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AK Position Paper

Public Consultation on a Future Trade Policy

About us

The Federal Chamber of Labour is by law representing the interests of about 3.2 million employees and consumers in Austria. It acts for the interests of its members in fields of social, educational, economical and consumer issues both, on the national and on the EU-level in Brussels. Furthermore the Austrian Federal Chamber of Labour is a part of the Austrian social partnership.

The AK EUROPA office in Brussels was established in 1991 to bring forward the interests of all its members directly vis-à-vis the European Institutions.

Organisation and Tasks of the Austrian Federal Chamber of Labour

The Austrian Federal Chamber of Labour is the umbrella organisation of the nine regional Chambers of Labour in Austria, which have together the statutory mandate to represent the interests of their members.

The Chambers of Labour provide their members a broad range of services, including for instance advice on matters of labour law, consumer rights, social insurance and educational matters.

Herbert Tumpel
President

More than three quarters of the 2 million member-consultations carried out each year concern labour, social insurance and insolvency law. Furthermore the Austrian Federal Chamber of Labour makes use of its vested right to state its opinion in the legislation process of the European Union and in Austria in order to shape the interests of the employees and consumers towards the legislator.

All Austrian employees are subject to compulsory membership. The member fee is determined by law and is amounting to 0.5% of the members' gross wages or salaries (up to the social security payroll tax cap maximum). 560.000 – amongst others unemployed, persons on maternity (paternity) leave, community and military service – of the 3.2 million members are exempt from subscription payment, but are entitled to all services provided by the Austrian Federal Chambers of Labour.

Werner Muhm
Director

Executive Summary

The AK supports the idea of strengthening the European Neighbourhood Policy. It prefers multilateral WTO negotiations to bilateral free trade negotiations (FTA) currently held by the EU.

The AK supports the idea of strengthening the European Neighbourhood Policy. It prefers multilateral WTO negotiations to bilateral free trade negotiations (FTA) currently held by the EU and insists on policy coherence in trade policy concerning the compliance with international agreements in particular with regard to human and labour rights. Basically, liberalisations require redistribution mechanisms so that the foreign trade contribution – worldwide, but also within the EU – is distributed more fairly. We welcome the importance attached to environmental and social standards in the current bilateral trading strategy of the EU; the proposed sustainability chapters, however, have to be furnished with effective enforcement mechanisms. Further priorities resp. offensive interests of the AK include the improvement of market access for environmentally friendly goods and services in all trade agreements. Sustainability impact assessments should take all relevant aspects of social and economic effects of the agreements into account. The defensive interests of employees refer in particular to services in the public interest and free movement of persons (mode 4). This means that it is essential to take public services out of bilateral negotiations. In addition, the liberalisation of the free movement of workers (mode 4) beyond the GATS level resp. the CARIFORUM Agreement has to be excluded

in general. In case of negotiations with developing countries, the EU should fundamentally forego reciprocity and base its demands on these countries' stage of development.

Concerning the geographical selection of trading partners, the AK, in view of these dimensions, doubts that the advantages of these FTAs will justify the administrative and negotiation-related efforts.

Concerning the accompanying instruments of the EU whose task it is to cushion globalisation-related adjustments, one has to make sure that the European Social Fund can be operated in all countries, that it is adequately funded and that the budget appropriations are allocated in accordance with future-oriented criteria. Due to the enlarged scope of application of the European Globalisation Fund as a crisis instrument with facilitated supporting conditions, it is not only better equipped to deal with the current global economic crisis; its adaptation is also closer to the Austrian economic structure. Therefore its adjustments should be permanent.

The AK demands that with regard to combating social dumping, the breach of Minimum Labour Standards of the International Labour Organisation (ILO) will in future represent a situation that justifies the application of antidumping and other protective



measures. This applies in particular to special economic zones, where national labour law is often abrogated and where not even global minimum labour standards are complied with.

The AK position in detail

Add 1. Introduction

Question 1

How can the agreement, which has been in force since the Lisbon Treaties, according to which coherence of future trade policy with EU foreign policy, in particular with regard to their neighbouring countries, is demanded, be best guaranteed?

The relations to the EU neighbouring countries should be used to strengthen the EU in its global environment.

The relations to the EU neighbouring countries should be used to strengthen the EU in its global environment. In this context, European neighbourhood initiatives, such as the **European Neighbourhood Policy**, the Mediterranean Union as well as the „Eastern Partnership“ is increasingly gaining in importance. In agreement with the other social partners in Austria, the AK proposes to strengthen these neighbourhood initiatives on a long-term basis. From a political and economic point of view, the European perspective is of great importance to the Western Balkan countries. Political stability is also an essential ingredient of economic stability. The process of rapprochement of the Western Balkan countries to the EU significantly strengthens and promotes these factors.

The AK sees the question of coherence between trade policy and EU foreign policy also with regard to the compatibility with international agreements, in

particular in respect of human rights and Conventions of the United Nations and the ILO, the OECD and others. Hence, the trade policy of the EU has to be structured in such a way that FTAs with third countries do not run counter to these agreements. Within the sense of **policy coherence**, FTAs with partner countries respect joint international obligations by complying with them.

