



European Trade Union Confederation (ETUC)  
Confédération européenne des syndicats (CES)

# **Trade Union Memorandum**

**to the**

**Belgian Presidency**  
**of the European Union**

*July – December 2010*

**European Trade Union Confederation  
(ETUC)**

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## 1. INTRODUCTION

The Belgian Presidency will be confronted with a series of important challenges, especially with unemployment shooting up rapidly and a wave of austerity measures destroying economic recovery in a doubtful attempt to satisfy the markets. The key timing will be in the early autumn and the winter as people realise the extent of the cuts on pay, on jobs, on pensions. Things may well get hot – with the European Action Day of the ETUC in September.

Workers who are paying the price of this crisis are growing increasingly angry and their anger is justified. The conditions the European Union (EU) has imposed on Greece to help it to pull out of its budget crisis are much too strict. Greece has little chance of succeeding under such constraints, which go even further than what the International Monetary Fund (IMF) recommends. This way of dealing with Greece is not in Europe's favour. On the contrary.

That OECD, IMF and G20 are encouraging cuts and the cancellation of any more stimuli packages reflects badly on them. In 2007/08, the leaders of the world did not do what President Hoover and the others did in 1931, they did not impose simultaneous cuts in public expenditure so contributing to a repeat of the Great Depression; two years ago, they bailed out banks, kept spending up and, in some cases, introduced stimuli packages. They were exemplary Keynesians. But now, they are, with the important exception of the USA, doing what President Hoover did in 1931. And the markets are again asserting a paramount influence over economic policy.

To emerge from the present-day slump, the EU must be determined to establish growth as its key objective. For the moment, the ETUC is not seeing any strategy based on growth. Instead, the approach seems to be based solely on advising the Member States to pay their debts. The ETUC therefore expects the Belgian Presidency to make growth one of its priorities.

The 2020 Strategy has become the Commission's new flagship initiative and the ETUC believes this is a mistake. The immediate problems need to be the top priorities, including measures to create jobs, particularly jobs for young people, European economic governance, effective financial regulations to reverse the trend of high-risk speculation and the transition to a low carbon economy. The EU 2020 Strategy does not provide an answer for a credible exit from the crisis and is clearly lacking in a line of attack for promoting a return to economic growth. The EU and the euro zone must develop a growth strategy, in contrast with the current approach of adopting serious budget cuts that could lead to a recession. This is exactly what happened in 1931. Slashing spending while still suffering from low growth and high unemployment is what leaders did in 1931. It will deepen the slump and aggravate unemployment. It will do little to improve the budget outlook, because a weaker economy depresses tax receipts and wipes out any gains from governments spending less.

The ETUC is particularly disappointed in the position adopted by the EU Council in March on the EU 2020 Strategy. According to this document, the crisis and its consequences are temporary and everything will gradually return to normal through the use of deregulation and greater market flexibility. We reject this approach and call instead for a European recovery plan matched with a social and ecological New Deal equivalent to 1% of the European Union's gross domestic product to stimulate jobs, investment and growth. The adoption of austerity measures, presented as shock therapies for pulling Europe out of the crisis, constitutes a real threat to growth and purchasing power. Such measures will also reduce the extent of social protection, the last bastion against social exclusion, and will add to already widespread precariousness. Budgetary stringency will nip all hope of recovery in the bud. The ETUC now expects the Belgian Presidency to place emphasis on growth, employment, sustainable and industrial development. European leaders can and must do better.

In this context, the ETUC is concerned about the impact of the recent decisions of the ECJ which have elevated free movement above upholding collective agreements and allowed undercutting and unequal pay to develop. In order to safeguard workers' support to the EU it is urgent to reassert the social objectives of internal market rules. The ETUC expects the Belgian Presidency to correct the current silence from the Commission through the promotion of action in this respect.

- First, the ETUC appeals to the Presidency to do its utmost to promote the adoption of a Social Progress Protocol<sup>1</sup> to provide guidance to the ECJ about the need to uphold fundamental social rights in the single market. This Protocol should be attached to the Treaties, with the legal status and authority needed to give clear directions on the interpretation of the articles of the Treaties. The next opportunity to adopt such a Protocol will be on the occasion of the upcoming enlargements.
- Secondly, the ETUC urges the Belgian Presidency to take the necessary steps with regard to the revision of the Posting of Workers Directive.

