



Council of the  
European Union

Brussels, 21 May 2021  
(OR. en)

8543/21  
ADD 1

ACP 35  
WTO 123  
RELEX 399  
COAFR 118  
FDI 9

**'I/A' ITEM NOTE**

---

From: ACP Working Party

To: Permanent Representatives Committee/Council

---

No. Cion doc.: 7292/21 - COM(2021) 138 final

---

Subject: Negotiations of an agreement between the European Union and the Republic of Angola on investment facilitation

- Council Decision authorising the opening of negotiations
- Negotiating directives
- Statement by the Commission

---

**Statement by the Commission**

**to be recorded in the Coreper and Council minutes**

"The Commission considers it legally incorrect that a Council Decision authorising the opening of negotiations indicates a substantive legal basis.

The Decision authorising the opening of negotiations is premised solely on the existence of conferred powers of the Union and not on a determination of a specific competence. Its effect is limited to authorising the Commission or the High Representative, as the case may be, to use its prerogatives under the EU Treaties in order to start negotiations. The scope of these negotiations is therefore determined by the scope of the powers of the Union. Besides, the freedom of the envisaged treaty partner of the Union as regards the determination of the scope of the negotiations cannot be limited by the Council Decision authorising the opening of the negotiations. Thus, the precise legal basis for the future agreement can only be determined after the content of the agreement is known.

The Commission reserves all its rights in this regard."

---