

Ist der Verhandlungsprozess für EU- Handelsabkommen heute transparenter und der Lobby-Einfluss ausgeglichener?



Pia Eberhardt, Corporate Europe Observatory

Präsentation für:

Europe Calling: Weder fair noch frei.
Was kommt in der EU-Handelspolitik?

7. Juni 2018

**Ist der Lobbyeinfluss
ausgeglichen?**

WEN TRAF DIE EU-KOMMISSION ZUM EU-JAPAN-ABKOMMEN?

190

**TREFFEN MIT
KONZERN-LOBBYISTEN**

0 

**TREFFEN
MIT
GEWERK-
SCHAFTEN**

Treffen unter Ausschluss der Öffentlichkeit (01/2014 - 01/2017)

WEN TRAFEN DIE VERHANDLER DES EU-JAPAN-ABKOMMENS?

89%

**KONZERN-
LOBBYISTEN**

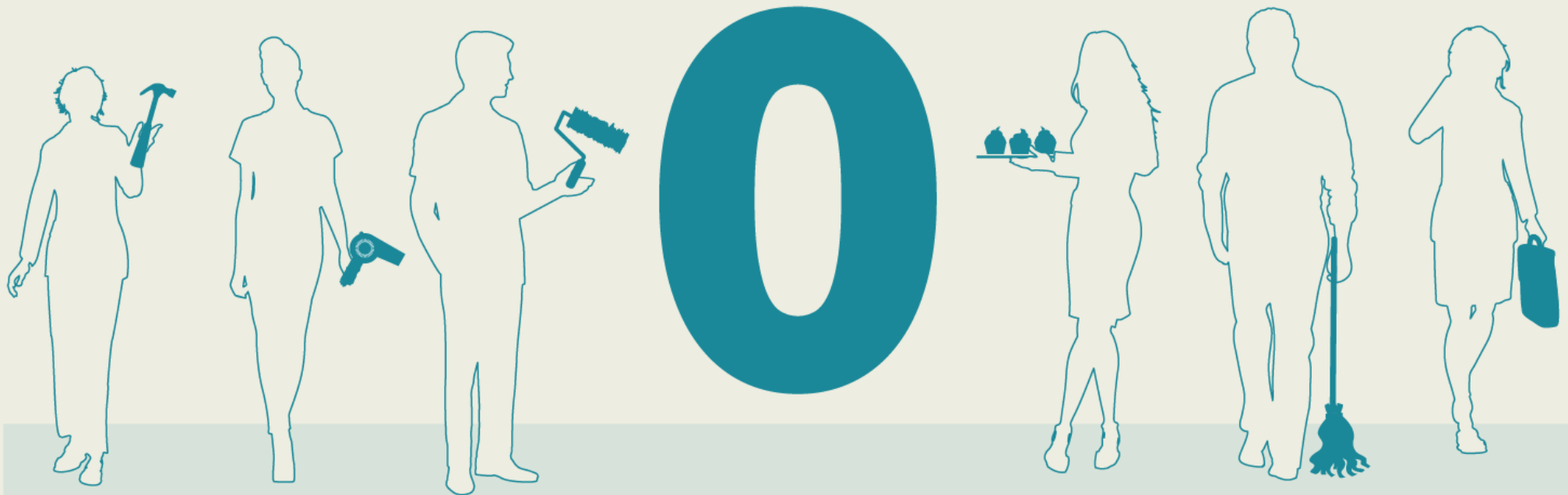
4%

ZIVILGESELLSCHAFT



7% traf die Kommission andere Akteure wie z.B. Forschungsinstitute.

WIE VIELE VERBÄNDE KLEINER UND MITTELSTÄNDISCHER UNTERNEHMEN TRAF DIE EU-KOMMISSION ZUM EU-JAPAN-ABKOMMEN?



**Sind die Verhandlungen
transparenter?**



Report of the 17th round of negotiations for the EU-China Investment Agreement

Beijing – 22 to 24 May 2018

Participants:

- EU team led by Director Maria Martin-Prat, TRADE B
- China team led by Deputy DG Li Yongjie, MOFCOM

The 17th round of the EU-China investment agreement negotiations took place in Beijing from the 22nd to the 24th of May 2018.

The bilateral talks covered the following provisions and topics: (i) expropriation; (ii) national treatment and related issues such as general exceptions, special formalities and information requirements; (iii) fair and equitable treatment; (iv) dispute settlement and (v) sustainable development.

The discussions were constructive and led to some concrete progress on expropriation and on certain aspects of dispute settlement where text-based exchanges were already advanced. The discussions on national treatment and fair and equitable treatment will require further technical follow up, along the path outlined by the Chief Negotiators. Lastly, on sustainable development, while revisiting the respective sensitivities and key requests, both sides outlined a work agenda for the expert discussions on the investment-related aspects of environment and labour to be organized in the coming months.

