



## PLENARY MEETING OF THE LXI COSAC

### SESSION II

#### *Prospects for international trade relations of the European Union; the future of relations between the European Union and the United Kingdom in the context of "Brexit"*

–background note–

International trade has been at the core of the very founding Treaties. When the Treaty establishing the European Economic Community was signed, parties declared their commitment to contribute, in the common interest, "to the harmonious development of world trade, (to) the progressive abolition of restrictions on international trade and (to) the lowering of customs barriers". Furthermore, and in order to establish a common commercial policy towards third countries, Member States empowered the European Commission to submit proposals for a common action, to make all appropriate recommendations and to open negotiations in consultation with a special committee appointed by the Council. Consequently, the common commercial policy has traditionally been an exclusive competence of the Community.

The Treaty on the Functioning of the European Union confirmed the exclusive responsibility of the EU for the common commercial policy and extended its scope to direct foreign investment, services and trade related aspects of intellectual property rights. Also, the EU has an exclusive competence to conclude international agreements, if they are required, among others, for the exercise of its internal competence. Nevertheless, the so-called "mixed agreements", *i.e.* those covering areas where the EU does not enjoy exclusive

competence, have to be concluded with the Member States' participation. This interpretation was developed by the Court of Justice of the European Union in its Opinion on the Singapore free trade agreement, of 16 May 2017 ([Opinion 2/15](#)).

Hence, national Parliaments could play an active role in the negotiating process of the EU's international agreements, which have trade components, either by exercising political control over their Governments or during the ratification process of those Treaties. Also, since the European Commission sends its proposals for draft negotiating directives to national Parliaments, the latter can make comments thereupon, in the framework of the political dialogue, as established in Protocol (no 1) annexed to the Treaties.

With more than 500 million consumers, the EU is the main player on the global trading scene, being the largest economy in the world, the largest exporter of manufactured goods and services, the top trading partner for about 80 countries and the second most important partner for another 40. All these are mainly due to free trade and other agreements with a trade component (customs unions, association agreements, stabilisation agreements, economic partnership agreements or partnership and cooperation agreements), as

they open up new markets for exporting goods and services, support development of trade partners or facilitate cooperation on other issues like the workers' rights, research, innovation, standardisation or even climate change.

In October 2015, the European Commission adopted a [Communication](#), that set out its strategy for a more responsible EU trade and investment policy during the next five years, which relies on three principles: "effectiveness", "transparency" and "values".

In terms of effectiveness, the European Commission committed to reinforce the EU's place in the global supply chains and to improve the free trade agreements' implementation, notably by (i) promoting trade in services, (ii) facilitating digital trade, (iii) supporting mobility of professionals, (iv) paying more attention to SMEs and (v) reviewing the tools and instruments meant to help workers or regions negatively affected by structural changes.

Also, the European Commission noticed the need for more "transparency" in the way it conducted trade negotiations and trade defence cases, and engaged with civil society to respond to public concerns, such as regulatory issues. It stated that "transparency should apply at all stages of the negotiating cycle from the setting of objectives to the negotiations themselves and during the post-negotiation phase".

As about "values", the European Commission committed to promote the EU consumer protection standards in all trade agreements and to ensure that economic growth is based on social justice, human rights, high labour and environmental standards, as well as health and safety protection. It also engaged to negotiate ambitious provisions on anti-corruption in all future trade agreements,

starting with the [Transatlantic Trade and Investment Partnership](#) (TTIP).

Finally, an emphasis was put on the need to restore the centrality of the [World Trade Organization](#) (WTO) as a trade negotiation forum and on reaching tangible results concerning TTIP and the [Comprehensive Economic and Trade Agreement](#) (CETA).

