

The TiSA trade agreement benefits only corporations

Environmental, consumer and data protection threatened

Another trade agreement (along with TTIP and CETA) is currently negotiated behind closed doors — the TiSA agreement. It is designed to eliminate trade barriers in services, in order to facilitate market entry for global service providers. TiSA will accord companies far-reaching rights and influence on national legislation — with foreseeable consequences for the climate, energy policy, society, and democracy.

The Trade in Services Agreement (TiSA) has been under negotiation since 2013 by the European Union and 22 other nations. Together they are responsible for two-thirds of all services exported around the world. This group includes the United States, Australia and Switzerland. While TiSA was supposed to be finalized 2016, the negotiations are on hold since the 21st round of negotiations in November 2016, awaiting further developments in the United States. Though a ministerial meeting in December was cancelled, civil servants are still meeting and TiSA might get restarted in 2017.

Service is defined as work that does not directly involve the production of goods, such as hair styling or the work of a travel agent. Nearly two-thirds of all employees in the EU work in the service sector.¹ The TiSA agreement will regulate international trade in services.

New agreements instead of the WTO

The regulation of trade in services is traditionally an area of responsibility within the World Trade Organization (WTO). Because negotiations on the development of the WTO's General Agreement on Trade in Services (GATS) have stalled, further liberalisation in services is now supposed to be accomplished through TiSA, outside of the WTO.

TiSA is supposed to regulate financial services (such as banking), basic public services (including healthcare, education, and access to water), the energy industry, and international subcontracted employment. Above all, the goal is to privatise public services.

Large internationally active corporations are calling for these regulations and are supported by the EU Commission. Growth and jobs, as well as lower prices for businesses and consumers, are being promised.

Once the agreement has been finalised, it is supposed to be integrated at a later time into the WTO structure, so that it becomes binding for all 164 WTO member states in the long term. Many countries that have not yet built up a competitive service sector will not be able to withdraw from this agreement; their services will be in direct competition with those of other countries.

These nations cannot expect fair treatment when they accede to TiSA. Since the acceptance of new members must be unanimously approved by the original TiSA signatories, new members will be

¹<http://stat.wto.org/ServiceProfile/WSDBServicePFView.aspx?Language=E&Country=E28%2CUS>

confronted with special demands from present TiSA signatory states, above and beyond already tough TiSA conditions.

A threat to basic public services

Public services to satisfy basic needs include access to water, energy, education, healthcare, public transportation, and so forth. Opening these service areas to foreign providers, which often involves privatisation, poses a threat to basic public services because companies are interested primarily in profits and not in the common good. This could have disastrous consequences for consumers, such as price increases, reduction of jobs, and a decline in quality.

The negative impact of liberalising and privatising basic public services, forced by a trade agreement, has been documented particularly in the case of water supply. One example, among many, is Potsdam.

The waterworks in Potsdam were partially privatized for one-and-a-half years between 1998 and 2000. The consequences of this “experiment” are still being borne by the city’s inhabitants today. The French corporation Eurawasser chose to use a clever participatory system and financed the purchase of 49 percent of its shares with a loan, which it then transferred to Potsdam’s water utilities. Eurawasser next doubled the price of water. Strong criticism of this situation led to the city cancelling its contract with Eurawasser, but when it resumed responsibility again for the waterworks, it also had to assume the loan. The inhabitants of Potsdam have had to pay higher prices for water for at least 15 years to pay off the loan.²

Standstill and ratchet clauses

From an environmental point of view, important points in the debate on TiSA are the ratchet clause and the standstill clause. The intention of the ratchet clause is to automatically integrate into agreements any liberalising measures carried out

independently of trade agreements, making them irreversible. A privatisation, once undertaken, cannot be later reversed. The intention of the standstill clause is to ensure that social, health-related or ecological standards and regulations cannot be made more stringent once the agreement is concluded. To the advantage of investors, this clause severely intervenes in the options available to parliaments and governments to modify or create regulations needed to benefit the common good.

Negative list

In the TiSA agreement, a so-called negative list itemises those services that are exempted from liberalisation. By implication, this means that everything not on the list automatically undergoes liberalisation. Once the agreement is concluded, no more exemptions can be made. New services, as yet unknown today, cannot be exempted from liberalisation and remain unregulated.

Sending workers abroad

Advocates of TiSA like to claim that the agreement will generate prosperity and more jobs. But the opposite will happen. Large companies can send workers to another country and employ them there for the very low wages often paid in their countries of origin. These workers do not need work permits, but their residence abroad is subject to their employment contracts, rendering them completely dependent on their employer. They may have no claim to the minimum wage, health insurance or other social benefits. This can easily lead to the exploitation of foreign workers – and domestic employees lose their jobs to this cheap competition.

² [https://berliner-wassertisch.net/assets/files/PDF-Dokumente/David%20Hachfeld%20-](https://berliner-wassertisch.net/assets/files/PDF-Dokumente/David%20Hachfeld%20-%20The%20Remunicipalisation%20of%20Water%20-%20Potsdam%20andG.pdf)

[The%20Remunicipalisation%20of%20Water%20-%20Potsdam%20andG.pdf](https://berliner-wassertisch.net/assets/files/PDF-Dokumente/David%20Hachfeld%20-%20The%20Remunicipalisation%20of%20Water%20-%20Potsdam%20andG.pdf)

Data privacy under threat

The TiSA agreement would also allow sensitive data (user data and information on banking or health) to be transferred freely to countries with poor data protection standards and used there for commercial purposes.

