You will be meeting EU civil society organisations in the context of the trade Civil Society Dialogue. You have previously met them seven times, most recently in March 2018 (before that: March 2017, June 2016, April 2015, October 2013, September 2012, May 2011).

The meeting will focus on ongoing multilateral, plurilateral and bilateral trade and investment negotiations and their implementation.

Practicalities of the meeting

The meeting will consist of:

- a **15-minute speech** which will highlight:
  - recent developments: United States, China communication, papers put forward on the EU’s industrial policy ahead of the next Council, WTO reform,
  - main ongoing FTA negotiations: Australia and New Zealand, Mercosur, Chile,
  - progress on implementation: CETA, Japan, Africa EPAs,
  - as this is most likely your last CSD as DG of DG Trade: optional closing remarks thanking the organisations for the many years of collaboration,
- approximately 75 minutes for discussion and an exchange of views with the participants in the form of Q&A.

In the absence of Peter Sandler, **Art. 4(1)(b)** will introduce you and moderate the meeting.

The meeting will be web-streamed and our communication team will be tweeting from the room.

Participants and their areas of interest

132 representatives from more than 100 organisations have registered for the meeting. The number of registered participants is a bit lower than last year (was 156 in March 2017).

There is a pre-dominance of representatives from business, industry and professional associations (89), including agro-food organisations (29). There are also representatives of trade union federations (15), NGOs (13), consumers' organisations (1), think-tanks (3), the European Patent Office (1) and the European Economic and Social Committee (6).

Most of the participants are Brussels-based specialists. Their questions tend to focus on concrete aspects of trade policy related to the interests of their membership. 15 of the 28 members of the Expert Group on EU Trade Agreements will also be present.

Participating NGOs are active in the Civil Society Dialogue and well-informed about trade policy. They represent organisations in the fields of:

- **Agriculture**: Association des régions européennes des produits d’origine (AREPO)
- **Development**: 11.11.11. (member of CONCORD Europe).
- **Humanitarian aid**: Médecins Sans Frontières International
- **Environment**: Friends of the Earth Europe, Fern.
- **Consumers**: BEUC who just put forward relatively positive recommendation on EU-US negotiations. We included a line welcoming it (defensives - US).
• **Young professionals:** ACP Young Professional Network.

• **Health:** European Public Health Alliance, European Alcohol Policy Alliance.

• **Animal welfare:** Eurogroup for Animals, Humane Society International/Europe.

• **Transparency:** LobbyControl

• **Integration/Cohesion:** Bertelsmann Stiftung, EURODOM

**The briefing**

The attached briefing provides **defensives and state of play**, listed by degree of relevance, on:

- horizontal and multilateral issues, and
- our ongoing trade and investment negotiations and agreements.

We would expect questions for which services have prepared a set of defensives:

- **United States.**

- **Brexit**

- **China** communication/industrial policy paper/IPI ahead of discussions in the European Council.

- **Japan** (in particular on the customs issue, defensive included).

- **TSD:** Korea, Myanmar, Colombia and possibly CETA review and climate aspects

- **Mercosur**

- **Palm oil.**

- Certain negotiation issues of particular interest to NGOs, such as:
  - **Human rights** in trade negotiations (in particular Mexico, Mercosur, Philippines, Myanmar, Cambodia and Vietnam)
  - **Palm oil** – environmental NGOs are rather vocal about the treatment of civil society in the palm oil sector.
  - **Animal welfare:** Since we have a small but active and knowledgeable animal welfare constituency ([Eurogroup for Animals](https://www.eurogroupforanimals.org), [Humane Society International](https://www.hsi.org)) a specific briefing has been prepared with defensives including promotion of animal welfare standards and placement of animal welfare in our FTAs.

**Overview of Civil society meetings in 2019:**

We organise up to 25 structured meetings with civil society every year:

Two high-level meetings with general updates given by you (today) and the Commissioner (scheduled 24 May 2019)

- Updates on ongoing negotiations given by chief negotiators. In 2019 we have had so far:
  - Mercosur state of play (15 January)
  - **Planned:** Australia and New Zealand (4 April)
  - **Planned:** Chile State of play (10 April am)
Updates on horizontal issues. In 2019 we have had so far:

- E-commerce (13 February)
- Planned: Stakeholder meeting on the Multilateral Investment Court (22 March)

- Planned: Indonesia State of play (10 April pm)
1. SPEAKING POINTS/ KEY MESSAGES

- To be provided
2. DEFENSIVES

Horizontal issues

2.1. Brexit

On a possible extension of Article 50:

- We take note of last night’s [14 March] votes.
- A request for an extension of Article 50 requires the unanimous agreement of all 27 Member States. It will be for the European Council (Article 50) to consider such a request, giving priority to the need to ensure the functioning of the EU institutions and taking into account the reasons for and duration of a possible extension.

On House of Commons votes on “no-deal”:

- We take note of the votes in the House of Commons on 13 March.
- There are only two ways to leave the EU: with or without a deal. The EU is prepared for both.
- To take no deal off the table, it is not enough to vote against no deal - you have to agree to a deal. We have agreed a deal with the Prime Minister and the EU is ready to sign it.

What can the UK negotiate with third countries before its withdrawal from the EU (i.e. before 30 March 2019)? Country X and the UK concluded/signed a free trade agreement (or association agreement, or other EU competence sectoral agreement). What is the EU view on that?

- The UK can prepare for its future status of third-country not covered by EU international agreements.
- But while still a Member State, the UK must respect its obligations and remain loyal to the EU’s interests. It must follow the appropriate procedures to inform the Union (1) of its intentions to start negotiations and (2) of the outcome of the negotiations to seek EU authorisation in areas of Union exclusive competence.

Can the UK negotiate FTAs/EPAs with third countries during the transition period?

- During the transition, the UK would remain bound by EU international agreements, but could nevertheless prepare its future post-transition.
- It could negotiate, sign and ratify its own international agreements in the areas of exclusive competence of the Union. Such agreements could not, however, enter into force or apply during the transition unless the Union authorised the UK to do so.
• The UK would otherwise have to comply with the Union's exclusive competence, for instance in respect of the common commercial policy, and more generally with the principle of sincere cooperation.

**Will the EU revise the existing trade agreements due to the UK’s withdrawal?**

• There is no need to change the current agreements, including the EPAs. There would be an overall balance of interest and value of existing agreements. For the third countries, the EU27 would be a smaller market, but also vice-versa, the EU27 would be smaller exporter and would utilise the FTAs and EPAs less.

• The Commission does not consider it necessary to alter existing rules of origin or cumulation provisions.

**What the UK applied tariffs be after withdrawal?**

• The Commission cannot respond to questions on the UK’s future trade policy, including its applied tariffs management, which will apply when the EU common commercial policy stops applying to the UK.

• Third countries could engage bilaterally with the UK on questions relating to the UK's future trade policy.

**What’s happening on WTO TRQs?**

• The EU and the UK are following a joint approach under which they propose to apportion the WTO bound tariff rate quotas based on recent trade flows. The core principle underlying our approach is continuity.

• The objective is to ensure that any adjustments are done in a way, which is fair to all WTO Members of the WTO and maintains the current level of access for WTO Members to the EU27+UK market – no more, no less.

**What will happen with rules of origin in transition? Will UK content be counted towards EU content under bilateral FTAs?**

• EU international agreements such as bilateral free trade agreements (FTAs) and EPAs form part of the Union acquis that would apply to and in the UK during transition, and the UK would be treated as if it were a Member State. The UK would continue to apply the common external tariff and to collect EU customs duties and perform checks at the external border. Goods originating in the UK would thus be goods originating in the EU.

• Irrespective of what happens during the transition, once the transition period is over only EU27 content will count against origin requirements to be met under EU FTAs.

**Brexit implications for international agreements**

• After the UK’s withdrawal from the EU, the situation regarding international agreements of the EU will be as follows:
Agreements where the UK is a party as an EU Member State will no longer apply to the UK, for example, the UK will drop out of EU e trade agreements (FTAs, EPAs).

Multilateral agreements where the UK is a party in its own right continue to apply to the UK, and the UK takes over all rights and obligations (for example, multilateral organisations such as the WTO, where the UK is a member).

**Should the Withdrawal Agreement as negotiated with the UK be concluded and ratified, the situation during the transition until will be as follows:**

- If there is a transition period, then during transition the full Union acquis would apply to and in the UK as if it was still a Member State. This means that the UK would continue to participate in the EU Customs Union and the Single Market and all Union policies including trade policy, including EU international agreements.

- The UK would continue to apply the common external tariff and to collect EU customs duties and perform checks at the external border. Goods originating in the UK would thus be goods originating in the EU. The UK would remain bound by the obligations stemming from the bilateral agreements, including FTAs, and multilateral EU-only agreements.

- During transition, the UK can nevertheless prepare for its future post transition by negotiating, signing and ratifying its own agreements with third countries. However, international agreements entered into by the UK in its own capacity in fields of EU competence, such as trade, cannot enter into force or apply during the transition period, unless so authorised by the EU.

- Any changes to the acquis that happen during the transition automatically apply to and in the UK, hence the UK would be bound by the obligations stemming from new international agreements.

**What if a third country refuses to treat the UK as a Member State for the purposes of international agreements during transition?**

- While the Withdrawal Agreement extends the obligations stemming from international agreements to the UK during the transition, benefits cannot be guaranteed by the EU or by the EU-UK withdrawal agreement.

- The EU will inform its international partners that during the transition period, the UK is to be treated as a Member State for the purposes of the entire Union acquis, including EU international agreements. The continued coverage of the UK by EU international agreements during the transition period is likely to be in the interest of the third countries.

- This notification should take place once there is sufficient certainty about the Withdrawal Agreement including the transitional arrangements and would cover all EU international agreements. This notification would normally take place after signature of the Withdrawal Agreement/upon both sides launching their respective procedures towards ratification.
What is the Irish backstop?

- The Withdrawal Agreement proposes a backstop of how to avoid a border between Northern Ireland and Ireland: (i) a Single Customs Territory between EU and UK, (ii) strong level playing field provisions, (iii) Northern Ireland’s regulatory alignment with EU rules related to goods, SPS, VAT.

- The EU and the UK committed to replace backstop with alternative arrangements under future relationship. The future relationship will build on the single customs territory of the backstop. The negotiations could start once UK becomes a third party.

Background

Key quotes by President Juncker, joint press conference with Prime Minister May 11 March 2019

“... The Prime Minister and I have agreed on a joint legally binding instrument relating to the Withdrawal Agreement. This Instrument provides meaningful clarifications and legal guarantees on the nature of the backstop... It complements the Withdrawal Agreement without reopening it.”

“In politics, sometimes you get a second chance. It is what you do with this second chance that counts. Because there will be no third chance. There will be no further interpretations of the interpretations; no further assurances of the re-assurances – if the meaningful vote fails tomorrow. This is it.”

“If there is no support for the Withdrawal Agreement tomorrow, perhaps there is no support for Brexit at all. Let’s be crystal clear about the choice: it is this deal or Brexit might not happen at all.”

“I trust that today’s meaningful legal assurances will be meaningful enough for the meaningful vote tomorrow. Let’s now bring this withdrawal to a good end. We owe it to history.”

2.2. Soy/Palmoil

[Soya beans / palm oil]

Why has the EU committed to buy more GMO soya beans from the US, to the detriment of the environment, health and European protein crop growers?

- The joint statement of 25 July 2018 by Presidents Juncker and Trump was a critical step in de-escalating the rising tensions with the US by launching a constructive bilateral process.

- The joint statement is a political agreement. It has not altered the legal framework applicable to EU-US trade. Hence, the joint statement has not had any impact on agriculture, health or the environment in the EU.

- Since July 2018, European imports of US soya beans have indeed increased massively. But the additional imports from the US are mostly replacing traditional imports from South America, as US prices decreased because of the US-China trade dispute.
The joint statement does not change the EU rules on genetically modified organisms. Genetically modified soybeans can be imported only if they have been authorised by the Commission following a favourable risk assessment covering human and animal health and environmental safety.

The EU has committed to facilitate trade in US soy notably by helping US exporters to comply with EU sustainability criteria for biofuels. On 29 January 2019, the Commission recognised the US Soybean Sustainability Assurance Protocol for the recognition of compliance with those criteria. This was done by strictly abiding to the applicable legal framework.

The joint statement does not change the common customs tariff: soya beans continue to be imported duty-free, without any quantitative limit, from any country.

How does the Commission intend to implement the limitation (exclusion) of high indirect land use change crops in biofuels?

- Biofuels have to comply with the sustainability criteria of the Renewable Energy Directive. This is to ensure that biofuels are produced in an environmentally friendly manner.

- In order to further promote the transition to sustainable renewable energy and to reduce the carbon footprint of the transport sector, the recent recast of the Renewable Energy Directive of December 2018 sets specific limits for the contribution to the EU renewable energy targets of biofuels made from food or feed crop which are associated to a high indirect land-use change risk.

- In line with the new directive, the Commission prepared a delegated act that establishes rules to implement these provisions, in particular the criteria for determining the high indirect land-use change risk feedstock, and general criteria for certification of low indirect land-use change risk biofuels. The rules were published on 8 February for consultation until 8 March 2019, and then adopted on 13 March.

- The rules are based on the latest and best available scientific information and the delegated act explicitly foresees a regular review to ensure that its underlying scientific basis remains up-to-date.

- [In line with the directive, producers may still demonstrate, under certain conditions, that their production is not associated to indirect land-use change risk.]

Why is palm oil the only crop identified as high ILUC-risk? Soy is equally responsible for ILUC and should also be identified as high risk.

- The delegated act sets objective criteria for the identification of high ILUC-risk crops. The criteria are applied to the data collected in the accompanying report. Such data include both the review of existing literature and new original research, analysing satellite maps to estimate global deforestation associated with the expansion of all relevant biofuel feedstock crops.

- These data show that, at global level and for the time period taken into account (2008-2018), the expansion of production into high carbon-stock land has been much higher for palm oil than for soy – which remains below the threshold fixed for the identification of a "significant" ILUC risk.
The Commission will continue to collect data on the expansion of agricultural production into high carbon-stock land, to ensure that the identification of high ILUC-risk crops remains up-to-date and based on the latest available scientific evidence. The first review of the report is foreseen by mid-2021.

**Does the Commission intend to limit imports of unsustainable palm oil?**

- The Commission is aware of the concerns related to sustainability of the palm oil production, in particular its environmental impacts. On the other hand, palm oil has significantly higher average yields than other oilseeds and it is an important source of income and employment in the producing countries. Sustainability of the palm oil production is a complex issue and requires to be addressed in a comprehensive and balanced manner.

- The Commission is not working on specific measures to regulate imports of palm oil or of other vegetable oils derived from specific crops.
2.3. Iran Sanctions

How is the EU going to protect European companies from the negative impact of the U.S. sanctions against Iran?

- On 31st January 2019, France, Germany and the UK announced the creation of INSTEX (Instrument for Supporting Trade Exchanges), a Special Purpose Vehicle aimed at facilitating legitimate trade between economic operators and Iran. Other EU MS will be invited to join.
- The set-up of the Special Purpose Vehicle (SPV) reflects the continuous European political commitment to support the full and effective implementation of the JCPOA, the Iran nuclear deal, in all its aspects and in line with UN Security Council Resolution 2231.
- Sanction-lifting is an essential dimension of the JCPOA, as stressed at the latest ministerial meeting of the E3/EU+2 and Iran chaired by High Representative in NYC on 24 September 2019.

Does this instrument aim at circumventing the U.S. sanctions against Iran?

- This SPV is not directed against the US. It will operate fully in line with EU and international law and standards on anti-money laundering or countering the financing of terrorism.

Do you have more details on the mechanism now that it has been registered (HQ, board, shareholders, how it will work etc.)?

- Now that the registration has been confirmed, it is for the Member States involved to share the details of the mechanism.
2.4. TSD chapter

The Commission is not taking enough steps on Korea

- On Korea, we have requested government consultations in December 2018. It focuses on two aspects: i) obligation to ratify pending fundamental ILO conventions and ii) obligation to respect in law and practice the core principles of the ILO, in particular the ILO principle for the freedom of association and right to collective bargaining.

- The consultations took place at the end of January 2019. The Korean government engaged constructively and reaffirmed President Moon’s commitment to amend legislation and ratify the pending core ILO conventions. We have also met representatives of employers, employees and the recently reinstalled Korean tripartite body.

- The process is complex and all social partners need to go an extra mile to find the consensus and focus efforts on bringing Korea in compliance with our FTA. There is a window of opportunities in the coming months, before pre-election mode kicks in in the second half of this year (parliamentary elections in 2020).

- On our side, we will continue to press Korea on the necessary steps.

- A next key milestone will be the Trade Committee on the 9 of April. After that meeting the EU will decide on the next steps. This could include the establishment of a panel.

- Important to recall that our goal is to bring about changes in Korean law and practices that are compliant with the ILO, not to establish a panel per se.

What about submission of NGOs on Peru?

- We have stepped up our monitoring and enforcement efforts concerning Peru, including two missions. In the TSD subcommittee held in December, we agreed with Peru on follow-up actions to address our concerns. These are reflected in the public record of the meeting.

The Commission is dragging its feet on the CETA review.

- Since CETA entered into force provisionally on 21 September 2017 we have focused our efforts on setting up institutional structures to enable us to deliver on commitments undertaken during its ratification, including early review of TSD chapters.

- The early review is a clear priority for both sides. The first formal exchanges within this review process took place during the first meeting of the TSD Committee where both sides agreed to intensify efforts and fixed a joint work plan for the review.

- Commissioner Maelstrom and Canadian Minister Carr instructed the teams to present outcome of the work plan to the next Trade Committee.

- This review is focused on EU-Canada bilateral relations and is comprehensive in scope of topics, covering the implementation and enforcement of the entire TSD Chapter (i.e. provisions regarding trade and labour, trade and environment as well as crosscutting issues).

- It should focus on a review of implementation experience so far of the TSD chapter in CETA and what worked and did not work.
Can you enforce TSD commitments without sanctions?

- Our first question would be: have mechanisms that have sanctions worked or worked better? We have carefully analysed this and conclusion is that there is no evidence that sanctions-based approach is more effective than current EU’s approach.

- EU TSD chapters are binding and enforceable through its dedicated dispute settlement mechanism. The model results from the specific nature of labour and environmental commitments, many of them being part of international legal order (ILO, MEAs), and reflects the EU’s view that improvements in these areas require continuous and long-term engagement (dialogue, engagement, peer pressure).

- The enforcement mechanism that is similar to that for other parts of the trade agreements and includes the following stages: government consultations, establishment of a panel and a binding panel report with concrete recommendations to bring the partner to compliance with obligations.

- Trade relation is not a one-off but rather a continuous interaction where non-compliance with panel report would determine overall EU’s approach to partner in question.

- This is done at government level and a strong role for civil society and procedural transparency.
2.5. Consumers

*We need a specific chapter on consumer issues in EU FTAs, starting with the one with Australia and New Zealand to bring more visibility to the issue!*

- We agree on the need to better demonstrate to the general public that our FTAs deliver positive results for consumers.

- But for this, we must first focus on the substance of the provisions, which we include in our FTAs and which generate clear additional benefits for consumers.

- This is more important than the format. Besides, there are other means to increase the visibility of our deliverables for consumers. This can notably be done by stepping up our efforts on impact assessments, or by communication means.

- Besides, many provisions on consumers already exist but are scattered through various chapters, and bringing them artificially together would not be optimal in terms of the content of those chapters, and negotiating dynamics (e.g. each of them is under the responsibility of different experts).

- Finally, some provisions of our FTAs can benefit not only consumers but also other stakeholders, for example SMEs or farmers. Therefore, it is not possible to earmark some provisions as exclusively for consumers, whereas they can benefit many stakeholders at the same time (and eventually for same or different reasons).

Why can you not include a reference to reducing international telecom retail prices and roaming fees in FTAs?

- This request cannot be met at present.

- Roaming charges are still a very contentious issue. They were only recently eliminated within the internal market, as a result of a long and heated debate involving, in particular, operators and Member States. At this stage, we are not in a position to propose the reduction of roaming charges between the EU and third countries in trade agreements.

- At present, there is neither political consensus, nor is there a critical mass of Member States in favour of such a policy.

- Furthermore, such a commitment would require a change in national rules and would most likely result in net revenue losses for EU operators. It could not be done without a careful analysis of the consequences. Also, it is not clear which legal basis in the treaties could provide the framework for such a reduction of roaming prices between the EU and countries outside the EEA.

- However, the EU can show openness when a trading partner proposes specific provisions on International Roaming in a negotiation, provided that such provisions are compatible with our internal legislation. This was the case in the negotiations with Japan and Mexico, where the agreed provisions focused on cooperation and transparency or roaming fees.

Why can you not include a commitment to eliminate unjustified geo-blocking?

- You need to understand that the single market context is very different from the international trade context. As such, a reference to geo-blocking cannot be directly introduced in FTAs. However, this is implicitly covered within the online consumer trust provision.
We need to better assess the effects of trade agreements on consumers!

- This is a difficult request as effects of trade on prices are very difficult to assess. Increased trade opening can for example lead to both an increase in the quality of products available, an increase in choice and an increase in price. In addition, in the case of products like commodities, effects on prices might be largely captured by intermediaries and traditional trade policy analysis tools are not well suited for this.

- We are however ready to add more focus on consumer issues in our IAs, SIAs and ex-post evaluations. We already considered the impact on consumers in all our recent impact assessments, SIAs and the Korea ex-post evaluation. However, we can explore ways to strengthen that assessment further and pay special attention to ensure the requirements on the impacts on consumers set out in the terms of reference are duly implemented.

- In the case of ex-post evaluations, possible improvements could include the possibility to consider some sectoral analysis on consumer impacts.

Will the SIAs for Agreements with Australia and New Zealand assess specific impact on consumers?

- The elements which SIAs will cover have been defined in the call for tender. Among other areas, respective SIAs are intended to also assess the impact of the agreements on consumers, on their rights and protection including impacts on consumer prices, quality, availability, choice and safety of goods and services, consumer information, knowledge and trust.
2.6. Anti-corruption

What is the added value of this text if it mainly reaffirms UNCAC?

- The linkage between trade and investment and corruption and related money laundering is quite beyond questioning. There is already a precedent for this type of commitments in the TPP and the US is seeking to include such provisions also in the renegotiations of NAFTA.

- Even if we do not establish new commitments on matters of criminal law aspects, which frankly is difficult in the EU legal context, we can project our strong leadership in areas such as beneficial ownership transparency and company reporting and transparency – on these issues we have hard commitments and go beyond anything other partners have included in previous AC chapters.

- Apart from this, the AC text allows us to establish a dialogue on these matters with Mexico, where we can exchange views and practices on AC related issues.

Why did the EU not propose strong obligations on whistle-blower protection?

- This is a sensitive issue – in April 2018 the Commission adopted a proposal to strengthen whistleblower protection across the EU. Pending an agreement on the proposal, it would be premature for the EU to include disciplines which go beyond existing international commitments.

Why has AC not been included in the EU’s draft negotiating directives with Australia and New Zealand? Doesn't this contradict the EU's pledge in Trade for All to include anti-corruption provisions in all of its Agreements?

- As regards Australia and New Zealand, anti-corruption is not among the most pressing issues vis-a-vis those countries and we therefore did not propose to include AC in the FTAs.

- [if needed:] The political framework agreements with Australia and New Zealand already address these issues and provide for further cooperation.

What about ASEAN?

- There is a scoping exercise ongoing with the ASEAN countries and in this context we are in the process of defining our objectives in different areas, including AC.

The EU is promoting money laundering through the liberalisation of financial services

- As a standard practice we take limited commitments related to cross-border trade in FS: (reinsurance, insurance of ships, planes, goods in transit; advisory services on banking). These means that the vast majority of cross-border banking and payment transactions are not covered by the EU agreements.

- If that was not sufficient, we could resort to prudential exception included in all trade agreements (objectives: financial stabilisation, protection of depositors) and general exceptions (gives possibility to take measures related to the prevention of deceptive and fraudulent practices).

Our template for FS includes also a language encouraging parties to incorporate OECD, G20 standards in these areas.
2.7. Gender

**Will the EU include gender chapters in all its future trade agreements (e.g. Australia and New Zealand)?**

- Chile has been selected as a pilot for specific provisions on trade and gender. Further reflection is needed to develop a truly horizontal approach to integrate the gender dimension in the EU trade agreements.

- In the absence of gender-segregated economic data, we will need to see the first results from the study being done by International Trade Centre on (1) the participation of women in extra-EU trade, (2) the impact of EU trade agreements on women economic participation and (3) the obstacles that hinder women engagement in trading activities as exporters and/or importers. The final report is expected in September 2019 and will help us to identify best options to address gender equality in a trade agreement.

**Will provisions on trade and gender be part of the chapter on Trade and Sustainable Development in a modernized EU-Chile agreement?**

- There are relevant elements in the Trade and Sustainable Development Chapter, such as commitments related to the implementation of fundamental ILO conventions targeting non-discrimination in employment.

- However, trade and gender provisions contain elements that are broader than the scope of TSD chapter, such as those concerning women entrepreneurs and can be eventually linked to other chapters (e.g. SMEs, market access, services or investment).

**Should the Commission develop specific measures for women-led Micro, Small and Medium-size Enterprises (MSMEs) in the public procurement chapters of trade agreements?**

- The Commission believes that SMEs, including MSMEs owned by women, are key for job creation, growth and innovation, but that they encounter difficulties in accessing public procurement in international markets.

- For this reason, the Commission supports SMEs' access to international procurement markets by ensuring enhanced transparency and predictability of public procurement processes covered by EU trade agreements, promoting the digitalisation of procurement processes and promoting a single procurement website for publishing all procurement opportunities.

- All these measures aim at improving EU businesses’ access to non-EU market, which will, of course, also bring benefits to businesses led by women.

- In addition, the Commission promotes the inclusion in trade agreements of provisions to take into account environmental and social considerations in procurement processes provided they are non-discriminatory and they are linked to the subject-matter of the contract. This is similar to the rules introduced in 2014 in the EU Public Procurement directives.
2.8. Animal Welfare

What will happen with Brexit and Animal Welfare?

- On 25th November 2018, the European Council (Article 50) endorsed the Withdrawal Agreement on the terms of the UK's orderly withdrawal from the EU and approved a Political Declaration which defines the parameters for the future relationship as a balanced, ambitious and wide-ranging free trade agreement (FTA), with zero tariffs and no quotas for goods, insofar as there will be sufficient guarantees for a level playing field.

- The Withdrawal Agreement foresees a transition period until the end of 2020. During transition the full Union acquis would apply to and in the UK as if it was still a Member State, including thereby EU animal welfare rules.

- We aim to achieve an ambitious outcome in AW in any future relationship. How this will be exactly, we cannot say today. But we will certainly push for a continued ambitious cooperation with our UK friends, making sure there is no down turn for AW.

- AW rules applicable to animals/products exported from the UK to the EU will continue to apply even in the case of a no-deal scenario, as would be the case for any other third country.

What is the Commission doing to promote suitable AW standards in our FTAs?

- Under no circumstances AW provisions in EU legislation will be watered down through FTA texts. Our freedom to regulate is not in question.

- As in any negotiation, the outcome of any given FTA depends on the willingness of both sides. With certain developing countries, the inclusion of AW and the commitment to work together and cooperate is a big added value in the medium and long term, and the maximum we can get. With some trading partners with more advanced economies we are trying to negotiate more advanced commitments.

- Civil society should not underestimate the difficulties of including any reference at all to AW in our FTAs. This is another reason for pushing in parallel for the development of standards by the OIE.

- Civil society should also not underestimate the value of cooperation, including the one that we already have with many countries in the world and that we intend to enhance with FTAs.

- Our efforts will be easier if NGOs/civil society members of our negotiating partners also reach out to their authorities to express that there is also an interest on their side.

We regret to see that, despite indications from Member States and civil society (e.g. Eurobarometer on AW), imported animal products will not meet the EU AW requirements. This can hardly be a successful outcome of your negotiations.

- Let me first clarify that the EU AW conditions at the time of slaughter will continue to be mandatory for imports of all meat from any third country, including Mexico and Mercosur countries.

- We are getting successful results in our trade negotiations to bring AW further on the agenda.

- Let me refer to Mexico, where the agreed text goes in many respects beyond provisions in other FTAs. It sets out the conditions for a fruitful dialogue, in a long term process of enhancing AW conditions internationally. It also for the first time recognises animals as
sentient beings as well as include a strong reference to improving implementation of OIE standards. These are all very positive steps. They definitely go far beyond anything currently existing in our relationship with MEX.

- This positive outcome requires some flexibility in our negotiation. The situation was not mature enough to insist on applying all EU AW standards as conditionality to trade. This is, in addition, something that is neither part of the WTO SPS Agreement, nor part of our FTAs models. Our trading partners should also preserve their Right to regulate and we cannot impose on them our standards. We need to be ambitious in our negotiation, but realistic.

We worry that the COM is failing to capitalize on the positive outcome of the seals case. Why not use this to push for a more ambitious policy on AW? (e.g. conditional liberalization or objection on moral grounds)

- We were very pleased with the outcome of the WTO case on seals. However, we should be careful: We cannot simply extrapolate its outcome to ANY new measure which might have some moral implications. Such an assumption would lead to a very uncertain outcome.

- Our policy is to promote AW through cooperation and increased ownership by trading partners in the international arena, including OIE standards. We understand this implies a long term policy, but we see improvements already: It works. Conversely, a policy based on unilateral measures and exposure to more WTO cases might well be counterproductive.

- And an enhanced cooperation, like that achieved in the Mexico FTA, may go a long way towards promoting AW.

How can EU livestock producers compete on a level playing field when their non-EU competitors have lower standards which give them an economic advantage?

- Where differences in production rules have indeed significant impact on the relative competitiveness of producers, the EU only offers limited tariff concessions to avoid adverse effects on EU production. For instance, with Mexico, we have limited our concession on egg products with a tariff rate quota.
2.9. Civil society involvement: Expert Group on EU Trade Agreements & Domestic Advisory Groups

**Expert Group**

*What about the extension of the current mandate of the expert group (which ends December 2019)?*

The expert group was launched by the Juncker Commission – it is one of the instruments we have to ensure more inclusive and transparent policy making. It is too early to answer the question of its future—we are only one year into the running of the expert group. The decision on the future of this group will be for the next Commission to take in view of the work undertaken over past 2 years and future trade policy orientations.

*What about funding from DG Trade for civil society organisations like ours to have the resources to successfully and meaningfully contribute to the ever growing consultation mechanisms (which we fully appreciate) – Expert Groups, CSDs, DAGs, etc.?*

We do as much as we can within the limits of our scarce resources, (reimburse travel costs, and facilitate meetings setup, and increased transparency to disseminate information as broadly as possible). DG Trade has a limited operational budget and there is no further scope to develop self-standing programmes to support civil society in comparison to other sector-oriented DGs that already have instruments that support the activities of many of your organisations.

**Domestic Advisory Groups**

*What is the state of play of the Japan Domestic advisory group (DAG)?*

The Japan advisory group (DAG) will be the ninth DAG to be set up. The Commission should send a call for application in April 2019, the advisory group should be finalised and meet a first time before the summer break. The number of members will depend on the number of applicants.

*Does the PI include a budget to finance NGOs who have limited resources?*

The PI project includes budget for transport and accommodation for DAG members, allowing them to travel and meet in the best possible conditions. The financial support also benefits to DAG members from partner (developing) countries. Because of its limited resources, the project cannot unfortunately provide for supporting permanent staff in NGOs.

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1 The EESC is pushing for having six members instead of the usual three seats they automatically receive. The exception is CETA, where the huge number of applicants allowed for six EESC members in the DAG.
2.10. Investment screening

What is going to be the reaction of third countries?

- We do not expect major negative reaction on the new Regulation from our trading partners.
- All our main trade partners have a security screening mechanism in place.
- The Regulation will not change the open investment environment in the Union, but will allow us to better identify and address possible risk to security and public order.

Is it targeted at Chinese investment?

- The Regulation is not targeted specifically at China. In today's world, threats can come from many places.
- Non-discrimination among foreign investors is a key principle of the Regulation.
- But we are sending a message towards China and others that Europe is not a free-for-all. We are not naïve free traders. Within the EU we will increasingly cooperate on inward FDI, and we will take care of our security and public order.

Will screening help block the EU market for certain companies (cf. Huawei/5G, CRRC)?

- The Regulation is about foreign direct investment entering the EU or acquiring EU companies. It is not about closing markets or restraining activities in the Union. It is about identifying and addressing potential threats to security or public order which may be caused by foreign investments.
- It will be up to Member States and to the Commission to assess, on a case-by-case basis, whether a specific acquisition threatens security or public order and, if so, to suggest appropriate measures.

Is it a protectionist move?

- The Union's intention is to remain attractive to foreign direct investment as FDI clearly contributes to economic growth, stimulates innovations and creates jobs in the EU.
- This new framework is consistent with the Union's international commitments, which include the possibility to adopt measure to safeguard security and public order. All elements of the Regulation clearly relate to security or public order.

Will this discourage foreign investment?

- This framework does not duplicate existing national mechanisms. It does not add red tape for investors. The timelines for cooperation are very short and confidentiality will be ensured.
- The EU will remain attractive for investment, but collectively we will raise our awareness to what is happening in our territory.

Why don't you impose that all MS establish a screening mechanism?

- Each Member State has its own approach to screening and the levels of exposure to FDI are very different.
- Against this reality, it was never the Commission's intention to oblige all Member States to have a screening.
• The cooperation framework will help all Member States and the Commission to assess collectively potential threats to security and public order, regardless of whether a Member State has a screening mechanism or not.

**How does it compare to the United States' screening (CFIUS)?**

• It is not an EU wide screening mechanism, comparable to CFIUS. We have a different setting in Europe, so we need a different solution.

• From the beginning, the Commission proposed that the Member States keep the final decision on whether an investment takes place or to impose mitigation measures.

• The EU-wide framework for cooperation will ensure that there is knowledge on potential threats, that Member States and the Commission can raise their concerns or even suggest solutions.

**The transitional period of 18 months between entry into force and full application is too long.**

• There was a strong demand from Member States for sufficient time to adapt national frameworks where needed. Many Member States are in the course of reforming/expanding their screening mechanisms (FR, NL, DK) or reflecting about introducing one (CZ, SE, MT) – in the context of the discussions triggered by the new Regulation.

• It is the first time that any type of EU legislation is adopted in this area. So this transitional phase will also help ensure that Member States and the Commission put the necessary resources and tools in place (for instance a secured and encrypted IT system as required under the Regulation).

**We should foresee a more prominent role for human rights and/or labour standards in this Regulation.**

• I fully share your assessment that human rights and labour standards are an integral part of a responsible EU trade and investment policy. This commitment is well reflected in our trade for all strategy and in the different trade agreements and trade preference programmes that we have negotiated on its ground. Having said that, the proposed EU framework for FDI screening is meant to address risks to security and public order in the EU.

