



Plenary sitting

A8-0054/2019

30.1.2019

RECOMMENDATION

on the draft Council decision on the conclusion on behalf of the European Union of the Investment Protection Agreement between the European Union and its Member States, of the one part, and the Republic of Singapore, of the other part
(07979/2018 – C8-0447/2018 – 2018/0095(NLE))

Committee on International Trade

Rapporteur: David Martin

Symbols for procedures

- * Consultation procedure
- *** Consent procedure
- ***I Ordinary legislative procedure (first reading)
- ***II Ordinary legislative procedure (second reading)
- ***III Ordinary legislative procedure (third reading)

(The type of procedure depends on the legal basis proposed by the draft act.)

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DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

on the draft Council decision on the conclusion on behalf of the European Union of the Investment Protection Agreement between the European Union and its Member States, of the one part, and the Republic of Singapore, of the other part (07979/2018 – C8-0447/2018 – 2018/0095(NLE))

(Consent)

The European Parliament,

- having regard to the draft Council decision (07979/2018),
 - having regard to the draft Investment Protection Agreement between the European Union and its Member States, of the one part, and the Republic of Singapore, of the other part (07980/2018),
 - having regard to the request for consent submitted by the Council in accordance with Article 207(4) and Article 218(6), second subparagraph, point (a)(v) of the Treaty on the Functioning of the European Union (C8-0447/2018),
 - having regard to the opinion of the Court of Justice of the European Union of 16 May 2017¹,
 - having regard to its non-legislative resolution of ...² on the draft decision,
 - having regard to Rule 99(1) and (4), and Rule 108(7) of its Rules of Procedure,
 - having regard to the recommendation of the Committee on International Trade (A8-0054/2019),
1. Gives its consent to conclusion of the agreement;
 2. Instructs its President to forward its position to the Council, the Commission and the governments and parliaments of the Member States and of the Republic of Singapore.

¹ Opinion of the Court of Justice of 16 May 2017, 2/15, ECLI:EU:C: 2017:376.

² Texts adopted, P8_TA(0000)0000.

EXPLANATORY STATEMENT

In 2014, in light of the EU's exclusive competence on foreign direct investment including investment protection acquired with the Lisbon Treaty, EU and Singapore agreed to and included investment protection provisions in the bilateral FTA initialled the year before. In 2015 the Commission decided to request the opinion of the Court of Justice of the EU on the EU competence to sign and conclude the FTA by itself or whether the participation of Member States was required. The opinion was released on 16 May 2017 and, on that basis, following discussions between the EU institutions on the new architecture of future FTAs, the agreement was split into an EU-only free trade agreement and a mixed investment protection agreement.

In addition, after the EU adopted its new approach on investment protection and enforcement mechanism (Investment Court System, ICS) reflected in the EU-Canada trade deal (CETA), Singapore agreed to review the investment protection provisions negotiated in 2014 and therefore to re-open a closed agreement.

The main elements of this investment protection agreement (IPA) include:

- Fair and equitable treatment standards and anti-discrimination provisions;
- Rules on direct and indirect expropriation;
- A permanent Investment Tribunal of First Instance and an Appellate Tribunal composed of members appointed by the Parties;
- The members of the Tribunals must have demonstrated expertise in public international law and possess the qualifications required in their respective countries for appointment to judicial offices or be jurists of recognised competence. They are also subject to strict rules of independence, integrity, and ethical behaviour though a binding code of conduct included in the agreement;
- Transparency of the proceedings is ensured through the publication of documents and hearings open to the public;
- Right to regulate article which safeguards the right of the Parties to take measures to pursue legitimate public policy objectives such as public health and environmental protection; this should limit the regulatory chill effect;
- Prohibition of parallel or multiple proceedings;
- Provisions against abuses of the system such as rules to prevent fraudulent or manipulative claims;
- A commitment by the Parties to pursue the establishment of a multilateral investment court (MIC);

The agreement goes beyond the investment protection provisions in CETA insofar as it includes a fully functioning Appellate Tribunal, a code of conduct for the members of the Tribunals already incorporated into the text and it features provisions on obligations for former judges.

