

**From:** [ 4.1(b) ]  
**Sent:** 06 March 2012 19:34  
**To:** DEMARTY Jean-Luc (TRADE);  
[

4.1(b)

**Subject:** Flash report: ESF/ECIPE seminar on services plurilateral ]

Main points from a 3.5 hours seminar on "Is there a case for a plurilateral agreement on services?" co-organised by the European Services Forum (ESF) and think tank ECIPE:

Concerted message from US/AUS/CAN to EU that the train is still in the station but the EU should come into the engineering room quickly. EU industry does not have a clear position (at a meeting with COM before the seminar, some ESF members expressed enthusiasm (CityUK) and some scepticism (ship owners)); so ESF wants it all: "Real interest of companies is in emerging markets; we cannot but be enthusiastic about the plurilateral; form is not for private sector to decide". [ 4.1(b) ] said the EU was actively exploring together with RGF but would take the necessary time to assess issues of economic value, WTO compatibility and multilateralisation; when convinced, would ask Council for mandate. [ 4.1(b) ] and [ 4.1(b) ] noted that further discussion in the EU were necessary. (Comment: after initial contacts with Moreira's assistant, further liaising may be necessary.) The UK as only intervening MS was in favour of the plurilateral provided it had traction and delivered meaningful results.

Further details:

[ 4.1(b) ] pleaded for acknowledging that the Single Undertaking has not worked and moving to liberalisation on a "rolling basis", with an open architecture leaving the door open for those sharing the same goals but without veto power to the naysayers. Accept that cannot debate others into doing things when there are fundamental differences of views. Weaving together existing FTAs and thus create a stepping stone for multilateralism; accept that not a perfect outcome but a meaningful starting point. Discuss substance before form, pragmatism instead of theological discussions.

[ 4.1(b) ] from **ECIPE** (tasked by ESF with a study on the economic benefits of plurilateral services agreement) claimed there was solid economic reason for an FTA as RGF covers about 70% of global services trade. Any plurilateral is a stepping stone, thus form not that important. China needs FDI to advance its underdeveloped services sector (but not clear how it would be attracted to participate).

[ 4.1(b) ] noted there had been no discussion with INTA on WTO since MC8, therefore EP had no view yet. Personally, he thought services liberalisation needed to be advanced pragmatically, all forms ok as long as public services, services of general interest and mode 4 were carefully addressed. EU should have its own agenda and not wait for initiatives from Washington.

[ 4.1(b) ] thought that Geneva RGF discussions had shown willingness for pragmatic solutions. Too early to debate the vehicle, substance should come first. Canada's objective was an ambitious and comprehensive agreement.

[ 4.1(b) ] noted that Australia had same position as EU in terms of wanting to promote both market access and rules (domestic regulation) together, targeting Asian economies and having FTAs with many RGFs. But decided to support plurilateral because it had same great potential as TPP where now countries came knocking to join. No. 1 priority remained DDA conclusion; looking how new approaches can breathe new life into it. Key points: stepping stone, credible mix developed/developing (as in RGF), create incentives for emerging e.g. via rules, commercial relevance as initiative will grow over time.

Sören **Kelstrup** stated that TPC would need to discuss economic gains/value added (some concerns), how to make a real stepping stone if restricted to developed, how to balance substance vs. inclusiveness, are we ready for mode 4 incentives?, and should we shift attention from bilaterals

**Marc Vanheukelen** pointed out that future jobs and growth will be in services; in DDA, political capital had focussed on Ag/NAMA; plurilaterals have been conducive to multilateral results in the past. For form of plurilateral, only ITA and Art. V models are realistic. For ITA, need China and have to sound out. EU actively exploring with the RGF but do not want to launch half-baked initiative born out of frustration. Asked again on timing of EU readiness to negotiate, replied that when convinced of an FTA, COM would ask Council for mandate.

**Bob Vastine** pleaded for branding the plurilateral "International Services Agreement (ISA)" - (*comment: this branding may increase public attention, including by anti-liberalisation NGOs*) and thought that clearly the industry would be better off with an ISA without the BIC than without any ISA.

**Pascal Kerneis** said that ESF was enthusiastic about "any initiative" (there was no common position about the plurilateral at the preceding ESF-Commission meeting) and encouraged the EU to get in the driving seat. Main interest is in emerging markets, keep door open and don't frustrate China. Supportive of launching negotiations for an ambitious and comprehensive agreement soon, with a mechanism for variable geometry.

#### Q+A session

**Peter Chase** (US chamber of commerce) triggered a debate about positive vs. negative listing. All North American interventions unsurprisingly praised negative listing, Australia was open to positive listing if it was better suited to attract more participants (as pointed out by Marc Vanheukelen). **UK** TPC SI delegate Andrew Dey, stating that the UK supported coalitions of the willing if they generated relevant results and served as stepping stones, noted that the UK had a general preference for negative lists but in initial thoughts supported COM in its preference for positive in this case.

**Stuart Harbinson**, **Roderick Abbott** and **Crawford Falconer** stressed that form was important and were critical about the "substance before form" sequencing advocated by Punke.

From industry, only representatives of Citigroup and the satellite industry intervened, in favour of a plurilateral even if without the emerging.

**Celina Jackson** from the **World Bank** "applauded very loudly" the economic reason for pursuing the plurilateral but urged not to lose sight of Doha as a development tool; to this effect, suggested to couple the LDC services waiver with recent WB efforts to create services knowledge platforms in e.g. COMESA.

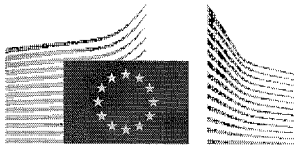
#### List of panellists

##### Speakers:

- Ambassador Michael Punke, Deputy USTR and US Ambassador to the WTO
- Hosuk Lee-Makiyama, Director ECIPE

##### Commentators:

- Mr Marc Vanheukelen, Head of cabinet, DG Trade, European Commission
- Professor MEP Vital Moreira, Chairman of the International Trade Committee (INTA) of the European Parliament
- Ambassador Sören Kelstrup, Ministry of Foreign Affairs of Denmark, Chair of the EU Trade Policy Committee under the Danish Presidency of the European Union
- Ambassador Tim Yeend, Ambassador, Permanent Representative to the WTO, Australia
- Ambassador David Plunkett, Ambassador of Canada to the European Union
- Mr Robert Vastine, President, US Coalition of the Service Industries (CSI)
- Mr Pascal Kerneis, Managing Director, European Services Forum (ESF)
- Introduction by Mr Jonathan Peel, Employers Group, EESC and Mr Edward Bowles, Regional Head of Public Affairs, EMEA and Americas, Standard Chartered Bank; ESF Policy Committee Chairman
- Conclusion by Mr John Cooke, Chairman, LOTIS Committee, The City UK; Member of ECIPE Advisory Board



## EUROPEAN COMMISSION

Directorate-General for Trade

Directorate B - Services and Investment, Intellectual Property and Public Procurement  
Services

2.

Brussels, 27 June 2012

~~2246-118~~

### MEETING REPORT

#### Informal meeting of European Services Forum (ESF) and TPC Services & Investment, 21 June 2012

##### Summary

The services plurilateral was the main topic of the informal meeting of the European Services Forum (ESF) and the TPC Services&Investment. Most business representatives are in favour of a plurilateral negotiation; they would prefer it to be "within the multilateral trading system" but if that was impossible and if it came to a point of parting among the Really Good Friends, they would not want to see the EU outside the initiative. Only the Eurocommerce (retail sector) representative spoke out strongly in favour of creating a docking mechanism instead of a competitor to the GATS.

##### Details

ESF policy committee chairman [ 4.15 ] noted that ESF had not yet stated its position publicly in order not to limit the Commissions wriggle room but would have to speak up at the Washington Services Summit on 19 September. He summarised ESF members' views as being tired of no progress at the WTO, preferring a plurilateral within the WTO system, but as China and India would clearly not come on board soon, they would not want to see a negotiation take off without the EU. Jam today was better than caviar tomorrow and countries signing an agreement would be an encouragement in itself.

Businesseurope, however, has issued a joint statement with the US Chamber of Commerce recommending that *"interested countries should launch negotiations towards a comprehensive International Services Agreement before the end of 2012"*. This is remarkable because of the double hat of the Trade Advisor of Businesseurope, [ 4.15 ] who is also Managing Director of ESF.

[ 4.15 ] said that business was "very keen on launching a plurilateral initiative" and repeated the arguments of the US Coalition of Services Industries in favour of a "new model that would set the bar high". He recommended clarifying vis-à-vis US and Australian industry that the EU was more ambitious than the US, wanted new market access in BRICs so the door should be left open, and was not afraid of negative listing (could negative list be used for initial participants and positive list for countries joining later?). A plurilateral agreement could also bring "21<sup>st</sup> century rules", transparency for subsidies and freedom of data flows. He also repeated the US argument that the

classification system used in GATS schedules was outdated and did not take account of new services.

The representative of CityUK (financial sector) Cooke requested more explanation about the Commission's concerns about risks for the system and appreciated the reply received. COM (Iruarrizaga) explained that the GATS structure and approach to scheduling resulted from careful political balancing in Uruguay Round, it was important to respect this structure so that plurilateral can be docked to the system more easily when other countries want to join. He also noted that a plurilateral even among friends only would not be quick to negotiate and it was not clear what the US could actually deliver.

The representative of Eurocommerce (retail sector) confirmed fatigue with lack of progress in WTO negotiations, but said that a docking mechanism was what they wanted.

The Member States representatives taking the floor (PL, UK, NL, ES) confirmed the views expressed in the TPC, i.e. that a plurilateral initiative should respect GATS architecture, including positive listing.

**Other issues raised by industry:**

CityUK expressed concerns about proposed EU legislation on **data protection** which could have negative effects on trade if popular outsourcing destinations for data processing and storage of EU business would no longer be regarded acceptable in terms of data protection standards. The Danish shipowners association noted its surprise about also being affected by this draft legislation.

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not TISA

- Signed -

Ursula Hönich

Cc. Demarty, Aguiar Machado, Lobillo Borrero, Nyman, Kiener, Schlegelmilch, Juul-Jorgensen, Zambarta, Garzotti, Rydzkowski, Redonnet, Bourcieu, Rubinacci, Busz, Unit B2 (DG Trade);

Levie (Cab. De Gucht);

Casella (Del. Geneva).

3.

**From:** [ 4.1 b ]  
**Sent:** 24 September 2012 14:25  
**To:** [ 4.1 b ]  
**Subject:** FW: Presentation to City UK on the Commission approach to the Services Plurilateral  
**Attachments:** Presentation to LOTIS Committee 7-9-12ppt.ppt

**From:**  
**Sent:** Tuesday, September 11, 2012 9:17 AM  
**To:** DEMARTY Jean-Luc (TRADE); [ 4.1 b ]

**Subject:** Presentation to City UK on the Commission approach to the Services Plurilateral

On Friday (07/09/2012), I delivered a presentation (slide show attached) at City UK to explain the Commission position on the Services Plurilateral discussions. The meeting was attended by:

- The members of the Liberalisation of Trade in Services (LOTIS) Committee of City UK, and
- Representatives of the UK administration dealing with Trade in services: [ 4.1 b ] (Deputy Director, Head Trade Policy Unit) and [ 4.1 b ] and [ 4.1 b ] (Trade Policy, Services).

It is worth mentioning that City UK plays a key role in determining the positions of the European Services Forum (ESF) and that ESF has been slowly tilting towards the position of CSI on the plurilateral.

