

EU trade and development consultation

The EC is seeking input on how it can best support developing countries that do not currently benefit from international trade, or do so only marginally.

In summary, the TUC submission to the EU's trade and development consultation calls on the EU to promote:

- universal social protection, quality education and public services, and respect for labour standards and social dialogue, especially for workers in the informal economy (question 4);
- proactive industrial policies, that allow developing countries to move into high valued-added industries generating green and decent jobs (question 2);
- stronger tax collection capacity, and macro-economic policies aimed at full employment and the reduction of inequality (questions 3 and 4);
- protection of quality public services, and excluding the liberalisation of the temporary movement of workers from trade policy (question 11);
- public procurement that drives decent work (question 12);
- enforceable standards for responsible investment (questions 8, 9, 10, 16 and 17);
- strengthening respect for core labour standards (questions 13 and 14) including opposing trade agreements with serial labour rights abusers such as Colombia (question 19);
- best practice programmes building mature systems of industrial relations in global supply chains (questions 17 and 22); and
- more transparent and consultative trade policy-making including through supporting capacity building and participation of trade unions, especially in the developing world (questions 22 and 25).

Introduction

The questions below are taken from European Commission's (EC) consultation on trade and development which closed on 21 August 2011.¹ The EC is seeking input on how it can best support developing countries that do not currently benefit from international trade, or do so only marginally, as part of a new 10 year strategy. The answers below were developed in consultation with affiliated unions and with the ETUC and ITUC.²

Trade, inclusive growth and development

1 How could the EU support developing countries better integration into the world economy?

EU trade and development policy can far better support developing countries to have sustainable and inclusive economies, providing for green and decent jobs. This requires support for a healthy, educated workforce, enjoying social protection, and respect for their rights (question 4). It also requires a proactive industrial policy, allowing developing countries to move out of a high dependency on low value-added products (question 2). Integration with the global economy need to proceed at a pace that supports these above measures, rather than under mines them. The EU can also lead on promoting responsible FDI, (questions 8, 9, 10, and 17), and strengthening respect for labour standards (questions 13 and 14).

2 What policies and reforms in developing countries are needed to ensure that trade liberalisation improve those countries' prospects for inclusive growth? In this context, how could EU policies contribute to improving domestic resource mobilisation in developing countries?

Developing countries need the policy space, fiscal resources and technical assistance to drive economic diversification into key value-adding parts of global supply chains that can provide green and decent jobs for all. The state has an active role to assist the private sector to overcome market failures of coordination and risk taking that stunt innovation, through credit, R&D support, infrastructure planning, public procurement and strategic infant industry protection. Designing such a policy requires close coordination and dialogue with employers and trade unions. Liberalisation should not undermine the policy space needed to implement these measures, or else countries can become trapped in low-value exports.

¹ The consultation document with the full list of questions is available online at:

<http://ec.europa.eu/yourvoice/ipm/forms/dispatch?form=TradeandDevelopment>

² The Commission limited each answer to 1,000 characters. The TUC provided more detailed answers to similar questions as part of the EC's 2010 trade consultation, available online at: <http://www.tuc.org.uk/tucfiles/65/TUCandEUtrade.pdf>

In addition to an already low revenue base, the global financial crisis caused LDCs to have an additional fiscal gap of £65 billion in 2009.³ Domestic resource mobilisation could be vastly improved through clamping down on commercial tax evasion, largely committed through transfer mispricing, aided by underreporting and tax havens.⁴ A financial transactions tax could also raise some £120bn globally each year.

3 Which aspects of sound economic governance are important for sustainable social and economic development?

Full employment, social protection and the reduction of inequality must be key targets at the heart of national and global macro-economic policy, to build balanced, strong and sustainable growth. This includes giving national governments the fiscal space to implement counter-cyclical stimulus during an economic downturn to boost internal demand through active labour market policies to maintain and create decent green jobs.

Volatility and damaging speculation need to be curbed through the introduction of an FTT, as well as through the strategic use of capital controls. Private credit ratings agencies need to be replaced with independent bodies with public oversight. Effective regulation of complex financial products, finance institutions “too big to fail”, and executive remuneration is long overdue - as is the establishment of a fair sovereign debt restructuring mechanism.

Workers and their trade unions also have a key role to play in identifying and preventing corruption and bribery in government and businesses.

4 What can be done to ensure that the gains from greater trade and investment are more evenly distributed, especially to the worst-off groups in developing countries?