If not, the pressure on trade unions to turn against the single market will intensify; this will only add to the difficulties in the current crisis. In the current economic crisis, the parties of the extreme and/or nationalist right have taken some ground. These parties have a nationalist, racist and xenophobic attitude towards migrant workers. To take a recent example: In the Netherlands, the extreme right became the third strongest party whereas the number of Christian Democrats seats were reduced by half. In Belgium the Flemish-Nationalist Party N-VA did well. The political landscape in Europe is rapidly changing and not in favour of Europe. The official Europe has to react and to address the concerns of the citizens and the European trade union movement.

A further priority is the need to clarify institutional responsibilities in the EU following the adoption of the Lisbon Treaty. It was, perhaps, understandable that the Spanish Presidency wanted to adhere to their programme of activities but, at a crucial time, there seems to be confusion between the rotating Presidency, the President of the Council and the President of the Commission about which President does what. The Belgian Presidency is well placed to end this confusion.

## 2. IMPACT OF THE FINANCIAL, ECONOMIC AND SOCIAL CRISIS

With the financial and economic crisis the growing pressure to return prematurely to a budget consolidation path is counterproductive. If such a decision is made Member States will not be able to benefit from a possible economic recovery and it will also damage public services. In a moment of crisis, social policy and public services throughout Europe must be preserved, strengthened and not be undermined by a rigid implementation of the Stability Pact, forcing premature and important cuts in budget deficits as soon as economic activity shows some signs of recovery.

Europe needs to invest, in the next three years, an annual 1% of European GDP providing for more and better jobs, the promotion of innovation, research and development and employment in key industries, investing in new, green and sustainable technologies, sustaining high quality public services, providing workers with the qualifications needed for tomorrow's low carbon economy, within green technology and better qualified jobs.

Employment in the EU has shrunk by over 4 million jobs since the start of the crisis, although the effect has been somewhat mitigated thanks to the use of short-time working and other schemes.

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<sup>1</sup> Text available at : <http://www.etuc.org/a/5175>

But these short term measures, however important, are not in themselves sufficient to ensure a successful exit from the crisis. Employment policies must focus on preparing for the transition to a low-carbon economy. Young people are bearing the brunt of the employment contraction. There are already nearly 25 million unemployed people in the EU and this number is to grow further.

However financial regulation is not enough to restore social justice. Those who are responsible for the crisis through irresponsible collective behaviour will have to bear a good part of the burden that our societies will have to carry in the future. The ETUC demands the application of the ‘polluter pays’ principle to financial markets and asks the Belgian presidency to start working on a Financial Transaction Tax (FTT) model law at EU level and beyond, based on the WIFO and Spahn proposals. A Europe-wide tax on financial transactions would be applicable to all traders and not to countries and as such independent of the location of prominent financial centres. At the same time, significant tax revenue could be generated, which could be used to support social policy at European level in the aftermath of the crisis.

The ETUC believes that more needs to be done at European level to close tax heavens, prevent tax evasion and restore tax justice between capital and labour, rich and poor. The Belgian Presidency would substantially contribute to efficient cross-border taxation in advancing the work on an all-encompassing Savings Taxation Directive, with a view to closing existing loopholes and better preventing tax evasion, and covering all actors, forms of capital income as well as outreach beyond European borders.

In the field of company taxation, the Presidency should: - push for a new proposal by the European Commission for a directive on a common consolidated corporate tax base (CCCTB); - reinforce the current Code of conduct for business taxation; - and work towards improved accounting standards that would capture the whole potential corporate tax base by introducing a European reporting system for trans-border companies on a country-by-country basis. At the moment, the emphasis in all European authorities is on fiscal consolidation and that’s what happened in 1931, when all governments cut at the same time. The ETUC thinks the strongest economies should be introducing new stimuli packages and Europe as a whole should have packages like the recovery fund, for greener, more sustainable technologies.

The ETUC anticipates that the protests in Greece and other countries, with plenty of strikes and demonstrations will spread. The ETUC will have the opportunity to reiterate its priorities at the Euro-demonstration it is organising for 29 September in Brussels. Different countries have their own traditions and different ways of putting pressure on and it is very important all methods are used to stop a tragic repeat of what happened in 1931, a simultaneous cutting by all economies. The ETUC expects the Belgian Presidency to propose that the G20 adopts a financial transactions tax and tough regulations on banks, hedge funds and other wilder animals of the financial jungle, of Wall Street.

