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3348th Council meeting

Foreign Affairs

Trade

Brussels, 21 November 2014

President **Carlo Calenda**
Deputy Minister for Economic Development

P R E S S

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Main results of the Council

*The Council adopted conclusions reviewing the priorities of the EU's **trade agenda** for the next five years. It reiterated the EU's determination to promote free, fair and open trade in a spirit of reciprocity and mutual benefit. It welcomed the breakthrough that should lead to full implementation of the WTO's "Bali package" and open the way towards the conclusion of the Doha Development Agenda.*

"The Italian presidency encouraged a debate on the strategic horizon within which we will move in the coming years", said Carlo Calenda, Italy's deputy minister for economic development, with responsibility for trade. "All the EU's policies should contribute to reaching the goals of growth employment and competitiveness. This is all the more true for trade policy."

*The Council also adopted conclusions on the "transatlantic trade and investment partnership" with the **United States**, highlighting the potential for an ambitious agreement, and the opportunities it would provide for households and companies in both the EU and the US.*

"We are happy that the Foreign Affairs Council endorsed the presidency proposal to have specific conclusions on TTIP", said Mr Calenda. "This is a clear political signal to the US administration, after EU and US leaders met at the G20 Brisbane summit to reaffirm our commitment to the negotiations and call for decisive progress over the coming year."

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- Where declarations, conclusions or resolutions have been formally adopted by the Council, this is indicated in the heading for the item concerned and the text is placed between quotation marks.
 - Documents for which references are given in the text are available on the Council's Internet site (<http://www.consilium.europa.eu>).
 - Acts adopted with statements for the Council minutes which may be released to the public are indicated by an asterisk; these statements are available on the Council's Internet site or may be obtained from the Press Office.

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Parliamentary Under Secretary of State for Intellectual Property, Department for Business, Innovation and Skills

Commission:

Ms Cecilia MALMSTRÖM

Member

ITEMS DEBATED

PROTECTION AGAINST DUMPED AND SUBSIDISED IMPORTS

The Council discussed, in the light of a compromise proposed by the presidency ([15872/14](#)), a draft regulation aimed at updating EU instruments for tackling unfair competition from dumped and subsidised imports.

The discussion confirmed that there were difficulties in the way of the Council reaching an agreement on the proposal. The presidency therefore asked the Commission to reflect on the way forward.

The EU's trade defence instruments have remained largely unchanged since 1995. Anti-dumping and anti-subsidy duties are used to shield EU producers from damage caused by foreign companies' unfair trade practices.

The proposal seeks to make the EU's trade defence instruments work better for all EU stakeholders – producers, importers and users ([8495/13](#)).

Specifically, it sets out to:

- enhance transparency and predictability as concerns the imposition of provisional anti-dumping and anti-subsidy measures;
- enable importers to be reimbursed for duties collected during an expiry review in the event of trade defence measures not being maintained after five years;
- when a threat of retaliation exists, make it possible for investigations to be initiated ex officio, i.e. without an official request from industry;
- in raw materials markets, make it possible for higher duties to be imposed on imports from countries that use unfair subsidies and create structural distortions. In such cases, the EU would deviate from its "lesser duty rule" whereby duties must not be higher than is necessary to prevent harm to an EU industry.

PUBLIC PROCUREMENT

The Council discussed, in the light of a compromise proposed by the presidency ([15874/14](#)), a proposal for a regulation aimed at improving the conditions under which EU businesses can compete for public contracts in third countries.

The proposal seeks to strengthen the EU's position when negotiating the terms of access to public procurement markets in third countries, whilst clarifying the legal situation of foreign bidders in the EU ([8257/12](#)).

The discussion confirmed that there were difficulties in the way of the Council reaching an agreement on the proposal. The presidency therefore asked the Commission to reflect on alternative means for reaching the objectives pursued by the proposal.

DOHA DEVELOPMENT AGENDA

The Council discussed trade negotiations under the WTO's Doha Development Agenda (DDA) following on from the WTO's 9th ministerial conference in Bali in December 2013.