Liberalisation of trade and investment can result in net economic gains where labour and capital made redundant by the process are reallocated to more productive parts of the economy. However, this does not take place if redundant workers simply become trapped in the informal economy with less job security, poverty incomes, and no access to social protection, quality education⁵ or retraining.⁶ Even where this reallocation of labour and capital does occur, it exacerbates inequality within a country as higher-skilled workers benefit, while

³ See <http://www.oxfam.org/en/policy/impact-global-financial-crisis-budgets-low-income-countries>

⁴ This accounts for some 60 to 65% of \$1tn in illicit flows leaving Africa in the last four decades according to the Global Finance initiative.

⁵ For more information see: Educational International (2011) *6th Education International EI World Congress, Policy Paper on Education, Building the Future through Quality Education*, available online at: http://www.ei-ie.org/en/news/news_details/1929

⁶ See ILO and WTO (2009), *Globalisation and informal jobs in developing countries*, page 23

lower-skilled workers suffer. Therefore the EU needs to promote universal social protection, quality education, vocational training, respect for labour standards and active industrial policies to link the formal economy with the informal. The EU also needs to ensure that liberalisation is flexible and takes place at the pace it takes the local labour market to fairly adjust.

5 The EU pursues a comprehensive approach to trade negotiations with developing countries encompassing services, investment and trade-related issues (e.g. competition policy, innovation and intellectual property rights, public procurement, good governance in the tax area, environmental and social aspects). Should this approach be maintained or adjusted?

The EU should not force developing countries to sign up to so called “deep integration” issues. This has clearly been the case in EPA negotiations, despite many ACP countries collectively rejecting such commitments through the WTO. Where such commitments are made, the EU should ensure that they do not infringe on the ability of developing countries to meet their human rights obligations, provide universal quality public services and pursue a proactive industrial policy supporting creation of green and decent jobs (See also question 11 on services, and questions 8 and 9 on investment). The TUC supports maintaining and strengthening the inclusion of good governance in the tax area and sustainable development issues in trade agreements.

Investment

8 Should EU trade policy and negotiations aim to establish open and stable conditions for investing in partner countries, including developing countries? And should the EU differentiate to take account of trade partners' development level and if so, what criteria should it use?

Foreign direct investment can create decent work, but can also undermine it through e.g. imposing unfair purchasing practices on suppliers. Investment rules should therefore include enforceable investor obligations covering labour and environmental standards. They should require the parties to: (1) adhere to and promote the OECD Guidelines on Multinational Enterprises, the ILO Tripartite Declaration on Multinational Enterprises and importantly, the UN Framework and Guiding Principles on Business and Human Rights; (2) require investors operating in or from their territories to identify and address the negative impacts of their activities, and finally, (3) allow potential victims of corporate abuse to use the courts of the home state of the investor to seek remedy where the courts of the host state are unable or unwilling to provide such redress. Relatedly, 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. While these obligations should be universally applied, they are especially relevant to fragile and

conflict states and countries with high risk supply chains such as garments and agriculture.

9 How else can the EU tailor its investment policy to promote and sustain inclusive growth in the developing world?

In addition to the measures in question 8, the EU should ensure that any investment provisions maintain and strengthen the state's ability to regulate in the public interest, provide quality public services and promote a social model that guarantees fundamental rights at work and sustainable development. Specifically, 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. Clauses providing market access to foreign investors should only be offered through a "positive list approach". The definition of "investment" needs to be tightened to prevent inappropriate forum shopping. Government procurement should be exempt. BITs must contain non-derogation clauses on labour, social or environmental standards, especially with regard to Export Processing Zones.

10 And how can it best encourage Corporate Social Responsibilities practices by investing enterprises and their suppliers, while adapting to different national and regional contexts?

The EU should revise its definition of CSR to bring it more in line with the common understanding of the term "responsibility" as being accountable for the consequences of one's activities, by reference to the instruments referred to in question 8. It can promote such responsibility by (1) expanding the jurisdiction of European member state courts (see question 8); (2) through including it in procurement, export credit and development finance rules and (3) introducing a single EU framework for mandatory corporate reporting on the non-financial impacts of companies. It can also support credible programmes on assisting enterprises, suppliers, local workers and their trade unions, and affected communities to improve respect for standards (see also question 17). Member states should ensure that their National Contact Points under the OECD Guidelines offer robust mediation and adjudication, have fair procedures and are better resourced.

