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*Accompanying document to the Report from the Commission to the European
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- Trade and Investment Barriers Report 2011
- Engaging our strategic economic partners on improved market access:
Priorities for action on breaking down barriers to trade

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REPORT FROM THE COMMISSION TO THE EUROPEAN COUNCIL

Trade and Investment Barriers Report 2011

**Engaging our strategic economic partners on improved market access: priorities for
action on breaking down barriers to trade**

{COM(2011) 114 final}

Implementation of the Market Access Strategy

Annual Report 2010

Accompanying the Trade and Investment Barrier Report 2011

Introduction

This is the third annual report on the implementation of the Market Access Strategy since the launch of the renewed strategy in 2007. In recent years, the Market Access Strategy has proven its added value in a period of economic crisis when the risk of protectionist tendencies made monitoring and removal of trade barriers a matter of priority for European trade policy.

The renewed EU trade policy set out in the Commission's Communication "Trade, Growth and World Affairs" of 9 November 2010¹ underlines the importance of the Market Access Strategy in the wider context of a strengthened enforcement agenda.

This annual report summarizes the activities carried out in 2010 by the various actors involved in the partnership ranging from the two "flagship" actions, i.e. the key barriers process and protectionism monitoring to the day to day management of the Strategy in the Market Access Advisory Committee, the Market Access Working Groups, the Market Access Teams and the various outreach and information activities. It also gives a detailed account per country of new developments on specific market access barriers and provides information on roughly 50 success stories resulting in partial or full removal of market access barriers.

1. Trade policy and the Market Access Strategy: an enforcement agenda for economic recovery

The legacy of the economic crisis has dominated the EU's agenda across all policy pillars in 2010 including trade policy. Tackling barriers to trade, be it those introduced within the legitimate remit of the WTO framework, those resulting from the lack of appropriate legal framework, or those which seem to violate international rules, has become a matter of urgency. The Market Access Strategy has been one of the cornerstones of addressing this challenge, relying on the strengths of the partnership between the Commission, EU Member States and EU business. While 2010 provided a number of tangible positive results, it is also clear that the existing record of barriers to trade leaves no room for complacency and the Strategy needs to be implemented with even more vigour.

In the course of 2010 EU trade has nearly recovered to its pre-crisis levels. This recovery however does not mean we are back to "business as usual", on the contrary. The post-crisis trade landscape includes barriers inherited from the crisis period, while the ones previously existing still need to be dismantled. Experience of 2010 confirms yet again that the cost of trade is no longer primarily linked to tariffs (with certain exceptions), but lies mostly behind the border. Examples include restrictions for foreign bidders in government procurement, new regulations aiming primarily at consumer protection but putting a disproportionate burden on

¹ COM (2010) 612, 9.11.2010

imports, reference prices which artificially increase the total customs duty payments. Export restrictions, most notably through quotas and duties, add to this picture.

Against this background, the Market Access Strategy is embedded into the wider context of the "Europe 2020" agenda with its focus on smart, green and inclusive growth. The Commission Communication "Trade, Growth and World Affairs" of 9 November 2010 sets out ways in which trade policy will contribute to the implementation of the external dimension of "Europe 2020". The negotiating agenda of EU trade policy and the Market Access Strategy need to go hand in hand as complementary instruments to achieve the objective of keeping markets as open as possible and translate trade opportunities on global markets into growth and jobs at home.

The experience of 2010 has shown again the important complementary role of the Market Access Strategy with regard to the core activity of trade policy – the multi- and bilateral trade negotiations. The latter remain the most effective tool to ensure that European citizens and companies can benefit from the opportunities created by an ever increasing integration of global markets. But the crisis context has demonstrated even more forcefully that real-time issues need real-time reaction and, ideally, solutions. The medium to long-term negotiating agenda, which sets the framework for the EU's trade relations in the future, needs a complement to respond to short-term needs. The Market Access Strategy fulfils this role by ensuring that trading partners implement effectively the commitments they undertook at either bilateral or multilateral level. Furthermore, it is a useful instrument to manage market access issues with those partners with whom the EU has limited bilateral contractual relations in trade policy and where there exists limited scope to enshrine them in a legal framework at this stage.

Trade diplomacy in the framework of the Market Access Strategy is therefore particularly relevant in relations with some of the EU's strategic partners, i.e. the United States or Japan with whom there are no ongoing bilateral trade negotiations at the moment. Finally, through its horizontal approach, the Market Access Strategy can provide a comprehensive overview of the state of market access and an indication as to the cost of lack of access to the markets. Even if the latter is sometimes difficult to quantify in monetary terms, the size of the market, be it in public procurement or in services and investment, clearly indicates where further benefits from greater market openness may be reaped².

While the Commission's "Trade, Growth and World Affairs" communication outlines the need to focus on a number of strategic partners, the lesson from the economic crisis is that EU trade has been hit hardest by measures introduced by its closest neighbours. This implies that, in addition to the increased focus on strategic partners (USA, China, India, Japan, Mercosur, Russia) the efforts to tackle market access barriers need to start 'close to home', without ignoring the strategic partners. While at times these approaches coincide (i.e. Russia), it is telling that access to markets such as Ukraine or Algeria has been very high on the market access agenda in 2010. For European companies which decide to compete in international markets, targeting neighbouring countries' markets is very often a natural first step. This is particularly true for Small and Medium sized Enterprises (SMEs). Often once these activities prove successful, companies endeavour to expand further. The contrary applies as well – unpredictable and closed markets in neighbouring countries may discourage SMEs from further endeavours.

² For some estimations, please see the Commission Staff Working Paper, *Trade as a driver of prosperity*, SEC(2010)1269, October 2010, pp.28-57.

EU trade policy should also pay close attention to other emerging economies, in particular in Asia, where free trade agreements are still some way off, but also to countries such as Mexico or South Africa, which, despite the preferential relationship in place, either continue practices which induce trade costs (i.e. through customs policy) or introduce measures which may discriminate against foreign suppliers. Given that these markets' consumer base is widening as their prosperity increases, market access concerns in these countries will need to be pursued thoroughly .

Last but not least, many barriers can often be successfully tackled only at an early stage of the decision-making process. The Market Access Strategy, through monitoring of potential new barriers and exchange of information at an early stage, has an 'early warning' function, ensuring that the EU feeds its reactions into third countries' decision-making process through trade diplomacy. Such is the case for the majority of measures in the regulatory field (technical and sanitary/phytosanitary regulations), which prove particularly challenging when adopted at a sub-state level. The notification mechanism created by the WTO Agreement on Barriers to Trade (TBT Agreement) and the Agreement on the Application of Sanitary and Phytosanitary Measures (SPS Agreement) are instrumental in this regard.

Finally, any progress on market access needs to be assessed against the internal limitations that stem from incomplete integration of the single market in the EU in a number of policy areas or the EU's own regulatory agenda. The "Trade, Growth and World Affairs" Communication has singled out this issue as an important challenge for trade policy which needs to be addressed.

Implementation and enforcement of market access through all possible means will remain the key objectives for the Market Access Strategy. It will build on the identification and removal of key barriers to trade as well as the monitoring of and action against restrictive measures adopted by our partners in the crisis context. This agenda will be complemented by continuous efforts to facilitate internationalisation of small and medium-sized enterprises. It will remain the centrepiece of the trade policy's more assertive approach, complementary to the trade negotiating agenda. The Market Access Strategy should continue to build on the strength and success of the partnership with EU Member States and EU business.

2. Partnership between Member States, Business and Commission to achieve better Market Access

The structures of the Market Access Partnership continued to evolve in 2010. But while in previous years activities concentrated on establishing and consolidating the structures set out in the 2007 Communication³, in 2010 the focus shifted towards effective delivery. In the context of the key barrier exercise for instance, attention moved from the "identification" to the "removal" phase. Indeed, 49 barriers were completely or partially removed in 2010 out of which 17 relate to key barriers (for an overview of success stories, see Annex). Through the joint efforts of all actors involved, the Market Access Strategy has thus developed into a very visible, result-oriented pillar of EU trade policy.

³ "Implementing the Commission Communication: Global Europe - A Stronger Partnership to Deliver Market Access for European Exporters", COM (2007) 0183 of 18 April 2007.

2.1 The Market Access Advisory Committee

The Market Access Advisory Committee (MAAC) met 11 times in 2010 and continued to be the focal point of market access activities and to provide steer for the implementation of the Market Access Strategy.

In the first months of 2010, the MAAC focused on completing the first phase of the key barriers exercise by establishing lists and fiches/hymn sheets for further 8 countries (see section 3.1.1. for more details). In addition, throughout 2010, regular up-dates were given on new developments with regard to a large number of key barriers.

On substance, the following market access cases featured most frequently on the agenda of the MAAC: practical aspects related to the implementation of the Customs Union between Russia, Kazakhstan and Belarus, market access problems in China (e.g. indigenous innovation and the compulsory certification system), Ukraine (mainly customs issues), Argentina (e.g. import licences, ban on food imports), Algeria (investment regime and import procedures) and Indonesia (in particular various new import licences regimes).

The MAAC was also used to follow-up on sectoral work launched in the context of the Trade Policy Committee on Steel, Textiles and Industrial Sectors (TPC STIS). In this context, the ceramics industry (CERAMUNIE) presented the main market access barriers encountered by this sector in third countries. The industry was encouraged to feed regularly into the case-related work of the MAAC so that sector-specific aspects could be factored into the removal strategies for the various cases raised many of which figured on the key barriers lists.

At a more general level, the work of the MAAC started to be redirected towards a bigger focus on preventing new barriers from being put in place. For this purpose, a new recurrent point on "early warning" was added to the agenda providing Member States and business with a forum to raise new potential barriers to trade which are in the pipeline in third countries.

In addition, a new agenda item "success stories" was also introduced on a recurrent basis to keep the MAAC abreast of positive developments which in turn can serve as model for action in other cases.

In 2010, the MAAC was also more proactively used to collect up-to-date information on market access issues as input into the EU contribution to the WTO Trade Policy Review Mechanism for important trading partners, e.g. the US. In this context, the key barrier lists proved very useful to prepare the respective questions of the EU. Upcoming Trade Policy Reviews for Japan, Canada, Australia, Nigeria and India (all in 2011) will provide further possibilities to raise our market access concerns vis-à-vis these trading partners.

The MAAC was also a useful forum for exchange of views in the run-up to the Communication "Trade, Growth and World Affairs" on a renewed trade strategy for the EU. The views expressed by the Committee are reflected in the Communication, namely the role of the Market Access Strategy as a cornerstone of the strengthened enforcement agenda of EU trade policy (for more details on the Communication see section 5).

Finally, Member States continued to use the MAAC to share their experience on the promotion and implementation of the Market Access Strategy. In this regard, Germany, for example, presented a survey among their Chambers of Commerce abroad on the functioning

of the Market Access Strategy, providing very useful insight into the cooperation with the local Market Access Teams.

2.2. The Market Access Working Groups

11 Working Groups continued to meet on a regular basis in 2011 bringing together all relevant stakeholders to analyse the overall market access situation for a given sector, to discuss concrete, often highly technical and operational issues in specific third country markets and to set up individual removal strategies. The participation of all relevant experts is thus crucial to tackle market access barriers efficiently. Focusing on the key issues of concern for the EU industry (regulatory controls and pricing/reimbursement/funding), the Working Group on **medical devices**, which has been active since 2007, aims to tackle barriers to trade and promote international regulatory convergence and the use of international standards as a basis for regulation. Its activities in 2010 focussed on China, Brazil, India, and Korea. Co-operation with EU industry enabled the Commission to raise effectively the concerns of exporters in particular on two specific issues, Brazil's good manufacturing practices certificates and Korea's restriction of the use of certain hazardous substances in electrical and electronic equipment legislation. While not yet solved, these barriers are in a stage where commercial operations have not been disrupted in practice to date.

The Working Group on **textiles** focused in 2010 on consolidating the analysis of textiles and clothing market access issues and feeding them into the appropriate policy agendas, alongside action on a number of continuous market access issues. The group analysed several cases of barriers encountered in major strategic markets, such as the US, Russia, India, and China but also in countries such as Israel, Egypt, Vietnam, and Argentina. Progress was noted with regard to two issues: removal of restrictions on labelling in Egypt as well as clarification of documentary requirements in Argentina for imports of clothing goods. Discussions followed a country approach for example with regard to export restrictions in India as well as a horizontal approach such as analysing labelling provisions in different countries. A detailed analysis of the situation on the US market has been undertaken which is being feed into the appropriate dialogues with the US authorities. Strong participation of Member States and stakeholders continues to underline the relevance of detailed discussions of the particular needs of the sector.

The Working Group on **electronics and ICT** focused its activities on China IT security, the main concern for stakeholders in this sector for the moment. Building on the good progress achieved in 2009 (China postponed the entry into force of the Chinese Compulsory Certification (CCC-I) and reduced its scope to government procurement), the Working Group has continued to monitor the implementation of CCC-I on the ground, but also looked for solutions for the underlying problem: that China is not abiding by relevant international standards in the IT sector. Moreover, the Working Group has started to put attention on the revision of the regulation on commercial encryption with a view of influencing the legislative process in China. This re-prioritization helped to prepare the ground for a high-level market access mission to China, where the revision was raised in a bilateral meeting with OSCCA (Office of State Commercial Cryptography Administration), the competent regulatory agency, which sent out positive signals as to the non-discriminatory nature of the forthcoming revised regulation.

The Working Group on **postal and courier services** continued to focus its work on closely monitoring the different ongoing postal reform processes in China, India, Japan and Indonesia

and their impact on EU operators. In addition, different specific market access barriers were discussed in the Working Group and addressed with the third country concerned. Involving Delegation staff in the third countries via video-link in the Working Group meetings in Brussels has proven very useful to increase transparency, coordination and coherence of different actions in addressing these barriers. A specific success should be noted regarding the removal of Canada Post's exclusive privilege for outbound cross-boarder mail. Reinforcing the preventive pillar of market access work, a specific seminar was organised in Jakarta in order to exchange regulatory best practice and experiences on key concepts in the postal sector and to highlight the importance from a European perspective of an open investment environment in Indonesia in this sector. This was received very positively by the Indonesian authorities as well as by business providing a good basis for further engagement.

The Working Group on **tyres** discussed in particular regulatory issues, technical standards, customs procedures and taxation issues. Some progress can be reported regarding the Indonesian market where the case is being made for the use of international standards (and the authorities are supportive of the principle of such an objective) as well as in relation to India where the implementation of the quality order on tyres has been further postponed.

The Market Access Working Group dedicated to the **automotive** sector met twice in 2010. Members of the Working Group continued to address the barriers to trade occurring in the four identified priority markets, namely Russia, China, India and Ukraine. Many other occasional concerns were also raised during these meetings. Recurring regulatory issues, technical standards and customs procedures played an important role in the working group. Some progress can be reported on China, where the authorities were prompt to implement the WTO ruling on auto parts, resulting in a reduction of import tariffs.

