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COVER NOTE

From:	Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director
date of receipt:	29 July 2025
To:	Ms Thérèse BLANCHET, Secretary-General of the Council of the European Union
No. Cion doc.:	COM(2025) 427 final
Subject:	Recommendation for a COUNCIL DECISION authorising the opening of negotiations of a Sustainable Investment Facilitation Agreement between the European Union and the Republic of Ecuador

Delegations will find attached document COM(2025) 427 final.

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EUROPEAN
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Brussels, 29.7.2025
COM(2025) 427 final

Recommendation for a

COUNCIL DECISION

**authorising the opening of negotiations of a Sustainable Investment Facilitation
Agreement between the European Union and the Republic of Ecuador**

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

• Reasons for and objectives of the proposal

The Competitiveness Compass of 29 January 2025 highlighted the need for the EU to “[seek] new ways of deepening partnerships and [create] benefits for our businesses”, including through Sustainable Investment Facilitation Agreements (hereinafter, “SIFAs”).¹ The EU’s first SIFA with Angola entered into force on 1 September 2024.² On 12 June 2025, the Council of the European Union adopted a Decision authorising the opening of SIFA negotiations with Côte d’Ivoire.³

At the 8th meeting of the Mechanism for Bilateral Political Consultations between the EU and Ecuador on 13 June 2024, Ecuador expressed its interest in negotiating a SIFA with the EU. Then, on 16 December 2024, the Minister of Foreign Affairs of Ecuador, Gabriela Sommerfield, addressed letters to the European Commissioner for Trade and Economic Security, Maroš Šefčovič, and to the High Representative of the Union for Foreign Affairs and Security Policy and Vice-President of the European Commission, Kaja Kallas, reiterating her country’s interest in negotiating a SIFA with the EU.

In 2023, the stock of EU foreign direct investment in Ecuador amounted to EUR 8.2 billion, up from EUR 7.1 billion in 2022. The EU has concluded a Multiparty Trade Agreement with Andean countries to which Ecuador is Party. This Trade Agreement includes provisions on services and investment, including commitments on market access and national treatment for EU investors. In this context, the SIFA would be an opportunity to deepen the investment relationship between the EU and Ecuador, and support EU investors in taking further advantage of opportunities created by the Trade Agreement by improving the regulatory framework and procedures for investments. This Agreement would seek to do so through commitments on investment facilitation, such as increased transparency and predictability for investment-related laws and regulations, simplification of investment authorisation procedures, and improving public-private dialogue through investor focal points and stakeholder involvement. The ultimate objective would be to foster a more transparent, efficient and predictable investment climate, and therefore support Ecuador in attracting foreign direct investment whilst upholding standards concerning the environment, labour rights, and climate. In doing so, this Agreement would promote sustainable development, economic growth, and job creation. In light of the above, the Commission recommends opening negotiations for a SIFA with Ecuador.

• Consistency with existing policy provisions in the policy area

The objectives of this Agreement are consistent with the Treaty on European Union (TEU), which provides that the EU should “*encourage the integration of all countries into the world economy, including through the progressive abolition of restrictions on international trade.*”⁴

¹ Communication from the Commission on a Competitiveness Compass for the EU, COM(2025) 30 final.
² See Council Decision (EU) 2024/829 of 4 March 2024 on the conclusion, on behalf of the Union, of the Sustainable Investment Facilitation Agreement between the European Union and the Republic of Angola, OJ L, 2024/829, 8.3.2024.

³ Council Decision (EU) 2025/1209 of 12 June 2025 authorising the opening of negotiations with the Republic of Côte d’Ivoire for a sustainable investment facilitation agreement, OJ L, 2025/1209, 17.6.2025, ELI: <http://data.europa.eu/eli/dec/2025/1209/oj>.

⁴ Article 21(2)(e) TEU.