### **3. SOCIAL EUROPE AND THE SOCIAL DIMENSION OF THE INTERNAL MARKET**

Hereunder, proposals the ETUC would like to see taken up and developed during the Belgian Presidency of the EU.

#### **Impetus for a more balanced internal market strategy**

The ETUC welcomes the report former commissioner Mario Monti has drawn up on how the EU should re-launch its single market and to outline measures to complete the currently unbalanced single market. Monti sees that the single market is at a critical juncture as “integration fatigue”

and “market fatigue” add to each other while the political and social support is eroding making place to suspicion and open hostility. Monti’s efforts to address the challenges raised by the ECJ cases are quite useful in the general context of a Commission avoiding any step forwards. ETUC welcomes in particular the recognition that a clarification on the issues raised by the judgments ‘should not be left to future occasional litigation’ and that ‘political forces have to engage in a search for a solution, in line with the Treaty objective of a social market economy’. A central message of the report is that the tensions between market integration and social objectives have to be addressed. These recommendations do not appear by pure accident: Professor Monti was the author of the so-called “Monti Clause” in the Monti-Regulation (1999, no 2679/98) which upheld the right to strike in the context of the free movement of goods (and has inspired the ETUC proposal for a Social Progress Protocol to be attached to the Treaties). Tax coordination is another proposal of the report to be followed up by the Belgian Presidency.

If the single market is perceived as a code to dismantle social rights, as a tool for social dumping and unfair competition, the basis of the consensus around European integration will erode quickly. The dealing with this report is a highly sensitive exercise. The ETUC supports the recommendations of Monti to address the concerns pro-actively and to adjust the single market rules, to make them sustainable and compatible with fundamental rights. The Belgian Presidency is asked to come forward with proposals to strengthen workers’ rights, tax coordination and high quality, accessible, affordable public services to ensure more legal security in order to allow the development of sustainable public service missions and to guarantee fundamental rights.

The ETUC demands a **critical in-depth assessment** of previous liberalisations and privatisations with the participation of all major stakeholders and maintains its demand for a **moratorium for liberalisations**. In particular, the ETUC asks the Commission to declare that there is no intention to come forward with proposals to liberalise **water or waste** as well as domestic rail passenger services, and to commit itself to this declaration.

The ETUC expects the upcoming “Altmark package” on state aid and initiatives on institutionalised public-private partnerships, concessions and public procurement to take into account the new treaty rules. The ETUC demands a serious assessment of **Public Private Partnerships** (PPPs). It is not acceptable for the Commission to push, without any critical assessment of problems and failures, for an increased scope for PPPs, to stimulate unilaterally a greater role for the private sector. The Commission treats as evidence the claim that PPPs improve efficiency and reduce burdens on public budgets, which is contested by many scientific researchers. So there should be an independent evaluation about PPP and much larger transparency about legal, economic and social consequences of PPP contracts and subcontracts. The responsible public authorities should have sufficient public resources to finance public services. Statistical requirements about public deficits should not lead to indirectly promote PPPs.

The ETUC has been asking for a handbook on **social public procurement** for more than six years to explain how social, employment and ethical considerations can be included in contracting processes varying from providing information and ensuring compliance relating to employment protection, working conditions, respect for ILO Conventions and collective agreements.

## **Public services**

Public services play a key role in the current financial crisis ensuring social and territorial cohesion and cushioning the effects of the crisis and could play an even bigger role. Even neo-liberals have acknowledged that the public services are twin economic and social “automatic stabilisers”. ETUC insists therefore that funding for public services needs to be underpinned by appropriate fiscal policy measures, including the introduction of fairer and progressive taxation

systems, including financial transaction tax, as well as improving the efficiency of tax collection. Exit strategies and adjustments to public finances need to be planned over the medium and long-term.

Public services are confronted with a double challenge: the worst crisis since the 1930s and the ongoing policy emphasis on the austerity measures by the European Institutions. The public sector has become the main target to compensate for the budget deficits generated by the financial bail-outs for defaulting banks. Draconian cuts in public expenditure are imposed by various national governments seriously jeopardizing social justice and social inclusion. The European Commission exerts pressure on member states by giving absolute priority to budget consolidation over growth. This will further deepen the recession resulting in high unemployment.