**Why don’t you foresee a role for the civil society in the Regulation.**

• This regulation is about security and public order in the EU. All screening mechanisms in the world operate under strict confidentiality requirements. The new mechanism may require, for instance, the exchange of classified information.

• The regulation however innovates in two ways: (1) by requiring the Commission to issue a yearly public report on the implementation of the regulation and (2) by acknowledging that the civil society may provide information relevant for FDI screening purposes (“Member States or the Commission, as appropriate, might consider relevant information received from economic operators, civil society organisations, or social partners such as trade unions, in relation to a foreign direct investment likely to affect security or public order.”)
2.11. Trade Defence Instruments

- **We need to use trade defence more frequently and with bigger impact to defend the EU industry against China**
  
  We need to stand ready to open trade defence investigations and impose measures where they are warranted. However, trade defence have a very specific objective and strict procedural framework prescribed by law. They cannot substitute policy tools which are better suited to address some of the systemic challenges within the EU-China relations. These investigations can only be opened if there is sufficient evidence of dumping / subsidisation and injury. The Commission does not possess this information – this is for industry to come forward.
Subject: Update on trade and investment negotiations
Meeting: Meeting with EU Civil Society
Date: 19 March 2019, 9:00-10:30
Place: CHAR – A. de Gasperi
2.12. Market Access Strategy

What are the tools the EU uses to address market access barriers?

In response to the rise in protectionism, the EU has made enforcement and implementation of its trade policy a top priority and reinforced the Market Access Strategy to effectively eliminate tackle trade barriers abroad.

In this context, we have continued to take full use of, and further extended our wide array of tools, ranging from multilateral and bilateral dispute settlement action to an ambitious agenda for trade negotiations, FTA implementation, diplomatic demarches, as well as the launch of the overarching European Economic Diplomacy initiative.
2.13. Regulatory cooperation

Regulatory Cooperation leads to the lowering of levels of protection

- Regulatory Cooperation is a voluntary process, where both regulators engage in a dialogue on topics of common interest but without the obligation of a specific outcome. The regulatory cooperation chapter also provides strong guarantees to preserve the right to regulate (including no obligation to deviate from fundamental principles established in the EU Treaty).

- A party cannot be obliged to deviate from domestic procedures for preparing and adopting regulatory measures, take actions that would undermine or impede the timely adoption of regulatory measures to achieve its public policy objectives, or adopt any particular regulatory outcome.

CETA’s Regulatory Cooperation Forum (RCF) does not take into account civil society

- CETA’s RCF is an open and inclusive process. The selection of topics to be discussed within the RCF was based on a public consultation: the EU received 26 contributions from various stakeholders including civil society, governments, business and NGOs. The contributions have been published on the Commission’s website and have informed the topics selected to kick-start the cooperation under the RCF (notably on cybersecurity, long distance transport of animals, cosmetics, pharmaceutical inspections, and consumer products safety).

- Back-to-back with the first meeting of the RCF, a stakeholders debriefing meeting with interested parties was organised by the Commission, so as to ensure full transparency and consultation of civil society. The work-plan detailing the current and planned work of the RCF will also be made public on the Commission’s website. The next meeting of the RCF is expected to take place in the second half of 2019 in Canada; interested stakeholders will again in principle be invited to participate in a debriefing meeting held back-to-back with the RCF meeting.
2.14. Impact Assessments, SIAs, evaluations

**Why did you not prepare an impact assessment for the US proposed negotiating mandates (conformity assessment and NAMA), nor for e-commerce?**

To ensure highest levels of transparency in view of potential trade negotiations with the US on **industrial goods**, the Commission submitted to the European Parliament and Council on 19 February an economic analysis on the benefits for EU and US producers and consumers of eliminating tariffs on industrial goods across various sectors. The economic analysis confirms that the EU and the US would stand to gain from eliminating the remaining tariffs on industrial goods. We are preparing to launch a Sustainability Impact Assessment on this proposed industrial goods trade deal which will be focused and performed on an accelerated timescale in order to feed into the negotiations before their final stage.

We normally undertake impact assessments ahead of Commission proposals for mandates. As regards **e-commerce**, these negotiations are based on an already existing negotiating mandate (the DDA negotiating mandate), and are not therefore subject to a specific new proposal from the Commission to open negotiations. Furthermore, negotiations on e-commerce are very open-ended, which make it almost impossible to assess the likely impact before they have started.

**SIAs are not always finalised before the conclusion of negotiations**

- To ensure that the analysis can feed into the negotiating process, we are committed to launching SIAs soon after the Council of the European Union has authorised the Commission to enter into trade negotiations. However, indeed, in the case of the Mexico 2.0 negotiations the final report of the SIA was only finalised after the political agreement on the negotiations but will still be finalised before the final agreement notably on government procurement.
- However, SIAs are best understood as a process. Even in cases where the final report may be published after negotiations have been concluded at political level, the SIA has still been able to feed into negotiations through the inception and the interim phases, including the online questionnaires and workshops in the partner countries that are taking place during these phases, and which already inform the negotiators.

**If someone questions the independence of the SIA consultants**

- SIA consultants are selected through a competitive tendering procedure and under strict rules on the absence of conflicts of interest. The SIA process is also highly transparent: all reports in their draft version are made publicly available for comments. Regular updates on the SIA process, findings, and documentation sources are also published on the SIA website.

- While the Commission services interact with the consultants to ensure the relevance of the analysis, to provide information on the progress of the negotiations and to verify compliance with the specifications and quality level, they do not interfere with the consultants' choices regarding content or results. SIAs are prepared under the responsibility of the contractor.

**Why have you not launched IAs for investment agreements with Hong Kong and/or Taiwan?**

- The IAs on Hong Kong and Taiwan are still pending political validation [*note: since 2017*]. The Commission is reviewing the political opportunity of these initiatives, also in light of the state of play of the ongoing negotiations of the EU-China Investment Agreement.
2.15. Transparency

Publishing the EU's textual proposals is very well, but much more interesting would be consolidated texts to see the evolution of negotiating positions.²

- Our current practice with respect to negotiating texts strikes the right balance between informing the public about the EU's overall objectives in a negotiation while maintaining a certain degree of confidentiality that is necessary for a negotiation to proceed towards a mutually beneficial outcome. Since consolidated texts not only reflect the EU's position but also that of our negotiating partner, this would undermine the mutual trust that is essential for a negotiation to succeed. Revealing each and every evolution in the EU's position would also curtail the Commission's ability to design its negotiating strategy and tactics in a manner which delivers the best possible outcome for the EU.

- To ensure however, that the public is informed as early as possible about the negotiated outcome, we publish the text of the agreements immediately as they stand after negotiations are finalised, without waiting for the legal revision to be completed.

It is very welcomed that the Commission now publishes the agendas and reports for committee meetings of implemented FTAs, such as CETA. Will the Commission also make this the standard practice for all FTAs already implemented, some since quite some time, like Korea for example?

- We are exploring the possibility of extending this approach also to FTAs and trade related parts of Association Agreements already in force, however this requires consultation with each partner to explain our new approach and agree on the best way to implement this practice. We expect this to take place gradually over time.

² Pour mémoire: We do not publish consolidated texts or the textual proposals of our negotiating partners, as they reveal their positions and hence publication could undermine the mutual trust in the negotiations and hence - ultimately - our international relations (see possible defensive). Sometimes we do publish EU revised proposals, but not at all systematically, and hence it is suggested to not advertise this.
2.16. Glyphosate

**The Commission should not renew the approval of the active substance glyphosate after 2022.**

- An application for a renewal of the approval of glyphosate beyond 2022 has not been submitted yet. The deadline is end of this year.

- Following the submission of such an application, the Commission will be obliged to act, namely to adopt a Regulation either renewing the approval of an active substance – subject to conditions and restriction where appropriate – or not renewing the approval of the active substance.

- The procedure also requires a scientific opinion by the European Food Safety Authority followed by a Member States’ vote.

**The EU should prohibit or restrict imports of products containing glyphosate in order to ensure that those products do not enter the EU internal market.**

- Food products placed on the market in the EU must comply with the maximum residue levels (MRLs) regardless of their origin i.e. of whether they are produced in the Union or imported from non-EU countries.

- Imports from non-EU countries of food products such as cereals containing residues of glyphosate are possible, provided that the residue level is compliant with the MRL set in the European Union.
Multilateral issues

2.17. WTO

Is there an alternative to WTO, and who would benefit from its dismantling, if anyone?

- We do not believe there is an alternative to the WTO. This is also why we are pursuing such a leading role in WTO Modernisation, as we recognise the inefficiencies of the current system. Despite these inefficiencies, we agree with the WTO's DG Roberto Azevedo, when he said that "If the WTO did not exist, it would have to be invented".

- Allowing the WTO system to founder would be painful for everyone. The organisation is built around key principles such as non-discrimination, the gradual removal of trade barriers, predictability and accountability, which are to the benefit of consumer welfare. The WTO has provided the basis for the rapid growth of economies around the world and has been the guarantor of stability in trade relations.

- We do not wish to go back to the situation before the inception of the GATT/WTO. It is not coincidental that average tariffs have fallen immensely since the inception of the system, with trade flows more than having doubled since the inception of the WTO in 1995. In the long run, we do not think that any actor would benefit from trade conflicts being settled by power, rather than rules.

Trade creates winners and losers. Does the WTO not contribute to a decline in living standards for European labourers?

- The EU is deeply aware that the benefits of free trade do not fall equally on all citizens. This is also why we now include a trade and sustainable development chapter in all our trade agreements, which allows us to level the playing field. We also continue to work with the ILO, the OECD and different civil society bodies on the subject of labour standards.

- At the same time, we should not forget that the rules-based trading system has also created many export possibilities for our labourers. In the EU today, 31 million jobs depend on exports alone.

What are the EU’s ideas on the links between the Sustainable Development Goals (SDGs) and the WTO?

- We are aware of the need to more systematically address the role the WTO can play in achieving the SDGs that have a trade dimension. In this regards, SDG 17 specifically mentions the need to “promote a universal, rules-based, open, non-discriminatory and equitable multilateral trading system under the WTO” in one of its targets.

- In line with the approach to the WTO reform outlined in the concept note published on 18 September, and beyond the ongoing negotiations on fisheries subsidies, the EU is now analysing in detail the precise links that can be made between the SDGs and possible areas of WTO work. On this basis, we will be able to identify concrete areas to focus on.

If the US would pull out of the WTO, and assuming that the EU would still remain committed to it, would the EU pursue a reform of the AB or rather stick to the enforcement of the existing AB rules?
I do not want to speculate what would happen in such situation. The underlying rationale for the proposals was to address the US concerns with a view to unblocking the appointments.

In case additional questions are asked whether the EU has a “Plan B” in case the US does not lift its veto on AB appointments] The EU has worked hard together with other Members to make proposals that address the US’ concerns with the WTO dispute settlement system, in order to unblock the appointments. We would therefore expect a serious engagement on these proposals and a swift unblocking of the appointments. If this does not happen, other WTO Members will have to think of ways to make sure that the dispute settlement system – as we know it (independent adjudicators, appeal stage, binding system through negative consensus) continues to function. Without a binding and independent dispute settlement system, with an appeal stage that ensures the quality of the rulings, there can be no efficient enforcement of the WTO rules.

Defensive on the WTO e-commerce negotiations

On the need for a flexible negotiating framework

We should not forget that we are embarking in the WTO negotiations which mean that benefits of the legal commitments that we will take will be extended to all the WTO Members, even in case of no reciprocal commitment. The WTO dispute settlement system would also apply.

A well thought system of variable geometry will therefore be indispensable if we want to succeed in the broad and ambitious WTO e-commerce negotiations.

It is not realistic to expect that each and every Member will be able to commit to every issue that could be negotiated. If this was our approach, we would have to narrow down the scope of negotiations immediately, and this is something that we would not want to do.

On the expected outcome of the negotiations

It is too early to say what could be the outcome of negotiations, before we actually start negotiations. During exploratory phase Members did not exchange any negotiating proposals. Our position and support on different issues will thus depend on the proposals that Members will make, on their actual formulation and support from others.

However, we expect to negotiate a comprehensive package of WTO rules and obligations that would facilitate both domestic and global e-commerce, facilitate operations of businesses, and especially SMEs, in foreign markets (e.g. by ensuring validity of e-signatures and e-contracts, facilitating paperless trade, addressing forced localization requirements or disclosure of source code) and enhance consumers trust in on-line environment. Beyond the regulatory measures, we would also be looking for possibilities to improve market access in the relevant sectors.

On the scope of the EU initial negotiating proposal

COM is currently preparing the EU negotiating text proposal to be tabled in the WTO before the next e-commerce meeting. The EU is envisaging to propose negotiating texts for the WTO rules on e-contracts, e-signatures, consumer protection, spam and custom duties on electronic transmissions (to be noted, that that EU has already tabled negotiating text
proposals on most of those issues in the WTO Council for Trade in Services Special Session in May 2017).

- We would also propose a set of WTO disciplines on telecommunication services (building upon the existing WTO telecomm reference paper) and will call for an improved market access in computer and telecommunication services. Other issues might be added (e.g. on mandatory source code disclosure or data localisation requirements (both fully in line with the EU FTA approach)).

**On the EU position on data flows/localisation/personal data protection**

- On data flows and localisation, US, Japan and potentially other CPTPP Members will very likely table negotiating proposals in line with their FTA practice. At the same time, we could expect China to oppose (or attempt to opt out from) any negotiation on these issues.

- The EU agreed last year on a horizontal approach on how to deal with data flows in trade agreements, which focus on tackling localisation requirements (the most common protectionist barrier). On this basis, the EU could have an opportunity to position itself as a realistic “middle ground” player in the negotiations. We expect that our approach would generate support among a number of WTO Members that attach increasing importance to the protection of privacy.

- On personal data protection, privacy and personal data protection are fundamental rights in the EU. Last year, the Commission took a clear position that these matters cannot be negotiated in the trade context. We will represent the same view in the WTO negotiations.

**Internal EU procedures: authorisation**

- E-commerce is not a new issue in the WTO. The current WTO Agreements already include rules and obligations that apply to e-commerce. The issues that we would be negotiating as part of these new negotiations would fall within the scope of the existing WTO Agreements (e.g. GATS or GATT) and – in the EU case - could be negotiated on a basis of existing authorisations for the WTO negotiations.

- Moreover, it is important to keep in mind that we would not be negotiating a self-standing e-commerce Agreement (Annex 4 type of agreement). We cannot expect that all WTO Members would provide their consent for such an Agreement to come into force.

- The most realistic outcome of these negotiations would be a set of provisions that would be incorporated into the Members’ existing schedules (following the example of the Reference Paper on Telecommunications).

- The EU would therefore need to take a formal decision at the end of the process, to agree on improving our own WTO schedules by adding the negotiated rules and obligations to our existing commitments. The outcome of the e-commerce negotiations that are about to start would not be binding for the EU before that legal step is taken.
2.18. Multilateral Investment Court

Would the multilateral investment court also be able to hear claims by States, affected individuals or communities against investors, such as for human rights violations?

This will depend on what is foreseen in the underlying investment treaties under which cases will be submitted to the court. If such treaties allow for this possibility, the multilateral court should also be able to hear cases against investors. This would apply also for rules developed in the future.

Existing investment tribunals are also already able to consider the broader context surrounding an investment, notably when such issues are invoked by the defendant State in the form of counter-claims.

It is a standard feature of international law for a person to be obliged to resort to the domestic courts of a country (exhaustion of local remedies), unless it can be shown that those courts do not offer justice, before bringing an international claim against the country. Why does the Commission depart from this key principle of international law in its proposal?

In principle, the relationship between the MIC and domestic courts will be governed by the investment treaties that will be subject to the MIC's jurisdiction. In the current landscape of over 3,200 existing treaties, this relationship is addressed in many different ways and different countries have different positions in this respect.

Some countries strictly insist on so-called fork-in-the-road provisions under which it is never possible to resort to domestic courts before going to international proceedings. Some countries make the prior recourse to domestic courts mandatory (exhaustion of local remedies), whereas others encourage the recourse to domestic courts prior to initiating international claims (so-called "no-U-turn-approach" like in EU agreements). And the majority of existing investment treaties are simply silent on this question.

Can this be done without the United States?

Yes. UNCITRAL does not work like the WTO, on the basis of absolute consensus. So procedurally we can move ahead without the support of the US. We are keen to keep the US involved in the negotiations. It is worth recalling that they have a requirement to establish an appeal mechanism in their standard investment agreements. And we are working on the long term.

What about China?

China is seriously engaged in the process. For the last years, they have shown an interest in multilateral reform of the investment regime. We have a very good working relationship with them
Negotiations/Agreements

2.19. United States

- There appear to be significant differences of scope between the two EU mandates and the US "detailed negotiating objectives" sent to the US Congress last week.

A) The US included agriculture in their negotiating objectives. Is the EU willing to initiate negotiations on agriculture?

Under the Trade Promotion Authority Act, the US Administration is required to notify detailed negotiating objectives to the Congress before the start of any trade negotiations. The Act envisages that the objectives be rather comprehensive in nature. The recent notification by the Administration for negotiations with the EU in that respect follows normal US practice.

The EU negotiating directives are, however, fully in line with the July Statement agreed after a careful exchange by the Presidents in July 2018. The July Agreement does not envisage negotiations on agricultural tariffs. It also excludes the prospect of a negotiation on Buy America restrictions, on opening the US domestic maritime shipping market, on geographical indications, and so on where the EU has offensive interests.

B) Scope of the mandate on tariffs: (non-)inclusion of motor vehicle products

The EU is willing to negotiate on all industrial goods, including on autos should the United States be willing to do so.

Currently, the EU has tariffs of 10% on auto imports compared to 2.5% in the US; the elimination of tariffs in this sector should therefore be of relatively greater interest to the US. Trade in automotive products is an important segment (almost 10% of two-way trade) and the inclusion of this sector (to the extent possible) would increase the value of an industrial tariffs agreement (and the agreement’s compatibility with WTO practice as regards the level of tariffs liberalisation).

Overall, should the US have sensitivities for any particular auto products in the automotive sector, we believe that negotiators would be able to take them into account in negotiations in order to find appropriate solutions. The EU negotiating mandate therefore includes the flexibility to take these sensitivities into account.

How can a tariff only deal that does not cover cars and agriculture possibly be WTO consistent?

Our recommendation for draft negotiating directives on industrial tariffs clearly provides that the agreement should be fully consistent with WTO rights and obligations. It is clear that the obligation to eliminate tariffs for substantially all trade provided for under Art XXIV GATT shall be respected. In EU practice, the threshold is +/- 90% in trade coverage. Agriculture represents only 5% of EU-US trade. Meeting the 90% benchmark without cars or car parts will indeed be difficult. Our negotiating directives do not exclude the car sector, though they allow considering sensitivities relating to certain auto/car types, such as pick-up trucks.
C) Scope of the mandate: non-inclusion of climate, environmental and labour provisions?

The negotiations for a limited agreement on the elimination of industrial tariffs are quite different in scope than a fully-fledged comprehensive FTA. This is the reason why it is not envisaged to negotiate commitments on labour and the environment.

D) Is this deal not dead already given the wide gap between the mandates?

The negotiating directives proposed stick closely to the wording of the Joint Statement.

The US has chosen a different approach, but we count on them to move forward in these negotiations within the lines agreed by the two Presidents in July last year.

If we work together on that basis then the EU is convinced that we can reach an agreement that is good for both sides.

If we are not be able to overcome our differences on the scope of the tariff negotiations at this time. We can still work on all other elements of the July statement: e.g. an ambitious agenda for voluntary regulatory cooperation (including on cars), reform of the World Trade Organisation and joint efforts vis à vis China.

What about tariffs on steel and aluminium? They are still in place. We should see them lifted prior to entering into any negotiation.

The Presidents committed themselves in the Joint Statement of 25 July to resolve the steel and aluminium tariff issues and retaliatory tariffs. It is clear for the EU side that Section 232 measures on exports of steel and aluminium originating in the European Union would need to be lifted prior to the conclusion of the tariff negotiations. And of course, we would not be in a position to accept ‘managed trade’ solutions that would not be consistent with our WTO obligations.

Is the EU going to accept any managed trade offer by President Trump in order to avoid the imposition of US Section 232 tariffs in the automotive sector?

No, the EU will not accept any arrangements that restrict trade volumes, which would be WTO-incompatible. The Department of Commerce investigation into the impact on US national security of imports of cars and car parts has ended. The final report has been transmitted to the White House but we have no knowledge about its content. The EU is of the settled view that there is no meaningful national security dimension to the imports of cars, light trucks and car parts in the US. If the US Section 232 report should include recommendations to limit EU car exports, a firm and proportionate answer, calibrated to the measures adopted by the US administration, will be swiftly ready.

Any concrete threat of tariffs or quotas on EU exports in the car report would make negotiations on tariffs impossible. Moreover, the EU will immediately launch internal consultations on a rebalancing list and there would be a need to reassess other activities within the framework of the EWG.

Why did the Commission not carry out an impact assessment and stakeholder consultation before finalising the mandates on conformity assessment and industrial tariffs?

Due to the political imperative to move ahead to deliver on the Joint Statement of July 2018, a formal impact assessment process has been waived for both Commission recommendations. Our
internal analysis of the potential implications of tariff liberalisation for industrial goods (which we shared with Parliament) indicates that both sides stand to gain from an industrial tariff deal, in an essentially well-balanced manner: €26.7 billion in additional exports for the EU by 2033 and €26.2 billion in additional exports for the US over the same timeframe. Trade flows increase with +9% for the US and +8% for the EU. Negotiations for improved conformity assessment, cooperation on standards and the ongoing discussions on regulatory sectors could have a further positive impact and increase the resulting economic benefits. As announced in the draft mandate on conformity assessment, on 8 March a new round of stakeholder consultations was launched inviting proposals for regulatory cooperation initiatives with the US. The consultation is not limited to the single issue of conformity assessment, but will also aim at identifying other initiatives with the US, which could result in significant benefits, while maintaining - if not enhancing - existing levels of protection. The consultation is open until 23 April.

**The European Parliament will hold elections in May. Will you consult with the Parliament so close to the elections before initiating negotiations with the US?**

As reflected in our Treaties, the first port of call in the European institutional set-up when mandates are being considered is the Council. But you can be sure that I will be reaching out to the Parliament in the next weeks in parallel.

**What will be the expected impact on the EU-US trade deficit of the potential eliminating industrial tariffs?**

As both sides will be eliminating tariffs, trade can be expected to increase in both directions. The US may benefit slightly more than the EU, as EU industrial tariffs are slightly higher than those of the US.

The overall direction of the trade balance will depend on many other factors including those of a macroeconomic nature, as well as, trade in services and investments.

**Can WTO DS cases (for example black olives) cause retaliatory reactions? /Is this the right timing for a new dispute with the US?**

The EU has a number of concerns on the measures imposed by the US on 1 August 2018. The concerns relate to both substance and procedures, i.e. both about the final outcome/duties and the way the investigation was conducted, and considers them unjustified and inconsistent with WTO rules.

The US is targeting agriculture support measures that are not specific to olive growers, such as direct payments to EU farmers under the Common Agricultural Policy. The US also simply presumes, without any concrete analysis, that the benefits of receiving this support automatically pass through to the processors and exporters of ripe olives.

The EU has intervened in this case several times, both before the Department of Commerce and the International Trade Commission to no avail. Therefore the European Commission submitted a request for consultations with the United States concerning the anti-subsidy and anti-dumping duties imposed on ripe olives from Spain.

The EU will indeed continue to work closely with the US both to strengthen our bilateral relationship and to modernise the WTO. However, this does not mean that we will not defend our interests in specific cases in line with the WTO rules.
**Where are we with soy? Have you been cutting corners on soy sustainability?**

In line with the July 2018 Joint Statement, the EU has increased the imports of soya beans from the US significantly. Compared to the first 35 weeks of marketing year 2017/18 (July to mid-February), total EU imports of soya beans have been up by 12% at slightly over 9 million tonnes. In the same period, EU imports of soya beans from US have grown by 123% and reached 7,394,239 tonnes. The share of US soya beans of the EU's total imports corresponds now to **79%**, compared to 40% for the same period last year. This puts the US well ahead of Brazil (14%), the EU's second main supplier, followed by Canada (2%), Ukraine (2%) and Paraguay (1%). EU is the top destination of US soya beans exports (25%), followed by China (13%), Mexico (9%) and Argentina (8%). This outcome is a result of market forces, notably the decrease of US prices for soya beans following the application of Chinese 25% additional duties on soya beans (counterbalancing measures for the Section 232 investigation) and the Chinese shift to South American suppliers. Future trends will mainly depend on whether the US-China trade negotiations will be successful.

In January 2019, the Commission has recognised the US sustainability scheme for US soya beans, i.e. the US Soybean Sustainability Assurance Protocol (SSAP) as compliant with EU sustainable energy requirements (under the Renewable Energy Directive 2009/28/EC). This decision was taken in full compliance with the Directive.

This decision further improves the competitive position of US soya beans growers as it makes the oil fraction of US soya beans more attractive for the EU biofuels market.

**Will you support Member States calling for a cancellation/withdrawal of the TTIP mandate?**

Both sides agreed two years ago to effectively suspend the TTIP negotiations. It is clear that restarting TTIP or a “TTIP-light” is not an option. We are in a different reality compared to 2016. We propose to negotiate on a limited set of issues that are included in the Joint Statement – not on issues which are not. Restarting a comprehensive trade negotiation with the US would not be supported in the EU for a number of reasons:

1) We already tried to negotiate a comprehensive agreement with the previous US Administration. It didn’t work out. We were not able to move towards a balanced outcome in the different areas of agriculture, government procurement, services and geographical indications, or in other areas like labour and the environment. As a result, we were never able to achieve the balanced and mutually beneficial package that both sides could be confident would win support in their Parliaments.

2) The US stance on climate change – and in particular its intention to withdraw from the Paris Agreement – widens the gap with regard to the EU's goal of setting high environmental standards in trade agreements in order to support sustainability.

3) It would risk reawakening stakeholder concerns about the supposed risk to EU levels of regulatory protection. These concerns were misplaced during but that wouldn’t stop them returning if a broader negotiating agenda was ever considered again.

4) Overall, it is important to focus our efforts with the US on the topics covered in the Joint Statement, including engaging them intensively in work on WTO reform and on finding the appropriate response to the challenges posed by state capitalism in China.
**Can the Commission confirm that an agreement was reached with the US on the import of hormone-free beef?**

The European Union and the United States have reached an agreement in principle on the US concerns regarding the implementation of the EU-US Memorandum of Understanding (MoU) on the importation to the EU of non-hormone treated beef.

The mutually agreed way forward includes a US-specific allocation of the quota volume.

The draft agreement in principle has been communicated by the European Commission to the European Parliament and to EU Member States.

Member States are requested at this point (only) to endorse the European Commission's approach.

**When will the agreement be adopted by the EU?**

Consultations with Member States are on-going in the Trade Policy Committee framework.

At this stage, Member States are not requested to formally approve the draft agreement at this point but to endorse the European Commission's approach.

Once Member States have given their go ahead, the Commission will present the parameters of the draft agreement to other main suppliers.

After that, the agreement will be subject to approval by both Council and European Parliament

*If BEUC refers to its recent written input (“Trade Negotiations and Regulatory Dialogues with the United States: BEUC Recommendations”)*

- Thank you for the useful input.
- Welcome your support for the limited negotiations with the US proposed by the Commission. You are right to identify potential consumer benefits from the elimination of tariffs on industrial goods and from reducing the costs of conformity assessment.
- DG Trade services have offered to meet you to discuss your views on conformity assessment in more detail. Agree that a simplification of procedures for conformity assessment must not come at the cost of lowering the level of protection for consumers.
- Your views on wider regulatory cooperation with the US are very relevant for the consultation we have just launched. Agree with you on the importance of transparency.
2.20. Japan EPA

*EU exporters can’t fully enjoy the preferences because of Japan’s management of the quota system for agricultural goods;*

The issue is known to the Commission.

For the *quotas* for agricultural goods, the difficulties basically derive from an objective factor, which is the limited time available between the date of conclusion and the date of entry into force.

Indeed, Japanese importers had only a couple of weeks to file their applications for import licences, and not all of them could effectively arrange the importation of goods for the period February-March 2019, thereby losing some volumes. However, the problem is limited to two months and the tariff preferences were very limited.

The Japanese fiscal year 2019 starts on 1 April 2019 and, in the ensuing 12 month period, there will be opportunities to reallocate any unused volumes granted to the original applicants, in order to ensure the full use of the import quotas. In coming years, operators will of course have more time to prepare their applications. The Commission will be vigilant to ensure a smoother process for fiscal year 2019 and following.

*Japanese Customs impose additional requirements concerning the proof of the EU origin of goods.*

The issue is known to the Commission.

For *proofs of origin*, the Commission has discussed the issue with Japanese Customs. They have confirmed their readiness to clarify that a simple declaration by an exporter that his goods satisfy the conditions for being considered of EU origin should in general suffice. In some cases Customs may decide to ask additional questions for greater certainty, but those questions are not compulsory requirements and therefore traders may decide to reply or not, particularly if the information is not readily available. I understand that Japanese Customs is making a public clarification and soon the official guidance documents will be amended.

These initial hiccups should however not hide the fact that we have collectively secured a very fast introduction of preferences for EU exporters, which will benefit from two sets of tariff cuts in Japan in close succession: on 1 February and on 1 April.
2.21. Mexico

**What is the pending issue? Why is not a done deal?**

- The deal is done and all texts are published, including the annex on procurement at sub-central level. However the annex needs to be replaced by the actual list of sub-federal entities that will be open for EU companies and covered by the provisions of the Agreement.

- In this regard, Mexico committed in April 2018 to provide before signature the list of sub-central public entities. We hope that the submission of the list will be done in time so that we can transmit the proposals to Council still during the mandate of this Commission.

- The Mexican administration is currently holding consultations with the States to that effect. We remain in close contact with the Mexican Administration on this issue.

**What mechanism has been agreed in the modernisation for the consultation with Civil Society?**

- Building on the experience in the most recent Agreements, Mexico and the EU agreed to extend the mechanism of civil society consultation, not only to the Trade and Sustainable Development Chapter but to the whole Agreement, including the Political pillar.

- This means that Mexico and the EU will have to consult once a year their Domestic Advisory Groups on the implementation of the Agreement and to organise on a yearly basis Civil Society Forum to present the outcome of the discussions and establish joint dialogue on any matter of relevance of this agreement.

- This will allow the civil society on both sides to make its voice heard on all issues covered by the Agreement including the human rights provisions of the political pillar.

**How will civil society views be considered and integrated into the modernized agreement if the Sustainability Impact Assessment (SIA) has not been finalised yet?**

- In line with its practice, the Commission hired a consultant for carrying out a Sustainability Impact Assessment of the trade part of the EU-Mexico Modernised Agreement.

- The consultant provided a Draft Inception and Interim Reports in November 2017 and February 2018 respectively, which were presented in two subsequent Civil Society Dialogues (CSD) in December 2017 and March 2018.

- The outcome of the CSD discussions and the recommendations from the two reports fed into the negotiations which led to the Agreement in principle reached in April 2018.

- Currently the consultant is finalising the final report.

**What will contain the modernised agreement regarding Human Rights?**

- The aim of the modernisation was to achieve an ambitious and comprehensive framework that would equip us with better instruments to work together in a wide range of areas, including on human rights.

- In line with all FTAs, respect for Human rights and democratic principles constitute essential elements of the Agreement. This means that, in case of serious breach of these principles, the Agreement could be suspended.

- In addition, respect for labour rights will be an important element of the Trade and Sustainable Development Chapter of the modernised agreement.
What is the EU doing to promote Business and Human Rights in Mexico?

- Business and human rights has continued to be priority area for action within the EU-Mexico Social Cohesion Laboratory II 2015–2019 (LCSII). The project has supported national efforts towards the elaboration of the 1st National Programme on Business and Human Rights led by the Mexican Ministry of Interior (SEGOB).
- The project has supported a series of activities aiming at developing a general regulatory framework based on the United Nations Guiding Principles, in close collaboration with relevant government institutions, civil society and the private sector.
- However, at the beginning of 2018, CSOs expressed discontent in assessing that their positions, comments and recommendations were not integrated into the document and decided to opt out.
- Recently, during the presentation of the guide, Doing Business With Respect for Human Rights elaborated by Global Compact, Oxfam and Shift and funded by the EU, SEGOB, CSOs and private sectors have shown willingness in resuming the process.
- At State level, the EU supported the San Luis Potosí Human Rights Commission to develop two strategies related to the Human Rights and Business, one on gender and one on migrant worker in the agriculture sector. Both strategies have developed specific models and monitoring systems allowing their future replication.

Is it wise for the EU to negotiate a modernised Agreement with Mexico that is criticised for human rights violations (see for instance the Iguala case or the recent murders of human rights’ defenders)? What is the EU doing?

- The EU is aware of the difficult situation in Mexico and does not stand by passively. The EU is permanently monitoring the situation and Heads of Mission are taking steps to send out a clear message that the rule of law and the respect of human rights is a basic principle in the relation with a partner country.
- The protection of human rights defenders (as well as journalists) indeed features high on the agenda of EU-Mexico relations. Over the past years, it has been systematically addressed within the framework of our annual High Level Dialogue on Human Rights, including at its last session held on 26 October 2018 in Brussels.
- In addition, the EU has been funding projects in this area under the European Instrument for Democracy and Human Rights, including support to the protection mechanism for human rights defenders and journalists in Mexico.
- As regards the modernisation, the aim was to achieve an ambitious and comprehensive framework that would equip us with better instruments to work together in a wide range of areas, including on human rights. We have ensured that respect for democratic principles, the rule of law, human rights and fundamental freedoms constitute essential elements of the new Agreement. The human rights clause has been updated and improved and is modelled on the standard clause the EU now proposes for such Agreements. It states that respect for human rights and democratic principles underpins the internal and international policies of both Parties and constitutes an essential element of the Agreement.
- I believe that the modernised Agreement, which already provides for robust High-Level Dialogues on both Human Rights, and Security and Justice, - through the incentives it will create and the political cooperation that will be developed - will have a positive impact on Mexico's civil society, its governance structures, and the human rights situation in general.

What is the EU doing to ensure that EU operators respect the land owner´s rights?

- Under the Trade and Sustainable Development Chapter of the modernised agreement, the EU and Mexico agreed to promote responsible business conduct in accordance with
international guidelines, these include the UN Guiding Principles on Business and Human Rights. For example, EU companies investing in Mexico should engage in consultations with local stakeholders when developing a project and also develop social actions to the benefit of the local communities.
2.22. Mercosur

What is the potential impact of the election of President Bolsonaro on the Mercosur negotiations?

