

# **From GATS to TISA: Corporate power, inequality and the new attacks on public services**

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# Transformation: National Social Goals and Regulation to “Trade in Services”

- We used to have a mix of public and private *provision* and *regulation of services* for any country was based on a mix of local conditions, economic ability, diverse goals of well-being of citizens.
- Now we have an international set of binding treaties that combines liberalization, privatization, and market-oriented regulation.
- How? Corporations had the idea of using “trade” agreements to create binding rules in services to give corporations access to foreign and domestic services sector markets – to lock in privatization, deregulation and liberalization (which many countries experienced under IMF/World Bank structural adjustment). Political economy of the transformation to “trade in services”:
  - How did this happen? Power dynamics? How did corporations achieve this? Which countries?
  - What did our side do? What is our counter-narrative, alternative?
  - What is the current scenario, and the coming threats?

# 30 Years of Political Economy, History and Geopolitics of “Trade in Services”

- **As developed countries lost their comparative advantage in manufacturing, they sought to create a new markets through services.**
- **Primary target of powerful corporations negotiating “trade in services” is not “trade” but the laws, policies and regulations that govern services within a national border – which services corporations view as “barriers” to their expansion and profitability.**
- **We must – and can! – reverse this trend, and bring forth our vision of quality, affordable, public services and proper democratic oversight of private services.**

# Expanded the “Services Sector”

- **What adds value in the production and distribution of goods used to be called “manufacturing” but now are considered services** (transportation, shipping, warehousing, marketing, retail).
- **Liberalization of public services added more market share** to the power of services provider corporations and their lobbies.
- Because services were not “traded” but were socially provided, they were not tracked as part of the economy and exports as much as manufactured goods. **So now its share of the economy has grown “exponentially” but that’s partially an accounting issue.**
- The bigger the **“share of the economy,” and of trade**, the more imperative they can create to have a **“trade agreement.”**
- TISA proponents claim that “the services sector is the world's largest employer, with nearly 3.3 billion people working in services industries. The services sector accounts for 70% of global GDP, while close to 20% of global trade involves services. Trade in services has grown faster than trade in goods since the 1980s.”

# Corporations create the concept of “Trade in Services”

- **They created a legal basis in US Law: US Trade Act of 1974** includes a mandate for the Executive to negotiate for the removal of barriers to international trade in goods *and services*...and established industry advisory committees led by AMEX & Citicorp.
- **They created narrative:** US Chamber of Commerce, led by AIG, AMEX and others published a report on offshore “barriers” faced by US services corporations, and established an International Service Industries Committee, chaired by CEO of AIG, in 1976.
- **They marginalized the regulators:** Corporations realized that to push further liberalization and deregulation, the industry-specific institutions would have to be marginalized. But, they could find success working through “trade” policymakers whose terminology they adopted (ie non-tariff barriers)!

# Industry gains agreement to launch new trade round to include services

- **They built consensus with other like governments:** USTR developed, among developed countries through the OECD, a “consensus” for the trade in services concept to go beyond GATT to a new agreement.
- **They created an industry association:** US Coalition of Services Industries formed in 1982, including Citicorp, AT&T, Merrill Lynch.
- **They had a favorable global political context:** 1980s global political context of Reagan-Thatcherism.
- **They made “informational” demands first:** At the 1982 GATT meeting, Ministers agreed to “undertake national assessments and share information”...about “barriers to services trade,” not “how to ensure countries can achieve quality public services!”
- **They negotiated a stepping–stone compromise:** Due to US insistence, with some hesitation from the EU and developing country resistance led by India and Brazil, **the Ministerial Declaration of 1986 that launched the Uruguay Round included a mandate for services but *in the context of respect for policy objectives of national laws and regulations.***

# Uruguay Round: General Agreement on Trade in Services (GATS) Hatched

- **Who were “they?” - corporate lobbying influence grew:** Industry sectors set up study and lobbying committees (ie Financial Leaders Group) and employed literally hundreds of lobbyists.
- **Mobilized third party allies: Influential “think tanks” and academic centers** such as the Center for Strategic and International Studies, the American Enterprise Institute, and the Trade Policy Research Centre in London.
- **They defined the boundaries of the field, shaped the debate:** By making various proposals for the architecture of the agreement were hotly debated.
- **Consensus “resulted”:** Negotiations in the Uruguay Round coalesced around the idea of general principles applying across the board, but specific WTO rules would apply to only those sectors which a country agreed to “schedule”.
- After eight years of talks, the **Uruguay Round agreements were adopted in April 1994. GATS entered into force** on January 1, 1995 as part of WTO.

