

### **Ricard Bellera i Kirchhoff**

*International, Migration and Cooperation Secretary, CCOO de Catalunya  
rbellera@ccoo.cat*

## **Introduction**

It seems clear that the Transatlantic Trade and Investment Partnership (TTIP), the Comprehensive Economic and Trade Agreement (CETA) between the EU and Canada, and the Trade in Services Agreement (TISA) have changed the perspective on the relevance of European trade policy. The debate about the legitimacy of the negotiating procedure and the resistance from a growing part of the population to accepting it have influenced the main actors and might influence the final results. After the 14<sup>th</sup> round of negotiation between US and EU officials last July – the third in six months – it looks as if there are serious difficulties concluding its signature, at least before the political deadline considered until now to be the main point of reference: President Obama’s mandate. Concerns expressed by leading European politicians, such as France’s president, François Hollande, last May, threatening to block the deal, or Germany’s economy minister, Sigmar Gabriel, declaring just a few weeks ago that the negotiations have failed, cast a shadow on the success of these negotiations. This break in the expectations is probably due not only to the alleged US reluctance to accept changes, but to a wider range of arguments, in which the increasing resistance to the TTIP can be considered a main factor, although not the only one.

There have been important changes in the political agenda over the last months. The victory of “leave” in the United Kingdom’s EU referendum has shown that the real problems of Europe are less related to trade (with a significant surplus in the EU current account balance with the rest of the world with or without UK), and more to do with the institutional architecture, economic governance, and democratic and social deficits of the European Union. The ballast of austerity policies, with a loss of social and territorial cohesion, the lack of political commitment in the management of the refugee emergency, and the rise of xenophobic and anti-European parties in an increasing number of countries, complete a scenario where the signature of any trade agreement is unlikely to top the list of priorities. Last but not least, the US presidential campaign, with Donald Trump’s extemporaneous statements, makes any agreement even less acceptable to a wide range of European

citizens, who would probably refuse any closer relationship with or dependence on a country headed by such a histrionic and unpredictable character. Both the challenging political agenda in Europe as well as the increasing opposition of citizens to the TTIP are elements that have surely changed the expectations of the main actors, including the European Commission.

In the introduction to the communication *Trade for All*, which this article will comment on in more detail, the institution mandated with the TTIP negotiations recognises that conclusions drawn from the TTIP debate should be “relevant for the EU’s wider trade policy” (European Commission: 7). However, considering future developments, especially the approval of CETA, it should be said that there are not enough elements to be confident about in the Commission’s commitment to translate the aspirations presented in *Trade for All* into reality. The statement of intentions given by President Juncker last June 28<sup>th</sup>, considering CETA to be an “EU-only” agreement and proposing a simple approval procedure, is in open contradiction with the transparency and respect for public scrutiny advocated by the Commission in the abovementioned communication. Surprisingly, resistance to the “one-tank of gas” philosophy that seems to continue to inspire Juncker’s team has been shown in this case not only by civil society but also by European states. The reaction of the German chancellor, Angela Merkel, defending the non-negotiable competence of the Bundestag on this issue, or that of French president, François Hollande, requiring the Commission to accept national parliaments giving their verdict should give Malmström and Juncker a clear sign of the importance of being “consistent with the principles of the European model” as stated in *Trade for All*. Diluting highly developed political positions held by the Commission itself (as in this case), may risk finally diluting and devaluing the Commission’s own institutional role and initiative.

### **A new civil perception of the relevance of trade policies?**

One of the main errors in the analysis of the increasing resistance to the TTIP has to do with paying less attention to the errors of the Commission than to the hypothetical success, technological skills or innovative use of social networks by the Stop-TTIP campaign. It is not about the demonisation of the agreement (Alemanno, 2016: 4) or about the supposed lies given out by the campaigners, but about the mistakes and affronts to democracy the Commission has stacked up over the last three years. The resistance to publishing the mandate, the regrettable procedures imposed on MEPs as legitimate citizens’ representatives that make it difficult to consult the negotiation documents, and the magniloquent rhetoric of Karel de Gucht, recently hired by a big transnational company, have been much more important for the disparagement of the TTIP negotiation than any subversive strategy developed by underground activists. It seems clear that when well-known politicians declare decisions taken by the Commission “unbelievably foolish” or that they “destroy any feeling of objectivity” (Vincentini, 2016), the problem lies less in the radical approach of organised civil society, than in the error and incoherence of those who

have the initiative. The problem might not be “the increasing political use of trade”, as defended in the recent CIDOB seminar by the EC representative,<sup>1</sup> but the new legal framework in which trade is handled by the Commission (Lisbon Treaty) together with the regulatory nature of trade and investment agreements such as the TTIP and CETA and the increasing political consciousness that, nowadays, trade policy is as politically neutral in Europe as monetary policy.

