 2016/797 and Regulation(EU) 2016/796 continue to regulate technical aspects.

4.212. The overarching framework to establish a single European railway area continues to be provided by Directive 2012/34/EU, as amended by Directive (EU) 2016/2370. In terms of market organization, all member States with an operational rail network transposed the Directive during the review period. Under the framework, member States can choose among organizational models that ensure the independence of infrastructure managers and railway operators. In addition, there are also provisions in place aimed at ensuring equitable and non-discriminatory access to infrastructure, or those aimed at avoiding various conflicts of interest. Following access allocations, the trading of infrastructure capacity is prohibited.[306]

4.213. National licensing authorities continue to issue operating licences to operators established in their jurisdictions, which are then valid EU-wide.[307] A number of requirements relating to good repute, financial fitness, and professional competence apply. According to the Commission's seventh Rail Market Monitoring report, the market share in freight services of competitors to the incumbents increased from an average of 34% in 2015 to 42% in 2018, with the share being more than 30% in more than half of the member States, while that in passenger services increased from 8% to 10%.[308] While information was not available for all member States, the share of freight transport carried by the incumbent ranged from less than 40% in Romania to 100% in a number of member States, and from 0% to 100% regarding passenger traffic.[309] Overall, there were

[300] European Parliament, *Briefing: Review of the EU ETS "Fit for 55" Package*. Viewed at: https://www.europarl.europa.eu/RegData/etudes/BRIE/2022/698890/EPRS_BRI(2022)698890_EN.pdf.
[301] The Sustainable and Smart Mobility Strategy targets rail freight traffic to double its market share by 2050.
[302] Council Regulation (EU) 2021/2085, Part Two, Title V.
[303] Regulation (EU) 913/2010.
[304] OECD, *Services Trade Restrictiveness Index*.
[305] WTO document WT/TPR/S/357/Rev.1, 13 October 2017.
[306] Directive 2012/34/EU, Article 38.
[307] Directive 2012/34/EU, Articles 16 and 23.
[308] European Commission Report COM(2021) 5.
[309] Staff Working Document SWD(2021) 1.

1,196 valid licences for rail transport services at the beginning of 2023, the largest number of which were in Germany.[310]

4.214. The Platform of Rail Infrastructure Managers in Europe (PRIME) acts as European Network of Infrastructure Managers, foreseen in Directive 2012/34/EU to facilitate the provision of efficient and effective rail services within the Union, with all main infrastructure managers participating. The group regularly publishes data to allow infrastructure managers operational benchmarking in annual reports.

4.215. Following the reforms under the fourth package, the European Union Agency for Railways (ERA) has become the European certifying and authorizing authority. Since 2019, it has issued safety certificates that are in principle valid EU-wide, and has issued authorizations for placing vehicles on the market. The ERA is a system design authority for the roll-out of the signalling for the harmonized deployment of the European Rail Traffic Management System (ERTMS), which would allow for a more efficient use of the European rail network. The roll-out, continues but is delayed in parts.[311] To establish a more integrated and competitive transport market, Commission Delegated Regulation (EU) 2017/1926 determined certain requirements for making available information regarding trajectories and static fares across all member States in a manner that would be electronically accessible and processable. Information on basic routes and services (along the Trans-European Transport Network) has to be provided since December 2019, simple fare information since December 2020, and more detailed fare information since December 2021, with information to other parts of the Union transport network to be covered from late 2023. These data are needed to build and develop information services (trip/journey planners) and are used by public and private organizations that develop such services. Efforts to further develop multimodal ticketing are under way.[312]

4.5.2.3 Air transport services

4.216. Regulation (EC) 1008/2008 continues to set the framework for aviation services in the European Union, and the cap of foreign ownership of airlines at 49% remains in place. No restrictions on the operation of intra-EU routes are in place for EU carriers, while traffic with third countries continues to be regulated by a large number of air transport agreements of individual EU member States with third countries and by EU comprehensive air transport agreements (CATAs) with key partners.[313] EU CATAs provide for liberalization of direct connectivity and create a level playing field, covering fair competition, as well as social and environmental matters. A CATA with ASEAN was concluded in June 2021, also covering fifth freedom rights[314], while the European Common Aviation Area Agreement (ECAAA), which entered into force in 2017, provides for full traffic liberalization.

4.217. There are no EU-wide restrictions regarding the investment in and management of airports, but state ownership remains important both in some major airports as well as smaller and regional airports.[315] Access by carriers to EU air transport services is in principle non-discriminatory, but following the adoption of Regulation (EU) 2019/712, the Commission has a tool to assess practices distorting competition adopted by third countries or third-country entities, and to impose certain (proportionate) financial or operational redress measures in line with its international obligations.

4.218. As a response to the COVID-19 pandemic, Regulation (EC) 1008/2008 was amended in 2020 to also temporarily regulate ground-handling services at Union airports, allowing member States

[310] European Union Agency for Railways, *ERADIS – European Railway Agency Database of Interoperability and Safety*. Viewed at: https://eradis.era.europa.eu/safety_docs/licences/statistics_rp.aspx.

[311] *International Railway Journal* (2020), "Will ERTMS Ever Reach Critical Mass in Europe?", February. Viewed at: https://www.era.europa.eu/content/will-ertms-ever-reach-critical-mass-europe_en.

[312] Proposal for a Regulation of the European Parliament and of the Council addressing market challenges hampering the development of Multimodal Digital Mobility Services (MDMS). Viewed at: https://op.europa.eu/en/publication-detail/-/publication/17e3e2f2-2c4c-11ec-bd8e-01aa75ed71a1.

[313] For an overview of EU-wide agreements, see European Commission, *Status of Aviation Relations by Country*. Viewed at: https://transport.ec.europa.eu/transport-modes/air/international-aviation/status-aviation-relations-country_en.

[314] European Commission, *Questions and Answers on the EU-ASEAN Comprehensive Air Transport Agreement*. Viewed at: https://ec.europa.eu/commission/presscorner/detail/en/QANDA_22_6125.

[315] Airports Council International (2016), *The Ownership of Europe's Airports*. Viewed at: https://www.aeroport.fr/uploads/documents/ACI%20EUROPE%20Report_The%20Ownership%20of%20Europes%20Airports%202016.pdf.

temporarily to select ground-handling service providers for limited contracts using a simplified procedure.[316] These rules represent a derogation from Council Directive 96/67/EC, which aims to ensure competition for ground-handling services at airports, including for foreign service providers from third countries with reciprocal access. The changes also included a temporary easing of rules (subsequently extended) for maintaining operating licences by Union carriers potentially in financial difficulties as a result of the pandemic, as long as they are expected to recover sound financial conditions and that safety is not at risk. They also allowed member States to temporarily refuse, limit, or impose conditions on the exercise of traffic rights in the context of the pandemic. Amendments to the EU regulation on the allocation of slots at airports introduced flexibilities for airlines, allowing them to retain such slots without at least filling them at 80%, aimed to avoid the operation of empty flights.[317]

4.219. In late 2020, the Commission adopted a package of proposals that include regulations on the implementation of the Single European Sky ("SES2+") as well as aviation safety replacing an earlier proposal from 2013 that had not advanced because of some diverging views among some member States.[318] According to the Commission, the revised package aims to achieve the same objectives as the earlier proposal but reflects recent developments in terms of policy and technology changes, including carbon neutrality targets emanating from the Paris Agreement and the European Green Deal. In particular, it aims to allow for the more flexible provision of air navigation services to help cut aviation emissions by defragmenting the European airspace and allowing for more efficient routing. It would also require air navigation service providers to draft and submit performance plans for en route air navigation services to the European Union Aviation Safety Agency. As a result, the package therefore also suggests amendments to the 2018 air safety regulation, which had replaced earlier regulations.[319]

4.220. As part of the Fit-for-55 package, other initiatives could also affect the air transport sector in particular. The ReFuelEU Aviation proposal would require fuel suppliers to supply aviation fuel containing a minimum share of sustainable aviation fuel on the EU market, and limit tankering by aircraft operators by requiring to uplift fuel at EU airports for departing flights.[320] A second proposal forms part of the proposed reform of the EU ETS and would increase the ambition for emission reductions in the aviation sector, and implement ICAO's Carbon Offsetting and Reduction Scheme for International Aviation.[321] Moreover, the revision of the ETD (Section 4.4), if approved as proposed, would remove the mandatory excise duty exemption of jet fuel used in intra-EU flights.[322]

4.5.2.4 Maritime transport services and port services

4.221. Maritime transport continues to be the means of transport for around 74% of extra-EU trade[323] in volume in 2021. The Sustainable and Smart Mobility Strategy targets transport by inland waterways and short sea shipping to increase its market share by 50% by 2050, while short sea shipping also plays an important role in efforts to reduce GHG emissions, and initiatives to promote such short sea shipping are in place.

