



**COUNCIL OF
THE EUROPEAN UNION**



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3266th Council meeting

Foreign Affairs

Trade Items

Luxembourg, 18 October 2013

President

Linas Linkevičius
Minister for Foreign Affairs of Lithuania

P R E S S

Main results of the Council

*The Council approved a mandate for the negotiation of an investment agreement with **China**, as well as an updated mandate allowing for investment protection provisions to be included in free trade negotiations with **ASEAN** countries.*

*It welcomed a breakthrough achieved in negotiations on a comprehensive economic and trade agreement with **Canada**.*

*The Council took stock of developments in trade negotiations ahead of an **Eastern Partnership** summit in Vilnius in November.*

*It also confirmed its willingness to negotiate with the European Parliament so as to allow a legal and financial framework for **investor-state dispute settlement** proceedings to enter into force as soon as possible.*

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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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ITEMS DEBATED

PREPARATIONS FOR THE EASTERN PARTNERSHIP SUMMIT

The Council took stock of preparations regarding the trade aspects of the EU's association agreements with Armenia, Georgia, Moldova and Ukraine ahead of an Eastern Partnership summit in Vilnius, Lithuania, on 28-29 November.

It also discussed possible trade measures to be considered in response to political and economic pressure that has recently been exerted by Russia on these countries.

The Council emphasised the importance of taking relations with the eastern partners to a new stage through association agreements/DCFTAs¹. Possible deliverables for the Vilnius summit include the signing of an EU-Ukraine association agreement/DCFTA and the initialling of association agreements/DCFTAs with Moldova and Georgia. (The initialling of an EU-Armenia association agreement is not foreseen.)

The presidency summed up the discussion emphasising the support expressed for signing an association agreement with Ukraine, without prejudice to the political decision to be taken by the Foreign Affairs Council. Ministers called on Ukraine to make progress in addressing trade irritants with the EU and in improving the business environment. They stressed the significance of initialling DCFTAs with Moldova and Georgia and looked forward to signature as soon as possible.

The presidency underscored that, in the Council's view, implementation of these agreements will bring strong benefits both to the EU and to the partner countries: It noted the importance of the reform process and the role of the business community in this respect. Ministers stressed that partner countries are free to make own choices whilst noting that DCFTAs are not compatible with membership of a customs union with a third country.

The presidency emphasised that for the Council, the pressures exerted by Russia on members of the Eastern Partnership are unacceptable. It recalled that DCFTAs are not directed against any other third country.

¹ "Deep and comprehensive" free trade agreements.

In this context, ministers stressed the importance of:

- provisional application of the DCFTA with Ukraine as soon as is possible, provided it is signed at the Eastern Partnership summit;
- expeditious examination of the Commission's proposal for full liberalisation of wine imports from Moldova into the EU; and
- benefits brought to Georgia by the EU's "GSP+" trade preferences.

The presidency will outline these elements in a letter to be sent to the president of the European Council.

It also expressed gratitude at the solidarity shown with regard to the pressures exerted by Russia on Lithuania.

EU-CHINA TRADE RELATIONS

The Council adopted a mandate for the Commission to negotiate on behalf of the EU an investment agreement with China.

The mandate is composed of a decision of the Council and a decision of the representatives of the member states authorising the opening of negotiations, as well as directives for the negotiation of the agreement. The directives foresee an agreement that would deal both with investment protection and with improved access to the market for investors from the EU and China.

The main objectives of an agreement would be an enhanced protection of EU investments in China and *vice versa*, improved legal certainty regarding the treatment of EU investors in China, reduction of barriers to investing in China and, as a result, increasing bilateral investment flows and improved access to the Chinese market. The aim would be to complete negotiations no later than two and a half years after they have started.

EU-ASEAN TRADE RELATIONS

The Council adopted an updated mandate allowing the Commission to open negotiations on investment protection provisions with countries of ASEAN as part of on-going free trade negotiations.

