



UNCTAD 14

Public Services International | Position Paper

UNCTAD's unique mandate and capacity should not be undervalued or undermined.

People across the world are recognising that the current international trade paradigm is weighted towards the interests of multinational corporations, largely located in developed countries. This regime is too often viewed solely through the lens of national economic growth with no regard for how trade affects people within countries.

With inequality across the globe rising both within and between countries, the current model of trade does little to actually enhance development. Small increases in national GDP that impoverish millions but enrich an elite within the same countries actually harm development. When the trade regime promotes deregulation, economic instability and rising inequality, any short term trade related gains are unlikely to be sustainable or desirable in the long term.

PSI believes that while the governments of the developed north promote trade policies in the interests of their largest multinational corporations, working people in the north as well as the south suffer from the long term economic outcomes the system creates.

It is through this lens that PSI believes UNCTAD has a key role to play as one of the only international organisations to coherently link trade to development. However, it is with concern that PSI observes concerted attempts to make UNCTAD's mandate less about being an empirically critical voice on trade and more about turning it into yet another implementation institution for undemocratic, secretive rules and agreements, overwhelmingly written in the interests of the private sector in the north. This is manifested in the UNCTAD negotiating text by the repeated requests for deletion by developed countries of parts of the text proposed by the G77 which attempt to address these inherent global inequalities in the international trade system.

With this in mind, outlined below are PSI's key concerns regarding UNCTAD's mandate ahead of the UNCTAD 14 Conference.

The primacy of the state in affecting development

The history of the rapid rise in living standards in the developed north is the history of state involvement in development. Numerous authors make starkly clear that the industrialisation and development of countries such as the United States, Japan, Europe and Australia relied heavily on state intervention and industrial policy. China's current rapid growth and industrialisation is occurring with significant state intervention. UNCTAD has been at the forefront in advocating for the "developmental state" with adequate policy space for leaders to regulate. At the heart of the concept of the development state is the idea of the public sphere; an area safeguarded from the volatility and incentives of market forces. Quality public services, delivered universally by the state and funded through fair taxation of business and corporations working in the private sector, should be seen as the key driver of development. **UNCTAD should continue to affirm the key role of the state as the main driver of development and assist governments in improving public service delivery while safeguarding the public sphere.**

The primacy of the state in realising human rights

The Universal Declaration of Human Rights makes clear that nation states have the primary role in the realisation of human rights. Enabling human rights requires states to retain sufficient control of policy space, provision of public services and adequate means to raise domestic finance. **UNCTAD should make clear that policy space is essential to fulfilling the states' obligation to realise human rights and provide research, advice and assistance to states in pursuit of this.**

Acknowledging that Public Services support development

Public services are a key driver of development which should not be exposed to market mechanisms and for-profit provision. Universal provision of essential public services such as health, education, water and sanitation cannot be provided on the basis of user pays. There are repeated examples of privatised public services failing to deliver universal access. To the contrary, privatised services and PPPs have a long history of raising costs to government, being less flexible than public provision.

Public services provide the basis for both sustainable social and economic development. Private sector productive investment is facilitated by the provision of valuable public goods such as stable government free from corruption, functioning domestic courts, infrastructure such as reliable energy, water, roads and ports and a healthy and skilled workforce provided by universal public health and education. **UNCTAD should affirm the vital role of essential public services, delivered by the state, as a key tool for the realisation of the SDGs.**

Trade Agreements should not undermine provision of quality public services

Quality public services are dynamic and evolve to meet changing circumstances, technology, political priorities and social objectives and environmental imperatives. Provision of quality public services requires governments to have the maximum possible policy space and all possible regulatory tools. Mixed public/private models only increase the need for unfettered regulatory policy space. **UNCTAD should support broadly defined public services being carved out of all trade agreements and should provide research and assistance to countries seeking to achieve this.**

Caution on Public Private Partnerships

A significant and growing body of research shows that PPPs have an alarmingly high rate of failure. When they do fail, governments inevitably pick up the bill. Even when they do not fail in the strictest financial sense, they are regularly more expensive, provide lower quality service and undermine universal provision. **PSI believes that UNCTAD should not be promoting PPPs as a financing mechanism for public services (such as in sub theme 2 and 3) and should actively warn countries of the evidence and risks, particularly in sensitive areas such as water, sanitation, education and healthcare.**

PSI invites all UNCTAD participants to read *PPPs and SDGs: Don't believe the Hype*: a research paper by Jeff Powel which provides conclusive evidence that shows that PPPs and privatisation are harmful to development.

Clarity in terminology on private sector involvement

Further, the UNCTAD negotiating text shows a worrying confusion between the essential role of the state in promoting economic growth through the effective regulation of markets and provision of public goods on the one hand – and the provision of public services by privatisation on the other. The former, whilst in the broadest sense being a form of economic collaboration between the public and private sector should never be confused with the failed business model known as public-private partnerships. **UNCTAD should research and inform countries on the distinction between the two and the danger posed by PPPs.**

Support for better models of public services

Unfortunately, the IMF and World Bank have become blind cheerleaders for private sector involvement in Public Services. A recently updated Project Summary about Veolia's involvement in Bucharest's public water system by the World Bank's Public-Private Partnership Resource Center fails to even mention that water prices have reportedly risen by over 1000% or that the leaders of Veolia's local subsidiary have now been charged with corruption for bribing local officials to endorse aggressive water rate rises. UNCTAD should counter this blind ideological enthusiasm by providing empirical research which is not based on the presupposition that PPPs are an effective tool or appropriate across all sectors. **UNCTAD should further investigate and support Public-Public Partnerships as an alternative means of sharing the 'knowledge and insight' which many public municipal operations possess but which private corporations claim to have a monopoly over.**

