



## CIVIL SOCIETY DIALOGUE MEETING

# TRADE SIA IN SUPPORT OF NEGOTIATIONS ON A PLURILATERAL TRADE IN SERVICES AGREEMENT (TISA), DRAFT INCEPTION REPORT

**Date:** 05/05/2014

**Time:** 14.30 – 16.00

**Location:** Centre Albert Borschette, room AB – 5B, 36 rue Froissart, 1040 Brussels

### **Lead speakers**

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

Mr Luigi Poli, Trade Negotiator, Trade in Services Unit, Directorate-General for Trade

Mr João Pereira, Evaluation Coordinator, Internal Audit and Evaluation Unit, Directorate-General for Trade

Ms Nora Plaisier, ECORYS/CEPR

Mr Achim Vogt, ECORYS/CEPR

### **Panel Presentation**

Ecorys made [a presentation](#) on the draft inception report to the participants and informed that further comments on the inception report could be sent via email to Ecorys ([TSIATISA@ecorys.com](mailto:TSIATISA@ecorys.com)) until 13 May 2014.

DG Trade (II) gave an update on the state of play of TISA negotiations and explained that the negotiations on a plurilateral Trade in Services Agreement stemmed from a stalemate in the negotiations on services within the Doha Development Agenda. At the WTO's 8th Ministerial Conference in 2011, Ministers agreed that creative ways were needed to progress the negotiations. This led to exploratory discussions between a subset of WTO members, focused on the structure of negotiations and the link to GATS. It was decided that a possible plurilateral agreement on trade in services with an open character would be largely based on GATS structure with the same concepts and definitions, so that it might be possible to bring the agreement under the umbrella of the WTO again once a critical mass was reached.

Early 2013, negotiations were formally started, and the group of countries active in these services negotiations in Geneva is currently 23 (over 50 considering the EU consists of 28 member States). The negotiations cover three basic pillars:

- The core text: This is based on GATS regarding, for example, definitions and scope of the agreement.
- Offers: Until now 21 offers were exchanged with only Pakistan and Paraguay missing. In general, with a couple of exceptions<sup>1</sup> these offers go beyond what was offered in Doha and reflect the market access offered in the best FTA of a TiSA participant. The EU offer is based on the EU-Korea FTA services chapter.
- Regulatory disciplines: this covers a broad range of areas, including, among others, domestic regulations, transparency of legislative process, Mode 4, transport, financial services, energy, professional services, postal and delivery services, ICT services and, e-commerce,
- Whereas the core text is stabilised, in the next phase negotiating participants will focus on advancing work on regulatory disciplines (third pillar) and market access discussion based on the offers (on horizontal level as well through bilateral negotiations).

Additional participants to the original group joined just before or shortly after negotiations were launched. Given that the text is becoming more concrete, it would not be possible to keep on reopening negotiations all the time. According to the EU (supported by many others but not all members) any potential new members (e.g. China and Uruguay, which have shown interest) should comply with the level of ambition of the group and commit not to reopen what has been agreed so far. There are, however, no formal and agreed procedures for allowing new participants in the negotiations, so admission of new participants is done on the basis of consensus.

### Discussion Highlights / Questions and Replies

**European Federation of Public Services Union (EPSU)** asked for the reason why the World Bank STRI had been chosen over the OECD one. Furthermore, it was asked why GTAP sectors had been preferred to NACE definitions, and why a different aggregation had been chosen compared to the TTIP TSIA. Lastly, EPSU was interested in what the scope of the agreement was with respect to public services and how an impact assessment for public services would be conducted. EPSU emphasized the importance of regulations in the sector and that they can differ significantly per Member State.

DG Trade (II) noted that there are still significant asymmetries in the provision of public services between the countries (e.g. postal services are in some countries (state) monopolies, while in other countries there is competition between private companies). The scope of the negotiations is the same as in GATS, which implies that already some public services are excluded. This is the case of services supplied in the exercise of governmental authority, which are typically police or judicial activities. Regarding the inclusion of some other services referred to as public utilities (e.g. water distribution, and transport) each participant has the right to take reservation and the EU has indeed taken such broad reservation. While water services are part of GATS, it was stressed that the EU has never taken or asked for any commitment in this area and has no intention to do so, including in TiSA.

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<sup>1</sup> Tactical offers from Mexico, Switzerland and Turkey, as well as incomplete offers including US on Mode 4.

**Ecorys (NP)** explained that the World Bank indicator had been chosen because it provides a broader country coverage. Furthermore, there are World Bank estimates that measure the restrictiveness based on GATS commitments, which in combination with the actual restrictiveness indicators provides an estimate of the gap between the applied and bound rate of commitments. For the economic analysis, the change in this gap is needed, as this will indicate the reduced uncertainty for business.

Regarding the sectoral aggregation for the study, this aggregation differs per study and depends on the agreement at hand and the countries involved. As such, a different aggregation compared to TTIP has been chosen, with more focus on services sectors and a bit less on manufacturing and agriculture. GTAP data are used as this is the most complete database covering input-output relation and trade flows for a large number of countries. The CGE model operates with this database. There are no internationally comparable data available at NACE level.