The ETUC is convinced that the new article 14 TFEU together with the new protocol 26 is an **obligation** to act. It is unacceptable that the Commission continues to abstain from any action. The ETUC asks the Belgian Presidency to push the Commission to come up with a legislative proposal on the basis of the new article 14. The previous ETUC demand for a “framework directive” which was based on internal market rules (Article 114 TFEU) is from now on replaced by the new demand for regulation(s).

The content of a horizontal regulation should reinforce the ‘public service mission’ of public services and provide that (1) the power of definition is with the relevant local, regional and national public authorities, (2) the exercise of this discretion should not be open to challenge in any legal proceedings except in case of manifest error, and (3) the burden of proof should fall on the European Commission or other complainant and not on the local or regional or national authority. More provisions are possible. The **subsidiarity** rules are important in creating a balance between the nationally established public services and European competition rules and the internal market.

In complement to regulations each Member State, local and regional public authorities can (on the appropriate level) establish a **register** of non-economic services of general interest, which are excluded from the application of the rules on the provision of services, on competition and on state aid. The new double track approach has the advantage that the diversity of national traditions, cultures, values etc. can be fully taken into account and a Member State with an ambitious definition of public services can establish a broader list than a Member State with less ambition.

Existing **sectoral directives** should be revised and improved in the light of the new treaty provisions and in particular complemented by the Monti Clause (EC Reg. 2679/98) and a social clause. The aim of this clause is to anchor fundamental rights in all legislation on the single market. It would ensure that the implementation of the economic fundamental freedoms of the single market does not impede collective bargaining rights and the right to strike as defined by national legislation.

## **Social Services**

The ETUC supports the efforts of the European Parliament and the Belgian Presidency to improve the security, quality and availability of social services of general interest. **Social services** are part of a “grey area”, which is prejudicial to the accomplishment of the missions entrusted to them. They are faced with an increasing level of legal insecurity, uncertainties and disputes. Therefore, regulations on health and social services should take the new treaty provisions fully into account. A derogation from internal market rules should be applied according to Art. 86, paragraph 2 EC,

as far as the development of trade is not really affected<sup>2</sup>. The creeping precarization of public services must be reversed. The Decision of the Commission against the Netherlands on social housing which sets an income limit (of 33 000 €) and prevents mixing inhabitants from different social classes is a clear breach of the subsidiarity rules and should be challenged. The ETUC remains sceptical vis-à-vis voluntary frameworks on the quality of social services. Quality of work, social dialogue and secure funding are essential elements of strategies to promote quality public services.

## ***Healthcare***

Regarding healthcare, ETUC duly noted the proposal for a directive on cross-border healthcare dating from 2 July 2008 and the improvements made to it when it was adopted at the first reading by the European parliament last April. The ball is now in the court of the Council.

Consequently, ETUC expects the Belgian Presidency first and foremost to confirm the headway made in Parliament's debate, especially with respect to:

- confirming the skills of Member States in organising their health system and defining and setting conditions for gaining access to healthcare;
- limiting cross-border mobility to that of patients;
- maintaining equal treatment for national patients compared with migrant patients.

These improvements are actually capable of shoring up and safeguarding national healthcare systems, whilst at the same time permitting patients to make use of their right to move about freely and at guaranteeing them maximum healthcare.

Nonetheless, ETUC is intent on securing another two substantial improvements: (i) the first concerns the issue of prior authorisation. ETUC believes this must remain the rule when it is required, because it is a legitimate instrument for regulating access to national healthcare systems whilst also maintaining their financial balance. In other words, ETUC wants the wording of Article 8 paragraph 3 of the draft directive to be reviewed; (ii) The second improvement eyed up by ETUC concerns the directive's legal basis, which we believe should be completed by adding a reference to Article 168 of the Treaty on the Functioning of the European Union, as this would unequivocally shore up the social dimension underlying healthcare systems and not confine them solely to internal market considerations.

## **Smart regulation**

In view of the Commission Communication on smart regulation that is planned for this autumn, the ETUC urges the Belgian presidency to ensure that this new initiative will constitute a genuine effort to improve legislation instead of reducing it.

