

# ITF maritime sections' assessment on the TISA Annex on Maritime Transport Services (updated from July 2015)

## The context

The sale and export of services – including those driven by digitalisation – mean global firms are focusing more now than ever before on timely access to quality services, at the cheapest possible cost. What is missing from this equation is value for and impact on workers and citizens; global economic regulators cannot afford to treat citizens - transport workers, public sector workers, or the civilian end-consumers consumers of their services - simply as another component in their value chain, without considering quality jobs and value for communities - in this case maritime communities. This text consolidates the power of the most powerful in the transport industry – the global majors.

The TISA texts were negotiated in secret with no meaningful discussions on the possible inclusion of a sustainability or labour chapter. Because TISA would contain “standstill” and “ratchet” clauses it would render the reversal of liberalisation levels impossible. TISA also excluded key countries including China – the emerging maritime superpower – from the secret negotiations.

TISA's provisions are serious barriers for any state wanting to invest in, manage and operate its national maritime infrastructure or to defend decent work and decent terms and conditions across the maritime transport industry.

To counter this, the ITF strongly believes firstly that TISA must incorporate an enforceable and binding labour and sustainability chapter and secondly, that it should not be used as an instrument to further deregulate transport sectors, including maritime, in a race to the bottom on terms and conditions of employment.

## The maritime text

This text is sweeping and covers the broadest spectrum of international maritime transport services in both multimodal transport operations and maritime auxiliary services. The latter includes maritime cargo handling, storage and warehousing, customs clearance, container station and depot services and maritime agency services, as well as freight forwarding. Especially concerning is the inclusion of feeder services.

### **Problem 1: National cargo**

ITF would have concerns that permitting cross-border supply of feeder services and offshore vessel services may constitute cabotage, impacting on the long-term employment of national seafarers on board ships engaged in regular trade within a country. **In short, this could open the carriage of what would be classed as national**

**cargo by all Parties - potentially including ships owned by parties flying the flag of a third country - a “flag of convenience.”**

### **Problem 2: Undermining international standards**

The ITF argues that the maritime industry is already a free trade environment, with weakened national government controls epitomised in the “flag of convenience” system. Deregulation has impacted negatively on the whole industry in terms of its operational safety, coastal security and social conditions and where state control is weakest it has left a space for illegal and unregulated operators. Even without TISA, liberalisation and deregulation is already extreme in maritime transport.

The Annex appears to recognise the standards adopted by the International Maritime Organisation and the International Labour Organisation – standards adopted precisely because of the gap in regulation, and which address some of the social and safety concerns that have arisen in the industry.

However the text states that in cases where Parties “apply measures that deviate from the above mentioned international standards, their standards shall be based on non-discriminatory, objective and transparent criteria”.

This would appear to give companies room to deviate downwards and to undermine existing international rules, or to eliminate measures - safety provisions or qualifications that are better than the absolute minimum. The ILO minimum wage standard for seafarers is intended as a safety net. Similarly, the ILO’s Maritime Labour Convention<sup>1</sup> explicitly sets minimum standards, with states being encouraged to go above and beyond its provisions. The best employers are taking on best practice and continuous improvement in their company culture, and moving away from the so-called compliance culture – this is a move in the opposite direction.

This has already been picked up by the European Parliament’s Committee on International Trade, which has called for TISA to be consistent with international standards, to “consider them as minimum standards and to oppose any lowering of these international benchmarks.” The Committee goes on to insist on “the application of ILO Conventions ... such as the Maritime Labour Convention, to stress that EU and Member State legislation provides benefits for workers, including safety and security,” calling for all who provide services within the EU to comply with this legislation and explicitly recognising the link between quality of services and quality of employment.<sup>2</sup>

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<sup>1</sup> MLC text: [http://www.ilo.org/global/standards/maritime-labour-convention/text/WCMS\\_090250/lang--en/index.htm](http://www.ilo.org/global/standards/maritime-labour-convention/text/WCMS_090250/lang-en/index.htm)

<sup>2</sup> 25.1.2016: Report containing the European Parliament’s recommendation to the Commission on the negotiations for the Trade in Services Agreement (2015/2233 (INI)).

**As it stands, this provision is contradictory and inapplicable, given the global standards already set; unless the text is changed then this will constitute an attack on those very necessary minimum standards - and threaten livelihoods of maritime workers everywhere.**

### **Problem 3: Global multimodal operators in local economies**

Further maritime deregulation and opening of markets will enhance the bargaining power of major shipping lines vis-à-vis port services. Global port operators will be given a further stimulus and their power further consolidated. There is no evidence this will increase efficiency. The maritime transport services proposals appear to be ideologically driven, and aimed at increasing competition and promoting labour market reform.

In particular, the extension of deregulation to multimodal and ancillary services will be disruptive for many countries and workforces and allow for the speedy market entrance of the bigger multimodal operators potentially at the expense of local economies.

Several provisions within this text would appear to impinge broadly on non-maritime transport sectors, potentially favouring the global multimodal operators by giving them preference to establish and access such services at the expense of national, smaller shipping or single-mode transport companies – and with negative impact on the jobs they provide.

For example, multimodal transport operators may be given “reasonable” and “non-discriminatory” access to road, rail or inland waterways transport services and related auxiliary services - which includes the ability of the multimodal transport operator to demand priority for the handling of its goods over other merchandise which has entered the port at a later date – irrespective of any efficiencies of the port itself, and to the potential disadvantage of services which are not multimodal.

Underlining ITF concern over this point, the text says that: “limitations on commercial presence for the supply of maritime transport services means any measure that would limit the ability for maritime transport service suppliers of another Party to undertake locally all activities that are necessary for the supply to their customers of a partially or fully integrated transport service, within which the maritime transport constitutes a substantial element.”

Road and rail services tend to be public infrastructure, raising more questions about a state’s ability to manage its own infrastructure. The ITF would have concerns about interpretations about what “reasonable” means, and how this would be defined.

Finally, the opening up of offshore services also raises potential sustainability and environmental concerns.

**ITF has grave concerns for the development of local economies and for the ability of state entities to appropriately manage such development, including infrastructure use and provision – or to consider potential social or environmental impact. The text would seem to leave the door open to serious commercial disputes with any government that tried to do this.**

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The International Transport Workers' Federation (ITF) is an international federation of transport workers' trade unions. Any independent trade union with members in the transport industry is eligible for ITF membership. Around 700 unions representing over 4.5 million transport workers from some 150 countries are members of the ITF. It is one of several global unions federation unions allied with the International Trade Union Confederation (ITUC).The [ITF's headquarters is in London](#) and it has offices in Amman, Brussels, Nairobi, New Delhi, Ouagadougou, Rio de Janeiro and Tokyo.

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