It welcomed a breakthrough reached on implementation of an agreement on trade facilitation and on food security issues, which could lead to full implementation of the "Bali package" and open the way towards concluding the DDA. It welcomed the prospect of work resuming on other aspects of the package.

Agreement was reached in Bali on a package of measures covering:

- trade facilitation;
- development/least developed countries (preferential rules of origin for least-developed countries, LDCs, operationalisation of LDC services waiver, duty-free and quota-free market access for LDCs, monitoring mechanism on special and differential treatment);
- agricultural issues (general services, food security, tariff-rate quota administration, export competition, cotton).

The trade facilitation agreement will be a legally binding multilateral deal and is one of the biggest reforms of the WTO since its establishment. Its objectives are to: speed up customs procedures; make trade easier, faster and cheaper; provide clarity, efficiency and transparency; reduce bureaucracy and corruption; and use technological advances. It has provisions on goods in transit, important to landlocked countries seeking to trade through ports in neighbouring countries. It also involves assistance for developing and least developed countries to update their infrastructure, train customs officials, or for any other cost associated with implementing the agreement.

EU-US TRADE AND INVESTMENT NEGOTIATIONS

The Council took stock of ongoing negotiations on a comprehensive trade and investment agreement with the United States, the "transatlantic trade and investment partnership" (TTIP).

It discussed the way forward in the negotiations, highlighting the potential of an ambitious agreement, and the opportunities it would provide for households and companies in both the EU and the US.

The Council adopted the following conclusions:

- "1. Enhancing sustainable growth and jobs is a key priority for the EU. Trade in goods and services and investment can make a significant contribution in this respect. In this context, the Council reiterates the fundamental role of a deep, ambitious, balanced and mutually beneficial TTIP Agreement with the United States, which will provide significant new opportunities for citizens and companies in the EU and the US. This will help boost job creation and economic growth by enhancing trade and investment between the two sides of the Atlantic, while ensuring our right to regulate and maintaining a high level of standards consistent with the EU acquis and Member States' legislation. The Council also recognises the importance of TTIP as a strategic cornerstone of our transatlantic partnership, which will make a valuable contribution to shaping globalisation and the international trading system and to supporting sustainable development.
2. The Council underlines the importance to better communicate the scope and the benefits of the agreement and to enhance transparency and dialogue with civil society in order to highlight the benefits for European citizens and the opportunities it would create for EU companies, in particular small and medium sized businesses. The Council underlines the importance of maintaining the positive efforts undertaken so far and the need to approach the US side to discuss meaningful possibilities to improve transparency, including the access to all negotiating documents in order to let Member States develop constructive discussions with civil society.
3. The Council reconfirms its strong expectation of concluding a deep, ambitious, balanced and mutually beneficial agreement on all three pillars of the negotiations as soon as feasible, according to the Council mandate. To achieve this aim, it is essential to have clear and strong political support for the negotiations by both parties which will boost TTIP talks and facilitate the conclusion of the agreement according to a positive timeline."

TRADE POLICY

The Council adopted the following conclusions:

- "1. The Council met today for the first time with the new Commissioner for Trade, Cecilia Malmström, and in this context, the Council:
 - Recalls the conclusions of the European Council of February 2013
 - Recalls the conclusions of the European Council of June 2014
 - Recalls the Global Europe: Competing in the World strategy, and the Europe 2020 strategy "Trade, Growth and World Affairs";
 - Warmly welcomes the progress made since it last met on a range of important bilateral, plurilateral and legislative dossiers.
2. The Council reiterates the EU's determination to promote free, fair and open trade in a spirit of reciprocity and mutual benefit. The natural framework in which we will continue to reaffirm these principles is the WTO. The Council welcomes the breakthrough that should lead to full implementation of the Bali package, including the Trade Facilitation Agreement, and open the way for moving forward towards the conclusion of the DDA. Plurilateral and sectorial agreements can also contribute to the EU's growth agenda. While remaining committed to further strengthening the multilateral trading system, the EU will continue to focus on the development of its bilateral trade relations. These can and should be a positive contribution to the multilateral system. Building on the tangible progress made in the EU's bilateral trade agenda, efforts should be devoted to pursuing agreements with key partners, prioritising those negotiations that will provide the most benefit in terms of growth and jobs. Effective implementation of existing Agreements and rules enforcement are also key to promote growth and jobs.
3. Even though there are signs of economic recovery in Europe, unemployment remains a major concern, especially for young people. Therefore, the Union needs to take further steps to promote sustainable growth, increase investment, create more and better jobs: trade in goods, services and investment can make a significant contribution to achieve the aims at the core of the "Strategic Agenda for the Union in times of change".

