
**TUC submission to the European Union
public consultation on a new trade
policy
(August 2010)**

An EU trade policy for Decent Work

The Trades Union Congress (TUC) represents 59 trade unions in the UK, covering 6.3 million workers. The TUC welcomes the chance to submit views on the European Commission's public consultation on a future trade body. These answers are taken from the questions to the online consultation available at:

<http://ec.europa.eu/yourvoice/jpm/forms/dispatch?form=FutureTradePolicy>

Question 1: Now that the new Lisbon Treaty has entered into force, how can we best ensure that our future trade policy is coherent with the EU's external action as a whole and notably in relation to the EU's neighbouring countries?

Trade liberalisation can undoubtedly benefit or undermine decent work for workers, both within Europe and around the globe. Where trade liberalisation is underpinned by strong systems of social protection, public services and labour standards, retraining and education and an active industrial policy creating green and decent jobs, workers are better able to seize the job opportunities that firms are better able to create in a more open trading environment. But in the absence of this progressive "enabling environment", too often workers, particularly the vulnerable or low skilled can be trapped in poverty, as trade liberalisation throws them out of work and leaves them behind.

To deliver on sustainable development and decent work EU trade policy can no longer be conducted in a vacuum, but must work within this progressive enabling environment – and begin to restore the faith of working people badly shaken by living with the harsh consequences of an economic crisis they did nothing to cause.

The passing of the Lisbon Treaty gives the European Commission (EC) the chance to ensure that the values enshrined in the treaty - values such as sustainable development, decent work, democracy, rule of law, human rights, and respect for human dignity, equality and solidarity – are actually embodied in practice rather

than just in preambles.¹

Within Europe the challenge is to develop industries based on high skill, high value goods and services, to deliver long-term, sustainable growth. Excessive emphasis on any one industry should be avoided. The focus given to financial services in the UK, to the detriment of manufacturing, was a mistake. We cannot possibly compete with the developing world on low cost. Neither should we be seeking to undercut those struggling to survive in poorer countries.

Furthermore, China and India now produce vast numbers of engineers and scientists and will not be content to win just lower value business. Europe can expect to buy many Chinese and Indian imports, but there is no reason why these and other countries cannot become export markets for us as well.

Global warming, while presenting us with a colossal challenge, also provides important opportunities for EU Member States, since much environmental technology requires high skill, high value jobs. Developing environmental technologies should be a priority for the EU.

The TUC has long championed the idea of strategic industrial sectors for the UK and other European countries may wish to organise such sectors as well. We understand that we cannot compete in every industry and, in the modern world, even different parts of products are made in different countries. The point is for each country to specialise in those industries where it can add most value. But we cannot simply assume that job creation will happen – the mistake of the misguided Thatcherite policies of the 1980s and 1990s. We must invest in industries that not only focus on the high technology element of a product - where we are able to add most value - but are also job rich.

Tackling inequality must also be at the heart of such efforts. Europe is becoming more unequal, with marginalised groups and the poor consigned to worse health and educational opportunities, and higher rates of unemployment, producing social tensions. Central to tackling this is protecting and promoting quality public services, (see also question 8) and ensuring fair wages and collective bargaining enabling all workers the chance to build high skill, high value products, and be fairly rewarded for doing so.

Similar concerns and solutions hold true outside of Europe. Up to 60% of workers in the developing world have informal or precarious jobs, with low skills, no social protection and little chance of moving up the value chain. Here, the EU needs to invest in universal social protection systems, vocational training, respect for labour standards and active industrial policies to link the formal economy with the informal, through incentives to source and employ locally. Trade rules, while

¹ See Article 21 of the Treaty

progressing towards more openness need to allow developing countries the policy flexibility to ensure they do not become trapped in low-value primary commodity exports, but can progressively “upgrade” as their industries and workers acquire more skills, productivity and capital (see question 14).

EU business also has a role to play in creating decent work, but too often operates in environments where states are unwilling or unable to enforce their labour laws, meaning they often – and usually inadvertently – abuse labour rights. EU investment chapters should address this by ensuring that investors are required to respect core labour standards, especially where host states can’t (see also question 9).

