



Council of the
European Union

Brussels, 14 June 2022
(OR. fr)

Interinstitutional File:
2012/0060(COD)

9977/22
ADD 2 REV 1

CODEC 872
POLCOM 49
COMER 76
MAP 15
MI 458

'I/A' ITEM NOTE

From: General Secretariat of the Council
To: Permanent Representatives Committee/Council

Subject: Draft REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on the access of third-country economic operators, goods and services to the Union's public procurement and concession markets and procedures supporting negotiations on access of Union economic operators, goods and services to the public procurement and concession markets of third countries (International Procurement Instrument - IPI) **(first reading)**
- Adoption of the legislative act
= Statement

Statement by the Commission on the exclusive competence
in respect of Regulation (EU) 2022/xxx***

As confirmed in the Opinion 2/15 of the Court of Justice, the participation of third-country economic operators, goods and services in the Union's procurement procedures falls within the scope of the common commercial policy for which, as explicitly stated in Article 3(1)(e) TFEU, the Union has exclusive competence. Therefore, Member States and their contracting authorities and contracting entities shall not adopt or maintain any legislative or other generally applicable

** OJ: please insert the publication number and a footnote with the publication reference for document 2012/0060(COD).

measures governing access by third-country economic operators, goods and services beyond those applied in accordance with this Regulation and other Union legislation.
