

Opinion of the European Economic and Social Committee on the communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions ‘Trade for all — Towards a more responsible trade and investment policy’

(COM(2015) 497 final)

(2016/C 264/17)

Rapporteur: Jonathan PEEL

On 11 November 2015, the European Commission decided to consult the European Economic and Social Committee, under Article 262 of the Treaty on the Functioning of the European Union, on the:

Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions — Trade for All — Towards a more responsible trade and investment policy

(COM(2015) 497 final).

The Section for External Relations, which was responsible for preparing the Committee’s work on the subject, adopted its opinion on 31 March 2016.

At its 516th plenary session, held on 27 and 28 April 2016 (meeting of 28 April 2016), the European Economic and Social Committee adopted the following opinion by 159 votes to 7 with 13 abstentions.

1. Conclusions and recommendations

1.1 The European Economic and Social Committee (EESC) welcomes the European Commission (EC) communication ⁽¹⁾ ‘Trade for all — Towards a more responsible trade and investment policy’, published in October 2015, as a timely and welcome update of EU trade and investment policy.

1.1.1 This communication presents a positive agenda for business, as well as demonstrating that the new Trade Commissioner has listened to key concerns raised by civil society and others, following a turbulent two years with trade a high-profile political issue for the first time in a decade. The ambitious agenda it offers is important at a time of growing global economic uncertainty. Trade and investment are hugely important for the economic well-being of the EU, the world’s most important trading block, and the signing of the Trans-Pacific Partnership (TPP) is a timely reminder of its need to remain competitive.

1.1.2 The EESC is concerned that it will prove hard to deliver so many raised expectations, which in time could lead to problems and disappointment when EU trade negotiations reach inevitable compromise. ‘Trade for all’ will be judged by whether the Commission is able to demonstrate that environmental, labour and other standards are not lowered by trade agreements. Indeed these should aim to improve such standards.

1.2 We believe that this can best be achieved through a much greater involvement of civil society throughout the negotiations and then through the process of implementation. Civil society would expect transparency, accountability, evaluation and analysis to be at the heart of the EU trade policy political decision-making process.

1.2.1 The EESC is well placed due to its institutional role to help deliver this, through our wide range of contacts both at home and abroad. Such enhanced dialogue must also include increased consultation of the social partners on the possible impacts of trade and investment on jobs.

⁽¹⁾ COM(2015) 497 final.

1.3 The Committee warmly welcomes the referral to it of 'Trade for all' for its opinion, recognition of the Committee's increased role and significance in trade policy, although it is disappointing that the EESC's role is not mentioned in the communication itself.

1.4 The Committee welcomes the emphases in 'Trade for all' on the need to make EU trade and investment more effective, the need for greater transparency, the importance of promoting EU values, and the need to dovetail with other key EU policies. Above all it extensively covers sustainable development, especially in human and social rights and the environment. Following COP 21, combating global warming should now also be included as an integral part of EU values.

1.5 Welcome too is the commitment to small businesses, which face greater hurdles when aiming at new markets. Dedicated SME provisions, following the EU-US Transatlantic Trade and Investment Partnership (TTIP) precedent, are promised in all negotiations, as are 'regular surveys on barriers' faced by SMEs in specific markets. The Committee's Opinion ⁽²⁾ on 'TTIP and its impact on SMEs' is relevant here.

1.6 The Committee also welcomes the suggestions to reinvigorate the World Trade Organisation (WTO) and the multilateral system, especially in the light of the 10th Ministerial Conference in Nairobi. This emphasises both the WTO's rule-making aspect and the need for a more focused approach, particularly important in the light of the sustainable development goals (SDGs) and the COP21 goals, together with the growth of global value and supply chains, digital trade and e-commerce. The paramount importance of the multilateral approach must be maintained by, for example, avoiding conflicting rules or standards. Special care must also be taken to ensure that key countries are not left out of the loop, especially poorer, developing countries, notably those in Africa.

1.7 The case for trade and investment needs to be made here in the EU, especially following the TTIP debate. We welcome the communication's pledge that 'no EU trade agreement will lead to lower levels of consumer, environmental or social and labour protection' ⁽³⁾. Trade policy must be seen to be in line with sustainable development, including long-term economic sustainability.

