REPORT

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"OVERVIEW OF THE TRADE POLICY OF THE EUROPEAN UNION AND ITS AID FOR TRADE STRATEGY"

Report

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ACRONYMS

ACP	African Caribbean Pacific States
AFT	Aid for Trade
ASEAN	Association of South East Asian Nations
BIP	Border Inspection Post
CAP	Common Agricultural Policy
CCP	Common Commercial Policy
CETA	Comprehensive Economic and Trade Agreement (EU-Canada)
CVED	Common Veterinary Entry Document
COREPER	Committee of Permanent Representatives
CTP	Committee on Trade Policy (European Council)
DCFTA	Deep and Comprehensive Trade Agreement
DDA	Doha Development Agenda
DG	Directorates-General at the European Commission
DG Trade	Directorate General for Trade at the European Commission
EBA	Everything But Arms (Preferential scheme for LDCs)
ECJ	European Court of Justice
EEC	European Economic Community
EFSA	European Food Safety Authority
EPA	Economic Partnership Agreement (EU-ACP)
EU	European Union
EVFTA	EU-Vietnam FTA
FTA	Free Trade Agreement
FVO	Food and Veterinary Office
GATS	General Agreement on Trade in Services (WTO)
GI	Geographical Indication
GMO	Genetically modified organism
GSP	Generalized System of Preferences
ILO	International Labour Organization
INTA committee	International trade Committee of the European Parliament
IP	Intellectual property

IPPC	International Plant Protection Convention
IPR	Intellectual Property Right
ISP	Internet Service Provider
LDC	Least Developed Country
MEP	Member of Parliament
NGO	Non-governmental organization
NS	Non-sensitive products
NTB	Non-tariff barrier
OIE	World Organization for Animal Health (Office International des Epizooties)
RASFF	Rapid Alert System for Food and Feed
RTA	Regional Trade Agreement
S	Sensitive products
SEDP	Socio Economic Development Plan
SPS	Sanitary and Phytosanitary
TBT	Technical Barrier to Trade
TEC	Transatlantic Economic Council
TEU	Treaty on European Union
TFEU	Treaty on the Functioning of the European Union
TPP	Trans-Pacific Partnership
TRA	Trade-related Assistance
TREATI	Trans Regional EU-ASEAN Trade Initiative
TTIP	Transatlantic Trade and Investment Partnership
WIPO	World Intellectual Property Organization
WCO	World Customs Organization
WTO	World Trade Organization

1. INTRODUCTION

The **European Union** is composed of **28 independent States**, which concluded an international treaty to create it and to give it **supra-national powers**. This means that the Member States conferred on the EU institutions the capacity to legislate in specified areas and to impose its legislation in the legal order of each Member State.

The European law finds its source is primary legislation and secondary legislation. Case-law also provides an important source for the interpretation of the primary and secondary legislation of the EU.

Primary legislation includes in particular the Treaties and other agreements having similar status. Primary legislation is agreed by direct negotiation between the governments of Member State. The current Treaties on the European Union and of the Functioning of the European Union are the outcome of several revisions of previous treaties and their "Protocols": the Treaty of Rome (1957), the Single European Act (1987), the Treaty on European Union 'The Maastricht Treaty' (1992), the Treaty of Amsterdam (1997), the Treaty of Nice (2001).

Secondary legislation is the one that is taken by the European Union, through its institutions, acting on the basis of the powers conferred on them. It comprises:

- **Regulations** - binding in all the member states
- **Directives** - binding as to result but states may choose method of implementation
- **Decisions** - binding on those to whom they are addressed
- **Recommendations** - not binding

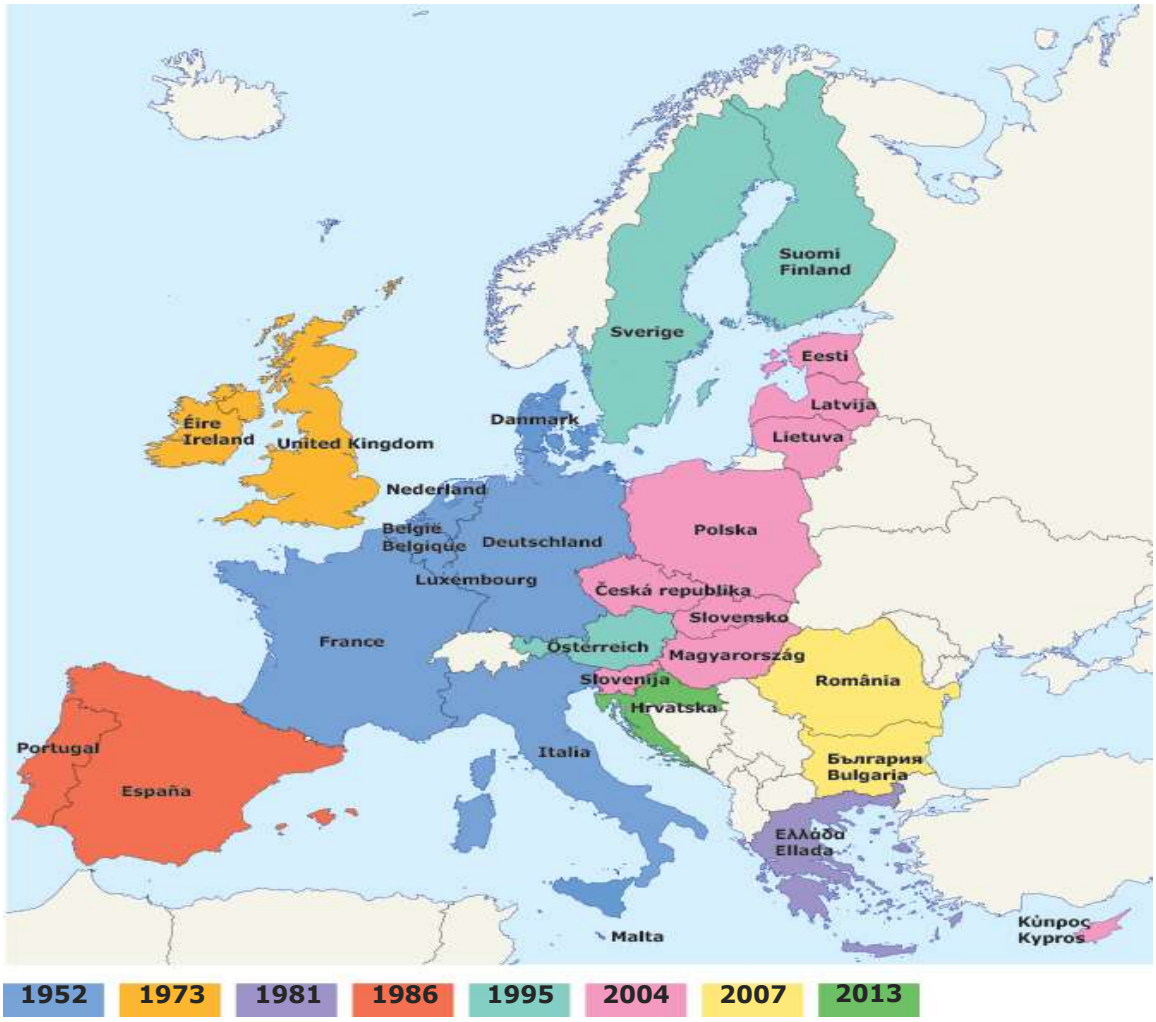
Case Law is the outcome of the judgments of the EU Courts in specific disputes, which provide interpretations of the Treaties and of secondary legislation. Although each judgment is binding on the parties only, the interpretations provided are taken seriously and contribute to the general understanding of EU law.

EU law imposes itself on all EU Member States and the persons subject to their jurisdiction. In case of conflict between a national legislation and EU law, the latter prevails. This is the **supremacy of EU law**. Furthermore, EU law penetrates directly the legal order of the EU Member States. It must be directly applied by the administrative authorities of the EU Member States (such as customs authorities) and the national courts of the EU Member States. This is the principle of **direct effect**.

- The ECSC Treaty was signed in Paris in 1951 and brought France, Germany, Italy and the Benelux countries together in a Community to promote the free movement of coal and steel and free access to sources of production.
- The European Economic Community or the EEC was created in 1957 by the Treaty of Rome. It was the first official name of the EU until the Maastricht Treaty.
- The Maastricht Treaty entered into force on November 1, 1993. The European Economic Community (EEC) was then renamed the European Community or the EC.
- With the entry into force of the Lisbon Treaty on December 1, 2009, the European Community and the other "pillars" were entirely absorbed in the European Union, which

acquired legal personality and became the exclusive denomination for European integration.