Recent meetings of the **alcoholic beverages** Working Group have focussed on market access barriers faced by the EU alcoholic beverages industry in 4 priority markets - Russia, China, Turkey and Thailand, as well as other barriers arising requiring timely discussion. Through co-operation and co-ordination, the Working Group has contributed to the removal or improvement of trade barriers in several markets including restrictive technical specifications in China and Vietnam and discriminatory excise taxes in Israel.

The Working Group on **leather** has been created as a new forum in 2010 upon request by the industry. The main issues dealt with in the two meetings in 2010 relate to export restrictions in Morocco, labelling requirements in the Andean Community and in Mexico and the tariff quota system in Japan.

The Working Group on **chemicals** was set up in March 2010. It followed up on the work carried out in the Trade Policy Committee on Steel, Textiles and other industrial sectors (STIS) which had produced a sector fiche underlining the geographical priorities as well as the most important horizontal barriers for the chemical industry. This work was then rendered more operational by focusing on a list of specific priority barriers, mainly NTBs, stemming from IPR issues, import restrictions, testing requirements, customs issues and import licensing. The activities of the Working Group started by focussing on some key countries such as India, China, Brazil, Argentina, Indonesia and Russia.

The year 2010 was a very busy one in the **SPS** field and it delivered several achievements. The **SPS Working Groups** are instrumental in this regard as an important tool of the Market Access Strategy. Building on the experience of 2009, in 2010 the Working Group on animals and animal products and the Working Group on plants and plant products, continued to be

driven by presentations made by EU industry associations, Member States and the European Commission on SPS market access issues and related activities. The SPS Working Group on animal issues has dealt with trade barriers related to Avian Influenza, Pandemic H1N1 virus, *Listeria monocytogenes*, gelatine, food and feed additives, pre-listing, poultry in general as well as beef-related import restrictions due to BSE – which remains one of our SPS market access priorities. The SPS Working Group on plant issues covered matters related to seed potatoes, cotton, wood packaging material, ornamental plants, import legislation of third countries and invasive species. In both groups, a special attention was given to joint initiatives and cooperation with Member States like on joint export applications or coordination on inspections by third countries (e.g. USA, GCC countries). The meetings also focussed on transparency and in particular on how to continue improving the way the European Union comments on the WTO SPS notifications issued by third countries. The increased and active participation of Member States and industry has shown concrete results in establishing priorities and dealing with early warning issues.

2.3. The Local Market Access Teams

The local Market Access Teams represent a central element of the Market Access Strategy, complementing the work of the MAAC and the Working Groups. They play a major role with regard to preventive actions and early warning thanks to their local expertise.

The input of Market Access Teams has been an essential element for the success of the first phase of the key barriers process (for details see section 3.1.1). The teams will also play a central role in the next phase of the process, notably by channelling local feedback on the use of the key barrier documents by Commission and Member States, reporting about new developments and contributing to the implementation of the removal strategy.

The Communication "Trade, Growth and World Affairs" recognises the important role of the Market Access Teams and calls upon all actors to further strengthen their work.

2.4. Working with the Council

Regular involvement of the Trade Policy Committee in the monitoring of protectionist measures continued in 2010 with the presentation of two reports on potentially trade restrictive measures during the financial and economic to the Trade Policy Committee. The reports served as a basis for the discussion of priorities for action.

Both the Spanish and Belgian Presidencies organised Market Access seminars in 2010 (see section 4.2.3 for more details) which gave much new steer to the implementation of the strategy. In its conclusions on the Commission's reviewed trade strategy⁴, the Council expressed support for strengthening the Market Access Strategy, namely through intensification of the partnership between Commission, Member States and business and through stepping up the work of Market Access Teams.

⁴ Council document 17914/10 of 17 December 2010

2.5 Working with the European Parliament

The European Parliament is kept fully informed of important developments related to market access issues. The annual report 2009 and the monitoring report on potentially trade restrictive measures were presented and discussed in the INTA Committee. The market access unit of DG TRADE also contributed to replies to questions from the European Parliament, in particular on SME internationalisation issues such as SME Business Centres.

2.6 Market Access Cooperation with Third Countries

Cooperation with like-minded countries on market access issues continued to be an important element for exchanging information and increasing leverage by addressing common concerns. Regular Market Access Videoconferences were organised with the US and Japan. Issues such as Argentina's food ban and import licenses, India's medical devices, China's IT security standards and raw material restrictions were discussed during these videoconferences.

Furthermore, ad hoc cooperation with like-minded countries on important market access issues was intensified both in the run-up to meetings of relevant WTO committees in Geneva and in third countries. This was e.g. the case on the Argentina import licensing system where action was coordinated with a large number of partners ahead of the meeting of the WTO Import Licensing Committee. Cooperation with other partners was also fruitful on Ukraine customs valuation legislation with regard to the preparation of the WTO Customs Valuation Committee. As set out in the Communication "Trade, Growth and World Affairs", it is intended to intensify cooperation with like-minded partners on market access issues so as to share information on how best to remove barriers.

3. Priority Actions during 2010

3.1. Tackling Barriers

Preventing or removing barriers for European companies on third country markets is the *raison d'être* of the Market Access Strategy. All activities ultimately serve this objective. Tackling third country barriers was therefore the main activity in the context of the Market Access Partnership in 2010. This activity was all the more so important given the increased risk to resort to protectionism in the wake of the economic and financial crisis.

As mandated by the Council, the main focus of the Market Access Strategy was on addressing the key barriers identified in the EU's main markets. But other barriers were also addressed where they caused problems to European companies or where stakeholders raised specific problems. The analysis of the barriers addressed underlines the ever increasing importance of non-tariff barriers, including regulatory issues, intellectual property rights, access to government procurement, labelling, standards, sanitary and phytosanitary issues and access to raw materials. Export restrictions for raw materials have been addressed for a number of countries although they are strictly speaking not "market access" barriers. However, they are equally harmful for European companies, in particular European downstream producers incorporating the raw materials in the finished products they export.

This section presents market access-related developments in key third-country markets. It starts by providing information on the progress made in 2010 with regard to the key barrier

process and then sets out in some detail per country how the partnership helped EU firms overcome specific trade barriers in 2010. A list of specific success stories is annexed to this report.

3.1.1. Key barriers process

In its conclusions of December 2008, the Council mandated the Commission to draw up lists of key barriers for the EU's main trading partners. The aim of this exercise was to *"synchronise the messages passed in ... bilateral contacts [of the Commission and Member States] on the basis of a common line."*

In 2010 the Commission finalized the first part of this process initiated in 2009 with lists for 8 more countries, bringing the total number of barriers identified to 203 for the EU's 32 key trading partners⁵.

The documents are up-dated on a regular basis as new developments are reported. In addition, the lists and accompanying documents for Russia and China underwent a first major overhaul at the end of 2010 including discussions locally in Moscow and Beijing and in the MAAC. Further overhauls will follow in 2011 in addition to the regular up-dates.

The process of establishing the lists and corresponding fiches/hymn sheets has been a major deliverable of the Market Access Partnership in 2009 and 2010 testifying to the added-value of close cooperation between all actors involved, both in Brussels and locally in third countries. The documents constitute by now an important reference tool for market access related work e.g. in the preparation of joint committees, summits or ad hoc discussions with third countries at various levels both for the Commission and for Member States. They are also regularly used e.g. in the preparation of EU contributions to third country Trade Policy Reviews in the WTO.

After the completion of the identification phase, the key barriers process has now moved on to the next phase by stepping up joint work on barrier removal. This requires appropriate feedback from all stakeholders – both in Brussels and locally in the Market Access Teams (MATs) - about the use of the documents in contacts with third country officials and their reaction to the arguments deployed. This in turn will allow fine-tuning the barrier removal strategies and providing more detailed and tailor-made lines to take. The partial or full removal of 17 key barriers in 2010 is an encouraging first step in this respect which underlines the value of specific concerted action.

Finally, with the creation of a dedicated section on key barriers for Member States in the MADB (see section 4.1), Member States' officials - both in capitals and embassies - now have the possibility to download the latest version of the relevant documents in an efficient and secure way at any time. More than 200 password permissions have been provided to Member States officials since the creation of this new section in April 2010. The key barrier lists have thus been spread well beyond the circle of MAAC members in Member States administrations.

⁵ Algeria, Argentina, Australia, Brazil, Canada, Chile, China, Egypt, Hong-Kong, India, Indonesia, Israel, Japan, Kazakhstan, Malaysia, Mexico, Morocco, New Zealand, Nigeria, Norway, Philippines, Russia, Singapore, South Africa, Switzerland, Taiwan, Thailand, Tunisia, Turkey, Ukraine, United States, Vietnam.

3.1.2. Addressing specific barriers

This section provides a detailed account of market access related developments per broad geographical area and main trading partner. Barriers taken up in the Commission's Trade and Investment Barrier Report to the European Council have been put in boxes for ease of reference.

North America

The United States of America

The USA is by far the EU's largest single trading partner. In 2009, exports of EU goods and commercial services to the US amounted to €322.0 billion (20.6% of total EU exports), while imports of goods and services from the US amounted to € 281.9 billion (17.6% of total EU imports). The EU and the US enjoy the most integrated economic relationship in the world, illustrated by unrivalled levels of mutual investment stocks reaching €1,044.1 billion of US investment into the EU and €1,134 billion of EU investment into the US in 2009; flows were reaching in 2009 €75.1 billion from the EU to the US and €97.8 billion from the US to the EU.

However, the enormous potential of the transatlantic relationship is far from being fully exploited. Given the low average tariffs (under 3%), the key to unlocking this potential lies in tackling non-tariff barriers. Against this background, the measures retained in the key barrier list for the US include a broad cross section of issues including public procurement, SPS (both animal and plant health), investment, services, intellectual property and unfair use of trade defense instruments (zeroing). Given the wide range of issues, the hymn sheet process ensured that the different issues could be addressed with the many different lead US authorities as well as Congress in 2010, which is a necessity for potential success.

USA – Trade barriers

Two barriers were highlighted in the Trade and Investment Barriers Report.

Against the background of a rather low level of openness of US government procurement markets to EU bidders, in the context of the financial and economic crisis, further obstacles have been erected through the extension of the "**Buy American**" provisions included in the American Economic Recovery and Reinvestment Act (ARRA) legislation. The Buy American Act (BAA), initially enacted in 1933, is the core domestic preference statute governing US procurement. It covers a number of discriminatory measures, generally termed Buy American restrictions, which apply to government-funded purchases. Although the US clarified that "Buy America" type amendments would have to be applied in a manner consistent with US obligations under international agreements (i.e. the Government Procurement Agreement), this legislation continued to create problems in 2010 and had a certain knock-on effect to other markets such as China. Although pressure from inter alia, the EU has contributed to Buy America provisions being withdrawn from the adopted version of the Jobs for Main Street legislation, the EU needs to remain vigilant and act vigorously against such protectionist tendencies.

A further example of harming practices in the area of public procurement is the prohibition of U.S. government purchases from so-called inverted companies, which are originally U.S. companies that have changed tax jurisdiction and inverted to another country's tax system. In the absence of any consistency clause with the US international obligations, this measure raises serious concerns as to its compatibility with the WTO GPA. This then results that a EU company established in the EU cannot sell to the U.S. government, even though it should be protected by the GPA coverage.

Another horizontal barrier, which could have a significant economic and practical impact on EU exports to the US, if implemented, are the **100% scanning** provisions for containers. The "9/11 Bill" aims at enhancing security by countering potential terrorist threats to the international maritime container trade system, foresaw 100% scanning (pre-scanning of containers before arrival in US ports) of all US-bound containers within a 5-year deadline (i.e. by 1 July 2012). Its repercussions would be so far reaching that it would act as a serious hindrance, not just to EU-US maritime transport and trade but to worldwide trade

While sharing the legitimate security concerns of the US, the EU believes that the 100% scanning legislation would have a negative impact from an economic and practical point of view while not being effective in terms of security enhancement. This issue has therefore been addressed intensively with the US, both in the Transatlantic Economic Council (TEC) and in the Joint Customs Co-operation Committee, as well as in different other fora. The objective is to convince the US that they should recognize the concept of "Authorised Economic Operators" (AEO) and to not scan goods from "reliable" traders.

An important step in this direction was taken at the TEC meeting in December 2010. The EU and the U.S. announced that they had reached an understanding on final steps towards mutual recognition of authorised traders, as well as welcoming the progress made with the adoption of a joint work programme in the joint validations of the EU's Authorised Economic Operators (AEO) and US's Customs' Trade Partnership against Terrorism (C-TPAT) programmes. Work towards mutual recognition will continue with implementation by 31 October 2011 dependent on the successful completion of the agreed upon steps. They also agreed to deepen transatlantic cooperation on supply chain security policies.

Furthermore, barriers to trade in services/investment are also an important issue with a major developed market such as the US, so both established barriers such as CIFIUS/FINSA and more recent issues such as unfair taxation on reinsurance transactions, foreign ownership of US airlines and problematic reauthorization of foreign repair stations were addressed regularly in 2010. This was also the case with the Jones Act, which came to the fore once more with the oil spill in the Gulf, when the US's protectionist regulations did not allow EU dredging companies which have the most advanced know-how and technology in this area to play an active role in the clean-up operations.

Another issue of great concern to EU businesses during 2010 was the draft Foreign Manufacturer's Legal Accountability Act, which purported to require foreign manufacturers, of certain products and components imported into the United States, to establish registered agents in the US who would be authorized to accept service of process on the manufacturers' behalf for the purpose of all civil and regulatory actions in state and federal courts. This would have created a major administrative hurdle for our exporters and prevented many from exporting to the US market. Following concerted efforts in raising this issue, both in writing

with relevant Congressmen and orally, together with other dissenting voices from within and outside the US; the legislation was not adopted by the close of the 111th US Congress.

Finally, in the area of standards, the EU is concerned with the position of the U.S. Occupational Health and Safety Agency (OSHA) regarding the conformity assessment for electrical products. Indeed, OSHA does not agree to reciprocity and continues imposing third party testing that penalises importers instead of changing towards the EU system that allows the manufacturer to do the conformity assessment himself. Progress here is not only important for a more balanced EU-U.S. trade system but also pivotal to convince other countries (namely China) which have strong regulatory market barriers to move towards the more liberal EU system.

Canada

Canada was the EU's 10th biggest export market for goods in 2009 accounting for €22.4 billion of exports. Trade relations with Canada during 2010 focused on making progress in the bilateral CETA negotiations as well as addressing the most important trade barriers which had been identified in the key barriers exercise.

