

## ETUC Resolution for an EU progressive trade and investment policy

Adopted at the Executive Committee Meeting of 13-14 June 2017

The European Trade Union Confederation calls for a progressive European trade and investment policy with at its core the creation of decent jobs, the protection of fundamental rights and the interests of workers. Trade is a great opportunity when it creates quality jobs and boosts sustainable growth. External trade contributes to welfare in Europe but cannot be the sole remedy relied upon to leave the economic crisis behind. With the Lisbon treaty giving the EU new and far-reaching competences in trade and investment policy, the need for a progressive trade agenda is more urgent than ever. EU trade agreements are increasingly 'comprehensive' with a widening impact on trade union concerns.

We need a deep and real change from the way trade policy has been conducted thus far. Such a new progressive trade policy must be part of broader new economic and industrial policy of the EU, which is strongly demanded by the ETUC and its affiliated organisations. Indeed, the ETUC expresses concern on the sustainability of the export-led model only, implemented in Europe after 2008, to recover from the economic crisis. We do think this strategy puts the EU economy at risk, perpetrating imbalances, at the expenses of aggregate internal demand (in particular, to public and private investment as well as consumption).

A progressive trade policy must put trade agreements at the service of priority goals such as decent employment, social cohesion, equality and sustainable development. Workers have been negatively affected by the policies which brought us to the economic crisis of 2008, the effects of which are still with us today. Those policies, based on deregulation and unrestricted liberalisation, have produced inequalities in income distribution, unemployment, weakening of social policies and growing precariousness.

European trade unions are in favour of an alternative trading system that is fair and just, providing equal rights and benefits for workers and all citizens. We want a trading system that fosters sustainable development and decent work<sup>1</sup>. Trade policy must ensure full respect of human rights, workers' rights and the environment and must also take account of the development needs of less developed countries. Trade can be a great opportunity only if it creates quality jobs and boosts sustainable growth.

The answer to globalisation is not to close borders – to trade or to people – but to apply rules that prevent a downward race to lower wages, bad employment conditions, social dumping and exploitation, and multinational companies dodging tax and avoiding labour law. The recent Commission reflection paper on globalisation identifies a number of consequences of unmanaged globalisation in particular growing inequalities, though it is timid in proposing remedies<sup>2</sup>.

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<sup>1</sup> As set out in the ILO Decent Work Agenda and its four pillars: productive employment, labour standards, social dialogue and social protection

<sup>2</sup> Commission Reflection Paper at last aims for fairer globalisation, ETUC Press release,

<https://www.etuc.org/press/commission-reflection-paper-last-aims-fairer-globalisation#.WSVzjWh96Uk>

Globalisation requires a social dimension to answer workers' genuine concerns on the negative effects of international trade on their jobs, wages and working conditions. We reject a corporate European trade and investment agenda which leads to increasing inequality and undermines the provision of quality public services for all, including healthcare and education. On the contrary, the ETUC demands a trade agenda that protects and promotes our social and environmental standards and respects the precautionary principle<sup>3</sup>.

To achieve fair and just globalisation, the European Union's international trade and investment policies must seek to protect and promote its principles and not undermine them. Trade policy must always be consistent with the goals of promoting sustained, inclusive and sustainable economic development, full and productive employment with decent work for all, and of reducing inequalities within and among countries.

For the ETUC, a progressive trade agenda means not only the inclusion of a social dimension in all trade agreements but also the full preservation and improvement of the right of governments and authorities to regulate the economy in the public interest as they see fit.

We demand an ambitious approach from the European Commission in which social rights are promoted and defended with more urgency and commitment than economic and fiscal rules. In this regard, the European Commission Communication "Trade for All" may represent a positive shift towards a value-based trade policy, but it has so far remained a paper aspiration: we expect concrete actions to address workers' and citizens' concerns.

Trade policy must also be consistent with the EU's development policy, UN Sustainable Development Goals (SDGs) and the commitments of the Paris Agreement<sup>4</sup>. Suspension clauses must be introduced and activated whenever it appears that trade agreements lead to violations of the aforementioned principles.