Trade policy should reward and support countries genuinely interested in the well-being of their workforce. The EU should provide more technical assistance to improve workplace health and safety, get child labourers into school, let workers bargain and organise and eradicate forced labour. All social chapters in Free Trade Agreements (FTAs) should have binding dispute settlement and sanctions provisions to tackle serial labour rights’ abusers (see also question 4).

All of these measures require policy coherence and the continued “democratisation” of EU trade policy. To drive such coherence actual structural changes are required. For example, an expanded European External Action Service could include labour and social affairs attaches to ensure that country assistance planning addresses all of these areas identified.

EU trade policy must also be transparent and inclusive, with an active role for the European Parliament and EU social partners in making and monitoring trade policy. Further, impact assessments can be greatly improved and integrated into trade negotiations (see question 19).

Question 2: Given the importance of boosting growth, creating more jobs and ensuring a more resource efficient and greener economy, how can EU trade policy help? What should the new trade priorities be in the light of the Europe 2020 Strategy?

The EU must develop long-term, sustainable industries providing quality jobs. There is an important role for the governments of Member States and for the European Commission in this process. For example, new industries, such as those in environmental technology, need long start up times and often government support. EU trade and competition policy must reflect this.

As the threat of climate change grows, both international treaties and growing consumer preference will require companies to produce ever greener products. Most obviously, the demand for cleaner sources of energy will provide industrial opportunities in wave, wind, tidal and solar power. The development of high speed rail will be good for consumers, businesses and the planet. However, both air and

car travel will continue to be necessary and, in many cases, desirable. Producing less polluting aircraft and cars should be an urgent priority for us.

Countries must also develop industries where they have the skills, talents, histories and traditions to excel. Nobody excelled in environmental technology when it was first invented. But some countries saw its potential and consequently invested in its development. Those whose governments refused to invest in these industries, or which didn't identify this opportunity, lost out.

Much concern remains about the split among nations between 'surplus' countries and 'deficit' countries. Surplus countries include Germany, China and Japan; deficit countries include the United States, the UK and Australia. Surplus countries such as Germany have built their economies by producing goods for export while depressing wages at home. This situation has worked because deficit countries, chiefly the US, has bought these exports and kept the world economy in balance. In an age where the US is no longer able to afford to do this, the dangers are obvious. All countries wish to export their way out of economic difficulties, but by definition, economies can only export if other economies are prepared to import. Germany, and especially China, must commit to greater balance and that includes increasing wages so that workers can buy more of the goods and services produced. Driving such domestic growth also requires letting exchange rates reflect the true purchasing power of workers.

Question 3: In addition to continuing to push for a successful conclusion to the Doha Round, how can the EU best pursue overall EU trade policy objectives in the WTO?

The TUC supports a multilateral trading system that can iron out power imbalances between countries to ensure a fair trading environment providing sustainable development and decent work for all. The WTO has some distance to travel to match this vision. Despite being launched as a development round, the much delayed Doha negotiations are not living up to this promise. As a study by the Carnegie Endowment for International Peace (2006) concluded, "...the poorest countries are among the net losers under all likely Doha scenarios." Two key concerns here are that firstly, agricultural liberalisation will have few winners in the developing world and many losers. While Brazil, Argentina and Thailand might gain, most other developing countries, especially the poorest, are expected to lose out, given that they are net food importers, and dominated by small scale farmers. Secondly, while liberalisation under NAMA is important, the depth of cuts being proposed are likely to result in direct employment losses that will overwhelm already damaged labour markets recovering from the global financial crisis, as the International Trade Union Confederation (ITUC) concludes. To build a consensus in these contentious areas, the EU could lead a comprehensive "stock take" to better understand the employment effects of the deal on the table to revise the texts accordingly.

While the WTO's multilateral rules are likely to have assisted in dampening any moves towards toward beggar-thy-neighbour protectionism during the crisis, the TUC believes that concerns about the return of protectionism are largely misplaced. Such protectionist calls, where they do exist, certainly do not come from the international trade union movement.

