



DG Trade

September 2013

Trade negotiations step by step

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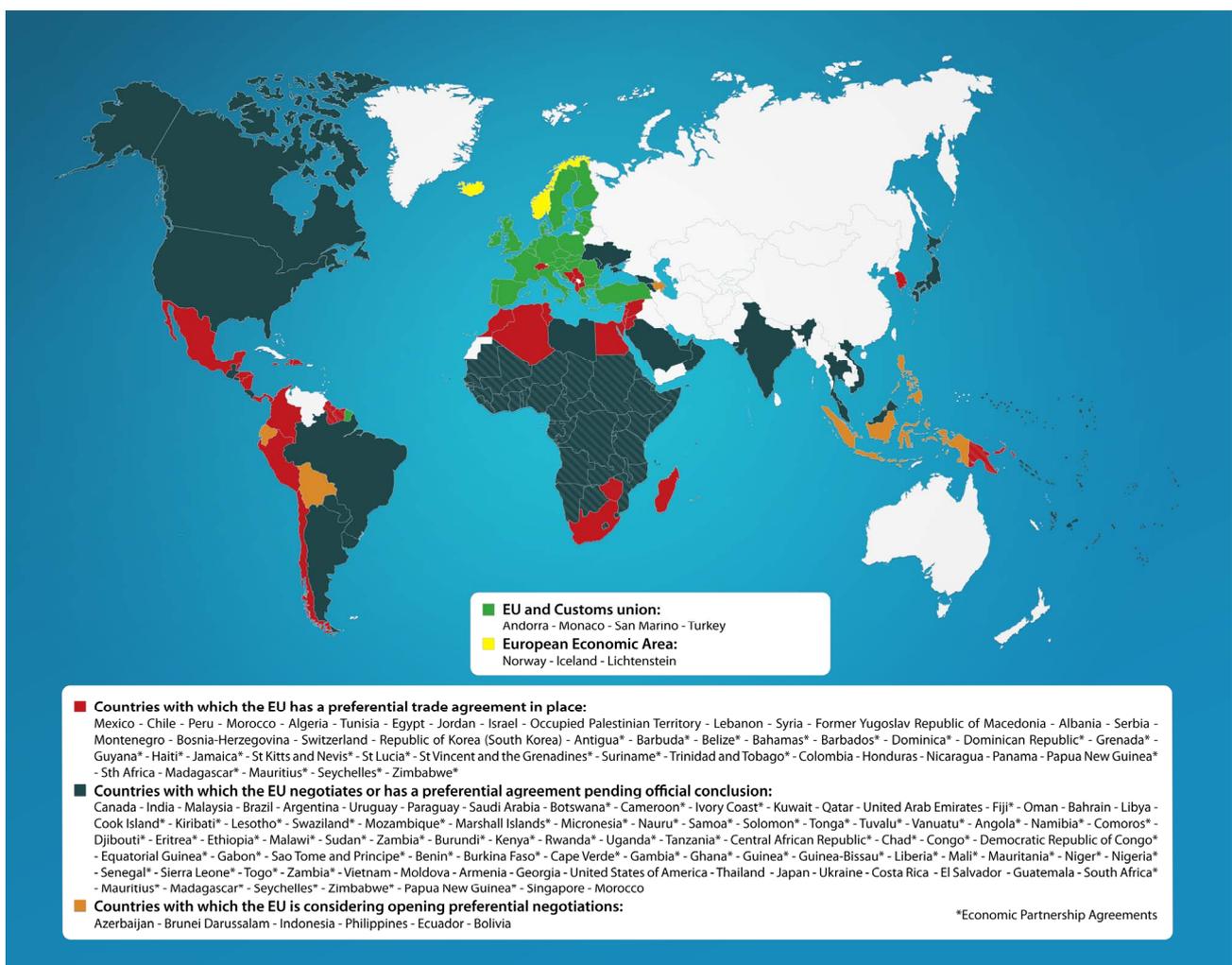
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1. Who negotiates EU trade agreements?

The European Union manages trade relations with countries outside the EU through its trade policy.

Trade policy is an exclusive power of the EU. This means that the EU, and not individual member states, negotiates international trade agreements. The European Commission negotiates with the trading partner on behalf of the whole EU but does so in close cooperation with the Council and European Parliament who ultimately approve the overall agreement.

2. Who do we negotiate with?



3. How do we prepare for negotiations?

The Commission, the Council of the EU and the European Parliament are in **regular contact** about trade policy including any plans to negotiate a trade deal with a certain country or region.

In early stages of a discussion about launching trade negotiations, the Commission holds a **public consultation** on the content and options for any free trade agreement and conducts an **assessment of the impact** of any such deal on the EU and on the other country.

In most cases, the Commission starts an informal dialogue with the country concerned on the content of a future negotiation, which is known as a **scoping exercise**. This can cover the range and depth of topics that will be negotiated and is important to assess whether the countries have a similar enough interests for a deal to be feasible.

The Commission requests **formal authorisation** from the Council to open negotiations known as "negotiating directives". These set out the general objectives to be achieved. The Commission request is also shared with the European Parliament.

