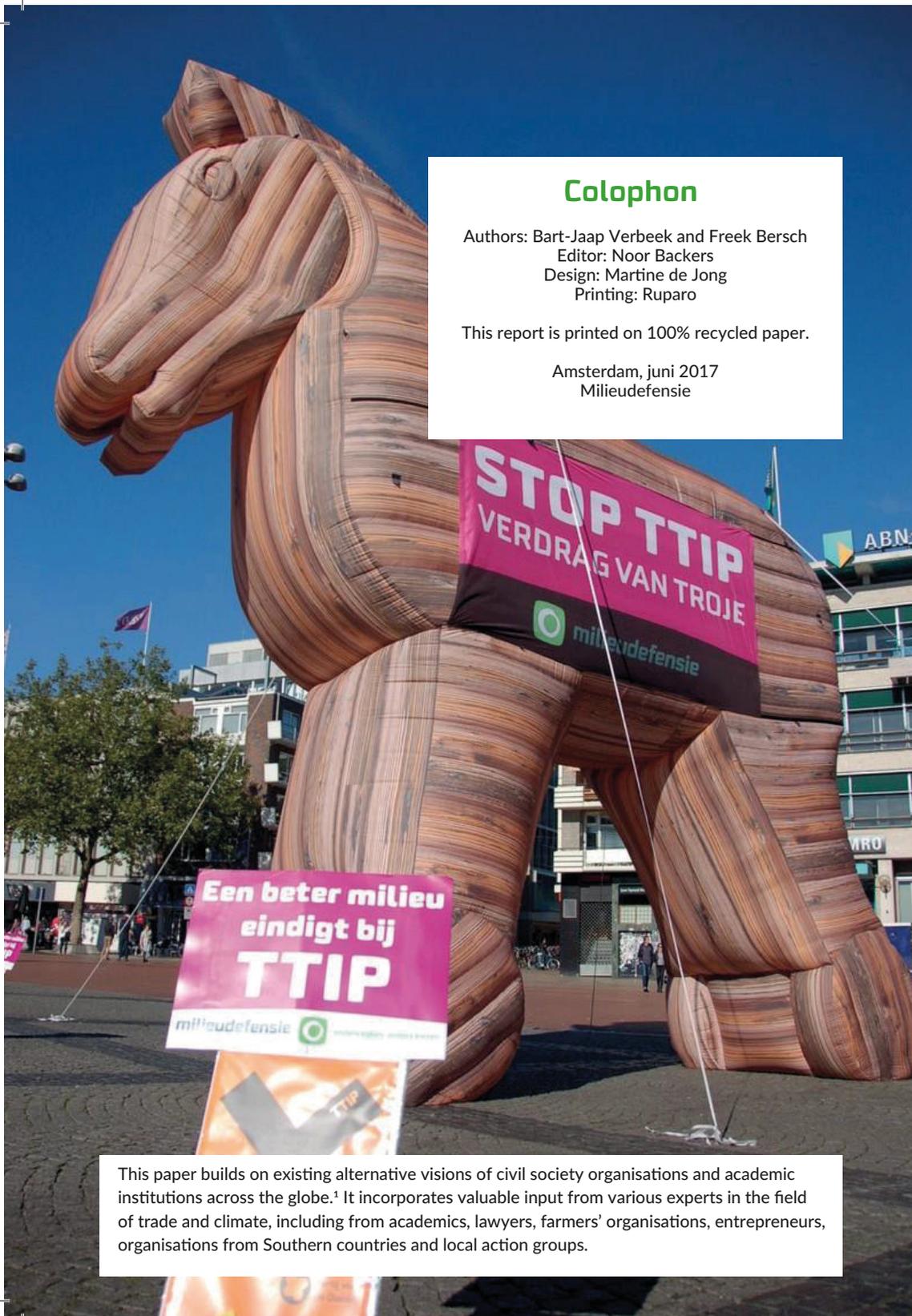
A photograph of a port at sunset. In the background, two large cargo ships are docked. The foreground shows industrial structures, including tall metal pillars and a dark, textured ground. The sky is filled with soft, golden light from the setting sun.

# A new trade agenda for an equitable and sustainable economy



## Colophon

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This paper builds on existing alternative visions of civil society organisations and academic institutions across the globe.<sup>1</sup> It incorporates valuable input from various experts in the field of trade and climate, including from academics, lawyers, farmers' organisations, entrepreneurs, organisations from Southern countries and local action groups.

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## 1. Time for a new trade agenda. But who decides the way forward?

Who will determine our future international trade rules? Right-wing nationalists like Trump, who view trade as a zero-sum game? Or more mainstream politicians, who have brought us to where we stand now? Will multinational corporations and millionaires continue to be enabled to shape the political agenda behind closed doors? Will emerging economies like China and India be setting the rules from now on? Or rather the amalgamation of progressive groups who took to the streets in their thousands to protest TTIP, TPP and other trade agreements?

One thing is certain: we cannot continue as before. A large proportion of international trade and investments are irreconcilable with a sustainable economy. And our current regulatory framework hampers a fair transition. Carrying on in the same vein would aggravate economic insecurity and deepen global inequality. Plus it would further erode national and regional control over the structure of our economy.

### Growing discontent

Should these arguments not convince in themselves, the imperative for a paradigm shift is underscored by the growing discontent with the current system. The criticism of TTIP and CETA emanated from a highly diverse, but progressive community of trade union, farmers, entrepreneurs, academics and activists. Reinforced by the voice of at least 3.3 million European citizens who signed the European Citizens' Initiative to top TTIP and CETA, many of whom also took to the streets. In addition, there was a right-wing nationalist backlash against agreements such as TTIP, which manifested itself in the successes for Trump, Brexit, and Dutch right-wing parties PVV and Forum for Democracy.

### Time for a progressive trade agenda

The ratification of the Paris climate agreement and the recent Sustainable Development Goals show there is a world-wide consensus regarding the urgency of climate and sustainability policies. At the same time, the broad public resistance to TTIP and CETA has made clear that European citizens want a different trade policy. We are on the brink of a historic turning-point, where we have not only the opportunity, but also the responsibility to radically revise our current trade model. A revision leading to viable alternatives aimed at phasing out fossil fuels, completing the transition to an agro-ecological and sustainable agricultural model, and the creation of an economy free of pollution, wastage and exploitation.

This requires that we take back democratic control. Our ecological problems constitute a collective challenge which must be tackled collectively. Therefore, it is essential that we reverse the transfer of power and means from democratic governments towards international markets, and bring these back under democratic control, in order to facilitate the shift towards a fair and sustainable society.

### We must change track

This Friends of the Earth discussion paper lists proposals to ensure that trade agreements contribute to an economic agenda that is fair, sustainable and democratic. This entails a radical break away from the foundations of current trade policy. Trade and investments should not solely serve economic interests. They must be approached as a means to serve the public interest.<sup>2</sup> International trade agreements should not focus on maximising and liberalising trade and investments by reducing the transaction costs for corporate industry. They should focus on how trade and investments can contribute to a healthy environment, decent work, a sustainable economy and food and energy security within Europe and beyond.

In our view, a genuine reset of trade policy it cannot suffice to conclude new trade and investment agreements on the basis of this new agenda: Existing trade and investment agreements will have to be amended or terminated. Changing course is complex, but imperative: there is too much at stake.