The EU should prioritise multilateral solutions in the context of the World Trade Organisation (WTO) in accordance with our demands for a progressive trade policy. The ETUC has consistently supported equitable trade regulated by multilateral institutions, and called for strong cooperation between the WTO and the International Labour Organisation (ILO). We urge the EU and its Member States to put more pressure on the WTO to include the respect of labour standards, as set and monitored by the ILO, as part of WTO considerations and in future multilateral trade agreements. The EU has engaged in several bi-regional and bilateral negotiations in which trade agreements have been included within association, cooperation or strategic agreements. We agree that trade and investment agreements should be part of a wider political relationship and broad policy objectives.

Every trade negotiation and agreement must take into account concerns and proposals coming from social partners and civil society. Democracy and transparency must be essential founding pillars of the EU trade agenda.

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<sup>3</sup> The concept of the precautionary principle was first set out in a European Commission communication adopted in February 2000 in which it defined the concept and envisaged how it would be applied. The precautionary principle is detailed in Article 191 of the Treaty on the Functioning of the European Union (TFEU). It relates to an approach to risk management whereby if there is the possibility that a given policy or action might cause harm to the public or the environment and if there is still no scientific consensus on the issue, the policy or action in question should not be pursued.

<sup>4</sup> Notably, the goal of keeping global warming well below 2°C.

The ETUC will continue to work closely with partner trade unions in countries and regions concerned in negotiations<sup>5</sup>. The ETUC will also continue to work together with the International Trade Union Confederation and the Global Union federations on multilateral issues. The ETUC will continue cooperating with civil society organisations in initiatives that will advance ETUC policies in the field of trade.

## 1. Labour standards

The EU must promote the inclusion of strong social provisions on workers' rights, decent work and wages, sustainable development and environmental protection in international trade and investment agreements.

We reject the idea that incorporating and enforcing labour standards through trade agreements is disguised protectionism or a way for European countries to keep their markets closed to goods from third countries. We also reject the idea that labour standards cannot be universalised because they should reflect economic and cultural circumstances. On the contrary, labour rights are universal and necessary to prevent workers being exploited both in Europe and everywhere else<sup>6</sup>. EU aid and trade agreements should include these rights as "essential elements" and thus subject to suspension clauses.

Labour rights, including the right to form trade unions, the right to collective bargaining and the right to strike are key in providing social and economic development. Labour rights are also key in delivering higher average wages and tackle wealth inequality<sup>7</sup>. Protecting labour rights through the ILO standards is therefore necessary to prevent a regulatory 'race to the bottom'. ILO's standards are essential to ensuring enterprises respect workers' rights and other human rights domestically and across their global supply chains. Without such international standards, countries may be pressured to weaken labour rights to attract foreign investment. This is why the ETUC is supportive of strengthening the ILO and adopting new ILO standards that further improve labour conditions globally.

New trade agreements must not only include strong and binding rules on minimum labour standards, but also facilitate transition to upward convergence to establish common ground for fair and just trade between countries. The EU should continuously work on further improving standards in existing agreements.

There is a danger that trade agreements can also lead to increased competition between workers, so we need stronger rights for them to be defended collectively. We therefore demand the EU to extend arrangements for workers' participation and arrangements on information and consultation of employees in transnational corporations. Workers through their unions must have the right to full disclosure of information regarding the financial condition and assets of the company employing them.

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<sup>5</sup> As the ETUC has done with the AFL-CIO and the Canadian Labour Congress in the context of TTIP and CETA respectively, as well as in other regions as the Trade Union Confederation of the Americas and the Coordinator of the Southern Cone Trade Union Coordinating Body (CCSCS) in Latin America, the Japanese Trade Union Confederation (RENGO) and the Arab Trade Union Confederation.

<sup>6</sup> The 2008 Social Justice Declaration for a Fair Globalization and Social Justice of the ILO states "that the violation of fundamental principles and rights at work cannot be invoked or otherwise used as a legitimate comparative advantage and that labour standards should not be used for protectionist trade purposes."

