

# Trading away public services?

*Introduction to key issues*

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# Right now: two contending developments

▶▶ *increasing scepticism and resistance against liberalisation / privatisation*

*e.g.*

- *Remunicipalisation and withdrawal from privatizations – in particular on a local level: „Reclaim Public Services“*
- *Success of the right2water-initiative*

...

▶▶ *enhanced round of liberalisation / privatisation*

*e.g.*

- *Tightened austerity policy / „rollback“ of public services*
- *Ongoing liberalisation projects (within and beyond the EU): concessions directive/internal market, GATS follow-up TISA, EU-US agreement TTIP*

...

# Rollback: e.g. Public Services & Austerity policy



ALL PUBLIC SERVICES MUST GO

CORPORATE PROFIT GUARANTEED

MASSIVE DISCOUNTS

## The Great European Fire Sale

### IRELAND FOR SALE:

- Energy: Bord Gáis Energy Electricity Supply Board assets.
- Forestry: Coille forestry harvesting rights.
- Transport: 25% of Aer Lingus; other airports & seaports restructured ready for privatisation.
- Water: New utility, Irish Water, to start metering and charging.
- Pensions: National Pension Reserve Fund disposed assets of € 10 bn.
- Banks: Two-thirds of nationalised Bank of Ireland returned to private hands.

EXPECTED INCOME  
**€ 5 billion**

#### RESISTANCE

No to Water charges is arguing for taxpayers' money to be invested in water infrastructure, rather than penalising low income households with exorbitant charges. [www.nowatercharges.ie](http://www.nowatercharges.ie)

A coalition of trade union and conservation groups is campaigning against sale of harvesting rights from state-owned forests. [www.saveourforests.ie](http://www.saveourforests.ie)

- National Health Service: Private contractors have eyes on contracts worth up to 20 bn € a year.
- Probation Services, Court Interpreters.
- Delivery of welfare benefits.
- Local council services.
- Police services: proposed privatisation of fire and rescue services.
- Banks: Northern Rock and other renationalised banks to be sold off.

#### RESISTANCE

Campaigns in Edinburgh by public sector unions and residents overturned privatisation plans in January 2012. Similar campaigns are under way in Barnet, Bristol, Cornwall, Newcastle, Oxford, Suffolk and other cities across UK. [www.coalitionofresistance.org.uk](http://www.coalitionofresistance.org.uk)

An internet-based organisation, 38 degrees, helped mobilise a million people to fight privatisation of health services. [www.38degrees.co.uk](http://www.38degrees.co.uk)

### UK FOR SALE:

Adam Smith Institute suggest government could raise up to **€ 100 billion** [www.adamsmith.org](http://www.adamsmith.org)

### PORTUGAL FOR SALE:

- Banks: Caixa Seguros, Banco Português de Negócios, CGD Grupo de Saúde.
- Energy: Energias de Portugal, 40% stake in REN-Redes Energéticas Nacionais SA.
- Water: Águas de Portugal and EGF (waste) being prepared.
- Transport: Airport operator ANA, CP Carga railway freight, Viana do Castelo shipyard, Lisbon and Porto urban transport being considered, TAP Airline (attempted but withdrawn).
- Post: Correios de Portugal.

EXPECTED INCOME  
**€ 5 billion**

#### RESISTANCE

Água de todos campaign has collected more than 40,000 signatures for a referendum to stop privatisation of public water. [www.aguadetodos.com](http://www.aguadetodos.com)

The Portuguese Debt Audit Campaign (IAC) presented a Provisional Report in 2012 and is calling for urgent renegotiation of debt with all creditors. <http://auditoriaadados.info>

EUROPEAN COMMISSION  
**EC**

EUROPEAN CENTRAL BANK  
**ECB**

### PRIVATISATION DOES NOT MEAN CHEAPER SERVICES

In 2010, the largest survey ever on water privatisation cases found that no cost savings could be attributed to privatisation in the water sector.

(Germé et al., 2010.)

Europe's citizens are calling for services to be put back under public control

18 cities in France are bringing formerly-privatised companies back under municipal control. In Paris, the remunicipalised water utility saved approximately €35 million in its first year and was able to reduce water rates by 8%.

### 1 million citizens vote for human right to water

One million people have signed a European Citizen Initiative to call for water to be recognised as a human right and for water services to be excluded from privatisation.