Question 2

How can EU Trade policy support economic growth, the creation of jobs and a more resource-efficient and ecological economy? What should the new trade priorities in the light of the Europe 2020 Strategy be?

In its consultation document „The Europe 2020 Strategy in a Global Context“¹ the Commission above all emphasises the necessity of expanding global trade. *„Thereby, particular emphasis should be placed on expanding access to markets, energy and raw materials, as well as to progress with regard to environmental and social targets.“* Here, in particular the second part of the sentence must be taken very seriously. From the point of view of the AK, the new trade

¹ Consultation on the future EU strategy until 2020, Working document of the Commission, Page 11. Extract from the AK Position from January 2010.

The ecological dimension is also a central basis for the economic development in particular of newly industrialised and developing countries.

priorities should definitely include the integration of binding and executable sustainability chapters. Paragraph 6, „Sustainable Trade“ will address this issue in more detail. Our minimum requirement is the inclusion of **ILO Core Labour Standards** in all international trade agreements. The target is the consideration of the **ILO's Decent Work Agenda**.

The **market access liberalisations** and deregulations of the last decades show that these do no longer automatically lead to more wealth and economic growth, but can cause structural problems, increasing unemployment, greater poverty etc, if they are not accompanied by **redistribution policies**. Crucial for the development of the European welfare state was the protectionist investment and economic policy, which went on for decades. Only then stable domestic economic structures have a chance to develop. However, even in times where EU Foreign trade is beginning to contribute to growth once more, one must not lose sight of the distribution problem. The distribution of the increase in wealth in the various world regions - but also within the EU - is unequal, which has caused both economic and social tensions. Even the World Bank admits that in the course of trade liberalisation, existing jobs will be destroyed at a much quicker pace than new jobs are created. According to the International Labour Organisation (ILO), during the period between 2007 and 2009, between 40 and 60 million jobs were lost as a result of the **global economic crisis**. As in many industrialised coun-

tries, Austria too saw its Gross Domestic Product (GDP) 2009 shrink, whereby Austrian exports fell by 8.1 %. Here the economic crisis was in particular noticeable in the material goods production (vehicle construction, metal working and mechanical engineering)².

However, foreign trade should not be overestimated either. Only about one eighth of all goods and services produced in the EU are exported and about one eighth of all goods and services used in the EU are imported. Hence, the economy of the EU is primarily characterised by developments in the Internal Market, which may be influenced by economic policy.³ This also applies to Austria, where, although foreign trade is strongly export-oriented, it concentrates on the EU Internal Market. Hence, the decisive determinant for more growth and jobs in Europe is still the dynamics of **domestic demand**.

The ecological dimension is also a central basis for the economic development in particular of newly industrialised and developing countries. The focus is currently on the limited availability of resources and climate protection, whereby the increasing demand of resource efficient products, technology and know-how also represents a great opportunity for the economy. **Improving market access for environmentally friendly goods and services** should be pursued as an important

² WIFO Monthly Report 5/2010, S 462.

³ Markus Marterbauer: „Wem gehört der Wohlstand?“, Paul Zsolnay Publishers, Vienna 2007, P. 195.

The AK prefers multilateral WTO negotiations to the current bilateral free trade negotiations of the EU.

objective in multilateral and bilateral negotiations. In view of a sustainable development, it is, however, essential, also to include the active **promotion of ecological standards in third countries** into international trade policy.

Add 2. Multilateral trade negotiations

The AK prefers multilateral WTO negotiations to the current bilateral free trade negotiations of the EU. The World Trade Organisation (WTO) represents the currently only multilateral set of rules, enforceable on the basis of its dispute settlement mechanism, for the still different regional and national trade policies. That is why we are convinced that the increasingly integrated and globalised relations of the world regions and their states with each other as well as the cooperation processes in the individual policy areas can only be improved at global level. Due to the fact that international trade has significantly contributed to the acceleration of globalisation, the WTO in its capacity as a global organisation with currently 153 members is a significant contributor to the structuring of global framework conditions for international trade. The trade liberalisation of goods, services and investments within the scope of the WTO resp. at bilateral level is currently taking place under unequal competitive conditions.

Question 3

How can the EU – in addition to driving forward a successful conclusion of the Doha Development Round – best pursue its trade policy objectives?

For many years, the WTO has been severely criticised by non-governmental organisations and developing countries. We regard the following objectives to be significant for a successful conclusion of the negotiations, which have now been stagnant for over eight years:

- **The democratisation of the WTO**

Although all Member States in the WTO have basically the same opportunities to participate in the decision-making (consensus decision making), the WTO is nevertheless as an interstate organisation - as are OECD, IWF, World Bank - only indirectly democratically legitimised: the governments are taking the decisions in WTO negotiations. **National parliaments** normally ratify these decisions only later. This democratic deficit should be compensated by national parliaments being able to participate more and to exert influence. The national parliaments should also make structuring the globalisation the focus of their discussions and decisions. The non-transparent and undemocratic decision-making process in so-called **Green Rooms** and the enormous pressure, which is asserted in them, has to be transformed into open and announced meetings. The current **dispute settlement procedures within the WTO** are non-transparent. Hence, WTO Committees should be forced to make their decision-making processes public. As is the case with other international organisations, observers from other international organisations, representatives of non-governmental organisations, trade unions and legal representations of interest should

receive observer status. ILO and UNEP should be granted a right to speak, so that decisions by an arbitral court, which are contrary to the petitions of these organisations, have to be justified by the WTO arbitration board.