<sup>7</sup> Interesting research on the positive link between collective bargaining and economic development are: "Unions and Collective Bargaining: Economic Effects in a Global Environment", World Bank, Washington, 2003 (<https://openknowledge.worldbank.org/handle/10986/15241>) and: "Inequality and Labor Market Institutions", IMF Staff Discussion Note, Florence Jaumotte and Carolina Osorio Buitron, IMF, Washington 2015.

Ratification and implementation of the eight ILO Core Labour Standards<sup>8</sup> as well as compliance of up-to-date ILO conventions and instruments such as the Forced Labour Protocol and ILO Conventions on health and safety at work must be a pre-condition for entering in EU trade negotiations. However, if a partner country has not ratified or properly implemented these conventions, it must demonstrate through a binding roadmap how this will be achieved in a timely manner. ILO up-to-date instruments must be included in all EU trade agreements in a manner that makes them effectively enforceable.

The EU must also commit to include a gender dimension in its trade policy by ensuring the respect of international labour standards regarding gender equality and rights of women workers at work. In particular, we call for the respect of ILO Convention 100 on Equal Remuneration, Convention 111 on Discrimination in Respect of Employment and Occupation, which promotes non-discrimination in the workplace and also for Convention 183 on Maternity protection.

An independent trigger mechanism in case of violations is necessary, for example through the setting up of an independent labour secretariat as part of trade and investment agreements' institutional machinery. Under current arrangements, the ETUC insists that the Commission must properly and seriously follow up the complaints raised by trade unions<sup>9</sup>. In any event, the possibility of economic consequences must be available as a last resort in cases where violations are demonstrated. Violations of labour rights covered by an agreement must be open to prosecution under its dispute procedure irrespective of whether they are directly related to commercial exchanges.

We call the European Commission to establish clear, transparent and binding roadmaps in the pre-negotiating phase, focusing on the implementation of a legal and policy framework to guarantee freedom of association and the right to collective bargaining along with strict labour inspections leading to penalties if workers are mistreated. We are open to have a constructive dialogue with the European institutions on our vision and position on developing ambitious and strong Sustainable development chapters for current and future trade negotiations.

All trade and investment agreements must be accompanied by a monitoring mechanism involving the social partners. The determination of a violation of labour rights must rely on the expertise of the ILO supervisory mechanisms and be consistent with its findings. These monitoring bodies must be properly financed and supported by the European Commission to allow a meaningful trade union participation, of EU and non-EU trade unions that lack the necessary resources.

Domestic Advisory Groups (DAGs), the monitoring bodies of EU FTAs composed by civil society, are important to ensure that commitments made by the governments on the respect of ILO instruments will be kept and enforced once an agreement has been signed. Moreover, we demand that DAGs monitoring should not be limited to the Sustainable Development chapter, as it is the currently the case, but should cover the whole agreement.

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<sup>8</sup> *The eight fundamental Conventions are: 1. Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87); 2. Right to Organise and Collective Bargaining Convention, 1949 (No. 98); 3. Forced Labour Convention, 1930 (No. 29); 4. Abolition of Forced Labour Convention, 1957 (No. 105); 5. Minimum Age Convention, 1973 (No. 138); 6. Worst Forms of Child Labour Convention, 1999 (No. 182); 7. Equal Remuneration Convention, 1951 (No. 100); 8. Discrimination (Employment and Occupation) Convention, 1958 (No. 111)*

<sup>9</sup> *For instance, the EU-Korea Domestic Advisory Group requested twice to the Commission formal consultations be initiated, based on widespread violations of labour rights, particularly freedom of association, were taking place in Korea but the Commission responded by rejecting the requests.*

The ETUC reiterates its request that EU delegations in key capitals should include labour-reporting officers with close relations with the social partners in those countries as well as with the European Trade Union Movement to monitor, i.a. the consequences of trade relations.