To restore the faith of working people in trade, the WTO needs to urgently strengthen its linkages with employment, labour standards and the work of the International Labour Organisation (ILO). Its joint studies with the ILO are a good, if minimal, start. Additionally, the WTO should (1) assess employment and labour standards of member states in its period Trade Policy Reviews, including through drawing on the conclusions and recommendations of ILO supervisory processes; (2) coordinate with the ILO on assessing country compliance with the various GSP initiatives and FTA social chapters; (3) explore expanding and linking trade preferences with sectoral programmes on trade and decent work such as the ILO Better Work Programme; and (4) form a WTO trade and employment working group including trade unions and employer groups to help oversee this agenda.

Transparency and consultation is paramount. The public and civil society in particular should be given more information about the status of negotiations and opportunities for genuine policy dialogue and feedback on their input. Only through the EU ensuring that the WTO is "democratised" can it help to deliver on jobs and development.

Question 4: Do our current FTA negotiations provide the right geographic and substantive focus for our bilateral trade relationships in the context of the Europe 2020 Strategy?

The TUC is concerned that the current wave of FTAs are being concluded in an unequal bargaining environment, resulting in weaker countries often agreeing to things that they would not agree to in the WTO e.g. around the privatisation of public services. Further, FTAs pose a serious risk to undermining regional integration and South-South trade.

As FTA negotiations continue to proliferate, despite the concerns of civil society, the EU must ensure that the following elements, drawn from the ETUC, and the ITUC are included in such deals:

- Strong and unambiguous requirements committing parties to ratifying and effectively implementing ILO core labour standards and other elements of the ILO's Decent Work Agenda.
- For Sustainable Development chapters to have the same dispute settlement treatment as all other components in the body of the agreement.

- Requirements for both parties to submit regular reports on general progress to implement all the commitments made under this agreement, including ILO conventions.
- Both parties commit to respecting the OECD Guidelines on Multinational Enterprises and the ILO Tripartite Declaration on Multinational Enterprises and Social Policy, and not lowering labour standards in order to attract foreign investment - a commitment extending to all parts of their territories, including export processing zones (EPZs).
- Provision should be included for Human Rights Sustainability Impact Assessments (HRIAs) and for action to be taken on the basis of their findings (see also question 19). The HRIAs should consider all relevant aspects of the social and economic impact of the agreements, including access to quality public services and the use of different policies, including trade related policies, to achieve industrial development.
- Governments should be required to act on the basis of social partners' formal complaints. This should be a binding mechanism whereby recognised workers' and employers' organisations can submit such requests for action. Such complaints, treated in a timely manner by genuinely independent experts, should have ongoing follow-up and review processes, in order to maintain pressure on any governments that allow violations of workers' rights in their territories.
- A Trade and Sustainable Development Forum providing for consultation with workers' organisations, employers' organisations and NGOs should be established. This should meet at least twice a year, and should enable Forum members to raise social issues and problems for public discussion.
- In addition to linkage to the general dispute settlement provisions of the agreement as mentioned above, the agreement should provide for fines. These must be high enough to be of a sufficiently disincentive nature. The proceeds from such fines should be directed towards improving social standards and working conditions in the sectors and areas giving rise to the problems concerned.
- Technical and development assistance should be provided in the FTA, linked where relevant to cooperation with multilateral agencies, especially the ILO. Additional forms of incentives, including trade incentives should also be included.
- In addition to co-operation regarding the core labour standards, there are other important ILO conventions relevant to decent work that should be encompassed in the agreement. These include those identified as "priority conventions" by the ILO Governing Body in its 1993 decision (Convention 122

on Employment Policy, Conventions 81 and 129 on Labour Inspection and Convention 144 on Tripartite Consultation), other Conventions enjoying widespread support at the ILO (including Convention 155 on Occupational Safety and Health, Convention 102 on Social Security, Convention 103 on Maternity Protection, and Convention 135 on Workers' Representatives), and certain other essential ILO instruments (namely the Promotion of Cooperatives Recommendation, 2002 (No. 193), the Human Resources Development Recommendation, 2004 (No. 195) and the Employment Relationship Recommendation, 2006 (No. 198)). Additional ILO Conventions dealing specifically with occupational health and safety issues that should be included are Convention 162 on Safety in the Use of Asbestos, as well as others concerning sectors which are recognized as hazardous by the ILO, and Convention 187 on the Promotional Framework for Occupational Safety and Health.

- Finally strong clauses requiring respect for multilateral environmental agreements, including the Kyoto Protocol, and respect for human rights conventions are required.

