

ETUC Position: WTO Reform to promote sustainable development, social justice and decent work

Adopted at the Executive Committee Meeting of 20th September 2019

“The EU should prioritise multilateral solutions in the context of the World Trade Organisation (WTO) in accordance with our demands for a progressive trade policy. The ETUC has consistently supported equitable trade regulated by multilateral institutions and called for strong cooperation between the WTO and the International Labour Organisation (ILO). We urge the EU and its Member States to put more pressure on the WTO to include respect for labour standards, as set and monitored by the ILO, as part of WTO considerations and in future multilateral trade agreements”.¹

Background

The rules-based multilateral trading system as set out by the WTO is facing its deepest crisis since its inception, in a climate marked by growing trade and geopolitical tensions and by unilateral protectionist initiatives which can undermine a fair multilateral approach.

The WTO is confronted with the consequences of its failure in delivering the development mandate of the Doha round and the proliferation of bi/plurilateral initiatives and agreements. This process has happened in parallel with an increase in inequalities between and within countries.

The WTO has a problem of trust within public opinion, which affects its legitimacy. The lack of effective development achievements in the WTO negotiations has contributed to wider public criticism of the globalisation of the economy and trade policies that prioritise multinational companies over working people, the poor and most vulnerable.

The WTO is facing multiple challenges, including the blocking of the appointment of members to the WTO's Appellate Body by the US government. If this practice continues, after December 2019 the Appellate Body will not have enough members to hear cases, bringing the risk that the WTO dispute settlement system will effectively cease to function. Another contentious point is the ability of the WTO to monitor Member States' trade policies. The failure of many countries (including China) to comply with the WTO's notification requirements – for instance to notify of government subsidy programmes – has been a topic of concern for years. Another area for reform surrounds the problem of there being no agreed definition as to what constitutes a developed or developing country at the WTO and that members self-designate their status. WTO members that use the latter designation benefit from so-called 'special and differential treatment'. The fact that 10 of the G20 countries – including China, India, and South Korea – currently claim developing country status at the WTO is a major point of contention.

In addressing these challenges, WTO reform must keep development at its core, promoting inclusive growth, and fully consider the interests and concerns of

¹ ETUC Resolution for an EU progressive trade and investment policy Adopted at the Executive Committee Meeting of 13-14 June 2017

https://www.etuc.org/sites/default/files/document/files/etuc_resolution_for_an_eu_progressive_trade_and_investment_policy_en.pdf

developing countries, including the specific challenges of Least Developed Countries (LDCs). The WTO reform process must preserve the policy space of governments to design and implement national development policies and respect the Sustainable Development Goals (SDGs).

The EU has been an active player in trying to address the WTO crisis, by suggesting a way forward and seeking alliances with other WTO members. There has been however a worrying lack of progress and the future of the WTO is in real danger. This is why the ETUC wants to contribute to the debate in supporting an EU line that influences the reform process in a way that benefits workers.

The ETUC will advocate the views and demands expressed in this position with the European Commission and the European Parliament. We will also cooperate with the ILO and work with the ITUC and trade union confederations sharing our concerns regarding the current crisis of the WTO.

ETUC main objectives

The ETUC reaffirms its objective of achieving fairer economic and trade policies. The ETUC believes that WTO reforms are needed urgently not only to deal with the current stalemate in its arbitration procedures, but also to commit WTO members to ambitious and systemic changes related to labour standards, global warming, gender equality, social and economic cohesion and respect for human rights.

The WTO has to reflect the inherent relation between trade and labour. Trade rules and agreements affect the wages and conditions of workers. Thus, the ETUC reiterates its call for WTO rules and trade agreements to enforce the ILO Decent Work agenda, to make use of the OECD Guidelines on Multinational Enterprises and the UN Guiding Principles for Business and Human Rights and promote protection of and respect for international labour standards. The WTO must integrate these objectives in its mandate and play an active part in their achievement. We believe that taking better account of ILO standards can help to resolve the legitimacy crisis in the WTO.

