



2015/2233(INI)

2.12.2015

OPINION

of the Committee on Economic and Monetary Affairs

for the Committee on International Trade

on Recommendations to the European Commission on the negotiations for the
Trade in Services Agreement (TiSA)
(2015/2233(INI))

Rapporteur: Alessia Maria Mosca

PA_NonLeg

SUGGESTIONS

The Committee on Economic and Monetary Affairs calls on the Committee on International Trade, as the committee responsible, to incorporate the following suggestions into its motion for a resolution:

1. Addresses the following recommendations to the Commission:

- a. to make financial services one of the EU's priorities in the TiSA negotiations, as the EU's own market for those services is already comparatively open; to achieve an agreement that contains ambitious yet balanced disciplines and provisions covering the provision of all types of financial services, in particular banking and insurance, across all modes of supply, paying particular attention to the new disciplines on new services; to achieve an agreement that brings value to European consumers in the form of upward convergence in financial regulation, a broader choice of financial services and enhanced consumer protection (understandable and correct information is fundamental for striking a better balance in the asymmetry of information) and that fosters long-term growth, in line with the Europe 2020 Strategy goals;
- b. to propose that, in the area of financial services, TiSA supports the implementation and application of international standards, that no new commitments will be taken on that would jeopardise EU financial regulation by forcing the EU to turn back on its enhanced regulatory framework for the financial sector or by preventing the EU from using the law to tackle excessive risk-taking by financial institutions, and that EU regulators retain the ability to authorise or deny any current or new financial product for prudential reasons after a thorough assessment of the risks and benefits that the introduction of such products or services would generate in the Union; to list market access commitments on a positive-list basis;
- c. given the importance of financial services for growth and the economy, to allow in TiSA, in appropriate subsectors and subject to limited and duly justified reservations, the cross-border supply of financial services in the EU (for a limited number of subsectors, such as reinsurance) by entities established in third countries, on the basis of clear rules and procedures for authorising these entities to provide such services in the EU and, where appropriate, after recognition by the EU that these entities' country of origin have an enforceable regulatory and supervisory framework equivalent to the EU's, in order to ensure that no unsupervised entity is able to act in the Union and that a level-playing field between entities, irrespective of their jurisdiction of establishment, is achieved;
- d. to ensure that TiSA parties have the right to exclude sensitive sectors from the ratchet clause, in particular for cross border commitments in financial services, and thereby defend the position that market openness will not prevent the introduction of new measures and the modification of existing domestic rules for prudential reasons and consumer protection, or the potential extra-territorial application of these rules;
- e. to take into account the specific obstacles to trade and investment by SMEs; to help the mobility and the development of larger companies but, above all, of SMEs and self-employed entrepreneurs via enhanced provisions on Mode IV supply of financial

services, which allows for the temporary movement of highly-qualified professionals across borders for a specific purpose, for a limited period of time, and under the conditions stipulated by a contract and domestic legislation;

- f. to put stronger pressure on other negotiating parties to continue offering BRICS countries, in particular India and Brazil, to join the negotiations and to accept China's request, provided that China is prepared to match the ambition of the parties, in particular at the level of its offer of commitments on market access and national treatment, and not to re-open talks over the structure of the agreement and the key provisions of the regulatory chapters, which are already agreed;
- g. to encourage new parties to join the TiSA negotiations, even if the talks already include countries such as the EU, USA and Japan, which are responsible for the bulk of world trade in financial services; to pursue, in order to deliver very substantial results for the EU, in-depth commitments (in particular on market access) from countries that currently have no bilateral trade deals with the EU, such as Australia, New Zealand, Hong Kong and Taiwan, a very limited commitment at multilateral level, for example Chile and Turkey, or very limited bilateral commitments on financial services, such as Mexico;
- h. to ensure that the TiSA in no way hinders the negotiating agenda of the WTO, but rather fosters a valuable discussion on how best to tackle undue trade obstacles to financial services and to develop regulatory best practices for financial services that promote economic and sustainability objectives, and also prepares the ground for its possible adoption at multilateral level, by building on rules already existing at multilateral level;
- i. to urge the negotiating parties to establish regulatory disciplines in the area of financial services going beyond the WTO's GATS Annex on Financial Services, which already covers all TiSA parties as WTO members, as well as deeper commitments going beyond the sui generis Understanding on Commitments in Financial Services, which is not mandatory for WTO members and therefore only covers a very limited set of TiSA parties; to aim at including in the chapter of TiSA on financial services a prudential carve-out building on the version agreed in the Canada-EU Trade Agreement which steps up the carve-out laid down in Article 2(a) of the GATS Annex on Financial Services, which preserves the sovereign right of parties to adopt measures for prudential reasons, to the extent that these measures do not aim at escaping other commitments, with a view to ensuring that governments retain the ability to take necessary actions to maintain the stability and integrity of the financial system; to take action in order for the key elements of the Understanding, such as the specific provisions on data transfer and non-discriminatory access to clearing systems, to be taken over in TiSA, while improving the drafting of the Understanding to bring it in line with the exact current policy lines of the EU in these areas;
- j. to lay down in the regulatory chapter applying to financial services strong transversal rules on regulatory transparency, which should increase the capacity of all stakeholders to analyse and prepare for laws, rules and public decisions and boost the confidence of financial services providers to establish themselves abroad or to provide services to third-country customers, without undermining due and established

democratic processes, and to also set out solutions for ensuring respect for national treatment of cross-border suppliers of financial services; to that end, to take immediate action to narrow the gap between the different ways in which countries currently recognise the equivalence of regulatory and supervisory regimes of other jurisdictions, which is currently causing fragmentation of global financial services markets, by achieving a common understanding that an equivalence decision should be the result of a transparent assessment of whether each jurisdiction's rules achieve the same objectives and that, though such a decision should follow early and frequent bilateral dialogues, it can be unilateral when mutual recognition is not possible;

