

Outline

of the Oral Hearing

of the Second Senate of the Federal Constitutional Court

on 12 October 2016

- A. Introductory Statements (5-10 minutes each)

- B. Proposals for decisions (COM<2016> 443, COM<2016> 444, COM<2016> 470)
 - I. Content of the proposed decisions and legal nature of the agreement

 - II. Further procedure
 - Signing, conclusion, provisional application
 - Ratification in the Member States

- C. Admissibility of the applications for a preliminary injunction, § 32 of the Federal Constitutional Court Act (*Bundesverfassungsgerichtsgesetz* - BVerfGG)

- D. Question whether the applications for a preliminary injunction are well-founded, § 32 BVerfGG
 - I. Main action is not from the outset inadmissible
 - Presently and directly affected
 - Art. 38 sec. 1 of the Basic Law (*Grundgesetz* - GG)

 - II. Main action is not from the outset clearly unfounded
 - 1. *Ultra vires* acts
 - Competences of the Member States within the scope of application of the CETA draft
 - Transfer of sovereign powers to the investment court and committee system

2. Encroachment upon constitutional identity

- Failure to meet fundamental democratic requirements as a result of the regulatory powers of the CETA committee system

III. Balancing of consequences

- Scope of the provisional application
- Termination of the provisional application (Art. 30.7 sec. 3 lit. c CETA draft)

E. Concluding statements