4. The trade agenda, which is also a tool of external relations, should therefore be fully coherent with other relevant EU policies, including through the right interaction between Commission departments. We encourage the Commission to continue improving all the "ex-ante" impact assessments that are produced for free trade negotiations, as well as producing "ex-post" impact evaluations for implemented agreements.
5. To let trade develop its untapped potential in the agricultural, industrial and services' sector, some structural problems have to be addressed: energy costs; access to raw materials (primarily through the removal of export duties and restrictions); internationalisation of SMEs; technical barriers and other non-tariff barriers. It is key to promoting favourable investment conditions and better market access. Respect for intellectual property rights (including geographical indications, patents, trademarks and copyright), open government procurement markets, as well as support of sustainable development (including the need to address challenges such as climate change and adherence to labour standards) must also remain in the centre of our trade negotiations. Finally, trade negotiations should additionally consider global value chains in light of their capacity to help promote growth, internationalise SMEs, increase investment and create more and better jobs in Europe.
6. The Council underlines the need to better communicate the advantages of trade. Transparency around trade negotiations should continue to be improved in order to enhance dialogue with European citizens, in a spirit of democratic accountability.
7. Therefore, the Council, taking into account the views expressed during today's meeting and recalling the above mentioned European Council Conclusions, invites the Commission to consider updating its strategic document on "Trade, Growth and World Affairs" presented in 2010 and to come back to the Council in an appropriate timeframe."

TRADE NEGOTIATIONS WITH JAPAN AND VIETNAM

The Council took stock of progress made in free trade negotiations with Japan and Vietnam and of the prospects for concluding them in 2015.

OTHER ITEMS APPROVED**TRADE POLICY****Review of Export Control Policy**

The Council adopted the following conclusions:

- "1. The EU is a major exporter of dual-use items and a significant actor in counter-proliferation export controls. Considerable efforts have been made by Member States and the EU to strengthen dual-use items export control regime over the last decade, in particular in response to the EU Strategy against the proliferation of weapons of mass destruction (WMD) of December 2003 and the UN Security Council Resolution 1540 (2004). Regulation (EC) No 428/2009¹ provides solid legal and institutional foundations for effective controls, and has been recently amended to empower the Commission to adopt delegated acts concerning the updating of the control list of dual-use items. The Council acknowledges the progress of the review process by Member States and the Commission and takes note of the report on the Green Paper² public consultation of January 2013³, of the report to the European Parliament and Council on the implementation of the Regulation of 16 October 2013⁴ and of the Commission Communication of April 2014⁵, which suggests concrete policy options in order to improve EU export controls, enhancing their effectiveness and coherence. The Council looks favourably at further development of the EU export controls.

2. The objective of export controls, and of the Dual-Use Regulation in particular, is to prevent the spread of weapons of mass destruction and the destabilizing accumulation of conventional arms. The Council considers that Member States face a substantial question on how to maintain or enhance the level of control while striking a balance between security and legitimate trade. Furthermore, the Council agrees on the importance of a global level-playing field for European industry involved with exports of dual-use items. It will examine the Commission's initiative to minimize administrative burdens and distortions of competition, to reduce transaction costs associated with different controls and to facilitate legitimate trade. The Council also calls on Member States and the Commission to reevaluate intra-EU transfer controls in order to minimise remaining barriers in the Single Market, while maintaining appropriate controls and the traceability of the most sensitive dual-use items.