4.222. No major reforms were undertaken during the review period, but the reform affecting the provision of port services described in a previous Review[324] has been applied since 2019 to the more than 300 maritime ports that are classified as pertaining to the (core and comprehensive) TEN-T in the regulation. According to Regulation (EU) 2017/352, rules on the provision of port services apply to bunkering, mooring, collection of ship-generated waste and cargo residues, and towage, while those on financial transparency in addition apply to cargo-handling, passenger services, and pilotage. It also states that the only conditions member States may apply to the provision of such services are minimum requirements, limitations on the number of providers, public service

[316] Regulation (EU) 2020/696. The rules regarding ground-handling services were later extended to the end of 2021.
[317] Regulation (EU) 2020/459; and subsequent amendments to Council Regulation (EEC) 95/93.
[318] European Commission Proposal COM(2020) 577 and Amended Proposal COM(2020) 579 replaced Proposal COM(2013) 410.
[319] Regulation (EU) 2018/1139.
[320] European Commission Proposal COM(2021) 561.
[321] European Commission Proposal COM(2021) 552.
[322] European Commission Proposal COM(2021) 563.
[323] European Commission, *Transportation During the Pandemic*. Viewed at: https://ec.europa.eu/info/live-work-travel-eu/coronavirus-response/transportation-during-pandemic_en.
[324] WTO document WT/TPR/S/357/Rev.1, 13 October 2017.

obligations, or restrictions related to the port operator providing such services (as "internal operator"). Member States may decide by national law not to impose any of the conditions on one or more categories of port services.

4.223. There are no restrictions on market access for maritime transport services in the European Union other than those on domestic cabotage and on the general regulations regarding safety and the environment that apply to all vessels. Member States are responsible for determining the conditions according to which vessels can be registered under their national flag. Nationality, residency and other requirements may apply. In some member States, foreign-flagged (non-EU-flagged) ships are fully or partially excluded from cabotage.[325]

4.224. The European Union has signed a bilateral agreement on maritime transport with China, allowing for multiple stops in either party, but not allowing for domestic cabotage of cargo (within an EU member State), covering the supply of services as well as commercial presence relating to the provision of international maritime cargo transport and logistic services. It was amended in 2019 to reflect the accession of Croatia.[326]

4.225. In 2017, the Commission included support to maritime and inland ports in the "General Block Exemption Regulation", allowing member States to implement state aid measures regarding port infrastructure, access infrastructure, or dredging without prior Commission approval as long as certain conditions are met.[327]

4.226. If approved, the proposed reform of the ETD could eliminate the tax exemptions for fuels used for intra-EU waterborne navigation, while the proposed reform of the ETS that forms part of the Fit-for-55 package could phase in, until 2026, the inclusion of emissions from large ships (of 5,000 GT and more) into the system, possibly covering 100% of emissions from intra-EU voyages and emissions while at berth[328], and 50% of emissions from voyages between the European Union and third countries.

4.5.3 Telecommunications, postal, and delivery services

4.227. Telecommunication, postal, and delivery services remain an important element of the EU economy, with delivery services expanding strongly during the COVID-19 pandemic. Telecommunication services accounted for 1.2% of gross value added (0.4% of employment), while postal and courier activities accounted for 0.4% of gross value added (0.8% of employment) in 2020.[329] According to the OECD, restrictions in the courier and telecommunications sectors in EU member States remain generally limited and changed only marginally during the review period.[330]

4.5.3.1 Telecommunication services

4.228. Penetration rates for mobile telephony remained high while that of mobile broadband Internet access continued to increase although it varied across member States (Table 4.10). In 2021, the share of households with Internet access stood at 92%, according to Eurostat (ranging from 84% to 99% among member States), a significant increase from the 84% reached in 2016.

4.229. In all member States, competition remains strong, with at least three operators providing mobile phone services. While not consistently available for all member States for early 2021, data on market shares of operators (as at early 2021) indicated only limited market concentration.[331]

[325] OECD, *Services Trade Restrictiveness Index*.

[326] Agreement on maritime transport between the European Community and its Member States, of the one part, and the government of the People's Republic of China, of the other part.

[327] Commission Regulation (EU) 651/2014.

[328] JRC Technical Report (2022), *Quantifying Emissions in the European Maritime Sector*. Viewed at: https://publications.jrc.ec.europa.eu/repository/bitstream/JRC128870/JRC128870_01.pdf. Of the GHG emissions of the maritime sector (of ships exceeding GT of 5,000 either destined to or leaving from an EU port), 7% of emissions occur in ports.

[329] Eurostat, *National Accounts Aggregates by Industry* (nama_10_a64); and *National Accounts Employment Data by Industry* (nama_10_a64_e). Viewed at: https://ec.europa.eu/eurostat/data/database.

[330] OECD, *Services Trade Restrictiveness Index*.

[331] Body of European Regulators for Electronic Communications, *Termination Rates at European Level – January 2021*, BoR (21) 71. Viewed at:

Data from the ITU indicate that prices are overall competitive with representative data-only mobile broadband baskets and the fixed broadband basket affordable to most households.[332]

Table 4.10 Telecom indicators, 2021

	EU-27 (simple average of member States)	Top performer	Bottom performer
Fixed-telephone subscriptions per 100 inhabitants	28.3	58.6	3.7
Mobile-cellular subscriptions per 100 inhabitants	123.3	149.1	101.1
Active mobile broadband subscriptions per 100 inhabitants	113.4	197.4	76.5
Fixed broadband subscriptions per 100 inhabitants	35.8	47.5	23.0
Subscriptions with at least equal to or above 10 Mbit/s subscriptions (%)	94.7	99.9	77.8
Households with Internet access (%)	92	99	84

Note: If no 2021 data are available, the latest available data are used: France and Luxembourg for all ITU indicators (2020 data); Netherlands for "active mobile-broadband subscriptions per 100 inhabitants" (2020 data); and Lithuania for "equal to or above 10 Mbit/s subscriptions per 100 inhabitants above 10" (2019 data).

Source: ITU World Telecommunication/ICT Indicators (WTI) Database 2022, July 2022 edition.

4.230. The European Union's 2016 5G Action Plan aimed for each member State to have fully commercial 5G services in at least one major city by the end of 2020. As of October 2021, only two member States had not achieved this goal, but 5G services had been rolled out in all member States by early 2022. At the end of October 2022, the allocation of "pioneer" spectrum bands for the use of 5G in EU member States had progressed well, although unevenly.[333] Citing industry estimates, a 2022 report by the European Court of Auditors estimates that by 2025, 35% of all mobile connections will be based on 5G, lower as compared to developed economies in North America and Asia, and meaning the European Union could miss its target of achieving uninterrupted 5G coverage in all urban areas by 2025.[334]

Regulatory framework and developments

4.231. The European Electronic Communications Code (EECC)[335] described in the previous Review[336] entered into force at the end of 2020 and has since remained unchanged. At the beginning of April 2022, the Commission referred 10 member States to the CJEU for failure to fully transpose and communicate the transposition. Since then, the infringement against two of them was closed, because they fulfilled these obligations.[337] Separately, the Commission referred Hungary to the CJEU for failure to comply with the content of the EECC rules in July 2022.[338]

4.232. The EECC continues to provide for the determination and specific regulation of operators with significant market power (Chapters III and IV of Title II of Part II), regulates the sharing of active and passive infrastructure as well as radio spectrum, regulates number portability for mobile and fixed lines (but not between them), and regulates universal access to Internet and voice

https://www.berec.europa.eu/sites/default/files/files/document_register_store/2021/6/BoR_(21)_71_BEREC_Report_on_TRRs_at_European_level_Jan2021_P2_2021_clean.pdf.

[332] ITU (2021), *Measuring Digital Development – ICT Price Trends 2020*.

[333] European Commission (2022), *5G Observatory – Quarterly Report 17 – October 2022*. Viewed at: https://5gobservatory.eu/wp-content/uploads/2022/10/QR-17-Final-v3-CLEAN.pdf. Among the three bands with harmonized frequencies at the EU level, 25 member States had allocated the 3.6 GHz band, 21 the 700 MHz band, and 8 the 26 MHz band (the latter partially due to limited demand).

[334] European Court of Auditors (2022), *5G Roll-out in the EU: Delays in Deployment of Networks with Security Issues Remaining Unresolved*. Viewed at: https://www.eca.europa.eu/Lists/ECADocuments/SR22_03/SR_Security-5G-networks_EN.pdf.

[335] Directive (EU) 2018/1972.

[336] WTO document WT/TPR/S/395/Rev.1, 7 July 2020, Section 4.4.4.2.

[337] European Commission (2022), "EU Electronic Communications Code: Commission Refers 10 Member States to the Court of Justice of the EU", 6 April. Viewed at: https://digital-strategy.ec.europa.eu/en/news/eu-electronic-communications-code-commission-refers-10-member-states-court-justice-eu.

[338] European Commission (2022), "Media Freedom: The Commission Refers Hungary to the Court for Failure to Comply with EU Electronic Communications Rules", 15 July. Viewed at: https://digital-strategy.ec.europa.eu/en/news/media-freedom-commission-refers-hungary-court-failure-comply-eu-electronic-communications-rules.

communication services. Regulation (EU) 2015/2120 also includes provisions on net neutrality. Issues of unjustified geo-blocking continue to be regulated in Regulation (EU) 2018/302.[339] Independent National Regulatory Authorities (NRA) supervise service providers based on a general authorization regime[340], monitor the market, and auction numbering resources and radio spectrum.