It is possible that the two first elements – the new competence of the Commission to negotiate international agreements without further democratic control and the normative character of the new generation of FTAs – have resulted in a rising sensitivity towards commercial policy. In any case, the seed was sown long ago if we recall the interest aroused by the campaigns for “fair trade” and the demand for responsible trade policies in the framework of international cooperation. But there are two further elements that should also be taken in account. As we shall see later, the perception of a strong connection between trade and employment has its own history, related to an increasing fear about the consequences of globalisation. In this sense, austerity policies and the progressive dismantling of social security systems in Europe over recent years, especially during the recession, have certainly fostered the lack of trust in European trade policy. On the other hand, even if it is not comparable with the extension and depth of the current debate, there has always been a critical view of the moral “quality” of European trade policy. The change introduced by the trade communication *Global Europe* in 2006, under the mandates of Peter Mandelson and especially by Karel de Gucht, represented a significant change in this sense. As the UN Special Rapporteur on the right to food from 2000 to 2008, Jean Ziegler, wrote: “The year 2007 saw a brutal change in European policy: the Union cancelled all the preceding agreements and attempted to impose on the ACP countries conventions called ‘Economic Partnership Agreements’ (EPAs) ... that impose unrestricted free trade, so liquidating all domestic market protection in the ACP countries” (Tandon, 2015: 4).

### **About the Commission’s *Trade for All* communication**

With this background, the new communication *Trade for All* can only be welcomed. It witnesses not only a change in the perspective, but also a deep reflection about the way to better position European trade policy not only in the eyes of European citizens, but also at international level. The assumption of global responsibility is of singular relevance considering that the EU is both the world’s largest exporter and importer of goods and services. For this reason the “All” in the communication becomes especially important because it explicitly includes not only workers, citizens and consumers, but also the poorest people in developing countries and “those who feel they are losing out from globalization” (European Commission: 7). The intention to be consistent with the principles of the European model and with European values overcomes the geographical approach. The communication expresses its firm will to infuse European trade policy with responsibility, transparency and openness to public scrutiny which can only be considered crucial with regard to the TTIP negotiation. *Trade for All* also tries to tackle new economic realities, concerning not only technological

1. Organised by CIDOB with the support of the Europe for Citizens programme, under the title “Different glances at EU trade policy”. June 27<sup>th</sup> 2016. Sala Jordi Maragall, CIDOB.

development (digital trade, innovation and so on) but also aggressive corporate profit and tax avoidance strategies. It also attempts to face the social consequences of market openings, ensuring active labour market policies and an enhanced consultation not only of the European Parliament and civil society, but also of social partners where possible impacts of trade and investment on jobs are concerned, which was not the case before now.

In the current debate about trade and the TTIP the Commission acknowledges that the TTIP has been perceived as a threat to the EU's social and regulatory model. This recognition goes hand in hand with the awareness of the question raised by citizens, "with many asking whether it (the trade policy) is designed to support broad European interests and principles or the narrow objectives of large firms" (European Commission: 18). The reference to transnational companies in a debate where lobbying has been identified as one of the main disruptive elements to the legitimacy of the current negotiations is certainly a step in the right direction, as are the references to the increasing concerns of citizens about social and environmental conditions in the countries the EU trades with. In general terms the second part of *Trade for All* shows that the Commission has been attentive to the concerns expressed by citizens. The only problem is that the change in the strategic orientation of the Commission, now surprisingly centred on the promotion of high standards, social justice and inclusive growth, the explicit desire to respect the fundamental conventions of the ILO and the Decent Work Agenda and the conviction that the multilateral system should remain the cornerstone of EU Trade Policy, implies a complete turnabout in relation to previous positions, where this kind of sensitivity was certainly missing. Without discounting the fact that the debate about the TTIP and European trade policy has inspired a completely new approach, it is surely difficult to remove the shadow of suspicion about the even "partial" instrumental nature of the communication.

