



2015/2233(INI)

3.12.2015

OPINION

of the Committee on Employment and Social 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: Thomas Händel

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SUGGESTIONS

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

1. Stresses the importance of the full and effective ratification, implementation and enforcement of the eight ILO core labour conventions by the TiSA signatories; calls on the TiSA signatories to comply with and promote other relevant ILO conventions, agreements and UN resolutions, which include but are not limited to the Labour Clauses Convention (C94), the Decent Work Agenda and the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families;
2. Calls for provisions to make the agreed ILO and other standards enforceable; considers that any future agreement on trade in services must include a clause on control and enforcement mechanisms so as to deter and prevent companies from infringing labour and social rights, including collective agreements; calls, where disputes arise regarding labour provisions, for such disputes to be subject to dispute settlement mechanisms, including the possibility of imposing sanctions, with due consideration for the ILO supervisory bodies;
3. Calls for steps to be taken to ensure that TiSA contributes fairly and significantly to job creation and sets ambitious trade in services standards which cover the main 21st century issues, notably the persisting jobs crisis in some Member States, growing inequalities, youth unemployment and other social challenges, and to promote higher levels of protection of labour and environmental standards, to combat all forms of social dumping and to ensure that the prohibition of discrimination is complied with;
4. Notes the significant role that the services sector plays in the EU economy, accounting for 70 % of economic activity and providing 90% of new jobs; recognises at the same time that 90 % of global growth is occurring outside the EU and underlines, therefore, the crucial importance of securing new market access opportunities for treaty signatories and securing fair, non-discriminatory and equitable treatment for service providers; recalls the essential role played by the services sector in the creation of skilled jobs in the EU; stresses the importance of ensuring that the agreement delivers on its potential to boost job creation in the EU; considers that it must also ensure that established standards are reinforced and improved on, with a view to establishing them more widely at multilateral level;
5. Stresses that the signing of a balanced agreement in this regard would create the potential for sustainable and inclusive growth and for the creation of new skilled jobs; expects the particular obstacles faced by SMEs to be taken into account, in particular because they are the biggest job creators;
6. Stresses that potential opportunities represented by TiSA for the internationalisation of European companies must be accompanied by genuine policies to help workers adapt to the new environment; underlines the fact that the EU has put financing mechanisms in place that could accompany these steps, such as the European Social Fund;
7. Calls for its Committee on Employment and Social Affairs to be informed without delay,

so as to allow an opportunity for discussion and decision-taking, should any provisions of the final TiSA Agreement be such as to jeopardise, or clash with, standards in the above areas;

8. Stresses that increasing mobility must be accompanied by high social and labour standards so as to ensure that workers are protected against exploitation; is particularly concerned about the effects of complex cross-border subcontracting chains, through which it is becoming very difficult to ensure and monitor compliance; underlines the fact that labour inspectorates and trade unions have a vital role to play in the prevention and monitoring of abuse; calls for much more efficient cross-border access to data within the EU;
9. Calls on the Commission, therefore, to consider proposing EU legislation ensuring liability, especially in long subcontracting chains, and considers that such liability must also apply to and be enforceable on companies from third countries;
10. Highlights the fact that labour inspections in particular face challenges in monitoring companies where migrant workers and posted workers from the EU and third countries are employed; urges the Member States, in this connection, to increase the staffing levels of, and the resources available to, their labour inspectorates and to meet the target of one inspector for every 10 000 workers, as recommended by the ILO;
11. Urges the Commission to pursue the social objective which it set itself during TiSA negotiations in the form of a 'labour clause'; recalls that the provisions of social and employment legislation at both European and national levels, as well as collective agreements and social standards, must be guaranteed in order to ensure quality of service; recalls that Member States' and, where relevant, the EU's social and employment policies and labour conditions must not be negatively affected;
12. Calls, in this connection, for labour standards to be excluded from the concepts of non-tariff barriers and technical barriers, and for the Social Partners to be included in the process of regulatory cooperation within a balanced representation, in order to ensure that regulatory cooperation does not restrict the right of governments and the European Parliament to legislate in the public interest and does not lead to regulatory chill or to the weakening of labour standards, including health and safety standards;
13. Considers that all workers, irrespective of their home country, must in their place of work enjoy the same rights and conditions of employment as nationals; considers furthermore that any future agreement on trade in services must include a clause preventing companies from circumventing or undermining the right to take industrial action through the use of workers from third countries, during negotiations on collective agreements and labour disputes;
14. Calls for steps to be taken, in line with Articles 14 and 106 of the TFEU and Protocol 26 to the TEU, to exclude current and future Services of General Interest and Services of General Economic Interest (which include but are not limited to water, health, social services, social security systems and education) from the Agreement, 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 and to ensure that social security systems are excluded from the