## 2. What is wrong with the current trade agenda?

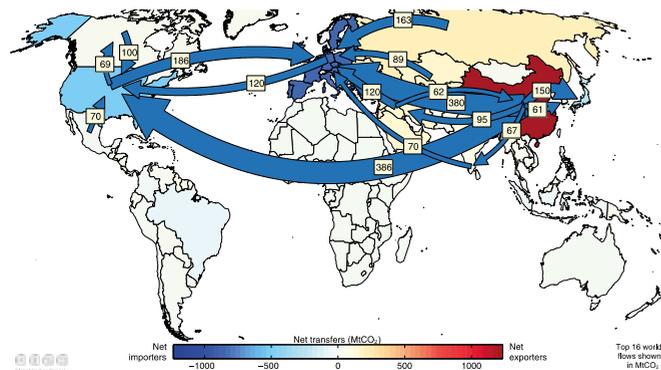
The current international trade regime has a profound impact on the world economy. In twenty-five years' time, the value of world trade has increased five-fold, from 8.7 trillion dollars in 1990 to over 46 trillion in 2014.<sup>3</sup> According to figures of the World Trade Organisation, global export volumes doubled over 32 times between 1950 and 2010.<sup>4</sup> This massive increase in world trade has contributed to world-wide economic growth and has resulted in large rises in income and improved living conditions for part of the world's population, notably in Asia.

However, the growth generated through globalisation is not evenly distributed and for many people, globalisation has generated economic insecurity. According to US economist Jeffrey Sachs, international trade treaties are remnants of the previous century and will only reinforce the poor globalization process.<sup>5</sup> With detrimental effects on the quality of life on our planet, a deepening of global inequality and a reduction in democratic control over our economies and ever more powerful multinational corporations.

### Incompatibility with sustainable economic development

If we want to make the switch towards an economy which respects ecological boundaries and ensures our planet remains habitable, we will have to make some hard choices and prepare for fundamental changes.

To keep global warming below 2°C, we will have to leave 80 per cent of our coal reserves, half of our gas reserves and a third of our oil reserves in the ground.<sup>6</sup> In view of the growing global population and increasing welfare levels, it is vital that we do not deplete non-renewable natural resources. Since the 1970s, our global eco-footprint has exceeded the planet's biocapacity, and the gap continues to increase every year.<sup>7</sup>



Source: Andrew et al., (2013).

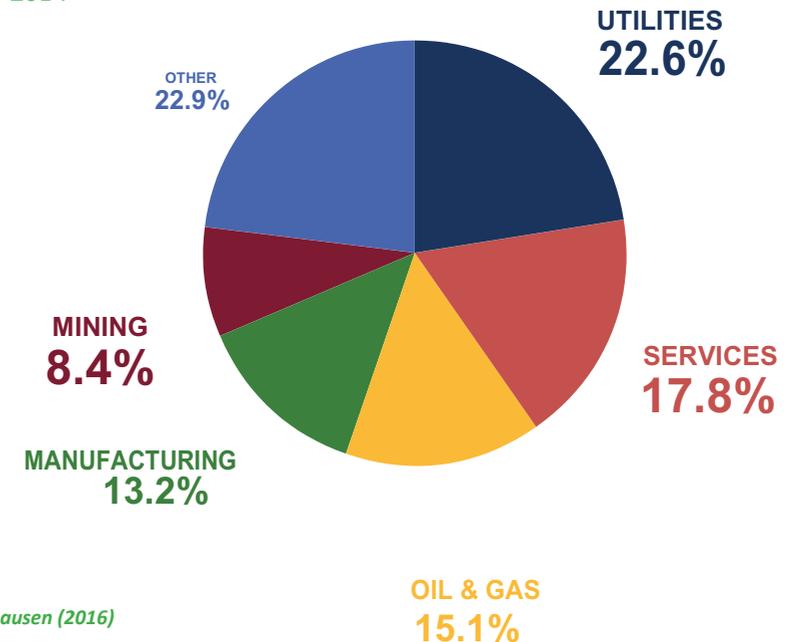
*The map shows the most important flows of trade-related carbon emissions in the global economy, from the production location (export) to the consumption location (import). The United States, the EU and Japan form the top-3 for trade-related emissions in terms of imports, while China is number 1 in terms of export-related emissions. These same nations are involved in concluding today's mega-trade deals.*

Research into the impact of free trade agreements on the emission of greenhouse gases and climate change shows that in 2008 a quarter of global CO<sub>2</sub> emissions was connected to internationally traded goods and services. The same research shows that emissions associated with production of goods from countries who make no or next to no efforts to reduce CO<sub>2</sub> emissions to countries that do attempt to reduce emissions increased by over 130 per cent between 1990 and 2008.<sup>8</sup> Companies from countries with weaker social and environmental standards have a competitive advantage over companies from countries maintaining higher standards.

The expansion of world trade also causes extra greenhouse gas emissions as a result of increased transport by aeroplane, seagoing vessels and freight trucks. The shipping and aviation industries are currently responsible for 8 per cent of global CO<sub>2</sub> emissions, and both sectors are expanding as a result of the increase in world trade.<sup>9</sup>

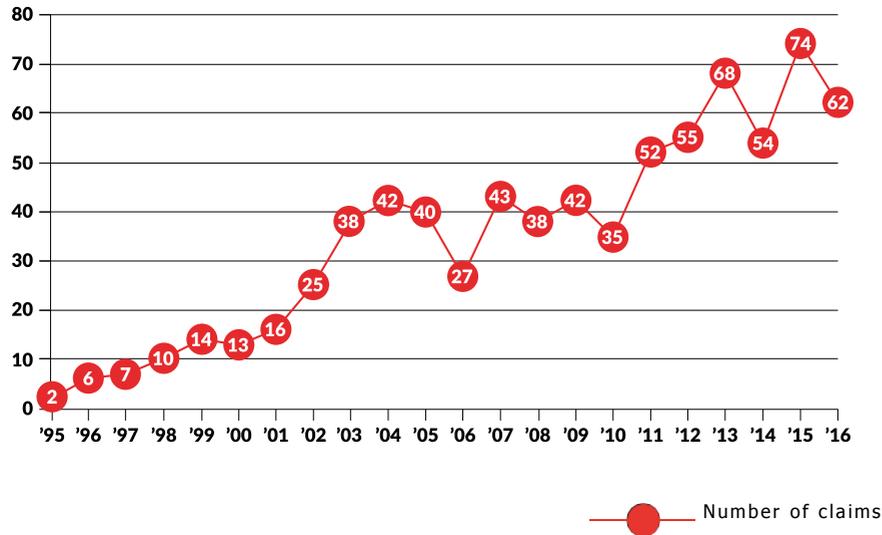
Trade and investment rules hamper opportunities to leave fossil fuels in the ground.<sup>10</sup> A large proportion of the more than 700 known investment claims world-wide are linked to measures to protect our climate and the environment.<sup>11</sup> Examples include Canada's moratorium on fracking, stricter standards for coal-fired power plants and the phasing out of nuclear energy in Germany, and a court order to clean up oil pollution in the Ecuadorian Amazon. The system acts as an insurance for fossil companies for the phasing-out of oil, gas and coal, with (the threat of) multimillion dollar claims hampering or derailing effective climate policies.

### TOP 5 SECTORS FOR CLAIMS BROUGHT 1990 - 2014



Source: Wellhausen (2016)

## Investment claims filed 1995 - 2017



Source: UNCTAD (2017)

## ISDS

Trade agreements often contain an 'investor-to-state dispute settlement' clause, which enables foreign investors to by-pass the national legal system and submit multi-million dollar investment claims to international tribunals when they feel treated unfairly by government measures or decisions. Claims are generally dealt with behind closed doors by tribunals made up of three commercial lawyers - the 'arbitrators' -, who are appointed and paid on a case-by-case basis. This creates perverse incentives in a system in which only investors can bring claims. Multinational corporations have already brought hundreds of claims, including against government measures relating to public health, environmental protection and other public interests. The European Commission is proposing a revised system for its trade agreements: the Investment Court System (ICS). ICS is more transparent in terms of process and ensures public appointment of arbitrators. But according to many judges and lawyers, arbitrator independence is still insufficiently guaranteed.

