



Report of the 19th TiSA negotiation round 8 – 18 July 2016

Summary

The **19th TiSA negotiating round** took place from 8 – 18 July 2016 and was organised and chaired by Australia.

The round focused on both market access and texts. On **market access**, Parties continued the discussion of their offers both in Plenary as well as in bilateral settings.

On **texts**, in accordance with the work plan, Parties discussed the key Annexes on:

- *Telecoms*
- *E-commerce*
- *Localisation*
- *Financial Services*
- *Domestic Regulation*
- *Transparency.*

Annexes on Transport (Maritime, Air, Road) as well as Professional Services and Energy and Mining Related Services were also briefly discussed.

Discussions also took place on **institutional arrangements**, including dispute settlement. The EU submitted two non-papers as a basis for discussion.

Overall, it was a round with **good progress in working towards agreed text** and **engaged discussions on market access**.

A **stocktaking exercise** registered the state of play and the way forward on each of the Annexes tabled in TiSA. An **updated work plan** has been agreed towards possible conclusion by the end of the year.

Detailed report

1. Revised offers

A discussion of Parties' offers took place in plenary setting. Parties had the opportunity to comment on the quality of offers and update each other on ongoing work towards the second revision of offers (scheduled for October 2016). Following the sectoral analyses of offers at the last round in May/June 2016, some Parties presented complementary analyses with respect to private education, legal services, new services, and mode 4. Further discussions took place regarding the way Parties address matters related to taxation, subsidies, the exclusion of services supplied in the exercise of governmental authority from schedules, sub-central level measures, and legal citations.

2. Institutional provisions

On institutional provisions and dispute settlement, discussions took place on the basis of two non-papers that the EU had submitted as a basis for discussion. On **institutional provisions**, Parties discussed the potential provisions in a first EU non-paper that would be needed to support the functioning of the Agreement, including the creation of a TiSA Committee, provisions on the modification of schedules, accession and future multilateralization of the agreement.

On **dispute settlement**, Parties discussed a second EU non-paper whose provisions adhere largely to the text of the WTO Dispute Settlement Understanding. These provisions include among other things general provisions, adjudication procedures including panels, panel proceedings, compliance and suspension and termination procedures, as well as mediation. On both aspects (institutional provisions and dispute settlement) the EU will work towards formalising the EU proposal ahead of the next TiSA round in September.

3. Transparency and Domestic Regulation

Good progress was made on the outstanding issues in the **Annex on Domestic Regulation**, notably with regard to the development and administration of measures. The Annex is now almost entirely stabilised leaving only a few issues open.

The text of the **Transparency Annex** is also close to stabilisation. This time, the discussions focused mainly on the publication of draft measures and the consultation of stakeholders in the regulatory process. No final agreement could be reached yet on the limited number of outstanding issues.

4. Financial Services

Discussions on the Annex on Financial Services showed some progress on the remaining open issues. The approach on **transparency / domestic regulation** in Financial Services is now supported by almost all Parties.

A **new proposal** on data localisation in the area of Financial Services was introduced by one Party which will require extensive consultations.

It was possible to stabilise an Article on **self-regulatory organisations**.

5. Telecoms

This round allowed Parties to review all articles of the **Annex on Telecommunication Services**. Some progress was achieved on the scope of the Annex, dispute resolution and number portability, where a compromise solution would allow for the reconciliation between the various regulatory approaches.

Parties also worked towards stabilisation of Articles on the regulatory body, licenses, transparency, access and use. Further discussions are necessary on a series of Articles which mainly relate to the obligations imposed on major suppliers, e.g. access to essential facilities, major suppliers, resale, submarine cable, leased circuits and approaches to regulation.

6. E-commerce

Some progress was achieved with respect to the E-commerce Annex. Parties reached agreement on text relating to the scope of the Annex. Discussions continued on provisions on unsolicited messages, open networks and custom duties.

A **new proposal** was presented with respect to the liability of internet platforms (excluding intellectual property), which will require extensive consultations. There were no discussions on **personal information protection and movement of information** (cross-border data flows).

7. Localisation

Discussions progressed significantly on rules regarding Local Presence, Local Management and Board of Directors, Local Content and Performance Requirements, as well as how commitments should be scheduled.

Overall, there was good engagement with further text attributions to the consolidated text. Parties discussed the **modes to be covered** (modes 1-4 or only mode 3), the application to **goods and to services**, and the content of a **closed list** of Performance Requirements.

8. Transport

Regarding the Transport Annexes, some further progress was made in **maritime transport** where a number of definitions as well as provisions addressing access to ports and to port services, port fees and charges, seafarers, domestic regulation and domestic maritime transport were discussed.

The discussion on the Annex on **air transport** also made some progress. Discussions are ongoing with respect to the structure of this Annex and which services it should include.

On the Annex on **road transport** discussions addressed provisions relating to its scope, definitions, domestic regulation, access and use, transparency and professional drivers.

9. Other topics

Proponents updated TiSA Parties on progress in the Annexes on Professional Services and Energy and Mining Related Services. On **Professional Services**, participants discussed in particular market access standards as well as a provision on legal services.

On **Energy and Mining Related Services** Parties discussed specifically the scope of the Annex and definitions.