

Informal Meeting between ESF and TPC SI on 17 June 2014

Part on TTIP

OUT OF SCOPE

Finally, **LR** presented the state of play of the **investment protection policy**. He stated that investment is now part of all recent and ongoing negotiations except Mercosur and Ecuador, and referred to Canada and Singapore being the most advanced ones. The objective was to achieve solid market access commitments, while ensuring a strong level of protection. With regard to ISDS, he highlighted the need to make the system more transparent, clear, accountable and consistent. Participants were asked for their views whether the increasing number of ISDS cases was correlated to the number of protectionist cases arising.

ESF echoed by **EU Commerce** (distribution sector) and the **Foreign Trade Association** was particularly concerned about obtaining a strong ISDS component in any future trade/investment agreements and considered it not worth it to have an investment chapter/agreement without ISDS. Floor insisted that investors consider ISDS as a last resort – it is expensive, involves a reputational risk, and may threaten continuity of business in host country. Moreover ISDS is only available remedy in the frequent case that national courts are not competent to hear claims based on an international instrument.

A number of comments came from the floor on the basis of the CETA text, as follows:

ESF:

- System of pre-established arbitrator rosters not accepted as this is perceived to put the investors, unable to choose their own, in a less favourable position.
- Cooling-off period considered useless and costly, especially given that investors only have recourse to ISDS after a long process where all other options have been discarded. Particularly damaging in cases where national courts are incompetent to hear the claim.
- Pressing approach to indirect expropriation: all scenarios of expropriation without compensation seemed to be rejected a priori, including cases of non-discriminatory regulatory measures under legitimate public policy objectives.

took note of these comments, briefly answered the questions and indicated that Commission would hope to receive as many answers from as many different sides of the EU civil society to the TTIP consultation.