With regard to public services and how to conduct an impact assessment for this sector, a specific sub sector within public services could be chosen to narrow down the scope and make the impact assessment more concrete. Ecorys are aware of the importance and differences in regulations, and will take these into account, to the extent possible, within the scope of the study.

**EPSU** enquired whether there were concerns regarding reversibility and government authority. It is important that countries will have sufficient policy space especially in public services. It is also important to use a clear language, e.g. regulations should not only be presented as trade restrictions, and to be as transparent as possible, e.g. does insurance only cover health?

**DG Trade** recalled that TiSA participants will always have a choice as to whether to make commitments or not. Quality standards still apply even if markets are open. Regulations can be introduced as long as they are not discriminatory.

**Ecorys** confirmed that the notions on clear and transparent language will be taken into account in the reporting for this study.

**EPSU** voiced its concerns with regard to Mode 4 on the issue of employment conditions (e.g. wages, quality of work, as well as health and safety) and continuity of employment.

**DG Trade** replied that EU commitments with regard to Mode 4 like in GATS or any other FTA will include the so called "labour clause" to ensure that all requirements of EU and Member States' laws and regulations regarding entry, stay, work and social security measures shall continue to apply, including regulations concerning period of stay, minimum wages as well as collective wage agreements. Furthermore, the EU's commitments will not apply in cases where the intent or effect of their temporary presence is to interfere with, or otherwise affect the outcome of, any labour/management dispute or negotiation.

**European Services Forum (ESF)** wondered why no reference was made to findings in the report, and asked Ecorys to specify what was referred to as concerns with regard to public services and TiSA.

**Ecorys** clarified that no results had been included in the report yet as it was still at the stage of a draft inception report, which only sets out the methodology that will be applied during the study. The report and this meeting would serve to receive questions and comments on the methodology before the analysis itself, so there would be sufficient time to take these

comments into account in the approach. Regarding the issue of concerns with respect to public services, these are notably related to potential reduced policy space for governments after granting more market access.

**DG Trade** added that the agreement will not deal with non-discriminatory regulation that may be introduced.

**ESF** criticised the choice of CGE modelling given that it does not capture FDI flows, which is very important for services and enquired whether environmental services and goods in TiSA were negotiated in one package.

**Ecorys** replied that a mix of methods (i.e. econometrics feeding the CGE model) was used to determine the impact of TiSA. Next to modelling, they also engaged in stakeholder consultations and carried out causal chain analysis. In addition, they will study a number of sectors in more detail in the second phase of the study. CGE had been considered as the preferred tool to assess the long-term implications of global policies, despite some disadvantages, mainly because it takes into account interlinkages between other sectors in the economy, as well as with other countries. Given that services can have a significant effect on the performance of other sectors, these interlinkages are important to be taken into account when assessing the impact of TiSA.

**DG Trade** pointed out that they were aware that the issues related to data on trade in services are complex, as services do not go through customs such as goods. It is also crucial to estimate barriers correctly. The consultants will address these issues. With regard to the question on environmental goods and services that may be complementary (e.g. related to installation of windmills abroad), these are discussed in different fora as environmental goods are not discussed in TiSA.

**ESF** enquired about the next steps on the Trade SIA.

**Ecorys** replied that after the finalisation of the inception phase, the overall analysis (economic, social, and environmental) will be conducted and then be followed by the in-depth sector studies. In the course of the analysis, case studies will be selected. There will be case studies under the overall social and environmental analysis as well as in the sectoral analysis. The sectors and case studies will be selected on the basis of selection criteria presented in the inception report. Ecorys would welcome stakeholders' input.

**Architects Council Europe (ACE)** asked whether an approach similar to the approach followed in CETA for professional services would be used for mutual recognition.

**DG Trade** replied that professional services and mutual recognition were being discussed, but that there were some reservations of participants to mutual recognition and no final agreement had been reached yet.

**Eurocommerce** stated that TiSA is very important for the companies they represent and considered that the economic aspects of distribution services could be elaborated upon: there are many positive aspects of deregulation of distribution services as it has been shown in the past. They referred to a recent interesting study on retail business in Europe.

**Ecorys** expressed its interest in receiving this report and encouraged other stakeholders to share relevant documents and other information that could be relevant for the sustainability impact assessment.

**British Telecom (BT)** referred to the issue of regulatory asymmetries between TiSA countries, and that lack of regulation can also create a market access barrier. This is especially the case if a market does not issue ex-ante regulation to promote competition in the sector, like in electronic communications. This in turn also affects the competitiveness of the sector and has implications for other sectors in the economy as well, given the role electronic communications play.

**Ecorys** welcomed the comment and pointed out that they were aware of the issue of regulatory asymmetries between countries, in particular due to the NTM study of EU-US trade. They agreed that not all regulations hinder market access while a lack of regulation can. They noted that in the survey and sector studies they would look at these issues in more detail.

**DG Trade** added that regarding regulation, it indeed always depends on whether it creates restrictions or not. Furthermore, it is necessary to access networks at competitive prices, which depends on infrastructure properties.