## **2. ETUC demands to make Corporate Social Responsibility clauses binding, to complement labour standards**

States have the responsibility to take appropriate steps, in line with their human rights obligations, to prevent abuses and to ensure that people affected by business-related human rights abuses have access to effective remedy: judicial and appropriate non-judicial means. Moreover, the European member states must support the development of the binding international treaty on businesses and human rights.

27. Trade policy must include due diligence and binding Corporate Social Responsibility (CSR) clauses. Parent companies must take responsibility for labour standards throughout the entire supply chain. Moreover, EU trade policy should include clear reference to the UN Guiding Principles for Business and Human Rights as well as the respect of OECD Guidelines for Multinational Enterprises and the updated ILO Tripartite declaration of principles concerning multinational enterprises and social policy. We also believe that OECD National Contact Points (NCPs)<sup>10</sup> should be independent and structured in a way to involve the social partners as members of the NCPs, or the NCP oversight committee. NCPs should be adequately trained, staffed and funded to meet the highest standards and that they should better coordinate their work.

## **3. Investors' Protection and investors' duties**

EU trade and investment agreements must be negotiated in the public interest rather than in the interests of private investors. Collective bargaining agreements, including those that have been made universally applicable by a governmental authority, must under no circumstances be challenged by referring to investment protection provisions. The ETUC opposes Investor State Dispute Settlement mechanisms (ISDS), which privilege foreign investors above all others and amounts to the privatisation of justice. The ETUC is in favour of eliminating intra-EU investment treaties and supports the Commission in considering these treaties incompatible with EU law.

The ETUC acknowledges the fact that the Commission is engaged in a reform of the flawed ISDS system, with the introduction of an Investment Court System (ICS) and the proposal to create a multilateral investment court (MIC). However, both ICS and MIC maintain a parallel legal system with a special court for foreign investors that bypasses domestic legal systems for the sole benefit of these investors. Both systems create an imbalance between the way private investor rights are protected (with sanctions mechanisms) and the way workers' rights are covered (without sanctions mechanisms). To achieve greater legal clarity, the ETUC supports the request for an opinion of the CJEU on the compatibility of ICS with EU law.

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<sup>10</sup> NCPs are set up by the governments who adhere to the OECD Guidelines for Multinational Enterprises. NCPs' main role is to further the effectiveness of the Guidelines by undertaking promotional activities, handling enquiries, and contributing to the resolution of issues that may arise from the alleged non-observance of the guidelines in specific instances. NCPs assist enterprises and their stakeholders to take appropriate measures to further the observance of the Guidelines. They provide a mediation and conciliation platform for resolving practical issues that may arise with the implementation of the Guidelines.

ETUC concerns in previous discussions about investor-state dispute resolution have included the lack of legitimacy, neutrality, transparency, consistency and costs of prevailing ISDS provisions. We recognise that the MIC proposal would reform the system and attempts to address the issues listed above. Despite this, a reformed dispute settlement mechanism would not change the reality of a parallel legal structure for the protection of foreign investment only.

The current MIC proposal does not address the central ETUC demand that investor rights should be balanced by an equivalent legal mechanism accessible by trade unions and other stakeholders to enforce the investors obligations. Therefore, as it stands now, the MIC proposal is not acceptable. This concern should also be addressed as part of any discussion of investor protection, including that of Bilateral Investment Treaties.

Enforceability of labour standards is for the ETUC a condition sine qua non to restore the imbalance between privileged investor rights and not enforceable labour and human rights. The requirements on business to respect human rights as defined in international human rights standards opens the possibility and opportunity to eliminate that double standard.

#### **4. Protection of public services and fundamental rights**

The ETUC demands the full exclusion of public services from the scope of all trade agreements. Negative listing, standstill and ratchet clauses must be avoided as they exacerbate and lock-in one-way liberalisation. The EU's shift from a positive to a negative list approach is not 'just a technical exercise' but an inherent promotion of liberalisation. The EU should not seek commitments in public services from trade partners.

