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From: Secretary-General of the European Commission,  
signed by Mr Jordi AYET PUIGARNAU, Director

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To: Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of  
the European Union

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PARLIAMENT, THE COUNCIL, THE EUROPEAN ECONOMIC AND  
SOCIAL COMMITTEE AND THE COMMITTEE OF THE REGIONS A  
Balanced and Progressive Trade Policy to Harness Globalisation

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Delegations will find attached document COM(2017) 492 final.

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**COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN  
PARLIAMENT, THE COUNCIL, THE EUROPEAN ECONOMIC AND SOCIAL  
COMMITTEE AND THE COMMITTEE OF THE REGIONS**

**A Balanced and Progressive Trade Policy to Harness Globalisation**

## 1. INTRODUCTION

Global trade is a key contributor to a competitive and prosperous European Union, with more than 30 million jobs supported by European exports to the rest of the world. A globally integrated economy continues to benefit both large and small or medium sized European companies, as well as European citizens, workers and consumers. But global trade needs to be proactively shaped and managed to ensure it is fair, projects values and remains firmly anchored in a rules-based system. The European Union aims for a trade policy that is transparent and responsible, benefits all citizens, and provides modern solutions for the realities of today's economy in the middle of a technological change. As part of the debate launched in March by the White Paper on the Future of Europe,<sup>1</sup> a reflection paper<sup>2</sup> sketched out how trade policy, alongside other EU policies, can help harness globalisation and ensure that benefits of trade are fairly shared in line with EU principles of solidarity and sustainability.

The international environment in which the EU conducts trade policy is continually changing: there are an increasing number of actions challenging the rules-based multilateral trading system, which may also herald a protectionist resurgence. At the same time, many trading nations, both major and smaller players, have shown very concretely their attachment to fair and open international trade.

The European Commission works to ensure that EU trade policy evolves to meet the Union's overarching economic and political aims, including by enhancing coherence between trade policy and other EU external and internal policies. For example, trade policy contributes to the integrated policy-making of the 2030 Agenda for Sustainable Development by focusing not only on economic aspects, but also furthering social and environmental objectives, and contributes to the European Agenda on Migration and the European Agenda on Security. A robust and progressive policy agenda must respond to the current opportunities and challenges Europe faces, while furthering Europe's essential interests. Today, the Commission proposes a package of new initiatives that add to and complete the existing very intensive trade agenda of the Union, in order to achieve these goals:

- First, a **proposal for a Regulation establishing a framework to screen foreign direct investment coming into the EU**, to ensure that foreign investment remains a major source of growth in the EU while protecting the EU's essential interests. The legislative proposal is accompanied by a Commission Communication outlining in detail the strategic need for such screening;
- Second, **recommendations to open negotiations for trade agreements with Australia and with New Zealand**. These agreements would build on the recent successful negotiations with Canada, Singapore, Vietnam as well as Japan among others, expanding the alliance of partners committed to progressive rules for global trade;
- Third, a **recommendation to open multilateral negotiations to establish a multilateral court for the settlement of investment disputes**, a major innovation in global governance;

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<sup>1</sup> European Commission, "White Paper reference on the Future of Europe", COM(2017)2025.

<sup>2</sup> European Commission, "Reflection Paper on Harnessing Globalisation", COM(2017)240.

- Fourth, the Commission has also decided to **publish from now on its recommendations for negotiating directives for trade agreements**, starting today with these three recommendations. This means that at the same time as they are submitted to the Council for deliberations and transmitted to the European Parliament as they have been in the past; they are now also automatically transmitted to national Parliaments and made available to the general public, thus allowing for a wide and inclusive debate on the planned agreement from the outset;

- Finally, the Commission has also decided to **create a group to provide advice on the EU trade agreements**, as part of its emphasis on transparent and inclusive trade policy-making.

Alongside this Communication, the Commission is also today publishing the first two-year Report on the implementation of its trade policy strategy “*Trade for All*.”<sup>3</sup> The Report charts the concrete achievements and work in progress over the two years since the strategy’s adoption, showing the lessons learnt that guide the evolution of EU trade policy. It will be complemented by a *Report on Implementation of Free Trade Agreements* later this autumn, and the Commission invites all stakeholders to a debate on a forward-looking trade policy based on the two Reports and this Communication. In addition, building on the new European Consensus on Development, the Aid for Trade Strategy will be reviewed this year.