These requirements should be put into existing FTAs and those currently being negotiated including the EU-India FTA. Further, the new GSP regulation should contain a clause stating that GSP monitoring and enforcement provisions will continue to apply where an FTA affords weaker protection, given that many countries graduating from the GSP system are signing FTAs with weaker incentive arrangements (See TUC submission on a new GSP regulation: www.tuc.org.uk/extras/eugsp.pdf).

The TUC, its affiliated trade unions, and unions across Europe and in Colombia oppose any trade agreement with Colombia on the grounds that it is fundamentally failing to stop, and in many cases perpetrating, terrible human rights abuses, particularly against trade unionists (see also specific concerns with the EU-India FTA in question 8 and EPAs in question 14). The current draft text of the EU-Andean (Colombia and Peru) FTA, has even weaker language on human rights than the current GSP+ arrangements governing trade between the parties. Given the Colombian Government's failure to reverse its terrible human rights record, this weaker text risks not only endorsing, but exacerbating this failure (for an analysis of the draft text supporting this conclusion see: <http://www.tuc.org.uk/international/tuc-17899-f0.pdf>).

Question 7: How can the EU, and in particular trade policy, help to secure a reliable and sustainable supply of raw materials by third countries?

Given increasing global pressure to secure limited resources, the EU should not stoke a "resource war", but work with other major economic regions to reinforce or build international institutions that guarantee sustainable and just access to

resources for all populations in the world.

As bitter experience in the extractives industry shows, sourcing from so-called “weak governance zones”, can generate or exacerbate conflict and corruption. The EU needs to regulate to ensure that EU sourcing or investment in such areas adopts best practice in ensuring that no negative social or environmental impact is caused (see also question 9).

Question 8: Should the EU aim for more trade in services and if so, how? Multilateral and bilateral negotiations have only partially succeeded in opening trade in services so far, so would a renewed focus on trade in services among key trading partners (plurilateral approach) offer a useful alternative?

Public and essential services (such as health, education, social services, water, waste and environmental services), in the EU and countries it trades with must be excluded from all aspects of the EU’s trade policy. As the back bone of our societies and economies, public services support billions of ordinary working people, and are essential in tackling inequality and poverty. Private provision of such services, often driven by trade liberalisation, has led to less public accountability, quality, access and value for money. EU trade policy must also allow governments the policy space to reverse such privatisations, and to regulate in the public interest.

Outside of public services, the TUC supports progress towards the liberalisation of services recognising its role in providing employment and driving productivity and growth. However, liberalisation of services should only take place through a “positive list approach” (as is the case with the WTO’s GATS) to avoid unintended, unforeseen and excessive liberalisation, rather than the negative list approach being promoted in some FTAs. This means that parties to the agreement must list exactly what sector they are liberalising and under what terms, to provide absolute clarity. Given that low paid and vulnerable workers dominate the service sector, the TUC would welcome a trade policy that provides them with decent, well paid and secure jobs.

The liberalisation of the temporary movement of workers (covered by e.g. Mode 4 of GATS) should not take place in trade fora such as the WTO and FTAs which are poorly suited to deal with this. Where such provisions are included (as is likely in the EU-India FTA), they must not undermine collective bargaining, local laws or the rights of migrant workers. To remove the lack of transparency over the EU-India negotiations, a full debate needs to be held with trade unions on the issues, given the parallels between the Mode 4 debate and workers’ rights issues arising out of ECJ decisions on the provision of intra-EU services.

In the wake of the global financial crisis, any financial liberalisation must not undermine prudential financial regulation – much of which is still being developed. Such regulation includes ensuring the structural separation between commercial and proprietary trading banking institutions, clamping down on the shadow economy, tax havens, and transfer mispricing, ensuring responsible capital to debt ratios, limiting executive remuneration that rewards irresponsible behaviour, ensuring “pro-poor” financial services, and taxing the financial sector, among others.

Question 9: Given that the Lisbon Treaty gives the EU greater competences in international investment policy, how should we contribute to facilitating cross-border direct investment (both outward and inward)? What are the key issues to be addressed in agreements governing investment?

