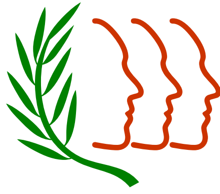


# PEOPLE'S NEWS

*News Digest of the People's Movement*

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## "Water in its natural state" The threat posed by CETA to public ownership of water

The treatment of water and water services in international trade agreements remains a controversial issue. While trade and investment treaties such as the the Comprehensive Economic and Trade Agreement (CETA) between Canada and the European Union and the proposed Transatlantic Trade and Investment Partnership (TTIP) are designed to govern the supply of goods and services in accordance with neo-liberal principles, access to clean drinking water and sanitation is considered a basic human right by the United Nations, to be provided by governments or other non-profit entities.

Investment protection chapters in free-trade agreements protect industrial activities that are harmful to water sources, through pollution or depletion, while offering no recourse for holding polluting companies accountable for their actions. These agreements, including the CETA and TTIP, do this by granting foreign investors the right to be compensated when a government decision, such as a new environmental regulation, has the effect of reducing their anticipated profits, even unintentionally and even when the decision treats domestic and foreign companies equally. The language in the CETA and other agreements on the need for sustainable development is extremely weak compared with enforceable investment (ISDS) protection.

EU procurement commitments related to water services within CETA ensure that the procurement of at least some water services by local governments and public utilities are covered, but this will probably give private water companies a foot in the door for establishing and expanding the private provision or treatment of water. The final agreement, however, does not adequately protect water sources and contradicts recent UN resolutions on the human right to affordable, publicly supplied water and sanitation services.

The CETA incorporates a limited exclusion of "water in its natural state" from the terms of the agreement. The same article affirms that "nothing in this Agreement obliges a Party to permit the commercial use of water for any purpose, including its withdrawal, extraction or diversion for export in bulk." However, "where a Party permits the commercial use of a specific water source—it shall do so in a manner consistent with the Agreement."

In other words, once water leaves its natural state and enters into commerce it is covered by the CETA.

What this means in practice is that no government is *obliged* to allow a company or investor to take water out of its natural state for export or to use it in some kind of

commercial venture, such as bottling, manufacturing, etc. However, where one company is permitted to do so, the CETA's rules on market access and investment protection kick in: water ceases to be an excluded public good and becomes bound up, as a commodity, within the CETA text.

Bottled water gives us one example of the problem. We could say No to an investor's proposal to export bulk water, but there is nothing in the CETA to stop a private company bottling water and transporting it across borders, as the commercial use of water must be managed "in a manner consistent with" the agreements. The water becomes a tradable commodity, and its trade is protected by rules on market access and investment. Therefore Ireland could not interfere with the bottled-water trade by revoking water-taking permits or adopting export restrictions without provoking a potentially multi-million investment dispute.

After considerable pressure from public-sector unions, municipalities and others to exclude water services from the agreement, the EU has taken broad reservations under annex II for market access and national treatment obligations with respect to the collection, purification and distribution of water. *"The EU reserves the right to adopt or maintain any measure with respect to the provision of services relating to the collection, purification and distribution of water to household, industrial, commercial or other users, including the provision of drinking water, and water management."*

The CETA is enforceable through investor-state dispute settlement (ISDS), and it is not possible under the CETA for governments to take reservations against minimum standards of treatment and expropriation clauses in the investment chapter. These strong corporate rights, which are cited by investors in most investor-state disputes against government measures, would be available to any private investor involved in the provision of water or sanitation in the EU, regardless of either party's annex II reservations.

What this means in practice is that EU governments are free to privatise or partially privatise (through public-private partnerships) public water systems whenever they like. But they are less free to remunicipalise those private services in the future if the level of service is inadequate or the private service becomes too expensive. The market access reservation would give governments the ability to reinstate public monopolies, but investors will have new rights to challenge such a decision and claim compensation through private investment tribunals.

For example, in 2012 an investment tribunal awarded a private health company, Achmea, €22 million, to be paid by the Slovak government in compensation for its reversing of the privatisation of health insurance in 2006. Private water companies in Argentina have similarly fought, and won, investor-state cases related to reversed privatisation.

So while nothing in the CETA can compel EU member-states to privatise, once they have done so it will become excessively difficult and expensive to reverse course. A perfectly legitimate public choice related to a service as fundamental as the provision and treatment of water is essentially criminalised by agreements like the CETA.

Meanwhile the trend almost everywhere else in the world, including the United States, is

towards reversing privatisation, which is more affordable as well as more democratically accountable.

