



Council of the
European Union

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FDI 21
COMER 151
DEVGEN 247
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COMPET 549

OUTCOME OF PROCEEDINGS

From: General Secretariat of the Council

To: Delegations

Subject: EU's trade and investment policy
- Council conclusions

Delegations will find attached Council conclusions on the EU's trade and investment policy as adopted by the Council on 27 November 2015.

Council Conclusions on the EU's trade and investment policy

1. Recalling the European Council Conclusions of 7/8 February 2013 and its previous Conclusions on Trade of 21 November 2014, the Council broadly welcomes the Communication from the Commission of 14 October 2015 on "Trade for All: Towards a more responsible trade and investment policy". The Council takes note of the Communication's conclusions and recommendations, which pave the way for an ambitious trade and investment agenda, in line with the EU's external relations and other relevant policies.
2. The Council remains fully committed to a strong, rules-based multilateral trading system and strongly supports the Commission's ambitious approach in this regard. It supports the further strengthening of the multilateral system, including dispute settlement as one of its central pillars, on the basis of a robust and effective WTO that responds to current and future global trade challenges, and which better reflects the capacities of other WTO members to contribute to the system. A successful WTO Ministerial Conference (MC10) in Nairobi with concrete, balanced and meaningful outcomes and progress on the remaining issues of the Doha Development Agenda (DDA) will be important to foster trust and confidence in the multilateral trading system and boost international trade. Following the ratification by the EU of the WTO Trade Facilitation Agreement (TFA), the Council now expects other WTO partners which have not yet done so to fulfil all the required procedural steps without delay, so that companies, in particular in developing countries, can experience the tangible benefits of the TFA as soon as possible. The EU is also committed to exploring ways to make the multilateral trading system work better in the future and is open to considering the addition of new issues to the future trade agenda.

3. The Council looks forward to swift progress in plurilateral negotiations, including the Trade in Services Agreement (TiSA) and, by MC10, the expansion of the Information Technology Agreement (ITA) and a significant outcome on the Environmental Goods Agreement (EGA). These agreements, and any new plurilateral initiatives among WTO members, should contribute to stronger global trade and to more growth and jobs, and should act as building blocks for future multilateral agreements.
4. The Council supports the conclusion of ambitious, comprehensive and mutually beneficial bilateral trade and investment agreements and calls on the Commission to work to advance negotiations with the US, Japan and key partners in Latin America, and in the Asia-Pacific region. It welcomes the strong positive results stemming from the implementation of the EU-South Korea Free Trade Agreement, which is the first and most ambitious new generation bilateral trade deal ever implemented by the EU. The Council also welcomes progress achieved in the context of the Economic Partnership Agreements with ACP countries and looks forward to swiftly moving ahead with signature, ratification and implementation of these agreements. Deepening the trade and economic integration of the Eastern and Southern neighbourhood with the EU should also be pursued, taking into account the different ambitions of partner countries, in order to further develop an area of shared stability, security and prosperity.
5. The Council welcomes the ambitious programme of future bilateral trade negotiations set out by the Commission in its Communication, and underlines the need to consider any decision to open negotiations on a case-by-case basis, taking into account the EU's offensive and defensive interests, broader political context, as well as prioritising those negotiations that will provide most benefit in terms of growth and jobs. Bilateral, regional and plurilateral agreements should complement each other, be transparent, consistent and contribute to a stronger multilateral trading system under WTO rules.

6. The Council agrees that trade should benefit all, whether consumers, workers or economic operators and be coherent with other EU policies. It stresses the importance of national and European economic, social, environmental and labour market policies to help workers and businesses adjust to the process of continuous change in the global economy, making sure that they enhance their international competitiveness, harness new market opportunities and that the benefits of globalisation are fairly distributed and negative impacts mitigated. The Council underlines that EU trade agreements will not lead to lower levels of consumer, health, environmental or social and labour protection standards, and that any changes to levels of protection can only be upward and need to respect fully governments' right to regulate.
7. The worldwide economic shifts outside the EU will require Europe to further tap into the new centres of global growth in order to consolidate economic recovery and create more and better jobs to address continued unemployment, especially among young people, on our continent. Taking into account the EU's interests and specificities, trade agreements should provide equal opportunities across EU Member States, regions, including outermost regions and overseas territories of the EU, and all relevant sectors, including industry, agriculture and services. In this context, the Council underlines the need to facilitate and improve the integration of European companies in global value chains, in particular small and medium sized enterprises.
8. Given the importance of small and medium sized enterprises in the EU, their key role in job creation and their significant contribution to EU trade, the Council stresses the need to cut trading costs for SMEs through streamlining customs procedures, reducing non-tariff barriers and regulatory burdens, and strengthening trade enabling services. Therefore, the Council welcomes the Commission's intention to address these issues through provisions dedicated to SMEs in all trade and investment negotiations, in order to enhance the effective use of trade preferences by SMEs.