European, national and local authorities must retain the full right to introduce, adopt, maintain or repeal measures related to the commissioning, organisation, funding and provision of public services. Guaranteeing universal access to quality public services / services of general interest must take precedence over advancing liberalisation and investors' rights. The European Commission must create a 'model clause' to exclude public services from the entire scope of the agreements<sup>11</sup>.

#### **5. Public Procurement: a lever for sustainable development**

Many of European industries and jobs depend on public procurement procedures. Modifications in respect of conditions and frameworks for this do affect workers directly. At the same time, the right of governments, at all levels, to develop an industrial policy approach for geographically close economic activities needs to be guaranteed.

Trade policy should not oblige the opening or liberalisation of public procurement at the municipal level. Instead, local governments should be able to use social and environmental criteria to ensure the use of public money in support of sustainable, local, economic development. Against this background, the reform of existing policy frameworks should in particular take into account of ILO Convention 94 Convention concerning Labour Clauses in Public Contracts and the revision of the EU Public Procurement Directive which has introduced a mandatory social clause guaranteeing the respect for labour law and collective agreements.

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<sup>11</sup>[http://www.epsu.org/sites/default/files/article/files/Study%20M%20Krajewski\\_Model%20clauses%20for%20the%20exclusion%20of%20public%20services\\_2016.pdf](http://www.epsu.org/sites/default/files/article/files/Study%20M%20Krajewski_Model%20clauses%20for%20the%20exclusion%20of%20public%20services_2016.pdf)

## **6. Right to regulate**

Trade agreements must ensure not to reduce existing standards or impinge on public authorities' right to regulate as they see fit in the public interest. This means that any agreement must not hinder legislators from passing laws or otherwise dealing with the fields of employment policy, social security, environmental protection, or occupational health and safety protection, among others.

We reject any lowering of European standards and insist that policy space must be maintained and that the right to regulate in the public interest, notwithstanding the provisions of an agreement, must not be limited by undemocratic bodies such as regulatory cooperation boards. Many standards reflect our collective preferences that must not be negotiated away as non-tariff barriers to trade. In fact, they must not be considered as such.

The "right to regulate" clauses in current trade agreements are not sufficient to protect public services and fundamental rights as they do not specify any legal obligations or rights, are only declaratory and an interpretative tool. Such clauses cannot change the substantive rules of a trade and investment agreement.

A progressive trade policy should not impinge on governments' duties to regulate, to organise, to allocate and to finance collective goods and services (public services, services of general economic interest), new or old.

## **7. Regulatory convergence of industrial standards: No tool for de-regulation**

Standards ensure the technical compatibility of systems, and the attainment of what is described in the EU as "essential requirements" of public interest: workers' health and safety, protection of the environment and protection of consumers. They are tools to reach general policy and industrial policy aims. Since the new generation of trade agreements, particularly among OECD countries, are more about tackling non-tariff barriers rather than customs duties, the ambition of the European Commission is to have the industrial standards "converged", either by mutual recognition (so that firms only need comply with one set of technical requirements) or by harmonisation of standards. For these reasons, the process of "regulatory convergence" is central to ETUC's concerns on trade policy.

Technical standards are political in essence. They are the translation, in technical terms, of political decisions. The Treaty on the Functioning of the European Union clearly stipulates in its Article 114 that "European legislation and standards have to ensure the highest protection of the environment, of the health and safety of workers in industry and of the consumers of the products introduced to the market by industry".

The intention to establish overarching bodies in the "new generation" of EU trade agreements composed of EU and trade partner regulators, may jeopardise democratic decision-making and impede social regulation in the future (e.g. by the introduction of trade impact assessments for essentially every significant regulatory or legislative proposal). Therefore, guarantees should be built in to ensure that these bodies will only exchange information between regulators of both sides and will in no way have any impact either on the right to regulate or on the process of setting regulations. Moreover, workers and their representatives must be involved at every stage of the process.

In general terms, regulatory convergence may in no way lead to stalling necessary action to improve standards regarding health and safety or the environment or to address new challenges regarding these issues. ETUC supports standardisation initiatives which improve and promote high quality of working conditions, above the level of existing public regulations. In any event, standardisation initiatives must not encroach on national labour laws, collective agreements and collective bargaining.

