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(Revised version)

“New generation” trade agreements and their implications for social rights, public health and sustainable development

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A. Draft Resolution

1. The World Trade Organization has not concluded the latest Doha round of negotiations and the world's major trading nations have embarked upon negotiations for new types of regional and bilateral trade agreements. With regard to Europe, these notably include the Comprehensive Economic Trade Agreement (CETA) between the European Union and Canada and the Transatlantic Trade and Investment Partnership (TTIP) between the European Union and the United States of America. The Provisional Agreement of CETA has been signed by the two parties and its provisions that are within European Union competence already apply in the European Union. However, if the forthcoming Singapore–European Union trade deal case is so decided in areas of shared competence, it may require subsequent parliamentary consent by European Union member States.
2. CETA forms a template for TTIP, which is still being negotiated. The progress of TTIP may hinge on whether President-elect Donald Trump no longer wishes the United States to pursue it. The essential feature of these agreements is not the removal of the already small tariff barriers which would bring economic gains. Instead, the agreements propose regulatory co-operation, harmonisation of standards and, most controversially, new powers for transnational companies to use arbitration courts through an Investment Court System (ICS, the successor of the Investor State Dispute Settlement, ISDS) to sue member States for laws they pass that could impede future profits.
3. These two trade agreements have not been negotiated transparently and have not received public and parliamentary scrutiny. Occasional leaks on the substance of the talks have raised multiple concerns, especially in Europe. The agreements have the potential to enhance existing trade relations between the European Union, Canada and the United States, and economic benefits on both sides of the Atlantic may include increased annual gross domestic product growth, the creation of new jobs and the availability of a wider range of goods and services at lower prices. However, the overall gains may be relatively small and the economic impacts will not be evenly distributed, creating winners and losers. Therefore, the potentially unequal spread of the potential aggregate benefits within European society needs to be assessed.
4. Moreover, the negotiators need to also ensure that other fundamental costs and conflicts do not arise from these agreements. In particular, the agreements should not empower corporate trade interests to trump public policies protecting the environment, food safety, public health and social rights.

5. The proposed ICS introduces a new judicial system that allows investors to sue governments in private arbitration courts for profits they might not make due to laws passed to protect the citizen – including protecting the environment, public health and rights at work. These new investor powers are unnecessary as investors are already protected by established public and contract law in the European Union, Canada and the United States. If it is not removed from CETA and TTIP, the ICS will give powers in the Investment Chapter of these agreements to trump other public interest considerations, including the protection of the environment and public health. The ICS provisions should therefore be removed from CETA and TTIP.

Amendment 3

(If adopted, amendments 4, 1, 5, 6, 7 falls)

Tabled by Mr Pieter OMTZIGT, Mr Nico SCHRIJVER, Mr Mart van de VEN, Mr Pierre-Yves LE BORGNIER, Mr Boriss CILEVIČS

In the draft resolution, delete paragraph 5.

Amendment 4

(Falls if amendment 3 is adopted)

Tabled by Mr Pieter OMTZIGT, Mr Nico SCHRIJVER, Mr Mart van de VEN, Mr Pierre-Yves LE BORGNIER, Mr Boriss CILEVIČS

In the draft resolution, paragraph 5, first sentence, delete the word "private".

Amendment 1

(Falls if amendment 3 is adopted)

(If adopted, amendments 5, 6, 7 falls)

Tabled by Mr Jokin BILDARRATZ, Mr José Ramón GARCÍA HERNÁNDEZ, Ms Pilar ROJO, Ms María Concepción de SANTA ANA, Mr Carles JORDANA

In the draft resolution, paragraph 5, replace the words: "These new investor powers are unnecessary as investors are already protected by established public and contract law in the European Union, Canada and the United States. If it is not removed from CETA and TTIP, the ICS will give powers in the Investment Chapter of these agreements to trump other public interest considerations, including the protection of the environment and public health. The ICS provisions should therefore be removed from CETA and TTIP." with the following words: "The European Union must commit to ensuring that this arbitration court shall not operate outside the sphere of public law."

