



2018/0358M(NLE)

7.10.2019

AMENDMENTS

1 - 17

Draft opinion

Tomas Tobé

(PE641.207v01-00)

on the draft Council decision on the conclusion, on behalf of the Union, of the Investment Protection Agreement between the European Union and its Member States, of the one part, and the Socialist Republic of Vietnam, of the other part
(2018/0358M(NLE))

Amendment 1
Manon Aubry, Miguel Urbán Crespo
on behalf of the GUE/NGL Group

Draft opinion
Recital A (new)

Draft opinion

Amendment

A. whereas the last decades have seen billion-dollar investor lawsuits against the alleged damage to corporate profit of legislation and government measures in the public interest. Whereas according to UNCTAD, the new ISDS cases in 2018 were initiated against 41 countries and as in previous years, the majority of new cases were brought against developing countries and transition economies. Developed-country investors brought most of the 71 known cases. Whereas ISDS has already been used in Vietnam, and actually, two companies are suing the Vietnamese government for receiving a tax bill after the takeover of one company (ConocoPhillips Vietnam) by another (Perenco)

Or. en

Amendment 2
Patrizia Toia, Pierfrancesco Majorino, Marc Tarabella, Udo Bullmann
on behalf of the S&D Group

Draft opinion
Paragraph -1 (new)

Draft opinion

Amendment

-1. Recalls that Vietnam is a developing country; underlines that in order to contribute to reaching the Sustainable Development Goals, in particular SDG 1 on poverty eradication,

SDG 8 on decent work and SDG 10 on reduced inequalities, investment must contribute to the creation of quality jobs, support the local economy and fully respect domestic regulation including tax requirements;

Or. en

Amendment 3
Manon Aubry, Miguel Urbán Crespo
on behalf of the GUE/NGL Group

Draft opinion
Paragraph 1

Draft opinion

1. ***Welcomes the Parties' commitment to enhance the contribution of trade and investment to the goal of sustainable development in its economic, social and environmental dimensions;***
Acknowledges that the Investment Court System ***marks an improvement from*** the existing Bilateral Investment Treaties between 21 EU Member States and Vietnam with regard to ***the independence of judges;***

Amendment

1. Acknowledges that the Investment Court System ***will replace*** the existing Bilateral Investment Treaties between 21 EU Member States and Vietnam with regard to ***ISDS mechanisms. Recalls that the ICS still remain an investment arbitration system and continues to give a privileged status to investors, and does not provide a sanction mechanism for investors non-compliance with social and environmental standard;***

Or. en

Amendment 4
Dominique Bilde, Bernhard Zimniok
on behalf of the ID Group

Draft opinion
Paragraph 1

Draft opinion

1. ***Welcomes*** the Parties' commitment to enhance the contribution of trade and investment to the goal of sustainable development in its economic, social and

Amendment

1. ***Underlines*** the Parties' commitment to enhance the contribution of trade and investment to the goal of sustainable development in its economic ***and*** social

environmental dimensions; acknowledges that the Investment Court System marks an improvement from the existing Bilateral Investment Treaties between 21 EU Member States and Vietnam with regard to the independence of judges;

dimensions, *particularly with regard to international labour law resulting from the core conventions adopted by the International Labour Organisation*, and *in its environmental dimensions, in particular measures to combat deforestation and illegal fishing*; acknowledges that the Investment Court System marks an improvement from the existing Bilateral Investment Treaties between 21 EU Member States and Vietnam with regard to the independence of judges;

Or. fr

Amendment 5
Dominique Bilde, Bernhard Zimniok
on behalf of the ID Group

Draft opinion
Paragraph 1 a (new)

Draft opinion

Amendment

1a. *Expresses its general concern at the increasing inclusion in recent EU free trade agreements of arbitration clauses referring to a specific court; stresses that such arrangements must be confined to cases involving the possibility of manifest and serious abuses and must not be allowed to compromise the sovereignty of the Member States;*