The tendency of agreements like the CETA to facilitate the transfer of public assets to private hands and to keep them there is short-sighted in the extreme when in fact the global trend is towards reversing the privatisation of previously privatised water, public transport, energy and postal systems.

The German energy industry gives us a good example of the benefits of public ownership and the reasons why we should protect the right to reverse privatisation. Since 2007 hundreds of German municipalities have brought private electricity providers back into public ownership, or have created new public energy utilities, and a further two-thirds of German towns and cities are considering similar action. Dissatisfaction with private electricity providers is due mainly to a poor record in shifting to renewable energy. There is little market incentive to pursue "green" energy options, so the municipalities are taking the transition to renewables into their own hands.

Local governments have also found that private energy companies tend to inflate energy prices, whereas reversing privatisation brings prices down.

Decisions about how best to provide a public service vary according to circumstances. The ability to respond to new information, changing conditions or shifting public opinion is an essential freedom for democratic governments concerned with how best to serve the public interest. To protect that essential freedom the CETA would need to be redrafted to fully exclude ISDS, along with water and water services, in order to shield public decisions related to water from trade or investment disputes, and to encourage rather than restrict the ability of governments to reverse course when privatisation fails.

The provisions in CETA relating to the provision of water suggest that there is little point in calling for a referendum on the public ownership of Irish Water in perpetuity—though our slavish government has even resisted that demand. If there is to be a referendum it should be concerned with the full public ownership of *Irish water*—not the company—in perpetuity, accompanied by, at a minimum, withdrawal from the water-related provisions of CETA and TTIP.

Of course, aside from the provision of water there are other problems with CETA, concerning such issues as workers' rights, food safety, and data protection, all of which should be excluded from what purports to be a trade agreement but in reality is a massive corporate take-over.

The only realistic option in these circumstances is not to tinker with the provisions but rather to scrap the whole agreement.

You can sign the Citizens' Initiative against TTIP and CETA here:

■ This article is based on research by the Canadian Centre for Policy Alternatives. It uses the final version (August 2014) of the CETA text, first leaked by the German broadcaster ARD and now available at:
http://eu-secretdeals.info/ceta

## The Dutch had a plan for abandoning the euro while we were being ruled by the Troika

Information has emerged that both the Dutch and the German governments were preparing an emergency plan for a return to their

national currencies at the height of the euro crisis.

In early 2012, a few months after the then Greek prime minister, Geórgios Papandréou, and his Italian counterpart, Silvio Berlusconi, had resigned, the Dutch ministry of finance prepared for a situation in which the Netherlands could return to its former currency.

A television documentary, based on anonymous sources, revealed that the Dutch finance ministry had an emergency plan called Florijn (the name of the Dutch currency before the gulden, which was abandoned in favour of the euro).

Jan Kees de Jager, minister of finance from February 2010 to November 2012, did not directly speak about the project but acknowledged that a team of legal experts, economists and foreign affairs specialists often met at his office on Fridays to discuss possible scenarios.

The present minister, Jeroen Dijsselbloem, also confirmed the existence of the plan. “It is true that [the ministry of] finance and the then government had also prepared themselves for the worst scenario,” Dijsselbloem said, but there was no need to be “secretive” about the plan now. Such discussions were shrouded in secrecy at the time to avoid spreading panic on the financial markets. “We were one of the few countries, together with Germany. We even had a team together that discussed scenarios, Germany-Netherlands,” he acknowledged.

It is not known whether Ireland’s euro-fanatical political, economic and media establishment ever contemplated such a course, although by 2012 the IMF-ECB-EU Troika were in control of the detailed management of Ireland’s government finances.

## Italian campaign against the euro launched

The leader of Italy’s anti-establishment Five-Star Movement has taken his campaign for a referendum on the euro to Brussels, holding out the prospect of co-operating with other anti-euro parties.

Beppe Grillo, the former comic who built the Five-Star Movement into Italy’s second-biggest political force, has frequently called for voters to be allowed to decide whether to stay in the euro zone. The constitutional hurdles would make a full referendum on Italy’s membership of the single currency almost impossible to organise, but Grillo said he would press through a public petition for a consultative referendum. “If we can take 3 or 4 million signatures into parliament, then miracles can happen,” he told reporters during a visit to the EU Parliament.

Even if it could not change the law immediately, a referendum on the euro would have the potential to stir growing hostility to the single currency in Italy after six years of severe economic crisis.

