



TEXTS ADOPTED

P8_TA(2016)0041

Negotiations for the Trade in Services Agreement (TiSA)

European Parliament resolution of 3 February 2016 containing the European Parliament's recommendations to the Commission on the negotiations for the Trade in Services Agreement (TiSA) (2015/2233(INI))

The European Parliament,

- having regard to the General Agreement on Trade in Services (GATS)¹, which entered into force in January 1995 as a result of the Uruguay Round negotiations in the framework of the WTO,
- having regard to the report of 21 April 2011 by the chair 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 services²,
- having regard to the statement issued by the 'Really Good Friends of Services' (RGF) group on 5 July 2012³,
- having regard to the EU directives for the negotiations for a Trade in Services Agreement (TiSA), adopted by the Council on 8 March 2013 and declassified and made public by the Council on 10 March 2015⁴,
- having regard to its resolution of 4 July 2013 on the opening of negotiations on a plurilateral agreement on services⁵,
- having regard to President Juncker's political guidelines of 15 July 2014, addressed to the new Commission and entitled 'A New Start for Europe: My Agenda for Jobs, Growth, Fairness and Democratic Change',
- having regard to the Commission Communication of 14 October 2015 entitled 'Trade for All: Towards a More Responsible Trade and Investment Policy' (COM(2015)0497),

¹ https://www.wto.org/english/docs_e/legal_e/26-gats_01_e.htm

² TN/S/36

³ http://eeas.europa.eu/delegations/wto/press_corner/all_news/news/2012/20120705_advancing_negotiations_services.htm

⁴ <http://www.consilium.europa.eu/en/press/press-releases/2015/03/150310-trade-services-agreement-negotiating-mandate-made-public/>

⁵ Texts adopted, P7_TA(2013)0325.

- having regard to the Final Inception Report of 17 July 2014, drawn up for the Commission by Ecorys and entitled ‘Trade Sustainable Impact Assessment in support of negotiations on a plurilateral Trade in Services Agreement (TiSA)’¹,
- having regard to the negotiating documents tabled by all TiSA parties, in particular those declassified and made public by the Commission on 22 July 2014, including the EU’s initial offer²,
- having regard to Commissioner Malmström’s statement of 5 February 2015 on patient mobility in TiSA³,
- having regard to the EU-US joint statement of 20 March 2015 on public services⁴ in the context of the TiSA and TTIP negotiations,
- having regard to Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents,
- having regard to Article 39 of the Treaty on European Union (TEU), Article 8 of the Charter of Fundamental Rights of the European Union on the protection of personal data, and Article 12 of the Universal Declaration of Human Rights,
- having regard to Articles 2 and 3 TEU and to Article 8 of the Treaty on the Functioning of the European Union (TFEU) that promote equality between women and men as one of the underlying values of the EU,
- having regard to Articles 14 and 106 TFEU and Protocol 26 on services of general interest,
- 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 Article 21 TEU,
- having regard to Articles 207 and 218 TFEU,
- having regard to the principle of coherence for development as stated in the Treaty on the Functioning of the European Union,
- having regard to the opinion of the Committee of the Regions on the local and regional dimension of the Trade in Services Agreement (TiSA) (CDR 2700/2015),
- having regard to Rules 108(4) and 52 of its Rules of Procedure,
- having regard to the report of the Committee on International Trade and the opinions of the Committee on Development, the Committee on Economic and Monetary Affairs, the Committee on Employment and Social Affairs, the Committee on the Industry, Research

¹ http://trade.ec.europa.eu/doclib/docs/2014/july/tradoc_152702.pdf

² http://trade.ec.europa.eu/doclib/docs/2014/july/tradoc_152702.pdf

³ <http://trade.ec.europa.eu/doclib/press/index.cfm?id=1254>

⁴ http://trade.ec.europa.eu/doclib/docs/2015/march/tradoc_153264.pdf

⁵ OJ C 61 E, 10.3.2004, p. 289.

and Energy, the Committee on Transport and Tourism, the Committee on Regional Development, the Committee on Civil Liberties and the Committee on Women's Rights and Gender Equality (A8-0009/2016),

