



**COUNCIL OF
THE EUROPEAN UNION**

**Brussels, 19 November 2013
(OR. en)**

15105/13

LIMITE

**PV/CONS 51
RELEX 940**

DRAFT MINUTES¹

Subject: **3266th** meeting of the Council of the European Union (**FOREIGN AFFAIRS**)
held in Luxembourg on 18 October 2013

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1. **Adoption of the provisional agenda**
14808/13 OJ CONS 51 RELEX 921

The Council adopted the above agenda.

LEGISLATIVE DELIBERATIONS

(public deliberation in accordance with Article 16(8) of the Treaty on European Union)

2. **Proposal for a Regulation of the European Parliament and of the Council establishing a framework for managing financial responsibility linked to investor-state dispute settlement tribunals established by international agreements to which the European Union is party [First reading]**
– State of play

The Council took note of interventions by the Commission and by delegations, welcomed the mandate given to the Presidency to enter into trilogue negotiations and confirmed its willingness to seek an agreement with the European Parliament, with a view to allowing the Regulation on financial responsibility linked to investor-state dispute settlement to enter into force as soon as possible.

NON LEGISLATIVE ACTIVITIES

3. **Approval of the list of “A” items**
14830/13 PTS A 69

The Council adopted the "A" items as listed in doc. 14830/13.

The documents of item 2 should read as follows:

Item 2: 14331/13 AVIATION 169 ISR 8
 + COR 1
 + COR 2
 13521/13 AVIATION 146 ISR 7
 + **COR 1 (en)**
 + **COR 2 (fi)**
 + REV 1 (cs)
 16828/12 AVIATION 183 RELEX 1078 ISR 22 OC 685
 + COR 1 (lv)
 + COR 2
 + REV 1 (pl)
 + REV 1 COR 1 (pl)
 + REV 2 (pt)
 + REV 2 COR 1 (pt)
 + REV 2 COR 2 (pt)

Statements to these items are set out in the Annex.

4. **Preparations for the Eastern Partnership Summit (Vilnius, 28-29 November 2013) -**

Trade aspects:

- **EU-Ukraine DCFTA part of the Association Agreement**
- **EU-Republic of Moldova DCFTA part of the Association Agreement**
- **EU-Georgia DCFTA part of the Association Agreement**
- **EU- Republic of Armenia DCFTA part of the Association Agreement**
 - = State of play
 - 14582/13 WTO 241 COEST 307 NIS 63

The Council discussed trade aspects of preparations for the Eastern Partnership Summit.

Following the discussion, the President concluded that the Council had:

- stressed the importance of taking relations with the Eastern Partnership partners to a new stage through DCFTAs/Association Agreements;
- expressed strong support to signing of Association Agreements with Ukraine, without prejudice to the political decision to be taken by the FAC; referred to the importance for Ukraine to make substantial progress in addressing trade irritants with the EU and in improving business environment;
- stressed the significance of initialling DCFTAs with Moldova and Georgia and looked forward to signing them as soon as possible;
- recalled that implementation of those agreements would bring strong benefits both to the EU and to the partner countries; noted the importance of the reform process and the role of business community in this respect;
- stressed that partner countries were free to make their own choices but noted that DCFTAs were not compatible with the membership of a customs union;
- underlined that pressure exerted by Russia against the Eastern Partnership partners was unacceptable and recalled that DCFTAs were not directed against any third country;
- stressed, in this context, the importance of:
 - provisional application of the DCFTA with Ukraine as soon as possible, provided it would be signed at the Eastern Partnership summit;
 - expeditious examination of proposal for full liberalisation of wine imports from Moldova into the EU;
 - and benefits brought by the GSP+ to Georgia.

The President noted that those elements would be outlined in the letter to the President of the European Council, to be sent early in the week following this Council meeting.

The President also thanked delegations for their support regarding various Russian trade measures imposed against Lithuania.

