

## industriAll Europe calls for a new approach to trade deals.

### The challenge of making progressive trade deals.

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#### Executive Summary

IndustriAll Europe considers free and fair trade to be of great importance for European economic and industrial growth. This position paper aims to meet the growing concerns of European workers about the impact of trade agreements on their job, their industry, their community. It should become clear that in order to win popular support, trade deals should not only create business for multinational companies but above all must also benefit ordinary people. They have to ensure that the imported goods we consume are made by people that are not exploited, receive fair compensation, work in safe environments and are employed by companies that respect global codes of conduct. They must also ensure that the framework within which trade takes place protects the public sector, defends the right of Governments to take action as they see fit and does not undermine hard won regulatory protections or the ability to strengthen regulation whenever necessary. Therefore, the objective of this position paper is to define the key changes required in the current approach of trade deals. While constructing a fairer, inclusive global trading system is not easy, sheltering ourselves from globalisation and promoting economic nationalism cannot be an option for industriAll European Trade Union. Nevertheless, industriAll Europe will continue to oppose bad trade agreements that do not meet our standards.

Therefore, industriAll Europe considers the following principles as important levers to (re)shape globalisation and as benchmarks to assess to what extent a free trade agreement can be called 'progressive'. When these principles are met, trade deals can contribute to regulating uncontrolled globalisation, reflect the interests of societies and become tools for achieving social progress for all, not for the economic interests of a few.

- 1. Multilateralism must be reinvigorated.** Multilateral regulatory solutions are most desirable as they offer some important advantages to bilateral trade agreements, such as globally comprehensive and transparent market access agreements, rule-making, transparency and dispute settlement. A significantly reformed WTO should be the central body in regulating global trade
- 2. Democratic legitimacy is needed.** Full transparency, stakeholder involvement and public scrutiny must be guaranteed from the beginning as they are key for social acceptance of trade agreements.
- 3. Trade agreements should contain an enforceable chapter on labour rights.** By establishing strong labour provisions to avoid a global race to the bottom in workplace standards, trade agreements should support jobs at home and abroad
- 4. No special rights for foreign investors.** Foreign investors cannot be granted special privileges which are not granted to domestic investors, workers or consumers.
- 5. Preservation of the right to regulate.** Trade agreements may in no way reduce the space for public policy or adding constraints for governments striving to provide services or regulate in the public interest.

- 6. Public services and services of general (economic) interest should be fully protected**
- 7. The liberalisation of services can only be based on a “positive” list approach.** Indeed the ‘negative’ list approach which was for the first time applied by the EU in CETA, requires countries to list services they want excluded from the deal.
- 8. Each trade agreement should also contain an ambitious and binding chapter regarding sustainable development.**
- 9. Public procurement** should remain an important tool for industrial policy and the creation of local jobs.
- 10. The partners of trade agreements should take care of the social consequences of market opening.** Trade liberalisation does indeed create losers along with the winners. From the beginning of the negotiations the concerns of those that risk losing out from the agreement must be fully addressed by EU, national governments and employers. Also, the benefits of free trade must be fairly distributed.
- 11. Trade deals should contain rules for how to reduce tax avoidance, abolish overseas tax havens and close tax loopholes in sophisticated global value chains.**
- 12. Free trade agreements should contain ambitious provisions on the fight against corruption**
- 13. Efficient and effective trade defence instruments** are needed to avoid that industrial workers fall victim to unfair trade practices.
- 14. Trade agreements should also focus on trade barriers for SME’s** and help small exporters to compete more effectively with much larger global competitors.

These principles are stepping stones towards a fairer global trading system. They are also important in countering populist arguments. Indeed, industriAll Europe is of the opinion that the recent wave of new protectionism and economic nationalism has partly been fueled by unmanaged globalization and the anxiety for a global race to the bottom. However, a complete breakdown of an international rule-based system built on multilateral agreements would be economically, socially and politically disastrous. Europe knows from its own history where unrestrained rivalries may lead to. In order to take away the breeding ground for populism it is necessary to develop public policies that are more attentive for the concerns of those that lose out from global competition or technological progress. Protectionist populism will not go away immediately and it is up to all democratic forces to take the right decisions/initiatives to weather the populist temptations and increase economic security for all workers.

