

Bilateral investment agreements between Member States and third countries: transitional arrangements

2010/0197(COD) - 16/10/2012 - Commission communication on Council's position

The position of the Council fully reflects the agreement reached in the trilogue between the Council, the European Parliament and the Commission, as concluded on 29th May 2012. The Commission fully supported this agreement, the main points of which are as following:

- to clarify the status under the law of the Union of bilateral investment agreements of the Member States signed before the entry into force of the Lisbon Treaty, by confirming that those agreements may be maintained in force (or enter into force) until they are replaced by the investment agreement of the Union;
- to establish the conditions under which Member States may be empowered to conclude and/or maintain in force bilateral investment agreements signed between the entry into force of the Lisbon Treaty and the entry into force of this Regulation;
- to streamline the conditions and procedures under which Member States may be empowered to amend or conclude bilateral investment agreements with third countries after entry into force of the Regulation;
- to ensure that maintenance in force of investment agreements by Member States, or authorisation to open negotiations or conclude bilateral investment agreements with third countries will not prevent the negotiation or conclusion of future investment agreements by the Union;
- to confer on the Commission implementing powers in accordance with Regulation (EU) No 182 /2011, and to apply advisory procedure for the adoption of authorisation decisions pursuant to the Regulation.

Joint Declaration: the Commission accepted and subscribed to the joint declaration of the Council, the Parliament and the Commission that the use of comitology in the Regulation should not be considered as a precedent for future acts on empowerment of Member States under the EU exclusive competences, and that the choice of the advisory procedure should not be considered as a precedent for future implementing acts under the Common Commercial Policy.