- **The incorporation of minimum labour standards in the WTO**

We urge the Austrian Federal Government to consequently support the incorporation of Core Labour Standards in the WTO. It must be possible to negotiate wages for workers, which secure their existence in order to alleviate poverty on a sustainable basis. This requires freedom of representation and the so-called freedom to conclude collective agreements. The ban on child labour, a comprehensive ban on discrimination in particular of women as well as the ban on forced labour form the basis for a sustainable social development worldwide.

- **Setting up a working group in der WTO**

is a requirement to initiate a discussion on instruments and procedures, which ensure the compliance with Core Labour Standards. The working group resp. the committee should be made up of representatives of the WTO and the ILO Secretariat, governments and non-governmental organisations, in particular trade unions from industrial and developing countries.

- **Abolishing EU Import barriers for sustainable production**

Quota systems and tariffs, which rise with increasing processing stage (tariff scaling) and which hamper sustain-

able development in particular in developing countries are to be abolished.

- **Recognizing the quality seal for fair trade**

Existing Fair Trade or quality seals with the same orientation should be addressed within the scope of the labelling discussion. It is the objective to recognize quality seals for fair trade, in particular those, which are already globally coordinated and regularly inspected by independent institutions. The EU is urged to actively and consequently support this goal within the WTO.

- **Reducing the export subventions for agricultural products**

The AK welcomes the WTO-wide reduction of export subsidies for agricultural products. Only then, the incentive to export surplus productions will be reduced and result in fair global trade.

- **Transforming „blue“ in „green“ measures with regard to internal agricultural subsidies**

Currently, a major part of agricultural subsidies is allocated to the so-called *blue box*. These are production-dependent subsidies, which are paid in accordance with acreage or number of animals, independent of the fact whether farmers use environmentally friendly or socially compatible methods. The AK demands only to subsidise social and ecological (*green box*) agricultural production. This should not only save resources such as water and soil. The objective is to stop a system of unfair competition, where according to purely economic criteria ma-

Quota systems and tariffs, which rise with increasing processing stage (tariff scaling) and which hamper sustainable development in particular in developing countries are to be abolished.

The prevailing subordination of provisions of multilateral environmental agreements under those of the WTO has to stop.

for enterprises - and not ecologically operating enterprises - are subsidised. Basically, agriculture should only then be subsidised when improvements of the social and the environmental situation can be proven.

- **Environmental agreements may not be undermined by WTO decisions**

WTO decisions have frequently undermined trade-relevant decisions from environmental agreements. The prevailing subordination of provisions of multilateral environmental agreements under those of the WTO has to stop. The EU as a thematic leader in the WTO must take responsibility and ensure that the result of the negotiations strengthens global environmental legislation and that conflicts with the WTO are resolved.

Add 3. Bilateral trade negotiations

In spite of our critical stance concerning the large number of current trade negotiations, the AK welcomes the importance, which is to be attached to the subjects of labour standards, employment and environment in the „Global Europe“ generation of bilateral FTAs. In the end, the degree to which the provisions of the planned sustainability chapters of an FTA will be obligatory is crucial to their effectiveness.

Question 4

Do the current bilateral EU free trade negotiations provide the right geographical and contentual focus for our bilateral trade relations within the scope of the Global Europe strategy?

Without a doubt, Austria attaches great importance to foreign trade. However, as has already been mentioned above, our main trading partners are within the EU. Apart from that, Austrian foreign trade - up to the economic crisis - had seen dynamic development, for example in the Asian area. Above average export growth of more than 30 % was achieved in this region. However, the export volumes with the trading partners of the new bilateral EU trade agenda were as low as their shares in Austrian overall exports. In contrast, the import growths from these regions can be substantial: they are partly between 20 and 30 % and can, as is the case with Malaysia, be over 65 %. In some sectors, such as the textile and clothing industry, excessive imports in the EU can result in major problems. Austrian Trade relations are extremely small with Colombia and Peru as well as the Central American states.

Concerning the geographical selection of trading partners, the AK, in view of these dimensions, doubts that the advantages of these FTAs will justify the administrative and negotiation-related efforts.

Question 6

How can the EU improve the effectiveness of its regulatory dialogues? How can the EU promote the creation and application of international standards without putting legitimate political decisions of public interest at risk?

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not put the partner countries on the defensive. This means that negotiation partners must not be put under pressure when they want to ensure their legitimate public interests. As liberalisations of services of public interest often entail sustainable changes for the worse for the population, these may not be liberalised from the point of view of the AK (see 4. Services).

Add 4. Services (Services)

Question 8

Should the EU aim at an increase in trade with services and if yes, how? So far, multilateral and bilateral negotiations were only partly successful with regard to opening the provision of services. Would the renewed concentration on the trade in services with key partners (plurilateral approach) be a useful alternative?