EU members



2. THE COMMON COMMERCIAL POLICY OF THE EUROPEAN UNION

2.1. Introduction

The Common Commercial Policy (CCP) is one of the main pillars of the European Union's relations with the rest of the world. It is an integral area of exclusive Union competence (Article 3 of the Treaty on the Functioning of the European Union (TFEU)), meaning that only the EU, and not individual Member States, can legislate on trade matters and conclude international trade agreements. The CCP implies uniform conduct of trade relations with third countries, in particular by means of a common customs tariff and common import and export regimes. It is based on a customs union (with a common external tariff) and its scope is defined in Article 207 of the TFEU, and it includes:

- Changes in tariff rates
- The conclusion of tariff and trade agreements relating to trade in goods and services, and the commercial aspects of intellectual property, foreign direct investment, the achievement of uniformity in measures of liberalisation, export policy and measures to protect trade such as those to be taken in the event of dumping or subsidies
- The common commercial policy shall be conducted in the context of the principles and objectives of the Union's external action.

In its international relations, the EU supports "free and fair trade" (Article 3.5 of the TEU).

2.2. The legal personality of the European Union – the EU as actor in international trade policy

The EU has legal personality, which means that it can negotiate and conclude international agreements binding on Member States through its internal institutional rule making process.

In practice, the legal personality of the EU, associated with the fact that the EU is a customs union and has exclusive powers under the common commercial policy, means that the EU can be Member of the World Trade Organisation (WTO) in its own right, and that it can conclude free trade agreements with third parties. In that capacity, the EU, which represents a market of five hundred million persons and is the world's leading trader in goods and services, has the capacity to develop a trade policy that has a strong influence on international trade relations, at multilateral, regional and bilateral levels. Furthermore, the EU's unilateral actions and internal regulations also condition market access within its customs territory and as such, given the EU's predominant place in the global marketplace, carry a strong trade relevance.

2.3. The integration of non-trade issues in the EU's trade policy

The TFEU integrated the CCP into the EU's external policy. This entailed a new orientation of the objectives of trade liberalization, which must also pursue trade and non-trade goals. Indeed, the general principles of EU's external action are laid down in article 3(5) of the Treaty on European Union (TEU):

> "*In its relation with the wider world the Union shall uphold and promote its values and interests to the protection of its citizens. It shall contribute to peace, security, the sustainable development of the earth, solidarity and mutual respect among people, free and fair trade, eradication of poverty and the protection of human rights, in particular the right of the child, as well as to the strict observance and the development of international law, including respect for the principles of the United Nations Charter*".

Moreover Article 21 of the TEU, which also refers to the principles and objectives of the EU's external action, provides that:

> "*The Union's action on the international scene shall be guided by the principles which have inspired its own creation, development and enlargement and which it seeks to advance in the wider world: democracy, the rule of law, the universality and indivisibility of human right and fundamental freedoms, respect for human dignity, the principle of equality and solidarity, and respect for the principles of the United nations Charter and International law* […].

The same provision indicates that:

> "*The Union shall define and pursue common policies and actions, and shall work for a high degree of cooperation in all fields of international relations, in order to: […]*
>
> *b) consolidate and support democracy, the rule of law, human rights and the principles of international law;*
> *c) preserve peace, prevent conflicts and strengthen international security, in accordance with the purposes and the principles of the United Nations Charter […];*
> *d) foster the sustainable economic, social and environmental development of developing countries, with the primary aim of eradicating poverty;*
> *e) encourage the integration of all countries into the world economy, including through progressive abolition of restrictions of international trade;*
> *f) help develop international measures to preserve and improve the quality of environment and the sustainable management of global natural resources, in order to ensure sustainable development […]*
> h) *promote an international system based on stronger multilateral cooperation and good global governance*."

2.4. Multilateral trade policy of the European Union

2.4.1. The European Union as a WTO Member

The European Union is a Member of the WTO in its own right. In that capacity, the EU promotes a strong multilateral trading system. It has always considered that the multilateral system was delivering considerable benefits for European businesses, who may take long-terms decisions due to stable and predictable rules. The EU also recently noted that, except in a few cases, the WTO system and the peer pressure of WTO members avoided a surge of protectionism during the recent economic crisis. The EU also recognizes the great relevance of the WTO dispute settlement system.

2.4.2. The European Union in the Doha Round

The EU's objectives for the entire Doha Round are clearly specified in the website of the Commission's Directorate General for Trade, as follows:

- Market access for the industrial goods sector: the EU wants to a lowering of tariffs on industrial goods in both developed countries and the growing emerging economies such as China, Brazil and India;
- Subsidies: the EU wants to improve the current rules in the WTO Agreement on subsides and Countervailing Measure, to better address subsidies that distort fair competition in the production of industrial goods;
- Agriculture: the EU is prepared to accept more commitments regarding farm subsidy programmes;
- Trade remedies: the EU favours the adoption of a new set of rules to govern the use of trade defence instruments;
- Trade facilitation, the EU favours a complete update of the WTO's rulebook for trade facilitation and is satisfied with the new Bali agreement of December 2013;
- Market access for services: the EU has offensive interests in services sectors such as construction, telecommunications, transports, distribution or environmental services and favours an improvement of the General Agreement on Trade in Services, particularly with regard to its provisions pertaining to domestic regulation.
- Development measures: the EU is in favour of the general extension of unlimited markets access for all least developed countries.
- Intellectual property: the EU wants to use the Doha Round to improve the protection of geographical indications.

2.4.3. The EU-Vietnam relations in the WTO

There has not been a dispute between the EU and Vietnam at the WTO, by contrast with other disputes both trade partners had with third parties (Vietnam for instance, filed action against the United States and the EU filed action against, among other countries, Thailand).

There are, however, contentious issues between the two countries. The EU has listed in its market access database twelve issues which it considers to be barriers to trade Vietnam imposes, which negatively affect the EU's trade interests. Vietnam, in turn, mainly complains about complex regulatory requirements in the EU market, bottlenecks in the distribution systems of the EU and the fact that in its anti-dumping policy, the EU has not yet granted Vietnam with market economy status.

The EU grants to Vietnam the benefit of the Generalized System of Preferences under the WTO Enabling Clause, which provides competitive advantage to products originating in Vietnam in the EU market, as compared to the products originating in industrialized countries and in some emerging ones. While the WTO has certainly fostered new market access opportunities for Vietnam in the EU, the two trade partners decided to strengthen their trade relationship through the conclusion of a comprehensive Free Trade Agreement (FTA). Negotiations were launched on 26 June 2012 and are proceeding fast.

2.5. CCP at bilateral and regional levels

Considering the delays of the WTO Doha Round of negotiations, the EU decided to negotiate free trade agreements beyond the EU's traditional preferential partners, with the objective to **foster market access in countries deemed of high economic interest**. The objective of the FTA negotiations for the EU is to conclude agreements which go beyond tariff cuts. The EU has identified non-tariff barriers, access to resources and energy, services and investment, intellectual property, public procurement and competition policy as priority issues in this regard. With respect to **developing countries,** the EU's stated objective is also to contribute, through the conclusion of FTAs, to their economic development. Generally speaking, all agreements the EU negotiates with developing countries, even those in which the EU has offensive interests such a Vietnam, contain provisions that are supposed to proactively contribute to the economic development of the developing country concerned.

With respect to **ASEAN countries** (Brunei Darussalam, Myanmar/Burma, Cambodia, Indonesia, Laos, Malaysia, Philippines, Singapore, Thailand and Vietnam) the EU adopts a proactive strategy. The EU considers these countries represent an important market and perceives them as a pole of stability in south-east Asia, in a strategic territory between China and India. Hence the EU initially tried to negotiate and conclude a region-to-region agreement with ASEAN countries taken as a group. However, given the slow progress of the region-to-region approach, negotiations were initiated bilaterally with individual ASEAN countries. An agreement was concluded with Singapore on 20 September 2013, and negotiations are ongoing with Malaysia, Vietnam and Thailand.

Recent and currently negotiated FTAs and RTAs

2.6. Key contents of a FTA and RTA negotiated by the EU

2.6.1. Progressive elimination of customs duties

All existing agreements provide for the progressive elimination of customs duties, import taxes and quantitative restrictions for substantially all products traded among the parties. The number, length and content of the phases of liberalization vary for each agreement. This is also the case for the percentage of the products that is excluded from the liberalization commitments, as well as the identification of these products. The EU typically excludes sugar and rice, which are considered in the EU as sensitive products and for which a longer period for the phasing out of tariffs is provided. Concerning developing countries, the EU typically liberalises almost 100% of its trade for the products originating in the developing country party to the agreement. The latter may then exclude from the liberalisation commitments so-called sensitive products. The extent of such exclusion may vary from agreement to agreement and is subject to negotiations.

