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PROPOSAL

From:	Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director
date of receipt:	25 April 2025
To:	Ms Thérèse BLANCHET, Secretary-General of the Council of the European Union

No. Cion doc.:	COM(2025) 169 final
Subject:	Proposal for a COUNCIL DECISION on the position to be taken on behalf of the European Union within the Committee on Investment Facilitation established by the Sustainable Investment Facilitation Agreement between the European Union and the Republic of Angola as regards the adoption of the Rules of Procedure of the Committee on Investment Facilitation

Delegations will find attached document COM(2025) 169 final.

Encl.: COM(2025) 169 final



EUROPEAN
COMMISSION

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Proposal for a

COUNCIL DECISION

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EXPLANATORY MEMORANDUM

1. SUBJECT MATTER OF THE PROPOSAL

This proposal concerns the decision establishing the position to be taken on behalf of the European Union in the Committee on Investment Facilitation ('the Committee') set up by the Sustainable Investment Facilitation Agreement between the European Union and the Republic of Angola, in connection with the envisaged adoption of its Rules of Procedure.

2. CONTEXT OF THE PROPOSAL

2.1. The Sustainable Investment Facilitation Agreement

The Sustainable Investment Facilitation Agreement ('the Agreement') aims to foster a more transparent, efficient, and predictable investment climate in Angola, and thereby improve its ability to attract and retain foreign direct investments. In doing so, the objective of the Agreement is to support Angola's economic growth, diversification, and sustainable development. The Agreement entered into force on 1 September 2024.

2.2. The Committee on Investment Facilitation

The Committee is established by Article 43(1) of the Agreement to 'ensure that [the] Agreement operates properly and effectively.' The Committee comprises representatives of both Parties.

The functions of the Committee are listed in Article 44 of the Agreement and include, inter alia, supervising and facilitating the implementation of the Agreement.

Under Article 45 of the Agreement, the Committee shall have the power to take decisions where provided for in the Agreement, which shall be binding upon the Parties. The Committee may also make appropriate recommendations in respect of all matters covered by the Agreement. The Committee shall take its decisions and make its recommendations by consensus.

2.3. The envisaged act of the Committee on Investment Facilitation

According to Article 44(2) of the Agreement, 'the Committee on Investment Facilitation shall adopt at its first meeting its own rules of procedure.' At the first meeting of the Committee on 21 January 2025, the Parties agreed to launch their respective internal procedures to adopt a decision of the Committee on Investment Facilitation as regards the adoption of the Rules of Procedure of the Committee on Investment Facilitation ('the envisaged act').

The purpose of the envisaged act is to establish the rules on the organisation and functioning of the Committee on Investment Facilitation.

The envisaged act will become binding on the Parties in accordance with Article 45(1) of the Agreement, which provides that decisions taken by the Committee 'shall be binding upon the Parties.' In accordance with Article 2 of the envisaged act, '[the] Decision shall enter into force on the date of its adoption.'

3. POSITION TO BE TAKEN ON THE UNION'S BEHALF

The proposed position to be taken on the Union's behalf should be to support the adoption of the decision of the Committee on Investment Facilitation as regards the adoption of the Rules of Procedure of the Committee on Investment Facilitation. This position should be based on the draft decision of the Committee on Investment Facilitation attached to the proposed

Council Decision establishing the position to be taken on the Union's behalf. These Rules of Procedure are necessary to ensure the proper functioning of the Committee on Investment Facilitation.

4. LEGAL BASIS

4.1. Procedural legal basis

4.1.1. Principles

Article 218(9) of the Treaty on the Functioning of the European Union (TFEU) provides for decisions establishing *'the positions to be adopted on the Union's behalf in a body set up by an agreement, when that body is called upon to adopt acts having legal effects, with the exception of acts supplementing or amending the institutional framework of the agreement.'*

The concept of *'acts having legal effects'* includes acts that have legal effects by virtue of the rules of international law governing the body in question. It also includes instruments that do not have a binding effect under international law, but that are *'capable of decisively influencing the content of the legislation adopted by the EU legislature'*¹.

4.1.2. Application to the present case

The Committee on Investment Facilitation is a body set up by an agreement, namely the Sustainable Investment Facilitation Agreement between the European Union and the Republic of Angola.

The act which the Committee on Investment Facilitation is called upon to adopt constitutes an act having legal effects. The envisaged act will be binding under international law in accordance with Article 45(1) of the Sustainable Investment Facilitation Agreement.

The envisaged act does not supplement or amend the institutional framework of the Agreement.

Therefore, the procedural legal basis for the proposed decision is Article 218(9) TFEU.

4.2. Substantive legal basis

4.2.1. Principles

The substantive legal basis for a decision under Article 218(9) TFEU depends primarily on the objective and content of the envisaged act in respect of which a position is taken on the Union's behalf. If the envisaged act pursues two aims or has two components and if one of those aims or components is identifiable as the main one, whereas the other is merely incidental, the decision under Article 218(9) TFEU must be founded on a single substantive legal basis, namely that required by the main or predominant aim or component.

4.2.2. Application to the present case

The main objective and content of the envisaged act relate to the common commercial policy.

Therefore, the substantive legal basis of the proposed decision is Article 207(4), first subparagraph TFEU.

4.3. Conclusion

The legal basis of the proposed decision should be Article 207(4), in conjunction with Article 218(9) TFEU.

¹ Judgment of the Court of Justice of 7 October 2014, Germany v Council, C-399/12, ECLI:EU:C:2014:2258, paragraphs 61 to 64.

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THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 207(4), in conjunction with Article 218(9) thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) The Sustainable Investment Facilitation Agreement between the European Union and the Republic of Angola ('the Agreement') was concluded by the Union by Council Decision (EU) 2024/829² and entered into force on 1 September 2024.
- (2) Pursuant to Article 45(1) of the Agreement, the Committee on Investment Facilitation shall have the power to take decisions where provided for in the Agreement.
- (3) Article 44(2) of the Agreement requires the Committee to adopt at its first meeting its own rules of procedure.
- (4) It is appropriate to establish the position to be taken on the Union's behalf in the Committee on Investment Facilitation, as the envisaged decision of the Committee on Investment Facilitation as regards the adoption of the Rules of Procedure of the Committee on Investment Facilitation will be binding on the Union.
- (5) The position to be taken on the Union's behalf should be to support the adoption of the decision of the Committee on Investment Facilitation as regards the adoption of the Rules of Procedure of the Committee on Investment Facilitation, as these Rules of Procedure are necessary for its proper functioning,

HAS ADOPTED THIS DECISION:

Article 1

1. The position to be taken on the Union's behalf in the Committee on Investment Facilitation shall be based on the text of the draft decision of the Committee on Investment Facilitation attached to this Decision.
2. Minor technical corrections to the draft decision of the Committee on Investment Facilitation may be agreed to by the representatives of the Union within the Committee on Investment Facilitation without further decision of the Council.

² OJ L, 2024/829, 8.3.2024, ELI: <http://data.europa.eu/eli/dec/2024/829/oj>.

Article 2

This Decision is addressed to the Commission.

Done at Brussels,

*For the Council
The President*