1.7.1 There needs to be a high level of well informed debate both at EU and at Member State level. It is essential that all interested parties can be sure to have their voice heard.

1.7.2 The Committee considers a very positive step the intention to make trade policy more open and transparent and more beneficial to consumers. Consumer opinions need to be taken into account to enhance trust and help ensure trade becomes more sustainable and responsible. However, we also share the concern of BEUC, the EU consumers' organisation, that there are still no mechanisms that enshrine the precautionary principle and the hazard-based approach in trade policy. In turn this needs to be integral with the 'Innovation Principle' ⁽⁴⁾.

1.8 The Committee however believes the Commission needs to do more. It needs to demonstrate that it itself is accountable in its trade and investment negotiations, and can be held to make good its claims of benefits for all.

1.8.1 The Committee welcomes the commitment in the communication to provide the same level of transparency for all negotiations as has been reached over TTIP (but not yet for Japan). Regular briefings during each round of negotiations are important for civil society. The EESC was disappointed, due to its institutional role, not to have been formally included in the specific TTIP Advisory Group. This needs to be rectified for future negotiations.

⁽²⁾ OJ C 383, 17.11.2015, p. 34.

⁽³⁾ See footnote 1.

⁽⁴⁾ 'Better framework for innovation' published by BusinessEurope et al, June 2015.

1.9 The Committee finds signally disappointing the failure of the communication to refer to the civil society monitoring mechanisms covering the Trade and Sustainable Development (TSD) chapters in existing EU trade agreements, nor how these might be developed and strengthened. The Committee believes that enforcement mechanisms have to equally apply to the TSD chapters themselves, starting with the Commission proposal for TTIP.

1.9.1 These mechanisms have major potential and can deliver tangible results. They are an important channel for dialogue and cooperation with civil society from partner countries, but they are not mentioned. This we find at odds with the intention to promote ambitious and innovative TSD chapters in future agreements, together with the substantive provisions outlined.

1.9.2 There is now sufficient experience gained on which to reflect and learn lessons for clear, positive recommendations to be made for the future. Balanced, structured and reinforced domestic advisory groups (DAGs) are needed. Capacity building and better promotion are important too, both with partner countries and with local civil society to encourage more organisations to take part.

1.9.3 Joint meetings of both DAGs must be written into the agreements, backed by adequate funding and widened mandates to include activities aimed at broader TSD objectives.

1.10 There are other surprising omissions. Despite it being a 'Commission communication', it fails to read across sufficiently to the interconnection with other Directorates-General. The Committee has yet to be convinced that the Commission has developed a cross-DG approach to key issues.

1.10.1 We regret the failure to demonstrate a fully coordinated approach to the SDGs. Trade and investment will play a profound role in realising the SDGs, which will set the global agenda for the next 15 years, yet there are only two references to the SDGs in the communication. This is a clear missed opportunity. We call for an urgent dialogue to ensure the involvement of civil society in monitoring the impact of trade and investment in achieving the SDGs.

1.10.2 Nor is there any reference to the renewal of the 'Cotonou' ACP-EU Partnership Agreement, due by 2020. The EU must also actively encourage the growing momentum for intra-African trade cooperation, essential for African development. Some 50 % of African countries are not covered by current Economic Partnership Agreements (EPAs), yet there is no sense of any EU pan-African strategy emerging beyond these or the ACP framework.

1.10.3 Likewise, the EESC is disappointed that the communication remains silent about other key areas of trade policy. Although there is frequent mention of the importance of energy and raw materials, there is nothing about the need to secure these essential imports from relevant countries where as yet no FTA is in prospect, or otherwise reduce our energy dependency.

1.11 Finally, we urge that sufficient resources be dedicated to implementing 'Trade for all' if this ambitious trade and investment policy is to succeed. This should include the role played by EU Missions and Delegations abroad.

