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ANNEX

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**to the**

**Recommendation for a Council Decision**

**concerning new negotiating directives for a regional Free Trade Agreement and bilateral Free Trade Agreements with the countries of the Cooperation Council for the Arab States of the Gulf and respectively the Kingdom of Bahrain, the State of Kuwait, the Sultanate of Oman, the State of Qatar, the Kingdom of Saudi Arabia and the State of the United Arab Emirates**

## ANNEX

### **NEGOTIATING DIRECTIVES FOR A REGIONAL FREE TRADE AGREEMENT AND BILATERAL FREE TRADE AGREEMENTS WITH THE COUNTRIES OF THE COOPERATION COUNCIL FOR THE ARAB STATES OF THE GULF, AND RESPECTIVELY THE KINGDOM OF BAHRAIN, THE STATE OF KUWAIT, THE SULTANATE OF OMAN, THE STATE OF QATAR, THE KINGDOM OF SAUDI ARABIA AND THE STATE OF THE UNITED ARAB EMIRATES**

#### **A. NATURE AND SCOPE OF THE AGREEMENTS**

These negotiating directives are intended to guide the Commission in the negotiations aiming, as appropriate, for a region-to-region free trade agreement with the member countries of the Cooperation Council for the Arab States (GCC) and free trade agreements with one or several individual GCC member countries (“the agreements”), which could be extended to all GCC member countries at a later stage.

The EU’s trade and investment relations with the GCC member countries are currently covered by the Partnership and Cooperation Agreement (PCA) of 1989.<sup>1</sup> The PCA focuses on economic cooperation and development, which corresponded to the main interests of the parties at the time. Although those objectives remain valid, further modernisation and strengthening of economic links with the Gulf region are necessary to meet the demands of modern trade relations, including contributing to the EU’s strategic competitiveness and economic security

The Council authorised the Commission to open negotiations in 1989, on behalf of the European Community, with the countries of the GCC on an inter-regional free trade agreement or on bilateral free trade agreements. After more than ten years of region-to-region negotiations with the GCC, in 2001, the Council adopted revised negotiating directives to reinvigorate those negotiations while taking into account new international obligations, in particular the establishment of the World Trade Organisation. The negotiations eventually came to a standstill in 2008 due to insurmountable differences in ambitions for a free trade agreement. Several attempts were made since then to resume discussions for a regional free trade agreement. However, to this date these efforts have been unsuccessful.

Notwithstanding the present standstill of the negotiations, at the EU-GCC Summit of 16 October 2024 both parties agreed that the EU-GCC trade and investment relationship “*must be developed, as appropriate, through multilateral, regional, and bilateral frameworks*” and that both sides “*will continue to explore tailor-made agreements supporting trade and investments*”.

In line with these commitments and with the objectives of the EU’s Joint Communication on the Strategic Partnership with the Gulf of May 2022, which called for consolidating the EU economic bilateral partnerships with the GCC countries, the EU is offering the possibility of negotiating free trade agreements with those Gulf partners that are interested and share the EU’s level of ambition.<sup>2</sup> These agreements would be complementary to the existing EU-GCC trade and investment partnership and to the objective of an EU-GCC region-to-region free trade agreement.

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<sup>1</sup> [EUR-Lex - 21989A0225\(01\) - EN - EUR-Lex](#)

<sup>2</sup> [Joint Communication on a “Strategic Partnership with the Gulf” | EEAS](#)

The Joint Statement of the EU-GCC Summit of 16 October 2024 reaffirmed also the EU and GCC members’ *“mutual interests and ambition, tapping into the opportunities offered by an enhanced business and investment environment, the green and digital transitions, sustainable energy, connectivity, and advancing on sectoral cooperation in areas contributing to the goal of enhanced economic integration and diversification of our respective economies”*. These agreements will reflect the ambitious strategic orientations underway in the EU and in the GCC countries contributing to promoting international standards, economic reforms and improving the business climate. By enabling a wide scope for cooperation, the agreements will provide for new market access opportunities and clear rules for traders and investors with sustainability at its core.

The agreements should exclusively contain provisions related to trade and investment related areas applicable between the parties. The agreements should be ambitious, comprehensive and fully consistent with World Trade Organisation (WTO) rules and taking into account the parties’ commitments under the WTO.

However, the agreements should have a high level of ambition going beyond existing commitments taken in the framework of the WTO.