Summary:

1. The modular approach was very well received. The Chairman of the LOTIS Committee strongly supported the modular approach and was keen on stressing the link with the Understanding on Financial Services. The representatives of the UK administration lent a strong support to the Commission approach (Eamon Cassidy literally stating that the "the Commission line is very clever"). Several members of the LOTIS Committee questioned whether China or other emerging countries would ever join a Plurilateral agreement (one of the attendees explicitly referred to the difficulties that the EU has faced in the Indian bilateral negotiations and wondered whether we would be able to do better in a plurilateral context).
2. The most emotional pitch in favour of the US approach in the Plurilateral discussions was linked to our negotiation with Singapore:
  - It was argued that our negotiation with Singapore is proving that the EU lacks the ability to reach parity with US agreements on financial services (the banking example was mentioned by Sir Thomas Harris, Standard Chartered Bank plc.). The US may gain a preferential foot on financial services in Asia through TPP. If the EU does not want to be discriminated in Asia and cannot deliver parity through its own agreements, we should try to do so via the Plurilateral (getting TPP treatment thanks to an intra-Plurilateral MFN clause) even if that requires sacrificing the GATS architecture and accepting the NAFTA-based TPP architecture.

-I argued that the jury is still out on the EU-Singapore negotiations and that it was not self-evident that Singapore would grant the same concessions in TPP that it already granted to the US on banking. However, in my view, the argument raised is to be taken seriously.

3. The LOTIS Committee will now reflect on their position on the Plurilateral.

Ignacio Iruarizaga

## Meeting report MVH – IBM

12 September 2012

Participants: COM: MVH (CAB), [ 4.1 b. ]  
 IBM: [ 4.1 (b) ] Vice President - Governmental Programs at IBM, [ 4.1 (b) ] VP Governmental Programs - Europe

IBM (4.1 (b) ) started their presentation raising concerns about recent trends limiting the cross boarder data flows, but soon moved into a flagging their strong support for a possible EU-US trade initiative. IBM underlined their willingness to play a very active role in building the necessary coalition of business support.

IBM further raised the view that, on top of the bilateral commercial value, such an agreement would also send a strong signal towards countries like China, India and Brazil about the confidence of both the EU and US in open markets. The possible FTA should therefore be a platform open to anyone who is willing to meet the high level of ambition envisaged.

IBM highlighted that maritime transport and aviation services would be amongst the most difficult areas for the US to move. To this end, it would be necessary to start lobbying certain institutions and key figures now.

In the same vein, IBM stated that it would support the initiative of a plurilateral service agreement particularly, given that it currently faces more barriers to trade in services than before the crisis and before Doha slowed down, notably in India, China, Indonesia, Argentina and Brazil. IBM underlined the importance that the EU and the US would take the leadership in such trade initiatives in order to increase the pressure on those WTO-members to join at a later stage.

COM (4.1 (b) ) gave an overview on the process of the HLWG and the possibly most difficult areas, notably to achieve mutual recognition of some extend for regulatory issues which could only work with strong industry support on both sides of the Atlantic.

(4.1 (b) ) further underlined the importance DG Trade attaches to listening to the services industry concerns and supporting the plurilateral initiative in Geneva.

**Subject:**

FW: Meeting with the ESF Policy Committee (16.10.2012)

**From:** [ 4.1 (b) ]

**Sent:** Tuesday, October 16, 2012 7:27 PM

**To:** [

4.1 (b)

**Subject:** Meeting with the ESF Policy Committee (16.10.2012) ]

Today (16.10.2012), I met with the Trade Policy Committee of ESF to debrief them on the state of play of different services negotiations or potential negotiations.

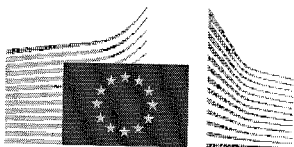
The main comments raised by ESF members on the different files were:

Plurilateral:

- Telefónica: Would any rules on ICT correspond to the EU-US ICT principles? I explained that the principles would likely be used as a source of policy inspiration, but that they were not detailed enough to be the basis for possible treaty language.
- Member of ESF:
  - o Will SOE disciplines include anti-subsidy disciplines? I explained that we have not yet seen any draft SOE text and that we have raised the same question in the preliminary RGF discussions without getting a clear answer from the main SOE proponent (the USA).
  - o He explained that the EU industry was interested in disciplines tackling large state financing to SOEs or non-SOEs for infrastructure projects.
  - o Shall the Plurilateral rules include protection for services intellectual property? I explained that the issue had not been raised during RGF discussion and invited ESF to elaborate on the kind of IP disciplines, if any, they would like to see included in the Plurilateral.
- ESF raised concerns on acquisition of EU companies by subsidized SOEs. I asked him to further elaborate on his concerns.
- Eurocommerce: thanked COM for its efforts in ensuring that the Plurilateral architecture remained anchored in GATS to facilitate its multilateralisation (main Eurocommerce's objective).

[ 4.1 b ]





Brussels, 15 November 2012

## MEETING REPORT

**Subject:** Meeting with the European Services Forum (ESF) and the Member States Delegates at the TPC Services and Investment, 12 November 2012

**Objective:** The main objective of this bi-annual informal meeting organized at the initiative of ESF was to discuss the state of play of the plurilateral negotiations as well as the individual FTA negotiations.

### Details:

#### 2. Plurilateral negotiations on services

COM (Iruarrizaga): debriefed ESF on the state-of-play of the plurilateral services negotiations among the group of Really Good Friends (RGF).

Comments and questions from ESF and its members:

- ESF and TheCityUK congratulated COM on the progress made since the last ESF meeting.
- ESF expressed support for the possibility to multilateralize the initiative in the future so that the agreement can be extended to other major markets as well later on.
- ESF inquired about the timeframe for other WTO Members to join the initiative.
- ESF and TheCityUK inquired about how the upcoming negotiations will be managed and in particular asked if the WTO Secretariat will be involved.
- Siemens inquired about the objective for including government procurement in this services initiative.
- ESF asked the Cypriot Presidency about the attitude of MSs in the TPC towards the plurilateral initiative, in order to learn if MSs are likely to endorse the process.

COM ( 4.1(b) ): elaborated on the expected timeframe and reiterated that the door is left open for other WTO Members to join the initiative either during the negotiations or later. Explained that there is no consensus among RGFs about the role of the WTO Secretariat in the plurilateral negotiations. Mentioned an option that secretarial duties could be executed on rotational basis taking the example of the TPP negotiations.

Emphasized the importance to flag our interest in including government procurement in the plurilateral.

The Cypriot Presidency (Georgalla): explained that there are lot of discussions in the TPC on the details and mentioned that it is hard to predict the progress than can be made until the end of the presidency. Also thanked COM for organizing an expert meeting on the plurilateral initiative.

[ 4.1 (b) ]

**Meeting with representatives from the Coalition of Services Industries (05/12/2012):**

Very useful meeting during which CSI representatives signalled their willingness to help negotiators notably in reaching out to stake holders. CSI recognised the very constructive role played by the EU and the US in the pulling together the views of the other RGF Members. The EU explained that the value of the initiative would come from the ability to expand the agreement to the other participants (emerging economies), the rule making and the setting of ambitious standards on market access. CSI representatives seemed to be very receptive to the arguments made on standards for market access and the need to multilateralise the outcome of the negotiation.

8.

**Subject:**

FW: Meeting with Digital Europe

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**From:** [ 4.1.b ]  
**Sent:** Thursday, February 07, 2013 1:55 PM  
**To:** [ 4.1.b ]  
**Subject:** Meeting with Digital Europe

I met this morning with the trade policy group of Digital Europe (DE), chaired by NOKIA.

Most of the questions revolved around the plurilateral.

There was a great interest in the plurilateral; what it can bring; how it relates to the EU-US negotiations; how to articulate the two. We had discussion on the conditions for future multilateralisation.

DE is willing to be supportive of the plurilateral and will be more vocal on that in the coming months. Great interest in a larger industry consultation.

Best

[ 4.1.b ]

**Subject:**

FW: Meeting with business (19/03)

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**From:** [ 4.1 b ]  
**Sent:** Monday, April 15, 2013 9:41 AM  
**To:** [ 4.1 b ]  
**Subject:** Meeting with business (19/03)

### Meeting with representatives from the Coalition of Services Industries (19/03)

(participants:

4.1 b  
4.1 b - European Commission - DG Trade  
4.1 b European Commission - DG Trade  
4.1 b - European Commission - DG Trade  
4.1 b - EU Mission Geneva

Mission of Australia  
Mission of Australia  
Mission of Australia  
Australia, CEO - ASR  
Manulife, Canada  
Canadian Services Coalition, Canada  
Mission of Canada  
Mission of Canada  
Mission of Chile  
Mission of Chile  
Mission of Taiwan  
Mission of Taiwan  
Mission of Taiwan  
TWCSI, Taiwan  
Mission of Colombia  
Mission of Colombia  
Mission of Colombia  
Mission of Costa Rica  
Mission of Japan  
Mission of Korea  
Mission of Korea  
Mission of Korea  
Mission of Mexico  
Mission of New Zealand  
Mission of New Zealand  
Mission of New Zealand  
Mission of Norway  
Mission of Norway  
Mission of Norway  
Mission of Pakistan  
Mission of Pakistan  
Mission of Panama  
Mission of Panama  
Mission of Peru  
Mission of Peru  
Mission of Switzerland  
Mission of Turkey  
Mission of Turkey  
Mission of Turkey  
Mission of USA  
Mission of USA  
Mission of Iceland  
Mission of Israel  
US Global Services Coalition  
US Global Services Coalition  
US Global Services Coalition  
US AIA  
US AFLAC  
US ATT

*US Deloitte*  
*US FedEx*  
*US IBM*  
*US Microsoft*  
*US Microsoft*  
*US Tyco*  
*US Motion Picture Association of America*  
*US Verizon*  
*US Walmart*  
*US Visa*  
*Berwin Leighton Paisner, Belgium*  
*UK, The City UK (Chair of ESF Delegation)*  
*UK, ESF*  
*ETNO*  
*ESF*  
*Inmarsat*  
*BT*  
*ECSA*

This meeting, which was organised by the EU Delegation, was the an opportunity for all RGF Members to meet with the representatives from the Coalition of Services Industries, in order to exchange views on how the TISA discussion had been conducted so far and what would be the next steps. The EU, Australia and the US made a general presentation, insisting on the need to move quickly into a substantive text discussion and prepare the exchange of offers. The EU briefly mentioned its ideas for MA standards and for provisions on GP. Representatives from the CSI insisted on the need for these negotiations to be rooted into real business needs and to respond to business expectations, notably in the areas of ICT, domestic regulation, logistics, financial services and professional services. Business representatives also pleaded for enlarging the RGF group to as many Members as possible including emerging economies. Finally the CSI members also insisted for transparency and having regular dialogues with RGF Members in the margins of the future rounds.

10. ✓

**Subject:**

FW: Meeting with business (20/03)

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**From:** [ 4.1 5 ]  
**Sent:** Monday, April 15, 2013 9:41 AM  
**To:** [ 4.1 5 ]  
**Subject:** Meeting with business (20/03)

### **Meeting with representatives from the Coalition of Services Industries (20/03)**

(participants:

[ 4.1 5 ] European Commission - DG Trade  
[ 4.1 5 ] EU Mission - Geneva

US Global Services Coalition

US Global Services Coalition

US Global Services Coalition

US ALA

US AFLAC

US ATT

US Deloitte

US FedEx

US IBM

US Microsoft

US Microsoft

US Tyco

US Motion Picture Association of America

US Verizon

US Walmart

US Visa

Berwin Leighton Paisner, Belgium

UK, The City UK (Chair of ESF Delegation)

UK, ESF

ETNO

ESF

Inmarsat

BT

ECSA

✓ During this meeting which was organised by the CSI, the EU strongly pleaded for its proposal on 'MA standards' as a way of securing genuine new market access. There was a clear enthusiasm expressed by business representatives on these suggestions, and who praised the EU for 'finally raising issues pertinent for business'. Business representatives also raised the following issues: - how to attract new TISA members; - the importance of sectoral provisions; - what sort of provisions related to Mode 4 would be included in the TISA; - state of discussions regarding ITC and data transfer; - and the importance of ambitious provisions on DR. The EU invited industries to follow the negotiations and provide input as appropriate.

11.

