



**For the attention of Mr. R.W.A. Roosdorp, MPA
Director for International Trade Policy & Economic Governance**

Regards: Dr. N. Lavranos's switch to EFILA and GIP

Amsterdam, 17 November 2014

Dear Mr. Roosdorp,

We are writing to you on behalf of Corporate Europe Observatory, the Transnational Institute and the Centre for Research on Multinational Corporations.

As civil society organisations with a critical perspective on trade and investment issues, we are concerned about the recent move of Dr. Nikos Lavranos as senior adviser on investment issues from the Dutch ministry of international trade and development to the European Federation for Investment Law and Arbitration (EFILA), a corporate think tank, where he now works as secretary-general.¹

We have also learned that Dr. Lavranos recently joined Global Investment Protection AG (GIP) – an organization which offers legal services and advice on asset restructuring to investors to help them ‘to protect themselves against unfair and often retroactive state measures’- as its Head of Legal Affairs.²

We have several questions in this regard.

¹ http://efila.org/?page_id=2900 (accessed 14-11-2014).

² Global Investment Protection, ‘Nikos Lavranos Joins Global Investment Protection As Head Of Legal Affairs’, Zürich, 11 September 2014. At: <http://www.globalinvestmentprotection.com/index.php/nikos-lavranos-joins-global-investment-protection-as-head-of-legal-affairs/> (accessed: 14-11-2014).

1. Does the Dutch government require its staff to apply for authorisation when accepting new external roles? Are there rules in place to regulate the 'revolving door', and if so, what are they?
2. If yes, did Dr. Lavranos apply for authorisation to accept his new role at EFILA? What was the official response and were any restrictions placed on his acceptance of the role?
3. When precisely did Dr. Lavranos leave the employment of the Dutch government and when did he formally start working for the EFILA?
4. What specific dossiers, legislation, proposals or policies did Dr. Lavranos work on whilst at the Dutch ministry?
5. What overlaps do you perceive in Dr. Lavranos' current work for EFILA and GIP, in relation to his previous work at the Dutch ministry? And how do you respond to concerns that his move from being a trade policy adviser for the Dutch ministry of international trade and development to EFILA and GIP could provoke the risk, perception or actuality of conflicts of interest?
6. Does the Dutch government consider it problematic that Dr. Lavranos in his new role as a vocal advocate in favour of the broadest possible investment protection to defend corporate assets against 'destructive' government interventions, continues to present himself as 'former Senior Trade Policy Advisor responsible for all Dutch BITs at the Dutch Ministry of Foreign Affairs' (for example in the speakers' list for the inaugural conference of EFILA, scheduled for 23 January 2015 in London³).
7. Has Dr. Lavranos had any official contacts with the Dutch government since he started to work for EFILA and GIP?
8. Have there been any specific issues which the Dutch government has agreed with Dr. Lavranos that he will not work on whilst at EFILA?
9. What (other) practical steps do you take to regulate the risk of conflicts of interest when staff leave or join the Dutch government?
10. The mission of Global Investment Protection AG (GIP) is "the development and implementation of strategies and structures providing investors with effective investment protection against damages or total losses resulting from any kind of unreasonable governmental measures, such as for example (retroactive) regulatory and tax measures implemented by host governments".⁴
EFILA rejects a 'focus on maximum policy space for the contracting parties instead of investment protection' in investment agreements and a narrowing down of the controversial Fair and Equitable Treatment and Indirect Expropriation clauses on which many (frivolous) investment claims are based. EFILA holds that the right to regulate should be circumscribed through exceptions and carve-outs to basic investment protections. The right to regulate "should be exercised [...]in full respect for the rights of investors". Indeed, EFILA advocated in favour of extending arbitrator power to ordering States to roll back contested measures: "In certain cases monetary compensation is not sufficient to make the reparation full and it may be more appropriate to combine financial compensation with the

³ See http://efila.org/?page_id=3298 (accessed 14-11-2014).

⁴ <http://www.globalinvestmentprotection.com/index.php/services-and-tools/> (accessed 14-11-2014).

order to repeal the contested measure or modify the underlying law.”⁵ This position is blatantly at odds with the State’s sovereign right, responsibility and duty to regulate in the public interest, with due consideration for a much wider range of interest than those of foreign investors alone. Is the fact that Dr. Lavranos is showing his true colours in this way a reason for the ministry to reassess the Dutch position vis-à-vis ISDS and critically review the ISDS research conducted by Pof. Dr. Tietje, Dr. Baetens and Ecorys, in as far as this was carried out under the auspices of Dr. Lavranos, for example by obtaining counter expertise?

We would very much appreciate your answers to these questions and any other comments you might have to make about these issues.

Yours sincerely,

Pietje Vervest, Transnational Institute (TNI)

Also on behalf of

Vicky Cann, Corporate Europe Observatory (CEO)

Roeline Knottnerus, Centre for Research on Multinational Corporations (SOMO)

A handwritten signature in blue ink that reads "P. Vervest".

⁵ EFILA submission to the TTIP/ISDS Consultation of the European Commission. At: http://efila.org/wp-content/uploads/2014/07/EFILA_TTIP_final_submission.pdf (accessed 14-11-2014).