

Public Survey on the Trade in Services Agreement (TiSA)

Section 1: Information on the Respondents

1. Before starting this questionnaire, please indicate from which community to you belong? -single choice reply-(optional)	Non-governmental organisation
1.1. Entity name -open reply-(compulsory)	Weltwirtschaft, Ökologie & Entwicklung – WEED e.V.
1.2. Contact details -open reply-(compulsory)	Eldenaer Str. 60, 10247 Berlin, www.weed-online.org
1.3. Contact person -open reply-(compulsory)	Markus Henn, markus.henn@weed-online.org , Tel. +49-30-27582249
<p>1.8. TRANSPARENCY and CONFIDENTIALITY</p> <p>To ensure that our public consultation is open and transparent, the report of the consultation, published on the European Commission's website, will include a list of the names of all the organisations from whom we have received contributions to this process.</p> <p>In addition, we will also publish the contributions of those organisations that have agreed to this publication. If you agree in general for publication of your contribution, you may nevertheless indicate some information that you would like to be treated as business confidential and not be published.</p> <p>For organisations which do not agree to the publication including for reasons of business confidential information, their contribution will be treated as confidential and will not be made public.</p> <p>Please indicate your preference: -single choice reply-(compulsory)</p>	I agree to the publication of my contribution to this public consultation

Section 3: Questionnaire for other organisations/stakeholders

6.1. What are your general views on the negotiations on a Trade in Services Agreement? -open reply-(compulsory)
<p>We are critical of any attempt to further liberalize services in general and financial services particularly. We are not in a time where the imperative should be more liberalization but more regulation. Liberalisation in the past has often proven to not fulfil its promises for the people but only served (corporate) vested interests. The biggest problems are possible market access provisions that would not only aim at non-discrimination between national and external providers but go beyond and liberalize the markets itself. Through possible ratchet and/or standstill clauses or even compensation mechanisms (in the framework of a state-investor dispute settlement), it will be almost impossible for a country to revise any liberalisation once committed to. However, restrictions on markets are often necessary to limit market forces and ensure that the interest of society is served by markets or upheld against them. Here are some examples of how (financial) regulation could be at risk from our perspective by any possible TiSA rules: 1. The US recently defended their right to comprehensively regulate derivatives as they feared that European rules might not be sufficient. Such attempts might be hindered in the future. 2. Banks such as the German savings banks (Sparkassen) might be regarded as illegitimately subsidised state enterprises. 3. Economic needs tests could be in opposition to rules that require an prior approval of financial products or services. 4. Taxation of financial products could be hindered. 5. Prohibition of the size of services might hinder position limits, e.g. in commodity markets. 6. Subsidised and/or public services monopolies such as water, wastewater and waste services could be threatened. These are just some examples that could be easily extended. Of course, the final effect will depend on the prudential carve-outs, too. However, these have been often rather weak in the past, for example through rules that the regulation should not be more burdensome than necessary or that</p>

they should not go against the rationale of the whole agreement (as is the case in the GATS). This does not allow for precautionary prudential measures. As the financial crisis has taught us it is often difficult to know beforehand the ideal level of regulation. In such a situation the authorities will necessarily need to apply regulation that is not always perfectly justifiable in its concrete extent. But even national treatment rules can under certain circumstances hinder necessary regulation. For example, the financial crisis since 2007 might not have happened if there had been more rules to discriminate against foreign financial products or limit cross-border financial flows. Finally, we have a general concern that the rules agreed by the TiSA members might in fact be setting a global standard which non-TiSA countries will not be able anymore to change in future (e.g. GATS) negotiations. This would be particularly problematic for developing countries for which the standards of the TiSA countries will often be not appropriate.

6.2. What should be the priorities for the EU in these plurilateral negotiations on trade in services? -open reply-(optional)

The priority of the EU should be to withdraw from the negotiations as there is currently no need to further liberalise (financial) services markets. If a withdrawal will not be the case, the EU should limit the liberalized areas as much as possible and take out sensitive areas such as financial services or also basic public services such as water, wastewater or waste. In any case, the EU should at least ensure a high level of protection of human rights, social rights, working conditions, and environmental standards. It should also aim at securing a high level of regulation of markets, particularly of financial markets. The minimum would be to have a strong carve-out clause that allows for any necessary regulation. It should be also applicable on a precautionary basis and not only with a high burden of proof and least burdensome extent. Prudential regulation needs to be able to act pro-actively. TiSA should not include an investor state dispute settlement mechanism, and particularly none aiming at “fair and equitable” treatment including the protection of the “legitimate expectations” of investors or against indirect expropriations

6.3. Are there any other issues related to trade in services that you would like addressed? -single choice reply-(compulsory)	No
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