# FOR THE MANY, NOT THE FEW

## TOWARDS A PROGRESSIVE MODEL FOR INTERNATIONAL TRADE AND INVESTMENT

*[ December 2018 ]*

SHORT VERSION - *for the full document www.globalprogressiveforum.org/trade*

FOUNDATION FOR EUROPEAN PROGRESSIVE STUDIES
FONDATION EUROPÉENNE D'ÉTUDES PROGRESSISTES

GLOBAL PROGRESSIVE FORUM

PES SOCIALISTS & DEMOCRATS

solidar

CONFEDERATION SYNDICAT EUROPEÆN TRADE UNION

S&D Group of the Progressive Alliance of Socialists & Democrats in the European Parliament

This policy paper has been drafted by an advisory board of international experts:

**Nathalie Bernasconi**, *Executive Director IISD Europe, Group Director, Economic Law & Policy, International Institute for Sustainable Development (IISD)*

**Carles Casajuana,** *SOLIDAR Board Member and former Spanish Ambassador*

**Stephany Griffith Jones,** *Professor, Columbia University, Financial Markets Program Director, Initiative for Policy Dialogue*

**Eveline Herfkens**, *Former Minister for Development Cooperation of the Netherlands*

**Pascal Lamy,** *former WTO Director General and former EU Commissioner for Trade*

**Bernd Lange,** *MEP, Chair of the European Parliament Committee on International Trade*

**Paul Magnette,** *Mayor of Charleroi and former Minister-President of Wallonia (Belgium)*

**Linda McAvan,** *MEP, Chair of the European Parliament Committee on Development*

**Alessia Mosca,** *MEP, Socialists and Democrats' coordinator in the European Parliament Committee on International Trade*

Their work has been coordinated by **Enrique Guerrero** MEP, co-President of the Global Progressive Forum, as part of a joint project promoted by the **Global Progressive Forum** and the **Foundation for European Progressive Studies**, in cooperation with the **Progressive Alliance of the Socialists and Democrats at the European Parliament**, the **Party of the European Socialists**, **Solidar** and the **European Trade Union Confederation.**



**Investment:** Most comprehensive trade agreements today include chapters and provisions on investment. These chapters have focused on investment protection, investment liberalisation, and investor-state disputes settlement. The focus of these treaties should be reoriented to promoting quality investment that advances SDGs. First, the treaties should guarantee the policy space needed to regulate incoming and operating investments. The EU should accordingly re-examine and adapt its approach to pre-establishment and market access rules and the prohibition of performance requirements. Second, EU treaties should ensure that investment protection provisions do not limit the state's legitimate right to regulate. Moreover, they should also be rebalanced to include not only investment protection but also responsibilities for investors, including with respect to responsible global value chains. The EU should continue leading on reforming investment-related dispute settlement and explore alternatives to investor-state dispute settlement. EU member states should proceed with terminating and redesigning the over 1000 outdated investment treaties of EU member states.

**Capital flows:** In light of the increasing evidence in favour of regulating excessive capital flows to respond to concerns about macro-economic instability and major economic costs that external capital flows and ensuing currency crises may create, countries should use capital flow management measures alongside other macroeconomic policies. Many trade and investment agreements prohibit such capital account regulations or lack the appropriate safeguards on capital account management. This erosion of policy space to implement such policies must be avoided. In future, neither the WTO, nor investment treaties and chapters in free trade agreements should contain provisions that limit an individual country's ability to freely manage its capital accounts and regulate capital flows. If there are commitments to capital account liberalisation, appropriate and sufficient safeguards must be in place to allow countries to implement capital account regulations for prudential or balance of payments reasons, ideally on a permanent basis. Existing treaties should be promptly amended accordingly.

**Digitalisation:** Technological innovation is deeply interwoven in our globalised world. Fuelling cultural and economic exchanges, tech advancements spawned a global community, reaching the most remote regions of the world. Few economic or cultural realms lie outside the reach of technological innovation and some, like employment, grapple to reconcile old and new structures of social organisation. Specific policies regarding digital trade, data flows, intellectual property rights, and net neutrality must embody and uphold democratic principles and a strong commitment to achieving the Sustainable Development Goals. This implies revising policies on data provisions, data localisation, research and development, national tax systems, the digital single market, and a reconsideration of investment screening mechanisms.

**European Transformation Fund (ETF):** Ten years ago, the European Globalisation Adjustment Fund (EGF) was established to support victims of industrial transformation in Europe because of global economic changes. The EGF remains too modest in size and too narrow in focus given current needs. It must be redesigned both in terms of budget and scope. For the EGF to be effective, the EU must conduct sound and transparent impact assessments before concluding new trade and investment agreements. This analysis should be as accurate as possible and identify the consequences and changes on different economic sectors and on European regions. The new Globalization Adjustment Fund, to be renamed as the 'European Transformation Fund' (ETF), must be designed to support the restoration of an ambitious industrial policy, one based on permanent, prospective analysis of economic and technological changes, including the effects of trade, allowing for the necessary strategic investments to prevent negative consequences of trade and investment treaties in Europe.

