

EPSU¹ briefing note on trade and public services EPHA policy conference “TTIP Increased Trade for Better Living?” 15 June 2015

Key points:

1. Trade agreements must not be at the expense public services, workers' rights and consumer protection - e.g., CETA, TTIP and TiSA
2. The EU should strengthen solidarity-based public services rather than seek to lock-in liberalisation at supra-national levels (example healthcare – DG Sanco patients' mobility, DG EMPL social protection, DG Justice fundamental rights..); EU has agreed common objectives for healthcare (Principles in EU health Systems) and long term care (LTC) (report from Social Protection Committee agreed by the EC and Member States);
3. A carve out of public services from trade agreements – not just market access, certainly also from ISDS and domestic regulation. Positive listing of commitments is clearer, but GATS (also positive listing) has led to problems for health.
4. There will be a review of EU trade policy in the Autumn of 2015 (but no public consultation?). We must make sure that our views are taken into account and that the EU makes a U turn on its current policy of negotiating complex, far-reaching and contradictory agreements.
5. A recent leaked paper on healthcare in TiSA fuels concerns about the risks to public services. The recent EU – US statement on safeguarding public services in TTIP and other FTAs recognises public concerns but does not offer a solution;

Why are public services important?

1. Public services are services that are defined by the principles and values (see Annex) of universal access, affordability, democratic control, continuity, equality etc. These are reflected in the Services of General Interest (SGI) Protocol (number 26), Article 14, and also referred to in the Charter of Fundamental Rights well as Article 3 (solidarity). There is a shared responsibility of the EU and Member States to ensure access by citizens to quality public services, such as healthcare, education, water and so on. Safeguarding the special place of public services / services of general interest can also therefore be regarded as a value to be pursued within the framework of common commercial policy, as specified in Article 21 of the TFEU.²
2. Public services are key to fostering economic and social development and cohesion, equal opportunities, job creation, as well as the fair distribution of income and wealth. Ahead of the 2015 annual Davos meeting of the World Economic Forum, Oxfam issued a briefing that shows that the share of the world's wealth owned by the best-off 1% has increased from 44% in 2009 to 48% in 2014, while the least well-off 80% currently own just 5.5%. The wealth of the richest 80 doubled in cash terms between 2009 and 2014. All citizens benefit from solidarity-based public services. The OECD has made calculations about the cash value of social services such as healthcare, education, social

¹ EPSU represents more than 250 trade unions organising 8 million employees in health and social services, local and regional government, national governments and utilities. It is a member of the ETUC and the European region of the Public Services International (PSI).

² See 'Impact of TTIP on the legal framework for public services in Europe', Markus Krajewski, published by the Hans Boeckler Stiftung (HBS) October 2014

housing childcare and eldercare. The value of these services increases disposable household income on average by 29 per cent. For comparison, the share of cash benefits amounts to 23 per cent. (OECD *“Divided we stand: why inequality keeps on rising”* 2011 page 314).

3. Public services for the poor can quickly become poor public services, in terms of quality of service and employment. Trade policy can exacerbate trends towards two-tier and unequal systems. On the other hand, there is much evidence on the other hand that shows how publicly-funded, solidarity based public services foster social justice, cohesion, welfare, and sustainable and long-term growth
 - *Why We Need Public Spending*³ (PSIRU 2014): this shows how public investment in social and other infrastructures lays the foundation for long-term, sustainable and cohesive growth.
 - The OECD (*Doing better for families*, 2011) argues that direct public financing in childcare leads to more efficient management by the public authorities, economies of scale, better quality at national level, more efficient training of teaching staff and fairer access than the system of paying benefits to parents.
 - The OECD study (*Closing the gender pay gap*, 2012) shows too that public spending in childcare (and eldercare) has an additional impact on gender equality: *“In particular, access to childcare facilities for young children is the main factor influencing the participation of women in the labour market, increases in public spending on these services being linked to increases in the full time employment of women.”*
 - Research (*The Body Economic – Why Austerity Kills*, David Stuckler and Sanjay Basu, 2013) on health and social spending also emphasises the impact that investment in these areas has not just on those who benefit from these services but in relation to the economy as a whole: *“Health, education and social protection programs have among the highest fiscal multipliers. In the case of the health sector, public investment boosts the economy by more than three dollars for every dollar spent.”*
 - A recent study of 25 EU countries (*Does investment in the health sector promote or inhibit economic growth?*³<http://www.globalizationandhealth.com/content/pdf/1744-8603-9-43.pdf>) estimated the positive impact of public spending overall – fiscal multiplier of >1, calculating an overall public spending multiplier of 1.6 for period 1995-2010 and even higher multiplier (4.3) for health spending in particular.

What liberalisation commitments are made in TTIP (and CETA, TiSA) in public services?