For Canada, the list of 8 key barriers (BSE import restrictions, Canada Post monopoly over international mail, compositional cheese standards, Geographical Indications, Intellectual Property Rights, Ontario Green Energy Act, provincial liquor board practices and public procurement) is quite diversified. Given the negotiating context with Canada, it was important to carefully consider which key barriers arose through breaches of existing commitments and which were rather issues which could benefit from discussion in the context of the CETA negotiations. A joint approach of raising the issue in both the bilateral context and in the margins of the CETA negotiations paid off with the removal of Canada Post's monopoly on the provision of international mail services, opening up a market more than 100 million Canadian dollars to EU postal service providers.

Latin America

Mercosur: Brazil and Argentina

Brazil is an emerging economy and following the EU's relaunch of negotiations with Mercosur in May 2010, its trading importance to the EU is likely to increase from its 2009 position as 13th most important EU export market for goods (€21.6 billion). EU exports to Argentina would also be expected to increase substantially from their 2009 level of €4.8 billion.

In line with Brazil's development, it is no surprise that 3 key market access barriers included in the Brazil priority list came from the service sector, covering insurance, maritime transport and telecommunications. This reflects the growing interest for EU service companies in the Brazilian market and the fact that emerging markets have been traditionally slower to open up their services markets.

The list for Brazil also reflects the importance of obstacles in the area of IPR. In this context, it is positive to note that Brazil did accept to have an annual IPR dialogue with the EU and that European companies reported a reduction in the backlog of patent and trademark registration.

Key barriers identified for Argentina included non automatic import licences, export duties, aspects of intellectual property, geographical indications, provision of satellite services and government procurement.

Brazil and Argentina - Trade barriers

The following barriers have been listed in the Trade and Investment Barriers report with regard to Brazil and Argentina.

In **Brazil**, fair access of foreign companies to the growing Brazilian **procurement market**, which is already limited, is becoming even more difficult as a modification of the procurement law allows for a 25% preference margin for local goods and services. This is one of the widest preference margins introduced during the crisis as regards government procurement measures. Although this measure is supposed to be only temporary and to primarily benefit the pharmaceutical and textile sectors, the size (in 2007 it was estimated to be worth around €133 billion) and high potential of the Brazilian public procurement market makes this a significant barrier. Moreover, the new law restricts to national suppliers the procurement of goods and services considered of **national strategic interest**. The new procurement law is already affecting European suppliers in the ICT field that have been excluded from bids to acquire broadband equipment for the State-owned operator Telebrás, which has been reactivated under the National Broadband Programme adopted through a Presidential decree of May 2010.

Regarding both **Brazil and Argentina**, restrictions in **maritime transportation** are of direct concern to EU business. Cargo sharing agreements between certain Mercosur countries limit the opportunities for EU shipping companies to engage in international maritime transportation between certain Mercosur countries, notably between Argentina and Brazil. This constraint is also relevant for EU flagged vessels or other non-Mercosur flagged vessels operated by EU shipping companies that transport cargo between the EU and the two Mercosur countries. (notably Argentina and Brazil). Those vessels are now forced to navigate half empty if they navigate from the EU to Mercosur and download, for instance, half of their cargo in Santos and the rest in Buenos Aires. Under normal international maritime transport practice, the same vessel would be allowed to take Brazilian cargo onboard in Santos with destination Buenos Aires. That would enable the vessel to utilize its capacity more efficiently and thus reduce costs. It is worth stressing that maritime transport between EU countries, say France and Spain, is considered as international maritime transport and open to international competition (the notion of maritime cabotage is limited to transport between two ports of the same Member State, i.e. from one French port to another). The size and growth of intra Mercosur and EU-Mercosur trade flows, and the likely growth in those flows as a consequence of a possible FTA between Mercosur and the EU makes this issue particularly relevant for EU industries and EU/Mercosur trade.

Both **Brazil and Argentina** are also hampering trade through different measures restricting the **export of raw materials**. Products affected include **agricultural products** and also raw hides, skins and "wet-blue". As regards agricultural products, for some products such as soya beans, export taxes in Argentina are as high as 35%. Coupled with burdensome export procedures like "export registries" e.g. for beef and grains, these measures have considerable negative effects for European downstream producers and ultimately consumers. Raw hides

and skins and wet blue, for which Brazil and Argentina are very important global producers constitute a case in point. In Brazil for example they are subject to an ad-valorem export tax of 9%. In Argentina, all exports are horizontally taxed at 5%, for some products (agricultural, hides & skins, oil, natural gas, oil derivatives, minerals, etc.) duties are higher (e.g. soya beans at 35%). The EU leather industry is heavily dependent on supplies from Brazil and Argentina: in 2009 the EU's import from Brazil of bovine raw hides, skins and wet-blue on which there were restrictions were worth €87.0 million (12% of EU's total import) and for Argentina the import of those facing restrictions was worth €81.2 million (10% of EU's total import). The use of export taxes on hides and skins leads to important competitive disadvantages for the EU leather industry as these duties account for a very significant part of leather production costs. It should be noted that in parallel to the introduction of export restrictions, Brazil and Argentina are developing their industries of finished leather goods. Thanks to easy access to the cheap raw materials that are not available to their foreign competitors, these industries have by now become very competitive internationally.

Finally, a very significant trade restriction that **Argentina** has imposed as a response to the financial and economic crisis is the extension of its system of **non-automatic licences** to a wide range of products. Initially focusing on textiles, footwear and toys, the system is being applied more and more to other products such as tyres, iron pipes machinery and mechanical appliances (e.g. elevators, harvesting machinery), base metal and articles of base metal and most recently cars and car parts. The choice to subject products to non-automatic licences appears to respond to considerations of industrial policy and requests of certain local lobbies. There is concern that the scope of the non-automatic licensing system could be extended further. A salient feature of these measures is very often "voluntary" restraints of importers to level their imports with domestic production. In the same logic, the Argentinean government also took measures to restrict imports of certain food products, i.a. by informally encouraging supermarkets not to sell such products any more and by delaying the issuance of so-called "certificates of free circulation".

According to estimates on the basis of the evolution of license-free imports, the licensing requirements, before the recent extension of their product coverage, may have caused potential losses of about €45 million (\$ 67.5 million) to European exporters. The goods that contributed the most to this "lost trade" were toys, textiles and footwear.

Argentina justifies these measures, inter alia, as necessary to monitor imports of certain products on a temporary basis given significant changes in their trade flows. However, the WTO compatibility of this system appears questionable, in particular with GATT Article XI and the WTO Import Licensing Agreement. A number of actions have been undertaken to remedy the situation, including bilateral contacts and by raising the issue in the relevant WTO Committee and the Council – but until now without clear results.

While success stories in Brazil were limited in 2010, implementation of the new draft conformity assessment procedures for toys following the EU's successful intervention at the end of 2009 did not result in renewed complaints from EU industry.

In Argentina, a long-standing market access problem was successfully resolved, as following repeated interventions by the Commission, Argentina dropped its requirements for importers to present an invoice from the original manufacturer and an original certificate of origin for non-EU originating goods exported from the EU to Argentina. The removal of this barrier was

particularly welcomed by the EU clothing industry which suffered considerably from the burdensome requirements.

As part of wider policy to restrict imports, in 2010 Argentina started to delay the issuance of "certificates of free circulation" for food imports. This created serious problems (including stopping of containers and loss of new orders) for imports of European products, inter alia canned peaches, cheese, premium food products, pasta and oil. Following interventions by the EU and other partners, including in the WTO Council for Goods, the situation on the ground has improved considerably but remains subject to close monitoring.

In the telecommunications sector, both Brazil and Argentina have increased state intervention. In Brazil, the National Broadband Programme adopted in May 2010 foresees the possibility that the State-owned company Telebrás will start providing broadband services in competition with private operators, raising concerns of potential distortion of the competition in broadband markets. Moreover, in Brazil and Argentina, telecommunications operators still face regulatory restrictions to provide TV services and commercialize triple play offers. When cable-TV operators offer telecommunication services this restriction leads to an important discrimination and a distortion of competition.

Furthermore, Argentina and Brazil impose a local homologation process for telecommunications products, with the need to realize local technical tests, repeating those already done abroad (e.g. in the EU). Brazil has a bureaucratic, long and expensive certification process for such products, ruled by a resolution from the national telecommunications regulatory authority, ANATEL, including the obligatory printing of the regulator logo, homologation number and barcode in each product. Processes have to start sometimes 6 months before the commercial launch of a product and homologation for products as mobile phones has to be renewed just one year after granted. Some requirements are not completely aligned with international standards and many times a specific product variant is developed to be sold in the country, losing global scale gains. Use of foreign labs is allowed by the Brazilian regulator, but only in very specific situations (almost unusable rule).

Mexico and Chile

Market access to Mexico and Chile benefits from the Free Trade Agreements negotiated with these two countries which entered into force in October 2000 and February 2003 respectively. In terms of trade value, Chile ranks 32nd among EU import partners and 39th among export partners. European imports to Chile have more than doubled since the entry into force of the FTA in 2003. In 2009, EU exports of goods to Chile amounted to €4.5 billion. Mexico ranks 21st among EU trade partners and 18th amongst its export partners. The bilateral stocks and flows of investment are significant. EU exports to Mexico amounted to €15.9 billion in goods (2009) and to €4.8 billion in services (2008).

Nevertheless 10 key barriers were identified for Mexico (e.g. aspects of importation of food products, IPR, customs procedures and labelling and lack of proper implementation of competition measures in the telecommunication sector) while 3 key barriers were identified for Chile (IPR, copyright and certification). These issues are regularly raised in the EU-Mexico Joint Committee and the EU-Chile Association Committee which oversee the respective FTAs.

Europe (non-EU) and Central Asia

Russia

Russia's importance as an export destination grew steadily until mid-2008 when the economic crisis and certain unilateral measures that it took led to a temporary decrease in trade flows. Nevertheless, in 2009 Russia was the EU's 4th largest export market accounting for €65.6 billion (6%) of EU merchandise exports and the EU's 3rd largest trading partner overall (exports and imports). It was also a substantial market for services (€18.2 billion) and had attracted up to 75% of its Foreign Direct Investment from the EU.

Despite its growing importance as an export destination, at the beginning of 2010, there are a large number of significant barriers hindering exports to Russia, a situation which had substantially worsened during the period of the economic crisis when Russia undertook a number of measures of protectionist character.

The establishment of the Russia-Kazakhstan-Belarus Customs Union on 1 January 2010 had a major impact on EU-Russia trade. Despite numerous requests for consultations on new tariff increases, introduced since late 2008 allegedly in response to the economic crisis, Russia continued to introduce these for a large number of goods throughout 2009. By consolidating these higher tariffs within the common external tariff regime since January 2010, Russia effectively extended their application to the whole Customs Union territory. Certain sectors such as automobiles, harvesters and machinery were particularly hard hit. The first months of the functioning of the Common External Tariff also witnessed trade disruptions caused by new non-tariff barriers such as additional licensing requirements. Implementation of the Customs Union, in particular the introduction of a harmonised customs system on 1 July 2010, has created a lot of concerns and uncertainties for EU exporters mainly due to the lack of sufficient information on the expected changes in the customs procedures and certification requirements. Following a formal request of Commissioner de Gucht for a transition period, introduction of the new Customs Union Customs Code has not resulted in similar disruptions to trade. In order to help clarify the practical consequences of the implementation of the Customs Union, in June 2010 DG Trade organised an information seminar for Member States and business with the presence of representatives of the members of Customs Union. In December 2010, the Commission distributed a comprehensive document to Member States and business to guide operators through various practical questions in relation to the Customs Union and a second seminar was held on 18 February 2011.

Given the fact that Russia is still not a WTO member and remains therefore unbound by its legal obligations, most of the key barriers identified have a systemic character and are addressed in specific bilateral dialogues (standardisation and certification, SPS measures, customs, IPR enforcement) and along with other important barriers, through normal diplomatic channels. The EU-Russia Partnership for Modernisation includes a provision to establish a revised trade and investment dialogue, which will offer a new channel for discussion and resolution of trade irritants.

Russia – Trade barriers

The following four barriers have been selected for the Trade and Investment Barriers Report, taking into account that their resolution would substantially improve market access to the Russian market.

One key concern for EU exporters, in particular small enterprises, continues to be the **costly and burdensome customs procedures**, which often result in border delays. Their different elements – arbitrary valuation and resorting to minimum prices, application of higher duty, requirement to abide by outdated Soviet GOST standards and presentation of multiple certificates – continue to pose substantial problems to economic operators. For small businesses wishing to enter the Russian market, these may amount to a prohibitive barrier. Lack of transparency, and frequently arbitrariness in applying customs procedures forces EU operators to resort to local customs brokers, who ensure customs approval against a service fee. Russia's absence to date from the WTO framework, only confirms the extent of the challenge of modernising these procedures. The implementation of the Customs Union between Russia, Kazakhstan and Belarus has exacerbated the problems; in particular the lack of certainty with regard to expected changes in customs procedures has created anxiety among operators

IPR enforcement remains high on the agenda with Russia. Despite a stable legislative regime, numerous problems continue to hinder an effective protection of intellectual property rights in Russia, in particular in terms of law enforcement. Problems exist in particular regarding the mass replication of pirate optical disks, internet piracy, sale and use of counterfeited trademarks in clothes, luxury products, pharmaceuticals, illegal software, music and films. Furthermore, systematic infringements of patents, commercial secrets and know-how in innovative sectors such as pharmaceuticals, chemicals, mechanical engineering and ICT jeopardise the EU's competitiveness. There is also systematic misappropriation of intellectual property rights, in that companies or individuals obtain patents for alleged inventions, or register trademarks that are identical or strikingly similar to the trademarks of foreign companies. The establishment of the Customs Union between Russia, Kazakhstan and Belarus brought a risk of further weakening of enforcement and of diminishing protection of trademarks, linked to the weak IPR regime in Kazakhstan, whose porous borders allow for entry of counterfeited goods and for illegitimate parallel imports from Asian countries, notably China.

Russia's **investment policy**, which aims at protecting and fostering domestic industries, remains another significant concern, as the policies currently applied raise questions of their compatibility with Russia's future WTO TRIMS obligations. Trade related investment measures restricting foreign investment include local content requirements (which require that locally-produced goods be purchased or used), manufacturing requirements (which require the domestic manufacturing of certain components), domestic sales requirements, technology transfer requirements, export performance requirements (which require the export of a specified percentage of production volume), local equity restrictions, licensing requirements, and employment restrictions. These measures are frequently coupled with tailor-made fiscal incentives.

Examples include the investment-related incentive programme in the automotive sector, budget subsidies which are only allocated to purchases of domestic products, and the recent localisation initiative, which is intended to provide incentives for foreign companies to localise production in Russia in a number of sectors, in addition to the car sector, including

electronics and pharmaceuticals. Furthermore, the Russian law on foreign investment in strategic sectors is imposing very low thresholds for ex-ante approval of foreign energy investments in Russia, making EU investment in the upstream Russian energy market very cumbersome.

