



EPSU update on the Transatlantic Trade and Investment Partnership (TTIP), the Trade in Services Agreement (TiSA) July 2015

This note recaps on EPSU's position on trade and public services and reports on recent developments regarding trade policy and discussions on TTIP, TiSA that have taken place with the European Commission (EC) and the European Parliament (EP).

EPSU trade updates and briefings are available at <http://www.epsu.org/r/231>

1) Introduction - recap on EPSU's views on trade and public services

EPSU seeks to promote and protect quality public services and their contribution to sustainable development and quality of life. These services - essential for a functioning society - are based on the principles of universality, accessibility, affordability and solidarity. We see already in the EU's internal market and economic policies growing conflict with the principles that underpin public services, which are seen to run counter to the objective of free market competition. The promotion of liberalization of services through the new generation of bilateral and multilateral trade agreements such as CETA, TTIP or TiSA risks to exacerbate – and lock-in – this situation. By opening up more public services to private competition and granting private investors extensive rights, these agreements will undermine the principles on which services such as quality healthcare, clean water, efficient and affordable energy supplies and responsive and people-friendly administration are based on. Furthermore, public debate on these important issues is lacking. EPSU has therefore following major demands for trade agreements:

- **No ISDS:** any provision containing Investor State Dispute Settlement (ISDS) mechanisms must be taken out of TTIP (and CETA) and there should be no other mechanisms to guarantee investors future profits.
- **No regulatory cooperation councils:** all regulation must be fully in the hands of democratically controlled bodies and processes. Trade agreements should not negotiate regulations.
- **No further deregulation and liberalisation of public services:** We demand the full exclusion of public services from the scope of trade agreements, independent of how they are funded and provided. The EU is trying to achieve the largest market openings possible and most agreements either use a 'hybrid approach' or a 'negative list' to negotiate services commitments. This means that if Member States do not list services correctly and exhaustively, they risk to commit them to liberalization through the back door. In CETA many public services are not adequately protected.
- **Transparency:** all documents relating to trade negotiations, including draft consolidated texts and the Annexes listing reservations and commitments of all negotiating parties, must be made public to allow for an open and critical public debate
- **A democratic process:** public scrutiny and assessment of the negotiation texts is needed. The EU is pushing trade agreements go far beyond 'trade' policy and to enter into the realm of policies where democratic process should prevail, e.g. non-tariff barriers. Here the involvement of Parliaments, civil society organisations, local governments, trade unions and social partners is much more legitimate than business. .

EPSU's members engage with decision-makers at all levels to underline the importance of public services and the threats that deals like the TTIP pose to them.

2) International Public Services Day and European Trade Policy Day 23rd June

On 23 June, the EC held an event on its new trade and investment strategy that is planned to be published in autumn this year. For more information on the strategy, please visit DG Trade's website: <http://trade.ec.europa.eu/doclib/press/index.cfm?id=1274>. A summary of the event can be found in [Annex 2](#) and Trade Commissioner Malmström's speech can be found here: http://trade.ec.europa.eu/doclib/docs/2015/june/tradoc_153543.pdf

In order to raise awareness of the importance of public services, EPSU and ETUCE published a press release on the international public services day, reiterating their demand that public services shall not be touched by any trade agreements. You can find the press release here: <http://www.epsu.org/a/11507>. EPSU members took actions to raise awareness of the threats that trade agreements like CETA and TTIP pose on public services. You can find photos of the actions in EPSU's flickr gallery here:

<https://www.flickr.com/photos/94657608@N02/sets/72157653466865189>

Some affiliates also used their photos to create postcards and send these to their MEPs in order to convince them to vote for a proper protection of public services and a rejection of such agreements in general.

3) TTIP

In the second week of July the 10th round of TTIP negotiations took place. In the run up, a number of events were organised within the different institutions and guiding decisions were taken in the EP.

European Parliament (EP)

Greens/EFA conference on TTIP myths, 1 July: In the run up to the 10th negotiation round, the Greens/EFA group in the EP held a conference to discuss the popular myths surrounding the agreement. Amongst others, the impact of TTIP on jobs and geopolitical ties were discussed. Please find a detailed summary of the panels of the event in Annex1.