# GATS Led by US Financial Sector

- “Without the enormous pressure generated by the American financial services sector, particularly companies like American Express and Citicorp, there would have been no services agreement and therefore perhaps no Uruguay Round and no WTO,” David Hartridge, top WTO official responsible for GATS.



# Corporations did not achieve their entire agenda with GATS – but they got a built-in obligation to expand!

- **Commitment to “progressive liberalization”** – to secure more commitments from countries to allow their services to be subject to WTO rules – was built into the GATS text, with a further round of negotiations set to start in the year 2000.
- Negotiations to **tighten disciplines on Domestic Regulation** would begin before that. (Nothing to do with trade!) Eviscerate the role of government oversight over licensing, standards, regulation of domestic services.
- **Developing countries were opposed** to launching new negotiations without addressing Implementation and Development issues from Uruguay Round. *Services is almost exclusively a developed country comparative advantage – significant North-South dynamic.*
- **Post-9/11, Doha launched - GATS 2000 folded into the Doha Round**, as part of the Single Undertaking (which means that negotiations in all areas agriculture, goods, services, etc, are to conclude simultaneously).

# Current situation: What we have now

## – basic framework of GATS

Basic concepts borrowed from the GATT:

- The state must treat *foreign* companies just the same as *national* companies – “non-discrimination” called “National Treatment” in the WTO. Call it the “must give foreigners their colonial historical advantages” clause.
- This means no “discrimination” in favor of public services – e.g., public funding for water, electricity, telecoms, transport services that are also provided commercially!
- The state must treat *companies of all foreign countries the same* – “non-discrimination” – Most Favored Nation (MFN).
- This means that if countries agree to broader “market access” in TISA, they may have to offer the same to all WTO members.

# They Commodified All Aspects of Services Provision, including Domestic: Four “Modes of Delivery”

Do not be fooled by the jargon! The Four Modes show how most of GATS disciplines cover activities that have nothing to do with trade:

- **actual trade in services** – “cross-border supply” i.e. what we used to call trade in services - Mode 1 of the GATS.
- **when a consumer moves** – “consumption abroad” Mode 2.
- **when the corporation moves** – investment - “commercial presence” Mode 3.
- **when the worker moves** – immigration – “presence of natural persons” or Mode 4. Big implications for erosion of labor rights.

Only Mode 1 is actual “trade”!

# How do countries commit to “trade in services” rules? Positive v Negative List

- **GATS is a “positive list” – bottom up – a countries “schedule” which services they commit to GATS disciplines, and then which *limitations* they have scheduled on market access or National Treatment or exemptions to MFN treatment.**
- **FTAs with the United States are worse – top down – they are undertaken on a “negative list” basis, meaning that any and all services are subject to the full range of disciplines, except in the cases where an limitation or exemption has been scheduled.**

# “Trade in Services” are Binding, Irreversible Liberalization Rules

- WTO came with a Dispute Settlement Mechanism. Once a country commits a sector to WTO, it is nearly impossible to rescind.
- Bolivia tried with hospital services....still...
- Do we have these binding commitments with human rights, health, labor? That are enforceable by economic penalties? Corporations always argue that those agreements must be voluntary! Only “trade” must be binding!

# Doha Round stalls..

- **General public starts to see impacts: chill on regulation!**
- **No claw-back:** cases involving GATS come under WTO Dispute Settlement, and countries realize commitments are permanent!
- **Resistance develops:** Vibrant anti-GATS campaigns around the world emerged in the 2000s. Critics denounce how capital-driven global rules erode the national sovereignty to achieve economic and social goals.
- European campaigners expose requests by EU on public services; **succeed in pressuring the EU to rescind its requests on public services sectors of developing countries.**
- **Geopolitical challenges to Doha Round:** Because the U.S. insists that China and India and Brazil are treated like developed countries, the Doha Round has been stalemated since mid-2008.
- **Global Crises emerge:** World sees results of Financial Deregulation, impacts on jobs, wages, inequality, of corporate model – yet there's no sense of a need for a complete Turnaround in the WTO agenda!