4.233. As spelled out in the previous Review, number-based and number-independent interpersonal communications services are regulated differently, with the former subject to more stringent regulatory obligations.[341] The Body of European Regulators for Electronic Communications (BEREC) plays a coordinating and advisory role to the Commission and NRAs. As outlined in the previous Review, the EECC also requires NRAs to harmonize the authorization of radio spectrum use, with particular emphasis regarding the allocation of 5G bands, and requires a minimum duration of 15 years for the allocation of spectrum.

4.234. NRAs are also required to map the reach of broadband networks by 2023 and regularly thereafter, and, in case areas without sufficient coverage are identified, undertake efforts to achieve such coverage (Articles 22 and 29).

4.235. Complementing the EECC, a delegated Commission Regulation in late 2020 established maximum mobile and fixed voice termination rates for intra-EU calls that are being phased in until the beginning of 2024.[342] The Commission also revised the recommended list of markets subject to *ex ante* regulation, reducing it to only the market for wholesale local access provided at a fixed location and the market for wholesale dedicated connectivity.[343]

4.236. An evaluation of the 2017 abolition of roaming charges for customers travelling occasionally within the European Union found significant positive effects for consumers.[344] As the underlying competition dynamics in the sector have not changed and the abolition was set to expire in mid-2022, the rules have been extended until 2032.[345] In addition, the *chapeau* of Regulation (EU) 2022/612 tasks the Commission to review the retail price caps for international calls in the European Union (while not roaming) established in Regulation (EU) 2015/2120 and currently in place until 14 May 2024, and to assess whether further revisions in these caps are warranted.

Cybersecurity

4.237. Around the time of approval of the EU Cybersecurity Act in 2019, expanding the mandate of the EU Agency for Cybersecurity[346], the Commission also published Commission Recommendation (EU) 2019/534 regarding assessing cybersecurity risks of 5G networks and identifying possible measures to mitigate them. Following this recommendation and based on national risk assessments undertaken by member States, the member States' Cooperation Group on Network and Information Security published a coordinated risk assessment[347] and developed a Toolbox of strategic and technical measures, as well as supporting actions to mitigate such risks.[348]

4.238. Based on the Toolbox, in mid-2020 nearly all member States were implementing (or planned to implement) measures to restrict access by high-risk suppliers, and most member States were implementing (or planning to implement) measures to (i) control the use of managed service

[339] For additional information, see WTO document WT/TPR/S/395/Rev.1, 7 July 2020, Section 4.4.3.2.3.

[340] Beyond the general authorization, NRAs can require providers of electronic communications networks or services to submit a simple notification (EECC, Article 12). A recent assessment by BEREC found that differences in notification requirements continued to persist. See BEREC (2021), Opinion on the national implementation and functioning of the general authorization, and on their impact on the functioning of the internal market, pursuant to article 122, para. 3 EECC, BoR (21) 178.

[341] WTO document WT/TPR/S/395/Rev.1, 7 June 2020, Section 4.4.4.2.

[342] Commission Delegated Regulation (EU) 2021/654.

[343] European Commission (2020), "Commission Updated the Recommendation on Relevant Markets", 21 December. Viewed at: https://digital-strategy.ec.europa.eu/en/news/commission-updated-recommendation-relevant-markets.

[344] European Commission, *Inception Impact Assessment under the Initiative for Reviewing and Prolonging the Roaming Regulation*, Ares (2020)2005722.

[345] Regulation (EU) 2022/612.

[346] WTO document WT/TPR/S/395/Rev.1, 7 June 2020, Section 4.4.5.1.1.

[347] NIS Cooperation Group (2019), *EU Coordinated Risk Assessment of the Cybersecurity of 5G Networks*. The Cooperation Group also published an assessment of open RAN cybersecurity in 2022.

[348] NIS Cooperation Group (2020), *Cybersecurity of 5G Networks: EU Toolbox of Risk Mitigating Measures*.

suppliers and equipment suppliers' 3rd line support; and (ii) limit dependence on (a group of) individual suppliers.[349] According to the Commission, a second progress report on the Toolbox's implementation is being prepared. At the end of 2021, 13 member States had approved new, or amended existing, laws addressing risks related to high-risk vendors.[350] While such policies aim to limit certain risks, they can also potentially increase the costs of replacing (older) and expanding (new) networks due to more limited competition when excluding large global providers.[351]

4.239. In January 2023, the 2016 Directive on the security of network and information systems (NIS Directive)[352] was replaced by the NIS 2 Directive.[353] Member States will have 21 months to transpose the Directive into national law by mid-October 2024. The new Directive also requires medium and large entities from other critical sectors, such as communications or digital services, waste water and waste management, manufacturing of critical products (including medical devices), or public administration, to take enhanced cybersecurity risk management measures, and strengthen existing reporting requirements.[354] It further foresees the establishment of a framework for cybersecurity crisis management at national and European levels. The proposal also replaces the EECC provisions on the security of public electronic communication networks and publicly available electronic communications, including the notification of security incidents.[355]

4.240. The newly approved Digital Services Act establishes rules for a transparent, safe, predictable, and trusted online environment (Section 4.5), while other Directives regulate infringements of copyright and related rights applicable to certain online transmissions and in the Digital Single Market (Section 3.3.7.2).

4.5.3.2 Postal and courier services

4.241. Following the entry into force of the Regulation on cross-border parcel delivery services described in the previous Review aimed at reducing barriers to the delivery of cross-border online sales within the European Union[356], the Commission published a report on its application.[357] The Regulation covers single-piece retail delivery rates (as opposed to bulk-item negotiated rates), which account for less than 10% of the market. The report found that the Regulation had increased transparency regarding operators and tariffs, while also pointing out remaining challenges with the current transparency tools. According to the analysis, NRAs had not used their sanctioning powers for infringements of the Regulation.

4.242. International online retail platforms entered the parcel delivery market in some member States, according to the report mentioned above. Following the elimination of the exemption from import VAT on small parcels valued below EUR 22 in 2021, inbound packet and parcel flow from outside the European Union decreased in most member States (Section 3.1.1.1).[358] The Commission expects the elimination of exemption from import VAT to incentivize consumers to shop more within the European Union. It could also impact the structure of delivery services as foreign companies having used individual parcels in the past could either rely on the Import One-Stop Shop or increase customs clearance in bulk coupled with the use of delivery services linked to online retail platforms or other local fulfilment service providers (Section 3.1.1.1).

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[349] NIS Coordination Group (2020), *Report on Member States' Progress in Implementing the EU Toolbox on 5G Cybersecurity*, July.

[350] European Court of Auditors (2022), *5G Roll-out in the EU: Delays in Deployment of Networks with Security Issues Remaining Unresolved*, p. 41.

[351] The 2020 progress report recommends defining implementation plans and/or transition periods for operators already using equipment of high-risk suppliers (p. 42).

[352] Directive (EU) 2016/1148.

[353] Directive (EU) 2022/2555.

[354] European Commission (2022), "Commission Welcomes Political Agreement on New Rules on Cybersecurity of Network and Information Systems", 13 May. Viewed at: https://ec.europa.eu/commission/presscorner/detail/en/ip_22_2985. Two annexes of the proposal list sectors in which the proposed Directive applies to certain public of private essential entities.

[355] Currently contained in Directive (EU) 2018/1972, Articles 41 and 42.

[356] Regulation (EU) 2018/644. See also WTO document WT/TPR/S/395/Rev.1, 7 June 2020, Section 4.4.3.2.4.

[357] European Commission Report COM(2021) 675 final.

[358] European Commission (2022), *Main Developments in the Postal Sector (2017-2021)*. Viewed at: https://data.europa.eu/doi/10.2873/432068.