The Five-Star Movement appears to have lost some of the momentum that gave it approximately a quarter of the vote in last year’s parliamentary elections. But opinion polls still suggest that it remains Italy’s second-strongest force, behind the centre-left

Democratic Party of the prime minister, Matteo Renzi.

## The present status of CETA

The Comprehensive Economic and Trade Agreement (CETA) is an agreement—very similar to TTIP—between the EU and Canada. It must still be approved by the EU Council and Parliament; if approved, it will begin to come into effect in 2016.

Only this week Germany dropped its objection to the controversial investor protections (ISDS) in the agreement, clearing the way for the deal to take effect as planned. The minister for economic affairs, Sigmar Gabriel, previously a vocal critic of the agreement's investor-state provisions, now says his country won't stand in the way of ratification.

But it may yet hit a snag, as its fate may hinge on an obscure case due to come before the European Court of Justice that relates to a similar deal the EU recently struck with Singapore.

At issue is whether EU trade deals containing investment-protection provisions can be approved simply by EU institutions or whether they also require ratification by each of the EU's twenty-eight members. If the latter process applies, the Singaporean and Canadian deals could be held up for years as politicians in each EU country debate the pros and cons of the agreements, with the outside possibility of referendums.

Following the conclusion of negotiations on CETA in September, Canada and the EU are proceeding with legal checks and translations, aiming for the agreement to be ready for ratification in the first half of 2015. But the EU Commission in a memo of 26 September stated that "CETA will be sent to the Council for authorisation for signature … for the consent vote in the European Parliament, and if necessary the approval of the parliaments of the Member States."

The EU-Singapore agreement contains an investment chapter similar to that in CETA and TTIP, and both include a mechanism for settling disputes between foreign investors and states.

## EU Commission threatens to leave small firms in the lurch

Since 2009 the EU Commission has been examining new legislation for its effects on small and medium-sized enterprises (SMEs). This "SME test" forms part of the impact assessment that the Commission must in principle attach to every proposal. Evidently it finds all this work too much, because in new guidelines the SME test no longer forms an obligatory part of the impact assessment. The chances are then that the interests of small firms will be overshadowed.

In the summer the Commission held a public consultation on its ideas. The problem with this is that it wasn't so easy to find out that such a consultation was taking place, which is perhaps why not a single organisation representing small or medium-sized businesses reacted. Now the Commission will say that its plans provoked no resistance from SMEs.

The quality of the existing impact assessments is in any case not that great. The conclusion is invariably that doing nothing isn't possible, and that from the available choices the Commission has chosen the best option.

In recent years, however, there has been within the Commission a semi-independent unit that judges their quality. In the new directive there is no mention of a semi-independent determination of the quality of impact assessments.

Another triumph for EU accountability.

## TEEU votes for scrapping TTIP

The recent biennial delegate conference of the Technical, Engineering and Electrical Union pledged the union "to oppose the ratification and implementation of TTIP in all forums in which it participates; inform the relevant government agencies of its opposition; [and] encourage other trade unions to join it in opposition," and it called for TTIP to be scrapped. The union has since called a meeting of all unions to discuss how the deal may best be opposed.

## Need for plan B?

It is quite clear that the structural problems of the euro zone have never been resolved, and probably never can be, and that the least sign of adverse weather would plunge it into a storm of difficulties.

One piece of bad news has followed another. The financial markets are again becoming "nervous," and Greece is once more paying 9 per cent interest on new loans. Yet any discussion of a "plan B" remains taboo. Euro-diehards are playing with fire.

Throughout the world, economies are moving more slowly than was expected. There is no longer any growth in Japan; growth is down in the United States; and China too is experiencing more and more problems now that exports are collapsing. The same goes for Europe, with even Germany suffering from falling exports. In short, the world market is not doing well.

In the European Union this expresses itself above all in an enormous stagnation. Inflation is approaching nil and will certainly arrive there if the fall in oil prices also filters through to the consumer. That, perhaps, does not appear to be a problem, because without inflation you can at least maintain the value of any pension you are entitled to without index-linking.

In practice, however, consumers will wait to make purchases, certainly if they expect prices in the end to even begin to fall. Meanwhile debt weighs ever more heavily on the member-states. Inflation ensures, after all, that in time money's value is reduced, thereby making debts too "cheap." Without inflation, or with deflation (when prices fall), money's value increases and it becomes ever harder to pay off debts.

The weaker euro-zone countries still have huge mountains of debt. All the austerity policies have not enabled them to repay these debts—on the contrary, the debt has increased. Also, the financial markets know very well that these countries could find themselves in difficulties.