2. Background

2.1 Trade and investment are hugely important for the EU. As the communication states, over 30 million EU jobs, one in seven, depend on exports, trade is one of the few instruments available for boosting the economy without burdening state budgets, and 90 % of global economic growth over the next 15 years is expected outside Europe.

2.2 'Trade for all' is a timely review of EU trade strategy one year after this Commission took office. It is the third such communication starting with 'Global Europe' ⁽⁵⁾, published in 2006 when progress with the WTO Doha Development Agenda (DDA) negotiations had effectively stalled.

2.2.1 The communication emphasises the need to make EU trade and investment more effective, the need for greater transparency, together with the importance of promoting EU values, and the need to dovetail with other key EU policies. It promises that more attention will be paid to small businesses, which face greater hurdles when getting into new markets.

2.2.2 It also stresses the need to conclude current negotiations, notably TTIP and those with Japan and with China ⁽⁶⁾ (on investment) — the latter with particular reference to China's 'One belt, one road' strategy. Ratification of CETA (the EU-Canada Comprehensive Trade and Economic Agreement) is also highlighted.

2.2.3 Greater emphasis on trade relationships with Asia as a whole is promised, with renewed emphasis on a region-to-region FTA with ASEAN countries, investment agreements with Hong Kong and Taiwan and a call to resume stalled negotiations with India. FTAs with Australia and New Zealand are also projected, and reviews of existing FTAs with Mexico and Chile confirmed.

2.3 The communication outlines the extent to which the significant and consistent growth in the volume of global trade and investment in recent decades has improved general welfare and increased employment in the EU, as elsewhere.

2.3.1 It also acknowledges that trade 'can involve temporary disruptive impacts for some regions and workers, if new competition proves too intense for some firms' and stresses that 'for the people directly affected, a change like this is not small'. Here the European Globalisation Adjustment Fund is important. It helped over 27 600 workers in 2013-2014 ⁽⁷⁾. The benefits of trade are never evenly spread and although the aggregate balance is positive, negative effects can occur on a sector-specific, geographical and/or individual basis.

2.3.2 It also points out that two thirds more jobs now depend on exports than 15 years ago, jobs which are 'highly skilled and better paid than average' ⁽⁸⁾. It adds that 'over 600 000 SMEs, employing more than 6 million people directly export goods outside the EU, accounting for one third of exports' ⁽⁹⁾, whilst adding that 'many more export services', or are suppliers to large companies.

2.3.3 Since 2000, exports of European goods have almost tripled, increasing by some EUR 1,5 trillion, with the EU maintaining its 'share of world goods exports' (at 15 %), compared with the rise of China and the corresponding decline in the global shares for both the US and Japan. The communication also outlines the significant, positive impact of the EU-South Korea FTA, where a trade deficit has now become a surplus.

2.3.4 The communication underlines the growing interdependence between imports and exports. Energy and raw material imports remain essential, but, as it states, 'the same is true for parts, components and capital goods like machinery [...] the share of imports in the EU's exports has increased by more than half since 1995' ⁽¹⁰⁾.

⁽⁵⁾ COM(2006) 567 final.

⁽⁶⁾ With China, Market Economy Status is also a key issue.

⁽⁷⁾ EC Press Release, July 2015.

⁽⁸⁾ See footnote 1.

⁽⁹⁾ Ibid.

⁽¹⁰⁾ Ibid.

3. The changing face of world trade

3.1 ‘Trade for all’ rightly emphasises the need to maintain core EU principles and to use trade agreements ‘as levers to promote, around the world, values like sustainable development, human and social rights, fair and ethical trade and the fight against corruption’.

3.1.1 The communication has been published at a time when trade is undergoing major change. Two recent major international agreements will have profound effects on the patterns of world trade. First the sustainable development goals were adopted in September 2015 by the United Nations, part of its 2030 Agenda for Sustainable Development: there are only two references to the SDGs in ‘Trade for all’.

3.1.2 This was followed in December by the successful outcome to the Paris Conference of the Parties to the UN Framework Convention on Climate Change (UNFCCC COP 21).

3.2 Trade and investment will have a profound role to play in the promotion, the targeting and in the implementation of the SDGs, not least as Unctad estimate that, to meet the targets set, an extra USD 2,5 trillion will have to be found annually, much of it from the private sector.

