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# A Social Dimension for Transatlantic Economic Relations

Lance A. Compa  
*Cornell University, lac24@cornell.edu*

Henning Meyer  
*London Metropolitan University*

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# A Social Dimension for Transatlantic Economic Relations

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## **Keywords**

Transatlantic Economic Relations, TER, industrial relations, trade

## **Comments**

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## Lead Investigators

### Professor

#### Lance Compa

School of Industrial and  
Labor Relations (ILR),  
Cornell University

### Dr Henning Meyer

Global Policy Institute,  
London Metropolitan  
University

## Co-Investigators

### Dr Stephen Barber

London South Bank  
University

### Professor

#### Michele Faioli

University of Rome  
'Tor Vergata'

### Dr Rebecca Givan

Cornell University

### Dr Klaus Mehrens

The Global Policy Institute

## Research Assistant

### Chris Luenen

The Global Policy Institute

# A Social Dimension for Transatlantic Economic Relations

## Abstract

*Transatlantic Economic Relations (TER) was neglected by politicians for much of the twentieth century as international security issues took priority. Since the end of the Cold War, however, and as economic issues have come to prominence TER has assumed increasing importance and yet is largely overlooked in academic discussion. This report places TER in its historical context and demonstrates how the political agenda and institutional setup are both largely dysfunctional. Viewed through the prism of industrial relations and drawing on some real life examples from both sides of the Atlantic, it argues that the social dimension is a challenge central to the future development of the relationship and proposes institutional innovations which could also be replicated in other areas: for instance in support of environmental concerns. Presenting some guiding principles for transatlantic trade, this paper recommends the creation of a new secretariat to act as a permanent contact point and providing a variety of practical functions essential to making TER work.*

## 1. The Context of Transatlantic Economic Relations<sup>1</sup>

While transatlantic relations have formed an important part of academic study, Transatlantic Economic Relations (TER) are often overlooked. Indeed, the attention on respective responses to the 'Global War on Terror' has diverted attention from other policy fields in which the European Union (EU) and the United States (US) have common concerns and interests. Transatlantic economic cooperation is one of them.

The US and the EU started a formal process in the early 1990s culminating in the 'Framework for Advancing Transatlantic Economic Integration' (FATEI) in April 2007. But this phenomenon has passed by largely unnoticed. By way of a background and introduction to the main theme of this paper, which addresses the lack of and need for a robust social dimension in TER, this section seeks to place the transatlantic economic relationship in its economic, historical and political context.

Although the political dynamics of TER are closely linked to the general political climate, the core economics of the partnership are not. As Andrews et. al. have argued, there is no evidence that political frictions in the fields of security and foreign policy have had any significant impact on the volume of transatlantic trade and investment.<sup>2</sup> Perhaps this economic stability is due to the characteristics and sheer size of the transatlantic marketplace. After all, the transatlantic economic partnership is the biggest and possibly the most important one in the world.

Comprising roughly 800 million people, the US and the EU accounted for 56.2 per cent of world GDP, 32.2 per cent of global trade in goods and 43.7 per cent of trade of services in 2007 (excluding intra EU 27 trade).<sup>3</sup>

Another important economic factor is consumption. Although consumption is likely to grow faster in the emerging economies in Asia and elsewhere, the combined consumer demand of the EU and the US will remain crucial for the world economy in the foreseeable future as many emerging economies pursue their development with strategies based on strong exports into the North American and European markets. It is this overall imbalance that US President Barack Obama sought to address during the G20 meeting in Pittsburgh encouraging greater consumption and lower trade surpluses in the exporting nations of the world, led by China (but including the likes of Germany), while simultaneously promoting more saving and reduced deficits in the United States.

The broad economic indicators presented here show the importance of the transatlantic marketplace. A research report written for the US Congress summarized its external effects with the conclusion that the 'combined weight of these two economic superpowers means that how the US and EU manage their relationship and the difficult issues involving domestic regulations, competition policy, and foreign investment could well help determine how the rest of the world deals with similar issues'.<sup>4</sup> In other words, within a weak framework of global governance institutions, with World Trade Organization (WTO)

talks often unsuccessful or deadlocked, the transatlantic relationship has the potential to set the rules for international economic activities using the two blocs' combined powers as biggest producers and consumers of goods and services in the world. Therefore the way this bilateral economic relationship is constructed is of crucial importance.