The European Trade Union Confederation (ETUC) has welcome the Commission's promises of a more responsible trade policy that will promote sustainable development, human rights and good governance in future trade agreements, but has not verified a real change in the negotiation of the TTIP (ETUC Communication, 2015). In a common declaration with the President of the American Federation of Labour and Congress of Industrial Organizations (AFL-CIO), the ETUC's general secretary, Luca Visentini, noted that "we do not see our negotiators moving towards the 21st century agreement that we have been promised, but rather more of the same old corporate-style trade deal. The transparency we have called for has not been achieved" (ETUC Communication, 2015). A coherent follow-up of the new trade communication would have completely changed the rules of the TTIP negotiation, which has not been the case. Even if in the conclusion of *Trade for All* the Commission declares that "trade is not an end in itself", Juncker's recent attempt to impose a simple approval procedure for CETA and the existence of die-hard negotiation frameworks suggest that the TTIP and CETA are in a certain way ends in themselves. The question is what will last in the medium and long term. The theoretical and balanced approach of *Trade for All*? Or the will to advance in the deregulation of Europe via the new trade competences of the

Commission, overcoming the resistance of an increasing part of the European civil society, therefore making the European political project in this sense murky and undemocratic?

## **The significant relationship between trade and employment**

The decision will be taken by the European Commission, by the European Council, and probably by not only the European Parliament, but also the national ones. In the meantime, the existing debate invites us to explore the importance of trade policy in relation to the European construction and the very special period the European project is currently going through. Pascal Lamy, the former WTO director-general, some years ago pointed out what could be considered a good reason for citizens' reluctance towards trade policy: "What lies behind concerns about macro-economic imbalances is in reality a concern about unsustainable and socially unacceptable unemployment levels. Whether it is the worker in Bangalore, in Ohio or in Guangdong, the real issue is jobs" (Lamy, 2010). The relationship between trade and employment was the subject of a wider publication edited by ILO, with the support of the European Commission. Its title: "Trade and Employment. From Myths to Facts", possibly later inspired a short guide published in 2015 by the Commission with the obvious intention of counterattacking the Stop-TTIP campaign under the premise: "The top 10 myths about the TTIP. Separating fact from fiction". In any case, the ILO publication was produced in 2011 when the debate about the transatlantic agreement had not yet started. In the introduction the authors remember how the majority of respondents to the underlying study believed that globalisation provides opportunities for economic growth but increases social inequalities, and also pondered whether globalisation is profitable only for large companies, and not for citizens (Jansen et al., 2011: 2).

Citizens' distrust of the effects of globalisation on daily life has grown despite the pressure of the neoliberal mantra that identifies trade with growth, and growth with jobs. The increasing delocalisation and displacement of entire links of the value chain at global level, performed by multinational companies in an ongoing strategy of profit maximisation, has gone hand in hand with a growing loss of the security offered by a shrinking welfare state. Income shortages due to decreasing tax incomes, privatisation of health, education and pension systems, and the decline of citizens' rights and guarantees, complete a scenario in which precariousness and incertitude undermine the willingness to adapt to change. As Margaret McMillan and Iñigo Verduzco point out in the abovementioned ILO publication, "governments should play a role in shaping the relationship between trade and employment" (McMillan et al., 2011: 25). This is especially true given the change in the theoretical paradigm to accept the dependence of allocative efficiency of trade liberalisation on the institutional setting, and the causal relation between exposure to international trade, aggregate employment and increased wage inequality "both in rich and poor countries" (McMillan et al., 2011: 25). In what seems to be a paradox, the weakened role of governments might be more and more crucial to support and root public acceptance of the new rules of trade and the uncontrolled operating mode of multinational companies.

There is an “emerging consensus that open economies should be characterised by strong social protection systems” (Jansen et al., 2011: 4). But the European Commission should understand that there is an unpleasant tension between European trade policy and the inspiring principles of European economic governance, with the latter being based on: a) cuts to the welfare state; b) job precariousness; and c) the ripping to pieces of collective bargaining models and weakening of workers’ bargaining power. The main conclusions of the ILO publication, edited with the support of the European Commission, could be used as an inspiring reference to overcome this tension in Europe and soothe existing, justified worries through a “coherent set of policies” (Jansen et al., 2011: 17). Firstly, there is a need for a real commitment, with macroeconomic policies and structural reforms, to guarantee better jobs avoiding precariousness and the current tendency to push more and more workers into low-productivity positions. Secondly, the diminishing level of workers’ protection through waning social welfare systems should be reversed to offer security through public investment, branch protection and the strategical improvement of existing resources for vocational training and professional development. Finally, as Jansen, Peters and Salazar-Xirinachs (2011) suggest, an appropriate distribution of trade gains to foster the recovery of social cohesion and social justice must be guaranteed; and this has to occur not only in Europe.