Until now, the EU pursued, within the scope of its bilateral trading strategy, a forced market opening of service sectors, which were of interest to EU enterprises. In doing so, it continues the approach, chosen in the WTO-GATS negotiations, in an exaggerated form. Apart from that, the EU also aims at a regulatory harmonisation in strategic sectors (e.g. financial services, Telekom, mail services) or for job qualifications, market access provisions, licensing procedures etc., which has the relevant EU regulations as a frame of reference. The question is whether the rules favoured by the EU do necessarily have to conform to the social and ecological requirements of the partner countries. The regulation approach favoured by the EU Commis-

sion, however, forgets that regulations always have to be adapted to the economic and socio-cultural situation. The way markets work is also regulated differently by different societies. Hence, „One size fits all“ is in particular not a option for the regulation of services. The Liberalisation demands of the EU must more than before **consider the economic and socio-cultural particularities of partner countries.**

Only then, can the EU credibly state that services of general interest are an integral part of the European Social Model, if it does not at the same time demand the forced liberalisation of these services from other states. Hence, **public services** must be removed from the negotiations. Similar to the GATS negotiations in the WTO, bilateral negotiations are also in danger to liberalise public services. This applies in particular to those public services, which are rendered in „mixed provision“ - i.e. by public and private providers. It is therefore necessary to remove those service areas right from the beginning from the negotiation mandates of the EU Commission, which have to be regarded as an integral part of the public general-interest services. These include in particular education, health and social services, audiovisual and cultural services, water supply, mail services, public transport. Excluding these sectors from the negotiations does not only prevent the EU from being faced with liberalisation demands; it also guarantees that the liberalisation supporters in the EU (in particularly the business lobbies) cannot enforce any demands on other states.

In this context, the AK regards it as essential to apply the **horizontal reserve for „Public Utilities“** in accordance with the U-25 GATS obligation list on the bilateral obligations. Furthermore, no liberalisation commitments must be made for sectors, where **ongoing autonomous liberalisation processes** are taking place (in particular energy, mail services, transport). Before such a commitment is made, one has to await the full implementation of the liberalisation to be able to ensure efficient framework regulations within the national scope for action, which is based on social and ecological criteria. Any premature commitment could substantially limit the Austrian freedom to act in regulating liberalised sectors and apart from that make later changes very difficult or even impossible.

A comprehensive Labour Clause to safeguard the rights of employees has to be embedded in bilateral agreements.

Apart from that, a comprehensive **Labour Clause** to safeguard the rights of employees has to be embedded in bilateral agreements. This should be worded as follows: *„All requirements of the laws and regulations of the EC Party regarding entry, stay, work and social security measures shall continue to apply, including regulations concerning period of stay, minimum wages as well as collective wage agreements even if not listed below. Commitments on key personnel and graduate trainees do not apply in cases where the intent or effect of their temporary presence is to interfere with, or otherwise affect the outcome of, any labour/management dispute or negotiation.“*

In addition, the AK requires the retention of the **positive list approach** with regard to opening the services sector. From our point of view, a positive list approach is synonymous with greater transparency, as it makes clear which sectors will be opened as a result of the Agreement and which will not. With regard to a negative list approach, however, the EU Member States agree to the opening of all service sectors, with the exception of those sectors, which have been expressly excluded from the Agreement. A negative list approach is therefore oriented towards a far higher degree of liberalisation than the positive list approach. Furthermore, the general application of the positive list approach in case of bilateral agreements provides far better comparability of the agreements.

A liberalisation of the **Free Movement of Workers (Presence of Natural Persons, Mode 4)** in the bilateral negotiations, which goes beyond the GATS standard resp. the CARIFORUM Agreement must be generally excluded. Apart from that, attention should be paid to the following:

- No liberalisation commitments must be entered into for **contractual service suppliers** and **independent professionals**, which go beyond the current level of GATS Commitments.
- The AK firmly rejects liberalisation commitments for **workers with medium or low qualifications**.

The AK supports limited stays of persons from third countries for vocational and advanced educational purposes.

- The AK is against the idea to exempt posted workers from the **obligation to pay taxes, duties** and social insurance contributions in Austria.
- If workers are posted, the labour and social legislation as well as the income regulations resp. collective agreements of the **favourable resp. target country principle** must be applied.
- The AK supports **limited stays of persons from third countries for vocational and advanced educational purposes**, if these are taking place within the scope of cooperation projects of development cooperation and if suitable measures are provided for, which prevent the direct competition with local workers and guarantee that these persons return to their native country following the completion of their assignment.
- At this point, the AK would like to clearly come out against the proposals of the Commission with regard to the Directive on the admission of seasonal migrants. The so-called seasonal migration model assumes that seasonal migrants only remain in their host country for the duration of their employment and that therefore hardly any additional infrastructure investments are required in the host country. Contrary to this, reality has shown that with regard to Austria and Switzerland, both of which are classic destinations for seasonal workers, circular

migrants show a strong tendency to remain in the country and to invite their families to join them, which means that appropriate infrastructure investments are indeed needed. The AK therefore rejects **circular migration** as an illusionary migration model without integration perspective.

Add 5. Investments

Question 9

The Treaty of Lisbon transfers increased powers in international investment policy to the EU. How can we contribute to the facilitation of cross-border direct investments (within and outside)? Which key issues should be addressed in the agreements?

