



EUROPEAN COMMISSION

Directorate-General for Financial Stability, Financial Services and Capital Markets Union

INVESTMENT AND COMPANY REPORTING

Free movement of Capital and application of EU law

Minutes of the 6th Meeting of the Expert Group on intra-EU investment environment

Brussels, 21 June 2018

AGENDA POINT 1: Registration.

AGENDA POINT 2: WELCOME AND INTRODUCTORY REMARKS

The Expert Group (EG) adopted the agenda of the meeting.

Concerning the timeline, the Chair informed the participants that given that the Council deemed adoption of the common declaration of Member States on 26.6.2018 no longer feasible, the last possibility to actually get the declaration adopted before the summer break is to sign it in the margins of the ECOFIN Council on 13.7.2018.

In order to make this possible, the Chair suggested that after this meeting, which should be used to clarify as much as possible the points on which a common position can be found as well as possible avenues for compromises amendments should be agreed in written procedure.

The finally approved text would then officially be sent by VP Dombrovskis to all Member States for endorsement and signature of the declaration in the margins of the ECOFIN Council.

AGENDA POINT 3: FOLLOW-UP TO THE ACHMEA JUDGMENT – DRAFT DECLARATION OF MEMBER STATES

The Commission then presented the amended version of the draft declaration, based on the 19 comments and contributions received from Member States after the last meeting.

The Chair then opened the floor for a first round of comments. While most Member States seemed to agree that the draft contained some improvements, several Member States still believed that the text should be even shorter and drafted in a more political and less legal language.

Views of Member States still diverge on a certain number of aspects.

There was a general perception that given the short timeline, Member States now have to make a choice. If they want to preserve the unity and to provide a timely common response to the Achmea judgment, they will need to focus on the most essential elements of the declaration acceptable to all, namely the swift termination of intra EU BITs and to use their best endeavors to avoid new arbitration cases in order to enhance legal certainty.

AGENDA POINT 4: CONCLUDING REMARKS

The Chair acknowledged that it is still committed to play its role as a facilitator. It takes note and respects the different positions taken by Member States and will try to put forward compromise proposals that take into account the different positions of Member States and could be acceptable to all.

The Chair will send an updated version of the draft declaration to Member State to be finalized in written procedure as soon as possible.