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Delegations will find attached the declassified version of the above document.

The text of this document is identical to the previous version.



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THE EUROPEAN UNION**

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**WTO 174
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"I/A" ITEM NOTE

from: the Presidency
to: Permanent Representatives Committee (part 2) / Council
Subject : ASEAN: launch of bilateral FTA-negotiations with Vietnam
COMMON GUIDELINES
Consultation deadline: 15.05.2012

1. On 23 April 2007, the Council authorised the Commission to enter into negotiations for a Free Trade Agreement with countries of ASEAN (document 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 20 April and 27 April 2012, the Commission reported to the Trade Policy Committee on the preparatory talks for an FTA held with Vietnam. On the basis of these reports, the Commission recommended to launch negotiations for an FTA with Vietnam. 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 document 17494/09 and endorsed the recommendation of the Commission. The Committee also underlined:
 - the importance of an ambitious approach to the negotiations while taking into account key offensive and defensive EU-interests including export duties; rules of origin and duty drawback; intellectual property rights, including geographical indications; import restrictions; equity caps; price laws; vehicles and parts; cosmetics and pharmaceuticals; wines and spirits; agricultural and fishery products;
 - the importance of considering the inclusion of investments, and subject to the necessary adaptation of the negotiating directives, the issue of investment protection, in the negotiations;

- the particular sensitivity of the issue of rules of origin, including cumulation and the requirement of an appropriate level of transformation and processing in the country of origin of products benefiting from preferential treatment;
- the sensitivity of the audiovisual sector, which should be excluded from provisions on trade and should not be subject to preferential provisions, and about which cooperation would be made subject to a number of conditions and will not include any market access commitments. The Committee underlined that the solutions found in the EU/Korea FTA in the field of Cultural Cooperation Protocol do not constitute a precedent for negotiations with ASEAN countries.

6. In accordance with the possibility to authorise bilateral negotiations as provided for in the document 8600/07, the Permanent-Representatives Committee is therefore invited to recommend that the Council, as an A-item in one of its forthcoming meetings:

- agrees that the Commission should start bilateral FTA negotiations with Vietnam as the next step on the path towards FTA negotiations with ASEAN countries;
- agrees 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;
- confirms that such negotiations will be conducted in accordance with the existing negotiation directives as attached to document 8600/07, and that with respect to Vietnam, based on the Commission's assessment and its confirmation of the position to be taken, no trade commitments will be taken on the Audiovisual sector and particular attention will be paid to rules of origin, taking account of the specificity of EU-Vietnam trade relations;
- encourages the Commission to consider the inclusion of investment protection in the negotiations with Vietnam, and looks forward to the submission by the Commission at its earliest convenience of a proposal for supplementary negotiating directives to this effect.