The AK agrees with the assessment of the European Commission that foreign direct investments are not covered by institutionalised Global Governance provisions in accordance with their economic importance. We believe that the appropriate framework for a comprehensive investment agreement, which regulates both market access and investment protection, would be the WTO. In our opinion, the policy followed by the EU, to integrate foreign direct investments in bilateral FTAs, is only the second best solution.

According to the Lisbon Treaty, foreign direct investments come under the Common Trade Policy. The AK regards this as an opportunity for the EU to develop uniform principles for European direct investments in third countries.

The core elements of an FTA should include provisions on market access, investment protection and the promotion of sustainable development of foreign direct investments.

We will critically analyse the follow-up documents, which were recently published, as to what extent not only economic but also social and ecological aspects have been integrated in European investment policy.

The core elements of an FTA should include provisions on market access, investment protection and the promotion of sustainable development of foreign direct investments.

- **Market access** provisions should, in particular in the service sector, be based on the positive list approach.
- **Investment protection:** the bilateral investment protection agreements have to be replaced by a new generation of European provisions, because the rising number of investment arbitration proceedings as well as the arbitration awards of the tribunals clearly show that bilateral investment protection agreement massively restrict national sovereignty. There is a great need for action not to generally exclude any economic measures (e.g. social and environmental policy) from the scope of application of investment protection. Apart from that, the investor-state dispute settlement mechanism must always be examined. A comprehensive discussion on European investment protection regulations with all stakeholders is required to develop a balanced negotiation text at high level, which does not put in any way at risk any further development

of central policies such as social security, labour relations and environmental protection.

- **Promotion of sustainable development:** Foreign investors must assume corporate responsibility for the compliance with universal fundamental rights (human rights as well as basic labour standards) also in the value chain (global production networks).

Add 6. Sustainable Trade

The AK regrets that the social and labour-related aspects were not addressed in the chapter on sustainable trade and urges the EU Commission to consider our concerns.

Within the scope of the International Labour Organisation (ILO), all 182 members, most of whom are also WTO members have committed themselves to comply with a number of international fundamental labour rights. These minimum labour standards incorporate the most fundamental human and labour rights. The compliance with these **Core Labour Standards** would at least prevent the most extreme forms of inhumane working conditions and of exploitation. Apart from a fairer distribution of income, the improved compliance with the Core Labour Standards has an incentive effect on increasing productivity and thereby on competitiveness. Both boost domestic production, thereby contributing to a quicker economic development and fair global competition.

The AK welcomes the integration of sustainability chapters in the FTAs of the Global Europe strategy.

As already mentioned above, the AK welcomes the integration of sustainability chapters in the FTAs of the Global Europe strategy. The integration of ILO Minimum Labour Standards in multilateral trade agreements must be actively pursued. The objective is their binding implementation and compliance in the partner countries of the EU. The central elements required by the Austrian Federal Chamber of Labour for a sustainability chapters in bilateral FTAs concern:

- **The compliance with all eight ILO Core Labour Standards:** Die 136th General Assembly of the AK has requested, as has ETUC, to integrate the ILO Minimum Standards in international trade agreements. The contracting parties must ratify, transpose into national law and effectively apply the agreements, which are determined by the ILO Declaration on Fundamental Principle and Rights at Work (Core Labour Standards). 183 states that are ILO members are already committed to this. The eight Core Labour Standards refer to the freedom of association and the right to collective negotiations, the abolition of forced labour, the abolition of child labour and the ban on discrimination in employment and occupation.
- The current language regime of the ILO Declaration „Social Justice Declaration for a Fair Globalization“ from 2008, which explicitly states that the **violation of Core Labour Standards may not legitimize comparative advantages, must be adopted.**
- **Additional ILO Conventions:** depending on the stage of development of the partner countries, the EU should also demand the ILO Convention 155 - Occupational Safety and Health Convention, the so-called „ILO Priority Conventions“ (Convention 122 - Employment Policy Convention, Conventions 81 and 129 - Labour Inspection Convention and Convention 144 - Tripartite Consultation Convention) and the Conventions from Decent Work Agenda respectively⁴.
- **Reporting duty on the state of implementation of the Labour standards:** the governments of both contracting parties should regularly report on the progress concerning the implementation of all obligations entered into in the Agreement. Apart from the obligations, which are included in the ILO Declaration on fundamental principles and rights at work, this might also apply to other agreements mentioned above.
- **Non lowering standards clause (resp. Upholding Levels of Protection Clause):** This provision shall guarantee that existing social and environmental standards are not lowered to attract foreign investors. Apart from that, this obligation should contain refer-

⁴ The Decent Work Agenda) comprises four main elements: 1. Fundamental Principles and Rights at Work (ILO Core Labour Standards); 2. productive and freely chosen employment; 3. social protection and security and 4. the social dialogue. This also includes the consideration of the gender dimension in these four elements. International ILO and UNO standards already exists in each of these areas.

ence to the fact that it applies to all regions of a country to prevent that the Agreement results in a increase of production in export production zones.