Debate¹ and vote on EP TTIP Report 7-8 July: On 8 July, the EP plenary voted on the Bernd Lange Report of the Committee for International Trade (INTA) on the Recommendations of the European Parliament to the Commission on TTIP. EPSU and the ETUCE sent a joint letter to MEPs urging them to exclude ISDS from the agreement, to carve out public services, to strengthen the labour chapter, and to reject regulatory cooperation. Please find the joint letter under the following link: <http://epsu.org/a/11546>. The ETUC also called on MEPs to exclude ISDS from the agreement: <https://www.etuc.org/press/etuc-calls-meps-vote-against-isds-amendment#.VaOhEPnmcv4>. The adopted report, which was voted with 436 votes in favour, 241 against and 32 abstentions, supports a comprehensive carve out of public services independent of how they are funded or provided. However MEPs did not reject the use of negative listing of commitments but rather voted in favour of the hybrid list approach. This approach combines negative and positive listing of commitments. The hybrid approach makes the distinction between included and excluded services even harder, thereby also challenging the proper safeguard of public services. MEPs supported the inclusion and enforcement of the UN International Labour Organisation (ILO) Conventions. On ISDS, MEPs missed the opportunity to take a clear position against ISDS and gave support to a reformed version of it. The final report can be found on the Parliament's website: <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P8-TA-2015-0252+0+DOC+XML+V0//EN&language=EN>. Press releases from the ETUC and CEEP on the EP report highlight the positive and negative outcomes of the report on public services and other areas².

TTIP Trade Sustainable Impact Assessment by Ecorys (TTIP-TSIA): On 9 July, the consultants Ecorys carrying out the TSIA invited interested stakeholders to a meeting to discuss the specific case studies. The case studies on environment and social rights, to be done by October 2015, are intended to complement quantitative economic models that are applied in such assessments. Ecorys' proposed that one case study should deal with 'public health'. There was some discussion on the parameters of the study, i.e. to look at access to medicines and likely health impacts of TTIP on trade in processed food, alcoholic

¹ The debate can be seen on the EP's website: <http://www.europarl.europa.eu/ep-ive/en/plenary/video?debate=1436254752023&streamingLanguage=en>

² ETUC <https://www.etuc.org/press/ttip-one-step-forward-one-step-back-0#.VZ0tqfmqPHw>
CEEP <http://www.ceep.eu/provision-of-public-services-in-the-eu-should-not-be-threatened-by-ttip/>

beverages and tobacco; or to look at the impact of TTIP on the provision of public health services through regulatory chill expected from ISDS or increased competition from non-public health services. EPSU and others raised concerns that definition of 'public health' is too narrow and is not the same as 'healthcare' or 'good health'. A comprehensive assessment of TTIP on public health, healthcare systems, and the objective of promoting good health outcomes is needed. EPSU pointed out too that in the EU-Japan FTA SIA³ regulatory sovereignty in public health is shortly assessed in one section, whereas the pricing of drugs and medical devices is separately discussed in another without the consideration of any possible linkages between the two. Ecorys mentioned that the Commission's SIA guidelines only allow for case studies to be 3 to 4 pages, which prevents an analysis that comprises all relevant aspects of healthcare. Ecorys's report of the meeting can be found here: <http://www.trade-sia.com/ttip/wp-content/uploads/sites/6/2015/07/Stakeholder-Consultation-Short-Meeting-Report.pdf>

It is generally questionable how the findings of the SIAs are used by the Commission. In the handbook on SIAs it is outlined that the EC issues a position paper in which it outlines how it took the findings of the SIA into account. The handbook can be found here: http://trade.ec.europa.eu/doclib/docs/2006/march/tradoc_127974.pdf

Given the fact that the CETA SIA recommended the exclusion of ISDS but the EC decided to include it anyway, it would be interesting to take a look at the position paper on that issue. However, even after several email exchanges with the EC it is difficult to get hold of the position paper.

European Commission (EC) Stakeholder Dialogue on the 10th Round of TTIP negotiations, 15 July: On 15 July the Commission held a stakeholder Dialogue on the 10th round of TTIP negotiations. The first half of the day was dedicated to stakeholder presentations in which stakeholders outlined their position towards the agreement to both the US and the EU negotiators. The second part of the event was a Q&A session with the negotiators on the developments of the agreement in the 10th round. Outside the building where the meeting took place, Belgium civil society organisations came together to protest against the agreement. They caught attention by placing a giant Trojan horse in front of the venue's entrance. You can find a picture of it at the end of this update.

To note from the stakeholder presentations:

- Maika Foehrenbach from CEEP emphasized that EU primary law recognizes the importance of public services and that it is therefore essential that the negotiators take appropriate measures to properly safeguard them. She explained that the hybrid approach is problematic because of the ratchet clause and that a positive list approach offers de facto a better protection of services. Furthermore, the public procurement chapter is, as it seems now, similar to the one in CETA which might limit public-public cooperation.
- Michel Cermak from CNCD Belgium argued that regulatory cooperation will freeze governments' abilities to protect and increase citizens' rights. He also touched upon ISDS and its inappropriateness for protecting foreign investors and pointed out that the City of Brussels and Ixelles, where the event took place, are TTIP free zones.
- Sandy Boyle from the European Economic and Social Committee (EESC) outlined a range of concerns with respect to the TTIP. He noted that although Commissioner Malmström's has presented a reform proposal for ISDS in TTIP, an "unreformed" version of ISDS is already in CETA and in the EU-Japan Agreement.
- Louise Hoj Larsen from the ETUCE focused her presentation on the problem of including education services into Free Trade Agreements. A proper carve out of education and public services in general was needed, similar to the exemptions made for audio

³ See interim report here: http://trade.ec.europa.eu/doclib/docs/2015/july/tradoc_153631.pdf

visuals. Also, ISDS could be used to challenge accreditation standards in education if they should be understood as barriers to trade.