In order to improve existing legislation, the Commission should evaluate whether legal acts fulfil their objectives. However, thus far, the aim of the Commission has been to cut red tape for business without considering the social implications. The ETUC is therefore concerned about the "fitness checks" and pilot exercises that the Commission has announced in the areas of environment, transport, employment and social policy, and industrial policy aiming to identify "excessive burdens".

The ETUC calls on the Belgian presidency to ensure that the social partners are properly

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<sup>2</sup> (in the case of social services: absence of a profit motive, services of proximity; Article 106.2 TFEU "the development of trade must not be affected to *such an extent* as would be contrary to the interests of the Union", operation on the basis of the principle of solidarity.)



consulted. Any review of legislation concerning employment and social policy must involve the social partners. Furthermore, measures to improve legislation must not undermine the objective of the legal act in question, for example by lowering standards.

## **Company law**

The ETUC has on numerous occasions expressed strong concerns about the Commission's proposal for a **European Private Company Statute**. Whilst the ETUC encourages initiatives that improve market conditions for businesses and welcomes any proposals designed to improve the market performance of SMEs, it is adamant that the flexibility of SMEs must not be enhanced to the detriment of workers' rights to sit on the Boards of their companies. A thorough rethink of the proposed SPE Statute is therefore necessary. In particular, it is crucial that the SPE Statute be accompanied by rules governing minimum standards on workers' involvement. It is also essential that the SPE does not put national legal forms – and the participation rights that are attached to it – under pressure. A cross border dimension and minimum capital requirements are therefore essential prerequisite to the establishment of an SPE.

The discussions on the proposed SPE Statute have further highlighted the need to ensure that businesses do not abuse the opportunities offered by the internal market to evade their legal obligations that would otherwise be applicable under national law. Accordingly, the ETUC is renewing its call for an open debate with the social partners on a **14th Company Law Directive on cross-border transfers of registered offices**, with a view to preventing the establishment of 'letterbox' companies. Such an initiative is an essential prerequisite to any further development of European company law, including in particular the adoption of the SPE Statute.

Overall, the ETUC recommends **a more sustainable approach in relation to workers involvement in European company law**. As business is increasingly becoming global, the Union must reflect if and how a streamlining at European level of the provisions on employees' participation can be achieved. Such reflection should not be geared towards downsizing existing national provisions but rather to see how the Union can promote competitive and socially responsible European company forms. The ETUC calls on the Belgium Presidency to stimulate such a debate together with the European Social Partners.

## **Posting of workers**

The ECJ rulings mentioned above have raised major questions on how Member States and trade unions across Europe will be allowed to establish and defend labour standards in an era of globalisation. It is crucial that Member States are allowed to implement the Posted Workers Directive not only in accordance with their national traditions but also fulfilling its initial objectives, i.e. to strengthen workers' protection in the single market and to guarantee a climate of fair competition.

The ETUC urges the Belgian EU Presidency to launch the revision in order to restore the original aims of the Posted Workers Directive. The ETUC can actively contribute to this debate, and has recently developed concrete recommendations for a revision of the Directive. For the ETUC there are no doubts that, while the Directive was adopted with a large majority in the European Parliament and the Council with the clear aim of preventing unfair competition on wages and working conditions ('social dumping'), the recent ECJ rulings challenge the original intentions of the European legislator.

## **Subcontracting**

The ETUC urges the EU institutions to take the necessary steps to clarify the rights and obligations of parties involved in subcontracting chains to avoid depriving workers of their ability to effectively assert their rights, especially where cross-border subcontracting goes on. The ETUC is thus renewing its call for a European instrument that regulates the joint and several liability of main contractors and intermediaries, at least where the payment of tax, social security contributions and wages is concerned, and asks the Belgian presidency to support this.

## **Active Inclusion**

ETUC calls for the implementation of ambitious policies on active inclusion within the European Union with quantitative objectives to reduce poverty. Active inclusion is all the more important because the crisis has given rise to new forms of exclusion and exposed large numbers of workers to the risk of falling into poverty. Accordingly, ETUC wants the Belgian Presidency to ensure a close supervision of progress made in the reduction of poverty, placing people and social issues at the heart of measures designed to combat the crisis, and move towards prioritising strong, solidarity-based public social security systems.