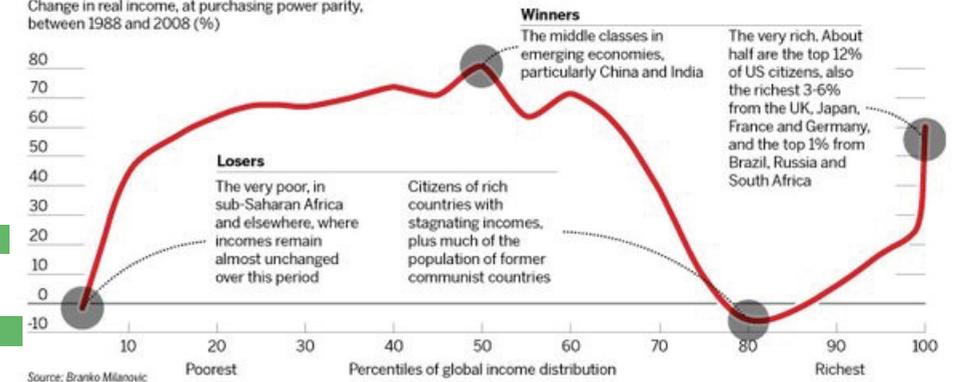
## Growing inequality and economic insecurity

The benefits of economic globalization are not evenly distributed. Over the last 30 years, more than half of all economic growth has gone to the richest 5 percent of the world's population.<sup>12</sup> Research by Oxfam shows that eight men own as much wealth as the 3.6 billion people who make up the poorest half of humanity.<sup>13</sup> The poorest 10 per cent has not seen any progress in their incomes over the past 30 years. Many of them have even experienced income losses and have lost their jobs due to outsourcing of production to low-wage countries.<sup>14</sup> The same goes for the group which forms the comfortable middle class globally, but which is considered the lower-middle class in the Western world.

Corporate freedom is synonymous to worker insecurity. Globalisation makes it easier for corporations to incorporate or manufacture parts where conditions are most favourable. This has eroded the negotiating position of many lower-skilled workers world-wide, which is reflected in wages, labour conditions and the flexibilization of labour markets.<sup>15</sup>

### Winners and losers

Change in real income, at purchasing power parity, between 1988 and 2008 (%)



## Corporate capture of our democracies and rule of law

International trade agreements reduce democratic ownership and control over our economy, and strengthen the dominant global power, influence and rights of multinationals. International companies are enabled to avoid paying taxes, have the power to ensure that countries compete to offer them favourable establishment conditions and enjoy investment protection through a parallel legal system. National democracies are often left powerless faced with the strong position of multinationals.

Multinationals often have preferential access to trade negotiations, which enables them to read and even co-design international trade and investment rules.<sup>16</sup> A recent development is that trade treaties contain agreements to change national rules, so called, 'behind the border' measures. Foreign companies take front row in pushing back cumbersome 'barriers to trade', which may include health rules, safety standards, environmental regulations, or labour laws.

International agreements ensure that trade interests are better protected than the interests of workers, the environment or the sustainable future of our agriculture. Trade rules can be enforced via WTO tribunals and investments are protected by means of clauses in bilateral treaties. People and the environment can resort to several complaints mechanisms, but none of these are equally enforceable.

## REGULATORY COOPERATION

In the CETA agreement between the EU and Canada, various 'joint committees' are authorised to harmonise regulations and standards, by-passing national parliaments. Harmonisation and mutual recognition processes ensure that rules and standards are assessed in terms of their impact on trade, exerting downward pressure on rules and standards enacted to protect human, animal and environmental welfare.

## 3. What would be the impact of our alternative trade agenda?

What would change if our agenda proposals for fair and sustainable trade were implemented? Our objectives are:

### A move towards international trade that promotes sustainable economics

In a sustainable economy we will have replaced oil, gas and coal with green energy. We will be recycling non-renewable resources in manufacturing and agriculture, and we will be preventing large-scale soil depletion, deforestation and pollution.

Our proposals promote a transition towards such an economy. We aim to make sustainable energy more competitive by raising the price of fossil fuels and abandoning subsidies for fossil fuels. Agriculture will be more sustainable and regionally oriented through the introduction of (custom) duties based on the ecological and social impacts of intensive farming and trade in such products. Production processes can become more sustainable because we are making it easier to protect industries without fear for investment claims or trade disputes. We initiate a race to the top for environmental standards by providing competitive advantages for the most sustainable products and the most sustainable production processes. We embrace the 'polluter pays' principle and we ensure that the most prosperous countries support the sustainable development of developing countries through knowledge transfers, cooperation and financial support.

### Fair distribution of benefits and costs of international trade

An enterprise's success is enabled, at least in part, by wider society. Business benefits from public education and science to motorways, standards and market rules. A fair distribution means that society benefits from the success of businesses and that they contribute to collective costs. In this way, we prevent ordinary citizens having to solely foot the bill for the transition to a sustainable economy. And we prevent negative impacts resulting from corporate activities being shifted onto the collective.

Our proposals contribute to an equal sharing of cost and benefits. We abolish opportunities for investors to challenge governments before extrajudicial tribunals and limit the far-reaching protections that shield them from democratic policy changes. We promote productive and socially beneficial over speculative investments, inter alia by a tax on international capital flows. In addition, foreign investors will be subject to the same tax rules as national companies to ensure that they contribute to the countries in which they operate.



## We reclaim control over our economy

Our economies need to work for all people. However, control over our economies has been outsourced and offshored to a large extent, through invasive trade agreements and powerful international institutes.

New international treaties and agreements must be established on the basis of a transparent and democratic process. Complete openness regarding the progress of the negotiations and public access to draft texts and proposals are a prerequisite. We reclaim the space to place conditions on foreign investors, such as requirements to employ local workers. The influence of foreign companies on domestic policy will be reduced. And companies will be held internationally accountable for violations of human rights, pollution of the environment or causing climate damage.

Countries will gain the policy space to ensure that the greening of the economy results in employment gains domestically. This is essential, because workers in climate polluting sectors stand to lose their current jobs. The energy transition will create many jobs, but if we leave things to the international market, these may not become available to the people losing their present employment.

## We reclaim control over our economy

It is clear that our proposals will reduce international trade. But that is no cause for concern. The focus will shift from unfettered growth to sustainable development. Sectors beneficial to society can grow, while sectors causing excessive damage, such as the fossil industry and intensive livestock farming, will be shrunk. Economist Robert Went, for example, advocates in favour of calling a halt to our obsession with exports and start focusing more on our domestic market.<sup>17</sup> A euro earned domestically is worth just as much as a euro made through international trade.

In the Netherlands and worldwide there is sufficient wealth to ensure a prosperous and dignified existence for all. All we have to do is ensure that the benefits of our economic activity are distributed evenly.

## Old and new treaties must be reviewed

Many of these crucial measures are not possible within the current international trade and investment regime. Therefore, it is necessary to not only model new treaties on the proposals we set out in chapter 4, but to also fundamentally review the large number of existing trade and investment treaties to bring them in line with the objectives of an equitable and sustainable economy. Member countries of the World Trade Organisation (WTO) must adopt a so-called **permanent peace clause** to allow governments sufficient room for the development and promotion of an equitable and sustainable economy. This clause prevents sustainability measures directly or indirectly impacting on trade - such as tariff rises or subsidies aimed at promoting local renewable energy projects - from being challenged under the WTO dispute settlement mechanism.

## 4. Seven building blocks for an equitable and sustainable trade agenda

The previous chapters outlined our objectives and the prerequisites and principles which, in our view, should underpin a reset of the trade agenda. This chapter deals with how we aim to achieve this. Our trade agenda for an equitable and sustainable economy is based on seven building blocks comprising concrete proposals. These proposals ensure that trade and investments contribute constructively to a healthy living environment, secure employment, stability for small and medium-sized enterprises and family firms in agriculture, food security and the protection of our biodiversity.

