

EU PROPOSAL

PART IV – ADMINISTRATIVE AND INSTITUTIONAL PROVISIONS

SECTION 1 – INSTITUTIONAL PROVISIONS

Article IV: 1 – Establishment of the TiSA Committee

The Parties hereby establish the TiSA Committee, composed of Ministers or their representatives. Each Party shall be responsible for the composition of its delegation, including designation of representatives appropriate to the issues under discussion, or the work undertaken, by the TiSA Committee.

Article IV: 2 – Chair of the TiSA Committee

1. The TiSA Committee shall be chaired by a Party, on a yearly basis. The TiSA Committee shall elect its Chair three years in advance of the start of the term for the Chair.
2. The Party chairing the TiSA Committee shall provide any necessary administrative support, and shall notify the other Parties of any decision of the TiSA Committee.

Article IV: 3 – Functions of the TiSA Committee

1. The TiSA Committee shall be convened by the Chair and meet as often as necessary to perform its functions. It shall meet upon request of a Party, or as determined by agreement of the Committee, and at least on a yearly basis for the three years following the entry into force of this Agreement.
2. The TiSA Committee shall:
 - a) consider any matter relating to the implementation, review or operation of this Agreement;
 - b) establish rules of procedures for the conduct of its work and as required under this Agreement;
 - c) adopt decisions in accordance with this Agreement;
 - d) take any other action in the exercise of its functions as the Parties agree.
3. The TiSA Committee may:
 - a) establish or disband, refer matters to, or consider matters raised by, any ad hoc or standing committee, working group or any other subsidiary body;
 - b) permit a representative of a non-Party to observe a session of the TiSA Committee or a subsidiary body;

- c) issue interpretations of the provisions of this Agreement, which shall be binding on the panels established under the Section [Dispute Settlement].

Article IV: 4 – Decision-making

1. The TiSA Committee and any subsidiary bodies established under this Agreement shall take all decisions by consensus.
2. The decisions taken by the TiSA Committee shall be binding on the Parties, subject to the completion of any necessary internal requirement and procedures.

Article IV: 5 – Notifications Under the Agreement

1. Except as otherwise agreed by the Parties, a notification required under this Agreement is deemed to be provided and received by a Party when the notification is transmitted, including by electronic means, to a Party's relevant contact point designated under Article IV:6 (Contact Points) and to the Chair of the TISA Committee.
2. A contact point that a Party establishes to receive notifications from a Party under this Agreement shall accept notifications or other correspondence from a Party by electronic means.

Article IV: 6 – Contact points

1. Each Party shall designate a contact point or points to facilitate communications between the Parties on any matter covered by this Agreement, and respond promptly to all requests by any other Party for specific information on any of its measures of general application, which pertain to or affect the operation of this Agreement.

[Note: text from Transparency Annex, Article 6 (a). It is proposed to transfer this provision in this part of the Agreement]

2. Each Party shall notify the other Parties in writing of its designated contact points no later than 60 days after the date of entry into force of this Agreement for that Party.

SECTION 2 – MODIFICATION OF SCHEDULES OF COMMITMENTS

Article IV: 7– Notification of the intent to modify or withdraw commitments

1. A Party (referred to in this Section as the "modifying Party") may modify or withdraw any commitment in its Schedule, at any time, in accordance with the provisions of this Section.

2. A modifying Party shall notify its intent to modify or withdraw a commitment pursuant to this Article to the Parties no later than three months before the intended date of implementation of the modification or withdrawal.