## **Trade and global development**

Despite the shocking effort performed over the last decades to install a hegemonic view and understanding of the unavoidable importance of competitiveness and ambition as engines of growth, it should be said that the message has not been completely absorbed by the population. This is also of central importance to European citizens’ perception of the role trade policy should play at global level. The trade perspective that some actors have tried to impose over the last decades is an inheritance of the Cold War (Tandon, 2015: 49) and corresponds to an architecture that “is a relic of the preoccupations of power relationships of the middle of the last century – out of sync with today’s world of rising powers and new challenges” (Wilkinson, 2014: 144). A long way from the emerging role of multilateralism and the creation of international institutions and organisations that characterised the post-Second World War period, trade has remained a domain of national interests that has neither deep international consensus nor a neutral and widely supported World Trade Organization. Though at a global level, trade used to be presented ideologically as an “engine” of growth, in the eyes of a significant part of the world – especially the global South – it became the tool through which some nations grew at the expense of others (Tandon, 2015: 9). Nevertheless, the narrative under which trade was and is presented today is substantially different.

At the opening of Geneva Graduate Institute’s academic year in 2012, the WTO director-general, Pascal Lamy, introduced Professor Amartya Sen, connecting his concept of “development” with the strategy of the World Trade Organization: “The WTO does not advocate open trade for its own sake, but as a means for ‘raising standards of living, ensuring full employment and a large and steadily growing volume of real income and effective demand’” (Lamy, 2012). But regardless of the words of its

director-general, the WTO has been less engaged in fostering standards and working and living conditions at global level than serving as a technical institution for the will of its member states, especially the strongest. In contrast to other intergovernmental organisations, such as the ILO, FAO or UNDP, the WTO has been concentrating on the rules governing trade at global level and on trade-opening as its ultimate goal, without any serious attempt to change the character of trade policy as global power policy. For this reason, there exists a longer debate about a reorientation of the WTO to treat social outcomes and to be more closely embedded in the UN institutional architecture. As Roger Wilkinson proposes in his critical approach on the future of the WTO, the world needs a form of trade governance “that serves a broader social purpose as its primary function and not one that sees an increase in the volume and value of trade as an end in itself, then crosses its fingers and hopes that all else will be well” (Wilkinson, 2014: 135).

When it comes to trade there is an evident disjuncture between the nature of real policies and that of discourse at global and European level, as we have seen regarding the Commission’s communication *Trade for All*. The demands of the European Trade Union Confederation, which represents 45 million European workers, to overcome this incongruity were clearly pointed out in the “Paris Manifesto”, approved one year ago during the ETUC congress in Paris:

To contribute to fair globalisation, EU international trade and investment agreements, notably TTIP, must aim at shared prosperity and centre on sustainable economic and social development. They must promote employment, respect democratic decision-making, public interests and cultural identity; protect public services and the environment; contain enforceable labour rights based on International Labour Organisation (ILO) Conventions; and include ambitious chapters aimed at promoting higher labour, environmental and technical standards set by democratically accountable representatives, notably in regard to any regulatory cooperation (ETUC, 2015: 6–7).

This is very close, if not the same, as the position fixed in the 2030 Agenda for Sustainable Development, which considers trade “an engine for inclusive economic growth and poverty reduction that contributes to the promotion of sustainable development” (United Nations, 2015: 29). Why should the demands or understandings of European citizens about the role trade should play at global level be so different? Why should they support in this regard the Commission’s role negotiating EPAs and FTAs that are in open contradiction with these demands?

## **The role of a “European” trade policy**

The increasing divorce between the trade policy executed by the European Commission and the expectancies and demands of European citizens has to do with the lack of identification, but also with a deficit in democratic transparency, closely related to the institutional architecture of the European Union that emerged from the Lisbon Treaty. The former judge of the German Constitutional Court, Gertrude Lübbecke-Wolff, a few months ago offered an impressive reflection on the nature and risks of the executive autonomy of the Commission negotiating international trade

agreements. She suggests that the principle inspiring this autonomy is that proposed by John Locke and later Montesquieu about the “separation of powers”, that is, a concept developed in the time of the stagecoach” (Lübbe-Wolff, 2016: 7). In this, the executive power – the prince or the monarch – had full autonomy to negotiate international treaties and to sign peace and war declarations without the approval of any Parliament. But in the last century important changes took place. As we see with FTAs, international agreements nowadays clearly influence what is supposed to be a legislative competence; technical developments allow a faster interaction between the executive and the legislative powers; and, last but not least, the absolutist monarch has been substituted for democracy. As “trade”, “international agreements” cannot be considered an end in themselves. Thus, the fact of sacrificing transparency and legitimacy in the negotiations for the sake of the result itself is hard-pressed to be considered democratic.

