

From: [REDACTED]
To: [REDACTED] (FISMA)
Cc: FISMA [REDACTED]
Subject: AW: Follow-up to Teleconference with panellists - workshop 3/12 - 2nd panel
Date: mercredi 27 novembre 2019 17:15:44
Attachments: [image004.gif](#)
[image005.png](#)
[image006.png](#)
[image007.jpg](#)

Liebe [REDACTED]
anbei die Biographie; es ist die gleiche wie im letzten Jahr, nur leicht aktualisiert.
Ich werde dann wie besprochen zusätzlich kurz die Ergebnisse unserer neuesten
Binnenmarktumfrage erwähnen, die die Schwierigkeiten und Rechtsschutzdefizite im
Binnenmarkt für Investitionen bestätigen.

Liebe Grüße

[REDACTED] is [REDACTED] for EU Law and International Economic Law in the
Association of German Chambers of Commerce and Industry (DIHK), and has been working on
internal market and other EU and International law issues for the last seven years. DIHK has
contributed to the discussion on a reform of investment protection with several position papers
and proposed improvements particularly for SMEs. Furthermore, DIHK has published surveys
among chambers of commerce and enterprises on obstacles in the internal market for goods,
services and investments, also recently in November 2019.

Von: [REDACTED] ec.europa.eu

Gesendet: Mittwoch, 27. November 2019 17:04

An: xxxx@xxxxxxxxxxxxxxxxxxxx [REDACTED]@rbinternational.com;

[REDACTED]@businessseurope.eu; [REDACTED]@ec.europa.eu; [REDACTED]@avocat.be; [REDACTED]

Cc: [REDACTED]@ec.europa.eu; [REDACTED]@ec.europa.eu; [REDACTED]
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Betreff: Follow-up to Teleconference with panellists - workshop 3/12 - 2nd panel

Dear panel speakers,

May we remind those of you who haven't done so yet to send us a little bio that we will publish
online with the agenda?

Please also note that due to the number of interested participants, we may have to change the
venue from Borschette to a slightly bigger room in another building, we will give you more
information should the change be confirmed.

As not all speakers on the second panel were able to join the call on Monday, please find a little
re-cap of the issues and of the different topic attributions below:

In Achmea, the Court ruled that ISDS based on arbitration clauses contained in BITs between
Member States undermines the system of legal remedies foreseen in the Treaties and is contrary
to EU law. (Given that those clauses are inapplicable, there is no valid Member States' consent to
arbitration). Following that judgment, the vast majority of Member States agreed on a
plurilateral treaty that also formally terminates those intra-EU BITs.

Thus, BITs and arbitration based on BITs are no longer available to resolve Investor-to-State
disputes within the EU. Investors will have to enforce the substantive investment protection
rights conferred by EU law before national courts and it will be for the national courts and for the
Court of Justice to ensure the legal protection of the rights of individuals/investors.

Each panellist should give a short impulse statement that should cover the points below. We
suggest to allow a first round of questions after the third speaker, and to take a second round of
questions after the statements of the two last speakers.

- [REDACTED] will expose the legal avenues open to investors (before national
courts)
 - Are there possibilities to seek interim relief to prevent investment losses?
 - How can investors claim financial compensation for financial losses caused by a
breach of an investment protection right?
- [REDACTED] will elaborate on the perceived shortcomings of these available avenues

before national courts

- [REDACTED] will give her views on the impact of those perceived shortcomings on actual investment decisions (eg whether or not to invest in certain countries, whether or not to downsize or delay a planned investment)
- [REDACTED] [REDACTED] will assess whether in the light of the foregoing, there is a need for alternative mechanisms and sketch out what these alternatives could be
- [REDACTED] will give his first views and recall the EU framework under the Treaty for any dispute settlement mechanism under EU law

We are looking forward to seeing you on Tuesday for those interesting discussions. Please let us know should you have any additional comments or suggestions.

Kind regards

[REDACTED] [REDACTED]



European Commission

DG Financial Stability, Financial Services and Capital Markets Union

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B-1000 Brussels/Belgium

+32 229 [REDACTED]

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From: Mail JustinianLawyers [<mailto:xxxx@xxxxxxxxxxxxxxxxxx>].xx

Sent: Friday, November 22, 2019 10:41 AM

To: [REDACTED]; FISMA [REDACTED] (SJ); [REDACTED] @avocat.be; [REDACTED] dihk.de

Cc: [REDACTED] (FISMA); [REDACTED] (FISMA); [REDACTED] (FISMA); [REDACTED] (FISMA); [REDACTED] @businessseurope.eu

Subject: RE: Teleconference with panellists - workshop 3/12 - 2nd panel

Dear all

I am travelling abroad today but shall be available Monday morning

Best regards

[REDACTED]

De : [REDACTED] @rbinternational.com>

Envoyé : jeudi 21 novembre 2019 12:52:48

À : [REDACTED] @businessseurope.eu; FISMA- [REDACTED] ec.europa.eu; [REDACTED] @ec.europa.eu; Mail JustinianLawyers; [REDACTED] @avocat.be; [REDACTED] dihk.de

Cc : [REDACTED] @ec.europa.eu; [REDACTED] @ec.europa.eu; [REDACTED] ec.europa.eu; [REDACTED] @ec.europa.eu; [REDACTED] @businessseurope.eu

Objet : Re: Teleconference with panellists - workshop 3/12 - 2nd panel

Dear all,

I am currently travelling abroad and cannot be available this Friday. Monday morning would work for me.

Best regards

[REDACTED]

From: [REDACTED] @businessseurope.eu <[REDACTED] @businessseurope.eu>

Sent: Wednesday, November 20, 2019 5:21:32 PM

To: FISMA [REDACTED] @ec.europa.eu <FISMA- [REDACTED] ec.europa.eu>; [REDACTED]

Subject: RE: Teleconference with panellists - workshop 3/12 - 2nd panel

This Friday between 9h00 and 10h00 works for me. Monday will not work as I will be in China.

A diagram showing a horizontal bar with a question mark icon below it.

[\[REDACTED\]@business-europe.eu](mailto: [REDACTED]@business-europe.eu)
www.business-europe.eu

Please read our [privacy policy](#). Should you have any question, you can contact us at info@openai.com.

Cc: [REDACTED]@ec.europa.eu; [REDACTED]@ec.europa.eu;
[REDACTED]@ec.europa.eu; [REDACTED]@ec.europa.eu

We look forward to hearing from you and talking to you during the phone call!

Kind regards,

DG FISMA  team

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