

From: BLANK Selma (TRADE)
Sent: 12 December 2012 14:03
To: RUBINACCI Leopoldo (TRADE); BERMEJO ACOSTA Carlos (TRADE); PETRICCIONE Mauro Raffaele (TRADE); DU RIETZ Kristofer (TRADE); DUPUIS Philipp (TRADE); NYMAN Jon (TRADE); AGUIAR MACHADO Joao (TRADE); CALLAGAN Sandra (TRADE); IRUARRIZAGA DIEZ Ignacio (TRADE); DUEERKOP Marco (TRADE); SCHLEGELMILCH Rupert (TRADE); TRADE LIST B2; DE CARLI Luca (TRADE); JUUL-JOERGENSEN Ditte (TRADE); VON WALTER Andre (TRADE); IDIL Celine (TRADE)
Subject: Report meeting Eurochambers on CETA - investment
Attachments: ECH Letter Demarty 21.11.2012.pdf

I had a meeting, joined by Jeremy Record (F2) with Mr. Dominic Boucsein to follow up on some issues raised by Eurochambers regarding investment and investor to State dispute settlement (ISDS) negotiations in CETA in its letter it had sent to JLD on 21 November 2012 (see attached). On issues of ISDS I also referred him to Colin Brown, who could not attend the meeting, in case he needed further clarifications.

We discussed the points as raised in that letter:

- I informed about the **current state of play**, the end stage, indicating that while negotiations on investment protection and ISDS had a later start, negotiations are catching up with other areas and reaching the final stages of the negotiations.
- I made the general point of our objective to have an agreement on investment protection providing for a high level of protection based on MS' best practices.
- On **indirect expropriation**

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- On **Fair and Equitable Treatment**

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- On **ISDS**

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- On **ISDS and possibility of access to the system by SME's**,

Deleted

Eurochambers further asked whether there are thoughts about specific financial systems to support SME's in this. We indicated that this is not an issue that has come up.

- We confirmed that there are no sectoral exclusions from ISDS (nor investment protection).
- We explained that we propose what is current practice, there are limitations to the choice of arbitrators when there is a conflict of interest and we want to ensure arbitrators are competent to rule in the areas of public international law to ensure consistent interpretation. Eurochambers recognized that that is important

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- On application of **NT-reservations**
- Eurochambers raised concern on Deleted
- Eurochambers expressed that investors should be able to make use of the BITs, even if there is an EU level agreement, therefore the **sunset clauses of the BITs** should continue to apply to ensure predictability for those investors. I stressed that we ensure this predictability through the new EU level agreement, which will provide for a high level of protection, based on best practice in BITs. The Transitional Regulation of MS' BITs is built on this principle of replacement, to which there exist agreement between EP and Council. These institutions will also need to give their approval on the whole FTA in the end. The EU investment policy is built around the principle of replacement, to reduce existence of many different treaties, giving different levels of protection.

Selma