

Anne-Marie Mineur

European Parliament, Member
Committee on International Trade, Member
Committee on the Environment, Public Health and Food Safety, Substitute
Subcommittee on Human Rights, Substitute

Brussels, 18 November 2015

Subject: provisional application Free Trade Agreements

Dear President of the European Council, dear Mr Tusk,

On 17 October 2014, the European Union and Singapore completed the negotiations for a comprehensive free trade agreement. This agreement needs to be formally approved by the European Commission and then agreed upon by the European Council and ratified by the European Parliament. Whether the agreement also needs to be ratified by the national parliaments is currently the subject of a study by the European Court of Justice (ECJ). If we wait for the advice of the ECJ, the ratification of the agreement may take several years. In the meantime, the agreement can be applied provisionally, even without an EP vote on the agreement. This may mean, for instance, that the controversial Investment Court System (formerly ISDS) would apply without approval of the European Parliament. We find this unacceptable.

This is the first time since the entry into force of the Lisbon Treaty that the EU has negotiated such a deep and comprehensive free trade agreement. Given that this is a first, it is not clear which areas fall under the competences of the Member States and which fall under the competences of the European Union. Former Commissioner De Gucht has therefore proposed to request an opinion from the ECJ. The ECJ should advise on whether the EU has full competence to sign and ratify a comprehensive free trade agreement, without a vote in the national parliaments of the Member States, or whether there are exceptions, and if so, what the exceptions are — the so-called *mixity issue*. This request was eventually submitted in July 2015. According to information by the ECJ, the advice may take between 1.5 and 2.5 years to be completed. The opinion of the ECJ on Singapore will set a precedent in the question of mixity for other trade agreements such as TTIP, CETA and TiSA.

We, the signatories of this letter, believe that the European Parliament should be allowed to vote on the ratification of an agreement before it can be approved by any body of the European Union. Due to the large-scale consequences of these agreements, even under provisional application, the decision by the Council on these agreements should be postponed until the European Parliament has voted. We therefore call upon the Council not to ratify any deep and comprehensive trade agreements until the European Parliament has cast its vote.

Sincerely,

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