- A. whereas the TiSA negotiations should achieve effective international regulation, not lower domestic regulation;
- B. whereas although TiSA in its current form and with its existing negotiating members is a plurilateral agreement, the ambition should be that the concluded deal reach the critical mass to enable it to become a multilateral deal within the WTO framework;
- C. whereas any trade agreement must provide more rights and lower prices to European consumers, more jobs and protection to workers; whereas they must also contribute to promoting sustainable development, corporate social responsibility globally and level the playing field for European companies; whereas trade policy should contribute to and be fully coherent with the ILO Decent work Agenda and the UN 2030 Agenda for Sustainable Development;
- D. whereas any trade agreement must be a market opener for our companies abroad and a safety net for our citizens at home; whereas TiSA should increase access to foreign markets, promote best practices and shape globalisation with a view to ensuring that it reflects EU values, principles and interests and that it helps EU companies thrive in the era of global value chains; whereas consumer rights as well as social and environmental standards are not trade barriers but non-negotiable building blocks of the Europe 2020 strategy for smart, sustainable and inclusive growth; whereas the EU's trade policy must uphold the objectives of economic, social and territorial cohesion as set out in Article 174 of the TFEU; whereas the provision of services in the EU is based on the principles of universal access, quality, safety, affordability and equal treatment to be guaranteed at all times in all cities and regions; whereas the EU should promote gender equality at international level;
- E. whereas in the context of the globalisation, servicification and digitalisation both of our economies and of international trade, urgent policy action is needed to enhance international rules; whereas the EU has a vital interest in strengthening global trade rules to govern global-supply chains; whereas the multilateral trading system remains the most effective framework for achieving open and fair trade worldwide;
- F. whereas TiSA is an opportunity for the EU to consolidate its position as the world's largest exporter of services, representing 25 % of global exports of services, accounting for a trade surplus of EUR 170 billion in 2013; whereas the value of EU exports in services has doubled over the last 10 years reaching a value of EUR 728 billion in 2014; whereas services employ close to 70 % of the EU's labour force and represent 40 % of the value of goods exported from Europe; whereas 90 % of the new jobs that will be created in the EU between 2013 and 2025 will be driven by the services sectors; whereas this agreement has the potential to boost job creation in the EU;
- G. whereas trade in services is an engine for jobs and growth in the EU, which could be strengthened by TiSA;
- H. whereas many important markets, not least in emerging economies, are still closed to European companies; whereas unnecessary barriers to trade in services, which if translated into equivalent tariffs amount to 15 % for Canada, 16 % for Japan, 25 % for

South Korea, 44 % for Turkey and 68 % for China, continue to prevent European companies from reaping the full benefits of their competitiveness; whereas the EU, where the tariff equivalent of services restrictions is only 6 %, is substantially more open than most of its partners; whereas the EU should use its position as the most important importer and exporter of services to secure a level playing field via reciprocal market access and fair competition;

- I. whereas non-tariff barriers, which on average represent more than 50 % of the cost of cross-border services, disproportionately affect small and medium-sized enterprises (SMEs), which make up one third of EU service export providers and which often lack the human and financial resources necessary to overcome those obstacles; whereas the elimination of unnecessary barriers would facilitate the internationalisation of SMEs as long as these barriers can be removed without jeopardising the fulfilment of the public policy objectives underpinning them; whereas the measures necessary to achieve legitimate public policy purposes should be maintained;
- J. whereas the globalisation of value chains increases the import content of both domestic output and exports; whereas trade in goods and trade in services are interlinked and global rules are needed to govern these supply chains; whereas in a context of global value chains binding core international standards become even more necessary in order to avoid a further race to the bottom, as well as social and environmental dumping;
- K. whereas citizens' trust in the EU's trade policy must be bolstered by ensuring not only beneficial outcomes in terms of employment and wealth creation for citizens and businesses, but also by guaranteeing the highest level of transparency, engagement and accountability, by maintaining constant dialogue with social partners, civil society, local and regional authorities and any other relevant stakeholders, and by setting clear guidelines in the negotiations;
- L. whereas most of the commitments in the EU schedule refer to Member States' national legislation; whereas the implementation of commitments particularly affects regional and local governments;
- M. whereas data protection is not an economic burden, but a source of economic growth; whereas restoring trust in the digital world is crucial; whereas data flows are indispensable to trade in services but should never compromise the EU's *acquis* on data protection and the right to privacy;
- N. whereas Parliament in its resolution of 4 July 2013 on the opening of negotiations on a plurilateral agreement on services requested that the Commission 'follow up on its intention to prepare a sustainability impact assessment';
- O. whereas TiSA will involve movements of natural persons between the countries that are parties to the agreement and in this respect all European citizens must be treated equally regarding access to the parties' respective territories;
- P. whereas Parliament has the final say, by means of the consent procedure, on trade agreements and its Members will only decide on whether to approve or reject TiSA once the negotiations have been concluded; whereas ratification in certain Member States may require ratification by regional parliaments and/or parliamentary chambers representing the regional level;

