Council of the European Union

PRESS

EN

BACKGROUND[1]
Brussels, 22 May 2019

FOREIGN AFFAIRS COUNCIL - TRADE ISSUES

Brussels, 27 May 2019

The Council meeting, chaired by **Ștefan Radu Oprea**, Minister for Business Environment, Trade and Entrepreneurship of Romania, is expected to start at 10.00 with a discussion on the state of play on **WTO reform and negotiations**.

Ministers will then have the opportunity to be informed about and hold an exchange of views on recent developments in **EU-US trade relations**.

Finally, the Council will take stock of **preparations for the signature** of the free trade agreement and the investment protection agreement **with Vietnam**, which the presidency is planning to complete by the end of its term.

~ ~ ~

Over lunch, ministers will discuss **ongoing trade negotiations**, in particular with Mercosur, Australia, New Zealand, Chile and Indonesia.

A presidency **press conference** will be held **after the lunch** with Commissioner **Malmström**.

* * *

Press conferences and public events by video streaming: http://video.consilium.europa.eu
Video coverage in broadcast quality (MPEG4) and *photo gallery on*: http://nwsr.eu/p/209002

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

Modernisation of the World Trade Organization

The Council will discuss the **state of play of the reform** of and negotiations in the World Trade Organization (**WTO**). In particular the Commission is expected to brief ministers on the latest initiatives to promote a EU comprehensive approach towards the modernisation of all the main functions of the WTO: rulemaking, monitoring and dispute settlement.

Ministers will be invited to **provide guidance on the steps forward**, especially as regards the **Appellate Body** crisis.

Background

In response to the conclusions of the European Council of 28 June 2018, which invited the European Commission to propose a comprehensive approach to improving the functioning of the WTO in crucial areas, the Commission published on 18 September 2018 a concept note setting out ideas to modernise the main WTO functions: rulemaking, monitoring and dispute settlement.

The EU has been delivering various concrete proposals for improvements on:

- **dispute settlement:** appointments of Appellate Body members continue to be blocked by the US, leaving the body with 3 members only, the bare minimum for it to function. As this may lead to the paralysis of the dispute settlement system by the end of the year, the EU, together with a broad coalition of developed and developing countries, submitted a set of proposals designed to resolve the crisis and unblock the appointments. In the EU perspective, the essential features of the existing system, such as the binding nature of dispute settlement, two levels of adjudication and the independence of adjudicators, should not be compromised.

- **monitoring and enforcement**: in order to improve these WTO functions the EU together with the US, Japan in the context of the trilateral cooperation, and other WTO members, has submitted a proposal aimed at improving compliance with notification obligations. The proposal was recently revised and includes a larger number of WTO members as co-sponsors [2].
In parallel the EU is also working to improve the functioning of regular WTO committees and their ability to effectively deal with trade concerns.

- **rulemaking:** in light of the WTO inability to update its rulebook and address distortions caused by non-market policies and practices such as industrial subsidies and forced technology transfer, the EU has intensified work on new rules intended to create a fairer level playing field and address the underlying tensions in the multilateral system. This work runs in parallel with the one on the outstanding Doha issues (including fisheries subsidies and e-commerce, development/special and differentiated treatment).

Negotiations on e-commerce were launched in Davos on 25 January by 76 WTO members and a Council decision supplementing the negotiating directives for the Doha Development Agenda regarding the plurilateral negotiations of rules and commitments on electronic commerce is due for adoption at the Foreign Affairs Council on 27 May 2019.

The last ministerial discussion on the WTO reform took place at the informal FAC (Trade) meeting on 22 February 2019 in Bucharest. During the discussion, ministers expressed their full support for the Commission's approach on modernising the WTO and indicated that solving the Appellate Body crisis was a priority.

[2] https://docs.wto.org/dol2fe/Pages/FE_Search/DDFDocuments/.../Jobs/GC/204R1.pdf

Relations with the United States

The Council will have the opportunity to hear from the Commission about and hold an exchange of views on the **recent developments** in the **trade relations** between the **EU** and the **United States**, with particular regard to negotiations on **conformity assessment** and on the **elimination of tariffs for industrial goods**, as well as the recent US proclamation concerning the alleged national security threat posed by the imports of cars and car parts from the EU.

In April 2019, the Council approved **mandates** for the Commission **to open negotiations with the US** on the elimination of tariffs for industrial goods and on conformity assessment, in line with the July 2018 Joint Statement agreed by Presidents Juncker and Trump.

