An International "Trade in Services Agreement" (TiSA)?

Why this Proposed Agreement is Dangerous to Democracy, Development, Jobs, and the Public Interest, and Must Be Stopped!

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What is the proposed TISA?

In 2012, about 20 members (counting the EU as one) of the World Trade Organization (WTO) calling themselves "The Really Good Friends of Services" (RGF) launched secret talks towards drafting a treaty that would further liberalize trade and investment in services, and expand "regulatory disciplines" on all services sectors, including many public services. The rules would guarantee foreign services providers access to domestic markets on "no less favorable" conditions than domestic suppliers and would restrict governments' ability to regulate services, including services and technologies that do not yet exist. This would change the regulation of many public or commercial services from serving the public interest to serving the profit interests of private, foreign corporations and lock that in.

Negotiations have continued with the aim of finalizing a very ambitious agreement on far-reaching services liberalization. The RGF currently include Australia, Canada, Chile, Colombia, Costa Rica, Hong Kong, Iceland, Israel, Japan, Liechtenstein, Mauritius, Mexico, New Zealand, Norway, Pakistan, Panama, Peru, South Korea, Switzerland, Taiwan, Turkey, the U.S., and the 28 member states of the European Union. In a significant victory for trade unions and civil society who campaigned against the deal, Uruguay announced in early September of 2015 that it would pull out of the TISA talks, after ministries of various sectors assessed the potential impacts of the deal and realized they were nearly all negative. Paraguay is also no longer participating.

Where did that crazy idea for TiSA come from?

The proposed TiSA agreement is the latest result of systematic pressure by transnational corporations in information technology, banking, telecommunications, transportation, and other services sectors, working through the lobby group Team TiSA, led by the US Coalition of Service Industries (USCSI), and the European Services Forum (ESF) (documented by Corporate Europe Observatory). The TISA negotiations follow their corporate agenda of using "trade" agreements to make privatization and deregulation non-reversible, and to promote mergers and acquisitions, in order to ensure greater corporate control and profit making in an increasingly digitized, borderless global economy.

The same agenda and players were behind the GATS, which they now see as out-dated. Further negotiations were incorporated as a major area of corporate interest in the launch of the Doha Round of the WTO in 2001. Developing countries only agreed to start a new round of negotiations because rich countries promised the round would be dedicated to "fixing" the anti-development and anti-public interest aspects of the existing WTO (such as the unfair rules on agriculture). Since then, corporate interests have successfully lobbied negotiators to oppose changes to existing rules that would make the WTO more "development-friendly," and to instead keep pushing a liberalization, deregulation and sometimes privatization agenda.

The proposed TISA is the latest cynical attempt to ensure that corporate wish lists can be fulfilled and cement their control over the digital services economy, without having to make any changes to the existing WTO as demanded by poor countries. A TISA would also jeopardize movement towards serious transformation of the global trading system demanded by civil society, such as the global "Turnaround Agenda" of the Our World Is Not for Sale (OWINFS) network. It would undermine the demand from the Public Services International (PSI) global union federation for quality accessible public services for all. It would accelerate the instability in jobs markets globally, as the TiSA rules would limit governments' ability to deal with the disruptive impacts of digitalization; and it would further facilitate corporate tax evasion.

Our world is not for sale. STOP corporate globalization.

Talks stalled in December 2016 over issues of privacy and data protection, and whether all new services must be included. But they could restart any time – and the Trump administration has yet to state its position on the TiSA.

What types of services would be included in the proposed TISA?

"Services" cover a broad range of activities from transportation, (tele-) communications, data processing, real estate, construction, retail, legal services, architecture, engineering, accountancy, marketing, banking, and insurance, to entertainment, recreation, sports, museums, culture, education, health, energy and water distribution, sanitation, funeral services, and much more. The GATS agreement lists all of these as tradable commodities, making every aspect of human activity the subject of closed-door commercial negotiations.

The GATS allowed countries to choose the services they wanted to liberalize, and thus commit to the rules of the agreement, although the negotiating procedure still put pressure on countries to liberalize as much as possible. In contrast, the TISA talks require the participating countries to liberalize services in "essentially all modes and sectors" which according to some RGF means 90% of all services. Incredibly, leaked requests by the EU include demands on developing countries to liberalize municipal services and sewage treatment, among many other normally locally-controlled sectors. *Incredibly, even new services that have yet to be invented would be automatically bound by many of the rules of the TiSA*!