- k. to ensure that, in compliance with the principle of proportionality in the EU's actions, as enshrined in the Treaty on the Functioning of the EU (TFEU), the Commission does not agree in TiSA to requirements on domestic regulation that would go further than necessary to achieve the abovementioned objectives;
- l. to ensure that TiSA helps to mitigate double taxation and in no way facilitates or opens loopholes for tax fraud, tax evasion, aggressive tax planning, or money-laundering in the area of financial services; to ensure also that it encourages its contracting parties, in particular the four countries which are also included in the EU blacklist of tax havens, to adopt and abide by the OECD Common Reporting Standard (CRS) for the automatic exchange of information (AEOI) for tax purposes, the OECD recommendations against Base Erosion and Profit Shifting (BEPS), and the Financial Action Task Force (FATF) global standards against money laundering and terrorist financing, in accordance with the Commission Recommendation of 6 December 2012 regarding Measures intended to encourage third countries to apply minimum standards of good governance in tax matters¹;
- m. to follow a reasonable approach with regard to the cross-border flows of financial data, by banning measures that unduly prevent transfers of information or the processing of financial information into or out of the country's territory, while ensuring the protection of personal data (considered to be a fundamental right, in accordance with Article 8 of the European Charter of Fundamental Rights), personal privacy and the confidentiality of individual records and accounts, thereby improving the GATS Understanding on Financial Services; to ensure therefore that any agreement on TiSA is in full conformity with the revised EU Data Protection Regulation;
- n. as regards purchases of financial services by public entities, to ensure that the recently adopted EU rules on public procurement are shielded and supported in the framework of the negotiations, in particular regarding SMEs' access to public contracts, the eligibility criteria based on the best 'quality-price' ratio instead of the cheapest price, reserved markets allocated to social economy undertakings and the possibility for contractual authorities to foster inter-community cooperation and to preserve thresholds for tendering exclusion from EU and international rules;
- o. to ensure the highest level of transparency, dialogue and accountability over the whole process of negotiations, in line with the Commission's obligation under the TFEU; to ensure that the members of Parliament's Committee on International Trade receive all

¹ OJ L 338, 12.12.2012, p. 37.

the negotiating documents related to TiSA and that members of the relevant committees of the European Parliament have access to consolidated negotiating texts and information that refers to their fields of competencies; to step up the substantial push for transparency vis-à-vis the public since the 2014 European elections, which has included so far the publication of EU market access offers and the mandate granted by the Council;

- p. to publish as soon as possible an independent sustainability impact assessment and then, once the negotiations are finalised, to update it accordingly;
- q. to exclude from EU commitments, in line with Articles 14 and 106 TFEU and protocol 26 thereto, current and future Services of General Interest and Services of General Economic Interest (including, but not limited to, water, health, social services, social security systems and education); to ensure that European, national and local authorities retain the full right to introduce, adopt, maintain or repeal any measures with regard to the commissioning, organisation, funding and provision of public services; to apply this exclusion irrespective of how the public services are provided and funded.

RESULT OF FINAL VOTE IN COMMITTEE ASKED FOR OPINION

Date adopted	1.12.2015
Result of final vote	+: 38 -: 14 0: 6
Members present for the final vote	Gerolf Annemans, Burkhard Balz, Hugues Bayet, Pervenche Berès, Esther de Lange, Fabio De Masi, Anneliese Dodds, Markus Ferber, Jonás Fernández, Sven Giegold, Sylvie Goulard, Roberto Gualtieri, Brian Hayes, Gunnar Hökmark, Danuta Maria Hübner, Petr Ježek, Othmar Karas, Georgios Kyrtos, Werner Langen, Sander Loones, Bernd Lucke, Olle Ludvigsson, Ivana Maletić, Costas Mavrides, Bernard Monot, Luděk Niedermayer, Stanisław Ożóg, Dimitrios Papadimoulis, Sirpa Pietikäinen, Dariusz Rosati, Pirkko Ruohonen-Lerner, Alfred Sant, Molly Scott Cato, Peter Simon, Renato Soru, Theodor Dumitru Stolojan, Marco Valli, Tom Vandenkendelaere, Cora van Nieuwenhuizen, Jakob von Weizsäcker, Marco Zanni, Sotirios Zarianopoulos
Substitutes present for the final vote	Matt Carthy, Philippe De Backer, Ashley Fox, Doru-Claudian Frunzuliță, Ildikó Gáll-Pelcz, Marian Harkin, Barbara Kappel, Verónica Lope Fontagné, Paloma López Bermejo, Thomas Mann, Alessia Maria Mosca, Michel Reimon, Maria João Rodrigues
Substitutes under Rule 200(2) present for the final vote	Agnes Jongerius, Anneleen Van Bossuyt, Igor Šoltes