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Foreign Affairs
Trade

Brussels, 29 November 2012

President **Mr Neoklis SYLIKIOTIS**
Minister for Commerce of Cyprus

P R E S S

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Main results of the Council

The Council authorised the Commission to open negotiations in parallel on a free trade agreement and a broader bilateral framework agreement with ***Japan****.*

The Council also welcomed the launch of negotiations on a "deep and comprehensive" free trade area with ***Morocco****. This follows an announcement by the Commission this month of the successful completion of the "scoping" exercise for Morocco.*

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- Where declarations, conclusions or resolutions have been formally adopted by the Council, this is indicated in the heading for the item concerned and the text is placed between quotation marks.
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PARTICIPANTS

Belgium:	
Mr Didier REYNDERS	Deputy Prime Minister and Minister for Foreign , External Trade and European Affairs
Bulgaria:	
Mr Dimiter TZANTCHEV	Permanent Representative
Czech Republic:	
Mr Milan HOVORKA	Deputy Minister for Industry and Trade
Denmark:	
Ms Pia Olsen DYHR	Minister for Trade and Investments
Germany:	
Ms Anne Ruth HERKES	State Secretary, Federal Ministry of Economics and Technology
Estonia:	
Mr Urmas PAET	Minister for Foreign Affairs
Ireland:	
Mr Richard BRUTON	Minister for Jobs, Enterprise and Innovation
Greece:	
Mr Panagiotis MITARACHI	Deputy Minister, Ministry of Development, Competitiveness, Infrastructure, Transport and Networks
Spain:	
Mr Jaime GARCÍA-LEGAZ PONCE	State Secretary for Trade
France:	
Ms Nicole BRICQ	Minister for Foreign Trade
Italy:	
Mr Massimo VARI	State Secretary, Ministry of Economic Development
Cyprus:	
Mr Neoklis SYLIKIOTIS	Minister for Commerce, Industry and Tourism
Mr Charalambos ROUSOS	Chair of the Trade Policy Committee
Latvia:	
Mr Juris PŪCE	State Secretary, Ministry of the Economy
Lithuania:	
Mr Raimundas KAROBLIS	Permanent Representative
Luxembourg:	
Mr Christian BRAUN	Permanent Representative
Hungary:	
Mr János MARTONYI	Minister for Foreign Affairs
Malta:	
Ms Marlene BONNICI	Permanent Representative
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Ms Lilianne PLOUMEN	Minister for Foreign Trade and Development Cooperation
Austria:	
Mr Walter GRAHAMMER	Permanent Representative
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Mr. Andrzej DYCHA	Deputy State Secretary, Ministry of Economic Affairs
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Mr Miguel MORAIS LEITÃO	State Secretary attached to the Minister for Foreign Affairs, with responsibility for European Affairs
Romania:	
Mr Mihnea MOTOC	Permanent Representative

Slovenia:	
Mr Uroš ROŽIČ	State Secretary, Ministry of Economic Development and Technology
Slovakia:	
Mr Tomáš MALATINSKÝ	Minister for the Economy
Finland:	
Mr Alexander STUBB	Minister for European Affairs and Foreign Trade
Sweden:	
Ms Ewa BJÖRLING	Minister for Trade
United Kingdom:	
Mr Stephen GREEN	Minister of State for Trade and Investment and Government Spokesperson, Department for Business, Innovation and Skills and Foreign and Commonwealth Office

Commission:	
Mr Karel DE GUCHT	Member

The Government of the Acceding State was represented as follows:

Croatia:	
Mr Denis ČAJO	Head of the State Office for Trade Policy

ITEMS DEBATED

Decision-making procedures for trade policy

The Council took stock of ongoing work on "Omnibus I & II" proposals on the procedures used for decision-making under the EU's common commercial policy (*7455/11* + *11762/11*).

The two draft regulations are aimed at modifying a number of regulations adopted between 1972 and 2009, adapting them to decision-making procedures provided for by the Treaty of Lisbon[1].

The aim is to start negotiations with the European Parliament on the texts in December.

As regards the adoption of delegated and implementing acts under EU regulations, the treaty introduced the following provisions:

– Delegated acts: Article 290 of the Treaty on the Functioning of the European Union allows the legislator, i.e. the Parliament and the Council, to delegate to the Commission the power to adopt non-legislative acts of general application, supplementing or amending certain non-essential elements of a basic legislative act. Article 290(2) of the treaty lays down two conditions to which the legislator may subject the delegation of power: firstly, the right to revoke the delegation of power, and secondly the right to express objections, i.e. the right of opposition;

– Implementing acts: Article 291 of the TFEU allows implementing powers to be delegated to the Commission. Rules and general principles for control by the member states of the Commission's exercise of implementing powers have been laid down in regulation 182/2011.

