Council of the European Union

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BACKGROUND[1]
Brussels, 15 May 2018

FOREIGN AFFAIRS COUNCIL - TRADE ISSUES

Brussels, 22 May 2018

The Council, chaired by Emil Karanikolov, Bulgarian minister of economy, is expected to adopt a decision authorising the **opening of negotiations on free trade agreements with Australia and New Zealand**, as well as the respective negotiating directives for the Commission. It is also due to **adopt conclusions on the new architecture and methodology for the negotiation and conclusion of EU trade agreements**.

Ministers will discuss the current challenges facing the multilateral trading system, taking stock of the **developments after the 11th WTO ministerial conference** in Buenos Aires in December 2017.

Finally, ministers will hold an exchange of views on the agreements with Japan and Singapore. The Commission presented the outcome of both negotiations in April 2018 in view of their signature and conclusion.

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Over lunch, ministers will discuss recent developments in the EU's trade relations with the US.

The Council meeting is scheduled to start at 9:30. A presidency **press conference** will be held after the lunch.

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Press conferences and public events by video streaming: http://video.consilium.europa.eu
Video coverage in broadcast quality (MPEG4) and *photo gallery on*: www.eucouncil.tv

1 This note has been drawn up under the responsibility of the press office.

Trade with Australia and New Zealand

Ministers will discuss the decisions on the opening of negotiations on free trade agreements (FTA) with Australia and New Zealand, together with the related negotiating directives. **The Council is expected to authorise the Commission to open formal negotiations** with both countries.

The draft negotiating directives (mandates) for trade negotiations with Australia and New Zealand were presented on 13 September 2017. The Commission recommended opening trade talks, against the backdrop of successful preparatory discussions which began in 2015 and were concluded in April 2017, which aimed to define the scope of the future agreements.

The EU already cooperates closely with Australia and New Zealand on economic and trade policy issues, in the framework of **partnership agreements** which were concluded respectively in 2008 and 2017. The EU also has bilateral agreements for mutual recognition of some technical certificates with both countries, in order to facilitate trade in industrial products, by reducing the costs of testing and certifying of exports and imports. Although generally limited, trade barriers for some sectors, such as agriculture or textile products, remain quite substantial.

In this context, trade agreements with both countries would primarily aim at **further reducing existing barriers to trade**, removing custom duties on goods and giving better access for services and public procurement in Australia and New Zealand. The sectors likely to benefit the most of an FTA are **motor equipment, machinery, chemicals, processed foods and services**.

The mandates are particularly concerned to **protect vulnerable sectors, such as agriculture**, by maximising the benefits of opening up markets without harming local producers. The mandates do not envisage full liberalisation of trade in agricultural products, which should benefit from specific treatment (such as long tariff dismantling periods or tariff rate quotas). Finally, the negotiating directives provide a comprehensive and modern framework, based on the **highest standards of labour, safety, environment and consumer protection**. In particular, they call on ambitious provisions on climate, in view of the Paris agreement concluded in 2015.

Key facts on trade with Australia: The EU is Australia's third largest trading partner. Annual bilateral trade amounted to more than €47.7 billion in 2017, with a positive trade balance of more than €21 billion on the EU side. EU's exports to Australia are predominantly manufactured goods while Australia's exports to the EU are dominated by mineral commodities and agricultural products. EU companies supply commercial services worth nearly €20 billion to Australia and hold investment in the country worth more than €160 billion (in 2016).

Key facts on trade with New Zealand: With annual bilateral trade amounting to more than €8.7 billion in 2017, the EU is New Zealand's second largest trading partner after Australia. New Zealand's exports to the EU are largely dominated by agricultural products while EU's exports to New Zealand are focused on manufactured and industrial goods. For the EU, trade with New Zealand results in a positive trade balance of €1.9 billion (in 2017), and EU companies hold more than €10 billion in foreign direct investment in New Zealand.

Draft mandate for negotiations with Australia

Draft mandate for negotiations with New Zealand

New architecture of trade agreements

The Council is expected to adopt conclusions on the negotiation and conclusion of EU trade agreements. This document sets out the key principles underpinning the Council's approach towards trade negotiations from now on.

This new approach stems in particular from the European Court of Justice's opinion on the **division of competences between the EU and its member states** for the conclusion of the EU-Singapore FTA. In its judgment, the Court ruled that only the provisions relating to non-direct foreign investment and the regime governing dispute settlement between investors and states were of "mixed competence".

It also follows up on President Juncker's **2017 state of the union speech** and the Commission's communication on *"A balanced and progressive trade policy to harness globalisation"* which highlights the need to ensure the legitimacy and inclusiveness of negotiation and adoption processes in trade policy, irrespective of whether the final decision for adoption takes place at the EU level or also at member states' level.

The Council is expected to take note of the Commission's intention to recommend to **split between separate agreements** provisions related to investment, which would require approval by the EU and all its member states, and other trade provisions falling under the exclusive competence of the EU. The conclusions should also highlight **how the Council intends to approach this issue in the future**, including in the specific cases of agreements with Australia, New Zealand and Japan.

In addition, the conclusions are expected to focus on the **role of the Council in the negotiations**, in particular its involvement throughout all the stages of the negotiating process, and the importance of striving to reach consensual decisions, to the greatest extent possible, in order to ensure that all member states' interests and concerns are adequately respected in trade agreements.

Finally, the conclusions should stress the importance of **keeping all interested stakeholders, including national parliaments and civil society, informed** of the progress and contents of trade agreements under negotiation.