## 2. From Security to Economic Cooperation and Institutionalization: The Historical Context

TER also has an important historical dimension. While the roots of transatlantic cooperation can be traced back to the early 20th century, it was first put into the political spotlight with John F. Kennedy's 'Declaration of Interdependence' in the 1960s. In a speech in Philadelphia on 4th July 1962, the President stated 'that the United States will be ready for a Declaration of Interdependence, [and] that [the US] will be prepared to discuss with a united Europe the ways and means of forming a concrete Atlantic partnership, a mutually beneficial partnership between the new union now emerging in Europe and the old American Union founded... 175 years ago.'<sup>5</sup>

The transatlantic partnership before 1990 was predominately motivated by the Cold War and the shared security interests of the US and Western Europe. When the Soviet Empire collapsed, the cohesive force of the common enemy subsided. At this point, the relationship previously dominated by security issues shifted increasingly into the economic field.

The 'Transatlantic Declaration' (TD) of 1990 was the first official agreement in the new era of transatlantic relations after the Cold War. It was largely a statement of shared values, emphasizing that the US and the EU are 'mindful of their common heritage and of their close historical, political, economic and cultural ties' and 'recogniz[e] that the transatlantic solidarity has been essential for the preservation of peace and freedom and for the development of free and prosperous economies as well as for

## 'When the Soviet Empire collapsed, the cohesive force of the common enemy subsided'

the recent developments which have restored unity in Europe'.<sup>6</sup> The TD also laid the foundation for the institutionalization of the transatlantic partnership. It created intergovernmental institutions by establishing:

- bi-annual consultations to be arranged in the United States and in Europe between, on the one side, the President of the European Council and President of the EU Commission, and on the other side, the President of the United States;
- bi-annual consultations between the European Union Foreign Ministers, with the

Commission, and the US Secretary of State, alternately on either side of the Atlantic;

- ad hoc consultations between the Presidency Foreign Minister or the Troika<sup>7</sup> and the US Secretary of State;
- bi-annual consultations between the Commission and the US Government at Cabinet level;
- briefings, as currently exist, by the Presidency to US Representatives on European Political Cooperation (EPC) meetings at the Ministerial level.<sup>8</sup>

The beginning of a formal institutionalization of the relationship was also necessary as the shift in transatlantic relations from security to economic issues was not without problems. As Barry Eichengreen of the University of California at Berkeley observed in 1998: 'Economic globalization in the aftermath of the cold war may be causing tariffs, capital controls, and transport costs to decline, but it is also putting firms in the United States and Europe into closer competition.'<sup>9</sup> He concluded that 'policies on one side of the Atlantic – be they central bank decisions over the interest rate, congressional and parliamentary decisions about the budget, or government decisions about competition and regulatory policy – are having strong repercussions on the other. The scope for conflict in such an environment is considerable.'<sup>10</sup>

The shift from security to economic cooperation thus made the transatlantic partnership more complicated. Not only did the basic rationale of the partnership shift to a new policy field, but the new

field was also much more conflict-laden than the shared security interests during the Cold War. The new framework not only brought down economic barriers but also highlighted differences in regulatory regimes and political preferences.

The year 1995 brought a major evolution of TER and the institutionalization of the bilateral partnership with the agreement of the 'New Transatlantic Agenda' (NTA). By signing the NTA, US President Bill Clinton, EU Commission President Jacques Santer and EU Council President Felipe Gonzáles committed to organized cooperation in four key strategic areas:

- Promoting peace and stability, democracy and development around the world
- Responding to global challenges
- Contributing to the expansion of world trade and closer economic relations
- Building bridges across the Atlantic.<sup>11</sup>

In order to address these priority areas effectively, a series of institutional innovations were created in the wake of the NTA. As Mark Pollack commented, the 'establishment of a new and novel institutional architecture linking Washington and Brussels across a wide range of issue-areas, represent[ed] the most systematic effort at genuine bilateral governance in the history of the transatlantic partnership.'<sup>12</sup> The NTA complemented the intergovernmental institutionalization of the TD with transgovernmental and transnational institutions by creating a variety of civil society dialogues to strengthen

bridge-building across the Atlantic and more structured networks of lower-level officials. After the NTA, the three level structure of transatlantic governance looked as follows:<sup>13</sup>

#### **Intergovernmental Level:**

- Regular summit meetings between the US President and a delegation of EU officials (mostly the EU Commission President and the rotating Presidency of the Council of Ministers plus the High Representative for the Common Foreign and Security Policy)

#### **Transgovernmental Level:**

- Transatlantic networks of lower-level US and EU officials working on foreign policy and especially economic issues. These networks work largely unaffected by the dynamics of transatlantic high politics