The Omnibus proposals provide that procedures used under specific existing regulations whereby the Council was involved in decision-making that was not based on decision 1999/468/EC on implementing procedures be converted into either delegated acts pursuant to article 290 or implementing acts pursuant to article 291 of the TFEU. For all other decision-making procedures established in trade policy legislation, the proposals provide that the regime for delegated acts laid down in article 290 be used.

Based on article 207(2) of the TFEU, the two regulations require a qualified majority for adoption by the Council, in agreement with the Parliament.

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1 The Treaty of Lisbon entered into force in December 2009.

Foreign direct investment - Dispute settlement

The Council took stock of ongoing work on a draft regulation aimed at establishing a legal and financial framework for investor-state dispute settlement proceedings, as part of a broader framework for foreign direct investment (*11868/12*). It held an exchange of views.

The Treaty of Lisbon has brought foreign direct investment within the scope of the EU's common commercial policy, making it an EU competence. International agreements on foreign direct investment include the possibility for an investor to bring a claim against a state where the state is alleged to have acted in a manner that is inconsistent with the agreement. Where such litigation takes place, the state will incur costs and may, if it loses, be required to pay compensation.

The draft regulation, submitted by the Commission in June, sets a framework for managing the financial consequences of such disputes, specifying how cooperation between the Commission and the member states should be structured in specific cases.

Under the proposal, financial responsibility arising from a dispute settlement claim would be attributed to either the EU, a member state or both, depending on the origin of the measure for which the investor has filed a complaint.

The proposal is one of the key elements in the creation of an EU investment policy, which involves the negotiation of new rules on investment with key trading partners[1], and the continuity of existing bilateral investment treaties between member states and third countries

Based on article 207(2) of the Treaty on the Functioning of the European Union, the regulation requires a qualified majority for adoption by the Council, in agreement with the Parliament.

[1] The Council has adopted directives for negotiations on investment with Canada, India, Singapore, Tunisia, Morocco, Jordan and Egypt.

EU-Japan trade relations

The Council adopted a decision authorising the Commission to open negotiations on a free trade agreement with Japan. The decision includes in an annex the related draft negotiating directives.

The Council also approved, without discussion, the opening of negotiations on a broader bilateral framework agreement with Japan. Negotiations will take place in parallel.

The Commission submitted to the Council its proposal for a mandate on 20 July, following the successful completion of a "scoping" exercise, launched in Brussels in May 2011, to define the potential scope and level of ambition of a free trade agreement.

The negotiating directives are aimed at achieving an agreement that would provide for the progressive and reciprocal liberalisation of trade in goods, services and investment, as well as rules on trade-related issues and the elimination of non-tariff barriers.

Japan is the EU's seventh-largest trading partner while the EU is Japan's third-largest trading partner, with 3.6 % and 11 % respectively of each other's trade in goods in 2011.

EU-Canada trade negotiations

The Council discussed the remaining outstanding issues in negotiations with Canada on a comprehensive economic and trade agreement. It was briefed by the Commission on the latest developments.

The European Council in October called for the negotiations to be finalised in the coming months. Commissioner Karel De Gucht met Canadian trade minister Ed Fast in Brussels on 22 November.

The Commission has confirmed that the negotiations have entered their final phase. But while an *ad referendum* agreement has been reached in many areas, several open issues remain, including agriculture.

On 30 October 2012, an agreement was reached with Canada on the chapter of the agreement relating to the criminal enforcement of intellectual property rights. This was negotiated by the Cyprus presidency on behalf of the member states, as the issue falls within the competences of the member states.

EU-Singapore trade negotiations

The Council was informed by the Commission about the most recent developments in negotiations with Singapore on a free trade agreement (FTA). It discussed key outstanding issues and the prospects for reaching an agreement.

The European Council in October called for the negotiations to be finalised in the coming months. An FTA with Singapore would set a precedent for FTAs with other ASEAN[1] countries.

ASEAN is the EU's third largest trading partner outside Europe. Singapore is the EU's main investment partner within the bloc, accounting for a third of EU trade with ASEAN.

Following the suspension of talks on a region-to-region FTA with the ASEAN countries, the Council in December 2009 decided to pursue negotiations bilaterally, in particular with Singapore, whilst preserving the strategic objective of a region-to-region FTA with ASEAN.