The United States wants above all to assert in the agreement that companies can store and process user data in a country of their choosing. This is linked to the demand that American companies do not need to be based in other countries in order to offer services there, whether online or offline. This means not only that data security is threatened but also that these companies are exempted from compliance with the legislation and data protection requirements of the country in question. In this way, legislation and regulations on data and consumer protection, once fiercely campaigned for, are easily bypassed.

Conversely, government actors could be given a blank check to access user data. All regulations in the article on electronic trade could actually be overlooked to protect "important security interests". Criminal prosecutors, intelligence services, and state agencies could do what they wanted.

Furthermore, net neutrality would no longer be a barrier to trade. In principle, this would make it possible for special fast lanes on the Internet to be allowed and thereby end the equal treatment of data.

Financial markets

In recent years it has become clear how dangerous it can be when the financial system is not sufficiently regulated – the 2008 financial crisis was a direct consequence of this situation. Nevertheless, neither the growth of banks nor the risky incentive system has been changed. TiSA might have the effect that necessary reforms and protective mechanisms fail to materialize. It will continue to reduce

regulatory barriers to facilitate the handling of international financial services. TiSA could make the financial transaction tax debated in the EU become a thing of the past. But this tax is necessary for inhibiting the dangerous speculative trading that was partly responsible for the financial crisis.

Climate protection goals in danger

In December 2015, the international community of states agreed in Paris to limit global warming to 1.5 degrees Celsius. This resolution calls explicitly for efforts to rapidly reduce global emissions and promote access to renewable energies. TiSA endangers this objective in three ways.

1. For a country that has not placed its energy sector on the negative list, the ratchet and standstill clauses restrict the right of its government to reverse, if necessary, the liberalisation steps it once took, and to adopt regulatory measures boosting an energy revolution. It will then no longer be possible to decommission a local incineration plant belonging to a privatised municipal utility in order to build a wind farm, for example.
2. TiSA does not recognise international goals for sustainable development and international climate goals. TiSA signatories do not commit themselves to using trade policy mechanisms to favour goals designed to mitigate climate change (such as decarbonisation or the replacement of emission-intensive energies with low-emission sources). Moreover, TiSA's own mechanism for taking legal action is an effective instrument for enforcement, quite in contrast to the international climate agreement.
3. If the annex on energy and mining related services³ goes into force, even those states that have placed their national energy sectors on the negative list risk being restricted in installing national measures to implement an energy revolution and meet

³ "Annex on Energy and Mining Related Services", July 2016, published by Greenpeace Netherlands; www.tisa-leaks.org

their climate protection targets.⁴ This annex entrenches the principle of technology neutrality. Accordingly, future national legislation and regulations may not favour or discriminate against a particular energy technology.

Opaque negotiations

The exact content of negotiations is barely known to the public. However, some documents have been leaked.⁵ Negotiations are going on behind closed doors in Geneva. Even EU parliamentarians have restricted access and are obliged to maintain secrecy.

And that will remain unchanged. The United States has contractually stipulated that none of the content of the negotiations is to be published for five years after negotiations end — regardless of whether the agreement enters into force or not.⁶

Cynically, this secrecy does not apply to everyone. Influential lobby groups such as the European Services Forum are officially consulted before and during rounds of negotiation.⁷

Transparency for corporations

TiSA is being negotiated in secret, so it is ironic that it contains an article dealing with transparency. This article ensures that signatories to the agreement inform each other at an early stage of new legislation and regulations in their own countries that could affect other signatory countries, giving them time to assess any possible consequences. The article on transparency applies not only to TiSA signatories but also to interested persons and organisations of the signatory states.

But something else is concealed behind these rules, namely that corporations are informed swiftly of proposed measures. Not only that – they also have the right to comment on such measures and thereby exert influence on them. Theoretically, this option is available to all interested persons

and associations. But in practice, only financially strong corporations and lobby associations that are familiar with the intricacies of TiSA can take advantage of this right. It is no small wonder that corporations providing services already have close contact to negotiators. When head negotiators met in Washington in October 2016, the CSI lobby association (Coalition of Services Industries) hosted them at a reception. CSI's members include Citibank, eBay, Facebook, Google, IBM, Microsoft, VISA, Walmart and Disney.⁸

Greenpeace demands:

- Stop TiSA negotiations
- Stop TTIP negotiations
- No ratification of CETA

Trade agreements must meet the following criteria:

- Compliance with the precautionary principle
- Safeguarding of the highest environmental and consumer safety standards and the option to further improve them
- No regulatory cooperation
- No private investor-state dispute settlement (ISDS)
- Participation of national parliaments
- Transparent negotiations

⁴ "TiSA – Another secret free trade agreement putting the Paris Agreement in a straight jacket", Greenpeace, September 2016.

⁵ <https://www.wikileaks.org/tisa/> and www.tisa-leaks.org

⁶ <https://wikileaks.org/tisa-financial/WikiLeaks-secret-tisa-financial-annex.pdf>

⁷ <http://www.esf.be/new/tisa/esf-activities-on-tisa/>

⁸ See <https://servicescoalition.org/about-csi/csi-members>