

TTIP of the iceberg?

Some warn that the new Transatlantic Trade and Investment Partnership could lead to covert privatisation of the UK education system. But have they got their facts straight, asks **Julian Hall**

At the end of the National Union of Teacher's succinct briefing against the possible effects on education of the Transatlantic Trade and Investment Partnership (TTIP) John Hilary from campaign group War on Want is quoted as a final flourish: "TTIP is correctly understood as an assault on European and US societies by transnational corporations, seeking to remove regulatory barriers to their activities on both sides of the Atlantic."

For some campaigners, this may be almost all they need to know – the fuse has been lit to another display of encroaching globalisation that must be resisted.

Perception is everything, of course, and perceptions are running rife because this bilateral agreement, designed to remove regulatory barriers restricting transnational trade, is being negotiated between the EU and the US in private. The secrecy has worried members of the

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Left: Toni Giugliano, EUA Spokesman
 Right: Simon Lester, Cato Institute

European Parliament and UK business secretary Vince Cable, who recently said he disliked “the level of secrecy that has surrounded the transatlantic trade deal so far” and that he could “completely understand why some people are worried.”

In the vacuum created by the lack of hard information, concerns have been raised by numerous lobbying groups – including from the education sector – about the potential effects of TTIP, TiSA (Trade in Services Agreement) and the controversial component of the Investor State Dispute Settlement (ISDS), which gives redress to a foreign investor to initiate dispute settlement proceedings against a foreign government. This, opponents say, could encourage companies to sue public authorities if they consider that local legislation obstructs their ability to generate ‘legitimate’ profit.

Among those leading the charge in education are the National Union of Teachers (NUT), the EUA (European University Association) and the University and College Union (UCU), all of whom

have issued stark warning against the possible effects of the legislation.

In its unanimously adopted statement, the EUA, which represents 850 higher education (HE) institutions across 47 countries, recognised assurances given by the European Commission that public services would be protected under the deal. But it also raised concerns that, under the current General Agreement on Trade in Services (GATS), higher education “does not satisfy the criteria which allow exemption for ‘services supplied neither on a commercial basis nor in competition with one or more service providers’”.

In the UK the business department (BIS) has rejected this claim and – after some chasing – told EducationInvestor that: “Neither the GATS nor any of our other trade agreements has affected our ability to determine how education, including higher education and adult education, is provided in the UK, and this will remain the case. Publicly funded education services are not within the scope of our trade agreements – their provision is safeguarded through a specific exemption in the agreement on public utilities.”

It added to this that, in the privately-funded education sector, “UK commitments under GATS or other trade agreements simply enable foreign providers to deliver services in the UK, as they are able to do today”.

So far, so complicated. Such reassurances are unlikely to give much succour to opponents too. The EUA ►



► has argued that TTIP and TISA “create uncertainty on the ability of [EU] member states to determine the nature of their higher education systems” and that the public-private ‘hybridity’ of HE means that the legislation “cannot be conducted with legal certainty and clarity”.

To offset the perceived threats of increased outsourcing and undermined quality control, EUA spokesman Toni Giugliano says that the organisation’s members want “no commitments to be made” behind closed doors, as currently seems to be the direction travel.

“When a final and public TTIP agreement reaches the European Parliament, we will be able to offer further analysis,” he says. “Given that TTIP is not draft legislation and there is no public final text, precise scenarios cannot be anticipated. We know that the EU’s initial offer included higher education, adult education and ‘other’, but we don’t know how these will be defined.”

Whether TTIP is a transatlantic storm in a teacup, or a genuine tornado on the horizon is not clear. Such uncertainty is prompting bodies traditionally opposed to for-profit education in general to speak out.

Britain’s University College Union, for example, echoes the EUA’s concerns, but while the EUA asks for “no commitments” UCU asks for a complete exclusion of education and “all services that are in the public good” from the treaty.

To justify their demands they point to the huge expansion of private HE in the UK under this government, driven by taxpayer-funded student loans, which at

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BIS

TTIP: THE BENEFITS

ACCORDING TO THE BUSINESS DEPARTMENT, TTIP COULD LEAD TO:

- A £10 billion uplift to the UK economy
- Prices could fall when trade tariffs are cut
- American goods sold in the UK could become cheaper
- US and EU firms could create more jobs in the UK
- More opportunities for British businesses in the US.

alternative providers jumped from £50 million in 2010-11 to £675 million in 2013-14. It adds that this environment has become increasingly attractive to for profit education companies in the US, which have a troubled relationship with state subsidies. Over the past few years, many have been sanctioned by the federal government for unethical recruitment practices.

UCU’s perhaps rather biased prediction is that TTIP could create contagion. “The UK higher education market is a strategic priority for US education companies,” says UCU spokesperson Jenny Sherrard, referencing Apollo Education’s acquisition of BPP in 2009. “The TTIP could be used by US companies to litigate against the introduction of tighter regulation, limiting the capacity of UK policymakers to implement or introduce regulations which promote the public interest.”

So what do those on the right think of all this? Simon Lester, of the libertarian think tank Cato Institute, warns against histrionic predictions but says he gets why groups are concerned about the possibilities.

“The fact that there is a TTIP doesn’t necessarily have an implication for education, it depends what the parties commit to. We know that Monsanto is lobbying to open the EU to genetically modified crops, but education is different. If there is a US education sector pushing to liberalise education services, I don’t know anything about it, and I am someone trying to find someone pushing for it.”

Lester is, unsurprisingly, a firm believer that competition drives quality and lowers costs for consumers – something he says is not happening in UK HE, as shown by the way fees at most universities have gone up in “lockstep”.

But he does concede for-profit education companies have “behaved badly in some

cases” and says it annoys him greatly when government subsidies are funnelled to these companies through student loans and grants. “The larger problem I see here is in the way the government hands out or directs this money. A real free market would have companies competing for students through lower prices and higher quality, rather than maximising the number of students so as to take advantage of public funds. Unfortunately, that’s how things work in the regulated market that [US] governments have created.”

If anti-TTIP education campaigners are worried by what they read here, then they should be ready to feel extremely vindicated by what Lester says about the increased scrutiny of the Investor State Dispute Settlement (ISDS), which Vince Cable recently should be “tightened up”.

“I have been critical of ISDS” begins Lester, “it’s unnecessary, problematic, gives international courts too much discretion and that causes problems for every sector. So, yes, people are right to worry about it, it needs to be reined in or eliminated. The establishment doesn’t see a problem here, but I’m an establishment person myself and I’m trying to convince them. I am saying I love free trade and the free market, but ISDS is not that. I don’t feel like I am changing the tide. I’m doing everything I can!”

When those on the left and the right are questioning the wisdom of a treaty clause, then those stuck in the middle are going to feel the pinch. With TTIP, the picture is, some will argue, as clear as mud. Perhaps Vince Cable will bring some clarity to this as business secretary. Either way, while ISDS might unite left and right their dogmatic differences on education – and other public services – will only be reinforced by TTIP as a whole. A ‘brave’ new world awaits only with the same old arguments. ■