

**From:** Art 4.1(b) (TRADE)

**Sent:** Monday, May 11, 2015 11:42 AM

**To:** SCHLEGELMILCH Rupert (TRADE); TRADE LIST B2; Art 4.1(b) (TRADE); Art 4.1(b) (TRADE); Art 4.1(b) (TRADE); Art 4.1(b) (TRADE); Art 4.1(b) (TRADE); GARCIA BERCERO Ignacio (TRADE); Art 4.1(b) (TRADE); Art 4.1(b) (TRADE)

**Cc:** Art 4.1(b) (TRADE)

**Subject:** Report- public debate on TTIP organised by BCCDK -Copenhagen 16 april 2015

On 16<sup>th</sup> April 2015 Art 4.1(b) participated in a conference organised by the British Chamber of Commerce in Denmark on ISDS and investment protection in TTIP. The conference was well attended; worth noting the participation as speakers of Kenneth Haar (Corporate Europe Observatory) and Michael Efler (official representative of the "Stop TTIP initiative").

Key points by speaker:

- Strong support by **Ambassador Lars Thuesen (DK Permanent Secretary of trade and strategy)** for broad scope and quick progress of the TTIP negotiations. TTIP was mentioned as a **"once in a life-time opportunity" to set standards for global trade and investment**. Ambassador was also supportive of including ISDS in TTIP in line with the Commission's proposed reforms, as the current system lacks democratic legitimacy.
- **Allan Lerberg Jorgensen (Danish Institute of Human Rights)** admitted that **investment protection and a good framework for human rights are compatible, provided that ISDS is reformed**. He expressed a certain frustration as to the fact that the development of international law for protection of investments has evolved a lot faster than human rights law. He suggested that States should not be penalised in the context of ISDS cases for having to comply with their human rights obligations, while he also spoke in favour of an appeal mechanism.
- **Garry Campkin (The City UK)** stressed importance of protecting investment and **support for reforms of the system under the EU policy**: clear definitions, certainty in legal concepts, no sectoral exceptions and transparency. Also spoke in favour of CM and Froman statement on public services and against an investment screening mechanism.
- **US Ambassador Rufus Gifford** said that ISDS is a vital part of TTIP and stressed the importance of timing: the EU should form a position and sit on the negotiating table in the not too far future.
- Art 4.1(b) presented the EU approach on investment protection and ISDS respectively.
- **Sean Heather (US Chamber)** argued strongly **in favour of ISDS and investment protection in TTIP rejecting the view that developed states do not need it**; in that regard, he pointed to the large number of intra-EU BITs and claimed that this is probably the best evidence that the US should insist on ISDS in TTIP. Also praised the US model BIT as one that reaches a good balance between investment protection and ISDS.
- **Michael Efler (official representative of the "Stop TTIP initiative")** argued that ISDS is unnecessary between the EU and the US and claimed falsely that there are no investment protection agreements between capital exporting countries. He also **challenged the possibility of investment agreements to attract investment**, citing the examples of Brazil, Japan and the US that host a large part of world FDI without having so many investment agreements.
- **Kenneth Haar (Corporate Europe Observatory)** spoke strongly against TTIP overall and investment protection and ISDS more specifically. Referred to the Vattenfal and Philip Morris claims as negative precedents of ISDS cases. Interestingly he supported the view that **an agreement is not democratic "just because Parliaments vote in favour of their adoption"** as future governments should always be able to change their policies and withdraw from international commitments.