## 8. Trade Defence

Trade policy must ensure a level playing field and fair competition. Clear steps must be taken to ensure that European industries in all sectors open to international competition and workers are not endangered and disadvantaged by unfair trading practices.

The EU should maintain strong trade defence instruments imposing targeted restrictions on anticompetitive imports into Europe if produced by companies which abuse international labour standards. Restrictions should also be imposed on imports which are produced without respecting environmental standards or on products receiving trade distorting government subsidies. We demand the elimination of the lesser duty rule<sup>12</sup> that puts us at a competitive disadvantage vis-a-vis our trading partners such as the US who do not apply it and may impose higher anti-dumping duties.

The ETUC, therefore urges the Council to unlock the modernisation and strengthening of EU Trade Defence Instruments (TDIs). On the other hand, the ETUC considers the recent Commission's proposal about the reform of anti-dumping insufficient, and urges the European institutions to revise it to maintain the recourse to an analogue country methodology<sup>13</sup> and to draw a clear distinction between market economies and not market economies based on tangible criteria.

We condemn the non-respect of core labour standards, such as the right to organise and the right to collective bargaining in third countries, in an attempt to obtain an economic competitive advantage compared to countries respecting workers' rights and ILO Conventions. Such actions are in breach of the 1998 ILO Declaration and the EU should also consider these elements as market distortions.

## 9. Globalisation and restructuring: no-one left behind

Gains from trade and globalisation in the current situation are not distributed fairly. For trade to be fair, its benefits should be redistributed among citizens to reduce inequalities. Globalisation also poses challenges among regions, some of which are less adaptable to change and competition than others. Globalisation process has led to factory closures, job losses or downward pressure on workers' pay and conditions in Europe. Many companies and small and medium enterprises have been forced to closure and restructure as they were unable to compete with international competitors with cheaper labour costs.

The ETUC believes that the EU needs a more integrated regulatory framework to face these challenges and ensure restructuring takes place in a coherent, fair and responsible way. Trade unions want to play a proactive role in anticipating, negotiating and managing restructuring.

EU and national governments should help workers with retraining and reskilling to match new job opportunities and at the same time foster investments in new workplaces. We need to protect workers negatively affected by globalisation and liberalisation processes also by reinforcing social security systems. Workers alone should not carry the burden of trade policies, instead they should have guarantees for maintaining a decent living and should be properly compensated.

This includes helping workers adapt to change, and improving support for those who lose their jobs because of the negative economic consequences of trade agreements.

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<sup>12</sup> Under a lesser duty rule, authorities impose duties at a level lower than the margin of dumping if this level is adequate to remove the injury

<sup>13</sup> According to the EU anti-dumping regulation, the calculation of dumping for companies in a non-market economy should be based on values from an analogue country

To this end, we must ensure that a restructuring policy with relevant legal and financial coverage at EU and national level is put in place. Before undertaking trade negotiations, the European Commission should produce impact assessments to ascertain the extent to which a trade deal might result in negative consequences to workers, the environment and society<sup>14</sup>. The Commission should make clear how it plans to work with social partners as well as other actors to offset negative employment consequences. It must also provide adequate and accessible funds, including through the European Globalisation Adjustment Fund (EGF), to support workers disadvantaged by trade agreements.

## **10. Trade in Services**

Trade agreements promoting trade in services must allow government authorities to take the necessary regulatory, monitoring and enforcement measures towards electronic commerce companies and crowd working platforms. An example of this is to require a “local presence”, even if these companies are established in another country. Trade agreements must therefore never result in allowing foreign incorporated companies not to comply with labour law, not to pay taxes and social security contributions, and not to comply with data protection legislation.

Personal data is not a commodity. The duty of governments to uphold and promote fundamental rights goes beyond the constraints imposed by a trade agreement. Hence, commitments made in trade agreements on data flows must not jeopardise or constrain fundamental rights such as data privacy<sup>15</sup>.