- Elections and changes of government are a natural part of the democratic process on both sides of the Atlantic.

- The EU and Brazil have a longstanding strategic partnership and an extensive cooperation on bilateral and multilateral issues of common interest such as trade, science and technology, information society, defence and security, energy, environmental protection and human rights. We have no doubt that this will continue to be the case under this new Government.

- The EU stands ready to continue and strengthen this strategic partnership, including in the context of the ongoing negotiations on the EU-Mercosur Association Agreement.

- Brazilian officials at all levels have also assured us of their continued strong interest in this negotiation.

What if Brazil pulls out of the Paris Agreement?

- Recent signals lead to believe that this option is not to on the table. The Paris Agreement is an important priority for the European Union and this agreement needs of course to be reflected in the right manner in this agreement. We have confirmation from the Brazilian negotiators that they are committed to a strong TSD chapter and reference to the Paris Agreement and the fight against Climate Change.

An agreement with Mercosur would harm EU agriculture.

- For many of the EU's highly competitive and high quality agri-food products, Mercosur is a highly protected market with great potential for increased exports.

- As regards those agricultural products with specific sensitivity, the EU is able to reconcile the need to make meaningful concessions to our partners with the need to safeguard the interests of European farmers, by using tariff rate quotas, which allow imports at preferential tariff rates up to a limited volume.

- TRQ volumes in EU FTAs are always carefully calibrated to take full account of conditions in the relevant agricultural market and this negotiation will not be an exception.

The offer on beef was too high

- Beef, along with ethanol, was given particularly careful treatment, in that no concrete quantity was offered in the EU’s May 2016 offer. This quantity was offered only later in the process, in October 2017. We continue to tread very carefully.

- We are able to offer a meaningful concession on this important Mercosur interest while still safeguarding the interests of EU farmers through partial liberalisation in the form of a tariff rate quota.

- The volume of the quota is carefully calibrated to take into account conditions in the EU beef market. Since Mercosur export a considerable amount of beef to the EU paying the
full third country tariff, the effect of the quota will consist to a large extent of relieving existing imports from duties.

- We have made it very clear to Mercosur that we have particularly strong limitations when it comes to this product.

**Ethanol**

- Most of the volume granted to Mercosur would not go to the more sensitive fuel sector, but would be reserved for the biochemical industry, which is in need of greater access to this input material in order to remain competitive and develop. This is why MEDEF and others have insisted on the importance of separate treatment for these two different end uses.

**Poultry**

- This is a product for which international trade is necessary and can be a win-win. There is a strong complementarity between imports and domestic production since European consumers have a strong preference for breast meat while consumers in other markets prefer thighs for both cultural and economic reasons.

- We must not lose sight of the successes of this sector: the European market has been growing for ten years and Europe is a net exporter both in terms of volumes and value.

- However, in the context of trade negotiations, particularly with the most competitive suppliers, poultry meat is treated by the Commission as a sensitive product. Tariff-rate quota concessions will therefore be limited to a small percentage of the European market.

**Sugar**

- Brazil is the world's leading exporter of sugar and it is not possible to conclude an Agreement without offering some market access on this product, which is sensitive for the EU.

- For this reason, a well-calibrated TRQ will be offered as was done in other negotiations with sugar exporters such as South Africa, Central America and the Andean countries.

- The volume of the TRQ should be seen in relation to EU consumption, which is stable at 18-19 million tonnes per year.

- Specialty sugars, which are particularly sensitive for the French OMR, will be excluded from the agreement.

*The EU should not make concessions to Brazil given the scandal on the lack of control of sanitary requirements on meat which has been revealed in this country (carne fraca)*

- The Commission takes these fraud cases in Brazil very seriously and has acted firmly to protect EU health.

- Concrete measures were taken to delist 20 Brazilian poultry establishments in May 2018 in response to fraud investigations. This followed the reinforced checks in place in relation to imports of meat and meat products from Brazil, introduced immediately following the meat fraud scandal that was first revealed in March 2017.
• Imports of meat and meat products have to comply with the EU’s strict sanitary (food safety and animal health) standards. This applies both to current imports and to any products imported under any current or future FTA preferences.

**Mercosur producers do not respect EU animal welfare standards. There is no animal welfare legislation in Mercosur countries. In Brazil, there is no regulation regarding the minimum surface per animal, the duration of transport, or the compulsory unloading during long transport. By contrast, EU producers have to respect stringent animal welfare requirements.**

• EU animal welfare legislation applies also to imports in relation to transport and slaughter. Compliance or equivalency with such legislation is determined following on-the-spot verifications made by the Commission.

• The EU has technical cooperation agreements on animal welfare in place with both Brazil and Argentina.

• Moreover, the EU and Mercosur are negotiating provisions to further enhance cooperation on animal welfare in the framework of the agreement.

**Farm practices, e.g. in Mercosur, have a negative impact on anti-microbial resistance (AMR)**

• The Commission is determined to further strengthen its antimicrobial resistance action. The fight against AMR remains high on the political agenda.

• In this context the Commission is committed to tackling AMR internationally and we strongly advocate the need to address this issue in both humans and animals with a 'one-health' approach, which includes action in food systems.

• The Commission strongly support the WHO Global Action Plan on AMR and highlight the need to globally focus on addressing use of antimicrobial drugs, antimicrobial stewardship and research and innovation. All Mercosur countries are preparing their action plans.

• In fact Argentina is one of the most progressive countries in battling AMR in the South American region, making it a strong partner for collaboration with the EU. Argentina, in particular, has a National AMR action plan already approved by government that reflects Global Action Plan objectives, with an operational plan and monitoring arrangements in place.

• Moreover, the EU and Mercosur are negotiating specific provisions on collaboration to combat antibiotic resistance in the agreement to further enhance their cooperation to support highest level of political commitment in globally tackling AMR.

• Following a conference on AMR in Brasilia on 27 March 2017, the Commission has organized six workshops with Brazil, the other Mercosur countries, Chile, Colombia and Peru, all of them showing willingness to collaborate with the EU on AMR. The workshops focused on different AMR aspects, e.g. human health, animal health, research, trade, and international cooperation.

**Access to medicines**

• Promoting access to medicines remains an essential pillar of the EU’s policy. The IPR chapters of the EU’s FTAs are adapted to the level of development of the partner country and confirm commitments to the Doha Declaration on public health. The third countries
with whom the EU negotiates are thus assured the possibility to use the flexibilities provided for in the TRIPS Agreement.

- We follow the same principles in our negotiations with Mercosur.

- The EU is fully committed to the UN Sustainable Development Goals and believes that access to medicines needs to be ensured in the broader context of access to effective health services and the right to enjoy the highest attainable standard of health. There are many issues other than IP that affect access to medicines, such as: organisation and good functioning of public health systems, qualified health workers, integrity and quality of pharmaceutical distribution chains.

- I would want to emphasise that the IP chapter is far broader than the issues on TRIPS and public health; both sides still need to find the right language to conclude on the number of outstanding issues.

**The EU-Mercosur Agreement will further contribute to increased deforestation.**

- Mercosur countries such as Brazil have included commitments on fighting against deforestation in their Paris Agreement pledges, reinforced by private sector initiatives such as that of Brazilian meat packers not to source meat from farms in recently deforested areas.

- As in other recent free trade agreements concluded by the EU, we have been negotiating a Sustainable Development Title in the Agreement with Mercosur so as to ensure that investment and trade relations are not developed at the expense of the environment, but instead foster mutual supportiveness between economic growth, social development and environmental protection. This title includes commitments regarding the sustainable management of forests.

- Environmental impacts, including possible deforestation, is one of the issues that the ongoing Sustainability Impact Assessment looks into and which we will discuss with our partners.

**An agreement with Mercosur will increase greenhouse gas (GHG) emissions and undermine climate change policy.**

- The European Commission takes account of climate impact in all policy areas. It is being examined in the SIA using both quantitative and qualitative tools.

- At the Paris summit Brazil pledged that by 2025 it would reduce net greenhouse gas emissions, including those arising from land use, land use change and forestry (LULUCF), by 37 per cent compared with 2005 levels. This is a substantial, firm, commitment.

- The EU and Mercosur have negotiated strong commitments regarding the effective implementation of the Paris Agreement within a chapter on Trade and Sustainable development within the trade pillar of the Agreement, while the political and cooperation pillars of the Agreement will provide for regular dialogue on environmental issues, including climate change. These provisions will include a commitment to implement the Paris Agreement by all Parties.

- The trade agreement is also an opportunity to accelerate the uptake of green technologies leading to more renewable energy and better energy efficiency.
The EU also has several projects with Brazil and other Mercosur countries, totalling over 200 million euros, with the aim of improving land governance, preserving biodiversity and reducing CO2 emissions from all sectors including agriculture.

[If raised: The Commission does not plan to take specific action in its trade and economic policy linking the importation of goods from Brazil and other Mercosur countries with GHG emissions associated with their production.]

The further opening of the EU market to agricultural products from Mercosur countries will damage the quality of life of indigenous communities, since it would incentivise the taking up of land from these communities for increased agriculture production.

- The main challenge for indigenous communities is to secure legal protection for their land and considerable progress has been made in this regard in Mercosur countries.

- Nevertheless the concern is a legitimate one, which we intend to discuss further with our Mercosur partners. The Association Agreement will provide a solid framework for this, since it provides for a dialogue on sustainability and human rights issues, and the Trade part will include a Trade and sustainability Title. More concretely, the Agreement will include provisions regarding the promotion of the role of indigenous communities in sustainable supply chains of forestry products, or cooperation to promote sustainable social projects involving these communities.

- Increased production of agricultural products may not necessarily lead to increased areas of crops or pastures, as intensification of use of existing agricultural land is another strategy that could be taken.

- Let us keep some perspective too. Any access provided by the EU for sensitive agricultural products will take the shape of capped market access (TRQs), thus limiting the impact on land use.

- Furthermore the impact of increased EU market access for agricultural products should be considered in a context in which demand from Asia for Mercosur agricultural commodities has boomed in recent years. China’s share of Brazilian oil seed exports virtually doubled from 2000 to 2012, from 39% to 79%.

- Again, any potential impact on indigenous communities is being assessed in the context of the ongoing Sustainable Impact Assessment.

Labour conditions in Mercosur countries are worse than in the EU, which brings an unfair competitive advantage to Mercosur producers as compared to EU producers

- All Mercosur countries have legislation that provides for the protection of labour rights. Mercosur countries have ratified international Labour Standards. Argentina, Paraguay, Uruguay and Venezuela have ratified all 8 Fundamental ILO Conventions. Brazil has ratified all with the only exception of the 1948 Convention of Freedom of Association and Protection of the Right to Organise (No. 87). The pending ratification by Brazil of this Convention is due to Constitutional constraints, but freedom of association is well-recognised in Brazil.

- Furthermore, the EU and Mercosur have negotiated a firm commitment with labour standards in the agreement, in order to ensure that trade relations are not developed at the
expense social or labour rights, but instead foster mutual supportiveness between economic growth, social development and environmental protection.

- The EU and Mercosur have even committed to the promotion of a Decent Work agenda, which includes issues such as effective work inspections, ensuring health and safety at work or providing decent working conditions such as regular breaks, or clear contracts or reasonable working hours.

- Finally there is ample evidence to suggest that higher labour standards are correlated with higher productivity and competitiveness, therefore the assumption that low labour standards provide a source of comparative advantage can be questioned.

**Forced labour/slavery**

- There are indeed cases of forced labour in remote cattle farms in Brazil and Paraguay. Such practices are illegal in Mercosur. We have negotiated with Mercosur countries the commitment to respect the ILO fundamental Conventions, including those concerning forced labour.

- We also insist on strong corporate social responsibility provisions including with regard to the UN Guiding Principles on Business and Human Rights.

- Finally, the fact that there are such cases should not lead to the conclusion that forced labour is widespread in beef supply chains.

- Authorities in Brazil are taking the issue seriously: forced labour is a serious criminal offense in Brazil (subject to a 2-8 year jail sentence under Brazilian law) and the country has established a Special Mobile Inspection Group specifically to tackle forced (slave) labour that has the ability and resources to inspect remote farms in cases where there are suspicions of forced labour (which can include practices such as retaining of ID documents, security guards and lack of transport to avoid workers leaving).

**Only large companies benefit from FTAs.**

- The agreement will include provisions to ensure that SMEs are able to benefit.

- For example, the two sides will each commit to create an "Export Helpdesk" style website detailing all the tariffs and regulatory requirements per customs code. On the EU side the website already exists but access is granted only reciprocally to FTA partners (apart from LDCs). This ensures that SMEs, who don't have big compliance departments, will be able to benefit from the agreement.

**When will the Commission publish an impact assessment?**

- A trade sustainability impact assessment (SIA) is currently being prepared by an independent contractor, LSE Enterprises.

- An inception report setting out the scope and methodology of the report has already been published.

- An interim report comprising economic modelling results, detailing the impact of an agreement on all key industrial and agricultural sectors, as well as initial findings on human rights, labour rights and environmental impacts will be published in the next couple of months. The final report including the results of extensive civil society consultation will be published later this year.
A number of earlier studies have been conducted by independent contractors, notably a SIA in 2009 and an economic impact assessment in 2011. In addition, a study on the impact on agriculture was conducted by the Commission's Joint Research Centre in 2011. The delay in the completion of the SIA will imply that it be published after the conclusion of the agreement.

Indeed, in case of Mercosur negotiation the final report of the SIA may be only finalised after negotiations have been concluded.

However, SIAs are best understood as a process. Even in cases where the final report may be published after negotiations have been concluded, the SIA has still been able to feed into negotiations through the inception and the interim phases, including the online questionnaires and workshops in the partner countries that are taking place during these phases, and which already inform the negotiators.
2.23. Chile

When does the Commission plan to conclude these negotiations?

The Commission is ready to advance rapidly in these negotiations; however, substance prevails over speed. We want to achieve an ambitious, comprehensive and progressive agreement. After the 4th round, we will have a clearer picture of where we are and what are the next steps that we will follow.

What are the most controversial issues of the negotiations?

Chile is a like-minded country and we expect to have ambitious results across the board. In general, the negotiations have come to a good start, but some areas such as Intellectual Property Rights, including Geographical Indications, Energy and Raw Materials, or Investment Protection may require some additional work.

What about Civil Society’s role in the modernised agreement? How will it be shaped?

The EU has proposed that each side establish a representative civil society dialogue mechanism (often known as DAG) which it would consult on implementation of the overall agreement and which could also be consulted in a different configuration on the trade part of the agreement. It is for each side to decide how this mechanism should be established.

The EEAS and Commission foresee that an open-ended civil society forum would take place when the Parties meet in order to provide an opportunity for any interested civil society participant to participate. It is important that the meeting be open in order to meet the demand for transparency. Nothing prevents the civil society mechanisms on both sides meeting, but the government to government agreement cannot impose this on civil society.

The EESC (and Chile) would like to see the current JCC (Joint Consultative Committee) replicated in the modernised agreement; we understand you are proposing something different?

Indeed, we have proposed to have a different setting. We recognise the role that the EESC and its Chilean counterpart are playing in the existing Joint Consultative Committee, and we are aware of the efforts made in setting it up. However, we consider that it is important that the modernised agreement provides for each Party to consult its domestic civil society (Domestic Advisory Groups) in all matters covered by the agreement. Therefore, we would like to see that civil society consultations also allow for more specific configurations or compositions, in particular for the trade part of the agreement - recognising that there may be stakeholders with more specific interests in one or another part of the agreement.

The TSD chapter should include the possibility of sanctions and be subject to the general Dispute Settlement Mechanism of the Agreement

TSD provisions are already binding and enforceable via a dedicated dispute settlement mechanism resulting in the publication of an independent panel report. We have been using this approach rather than one involving economic or trade sanctions. We are conscious that after some experience with TSD implementation there are mixed views on the effectiveness of TSD Chapters. This is why we launched an open debate on this issue in July 2017 based on a discussion paper on TSD enforcement and implementation. On 27th February the Commission published its position taking into account the views expressed and identifying 15 priority areas to strengthen effective implementation while maintaining the current approach to dispute resolution for TSD Chapters.
2.24. Indonesia

*So far attention from civil society has focused on palm oil*

- See defensives on palm oil under ASEAN.

*What about SIA*

- The draft of the final report of the SIA will be published shortly.
- We will organise a CSD to discuss the draft final report on 10 April.

This will be well in time to ensure that recommendations can feed into the negotiation process; also as we have still some way to go to bring these negotiations to their conclusion.
2.25. Australia and New Zealand

**Timeline for FTAs?**

- Some of you may have noted in the press that PM Ardern and President Juncker discussed the possibility to conclude a political deal on EU-NZ by October.

- Also the Australian Trade Minister Birmingham was recently visiting Brussels. Australia has also committed to a steady progress. However, we need to be aware that elections are coming up in Australia in May.

- We have elections coming up also on the EU side. The negotiations with Australia and NZ will be topics to discuss with the new Parliament. We count that positive messages are passed to the new MEPs.

- The negotiations started later than originally foreseen. However, they have started well and the Commission hopes that they will continue to move forward quickly. Preparation was comprehensive and both sides have a professional approach.

- In our past experience, even the quickest negotiations still needed 2 to 3 years. We will not prioritise speed over quality.

**Timeline for EU Sustainability Impact Assessment, SIA?**

- Launched in January. Two separate studies (one contractor, consortium lead by BKP Advisors).

- The public websites have been created. The draft Inception Reports are now publicly available for comments.

- First Civil Society Dialogue on 4 April 2019, together with update on FTAs.

- Objective to finalise still this year.

**Will the recent change in the Australian government have an impact on FTA?**

- On the EU side we expect Australia to continue to support the FTA process fully. The governing party remains the same. The new Trade Minister is Simon Birmingham visited Brussels end of January. We do also not expect that the Australian approach to the Paris Climate Agreement will deteriorate. However, we are fully aware of the elections coming up.

**How will stakeholders and civil society be consulted and informed on FTA?**

- Very high transparency measures have been implemented in the FTA process and this approach will be continued. Negotiating directives were published. The Commission also publishes reports of the rounds.

- The Commission has also already published most of the EU text proposals.

- We are in constant discussion with EU Member States. We also organised an open industry consultation and have received responses from around 40 respondents. They support the approach taken in the negotiations.
• Specific CSD coming up on 4 April 2019 (combined event on FTA state of play and the SIAs).

What are the EU’s motivations for the FTA? Are there any economic interests?

• We are not looking at these FTAs in isolation. All of our FTAs are part of EU’s trade strategy. In the absence of progress on a multilateral agreement, it is important for the EU safeguard its economic interests by developing a series of preferential trade relationships. Our trade agreements with South Korea and Canada are such examples.

• We are in the process of negotiating a series of preferential trade agreements with ASEAN countries and Japan is on the way to be implemented. In this context, the agreements with Australia and New Zealand would allow the EU to develop a web of preferential trading arrangements spanning across the key economies of Asia-Pacific – one of the most dynamic economic regions of the world.

• EU companies will benefit not only from bilateral EU-Australia trade but both FTA will also contribute to regional connectivity, inclusion in global value chains, potential harmonisation of standards etc.

• In any case, should not undermine the economic benefits of these FTAs. No market is too small and no opportunity should be missed to support EU exporters. EU trade with NZ and Australia together is similar to trade with Canada or Mexico. EU exports of goods to Australia and New Zealand together (€37Bn) are more than EU exports to Canada (€35Bn). The trade balance is highly positive in favour for the EU with Australia ranking 4th after USA, UAE and Switzerland. Even to New Zealand, a relatively small economy, EU exports are higher than to some of our existing FTA partners (Peru, Ecuador).

Impact of Brexit

• We are aware of the figures. Impact of Brexit can only be speculated.

• Figures show that UK’s share is about 1/3 of EU goods imports from Australia and New Zealand, and about 1/3 of services trade with Australia in both directions.

What is the proposed apportionment of WTO tariff rate quotas by the EU and the UK?

• The UK’s withdrawal has implications that go beyond the bilateral relationship between the UK and the EU. We have been engaging with the WTO membership.

• With regard to tariff rate quotas, the EU and UK shared objective is to ensure that any adjustments are done in a way, which is fair to all Members of the WTO and maintains the current level of access for Members to the EU27+UK market – no more, no less.

• The EU and the UK each launched the first step of the formal process at the WTO to establish separate schedules on goods on 24 July 2018.

The Council and European Parliament will co-sign the new Regulation during the plenary of 30-31 January 2019. It will be published on 8 February and enter into force the day after publication. It would be applied after UK withdrawal or post transition. It would apply in case of no deal. (There is nothing new in there in terms of TRQ apportionment.)

**How will the Commission handle the EU defensive interests in the EU agricultural sector?**

- We should not forget that the EU has also important offensive interests in the agricultural sector, in particular with Australia. In fact, agricultural and processed agricultural products taken together, the EU had a 780 million Euro trade surplus with Australia in 2017. In addition we have offensive interest as regards GI protection.

- However, we are fully aware of agricultural sensitivities in particular dairy, beef, sheep meat, and to a lesser extent sugar, rice and wheat.

- For some agricultural products only partial liberalisation such as **tariff rate quotas, longer transition periods or other arrangements** will be considered. This is reflected in the negotiation directives which state that, though a wide liberalisation is the overarching aim, specific provisions should cover the most sensitive products.

- For certain sensitive products (beef, dairy products, sheep meat) we already now grant preferential market access under quota schemes to both countries.

- While for beef the small country specific quotas are almost fully used, the usage of quotas for sheep meat (despite zero duty!) and dairy have declined over the past years, meaning Australia and New Zealand both found more attractive markets than the EU and diverted their exports increasingly to other countries in Asia.

- In the case of New Zealand, about 2/3 of our imports are agricultural goods. Sheep meat makes one third of EU's agricultural imports from New Zealand and it already enters duty free as a result of a historical and large tariff rate quota.

- In the case of Australia, agriculture accounts for less than 1/6 of total EU imports, and the biggest import item is oilseed that is mostly used for biodiesel production in the EU. The EU actually has a growing surplus in agricultural trade and especially in high value-added, processed agricultural products.

**What are the EU offensive interests in agriculture?**

- The EU has important offensive interests in the agricultural sector. In fact, agricultural and processed agricultural products taken together, the EU had a 780 million Euro trade surplus with Australia in 2017. Though trade pattern with New Zealand is different due to a very high share of our sheep meat import.

- Besides duties we have an offensive interest as regards GI protection and SPS:

  **Geographical Indications (GIs)** are the important and longstanding offensive interest as the EU's approach differs from New Zealand and Australia.

- We want to see full protection of our GIs through the FTAs, and beyond wines and spirits also to expand protection to food products as well. New Zealand put in force its GI (Wine and Spirits) Registration Act last year. In the case of Australia, we already have a wine
agreement covering wine GIs. The FTA negotiations provide the opportunity to find solutions for outstanding issues.

- NZ has already published the GIs for opposition.

- On duties, it is true that applied duties are already low in both countries but **bound tariffs** are not, and for example there are still considerable duties on our main interesting agri-food export such as **processed agricultural products, alcoholic beverages and cheeses**. The EU will be the only one country to pay import duties in Australia/New Zealand after CPTPP.

- On SPS, the FTAs could provide the tool to bring the SPS relationships to a stable and balanced footing with high level of ambition.

**What was discussed on tariffs/exchange of offers during the third round with New Zealand?**

- Both sides introduced their respective tariff offers. We held a first discussion on the offers, exchanging technical clarifications and conveying general expectations for the next stage of the negotiations. Work on the text on rules for trade in goods made substantial progress.

- This is the beginning of the discussion on this important topic. Work on market access on goods/tariffs will proceed in view of the fourth round.

- New Zealand expressed some disappointment with the low coverage of the offer by the EU side.

- Negotiations have to progress in all areas and there is still a lot of work to be done. Of course, it has been clear from the start that agriculture is one of the sensitive areas.

**Why is agriculture so sensitive in an FTA with Australia?**

- Australia is offensive in agricultural sectors where the EU is very sensitive such as beef, sheep, sugar and rice.

- This was confirmed in our internal impact assessments and a study done on the cumulative impact of FTAs.

- Even small increase in imports of high value products such as for example quality beef, may have negative effects on sensitive EU sectors.

- EU agriculture is under pressure from concessions under trade negotiations with major agricultural exporters, for ex. Mercosur (beef and sugar).

- Politically, agriculture is also very sensitive. In a report, the European Parliament has made clear it has concerns on a possible FTA with Australia. Member states are also nervous about possible negative impact on EU agriculture of FTA's, as shown in the discussion to obtain a negotiation mandate in the Council.

- On top impact of Brexit on EU agriculture is uncertain.

- So realistic expectations as regards the additional market access the EU can offer for agricultural goods are key for a successful outcome.
What is the EU approach on Animal and plant health, SPS?

- The FTAs could provide the tool to bring the SPS relationships to a stable and balanced footing with high level of ambition.

- All animal products coming into the EU must comply with the EU's high safety standards. Imports must be accompanied by veterinary certificates from the national authority, and this control system is regularly audited by the Commission.

- EU member states carry out thorough border checks and sound the alarm quickly through the Rapid Alert System on Food and Feed if there is a case of contamination. The Commission then reviews the results and takes action where necessary.

- In the case of kangaroo meat from Australia there have been no serious deficiencies identified in audits in Australia and very few samples of contaminated meat detected in the EU, and therefore the Commission has not taken restrictive measures.

What will the EU do to tackle Animal welfare?

- We agree with the importance of animal welfare and have always included a chapter or article about it in our FTAs, inside or outside the SPS chapter.

- The EU negotiating mandate includes specific provisions on animal welfare that go beyond earlier proposals. The EU approach follows this line of ambition also in the text proposals.

- While the Commission continues cooperating with many countries outside the EU and raising awareness internationally on animal welfare, it should however be noted that the EU cannot impose its animal welfare standards on the production of non-EU countries.

- We are discussing with the Australian authorities about their export system for kangaroo meat and this dialogue will continue.

A few countries have banned kangaroo meat (on animal welfare or SPS grounds). What is the EU position?

- We are aware of concerns raised with regards to Kangaroo meat and are keeping a close eye on this issue. The EU has strong and efficient systems in place to deal with animal and food safety issues, with or without a trade agreement

What is the EU position on Trade and sustainable development in the FTAs?

- As put forward in the Commissions Trade for All Communication, the EU is also in the lead on using trade policy to promote the social environmental pillars of sustainable development.

- The Commission has committed to review the EU approach based on the 15 points action plan. This would not foresee no sanctions but the focus is rather how we can improve implementation.

- All EUs more recent FTAs contain provisions on TSD and the Commission takes into account sustainable development considerations in all relevant areas of FTAs, for example energy and raw materials and public procurement. This approach is applied also in the FTAs with Australia and NZ.
• The aim is to maximise the potential of increased trade to decent work and environmental protection, including climate change and compliance with ILO conventions.

• The EU proposal for a dedicated TSD chapter with Australia and NZ will reflect the text of the Negotiating mandate. It will reflect the EU practise introduced as of the EU/Korea FTA, taking into account the policy developments.

• As of the EU/Japan agreement, the chapter contains also ambitious provisions on effective implementation of the Paris climate agreement.

• Finally, we want the agreements to set up a strong framework for dialogue on sustainable development issues both between governments and with civil society (including business associations, social partners, NGOs, etc.).

• For the very latest text proposal on TSD we can already refer you to the TSD proposal made in the context of the Chile negotiations.

• The EU text proposal would be made publicly available as soon as submitted to the negotiating partners.

**What will the EU do about Government Procurement in the FTAs?**

• Procurement is one of EU offensive interests. As indicated in the negotiating directives, we aim for improved market access and better procurement rules for EU companies both in the Australian market as well as NZ markets.

• There is potential for future growth potential for example in infrastructure and environmental projects where EU companies are competitive but do not yet benefit of transparency and equal treatment.

• NZ is already a GPA-member since a couple of years.

• I am glad to note that Australia is about to accede to the WTO GPA-agreement. The terms were agreed in October last year. I hope Australia will formalise its accession as soon as possible this year. This provides a good basis for us to go further at bilateral level, for instance at sub-central government levels.

• We understand that there may be sensitivities in this area on the Australian and NZ side. Proper consideration will be made during the negotiations. For the EU, there will need to be a GPA+.

**What is the approach on consumers in the FTA?**

• The EU mandate assures that we will be working with consumer protection and consumer interests in mind.

• Australia has high standards and the FTAs will provide for no trade-offs. In any case, we are fully committed to making sure that consumers are protected and that they benefit of the agreements.
- We are already having a close look at the textual provisions which relate to this area. For example, our text proposals will take into account data protection and correspond to the needs in the area of data flows.

- We understand also that there is encouragement to carry out more “impact assessment. The SIA is already launched. We can also look into other possibilities to step up assessment. However, we have to be realistic. Not everything is measurable.

**Will there be provisions for anti-corruption or on gender?**

- As regards anti-corruption provisions, the EU has developed a text proposal for Mexico and later the Chile agreement. Gender provisions will be proposed in the negotiations with Chile as a test case.

- However, as regards Australia or NZ, anti-corruption and gender issues are not among the most pressing vis-a-vis those countries, therefore we did not propose to cover them in the FTAs.

- The political framework agreement with Australia already provides for further cooperation.

**What about investment protection in the FTAs?**

- Given that Australia, NZ and the EU have similar high standards of protection for investors enshrined in their domestic legislation, the current negotiations do not cover investment protection.

- The EU negotiation directives from the Council do not include investment protection. The EU is not seeking to abandon investment protection in general. On the contrary, we are currently negotiating the possible establishment of a Multilateral Investment Court.

**Is there a Digital Chapter in the FTAs? What is the EU approach?**

- EU text proposal for Digital Trade is the most ambitious text that the EU has ever proposed. It aims to establish horizontal disciplines that are indispensable for the good functioning of online trade and that respond to the challenges of the digital economy.

- These provisions will apply across the board to online trade in goods and services.

- Their overall goal is to ensure predictability and legal certainty for businesses and a secure online environment for consumers who engage in digital trade transactions across borders, to remove unjustified barriers and to prevent discrimination between online and offline activities.

- For example, we included ambitious rules prohibiting mandatory source code disclosure, consumer trust-enhancing rules such as electronic trust services, electronic contracts, unsolicited communications (i.e. spam) and consumer protection.

- We also included provisions for cross-border data flows and personal data protection which will ensure the right balance between tackling protectionist practices in third countries as regards cross-border data flows and ensuring that trade and investment agreements cannot be used to challenge the EU acquis on the protection of personal data.
Will the EU impose its standards on data protection through FTA negotiation?

- Protection of personal data and privacy is a fundamental right in the EU, and it is therefore never covered by trade agreements. President Juncker has been very explicit that privacy and the protection of personal data shall not be negotiated in a trade context.

- The rules the EU proposes in the Digital Trade aim to tackle protectionist practices that exist in many third countries.

What is the EU approach on Services in the FTAs?

- The importance of trade in services is only growing and we aim at an ambitious chapter on services’ liberalisation with Australia and NZ. Discussions on services are at a forefront also at our coming rounds.

- For example, professional services are very important for AUS (looking for mutual recognition) and also NZ – and an offensive interest for the EU because they are a key sector where many services are delivered by Mode 4;

- As for public services, the EU strongly supports public services and ensures that all its agreements protect the provision of high-quality public services for its own citizens.

- Insofar as “essential” services are provided by the private sector in the territory of a trading partner, the EU seeks to benefit from having equal opportunities to provide such services on an equivalent basis.

What is the EU approach on GIs?

- In our FTAs a satisfactory GI chapter is a "must have" for the EU. All our FTAs include comprehensive provisions on GIs and the protection of a list of GI names through the FTA. This is done in full compliance with international obligations (WTO/TRIPS)

- EU objective is not to impose a mere transposition of its internal legislation to the concerned third countries.

- The aim is to establish a list of EU/3C agricultural GIs to be protected directly and indefinitely in the respective countries from the entry into force of the agreement.

- EU is in favour of transparent opposition procedures, allowing every interested party to make objections against GI names proposed for protection under the FTA.

- The EU is concluding agreements with 3rd countries taking into account the specific situation on each of those markets.

Why is the EU proposing TRIPS+ provisions on pharmaceutical patents and regulatory data protection?

- Innovators of medicines make very considerable investments and incur considerable risk in bringing new products to market. And, as a result, patients are better off.

- Considering that research for new medicines is complex, lengthy, and expensive, the EU seeks to provide appropriate incentives for their development.
Among these incentives, the EU proposes a supplementary protection certificate (SPC) which extends patent protection as compensation for the delays that occur in the marketing authorisation of pharmaceuticals. Further, the EU proposes the protection of test and other data (e.g. clinical trials) submitted to the authorities as a requirement for the authorisation of new medicines.

The EU therefore seeks for provide for comparable level of protection on these IP rights to the one provided in the EU through its FTAs.

The Commission is ready to take into account the specificities of each of its trading partners. We note, however, that the EU and Australia's legal frameworks are already largely compatible on these issues.

**What is the EU approach on Right to Regulate?**

- Right to regulate is extremely important for the EU. This is recognised also in our Negotiating Mandate and will be covered by respective parts of the FTA.

- For instance, as recognised in the EU proposal for Good Regulatory Practise, each party is free to decide the means to best achieve its regulatory objectives and to determine its approach to GRP in a manner consistent with its own regulatory system.
2.26. China

China communication

Why is the Commission adopting this Communication now? What is the Joint Communication about?

This Communication is the Commission and High Representative’s contribution to the March European Council discussion on China.

The Commission and the High Representative have taken the opportunity to look across our relationship with China and recommends to the European Leaders three main objectives. The EU should:

1. Deepen its engagement with China to promote common interests globally,
2. Robustly seek more balanced and reciprocal conditions governing the economic relationship, and
3. Adapt to changing economic realities and strengthen its own domestic policies.

In order to achieve these objectives, the Communication puts forward 10 concrete actions for discussion and endorsement by the European Council.

Is there a shift in EU policy towards China?

- There is a growing appreciation in Europe that China’s role in the world has changed. China is no longer a developing country, but a key global player. Its political and economic influence has increased considerably over the last decade. It is a leading technological power.
- The 2016 EU-China Strategy remains the cornerstone of EU policy towards China. It offers the basis for adapting the Union’s policy towards a more realistic, assertive, and multi-faceted approach towards China.
- China is, simultaneously, in different policy areas, a cooperation partner with whom the EU has closely aligned objectives, a negotiating partner with whom the EU needs to find a balance of interests, an economic competitor and a systemic rival promoting alternative models of governance.

What are the fields in which the EU and China cooperate well together?

- The breadth of the EU-China relationship is very broad. Today, the EU has more than sixty sectoral dialogues with China, which cover a wide area of policies - from foreign policy to transport, energy and research and development. The annual EU-China summits give the necessary political steer to our relationship. On 9 April, the 21st EU-China summit will take place.
- A good example of our cooperation is China’s support for the Iran Nuclear Deal. China played an important role first in securing the agreement and now in ensuring its full and effective implementation
- The EU is committed to work and further strengthen its cooperation with China based shared commitments and objectives
Are the identified actions in the Communication ‘China specific’?