**Subject:** FW: Meeting with AmCham

**From:**   
**Sent:** Wednesday, March 27, 2013 7:54 PM  
**To:** { 4.1(b) }  
**Cc:** { }  
**Subject:** Meeting with AmCham

I met today with AmCham (see participants below). I debriefed them on the state of play of the TISA negotiation. There was a great interest in EU's standards approach.

- Questions that were raised:
- What to do with data flow?
  - How to reconcile ambition and openness?
  - How is the negotiation organised? What role for the WTO SEC?
  - Will the group implement the EU-US ICT principles?
  - How to ensure transparency?
  - How did we ensure compatibility with the GATS?

Best

[ 4.1 b ]

Amcham Participants:

Company
Caterpillar
MICHELIN NA
GE
FTI Consulting
White & Case
Microsoft
UPS
Dow Europe GmbH
UL
Brunswick
EPPA
Eli Lilly and Company
AmCham EU
AT&T
AVON
UPS
Procter & Gamble





## EUROPEAN COMMISSION

Directorate-General for Trade

Directorate B - Services and Investment, Intellectual Property and Public Procurement  
Services

12.

Brussels, 24 April 2013

B1/SB

### MISSION REPORT

**Subject:** Report of the workshop on the Plurilateral Services Agreement,  
Berlin, 19 April 2013

#### MISSION DATA

**Meeting place:** Berlin, Germany, Ministry for Economy and Technology  
**Date of meeting:** 19 April 2013  
**Workshop organisers:** Ministry of Economy and Technology [ 4.1 (b) ]  
and  
[ ] German Association of International Law,  
Working Group Trade Law  
**Workshop panellists:** [ 4.1 (b) ] (University of Erlangen), [ 4.1 (b) ]  
[ ] (WTO); [ 4.1 (b) ] (University of  
Saarbrücken), [ 4.1 (b) ] (University of Jena), [ 4.1 (b) ]

#### SUMMARY OF THE WORKSHOP

The workshop aimed at bringing together representatives from the academic world and policy makers to discuss the initiative to negotiate a plurilateral agreement on trade in services, its context, challenges and chances in world trade. Altogether, 25 people registered, including law professors from several Universities, representatives of some German industry associations (Bundesverband der Deutscher Industrien, Hauptverband der deutschen Bauindustrie), officials from different DE ministries (Foreign Ministry, Work and Social Affairs etc), NGOs (Institute for human rights) and representatives of trade unions.

In the morning, there were three presentations to introduce the new initiative from different angles. [ 4.1 (b) ] focussed on the background and history of the WTO and the Doha negotiations to explain the genesis of the plurilateral services initiative. [ 4.1 (b) ] gave an overview about negotiations under the WTO and about existing RTAs, stressing the GATS plus, but also GATS minus elements of some RTAs. He also highlighted the difference between the existing level of liberalisation, GATS commitments and commitments under the revised DDA offer. He stated that according to the analysis carried out by the WTO Secretariat, the format of scheduling would not determine the

level of liberalisation and that more NAFTA type of agreements would contain GATS minus elements. I gave the attached speech, focussing on architecture of the agreement and objectives for the EU.

In the subsequent lively discussion questions were raised concerning the level of ambition amongst the future participants, legal DNA of the agreement (Article V vs multilateral agreement), relation to the WTO, elements for future multilateralisation, areas of new and enhanced disciplines, possible inclusion of GP, subsidies and ESM, treatment of services of general economic interest ("öffentliche Daseinsfürsorge") and audiovisual services, water liberalisation, possible operationalization of the services waiver for LDCs, the future impact assessment and substance of standards promoted by the EU. Bottom line was an overall supportive approach for the line taken by COM so far, notably concerning future multilateralisation, careful approach desired concerning public utilities and audiovisual services.

The afternoon session focussed on two topics: dispute settlement and financial services in the TiSA. The intervention on DSM from [ 4.15 ] highlighted the different theoretical options for a DS based on the selected legal nature of the future agreement. From an academic point of view, he would consider it preferable to add the TiSA (like the GPA) to the list of covered agreements under the WTO dispute settlement mechanism. He however acknowledged that consensus in the membership would be necessary, which would not appear to be easy, but should be at minimum explored. Should the agreement become an Article V GATS agreement, he mentioned a number risks that would be created, e.g. parallel proceedings, forum shopping; respect of jurisprudence of the other bodies, res iudicata. He indicated that it should be explored to what extent organs of the WTO DSM system such as the Appellate Body could be borrowed to avoid creating frictions between jurisprudence.

The second presentation [ 4.15 ] dealt with financial services in trade agreements. The main line of reasoning was that further liberalisation in this sector will only be achieved if countries recognise decisions of third countries supervisory authorities. This should be achieved in the TTiP, given the relative equal level of regulation and supervision. In TiSA, in view of the different level of development amongst participants, at least the GATS Annex on FS and the Understanding on scheduling should be incorporated, possibly broadened by commitments in insurance services with "serving function" and granting of credits.

[ 4.15 ]

14.

**Subject:**

FW: Meeting with ESF Policy Committee 23 April 2013

**From:** [ 4.1 b. ]  
**Sent:** Friday, April 26, 2013 10:02 AM  
**To:** TRADE LIST B1  
**Subject:** Meeting with ESF Policy Committee 23 April 2013

Dear all,

On Tuesday 23 April, [ 4.1 (b) ] attended the meeting of the ESF with its members, to present a state of play on the ongoing and future services negotiations. Later in the afternoon there was an ESF Policy Committee where also the Member States were invited. The COM was here represented by [ 4.1 (b) ]

## II. TPC meeting with ESF and MS

### TiSA

COM [ 4.1 b ] informed the participants on the current state of play in the TiSA negotiations. COM explained the content of the EU's text proposal for a text. This proposal suggests the inclusion of key GATS articles and the Understanding on Specific Commitments, plus additional liberalisation commitments (e.g. national treatment as a horizontal principle). Furthermore, the EU suggested the RGF's series of standards. COM asked the industry to defend these standards in their contacts with RGF and industry. The COM informed the ESF members about the public survey that will be launched in May.

[ 4.1 b ] made clear that the discussion on mode 4 is very important for ESF's members. ESF does not perceive this as a defensive issue, but sees a real need for EU industry to move personnel abroad. He also talked about dispute settlement and the enforcement of agreements. Pascale will also get back to his members from the financial sector to ask for additional provisions.

There were more questions from Deutsche telekom (on the timing for the industry interests to be heard), British telecom (on digital economy agenda and ICT services) and the European express association (the link with the trade facilitation agreement).

[ 4.1 (b) ]



European Commission  
DG TRADE  
Unit B1 - Services



CIVIL SOCIETY DIALOGUE

## MEETING ON THE PLURILATERAL TRADE IN SERVICES AGREEMENT

**Date:** 25 April 2013  
**Time:** 15:00 – 17:00  
**Location:** Centre Albert Borschette, room AB-0C, 36 rue Froissart, 1040 Brussels

### Key-note Speaker

Mr Ignacio Iruarrizaga-Díez, Head of Unit Trade in Services, Directorate-General for Trade

### Moderator

Ms Montserrat Gago, Coordinator relations with civil society, Directorate-General for Trade

### Panel Presentation

**DG Trade (IID))** presented the initiative of a plurilateral trade in services agreement which brings together all those WTO-countries willing to advance services negotiations. He explained the genesis of this initiative, its connection to the stalled Doha negotiations and its link to the elements of political guidelines issued in the margins of the 8<sup>th</sup> Ministerial Conference “to explore different negotiation approaches while respecting the principles of transparency and inclusiveness”. He highlighted the different possibilities to approach a stand-alone services agreement and described the exploratory process amongst the so-called Really Good Friends of Services in 2012. This process led to a compromise amongst those countries on the architecture and objectives of the future agreement at the end of 2012. Moving on, DG Trade outlined the possible future structure of the agreement and explained how this would help any future multilateralisation. He informed the participants on the actual number of participants, the current state-of-play of the discussions, the future challenges and the next steps.

### Discussion Highlights / Questions and Replies

The meeting was then opened to the floor for general comments and remarks.

**The Vlaamse Noord-Zuidbeweging – 11.11.11** requested more information on the EU proposed market access standards and wanted to know what the Commission would mean by stating that it would be an ambitious agreement. It noted that by raising the

ambition, the stakes would be raised very high and that according to the last meeting in the Council for Trade in Services, almost all BRICS were speaking against these negotiations.

**DG Trade (IID)** replied that those standards would be attempting to tackle some market access obstacles in a horizontal manner instead of eliminating them in an inefficient request-offer process. Foreign equity caps and joint-venture requirements or discriminatory economic needs text were mentioned as examples. On the question of ambition and conditions of GATS Article V, DG Trade explained that there is indeed no common understanding amongst WTO-members on the interpretation. However, ambition in the context of the agreement would mean not only improving market access and national treatment commitments of the participants, but mainly developing rules that enhance transparency and predictability for EU operators in third countries. DG Trade confirmed that it would not take for granted that other countries would join easily, but mentioned that there would be many outreach and transparency activities around the discussions to inform the interested membership. In terms of the reactions of the BRICs in the meetings of the Council for Trade in Services, DG Trade would see that there are nuances between the different WTO-members.

**The Vlaamse Noord-Zuidbeweging – 11.11.11** also enquired of the final name of the agreement and if there would be plans to integrate a MFN clause that would set the conditions for multilateralisation. It was of the view that a future multilateralisation would require consent of the WTO membership. It also expressed doubts that this initiative could help the DDA negotiations.

**DG Trade (IID)** replied that the current working title of the agreement would be “Trade in Services Agreement” (=TiSA). Concerning a future multilateralisation, DG Trade informed that there has not been any detailed discussion of such mechanism so far, but that different pathways would be conceivable, *inter alia* an automatic multilateralisation once a critical mass is reached. However, it would be too early in the day to give more details. DG Trade contested that it would need the agreement of others to multilateralise, but that Article XVIII GATS could be used for this purpose.

**European Federation of Public Service Unions** was interested to learn more about the envisaged Sustainability Impact Assessment (SIA) and why no impact assessment had been carried out before.

**DG Trade (IID)** explained the envisaged timing for the SIA, stressing that the SIA would feed into the negotiations already at different interim stages of the process. DG Trade also explained the reasons for not having carried out an *ex-ante* impact assessment (IA) which was mainly due to poor quality of the data available and the impossibility to develop a meaningful IA in the short time available before the start of the negotiations; a timeline that could not be pushed back in this multi-country context.

**European Services Strategy Unit** required more information on the positive and negative listing approach in the negotiations.

was interested to know if the EU-US ICT principles could be incorporated in the agreement.

**DG Trade (IID)** clarified that investment protection would not be included in the agreement as it would be outside of the WTO universe. Concerning the EU-US ICT principles, it was explained that this could be a source of inspiration, but that this would have to be discussed still in detail.

**Consortium of German public broadcasting ARD** wanted to know which approach the EU would choose in the audiovisual sector.

**DG Trade (IID)** replied that audiovisual services would be part of the GATS and therefore necessarily part of the scope of the TISA. This would however be without prejudice to the Union's ability to decide whether or not to take commitments in this area. He also reminded that in GATS, the EU had not taken commitments.

**European Services Strategy Unit** sought clarification on whether the horizontal national treatment discipline would only apply to sectors in which positive commitments for market access had been undertaken.

**DG Trade (IID)** replied that the national treatment discipline would apply to all sectors, but would be subject to reservations that participants would take.

**DG Trade (IID)** elaborated on this point by stressing that in the sensitive area of market access, a GATS approach was selected whereas for national treatment, the discipline would be horizontalised, subject to reservations. The TiSA would get closer to the GATT logic in that sense.

**Eurocommerce** stressed that the “dockability” of the future agreement back to WTO would be very important to them and expressed its satisfaction with the current agreed architecture. It enquired about the possibility to receive new commitments in distribution and retail services.