5 APPENDIX TABLES

Table A1.1 Selected economic indicators, 2018-21

	Inflation rate (HICP – annual average rate of change), %				Unemployment rate, from 15 to 74 years (% of labour force)				General government gross debt (% of GDP)				General government deficit/surplus (% of GDP)				Current account balance (% of GDP)[a]			
	2018	2019	2020	2021	2018	2019	2020	2021	2018	2019	2020	2021	2018	2019	2020	2021	2018	2019	2020	2021
EU-27	1.8	1.4	0.7	2.9	7.4	6.8	7.2	7.0	79.7	77.5	89.8	87.9	-0.4	-0.5	-6.7	-4.6	2.7	2.4	2.0	2.4
Austria	2.1	1.5	1.4	2.8	5.2	4.8	6.0	6.2	74.1	70.6	82.9	82.3	0.2	0.6	-8.0	-5.9	0.9	2.4	3.0	0.4
Belgium	2.3	1.2	0.4	3.2	6.0	5.5	5.8	6.3	99.9	97.6	112.0	109.2	-0.9	-1.9	-9.0	-5.6	-0.9	0.1	1.1	0.4
Bulgaria	2.6	2.5	1.2	2.8	6.2	5.2	6.1	5.3	22.1	20.0	24.5	23.9	1.7	2.1	-3.8	-3.9	0.9	1.9	0.0	-0.5
Croatia	1.6	0.8	0.0	2.7	8.5	6.6	7.5	7.6	73.2	71.0	87.0	78.4	-0.1	0.2	-7.3	-2.6	1.7	2.8	-0.5	3.1
Cyprus	0.8	0.5	-1.1	2.3	8.4	7.1	7.6	7.5	98.1	90.4	113.5	101.0	-3.6	1.3	-5.8	-1.7	-4.0	-5.6	-10.1	-6.8
Czech Rep.	2.0	2.6	3.3	3.3	2.2	2.0	2.6	2.8	32.1	30.0	37.7	42.0	0.9	0.3	-5.8	-5.1	0.4	0.3	2.0	-0.8
Denmark	0.7	0.7	0.3	1.9	5.1	5.0	5.6	5.1	34.0	33.7	42.2	36.6	0.8	4.1	0.2	3.6	7.3	8.5	7.9	9.0
Estonia	3.4	2.3	-0.6	4.5	5.4	4.5	6.9	6.2	8.2	8.5	18.5	17.6	-0.6	0.1	-5.5	-2.4	0.9	2.4	-1.0	-1.8
Finland	1.2	1.1	0.4	2.1	7.5	6.8	7.7	7.7	64.9	64.9	74.8	72.4	-0.9	-0.9	-5.5	-2.7	-1.8	-0.3	0.6	0.4
France	2.1	1.3	0.5	2.1	9.0	8.4	8.0	7.9[b]	97.8	97.4	115.0	112.8	-2.3	-3.1	-9.0	-6.5	-0.8	0.5	-1.8	0.4
Germany	1.9	1.4	0.4	3.2	3.2	3.0	3.7[b]	3.6	61.3	58.9	68.0	68.6	1.9	1.5	-4.3	-3.7	8.0	7.6	7.0	7.4
Greece	0.8	0.5	-1.3	0.6	19.7	17.9	17.6	14.7	186.4	180.6	206.3	194.5	0.9	1.1	-9.9	-7.5	-2.9	-1.5	-6.6	-6.8
Hungary	2.9	3.4	3.4	5.2	3.6	3.3	4.1	4.1	69.1	65.3	79.3	76.8	-2.1	-2.0	-7.5	-7.1	0.2	-0.8	-1.1	-4.0
Ireland	0.7	0.9	-0.5	2.4	5.8	5.0	5.9	6.2	63.0	57.0	58.4	55.4	0.1	0.5	-5.0	-1.7	5.2	-19.8	-6.8	14.2
Italy	1.2	0.6	-0.1	1.9	10.6	9.9	9.3	9.5	134.4	134.1	154.9	150.3	-2.2	-1.5	-9.5	-7.2	2.6	3.3	3.9	3.1
Latvia	2.6	2.7	0.1	3.2	7.4	6.3	8.1	7.6	37.0	36.5	42.0	43.6	-0.8	-0.6	-4.3	-7.0	-0.1	-0.6	2.6	-4.2
Lithuania	2.5	2.2	1.1	4.6	6.2	6.3	8.5	7.1	33.7	35.8	46.3	43.7	0.5	0.5	-7.0	-1.0	0.3	3.5	7.3	1.1
Luxembourg	2.0	1.6	0.0	3.5	5.6	5.6	6.8	5.3	20.9	22.4	24.5	24.5	3.0	2.2	-3.4	0.8	3.7	3.4	4.6	4.7
Malta	1.7	1.5	0.8	0.7	3.7	3.6	4.4	3.4	43.7	40.7	53.3	56.3	2.1	0.6	-9.4	-7.8	6.4	4.9	4.6	4.3
Netherlands	1.6	2.7	1.1	2.8	4.9	4.4	4.9	4.2	52.4	48.5	54.7	52.4	1.5	1.8	-3.7	-2.6	9.3	6.9	5.1	7.2
Poland	1.2	2.1	3.7	5.2	3.9	3.3	3.2	3.4	48.7	45.7	57.2	53.8	-0.2	-0.7	-6.9	-1.8	-1.9	-0.2	2.5	-1.4
Portugal	1.2	0.3	-0.1	0.9	7.2	6.7	7.0	6.6	121.5	116.6	134.9	125.5	-0.3	0.1	-5.8	-2.9	0.6	0.4	-1.0	-1.2
Romania	4.1	3.9	2.3	4.1	5.3	4.9	6.1	5.6	34.5	35.1	46.9	48.9	-2.8	-4.3	-9.2	-7.1	-4.6	-4.9	-4.9	-7.2
Slovak Rep.	2.5	2.8	2.0	2.8	6.5	5.7	6.7	6.8	49.4	48.0	58.9	62.2	-1.0	-1.2	-5.4	-5.5	-2.2	-3.3	0.6	-2.5
Slovenia	1.9	1.7	-0.3	2.0	5.1	4.4	5.0	4.8	70.3	65.4	79.6	74.5	0.7	0.6	-7.7	-4.7	6.0	5.9	7.6	3.8
Spain	1.7	0.8	-0.3	3.0	15.3	14.1	15.5	14.8[b]	100.4	98.2	120.4	118.3	-2.6	-3.1	-10.1	-6.9	1.9	2.1	0.6	1.0
Sweden	2.0	1.7	0.7	2.7	6.5[b]	7.0	8.5	8.8	39.2	35.2	39.5	36.3	0.8	0.6	-2.8	-0.1	2.6	5.4	6.0	6.3

a EU-27 data refer to EU-27 trade with the extra-EU countries. Each member State's data refer to its trade with all other countries (including other EU member States).
b Break in time series.

Source: Eurostat, *HICP – Inflation Rate* (TEC00118); *Unemployment by Sex and Age – Annual Data* (UNE_RT_A_Custom_3969915); *General Government Gross Debt* (SDG_17_40); *General Government Deficit/Surplus* (TEC00127); and *Main Balance of Payments and International Investment Position Items as Share of GDP* (BPM6) [BOP_GDP6_Q_custom_3970014]. Viewed at: https://ec.europa.eu/eurostat/web/main/data/database.

Table A1.2 Extra-EU-27 merchandise exports by HS section/chapter/subheading, 2018-21

HS Section/HS chapters/subheadings	2018	2019	2020	2021
Total exports (EUR billion)	**2,059.8**	**2,132.0**	**1,933.0**	**2,180.9**
	(% of total)			
1-Live animals and products	1.8	2.0	2.2	2.0
2-Vegetable products	1.6	1.7	2.0	1.8
3-Fats and oils	0.3	0.3	0.4	0.4
4-Prepared food, beverages and tobacco	4.5	4.6	5.0	4.9
5-Mineral products	5.9	5.2	3.7	5.2
HS 27 Mineral fuels	5.5	4.9	3.3	4.8
HS 2710 Petroleum oils and oils obtained from bituminous minerals (excl. crude)	4.2	3.7	2.5	3.4
6-Chemicals and products thereof	16.0	17.1	19.1	18.6
HS 30 Pharmaceutical products	8.1	9.2	10.6	10.4
HS 3004 Medicaments consisting of mixed or unmixed products for therapeutic or prophylactic use	5.0	5.6	6.5	5.5
HS 3002 Human blood; animal blood prepared for therapeutic, prophylactic or diagnostic uses;	2.5	3.0	3.6	4.4
HS 29 Organic chemicals	2.7	2.6	2.9	2.6
HS 38 Miscellaneous chemical products	1.5	1.5	1.7	1.7
HS 33 Essential oils and resinoids; perfumery, cosmetic or toilet preparations	1.5	1.6	1.4	1.4
7-Plastics, rubber, and articles thereof	4.1	3.9	4.1	4.3
HS 39 Plastics and articles thereof	3.2	3.1	3.3	3.4
8-Raw hides and skins, leather, and its products	0.9	1.0	0.9	1.0
9-Wood and articles of wood	0.9	0.8	0.9	1.1
10-Pulp of wood, paper and paperboard	1.7	1.6	1.6	1.6
11-Textiles and textile articles	2.8	2.9	2.7	2.7
12-Footwear, headgear, etc.	0.7	0.7	0.7	0.7
13-Articles of stone, plaster, cement	1.2	1.1	1.1	1.2
14-Precious stones and metals, pearls	1.9	2.1	2.3	2.3
15-Base metals and articles thereof	5.9	5.6	5.4	5.7
HS 73 Articles of iron or steel	1.8	1.8	1.7	1.6
HS 72 Iron and steel	1.5	1.4	1.3	1.6
16-Machinery, electrical equipment, etc.	25.3	25.2	25.2	24.3
HS 84 Machinery and mechanical appliances; parts thereof	16.4	16.4	16.0	15.5
HS 8411 Turbojets, turbopropellers and other gas turbines	1.4	1.6	1.2	1.0
HS 8486 Machines and apparatus of a kind used solely or principally for the manufacture of semiconductor boules or wafers	0.7	0.7	0.8	0.9
HS 8471 Automatic data-processing machines and units thereof	1.0	1.0	1.1	0.9
HS 85 Electrical machinery and equipment and parts thereof	8.9	8.8	9.2	8.9
HS 8542 Electronic integrated circuits; parts thereof	0.9	1.0	1.1	1.2
HS 8517 Telephone sets, incl. telephones for cellular networks or for other wireless networks	1.2	1.1	1.2	1.0
HS 8536 Electrical apparatus for switching or protecting electrical circuits, or for making connections to or in electrical circuits,	0.7	0.6	0.7	0.7
17-Transport equipment	16.2	15.7	14.1	13.8
HS 87 Vehicles	11.5	11.0	10.5	10.1
HS 88 Aircraft, spacecraft, and parts thereof	3.4	3.5	2.4	2.3
18-Precision equipment	5.0	5.2	5.2	5.1
HS 90 Optical, photographic, cinematographic, measuring, checking, precision, medical or surgical instruments and apparatus	4.8	5.0	5.0	4.9
19-Arms and ammunition	0.2	0.1	0.2	0.2
20-Miscellaneous manufactured articles	1.9	1.8	1.9	1.9
21-Works of art, etc.	0.1	0.1	0.1	0.2
HS 99 Other	1.1	1.1	1.0	1.0

Source: Eurostat, *International Trade in Goods*. Viewed at: https://ec.europa.eu/eurostat/web/international-trade-in-goods/data/database.