Last, but not least there are issues related to **sanitary and phytosanitary standards** that **continue** to significantly hinder EU exports to Russia. SPS requirements applied by Russia, in particular regarding controls, inspections and approval procedures go beyond the standards set out by the international standard-setting bodies and are not backed by any scientific justification. In particular with regard to pesticide and antibiotic residues as well as microbiological findings, Russia is still applying overly strict provisions of its domestic law and its reactions often seem disproportionate, e.g. only one finding of antibiotic residues in meat was sufficient to trigger long-lasting suspension measures. Lack of timely information and scientific justification of measures taken creates misunderstandings and compliance problems. Lack of certainty with regard to the norms and procedures in place has recently been increased with the formation of the Customs Union on 1 January 2010. The economic value of exports affected by these barriers is significant: in 2009 EU exports of agricultural products to Russia amounted to almost €7 billion. Russia is thus a primary export market for agricultural goods, and restrictions in this area present a direct risk for companies operating in this sector.

Other non-tariff barriers have more directly been subject of the ongoing negotiations on Russia's accession to the WTO. These comprise export duties on raw materials, SPS requirements and discriminatory railway tariffs. In the context of Russia's accession to the WTO, mutually agreed solutions were found on the remaining EU concerns linked to Russia's WTO accession, notably with regard to export duties (rates for raw wood products and the general export duty commitment) and railway fees.

The EU-Russia bilateral agreement on Russia's accession to the WTO was confirmed by a Memorandum of Understanding that representatives of the Commission and the Russian Government signed at the EU-Russia Summit on 7 December 2010. This represents a substantial step forward in EU-Russia bilateral trade relations and suggests further improvements in market access conditions in 2011.

Against this background, the EU urged Russia to roll back some of the existing protectionist measures and not to introduce WTO inconsistent changes to its investment regime. Both sides confirmed their commitment to engage fully in the ongoing negotiations on trade and investment provisions to be included in the new EU-Russia agreement replacing the existing Partnership and Cooperation Agreement.

However, Russia only committed to harmonise its practices in the area of sanitary and veterinary regulations in line with international standards upon WTO accession and remains reluctant to apply a standstill on the creation of any new market access barriers before formally joining the WTO.

Overall, Russia's WTO accession remains the focus of the EU's trade strategy towards Russia since this is expected to resolve a large number of current market access problems.

Following the above-mentioned agreement reached at the EU-Russia Summit on 7 December 2010, the prospects for Russia completing the final necessary steps and joining WTO by the end of 2011 are good.

In light of the above-mentioned developments, the key barrier list for Russia has been subject to periodic updates; with the May 2010 revision the message on barriers in government procurement and investment as well as tariff increases was strengthened, following Russia's protectionist responses to the crisis.

Turkey

Given Turkey's status as a customs union partner and candidate country for accession to the European Union and as the 5th highest export market for EU exports (€43.8 billion in 2009), Turkey is a very close and important trading partner for the EU.

At the same time, EU companies exporting to Turkey are facing an important number of long-standing trade barriers covering the whole spectrum of non-tariff barriers. Key barriers include unreasonable conformity assessment and registration requirements, costly surveillance measures, deficient IPR enforcement, burdensome and discriminatory tariff quota for processed agricultural products and import licensing requirements for second hand goods, bans on EU exports of bovine meat and live bovine and inappropriate use of safeguards. A number of barriers affect the spirits sector, including customs valuation, burdensome certificates and a ban on certain kind of drinks.

The Customs Union agreement between the EU and Turkey in force since 31 December 1995 provides the framework for the discussion of trade irritants with Turkey on a regular basis in the Customs Union Joint Committee and the Association Committee. Following discussions between Commissioner De Gucht and his Turkish counterpart in June the two parties met twice in October 2010 and January 2011 at the level of Deputy Director General and held comprehensive discussions on persisting trade irritants. However, progress with Turkey on trade barriers so far is very limited.

Ukraine

Exports to Ukraine increased steadily to reach a peak of €25.1 billion in 2008, the year in which Ukraine joined the WTO, but with the subsequent economic crisis, they fell substantially to only €13.9 billion in 2009.

Trade relations with Ukraine are an important aspect of the bilateral relationship under the European Neighborhood Policy. Following Ukraine's accession to the WTO, the EU and Ukraine launched negotiations for an agreement on a deep and comprehensive free trade area (DCFTA), as part of the future Association Agreement.

Several key barriers identified for Ukraine involved problems at customs, including with regard to valuation or customs clearance procedures. Other barriers relate to VAT refunds, IPR enforcement and a "Buy Ukrainian" policy.

Ukraine's failure to respect WTO rules on customs valuation created considerable problems to European companies across various sectors throughout 2010 contributing to the perception of a deteriorating business climate in Ukraine. The issue has been addressed at various levels and

fora, including at the EU-Ukraine Sub-committee on Customs and Cross-border Cooperation and in concerted actions with other countries concerned in the WTO Committee on customs valuation. In view of the scale of the problem, removal of this barrier will remain an important priority for EU trade policy in relation to Ukraine in 2011.

Customs-related and other market access issues in Ukraine such as genetically modified organism (GMO) labeling and SPS rules for drinking water were regularly on the agenda of the Market Access Advisory Committee in 2010. In the area of SPS, a few good success stories can be reported such as the removal of burdensome inspection requirements of EU establishments exporting animals, the lifting of the ban on exports of pigs and pig products due to concerns about the spread of the H1N1 virus and the lifting of the ban on poultry and poultry products from Spain.

Kazakhstan

Trade relations with Kazakhstan, which is currently negotiating its WTO accession, are primarily governed by the EU-Kazakhstan Partnership and Cooperation Agreement, but the creation of the Customs Union between Kazakhstan, Russia and Belarus has significantly changed the context of the trade relationship throughout 2010.

The speedy manner of progressing from setting up a Common External Tariff (with the exception of export duties, which remain harmonized at a national level) to creation of a Single Economic Space, which implies harmonization and coordination of a large number of policies that have direct impact on trade relations has been particularly worrying. Furthermore the enforcement of IP rights and in particular protection against illegal parallel trade activities has been a major concern. Exact scope of this protection remains unconfirmed in legal terms, with different policies pursued by Kazakh customs authorities as opposed to court verdicts in the area. Legal clarity remains to be provided against the growing concerns about the country's capability to deal with parallel trade imports, whose potential negative impact may be felt across the Customs Union territory. Harmonisation of policy content and competence in various areas remains a concern given the short time-span within which these have been discussed, while their effective implementation relies on a number of secondary legislative acts, and on adequate preparation of administration.

Market access concerns also relate to measures undertaken against the objective of economic modernization. While the latter are largely taken from the EU experience, there are indications that the modernization efforts may be accompanied by restrictive policies, i.e. in the area of foreign investment (local content requirements, company cash flow restrictions, etc.); similarly, export restriction measures taken in the course of 2010 continue to pose concern, i.e. reintroduction of export duties on aluminium and on crude oil.

In addition to the 2010 developments, the list of key barriers to trade with Kazakhstan is closely linked to its status as an important supplier of oil and gas. These are often export and investment related. The key barriers list includes export restrictions and export duties and taxes, restrictions on financial and capital repatriation and work permits, as well as local content requirements.

Switzerland

Switzerland's economy is highly internationally integrated and its trade regime for industrial products is generally open, which partially explains why Switzerland despite being the second most important destination for EU exports (€ 88.3 billion) does not present a large number of trade obstacles. In 2009, only 2 trade barriers have been classified as key barriers, i.e. ban on road transport of live animals and discrimination in favor of Swiss Post.

Both of the issues are regularly raised with the Swiss authorities and it should be noted that the transport ban was eventually not adopted into federal law (although remaining as an ordinance) by the Swiss Council of States in December 2010.

The Commission is also following legislation closely in its draft phase such as "Swiss made" and "fur ban" as part of its "early warning" philosophy, to ensure that any problematic elements will be identified and addressed at an early stage, before adoption. In addition, the implementation of the EU-Swiss agreement on the free movement of persons is closely monitored.

Norway

In 2009 the EU exported €37.5 billion worth of goods (3.4% of total EU exports) to Norway making Norway the 6th largest destination for EU exports. It is also an important export destination for EU services.

Despite the importance of the market, barriers to trade are relatively limited. This is probably due, at least in part, to Norway being a member state of the EEA and thus applying the EEA relevant EU acquits in its national legislation and to the close cooperation with the country in many other important policy areas, with the exception of agriculture and fisheries policies.

The barriers included in the Key Barrier list concern respectively customs classification, technical requirements from the wines and spirits monopoly and high tariff levels for processed agricultural products. The Commission will continue to try to resolve these issues bilaterally.

Asia and Oceania

China

In 2010, China is the world's largest exporter, the world's second largest national economy, and now accounts for about 11% of world trade in goods. The EU-China partnership builds on a solid and fast developing economic relationship: bilateral trade amounted to €296 billion in 2009 and the EU continues to be China's main export market⁶, whereas China is Europe's fastest growing export market, ranking second only behind the US⁷. Nevertheless, the absolute level of EU exports remains below the potential that this relationship would justify. The EU runs a deficit with China on trade in goods which amounted to €133 billion in 2009.

⁶ In 2009 the EU imported €215 billion worth of goods from China.

⁷ The EU exported €82 billion worth of goods to China in 2009 and Exports from the EU to China grew by approximately €30 billion between 2005 and 2009. EU exports to China by the end of August 2010 were almost 40% up (year-on-year) amounting € 72,5 billion.

The EU-China trade and investment relationship has become a major source of wealth, jobs, development and innovation for both sides. It is valuable and needs to be nurtured. Joint efforts are being undertaken to seek progress on the protection of intellectual property rights, as well as to look at ways to foster bilateral investment. Investment both ways remains below potential. President Barroso and Premier Wen agreed in April 2010 to set up an investment task force and to explore ways forward towards a bilateral investment agreement. China is the most important destination country for direct investment among developing countries and China's outward investments are growing rapidly. China has accumulated huge foreign reserves, largely due to sustained current account surpluses, and increasingly exports capital in the form of direct investment. 2011 will be an important year where the 12th Five Year Plan will be adopted, thereby setting the priorities for economic and social development for the five years to come. New opportunities will open up for EU investors; but the EU needs to watch carefully that China does not backtrack from current levels of openness and that a level playing field is assured to foreign operators.

Regarding market access, difficulties remain and EU exporters still need a more level playing field in China. This is essential for European business but would also contribute to China's efforts to reach a more balanced model for economic growth. Important market access barriers persist in standardisation and technical regulations - where practices are based on home-grown standards -, services, investment and public procurement, as well as insufficient enforcement of intellectual property rights (IPR) and burdensome certification procedures.

As pointed out by the recent WTO TPR review⁸ and as reflected in the list of 11 key barriers for China, there is a need for the Government to continue reducing regulatory and other barriers to trade, especially technical regulations and standards (including SPS measures) and certification practices, import licensing, customs procedures and export restrictions (notably for raw materials like rare earths, an issue that has come to the fore in 2010). China and foreign suppliers would also benefit from faster liberalisation of China's services industries, such as banking, insurance, telecommunications and postal services, including the lifting of foreign investment restrictions and a more systematic adoption of international standards in these industries. It is also important that China accelerates its accession to the WTO Agreement on Government Procurement, given the increasingly important role that government procurement will play in China's economy. An underlying and growing concern is that China appears to have developed interventionist industrial policy measures aimed at import substitution, forced transfer of technology and the granting of preferential access to raw materials for local producers. This includes industrial subsidies such as preferential loans from state banks, land grants, preferential prices for inputs (energy) and export credits.

The issues above are reflected in the list of key priority barriers for China which was reviewed in 2010 to better reflect the concerns of economic operators and Member States. The list now includes the Investment Catalogue which is under revision and the Indigenous Innovation Scheme. Moreover, the issue of rare earths is now explicitly included and so are the revision of the commercial encryption regulation and the multi-level protection scheme for IT security.

All priority market access issues were raised at the EU-China High Level Economic and Trade Dialogue (HED), the third meeting of which was held on 21 December in Beijing.

⁸ WT/TPR/S/230, 26 April 2010, Trade policy review by the Secretariat - China.

Discussions reaffirmed a strong commitment to open trade and investment as essentials to moving past the economic crisis. Discussions addressed the need to work towards a more balanced trade relationship, including through well-enforced intellectual property rights and strong patent systems. The HED also focused on the untapped investment potential between the two economies and discussions on the way to a bilateral investment agreement continued. On market access issues, some positive indications were given by the Chinese side notably on indigenous innovation, the revision of the investment catalogue and China compulsory certification (CCC). In 2011, the MAS will follow-up on this progress and try to make sure that these positive indications will lead to concrete removal of barriers.

China – Trade barriers

The following barriers selected for the Trade and Investment Barrier Report are illustrative of the systemic problems faced by EU exporters in China.

A major concern is China's systematic resort to measures, such as export duties and quotas, restricting access for producers outside of China to a broad range of key **raw materials**. In 2009 these restrictions affected EU imports of raw materials from China worth around €1.2 billion, accounting for 6% of EU's total import of these goods. 59% of the Chinese import affected by these measures was industrial raw materials. These restrictions are particularly problematic, where no alternative source of supply or no substitution raw material is readily available.

Although the raw materials issue is wider, the **rare earths** crisis is a striking illustration of the problem. Regarding rare earths, China has a de facto monopoly in the supply, since it satisfies 97% of world demand. The barriers in place in China concerning rare earths affected 62% of the EU's total import of these types of rare earths in 2009.⁹ Since 2000, China applies production caps to regulate the supply of rare earths and has instated an export quota system, including discriminatory rules for the attribution of licences. In addition, as from 2007, China collects an export duty on rare earths which today amounts to 15-25% depending on the rare earth element. Since 2008, export quotas have been falling behind world demand. In June 2010, the Chinese authorities have dramatically reduced the export quota for the second semester of 2010 (compared with the second semester in 2009 by 66% for domestic companies and by 83% for foreign invested companies). The decrease in China's rare earth export quotas has resulted in significant market shortages outside of China and steep price increases on the global market, with considerable impact on non-Chinese production costs of rare earth-based applications. Prices of rare earths have increased by up to 500% on the global market and are foreseen to increase even further as a result of the latest reduction in export quotas. The Chinese measures have thus created an anti-competitive price gap between prices on the global market and prices on the Chinese market.

In spite of the firm line, prompt reaction and great concerns expressed by the EU at the bilateral level as well as in the G20 of November 2010, the situation does not seem to improve as it seems that the quota will again be reduced by 35% in the first semester of 2011 (year on year with 2010). The anti-competitive effects of the price gap between China and the global market are extremely worrying as the EU industry uses rare earth in an increasingly wide range of downstream applications and for technology-intensive sectors, the main uses being catalysts, phosphorus-based lamps, strong permanent magnets (used e.g. in electric cars

⁹ Defining rare earths as rare earth metals, scandium and yttrium (HS 280530), cerium compounds (HS 284610), and compounds of rare-earth metals (HS 284690)

or wind turbines), high-tech glass and ceramics. The stakes for the European economy are therefore high.