**DG Trade (IID)** replied that the EU would be offensive in the area of logistics, transport, distribution and retail and would hope to achieve some progress there.

**The Vlaamse Noord-Zuidbeweging – 11.11.11** mentioned that it would be worrying that the TiSA countries would appear as a block in the WTO and DDA, and that this would not be good news to smaller countries.

**DG Trade (IID)** clarified that the concept would not be to impose a TiSA block over smaller WTO-members, but the idea would be that a proposal that won support amongst the Really Good Friends (RGF) in which the universe of different interests is well represented would find easier support in the WTO. In that sense, the discussions in TiSA could stimulate the WTO discussions.

**The Vlaamse Noord-Zuidbeweging – 11.11.11** was interested in the envisaged timing of the negotiations and if Bali would be important in that context.

**DG Trade (IID)** mentioned that there would be a lot of energy and dedication amongst RGF to come to results, but that Bali would not be realistic given the multi-country setting.

**European Services Forum** stated its support for the TiSA in the absence of DDA negotiations. It enquired if new members could join during the negotiations.

**DG Trade (IID)** explained that so far, this was possible and that the EU would encourage others to join rather sooner than later. ESF also asked if the future agreement could use the WTO dispute settlement mechanism like the GPA and if cross-retaliation would be discussed. Moreover, ESF was interested to see proposals on rules for state-owned-enterprises (SOEs) and cross-border data flow. DG Trade explained that using the WTO dispute settlement system would be the preferred option, but would require consensus of the WTO-membership. Therefore, it would be likely that the TiSA would contain a transitional dispute settlement mechanism. Cross-retaliation could be discussed, but would not be a topic yet. Moreover, there have not been any concrete proposals on SOEs or cross-border data flow yet, but this could come.

**European Telecommunications Network Operators' Association** expressed its support for this new negotiation and asked if investment protection could be added. Also, he

16.

**Subject:**

Meeting with EBF and EFC on FS in TiSA - 26.04.2013

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**From:** [ 4.1 (b) ]  
**Sent:** Friday, April 26, 2013 4:57 PM  
**To:** [ 4.1 (b) ]  
**Cc:** [ 4.1 (b) ]  
**Subject:** Meeting with EBF and EFC on FS in TiSA

[ 4.1 (b) ] met this morning with ESF and EBF to discuss FS in TiSA.

We explained the basic concepts on architecture, content and negotiation procedure of TiSA, and possible content of FS part.

EBF said that they had a preliminary discussion with some of their members which signalled particular interest for Mexico, Australia and Turkey.

ESF proposed that TiSA could especially be beneficial with regard to those countries (incl TW, NZ, HK, Chile) where there is/and will probably not be a FTA (services) in place. He questioned whether there would not be an asymmetry of offers if the best-FTA approach was followed, given that the FTAs of some v open RGFs (US, EU) go much farther than those of other participant.

On FS, they seemed to agree that the understanding + Annex on FS is a good basis. Important point for them is transfer of data, which in their view does not work well, even where provisions are in place (eg Koreu).

They agreed to send in an updated list of market access issues for FS with regard to the RGF.

[ 4.1 (b) ]



17.

**Subject:**

FW: Meeting with insurance Europe on TiSA

**Attachments:**

IAR-13-114

Insurance\_Europe\_position\_on\_the\_Trade\_in\_International\_Services\_Agreement.pdf

**From:** [ 4.1 (b) ]  
**Sent:** Monday, May 06, 2013 4:58 PM  
**To:** [

**Cc:** 4.1 (b) ]  
**Subject:** Meeting with insurance Europe on TiSA

On Friday I met insurance Europe to discuss FS in TiSA. They presented their new position paper on TiSA, which is the result of a survey among their members.

In general, they are supportive of TiSA negotiations even if they regret that the countries EU insurers are most interested in ( China, Russia, India, Brazil) are not (yet) part of the TiSA negotiations.

In their position paper, they argue for a standstill clause, implementation of the Understanding on Financial services, an enhanced transparency provision and specific rules/disciplines for insurance firms (on licencing, removal of nationality requirement for board members and of discriminatory collateral requirements for reinsurance placements)

They also support a number of horizontal minimum commitments which in their view should apply across all financial sectors: national treatment with regard to capital and licencing rules, removal of foreign equity caps and joint venture requirements, equal access to government contracts, rules on SOE, 4.1(a)

Those ideas are broadly in line with our TiSA paper.

With regard to the prudential carve out they would like to limit the GATS wording (proportionality + non-discriminatory). I explained that there may be value in using the GATS financial carve out as this will facilitate later multilateralisation.

They agreed to update their paper on trade barriers in insurance from 2005.

[ 4.1 (b) ]

**Subject:**

FW: meeting with blac rock - TISA/TTIP

**From:** [ 4.1 (b) ]  
**Sent:** Tuesday, May 07, 2013 4:40 PM  
**To:** [ 4.1 (b) ]  
**Subject:** meeting with blac rock - TISA/TTIP

Participants: [ 4.1 (b) ]

Time: 7.05.2013

Meeting organized at [ ] request, who wanted to better learn about the EU's trade agenda and in particular TTIP and TISA negotiations.

[ ] explained in detail the EU's general approach to negotiations in FS as well as the scope and timeline of TTIP and TISA. In response to [ ] request,

[ ] promised the input of asset management industry on their priorities in negotiations with the US, within TISA and with JPN. [ ] would also mobilize ICI (Investment Company Institute, a global association of asset management firms) to lobby in the US for the inclusion of the regulatory issues in FS.

[ 4.1 (b) ]

19.

**Subject:**

FW: meeting with HSBC

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**From:** [ 4.1 (b) ]  
**Sent:** Wednesday, May 08, 2013 3:57 PM  
**To:** [ I 4.1 (b) ]  
**Subject:** meeting with HSBC

Time and venue: 7.05.2013, CHAR

Participants: [ 4.1 (b) ] HSBC

✓ Short meeting organized at the request of HSBC. [ ] updated HSBC on the state of play of the following negotiations: TTIP, TISA, India, Viet Nam, Thailand. HSBC promised that they would inform us on the issues they would like the EC to tackle in the new negotiations.

[ 4.1 (b) ]

20.

**From:** [ 4.1 (B) ]  
**Sent:** 06 June 2013 15:51  
**To:** [ 4.1 (B) ]  
**Cc:** [ ]  
**Subject:** Flash reports: Meetings with postal/courier services

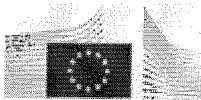
I had this week two meetings with postal and courier services.

On Tuesday, 04/06/2013 I met Post Europe (represented by La Poste), who wanted to get a better understanding what EU does in its trade agreements. Furthermore they wanted to get an update on progress in TiSA and in TTIP. The discussion was very general, however they very much interested in the sectoral annex/understanding. They did not report of any specific problems, but will come back to me after their network meeting end of June. They invited me to the meeting to make a presentation.

Post Europe also enquired if we could, through our trade negotiations address some of the issues of their interest. In particular, they were interested if it would be possible to include in talks the issue of BEET's (extraterritorial postal exchange offices that are part of international postal network). Apparently developing countries are – transitionally - free to choose under UPU between two pricing/quality options, and Post Europe would be interested in influencing them to choose the one that eventually all will have to adhere to. I took note of their interest, and will see with DG MARKT about their opinion.

Kind regards

[ 4.1 (B) ]



**European Commission**

Directorate General for Trade  
Services

[ 4.1 (B) ]

**From:** [ 4.1 b ]  
**Sent:** 06 June 2013 15:51  
**To:** [ 4.1 (b) ]  
**Cc:** ]  
**Subject:** Flash reports: Meetings with postal/courier services

I had this week two meetings with postal and courier services.

Today, 06/06/13, we met [ 4.1 (b) ], EEA (represented by DHL and UPS) about TiSA and marginally TTIP. Fabien gave an overview of TiSA developments in general and explained that we may have a postal/courier understanding/annex at later stage. The industry was interested in it and asked clarifications of its scope. In particular they were interested if it would/could cover logistics more widely and also cover some issues of trade facilitation. We explain that it has not been discussed in TiSA at the moment, as well as had a discussion about the difficulties that could be involved to reach an agreement for wide approach.

[ 4.1 (a) ]

4.1 (a)

[ 4.1 b ]



**European Commission**  
Directorate General for Trade  
Services

[

4.1 b

]

ESF Dear all,

On Friday 21 June, [ 4.1 (b) ] attended the meeting of the ESF with its members, to present a state of play on the ongoing services negotiations. Most of the time was dedicated to TiSA and TTIP. Sorry for late reporting.

- **TiSA:** The COM ( ) informed the committee of the next round of negotiations hosted by the EU. There will be no exchange of offers yet, as there should first be an agreement on text. The COM is now preparing the EU offer. Industry is invited to fill in the public survey on TiSA on DG TRADE's homepage. ESF members questioned the timing of the survey as offers might already be exchanged soon. [ ] explained that the survey focuses more on the EU's offensive interests and in this respect input into the negotiations is still timely. ESF pleaded for the inclusion of the BRICS and ASEAN countries in the RGF group. [ ] agreed with Kerneis. The COM has regular contacts with third countries, incl. China and ASEAN to explain the approach taken in TiSA and diffuse misperceptions [ ] would like to see Singapore around the table. ESF mentioned dispute settlement and the need to foresee some sort of cross-retaliation beyond services given the limited possibilities for retaliation in services. This is also an issue ESF wants to see addressed in the COM proposal for an enforcement regulation where services are not included for the moment. The COM called the members of ESF to convince CSI and other international business organisations of the EU's proposal for the inclusion of horizontal standards and of a schedule that is as similar as possible to the current GATS schedule.

**Subject:**

FW: TTIP and TiSA / ICT / Meeting with Deutsche Telekom

**From:** { 4.1 (b) }**Sent:** Wednesday, July 31, 2013 12:02 PM**To:** { 4.1 (b) }**Cc:** I**Subject:** TTIP and TiSA / ICT / Meeting with Deutsche Telekom J**TTIP and TiSA / ICT / Meeting with Deutsche Telekom****Participants:****EU:**

{ 4.1 (b) }

J

**Deutsche Telekom****Details**

At the request of Deutsche Telekom (DT), we met on July 30 with their representatives to discuss the state of play of the TTIP negotiation (as well as TiSA). Since DT requested a meeting to both TRADE and CONNECT, we organised a joint meeting.

On **TISA**, DT requested more information and encouraged the COM to share more and debrief stakeholders more often (DT asked why more communication was done on TTIP than on TiSA whereas the latter is also an important negotiation). DT shared the same concerns with regard data flow in TiSA than in TTIP. DT strongly supported the EU-proposed GATS compatibility and the overarching objective of openness and future multilateralisation.

{ 4.1 (b) }

25.

**Subject:**

FW: FYI - Report meeting TRADE - UPS, 12.9.2013

**From:** [ 4.1 (b) ]  
**Sent:** Monday, September 23, 2013 3:53 PM  
**To:** [ 4.1 (b) ]  
**Cc:** [ 4.1 (b) ]  
**Subject:** FYI - Report meeting TRADE - UPS, 12.9.2013

Report of the meeting with UPS, 12.9.2013

**I. Participants**

UPS

DG TRADE: [ 4.1 (b) ]

**II. Main issues discussed**

- Trade in Services Agreement: UPS explained that it envisaged submitting a reply to the Public Survey, but that it was unable to do so within the deadline. He announced a submission by 13.9. UPS flagged its interest to have rules on postal and courier services incorporated in TiSA and asked about the TiSA participants' views on that. TRADE (4.15) mentioned that so far, no country has concretely proposed any sectoral rules on postal and courier services, but that the EU had flagged its interest to have such rules in TiSA.
- TiSA/TTiP: UPS mentioned that a couple of other services would be very important for the business model of UPS and other express delivery companies, e.g. customs brokerage, warehousing, some transport services, freight forwarding. UPS would welcome if the EU reference paper would be broadened in this respect. TRADE (4.15) asked if the industry would find it useful to create organic links to other areas such as trade facilitation. UPS supported such a holistic, ambitious approach in general, but also mentioned that it would be difficult to draw a line. UPS expressed its doubts as to the accomplishment of such a goal in a services-only agreement or if this would not be an avenue to be pursued in bilateral negotiations, such as TTiP.