¹ OJ L 134, 29 May 2009, p. 1.

² COM(2011) 393 of 30 June 2011.

³ SWD(2013) 7 of 17 January 2013.

⁴ COM(2013) 710 of 16 October 2013.

⁵ COM(2014) 244 of 24 April 2014.

3. The Council recognizes that the EU export control system must have a strong capacity to respond to potential threats arising from proliferation risks. The controls should be based on a rigorous risk assessment, focusing control in those areas where envisaged risks are higher. The Council encourages cooperation with industry to enhance the EU and its Member States' capacity to effectively tackle the challenges posed by emerging technologies. The Council notes the existing contribution of the EU and its Member States to the international export control regimes, and welcomes efforts to enhance further, and to improve coordination of, those contributions. The Council emphasizes the importance of all Member States, and where appropriate the EU, participating fully in the regimes.
4. The Council recalls the joint statement of the European Parliament, the Council and the Commission of 16 April 2014¹ acknowledging the issues regarding the export of certain information and communication technologies (ICT). Such technologies could be used in connection with human rights violations as well as to undermine the international security, particularly as regards technologies used for mass-surveillance, monitoring, tracking, tracing and censorship. Member States will assess whether further export controls are necessary to prevent internal repression or terrorism. Therefore, the Council welcomes further discussion and an intensified exchange by the relevant technical experts.
5. The Council acknowledges the need to address the challenge posed by Intangible Transfers of Technology.
6. The Council agrees that a tighter cooperation with academia and research centres would improve the control of "dual-use research", while avoiding undue obstacles to the free flow of knowledge and the global competitiveness of EU science and technology. The Council encourages Member States' efforts in minimizing the risk of an incautious use of dual-use research and the risk associated with potential abuse of scientific research, which could interfere with international security.
7. The Council underlines that a modern adaptive export control system requires adequate transparency and a substantive partnership with the private sector. For example, setting up an "E-licensing system" in Member States could facilitate the administrative procedures for export controls. The Council supports the efforts of the Commission and Member States to intensify awareness raising and capacity building activities to national administrations and industries, training for EU customs officers, and cooperation with third countries. These activities are essential to enhance the global control level, and should be adequately promoted and supported at the EU level. The Council recognizes the importance of facilitating legitimate exports.

¹ OJ L 173, 12 June 2014, p. 73.

8. The Council looks favourably at a review of the existing general export authorizations and a possible introduction of new European General Export Authorisations (EU GEA), which can facilitate low risk trade for the benefit of all European companies while maintaining the high level of existing controls. At the same time the Council acknowledges that Member States should assess whether the right level of harmonization in licensing (application requirements and license conditions) and in issuing denials (issuing criteria) has been reached.
9. The Council notes that controls on non-listed dual-use items are an essential part of controls. Member States should consider whether the application of “catch all” controls could be further developed, while acknowledging at the same time that the instrument is aimed at specific cases. The Council calls for Member States and the Commission to explore options for enhanced information sharing."

DEVELOPMENT COOPERATION

EU - Fiji relations

The Council approved a letter to the President of the Republic of Fiji informing him that measures under article 96 of the ACP-EU partnership agreement will be lifted and development cooperation will be resumed after the finalisation of the programme of the 11th European development fund.

COMMON SECURITY AND DEFENCE POLICY

Operation Atalanta - Anti-piracy operation off the Somali coast

The Council extended the mandate of the EU's anti-piracy operation off the Somali coast (EUNAVFOR Atalanta) until 12 December 2016.

The tasks of the operation will be extended to include logistical support, expertise or training at sea and the implementation of EU programmes in close coordination with actions in the region under the EU's Common Security and Defence Policy.

For details, see [press release](#).

JUSTICE AND HOME AFFAIRS

Migration and development

The Council adopted positions for the 4th Euro-African ministerial conference on migration and development and for a ministerial conference on the Khartoum process, which will take place in Rome on 27 and 28 November 2014 respectively.