2.6.2. Rules of origin

The EU FTAs typically contain a Protocol on rules of origin which would allow the clear identification of the goods originating in the parties. Rules of origin determine the origin of imported goods. This is important in order to:

- apply trade preferences,
- apply trade remedies,
- apply origin marks, and
- implement quotas and tariff rate quotas, when these are allocated to imports of specific origins.

2.6.3. Customs and trade facilitation

Customs law and procedures provide for the rules and procedures specifying the conditions upon which customs duties are due. Customs facilitation addresses all measures aimed at reducing trade transaction costs related with the passage of borders. The EU FTAs generally acknowledge the importance of customs and trade facilitation in trade. They provide for enhanced cooperation among the parties for the:

(a) exchange of information concerning customs legislation, regulations and procedures;
(b) cooperation to combat irregularities and fraud in customs and related matters;
(c) development of joint initiatives to improve import, export and transit procedures; and
(d) cooperation in the relevant international organizations such as the WTO and the World Customs Organization (WCO).

The parties also agree that in case of "*failure to provide administrative cooperation and/or of irregularities or fraud"*, the benefits of the preferential treatment can be suspended towards the failing party.

2.6.4. Non-tariff measures and technical barriers to trade

All agreements signed by the EU and its counterparts emphasize the importance of the prohibition of quantitative restrictions and measures having equivalent effect. This is without prejudice to the parties' capacity to implement technical regulations, standards and SPS measures which are necessary to protect human health or life, natural resources, public morality, etc.

The provisions pertaining to technical barriers to trade in the agreements provide that parties must inform each other of proposals for technical regulations and standards that are especially relevant to trade between them. There are also commitments to inform and consult each other on specific issues as they arise, inform on the preclusion of imports for reasons of safety and the environment; and identify priority products in order to collaborate so that these products meet requirements for access to each other's markets. Finally, the agreements also include a commitment to cooperate in international standard setting bodies.

The chapters on sanitary and phytosanitary measures tend to be focused on: (a) the designation of competent authorities on SPS measures by both parties; (b) collaboration aimed at establishing harmonized SPS measures; (c) abidance by multilateral obligations (WTO SPS Agreement, International Plant Protection Convention (IPPC), the CODEX Alimentarius, and the World Organization for Animal Health (OIE)); and (d) transparency provisions.

2.6.5. Trade defence instruments

The EU FTAs regulate the adoption of anti-dumping or countervailing measures in accordance with the relevant WTO Agreements. They enable the parties to adopt such measures as and when necessary. They also enable the parties to apply multilateral safeguard measures in accordance with the relevant WTO rules. In some agreements with developing countries, the EU, however, pledges to exclude for five years imports from the other party in the application of its own multilateral safeguard measures, given "*the overall development objectives of* [the] *Agreement and the small size of the economies of the States* [concerned]".

In the EU-CARIFORUM Economic Partnership Agreement, all parties maintain the possibility to impose bilateral safeguard measures in relation to the benefits granted to each other under the Agreement (1) should serious injury to the domestic industry producing like or directly competitive products occurs; or (2) should there be disturbances in a sector of the economy, or (3) disturbances in the markets of like or directly competitive agricultural products or in the mechanisms regulating those markets. The idea is to enable a party to protect itself when difficulties cause major social problems, or serious economic difficulties for the importing party. This is an important element of flexibility for the ACP States concerned.

There is thus a precedent regarding facilitated bilateral safeguard measures, which must of course be limited to the level of the WTO bound duty rate for the products concerned.

2.6.6. Export subsidies in agriculture

Several FTAs provide that no party may introduce any new subsidy programme, or increase any existing subsidy that is contingent on export, in relation to agricultural products. Furthermore, in these agreements, the EU commits to phase out all existing export subsidies in relation to agricultural products for which the countries concerned have committed to the elimination of customs duties.

2.6.7. Services, investment and capital movement

All new generation FTAs contain provisions pertaining to services trade liberalisation, investment and capital movement.

The services chapter of the EU FTAs with developing countries is characterized by the principle that almost full market access for the developing country concerned is granted into the EU, while the developing country concerned will open its markets gradually and progressively, with transition periods and safeguards. Liberalization commitments are specified for each party, service sector and mode of supply in a schedule of commitments. Each party maintains the right to regulate its market and the agreement provides for regulatory cooperation is several sectors, including tourism, maritime transport, finance and telecommunications, on the basis of agreed regulatory principles. One of the most positive outcomes of a possible FTA in the services sectors in the eyes of developing States is the inclusion by the EU of several commitments on Mode 4 (movement of natural persons), including short-term business visitors, sellers of goods, investors, graduate trainees, and, to a lesser extent, independent professionals.

In relation to investment, the parties ensure a high level of investment protection, while preserving their right to regulate and pursue legitimate public policy objectives such as the protection of health, safety or the environment. The agreement may include also rules for Investor-to-State Dispute Settlement (ISDS).

Finally, in relation to capital movement, the EU FTAs provide for its complete liberalisation as well as that of current payments, subject to the usual safeguards to protect the monetary system, where necessary.

2.6.8. Competition, public procurement and protection of personal data

In relation to competition, the EU FTAs prohibit anti-competitive conduct that affects trade between the Parties. This mainly concerns cartels and abuses of a dominant position. There are also provisions pertaining to the behaviour of State trading enterprises, i.e. those enterprises granted with special or exclusive rights. In relation to Public Procurement, the rules provide for some basic non-discrimination principles and minimum transparency requirements applying to relatively large contracts. Finally, in relation to the Protection of Personal Data, the agreements recognise the importance of regulation in this area, as well as the need for coherence with international instruments providing for cooperation and exchange of information.

2.6.9. Innovation and intellectual property

The EU FTAs also contain an extensive chapter pertaining to the protection of intellectual property (IP) and the promotion of innovation and technological development.

The agreements not only require the parties to abide by existing international conventions protecting IP rights, but they also provide for extended cooperation among the parties to facilitate technology transfer and technical innovations, with the view, among others to "*foster competitiveness of enterprises*". Cooperation among research teams and technical centres is provided as well as exchanges of scholars, joint research networks, etc. Special sectors for which

research cooperation is provided include the information society, information and communication technologies and eco-innovation and renewable energy.

In relation to the protection of intellectual property rights themselves, the provisions tend to go beyond what is provided by the WTO TRIPs Agreement. They are more precise also. There are also typically extensive provisions on the protection of geographical indications, which is one of the issues which is at the heart of EU's trade policy, and interesting provisions pertaining to the preservation of genetic resources, traditional knowledge and folklore. The Convention on Biological Diversity is often mentioned in this regard.

Finally, like in most other subjects, the FTAs encourage regional harmonization of IP rules as well as "*further progress towards regional management and enforcement of national intellectual property rights*".

2.6.10. Sustainable development and social aspects

The new generation of EU FTAs contain chapters dedicated to sustainable development and social aspects. In general, these provisions recognise the right of all parties to regulate their markets to pursue these objectives, while requesting them to keep each other informed, avoid unnecessary obstacles to trade and work towards regional harmonisation of these policies among the parties.

2.6.11. Development cooperation

Typically individual chapters of the EU FTAs with developing countries provide for cooperation and technical assistance in the subject addressed.

2.6.12. Dispute avoidance and settlement

The EU FTAs contain a specific chapter providing for a mandatory dispute settlement mechanism in relation to all matters arising under the agreements. Some agreements, however, exclude from the scope of the mechanism the provisions pertaining to development finance cooperation. Forum shopping is possible with the WTO Dispute Settlement Procedure. However, the two procedures cannot be initiated at the same time.

2.7. The EU-Vietnam FTA: Implications for Vietnam

Summary of findings of the Impact assessment of the EU-Vietnam FTA carried out under the auspices of MUTRAP

The salient features of the expect impacts of a free trade agreement are as follows:

- Vietnam would be the major beneficiary of the agreement. Real wages and national income would increase as a result.
- Trade between Vietnam and the EU will grow substantially even in the absence of an agreement. This is driven by Vietnam's high growth rate, which sees the economy doubling in size every ten years.
- Negotiated reductions in tariff barriers alone would increase Vietnam's exports to the EU by 30 to 40 per cent over and above the growth in imports that would occur in the absence of a

negotiated agreement.