- Q. whereas Parliament reserves the right to express its opinion after consulting any future text proposals and drafts of TiSA;
1. Addresses, in the context of the ongoing negotiations on the Trade in Services Agreement, the following recommendations to the Commission:
- (a) *regarding context and scope:*
- i. to consider the TiSA negotiations as a stepping stone towards renewed ambitions at WTO level with the aim of relaunching negotiations for a reformed GATS;
 - ii. to reiterate its support for an ambitious, comprehensive and balanced negotiation, which should unleash the untapped potential of a more integrated global services market, while preventing social, environmental and economic dumping and fully guaranteeing compliance with the EU *acquis*; to shape and regulate globalisation and to strengthen international standards, while legally securing the right to regulate and to pursue legitimate public policy objectives such as public health, safety and environment; to secure increased market access for European services suppliers, including SMEs, in key sectors of interest, while accommodating specific carve-outs for sensitive sectors, including all public services; to ensure that these negotiations contribute fairly and significantly to job creation and inclusive growth, and set ambitious trade in services standards for the 21st century; to respect the EU's and Member States' political, social and cultural models as well as the fundamental principles enshrined in the EU Treaties, and those included in the Charter of Fundamental Rights of the EU, such as gender equality; to promote and protect human rights, democracy and the rule of law worldwide;
 - iii. to aim at multilateralisation and to oppose any provisions or annexes which would prevent it, which would be incompatible with the GATS and which would prevent future integration into the WTO system; to accept new parties on the condition that they accept the already agreed rules and level of ambitions; to incentivise wider participation in the negotiation talks; to note that both the highest barriers and the highest growth potential regarding trade in services are to be found in the BRICS and the MINT countries; to recognise the importance of those countries for the EU, as export destinations with a rising middle class, as sources of intermediate inputs and as key hubs in global value chains; to open the way for the participation of committed emerging and dynamic economies and to reiterate its support for China's request to join the negotiations; to secure the commitment of all TiSA participants to multilateralising the outcome of the negotiations; to ensure that special attention is paid to developing countries and to include in TiSA the provisions contained in Article IV of the GATS;
 - iv. to take note that, according to the United Nations Conference on Trade and Development (UNCTAD), the services sector accounts for approximately 51 % of GDP in developing countries and that service exports from African countries are increasing; to recognise that trade, including in services, could, under certain conditions, be a trigger for inclusive growth, sustainable development, poverty and inequality reduction and decent job creation, and could encourage innovation by facilitating exchanges of know-how, technology and investment in research and development, including through foreign investment; to maintain, consequently, that enabling developing countries to gain fair access to world markets in services could bolster their economic integration and their adjustment to globalisation;

- v. to acknowledge that, as the negotiations are carried out on a preferential basis, the benefits of the agreement will be limited to TiSA parties until it is multilateralised; to reject the application of a most-favoured-nation (MFN) treatment clause to non-TiSA parties until the agreement is multilateralised; to reject, as in the GATS, the inclusion of FTAs in the MFN clause;
- vi. to reinvigorate the discussions on services in the Doha Development Round;
- vii. to ensure synergies and consistency between the bilateral, plurilateral and multilateral agreements currently being negotiated, as well as with single market developments, especially with regard to the Digital Single Market; to ensure coherence between EU internal and external policies and to promote an integrated approach to foreign affairs; to respect the principle of Policy Coherence for Development and encourage the implementation of the Sustainable Development Goals adopted in September 2015;
- viii. to propose specific safeguards for tourists, inter alia in order to make international roaming fees and fees applied to international calls and messages transparent, so as to limit the excessive fees charged to consumers using their credit cards outside Europe and to preserve the EU's and Member States' right to issue safety warnings about tourist destinations;
- ix. to include a revision clause establishing a mechanism that would allow a party to leave the agreement or to suspend or reverse commitments concerning the liberalisation of a service, particularly in the event of infringements of labour and social standards;
- x. to publish, without any further delay, the sustainability impact assessment and to update it accordingly once the negotiations are finalised, taking specific account of TiSA's impact on citizens, local and regional authorities and developing countries not participating in the negotiations, as well on the social and employment situation in the EU; to conduct a detailed and timely assessment of the effect of the GATS on the European economy since its entry into force; to involve social partners and civil society fully in finalising the sustainability impact assessment; to request that Parliament's research services publish a comprehensive and informative study on the scope and potential impact of the TiSA negotiations, including from a gender perspective and the need to tackle phenomena such as the glass ceiling and the gender pay gap; to carry out a fundamental rights check to enable Parliament to take an informed decision regarding giving its consent to TiSA or not;
- xi. to ensure that investor-state dispute settlement mechanisms cannot be 'imported' from other bilateral investment treaties by virtue of MFN clauses;

(b) regarding market access:

- i. to exclude public services and audiovisual services from the scope of application of the agreement, and to take a cautious approach to cultural services without prejudice to the EU's commitments in the GATS; to seek ambitious commitments across parties, sectors, and levels of government, in particular the further opening of foreign markets as regards public procurement, telecommunications, transport and financial and professional services;