Or. fr

Amendment 6
Ellie Chowns, Michèle Rivasi
on behalf of the Verts/ALE Group

Draft opinion
Paragraph 1 a (new)

1a. Deplores the fact that no human rights impact assessment was ever carried out prior to the launching of negotiations; recalls that the European Ombudsman, as well as the European Parliament in its urgency resolutions of 9 June 2016, 14 December 2017 and 15 November 2018, notify serious concerns regarding the protection of the human rights in Vietnam especially in relation to freedom of expression, assembly and association, religious freedom, and as regards detention of human rights activists and violence against women; notes with great concern that the human rights situation in Vietnam keeps deteriorating, ever since the implementation of the Partnership and Cooperation Agreement (PCA) in 2012 and since the conclusion of the EVFTA in 2016, notably for human rights defenders in Vietnam;

Or. en

Amendment 7

Ellie Chowns, Michèle Rivasi
on behalf of the Verts/ALE Group

Draft opinion

Paragraph 1 b (new)

1b. Reaffirms in the strongest terms that the parties to the IPA as well as investors protected by the IPA must respect all international human rights standards and obligations, in addition to those arising from domestic laws; takes the view that tangible improvements on human rights in Vietnam is a key precondition to the ratification of the Investment Protection Agreement and calls for the inclusion of an enforceable

Human Right Clause, which include mechanism for redress and accountability in relation to communities affected, considering that the human rights mechanism under the Partnership and Cooperation Agreement (PCA) has proved to be ineffective to address grave and systematic human rights violations;

Or. en

Amendment 8

Patrizia Toia, Pierfrancesco Majorino, Marc Tarabella, Udo Bullmann

on behalf of the S&D Group

Draft opinion

Paragraph 2

Draft opinion

2. Welcomes the use of the transparency rules of the United Nations Commission on International Trade Law (UNCITRAL) for dispute settlement, ***but underlines that the use of substantive provisions of foreign investment protection, in particular the principles of ‘indirect expropriation’ and of ‘fair and equitable treatment’, does not weaken the Parties’ right to regulate and pursue legitimate public policy objectives, such as public health, safety and environmental protection;*** insists on regular monitoring and reporting back to the European Parliament on the use of this provision by European investors;

Amendment

2. Welcomes the use of the transparency rules of the United Nations Commission on International Trade Law (UNCITRAL) for dispute settlement; ***emphasises that the protection of legitimate public policy decisions and the right to regulate must not be challenged by investors;*** insists on regular monitoring and reporting back to the European Parliament on the use of this provision by European investors;

Or. en

Amendment 9

Manon Aubry, Miguel Urbán Crespo

on behalf of the GUE/NGL Group

Draft opinion

Paragraph 2

Draft opinion

2. **Welcomes** the use of the transparency rules of the United Nations Commission on International Trade Law (UNCITRAL) for dispute settlement, but underlines that the use of substantive provisions of foreign investment protection, in particular the principles of ‘indirect expropriation’ and of ‘fair and equitable treatment’, **does not** weaken the Parties’ right to regulate and pursue legitimate public policy objectives, such as public health, safety and environmental protection; insists on regular monitoring and reporting back to the European Parliament on the use of this provision by European investors;

Amendment

2. **Acknowledges** the use of the transparency rules of the United Nations Commission on International Trade Law (UNCITRAL) for dispute settlement, but underlines that the use of substantive provisions of foreign investment protection, in particular the principles of ‘indirect expropriation’ and of ‘fair and equitable treatment’, **can** weaken the Parties’ right to regulate and pursue legitimate public policy objectives, such as public health, **education, labour rights**, safety and environmental protection; insists on regular monitoring and reporting back to the European Parliament on the use of this provision by European investors;