- The sectors most likely to benefit from an agreement include textiles, clothing and footwear, and processed foods (including fish products). However, the extent to which Vietnam is able to expand its supply capacity to meet increased demand for its goods in the EU would determine whether the overall increase in exports would be significant or not.
- Services are expected to expand quite significantly as a result of a negotiated agreement, and would lead to major gains in efficiency throughout the economy.
- The FTA is expected to foster investment and technological change, thereby driving productivity shifts and thus increase output.
- The likely environmental effects appear negligible. The FTA has a neutral effect on national carbon emissions, assuming emissions per unit of output in each sector remain constant. However, Vietnam's carbon emission increase substantially over the implementation period as the economy expands, irrespective of the agreement.
- A negotiated agreement is expected to have a slight positive impact on reduce poverty levels as a result of additional demand for unskilled labour. Rural areas benefit most from the agreement.
- Other trade related areas currently under negotiation, such as procurement, customs matters and trade facilitation are expected to yield substantial welfare gains and efficiency gains, as well as lead to a generally improved business climate.

2.8. Unilateral trade policy of the European Union

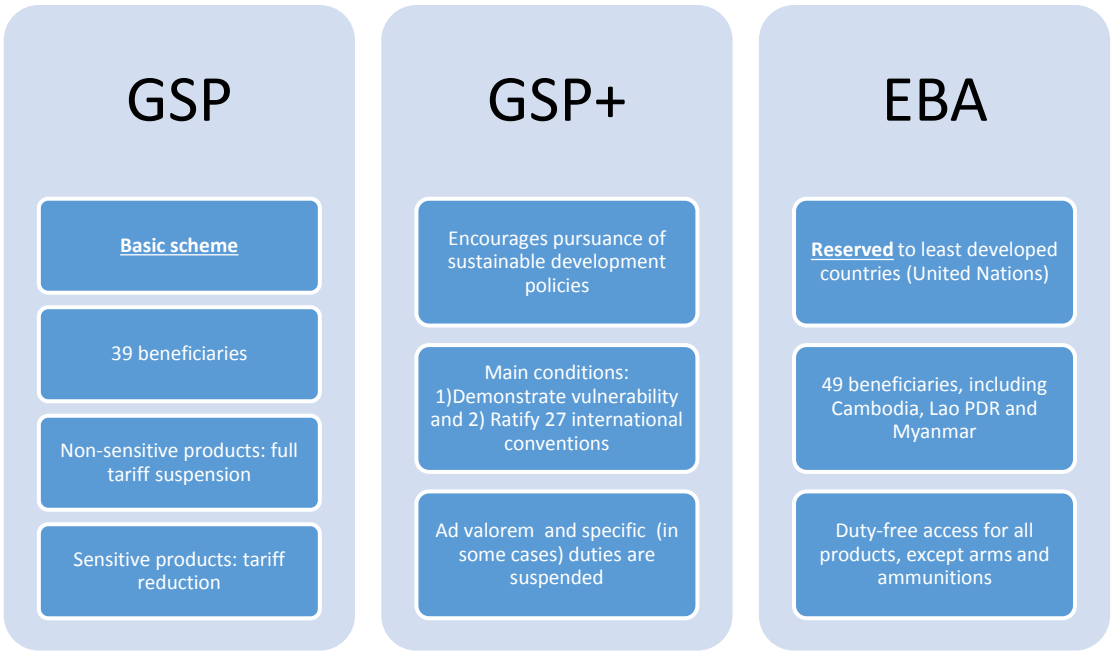
2.8.1. Scope of the unilateral trade policy of the European Union

The EU's unilateral trade policy is carried out through the EU's own regulations and directives. The main instruments at EU's disposal are the Generalised System of Preferences and the faculty to impose economic sanctions to certain countries, either to comply with embargoes or sanctions decided under the auspices of the United Nations, or as a unilateral policy if it deems such sanctions are important to safeguard its national security.

2.8.2. The Generalised System of Preferences of the European Union

The EU's Generalised System of Preferences (GSP) finds its ultimate legal basis in the WTO Enabling Cause, an exception to Article I:1 of the GATT 1994, the Most-Favoured Nation principle. The EU's GSP, created following UNCTAD recommendations, is a scheme of unilateral, non-reciprocal trade preferences designed to give priority access to developing countries' products to the EU market. By making it easier to export products to its market, the EU assists developing countries in their efforts to reduce poverty and promote good governance and sustainable development. It is intended to help developing countries generate additional export revenue through international trade, which can then be reinvested for the benefit of their own development and, in addition, to diversify their economies and to promote growth and job creation.

EU regularly reviews and updates its GSP scheme. In January 2014, the current GSP Regulation came into force. The GSP scheme set forth under that Regulation will apply for 10 years. Benefits fall under any of the following 3 pillars:



The classification of GSP covered products between sensitive and non-sensitive is found in Annex V. Most of the categories of products of export interest to Viet Nam – e.g. footwear, fish and crustaceans, electrical machinery equipment or furniture/bedding – fall under the sensitive category.

Loss of GSP benefits can most frequently happen for one of the following reasons:

Reason	Legal basis and justification
Country graduation	• Articles 3 and 4, Annex II; Justification: A GSP beneficiary country has been classified by the World Bank as a high-income or an upper-middle income country during three consecutive years immediately preceding the update of the list of beneficiary countries • Articles 3 and 4, Annex II; Justification: A GSP beneficiary benefits from a preferential market access arrangement which provides the same tariff preferences as the scheme, or better, for substantially all trade
Product graduation	• Article 8(1); Justification: Tariff preferences shall be suspended, in respect of products of a GSP section originating in a GSP beneficiary country, when the average value of Union imports of such products over three consecutive years from that GSP beneficiary country exceeds the thresholds listed in Annex VI
Failure to comply with GSP+ require-ments	• Article 15(1); Justification: In practice the GSP+ beneficiary country does not respect its binding undertakings, or the GSP+ beneficiary country has formulated a reservation which is prohibited by any of the relevant conventions or which is incompatible with the object and purpose of that convention

Miscellaneous reasons	• Article 19(1); Justification: A GSP beneficiary country incurs in any of the following circumstances a) serious and systematic violation of principles laid down in the conventions listed in Part A of Annex VIII; (b) export of goods made by prison labour; (c) serious shortcomings in customs controls on the export or transit of drugs (illicit substances or precursors), or failure to comply with international conventions on anti-terrorism and money laundering; etc. • Article 21; Justification: In cases of fraud, irregularities or systematic failure to comply with or to ensure compliance with the rules concerning the origin of the products and with the procedures related thereto, or failure to provide administrative cooperation as required for the implementation and policing of the preferential arrangements
Imposition of a safeguard measure	• Article 22(1); Justification:Where a product originating in a beneficiary country of any of the preferential arrangements referred to in Article 1(2), is imported in volumes and/or at prices which cause, or threaten to cause, serious difficulties to Union producers of like or directly competing products • Article 29(1); Justification: Where imports of certain textile, agricultural or fishery products originate in a beneficiary country and their total: (a) increases by at least 13,5 % in quantity (by volume), as compared with the previous calendar year; or (b) for products under GSP sections S-11a and S-11b of Annex V, exceeds the share referred to in point 2 of Annex VI of the value of Union imports of products in GSP sections S-11a and S-11b of Annex V from all countries and territories listed in Annex II during any period of 12 months.

Specific procedures are set forth to assess whether the conditions for temporary withdrawal exist, or to determine whether the requirements justifying the imposition of a safeguard measure apply. Transparency requirements are set forth. The beneficiary country affected by the investigation can submit comments and data, as well as certain interested parties.

To avail of the GSP benefits, a covered product must originate in a GSP beneficiary country. Specific rules of origin, procedures and methods of administrative cooperation are included in Regulation 2454/93. These rules are stricter than those normally negotiated in FTAs.

Most decisions in this area can be taken by the Commission, after consulting the Member States. Transitional periods must generally be provided between adoption of decisions and entry into force, to give stakeholders time to adapt to the new situation.

In general, for Viet Nam the situation under the new GSP scheme has improved. Some countries that benefited from the previous GSP scheme do no longer benefit from it since January 2014. The number of graduated products for beneficiary countries such as China, India and Thailand has increased. In sum, the competitive position for Vietnamese companies has improved vis-à-vis some of its competitors. The differences in applicable customs duties, even if limited, should attract business from other exporters.