- ii. to ensure reciprocity at all levels; to support the use of horizontal commitment-related provisions as a means to set a common level of ambitions without prejudice to the rights and obligations under GATS Articles XVI and XVII, and to take note that such minimum requirements would set clear parameters for countries interested in participating; in line with GATS Article IV, to provide flexibility for developing and least developed countries when subscribing to the level of ambition of the agreement; to ensure that the agreement seeks to create a level playing field in the services sector and to open new markets to EU service providers;
- iii. to exclude from the EU's commitments the provision of new services not classified in the relevant classification system, while retaining the ability to include them at a later stage;
- iv. to reject the application of standstill and ratchet clauses to all market access commitments and national treatment commitments and to reject their application to sensitive sectors, such as public and cultural services, public procurement, Mode 4, transport, and financial services; to allow for enough flexibility to bring services of general economic interest back into public control; to maintain the right of the EU and Member States to modify their schedule of commitments in accordance with the GATS;
- v. to undertake limited commitments in Mode 1, in particular in the fields of digital services, financial services and road transport, so as to avoid regulatory arbitrage and social dumping; to undertake ambitious commitments, however, and to recognise offensive interests in the field of satellite telecommunications services, maritime services and reinsurance; to acknowledge that such commitments can only be fruitful in an appropriately regulated environment; to ensure that EU law is fully respected and enforced on foreign providers when a company provides a service from abroad to EU consumers, and to include provisions guaranteeing easy access to redress for consumers; to identify, in parallel, the challenges that consumers face when they deal with service providers located in third countries, to provide guidance to consumers about their right to redress in such circumstances and to propose concrete measures if need be;
- vi. to take an ambitious approach in Mode 3 by seeking the removal of third-country barriers to commercial presence and establishment, such as foreign equity caps and joint venture requirements, which is of crucial relevance in terms of increasing the growth of services delivered through Modes 1 and 4, while maintaining the current level of EU-wide reservations;
- vii. to bear in mind that the EU has an offensive interest in the outward mobility of highly skilled professionals; to refrain from undertaking new commitments beyond the GATS with regard to inward mobility until the other parties substantially improve their offers; to acknowledge that the labour clause maintains the legal obligation of foreign service providers to comply with EU and Member State social and labour legislation, as well as with collective agreements; to enter into ambitious Mode 4 commitments for those cases which underpin Mode 3 commitments; to preserve the ability to conduct economic needs and labour market tests on contractual service suppliers and independent professionals;

- viii. to respect Member States' sovereign right to choose which sectors to open to foreign competition and to what extent by means of limitations and exemptions; to refrain from pressuring Member States not to exercise this right in full;
- ix. to exclude, in line with Articles 14 and 106 TFEU and Protocol 26, current and future services of general interest and services of general economic interest from the scope of application of the agreement (including, but not limited to, water, health, social services, social security systems and education, waste management and public transport); to ensure that EU, 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; to ensure that social security systems are excluded from the scope of application of the agreement; to reject the proposal on a patient mobility annex, which is opposed by the majority of TiSA participants; to recognise the great importance attached by European citizens to high-quality public services that contribute to social and territorial cohesion;
- x. to oppose restrictions on cross-subsidisation of undertakings under the same local authority where they exceed the restrictions existing under EU and national law;
- xi. to seek to introduce, without prejudice to the GATS, an unequivocal 'gold standard' clause, which could be included in all trade agreements and would ensure that the public utilities clause applies to all modes of supply and to any services considered to be public services by European, national or regional authorities, in any sector and irrespective of the service's monopoly status;
- xii. to ensure, in line with Article 167(4) TFEU and with the UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions 2005, by means of a horizontal and legally binding clause applicable to the whole agreement, that the parties preserve their right to adopt or maintain any measure with respect to the protection or promotion of cultural and linguistic diversity, irrespective of the technology or distribution platform used both online and offline;

(c) regarding rules on the digital economy:

- i. to ensure cross-border data flows in compliance with the universal right to privacy;
- ii. to take a cautious approach to the negotiation of chapters concerning data and privacy protection;
- iii. to acknowledge that data protection and the right to privacy are not a trade barrier, but fundamental rights, which are enshrined in Article 39 TEU and Articles 7 and 8 of the Charter of Fundamental Rights of the European Union, as well as in Article 12 of the Universal Declaration of Human Rights; to acknowledge that a high level of trust is essential to develop a data-driven economy; to guarantee full respect of this fundamental right, taking due account of recent developments in the digital economy and in full compliance with the European Court of Justice's ruling with respect to Safe Harbour; to incorporate a comprehensive, unambiguous, horizontal, self-standing and legally binding provision based on GATS Article XIV which fully exempts the existing and future EU legal framework for the protection of personal data from the scope of this agreement, without any

conditions that it must be consistent with other parts of the TiSA; to apply such provisions to all other TiSA annexes; to immediately and formally support such proposals in the TiSA e-commerce annex; to support proposals aimed at ensuring that domestic legal frameworks for the protection of personal information of users are applied on a non-discriminatory basis; to apply the data protection provisions enshrined in the annex on e-commerce to all other TiSA annexes, including on financial services;