The seven building blocks discussed below form the basis for a radical revision of trade policy, which puts people and planet over and above profit-making.



## 1 Moving from pollution trade to clean trade in goods and services

Current trade agreements facilitate the expansion of energy-intensive industrial sectors and the expansion of intensive agriculture. Sectors which, due to their dependence on fossil fuels, are causing an on-going increase in greenhouse gas emissions. Lowering trade barriers for goods and services regardless of their climate footprint encourages the expansion of polluting industries and agriculture.<sup>18</sup> The required construction of an infrastructure for dragging the goods that are produced around the world has a devastating impact on the environment and contribute to climate change.

### Our proposals

A fair and sustainable trade policy discourages trade in unfair and polluting goods and services and promotes trade in fair and clean goods and services. Countries must remain able to protect emerging sustainable industries in order to make them competitive.

This requires the following interventions:

- » *Raising tariffs and other barriers for trade in fossil fuels.<sup>19</sup> Goods and services responsible for high greenhouse gas emissions are excluded from liberalisation in trade agreements.*
- » *Tariff reductions for 'green goods' must be based on clear and specified definitions and criteria. Without adequate definitions, tariff reductions for 'green goods' may stimulate trade in damaging goods.<sup>20</sup> On the other hand, governments must be able to continue using tariffs to foster the development of domestic sustainable and climate-friendly industries.*
- » *Levying a carbon tax as an adjustment mechanism at the external border (Border Carbon Adjustment). Imported goods are taxed according to the going EU rate for the CO2 emission levels involved in their production and transport. The revenues from the carbon tax can be reinvested in the energy transition of countries with historically low emission levels to raise their prosperity through a greening of their industries and energy provision.<sup>21</sup>*
- » *A tax on aviation of shipping transport emissions. Current trade agreements result in additional greenhouse gas emissions due to the expansion of maritime and air transport. Not only as a result of growing trade in goods, but also as a result of moving production processes and job to low-wage countries.<sup>22</sup>*

## 2 Promoting local and sustainable economies

Current trade agreements hamper governments in building and strengthening local and sustainable economies. Opening up markets by lowering tariffs, providing additional market access and protection for foreign investors puts pressure on local emerging industries.<sup>23</sup> Subsidies and programmes to stimulate local sustainable energy projects have been repeatedly and successfully challenged at the WTO because of their 'local content requirements'.<sup>24</sup> At the same time, the massive subsidies for fossil fuels have never been challenged at the WTO.<sup>25</sup> In addition, in public procurement, current trade rules encourage governments to opt for the lowest priced tenders. Sustainability criteria in government contracts to promote the use and development of sustainable energy are labelled 'unnecessary trade barriers'.<sup>26</sup>

### Our proposals

Subsidies and other incentive measures are an important tool for the development and strengthening of local and sustainable economies. Many governments around the world make use of special arrangements for the procurement of goods, works and services to promote important public interest objectives, such as consumer protection, human rights, economic development, environmental protection, public health, and ethnic and gender equality. For example, many governments use so-called 'buy local' schemes and sustainability criteria for government contracts to boost local industries and employment. Such programmes are important to generate public and political support for the transition to a climate-friendly society.

Which is why we propose:

- » *New trade agreements encourage the use of specific sustainability criteria in public procurement. The application of such criteria is exempted from trade disputes under the broad exemption clause as described under item 5.*
- » *New trade agreements prevent that buy-local schemes – for example, in the sustainable energy, food, health or other sectors – can be subject of public or investment claims. The WTO peace clause protects such programmes from being challenged at the WTO.*
- » *Introduction of a ban on subsidies for fossil fuels. These distort world trade and promote the use of polluting energy. Subsidies and other incentives for the production and use of sustainable energy and clean goods and services are protected from public or investment claims under the broad exemption clause outlined in item 5.*

» Governments are able to use tariffs and other trade instruments, such as variable import charges, to promote local production and development of sustainable goods and services while reducing their costs.

» Countries in the global South must be able to implement industrial policies to shield domestic economic sectors from foreign competition, to strengthen local economies and to introduce measures to promote the transition towards a sustainable development model.

### 3 Working towards sustainable investment

Current trade treaties provide foreign investors with far-reaching protection. And enable them to file claims before international arbitration tribunals, circumventing the national legal system, if they consider that government regulations or decisions unjustly affect them. Vague and broadly formulated provisions such as 'fair and equitable treatment' and 'legitimate expectations', as well as 'protection against indirect expropriation' have provided sufficient legal basis for hundreds of claims by multinationals relating to climate, environmental, public health and other public interests against governments around the world.<sup>27</sup> There is a real risk that governments will shy away from filing new bills in order to prevent large claims from corporate industry.

This 'regulatory chill' can put the brakes on ambitious climate and sustainability policies. Fossil fuel companies are increasingly resorting to investment arbitration, demanding financial compensation for the enactment of climate and environmental policies. Perversely, foreign investors cannot be held accountable for (complicity in) the violation of human rights or the destruction of the environment due to the lack of legally binding and enforceable obligations.

#### Our proposals

A fair and sustainable trade policy steers clear of such far-reaching, one-sided protection of multinationals. Investments should not only generate profits for a small group of beneficiaries, but result in benefits for society as a whole. New trade agreements must be aimed at promoting investments which contribute to sustainable development, the creation of decent work and the transfer of know-how and technology. Governments retain and regain the policy space to regulate in the public interest, including in the fields of sustainable development, climate policy, the protection of human rights, public health, labour and environmental standards, and the introduction of and compliance with guidelines for corporate social responsibility.

This entails the following:

» Trade and investment agreements contain binding and enforceable obligations for investors. Foreign investors and their subsidiaries entering a market become 'economic citizens' of the host country. In addition to protected rights, they are also under an obligation not to engage in environmental pollution, human rights violations, land-grabbing or corruption. Investors must observe international guidelines for corporate social responsibility, such as the e OECD Guidelines for Multinational Enterprises and the UN Guiding Principles on Business and Human Rights.<sup>28</sup>

» Affected communities and civil societies gain access to legal remedy, both in the home and the host country, so that multinationals and their subsidiaries are legally accountable when in breach of their obligations. At the international level, governments must work actively towards a UN Binding Treaty on Transnational Corporations and Other Business Enterprises with Respect to Human Rights.<sup>29</sup>

» Foreign investors only retain protection in cases of manifest discrimination, denial of justice and direct expropriation without compensation, in order to promote long-term investments contributing to sustainable development and employment.<sup>30 31</sup> Excessive protections, including 'fair and equitable treatment' and compensation for 'indirect expropriation' are excluded.<sup>32</sup>

» Investors must resort to national legal systems. Foreign investors carry their own investment risk by taking out investment insurance. <sup>33</sup> Foreign investors are required to exhaust national legal remedies before they can resort to state-state arbitration. <sup>34</sup>

» A 'clean hands' clause ensures that companies that fail to comply with their investment obligations under the treaty and/or international labour and human rights and environmental treaties are denied the benefits of the treaty.<sup>35</sup>

» Governments can set performance requirements for foreign investors, such as the use of local inputs, employing local workers, engaging in joint ventures with local entrepreneurs, and the transfer of green technology. <sup>36</sup> Such requirements are aimed at ensuring better dove-tailing with local investment needs and embedding foreign investments in local and national economies.<sup>37</sup> Obligations of this kind are important to sustainable development strategies and help maximise benefits for local communities.<sup>38</sup>

» International capital flows are effectively monitored and taxed. Governments retain the

right to impose capital restriction to avert or mitigate financial crises.<sup>39</sup> Governments must combat tax evasion and impose adequate levels of taxation and royalties. Foreign investor must comply with the same tax obligations as national companies and domestic SMEs, and publicly report on their fiscal conduct.

