



To the Members of the INTA-Committee
of the European Parliament

Vienna, 22 May 2018

Trade Agreements with Japan and Singapore

BAK Transparency Register Reg. No. 23869471911-54

ÖGB Transparency Register Reg. No. 43246044354-41

Dear Member of the European Parliament,

According to the current roadmap of the European Commission, on 26 June 2018 the Council of the European Union is to decide whether to sign further trade agreements with Japan (JEFTA) and Singapore, as well as an investment protection agreement.

The Austrian Federal Chamber of Labour (BAK) and the Austrian Trade Union Federation (ÖGB) support trade relations in principle, as long as they are conducted according to fair conditions. However, such conditions are not guaranteed under the a.m. agreements, as was the case with CETA. It should be noted that the scope of application of the new generation of agreements far exceeds that of traditional trade agreements, whose primary role was merely to lower import duties and quotas. However, recent agreements also focus on deregulation and, furthermore, must be considered as problematic from a democratic perspective. This can be summarised in the following points:

We have repeatedly expressed our criticism of **investment protection agreements** in position papers and fortunately this criticism has been taken into account, most recently by the European Court of Justice in the case C-284/16, Achmea, with regard to intra-EU BITs. In the opinion of ÖGB and BAK, the reform effects kick-started by CETA do not change the basic issues with investment tribunals, whereby companies from individual signatory states can sue directly for damages on the basis of extremely vague legal foundations. The theoretical potential threat alone will mean that countries

will, in case of doubt, abandon regulatory projects which are in fact legally permissible, in order to avoid liability risks.

In the view of BAK and ÖGB, the fact that the mutual recognition or harmonisation of standards will be possible within the scope of **regulatory cooperation** without a corresponding public discussion is also of the utmost concern. The possible amendment or recognition of differing regulations, in particular regarding **personal data protection**, or the authorisation and labelling regulations for foods that are **genetically modified** or **treated with ionising radiation**, are specific examples of this.

Furthermore, the **precautionary principle according to EU legislation** is not safeguarded. JEFTA means that preventive measures to protect the environment and health can only be decided when full scientific proof of any harmful effects is provided. How contradictory, drawn out or even incalculable the provision of such proof can be is illustrated, for example, by the use of glyphosate and its consequences for the environment and deformities in people, neonicotinoids for bees, or smoking as a cause of cancer, accepted only after decades.

And finally the planned regulatory cooperation, in its current wording, is not subject to any acceptable **democratic control**. Changes to regulatory differences will be decided by transnational bodies, instead of by the European or national Parliaments. This is of concern in view of the fact that unspecified actors will be included in the preliminary stages. In the opinion of ÖGB and BAK this will increase the pressure to deregulate and hence will make it more difficult to protect the public interest.

The International and European Trade Union Confederations criticise the fact that Japan has only ratified six of the overall eight **ILO minimum standards** (Conventions No. 105 Abolition of Forced Labour and No. 111 Discrimination (Employment and Occupation) are still outstanding). Singapore too has only ratified six of the ILO core labour standards (it still has not ratified Conventions No. 87 Freedom of Association and No. 111 Discrimination). Furthermore, Singapore denounced the ratified Convention No. 105 on the abolition of forced labour in 1979 which has not been implemented since then. These standards provide the necessary minimum protection against the dismantling of social and labour standards resulting from competition (race to the bottom).

BAK and ÖGB further object to the fact that the **chapters on sustainable development** in all trade agreements with regard to the ratification, implementation and effective compliance with labour and environmental standards are completely toothless. The chapter on sustainability is not subject to the general arbitration mechanism and there is no protection offered through sanctions. This means that non-compliance with these international standards is without effective remedy.

Nor is the **liberalisation of services of public interest** fully excluded. This means that the scope of action of national states in the provision of services of public interest will be limited by provisions related to market access or public procurement, as well as in relation to economic needs test or proportionality tests of domestic regulations. Furthermore, the controversial “negative list approach” is being applied to JEFTA, whereby individual exceptions to liberalisation must be defined which will also exert incalculable pressure to liberalise.

In the end the **risks** generated by such trade agreements must be rated much higher than the benefits that could derive from them. Even the economic studies carried out as part of the Commission’s own sustainability study indicate for JEFTA, for example, extremely modest accumulated **economic growth** for the whole of the EU of 0.76% after 10 to 20 years.

The concerns of citizens are illustrated clearly by the signatures of the 563,000 Austrians who signed the popular petition “Gemeinsam gegen TTIP, CETA und TiSA” (“Together against TTIP, CETA and TiSA”) last year. Particularly in view of the growing scepticism vis-à-vis a policy of globalisation that is seen as very one-sided and that prioritises the interests of big business, the trade agreements with Japan and Singapore cannot be signed in their present form. In the opinion of BAK and ÖGB trade agreements must meet the following conditions in order to satisfy the legitimate concerns and expectations of workers and consumers in Austria:

- Trade agreements must be discussed transparently, on a broad basis, and include the interested public. All resolutions within the scope of **regulatory collaboration** require sufficient democratic accountability.
- All **regulations on sensitive interests requiring protection** must be **excluded** expressly from regulatory cooperation, for example the areas of health, safety, consumers (e.g. data protection), labour standards and the environment; certain sectors (e.g. chemicals, pharmaceutical products, foodstuffs) and issues (e.g. genetically modified organisms, hormones, antibiotics, pesticides or veterinary matters).
- The **precautionary principle** according to EU legislation must be enshrined in the agreement.
- All eight **ILO core labour standards** must be ratified, implemented and applied by Japan and Singapore. Furthermore, the application of the ILO’s **up-to-date conventions and recommendations** must be pursued by the contracting parties.
- Violations of internationally recognised labour and environmental laws must be **penalised** effectively by the agreement.
- Services of **public interest** (including public procurement and concessions) must be excluded in their entirety from bilateral trade deals
- **Investor-state dispute settlement** (ISDS and ICS) and investment regulations are not acceptable in bilateral investment protection agreements, such as with Japan and Singapore.
- Multinational groups and local companies must comply with social and environmental standards beyond national borders throughout the **value chain**.

BAK and ÖGB request that you refuse to sign and reject the agreements with Japan and Singapore as long as the problematic content remains unchanged. With regard to the legally unsecured starting position, we believe it would be difficult to conclude further agreements before the outcome of the path breaking legal proceedings on CETA (both before the ECJ and the German Federal Constitutional Court) is decided and clear.

Yours sincerely,

Erich Foglar
President

Renate Anderl
President