In the past the chairman of the European Central Bank, Mario Draghi, has said that he will do all in his power to prevent the collapse of any euro-zone country. Just a tiny problem with this: he's actually already tried everything that a broad interpretation of the EU treaty says he can do.

The ECB interest rate is almost nil, and banks are already receiving help through a special programme of buying up outstanding loans. All the ECB can still do to save the situation is buy the member-state's bonds; but this would be in conflict with the Lisbon Treaty, and furthermore Germany would never accept it.

So now the more prescient among the EU elite are beginning to search around for a plan B—except in Ireland, where Michael Noonan still best epitomised the mentality of the country's elite when he felt able to tell a meeting of the Dáil Finance Committee that

preserving the euro is the main aim of the government's economic policy. His statement remained substantially unchallenged from the main voices of either the left or the right.

## Building a banking union will not solve the problem of lack of credit

The recent "stress tests" by the European Central Bank had next to no effect on Europe's main problem: tight credit conditions for households and businesses. Without a substantial improvement in credit conditions there cannot be a substantial economic recovery, particularly in the periphery of the euro zone.

In 2012 the EU announced that the banking union would be implemented in two stages. During the first stage the ECB would centralise the supervision of participating banks' financial stability. At a later stage the Commission would introduce a "single resolution mechanism" and a "single resolution fund," to be responsible for the restructuring and potential closing of important banks.

We are now into the second phase of the project. Twenty-six members of the EU (Britain and Sweden decided not to participate) signed an intergovernmental agreement in May to create a special fund and a central decision-making board to rescue failing banks. According to the agreement, the fund will be built up over eight years, until it reaches its target of at least 1 per cent of the amount of deposits of all credit institutions in all the participating member-states, projected to be some €55 billion. The fund will at first consist of national compartments, which will gradually merge into a single fund. The agreement also made official the "bail-in" procedure for future rescue plans.

*Mario Draghi, ECB president*

Members of the EU Parliament have said that the fund should be larger, because it may not be enough to deal with a new banking crisis. There is also the question of how the single resolution fund will be financed.

On 21 October the Commission proposed that the largest banks, representing some 85 per cent of total assets, should contribute approximately 90 per cent of the funds. Opponents have argued that, instead of designating the contributions in proportion to the risks each bank presents, the proposal should assign contributions using a bank's total assets. The EU Council will have to ratify this proposal.

More importantly, the transfers of banks' contribution to the single resolution fund are due to begin in January 2016. Before that happens, however, the parliaments of the member-states will have to ratify the intergovernmental treaty that was signed in May. In addition, a group of German professors have said they would challenge the banking union before the German Constitutional Court.

While all this is going on, most European households and businesses are facing more immediate problems. On 27 October the ECB revealed that loans to the private sector fell by 1.2 per cent compared with previous years after a contraction of 1.5 per cent in August. The data shows a slower rate of contraction in credit lending but does not suggest a strong recovery of credit in the euro zone. The data

also confirmed that credit conditions remain particularly tight in the periphery.

As banking credit is crucial to households and companies, credit conditions are intimately linked to Europe's economic recovery. The ECB has recently approved a battery of measures, including negative interest rates and cheap loans for banks. However, as banks are still trying to clean up their balance sheets, lending remains timid. Even in those instances where banks are willing to lend they tend to impose strict conditions that are hard for customers to meet.

There is also a demand problem. With weak economic activity and high unemployment in the periphery, many households and companies are simply not asking for credit.

Finally, the ECB's latest policies have created significant disagreement within the institution. Some members of the governing council—most notably the German Bundesbank—are wary of measures that could subsidise governments and weaken the pace of economic reforms. The Germans are also concerned about the legality of such measures as quantitative easing and its potential effect on inflation.

## Meet TISA: another treaty negotiated in secret

The best introduction to the Trades in Services Agreement (TISA) comes from Public Services International, an international trade union federation representing 20 million people working in public services in 150 countries.

Last year PSI published a brief on the proposed agreement. It says:

*"At the beginning of 2012, about 20 WTO members (the EU counted as one) calling themselves 'The Really Good Friends of Services' (RGF) launched secret unofficial talks towards drafting a treaty that would further liberalise trade and investment in services, and expand 'regulatory disciplines' on all services sectors, including many public services.*

*"The 'disciplines,' or treaty rules, would provide all foreign providers access to domestic markets at 'no less favourable' conditions as domestic suppliers and would restrict governments' ability to regulate, purchase and provide services. This would essentially change the regulation of many public and privatised or commercial services from serving the public interest to serving the profit interests of private, foreign corporations."*

Does that sound familiar?

