

Credit institutions: reorganisation and winding up

1985/0046(COD) - 08/03/2001 - Commission opinion on Parliament's position at 2nd reading

As empowered by the Commission on 6 December 2000, the Member responsible stated in plenary session that the Commission could accept all the amendments in substance, subject to a check for overall clarity and consistency. This check has been carried out, the texts have been found to be sufficiently clear and the Commission is now able to accept them as they stand, although it would not be opposed to any drafting improvements should the Council decide by qualified majority that it was in favour of such improvements. The amendments relate in particular to : - the retaining in the context of the unity and universality of the procedure the exception provided for in the common position from application of the law of the home country to repurchase agreements but replace, when indicating the applicable law, the law of the place of conclusions of the contract by the law of the contract; - following and confirming the same principle for netting agreements; - following and confirming the same principle for transactions on regulated markets; - marginally modifying the common position but retain the exception it contains for rights in respect of securities, whether or not dematerialised, recorded in a register, an account or centralised deposit system in a Member State that remain governed by the law of the Member State where the register, account or centralised deposit system is located; - stipulating in a more analytical manner than in the common position that the rights in rem or reservation of title in respect of assets belonging to the insolvent credit institution remain governed by the law applicable to them; - stipulating more clearly than in the common position the principle that the right of a creditor to set his claims off against the claims of the credit institution remains governed by the law applicable to the credit institution's claim.