



Public Services for the Public Good

Public Services International statement on the
Trade In Services Agreement (TISA)
WTO Ministerial
Bali, 3-6 December 2013

Universal [quality public services](#) and decent work are goals of economic development, to which international trade is but a means.

Trade agreements should not undermine provision of quality public services or decent work.

Quality public services are dynamic and respond to the changing political, social and technological need of the community. Trade treaties must not close policy space or inhibit innovation in public service provision. Trade treaty rules should not interfere with the restoration or expansion of public services, where experiments with private provision fail or are rejected by democratically-elected governments.

Treaties to promote international trade must fully exclude coverage of public services and preserve the ability of governments to restore, revitalize or expand public services.

Reports on the Trade In Services Agreement (TISA) appear to suggest that the difficulties in safeguarding public services under the GATS and other treaties are now being exacerbated by the current TISA negotiations. The breadth of the TISA also poses risks to other vital public goods, including privacy rights, internet freedom, environmental regulation and consumer protection. Astoundingly, the causes of the 2008 global financial crisis appear also to have been forgotten with the TISA proposing another round of liberalisation and deregulation in the financial sectors, while the public sector, which has shouldered the burden of resolving the crisis, also continues to be a target for liberalisation and deregulation.

The TISA is being driven by developed countries and multinational services corporations frustrated with the WTO's Doha Development Agenda, stalled due to developed countries' inflexibility on agricultural and development issues. The decision to break away and focus exclusively on achieving narrow corporate interests of private service industries signals that, despite official assurances to the contrary, rich countries are turning their backs on the Doha Round. The subsequent pressure that would then be applied to smaller, less developed and emerging market economies to join the agreement as political conditions permit – that is, when conservative governments are in power – is unacceptable.

Given these threats, and the corporate pressure driving the talks, the official secrecy surrounding the TISA negotiations is disturbing and unacceptable.

Governments in those countries already participating in the TISA must provide full consultation and disclosure. Local and regional governments, whose democratic and regulatory authority could be seriously affected, must be fully consulted. The corrosive impact of such wide ranging negotiations occurring outside the multilateral process cannot be supported.

Trade agreements should not encourage privatisation.

Trade negotiators continue to insist that nothing in such treaties force governments to privatise, yet they clearly limit key options for more progressive governance. The negative impacts on public services include: confining public services within existing boundaries by raising the costs of expanding existing services or creating new ones; increasing the bargaining power of corporations to block initiatives when new public services are proposed or implemented; and locking in future privatisation by making it legally irreversible.

'Negative list' binds future governments in as-yet-unknown ways.

TISA negotiators are reportedly agreed on a core part of the TISA text that conforms fairly closely to the GATS. One major difference is that the TISA adopts a "negative list" approach to national treatment. National treatment obligations would automatically apply to all measures and sectors *unless these are explicitly excluded*.

This "list it or lose it" approach greatly increases the risk to public services and other public interest regulations. Any public policy that a government neglects to protect, even inadvertently, can be challenged.

Obligatory "standstill" and "ratchet" provisions bind future governments.

The TISA's ratchet clause requires that "any changes or amendments to a domestic services-related measure that currently does not conform to the agreement's obligations (market access, national treatment, and most-favoured nation treatment) be made in the direction of greater conformity with the agreement, not less."¹

The TISA will obligate governments to automatically cover all "new services," meaning those that have not even been invented yet. Under such rules, any government can lock in a privatisation scheme for all future generations. Trade agreements should not bind the hands of future democratically-elected governments.

Domestic regulation should not be extended; and there should be no private dispute panels.

The GATS Article VI:4 called for further negotiations to ensure that "qualification requirements and procedures, technical standards and licensing requirements" do not constitute "unnecessary" barriers to trade in services. With the WTO process stagnated, TISA participants intend to come up with their own domestic regulation text. The restrictions would apply to non-discriminatory government measures and could allow private dispute panels to decide whether such measures were based on transparent and objective criteria and not more burdensome than necessary to achieve their stated objective. The TISA should not bind governments in non-discriminatory areas and should not use private dispute panels.

Trade agreements should not regulate labour migration.

Workers are not commodities and should not have their movements regulated by trade agreements. Unlike goods and services, people require institutions to protect their human rights. Only the standard-setting process of the tripartite International Labour Organization is fit to regulate labour migration.

Trade negotiators should not have unlimited authority to determine sectoral regulations.

TISA negotiators have blanket authority to develop rules "on any other issues that fall within the scope of Article XVIII of the GATS" and are known to be working on new sectoral agreements covering the regulation of financial services, information and communications technologies, maritime and air transport services.

These talks are aimed at developing binding regulatory templates for a range of services sectors in order to facilitate the entry of foreign commercial providers. Broad exceptions to public services must be made under these provisions – and not be qualified by necessity tests and other pro-market requirements biased towards global service providers.

The TISA is also explicitly designed as a "living agreement" that will mandate negotiators to develop new regulatory templates for additional sectors far into the future. Services negotiators have a core mandate of increasing foreign trade and commercial expansion. They should not be permitted to develop regulatory frameworks that would restrict or override public interest regulations that protect consumers, workers or our environment.

¹ Daniel Pruzin. (2013). "TISA Round Sees Progress on Proposals, Commitments to Make Market Access Offers." WTO BNA Reporter. November 12, 2013.