PSI says that, despite disturbing revelations about spying and privacy, corporate interests are seeking to weaken national controls that protect data privacy, and points out that even after the global financial crisis of 2008 the TISA includes talks on further liberalising financial markets.

They say that TISA also promotes the temporary movement of professionals and workers and in committed sectors would eliminate the legal onus on employers to hire local workers if they are available. (See more on this at:
www.policyalternatives.ca/publications/reports/tisa-versus-public-services

The Australian government's TISA page fills in some details:

*"The TISA negotiations will cover all services sectors. In addition to improved market access commitments, the negotiations also provide an opportunity to develop new disciplines (or trade rules) in areas where there has been significant developments since the WTO Uruguay Round negotiations. There negotiations will cover financial services; ICT services (including telecommunications and e-commerce);*

*professional services; maritime transport services; air transport services, competitive delivery services; energy services; temporary entry of business persons; government procurement; and new rules on domestic regulation to ensure regulatory settings do not operate as a barrier to trade in services."*

If that also sounds familiar it's because very similar language is used to describe CETA and TTIP, which aim to liberalise trade and investment, to provide foreign investors with access to domestic markets on the same terms as local suppliers, to limit a government's ability to regulate these by removing "non-tariff barriers" (described above as "regulatory settings"), and to use corporate sovereignty provisions to enforce investors' rights.

Those similarities suggest that TISA is part of a larger plan, including CETA and TTIP, which aims to cement the dominance of the United States and EU in world trade against a background of Asia's growing power.

The twenty-three TISA parties at present are Australia, Canada, Chile, Colombia, Costa Rica, the EU (representing its twenty-eight member-states), Hong Kong, Iceland, Israel, Japan, South Korea, Liechtenstein, Mexico, New Zealand, Norway, Pakistan, Panama, Paraguay, Peru, Switzerland, Taiwan, Turkey, and the United States.

The rising economies of the BRICS countries—Brazil, Russia, India, China, and South Africa—are all absent, and the clear intention—as with TTIP and the Trans-Pacific Partnership (TPP)—is to impose the West's terms on them. This is explicitly recognised by one of the chief proponents of TISA, the European Services Forum, which has said: *"The possible future agreement would for the time being fall short of the participation of some of the leading emerging economies, notably Brazil, China, India and the ASEAN countries. It is not desirable that all those countries would reap the benefits of the possible future agreement without in turn having to contribute to it and to be bound by its rules."*

There have already been five rounds of negotiations—all held behind closed doors, of course, just as with TTIP and CETA. A recent public information session in Geneva seemed to be the start of a new phase in those negotiations, at least allowing some token transparency.

Last month Wikileaks released a secret draft text from the negotiations on the TISA that confirms the concerns first raised by PSI in "TISA versus Public Services."

Calling themselves the "Really Good Friends of Services," a group of fifty countries, representing an estimated 70 per cent share of the world's trade in services, is secretly negotiating the TISA. This deal would open up a wide range of public services to be sold permanently for private profit.

This massive trade agreement would put public health, children's services, postal, broadcasting, water, power, transport and other services at risk. It would lock in the privatisation of services—even in cases where private services have failed—meaning that governments could never return water, energy, health, education or other services to public hands.

The TISA would also restrict a government's right to adopt stronger standards in the public's interest. For example, it would affect environmental regulations, the licensing of health facilities and laboratories, waste disposal, power plants, school and university accreditation, and broadcasting licences. It would also restrict a government's ability to regulate important industries, including finance, energy, and telecommunications, and

cross-border data flows.

The TISA would specifically limit the ability of governments to regulate the financial services industry precisely when the global economy is still recovering from a crisis caused by financial deregulation.

Responding to the leak, the general secretary of PSI, Rosa Pavanelli, says: *"This agreement is all about making it easier for corporations to make profits and operate with impunity across borders. The aim of public services should not be to make profits for large multinational corporations. Ensuring that failed privatisations can never be reversed is free market ideology gone mad.*

*"The secrecy surrounding these negotiations to extend controversial GATS arrangements into a wide range of areas previously rejected is anti-democratic in the extreme. If our governments are doing nothing wrong—why are they hiding these texts?*

*"The attempts by governments still reeling from the global economic crisis to further deregulate the financial system shows that our trade ministers really have been captured by large corporate interests. When you understand this, you understand why the texts are being kept secret. This is a bad deal for people and our planet. We demand that the texts be released for public scrutiny now."*