- Some of the actions identified in the Communication are indeed ‘China specific’.
- For example, the Commission calls on China to deliver on the 2018 EU-China Summit joint commitment to reform the World Trade Organisation and to agree on stronger disciplines on industrial subsidies and on forced technology transfers.
- This is also the case in relation to the ongoing negotiations on Comprehensive Agreement on Investment, the Geographical Indications or Aviation Safety Agreements.
- Progress on World Trade Organisation reform and swift conclusion and signature of the ongoing negotiations will be a good indicator of China’s commitment to a mutually beneficial, strong bilateral relationship.
- Other identified actions are not specific to China, but relevant to the EU’s ability to calibrate its relations with China.
- They look at what the Union needs to do in order to strengthen its resilience, promote the competitiveness of its companies and prepare itself to address the challenges of the future. For instance, addressing gaps and loopholes in the procurement framework is something the EU needs to do in order to

Does the Commission expect the European Council to act on all action points?

- The Joint Communication invites the European Leaders to discuss and endorse 10 actions of strategic importance for the future Union relationship with China.
- It is in the interest of all Member States to take a swift position on these actions.

Is the EU now following US President Trump’s approach to dealing with China?

- The EU does not follow anyone. The EU has its own interests and values in its relationship with China. It does not seek to isolate or discredit China. On the contrary, the EU sees China as a key player of the multilateral system and a strategic partner with whom it wants to cooperate, while at the same time being upfront about the challenges that must be addressed.

What is the relationship between this Communication and the upcoming EU-China Summit?

- The Communication is addressed to EU leaders at the European Council, for their discussion and endorsement. It captures the whole breadth of EU-China relations and is not limited to the upcoming Summit.
- Nonetheless, the Summit will be a good opportunity to advance some of the actions proposed, which are of bilateral nature and require deepened engagement with China.

How do you expect China will react to this Communication? Is there a risk it will be seen as souring relations?

- We're not speculating about this. This Communication is – and should be seen as - an honest assessment of the EU-China relationship aimed at further improving and deepening the EU-China strategic partnership.
Having said that, the Commission had contacts with the Chinese authorities about this Communication before its adoption.

How do you expect the Communication to be implemented when Member States are so divided on China (16+1/ Belt and Road Initiative…)?

- The European Union has demonstrated time and again that when it is united, it is able to achieve its objectives globally and with its partners.

- While Member States will always have their legitimate bilateral relations with China, they all have a common strategic interest in acting in a united manner when it comes to the issues raised in this Communication.

- All Member States individually and within sub-regional cooperation frameworks, such as the 16+1 format, have a responsibility to ensure consistency with EU law, rules and policies.

Several Member States have called for a new EU industrial policy. Why has the Commission not proposed one?

- President Juncker underlined the importance of industry already in his political guidelines of July 2014. The Commission has taken a number of actions as part of a comprehensive industrial policy - including the Juncker Plan, use of trade defence instruments, reformed public procurement rules, advancing on the Digital Single Market and the Capital Markets Union and many other things. On the occasion of President Juncker’s State of the Union speech in September of 2017, the Commission adopted an industrial policy strategy, bringing together all these work streams. The Strategy was well received by the EU industry and remains applicable.

- Nevertheless, the changing economic realities, including China’s increasing role as a key global actor and leading technological power, implies that more efforts may be needed. In this context, it is particularly important to focus on strategic value chains that are key to the EU's industrial competitiveness and strategic autonomy, such as Projects of Common European Interest, Artificial Intelligence, batteries or raw materials.

- Of course, determined action does not preclude further reflection on how European industrial policy could continue to evolve.

In the Communication, what do you mean by “cross-sectoral hybrid threats including information operations”?

- While placing severe restrictions on freedom of information and freedom of expression at home, China is able to make extensive use of the openness and pluralism of western democracies to build links with media, universities, think tanks, business leaders and former politicians that are then used to promote its official narratives on a wide range of issues.

- In some cases, there have also been reported cases where critical views on issues that China defines as highly sensitive "core interests" (e.g. Taiwan or Tibet) have been discouraged or suppressed - for example, on university campuses.

- There is extensive information in the public domain about this kind of activity (for instance, last month's report published by the Royal United Services Institute on Chinese influence and interference, or the case of New Zealand academic Anne-Marie Brady).

China trade relations
Why did the Commission issue a new Communication on China?

The challenge is wider than just trade. The decision to invest in broadening co-operation with China based on shared interests has delivered results, a more stable environment for economic prosperity, and a common outlook on some important regional and global challenges. At the same time China is reinforcing policies that present challenges to the EU’s long-term competitiveness, and delaying reforms to policies that would mitigate current imbalances.

Therefore, there is a growing realisation that the opportunities and challenges created by China call for a further strengthening of Union policies in order to rebalance the conditions of our engagement with China.

In the trade context, we look at all possible avenues of redress of the situation, from closely examining the possibility of launching WTO cases, to continued political dialogue with China.

Key priorities were identified in the 2016 EU Strategy on China – investment negotiations, quest for reciprocity, level playing field, over-capacity and market access.

We pursue and want to strengthen enforcement of trade rules in particular through the WTO. As regards investments, the current negotiations remain a main instrument to foster a much needed mutually advantageous investment relationship with China.

We have also made significant steps in containing redressing the distortions brought about by China with the adoption of the new antidumping methodology. The establishment of an Investment Screening mechanism is well under way, while on other proposals such as the International Procurement Instrument – IPI- or the EU modernised rules on export control of dual use more political impetus, notably from MS, is required. All these instruments and legislative proposals are important instruments that can help to rebalance our relationship with China.

What is the state of play in the negotiations on Geographical Indications?

The agreement at the last EU-China Summit was to conclude these negotiations, if possible, by October and Premier Li Keqiang expressed to President Juncker on 18 October the commitment of China to conclude soon.

The latest rounds in late 2018 saw progress in some areas, but divisions remained as regards the level of ambition of the future Agreement, the procedure to be followed for solving oppositions and treatment of non-agricultural GIs.

EU is convinced that this Agreement needs to bring added value and offer high level of protection to geographical indications from both sides.

The EU remains firmly committed to a conclusion of an ambitious agreement and we will continue to push China to deliver.

The next round will be proposed by China once they have conducted the necessary internal consultations on non-agri GI and on the next steps in opposition procedure.

Would the International Procurement Instrument help with the China/level playing challenge?
While the EU public procurement market is open, the same cannot be said for the majority of our trading partners’ procurement markets. EU companies find it increasingly difficult to gain access to procurement opportunities in foreign markets.

The IPI proposal is a non-protectionist answer to the protectionist actions by some of our more important trading partners. There is consensus among all EU players that there is a problem for EU operators to access third country procurement markets.

China is such a case, where public procurement plays a significant role in the economy and currently foreign enterprises are largely excluded from the market.

We see a need for IPI in the EU for EU companies to remain competitive in third markets and to support the ambitious Public Procurement chapters in our FTAs and future accessions to the GPA. Additionally, IPI will strengthen fair competition in the EU markets, as it will give the possibility to restrict access to the market to those that do not want to play by the rules or refuse to open their markets.

Why are new rules needed on export control?

Recall that the COM proposal dates back to September 2016. Recognise that it is a complex proposal putting together about 60 technical amendments to the current export control regulation and also marking a fundamental evolution of the EU export control system, with the introduction of EU autonomous controls.

Much has changed since 2014, and, in 2019 the need for a modernisation of our export controls is more pressing than ever, in the face of mounting economic and political threats. The European Union must come together to assert our values and interests in trade, defence, and technology. We need to modernise our regulations, to adjust to the evolving security environment and to preserve the competitiveness of our high-tech companies, in defence of our values and a rules based international order.

EU export controls are non-discriminatory, targeting no specific country. China is the 2nd biggest destination for EU dual-use exports.

The COM proposal is ambitious, and brings together approx. 60 modifications to the current export control regulation, essentially to enhance its effectiveness and efficiency. As illustrated in the Impact Assessment conducted by the Commission in 2015, in certain cases, enhancing the effectiveness of controls comes with a cost i.e. additional information exchange. Since these additional requirements are fairly basic, we assess that the impact in terms of administrative burden will be very limited, especially in consideration of available IT solutions. Moreover, the proposal contains various amendments that will quite significantly decrease costs for exporters e.g. facilitating controls on encryption products that represent billions of euros in licenced exports each year. Moreover, aside from the legislative proposal, we are taking action to develop an effective EU export control network and architecture and for ex. develop an electronic licensing system that will equip some competent authorities as of 2019.

How will the Commission deal with the US/China trade tensions and the possible outcomes of these negotiations?

The position of the EU with regard to the US-China trade conflict is very clear: we do not support the threat or application of tariffs or other unilateral actions in breach of WTO
commitments. And our actions in relation to these developments should not be read as the EU taking sides. We only side with the multilateral system.

And this not only for philosophical reasons. A US-China bilateral deal may have a negative impact on the EU and its operators.

We can imagine that a deal may include two main strands: (a) new and or better “rules” (e.g. review of laws and regulatory framework, enhanced transparency, better enforcement mechanism) and (b) pure market access concessions.

The rules would have by definition MFN application. In other words, everyone would benefit, including the EU.

Market access concessions may be both MFN (e.g. tariff dismantling across the board) or exclusively to the benefits of US operators.

We will look into all possible tools at our disposal to defend the interests of the EU and its operators and the integrity of the WTO system.

**What is the Commission view on Chinese technology (in particular Huawei) and 5 G networks?**

In the EU, we believe in open markets. In the EU public procurement procedures, we do not discriminate among economic operators.

However, we are also sensitive to concerns of Member States as regards security and public order – this is why, for instance, we have will soon have the EU framework for investment screening in place to address security and public order concerns in relation to FDI into the Union.

In addition, EU Member States have the right to decide whether to exclude companies from their markets for national security reasons, if they do not comply with the country's standards and legal framework. This applies to Huawei, too. The European Commission is monitoring the developments very closely.
China investment

**What does the EU expect in terms of further ambition on market access?**

More ambition on market access means to significantly reduce the space that China reserves to discriminate in those sectors which are not yet fully liberalised in the Chinese market. Financial sector, telecommunication, information and communication technology, manufacturing, engineering and biotechnology are key sectors of our interest. We also need to have a comprehensive commitment for non-services. The distinction between services and non-services is anyhow outdated and economically unjustifiable in our bilateral relation.

**What does EU expect in terms of enhanced level playing field?**

This means improving the level playing field for our investors in the Chinese market, notably by doing away with the discriminatory rules and arbitrary practices they face, not only when trying to enter the market but also once they are established there. There is a way to go, in particular, for approvals, licences and authorisations. This concerns not only admission of foreign investor but also authorisations to research, produce, or market certain product or service. The examples of market access restrictions are numerous, from cloud services, financial services to baby food formula authorisation. Also, we have not had yet proper engagement to discuss rules for standard setting and level playing field with regard to SOEs and subsidies.

**What about the idea of a Free trade Agreement with China?**

For now, the EU priority remains to negotiate and conclude a comprehensive and ambitious investment agreement as jointly agreed in 2020 Agenda. We have also explained, in our trade Communication “Trade for All”, that China must also tackle economic reforms that level the playing field, as well as assume responsibility at the WTO, in line with the benefits it draws from the multilateral trading system.

**Why is the negotiating text not public?**

Our current practice with respect to negotiating texts strikes the right balance between informing the public about the EU’s overall objectives in a negotiation, while maintaining a certain degree of confidentiality that is necessary for a negotiation to proceed towards a mutually beneficial outcome.

Since our consolidated text for the investment negotiation with China reflects both the EU’s position but also that of China, publishing it would undermine the mutual trust that is essential for a negotiation to succeed. To ensure however, that the public is informed as early as possible about the negotiated outcome, we publish the text of the agreements immediately as they stand after negotiations are finalised, without waiting for the legal revision to be completed. This approach will be followed for the CAI negotiations too. At the end of each formal round, we also publish a report of the discussions.
The EU decided not to pursue, for the moment, FTA negotiations with Thailand and the Philippines. Recently, the EU decided to initiate a process that could lead to the withdrawal of EBA preferences to Cambodia and Myanmar. These decisions were taken in light of the political developments in these countries. How does the Commission justify its continued talk about a region-to-region FTA which would include these countries?

- Discussions with ASEAN Member States in the framework of the EU-ASEAN context are built on the longer-term perspective of re-engaging with ASEAN as a block. These discussions are in a preparatory phase. The ultimate decision whether or not to resume FTA negotiations between the regions will take into account the overall relationship with all ASEAN Member States.

What is the state of play of the EU-ASEAN Working Group on palm oil [topics discussed, participants, deliverables…]?

- The decision to set up a Working Group on palm oil between the EU and relevant ASEAN Member States was taken at the last EU-ASEAN Foreign Affairs Ministerial meeting (January 2019).

- The EU will further discuss with interested ASEAN Member States about the objectives and modalities for the operations of such Working Group. No date has been fixed yet for the first meeting of the Working Group.
2.28. Malaysia

Why did the FTA negotiations not progress since 2012?
Negotiations for a Free Trade Agreement between the EU and Malaysia were launched in 2010 and put on hold in 2012 at the request of Malaysia. Following the conclusion of TPP negotiations in October 2015, Malaysia expressed its wish to resume FTA negotiations with the EU and both sides agreed to jointly explore whether sufficient common ground existed to resume the negotiations. Following last year’s elections in Malaysia, the EU is waiting to receive a positive signal on the decision to resume them.

Is the new Delegated Act on Renewable Energy going to have an impact on the FTA negotiations?
As mentioned above the negotiations are on hold. To date Malaysia has not referred to a direct linkage between the restart of the negotiations and the Delegated Act.

Will the EU liberalise palm oil imports under the future FTA? Or are you intending to restrict them based on sustainability criteria?
The EU is committed to making trade contribute to sustainable development. In its FTA negotiations the EU pursues an ambitious and comprehensive chapter on TSD, addressing labour and environmental issues of relevance in a trade context. And this for all products and cutting across all chapters, not only for palm oil.

We appreciate that palm oil is of particular relevance. Palm oil, like any other product, will be part of the negotiation. We want to have in the FTA a good framework to address the root causes of concerns on the sustainability impacts of palm oil production - e.g. ensure sustainable management of forests, protection of biodiversity, sound working conditions, responsible business practices.

The EU also follows closely the work undertaken by Malaysia towards enhancing the sustainability of palm oil, including with regard to the Malaysian objective of achieving fully sustainable palm oil value chains by making the Malaysian Sustainable Palm Oil (MSPO) certification mandatory.

Will the new architecture developed on the Singapore FTA be applied to the EU-Malaysia FTA?
With the clarity provided by the Court of Justice Opinion 2/15 (issued on 16 May 2017), the Commission engaged with other EU institutions in a collective effort to devise an architecture for trade and investment agreements that ensures EU’s ability to ratify and implement negotiated agreements in an effective and legitimate manner, in full respect of democratic decision making.

Following these discussions, the architecture of our agreements with Singapore and Vietnam was adjusted to that of two standalone agreements: a Free Trade Agreement (FTA) and an Investment Protection Agreement (IPA).

Investment protection had not yet started to be discussed in the framework of negotiations between the EU and Malaysia when these were put on hold in 2012. Once negotiations relaunch, chief negotiators would need to discuss the possible future architecture of a deal including investment protection.
2.29. Thailand

**Will the EU resume FTA negotiations with Thailand?**

- The 2017 Council Conclusions make clear that FTA negotiations cannot resume before a **democratically elected civilian government** is in place in Thailand. Elections are upcoming and the Commission will closely follow this process [*elections are scheduled for 24 March, a new government is expected to be in place by summer*].
- In line with the Council Conclusions, the Commission stands ready to continue to work with Thailand on an **exploratory exercise** on the level of interest, ambition and mutual expectations for a possible resumption of the FTA talks.
- The EU pursues FTAs that are ambitious and comprehensive. In the ASEAN context, the EU is interested in ensuring coherence between the FTAs it is negotiating with ASEAN Member States. The recently negotiated FTAs with **Singapore and Vietnam** are good examples of the level of ambition the EU wishes to see from other FTA partners.
- The EU will also continue to engage with Thailand on **bilateral market access issues**, both in relevant WTO committees and through bilateral channels (Working Group on Trade and Investment, contacts on the ground).

**Why did the Commission lift the IUU (Illegal, Unreported and Unregulated Fishing) "yellow card" on Thailand? Serious concerns remain on working conditions in the Thai fishing sector, how will you address them?**

- The decision to lift the IUU yellow card on Thailand follows the constructive cooperation of Thai authorities with the Commission over the last years. This resulted in a **comprehensive and structural reform** of the Thai fisheries legal and administrative systems.
- The EU and Thailand will continue to **work closely on the fight against IUU**, at both bilateral and regional level, including through a newly established dedicated Working Group.
- The EU is equally committed to work with Thailand towards enhanced working conditions – in the fishing sector and beyond. Last year we launched a **high-level bilateral labour dialogue**, and progress continues to be made by Thailand on the protection of workers' rights. For instance, Thailand recently ratified the ILO Convention on Work in Fisheries – the first Asian country to do so [*NB: only 4 EU MS have ratified this Convention so far*].
- Several strands of **cooperation** are ongoing in this area. For instance, we continue funding a project with the ILO to improve the protection of workers' rights in the fishing sector, and several activities are being implemented under a project with the ILO and the OECD to support the uptake of responsible supply chains, including with regard to working conditions.
2.30. Philippines

*Given the poor Human Rights record, why is the Philippines still a GSP+ beneficiary country?*

- The GSP+ monitoring process provides the EU with an important instrument to push for positive change with a view to addressing human rights concerns. Like all GSP+ beneficiaries, the Philippines is part of a serious monitoring process, which has the objective of ensuring that GSP+ beneficiary countries, including the Philippines, make concrete and continuous efforts to effectively implement the 27 international conventions under GSP+. Indeed, GSP+ has allowed the EU to be one of the very few international partners of the Philippines to sit with the government and discuss these issues in a frank manner.

*What came out from the latest GSP+ monitoring mission conducted by the Commission?*

- The latest GSP+ monitoring mission to the Philippines took place 24 September to 4 October 2018. It allowed the EU to continue to push for concrete progress on important issues in connection to the Philippines international commitments. As on previous occasions, the information gathered through the monitoring process, which includes information received from civil society, will be reflected in the next biennial GSP+ implementation report to be submitted to the European Parliament and Council by end 2019.

*Is the Commission not concerned about the “war on drugs”? Is that compatible with GSP+?*

- The EU published in June last year a statement at the UN Human Rights Council reiterating its concerns on the human rights situation in the Philippines, including the death toll associated with the campaign against illegal drugs. The EU expected the Government to fulfill its obligations under national and international law and regretted the country's decision to initiate its withdrawal from the Rome Statute. The European Union also expressed its preoccupation over due process in the removal of Chief Justice Sereno and urged the government to protect the independence of the judiciary in the Philippines. Last November, the EU Delegation in Manila issued a statement in agreement with the EU Heads of Mission in the Philippines condemning the killing of Attorney Benjamin Tarug Ramos, mentioned in your letter.

*In practice, where do you see a positive impact of the GSP+ on the Philippines policy?*

- The latest GSP+ implementation report for the Philippines refers to continued concerns regarding what could be seen as extra judicial killings and a culture of impunity in relation, but not limited to, the war on drugs. The report points to some of the actions being taken by the government that certainly need to be stepped up substantially. The report also refers to areas where positive progress is being made, for example, on the rights of the child. While the possible lowering of the age of criminal responsibility is of serious concerns, we have seen concrete steps to combat trafficking and sexual exploitation of children and improve education. I believe it is also fair to say that GSP+ has positively influenced the reconsiderations to reintroduce the death penalty.

*Is the FTA negotiation with the Philippines suspended?*

- The negotiation was launched back in 2015 and two rounds have taken place since. No date has been set yet for the next round. While the EU remains committed in principle to the FTA, the EU’s trade agenda cannot act in isolation of EU’s broader values agenda.
2.31. Myanmar/Burma

When is the EU going to launch a formal withdrawal procedure?

At the moment the EU is engaged with Myanmar on our concerns and the government is responsive though needs to deliver still on many issues. We are currently deciding on the next steps. This includes assessing - with other Services - the outcome of the mission and possible ways forward.

Why is the EU targeting Myanmar and not other GSP beneficiaries with poor human rights records?

The EU monitors the human rights and labour rights situations of GSP beneficiary countries. In 2017, the EU decided to step up engagement with three Everything But Arms (EBA) beneficiary countries, namely Cambodia, Myanmar and Bangladesh. However, it must be emphasised that trade-related tools are only one way to address these issues. The EU makes use of several different avenues to engage with its partners, including human rights dialogues, diplomatic consultations, Partnership and Cooperation Agreements (PCAs), amongst other tools. The choice of which tool to use depends on the seriousness of concerns, but also on the level of bilateral trade between the EU and the partner country.

The Commission has just imposed tariffs on rice exports from Myanmar to the EU. Is this action related to the current EBA withdrawal procedure?

This is unrelated to the launch of the EBA withdrawal procedure. In accordance with Article 22 of the GSP Regulation, tariffs have been temporarily re-introduced on rice from Cambodia and Myanmar following a safeguards investigation carried out at the request of EU Member States. The timing is coincidental. In the event that the current withdrawal procedure results in a partial or full withdrawal of preferences, tariffs will be reintroduced only up to their regular Most Favoured Nation (MFN) levels. No product will be imposed tariffs above their WTO-compatible rate.

Is not withdrawing preferences damaging those working in the industries that export to the EU, instead of those who are perpetrating the crimes?

Temporary withdrawal of EBA preferences is the option of last resort in response to a failure to respect the 15 core UN and ILO conventions. The aim of EU’s unilateral Generalized Scheme of Preferences (GSP) is to improve the situation for the people on the ground. Human rights and labour rights are part of sustainable development. No government should limit its citizens’ rights to decent work, disregarding its obligations towards its citizens on human rights and labour rights.

EU trade preferences have proved to be important for Myanmar’s economy, providing an estimated 450,000 jobs to workers in the country, mostly women in the textile industry. Myanmar must realise that it cannot continue to disregard internationally agreed obligations and values. The EU cannot stand by whilst these values are constantly undermined.
2.32. Cambodia

a) What are the specific violations / allegations towards Cambodia under EBA?

- During the last year, the democratic space for political opposition and civil society has significantly narrowed, which is seen to be in breach of principles enshrined in the International Covenant on Civil and Political Rights (ICCPR). The credibility of the 29 July 2018 general elections was undermined by the exclusion of the main opposition party following the imprisonment of its leader. That dissolution also led to the removal of 5007 opposition commune councilors elected in June 2017 in local elections widely recognized as reflecting the will of the electorate.

- The ILO has repeatedly urged Cambodia to take immediate measures to solve serious problems of a systematic nature related to the application of the Convention 87 on Freedom of Association and Protection of the Right to Organise and the Convention 98 on Right to Organise and to Bargain Collectively. Legal changes introduced since 2014 have contributed to the creation of a system that restricts social dialogue and trade unions' activities.

- On Economic Land Concessions (ELCs), land disputes continue to be a critical issue in Cambodia. There has been progress towards resolution of some of the disputes arising from the creation of ELCs for cultivation of cane sugar. However, there is no nationwide, transparent and inclusive legal framework to deal with these disputes, which leaves space for ad-hoc and sometimes discriminatory resolutions.

- Commission’s analysis has been confirmed by several UN and ILO reports and statements by the UN Special Rapporteur on the situation of human rights in Cambodia. The EU’s specific concerns were publicly expressed by the European Council (the EU Foreign Affairs Ministers’ Council of 26 February 2018). They were also raised by the EU fact-finding mission to Cambodia in July 2018.

- In the aftermath of the fact-finding mission, we have seen the release of a number of Cambodian political activists, rights defenders and journalists who had been held on what were widely seen as politically motivated charges, including the release on restricted bail of former opposition leader Kem Sokha. We warmly welcome these releases, which are a positive step. However, more needs to be done to address the significant shrinking of the political space that has followed from the dissolution in November 2017 of the main opposition party.

b) What is the timeline of the EBA withdrawal procedure?

- (More details in the timeline under Annex I – internal information)

- The temporary withdrawal procedure is launched with the publication of an EU implementing act (Commission decision and notice of initiation) in the EU Official Journal and it is followed by a 6-month official monitoring period. During this period, the Commission will provide the country with every opportunity to cooperate, and will gather all necessary information (including through written communication or visit to Cambodia).
• This is continued by another 6-month period to produce a report on findings and to conclude the procedure with another Commission decision on whether to temporarily withdraw or not the tariff preferences. Cambodia will be asked again to formally react to the preliminary report on findings.

• In case the Commission decides a temporary withdrawal, the final decision will be made through a so-called delegated act; which requires non-objection by the Council and the EP non-objection to enter into force.

• In case the Commission decides not to withdraw trade preferences, the final decision takes the form of an implementing act, on which the Member States are consulted in accordance with the comitology procedure.

c) Isn’t withdrawing preferences damaging those working in the industries that export to the EU, instead of those who are perpetrating the crimes?

• Temporary withdrawal of EBA preferences is the option of last resort in response to a failure to respect the core UN and ILO Conventions. The aim of EU’s unilateral Generalized Scheme of Preferences is to improve the situation for the people on the ground. Human and labour rights are part of sustainable development. No government should limit its citizens’ rights to being able to work, disregarding its obligations towards its citizens on human and labour rights.

• EU trade preferences have proved to be vital for the Cambodian economy, providing thousands of jobs to workers in this country. Cambodia must realise that it cannot continue to disregard internationally-agreed obligations and values. The EU cannot stand by whilst these values are constantly undermined. We look to the Cambodian authorities to take the necessary actions to bring the situation back into line with the core Conventions.

d) What is the economic interest from EBA for Cambodia?

• With a low level of industrial transformation, Cambodian exports are not diversified and are concentrated in few sectors. Exports of textiles and footwear, prepared foodstuffs and vegetable products (rice) and bicycles represented 97% of Cambodia’s overall exports to the EU in 2017 (and respectively textiles 75%, footwear 12.7% and bicycles 5.7% of EBA eligible exports). Out of the total exports of € 4.9bn, 99% (€ 4.8bn) were eligible to EBA preferential duties.

e) Why has the EU concluded an FTA with Vietnam, a country where fundamental human rights, such as civil and political rights are also consistently violated?

• In the first place, GSP and FTAs are two different instruments. The EU is very committed to ensure that human rights and labour rights are respected under both instruments, but they operate in a different way. Under GSP, a beneficiary country receives tariff preferences unilaterally and they are conditioned on compliance with a number of core conventions. An FTA is a bilateral agreement with reciprocal tariff concessions, and a different set-up for human right, labour and environmental issues: human rights under a so-called essential elements clause under the Partnership and Cooperation Agreement, and labour and environment in the trade and sustainable development chapters of the FTA with Vietnam.
• Deepening bilateral trade and investment relations with Vietnam (through an FTA) not only will enhance economic development but can also contribute, when combined with longer-term engagement, to the improvement of the human rights and labour rights situation. It will provide the framework to develop joint actions on addressing human rights concerns, on the labour code reform and on the ratification and implementation of ILO Conventions.

• The EU wants a strong and prosperous Vietnam, a Vietnam that respects the rule of law and human rights, and honours its international commitments. The FTA would give us some additional tools to pursue this objective further.

• This is not similar to Cambodia, a country that has enjoyed for many years generous access to the EU market (no duty, no quotas) in exchange for improving its human rights and labour rights record. We have not experienced such improvement rather a consistent deterioration. The UN reports have highlighted a premeditated and systematic process consisting of (amendments to) legislation and regulatory measures to curtail political participation and electoral rights and freedom of assembly, expression and association.

f) Why has the EU identified Cambodia to launch the EBA withdrawal procedure, while other countries in the region such as Laos continue to benefit from EBA preferences?

• Cambodia and Myanmar (as well as Bangladesh) have been selected for EBA enhanced engagement on the basis of the seriousness of their non-compliance and violations (as testified by the most recent UN and ILO reports), as well as on the basis of their substantial trade with the EU, providing us important leverage.

• All the three EBA countries selected for enhanced monitoring represent together 88% of all EBA exports to the EU (Bangladesh 70%, Cambodia 16.3% and Myanmar 1.8%). In 2017, Cambodia exports under EBA amounted to EUR 4.9 billion, for Myanmar accounted for EUR 1.3 billion. On the other hand, Laos’ exports to the EU under EBA remain very low compared to its least developed neighbors: in 2017, they amounted to EUR 0.17 billion.

• We agree that Laos has serious shortcomings in implementing fundamental standards on human rights and labour rights. These standards and the underlying core Conventions are barely reflected in domestic laws and citizens generally are not aware of their rights. The EU is addressing these shortcomings with all instruments at our disposal. We estimate that given the EBA weak economic relevance, a monitoring process with Laos would not produce the desired results.

g) What is the status of the EBA enhanced engagement with Myanmar?

• The situation in Myanmar is extremely serious. The most recent UN Independent International Fact-Finding Mission concluded that gross human rights violations have been committed in Myanmar; many of these violations undoubtedly amount to the gravest crimes under international law.

• The urgent, high-level nature of the monitoring mission to Myanmar end of October 2018 attests to this. Although the formal element of the withdrawal procedure has not yet been triggered, nevertheless steps undertaken so far send a strong and clear message to
Myanmar authorities that their actions will not be tolerated by the EU.

- A senior-level delegation representing Myanmar authorities was in Brussels to discuss EBA process on 10-11 December 2018.

- In the context of our enhanced engagement, a follow-up mission to Myanmar took place from 18-22 February 2019, led by DG TRADE, DDG Helena König with participation of the EEAS and DG EMPL.
2.33. Vietnam

*How can the EU enter into a trade agreement with a non-democratic country like Vietnam with a poor record on human rights?*

- When dealing with (developing) countries like Vietnam, where important challenges exist with regard to the situation on human rights and democracy, one is always faced with the alternative approaches of: isolation and sanctions vs. engagement with those countries where challenges exist but that are on a positive trend.

- Since 1990, when the (then) European Communities established diplomatic relations with Vietnam, EU's policy towards Vietnam has been one of continued dialogue, mutual respect, and pragmatic engagement. The EU has been one of Vietnam's closest partners in its path of socioeconomic development, and we have gone a long way in forging a modern, broad-based partnership.

- The EU wants a strong and prosperous Vietnam, a Vietnam that respects the rule of law and human rights, and honours its international commitments. Governance structures in Vietnam, and in particular the civil and political rights do remain areas of concern and we systematically discuss these issues at all levels. At the same time, when we discuss the situation in Vietnam today, we must take into account where the country is coming from and see clear evidence of progress, notably in the socio-economic domain. Growing economic prosperity in Vietnam has led to improved access to education, healthcare and housing for significant numbers of its citizens.

- Certain issues, like democracy and human rights, are difficult to tackle solely through policy action limited to one area, and thus in its actions on the international scene, the EU privileges a holistic approach to these matters and addresses them through a variety of instruments.

- The EU has a clear commitment to making human rights improvement central to our engagement and dialogue with Vietnam. This has been a guiding principle for EU's relation with Vietnam in the past decades. The EU-Vietnam Partnership and Cooperation Agreement (PCA) that entered into force in October 2016 governs the overall relationship between the EU and Vietnam, making human rights, democracy, and the rule of law essential elements of our bilateral relation with Vietnam.

- Under the PCA, the EU maintains a regular high-level human rights dialogue with the Vietnamese government that provides a platform to voice concerns and to explore ways of advancing the promotion of human rights in Vietnam. The last dialogue was held on 4 March 2019.

- During the past decades, the EU and Member States have also been working together with Vietnam through development programmes and projects to directly support democracy and human rights, civil society organisations, and access to justice for vulnerable groups. Governance and the rule of law are a focal sector of the EU development cooperation efforts in the country [at least up to 2020].

- The FTA includes a comprehensive chapter on Trade and Sustainable Development that will provide additional mechanisms and opportunities for further engagement with the Vietnamese Government, business and civil society, in order to contribute to improving the human rights situation and labour conditions in Vietnam.
While COM agrees that more needs to be done to ensure progress on human and labour rights in Vietnam, we believe that, once ratified, the FTA will offer important additional tools to help achieve this by providing leverage on the issues mentioned.

**Vietnam has a bad record on labour rights and has not ratified all core ILO conventions**

- It is inherent to EU policy-making that trade, investment and ultimately economic growth cannot come at the expense of environmental and labour protection or human development. In this regard, the FTA and IPA have a clear focus on sustainable development and have at their core the upholding of high social and environmental standards.

- The FTA includes a robust and comprehensive chapter on Trade and Sustainable Development, covering labour and environmental matters of relevance in trade relations between the EU and Vietnam. We are confident that the FTA will bring about progress, through the focus on labour conditions and the process towards implementation of core ILO conventions.

- The implementation of the FTA and its monitoring will be of utmost importance, but already the prospect of the entry into force of the FTA has encouraged Vietnam to set out a process for the future ratification of the outstanding core ILO conventions that we are supporting. The Vietnamese government is expected to make its plan for the ratification of the outstanding conventions (in 2019-2023) public very soon. In addition, we are following very closely the ongoing reform of the labour code that should bring relevant ILO principles and standards into Vietnamese legislation.

**Possible questions on the cybersecurity law**

- We are following closely developments concerning the cybersecurity law and the draft implementing decree. The Vietnamese authorities recently subject to a public consultation the draft decree implementing the cybersecurity law. The draft decree further develops some points that remained vague in the law itself, and includes for instance broad data localisation and local presence requirements on suppliers of all basic and value-added telecom services, as well as all internet-based services.

- In response to the public consultation (as well as in bilateral meetings throughout the past months), the Commission and the EEAS have transmitted to the Vietnamese authorities EU concerns in relation to the draft decree: on the one hand, given that the new requirements it contains may entail a breach of Vietnam's future FTA commitments and impact European companies doing, or seeking to do, business in Vietnam, potentially disrupting their business models; and on the other hand with regard to the possible repercussions on the freedom of speech and the risk of prosecution of internet users.

- While the cybersecurity law entered into force on 1 January 2019, the draft decree can still play an important role in narrowing down the scope of the obligations of the law and making more workable its operational modalities in particular as regards the requirements on data localisation and local presence. Contacts with the Vietnamese authorities have proven open and constructive and it still matters very much to reach out to the Government before the decree is finalised.
2.34. Singapore

*Why are GIs not protected through the agreement – what reassurances do we have that they will be properly protected?*

- In most FTAs we are able to obtain direct protection of GI's via the FTA itself. Singapore was a very difficult negotiation on this front for various reasons (no agriculture, no import duties, FTA with US on the principle of "first in time, first in right", TPP negotiations, and big port for re-exports) and the EU lacked leverage to achieve this approach. However, through an exchange of letters that is part of the FTA, Singapore agreed to establish a registry for the protection of GIs after the EP's consent to the FTA. Once the registry is established, the EU will have to officially apply for registration of 196 GIs (listed in Annex 10-A) and Singapore will have to follow its internal registration procedure for GIs to be protected and for the FTA to enter into force.