Or. en

Amendment 10
Dominique Bilde, Bernhard Zimniok
on behalf of the ID Group

Draft opinion
Paragraph 2

Draft opinion

2. Welcomes the use of the transparency rules of the United Nations Commission on International Trade Law (UNCITRAL) for dispute settlement, but underlines that the use of substantive provisions of foreign investment protection, in particular the principles of ‘indirect expropriation’ and of ‘fair and equitable treatment’, does not weaken the Parties’ right to regulate and pursue legitimate public policy objectives, **such as** public health, safety and environmental protection; insists on regular monitoring and reporting back to the European Parliament on the use of this provision by European investors;

Amendment

2. Welcomes the use of the transparency rules of the United Nations Commission on International Trade Law (UNCITRAL) for dispute settlement, but underlines that the use of substantive provisions of foreign investment protection, in particular the principles of ‘indirect expropriation’ and of ‘fair and equitable treatment’, does not weaken the Parties’ right to regulate and pursue legitimate public policy objectives, **particularly but not exclusively** public health, safety and, **generally speaking, any legitimate objectives relating to public order and** environmental protection, **while providing foreign investors with a certain**

degree of legal protection, specifically against expropriation; insists on regular monitoring and reporting back to the European Parliament on the use of this provision by European investors;

Or. fr

Amendment 11

Ellie Chowns, Michèle Rivasi

on behalf of the Verts/ALE Group

Draft opinion

Paragraph 2

Draft opinion

2. **Welcomes** the use of the transparency rules of the United Nations Commission on International Trade Law (UNCITRAL) for dispute settlement, but underlines that the use of substantive provisions of foreign investment protection, in particular the principles of ‘indirect expropriation’ and of ‘fair and equitable treatment’, **does not** weaken the Parties’ right to regulate and pursue legitimate public policy objectives, such as public health, safety and environmental protection; insists on regular monitoring and reporting back to the European Parliament on the use of this provision by European investors;

Amendment

2. **Takes note of** the use of the transparency rules of the United Nations Commission on International Trade Law (UNCITRAL) for dispute settlement, but underlines that the use of substantive provisions of foreign investment protection, in particular the principles of ‘indirect expropriation’ and of ‘fair and equitable treatment’, weaken the Parties’ right to regulate and pursue legitimate public policy objectives, such as public health, safety and environmental protection; insists on regular monitoring and reporting back to the European Parliament on the use of this provision by European investors;

Or. en

Amendment 12

Patrizia Toia, Pierfrancesco Majorino, Marc Tarabella, Udo Bullmann

on behalf of the S&D Group

Draft opinion

Paragraph 3

Draft opinion

3. Notes that protections afforded to investors ***could possibly outpace*** the development of investor responsibilities as the EU-Vietnam Investment Protection Agreement (IPA) guarantees enforceable rights to foreign investors through the arbitration clause, but does not provide a sanction mechanism for non-compliance with social and environmental standards; reiterates the need to ensure a fair balance of investors' rights and duties, in terms of corporate, social and environmental standards, in the IPA; underlines in this regard the importance of establishing an independent monitoring and complaint mechanism that can be seized by affected populations and that has the authority to make binding rulings with regard to the negative impact that trade and investment agreements may have.

Amendment

3. Notes ***with concern*** that protections afforded to investors ***are outpacing*** the development of investor responsibilities as the EU-Vietnam Investment Protection Agreement (IPA) guarantees enforceable rights to foreign investors through the arbitration clause, but does not provide a sanction mechanism for non-compliance with social and environmental standards; reiterates the need to ensure a fair balance of investors' rights and duties, in terms of corporate, social and environmental standards, in the IPA; underlines in this regard the importance of establishing an independent monitoring and complaint mechanism that can be seized by affected populations and that has the authority to make binding rulings with regard to the negative impact that trade and investment agreements may have.

