Member States/third countries intergovernmental agreements in the field of energy: information exchange mechanism

2011/0238(COD) - 13/09/2012 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted by 369 votes to 240 with 14 abstentions a legislative resolution on the proposal for a Directive of the European Parliament and of the Council setting up an information exchange mechanism with regard to intergovernmental agreements between Member States and third countries in the field of energy.

Parliament adopted its position on first reading following the ordinary legislative procedure. The amendments are the result of a compromise negotiated between Parliament and Council. The main amendments are as follows:

Transparency: the new text stresses that more transparency with regard to future intergovernmental agreements that will be negotiated or that are being negotiated between Member States and third countries in the field of energy could contribute to consistency in Member States' approaches to such agreements, to compliance with Union law and to the security of energy supply in the Union.

Sharing information on bilateral agreements: Member States shall submit to the Commission at the latest three months after the entry into force of the Decision all existing intergovernmental agreements between them and third countries.

The Commission will then have nine months in which to inform the Member States concerned if its first assessment has led to doubts on the compatibility with Union law (EU competition law and internal energy market legislation).

Observer status for the Commission: the text states that Member States may notify the Commission of any new agreements, before or during negotiations. The Commission could then - at the request of the EU country concerned or on its own initiative, if the Member State agrees - take part in the negotiations as an observer and provide advice on how to avoid incompatibility of the intergovernmental agreement or amendment under negotiation with Union law.

Compatibility with EU law: where a Member State negotiating an agreement has been unable to reach a firm conclusion on the compatibility of the negotiated agreement with Union law, it must submit the agreement to the Commission, before closing negotiations, and the Commission will then have four weeks in which to inform the Member State of any possible doubts. In the absence of a response from the Commission within that period, the Commission shall be deemed not to have any doubts.

Upon **ratification** of an agreement, Member States would be required to submit it to the Commission.

Confidentiality: the text states that Member States shall inform the Commission whether any part of intergovernmental agreements is to be regarded as confidential and whether the information provided may be shared with other Member States.

Where the Member State concerned has indicated that the **information may be shared**, the Commission shall make the information received accessible to all Member States in **secure electronic form**, with the exception of those parts that are regarded as confidential by the Member State concerned.

Where a Member State instructs the Commission not to make an existing intergovernmental agreement, an amendment to an existing intergovernmental agreement or a new intergovernmental agreement accessible to other Member States, it shall make available a **summary of the information submitted**. That summary shall contain at least the following information regarding the agreement or amendment in question: (i) the subject matter; (ii) the aim and the scope; (iii) the duration; (iv) the contracting parties; and (v) information on the main elements.

Requests for confidentiality will not restrict access of the Commission itself to confidential information. The Commission shall ensure that access to the confidential information is strictly limited to the Commission services for which it is absolutely necessary to have the information available.

Reporting and review: by 1 January 2016, and every three years thereafter, the Commission shall submit a report on the application of the Decision, and assess:

- the extent to which the Decision promotes compliance of intergovernmental agreements with Union law and a high level of coordination between Member States with regard to intergovernmental agreements;
- the impact of the Decision on Member States' negotiations with third countries and whether the scope of this Decision and the procedures it lays down are appropriate.