- **Forum for the exchange of information between governments and social partners:** a forum for trade and sustainable development should be set up, which enables the exchange of information on the implementation of the agreement between government representatives of the partner countries on the one hand and employee and employer organisations and NGOs on the other. This forum should provide a clearly defined balance between these three groups of members. It should meet at least twice a year and provide its members with the opportunity to publicly discuss social issues and problems.
- **Ensure reaction of the governments to complaints by the social partners:** it is important to oblige governments to respond actively to officially submitted communications of their social partners. This should become a mandatory mechanism, which provides recognized employee and employer organisations and NGOs on either side of an FTA with the opportunity to submit such calls for action. Such complaints should be processed within a determined timeframe (e.g. two months) and become part of a permanent post processing and review process to

ensure that governments effectively deal with complaints.

- **Independent experts shall assess complaints and prepare recommendations:** if complaints by one government are not satisfactorily answered by the other party, they should be assessed by independent and qualified experts. Relevant recommendations of these experts must be part of an determined and speedy process so that assessments are not only used for reports and recommendations but also lead to provisions on post processing and reviews. That way, the pressure on governments should be maintained to prevent violations of labour rights on their territories. At least one independent expert should be an ILO representative.
- **The dispute settlement procedure must also be applied to the sustainability chapter:** it should be made clear that the same implementation provisions apply to the Chapter on Sustainable Development as for all other provisions of the Agreement. The agreements of this chapter are therefore in particular subject to the same dispute settlement procedure as all other elements of the Agreement.
- **Preventing the continuous violation of minimum labour standards by imposing fines:** in the event that during the consultation proceedings between the govern-

The dispute settlement procedure must also be applied to the sustainability chapter.

A Sustainability Chapter with relevant provisions for the protection of human rights should also be tied to this Agreement.

ments and the social partners as well as non-governmental organisations and even following the recommendations of the independent experts no positive changes with regard to labour law obligations have been made within an appropriate period, it is planned to introduce fines at the end of the dispute settlement procedures. These should be high enough to have a sufficiently deterrent effect. The revenues of these fines should be used to improve the social standard and the working conditions in those sectors and areas, which show relevant problems. In this context, technical and administrative support in cooperation with international organisations, in particular the ILO, have to be provided for dealing with these injustices.

- **Ensuring the compliance with environmental agreements:** in order to justify the name of this Sustainable Development Chapter, strong clauses for the compliance with multilateral environmental agreements, including the Kyoto Protocols, have to be implemented. The environmental agreements therein have to be ratified and implemented in accordance with the Generalized System of Preferences of the EU (GPS+). This concerns the following Agreements: Montreal Protocol on Ozone Depleting Substances, Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal, Stockholm Convention

on Persistent Organic Pollutants, Convention on International Trade in Endangered Species of Wild Fauna and Flora, Convention on Biological Diversity, Rotterdam Convention on Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides.

- A Sustainability Chapter with relevant provisions for the protection of **human rights** (in particular the accession to the International Covenant on Economic Social & Cultural Rights) should also be tied to this Agreement.
- The European Trade policy can at best promote sustainable growth by fully integrating **foreign direct investments** in its general trade policy and by ensuring that the sustainability chapters included in the latest FTA chapters are also applicable for investments resp. investors. Apart from that, the EU has recognized that obligations must also be imposed on European investors. Businesses have the responsibility to ensure that their subsidiaries, but also value chains adhere to the minimum social and ecological standards. To enable them to guarantee this, they have to orientate themselves on the internationally recognized code of good conduct „OECD Guidelines for Multinational Enterprises“. The guidelines cover a wide range of issues and contain among others human rights, labour rights and protection as well as environmental and consumer protection.

EU trade policy shall ensure that the advantages from global production networks will be shared fairly among workers, producers and consumers.

Question 10

How can trade policy support green and inclusive growth by means of sustainability impact assessments?

Sustainability impact assessments are announced by the Commission parallel to the negotiations in the mandates submitted. It would make sense, however, if impact assessments would provide a decision basis for entering into negotiations. In any case, the results, if they have been prepared by independent and reputable institutes, should be taken seriously. Sustainability impact assessments are the only option to establish the impact of trade liberalisations on different sectors, employment, environment and development both in the EU and in developing countries.

Provisions on sustainability impact assessments and for measures, which will be taken on the basis of the results of these reviews, should be included. Sustainability impact assessments should **consider all relevant aspects of social and economic effects of the agreement**. These include access opportunities to high-quality public services and the use of different strategies, including trade-relevant strategies to achieve industrial development. Employee and employer representatives as well as non-governmental organisations should be involved in evaluating the sustainability impact assessment on the effects of the agreements. A follow-up process after the sustainability impact assessment has to be determined.

Add 7. Inclusive Trade

Question 12

How can EU Trade policy ensure that the advantages of global value chains are shared between European producers, consumers and workers?

