EU/Singapore Investment Protection Agreement

2018/0095M(NLE) - 13/02/2019 - Text adopted by Parliament, single reading

The European Parliament adopted by 427 votes to 187, with 49 abstentions, a non-legislative resolution on the draft Council decision on the conclusion, on behalf of the European Union, of an investment protection agreement between the European Union and its Member States, of the one part, and the Republic of Singapore, of the other part.

Singapore is by far the EU's largest trading partner in South East Asia and accounts for just under one third of EU-ASEAN trade in goods and services and about two thirds of all investment between the two regions. Singapore is the leading destination for European investment in Asia, with bilateral investment stocks reaching EUR 256 billion in 2016.

This is the first ‘investment protection only’ agreement concluded between the EU and a third country following discussions among the institutions on the new architecture of EU FTAs.

The agreement will replace the 13 bilateral agreements currently in force between EU Member States and Singapore, which do not include the new European approach to investment protection and its enforcement mechanism, the Investment Court System (ICS).

Overall, Parliament welcomed the EU’s new approach to investment protection and its enforcement mechanism (ICS), which replace both the controversial investor-to-state dispute settlement (ISDS), addressing some of its flaws in the process, and the individual approaches followed by the EU Member States in existing bilateral investment treaties (BITs).

Investment protection

The new agreement will ensure a high level of investment protection, transparency and accountability, while safeguarding the right to regulate at all governmental levels and pursue legitimate public policy objectives for both Parties, such as public health and environmental protection. The agreement shall guarantee that EU investors in Singapore will not be discriminated vis-à-vis Singaporean investors and properly protects them from illegitimate expropriation.

Members regretted, however, the lack of provisions on investor responsibilities and highlighted, in this context, the importance of corporate social responsibility. The Commission is called on to consider legislation similar to that on conflict minerals and timber, such as for the garment industry. They also noted the lack of a global approach to corporations’ compliance with human rights law and of available remedy mechanisms

Investment court system (ICS)

Parliament recalled that the ICS envisages the establishment of a Permanent Investment Tribunal of First Instance and an Appellate Tribunal, whose members will have to possess comparable qualifications to those held by judges of the International Court of Justice, including expertise in public international law and not just commercial law, and will have to satisfy strict rules of independence, integrity and ethical behaviour through a binding code of conduct designed to prevent conflicts of interests.

The Commission is encouraged to continue its work on making the ICS more accessible, particularly for SMEs and smaller companies. Stronger sanctions in the event that a member of the tribunals not complying with the code of conduct should be put in place.

Lastly, Members considered that the approval of this agreement will give the EU more leverage to negotiate similar agreements with the other ASEAN countries with a view to establishing similar rules on investment protection throughout the region.