negotiations;

15. Maintains, in addition, that neither ratchet nor standstill clauses should be applicable to market access or national treatment obligations;
16. Asks the Commission to guarantee that ecological and social criteria, including gender equality criteria, can be applied in awarding public procurement contracts; insists that trade agreements should under no circumstances affect the provisions of the Public Procurement Directive that ensure enforcement of labour law and allow contracting authorities to use the specific provisions concerning social, health and other services directly provided to the person; reminds the Commission about the strong sensitivities as regards the regulation of service concessions and the need to preserve the policy space to respond to failed public-private-partnership models;
17. Considers that negotiations on the further liberalisation of services provided across EU borders should be accompanied by social protection measures, such as minimum income schemes, in accordance with national practices, and EU-wide cooperation to maintain working conditions in accordance with the respective labour and social legislation and collective agreements of the country where the service, and hence the work, is provided; considers that this should be without prejudice to more favourable provisions in legislation or agreements applicable in the sending country;
18. Considers that governments' capacity to adopt socially and ecologically responsible service procurement policies, addressing societal and environmental needs, must not be undermined, and that subsequently any agreement should respect ILO Convention 94 regarding labour clauses in public contracts;
19. Encourages the European institutions to continue to conduct independent thorough social impact assessment studies that focus on the possible impact of TiSA on the social and employment situation in the EU and the other Parties to the agreement, including the availability, affordability, quality, accessibility and non-discriminatory equal access to services of general interest and services of general economic interest; calls for the publication of statistical projections, constantly updated, on job losses and gains by a potential agreement, so that timely intervention can be undertaken by the Commission to support affected regions or Member States; calls, moreover, for a monitoring system to be established to prevent any case of infringement;
20. Considers that the EU should make very limited commitments as to any future provisions through the current Mode 1 of the GATS, so as not to undermine the high working standards and conditions in the EU through the provision of services being supplied from third countries, particularly concerning the ICT sector;
21. Regulatory barriers should be reduced in order to ensure that the mobility of highly qualified workers is advantageous not only for European companies but also for European workers; reiterates the importance of ensuring that TiSA under no circumstances impedes the application of employment and social standards, including standards on the posting of workers;
22. Recalls that the clauses of TiSA relating to the transport sector should not harm European workers in that sector; urges the Commission to establish clear restrictions on cabotage in

order to prevent social dumping;

