



## Report of the 18<sup>th</sup> TiSA negotiation round 26 May – 3 June 2016

### Summary

The **18th TiSA negotiating round** took place from 26 May–3 June 2016. A Ministerial meeting on TiSA was held in the margins of the OECD Ministerial Council meeting in Paris (read the [press release](#)). Both meetings were organised and chaired by the EU. The **next round** is scheduled for 8 – 18 July and will be chaired and organised by Australia.

The round was organised according to the work plan endorsed at the February round. The objective of this round was to discuss revised offers which were submitted in early May, and to get closer to agreeing on text in **Annexes on Telecoms, E-commerce, Localisation, Financial Services and Mode 4**. In addition, the agenda provided for discussion of **all Transport Annexes (maritime, air and road)** and allowed proponents of other Annexes to update on progress made. Initial discussions on the **institutional framework** of TiSA also took place.

Overall, there was **good engagement in the discussion of revised offers and progress was made in working towards agreed text**.

### Detailed report

#### **1. Revised offers**

Parties discussed in plenary setting the 22 revised offers that were submitted by TiSA participants at the beginning of May, in accordance with the TiSA work plan. The EU's revised offer is available [here](#). The EU made clear that it would now be ready to go an additional mile if everybody joined forces to make TiSA an ambitious 21<sup>st</sup> century agreement.

Overall, most TiSA Parties have raised the ambition of their offers. However, there is still room to make further improvements.

The EU Chair summarised the discussion by putting forward seven criteria according to which offers have been assessed:

1. a level of ambition better than Parties' schedules in the General Agreement on Trade in Services

2. an offer that reflects the best trade agreement concluded by the Party making the offer
3. good quality commitments in different sectors of interest
4. reservations for future measures
5. commitments on the movement of natural persons (so called mode 4)
6. reservations on new services
7. transparency on sub-federal level measures.

A second revision of offers is foreseen for October 2016.

## **2. Institutional provisions**

TiSA participants held a first and preliminary discussion on potential institutional provisions which could be included in the agreement. The discussion took place on the basis of a non-paper circulated by the EU chair. Participants took the opportunity to create a Committee in charge of the management of the agreement. They also examined potential provisions relating to the modification of schedules, the accession of new Parties and the multilateralisation of the agreement. A first exchange of ideas took place on a possible dispute settlement mechanism. Parties agreed to continue this discussion at the next round.

## **3. Financial Services**

During this round negotiators discussed both text and revised offers. The discussion of revised offers showed that a number of Parties had improved their offers. Some technical questions on offers and scheduling methods will require further clarification bilaterally.

Parties also discussed transparency provisions based on a compromise which the EU, together with a number of other Parties, had introduced at the last round. This compromise would consist of applying horizontal transparency rules and a subset of the horizontal domestic regulation provisions to financial services.

Together with some like-minded Parties, the EU proposed reconfirming the commitments made by Parties in other fora to implement internationally agreed standards in the area of financial services. Further discussions took place on provisions related to Self-Regulatory Organizations, postal insurance and insurance provided by cooperatives.

#### **4. Mode 4 (Service supply via movement of natural persons)**

This round's mode 4 discussions focused on market access commitments. As part of a discussion of revised offers, the EU presented a comparative analysis of market access commitments which showed that these vary with respect to the different categories of service suppliers. A complementary analysis was presented by another Party on commitments on National Treatment.

Text discussions focused on a minimum benchmark of commitments that Parties should take on mode 4, on which some progress was made.

#### **5. Telecoms**

Negotiators had an in-depth discussion on the revised offers on telecommunications. The EU gave a presentation of its assessment of the offers in which it had rated individual offers. This triggered a lively discussion about foreign equity caps, the coverage of mobile and satellite services, and local presence requirements.

On the Telecommunications Annex, the Parties discussed provisions on scope, regulatory body, regulatory flexibility, licenses, transparency, resolution of disputes, access to and use of telecoms services, interconnection, access to essential facilities, treatment of major suppliers, competitive safeguards, scarce resources, and mobile roaming. The negotiators made progress in identifying potential compromise options for access to essential facilities and the coverage of telecommunications services.

#### **6. E-commerce**

Further progress was made on e-commerce with discussions on scope, unsolicited commercial messages, open networks, e-authentication, customs duties and non-discrimination of digital content. Many articles are already well advanced, but the provisions on source code and non-discrimination of digital content will require more in-depth discussion.

#### **7. Localisation**

At this round, discussions progressed 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 some 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

Parties discussed the commitments related to auxiliary air, maritime and road transport that are scheduled in the revised offers. Particularly in air auxiliary services improvements were appreciated by many Parties.

Regarding text of the related Annexes, 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 and seafarers have been discussed. The discussion on the Annex on **air transport** also showed progress. However, further discussions will be necessary with respect to the structure of this Annex and the services that should be included in it. On the Annex on **road transport** discussions addressed provisions relating to its scope, definitions and the issue of domestic regulation.

## 9. Other topics

Proponents of Annexes on **State-Owned Enterprises** and **Delivery Services** presented the state of play of bilateral discussions and modifications made to the text. The EU presented its revised proposal on **Government Procurement** that it co-sponsors with a number of other Parties.

Further market access discussions addressed Parties' commitments in **energy and mining related services, environmental services** and **delivery services**.