3.2.1 The Ministerial Declaration of the recent 10th WTO Ministerial Conference held in Nairobi acknowledged that international trade can play a role towards achieving sustainable, robust and balanced growth for all⁽¹¹⁾ and sent a clear message both that the WTO has an important part to play in achieving the SDGs, and that this would be far harder without an effective multilateral trade mechanism.

3.2.2 The contribution of trade and investment to ameliorating climate change will also be important. The full effects of the Paris Agreement on trade remain to be seen. Progress in the negotiations for the plurilateral Environmental Goods Agreement (EGA) promises an important step in integrating climate change with multilateral trade policy but the need remains for further multilateral action in order to promote coherence and mutual support between trade and environment.

3.3 Another significant change affecting international trade and investment has been the notable expansion of global value chains (GVCs) and global supply chains (GSCs), together with the exponential growth in digital trade and e-commerce.

3.3.1 A high proportion of trade is now in intermediate products and services, components in the eventual product. This fragmented production process can be spread across many countries, and can change, but developing countries also look to specialise in specific areas of a GVC. GSCs cover those parts of GVCs dedicated to the sourcing, but not to the conception or to the final production or distribution of a good or service.

3.3.2 Services, and the exponential growth of services as a core part of trade, are rightly covered at length in ‘Trade for all’ (2.1.1). However, beyond the traditional aspect of trade in services, the Commission will need to monitor closely further development in this growth and the ways in which it affects international trade.

3.3.3 The Committee therefore welcomes the emphasis in ‘Trade for all’ on the need for trade policy to ‘tackle a wider range of issues’⁽¹²⁾ if the EU is to secure its due place in GVCs, including the promotion of trade in services, the facilitation of digital trade, and the protection of consumers and their personal data.

⁽¹¹⁾ Nairobi Ministerial Declaration —WT/MIN(15)/DEC, point 4, https://www.wto.org/english/thewto_e/minist_e/mc10_e/mind-ecision_e.htm

⁽¹²⁾ See footnote 1.

3.3.4 The Committee also welcomes the Commission commitment to develop further its policies to ensure responsible management of global supply chains, which as stated is ‘essential to align trade policy with European values’⁽¹³⁾. We welcome the progress already achieved here by the Commission, notably its Labour Rights Initiative with Myanmar. Monitoring supply chains must play a key part in meeting the objectives of ‘Trade for all’ here.

3.3.5 A clearer understanding of how GSCs operate is timely, notably their impact on the economy and labour market in third countries, in order to promote sustainable development, inclusive growth, human rights and above all the creation of decent jobs. In this regard, the Committee would draw attention to its recent Information Report ‘Corporate social and societal responsibility’⁽¹⁴⁾. It is also preparing a separate opinion on ‘Decent work in GSCs’ in advance of the International Labour Conference in June, and to bolster the promotion of responsible business conduct, a Dutch Presidency priority.

3.4 The multilateral approach to trade nevertheless remains of fundamental importance. It lies at the heart of world trade and must remain, as is stated, ‘the cornerstone of EU trade policy’⁽¹⁵⁾. However, the WTO has a very different starting point from either the SDGs or COP21. The SDGs and the COP21’s goals are both clear sets of targets, yet the WTO only has a clear mechanism. As the limited agreements arrived at in both Bali and Nairobi show, common WTO targets are hard to achieve.

3.4.1 The Committee remains strongly supportive of multilateralism, not least with the need to meet the SDGs and the COP21 goals, and with the growth of GVCs, GSCs, digital trade and e-commerce.

3.5 ‘Trade for all’ is right to stress⁽¹⁶⁾ the key role of the WTO in developing and enforcing the rules of global trade, stating its rulebook to be ‘the foundation of the world trading order’⁽¹⁷⁾. The WTO ensures global compatibility and, backed by its Disputes Mechanism⁽¹⁸⁾, is widely valued and increasingly used. There is a real danger that ‘mega-regional’ and other major bilateral FTAs may start to set potentially overlapping and even conflicting rules, which would complicate rather than clarify world trade rules. For example, the Committee notes with concern that the rules of origin (ROO) provisions in the recent EU agreement reached with Vietnam may conflict with what Vietnam has accepted as part of the TPP agreement.