Viet Nam would probably be better-off negotiating improved EU market access conditions through an FTA. It should not be forgotten that the GSP is a unilateral instrument and that today's more favourable conditions for Viet Nam may change in the future if, for instance, it were to be classified as an upper middle-income country.

2.8.3. The sanctions regime

This is a political instrument that the Treaty added to the EU "arsenal". Through it, the EU may decide to interrupt or reduce, in part or completely, economic and financial relations with one or more third countries. Other provisions of the TFEU enable to adopt specific measures. Based on the authority conferred by these provisions, the Council has adopted, among others, economic measures against Russia in reply to the illegal annexation of Crimea.

> *The Council shall adopt decisions which shall define the approach of the Union to a particular matter of a geographical or thematic nature. Member States shall ensure that their national policies conform to the Union positions.*
> *Treaty in European Union, Article 29*

2.9. Decision-making processes regarding the CCP and institutions involved

In the EU, the negotiations and conclusion of a FTA are carried out by the European Commission, under the express authorization of the European Council, which is the political body representing the interests of all EU Member States. The Council also exercises supervision of the European Commission and it relies in this regard on the preparatory work of a special Committee, composed of senior national representatives of the Member States, known as the Trade Policy Committee. No signature of a trade agreement can take place in the European Union, unless this has been expressly authorized by the Council under the majority rules provided in the TFEU. This clearly leaves some room of manoeuvre in favour or against the agreement at the stage of signature. Furthermore, in the EU, the Council ratifies all trade agreements, after consent is given by the European Parliament.

In principle, only ratification of an international agreement enables it to officially enter into force. However, when no prior agreement exists, which the new agreement to be ratified is supposed to replace, the European Union may issue a regulation enabling the provisional application of the new agreement. It then reserves the right to suspend the benefits accruing from that provisional application should ratification not be made within a "reasonable" period of time.

Box: The institutions of the European Union

- The **European Commission** is the EU's executive body and represents the interests of Europe as a whole. The European Commission takes the initiative for new EU rules and it negotiates trade agreements, on the basis of a mandate given by the Council of the European Union. It is composed of a College of independent Commissioners.
- The **Council of the European Union** this is the EU institution where national ministers from each EU country meet to adopt EU laws and coordinate policies.
- The **European Council** brings together the heads of state or government of every EU country, the Commission President and the European Council President. In practice, the European Council is a summit where EU leaders meet to decide on broad political priorities and major initiatives.
- The **Parliament of the EU** is elected every five years. It shares with the Council of the EU the ultimate decision-making power to accept, reject or amend a recommendation of the EU Commission.
- The **Court of Justice of the EU** is competent to address disputes between the EU institutions, member States and / or private persons, which concern the application of EU law.

3. SECTORAL POLICIES

3.1. Technical regulations and sanitary and phytosanitary measures

3.1.1. Technical regulations and standards

The EU regulatory system must assure a high level of health, safety, environmental and consumer protection while, at the same time, assure the free movement of goods within the single economic market.

To achieve these two sets of objectives, "new approach" **technical regulations** – which normally take the form of Directives and regulate products such as pressure equipment and gas appliances, toys, machinery, elevators etc. – set forth only "essential requirements" expressed in terms of performance-based indicators or objectives. Essential requirements define the results to be attained, or the hazards to be dealt with, without specifying any particular technical solution. How the essential requirements can be met will be determined through **voluntary standards**, which standard-setting bodies (SSB) will develop. The main such SSB in the EU is the European Committee for Standardisation (CEN).

For the motor vehicle sector, technical regulations continue providing detailed product-specific technical requirements ("old approach"). Other specific approaches to EU harmonization have been developed in sectors such as pharmaceuticals, chemicals, cosmetics, and construction products, tailored to their particular needs.

All technical regulations are subject to a rigorous impact assessment – which can be accessed by clicking here – and are developed according to a process, required to be transparent, allowing opportunity for interested parties from other WTO Members to make their views known.

Goods that are covered by "new-approach" technical regulations are subject to **conformity assessment procedures** commensurate with the level of risk associated with them. Large product sectors considered low-to-medium risk are subject to a supplier's declaration of conformity. These include electrical and electronic products, energy-related products, radio and telecom equipment, toys, most machinery products, and certain categories of personal protective equipment. For certain categories of products deemed high risk, third-party conformity assessments conducted by "notified bodies" are required. High-risk goods include medical devices, pressure equipment lift, cableways, gas appliances, and most types of equipment for use in explosive atmospheres. Finally, no specific conformity assessment procedure is required for consumer goods that, in the absence of more specific safety legislation at EU level, are subject to the General Product Safety Directive (these goods include childcare goods, textiles, and several other consumer goods).

Accreditation is designed to ensure and attest that conformity assessment bodies (e.g. laboratories, inspection or certification bodies) have the technical capacity to perform their duties adequately. Thus, accreditation aims to increase trust in conformity attestation and reinforces the mutual recognition of products, processes, services, systems, persons and bodies across the EU. Accreditation of conformity assessment bodies is based on harmonised standards, which define competence criteria for the national accreditation body and for each category of conformity assessment body (such as laboratories or certification bodies), sector specific requirements and guidance documents drawn up by regional and international organisations of accreditation bodies.

CE marking is required for many products. It states that the product is **assessed before being placed on the market** and meets EU safety, health and environmental protection requirements. A video explains the process of affixing this mark on a product (click on the picture). More information can be found in the DG Enterprise and Industry website.

Lastly, **market surveillance** is contemplated in EU legislation as a means to ensure that products already placed on the market do not endanger health, safety or any other aspect of protection of public interests. EU legislation lays down specific requirements for the organisation of market surveillance. However, in accordance with the subsidiarity principle, market surveillance is organised and carried out at national level. Member States are responsible for surveillance activities on their own territory. The EU legislation sets out clear obligations for market surveillance authorities, stipulating that they must have the necessary powers, resources and knowledge to properly perform their functions. That legislation also defines market surveillance measures to be taken by the surveillance authorities. These include: organising random and spot checks; obtaining all necessary documentation from manufacturer to evaluate product conformity; when justified, entering manufacturers' premises and taking samples for testing, and in extreme cases destroying products.

Products which present a serious risk, requiring rapid reaction, must be recalled from the market or measures must be taken in order to ensure that they do not reach the market. If a surveillance authority spots a product which presents a risk and could have an effect outside the territory of its Member State, the information is transmitted to all EU Member States using the **Rapid Information System** (RAPEX). RAPEX is an alert system that facilitates the rapid exchange of information among Member States and the European Commission. The search tools can be seen in the above picture.

3.1.2. Sanitary and phytosanitary rules

Sanitary and phytosanitary rules refer to a set of measures covering animal and plant health and food law.

The objective of each of these areas is…	
Food law	To ensure a high level of protection of human health and consumers' interests in relation to food, taking into account diversity, including traditional products, whilst ensuring the effective functioning of the internal market.
Animal health	To protect and raise the health status and condition of animals in the Community, in particular food-producing animals, whilst permitting intra-Community trade and imports of animals and animal products in

	accordance with the appropriate health standards and international obligations.
Plant health	To protect crops, fruit, vegetables, flowers, ornamentals and forests from harmful pests and diseases (harmful organisms) by preventing their introduction into the EU or their spread within the EU.

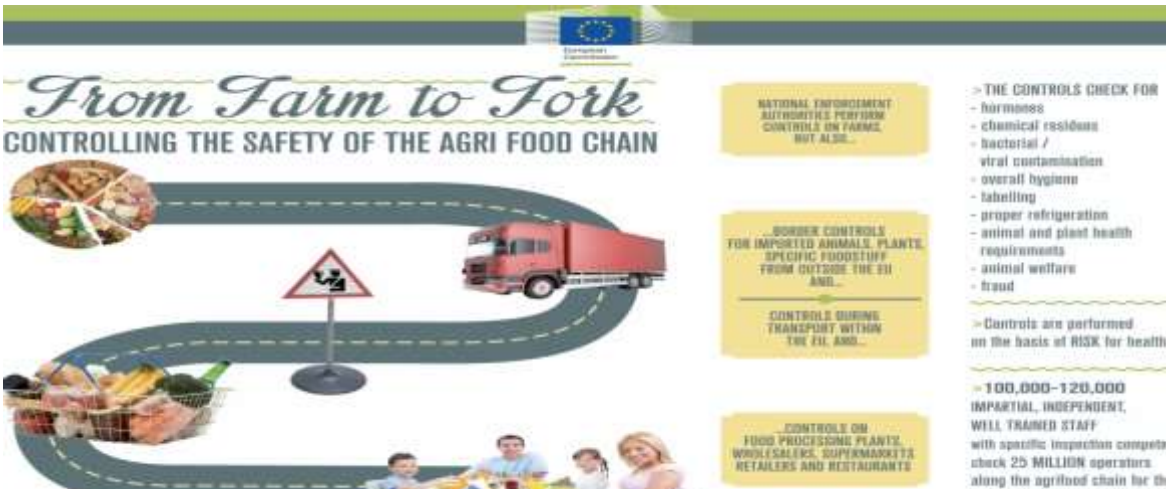
Food law

All food must comply with the general requirements laid down in the General Food Law. The General Food Law sets out the general principles governing food and feed at EU and its Member States level.