Amendment 5

(Falls if amendments 3, 1 are adopted)

Tabled by Mr Pieter OMTZIGT, Mr Nico SCHRIJVER, Mr Mart van de VEN, Mr Pierre-Yves LE BORGNIER, Mr Boriss CILEVIČS

In the draft resolution, paragraph 5, second sentence, replace the words "These new investor powers are unnecessary" with the following words: "These proposed investor powers are regarded by some as unnecessary,"

Amendment 6

(Falls if amendments 3, 1 are adopted)

Tabled by Mr Pieter OMTZIGT, Mr Nico SCHRIJVER, Mr Mart van de VEN, Mr Pierre-Yves LE BORGNIER, Mr Boriss CILEVIČS

In the draft resolution, paragraph 5, at the beginning of the third sentence, replace the word

"If" with the following words: "There is concern that if".

Amendment 7

(Falls if amendments 3, 1 are adopted)

Tabled by Mr Pieter OMTZIGT, Mr Nico SCHRIJVER, Mr Mart van de VEN, Mr Pierre-Yves LE BORGN', Mr Boriss CILEVIČS

In the draft resolution, paragraph 5, replace the last sentence with the following words: "The ICS provisions should therefore be in accordance with the European Convention on Human Rights and should have an optional protocol for exit by individual States with one year's notice and a limited time of continued protection for existing investments."

Sub-amendment 1 to amendment 7

Tabled by the Committee on Social Affairs, Health and Sustainable Development

In Amendment 7, replace the words "should have an optional protocol for exit" with the following words: "should be included in an optional protocol to trade agreements for exit".

6. In addition, there are widespread concerns over the impact of regulatory co-operation of these "new generation" trade agreements. Therefore, the Assembly believes that there is a need to carry out independent studies on the potential impacts of the ICS and the regulatory co-operation foreseen in CETA and TTIP. These should include potential impacts on water/air pollution, greenhouse gas emissions, food safety, consumer and workers' protection and the sustainability of the public health system, as well as on the deregulation and liberalisation of public services in the framework of changes to public procurement provisions.
7. The agreements should not include powers for investors to trump environmental, democratic and human rights imperatives. The Parliamentary Assembly thus calls on the European Union negotiators to remain firm in their determination to protect and promote the interests of European citizens and to pay very close attention to the precise wording of provisions regarding the environment, food safety, public health, human rights and consumer protection, in order to:
 - 7.1. ensure that the provisions of "new generation" trade agreements are fully compatible with and supportive of climate policy objectives, namely with the 2015 Paris Climate Change Agreement and do not include powers for investors to trump environmental imperatives;
 - 7.2. make sure that these agreements support a fair and ethical trade system, and ultimately embrace strategies to combat international tax evasion and tax avoidance, including the use of shell companies in offshore jurisdictions by multinational companies;

- 7.3. ensure that all parties are able to maintain their highest standards of health, food safety, environmental protection and social rights. The mutual recognition of standards, used for harmonisation purposes, should be applied only in cases where the safety equivalence test is fully satisfying. Failing this, existing high European standards must be upheld via, inter alia:
 - 7.3.1. a stronger focus on applying the precautionary principle in setting regulations, to be explicitly included in the text of any agreement in order to limit the social, health and environmental risks and maximise the public benefits of these agreements;
 - 7.3.2. maintaining clinical trials regulations which oblige companies to publish all clinical test reports for medicines allowed on the European Union market, as well as guaranteeing adequate whistle-blower protection;
 - 7.3.3. strong safeguards in the labour rights chapter, explicitly stating the obligation of parties to abide by and effectively enforce the standards set in the International Labour Organization's core conventions;
- 7.4. guarantee full reciprocity as regards the opening of public procurement to external competition, including at sub-national level in the case of federal States;
- 7.5. establish a system to enable new protected geographical indications for particular countries and regions.
8. The "new generation" trade agreements should be designed to promote environmental sustainability, human rights and the rule of democratic law as well as to facilitate the mutual benefits of trade. In order to regain the public's trust in "new generation" trade agreements, as blueprints for future world trade, the Assembly calls on member States to open, as far as possible, negotiations to the scrutiny of democratically elected representatives at both European and national levels and to ensure that such agreements are subject to ratification by national parliaments insofar as they deal with shared competences.

Amendment 2

Tabled by Mr Jokin BILDARRATZ, Mr José Ramón GARCÍA HERNÁNDEZ, Ms Pilar ROJO, Ms María Concepción de SANTA ANA, Mr Carles JORDANA

In the draft resolution, after paragraph 8, insert the following paragraph:

"The World Trade Organisation should call on parties who embark upon negotiations for regional and bilateral agreements to ensure that these are done transparently and under democratic control. These principles ought to be followed in the TTIP negotiations between the European Union and the United States."