The EU’s greater competency on international investment policy presents a good chance to remedy many of the problems with the hundreds of bilateral investment treaties (BITs) that EU member states are currently party to. Many BITs are vaguely worded, encouraging sweeping interpretations of the clauses, often reducing the ability of host states to regulate in the public interest. The BITs are also predominantly about investor rights, rather than ensuring that investment contributes to decent work and sustainable development. Finally, “investor-state” dispute settlement procedures in such agreements fall so well short of accepted standards of procedural fairness and transparency that they need to be abolished.

To provide more balance in future investment chapters or agreements, the Commission should take on board the following points:

- Expropriation: vaguely worded expropriation clauses in BITs have led to arbitration panels deciding that legitimate public policy measures can constitute a form of indirect expropriation against a foreign investor. This has led to investors claiming compensation against states for regulating in legitimate areas. Further it has promoted a “regulatory chill” – the reluctance of states to regulate for fear of being sued under such agreements. To remedy this problem, bona fide, non-discriminatory measures taken by a host state to protect or enhance legitimate public welfare and environmental objectives should not constitute a form of expropriation under such agreements.
- Market access: “pre-establishment rights” - clauses providing market access to foreign investors - should be offered through a “positive list approach”, rather than the current blanket approach (see question 8 on “positive list” approach).
- Investor definition: the definition of “investor” and “investment” needs to be restricted to genuine investments. Definitions that are too broad lead can lead to unwelcome forum shopping, where companies set up shelf

companies to access more favourable investment agreement to sue states under.

- Government procurement: measures taken in accordance with government procurement policies for the purchase of goods and services by any level of government should be exempt from agreements.
- Non-derogation clauses: to ensure that investment agreements do not erode state obligations regarding human rights, agreements must contain non-derogation clauses preventing host states from lowering their labour, social or environmental standards to attract investors. Similarly, agreements must not include so-called “stabilisation clauses” that protect investors from any new regulations applying to them. Such agreements should also deem that stabilisation clauses in commercial contracts between investors and states are invalid on the grounds that they are limiting regulation in the public interest.
- Impact assessments: very little is known about the impact that Investment Agreements have on the scale and type of foreign investment they attract, and on the impacts such investment has on human rights and sustainable development. To better tailor investment agreements to drive human rights and sustainable development objectives, a Human Rights Impact Assessment should be conducted by the European Commission prior to any investment agreement or chapter being concluded (see also question 19), paying particular regard to the likely impact on the quality and quantity of employment, and on the access to essential services and goods. The assessment should contain recommendations on how to avoid, or mitigate any potential harm identified.
- Respecting international norms: such agreements must commit the parties to respect key international norms including those on preventing corruption and bribery, the ILO Declaration on the Fundamental Principle and Rights of Work, the OECD Guidelines on Multinational Enterprises and the ILO Declaration on Multinationals. Requirements to corporate governance, including best practice on restricting transfer pricing practices, and public country-by-country reporting should also be included. Further, protection for investors under such agreements must be contingent on such investors respecting these instruments.
- Investor-state disputes mechanisms: international arbitration panels set up under agreements to hear “investor-state” disputes have been notoriously secretive, undemocratic, ignoring basic rules of procedural fairness and have a strong perception of bias in favour of international investors. They also provide more protection to foreign investors than domestic ones. Going forward, the Commission should ensure that investment disputes are heard by domestic courts in the host state. To ensure that such legal systems are fair, the agreement could require host state legal systems to adhere to basic principles of procedural fairness and the rule of law, or

failing that, the investor could use the domestic legal system of its home state.

- Investor liability: to balance these rights, investors should also be subject to civil actions for liability in the legal system of their home state for the acts or decisions made in relation to the investment where such acts or decisions lead to significant damage, personal injuries or loss of life in the host state.
- Capital controls: Given the increasing depth and frequency of financial crises, the rights of an investor to transfer its assets abroad, should be limited by the right of the host state to institute capital controls in such circumstances.

The TUC would welcome more debate on this issue, including for the European Commission to hold a public consultation dedicated solely to this issue.

Question 10: How can trade policy best support green and inclusive growth around the globe including through Sustainability Impact Assessments?

On supporting green and inclusive growth see the answers to questions 1, 2 and 3. On the role of Sustainability Impact Assessments and how to improve them, see the proposals put in question 19.