- Aria Ahadzada from the German Medical Students' Association noted that given the TTIP may lead to an increase in private universities which, in contrast to public schools, demand tuition fees. This leads to inequalities in terms of access to education. Moreover, private schools may lead to competition in terms of qualified professions, which may result in renowned professors leaving for private schools, thereby undermining the quality of public institutions.

In the afternoon, Dan Mullaney and Ignazio Garcia Bercero, chief negotiators from the US and the EU respectively, gave an update on the 10th round of negotiations. The session was moderated by Lutz Guellner from the EC and was set up in the form of a Q&A session between the stakeholders and the representatives. In terms of services, both stressed that no provisions would limit governments' rights to provide education, water or waste services. According to Bercero, the EU's services offer was similar to the one used in CETA. Furthermore, he emphasized the quality of the sustainability chapter and its enforceability, even if they US was not to ratify all of the core ILO Conventions. He said the EU would not make any compromises on the level of standards and the right to regulate.

Whereas these words sound reassuring, a reading of the (unpublished) EU services offer raises questions with regard to the proper protection of services.

- There is a very broad scope of services covered - no reference to 'public services' or 'services of general interest' in the definitions. Rather, "services' means any service in any sector except services supplied in the exercise of governmental authority"; there is no general exclusion of audio-visual, rather this is excluded from specific chapters
- There is a very broad definition 'measure' to include ...'law, regulation, procedure, decision, administrative action, or any other form' adopted or maintained by a Party at all levels, and including non-governmental bodies when these are exercising powers delegated by any level of government. At various points in the text it says that measures should 'not be more burdensome than necessary.'
- The domestic regulation chapter limits the use of qualification requirements etc in sectors where commitments (e.g., must be proportionate to a legitimate public policy objective etc). There is an extensive section on mutual recognition of professional qualifications section that proposes agreeing MRA (mutual recognition agreements) that would apply throughout EU and US. A special committee would identify common requirements. Requirements etc would need to be proportional to a legitimate public policy objective to avoid being seen as barriers to trade.
- Under the regulatory framework fundamental rights are not given any prevalence over trade, on the contrary
 - Definitions of universal service obligations on postal and telecoms service seem narrow. E.g. on postal services, 'the universal service obligation will not be regarded as anti-competitive per se, provided they are administered etc.....and 'a licence may only be required for services that are within the scope of the universal service'. The text says 'each party has the right to define the kind of universal service obligations it wishes to maintain' but therefore not to introduce new ones? This is narrow when compared to the broad affirmation on the EC website regarding the EU postal Directives, where it says 'In any case, the universal service obligations guarantee that all Member States will ensure the continued full coverage and affordability of postal services.'
http://ec.europa.eu/competition/sectors/postal_services/overview_en.html
 - There is a broad definition of financial and insurance services, which encompasses social protection systems. There is a specific exception from the chapter for services

that are part of a public retirement plan or statutory system of social security, except where these may be supplied in competition with public entities or private institutions.

- There is little on data protection.

4) TiSA

In the week of 6 - 10 July a stocktaking exercise on the plurilateral Agreement on Trade in Services (TiSA) took place. The talks covered issues like professional qualifications, financial services, movement of natural persons (Mode 4), transparency and many more. Leaked TiSA documents can be found on the Wikileaks website <https://wikileaks.org/tisa/> and further information is available from PSI <http://world-psi.org/en/massive-leak-tisa-trade-documents-highlights-madness-secrecy>. See also the interesting comment from Ellen Gould on TiSA negotiations <http://blogs.cfr.org/renewing-america/2015/06/03/wikileaks-and-trade-a-healthy-dose-of-sunshine/> and recent statement of the ITUC <http://www.ituc-csi.org/itf-attacks-secret-tisa-trade-deal>

It remains to be seen what the outcome of the TiSA stocktaking exercise was as little information at the time of writing is publicly available on the EC's website nor on any other platform. For a very general overview of the agreement, you can consult the Commission's website <http://ec.europa.eu/trade/policy/in-focus/tisa/>

PSI and the Friedrich-Ebert Foundation organised a training seminar on TiSA during the week of negotiations in Geneva. More information on this will follow.

The EP is currently drawing up a report on TiSA. The EPP MEP Viviane Reding is the rapporteur. A draft should be available in September and amendments will be voted on in the INTA Committee either on 10 December or in the early beginning of 2016, with adoption plenary in January or February 2016.