**III. Follow-up**

UPS to send its reply to the TiSA public survey by Friday, 13 September 2013.

Best regards,

[ 4.1 (b) ]  
Trade Affairs Manager



**European Commission**  
DG TRADE  
Unit B1 – Trade in Services

[ 4.1 (b) ]



**Subject:**

FW: Meeting with SES

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**From:** [ 4.1 (b) ]  
**Sent:** Friday, September 13, 2013 6:01 PM  
**To:** [ 4.1 (b) ]  
**Cc:** [ ]  
**Subject:** Meeting with SES

Meeting with satellite operator SES

Participants

TRADE B1: [ 4.1 (b) ]  
SES

Details

- Great interests in TiSA; DR component is of high interest;

[ 4.1 (b) ]

(27.)

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**Subject:** FW: TISA / TTIP : Meeting with IBM

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**From:** [ 4.1 b ]  
**Sent:** Friday, September 27, 2013 5:30 PM  
**To:** [ 4.1 b ]

**Subject:** TISA / TTIP : Meeting with IBM

**TISA / TTIP : Meeting with IBM**

Participants

DG TRADE: [ 4.1 b ]  
IBM

Details

✓ We had this afternoon a brief exchange of views on ICT related issues in the context of the TISA and TTIP negotiations. IBM recalled its well-known interest in cloud computing and cross-border data flow. IBM also discussed the problems caused by forced localisation requirements which are multiplying across the world. With regard to the possible participation of China in TISA, IBM acknowledged that this was faster than expected but recognised it was something worth working on.

[ 4.1 b ]

**ESF Policy Committee, 17 October 2013.**

**Resume:**

*The main purpose of the ESF Policy Committee meeting was to go through the state-of- play of on-going trade in services negotiations. The discussion underlined a keen interest of ESF members to exchange views on the negotiations:*

- *On TISA, ESF members encouraged an ambitious approach reflecting the level of commitments/FTAs most participants already had. Underlining the importance of extending disciplines in various sectors (eg telecom, finance) but also a risk for lock-in of asymmetry if not backed by further market access improvements (eg postal).*

**Details:**

- The Policy Committee meeting was chaired by BT, and broad ESF participation from committee members. The Chairman of the European Services Forum also attended. { 4.1 b } and [ 4.1 b ] participated from DG Trade. The main purpose of the meeting was to go through the state of play of ongoing trade in services negotiations.

**TISA:**

- COM informed the committee of the recent round of negotiations hosted by the EU. The purpose of stabilizing the main text had largely been achieved, and TISA participants were now aiming at presenting offers during a set period in November. In several sectors, such as telecommunications, maritime, transport, Mode 4 etc. work continued on consolidating text on the basis of proposals sponsored by participants. COM underlined the priority of extending results to more countries. The expected entry of China and Uruguay prompted a need for considerations on how to extend membership of TISA, while keeping ambition.
- ESF members encouraged an ambitious approach reflecting the level of commitments/FTA most participants already had. Underlining the importance of extending disciplines in in various sectors (e.g .telecom, finance) but also a risk for lock-in of exiting asymmetry if not backed up by further market access improvements (eg. postal services). On extending membership ESF members stressed the notions of keeping the entry barrier sufficiently high. Some also questions the intention underpinning Chinas wish to enter the talks.
- COM thanked ESF for their contributions to the consultations this summer, and noted that it was important to know ESF members priorities, and invited members to provide further input, as appropriate.

**Subject:**

FW: TiSA: Meeting with Amcham (Trade and External Affairs Committee)

**From:** [ 4.1 b ]

**Sent:** Monday, November 25, 2013 3:06 PM

**To:** [ 4.1 (b) ]

**Cc:** [ ]

**Subject:** TiSA: Meeting with Amcham (Trade and External Affairs Committee)

**TiSA: Meeting with Amcham (Trade and External Affairs Committee)**

Participants:

DG TRADE: [ 4.1 b ]

AMCHAM:

Company
Philip Morris International
EPPA
UL
Brunswick
Eli Lilly and Company
AmCham EU
Steptoe & Johnson LLP
Avon
UPS
White & Case

Details:

✓ Upon invitation by the Trade and External Affairs Committee of Amcham I presented today briefly the latest state of play of the TiSA negotiations, notably mentioning the adoption of the core text, the hybrid scheduling, the EU offer and the state of play of the discussions on regulatory issues. I particularly stressed to need to correct asymmetries among offers and to develop liberalisation standards.

This was followed by a discussion. Main questions raised:

- One participant asked about the state of play of the discussion on data flow.
  - I clarified that there was a proposal on the table but that little discussion had taken place so far.
- Several participants enquired about our position on China (and its potential participation in TiSA), stressing that letting China in might contradict our ambition for this negotiation
  - I recalled our basic position: yes to all interested WTO members which share our objectives. I clarified that we would expect China to deliver should it join. I also

clarified that we were not seeking pre-negotiation but nevertheless reasonable assurances.

- Questions were raised on Dispute settlement mechanism, the role of the WTO secretariat
- Direct selling representatives asked whether we had come any further with the classification issue relating to direct selling.
  - I mentioned we were aware of the issue, were looking at it.
- Some representatives asked about EU's intention with respect to a meeting with Stakeholders, notably in order to share the results of the consultations. Express industry enquired about the best moment to visit the negotiators in the margin of a round in Geneva.
  - I took note but welcome the interest. For the Express delivery, I suggested a visit in the margin of the next substantial discussion on postal/courier.

Best,

[ 4.15 ]

**Subject:**

FW: Report Meeting: JLD at the International Relations Committee of  
BusinessEurope, 31 January 2014

From: [ 4.1. B ]  
Sent: Tuesday, February 04, 2014 3:16 PM

4.1 (b)

**Subject:** Report Meeting: JLD at the International Relations Committee of BusinessEurope, 31 January 2014

**Report Meeting: JLD at the International Relations Committee of BusinessEurope, 31 January 2014**

Summary:

JLD provided an update on trade topics based on the request from BusinessEurope: [not relevant to scope of request]

JLD's 20 minutes intervention was followed by more than one hour of questions:

On the **TTIP** negotiations, IBEC (Irish Business and Employers' Confederation) asked if there is any chance to include **data flows** in the TTIP. JLD indicated that commercial data flows need to be free in the EU and the US and it remains an element to be negotiated notably in TiSA, where negotiations will hopefully progress. The EU will not trade off EU data protection rules.

**Subject:**

FW: TiSA / Postal and courier services: Meeting with Deutsche Post DHL


**From:** { 4.1 6 }  
**Sent:** Tuesday, February 04, 2014 4:45 PM  
**To:** {  
**Cc:** 4.1 (6)  
**Subject:** TiSA / Postal and courier services: Meeting with Deutsche Post DHL }

**TiSA / Postal and courier services: Meeting with Deutsche Post DHL**

Participants: DHL

{ 4.1 6 } → }

Summary

- 
- DG TRADE debriefed DHL on the state of play of the TiSA negotiations
  - DHL commented the US proposal for an Annex on competitive delivery services. While DHL strongly supports an ambitious outcome in postal and courier services (and in particular for express delivery) it raised concerns on how the proposed scope of "competitive delivery services" could impact the exclusive or preferential rights attributed to universal services suppliers. Would those special rights (special UPU customs forms; special VAT treatment...) be put in consideration?
  - DG TRADE indicated it would clarify this question while DHL would look again at existing EU agreements and their postal chapters and commitments. We agree to touch base later.

**Subject:**

FW: ESF Policy Committee meeting 20 March 2014

**ESF Policy Committee, 20 March 2014.****Resume:**

- *On TiSA, ESF members raised various questions about the present and future activities evolving around the negotiations by addressing specific sectors (e.g. e-commerce, Mode 4 etc.). Members underlined the importance of keeping the door open for other countries to join TiSA, especially China. ESF Members pointed out that a business delegation will be present in Geneva during the next round of negotiations and highlighted their interest in having a meeting with all the negotiators and the EU.*

**Details:**

- The Policy Committee meeting was chaired by BT with broad participation from ESF committee members. [ 4.16 ] and [ 4.16 ] participated from DG Trade. The main purpose of the meeting was to go through the state of play of on-going trade in services negotiations.

**TiSA:**

- COM briefed the current state of the negotiations. Last round was hosted by the EU and took place 17-24 February. The focus of the last round was on review of the offers in order to move to the negotiating text. There are 21 offers on the table out of 23 (Paraguay and Pakistan still have to send theirs). The offers are generally satisfactory, except for some countries (notably Turkey and Mexico) and some of the offers are not yet complete (for example Canada, Mexico on financial services and US on financial services and Mode 4). Good technical discussions took place on several topics (maritime, financial services, telecom and e-commerce, Mode 4, DR/transparency, professional services).
- The next round is hosted by Australia and starts on 28 April. The round after that is in June. China and Uruguay have showed their interest in participating in the negotiations. Both should undertake at senior political level not to reopen issues already closed before they join in. COM also referred to the work done under Sustainable Impact Assessments and mentioned that a new civil society dialogue is still to come.
- Members were interested to hear about the state of play in telecom sector's roaming proposal; energy services; empty containers; cross-border data flows and EU's aspiration in this field. ESF members also addressed if the architecture of the text is settled and if there was a proposal on aviation and air transport. ESF member encouraged the multimodal discussion under maritime and thanked the COM for the efforts made in the last round. The Mode 4 report seemed disappointing to the participants. On e-commerce a member asked if



the offer is similar to the one made in EU – South Korea FTA and wished to have more transparency on this.

- Further understanding was asked on EU's proposal on combining the annex in financial services. Participants stated that it was unclear if US has put an offer on the table and if China is still interested to be a part of TiSA as it is important that China would join. They wondered if US stand on China regarding TiSA would change. As there are many on-going negotiations a question was raised if EU has a top priority negotiation.
- ESF members reminded that a business delegation will be in Geneva during the next round of negotiations and appreciated the collective reception, but showed also interest in having a meeting with the negotiators as this is the main reason why they are present in Geneva in the end of April. ESF members underlined the importance of this meeting and made a proposal to have a meeting with the EU in Geneva on 28 April.
- COM suggested the ESF members to discuss about the meeting with negotiators with Australia as they are hosting the next round. EU also took note of it. The separate meeting with the EU will still be further discussed. COM confirmed that the architecture of the text is settled. Regarding e-commerce COM stated that ambition on market access and rules are to be assessed separately. The negotiation did not reach so far yet to cover cross-border data flows and energy services. There are negotiations on Mode 4; certain aspects of aviation and air transport and on the roaming proposal and its possibilities. Empty containers are also under discussion. COM confirmed China's interest in joining the negotiations. COM also stated that there is not a hierarchy in EU's negotiations. TiSA allows having common set of ambition gains and the agreement has a systemic value, whereas TTIP could allow us to get into a deeper level of cooperation, such as on regulatory aspects of financial services.

Maarja Saluste

35.

**Subject:**

FW: Report - BUSINESSEUROPE WTO Working Group meeting, 24 April - post-Bali

**From:** [ 4.1 (b) ]  
**Sent:** Thursday, April 24, 2014 4:18 PM

4.1 (b)

**Subject:** Report - BUSINESSEUROPE WTO Working Group meeting, 24 April - post-Bali

- Interest in the interlink between TiSA and services; I clarified that services ambition in the DDA will have to reflect the ambition on ag and NAMA, but that in principle, TiSA and DDA services should run in parallel with the WTO side focussing on targeted initiatives.