## **2. SEALING NEW TRADE PARTNERSHIPS TO BUILD PROGRESSIVE RULES FOR GLOBAL TRADE**

The EU is committed to **open trade anchored in the rules-based multilateral trading system**. Openness to flows of goods, services, people and capital has fuelled EU growth, competitiveness and consumer welfare. Combined with high standards of environmental, labour, consumer and social protection, it underpins our prosperity, and is the most fitting way to make globalisation work for all Europeans. Globalisation is about more than trade and its effects are combined with those of technological change; but there is no doubt trade policy has an important role to play in harnessing globalisation to ensure its economic, social and environmental effects are positive for people and businesses in Europe and beyond.

The EU seeks out partners who want to team up **to build open and progressive rules** for the realities of 21<sup>st</sup> century trade, and thereby strengthen global governance. The EU’s recent agreements with Canada, Singapore or Vietnam as well as the agreement in principle with Japan do not just create new economic opportunities for our businesses and citizens – they also reflect and promote the universal values the Union adheres to and preserve the right of governments to regulate in the public interest.

### ***Creating new economic opportunities***

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<sup>3</sup> European Commission, “Report on the Implementation of the Trade Policy Strategy *Trade for All*”, COM (2017) 491.

To open new markets, the European Commission pursues **a comprehensive negotiating agenda at both multilateral and bilateral levels** to secure reciprocal market access. The EU's multilateral obligations in the World Trade Organisation (WTO) are the basis of our trade relations around the world. In the run-up to the Ministerial Conference in Buenos Aires in December, the EU is leading the way on reshaping the WTO negotiating agenda, seeking to modernise world trade rules and to restore the primacy of the WTO in rule-making, especially at a time of increasing protectionism.

The Commission is committed to **deepening the EU's ties with the future growth engines in Asia and Latin America**. Negotiations with Mexico and Mercosur are advancing fast and the Commission is aiming for a political conclusion of the talks by the end of the year. The agreements negotiated with Singapore and Vietnam will also be brought forward shortly.

The **EU-Canada Comprehensive Economic and Trade Agreement (CETA)** will be provisionally applied as of 21 September. The EU and Japan reached an agreement in principle on the main elements of an Economic Partnership Agreement on 6 July, with intensive work ongoing to conclude a final text of the agreement by the end of the year. These wide-reaching agreements will for example remove the vast majority of duties paid by EU companies on their trade with Canada and with Japan and will open markets to EU exports, including agriculture, food and drinks. The agreements will remove barriers across a number of services sectors and further promote an innovative and competitive economy, making it easier for all companies, and especially small and medium-sized enterprises, to do business.

#### *Promoting the universal values the Union adheres to*

The EU leads the way, **safeguarding high European standards of environmental, consumer, social and labour protection as well as fundamental rights without compromise**. Together with our partners, we seek to use trade policy instruments to promote those standards around the world in line with Sustainable Development Goals, which identify trade as one of the crucial means of implementation. For example, all modern EU trade agreements support the implementation of international environmental protection and labour standards agreements, with the EU-Japan Economic Partnership Agreement being the first international trade agreement to explicitly support the Paris climate agreement. The agreement with Canada delivered ambitious outcomes on labour commitments. This highlights that the Commission's approach in this respect as set out in its Communication "*Trade for All*"<sup>4</sup> is bearing fruit. The Commission is currently engaged in comprehensive discussions with the European Parliament, the Council and stakeholders with a view to improving the effectiveness of the implementation and enforcement of trade and sustainable development provisions in our agreements.

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<sup>4</sup>Communication COM(2015)497 of 14 October 2015 "Trade for All: Towards a more responsible trade and investment policy"

### *Preserving the right to regulate*

EU agreements also **explicitly preserve the right of governments to regulate in the public interest** – an important principle for all future negotiations.<sup>5</sup> This principle underpins the EU's new approach to investment protection. The Commission is now pursuing a fully reformed approach to investment protection in its bilateral agreements, a major departure from the system of investor-to-state dispute settlement, as illustrated by the agreement with Canada.

### *Sealing new partnerships*

The Japan and Canada agreements, and the fast progress made with partners such as Mexico and Mercosur, show it is possible to create progressive and modern trade rules. **To build on this momentum the Commission is making recommendations to the Council to negotiate two new trade agreements:** with Australia and with New Zealand, which add up to the Commission's recent recommendation to open negotiations with Chile. The goal of these agreements is to promote sustainable growth by expanding trade, providing a solid platform for deepening economic ties with the whole Asia-Pacific region, and expand the alliance of partners committed to progressive rules for global trade.