The mandate is composed of:

- a Council decision modifying the negotiating directives for free trade agreements (FTAs) with ASEAN countries in order to extend the scope of the agreements to include investment protection;
- a decision of the EU member states authorising the Commission to negotiate, on their behalf, those investment protection provisions that fall within their sphere of competences; and
- directives for the negotiation of investment protection provisions.

The Commission issued its recommendation for the modification of the negotiating mandate in July. It is currently negotiating with four ASEAN countries: Malaysia, Thailand, Singapore and Vietnam. The negotiations for an FTA with Singapore were concluded last December, though talks on investment protection are still on-going.

Directives for the negotiation of an FTA with ASEAN were adopted by the Council in July 2007. They were modified in July 2011 in order to allow the incorporation of investment protection provisions in the bilateral negotiations for an FTA with Singapore

Following the suspension of talks on a region-to-region FTA with the ASEAN countries, the Council in December 2009 decided to pursue negotiations bilaterally, whilst preserving the strategic objective of a region-to-region FTA with ASEAN.

W.T.O. MINISTERIAL CONFERENCE

The Council was briefed by the Commission on preparations and prospects for the 9th World Trade Organisation ministerial conference, to be held in Bali, Indonesia, on 3-6 December.

It discussed the EU's strategy for the meeting, assessed the overall balance to be achieved between the main elements in discussion – namely trade facilitation, agriculture and development issues – and considered priorities for subsequent negotiations.

Possible outcomes of the Bali conference include an agreement on trade facilitation (essentially an easing of customs procedures to facilitate trade flows), least developed countries/development-related issues and negotiations covering some aspects of agriculture.

An agreement on such issues would help maintain the credibility of the multilateral trading system and enable a meaningful post-conference agenda to be established.

The Council underscored the importance of reaching an ambitious and balanced outcome in Bali. It broadly supported the Commission's suggested line of action on the main elements, taking into account both offensive and defensive interests.

It emphasised the need for an agreement on trade facilitation to be ambitious and of a binding nature, considering it to be by far the most important and concrete deliverable for Bali. This could be of considerable systemic importance and could provide the necessary impetus for renewing the WTO's negotiating agenda.

The Council also emphasised the desirability of reaching an agreement on the revision of the information technology agreement, and the importance of the post-Bali work programme.

INVESTOR-STATE DISPUTE SETTLEMENT

The Council discussed a draft regulation aimed at establishing a legal and financial framework for investor-state dispute settlement proceedings, as part of a broader framework for foreign direct investment.

It confirmed its willingness to seek agreement with the European Parliament in order to enable the regulation to enter into force as soon as possible. The presidency confirmed that it will engage with the Parliament rapidly.

The Treaty of Lisbon has brought foreign direct investment within the scope of the EU's common commercial policy, making it an EU competence. International agreements include the possibility for an investor to bring a claim against a state where the state is alleged to have acted in a manner that is inconsistent with the agreement. Where such litigation takes place, the state will incur costs and may, if it loses, be required to pay compensation.

The draft regulation, presented by the Commission in June 2012, sets a framework for managing the financial consequences of such disputes, specifying how cooperation between the Commission and the member states should be structured in specific cases.

Under its proposal, financial responsibility arising from a dispute settlement claim would be attributed to either the EU, a member state or both, depending on the origin of the measure for which the investor has filed a complaint.

The proposal is one of the key elements in the creation of an EU investment policy, which involves the negotiation of new rules on investment with key trading partners, and the continuity of existing bilateral investment treaties between member states and third countries

Based on article 207(2) of the Treaty on the Functioning of the European Union, the regulation requires a qualified majority for adoption by the Council, in agreement with the Parliament. The Permanent Representatives Committee, on behalf of the Council, mandated the presidency on 9 October to start negotiations with the Parliament.