- While this means that we don't have the certainty now that all 196 GIs will be protected in Singapore, we do have an agreement with Singapore that the FTA will only enter into force if there is no significant deviation between the formal registration of GIs and the result of the public consultation pre-screening that Singapore carried out in 2013. [In the public consultation pre-screening only 8 GIs (Feta, Elia Kalamatas, Fontina, Citricos Valenciano, Münchener Bier and 3 CZ beers) were identified as "potentially opposed terms" – meaning that, if opposed, they would not necessarily prevent the entry into force of the Agreement.]

- COM therefore made the entry into force of the FTA conditional upon a positive final outcome on the GI terms effectively protected in Singapore. The last word belongs to Member States as it will be a Council decision on the conclusion of the FTA (following the protection of GIs in Singapore) that will allow the agreement to enter into force. The Singaporeans are well aware of the sensitivity in relation to this issue.

- Let me also highlight that, while we don’t have full certainty that all 196 GIs will be protected, the terms of protection for protected GIs as laid down in the provisions in the FTA are very satisfactory and fully in line with other FTAs (TRIPS Art. 23 protection extended to all agrifood GIs as well as provisions on coexistence, prior use strictly limited (continuous use in good faith since 2004, or since 1994 in other cases), generic-ness and administrative/ex officio protection incl. at the border). Therefore, the EU GIs, when protected, will benefit from a high level of protection comparable to that in the EU.

*Singapore has not ratified all core ILO conventions*

- Singapore has yet to ratify three core ILO conventions [the Convention on Freedom of Association and Protection of the Right to Organise (C087 – 1948), the Convention on the Abolition of Forced Labour (C105 – 1957), and the Convention on Discrimination – Employment and Occupation (C111 – 1958)].

- For this reason, we have included in the TSD chapter of the agreement robust provisions on labour rights and ILO conventions (Article 12.3) comparable to those in other concluded agreements, notably in relation to the Parties:
  - making continued and sustained efforts towards ratifying and effectively implementing the fundamental ILO conventions;
- effectively implementing the ILO conventions (not only the fundamental ones) each Party has ratified; and

- considering the ratification of non-fundamental ILO conventions.

- Labour rights is an area that the Commission sees as a priority with regard to implementation of both the FTA and the PCA and we intend to focus strongly on ILO-related commitments.

- Singapore is working closely with ILO in identifying the gaps between its legislation and the conventions and is engaging on this matter with EU institutions to explain and address concerns.

**Questions in relation to the case of Mr Jolovan Wham**

- On the specifics of the case, I would first stress that the case remains before the Court – and the judiciary in Singapore, like in EU countries, is independent.

- The case in question is about two matters:
  - Mr Wham not having requested a permit from the police for organising a public assembly with foreigners as speakers. For this, the maximum penalty under the Public Order Act would be an administrative fine.
  - When being investigated, Mr Wham recorded his statement but later refused to sign it, which could be considered unjustified and constitute disobedience (the public event he organised was titled "civil disobedience and social movements") and for which he could be charged with up to 3 months of imprisonment.

- The link that some make between this case and freedom of assembly and freedom of expression in Singapore is not obvious. Singapore, like EU Member States, has a constitutionally protected right to freedom of assembly, as long as it is exercised in accordance with the laws.

- This being said, the EU maintains a regular and open channel of communication with the Singaporean authorities to promote the further opening of the political space to civil society. Furthermore, the Partnership and Cooperation Agreement that received the EP's consent on 13 February together with the FTA and IPA will offer the possibility to deepen the dialogue with the Singaporean authorities on human rights as also expressed in the EP resolution on the conclusion of the PCA.
2.35. India

_India seems keen to resume FTA negotiations. Is there any chance to see a quick resumption of FTA negotiations?_

- Negotiations came to a stalemate in 2013 because the EU considered that India’s market access offers lacked the necessary ambition. Following the last EU-India Summit in October 2017, EU and India agreed to _review the state of play and the possibility to resume negotiations._

- Our trade negotiators had intensive talks in the first half of 2018. The talks showed that _the gap remains wide_ on market access for goods, public procurement and services, as well as on sustainable development. These are all key offensive interests for the EU.

- This being said, and as highlighted in the new EU Strategy on India adopted last December, _the EU remains committed to a balanced, comprehensive and ambitious FTA with India._ Such agreement must be a win-win: it must benefit both sides.

- We remain in touch with our India counterparts to _work towards creating the right conditions_ for the resumption of FTA negotiations.

_What is the problem with trade and sustainable development? How could we move forward with India?_

- As you know, a comprehensive trade and sustainable development chapter has become of a _hallmark of EU FTAs_. It must notably include clear commitments regarding notably labour rights, the environment, climate change and corporate social responsibility, on cooperation thereon, as well as on the involvement of both sides’ civil society.

- Unfortunately, India argues that it does not include sustainable development provisions in any other trade agreement. It is therefore _not ready to go beyond best endeavour_. Furthermore, India rejects any reference to labour rights as this is a State competence.

- We will of course continue engaging India and explaining that reflecting sustainable development in trade agreements is consistent with both sides’ commitments under the Sustainable Development Goals. It must also be clear to India that a meaningful trade and sustainable development chapter is _indispensable if it wants to conclude an FTA with the EU_, otherwise it will not be approved by Parliament and Council.

_What are the possibilities of negotiating a separate investment protection agreement with India?_

- We were _surprised by the cancellation of India’s bilateral investment treaties_ back in 2016. The move didn’t seem to be in India’s interest, particularly with the push to attract foreign investment under the “Make in India” initiative.

- The EU made several openings in this respect and we are _ready to consider negotiating an Investment Protection Agreement_ with India. This could be a first step towards a full-fledged FTA. It could be of mutual interest and would stimulate EU investment in support of the “Make in India” initiative.
However, India has so far shown no interest in a separate Investment Protection Agreement. It wants to keep trade and investment under the single umbrella of the FTA.

**What are the EU’s trade priorities with India in the absence of FTA negotiations?**

- India is a fast growing economy with an annual growth rate of 7% on average. It offers tremendous potential to EU companies. Yet this potential remains largely untapped: India only accounts for 2% of EU trade and only ranks as 9th EU trading partner – though the EU is India’s first trading partner and its main purveyor of foreign investment.

- This situation is linked to the many market access barriers faced by EU traders and investors. This includes prohibitive imports duties, sanitary and phyto-sanitary restrictions and a growing number of technical barriers to trade.

- These difficulties were amplified by Prime Minister Modi’s flagship initiative "Make in India," which seeks to encourage foreign investment into the country, while restricting imports and foreign companies’ access to the Indian government procurement market.

- Our immediate objective is to address these barriers to further expand bilateral trade and investment flows. We notably work on market access issues through the EU-India Trade Sub-Commission and its specialised working groups.

- We could also work more closely in the WTO to address the challenges it faces and preserve the rules-based multilateral trade system.

**Does the Commission envisage to launch a WTO dispute on Indian ICT duties?**

- EU businesses complain about the growing number and the high level of trade and investment barriers in India. One issue of particular concern is indeed the continued increase of import duties on ICT products (such as base stations, mobile phones and their parts, and other network equipment.)

- The economic impact is significant as it covers a large part of total ICT exports of the EU to India. We are talking about an estimated €100 million of additional duties per year.

- The ICT tariffs raise serious questions as to India’s respect of some of its WTO commitments. This has been going on for years with repeated duty increases. India needs to respects its obligations.

- The EU has repeatedly raised this issue with India at all levels to no avail. The Commission is now considering all options. This includes the possibility to resort to dispute settlement procedures in the WTO.

**What is the state play of EU-India collaboration in the WTO?**

- The EU and India share a strong common attachment to multilateralism, notably the WTO and its rules-based multilateral trading system. We therefore have a common interest in preserving and strengthening the WTO, and we would like to see India engaging on our side.

- There have recently been positive developments in this respect. In particular, India is co-sponsoring our proposals on dispute settlement which we submitted to unblock the appointment of Appellate Body Members.
• Unfortunately, there has been **no progress with India on the more fundamental issue of reforming the WTO**. India has so far showed no interest in the development of new rules to address the underlying reasons of the current trade tensions, i.e. distortions caused by non-market policies and practices such as industrial subsidies and lack of transparency on them and forced technology transfer.

• India is also **not** amongst the 76 WTO Members who have agreed to launch talks in the key area of **e-commerce** (together with the US and China)

• India remains very much **focused on the Doha Development Agenda**. We are trying to make it clear to India that the EU continues to be ready to engage on outstanding Doha issues, and that our approach to WTO reform is not meant to replace Doha.
2.36. Africa

**By EPA region (in alphabetic order)**

**Caribbean (Cariforum)**

The EPA has not delivered the expected results.

- Caribbean EPA implementation started with the onset of the global financial and economic crisis end 2008, and any impact was heavily dominated by that crisis. As a result, progress has been uneven and the figures do not look good enough yet.

- Both Parties are committed to the implementation of the Agreement and agreed to intensify their efforts at their meetings in 2018.

- EU is supporting the private sector, which plays a key role in creating jobs and wealth in the region. In this regard, DEVCO has approved a 24 M EUR programme that will enhance competitiveness and innovation among CARIFORUM’s private sector.

**Central Africa**

La fin des négociations en cours signifie-t-elle l'abandon de l'espoir d'un APE régional complet ?

- Les négociations pour un accord régional complet conduites depuis 2003 sont très en retard, leur conclusion reste incertaine et la mise en œuvre d'un tel accord n'est pas envisageable avant plusieurs années. En revanche, l'APE d'étape constitue la voie la plus rapide pour un pays d'Afrique centrale de bénéficier d'un APE. C'est pour ces raisons que nous avons décidé de reporter tous leurs efforts sur l'APE d'étape qui est la voie la plus rapide pour parvenir à un accord régional complet.

- Grâce aux possibilités qu'il offre en matière d'élargissement (à d'autres pays) et d'approfondissement, l'accord d'étape constitue désormais la voie privilégiée pour aboutir à un APE complet régional, objectif majeur de l'accord de Cotonou en matière de coopération économique et commerciale.

**East African Community (EAC)**

Can Kenya and Rwanda move ahead with the EPA? Given the EAC is a customs union, there is a danger for EAC integration. How does the EU respond to this?

- The EPA provisions require that all EAC members sign and ratify for its implementation and this was the choice of the EAC.

- The EU respects and supports the EAC's drive towards regional integration The EPA is carefully aligned with these ambitions and reflects the fact that the EAC is a customs union.

- The EAC negotiators (including Tanzania) have ensured that the provisions of the EPA do not allow its implementation by individual EAC members. All of them need to sign and ratify the agreement before it enters into force.
Eastern and Southern Africa (ESA)

In the wider ESA configuration, "comprehensive" EPA negotiations should be relaunched. What is the way forward?

- We are currently in discussions with the four ESA EPA countries (Mauritius, Seychelles, Madagascar, Zimbabwe) on the possibility of expanding the scope of this agreement to the areas normally covered by comprehensive free trade agreements (such as Services, Intellectual Property Rights, trade facilitation, standards etc.). Other ESA countries can be observers in this process of deepening.

- In July 2018, Comoros decided to join the interim EPA and signed it. This agreement is open for other ESA countries to join. Then, they can also actively participate in the deepening of this agreement.

Pacific

Why have negotiations on a comprehensive regional EPA with the Pacific been suspended?

- Our discussions in the past have not led to a mutually acceptable outcome. The main issue is the sustainable management of fisheries.

- That is why, at the suggestion of Commissioner Malmström, the Pacific ACP Heads of State decided to suspend the negotiations on a comprehensive EPA. In the meantime, this allows us to focus on implementing the existing Agreement which already contributes to the development aspirations of the countries involved, and is open to accession by other Pacific countries.

Southern African Development Community (SADC)

SPS requirements in the EU are seriously undermining the benefits stemming from the EPA for agricultural products

- Sanitary and phyto-sanitary issues cannot be resolved politically. They can only be dealt with through technical dialogue and by hard work, i.e. by implementing the measures that are necessary. Our governments are firmly obliged to protect the health of their citizens through measures that have a sound scientific basis, also in cases where there is a risk.

- All in all, the EU stands ready to support South Africa to meet the EU SPS requirements, and we are ready to offer development and technical assistance - but only as long as there is also reciprocal and fair treatment of our own exports to South Africa.
The EU is dumping poultry in South Africa/SADC and undermines the survival of the domestic industry

- The EU is struck by the vehement tones characterising the media campaign in South Africa against EU poultry. Debate is always important, but it has to be based on facts and respect the rules in place.
- The EU is ready to resort to all legal options available if we cannot find a mutually satisfactory solution to the safeguard imposed in September 2018 on EU poultry. But the EU remains convinced of the benefits of a close trading relationship between our regions and hopes there is room for dialogue between the EU and SACU on this issue.

West Africa EPA

Can West Africa have an EPA without Nigeria? East Africa without Tanzania?

- Neither region has ever asked for this. These EPAs have been concluded with the entire region, in line with the explicit wish of the countries and regions involved. All EU Member States have signed these agreements and the majority of the countries concerned (15 of 21). The agreements cannot be changed overnight. More importantly, the countries and regions themselves must support any changes and have not come with any alternative proposal so far.

Won't the interim EPAs with Côte d'Ivoire and Ghana be detrimental to regional integration?

- First of all, it is the uncertainty on the regional process which has created the need to reactivate interim EPAs. In our view, the interim EPAs are a bridge to the regional EPA. We hope that the regional EPA will be signed and ratified by all West African countries as soon as possible.
- It is clear that we need to accommodate tariff dismantling under the interim EPAs and the ECOWAS Common external tariff (CET). We are in discussions with both Ghana and Côte d'Ivoire in this respect.

Other EPA issues

Impact on development

How do FTAs impact on the development of ACP countries?

- The actual overall impact of EPAs on development will be felt in longer-term. It is expected to be positive because of the stimulation of exports, investments and the overall economic activity in the partner countries, which is also supported by Aid for Trade and broader development cooperation attached to EPAs. Such positive trends have already been reported by some of our long-term EPA partners such as Papua New Guinea, Dominican Republic and Madagascar.

- Several EPAs have now been in application for a number of years: with CARIFORUM since 2008, with Papua New Guinea since 2011; with the four countries in Eastern and Southern Africa since 2012. These agreements have not led to import surges from Europe, nor have
they resulted in significant losses of tariff revenues in the partner countries – the main concerns voiced by some in the civil society and partner countries during the negotiations.

- **In 2018** we launched an *ex post* study after 10 years of implementation of the CARIFORUM EPA and this year we will launch a **study on the first five years of the ESA EPA**. For CARIFORUM, a study was already conducted in 2014 concerning the first five years – the results were unfortunately overshadowed by the economic crisis.

- It is too early to assess the impact of more recent EPAs with the SADC and some individual countries (Cameroon, Ghana, Cote d’Ivoire). Yet, we are already seeing significant increases in certain exports from these countries to the EU market.

**Does the Commission also examine how EPAs contribute to the development of the partner countries?**

- Economic Partnership Agreements (EPAs) have an explicit development objective. We are therefore monitoring very closely their effects both through joint EPA institutions and through Civil Society involvement as well as through various studies, in line with the principle of Policy Coherence for Development. The Commission carried out Sustainable Impact Assessments (SIAs) for all EPAs (during the early years of negotiation, around 2002-2005).

- The Commission furthermore assessed the negotiated outcomes after conclusion of negotiation for the EPAs with the Southern African Development Community (SADC), the Eastern African Community (EAC) and the Economic Community of West African States (ECOWAS) in 2014.

- In addition, a first *ex-post* evaluation was carried out on the CARIFORUM EPA in 2014. We are going to carry out the second one in 2019. We will also launch an ex-post evaluation in 2019 for the Eastern and Southern African (ESA) Interim EPA.

- Currently, the Commission is undertaking some country specific studies, for example on the impact of custom revenue losses (Cameroon) and the impact on regional economic integration (Ghana and Ivory Coast). We have also evaluated the impact of the “global sourcing” provision in the Pacific EPA on Papua New Guinea.
EU-Africa Economic Alliance

Continent to continent free trade area – by when roughly do you see this possible? 5 years? 10 years, 20? What can you do concretely to support it?

- Africa is already taking the initiative to build its own Continental Free Trade Area – which the EU fully supports. We will step up our partnership with the African Union with an initial €50 million (2018-2020) to support this African Free Trade Area.

- More important than establishing a date or a timeline is to continue working together on the existing trade arrangements and supporting the clear determination from our African partners to make the African Continental Free Trade Area a reality, as a first necessary step towards wider trade arrangements. We see these arrangements as building blocks to the benefit of the African Continental Free Trade Area. Once established, it would open the door for even bigger ambitions between both continents.

- Building on the African Continental Free Trade Area implementation, the long-term perspective is to create a comprehensive continent-to-continent free trade agreement between the EU and Africa.

Are EPAs now off the table?

- EPAs are not off the table at all. Some are being implemented and others continue to be negotiated. Moreover, we see these partnerships and other existing trade arrangements as building blocks to the benefit of the African Continental Free Trade Area.

- In addition, as stated in our Communication, the EU fully supports the African Continental Free Trade Area being ratified and eventually implemented by African Member States.

Participation of civil society/non-state actors

How is civil society involved in EPA implementation?

- Provisions on civil society participation differ across the different EPAs. Some include a formalised civil society consultative body, as in CARIFORUM.

- Other EPAs do not have these formal bodies, for different reasons: as a result of the negotiating dynamics, or because they were meant to be replaced by regional EPAs, as in the case of West Africa. However, we are committed to involve civil society in the implementation of the EPAs, and we will do it in the forms that will be possible in each region, using all possible occasions.
2.37. Turkey

**What is the state of play of the modernisation of the EU-TR Customs Union?**

- The decision whether the Commission should engage in trade negotiations on behalf of the EU is always the prerogative of the Council. It is therefore up to EU Member States to decide on the Commission proposal to modernise and extend the existing Customs Union that was submitted in December 2016. In that respect, the conclusions of the General Affairs Council meeting of 26 June 2018 noted that "Turkey has been moving further away from the European Union. Turkey's accession negotiations have therefore effectively come to a standstill and no further chapters can be considered for opening or closing and no further work towards the modernisation of the EU-Turkey Customs Union is foreseen."

**What is the situation regarding the EU steel safeguard measures?**

- I am aware of the importance of bilateral trade in steel for both the EU and Turkey and the high priority for Turkish business and public authorities.
- As a response to the 25% import duties on steel applied by the United States initially as of 23 March 2018, both Turkey and the EU initiated a safeguard procedure. After concluding its investigation, the European Commission instated definitive safeguard measures that respect that are the least disturbing to trade in accordance with WTO rules and our bilateral agreements. These entered into force on 2 February 2019.
- It is expected that Turkey will by now (very shortly after the measures came into force), have exhausted its country-specific quota for the period February to June 2019 for at least one product category. For those categories where Turkey has exhausted its country-specific tariff rate quota (TRQ), it will have the possibility to use the global quota already as from 1 April 2019. The Commission is continuously monitoring relevant imports.
- Regarding further consultations and the request for compensation under Article 8 of the WTO Agreement on Safeguards, the European Commission on 28 January received Turkey’s letter and is currently preparing a response.

**What is the effect of Brexit on Turkey?**

- The EU’s trade policy vis-à-vis Turkey will not change as a result of the UK withdrawal. The EU is pursuing a deal to ensure an orderly withdrawal of the UK as set out in the Withdrawal Agreement. If the Withdrawal Agreement enters into force there would be a transition period during which the UK would be treated as a Member State. The Withdrawal Agreement provides that the Union acquis would apply to and in the UK as if it was still a Member State during the transition, and that Union law includes international agreements concluded by the Union. The EU would notify third countries of this immediately after the signature of the Withdrawal Agreement.
- However, there is uncertainty regarding the UK’s position on the Withdrawal Agreement, and a disorderly withdrawal without a Withdrawal Agreement cannot be excluded. Given Turkey’s obligation to follow EU trade policy as part of our Customs Union, no deal between the UK and the EU will also mean a trade relationship on WTO terms between the UK and Turkey. If the UK were to leave the EU without a withdrawal agreement, the EU would also notify third countries of the UK’s withdrawal in such conditions.
2.38. Ukraine, Georgia, Moldova

Why did you launch bilateral consultations with Ukraine on the wood export ban

- We had come to a point where the credibility of the negotiated results in the bilateral agreement with Ukraine was at stake, including our commitment to enforce them through dispute settlement.
- The wood export ban is inconsistent with one of the most basic trade rules of the Association Agreement, i.e. the prohibition of export restrictions and measures having an equivalent effect (set out in Article 35 of the Association Agreement).
- The wood export ban is also inconsistent with relevant WTO rules.
- However, the EU has decided to favour the choice of the bilateral dispute settlement mechanism that, in this particular case, appears more appropriate for a swift resolution of the dispute.
- The Consultations took place on 7 February 2019 in Kiev and Ukraine showed a constructive attitude and provided helpful responses.
- However, it is still our view that the wood export ban is incompatible with the provisions of the DCFTA and Ukraine’s WTO commitments.
- We will inform Ukraine of our intentions on how to proceed in due time.
2.39. Western Balkans and candidate countries

**Why did the Commission not exclude the Western Balkan partners from the EU steel safeguard measures given their EU perspective?**

Unfortunately the legal framework did not leave us much room for manoeuvre on the question of who has to be targeted by the safeguards. According to WTO-law, safeguards must apply to all, with a few clear exceptions:

1. WTO members, that are also developing countries and export less than 3% of EU imports of a given product.
2. Cases where the bilateral agreement explicitly foresees the exemption from multilateral safeguard clauses.

This was not the situation with the three Balkan countries concerned by the safeguards, Bosnia and Herzegovina, North Macedonia and Serbia. However, we do believe that traditional trade flows will not be substantially affected, if at all. In any event, the *review clause* of the Regulation includes the possibility to adjust the safeguard measures if they prove to produce detrimental effects in achieving the integration objectives pursued with preferential trading partners (like the Western Balkans), such as substantially risking their stabilisation or economic development. The Commission has taken the commitment to review the measures already no later than on 1 July 2019.

**What is COM doing to get Kosovo to lift its 100% tariffs on the import of goods originating from Bosnia and Herzegovina and Serbia, which are also impacting EU companies based in the region?**

First of all, it is clear that these measures which have been in place since last November are **politically driven.** COM considers them to be in clear violation of the Central European Free Trade Agreement (CEFTA), to which these countries are parties. Furthermore, these decisions are inconsistent with the spirit of the Stabilisation and Association Agreement between the European Union and Kosovo and they undermine regional cooperation. COM has therefore been following the situation very closely and has been using all possible leverage to get Kosovo to lift the 100% tariffs:

- Commissioner Hahn visited Kosovo on several occasions where he called on the leaders to rescind the tariffs. COM has even proposed an option of mediation between Kosovo and Serbia, aimed at addressing contentious issues in the area of trade. This option was also referred to in a letter co-signed by Csrs Malmstrom, Hahn and HRVP Mogherini on 12 December 2018. Unfortunately Kosovar authorities have turned down our offer.
- On 17 December 2018, during the high level Stabilisation and Association Council meeting between the EU and Kosovo, the EU reiterated its opposition to unilateral tariff increases on imports from Serbia and BiH and insisted on their immediate revocation.
- Lastly, the “country reports” which will be published in the Spring as part of the “enlargement package” will include the Commission’s assessment on regional cooperation, including CEFTA. Should the measures still be in place, they will be mentioned as a key issue to be resolved.

COM is hopeful that the combination of pressure from the international community, together with a deteriorating investment climate in the country will lead to a revocation of the measures in the near future.
In the EU Western Balkans Strategy adopted last February, the EU committed to intensify its engagement to support the region’s economic transformation, what has been done specifically on trade?

The Action Plan of the Strategy includes 4 trade-related actions.

1. The first one aims at facilitating trade between the EU and the Western Balkans, including through Authorised Economic Operators (AEO) schemes – discussions are ongoing but this is mainly in the hands of colleagues in DG TAXUD;

2. The second one consists in further assisting Serbia and Bosnia and Herzegovina with their WTO accession process – this is very important as WTO membership is a closing benchmark under chapter 30 of the EU accession negotiations – we continue to work very closely with both Serbia and Bosnia and Herzegovina on this;

3. Thirdly we have been enhancing our assistance to ensure convergence of their export controls of dual-use goods.

And finally we have been mobilising our trade expertise to support the implementation of their Regional Economic Area (REA) for example by providing advice in the context of their negotiations of a regional Roaming Agreement.

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3 This REA is a concept owned by the Western Balkan parties, which aims at scaling up the market available to potential investors by boosting the economic attractiveness of the region.
2.40. Switzerland

*What will you do on the modernisation of the trade-related agreements in case there is no agreement with Switzerland on the Institutional Framework Agreement?*

We hope that there will be an agreement on the Institutional Framework Agreement.
2.41. Morocco

1. **What is the state-of-play with regard to the negotiations between the EU and Morocco on the amendment of the relevant protocols of the EU-Morocco Association Agreement?**

Following the ruling of the General Court and subsequent appeal ruling by the Court of Justice of the EU (CJEU) on the territorial scope of the EU-Morocco Association Agreement and its protocols on additional liberalisation of trade in agricultural and fisheries products⁴, Commission services started negotiations on an amendment allowing for an extension of trade preferences applicable under the EU-Morocco Association Agreement to products originating in Western Sahara.

Extending the trade preferences to imports from Western Sahara, in the absence of any practical and viable alternative, was the most appropriate course of action for the EU to promote the economic activity in Western Sahara and to bring benefits to the local population. In fact, the Commission estimates that up to 45,000 full and part-time jobs depend directly or indirectly on fisheries exports from Western Sahara, and that a significant part of the 14,000 full-time direct jobs in agriculture depends on exports to the EU.

The European Parliament gave its consent to the amendment of the EU-Morocco Association Agreement on 16/01/2019 and the Council of the European Union adopted it on 28/01/2019.

Following the vote in the European Parliament but prior to the adoption by the Council of the decision on the amendment of the EU-Morocco Association Agreement (28 January 2019) that extended trade preferences to goods originating in Western Sahara⁵, HR/VP Mogherini met her Moroccan counterpart in Rabat (16-17 January). During this visit all interlocutors expressed clearly their strong wish for relaunching relations.

2. **How will the judgment of 27th February 2018 in case C-266/16 (fisheries case) affect our political relations?**

Morocco is one of our closest partners in the southern Mediterranean area on a wide range of issues. The partnership with Morocco is a long-term engagement for the EU. We value not only our bilateral relations, but also Morocco's regional and international role, which makes the country an important ally, with whom we will remain engaged. Thanks to our close relationship, the EU and Morocco will be able to overcome the challenges posed by the new situation.

The legislative work on the amendment of the EU-Morocco Fisheries Agreement is also entering its final phase (adopted by the EP Plenary on 12 February 2019).

3. **Will the EU stance towards Western Sahara remain the same?**

The EU’s overall position on WS remains unchanged. The EU supports the UN Secretary-General’s efforts to achieve a just, lasting and mutually acceptable political solution,

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⁴ Judgment of 21 December 2016 in Case C-104/16 P Council v Polisario

⁵ Details on implementing the provisions on traceability of products and exchange of information will need to be developed during the first half of 2019 and endorsed by the EU-Morocco Association Committee. It is important to underline that no new trade preference are being granted compared with the situation before the ruling. The issue of labelling of products is outside the scope of this trade agreement.
which will provide for the self-determination of the people of Western Sahara in the context of arrangements consistent with the principles and purposes of the Charter of the UN.

4. **How did the EU ensure that all relevant stakeholders in the Western Sahara were consulted in the negotiations of the amendment to the Association Agreement?**

Regarding the consent for the extension of the Agreement, wide ranging consultations took place to ensure the appropriate involvement of the people concerned in the process, as required by the Court.

All main Western Saharan civil society and other organisations and representative bodies were invited to these consultations, including regional elected representatives, civil society organizations and professional organizations; so was the Polisario Front.

On the whole, while some opposed the agreement for general political reasons, a sound favorable opinion was shown towards the extension of preferences to products from Western Sahara, as a strong incentive for the sustainable and inclusive development of the territory.

The Legal Service of the Council has made clear that all reasonable and feasible steps to ascertain the consent of the population concerned by the agreement have been taken.

5. **What are your views on the human rights situation in the Western Sahara?**

Human rights situation in Western Sahara is not dissimilar to that in Morocco. Mechanisms and laws ensuring protection are the same. However, there are some differences in Western Sahara because of the political dispute, especially in important fields such as freedom of expression, freedom of demonstration and freedom of association.

EU-Morocco ties weakened after the General Court judgment of 10 December 2015, making it harder to hold a regular human rights dialogue; the spirit of increased engagement brought about by the normalisation of contractual relations will now help restore that dialogue.

The reference framework for amending the Protocols of the EU-Morocco Association Agreement is Article 2 of the Association Agreement, which guarantees respect for democratic principles and fundamental rights. This should make it easier to monitor respect for human rights, in particular socio-economic rights, in Western Sahara.

Resumption and holding of the Human Rights dialogue should be a first step in that direction. Topics relevant for the association agreement and Western Sahara should be paid particular attention, such as gender and equal opportunities, non-discrimination measures in access to employment and social benefits, labour conditions, etc.

6. **How will the EU-Morocco negotiations affect the UN process? It seems that the Association Agreement confirms the illegal annexation of Western Sahara by Morocco.**

Some argue that this agreement would consolidate the illegal annexation of Western Sahara by Morocco and run directly against the UN-led peace efforts, by dividing the territory of Western Sahara in two and strengthening one of the parties of the conflict.

On the contrary, the negotiations and their outcome should be supportive of the efforts of the United Nations Secretary-General to find a solution to this dispute.

The EU policy of constructive engagement with Morocco has started to bring some dividends, as witnessed notably by Morocco increasing amenability to give access to
Western Sahara territory (as in the case of the EEAS/Commission August mission to consult local populations in Western Sahara or the September INTA mission);

This constructive engagement has arguably facilitated a relative de-escalation of tensions and animosity on the Western Sahara file, as witnessed by Moroccan positive response to UNSG Personal Envoy Köhler's invitation to resume negotiations between parties in Geneva (4-5 December). Tellingly, MOR was the first to respond.

While remaining attentive, the EU should avoid disrupting this nascent positive trend by sending negative signals in the run up to these encouraging resumption of talks.

7. How will the Commission ensure the differentiation mechanism between Western Sahara and Morocco originating products to ensure the traceability of the benefits derived from the agreement for the local population and generate data about the origin of products?

This is an issue of major importance. Indeed, we need to ensure that the benefits of the agreement accrue to the people concerned.

For that purpose we need information on the actual trade flows involved.

A process for exchange of information is foreseen by the agreement in order to assess the impact of the agreement notably on sustainable development, the benefits for the people concerned and the use of natural resources.

Detailed discussions with our Moroccan counterparts have already taken place and continue in order to determine the exact content of that exchange. Globally, Morocco agrees with our proposal. The exchange should cover all the issues addressed in the Commission’s report (general indicators on development of the territory, sustainability, production/export of the main products, plans for development, evolution of the projects described in the report). This means that we should be able to get substantial information on a wide range of issues and therefore to assess the impact of the agreement on the people concerned including the actual benefits.

The specific arrangements for this evaluation exercise will be formally adopted by the EU-Morocco Association Committee at the latest two months after the entry into force of the agreement.
2.42. Tunisia

"Tunisia cannot cope with an ambitious trade liberalisation foreseen in ALECA"

The reality is different if we look at the outcome of the 1995 Association agreement and its positive impact on the Tunisian economy. Since it came into force and trade in industrial goods was liberalised we have seen that Tunisian exports have tripled, foreign direct investment has poured in and the whole economic structure of the country has modernised and diversified. We can certainly expect a similar trend with the ALECA for the agricultural and services sector. To be noted that the EU has put in place a trade related supporting program of 10 Mln EUR to strengthen Tunisian value chain in the agricultural sector as well as the recent plan to support Tunisian exports ("programme d'appui à la copetitivite et aux exportations" for a total amount of 90 Mln EUR).

"How is the DCFTA reinforcing the democratic process in Tunisia?"

It is a fact that, over the past years, ALECA has helped the democratic elected government of Tunisia to carry over their reform and modernise their government. As an example, the objective of an association like EuroMed Rights is to reflect on the future of the Tunisian neighbourhood policy with regard to the EU. Over the years (and since Tunisian revolution) they have militated for a reinforcement of economic and social standards in the country and for the government to adopt a truly inclusive policy, whereby all civil society would be fully associated to the legislative reforming process triggered by the ALECA. They are pleading for a stronger reference on social rights into these negotiations, improve transparency of the negotiating process and emphasize more the importance of sustainable development. From our part we should insist on the EU commitment for a strong Trade and Sustainable Dvelopment chapter in the negotiations and in our wish to see a greater political appropriation of the ALECA process from the Tunisian government (so that our support does not look suspicious). The EU thinks that TU should also develop a longer term vision in order to better explain the benefits of these negotiations to all the fringes of the society.

"Is civil society sufficiently consulted?"

ALECA negotiations take place in full transparency and we must congratulate Tunisia as young democracy for its efforts in this respect. The EU is publishing all its initial proposals on its website (which are then also published in Tunisia). The Tunisian government has also set up various consultation mechanisms and regularly briefs its stakeholders before and after rounds. This being said, there is still a perception of some part of civil society in Tunisia and in particular from industry and farmer associations that they are not sufficiently involved and that the TU government should do more deeply to associate them into the negotiating process at this stage. The EU supports the setting up of civil society forums to thoroughly debate all aspects of these negotiations and has encouraged business associations, trade unions and NGOs to also formulate their positions in writing. So all in all, with the enhanced transparency, in-built consultation mechanisms and emphasis on sustainable development we do think that the ALECA can indeed reinforce the democratic process in Tunisia.