EU trade policy shall ensure that the advantages from global production networks will be shared **fairly** among workers, producers and consumers. The weakest link in the **value chain**, at whose expense economic profit is distributed are the workers in the ancillary industries. There are no efficient instruments, which could help global labour standards and human rights to achieve also a breakthrough beyond national borders. There are some more or less promising approaches, which have to be supported and to be developed within the scope of European trade policy. Legal provisions have to be developed for enterprises, so that these can be called to account if labour rights in the supply chain are violated („chain liabilities“). In particular the territorial scope and the area of application have to be improved. The concept „protect, respect, remedy“, which has been discussed within the scope of the UN Human Rights Council and the concrete mechanisms, which still have to be presented, must be implemented in the European trade policy. Apart from that, the potential of incentive mechanisms such as the socially responsible public award of contracts has to be exploited. Existing options such as taking enterprises to court for labour right offences committed abroad, have to be expanded.

Hence, it is necessary to assert the responsibility of the home states and of the European Union.

The European and international framework agreements between transnational enterprises and trade unions are a good approach to expand social minimum standards and the social dialogue to locations outside the home state if they are equipped with appropriate monitoring and implementation instruments. It must be continued to support and directly promote these within the scope of FTA.

As already stated in the chapter „Sustainable trade“ with regard to our principles, it is important to ensure the fair distribution of trade advantages by guaranteeing that the universally recognised ILO Minimum Labour Standards are complied with. This is in particular ensured by the ratification, implementation and application of the **Freedom of association and the Right to Conclude Collective Agreements**. The Freedom of Association is not only a human right, but enables workers to organise and to safeguard their interests. The right to conclude collective agreements in turn enables through wage negotiations between employers and employees a fairer wage for employees. That way, the violation of existing national labour laws and bad working conditions in some countries can be effectively counteracted.

In this context, the AK would like to refer to a **Study of the World Bank** from 2002 under the title „Unions and Collective Bargaining: Economic Effects

in a Global Environment“. It reviews the impact of labour standards on economic development. The right to set up a trade union and the right to conclude collective agreements lead to higher income fairness and finally to an improved economic output of a country. This is expressed in low unemployment and inflation, in higher productivity and in a better adaptability in case of economic shocks. Employees, which are secured by collective agreements, earn higher average wages in industrialised and in developing countries. In addition, this results in a reduction of differences in income between skilled and unskilled workers and between men and women.

Question 13

Are the existing „accompanying“ policies sufficient to distribute trading profits between the people and different regions and markets in the EU? How can the EU guarantee best that the trade and other policies, can enable adjustments of people, sectors and society, where it is necessary?

The Commission addresses instruments of the EU (structural funds, European Social Fund, European Globalisation Funds, Regional funds), which should serve as cushions in the event of global changes.

In order to enable also European workers and consumers to benefit from the European trade policy, attention has to be paid to the fact that domestic purchasing power is not weakened too much. These include poverty prevention measures (wage

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policy and for those who are not integrated in the working process, sufficient unemployment benefits) as well as the guarantee of a minimum level of safety. Apart from ensuring a sufficient basic standard of living, opportunities to return to employment must also be provided. It is correct that the **European Social Fund** (ESF) is here an important funding tool.

- Apart from that, the focus must remain on the **preservation of jobs**. Apart from economic aspects, the permanent **advanced education** of employees is also important so that they remain employable and locations are retained (also because of particularly qualify personnel). Here too, the ESF is in demand.
- To enable the ESF to be active in all these areas, it must be possible to use it **in all countries, it must be sufficiently funded** and budget appropriations must be allocated in accordance with future-oriented criteria.
- Apart from that, **administration** must be reduced to a justifiable extent.

Important, however, is also the competition policy of the EU, which based on its strict criteria, in particular in the area of non-priority services (such as education measures), puts important structures at risk. Here it should be possible to increasingly consider social aspects.

The **European Globalisation Funds** (EGF) was created to cushion the

impact of mass job losses in the EU Countries. Originally, one thought of the consequences of globalisation, for example job losses because of relocations in regions outside the European Union, of export collapses of domestic producers or of extreme import increases from abroad in certain economic segments of the EU. Due to the enlarged scope of application as crisis instrument with facilitated funding conditions, the EGF is not only able to cope better with the current global economic crisis; its adaptation is also better suited to the Austrian economic structure. In particular the following **adaptations of the current EGF as crisis fund shall remain permanently - hence after 2011 -**:

- A reduction in the number of required dismissals from 1000 to 500 employees as a criterion for claims from the EGF has been achieved. In addition, EGF funds can be obtained when the minimum number of currently **500 dismissals** per enterprise and supplier ancillary industries is not achieved and when the regional labour market is severely impaired. This provision is particularly welcomed by small structured economies such as Austria.
- The possibility to obtain funding from the EGF, also in case of EU-internal relocations and no longer just exclusively due to relocations outside the EU is an improvement and closer to reality. This way, the previous inconsistency with regard to the funding of labour market measures between **EU-**

The Globalisation Funds should also continue to be sufficiently funded.

internal and EU-external relocations was also removed. Funding from the EGF in case of job losses (e.g. production relocations within the EU due to existing pay gaps between the Member States) will also be permanently secured in future.

- The Globalisation Funds should also continue to be **sufficiently funded**. Currently, it is not urgent to increase the funds; the total funds, however should be continuously reviewed and adjusted if required.
- Apart from that it would be necessary, in particular in crisis situations, to make the funds of the EGF also available for **preventive measures**, which serve the preservation of jobs.