#### **Transnational Level:**

- Transatlantic Business Dialogue (TABD) – consisting of European and American CEOs lobbying for the liberalization of the transatlantic marketplace
- Transatlantic Consumer Dialogue (TACD) – network of EU and US consumer organizations
- Transatlantic Labor Dialogue (TALD) – Dialogue of trade unions (*had only a handful of meetings but has not been formally abolished*)
- Transatlantic Environmental Dialogue (TAED) – Dialogue of environmental stakeholders – (*ceased to exist in 2001*)<sup>14</sup>
- Transatlantic Legislators' Dialogue (TLD) – created in 1999 as a formal response of the European Parliament and US Congress to the NTA

commitments. Its main aim is to enhance the level of discourse between members of the European Parliament and the US Congress.<sup>15</sup>

### **3. Structural Dysfunctionality: The Political Context**

Institutional structures are important, but it is the political agenda which is vital for successful transatlantic relations. And in terms of mission, the main purpose of TER has been a narrow focus on trade liberalization and de-regulation: to bring down tariff and non-tariff barriers to trade and investment.

This limited political agenda had severe consequences for the transnational level of the transatlantic institutional structure. The Transatlantic Labor Dialogue (TALD) folded after just a few meetings because there was simply nothing to gain or achieve for the labor movement in the framework of a purely free-market political agenda.<sup>16</sup> The Transatlantic Environmental Dialogue (TAED) suffered a similar fate. Even the Transatlantic Business Dialogue (TABD), the NTA dialogue with the arguably biggest interest overlap with the agenda, nearly 'ran aground' when it seemed increasingly difficult to deliver progress in the business community's interest.<sup>17</sup>

Most of the progress in the 1990s was made in the area of Mutual Recognition Agreements (MRAs). But as Mark Pollack and Gregory C. Schaffer made clear: 'In the view of many participants, the "low-hanging fruit" for economic cooperation had been picked. Governments on both sides now found it dif-

difficult to move beyond symbolic agreements and rearguard efforts at conflict resolution. Enhanced cooperation among regulators had not prevented new and bitter trade disputes from arising.<sup>18</sup>

The very limited effectiveness of transatlantic economic cooperation led to the EU Commission's 2004 report *Review of the Framework for Relations between the European Union and the United States*. The report highlighted further agenda-setting

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‘Although the internal problems in the partnership remain, the changing external framework might well drive transatlantic economic cooperation forward’

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problems, criticizing the tendency of TER to become overloaded with too many issues in very specific economic sectors and as a result failing in prioritizing issues of strategic importance. The lack of political ownership was another problem that was detected by the Commission. Without renewed political commitment at the highest level, the authors of the report feared that crucial strategic agenda-setting would be impossible.<sup>19</sup> Some of the report's recommendations were

taken on board in the most recent transatlantic economic agreement: the ‘Framework for Advancing Transatlantic Economic Integration’ (FATEI), adopted in April 2007. The FATEI brought major novelties on the political as well as the institutional level.

On the political level, the FATEI represented an important shift of rationale, stressing the potential external effects of the transatlantic partnership. It stated that deeper transatlantic economic integration ‘will encourage other countries to adopt the transatlantic economic model of respect for property rights, openness to investment, transparency and predictability in regulation, and the value of free markets’.<sup>20</sup>

This new awareness of the potential external impact of the transatlantic economic partnership can be interpreted as somewhat defensive in view of rising economic competition, especially from China. As a report of the Congressional Research Service (CRS) made clear: ‘Given quite similar interests in bolstering the multilateral trading system, many analysts say that both sides could cooperate more in addressing the rising challenge posed by China.’<sup>21</sup> The Congressional researchers made a fundamentally important point: in view of rising economic challenges, the economic interests (especially external ones) of the EU and US are seemingly converging. Although the internal problems in the partnership remain, the changing external framework might well drive transatlantic economic cooperation forward.

The continuing institutionalization of the partnership is a further driver for closer integration. In this area, the FATEI created the most

high profile transatlantic institution to date: the Transatlantic Economic Council (TEC), representing new political ownership at the highest level. Permanent TEC members are currently the European Commissioners for External Relations, Trade as well as Internal Market and Services. The US side is represented by the US Secretaries of the Treasury and Commerce as well as the US Trade Representative.<sup>22</sup> The TEC focuses on regulatory cooperation in addition to deeper integration in the areas of intellectual property rights, trade, financial markets, innovation and technology as well as investment.<sup>23</sup>

