



EUROPEAN COMMISSION

Directorate-General for Trade

Directorate F - WTO, Legal Affairs and Trade in Goods
Dispute Settlement and Legal Aspects of Trade Policy

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**Subject: Meeting with ETUC (European Trade Unions Confederation) of
23rd February 2017**

Participants: , (COM); ETUC Members
(see annex below).

The aim of this meeting was to exchange views in the context of the ongoing COM public consultation on a multilateral reform of investment dispute resolution including the possible establishment of a multilateral investment court.

COM provided background on the multilateral investment court initiative, including on the 2014 TTIP public consultation, rationale and the ongoing external and internal processes (i.e. exploratory discussions with third countries and Impact Assessment respectively). COM clarified the relationship of this project with the investment court system (ICS) included in CETA and the EU-Viet Nam FTA, explaining that certain ICS features would inspire the multilateral investment court (permanency, neutrality, independence, appeal, etc.), although ICS is not to be understood as a model for the multilateral investment court.

ETUC is concerned that the multilateral investment court may create additional rights for investors to the detriment of other stakeholders (notably workers). ETUC enquired about the possible roles of these stakeholders, including whether they could act as claimants and was interested in the role of International Labour Organisation (ILO) rules. COM clarified that the MIC will not create a new system but reform the existing one, and stressed that the substantive rules will remain those of the underlying BITs. The multilateral investment court initiative strives to address a part of the system that is considered problematic, without prejudice to addressing other aspects in the future/appropriate fora.

ETUC also asked about the possible technical design of the MIC and insisted on the qualifications and background of judges, which stand to have an impact on the court's decisions. One member suggested that the ILO Committee of Experts act as judges in the MIC. Other questions related to the MIC's degree of permanency, institutional framework and relationship with other existing international organisations (ILO, WTO). COM stressed the most important features (permanency, judges qualifications, appointment by Contracting Parties, support of secretariat, etc) noting that they deserve further reflection and that they will have to be negotiated with interested third countries.

ETUC enquired about the scope of disputes that the multilateral investment court will be competent to hear and some expressed concern that it will not be able to open an

investigation unless an investor brings a claim. The enforceability of decisions and enforcement of labour rights under the multilateral investment court were also discussed.

ETUC was interested on the state of play of **COM** talks with third countries and on the initial reactions of Member States and the business community. **ETUC** also suggested that the competences of the multilateral investment court extend to train officials from developing countries on good policy making instead of acting only as a dispute settlement mechanism. **COM** clarified that this is not ruled out and recalled that the **ACWL** has such role in the context of **WTO** law.

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C.c: D. Redonnet, [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED],
[REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED],
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