<http://www.right2water.eu>



The commitment to privatise government property is one of the main components of the restructuring plans imposed by the 'troika' of IMF, ECB and European Commission on euro-area countries when they avail themselves of aid from the euro rescue packages.

Deutsche Bank, December 2011

### SPAIN FOR SALE:

- Airports: 49% of Aena Aeropuertos.
- Water: Agües Ter - Llobregat (ATLL) in Barcelona, Isabel II Canal in Madrid.
- Health: Plan to privatise staffing of 6 public hospital and 27 health centers.

EXPECTED INCOME  
**€ 16 billion**

#### RESISTANCE

Different popular collectives (known as 'citizen waves') have formed to defend public services, choosing different colours.

On 23 February 2013, the different 'waves' came together for a massive protest in Madrid. <http://maracudidana.blogspot.nl>

In a popular referendum in Madrid, 98.9% of 180,000 citizens voted against privatisation of public water company Isabel II Canal. [www.plataformacontralaprivatizaciondelciyri.org](http://www.plataformacontralaprivatizaciondelciyri.org)

Plataforma Agua es Vida (AeV) in Barcelona is challenging illegal operation of private water company AGBAR. <http://plataformaaguavesvida.wordpress.com>

**FOR SALE** includes enterprises sold since the crisis began, full sales of companies planned in coming years, as well as concessions of public assets and service delivery to private sector operators.

### ITALY FOR SALE:

- Heritage: 350 historic buildings including Castello Orsini di Soriano in Cimiano, Palazzo Bolis Gualdo in Milan and Palazzo Diedo in Venice.
- Water: Attempted EU-imposed privatisation of water services stopped by popular resistance.
- Municipal transport and waste services.
- Post: proposals to privatise parts of postal service.

EXPECTED INCOME  
**€ 571 billion**

#### RESISTANCE

In June 2011 referendum, 95% (26 million people) voted against water privatisation.

Water: Attempted EU-imposed privatisation of local public services. Popular mobilisation forced Italian government to withdraw plans. <http://www.acquabenecomune.org>

#### Resources:

Transnational Institute - Water Justice Project [www.tni.org/work-area/water-justice](http://www.tni.org/work-area/water-justice)  
Public Services & Democracy Project [www.tni.org/work-area/public-services-democracy](http://www.tni.org/work-area/public-services-democracy)  
Corporate Europe Observatory [www.corporateeurope.org](http://www.corporateeurope.org)

### GREECE FOR SALE:

- Water - Athens and Thessaloniki Water and Sewerage Company.
- Islands - 40 uninhabited islands identified for leasing.
- Ports - 12 major ports.
- Energy - Public Gas Company DESFA & DEPA, South Kavala Off-shore gas facility, Public Power Corporation.
- Transport - Hellenic motorways, Trainose rail operator, 39 regional state airports, Athens International Airport.
- 28 state buildings.
- Hellenic Post.

EXPECTED INCOME BY 2015  
**€ 50 billion**

#### RESISTANCE

The 136 movement in Thessaloniki and Save Greek Water in Athens are campaigning to stop the sale of the public water and sewerage company. [www.136.gr](http://www.136.gr) [www.savegreekwater.org](http://www.savegreekwater.org)

Save Greek Water opposes privatisation of water services and advocates democratic and sustainable management of public goods like water. [www.savegreekwater.org](http://www.savegreekwater.org)

Port workers' unions are resisting sale of ports and unjust working conditions in Piraeus.

26 September 2012: General strike; 200,000 marched in Athens.

Source:  
Transnational Institute,  
<http://www.tni.org/briefing/privatisin-g-europe?context=597>



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Public Services International Research Unit [www.psiu.org](http://www.psiu.org)  
European Public Services Union [www.epsu.org](http://www.epsu.org)  
All references can be found on [www.tni.org/ukcrisisinfographics](http://www.tni.org/ukcrisisinfographics)

# Reclaim: e.g. Water Remunicipalisation



[Video Remunicipalisation: Putting Water Back into Public Hands](#)

Water Remunicipalisation Tracker:  
<http://www.remunicipalisation.org>



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## *The role of Free Trade Agreements (FTA): two essential effects of liberalisation obligations*

