



**Karel De Gucht, Commissioner  
European Commission  
Directorate-General for Trade  
Rue de la Loi, 170  
B-1049 Brussels**

Brussels, 25 September 2014

**European Commission consultation on investor-state dispute settlement (ISDS) in the Transatlantic Trade and Investment Partnership (TTIP)**

Dear Commissioner de Gucht,

In the Transatlantic Trade and Investment Partnership (TTIP) that you are currently negotiating with the United States, the proposal to include an investor-state dispute settlement (ISDS) mechanism has raised major controversy. This has led you to hold a public consultation that came to an end on July 13<sup>th</sup>, 2014. Some 150,000 contributions were sent to the European Commission – the majority of which came from individual citizens<sup>1</sup>. This is an all-time record for a European Commission public consultation, which not only displays unprecedented interest, but also concern, from the public on this issue.

As you are aware, a very large number of the individual contributions to the consultation were channelled through online platforms that our respective organisations have made available in order to facilitate public participation<sup>2</sup>. Together we have collected more than 140,000 individual contributions from concerned citizens, who all stressed one point: their total rejection of the ISDS system proposed in the TTIP negotiations. Many also used the consultations to express their rejection of the CETA and TTIP negotiations on the whole.

---

<sup>1</sup> [http://trade.ec.europa.eu/doclib/docs/2014/july/tradoc\\_152693.pdf](http://trade.ec.europa.eu/doclib/docs/2014/july/tradoc_152693.pdf)

<sup>2</sup> [www.no2isds.eu](http://www.no2isds.eu) ; [http://action.sumofus.org/a/ttip-comments/3/2/?akid=6026.758537.9AAs\\_M&rd=1&sub=fwd&t=2](http://action.sumofus.org/a/ttip-comments/3/2/?akid=6026.758537.9AAs_M&rd=1&sub=fwd&t=2) ; <http://blog.38degrees.org.uk/2014/07/10/ttip-eu-consultation/> ; <http://www.umweltinstitut.org/mitmach-aktionen/deine-antwort-auf-ttip.html> ; <http://edri.org/ISDS/>

Since the consultation period ended, contradictory statements have come from the European Commission in relation to how the Commission will analyse the results. In particular, it is unclear how the Commission intends to handle responses that came through our online platforms. This raises further questions about whether and how these submissions will be taken into account in the European Commission decision-making process on ISDS in TTIP. On the one hand, responses from Commission officials to questions raised by citizens on the issue have stressed that the Commission will “take all substantial contributions into account, even if they are identical”<sup>3</sup>. On the other hand, you personally are quoted in major media outlets calling the over 100,000 submissions that came through our platforms a “real attack”<sup>4</sup>.

With this letter we would like to note a lack of consistency in the European Commission position on the issue, on the one hand encouraging citizens to let their voices be heard while at the same time complaining about the large number of citizens who expressed their opinion.

We were also alarmed by recent news that the EU and Canada finished their negotiations regarding the Comprehensive Economic and Trade Agreement<sup>5</sup> which includes an ISDS model that is almost identical to what was presented in the EU consultation. That would imply that, regardless of the outcome of this consultation, the Commission already opted to include ISDS in the CETA agreement following the model that it asked EU citizens to voice their opinion about. We believe it would give an extremely worrying signal to the European citizens if the opinion of those that took part in the consultation is ignored.

Finally, we wanted to signal that a number of contributions to the Consultation seem to be lost. The figure that you reported for the number of responses from the UK is significantly lower than those that have responded through our websites. This could result in a significant loss of contributions.

We would therefore like to seek the following clarifications from you:

- Do you consider that the citizens’ contributions that came through our online platforms are an “attack” on the consultation process?
- Can you clarify the European Commission’s position on how it intends to handle the contributions to the public consultation on ISDS in TTIP? In particular, will you commit to taking into account the voices of every single citizen who contributed to the public consultation on ISDS in the Commission’s analysis of the results?
- How will you ensure that, while the review of the public consultation on ISDS is still ongoing, the CETA agreement that might be initialled does not include ISDS?

---

<sup>3</sup> [correspondence between Andy Geoghiu and European Commission]

<sup>4</sup> <http://www.faz.net/aktuell/wirtschaft/wirtschaftspolitik/karel-de-gucht-attacke-gegen-ttip-13055875.html>

<sup>5</sup>

<http://ec.europa.eu/avservices/video/player.cfm?ref=I091775&videolang=INT&devurl=http://ec.europa.eu/avservices/video/player/config.cfm>

- How are you going to ensure that the possibly lost contributions to the consultation are identified and taken into account?
- Finally, will you commit to full transparency about the Commission's analysis of the results of the consultation, including statistics of responses opposing TTIP on the whole and of responses pro and against ISDS and the way of weighing them against each other in the Commission decision-making process on ISDS and TTIP?

We look forward to your response on this pressing issue.

For further contact on this correspondence:

Paul de Clerck, co-ordinator of the economic justice programme at Friends of the Earth Europe

Email: [paul@milieudefensie.nl](mailto:paul@milieudefensie.nl), phone: 0494380959

Yours sincerely

A handwritten signature in black ink, appearing to be 'M. Stoczkiewicz', with a long horizontal flourish extending to the right.

Magda Stoczkiewicz, Director, Friends of the Earth Europe

Blanche Jones, Campaigns Director, 38 Degrees

Austrian Federal Chamber of Labour (BAK)

Taren Stinebrickner-Kauffman, Executive Director, SumofUs

Karl Bär, Umweltinstitut Munich