Besides extensively listing services for liberalization, the TISA would include rules on how services sectors can be governed, restricting governments' and parliaments' right to regulate. Wikileaks, bilaterals.org and others have published the core proposed TiSA text and secret draft TISA annexes on **domestic regulation; state-owned enterprises; localization rules; government procurement;** and the "**Mode 4**" of the GATS, or the movement of natural persons, would impose extreme limits government regulation. An agreed annex on **Transparency** would also give corporations rights to influence new rules during the legislative process.

They have also published secret texts of annexes on particularly strategic sectors in which corporations would gain new "rights" to operate in a borderless, digitized environment; those rights go far beyond existing WTO and FTAs, including in **financial services**; **telecommunications; e-commerce**; **air, maritime**, and **road transport**; **energy**; **expedited delivery**; and **professional services**.

What would be some of the Negative Impacts of the proposed TISA?

Regulation of and oversight over both public and private services is crucial for democracy, financial stability, development, and the public interest, all of which would be harmed were TISA to become reality.

Democracy is eroded when the rights of citizens, local oversight boards, and municipal/county/provincial/state jurisdictions to regulate important sectors such as financial services, sanitation, retail, construction, zoning and urban planning, telecommunications, and air, sea, and land (including urban public) transport, are handcuffed by rules that unaccountable trade officials secretly negotiated to maximize corporate profits.

TISA would constrain the regulation of the financial sector and seriously undermine *financial stability*. The proposed TISA rules were drafted by the same corporations that caused the global financial and economic crisis in 2008. A draft on Financial Services in the TISA was leaked by Wikileaks and exposed the effort to use TISA to prevent much-needed re-regulation (https://wikileaks.org/tisa/) in areas such as banking, accounting, insurance, portfolio management, derivative or currency trading, etcetera.

Development is jeopardized when essential services such as health care, water and energy provision, postal distribution, education, public transportation, sanitation, and others are taken over by foreign corporations to make profits rather than service the citizens of the home country. Examples abound of states that privatized previously public services, and brought in foreign corporations to take over the privatized services, who found the private corporations soon charged increased prices for decreased services, and left both consumers and the government worse off. Instead, we want *universal access to quality public services*, in both developed and developing countries. See Public Services International's "*PSI Special Report: TISA versus Public Services*" for more details!

The *public interest* is threatened when rules regulating services are set to benefit private profiteers rather than public goals. The proposed TISA is being constructed for and indirectly by foreign investors, who would be granted protections against what they deem to be trade-restrictive regulations (even if these regulations were designed to protect the environment, health, safety, financial stability and the public interest). A report by Ellen Gould for PSI and OWINFS, "*The Really Good Friends of Transnational Corporations Agreement*," exposes the negative impacts of TiSA's pro-business rules on "domestic regulation" (of the qualifications that services professionals need, terms and processes for securing licenses to deliver services, and the technical standards that services must meet.)

Through the "e-commerce" annex, the largest global corporations (Amazon, Google, Microsoft, Facebook, and Apple) are aiming to advance the commercial interests of the technology sector, including unrestricted cross-border flows of data – allowing these corporations to control the world's most valuable resource for free. This would jeopardize *consumer protections and privacy laws, create a private oligopoly over the digital economy*, and foreclose the *policy space of developing countries to undergo digital industrialization*.

Taken together, these proposed elements of TiSA would leverage increased digitalization for corporations to move inputs, data, people, and capital across borders seamlessly, accelerating *instability in the labor and financial markets*, and *evading payment of taxes to any country*.

What would be the Basic Structure of the proposed TISA?

The basic structure of the TISA is modeled on the GATS, but with several worrisome expansions.

- Participants would have to liberalize services in "essentially all modes and sectors" and at a minimum match their best FTAs – greatly expanding the coverage from the current GATS.
- Market access rules specify that there can be no bans on types of services, no quotas, no economic needs tests, no prescribed legal forms, no FDI caps in a covered sector, unless limitations are permitted.
- All foreign services providers and their services will receive "non-discriminatory treatment", being treated at least as well as their domestic counterparts and not having to 'localise' their presence or content, except for those services specified in a list of limitations (a serious expansion from GATS).
- New, far-reaching restrictions on those limitations would include a "standstill", so no new "discriminatory" regulation in a services sector could be introduced.
- The "ratchet" provision would mean that any future autonomous liberalization of that service sector by removing "discrimination" would be automatically locked in under TISA.

How Would the Proposed Services FTA Impact Non-Participating Countries?

