

## Some of the implications of a few of the requests by the EU to these TISA countries<sup>a</sup>

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### Introduction

These leaked documents are a snapshot of EU requests to many TISA countries regarding which of their services sectors the EU wants opened<sup>b</sup> so that service companies from all TISA countries can compete in those sectors in that TISA country. The EU's requests to some countries (eg Colombia) may be fewer because:

- Colombia may have already liberalised more sectors at the World Trade Organization (WTO), so there is not much more to open in TISA, or

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<sup>b</sup> To take a commitment generally means to liberalise (ie to allow service companies from other TISA countries to come in to provide services).

- Colombia may have already opened all the sectors the EU is interested in in its EU free trade agreement (FTA), or
- Colombia may have already offered in TISA (eg as a result of requests from other TISA countries) to open the sectors that the EU is interested in.

This preliminary analysis highlights some of the implications of the European Union (EU) requests in these documents. In some sectors it also notes if agreeing to these EU requests would be additional liberalisation for the country concerned (beyond what they have already opened at the WTO,<sup>1</sup> or in their free trade agreements (FTAs) with the EU,<sup>2</sup> USA,<sup>3</sup> European Free Trade Association (EFTA)<sup>c</sup> or the Trans-Pacific Partnership Agreement (TPP)<sup>d</sup>).

There are many sectors where the EU request would result in increased competition from service suppliers from other TISA countries. Eg the EU's request for Costa Rica to open to architects, urban planners and engineers from other TISA countries.<sup>4</sup> These increased competition implications have not been listed for every sector below.

## **Methodology**

- This analysis assumes that:
  - the requests have been using the Provisional Central Product Classification (CPCprov).<sup>5</sup>
  - Once a TISA country (eg Pakistan) agrees to the EU's request in sector X, it opens sector X to services companies from all TISA countries. (Ie each TISA country just has one schedule that applies to services companies from all the other TISA countries. Not bilateral schedules where the EU may open hospitals to companies from the USA but not to companies from Mexico etc).
- The EU's requests are often unclear, eg:
  - Whether the EU is asking for market access (MA) or national treatment (NT) or both
  - Acronyms are not explained. (The most likely interpretations of the acronyms have been used in this analysis).
  - The requests are very brief and often do not specify the relevant subsector (eg according to CPCprov). They are also more difficult to understand without seeing the underlying offer to liberalise certain of its services from the other TISA country that the EU is commenting on
  - The EU wants liberalisation in the 6 categories provided for in the maritime Annex, but that leaked<sup>6</sup> annex doesn't have 6 clear categories.
- The summary and analysis below generally only highlights liberalisation requests (not requests for clarification). Although of course once it is clarified to the EU, the EU might then seek additional liberalisation.
- This note does not consider the cross-chapter implications of the liberalisation requests, that will be in a separate forthcoming analysis.

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<sup>c</sup> All the EFTA countries: Iceland, Liechtenstein, Norway, Switzerland. are in TISA, <http://www.efta.int/> and [https://www.seco.admin.ch/seco/en/home/Aussenwirtschaftspolitik\\_Wirtschaftliche\\_Zusammenarbeit/Wirtschaftsbeziehungen/Internationaler\\_Handel\\_mit\\_Dienstleistungen/TISA/Plurilateraler\\_Verhandlungsprozess.html](https://www.seco.admin.ch/seco/en/home/Aussenwirtschaftspolitik_Wirtschaftliche_Zusammenarbeit/Wirtschaftsbeziehungen/Internationaler_Handel_mit_Dienstleistungen/TISA/Plurilateraler_Verhandlungsprozess.html). Texts of their FTAs are available at <http://www.efta.int/free-trade/free-trade-agreements>.

<sup>d</sup> These are the TPP countries: **Australia**, Brunei, **Canada**, **Chile**, **Japan**, Malaysia, **Mexico**, **New Zealand**, **Peru**, Singapore, the **United States** and Vietnam, <http://dfat.gov.au/trade/agreements/tpp/Pages/trans-pacific-partnership-agreement-tpp.aspx>, those in bold are in TISA. TPP text is available at <http://tpp.mfat.govt.nz/tpp-text.php>.

## Chile

EU is asking for this from Chile	Comment
<p>Allow foreigners who did not do their whole law degree in Chile to practice as lawyers in Chile</p>	<p>This would allow foreigners who do not know Chilean law to work as lawyers in Chile in criminal and civil cases, advising Chileans in court cases etc, without actually knowing the relevant Chilean law. This would result in Chileans trusting and paying foreigners to give them legal advice, when the foreigners do not know the relevant Chilean law and would lose their legal case. (The EU request seems to be to allow foreigners to practice as lawyers in Chile without any restriction – ie including in all types of domestic law (civil, criminal, appearing in court etc), because when the EU is only asking for the ability to practice international law in another TISA country, it says so in its requests<sup>7</sup>).</p>
<p>Liberalise postal services</p>	<p>It is unclear what this means. If it means full market access (MA) commitments, then if Chile privatises its postal service and it turns out to be problematic so it wants to renationalise it back to a public monopoly, this would not be allowed.</p> <p>Chile did not liberalise postal services in the WTO or in its EU or EFTA FTAs, so agreeing to it in TISA would involve additional liberalisation to services companies from new countries.</p>
<p>Allow foreign companies to provide local basic telecommunication services</p>	<p>This can be sensitive, see comments re Costa Rica below.</p> <p>Chile has not fully liberalised telecommunication services at the WTO or in its existing FTAs with the EU, EFTA or TPP, so TISA may involve additional liberalisation for Chile in this sector.</p>
<p>Liberalise environmental services:</p> <ul style="list-style-type: none"> <li>-Sewage removal, treatment and disposal services</li> <li>-rubbish collection (from houses &amp; industry &amp; commercial) &amp; disposal (whether incineration or otherwise)</li> <li>-sanitation including street sweeping and snowploughing</li> <li>-monitoring, control and reduction of air pollution</li> <li>-Noise pollution monitoring, control and abatement services, e.g. traffic-related noise abatement services in urban areas.</li> <li>-climate change studies, natural disaster assessment and abatement services and other landscape protection services</li> <li>-other environmental protection services eg acid rain monitoring,</li> </ul>	<p>The EU request says ‘Mode 3: full commitments for non-public services / commercial activities’. Does this mean that the EU:</p> <ol style="list-style-type: none"> <li>a) ‘only’ wants commitments in these environmental services in Mode 3 and only commitments for non-public services / commercial activities? Or</li> <li>b) in public services the EU still wants some (but not full) commitments?</li> </ol> <p>And what does the EU mean by ‘public’? The definition of public services which has been agreed by all TISA countries in the latest leaked version of the core text<sup>8</sup> is very narrow and basically would only cover services which are provided for free (so not the postal service since you pay for stamps) and where there are no private competitors (eg private schools/hospitals). Most countries have very few public services (courts? firefighting?) by this definition. If this is the definition the EU is using, then sewage, rubbish collection, street cleaning etc at all levels of government in most TISA countries would be liberalised. This means if it is privatised and the privatisation turns out to be problematic, it cannot be renationalised back to a public monopoly (in a regional subdivision (which is presumably like a province)</p>