A key concern with regard to **public procurement** as well as **intellectual property** is the “**indigenous innovation**” policy aimed at supporting Chinese firms moving up the value chain. The indigenous innovation scheme first announced in November 2009 severely hampers access to the Chinese procurement market in a wide number of innovative sectors from green technology to telecommunication by setting up the condition that foreign companies need to register their IPR in China to be eligible. In addition to requirements on the Chinese origins of IPR, applicants would have to disclose information related to innovation and IPR exceeding by far standard demands for the eligibility to government schemes. This would have entailed very serious problem for European companies operating in China. Following repeated strong international reactions, including from the EU and the US, a new draft posted in April 2010 for public comments positively removed many of the above-mentioned requirements. However, several other IPR related provisions remain unclear or problematic.

At the High Level Economic and Trade Dialogue in December 2010, however, the Chinese government has given reassurances that it will not treat products and services differently based on where patents are registered, or adopt or maintain measures that make the origin of development or ownership of intellectual property a condition for government procurement preferences. The Commission welcomed this announcement but will closely monitor the implementation of the measures, including at provincial level, in order to establish a level-playing field between domestic, foreign-invested companies established in China, and foreign companies.

More generally, the Chinese procurement framework remains incomplete and not transparent. Major reforms are needed to ensure compliance with international standards and a predictable environment for bidders. China's accession to the GPA is instrumental to reach these goals.

In the **broader area of IPR**, access to the Chinese IPR enforcement system remains difficult for foreign businesses in particular those operating in creative and innovative sectors. They are disadvantaged with stricter formality requirements applying to them. In particular, the legalisation and notarisation requirements for Power of Attorney and evidence coming from abroad are burdensome and costly and prevent foreign operators from defending their rights before the courts and administrative authorities in an effective manner. Moreover, interim injunctions are difficult to obtain in practice and the damages awarded by the courts remain often too low.

Regarding **investment**, current flows show a vast untapped potential. European companies invested €5.3 billion in China in 2009 (up from €4.7 billion in 2008) whereas China invested €0.3 billion in 2009 (compared to a net disinvestment of €1.8 billion in Europe in 2008). This is respectively less than 3% and 1% of both sides' total investment outflow. However, the current investment climate in China is hampered by a lack of transparency and predictability. China has been pursuing **unpredictable and discriminatory investment policies** aiming at controlling the origin of foreign capital moving into the country and ensuring maximum benefit for local companies through technology and know-how transfers. Through the so-called 'investment catalogue' coupled with specific legislation, China is encouraging investments into the sectors where the government sees benefits, while at the same time restricting or prohibiting investments to sectors reserved to Chinese industry. Restricted

sectors include banking, insurance, telecommunication and construction services. The investment catalogue is currently under revision and the Commission will try to make sure that market access will be improved in key sectors. In addition to the investment catalogue, Chinese regulations in the power sector (concerning qualification requirements, restricted access to concession projects and assembling requirements) prevent EU energy companies from full access to the Chinese market, especially in the renewable energy sector. This has affected in particular the EU wind power industry wanting to invest in China.

Furthermore, China is increasingly imposing 'home-grown' **standards and certification requirements**, which very often collide with international standards and practices, therefore putting foreign businesses at a disadvantage. A very significant example is the information and communication technology (ICT) sector, where the overall complexity and lack of transparency of China's regulatory and conformity assessment practices contribute to an increasingly unpredictable business environment and serious market access problems for foreign and foreign-invested companies. In particular, the OSCCA (Office of State Commercial Cryptography Administration) regulation on commercial encryption leads to an overly restrictive approach, being applied in a discriminatory manner and containing requirements to disclose extremely sensitive IPR-protected proprietary information (e.g. source codes) as part of the certification process, which would be unacceptable for economic operators as they would be putting their IPRs, as well as the security of their products at risk. The regulation is currently under revision. In the latest HED, China gave positive signals as to taking account of concerns coming from the EU and foreign companies. Nevertheless, China is in the process of implementing new technical legislation, notably the Multi-Level Protection Scheme for IT security systems and related products, which contains discriminatory clauses. The Commission will continue keeping a strong line on these issues and closely monitor ongoing legislative developments.

Japan

Japan is the EU's 7th biggest export market, accounting for €36 billion of exports and €56.7 billion of imports in 2009. As a highly developed economy and major global trader and investor, Japan is an important partner for the EU with enormous trade opportunities. However, over the period 2005-2009, EU exports in goods to Japan declined by – 6.1% on average by year. On the contrary, total EU exports during the same period grew by an annual average of 0.7%. The fact that the Japanese trade surplus has remained high is a reflection in part of continuing market access problems for foreign firms in Japan: while tariffs in Japan are generally low, regulatory obstacles to trade in goods, services, investment and public procurement remain high.

At the 19th Japan-EU Summit in Tokyo on 28 April 2010 leaders stressed that Japan and the EU – as like-minded global partners and major economies – should systematically aim to work more closely together, both bilaterally and globally. To this end, they have mandated the High-Level Group (HLG) to identify options for the comprehensive strengthening of all aspects of Japan-EU relations by the next summit. On trade and economic aspects, the High Level Group is tasked with examining ways to further integrate the two economies by addressing all trade issues of interest to both sides including tariff and non-tariff measures, services and investment, intellectual property and public procurement. The HLG already met on three occasions (16 July, 13 September, 15 December) and must present options for the

further strengthening of Japan EU political and economic relations by the time of the next Summit in the spring of 2011.

Three categories of issues have been reviewed by the HLG.

- Paragraph 34 issues: in accordance with its mandate, the HLG has continued to address the few specific non tariff issues under paragraph 34 of the EU Japan Summit of 2009. Discussions on the four Japanese non-tariff measures identified, which concerned safety devices on automobiles, transparency in public procurement, wood construction and medical devices standards were finally completed albeit with mixed results.. The Commission will monitor the implementation of these results in the coming months in the context of the HLG.

- List of trade issues subject to the HLG review: a common list of issues to be addressed was prepared in the context of the HLG (see table compiling the list of issues m.d 431/10). Overall, discussions have been constructive allowing for an understanding of each other's preliminary positions. These issues include trade in goods, services, intellectual property rights, public procurement and investment.

- Discussions to address Non Tariff Measures (NTMs) and regulatory issues: the work carried out so far has allowed the HLG to discuss categories of regulatory barriers that the parties are facing and the means to address them (transparency, stricter adherence to international standards, better recognition of conformity assessment procedures, etc.). For that purpose, the EU circulated an illustrative list of 28 NTMs and an inventory of barriers to the Japanese public procurement market. .

Japan – Trade barriers

The following three important barriers listed in the Trade and Investment Barriers Report are typical of difficulties faced by EU exporters in Japan and provide good test-cases.

A first example relates to the major barriers EU business faces on the Japanese **procurement market** - despite the fact that Japan is a party to the WTO GPA. However, Japan has committed to open to GPA partners (and therefore EU businesses) public procurement markets worth just some €22 billion. In 2007 this represented only 4% of Japan total public procurement markets or 0.7% of its GDP. In contrast, Japanese companies had access to EU public procurement markets that were worth €312 billion (or 2.5% of the EU GDP). This problem is exemplified by, inter alia, restrictions to access contracts awarded by railway and urban transport operators, excessive thresholds for public contracts for construction works, and lack of exhaustive coverage of local contracting authorities. For railways and urban transport operators, excessive use of the so-called "operational safety clause" (OSC) excludes most if not all public contracts for rolling stock from the GPA on "safety" grounds – hence far beyond the original objective of the clause.

Regarding the **financial services** sector, European insurance industry operating in Japan has continuously voiced major concerns over the preferential treatment of Japan Post by the Japanese regulator. The new legislation regarding the privatisation of Japan Post would discriminate even further against foreign insurance companies instead of levelling the playing field vis-à-vis private Japanese and foreign operators. The state-owned corporation offering postal, banking and insurance services through its post offices and which receives favourable treatment by the regulatory authorities is the largest provider of retail finance and insurance in Japan. The main problems with the Postal reform bill are (i) the structure of Japan Post where the groups' different branches of activities will be formally merged (making cross-subsidisation more easy); (ii) the doubling of the deposit cap to 20 Mio yens for deposits at

Japan Post Bank, and raised to 25 Mio yens as regards insurance coverage at Japan Post Insurance (increasing the attractiveness of Japan Post for consumers); (iii) the facilitation for Japan Post insurance to introduce new products that are currently supplied by private competitors (ending a gentlemen's agreement to not altering the product range as long as there is no level playing field).

Finally, the introduction of new **medical devices** in the Japanese market still remains difficult as Japan's regulatory framework does not fully comply with international standards. The delay in providing access to medical devices in Japan, compared with access to the same devices in the EU and the US, is referred to as the 'device lag', which is mainly due to insufficient recognition of international standards and lengthy approval process. Only half of medical devices on the EU and US markets are available in Japan. Continuous dialogue with Japan seems to have led to some positive developments.

India

India is the EU's 8th export market. With a growth rate of between 8 and 10% per year it is one of the fastest growing economies in the world. Per capita income more than doubled during the period 1990-2005. In parallel, in just four years EU-India trade has increased by 31% to over €53 billion in 2009¹⁰ and EU investment to India has more than quadrupled since 2003 to €3.1 billion in 2009.

The negotiation of an EU-India Free Trade Agreement topped the trade policy agenda with India in 2010 while in parallel market access issues continued to be addressed regularly. The key barrier list for India was the first one to be established under the renewed Market Access Strategy in early 2009 and is currently being revised. Key issues on the 2009 list included: discriminatory taxation and other non-fiscal measures on wines and spirits, where pressure exerted by four rounds of dispute settlement consultations helped improve market access; import licences and fees for a variety of products (among which tyres and some steel products); new mandatory standards for tyres; restrictions on postal and courier services as well as different restrictions regarding specific sanitary; and phytosanitary standards going beyond international standards such as OIE (World Organization for Animal Health) .

Multiple efforts and continued discussions in the framework of our bilateral dialogues with India on market access issues contributed to the progress made on some of these trade barriers. For example, with respect to sanitary and phytosanitary issues, one of the longstanding barriers related to India's import conditions for horses was removed in 2010. In addition import licensing requirements for iron and steel as well as tyres were removed. Last, but not least, the implementation of the mandatory standards and certification regime for tyres was postponed already twice and will not enter into force before May 2011. However, serious concerns regarding the implementation of this law remain and will have to continue being addressed assertively.

With regard to intellectual property rights, some improvement in the IPR enforcement infrastructure has been reported. However there are still significant concerns about India's response to counterfeiting and piracy. In particular, problems exist with regard to widespread counterfeited medicines as well as film, music, book and internet piracy. There seems to be a need for legislation to combat massive illegal optical disc production and distribution. The

¹⁰ EU goods exports in 2009 were € 27.5 billion and corresponding EU imports from India were €25.3 billion.

judicial system is continually reported as being slow and with comparatively low (deterrent) penalties. Furthermore, in the area of procurement, the Indian legislative framework remains incomplete. Major reforms are needed to ensure compliance with international standards and a predictable environment for bidders.

India – Trade barriers

A number of significant trade irritants affecting EU companies doing business in India still have to be resolved, either within the context of the FTA negotiations or independently. The following barriers have been included in the Trade and Investment Barriers Report.

Burdensome licensing requirements regarding new security provisions regulating the commercial procurement of **telecommunications equipment** as proposed by the Indian Ministry for Communications and Information Technology would affect, if fully implemented, the access of European operators to the commercial procurement of telecommunications. The provisions stipulate prior security clearance and technology transfer requirements, as well as an obligation to substitute Indian engineers to foreign ones. In addition, a later amendment to the Universal Access Service Licence Agreement imposes further internationally unprecedented requirements, such as the escrow of source code and sensitive design information, as well as very high liability in terms of penal provisions. These requirements, which are unprecedented internationally, are likely to be commercial deterrents for global ICT companies that exercise great care in protecting such sensitive proprietary information which is at the core of their business. It seems that as a result of these recent moves, EU industry has postponed investment in India. In 2009 the EU exported telecommunications equipment worth €1 billion to India.

Following foreign interventions including by the EU, the policy is currently being reviewed and consultations were undertaken with operators. Furthermore, this issue was raised at the EU-India Summit on 10 December 2010 where India gave signals that a non-discriminatory solution would be found based on international best practice and reconciling commercial and security interests. High level meetings conducted by the Head of the EU Delegation in India continue to follow-up on these positive developments. In the meantime, the earlier security vetting regime (based on self-certificates) can be operated in parallel, and telecom service providers remain free to adopt either option.

Another very topical trade issue concerns India's recent measures **restricting the exports of raw cotton** (cotton waste, carded/combed cotton) and cotton yarn. Restrictions introduced consecutively include an export duty, export contract registration obligations with export licences and export quotas. For raw cotton and cotton yarn an export quota is applied for the 2010/2011 season, being 5,5 million bales for raw cotton and 720 million kilograms for cotton yarn. Raw cotton and cotton yarn can be exported only against a valid Export Authorisation Registration Certificate ("EARC"). Being the second largest cotton producer in the world (20% of global production) and the only global net exporter of cotton, India's policy has a significant impact on global cotton prices, aggravating the global upward price spiral linked to different factors, such as buying policy by 3rd countries, bad harvests due to natural disasters and speculation. Industry is therefore facing very high prices and a shortage in supply, as India is the EU's main import source for cotton products. Although EU's total import of these cotton products have experienced a decline of 48% over a five year period, recent measures on these goods are important since 23% of EU's import of these types of cotton products came from India in 2009. Despite having raised this issue with India several times, export

restrictions remain in place. India has signalled at the beginning of 2011 that it aims to ensure that export restrictions will not be trade restrictive by setting quotas levels equal to past exports.

Furthermore, India's **unpredictable and discriminatory investment** policies continue to hinder foreign investments. A series of measures has been adopted to control the origin of foreign capital moving in the country and ensuring maximum benefit for local companies through technology and know-how transfers. These include regulations ("press notes") on industrial policy, prohibition in a listed number of sectors and discriminatory economic needs tests like approval systems, as well as joint-venture requirements with minority equity caps. The latter applies to FDI for sectors with small scale production as well as sectors chosen for protecting local industry from competition, such as banking, insurance and telecommunication.

