



Council of the  
European Union

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EXT 1

WTO 271  
FDI 20  
SERVICES 80  
COASI 118

#### **PARTIAL DECLASSIFICATION**

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Subject:	Recommendation from the Commission to the Council on the modification of the negotiating directives for the EU-India negotiations towards Broad-based Trade and Investment Agreement in order to authorise the Commission to negotiate, on behalf of the Union, on investment
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Delegations will find attached the partially declassified version of the above-mentioned document.

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THE EUROPEAN UNION**

**Brussels, 14 July 2011**

**12839/11**

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**"I/A" ITEM NOTE**

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from: General Secretariat of the Council  
to: Permanent Representatives Committee (part 2) / Council  
No. Cion prop.: 5625/11 WTO 20 FDI 2 COASI 8 SERVICES 10 RESTREINT UE  
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1. In April 2007, the Council authorized the Commission to negotiate a free trade agreement with India on behalf of the European Union and its Member States <sup>1</sup>. Negotiations between the two parties have been on-going since October of that year.
2. On 20 January 2011, the Commission submitted to the Council the abovementioned Recommendation for the modification of the negotiating mandate to include investment.
3. The Recommendation was examined in several meetings of the Trade Policy Committee (both at Full Members' and Services and Investment experts' level). These discussions resulted in a large measure of agreement around the Presidency compromise text, set out in Annex I to this Note.

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<sup>1</sup> doc. 8601/07 RESTREINT UE.

4. The Permanent Representatives Committee is, therefore, invited to recommend that the Council and the Representatives of the Member States meeting within the Council, as an "A" item on the agenda of one of the Council's forthcoming meetings:
- modify the negotiating directives for a free trade agreement with India as regards investment by inserting, after paragraph 25, a Title 3A Investment Protection, as set out in Annex I to this Note;
  - decide to enter in the Council's minutes the declarations set out in Annex II to this Note.
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**NOT DECLASSIFIED**

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**NOT DECLASSIFIED**

**Declaration by the Commission to the Council Decision on the modification of directives for Canada, India and Singapore, regarding the apportionment of financial liability in the event of investor-state dispute settlement against the EU.**

The Commission recalls its view that the issue of apportionment of financial responsibility arising from investor-state dispute settlement directed against the EU requires to be addressed (COM (2010) 343). The Commission will continue to address this issue as a matter of priority with the European Parliament and Council and confirms that it is currently preparing a legislative proposal on this issue which will be proposed to the legislator for adoption. The Commission intends to adopt this legislative proposal in time so as to allow a discussion and adoption by the legislator concurrent with the discussion on and negotiation of future EU level agreements including investment protection. It will be up to the legislator to process the proposal such that the arrangements for liability are established in time in light of the date of signature and conclusion of the agreements under consideration.

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