## Van Rompuy to receive €500,000

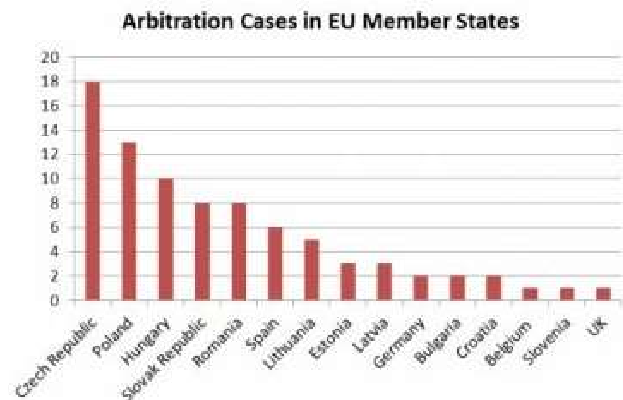
*EU Observer* reports that Herman Van Rompuy, who left his job as president of the EU Council on 1 December, is to receive some €500,000 (before tax) over the next three years as part of a transitional allowance. He will also receive an annual retirement settlement of €65,700 once the three-year transitional period is up.

Meanwhile in his native country, Belgium, a group of trade unions and NGOs has submitted a challenge in the Belgian Constitutional Court to the EU's fiscal treaty on budgetary discipline, claiming that it violates the country's budgetary sovereignty.

And what does Van Rompuy leave behind? Well, an analysis of the new Commission shows that there are more heads or deputy heads of commissioners' cabinets from Germany—nine in total—than from any other EU country. Britain comes next, with six. (Surprise!)

## EU governments paid €3½ billion in investor claims under ISDS

EU governments have been forced to pay out more than €3½ billion in compensation to firms under controversial investor-protection rules, according to new research published on 4 December.




The survey, by the British NGO Friends of the Earth, has identified at least 127 individual cases that were brought against governments since 1994 in claims totalling more than €30 billion. But it says that difficulties in acquiring information about cases under investor-state dispute settlement (ISDS), which is not publicly available, suggest that the total is likely to be far higher.

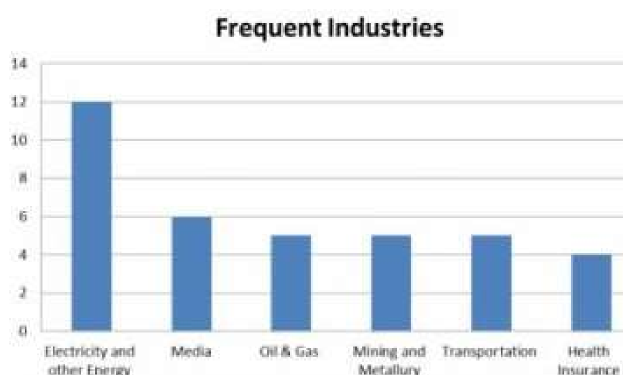
Of the 127 cases, it found out the level of compensation sought in 62. The precise sum paid out is known only for 14 of them.

The status of ISDS clauses in the proposed trade agreement between the EU and the United States has become one of the most hotly disputed issues in the talks. The

mechanism allows companies to take legal action against governments on the grounds of unfair treatment or discrimination in favour of domestic firms, or if new legislation is deemed discriminatory and compromises their business.

Critics say that corporate legal challenges, or even the threat of them, could prevent governments introducing legislation in such fields as health and safety and in environmental and social protection. The research suggests that approximately 60 per cent of the claims relate to environmental regulation, and that countries in central and eastern Europe, most of which joined the EU in either 2004 or 2007, were the most frequent targets.

In 2008 the Slovak government was ordered to pay €25 million in compensation when it sought to renationalise the country's health insurance scheme—a case that could strengthen the arguments of campaigners.




In late October, Richard Bruton and thirteen other trade and foreign affairs ministers wrote to the EU Commissioner for Trade, Cecilia Malmström, and the president of the EU Commission, Jean-Claude Juncker, insisting that the EU Council give the Commission a clear mandate to push for ISDS in the Transatlantic Trade and Investment Partnership, and that the president of the Commission push hard for its inclusion.

The Commission, which has so far been keen to include ISDS in an agreement, temporarily parked the issue by opening a public consultation on the issue at the beginning of the year. In November, six months after the consultation closed, the new commissioner for trade, Cecilia Malmström, told members of the EU Parliament that the Commission is still evaluating its findings.