Table A1.3 Extra-EU-27 merchandise imports by HS section/chapter/subheading, 2018-21

HS Section/HS chapters/HS subheadings	2018	2019	2020	2021
Total imports (EUR billion)	**1,912.1**	**1,940.9**	**1,717.3**	**2,124.1**
	(% of total)			
1-Live animals and products	1.6	1.6	1.6	1.4
2-Vegetable products	2.7	2.8	3.2	2.7
HS 08 Edible fruit and nuts; peel of citrus fruit or melons	1.0	1.0	1.2	0.9
HS 12 Oil seeds and oleaginous fruits	0.5	0.6	0.7	0.6
3-Fats and oils	0.5	0.5	0.7	0.7
4-Prepared food, beverages and tobacco	2.5	2.5	2.7	2.3
5-Mineral products	21.9	20.1	14.4	20.2
HS 27 Mineral fuels	20.5	18.7	12.9	18.4
HS 2709 Petroleum oils and oils obtained from bituminous minerals, crude	11.8	10.9	7.3	9.1
HS 2711 Petroleum gas and other gaseous hydrocarbons	2.5	2.2	1.6	3.4
6-Chemicals and products thereof	10.3	10.7	12.2	11.2
HS 30 Pharmaceutical products	3.9	4.2	4.9	4.3
HS 29 Organic chemicals	3.1	3.2	3.5	3.3
HS 38 Miscellaneous chemical products	1.0	1.1	1.4	1.4
7-Plastics, rubber, and articles thereof	3.4	3.4	3.6	3.8
HS 39 Plastics and articles thereof	2.5	2.5	2.6	2.7
8-Raw hides and skins, leather, and its products	0.8	0.8	0.6	0.6
9-Wood and articles of wood	0.6	0.6	0.6	0.7
10-Pulp of wood, paper and paperboard	0.9	0.9	0.8	0.8
11-Textiles and textile articles	5.5	5.6	6.7	5.0
HS 61 Articles of apparel and clothing accessories, knitted or crocheted	2.0	2.0	2.0	1.8
HS 62 Articles of apparel and clothing accessories, not knitted or crocheted	2.0	2.1	2.0	1.6
12-Footwear, headgear, etc.	1.2	1.3	1.2	1.0
13-Articles of stone, plaster, cement	0.8	0.8	0.8	0.8
14-Precious stones and metals, pearls	2.1	2.1	2.7	2.8
15-Base metals and articles thereof	6.6	6.1	5.8	6.9
HS 72 Iron and steel	2.0	1.7	1.5	2.2
HS 73 Articles of iron or steel	1.3	1.3	1.4	1.4
HS 76 Aluminium and articles thereof	1.3	1.2	1.1	1.3
16-Machinery, electrical equipment, etc.	23.7	24.6	26.6	24.8
HS 85 Electrical machinery and equipment and parts thereof	12.3	12.8	14.3	13.4
HS 8517 Telephone sets, incl. telephones for cellular networks or for other wireless network	3.6	3.6	4.1	3.3
HS 8542 Electronic integrated circuits; parts thereof	1.3	1.5	1.6	1.7
HS 84 Machinery and mechanical appliances; parts thereof	11.4	11.7	12.3	11.4
HS 8471 Automatic data-processing machines and units thereof	2.5	2.5	3.1	2.9
HS 8411 Turbojets, turbopropellers and other gas turbines	1.5	1.7	1.3	1.2
17-Transport equipment	7.9	8.3	7.6	6.8
HS 87 Vehicles	5.5	5.9	5.6	4.9
HS 88 Aircraft, spacecraft, and parts thereof	1.9	1.9	1.4	1.3
18-Precision equipment	3.7	3.9	4.3	3.8
HS 90 Optical, photographic, cinematographic, measuring, checking, precision, medical or surgical instruments and apparatus	3.4	3.6	4.0	3.5
19-Arms and ammunition	0.0	0.0	0.1	0.1
20-Miscellaneous manufactured articles	2.3	2.4	2.6	2.7
HS 94 Furniture; bedding, mattresses, mattress supports, cushions and similar stuffed furnishings	1.2	1.3	1.4	1.5
21-Works of art, etc.	0.1	0.1	0.2	0.1
HS 99 Other	0.9	0.9	0.8	0.8

Source: Eurostat, *International Trade in Goods*. Viewed at: https://ec.europa.eu/eurostat/web/international-trade-in-goods/data/database.

Table A1.4 Extra-EU-27 merchandise imports by origin, 2018-21

	2018	2019	2020	2021
Total imports (EUR billion)	**1,912.1**	**1,940.9**	**1,717.3**	**2,124.1**
	(% of total)			
Americas	**17.3**	**18.1**	**17.9**	**16.9**
United States	11.2	12.1	11.8	11.0
Other America	6.1	6.0	6.1	6.0
Brazil	1.5	1.4	1.5	1.6
Canada	1.0	1.1	1.2	1.1
Mexico	1.2	1.3	1.2	1.1
Europe	**25.2**	**25.0**	**25.3**	**23.2**
EFTA	8.7	8.6	9.0	9.6
Switzerland	5.4	5.7	6.4	5.9
Norway	3.2	2.8	2.5	3.5
Other Europe	16.5	16.4	16.3	13.6
United Kingdom	10.3	10.0	9.8	6.9
Türkiye	3.5	3.6	3.6	3.7
Ukraine	0.9	1.0	1.0	1.1
Commonwealth of Independent States (CIS)[a]	**10.5**	**9.4**	**7.0**	**9.6**
Russian Federation	8.4	7.5	5.5	7.7
Africa	**7.1**	**7.0**	**5.9**	**6.7**
Middle East	**4.5**	**3.9**	**2.9**	**3.2**
Asia	**35.4**	**36.6**	**40.9**	**40.3**
China	17.9	18.7	22.4	22.3
Japan	3.1	3.2	3.2	2.9
Other Asia	14.4	14.6	15.3	15.0
Korea, Republic of	2.4	2.4	2.6	2.6
India	2.0	2.0	1.9	2.2
Viet Nam	1.7	1.8	2.0	1.8
Chinese Taipei	1.4	1.4	1.5	1.7
Malaysia	1.1	1.2	1.4	1.4
Thailand	1.0	1.0	1.0	1.0
Other	**0.0**	**0.0**	**0.0**	**0.0**

a Commonwealth of Independent States, including certain associate and former member States.

Source: Eurostat, *International Trade in Goods*. Viewed at: https://ec.europa.eu/eurostat/web/international-trade-in-goods/data/database.

Table A1.5 Extra-EU-27 merchandise exports by destination, 2018-21

	2018	2019	2020	2021
Total exports (EUR billion)	**2,059.8**	**2,132.0**	**1,933.0**	**2,180.9**
	(% of total)			
Americas	**24.5**	**25.5**	**25.1**	**25.7**
United States	17.0	18.0	18.3	18.3
Other America	7.5	7.4	6.8	7.4
Mexico	1.8	1.8	1.6	1.7
Canada	1.7	1.8	1.7	1.7
Brazil	1.5	1.5	1.4	1.5
Europe	**32.8**	**32.2**	**32.2**	**31.3**
EFTA	9.2	9.5	10.1	10.0
Switzerland	6.6	6.9	7.4	7.2
Norway	2.4	2.4	2.5	2.6
Other Europe	23.6	22.7	22.1	21.3
United Kingdom	15.5	15.0	14.4	13.0
Türkiye	3.4	3.2	3.6	3.6
Ukraine	1.0	1.1	1.2	1.3
Commonwealth of Independent States (CIS)[a]	**5.1**	**5.2**	**5.2**	**5.2**
Russian Federation	4.0	4.1	4.1	4.1
Africa	**7.0**	**6.8**	**6.5**	**6.7**
Middle East	**5.7**	**5.5**	**5.3**	**5.2**
United Arab Emirates	1.4	1.4	1.3	1.4
Asia	**25.0**	**24.8**	**25.7**	**25.9**
China	9.1	9.3	10.5	10.2
Japan	2.8	2.9	2.9	2.9
Other Asia	13.1	12.6	12.4	12.8
Korea, Republic of	2.1	2.0	2.3	2.4
India	1.9	1.8	1.7	1.9
Australia	1.5	1.4	1.5	1.5
Chinese Taipei	1.0	1.1	1.2	1.3
Other	**0.0**	**0.0**	**0.0**	**0.0**

a Commonwealth of Independent States, including certain associate and former member States.