5) Facts and figures, positions and actions

Below are a number activities / reports highlighting the problems of current trade agreements for public services and social / general interest objectives, e.g.,

Ver.di: exchange with German Ministry for the Interior: Ver.di exchanged a lot of arguments with the German Ministry for the Interior regarding the potential impact of TTIP on amongst other things the organisation and funding of hospitals, the impact on education, on quality of work and the investor state dispute settlement. Ver.di made clear that the Ministry's assurances need to be countered and that there is still much for Member States to consider.

Swedish Co-project: report on dangers posed by trade agreements: In Sweden a co-project between a green think tank named Cogito and a union think-tank called Katalys led to the publishing of a report that addresses a variety of aspects of the TTIP, as for example ISDS and regulatory cooperation. The extensive report outlines how the promised benefits of the agreement in terms of economic growth and job creation are hardly evident and that there are clear risks with regard to ISDS and regulatory cooperation. The (Swedish) report can be found here: http://static.katalys.org/uploads/report/pdf_color/18/katalys_no.19.pdf

CNCD Belgium analysis of CETA's Regulatory Cooperation Chapter: Based on the final text as published in September 2014, Michael Cermak of the Belgium National Centre for Development Cooperation (CNCD) shortly analysed the possible implications of CETA's chapter on regulatory cooperation. The chapter has the objective of "reducing unnecessary differences in regulation" which means that any differences might be seen as an obstacle to trade and be challenged. The chapter further lays down that the parties have to share information on envisaged information, i.e., before anyone else. Thirdly, the chapter does not mention the EU's precautionary principle but only the importance of having a common scientific basis. Combined with the fact that the precautionary principle is not mentioned

elsewhere in CETA this is highly worrying. Moreover, the provisions introduce the establishment of a so-called Regulatory Cooperation Forum whose democratic legitimacy is questionable. On the side of the EU, the Directorate-General for Enterprise and Industry of the European Commission shall be the contact point for communications between the parties, which, together with the fact that the consultation of the Forum with private entities is laid down as well, is extremely problematic and shows the strong bias of the agreement in favour of business.

Canadian action: experiences in ISDS as based on NAFTA: The controversy about ISDS is not new. Past trade agreements have included ISDS so one can draw on the negative experiences. Canada, for example, has experienced the inclusion of the private arbitration mechanism in the North Atlantic Free Trade Agreement (NAFTA) and is now the most sued developed country in the world through ISDS. Maude Barlow, chairperson of the Council of Canadians, a citizens' advocacy organization, sent an open letter to MEPs about Canada's experience with ISDS. You can find the English version here:

http://www.huffingtonpost.ca/maude-barlow/trade-deals-eu_b_7586512.html

CEMR: position paper on TTIP: The Council of European Municipalities and Regions (CEMR) represents the interests of European local authorities and their associations in more than 40 countries. EPSU and CEMR have a social dialogue committee for local and regional government. CEMR recently issued a position paper on TTIP in which it outlines aspects of the agreement that are worrisome. It is stressed that market access commitments must comply with local and regional autonomy, to ensure that citizens' needs are still adequately addressed. It further states that public services must be out of the agreements scope and that currently applied exemptions such as the public utilities clause are insufficient. It highlights that regulatory cooperation must not violate governments competences to regulate and that it must not lead to a lowering of standards, but instead allow for their improvement. And finally, it also lays out why ISDS is an unacceptable mechanism that jeopardizes regional authorities in carrying out their regulatory obligations. You can find the full paper here:

http://www.ccre.org/img/uploads/piecesjointe/filename/CEMR_position_paper_TTIP_EN.pdf

Movements' success: The City of Brussels as TTIP free zone: While the negotiations are continuing, awareness is rising that the TTIP will most likely be a mixed agreement, meaning that the Member States' parliaments have to give their assent to it in order for it to come into force. In some European Member States this even means that not only national parliaments must vote in favour of the agreement, but as for example in Belgium or Germany also the regional parliaments. In early July the City of Brussels announced itself to be a "TTIP free zone" after citizens mobilization and protests. Whilst this is only a symbolic action, it shows how citizens' efforts can be successful and their voices be heard. It remains to be seen how many more cities and regions around the EU will follow this trend and eventually even succeed in preventing the agreement from coming into force.

Why healthcare should be out of FTAs: The positive example of the Germany-Philippines BLA: There are many reasons why healthcare should not be included in trade agreements, but dealt with in other fora. One example is the Bilateral Labour Agreement (BLA) between Germany and the Philippines. The Germany-Philippines BLA facilitates the entry of Filipino nurses to the German health care system through a government-to-government hiring scheme. Among its salient features include ethical recruitment of Filipino workers, national treatment for foreign health professionals and human resource development cooperation. If healthcare systems were to be liberalized through FTAs, such cooperation and efficient planning in favour of both workers and patients would be comprised. You can read more about the BLA and the PSI symposium to discuss this BLA and highlight and disseminate best practices in promoting decent work and social protection for migrant workers:

<http://www.world-psi.org/en/psi-symposium-german-philippines-bilateral-agreement-health-workers>

Big Pharma's influence on the health sector: A recent analysis by the Financial Times shows that the large European Pharma Groups are amongst the biggest spenders when it comes to lobbying in the US. The US recently introduced the so-called "Sunshine Act" that lays down that pharma companies are obliged to disclose payments to US doctors and hospitals. According to the analysis, European companies such as Pfizer and Roche regularly pay doctors to promote their products. Many doctors and academics increase their income by making use of the money they receive from these companies, as the statistics published on the website [OpenPaymentsData](#) show. This is just another argument to show how important it is that the health care system is independent from market pressures and that the drug industry is clearly distorted by companies with huge financial resources.