Multilateral coherence

The ETUC and the international trade union movement have consistently pressed for multilateral organisations to work coherently in the promotion and implementation of social justice and international labour standards, the SDGs, environmental protection and protection for public services.

Synergies must be improved between the WTO, the ILO and other United Nations agencies, the World Bank, the International Monetary Fund and the OECD. Trade unions have pressed for a Globalisation Policy Forum to be set up, involving social partners and wider civil society, that would support a transparent and enhanced cooperation between multilateral organisations to promote international labour standards and the SDGs.

The WTO should support the enforcement of labour rights throughout supply chains. Rules on public procurement should include binding social and environmental clauses.

The WTO Secretariat should enable trade unions to feed into the development of its rules to support the enforcement of labour standards and ensure that trade unions are actively engaged in its work as well as in WTO ministerial conferences.

The EU should promote improved cooperation and joint policy development between the WTO and the ILO, and a permanent ILO representation at the WTO, inter alia through the setting up of a WTO Working Group on trade and decent work that

involves trade union representatives. This should be linked to the WTO system of Trade Policy Reviews which should systematically include a review of countries' implementation of ILO Core Labour Standards. In the case of disputes based on labour standards, the decision of ILO should be binding for WTO, thus underlining the multilateral coherence.

Sustainable Development Goals, Trade and Labour

The European Commission issued a concept paper in September 2018² on the modernisation of the WTO, acknowledging the SDGs' strong links to trade and the important role trade plays in achieving them. The ETUC emphasises the importance of the Commission's appeal to discuss sustainability issues at the WTO and will take action to make this a reality, supporting the creation of a broad alliance of trade unions around the world. To implement its commitment to support sustainability in the WTO, the Commission must ensure that WTO rules support the ILO Decent Work agenda. Therefore, the Commission's support should encompass and include the ILO core conventions, health and safety obligations and commitments to develop social protection systems, the OECD Guidelines for Multinational Enterprises, the UN Guiding Principles for Business and Human Rights (UNGPs) and the SDGs. The EU must ensure that trade unions are able to be involved and properly consulted in negotiations on WTO rules and policies.

The ETUC advocates effective climate protection measures within the framework of the WTO. The environmental impact of trade must be reduced by appropriate measures. To counter climate change and environmental degradation, multilateral environmental agreements such as the Paris Convention on Climate Change must be ratified, implemented and applied.

Enforcement of labour standards

There is a precedent for labour standards to be factored into WTO rules as the General Agreement on Trade and Tariffs (GATT), the precursor to the WTO, contained an exclusion for goods produced by prison labour.

If goods produced by prison labour can be excluded from GATT provisions, so should those produced by child labour or by companies who do not respect ILO core standards such as the right to associate or bargain collectively. These are fundamental standards, defined as enabling rights. As the European Economic and Social Committee (EESC) points out, exceptions from the GATT must be expanded to include both environmental and social matters, including at least the ILO core conventions.³

The ETUC has stated⁴ that labour standards should be enforced through the WTO as well as in FTAs. Key elements include commitments for governments to uphold up-to-date ILO conventions and instruments and the ILO Decent Work agenda. These commitments should be enforced by the establishment of a fully independent (consisting of not only trade experts) dispute settlement mechanism to enforce labour rights commitments. This must take into consideration guidance and decisions of ILO statutory bodies. Trade unions should be able to submit complaints through this mechanism for violations against workers' rights that automatically lead to investigations and, where abuses of labour rights commitments are found, offending

² http://trade.ec.europa.eu/doclib/docs/2018/september/tradoc_157331.pdf

³ EESC opinion: Reforming the WTO to adapt to developments in world trade
<https://www.eesc.europa.eu/pt/node/63550>

⁴ ETUC submission on the Non-paper of the Commission services on Trade and Sustainable Development chapters in EU Free Trade Agreements
https://www.etuc.org/sites/default/files/document/files/etuc_response_to_the_non-paper.pdf

governments and companies should be required to remedy their actions. Remedies could include penalties as a last resort.