Source: Eurostat, *International Trade in Goods*. Viewed at: https://ec.europa.eu/eurostat/web/international-trade-in-goods/data/database.

Table A1.6 Main partners for flows of extra-EU-27 FDI, 2018-21

(EUR million)

	Inward				Outward			
	2018	2019	2020	2021	2018	2019	2020	2021
Extra-EU-27	**-223,767.1**	**102,571.0**	**237,287.8**	**-244,572.3**	**-209,146.3**	**164,337.4**	**22,659.1**	**17,247.9**
Bahamas	-6,806.7	4,760.7	6,302.1	-15,173.0	-3,215.4	-7,430.7	-10,653.7	-3,886.6
Barbados	-1,111.1	-8,424.6	16,250.9	1,735.1	-3,222.5	-523.0	9,218.1	-10,840.6
Bermuda	-152,681.1	-19,563.1	-27,505.3	17,408.7	-56,084.9	-32,091.2	-11,029.1	-64,155.0
Brazil	-42,636.7	-10,720.8	-3,481.6	-475.5	748.9	12,254.2	-13,445.3	15,591.8
British Virgin Islands	-5,228.3	55,684.0	-31,294.8	-19,523.8	-884.9	-43,705.2	168,758.1	-17,368.0
Canada	81,455.9	-196,046.5	-7,362.3	32,048.3	92,509.3	-67,771.9	-20,264.0	5,801.6
Cayman Islands	-41,279.8	3,350.6	-38,513.3	36,240.7	28,400.7	-16,360.3	8,690.1	7,334.1
China	10,544.9	11,502.0	8,680.8	-505.9	12,366.8	-7,536.3	4,242.5	6,972.1
Guernsey	-5,372.1	3,518.6	5,877.7	3,877.9	2,112.6	-3,336.0	-144.2	206.2
Guyana	0.0	960.1	2,078.1	-9.1	108.1	718.8	2,795.8	-138.4
Hong Kong, China	10,914.2	37,684.2	-2,511.3	-15,976.1	6,675.0	76,823.1	-42,091.0	-26,594.7
India	215.7	734.3	-825.4	84.0	6,220.6	9,000.3	7,511.8	-417.5
Israel	1,916.5	6,602.0	-5,494.1	2,567.1	3,604.1	6,238.7	2,482.2	7,162.5
Japan	9,074.7	12,433.6	9,067.1	10,699.0	7,201.5	2,954.1	-3,003.4	-2,415.1
Jersey	10,809.6	19,276.0	-5,188.0	13,204.6	2,180.5	1,707.9	4,513.6	-10,337.8
Mexico	-2,310.3	745.5	-12,915.6	4,358.6	9,558.2	6,654.5	-3,728.1	13,908.9
Norway	9,707.0	3,724.9	-1,864.1	4,055.1	-1,028.1	7,426.4	-2,664.6	6,116.0
Russian Federation	10,968.6	11,637.1	1,374.4	16,527.1	14,250.1	16,571.4	-17,845.9	-476.0
Singapore	-1,496.5	-10,043.3	50,304.0	-27,345.3	-64,199.4	47,552.4	13,845.5	28,690.9
South Africa	-1,455.1	117,747.6	3,289.8	478.5	309.4	1,334.3	133.6	11,061.6
Korea, Rep. of	2,710.6	5,623.6	3,771.4	2,210.6	2,138.8	-6,081.0	-39.9	-3,265.7
Switzerland	30,613.7	-15,478.0	-81,044.9	-57,348.8	44,176.7	49,001.5	-140,039.6	-66,292.9
United Arab Emirates	-526.5	20,281.1	52,088.4	3,996.1	3,487.8	176,720.1	-126,965.7	-1,864.9
United Kingdom	41,157.7	-37,201.3	79,170.3	-34,126.2	-75,051.0	-1,284.8	28,015.9	49,210.3
United States	-173,797.1	82,652.5	254,690.6	-215,549.6	-188,535.3	-37,643.3	203,941.4	84,678.5
Uruguay	3,731.7	-1,186.0	-2,576.2	4,565.2	2,122.7	10,683.8	5,986.6	4,167.7
US Virgin Islands	-68.0	-224.1	-9.0	17.8	2,981.4	3,393.3	1,668.8	-840.1

Source: Eurostat, *Balance of Payments* (bop_fdi6_geo). Viewed at: https://ec.europa.eu/eurostat/web/main/data/database.

Table A1.7 Extra-EU-27 FDI positions, by major partner, EU, 2018-21

	Value in EUR billion								% of extra-EU27 total							
	Direct investment in the EU-27				Direct investment abroad				Direct investment in the EU-27				Direct investment abroad			
	2018	2019	2020	2021	2018	2019	2020	2021	2018	2019	2020	2021	2018	2019	2020	2021
Extra-EU-27	**6,971.7**	**7,253.4**	**7,318.9**	**7,558.6**	**8,737.1**	**9,286.9**	**8,760.5**	**9,306.2**	**100.0**	**100.0**	**100.0**	**100.0**	**100.0**	**100.0**	**100.0**	**100.0**
United States	1,843.6	1,953.8	2,240.7	2,465.7	2,127.6	2,099.2	2,224.3	2,512.9	26.4	26.9	30.6	32.6	24.4	22.6	25.4	27.0
United Kingdom	1,264.3	1,305.2	1,250.5	1,414.1	1,816.5	1,922.4	1,844.8	2,059.7	18.1	18.0	17.1	18.7	20.8	20.7	21.1	22.1
Switzerland	758.1	768.3	681.5	613.9	1,036.5	1,013.8	910.5	885.9	10.9	10.6	9.3	8.1	11.9	10.9	10.4	9.5
Bermuda	468.1	450.4	429.4	405.1	264.9	231.2	170.3	111.5	6.7	6.2	5.9	5.4	3.0	2.5	1.9	1.2
Canada	366.1	263.5	257.7	267.9	366.4	332.0	278.5	270.5	5.3	3.6	3.5	3.5	4.2	3.6	3.2	2.9
Cayman Islands	235.9	237.0	206.1	239.9	70.7	73.5	74.8	90.7	3.4	3.3	2.8	3.2	0.8	0.8	0.9	1.0
Jersey	269.9	287.8	281.8	212.2	37.9	50.4	51.1	49.7	3.9	4.0	3.9	2.8	0.4	0.5	0.6	0.5
Japan	166.1	209.8	220.5	211.6	80.2	81.1	84.1	84.7	2.4	2.9	3.0	2.8	0.9	0.9	1.0	0.9
Singapore	122.5	121.1	170.0	171.2	185.8	221.2	245.5	263.3	1.8	1.7	2.3	2.3	2.1	2.4	2.8	2.8
Russian Federation	146.7	152.1	148.0	162.4	279.9	277.0	243.9	256.0	2.1	2.1	2.0	2.1	3.2	3.0	2.8	2.8
Hong Kong, China	154.1	202.9	158.3	150.3	79.3	167.4	102.6	84.7	2.2	2.8	2.2	2.0	0.9	1.8	1.2	0.9
United Arab Emirates	39.8	66.0	122.2	126.1	39.0	426.5	144.3	151.2	0.6	0.9	1.7	1.7	0.4	4.6	1.6	1.6
South Africa	7.4	111.8	138.1	113.2	44.3	44.9	40.4	42.8	0.1	1.5	1.9	1.5	0.5	0.5	0.5	0.5
British Virgin Islands	87.8	141.5	110.5	93.8	99.5	59.9	222.1	195.6	1.3	2.0	1.5	1.2	1.1	0.6	2.5	2.1
Norway	76.8	78.2	79.9	85.7	84.2	91.5	85.1	91.0	1.1	1.1	1.1	1.1	1.0	1.0	1.0	1.0
China	54.5	60.9	67.3	69.9	187.5	203.5	210.6	233.6	0.8	0.8	0.9	0.9	2.1	2.2	2.4	2.5
Israel	65.5	56.3	46.9	50.1	40.6	43.2	48.8	60.5	0.9	0.8	0.6	0.7	0.5	0.5	0.6	0.7
Mexico	42.6	74.6	45.5	28.9	168.7	193.8	176.8	170.0	0.6	1.0	0.6	0.4	1.9	2.1	2.0	1.8
Australia	19.3	18.9	20.3	22.2	126.2	121.5	113.5	121.0	0.3	0.3	0.3	0.3	1.4	1.3	1.3	1.3
India	7.0	6.1	5.2	6.2	69.5	82.3	90.0	96.1	0.1	0.1	0.1	0.1	0.8	0.9	1.0	1.0
Brazil	-9.3	7.1	-26.7	-5.2	316.4	322.0	251.7	262.1	-0.1	0.1	-0.4	-0.1	3.6	3.5	2.9	2.8

Source: Eurostat, *Balance of Payments* (bop_fdi6_pos). Viewed at: https://ec.europa.eu/eurostat/web/main/data/database.

