

## 1. Protection of Fundamental Rights, Including Trade Union Rights

One trade union concern about TTIP is what would happen if there would be a conflict between fundamental rights, including trade union rights, and investors' interests or the interest of companies seeking market access.

An example would be a situation where a company from one party of the treaty seeks to establish a subsidiary in another party of the treaty and a trade union in the latter country requests that the subsidiary conclude a collective agreement. We need to be sure that the right to form a trade union, request a collective agreement or take collective action to persuade the company to conclude a collective agreement in accordance with national law or practice is in no way limited by TTIP.

To eliminate this risk we propose an equivalent to the Services Directive's so called Monti Clause. This should be included in the agreement in such a way that it covers the entire agreement, e.g. in an introductory chapter with general principles.

Proposal:

*This treaty does not limit the exercise of fundamental rights as recognised in the United States and the Member States of the European Union. Nor does it limit the right to negotiate, conclude and enforce collective agreements and to take industrial action in accordance with national law and practice.*

## 2. Safeguarding the Right to Adopt or Maintain National Measures aimed at Labour Protection

In addition to the protection of fundamental rights, it is also important to safeguard the right to adopt or maintain national measures aimed at labour protection and make sure that labour protection cannot be construed as barriers to trade or as limiting market access.

The chapter on *Trade and Labour* in CETA contains a provision on the right to regulate and levels of protection (Article 2). We welcome this article and would like to see a similar provision in TTIP.

We are concerned, however, that the fact that the provision belongs to the trade and labour chapter could limit its scope. We want to avoid a situation where each party's right to set its labour priorities and establish its levels of protection would be interpreted as existing only in relation to the provisions of the chapter on trade and labour. For us, it is of utmost importance that the right to regulate in labour matters covers the entire treaty. If a Member State chooses to adopt new stronger rules to protect e.g. the health and safety of workers it should be free to do so without another party or a company from another party claiming that this violates the rights of investors or is an undue limit to market access.

We would therefore want to see a provision to this effect, e.g. in an introductory chapter with general principles.

Proposal:

*Nothing in this treaty shall be construed to prevent a Party from adopting or maintaining national measures aimed at labour protection. National measures aimed at protecting the interest of workers cannot be construed as barriers to trade or as limiting market access.*

### 3. Effective Enforcement through National Industrial Relations Systems

In CETA, the chapter on *Trade and Labour* contains obligations to effectively promote compliance with and effectively enforce both ILO Conventions and domestic labour law (Articles 3.3, 3.4, 4 and 5). Article 5.1 requires the parties to ‘maintain a system of labour inspection’.

We fully agree with the importance of ensuring the effective compliance and enforcement of ILO Conventions and domestic labour law and would like to see the same kind of provisions in TTIP. The industrial relations systems of the EU Member States differ widely however. In some Member States, the social partners play a more prominent role in the enforcement of labour standards and the role of government labour inspectors is limited or even non-existing. In the trade and labour chapter of TTIP, we would therefore like to see the inclusion of a provision that recognises these differences. We are convinced that the most effective enforcement is one that is compatible with and uses the strength of national industrial relations systems.

Proposal

*Recognising the right of each party to fulfil the obligations of this chapter in accordance with national law and practice regarding the role of the social partners in the regulation, monitoring and enforcement of labour standards.*

### 4. A Floor of Rights – ILO Standards

According to the *Directives for the Negotiations of the Transatlantic Trade and Investment Partnership* adopted by the Council in June 2013, the agreement will ‘include provisions to promote adherence to and effective implementation of internationally agreed standards and agreement in the labour...domain’.

In CETA, such provisions are found in Article 3 of the chapter on *Trade and Labour*. We believe that the content of that article is adequate and would like to see a similar provision in TTIP.

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