- Because TiSA is being negotiated outside of the WTO, non-participants (as well as civil society) have less access to negotiating documents or meetings; almost all available info comes from leaks.
- The proposed agreement is intended to become "multilateralized" after completion, meaning that other countries will be pressured to adopt the framework set by the most extreme liberalizers and make that hyper-deregulation-and-privatization agenda the global "norm".
- The RGF would notify the WTO of the agreement through Article V of GATS, which means they do not have to share the concessions with non-TiSA WTO members - on condition that TiSA has substantial coverage and removes most discrimination. Thus TiSA is a very radical Services FTA.
- The proposed TISA has no development flexibilities and weakens the negotiating position of developing countries resisting more extreme rules in the GATS. It also means Least Developed Countries (LDCs) and other developing countries have less leverage in other outstanding WTO negotiations, including to transform the damaging global agricultural rules.
- TISA countries are already pressuring WTO members to agree to TiSA-like rules on domestic regulation and working to launch a new mandate for rules on e-commerce – but the WTO should not be expanded with new issues before existing anti-development aspects of the WTO are addressed.
- Even if the TISA was technically "outside" the WTO, poor countries that are in the process of joining the WTO would likely face demands that they also adopt the TISA, against their interests.
- TISA countries are already pressuring negotiating partners in other FTAs to "harmonize" with the TISA, which puts additional pressure on non-participating and especially developing countries.

How Can We STOP the Proposed Services FTA (the TISA) from Ever Existing?

Since the TISA intends to erode the decision-making mandates of regulatory agencies, elected officials from local/municipal/state/provincial decision-making bodies, as well as parliaments, they should be leading the fight against the TISA agenda of restricting state regulation in the services sector.

NO SECRET, UNTRANSPARENT AND UNACCOUNTABLE NEGOTIATIONS!

Negotiations should not be carried out in secret, leaving citizens, legislators, trade unions, regulating agencies, services users and other interested parties with limited or no role in setting negotiating mandates and no access to the negotiations or negotiating documents, while corporations set the agenda. TiSA negotiations should also not be carried out behind the backs of the majority of the members of the WTO.

NO MORE DEREGULATION AND SURRENDERING SERVICES TO CORPORATE INTERESTS!

The world is still recovering from the greatest global economic downturn in history, facilitated by the extreme deregulation of the financial services industry. Services sectors that are predominantly run by private interests, such as banking, accounting, shipping, insurance, retail, tourism, telecommunications, and many others, still need strong public oversight to ensure that they operate in a transparent and accountable legal framework for the public good. Other services, such as water and electricity provision, education, health care, local transport, sanitation, and others, ought to be operated by the public, or strictly regulated to ensure that the public interest is served as a priority over private profit. Governments must have the right to regulate new digital technologies and new services to maximize the benefits and minimize the risks.

1. **If your country is a participant in the TISA negotiations**, contact your government and demand that they (a) renounce their participation; (b) provide full transparency; (c) open the discussions to regulatory agencies, public service providers and users, parliamentarians, and other civil society groups focused on ensuring high-quality and accessible services for the public; and (d) exclude key sectors such as financial, energy, health care, education, water, sanitation, and others from the TISA.

2. **If your country is NOT a participant in the TISA talks,** contact your government to ask that they issue a clear and public statement that they oppose the TISA negotiations, and will not now or in the future join the agreement (and that they disapprove of the current RGF process).

3. **Whether or not your government is part of the negotiations**, spread the word about the dangers of the proposed TISA among parliamentarians, other elected officials, regulatory agencies, public services providers and users, trade unions, and other public interest and civil society organizations, so that they can also become aware of the dangers, and advocate on the issue. They may be concerned by threats to democratic rule of law, public procurement and state-owned enterprises, public services including health care and education, the rights of workers, transportation, financial services, and data privacy. More information is available at www.tisauncovered.org.

If enough TISA participants find their negotiating mandates severely constricted, or renounce their participation like Uruguay did, and enough non-participants publicly affirm their opposition and lack of interest, the corporate lobbies pushing for the proposed TISA will fail in their efforts to gain further control over services for corporate profit. We believe in quality, accessible public services, public oversight and proper regulation, human rights, and labor rights – and that means a world without TISA!

For more information and to get involved, please contact the Our World Is Not for Sale (OWINFS) network at djames@cepr.net or Public Services International at daniel.bertossa@world-psi.org or UNI Global Union at Christina.Colclough@uniglobalunion.org.