Accepting that ‘the low-hanging fruits have been picked’, deeper regulatory cooperation has the potential to lift the transatlantic economic partnership onto a qualitatively new level. Similar to what was called for in the 2004 Commission report, a ‘High Level EU-US Regulatory Cooperation Forum’ was established to ‘facilitate early warning about diverging regulatory approaches’.<sup>24</sup> Policy-makers on both sides of the Atlantic are also looking into how their impact assessment mechanisms can be used to identify potential regulatory conflicts at an early stage.<sup>25</sup>

#### **4. The Challenge of a Social Dimension**

This report has so far analyzed the economic, historic and political significance of TER and set out its potential to become a kind of blueprint for bilateral economic relations in a world that is more and more characterized by multipolarity. It has, however, also highlighted the

substantial problems associated with this process, above all the dysfunctionality of the political agenda and the institutional structure as well as the lack of political ownership. These problems remain unresolved.

What is needed is a widening of the institutional structure together with a broadening of the political agenda to create the general ownership TER need in order to be successful. The TEC needs to address more than tariff and non-tariff trade barriers. The economics of trade and the social dimension of trade cannot be delinked. With the new administration in Washington and the new European Commission in place there is a window of opportunity to reshape TER and start working on solving its problems by including a wider spectrum of interests and stakeholders. First signs from the Obama administration have been hopeful. In early 2009, senior officials from the US and the EU started work on a plan to reframe and rethink the TEC.

If it is to develop effectively and coherently over the coming decade, TER needs a social dimension with a special focus on labor issues to overcome its problems. The narrow transatlantic political agenda of economic liberalization and regulation adjustment towards the goal of harmonizing standards and increasing competitiveness has been part of the wider process of economic globalization. And given the financial meltdown and subsequent recession, it is important that outdated ideological assumptions are avoided. The reality of economic relations is more complicated than just free trade. More coherent (and

higher) common standards will help businesses to prosper and employees to enjoy decent work conditions. Issues of industrial relations and quality of work deserve recognition on the transatlantic level.

In the following sections of this report some of the labor issues in transatlantic relations are outlined and a series of policy proposals developed that could form the core of a social dimension for TER. These policy proposals are meant to inform the rethinking process and present solutions to some of the problems that hitherto have prevented transatlantic economic cooperation from developing its full potential.

### **5. A Reality Check: On-the-Ground Stories from the Transatlantic Field**

Conventional wisdom has it that the US and the member states of the EU have high wages, extensive social protection systems, good labor laws, and well-functioning legal systems to enforce them. Under this view, the transatlantic economic relationship starts with a strong social dimension as a default feature.

Such complacency is not warranted by reality. There are severe flaws in many areas of labor law and labor standards enforcement in the transatlantic context. Moreover, failing to act on a social dimension in transatlantic trade means that no signal is sent to the rest of the world on its importance in the global trade system. If the EU and the US fail to build a social dimension into their economic relationship, why should other countries or regions do so?

Here are some examples suggesting why the TEC should add a social dimension to its work, with a special focus on labor issues:

- In December 2005, management at a Robert Bosch factory in New Richmond, Minnesota told workers who had exercised the right to strike that they would be permanently replaced unless they immediately ended the strike and returned to work. Fearful of losing their jobs, the workers surrendered.<sup>26</sup> The International Labor Organization (ILO) has ruled that the US labor law doctrine allowing the permanent replacement of strikers violates workers' freedom of association. The Germany-based Robert Bosch group has publicly endorsed the ILO's core labor standards. But in the US, the company paid no attention to this international norm.
- In September 2007, management at a Kettle Chips factory in Norwich, England engaged a US-based anti-union consulting firm to mount a vicious campaign against workers seeking collective bargaining representation with the British union Unite. The consultants held mandatory 'captive-audience' meetings for workers with anti-union speeches and videos, and trained supervisors to meet with workers to warn of possible closure, strikes and other fear-mongering messages.<sup>27</sup> Swayed by these threats, workers voted against union representation.<sup>28</sup> ILO standards, as well as industrial relations guidelines of the Organization for Economic Cooperation and Development (OECD),

proscribe such management interference with workers' organizing efforts. But Kettle Chips management and the US-based consulting firm disdained these international norms. US-based anti-union consultants carried out similar campaigns in the UK against workers at Amazon UK, Virgin Atlantic, Honeywell, GE Caledonian, Eaton Corporation, Calor Gas, Silberline Ltd, FlyBe, Cable & Wireless and others.<sup>29</sup>