This Agreement advances the objectives of the Competitiveness Compass of 29 January 2025, which mentioned the need for the EU to “[seek] new ways of deepening partnerships and [create] benefits for our businesses”, including through SIFAs.⁵ It also follows-up on the Trade and Sustainable Development review Communication of 2022.⁶

This Agreement would be in line with the Communication on “A New Agenda for Relations between the EU and Latin America and the Caribbean”,⁷ which stated that “[t]he EU will continue to work with LAC partners to help create the conditions for sustainable investment, including through Global Gateway and the support of open, stable, and predictable legal frameworks, the removal of discriminatory barriers, and the implementation of investment facilitation.” This Agreement would therefore also complement the EU-LAC Global Gateway Investment Agenda, through which “the EU can leverage quality investments to help address LAC’s infrastructure needs, support the development of human capital, including empowerment of people, especially women, youth and the most vulnerable, and strengthen the enabling business and regulatory environment, with the aim of creating local added value, growth and quality jobs.”⁸

The envisaged SIFA would be fully consistent with, and complementary to the future Investment Facilitation for Development Agreement which has been negotiated within the World Trade Organization.⁹

- **Consistency with other Union policies**

The objectives are consistent with other EU policies, notably the EU’s development policy.

2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY

- **Procedural legal basis**

The procedural legal basis for the proposed decision to authorise the opening of negotiations of the envisaged agreement is Article 218(3) and (4) of the Treaty on the Functioning of the European Union (TFEU).

Article 218(3) TFEU provides that, where the agreement envisaged does not relate exclusively or principally to the common foreign and security policy, the Commission shall submit recommendations to the Council. The Council shall adopt a decision authorising the opening of the negotiations and nominating the Union negotiator or the head of the Union’s negotiating team.

Article 218(4) TFEU provides that the Council may address negotiating directives to the negotiator and designate a special committee in consultation with which the negotiations must be conducted.

⁵ Communication from the Commission on a Competitiveness Compass for the EU, COM(2025) 30 final.
⁶ Communication from the Commission to the European Parliament, the Council and the Economic and Social Committee: “The power of trade partnerships: together for green and just economic growth”, COM(2022) 409 final.

⁷ Joint Communication to the European Parliament and Council on A New Agenda for Relations between the EU and Latin America and the Caribbean, JOIN(2023) 17 final.

⁸ Ibid.

⁹ https://www.wto.org/english/tratop_e/invfac_public_e/invfac_e.htm

The Commission recommends to open negotiations between the European Union and the Republic of Ecuador for an international agreement relating to investment facilitation. The Commission is to be nominated as negotiator.

- **Substantive legal basis**

This act falls within the Common Commercial Policy and hence the substantive legal basis is 207(4) TFEU.

- **The choice of negotiator**

Given that the agreement envisaged exclusively covers matters other than the common foreign and security policy, the Commission must be designated as the negotiator pursuant to Article 218(3) TFEU.

- **Union competence**

This act falls within the Common Commercial Policy under Article 207 TFEU. It therefore falls within the exclusive competence of the Union in accordance with Article 3(1) TFEU.

- **Subsidiarity (for non-exclusive competence)**

The subject matter of the envisaged negotiations relate to the common commercial policy. According to Article 5(3) of the TEU, the subsidiarity principle does not apply in areas of exclusive EU competence. The common commercial policy is listed among the areas of exclusive competence of the Union in Article 3(1) of the TFEU. This policy includes the negotiation of trade and investment agreements pursuant to, inter alia, Article 207 TFEU.

- **Proportionality**

The recommendation of the Commission is in line with the principle of proportionality, as the conclusion of an international agreement is the main instrument for assuming reciprocal rights and obligations with a subject of international law, such as a foreign country.

- **Choice of the instrument**

This recommendation for a Council decision is submitted in accordance with paragraphs 3 and 4 of Article 218 TFEU, which envisage the adoption by the Council of a decision authorising the opening of negotiations and nominating the Union negotiator. The Council may also address negotiating directives to the negotiator. There exists no other legal instrument that could be used in order to achieve the objective expressed in this recommendation.

3. RESULTS OF EX-POST EVALUATIONS, STAKEHOLDER CONSULTATIONS AND IMPACT ASSESSMENTS

- **Ex-post evaluations/fitness checks of existing legislation**

Not applicable.