Further, the new ETF must be better integrated with the existing Cohesion Fund and Social Fund and be accessible in cases of major economic traumas (such as the closure or delocalisation of a major company); as well as in regions suffering from gradual and cumulative economic decay.

A key objective going forward must be forging a new consensus on trade and investment contingent on the principles of employment, broad-based prosperity, equality, transparency and sustainability. What follows presents a vision that can form the core of a new, forward-looking progressive model for trade and investment:

**Changing nature of trade agreements:** The focus of trade agreements has moved away from trade liberalisation to covering a range of trade-related issues, like investment liberalisation and protection, and intellectual property rights, with important social, economic and environmental repercussions. We need to acknowledge and tackle the issues arising under these new types of economic agreements, in particular in relation to unregulated capital flows and investments. We also need to redress the often opaque manner, in which these comprehensive trade and investment agreements have been negotiated, often designed to advance the interests of those in the top income brackets.

**Europe as a leader for a progressive agenda:** To address these challenges, we believe that the EU must use its economic weight to advance a progressive trade and investment policy at the multilateral and the bilateral level. To achieve this goal, we propose an agenda that reinforces the multilateral trading system while improving its fairness for the poorest and enhancing Europe's contribution to trade and development. Further, we propose to better integrate trade with labour and environment, and rethink investment and capital flows to advance sustainable development, as well as develop rules to govern the digital revolution and ensure the fairness of the intellectual property regime. To complement these elements of a new progressive vision of international trade governance, we propose the establishment of a new European fund to address the negative consequences of globalisation.

**Multilateralism:** We see the multilateral trading system as the preferred option for building international rules on trade. Multilateralism is fairer with a wide diversity of strong and weak, big and small economies. It is more efficient in providing a stable and predictable environment to a maximum number of operators. For these reasons we believe states should conclude the negotiations on the Doha Development Agenda. They should rebalance the specific trade disciplines that govern the agricultural sector that is currently tilted in favour of developed countries. They should also strengthen WTO disciplines in areas such as subsidisation, conduct a review of the "special and differential treatment" principle in order to adapt to present realities, and modernise the WTO framework in areas of growing importance.

**The EU's Role on Trade and Development:** The EU has an important role to play in its bilateral economic relationships, especially with developing countries. As part of the post-Cotonou negotiations, the EU must expand unilateral trade preferences and preferential treatment to all low-and lower middle-income countries in Sub-Saharan Africa, in order to support the region prioritising its own regional integration. This would allow for the creation of jobs, increased incomes, and ultimately, to reduce poverty and aid dependency. To achieve Sustainable Development Goal (SDG) 2 on ending hunger, we need to "correct and prevent trade restrictions and distortions in world agriculture markets." Accordingly, further reform of the EU Common Agricultural Policy (CAP) will help achieve SDG 2. Finally, the EU must live up its commitments regarding Official Development Aid (ODA) in accordance with SDG 17.2.

**Labour:** All areas covered by trade and investment agreements impact employment and labour conditions. Trade policy must therefore play a vital role in encouraging and helping trade partners to implement the International Labour Organisation's (ILO) core labour standards. Parties must firmly commit to implementing core labour standards. Implementation and enforcement of core labour standards must be adapted to the partner country's level of development, and coupled with support. Further, the comprehensive and effective involvement of social partners and civil society is essential for the successful execution of labour provisions in trade agreements. A progressive labour chapter should also provide a suitable framework for continuous and guided cooperation aimed at progressively advancing labour protection. Finally, labour provisions should be complemented with traditional state-to-state dispute settlement as well as an innovative collective complaint procedure.

**Environment:** Trade and investment rules should not pose barriers to solving environmental challenges, such as climate change, biodiversity loss, and water scarcity. In the area of climate change, to avoid any potential regulatory chilling effect, states should clarify that strong, potentially disruptive, non-protectionist climate action is needed and is not prohibited under international trade and investment rules. At the same time, trade rules should help discipline certain types of measures, such as fossil fuel subsidies. The design of climate measures with trade impacts, whether border carbon adjustments or other measures, must apply differential treatment and exemptions to exports from poor and middle-income countries whose $CO_2$ emissions per capita are low. Policy space for green industrial policies and green subsidies should be permitted, and agreements should be designed or adapted accordingly.



Over the last decades, international trade has played an important role in promoting economic growth, job creation and better living standards at the global level. At the same time, international trade has been linked to a form of unregulated globalisation, causing uneven and unjust results for significant parts of our societies.

As a consequence, **trade has become synonymous with globalisation**. The focus of recent trade agreements has strayed from setting rules supporting market access in goods and services to incorporating issues related to trade, like investment and intellectual property rights. As a result, global market opening has become deeply interwoven with investment liberalisation and protection, free capital flows and financial liberalisation, with effects spilling over into issues related to labour, environment, and technological change. Insufficiently regulated trade - but more drastically, unregulated capital flows and investments - have exacerbated social, economic and environmental inequalities and exploitation; the gains for consumers have often resulted in job losses and income degradation which have not been fairly compensated.