It has promised to present a factual report on the consultation before the end of the year but has said that no political decision on the future of ISDS will be taken before the spring of 2015. Trade officials hope to conclude a draft deal with the United States in late 2015.

Also on 4 December a petition urging the Commission to halt the talks reached 1 million signatures, the threshold needed to force the Commission to make an official response. In an attempt to assuage public concerns at the fact that the talks are surrounded in secrecy, the Commission has also promised to increase the number of documents related to the talks that it will make available to the EU Parliament and to the public.

One well-known ISDS case is a continuing dispute between the tobacco giant Philip Morris and the Australian government over the latter's rules requiring plain packaging for cigarettes—in effect a ban on cigarette advertising.

## Juncker's plan: casino capitalism rides again

Sceptics observed that even before it was formally unveiled the €315 billion investment package to kick-start EU economies had achieved its goal: Jean-Claude Juncker had become president of the EU Commission.

Many people are doubtful that the plan, first announced as a political promise during Juncker's election campaign, will do much for economies. Only €60 billion will be in actual loans disbursed through the European Investment Bank, owned by the member-states, for infrastructure projects and small businesses. The rest is due to come from private-sector and public-sector top-ups.

The financial engineering goes even deeper, however.

The €60 billion in loans will be raised on the financial markets, based on €5 billion of the EIB's own money and a €16 billion "EU guarantee" issued by the Commission. This in turn is also only half real money: €8 billion from unused and reserve EU funds. An independent "investment committee" consisting of "experts" will have the last say on each project, which will be picked from a list submitted by member-states. This is an attempt to avoid having unnecessary roads and airports receiving funds, as happened with some of the EU's structural funding schemes.

EU officials played down the risk that all the EU-guaranteed loans might go "sour"—being awarded to projects that go bust. But if they do, the EIB could call on an €8 billion "reserve," and the possibility that EU member-states would have to cough up the remaining €8 billion in the EU guarantee.

However, it is primarily "high-risk" parts of the public-private projects that this new fund will be covering, in an attempt to attract public and private investors who otherwise would consider the overall project too risky. Altogether, the new initiative is projected to boost the EU economy by €330 to €410 billion and to create more than a million jobs over the next three years. This would correspond to a yearly increase in GDP of between 0.7 and 1 per cent. Economists, however, are questioning the numbers behind the fund.

There are several questions surrounding the plan. One is whether the EIB board, where member-states are represented, will approve this scheme, which, given the high-risk investments, might dent the bank's triple-A rating.

Another question is whether the markets will be willing to step in and raise the remaining €240 billion. In its last annual report the EU Court of Auditors found that only 37 per cent of the funds from other financial engineering instruments actually went to the beneficiaries.

## ISDS in action: For the common good?

The Swedish state-owned energy company Vattenfall is suing Germany for phasing out nuclear power and replacing it with renewable energy sources. In a secret court, the company is demanding a whopping €4.7 billion in compensation. This case could have massive repercussions for other European countries turning towards renewables to replace traditional energy supplies.

Vattenfall is not the only one lining up to squeeze Germany for making the right decision: the energy giants RWE and Eon are also demanding millions.

After the tragedy at Fukushima, Germany began taking a closer look at some of its nuclear power plants with a view to avoiding a similar catastrophe. Two decisions were made: firstly, they immediately shut down old and malfunctioning reactors; secondly, the government decided on the phasing out of nuclear energy by 2022 and a move towards renewable energy sources.

These decisions turned Germany almost overnight into a global leader in the production of renewable energy. It is planning to have 80 per cent of its energy provided by renewables by 2050. The new policy also aspires to increasing energy efficiency by 50 per cent and reducing carbon emissions by 80 per cent.

## What is the “movement of natural persons”?

Under trade agreements such as the TISA the term “movement of natural persons” refers to services provided by nationals of one country who travel to another EU member-country to provide a service. This mode of international trade in services, known as “mode 4,” applies to people; within the EU such people are referred to as “posted workers.” The term “legal persons” is used to refer to corporations that under the law function as persons.

In keeping with the general push for an ambitious agreement, there has been pressure from some participants for “highly improved” commitments to market access on the cross-border movement of service-providers as part of the TISA.

Mode 4 commitments enable firms in one country to temporarily send their employees—including managers, consultants, tradespeople, nurses, and construction workers—to another country for the purpose of supplying a service. The TISA would prohibit so-called “economic needs” tests, including labour market tests, unless these measures are expressly exempted in a country’s schedule of commitments.