Rather than promoting competition, trade agreements should promote cooperation in addressing the many challenges the global society has to confront and become tools for building a fair and value-based global economy. For industriAll Europe, only trade agreements capable to shape globalisation in an economically equitable, socially and environmentally responsible way can be considered as good, fair and progressive. People, not profits, should be the bottom line of trade policy.

## Trade - an engine for globalisation.

Since the end of World War II globalisation has accelerated. It resulted from political decisions supporting free trade, like the GATT-Treaty (General Agreement on Tariffs and Trade) and the creation of the WTO (World Trade Organisation), but also from the reintegration of China into the world economy, the emergence of “global value chains”, the surge in trade in services (thanks to the internet and sharply reduced communication costs). More than 500 bilateral and regional trade agreements were signed since the creation of the WTO in 1995 and world exports relative to GDP have grown from 15% to 23% since 1990. This acceleration in the pace of globalisation supported global economic growth (world output doubled since 1990!) and income inequality across countries declined. Exports support almost one in seven jobs in Europe, while 1 out of 3 jobs are integrated in international supply chains.

However, globalisation brings about not only benefits (like higher productivity or strong growth in emerging economies) but creates challenges as well. Indeed, relocation of manufacturing activities accelerated the process of de-industrialisation inside Europe. Trade liberalisation has also increased inequality within countries by concentrating the profits of free trade in the hands of the wealthiest while putting downward pressure on wages and corroding job security, especially for low- and medium-skilled workers. Indeed, companies trying to compete at a global level are demanding their workers to be more flexible or to make concessions on labour conditions. They also are threatening governments to leave the country if they do not reduce taxes and social protection. Therefore, globalisation is often seen as a major threat to our European social model. And while in developed countries income inequality increased, the domestic-oriented industries in developing countries are no longer shielded from international competition.

It took a global financial crisis to put some sand in the wheels of global trade flows. At the same time resistance to globalisation has increased. Many workers in the developed world have been economically disadvantaged by the new global economy. This proved to be an important factor in the rise of a dangerous combination of populism, nationalism and protectionism in some countries. It was part of the explanation for Brexit and the election of Donald Trump as the new President of the United States, while across Europe nationalist, right-wing parties are on the rise.

The Lisbon Treaty gave the European Parliament new powers in the area of trade policy. In recent years, the EU has engaged in numerous bilateral trade agreements. The goal of the EU trade policy is to ensure that our industries can tap into the surging demand in foreign markets (90% of global economic growth in the next decade will be generated outside Europe) and that our companies are able to establish links with the new centres of global growth by strengthening their presence in global value chains. But besides exploring economic opportunities abroad, the 2014 communication on trade (called ‘Trade for all, towards a more responsible trade and investment policy’) also aims to develop a trade policy based on values through enhancing regulatory cooperation, promoting fair and ethical trade, supporting sustainable development and strengthening labour rights. These principles should be respected during the concrete negotiations for new free trade agreements.

For industriAll Europe, this is indeed the only way forward. Although constructing a fairer, inclusive global trading system is not easy, it has to be done. Free trade agreements can no longer be dealt with from a purely business perspective, they have to integrate broader societal issues such as employment, social cohesion and sustainable development. What is needed is a trade policy based on a strategy of fair globalisation with respect for universal social values and societal goals. Trade agreements should contribute to regulating global economic integration, support the creation of a global level playing field and put a social foundation under trade flows.

## Basic principles for re-shaping trade deals in the interest of workers.

This position paper aims to meet the growing concerns of European workers about the impact of trade agreements on their job, their industry, their community. It should become clear that in order to win popular support, trade deals should not only create business for MNC’s (Multinational Corporations) but also benefit

ordinary people. They have to ensure that the imported goods we consume are made by people that are not exploited, receive fair compensation, work in safe environments and are employed by companies that respect global codes of conduct. This also means that trade agreements do not force liberalisation and privatisation, clearly exempt the public sector and do not restrict the right of governments to regulate. Therefore, the objective of this position paper is to define the key changes required in the current approach of trade deals.

industriAll Europe considers the following principles as important levers to (re)shape globalisation and as benchmarks to assess to what extent a free trade agreement can be called 'progressive'.