The agreements should provide for the progressive and reciprocal liberalisation of trade in goods, services and foreign direct investment. They will include detailed rules to promote, facilitate or govern such trade and foreign direct investment. All commitments under the agreements are undertaken with a view to have a direct and immediate impact on trade and in compliance with EU law. All elements will be negotiated in parallel and will form part of a single undertaking ensuring a balanced outcome between the elimination of duties, the elimination of unnecessary regulatory obstacles to trade and an improvement in rules, leading to an effective opening of each other’s markets. The agreements should only include obligations in such areas covered by the competence of the parties to the agreements, including parties at national or local level such as national or local governments.

The agreements should ensure that all levels of government, including sub-central authorities and relevant entities, comply with their commitments set out in the agreements.

The agreements should recognise that sustainable development is an overarching objective of the parties and that they aim at ensuring and facilitating respect of international environmental and labour agreements and standards. Therefore, the agreements should include the Paris Agreement among their essential elements. The agreements should also contribute to the promotion of sustainable development and broader EU and international standards values, inter alia by including trade-related provisions on labour and environment, including through responsible business conduct, responsible governance of tenure of land, fisheries and forests, responsible agriculture investment and transparency. To address such measures, sustainable development should be taken into account throughout the agreements, including in the form of a specific chapter on trade and sustainable development, covering both social and environmental standards.

The economic, environmental and social impacts of the trade and investment provisions (including on gender equality and women’s rights) should be examined by means of an independent Sustainability Impact Assessment (SIA), which should be undertaken in parallel with the negotiations. The Commission should ensure that the SIA is conducted in regular dialogue with all relevant stakeholders from civil society. The SIA should be finalised prior to the conclusion of the negotiations and its findings should be taken into account in the negotiating process. The SIA feedback should: (a) clarify the likely effects of the agreements on sustainable development and climate, and the potential impact in other countries, in particular least developed countries and, where relevant, overseas countries and territories

associated to and outermost regions of the Union; and (b) to propose measures to maximise the benefits of the agreements and to prevent or minimise potential negative impacts.

## **B. PROPOSED CONTENT OF THE AGREEMENTS**

### **Preamble, General Principles**

In view of liberalising bilateral trade and foreign direct investment, the agreements should refer, inter alia, to:

- the principles and objectives of the EU's external action;
- the commitment of the parties to sustainable development and the contribution of international trade to sustainable development in its economic, social and environmental dimensions, including economic development, poverty reduction, full and productive employment and decent work for all, the protection and preservation of the environment and natural resources;
- the additional commitment of the parties to fully comply with their rights and obligations arising from WTO membership;
- the commitment of the parties to enhance consumer welfare through policies ensuring a high level of consumer protection and economic well-being;
- the commitment of the parties to prevent and remove non-tariff-related obstacles to trade and foreign direct investment;
- the right to regulate economic activity in the public interest in accordance with international obligations, to achieve legitimate public policy objectives such as the protection and promotion of public health, social services, public education, safety, the environment, public morals, social or consumer protection, financial stability, privacy and data protection and the promotion and protection of cultural diversity;
- the objective of the parties to create a new framework for economic relations between the parties and above all for the development of trade and foreign direct investment;
- the shared objective of the parties of taking into account the particular challenges faced by small and medium sized enterprises (SMEs) in contributing to the development of trade and foreign direct investment;
- the commitment of the parties to communicate and consult on the implementation of the Agreements with all relevant stakeholders from civil society, including the private sector, trade unions, and other non-governmental organisations.

### **Objectives**

The agreements should confirm the joint objective of progressively and reciprocally liberalising substantially all trade in goods and services and foreign direct investment, in full compliance with WTO rules, notably Article XXIV of the General Agreement on Tariffs and Trade (GATT 1994) and Article V of the General Agreement on Trade in Services (GATS). The agreements should ensure a high level of market access for public procurement, and trade-related intellectual property rights (IPR), including geographical indications, and strengthen dialogue and cooperation on technical and regulatory frameworks.

The agreements should recognise that sustainable development is an overarching objective of the parties and should ensure and facilitate respect of international environmental and social agreements and standards in order to promote trade. The agreements should ensure that the

parties do not encourage trade or foreign direct investment by lowering domestic environmental, labour or occupational health and safety legislation, and standards or by relaxing core labour standards or laws aimed at protecting and promoting cultural diversity.

### **Trade in Goods**

The aim of the agreements is to ensure the highest possible degree of trade liberalisation, in line with the priority of fostering the competitiveness of the EU. The agreements should cover substantially all trade in goods between the parties. It should also include provisions limiting the use of trade restrictive practises, such as import and export restrictions, including import and export monopolies, import and export licencing, fees and formalities, transit, temporary admission of goods, repaired goods.