What Lübbe-Wolff defines as *Geheimniskrämerei* (secret-mongering) puts at risk not only the acceptance of the results of any trade negotiations, but the credibility of the system itself, i.e. a European Union that allows normative decisions to be imposed without a well-founded open and democratic debate at parliamentary and public level. For this reason the current procedure that sacrifices citizen sovereignty for the price of hypothetical access to a hegemonic trade position at global level can only be considered a further element of pressure on the viability of the European project. The argument that economic success is the main priority for Europeans – above democratic legitimacy and social fairness – can only be considered an ideological prejudice. However, even this distorted perspective has a serious pitfall. The TTIP and CETA are important distractions at a critical time in the European construction that can finally obstruct the path to the “mere possibility of a European globally competitive Economic Space” (Nair, 2014: 144). The consolidation of the European single market as a means to realise its economic potential demands urgent adjustments in the current economic governance to overcome its growing pains, as well as clear decisions concerning the scope and speed of social and political convergence. Any other priority will dangerously threaten any progress in the European construction. For this reason, concerning trade policy, “Europe’s prime vocation is to play social cohesion within Europe and inclusive multilateralism outside” (Defraigne, 2014: 17).

## Conclusion

As Pierre Defraigne points out, the definition of trade policy is crucial in both directions, internally and externally, because it is closely related to the individual identity either of a state or of a political project like the European Union. Due to this, it is frightening that the debate about the negotiations of the TTIP, CETA and TISA has been taken – and is often presented – as an aggression, whereas it is more about the effervescence of something that is inextricably linked to a rooted identity construction: the emergence of both a strong civil society and a pluralist dialogue “in which a diversity of kinds of pressure is able to flourish, so that we can compare and criticize” (Crouch, 2011: 241). In terms of trade policy, there has not been an open debate as such, and the dynamic has been rather an answer to the initiatives taken by the European Commission



with the TTIP, CETA and TISA after consulting mainly corporate actors and lobbies in something that can neither be considered an exercise of transparency nor open to public scrutiny. *Trade for All* shows the extent to which the Commission is conscious of the reasons for the resistance of an increasing part of civil society, and introduces a change in the narrative that, disappointingly, has not yet affected the current negotiations in their essence, which is especially regrettable concerning the agenda towards CETA approval. If the Commission continues advancing along this path, straying far from its own roadmap (*Trade for All*), the foreseeable discredit and incoherence will be a new ballast for the acceptance of the European Union as a whole.

The debate about European trade policy is of central importance to the European construction because it is closely linked to the sustainability and viability of the European social model in the global framework. There is a minimum of three interesting questions that might enrich, among others, this public debate:

1. Should a European trade policy protect European corporate interests or the European social model? It seems clear that what globalisation has removed is both the “national” character and belonging of multinational companies. In relation to neomercantilism, it should be said that protecting a social model is probably the only way to protect global interests on issues like climate change, peace or poverty. Faced with the corporate logic of economy of scale, trade policy should prioritise human scale as a guarantee of global progress.
2. Is the idea of global competitiveness as engine of growth the only way for safe human development? A critical glance at the last 30 years demonstrates that this is not necessarily the case. In a world where not everybody can earn trade surpluses at the same time, a balance between trade and internal demand is probably more sustainable. For this reason it should be discussed whether neutral current account balances at global scale should or should not be a central goal and whether European trade policy should or should not observe a certain degree of self-regulation in this sense.
3. As we have seen, the Commission accepts that trade is not an end in itself. Thus, it would probably not be complete sacrilege to ask what the “optimal” amount of trade would be, or rather what the elements would be that should set an “optimal” amount of trade. If we consider questions like the ecological footprint or the exhaustion of raw materials, perhaps international trade should concentrate more deeply on the exchange of intangible assets in the framework of an incipient knowledge society.

In any case, finding an answer to this and other questions in an open, public and grounded debate would undoubtedly reinforce the necessary construction of the European identity and its role, perhaps not in trade or the military, but as moral and political leadership.

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