



Stop the EU's corporate trade agenda

Seattle to Brussels Network, part of Our World is Not For Sale <http://www.s2bnetwork.org>

Just EU Investment Policy now!
Statement by the Seattle to Brussels Network

European Parliament resolution on international investment
not strong enough
to end threat to democratic governance and public interests*

Today the European Parliament adopted a resolution on the future European investment policy. This resolution comes as a response to a Communication by the Commission following the coming into force of the Lisbon Treaty that has added Foreign Direct Investment to the exclusive common commercial policy of the EU.

The resolution of the European Parliament distances itself from the Council conclusions of 25 October 2010. In its conclusions, the Council calls for an EU investment policy that copies the 'bad practices' of the EU member states, which focus one-sidedly on the protection of EU investors abroad, with little consideration for the negative effects on the policy space of governments in the host countries.

The European Parliament at least recognises some of the flaws in the EU Member States' current international investment agreements, including the use of imprecise language which "allows international arbitrators to make broad interpretations of investor protection clauses, leading to the ruling out of legitimate public regulation" (§24).

The Parliament stresses that the "future agreements concluded by the EU must respect the capacity for public intervention" (§23).

The Parliament also notes that for investment agreements to benefit developing countries "they should [...] be based on investor obligations in terms of compliance with human rights and anti-corruption standards..." (§37).

In addition, the European Parliament:

- states that speculative forms of investment shall not be protected (§11)
- expresses its deep concern regarding the level of discretion of international arbitrators (§24) and calls on the Commission to produce clear definitions of investor protection standards
- proposes more precise wording with regard to non-discrimination and fair and equitable treatment (§19)
- states with regard to expropriation that a clear and fair balance must be established between public and private interests (§19, 3rd indent)
- stresses the right to regulate, inter alia in the areas of protection of national security, the environment, public health, workers' and consumers' rights, industrial policy and cultural diversity (§25)

The Seattle to Brussels network (S2B) however deeply regrets that no majority could be found to:

- reject the controversial investor-to-state dispute settlement mechanism which ignores the domestic judicial system and effectively undermines the capacity for public intervention;
- ensure that government measures which are designed and applied to protect or enhance public policy objectives cannot be challenged as "indirect expropriation" or "unfair treatment" of investors and investments
- get rid of the umbrella clause which turns private contracts into matters of international law

ⁱⁱ International Investment Agreements give foreign investors the extraordinary privilege to ignore the judicial system of host country governments and directly sue sovereign states before international arbitration tribunals.

Investors and law firms have increasingly made use of the investor-to-state dispute settlement clauses that make this possible and do not hesitate to challenge governments' social, environmental and economic regulations if these seem to reduce the profitability of their investments.

IAs (including BITs) have already cost taxpayers world-wide millions in legal expenses and compensations and are eroding the ability of governments to act in the best interests of their citizens.

A steep increase of investor-to-state arbitration cases against Europe is likely if EU policy makers continue to give international investors these privileged legal rights.

- impose firm obligations on international investors in particular in areas of human rights, environmental protection, decent work and corporate accountability
- include a substantive social and environmental dimension

Although the Parliament “urges its positions to be taken fully into account by the Commission and the Member States” (§40), S2B fears their resolution will be largely ignored.

The Commission and the Member States are at the moment discussing the negotiating mandates for investment protection chapters in the free trade agreements with Canada, India and Singapore, and look set to continue the bad practices of the Member States’ Bilateral Investment Treaties (BITs). **S2B calls on the EP to ensure its positions are taken on board by refusing to give its consent to the first EU investment treaty that ignores its warnings.**

S2B also denounces

- **the secrecy of the decision-making process for the adoption of these negotiating mandates** by the Council and the Commission,
- the secrecy on the part of the Member States’ positions and their lack of willingness to organise public consultations on the matter, and
- the fact that the public will not be allowed to see the mandates so that a public assessment of the directions of the EU investment policy cannot be made

S2B will continue to campaign for a balanced investment policy that holds international investors accountable and protects the right to regulate and develop policies in favour of public interest, decent work, human rights and environmental sustainability.

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The Seattle to Brussels network comprises more than 70 [member organisations](#) from across the European Union