EU is asking for this from Chile	Comment
controlling and damage assessment services.	<p>or in the country as a whole<sup>9</sup>). This is not a merely hypothetical problem, eg Malaysia awarded a sewage concession to a private company in 1993, but consumers found the prices too high and in 2000, the Malaysian government nationalised the private company.<sup>10</sup></p> <p>Since Chile did not liberalise these sectors at the WTO and did not fully liberalise them in its existing FTAs with the EU, EFTA and TPP countries, agreeing to this EU request in TISA would involve Chile doing further liberalisation to services companies from additional TISA countries.</p>
Shipping: full cross-border commitments for passengers (ferries, hydrofoils, hovercraft, cruise ships) and freight (refrigerated, bulk liquids and gases, container and other cargo).	<p>If this includes market access, then this means Chile must allow as many cruise ships as want to come into Chile from any TISA country (eg the USA).<sup>11</sup> Too many cruise ships have caused environmental<sup>12</sup> and other<sup>13</sup> problems. While the TISA core text does have an environmental exception, it is unlikely to be effective as it has been copied from the World Trade Organization general exception which has only been successfully used by governments once in 44 attempts.<sup>14</sup> There is no exception in TISA for the other impacts caused by too many cruise ships (eg unaffordability of local housing etc).</p> <p>Chile did not liberalise passenger shipping at the WTO and did not fully liberalise it in its existing FTAs with the EU, EFTA and TPP countries, so agreeing to this EU request in TISA would involve Chile doing further liberalisation in this sector to shipping companies from additional TISA countries</p>

## **Colombia**

### **TV station ownership**

The EU is asking Colombia to allow people/companies from other TISA countries to own 100% of TV stations in Colombia.<sup>15</sup> Foreign ownership of media such as newspapers, radio stations and TV stations can be very sensitive as some countries may not want foreign companies such as Fox or CNN or individuals such as Rupert Murdoch dominating or controlling the news in their country. Eg in Australia, foreigners could not own more than 20% of a TV station and to make sure that people could receive a diversity of news (not just one perspective such as Fox TV and Fox radio and a Fox owned newspaper in that city), the laws prevented one person/company owning 2 out of 3 of TV, radio and a newspaper in the same geographical area.<sup>16</sup> Media ownership and diversity of perspectives has been controversial in other countries as well.<sup>17</sup>

### **Aircraft maintenance and repair**

The EU is also asking Colombia to fully liberalise the maintenance and repair of aircraft.<sup>18</sup> If Colombia does not yet have its own aircraft maintenance and repair industry, agreeing to this EU request would make it harder for Colombia to develop one because it could not give it infant industry protection<sup>e</sup>. Infant industry protection is not only used for manufacturing. Various governments have used restrictions on liberalising investment in sectors to protect their fledgling service sectors,<sup>19</sup> for example from 1886-1914: ‘The New York state government took a particularly hostile attitude

<sup>e</sup> Infant industry protection shelters a new domestic industry from foreign competition until it has developed economies of scale and experience etc so that it can compete with foreign companies in that sector.

towards foreign investment in finance, an area where it was rapidly developing a worldclass position (a case of infant industry protection, one might say)<sup>20</sup>.

Colombia did not liberalise this sector at the WTO and did not completely open it to EU companies in its existing EUFTA. Therefore agreeing to the EU request in this sector would require Colombia to do further liberalisation, including to companies from additional TISA countries.

## ***Costa Rica***

### **Local government**

The EU is asking Costa Rica to remove its national treatment (NT) and market access (MA) reservations on local level measures.<sup>21</sup> If this is a demand to remove **all** local level reservations and if ‘regional subdivision’<sup>f</sup> in the market access provision<sup>22</sup> can include local government level, then this means that if a local government privatises water or some other service (eg rubbish collection) and the privatisation turns out to be problematic, it cannot be remunicipalised back to a public monopoly in that local government area. This is not a merely hypothetical problem, eg Paris remunicipalised its water back to a public monopoly in order to provide better service at a better price.<sup>23</sup> Another study found that between March 2000 and March 2015 there were 235 cases of water remunicipalisation in 37 countries (most of them in France and the USA).<sup>24</sup> It would be a stark example of ‘do as we say, not as we do’ (or pulling up the ladder to affordable public services) if the EU is preventing other TISA countries from being able to fix failed privatisations the way its own member countries such as France have done.