The new elements reflect statement 36 by the Commission and the Council on investment protection and the ICS made in the context of the Council's decision to authorise the signature of CETA and was entered into the Council minutes on that occasion (OJ L11 vol. 60, 14 January 2017).

It is important to highlight that this agreement will replace the existing bilateral investment treaties between 13 EU Member States and Singapore. Such treaties are based on outdated investment protection provisions and feature the controversial investor-state dispute settlement (ISDS).

However, regrettably, the agreement still misses provisions on investors' obligations. Your rapporteur considers that, if on the one hand, ensuring protections to our investors in third countries is legitimate, on the other, the EU should also ensure that investment protection agreements include binding corporate social responsibility standards and more generally obligations in terms of respect for human rights.

PROCEDURE – COMMITTEE RESPONSIBLE

Title	Investment Protection Agreement between the EU and its Member States, of the one part, and the Republic of Singapore of the other part			
References	07979/2018 – C8-0447/2018 – COM(2018)0194 – 2018/0095(NLE)			
Date of consultation / request for consent	19.10.2018			
Committee responsible Date announced in plenary	INTA 22.10.2018			
Rapporteurs Date appointed	David Martin 16.5.2018			
Discussed in committee	4.12.2017	10.7.2018	5.11.2018	3.12.2018
Date adopted	24.1.2019			
Result of final vote	+: –: 0:	26 11 0		
Members present for the final vote	Maria Arena, David Campbell Bannerman, Salvatore Cicu, Santiago Fisas Aixelà, Eleonora Forenza, Karoline Graswander-Hainz, Christophe Hansen, Heidi Hautala, Yannick Jadot, France Jamet, Jude Kirton-Darling, Bernd Lange, David Martin, Emmanuel Maurel, Anne-Marie Mineur, Sorin Moisă, Godelieve Quisthoudt-Rowohl, Helmut Scholz, Joachim Schuster, Joachim Starbatty, Adam Szejnfeld, William (The Earl of) Dartmouth, Jan Zahradil			
Substitutes present for the final vote	Syed Kamall, Frédérique Ries, Fernando Ruas, Paul Rübig, Pedro Silva Pereira, Ramon Tremosa i Balcells, Jarosław Wałęsa			
Substitutes under Rule 200(2) present for the final vote	José Blanco López, Teresa Jiménez-Becerril Barrio, Jozo Radoš, Kārlis Šadurskis, Jasenko Selimovic, Mihai Țurcanu, Anna Záborská			
Date tabled	30.1.2019			

FINAL VOTE BY ROLL CALL IN COMMITTEE RESPONSIBLE

26	+
ALDE	Jozo Radoš, Frédérique Ries, Jasenko Selimovic, Ramon Tremosa i Balcells
ECR	David Campbell Bannerman, Syed Kamall, Joachim Starbatty, Jan Zahradil
EFDD	William (The Earl of) Dartmouth
PPE	Salvatore Cicu, Santiago Fisas Aixelà, Christophe Hansen, Teresa Jiménez-Becerril Barrio, Sorin Moisă, Godelieve Quisthoudt-Rowohl, Fernando Ruas, Paul Rübig, Kārlis Šadurskis, Adam Szejnfeld, Mihai Țurcanu, Jarosław Wałęsa, Anna Záborská
S&D	José Blanco López, Bernd Lange, David Martin, Pedro Silva Pereira

11	-
ENF	France Jamet
GUE/NGL	Eleonora Forenza, Emmanuel Maurel, Anne-Marie Mineur, Helmut Scholz
S&D	Maria Arena, Karoline Graswander-Hainz, Jude Kirton-Darling, Joachim Schuster
VERTS/ALE	Heidi Hautala, Yannick Jadot

0	0

Key to symbols:

+ : in favour

- : against

0 : abstention