Services

11 What conditions are needed for the service sector improvement in developing countries? And what conditions are required for that improvement to enhance growth prospects, boost employment and reduce poverty? What specific conditions, if any, are necessary for the LDCs?

As the backbone of our societies and economies, public services support billions of ordinary working people, and are essential in tackling inequality and poverty. Private provision, often driven by trade liberalisation, has led to less public accountability, quality, access and value for money. Public and essential services (e.g. health,

education, social, water, waste and environmental services) must be excluded from all aspects of the EU's trade policy. Public services, especially in LDCs urgently need to be better funded (see question 4). Progress towards the liberalisation of other services, should only take place through a "positive list approach", with policy room to ensure value and access. Any financial liberalisation must not undermine prudential financial regulation. The liberalisation of the temporary movement of workers should not take place in trade fora, provisions must not undermine collective bargaining, local laws or the rights of migrant workers or workers in the resident labour market.

Public Procurement

12 What conditions are needed to ensure that, when developing countries open their public procurement markets, this enhances their growth prospects, boosts employment, and reduces poverty? Are these conditions the same for all types of developing country?

Public procurement rules should promote decent employment the provision of quality goods and services in Europe and outside. 'Value for money/best value' in public contracting is not achieved by going for lowest price. It is achieved only when wider social, ethical and environmental benefits are given real weight in public procurement decisions. Developing countries should never be forced to open up their public procurement markets, as this may undermine a major tool to develop local jobs and business. EU trade policy objectives should respect the principle of local and regional self-government and the broad discretion that public authorities have to organise their activities according to local circumstances and preferences.

Trade and sustainable development

13 How can EU trade policy (continue to) support sustainable development in developing countries?

Trade policy should complement and reinforce sustainable development and respect for human rights. The ILO's Decent Work Agenda, and the programme for a 'Just Transition' to a low carbon future, provide a clear basis for action. The TUC supports linking trade with sustainable development because it will help discourage trade partners and companies from abusing labour rights to secure an unfair advantage. Further, core labour rights are a key foundation for sustainable and inclusive growth, as has been confirmed multiple studies by the OECD, the World Bank and the ILO among others. Trade agreements and the EU's Generalised System of Preferences provide a key vehicle for the EU to strengthen respect for core labour rights in developing countries.

14 Should EU trade policy specifically promote the respect of human rights in developing countries? If so, how?

Trade agreements should commit parties to ratifying and effectively implementing ILO core labour standards and other elements of the ILO's Decent Work Agenda. Sustainable development chapters have the same dispute settlement treatment as all other chapters, and include capacity building, sanctions, fines and adjustment assistance; and a binding mechanism for action on the basis of social partners' formal complaints. The EU's GSP regime needs to better push beneficiary countries to effectively implement core human rights and environmental conventions. The TUC has previously submitted a range of proposals to the EC in this regard (see: www.tuc.org.uk/extras/eugsp.pdf). WTO work in this field should progress through considering sustainable development issues in its Trade Policy Review, and incorporating and harmonising the oversight of GSP scheme and FTA sustainable development chapters. This work could be taken forward by WTO working group on trade and decent work.

16 How can EU trade policy (continue to) maximise the potential of [trade related sustainability assurance] schemes for developing and emerging economies while addressing risks of confusion related to a multiplicity of such standards? What should be the role of the private sector here?

The EU has not put in place a policy framework to regulate the confusing field of assurance schemes. Many of them lack credibility because they often making misleading claims, especially with regard to labour rights, and are unable to demonstrate real developmental impact. The EU should therefore regulate to promote the expansion of credible schemes able to demonstrate development impact, such as the Ethical Trading Initiative, and where possible their harmonisation towards the best possible standards to avoid proliferation and confusion.

17 Do you think this approach is successful? And should it be encouraged through EU trade and development policy?

The EU should only support credible best practice initiatives in this field that can demonstrate results in holding businesses to account in line with the international instruments referred to in question 8. On labour rights, emerging best practice in the field is moving away from widely discredited auditing and certification approaches towards developing system of industrial relations to allow workers to monitor and improve their own conditions and production processes through bargaining with management. This includes programmes through the Ethical Trading Initiative (see www.ethicaltrade.org.uk) and the ILO Better Work Programme working on the ground with companies, suppliers, workers and their trade unions.

18 What are the main factors limiting the involvement of women in trade in developing countries? How can trade and development policies address these constraints?