3.6 Many of the issues that formed part of the WTO Doha Agenda can only be tackled at multilateral level, as recognised since the Uruguay Round. This would include any effective global agreement on the overall levels of subsidies in agriculture, a key Doha objective. Multilateral solutions need to continue to be worked for.

3.6.1 FTAs need to provide real added value. They allow more scope for regional and national differences, as well as more scope for cultural sensitivities. FTAs must eventually strengthen multilateralism.

3.7 ‘Trade for all’ looks at ways the WTO and the multilateral system may be reinvigorated. As well as the rule-making aspect, it is right to emphasise the need for a more focused approach. It is correct to draw attention to the growing imbalance due to the rise of several fast-emerging economies, and the need for these to make a larger contribution to help others still further behind in development.

⁽¹³⁾ Ibid.

⁽¹⁴⁾ Information Report ‘Corporate social and societal responsibility’ (<http://www.esc.europa.eu/?i=portal.en.rex-opinions.35349>).

⁽¹⁵⁾ COM(2015) 497 final, point 5.1.

⁽¹⁶⁾ Ibid, point 5.1.1.

⁽¹⁷⁾ Ibid.

⁽¹⁸⁾ Now handling its 500th case.

3.8 Yet the Committee is concerned that the communication contains two proposals that appear to go in another direction to its declared intention. First is the suggestion that 'a subset of WTO members can advance on a given issue' (the plurilateral approach), as is already happening with the EGA negotiations and those for the proposed Trade in Services Agreement (TISA). However, if this approach were to become the norm it could leave many important countries out of the loop, notably poorer, developing countries, especially in Africa. A close watch must be maintained to ensure compatibility between plurilaterals and full multilateralism.

3.8.1 Secondly, if the proposal that an agreement like TTIP should be open for others to join (although put forward with countries like Turkey, Norway and other EEA members in mind), were to become linked with other major agreements (such as an EU-Japan Agreement or CETA) then the very relevance of the WTO could be called into question, not least as it could lead back to days when the 'Quad' or 'G4' were predominant.

4. Strategic considerations and omissions

4.1 Although 'Trade for all' covers many key strategic issues and important trade topics, there remain a number of omissions.

4.2 First, there are just two references to the SDGs, where trade and investment will have a profound role to play. These go much further than the Millennium Development Goals and will impact on virtually every country, not least as they include energy and climate change.

4.2.1 Point 4.2 of the communication nevertheless makes many pertinent points and commitments, and deals with many relevant issues, including sustainability impact assessments and the effects of new FTAs on least developed countries (LDCs), but the essential link with the overall EU approach to the implementation of the SDGs is missing. We regret this failure to demonstrate a fully coordinated approach.

4.3 Nor is there any reference to the renewal of the 'Cotonou' ACP-EU Partnership Agreement, nor to those regions, especially in Africa, where EPAs have yet to be reached. A key message from Nairobi was the widespread desire not only to develop the African Union, but also to work towards a 'Continental Free Trade Area' (CFTA) for Africa, over 50 countries, as a whole. This aspiration is one the EU is uniquely able to promote, and to which it should give priority.

4.3.1 The considerable attention rightly devoted by the EU to the ACP must become an even greater priority as the new SDGs start to be implemented. We welcome the commitment to review the joint EU Aid for Trade strategy 'to enhance the capacity of developing countries to make use of the opportunities offered by trade agreements', in line with the SDGs, and that trade will also be used to support regional integration.

4.3.2 The EU's attention is drawn to the Final Declaration of the 14th ACP-EU Economic and Social Interests Groups meeting in Yaounde in July 2015⁽¹⁹⁾, which states that all available financial resources must be brought into play to achieve the SDGs, within a framework of sound, transparent fiscal governance, involving the private sector.

