

Mr Karel De Gucht  
Commissioner for Trade  
European Commission  
B-1049 Brussels

[Letter sent by e-mail]

## **Transatlantic Trade and Investment Partnership (TTIP)**

Dear Commissioner,

Our Executive Committee at their last meeting held an extensive discussion about TTIP and adopted the ETUC's response to the Commission's public consultation on Investor-State Dispute Settlement (ISDS).

That response is attached. You will note that the answer to the last question of the consultation is presented first in this version. That is because it is the only one that gives us the opportunity to respond clearly that the ETUC is fundamentally opposed to the inclusion of ISDS in TTIP.

We have stressed this position in both public statements and private conversations, including at meetings that you have kindly agreed to hold with me and colleagues. Our Executive Committee are particularly concerned at statements from DG Trade implying that the consultation is about a reform of the ISDS system and is not open to a decisive rejection. We had welcomed the consultation on the basis that it would provide an opportunity to take a principled position. It covers a number of detailed technical issues that we have tried to answer in a spirit of enquiry. However, we wish to make it clear that our attempt to give a legally-informed response to them should not in any way be interpreted as acquiescence in principle.

Our Executive Committee are also concerned that the evaluation of the responses to the consultation must be carried out even-handedly, giving due weight to the views of the European trade union Movement. They also insist that the European Parliament and indeed national parliaments should be given an opportunity to express their views. We believe that any EU agreement including investment would be a "mixed" agreement, as the Treaty of Lisbon confers only the competence regarding "Foreign Direct Investment" to the EU. Portfolio investment - which is usually also covered by investment agreements - is still within the competence of the Member States.

This brings me to concerns expressed by our Executive Committee that ISDS provisions in the forthcoming agreement with Canada, CETA, are acting as a "Trojan Horse" for TTIP. You will know that the ETUC has consistently opposed the inclusion of ISDS in the CETA since those negotiations started. We find it invidious that it is intended to conclude that agreement including ISDS provisions while the consultation and subsequent discussions are in train in the TTIP context. We would therefore ask that the CETA provisions be frozen until a resolution, including a possible recourse to the ECJ, is reached in that context.

In addition to their concerns about ISDS, our Executive Committee wish, once more, to bring to your attention their deep concern that, despite repeated assurances to the

contrary, public services in Europe will not be fully protected in TTIP. They insist that only a positive list approach be taken.

Finally, I can only repeat that, on the issue of labour rights, TTIP must ensure that all parties adopt, maintain and enforce the core Conventions of the International Labour Organisation for all workers, as well as the Decent Work agenda, and that those minimum standards set a starting point for regular improvements that are built into the architecture of the agreement. We are deeply troubled that the EU continues to resist the inclusion of an enforcement mechanism in the agreement.

The issues of labour rights, public services and ISDS constitute essential elements for the ETUC. If the negotiators are not pursuing those goals, then the negotiations should be suspended.

I hope that you will give our views due and serious consideration.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'B. Ségol', written over a light blue horizontal line.

Bernadette Ségol  
General Secretary