



**Report**  
**of the TiSA negotiation round**  
**taking place 6-13 October 2015**

Date: 29/10/2015

*Trade*

## **Summary**

*The 14th TiSA negotiating round took place from 6-13 October 2015 and was organised and chaired by the US. The next round will take place 29 November-4 December 2015 and will be organised and chaired by the EU.*

*The round included **text discussions on horizontal and thematic chapters**:*

- *mode 4*
- *financial services*
- *domestic regulation and transparency*
- *telecommunication, e-commerce and localisation*
- *delivery services*

*Plenary discussions were also held on **market access** covering:*

- *mode 4*
- *financial services*
- *telecommunications*
- *transport*
- *professional services*
- *environmental services*
- *energy services*

*Bilateral meetings on market access also took place.*

*Technical **progress was steady** during this round of negotiations. In order to advance negotiations further, TiSA participants agreed on a rolling schedule for the negotiation rounds until April 2016, which will focus on the most advanced horizontal and thematic chapters.*

## **Detailed report**

### **A. Key horizontal and thematic chapters**

#### **1. Mode 4**

In the mode 4-session, participants discussed provisions on Scope, general obligations and transparency. In addition, the Articles on the scheduling of commitments and on specific commitments were considered in the context of a discussion on market access, along with an updated analysis of current offers on mode 4 and the submission by one Party on the subject of categories for temporary entry. This made it possible to assess the value of market access and national treatment commitments provided by the offers.

## 2. Financial Services

The provisions stemming from the GATS Annex, including on definitions and the prudential exception, are already to a large extent stabilised. Further progress was made regarding some of the provisions stemming from the Understanding on Commitments in Financial Services, i.e. provisions on monopoly rights, financial services new to the territory of a party and self-regulatory organisations. The provisions on transparency and licencing in the area of financial services were also discussed.

Furthermore, participants discussed the list of standard market access commitments for cross-border trade in financial services. A number of participants proposed extending this list, while maintaining the possibility to take reservations from these standard commitments. Participants also talked about the level of ambition of offers in financial services and expect to intensify bilateral market access negotiations in the coming months.

## 3. Domestic Regulation and Transparency in legislative processes

The negotiation on domestic regulation focused on authorization procedures. Participants also discussed the information which participants have to provide to interested persons to comply with the requirements and procedures for obtaining authorization to provide a service.

The discussion on transparency in legislative processes focused on provisions addressing the possibility to comment, the consideration of the comments as well as the publication a norm before it enters into force.

## 4. Telecoms, e-commerce and localisation

On **telecommunication**, participants had detailed discussions on the scope of the chapter, in particular on the interpretation of the notion of "public communication services" (what type of operators can be regarded as telecommunications service suppliers?) and 'access to essential facilities'. Participants also made good progress in discussing access to "essential facilities" (to what extent and under what conditions can new market entrants use infrastructure from incumbents to offer their services?) and expressed commitment to make further progress on this issue between negotiation rounds. The discussion on telecommunications market access was based on an analysis of offers.

The session on **e-commerce** touched on some of the provisions that had not been discussed at length in the past. On data flows and data localisation, many participants expressed general support for avoiding unnecessary barriers to data flows, but emphasised that discussions on the proposed obligations should be taken together with

discussions on exceptions for personal data protection. Participants almost made progress on a provision that would prohibit customs duties on electronic transmissions (based on the WTO moratorium on e-commerce).

On **localisation**, there was a continued discussion of the only formal proposal on the table which deals with performance requirements for all modes of services supply. Proponents of localisation proposed text changes regarding obligations concerning local management and board of directors, local content and exceptions. The question of which modes of supply should be covered by this chapter was also discussed.

## **B. Other thematic chapters**

### **1. Delivery services**

On Delivery Services, a substantially modified text, covering basic competition disciplines, was presented. It was followed by a questions and answers session on all articles of the text.

### **2. Professional services**

The session on Professional Services focused on market access related to legal services and some types of engineering services. On legal services, participants discussed whether restrictions apply to domestic, foreign, and international law, and which sensitivities participants have with respect to these. Discussions on a proposed provision to allow fly-in fly-out for legal services in respect of foreign and international law were inconclusive. There was also discussion on the arguments for adding additional engineering related professions to the scope of the annex. There was significant progress on a text dealing with a framework for the discussion of the recognition of professional qualifications.

### **3. Transport**

The session on transport focused on market access and was dedicated to discuss the main limitations contained in the offers presented by participants, on the basis of analysis presented by the proponents of the respective Annexes on air transport, maritime transport and road transport. The discussion showed the need for further progress in the Annexes for maritime and air transport and the willingness to do so during the next rounds. Several participants underlined the importance of auxiliary logistic services. was underlined by several participants.

#### **4. Environmental services**

The discussion focused on market access in environmental services, based on an analysis of offers prepared by the proponent of the related Annex. Participants explained sensitivities, including those related to public services. There was no objection to the issue that participants should have the possibility to maintain or 're-municipalise' services. The EU explained that our public utilities reservation on Market Access achieves precisely that: the ability to keep and introduce public monopolies at any level of government. Some participants highlighted their ambition in the sector and its importance in view of the global climate agenda.

#### **5. Energy services**

The discussion addressed market access in energy-related services, based on an analysis of offers prepared by the proponents of the related Annex. Some participants flagged their interest in the energy services market, while highlighting sensitivities broadly related to public utilities and specific energy-related services. Participants also discussed the scheduling approach, which was proposed by proponents.

### **C. Other issues**

#### **1. Institutional provisions**

On institutional arrangements, participants discussed issues related to the accession of new countries to TiSA, the multilateralization of the agreement and dispute settlement and compliance. There was general convergence on the need for an open, predictable and transparent accession procedure and an adequate mechanism with respect to the multilateralization of TiSA. On state-to-state dispute settlement, participants exchanged views as to which type of system should be applied before TiSA is multilateralised and therefore before Parties could make use of the dispute settlement system of the WTO. It should be noted that no investor-to-state dispute settlement mechanism is foreseen in TiSA, since TiSA is based on the scope and structure of the GATS.

#### **2. Bilateral market access meetings**

The EU held bilateral market access meetings with several participants in which the respective offensive interests were discussed.