Table A2.1 Involvement in WTO dispute settlement, 2019-22

Subject	Complainant	Respondent	Date of request for consultations	Status as at 31/12/2022	WTO document series
Anti-Dumping Duties on Frozen Fries from Belgium, Germany and the Netherlands	European Union	Colombia	15/11/2019	Arbitration award circulated	WT/DS591
Measures Relating to Raw Materials	European Union	Indonesia	22/11/2019	Panel composed	WT/DS592
Certain Measures Concerning Domestic and Foreign Products and Services	European Union	Russian Federation	22/07/2021	Panel composed	WT/DS604
Measures Concerning the Exportation of Wood Products	European Union	Russian Federation	20/01/2022	In consultations	WT/DS608
Registration Requirements Relating to the Importation of Certain Products	European Union	Egypt	26/01/2022	In consultations	WT/DS609
Measures Concerning Trade in Goods and Services	European Union	China	27/01/2022	In consultations	WT/DS610
Enforcement of Intellectual Property Rights	European Union	China	18/02/2022	In consultations	WT/DS611
Measures Relating to the Allocation of Contracts for Difference in Low Carbon Energy Generation	European Union	United Kingdom	28/03/2022	In consultations	WT/DS612
Certain Measures Concerning Palm Oil and Oil Palm Crop-based Biofuels	Indonesia	European Union	09/12/2019	Panel composed	WT/DS593
Safeguard Measures on Certain Steel Products	Türkiye	European Union	13/02/2020	Panel report circulated and adopted	WT/DS595
Certain Measures Concerning Palm Oil and Oil Palm Crop-based Biofuels	Malaysia	European Union	15/01/2021	Panel composed	WT/DS600
Provisional Anti-Dumping Duty on Mono-Ethylene Glycol from Saudi Arabia	Saudi Arabia, Kingdom of	European Union	17/08/2021	In consultations	WT/DS606
Measures Concerning the Importation of Certain Poultry Meat Preparations from Brazil	Brazil	European Union	08/11/2021	In consultations	WT/DS607
Measures Concerning the Importation of Citrus Fruit from South Africa	South Africa	European Union	27/07/2022	In consultations	WT/DS613

Note: Reporting period 1 October 2019 to 31 December 2022.

Source: Compiled by the WTO Secretariat, based on information from WTO dispute settlement gateway. Viewed at: https://www.wto.org/english/tratop_e/dispu_e/dispu_by_country_e.htm.

Table A2.2 Most recent WTO notifications, December 2022

Agreement	Description	Periodicity	Most recent WTO document
Agreement on Agriculture			
Articles 10 and 18.2 (ES:1, ES:2)	Export subsidies	Annual	G/AG/N/EU/74, 01/03/2022 G/AG/N/EU/75/Corr.1, 14/07/2022
Article 18.2 (DS:1)	Domestic support	Annual	G/AG/N/EU/79/Corr.1, 26/10/2022
Article 18.2 (MA:1)	Administration of tariff and other quota commitments	Once, then changes	G/AG/N/EU/72, 07/02/2022, and corrigendum
Article 18.2 (MA:2)	Tariff and other quota commitments	Annual	G/AG/N/EU/76, 15/03/2022
Article 18.3 (DS:2)	New or modified domestic support measures exempt from reduction	*Ad hoc*	G/AG/N/EU/78, 14/06/2022
Articles 5.7 and 18.2 (MA:5)	Special safeguard provisions	Annual	G/AG/N/EU/80, 26/07/2022
Article 12.1(b)	Export restrictions – new export restrictions	*Ad hoc*	G/AG/N/EU/77/Rev.3, 20/12/2022
Article 16.2	Measures concerning the possible negative effects of the reform programme on least developed and net food importing developing countries	Annual	G/AG/N/EU/73, 01/03/2022
Agreement on Anti-Dumping			
Article 16.4	Reports concerning anti-dumping actions	*Ad hoc*	G/ADP/N/376, 11/11/2022
Article 16.4	Semi-annual reports of anti-dumping actions (taken within the preceding six months)	Semi-annual	G/ADP/N/370/EU, 05/10/2022
Agreement on Import Licensing Procedures			
Article 1.4 (a) and Article 8.2(b)	Sources in which the information concerning import licensing procedures are published (Article 1.4 (a)), and changes in relevant laws/regulations (Article 8.2(b))	*Ad hoc*	G/LIC/N/2/EU/13/Corr.1, 2/11/2021 G/LIC/N/2/EU/14/Corr.1, 2/11/2021 G/LIC/N/2/EU/15/Corr.1, 2/11/2021 G/LIC/N/2/EU/16/Corr.1, 2/11/2021 G/LIC/N/2/EU/18, 02/11/2021
Articles 5.1-5.4	Institution of licensing procedures or changes in these procedures.	*Ad hoc*	G/LIC/N/2/EU/19, 30/11/2022 G/LIC/N/2/EU/20, 30/11/2022 G/LIC/N/2/EU/21, 30/11/2022
Article 7.3	Replies to questionnaire on import licensing procedures	Annual	G/LIC/N/3/EU/11, 27/09/2022
Agreement on Customs Valuation			
Article 22.2	Notification of changes to laws, regulations	*Ad hoc*	G/VAL/N/1/EU/1, 30/06/2020
Agreement on Government Procurement			
GPA 2012, Article XVI	Notification of procurement statistics	*Annual*	GPA/130/Add.10; GPA/137/Add.12; GPA/142/Add.13, 21/02/2020
Appendix 1	Notification of thresholds	Biennial	GPA/THR/EU/3, 20/12/2021
Agreement on Subsidies and Countervailing Measures			
Article 25.1	Report on subsidies	Biennial	G/SCM/N/372/EU, 16/07/2021, and addenda covering 27 member States
Article 25.11	Report on Countervailing duty actions (preliminary or final)	*Ad hoc*	G/SCM/N/396, 13/09/2022
Article 25.11	Semi-annual report on countervailing duty actions	Semi-annual	G/SCM/N/392/EU, 04/10/2022
Agreement on Rules of Origin			
Annex II, para. 4 - First time	Existing preferential rules of origin; judicial decisions and administrative rulings of general application relating to preferential rules of origin	Once, only	G/RO/N/219, 29/04/2021
Agreement on the Application of Sanitary and Phytosanitary Measures			
Article 7 and Annex B	Sanitary/phytosanitary regulations	*Ad hoc*	G/SPS/N/EU/606, 14/12/2022 G/SPS/N/EU/576/Add.1, 14/12/2022

Agreement	Description	Periodicity	Most recent WTO document
Agreement on Safeguards			
Article 12.1 (a)(b)(c)	Initiation of investigations, injury determinations and decisions to apply, extend or adjust a safeguard measure	*Ad hoc*	G/SG/N/10/EU/1/Suppl.16, 02/12/2022, and corrigendum, 05/12/2022
Article 12.5	Results of consultations	*Ad hoc*	G/L/1408; G/SG/266, 26/10/2021
Article 12.5	Suspension of concessions	*Ad hoc*	G/L/1356; G/SG/N/12/EU/2, 07/04/2020
Article 9.1 and footnote 2	Non-application of safeguard measures against a product originating in a developing country Member for reasons specified in Article 9.1	*Ad hoc*	G/SG/N/10/EU/1/Suppl.15, 30/05/2022
Agreement on Technical Barriers to Trade			
Articles 2.9.2 and 5.6.2	Technical regulations and conformity assessment procedures	*Ad hoc*	G/TBT/N/EU/942, 22/12/2022
Article 2.10.1	Technical regulations (urgent)	*Ad hoc*	G/TBT/N/EU/758, 18/11/2020
Other	Other	*Ad hoc*	G/TBT/N/EU/893, 25/05/2022
Agreement on Trade-Related Aspects of Intellectual Property Rights			
Article 63.2	Laws and regulations	Once, then changes	IP/N/1/EU/40; IP/N/1/EU/G/16, 21/07/2022
Agreement on Trade Facilitation (WT/L/911, replaced by WT/L/931)			
Article 1.4	Procedures for importation, exportation, and transit	Once, then changes	G/TFA/N/EU/1/Rev.8, 20/12/2022; G/TFA/N/EU/1/Add.1/Rev.3, 20/12/2022
Article 10.4.3	Operation of the single window	Once, then changes	
Article 10.6.2	Use of customs brokers	Once, then changes	
Article 12.2.2	Contact point for the exchange of information	Once, then changes	
Article 22.1	Information on assistance and support for capacity-building disbursed in previous and coming year	Annual	G/TFA/N/EU/2/Add.3/Corr.1, 03/02/2022
GATS			
Article III:3	Change in regulation affecting trade in scheduled sectors	*Ad hoc*	S/C/N/1004/Corr.1, 11/6/2020 S/C/N/1007/Corr.1, 11/06/2020 S/C/N/1009/Corr.1, 11/06/2020
GATT 1994, Article XVII:4(a) and Understanding on its Interpretation (State trading)			
Article XVII:4(a)	State trading activities	Biennial	G/STR/N/19/EU, 30/06/2022
GATT 1994, Article XXIV and GATS, Article V (Participation in regional trade agreements)			
GATT 1994, Article XXIV:7(a)	Formation of a free trade area	*Ad hoc*	WT/REG332/N/1/Add.1, 23/03/2021
GATS, Article V:7(a)	Economic integration agreements	*Ad hoc*	S/C/N/680/Add.1, 23/03/2021
GATT 1994, Article XXVIII:5			
Article XXVIII:5	Modification of schedules	Once, then changes	G/MA/381, 26/10/2020
Decision on Notification Procedures for Quantitative Restrictions (G/L/59/Rev.1)			
G/L/59/Rev.1	List of quantitative restrictions in force	Biennial	G/MA/QR/N/EU/6, 07/10/2022
G/L/59/Rev.1	List of quantitative restrictions in force	*Ad hoc* (changes)	G/MA/QR/N/EU/6, 07/10/2022

Note: Reporting period: 1 October 2019 to 31 December 2022.