Defining the role of trade in development

All UNCTAD work on trade needs to be centred around the concept that trade is not a goal, but a tool to be used wisely and with measure. If the actual result of trade under the current or proposed rules hinders the ability of poor people and poor countries to develop, then new rules are needed. These new rules should make Special and Differential Treatment principles more operational and effective, simplify the Rules of Origin so as to improve access to developed countries' markets, provide unilateral duty-free, quota-free access for all LDC products and exclude all public services from trade agreements. PSI supports in particular, the G77 inclusion in the Negotiating Text which states **"UNCTAD should also support the strengthening of a development oriented multilateral trading system which is universal, rules based, predictable, more inclusive, open, non-discriminatory and equitable."**

Need for diverse development approaches

The one size fits all approach to trade, advanced by various international economic institutions over the past few decades, has been shown to have failed resoundingly. It is in this context that PSI affirms that states should be free to pursue their own development path through measures such as Special and Differential Treatment (Paras 5 *bis*, 25, and 40 (bb), Common but Differentiated Responsibilities and a safeguarding of the public sphere, free from the variability of global capital flows and the potential instability of markets. **PSI supports the inclusion of the G77 to the negotiating text stating "developing countries must have adequate policy space to establish and implement policies for inclusive and sustainable development, taking account of their histories and their changing roles in the global economy and bearing in mind the ambitious goals of the SDGs."**

Investor-State Dispute Settlements: research and analysis

PSI believes that UNCTAD should undertake a review of proposed and existing trade agreements and continue its work as the only institution conducting focused research on the effects of *Investor-state dispute settlement* (ISDS) on developing countries. ISDS has placed the rights of investors ahead of the rights of governments to legislate in the public interest, as demonstrated in a range of recent cases, and needs to be brought to an end. **UNCTAD should increase assistance to countries who wish to leave restrictive trade agreements with the tools and skills necessary to navigate complicated and often costly negotiations. Additionally, UNCTAD should provide assistance to states who wish to contest ISDS cases.**

Realising SDGs requires multinationals to pay their fair share of tax

Revelations such as the Panama Papers only confirm what developing countries and tax advocates have known for decades: that, while this era has seen significant economic growth, the current international tax system has enabled wealthy individuals and multinational corporations to avoid contributing their fair share to national revenues.

This has resulted in increasing government deficits, public service cuts and the perception that 'there simply isn't the money for public provision.' PSI believes that such a notion plays directly into the hands of the corporations, which, after years of avoiding and evading taxes, are now positioning themselves as the 'desirable' funding mechanism for public services. PSI supports the G77 assertion that "Effective taxation, including combating tax evasion by multi-national

corporations, will be critical in the mobilization of resources for implementation of the SDGs and overall economic advancement of developing countries.” **UNCTAD should recognize that, if multinational corporations wish to contribute to development, they should start by paying their fair share of tax and stop opposing global measures to ensure this can be realised.**

A global tax body under the auspices of the UN is required

Momentum is growing for the establishment of an international tax body to address these challenges and provide much needed development revenues by ensuring that profits are taxed where they are made through measures such as country-by-country reporting. While Base Erosion and Profit Shifting (BEPS) goes some way to patching the broken system it will not address the core flaws.

PSI believes that such agreements should instead be negotiated democratically under international, multilateral bodies such as the United Nations to ensure that the north does not write the rules for all. **PSI advocates for UNCTAD to play a key role in the establishment of an international tax body to address corporate tax evasion.**

Supporting developing nations to raise domestic revenue

The OECD's BEPS agenda has patched a number of the more obvious holes in the international tax system, but has not provided systematic solutions to the problem of multinational corporations abusing the arm's length principle to shift profit through tax havens. The international corporate taxation rules should ensure that taxation occurs where economic activity takes place and that wholly owned or controlled subsidiaries are regarded as part of the same multinational for tax purposes. Until this occurs, developing nations need support to ensure that their tax base is not eroded. **UNCTAD should provide technical support to developing nations to develop alternatives to the current orthodoxy and build capacity to enhance regional tax co-operation.**

Transparency in the tax system is essential

The current tax system not only facilitates tax avoidance but hides the evidence. No country should function as a secret jurisdiction and country by country reporting should be publicly available. Beneficial ownership registries should be established in all jurisdictions. Developing countries in particular have difficulty obtaining the information required to pursue multinationals and high net worth individuals in their jurisdictions. Automatic exchange of tax-related information should not be withheld from developing countries from developing countries that lack the capacity to provide full reciprocal information exchange. **UNCTAD should encourage a sharing of information between states, to any other jurisdiction that may benefit from having such information.**

Development requires a fair share for workers

There can be no sustainable development while the benefits accrue only to the wealthy elites. Workers must be enfranchised politically and economically for development to be sustainable. This requires the acknowledgement of universal labour rights as articulated by the ILO, in particular the right to form trade unions, bargain collectively and the right to strike. Further, decent and safe work must be a cornerstone of all job creation. This includes the avoidance of precarious and triangular work relationships and in particular the effects on women workers. All the tools of industrial policy must be available to developing countries so that they can gain from a globalised production process. **PSI calls on UNCTAD to strongly encourage states to respect the United Nations' guiding principles on business and human rights with due diligence and to work with the ILO in these areas.**