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WTO 48  
SERVICES 19  
FDI 4  
COASI 21

#### **PARTIAL DECLASSIFICATION**

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EU RESTRICTED

dated: 14 February 2011

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Subject: Recommendation from the Commission to the Council on the modification of the negotiating directives for the EU-Singapore negotiations towards Free Trade 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.



EUROPEAN COMMISSION

Brussels, 11.2.2011  
SEC(2010) 1578 final

RESTREINT UE

**RECOMMENDATION FROM THE COMMISSION TO THE COUNCIL**

**on the modification of the negotiating directives for the EU-Singapore negotiations  
towards Free Trade Agreement in order to authorise the Commission to negotiate, on  
behalf of the Union, on investment**

DECLASSIFIED PART

on 20 JAN 2016

**EN**

RESTREINT UE **EN**

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## A. EXPLANATORY MEMORANDUM

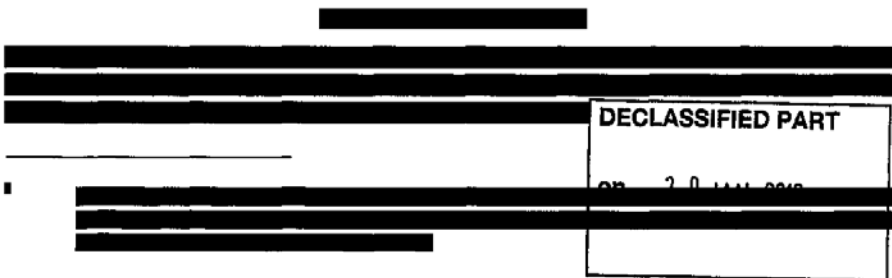
In March 2010, the European Union and Singapore launched bilateral negotiations towards a Free Trade Agreement. The Commission conducts the negotiations, on behalf of the Union and its Member States, in accordance with the directives for negotiations adopted by the Council on 2 April 2007 as amended on 15 December 2009.

Title 3 "Trade in Services, Establishment" of the afore-mentioned negotiating directives provides that, "respecting the respective competence of the EC and its Member States the parties shall agree to establish a framework for establishment, which shall be based on principles of transparency, non-discrimination, market access, stability and on general principles of protection, based on the Minimum Platform on Investment for EU FTAs, as agreed within the framework of the Article 133 Committee (doc. St 15375/06)."

The Lisbon Treaty, which amends the Treaty Establishing the European Communities and renames it the Treaty on the Functioning of the European Union (hereafter: "the Treaty"), provides that the Union is to contribute to the progressive abolition of restrictions on foreign direct investment (Article 206). Furthermore, the Treaty establishes the European Union's exclusive competence on foreign direct investment, as part of the common commercial policy (Article 207(1) and Article 3(1)e). In accordance with Article 2 of the Treaty, only the Union may legislate and adopt legally binding acts in an area where exclusive competence is conferred upon the Union.

Further to the conferral of exclusive competence on foreign direct investment to the Union, the Commission adopted on 7 July 2010 a Communication on a common international investment policy<sup>1</sup>. The Communication considers the main strategic orientations of an EU investment policy for the future, as well as the main parameters and principles for action in the short to medium term. The EU-Singapore FTA negotiations are identified as one of the ongoing negotiations which present an opportunity to engage on investment more broadly, by covering investment protection provisions, investor-state dispute settlement and addressing all forms of investment in a European agreement.

Singapore is a large recipient of investment from the EU while the EU is the 2<sup>nd</sup> largest destination for Singapore's foreign investment. The EU investments in Singapore increase steadily while it is estimated that there are approximately 8.000 EU companies and subsidiaries operating in Singapore at present. Singapore is used by many EU companies as a hub for their operations in Southeast Asia and the larger Asia Pacific region. While so far there have been no major problems in investing in Singapore, an investment chapter will provide with additional guarantees to EU investors establishing legal certainty and predictability and will set a positive model for the negotiations with other SE Asian countries. There are currently only 12 bilateral investment agreements concluded by EU Member States with Singapore and these include significant limitations as investors and investments need specific approval by the Singapore government in order to enjoy the protection of these agreements. They are quite old and need to be updated.



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