

Opening of negotiations on a plurilateral agreement on services

European Parliament resolution of 4 July 2013 on the opening of negotiations on a plurilateral agreement on services (2013/2583(RSP))

The European Parliament,

- having regard to its previous report on services, in particular its resolution of 4 September 2008 on trade in services¹,
- having regard to its previous resolutions on the state of the Doha Development Agenda (DDA) and on the future of the World Trade Organisation (WTO), in particular its resolutions of 16 December 2009 on the prospects for the Doha Development Agenda following the Seventh WTO Ministerial Conference² and of 14 September 2011 on the state of play of the negotiations on the Doha Development Agenda³,
- having regard to its resolution of 13 December 2011 on trade and investment barriers⁴,
- having regard to Protocol No 26 to the Treaty on the Functioning of the European Union on services of general interest and to the Charter of Fundamental Rights,
- having regard to the General Agreement on Trade in Services (GATS) that entered into force on 1 January 1995; having regard to its resolution of 12 March 2003 on the General Agreement on Trade in Services (GATS) within the WTO, including cultural diversity⁵,
- having regard to the draft negotiating directives for a plurilateral agreement on trade in services, submitted by the Commission on 15 February 2013,
- having regard to the Commission Communication entitled ‘Trade, Growth and World Affairs – Trade Policy as a core component of the EU’s 2020 strategy’⁶,
- having regard to the Commission report to the European Council entitled ‘Trade and Investment Barriers Report 2012’⁷,
- having regard to the report of 21 April 2011 by the Chairman of the WTO’s Council for Trade in Services, Ambassador Fernando de Mateo, to its Trade Negotiations Committee concerning the special session of negotiations on trade in services⁸,
- having regard to the statement issued by the ‘Really Good Friends of Services’ (RGF) group on 5 July 2012,

¹ OJ C 295 E, 4.12.2009, p. 67.

² OJ C 286 E, 22.10.2010, p. 1.

³ OJ C 51 E, 22.2.2013, p. 84.

⁴ OJ C 168 E, 14.6.2013, p. 1.

⁵ OJ C 61 E, 10.3.2004, p. 289.

⁶ COM(2010)0612.

⁷ COM(2012)0070.

⁸ TN/S/36.

- having regard to Rule 110(2) of its Rules of Procedure,
- A. whereas services account for almost three quarters of the EU's GDP and employment and are crucial to maintaining and enhancing its competitiveness;
- B. whereas services accounted for 28 % of the EU's exports in 2011 and more than half of its foreign direct investment in third countries as of 2011;
- C. whereas the EU plays an important role in trade in services as the biggest exporter of services worldwide, accounting for 25,65 % of total world services exports as of 2011;
- D. whereas all countries should be in a position to develop, maintain and regulate public services in the general interest;
- E. whereas 129 WTO members have made commitments under the GATS, but whereas most of these countries have not made commitments in all sectors;
- F. whereas the current economic and financial situation has highlighted more than ever the fundamental role of public services in the European Union; whereas in areas such as healthcare, childcare, care for the elderly, assistance to disabled persons and social housing, these services provide an essential safety net for citizens and help promote social cohesion; whereas public services in the field of education, training and employment services play a key role in the growth and jobs agenda;
- G. whereas, at the time of the 6th WTO Ministerial Conference held in Hong Kong in 2005, barely 30 countries had tabled new services offers, and whereas multilateral negotiations on services have barely moved forward since July 2008;
- H. whereas, in the wake of the economic crisis of 2008 and 2009, new protectionist measures have been introduced to restrict trade in services;
- I. whereas preliminary talks over the format and architecture of a Trade In Services Agreement (TISA) took place in 2012 among the members of the RGF group;
- J. whereas the 21 WTO members¹ negotiating with the EU are mostly OECD countries and represent 70 % of global cross-border trade in services (excluding intra-EU trade in services) and 58 % of EU trade in commercial services; whereas the parties to these negotiations do not so far include any BRICS countries, any Association of South-East Asian Nations (ASEAN) members or any African, Caribbean or Pacific countries;
- K. whereas the Commission submitted draft negotiating directives to the Council on 15 February 2013 and received a mandate on 18 March 2013 to take part in the TISA negotiations;
- 1. Considers that the multilateral trading system, embodied by the WTO, remains the most effective framework for achieving open and fair trade worldwide; agrees, however, that, on account of the stalemate acknowledged during the 8th WTO Ministerial Conference in December 2011, new bilateral and plurilateral initiatives to give impetus to trade

¹ Australia, Canada, Chile, China, Colombia, Costa Rica, Hong Kong, Israel, Japan, Korea, Mexico, New Zealand, Norway, Pakistan, Panama, Paraguay, Peru, Switzerland, Taiwan, Turkey and the United States.

negotiations in Geneva were necessary; stresses, however, the necessity of all new initiatives remaining anchored in the framework of the WTO;