# Corporate Agenda: from GATS to TISA

- **Current Corporate Agenda:** US and others have abandoned the idea of a Single Undertaking in the Doha Round of the WTO. No commitment to development, transforming rules.
- Instead, they are taking their “offensive issues” into plurilateral formats (services and goods).
- Late 2012: the – don’t laugh – “**Really Good Friends of Services**” launch negotiations for a global “Trade in Services Agreement,” with the idea of setting an extreme neoliberal standard and then bringing it back into the WTO eventually.
- Pushed by major financial, energy, transportation industries. Team TiSA, the official business coalition devoted to promoting the TISA in the U.S., launched this summer.
- U.S. pursuing regional agreements – TPP, TTIP/TAFTA and Europe the same through the Economic Partnership Agreements.

# Global Services Coalition (GSC)

## Members that Demanded Launch of Plurilateral Negotiations in Sept 2012

- Australian Services Roundtable
- BusinessNZ
- Canadian Services Coalition
- Coalición Mexicana de Servicios
- Coalition of Services Industries (USCSI)
- European Services Forum
- Japan Services Network (JSN)
- Hong Kong Coalition of Services Industries
- TheCityUK
- Taiwan Coalition of Service Industries
  
- NASSCOM (India)
- Coalition of Services Industries Malaysia



# TISA: Members and Sectors

- Current developed country members include Australia, Canada, Hong Kong, Iceland, Israel, Japan, Liechtenstein, New Zealand, Norway, South Korea, Switzerland, Taiwan, the United States, and the 28 member states of the European Union. Developing country members include Pakistan, Turkey, Chile, Colombia, Costa Rica, Mexico, Panama, Paraguay, Peru, and Uruguay has asked to join.
- **Countries' negotiations mandates reflecting the interests of the services conglomerates through the USCSI and the ESF** (*extensively documented by Corporate Europe Observatory*).
- In February of 2014, negotiations began on six priority topics: **financial services, telecommunications and e-commerce, domestic regulation and transparency, professional services, maritime transport**, and the so-called “**Mode 4**” of the GATS. In addition, participants had extensive discussions on **road transport, delivery services and air transport**. Other negotiations are on-going on all GATS sectors and more!

# Members of Team TISA (US Corporations)

- [21ST CENTURY FOX](#)
- [ACE GROUP](#)
- [AFLAC](#)
- [AIG](#)
- [AMERICAN COUNCIL OF LIFE INSURERS](#)
- [AMERICAN FARM BUREAU FEDERATION](#)
- [AMERICAN INSURANCE ASSOCIATION](#)
- [AMWAY](#)
- [AT&T](#)
- [BSA | THE SOFTWARE ALLIANCE](#)
- [C&M INTERNATIONAL](#)
- [CASSIDY, LEVY, & KENT](#)
- [CHUBB CORPORATION](#)
- [CISCO SYSTEMS, INC.](#)
- [CITIGROUP](#)
- [COALITION OF SERVICES INDUSTRIES](#)
- [COMPUTER AND COMMUNICATIONS INDUSTRY ASSOCIATION](#)
- [COUNCIL FOR GLOBAL IMMIGRATION](#)
- [COUNCIL OF INSURANCE AGENTS AND BROKERS](#)
- [DELOITTE](#)
- [EBAY INC.](#)
- [EMERGENCY COMMITTEE FOR AMERICAN TRADE](#)
- [EXPRESS ASSOCIATION OF AMERICA](#)
- [FEDEX](#)
- [GOOGLE](#)
- [HP](#)
- [IBM](#)
- [INFORMATION TECHNOLOGY INDUSTRY COUNCIL](#)
- [INTEL](#)
- [JPMORGAN CHASE](#)
- [KING & SPALDING](#)
- [KYLE HOUSE GROUP](#)
- [LIBERTY MUTUAL](#)
- [MANCHESTER TRADE](#)
- [MASTERCARD](#)
- [METLIFE, INC](#)
- [MICROSOFT](#)
- [MOTION PICTURE ASSOCIATION OF AMERICA](#)
- [NATIONAL FOREIGN TRADE COUNCIL](#)
- [NATIONAL RETAIL FEDERATION](#)
- [ORACLE CORPORATION](#)
- [PROPERTY CASUALTY INSURERS ASSOCIATION OF AMERICA](#)
- [PRUDENTIAL](#)
- [RETAIL INDUSTRY LEADERS ASSOCIATION](#)
- [SANDLER TRAVIS & ROSENBERG](#)
- [SOFTWARE & INFORMATION INDUSTRY ASSOCIATION](#)
- [TECHAMERICA, powered by CompTIA](#)
- [TYCO](#)
- [UNITED STATES COUNCIL FOR INTERNATIONAL BUSINESS](#)
- [UPS](#)
- [U.S. CHAMBER OF COMMERCE](#)
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- [VISA INTERNATIONAL](#)
- [WALMART](#)
- [THE WALT DISNEY COMPANY](#)
- [WESTERN DIGITAL](#)
- [WHITE & CASE](#)