Equally, data localisation requirements are meant to ensure the ability to hold and process data inside the country of origin. Without such a requirement, service suppliers are allowed to store and process data relating to a service anywhere in the world, with rules applied based on where the server is located, including countries with less stricter laws on data protection and privacy rights. Trade agreements therefore must not result in obstacles for government authorities to access the data necessary to monitor a company’s compliance with its safety standards or labour laws effectively.

Moreover, agreements promoting trade in services should prevent the reclassification of workers with employment relationship into service providers with lower wages and working conditions, no protection and no collective rights, especially in sectors at high risk of bogus self-employment.

## **11. Mobility of Workers**

The ETUC insists on the fundamental principle of equal treatment of workers. The full implementation of the principle of equal pay for work of equal value must be guaranteed. All workers, irrespective of their home country, must at least have the same rights and salaries as nationals at the same place of work and benefit from the same rights to organise, to collective bargaining and to strike

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<sup>14</sup> *The actual impact assessment for economic and employment consequences is based on a computed general equilibrium macroeconomic model (CGE-model). This is a flawed model as it is based on the axiom of labour markets tending to an equilibrium of no structural unemployment, as the wisdom of the ‘Invisible Hand’ always would lead to a market equilibrium in a capitalistic market model. As this axiom stands so far away of the economic reality, possible unemployment consequences are never taken seriously by the Sustainability Impact Assessments (SIA) of the European Commission. Therefore, SIAs should be based on better macro-economic models.*

<sup>15</sup> *We are particularly concerned that commitments on data flows in the Trade in Services Agreements (TiSA) risk to constrain the fundamental right to data privacy.*

It is therefore important that the supply of services through the movement of workers in trade agreements (Mode 4 provisions) are accompanied by high and binding social and labour standards so that workers are protected against exploitation and social dumping. This protection cannot be left only to the provisions of trade agreements and must be the objective of effective international cooperation. Wages and working conditions of workers must comply with local sector-specific collective labour agreements. A strike-breaker clause must prevent the use of foreign workers during bargaining processes and labour disputes.

## **12. Trade policy taxation and financial services**

The ability of governments to regulate their tax systems and financial services must be fully protected from any interference by trade agreements. Governments must for example be allowed to introduce capital controls, to restructure financial institutions, to fight “too big to fail” financial institutions, to change their tax policies and combat financial crises, tax fraud and tax evasion as they see fit for the public interest. Trade and investment agreements must preserve the ability of States to react to economic crises. In addition, trade agreements must not impede or deter financial services laws or regulations to interfere with attempts to protect against systemic financial risk.

Trade agreements must not in any way facilitate the creation and subsistence of tax havens. Instead, trade agreements must support efforts to promote international standards of transparency and good governance. To address aggressive tax evasion and tax avoidance strategies, effective cooperation mechanisms should be included regarding the exchange of information in the field of taxation of multinational companies and offshore companies. Public disclosure of Country by Country Reporting for activities of European multinationals all around the world should become the norm. The EU must condition trade negotiations on the negotiation of tax conventions where trade partners and the EU take commitments to level up their level of taxation (on company profits, capital gains for example) and fully collaborate to tackle corruption, tax fraud and tax evasion.

## **13. Trade and development**

The EU should review its trade and investment policies and agreements vis-a-vis the Global South and Least Developed Countries (LDCs) to take into account their structural economic transformation and the protection and promotion of human rights, including labour rights.

Developing countries and LDCs need to reinforce their capacity to transform their economic systems in a way to move up in the global value chain. To accelerate the transition from informal to formal economies, they need a transformation from selling raw materials to selling high value products made of raw materials and develop a wider industrial base and manufacturing economy, as a basis of job-led growth.

Trade agreements should support the industrial and economic development of LDCs and provide them with the autonomy they need to pursue economic diversification. In this sense, trade agreements must include local procurement rules for better enabling regional industrial policies.