- 1. Multilateralism must be reinvigorated.** Multilateral regulatory solutions are most desirable as they offer some important advantages to bilateral trade agreements, such as globally comprehensive and transparent market access agreements, rule-making, transparency and dispute settlement. Therefore, free trade agreements should be stepping stones towards multilateral trade agreements. In this respect, a significantly reformed multilateral rules-based system in the context of the WTO could be the most effective and legitimate means of managing and expanding trade relations. The WTO must be fundamentally restructured to ensure it becomes a system of global governance that allows globalisation to be framed and enables economic integration to be combined with social progress at a global level. For industriAll Europe, a new WTO fit for the 21<sup>st</sup> Century that puts the same priority on progress in social, environmental and labour rights as economic development could be the cornerstone of trade policy and the central body in developing and enforcing the rules of global trade.
- 2. Democratic legitimacy is needed.** A lack of transparency undermines the legitimacy of trade policy and public trust. Full transparency, stakeholder involvement and public scrutiny must be guaranteed from the beginning as they are key for social acceptance of trade agreements. This requires comprehensive democratic participation, checks and controls. This also means that the negotiating mandate should be the object of parliamentary debates and stakeholder consultations. The interim results and the EU position in the different chapters should also be made public and discussed with stakeholders in due course. Before closing the negotiations, a parliamentary debate and vote should take place at all relevant levels.
- 3. Trade agreements must contain an enforceable chapter on labour rights.** By establishing strong labour provisions to avoid a global race to the bottom in workplace standards, trade agreements should support jobs at home and abroad. Trade deals must recognise that imports from countries where labour rights are not protected do raise serious questions about fairness and social justice. Ratification of, and compliance with, the core labour standards is a basic principle to be respected in all trade agreements. Provisions on labour should also include strong commitments to implement all multilateral labour standards, to promote social dialogue and collective bargaining. They should improve information and consultation rights for workers and ensure high levels of occupational health and safety. Decent jobs are the only way to avoid trade deals only serving the interests of the well-off. Therefore, complaint procedures have to be complemented by the introduction of enforcement mechanisms that ultimately lead to sanctions. To industriAll Europe enforceable investor rights but unenforceable labour rights are unacceptable. It is important as well to establish close links with the ILO (International Labour Organisation) regarding monitoring, technical assistance and capacity building to enable governments to cope with the requirements of the labour chapters. Further debate is needed as to whether enforcement of labour rights could be made possible by the creation of a Multilateral Court for Trade Agreements.
- 4. No special rights for foreign investors.** Foreign investors cannot be granted special privileges which are not granted to domestic investors, workers or consumers. It was only as a result of the pressure from trade unions and civil society, that the widely discredited private arbitration system (ISDS) was replaced by a more transparent Investor Court System composed of publicly appointed judges and introducing basic ethical and conflict of interest principles, the ability to dismiss claims without legal merit, and the introduction of an appeal mechanism. However, this did not deal with the fundamental issue that there should not be a separate legal system solely for the use of multi-national corporations that can be used

to undermine the democratic right to regulate of governments, and it was for this reason that ICS was still opposed by the ETUC and industriAll Europe. Furthermore, whilst significant problems regarding substance remain regarding the recent proposal by the Commission to create a fully-fledged Multilateral Investment Court (e.g. the system still privileges foreign investors in comparison to domestic companies and can result in intimidating governments to regulate in the public interest; notions as ‘indirect expropriation’, ‘legitimate expectations’ or ‘fair and equitable treatment’ are still very vague and can lead to abuse) industriAll Europe will continue to carefully examine the idea, but is of the opinion that investment protection clauses are not needed in trade agreements between countries with well-developed and effective judicial systems. Rather the European Commission should focus its attention on strengthening provisions in trade agreements to support the development of sound domestic legal systems.