23. Asks for a clear definition of the workers covered by the annex on Mode 4;
24. Considers that the agreement must fully respect the right for a signatory to modify or withdraw an element of its List as stipulated in Article XXI of the GATS regulation; expects the agreement, and especially the annex on Mode 4, to contain provisions aimed at preventing exploitative labour relations for foreign workers and a safety clause allowing TiSA members to apply any necessary safeguard, should pressure be put on domestic wages, the rights of domestic workers be endangered or other agreed standards be infringed;
25. Calls for further steps to be taken to open the public procurement market in all the TiSA negotiator countries; stresses that, to grant contracts, companies must comply with the core labour and social standards of the ILO; considers that contracts should not be awarded solely on the basis of price, but that such measures cannot function as a form of trade barrier;
26. Highlights the efforts made by the Commission to make the negotiations as transparent as possible; calls, however, for ongoing efforts to be pursued and stepped up, in line with the recommendations of the European Ombudsman on TTIP, in order to increase transparency in the negotiations through the publication of documents relevant to TiSA; calls for measures to be taken to reinforce continuous and transparent engagement with national parliaments and all relevant ministries at Member State level; stresses the importance of stakeholders, civil society organisations and the social partners and their expertise, and calls on the Commission and the Member States to involve them and closely cooperate with them throughout the negotiations on TiSA, especially regarding the possible effects which any trade agreement in services may have on the labour market; encourages all stakeholders to participate actively and to put forward initiatives, raise concerns and problematic issues and provide information relevant to the negotiations, and urges the Commission to take greater account of input from social partners and civil society;
27. Considers that the possibility of countries applying economic needs tests should be maintained;
28. Regrets that Parliament was not consulted before the Council adopted the mandate; considers this to be a missed opportunity to make the negotiations as democratic as possible and to involve from the outset those liable to be most affected by TiSA;
29. Regrets the current lack of statistics and data concerning the movement of natural persons (Mode 4) under the already existing General Agreement on Trade in Services (GATS); notes the intention of including a similar chapter in TiSA; underlines the importance of monitoring this category of service provider in order to avoid abuse and exploitation of third-country workers; calls on the Commission to urgently collate and present information on the number and type of service providers entering the EU through GATS Mode 4, including the duration of their stay; stresses that any future Mode 4 provisions must only concern highly skilled professionals, i.e. persons holding a university or equivalent master's degree and employed in a senior managerial role, and that their stay in the EU must be for a specific purpose, for a well determined, limited period of time and subject to specific conditions;

30. Calls, furthermore, for an EU directive to harmonise and monitor the flow of third-country individual service providers coming into the EU through these provisions in order to establish the conditions of entry and stay of individual service providers;
31. Stresses that Member States must retain their full sovereignty in determining whether or not to commit to any future Mode 4 provisions; stresses, furthermore, that any sectors included in these provisions must be identified together with and in full cooperation with the social partners;
32. Stresses that, before making any new commitments on global trade in services, the Commission must submit an extensive assessment of the impact on the economy and the labour market of all current modes of GATS since its entry into force; calls on the Commission, furthermore, to submit as soon as possible an impact assessment on TiSA as regards working conditions, possible effects in terms of unfair competition and any decline in certain sectors due to increased competition from third countries.

RESULT OF FINAL VOTE IN COMMITTEE ASKED FOR OPINION

Date adopted	3.12.2015
Result of final vote	+: 38 -: 11 0: 0
Members present for the final vote	Laura Agea, Guillaume Balas, Tiziana Beghin, Brando Benifei, Mara Bizzotto, Vilija Blinkevičiūtė, Enrique Calvet Chambon, David Casa, Ole Christensen, Elena Gentile, Arne Gericke, Marian Harkin, Danuta Jazłowiecka, Agnes Jongerius, Jan Keller, Ádám Kósa, Agnieszka Kozłowska-Rajewicz, Zdzisław Krasnodębski, Jean Lambert, Jérôme Lavrilleux, Jeroen Lenaers, Javi López, Thomas Mann, Dominique Martin, Anthea McIntyre, Joëlle Mélin, Elisabeth Morin-Chartier, Emilian Pavel, Georgi Pirinski, Marek Plura, Sofia Ribeiro, Anne Sander, Sven Schulze, Siôn Simon, Jutta Steinruck, Ulrike Trebesius, Marita Ulvskog, Tatjana Ždanoka, Jana Žitňanská
Substitutes present for the final vote	Lynn Boylan, Mircea Diaconu, Tania González Peñas, Paloma López Bermejo, Csaba Sógor, Monika Vana, Flavio Zanonato
Substitutes under Rule 200(2) present for the final vote	Diane James, Martina Michels, Estefanía Torres Martínez