2. Regrets the fact that limited attention has been paid to trade in services since the beginning of the Doha Round; stresses that services represent the backbone of economies and trade in the 21st century, since the emergence of global value chains relies on the supply of services; emphasises the importance of services of general interest in providing essential safety nets for citizens and promoting social cohesion at the municipal, regional, state and EU level;
3. Deplores the fact that the GATS schedules of the WTO's membership have become outdated and do not reflect the actual level of barriers to trade in services in these countries, especially those which have undertaken substantial autonomous liberalisation, and the fact that the WTO's membership still shows very disparate and unclear levels of liberalisation and of disciplines in their commitments regarding trade in services;
4. Welcomes the opening of negotiations on a TISA and the EU's participation in these talks from the start in order to promote its interests and defend its views on the agreement's format and architecture; believes that the EU's participation can foster coherence between the TISA and the multilateral system and contribute to safeguarding appropriate parliamentary scrutiny of the negotiation process;
5. Regrets the fact that the Council granted a mandate without having taken Parliament's view into consideration;
6. Reminds the Commission of its obligation to keep Parliament immediately and fully informed at all stages of the negotiations (before and after the negotiating rounds);
7. Calls on the Commission to ensure that the TISA negotiations are conducted in accordance with the WTO rules on transparency and communicated to the entire WTO membership in a timely and fully informative manner;
8. Believes that a critical mass has not been reached which would allow the benefits of this future TISA to be extended to the whole of the WTO's membership, and consequently that the most-favoured nation clause of the GATS¹ should not apply to the TISA;
9. Notes with concern, however, that the negotiating parties do not include emerging markets (except Turkey), notably the BRICS, where the growth in trading and investment in services lies and where the barriers, in particular to foreign investment, are the most substantial; invites, therefore, China and other emerging economies to join in the negotiations;
10. Takes the view that keeping open the possibility for other countries, including emerging economies, to be part of these negotiations should not cause the level of ambition of this agreement to be lowered, since only a high degree of liberalisation and of convergence of disciplines could convince those countries to join in the negotiations;
11. Recommends that, in order to keep open the possibility of 'multilateralising' the future TISA, its design should follow the GATS format and architecture, including the concept of positive listing of commitments, and take up the fundamental definitions and principles set out in the GATS, along with its rules on national treatment, market access and disciplines;

¹ Article II of the GATS.

12. Urges the Commission to formulate a starting offer close to its last GATS scheduling offer and to aim at the following goals when negotiating market access commitments:
 - ensuring a more level playing field by reducing imbalances in GATS commitments across parties, sectors and modes;
 - promoting an ambitious agenda for the EU’s offensive interests, in particular as regards business services, ICT services, financial and legal services, e-commerce, maritime and air transport services, environmental services, tourism and construction; defending the EU’s interests in third country markets while including in the TISA the GATS’ prudential carve-out allowing participating countries to undertake domestic regulation of financial markets and products for prudential purposes; calling for the GATS’ prudential carve-out for financial services to be included in the TISA so as to allow the parties to the agreement to take measures for prudential reasons, notwithstanding any other provisions of the TISA;
 - defending European sensitivities regarding public services and services of general interest (as defined in the EU Treaties), in the areas of public education, public health, water supply and waste management and by continuing, as is the case under the GATS and bilateral FTAs, not to make any commitments in relation to audiovisual services or cultural services;
 - preventing commitments and rules regarding financial services that would contradict recent measures to regulate financial markets and products;
 - taking a cautious approach to the offers exchanged in ‘Mode 4’, bearing in mind that the EU has offensive interests in high-skilled labour and that the EU should, above all, reassert under the TISA that the temporary movement of natural persons to supply a service under Mode 4 must comply with national labour and social rights and collective agreements, and that, as under the GATS, no Party shall be prevented from applying measures to regulate the entry of natural persons within its territory, provided that such measures do not nullify the benefits accruing from the commitments of the Parties;
 - retaining neutrality as to the public or private nature of the ownership of the economic operators covered by commitments;
 - ensuring that any liberalisation of data flows is wholly consistent with the *acquis communautaire* in relation to privacy and data protection;
13. Notes that the EU has already concluded, or is in the process of negotiating, bilateral trade agreements with some of the partners in the TISA negotiations (including Japan and soon the US), containing strong services chapters in which country-specific bilateral issues are better addressed; believes that, in terms of market access, the stakes for the EU in these negotiations lie with the other partners (e.g. Australia, New Zealand, Mexico, Taiwan and Turkey);
14. Stresses that the inclusion of the standstill and ratchet principles in the schedules should allow the parties’ commitments to be bound to current levels and to lead to further progressive opening;

15. Believes that the TISA should feature stronger regulatory disciplines for transparency, competition, licensing requirements and sector-specific regulations, notwithstanding the right for countries to adopt regulations which are duly justified on public policy grounds¹;
16. Considers it essential for the EU and its Member States to retain the possibility of preserving and developing their cultural and audiovisual policies, and to do so in the context of their existing laws, standards and agreements; welcomes, therefore, the exclusion by the Council of cultural and audiovisual services from the negotiating mandate;
17. Stresses that this negotiation represents an opportunity to improve the rules on public procurement² and subsidies³ in services, on which the GATS negotiations have stalled;
18. Takes the view that the TISA should include an accession clause, provisions defining the conditions and procedures for ‘multilateralising’ the agreement to the whole of the WTO’s membership, and a specific dispute settlement mechanism, without prejudice to the possibility of recourse to the general WTO dispute settlement mechanism;
19. Notes that the EU’s negotiating mandate was proposed by the Commission and adopted by the Council without any impact assessment; insists that the Commission follow up on its intention to prepare a sustainability impact assessment and that it must do so in consultation with the relevant stakeholders as regards social, environmental and other concerns; demands that the Commission publish the sustainability impact assessment with a view to taking its conclusions into account in the negotiations;
20. Sees a two-year timeline for concluding such negotiations as very ambitious; emphasises that quality should prevail over time, and insists that the negotiations must be transparent and must provide the necessary room and time for informed public and parliamentary debate;
21. Instructs its President to forward this resolution to the Council and the Commission.

¹ Articles XIV and XIV bis of the GATS.

² Article XIII of the GATS.

³ Article XV of the GATS.