

# Alternatives to TTIP, CETA, TiSA and WTO: “Sovereign Democracy” and “Ethical Trade Strategy”

proposed by Christian Felber, Vienna, Austria  
Book author, University teacher, „Common Good Economist“

## 1. Alternative Process: “Sovereign Democracy”

Rather than in „post-democracies“ (Colin Crouch, whose analysis I do share), we live in „pre-democracies“. A „true“ democracy (Spanish: „democracia real“) has never actually existed.<sup>1</sup> In a true democracy, the sovereign people would be the „highest instance“ which is the literal meaning of „sovereign“ (coming from the Latin „superanus“: standing above all). A true sovereign would have more power in relation to its representatives, it would enjoy „sovereign rights“ which could be the following:

1. write the constitution (elect a constitutional convention and vote upon the results);
2. elect a government;
3. vote out a government;
4. correct the parliament in regard to any proposed legislation;
5. directly put bills to vote;
6. change the constitution through its own initiative;
7. directly control and regulate essential utilities;
8. stake out the framework for negotiation on international treaties and vote on the results of such negotiations.

The latter touches the democratic deficit in the mandate, negotiation and adoption of the Transatlantic Trade and Investment Partnership (TTIP), the Comprehensive Economic and Trade Agreement (CETA) and all other international agreements, no matter in which policy field. As for CETA and TTIP, the European Council, which is not directly elected by the people, mandated the European Commission, which is also not elected by the people, with secret negotiations. That is medieval-style democracy.

What could a fundamentally democratic process of negotiations for an international agreement, from the entitlement of the mandate to the final ratification, look like?

Here is my proposal:

1. The sovereign people define a „framework mandate“ for the negotiation of international agreements which is then anchored into the constitution via a referendum or, better, through an „Economic Convention“<sup>2</sup>. This framework mandate could define fundamental goals, for instance:

- sustainable development: the ecological footprint of EU citizens has to shrink towards a globally sustainable and;

---

<sup>1</sup> See C. Felber: „Geld. Die neuen Spielregeln“ (engl. „Money. The new Rules of the Game“), p. 38.

<sup>2</sup> The idea is developed in the book „Change everything. Creating an Economy for the Common Good.“

The German 20 pages manual for a local economic convention:

<http://www.gemeinwohl-oekonomie.org/sites/default/files/Konvent-Leitfaden-GW%C3%96-Gemeinde.pdf>

- just distribution: the income and property gap must not widen, it should become smaller;
- full respect for human rights, all International Labour Organization (ILO) labour standards as well as all labour rights and social security standards in EU member which go beyond the ILO;
- closing the gender gap in income, property and influence in the economy;
- protection of cultural diversity.

2. At any moment, the direct representatives of the sovereign people (national parliaments or the European Parliament) can mandate the government (or the EU Commission) with the initiation of negotiations for an international agreement, but only within the goals defined in the constitution relating to these negotiations.

3. The Constitutional Court, in its role to control the legislator's compliance with the constitution, scrutinizes the mandate on its conformity with the constitution. If the result is negative, the negotiation mandate expires immediately.

4. If the result is positive, negotiations can begin, but only according to a transparent and participatory procedure that is also defined in the national or European Constitution. Transparency includes disclosure of all relevant documents, and participation includes the equal consultation of all major sectors of society and not only lobbyists.

5. The result of the negotiations is voted on by the „highest instance“ in whose name the negotiations are conducted. Only if the citizens agree on the result can the treaty can be ratified by the relevant parliaments and enter into force.

The „Alternative Trade Mandate“, formulated by a large number of European civil society organizations, goes less far. It demands that the final result should be put to vote in the national parliaments.<sup>3</sup> The fact that this is not enough became obvious on the occasion of the approval of the Lisbon Treaty which was waved through by national MEPs without having any idea of what they were voting on.<sup>4</sup> In France, Holland and Ireland citizens voted against the Lisbon Treaty (three out of five sovereign peoples that had the opportunity to vote on it). By voting for the treaty, parliaments of the member states actually decided to give up their right to vote on future international investment protection and trade agreements.

## 2. “Alternative Content: “**Ethical Trade Strategy**”

### a) Goal

One of the difficult starting conditions for the negotiation of international economic agreements is the lack of clarity about the goal of the economy – and thus trade. In democratic constitutions, the overall goal of the economy is unanimously the common good. One example: The Bavarian Constitution says in article 151: „Economic activity as a whole serves the common good.“ In order to make success measurable, this overarching goal has to be broken down into sub goals like satisfaction of basic needs, health, education, employment, meaningful work, just distribution, stable ecosystems, co-determination, peace and others.

<sup>3</sup> THE ALTERNATIVE TRADE MANDATE (2013), p. 7.