Moreover, although trade agreements aim to set rules for trading fairly, they have frequently been **negotiated in an opaque manner, driven by a corporate agenda and designed to advance the interests of those in the top income brackets**. They have facilitated a process of multi-localisation of production systems, both for goods and services. In some instances, this process has eroded social systems and standards.

**Progressives cannot remain split on such a crucial issue.** In many instances, political movements (including ours) have been unable to articulate a significant political response to these developments. During the last few years, some of the most outspoken resistance to trade agreements has come from progressive groups, such as labour unions, NGOs and social movements. Yet, the progressive movement is the traditional political force behind openness, internationalism, equality, and the reduction of global poverty. It is therefore our responsibility to redress these failures and become the driving force in rectifying these imbalances and injustices.

**The traditional approach, which argues that 'trade is good, but we need to work on the side effects,' is outdated.** In today's changing world, 'business as usual' does not work. Progressives must guarantee that global trade and investment benefit the many and not the few. Progressives must ensure they promote sustainable development, reduce global poverty, neutralise structural inequalities that exclude certain genders and populations from the global economy, and raise living and welfare standards. Between the faithful and unconditional promoters of free trade and the populist critiques defending protectionist and nationalist visions of the world, **there is a critical political space for progressive forces to defend a regulated vision of globalisation**.

There is political responsibility in **safeguarding an even distribution of trade's positive effects both within our societies and between developed and developing countries**. It no longer suffices to wait to realise long-promised trickle-down effects or to offer paltry compensation to those disadvantaged by global trade. Instead, progressives must ensure the right conditions are in place in our societies as we conclude trade agreements. **Trade and investment must be embedded in a broader economic development strategy in order to create added value for our economies.** At the same time, trade should be complemented by a new social contract, one that ensures equitable distribution of trade's benefits through adequate and extensive social policies and redistribution mechanisms.

The EU is the richest and largest single market on earth. Dozens of countries target our markets to sell their goods and services and seek European partnership via trade and investment agreements. Accordingly, the EU **must use its economic relevance, among other instruments, to promote global and binding standards** on development, fiscal fairness, consumer protection, labour rights, and climate change in all international fora. In this respect, binding corporate social responsibility standards should form an integral part of trade and investment agreements, shifting the burden of compliance from developing countries to the transnational companies operating and profiting from global value chains.

**A progressive trade and investment policy must reinforce processes on issues such as development, fair taxation, corruption, labour, and climate change,** both in the World Trade Organisation (WTO) and through bilateral and regional trade agreements. Trade and investment agreements must prevent large and powerful trading partners from engaging in unfair trading practices and ensure that countries do not evade international environmental obligations to obtain trade advantages. They must also be linked to commitments to international standards aimed at fighting tax avoidance and tax havens, and aim to fight corruption, which often stands as an obstacle to the full development of economic relations between the parties. Where parties to international trade agreements do not have them or do not implement them, agreements should include specific anti-bribery rules.

Because trade policies can create benefits or costs for countries or for particular actors within countries, a **progressive trade policy should also be structured to encourage specific actions or discourage specific harmful consequences in a holistic manner**. Taxation, education and training, competition, anti-corruption and social protection are a few of the relevant policy areas that impact whether and how citizens benefit from trade. Multinational corporations' profits, for example, should be taxed in the location where they are generated, and trade agreement should include provisions for fiscal transparency and exchange of fiscal data.

Trade results in gains and pains and, as far as the EU is concerned, the place for addressing pains should be both at the national and the European levels. This includes adopting flanking measures at both levels that ensure a fair distribution of wealth, particularly for those worst off. **National governments have so far done too little to secure the benefits of trade for all.** Redistribution, empowerment through education, proactive labour market policies and strengthening of trade unions are trade-related topics that fall within domestic governments' policy scope. Yet, since the Union has an exclusive competence on trade, **the EU should also take up the responsibility for consequences that arise from its trade agreements**. The EU's Globalisation Adjustment Fund should be enhanced and redesigned as a European Transformation Fund.

Getting the rules right on trade is not enough. Not only must the content of our trade agreements change, but so, too, must the way we negotiate them. **Secrecy in trade negotiations brings more harm than good- trade agreements cannot be negotiated behind closed doors.** Only by empowering democratic mechanisms can we enhance trade's legitimacy and expand the number of opportunities trade offers. Negotiations must be carried out in full transparency towards citizens and with full engagement of civil society and social partners, and not just those representing the most organised interests. When it comes to negotiating an agreement, all legal documents must be made public without exception. The model should be the UN Climate negotiations. A broad societal discussion regarding both the objectives of the ongoing trade negotiations and their state of play during the negotiations should be a cornerstone of the processes establishing trade rules. Improved transparency hinges on additional efforts by the agreements' negotiators, the national governments and, where applicable, the WTO itself. At a national level, this higher level of transparency on the part of the governments must safeguard accountability to the parliament and the general public.