## 4 Guaranteeing high standards to protect people and planet

As trade tariffs outside agriculture are already relatively low, recent trade agreements are focusing increasingly on other trade barriers and national rules and regulations. The proposals for TTIP and the CETA text include clauses on regulatory cooperation. These are aimed at harmonising existing and future regulations and procedures, in order to reduce 'unnecessarily burdensome, overlapping or divergent regulations'.<sup>40</sup> Through harmonisation or mutual recognition of each other's regulatory frameworks as equivalent, products which do not meet European standards may yet find their way onto European markets. European producers and farmers are exposed to competition from cheaper products produced according to less stringent standards regarding food security, environmental protection, animal welfare, labour and consumer protection.<sup>41</sup>

In addition, the European precautionary principle is insufficiently protected in treaties such as TTIP and CETA. This principle prescribes that products are only allowed onto European markets when proven to be safe for consumers, the environment and public health.<sup>42</sup> Regulatory cooperation in trade agreements threatens to weaken European norms and standards. It also provides corporate industry with more influence and excellent opportunities to frustrate or weaken new regulations, or even ensure that they are shelved altogether.<sup>43</sup>

### Our proposals

Exchanging best practices and aligning regulatory standards in the public interest can be of value. But this requires that regulatory cooperation is not aimed at reducing costs for corporations and boosting trade flows as an overriding objective, but at protecting people and planet and improving quality of life. Social and environmental standards must not be viewed as barriers to trade, but as valuable prerequisites for a clean and sustainable future.

This demands that:

» *Regulatory cooperation must not lead to a weakening of rules and standards. It must be used as an instrument in a race to the top to further sustainability, with governments aligning their regulations based on the highest available standards.*

» *Harmonisation of sustainable regulation must take place in a democratically legitimised and transparent manner, and in consultation with experts in the areas of public health,*

*labour and human right, food security, environmental and climate policy, and other public interest policies. Full parliamentary scrutiny must be guaranteed throughout.*

» *Regulatory cooperation commitments must not interfere with governments adopting further-reaching measures to protect people and planet.<sup>44</sup>*

» *New regulation is to be evaluated in terms of its impact on climate and sustainability. Public authorities assess and report on the potential impact of policy proposals on greenhouse gas emissions.*

» *Application and safeguarding of the precautionary principle must be explicitly enshrined in trade agreements to protect the environment, public health and consumers.<sup>45</sup>*

» *Regulatory cooperation must take place on a strictly voluntary basis and must not be subject to dispute settlement.*

## 5 Supporting international agreements on climate and sustainability

Current trade and investment treaties restrict the policy space of governments to comply with their international obligations to mitigate climate change, promote sustainable development and protect human rights. The binding and legally enforceable trade and investment rules in European trade treaties stand in sharp contrast to the voluntary sustainability clauses relating to labour and environmental standards. Sustainability clauses are generally weak and lack concrete commitment to arrive at sustainable and climate-friendly policies. In case of violations, parties can usually only resort to non-binding and therefore non-effective consultations and complaints procedures. This makes it virtually impossible for affected communities and civil society to effectively challenge violations of these clauses.<sup>46</sup>

### Our proposals

An equitable and sustainable trade agenda actively contributes to international agreements regarding the protection of human and labour rights, and the environment. These values are fundamental to the European Union's legal framework and should delineate the implementation of European trade policy.<sup>47</sup> These values may not be undermined by international trade and investment rules.

This implies:

» Trade agreements contain binding sustainability clauses. Sustainability chapters explicitly refer to key international treaties on labour and human rights, climate and the environment.<sup>48</sup>

» Adopting, implementing and enforcing these key international treaties is a prerequisite for engaging in trade negotiations. Domestic laws and regulations in the partner countries must be brought in line with fundamental labour, environmental and human rights treaties.

» Sustainability chapters are made legally enforceable through the state-state dispute settlement mechanism. Affected communities and civil society organisations are enabled to submit complaints over suspected violations of sustainability commitments. Complaints are assessed by an independent panel.<sup>49</sup> Sufficient substantiation automatically triggers the state-state dispute settlement mechanism.

» New trade agreements contain a broad exemption clause for public interest policies. This implies that public interest measures are exempt from the obligations of the treaty. Such an exemption would prevent public interest measures from being challenged, either through the state-state dispute settlement mechanism or at the WTO.<sup>50</sup>

» New trade agreements contain a supremacy clause to ensure that international human rights and climate treaties (and other agreements on sustainable development) always take precedence over trade and investment rules in case of a conflict.<sup>51</sup>

» Arbitration panel ruling can extend to hard sanctions and/or fines, with revenues flowing directly to the affected communities and towards reparation of the damage.

## 6 Promoting sustainable agriculture

Increasing competition through the opening up of agricultural markets further enhances the intensification of industrial agriculture and livestock production. This has a devastating impact on people, animals and the environment. Tariff reductions in treaties such as TTIP and CETA are confronting European farmers with cheap agricultural imports, produced according to much lower or even absent standards relating to the environment, food safety, labour and animal welfare. This unfair competition adversely impacts on family farms and initiatives for fair and sustainable agriculture.

Trade liberalisation and the absence of adequate market regulation strengthens the position of large agricultural, processing and trading companies.<sup>52</sup> Trade agreements enable these actors, aided by subsidies, to dump their excess produce on the global market. This can force small farmers to produce below their cost price. Depriving small farmers, in countries in the global South in particular, of the means to make a living.

Agricultural upscaling and intensification also contribute to rising greenhouse emissions. Currently, international agricultural production and related agricultural activities are responsible for one third of global greenhouse gas emissions.<sup>53</sup> Ever stronger competition for arable land, not just for food crops, but also for animal fodder and biofuels, results in deforestation, land evictions and malnourishment among small farmers, predominantly in Southern countries.

### Our proposals

An equitable and sustainable trade agenda must contribute to the transition to agroecological and sustainable agriculture. A fair and forward-looking food system which respects our planet's boundaries.<sup>54</sup> This includes regions becoming more self-sufficient in products that can be locally produced. Protein and oil crops in particular constitute a viable alternative for importing soy beans, palm oil and biofuels, that have devastating effects on local farmers and the environment in the producing countries. Within Europe too, production should take place as near to consumers as possible, in order to boost local and regional trade. A fair distribution of food is an overriding imperative and the right to food and food sovereignty must be respected.<sup>55</sup>

This entails

» Raising tariffs and lowering import quota to better shield local markets from cheap imports that undermine food security and the livelihoods of farmers.<sup>56</sup> Farmers must receive stable prices that cover their costs. All environmental and social costs and costs relating to animal welfare must be reflected in the consumer price. Southern countries retain policy pace to develop and protect local and regional food chains and markets. This serves to strengthen diversification in agricultural production and food produce and helps to build up sufficient food reserves.

» Tightening environmental and animal welfare standards for European farmers to ensure that European agribusiness and the European retail sector can no longer buy cheap products in the global market produced according to lower production standards.<sup>57</sup> Production and processing methods are recognized as legitimate reasons to deny market access to certain imports.