## **Transnational collective bargaining**

Transnational collective bargaining has developed substantially in recent years, owing to the greater mobility of multinational groups in the new context of world trade. The global economic crisis has further accelerated this mobility, as evidenced by the fresh wave of mergers, restructuring and delocalisation in virtually all domains of European industry: the automotive sector in particular, more generally the metalworking industry, but also the banking sector, the construction industry and the textile sector.

The problems arising in the bargaining agenda concern the difficulty of following up properly at national level because the agreements in question lack any European legal status. Furthermore, neither the procedures involved in launching the bargaining process at this level, nor the identity and representativeness of the actors to obtain a mandate and to sign a transnational agreement are clear. So far, only EMF and EPSU have adopted ‘internal rules’ for transnational company negotiations that lay down procedural rules and negotiation mandates. Associated appeal procedures in case of non-compliance with the transnational agreement are unclear.

The Commission included this issue in its 2005 Social Agenda, with the idea to give such agreements an optional legal status, if requested by the social partners. But since then, it has now pared back some of its objectives, such as the aim of setting up a Group of Experts. The ETUC considers this initiative useful, but at the same time find it inadequate, bearing in mind the strategic value of this issue and the changes that are currently occurring in this domain. The ETUC believes that a strong political initiative is needed to set the ball rolling once again in this connection.

## **Working Time Directive**

After the failure in 2009 of the conciliation between European Parliament and Council, the Working Time Directive is now back where it was in 2003. The ball is now in the court of the Commission again. In ETUC’s view, the Commission should first and foremost take action – after 9 years of postponing taking proper responsibility – to implement and enforce the current Directive, as interpreted by the ECJ. The Court has, in a series of consistent case-law since 2000, confirmed time and again that on-call work in the workplace must be considered as ‘working

time', and that compensatory rest must immediately follow on on-call duties: this must be enforced by all available means.

Recently, the Commission has consulted the European Social Partners on new initiatives to revise the Directive, suggesting the Directive should be updated to 'modern needs' of companies and workers. In ETUC's view, any new initiative should at least ensure that the individual opt-out will be abolished and that balanced solutions are developed to deal with on-call time in the workplace which respects ECJ judgements. The WTD should be strengthened to deal with new risks in the organisation of work and working time. Furthermore, it is of the essence that the Working Time Directive is also capable of dealing with the challenges of the 21-st century, including the increased labour market participation of women and demographic ageing, and the need to adapt working time arrangements to the needs of workers with care responsibilities and older workers.

The Working Time Directive is an important cornerstone of Social Europe, and also in the 21-st century a key instrument to protect workers against the health and safety risks arising from long and irregular working hours. This Directive should not become an instrument of regime-competition between Member States, but guarantee minimum standards that provide a level playing field throughout the EU. The Belgian Presidency will have an important role to play to ensure that no simplistic, unbalanced or piecemeal solutions are put on the table.

### **Directive on the portability of occupational pension rights**

Under the last two EU presidencies, no initiative was taken in this area. Nonetheless, problems remain, and these require swift solutions if we want to see effective mobility of workers within the European Union.

According to the ETUC, the solutions in question should cover at least three points: (i) to scale back the provisions governing minimal periods for acquiring rights (i.e. a maximum period of 2 years); (ii) and the age of inclusion in schemes (under 21 years of age); (iii) and facilitate the social partners' involvement in monitoring occupational pension schemes (irrespective of the body managing them).

### **Reconciliation of work, private and family life**

The issue of reconciliation of work, private and family life is of major importance in the context of the demographic and economic challenges facing the EU. The Belgian Presidency is urged to play a proactive role, in line with its wide experiences and achievements in this area, to support strong policies and measures aiming at improving work-life balance for women and men. The ETUC is monitoring carefully the developments related to the revision of the maternity protection legislation. The ETUC is aware that there are significant problems with some of the EP proposals in the Council. The Belgian Presidency should support the legislative process and help find appropriate solutions where necessary taking into account the need for an effective implementation of the fundamental social right aiming at the reconciliation of family and professional life laid down in Article 32 paragraph 2 of the EU Charter of Fundamental Rights.

In other areas of reconciliation policies, such as the provision of childcare and eldercare, Commission and social partners agree that more action is needed at EU and national level, which should be supported by the Council. Investment in care infrastructures is especially important in this period of economic crisis, to maintain women's jobs in public and private services, as well as continue to support working parents to combine work and care.

