



Council of the  
European Union

Brussels, 12 February 2016  
(OR. en)

13581/15  
EXT 1

WTO 236  
COASI 156

### **PARTIAL DECLASSIFICATION**

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of document: 13581/15 RESTREINT UE/EU RESTRICTED  
dated: 3 November 2015  
new status: Public  
Subject: ASEAN: launch of bilateral FTA negotiations with the Philippines

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Delegations will find attached the partially declassified version of the above-mentioned document.



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**"I/A" ITEM NOTE**

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From: Trade Policy Committee

To: Permanent Representatives Committee/Council

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Subject: ASEAN: launch of bilateral FTA negotiations with the Philippines

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1. On 23 April 2007, the Council authorised the Commission to enter into negotiations for a Free Trade Agreement with countries of ASEAN (doc. 8600/07), it being understood that the objective was to negotiate a region-to-region Free Trade Agreement.
2. At the same time, the authorisation provided for the possibility of bilateral negotiations in the event that it was not possible to reach agreement to negotiate jointly with a grouping of countries, and where such bilateral negotiations were politically acceptable and economically meaningful.

3. The Commission reported to the Article 133 Committee of 8 May 2009 on the difficulties encountered in the region-to-region negotiations, and that both sides had agreed to pause negotiations. In that meeting, the Article 133 Committee asked the Commission to explore the prospects for individual bilateral negotiations with a number of ASEAN countries. On the basis of scoping discussions, the Commission suggested pursuing bilateral FTAs with relevant ASEAN countries in the future and that bilateral negotiations should be launched with Singapore as a first step. The launching of bilateral FTA negotiations would take place, on a case-by-case basis, following an assessment by the Commission, a substantive discussion in the Article 133 Committee and a subsequent approval by the Council.

Finally, as part of its suggested approach, the Commission confirmed the strategic objective of a region-to-region agreement and, to this end, the need to ensure consistency in and between any future bilateral FTA negotiations with ASEAN countries.

4. At its meeting of 30 November 2009, the Article 133 Committee endorsed this approach and suggested to adapt the above mentioned negotiating authorisation and directives in this sense. In addition, the Committee:
- highlighted its expectation that the launch of negotiations with Singapore should pave the way for additional bilateral FTAs with relevant countries of ASEAN in the near future;
  - stressed the importance that the bilateral FTA negotiations are used to secure market access interests of Member States and EU businesses – in line with the “Global Europe” Strategy – on a broad variety of issues, including tariffs and non-tariff barriers, services and establishment, SPS, intellectual property rights and procurement.

5. On 18 October 2013, the Council and the Representatives of the Governments of the Member States adopted decisions extending the scope of the ASEAN negotiating directives to investment protection (docs. 14096/13 + COR 1 and 14095/13 + COR 1 + ADD 1).
  
6. On 23 October 2015, the Commission reported to the Trade Policy Committee on the preparatory talks for an FTA held with the Philippines. On the basis of this report, the Commission recommended to launch negotiations for FTA with the Philippines. The Committee reconfirmed its overall approach to the negotiations with individual ASEAN countries as endorsed by the Council on 22 December 2009 and as set out in doc. 17494/09 and endorsed the recommendation of the Commission. **NOT DECLASSIFIED**

The Committee reminded the Commission of the obligation to conduct the negotiations in consultation with the Trade Policy Committee and to report regularly to the Trade Policy Committee on the progress of the negotiations.

7. In accordance with the authorisation to the Commission to enter into negotiations on FTA with countries of ASEAN (docs. 8600/07, 14096/13 + COR 1 and 14095/13 + COR 1 + ADD 1), the Permanent Representatives' Committee is therefore invited to recommend that the Council, as an A item at one of its forthcoming meetings:
- agree that the Commission should start bilateral FTA negotiations with the Philippines as the next step on the path towards FTA negotiations with ASEAN countries;
  - note the Decision of the Representatives of the Governments of the Member States, meeting within the Council, as set out in ANNEX I to this note;
  - agree that the Commission should continue its efforts to allow the launch of further negotiations with other relevant ASEAN countries, also taking into account that only a set of bilateral FTAs with relevant countries in the region would meet the Council's original perspective for the negotiations;
  - confirm that such negotiations will be conducted, with respect to the Philippines, in accordance with the existing negotiation directives as attached to doc. 8600/07 and included in document 14095/13 + COR 1 + ADD 1, and based on the assessment by the Commission. The Free Trade Agreement shall, in addition, take account of the orientations set out in paragraph 6 above;
  - agree to enter in its minutes the statement set out in ANNEX II.

**Decision by the Representatives of the Governments of the Member States**  
**meeting within the Council**

The Commission is hereby authorised to start bilateral FTA negotiations with the Philippines as the next step on the path towards FTA negotiations with ASEAN countries, in those areas that fall within the competences of the Member States.

Done at Brussels,

For the Representatives of the  
Governments of the Member States  
The President

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**Statement by the Commission**

The Commission considers that the "Decision by the Representatives of the Governments of the Member States, meeting within the Council" to authorise the Commission to start FTA negotiations with the Philippines in those areas that fall within Member States competences (ANNEX I to this document) is unwarranted because the Commission aims to conduct FTA negotiations with the Philippines exclusively within the framework of the EU competencies as defined by the Treaty on European Union and the Treaty on the Functioning of the European Union.

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