4. We hear mixed messages about this. On the one hand we hear that the EU aims an ambitious level of liberalisation in all services going beyond previous GATS commitments and deepening into new, non trade areas such as ISDS and regulatory cooperation; but simultaneously the European Commission (and Member States) argue that the EU's approach since GATS has always ensured that public services are protected from liberalization and that this approach has proven its effectiveness.
5. The European Commission has said that the ‘publicly funded’ part of public services will be safeguarded, but this implies that the ‘private’ part may be covered. What would be aim of doing this other than to stimulate competition and growth in ‘private’ services? In any case, the distinction between ‘publicly’ and ‘privately’ funded services is very problematic. How do you distinguish the two parts (i.e., what criteria of funding 100% or

³ <http://www.epsu.org/a/10489>

less, do you take into account costs of training doctors or supplying infrastructure, what about subsidies and tax benefits?). And how do you change the mix of public and private if the 'private' part is commitment in a trade agreement? And what is meant by 'private', also the non-profit sector? Non-profit provision of public services has a long tradition in many countries.

6. Furthermore, how will the 'public' and 'private' parts be shaped in new areas of public services where the 'public' part is yet to develop? Long-term care is an example of new service development in response to Europe's ageing population. A recent joint report from the Social Protection Committee (SPC) and the European Commission on long-term care recommends that long-term care should be integrated into social protection systems for equity and efficiency reasons. Will this not be more difficult in countries where governments commit these services? EPSU considers that this not only is a problem for the countries concerned (who will have difficulty in reversing these commitments), it is also a problem for Europe – and beyond. In other areas such as energy we see remunicipalisation taking place, not least in order to be better able to respond to challenges of climate change (see *Re-municipalising municipal services in Europe* PSIRU, May 2012 (EN/RU) www.epsu.org/a/8683). Flexibility must be maintained.
7. The EU's 'traditional' approach to safeguarding public services has to be assessed in light new developments and challenges, for example:
 - New problematic elements in recent FTAs that broaden negotiations, in particular the inclusion of ISDS, regulatory cooperation, public procurement and concessions/PPPs, and State Owned Enterprises (SEOs)
 - New approaches by the EU to negotiating the liberalisation of public services, namely the 'negative listing' of commitments (EC says in TTIP and CETA only 'technical' difference but in EU-Japan admits that it is more liberalising);
 - New Treaty obligations regarding the importance of public services 'values' in the EU legal framework;
 - EU legislation public procurement, that includes a the right to 'in-house' provision of public services and also a mandatory social clause that is cross-referenced with the ILO fundamental Conventions
 - New EU social policy objectives within the 'Open Method of Coordination' (OMC) , for example on long-term care; and most importantly,
 - Growing evidence of problems caused by 20 years and more of experience with the liberalisation of public services. For example, a recent World Health Organisation (WHO) report points out the risks: *"Opening the health sector to trade reform processes have split purchasers and providers and have seen increasing segmentation and fragmentation in health-care systems....The Commission considers health care a common good, not a market commodity. Underlying these reforms is a shift from commitment to universal coverage to an emphasis on the individual management of risk. Rather than acting protectively, health care under such reforms can actively exclude and impoverish.. "* (page 95)
http://www.who.int/social_determinants/thecommission/finalreport/en/

It also has to be assessed in light of CETA.
8. Liberalisation aims to reduce administrative barriers for services providers especially as regards obtaining licences, which it places under the heading of 'red tape'. However licencing requirements, authorisation schemes, requirements for professional qualifications, planning measures, price controls, transparency requirements etc are not 'barriers' to trade but necessary instruments to regulate the provision of public services,

where continuity and long-term planning is very important. Indeed, such requirements - and public oversight in general - needs to be strengthened, not weakened.

A broad exclusion of public services is needed and the EU should refrain from extending commitments in services covered already by GATS

9. In our view to fully safeguard public services they need to be taken out of the trade negotiations. A carve out for public services such as healthcare, social services, education, water and waste services is needed, in the same way as for audio-visual services. We see no justification for adding in TiSA (or CETA and TTIP) any new commitments for market access in public services that go beyond GATS. Indeed, there is a case for making it easier to undo commitments made in GATS. We hear that both Bolivia and Ukraine would like to undo commitments in healthcare, but that their 'hands are tied.'
10. The aim of the EU is to be a 'social market economy' i.e., a mixed economy. Today we see that remunicipalisation / insourcing of services is taking place, e.g., in water and energy and that more and more evidence points to the efficiency and effectiveness of public services. Trade agreements should not get in the way of these democratic processes and therefore a broad carve out of public services from trade agreements is necessary. EPSU considers that the EU should focus on objectives and joint actions to maintain and improve the access of all people to quality health, education and other public services, and not on liberalization and market opening.

Annex

Public services principles	
Solidarity	Sharing of costs and risks between people, regions
Universality	Access to services irrespective of status
Continuity	Investment, maintenance of service
Equal access	No discrimination, proximity
Affordability	'Reasonable' prices (social / progressive tariffs, limits on profits..)
User rights	Information, redress
Concertation	Social dialogue, user groups
Democratic control	Transparency (freedom of information), monitoring, regulation, evaluation, proximity