## **Non-discrimination outside employment**

The draft Directive to prevent and combat discrimination outside employment, covering discrimination on grounds of age, sexual orientation and religion is currently discussed by the EU institutions. The ETUC supports this initiative because it will avoid different rules governing different grounds of discrimination that may give rise to legal and practical inconsistencies or could cause problems in situations of multiple discriminations. A broad directive covering all the grounds mentioned in Article 19 of the Treaty on the Functioning of the European Union will give a strong message to the Member States of the EU and their citizens that a modern and cohesive society cannot be built based on discrimination. With the ageing of the population, the growing diversity of our societies in terms of ethnic origin and religion and the increasing intolerance against people because of their different sexual orientations, a strong and coherent body of law - protecting citizens from discrimination wherever they are in the EU – should be the priority target. The ETUC strongly disagrees with those, namely employers, who say that this Directive is a ‘luxury’ that business cannot afford because of the economic crisis. Equality and diversity are not just a cost or administrative burden, but also a potential asset helping companies to remain or become more sustainable and competitive. The Belgian Presidency should develop efforts in order to gain the support of Member States to this initiative.

## **Migration**

The ETUC is in favour of a comprehensive policy at EU level on migration, integration and development, offering legal channels for migration while at the same time rigorously applying and enforcing labour standards and guaranteeing equal treatment with local workers.

The Stockholm program action plan, to be adopted under the Belgian Presidency, will set guidelines to develop the priorities for migration policies in the next five years. The new institutional framework introduced by the Lisbon Treaty can provide the necessary tools to develop a fair and ambitious migration policy. The ETUC urges the Belgian Presidency to promote an ambitious and coherent EU migration policy. In particular:

- the proposed immigration code should offer the opportunity to reassess the existing achievements, with a view to reinforce and complete them. The ETUC is very much in favour of a uniform level of rights for all groups of migrants. A simple codification of existing instruments would not be satisfactory as it would reinforce the current two tier migration policy approach
- the ETUC would strongly regret if the implementation of the Stockholm agenda would focus on repressive measures regarding irregular migration and neglect to develop proactive migration policies, offering legal channels for migration and promoting proper integration policies.

## **4. CLIMATE CHANGE AND ENERGY**

### **EU climate change policy**

The ETUC stresses once again its support for an environmentally ambitious and socially sustainable European climate policy contributing to the reduction of up to 30% of emissions by 2020. The EU’s Climate Change Package represents a significant step forward. However, new employment-related and social measures will be required to realise full employment and positive social benefits. The ETUC is calling on the Belgian EU Presidency to consider matching the

Climate Change Package with a ‘Just Employment Transition Package’, which would include the following:

- A White Paper on climate change, skills and jobs, setting out practical proposals for promoting coordinated action by the Member States in support of training in new skills in sectors such as energy efficiency and renewable energy, and also in all other key sectors affected by climate change (policies) and/or contributing to emissions reductions, including the transport, building, agriculture and industrial sectors.
- The creation of a European ‘low-carbon-adjustment fund’ for switching to a low-carbon economy to provide measures supporting the adjustments to be made by workers affected by climate change measures. This fund would be partly financed by the revenues earned from auctioning of permits.
- A comprehensive assessment of the impact of the Climate Change Package on energy prices and employment, on a sector-by-sector basis, with particular attention paid to the most vulnerable categories of workers and households.
- The creation of a permanent instrument to ensure the anticipation of socio-economic transition, to coordinate existing instruments such as sectoral councils, and to reinforce dialogue between the social partners and public authorities.
- The development of means of negotiations, in particular at the territorial level, in order to design new industrial policies contributing to a low carbon economy.

## **UNFCCC Conferences**

The ETUC urges the Belgian and the following Hungarian EU Presidencies to work intensively towards achieving a fair, ambitious, binding and inclusive agreement that paves the way for cutting global emissions by 85% by 2050 (compared to 1990 levels). Developed countries must take the lead in reducing emissions and commit to firm targets of at least 25%-40% below 1990 levels by 2020, in line with the recommendation made by the IPCC. The fastest-developing emerging countries should undertake to control their emissions. In addition, the industrialised countries must pledge to provide funds, clean technologies and training to help developing countries meet their new commitments. The new global agreement should explicitly recognise and develop ‘Just Transition’ measures – investment in new low carbon technologies and green decent jobs (compensation, unemployment benefits, social protection and labour rights), investment in an active skills strategy for a low carbon, resource efficient economy (training, retraining, lifelong learning, ...), investment in social dialogue to facilitate the transition process – as essential for attaining agreed targets. Fiscal reorientation needs to take place within a fair, redistributive tax system to ensure sustainable development and provide funding for adaptation and mitigation strategies.

