

PSI Global Trade Work

QUALITY PUBLIC SERVICES, DEMOCRACY AND ACCOUNTABILITY

Shift away from multilateral system

- ▶ GATS
- ▶ Doha round floundering
- ▶ FTA's proliferating – over 2000 since mid 90's
- ▶ Not transparent – secret, exclusive

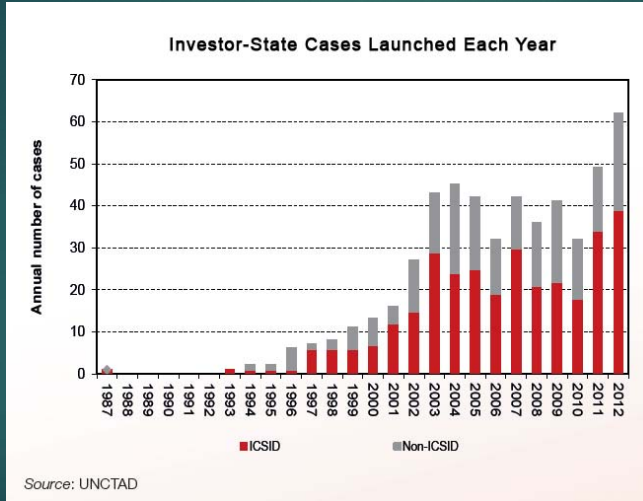
Not about tariff's

- ▶ 97% removal of non-agricultural tariff's
- ▶ Investors rights
- ▶ Regulatory coherence
- ▶ Domestic regulation
- ▶ Investor State Dispute Resolution procedures

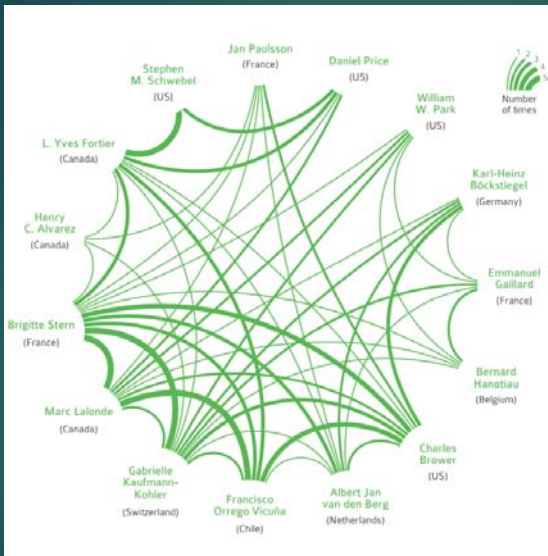
Domestic regulation

- ▶ Binding rules that allow corporations to challenge new or costly regulations – **even if domestic and foreign treated the same**
- ▶ Covers qualification requirements, technical standards and licensing requirements
- ▶ Worker safety, environmental, consumer protection, universal service obligations, water standards, municipal zoning, toxic waste transport, educational institutions etc

Epidemic of Corporate Bandits Raiding our Treasuries Using Investor-State



15 arbitrators alone have captured the decision-making in 55% of the total investor-state cases known today



Either by winning an investor-state attack and collecting millions in gov't compensation or by preemptively chilling government actions, these foreign tribunals provide a whole new way to undermine our basic rights and needs.



Source: *Profiting from Injustice* <http://corporateeurope.org/publications/profitting-from-injustice>

Some of the Investor-State Cases

Attack on Reversal of Water System Privatization

Vivendi v. Argentina: 2007 (France-Argentina BIT). Argentina ordered to pay \$105M to firm that cut off water to Buenos Aires. Contract dispute over U.S. \$\$-denominated rate guarantees unpayable in financial crisis.

Attack on Post-revolution Increase in Egypt's Minimum Wage

Veolia vs Egypt: June 2012 (France-Egypt BIT). The company argues that changes to local labor laws – including recent increases in minimum wages – have impacted negatively on the company despite contract provisions designed to buffer the concessionaire from the financial implications of any such legal changes.

Attack on South Africa's Black Economic Empowerment Policy

Piero Foresti & Others v. South Africa: Mining investors claim South Africa's Black Economic Empowerment law violated investment treaties even though it implemented new South African constitution post-Apartheid.

Attack on Canadian medicine patent policy by Eli Lilly

\$500M claim because Canadian high court invalidated patents on 2 drugs that didn't perform as filed

Attack on Canadian Toxic Chemical Ban

Ethyl v. Canada – ban reversed, corp. paid \$13M for lost profits while ban was in effect – US states ban same chemical, MMT a gasoline additive

Attack on Australian, Uruguayan Cigarette Health Laws by Phillip Morris

Chevron Attacks Ecuador to halt court-ordered payment for Amazon pollution

Quality Public Services

- ▶ **QPS:** Provide basic social and economic necessities universally on the basis of need. Exists because markets will not produce these outcomes.
- ▶ **Trade agreements:** deliberately promote commercialisation and define goods and services in terms of their ability to be exploited for profit by global corporations and international service providers.

Democracy

- ▶ Will bind future governments
- ▶ Negotiations not disclosed to public – mandates, offers, text
- ▶ Will stop governments from delivering services in accordance with mandate (auto insurance case)
- ▶ Investor State Dispute Resolution

PSI Work

- ▶ TTIP
- ▶ TTP
- ▶ TISA

Why a TISA?

- Services Sector growth
- 2/3 of GDP but 20% of trade
- Doha round at a standstill
- GATS incomplete - New standard for liberalisation
- Force others to join

History of TISA

- ▶ Started in early 2013
- ▶ Secret negotiations in Geneva every 8 weeks
- ▶ Extension of GATS
- ▶ Heavily lobbied for by USA Coalition of Service Industries

Who wants the TISA?