"The new import restrictions adopted by Tunisia are strongly affecting not only the EU interests but also the business climate in Tunisia"

Restrictive import measures, such as those established by Tunisia on 28 November 2018, have not only hampered trade flows with the EU (affecting many sectors such as textiles, clothing cosmetics and processed agricultural products) but have also severely affected business climate
in Tunisia. Despite our plea for seeing these measures repealed for EU goods, for which reliable consumer protection guarantees already exist (eg CE mark, certification or else), the government has not given any clear indications when these "temporary" measures would be suspended (possibly by July or not before the end of the year when elections are being organised). Businesses in Tunisia, who had already concluded contracts with their European counterparts, have seen their contracts being suspended and some of them are facing serious financial losses or suspension of their access to credit. Finally all companies, Tunisian and European alike, have criticised the way these measures have been put in place (so called "cahiers des charges" that have not yet been defined, and their conditions of applications – list of criteria undefined and final quantity limitations unknown) and the fact that they have seriously affected the credibility of Tunisian business partners in Europe for an unlimited period. Tunisian farmers and consumers have also been negatively affected by the measure for instance by scarcity of some products (like fertilisers or homeopathy medicines for instance). There is therefore a unanimous view among business from both sides to see the Tunisian government repealing these measures in the shortest possible time, and re-establishing the attractiveness of Tunisian business with Europe.

"The government is limiting access to therapeutic medicines in Tunisia. How is this question going to be treated in the ALECA process?"

The attention to this issue has increased over that past year notably due to recent pricing regulations adopted by TUNISIA. This remains a very sensitive question that will have to be addressed in the DCFTA context. Firstly we do not wish to limit access of generic medicines in Tunisia. We think that the government should establish a fair pricing system that should permit access to the greatest number of people, for both therapeutic and generic medicines. Recent measures establishing quantitative limitations in this area should also be repealed. We are also aware that there is a problem related to circulation of counterfeit medicines that could be a real danger for people's health. Adequate measure for fighting counterfeited goods should be put in place, and the ALECA could provide solutions to many of these questions. The government should not limit the access of therapeutic medicines, and adequately defend intellectual property. Not doing so will not only create a shortage for these products, at the expense of those who really need them, and in the longer term, companies manufacturing these goods might even lose interest in investing in the Tunisian market.

OLIVE OIL

What about the additional duty-free quota for Tunisian olive oil, which the President announced last year in April?

The announcement, following the President Jucker’s meeting with Tunisian Prime Minister on 24 April 2018, referred to a bilateral and reciprocal agreement based on Article 18 of the EU-Tunisia Association Agreement, which includes the possibility of granting each other further trade concessions. The agreement stipulated that the EU would grant a temporary additional duty free quota in exchange for concessions from Tunisia such as duty free quotas for some EU agricultural products exported to this country that would benefit the European operators. However, following President’s visit in Tunis in October 2018, we understood that Tunisia was not interested to conclude this bilateral agreement.

Does the Commission plan to grant an additional temporary duty free quota for Tunisian olive oil?

No, as I mentioned, it was only discussed last year as a part of a short-term bilateral reciprocal agreement, but Tunisia decided not to follow this up. The Commission does not plan to grant
unilaterally additional quota. Right now, the only possibility for Tunisia to increase the duty free quota is through the DCFTA (ALECA) agreement. This will offer a permanent solution for the olive oil sector that is highly cyclical and hence a long-term solution is in the interest of both sides.

The EU operators experience currently problems with importing bulk standard quality olive oil from Tunisia under the permanent duty-free quota as provided in the Association Agreement. It seems that Tunisia tries to give a preference to export of bottled and organic olive oil at the expense of bulk olive oil.

The Commission is concerned about the problems the EU operators are experiencing in accessing olive oil under the bilateral duty free quota and has raised the issue at Trade Sub-Committee end of February. The Commission is of the opinion that the allocation criteria on the Tunisian side should be transparent and not distort commercial operations of the EU importers.
3. STATE OF PLAY AND BACKGROUND

Horizontal issues

3.1. Brexit

See LTT of the day.

- The EU’s trade policy will not change as a result of the UK’s withdrawal. The EU will honour its international commitments, including the FTAs and negotiations for FTAs. As of the withdrawal date, the EU trade agreements with third countries will no longer apply to the United Kingdom. The part referring to the UK will simply become obsolete.

- The United Kingdom will become a third country on 30 March 2019, unless the UK request an extension and the European Council unanimously agrees.

- The Withdrawal Agreement (WA) has been agreed between the EU and UK negotiators. On 25 November 2018, the European Council endorsed the Withdrawal Agreement (WA) and the Political Declaration (PD) setting out the vision for the future EU-UK relations.

- The UK Commons rejected the deal in its meaningful vote on 15 January 2019 and on 12 March. The Commons also rejected no-deal in a vote on 13 March and supported an extension of the Article 50 deadline in a vote on 14 March. An extension of Article 50 requires the unanimous agreement of all 27 Member States. It will be for the European Council (Article 50) [21-22 March] to consider such a request.

- We are disappointed that the UK government has been unable to ensure a majority for the Withdrawal Agreement agreed by both parties in November.

- On the EU side, there is no more we can do. If there is a solution to the current impasse it has to be found in London. The EU for its part continues to stand by the Withdrawal Agreement, including the backstop, which serves to prevent a hard border in Ireland and preserve the integrity of the Single Market unless and until alternative arrangements can be found.

- Due to the uncertainty of the UK’s position regarding the Withdrawal Agreement, the Commission stepped up preparedness for a no-deal scenario. The Commission’s Contingency
Action Plan includes a number of legislative proposals accompanied by communications on preparedness, 88 sectoral preparedness notices. These give guidance to stakeholders so they can prepare for a no-deal scenario. Stakeholders in third countries could also utilise this information.
3.2. Soy/Palmoil

- Presidents Juncker and Trump issued an EU-US Joint Statement following a meeting in Washington on 25 July 2018, in which the two sides agreed to increase trade in several areas and products, notably soya beans. ("We will also work to reduce barriers and increase trade in services, chemicals, pharmaceuticals, medical products, as well as soybeans.")

- After the statement, the Commission started to report every 2 months on the evolution of trade in soybeans from the US. The last such report was published on 7 January 2019. The Commission has also met regularly with traders, users and processor of soya beans to discuss trade-related aspects. The latest meeting of this kind took place on 1 March 2019.

- China, which represents 2/3 of total world imports, introduced a 25% retaliatory duty on US soya beans on 6 July 2018. That weighed on US soya bean prices, which, until December 2018, were much lower than South America prices. Driven by this market situation, EU imports have significantly shifted in favour of US soya beans. The market situation changed again in December 2018, after the first announcements that China would start again buying from the US. Since then, the spread between US and Brazilian prices has drastically reduced, reaching now almost parity.

- In line with the July 2018 EU-US Joint Statement, EU imports of soya beans from the US have increased significantly (+123% year on year in the period 1 July–25 February). This outcome is the result of market forces. The massive increase in imports of US soybeans, and the communication around it with bi-monthly reports, have sparked criticism from EU protein crop growers and MEPs. However, the EU’s overall imports of soybeans have increased much less (+12%), as imports from the US have mostly replaced the traditional trade flows from other origins (Brazil, Canada, Ukraine, Paraguay).

- On 29 January 2019, the Commission recognised that the US Soybean Sustainability Assurance Protocol (SSAP) demonstrates compliance with the sustainability criteria of the Renewable Energy Directive. That decision has slightly improved the competitive position of US soybeans vis-a-vis South American crops (so far the oil fraction of the US soya beans crushed in the EU was mostly discounted in North African food markets).

- Future trend will mostly depend on whether the US-China truce will be successful. While China early January committed to buy 10 million tonnes of US soya beans, recent data showed that this was not followed up by China, which is still buying much from Brazil.
Palm oil

- Indonesia is by far the biggest World producer and exporter of palm oil (55% of World production and 60% of World exports), followed by Malaysia. These two countries are also the main suppliers of the palm oil to the EU (EU imports in 2018 in value: 47% from Indonesia, 25% from Malaysia). The third supplier for the EU is Papua New Guinea (9% in value terms of EU imports in 2018). To be noted that for Papua New Guiney palm oil is the main product exported to the EU (42% of value in 2018).

- Palm oil is used across many sectors – around half of the EU imports of palm oil are used in the food and feed sector, and the other half is for industrial use (including biofuels, house and personal care products, energy). According to FEDIOL the use of palm oil in the EU were as follows in 2014: 45% biodiesel, 34% food, 18% other industrial uses, 3% feed (non-public data).

- EU industry has been a driving force in engaging with suppliers to improve the sustainability of palm oil production. Still, palm oil is under close public scrutiny in the EU mainly due to concerns on its possible negative environmental impact.

- Palm oil producing countries have long raised concerns on the palm oil debate in the EU, alleging that, under the cover of sustainability/health considerations, there is a deliberate attempt to spread a negative image of palm oil to the benefit of other (EU-produced) vegetable oils.

- The issue has gained increased visibility over the last year in conjunction with the recast of the EU Renewable Energy Directive (REDII) The European Parliament (EP) originally called to exclude biofuels based on palm oil (but not on other vegetable oils) from the REDII scope – an approach that raises serious concerns on compatibility with WTO obligations on
non-discrimination. Eventually, the co-legislators decided to cap until 2023 and then gradually phase out by 2030 crop-based biofuels at "high risk" of contributing to Indirect Land Use Change (ILUC). This phasing out is not an import ban but only means no longer counting towards the EU renewable energy targets. Co-legislators deferred to a delegated act the decision on the crops that would be concerned. The delegated act, adopted on […], identifies palm oil as the only high ILUC-risk feedstock and foresees that the underlying scientific evidence will be reviewed by mid-2021 and thereafter in 2023.

Critical views on the delegated act and its accompanying report have been expressed both by environmental interest groups (considering that it is too lenient and asking for the identification of soybean as well as high ILUC-risk and for a tightening of criteria for low ILUC-risk certification) and by palm oil producing countries (considering that it is not based on solid evidence and unfairly discriminates against palm oil).
3.3. Sanctions – Iran

**US sanctions against Iran**

Following the US withdrawal from the Joint Comprehensive Plan of Action (JCPOA) on 8 May, unilateral US sanctions were re-imposed on 7 August 2018 and on 5 November 2018.

The US is exerting maximum political and economic pressure on Iran and mentioned several times during July and August that its aim was to reduce Iran’s oil exports to zero. Most recently, the US announced that 20 importing nations reduced oil imports to zero (thereby allegedly halving IR oil exports from 2 to 1 Mio. bpd). Moreover, the US granted six-months significant reduction exemptions (SREs, renewable) to eight jurisdictions which have "significantly reduced" oil imports over the past six months in line with the National Defense Authorization Act 2012. The SREs cover all associated services (ports, shipping etc.) but a doubt remains regarding insurance. Revenues from the sales will be held in foreign escrow accounts and can only be used by Iran for trade in bilateral non-sanctioned goods. The jurisdictions concerned are: South Korea, Japan, India, China, Turkey, Taiwan, Greece and Italy.

**Exceptions to the U.S. sanctions** may be granted for outstanding (re)payments (after the wind-down periods) for goods and services fully delivered before the end of the wind-down periods.

It should be noted that the large majority of US primary sanctions have remained in place even under the JCPOA. They generally prohibit the export to Iran of U.S. goods and services, as well as the import of goods and services from Iran to the US.

Similarly to the EU, the US has not altered its Iran sanctions regimes on issues unrelated to the JCPOA, e.g. on human rights, ballistic missiles, support for terrorism and malicious cyber activities. In this context, the US also announced that it will continue to "target aggressively" anyone who engages in such activities.

1) **The EU does not recognise the extraterritorial application of US sanctions vis-à-vis Iran**

As part of mitigating measures, the EU has also updated its Blocking Statues legislation that introduces certain guarantees to European companies. The **Blocking Statute Regulation**, amended in August 2018, nullifies all third country rulings and decisions based on the US secondary sanctions in its Annex, so no liability deriving therefrom will occur within the EU jurisdiction. It also allows companies to recover the damages that they might incur from the persons who caused them or from anyone acting on behalf of the person causing them. In exceptional circumstances, EU operators can also be authorised by the Commission to comply with US legislation if not doing so would seriously damage their interests or those of the Union.

2) **The EU is keeping contacts with the US aimed at maintaining the nuclear deal and minimising the effects on EU companies**

Ongoing contacts between the EU and the United States are aimed at maintaining the nuclear deal, despite the US withdrawal, and to obtain from the Office of Foreign Assets Control (OFAC) clarity on a number of key issues. These include: ensuring that the nuclear cooperation
foreseen under the Joint Comprehensive Plan of Action can continue; preventing the targeting of the SWIFT financial messaging system ensuring that there is a level playing-field between the EU and the US for trade in the so-called US humanitarian exemptions (agri-food, medicines and medical devices); preserving certain existing banking channels and permitting the continued supply of aviation spare parts in the interests of public safety.

3) The EU has also set up mechanisms to keep legitimate trade ongoing with Iran

Special Purpose Vehicle / INSTEX

On 31st January 2019, France, Germany and the UK announced the creation of INSTEX (Instrument for Supporting Trade Exchanges), a Special Purpose Vehicle aimed at facilitating legitimate trade between economic operators and Iran. Other EU MS will be invited to join.

The set-up of the Special Purpose Vehicle (SPV) reflects the continuous European political commitment to support the full and effective implementation of the JCPOA, the Iran nuclear deal, in all its aspects and in line with UN Security Council Resolution 2231.

Sanction-lifting is an essential dimension of the JCPOA, as stressed at the latest ministerial meeting of the E3/EU+2 and Iran chaired by High Representative in NYC on 24 September 2019.

Our efforts to preserve the economic provisions of the JCPOA are conditioned upon Iran's full implementation of its nuclear-related commitments. The International Atomic Energy Agency (IAEA) has confirmed in thirteen consecutive reports that Iran is fully abiding by its commitments under the agreement.

Once fully operational, the SPV should help EU exporters and importers pursuing legitimate trade, as permitted under EU, international and the relevant domestic law. INSTEX aims in the long term to be open to economic operators from third countries who wish to trade with Iran.

This SPV is not directed against the US. It will operate fully in line with EU and international law and standards on anti-money laundering or countering the financing of terrorism.

* * *

Statement by High Representative/Vice-President Federica Mogherini on the creation of INSTEX, Instrument for Supporting Trade Exchanges

31/01/2019

I welcome today's registration of INSTEX SAS (Instrument for Supporting Trade Exchanges), a Special Purpose Vehicle with France, Germany and the United Kingdom as initial shareholders.

The lifting of sanctions is an essential dimension of the JCPOA (Joint Comprehensive Plan of Action), the Iran nuclear deal. The instrument launched today will provide economic operators with the necessary framework to pursue legitimate trade with Iran.

We will continue to accompany the work of the Member States involved to make this vehicle operational as soon as possible in close coordination with the Iranian counterparts. We support their commitment to further develop INSTEX with interested European countries and open it, at a later stage, to economic operators from third countries.
The European Union continues to be committed to the full and effective implementation of the JCPOA in all its aspects as long as Iran continues to implement in full all its nuclear commitments, as set out by the agreement. The International Atomic Energy Agency (IAEA) has confirmed in thirteen consecutive reports that Iran is fully abiding by its commitments under the agreement.

Our joint work to preserve the JCPOA continues, including with the other JCPOA participants, and with international partners.

This is a matter of respecting international agreements and of advancing our shared regional and international security.

**EU-Iran trade relations**

The United Arab Emirates and the EU are now Iran's main trading partners, accounting for 29.8% and 15.8% respectively. Third largest is China with 12.7%.

EU has a positive trade balance with Iran since 2012 (€682 million in 2017). Trade has been increasing since the lifting of the EU sanctions. In 2017, EU imports from Iran increased by 83.9% and EU exports increased by 31.5%.

The EU exported over €10.8 billion worth of goods to Iran in 2017. EU exports to Iran are mainly machinery and transport equipment (€5.5 billion, 50.9%), chemicals (€1.9 billion, 18.1%), and manufactured goods (€0.9 billion, 8.9%). Agricultural exports are less significant but have a great potential in a country of 80 million people with a large and growing middle class.

The EU imported over €10.1 billion worth of goods from Iran in 2017. Most EU imports from Iran are energy-related (mineral fuels account for €8.9 billion and 88.7% of EU imports from Iran), followed by manufactured goods (€0.6 billion, 6.4%), and food (€0.3 billion, 3.3%). Iran also exports some agricultural products to the EU and is the second biggest world producer of pistachios, but they face difficulties exporting to the EU due to SPS issues.

Iran's main export product is oil (70-80%).

Iran’s economy is already bigger than Australia’s and it is also surprisingly diverse. In spite of having some of the largest oil and gas reserves in the world (4th largest oil reserves and the largest gas reserves of all), the oil and gas industry made up only 10% of GDP in 2014 (albeit representing 30% of government revenues). Iran also possesses enormous mineral resources, including coal, copper, iron, zinc and gold. This has spawned a number of processing industries, particularly steel. Iran is already the 3rd largest producer of copper in the world.

The car industry remains Iran’s 2nd largest contributor to GDP. The automotive sector has been particularly hit by the sanctions. Production of local cars fell by 50% in the two years to March 2014, while up to 100,000 workers have lost their jobs in the car parts sector.

On the trade side, we maintain, on a regular basis, contacts with the Iranian authorities at expert level to discuss trade-related issues, i.e. intellectual property, SPS, capacity building etc. aiming to facilitate bilateral trade with a long term perspective. During the last EU-Iran expert meeting on trade and investment, held on 25th June 2018 in Tehran, both sides discussed issues related to Iran's WTO accession process and our offer to support an informal process
while the formal track remains blocked. Iran also showed interest to upgrade investment relations and build on investment agreements with MSs. We agreed to continue close cooperation despite the US sanctions with a next meeting towards end of the year.
3.4. TSD chapter

The implementation of EU FTAs Trade and Sustainable Development Chapters is high on our agenda. We have started to implement the 15 Point Action Plan as a matter of priority following its presentation in February 2018. Concrete steps and efforts are now underway for all the 15 action points. Few examples of relevance:

- **enhanced partnerships** with Member States, European Parliament and international organizations (SE is finalizing the implementation handbook for Ecuador, *Trade for Decent Work* project has been launched with ILO),

- **delivering** by establishing clear priorities per country on which to focus on (first CETA, now also other FTAs), assertive enforcement (Korea government consultations); and early efforts to prepare for implementation (Japan, Singapore, Vietnam), strengthening of commitments on Paris Agreement and climate change (TSD chapters with Japan, Singapore, Vietnam, Mexico and proposals to Indonesia, Chile, NZ, Australia and Mercosur), CETA recommendation on trade and climate change followed by a high level event.

- **support to civil society** and in particular the civil society structures established in our FTAs (a 3 million project funded by the Partnership Instrument of the EU, an external action tool).

**KOREA:** Civil society, in particular ETUC has been long advocating to launch a dispute settlement with Korea due to alleged violations of the labour commitments in the FTA (ratification of fundamental ILO conventions; and respect of core ILO principles). **Government consultations were launched** on 17 December 2018. Consultations meeting was held in Seoul on 21 January 2019. It was followed by meetings with Korean stakeholders. The domestic process in Korea is dynamic yet it is uncertain of Korea would deliver on the ratification. The EU will be able to request the panel of experts after 17 of March. The TC on 9 April will be a key milestone for taking stock of situation before deciding on next steps. Commissioner MALMSTROM has sent a letter to Korean counterparts (including speaker of Korean National Assembly) insisting on progress ahead of the TC.

**CETA.** ETUC is strongly advocating for the inclusion of sanctions in the CETA review process. If asked during the meeting, you should reiterate that since CETA entered into force provisionally on 21 September 2017, we have focused our efforts on setting up institutional structures to enable us to deliver on commitments undertaken during its ratification, including the early review. We had the first formal exchanges within this review process during the meeting of the 1st TSD Committee and ensuing Trade Committee (in September 2018). We agreed with our Canadian counterparts to intensify efforts on this commitment and fixed a joint work plan. You should however underline that the review is encompassing all areas, labour, environment and crosscutting provisions and aims at evaluating what works and what does not work in the implementation of the TSD chapter between the EU and Canada before submitting the outcome of this work to the second Joint Committee; it will necessarily be limited in ambition as the experience gained in implementation is still short.
3.5. Consumers

STATE OF PLAY

After the publication of European consumer organisation’s – BEUC’s “template model consumer chapter” in autumn 2017, BEUC presented their two checklists of consumer issues that they would like to see included in agreements with Australia and New Zealand. In their view that could in particular be done through a dedicated consumer protection chapter.

Our internal reflection of BEUC’s checklist and other ways to better address consumer issues in future trade agreements, starting with those with Australia and New Zealand, resulted in a note to Jean-Luc Demarty, Director General of DG Trade in October 2018.

The note addressed BEUC’s proposals on substance and form. While we could positively address several substantial proposals, hesitations were expressed in terms of having a stand-alone consumer protection chapter. These views were also communicated to BEUC in the meeting between Commissioner Malmström and Director General of BEUC Ms Monique Goyens, which took place on 22 October 2018.

On substance:

- We could deliver on including a clear reference to consumer protection in the preamble of our agreements with Australia and New Zealand and in the articles on Right to Regulate.

- Other deliverables would include certain commitments in the digital chapter, and, possibly, adding a “RAPEX clause”, which would give a legal basis for the exchange of information on the safety of non-food products, similar to the one in CETA.

- This would be accompanied by some efforts outside the FTA provisions as such, in terms of stepping up our analysis of the impact of trade agreements on consumers as well as efforts to better communicate the benefits of trade agreements to consumers.

- On data flows, BEUC’s request has been fully addressed by the new approach endorsed by the Commission in January 2018.

- We could however not deliver on points referring to reducing international telecom retail prices and roaming fees and elimination of unjustified geo-blocking.

On form:

- We are of view that the substance of consumer related provisions is more important than their form.

- It should be kept in mind that a number of provisions which are relevant for consumers already exist, and are scattered throughout the various chapters; it would be difficult – both in terms of content, and of negotiating dynamics – to ‘airlift’ them to a new chapter from their current location.

- While a specific chapter might bring additional visibility to consumer issues, we should not forget that there are other tools to remedy this, notably via our work on impact assessment or via increased efforts on communication.

We continue our work to engage on consumer protection issues both internally and with our partners. In this context, we are preparing, in cooperation with DG JUST, a concrete proposal for RAPEX clause, with an objective to propose it to Australia and New Zealand over the course of the next negotiating rounds.
Ahead of the last negotiating round (18-22 February 2019), New Zealand presented a non-paper with a proposal of a stand-alone consumer protection title and a list of potential additional consumer related provisions. Latter includes proposal on possible provisions determining jurisdiction and applicable laws for cross-border consumer transactions; recognition of a wider range of minimum consumer rights; opportunities for consumer access to alternative dispute resolution mechanisms; applicable small claims procedures for cross-border transactions; and new elements referring to greater cooperation between consumer protection agencies.

In the initial discussion with our counterparts, we expressed our position on including a stand-alone consumer protection title (same as those communicated to BEUC). Internal analysis of substantial part of the proposal is ongoing.
3.6. Anti-corruption

STATE OF PLAY

The Commission Communication *Trade for All* included a pledge to integrate provisions on anti-corruption in future FTAs starting with TTIP.

The Modernised Agreement with Mexico will be the first EU agreement to include specific provisions on anticorruption linked to trade and investment. The EU has tabled a proposal on Anti-corruption in the ongoing negotiations with Chile. The Parties have so far had a first exchange of views on the EU's proposal – a more detailed discussion will take place during the next round.

The DCFTAs with Moldova, Georgia and Ukraine also foresee a close cooperation among the Parties in the prevention of corruption, and notably contain a commitment to implement certain provisions of Convention of 26 July 1995 on the protection of the European Communities' financial interests which relate to active and passive corruption, as well as money laundering.

Our Political and Cooperation agreements always include provisions aimed at enhancing cooperation to prevent and combat corruption.

BACKGROUND

- Corruption affects trade greatly: businesses consistently cite corruption as one of the biggest problems they face at the border, particularly in developing countries. Corruption impacts the level playing field when a company bribes its way to a government procurement contract, or consumer safety is affected when customs officials accept bribes for not controlling containers or when regulatory authorities enforce quality, safety rules in a discriminatory way.

- Corruption in trade undermines both our economic objectives of opening markets and our values-based goals of supporting development, human rights or defending high regulatory standards and consumer protection.

**The objectives of the Anti-corruption provisions we have agreed with Mexico are:**

- To strengthen the *fight against corruption* pursued already through *international conventions*, in particular the United Nations Convention against corruption (UNCAC). In this regard, the Parties reiterate their commitment to make bribery a criminal offence for government officials and to consider as well making bribery an offence for businesses.

- To *prevent corruption* in trade and investment through different measures, notably by *promoting integrity* in the private and public sector, enhancing *internal controls*, *external auditing* and *financial reporting*.

- We have also agreed on *provisions to prevent and tackle money laundering* notably by ensuring that the identity of who really owns a bank account, trust or fund (the 'beneficial owner') is always known and the relevant authorities can access that information.

- A *consultation mechanism* will allow the Parties to consult with a view to finding an *amicable solution* to any disagreement on the interpretation or implementation of the Anti-corruption provisions. In this procedure, the Parties can seek the assistance of a Group of Experts which would issue an Opinion with a proposed solution. Such *Opinion would be*
made public and would require the Parties to jointly find ways of implementing the proposed solution. Civil society will be able to advice on how the Opinion can be implemented.
3.7. Gender

**STATE OF PLAY**

The European Commission is committed to gender equality and DG TRADE is working to integrate gender perspective in its trade policy. A lot has been achieved since it launched the debate with International Forum on Women and Trade in June 2017. This includes EU proposal for specific provisions on trade and gender, which we are currently negotiating with Chile (next round in the first week of April). The EU proposal is focused on prohibiting discrimination between men and women to attract trade and investment, as well as cooperation activities. The study on women’s participation in trade and the barriers they face will help us to identify if there are other relevant elements to consider in the trade agreements. In addition, EU and Canada has agreed to cooperate to increase women’s access to and benefit from the opportunities created by CETA.

DG TRADE has also advanced on analysis and data collection, by carrying out a study on women participation in trade and the barriers they face, as well as deepening our gender analysis in the Sustainability Impact Assessments.

Moreover, the EU is actively involved in the follow-up activities to the Buenos Aires Declaration on Trade and Women’s Economic Empowerment, for instance, by hosting a workshop on women and digital trade in Geneva on 1st July 2019. Finally, we use every opportunity to raise awareness of the importance of gender equality for economic growth and opportunities that trade can provide, including through Trade Policy Reviews in the WTO.

**BACKGROUND**

**Gender-disaggregated data and analysis**

- DG TRADE is carrying out a study on *Women in trade: collecting data on women’s involvement in extra-EU trade in selected EU Member States* (implemented by the International Trade Centre, ITC). It will fill an important knowledge gap on the participation of women in extra-EU trade and barriers they face. The final report is expected in September 2019.

- DG TRADE/Joint Research Centre published in November 2018 a report on *EU Exports to the World: Effects on Employment* that contains gender-disaggregated data. It shows that EU exports to the world are supporting 36 million jobs in the EU, including 14 million women.

- UNCTAD trade and gender toolbox is so far the only methodology to analyse *ex-ante* impacts of trade agreements on women, albeit focused on developing countries. Sustainability Impact Assessment (SIA) for modernization of EU-Chile Association Agreement is testing its application in the EU context. Similar work is foreseen for SIAs related to EU-Australia and EU-New Zealand FTAs.

**Gender in free trade agreements**

- EU has proposed provisions on trade and gender equality in the context of the modernisation of the EU-Chile Association Agreement presented to Chile and published them in June 2018. Such provisions will help to better understand the constrains and opportunities faced by women in the trade businesses, as well as sharing best practices aimed at facilitating women’s participation in international trade.

- The EU proposal is focused on prohibiting discrimination between men and women to attract trade and investment, as well as cooperation activities. The ITC study on women’s participation in trade and the barriers they face will help us to identify if there are other
relevant elements to consider in the trade agreements, such as those concerning women entrepreneurs (e.g. SMEs, market access, services or investment).

- CETA Joint Committee adopted a recommendation on trade and gender. It seeks to increase women’s access to and benefit from the opportunities created by CETA. We had an in depth discussions on EU and Canada’s gender equality policies and challenges faced in this area, ongoing research and other initiatives on trade and gender. This will help us to identify opportunities where trade can contribute to women’s economic empowerment.

**Integrating gender dimension in EU work in the WTO**

- The EU actively supported the adoption of the Joint Declaration on Trade and Women’s Economic Empowerment on the occasion of the WTO Ministerial Conference in Buenos Aires in December 2017.

- Several workshops have been organised to unpack the complex relationship between trade and gender, covering such issues as gender-based analysis of trade policy, government procurement, global value chains as well as preliminary results of trade and gender research projects. The EU will host a workshop on Women and Digital Trade (July 2019).

- The EU’s Trade Policy Review (TPR) report from June 2017 had a section on gender equality and women’s economic empowerment and EU includes questions on gender-related issues in other country TPRs.
3.8. Animal Welfare

**STATE OF PLAY**

Animal Welfare (AW) is a key part of the agricultural production system in the EU, which is affected by many other factors (benefitting from some other factors). As such, improved implementation of our AW regulations within the EU is a must. This falls under the responsibility of DG SANTE and Member States. The COM recently launched an EU Platform on AW to further improve implementation of EU AW legislation in the EU, and optimize the added value of good AW standards.

In the international field, our policy is to enhance AW both through our bilateral exchanges–including but not only via FTAs–and through further development and better implementation of international standards developed by the World Organization for Animal Health (OIE). We do this in a constructive and ambitious spirit of cooperation. We need to match our ambitions with the realities of our trading partners. We use different tools, considering the specific reality. FTA provisions on cooperation are just one of the instruments in our toolbox (together with trainings, administrative arrangements/MoUs with third countries, seminars, cooperation in research). More details on each recent and ongoing FTA negotiations are available in background.

For this, we always welcome cooperation and exchanges with civil society and stakeholders, including farmers, transporters, and NGOs (as Eurogroup for animals). Our doors are open to listen to their concerns and proposals.

**BACKGROUND**

*The EU AW policy*

- The EU acquis covers AW rules at farm (most, but not all sectors), transport, and slaughter/killing. The EU measures are science-based, and there are numerous EFSA opinions (European Food Safety Authority) supporting and sustaining the EU policy. For international trade, COM line is to push for AW, within the limits set by the WTO SPS Agreement. EU measures – also on imports – should be based on science and the multilateral trading context. Any attempt to base our measures (mostly on the import side) on moral grounds, is very likely to be challenged. The COM is reluctant to face another "seals case" in farmed animals.

- At international level, the EU is a key player on AW. There is a good momentum at global level, with more and more trading partners setting their own AW legal framework (often still far away from the EU level). However, it is fair to say that some trading partners may have stricter AW rules for certain sectors (e.g. Australia).

- In the current environment, the COM (DG SANTE) is unlikely to push for extending the scope and depth of EU legislation on AW. The push currently is working towards increased and improved implementation of existing AW rules, and towards securing any possible added value from this implementation (e.g. by valorising EU products as ethical and high quality). For this, see below on the AW Platform.

*Animal welfare and FTAs*

- At international level, the COM pushes for ambitious AW language on cooperation in our FTAs, within the possibilities offered by each trading partner. We should be aware that
(internal) lack of resources currently diminishes any COM (DG SANTE) capacity to actively implement some of the cooperation commitments.

**State of play in Mercosur**

- The COM has agreed to language in cooperation spirit in a "Dialogues" Chapter, which covers AW and AMR (EU requests), but also biotechnology and food safety, i.e. maximum residue limits (Mercosur requests). The EU focus is decidedly on cooperation, but the negotiation is not concluded. For eggs and egg products the EU has proposed liberalization conditioned to animal welfare.

- In a separate track the COM has already concluded a Memorandum of Understanding with Brazil and Administrative Arrangements with Argentina on cooperation in AW. These two Mercosur members are the key exporters to the EU.

**State of play in Mexico FTA**

- The AW provisions integrate a stand-alone cooperation Chapter together with AMR (line "enhanced cooperation"). The AW/AMR Chapter contains many provisions which can favourably compare with recent FTAs in particular in the various areas outlined below:
  
  a) **Scope**: The language used sets commitments for enhanced cooperation.
  
  b) **Recognition that animals are sentient beings** for the first time in FTAs.
  
  c) **Creation of a working group**: the text stipulates that the Parties shall establish a joint working group. This commitment goes a step further than the Agreements for Japan and Canada (CETA) where the creation of the working group was not automatic.
  
  d) **Enhanced cooperation**: It gives a more prominent place to cooperation on broader societal concerns such as animal welfare and anti-microbial resistance (AMR). There are clear objectives such as enhancing animal welfare through better implementation of the OIE standards.

**State of play in Japan FTA**

- Under provisional application. We consider unlikely this is the focus of attention, since exports of animal products from Japan are minimal. In this case, AW has been included with the commitment to cooperate, with focus on farmed animals, and the opportunity to create in future a working group and adopt a working plan. This was the best possible outcome given the strong reluctance by Japan to go beyond this.

**State of play in Indonesia FTA**

- Under negotiation. NGOs might express disappointment over a "one liner" commitment to increase cooperation. The negotiation is still ongoing but it seems very unlikely to go beyond that generic commitment with Indonesia.

**State of play in New Zealand and Australia FTA**

- Under negotiation. Here our trading partners seem more receptive to ambitious language. We have accordingly pushed for enhancing cooperation. Therefore, the EU text proposal submitted to Australia and NZ includes references to: a) enhancing cooperation in international standard-setting bodies; b) promoting the implementation by each Party of international standards, guidelines and recommendations; c) promoting greater transparency.
and understanding on the application of each Party’s SPS measures; and d) enhancing cooperation between the Parties on animal welfare. The negotiation is ongoing and there might be some different nuances in the outcome with each country.

- DG AGRI has now dropped the idea to link tariff liberalisation with AW

*The EU Animal Welfare Platform*

- One of the key priorities of the Commission is to promote an enhanced dialogue on animal welfare issues that are relevant at EU level among competent authorities, businesses, civil society and scientists. To achieve these priorities, the Commission created an AW Platform. Its role is to assist the Commission with the development and exchange of coordinated actions on animal welfare. Members of the Platform include all EU MS, FAO, World Bank, OIE, EFSA, industry and some of the NGOs that you will meet in the CSD.

- It aims, inter alia, to achieve a better application of EU rules on AW and to the promotion of EU AW standards to valorise the market value of the Union's products at the global level.

- Members do work on certain issues, for instance via the creation of subgroups. As examples, subgroups on transport and on pig welfare have been created. Nothing precludes the creation of more working (sub)groups, although resources are a concern.
3.9. Civil society involvement: Expert Group on EU Trade Agreements & Domestic Advisory Groups

Expert group on EU trade agreements

The Expert group on EU trade agreements was established in autumn 2017 to advise DG Trade on issues related to trade agreements, whether those under negotiation or actually in place. The selection of the members of this group was finalised on 21 December 2017, establishing a balanced group of 28 members representing business and non-business interests (see background for list of members). The group also has two observers: the European Economic and Social Committee and the European Committee of the Regions. The mandate of this group ends on 31 December 2019, but it can be renewed.

