



Investment protection in TTIP

Attracting US investors while
protecting EU governments' rights

In this chapter we want to:

- provide new investment opportunities
- level the playing field for EU investments in the US
- reform the current investment protection system

Reasons for negotiating investment protection

The EU is the biggest investor in the US. Combined investments of EU companies in the US go beyond 1.6 trillion Euros.

European companies also rely on investment to grow and once they grow they need staff with the right skills and reliable infrastructure.

A closer partnership with the US would encourage such an investment.

TTIP will strengthen EU competitiveness by providing further opportunities for EU companies to be present on the US market for example, in the field of services, where EU companies are particularly efficient.

Also, maintaining or enhancing competitiveness in the US market often requires further major investment.

Investment protection provisions will encourage investment by guaranteeing that governments will treat investment between the EU and US in line with some basic principles which prohibit:

- discrimination

- expropriation of foreign investments without compensation
- denial of justice to foreign investors in domestic courts
- abusive or arbitrary treatment of EU and US investors in each other's territory.

EU goals

The EU wants to:

- encourage investors to come to the EU market
- protect European investors abroad by ensuring permanent, stable rules for EU-US trade
- strengthen EU governments' right to regulate to:
 - protect people and the environment or
 - achieve other goals that benefit society as a whole

TTIP is also a great opportunity for the EU to modernise and change its investment protection system. EU governments have already 1,400 investment protection agreements

In 2014, the European Commission held a public consultation on the approach the EU should take on investment protection and ISDS in TTIP.

In the first quarter of 2015, we will further consult:

- EU stakeholders
- EU governments
- the European Parliament.

This will help us draft proposals to reform the EU's investment protection system.

Of course, the final result must also:

- protect governments' right to regulate
- make the system more transparent.

Sensitive or controversial issues

In this area, some issues are sensitive or controversial. Here's a summary of the main ones, and what we're doing to address each.

The report of the public consultation will include analysis of potentially sensitive issues.

| Sensitivity/concern | EU response |
|--|--|
| 1. Governments' right to regulate | |
| Some argue that Investment protection and ISDS in TTIP will jeopardize the legitimate right of Governments to regulate in the public interest. | The EU has put forth in the public consultation several proposals for safeguarding the right to regulate. These include notably an explicit acknowledgement of |

the right to regulate and the clarification and limitation of the rights investors are granted.

2. ISDS cases

There are concerns that ISDS proceedings are conducted in secret and tainted by bias and conflicts of interests.

The EU has put forth in the public consultation proposals that would ensure full transparency and further guarantees for impartiality and ethical conduct of arbitrators.

3. ISDS decisions

Certain EU stakeholders are concerned that ISDS tribunals generate inconsistent and sometimes biased practice and their decisions should be subject to review.

The EU has flagged the need to review ISDS tribunal's decisions through an appellate mechanism.