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

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NOTE TO THE FILE

Re: Meeting report: Interactive expert meeting on "Investment-Related Dispute Settlement: Towards a comprehensive multilateral approach" organized by the International Institute for Sustainable Development (IISD), Montreux, Switzerland, 23-24 May 2016

I attended a workshop on possible approaches towards the creation of a multilateral investment-dispute settlement mechanism organized by the International Institute for Sustainable Development (IISD) in Montreux on 23-24 May 2016. Participants came from academia (NYU, Fletcher School, Kent, Amsterdam, Xiamen, Geneva, Freiburg), civil society organizations (IISD, South Centre), United Nations (OHCHR, UNECA, UNCTAD), as well as from the government of Ecuador.

Discussions took place under the Chatham House Rule, in form of brainstorming plenary and group sessions, with the objective of identifying possible legal and political initiatives for establishing a comprehensive multilateral investment-related dispute settlement system. The approach proposed by IISD was a broad and inclusive mechanism which would not only address investor-State disputes, but also allows individuals, communities or associations to join or to submit claims for alleged misbehaviour by investors.

The discussions underlined the legal, technical and political difficulties of such a broad approach (questions of the applicable law, links with existing international conventions in the fields of human rights, environment or CSR, the administration of the mechanism, the scope of standing before the dispute settlement mechanism, etc.) and no operative conclusions were drawn.

Interestingly, the working text proposals put forward by the organizers built to a large extent on the EU ICS proposals (in particular regarding qualifications and ethics of judges, appeal, transparency, composition of chambers of the court, etc.), which was often referred to as an major step forward in the reform of the investment dispute resolution system.

(e-signed)

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(DG TRADE, F2)

Cc: D. Redonnet, R. Schlegelmilch,

(TRADE)