### **Telecommunications**

The EU is also appears to be asking Costa Rica to remove its 49% foreign equity cap in telecommunications.<sup>25</sup> Demands for telecommunications (and insurance sector) liberalisation in US FTA negotiations were so controversial in Costa Rica that it caused it to temporarily withdraw from the USFTA negotiations in 2003.<sup>26</sup> Foreign ownership of telecommunications is sensitive in a number of other countries, eg:

- When a Thai sold his majority stake in Thailand’s largest telecommunications company to the Singapore government’s investment arm, it sparked outrage in Thailand with critics saying it placed strategic assets, including telecommunications satellites, in the hands of foreigners.<sup>27</sup> Reacting to this change of ownership, the Thai leader, General Sonthi, said ‘Our army has a problem now. When we make a call, the line goes to Singapore. When we talk secrets, they go straight to Singapore.’<sup>28</sup> Since he was concerned the company was being used to spy on the military, he ordered members of the military leadership not to use mobile phones for confidential conversations susceptible to eavesdropping through the telecoms company.<sup>29</sup> He also said that it was the Thai army’s duty not to ‘let anybody to take our national assets . . . National assets, no matter where they are located, always belong to Thailand and the Thai people.’<sup>30</sup> Therefore he wanted the assets back and he was considering whether he could take them back.<sup>31</sup>
- Similar concerns have been expressed by the French Government. ‘Workers in the offices of the president and prime minister were reportedly ordered not to use handheld BlackBerry devices, amid fears that foreigners could spy on them. Security services were said to be worried because BlackBerry phones use servers based in Britain and the US, which they feared could be intercepted.’<sup>32</sup>
- Recently, the relevant authority in the United Arab Emirates raised similar fears saying<sup>33</sup> ‘BlackBerry smartphones are a potential threat to the country’s national security and it is seeking changes in how the devices operate.’ The Authority’s statement said ‘BlackBerry devices operate “beyond the jurisdiction” of national laws because the data they carry is managed by a foreign

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<sup>f</sup> ‘regional subdivision’ is not defined in the leaked TISA core text, [https://wikileaks.org/tisa/document/20160621\\_TiSA\\_Core-Text/](https://wikileaks.org/tisa/document/20160621_TiSA_Core-Text/)

company’ and these ‘devices were launched in the UAE before “safety, emergency and national security legislation” regulating their use was enacted in 2007.’

Costa Rica did not liberalise what seem to be the relevant telecommunications subsectors at the WTO and did not fully liberalise them in its existing EU, US and EFTA FTAs, so agreeing to the EU requests in this sector is likely to involve further liberalisation including to companies from additional TISA countries.

## Postal services

The EU is asking Costa Rica to liberalise postal services in mode 3 (foreign direct investment).<sup>34</sup> In addition to this meaning more competition for postal services in Costa Rica, if it is privatised and the privatisation turns out to be problematic, it cannot be renationalised back to a public monopoly. There have been problematic privatisations which have had to be reversed in a number of countries (including back to a public monopoly), see above. While the EU in other sectors seems to only want commitments in mode 3 for non-public services,<sup>35</sup> the EU has no qualms asking for liberalisation of the postal sector including for public services. It may have done this since Costa Rica already opened the postal sector to US companies in its USFTA, so the EU is just asking to be given the same market access as US companies already have.

Costa Rica did not liberalise postal services at the WTO or in its EU or EFTA FTAs, so agreeing to the EU requests in this sector would involve further liberalisation including to companies from additional TISA countries.

## Retail

The EU is asking for Costa Rica’s limitations on liberalisation in the distribution sector to be removed in mode 3,<sup>36</sup> including for the retail sale of food, drinks (whether alcoholic or not) and cigarettes/tobacco<sup>37</sup>. Especially if Costa Rica has not already liberalised this sector in an existing FTA or at the WTO, this has a number of implications including:

- Opening to foreign supermarkets eg Tesco, Walmart, Carrefour etc:
  - Has been very controversial in a number of countries,<sup>38</sup> eg in India the issue of liberalising the retail sector in its EUFTA has been so controversial it paralysed the Indian Parliament with forced adjournments almost everyday for a period<sup>39</sup>.
  - Can harm **small shops and informal/unorganised street vendors and cause job losses:**
    - It has already caused problems for small shops in a number of countries. Eg ‘In Thailand retail services have been gradually liberalised since the 1980s and foreign supermarkets account for a significant percentage of the retail market. Investigations into the impacts of supermarket expansion, fuelled by liberalisation, revealed a number of negative impacts including a fall in the share of traditional retail shops by 14% between 1997 and 2001, an erosion of revenues for traditional wholesalers and middle men, and the development of an oligopolistic structure where a handful of players were beginning to dictate prices.’<sup>40</sup>
    - In India, a right to food impact assessment of the EU-India FTA including its proposal to liberalise the retail sector found:<sup>41</sup>
      - ‘Retail is the second largest employer in India after agriculture. . . The vast majority of these people work in around 12 million small outlets. . . [and] as many as 10 million people were working as street vendors in 2008, 84.7% of them being the sole earners in their families. . . Poverty is widespread, particularly among these street vendors. They usually possess low skills and lack the level of education required for the better paid jobs in the organised sector’. . . 25% (Mumbai) to 37% (Bangalore) of hawkers surveyed were illiterate [and] the unorganised retail sector is very important for women, as

this sector accounted for 25.82% of female employment in rural services especially for women, and 16.63% in urban areas. . . headload vendors are a particularly vulnerable group since many are middleaged widows or deserted women with little family support. They earn small profit margins and are 'impacted by sales from food and grocery stores, modern or unorganised'. An Indian Government Commission found that 'street vendors are mainly those who are unsuccessful or unable to get regular jobs' . . . This assessment is supported by a survey conducted among 2,259 hawkers in Kolkata, 92% of whom stated that there is no other source of income available'

