



Position of ETUC on the 6th WTO Ministerial conference (13-18 December 2005, Hong Kong)

*Resolution adopted by the ETUC Executive Committee in their meeting held in Brussels on
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168.EC

Introduction

- a) Since the ministerial conference in Singapore in 1996, little progress has been made on key issues allowing the development of fair trade based on decent work¹, gender equality, respect for fundamental rights, in particular the rights of workers, environmental and public health rights, social protection and access to quality public services. The Doha agenda for development was supposed to deal with sustainable development, but the social pillar, in particular decent work and core labour standards², is absent although there is a recognition, at the international level, that these form an integral part of sustainable development.

For ETUC, decent work is at the heart of our priorities and should be the key element of the cycle of trade negotiations.

For the national and international unions, the fundamental labour rights are not the privilege of the richer countries, but rather the expression of the fundamental human rights at work, and they apply to all countries, whatever their level of development. They also form shared rules in the game, which must be obeyed by the countries engaged in the liberalisation of trade so that the economic progress generated by the liberalisation of trade goes hand in hand with social progress. Moreover, the member countries of the WTO, in the statement at the ministerial conference in Singapore, renewed their commitment to observe the fundamental standards of work which are internationally recognised.

Europe, which places fundamental labour rights at the heart of its fundamental values, needs to demonstrate this in its external policy. It needs to play a more active role in the promotion of respect for these rights at the international level, notably within the WTO, and to offer concrete support for the countries which are making serious efforts to tackle the problems linked to the non-application of the fundamental rights.

¹ Decent work: according to the ILO definition, this includes employment and respect for workers' rights, including the right to trade union freedom and the right to collective bargaining, social protection and social dialogue.

² The core labour standards of the ILO cover freedom of association in free unions, the right to collective bargaining, the elimination of forced labour, the abolition of child labour and the absence of discrimination.

ETUC considers that the holding of the conference in Hong Kong reinforces the need for China to respect fundamental rights. This respect is an essential condition for the satisfaction of its request for the obtaining of the status of a market economy by the European Union.

- b) For ETUC, the Commission mandate should be clear. Ten years after Singapore, studies of the impact of the trade negotiations on employment, working conditions and sustainable development must become systematic. These studies need to be conducted before the agreements are negotiated or concluded. The unions need to be consulted throughout the course of the study and to receive the results. It would be paradoxical if the Commission now uses this instrument for all new European regulations and at the same time fails to promote it in worldwide trade negotiations.
- c) The approach proposed by the Commission for a new assessment of industrial and research policies at European level must be consistent with the EU initiatives taken in the context of the Hong Kong negotiations.
- d) There is a need for more democracy in international governance. The WTO must operate in a transparent manner and cooperate positively with the United Nations agencies (ILO, WHO, FAO, UNDP, UNEP, UNESCO). The UN system must be gradually given the power of regulation and balance between international norms. This power could be exercised by a World Economic and Social Security Council.

The European Union should promote such an approach, attempting to coordinate the positions taken by Member States in the international financial and social arenas, in order to develop synergies with the European trade policy.

ETUC would like to recall that the EU has committed itself to better articulate WTO negotiations with agreements with external countries and regions (Cotonou and Mercosur, partnership agreements). They must promote real economic and social coherence based in particular on the charter of fundamental rights adopted in Nice and a central element of the European Constitutional Treaty.

These elements were underscored by the ETUC Executive Committee in June 2004 about the Commission communication on the social dimension of globalisation and its assessment of the report of the World Commission ordered by the ILO on the same theme.

- e) In the sectors which are subject to restructuring because of trade liberalisation, wage earners must be covered by adequate support measures. At European level there is an urgent need to set up the restructuring fund that the Commission proposed to create to help workers to alleviate the consequences of opening up trade.
- f) A policy coherence initiative: the particularly serious problems that affect the textile and clothing sector call for short-term safeguard measures to reduce their impact. They highlight the need to adopt a policy coherence initiative in Hong Kong. Such an initiative would aim to review the impact of trade on growth, exports and employment in the textile and clothing sector, to set up a global approach to industrial and trade policy in each country where the textile and

clothing sector is important, and to provide international aid for the developing countries concerned (in particular the least developed countries), if necessary.

