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MEETING DOCUMENT

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| From: | CZ Delegation |
| To: | Trade Policy Committee (Deputies) |
| Subject: | Draft Council Conclusions on the negotiation and conclusion of trade agreements (WK 1673/2018) - CZ comments |

Prague, 16 February 2018

Subject: CZ comments on draft Council Conclusions on the negotiation and conclusion of trade agreements

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The Czech Republic would like to take the opportunity to provide following comments on draft Council Conclusions (WK 1673/2018).

The Czech Republic reserves itself the right to provide further comments in relation to Council Conclusions.

DRAFT COUNCIL CONCLUSIONS

ON THE NEGOTIATION AND CONCLUSION OF BILATERAL TRADE AGREEMENTS

1. The EU remains committed to a robust, effective and credible trade policy with an ambitious free-trade agenda that reaps the benefits of open markets for growth and job creation, while taking into account the concerns of its citizens regarding trade liberalisation in a fastmoving globalised world. This includes the need to promote the universal values the EU adheres to and preserve the right of governments to regulate in the public interest. In this context, the Council strongly supports the negotiation of ambitious and ~~balanced free trade agreements, with reciprocity and mutually beneficial~~ free-trade agreements as guiding principles.

2. The Council takes note of the opinion of the European Court of Justice 2/15 on the division of competences between the Union and its Member States for the conclusion of the EUSingapore free-trade agreement (FTA). As a consequence of the Court's opinion, and in order to ensure straightforward conclusion of the FTA ~~safeguard the credibility of the EU as a negotiating partner~~, the Council supports the approach of the Commission that the investment part of the Singapore FTA should be signed and concluded as a separate agreement. The Council also recalls the 2017 trade and investment package of the Commission, including the Commission's Communication on "*A Balanced and Progressive Trade Policy to Harness Globalisation*", which provided useful input into the reflection on the possible new architecture for trade agreements in line with the Court's opinion.

3. In considering the implications of the opinion, the Council also notes that negotiating, signing and concluding free-trade agreements as EU-only agreements would allow the benefits of FTAs to be reaped more rapidly and effectively. Attention must be paid to ensuring that this does not lead to a loss of negotiation leverage for the EU to obtain ambitious standalone investment agreements. Unless there is good-well justified reason not to do so, EU investment agreements should be negotiated in parallel to FTAs.

4. The Council notes that the Commission intends to apply the principle of having FTAs covering only exclusive EU competence and separate mixed investment agreements in future negotiations.

Commented [SL1]: The Czech Republic suggests this addition in order to bring more clarity.

Commented [SL2]: The Czech Republic prefers more straight forward language. "Balance" and "reciprocity" in our view both refer to mutual benefits of the agreements.

Commented [SL3]: The Council should not implicitly undermine EU's credibility.

~~should, however, be applied on a case-by-case basis, depending on the negotiating partner, and take into account a number of important aspects. This is particularly relevant in cases of decisions to split retroactively trade agreements already negotiated - or being negotiated - as mixed agreements, the principle should, however, be applied on case-by-case basis, depending on the negotiating partner, and take into account a number of important aspects.~~

5. In the case of Japan, the Council welcomes the conclusion of negotiations for an Economic Partnership Agreement (EPA) and looks forward to the signature of the agreement by the EU and Japan before the summer. In the meantime, the Council calls on the Commission to continue negotiations with Japan for a separate investment agreement.

6. Regarding future trade negotiations with Australia and New Zealand, the Council notes that the Commission has not presented negotiating directives for investment agreements with both countries, alongside the directives it has proposed for the negotiation of FTAs. The Council considers that this should not be seen as setting a precedent for the future.

7. ~~The Council~~ ~~considers-strongly supports~~ that Member States' parliaments, as well as civil society, ~~should-shall~~ be kept closely informed and involved from the beginning of the process of preparation for negotiating trade agreements, even if ratification only by the European Parliament is required. Member States ~~should-shall~~ therefore continue to involve their parliaments and relevant stakeholders appropriately, in line with their respective national practices and procedures.

The fact that a FTA falling entirely within the EU's competence is only ratified at EU level and not also at Member States' level ~~reflects EU Treaties and does-should~~ not affect or reduce the legitimacy and inclusiveness of the adoption process or threaten the acceptance of trade agreements by the general public. In the case of investment agreements which include areas of shared competence, Member States' parliaments will continue to be fully involved in the ratification process.

8. The Council reiterates the importance it attaches to addressing citizens' concerns ~~and expectations in trade policy~~ and recognises the need to keep citizens continuously informed of the progress and contents of trade agreements under negotiation in order to ensure the legitimacy of EU trade policy and foster public support. ~~The Council welcomes the information and notes the importance of transparency vis-à-vis all stakeholders and welcomes~~ transparency efforts of the Commission in this regard, ~~and encourages~~ Member States ~~will-to~~ further intensify efforts at national level. ~~In this respect, the Council also recalls the importance of timely consultations with the Member States, in particular in the later stages of trade negotiations. At the same time, The Council reiterates that any decision to make negotiating directives public following their adoption by the Council is exclusively for the Council to make. The Council also recalls the importance of timely consultations with the Member States, in particular in the later stages of trade negotiations.~~

9. Finally, whilst respecting the voting rules applicable under the Treaties, the Council considers that it should continue its practice to obtain, where reasonably possible, a consensus within the Council in order to ensure that all Member States' interests and concerns are adequately respected in trade agreements.

Commented [SL4]: The Czech Republic believes that the Council should agree on overall approach for new agreements. Having repeatedly discussion on case-by case basis can further complicate negotiation of future FTAs. However, the case-by-case approach should be applied for already negotiated agreements.

Commented [SL5]: The Czech Republic suggests these changes in order to strengthen the language on future consultations and to ensure that the Conclusions do not implicitly suggest threat of decreased acceptance of trade agreements.

Commented [SL6]: We believe the approach to trade policy should be positive.

Commented [SL7]: The Czech Republic believes that the Council should note importance of transparency. However, formulation "Council encourages MS to intensify efforts" might imply that current procedures are not transparent

Commented [SL8]: The Czech Republic would like to link timely information from the Commission to Member States with Member States' effort for transparency at national level.

Commented [SL9]: The paragraph could be concluded by reminder about Council competence.