» Tariff reductions for imports of ecologically and sustainably produced tropical food stuffs which cannot be produced in Europe. Strict regulations, such as an obligation for

*Fair Trade or equivalent labels guarantee sustainable production at a fair price. The EU provides exporting countries with financial support and know-how to raise production and export standards without compromising local livelihoods and food security.*

» *Reform of intellectual property rights in order to safeguard the right to seeds for farmers.<sup>58</sup> According to the Food and Agriculture Organization of the United Nations, genetic diversity in agriculture and animal husbandry is crucial in ensuring our agricultural production is equipped to respond to the challenges of climate change.<sup>59</sup> Governments must therefore urgently sign on to the International Treaty on Plant Genetic Resources for Food and Agriculture and implement its conditions, which protect the right to store and share seeds.<sup>60</sup>*

## 7 Ensuring democratic scrutiny and transparency

Trade and investment treaties have severe impacts on the democratic policy space to shape our economies. At the same time, citizens and parliament have little say in how these treaties are concluded. The direction of Europe's trade policy is primarily determined by the unelected bureaucrats of the European Commission. Strictly speaking, the European Parliament only has a right to approve or reject a trade treaty after the negotiations have been concluded.<sup>61</sup> Negotiations largely take place behind closed doors and negotiating proposals are kept from the general public. At the same time, the lobbyists for corporate industry have preferential access, enabling them to exert disproportionate influence over the trade agenda.<sup>62</sup>

### Our proposals

To ensure the democratic legitimisation and the social support for an equitable and sustainable trade agenda, we must not only change the substance of trade agreements, but also the way in which they are crafted. European citizens, and the parliaments and civil society organizations representing them, must gain more opportunities for dialogue and full access to European decision-making processes to ensure meaningful participation.

This involves:

» *The European Commission conducts a full-scale and transparent public consultation before drafting a mandate for a trade negotiation. The draft mandate will be published in a timely manner and subjected to parliamentary debates with full participation of civil society. All negotiating proposals and draft texts tabled by the European Commission and its negotiating partner must be made public.<sup>63</sup>*

» *The European Parliament is involved in the drafting and approval of the negotiating mandate. During the negotiations, the European Parliament is periodically and comprehensively acquainted with the state of affairs and enabled to give guidance. The European Parliament has the power to submit amendments to draft text proposals, based on public consultations, which must be brought to the negotiating table. Ratification of a treaty must always be preceded by a full parliamentary debate.*

» *National governments submit a mandate to their national parliaments for discussion and approval. Prior to signing and ratifying a treaty, national parliaments stage a broad public debate. National parliaments must retain full competence over the process for approval. 'Provisional application' will no longer be an option.<sup>64</sup>*

» *Equitable and transparent consultation and participation must be guaranteed for all stakeholders, from the drafting of the mandate to the ratification process. Underrepresented and small organisations are supported to enable them to participate..*

» *Trade agreements are subjected, both ex ante and ex post, to independently conducted sustainability and human rights impact assessments. These assessments are made public and stakeholders are consulted. The outcomes determine the negotiations. When the treaty comes into effect, it is accompanied by periodic, comprehensive evaluations to map its impacts. Parliaments can use the outcomes to submit new proposals and demand the negotiation of amendments to the treaty.*

» *Future trade agreements contain a termination clause. This means that a treaty can be terminated should thorough evaluations show that its effects are predominantly adverse. Long survival clauses – sometimes extending to 20 years in the case of investment protection – will be a thing of the past.*

## 5. End notes

1. Campact (2017) 'Rethinking Trade: Demands for a progressive EU trade policy'; Namur Declaration (2016); Sierra Club (2016) 'A New, Climate-Friendly Approach to Trade'; Jared Bernstein and Lori Wallach (2016) 'The New Rules of the Road: A Progressive Approach to Globalization'; Climate Strategies (2016) 'The Trade System and Climate Action: Ways Forward under the Paris Agreement'; International Institute for Sustainable Development (2016) 'Investment-Related Dispute Settlement: Towards an Inclusive Multilateral Approach'; International Centre for Trade and Sustainable Development and the World Economic Forum (2016) 'Global Rules for Mutually Supportive and Reinforcing Trade and Climate Regimes'; Mehr Demokratie (2016) Demand for the Democratisation of EU trade agreements; United Nations Conference on Trade and Development (2015) 'Investment Policy Framework for Sustainable Development'; Working Group on Investment of the Americas (2014) 'A Call for the Building of an Alternative Legal Framework to the International Investment Treaties'; various European civil society organisations (2013) 'Het Alternatieve Trade Mandate – Trade: time for a new vision'; Attac (2010) 'Creating another world – enabling a "good life" for all'; Interfaith Working Group on Trade and Investment (2008) 'Trade as if people and earth matter. A working document on alternatives'; International Institute for Sustainable Development (2005) 'IISD Model International Agreement on Investment for Sustainable Development'.
2. Definition of 'public interest policies': measures with the objective of foreseeing in all basic needs; environmental protection; public health; food safety and consumer protection; financial stability; protection of fundamental freedom; social, economic, cultural and gender equality; access to technology; economic development; and the protection of workers.
3. World Bank, 'Potential Macroeconomic Implications of the Trans-Pacific Partnership', January 2016.
4. Satoshi Yoshida, 'Climate Change, Trade and Emissions Leakage: Trade Measures and Climate Agreements', p.7, April 2014.
5. Roger Hickey, 'Economist Jeffrey Sachs Says NO to TPP and TAFTA Trade Deals', The Huffington Post, 15 September 2014.
6. Christoph McGlade & Paul Ekins, 'The geographical distribution of fossil fuels unused when limiting global warming to 2°C', 7 January 2015.
7. World Wildlife Fund, 'Living Planet Report 2016', p.75, figure 32.
8. Glen P. Peters, Jan C. Minx, Christopher L. Weber and Ottmar Edenhofer, 'Growth in emission transfers via international trade from 1990 to 2008', Proceedings of the National Academy of Sciences 108, no. 21, 29 March 2011.
9. An academic study commissioned by the European parliament shows that a sharp reduction of CO2 emissions in the international maritime and aviation sectors is required to limit global warming to 2°C. The aviation sector is currently responsible for 5 per cent of global CO2 emissions, while the maritime sector contributes 3 per cent. Both sectors are experiencing rapid growth as a result of expanding world trade, and, according to the report, by 2050, emissions from these sectors may contribute two and a half times as much as they do now.
10. Sierra Club, 'Climate Roadblocks. Looming Trade Deals Threaten Efforts to Keep Fossil Fuels in the Ground', March 2016.
11. United Nations' data show that between 2011 and 2016, 92 out of the 337 new known ISDS cases dealt with measures relating to mining, oil and gas extraction and fossil fuel-based energy production. UNCTAD Investment Dispute Settlement Navigator, accessed: 4 January 2017.
12. Branko Milanovic, 'De globalisering heeft miljoenen mensen uit de armoede gehaald, maar de lagere middenklasse in het westen heeft daar de prijs voor betaald', 7 februari 2017.
13. Oxfam, 'An economy for the 99%', January 2017.
14. Branko Milanovic, 'De globalisering heeft miljoenen mensen uit de armoede gehaald, maar de lagere middenklasse in het westen heeft daar de prijs voor betaald', 7 February 2017.
15. ILO, IMF, OECD and World Bank, 'Income inequality and labour income share in G20 countries: trends, impacts and causes', September 2015.
16. Research by lobby watchdog Corporate Europe Observatory (CEO) shows that the doors of the European Commission are always open to lobbyists for multinationals. Of the 600 EU lobby meetings regarding TTIP in 2012 and 2013, 88 per cent were with corporate lobbyists.
17. Robert Went en Hella Hueck, 'Vijf mythes over handel en de toekomst van Nederland als handelsland'.
18. Robbie M. Andrew, Steven J. Davis, Glen P. Peters, 'Climate policy and dependence on traded carbon', Environmental Research Letters 8, 24 July 2013
19. The European Commission aims to include in the TTIP agreement a legally binding obligation to remove all existing restrictions on the exports of natural gas in EU-US trade. This reduces the scope for green energy provision through the electricity networks and opens up the trade in highly polluting shale gas from the US. European Commission, 'EU's proposal for a Chapter on Energy and Raw Materials in TTIP', 20 June 2016.
20. The proposal to reduce green goods tariffs in the context of an Environmental Goods Agreement (EGA) between 17 WTO members jointly representing 90 percent of global trade in green goods and services, lacks a good definition and selection criteria for what qualifies as green goods. As a result, products like asbestos, aircraft engines and biofuels are eligible for a reduction in tariffs. Transport & Environment, Briefing: Environmental Goods Agreement, September 2015.
21. WTO members must ensure that a carbon tax does not constitute a violation of the prohibition on excessive taxation of imported goods under GATT Artikel III:2. The proposed 'peace clause' might be extended to carbon taxation.
22. See end note 5.
23. Countries including Nigeria and Tanzania refuse to sign the proposed Economic Partnership Agreements (EPA's) with the EU. They fear that these agreements will undermine their national development strategies and efforts to build up a high-grade domestic manufacturing industry. See Rick Rowden, 'The most remarkable rejection of free trade you've never heard of', Southnews No. 147, 30 March 2017.
24. Government programmes in support of local sustainable energy projects of least five countries or regions (Canada, China, the EU, India, and the US) have been challenged at the WTO as conflicting with WTO rules on subsidies and national treatment. See Ben Beachy, 'Wait, Why Is The World Trade Organization Attacking Renewable Energy?', The Huffington Post, 30 September 2016.
25. According to the IMF, the total annual cost of fossil fuels subsidies is around \$ 5,300 billion. The EU alone subsidises its fossil fuel industry with over \$ 330 billion. These subsidies distort world trade and stimulate the use of polluting energy. A global ban on subsidies for fossil fuels would yield a 17 percent reduction in CO2. International Monetary Fund (2015) 'Act Local, Solve Global: The \$5.3 Trillion Energy Subsidy Problem'.
26. See, for example, Article 19.9.1 of the CETA chapter on government procurement; Article X.9.1 of the proposed TTIP chapter on Procurement government procurement. The clauses in these chapters are modelled on the plurilateral Agreement on Government in the WTO, WTO Revised Agreement on Government Procurement. CETA article 19.9.9 allows the use of 'environmental characteristics' as one of the evaluation criteria for awarding government contracts. However, Article 19.14.5 (a) of the same chapter states that a contract must be awarded to the supplier with the 'most advantageous' tender. This provision is not further defined and may be used to side-line more expensive but more environmentally friendly tenders. PowerShift and the Canadian Centre for Policy Alternatives, Making Sense of CETA, 2nd edition, September 2016, pp. 64-65.
27. The number of investment arbitration claims has increased exponentially over the past few years. 2016 witnessed 62 new known cases, bringing the total to well over 700.
28. Such guidelines contribute to the promotion of responsible investments and sustainable and equitable value and production chains, by holding corporations to obligations regarding labour and human rights, the environment, land-grabbing, transparency, countering fraud and corruption, consumer interests, competition, taxation, and intellectual property rights. Other examples include the UN Global Compact, ILO Tripartite Declaration on Principles concerning Multinational Enterprises and Social Policy, IFC Sustainability Framework, and UNCTAD, FAO, IFAD and World Bank Principles for Responsible Agriculture Investment. For a comprehensive overview, see, for example, UNCTAD, 'World Investment Report 2011', chapter III.E; also see Juan Hernández Zubizarreta en Pedro Ramiro, 'Against the Lex Mercatoria. Proposals and alternatives for controlling transnational corporations', October 2016.
29. See: <https://business-humanrights.org/en/binding-treaty>
30. Trade agreements must be aimed at the promotion of sustainable investments and establishing long-term sustainable investment relations, rather than the realisation of short-term financial gains. To this end, governments might impose specific criteria for sustainable and climate-friendly investments. Another means to assess proposed investment projects along these lines is a mandatory evaluation with comprehensive stakeholder participation, which includes an environmental, climate and human rights impact assessment to ensure free, prior and informed consent from all stakeholders.
31. The limited investment protection proposed only provides access for material and direct investments, based on a narrow definition which only comprises companies directly owned or controlled by an investor. Immaterial and portfolio investments, commercial contracts and concessions, intellectual property rights and government contracts fall outside the scope of this definition. Also excluded are financial instruments and speculative capital, such as derivatives, shares and bonds, public debt and other stock market investments. An overly broad definition can lead to a situation in which governments can be held accountable for measures with an unforeseen impact on economic transactions and investments that do not contribute to sustainable development. Hard 'substance requirements' must prevent abuse in the form of 'treaty-shopping', whereby foreign investors use mailbox companies to avail themselves of investment protection in third countries. UNCTAD, 'Investment Policy Framework for Sustainable Development', p.93-94, 2015.
32. These are the two protection most frequently invoked by investors. These limit the flexibility and policy space for governments to develop and implement climate policies and other public interest policies. Rights to 'national treatment' and 'most-favoured nation treatment' should also be excluded, as they prevent preferential treatment for local investors aimed at strengthening

