

Protecting Social, Labour, Environmental and Consumer regulations and standards in EU International Trade Agreements

UNISON Briefing

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1. The three EU global trade agreements CETA, TTIP and TiSA will have a huge impact on future global trade and investment rules, covering 53 countries, over 75% of the EU economy, 80% of the US economy and the majority of the global economy accounting for 2/3rds of global GDP.
2. Public services have been included in all three agreements despite an unprecedented European and US public and trade union campaign to demand that public services are removed or 'carved out' from the treaties.
3. These new international trade treaties will harm existing EU and UK Labour, Social, Environmental and Consumer standards and regulations. It is a top priority for UNISON to continue to campaign against public services being included in these treaties.
4. All public services therefore should be exempted and protected from every single chapter provision in the Treaties including;
 - foreign market access;
 - most favoured nation
 - investor protection;
 - 'ratchet' and 'standstill' clauses;
 - public procurement rules;
 - sustainability rules;
 - 'harmonisation of regulations' or 'unburdened regulation' in health and safety standards, environmental standards, Labour laws and social provisions;
 - ISDS or Investor Court Systems (ICS), Regulatory Co - operation Councils and other similar harmonisation or dispute resolution provisions that sit outside democratic and accountable national parliamentary and judicial systems

Social and Labour regulations and standards under threat

5. The treaties must not only require countries to respect the fundamental human rights and labour rights set out in the eight core conventions of the International Labour Organisation (ILO) but these rights must be binding and enforceable and not just rest on a weak framework of mutual compliance.
6. In relation to social (labour) protections currently there is no enforcement mechanism agreed in the text of TTIP, CETA or TISA if a corporation or country does not observe or breaches ILO conventions. Without an enforcement mechanism in place, companies will be able to infringe ILO conventions without fear of enforcement or disqualification from overseas investment. Global companies seeking to maximise profits may be encouraged to locate or secure public procurement contracts to countries with weaker labour and social rights enforcement creating further global 'social dumping'.
7. Worse still, TiSA contains Mode 4 provisions that would allow workers to be brought in by foreign companies without any requirement for core ILO labour standards or national employment rights to be respected.¹ If these workers lose their employment, they must immediately leave the host country. Furthermore, no labour market test would be allowed to be conducted by a country to assess if such workers were needed by the economy. Employers are likely to use such provisions to bring in workers to undercut local workers and evade a responsibility to invest in training workers in the resident

¹ http://www.world-psi.org/sites/default/files/en_tisa_versus_public_services_final_web.pdf

labour market. The EU mandate on TiSA₂ from the EU contains no commitment to uphold core labour rights such as those found in sustainable development chapters in trade agreements like the EU-Korea agreement.

Environmental regulations and standards under threat

8. In the TTIP draft agreement threats to the environment include proposals for the removal of 'trade barriers'. The barriers identified include: green or sustainable public procurement, energy efficiency labels, fuel efficiency standards for cars, regulation of unconventional fossil fuel extraction including shale gas (fracking) and tar sands sustainability standards for bio energy and the banning of gases in appliances such as refrigerators and freezers.

9. Fundamental EU health and safety chemical practices such as Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH) and the Precautionary Principle, which aims to protect public health and the environment when there is scientific uncertainty, are both at risk.

10. CETA will likely allow global corporations to ignore or challenge environmental regulations and targets to cut emissions because again there is no enforcement mechanism. 'Parties' are encouraged to engage in further discussions and identify appropriate measures to decide upon a "mutually satisfactory action plan" in the event of a dispute. It is not clear in the absence of a mutual agreement or resolution how challenged national 'breaches' will be resolved between the 'parties'.

11. The treaties will also impede a government's ability to make new and better standards. This will drive down standards and de-regulate environmental and health and safety standards. TiSA for example says that any new regulation must meet a '**necessity test**' so that they are "**no more burdensome than necessary**".