Basic principles	
1	Food law shall pursue one or more of the general objectives of a **high level of protection of human life and health and the protection of consumers' interests**, including fair practices in food trade, taking account of, where appropriate, the protection of animal health and welfare, plant health and the environment.
2	Food law shall aim to achieve the **free movement in the Community** of food and feed manufactured or marketed according to the general principles and requirements
3	Where **international standards** exist or their completion is imminent, they shall be taken into consideration in the development or adaptation of food law, except where such standards or relevant parts would be an **ineffective or inappropriate** means for the fulfilment of the legitimate objectives of food law or where there is a scientific justification, or where they would result in a **different level of protection** from the one determined as appropriate in the Community.
4	Food law shall be based on **risk analysis** except where this is not appropriate to the circumstances or the nature of the measure.
5	Risk assessment shall be based on the available **scientific evidence** and undertaken in an **independent, objective and transparent manner**. The European Food Safety Agency is in charge of conducting the research.
6	**Risk management** shall take into account the results of risk assessment.
7	In specific circumstances where, following an assessment of available information, the possibility of harmful effects on health is identified but scientific uncertainty persists, provisional risk management measures necessary to ensure the high level of health protection chosen in the Community may be adopted, pending further scientific information for a more comprehensive risk assessment. Measures adopted on this basis shall be proportionate and no more restrictive of trade than is required to achieve the high level of health protection chosen in the Community, regard being had to technical and economic feasibility and other factors regarded as legitimate in the matter under consideration. This provision embodies the so-called **precautionary principle**.
8	Food law shall aim at the **protection of the interests of consumers** and shall provide a basis for consumers to make informed choices in relation to the foods they consume. It shall aim at the prevention of: (a) fraudulent or deceptive practices; (b) the adulteration of food; and (c) any other practices which may mislead the consumer.

Source: Regulation EC/178/2002 (General Food Law), Arts. 5-10

The control of safety of food extends to the whole chain. This is the so-called "from farm to fork" principle, which is explained in the following graph:



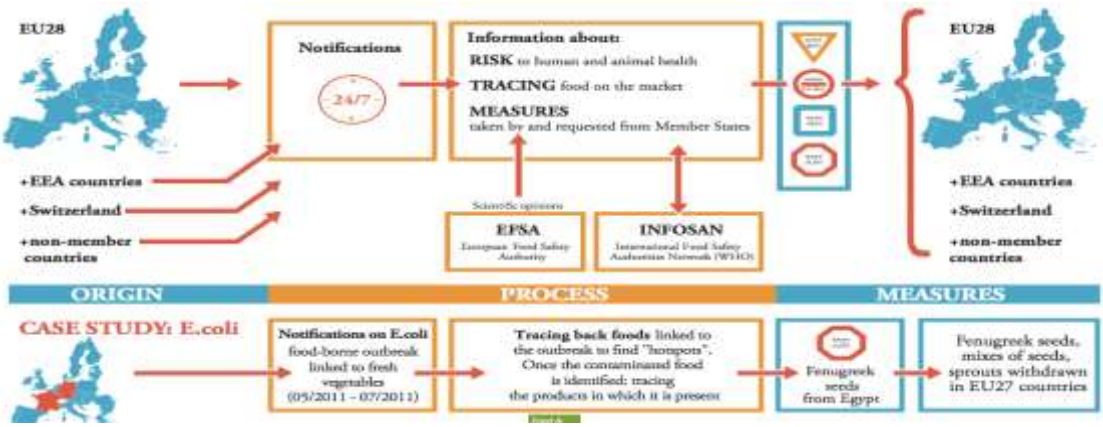
Source: DG Health & Consumers

Proper labelling is an essential element for protecting the interests of consumers. A new Regulation dealing generally with labelling came into force in December 2014. Improved legibility, highlighting of allergens, mandatory origin labelling of certain processed meat and of nutrition information are some of the changes.

There is also generally applicable legislation on contaminants, maximum residue levels of veterinary medicines and pesticides or food contact materials, among other aspects.

Food imported from non-EU countries must comply with relevant EU requirements or those recognized by the EU to be at least equivalent to the ones established in the EU food law. Latest EU FTAs concluded with third countries contain specific provisions to facilitate trade once the respective SPS import requirements are met. Imports are subject to controls to ensure the verification of compliance with feed and food law, animal health and animal welfare rules. Fees are normally charged.

When a health risk is detected in one or more consignments of a food or feed, authorities in Member States share this information trough the **Rapid Alert System for Food and Feed** (RASFF). The database is updated continuously and is public (non-confidential information). The following graph shows how RASFF works:



Source: DG Health & Consumers

Imports of live animals and products of animal origin

The requirements for intra-community trade are harmonized between the Member States. To ensure harmonisation is maintained, meat, milk and other products of animal origin must be produced in an authorised establishment usually under the supervision of an official veterinarian. Further random checks on the products may also be carried out at the final destination.

In case of imports from non-EU countries, the requirements will vary depending on the animal or product of animal origin at stake. For instance, in case of meat and meat products, meat or meat products may only be imported if the country of origin is on a positive list of eligible countries for the relevant product.

Eligibility criteria

- Exporting countries must have a **competent veterinary authority** which is responsible throughout the food chain. The Authorities must be empowered, structured and resourced to implement effective inspection and guarantee credible certification of the relevant veterinary and general hygiene conditions.
- The country or region of origin must fulfil the relevant **animal health** standards. This implies that the country should be a member of the World Organisation for Animal Health (OIE) and should meet that organisation's standards and reporting obligations. Adequate veterinary services must ensure effective enforcement of all necessary health controls.
- The national authorities must also guarantee that the relevant **hygiene and public health** requirements are met. The hygiene legislation contains specific requirements on the structure of establishments, equipment and operational processes for slaughter, cutting, storage and handling of meat. These provisions are aimed at ensuring high standards and at preventing any contamination of the product during processing.
- A **monitoring system** must be in place to verify compliance with EU requirements on **residues of veterinary medicines, pesticides and contaminants**.
- A suitable monitoring programme must be designed by the competent authority and submitted to the European Commission for initial approval and yearly renewal.
- Imports are only authorised from **approved establishments** (e.g. slaughterhouses, cutting plants, game handling establishments, cold stores, meat processing plants), which have been inspected by the competent authority of the exporting country and found to meet EU requirements. The authority provides the necessary guarantees and is obliged to carry out regular inspections.
- For the import of meat from bovine, ovine or caprine animal species (cattle, sheep and goats), exporting countries have to apply for determination of their **BSE status**. This status is based on a risk assessment and is linked to specific BSE-related import conditions.
- An inspection by the Commission's **Food and Veterinary Office** is necessary to confirm compliance with the above requirements. Such an inspection mission is the basis of establishing confidence between the EU Commission and the competent authority of the exporting country.

Source: DG Health & Consumers

A country interested to export to the EU which considers that it meets the above criteria must submit a formal request to the DG for Health and Consumer Protection of the European Commission to export meat or meat products, or another relevant product, to the EU. This request triggers a multiple-step procedure for the evaluation of the eligibility of the third country for

exporting meat and meat products to the EU. The third country will be asked to reply to a questionnaire and to submit a residue-monitoring plan of the exporting country. If the evaluation of the residue monitoring plan and the questionnaire is positive, an inspection by the Food and Veterinary Office is carried out to assess the situation on the spot. Based on the results of the inspection and the guarantees given by the exporting country, the Directorate General for Health and Consumer Protection proposes the listing of the country, the specific conditions under which imports from that country will be authorised and the list of approved establishments in the country. These are then discussed with representatives of all EU Member States. If the Member States have a favourable opinion on the proposal, the European Commission adopts the specific import conditions. Lists of eligible establishments can be amended at the request of the exporting country and are made available for the public on the Internet.

