

Malmström tells MEPs TTIP consultation is 'not a referendum'

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Special Report

But EU trade commissioner concedes that ISDS issue as it currently stands 'needs reforming'.



The public consultation [recently held](#) [1] on the inclusion of ISDS in the transatlantic trade and investment partnership (TTIP) was "not a referendum" - trade commissioner Cecilia Malmström reminded MEPs at a hearing held in the European parliament.

The commissioner was summoned before parliament's international trade committee for a discussion on the ISDS mechanism, widely seen as the most controversial aspect of the free trade deal currently under negotiation with the US.

"Malmström made it clear that the commission has no intentions of backing down from negotiating [ISDS]"

Many fear the inclusion of ISDS in the agreement will result in foreign companies endlessly suing European governments for legislative actions.

Malmström made it clear that the commission has no intentions of backing down from negotiating the instrument despite 97 per cent of the 150,000 responses to the public consultation opposing the idea.

She recalled that ISDS was in the negotiation mandate given to the EU's executive arm, but agreed that the existing system needs reforming. She added that 1400 bilateral agreements signed by European governments had ISDS in some shape or form. In the eyes of the commission, this was, however, a question of how, and not whether to include ISDS in the transatlantic deal.

The commissioner came forward with specific suggestions, but was keen to emphasise that these were mere preliminary ideas to be discussed further.

The commission would like to see a full article safeguarding the rights of governments to regulate, explicitly laying down that investment rules do not guarantee that legal regimes will stay intact.

Another suggestion made was to set up a permanent multilateral international court, which would clearly go further than TTIP and lay the groundwork for a broader global trade tribunal. This would also include an appeal mechanism, something missing from the existing arbitration practices.

Finally, to avoid conflicts between domestic legal systems and ISDS, the commission wants either to force companies to choose between national courts or the investment settlement tribunal from the outset, or require abandonment of any national proceedings in cases where the ISDS procedure is launched.

A potential new form of investor-to-state dispute settlement also raises the question of reopening the freshly concluded Canada trade deal (CETA), but Malmström ruled this out, saying the CETA agreement was "successful" and a "done deal".

While parliament's EPP and ECR groups the ALDE group agree on the need to negotiate the much-attacked instrument - even if views on how to do this differ - the S&D group remain sceptical, while the Greens/EFA group, EFDD and GUE/NGL are unimpressed by the commission's response to the public outcry; a feeling best summed up by the remarks of GUE/NGL's Helmut Sholz, who called for ISDS to be put on the "rubbish dumps of history".

EU trade ministers will discuss the issue next week in Riga..



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