

A new EU trade policy: foodwatch's demands concerning major free trade agreements under negotiation by the EU

Brussels, 7 February 2018: The European Union is currently negotiating a number of free trade agreements (FTAs). These include deals with Japan, Vietnam, Indonesia, Mexico and the South American trade bloc Mercosur, comprising Brazil, Argentina, Uruguay and Paraguay. The potential socio-economic and environmental impacts of these five trade agreements are subject of the report "Trade at Any Cost?" that is written by the sustainable-development NGO PowerShift and commissioned by foodwatch.

The investigated FTAs – as well as the provisionally applied CETA agreement with Canada and the currently shelved TTIP agreement between the EU and the US – aim to do much more than simply open markets and reduce tariffs. They represent a new generation of free trade agreements that focus on the elimination of so-called "non-tariff trade barriers" (NTBs), which can include regulations on consumer, health and environmental protection, along with technical standards and norms.

On the basis of the aims and preliminary results of the negotiations, it can be concluded that the five investigated agreements would be detrimental to not only democracy but also consumer, health and environmental standards. These standards are at risk of being lowered and/or "locked in" at low levels if the planned FTAs come to fruition. Furthermore, the negotiations are being conducted without sufficient public scrutiny, in spite of the fact that the planned FTAs would have a far reaching impact on consumers.

Thus, foodwatch demands the following:

1) Stop the current negotiations

International trade should benefit the needs of people, not primarily the interests of multinational corporations. The free trade agreements investigated in the study fail to satisfy this basic criterion. Instead, they create realistic risks that the existing standards of protection could be undermined and that future efforts to make important improvements in these areas could be thwarted. The negotiations must be stopped. The EU must develop a new trade policy that prioritises public interest over corporate profits.

The French government established a committee for the evaluation of CETA's impact and, in response to its findings, made a commitment to avoid the problematic aspects that were identified in the CETA deal (e.g. investment courts, inadequate safeguarding of the EU precautionary principle) when concluding

new trade agreements. This is reason enough to halt the negotiations and relaunch them with completely new objectives.¹

2) **Strengthen consumer rights**

The EU's future trade agreements must guarantee that consumer standards will not be lowered in the context of mutual recognition/harmonisation. Standards in one area should not be traded for standards in another areas (e.g. “the approval of controversial food additives in exchange for the acceptance of higher safety standards for baby food”). International legal obligations and threats of sanctions should not be used for preventing a country from raising standards that have been agreed in the context of a trade deal. To ensure that consumer rights can be adequately protected, free trade agreements must include the appropriate options for cancellation (see also 3).

3) **Safeguard regulatory autonomy**

Governments that sign free trade agreements must have the capacity to preserve their regulatory autonomy. The right of parliaments to legislate and regulate is being disproportionately restricted by not only dispute-settlement systems for investors but also restrictions on the scope of the European precautionary principle.

4) **Guarantee the transparency of negotiations and the involvement of the national parliaments**

The national parliaments and general public must be involved in the negotiations for the EU's international trade agreements. Negotiating mandates must be made public and approved by not only the EU parliament but also the parliaments of the Member States. In comparison to “traditional” trade deals, the FTAs investigated by the researchers are focused to a larger extent on consumer, health and environmental standards, as well as issues that would affect democratic processes, and thus call for much greater transparency.

5) **Ensure transparency regarding the impacts of FTAs**

The economic and social impacts of all agreements, as well as their implications for the environment and agriculture, must be assessed through independent studies. The findings of these studies must be made public for debate before negotiations are launched. Existing studies should not be kept confidential. The anticipated results of the investigated agreements, e.g. the expansion of palm oil production in Indonesia and the increase of cattle farming in Brazil, carry with them considerable risks for climate protection and biodiversity conservation. In

¹ English translation of the french expert group on CETA <https://www.foodwatch.org/the-impact-of-ceta-on-the-environment-climate-and-health/>

spite of their severity, these impacts have not yet been investigated.

6) **Do not commit to “regulatory cooperation” / Ensure democratic legitimacy for FTA committees**

Trade partners should not commit to undertake institutionalised, intergovernmental “regulatory cooperation” activities involving prior consultation on regulatory initiatives. For the TTIP/CETA approach to regulatory cooperation, plans for regulatory measures are discussed solely by executive bodies whose only aim is to facilitate international trade. This concept creates new types of intergovernmental structures that weaken the democratic processes of the EU and its Member States.

All committees that are established by trade agreements must be subject to adequate democratic control. The investigated agreements provide for committees that not only lack sufficient democratic legitimacy but also have the power to make amendments to the respective FTA without adequate scrutiny by national parliaments. This is both constitutionally and politically unacceptable.

7) **Safeguard the achievements of EU and international law**

The EU’s trade agreements should explicitly acknowledge Europe’s achievements in primary and secondary law, not threaten or weaken them. Accordingly, provisions that explicitly provide legally binding status to the European precautionary principle must form an integral part of all trade agreements. In addition, the EU’s trade deals should ensure that the legal achievements of international conventions are applied, not undermined.

8) **Respect human rights**

In accordance with the UN’s Guiding Principles on Business and Human Rights, the EU must ensure that the activities of multinational corporations are in line with international law and that these companies can be held responsible for violations of human rights, along with other fundamental rights. Free trade agreements should not lead to a worsening of the human rights situation in the signatory countries nor limit the governments’ ability to improve human rights conditions.

9) **Follow proper democratic procedures for decisions on FTAs**

Trade deals should not lead to a dilution of democratic accountability. Trade policy has been an exclusive competence of the EU for many years. However, these policies were previously focused on the removal of tariffs. With the new generation of FTAs, social regulations that affect the daily lives of consumers have become matters of international trade policy.

At the same time, the lengthy ratification procedure for CETA has made it clear that the previously used processes of negotiation and decision-making for free trade agreements at European level are in dire need of reform. The European Commission's plans to split future FTAs into two parts – one that requires ratification by the Member States (primarily with provisions on portfolio and direct investment, as well as investment courts) and a second that would only require ratification by the Council of the European Union and European Parliament (with all other provisions of the FTA), must be rejected. This approach does not ensure the appropriate level of democratic participation in light of the direct impact of trade policy on EU citizens.

The current practice of applying agreements “provisionally” must be stopped for the same reason. It allows provisions on consumer and health protection – some of which are irreversible – to enter into force without approval from the national parliaments.