- An ICRIER study admitted 'there has been an adverse impact on turnover and profit of the unorganised retail sector after the opening of organised outlets'. More specifically: 'the overall impact has been a decline in turnover of about 14% and in profit of about 15% over the period, which is an average of 21 months'. In western India, the fall in turnover even reached 19% . . . Regarding employment, a negative impact was also registered in the unorganised sector in the first year after the opening of organised outlets in the vicinity. While in all India, employment in the surveyed unorganised outlets fell by 0.5%, in the north it fell by 1.2% and in the west even by 7.4%.' 'another survey conducted in Mumbai showed that 71% of street vendors and shop owners declared that they suffered losses in turnover after the opening of a supermarket'. 'The implication of the high efficiency of global retailers such as Carrefour, Tesco and Metro is its low labour intensity. While USD 1 billion of turnover currently generates 104,821 jobs in current Indian retail, it generates only 3,241 jobs on average in retail formats of Carrefour and similar global retailers.'
  - 'the estimated loss in turnover would lead to a massive loss of between 2.9 and 5.7 million jobs in the unorganised retail sector'. Carrefour claims that 1.8million jobs would be created in organised retail within five years if FDI were allowed. However this seems optimistic given that the worldwide employment of Carrefour, Tesco and Metro is less than that (1,223,094). Using this optimistic claim of Carrefour's and optimistic projections of growth in the sector, a total of between 1.1 and 4.9 million net jobs would still be lost within five years in India if retail is liberalised as proposed. With lower growth rates a total of between 6.9 and 10.1 million jobs would be lost in India if the retail sector is liberalised.
  - Allowing foreign convenience stores (eg 7/11) can also displace informal street vendors of fruit, soap, bottled water etc as they are present in more locations causing direct competition with street vendors and hawkers.
- Has caused problems for **small and poor farmers**: 'Supermarkets tend to buy from a limited range of suppliers, often operating "preferred supplier lists", which are able to meet their requirements of volume, quality and safety standards with minimal risk to the supermarkets themselves. . . In Malaysia for example, the Giant supermarket chain had 200 vegetable suppliers in the early days of its operations in 2001, but by 2003 this was down to just thirty. A similar trend can be seen in Thailand. 'Even in countries where the retail sector is in its early stages, requirements for large volumes and all year round supplies . . . can already be a barrier to small farmers'. The trend towards sourcing from larger suppliers in some instances means that supermarkets avoid local sourcing altogether, especially for fresh produce. In Asian supermarkets a significant proportion of fruit and vegetable sales is of imported produce, according to the FAO, which notes that supermarket supply chains can be very difficult to develop for produce having limited shelf life and requiring cold chains . . . The more food retailing by supermarkets advances the more small farmers will have difficulty in finding other outlets for their produce'<sup>42</sup>

- The Indian impact assessment found that<sup>43</sup>
    - ‘The survey clearly shows that those farmers who supply to the supermarkets are by far the better-off farmers. On average they have the highest level of education, they often own larger land holdings and ‘the farmers associated directly with organised retail also seem to be better endowed with assets’, as for example they own four-wheelers that they can use to transport their produce’
    - ‘Metro accepted only those high quality products, while sending back the rest’ to the farmers.
    - According to an FAO study, ‘small farmers lack the capital needed to invest in hygienic infrastructure and the bookkeeping skills that ‘traceability’ requires’. ‘Olivier De Schutter, UN Special Rapporteur on the Right to Food confirms this concern: ‘In general, dominant buyer power reduces producers’ incomes. The downward pressure forces less efficient producers to merge, to cut costs or to exit the market, leaving the field open for more efficient ones’ . . . In a note to the General Assembly of the UN, De Schutter also raised concern that ‘contract farming often excludes the poorest farmers, who have limited and marginal land and fewer resources to invest and live in remote areas’ and that ‘contract farming can create potentially devastating dependence by small farmers on the technology, credit, inputs and services provided by their contracting companies’
    - Supermarkets can also end up importing a lot of the products they sell, instead of buying from local farmers and food processors. Eg a study commissioned by the German government noted that ‘it is well known that supermarkets are often the best customers of the agricultural producers of their home country’. ‘Such fears are also confirmed by the reluctance of foreign retailers to accept binding regulations on local sourcing from small and medium-sized enterprises (SMEs).’
  - can harm **poor consumers**: According to the ILO ‘Since goods sold by hawkers are typically cheaper than those found in organised retail outlets, the poor are more likely to chose to procure their basic necessities from hawkers’,<sup>44</sup> so if hawkers close down due to competition from supermarkets, poor consumers will also have to pay more for their food. Data from Argentina, Mexico, Nicaragua, Thailand, Vietnam and Madagascar found that average food prices turned out to be significantly higher in modern supermarkets than in traditional outlets, although the study also noted that ‘In general, supermarkets seem to be cheaper in dry food products as these are easier to handle, procure and store. For fresh products, prices are sometimes lower as well, though the produce is of lower quality than in traditional outlets and wet markets. . . [however] in traditional outlets poor consumers are often able to negotiate lower prices than rich customers. Secondly, while supermarkets are able to deliver processed food more cheaply, they tend to ‘focus on offering labelled or branded products, which are significantly more expensive and less sought-after by the poorer part of the population’. Thirdly, supermarkets tend to focus on packaged food, while poor people tend to buy loose food, as the latter is available in smaller quantities.’<sup>45</sup>
- Liberalising the sale of **alcohol and tobacco** reduces the tools Costa Rica has for alcohol and tobacco control.<sup>g</sup> For example:

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<sup>g</sup> The EU has asked for limitations to be removed in mode 3 (physical shops in Costa Rica owned by service suppliers from other TISA countries) for sector 631 which in CPCprov (which they seem to be using, see above) includes:

- Sweden (an EU member country) has an alcohol monopoly ‘to minimize alcohol-related problems by selling alcohol in a responsible way, without profit motive.’<sup>46</sup> A study of the likely impact of a) allowing private alcohol shops or b) making alcohol available in grocery stores (which could do discounting and advertising etc, unlike the current monopoly) found that a) would cause an additional 770 deaths, 8500 assaults, 2700 drinking driving offences and 4.5 million sick days per year and b) would cause an additional annual toll of 2000 deaths, 20 000 assaults, 6600 drinking driving offences and 11.1 million days of sick leave in Sweden. The study’s authors concluded that liberalising the ‘Swedish alcohol retail market would significantly increase alcohol consumption and alcohol-related harm.’<sup>47</sup> Despite this, in TISA, the EU is asking Costa Rica to forego the possibility of having an alcohol monopoly, with all the health benefits that would entail. Although there is a health exception in TISA,<sup>48</sup> it is copied from the health exception in the WTO’s services rules<sup>49</sup> and those exceptions are so difficult to use that they have only succeeded once out of 44 attempts at the WTO<sup>50</sup>.
- If Costa Rica wanted to set a maximum number (or reduce) the number of tobacco<sup>51</sup> or e-cigarette shops<sup>h</sup> it cannot do so if it accepts the EU’s request. As noted above, TISA has a health exception, but it is difficult to use.
- Given this, have the TISA countries done **human rights impact assessments** of the proposed texts, including requests to liberalise, eg for their impact on the right to food, right to health, women’s rights etc? ‘A number of human rights bodies have called for human rights impact assessments (HRIAs)<sup>52</sup> including specifically in the context of trade and investment negotiations and liberalisation, for example: In a statement on the TPP and other FTAs, 10 UN experts recommended that ‘Ex ante and ex post human rights impact assessments should be conducted with regard to existing and proposed BITs and FTAs.’<sup>53,54</sup>

## Sewage

The EU is asking Costa Rica to liberalise ‘the remaining sector’: sewage services.<sup>55</sup> If this does not exclude public services (see analysis of requests to Chile) it could have the implications outlined for Chile.

Costa Rica did not liberalise sewage services at the WTO or in its EFTA FTA and it only did so partially in its US and EU FTAs. So agreeing to the EU’s request in TISA would require further liberalisation to additional TISA countries.

## Shipping

Like for Chile, the EU wants Costa Rica to fully liberalise shipping of passengers (ferries, hydrofoils, hovercraft, cruise ships) and freight (refrigerated, bulk liquids and gases, container and other cargo)<sup>56</sup> and if agreed to, this can have the implications noted for Chile.

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-63107: Retailing services of non-alcoholic or alcoholic beverages, <http://unstats.un.org/unsd/cr/registry/regcs.asp?Cl=9&Lg=1&Co=63107>.

- 63108: retail sale of tobacco, <http://unstats.un.org/unsd/cr/registry/regcs.asp?Cl=9&Lg=1&Co=63108>

<sup>h</sup> Eg a Malaysian state government banned vaping shops,

<http://www.thestar.com.my/news/nation/2015/11/29/its-simple-no-more-vaping-johor-monarch-wants-all-vape-outlets-in-the-state-to-close-shop-by-jan-1/>. (‘tobacco’ is defined as ‘Goods classified in CPC 25’,

<http://unstats.un.org/unsd/cr/registry/regcs.asp?Cl=9&Lg=1&Co=63108> and CPC 25 includes ‘manufactured tobacco substitutes’, <http://unstats.un.org/unsd/cr/registry/regcs.asp?Cl=9&Lg=1&Co=25090> which presumably includes e-cigarettes and the liquid refills etc).

## ***Mauritius***

### **Local: managers, directors, workers, content and other performance requirements**

The EU seems to be requesting that Mauritius reduce the safeguards it put in to ensure that it could still require local: managers, directors, workers, content and other performance requirements.<sup>57</sup> If so and Mauritius agrees to it, Mauritius would be giving up some of the development pathways that other countries have used (which can be seen in the analyses for example at [https://wikileaks.org/tisa/analysis/Analysis-of-20151001\\_New-provisions/](https://wikileaks.org/tisa/analysis/Analysis-of-20151001_New-provisions/) and <https://ttip-leaks.org/favez/localization-provisions/>).

### **Air transport**

The EU is asking Mauritius to fully open maintenance and repair of aircraft and ground-handling and airport operations to companies from other TISA countries coming into Mauritius.<sup>58</sup> If agreed to, this could have the implications noted for Colombia.

Since the EU has not specified which subsectors it is requesting using a system such as CPCprov, it is difficult to precisely compare it to liberalisation commitments already made by Mauritius, but it seems that this would be new for Mauritius because it has not liberalised it at the WTO. If this is the case, agreeing to this EU request really would prevent Mauritius from developing any infant industries in these subsectors, because any Mauritian company would immediately face competition from services companies in these sectors from other TISA countries which have economies of scale and experience etc. For an island country with its own airline,<sup>59</sup> with considerable air traffic due to tourism and a relatively well-educated workforce<sup>60</sup> (so there could be sufficient engineers and technical staff etc to do repair and maintenance) this sector could be of more importance and be one where domestic companies could flourish if they have some infant industry protection by Mauritius not agreeing to this EU request to allow companies from other TISA countries into Mauritius to do aircraft maintenance and repair etc.

## ***Mexico***

### **Horizontal**

The EU appears to be asking Mexico to allow companies from other TISA countries to invest in Mexican communications and transport companies.<sup>61</sup> Allowing foreigners to own telecommunications can be sensitive, eg see Costa Rica section.

### **Postal**

The EU is asking Mexico to liberalise postal services in mode 3.<sup>62</sup> If agreed to, it would have the implications noted for Costa Rica.

Mexico has not liberalised postal services at the WTO or in its EU or EFTA FTAs and did not completely liberalise it in the TPP, so agreeing to the EU requests in this sector would involve further liberalisation including to companies from additional TISA countries.

### **Telecommunications**

The EU's requests in this sector include<sup>63</sup> removal of the 49% equity cap on foreign suppliers in telecommunications and broadcasting. Foreign ownership in the telecommunications sector can be sensitive, see Costa Rica section. The EU does not specify precisely what it means by 'broadcasting' (eg is it radio or television or both?), however if it means allowing majority or 100% foreign ownership of radio and/or TV broadcasting, this can also be sensitive, see Colombia section.