The Global Services Coalition in a letter to the European Commission explains that the TISA was conceived:

*"to allay business frustration over the stalled Doha Round outcomes on services."
(September 10, 2013).*

The US Coalition of Service Industries (CSI) set up a TeamTISA to promote TISA

- ▶ Microsoft
- ▶ JP Morgan Chase
- ▶ CHUBB
- ▶ Deloitte
- ▶ UPS
- ▶ Google
- ▶ Verizon
- ▶ Walmart
- ▶ Walt Disney
- ▶ IBM
- ▶ and more.

Who else?

Financial Services text from Wikileaks shows that the following organisations support the TISA:

- ▶ US Securities Industry and Financial Markets Association
- ▶ US Chamber of Commerce
- ▶ American Insurance Association
- ▶ VISA
- ▶ Bloomberg Financial information Services

What do they want?

- ▶ **Walmart** in its submissions to the US Trade Representative (USTR) sees the TISA as a way to free itself of restrictions on the sale of pharmaceuticals, medical devices, alcohol and tobacco and avoid zoning laws
- ▶ **FEDEX** in its submissions to the USTR seeks the elimination of "regulatory advantages historically conferred on national post offices". In other words it sees the TISA as a way to force the deregulation of the postal system.

Who does it cover?

- ▶ Australia, Hong Kong, Japan, New Zealand, Pakistan, South Korea, Taiwan
- ▶ Canada, Chili, Colombia, Costa Rica, Mexico, Panama, Peru, United States
- ▶ Iceland, Norway, Switzerland, 28 members of the EU
- ▶ Turkey, Israel

What it covers (from leaks) so far.

- ▶ Postal and telecommunications
- ▶ E-commerce and cross border data transfer
- ▶ Energy, waste and water
- ▶ Financial regulation and foreign investment
- ▶ Labour migration
- ▶ Transport (air, road and sea)

What does it cover, cont.....

- ▶ **cross border services** (GATS Mode 1), such as distance education and internet gambling;
- ▶ **consumption abroad** (GATS Mode 2) such as recreational and medical tourism;
- ▶ **foreign direct investment** (GATS Mode 3) such as multinational corporations providing water or energy services and
- ▶ **temporary movement of persons** (GATS Mode 4) such as nurses, house-keepers or executives temporarily travel abroad to provide services.

Characteristics

- ▶ 60% of worlds services
- ▶ Deeper commitments (>90% coverage?)
- ▶ Standstill and ratchet clauses
- ▶ Negative list on national treatment
- ▶ Domestic regulation (broad as above)
- ▶ Not releasing texts, mandates or brackets
- ▶ Aim to pressure other countries to join after conclusion

Restrictions on public services

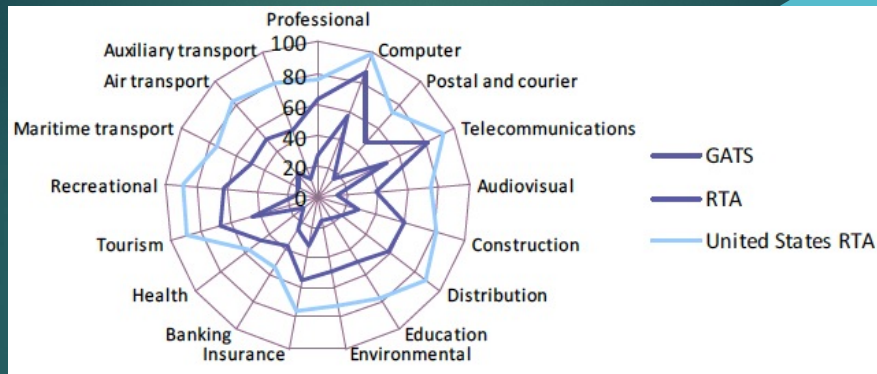
- ▶ Standstill: confining public services within existing boundaries,
- ▶ Dom regs: Restricting governments options for regulating
- ▶ Ratchet: locking in future (failed) privatization and (failed) regulation
- ▶ Negative list: Future services

Insufficient carve-out for public services

- ▶ GATS excludes services provided "in the exercise of governmental authority."
- ▶ defined as "any service which is supplied neither on a **commercial basis** nor in **competition with one or more service suppliers.**"

Developing Country Service Commitments: Much greater in US FTAs than GATS

Source: UNCTAD 2014



Beyond Non-Discrimination

- ▶ GATS prohibits public monopolies and exclusive service suppliers in committed sectors.
- ▶ Governments cannot restrict or require "specific types of legal entities" through which to supply services.
- ▶ applying 'pro-competitive' regulation to previously socialized services

Shift of the burden of proof to government – Examples:

- ▶ Necessity test
- ▶ Cross subsidies
- ▶ Cant be subjective in making regulations
- ▶ Licensing

Over-reach: Mood is changing

- ▶ AFL-CIO
- ▶ TUC
- ▶ DGB
- ▶ Civil Society
- ▶ Washington Forum
- ▶ TISA Forum

What to do?

- ▶ Understand how the agreements effect your members
- ▶ Understand how they effect workers and democracy
- ▶ Explain more than tariffs and trade
- ▶ Work with civil society allies
- ▶ Reach out to private sector unions
- ▶ Influence your national centre
- ▶ Lobby your government

PSI Activity

- ▶ Work to strengthen unions in global south
- ▶ Influence in Global North
- ▶ Key themes from Geneva meeting: democracy, restrict public services, restrict governments ability to regulate
- ▶ Municipal work as example
- ▶ How to integrate into daily union work

Want to co-ordinate across countries – what does this look like in Nordic countries?