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Nordic Trade Union positions on the negotiations of a Trade and Investment Agreement between the US and the EU. (The Transatlantic Trade and Investment Partnership, TTIP)

Introduction

Since the Lisbon Treaty entered into force in 2009, the EU has on behalf of its member states had the competence to negotiate not only trade, but investment agreements as well. The Transatlantic Trade and Investment Partnership (TTIP), which is being negotiated between the EU and the US is one of the first trials of this new competence. It has the ambition to make this the largest bilateral trade and investment agreement in the world.

The TTIP-agreement has the goal of increasing trade between the US and the EU, contributing to increased growth and setting an international standard for extensive bilateral negotiations.

The agreement negotiations were initiated in 2013 and strive to increase regulatory compatibility on a wide front both in the areas of goods and services. The goal was to conclude negotiations in 2015, but at the moment this goal seems improbable due to a prolonged debate about the Investor-State Dispute Settlement (ISDS), among other things. The European Commission has, despite the prolongation of the original schedule, the ambition to finalize negotiations with the Obama administration, that is, before the US presidential election in November 2016. The Nordic countries, which are small, open economies and dependent on international trade are positive to international regulation on trade.

In the Nordic context three of the countries, Denmark, Finland and Sweden are part of the EU and are as such included in the TTIP negotiations, whereas Iceland and Norway are not. The consequences of the agreement will in other words have different bearings on the countries. The three EU members may be assumed to benefit from the agreement whereas consequences for Iceland and Norway are more difficult to predict at this time. However, it is noted that a closer regulatory cooperation between the US and EU will have an impact on the EFTA/EEA states.

General Conditions

The Nordic Trade Union Confederations are in favour of free trade and are of the opinion that an agreement on fair competition between two developed economies has the potential to promote growth, competitiveness and necessary structural change. This in turn will create jobs in sustainable businesses and more competitive consumer prices, but will at the same time challenge import competition and national regulation. In addition to beneficial economic development The Nordic Trade Union Confederations also consider the TTIP-agreement, if well engineered, a golden opportunity to set a standard for future trade and investment agreements on how to guarantee workers' rights and conditions. It has the potential to set new standards to be included in future bilateral trade agreements concluded by the EU as well as the US.

This position originates from the fact that the Nordic Trade Union Confederations have chosen an active role in regards to the negotiations and want to influence them to ensure that workers' rights are safeguarded in the best way possible. This position is also conditional on the agreement filling a

number of prerequisites concerning protection and promotion of workers' fundamental rights, the autonomy of States and scepticism regarding the ISDS mechanism.

The Nordic Trade Union Confederations call for as much transparency as possible in the negotiating process in order to create a level playing field for civil society and business interests wishing to contribute to the process. This is the only way to address the myths surrounding TTIP negotiations.

Protection and Promotion of Workers' Fundamental Rights

An agreement on free trade between the two largest trade blocks in the world must have clear references to the core labour rights included in the ILO core conventions, and clear wordings regarding workers' rights in areas such as the right to organize and collective bargaining. This is necessary to protect the fundamental rights of workers and must be considered as the very minimum of requirements.

The EU and the US should also commit to the ILO's decent work agenda to strengthen workers' information and consultation rights as well as requirements on corporate social responsibility.

The Nordic Trade Union Confederations find it crucial, that the negotiation mandate is clear on the fact that the agreement should include control mechanisms which favour the agreeing partners' national compliance with ILO Core Conventions. We further believe that such a mechanism should be a tripartite structure with representatives from the social partners. It is also central that enforcement mechanisms that are written into the agreement support the ILO-system.

Furthermore, the agreement must in no way lead to situations where consolidated achievements in labour law are lost or degraded on a national level, for example prevailing standards for working conditions and working environment. On the contrary, it is important to respect and ensure the possibility for individual states to maintain high ambitions when it comes to rights and protection of workers. It is also important that they should be able to improve them. Such ambitions may not under any circumstances be categorized as trade barriers.

It is also central that the agreement includes a wording that ensures that the workers' rights are in accordance with the rules and regulations of the country where the work is carried out, and that the rights of workers should be ensured regardless of their nationality. Prevention of social dumping must be ensured and breaches in workers' rights must lead to economic consequences. These issues are proposed to be addressed in the so called Sustainability Chapter of the agreement, in conjunction with environmental protection and regulation. However, The Nordic Trade Union Confederations think it is crucial to consider labour issues on their own merits. The protection of workers' rights and other labour related issues should be mainstreamed throughout the agreement and not be circumscribed within the Sustainability Chapter.

The Nordic Trade Union Confederations also believe that mobility between the two continents should be made easier under the condition that it will be in accordance with national legislation and/or collective agreements and presupposes a joint mechanism for mutual recognition of professional qualifications.

Respect for Democracy, Public Services and State Sovereignty

The Nordic Trade Union Confederation position is that the TTIP should not circumscribe manoeuvre room for democratic decision-making. Democracy and the right of states to regulate within their

territories must be respected to the furthest degree possible. Member state sovereignty concerning the regulation of policy areas such as welfare, education, public health, environment or labour regulation is not to be limited or reduced. Neither must it in any way challenge the possibility of a single member state to put in place high standards in these areas. The Nordic Trade Union Confederations position is that core public services such as education and health services should not be treated as commodities regulated by a trade and investment agreement.

The Nordic Trade Union Confederations find it crucial that the member states retain the right to decide which policy areas are operated by the public sector, but are not opposed to competition as such. The agreement must not undermine democratic principles and social development; nor must it enforce competition, liberalisation or privatisation of the public sector. It is important that, when public services are subject to privatisation, or already have been privatised, reversal to public ownership is possible. The agreement must also not limit the ability of a single member state to retain, introduce or abolish state monopolies Public procurement based on social criteria, such as working and employment conditions, shall furthermore be respected.

Ever since the Commission was given the mandate to negotiate the TTIP concern and critique has arisen in Europe as well as in the US, especially in relation to investor to state dispute settlement, the so called ISDS-clause. The approach of the Nordic Trade Union Confederations support most of this critique; as a consequence, the Nordic Trade Union Confederations are sceptical to the clause, since a separate protection system for investors, outside the regular judiciary system, may have negative effects on the democratic decision-making process. This critique has to be taken into account in the discussion on the agreement between EU and Canada (CETA) as well.

Concluding Remarks

In conclusion, the Nordic Trade Union Confederations want to stress that the results of the TTIP-negotiations will pave the way for subsequent international trade and investment agreements; therefore, it is of the uttermost importance that the EU, in the best possible way, ensures labour protection, as well as social and environmental standards. It is also important that the agreement accentuates businesses' commitment to human rights.