



## EU finalises proposal for investment protection and Court System for TTIP

Brussels, 12 November 2015

### **The EU has formally presented to the US its proposal for a reformed approach on investment protection and a new and more transparent system for resolving disputes between investors and states: the Investment Court System.**

The European Commission has today finalised its new and reformed approach on investment protection and investment dispute resolution for the Transatlantic Trade and Investment Partnership (TTIP). This follows another round of extensive consultations with the Council and the European Parliament. The proposal for the Investment Court System has been formally transmitted to the United States and has been made [public](#).

The final text includes all the key elements of the [Commission's proposal of 16 September](#), which aims at safeguarding the right to regulate and create a court-like system with an appeal mechanism based on clearly defined rules, with qualified judges and transparent proceedings. The proposal also includes additional improvements on access to the new system by small and medium sized companies.

The new system would replace the existing investor-to-state dispute settlement (ISDS) mechanism in TTIP and in all ongoing and future EU trade and investment negotiations.

*"Today marks the end of a long internal process in the EU to develop a modern approach on investment protection and dispute resolution for TTIP and beyond,"* said Trade Commissioner Cecilia **Malmström**. *"This is the result of far-reaching consultations and debates with Member States, the European Parliament, stakeholders and citizens. This approach will allow the EU to take a global role on the path of reform, to create an international court based on public trust."*

Since the publication of the Commission's initial proposal, the text was circulated extensively for consultation to ensure broad endorsement of its main innovative elements, notably amongst co-legislators: EU Member States and the European Parliament.

These elements refer in particular to the strengthening of the right to regulate through a new article, the establishment of a new system for resolving disputes – 'the Investment Court System' –, and the creation of an appeal mechanism to correct errors and ensure consistency.

One of the changes made to the 16 September proposal is an additional improvement for small and medium-sized enterprises that [would benefit](#) from faster proceedings and would enjoy privileged treatment in comparison with large multinational companies.

### **Next steps**

The EU will now resume negotiations with the US on the subject of investment protection and resolution of investment disputes, and the Investment Court System. Negotiations in this area have been on hold since March 2014, when the European Commission launched a public consultation on ISDS in the TTIP.

In parallel to the EU-US negotiations, the European Commission will start work, together with other countries, on setting up a permanent International Investment Court. The Commission is also currently exchanging views with several international organisations in this field. The objective is to, over time, replace all investment dispute resolution mechanisms in EU agreements, in EU Member States' agreements with third countries, and trade in investment treaties concluded between non-EU countries, with the International Investment Court. This would lead to the full replacement of the "old ISDS" mechanism with a modern, efficient, transparent and impartial system for international investment dispute resolution.

### **Background**

Factsheet is available [here](#).

The text of the proposal on Investment Protection and Resolution of Investment Disputes and Investment Court System in TTIP is available [here](#).

Reading guide to the EU text of the proposal is available [here](#).

The text of the Commission's text proposal published on 16 September 2015 on Investment Protection and Resolution of Investment Disputes and Investment Court System in TTIP is available [here](#).

Commissioner [Malmström's](#) Blog.

[Blog post by Commissioner Malmström on 16 September 2015: Proposing an Investment Court System](#).

European Commission Concept paper "*Investment in TTIP and beyond – the path for reform. Enhancing the right to regulate and moving from current ad hoc arbitration towards an Investment Court*", published on 5 May 2015 is available [here](#).

*Directives for the negotiation on the Transatlantic Trade and Investment Partnership between the European Union and the United States of America* adopted by the Council on 17 June 2013, available [here](#).

*Resolution of 8 July 2015 containing the European Parliament's recommendations to the European Commission on the negotiations for the Transatlantic Trade and Investment Partnership*, available [here](#).

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