Question 11: Given the forthcoming revision of the Common Agricultural Policy and the continuing need to foster a sustainable agricultural sector in Europe, how should EU trade policy develop in this area consistently with the overall objectives of the Lisbon Treaty?

According to the OECD, as a percentage of gross farm receipts, the EU agricultural producers receive more support (23%) than the OECD on average (22%), and the United States (9%). Heavily subsidised agriculture drives prices artificially low, and encourages dumping leading to major employment, social and environmental problems, especially in the developing world. The TUC recognises that the CAP supports many European farmers and their communities, and that reductions should be phased in, and complemented by transitional programmes to enable a fair adjustment process.

Question 12: How can EU trade policy ensure that the benefits of global value chains are shared by European producers, consumers and workers?

It is not Europe that needs to keep more of the “value” from global value chains, it is EU workers and workers globally. They have been receiving a declining share of GDP since the 1970s. For example, in the UK the share of national wealth going to wages has dramatically dropped from 65 percent in 1975 down to only 53 per

cent today.² The trend is similar globally: even in an economic powerhouse like China, the wages of Chinese workers have declined as a proportion of GDP for every year since 1983 (Guardian, 1 August 2010). This is creating a global crisis of distributive justice, as the ITUC calls it.

There are three key and interrelated drivers of this global inequality: (1) the rising importance of the skills premium, driven by highly mobile capital, technology and the disaggregation of production processes across global supply chains; (2) the weakening of organised labour and the decreasing coverage of collective bargaining; and finally (3) the financialisation of the global economy.

As touched on earlier the EU needs to promote a progressive enabling environment for workers to address issues (1) and (2) above. Additionally, the EU should support credible, results driven initiatives, such as the Ethical Trading Initiative (ETI), or the ILO Better Work Programme, that are working to change company purchasing practices to improve working conditions and productivity in global supply chains – in short, to help workers get a fairer share of the “value” they produce (see www.ethicaltrade.org.uk).

On point (3), the financialisation of the global economy has been a key driver of global inequality. To take one example: a recent report by Global Financial Integrity illustrates how Africa may have lost US\$1 trillion in illicit flows to western financial institutions over the past four decades, mainly through a form of commercial tax called trade or transfer mispricing. Binding global rules cracking down on such tax evasion and introducing a Financial Transactions Tax are arguably the single most effective reforms to building an equitable, sustainable and rebalanced the global economy.

Question 13: Are existing flanking policies sufficient to ensure that the benefits of trade are shared among different people and across different regions and markets in the EU? And how can the EU best ensure, where necessary, that trade and other policies play their part in helping people, sectors and communities adjust?

Even if the economic downturn had not happened, Europe would have faced important challenges tackling rising inequality. Some parts of Europe have benefited greatly from new industries, while others have struggled and, in the worst cases, fallen into decline. Meanwhile, the excesses of financial capitalism has meant that some sections of the European population have become very, very rich and even now, with a real risk of a ‘double-dip’ recession in some European countries, the return of excessive bankers bonuses shows that lessons have not been learned. Contrast this with ordinary working people who are having to pay

² TUC (2009) *Unfair to Middling: How Middle Britain's Shrinking Wages Fuelled the Crash and Threaten Recovery* Touchstone Extra pamphlet

for the crisis through wage and public service cuts - a crisis they did nothing to cause, - and a sense of injustice could easily undermine the unity of people across Europe.

Europe therefore faces a major challenge in ensuring that national governments and the EU retain the support of the populations of Europe as we come out of the financial crisis. European structural funds, especially the European Social Fund and the European Globalisation Adjustment Fund (EGDF), have an important part to play in the quest for greater fairness in the European economy. Their funding should be increased and their effectiveness improved, firstly by including full social partner participation in their design and implementation. However, the EGDF remains a backstop to deal with the consequences of restructuring and cannot be a substitute for an active and dynamic industrial policy based on strong public and private investment, quality public services, research and innovation. Also important is the tackling of tax competition from deregulated markets, which threatens Social Europe.

Question 14: How can the EU best strengthen the issue of trade and development in its trade policy? Should the EU pursue a more differentiated approach in its trade relations to reflect level of development of particular partners? How should the EU approach the issue of trade preferences in relation to the generally low level of EU Most Favoured Nation (MFN) tariffs, which will further be eroded following the possible conclusion of the Doha Round?