Finally, **SPS import requirements** going significantly beyond international standards without scientific justification hinder various EU exports, like bovine semen/embryos or pig meat (including uncooked pig meat), pig meat products and derivatives. Indian veterinary requirements for pig meat require that those are cooked at a temperature of 70 degrees, for at least 30 minutes prior to imports. Also, in its veterinary certificates, India does not recognise curing processes for pig meat. As a result, the potentially important Indian market is practically closed to premium EU pig meat products (both unprocessed and cured/smoked products). Furthermore, for poultry, poultry products and pig meat, India applies import restrictions to countries with Low Pathogenic Avian Influenza, affecting live poultry, poultry products and live pig. Such restrictions are in contradiction with World Animal Health Organisation ("OIE") rules. For vegetables, pulses, fruits, flower bulbs, timber and speciality wood burdensome import requirements result from the Plant Quarantine Order 2003 which sets out a list of fruits and vegetables that have to undergo a Pest Risk Analysis ("PRA") before import into India, for which the process is not very clear, lengthy and bureaucratic.

South Korea

South Korea is the EU's 8th trading partner, accounting for EU goods exports of €21.6 billion and imports from Korea of €32.2 billion.

Its importance as a key trading partner in Asia will increase after the entry into force of the EU-Korea Free Trade Agreement foreseen for 1 July 2011, which is the EU's most far-reaching FTA. With the entry into force, this Agreement which is the most far-reaching of all EU Free Trade Agreements, will be the main tool through which to address many of non-tariff barriers which are currently preventing EU exporters to tap the potential of the Korean market. Monitoring the implementation of the FTA will therefore be one of the EU's priorities for 2011.

A number of specific barriers in Korea featured prominently in 2010. Preventive action by the Commission resulted in a positive outcome for EU companies as regards new CO2 and fuel economy standards for cars and electromagnetic compatibility certification requirements (mainly relevant for machine tools). In addition, problems continue in terms of recognition of international standards for electronics and telecommunication equipments. In the area of services, new restrictions for the opening of "super super markets" in Korea were slightly alleviated, but could not be prevented completely.

The agro-food sector is the sector with the most problems for EU exporters in Korea. A wide range of SPS problems ranging from BSE related import bans of beef to approval of European meat establishments hinders the access of European products to the Korean market. Some progress was achieved in this area with the lifting of Korea's ban on French Emmental cheese and the prospect of some streamlining of its organic certification procedures to allow for the recognition of certification systems from other countries.

Taiwan

Taiwan is the EU's 13th import partner and its 26th export partner. EU-Taiwan trade volume is €27 billion. While it was balanced for most of the 1990s, the EU has now a chronic trade deficit with Taiwan (€13 billion in 2008 and €7.8 billion in 2009, corresponding to EU exports of €10 billion and EU imports of €17.8 billion).

EU's bilateral trade concerns with Taiwan are in the automotive sector, pharmaceuticals, SPS, IPR, and in public procurement. More recent market concerns include rice wine, where Taiwan has reduced the tax on rice wine and EU industry is worried about the impact of this move on its market share. The case is under examination following high level consultations in November.

Since 2007 experts discussions on bilateral market access issues take place in four sectoral working groups (on IPR, pharmaceuticals, automotive and SPS issues) with good progress and cooperation on IPR and, to a certain extent, on automotives and SPS.

ASEAN

Already before the crisis, the EU was ASEAN's second largest trade partner in the region after China accounting for around 11.2% of the trade of the region; whereas ASEAN as an entity represents the EU's 5th largest trading partner accounting to €118 billion trade (exports and imports).

Indonesia, Malaysia, the Philippines, Singapore, Thailand and Vietnam are fast growing economies which recovered more quickly than others from the financial and economic crisis struck in 2008. The importance of ASEAN countries as the EU's trading partners is therefore bound to increase

After deciding to keep on hold the regional approach for bilateral trade liberalization, the EU and Singapore launched negotiations for a bilateral Free Trade Agreement in March 2010. FTA negotiations were also launched with Malaysia in October 2010, while the EU and Vietnam are currently working towards a formal launch of negotiations.

Free Trade Agreements are important to let the EU benefit from the growth potential of these fast growing markets in the medium-to long term and will also contribute to solving the most systemic trade barriers (e.g. government procurement and IPR). Nevertheless, in order to fully benefit from a fast-increasing demand and improving wealth conditions in those markets also in the shorter term, it is important to keep the attention high on the many market access issues that still persist.

It is in this wider context that the key barrier exercise has produced lists of key barriers for Indonesia, Malaysia, Thailand, Vietnam, the Philippines and Singapore, which in total makes

40 priority barriers for the whole region. SPS issues figure as a prominent barrier that is common to all ASEANs, since their sanitary standards are typically not in line with the international ones and key provisions such as the regionalization principle are often not recognized.

Nevertheless, in 2010 the EU was able to achieve progress on a number of significant SPS issues affecting EU exporters. Indonesia and Thailand lifted import restrictions on pork products; the Philippines re-opened their markets to beef products from the EU by progressively lifting the BSE-related ban on individual Member States; Malaysia lifted cumbersome testing requirements on EU cheese as well as a BSE-related ban on EU beef.

Important successes were also achieved in other fields: Indonesia for instance lifted a de facto import ban on pharmaceuticals, by repealing decree 45/2010 introducing the prohibition for one legal entity to either import products for distribution and sale or goods to be used as production input. Indonesia also amended its overly strict and compulsory halal requirement: the prohibition of the marketing of un-halal food, medicines and cosmetics was replaced by a labeling requirement thus putting an end to a de facto import ban. As for Decree 56/2008 on import licensing and import controls, it was made sure that EU companies got exempted from the overly strict requirements. This exemption was kept Decree 57/2010, which prolongs Decree 56/2008 for two years.

In 2010, good progress was registered in Indonesia also in terms of process: following the Trade and Investment Working Group of March 2010, several sectoral working groups have been created¹¹ and these have been instrumental in solving market access issues¹². In 2011, these working groups will be further reinforced and new ones will be created in an attempt to cover all major market access barriers.

As for Thailand, the MAS focused on the several market access issues in the wines and spirits sector: Thailand applies discriminatory excise duties and is at the same time reviewing its internal tax system. The EU is trying to make sure that the discriminatory elements of taxation are eliminated without at the same time raising the level of duties. The other two key issues in the wines and spirits sectors are the application of discriminatory licensing fees and pictorial health warning: as for the latter issue, the EU constantly raised its concerns on the proportionality of the measures in the WTO Committee on Technical Barriers to Trade.

The EU also took action on the new licensing procedures that entered into force in Vietnam in July 2010. These procedures seem to have restrictive effects on trade and were therefore raised in the WTO Import Licensing Committee in October 2010.

In 2011, efforts will be reinforced in order to tackle priority barriers in ASEAN countries, ranging from standards, burdensome customs procedures and investment restrictions in Indonesia, investment restrictions in Thailand and price control and licensing issues in Vietnam. Particular attention will be dedicated to issues in the wines and spirits sector in

¹¹ Working groups were created for pharmaceuticals and cosmetics, investment (horizontal), SPS. In 2011, a new group on industry and environment will be set up, where standards issues, such as the membership to UN/ECE 1958 Agreement on automotives and Indonesian SNI standards, will also be discussed. The SPS working group will be extended so as to cover food and beverages issues.

¹² The pharmaceuticals and cosmetics working group has e.g. been key in settling the import ban on pharmaceuticals deriving from the interaction between Decrees 1010 and 45.

Thailand with the creation of a specific case-handling team involving all interested Commission's services. SPS issues will also continue being a priority across the board.

Australia and New Zealand

The EU exported €21.8 billion of goods to Australia in 2009, ranking Australia as the EU's 11th most important export destination. EU services exports to Australia and foreign direct investment flows to Australia are also important totaling €12.3 billion and €12.8 billion respectively in 2008 (latest figures available). In contrast exports to New Zealand were relatively low at only €2.2 billion in 2009.

The EU products mostly exported to Australia comprise pharmaceuticals, motor vehicles, machinery and telecoms equipment but most of the barriers (in fact 6 out of 9 key barriers) are in the agriculture and food sectors, presumably reflecting Australia's domestic availability of agricultural produce. Other barriers relate to ineffective legislation against counterfeit products, lack of access to government procurement and a luxury car tax on motor vehicles.

Barriers with New Zealand reflected a similar pattern with all 4 key barriers affecting the agro-food sector.

Although not included in the key barriers, a de facto ban on raw milk product imports to New Zealand was successfully addressed in 2010.

Africa

South Africa

South Africa is the EU's largest trading partner in Africa and 14th trading partner overall, accounting for EU goods exports of €16.1 billion and imports of €14.9 billion.

South Africa's trade relations and development co-operation with the European Union (EU) are governed by the Trade, Development and Co-operation Agreement (TDCA).

There was limited progress in 2010 towards the resolution of the three trade barriers included in the key barriers list for South Africa, i.e. tariffs for certain products, import requirements for pork products, public procurement.

Nigeria

Nigeria is the EU's 28th largest overseas market and its 2nd largest market for goods in Sub-Saharan Africa. EU goods exports to Nigeria amounted to €9.1 billion in 2009, with corresponding EU imports from Nigeria standing at €10.4 billion.

EU companies face a number of trade barriers which prevent them from fully tapping into this significant African market. Nigeria applies an extensive list of import bans – the list has been reduced over the last few years, but still covers 22 product groups including pharmaceuticals, detergents and cement among others. 2010 also saw a more systematic application of the 'special levies' of 5-100% on top of the regular tariff on a variety of products announced in mid-2009.

In addition, Nigeria imposes complex registration procedures for foodstuffs, drugs, machinery and electronic equipment as well as burdensome customs procedures. A Local Content Act of April 2010 could pose barriers to investment and is expected to be further clarified in the course of 2011.

Comparatively little progress was made in 2010 to remove these barriers, although four import bans were lifted in November (furniture, toothpicks, cassava and all textile materials). The continuous negotiations towards an Economic Partnership Agreement (EPA) with West Africa – including Nigeria – take on a number of these issues with the prospect of providing a more formal framework for addressing trade barriers in the future.

Mediterranean

Algeria

Algeria is among the biggest EU trading partners in the Mediterranean region. EU-Algeria total trade was €32 billion in 2009 with EU good exports at €14.7 billion and imports totalling €17.3 billion. As all the other Mediterranean countries, Algeria has an Association Agreement with the EU covering essentially trade in goods complemented with a number of additional negotiations to open up additional agricultural trade, liberalise trade in services and investment, as well as establish bilateral dispute settlement mechanisms for trade matters.

Trade relations with Algeria remained difficult in 2010, as the country is currently implementing a policy package to address the deterioration of Algeria's balance of payments and to promote the interests of local businesses at the expense of their international counterparts. This is also reflected in Algeria's request for changes to its applied tariff with the EU under the Association Agreement. Moreover, Algeria has decided unilaterally to forgo its obligation in the framework of the Association Agreement to further dismantle its tariffs with the EU on 1 September.

This request follows a set of restrictive and protectionist measures adopted by Algeria since end of 2008 and aggravated in 2010 for foreign direct investment and import procedures which affect also the operation of shipping companies. The Commission has recurrently emphasized that these measures are in breach of Association Agreement and conveyed to the government the great concern among EU investors.

Egypt

Egypt has an Association Agreement with the EU and is an important trading partner in the region with a trade volume of €18.7 billion in 2009. EU exports reached €12.6 billion and corresponding imports from Egypt were €6.1 billion.

In 2010, the EU achieved some progress on existing barriers to trade. Following joint efforts by the Commission and EU industry, Egypt amended in 2010 its standard for energy saving lamps and removed strict labeling requirements on imports of textile products. Egypt also removed a burdensome requirement related to the treatment of cotton imported to the country which had resulted in a de facto ban on imports from the EU.

Morocco

EU-Morocco trade is governed by the Association Agreement and is growing fast. Between 1995 and 2008, trade volumes grew by over 80% amounting to €18.4 billion (EU exports: €11.9 billion, EU imports: € 6 billion).

Export bans on hides and skins and customs duties for used products are among the main trade barriers which the EU is addressing with Morocco.

Israel

The EU and Israel maintain a strong trading partnership in the context of the Association Agreement. Israel is one of the most dynamic economic partners of the EU in the region, with total trade amounting to approximately €20.2 billion in 2009 (EU exports were €11.4 billion and imports from Israel were €8.8 billion).

2010 has seen significant progress with regard to the main barriers faced by EU exporters. Israel's accession process to the OECD provided considerable leverage with regard to the EU's two main market access barriers (IPR issues and taxation of alcoholic spirits), while substantial progress was made on sanitary and phytosanitary issues (BSE import restrictions, prohibition of lanolin and animal vaccines).

Progress was also made on the free movement of goods and technical regulations with the signature of an Agreement on Conformity Assessment and Acceptance of Industrial Products on Good Manufacturing Practice (GMP) for pharmaceutical products in May.

The EU actively monitors trade defence activities carried out by the Israeli authorities and has observed a significant increase in the number of anti-dumping investigations against EU in 2009/2010. With six ongoing trade defence investigations, Israel has become an important user of TDI against the EU.

Tunisia

Tunisia has an Association Agreement with the EU and is one of the most advanced countries amongst Southern Mediterranean partners, particularly as regards trade and economic issues. Total trade reached €16.8 billion in 2009 (EU exports were €9 billion and imports from Tunisia were €7.8 billion).

The main market access barriers for European companies with Tunisia are non-transparent import procedures for alcoholic beverages.

3.2. Containing protectionist tendencies in trade policy

2010 has seen the much-awaited start of the economic recovery in many countries, which resulted in increased GDP growth and increased trade flows across the world. The pace of recovery, just like the impact of the crisis on the real economy, has not been felt in the same way in different regions of the world though. It is now clear that the emerging economies are growing at a much faster rate than developed economies¹³, many of which additionally are

¹³ IMF growth projections estimate 4.8% for 2010 and 4.2% in 2011 globally with projected 2.2% for developed and 6.4% for developing economies. See WTO, *Overview of developments in the*

facing significant budgetary instability and still uncertain levels of consumer demand. These trends were reflected also in trade flows, where the recovery was much stronger in emerging economies, as opposed to the OECD area¹⁴.

While trade contributed to the exit from the crisis, and countries have largely refrained from pursuing beggar-thy-neighbour policies, new trade restrictions introduced since end 2008, despite some restraint, covered 1.9% of total world imports¹⁵. Furthermore, the EU has been affected by measures introduced by trade partners to a greater extent than the world average¹⁶, largely, but not only, due to the policy of tariff increases adopted by Russia¹⁷. The Commission undertook a number of efforts to address these developments.

In 2010, the Commission continued the monitoring efforts launched in early 2009 aimed at analysing the impact of trade restrictions introduced by trade partners in the crisis context. These were evaluated against the two-fold anti-protectionism commitment made by G20 leaders initially at the G20 Washington summit in autumn 2008 and subsequently reiterated throughout 2009 and 2010, i.e. not to introduce new trade-restrictive measures and remove those already taken (G20 standstill and roll-back commitments). Close cooperation with the EU Delegations in third countries, as well as feedback from Member States and business operators on the felt impact on the ground provided wide information on the nature and scope of the new measures.