5. EU-China Negotiations on an Investment Agreement

- Adoption of negotiating mandate
14469/1/13 REV 1 WTO 237 SERVICES 50 FDI 25 COASI 150
14091/13 WTO 218 SERVICES 40 FDI 20 COASI 140
+ ADD 1 **RESTREINT UE**
14092/13 WTO 219 SERVICES 41 FDI 21 COASI 141

The Council:

- adopted the draft Council decision authorising the opening of negotiations on an investment agreement with the People's Republic of China, as finalised by legal-linguistic experts and set out in doc. 14091/13;
- adopted the directives for the negotiations of an investment agreement with the People's Republic of China set out in addendum RESTRICTED EU to doc. 14091/13;
- agreed to enter into the Council minutes the Commission statement as well as the UK and Ireland's statements, set out in Annex to doc. 14469/1/13 REV 1.

The Representatives of the Governments of the Member States, meeting within the Council, adopted the draft Decision authorising the European Commission to negotiate, on behalf of the Member States, the provisions of an investment agreement with the People's Republic of China that fall within the competences of the Member States, as finalised by legal-linguistic experts and set out in doc. 14092/13.

The Council and the Representatives of the Governments of the Member States meeting within the Council agreed that, in view of their nature, previously mentioned two Decisions would not be published in the Official Journal of the European Union.

6. EU-ASEAN Negotiations on Investment

- Adoption of negotiating mandate
14811/13 WTO 254 SERVICES 59 FDI 28 COASI 153
14095/13 WTO 220 SERVICES 42 FDI 22 COASI 142
+ COR 1 (en)
+ ADD 1 **RESTREINT UE**
14096/13 WTO 221 SERVICES 43 FDI 23 COASI 143
+ COR 1 (en)

The Council:

- adopted the draft Council decision modifying the negotiating directives for a Free Trade Agreement with countries of the Association of Southeast Asian Nations (ASEAN) and authorising the opening of negotiations on investment protection, as finalised by legal-linguistic experts and set out in doc. 14096/13 + COR 1 (en);

- adopted the directives for the negotiations of investment protection provisions within the Free Trade Agreements with countries of ASEAN, as set out in addendum RESTRICTED EU to doc. 14095/13 + COR 1 (en);
- agreed to enter into the Council minutes the statement set out in Annex to doc. 14811/13.

The Representatives of the Governments of the Member States, meeting within the Council, adopted the draft Decision authorising the European Commission to negotiate, on behalf of the Member States, the investment protection provisions within the Free Trade Agreements with countries of the Association of Southeast Asian Nations (ASEAN) that fall within the competences of the Member States, as finalised by the legal-linguistic experts and set out in doc. 14096/13 + COR 1 (en).

The Council and the Representatives of the Governments of the Member States meeting within the Council agreed that, in view of their nature, previously mentioned two decisions would not be published in the Official Journal of the European Union.

7. **Declassification of the TTIP negotiating directives**

14470/13 WTO 238 SERVICES 51 FDI 26 USA 49

During the lunch Ministers addressed the French request to fully declassify the EU-US TTIP negotiating directives. The decision on declassification of those negotiating directives would have to be taken by common accord, since they cover also matters pertaining to the Member States' competences.

The French Minister recalled the arguments at the origin of the request, as set out in her letter to the President of the Council (doc. 14470/13).

After lunch, the President concluded that there were no changes in the positions of Member States compared to those expressed in Coreper of 9 October, and therefore, that the Council had not been in a position to accept the request to declassify the document in question; the French Minister asked for a reference to her statement in the outcome of proceedings.

8. **Preparations for the IX World Trade Organization Ministerial Conference (Bali, 3-6 December 2013)**

- State of play
14588/13 WTO 242

The Council took note of the information given by the Commission, as well as of the comments made by the Member States, as regards the state of play and prospects for the preparation of the 9th WTO Ministerial Conference (MC9) to be held in Bali on 3-6 December 2013.

