



EUROPEAN PARLIAMENT

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Plenary sitting

18.4.2012

B7-0215/2012

MOTION FOR A RESOLUTION

to wind up the debate on statements by the Council and the Commission
pursuant to Rule 110(2) of the Rules of Procedure

on the legal security of European investments outside the European Union
(2012/2619(RSP))

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on behalf of the ALDE Group

B7-0215/2012

European Parliament resolution on the legal security of European investments outside the European Union (2012/2619(RSP))

The European Parliament,

- having regard to the European Parliament resolution of 6 April 2011 on the future European international investment policy (2010/2203(INI)),
 - having regard to the European Parliament resolution of 21 October 2010 on the European Union's trade relations with Latin America (2010/2026(INI)),
 - having regard to the European Parliament resolution of 13 December 2011 on trade and investment barriers (2011/2115(INI)),
 - having regard to the Commission's Proposal for a Regulation establishing transitional arrangements for bilateral investment agreements between EU Member States and third countries (grandfathering Regulation) COM(2010)344 final,
 - having regard to the Communication by the European Commission of 7 July 2010: Towards a comprehensive European international investment policy, COM(2010)343 final,
 - having regard to the EUROLAT resolution of 19 May 2011 on the prospects for trade relations between the European Union and Latin America,
 - having regard to the WTO Joint Statement of 30 March 2012 on Argentina's Import Restricting Policies and Practices,
 - having regard to the G20 declarations at Washington (15 November 2008), London (2 April 2009), Pittsburgh (25 September 2009), Toronto (26 June 2010), Seoul (12 November 2010) and Cannes (4 November 2011) which include commitments to fight protectionism,
 - having regard to the Bilateral Investment Treaty between Spain and Argentina,
 - having regard to the negotiations for an inter-regional Association Agreement between the EU and the Mercosur, and in particular the FTA,
 - having regard to Rule 110(2) of its Rules of Procedure,
- A. whereas under the Treaty of Lisbon foreign direct investment (FDI) is an exclusive EU competence, as enshrined in Articles 3(1)(e), 206 and 207 of the Treaty on the Functioning of the European Union (TFEU);

- B. whereas the Union has begun to exercise this competence with ongoing negotiations for investment agreements with India, Singapore and Canada, and proposals for negotiating mandates with Morocco, Tunisia, Jordan and Egypt;
 - C. whereas no EU investment agreement currently exists with MERCOSUR or Argentina and the Commission has not proposed negotiating mandates for investment in the EU-MERCOSUR free trade negotiations;
 - D. whereas EU investments in Argentina are protected by Member State bilateral investment agreements, where they exist, and 18 EU Member States currently have agreements in force with Argentina;
 - E. whereas the Republic of Argentina, being a member of MERCOSUR, is currently part of the negotiation process of an Association Agreement with the EU that has as one of its major objectives the progressive and reciprocal liberalisation of trade and investment;
 - F. whereas, in spite of these negotiations, the Commission has noted in its *Trade and Investment Barrier Reports* that Argentina has adopted a number of protectionist measures which have caused deterioration in the business climate for EU investors in Argentina;
 - G. whereas Argentina, as a member of the G20, has committed itself at each G20 summit to fighting protectionism and keeping markets open to trade and investment;
 - H. whereas over the last months, YPF-Repsol has been suffering a premeditated public harassment campaign and, on 16 April 2012, the Argentinean government announced that it intended to nationalise 51% of the company which caused a sharp decrease in the share price with consequent damage to the company's stakeholders and to companies associated with it;
 - I. whereas other European companies may be affected by similar actions by the Argentinean authorities;
 - J. whereas the above-mentioned announcement was accompanied by an immediate takeover of the company's main offices by the authorities of the Argentinean federal government, forcing the legitimate management and designated personnel of the above-mentioned enterprise to leave the premises;
 - K. whereas, prior to this announcement, the Spanish government and YPF-Repsol had tried to find a negotiated solution but this was not pursued by the Argentinean government;
1. Deeply regrets the moves towards protectionism by many of the EU's major trade and investment partners and especially by MERCOSUR countries including Argentina; emphasises its belief that the appropriate reaction to the global economic and fiscal crises is to maintain open markets and urges the Commission and Member States to use the upcoming G8 summit to reiterate the commitment of the developed economies to maintaining free markets;
 2. Rejects the decision taken by the Argentinean government to proceed with the expropriation of the majority of shares of a European company as it represents an unjust

and arbitrary decision of a clear confiscatory nature and entails an attack on the exercise of free enterprise and the principle of legal certainty, thus deteriorating the investment environment for EU businesses in that country;

3. Expresses its deep concerns regarding the situation as it represents the non-fulfilment of obligations under international agreements; warns about the possible negative consequences that these types of measures can imply such as the delocalisation of international investment which is needed for development and growth, and adverse consequences for Argentina in the international community;

EU Argentina Trade and Investment

4. Notes the ongoing trade negotiations between the EU and MERCOSUR, and believes that for such negotiations to be successful both sides have to approach the talks in a spirit of openness and mutual trust;
5. Regrets that Argentina has not respected this principle and has introduced several restrictive trade and investment measures which have hampered EU businesses;
6. Calls on the Commission to respond to these restrictions using all the appropriate dispute settlement tools available at the World Trade Organisation and to cooperate with other countries facing similar discriminatory barriers to trade and investment;

YPF-Repsol

7. Deplores the unilateral decision of the Argentinean government to disregard a negotiated solution and nationalise 51% of YPF-Repsol;
8. Recalls the traditional friendship between the EU and the Republic of Argentina, with whom it shares common values and principles, and urges the Argentinean authorities to return to an environment of dialogue and negotiations as the most appropriate way to resolve this dispute;
9. Welcomes the statement by High Representative Ashton condemning the action of the Argentine government and the cancellation of the meeting of the EU-Argentina Joint Cooperation Committee; urges Commissioner De Gucht and High Representative Ashton to use all diplomatic avenues available, including through the Association Agreement negotiations and Argentina's MERCOSUR partners, to solve these measures with their Argentinean counterparts; calls on the Commission and Member States to work closely with their colleagues in international fora such as the G20 and the WTO to achieve a consensus opposing the actions of the Argentinean government;

Implications for EU Investment Policy

10. Regrets that no EU investment agreement exists with Argentina and that the bilateral investment agreement with Spain is the appropriate mechanism to dispute the YPF-Repsol case;

11. Believes that this case demonstrates the desirability of EU level investment agreements which would strengthen the EU's global negotiating position on such issues; therefore, urges the Commission to accelerate the process of concluding such agreements with third countries;
12. Instructs its President to forward this resolution to the Council, the Commission, the governments of the Member States, the government and Congress of the Republic of Argentina and the members of the Council of MERCOSUR.