The two public reports published in 2010¹⁸ confirmed the trends identified in the course of 2009. However, they also revealed a number of other tendencies, which, despite the crisis' gradual retreat, constitute overall a worrisome development for the global trade regime.

The introduction of new measures with a potentially trade restrictive character and negative consequences for EU trade - albeit overall moderate - has continued throughout 2010. The reports for the period between November 2009 and September 2010 identified 139 new measures with a potentially negative effect on trade.

Conclusions of the reports point to the need to maintain a focus on policy developments in emerging countries, since these were among the most active users of potentially harmful measures, among them Russia, Argentina, Indonesia and China. In particular, systemic features of these measures and their potential snow-ball effect have caused serious concerns: Russia's tariff increases, consolidated in the Customs Union framework, Argentina's widespread use of reference pricing and non-automatic licensing system or a flurry of 'buy national' measures. Equally worrying is the increasing resort to export restrictions on raw materials with significant consequences for the import-dependent EU industry, very often in high-tech sectors.

international trading environment, Annual report by the Director-General, WT/TPR/OV/13, 24 November 2010, p.4.

¹⁴ 11.5% growth in merchandise trade in 2010 forecast for developed and 16.5% for developing economies. See: *idem*.

¹⁵ *idem*, p.3.

¹⁶ In 2009 EU export volumes diminished by 15.6% and imports by 14%. See: Commission Staff Working Paper, *Trade as a driver of prosperity*, SEC(2010) 1269, October 2010, p.20.

¹⁷ DG Trade, *Sixth report on potentially trade restrictive measures adopted in the context of the economic crisis*, May 2010; DG Trade, *Seventh report on potentially trade restrictive measures adopted in the context of the economic crisis*, October 2010. Compare also the 2009 reports available at: <http://ec.europa.eu/trade/creating-opportunities/trade-topics/market-access/>.

¹⁸ See *supra*.

In addition to the above, in 2010 a new trend in trade policy was noted, i.e. the adoption of potentially TRIMS-incompatible investment policy measures (Russia, Algeria). These often fell in the scope of wider industrial policy initiatives, which in turn often formed part of wider stimulus packages aiming at economic recovery (South Africa, Kazakhstan). Their impact on trade remains therefore to be assessed.

On a sectoral basis, steel, automotives, textiles and clothing as well as agri-food sectors remained the main targets of restrictions in 2010.

The above-mentioned measures were subject of increased efforts aiming at their removal, given that most of them remained in place throughout 2010. Consequently and in view of their potentially trade-distortive effect, many measures have been included in the relevant key barriers list and addressed as a matter of priority, in appropriate bi- or multilateral fora. Notably, the dialogue on Russia's accession to the WTO has provided an opportunity to address the question of import tariff increases, consolidated in the Common External Tariff of the Customs Union. Russia has recently accelerated its WTO accession process and intends to complete it in 2011 which would result in such increased duties falling back to the lower levels negotiated with WTO members. Argentina's reference price and import licensing regime were tackled both in the framework of bilateral trade dialogue and in the WTO (Import Licensing Committee, Council for Trade in Goods), along numerous oral and written demarches on the issue. Whereas progress on this latter issue remains to be achieved, there have been some positive developments with regard to Indonesia's measures, following active involvement of the EU Delegation in Jakarta.

Export restrictions and 'buy national' measures are currently at the forefront of EU's concerns and thus subject to intensified efforts. As regards export restrictions, they are discussed in the bilateral dialogues (i.e. Turkey's registration system on exports of scrap copper or India's cotton export restrictions), or subject to negotiations of free trade agreements where applicable, in the framework of the Raw Materials Strategy. Government procurement measures addressed so far include e.g. active discussions with China on its Indigenous Innovation Accreditation System. A more proactive policy response to developments in this area needs to be based on a careful assessment of EU's own interests, as outlined in the Commission Communication on trade policy¹⁹.

Overall, it is noteworthy that the figures provided by the WTO, and the Commission's own earlier estimations²⁰, included only easily-quantifiable border measures and do not take into account the other half of introduced measures that limit trade behind the border, and frequently have a regulatory character. Their impact on trade, also taking into account their horizontal application, remains difficult to estimate.

As regards compliance with the second part of the G20 commitment, i.e. removal of measures taken, only few measures, a mere 10% in Commission's estimates²¹, were removed until now. This clearly points to the risk of locking in the measures in place and making them part of the post-crisis trade landscape, in addition to trade barriers existing before the crisis. Indeed, 2010 witnessed a steady accumulation of new measures, unmatched by the pace of their removal. In

¹⁹ See footnote 1

²⁰ In 2009 the Commission estimated that the measures introduced by the EU's trade partners (border measures *only*) concerned 1.7% of EU trade. Since then a further number of measures of potential impact on EU trade was reported.

²¹ The WTO report indicates that 15% measures were removed to date. *Idem*, p.3

total, as for end September 2010, the EU registered more than 330 potentially harmful measures. In comparison, this figure grew by a third, from more than 220 registered in 2009. Behind the border barriers constitute half of those currently in place.

The conclusions of the EU's own monitoring provided an important contribution to the quarterly monitoring reports of the WTO, UNCTAD and OECD, as mandated by the G20 leaders. Indeed, the EU is one of the most active contributors to the WTO work in this regard, providing regular cross-notifications on the scope and nature of measures adopted by the EU's trade partners. Furthermore, the EU continued to promote a wide degree of transparency regarding its own support schemes introduced to remedy the crisis and continued, within the remit of this exercise, to call on the WTO members, and the G20 members in particular, to ensure similar standards. Against this background, the Commission advocated in the G20 framework for enhanced compliance with the commitments made. The EU's pressure for robust compliance with the commitment to remove measures taken in the context of the crisis was mirrored by the WTO annual trade report, which identified this problem as one of three potential dangers to the trade system at present²².

In light of the above-mentioned developments, the Commission will continue reporting on the state of trade openness in the post-crisis context. The peer pressure exercised in the G20 context by means of periodic reports on the state of compliance, as well as at the G20 summits contributed to the extension of the initial G20 pledge until 2013 at the respective Toronto and Seoul G20 summits. The G20 commitment now includes a renewed focus on the need to rollback the measures in place. The Commission will further rely on the Market Access Partnership structures to scrutinise compliance, report as appropriate to the WTO and address measures which harm EU interests.

3.3. Assisting Small and medium-sized enterprises (SMEs)

SMEs are the engine of the EU economy and are crucial to accelerate the recovery from the economic and financial crisis. They represent more than 99,8% of all EU companies and provide two thirds of the jobs in the private sector and create more new jobs compared with larger companies. A recent report²³ estimated that about 13% of EU SMEs have trading activities with partners beyond the EU. However, more targeted support is needed to unfold the full export potential of SMEs as they have less financial and human resources available to cope with the often very complex import requirements in third countries.

The Market Access Strategy is the main tool to mainstream SME concerns into EU trade policy and thereby contribute to the international dimension of the "Small Business Act for Europe" (SBA). SMEs benefit from specific services of the Partnership between Commission, Member States and business organisations such as a free on-line access to valuable export information in the Market Access Database (for more details on the database see section 4.1). In this context, the commitment in the Communication "Trade, Growth and World Affairs" to strengthen the role of EU Delegations as contact points for EU business abroad will be of particular relevance for SMEs.

²² Next to the increase in global protectionist tendencies fuelled by global macroeconomic imbalances and the potential trade impact of stimulus measures in place; WTO, see footnote 13,, p.3 and p.17.

²³ Report "Internationalisation of European SMEs", 2010, see:
http://ec.europa.eu/enterprise/policies/sme/market-access/files/internationalisation_of_european_smes_final_en.pdf

All available studies point out that awareness rising is a key success factor for SME policy. Therefore, cooperation with the Enterprise Europe Network, EU business structures and Member States through a large number of "train the trainer" activities in 2010 aimed at reaching out to SMEs across Europe to make them aware about the available Market Access Strategy services.

The forthcoming Commission communication on SME internationalisation will provide an opportunity to develop further ideas on how to help SMEs reap the benefits of the global market.

4. A more effective, efficient and transparent service for exporters

The Market Access Strategy provides EU exporters with comprehensive information and assistance to facilitate access to foreign markets. The Market Access Database with the Complaints Register is the key tool in this respect. Newsletters and flash notes are disseminated amongst interested stakeholders in addition to different outreach activities such as presentations and conferences.

4.1 The Market Access Database (MADB)

The MADB continued to be an important information tool for European companies wishing to export to third countries. As evidenced by feedback from many users, including Chambers of Commerce, the MADB contains very useful and easy to access information on tariffs and import formalities in more than 100 third countries. The wide acceptance of the MADB is reflected by an average of more than 1700 daily unique visitors in 2010, which represents an increase by more than 10% compared to 2009, and with the number of daily hits exceeding 20.000.

The most consulted sections of the MADB are the "Applied Tariffs" and "Exporter's Guide to Import Formalities" as they reach together 83% of the total number of visits to the MADB. These two sections are constantly kept up to date by two external contractors with the submission and uploading of more than 1100 updates in 2010. The high and increasing frequency of updates compared to last year (900 updates for 2009) shows the constant improvement of the quality and very high reliability of the data displayed in these two sections.

Additional features were added to the MADB in 2010. Firstly, preparations were made to include in early 2011 a reference to third country trade defence measures (antidumping, countervailing and safeguard measures) in the tariff section of the MADB. This will allow users to see not only the MFN or preferential tariff to be paid, but also any possible additional duty as a result of trade defence measures by third countries.

Furthermore, in April 2010 a new key barriers section has been introduced for the exclusive use of Member States. This section allows Member States to have secure access to the latest version of all the key barriers documents. More than 200 accounts for Member States users have been created in the meantime in order to allow them to access this database.

And finally, the on-line "User Guide" for the MADB was made available in 2010 in all 23 EU languages. Its purpose is to illustrate the functioning of the Market Access Database providing

step by step instructions on how to use each section. This will be particularly useful for SMEs who now have access to an introduction to the MADB in their own language.

In order to further improve the MADB, in September 2010 the Commission launched a tendering process for an independent evaluation of the MADB. Results of the study are expected for the second half of 2011 and should lead to a substantial overhaul of the MADB to make it an even more user-friendly and relevant tool for EU exporters in the future.

4.2. Enhanced Communication on Market Access activities

4.2.1. Regular newsletters and flash notes

Six Market Access newsletters were distributed per e-mail on a regular basis throughout 2010. The newsletter covers a range of novelties such as a more user friendly format with more practical examples and images. In terms of substance of the newsletter, the section "Voice of Delegations" continues to be an important source of information regarding developments of local activities. A new section "Voice of Business" provides the opportunity for EU businesses to report about their experience with the Market Access Strategy. Furthermore, a new section "Do you know that ...?" is meant to include useful practical information.

16 flash notes on positive developments in specific market access cases were distributed in 2010 including – where possible – an assessment of the economic "value" of the barrier.

4.2.2. Market Access on the DG Trade Website

The Market Access web page is part of the updated "Trade on Europa" website. A reference to the MADB is included in the front page of the "Trade on Europe" website. Member States were encouraged through the channels of the Trade Policy Committee to add a reference to the MAS/MADB on their respective websites as well to increase awareness of the various tools at national level.

The Market Access page has been revamped and is regularly updated with the latest documents, such as reports on potentially trade restrictive measures, newsletters and flash notes. It thereby provides the readers with a clear and up to date overview of recent Market Access Strategy activities.

4.2.3. Market Access seminars, presentations and training

Similarly to previous years, the Market Access Unit in DG Trade participated in different outreach activities to spread information about services available for EU exporters under the Market Access Strategy. Such activities have proven necessary given the still widespread lack of awareness of the various Market Access Strategy tools, including the MADB, both among public authorities and business in Member States. They will be continued and reinforced in 2011.

In the context of the Spanish Presidency, the CEOE (Spanish Federation of Employers) in collaboration with the Spanish authorities organized a Market Access Seminar in Madrid on 1 June 2010. Three panel discussions focused respectively on China, SME aspects and future trade policy. The meeting, which coincided with the launching of the public consultation on

the preparation of the future trade policy communication, provided a useful opportunity for further publicizing the Market Access Strategy and its tools towards the Spanish business community and for getting some initial thoughts on possible improvements in the implementation of the strategy. It was also used as a forum by certain associations and companies to convey more specific messages to the Commission and an opportunity to highlight the main obstacles they are facing in exporting to third countries. Business participated actively expressing a very strong support for the Market Access Strategy and making several constructive proposals for its development.

A Market Access Seminar organised by the Belgian Presidency and the FEB (Federation of Enterprises in Belgium) in cooperation with the European Commission and BusinessEurope was held in Brussels on 18 November 2010. In his keynote speech, Commissioner Karel De Gucht presented the main elements of the recent Trade Policy Communication with a special focus on the Market Access Strategy. In this respect, he outlined the crucial role of Market Access Teams which need to be further strengthened. He also highlighted the annual Trade and Investment Barriers Report for the European Council as a key instrument for stronger enforcement. The Belgian Minister for Foreign Affairs, Steven Vanackere, also encouraged stronger enforcement of trade policy, as well as closer links between the Market Access Strategy and other areas of trade policy. Three panels were organised on intellectual property rights, raw materials and public procurement. The purpose of the panels was to assess existing barriers in these areas in particular in China, Russia and Japan and to reflect on strategies on how to address these barriers. The partnership approach and the need for industry to provide the necessary input to effectively improve market access was highlighted by all speakers.

Presentations related to the Market Access Strategy were inter alia given at specific market access seminars with participation of public authorities and business in the Czech Republic, Poland and Belarus (organised by the Lithuanian embassy in Minsk). In addition, outreach to Chambers of Commerce proved a particularly useful activity, including participation at the two-yearly gathering of German Chambers of Commerce in third countries in Berlin, a seminar of the heads of the trade and customs departments of German Chambers of Commerce in Hannover and an event at the Chamber of Commerce in Laval (France) with special focus on SMEs.

In this respect, Market Access missions were also organised to China and Algeria in 2010 with a view to further publicise the Market Access Strategy, enhance cooperation on the ground, and - very importantly - to engage with the authorities of the third countries concerned. This kind of missions will be continued in other third countries in 2011.

Finally, three market access presentations were given to both newcomers and representatives of the Enterprise Europe Network with the aim to inform them about the available tools and services. DG Trade participated with a stand at the European Business Summit in Brussels in June, where a Market Access presentation was given to participants. In the same way, training for the staff of "Flanders Investment and Trade" was organised in Brussels.