5. **Preservation of the right to regulate.** No trade agreement may ever lower levels of regulatory protection. Trade agreements may in no way reduce the space for public policy or adding constraints for governments striving to provide services or regulate in the public interest. For industriAll Europe, standards and regulations cannot only be seen as barriers to free trade that need to be dismantled as they are the reflection of collective political preferences and the result of democratic decision-making. Regulatory convergence can only be supported if it leads to (or at least maintains) higher social, safety and environmental standards. Furthermore, regulatory cooperation can only be organised on a voluntary basis, while areas where approaches are too different must be excluded. The European precautionary principle (e.g. Reach) must be upheld. Regulatory cooperation should in no way be subjected to strong bureaucratic procedures (creating leeway for lobbying or postponing regulation) or lead to parallel layers of decision-making. This means that the role of regulatory cooperation bodies can only be advisory and technical. Sanitary and phytosanitary measures and standards that currently apply to genetically-modified organisms or hormone-treated meat within the EU must not be eroded. Finally, cultural diversity in the EU must be protected.
6. **Public services and services of general (economic) interest must be fully protected** and may in no way be subjected to the so-called “standstill” and “ratchet” clauses, which are locking-in privatisation and do not allow expansion of public ownership. At all times, it must be possible for governments to bring back under public control previously outsourced services. Authorities at all levels must retain the full right to introduce, adopt, maintain and repeal measures related to the commissioning, organisation, funding and provision of public services. IndustriAll Europe believes the best solution is to explicitly exclude public services and services of general (economic) interest from the scope of trade agreements.
7. **The liberalisation of services can only be based on a “positive” list approach.** Indeed the ‘negative’ list approach which was for the first time applied by the EU in CETA, requires countries to list services they want excluded from the deal. This is clearly a big step back compared to previous European trade agreements as it means liberalisation by default for all new service areas and it invites the private sector to seek loopholes in the long lists of reservations. Liberalisation of services should also not lead to deregulation of labour markets, Mode-IV service and posting of workers provisions must foresee host-country salaries and working conditions for all workers at the same level as permanent local staff. The place-of-work principle needs to be fully upheld. Finally, trade deals should not act as a lever to deregulate the financial sector.
8. Each trade agreement should also contain an **ambitious and binding chapter regarding sustainable development**. Sustainable development objectives (included human rights) must be integrated in trade policies and making trade an effective tool to promote sustainable development worldwide. These objectives should be in line with the 2030 Agenda for Sustainable Development (and the UN Sustainable Development Goals). Trade policy should also contain far-reaching commitments regarding the implementation of multilateral environmental and climate agreements. They should be coherent with the EU’s development policy and allow developing countries to maintain trade restrictions in order to develop their own infant industries. Finally, trade policy must reinforce Corporate Social Responsibility initiatives

and compel companies to take responsibility at all stages in the supply chain. CSR (Corporate Social Responsibility)-policies should move beyond the current voluntary approach towards one of mandatory due diligence.

- 9. Public procurement must remain a tool for industrial policy while respect for collective agreements must be guaranteed.** Public procurement should remain an important tool for industrial policy and the creation of local jobs. Local governments should be able to link social and environmental criteria to their public tenders in order to ensure that public money supports a sustainable regional economic development. Therefore, public procurement at sub-national level should not be opened to foreign competition. Furthermore, compliance with the working conditions that are applicable at the place of work should be ensured by provisions that guarantee the continuous application of collective agreements in case of change of employer following public procurement procedures (e.g.: outsourcing or change of contractor)
- 10. The partners of trade agreements should take care of the social consequences of market opening.** The benefits of globalisation must be fairly distributed and negative impacts should be limited as much as possible. Although trade agreements are intended to boost economic growth, this growth must be shared equitably across society, particularly as trade liberalisation entails also transition costs. While it is true that the process of market opening may be beneficial for overall growth and employment (although this is not guaranteed) the benefits need time to take their full effect and are usually diffuse and opaque (lower prices for consumers, economies of scale, diffusion of technologies). This process also means structural change in the organisation of the economy. Trade liberalisation does indeed create losers along with the winners. When globalised flows of goods and investments invade sectors/communities already on the edge, this leads to serious social consequences which are difficult to overcome. Those that lose their jobs are not automatically those that will seize the opportunities of new trade flows. IndustriAll Europe holds the view that trade deals must not leave people behind. A fair distribution of the potential benefits of trade deals, and managing the economic adjustments in a socially acceptable way, must be guaranteed. From the beginning of the negotiations the concerns of those that risk losing out from the agreement must be fully addressed. Comprehensive impact assessments are needed in order to avoid gains from trade deals being oversold, while negative impacts on jobs are minimised. They must clearly clarify the impact on sectors, regions and income and identify those that are on the flip side of the potential gains from trade. To tackle disruptive impacts on regions and workers, trade agreements should contain adequate transition periods or protect specific sectors (e.g. using tariff rate quotas and safeguard clauses). Both governments, the EU and employers must play an active role in developing regional and sectoral reconversion programmes. The scope of the European Globalisation Fund should be extended [e.g. by providing direct income support].
- 11. Trade deals must contain rules and long term strategies for how to reduce tax avoidance, abolish overseas tax havens and close tax loopholes in sophisticated global value chains.** They should address aggressive corporate profit shifting and tax avoidance strategies (by supporting the OECD action plan on base erosion and tax shifting -BEPS) and organise cooperation regarding the exchange of information regarding fiscal fraud. For industriAll Europe, it is unacceptable that globalisation has created large tax benefits for the wealthy, while ignoring the importance of taking care of the victims of relocation.
- 12. Free trade agreements should contain ambitious provisions on the fight against corruption.** Corruption is a plague that is difficult to eradicate and that holds populations back from development, distorting public procurement, wasting scarce public funds, discouraging investment and creating unfair competition. It undermines the law and the trust of citizens but also the basic principles of fair trade
- 13. Efficient and effective trade defence instruments.** are needed to protect industrial workers against unfair trade practices. Fair trade calls for strong trade defence instruments that ensure that industrial workers do not fall victim to unfair social and environmental dumping. In this respect industriAll Europe calls for the elimination of the lesser duty rule (under the lesser duty rule, authorities impose duties at a level lower than the margin of dumping if this level is adequate to remove the injury) and to maintain

