

January 11, 2019

Dear Honourable Member of the European Parliament,

We are writing to draw your attention to the upcoming plenary vote on the EU-Singapore investment deal (EUSIPA), on February 13.

We, over 80 organisations from Europe, and 30 global partners urge you to not ratify EUSIPA. Before you cast your vote, we kindly ask you to consider the following issues and questions:

1- EUSIPA, despite some minor changes, maintains old-style investment protection standards and the Investor Court System (ICS) which is a form of investor-to-state dispute settlement (ISDS).¹ Despite being billed as a progressive reform to ISDS, the truth is that ICS fails to address the key flaws of the ISDS system including:

- **No limits to investor compensation.** This hands huge power to investors, especially vis-à-vis member states with stricter budgetary constraints.
- **Perverse incentives for arbitrators to rule in favour of investors.** Arbitrators remain remunerated on the basis of fees not fixed salaries and therefore have a vested interest in encouraging more cases by ruling in favour of investors.
- **Legal standards such as protection of 'legitimate expectations' that unfairly favour investors.** This wording has been interpreted so expansively that quite standard regulatory changes can fall foul of it.
- **Huge risks of regulatory chill** In principle the existence of any one-sided system of investor-state arbitration leads to effectively corporate 'bullying' of governments. The well-known case Vattenfall vs Germany I shows that states often reverse regulation (in this case curbs on pollution) rather than fight an ISDS case.

¹ The EUSIPA contains far-reaching investment protections and very wide definitions of what constitutes a covered investor/investment, including portfolio investments, bonds, goodwill and IPR, enforceable through investor-state dispute settlement mechanisms. It fails to include any kind of investors' obligations and it does not demand exhaustion of local remedies.

2 – EUSIPA does not preserve your right to regulate. Investment protection agreements can outweigh the EU’s international obligations arising from environmental, social and human rights agreements. There is thus no guarantee that the Paris Agreement on climate change will take precedence over EUSIPA. This treaty grants wide privileges to investors and grants them the right to challenge laws and court decisions designed to protect our health and to protect us from climate change.

3 – EUSIPA entrenches the worst elements of existing flawed bilateral agreements. Singapore’s old generation bilateral investment treaties (BITs) in force with 13 European Union Member States (of which 12 include ISDS²) are problematic. However, replacing the current BITs with a treaty that effectively expands the scope of the worst elements of these treaties from 12 to 27 Member States is not an improvement. Instead, this new treaty locks all member states into these deeply flawed arrangements. Today, governments are have the right to terminate at least seven of the 12 treaties at any time (and the right to terminate the remaining BITs in the coming years). If EUSIPA passes, it will be almost impossible to terminate it as it involves the whole EU.

4 - ISDS is a failed and dying system. A vote for EUSIPA means backing a system that has failed to serve its proposed purpose - attracting foreign direct investment³ - and has damaged governments’ capacity to regulate in the public interest. Governments around the world - including South Africa, Indonesia, Tanzania and even the US - are withdrawing support from the system. We in Europe should do the same.

5 - EUSIPA is a step back from CETA as it contains an umbrella clause, which will enable investors to challenge decisions made by **a town or a city** in international arbitration. Umbrella clauses effectively elevate private commercial contracts to the status of international law. Considering the costs of ICS, there is a significant risk of regulatory chill at local and regional levels.

6- Promoting investment should be about quality as well as quantity. International investment could contribute to the estimated USD 3.9 trillion needed each year to achieve the Sustainable Development Goals (SDGs). But governments need to be able to regulate

2 Countries with whom Singapore has BITs in force: Netherlands, UK, France, Belgium, Luxembourg, Poland, Czech Republic, Hungary, Latvia, Slovenia, Bulgaria, Slovakia and with Germany (but it does not include ISDS).

3 Despite not having signed on to a single investment treaty with ISDS provisions Brazil currently ranks as the fourth largest FDI recipient worldwide (UNCTAD, 2018). South Africa, Indonesia and India have all seen their FDI inflows unchanged or even improved in the wake of substantial steps taken to move away from ISDS

private sector resources to ensure that investment flows into locations and activities that advance the SDGs. EUSIPA undermines the capacity of governments to regulate investment in a way that generates positive effects such as decent jobs, tax generation, or technology transfer.

7 - ISDS has been rejected by the public. In a context where far-right authoritarianism is gaining ground, it is time for you to show your electorate that you listen to over 420,000 people⁴ from across Europe who have signed a petition to demand an end to ISDS in all its forms: including the ICS and the Multilateral Investment Court. By demanding a real change to the current flawed and illegitimate investment regime, this is a great opportunity for you to show European citizens that its representatives do listen to their voices.

8 - Multinationals need rules not unfair privileges. In our hyperglobalised world, an increasingly concentrated group of corporations dominates global markets. They get special rights to sue governments but have no international obligation to refrain from human rights abuses. Over the past decades, the extent of corporate power has become overwhelming. There is an urgent need to limit the power of corporations and enhance investors' accountability. In this context, it is clear that global corporations do not need special rights and a separate ISDS/ICS court system. Instead, we need MEPs to support a strong UN Binding Treaty on multinational corporations and human rights. This will give people an international guarantee that corporations will be held to account.