### **Rules of origin**

Rules of origin and provisions providing for administrative co-operation should be trade facilitating and simpler and should take into account the standard preferential rules of origin of the EU and the interests of the EU.

### **Anti-fraud measures**

The agreements should include an enhanced administrative co-operation that sets out procedures and appropriate measures that the Parties may take where a lack of administrative co-operation in customs matters, irregularities or fraud are established.

The agreements should include an effective and enforceable anti-fraud clause covering instances of lack of cooperation as well as irregularities or fraud.

The agreements should also include the obligation for the competent authorities of the GCC member countries to cooperate with the European Public Prosecutor's Office (EPPO) in the investigations and prosecutions of crimes affecting the financial interests of the European Union, in accordance with the existing relevant mutual legal assistance instruments or other applicable provisions.

### **Management of administrative errors**

The agreements should include provisions to examine jointly the possibility of adopting appropriate measures in case of errors committed by the competent authorities in the application of the preferential rules of origin.

### **Trade defence**

Anti-dumping and anti-subsidy provisions of the agreements should include increased transparency obligations than the current PCA, the lesser duty rule in anti-dumping investigations and the public interest test.

Global safeguards provisions of the agreements should include increased transparency, consultations before imposition of definitive measures and the least disruptive form of measures. The agreements should also include a temporary bilateral safeguard mechanism covering preferential trade.

### **Customs and trade facilitation, and mutual administrative assistance in customs matters**

The agreements should establish strong customs cooperation between the customs authorities of the parties, ensuring the correct application and enforcement of customs legislation for a transparent and predictable trade environment. This should include measures to reinforce risk management and effective customs controls through the exchange of customs-related information. The agreements should include measures to ensure effective and timely

cooperation on concerns and risks relating to the circumvention of EU restrictive measures including the exchange of customs and trade data and include the possibility to take restrictive measures, to address risks arising from e-commerce and establish cooperation on prohibitions and restrictions.

The agreements should include a protocol on mutual administrative assistance in customs matters.

The agreements should include provisions to facilitate legitimate trade. They should improve customs practices such as those related to the clearance of goods such as risk management, advance ruling and authorised traders. They should ensure the right to appeal binding decisions and contribute to both, simplifying customs procedures and ensuring their proper enforcement in compliance with international conventions and standards applicable in the field of customs and trade facilitation, including those developed by the WTO and the World Customs Organization. The agreed procedures and forms of cooperation should also take into account the level of harmonisation achieved between GCC countries.

### **Technical barriers to trade**

The agreements should address unnecessary obstacles to trade stemming from standards, technical regulations, and conformity assessment procedures, for example, by promoting the recognition of a supplier's declaration of conformity. It should build on the WTO Technical Barriers to Trade Agreement, improve its application, and, where appropriate, introduce provisions going beyond its scope.

### **Sanitary and phytosanitary measures**

The agreements should build on and go beyond the WTO Agreement on Sanitary and Phytosanitary (SPS) Measures, with the aim to facilitate access to each party's market while protecting human, animal or plant life or health. SPS provisions should cover issues such as transparency, the recognition of equivalence, risk assessment and analysis, recognition of regionalisation measures for animal and plant health disease/pest control, control, inspection and approval procedures, transparency of SPS measures, recognition of the EU as a single entity including fast track procedures for market access applications taking into account the harmonised SPS policy of the EU, implementation of pre-listing of food-producing establishments, regulatory cooperation, cooperation on animal welfare and antimicrobial resistance, and the creation of a mechanism to address expeditiously specific trade concerns related to SPS measures. SPS provisions should also include cooperation on sustainable food systems. Procedures and forms of cooperation should also take into account the level of harmonisation achieved between GCC countries.

### **Animal welfare**

The agreements should promote continued cooperation and exchanges on animal welfare, and the discussion, inter alia, of possible commitments on equivalence on animal welfare between the parties. The EU standards on animal welfare should serve as a basis for the negotiations.

### **Intellectual property rights and geographical indications**

The agreements should go beyond the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS). On intellectual property rights (IPRs), there should be the objective of strengthening IPRs protection and enforcement, in particular with respect to the fight against counterfeiting and piracy, and control at the customs and border measures. The agreements should include detailed provisions on the enforcement of IPRs and the protection of all types of IPRs, including copyright and related rights, trademarks, industrial designs,

patents including supplementary protection certificates for medicinal and plant protection products, trade secrets, regulatory data protection and protection of plant varieties, and provisions on effective recognition and protection of geographical indications.