Mexico did not fully liberalise telecommunications at the WTO or in its EU or FTA FTAs or the TPP, so agreeing to these EU requests may involve further liberalisation including to companies from additional TISA countries

## **Sanitation**

The EU is asking Mexico to liberalise sanitation and similar services<sup>64</sup> such as outdoor sweeping etc<sup>65</sup>. While the EU in other sectors seems to carefully only ask for commitments in mode 3 for non-public services,<sup>66</sup> the EU has no qualms asking for liberalisation of the sanitation sector including for any public services at the national level. It may have done this since Mexico already opened this sector to US companies in the TPP, so the EU is just asking to be given the same market access as US etc companies already have (since Mexico did not open this subsector at the WTO or in its EU or EFTA FTAs).

## **Shipping**

The EU wants full liberalisation of shipping for passengers (ferries, hydrofoils, hovercraft, cruise ships) and freight (refrigerated, bulk liquids and gases, container and other cargo)<sup>67</sup> by Mexico and if agreed to, this can have the implications noted for Chile.

## **Energy and mining related services**

The EU is asking Mexico to open CPC 883 to companies from other TISA countries.<sup>68</sup> CPC 883 does not have an explanation<sup>69</sup> but its corresponding ISIC code<sup>70</sup> says that it includes oil and gas field services such as directional drilling, pumping wells etc on a fee or contract basis. Given Mexico's oil reserves,<sup>71</sup> this may be sensitive.

## **Pakistan**

### **Horizontal**

The EU wants Pakistan to remove the policy space reservation it has on information technology for cultural and social reasons.<sup>72</sup> Since there is no culture exception in TISA,<sup>i</sup> if Pakistan wants culture exceptions (to the TISA rules that exceptions can be scheduled to), it has to schedule them. However the EU (which is generally defensive on liberalisation that could harm its own cultures, eg it is seeking a broad horizontal exception for any current or new EU measures re audiovisual services in modes 1-3<sup>73</sup>) here is aggressively asking Pakistan to remove one of the few culture exceptions possible.

### **Telecommunications**

The EU is asking Pakistan to remove the policy space reservation on measures relating to broadcast media and distribution services including cable TV.<sup>74</sup> It is not clear what this means, but if it means allowing ownership of TV and radio stations by companies/people from other TISA countries, this can be sensitive, see comments in Colombia section.

### **Shipping**

The EU seems to want Pakistan to fully liberalise shipping for passengers (ferries, hydrofoils, hovercraft, cruise ships) and freight (refrigerated, bulk liquids and gases, container and other cargo)<sup>75</sup> and if agreed to, this can have the implications noted for Chile.

### **Air transport**

The EU is asking Pakistan to liberalise ground-handling and airport operations without specifying any CPC or other code to show exactly which subsectors it is targeting.<sup>76</sup> If this is the same as CPCprov 746, Pakistan has not opened to foreign companies coming into Pakistan to provide these services at

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<sup>i</sup> The general exceptions in Article I-9 of the TISA core text [https://wikileaks.org/tisa/document/20160621\\_TiSA\\_Core-Text/](https://wikileaks.org/tisa/document/20160621_TiSA_Core-Text/) are only for public order/morals, health, environment, tax and exceptions limited by a self-cancelling sentence for deceptive/fraudulent practices, privacy and safety. There is also a security exception in Article I-10, [https://wikileaks.org/tisa/document/20160621\\_TiSA\\_Core-Text/](https://wikileaks.org/tisa/document/20160621_TiSA_Core-Text/).

the WTO or in its China or Malaysia FTAs. If Pakistan agrees to this EU request, it could not have infant industry protection for this subsector, see comments above.

### **Energy and mining related services**

The EU is asking Pakistan to liberalise a variety of services in this sector, including CPC883,<sup>77</sup> see comments in Mexican section.

## ***Panama***

### **Retail**

The EU is asking Panama to liberalise more retail services, including food, drinks (including alcohol) and tobacco.<sup>78</sup> If Panama agrees to it, it can have the implications outlined in the Costa Rica section.

### **Environmental services**

Here the EU is asking Panama to liberalise the remaining services (9401 - Sewage services, 9402 - Refuse disposal services, 9403 - Sanitation and similar services), but perhaps only for the non-public services.<sup>79</sup> See Chile section for some of the implications of agreeing to this.

Panama has not liberalised these sectors at the WTO or in its EFTA FTA, but it has already liberalised them with the EU, US and Canada in those FTAs. Agreeing to the EU's request would mean further liberalisation to additional TISA countries.

### **Transport**

In maritime transport, the EU wants full liberalisation of shipping for passengers (ferries, hydrofoils, hovercraft, cruise ships) and freight (refrigerated, bulk liquids and gases, container and other cargo)<sup>80</sup> by Panama and if agreed to, this can have the implications noted for Chile.

In air transport the EU is seeking full liberalisation for companies from other TISA countries to come into Panama to do ground-handling and airport operations without specifying any CPC or other code to indicate exactly which subsectors it is targeting.<sup>81</sup> If this is the same as CPCprov 746, Panama has not opened to foreign companies coming into Panama to provide these services at the WTO or in its US, EU, EFTA or Canadian FTAs. If Panama agrees to this EU request, it could not have infant industry protection for this subsector, see comments above.

## ***Peru***

### **Postal**

The EU is asking Peru to liberalise postal services.<sup>82</sup> If this is agreed to, it could have the implications outlined in the Costa Rica section. While Peru has already liberalised postal services in some of its existing agreements, agreeing to it here would involve further liberalisation to additional TISA countries.

### **Environmental services**

The EU is asking Peru to do full liberalisation of sewage, refuse disposal, sanitation etc services for non-public services.<sup>83</sup> The implications of this depend on how the EU is defining 'public' see discussion in Chile section. Peru has liberalised refuse disposal and sanitation more than sewage services in its existing trade agreements. Agreeing to the EU's requests in this sector would involve further liberalisation to additional TISA countries.

