



The Heads of Government and Chairpersons of the Parliaments of Australia, Canada, Chile, the EU Member States, Japan, Malaysia, Mexico, New Zealand, Peru, and the USA:

The President of the EU Commission, the President of the European Parliament and its members, the Directorate General for Trade of the European Commission:

Vienna, January 20th 2014

Dear Mr Ignacio Garcia Bercero,

This letter refers to the *Transatlantic Trade and Investment Partnership (TTIP)* and *Trans-Pacific Partnership (TPP)*. We would like to present our concerns about them and urge you to take action - for the following reasons:

1. The TTIP and TPP treaties have been negotiated under unacceptable secrecy.

These treaties are negotiated avoiding public scrutiny. Many governments have been ignoring the widespread critique in their populations on the continuation of deregulation policies, as intended with these treaties. There are numerous examples in which deregulation policies have deprived States of policy options for safeguarding access to food, to medicine, to land, to healthy ecosystems, to markets for vulnerable producers - with severe consequences for the affected persons. The financial and related economic crises are a consequence of dismantling or rendering ineffective regulatory policies in place to secure the safe and fair functioning of financial markets. The results are well known. The undue secrecy of the TTIP and TPP negotiations tries to avoid proper public discussion of the content of these initiatives. The few "consultative circles" of the negotiating parties display extreme bias towards business lobby groups and their peculiar interests. Drafting takes place under the dominant influence of the corporate sector. Elected parliamentarians are prevented from taking their time to study and discuss these important issues – including with their electorates. The secrecy under which the treaties are negotiated is not in line with democratic procedures, the human right to political participation and the rights of people to self-determination.

2. The TTIP and TPP treaties attempt to prevent States from meeting their obligations with regard to safeguarding human rights and public interest.

The envisaged treaties continue deregulation policies – despite the various crises these have generated over the past years, including the sufferings of millions of people affected worldwide. State control and regulation of business activities is essential for the implementation of policies that protect and fulfill human rights domestically and abroad, including environmental policies necessary for ensuring the future wellbeing of humankind. The "harmonization" measures envisaged by the TTIP and TPP treaties open up possibilities for the corporate sector to circumvent and dismantle such policies and minimize their effects; the definition of this minimum will no longer be in the hands of elected governments, but in the hands of illegitimate business councils. Government administrations and parliaments should be aware that they are asked to give away their powers to govern in the public interest for which they were

elected. Even as they are told by business lobby groups of the “benefits” of these agreements, they are responsible to their conscience, to their constitutions and to their electorate and must come to their own judgment. They should consider the well-documented experience that the promoted deregulation policies are not – and have not been – geared towards the public interest and have instead massively breached human rights - economic, social and cultural, as well as civil and political. Governments and parliaments risk losing their legitimacy as authorities with all the serious implications that this will have.

3. The TTIP and TPP treaties allow corporations to escape necessary regulation.

Without proper regulation the next financial crises will hit even harder and will lead to more human suffering and to further escalation of social unrest. The severe ecological problems and climate destruction cannot be solved/ stopped unless States take courage to reject this corporate agenda, embrace public interest policies, and control (regulate) transnational corporations (TNCs), in line with their territorial and extraterritorial obligations. The proposed agreements support policies and contain provisions that would allow corporations to essentially write their own regulations and/or have final decisions made by publicly uncontrolled “regulatory councils” and investor-to-state dispute resolution mechanisms as described below. States must not dismantle themselves and their regulatory powers as they do in investment treaties of this type. On the contrary, States have to shape up to meet the great political challenges of the century – including the dismantling of illegitimate corporate power and the regulation of legitimate corporate operations. States have to assert that they are expressions of their sovereign peoples and have to ensure human rights.

4. The TTIP and TPP treaties limit the regulatory space of other States.

TTIP and TPP combined, by the mere volume of investment and trade covered, imply a global policy environment that is not conducive to the protection and fulfillment of human rights – not only for the States parties to these treaties, but also to all other States. States engaging in the treaties, thereby impact on people in many, if not most, other countries. They must not breach their extraterritorial obligations in this regard. On the contrary - under international human rights law and the UN Charter arts 1.3 and 55, States have the duty to cooperate with each other to ensure the universal realization of human rights. This means they have to assist each other in protecting and fulfilling human rights. In particular, they have to respect and safeguard the regulatory space of other States and set up international regulation of the highest standards.

5. The TTIP and TPP treaties undermine the rule of law.

The inclusion of investor-to-state dispute settlement (ISDS) mechanisms in the agreements allows corporations to sue States for measures that may result in profit expectations not getting realized, such as social, environmental or other policies that may interfere with corporate interests. Such cases are dealt with outside the public legal system in essentially secret “dispute settlement mechanisms”, which are run by corporate lawyers, without public participation or scrutiny, and do not take into consideration the human rights of affected individuals and communities. Such arrangements contradict the rule of law that calls for essentially public proceedings with democratically controlled legal standards. Such illegitimate procedures have already been used by corporate interests to exhort

horrendous sums from the taxpayers of States – including poor States with poor tax-payers – who have tried to meet their obligations under human rights and environmental law, protecting the right to food or water of their populations, raising minimum wages to fulfill an adequate standard of living, legislating against corporate pollution. There is a long list of such appalling cases. No wonder that corporations try to keep these proceedings secret. Governments and parliaments should understand that they dismantle themselves and the rule of law if they give in to such procedures and agreements.

To conclude:

Treaties have to meet certain minimum standards in order to be valid – including observance of peremptory norms of international law and in particular fundamental human rights. TTIP and TPP are essentially at odds with international law and human rights as they aim at preventing states from meeting their human rights obligations in international and national law. In fact these treaties strike at the basic structure of international law and nature of human rights. Treaties of these characteristics are void under the UN Charter arts.1.2, 55 and 103 and the Vienna Convention on the Law of Treaties art.53. States are not bound by them. Moreover, if a State happens to apply the incriminated provisions of such a treaty, this State has to eliminate (under art.71.1 of the Vienna Convention) all consequences of such act. In the current context this includes compensation for violations of fundamental human rights.

As a representative of the Directorate General for Trade of the European Commission, we urge you to make sure that neither the EU nor any of its member states become party to these void agreements. We request you to withdraw from these negotiations. We ask you to engage in a worldwide transparent political process towards a new global investment and trade regime in line with international law, human rights and public interest.

Yours sincerely,

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