Successfully and sophisticated in the world, capable of evaluating risk and the expected returns on that risk. Should the risk be too great, options such as private insurance, public investment guarantee schemes or, indeed, recourse to regular domestic courts are all readily available.

We therefore call on the European Commission, the Canadian government, EU member states and parliamentarians on both sides of the Atlantic to reject the current CETA text which includes investor-state arbitration. It should also be ruled out of all existing and future trade agreements of both Canada and the EU – including the controversial EU-US Transatlantic Trade and Investment Partnership (TTIP) and the Trans-Pacific Partnership (TPP).

Our societies won’t be able to confront the challenges we are facing – from combating climate change and social inequality to preventing another financial crisis – when they are stuck in a legal straight-jacket, with the constant threat of multi-billion corporate disputes against policy changes. What we need instead are strong regulatory mechanisms to stop abuse by multinational corporations – not a carte blanche for them to trample over democracy, people’s rights and our planet.

Currently, 21 out of 28 EU member states – representing well over 95 percent of the EU economy – do not have investor-state arbitration provisions with Canada. More generally, most existing investment agreements of EU member states are with capital importers. CETA and other agreements with capital exporting countries (including the US, Japan and China) will massively expand the scope of investment arbitration, exposing EU member states to unpredictable and unprecedented liability risks.

Canada is likewise increasing the number of trade and investment agreements with capital exporting countries, including most recently the Canada-Korea Free Trade Agreement (CKFTA) and the controversial Canada-China Foreign Investment Promotion and Protection Agreement (FIPA), which entered into force on October, 1st, 2014.

Conclusion

Opposition to the previously unknown investor-state dispute settlement has ballooned in the last years. In CETA, the European Commission and the Canadian government have claimed to reform provisions on investor-state arbitration in a bid to win over public support. However, the minor tweaks and adjustment provide little assurance that the system will not be abused as it has been in the past: as a weapon to limit the powers of elected governments and to fight regulation – particularly in sectors where stricter rules are needed such as finance and mining (see Annexes 1 and 2).

Foreign investment can be risky, but there is no need for the creation of a special legal regime to protect foreign investors, who, like everyone else in society, have access to domestic legal systems to address grievances. Today’s multinationals are amongst the most

Academics have begun to question whether ISDS delivers the benefits it is supposed to, in the form of increased investment. Foreign investors can protect themselves against egregious governmental abuse by purchasing political-risk insurance [...]