EU trade and investment policies and agreements such as Economic Partnership Agreements (EPAs)<sup>16</sup>, shall provide leverage for the structural transformation under the condition of respect of and compliance with human rights, including labour rights by:

- Ensuring that the global trade rules do not limit the public policy space of developing nations and promote key policies to get the best out of participation in value chains including fair and workable local content rules and technology transfer requirements.
- Applying tariffs that allow LDCs to protect their agricultural, industrial and more broadly economic structures and allow them to decide to have a production base that can withstand international competition.
- Providing development assistance, including technical assistance and financial support to LDCs such as 'Aid for Trade' programmes for the structural transformation of their economies towards higher value and more productive economic activities, in view of their integration in international trade in a further stage.
- Applying tariffs that promote the respect of fundamental labour standards, as in the Generalised System of Preferences (GSP) with the participation and consultation of social partners in Europe and in developing countries, and with due monitoring and sanctioning mechanisms which should be also used effectively, when this is necessary.

We praise the work done by the ILO regarding technical cooperation projects in order to raise labour standards on the ground of development countries. We also urge the European Commission to invest more in development cooperation projects to improve social dialogue and capacity building for social partners on collective bargaining in developing countries.

#### **14. Transparency of negotiations**

Transparency is a core issue as trade and investment agreements are increasingly focused on standard setting, rather than on lowering tariffs. Many of our standards reflect our collective preferences, as expressed through our democratic institutions and procedures including social dialogue and collective bargaining. Therefore, the ETUC insists on the need for transparency through social dialogue in all trade and investment negotiations, democratic oversight by the European and national parliaments and full consultation with and involvement of social partners and civil society organisations. There must be full discussion with social partners of the objectives of negotiations before they start, including in the preparation of the negotiating mandate that the Council give to the Commission.

Full transparency should also be ensured in the preparation of the Sustainability Impact Assessments, which provide the Commission with an in-depth analysis of the potential economic, social, human rights, and environmental impacts of ongoing negotiations.

The secrecy of the negotiations is not only questionable in democratic terms, it also prevents a public debate based on facts rather than rumours. Thanks to a strong mobilization of civil society as well as trade unions, transparency of trade negotiations has partially improved in the framework of the TTIP negotiations, also by setting up a TTIP Advisory Group<sup>17</sup> of which the ETUC is part. The Commission also made several EU proposals and parts of the initial offer available to the public. However, we observe that the Commission has not taken the same approach in regard to other ongoing negotiations. Therefore, we demand the Commission to enlarge the scope of the TTIP Advisory Group to all current trade and investment negotiations.

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<sup>16</sup> *Economic Partnership Agreements (EPAs) are trade and development agreements negotiated between the EU and African, Caribbean and Pacific (ACP) partners engaged in regional economic integration processes.*

<sup>17</sup> [http://ec.europa.eu/trade/policy/in-focus/ttip/documents-and-events/index\\_en.htm#advisory-group](http://ec.europa.eu/trade/policy/in-focus/ttip/documents-and-events/index_en.htm#advisory-group)

We demand that all fundamental documents of every trade agreement under negotiation must be made public, including consolidated texts throughout the whole negotiating process. All draft negotiating mandates must be published, debated and decided in parliaments, European and in Member States, as well as concerted with civil society before they are adopted and negotiations start. The absence of wide public consensus on the objectives of negotiations makes it almost impossible to reach results that are acceptable to workers and the wider public.

Trade agreements are 'living agreements', which means that the implementation stage is as crucial as the negotiation itself, and that trade unions want to have a say in it. Therefore, the ETUC demands to be better involved in the functioning of the Joint committees foreseen in trade agreements composed of government representatives and tasked with supervising, implementing and possibly amending them.

There is still much more work that needs to be done to build a global progressive trade agenda, but through international solidarity, trade unions can reshape globalisation. Trade unions will continue to push for a global trade agenda that has decent jobs, fair distribution of wealth and workers' rights at its heart. There is an alternative between protectionism and unrestricted free trade and together we can make it a reality.