We remain at your disposal may you want to receive further information and further research from us,

European signatories :

European Coordination Via Campesina, Europe
Institute for Agriculture and Trade Policy, Europe
Friends of the Earth Europe, Europe
Corporare Europe Observatory , Europe
Anders Handeln, Austria
Attac Austria, Austria
Federal Chamber of Labour, Austria
11.11.11- Coalition of the Flemish North-South Movement, Belgium
AEFJN, Belgium
CNCD-11.11.11 - Centre National de Coopération au développement, Belgium

⁴ On January 22, 2019, a wide coalition of social organisations launched a European petition across 16 EU Member states, calling for "Rights for People, Rules for Corporations – Stop ISDS!".

European Environmental Bureau (EEB), Belgium
NaZemi, Czech Republic
NOAH, Denmark
Fair Tax Finland, Finland
TTIP Network Finland, Finland
ActionAid France - Peuples Solidaires, France
AEFJN, France
Aitec, France
Alternatiba , France
Amis de la Terre France (Friends of the Earth France), France
Attac France, France
BLOOM, France
CADTM Comité pour l'annulation des dettes illégitimes, France
Ceras, France
CGT, France
Collectif Ethique sur l'étiquette, France
Collectif Stop Tafta, France
Comité Pauvreté et Politique, France
Confédération paysanne, France
CRID, France
Emmaüs International, France
FIDH, France
France Libertés, France
Veblen Institute, France
Forschungs- und Dokumentationszentrum Chile-Lateinamerika e.V., Germany
Forum Fairer Handel, Germany
Forum on Environment and Development, Germany
Netzwerk Gerechter Welthandel, Germany
WEED - World Economy, Ecology & Development, Germany
PowerShift, Germany
foodwatch international , Germany, France, Netherlands
STOP TIIP CETA TiSA Greece, Greece
FÍŠ NUA, Ireland
Keep Ireland Fracking Free, Ireland
Peoples Movement Gluaiseacht an Phobail, Ireland
Both ENDS, Netherlands
Platform Duurzame en Solidaire Economie, Netherlands
TNI, Netherlands
Vrijsschrift, Netherlands
SOMO , Netherlands

TROCA- Plataforma por um Comércio Internacional Justo, Portugal
ZERO, Portugal
Umanotera, Slovenia
Aire Limpio asociación ecologista, Spain
Amigos de la Tierra, Spain
asociación pro derechos humanos de andalucia, Spain
Attac Spain, Spain
Campaña “No a los tratados de comercio e inversión”, Spain
Campanya Catalunya No als TCI, Spain
CECU - Confederación de Consumidores y Usuarios, Spain
Confederación Intersindical, Spain
Coordinadora Estatal de Comercio Justo, Spain
Diem25 , Spain
Ecologistas en Acción, Spain
Enginyeria Sense Fronteres, Spain
Entrepueblos - Entrepobles - Entrepobos - Herriarte, Spain
Fundacions Darder Mascaro, Spain
No als TCI Elx, Spain
Observatorio de Multinationales en América Latina - Paz con Dignidad, Spain
UGT , Spain
USO, Spain
Jordens Vänner, Sweden
Latinamerikagrupperna/Solidarity Sweden-Latin America, Sweden
global justice now, manchester, UK
Greater Manchester Trade Action Network, UK
War on want, UK

International supports :

EU-ASEAN FTA Campaign Network, South East Asia, Regional
Amigos de la Tierra América Latina y el Caribe, Regional
Focus on the Global South, Thailand/Philippines/India, Regional
ATTAC Argentina, Argentina
Ecore - Equipo de Colaboración y reflexion , Honduras
Indonesia for Global Justice (IGJ), Indonesia
Kesatuan Nelayan Tradisional Indonesia (KNTI), Indonesia
Solidaritas Perempuan, Indonesia
Koalisi Rakyat untuk Keadilan Perikanan (KIARA), Indonesia

Wahana Lingkungan Hidup Indonesia (WALHI), Indonesia
Konfederasi Serikat Buruh Sejahtera Indonesia (KSBSI), Indonesia
Koalisi Rakyat untuk Hak Atas Air (KRuHA), Indonesia
Kesatuan Perjuangan Rakyat (KPR), Indonesia
Indonesia AIDS Coalition (IAC), Indonesia
Bina Desa, Indonesia
Indonesian Human Rights Committee for Social Justice (IHCS), Indonesia
Monitoring Sustainability of Globalization, Malaysia
WomanHealth Philippines, Philippines
SENTRO, Philippines, Philippines
Trade Justice Pilipinas, Philippines
Woman Health Philippines, Philippines , Philippines
Labor Education and Research Network (LEARN) , Philippines, Philippines
11.11.11, Philippines, Philippines
Focus on the Global South, Thailand (regional)
REDES - Amigos de la Tierra, Uruguay