After internal discussion, the Council adopts the **negotiating directives** and authorises the Commission to negotiate on behalf of the EU.

4. What happens in negotiations?

Content

Trade agreements are designed to create better trading opportunities by:

- Opening new markets for goods and services
- Increasing investment opportunities and protection of investments
- Making trade cheaper - by eliminating substantially all customs duties and cutting red tape
- Making trade faster - by facilitating transit through customs and setting common rules on technical and sanitary standards
- Making the policy environment more predictable - by taking joint commitments on areas that affect trade such as intellectual property rights, competition rules and the framework for public purchasing decisions
- Supporting sustainable development – by fostering cooperation, transparency and dialogue with our partners on social and environmental issues.

There are various rules to ensure that the benefits of the agreement go to the operators in the countries concerned: for example, there are "**rules of origin**"

that determine which products are eligible for the reduction or elimination in tariffs.

To make sure that both parties **respect the rules** that have been negotiated, a free trade agreement normally contains a mechanism to resolve bilateral disputes.

Not every trade negotiation covers exactly the same content and can have a variety of names: the level of ambition depends on the development and capacities of our partners, offering flexible approaches tailored to their needs and the capacities of each country.

The ultimate aim can vary according to the partners – Free Trade Agreements with developed countries and emerging economies are clearly economically-driven and based on reciprocal market opening while our Economic Partnership Agreements with African, Caribbean and Pacific countries aim primarily at supporting development.

WTO framework

Free Trade Agreements grant privileged access to the markets of the countries concerned. As such they are an exemption to the first principle in the World Trade Organisation, of granting equal treatment to all trade partners.

Therefore, the rules for Free Trade Agreements are set out in the WTO, specifically in Article XXIV of the General Agreement on Tariffs and Trade and Article V of the General Agreement on Trade in Services. This is relevant for the content of the tariff part of the negotiations, for example, as the rules state that "substantially all trade" must be liberalised.

Free Trade Agreements also need to be notified to the WTO.

Process

The negotiating teams are led by a **Chief Negotiator** and include experts covering all the different topics under negotiation. DG Trade leads the negotiations but draws on expertise from across the Commission. A negotiation round may cover all the topics under negotiation or it may be focused on a limited number of them. Depending on the agenda, there may be up to 20 people on the Commission side.

The Chief Negotiators set up different **negotiation rounds**, normally alternating between the EU and in the other parties' country. The frequency and pace vary according to each negotiation. The duration of negotiations depends on the pace of negotiations and can range from 2-3 years to much longer.

The Chief Negotiators are in regular contact and may meet outside formal negotiation rounds. At key moments in the negotiations, the Trade Minister of the country concerned and the EU Trade Commissioner will meet.

Types of Agreements

The titles of these Free Trade Agreements can vary according to the partners' preferences (for example, Comprehensive Economic Trade Agreement or Economic Partnership Agreement).

Some trade agreements are part of broader **political cooperation agreements**, where trade is one of several topics covered: for example, the recent Association Agreement with Central America.

If the EU already has an overall agreement framework for political cooperation with the country concerned, it is more likely that the Free Trade Agreement will be a stand-alone agreement.

Typically, a free trade agreement contains chapters on each topic and has a number of annexes. These include the schedule of tariff liberalisation tariff-line by tariff-line, sectoral agreements and Protocols.

See the EU-South Korea FTA for an example of an FTA structure: <http://eur-lex.europa.eu/JOHtml.do?uri=OJ:L:2011:127:SOM:EN:HTML>

Sharing information within the EU

After each negotiation round and at other key points in the negotiations the Council and the European Parliament are simultaneously informed about the state of play. Discussion takes place regularly with Council and with the Parliament at working level, but it may also be raised periodically at Ministers level or in plenary debates.

The draft texts of the negotiations are not made public during the negotiations. Even when certain chapters (or topics) are "closed", the negotiation is not over until everything is agreed.

When negotiations reach the stage of **technical finalisation**, the European Parliament and the Council are **informed immediately**. Finalised texts are sent to the Member States and to the Parliament.

At this stage the **legal scrubbing** of the texts starts. This is where lawyers review the negotiated texts. This exercise can take from 3 to 9 months.

5. Conclusion of negotiations

Initialling

When negotiations are technically concluded and legal scrubbing is complete, the chief negotiators of both parties **initial** the English text of the proposed agreement.

The Council and the European Parliament are informed as soon as the agreement is initialled and they are provided with the text.

After initialling, the Commission can decide to **publish the text** on the internet with a clear disclaimer that it is not yet binding as a matter of international law.

The agreement is **translated into all official languages of the EU**. The other party also ensures translation into their national language, for example if the text was negotiated in English.

Signature

The Council decides **on the signature and conclusion of the agreement** following a proposal of the Commission.

The Council also has the texts legally screened and following internal debate, gives the authorisation to sign the agreement. Sometimes agreements are accompanied by legislative proposals needed to help implement the agreements, which must also be adopted by the Council and the European Parliament.

The **agreement is formally signed by the two parties**. The Presidency designates a person to sign (often the European Commissioner for trade) on behalf of the EU. Where the agreement covers topics that are the responsibility of the Member States (and not shared at EU level), all Member States need to sign as well.