CHINA - ANTI-DUMPING INQUIRY INTO E.U. WINE

The Council, at the request of France, was briefed by the Commission on developments regarding Chinese anti-dumping and anti-subsidy investigations into EU wine exports.

Ministers stressed solidarity and concern in this regard, and looked forward to a prompt commitment by China to move ahead. They asked the Commission to follow the issue closely and to keep the Council informed of developments.

In response to moves by the Commission to impose anti-dumping duties on Chinese solar panels, China in June launched anti-dumping and anti-subsidy investigations into sales of European wines. The Commission has since adopted a decision accepting a price undertaking offered by Chinese exporting producers of solar panels, as well as a regulation exempting these participating companies from the payment of provisional anti-dumping duties.

E.U.-U.S. TRADE NEGOTIATIONS

Ministers, over lunch, were briefed by Commission on developments in negotiations with the United States on a transatlantic trade and investment partnership (TTIP).

They also discussed a request by the French minister to declassify the text of the Commission's negotiating mandate for the TTIP.

The negotiating mandate was adopted by the Council on 14 June. A first negotiating round was held in Washington DC during the week of 8 July. A second round scheduled for the week of 7 October in Brussels was cancelled by the US because of the government shutdown resulting from the impasse in its budgetary discussions.

OTHER BUSINESS

– EU-Canada free trade negotiations

Ministers, over lunch, were informed by the Commission of a breakthrough in negotiations with Canada on a comprehensive economic and trade agreement. They held a preliminary exchange of views.

The presidency welcomed the breakthrough on behalf of the Council and suggested that it return to the issue in the near future in order to assess the outcome once the text of an agreement has become available.

– EU-Japan free trade negotiations

Ministers, over lunch, were briefed by the Commission on progress in negotiations with Japan on a free trade agreement.

OTHER ITEMS APPROVED

TRADE POLICY

EU-US: Beef imports

The Council adopted a decision authorising the signing of a revised memorandum of understanding with the United States on the importation of beef from animals not treated with certain growth-promoting hormones and on duties applied by the United States on certain EU products ([14375/13](#)).

The Council also decided to forward a draft decision on the conclusion of the revised MOU to the European Parliament for its consent.

The revised MOU extends phase two of the agreement, which ended in August 2013, whilst continuing to seek the termination of the WTO dispute, *EC – Measures Concerning Meat and Meat Products (Hormones)*. The aim of phase two is for the EU to expand market access for high quality beef, while the United States would suspend all increased duties imposed in connection with the WTO dispute settlement proceedings.

ENVIRONMENT

EU Ecolabel for imaging equipment, soaps, shampoos and hair conditioners

The Council decided not to oppose adoption by the Commission of two decisions:

- decision establishing the ecological criteria for the award of the EU Ecolabel for imaging equipment ([13503/13](#));
- decision amending decision 2007/506/EC in order to prolong the validity of the ecological criteria for the award of the EU Ecolabel to soaps, shampoos and hair conditioners ([13505/13](#)).

The draft decisions are subject to the regulatory procedure with scrutiny. Now that the Council has given its consent, the Commission may adopt them unless the European Parliament objects.

CO2 emissions - Piaggio

The Council decided not to object to adoption by the Commission of a regulation amending delegated regulation 114/2013 for the purpose of correcting the 2010 average specific CO2 emissions specified for the manufacturer Piaggio ([13252/13](#)).

The draft regulation is a delegated act pursuant to article 290 of the Treaty on the Functioning of the European Union. Now that the Council has given its consent, the act can enter into force unless the European Parliament objects.

TRANSPORT

Air operations - technical requirements and administrative procedures

The Council decided not to oppose adoption by the Commission of a regulation amending regulation 965/2012 laying down technical requirements and administrative procedures related to air operations ([12864/13](#)).

The regulation is subject to the regulatory procedure with scrutiny. Now that the Council has given its consent, the Commission may adopt the regulation unless the European Parliament objects.