**► They >> put domestic policy makers under the pressure to consider only measures which are in conformity with these agreements (“regulatory chill” effect) and effectively bind governments to the current level of liberalisation which makes a review and reconsideration of liberalisation measures difficult (“lock-in” effect)<<**

*(Krajewski)*



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# *Pending issues: Public Services & Trade*

- ▶ ▶ **Exclusion versus inclusion of public services** from the liberalisation dynamics and tightened market rules of Free Trade Agreements
- ▶ ▶ (Reclaim) **policy space** to define what is considered as a public service at a local/national/european level (and how to regulate it) versus „lock in“-effect of (multi-, bilateral) liberalisation obligations
- ▶ ▶ **Coherent approach** to the high social value of public services: „**within**“ and „**beyond**“ Europe



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# Changing trajectories of EU's commercial policy

- ▶ from „**Seattle**“ (1999) to „**Global Europe**“ (2006)
- ▶ **stalemate of the „Doha-negotiations“ in the WTO (2001f.)**
- ▶ **Forum shifting** against the backdrop of „**unfinished business**“ within the WTO: **new generation of EU Free Trade and Investment agreements** („**deep integration**“, GATS plus, **enhanced rules negotiations ...**)

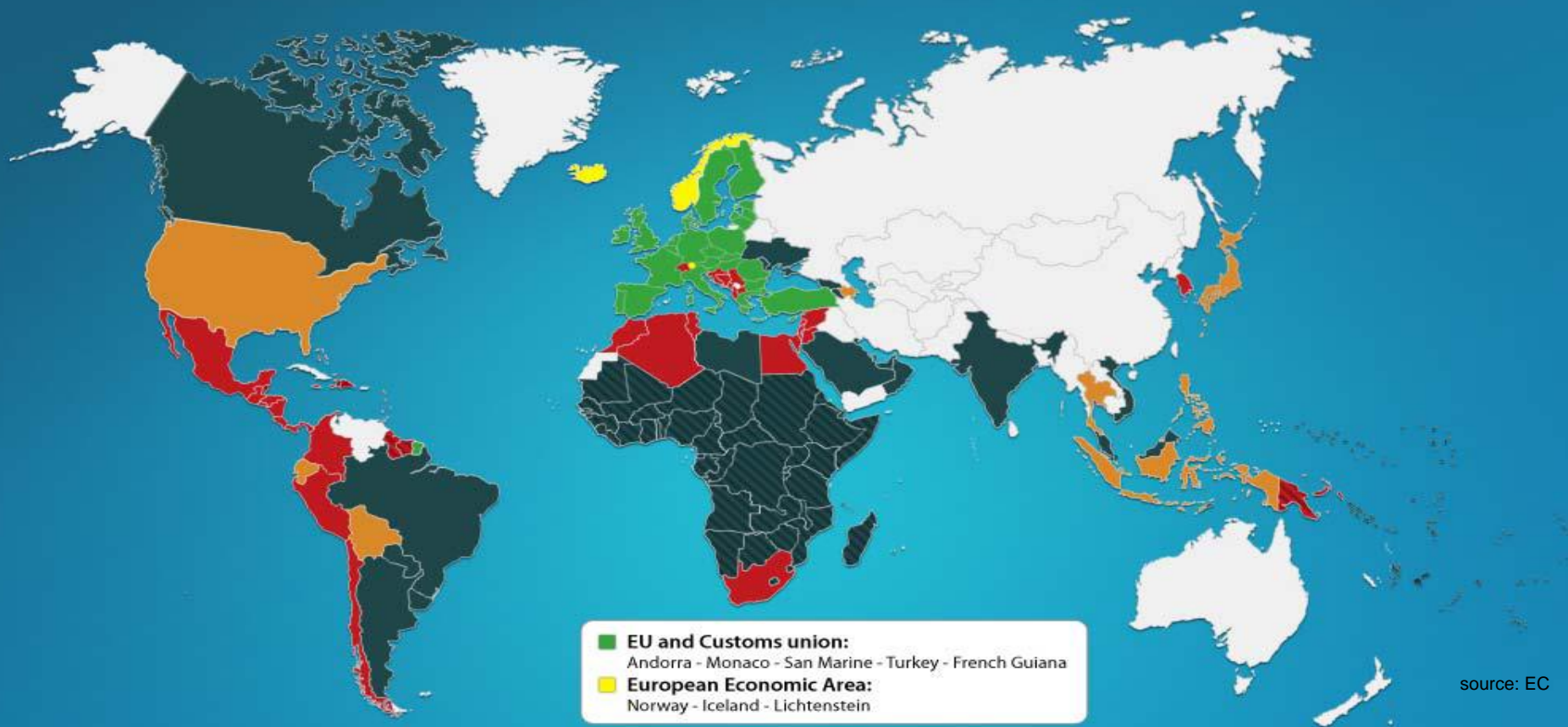


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# snapshot 1:

## EU goes global – (but) not on a multilateral avenue



### ■ Countries with which the EU has concluded preferential trade agreements:

Mexico - Chile - Colombia - Peru - Panama - Costa Rica - El Salvador - Guatemala - Nicaragua - Honduras - Morocco - Algeria - Tunisia - Egypt - Jordan - Israel - Occupied Palestinian Territory - Lebanon - Syria - Former Yugoslav Republic of Macedonia - Albania - Serbia - Montenegro - Bosnia-Herzegovina - Croatia - Switzerland - South Africa - Republic of Korea (South Korea) - Antigua\* - Barbuda\* - Belize\* - Bahamas\* - Barbados\* - Dominica\* - Dominican Republic\* - Grenada\* - Guyana\* - Haiti\* - Jamaica\* - Papua New Guinea\* - St Kitts and Nevis\* - St Lucia\* - St Vincent and the Grenadines\* - Seychelles\* - Suriname\* - Trinidad and Tobago\*

### ■ Countries with which the EU is currently negotiating preferential trade agreements:

Canada - India - Singapore - Malaysia - Ukraine - Brazil - Argentina - Uruguay - Paraguay - Saudi Arabia - Botswana\* - Cameroon\* - Ivory Coast\* - Kuwait - Qatar - United Arab Emirates - Fiji\* - Oman - Bahrain - Libya - Cook Island\* - Kiribati\* - Lesotho\* - Swaziland\* - Madagascar\* - Mauritius\* - Mozambique\* - Marshall Islands\* - Micronesia\* - Nauru\* - Samoa\* - Solomon\* - Timor Leste\* - Tonga\* - Tuvalu\* - Vanuatu\* - Angola\* - Namibia\* - Comoros\* - Djibouti\* - Eritrea\* - Ethiopia\* - Malawi\* - Sudan\* - Zambia\* - Burundi\* - Kenya\* - Rwanda\* - Uganda\* - Tanzania\* - Central African Republic\* - Chad\* - Congo\* - Democratic Republic of Congo\* - Equatorial Guinea\* - Gabon\* - Sao Tome and Principe\* - Benin\* - Burkina Faso\* - Cape Verde\* - Gambia\* - Ghana\* - Guinea\* - Guinea-Bissau\* - Liberia\* - Mali\* - Mauritania\* - Niger\* - Nigeria\* - Senegal\* - Sierra Leone\* - Togo\* - Zambia\* - Zimbabwe\* - Vietnam - Moldova - Armenia - Georgia

### ■ Countries with which the EU is considering opening preferential negotiations:

Japan - Azerbaijan - Brunei Darussalam - Indonesia - Philippines - Thailand - Ecuador - Bolivia - United States of America

\*Economic Partnership Agreements



## snapshot 2: Letter of the Global Services Coalition to Commissioner de Gucht (September 2013)

*It has been almost twenty years since the **GATS** has taken effect. ... There is an **urgent need to update the rules for services** to reflect the realities of today's world.*

*The member businesses represented by the Global Services Coalition **strongly support the efforts** of nearly a third of WTO members to **negotiate an ambitious Trade in Services Agreement (TiSA)**. We urge you to press ahead with determination and ambition in these negotiations. ...*

*In September 2012 the Global Services Coalition welcomed the efforts of several delegations in Geneva to consider how to allay **business frustration over stalled Doha Round outcomes on services**. We now applaud their success, which has resulted in agreement on the shape and programme of the TiSA negotiations, along with expanded membership. ...*

*Our members are **looking for real market access gains across all services sectors**.*

*... it is vital that Global Services Coalition representatives **have access to proposals and negotiating text**. This can be done while protecting the need for non-disclosure during the negotiations.*

*The Coalition's members **stand ready to support the negotiators in any way we can**.*



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## snapshot 3: **More ambitious outcome on services in TTIP than TISA?** (November 2013)

