



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 6.12.2006
SEC(2006) 1558 final/2

DECLASSIFIED PART

RECOMMENDATION FROM THE COMMISSION TO THE COUNCIL

**authorising the Commission to negotiate a free trade agreement with India on behalf of
the European Community and its Member States**

{SEC(2006) 1559}
{SEC(2006) 1560}

EXPLANATORY MEMORANDUM

1. BACKGROUND

1.1. EU Policy on Free Trade Agreements

The Commission's Communication "Global Europe: competing in the world"¹ reviewed the contribution of EU trade policy to the European growth and jobs strategy. It confirmed the EU's commitment to the World Trade Organisation (WTO) as the single most effective means of expanding and managing trade for the benefit of all. It stressed that the Doha Development Agenda (DDA) remains the EU's first priority, and that we will work hard to resume negotiations. The Communication also argued that the EU should build on the platform created by the WTO to generate new opportunities for growth by opening markets further to trade and investment. The Communication set out a series of linked trade policy initiatives complementing efforts to resume negotiations in the WTO. As part of these initiatives, it proposed to negotiate carefully chosen comprehensive Free Trade Agreements (FTAs).

FTAs, if approached with care, can go further and faster in promoting openness and integration, by tackling issues which are not ready for multilateral discussion. The Communication stressed that we should continue to factor in other issues and the wider role of trade policy in EU external relations into bilateral trade developments. But in order for trade policy to help create jobs and drive growth, economic factors must play a primary role in the choice of future FTAs.

The key economic criteria for new FTA partners should be market potential (economic size and growth) and the level of protection against EU export interests (tariffs and non-tariff barriers), while taking account of our potential partners' negotiations with EU competitors.

In terms of content new competitiveness-driven FTAs would need to be comprehensive and ambitious in coverage, aiming at the highest possible degree of trade liberalisation including far-reaching liberalisation of services and investment. Future FTAs would also need new ways of addressing non-tariff barriers and incorporating provisions on trade-related aspects of sustainable development.

The Communication stresses the need to ensure that we share similar ambitions with our prospective partners at the outset in order to avoid negotiations later stalling due to a mismatch of expectations.

On 13 November 2006, the Council of the European Union concluded that it supports the early launch of negotiations with countries of ASEAN², India and the Republic of Korea, and invited the Commission to submit proposals for the negotiating directives without delay.

1.2. EU-India Relations

EU-India relations have developed at a remarkable speed over the past three years, witnessing a shared interest in a strengthened relationship. The 6th EU-India Summit held in September 2005 in Delhi was the culmination of a process of upgrading the of EU-India relations, which

¹ "Global Europe: competing in the world" - COM(2006) 567, 4.10.2006.

² The Association of South East Asian Nations.

started at the Hague Summit in 2004. At this Summit, EU and India agreed to upgrade their relations to a Strategic Partnership, as recommended by a 2004 Commission Communication on EU-India Relations, which was based on an integrated economic and political approach. This Communication recognised India's economic growth and potential as a global player. The 2005 EU-India Summit endorsed a wide-ranging Joint Action Plan, covering all aspects of EU-India relations.

As regards trade and economic cooperation, the 2005 EU-India Summit generated a political commitment to increase bilateral trade and economic cooperation and to tackle barriers to trade and investment. Within the Joint Action Plan, the Summit launched a High Level Trade Group (HLTG) and mandated it "to study and explore ways and means to deepen and widen the bilateral trade and investment relationship". The HLTG was also tasked with examining the possibility of launching negotiations on a broad-based trade and investment agreement, and invited to report to the 2006 EU-India Summit.

The High Level Trade Group in its report to the Summit recommended that "an expanded trade partnership be developed through the negotiation of a broad-based trade and investment agreement, considering that significant benefits would accrue to both EU and India if this agreement were substantial and comprehensive, covering a broad range of trade-related areas".

The EU-India Summit on 13 October in its Joint Statement endorsed the case made for a broad based bilateral trade and investment agreement, and agreed that both sides move towards negotiations for such an agreement.

India fully meets the key economic criteria defined for new FTA partners. It combines a sizeable market, high economic growth and substantial tariff and non-tariff barriers to trade against EU interests. Furthermore, while India does not currently have FTAs with EU main competitors, it is in the process of negotiating or preparing Free Trade Agreements with a number of trading partners. The HLTG report gives an indication of the willingness of India to negotiate a comprehensive FTA covering a broad range of obstacles to trade. A comprehensive FTA with India would secure our positions and bring significant market opportunities for the EU.

2. NATURE AND SCOPE OF THE AGREEMENT

A comprehensive FTA with India should aim to improve market access for goods and services, covering substantially all trade. It should provide for enhanced provisions on trade in goods and services, and include binding provisions on regulatory transparency in areas relevant for mutual trade and investment, including standards and conformity assessment, sanitary and phytosanitary rules, intellectual property rights including enforcement, trade facilitation and customs, public procurement, and trade and competition including state aid. It should also provide for cooperation on trade and sustainable development, including both its environmental and social dimensions. In going above and beyond the existing commitments in the WTO, the FTA should be fully WTO-compliant, in particular, with Article XXIV of the General Agreement on Tariffs and Trade (GATT) and Article V of the General Agreement on Trade in Services (GATS). The comprehensive FTA should complement the 1994 EC-India Co-operation Agreement, to which it should be legally and institutionally linked.

This approach is in line with the "Global Europe" strategy, which underlines that new competitiveness-driven FTAs would need to be comprehensive and ambitious in coverage, aiming at the highest possible degree of trade liberalisation including far-reaching liberalisation of services and investment.

The EU-India High Level Trade Group, in its report endorsed by the EU-India Summit on 13 October, addressed the issues above and reached an understanding on the key parameters of these aspects a broad-based trade and investment agreement between the EC and India.

3. PREPARATION OF THE DRAFT NEGOTIATING DIRECTIVES

Consultations with Member States, EU institutions, civil society (including European business) and India have taken place for the preparation of the draft negotiating directives, as well as for the accompanying impact assessment. These consultations were undertaken in the context of the future orientations for EU trade policy, the related adaptation of its FTA strategy and the specific prospects for an FTA with India.

The 2005 EU-India Summit launched a High Level Trade Group (HLTG) and mandated it to explore ways and means to deepen and widen the bilateral trade and investment relationship. The HLTG was also tasked with examining the possibility of launching negotiations on a broad-based trade and investment agreement. The report of the HLTG was endorsed by the 2006 EU-India Summit. The Summit welcomed the work done by the HLTG and endorsed the case made for a future broad-based bilateral trade and investment agreement. The Summit agreed that both sides move towards negotiations for such an agreement.

The Commission drafted an impact assessment which analyses the possible impact of an FTA with India. A more detailed Sustainability Impact Assessment (SIA) examining the Agreement's potential economic, social and environmental effects will be conducted in parallel to the negotiations.

4. PROCEDURES

The objective is to complete these negotiations no later than two years after their effective start. In line with normal practice, the Commission will report regularly to Member States in the appropriate committees of the Council on progress in the negotiations.

RECOMMENDATION

In light of the above, the Commission recommends that:

- the Council authorises the Commission to negotiate a Free Trade Agreement with India;
- the Council appoints a special Committee (133) to assist it in this task;
- the Council issues the attached negotiating directives.

(Annex: EU RESTRICTED)