- In September 2009, management at a Boeing Corp. factory in Spartanburg, South Carolina dangled the prospect of putting new production lines into the factory after workers voted on whether to decertify the union as their bargaining agent. But if they voted to keep their union, the new production would likely go to the company's main plant in Seattle, Washington. Already tied up in mutual charges with Europe's Airbus consortium over government subsidies,<sup>30</sup> Boeing's action raised a new form of unfair trade practice: de-unionizing to gain competitive advantage. With the implicit promise of greater job security, workers voted to surrender bargaining rights.<sup>31</sup>
- US-based service contracting firms operating in Europe, and counterpart EU-based firms operating in the US, are often bidding on government contracts and privatization schemes on a basis of lower wages, lower benefits, and lower labor costs generally. For example, US-based United Health has taken over many privatized systems and services of the UK National Health Service (NHS) and put enormous pressure on workers and trade unions to lower labor costs and collective bargaining protections.<sup>32</sup>
- The EU has granted 'GSP-Plus' beneficiary status to Guatemala – giving an EU 'stamp of approval' for Guatemala's performance on workers' rights – despite widespread and longstanding violations of ILO core labor standards, including assassinations of trade union activists, discrimination against women workers in garment factories, and widespread child labor. At the same time, the US is reviewing complaints by trade unions and NGOs about such violations, and whether Guatemala's continued preferential trade treatment under the US-Central America Free Trade Agreement (CAFTA) should be maintained. The two main markets for Guatemalan exports are sending conflicting signals to the government and to employers in that country about their compliance with international labor standards.
- Both the US and EU member states are reviewing the status of bilateral investment treaties (BITs) among themselves and with developing countries. BITs give substantial protections to private investors and limit governmental powers to regulate corporate behavior to protect the public interest, including social rights and standards. In their reviews and reforms of BITs, the US and the EU should coordinate efforts to build labor standards into new formulations.<sup>33</sup>

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## 6. Guiding Principles for Transatlantic Trade

As the biggest and most powerful trading blocs on the planet, the US and EU are in a position to lead the world in promoting the highest standards and practices. The TEC should face up to the abuses outlined above and other challenges in the US-EU trading relationship. The social dimension of TER should reflect common values and common commitments to labor rights and labor standards. In the US and in the EU member states, no multinational firm should be permitted to violate such rights and standards to seek competitive advantage. Where violations occur in the context of transatlantic relations, a corresponding transatlantic system of oversight and remediation should come into play. TER should be guided by a clear set of principles:

### **Facing up to the reality of managed trade, not the myth of free trade**

While the promotion of transatlantic trade has been good for EU and US economic development and should continue, 'free trade' as an empty slogan fails to reflect the reality of this and other global economic relationships. The current trade system is a complex system governed by states and private actors that cannot be characterized as either free or fair. All countries or regional actors manage their trade relationships. Through a range of tariff and non-tariff measures (most recently, in the use of government procurement to bolster domestic industry), trade is always constrained or enabled by governments and the TEC will not

be able to eliminate strategic trade policies nor should it attempt to do so. With this in mind, the TEC should take on the more sophisticated mission to manage transatlantic trade relations rather than simply pursuing the unachievable goal of abolishing all trade barriers. The TEC's trade management mission needs to absorb the ideas of social justice and human rights marked by fundamental principles of fairness.

### **Labor rights and labor standards should not become arenas for economic competition**

TER needs to follow the principles of decent work as characterized by the ILO. The concept of decent work includes 'fundamental principles and rights at work and international labor standards; employment and income opportunities; social protection and social security; and social dialogue and tripartism.' International trade, including that between the EU and the US, should adhere to these basic standards, and should not allow individuals or corporations to undermine these basic rights.

### **Apply 'best practices' and highest applicable standards in the workplace**

In respect of trade and investment between the US and the EU, a principle of applying the highest relevant standard should prevail. Multinational firms should maintain a 'best practices' policy of applying the highest standard of industrial relations and workplace conditions, even where the highest standard exceeds minimum legal requirements. In the case of domestic firms in the US and Europe that export to or compete

with one another, industrial relations and workplace conditions should be relevant considerations in the trade relationship. So, for example, Boeing should not gain competitive advantage on Airbus because Boeing breaks trade unions in the US while Airbus respects trade union rights in Europe. Where a firm derives competitive advantage by violating basic labor rights and standards at the point of production, trade measures should be permitted to remove the advantage at the point of sale.

#### **Prevent competition via failure to address global warming**

In light of the crisis of global warming and the need for 'green jobs' growth, governments and multinational companies in the US and Europe should collaborate to jointly address the problem. They should not be allowed to compete by failing to take steps against global warming to gain short-term competitive advantage but moreover be encouraged and helped to be world leaders in the fight against climate change.