<sup>4</sup> ARD Panorama, 12. Mai 2005: <http://daserste.ndr.de/panorama/media/euverfassung100.html>

Success can only be measured based on the extent to which these goals have been met. Money is only a means – this is another clarification that some constitutions meet. Consequently, it is an error to measure the success of a national economy with the GDP. It is a monetary indicator, which by definition cannot tell us anything about the achievement of the above-mentioned goals. GDP has more than doubled in the US in the last 25 years, but the income of households with persons with high school diplomas actually sank by 25 per cent. Individual happiness is in decline since the 1970s. The community of receivers of food stamps has hit historical record. It would therefore make much more sense to directly measure the achievement of these goals using a Common Good Product and to focus the impact assessment studies on it instead of on the GDP. National parliaments must then base relevant decisions on data from the Common Good Product. In a representative survey mandated by the German government, 67% of the Germans ask for replacing the GDP by a Gross National Happiness and declare its increase the highest goal of the economic and social policy.<sup>5</sup>

## b) Strategy

### *Strategy level 1: Global Trade Agreement within the United Nations*

Instead of establishing questionable „gold standards“ on the bilateral level, that do not serve any constitutional goal or value, the EU and the US could strive for a multilateral agreement in the heart of the United Nations that serves their goals and values. These universal values include human rights, sustainable development, climate protection, cultural diversity, gender equality, food sovereignty, labour norms, tax cooperation and financial regulation. Economic freedoms ought to only be granted when these values are respected.

### *Strategy level 2: Ambitious bilateral agreements for the right purpose*

As long as there is little progress with such a UN-based agreement, the EU can go ahead with a group of partner countries on the bilateral level in order to fulfil the goals of the framework mandate in the constitution. This should be done with a sample of countries that already today implement these „global standards“ (a frequently used formula by the TTIP negotiators): precautionary principle, Kyoto Protocol, Convention on Biological Diversity, UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions, International Covenant on Economic, Social and Cultural Rights; International Covenant on Civil and Political Rights or the ILO labour standards.

In such a regime, the USA would certainly not be an initial partner of choice for the EU, as they have not ratified most of these agreements. Among the wealthy countries, the USA is one of the severest opponents to „global standards“. Thus it would be more effective to encourage trade relations with countries who support and promote the existing agreements fully and are ready to put trade and investment at the service of human rights and other constitutional goals. This “Coalition of the Willing” could protect itself with progressive tariffs towards those who permanently talk about „global standards“, but at the same time do not respect them and even subvert them.

---

<sup>5</sup> Bundesumweltministerium & Umweltbundesamt: „Umweltbewusstsein in Deutschland 2014“, Berlin, March 2015.

Here is a concrete proposal how the price of goods and services from non-cooperative countries could be increased. For each agreement that has not been ratified, there would be an extra tariff, for instance:

Convenant on Civil and Political Rights	+ 20% tariff
Convenant on Economic, Social and Cultural Rights	+ 20% tariff
Kyoto Protocol	+ 20% tariff
Other UN Environmental Agreement	+ 10% tariff
Single ILO core labour standard	+ 5% tariff
UNESCO Convention on Cultural Diversity	+ 10% tariff
Automatic exchange of fiscal information	+ 20% tariff
Bretton Woods II	+ 20% tariff

This would lead to an equal treatment of equals, away from an unequal treatment of unequal partners. It would stop the race to the bottom in wages, labour standards, tax compliance, environmental protection and human rights. It would reverse the competitive disadvantages that ethical, sustainable and responsible enterprises suffer from today in the „free trade“ regime. It would protect the goals and values that are anchored in constitutions and for which the UN members have concluded agreements – but that are nullified if „free trade“ gets priority over them.

TTIP is simply not the appropriate means to serve these goals as it serves a different objective. It converts trade and investment into ends in themselves. TTIP, CETA, BITs and the WTO build economic relationships based on the fundamental - „pseudo liberal“ - fallacy that economic freedoms prevail over other freedoms and fundamental rights. The UN, although weak, stands for different goals. Economic freedoms are only means to serve these higher goals. Economic freedoms have to be limited if they extend beyond the confines of these goals and constitutional values.

*Strategy level 3: Protection of the EU against dumping through a „Common Ethical Market“*

Even if there is no progress on a bilateral or multilateral agreement for a legal framework for international trade and investments, the EU could proceed alone and start an „Ethical Common Market“. The EU could mandate all enterprises operating within the EU to implement a Common Good Balance Sheet as a precondition to access the market. The better the result, the freer the market access, and vice versa. The poorer the ethical performance, the higher the barrier to enter the market would be. This could be achieved, for example, through higher tariffs. With this instrument, ethical businesses would be strengthened and constitutional values would become a centrepiece to our economy.

Vienna, September 2015

\*\*\*\*\*

Books of Christian Felber:

<http://www.christian-felber.at/english.php>

<http://www.zedbooks.co.uk/node/20840>

Economy for the Common Good:

<https://www.ecogood.org/en>

<https://www.ecogood.org/en/common-good-balance-sheet>