



**Seattle to Brussels
Network**

Stop the EU's Corporate trade agenda

The Seattle to Brussels Network is part of Our World Is Not For Sale

www.ourworldisnotforsale.org

NEWS PEG: *Monday 25 October, Luxembourg: the Council of the European Union (Foreign Affairs) adopts Conclusions on the Communication from the Commission "Towards a comprehensive European international investment policy"*

Member states put corporate rights over public interests in EU investment policy

European campaigners denounce the EU member states for their narrow-mindedness and their submission to private interests, warning that ordinary taxpayers and the environment will suffer as a result.

Since the Lisbon Treaty entered into force on 1st of December 2009, the competence to negotiate international investment agreements has shifted from individual member states to the EU. In July the European Commission presented its views on the future EU investment policy.

Today, the Member States declared that a future EU policy can only consist of the sum of the most far-reaching provisions found in their own 1200 existing Bilateral Investment Treaties, closing all doors to for much needed reforms.

Trade justice campaigners working together in the "Seattle to Brussels Network" [1] are calling for a radical overhaul of international investment policy.

"Current EU member states' Bilateral Investment Treaties (BITs) give foreign investors extraordinary rights without any obligations," said Marc Maes, Trade Policy Officer of the Belgian NGO-umbrella 11.11.11. "They introduce rights for foreign investors that do not even exist in European domestic law. [2] The EU member states fail to see that their BITs can undermine policies of general interest and, under pressure from business lobbies, they refuse reforms that would balance public and private interests more."

"While other developed countries like the United States and Canada have at least understood the need to adapt the standard language of their BITs to protect themselves against the flaws of the international arbitration practice, the EU member states cling to their outdated model BIT texts and seem to believe that any improvement of the balance between public and private interests leaves foreign investors insufficiently protected, said Antonio Tricarico of the Campaign to Reform the World Bank, Italy.

The Seattle to Brussels Network has published a 45 pages strong reader on the issue of international investment policy [3]. A civil society statement demanding an international investment policy in the public interest has been sent to Parliamentarians, EU member states and the Commission [4].

The Council Conclusions:

- fail to accept that different types of investors and investments call for different treatment (for instance portfolio investments versus green field investments) (§7);
- call for increasing levels of protection still (§8);
- even refuse to acknowledge the proposal of the Commission to ensure balance between public and private interested with regard to expropriation (let alone that they would mention such a need for balance for other key BITs provisions) (§14);

- leave the further development of the EU investment policy for the discussion of the negotiating directives (which will happen behind the closed doors of the Council's Trade Policy Committee, so that the public will not get to see the details of the EU's investment policy until the first EU investment agreement is signed) (§15);
- pay lip service to the social and environmental dimension of investment (§16) But since only a few member states have provisions on these issues in their BITs, there is serious doubt that these will end up in the negotiating mandates that the member states will give the Commission;
- limit the guidance of the EU investment policy by the EU's external policy principles and objectives, such as human rights, and sustainable development to "the existing practices by the Member States" (§17), while most of the member States BITs contain only one objective: "the protection of its foreign investors";
- refuse to acknowledge the Commission's critique of the current practice of the international arbitration panels (lack of transparency, predictability, appeal, etc) and instead question this critique by insisting on the effectiveness of the investor-state arbitration and inviting the Commission to carry out a detailed study on the issue (§18).

Contacts :

Marc Maes

Phone: +32 (0)4 97 60 04 42

E-mail: Marc.Maes@11.be

Spoken languages: NL, FR, EN

Bruno Ciccaglione, Coordinator S2B-Network

Phone : +436641475502

E-mail : bruno.ciccaglione@alice.it

Notes:

[1] The Seattle to Brussels (S2B) Network (www.s2bnetwork.org) is a pan-European network of more than 70 organisations from 16 countries campaigning to promote a sustainable, socially and democratically accountable system of trade. It includes development, environment, human rights, women and farmers organisations, trade unions, social movements as well as research institutes. The S2B Network is part of the global coalition 'Our World is Not for Sale' (www.ourworldisnotforsale.org).

[2] BITs allow foreign investors for instance to by-pass domestic courts and sue governments before international arbitration panels for "indirect expropriation" which would result from social, environmental and economic regulations that are seen to affect company profits.

[3] EU Investment Agreements in the Lisbon Treaty Era: A Reader, July 2010.

<http://www.s2bnetwork.org/index.jsp?id=40&random=r914872813969851>

[4] Reclaiming public interest in Europe's international investment policy. Civil society statement on the future of Europe's international investment policy, July 2010,

<http://www.s2bnetwork.org/s2bnetwork/download/BITS%20Statement%20100702%20with%20signatures.pdf?id=379>