[ 4.1 b ]



**European Commission**

DG Trade

WTO and OECD, Export Credits, Dual Use

[

4.1 b

]

NOT  
RELEVANT  
TO SCOPE

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**From:** [ 4.1 (b) ]  
**Sent:** Monday, May 12, 2014 9:50 AM  
**To:** [ 4.1 (b) ]  
**Subject:** succinct report on meeting with business ]

36.

✓ **Report on Meeting with ESF (28 April 2014)**

A meeting with Members of the European Services Forum (ESF) took place on 28 April, in the margins of the TiSA round. During this meeting the EU gave a general read-out of the latest developments of the talks, focusing notably on next steps regarding market access and discussion on regulatory disciplines. EFS Members asked several questions related to: the need of establishing and promoting benchmarks on offers, Mode 4, ITC, domestic regulation and financial services. Finally ESF Members also asked questions related to the compatibility of TiSA talks with the on-going post-Bali process, the accession of China and Uruguay into the group and, more generally, the overall strategy with regard to new comers and TiSA multilateralization.

**Subject:**

FW: FYI: TISA /postal - meeting with Deutsche Post DHL

**From:** [ 4.1 (b) ]  
**Sent:** Wednesday, June 04, 2014 10:41 AM  
**To:** [ 4.1 b- ]

**Subject:** FYI: TISA /postal - meeting with Deutsche Post DHL

**Meeting with Deutsche Post DHL on TiSA**

03/06/2014 – 15h15-16h00

Participants:

DG TRADE: [ 4.1 b ]  
DG MARKT: [ 4.1 b ]  
DPDHL

We met with DPDHL to discuss the current issues in the chapter of competitive delivery services, and in particular their comments on the definition of the competitive delivery services and the concept of universal services obligation:

- DPDHL explained that as in the EU there is no monopoly and no reserved area (with some minor exceptions) the services provided within the universal service obligation are a part of the competitive delivery services. They gave more details on the preferential treatment of universal services providers, notably in terms of VAT exemption and "simplified" customs procedures.
- We explained that this preferential treatment in principle should be interpreted in view of the national treatment obligation, which essentially refers to prohibition of discrimination "in a like situation".

We agreed to talk in July after the next TiSA round.

## Informal Meeting between ESF and TPC SI on 17 June 2014

### Part on TiSA

Trade policy officials attending: [ 4.1 (b) ]  
[ 4.15 ] (JBC), [ 4.15 ] (NS)

Short summary: On **services**, [ ] briefed ESF on the state of play of TiSA; other FTAs were not addressed due to time constraints. In the Q&A session together with Member States, discussions addressed a variety of issues (need for industry input on non-FTA countries for TiSA, timing of different negotiations, financial services and ICT in TiSA etc.

### Full report

[ ] briefed ESF members about the current state of play on TiSA. He reiterated the need for industry input on market access issues for countries with which the EU does not have or is not negotiating an FTA on services. He reported that the main emphasis for the coming rounds will be on regulatory disciplines, particularly in areas where quick progress might be possible, notably domestic regulation, financial services, ICT, but also mode 4, and, to a more marginal extent, transparency.

Due to time constraints, the session with Member States started with a Q&A session across a number of services issues immediately. The following issues were raised:

**HSBC** mentioned that regarding financial services in TiSA, the EU approach was a good starting point. Regarding market access, they reported some difficulties with Turkey on data, as well as middle and back office functions. Input will be provided in written.

**British Telecom** mentioned that on ICT and the digital agenda, the pro-competitive rules should be reflected, and that TiSA could be crucial in this respect. The representative was also interested whether India would join TiSA.

(40.)

**Subject:**

FW: Meeting report - La Poste on TISA/TTIP - postal services

**From:** [ 4.1 (b) ]  
**Sent:** Wednesday, July 09, 2014 3:58 PM  
**To:** [ 4.1 (b) ]

**Subject:** Meeting report - La Poste on TISA/TTIP - postal services ]

**Report of the meeting with La Poste, 3 July 2014, 10h00-11h00**

**Participants**

La Poste:

DG TRADE: [ 4.1 b ]

4.1(a)

[Redacted content]

We agreed that to get in touch again in the autumn and depending on the need to fix a meeting, either in the context of TISA or TTIP.

**Subject:**

FW: Meeting report - Deutsche Post DHL on TTIP aviation /TISA postal services

**From:** [ 4.1 b ]  
**Sent:** Wednesday, July 09, 2014 3:12 PM  
**To:** [ 4.1 (b) ]

**Subject:** Meeting report - Deutsche Post DHL on TTIP aviation /TISA postal services

Report of the meeting with Deutsche Post DHL, 9 July 2014, 12h00-13h00

**Participants:**

Deutsche Post DHL

DG TRADE: [ 4.1 (b) ]

**Three issues discussed:**

- 4.1(a)  
4.2
2. On **market access /TISA** – they informed us about a **new postal law introduced in Turkey** problematic when it comes to the definition of postal services, licencing conditions and financing of regulatory body. They asked whether TISA would be an appropriate forum to address these issues. They will send more details so we can reflect on how to follow it up.

---

**From:** [ 4.1 6 ]  
**Sent:** 01 August 2014 09:11  
**To:** [ 4.1 (6) ]  
**Cc:**  
**Subject:** AmCham Digital Committee

I still owe a report about my 45 min participation in the AmCham Digital Committee before the last TTIP round.

I gave a short overview of the current state of play on TTIP services in general and ICT in particular and explained our usual line incl. the strict separation between data flows and data protection.

✓ Committee members asked questions about TiSA incl. the EU support for China's participation, what EU companies could do to foster progress on ICT files in TTIP and whether and how a successful conclusion of Safe Harbour could have a positive impact on TTIP negotiations on data flows.

All in all a useful exchange which gives us the opportunity to reach out in one go to some of the big US based and EU players in this area and explain the EU view.

[ 4.1 5 ]



## Report of meeting with Veolia (French environmental company) on GP, 4 September 2014

Participants: NS, EZ, MZ, JC, Veolia representatives.

### Summary of discussions:

- In the context of TiSA negotiations, Veolia was invited to discuss their activities and barriers encountered in public procurement procedures in third countries.
- Veolia is an environmental company that is active in water, waste and energy, with about 75% of turnover in the EU. It is one of the two largest environmental companies in the EU.
- Veolia does not see major problems in public procurement procedures in third countries, where the markets are open to private providers. Accordingly to Veolia the challenges are of political and social nature rather than legal or economical.
- Outside of the procurement context, Veolia also reported that the liberalisation in environmental services is not a major issue for them, markets are relatively open. What is important however that any liberalisation should not mean lowering of environmental standards.
- According to Veolia , there are three issues that impact the current situation:
  - Confusion between concession contracts and privatisation
  - Perception that with water as a public good, also the water management services should be also provided at no cost,
  - Public view on private companies- multinational as a threat to national sovereignty
- Their main concerns:
  - Investor protection: crucial for their activities in third countries;
  - Water: currently carved out in trade agreements, concession Directive etc.;
  - Trade liberalisation in goods: as these are inputs to activities overseas;
  - Legal certainty.

**Subject:**

FW: report mtg DPDHL on TiSA /CDS

**From:** [ 4.1 (b) ]  
**Sent:** Thursday, September 11, 2014 7:03 PM  
**To:** [ 4.1 (b) ]  
**Subject:** report mtg DPDHL on TiSA /CDS

**Report of the meeting with Deutsche Post DHL on TiSA – Competitive Delivery Services, 11 September 2014, 15h00-16h15**

**Participants:**

Deutsche Post DHL

DG TRADE: [ 4.1 (b) ]

DG MARKT: [ 4.1 (b) ]

**Issues discussed:**

- On **customs procedures** they explained that the Universal Postal Convention in conjunction with national legislation and the European Customs Code provide for a simplified customs procedure for designated universal service providers: e.g. authorization to submit items to customs control, usage of customs declaration documents (CN 22, CN 23), and exemption from electronic pre-declaration.

45.

**Subject:**

FW: meeting with cabinet - report

**From:** { 4.1(b) }  
**Sent:** Tuesday, September 30, 2014 12:20 PM

{ 4.1(b) }

**Subject:** ESF: meeting with cabinet - report

Cabinet (FH, CB) met with European Services Forum (CityUK, Eurocommerce, BT, ESF) to discuss services/investment issues in trade negotiations. Main points covered:

- TiSA: ESF strongly in favour. Golden opportunity to improve commitments on services on a broader scale. Important to get China in, ESF unhappy about US blockage.

46.

**From:** [ 4.1 (b) ]  
**Sent:** 30 September 2014 06:13  
**To:** [ 4.1 (b) ]  
**Subject:** Flash report: TiSA Negotiators Luncheon ]

Dear All,

I took part in the TiSA Negotiators Luncheon hosted by CSI ahead of the summit tomorrow. TiSA negotiators from AU, US, NZ (Geneva based) and CO, TW (capital based) were also present. It was rather informal except the speech made by Hamid, who seems to support TiSA as the only model that could work in context of post-Bali crisis (namely plurilateral negotiations resulting with MFN based agreements feeding into multilateral system).

In this context he strongly pleaded for multilateralisation of TiSA. According to [4.15] TiSA must be in WTO to be truly successful given that:

- a) It yet lacks country coverage (CN, India, ASEAN needed for critical mass),
- b) Only a multilateral rule setting allows to avoid proliferation of different standards
- c) WTO can offer reliable dispute settlement and enforcement

In particular he stressed that the issue CN is now a key to allow gaining a critical mass and bringing TiSA to WTO. He was convinced that it will be easy to "upgrade GATS software via TISA", to which US reacted that TiSA is more than pure enhanced commitments and that it may not be so easy to bring in new rules negotiated in TISA to GATS (ie. on localisation). Hamid did not see the problem pointing at possibility of both "upgrading" commitments and rules through Article XVIII GATS but also via templates (ie. FSU).

[ 4.1 (b) ]

ESF Policy Committee, 14<sup>th</sup> October 2014.

**Resume:**

*As in past occasions, the main purpose of the ESF Policy Committee meeting was to go through the state of play of on-going trade in services negotiations. The discussion underlined a keen interest of ESF members to exchange views on the negotiations:*

out of scope of request

- *On TiSA and other currently ongoing negotiations (e.g. Japan, Vietnam), the discussion was shorter with some minor comments on certain business sectors. Some concerns were also raised about problems being faced in other jurisdictions (Ecuador).*

**Details:**

- The Policy Committee meeting was chaired by [ 4.1 (b) ] from BT with broad participation from ESF committee members. [ 4.1 (b) ] and [ 4.1 (b) ] participated from DG Trade. The main purpose of the meeting was to go through the state of play of on-going trade in services negotiations.

out of the scope of the request

[

out of the scope of the request

]

**TISA:**

- COM briefed on the results of the 9<sup>th</sup> round of negotiations and commented that the group is not yet prepared to make general commitments. Comments were made regarding EU's proposal on government procurement, which would be an expansion of unrestricted national

treatment for establishments, with the aim of not being forced to choose specific type of legal entities only for these purposes. Among other things, it was mentioned that Mexico would present a revised offer on December, that Pakistan and Paraguay had not made offers yet and that the offers from Chile and Peru were deceiving compared to their FTAs.

- COM explained that the key targets to consider are the countries with which the EU does not currently have FTAs nor foresees to have them in the short term, like Turkey or Taiwan. For those purposes, it insisted in the importance of having the industries providing feedback about the problems they face in practice. On a separate note, Committee members made comments about legal interception of telecommunications being performed in Turkey with instruments that were disproportionate to the objectives intended to achieve.

[

*out of the scope of the request*

]

**Subject:**

FW: short meeting with IBM on digital trade issues

**To:**

**Cc:** [S. H. E. G.](#)

**Subject:** short meeting with IBM on digital trade issues

- [4.1a] ...
- (4.1b) acknowledged that typically governments around the world invoke national security to justify data barriers. In view of this, IBM is opposed to a wide essential security exception (as proposed by the US in TTIP and TiSA). They would have raised this with the USTR.
- (4.1b) floated the idea of a "digital chapter" in our yearly "protectionism report".