Or. en

Amendment 13

Dominique Bilde, Bernhard Zimniok
on behalf of the ID Group

Draft opinion
Paragraph 3

Draft opinion

3. Notes that protections afforded to investors could possibly outpace the development of investor responsibilities as the EU-Vietnam Investment Protection Agreement (IPA) guarantees enforceable rights to foreign investors through the arbitration clause, but does not provide a sanction mechanism for non-compliance with social and environmental standards; reiterates the need to ensure a fair balance of investors' rights and duties, in terms of corporate, social and environmental

Amendment

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standards, in the IPA; underlines in this regard the importance of establishing an independent monitoring and complaint mechanism that can be seized by affected populations and that has the authority to make binding rulings with regard to the negative impact that trade and investment agreements may have.

standards ***and human rights in general***, in the IPA; underlines in this regard the importance of establishing an independent monitoring and complaint mechanism that can be seized by affected populations and that has the authority to make binding rulings with regard to the negative impact that trade and investment agreements may have ***and stresses the need to keep the European Parliament informed of action taken through this mechanism in response to complaints concerning investors with registered offices in any of the Member States.***

Or. fr

Amendment 14

Ellie Chowns, Michèle Rivasi

on behalf of the Verts/ALE Group

Draft opinion

Paragraph 3

Draft opinion

3. Notes that protections afforded to investors ***could possibly outpace*** the development of investor responsibilities as the EU-Vietnam Investment Protection Agreement (IPA) guarantees enforceable rights to foreign investors through the arbitration clause, but does not provide a sanction mechanism for non-compliance with social and environmental standards; reiterates the need to ensure a fair balance of investors' rights and duties, in terms of corporate, social and environmental standards, in the IPA; underlines in this regard the importance of establishing an independent monitoring and complaint mechanism that can be seized by affected populations and that has the authority to make binding rulings with regard to the negative impact that trade and investment agreements may have.

Amendment

3. Notes that protections afforded to investors ***are outpacing*** the development of investor responsibilities as the EU-Vietnam Investment Protection Agreement (IPA) guarantees enforceable rights to foreign investors through the arbitration clause, but does not provide a sanction mechanism for non-compliance with social and environmental standards; reiterates the need to ensure a fair balance of investors' rights and duties, in terms of corporate, social and environmental standards, in the IPA; underlines in this regard the importance of establishing an independent monitoring and complaint mechanism that can be seized by affected populations and that has the authority to make binding rulings with regard to the negative impact that trade and investment agreements may have, ***including through sanctions; further calls on the EU and Vietnam to***

take a leading role in addressing this at multilateral level through active participation in negotiations at the UN for a legally binding instrument to regulate, in international human rights law, the activities of transnational corporations and other business enterprises, which ensures access to justice for victims of human rights violations and provide mechanisms for redress and accountability for the communities affected.

Or. en

Amendment 15

Patrizia Toia, Pierfrancesco Majorino, Marc Tarabella, Evin Incir
on behalf of the S&D Group

Draft opinion

Paragraph 3 a (new)

Draft opinion

Amendment

3a. Reaffirms in the strongest terms that the parties to the IPA as well as investors protected by the IPA must respect all international human rights standards and obligations, in addition to those arising from domestic laws; calls on the Parties to take account of internationally agreed principles and instruments such as those of the OECD Guidelines for Multinational Enterprises and the UN guiding principles on business and human rights, as well as the UN Principles for Responsible Investment and Reporting;

Or. en

Amendment 16

Manon Aubry, Miguel Urbán Crespo
on behalf of the GUE/NGL Group

Draft opinion
Paragraph 4 (new)

Draft opinion

Amendment

4. Calls for the abolition of all kind of arbitrations system in the Investment treaties that allow companies and investors to sue governments if new legislation and regulations for public interests undercut their ability to make profits;

Or. en

Amendment 17
Stéphane Bijoux
on behalf of the Renew Group

Draft opinion
Paragraph 4 (new)

Draft opinion

Amendment

4. Points out that the provisions of the Investment Protection Agreement and Free Trade Agreement must be implemented in a complementary manner, especially with regard to human, environmental and social rights and sustainable development; stresses also the need to ensure consistency with development cooperation objectives under Article 208 TFEU;

Or. fr