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[1] Association of Southeast Asian Nations

Trade relations with southern Mediterranean countries

The Council assessed moves towards the launch of free trade negotiations with Egypt, Jordan, Morocco and Tunisia. It was informed by the Commission about progress in "scoping" exercises aimed at defining the scope and level of ambition of possible "deep and comprehensive" free trade areas with the four countries.

The Council welcomed the imminent launch of negotiations on a "deep and comprehensive" free trade area with Morocco.

On 14 November, the Commission announced the successful completion of the scoping exercise for Morocco, and on 23 November the Trade Policy Committee supported the Commission's view that Morocco is able and ready to negotiate a "deep and comprehensive" free trade area.

Meanwhile, the process with Tunisia is still underway, and at least one more bilateral meeting will be needed to complete technical work. At this point in time, preparatory work continues with Jordan and Egypt.

In response to the events of the "Arab Spring", the European Council in March 2011 asked the Commission to present proposals on how to further enhance trade and foreign direct investment in the southern Mediterranean, in the short, medium and long term.

In December 2011, the Council authorised the opening of negotiations and adopted negotiating directives for "deep and comprehensive" free trade areas with Egypt, Jordan, Morocco and Tunisia. It specified that negotiations would be launched only after consultation of the Trade Policy Committee on the basis of a report from the Commission.

Negotiations would set out to upgrade existing Euro-Mediterranean association agreements with Egypt, Jordan, Morocco and Tunisia in order to substantially enhance market access, improve the investment climate and support economic reforms there, taking into account the particular circumstances of each partner country.

Other business

EU steel prior surveillance system

At the request of the Italian delegation, the Council discussed the opportunity of renewing the EU steel prior surveillance system beyond 2012.

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Over lunch, ministers discussed developments following **Russia**'s accession to the WTO in August, in particular as regards implementation by Russia of commitments made during the accession process and the compatibility of its trade restrictions with WTO rules.

Ministers also discussed the prospects for trade and investment relations with **China**, including the possible launch of negotiations on investment and China's suggestion to explore the feasibility of a free trade agreement.

OTHER ITEMS APPROVED

FOREIGN AFFAIRS

Restrictive measures - Syria

The Council extended the EU restrictive measures against Syria, which were due to expire on 30 November 2012.

EU-Israel - Liberalisation of agriculture and fishery products

The Council approved the conclusion of an agreement amending protocols 1 and 2 to the EU-Israel association agreement, as concerns reciprocal liberalisation measures for agricultural products, processed agricultural products, fish and fishery products (*7433/12*).

TRADE POLICY

WTO accession: Tajikistan

The Council adopted a decision setting out the EU's position within the General Council of the World Trade Organization (WTO), in favour of Tajikistan's accession to the WTO.

ENVIRONMENT

CO2 emissions from vehicles

The Council decided not to oppose the adoption of a Commission regulation amending directive 2007/46/EC of the European Parliament and of the Council and Commission regulation 692/2008 as regards the determination of CO2 emissions from vehicles submitted to multi-stage type-approval (*15606/12*).

The Commission acts are subject to what is known as the regulatory procedure with scrutiny. This means that now that the Council has given its consent, the Commission may adopt them, unless the European Parliament objects

Hazardous substances in electrical and electronic equipment

The Council confirmed its intention not to object to two delegated acts by the Commission which amend, for the purposes of adapting to technical progress, Annex III to Directive 2011/65/EU as regards an exemption for applications containing cadmium (*14904/12*) and lead (*14902/12*).

The Commission submitted the delegated acts on 10 October. According to directive 2011/65/EU on the restriction of the use of certain hazardous substances in electrical and electronic equipment, the Council has three months to object to a delegated act, following its notification. This implies that, unless the European Parliament objects to them, the delegated acts will be published and enter into force on the twentieth day following its publication in the Official Journal of the European Union.

TRANSPORT

Inland transport of dangerous goods

The Council decided not to oppose adoption by the Commission of a directive aligning the EU's rules on the inland transport of dangerous goods with amendments made to relevant international agreements (*15825/12*). Member states have to convert that update into national law by the end of June 2013.

The draft directive, which amends the annexes to directive 2008/68 on the inland transport of dangerous goods, is subject to the regulatory procedure with scrutiny; now that the Council has given its consent, the Commission may adopt it, unless the European Parliament objects.

TELECOMMUNICATIONS

World Conference on International Telecommunications

The Council adopted a decision establishing the EU position for the review of the International Telecommunications Regulations (ITR) to be taken at the World Conference on International Telecommunications, which will be held in Dubai from 3-14 December 2012.

The ITRs were adopted by the World Administrative Telegraphy and Telephone Conference in Melbourne in 1988 and have not been revised. Currently 178 countries, including the 27 EU member states, are bound by the ITRs.