#### **Coordinate trade and investment policies towards third countries and markets**

The WTO's 'enabling clause' allows differential treatment of developing countries to enhance their prospects for economic growth and development through trade with the US and the EU. The US and the EU should coordinate policies towards developing countries. The comparative advantage of low-wage countries based on their lower level of development is a legitimate trade advantage that should not be taken away. However, where a comparative

advantage is artificially created by deliberately abusing human rights – because workers who try to form unions are assassinated or thrown in jail, or because women workers, ethnic minority workers, or migrant workers are systematically victimized by discrimination and abuse, or because wages are suppressed by deliberate government policy or employers' wage-fixing below levels of workers' productivity – the US and the EU should fashion joint policies

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*'As the biggest and most powerful trading blocs on the planet, the US and EU are in a position to lead the world in promoting the highest standards and practices'*

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in their GSP systems and in free trade agreements to prevent such abuses.

#### **Use public funds to support high standards**

In the government procurement system, multinational firms should not be encouraged to tender bids based on cutting jobs or cutting workers' wages and benefits. They should compete on the grounds of management competency. Existing jobs, wages and benefits

should be maintained, and collective bargaining should serve as the basis for any changes.

## 7. Building on Existing Social Commitments

In multiple instruments and forums, the US and the EU have already adopted principles reflecting a strong social dimension. Explicitly building them into the transatlantic economic relationship does not require new commitments or big new institutions. It does, however, call for an explicit restatement of such commitments and the creation of a small, focused institutional mechanism to ensure that commitments are met.

The US and EU member states:

- are committed under ILO Conventions 87 and 98 to protect freedom of association, the right to organize, and the right to collective bargaining;<sup>34</sup>
- are committed to the ILO's 1998 'Declaration of Fundamental Principles and Rights at Work' setting out freedom of association and the right to collective bargaining, no forced labor, no child labor, and no discrimination in the workplace as basic labor protections as well as to the ILO's 2001 Resolution and Conclusions concerning social security;
- are committed to the OECD's 'Guidelines for Multinational Enterprises' and its Chapter IV on industrial relations, under which companies must honor ILO core labor standards and, beyond them, provide information and consultation with work-

ers' representatives, safe and healthy jobs, advance notice of workplace closures and efforts to mitigate their effects, refrain from outsourcing threats in contract negotiations, and other good faith measures in labor relations;

- are committed to the 'Universal Declaration of Human Rights', which calls upon states to safeguard the right to form and join trade unions, just and favourable conditions of work, nondiscrimination at work, an adequate standard of living, medical care, and other means of social protection.

## 8. Defining Social Rights and Standards

With these commitments in mind, transatlantic norms of labor rights and labor standards should begin with a basic principle: No country and no multinational firm shall violate workers' rights or reduce labor standards to gain competitive advantage. Instead, they should compete on the high road with better education, better job training, better use of technology, better planning, better organization of work, better marketing, better research and development, better accounting systems, better corporate governance, better industrial relations, better productivity – in short, better management and better policies, not on a low road with more exploitation of workers.

Transatlantic labor rights and standards should include:

- The rights affirmed in ILO Conventions 87 and 98,

and effective protection of those rights, including:

- respect for, and non-interference with, workers' organizing efforts
- good faith collective bargaining
- union representatives' access to the workplace (with due regard for operations)
- no use of permanent replacements against workers who exercise the right to strike
- no threats of adverse consequences or promise of reward to influence workers' exercise of trade union rights
- No child labor, no forced labor, and no discrimination in the workplace
- Healthy and safe conditions for workers in the workplace and for communities in which workplaces are located
- The principles affirmed in the ILO 2001 Resolution and Conclusions concerning social security, encompassing decent work and social protection systems that safeguard the social security rights of the workers (e.g. unemployment, disability, disease, old age, etc.)
- Equal rights and protection for migrant workers
- Equality of men and women workers, in particular equal pay (and other forms of remuneration) for equal work and for work of equal value
- Wages (and other forms of remuneration) equal to or better than prevailing standards in the industry/region
- Social protection systems and standards that safeguard workers affected by unemployment, disability, and in their retirement
- Information and consultation with workers' representatives, in particular when decisions will affect jobs and working conditions
- Where workplace closures or redundancies are unavoidable: advance notice, good faith bargaining on a social plan to mitigate effects, adequate severance pay and maintenance of social security benefits

## 9. New Institutional Mechanisms

The TEC should create new institutional mechanisms to implement a social dimension in transatlantic trade and investment, including:

- A comprehensive code of conduct for firms involved in transatlantic trade and investment incorporating the principles outlined in this report;
- Addition of the EU Commissioner for Employment, Social Affairs and Inclusion as well as the US Labor Department's director of the International Labor Affairs Bureau (ILAB) and the US State Department's Assistant Secretary for Democracy, Human Rights and Labor (DRL) to the TEC
- The reestablishment of the TALD and the provision of a dedicated secretariat to:
  - review and evaluate multinational company management's internal systems of due diligence, communication and control of the firm's social performance
  - conduct an annual Labor Information Audit on the state of labor rights and labor standards

in firms involved in transatlantic trade and investment (noting, for example, whether firms have been found in violation of national labor laws or international labor standards)

- collaborate with the ILO to advance the Decent Work Agenda, finding ways for the TEC to 'lead by example' in fostering decent work in the context of transatlantic trade and investment
- receive complaints, conduct

representatives of the European Trade Union Confederation (ETUC), the American Federation of Labor and Congress of Industrial Organizations (AFL-CIO), the Change to Win federation, other trade union representatives designated by labor organizations, representatives of European and American employer associations, academics, and NGO representatives;

- A complaint-handling process marked by responsiveness and transparency, with such mechanisms as public hearings, on-the-ground fact finding missions, consultation with all relevant parties including community organizations and NGOs with interest in the events complained of;
- Clear and binding time frames for complaints to be considered, investigated and resolved;
- Ability of the secretariat to engage outside mediators, conciliators or arbitrators to help resolve disputes before reaching a point where the secretariat would make a conclusive finding of violations;
- Close cooperation of the secretariat with political institutions such as Congress, the European Parliament and the European Economic and Social Committee (EESC) to draw attention to social issues and link into existing complaints mechanisms and procedures;
- Sufficient funding for the secretariat to fully discharge its mandate.

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**'The transatlantic relationship is the most advanced interregional connection and therefore an important role model. It must not be allowed to fail'**

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investigations, and issue findings and recommendations on alleged violations of the code of conduct and its principles, and

- recommend harmonized GSP and other preferential trade policies for developing countries' exports to the US and EU to ensure that ILO core labor standards and other international human rights norms are respected in those countries.

- A multiparty advisory committee for the secretariat, including rep-

## 10. Conclusion

This report has outlined the strategic importance of the transatlantic economic partnership, sought to explain its deficiencies and made a series of recommendations for how to include and operationalize a social dimension in TER. Regardless of the ongoing rethinking process, the transatlantic political agenda is still narrowly focused on deregulation matters.<sup>35</sup> For the reasons given above the continued concentration on such issues alone is unlikely to create the necessary political ownership to make transatlantic economic cooperation more effective and live up to its potential and responsibility.

In the absence of capable global governance structures – the failure of the Copenhagen Summit on climate change again underlined these problems – interregionalism has an important governance role to play in an increasingly multipolar world. The transatlantic relationship is the most advanced interregional connection and therefore an important role model. It must not be allowed to fail. The thematic and institutional widening of the relationship – above all by including social issues – is the key to prevent this from happening.

The social polity and institutional innovations proposed in this report were developed with a view to industrial relations and workplace issues. The underlying principles of these proposals, however, could also be applied to other underrepresented policy areas such as environmental issues.