Add 8. Trade and Development

Question 14

How can the EU strengthen the development dimension of its trade policy? Should the EU pursue a more differentiated approach in its trade relations to meet the different development levels of the countries?

It is the aim of the current bilateral trading strategy to achieve maximum market access for industrial and agricultural goods with future trading partners by progressive and mutual liberalisation. Thereby all products should be covered by the Free Trade Agreement and trade ban and restrictions should be prohibited or, if there

is no other way, converted into tariffs through so-called quotas. The number of sensible products, which are burdened by high tariffs, shall be reduced to a minimum.

- In particular the proposed abolition of all export restrictions (quantitative export restrictions, export tariffs, export taxes etc) must be critically analysed. In particular in developing countries, these are often important **regulatory instruments**, which either serve to develop important industries or to secure the domestic supply situation.
- With regard to developing countries, the EU should forego full reciprocity concerning its demands for lowering tariffs and reducing quantitative import restrictions. In any case, with regard to the aimed at tariff reductions, **one has to consider the stage of development of the trading partners**. In certain sectors, tariff protection may make an essential contribution to the development of young industries. The demands of the EU with regard to market access, non-discrimination or regulatory harmonisation in their current form, threaten to undermine development potentials.
- The EU should demand the implementation and application of the **ILO Minimum Labour Standards** also from developing countries. The interest in a recognised minimum of labour standards is above

Solutions for fighting poverty by minimum standards and a better distribution of income in a globalised environment are urgently needed.

all associated with the liberalisation of international trade and the financial markets of the last decades. Increasing globalisation resulted in the fact that labour standards became an important competitive factor. That is why there are concerns that major differences result in trade advantages in favour of those countries with low labour standards, but also to the situation that new technologies make it possible to hire workers from countries with low labour standards. This is why solutions for fighting poverty by minimum standards and a better distribution of income in a globalised environment are so urgently needed.

- The EU should make **financial resources** for developing countries available, which on the one hand should serve for the compensation of fallen customs revenue and for the modernisation of the tax systems in the partner countries. On the other hand, financial resources are required to promote organisational-technical know-how in the developing countries in order to enable the better utilisation of existing trade policy preferences of the EU.
- Furthermore, institutionalised **monitoring and control mechanisms** should be provided in the FTAs to recognise negative effects of opening trade on the economic and employment structure as well as on working conditions at an early stage. The integration of **safeguard and revision**

mechanisms shall guarantee that negative developments can be corrected.

- **Participative participation structures** shall serve for the regular evaluation of the Agreement with the involvement of employer associations (in particular SMGs), worker organisations and the civil society.

Within the scope of its existing **Generalized System of Preferences**, the EU promotes for developing countries the compliance of certain human rights and environmental conventions as well as the Core Labour Standards. Based on this incentive system, selected developing countries are granted exemption from duty for over 7,000 products. The EU Member States are, however, hesitant to withdraw these preferences if the conditions are not met - as it is demonstrated by the example of the systematic violation of trade union rights in Belarus. Only after two years of wrangling between the EU Countries the privileges were last withdrawn in June 2007. Good trade relations are often preferred to the compliance with labour rights. The AK demands that these preferences are **definitely** withdrawn when the ILO Core Labour Standards are violated.

Add 10. (Enforcement and dealing with unfair practices)

Question 16

How can the EU best protect its businesses and interests against trading partners, which do not comply with

The AK supports the application and expansion of the existing trade protection instruments of the EU.

rules? Are the existing instruments and priorities sufficient to deal with unfair competition from third countries?

The AK supports the application and expansion of the existing trade protection instruments of the EU. Basically, protective measures should always be initiated if unfair trading practices result in the fact that jobs in the EU are at risk or if a certain industry is in danger of being seriously damaged.

The EU could defend itself against products, which were manufactured whilst the ILO Core Labour Standards were violated. This is a vision from today's point of view, but it is not impossible: WTO members are already permitted to impose appropriate **protective measures** (antidumping tariffs or import ban) if prisoners are involved in the production. The EU does currently not make use of this option. Hence, the AK therefore believes that in cases of proven violations of Minimum Labour Standards antidumping tariffs should be imposed in the same way as it is the case with other unfair and trade distorting practices. In future, the EU should request at WTO level that protective measures are also applicable if other Core Labour Standards are violated. The AK therefore demands that in order to combat **social dumping** in future the disregard of the ILO Minimum Labour Standards should be an offence which justifies the use of antidumping and protective measures. That is why the violations of ILO Minimum Labour Standards, which have come to the attention of the Com-

mission, have to be pursued in the assessments for the introduction of protective measures. An improvement in the sense of the workers would be the integration of trade unions in the decision-making process on the use of trade protection instruments. In the same way as enterprises, they should be given the opportunity to act as complainant.

Trade protective measures must also be applied to imports from **Special Production Zones**, where national Labour law has been abrogated. A general ban on imports should be imposed on goods from special production zones because the operation of such production zones suggests that one expects export advantages by the targeted abrogation of labour laws.

The application of trade policy protective measures should take the individual **stage of development** into account, whereby all individual cases should be examined. For reasons of development policy considerations, anti-subsidy measures against developing countries should not be forced.

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