Annex 1: Brief EPSU report of the Greens/EFA: Conference on TTIP and beyond, 01/07/15

On 1 July 2015, The Greens/EFA Group in the European Parliament held a conference on the topic „TTIP and beyond – trade in global and local politics”. Moderated by MEP Yannick Jadot, the 3 panels of the conferences aimed to address three popular myths around the TTIP. Below are some points from the first two panels.

Panel 1

The first panel discussed the myth that “TTIP will contain China and tie the U.S. to Europe”. Speakers were Pierre Defraigne from the Madriaga College of Europe Foundation; Denis Redonnet, representative of DG Trade of the European Commission; and Melinda St. Louis from Public Citizen from the US.

Defraigne kicked off by outlining his concerns about the proposed trade agreement. First of all, the influence of lobbyists was worrisome. They highlight that the Atlantic alliance between the two negotiating parties was important for security, technology and the economy. With regard to the former, lobbyists might be right, but he is the opinion that in economic terms, the agreement will only lead to disparities and does not offer any real benefits. The estimated growth would lie around 0,5% in 10 years, an extremely low number. Even so, there are no models available that are able to properly predict the impact the agreement would have on employment. Secondly, he is concerned about the asymmetric relationship between the EU and the US. Whereas the latter has a single budget and can allocate sources from one state to another, the former is internally still extremely fragmented. Different to prior Free Trade agreements, the EU therefore faces a stronger partner in the case of the TTIP. This fact, together with the on going negotiations on the TPP, have an impact on the EU’s negotiation position.

He summed up that the reciprocal alliance counteracted globalization and excluded China, India and all other huge emerging markets. This would also call the WTO and the GATS into question. Obama stated that if the U.S. would not impose its standards and cooperate with others, China would do so and impose its standards on the US. The question at stake, in the opinion of Defraigne, is whether we want the US take on China to shape our policies. Furthermore, he asked how it is possible for the EU to maintain a decent relation with China when having a preferential relation to the US that excludes it. In his opinion, bilateral agreements were generally a bad idea. A genuine growth agenda should be based on the prior improvement of the internal market of the EU.

Redonnet then continued by first addressing the first part of the panel topic, i.e. if TTIP will contain China. He argued that Free Trade Agreements would not follow a logic of containment. The Commission would aim for a win-win situation, also for third countries. In his opinion, the main question was whether the TPP would set global rules. The agreement would constitute three agreements in one: it is about preferential treatment, about the harmonization and compatibility of standards and thirdly about rules, the latter being the most important aspect for third countries. China would not worry about any preferential treatments agreed in the treaty, but about the rules it would then have to follow. This would not be due to China’s role being limited, but because the country is worried since such rules are supposed to limit discriminatory practices. Rules set limits and restrictions in order to counter act distortion in global trade. The current agreements like the WTO have gaps given that they are so old. This incomplete system is filled by new bilateral trade agreements. The TTIP is a bilateral test to forge, explore and develop rules for trade that in the future may become the political agenda. It can be seen as a WTO+. In the WTO for example, there were no social rights or environmental issues covered, just as anti-corruption measures were missing. Bilaterally, such objectives are much easier to achieve.

As last speaker, Melinda St.Louis reported on the view of the US. There, the containment of China was a serious point of discussion. This was the same in all prior trade agreements, just that the countries to be contained were different, as for example Japan, whole Asia, Europe. She said one could substitute the name of the country or region by the US opponent of the day.

In her opinion, this is done by the US to remove attention from the underwhelming economic gains of FTAs. Obama would seek to sell the TPP and TTIP in this way, but the studies of her organisation would show that there would not be any containment of China.

Panel 2

Thea Lee from AFL/CIO from the USA, Hans-Jürgen Völz of the Federal Association of SMEs Germany (BVMW) and Peter Chase from the US Chamber of Commerce were the panellists of the second debate around the myth that “TTIP is good for jobs and SMEs”.