Draft text of the Council conclusions on the negotiation and conclusion of EU trade agreements

ECJ's press release on the Singapore case

Commission's communication on harnessing globalisation, 13 September 2017

Follow-up to the WTO ministerial conference in Buenos Aires

The Council will discuss the **follow-up to the 11th WTO ministerial conference** which took place last December in Buenos Aires. In particular, ministers will have the opportunity to consider the latest developments in the post-Buenos Aires process and the prospects for the future of the WTO.

The WTO ministerial conference's **outcome is generally seen as disappointing** as no agreement was reached on any substantive multilateral outcomes. Negotiations collapsed due to irreconcilable differences among countries' positions on key topics on which an agreement seemed within reach.

Nevertheless, a clear mandate was obtained to move ahead on fisheries subsidies with a commitment to secure a deal by the 2019 ministerial conference. In addition, a large number of WTO members proposed to move ahead, in areas such as e-commerce, investment facilitation, domestic regulation or micro, small and medium enterprises (MSMEs).

The failure of the WTO conference has prompted the EU to start a more **general, strategic reflection on the possible future WTO agenda** and ways to revitalise cooperation in the multilateral framework.

An informal ministerial meeting of trade ministers will take place on 31 May 2018 in Paris, in the margins of the OECD Council at ministerial level.

WTO's 11th ministerial conference website

Trade agreements with Japan and Singapore

The Council will have an exchange of views on free trade agreements with Japan and Singapore, as well as an investment protection agreement with Singapore, on the basis of the proposals adopted by the Commission on 18 April 2018.

Economic partnership agreement with Japan

The text published by the Commission on 18 April reflects the outcome of the negotiations conducted with Japan since 2012. At the EU-Japan summit of 6 July 2017, both parties reached agreement in principle on the main elements of a free trade deal, known as the economic partnership agreement (EPA). Negotiations on all outstanding issues were concluded in December 2017.

Given the considerable economic value and the very high strategic importance of the agreement, the Commission has proposed to **fast-track the approval** of the proposed agreement with a view to signing the EU-Japan agreement at a summit in Brussels in July (date still to be confirmed) and to having the **agreement in force in early 2019**.

In order to respect the envisaged timetable, the **Council will be invited to adopt a decision authorising the Commission to sign the agreement by the end of June**. The European Parliament will then need to give their consent before the trade pact can be implemented. After that, the Council will be invited to adopt the decision on the conclusion, which is necessary for completion of the decision-making process on the EU side. Once the Japanese side also completes its own decision-making process and procedural requirements, the agreement will formally enter into force.

The EPA is a highly ambitious and comprehensive trade agreement. When fully implemented, 99% of the tariffs applied on EU exports to Japan, which currently amount to about €1 billion, will be removed.

The agreement will create sizeable new opportunities for EU agricultural exports, removing the existing Japanese tariffs on products such as cheeses or wines, while protecting EU intellectual property rights on Japanese markets. It will also open up services markets and significantly increase EU companies' access to Japan's procurement bids.

The EPA is based on the highest standards of labour, safety, environment and consumer protection. It is also the first trade agreement including a specific commitment to the Paris climate agreement.

In parallel, negotiations with Japan continue on investment protection standards and investment protection dispute resolution. The firm commitment on both sides is to move towards an agreement in the investment protection negotiations as soon as possible.

EU-Japan trade: facts and figures

Commission's web page on the EU-Japan economic partnership agreement

Trade and investment agreements with Singapore

The EU and Singapore launched trade and investment negotiations 2010. Talks were concluded in 2014 but the finalisation of the agreement was put on hold due to the request submitted by the Commission to the Court of Justice for an opinion to determine whether the EU has exclusive competence enabling it to sign and conclude the envisaged agreement by itself.

Following the opinion of the Court delivered in May 2017 (see point on the new architecture of trade agreements above), **the Commission decided to propose two separate agreements**:

- a **free trade agreement**, which contains areas of exclusive EU competence and thus only requires the Council's approval and the European Parliament's consent before it can enter into force. The Commission's target for having the agreement applied is the **end of its current mandate**, in 2019;

- an **investment protection agreement** which, due to its shared competence nature, will also have to go through the relevant national ratification procedures in all member states before it can enter into force. The time horizon for implementation of this pact is therefore much longer.

The EU-Singapore deal is one of the first 'new generation' bilateral agreements. On top of the classical removal of customs duties and non-tariff barriers for trade in goods and services, it contains important provisions on intellectual property protection, investment liberalisation, public procurement, competition and sustainable development.

The EU-Singapore trade and investment agreements are also the first bilateral trade and investment agreements concluded between the EU and a member state of the Association of Southeast Asian Nations (ASEAN). Singapore is by far the EU's largest ASEAN partner. With total bilateral trade in goods of €53.3 bn in 2017 and trade in services of €44.4 bn in 2016, Singapore accounted for just under one-third of EU-ASEAN trade in goods and services. At the same time, with bilateral investment stocks of €256 bn in 2016, Singapore accounted for roughly two-thirds of investments between the two regions.

The day the trade agreement enters into force, over 80% of all imports from Singapore will enter the EU duty-free. European tariffs will be removed within three or five years for the remaining 20%, depending on the product category. Electronics, pharmaceuticals and food products will likely benefit most of the agreement, as the deal removes technical and non-tariff barriers to trade in these specific goods.

Commission's webpage on the EU-Singapore trade and investment agreements

Other issues

Under "other business", the Council will consider the **state of play of ongoing trade negotiations** with its partners - in particular Mexico, Mercosur, Chile and Vietnam - on the basis of a presentation by the Commission.

Over lunch, ministers will discuss **recent developments of the EU's trade relations with the United States**, in light of President Trump's announcement of the application of a 25% tariff on steel and 10% tariff on aluminium of 23 March 2018 and the imminent expiry of the exemption from those tariffs granted to the EU until 1 June.