Health certificates which must accompany all imports and which must be signed by an official veterinarian of the competent authority of the exporting third country guaranteeing that the conditions for import into the EU have been met. On arrival in the EU, the animal products and the accompanying certificates must be verified and checked by EU official veterinarians at a designated Border Inspection Post. Further checks on the products may also be carried out at the final destination. Safeguard measures (in the form of "special import conditions") can be adopted in case problems are identified with respect to imports from any third country.

In addition to the above-described rules, the EU has developed legislation on the control, monitoring and eradication of animal diseases; on identification and traceability of certain animals such as bovine; and on animal welfare.

Plant health

Beyond strictly-speaking plant health matters, this area also covers issues relating seed and propagation materials, pesticides, GMO cultivation and plant property rights.

The current policy in the area of plant health and biosecurity is contained in the Directive 2000/29/EC which is based upon provisions laid down in the International Plant Protection Convention (IPPC). This legislation is being reviewed currently. To achieve the level of protection considered appropriate, the Directive:

- Regulates the introduction of plants and plant products into the EU from countries outside the EU;
- Regulates the movement of plants and plant products within the EU;
- Imposes eradication and containment measures in case of outbreaks, and co-finances them;
- Places obligations on countries outside the EU which want to export plants or plant products to the EU.

The Directive lists certain harmful organisms that may be targeted by specific control measures. If a harmful organism is found in the EU, the country concerned must:

- Notify the Commission and the other EU countries;
- Eradicate or prevent the spread of the harmful organism.

Temporary (emergency) control measures may be taken by the EU if the danger comes from consignments of plants, plant products or other objects originating from countries outside the EU.

Certain plants, plant products and other objects entering the EU must normally have a phytosanitary certificate guaranteeing that they are:

- Properly inspected;
- Free from quarantine harmful organisms and practically free from other harmful organisms;
- In line with the plant health regulations of the importing country.

The exporting country's national plant protection authorities issue the certificates.

Similar to RASFF, there is a notification and rapid alert system – named EUROPHYT – dealing with interceptions for plant health reasons of consignments of plants and plant products imported into the EU or being traded within the EU itself.

Genetically Modified Organisms

Within the EU, GMOs need different authorizations to be used in food and feed, or for cultivation. The European Food Safety Authority is responsible for carrying out the risk assessment on each application for authorization in collaboration with EU Member States. The risk management and the authorization process are carried out by the Commission with Member States, and the authorization decision is applied to all EU member States. The Commission in March 2013 adopted the Implementing Regulation on requirements to be fulfilled by companies when submitting applications for the authorization of new GMOs for food/feed uses. Under certain circumstances, EU Member States are allowed to temporarily restrict or prohibit the use and/or sale the GM products that are authorized at EU level on their own territory. Six EU Member States currently apply restrictions on use (including sale) of certain GMOs: Austria, France, Greece, Hungary, Germany, and Luxembourg.

3.2.Agricultural trade policy

The Common Agricultural Policy (CAP) of the EU is one of the oldest – it was agreed in 1962 – and is aimed at to improve agricultural productivity, so that consumers have a stable supply of affordable food, and to ensure that EU farmers can make a reasonable living.

The CAP has been subject to reform over the years. Since WTO was established, important changes have been done to it to implement commitments undertaken as part of the WTO Agreement on Agriculture and its own Protocol of Accession. Over time, for instance, use of export subsidies has decreased gradually. Moreover, as a result of the last review concluded in 2013 market support measures have been replaced with green support, permitted by the WTO Agreement.

The CAP can be described as having three dimensions: market support, income support and rural development. Direct payments ensure a safety net for farmers in the form of a basic income support, decoupled from production, stabilising their income stemming from sales on the markets, which are subject to volatility. Price support measures are aimed at ensuring stability in the markets. They take the form of:

- public intervention in the markets for agricultural products;

- the payment of aid for the private storage of cereals, rice, sugar, olive oil and table olives, beef and veal, milk and milk products, pigmeat, sheepmeat and goatmeat.

Specific schemes are also contemplated for certain sectors such as sugar, milk and milk products, olive oil and table olives, fruit and vegetables etc.

Exceptional measures may also be adopted to support markets in crisis.

Other types of measures covered by the CAP include the establishment of production quotas – i.e. for sugar and milk – and of marketing standards for certain agricultural products. They relate to the quality of the products, labelling, storage or transport.

The CAP is financed directly from the EU budget. About 40% goes into it. In total, currently agricultural support represents approximately 1% of the total public expenditure of the EU Member States.

Source: DG Agriculture

In terms of international trade, the EU is the second largest agricultural exporter. The EU enjoys a positive trade balance. While it imports many raw materials, such as wheat and soya, it exports mainly final, often high-value, products such as spirits, wine, processed meat, cheese, oil etc. More than 4mln jobs are working on producing such final goods. The EU is the largest importer of foodstuffs, more than 70% (approximately EUR60bln) of which originate in developing countries. Typically, customs duties are quite high – where there is domestic production. In some cases, import tariff quotas are contemplated. For certain products such as cereals, import licenses are required. On the export side, export licenses must be obtained. Export refunds are still available for a few products.

3.3.Textiles and clothing

After China, the EU constitutes a powerhouse in the production and trade of textiles and clothing products. In light of the labour cost differential with other important producing nations, the EU focused on improving productivity and competitiveness strengths such as innovation, quality, creativity, design or fashion.

The trade policy priorities of the EU in the textiles area have long been to increase market access – by addressing existing barriers through various means, including e.g. the use of the Trade Barriers Regulation -, the use of trade defence instruments whenever exports to the EU take place at dumped prices or foreign countries grant, and improve the enforcement of intellectual property rights by fighting counterfeiting and pirating of copyrights, and violations of trademarks, patents, and industrial design rights. The EU has also been engaged in fighting fraud, especially through the circumvention of trade defence measures, unlawfully benefitting from the GSP regime, and claims of EU origin of products produced elsewhere.

A Regulation was adopted in 2011 on Textile Fibre Names and related Labelling and Marking of Fibre Composition. This Regulation sets forth conditions and rules for the labelling of textile products for sale in the EU. The information required concerns the composition of the textile products which must be provided using harmonised fibre names. The Regulation also stipulates methods to check on whether the composition of textile products is in conformity with the information supplied (market surveillance chapter).

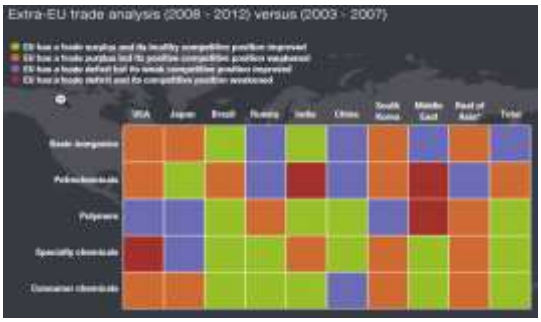
3.4.Chemical products

Traditionally, the chemical sector has been one of the strongest industrial sectors in the EU. CEFIC's data show that in 2013 sales of chemical products in the EU reached EUR558bln, only behind China. The US followed with EUR526bln.

The EU chemical produces 4 groups of chemical products, namely base chemicals, specialty chemicals, pharmaceuticals and finally consumer chemicals. The EU is a large exporter of chemical products. The graph on the right hand presents the trade breakdown by World region.

Source: CEFIC

The graph below shows that EU producers continue to be very competitive in the production and sale of certain groups of chemical products (marked in green colour). In spite of that, during recent years the EU market share in the total trade of chemical products has decreased considerably (from 35, in 1992, to 18%, in 2012).



Source: CEFIC

Chemical industry is heavily regulated in the EU. DG Enterprise and Industry is in charge of developing sector-specific legislation on chemicals in the EU. A page of its website is specifically dedicated to this industry. The main pieces of legislation applying generally to chemical products include the Regulation on Registration, Evaluation, Authorisation and Restriction of Chemicals (the so-called REACH); the Regulation on Classification, Labelling and Packaging of substances and mixtures (known as CLP); and the Biocidal Products Regulation (the BPR). There are other legal texts applicable to specific products, e.g. fertilizers, detergents or explosives. The European Chemicals Agency (ECHA) plays a central role in the implementation of the REACH and CLP Regulations.

The main objectives of the REACH and CLP Regulations are presented below:

REACH	CLP
• Ensure a high level of protection of human health and the environment from risks that can be posed by chemicals	• Facilitate international trade in chemicals • Maintain the existing level of protection of human health and environment

• Promote alternative test methods • Free circulation of substances in the internal market • Enhance competitiveness and innovation	

The ECHA website dedicates specific pages to explain each of the above main regulatory texts: REACH, CLP and BPR. Compliance with the rules set forth in these legal texts must be demonstrated for chemical products to be able to be placed on the EU market.