national and local economies. This also prevents investors from invoking higher standards of protection 'imported' from other treaties.

33. See for example the World Bank's Multilateral Investment Guarantee Agency.

34. Both international customary law and the international human rights treaties demand that conflicts are first brought before a national judge before an international case can be brought. This helps to reinforce domestic legal systems and the sovereignty of states. Martin Dietrich Brauch, 'Exhaustion of Local Remedies in International Investment Law', January 2017.

35. For an elaboration on the clean hands clause, see ClientEarth, 'Towards a more diligent and sustainable system of investment protection', March 2017.

36. Countries with high historic emission levels must transfer green technology to countries with low historic emission levels, as per the agreements on the transfer of technology in articles 11 and 12 of the Paris Climate Agreement.

37. Suzy H. Nikiema, 'Performance Requirements in Investment Treaties', Best Practices Series - International Institute for Sustainable Development, December 2014.

38. 'Performance requirements' must simultaneously lead to international guidelines and standards to prevent a race to the bottom leading to a situation where investors opt for locations without or with weak performance requirements. WTO members must adopt a peace clause for the introduction of performance requirements in order to prevent claims under the WTO's 1995 'Agreement on Trade-Related Investment Measures'.

39. The IMF recognises that the temporary imposition of direct capital controls can help manage volatile international capital flows. The IMF also acknowledges that clauses in current trade and investment agreements curtail the policy pace for governments to guarantee financial and macroeconomic stability.

40. Article x1(2)(c) of the proposal of the European Commission for regulatory cooperation in TTIP, 'TTIP-EU Proposal for Chapter: Regulatory Cooperation', March 2016. Also see 'TTIP-EU Proposal for Chapter: good Regulatory Practices', March 2016; CETA Chapter 21 Regulatory Cooperation.

41. See TTI en landbouw-coalitie, 'TTIP en CETA: een gevaar voor de hoogwaardige Europese en Nederlandse landbouw, veehouderij en voedselvoorziening', juli 2016.

42. The US and Canada successfully challenged Europe's precautionary principle at the WTO on several occasions. Both Europe's import ban on American and Canadian beef produced with the use of growth hormones, as well as Europe's moratorium on market access for genetically modified organisms were found to be in breach of the WTO's Agreement on Sanitary and Phytosanitary Measures (SPS). Trade agreements like TTIP and CETA follow the WTO framework, so that the precautionary principle is insufficiently guaranteed. Stoll et al., CETA, TTIP and the EU precautionary principle: legal analysis of selected parts of the draft CETA agreement and the EU TTIP proposals, June 2016.

43. See Corporate Europe Observatory and Lobby Control, 'Dangerous Regulatory Duet. How Transatlantic regulatory cooperation under TTIP will allow bureaucrats and big business to attack the public interest', January 2016

44. Article 193 of the Treaty on the Functioning of the European Union (TFEU) states that such protective measures shall not prevent any Member State from maintaining or introducing more stringent protective measures.