The group has met seven times so far and provided input on:

- bilateral negotiations (Chile, Australia, New Zealand, China investment),
- horizontal issues (consumer issues in trade agreements, gender, health, energy and raw materials, data flows),
- FTA implementation (CETA-specific and annual report),
- and wider trade policy issues (EU-US relations and WTO reform, including e-commerce).

The Commissioner is committed to the success of the Group: she has joined three meetings so far and plans to return to the group at least one more time in 2019.

The group’s first activity report (which looks at the meetings held in 2018) shows that the expert group is most meaningful for discussions on broader, horizontal topics, which are still early in the process. The creation of this group was beneficial for political and communication purposes and has helped to show how the Commissioner and the Directorate-General is taking stakeholder engagement seriously.

DG Trade is carrying out a thorough assessment of the group’s work to feed into the recommendations for the new Commissioner regarding renewing the group’s mandate in 2020.

The €3m Partnership Instruments (PI) project

The PI project is a three million budget approved by the European Commission in the Annual Action Programme 2017 to support civil society participation in the implementation of EU trade agreements. Since the inclusion of a SD chapter in trade agreements in 2011, each agreement provides for two advisory groups (DAG), one in the EU and one in the partner country or countries, who meet regularly to advise the Parties on the implementation of the SD chapter. The scope of the monitoring by civil society will be expanded to the trade part of the agreement for the agreements presently being negotiated.

The project is being implemented since November 2018 and will last for three years. The funding is mainly used for logistical purposes such as organising the meetings but it also includes a component on strengthening DAGs when needed.

So far, eight trade agreements include a DAG: Korea, Central America, Colombia/Peru/Ecuador, Moldova, Georgia, Ukraine, Canada and Cariforum.
The Commission selected a contractor, the DMI consortium, to help both DG Trade and the EESC coping with the huge amount of meetings that will be organised in the coming three years: up to 170. Its task is essentially logistical. It will not involve in any political content other than by suggesting ideas and experts to DAG members for workshops and desk studies. The political decision is and remains with the DAG members.

**BACKGROUND**

List of members of the Expert Group on EU Trade Agreements

- **ACEA** (European Automobile Manufacturers’ Association)
- **ACT Alliance EU** (ACT Alliance Advocacy to the European Union)
- **Amfori** (formerly Foreign Trade Association – FTA)
- **BEUC** (European Consumer Organisation)
- **BUSINESSEUROPE** (Confederation of European Business)
- **CEFIC** (European Chemical Industry Council)
- **CELCAA** (European Liaison Committee for Agriculture and agri-food trade)
- **ClientEarth**
- **CONCORD Europe** (European NGO confederation for Relief and Development)
- **Copa - Cogeca** (European Farmers European Agri-Cooperatives)
- **DIGITALEUROPE**
- **EDRi** (European Digital Rights)
- **EFFAT** (Food, Agriculture and Tourism Trade Unions)
- **EFPIA** (European Federation of Pharmaceutical Industries)
- **EPHA** (European Public Health Alliance)
- **ESF** (European Services Forum)
- **ETI** (Ethical Trading Initiative) (*)
- **ETNO** (European Telecommunications Network Operators Association)
- **ETUC** (European Trade Union Confederation)
- **EURATEX** (European Apparel and Textile Confederation)
- **EUROCHAMBRES** (Association of European Chambers of Commerce and Industry)
- **Eurogroup for Animals**
- **FIDH** (International Federation for Human Rights)
- **FoodDrinkEurope**
- **IndustriAll** (IndustriAll European Trade Union)
- **ORGALIME** (European Engineering Industries Association)
- **Transport and Environment** (European Federation for Transport and Environment)
- **UNI Europe** (United Services Trade Union)

**Observers:**
- **CoR** (European Committee of the Regions)
- **EESC** (European Economic and Social Committee)

(*) Currently not active – suspended from the Transparency Register (TR) – will seize to be a member if not back on TR before 30 April 2019 (i.e. 6 months after initial suspension – as stipulated by the horizontal rules on Commission expert groups)
3.10. FTA implementation

The 2018 Annual Commission Report on FTA Implementation was adopted on 1 October and presented to the CSD on 21 November by COI before 91 registered participants. The report was well received. Tenor of the interventions positive while encouraging the COM to deepen its analysis. In particular participants suggested to also look at services trade and rules (eg IPR), add a section on SMEs and report on steps taken to help companies deal with complex RoO.

This Commission has committed to improve implementation of trade agreements (in its 2015 Trade for All Communication) and started to deliver on important elements of it, thus preparing the ground for the new Commission who will be able to build on and extend these efforts.
3.11. Market Access Strategy

**STATE OF PLAY**

Protectionism is on the rise and trade barriers increasingly affect EU stakeholders. While we have witnessed a double-digit increase in trade barriers each year since the financial crisis, this tendency has further exacerbated, with 112 new barriers reported by EU business only in the last two years.

In this context, various stakeholders have been increasingly calling upon the Commission to reinforce its implementation and enforcement efforts in order to ensure that businesses can take advantage of existing commitments. You can reassure stakeholders that the Commission shares the importance of this matter and the "Trade for All" strategy has made implementation and enforcement a top priority. The EU has the tools and uses them effectively to eliminate trade barriers under its Market Access Strategy and FTA Implementation work, bring dispute settlement action, and impose trade defence measures in cases of unfair trade.

More specifically concerning Market Access, we have reinforced our strategy with strengthened coordination among EU institutions and stakeholders, improved prioritisation of barriers and enhanced communication and awareness-raising (such as through the Market Access Days initiative). The EU has not only continued to make full use of but also further extended its wide array of tools to effectively eliminate trade barriers, ranging from multilateral and bilateral dispute settlement action to an ambitious agenda for trade negotiations, FTA implementation, diplomatic demarches, as well as the launch of the overarching European Economic Diplomacy initiative.

With 23 obstacles addressed in 2015, 20 resolved barriers in 2016, a record number of 45 successfully tackled barriers in 2017 and an additional 34 removed barriers in 2018, the tally of resolved barriers under the current Commission reached 122. This robust enforcement record reflects the EU's firm response to a more transactional global trading environment.

**BACKGROUND**

- We are currently preparing this year's Report on Trade and Investment Barriers, which is expected to be published in June 2019.

- Our preliminary conclusions confirm the trends identified in last year's report (as in the speaking points): 1) protectionism is on the rise and 2) the EU is delivering in tackling market access barriers.

- Main expected outcomes of the 2019 report:
  - With 45 new barriers reported and 34 resolved in 2018, EU businesses currently face a record number of 426 measures in third countries. For the first time, China has taken over as the country with the highest overall stock of barriers (37) for our companies, followed by Russia (34), India (25), Indonesia (25) and the United States (23).
  - As for the new barriers in 2018, China, India, the United States and Algeria rank the highest regarding both the number of new barriers recorded in 2018 (18) and the magnitude of their potential impact on trade flows (€ 39.9 billion)---82% of
the total. From a regional perspective, Asia and South Mediterranean regions are identified as most trade-restrictive in 2018, resorting to 26 new barriers this year and confirming last year’s negative trend.

- In response to the rise in protectionism, the EU has made enforcement and implementation of its trade policy a top priority and reinforced the Market Access Strategy to effectively eliminate tackle trade barriers abroad. In this context, we have continued to take full use of, and further extended our wide array of tools, ranging from multilateral and bilateral dispute settlement action to an ambitious agenda for trade negotiations, FTA implementation, diplomatic demarches, as well as the launch of the overarching European Economic Diplomacy initiative.

- With these efforts, the EU's market access work has delivered. 34 barriers were resolved in 8 different sectors –agriculture and fisheries, automotive, textiles and leather, wines and spirits, cosmetics, mineral products, aircraft parts, and ICT, – as well as horizontally.

- With this, the tally of resolved barriers under the current Commission reached 122. This robust enforcement record reflects the EU’s firm response to a more transactional global trading environment.

- Bringing these barriers down creates € 4.8 billion additional exports for EU companies every year. This is equivalent to the benefits of many of our free trade agreements. Our market access work is delivering: as protectionism rises, so does enforcement by the EU.
3.12. Regulatory cooperation

**STATE OF PLAY**

The Trade for All communication sets out the objectives of regulatory cooperation. Regulatory divergence results in additional costs for businesses involved in trade with third countries, while not necessarily increase level of protection. This particularly affects SMEs participation in international trade.

The free trade agreements negotiated by the EU target regulatory divergences by two different sets of provisions: 1) on regulatory cooperation (regulator-to-regulator cooperation) and 2) on good regulatory practises (through entire regulatory cycle).

1) EU negotiated chapters on regulatory cooperation with Japan and Canada, given their strategic importance and high level of regulatory development. In the case of CETA, the Commission is working on the implementation of the regulatory cooperation chapter.

   - The Chapters on regulatory cooperation provide strong guarantees to preserve the right to regulate and the regulatory cooperation is a voluntary process.

   - There is no need for a formal legal framework for regulatory cooperation - EU engages in ad-hoc regulatory cooperation with many third countries and on many sectors, depending on need and interest of regulators (e.g. with US on medical devices).

2) Good regulatory practices (GRP) chapter (only focusing on the domestic regulatory cycle, but not on regulatory cooperation) was negotiated with Japan, and tabled in all recent negotiations - with Mexico (where the chapter was successfully closed), Chile, Indonesia, Australia and New Zealand.

**BACKGROUND**

The Trade for All communication sets out the objectives of Regulatory Cooperation:

“Requirements applied to products and services differ widely across the globe, sometimes because of cultural differences and societal choices, but often simply because regulatory approaches were developed in isolation. Such regulatory fragmentation implies significant additional costs for producers that have to modify their products and/or undergo duplicative conformity assessments for no added safety or other public benefit; in some cases, this is just disguised protectionism. These costs are particularly significant for SMEs, for which they can constitute an insurmountable market access barrier.

While it is easier to address these issues in bilateral negotiations, regional and global solutions have a bigger impact. Reinforced international regulatory cooperation helps to facilitate trade, raises global standards, makes regulations more effective and helps regulators to make better use of limited resources. It must be done in a way that does not restrict the right of governments to act to achieve legitimate public policy objectives (see 4.1.1). Progress with strategic trading partners, like the United States and Japan, will give renewed momentum to the work in bodies like the United Nations Economic Commission for Europe (UNECE) for motor vehicles, the International Conference for Harmonisation for pharmaceutical products, or SPS-related international standard-setting bodies like the Codex Alimentarius for food. International standardisation organisations (ISO, IEC, ITU) play an important role as well. The WTO could develop its role in promoting good regulatory practices”
Some regulatory divergence is a result of different policy choices or level of protection (e.g. the precautionary principle in the EU). This is the reason why the regulatory cooperation chapter always provides for strong safeguards to preserve the right to regulate. However, there are differences that are simply based on regulations developing in isolation or differing regulatory traditions, but do not provide added protection. The aim of regulatory cooperation is to lower the costs related to these differences.

Moreover, regulatory cooperation can be especially useful in new regulatory areas, where neither party has regulated before, allowing for developing a common approach (either bilaterally or in an international forum) and thus preventing the emergence of trade barriers.

It is important to distinguish between provisions on regulatory cooperation and on good regulatory practices (GRP). The purpose of regulatory cooperation provisions in an FTA is to provide a structure for regulatory cooperation activities between the regulators and to provide for institutional set up. These type of provisions are considered on a case-by-case basis, depending on the strategic importance of the other party and its level of regulatory development. The Commission only negotiated regulatory cooperation provisions with Japan and Canada (and with the US, until the negotiations stopped). Moreover, New Zealand has tabled provisions on regulatory cooperation, which the EU is considering.

On the other hand, good regulatory practices (GRP) provisions lay down best practices for the entire regulatory cycle (e.g. public consultations). While a predictable and transparent regulatory environment (applying GRP) principles is necessary for effective regulatory cooperation, adhering to GRP even without regulatory cooperation facilitates trade and reduces potential divergences as it increases the transparency of the regulatory cycle at each stage and provides for the possibility of the public (citizens, businesses, NGOs etc.) to contribute to the process. Good regulatory practices (GRP) chapters (only focusing on the domestic regulatory cycle, but not on regulatory cooperation) was negotiated with Japan, and tabled in all recent negotiations with Mexico (where the chapter was successfully closed), Chile, Indonesia, Australia and New Zealand.

While regulatory cooperation elements were negotiated already in specific chapters, for example in the case of the EU-Korea FTA, it emerged as an independent chapter in the context of the TTIP and CETA negotiations. Especially, with the US, one of the strategic objectives of TTIP was to build bridges between the regulatory traditions of the EU and the US, identifying possible areas of convergence and projecting these at the global level.

As regards CETA, a voluntary regulatory cooperation chapter was negotiated, foreseeing participation by stakeholders via the Regulatory Cooperation Forum (RCF). The chapter is now being implemented. After having gathered contributions from interested stakeholders through an open consultation in the first half of 2018, the first CETA RCF took place in Brussels in December 2018. The parties agreed on a meaningful and challenging work plan including the following 5 topics: (i) cybersecurity and the internet of things; (ii) animal welfare – transportation of animals; (iii) re-testing of cosmetics-like products; (iv) co-operation on pharmaceutical inspections in third countries; and (v) exchange of information on the safety of

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6Information costs (obtaining information about regulation), Specification costs (complying with regulatory standards in the export market), Conformity assessment costs (costs / time delays related to the demonstration of compliance with standards) E.g. auto safety regulations in the United States and the European Union drive up costs by as much as $2.3 billion annually on a bilateral basis, according to the 2016 Center for Automotive Research (CAR) study. This means for EU vehicle sold to the US market $618-827 in 2014 per vehicle. This exceeds the tariff costs.
consumer products. A back-to-back stakeholders meeting was also organised, participants applauded the transparency of proceedings and the work plan was vigorously supported. It is foreseen that the next meeting of the CETA RCF will take place in Canada in the second half of 2019.

In the case of Japan, the EU negotiated a regulatory cooperation and good regulatory practices chapter, focusing mainly on cooperation between the EU and Japan in international fora.

In the ongoing negotiations, there are no horizontal regulatory cooperation chapters planned (with the exception possibly of Australia and New Zealand, if it is the offensive interest of the partner), but the EU tables a horizontal Good regulatory practices (GRP) chapter in each new negotiation.
3.13. **Impact Assessments, SIAs, evaluations**

**STATE OF PLAY**

DG TRADE applies a comprehensive evidence-based policy-making system throughout the policy-cycle: Impact Assessments, Sustainable Impact Assessments, Economic Assessment of the Negotiated Outcome (EANOS) and *ex post* evaluations. These provide evidence-based analysis that support all major trade policy initiatives.

*Sustainable Impact Assessments* (SIAs) are a trade-specific tool that assesses the potential economic, social, environmental and human rights impacts of our trade agreements in the EU, the partner country and in developing countries. They include wide-ranging consultations involving all interested stakeholders in partner countries and in the EU. There are currently eight SIAs ongoing: Chile, Mercosur, Mexico, Australia, New Zealand, Indonesia, Philippines and Malaysia. The SIA on US NAMA is expected to be launched soon. The ones on Chile, Mexico and Indonesia are on their final stages. The ones on Mercosur, Australia, New Zealand, Philippines and Malaysia are at earlier stages.

*Ex post* evaluations are Commission-wide tools that use evidence to assess whether (and how) the objectives of trade agreement have been met and to identify any area of improvement. We conduct evaluations both for accountability reasons and for organisational learning. As highlighted in the Trade for All Communication, the Commission is committed to systematically carry out evaluations of EU trade agreements, usually after 5 years. Four *ex post* evaluations are ongoing, or soon to be launched: EuroMed, Cariforum, Colombia/Peru/Ecuador and Central America.

Thus, the ongoing pipeline of SIAs and evaluations is impressive with 13 assessments ongoing or soon to be launched. These will deliver interesting facts and insights for our trade policy.

**BACKGROUND**

The detailed state of play of the current evaluations is as follows:

- **Mexico SIA**: final revisions are currently taking place and the report is expected to be finalised by the end of March.

- **Mercosur SIA**: the interim report has been received and reviewed (though not published). The timing of the negotiations and of the final report is unclear in this case.

- **Philippines, Indonesia and Malaysia SIAs**: the final reports are expected in March.

- **Chile SIA**: comments on the final report have already been submitted and the Civil Society Dialogue is tentatively scheduled for 10 April.

- **Australia and New Zealand SIAs**: the inception report has been received. The final reports are currently expected by the end of 2019.

- **Cariforum ex-post evaluation**: the kick-off meeting took place on 5 March. The final report is currently expected in 2020.

- **EuroMed ex-post evaluation**: the kick-off meeting took place in January. The final report is currently expected in 2020.
- **Colombia/Peru/Ecuador evaluation**: drafting of the Terms of Reference is ongoing and the study will be launched this summer. The final report is currently expected in 2020.

- **Central America evaluation**: scheduled to start in the second half of 2019. The final report is currently expected in 2021.

We kindly remind you that, as regards **Brexit**, would remove approximately 15% from the EU’s GDP and international trade and this will have an impact in our evaluation activities. The guidance of the Task Force so far has been that for ex ante studies started before the withdrawal date, we should provide a separate set of data for EU27 and EU28.

As regards **ex post evaluations**, such as the ongoing ones for Euromed, Cariforum and soon to be launched Colombia/Peru/Ecuador, we would recommend assessing the impact for the EU28, even if the studies are to be completed (well) after the UK may have left.

As regards **ex ante studies** (IAs, fact sheets, SIAs, etc.) relating to trade policy initiatives which will enter into force / start producing legal effects after 29 March 2019, the ideal approach appears to base the modelling on EU27 and then produce economic modelling corresponding to the most probable post-Brexit situations: no deal, FTA, common market membership.
3.14. Transparency

The European Commission is the most transparent government institution in the world as regards trade policy. The two main activities through which we pursue a pro-active transparency policy are the publication of relevant documents and the engagement with civil society.

We make available to the public the following key documents at the following moments:

- **Before** the launch of negotiations: the European Commission also publishes its proposals to the Council for draft negotiating directives and also encourages the Council to publish its final negotiating directives.

- **During** the negotiations: the European Commission publishes its textual proposals and the agendas and reports of the negotiating rounds, EU only versions if needed.

- **After** the negotiations: it also publishes the final consolidated texts of the agreements as well as the agendas and minutes of the Committees and dialogues set up in the framework of the agreement.

We are also engaging with stakeholders to receive concrete substantive input to improve our trade policy and to make it evidence-based. We proactively engage **before, during and after** the launch of negotiations:

- **Before** the launch of negotiations: by including an open public consultation with stakeholders and civil society.

- **During** the negotiations: through public consultations, civil society dialogues, outreach activities, such as workshops in the partner countries that are part of our Sustainability Impact Assessments (SIAs) and through activities of the Expert Group on Trade Agreements. In 2018, the European Commission organised 19 Civil Society Dialogues and 6 meetings of the Experts Group.

- **After** the negotiations: by engaging with interested stakeholders in the implementation phase of the trade agreements through civil society advisory bodies that monitor and advise on the implementation of the Trade and Sustainable Development Chapters of the agreements. In 2018, there were 18 meetings of these so-called Domestic Advisory Groups (DAGs) as well as 4 Civil Society Forums, an open stakeholder meeting organised in combination with the DAGs. These bodies are independent from the European Commission.
3.15. Glyphosate

- Glyphosate is the most frequently used active substance worldwide in plant protection products for weed control. In March 2015, the International Agency for Research on Cancer (IARC), a branch of WHO, classified glyphosate as "probably carcinogenic to humans". Contrary to IARC, the European Food Safety Authority as well as the European Chemical Agency concluded that glyphosate is unlikely to pose a carcinogenic threat to humans. Member States voted by a qualified majority in favour of the proposal by the European Commission to renew the approval of glyphosate for a period of 5 years in the Appeal Committee. As a result, in December 2017, the approval of the active substance glyphosate was renewed for 5 years (until 15 December 2022). The work on the renewal dossier after 2022 should start soon. However, none of the EU MS is interested to be the rapporteur Members States, who evaluates the safety of glyphosate prior to the risk assessment conducted by EFSA.

- In May 2018, EFSA published a scientific opinion on the “Review of the existing maximum residue levels (MRLs) for glyphosate”. It evaluated the residues in food eaten by consumers in the EU, and confirmed that food complying with the legally permitted levels of residues is safe for consumers.

- Many stakeholders in the EU continue to question the safety of glyphosate and media attention to this topic remains to be high.
Multilateral issues

3.16. Multilateral Investment Court

Working Group III of UNCITRAL (United Nations Commission on International Trade Law) is currently discussing the issue of multilateral reform of ISDS with a mandate to (1) examine the concerns of ISDS; (2) discuss whether reform is desirable; and (3) in the affirmative, design and propose any relevant solutions.

After the third meeting of the Working Group (meetings in November 2017, April 2018 and November 2018), there is agreement in the Working Group that there are significant concerns that warrant reform of ISDS, notably regarding duration and costs of proceedings, lack of transparency, lack of consistency and coherence in the interpretation of substantive principles, limited mechanisms to review awards, problems related to the appointment of arbitrators and their ethical requirements, and lack of guarantees of independence and impartiality of arbitrators. Completion of step 1 of the mandate is without prejudice to any additional concerns that may continue to be flagged and discussed by the Working Group.

In January 2019 the European Union submitted two papers to UNCITRAL with a view to the next meeting of the Working Group in April 2019, i.e. an outline of the EU’s ideas on what form the institutional reform of ISDS should take and a possible work plan addressing process questions that will have to be solved when the Working Group designs and organises its work ahead. While the papers are being translated to all UN official languages, they are already available in EN, FR and ES the European Commission's website.

An intersessional meeting to raise awareness and share experiences from the Latin American and Caribbean region took place in the Dominican Republic in February 2019. At its next meeting in April 2019, the expectation is that the Working Group will start discussions on how to organise its work under step 3 (i.e., design of possible reform solutions).
Negotiations/Agreements

3.17. Mexico

The EU and Mexico announced an agreement in principle for modernizing the trade part of the EU-Mexico Global Agreement on 21 April 2018, an ambitious agreement that modernises the current relations with this important trading partner. The agreement includes state of the art provisions on inter alia investment and investment protection, energy and TSD.

All texts were agreed and published before the current government took office on 1 December 2018. There is only one issue left where the result of the negotiation is clear but where work still has to be finalised: Mexico has to honour its commitments on public procurement at sub-central level. In the agreement in principle, Mexico committed to offer access to EU bidders for public contracts in Mexican States. In particular, Mexico committed to cover States representing 62.5% of Mexico's GDP and to ensure a minimum coverage for each of those States, including the executive branch of each States, urban transport entities and entities in certain utilities sectors. Since the Mexican States have competence over procurement matters, in order to honour the commitments, Mexico requires the agreement of the Mexican States. The Mexican Government is currently in the process of consulting the Mexican States and has given them until 23 March to give a political-level indication on whether they are ready to open their local procurement market.

Engagement on the side of the Mexican Administration has intensified as the Chief Negotiator Helena König met the Trade Vice-Minister in Mexico at the beginning of March. They discussed progress in the legal review and the procurement annex, and Helena König took the opportunity to emphasize the importance of Mexico's honouring its commitments by April 2019. She also met with Governors of three of the top largest States in terms of GDP percentage to promote the modernisation and discuss the benefits of an open procurement market.

Apart from concluding public procurement (sub-central), the next steps are as follows: legal revision of the text should be completed in the course of spring 2019, followed by the translation of the agreement into all EU languages. If work goes as planned, the Commission proposals for Council decisions on signature, provisional application and conclusion of the Modernised Agreement should be adopted before the end of this Commission's mandate. Adoption only in English may be an option.
3.18. Mercosur

The EU – Mercosur trade negotiations are close to be finalised. Most of the text is already agreed but the most difficult issues, mainly related to market access, still remain to be solved.

The last negotiation round took place in Buenos Aires last week, from 11 to 15 March 2019 in a constructive atmosphere. Mercosur countries came well prepared and willing to make progress. All Mercosur countries confirmed their commitment to the process and the new Government of Brazil played a constructive part. As a result, it was possible to progress on several issues and close some issues such as the texts on regional integration or state trading enterprises. We also advanced on several issues that had been on the table for a long time, such as public procurement, market access for cars and car parts and rules of origin, narrowing down the differences significantly. Nevertheless, important work remains to be done with regard to key EU asks such as market access for dairy products, maritime services, IPR and GIs. Mercosur on its side underlined their priorities on their agricultural interests, many of which are sensitive products for the EU.

Discussions will therefore need to continue and both sides remain in close contact. The next meeting should take place in May in Buenos Aires.
3.19. Indonesia

Over the last 2 years we have been making slow but steady progress in FTA negotiations with Indonesia. We are approaching the seventh round, which will be held next week from 11-15 March in Brussels. Initial offers have been exchanged in goods, services and investments. However, discussions continue to be complex on government procurement as well as on trade and sustainable development. The high number of trade restrictive measures as well as difficult internal coordination on the Indonesian side continue to pose challenges. Presidential elections will be held in Indonesia in April 2019. The current Indonesian administration still aims at possibly concluding negotiations this year. In our view, this is ambitious given the amount of work ahead. The willingness of Indonesia to reform will set the pace of the negotiations and, as always, substance must prevail over speed.
3.20. Australia and New Zealand

The negotiations with New Zealand and Australia were launched in June last year, they are now at full speed and there is steady progress. Steady progress and shared ambition has been discussed also at political level both with NZ as well as Australia. Third round with New Zealand was just finalised 22 February and covered practically all areas, including a discussion on market access offers on goods (exchanged before the round). The third round with Australia is coming up from 25 March onwards, with discussions on all areas of negotiations. Market access offers have not yet been exchanged with Australia. Apart from market access, stakeholders expect an ambitious outcome in the negotiations for instance in the area of Trade and Sustainable Development. Optimistic that we can come to a conclusion in short or medium term. There are expectations of a speedy conclusion in particular with New Zealand. This would necessitate progress in all areas and there is still a lot of work to be done. Discussions on agricultural aspects continue to be sensitive in both negotiations. In Australia, there are also elections coming up in May.
3.21. China

China trade relations

DG Trade organised a dedicated Civil Society Dialogue on China trade relations and investment negotiations in December 2018 that was well attended by the business stakeholders. You can expect China to come up in this meeting as well. The Joint Communication to the European Parliament, the European Council and the Council – which was adopted on March 12th – is to be discussed in the European Council on March 21-22nd. The objective of the Communication is to give clear political messages at the European Council. The Communication highlights the changing narrative on China in the EU over the last year. The overall awareness of China and the challenges that come with its state-led economic model has increased among EU Member States and European businesses. The narrative is changing along with a growing frustration and realism that China will not change to become like us. China is a challenging partner, whether it is about access to the Chinese market itself, or about China’s investment and technology acquisition practices outside China. At the same time, the fundamental realities have not changed: China continues to be a strategically important market to European businesses, a welcomed investor in many Member States, and one that cannot easily be replaced in the near term.

China and its economic model is at the heart of the current global trade tensions, contributing to the lack of level playing experienced by China’s trading partners. Therefore, there is a growing demand from the Member States and the industry side to tackle the China challenge more effectively. A lot has already been done (TDI reform, FDI screening, work on WTO reform), but more could still be done, in particular in the area of procurement. This meeting is an opportunity to assure the audience that DG Trade is well aware of the situation with China, and is using all the tools available to manage the relationship. The changing narrative on China may be a cause of discomfort for China. But China should also understand that it plays a crucial role in finding solutions to the current trade concerns and must assume a role befitting to its size and importance in the multilateral trading system.

The civil society dialogue is taking place in the lead-up to EU China Summit, scheduled for April 9th in Brussels. The overall context for the Summit is challenging and somewhat unpredictable, with the US/China trade negotiations having an impact in the background. We have expected that China would have wanted to continue to showcase a positive story in the EU China bilateral relationship and its own role in the multilateral trading system. It remains to be seen whether this is possible given the overall context.

The preparations for the Summit with Member States have begun, and the negotiations on a joint statement with China are about to be launched. Unlike in 2018, the Summit will not be preceded by any of DG Trade’s regular high-level meetings with China. There are currently no dates fixed for the various EU China trade dialogues in 2019. The upcoming EP elections may also affect the scheduling of further meetings at high level. Regarding specific outcomes, while overall expectations for Summit outcomes are low, from a trade perspective our expectations for the Summit remain largely unchanged when compared to last year. The Summit will provide a useful opportunity to take stock of the progress achieved since the Summit of last July, and to insist on China’s more substantive engagement on all issues of EU interest.

The EU’s priorities with regard to China are established in the 2016 EU Strategy on China. The key principles defined in there continue to be relevant today and form the basis of EU’s engagement with China: market access, reciprocity, level playing field, investment negotiations and tackling of overcapacity. A key issue is also the Chinese distorted approach to IPR
protection and enforcement, favouring its own economic interests at the expense of EU right holders. The EU engages with China bilaterally through dialogues and negotiations, but also in the multilateral context and in cooperation with other like-minded partners on China, as we do with the US and Japan in the trilateral cooperation. The EU and China also have a bilateral working group on WTO Reform. When appropriate, the EU is also ready to use enforcement, e.g. through trade defence or WTO dispute settlement.

The security concerns associated with Chinese manufacturers, most notably related to Huawei and 5G network have received considerable attention, and you may ask about the Commission’s plans in regard to this. The Commission is monitoring the situation closely. National security is in the competence of EU Member States. The EU already has procurement rules in place, and the investment screening will help the EU to address its essential interests.

Apart from overall interest towards China, we expect the audience to be interested in the Joint Communication. We have also included replies to possible questions related to GI negotiations, IPI instrument and export control legislation, as well as Huawei.

**China investment**

At the July 2018 Summit, the EU and China reconfirmed that they view the ongoing Comprehensive Investment Agreement negotiations as a top priority and a key project towards establishing and maintaining an open, predictable, fair and transparent business environment for their respective investors. After the exchange of market access offers in the margins of the Summit, the focus of our bilateral investment negotiations with China has primarily shifted to market access and national treatment discussions.

The progress is difficult and the pace remains slow. Nevertheless, we see an increased engagement from the Chinese side (probably as a result of the US-China conflict). Also, the exchange of offers has allowed the negotiations to become far more concrete, importantly at a time when China is revising its foreign investment laws. In that context, the negotiations have become an important tool to push further regulatory changes in China. Substantial improvement on the Chinese offer and a clear commitment to national treatment still need to be obtained. Keeping the pressure on China to move on our key asks is important especially now, during the window created by the US and in the run up to the Summit.

The last round took place 25 to 27 February 2019. After several months of arduous technical work, we have started effective market access negotiations.
Under the European Union’s Everything But Arms (EBA) arrangement of the Generalised Scheme of Preferences (GSP), the EU has stepped up its engagement with Myanmar. Concerns regarding Myanmar include accountability for the alleged violations that took place in Rakhine State in summer of 2017; full humanitarian access not only to Rakhine, but also Kachin and Shan States; return of refugees to their homes; and implementation of the recommendations of the Advisory Commission on Rakhine State chaired by Kofi Annan (Annan Report).

A high-level mission visited Myanmar in October 2018 to discuss our concerns. The visit led to a number of letter exchanges and meetings with Myanmar authorities, including on 21 January 2019, a meeting between Commissioner Malmström and the Myanmar Minister for International Cooperation, U Kyaw Tin.

In the context of our enhanced engagement, a follow-up mission to Myanmar took place from 18-22 February 2019, led by DG TRADE, DDG Helena König with participation of the EEAS and DG EMPL. This mission was fruitful in some aspects: it showed continued engagement by the civilian government and a more open atmosphere of discussing issues. It also allowed for a visit to central Rakhine State (Internally Displaced Persons (IDP) camp and other sites). Yet, concrete deliverables still need to be seen.

Myanmar exports to the EU meanwhile increased substantially by 48% (y/y) to €2.3 billion in 2018.

**How can EBA be withdrawn?**

Under the GSP Regulation, EBA preferences are conditional upon the beneficiary country respecting the principles of 15 core United Nations (UN) and International Labour Organisation (ILO) conventions on human rights and labour rights (laid down in Annex VIII Part A). Article 19 of the GSP Regulation provides for the possibility of temporary, full or partial withdrawal of tariff preferences in the event of “serious and systematic” violations of the core conventions. The Commission can initiate an investigation if it considers that there are "sufficient grounds" justifying temporary withdrawal. In its assessment, the Commission uses as key sources of information the reports and recommendations of the relevant UN and ILO bodies as well as additional information from sources including the EU Delegations, EU Member States, the European Parliament, and civil society.

**EU industry in Myanmar**

EU industry in Myanmar is mainly present in telecom, logistics, manufacturing, and services. A recent business survey showed that, despite the current political situation, EU industry sees a lot of potential in the country especially in 'new' sectors of wholesale, retail, banking and insurance. The country is attractive thanks to its growing middle class; young population; economic reforms (recent decisions to liberalise banking and ownership restrictions); and regional perspective. Yet, EU industry is concerned over human rights issues and – according to the European Chamber in Myanmar - investors are holding back – over the situation in the country and over a possible EBA withdrawal.
Economic interest in EBA for Myanmar

Myanmar is taking increasingly advantage of EBA with preferential exports to the EU increasing from €535 million in 2015 to €2.3 billion in 2018 (85% of exports to EU and 14% of total exports are under EBA). Main exports to EU are textiles (over €1.7 billion); precious stones (€130 million) cereals/rice (over €100 million); and fish (€36 million). Preliminary figures for 2018 (10 months) show another increase in exports by 48%, of which over 73% in textiles. Starting a withdrawal procedure could lead to more responsiveness.

Brief overview of interaction on EBA:

- 18-22 February 2019: Second high level mission to Myanmar (DG TRADE DDG, H. König, EEAS DMD, P. Pampaloni)
- 15 January 2019: Myanmar submitted an official reply to your letter of December 2018 with regard to 'Progress on the Implementation of the Areas of Concern expressed by the EU Enhanced EBA Monitoring Mission'.
- 11 January 2019: Myanmar submitted 'Additional Facts of the Senior Officials' Meeting on the Implementation by Myanmar on its Commitments under the GSP/EBA Scheme'.
- 21 December 2018: Joint TRADE/EMPL/EEAS letter to Minister U Kyaw Tin summarising the outcome of enhanced engagement so far and requesting immediate attention to the main concerns.
- 10-11 December 2018: Myanmar visit to Brussels, led by Permanent Secretary Mr Myint Thu of the Ministry of Foreign Affairs.
- 27 November 2018: Myanmar sent, within the given deadline, a (24 page) response to our list of concerns.
- 12 November 2018: Follow-up letter Commissioner Malmström /HR/VP Mogherini of high-level mission including a list of key issues.
- 18 October 2018: Bilateral meeting HR/VP Mogherini with Mr. Kyaw Tin, Minister for International Cooperation of Myanmar, at the ASEM Summit.
- 8 October 2018: Letter by Commissioner Malmström /HR/VP Mogherini / Commissioner Thyssen with a (long) list of issues.
- 4 October 2017: Letter by Commissioner Malmström /HR/VP Mogherini expressing concern and announcing enhanced monitoring.
3.23. Cambodia

STATE OF PLAY

On 11 February 2019 the EU launched the process that could lead to the temporary suspension of Cambodia’s preferential access to the EU market under the Everything But Arms (EBA) trade scheme. EBA preferences can be removed if beneficiary countries fail to respect core human rights and labour rights. Launching the temporary withdrawal procedure does not entail an immediate removal of tariff preferences, which would be the option of last resort. Instead, it kicks off a period of intensive monitoring and engagement. The aim of the Commission’s action remains to improve the situation for the people on the ground.