### **3. A ROBUST TRADE AND INVESTMENT POLICY PROTECTING EU INTERESTS AND ENSURING FAIRNESS**

Our trade policy strives to make open trade fair: ensuring that European business, workers and farmers compete on a level playing field with those of our trading partners around the world.

Opening markets goes hand-in-hand **with making sure that everyone plays by the rules and ensuring that essential EU interests are being protected.** The EU actively uses all the tools at its disposal to enforce commitments undertaken by its partners, to remove trade barriers, and to combat unfair practices. Several EU partners, including the world's biggest economies, are more and more often taking domestic policy action that would damage other countries or undermine the rules-based multilateral trading system. The Commission is also ready, if needed, to take new measures to combat this trend.

**Trade Defence Instruments also help ensuring that EU firms face fair competition.** The Commission is working intensively with the European Parliament and the Council to achieve the proposed overall modernisation of trade defence instrument rules and a new anti-dumping calculation methodology, in line with the **European Council Conclusions of 23 June 2017** calling for a swift agreement by the co-legislators. The updated rules would maintain and enhance the ability of the EU to react to significant market distortions in countries that export to the EU.

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<sup>5</sup> The Joint Interpretative Instrument on the Comprehensive Economic and Trade Agreement between Canada and the EU and its Member States explains the commitments in greater detail: <http://data.consilium.europa.eu/doc/document/ST-13541-2016-INIT/en/pdf>.

Strengthening the anti-subsidy trade defence instrument is a key component in the EU's determination to tackle one of the main root causes of unfair international trade: **unfair subsidisation practices**, in particular when leading to overcapacity. In addition, the EU will further push for initiatives at multilateral level concerning unfair subsidies. In particular, the EU is making proposals in the World Trade Organisation that would promote transparency in industrial subsidies and limit the use of harmful subsidies in the agriculture and fisheries sectors. The EU also tackles the problems of overcapacity through stepping up international economic governance, for example seeking to address urgent problems in the steel sector within the Global Forum on Steel Excess Capacity, established by the G20 and OECD members.

Another area where the interest of EU producers are often adversely affected is that of public procurement, where many of the EU's major trading partners still apply restrictive practices which discriminate against EU businesses and do not ensure reciprocity in terms of market access. The Commission therefore calls on a swift adoption of its revised proposal for an **International Procurement Instrument** - a tool to promote open and reciprocal access to public procurement markets around the world.

In the same vein, the EU's work on global governance rules must also adapt to the new challenges of global competition, such as the **concerns related to strategic EU assets being taken over by foreign investors** – in particular, by subsidised and/or state-owned enterprises. The EU's principled openness to FDI is not going to change. However, it has to be accompanied by vigorous and appropriate policies to, on the one hand, open up other economies and ensure that everyone plays by the same rules, and, on the other hand, to protect assets against takeovers that would be detrimental to the vital interests of the EU or its Member States. Whilst the EU's trade and investment policy remains the most appropriate tool to ensure that third countries offer a level of openness for foreign investment equivalent to that of the EU and in promoting a level playing field for EU operators, measures should also be taken to protect essential EU interests.

As part of the today's package of trade policy measures, the Commission is proposing to increase EU cooperation and establish a framework to **screen foreign direct investment** coming into the EU. The aim is to prevent take-overs of strategic assets that could threaten security or public order, thus preserving Europe's essential interests, while also maintaining the openness of EU markets to investment as a whole.

Today's **Communication on welcoming Foreign Direct Investment while protecting Essential Interests** therefore proposes further concrete steps for Member States and, where relevant, the Commission to screen certain FDI into the EU with the view to safeguarding security and public order. The Communication accompanies a proposal for a Regulation establishing a framework to screen foreign direct investments in the EU on grounds of security and public order, together with a cooperation mechanism among Member States as well as a framework for review at EU level.

#### 4. DELIVERING EFFECTIVE AGREEMENTS THROUGH A NEGOTIATION PROCESS THAT IS TRANSPARENT AND INCLUSIVE

How we conduct trade policy and trade negotiations matters. If the EU is to deliver effective agreements that benefit all citizens, the crafting of these agreements must be **accountable, transparent, and inclusive**. This is a joint responsibility of all EU Institutions, all Member States and all national Parliaments.