- **Stakeholder consultations**

The Commission carried out a public consultation in 2021 as part of the ex post evaluation of the Multiparty Andean Community-EU Trade Agreement, which included stakeholders' views on investment in the covered countries, including Ecuador. Moreover, the Commission

regularly consults stakeholders *inter alia* in the Expert Group on Trade Agreements¹⁰ and the Civil Society Dialogue.¹¹

- **Collection and use of expertise**

This proposal relies on external expertise gathered in the context of a project carried out by the World Bank and commissioned by the European Commission. The report notably identified that investors¹² put forward, as critical factors affecting their investment decisions in developing countries, the lack of transparency and predictability in dealing with public agencies, the sudden change in the laws and regulations, and the delays in obtaining government permits and approvals. Those are the areas that would be covered by the proposed SIFA.

- **Impact assessment**

Investment facilitation commitments in the SIFA focus on the application of good governance principles and good regulatory practices, including transparency, predictability, and administrative efficiency, in a partner country's investment framework (investment laws, regulations, and procedures). The impact of these investment facilitation measures relates largely to the implementation of the Agreement by a partner country and the long-term improvement in its investment environment. The overall impact is also affected by individual investments that such an improved investment framework may attract. The SIFA codifies practices that are already well-established within the EU.

In addition, the initiative benefits from several existing assessments carried out over the years, including a Sustainability Impact Assessment that covered EU-Andean Community trade (2009), a report assessing the economic impact of the Trade Agreement between the European Union and Ecuador (2016), and the ex post evaluation report of the EU-Andean Community Trade Agreement (2021).

- **Regulatory fitness and simplification**

This proposal seeks to recommend the adoption by the Council of a decision authorising the opening of negotiations for a SIFA with Ecuador. The proposal does not entail exchange of data, automation of processes, use of digital systems or the provision of public services. Consequently, the “digital by default” principle does not apply, as it does not introduce specific digital requirements.

- **Fundamental rights**

The initiative fully respects the Charter of Fundamental Rights of the European Union.

4. BUDGETARY IMPLICATIONS

The initiative does not have budgetary implications.

¹⁰ <http://ec.europa.eu/trade/trade-policy-and-you/expert-groups/>

¹¹ <http://trade.ec.europa.eu/civilsoc/meetdetails.cfm?meet=11531>

¹² See World Bank, *Retention and Expansion of Foreign Direct Investment, Political Risk and Policy Responses*, <http://documents1.worldbank.org/curated/en/387801576142339003/pdf/Political-Risk-and-Policy-Responses.pdf>

5. OTHER ELEMENTS

- **Implementation plans and monitoring, evaluation and reporting arrangements**

The negotiations of the SIFA are expected to be concluded in 2026.

- **Explanatory documents (for directives)**

Not applicable.

- **Detailed explanation of the specific provisions of the proposal**

The provisions aim to recommend the adoption by the Council of a decision authorising the opening of negotiations and nominating the Union negotiator. The Council may address directives to the negotiator.

Recommendation for a

COUNCIL DECISION

authorising the opening of negotiations of a Sustainable Investment Facilitation Agreement between the European Union and the Republic of Ecuador

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular the first subparagraph of Article 207(4), in conjunction with Article 218(3) and (4) thereof,

Having regard to the recommendation from the European Commission,

Whereas:

Negotiations should be opened with a view to concluding a Sustainable Investment Facilitation Agreement with the Republic of Ecuador,

HAS ADOPTED THIS DECISION:

Article 1

1. The Commission is hereby authorised to negotiate, on behalf of the Union, a Sustainable Investment Facilitation Agreement with the Republic of Ecuador.
2. The Commission is hereby nominated as the Union negotiator.

Article 2

The negotiations shall be conducted on the basis of the negotiating directives of the Council set out in the Annex to this Decision.

Article 3

The negotiations shall be conducted in consultation with the [special committee provided for in the third subparagraph of Article 207(3) TFEU].

Article 4

This Decision and its Annex will be made public immediately after their adoption.

Article 5

This Decision is addressed to the Commission.

Done at Brussels,

*For the Council
The President*