The EU has stepped up its EBA engagement with Cambodia since 2017. However, so far the progress has been limited in the biggest political areas (e.g. in terms of restoring a genuine multi-party democracy in the country, starting a dialogue with the opposition, reinstatement of banned senior opposition members).

A steep deterioration of democratic space happened within a few months (from local elections in June 2017 to national elections of July 2018), so progress in the opposite direction can be quick if there is political will.

On the basis of UN and International Labour Organization (ILO) reports, we have identified serious and systematic violations of the principles laid down in 4 core conventions: (i) International Covenant on Civil and Political Rights (ICCPR), (ii) International Covenant on Economic, Social and Cultural Rights (ICESCR), (iii) ILO Convention 87 on Freedom of Association and (iv) ILO Convention 98 on the Right to Organise and to Bargain Collectively.

All our interlocutors, including the UN and civil society organisations as well as a number of third countries, confirm that the EBA leverage is having an impact. Towards the end of 2018, the Cambodian government put in place a number of initiatives that, if effectively implemented, could provide a solution to a number of issues. However, much more substantive progress is needed with concrete, credible and sustainable measures on the ground.

BACKGROUND

Brief overview of the latest interaction on EBA with Cambodia:

- 30.04.2018: EU letter announcing enhanced engagement on EBA with Cambodia,
- 04.06.2018: Cambodia preliminary reply to the list of issues,
- 20-27.06.2018: Cambodian delegation led by Dr Sok Siphana participating in technical meetings in Brussels with senior management in Commission services (EMPL and TRADE) and EEAS,
- 05-11.07.2018: EBA fact-finding mission in Cambodia identifying serious and systematic violations of human and labour rights,
- 13.08.2018: Cambodia’s final submission in reply to the list of issues,
- 13.09.2018: European Parliament’s Resolution reiterating concerns about the situation in Cambodia,
- 04.10.2018: EU letter reiterating concerns and notifying the upcoming start of temporary withdrawal procedure of tariff preferences under EBA,
- 18.10.2018: Meeting of Prime Minister Hun Sen with HR/VP Mogherini in the margins of the ASEM summit in Brussels (the subsequent mission led by Dr. Sok Siphana is a follow up of that high-level meeting).
− 03-05.12.2018: Cambodian delegation led by Dr Sok Siphana Advisor, reporting to the Foreign Minister, and Special Envoy taking part in technical meetings in Brussels with senior management in the Commission (EMPL and TRADE) and EEAS as well as with Ms Åsenius, Head of Cabinet Malmström (minutes attached in Annex III),
− 14.12.2018: DG EMPL sent an indicative list of issues to improve the labour rights situation in Cambodia (a non-paper),
− 17.12.2018: EU follow-up letter (EEAS, EMPL, TRADE) underlying the need to take urgently concrete measures to address human and labour rights concerns and submit a comprehensive update by 4 January 2019,
− 04.01.2019: The reply submitted by Cambodia,
− 21.01.2019: Commissioner Malmström’s meeting with the Cambodian Foreign Minister, Prak Sokhonn,
− 11.02.2019: Announcement of the launch of the procedure to temporarily withdraw of EBA.
3.24. Vietnam

Bilateral trade and investment negotiations with Vietnam were launched in 2012 and concluded in December 2015. Following the Court of Justice Opinion 2/15 (issued on 16 May 2017), and in a similar way as had been done with the EU-Singapore agreement, the result of negotiations with Vietnam was adjusted to create two stand-alone agreements: the EU-Vietnam Free Trade Agreement (FTA) and the EU-Vietnam Investment Protection Agreement (IPA). The legal review of the FTA and IPA texts was completed in late June 2018 and early August 2018, respectively.

As the signature of both agreements before the European Parliament (EP) elections was identified by President Juncker as a priority, an accelerated procedure was found to allow for the College adoption of the draft decisions for signature and conclusion of both agreements (albeit only in English) on 17 October 2018. The translations of the agreements into the 22 other official languages followed on 12 November 2018. It is still unclear when the Council jurist-linguists, together with Member States, will be able to complete work on the agreements in preparation for their signature and when the signature could take place. For the moment the Romanian Presidency has scheduled the votes on signature for end of May.
3.25. India

This is the first civil society meeting since the adoption of the new EU Strategy on India at the end of 2019. This could triggered interest in the state of play of our trade relations with India.

Regarding the EU-India FTA, negotiations with India reached a standstill in 2013 due to different levels of ambition. The Council conclusions on an EU Strategy on India adopted on 10 December 2018 indicate that the EU remains committed to a balanced, comprehensive and ambitious FTA with India. Such agreement must be a win-win which benefits both sides. However, the current position of India on files crucial for the EU is not conducive to considering the resumption of negotiations. The two sides continue their talks in order to bridge existing gaps, in particular on market access for goods, public procurement and services, and on sustainable development. As a first step towards a full-fledged trade agreement, the EU is ready to consider negotiating an Investment Protection Agreement which would be of mutual interest and could stimulate EU investment in support of the “Make in India” initiative.

Meanwhile, there is plenty of room to expand our trade and investment relations with India and make them more fruitful. Indeed, EU exporters and investors continue to suffer from a multitude of market access barriers to India, such as prohibitive imports duties, sanitary and phyto-sanitary restrictions and a growing number of technical barriers to trade in the form of national testing and certification requirements, as well as standards that deviate from internally-agreed ones. These difficulties were amplified by Prime Minister Modi’s flagship initiative "Make in India," which seeks to encourage foreign investment into the country, while restricting imports and foreign companies’ access to the Indian government procurement market. We therefore continue working on market access issues on both sides through our trade working groups. That said, the current electoral context in India is not conducive to any progress on our key market access issues.

We are also ready to work more closely with India in WTO to address the challenges faced by the organisation and preserve the rules-based multilateral trade system.
3.26. Africa

The focus of Economic Partnership Agreements (EPAs) is now on implementation. The agreements will remain open to countries willing to join and their substantive scope can be extended to cover services, investments, IPR etc. Each agreement will be monitored and evaluated on a regular basis, with full transparency being ensured.

We are working towards further involvement of civil society/non-state actors in the implementation and monitoring of EPAs and that we fully agree on the importance of associating civil society in the EPA process. The EU has welcomed the progress made towards an African Continental Free Trade Area and believes that EPAs have contributed to this, and will continue to do so.

### Economic Partnership Agreements with African, Caribbean and Pacific group of states – state of play in March 2019

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<thead>
<tr>
<th>EPA agreement</th>
<th>EPA partners</th>
<th>State of play</th>
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<tr>
<td></td>
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<td>In provisional application: 14.05.2012 (with Comoros: 7.02.2019)</td>
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<tr>
<td>(2) Southern African Development Community (SADC²)</td>
<td>Botswana, Lesotho, Mozambique, Namibia, eSwatini, South Africa</td>
<td>Signed: 10.06.2016</td>
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<td></td>
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<td>In provisional application: 10.10.2016 (with Mozambique: 4.02.2018)</td>
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<td>(3) Central Africa</td>
<td>Cameroon</td>
<td>Signed: 15.01.2009</td>
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<td></td>
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<td>In provisional application: 4.08.2014</td>
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<td>In provisional application: 15.12.2016</td>
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<td>In provisional application: 3.09.2016</td>
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<tr>
<td>Cariforum</td>
<td>Antigua and Barbuda, Bahamas, Barbados, Belize, Dominica, Dominican Republic, Grenada, Guyana, Jamaica, St Lucia, St Vincent and the Grenadines, St Kitts and Nevis, Suriname, Trinidad and Tobago</td>
<td>Signed: 15.10.2008.</td>
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<td></td>
<td></td>
<td>In provisional application: 29.12.2008</td>
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<tr>
<td>Pacific</td>
<td>Papua New Guinea (PNG), Fiji, Samoa</td>
<td>Signed by PNG: 30.07.2009</td>
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<td></td>
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<td>Signed by Fiji: 11.12.2009</td>
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**EPAs at signature stage**

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<tbody>
<tr>
<td>West Africa</td>
<td>Gambia, Mauritania, Nigeria,</td>
<td>Signed by 13 countries in 2014; by Gambia and Mauritania in 2018. Nigeria only</td>
</tr>
<tr>
<td>EPA negotiations stalled</td>
<td></td>
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<td>--------------------------</td>
<td></td>
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<tr>
<td><strong>Wider Eastern and Southern Africa (wider ESA)</strong></td>
<td>Comoros, Djibouti, Eritrea, Ethiopia, Madagascar, Malawi, Mauritius, Seychelles, Sudan, Zambia, Zimbabwe</td>
<td></td>
</tr>
<tr>
<td>Last negotiating round in 2011. Focus is on widening and deepening the interim EPA with ESA4 countries (see point 1 above)</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Central Africa</strong></td>
<td>Cameroon, Central African Republic, Chad, Congo (Brazzaville), Congo (Kinshasa), Gabon, Equatorial Guinea, Sao Tome &amp; Principe</td>
<td></td>
</tr>
<tr>
<td>Last negotiating round in 2011. Focus is on accession to Cameroon EPA (see point 3 above)</td>
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</table>

1 Of the remaining 9 SADC countries, 4 are Parties of the interim EPA with Eastern and Southern Africa (ESA), namely Mauritius, Madagascar, Seychelles and Zimbabwe. The reminder has the possibility of accession to either the ESA or SADC EPA.
3.27. Turkey

EU-Turkey bilateral trade increased rapidly in recent years, continuing a trend that has seen trade more than quadruple since the Customs Union entered into force in 1995. Trade in goods amounted to €153 billion in 2018, making Turkey the EU’s 5th largest trading partner overall, while the EU is by far Turkey’s most important trading partner. The rise of EU investment in Turkey has been similarly significant, as has been the deeper integration in production networks between Turkish and European firms.

In 2018, the Turkish lira lost as much as 40% of its value, which lead to a decrease in Turkish imports while at the same time making exports more competitive, leading to a decrease of the Turkish trade deficit.

After the initially positive trend of reducing high trade barriers and increasing alignment to the EU, in the past years the trend has changed and problems started to accumulate. The most important issues include Turkey’s ‘additional customs duties’ on third country imports, forced localisation for investors, import surveillance, and excessive testing and certification.

Regarding additional duties, since their inception going back to 2011, Turkey is continuously expanding their scope, most recently on 16 January 2019. The total now covers almost one third of all products. Although EU origin goods are excluded from the duties, there is an administrative burden for EU businesses, in particular the requirement to prove origin.

In order to update the 1995 agreement and following a regular consultation process, the European Commission in December 2016 proposed a draft mandate for the modernisation of the Customs Union. However, amid deteriorating political relations the Council has not yet adopted the mandate.

Turkish officials as well as business organisations frequently emphasise that Turkey is prepared to launch negotiations on the Customs Union modernisation. While they criticise the EU for politicising this issue that in their view is of purely economic concern, Turkey sees this project as a further step towards its ultimate goal of future accession rather than its alternative. Given recent statements, a similar demand for the opening of negotiations on the modernisation of the Customs Union may be expected.
Russia continues to be the fourth trade partner of the EU (two-way € 253 billion in 2018 in goods, € 42 billion in 2017 in services). In 2018 EU exports of goods to RUS amounted to € 85 billion, EU imports from Russia € 168 billion. Russia is the fourth destination of EU exports. In 2018 EU exports to Russia remained flat (-1%). Due to large and increasing oil and gas imports (mostly due to price rather than volume increase), EU imports increased by 16% and trade deficit with Russia (€ -83 billion) is only second to EU’s trade deficit with China. As for services, EU exports to Russia amounted to € 29 billion in 2017, EU imports from Russia to € 12.6 billion. While Russia remains a strategic trade partner, notably due to our dependency on imports of energy products, and while in normal conditions the potential of stronger trade is clear, in recent years trade with Russia has become relatively less important and bilateral trade peaked in 2012.

The trade relation and trade itself are handicapped by Russian ‘import substitution’ policy and a long list of trade irritants, geo-political tension, EU and US sanctions and Russian countersanctions. Major trade irritants put in place by Russia include: political ban against EU agri-food products and numerous SPS trade barriers; Special Investment Contracts, which grant preferential Russian governmental treatment upon localisation of production in Russia, particularly relevant for the motor vehicle industry, but also for pharmaceuticals, machinery, aircraft, etc.; discrimination against foreign products in procurement by State Owned Enterprises – which constitute over 50% of the market in many sectors; certification requirements which de facto discriminate against foreign products: cement, medical devices, medicines; mandatory electronic labelling and registration of individual products, to be introduced progressively in the next five years with the intention of covering all goods; export bans and other quantitative restrictions to export raw materials: raw hides and skins, and birch logs; dual pricing of energy which favours domestic producers of energy-intensive goods (e.g. of steel, fertilisers) to the detriment of EU manufacturers of the same goods.

Since 2014 many previously existing regular dialogues have been suspended or downgraded: this applies also to meetings to discuss trade, which however continue to take place at technical level and are set up ad hoc. Some recent opportunities for cooperation have emerged on the WTO reform, in the context of the US tariffs on steel and aluminium, the Global Forum on Steel Excess Capacity, Euro-Asian Connectivity, and on preserving Iran JCPOA.

Since the WTO accession of Russia in August 2012, the EU has filed 4 WTO cases and won on 3: Russia's excessive import duties, Russia's embargo on EU pig meat; Russia anti-dumping duties on light commercial vehicles from Germany and Italy. The case on Russia's recycling fee on cars is currently on hold. Russia filed 4 cases against the EU, all on-going.

EU economic sanctions on Russia linked to Russian’s actions in Ukraine (in place since July 2014) are narrowly targeting four sectors (access to finance, arms, dual-use goods and sensitive technologies for oil production and exploration). EU sanctions have a marginal impact on EU economy. On 21 December 2018, having assessed the implementation of the Minsk agreements, the Council of the EU renewed the restrictive measures until 31 July 2019. Other EU sanctions restrict economic relations with Crimea and Sevastopol and impose asset freeze and travel bans on specific individuals and entities involved in the events in Ukraine.

Russia retaliated in August 2014 with an embargo on agricultural goods from the EU (+ US, Canada, Australia, Norway, etc.). Since then overall EU agricultural exports to the world has however increased by 5-6% though some sectors in some Member States have been hit hard (e.g. dairy, fruits and vegetables in Baltic States, Finland and Poland). Russia has already prolonged
this embargo until the end of 2019. This food embargo has been a good way for Russia to protect its own producers, of which it is often publically praising itself.

**Relations with the Eurasian Economic Union (EAEU):** in line with the 2012 position adopted by Member States: no political contacts, only contacts at technical level are ongoing, particularly by the trade section of the EU Delegation to Russia in relevant areas of EAEU competence, such as technical regulations, intellectual property rights, trade defence.

**Commissioner Malmström** met Minister of Economic Development of the Russian Federation Maxim Oreshkin once, at a brief talk in Davos on 25 January 2019. Minister Oreshkin referred to the need to improve bilateral relations and to cooperate in reforming the WTO. Commissioner Malmström agreed that it was important to cooperate on WTO reform and good to make progress on the other areas, including the numerous irritants. In particular, she emphasised the need for a solution on the ‘Pork case’. **Director Ignacio García Bercero** had a working meeting in Brussels with Russian Ministry of Economic Development (Director Max Medvedkov) on 10th December 2018 (full day).
3.29. Ukraine, Georgia, Moldova

Ukraine

The fifth EU-Ukraine Association Council in December 2018 confirmed and recognised Ukraine’s progress in implementing the Association Agreement (AA) and its Deep and Comprehensive Free Trade Area (DCFTA) part, which are at the core of deepening economic integration and trade relations with the EU.

Ukraine’s relations with Russia are not improving and restrictions imposed in December 2018 by Russia in addition to the problems encountered by Ukrainian vessels in the Azov Sea and the Kerch Strait are only making matters worse. On this issue, a joint letter from Commissioner Malmström and HR/VP Mogherini to Russia has been sent [tbc]. At the same time, Ukraine is in the midst of a Presidential election campaign with the date set for the 31 March 2019. The second round takes place on 21 April 2019.

EU and Ukraine’s bilateral trade continued to increase in 2018 and EU has consolidated its position as Ukraine’s main trading partner representing 42% of its trade. Ukrainian exports to the EU reached its highest level ever in 2018. A significant part of the increase from 2017 is in non-agricultural goods, which could imply that efforts to align legislation, harmonise standards, improve quality and remove barriers to trade are beginning to bear fruit. Ukraine is very adamant to go ahead with an Agreement on Conformity Assessment and Acceptance Agreement (ACAA) and the requirements necessary to advance have been clearly outlined by the EU. Although such an agreement is not anywhere imminent, Ukraine’s progress should be recognised.

EU and Ukraine’s bilateral trade continued to increase in 2018 and EU has consolidated its position as Ukraine’s main trading partner representing 42% of its trade. Ukrainian exports to the EU reached its highest level ever in 2018. A significant part of the increase from 2017 is in non-agricultural goods, which could imply that efforts to align legislation, harmonise standards, improve quality and remove barriers to trade are beginning to bear fruit.

Wood export ban. On 15 January 2019, the EU transmitted its formal request for bilateral dispute settlement consultations on the wood export ban (published on DG TRADE’s website). This request came as no surprise to the Ukrainian government as it follows repeated requests on the EU side and repeated promises on the Ukrainian side, including by the President, to solve the problem. Eventually, this created a situation where the credibility of the commitments contained in the DCFTA were at stake. Ukraine was cooperative and well prepared for the consultations held in Kiev on 7 February but our view that the measure is mainly protectionist, with little or no environmental effects in mind, was essentially confirmed. Once Ukraine has provided additional clarifications, answers and facts, the Commission will most likely proceed to an arbitration panel. Ukraine has not expressed any concerns about the timing of the launch of consultations and have subsequently not indicated that we should delay, postpone or refrain from a arbitration panel.

Law 2440 on value added tax constitutes a new irritant. This law denies certain exporters (who do not own land or have any production) of soybeans and rapeseed from having their value added tax refunded upon export. This violates the provisions of the DCFTA and Ukraine’s WTO accession protocol and is not in line with the EU VAT Directive to which Ukraine has to approximate by 2021. Commissioner Malmström raised strong concerns about this law when she met the Foreign Minister Klimkin in January 2019. The good news is that a draft law has been tabled in the Parliament, which will repeal law 2440. This is of course something we have asked the government to support. It also shows that there is resistance from domestic producers against law 2440.
Ukraine needs to step up efforts **against counterfeiting and piracy** and to align its enforcement laws on intellectual property right related to the DCFTA. Effective intellectual property enforcement is indispensable because commercial-scale counterfeiting and piracy cause significant financial losses both for European and Ukrainian right holders and legitimate businesses. The EU is supporting in drafting legislation but vested interests continue to hinder effective laws being adopted.

**Poultry.** In view of solving the unlimited imports of poultry meat, the Commission held informal consultations with the Ukrainian authorities in summer 2018 and subsequently obtained on 20 December 2018 the authorisation from the Council to negotiate an amendment to the Association Agreement. Two rounds of negotiations have taken place on 29 January and on 22 February and an agreement has been reached on the main elements. The only outstanding issue concerns a provision on provisional application for which a letter to the Commissioner is being prepared.

**Trade and Sustainable Development – civil society.** The second Trade and Sustainable Development (TSD) subcommittee between the EU and Ukraine was held on 13 November 2018 in Kiev. On 14 November 2018, the EU and Ukraine authorities reported to the open civil society forum on the discussions and outcomes of subcommittee via their joint statement. Both the operational conclusions and the joint statement of the meeting are publicly available on DG TRADE’s website. Labour issues, renewable energy, energy efficiency, sustainable fisheries and forest management were discussed. The Ukrainian Advisory Group had been established only a couple of days before the meetings. Still, members of the EU Advisory Group were able to meet the newly established Ukraine Advisory Group for the first time so both could start exchange on their work ahead. In 2019, Ukraine is urgently expected to finally select its experts so that the TSD Group of Experts (for TSD dispute settlement). Besides we are working on a number of TSD implementation priorities. These priorities include trade and labour issues (labour inspection, modernisation of labour relations, social dialogue), trade and environment issues (sustainable forest management and related wood production, sales, processing and trade). The TSD chapter provides the EU and Ukrainian Advisory Groups with a role in the implementation of the TSD chapter. Members of the EU Advisory Group are welcome to exchange and share experience with their counterparts of the Ukrainian Advisory Group and advance the work on those two important priorities. The EU encourages the EU and Ukrainian Advisory Groups to actively engage with civil society at large to monitor and discuss progress in the implementation of the TSD Chapter.

**Georgia**

The EU is Georgia's first trading partner. The EU's share in Georgia's trade was 27% in 2017. This figure peaked with 32% in 2015, the year after provisional application, and 30% in 2016, but is now back to pre-DCFTA level. Total bilateral trade in 2017 amounted to EUR 2.66 billion. EU exports to Georgia remained stable with a minor increase of 0.6% year on year and amounted to EUR 1.98 billion. EU imports from Georgia have increased in 2017 by 26.7%, and amounted to EUR 659 million. For the period Jan-Nov 2018 compared to the same period in 2017, EU exports to Georgia amounted to EUR 1.93 billion, an increase of 3.8% compared to same period in 2017. On the contrary EU imports from Georgia decreased by 4% totalling EUR 604.9 million. This decrease is mainly driven by a decrease in edible fruits and nuts (-40%) and mineral fuels and oils (-32%). In 2018 EU continued to export to Georgia mainly mineral fuels and mineral oils, machinery and mechanical appliances, pharmaceutical products, motor vehicles, electrical machinery and equipment and optical, medical and surgical instruments. These six categories of products account for 60% of total exports to Georgia. EU imported mainly ores, slag and ash; mineral fuels and mineral oils; pharmaceutical products; apparel and clothing; and copper. Ores, slag and ash account on its own for 43% of all imports.
The 5th Association Committee in Trade Configuration (ACTA) met in Brussels on 17-18 December 2018 and reviewed in detail developments related to the implementation of the different DCFTA chapters. It was noted that approximation takes place in general in good conditions although with some delays in certain areas and with a real substantive difficulty regarding Public Procurement and concessions. Georgia has presented a comprehensive Roadmap, which has however not been adopted by the ACTA, as references to concessions are missing. Progress has been noted in the reform of sanitary and phytosanitary (SPS) system, and Georgia is keen to accelerate approximation for certain product specific legislation related to aquaculture with a view to increase its chances to get authorisations by the EU. Georgia received the EU authorization to export honey in 2016 and Black Sea Fish products in 2017 to its market. Real exports of honey however started only in 2019. The Committee also deliberated on the EU assistance programs provided to Georgia to facilitate implementation of the DCFTA provisions.

It is to be noted that at the time of DCFTA negotiations, Georgia opted for back-loading of the reform and alignment commitments, which means that the more significant efforts started in 2018 and will continue in 2019.

According to the 2019 World Bank Doing Business Index Georgia is on the remarkable 6th position amongst 190 countries. Other countries in the region: Belarus 37th, Armenia 41st, Russia 31st, Moldova 47th, Azerbaijan 25th, Turkey 43rd, Ukraine 71st. In the 2018 Transparency International – Corruption Perception Index Georgia appeared on 41st position among 176 countries.

The next TSD sub-committee will take place on 26 March and will be followed up by a Civil Society Forum financed by the € 3 million Partnership Instrument project.

**Moldova**

Moldova is the EU's 62nd trade partner, with a 0.1% share in the EU's total trade with the world. It has acceded to the WTO in 2001. The EU is Moldova's key trade partner and its share in total Moldovan trade has increased in 2018 by 14%.

The DCFTA as the main economic pillar of the Association Agreement entered into force on 1 July 2016 (since 1 September 2014 it was applied on a provisional basis). The DCFTA includes a gradual, reciprocal market opening (removal/reduction of tariff and elimination of non-tariff barriers to trade) by both partners with a timeline asymmetry benefiting Moldova; as well as a far-reaching dynamic regulatory approximation with EU acquis in trade-related areas which should stimulate competition, create a new predictable environment for business cooperation, development of trade and investment, and hence contribute to economic restructuring, modernization and diversification of Moldovan economy.

The main product categories exported by the EU to Moldova in 2018 were mineral fuels, machinery and appliances, vehicles. The main products imported by the EU from Moldova in 2018 were electrical machinery and equipment, oil seeds, cereals, apparel and clothing accessories, furniture, bedding, iron and steel, edible fruits and nuts, beverages.

According to the 2019 World Bank Doing Business Index (covering 190 countries) Moldova is positioned 44th, which is the same as the previous year. However, in the 2016 Transparency International Corruption Perception Index (covering 176 countries) Moldova's position is rather weak being positioned as 122nd in the 2017 edition.
Civil society is involved in the monitoring of the implementation of the Trade and Sustainable Development (TSD) chapter of the DCFTA through the respective Domestic Advisory Groups (DAGs) foreseen in the TSD chapter and the Joint Civil Society Dialogue Forum (JCSDF), which involves civil society at large. The EU is providing support to facilitate the functioning of the DAGs in all trade agreements, including the ones under the Moldova DCFTA, through a EUR 3 million project funded by the Partnership Instrument.
3.30. Central Asia

Central Asia is a region of strategic importance to the EU, as referred to in the EU Global Strategy, the EU Central Asia Strategy of 2007 and its successive reviews, as well as the European Neighbourhood Policy (ENP) review. The Council has also invited the High Representative and the Commission to come forward with a proposal for a new Strategy by the end of 2019 in accordance with the EU Global Strategy. Trade plays an important part of this strategy, also in the context of the EU’s approach to Euro-Asian connectivity.

From a trade point of view, Central Asia is a region of average importance, dominated by Kazakhstan (32d EU trade partner in 2017, EU exports amounting to 5 bn€, imports of 18 bn€, mostly oils and gas), followed by Uzbekistan (86th partner, exports at 1.7bn€, imports at 220m€), Turkmenistan (108th partner, exports at 900m€, imports at 250m€), Kyrgyzstan (137th partner, exports at 290m€, imports at 170m€) and Tajikistan (157th partner, exports at 170m€, imports at 40m€).

The EU has recently concluded a new comprehensive agreement with Kazakhstan (Eurasian Economic Union - EAEU – founding member, with Russia and Belarus), has launched negotiations with Kyrgyzstan (also EAEU member) which could be soon concluded, and has just launched negotiations with Uzbekistan (first round took place in Tashkent early February 2019).

In 2015, Kazakhstan became the first country in Central Asia to sign an Enhanced Partnership and Cooperation Agreement with the EU (EPCA, non-preferential), replacing the 1999 Partnership and Cooperation Agreement. The Agreement provisionally entered into force on 1 May 2016, allowing an intensified political dialogue and cooperation on trade, customs, energy, transport, environment, climate change and on the rule of law, while implementation needs to step up. To date, it has been ratified by 25 EU Member States; 3 have yet to ratify (Italy, Cyprus and the Netherlands). The EU is the first trade partner of Kazakhstan, representing around 40% of its total exports. The EU is also by far the first investor in Kazakhstan with a stock of Foreign Direct Investments of 64.0 bn€ in 2017. Among large European investors are Total, Alstom Shell, ENI-AGIP, Airbus, Siemens, etc.

The EU is also currently negotiating a new comprehensive agreement with Kyrgyzstan. Five rounds have already taken place and we expect it could be concluded in Summer 2019. The trade provisions echo the policy line agreed in the EU Central Asia Strategy and the "Trade for All" Communication. The negotiations aim to better reflect the developments in EU-Kyrgyzstan bilateral relations since the conclusion of the existing Partnership and Cooperation Agreement. Similarly as for Kazakhstan, the new Agreement is non-preferential. Trade provisions will reflect Kyrgyzstan membership in the World Trade Organization (WTO) and the Eurasian Economic Union (EAEU) and will aim to strengthen protection of mutual interests in various sectors (IPR, public procurement, TBT, SPS, State owned enterprises, Trade and Sustainable Development, etc.) as well as enhance the dispute settlement mechanism. To recall that an important element of the current bilateral trade relations with Kyrgyzstan is the GSP+ scheme granted in January 2016, which already contributes to increased trade flows and bilateral cooperation on related international norms on good governance and sustainable development.

In the same logic, negotiations of an EPCA with Uzbekistan were launched in Tashkent in February 2019 (and also combined with a GSP+ mission from DG TRADE, as Uzbekistan has also expressed willingness to benefit from the mechanism). Uzbekistan is the most populous country of Central Asia (32 million inhabitants) bordering all other Central Asian countries and Afghanistan. It is crucial for stability and regional cooperation in Central Asia and beyond. It is
also important to note that after twenty five years of isolation under former President Karimov (who died in 2016), Uzbekistan has shifted its external relation towards a more liberal and open stance. After taking office in 2016, the new President Mirziyoyev has launched an ambitious opening and reform programme, including liberalization of the foreign currency regime and other steps to improve the business climate, macroeconomic policies, the judicial system, labour conditions, the security sector, administrative accountability and the fight against corruption, as well as cautious moves to improve human rights and re-engage with media and NGOs. Uzbekistan has also made explicit calls for stepping up relations with the EU, such as the recently adopted ambitious "roadmap for further strengthening cooperation between the Republic of Uzbekistan and the European Union", including requests for regulatory dialogue and assistance, sectoral cooperation and multilateral coordination.

Relations with Turkmenistan, which is not WTO member and is unlikely to join in the near term, are rather limited. The PCA which was signed in 1999 was never ratified, and for that reason main contacts take place within an annual Joint Committee (which actually took place on 26 February 2019) with a trade point.

Trade relations with Tajikistan are very small from a value perspective, but we are now working closely with the Tajikistan administration as Tajikistan has expressed clear intention to comply with the necessary steps to join the GSP+ mechanism. A mission from DG TRADE took place in Dushanbe early February for that purpose.
3.31 Switzerland

STATE OF PLAY

The EU-Swiss trade relations are among the deepest worldwide but the EU-Switzerland Free Trade Agreement (FTA) of 1972 is out-dated. It covers industrial goods only (no agricultural products, no services, no provisions on establishment, no efficient dispute settlement).

The EU has proposed that the bilateral EU-CH FTA should be covered by the broader Institutional Framework Agreement negotiated by the EEAS since 2015 and agreed at negotiator’s level in December 2018.

It would remedy the most important institutional weakness of the FTA, namely the absence of an efficient dispute settlement mechanism. Because of the Swiss reluctance, and because there is probably more to be fixed than the institutional side, we agreed to first modernise the substance of the FTA and, once the FTA is modernised, bring it into the scope of the IFA. This is what both parties would commit to in the form of a Joint political declaration on the modernisation of trade related agreements annexed to the IFA.

The Joint declaration mentions that, six months after its adoption, i.e. after the signature of the IFA, parties take necessary steps to ensure that negotiations can start in the course of 2020. If the IFA is signed before summer 2019, this timetable is tight but can still be met.

In the interim period, pending the modernisation of the FTA, there is the possibility to refer a dispute linked to the FTA to the arbitration tribunal of the IFA, but only if both parties agree to it.

Everything is pending now the results of the public consultations that are been carried out in Switzerland on the IFA and that should come to an end in Spring. The Federal Council is expected to take a decision on the IFA at that moment.

BACKGROUND

What is to be gained from the modernisation of the EU-Swiss FTA /trade related agreements?

1. A more efficient institutional setting
“Upstream”: there are some efficiency-losses due to the split of trade-related issues between different agreements and the fact that there is no formalised coordination between them. Hence, the proposal to set up a joint EU-Swiss body to coordinate all trade issues, including at political level which would give the impetus to the technical level.
“Downstream”: An efficient (binding and automatic) dispute settlement mechanism to solve more rapidly and efficiently the often long-standing disagreements between the parties.

2. Gaining further market access
There is currently no comprehensive agreement on services, despite the intensity of trade in services between the EU and Switzerland. There is room for further market opening on agricultural products (only cheese if fully liberalised) and processed agricultural products (half of the products are not liberalised).

3. Ensuring a level-playing field
A number of things have to be set right in the EU-Swiss relation: Processed agricultural products: Why should the EU continue accepting that our exporters of processed agricultural products pay import duties to Switzerland each year, to compensate for their internal high prices?
State aid rules: While the FTA includes Treaty-like provisions on state aids, we know that the
Swiss have a different practice and organisation than ours in the EU. We could never test their compatibility with the FTA in front of a judge given the absence of a dispute settlement.

4. *Promoting rules and values-based trade*

Most of the rules that forge modern trade agreements are not present in the current EU-Swiss relationship and values-based provisions are also missing. There is therefore a need to add provisions notably on the protection of Intellectual Property Rights, State Owned Enterprises, SMEs, Digital Trade and Trade and Sustainable Development. This would strengthen the basis of our bilateral trade.
3.32. Tunisia

**DCFTA (ALECA) negotiations** were launched on 13 October 2015 in Tunis and since then three full rounds took place. DCFTA talks are taking place at delicate political times in Tunisia ahead of two elections in Tunisia: parliamentary and presidential are to take place respectively in October and December 2019.

After three full round some texts have been practically closed at technical level (GIs and most of the IP text), in other texts more than 60% of provisions have been agreed (this is the case for sustainable development, competition, digital trade). Good progress has also been made on TBT, SPS and trade facilitation. In other areas, progress is slower, (e.g. public procurement). Also, with regard to trade defence discussions are focusing on agricultural safeguard. The EU has tabled numerous texts proposals in various areas (latest ones on services and investment, trade in goods, for an investment protection agreement) which have been posted on the EU website (with respective explanatory fiches).

**4th full round should take place in Tunisia** (end of Aril – early May 2019 – still to be officially confirmed by TU) which could then be followed by a possible exchange of offers and a political stock-taking with a visit of commissioner Malmström.

To be noted that Tunisian civil society is fully engaged in the ALECA process and the Tunisian government is negotiating in an exemplary **transparency** with EU textual proposals also published in Tunisia, stakeholder meetings in the margin and joint public reports after each round, as well as a number of advisory groups set up on their side to keep trade unions, industry associations and broader civil society involved.

With regard to the recent **import restrictive measured** adopted by Tunisia we are actively raising them with the government to ensure that these measures are lifted in the shortest possible time. These measures not only harm EU interests but also Tunisian consumers who are already seeing scarcity of some products (like homeopathy medicines for instance).