- iv. to ensure that European citizens' personal data flow globally in full compliance with the data protection and security rules in force in Europe; to ensure that citizens remain in control of their own data; to reject, therefore, any 'catch-all' provisions on data flows which are disconnected from any reference to the necessary compliance with data protection standards;
- v. to immediately and formally oppose the US proposals on movement of information;
- vi. to consider that a clearly defined and mutually agreed legal framework guarantees swift exchanges of information when necessary to address security threats; to ensure that GATS Article XIV bis is replicated in TiSA's core text; to ensure that national security clauses are grounded in appropriate necessity criteria; to firmly reject, however, any extension of the scope of the national security exemption enshrined in GATS Article XIV bis and any backdoors in technologies; to immediately and formally oppose such proposals in TiSA;
- vii. to recognise that digital innovation is a driver of economic growth and productivity in the entire economy; to recognise that data flows are a crucial driver of the services economy, an essential element of the global value chain of traditional manufacturing companies and critical for the development of the Digital Single Market; to seek, therefore, a comprehensive prohibition of forced data localisation requirements and to ensure that TiSA contains future-proof rules and prevents fragmentation of the digital world; to consider that forced localisation requirements, i.e. forcing service suppliers to use local infrastructure or establish a local presence as a condition of supplying services, deter foreign direct investment from and to a party; to strive, therefore, to curb such practices to the extent possible within and outside Europe, while accommodating necessary exemptions based on legitimate public purposes such as consumer protection and the protection of fundamental rights;
- viii. to ensure that the provisions of the final agreement are consistent with existing and future legislation at EU level, including the Regulation on a European single market in electronic communications, the General Data Protection Regulation, the E-Privacy Directive (Directive on privacy and electronic communications) and the 16 measures included in the communication on the Digital Single Market; to safeguard net neutrality and an open internet; to ensure that personal data can be transferred outside the Union only if the provisions on third-country transfers in EU data protection laws are complied with; to guarantee, in particular, that the EU retains its ability to suspend the transfer of personal data from the EU to third countries where the rules of the third party do not meet EU adequacy standards, where alternative avenues, such as binding corporate rules or standard contractual clauses, are not used by companies and where the derogations listed in Article 26(1) of Directive 95/46/EC do not hold; to prevent geoblocking practices and to

uphold the principle of open governance of the internet; to cooperate with parties in the appropriate settings with a view to adopting sufficiently high standards of data protection;

- ix. to promote rule-based competition in the telecommunications sector for the benefit of service providers and consumers; to address persistent regulatory asymmetries in the telecommunications sector, by preventing parties from imposing foreign equity caps, by laying down pro-competitive wholesale access rules for incumbent operators' networks, by providing clear and non-discriminatory rules for licensing, by securing genuine access to last-mile infrastructures in export markets for EU telecom providers, by guaranteeing the independence of regulators, and by supporting an extensive definition of telecommunications services covering all types of network; to ensure a level playing field for all operators and that non-EU companies from oligopolistic markets do not take advantage of the fragmentation of the EU market; to guarantee that TiSA parties respect the principle of open and non-discriminatory internet access for service providers and consumers; to guarantee that EU operators in TiSA participating countries have fair and symmetrical market access in telecom services, free from any non-tariff and behind-the-border barriers, including regulatory requirements, asymmetry in standards, technological impositions or restrictions;
- x. to strongly support provisions on international mobile roaming and to extend them to international calls and messages; to increase publicly available information regarding retail rates in the short run and to support caps in the long run with a view to decreasing prices; to ensure that TiSA does not create any obstacle to bilateral agreements in this field; to push for online consumer protection, in particular vis-à-vis unsolicited commercial electronic messages;
- xi. to provide for effective cooperation on taxation of the digital economy, on the basis of the work of the Commission's Platform for Tax Good Governance, and to guarantee, in particular, the link between taxation and the real economic activity of companies in the sector;

(d) regarding rules on mobility:

- i. to ensure that nothing will prevent the EU and its Member States from maintaining, improving and applying labour and social regulations, collective agreements and legislation on the entry of natural persons into, or temporary stay in, the EU's or a Member State's territory, including those measures necessary to ensure the orderly movements of natural persons across its borders such as, inter alia, admission or conditions for admission for entry; to guarantee, in line with Directive 96/71/EC on the posting of workers, that the minimum terms and conditions of employment of the host country are applicable to any service suppliers accessing the EU, today and in the future; to ensure that all workers coming into Europe, irrespective of their home country, enjoy the same labour rights as nationals in their host country and that the principle of equal pay for equal work is respected; to ensure that the eight fundamental International Labour Organisation (ILO) Conventions are ratified and effectively implemented by TiSA parties; to call on all parties to ratify and implement the principal ILO standards and to promote other relevant ILO Conventions and UN resolutions; to ensure that the EU's and Member States' labour laws and collective agreements are respected within the EU's territory; to strengthen the EU monitoring and enforcement

mechanism in order to deter infringements; to urge Member States to increase the resources available to labour inspectorates; to urgently collate and present detailed information on the number and type of service providers currently operating in the EU under Mode 4, including the duration of their stay; to ensure much more efficient cross-border access to data within the EU in the future; to include a safety 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, and to allow TiSA participants to apply any necessary safeguards should pressure be put on domestic wages, should the right of domestic workers be endangered or should other agreed standards be infringed, in line with the limitations set out in Article X of the GATS; to urge all contracting parties to comply with OECD guidelines for multinationals;