(Inside U.S. Trade - 11/08/2013)

*The European Union is seeking to obtain commitments on services in a free trade agreement with the United States that go far beyond those that will be included in the plurilateral Trade in Services Agreement (TISA) being negotiated by the U.S., EU and more than 20 other countries in Geneva, according to a senior European Commission official.*

*Speaking at the Oct. 30 Global Services Summit in Washington, Jean-Luc Demarty, the commission's director general for trade, said the **EU wants to go beyond TISA in terms of services market access, regulation, and labor mobility in the Transatlantic Trade and Investment Partnership (TTIP).***

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# GATS & Public Services: a short revue

- Art I.3 (b): Services „supplied in the exercise of governmental authority“ are exempted from GATS
- Art I.3 (c) defines these services as those, which are “supplied neither on a commercial basis, nor in competition with one or more service suppliers”

## *criticism:*

- ▶ *insufficient exemption, “boundary adjustments“ between publicly and privately rendered services*
- ▶ *implicit vision: „residual public service“-sector & minimal social state*



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# example GATS 2000 negotiations & water

- ▶ ***“the explicit inclusion of water distribution into the environmental services classification, as well as the EU requests in that sector have been met with strong (...) criticism from the side of civil society. This ‘campaign’ (...) has raised considerable interest, and support, by MEPs (...), national parliamentarians, municipalities (in particular in those Member states where provision of these services is under municipal control) and development organisations. (...) In short, there is strong opposition (...) against greater involvement of the private sector in the supply of water services (...).”***

(background note, EC 2003)



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# Putting the „GATSplus“ agenda in its place

„GATSplus“ (new generation of bi-  
/plurilateral agreements) as

... *game changer?*

... *rule making laboratory?*

... *enhanced new constitutionalist project?*

... *opportunity to name, blame and change  
the neoliberal framework for trade in  
services?*

► it's about „unfinished business“



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## example: EC Reflections Paper (2011)

- launched in February 2011, against the background of EU-Canada negotiations & the use of a „negative list“ approach
- How to deal with public services in „new generation“ trade agreements?
  - ▶ ▶ *emphasis on „offensive commercial interests“*
  - ▶ ▶ *very narrow definition of what is „essential“ to protect*

# EC proposal to restrict the existing „public utilities“-exemption

ALL  
SECTORS  
INCLUDED  
IN THIS  
SCHEDULE

## Public utilities

3) ~~All EC Member States: **services considered as public utilities at a national or local level** may be subject to public monopolies or to exclusive rights granted to private operators<sup>[1]</sup> .~~

3) The EU reserves the right to adopt or maintain any measure with respect to limiting the number of suppliers, through the designation of a monopoly or by conferring exclusive rights to private operators, for services of general economic interest which are subject to specific public service obligations imposed by public authorities on the provider of the service in order to meet certain public interest objectives. **Network industries of telecommunications, energy, transport, environmental services, and postal services are excluded from the scope of this reservation.**

<sup>1)</sup> Explanatory Note: Public utilities exist in sectors such as related scientific and technical consulting services, R&D services on social sciences and humanities, technical testing and analysis services, environmental services, health services, transport services and services auxiliary to all modes of transport. Exclusive rights on such services are often granted to private operators, for instance operators with concessions from public authorities, subject to specific service obligations. Given that public utilities often also exist at the sub-central level, *detailed and exhaustive sector-specific scheduling is not practical.*



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# EC proposal for a new classification (2011)

|                 | Non-economic services of general interest                                    | Services of general economic interest<br>(i) „ <i>Network Industries</i> “                               | Services of general economic interest<br>(ii) „ <i>Services of general interest other than network industries</i> “               |
|-----------------|--|--|---|
| <b>Scope</b>    | Police, judiciary, prisons, ...<br>(non-exhaustive list)                     | „Large networks structures“: <b>telecoms, energy, transport, postal, environmental</b> (exhaustive list) | healthcare, social services, education, employment and training services, certain cultural services, ...<br>(non-exhaustive list) |
| <b>Interest</b> | „no commercial interest for either party“                                    | „where privatised, of <b>offensive commercial interest</b> “   | „ <b>some potential interest</b> for both parties“  |
| <b>Proposal</b> | Should be excluded from the scope of all services and investment commitments | List explicit reservations on a sectoral basis, requires all monopolies in these sectors to be listed    | A more general non-exhaustive horizontal reservation for market access  |