Following the adoption of the mandates and negotiating directives by the EU, meetings of the EU-US Executive Working Group took place during four days in the weeks of 6 and 13 May in Washington.

Background

On 25 July 2018, President Juncker and President Trump held talks in Washington, which resulted in a joint EU-US statement. In the statements the two presidents agreed to:

- work together toward zero tariffs, zero non-tariff barriers, and zero subsidies on non-auto industrial goods
- strengthen strategic cooperation with respect to energy
- launch a close dialogue on standards in order to ease trade, reduce bureaucratic obstacles, and slash costs, and
- work closely together with like-minded partners to reform the WTO and to address unfair trading practices, including intellectual property theft, forced technology transfer, industrial subsidies, distortions created by state owned enterprises, and overcapacity.

The parties then set up an Executive Working Group (EWG), co-chaired by Commissioner Malmström and the US trade representative (USTR) Lighthizer, to discuss the practical implementation of the EU-US joint statement. The EWG met four times and several other meetings were held between representatives of the two sides at senior officials' and expert levels.

The Trump administration published its negotiating objectives for trade talks with the European Union on 11 January.

On the EU side, the European Council on 21-22 March 2019 in its conclusions called for the necessary steps to be taken towards rapid implementation of all elements of the EU-US Joint Statement of July 2018. Consequently the Council authorised the Commission to launch negotiations with the US on the elimination of tariffs for industrial goods (I and II) and on conformity assessment (I and II) on 15 April.

The EU continues to deliver on all other aspects of the July Joint Statement, notably as regards cooperation on WTO reform, imports of US soya beans and shipments of liquefied natural gas from the US.

As regards the possible imposition of **Section 232** tariffs on automotive imports from Europe, Japan and other countries into the US, on 17 May 2019 President Trump signed a proclamation setting a six month deadline for the US to reach a deal with the EU (and Japan) to "address the threatened impairment of the national security with respect to imported automobiles and certain automobile parts".

On 11 April 2019, the WTO adopted its final compliance report in the **Boeing dispute**, confirming that US subsidies to Boeing continue to cause significant harm to Airbus, including lost sales. As a consequence the European Commission launched a public consultation on a preliminary list of products from the US on which the EU may take countermeasures (deadline: 31 May 2019).

Another element in the current state of the EU-US relations is the activation by the US of Title III of the **Helms–Burton Act**. One of the consequences of such decision is that European companies that engage in business in Cuba will now be at risk of lawsuits by US persons whose property was seized without compensation by the Castro regime. The EU considers the extra-territorial application of unilateral restrictive measures to be contrary to international law and will draw on all appropriate measures to address the effects of the Helms-Burton Act, including in relation to its WTO rights and through the use of the EU Blocking Statute.

Ministers might also address the issue of implications of ongoing US-China trade tensions for the global economy and the EU in particular.

Trade and investment agreements with Vietnam

Ministers will take stock of preparations for the signature of both agreements with Vietnam, which the presidency is planning to complete by June 2019.

Background

Negotiations between the EU and Vietnam started in June 2012 and were concluded on 2 December 2015. However, the formal conclusion of the agreement was delayed by a pending opinion of the European Court of Justice on the on the division of competences between the EU and its member states relating to the conclusion of the EU-Singapore FTA.

Following the opinion of the Court delivered in May 2017, **the Commission decided to propose two separate agreements**:

- a **free trade agreement** (FTA), 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.
- an **investment protection agreement** (IPA) 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 the implementation of this act is therefore expected to be much longer.

According to the Commission, the Vietnam free trade agreement is the most ambitious free trade deal ever concluded with a developing country.

It provides for the almost complete (99%) elimination of customs duties between the two blocks. 65% of duties on EU exports to Vietnam will disappear as soon as the FTA enters into force, while the remainder will be phased out gradually over a period of up to 10 years. As regards Vietnamese exports to the EU, 71% of duties will disappear upon entry into force, the remainder being phased out over a period of up to 7 years.

The FTA will also reduce many of the existing non-tariff barriers to trade with Vietnam and open up Vietnamese services and public procurement markets to EU companies, while the IPA will strengthen protection of EU investments in the country.

As one of the "new generation" bilateral agreements, the EU-Vietnam trade deal also contains important provisions on intellectual property protection, investment liberalisation and sustainable development. On this last aspect, the FTA includes commitments to implement International Labour Organisation core standards (for instance on the freedom to join independent trade unions and on banning child labour) and UN conventions relating for example to the fight against climate change or the protection of biodiversity.

