GLOBAL 15.10.2018 | Clara Portela

The real trade deficit

The EU has the power but lacks the will to ensure workers' and human rights in international trade

Read this article in German.

'Ladders must be so positioned as to ensure their stability during use,' it says in the EU Directive 2001/45/EC. For notorious EU critics, this is a typical case of Brussels over-regulation at work. Yet what sounds absurd here is of course absolutely reasonable – because 2001/45/EC is a directive about regulating the protection of workers' health. If it is not possible to position a ladder absolutely stably, the employer cannot ask anyone to climb it anyway.

In another setting: female Vietnamese workers protest outside the factory gate of a mobile phone company's supplier. They are demonstrating against 100 hours of overtime a month, against wages on which no one can live and against toilets that are too far away to visit in sync with the assembly line. But such demonstrations have little chance of being heard. The competition for highly coveted investments in the Global South is too brutal. Rebellious workers face the threat of beatings and dismissal. Yet their products reach our European market without hindrance.

But why does Brussels, which sees itself as the power regulating the positioning of ladders in Europe, act so toothlessly outside of Europe? When it comes to miserable, inhumane working conditions in the mobile phone industry, in Africa's metal mines or Thai shrimp farms, the Commission usually notes its regret at the circumstances, whilst considering itself incapable of doing anything about it.

Why is it so difficult?

After all, so the thinking goes in Brussels, you cannot impose rules on sovereign developing nations. And in any case, the governments would not accept such rules. Apparently the Commission is less afraid of allowing goods with a shady human rights background onto the European market than it is of being suspected of neocolonialism in

Vietnam, Cambodia or Indonesia.

Brussels is lacking regulatory zeal not just with regard to countries far away. It spends years thrashing out hefty trade agreements with partner countries, but these are astonishingly weak when it comes to normative standards that have long been in place within Europe.

But why does the EU find it so hard to stand up for its and our values when it comes to trade?

As a reminder: the European Union is committed to democracy and human rights in its external relations. The EU has the goal of taking human rights concerns into account in all policy areas and programmes. These concerns explicitly oblige the EU to attribute equal significance to economic and social rights as to civil and political rights.

As a real-life trading partner, however, the EU is a disappointment for many trade unionists, activists and democrats. They cannot believe that, with the power of 508 million consumers behind it, it is really not possible to enforce humane production standards.

On paper the EU certainly demands an awful lot. Specifically in the free trade agreements' sustainability chapters and in the 27 points of preferential trade measures which it offers, in particular, to poor developing countries. It is specifically stated that these agreements can be suspended in case of consistent non-compliance. And yet the Commission's lack of interest has long since convinced their negotiating partners that those in Brussels do not want to take it so seriously. Just recently, an exasperated alliance of civil society organisations filed a complaint about the Commission with the European ombudsman. According to the plaintiffs, the Commission simply did not want to investigate a series of well-documented employment rights violations in Bangladesh.

Trade power

Most people have long known that serious violations of workers' and human rights are occuring all over the global supply chain network. However, this has not yet led to a single one of the numerous EU trade deals being scrapped. Trade preferences have only actually been withdrawn on two occasions. And these were for regimes already hugely ostracised by the international community: Myanmar in 1997 and Belarus in 2007.

But why does the EU find it so hard to stand up for its and our values

when it comes to trade?

If we take our own high standards seriously, it is high time we commit to ensuring ladders are safely positioned in China and Burundi as well.

EU Trade Commissioner Cecilia Malmström categorically rejects sanctions. There are real and important concerns here that extensive sanctions throw the baby out with the bath water. In the case of Iraq, the strict UN embargo quickly hurt the entire population, not just the government.

Furthermore, the Malström's Directorate-General for Trade is the target of a powerful lobby of companies and business representatives who – despite rising profits – constantly warn of dire losses should trade barriers be erected.

Customised sanctions

Under the same circumstances however, other parts of Brussels' external affairs bureaucracy have demonstrated more creativity and skill than the Directorate-General for Trade. It could learn a lot from the Brussels 'Common Foreign and Security Policy' (CFSP) which, in collaboration with the United Nations, has learned in recent years to use sanctions in a customised manner against those elites and regimes whose behaviour is unacceptable. Targeted sanctions have already succeeded in hitting only their intended destination. At present, there are CFSP sanctions in force on the Maldives, Burundi and Guinea, exclusively on members of the political and military elites of these countries: they are not allowed to travel to the EU and European financial instititutions have to freeze their accounts.

Commissioner Malmström could even find more of these tricks in the EU toolkit, such as individual travel bans, account freezing and selective embargos. These allow the precise targeting of the companies, managers and authorities responsible for the violation of standards, without simultaneously depriving an exporting country of its entire trading revenue. So why should it not be possible to incorporate this mechanism into the new generation of trade and preferential agreements for cases of serious breaches of labour standards?

Without doubt, this step would require a whole new level of interest on the part of the Commission. The quality and effectiveness of customised sanctions depend very much on how well you know both the local situation and the influence of investors and financial elites on the government. But there is no alternative to enforcing social standards and humane work, which have long been part of accepted universal human

rights, as long as the EU continues to speak of itself as a community of values. If we take our own high standards seriously, it is high time we commit to ensuring ladders are safely positioned in China and Burundi as well.



Clara Portela
Valencia

Clara Portela, a professor at the University of Valencia in Spain, teaches international relations and researches the external relations of the European Union. As a sanctions expert, she has repeatedly advised the European Parliament. She holds a doctorate in political science and is the recipient of the 2011 THESEUS Award for promising research in European integration.