The Council underlined the importance of reaching an ambitious and balanced outcome at the MC9. It broadly supported the Commission's suggested line of action for the MC9, in particular regarding the possible outcomes on trade facilitation, a number of LDC/development-related issues, and some limited aspects of agricultural negotiations, taking into account the EU's offensive and defensive interests in this area.

The Council emphasised the need for the agreement on trade facilitation to be ambitious and of binding nature. It noted that such an agreement would also constitute by far the most important and concrete development deliverable for the MC9. The Council noted that concluding trade facilitation agreement along with these additional areas could be of considerable systemic importance and provide the necessary impetus to renew the WTO's negotiating agenda.

The Council stressed the desirability of reaching an agreement on the revision of the ITA (Information Technology Agreement). It also stressed the importance of the post-MC9 work programme.

9. **China - antidumping/anti-subsidy measures on wine**

- State of play

The President summarised the discussion in the following manner:

- Ministers had discussed the state of play regarding Chinese anti-dumping and anti-subsidy investigations on EU wine exports and stressed the importance of EU solidarity;
- They had expressed their concern in this regard and looked forward to the early engagement of China;
- They had invited the Commission to follow this issue closely and to keep the Council informed of developments.

10. Any other business

During lunch Ministers discussed the state of play in the EU-US TTIP negotiations, the EU-Japan FTA negotiations and the EU-Canada CETA negotiations.

STATEMENTS FOR THE COUNCIL MINUTES

Ad "A" item 2: **Decision of the Council and of the Representatives of the Governments of the Member States, meeting within the Council on the conclusion of the Euro-Mediterranean Aviation Agreement between the European Union and its Member States, of the one part, and the Government of the State of Israel, of the other part - Request by the Council for the consent of the European Parliament**

STATEMENT BY THE COMMISSION

"In accordance with Article 218 (6) TFEU, the Commission has submitted a proposal for a Council decision on the conclusion of an aviation agreement with the Government of the State of Israel.

The Commission takes note of the Council's unanimous decision to adopt a "hybrid" act consisting concurrently of a decision of the Council and of the Representatives of Governments of the Member States meeting within the Council.

The Commission is of the opinion that this "hybrid" act violates the Treaties in that it, among other reasons, distorts the procedure and voting rules set out in 218 (6) TFEU and (8) first subparagraph TFEU.

The Commission also notes that under Article 218 (9) TFEU Member States have no competences in establishing the positions to be adopted on the Union's behalf in a body set-up by an agreement when that body is called upon to adopt acts having legal effects, irrespective of the nature of the Union's competence concerned.

Under these circumstances, the Commission considers that the procedure for establishing the EU position in the Joint Committee set up under Article 22 of the Agreement is contrary to the Treaties.

The Commission recalls its application in the Case C-28/12 Commission v Council which is pending before the Court of Justice and, reserves the right to make use of all the legal means at its disposal to ensure the respect of the provisions of the Treaties."

Ad agenda item 5: **EU-China Negotiations on an Investment Agreement**

STATEMENT BY THE EUROPEAN COMMISSION

DELETED

DELETED

JOINT STATEMENT BY THE UNITED KINGDOM AND IRELAND

"The negotiations need to respect the position of the United Kingdom and Ireland having regard to Protocol 21 on the position of the United Kingdom and Ireland in respect of the area of Freedom, Security and Justice annexed to the Treaty on European Union and the Treaty on the Functioning of the European Union."

STATEMENT BY THE UNITED KINGDOM

"In accordance with Article 3 of Protocol No. 21 on the position of the United Kingdom and Ireland in respect of the area of Freedom, Security and Justice annexed to the Treaty on European Union and to the Treaty on the functioning of the European Union, the United Kingdom has notified its wish to take part in the adoption and application of this Decision."

Ad agenda item 6: **EU-ASEAN Negotiations on Investment**

STATEMENT BY THE EUROPEAN COMMISSION

DELETED