1. Agriculture

- a) In many countries of the world the food security and rural employment situation has deteriorated. These are the main factors driving the massive worldwide migration of labour. It is therefore vital that trade agreements support food security rather than altering it.
- b) Export subsidies: ETUC and EFFAT consider that maintaining agricultural export subsidies in the Union has a harmful effect on developing countries. That is why they call on the EU to immediately set a timetable for the total elimination of agricultural export subsidies in the Union, and to use conversion programmes to present alternative employment prospects for workers in the agricultural sector who will be affected by this measure. ETUC and EFFAT likewise urge the Union to continue to exert pressure on the United States to eliminate all forms of agricultural export subsidy, including abusive food aid, in order to set a target date for the complete elimination of agricultural export subsidies at the Conference in Hong Kong. In addition, in the light of the importance of cotton for a number of very poor developing countries, it is imperative that all subsidies that distort the cotton trade should be dismantled as soon as possible.
- c) Domestic support: The CAP reform in 2003 allowed a reduction and reorientation of other agricultural subsidies to practices more in step with sustainable rural development, quality jobs and quality products, although the working conditions in agriculture, in particular for women, are still amongst the worst in Europe. It is on this basis, which reflects the collective preferences of the Union, that the EU must negotiate at the WTO, pursuing a reduction in amber and blue box support. Green box support must not be redefined at this stage because it responds to legitimate social and environmental functions.
- d) Market access: In the negotiations on the customs duty reduction formula, the Union must offer the developing countries better access to its markets, whilst ensuring that such reductions do not excessively destabilise agricultural markets and employment in Europe. These efforts must be accompanied by progress on compliance with fundamental labour standards in the developing countries, to ensure that workers in these countries benefit. In addition, it is necessary to grant the least advanced countries, which are mainly net importers of foodstuffs, the possibility of protecting their markets in order to guarantee profitable prices for their own producers and to ensure their sovereignty over food supplies.

2. Non-agricultural market access (NAMA)

- a) It is essential that the sectoral dimension of the European trade policy should be more emphasised. The Lisbon strategy, which aims to make the European Union specialise in the export of high value added products and import labour intensive products, must also form part of the EU negotiating position at the WTO.

- b) The European Union, which has very low or zero customs duties on industrial products of interest to the emerging countries, must ask the latter to open up their markets to some degree to high value added, top of the range products, and to dismantle the illegal non-tariff barriers that affect these products.
- c) The European Union negotiating positions at the WTO must be based on choices informed by the impact of any measure on employment, in particular sectoral employment. The Union must set up protection for its legitimately acquired competitive advantages by means of intellectual property protection agreements and by implementing anti-dumping and temporary safeguard measures.
- d) Similarly, the countries of the South must have room for manoeuvre to set up legitimate national industrial development strategies. In the negotiations on the customs tariff reduction formula, the developing countries must be able to maintain higher tariffs than the developed countries, in accordance with the principle of "less than full reciprocity" expressed in the Doha Ministerial Declaration. Moreover, the least advanced countries must not be forced to consolidate their tariffs at current levels.

3. Services – General Agreement on Trade in Services (GATS)

- a) The GATS negotiations in progress are likely to undermine the universal obligations of governments to provide public services, as well as their ability to regulate them. Therefore, the terms of the GATS agreement should be amended to exclude public services (above all, education, culture, health and essential public utilities such as water, energy, postal services and telecommunications) including at sub-national levels of government, and socially beneficial service sector activities, from all further GATS negotiations. Special provisions should be incorporated horizontally and at all levels of the GATS negotiations to ensure access to universal services, at uniform and affordable prices.
- b) Article XXI of the GATS agreement should be amended to include an explicit clause to enable governments to withdraw from – or diminish – their GATS commitments so that they can improve their universal services, on grounds of social or developmental need, without any risk of challenge under WTO rules that could require them to pay compensation.
- c) The EU must withdraw its calls for the liberalisation of the water sector in the WTO member states. For the developing countries in particular, they involve irreversible commitments on the part of these States, as impact studies conducted by the Commission show the potentially negative effects of international competition on employment and the provision of universal services in the least advanced countries, and the EU does not itself offer (quite rightly) to liberalise this sector within the GATS framework.
- d) The "bottom-up" approach that characterises the GATS negotiations must be maintained and WTO member states cannot be forced to extend liberalisation using "benchmarks" as proposed by several countries, including the European Union.

- e) ETUC welcomes the decision of the European Union not to propose the conclusion of new commitments regarding public services such as education, health and audio-visual services. It insists that this state of affairs must be maintained during the last negotiations.
- f) ETUC requests that, prior to the conclusion of new international commitments to liberalise services in the context of GATS (notably mode 4, postal services, air transport and maritime transport), the European Union should:
- clarify the legislative framework of reference within the EU for the liberalisation of services in the single market (see draft directive on services in the single market);
 - finalise the legislative framework for the internal market for postal services and universal service guarantees;
 - draw a clear distinction between services of general interest (in particular health, education, water, energy, gas, etc.), economic services and non-economic services, for commercial or other ends, and services of a different nature;
 - stipulate that the directive on worker detachment also constitutes the basis for the temporary movement of workers.