- ii. to recall that Mode 4 commitments must only apply to the movement of highly skilled professionals, such as persons holding a university or equivalent Master's degree or employed in a senior managerial role, for a specific purpose, for a limited period of time and under precise conditions stipulated by the domestic legislation of the country where the service is performed and by a contract respecting such domestic legislation; calls in this context for Article 16 of the Services Directive (2006/123/EC) to be heeded and implemented; to reject substantial changes to the Mode 4 rules as defined in the GATS and to consider a revision of Directive 2014/66/EU on the conditions of entry and residency of third country nationals in the framework of an intra-corporate transferee;
- iii. to recognise the annex on Mode 4 as an offensive interest for Europe, given that EU professionals are well-educated and mobile and that EU companies increasingly require the specific skills of foreign professionals inside Europe and their personnel outside Europe, in order to support the establishment of new business activities; to ensure that this mobility is advantageous not only for European companies but also for European workers;
- iv. to oppose any provisions regarding visas and other entry procedures except those aimed at increasing transparency and streamlining administrative procedures; to ensure that TiSA does not apply to measures affecting natural persons seeking access to the employment market of a party, nor to measures regarding citizenship, residence or employment on a permanent basis; to set adequate safeguards to ensure that temporary service providers return home;
- v. to seek to horizontally prohibit the requirement of establishing a commercial presence, or of being a resident, as a condition for providing professional services; to limit the scope of the annex on professional services to the list of commitments made by each party;
- vi. to strive to create a framework for the mutual recognition of training, academic levels and professional qualifications, in particular in the architectural, accounting and legal sectors, while ensuring the competence of the supplier and thus the quality of the services provided in line with the EU's Professional Qualifications Directives, and while avoiding the automatic and quantitative recognition of university degrees;
- vii. to ask for a clear definition of the workers covered by the annex on Mode 4;

(e) regarding rules on financial services:

- i. to achieve an agreement that contains an ambitious yet balanced annex covering the provision of all types of financial services, in particular banking and insurance, that goes beyond the GATS annex on Financial Services and that fosters long-term sustainable growth in line with Europe 2020 Strategy goals; to aim at reinforcing the stability of the financial system and single financial institutions, guaranteeing full consistency with the post-crisis regulatory environment, and guaranteeing fair competition between financial services providers; to achieve an agreement that brings value and protection to European consumers in the form of upward convergence in financial regulation and of a broader choice of financial services; to aim at ensuring adequate protection for consumers, including data protection and right to privacy as well as the provision of understandable and correct information, which are indispensable to reduce the asymmetry of information;
- ii. to commit TiSA parties to the implementation and application of international standards for the regulation and supervision of the financial sector, such as those endorsed by the G20, the Basel Committee on Banking Supervision, the Financial Stability Board, the International Organisation of Securities Commissions and the International Association of Insurance Supervisors; to take action to ensure that the key elements of the WTO Understanding on Financial Services are taken over in TiSA, while improving the drafting of the Understanding to bring it into line with the exact current policy lines of the EU in these areas; to ensure that TiSA helps mitigate double taxation and in no way facilitates or opens loopholes for tax fraud, tax evasion, aggressive tax planning or money-laundering; to pursue 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, very limited commitments at WTO level, such as Chile and Turkey, or very limited bilateral commitments on financial services, such as Mexico;
- iii. to include in TiSA a prudential carve-out building on that contained in the EU-Canada Comprehensive Economic and Trade Agreement (CETA), preserving the sovereign right of a party to deviate from its trade commitments and adopt any measure it deems necessary to regulate its financial and banking sectors for prudential and supervisory reasons with a view to ensuring the stability and integrity of a party's financial system;
- iv. to ensure that, in the area of financial services, no new commitment will be made that could 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; to ensure that nothing in this agreement will limit the EU regulators' ability to authorise or deny any current or new financial products in line with the EU's regulatory framework;
- v. while stressing the need to increase worldwide access to financial services given their importance for growth and the economy, to exclude cross-border financial services from the EU's commitments, including portfolio management, until there is convergence in financial regulation at the highest level, except in very limited and duly justified cases, such as those reinsurance services provided in a business-to-business context; to consider, in particular, that clear and sound rules and procedures for authorising companies established in third countries to provide such

services in the EU and, where appropriate, the explicit recognition by the EU that these companies' country of origin have an enforceable regulatory and supervisory framework equivalent to the EU's are indispensable to ensure that no unsupervised entity is able to act in the Union and that a level-playing field between European and foreign companies, irrespective of their jurisdiction of establishment, is achieved; to take immediate action, in parallel to TiSA, 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 understanding that, though such a decision should follow early and frequent bilateral dialogues, it can be unilateral when mutual recognition is not possible;

- vi. to request a thorough ex-ante independent impact assessment to evaluate the economic and social effects of further financial liberalisation under TiSA;
- vii. to acknowledge that the re-regulatory action following the financial crisis is not yet over, including requirements on certain legal forms, splits (e.g. bank separation), changes of business or downsizing;

(f) regarding rules on logistics:

- i. to seek an ambitious but balanced outcome for the transport sector, which is critical to the sustainable development of global value chains; to increase the speed, reliability, security and interoperability of transport services, to the benefit of business customers and individual users and workers; to ensure consistency with the EU's climate policy; to keep in mind the importance of transport and delivery services for the European economy and employment given that European ship owners control 40 % of the world's merchant fleet, that the aviation industry supports over 5 million jobs, that the European rail industry accounts for over half of the worldwide production of rail equipment and services and that road transport maintain its importance for EU logistics; to recognise therefore the potential of transport services to reduce the level of unemployment in Europe; to ensure that negotiations are mindful of the rapidly evolving nature of the transport sector and the growing importance of collaborative economy transport modes in Europeans' everyday lives; to require that foreign companies fully comply with existing EU regulatory standards when providing their transport or delivery services within the EU's territory;
- ii. to seek improved access to foreign markets and a reduction in anti-competitive regulatory practices, most importantly those which are harmful to the environment and reduce the efficiency of transport services and those restrictions imposed by non-EU countries regarding foreign ownership, while legally securing public authorities' right to regulate over transport and guarantee public transportation; to address restrictions in the cabotage sector and to avoid carriers returning empty from their host countries, in particular in the annexes on maritime and air transport;

- iii. to put forward provisions aimed at strengthening passenger rights, in particular in the annex on air transport, and also in relation to all means of transport so that the agreement also benefits consumers;
- iv. to preserve Member States' rights regarding existing or future national regulations and bilateral or multilateral road transport agreements, including transit permit requirements; to exclude any provisions facilitating the entry and stay of professional drivers from the scope of the annex on road transport; to reject any requests to undertake any Mode 4 commitments in the road transport sector;
- v. to ensure consistency with international standards, such as those endorsed by the International Maritime Organisation and the International Civil Aviation Organisation, and to consider them as minimum standards and to oppose any lowering of these international benchmarks; to pursue, as a long-term objective, binding international trade rules for the maritime and air transport sectors; to ensure the application of ILO Conventions relevant to the logistics and transport sectors, such as the Maritime Labour Convention; to stress that EU and Member State legislation provides benefits for workers, including safety and security, consumers and the environment; to underline that all those who provide services within the EU, whether foreign or domestic, are to comply with this legislation; to acknowledge that the quality of services is intrinsically linked to the quality of employment and the regulatory frameworks in place;
- vi. to strike the right balance between the liberalisation of the competitive postal sector, which is key for the further development of services and the digital economy, and the protection of universal postal services, which play a vital role in promoting social, economic and territorial cohesion; to prevent therefore anti-competitive cross-subsidisation and increase access to non-EU countries' markets, while ensuring the fulfilment of universal service obligations as defined by each party;
- vii. to recall the crucial role maritime transport plays in the world economy, both as an industry in itself and as a facilitator for international trade; to promote a clear text with strong commitments on ensuring access to ports, as well as market access and national treatment for international maritime transport services;

(g) regarding rules on domestic regulation and transparency:

- i. to legally secure European, national and local authorities' right to regulate in the public interest in a way that is not more restrictive than the GATS, and not subject to necessity tests; to ensure that the annexes' provisions are not more restrictive than those principles enshrined in GATS Article VI or in EU law;
- ii. to recognise that the parties to the negotiations subscribe to the rule of law and have independent judicial systems, with provision for remedies to guarantee the rights of investors and citizens;
- iii. to promote good governance and transparency and to foster good practice in administrative, regulatory and legislative processes, by encouraging the wide take-up of measures that strengthen the independence of decision-makers, increase the transparency and democratic accountability of decisions, and reduce red tape; to stress that consumer, health and environmental protection and safety and labour

rights must be at the centre of regulatory endeavours; to make sure that any change to EU levels of regulatory protection can only be upwards, never downwards;

- iv. to ensure that universal service is safeguarded so that, for instance, people living in remote regions, border areas or mountainous areas, or on islands, enjoy the same standard service and do not pay more than people living in urban areas;
- v. to recognise that in accordance with the GATS provisions, an annex on domestic regulation should prevent parties from implementing disguised trade barriers and imposing unnecessary burdens on foreign companies, in particular when they apply for different types of permits; to ensure that domestic regulation continues to satisfy public policy goals;
- vi. to ensure that agreed rules apply only to trade-related measures, such as qualifications and licensing requirements and procedures, and only in sectors where a party has undertaken commitments;
- vii. to request and publish a legal opinion prior to Parliament's vote on the final agreement, with a view to thoroughly assessing the two annexes on domestic regulation and transparency in light of EU law, and to assess whether the legal obligations set in these annexes are already respected in the EU;
- viii. to clearly define the law-making principles of transparency and objectivity so as to ensure that these concepts do not turn into catch-all provisions;
- ix. to make information on trade-related regulations and how they are administered, including regulations applicable at sub-federal level, publicly available online; to place the emphasis on rules governing licensing and authorisations; to specifically push for the creation of a web-based one-stop shop information mechanism for SMEs and to include SMEs in its conception;
- x. to ensure that administrative fees charged to foreign companies are fair and non-discriminatory, that sufficient remedies making it possible to file a complaint in national courts are equally accessible to foreign and domestic providers, and that rulings are delivered in a reasonable period of time;
- xi. to maintain the EU practice of carrying out public consultations prior to legislative proposals; to ensure that the outcomes of these consultations will be observed closely during the negotiations;
- xii. to oppose any proposals calling for the mandatory submission of legislative proposals to third parties prior to their publication; to bear in mind that stakeholders have different access to resources and expertise, and to ensure that the introduction of a voluntary stakeholder consultation process in TiSA does not create a bias towards the better funded organisations;