Thea Lee started and outlined that the US already made a couple of experiences, as for example NAFTA, that proved that no prediction of the outcomes of a trade agreement ever come close to the real results. Such predictions were a very weak instrument. The benefits of the TTIP, if there were any at all, could only derive from investment rules and regulatory cooperation, which she assesses as extremely worrisome. Both measures were designed for multinationals, but not for SMEs. She asked the question if we can really strengthen labour rights enough to achieve upwards harmonization. And her answer to this question was “no”. Völz built on that by explaining that 98% of the exporting enterprises in Germany are SMEs. Therefore, he saw a chance in CETA and TTIP to open ways for them to expand. But he agreed with Thea Lee that mentioning numbers is useless. Other factors, such as exchange rates or prices for resources were much more influential. He demanded that the TTIP should be designed in an SME friendly manner: This means firstly that the agreement should not include any ISDS clause. SMEs would not have the financial strength to start such an arbitration. This approach would only be possible for multinationals, thus discriminating against smaller actors. There was also no doubt about the quality of the jurisdiction of both the EU and the US and a form of ISDS was therefore unnecessary. In recent years, a very strong increase of ISDS cases could be observed and he claimed that this was not due to more investment, but due to more exploitation of consultation of the system by multinationals.

Secondly, an SME-friendly agreement would entail the protection of SMEs. In his opinion, the harmonization of standards is actually a positive aspect, but usually the Commission negotiates with Business Europe and forgets to listen to the SMEs, which results in outcomes that are not in their favour and do not properly safeguard them. The solution would therefore be regulatory cooperation with SMEs as its core.

Lastly, he argued, consumer protection is a problematic aspect. In the EU, the precautionary principle applies, which gives a competitive disadvantage as this principle does not apply in the US. The EU has to become faster in this respect and a compromise is needed. He concludes that, if no solutions to these three points could be found, the TTIP could be concluded but should not cover any of these aspects.

Peter Chase, to the contrary of the prior speakers of the panel, was highly in favour of a TTIP. He claimed to understand the mentioned concerns but thought that they were easy to tackle. Starting with the impact the agreement has on jobs, he said that basic economics help to explain the situation: The TTIP would open markets and therefore create jobs, thus having a positive effect. For example, so-called light industrial goods like textiles with high market differences would be good for countries like Spain or Portugal. Regulatory Cooperation, he continued, would be good because the regulators would work together with entrusted partners. This would lead to more efficiency and a better protection of environmental standards and citizens' rights.

Annex 2: Brief EPSU report of the EC's European Trade Policy Day 23/06/15

On 23rd of June the European Commission held an event on its new Trade and Investment Strategy. It is planned to be finalized and presented in autumn this year, and for its preparation the Commission decided not to have a formal consultation procedure, but to hold several dialogues with a variety of stakeholders instead. The event for the European Trade Policy Day served as one of these platforms to create a dialogue between the Commission, high level panellists and stakeholders.

Introductory Speeches

Jean-Luc Demarty, Director-General of DG Trade welcomed to the conference and said he looked forward to the discussions on the forthcoming Communication on trade and investment. Cecilia Malmström, EU Trade Commissioner said that trade makes connections between people and that discussions should revolve around these connections. Malmström underlined that trade benefits people by providing cheaper products and wider choice for consumers. Accordingly, the main decision is not whether to encourage more connections, but how best to do it. This must be the purpose of the Communication to be released in the autumn. The Communication should take into account the changes of recent years, including how new technologies have impacted trade. Malmström said that EC has listened and learned from the intense debate on trade policy, and that trade may not always live up to its economic promises and mentioned in particular the global value chains as an example of dramatic change. Concerning the new trade policy it should be based on the following 3 sets of actions:

- a more inclusive and effective process
- EU core values: human rights, labour rights, environment protection and development of poor countries and regions
- bringing EU negotiating agenda up to date, in particular deepen the Asia Pacific strategy

Following their introductory speeches, a plenary panel was held.

Plenary Panel

Robin Emmott, Thomson Reuters moderated the panel consisting of Bernd Lange, Chair of INTA, Commissioner Malmström, Carlo Calenda, Vice-minister for Economic Development, Italy and André Sapir, ULB/Bruegel. Lange said that trade policy has undergone big changes as a consequence of the global supply chains and that trade policy should be changed as well. Strong and binding labour standards should be included and civil society must be involved. The focus should be on fair rather than free trade. Calenda highlighted the importance of access to other markets and to set the new model of governance. In the case of the mega deals, in particular TTIP and TPP, Calenda noted that no BRICS are included and therefore the deals should be harmonised with BRICS later. Discussions with MERCOSUR should wait until the right conditions are put in place. Sapir said that a broader trade agenda is needed and pointed out that trade policy has become more complex and the expectations have increased. As the range of issues is immense, it is necessary to manage expectations. Trade has also disruptive effects and therefore social models need to be up to date. Sapir stressed the need for inclusive rules, rather than competition between the West and the rest. Malmström said that the reason for drawing up the Communication now is to collect thoughts and structure our work for the coming years.

