



TTIP and the Investment Dimension: What is the State of Play?

With Keynote Remarks from Karel De Gucht, European Commissioner for Trade



On 24th June 2014, more than 140 participants from business, government and civil society joined BAB and its supporting partners for a public briefing on the investment dimension in TTIP with the EU Trade Commissioner, Karel de Gucht, and panel of selected experts, which included speakers from: Herbert Smith Freehills LLP, BASF Group, Northrop Grumman Corporation, The Dow Chemical Company, and Thomson Reuters ([click here](#) for the full list of speakers). The UK Trade Minister, Lord Livingston, endorsed the event in the week ahead stating that the Commission consultation on Investor State Dispute Resolution (ISDS) is an excellent opportunity for public debate. A summary of the discussion can be seen below.

The State of Play

In 2013, global foreign direct investment (FDI) totalled around \$1.6 trillion, with a large part generated between the EU and the US. In 2012 they accounted for 56.7% of global inward stock of FDI and 71% of outward stock of FDI. Bilateral Investment Treaties (BITs) that ensure the promotion and protection of investments have been part of the international investment fabric since the 1960s. EU member states alone have concluded over 1400 BITs. The EU Trade Commissioner has a mandate from EU member states to negotiate investment chapters in EU trade agreements.

Investment protection, which was described by the Commissioner in his keynote remarks as “a basic principle of the law”, ensures protection against discrimination and expropriation and provides for fair and equitable treatment of investors. ISDS mechanisms are part of most of international trade and investment treaties. ISDS rules benefit European businesses, which are responsible for more than half the number of investment dispute cases worldwide.

Making Investment Protection and ISDS Work

The European Commission’s public consultation aims to resolve some of the current concerns and questions revolving in particular around ISDS and will bring together perspectives from civil society stakeholders including business. There is acknowledgement of a need in some instances to reform ISDS mechanisms, for example in regards to transparency, early investor-state mediation processes, and the relationship between arbitration tribunals and domestic courts.

Submissions will all be reviewed by the European Commission. There will be consultations with both the EU Parliament and EU member states. At the time of the event, more than 30,000 submissions had already been made. The Commissioner stated that the review of the submissions will be qualitative, not quantitative.

The Case for Inclusion in TTIP

Investment is important for jobs and growths. Appropriate protection helps to promote investments and foster confidence upon which investment decision are taken. This is why investment treaty arbitration and provisions for investment protections should be a central component of any investment chapter so that the very few disputes that arise can be resolved in depoliticised, transparent proceedings.

A state of the art investment chapter in TTIP will strengthen future investment flows between the EU and the US. It would also build a common framework for investment and a template for further investment treaties on how to balance investment protection and the ISDS mechanism with the ability for the state to regulate in the public interest. TTIP creates an unique opportunity to establish an approach that can have enormous influence around the world, as it may become the source of reference for investment treaties globally.

For more information & to see the media coverage of the event, visit babinc.org/events/780

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