SECTION 2: INVESTMENT PROTECTION

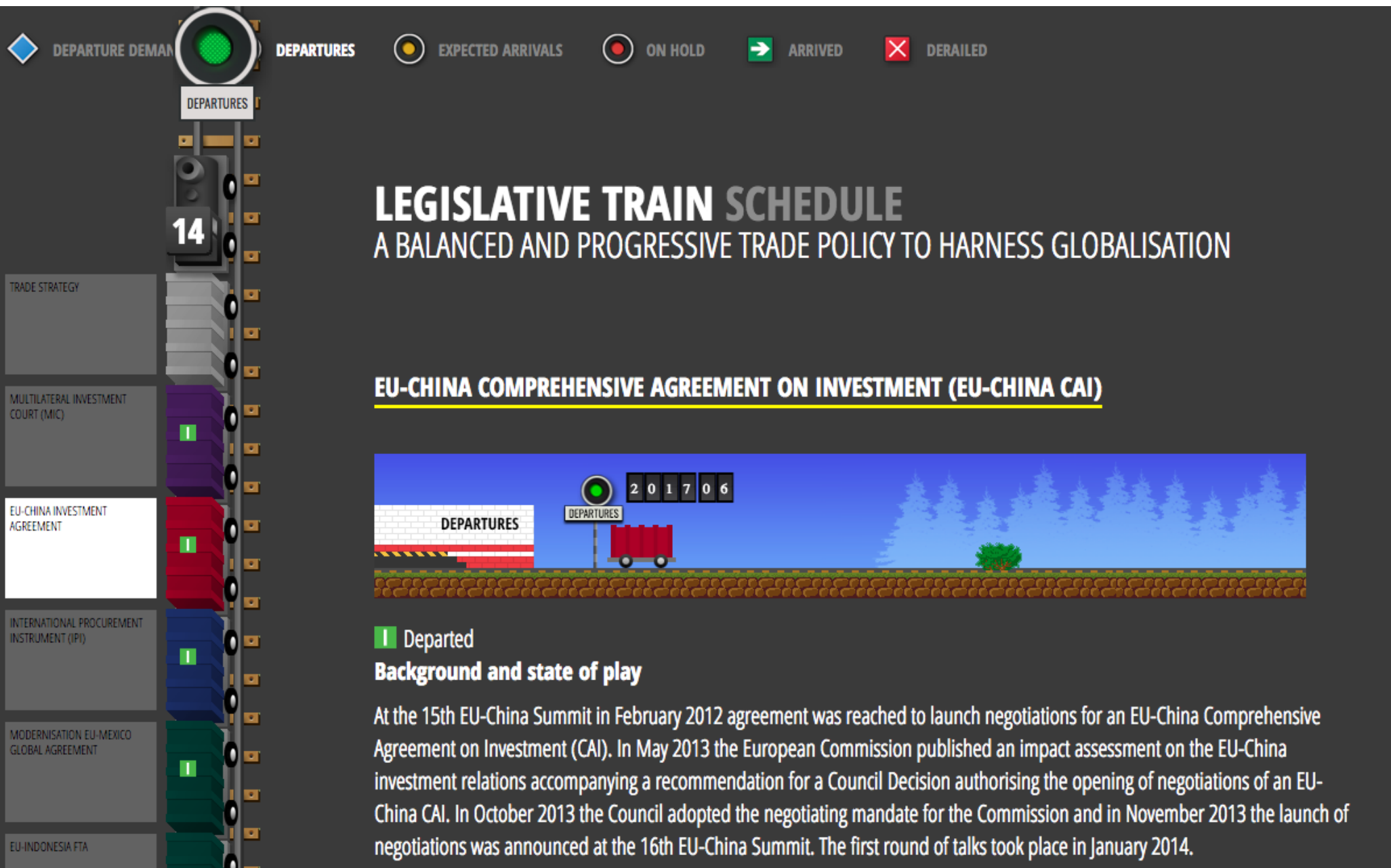
Article 9 Scope

The provisions in this Section shall apply to:

- (a) covered investments ;
- (b) investors of a Party in respect of a covered investment as regards any treatment that may affect the operation of such investment.