(h) regarding rules contained in other regulatory disciplines:

- i. to acknowledge that TiSA is an opportunity to ensure competition by the rules, not for the rules;
- ii. to make sure mutually-agreed commitments will be respected in practice, to allow for effective retaliation and to provide disincentives to breaches of commitments;

to include therefore a state-to-state dispute settlement mechanism in the agreement to be used until the agreement is multilateralised and the WTO Dispute Settlement becomes available; to revise Regulation (EU) No 654/2014 concerning the exercise of the Union's rights for the application and enforcement of international trade rules in order to ensure that the EU can take retaliatory measures in the services sectors;

- iii. to defend the inclusion of a regulatory annex on government procurement with a view to maximising the participation of European companies in foreign tenders, while maintaining EU criteria, including social and environmental criteria, and procedures in European tenders, notably regarding SMEs' access to public contracts, the eligibility criteria based on the best 'quality-price' ratio and the thresholds below which commitments do not apply; to overcome the lack of transparency and market entry barriers regarding non-European calls for tenders and to denounce the lack of reciprocity in this area at all levels of government, as illustrated by the preferential treatment granted to domestic companies in several countries, while allowing for the possibility of opting for market access and national treatment commitments for the sake of multilateralisation; to encourage the ratification and implementation by those parties who have not yet done so of the WTO Government Procurement Agreement and its 2011 revision; to call on the European Union to introduce a 'European Business Act', modelled on the 'American Business Act' and supporting the economic development of SMEs and European industry;
- iv. to ensure protection of EU small and medium-sized service providers from unfair trading practices from services providers from outside the EU;
- v. to lower unnecessary barriers to trade in energy- and environment-related services, particularly those relating to the development and promotion of renewable energy and environmentally sound technologies, while maintaining the possibility of making reservations on market access and national treatment in all modes of supply in this field, given that an increasing number of services, such as installation, management and repairs, are sold together with products in these two areas; to acknowledge the explicit recognition of each party's sovereignty over energy resources in line with Treaty provisions and to legally secure through an improvement of GATS-equivalent provisions the EU's right to regulate, in particular so as to meet the European objectives as regards sustainability, climate policy, security and affordability;
- vi. to ensure that upcoming procurement commitments do not overcome any local or national law of any party;

(i) regarding public and political outreach:

- i. to ensure the highest level of transparency, dialogue and accountability;
- ii. to keep the European Parliament fully and immediately informed at all stages of the negotiations; to ensure that all Members of the European Parliament receive all the negotiating documents related to TiSA, as well as the European Commission internal documents, such as detailed summaries of negotiating rounds and thorough assessments of TiSA parties' offers, provided that due confidentiality is ensured; in line with WTO policy, ECJ case law on classified documents and the

limitations enshrined in the EU's *acquis*, in particular in Regulation (EC) No 1049/2001 on access to documents, to make negotiating documents public with the exception of those which are to be classified with clear justification on a case-by-case basis;

- iii. to welcome the substantial push for transparency towards the public since the 2014 European elections, including the publication of EU market access offers and the mandate granted by the Council; to further these efforts by providing fact sheets explaining each part of the agreement in a clear and comprehensible way and by publishing factual round-by-round feedback reports on the Europa website; to encourage our negotiating partners to increase transparency so that TiSA is not negotiated under more opaque conditions than those arranged under the aegis of the WTO;
 - iv. to ensure the serious and continuous engagement of the EU institutions with all relevant stakeholders throughout the negotiation process; to call for this engagement to be intensified as the negotiations progress, so that the expectations of European civil society, social partners and other stakeholders are adequately taken into account, including within the framework of the Civil Society Dialogue; to stress that Member States, which set out the negotiating directives, have a fundamental role to play in this regard;
 - v. to encourage the Member States to involve and consult their national parliaments as well as local and regional authorities and to keep them adequately informed about the ongoing negotiations;
 - vi. to invite representatives of local and regional authorities, which are represented at EU level by the Committee of the Regions, to the dialogues organised by the Commission at the beginning and end of each round of negotiations;
2. Requests that the Commission take this resolution fully into account and respond within six months of its adoption;
 3. Instructs its President to forward this resolution containing the European Parliament's recommendations to the Commission and, for information, to the Council, the governments and parliaments of the Member States and the administrations and parliaments of all TiSA parties.