In most countries, before hiring temporary foreign workers a prospective employer is obliged to demonstrate that there is a shortage of suitably trained local workers. But under mode 4 commitments such economic needs tests are forbidden. Governments could not require, for example, that foreign companies first conduct a survey of the labour market to ensure that no local workers are available to perform the necessary work before engaging temporary foreign workers.

This is another sensitive topic for the United States, which has resisted making additional mode 4 commitments throughout the Doha Round negotiations on services. Nevertheless, the expansion of mode 4 is a high priority for American service corporations.

Significantly, mode 4 commitments provide no path for immigration, residence or citizenship in the host country: foreign workers must return to their own country after the work is completed or the term of their stay in the host country expires. This precarious situation makes such workers very dependent on the good will of their employers. If they lose their employment they must immediately leave the host country. Despite this, American negotiators have reported that there have been no proposals to include enforceable labour standards or protection of labour rights in the TISA.

## Why the EU won’t impose an arms embargo on Israel

*David Cronin reports that a new version of Israel’s pilotless warplane, the Hermes 900, made its combat debut when Israel attacked Gaza during the summer.*

It may take some time before we have an idea how many deaths can be attributed to this particular killing machine. Israel has forbidden Amnesty International and Human Rights Watch from entering Gaza to investigate how the offensive was conducted. We can be certain nonetheless that it helped to inflict immense

suffering and destruction. Able to carry twice the bomb-load of the model of drone it will replace, the Hermes 900 was introduced during the first week of the attack.

Israel has been eager to emphasise its less lethal applications. Brazil bought a Hermes 900 drone for surveillance during the World Cup. The deal enabled Elbit, the plane's manufacturer, to boast of how it was contributing to "safety" at sports events, but discussions about the potential use of Israeli drones in tracking refugees destined for Europe's shores have, by contrast, gone largely unnoticed.

Last year Elbit contacted Frontex, the EU's border management agency, seeking to show off its drones. It suggested that the agency would have a "special interest" in the "search and rescue variant" of the Hermes 900. In response, Frontex arranged an appointment in its headquarters in Warsaw for a senior director with the weapons company. Elbit followed up by offering a live demonstration of its technology, according to internal Frontex documents obtained under EU freedom of information rules.

Another supplier of warplanes used to flatten Gaza, Israel Aerospace Industries, gave such a demonstration to Frontex in October 2011. The company was paid more than $260,000 for that privilege, although it could have charged more. In an exchange of e-mail messages it assured the agency that it had the "best suitable" drones for catching asylum-seekers. To underline its altruistic side, the firm offered to exhibit its wares at a "greatly reduced price."

These low-key discussions provide some clues about why the EU has refused to impose an arms embargo on Israel. Three years ago Frontex acquired the power to buy or lease its own equipment (until then it had borrowed from EU governments). It is acutely aware that Israel is a leading innovator of the drones that it covets. It is equally aware that Israel Aerospace Industries has taken part in EU-funded research projects on how drones can hunt down asylum-seekers.

Nobody should be fooled by touchy-feely terms like "search and rescue" or "safety." Frontex is pursuing an essentially racist agenda in trying to prevent foreigners from entering Europe.

There is an obscene logic behind why the EU's border management officials would wish to co-operate with Israel. Both Frontex and Israel have violated the rights of Palestinian refugees.

As part of its activities Frontex works with the Greek authorities to "screen" asylum-seekers. A report by several human rights organisations published in May documented how Frontex was recording that Palestinian refugees who had lived in Syria were "stateless," without recognising that they were fleeing a vicious civil war. These refugees were ordered to leave Greek territory within thirty days, violating a principle enshrined in international law, that nobody should be expelled to a country where their life is in danger.

Eyewitness accounts from doctors working in Gaza's hospitals show that Israel dropped experimental weapons during this summer's attack. These are believed to include dense inert metal explosives (DIMEs), which cause horrific injuries by burning at high temperatures. The Palestinian rights group Al Haq has stated that DIMEs were carried in Hellfire missiles that were dropped from Israeli drones.

The only proper and compassionate response to such horrors is to cease doing business with Israel's arms industry. That step

would require ripping up a commitment to invest more in the development of drones made by the EU's presidents and prime ministers in December 2013. While Israel was not explicitly mentioned in that pledge, Europe's drone projects have involved a significant level of input from Israel.

Gaza was turned into a laboratory for the arms industry this summer. By forging close links with Israel's arms industry, Europe has accorded Palestinians the same status as animals used in cruel experiments. With their indomitable spirit, the people of Gaza have shown that they will never accept that status.

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