12. TiSAs' rules over so-called 'transparency', combined with those to 'cut red tape' and 'harmonise' domestic regulation would allow foreign investors to challenge public policy and regulations regarded as bad for business. This has the risk of creating a 'chilling effect' on government plans to pursue policies or adopt regulations such as those concerning worker or environmental protection in the future, as they would fear being challenged by another TiSA country and face sanctions.

Consumer regulations and standards under threat

13. For consumers there are also real threats to the health and safety standards governing the farming and production of food involving regulation of chemically washed poultry, livestock treated with growth hormones, genetically modified seeds and fertilizers. Farmers are seeking to roll back regulations that hinder their scope for profits at the expense of food safety, local and organic farmers and animal welfare.

14. CETA is more likely to encourage global trade deals of increased agribusiness. The treaty will give biotech, pharmaceutical, pesticide, seed, and grain companies more rights to force farmers to buy gene patented seeds at high prices. It will almost entirely also eliminate the rights of farmers to save, reuse and sell seeds. Corporations could even seize farmers' crops, equipment, and farms, and freeze their bank accounts if they are found with crops from patented seeds that they did not pay royalties on.

2 <http://data.consilium.europa.eu/doc/document/ST-6891-2013-ADD-1-DCL-1/en/pdf>

15. TTIP calls for the harmonisation of regulatory standards and proposes a 'Regulatory Cooperation Council' (RCC) to oversee regulatory 'coherence'. This UNISON believes will only lead to the lowering of standards rather than raising standards up. Any proposed new regulations, as well as being debated and discussed within a state's own democratic structures, would have to also go to the interested 'parties' first and then the RCC.

16. Conference further believes that the RCC currently described as "manned by senior level representatives from regulators and trade representatives at the EU Commission's Secretariat General (SG) and the US Office for Information and Regulatory Affairs (OIRA) who shall meet twice a year, organize the work and prepare a yearly regulatory programme." is both undemocratic and unrepresentative.

17. Any 'regulatory co-operation' should respect the principles of transparency and democratic scrutiny and allow equal engagement of all stakeholders. Regulatory co-operation should not lead to any lowering or downward harmonisation of existing regulations and should not undermine the fundamental right of governments to regulate in the public interest.

UNISON is campaigning for

A) All public services, including all public environmental services such as DEFRA, DECC, Environment Agency, Food Standards Agency and the Forestry Commission to be removed from all three trade agreements.

B) All ILO conventions and International Environmental Laws to be enforceable on all treaty 'parties' to ensure that there is adequate environmental and social provisions in all the treaties to prevent global 'social dumping' and 'environmental and consumer dumping'.

C) The removal of any Regulatory Co-operation Council powers in TTIP (and any similar regulatory governance structures in other treaties) which seek to lower standards and drive deregulation in the name of 'harmonisation' or 'coherence' and which undermine sovereign nations freedoms to legislate standards and regulations in the public interest. In particular TISA proposals for any new regulations to meet a 'necessity test' so that they are "no more burdensome than necessary" should be removed.

D) Public Service protections against the use of any form of ISDS or ICS challenges to domestic environmental and consumer laws in CETA/TTIP/TISA.

H) The removal of TISAs ambitions "to consider the TiSA negotiations as a stepping-stone towards renewed ambitions at WTO level". It is imperative that TiSA is not used to create rules in it or at the WTO which reduce the rights of governments to legislate in their own interests and to protect goods and resources, or create laws or regulations to upwardly develop employment rights, labour and environmental standards.

F) MEPs and MPs to oppose the ratification of CETA, TTIP and TISA unless the European Parliament can adopt robust recommendations that will remove the threats and risks of these agreements, and fully protect public services, labour standards and collective agreements, and EU regulatory (environment, consumer and health and safety) standards, and guarantee the freedom of all levels of government to legislate and regulate in the public interest.

G) If the negotiators fail to meet all of these conditions the European and UK Parliament should oppose the deals outright.