According to the Commission's trade sustainability impact assessment, the FTA would be very beneficial to Vietnam: it is expected to boost Vietnam's economy by about 15% of GDP and increase Vietnamese exports by over 30%, the main winners being the Vietnamese textiles, footwear and leather sectors.

Vietnam is the EU's second largest trading partner in the Association of Southeast Asian Nations (ASEAN) after Singapore, with trade in goods worth €47.6 billion a year and €3.6 billion when it comes to services. While EU investment stocks in Vietnam remain modest, standing at €8.3 billion in 2016, an increasing number of European companies are establishing there to set up a hub to serve the Mekong region. Main EU imports from Vietnam include telecommunications equipment, clothing and food products. The EU mainly exports to Vietnam goods such as machinery and transport equipment, chemicals and agricultural products.

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

Other issues

Over lunch, the Commission will inform ministers about the state of play of ongoing bilateral trade negotiations.

- **Mercosur**

Based on Council negotiating directives from 1999, negotiations for a free trade agreement (FTA) with Mercosur started in 2000 as part of the wider negotiations of a bi-regional association agreement covering also political dialogue and cooperation with the founding members of Mercosur: Argentina, Brazil, Paraguay, and Uruguay. After a long hiatus, negotiations were re-launched in 2010.
Significant progress has been achieved since the relaunch of the negotiations. The last negotiating round was held in the week of 11 March 2019 (see report). Another negotiators' meeting took place in the week of 13 May. From the EU's point of view, the key outstanding issues concern, among others, market access for cars and car parts; market access for dairy products; maritime services; and protection of Geographical Indications.

- **Indonesia**

Negotiations for an EU-Indonesia free trade agreement were launched in July 2016 (see press release). The aim of these talks is to conclude a free trade agreement that will facilitate trade and investments, and cover a broad range of issues, including tariffs, non-tariff barriers to trade, trade in services and investment, trade aspects of public procurement, competition rules, intellectual property rights as well as sustainable development.

Seven rounds of negotiations have been held so far. The latest one took place from 11 to 15 March 2019 in Brussels.

- **Chile**

On the basis of a Council mandate granted in November 2017 (see press release and mandate 13553/17 ADD 1 DCL 1), the EU and Chile are currently negotiating the modernisation of the trade part of the EU - Chile Association Agreement. The latter was concluded in 2002 and includes a comprehensive FTA that entered into force in February 2003.

So far four rounds of negotiations have taken place, the last of which took place in Santiago de Chile from 1 to 5 April 2019. There was very good textual progress in a significant number of chapters (e.g. SPS, TBT, GRP, CTF, Rules of Origin, SMEs, Services, Competition), while other areas benefited from constructive discussions (e.g. Trade and Gender, Trade and Sustainable Development, Public Procurement, Trade and Defence Instruments) which will facilitate progress on the draft texts in future meetings (see report).

- **Australia**

On 22 May 2018, the Council adopted the decision authorising the opening of negotiations for a free trade agreement between the EU and Australia (see press release and mandate).

So far the EU and Australia have been conducting their trade and economic relations under the 2008 EU-Australian Partnership Framework. This aims to facilitate trade in industrial products between the EU and Australia by reducing technical barriers and improve trade in services and investment.

The aim of negotiations is to further reduce existing barriers to trade, remove custom duties on goods and giving better access for services and public procurement. The sectors likely to benefit the most from an FTA are motor equipment, machinery, chemicals, processed foods and services.

So far three rounds of negotiations have taken place, the latest of which from 25 to 29 March 2019 in Canberra (see report). Negotiations confirmed a shared commitment to achieve an ambitious and comprehensive agreement. The round covered discussions in almost all thematic groups and the negotiators started putting together parts of the text agreeable to both sides. The fourth negotiation round of talks with Australia is scheduled for July 2019, after the Australian federal election that took place on 18 May.

- **New Zealand**

On 22 May 2018, the Council adopted the decision authorising the opening of negotiations for a free trade agreement between the EU and New Zealand (see press release and mandate).

In 2017 the EU and New Zealand entered into a partnership agreement which contains a number of economic and trade cooperation rules. The newly started trade negotiations aim to reduce existing barriers to trade in goods and services, create a level playing field for European companies, and promote smart, sustainable and inclusive growth.

So far four negotiating rounds have taken place, the last of which was held in Wellington from 13 to 17 May 2019 and covered all areas of negotiations. The fifth round is scheduled for July in Brussels. During the January 2019 visit of PM Ardern to Brussels, it was agreed with President Juncker that everything possible should be done to conclude the negotiations before the end of the mandate of the current Commission.