

Global investment creates jobs

Speech by Cecilia Malmström

European Commissioner for Trade

Event on a multilateral investment court

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Ladies and gentlemen,

Today is an important day for us: our trade agreement with Canada comes into provisional effect today.

As I speak, the first shipments of goods benefiting from these tariffs are crossing the Atlantic. Just the first of an estimated 500 million euros in tariff savings EU exporters can gain.

In this, as in other areas of our trade policy: trade works for our values. It supports our standards.

It is a modern and progressive agreement.

Alongside cutting virtually all tariffs, and opening new markets...

... it protects and promotes labour rights, and the environment....

... it safeguards governments' right to regulate in the public interest.

It shows trade does not mean submitting to globalisation, but shaping it.

These considerations apply to investment too, not just trade.

Investment is an incredible job-creator.

Like trade policy as a whole, investment protection should not be in conflict with our values, but based on them.

The EU is the world's biggest recipient and the world's biggest donor of foreign direct investment.

In 2015, the EU held stocks abroad worth almost 7 billion euros; equivalent to half our GDP.

Here in South Korea, 90,000 people are working for EU-owned affiliates.

In India, nearly one million. In China, it is 1.6 million workers.

That investment creates not just roads and cars and factories, it creates jobs and livelihoods and opportunities.

In Europe we realise the importance of boosting investment. I know many other countries do too.

But that doesn't not mean everything should stay as it is.

In particular, people have expressed many concerns with investor-state dispute resolution, ISDS.

And in some respects those concerns are valid.

Like the way private interests interact with the right of governments to set their own policy.

ISDS doesn't get the balance right.

Particularly because proceedings may be held in private, with the risk of conflicts of interest.

This debate over the balance of the public interest has been raised vocally in Europe.

But I believe it is also a concern shared across the world.

In countries like India, for example, which recently abandoned many of its existing investment agreements amid concern over their public policy implications.

And we saw much interest, on both sides, in the recent WTO case on cigarette packets in Australia. [pm update in case the judgment is out]

People worry that these tribunals might undermine health standards, or food standards.

Might prevent governments from acting on behalf of their citizens.

We shouldn't stick our heads in the sand on this issue.

We should show the system can modernise and reform: to get the balance right.

A good modern system would give investors the confidence they need...

... while also addressing these causes for concern.

We could safeguard the public interest in a world of globalised value chains.

We could offer people and companies protections, without protectionism.

This is what we have put forward with our reforms to investor state dispute settlement.

The investment court systems we have introduced bilaterally with Canada and Vietnam deal with a number of these concerns.

It shows there is a workable model to safeguard the public interest in a globalised economy.

Dealing with issues like transparency, ethics and professionalism.

Offering investors the protections they need.

While ensuring governments can in turn offer protections to their people: for food safety, public health and so on.

That's protections, without protectionism.

That is a step forward, but still not the ultimate answer.

The over 3000 investment agreements in force to day would still contain ISDS – with all its drawbacks.

And it means there are multiple – possibly inconsistent – systems operating in parallel.

So I'd like to look at how we reform this existing system of ISDS. But I'd to look at a multilateral reform, together with our global partners.

First, because we believe in the multilateral system, the structure that underpins the world's prosperity.

We best defend that system by showing it remains relevant and adaptable.

Second, because each country going its own way adds to the spaghetti bowl of different solutions and systems. Causing confusion and uncertainty.

We know the principles this reform could follow: a more permanent, multilateral system following the principles of other international courts and dispute settlement systems.

We all have our own ideas about what such a multilateral reform could like.

But none of us should be rigid. We certainly won't be. On the EU side, we are looking forward to working with international partners. Finding a compromise is better than each party going their own way.

We put forward the idea to trade ministers in Davos earlier this year.

We have consulted on the idea within Europe.

And now I'm delighted that UNCITRAL, the UN Commission on International Trade Law, have taken on this workstream. This is the right place to discuss it.

Under the UN umbrella, any government can take part; any stakeholder can observe and give their views.

In particular, ASEM members have a perspective to offer and a contribution to give to this. And I hope you will be doing so.

In the world today we find growing concerns about the impacts of globalisation, trade and investment.

Those of us who believe in the benefits of openness should deal with this.

Not by keeping everything as it is. But by showing we can reform.

We face common challenges and common questions; we have many of the same goals.

We will work best if we work together.

This is what we have the chance to do by working together for an investment court at global level. Thank you.