Women's ability to secure decent work, particularly in global value chains, is strongly limited by discrimination and harassment at work and home, and shouldering the burden of domestic work, particularly in the absence of social protection and quality public services. Trade unions have a strong track record in tackling these barriers through bargaining and advocating for maternity leave and child support, strengthening systems of social protection and quality public services, and tackling workplace harassment and gender discrimination. EU trade and development policy should therefore support, and not undermine, social protection and public services, and should explicitly support trade unions and women's empowerment in development cooperation. The impact of liberalisation must be assessed and disaggregated by gender.

Trade agreements

19 What can the EU do to ensure that the free-trade agreements it is currently negotiating contribute to further development, including beyond the partners directly involved in the negotiations?

The EU should not conclude trade agreements with chronic labour rights abusers such as Colombia, unless there is a significant reduction in the murder and harassment of trade unionists and human rights defenders and the prosecution of those responsible. Worryingly, the EU-Andean (Colombia and Peru) FTA, has even weaker language on human rights than the current GSP+ arrangements governing trade between the parties, and should not be approved.⁷

Raw materials

20 What is the best way for EU trade policy in raw materials to boost key development objectives of improving governance, building up administrative capacity, minimizing global prices volatility and opening new foreign investment possibilities, in developing countries and notably in LDCs?

A coherent EU approach on both primary and secondary raw materials is urgently needed. Given increasing global pressure to secure finite resources, the EU should not stoke a "resource war", but work with other major economies to reinforce or build international institutions that guarantee sustainable and just access to resources for all populations in the world, including through market control to reduce price volatility and speculation. As bitter experience in the extractives industry shows, sourcing from so-called "weak governance zones", can generate or exacerbate conflict and corruption, therefore the EP's recommendations on conflict minerals should be implemented. Resource-efficiency and self-sufficiency for

⁷ See: TUC (2010) *Analysis of the draft EU-Colombia FTA*, available online at: <http://www.tuc.org.uk/international/tuc-17899-f0.cfm>

European industry demands greater recovery and recycling of end of life products. Health and safety and working conditions in extraction and recycling industries must be addressed urgently worldwide.

Trade and natural disasters

21 Can trade policy be used as part of the response to natural disasters? If yes, which EU trade instruments could be used to support poor and vulnerable countries hit by natural disasters? And how could possible distorting effects of such intervention be minimised/avoided?

Food aid may be necessary in case of famine or drought, but can at the same time be disastrous for the development of local markets, if applied inappropriately. Aid should never be used to dump agricultural surpluses. Open markets can undermine food security in times of shortage if the poorest lack purchasing power. Therefore policy instruments, including social protection and cash transfers, grain storage and safeguard mechanisms that can both rapidly relax and restrict trade flows need to be available.

Aid for Trade initiative

22 How could the EU make AfT more effective at country level?

To support many of the points made in this submission, the EU should channel its Aid for Trade into: (1) assisting with the design and implementation of an industrial policy (see question 2); (2) supporting civil society organisations, particularly trade unions, to monitor and understand the impact of trade liberalisation, and have formal input into policy-making (question 25); (3) support for assisting export industries in developing countries to improve labour standards and productivity. This could be done by improving the capacity of local labour inspectorates, and through initiatives, such as the Ethical Trading Initiative (ETI), or the ILO Better Work Programme (question 17); and (4) programmes to assist workers to adjust to liberalisation, through re-training, social protection and the creation of new green and decent jobs are also vitally important. Finally, Aid for Trade should be decoupled from negotiation processes to avoid undue influence.

23 What are the main constraints on increased trade that should be addressed in the least-developed countries?

Technical barriers to trade often are a huge impediment. Lower quality requirements, when products are being used for different objectives, should be considered in order to give opportunities to exporters from LDCs.

Final comments

25 Please point out any other aspect you think important for EU trade and development policy, mentioning useful links or documentation publicly available.

To gain the public confidence it needs, EU trade and development policy must be conducted in a much more open and consultative manner. Civil society organisations would benefit from capacity-building and resources to better understand and engage in trade policymaking. The EU must ensure that trade negotiations have better civil society input, have more rigorous and consultative impact assessments conducted and their results incorporated into trade negotiations and that the European Parliament has enhanced oversight over trade policy. Consultation exercises over trade agreements must go beyond the occasional general public events, to be far more targeted. The Commission should establish regular channels of consultation, e.g. 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.