4. Mode 4 (temporary movement of natural persons)

- a) The ETUC position on mode 4 largely coincides with that of the European Economic and Social Committee (EESC)³. In addition, ETUC has adopted a position on the European immigration policy⁴.
- b) Mode 4 concerns the temporary entry of persons into a country to provide a service. The European Commission affirms that it wishes to limit mode 4 to highly skilled workers. The EU has made commitments to four categories of temporary migrations: intra-enterprise transferees, business visitors, contract service suppliers (employees) and independent professionals. For the category of “contractual service suppliers (employees)” and “independent professionals”, it proposes to eliminate the existing economic need tests and instead set up quotas for service providers covered by this commitment. The levels of the thresholds and the modalities of their application have not yet been defined. It also proposes adding a new category of intra-company trainees.
- c) Fundamentally ETUC considers that movements that take place under mode 4 constitute *de facto* temporary migrations. Therefore a precondition for any further widening of the field of application for mode 4 in the context of GATS is the establishment of satisfactory functional cooperation for the protection of temporary migrants’ rights between, as a minimum, the WTO and the ILO, the International Organization for Migration (IOM) and the United Nations. European governments should envisage once again ratifying the United Nations international convention on the protection of the rights of all migrant workers and members of their families, which came into force in July 2003. In addition, the EU

³ “General Agreement on Trade in Services (GATS) – Mode 4 negotiations (movement of natural persons)”, 8 June 2005, EESC/695/2005

⁴ “Towards a proactive European Union policy on immigration and integration”, ETUC Executive Committee resolution of 15-16 March 2005

must develop rules and practices that avoid a “brain-drain” in the developing countries.

- d) ETUC calls on the EU not to widen mode 4 to semi-skilled and unskilled workers. It is true that the interests of developing countries lie mainly in the provision of unskilled labour. However, the conditions under which these migrations take place make it very difficult to defend the rights of such workers, who are therefore often very vulnerable to exploitation.
- e) ETUC insists that the European Union commitments in mode 4 explicitly mention that Member States must take steps to ensure:
 - protection of migrant workers against any form of discrimination and the implementation of appropriate monitoring mechanisms, inspired perhaps by the principles of ILO convention 95;
 - payment of their social security and insurance contributions;
 - respect for the fundamental international labour standards, national labour laws and existing collective agreements in the host country.

ETUC welcomes the fact that the amended list of EU offers stipulates, for the four categories of temporary migration, that they must comply with the laws and regulations of the Member State in question concerning access, stay, work, social security, minimum wages and collective agreements.

- f) ETUC believes that the EU has taken an unjustified risk in offering to eliminate economic need tests (which verify the existence of a need for additional workers in a given sector of the market) and to replace them with quotas, before an agreement had been reached with European Union Member States on the level and modalities for the application of such quotas. In the view of ETUC, it is clear that such quotas must take into account criteria such as the labour market situation and the need for special protection in certain sectors.
- g) ETUC warns of the risks of abusive use of the “independent professional” category to mask wage earners. It is vital to define this category in detail and to define the qualifications or diplomas required for this category.
- h) ETUC emphasises the need to conduct an impact study on the real social and labour market consequences in host countries and countries of origin of the further liberalisation of trade in services.
- i) ETUC cannot agree that the EU offer concerning mode 4 should take place without the agreement of the social partners, at both European and Member State level. It is unacceptable that the discussions between Member States and the Commission on these quotas should be conducted in great secrecy at meetings of the 133 committee.

6. Technical assistance

Trade facilitation: ETUC believes that it is vital to provide technical assistance and to increase the capability of developing countries to improve their trading capacity, but it believes that this subject should not be covered by WTO negotiations and should not

be used to influence the negotiating positions of developing countries on other subjects. Such technical assistance should form an integral part of a more global development strategy in order to ensure that trade effectively benefits the entire population of the country concerned.

7. Intellectual property

The Hong Kong conference should amend the Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPS) or adopt an explanatory declaration to allow all developing countries access to medicinal products at affordable prices to confront their special medical needs, such as the treatment of HIV/AIDS, as initially proposed in the TRIPS declaration adopted in Doha.

Conclusion

The EU must draw up a suitable timetable, the aim of which is to bring an end to poverty and to create decent work, with reference to fundamental rights, for the development of democracy. The EU and its representatives cannot remain focused solely on trade liberalisation. The EU must pursue the initial approach of the WTO of full employment and improving the quality of life for all humanity. The ETUC delegation to Hong Kong will be operating within this framework.