Q&A:

Alberto Alemanno, Professor of HEC Paris asked about the relation between TTIP and the better regulation agenda and said that from his point of view it was a mistake to include the regulatory part in TTIP, and suggested that it should have been dealt with in a regulatory negotiation outside TTIP. While regulatory issues have been dealt with before by the EU in FTA negotiations, such negotiations have always been with small partners, however in the case of TTIP it is a completely different case. Malmström said that EC will try to use TTIP to achieve some better regulations in EU & US. The suggestion of achieving a TTIP light would

not be possible as EU and the US would not include the same components in a TTIP light, unless it would be an extreme TTIP light. Sapir predicted that TTIP would be ready by 2017. Following this introductory discussion, panels were held on different topics regarding the new strategy. The next sections gives a summary of the panels.

How do trade and trade policy affect people's lives?

This session was moderated by Poppy Bullock from MLEX and dealt with the question of how trade and trade policy affect people's lives. The panellists were Patrick Messerlin, Professor of economics at Sciences Po Paris, Ska Keller, Vice-Chair of the group of the Greens/European Free Alliance in the European Parliament, Frances O'Grady, General Secretary of the Trade Unions Congress, and Luisa Santos, on behalf of Markus Beyrer, representing Business Europe.

Two sides of the medal: Winners and losers

To start the session, Messerlin outlined how trade agreements, even if they cover only small reductions of tariffs, can lead to high growth. But at the same time, he acknowledged, there are always two camps in trade policy: those urging for defence mechanisms and those aiming for free trade. O'Grady built on that point and argued that one natural effect of trade is growing inequality. Whilst some people win, others will lose and it should be elaborated which jobs are affected how and to what extent.

Also Keller talked about the deep conflict between workers and companies, within and between countries. She further explained how trade has an impact on the global economy and affects developing countries. Trade can, for example, lead to tariff escalation, where developing countries are tempted to focus on the production of goods, but refrain from further processing them, thus damaging their economy.

Transparency and public opinion

On the question of the moderator whether the general public was aware of the possible benefits trade could have, Keller replied by making clear that even though there is much more transparency nowadays than in comparison to past trade agreements like ACTA, many people are still not aware of the current discussions. And even if they were, trade policy is still mainly taking place behind closed doors. This makes people sceptical - not only towards trade agreements, but generally towards democracy.

Citizens' lives

Santos was asked first to answer the question on how EU citizens' rights are affected by trade. She argued that trade agreements should be used to promote European standards, but that they should not be imposed on developing countries. In her view, it would be dramatic if the EU would impose the same wages or rights on third countries like Sudan or India; instead, their promotion should be in focus, and not their enforcement.

O'Grady continued by pointing out that early consultation in the process is still lacking, just as enforcement mechanisms are. She counter argued Luisa by bringing up the example of union officers in Korea that got imprisoned because they fought for labour rights. Even though the established ILO standards enshrined in the EU-South Korea Agreement got undermined, European governments did nothing but send out a letter to the Korean government. If one considers the protection given to companies through dispute settlement mechanisms, it is sad how poorly labour rights were protected, said O'Grady.

Also Keller tackled Santos' point by explaining that this imposition is exactly what happens nowadays through the TTIP: The US and the EU have bilaterally an extremely strong impact on the rest of the world's economies and impose a global standard through TTIP.

Overall...

Altogether, it was concluded that different people are differently affected by trade, and that a proper implementation of protection mechanisms and their enforcement must be in place. It will be essential to achieve a better balance between the objectives of trade agreements, but it remained unclear how this could be achieved.

Transparency, democracy, confidentiality – what balance?

In the session on “Transparency, democracy, confidentiality – what balance?” the discussions were mainly related to TTIP. Liliane Bloem, Belgian member of the EU Trade Policy Committee said that TTIP has been a game changer and much more transparency is provided now. However transparency was nothing new and it was necessary to find the right balance and timing of transparency in order to have enough room of manoeuvre. Marietje Schaake, ALDE MEP highlighted that ALDE was a keen defender of access to information and said the efforts of EP and civil society had borne real fruits, however there were limits to how much can be done because of the US. Schaake highlighted that it was not just about information, but that EC needs to listen to critics’ concerns. While expectations have increased, the resources of DG Trade have not. Referring to what she had seen from the reading room, Schaake emphasised that she was astonished by how little is decided yet. Pascal Kerneis, European Services Forum said that confidentiality was needed to a certain point and that the ESF publishes most of their position papers on their website. Pia Eberhardt, Corporate European Observatory said that the EC has published quite a bit of information on TTIP, but not the relevant information. The negotiation text is crucial in order to assess the agreement and the draft chapter should be shared regularly. Moreover, compared to other international negotiations including in the WTO, TTIP negotiations are conducted in much more secrecy. Eberhardt also stressed the need for transparency in order to ensure the best agreement. ETUCE raised the very high level of secrecy in TiSA and even in the case of TTIP it is only the half picture that is publicly available.

