

**Question for written answer E-012905/2015
to the Commission**
Rule 130
Jude Kirton-Darling (S&D)

Subject: Right to regulate and necessity tests in the Trade in Services Agreement (TiSA)

In response to public concerns about the way international trade agreements could infringe on the Member States and the EU's ability to maintain, adopt or change regulations, the Commission has recently expressed support for the inclusion of 'right to regulate' clauses in the core text of such agreements, as opposed to locating such clauses in preambles or annexes. Documents leaked in June 2015 and widely reported in the press have revealed that this is on the agenda for the TiSA negotiations.

1. What are the practical legal implications of having a right to regulate clause in an article of TiSA, compared to having it in the preamble of the General Agreement on Trade in Services (GATS)?
2. Assuming that TiSA also incorporated necessity tests, as in the case of GATS, how would potential conflicts between the right to regulate principle and the necessity for measures taken by national authorities to fulfil specific criteria included in the agreement (such as to be reasonable, objective, impartial or not burdensome) be settled, considering that TiSA would not fall within the remit of the WTO Dispute Settlement?
3. Is the Commission confident that a right to regulate clause in TiSA would be fully operational and effectively guarantee that the EU and the Member States would retain complete autonomy in adopting domestic regulations?