non-standard methodologies in addressing dumping from countries that do not respect international agreements. When assessing market distortions, social distortions (non-respect of core labour standards) should also be considered. Trade deals should allow for the imposition of trade restrictions when imports demonstrably conflict with universally accepted labour and environmental standards. This does not exclude the idea that trade agreements should support the industrial and economic development of poor countries and provide them with the autonomy they need to pursue economic diversification.

14. Trade agreements should also **focus on trade barriers for SME's** and help small exporters to compete more effectively with much larger global competitors.

## Conclusion: trade agreements in support of fair globalisation

Only when the afore-mentioned principles are met, can trade deals contribute to regulating uncontrolled globalisation, reflect the interests of societies and become tools for social progress for all, not for the economic interests of a few. IndustriAll Europe considers these principles as stepping stones towards a fairer global trading system in which exploiting workers, looting the environment or stealing innovation are no longer accepted means of global competition. Respecting these principles should make it possible to both expand trade relations and allow workers to cope with global competition.

Trade deals should contribute to the export of core values regarding labour, sustainable development, good governance. They should also support the building of a new social contract serving the needs of working people all over the globe and contribute in defining a new equilibrium between exporting our jobs and importing cheap products. Therefore, free trade cannot be a tool on its own, but must be part of strategies for growth and development, in the EU and in the rest of the world. Trade agreements should be a lever for promoting decent work, full employment and sustainable development on a global scale. If not, trade deals will only support the centrifugal forces in society (protectionist populism), increase inequalities, erode Europe's social and regulatory model and jeopardise a sustainable future for Europe's industry and its workers. Constructing a fairer, inclusive global trading system is not easy and will probably be a never-ending process, but to industriAll Europe developing a new paradigm of fair globalisation is a necessity. If not the legitimate public anger at the way global trade is currently only working to the benefit of elites will lead to the construction of new trade walls. This will cut off industry from the global markets and supply chains and will only create more unemployment amongst industrial workers. Together with the international trade union movement, industriAll Europe will continue acting and lobbying to push for a progressive global trade agenda in order to ensure that trade deals are also good deals for workers. This agenda should contribute to fair globalisation based on high social, democratic and environmental standards and be coherent with the European social and regulatory model. Many multinational corporations and global competitors do not fully share these key values and do not want to include them in their trade deals. If the EU fails to promote trade deals based on values, this will encourage the spread of trade models that fail to reflect these values. Others will write the international rulebook on trade with a far less 'progressive' agenda. This would put European workers and industries at a significant and growing disadvantage.

Rather than promoting competition, trade agreements should promote cooperation in addressing the many challenges the global society has to confront and become tools for building a fair and value-based global economy. We will continue to actively oppose and campaign against trade deals that do not meet the principles we have set out here since. For industriAll Europe, only trade agreements capable to shape globalisation in an economically equitable and socially responsible way can be considered as good, fair and progressive.