## ***Aim: to gain room to manoeuvre for even more ambitious liberalisation obligations***

▶ ▶ proposal for a **new classification** encloses i.a. to exclude so called “network industries” such as energy, transport, environmental services, and postal services from the so called **“public utilities”-reservation**

▶ ▶ the given **horizontal character** of this exemption (coverage of all service sectors + non-exhaustive definition) constrains the „lock in“ effect of FTAs and puts emphasis on the **policy space** to define what is considered as a public service at a local/national level



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# Treatment of public services in FTAs

(cp. Krajewski)

| „standard“ GATS-model  | Elements of an emerging new model – EC Reflections Paper / CETA  |
|--|--|
| <ul style="list-style-type: none"><li>• <i>Level 1: exclusion of „services supplied in the exercise of governmental authority“ (Art. I:3 (c) GATS)</i></li></ul>   | <ul style="list-style-type: none"><li>• <i>Level 1: exclusion of „services supplied in the exercise of governmental authority“</i></li></ul>   |
| <ul style="list-style-type: none"><li>• <i>Level 2: horizontal, non-exhaustive EU’s „Public utilities“-clause: “services considered as public utilities at a national or local level may be subject to public monopolies or to exclusive rights granted to private operators.”</i></li></ul> | <ul style="list-style-type: none"><li>• <i>Level 2: horizontal exemption is reduced to a limited scope of Services of General Economic Interests (based on EU-definitions) and only to the local level (cp. Reflections Paper of the EC)</i></li></ul> |
| <ul style="list-style-type: none"><li>• <i>Level 3: specific obligations/exemptions in the sectoral part of the list of commitments</i></li></ul>  | <ul style="list-style-type: none"><li>• <i>Level 3: member states have to list all existing monopolies/providers with exclusive rights and it is forbidden to introduce new ones („stand still“, „transparency“)</i></li></ul>                         |
| <ul style="list-style-type: none"><li>• <i>Positive list-approach</i></li></ul>  | <ul style="list-style-type: none"><li>• <i>Negative list-approach („list it or lose it“) plus „ratchet“ mechanism</i></li></ul>  |
| <ul style="list-style-type: none"><li>• <i>problems: narrow exemption (governmental authority), no consensus about the scope of the PU-clause and the latter only addresses market access (not national treatment)</i></li></ul>   | <ul style="list-style-type: none"><li>• <i>problems: like GATS model PLUS enhanced restriction of policy space and less protection against offensive commercial interests</i></li></ul>  |

# „reclaim“: global STOP TISA sign on letter

## ■ signed by more than 300 organisations ...

...

*We **strongly condemn the secretive nature of the TISA talks**, in which the citizens, parliamentarians, trade unions, regulating agencies, services users and other interested parties have limited or no access to those who are setting negotiating mandates or to negotiations or negotiating documents, while corporations set the agenda and have easy access to the negotiations and documents. We insist that in such negotiations as for the proposed TISA, negotiating texts must be published, and input from regulatory agencies, public service providers and users, parliamentarians, state and local officials, and civil society organizations must be regularly invited. (...)*

*The proposed TISA is an assault on the public interest as it fails to ensure that foreign investments in service sectors actually promote public goals and sustainable economies.*

***We are particularly wary of further undermining of essential services such as health care and insurance, water and energy provision, postal distribution, education, public transportation, sanitation, and others** if they are handed over to private and foreign corporations motivated only by profits and available only to those who can pay market rates. Therefore such essential services – including those that operate under a public/private mix, compete with private providers, or charge a fee – should not be subject to any closed-door, unaccountable trade negotiations, including the TISA.*

...



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# ***Prospects for better protection of labour interests in services negotiations?***

## **Public Services:**

***The high quality of the EU's public utilities should be preserved in accordance with the TFEU and in particular Protocol N° 26 on Services of General Interest, and taking into account the EU's commitments in this area, including the GATS.***

## **Temporary movements of persons/mode 4:**

***The Commission should also ensure that nothing in the agreement prevents the parties from applying their national laws, regulations and requirements regarding entry and stay, provided that, in doing so, they do not nullify or impair the benefits accruing from the agreement. EU and Member States' laws, regulations and requirements regarding work and labour conditions shall continue to apply.***



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