4.3.3 This approach mirrors two other recent Committee opinions. One⁽²⁰⁾ emphasises that effective aid for trade also requires the active participation of economic and social actors in shaping programmes, monitoring their implementation and evaluating their outcome and impact. In ensuring that relations with ACP countries take account of the diversity of these countries, the Commission should seek the broad and active participation of such actors, including the social partners and wider civil society. It is regrettable, therefore, that the recent EPA with the Southern Africa Development Community does not include any such provisions.

⁽¹⁹⁾ Final Declaration of the 14th Meeting of ACP-EU Economic and Social Interest Groups as mandated by the Cotonou Agreement.
⁽²⁰⁾ OJ C 383, 17.11.2015, p. 49.

4.3.3.1 In the other opinion ⁽²¹⁾, the EESC stressed that business and civil society organisations in developing countries need support in acquiring the skills and ability to exert positive influence on the working environment — including respect for recognised democratic principles, facilitating the establishment and growth of companies, increasing transparency and reducing both overbearing bureaucracy and rampant corruption, not least to encourage foreign and local investors.

4.4 Thirdly, there is nothing in the communication about the need to secure essential imports from relevant countries where as yet there is no FTA in prospect, or otherwise to lessen the EU's energy dependency. A considerable amount of jobs also depend on secure, regular supply of energy and of key raw materials. An earlier Committee opinion has examined this issue, calling for an effective global strategy and a clear EU emergency or crisis response procedure should an important import suddenly become unavailable, for whatever reason ⁽²²⁾.

4.4.1 The Committee in turn was disappointed to note that, in the recent Commission communication on the 'Energy Union Package' ⁽²³⁾, the section on a 'stronger European role in global energy markets' was surprisingly weak. It placed Algeria and Turkey together, which we do not consider as appropriate, yet made no reference to key energy corridors, nor to the EU Strategic Partnership with China, especially in connection with joint cooperation in energy and transport.

4.4.2 The COP21 Agreement was reached after 'Trade for all' was published. The international trade system will need to reflect its goals as well as the SDGs. Carbon footprints and biodiversity incentives will also need to be taken into account in the fight against climate change.

4.5 Concerning investment, only an EU competency since the Lisbon Treaty, 'Trade for all' proposes to update existing EU FTAs to add a specific investment chapter, together with new stand-alone negotiations with Hong Kong and Taiwan.

4.5.1 Secondly, it looks to regularise investment protection and arbitration, following the ISDS controversy and the subsequent proposals for the TTIP negotiations. It proposes stronger emphasis on enshrining in FTAs the right of the state to regulate, together with moves to transform the old system 'into a public Investment Court System composed of a Tribunal of first instance and an Appeal Tribunal operating like traditional courts' ⁽²⁴⁾. There is to be a code of conduct and independent judges who will require tough technical and legal qualifications.

4.5.2 The Committee encourages an open, transparent debate. It is therefore regrettable that these proposals, which have been widely opposed by a broad range of civil society organisations as not being substantially different from the ISDS mechanism which the EESC has criticised ⁽²⁵⁾, have now been included in the EU-Vietnam FTA and revised CETA texts, without a full and proper consultation process.

4.6 Finally, an ambitious EU trade and investment policy needs adequate, dedicated, and sufficient resources, whether to pursue several negotiations at the same time, the monitoring and implementation of trade agreements (including sufficient funding for civil society monitoring), or in selling the case for trade to a wider public. Sufficient dedication of resources to where they are most needed must be a core consideration when implementing 'Trade for all', including the role played by EU Missions and Delegations in third countries.

⁽²¹⁾ OJ C 67, 6.3.2014, p. 1.

⁽²²⁾ OJ C 67, 6.3.2014, p. 47.

⁽²³⁾ COM(2015) 80 final.

⁽²⁴⁾ Ibid.

⁽²⁵⁾ EESC opinion on investor protection and ISDS in EU trade and investment agreements with third countries (OJ C 332, 8.10.2015, p. 45).

5. Sustainability and EU values — key to winning the argument at home

5.1 It will be important to win the wider argument for trade at home if 'Trade for all' is to be successful. Trade and investment are now part of the public agenda and seen as important by a broad range of civil society, with many questioning basic precepts. The earlier EU assumption that liberalised trade is automatically beneficial is no longer accepted.