### **Shipping**

The EU wants Peru to fully liberalise shipping of passengers (ferries, hydrofoils, hovercraft, cruise ships) and freight (refrigerated, bulk liquids and gases, container and other cargo)<sup>84</sup> and if agreed to, this can have the implications noted for Chile.

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- <sup>1</sup> [https://www.wto.org/english/tratop\\_e/serv\\_e/serv\\_commitments\\_e.htm](https://www.wto.org/english/tratop_e/serv_e/serv_commitments_e.htm)
- <sup>2</sup> Eg see [http://ec.europa.eu/trade/policy/countries-and-regions/index\\_en.htm](http://ec.europa.eu/trade/policy/countries-and-regions/index_en.htm)
- <sup>3</sup> Texts are available at <https://ustr.gov/trade-agreements/free-trade-agreements>
- <sup>4</sup> Request 3
- <sup>5</sup> <http://unstats.un.org/unsd/cr/registry/regcst.asp?Cl=9&Lg=1> since this is what the EU: [http://trade.ec.europa.eu/doclib/docs/2016/may/tradoc\\_154590.pdf](http://trade.ec.europa.eu/doclib/docs/2016/may/tradoc_154590.pdf) and Norway: [https://www.regjeringen.no/globalassets/departementene/ud/vedlegg/handelspolitikk/tisa/tisa\\_revidert\\_mai2016.pdf](https://www.regjeringen.no/globalassets/departementene/ud/vedlegg/handelspolitikk/tisa/tisa_revidert_mai2016.pdf) have used in their offers
- <sup>6</sup> <https://wikileaks.org/tisa/document/#september-publication>
- <sup>7</sup> Eg Request 6 to Chinese Taipei and request 2 to Panama.
- <sup>8</sup> Article I-1.3 [https://wikileaks.org/tisa/document/20160621\\_TiSA\\_Core-Text/](https://wikileaks.org/tisa/document/20160621_TiSA_Core-Text/)
- <sup>9</sup> Article I-3: market access, [https://wikileaks.org/tisa/document/20160621\\_TiSA\\_Core-Text/](https://wikileaks.org/tisa/document/20160621_TiSA_Core-Text/)
- <sup>10</sup> <http://gala.gre.ac.uk/2426/1/HalldLobinae2008011.pdf>
- <sup>11</sup> Article I-3: market access, [https://wikileaks.org/tisa/document/20160621\\_TiSA\\_Core-Text/](https://wikileaks.org/tisa/document/20160621_TiSA_Core-Text/)
- <sup>12</sup> Eg <http://www.foe.org/system/storage/877/69/c/499/Getting-a-grip-on-cruise-ship-pollution.pdf>, <http://www.foe.org/projects/oceans-and-forests/cruise-ships>, <http://www.foe.org/projects/oceans-and-forests/cruise-ships/learn-more-about-cruise-ships>, <http://libcloud.s3.amazonaws.com/93/7f/f/4803/10-Cruise-Facts.jpg>, <http://www.seattletimes.com/life/travel/taking-a-close-look-at-cruise-ship-pollution/>, <https://www.theguardian.com/environment/2016/may/21/the-worlds-largest-cruise-ship-and-its-supersized-pollution-problem>
- <sup>13</sup> <http://theconversation.com/time-to-rock-the-boat-cruise-ships-can-destroy-the-very-destinations-they-sell-to-us-55245>
- <sup>14</sup> [https://wikileaks.org/tisa/analysis/201609\\_TiSA\\_Analysis-on-Core-Text/](https://wikileaks.org/tisa/analysis/201609_TiSA_Analysis-on-Core-Text/)
- <sup>15</sup> Request 2
- <sup>16</sup> [http://www.aph.gov.au/About\\_Parliament/Parliamentary\\_Departments/Parliamentary\\_Library/Publications\\_Archive/archive/mediaregulation](http://www.aph.gov.au/About_Parliament/Parliamentary_Departments/Parliamentary_Library/Publications_Archive/archive/mediaregulation). In 2006 this was changed to allow one person or company to own a maximum of 2 out of the 3 in the same area, <http://theconversation.com/explainer-what-changes-to-australias-media-ownership-laws-are-being-proposed-55509>. Further liberalisation of this rule have been proposed: <http://theconversation.com/explainer-what-changes-to-australias-media-ownership-laws-are-being-proposed-55509>.
- <sup>17</sup> Eg <http://www.bbc.com/news/world-latin-america-35772360>.
- <sup>18</sup> Request 4
- <sup>19</sup> [http://unctad.org/en/Docs/iteiit20052\\_en.pdf](http://unctad.org/en/Docs/iteiit20052_en.pdf)
- <sup>20</sup> [http://law.wisc.edu/gls/documents/foreign\\_investment1.pdf](http://law.wisc.edu/gls/documents/foreign_investment1.pdf)
- <sup>21</sup> Request 1
- <sup>22</sup> Article I-3: market access, [https://wikileaks.org/tisa/document/20160621\\_TiSA\\_Core-Text/](https://wikileaks.org/tisa/document/20160621_TiSA_Core-Text/)
- <sup>23</sup> <http://waterblog.world-psi.org/2009/03/remunicipalisation-water-services-in-paris.html>
- <sup>24</sup> <https://www.tni.org/en/publication/our-public-water-future>
- <sup>25</sup> Request 6.
- <sup>26</sup> <https://www.citizen.org/documents/ACF47C2.pdf>
- <sup>27</sup> [http://app.mfa.gov.sg/internet/press/view\\_press.asp?post\\_id=2024](http://app.mfa.gov.sg/internet/press/view_press.asp?post_id=2024)
- <sup>28</sup> From <http://www.asiamedia.ucla.edu/article-southeastasia.asp?parentid=63945>
- <sup>29</sup> [http://app.mfa.gov.sg/internet/press/view\\_press.asp?post\\_id=2024](http://app.mfa.gov.sg/internet/press/view_press.asp?post_id=2024)
- <sup>30</sup> From <http://www.asiamedia.ucla.edu/article-southeastasia.asp?parentid=63945>
- <sup>31</sup> From <http://www.asiamedia.ucla.edu/article-southeastasia.asp?parentid=63945>
- <sup>32</sup> From <http://www.telegraph.co.uk/news/worldnews/europe/france/6944236/Nicolas-Sarkozy-given-impenetrable-superphone.html>
- <sup>33</sup> See for example <http://abcnews.go.com/Technology/wireStory?id=11249787>
- <sup>34</sup> Request 5
- <sup>35</sup> Eg Request 8
- <sup>36</sup> Request 7
- <sup>37</sup> CPCprov 631, <http://unstats.un.org/unsd/cr/registry/regcs.asp?Cl=9&Lg=1&Co=6310>
- <sup>38</sup> Eg <https://www.theguardian.com/commentisfree/2011/dec/07/india-foreign-supermarkets>.
- <sup>39</sup> <http://www.bbc.com/news/world-asia-india-15979163>
- <sup>40</sup> <http://www.traidcraft.co.uk/media/e0e6f8ab-eb5e-4341-86b8-bc63f12f1356>
- <sup>41</sup> [https://www.boell.de/sites/default/files/assets/boell.de/images/download\\_de/2011-12-ecofair\\_rfia.pdf](https://www.boell.de/sites/default/files/assets/boell.de/images/download_de/2011-12-ecofair_rfia.pdf)