To maximise the potential benefits of our trade policy, **the EU must be a credible negotiating partner**: our institutional decision-making must be clear, predictable and fit for purpose. This means ensuring that our institutional set-up allows us to ratify and implement our negotiated agreements in an accountable, legitimate and effective manner. The Opinion of the Court of Justice of the European Union on the EU-Singapore Free Trade Agreement<sup>6</sup> provides welcome clarity on the division of competences in trade and investment agreements between the EU and its Member States.

The recommendation to open negotiations with Australia and New Zealand covers a broad list of subjects fully covered by the EU's common commercial policy, including the liberalisation of trade in goods, services and foreign direct investment, public procurement, global rules aimed at ensuring a level playing field and ambitious sustainable development chapters. This allows **moving forward quickly in view of the political imperative of strengthening the EU's trading position in the world**. The Commission stands ready to conduct these negotiations at an accelerated pace, with a view to concluding them by March 2019.

The recommendation to open negotiations with Australia and New Zealand does not include investment protection and the resolution of investment disputes: **the debate on the best architecture for EU trade agreements and investment protection agreements** must be completed and the Commission stands ready to discuss this further with the Council and the European Parliament. At the same time, the Commission continues to pursue ongoing investment negotiations; including those with Japan, China, Myanmar and other partners to improve the position of EU investors abroad, whilst promoting sustainable development and protecting governments' right to regulate. The Commission also adopted today a recommendation to open negotiations **to establish an investment court at multilateral level**. This proposal is yet another step towards a more transparent, coherent and fair approach to dealing with investor complaints under protection agreements.

The legal issue of division of competences **should in no way impact the legitimacy and inclusiveness of the adoption process**. This should be ensured irrespective of whether the final decision for adoption takes place at the EU level or also at Member States level. The Commission therefore welcomes the fact that EU Member State governments are now also increasingly engaging with their **national and regional Parliaments on trade negotiations**. National Parliaments indeed play a key role in monitoring their government's positioning towards EU trade negotiations. The Commission therefore encourages Member States to continue and, whenever possible, ensure the involvement of national Parliaments in trade talks at the earliest possible stage.

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<sup>6</sup> Opinion 2/15 of the Court of Justice of the European Union pursuant to Article 218(11) TFEU delivered on 16 May 2017.



This is one of the key reasons why the Commission has decided to **publish its recommendations for negotiating directives for trade agreements**, starting with the recommendations it has made today on Australia, New Zealand and the Multilateral Investment Court, and in line with the practice established for Article 50 negotiations with the United Kingdom.

This also means that in line with normal practice for other types of Commission proposals, **these recommendations will be automatically transmitted to all EU national Parliaments** and the European Parliament at the same time as being transmitted to the Council, together with the accompanying impact assessment report. This will make it easier for national Parliaments as well as a variety of stakeholders to express their views to their governments that represent them in Council discussions at the earliest possible stage. The Commission stands ready to assist Member States as they involve their own national and regional Parliaments, and to further discuss how best to facilitate parliamentary involvement.

Finally, as part of its emphasis on transparent and inclusive trade policy-making, the Commission has decided to create an **advisory group on EU trade negotiations**. The group will consist of representatives of a wide and balanced group of stakeholders, ranging from trade unions, employers' organisations, consumer groups and other non-governmental organisations. They will provide the Commission's trade negotiators and policy makers with high quality advice on areas subject to trade negotiations, enabling the Commission to rely on different perspectives and insights on trade.

## 5. CONCLUSION

The European Union must uphold an open and rules-based multilateral trading system and conduct a robust and pro-active trade policy based on openness, not protectionism, safeguards our continued prosperity and the sustainable development of the European economy.

To this end, the European Union must promote an ambitious and progressive open, values- and rules-based trade agenda on the global scene. This means a trade policy that not only creates new economic opportunities for our businesses and citizens, but also reflects and promotes the universal values the Union adheres to and preserves the right of governments to regulate in the public interest.

This Commission will dedicate the rest of its mandate to building on previous successful agreements, to deliver concrete benefits to all citizens. To do so, the EU needs a solid policy approach with consensus from all institutional actors. This debate must take place – yet, at the same time, we should not hold back from our task of further promoting Europe's interests. Therefore, the Commission intends to speed up all ongoing negotiations, and invites all institutions to swiftly engage in the debate on the broader architecture of EU trade agreements and EU investment protection agreements.

Recent agreements with Canada and Japan show that an ambition for an open, rules-based and progressive trade policy is not only possible. It also delivers, creating mutually beneficial outcomes and strengthening global governance with the EU's partners. The package of trade policy measures unveiled today furthers a modern EU trade policy that contributes to this Commission's resolve to harness globalisation.