

Discussion Regarding a Proposal for a WTO Agreement for the Supply of Public Goods

James Love
Knowledge Ecology International (KEI)
20 December 2024

Motivation

- The chronic undersupply of goods that have public and social benefits is a persistent problem at all levels of society.
- Governments have tools to address these issues through taxation and regulatory measures on the local and the national level, but the international dimension suffers from a lack of enforceable mechanisms to ensure that collective action to supply social/public goods will be credible and sustainable over time.
- Governments often lack of confidence that others will follow through on funding commitments.

Binding International Agreements

1. Time consuming to negotiate and ratify.
2. New institutions that require investments in time, money and diplomatic skills to manage and monitor.
3. Many useful cross collaborations involve small numbers of interested parties, or discrete projects that are not large enough to justify a new legal instrument.
4. Enforcement is frequently a challenge.

What are public goods?

From 1954 to 1958, Paul Samuelson wrote a series of articles in the *Review of Economics and Statistics* on the topic of public expenditures:

- The Pure Theory of Public Expenditure (1954)
- Diagrammatic Exposition of a Theory of Public Expenditure (1955), and
- Aspects of Public Expenditure Theories (1958)

These articles and contemporaneous commentary about them used the term public goods, but also terms like public expenditure, public consumption goods, collective goods, collective consumption goods, or government activities.¹

Samuelson's definition of a pure public good as one that was non-rival in consumption and non-excludable was presented as an extreme and polar case for market failures. In practice, such goods are rare.

In his 1955 paper, Samuelson acknowledged this, and referred to “considerations other than those emphasized in my models” as candidates for public goods, including redistribution of incomes, paternalistic policies, the supply of goods where “atomistic competition” is not realistic, and “Myriad ‘generalized economic and diseconomy’ situations, where private pecuniary interest can be expected to deviate from social interests.”

See also: [The Use and Abuse of the Phrase “Global Public Good”](#), Developing Economics, JULY 16, 2020

1. For example, Julius Margolis, A Comment on the Pure Theory of Public Expenditure, *The Review of Economics and Statistics*, Nov., 1955, Vol. 37, No. 4 (Nov., 1955), pp. 347-349; Gerhard Colm, Comments on Samuelson's Theory of Public Finance, *The Review of Economics and Statistics*, Vol. 38, No. 4 (Nov., 1956), pp. 408-412

National, cross-border and global public goods

Governments exist to advance the well-being of a population within a defined territory, and for many purposes, this is sufficient. But there are cases where cross-border measures are important, and actions by one national government are not enough, and a potential mismatch between those who bear the costs and those who benefit.

Not all public goods have global characteristics or constituencies. Smaller coalitions of states can more impacted or interested in taking action.

Some cross-border public goods

- Human Genome Project (and follow on projects like Ensembl)
- Patrolling the high seas to protect against piracy
- Refugee services
- Responding to natural disasters
- Reducing carbon emissions to combat global warming
- Protecting wilderness areas and endangered species
- Funding the development of new drugs to overcome antimicrobial resistance to existing antibiotics
- Creating accessible format versions of books for persons who are blind or have other disabilities
- Research and development and other measures to control locust damage to crops
- Cross-border remediation of environmental pollution, climate change
- Famine relief

Challenges in cross-border collective action

Since 1994, CPTech/KEI have been involved in advancing and monitoring proposals to advance the supply of public goods, particularly in the area of knowledge goods. These negotiations are challenging, for a variety of reasons. For this discussion, three issues stand out:

1. The characteristics of public goods are diverse, as is the national willingness to contribute to their supply. There are topics where willingness to pay for public goods appeals to a unique set of donors. In the health area, it appeals for topics like funding treatments for HIV, R&D for the development of new antibiotic drugs, treatments for Chagas disease, disease X, point of care tests of TB, etc.
2. For important sets of public goods, the supply and costs take place over time, and countries lack confidence that partners will continue their support over time, given changes in political leadership and changing priorities.
3. The creation of new treaty, trade or other agreements are time consuming, create burdensome governance obligations, and are difficult to enforce.

The WTO GATS Agreement

WTO members volunteer to include binding commitments on schedules.

A specific commitment in a services schedule is an undertaking to provide market access and national treatment for a specific service on the terms and conditions specified in the schedule.