5.2 'Trade for all' deals at length with concerns that have arisen during the TTIP debate. It firmly states that 'the Commission must pursue a policy that benefits society as a whole and promotes European and universal standards and values alongside core economic interests, putting a greater emphasis on sustainable development, human rights, tax evasion, consumer protection and responsible and fair trade' ⁽²⁶⁾. Provisions to combat tax fraud and tax avoidance will also be important. It pledges that 'no EU trade agreement will lead to lower levels of consumer, environmental or social and labour protection' ⁽²⁷⁾. Following COP 21 global warming should now be included.

5.3 The Committee welcomes these commitments, building on the foundations laid by 'Global Europe', which stated 'as we pursue social justice and cohesion at home we should also seek to promote our values, including social and environmental standards and cultural diversity around the world' ⁽²⁸⁾.

5.3.1 Part of the EU emphasis on sustainable development stems from its overall desire to promote and strengthen its shared beliefs in democracy, the rule of law, human rights, transparency and predictability. At the heart of this lies protection of the environment, combatting climate change, promoting decent work, health and safety at work and the wide range of issues addressed both by the core ILO Conventions and the key multilateral environmental conventions. Now it is essential that the SDGs must also play a central role.

5.3.2 In most sectors, but notably not for textiles or ceramics, tariffs play a secondary role in trade negotiations to non tariff barriers and rules, including regulatory cooperation. It is the effect of the latter that raises concern at who may be the real winners. As the communication stresses, it is essential that regulatory cooperation be achieved without reducing existing regulatory protection in key areas such as health, safety, the environment, working conditions and consumer protection. The sanitary and phytosanitary measures chapter of CETA points a way forward. The right to regulate must be guaranteed. Double standards must be avoided.

5.4 The Committee welcomes the Commission's stated desire, in line with positions taken by the EESC, the European Parliament and wider civil society, to protect public services in FTAs and feels that this can best be done by the use of a positive list with regard to both market access and national treatment.

5.5 As trade has become more widely discussed, the European Parliament's ratification of trade agreements can no longer be readily assumed, with its greater powers and a much wider range of views. Therefore the Committee would expect the Commission to take into account in trade negotiations the Parliament's comments and concerns expressed in its resolutions, most recently on TTIP and TiSA. Due to the likelihood that some FTAs will cover 'mixed' competencies, ratification in those cases will be needed by national parliaments. In such cases ratification will necessitate a fully accountable procedure in line with national constitutional provisions. Further activity by the Commission to win approval for such agreements will be essential both at EU and Member State level.

⁽²⁶⁾ See footnote 1.

⁽²⁷⁾ Ibid.

⁽²⁸⁾ COM(2006) 567 final, point 3.1(iii).

5.6 The EU strengths on trade remain one of its best selling points, but the positive case for trade and especially investment needs to be constantly restated. There needs to be a high level of well informed debate both at EU and at Member State level, including civil society, as well as ensuring that all interested parties can be sure to have their voice heard.

5.6.1 Hitherto a broader, attractive range of imported products, aided by reduced costs through tariff reduction or elimination, was seen to deliver readily identifiable consumer benefits, offering greater choice and diversity. Issues such as the lowering of roaming fees for telecommunications with trading partners remain outstanding. Encouraging positive consumer spending at home is key to realising the broader benefits of trade liberalisation in the EU, notably through greater economic growth and jobs.

5.7 Whilst the communication stresses the importance of trade to the EU, in terms of growth and jobs, of equal importance is the voice of the consumer, concerned at potential loss of standards, and at potential environmental footprints.

5.7.1 Consumers, recognised by 'Trade for all' ⁽²⁹⁾ as having benefitted from the elimination of trade barriers, need to have trust in the global market. To gain that trade policy must be seen to be in line with sustainable development, including long-term economic sustainability. Impact assessments will need to reflect this fully and be seen to have impact.