Many developing countries and vulnerable workers are missing out on the gains from trade. "Globalization and informal jobs in developing countries" – a recent landmark study written jointly by the ILO and World Bank found that workers in the rapidly growing informal economy – constituting 60% of all workers in the developing world – are unable to capturing the gains from trade. These informal jobs are characterised by less job security, lower incomes, absence of access to a range of social benefits and fewer possibilities to participate in formal education and training programmes. This poverty trap severely restricts workers' ability to get formal jobs that trade liberalisation might create.

Not only do they miss out on trade, but trade can be part of the problem. As the report states, "when economies are opened up, the informal economy often acts as an adjustment buffer for workers who lose their jobs, further depressing decent working standards in a manner that would not occur if alternative employment opportunities were available in the formal economy". In short, the predicted job destruction associated with trade liberalisation is often not matched by the predicted job creation, resulting in growing informality. This problem has been greatly exacerbated by the financial, food and fuel crises of the past few years, where, according to the UN Secretary General, an extra 200 million people have been pushed into absolute poverty.

So how can trade help, rather than undermine? Developing countries need robust and diversified labour markets, and basic social safety nets that can support and retrain unemployed and informal workers to help them find new and decent work. They need active labour market programmes around job creation, job search and vocational training and industrial policy to nurture employment intensive and higher value-adding firms.

The EU needs to support the creation of this progressive enabling environment through increased development assistance in all of these identified areas. Secondly, trade liberalisation must proceed at the pace it takes for the labour market to begin absorbing the informal workforce. This depends on the strength of measures described above. But it also requires policy flexibility through special and differential treatment provisions and safeguard measures – which are often inadequate to foster and support higher-value added and employment intensive industries and firms. Further, some LDCs are simply too vulnerable to open up key parts of their agriculture sector, as the Carnegie report quoted earlier shows.

These concerns are perhaps most acutely felt in the Economic Partnership Agreements (EPAs) pursued by the EU with the ACP (African, Caribbean and Pacific) countries. Partner trade unions in ACP countries have raised repeated concerns about the pace, depth and inflexibility in liberalising some 70-90% of tariff lines. Further they are concerned that such deals are undermining efforts towards regional economic integration, and contain new issues already rejected at the WTO, particularly those that threaten public services. For example, Pacific negotiators famously leaked a letter from the EC where it rejected requests for, among other things, development adjustment assistance, clear definitions of public services to prevent privatisation, the exclusion of TRIPs “plus” commitments that threaten access to medicines and the removal of severe restrictions on the right to regulate in the services sector.

Thirdly, strengthened labour standards have a vital role to helping vulnerable workers harness the benefits of trade. As organisations such as the Self Employed Women’s Association (SEWA) of India have demonstrated, the driving force advocating and carrying out such reforms are usually vulnerable workers themselves – speaking with a collective voice through their trade unions. The systems of industrial relations that support such social dialogue are weak in the developing world and urgently need to be strengthened.

A key tool the EU can use to strengthen labour rights in developing countries is the Generalised System of Preferences (GSP), particularly its GSP+ component which rewards countries with additional trade preferences in return for ratifying and effectively implementing 27 core human rights conventions. This includes the four core ILO labour standards - all strong foundations upon which to drive fair and sustainable growth. The TUC recently submitted a range of proposals to strengthen the EU GSP’s contribution to development (see,

www.tuc.org.uk/extras/eugsp.pdf) including through better benchmarking and more transparent monitoring of progress.

The further lowering of the EU's already low level of MFN tariffs does threaten to undermine the incentive nature of the GSP. The EC can improve incentives in two ways. Firstly, as preferences are eroded the EC can increase its technical assistance, to e.g. strengthen labour inspectorates, for those countries showing a genuine concern for the well-being of their workforce and making measurable progress in implementing the priority conventions. Further, the EC can tweak the preference balance between the EBA, GSP and GSP+ schemes, particularly with regard to the definition of "vulnerability" to increase GSP+ incentives.

Question 15: What initiatives could the EU take and which EU trade policy instruments could we mobilise to complement and reinforce the 'smart' dimension of the Europe 2020 strategy and facilitate trade in high-tech goods and services?