# TISA Characteristics: Even Worse than the GATS Now!

- New, far-reaching disciplines on regulations would likely include a “**standstill**” clause that would mean that *no new so-called trade-restrictive regulation in a services sector could be introduced*.
- In addition, a “**ratchet**” provision would mean that any that *future \liberalization of a sector, or elimination of regulatory measure, would be automatically become part of the TISA agreement* – experiments in deregulation could not be reversed.
- The TISA architecture would likely be **positive for market access** (members only offer market access to other members in specified sectors) but **negative for National Treatment**.
- TISA would include extensive rules on **Domestic Regulation**.
- **Complete Secrecy** of the draft negotiating texts for 5 years!

# TISA Potential Impacts: a few examples show Corporations taking over our policy space, Democracy!

- Global Federation of Insurance Associations wants the TISA to require that **universal service obligations** (requiring that the poor have access to services) cannot be “more burdensome than necessary.” The Affordable Care Act’s provisions requiring essential benefits for pregnant women and newborns could be judged “too burdensome” in light of other alternatives.
- FedEx and UPS seek the elimination of “**regulatory advantages historically conferred upon national post offices.**” EU and US want to eliminate the ability to claw back sectors from the TISA (although this has not worked well for developing countries in the GATS.) *This illustrates the general principle of National Treatment when applied to any traditional public service.*
- Leaked draft of the proposed Annex on Financial Services of the TISA includes a **prohibition against limiting the ability of foreign financial service providers to provide any new financial service!**
- A top US priority is to **restrict initiatives to “localize” data storage and restrict cross-border flows and processing of data**, and potentially including a “necessity test” for data privacy regulations (such as on medical records.)

# TISA Will have Negative Impacts on Non-Participating Countries!

- Because it is being negotiated outside of the WTO, non-participants (as well as civil society) will have less access to negotiating documents, texts, or meetings.
- Members of the TISA will attempt to pressure negotiating partners in FTAs and as well as so-called Economic Partnership Agreements (EPAs) to “harmonize” with the TISA, which would put additional pressure on non-participating countries. MFN may have the effect of automatically harmonizing TISA and WTO.
- Even if the TISA were to be technically “outside” the WTO, poor countries that are in the process of joining the WTO would be highly pressured to join the TISA against their interests.
- **The proposed TISA weakens the negotiating position of the developing countries in the WTO as it achieves the developed countries’ key offensive agenda. Future Agricultural reform or Development objectives will be permanently sidelined. That’s why so many developing country non-participants are also against it, civil society and governments!**

# The GATS/WTO exists; the TISA (and TPP and TTIP) do not.

- No Secret, Un-transparent and Un-accountable Negotiations!
- No more Deregulation and surrendering services to corporate interests!
- If your country is a member, get it out! Or limit the sectors that are committed, with public services completely excluded.
- If your country is not a participant, urge them to commit to never joining – and to complain about it at the WTO.

# Our Vision Must Prevail: We CAN Win!

- Business had a vision of privatization and deregulation (erosion of labor rights and democratic oversight over corporate behavior). They came up with the idea of using “trade” agreements to make them permanent. But they did not get as much liberalization of services as they wanted in GATS. They’re still pushing for it and they always will be, in new formats and venues – TISA, TPP, and TTIP/TAFTA.
- Locking in further deregulation and privatization is not inevitable. Our vision of quality accessible public services must prevail!
- Together, trade unions, public interest advocates and regulators, state and local elected officials, public services defenders, and all people who believe in quality accessible public services and public oversight over private services – we can win!