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EU Common Commercial Policy and the Intergovernmental Conference

What is "133" ?

133 is the Article in the Treaty of Rome which allows the European Union to negotiate, conclude and implement trade agreements with other countries of the world. There is also a more general Article 300 which gives the EU the possibility to conclude any kind of international agreements.

Questions relating to trade in goods, but only parts of investment, services and intellectual property are already included in the day-to-day EU trade activity. Since the Treaty of Amsterdam, the rest is in an intermediate position: essentially an EU competence, but only to be used when the Council decides so by unanimity.

What is the Intergovernmental Conference (IGC) all about ?

The main objective of this IGC is to prepare the Union for an enlargement to more than 12 new Members. The Union which had 6 Member States at the start, 15 now, should be able to work with 27 or 30 Member States. That's why questions such as the size of the Commission (how many Commissioners, one per Member State?) and the European Parliament, the votes of the different countries in the Council, and the extension of qualified majority (to avoid every decision being paralysed by one of the 27 or 30) are on the table. But the IGC is not about extending EU competence.

Trade issues at this IGC essentially concern the replacement of the unanimity rule by qualified majority. This is simply part of the general strategy of the Commission that decision-making by qualified majority should be the rule.

But there is another aspect to this. Now, it is only the Member States who decide on trade questions in the EU. The European Commission believes that it is not sufficient: the European Parliament, i.e. the directly-elected representatives of European citizens, should have a say in all the trade aspects covered by Article 133. Therefore, the Commission has taken advantage of the discussions of the IGC to promote a role for the EP in trade matters.

Some misunderstandings on Article 133 in the IGC

The Commission wants more power ?

This IGC is not about transferring competence to the EU, but simply concerns modifying the way decisions are taken: instead of unanimity, there should be qualified majority decision making. What's wrong with qualified majority? Is it realistic to expect an EU of 15, let alone 25 Member States to be able to agree on trade questions unanimously?

And to those who argue that the EU has no competence in services, in intellectual property, or in investments, how do we already have, as of 31 December 1999, 66 directives on professional activities, 60 directives on financial services, 7 directives on intellectual property (including one on biotechnology), and 67 directives on transport? These issues are already – and rightly – part of the European mainstream.

The Commission wants “fast track” ?

What is “fast track”? It is a US term which means that the US Congress cannot change the parts of a trade agreement negotiated by the Administration, and can only accept or reject the whole. Without “fast track”, Congress can decide to reject bits and pieces of a treaty, or add provisions on unrelated subjects, for example.

The question of fast track is not really relevant to the EU experience. The EU process will remain the same after the IGC with negotiating directives issued by the Member States, strict controls over the negotiations and their conclusion by the Member States. The only difference is that we want the European Parliament to be involved as well (that is unfortunately not the case now). Overall, we would get a better and more accountable process as a result.

The Commission wants to destroy public services ?

That’s simply not correct. Public services are at the heart of the European model of society. They aim at guaranteeing solidarity and equal treatment within an open and dynamic market economy.

The General Agreement on Trade in Services does not affect the sovereign right of each Member to maintain its public services. The decision on the level of opening of services sectors to foreign suppliers is taken by each WTO member in an autonomous way: no WTO/GATS provisions dictates liberalisation of public services. In addition, countries remain free to regulate activities within their territory and to guarantee the achievement of legitimate public objectives. Where foreign companies are allowed in, they have to play by the rules that we set, as long as those rules are fair and non-discriminatory.

The Commission wants to get rid of democratic control on the trade policy ?

Precisely the opposite. The Commission is not in any way undermining the role of the Council, and it is pushing for a much bigger role for the European Parliament in trade policy. This is in our view a necessary complement to the democratic control that national parliaments exercise over EU governments.

The Commission wants the EP to be involved at all stages:

- (1) when the Commission negotiates according to the negotiating directives issued by the Council;
- (2) when the Council concludes international agreements;
- (3) when the Council enacts basic European laws on trade policy (Anti-dumping regulation, GSP, etc.).

Far from being a hindrance to efficiency, involving the European Parliament strengthens the EU's negotiating position vis-à-vis third countries. Indeed, they know that we negotiate with the full backing of the democratically-elected representatives of the citizens of Europe.

The Commission would have free rein for its neo-liberal agenda ?

The Commission does not have a neo-liberal agenda, the Commission wants strengthened rules and governance so that globalisation benefits not only the strongest but also the weakest, in Europe and in the developing countries, which we don't want to exclude.

And the Commission is not, has not been, and will never be uncontrolled under the current system: from the beginning of negotiations until the end, every single step is controlled by the Member States. The Member States authorise negotiations, and they give directives to the Commission. The Commission constantly seeks feedback and input from the Member States on the conduct of negotiations and it is for the Member States to accept or reject the result of the negotiations. The Member States put into law what has been agreed.

So the Member States always have the final say but all we are seeking is to add the European Parliament to the mix.

The Commission wants to destroy jobs ?

It's the contrary. Without modernising our system Europe will not be able to promote its products and services. Let's not forget that trade negotiations on services, investments and intellectual property are mainly used to open foreign markets, or to ensure protection for our intellectual property abroad. What's the point of promoting our books or our films abroad, if they can be pirated?

The Commission wants to extend 133 to environment, health and social policy questions, etc. ?

If that were true, then the entire EC Treaty could be reduced to Article 133 only! Article 133 deals only with trade policy, with the trade-related aspects of subjects. The Commission has for example no competence at all to regulate the status of hospitals or to determine how education should be run in the Member States.

The Commission wants multinationals to rule the world ?

Absolutely not. If we want a rule-based system, if we want countries to be able to promote and defend their values, if we want globalisation which is harnessed and steered to the benefit of everybody, then we must be able to work with other countries to define common rules. But if you prevent the EU from negotiating anything, that is a recipe for uncontrolled globalisation.