We call on EU Member States to ensure that the WTO promotes gender equality through rules that require respect for rights on non-discrimination and promote Decent Work. Women are disproportionately likely to be displaced by liberalising trade policies from jobs in the formal economy to jobs in the informal economy that are often exploitative. We therefore urge the EU to make use of the UNCTAD “gender toolbox” which provides a systematic framework to evaluate the impact of trade reforms on women and gender inequalities prior to implementation of those reforms. We call on the WTO, the ILO and UNCTAD to provide a similar framework for labour rights.

Standards and services

The ETUC is concerned that trade negotiations and the General Agreement on Trade in Services (GATS) focus too much on eliminating “behind the border” barriers in trade, which could lead to lowering of social and employment standards.

Decisions on the level of regulation for employment and social standards should be taken through democratic parliamentary processes and/or collective bargaining and should preserve future policy space. Trade unions should in any case be consulted on these decisions.

We are concerned that non-transparent plurilateral negotiations are taking place between some WTO members, such as those on e-commerce, domestic regulation and the – currently stalled – Trade in Services Agreement (TiSA). These agreements could lead governments to lower social and employment regulations that multinational companies – which are supposed to live up to the UNGPs like any multinational company in any UN Member State – argue are ‘barriers’ to their access to services markets in the countries involved.

We are concerned that digital multinationals could use the e-commerce negotiations to lower the employment standards for jobs in digital sectors to increase their ability to make a profit. This is a growing threat as an increasing number of jobs now have elements of digital service provision in them – from app-based jobs to warehouse workers who input orders into online databases. Commitments that governments make for digital services in an e-commerce agreement may therefore impact on all sectors in ways that are difficult to foresee. In particular for public services there are significant risks that e-commerce commitments may reduce much needed policy space to protect fundamental rights. This strengthens demands that public services are not included in trade and investment agreements, including when they are provided by State-Owned Enterprises. Such agreements may also enable digital companies to exclusively own the data of users of their services which would prevent companies being held accountable for ways in which they use, store or pass on citizens’ personal data.

The WTO rules should be changed to guarantee the precautionary principle in all trade agreements.

Supporting development

WTO members should support the industrial and economic development of developing countries and LDCs that are not in serious violation of ILO core standards and provide them with the autonomy they need to pursue economic diversification. This should include arrangements that enable Global South countries to access Global North markets on a preferential basis rather than through unfair deals such

as Economic Partnership Agreements (EPAs) that require these countries to open markets to cheap imports their domestic industries cannot compete with. Also, WTO members should make sure that their multinational companies live up to the UNGPs and perform in accordance with due diligence⁵ so that human and labour rights are respected in their supply chains. Due diligence should be at the core of WTO policy.

WTO members must support developing countries and LDCs in building their capacity to transform their economic systems and to move up in the global value chain. To accelerate the transition from informal to formal economies, these countries need to convert from selling raw materials to selling high-value products made of raw materials and develop a wider industrial base and manufacturing economy, as a basis for jobs-led growth. The WTO must support local procurement rules to develop regional industrial policies.

Special and Differential Treatment

The ETUC recognises that GATT rules should reflect new realities, including the massive increase in WTO membership and its widening diversity with the accession among others of China, Russia, Vietnam and Saudi Arabia.

The issue of Special and Differential Treatment represents an essential instrument to address inequalities in development and must aim to ensure those countries with the broadest shoulders bear a proportional share of the load. The ETUC is convinced that to solve the issue of Special and Differential Treatment, the search for consensus is a condition *sine qua non*. The ETUC agrees with the EESC suggestion⁶ that a process of reflection should be initiated on the definition of developing countries in the proceedings of the WTO, which could rest on a set of criteria including, for instance, respect for ILO labour standards, redistribution policies, the market share in the global economy and human development indexes, aligned with already existing definitions in other international organisations. These suggestions could indicate the right way to reach the necessary consensus.

⁵ See ETUC discussion paper on Human Rights and Business Due Diligence

⁶ EESC opinion: Reforming the WTO to adapt to developments in world trade
<https://www.eesc.europa.eu/pt/node/63550>