### **Competition, subsidies and state-owned enterprises**

The agreements should include provisions on:

- (a) enforcement of competition law (including restrictive agreements, cartels, abuse of dominance and merger review), principles of transparency, due process, procedural fairness and non-discrimination, in line with the Party's law;
- (b) subsidies including the prohibition of certain subsidies and transparency provisions regarding subsidies to enterprises producing goods and/or providing services; and
- (c) state-owned enterprises, designated monopolies and enterprises granted special rights or privileges with respect to non-discriminatory treatment, commercial considerations, neutral regulation and transparency. Such rules should apply at different levels of government and sectors and should not affect public service obligations.

Procedures and cooperation should also take into account the level of harmonisation achieved between GCC countries.

### **Public procurement**

The agreements should aim at setting disciplines in public procurement procedures and at providing market access opportunities covering both, bilateral and GCC relations.

They should aim at improving transparency, non-discrimination and procedural fairness notably by introducing provisions for the use of electronic means, including for the publication of procurement information, notices, tender documentation and the receipt of tenders.

Negotiations on market access should be based on the principle of national treatment. National treatment should ensure treatment no less favourable than that accorded to domestic goods, services and suppliers.

Negotiations should achieve a comprehensive coverage of procurement in all sectors at all levels of government, as well as coverage of procurement by state owned enterprises and undertakings with special or exclusive rights notably in the utilities sector. Procurement of goods, services and public works should be covered with limited exceptions. In addition, commitments in relation to concessions and public-private partnerships/concessions should be considered.

### **Trade and sustainable development**

The agreements should include provisions on sustainable development of relevance in a trade and investment context. They should promote the implementation of the 2030 Agenda for sustainable development.

The agreements should recognise the right of a party to regulate in the labour and environmental area, ensuring consistency with internationally agreed standards and agreements.

The agreements should encourage parties to achieve and uphold overall high levels of environmental and labour protection, and not to lower those levels of protection to encourage

trade or investment. This should include a commitment not to derogate from or fail to enforce domestic labour or environmental laws.

The agreements should include provisions to promote adherence to and effective implementation of relevant internationally agreed environmental, human rights and labour principles, rules and standards, including all fundamental principles and rights at work as defined by the International Labour Organization's Declaration on Fundamental Principles and Rights at Work, as amended in 2022, the ILO's fundamental instruments, and all other relevant international labour standards, including labour protection, and labour inspection, as well as relevant multilateral environmental agreements, including the UN Framework Convention on Climate Change and the Paris Agreement. The agreements should include a commitment by each Party to make continued and sustained efforts towards ratifying any outstanding ILO fundamental conventions.

The agreements should promote cooperation on and a greater contribution of trade and investment to sustainable development, including by addressing areas such as the facilitation of trade in environmental and climate-friendly goods and services and the promotion of responsible business conduct and due diligence, having regard to internationally recognised instruments and encouraging parties to use international practices, including OECD and sector-specific guidelines.

The agreements should also contain commitments promoting trade in legally obtained and sustainably managed natural resources, in particular in relation to biodiversity, fauna and flora, aquatic ecosystems, forestry products, and marine biological resources and aquaculture, and should cover relevant international instruments and practices. It should also promote trade favouring low-emission, climate resilient development.

The agreements should include provisions on trade and gender equality, including the parties' commitment to strive to promote equal rights, treatment, and opportunities and to effectively implement their obligations under international agreements addressing gender equality and women's rights, including the Convention on the Elimination of all Forms of Discrimination Against Women.

### **Services and investment**

The negotiations should aim at the progressive and mutual liberalisation of trade in services and foreign direct investment, beyond the parties' WTO commitments. In line with Article V of GATS, the Agreement should include substantial sectoral coverage and should apply to all modes of supply.

In particular, the agreements should contain regulatory disciplines. The agreements should include provisions on investment, cross-border supply of services and temporary presence of natural persons for business purposes), domestic regulation, as well as regulatory frameworks for specific services sectors (e.g. international maritime transport services, delivery services, telecommunication services and financial services).

For the EU and its Member States the possibility should be maintained to preserve and develop their capacity to define and implement cultural and audio-visual policies for the purposes of preserving their cultural diversity. Audiovisual services should therefore be excluded from the scope of liberalisation of services and investment.