## Endnotes

- 1 We would like to thank Dr Michael Dauderstädt (Friedrich Ebert Foundation), Christy Hoffman (SEIU), Owen Hernstadt (Machinists Union) and Tim Beaty (Teamster Union) for their comments on earlier drafts of this report and the Friedrich Ebert Foundation London as well as the Boeckler Foundation for their support of this project.
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- 6 See [http://useu.usmission.gov/Dossiers/TransAtlantic/Dec1990\\_Transatlantic\\_Declaration.asp](http://useu.usmission.gov/Dossiers/TransAtlantic/Dec1990_Transatlantic_Declaration.asp).
- 7 The 'Troika' includes the EU Commissioner for External Relations, a representative of the presidency of the European Council and the High Representative for the Common Foreign and Security Policy.
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- 15 See [http://www.europarl.europa.eu/intcoop/tld/default\\_en.htm](http://www.europarl.europa.eu/intcoop/tld/default_en.htm).
- 16 In a project supported by the European Commission, the AFL-CIO's National Labor College and the European Trade Union Confederation produced a 2003 *Transatlantic Networking Guide*, available at <http://www.etui.org/education/Resources/Transatlantic-Networking-Guide>.
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- 18 Mark Pollack and Gregory Schaffer (2005): *The Future of Transatlantic Economic Relations: Continuity amid Discord*, in: Andrews, David, Mark Pollack, Gregory Schaffer, Helen Wallace (2005): *The Future of Transatlantic Economic Relations: Continuity amid Discord*, European University Institute – Robert Schuman Centre for Advanced Studies, Florence, p. 4. The book is available in full text at [http://www.iue.it/RSCAS/e-texts/Future\\_Transat\\_EconRelations.pdf](http://www.iue.it/RSCAS/e-texts/Future_Transat_EconRelations.pdf).
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- 27 See David Hencke, 'Kettle Chips calls in US union-busters to stop recognition: Private equity owners seek advice as workers ballot: Unite baffled by resistance from "decent" company,' *The Guardian*, October 1, 2007, p. 27.
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- 33 See Luke Eric Peterson, 'Has the bilateral investment treaty had its day in the sun?' *FDI Magazine*, December 11, 2009, at [http://www.fdimagazine.com/news/fullstory.php/aid/3103/Has\\_the\\_bilateral\\_investment\\_treaty\\_had\\_it](http://www.fdimagazine.com/news/fullstory.php/aid/3103/Has_the_bilateral_investment_treaty_had_it). See also, for the United States, 'Report of the Subcommittee on Investment of the Advisory Committee on International Economic Policy Regarding the Model Bilateral Investment Treaty,' September 30, 2009, at <http://www.state.gov/e/eeb/rls/othr/2009/131098.htm>.
- 34 The obligation attaches whether or not states have ratified Convention 87 or Convention 98. The EU member states have ratified them. The United States has not ratified them, but the ILO Committee on Freedom of Association has held that these conventions are 'a customary rule above the conventions' binding all ILO member states (see ILO Committee on Freedom of Association, 'Fact-Finding and Conciliation Commission Report: Chile,' 1975, para. 10)
- 35 The latest EU report on non-tariff trade issues was published in December 2009 and is available here: <http://trade.ec.europa.eu/doclib/html/145613.htm>.

## Biographies

### Professor Lance Compa

is senior lecturer at Cornell University's School of Industrial and Labor Relations (ILR) in Ithaca, New York. Before joining the Cornell faculty in 1997, Compa directed labor law research at the NAFTA Commission for Labor Cooperation and taught labor law, employment law, and international labor rights as a visiting lecturer at Yale Law School and the Yale School of Management.

### Dr Henning Meyer

is head of the European Programme at the Global Policy Institute, London Metropolitan University, and editor of Social Europe Journal. He is an expert in globalization, European economic and social policy and social democracy. Meyer is also a frequent contributor to academic and mainstream publications such as The Guardian and DIE ZEIT and appears regularly on international news channels. He was a visiting research fellow at the ILR School of Cornell University in 2007.

### Dr Stephen Barber

is senior lecturer in Management at London South Bank University and senior research fellow at the Global Policy Institute. Before joining London South Bank University, he spent 15 years working in the City of London's investment industry. His research interests include British government, politics and contemporary history, the globalization of financial markets and political economy.

### Professor Michele Faioli

is assistant professor at the Law School of Tor Vergata University in Rome, Italy. Before joining Tor Vergata University in 2008, Faioli was research fellow and adjunct professor at Sapienza University in Rome. In 2007, Faioli was appointed visiting research fellow at the ILR School of Cornell University, where he worked with Professor Lance Compa.

### Dr Rebecca Givan

is assistant professor in the Collective Bargaining Department of Cornell University's ILR School. She was previously a research officer at the Centre for Economic Performance at the London School of Economics and Political Science (LSE) and a lecturer at Cardiff University.

### Dr Klaus Mehrens

is senior research fellow at the Global Policy Institute at London Metropolitan University. He is a former regional director of IG Metall in Germany for the states of Hesse, Rhineland-Palatinate, Saarland and Thuringia and acted as advisory member of the federal board of IG Metall. Previously, Dr Mehrens was head of the Department for Fundamental Issues and Policy Planning at IG Metall and president of the union's Hamburg chapter.

### Chris Luenen

is a research associate at the Global Policy Institute at London Metropolitan University and an assistant editor of Social Europe Journal. He currently studies for a PhD examining the evolution of US Foreign Policy Grand Strategy since the end of the Cold War.



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**The Global Policy Institute**

London Metropolitan University  
31 Jewry Street  
London EC3N 2EY  
United Kingdom

Tel **+44 (0)20 7320 1355**

Fax **+44 (0)20 7320 3018**

Email **office@global-policy.com**

Web **www.global-policy.com**

[www.global-policy.com](http://www.global-policy.com)