Doha and beyond – how to make the ‘first best’ fit with the rest

Moderated by Lenaïc Vaudin D’Imecourt, the sixth session on the topic ‘Doha and beyond’ dealt with the role of the WTO and multilateral trade agreements as well as the possible ways to go if the next round fails and no multilateral agreement can be achieved. The panel comprised: Vladimir Dlouhy, President of the Czech Chamber of Commerce, Kunio Mikuriza, Secretary of the World Customs Organization, Karl Brauner, Deputy-Director of WTO, Ricardo Melendez-Ortiz, Chief executive of ICTSD and Jude Kirton-Darling, MEP of the S&D group.

Status Quo

Brauner started the session by setting the scene: According to him, the situation looked grim to complete the Doha Round. The initial aim was to present a detailed work programme by the 31st of July, but so far no decision has been made. The WTO therefore had great expectations towards the EU to bring some dynamism back in, but he does not see any improvements up to this point. It does not seem like any actor would show real ambitious engagement and the question arises what will be done instead if no work programme can be brought up.

The role of bilateral agreements

Dlouhy continued by arguing that in his opinion the completion of TTIP would have a positive influence on multilateral discussions like Doha. Furthermore, the EU should better understand the interests of developing countries.

Kirton-Darling instead thought exactly the opposite: In her opinion, mega deals like TTIP rather constituted obstacles than opportunities. The S&D would regard global standards as the first desired option, because global trade takes place non stop, be it regulated or not. Building on Dlouhy’s second point, she further argued that the TTIP and TiSA would make the world fall into trenches because they exclude developing countries.

Mikuriya then slightly changed the focus by explaining that nowadays, due to global supply chains, agreements are essential for economic competitiveness. It was therefore of utmost importance to implement global standards especially at the borders. This should not only take place in form of customs, but also other governmental procedures. This is, in his opinion, a point that should be an early objective of the Doha Round.

Next steps

On the question what the following steps and priorities for global trade were, Melendez-Oritz outlined that the WTO brought a dramatic transformation to the world trade system in 1995. Though nothing has happened since then. He referred back to Malmström who during the opening session pointed out that there was no plan B to the Doha Round. In the meantime, an architecture of bilateral and regional FTAs was constructed and the question is now how to bring better coherence to them.

Consequences of failure

The following question was about the consequences if Doha would fail by the end of the year in Nairobi.

Dlouhy and Melendez-Oritz both agreed that as failure of Doha would not have any dramatic consequences in the short term. But in the long term, the WTO's strength would strongly be undermined. Kirton-Darling instead had the opinion that a failure of Doha would harm multilateral approaches to trade and thus be very negative. In her opinion, the world is currently very fragmented and ambitions to merge the different development levels would be undermined. In combination with a failure of the climate summit in Paris, multilateralism would seriously be in doubt. Mikuriya agreed with this and pointed out that a consistent approach is needed.

Brauner instead used the occasion to highlight that the WTO is a member driven organisation. He agreed that a failure in both Paris and Nairobi would mean the end of multilateralism. But the question then would be which member had the ambition to be the driving force to counteract such a scenario. He is of the opinion that the WTO made the marketing failure to emphasize the negotiation aspect of its organisation. Now, the idea would be to focus on dispute settlement systems and to develop more rules through specific committees.

Q&A session

On the basis of some raised questions, Brauner stated that Nairobi was still possible, but on a lower level of ambitions. The idea is to have three levels of obligations, i.e. actions that have to be taken immediately, actions that must be taken at a later stage, and a differentiation of actions for developing countries that they only have to take if they find someone to finance them. He also said that new members would lead to new approaches and therefore to more challenges of combining these and finding common denominators. Kirton-Darling opposed this argument by saying that it would be the best to include as many members as possible. The same accounts for TiSA. If not, important players like China or third world countries would be left out. She also agreed with a comment made by the audience that more stakeholder involvement is needed. A strong sustainability chapter and early influence should be guaranteed. A first attempt to do so is the TTIP advisory committee, but it is only a start and should be improved. Brauner counter argued, saying that involving more stakeholders would automatically lead to the discussion on who else to include, leading to a never ending debate and disputes.

On the question by Daniele Basso, ETUC, whether there should not be a closer link in agreements to the ILO chapters, Kirton-Darling agreed and stressed that there has always been a red line in trade agreements when it came to labour standards. What concerns her though is that this red line seems to get pinker, especially with African Region's sustainability chapters, which are being designed weaker and weaker.

Overall...

To sum up, the panellists saw difficulties for Doha to be successful. Despite of this, the opinions diverge in terms of how trade agreements, multi- or bilateral, should be designed and what their impact is. Nevertheless, they all agreed that multilateralism is of extreme importance for global trade development and is the preferred option to bilateral solutions.

1 Belgium Civil Society Organisations mobilize against TTIP and CETA, 15 July 2015