9. As the world's largest exporter of digitally deliverable services, the EU needs an ambitious and pro-active digital trade strategy in order to reap the benefits of digitalisation, in line with the Digital Single Market and relevant policies. This includes addressing new types of trade barriers which European businesses of all sizes face, such as non-transparent rules, undue government interference, and unjustified data localisation and data storage requirements. The Council stresses the need to create a global level playing field in the area of digital trade and strongly supports the Commission's intention to pursue this goal in full compliance with and without prejudice to the EU's data protection and data privacy rules, which are not negotiated in or affected by trade agreements.

10. The Council recalls that trade in services is becoming all the more important for the EU economy and is closely interlinked with trade in goods. EU trade policy therefore needs to aim at improving market access for both goods and services together, as well as facilitating the mobility of highly skilled service providers and professionals, including recognition of their qualifications. The Council also reiterates that EU trade and investment agreements do not and will not require governments to privatise any public service, or prevent governments, at any level, from protecting, supporting or regulating the provision of public services in areas such as water, education, culture, health or social services, nor from expanding the range of services they supply to the public.

11. The Council underlines that investment, both inward and outward, is essential for Europe's economy and companies to succeed. Regarding investment policy, which is an area of shared competence and responsibility, the Council stresses the need to promote and protect investments, and to maintain a level playing field for all investors. It welcomes the Commission's innovative and ambitious approach to modernise investment protection, and takes note of the transmission of a negotiating text proposal to the United States in this regard. The Council further takes note of the Commission's intention to consider this approach, where appropriate, in other EU trade agreements and to work towards the establishment of a multilateral investment court as a final goal. The Council welcomes the renewed pledge to respect governments' right to regulate.

12. The Council underlines the need to seize the benefits of open trade in a spirit of reciprocity and mutual benefit, and taking into account third countries' level of development. Open trade also depends on and benefits from fair and undistorted competition. It is therefore of utmost importance to fight all forms of protectionism by reducing barriers to trade, including as regards non-tariff trade barriers, ensuring better market access, promoting appropriate investment conditions including as regards investment protection, enforcing and promoting intellectual property rights (including geographical indications, patents, designs, trademarks and copyright), opening up public procurement markets, and securing access to energy, raw materials and components. It encourages the Commission to continue its efforts for market opening, reinforced international regulatory co-operation, raising global standards, as well as tackling trade barriers and unfair trade practices, including through using the full range of EU trade policy instruments. It also supports the Commission in its efforts to ensure compliance and enforcement of WTO rules and the better implementation of the EU's own bilateral trade and investment agreements.

13. The Council acknowledges that trade policy and a better implementation of the EU's agreements are a joint responsibility of the Commission, Member States, the European Parliament and stakeholders, building on an effective cooperation and timely consultations, and welcomes the proposed enhanced partnership for implementation with a view to maximising the benefits stemming from trade and investment agreements. The Council recalls the importance of ensuring the non-discrimination of Member States as well as the integrity of the single market when it comes to trade preferences granted by third countries. It welcomes the Commission's intention to improve "ex-ante" impact assessments, to report annually on the implementation of FTAs and to intensify its work on "ex-post" impact evaluations.

14. A responsible EU trade policy must be accompanied by a high level of transparency and an effective communication with citizens about the benefits and challenges of trade and open markets. The intensification of the debate around the EU's trade policy is an opportunity to better involve all stakeholders in the preparation, negotiation and implementation of our different initiatives in the field. This should respect the existing institutional balance and applicable rules regarding classified information, and not prejudice the EU's negotiating positions or international relations.

15. Only through an ambitious and responsible trade policy agenda, which takes account of other relevant policies, will the EU be able to shape globalisation and participate in the drawing up of robust international rules in future. The Council is therefore committed to ensuring that trade agreements safeguard the values on which the EU is founded, as well as EU standards and regulatory practices. This includes strengthening measures to support sustainable development and good governance through trade agreements, multi-stakeholder initiatives and beyond, with an emphasis on free, fair and ethical trade, environmental protection, labour rights, decent working conditions, as well as human rights, health and consumer protection, animal welfare, ensuring the protection of cultural diversity and promoting development through trade, including Aid for Trade and the 2030 Agenda. The Council attaches great importance to ensuring the inclusion and effective implementation of related provisions in all trade agreements and the Generalised System of Preferences.

16. The EU needs to be at the forefront of the fight against corruption and the Council looks forward to the Commission's proposals on how to tackle related issues in trade agreements. Corporate social responsibility and due diligence, in particular regarding global value chains, needs to be increased. The EU will support partner countries, and in particular least developed countries, in taking advantage of responsible global value chains to foster inclusive and sustainable growth, thereby creating jobs and strengthening competitiveness.