Article 10 Treatment of Investors and of covered investments

- 1. Each Party shall accord in its territory to covered investments of the other Party and investors with respect to their covered investments fair and equitable treatment and full protection and security in accordance with paragraphs 2 to 5.
- 2. A Party breaches the obligation of fair and equitable treatment referenced in paragraph 1 where a measure or a series of measures constitutes:
 - (a) Denial of justice in criminal, civil or administrative proceedings; or
 - (b) Fundamental breach of due process, including a fundamental breach of transparency and obstacles to effective access to justice, in judicial and administrative proceedings; or
 - (c) Arbitrariness; or
 - (d) Bias or discrimination on manifestly wrongful grounds, such as origin, ownership structure, gender, race or religious belief; or
 - (e) Harassment, coercion, abuse of power, corruptive practices or bad faith conduct; or
 - (f) A breach of legitimate expectations of investors arising from a Party's specific representations to an investor to induce a covered investment, and upon which the investor relied in deciding to make or maintain the covered investment, but that the Party subsequently frustrated; or
 - (g) A breach of any further elements of the fair and equitable treatment obligation adopted by the Parties in accordance with paragraph 3 of this Article.





RESTREINT UE/EU RESTRICTED

Brussels, 23.5.2013
COM(2013) 297 final

Recommendation for a

COUNCIL DECISION

authorising the Commission to open negotiations on an investment agreement between
the European Union and the People's Republic of China

{SWD(2013) 184 final}
{SWD(2013) 185 final}

DECLASSIFIED PART

on 08 FEB 2016

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EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

The Lisbon Treaty provides for the European Union to contribute to the progressive abolition of restrictions on foreign direct investment. Articles 3(1)(e), 206 and 207 of the Treaty on the Functioning of the European Union confer exclusive competence to the European Union in the field of foreign direct investment.

The Commission Communication¹ of 3 March 2010 *"A strategy for smart, sustainable and inclusive growth – Europe 2020"* emphasises the need to build strategic relationships with emerging economies. Trade and investment are a crucial component of the triple growth objective of the Europe 2020 Strategy. The Commission Communication² of 7 July 2010 *"Towards a comprehensive European international investment policy"* identifies China as a potential partner for an investment agreement, given the shortcomings of the current legal framework and climate for investment between the EU and China.

In April 2010 the European Commission President José Manuel Barroso and Chinese Premier Wen Jiabao agreed to look into ways of deepening and enhancing the EU-China bilateral investment relationship. European Trade Commissioner Karel De Gucht and the Chinese Minister for Trade, Chen Deming agreed at the EU-China Joint Committee in May 2010 to launch a Joint EU-China Investment Taskforce to study the options for enhancing bilateral investment and evaluate the desirability and feasibility of potential negotiations of an EU-China investment agreement.

At the EU-China Summit in February 2012 leaders emphasised that *"a rich in substance EU-China investment agreement would promote and facilitate investment in both directions. Negotiations towards this agreement would include all issues of interest to either side, without prejudice to the final outcome. They agreed to work towards the start of the negotiation as soon as possible."*

This statement echoes a basic mutual understanding that the negotiations will encompass all key issues of interest to either side – namely an acknowledgement that this agreement should deal with both investment protection as well as improved access to the market for investors from the EU and China.

The EU-China Summit in September 2012 *"reconfirmed both sides' commitment to launching negotiations of an EU-China Investment Agreement as soon as possible to promote and facilitate investment in both directions"*.

2. RESULTS OF CONSULTATIONS WITH THE INTERESTED PARTIES AND IMPACT ASSESSMENTS

As a consequence of this mutual political intent and in order to guide next steps, the European Commission undertook an in depth impact assessment to analyse the underlying problems in the current EU-China investment relationship, the different options to address these and their respective impacts from an economic, social, labour, environmental, human rights and financial perspective.

¹ Commission (2010) 2020 final
² Commission (2010) 343 final.

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As regards protection of investors and their investments, a patchwork of agreements exists. China has concluded 25 Bilateral Investment Treaties (BITs) with 26 EU Member States. However, these BITs provide for widely discrepant levels of investment protection and post-establishment treatment while not addressing barriers to market access. China has been particularly interested in replacing this patchwork with a coherent EU level framework to increase certainty for Chinese investors in Europe.

On the basis of the analysis undertaken and given the strong calls received from stakeholders, the European Commission believes that there is a clear need to actively remedy the current shortcomings of the framework for EU-China investment relations through the negotiations of an ambitious investment agreement.

3. LEGAL ELEMENTS OF THE PROPOSAL

DECLASSIFIED PART

on 08 FEB 2016

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In focus:

Exporters' Stories

Consultations

Dialogues

Objectives

Meetings

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Guidance

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Expert groups

Events

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Newsletters

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Documents archive

Contacts

Online enquiry

People

Hearing Officer

Calls for tender

Pre-information notices

Award Notices

News archive

MEXICO | Brussels, latest update 25 January 2018

EU-Mexico trade negotiations - List of published textual proposals

The EU has published a series of textual proposals on issues such as trade in goods, services, investment, technical barriers to trade, competition rules, trade defence instruments, resolution of state-to-state disputes, transparency and sustainable development. The publication of these proposals stems from the Commission's commitment to transparency in trade negotiations, as expressed in the "Trade for All" strategy paper.