5.7.2 It is essential that consumers and wider civil society are placed at the heart of policymaking. The Committee believes that the focus of the communication to make trade policy more beneficial to consumers, more open and transparent is a very positive step. However, we share concerns that there are still no mechanisms that enshrine the precautionary principle and the hazard-based approach in trade policy. In turn this needs to be integral with the 'Innovation Principle' ⁽³⁰⁾.

6. Transparency and the deepening of civil society participation

6.1 'Trade for all' will be judged by whether the Commission is able to demonstrate that environmental, labour and other standards are not lowered by trade agreements. It will also need to show that it itself is accountable in its trade and investment negotiations, and can be held to make good its claims of benefits for all.

6.1.1 This can only be achieved by a much deeper involvement of civil society from the start.

6.1.2 'Trade for all' covers the need to engage actively with civil society but not as extensively as might be expected. As part of its institutional role the EESC is well placed to help develop this through its regular involvement with civil society both in the EU and abroad. This must also involve direct consultation of the social partners on the possible impacts of trade and investment on jobs.

6.2 Following the TTIP controversies, the communication now fully recognises the need for transparency. The commitment to provide the same level of transparency for all negotiations as provided for TTIP is welcome. The Committee therefore requests the Council to publish the mandate and negotiation texts for the EU-Japan FTA without delay.

6.2.1 The Committee believes that briefings for civil society during each round of negotiations are particularly important. The specific Advisory Group set up for input as the TTIP negotiations progress has also been of benefit: the Committee was disappointed that it was not as an institution formally included. This needs to be rectified in future.

⁽²⁹⁾ COM(2015) 497 final, point 4.1.1.

⁽³⁰⁾ See footnote 5.

6.3 What the communication signally fails to mention however are the civil society monitoring mechanisms for trade and sustainable development (TSD) chapters in existing EU trade agreements, nor how these might be developed and strengthened. The committee believes that enforcement mechanisms have to equally apply to the TSD chapters themselves, starting with the Commission proposal for TTIP.

6.3.1 This is disappointing. In its response to 'Global Europe', the Committee called for the inclusion of a TSD chapter in each subsequent FTA, together with an active monitoring role for civil society⁽³¹⁾.

6.3.2 Starting with the EU-Korea Agreement of 2010, there have been seven EU trade agreements with a prominent TSD chapter. The Committee has since called for TSD chapters to be included in stand-alone Investment Agreements⁽³²⁾.

6.3.3 The Committee considers that the lack of any detailed assessment of these chapters to date, their monitoring or their potential development to be at odds with the Commission's otherwise welcome intention to continue to promote ambitious and innovative TSD chapters in EU trade and investment agreements, together with the substantive provisions they outline.

6.3.4 Each such agreement has included varying types of joint civil society mechanisms to monitor the implementation of TSD chapters. There is now sufficient experience gained and lessons learned on which to reflect and make clear, positive recommendations for the future.

6.3.5 These mechanisms have major potential and can deliver tangible results in terms of positive impact of trade and investment where appropriate. An important channel for dialogue and cooperation with civil society from partner countries, they also require time, effort and capacity building to become fully operational and effective, especially where the model of civil and social dialogue differs from the EU. Existing EESC links helped in setting up domestic advisory groups (DAGs).

6.4 As the number of such bodies grows, so there are real challenges in achieving balanced representation of each group in the DAGs, leading to serious delay.

6.4.1 Other recurring problems include:

- capacity constraints of relevant organisations: better promotion both with partner countries and amongst civil society actors is needed,
- the need to write into the text of an agreement provision for joint meetings of the EU and partner country DAGs, to exchange experience and set up common benchmarks for monitoring,
- adequate funding for civil society participation: this should also cover wider activity, including seminars or studies that contribute to TSD objectives.

6.4.2 We further recommend that the mandate of DAGs be widened to cover any issue of interest for civil society, including regulatory cooperation, SME chapters or provisions related to human rights.

Brussels, 28 April 2016.

The President
of the European Economic and Social Committee
Georges DASSIS

⁽³¹⁾ OJ C 211, 19.8.2008, p. 82.

⁽³²⁾ OJ C 268, 14.8.2015, p. 19.