See answers to questions 1 and 2.

Question 16: How can the EU best safeguard its firms or interests against trading partners who do not play by the rules? Are the existing tools and priorities sufficient to address unfair competition from third countries?

The EU's Trade Defence Instruments continue to be an important part of a sustainable industrial development strategy for growth and employment. The TDI needs specific provisions to address trading partners that are unfairly competing through abusing labour rights, in particular the core labour standards of the ILO. Workers and unions should be able to initiate anti-dumping complaints and to participate in all stages of the investigation.

The TUC supports the call of the ETUC to oppose any proposal to grant European producer status, in anti-dumping and anti-subsidy procedures, to European companies that relocate production abroad.

Question 18: What else can EU trade policy do to further improve the protection of IPR in key markets?

The TUC supports a global IP regime that strikes a fair balance between ensuring on the one hand, that innovation takes place (and that innovators are fairly rewarded), and on the other, that the public can access and benefit from that innovation, particularly critical in the case of medicine and public health. The WTO is making progress in striking this fair balance; however the TRIPS "plus" language being negotiated within many FTAs goes too far in favour of protecting intellectual property rights, threatening global public health objectives. For example, the in Peru, the tightening of intellectual property rights has made it more difficult to produce affordable generic life-saving drugs.

Question 19: What more should the Commission do to ensure that trade policy becomes more transparent to ensure that a wide variety of views and opinions is heard in the policy-making process?

Trade policy in Europe is conducted in a notoriously opaque manner, doing little to restore the confidence of working people in Europe towards trade. The EC address this through: (1) conducting more rigorous and consultative impact assessments incorporated into trade negotiations; (2) ensure that those negotiations have genuine civil society input; and (3) ensure a clear oversight role for the European Parliament in setting policy, tracking, inputting into and approving negotiations, and monitoring the GSP system.

Firstly, the EC should ensure that prior to any trade or investment agreement being concluded, a Human Rights Impact Assessment (HRIA) is carried out study taking into account all potential social, economic, environmental and human rights impacts, including access to quality public services and the use of different policies, including trade related policies to achieve industrial development. Impact Assessments also need to better link economic change with social and human rights consequences, rather than simply include the latter as an “add-on” divorced from the prior analysis, as many of the EU Sustainability Impact Assessments (SIAs) currently do.

Another key problem with SIA is that they usually just present the net employment impact of agreements. For example, the recent study by Copenhagen Economics on the “Impacts of EU Outward FDI on the EU economy” – commits this common methodological mistake. It concludes that for “every 100 jobs going abroad, at least 50 new jobs are created immediately in the same firm”. But are these new jobs of the same or lower quality? Who is getting these jobs? What is happening to those workers made redundant? Such processes of liberalisation may not have a huge net effect on employment in the EU, but that can mask strong shifts in inequality, as lower-skilled workers lose out from the process of job churning, while higher skilled workers capture the lion’s share of the claimed 13 billion in gains to EU workers (over 2001 to 2006). Instead, the assessment needs to capture the impact that job churning may have on the quality and quantity of work, and critically, who might win and who might loose from such changes. This information is critical in aiding policy makers, trade negotiators and social partners in either adapting the agreement, or ensuring an appropriate policy mix is in place to respond to its impacts.

To have credibility, Impact Assessments and public consultations must feed into the negotiation processes. Assessments must therefore be (1) based on the likely draft text; (2) be completed in time to be incorporated into the negotiations, and (3) have clear recommendations on how agreements can avoid or mitigate potential negative impacts and follow-up process to ensure they are implemented.

EC negotiations themselves have been very secretive, frustrating civil society actors such as trade unions. The TUC is concerned that trade unions are not given the same access to trade negotiation processes as industry lobbies. The EC should involve and consult civil society actors throughout negotiations, and establish regular channels between governments and groups such as unions and employers so that they can be meaningfully involved. One suggestion is the creation of a joint website between the negotiating parties, where detailed information about the trade negotiations, including ideally, negotiating texts, is posted and updated regularly. The site also should allow non-government groups to post their analyses and proposals about the trade deal.

EU consultation IPM reference number: **412578145211221610**