Source: Compiled by the WTO Secretariat, based on notifications documents.

Table A3.1 Minimum excise duties on EU harmonized products, 2022

Category	Minimum rate	Unit
Alcohol:		
Beer	EUR 0.748 or EUR 1.87	Hl per degree Plato or hl per degree alcohol
Wine	EUR 0	Hl of volume
Intermediate products	EUR 45	Hl of volume
Spirits	EUR 550	Hl of volume
Energy and electricity:		
For motor fuels		
Leaded petrol	421	EUR per 1,000 litres
Unleaded petrol	359	EUR per 1,000 litres
Gas oil	330	EUR per 1,000 litres
Kerosene	330	EUR per 1,000 litres
LPG	125	EUR per 1,000 kg
Natural gas	2.6	EUR per gigajoule
For commercial/industrial use		
Gas oil	21	EUR per 1,000 litres
Kerosene	21	EUR per 1,000 litres
LPG	41	EUR per 1,000 kg
Natural gas	0.3	EUR per 1,000 litres
For heating and electricity		
Gas oil	21	EUR per 1,000 litres
Heavy fuel oil	15	EUR per 1,000 kilos
Kerosene	0	EUR per 1,000 litres
LPG	0	EUR per 1,000 kg
Natural gas	0.15 or 0.3[a]	EUR per 1,000 litres
Coal and coke	0.15 or 0.3[a]	EUR per 1,000 litres
Electricity	0.5 or 1.0[a]	EUR per MWh
Tobacco products:		
Fine-cut smoking tobacco	50% or EUR 60	Of the weighted average retail selling price per kg
Cigars and cigarillos	5% or EUR 12	Of the retail selling price per 1,000 or per kg
Other smoking tobaccos	20% or EUR 22	Of the retail selling price per kg
Cigarettes	7.5% to 76.5%, and *Ad valorem* component	Specific component – of the total tax burden *Ad valorem* component -% of the maximum retail selling price Overall excise – at least EUR 90 per 1,000 cigarettes and 60% of the weighted average retail selling price

a The lower rate applies to businesses; the higher rate applies for non-businesses.

Source: European Commission, *Excise Duties on Tobacco*. Viewed at: https://ec.europa.eu/taxation_customs/business/excise-duties-alcohol-tobacco-energy/excise-duties-tobacco_en; *Excise Duty on Alcohol*. Viewed at: https://ec.europa.eu/taxation_customs/business/excise-duties-alcohol-tobacco-energy/excise-duties-alcohol_en; and *Excise Duty on Energy*. Viewed at: https://ec.europa.eu/taxation_customs/business/excise-duties-alcohol-tobacco-energy/excise-duties-energy_en.

Table A3.2 Standards in the European Union, 2019-22

	2019	2020	2021	2022
Total number of European standards (CEN and CENELEC)	22,773	23,464	23,922	24,169
- number of European harmonised standards	3,399	3,467	3,530	3,225
- approximative share of European harmonised standards identical to international standards	40%	40%	40%	40%
- number of European standards identical to international standards	n.a.	n.a.	10,708	11,026

n.a. Not applicable.

Source: Information provided by the Commission.

Table A4.1 OECD indicators for support to agriculture, 2017-21

(EUR million, except producer NPC)

	2017	2018	2019	2020	2021
Total					
Value of production (at farm gate)	392,159	395,551	404,416	397,305	399,540
TSE	97,938	103,728	105,581	104,561	95,479
SCT	20,598	23,601	23,178	19,990	16,019
PSE	87,183	92,504	93,906	91,254	82,848
% PSE (% of total gross farm receipts)	18.9	19.7	19.5	19.3	17.6
MPS	15,151	18,237	17,746	14,568	10,761
Producer NPC	1.04	1.05	1.05	1.04	1.03
Common wheat					
Value of production (at farm gate)	24,114	23,901	27,560	24,313	30,179
SCT	1,313	988	1,295	0	0
MPS	1,313	988	1,295	0	0
Producer NPC	1.06	1.04	1.05	1.00	1.00
Durum wheat					
Value of production (at farm gate)	1,938	1,849	1,744	1,985	2,860
SCT	84	83	102	99	98
MPS	0	0	4	0	0
Producer NPC	1.00	1.00	1.00	1.00	1.00
Barley					
Value of production (at farm gate)	8,796	9,756	10,660	10,181	11,167
SCT	277	0	218	0	0
MPS	277	0	218	0	0
Producer NPC	1.03	1.00	1.02	1.00	1.00
Maize					
Value of production (at farm gate)	10,701	11,488	11,362	10,928	16,723
SCT	0	0	1	1	893
MPS	0	0	0	0	892
Producer NPC	1.00	1.00	1.00	1.00	1.06
Rice					
Value of production (at farm gate)	939	894	1,043	1,025	991
SCT	198	128	403	240	245
MPS	141	72	334	170	177
Producer NPC	1.18	1.09	1.47	1.20	1.22
Sugar					
Value of production (at farm gate)	3,961	3,032	3,045	2,733	2,881
SCT	281	721	632	356	301
MPS	0	410	326	53	0
Producer NPC	1.00	1.16	1.12	1.02	1.00
Milk					
Value of production (at farm gate)	57,404	56,997	57,263	56,444	53,393
SCT	1,310	1,132	1,111	3,023	1,088
MPS	-97	-54	-81	1,811	-96
Producer NPC	1.01	1.00	1.00	1.04	1.00
Beef and veal					
Value of production (at farm gate)	27,984	28,531	26,974	25,817	24,294
SCT	7,001	10,371	8,133	5,240	3,970
MPS	5,153	8,527	6,357	3,454	2,208
Producer NPC	1.23	1.43	1.31	1.15	1.11
Poultry meat					
Value of production (at farm gate)	17,204	18,544	18,992	18,556	16,146
SCT	4,089	4,279	3,973	5,179	4,299
MPS	4,072	4,271	3,963	5,162	4,288
Producer NPC	1.32	1.31	1.27	1.39	1.38
Wine					
Value of production (at farm gate)	21,644	27,393	22,691	22,136	19,878
SCT	617	610	639	657	649
MPS	0	0	0	0	0
Producer NPC	1.00	1.00	1.00	1.00	1.00
Potatoes					
Value of production (at farm gate)	12,759	11,541	16,659	14,631	12,565
SCT	1,159	1,053	1,528	1,381	1,194
MPS	1,153	1,048	1,523	1,365	1,178
Producer NPC	1.10	1.10	1.10	1.10	1.10
Plants and flowers					
Value of production (at farm gate)	18,768	18,579	19,683	19,637	19,991
SCT	458	421	476	475	402

	2017	2018	2019	2020	2021
MPS	458	421	476	475	402
Producer NPC	1.03	1.02	1.02	1.02	1.02
Non-MPS commodities					
Value of production (at farm gate)	105,388	108,319	105,447	109,647	111,295
SCT	3,449	3,444	4,373	2,712	2,753
MPS	2,996	2,745	3,610	2,078	2,160
Producer NPC	0.00	0.00	0.00	0.00	0.00

Note: EU-27 and the United Kingdom for 2020, and EU-27 from 2021. The United Kingdom withdrew from the European Union in early 2020. However, the 2020 PSE for the European Union includes the United Kingdom, as the UK budget for agricultural expenditures for 2020 continued to be sourced largely from the European Commission, and the United Kingdom was part of the Common Market in 2020.

TSE: Total Support Estimate, PSE: Producer Support Estimate, SCT: Single Commodity Transfers; MPS: Market Price Support; NPC: Nominal Protection Coefficient (ratio between the average price received by producers and the border price).

Source: OECD, *Agricultural Policy Monitoring and Evaluation*. Viewed at: https://www.oecd.org/agriculture/topics/agricultural-policy-monitoring-and-evaluation/.