45. The precautionary principle is enshrined in article 191 of the Treaty on the Functioning of the EU (TFEU).

46. Axel Marx, Franz Ebert, Nicolas Hachez en Jan Wouters, 'Dispute Settlement in the Trade and Sustainable Development Chapters of EU Trade Agreements', maart 2017. For an analysis of the sustainability chapters in CETA, see PowerShift and the Canadian Centre for Policy Alternatives, 'Making Sense of CETA', 2nd Edition, September 2016.

47. Article 21 of the Treaty on European Union (TEU) commits the EU to protect and promote, inter alia, human rights, democracy and the rule of law, the sustainable economic, social and environmental development of countries in the global South, the eradication of poverty, protecting and improving the condition of the environment, and sustainable management of natural resources globally. Article 205 of the Treaty on the Functioning of the European Union (TFEU) confirms that these principles also apply to EU trade policy.

48. These include: the eight Core Convention of the International Labour Organization (ILO); the main multilateral environmental agreements, including the Paris Climate Agreement, the Montreal Protocol and the Vienna Convention on Substances that Deplete the Ozone Layer, the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), and the Convention on Biological Diversity (CBD); and the key human rights treaties, such as the Universal Declaration on Human Rights, the Vienna Declaration and Plan of Action of the World Conference on Human Rights, and the International Covenant on Economic, Social and Cultural Rights. For a comprehensive list of international treaties on labour, the environment and human rights, see Markus Krajewski and Rhea Tamara Hoffmann, 'Alternative Model for a Sustainable Development Chapter and related provisions in the Transatlantic Trade and Investment Partnership (TTIP)', Augustus 2016; ClientEarth and Transport and Environment, 'Sustainable Development and Environment in TTIP', October 2015.

49. This panel comprises academic and civil society experts in the fields of international labour, environmental and human rights

law, and other relevant areas of the law.

50. The existing exemption clauses in the current trade treaties do not provide sufficient guarantees to adequately safeguard such public interest measures. These clauses are based on the dated GATT Article XX of 1947, and contain a closed list of limited policy areas that governments can rely on in strictly circumscribed conditions. For different approaches to how to phrase a broad exemption clause in the public interest, see, for example, Gus van Harten, 'An ISDS Carve-Out to Support Action on Climate Change', September 2015. This 'carve-out' would have to be expanded to cover general public interest measures as defined in footnote 1; Markus Krajewski and Rhea Tamara Hoffmann, 'Alternative Model for a Sustainable Development Chapter and related provisions in the Transatlantic Trade and Investment Partnership (TTIP)', August 2016; Markus Krajewski, 'Ensuring the Primacy of Human Rights in trade and Investment Policy: Model Clauses for a UN Binding Treaty on Transnational Corporations, Other Businesses and Human Rights', March 2017; ClientEarth, 'Towards a more diligent and sustainable system of investment protection', March 2017.

51. For an elaboration on such a 'supremacy clause', see Markus Krajewski, 'Ensuring the Primacy of Human Rights in trade and Investment Policy: Model Clauses for a UN Binding Treaty on Transnational Corporations, Other Businesses and Human Rights', March 2017; ClientEarth, 'Towards a more diligent and sustainable system of investment protection', March 2017.

52. See Institute for Agriculture and Trade Policy, 'Selling off the farm: corporate meat's takeover through TTIP', 11 July 2016.

53. Research by the Consultative Group on International Agricultural Research (CGIAR). Natasha Gilbert, 'One-third of our greenhouse gas emissions come from agriculture', Nature, 31 October 2012. Figures of the UN's Food and Agriculture Organization show that the emissions of methane and nitrous oxide from livestock and fertilizer in crops such as corn and soy are the main sources of agricultural emissions. An Oxfam report shows that global production of five agricultural products - rice, corn, soybeans, wheat and palm oil - emits more greenhouse gases than all individual countries outside the United States and China combined.

54. Milieudefensie, Een gezonde en eerlijke landbouw met toekomst, January 2015. Also see iPOV Food, 'From Uniformity to Diversity. A paradigm shift from industrial agriculture to diversified agroecological systems', June 2016.

55. Food sovereignty is the right of peoples to a healthy diet, adapted to local cultures; the right of peoples to the use of their own seeds, soil, water, biodiversity, as well as the right of peoples to define and control their own agricultural and nutritional systems without damaging other peoples. Oxfam-Solidariteit, Voedselsoevereiniteit: Een Agenda Voor De Toekomst, October 2008.

56. At the WTO, Southern countries are advocating for wide application of a Special Safeguard Mechanism, which would allow them to temporarily raise tariffs to counter dumping of cheap imports in order to protect local farmers and food systems. Kanaga Raja, 'Developing countries stress on importance of SSM', SUNS #8240, 13 May 2016.

57. See TTIP en landbouw-coalitie, TTIP en CETA: een gevaar voor de hoogwaardige Europese en Nederlandse landbouw, veehouderij en voedselvoorziening, July 2016.

58. CETA Article 20.31 commits Canada and the EU to comply with the International Convention for the Protection of New Varieties of Plants (UPOV 1991). This convention prohibits farmers and breeders/growers to stock, re-use or exchange protected seeds, forcing them to purchase new seeds every season. Under the same CETA article, the EU and Canada also commit to the promotion of UPOV 1991, which involves convincing third countries to join the convention. This favours large seed companies such as Monsanto and Syngenta, and poses a threat to food security, particularly in Southern countries. Global Justice Network, 'CETA' threat to seed freedom', 14 October 2016.

59. United Nations Food and Agriculture Organization, 'Making genetic diversity part of climate change adaptation', 24 November 2015.

60. International Treaty on Plant Genetic Resources for Food and Agriculture, <http://www.fao.org/plant-treaty/en/>. The FAO urges countries to sign this treaty and implement its clauses on the rights of farmers to maintain genetic resources in order to be able to adapt to climate change.

61. The role of European institutes in international trade negotiations is laid down in Article 207 and Article 218 TFEU. Where the European Commission and the Council have formal powers to draw up and approve negotiating mandates, and give guidance during negotiations, the European Parliament will only be indirectly involved, with the European Commission keeping them periodically informed about the progress of the negotiations. (Article 207 (3) TFEU).

62. Research by lobby watchdog Corporate Europe Observatory (CEO) shows that the doors of the European Commission are always open to lobbyists for multinationals. Of the 600 EU lobby meetings regarding TTIP in 2012 and 2013, 88 per cent were with corporate lobbyists.

63. In 2015, a European Ombudsman ruling requested the European Commission for more transparency regarding the TTIP negotiations.

64. The European Court of Justice recently ruled that the EU does not have exclusive competence to conclude and ratify trade agreements that include clauses on portfolio investments and ISDS. This implies that future European trade agreements containing such provisions must be submitted to the EU's member states and their national parliaments for their consent. European Court of Justice, Opinion 2/15, 16 May 2017.

## Trade agreements: Power and profit for multinationals, detrimental to people and planet

In recent years, we have been opposing unfair trade treaties, and advocating for equitable and sustainable trade. Every new trade treaty continues to show the glaring absence of rules and regulations to protect people and planet. Profit interests of multinationals continue to come first.

Bit by bit, we see the power shifting away from governments to big multinational corporations, leaving ordinary people increasingly disenfranchised. Trade treaties such as CETA and TTIP make it impossible to adhere to the Paris climate agreement, as these trade agreements promote the growth of polluting industry and intensive agriculture.

### Time for change

Things need to change. Together, we can make that change. This brochure aims to give a different perspective on globalisation, trade and trade agreements. We value your opinion and would love to hear your views. How do you see fair trade? How can we make sure that companies comply with human rights and act with respect for the environment? Let us know at [economie@milieudedefensie.nl](mailto:economie@milieudedefensie.nl).

#### Help spread our alternative vision!

We will present our alternative vision to the people's representatives in parliament. You can help ensure that they take us seriously by persuading more people to support our alternatives. For example, by organizing a public debate in your town or village.

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