3.5.Information technology (IT) products

IT products cover 5 different group of products: computer and related office equipment, telecommunications equipment, electronic components, electronic measuring devices and finally consumer electronics. Traditionally, this has been a sector in which European companies have been very strong. However, in recent years Europe has lost ground to the US and Asian countries such as China, Korea, Japan and Viet Nam.

At international level, in the late 90s the EU supported the negotiation and conclusion of the Information Technology Agreement (ITA). As a result of it, customs duties applicable to trade in most of such products have been eliminated. The total amount of import duties eliminated under the ITA were estimated at US$1.6 trillion in 2013.

In the light of new technological developments, efforts have been underway since 2012 to extend the ITA to cover approximately 200 additional products, including many new generation communication, data and medical devices. The EU has generally supported this move; however it has requested that the negotiations also address non-tariff barriers affecting trade in these products.

"*It is estimated that the expanded ITA would cut tariffs on approximately US$ 1 trillion of trade each year and would therefore provide a significant economic boost around the world. Crucially, it would benefit all WTO members, not just the ITA participants, because the tariff cuts would be applied on a multilateral basis*." WTO

3.6.Services

The services sector is a major contributor in the creation of wealth in the EU. The services sector accounts for some three-quarters of the GDP of the EU. Over three-quarters of the EU jobs are in the services sector.

Nevertheless, the value of exports and imports of goods is generally 2-3 times higher than that of services. There are however reasons to believe that in the near future the level of international trade in services will increase. Thus, technological developments have increased the tradability of some services, for example facilitating web-based services.

3.6.1. Internal trade in services

The Treaty sets forth that:
"... the internal market shall comprise an area without internal frontiers in which the free movement of goods, persons, services and capital is ensured..."
"*Restrictions on freedom to provide services within the Union shall be prohibited...*"

Trade liberalisation of services is part of the EU single market. The main legislative text developing the Treaty is the Services Directive, which has been transposed into national legislation in the 28 Member States.

Coverage of the Services Directive

- Distributive trade: retail and wholesale of goods and services
- Activities of regulated professions: architects, law and tax advisors, engineers, accountants, surveyors etc.
- Construction services and crafts
- Business-related services: office maintenance, management consultancy, event organisation, debt recovery etc.
- Tourism
- Leisure
- Information society
- Accommodation and food: hotels, restaurants etc.
- Etc.

- Telecommunications
- Financial
- Transport
- Audiovisual
- Gambling

The main objective of the Directive is to remove legal and administrative barriers to trade in the services sector, thus stimulating the development of cross-border operations. One of the main features of this Directive is the prohibition to discriminate against EU consumers of services with regard to their nationality or country of residence.

The Directive requires EU Member States to set up 'Points of Single Contact' to assist business through the provision of information relating to offering services abroad. One example of such a Contact Point is the UK's European Consumer Centre for Services, whose website is presented in the box below. It provides important information to facilitate and support the purchase of services in a EU Member State other than the UK.

3.6.2. External trade in services

The provisions of the Services Directive are not applicable to third country exporters. EU trade in services with the rest of the World is governed by either the GATS or by regional trade agreements. While the European Commission presents a consolidated schedule of commitments on services for the EU and negotiates as a block, the degree of liberalization by sector and mode of supply in each EU Member State has been usually determined at the national level.

Objective and Scope of Application

1. The Parties, reaffirming their commitments under the WTO Agreement, and with a view to facilitating their economic integration, sustainable development and continuous integration into the global economy, and considering the differences in the level of development of the Parties, hereby establish the necessary provisions for the progressive liberalisation of establishment and trade in services and for cooperation on electronic commerce. …

EU-Colombia & Peru FTA, Article 107

The main services trade partners of the EU are the USA, Switzerland, Japan, Russia and China. In 2012 more than two thirds of the EU's exports (67.7%) and imports (70%) were accounted for by three categories: transport, travel and other business services.

3.7.Intellectual property rights

The EU considers that protection and enforcement of intellectual property rights (IPRs) are crucial for its ability to stimulate innovation and to compete in the global economy. For the EU, as a knowledge-based economy, IPRs are generally considered the vital backbone of its economy and a key driver for its growth. One of the EU's objectives is to improve the protection and enforcement of IP rights in third countries.

The Treaty sets forth that:
"*…for the creation of European intellectual property rights to provide uniform protection of intellectual property rights throughout the Union and for the setting up of centralised Union-wide authorisation, coordination and supervision arrangements*"

While not yet complete, the EU has developed, and regularly updates, a uniform system of protection of intellectual property rights, ranging from industrial property to trademarks and copyright and related rights. More than 18 basic legal texts are currently in place at EU level. The objective is to establish a coherent and holistic framework that ensures a high level of protection of IPRs, and takes into account cultural diversity.

Besides, various legal documents have been adopted at EU level addressing the issue of enforcement of IPRs, including the Directive on the Enforcement of IPRs. There is legislation specifically addressing ecommerce. In addition, EU companies, trade associations and internet platforms signed a memorandum of understanding to develop good practices in order to fight the sale of counterfeit goods over the internet.

A shipment of the generic drug Losartan Potassium, produced in India and destined to Brazil, was seized when in transit at Schipol Airport, in the Netherlands, in December 2008, and later returned to the country of origin. The Dutch authorities seized the shipment pursuant to the EC Regulation No 1383/2003. Based on complaints of suspected infringement by alleged owners of patents (or supplementary protection certificates), over the last two years, customs authorities in the Netherlands have seized a substantial number of consignments of generic medicines from India in transit through the Netherlands, including the aforementioned shipment of Losartan Potassium destined to Brazil.

The EU Member States bear the direct responsibility for ensuring enforcement. In addition, a number of EU bodies – including some of the Directorates of the European Commission, the Office for Harmonisation of the Internal Market and the European Patent Office – have important responsibilities. In most cases, customs authorities act upon applications from right holders. However, customs may also act *ex officio* if they have sufficient grounds for suspecting that goods infringe an IPR. The box presents one of the many actions, in this case concerning medicines in transit, carried out by the EU and its Member States to enforce EU patent legislation in this area.

The EU fights against counterfeiting and piracy, both unilaterally, and through bilateral, regional, and multilateral agreements. Detailed IPR clauses,

1. Without prejudice to their rights and obligations under the TRIPS Agreement, and in particular of its Part III, each Party shall provide for measures, procedures and remedies as established under this Chapter, which are necessary to ensure the enforcement of intellectual property rights as defined in Article 196, subparagraphs 5(a) to 5(i).
EU-Colombia & Peru FTA, Article 234

particularly on enforcement and border measures, are included in free trade agreements concluded recently or negotiated by the EU. The EU's declared objective is to ensure a balanced approach that aims to achieve a level of protection identical to that in the EU, while acknowledging that the level of development of its trading partners needs to be taken into account.

3.8.Implication of sectoral policies for Vietnam

Vietnamese producers wishing to access the EU market must be conversant with the EU sectoral legislation applicable to the specific product they intend to export. Specific requirements applicable to a particular product can be found by searching "My Export" in the EU Export Helpdesk website. Since changes to the legal environment occur regularly, exporters must check frequently what are the requirements.

Mechanisms to regularly inform parties of changes in regulatory environments are normally included in FTAs. Besides, specific mechanisms – such as agreements on mutual acceptance of conformity assessment – aimed at facilitating trade between parties are normally included in FTAs. Committees will be set up and meet regularly to discuss and resolve issues that may hinder bilateral trade. All these measures should contribute to facilitating access to the EU market for Vietnamese producers.

4. THE DEVELOPMENT DIMENSION OF THE EU'S COMMON COMMERCIAL POLICY

Helping developing countries to benefit from open global markets is an important part of EU's long-term strategy for global poverty reduction, alongside debt relief and general development aid. As the Lisbon Treaty states, supporting developing countries' efforts to eradicate poverty is the primary objective of development policy and a priority for EU external action in support of EU's interests for a stable and prosperous world. Development policy also helps address other global challenges and contributes to the EU-2020 Strategy. Increasing trade and investment is a key part of this strategy. Trade can make a difference in many aspects of development, poverty alleviation, food security, gender empowerment, climate change and sustainable development.

Based on 2011 data, the EU with its Member States confirmed their position as the largest provider of AfT in the world, accounting collectively for 32% of global AfT totalling €9.5 billion committed. Asia is the second largest recipient of assistance, after Africa.