42 <http://www.traidcraft.co.uk/media/e0e6f8ab-eb5e-4341-86b8-bc63f12f1356>

43 [https://www.boell.de/sites/default/files/assets/boell.de/images/download\\_de/2011-12-ecofair\\_rfia.pdf](https://www.boell.de/sites/default/files/assets/boell.de/images/download_de/2011-12-ecofair_rfia.pdf)

44 [https://www.boell.de/sites/default/files/assets/boell.de/images/download\\_de/2011-12-ecofair\\_rfia.pdf](https://www.boell.de/sites/default/files/assets/boell.de/images/download_de/2011-12-ecofair_rfia.pdf)

45 [https://www.boell.de/sites/default/files/assets/boell.de/images/download\\_de/2011-12-ecofair\\_rfia.pdf](https://www.boell.de/sites/default/files/assets/boell.de/images/download_de/2011-12-ecofair_rfia.pdf)

46 <http://www.government.se/government-agencies/swedish-alcohol-retailing-monopoly--systembolaget-aktiebolag/>

47

[https://www.systembolaget.se/imagelibrary/publishedmedia/en0wiq0uc7m31exy2zjg/Potential\\_consequences\\_of\\_replacing\\_a\\_retail\\_alcohol\\_monopoly\\_with\\_a\\_private\\_licence\\_system-\\_results\\_from\\_Sweden.pdf](https://www.systembolaget.se/imagelibrary/publishedmedia/en0wiq0uc7m31exy2zjg/Potential_consequences_of_replacing_a_retail_alcohol_monopoly_with_a_private_licence_system-_results_from_Sweden.pdf)

48 Article I-9, [https://wikileaks.org/tisa/document/20160621\\_TiSA\\_Core-Text/](https://wikileaks.org/tisa/document/20160621_TiSA_Core-Text/)

49 [https://wikileaks.org/tisa/analysis/201609\\_TiSA\\_Analysis-on-Core-Text/](https://wikileaks.org/tisa/analysis/201609_TiSA_Analysis-on-Core-Text/)

50 <http://www.citizen.org/documents/general-exception.pdf>

51

<http://www.turanga.org.nz/sites/turanga.org.nz/files/Kelsey%20Trade%20Law%20Tobacco%20Control%20Report.pdf>

52 <http://www2.ohchr.org/english/issues/globalization/trade/docs/5WTOMinisterialCancun.pdf> to monitor potential impacts of trade rules on human rights and guide trade rule and policy making, A/HRC/27/55 and is recommended by various human rights treaty bodies: eg see E/C.12/1/Add.100, para. 56; CRC/C/15/Add.232, para. 48; CEDAW/C/COL/CO/6, at para. 29; CEDAW/C/PHI/CO/6, para. 26; CEDAW/C/GUA/CO/6, para. 32.

53 <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=16031&LangID=E@>

54 <http://www.twn.my/title2/FTAs/General/TPPHumanRights.pdf>

55 Request 8

56 Request 10

57 The wording in Request 1 is not very clear.

58 Request 7

59 <http://www.airmauritius.com/index.htm>

60 Eg [http://data.worldbank.org/indicator/SL.TLF.TERT.ZS?view=chart&year\\_high\\_desc=false](http://data.worldbank.org/indicator/SL.TLF.TERT.ZS?view=chart&year_high_desc=false)

61 Request 1

62 Request 4

63 Request 5

64 Request 9

65 <http://unstats.un.org/unsd/cr/registry/regcs.asp?Cl=9&Lg=1&Co=94030>

66 Eg Request 8 to Costa Rica

67 Request 11

68 Request 12

69 <http://unstats.un.org/unsd/cr/registry/regcs.asp?Cl=9&Lg=1&Co=88300>

70 <http://unstats.un.org/unsd/cr/registry/regcs.asp?Cl=2&Lg=1&Co=1120>

71 Eg <http://data.worldbank.org/indicator/NY.GDP.PETR.RT.ZS?view=chart>

72 Request 1

73 [http://trade.ec.europa.eu/doclib/docs/2016/may/tradoc\\_154590.pdf](http://trade.ec.europa.eu/doclib/docs/2016/may/tradoc_154590.pdf)

74 Request 5

75 Request 10

76 Request 10

77 Request 11

78 Request 7

79 Request 8

80 Request 10

81 Request 10

82 Request 4

83 Request 8

84 Request 10