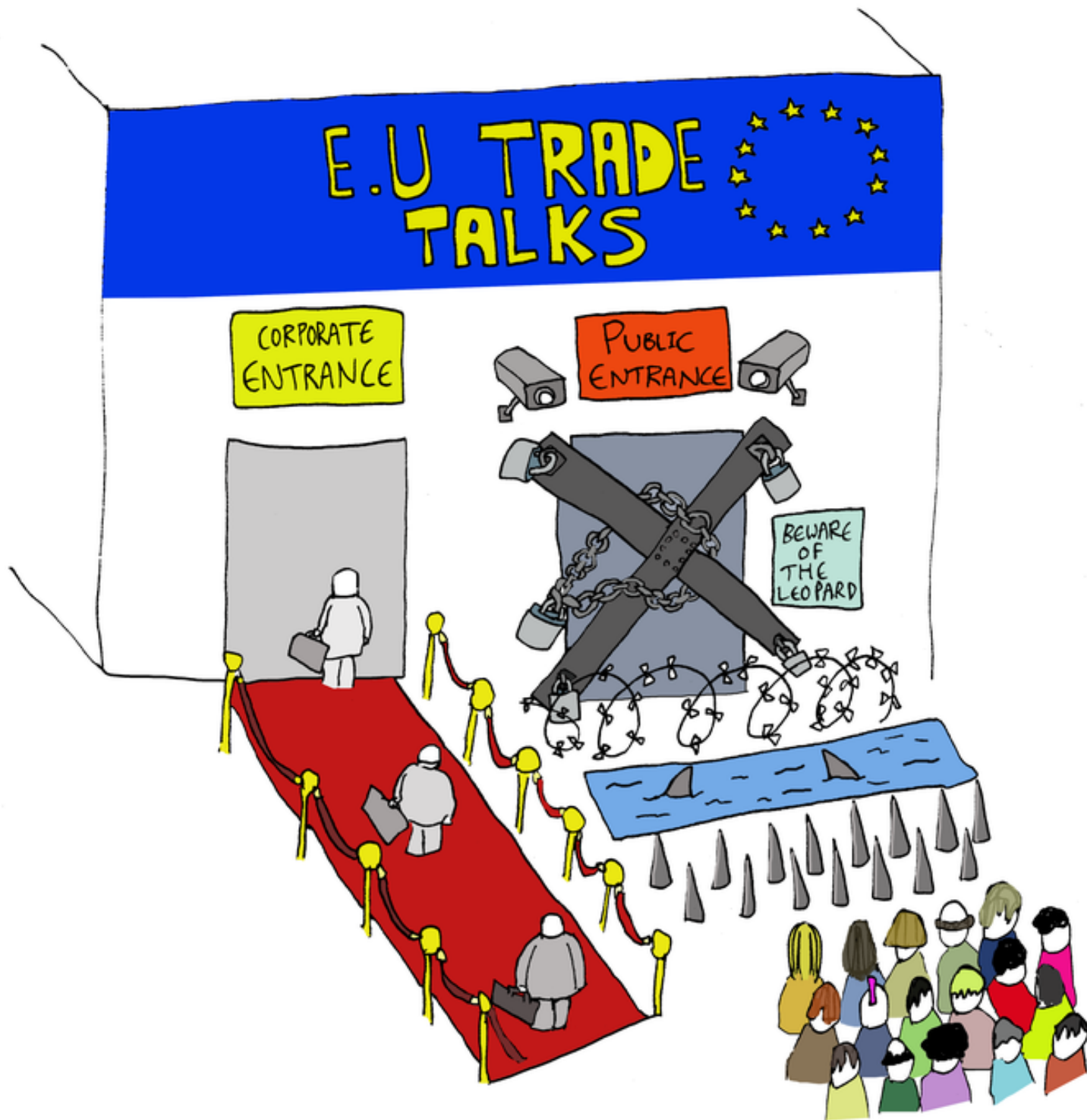
EU negotiating textual proposals

December 2017

[Services - Understanding movement of natural persons](#) [Dispute settlement annex - Rules of procedure](#) [Dispute settlement annex - Code of conduct](#) [Anti-corruption](#) [Rules of Origin - Specific Provisions](#) [TDI - Bilateral safeguards](#) [Transparency chapter - EU proposal](#) [Trade and Sustainable Development - Enforcement provisions](#) 

October 2017

[Exceptions](#) [Wine and spirits](#) , Annex[Motor Vehicles](#) , Annex



Danke für die Aufmerksamkeit!

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