(4.1b)



**From:** [ 4.1 (b) ]  
**Sent:** 21 November 2014 12:15  
**To:** [ 4.1 (b) ]  
**Subject:** FYI meeting report Direct Selling Europe on TiSA

**Report of the meeting with Direct Selling Europe – on direct selling in TiSA - 30 October 2014, 10h00-11h00**

**Participants:**

- Direct Selling Europe: [ 4.1 (b) ]
- DG TRADE: [ 4.1 (b) ]

**General information on Direct Selling Europe:**

- Direct Selling Europe (DSE - <http://www.directsellingeurope.eu/>) is the trade association representing the interests of the sustainable, ethical and consumer-oriented direct selling industry in the EU.
- It distinguishes itself from other direct selling organisation by exclusively representing companies and associations that have a irreproachable reputation and implement sustainable and ethical business practices towards both consumers and sales consultants alike. DSE strictly distances itself from all illegal, criticised or unserious forms of direct selling.
- DSE member companies represent about half of the direct selling industry in the European Union in terms of turnover.
- Their members include for example: Tupperware, Vorwerk, Nutrimecs, Jafra Cosmetics, Just International, and others.

**Issues discussed:**

- Up till now the DSE was not very active in trade negotiations. They discovered that direct selling is now being discussed in TiSA and were interested to get some general background on this issue.
- Their particular interest would be to make sure that any possible text on direct selling sets high consumer protection standards and makes it clear that illegal business models such as pyramid schemes are strictly prohibited.
- We provided explanations and agreed that DSE would come back to us with the information from its members on their potential interest in other markets and if possibly data on regulatory barriers and economic data on direct selling in other TiSA countries.



## CIVIL SOCIETY DIALOGUE

# UPDATE ON TiSA NEGOTIATIONS

**Date:** 10th November 2014.

**Time:** 14:30 - 16:30

**Location:** Room Sicco Mansholt, Charlemagne Building, 170 Rue de la Loi, 1049 Brussels.

### Lead speakers

Mr Ignacio Iruarrizaga Díez, Chief EU TiSA negotiator, Head of Unit, Trade in Services, Directorate-General for Trade.

Ms Maria Zuber, Trade in Services Unit, Directorate-General for Trade.

Ms Nabi Siefken, Trade in Services Unit, Directorate-General for Trade.

Jan-Willem Verheijden, Trade in Services Unit, Directorate-General for Trade.

### Panel Presentation

**DG Trade (IID)** opened the meeting by thanking all attendants for their participation. He highlighted the TiSA transparency initiative by means of a website exclusively dedicated to TiSA negotiations, which includes a number of negotiation documents proposed by the EU, including the EU offer as well as replies to frequently asked questions. He also mentioned that the Council and the Parliament receive all negotiation documents. His presentation recalled the origin of the negotiations in which the EU agreed to participate as long as there was a possibility to multilateralize the agreement, which should be based on the GATS structure to that end. Regarding TiSA offers, the intention of the parties was to have initial offers at the level of their best FTA at the time the negotiation started. The EU used the EU-Korea FTA as a benchmark for its offer. Special emphasis was put on the fact that TiSA aims at the elimination of quantitative and discriminatory measures, however does not affect the ability to regulate the provision of services in a non-discriminatory fashion. DG Trade also explained that the protection of public services in the EU offer is achieved by means of a public utilities reservation, jointly with specific reservations in key sectors: publicly funded healthcare, publicly funded education, water distribution and audiovisual services. Further explanation was given about the protection of labour standards and the functioning of the ratchet clause.

The 9<sup>th</sup> round of negotiations was active on some sectorial chapters, where market access and national treatment commitments were negotiated. In general, there was good technical process but there was also broad consensus that an acceleration of the negotiations is needed. It was also mentioned that the EU supports the entrance of more participants to the TiSA negotiations, including China and Uruguay, who have officially showed their interest. The next rounds of negotiation will be held in December and February.

## **Discussion Highlights / Questions and Replies**

**Industriegewerkschaft Bauen-Agrar-Umwelt** showed their interest in the agreement and requested more information on independent professionals that would be allowed under TiSA, on the relation between labour clauses and collective agreements and on intentions regarding government procurement, particularly with respect to Hong Kong/China.

**DG Trade (IID)** explained that commitments regarding independent professionals had been taken in many Free Trade Agreements and were also included in our revised Doha offer. These commitments are usually subject to a requirement for high levels of qualifications. He confirmed that labour clauses set out that all labour laws and regulations would continue to apply, including collective wage agreements. The commitments on government procurement sought by the EU (non-discrimination for establishments) do not go beyond to what we already grant within the EU, which does not discriminate on the origin of the supplier once the supplier is established in the Union.

**European Trade Union Committee for Education** was interested to know more how the reservation on public education services applies and requested more details of the last round.

**Transitiegroep Stroopwafel** stressed its concern on the regulation of financial services, considering the recent financial crisis.

**DG Trade (IID)** explained that the Member States would have full ability to discriminate in public education since a general reservation on national treatment applies, and that no specific commitments would be undertaken in public education services. Some Member States have voluntarily decided to make commitments in privately funded education. Financial services are a good example of a sector where Member States have been able to make changes in the regulations in full compliance of the many commitments that have been agreed in the past. As long as it is not by discriminatory or quantitative measures, a market can always be regulated. Furthermore, a prudential carve-out provision for financial services would be included in the agreement allowing a party to derogate from its commitments if it is necessary to preserve the stability of its financial system.

**European Federation of Public Service Unions** demanded clarification on whether there is a reservation or an exclusion of public services, using ambulance services as an example. Likewise, it noted the lack of a civil society dialogue after the next round.

**Bureau Européen des Unions de Consommateurs** requested information about roaming, data flows and data protection.

**DG Trade (IID)** confirmed that there is a full reservation on publicly funded healthcare services such as publicly funded ambulance services. It is a reservation that EU has decided to take and TiSA will not change that. However, since other Parties decide to make commitments in this matter, it cannot be excluded from the scope of the agreement, which is the same scope of the GATS. A civil society dialogue after the next round had not been proposed before because the next two rounds were very close to each other, but the Commission always remains open to suggestions in this regard. Discussions about roaming refer to transparency mainly and are at a very early stage. On data flows, there is one general proposal raised by one participant and another one specific for financial services proposed by the EU, which is identical to the existing WTO one. Regarding the last round, improvements were made in areas such as domestic regulation, transparency, financial services, maritime transport, qualifications of professional services and competitive delivery services. **DG Trade (JWV)** mentioned the issues discussed for

the telecoms chapter of the agreement, such as reduction of foreign equity caps, universal services, access to networks and independence of the regulators.

**EuroCommerce** expressed their support for the agreement, highlighting the merits of following the GATS architecture. It commented on the Services Trade Restrictiveness Index of the OECD which shows the potential of an ambitious agreement.

**DG Trade (IID)** noted that the Commission is trying to contribute to the debate with events such as this civil society dialogue. He emphasized the competitiveness of the EU, which has a very open STRI and amounts for a quarter of worldwide trade in services.

**European Services Strategy Unit** requested more information on the possibilities of reverting privatizations of public services as well as more detail on which categories of professionals are likely to be opened, and questioned whether universal services were considered as a "target".

**Industriegewerkschaft Bauen-Agrar-Umwelt** asked questions regarding entry from professionals from third countries and also about plans regarding dispute settlement mechanisms in TiSA.

**DG Trade (IID)** explained that TiSA would not restrict the EU's ability to reverse privatization, but that adequate compensation would have to be provided in accordance with the legal system of each Member State. The EU's offer on mobility of professionals reflects the commitments in KOREU, hence it does not include Contractual Services Suppliers and Independent Professionals for now, but adding these categories may be considered later but will depend on other offers and negotiations. These measures would only benefit citizens or permanent residents of the TiSA parties. Parties have a right to preserve and confer particular treatment in respect of the provision of universal services in postal, so there can be positive discrimination. At this stage, there has been limited discussion on dispute settlement. However, before negotiations started, it was agreed between the parties that no investor-state dispute mechanism would be included in TiSA.

**Confédération des Syndicats Chrétiens** raised their concerns about the fact that private sector may attract the best professionals in detriment of the public funded sector. It also questioned whether incorporating TiSA in GATS would imply giving MFN advantages to non-parties and asked if TiSA would mean the end of the Doha Development agenda in services.

**DG Trade (IID)** noted that dual systems are a policy choice that remains on each Member State, completely independent from trade agreements. The EU aims for multilateralization of TiSA. Most WTO members have low commitments in GATS, but the most active ones are the TiSA parties plus a few key others such as China, Brazil, India and some ASEAN countries. Therefore, if some specific WTO members join the TiSA negotiations, the benefit to free riders would not be a major concern. In fact, a waiver for Least Developed Countries is being analysed in order to help them to insert themselves in the services market. Multilateralization is the aim precisely to not undermine the DDA by taking services out of the WTO.

**International Federation of Actors** enquired about the treatment of audiovisual services and the offering of bundled products. It also questioned whether the UNESCO Convention on Cultural Diversity was being considered.

**DG Trade (IID)** highlighted that, although not extended to all cultural services, the reservation on audiovisual services is a long standing contention of the EU since the GATS. The existing track record in this regard is being followed and there are no intentions to change it. Audiovisual services are to be protected in any form they

may be commercialized. The EU is interested in allowing its operators to provide a wide range of services. The UNESCO Convention is not part of the negotiations, but it informs our negotiating position.

**European Economic and Social Committee** emphasized the need for impact studies and monitoring systems.

**DG Trade (IID)** informed that a sustainable impact assessment of TiSA was being undertaken, but noted that it is a very complex case, due to the lack of good statistical data on trade in services and the absence of economic models for performing such estimations (notably the value of bindings) when it comes to services trade.

**Centre National de Coopération au Développement- 11 11 11** was interested in knowing in which sectors was the EU expected to give more market access and if there was an intention to include environmental or labour standards in TiSA.

**Transitiegroep Stroopwafel** requested information on TiSA's approval process and expected duration of the agreement.

**DG Trade (IID)** explained that the EU was one of the most open parties and that, therefore, they are expecting other parties to open their markets to bring them closer to our level of openness. Labour and environmental standards are not being negotiated in TiSA and are not in GATS scope either. Implementation processes and duration of TiSA are not being discussed yet.

**European Digital Rights** asked for more information on telecom and data protection in relation to TTIP.

**European Services Strategy Unit** enquired about the relation between TiSA and the Doha round and also about the expected deadline for finalizing the agreement. It also asked if the offer shows a specific reservation for reversing privately funded services.

**DG Trade (IID)** informed that discussion on data protection and data flows is very similar to TTIP negotiations and that data protection is not being negotiated. In this respect, he referred to the statement of Commission President Juncker that data protection will not be "sacrificed in the altar of free trade". Regarding the Doha round, it was noted that only a few WTO Members are active in services and that, in fact, they are following the request for being creative raised by the WTO Ministerial Conference. At this moment it is not possible to assess the duration of the negotiations. The possibility for renationalisation of public utilities is built in the general reservation on public utilities. In case of such reversion, the relevant rules of the Member States would apply and it would not be connected to TiSA.

## ESF Policy Committee, 16<sup>th</sup> December 2014.

### Resume:

*As in past occasions, the main purpose of the ESF Policy Committee meeting was to go through the state of play of on-going trade in services negotiations and initiatives. The discussion underlined a keen interest of ESF members to exchange views on these matters:*

- *On TiSA, COM debriefed the Committee on the results of the 10<sup>th</sup> round of negotiations held during the first week of December.*

### Details:

- The Policy Committee meeting was chaired by BT Group with broad participation from ESF committee members. [ 4.1 (6) ] participated from DG Trade.