### **Digital trade**

The agreements should include horizontal regulatory disciplines applying to trade enabled by electronic means to ensure predictability and legal certainty for businesses, to provide a



secure online environment for consumers, and to address unjustified data localisation requirements, which should not affect the EU's personal data protection rules and should preserve the policy space required to develop and implement the EU legal framework in this area. Such disciplines should comply with the EU legal framework on the protection of personal and non-personal data.

Such disciplines should be in line with the EU legal framework and preserve the regulatory autonomy required to implement and develop the EU's data and digital policies. In particular, the EU should not agree to disciplines or commitments that could affect its legal framework on cybersecurity, notably on a high common level of security of networks and information systems across the EU. The EU and its Member States intend to maintain the possibility to preserve and develop their capacity to define and implement cultural and audio-visual policies for the purposes of preserving their cultural diversity. The European Union should not agree to rules or commitments for audio-visual services.

### **Capital movements, payments and transfers and temporary safeguard measures**

The agreements should include provisions to ensure that capital movements, payments and transfers that are necessary to give effect to the commitments under the agreements are not restricted. The agreements should contain the standard prudential carve-out and safeguard provisions to ensure the EU's ability to take measures for the operation of the EU's economic and monetary union and measures in relation to balance-of-payments or external financial difficulties. These should be in accordance with the Treaty on the Functioning of the European Union.

### **Energy and raw materials**

The agreements should include specific trade and investment disciplines on energy and raw materials, notably limiting price distortions, facilitating energy and raw materials investments, promoting market access to energy grids and facilitating renewable investments, ensuring environmental impact assessment and offshore safety standards. It should also include further cooperation in energy and raw materials.

In particular, cooperation on energy should cover renewable energy, renewable fuels of non-biological origin (hydrogen), as well as energy efficiency, energy infrastructure and regional market integration, sustainable energy and clean technology supply chains, carbon capture, utilisation and storage solutions, including direct air capture, as well as methane emissions abatement in the oil, gas and coal sectors, in line with EU and international rules (OGMP 2.0). Cooperation should also cover energy transition from hydrocarbon resources to decarbonised ones, aiming to promote regional cooperation and connectivity in energy.

Further cooperation activities should also be proposed for the sector of critical minerals. This should include cooperation to reduce or eliminate measures taken by third parties to distort raw materials trade and facilitate trade and investment linkages to ensure the establishment of well-functioning, sustainable and resilient raw materials supply chains, cooperation in the areas of responsible sourcing of critical raw materials and raw materials value chains sustainability in line with UN and ESG standards and research and innovation along the whole raw materials value chain.

### **Small and medium sized enterprises**

The agreements should facilitate the participation of SMEs on both sides in trade between the EU and the GCC members through 'commitments on sharing market access information' and

creating an ‘appropriate institutional set-up’, meant to ensure that the needs of SMEs of both sides are taken into account in the implementation of the agreement.

### **Good regulatory practices**

The agreements should recognise the importance of good regulatory practices and the role regulatory cooperation can play in avoiding trade barriers resulting from unnecessary divergent regulatory approaches and promoting international trade and investment.

To define an effective regulatory cycle and cultivate a coherent and trade-facilitating regulatory environment, good regulatory practices' provisions should cover internal coordination, regulatory processes and mechanisms, early information, public consultations, impact assessments, retrospective evaluation regulatory register, information exchange.

The agreements should also provide the possibility of engaging in joint dialogue on those matters with all GCC partners.

### **Transparency**

The agreements should facilitate access to information for economic operators and the general public concerning regulatory requirements and the responsible public administrations, while building on relevant WTO obligations (Article X of GATT 1994).

The main provisions should cover (national and GCC level measures), publication, enquiries, administration of measures of general application and review and appeal.

### **Exceptions**

Exceptions should be provided to allow a party to take measures for the protection of health or the environment or for essential security, including the Union's standard tax exception clause for trade agreements, which should ensure compatibility of specific elements in the area of direct taxation with EU trade policy.

### **Dispute settlement**

The agreements should include an effective dispute settlement mechanism covering all provisions and providing for rulings binding on the parties. The dispute settlement mechanism should be transparent, open and based on experience gained in the WTO and the EU's bilateral trade agreements. Proceedings should involve three steps: consultations; panel proceedings; and compliance. A non-binding mediation mechanism should also be available as alternative form of dispute resolution covering non-violation complaints.

### **Other issues**

The agreements could include additional provisions related to the trade and economic relationship where, in the course of negotiations, the parties have expressed their mutual interest.