In September 2017, the European Commission proposed a [balanced and progressive trade policy to harness globalisation](#) thinking of "modern solutions for the realities of today's economy in the middle of a technological change". This Communication launched a package of new initiatives, aiming especially at:

- a) screening foreign direct investments;
- b) opening negotiations for trade agreements with Australia and New Zealand;
- c) establishing a multilateral court for the settlement of investment disputes; and
- d) enhancing transparency of the trade agreements' negotiating directives.

At the same time, the European Commission published a [Report](#) on the implementation of its trade policy strategy, "Trade for All", insisting on the EU's ability to shape globalisation "in the spirit of multilateral governance". In this context, CETA qualified for the most progressive agreement to date, as it generally supports sustainable development, while preserving the EU's high standards on labour, environment and consumer protection, along with the Governments' right to regulate in the public interest.

In a forward-looking perspective, the European Commission committed to accelerate liberalisation in areas such as energy and raw materials, to pursue investment liberalisation through both free trade agreements and stand-alone investment

agreements, and to introduce the [Investment Court System](#) in future agreements.

The European Parliament's [resolution on the implementation of the Common Commercial Policy](#), adopted in May 2018, indicated "that the international context has changed profoundly since the Trade for All strategy was published and that new trade challenges and concrete tasks now need to be addressed". Such tasks and challenges mainly refer to the increase of some protectionist practices that are against the [WTO rules](#), to the growing economic importance of Asia and to the USA's gradual withdrawal from the trade front. In addition, the European Commission has been invited to tackle the impact of Brexit on the EU's internal and external trade.

On another hand, the European Parliament criticized the delay in the investment negotiations with Hong Kong and Taiwan, and reminded that the reform of rules of origin, announced in the Trade for All strategy, had not been implemented. Furthermore, the European Commission was invited to conduct comprehensive analyses concerning the implementation of the Union's free trade agreements, with a view to improve their real impact on the ground and to better guide the European institutions on the definition and conduct of the Union's trade strategy.

In its [resolution on harnessing globalisation](#), adopted in October 2018, the European Parliament reiterated its concerns about the growing economic importance of China and other Southeast Asian countries at the expense of the economic centres of Europe and North America. In this regard, the European Parliament considered that strengthening the WTO's role along with a transatlantic agreement could have a positive impact.

The European Parliament focused, in addition, on the integration of SMEs into the

international value chains, one of the biggest obstacles being the access to information, and claimed that trade agreements should facilitate their access to the market, notably by considering their specific needs and interests.

Besides, the European Parliament pointed out that transparency in trade agreements needed to be improved and called the EU [Council](#) to involve national Parliaments and civil society both before the approval of negotiating mandates and during negotiations, making thus all negotiating mandates public.

In November 2018, the [Foreign Affairs Council \(Trade\)](#) discussed the modernisation of WTO, calling to improve the functioning of its appellate body. On this matter, the European Commission published a [concept paper](#), announcing future EU proposals on rulemaking activities at WTO, on regular work within WTO's councils and committees and on more effective and transparent dispute settlement.

Considering the EU-US trade relations, the EU Council adopted, in April 2019, two [decisions](#), one authorising the opening of negotiations for a free trade agreement on industrial goods and one authorising the opening of negotiations for an agreement on conformity assessment. On this occasion, the Council declared the negotiating directives for the TTIP obsolete and no longer relevant, stressing the need for a more limited agreement covering the elimination of tariffs on industrial products only, and excluding agricultural products.

These decisions were based on a [Joint EU-U.S. Statement](#) signed in July 2018, setting out a positive transatlantic trade agenda with a focus on:

- non-auto industrial goods;
- reducing barriers and increasing trade in services, chemicals, pharmaceuticals and medical products;

- strengthening strategic cooperation with respect to energy; and
- better protecting companies from unfair global trade practices.

Issues for discussion:

- *Could national Parliaments better involve in the negotiations of EU trade agreements with third countries?*

- *Should national Parliaments participate only in those agreements that imply shared competences, or also in the agreements concluded exclusively by the EU?*
- *How should be shaped the future trade relationships with UK after Brexit?*