### **TiSA:**

- COM briefed on the results of the 10<sup>th</sup> round of negotiations held in the first week of December in Geneva, referring mainly to the areas where some technical progress has been achieved (maritime services, financial services, domestic regulation). It also referred to new proposals tabled (EU proposal on government procurement, proposal on patient mobility presented by Turkey, proposal on environmental services by Canada). It also informed that the incorporation of Uruguay to TiSA seems very close. The next round will be chaired by the US and will take place in the week of the 9<sup>th</sup> of February.
- **The City UK** showed concern about the lack of offers on financial services by some TiSA parties and **La Poste** requested more information on competitive delivery services. Questions were also posed regarding e-commerce and data flows (**Deutsche Telecom**) and localisation of data storage (**IBM**). COM explained the issues discussed in the respective sectors and mentioned that in e-commerce no discussion on data flows had taken place at this round.

**Subject:**

FW: TISA related: Meeting with FIEC on January 9, 2015

53.

**From:** [ 4.1(b) ]  
**Sent:** Friday, January 09, 2015 5:20 PM

**To:** [ 4.1(b) ]

**Cc:**

**Subject:** TISA related: Meeting with FIEC on January 9, 2015 ]

### Meeting with FIEC: European Construction Industry Federation

Present: [ 4.1(b) ]

FIEC: is present in 29 countries and has 33 national member federations that represents firm of all sizes, of all building and civil engineering specialities practicing all kinds of working methods; and is a partner to other construction's federations.

Aim of the meeting: In the context of TISA and EU proposal for GP disciplines, Commission wanted to identify the problems that constructions' companies face worldwide in terms of market access and in particular in the government procurement in order to address the specific concerns during the negotiations.

FIEC representative was very open and informed that there are some success stories of the EU companies worldwide (56% tenders go to EU contractors), while there are also a lot of problems in market access or tendering itself or conducting a business after establishment. ]

4.2.

With regards to the discipline in TISA, FIEC see the potential rather in long than short term, however only if it does not open the door that are currently closed for some countries, ie. one of the defensive fear is that foreign companies would bring numerous workers from the country of origin to execute the contract. He stressed the importance of reciprocity of any potential commitments.

4.2.

Best,

[ 4.1(b) ]

**Subject:**

FW: REPORT: meeting with EIC on GP

54.

**From:** [ 4.1(5) ]  
**Sent:** Tuesday, January 20, 2015 6:35 PM  
**To:** [ 4.1(5) ]  
**Cc:** [ 4.1(5) ]  
**Subject:** REPORT: meeting with EIC on GP

FOR REGISTRATION

Dear All,

[4.1(5)] and myself have met today European International Constructors (EIC). EIC confirmed that there are numerous hidden market access barriers (including in some EU MS) in government procurement, which could be judged as de facto discrimination of established companies of foreign capital (ie. licencing, qualification, impossibility to hire subcontractors or obtain materials for price offered to national companies).

4.1(a)

Therefore EIC pointed at slight chance that if the EU communicates well the commitment to pursue the discipline in TiSA, there could be a chance that some members of EIC are interested in talking to TiSA negotiators about problems in emerging markets.

Follow up:

- Decision should be taken if we want to organise something within TiSA (ie. in April),
- If that is the case, we should address an official letter to EIC explaining our intentions and passing the message on our strong commitment to improving the situation globally.

4.1(a)

With regards,

[4.1(5)]



**Subject:**

FW: REPORT: meeting with DIHK e.V

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**From:** [ 4.1 (6) ]  
**Sent:** Tuesday, February 03, 2015 9:59 AM  
**To:** [ 4.1 (6) ]  
**Subject:** REPORT: meeting with DIHK e.V

*For registration*

Yesterday I met a representative of an Associations of German Chambers of Commerce and Industry (DIHL e.V) to update her on the state of play of TiSA negotiations. She was particularly interested in maritime, telecom, mode 4 and ....education services, where offensive interests of industry are. She flagged the defensiveness in road transport.

She was concerned that TiSA becomes even more criticised than TTIP and promised to activate the Chambers to pass positive messages. She also promised to get back to us with specific market access barriers as well as possible business case supporting our proposal on GP.

Interestingly – she flagged as one of the key interests **services incidental to export of goods** (both complex goods as well as green goods). Apparently SME's are concerned about the university degree requirement and would prefer to get possibility to send people with vocational training to accompany exported goods. I explained our ideas for post-Bali and EG(S)A.

[ 4.1 (6) ]

(87.)

**Subject:**

FW: report mtg SELDIA on direct selling in TiSA and TTIP

**From:** [ 4.1 (b) ]  
**Sent:** Wednesday, February 25, 2015 4:51 PM  
**To:** [ 4.1 (b) ]

**Subject:** FYI: report mtg SELDIA on direct selling in TiSA and TTIP

**Report of the meeting with Seldia, European Direct Selling Association on direct selling issues in TiSA and TTIP – 25 February 2015, 9h30-10h00**

**Participants:**

SELDIA

DG TRADE: [ 4.1 (b) ]

**Issues discussed:**

**On TiSA:**

- We gave an update on the state of play on the Annex on direct selling.
- SELDIA informed us that they have already met 11 TiSA countries in Geneva in December while the meetings with remaining 12 countries (including for example Australia, Canada, Japan and Korea) are planned for the end of March. The main objective of these bilateral meetings is to present and explain the issues at stake for direct selling in trade negotiations. Until now they have received rather positive feedback. SELDIA will send us more information on that.
- On SELDIA's question on a direct-selling related event in Geneva during the April's round, we suggested as a possible way forward organising it in the framework of the Global Services Coalition events.

**Subject:**

FW: Meeting with AmCham 11 March 2015

**From:** [4.1(5)]  
**Sent:** Wednesday, March 11, 2015 4:46 PM  
**To:** [4.1(5)]  
**Cc:** [ ]  
**Subject:** Meeting with AmCham 11 March 2015

- For registration in ARES -

Today I presented to the **AmCham Trade Committee** the outcome of the last TiSA round and the state of play on post-Bali and the Environmental Goods Agreement with respect to services / global value chains.

Participants were from AmCham, UPS, Ford, Caterpillar, Avon, IBM, as well as some law and consulting firms.

Questions on TiSA

- **Deadline** for negotiations? [no deadline, stocktaking in July]
- **Data flows**, where are discussions? [discussions ongoing, questions posed to proponents]
- News on **China**? [situation has not changed]
- How will **dispute settlement** in TiSA work? [depending on multilateralisation, issue for later]
- **Public services** – is there a common understanding what these are? There should be a limit to what can be claimed public [EU wants to retain right to decide]
- **Transparency** – new considerations of DG Trade [a lot of outreach to the public, reference to declassification of mandate]

[out of scope

[4.1(5)] ]



**European Commission**  
DG TRADE  
Unit B.1 "Services"

[4.1(5)] ]

**2015/1716 - List of meetings with external stakeholders on TiSA since January 2012**

**ANNEX II**

<b>Document Nr.</b>	<b>Date</b>	<b>Subject</b>	<b>Interlocutor</b>
<b>17</b>	03/05/2013	Financial Services	Insurance Europe
<b>21</b>	06/06/2013	Postal and courier services	EEA (DHL/UPS)
<b>40</b>	03/07/2014	Postal and courier services	La Poste
<b>41</b>	09/07/2014	Postal and courier services	DPDHL
<b>44</b>	11/09/2014	Postal and courier services	DHL
<b>48</b>	28/10/2014	Digital trade issues	IBM
<b>53</b>	09/01/2015	Government procurement	FEIC European Construction Industry Federation
<b>54</b>	20/01/2015	Government procurement	EIC

# 2015/1716 - List of meetings with external stakeholders on TiSA since January 2012 ANNEX I

Document Nr.	Date	Subject	Interlocutor	Type of document
1	06/03/2012	Seminar on services plurilateral	ESF/ECIPE	Meeting report
2	21/06/2012	Services plurilateral	ESF + other business representatives	Meeting report
3	07/09/2012	Commission position on the Services Plurilateral discussions	City UK	Meeting report
4	12/09/2012	TiSA	IBM	Meeting report
5	16/10/2012	State of play of different services negotiations	ESF	Meeting report
6	12/11/2012	State of play of the plurilateral negotiations	ESF	Meeting report
7	05/12/2012	TiSA	Representatives from the Coalition of Services Industries	Meeting report
8	07/02/2013	TiSA	Digital Europe	Meeting report
9	19/03/2013	How the TiSA discussion had been conducted so far and what would be the next steps	Representatives from the Coalition of Services Industries	Meeting report
10	20/03/2013	TiSA	Representatives from the Coalition of Services Industries	Meeting report
11	27/03/2013	State of play of the TiSA negotiation	American Chamber of commerce	Meeting report
12	19/04/2013	Workshop on TiSA	Various German stakeholders	Meeting report
13	19/04/2013	Financial Services/data flows	U.S. Chamber of Commerce	Meeting report
14	23/04/2013	TiSA	ESF	No Meeting report
15	25/04/2013	TiSA	Civil Society Dialogue	Meeting report
16	26/04/2013	Financial services	EBF and EFC	Meeting report
17	03/05/2013	Financial Services	Insurance Europe	Meeting report
18	07/05/2013	TiSA	Black rock	Meeting report
19	07/05/2013	TiSA	HSBC	Meeting report
20	04/06/2013	Postal and courier services	Post Europe	Meeting report
21	06/06/2013	Postal and courier services	EEA (DHL/UPS)	Meeting report
22	19/06/2013	Workshop on TiSA		Meeting report
23	21/06/2013	State of play on the ongoing services negotiations	ESF	No meeting report
24	31/07/2013	TiSA	Deutsche Telekom	Meeting report
25	12/09/2013	TiSA	UPS	Meeting report
26	13/09/2013	TiSA	SES	Meeting report
27	27/09/2013	ICT related issues in the context of the TiSA negotiations	IBM	Meeting report
28	17/10/2013	TiSA	ESF	Meeting report
29	25/11/2013	State of play of the TiSA negotiation	AmCham	Meeting report
30	28/01/2014	TiSA	British Chamber of Commerce in Belgium	Meeting report
31	31/01/2014	State of play of the TiSA negotiation	Business Europe	No meeting report
32	04/02/2014	Postal and courier services	Deutsche Post DHL	Meeting report
33	20/03/2014	Services	ESF	Meeting report
34	16/04/2014	Services	AmCham	Meeting report
35	24/04/2014	State of play of the TiSA negotiation	Business Europe	No meeting report
36	28/04/2014	TiSA	ESF	Meeting report
37	25/05/2014	Services	TABC	Meeting report
38	03/06/2014	Postal and courier services	DPDHL	No Meeting report
39	17/06/2014	Services	ESF	Meeting report
40	03/07/2014	Postal and courier services	La Poste	Meeting report

41	09/07/2014	Postal and courier services	DPDHL	Meeting report
42	01/08/2014	Digital	AmCham Digital Committee	Meeting report
43	04/09/2014	Government procurement	VEOLIA	Meeting report
44	11/09/2014	Postal and courier services	DHL	Meeting report
45	30/09/2014	Services/investment issues in trade negotiations	ESF	Meeting report
46	30/09/2014	State of play of the TISA negotiation	CSI	Meeting report
47	14/10/2014	Services	ESF	Meeting report
48	28/10/2014	Digital trade issues	IBM	Meeting report
49	30/10/2014	Selling	Direct Selling Europe	No meeting report
50	07/11/2014	State of play of the TISA negotiation	Social Platform	Meeting report
51	10/11/2014	State of play of the TISA negotiation	Civil Society Dialogue	Meeting report
52	16/12/2014	Services	ESF	Meeting report
53	09/01/2015	Government procurement	FEIC European Construction Industry Federation	Meeting report
54	20/01/2015	Government procurement	EIC	Meeting report
55	03/02/2015	Maritime, telecom, mode 4 and education services	DIHK e.V	No Meeting report
56	19/02/2015	Services	TABC	Meeting report
57	25/02/2015	Distribution	Seldia	Meeting report
58	11/03/2015	Outcome of the last TISA round	American Chamber of commerce	Meeting report