## **Adaptation to climate change**

Europe needs a strategy for adapting to the unavoidable impact of climate change. The Belgian Presidency should urge the European Commission to come up with strong proposals for mainstreaming adaptation, including it in all European policies and programmes, including the recovery packages. We need Social Plans at sectoral level to handle the inevitable disruption for many workers, plans in which the Social Partners are fully informed.

## **The European Energy Policy**

Little progress has been made in moving the European Energy Policy forward. The ETUC reiterates that energy must not be left to market forces alone. A genuine European industrial energy policy is needed that encourages investment in smart grid infrastructure, secures high-quality jobs, protects vulnerable consumers against energy poverty and ensures stakeholders' democratic participation in national regulators and the Agency for the Cooperation of Energy Regulators (ACER).

## **5. ENLARGEMENT, TRADE AND EXTERNAL RELATIONS**

The ETUC supports current EU enlargement negotiations as a unique opportunity for disseminating our values. However, this must not serve to undermine our social model, and we demand full compliance with Union laws and practices, particularly in the area of social dialogue. Candidate countries must meet accession criteria of democracy, human rights and respect for and protection of minorities. The ETUC expects to be consulted when the social chapter is opened in the negotiations. We would underline that, in relation to Turkey, the Commission's assessment pointed out that the serious violations of trade union rights must be stopped if Turkey is to join the EU.

The ETUC believes that EU trade and external relations policies should contribute worldwide towards sustainable growth, the development of social partnership and decent work, the promotion of values such as those set out in the EU Charter of Fundamental Rights, and universal respect of international conventions, notably those adopted by the ILO. The EU Presidency must react swiftly and robustly on our behalf against any violations of human and trade union rights, wherever they occur.

The entry into force of the Lisbon Treaty has major implications for EU foreign policy. The creation of the post of the High Representative for foreign affairs – with an extensive diplomatic representation abroad through the European External Action Service – present opportunities to advance those ETUC objectives. In discussions about the role of the High Representative and the EEAS, and their relationship with the Commission and the Council, the ETUC would stress that these innovations must serve the EU as a whole and not reflect intergovernmental approaches. In particular, the ETUC calls for the inclusion of labour and employment counsellors, some drawn from social partners' organisations, in key EU representations worldwide, responsible to the Commission.

The Lisbon Treaty brings trade policy under the same EU external action heading as other elements of EU external policy; and extends significant new powers to the European Parliament in relation to trade. These advances should lead to improved coherence between the EU's trade and foreign, development and employment policies with a view to meeting our wider objectives, notably the inclusion of strong chapters on sustainable development, including social and environmental standards, in all EU trade and association agreements, with effective provisions to ensure implementation and social partners' involvement.

The ETUC supports the promotion of regional integration, linked to social guarantees, in association agreements notably with Central America and the Andean Community. We are concerned that in the latter case bilateral Free Trade Agreements have been negotiated following the failure of unified negotiations with the Community. We will continue to strongly oppose the FTA with Colombia at least until violations of human and trade union rights there are thoroughly investigated.

We look forward to the EU deepening and widening its relations with the US Administration, notably to seek to develop robust positions on climate change as well as in relation to the financial crisis. We welcome some recent steps towards the ETUC and the American Federation of Labor-Congress of Industrial Organizations being given equivalent status to that enjoyed by employers in relation to the Transatlantic Economic Council – the agenda of which should be widened and made more strategic. The ETUC, together with the Canadian Labour Congress, continues to insist that we be informed and consulted about ongoing discussions on a closer economic partnership.

We look forwards to being consulted in the context of official ASEM meetings during the period.

If the Doha Round negotiations are resumed, we insist that the final WTO Ministerial Statement mandates a WTO follow-up work programme on trade and employment that covers the links between trade, decent work, core labour standards and development, to be monitored by a WTO committee or working group.

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