The commitments can be very narrow. For example, in the U.S. they may apply to specific states.

https://www.wto.org/english/tratop_e/serv_e/serv_commitments_e.htm

https://www.wto.org/english/tratop_e/serv_e/guide1_e.htm

WTO Dispute Settlement Understanding (DSU)

Historically, the feature that makes the WTO unique and important among multilateral institutions is the power to enforce its agreements.

(Recognizing current challenges facing the WTO), the Dispute Settlement Understanding (DSU) is designed to enable diverse trade sanctions against WTO members when rules or commitments are broken.

The sanctions may take the form of tariffs on selective or targeted goods, and also other measures, including retaliation against intellectual property rights.

Proposal for agreement on the supply of public goods

Create an option for governments to make binding offers and commitments for the supply of heterogeneous global public goods.

The new agreement would be modeled in part on the WTO General Agreement on Trade in Services (GATS).

The GATS is designed to liberalize trade in service, featuring a system of binding “offers.” The offers are not uniform, and depend upon a willingness to liberalize in a specific sector, and the interest of other countries that they do so.

Liberalization commitments are traded in an environment where “asks” and “offers” cover a wide range to topics, including changes in tariffs or agricultural subsidies, or requests for support of new intellectual property norms. What is key to the services agreement is its ability to accommodate a diverse set of offers, in a multilateral negotiation, where consensus on uniform norms is unlikely.

The proposal is to borrow from the GATS the structure of accepting binding heterogeneous offers to supply — in this case, not liberalization of trade in services, but the supply of public goods.

Some technical issues

1. Standardized and sui generis offers
2. Exit offers
3. Enforcement

Benefits of an agreement

It can replace the need to set up a separate treaty or agreement, using the WTO's existing governance structure and secretariat, or complement separate treaties or agreements (by lending the WTO's enforcement powers to third party agreements on public goods).

By introducing public goods into the WTO environment “asks” and “offers” in negotiations would not longer be exclusively about the private goods market.

Public goods would have value as a trading chip in the WTO environment.

Some earlier discussions

2008. The proposal first presented by KEI by Manon Ress in a 2008 workshop on public goods held at Columbia University. ([link](#))

December 1, 2009. KEI made a presentation at joint KEI/IQsensato side event at the Geneva WTO ministerial meeting. ([link](#))

January 2009. Included in a presentation at the World Forum on Science and Democracy, held in Belém, Brasil. ([link](#)). Presentation described by David Bollier as an “Ingenious Hack on the World Trade Organization” ([link](#))

On 8 July 2014, the United Kingdom of Great Britain and Northern Ireland’s All-Party Parliamentary Group on Global Tuberculosis (APPGTB) released a report entitled, “Dying for a Cure: Research and Development for Global Health.” The report endorsed the KEI proposal for a WTO Agreement on the Provision of Public Goods, which “could enhance incentives for countries to invest in R&D for global health and facilitate new collaborations and coordination” and “would strengthen the UK’s position in trading agreements and help capitalise on significant financial commitments already made to global health.” The APPG’s recommendation on exploring a WTO Agreement on the Supply of Public Goods specifically targets the UK’s Foreign and Commonwealth office and the UK Department for Business, Innovation & Skills.

March 28 to 29, 2015, the Heinrich Böll Foundation (HBF) and Knowledge Ecology International Europe (KEI Europe) convened an expert meeting to review a draft text for the proposed agreement. A report from the meeting by Thiru Balasubramaniam, titled “Trade Agreements And The Supply Of Public Goods: Report of the Berlin meeting to consider a possible WTO Agreement on the supply of public/social goods, available here: ([link](#))

The Berlin consultation was followed by a November 20, 2015 technical consultation in Geneva by WTO trade experts. ([link](#))

Prospects of reach consensus in the WTO

- Positives:
 - Favorable reaction to the proposal from a diverse set of WTO members.
 - Diverse public goods efforts stand to benefit.
 - No natural opposition. No losers.

- Challenges:
 - Rising attacks on global institutions.
 - While multiple public goods efforts would benefit, not obvious which ones if any would take ownership of the advocacy.

Next steps

In no particular order:

- Describe scenarios where an agreement would be used.
- Additional work on two challenging topics (1) exits from obligations and (2) enforcement of obligations.
- Additional work on modalities for standardized offers.
- Paper tabled in the WTO to begin explorations.

For more information

James Love, Knowledge Ecology International (KEI)

- <https://www.keionline.org/>
- James.Love@keionline.org
- janielove.bsky.social