After signature by both sides, the Council transmits the agreement together with the draft decision to conclude to the **European Parliament for consent**.

Once it receives the texts, the EP gives its consent after the necessary preparation at committee level. Formally the power is limited to saying yes or no to the agreement. Official saisine takes place in the first plenary session of the European Parliament, followed by the internal procedure of consent, most of which takes place in the Committee for International Trade. Finally the EP votes in plenary session to consent.

Where the agreement contains provisions that fall under Member State responsibility (this is known as a "mixed agreement"), individual Member States also have to ratify the agreement alongside the EU according to their national ratification procedures.

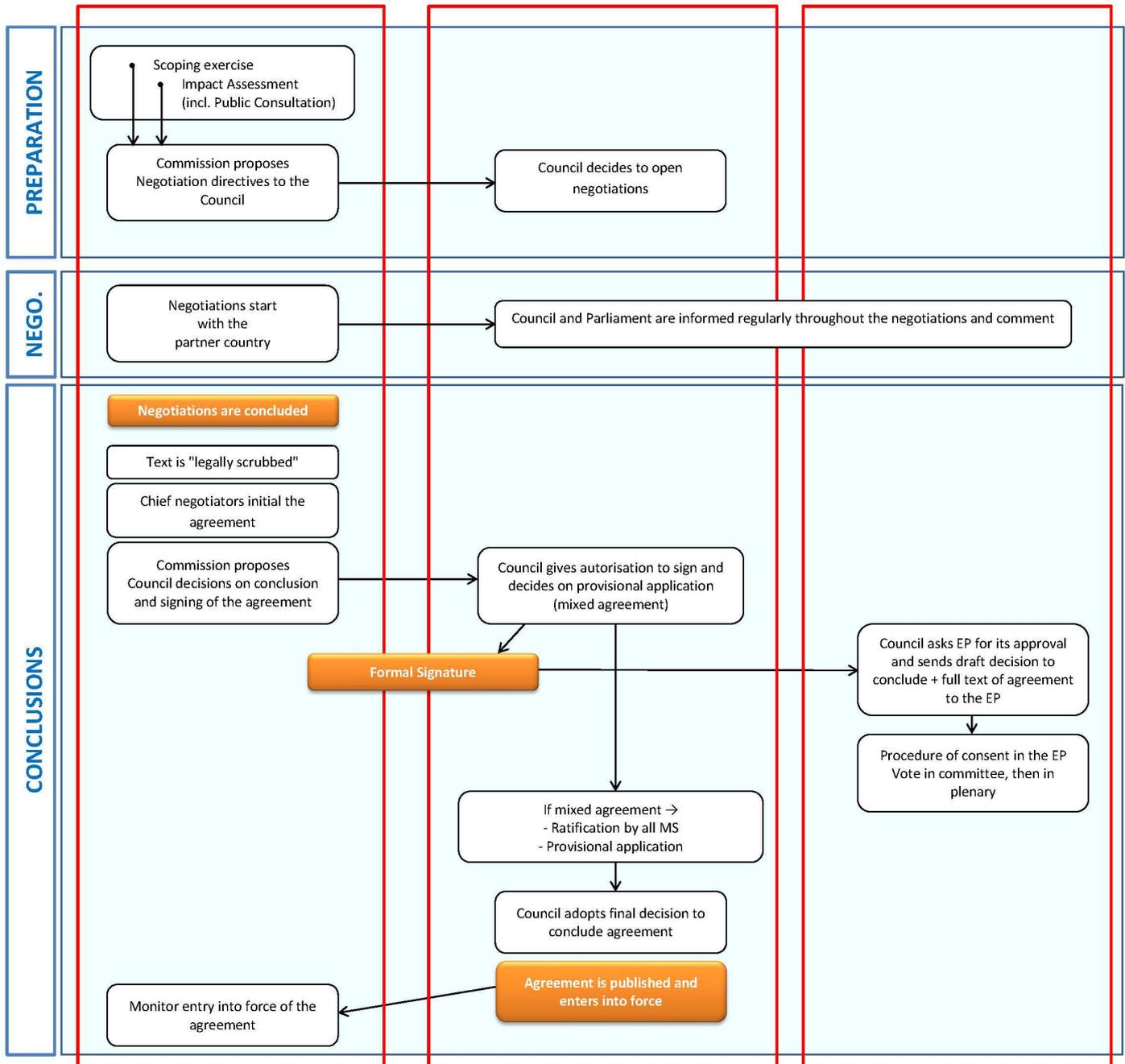
After consent of the Parliament and ratification by Member States, the Council adopts **the final Decision to conclude** the agreement and the agreement is published in the Official Journal.

6. When are the benefits of the agreement felt?

The agreement enters into force on a particular day but the provisions of the agreement (such as tariff reductions) can be staged over time. The full effects of the agreement can take many years to be fully felt on the ground. This depends on the negotiated outcome for each agreement.

7. Trade negotiations step by step

Schematic overview



For further information

Webpage on EU trade Agreements

<http://ec.europa.eu/trade/creating-opportunities/bilateral-relations/agreements/>