5. The way forward

Nearly four years after its renewal, the Market Access Strategy has become an integral part of EU trade policy. The Partnership structures are now well in place: the MAAC as a steering committee both for the horizontal aspects of the Market Access Strategy and for important individual cases; the 11 active Working Groups which provide valuable technical input into

the case work; and the over 30 Market Access Teams which in different configurations feed local expertise into the process. The key barriers process with the identification of more than 200 barriers in 32 countries and regular updates to the existing lists has become a reference tool of the Commission's and Member States' market access efforts. The protectionism monitoring is by now well established and has proven the political relevance of the Market Access Strategy by feeding both into the WTO and G20 work.

The focus of the work in the Market Access Strategy has been shifting towards delivery. A constant flow of "success stories" already testifies to the practical relevance of the work under the Market Access Strategy. But more needs to be done to achieve even better results in terms of removal of barriers. This is why the EU's renewed trade strategy under the Communication "Trade, Growth and World Affairs" sets out a detailed "enforcement and implementation" agenda with the objective of making sure that trade agreements on paper can be translated into concrete results for people and companies on the ground. The Market Access Strategy with its focus on practical results will play a key role under this agenda. Orientations for new or strengthened actions with a direct relevance for the Market Access Strategy include:

- **Annual Trade and Investment Barrier Report for the European Council:** As already foreshadowed in the "Europe 2020" strategy the Commission will henceforth produce an annual trade and investment barrier report for the European Council which will monitor barriers in third countries and trigger appropriate enforcement action. The objective of the report will be to raise the importance of market access issues at the highest political level and underline the firm commitment of all players involved - Commission, External Action Service and Member States - for a strong and assertive enforcement policy.
- **Monitoring of implementation of Free Trade Agreements:** With the launch (and conclusion) of an increasing number of FTA negotiations, it becomes more and more important to demonstrate that commitments taken by the EU's partners are indeed put in practice so that European companies and people can benefit from the result of the negotiations. The Commission will therefore step up its efforts to monitor vigorously the implementation of Free Trade Agreements. The structures of the Market Access Strategy will play a key role in this respect with the Free Trade Agreement with Korea as a first test case.
- **Reinforcement of Market Access Teams and creation of new Market Access Teams in the context of an enhanced role of EU delegations as contact points for EU business:** Market Access Teams with their local expertise have proven a very useful element of the structures of the Market Access Strategy. It is envisaged to strengthen the role of Market Access Teams e.g. by establishing a more pronounced early warning function and linking them more proactively into the market access work in Brussels. This will go hand in hand with an enhanced role for EU delegations as contact points for EU business abroad on market access issues.
- **SME aspects:** In 2011, the Commission intends to issue a Communication on SME internationalisation. The objective is to set out concrete actions for helping SMEs integrate into the global economy. In this context, a discussion will also be launched on the creation of specific support for European business in non-EU countries in addition to the existing business centres in India and China. It will be ensured that such business centres link into and are complementary with existing structures developed under the Market Access Strategy.

- **Market access missions:** The concept of dedicated market access missions to third countries launched in 2010 with Algeria and notably China will be further expanded. The objectives of such missions are two-fold: (i) promote the concept of the Market Access Strategy among the local players with a view of strengthening the cooperation in the Market Access Teams, and (ii) engage with third country authorities to discuss specific market access issues. Possible candidates for future missions are Russia, Brazil and Argentina.

The above constitutes an ambitious and challenging agenda for the Market Access Partnership in 2011. This comes on top of the day to day business which remains the core of the Market Access Strategy, i.e. identifying, analysing and prioritising market access barriers in third countries with a view to defining and implementing a tailor-made strategy to remove the barriers. Since this is the ultimate benchmark for the success of the Market Access Strategy: Making sure that European companies can benefit from global export and investment opportunities so as to foster growth and jobs in Europe. This is what all actors involved in the Market Access Partnership are committed to.

ANNEX 1: OVERVIEW OF SUCCESSFULLY TACKLED MARKET ACCESS BARRIERS IN 2010

	Internal Taxation	Licensing Requirements	SPS-related barriers	TBT-related barriers	Government Procurement	Intellectual Property	Services and Investment Related barriers	Total number per country
Argentina		1						1
Brazil			1					1
Canada			1				1	2
Chile			1					1
China			1			1		2
Egypt			2	2				4
GCC			1					1
India		3	2					5
Indonesia		2	1	1				4
Israel	1		2			1		4
Japan				1				1
Malaysia			2					2
New Zealand			1					1
Philippines			5					5
Singapore			1					1
South Africa			2					2
South Korea			1	1				2
Thailand			1					1
Ukraine		1	4		1			6
USA		1			2			3
Total number per type	1	8	29	5	3	2	1	49

ANNEX 2: DETAILED OVERVIEW OF SUCCESSFULLY TACKLED MARKET ACCESS BARRIERS IN 2010

Country	Number of barrier	Description	Kind of barrier resolved	Economic value (where measurable)	Key barrier
Argentina	1	Strict requirements for the determination of origin on the import of products manufactured outside the EU but exported to Argentina from the EU: request of an invoice from the original manufacturer as well as an original certificate of origin, legalised in the country of manufacture. This practice is now discontinued	Customs practices	The EU's total exports of clothing to Argentina dropped from €60 million in 2008 to €49 million in 2009, while exports grew gradually in the first six months of 2010, to the value of €31 million.	
Brazil	1	Brazil allows for inspection missions to the 27 EU MS, which is a precondition for pre-listing.	SPS		yes
China	2	Amendment to national legislation setting limits to the maximum level of sulphur dioxide in sweet and fruit wines , which will allow EU exporters to export sweet and fruit wines to China without any more additional testing.	SPS/TBT	Given substantial recent growth generally in exports of wines to China and Chinese consumer tastes, we believe that opening this niche market will significantly increase the level of exports to China, which was worth about €200 million for all wines in 2009 .	.
		China posted for comments a revised draft of the Indigenous Innovation Scheme , which was also removing the requirement of prior Chinese origin and separate existence of brands and the obligation to have R&D located in China	IPR/GP		yes
Canada	2	Elimination of Canada Post's monopoly on letters intended for delivery to an addressee outside of Canada (so-called outbound international mail). The sector is now open to competition.	Services and Investment	Canadian market for outbound international mail, a market worth around 150 million Canadian dollars in 2006 of which European operators had held a significant share which decreased further to the legal actions brought by Canada Post.	yes
		Ban on caffeinated soft drinks , except cola type drinks lifted	SPS		
Chile	1	Import restrictions on bovine and caprine/ovine semen have been lifted. A draft regulation solving the issue of restrictions on bovine embryos has been notified to the WTO.	SPS	EU export of bovine semen to Chile amounted to €650 000 in 2009; export of ovine/caprine semen amounted to €350 000 in 2008.	

Country	Number of barrier	Description	Kind of barrier resolved	Economic value (where measurable)	Key barrier
Egypt	4	Amendment of national standard for energy-saving lamps , which had not been notified to the WTO and had established two new criteria not foreseen by the formerly applied IEC standard for lamps with power under 25 W.	TBT	EU export in 2009 amounted to €330,000.	
		Modification of the labelling requirements for textile products.	TBT	The total trade with Egypt subject to the labelling (textile and clothing) rules amounted to approximately €81.5 million in 2009. Between 2006 and 2009 to exports of clothing to EGY almost doubled in value from €33 million to €50 million. The value of exports in textiles grew over the same period from €195 million to €224 million.	yes
		As from 18 March 2010, EU Member States were no longer be able to export cotton to Egypt because the fumigant/pesticide (methyl bromide) required by the Egyptian authorities has been forbidden in the European Union since then on. In October 2010, Egypt allowed the use of other effective alternative substance internationally recommended	SPS	EU export amounted to €70 million in 2009.	
		Possible ban on seed potatoes due to new requirements which should have entered into force in August 2010. In August 2010, Egypt announced that it would not introduce the new announced requirements.	SPS	EU export amounted to €45 million in 2009.	
Gulf Cooperation Council	1	Ban on bovine and bovine products due to BSE risk and applied to all EU MS lifted	SPS	Value of EU export amounted to €72 million before the ban applied in 2000.	
India	5	Radial tyres moved back to 'free' category (radial tyres belonging to a restricted category of products for import licensing).	Import Licensing	The size of the market averaged €3.3 million between 2004 and 2009 , with a positive peak of €6.6 million in 2006 and a negative one of almost 0 export in 2008 (not related to the measure, but rather to the crisis). In 2009, export amounted to €1.6 million.	yes
		Articles of iron and steel moved back to the 'free' category and elimination of Import Lines requirements.	Import Licensing	It should result in an increase in EU exports (which have been affected by the measure since 2008) and to will permit to reach the amount of €300 millions export per year.	yes
		India published a further 6 month postponement of the entry into force of the Quality Control Order (mandatory certification for tyres)	TBT		

Country	Number of barrier	Description	Kind of barrier resolved	Economic value	Key barrier
India	5	Import conditions for breeding horses have been modified.	SPS		
		The establishment process of Pest Risk Assessment PRA provoked undue delays in export of apples and pears. In January 2010 PRA was finally established.	SPS		yes
Indonesia	4	Lift of all temporary import restrictions imposed on pork products from EU Member States, based on measures due to pandemic H1/N1 influenza virus.	SPS	In 2008, EU Member States exported pork products worth approximately €400,000 to Indonesia.	
		Amendment of Decree 45/2009 by Decree 39/2010 lifting the double import licensing system and allowing one legal entity to import both production and finished products.	Licensing requirement	Indonesia is an important and growing market for the EU pharmaceutical industry, given its increasing middle-class and health-insurance coverage. EU exports of pharmaceuticals to Indonesia amounted to nearly €124 million in 2009. Between 2005 and 2008, the Indonesian market for EU pharmaceuticals increased by 72%. The EU Member States that were mostly concerned by Regulation No. 45 were DE, UK, BE.	
		The 'halal regulation' prohibiting the marketing of any food substance, medicines and cosmetics containing un-halal substances was lifted.	TBT		
		Fast lane for EU exports and shipments - exemption from decree 56/2008.	Licensing requirement/Pre-shipment inspections		yes

Country	Number of barrier	Description	Kind of barrier resolved	Economic value	Key barrier
Israel	4	Reform of Israeli tax regime for alcoholic spirits entered into force on 1 January 2010. The reform is for a non-discriminatory specific tax rate for all spirits as of 1 January 2014. The arrangements for the transition period are less clear.	Internal taxation		yes
		The Israeli authorities removed in January 2010 an effective prohibition of imports of lanolin of products containing lanolin from certain EU countries. All EU producers are now able to export to IL if they provide a statement that the product in question is in line with relevant EU requirements.	SPS		yes
		Animal vaccines: The Israeli authorities launched in February 2010 the final procedure to register an animal vaccine (Livacox Q) produced in the UE.	SPS		yes
		Important progress has been achieved notably on data protection and patent term extensions. Israel has moved towards a regime compliant with WIPO Treaties.	IPR		
Japan	1	Modification of criteria for short-range radar technology impacting on the use of radio frequency bands.	TBT		
Malaysia	2	Cumbersome testing requirements on consignments of imported cheese from EU Member States were lifted	SPS	In 2008, the EU exported over 500 tons of cheese with a value of over €3 million to Malaysia.	
		BSE-related ban on imports of beef and beef products from the EU was lifted	SPS	In the year 2000, before the introduction of the ban, exports of EU beef to Malaysia were valued at over €1.2 million .	yes

Country	Number of barrier	Description	Kind of barrier resolved	Economic value	Key barrier
New Zealand	1	Milk products had to be pasteurised or heat-treated to enter the NZ market, which was equivalent to a ban on raw milk products . Now import of raw milk is allowed.	SPS	Not known as the NZ market is new.	
Philippines	5	The Philippines lifted its ban on imports of beef and beef products from the United Kingdom (BSE-related).	SPS	In the year 2000, before the introduction of the ban, exports of European beef to the Philippines exceeded 19,000 tonnes and were valued at over €24 million .	yes
		The Philippines lifted its ban on imports of beef and beef products from Germany (BSE-related).	SPS		yes
		The Philippines lifted its ban on imports of beef and beef products from Spain (BSE-related).			
		The Philippines lifted its ban on imports of beef and beef products from Portugal (BSE-related).	SPS		yes
		Recognition of the regionalisation principle for some EU MS for a ban on poultry and poultry products due to avian influenza.	SPS		Export of poultry meat in 2009 amounted to €1.5 million .
Singapore	1	BSE-related ban on bovine and bovine products from the EU was lifted for some MS.	SPS		yes
South Africa	2	Ban on poultry and poultry products from ES, without applying the regionalisation principle, due to avian influenza.	SPS		
		BSE-related ban on beef applied to all EU MS was lifted	SPS		

Country	Number of barrier	Description	Kind of barrier resolved	Economic value	Key barrier
South Korea	2	Import ban of French Emmental was lifted. The reason of the ban was the quantity of propionic acid exceeding the limits set by the Korean legislation and being considered a food additive.	SPS	2009, the EU exported almost 6,000 tons of cheese to South Korea with a value of over €23 million to South Korea. The Free Trade Agreement is expected to enter into force still this year, and will lead to a substantial improvement in the market access conditions for EU cheese in South Korea.	
		Double-certification process on organic processed foods and their ingredients , without providing any specific mechanisms to deal with internationally traded goods. It was announced that the legislation for organic processed and unprocessed food will be streamlined into a single system, with reference to international standards and the possibility of recognition of equivalent foreign systems + grace period until adoption of new legislation.	TBT		
Thailand	1	All import restrictions, imposed as a measure against the pandemic H1N1 influenza virus, on pigs and pig products from EU Member States were lifted	SPS	In 2008, EU Member States exported over 1300 tons of pig meat and pig meat products to Thailand.	
Ukraine	6	Improvement of import licensing regime for agrochemicals.	Import Licensing	Problem of discrepancy between EU and UA statistics	
		The proposal to introduce new inspection requirements for all EU establishments exporting animals and animal products at risk to UA was withdrawn	SPS	Before the crisis, EU exports to UA were constantly increasing (90% between 2007 and 2008). EU Exports amounted to €490 million on average between 2005 and 2009. In 2008, EU exports reached a peak of nearly €800 million.	yes
		Ban on pigs and pig products due to H1N1 influenza was lifted	SPS		
		Draft legislation on stringent certification requirements for plant and plant products was not adopted	SPS		
		Ban on poultry and poultry products from ES, without applying the regionalisation principle.	SPS		
		'Buy Ukrainian' problem was solved by a new Public Procurement Law which came into force in summer 2010 and lifts the previously existing discrimination against foreign companies willing to participate in the public tenders.	Government Procurement		

Country	Number of barrier	Description	Kind of barrier resolved	Economic value	Key barrier
USA	3	Withdrawal of Buy American provisions from the adopted version of the Jobs For Main Street Act	Government Procurement		yes
		The Foreign Manufacturers Legal Accountability Act was not adopted in the 111th Congress.	Customs		
		Reversal of the proposal to introduce restrictions on participation of foreign entities in R&D projects to be funded.	Investment	Anticipated awarding agreements totalling up to \$30 million.	