Article IV: 8 – Compensatory adjustments

1. At the request of any Party the benefits of which under this Agreement may be affected (referred to in this Section as an "affected Party") by a proposed modification or withdrawal notified under Article IV:7(2), the modifying Party shall enter into negotiations with a view to reaching agreement on any necessary compensatory adjustment. In such negotiations and agreement, the Parties concerned shall endeavour to maintain a general level of mutually advantageous commitments not less favourable to trade than that provided for in Schedules of commitments prior to such negotiations.
2. Compensatory adjustments shall be accorded to all TiSA Parties.
3. (a) If agreement is not reached between the modifying Party and any affected Party before the end of the period provided for negotiations under the rules of procedures adopted pursuant paragraph 6, such affected Party may refer the matter to arbitration. Any affected Party that wishes to enforce a right that it may have to compensation must participate in the arbitration.
(b) If no affected Party has requested arbitration, the modifying Party shall be free to implement the proposed modification or withdrawal.
4. (a) The modifying Party may not modify or withdraw its commitment until it has made compensatory adjustments in conformity with the findings of the arbitration.
(b) If the modifying Party implements its proposed modification or withdrawal and does not comply with the findings of the arbitration, any affected Party that participated in the arbitration may modify or withdraw substantially equivalent benefits in conformity with those findings. Notwithstanding Article xx (MFN), such a modification or withdrawal may be implemented solely with respect to the modifying Party.
5. The modified Schedule of commitments shall be notified by the modifying Party to the Depository and to the Parties.
6. TiSA Committee shall establish any necessary procedures for the implementation of this Section.

SECTION 3 - ACCESSION

Article IV: 9 – Openness

This Agreement is open to accession by any Member of the World Trade Organization.

Article IV: 10 – Procedures and Requirements

1. A non-Party to this Agreement may notify the Parties of its interest in acceding to the Agreement by providing a request, in writing, to the Chair of the TiSA Committee. The Chair of the TiSA Committee shall transmit the letter without delay to the other Parties through the contact points designated under Article IV:6(1) (Contact Points).
2. Any non-Party requesting accession (“accession candidate”) shall be prepared to comply with the obligations in this Agreement, subject to such terms and conditions as may be agreed between that accession candidate and the Parties.
3. Following receipt of a request under paragraph 1, the TiSA Committee shall reach a decision on the accession request. Parties shall make best endeavors to consider and respond to any request for accession in a timely manner.
4. The TiSA Committee shall establish without delay any necessary subsidiary bodies or procedures to address accession requests in accordance with provisions in this Agreement.
5. The decision on the accession, including with respect to its terms and conditions, shall be adopted by the TiSA Committee.
6. Accession shall take place by deposit with the Depositary of an instrument of accession that states the terms so agreed. This Agreement shall enter into force for the accession candidate on the 30th day following the deposit of its instrument of accession.

SECTION 4 – MULTILATERALISATION

Article IV: 11 – Objective of multilateralisation

The parties recognize the value of strengthening the multilateral trading system through the multilateralisation of the Agreement as soon as possible. To this end, the Parties shall consider means for incorporating the rights and obligations established in this Agreement into the WTO Agreement.

Article IV: 12 – Process leading to multilateralisation

The TiSA Committee shall consider, upon request of a Party, a matter or proposal related to the incorporation of the rights and obligations established in this Agreement into the WTO Agreement, and take any necessary decision to that effect.

SECTION 5 – FINAL PROVISIONS

Article IV: 13 – Annexes, Schedules, Protocol and Footnotes

The Annexes, Schedules, Protocol and footnotes to this Agreement shall constitute an integral part of this Agreement.

[Note: This article would replace the corresponding article in Part I]

Article IV: 14 – Authentic Texts

The English, Spanish and French texts of this Agreement are equally authentic.

Article IV: 15 – Depositary

1. The original English, Spanish and French texts of this Agreement shall be deposited with [Party], which is hereby designated as the Depositary of this Agreement.
2. The Depositary shall promptly provide certified copies of the original texts of this Agreement and of any amendments to this Agreement upon request of a signatory or acceding Party.
3. The Depositary shall promptly inform each signatory and acceding Party, and provide them with the date and a copy, of:
 - (a) a notification under Article IV:16 (Entry into Force); and
 - (b) the deposit of an instrument of accession under Article IV:10(6) (Accession);
 - (c) a notification under Article IV:19(2) (Amendments);
 - (d) a notice of withdrawal provided under Article IV:20(1) (Withdrawal); and
 - (e) Modified Schedules of Commitments notified under Article IV:8(5) (Modification of Schedules).

Article IV: 16 – Entry into Force

1. This Agreement shall enter into force 60 days after the date on which all original signatories have notified the Depository in writing of the completion of their applicable legal procedures.
2. In the event that not all original signatories have made the notification provided for in paragraph 1 within a period of two years from the date of signature of this Agreement, or after another timeframe agreed among the signatory Parties, it shall enter into force 60 days after that date for those original signatories that have made that notification, provided that such parties account for at least [2/3] of the original signatories
3. After the date of entry into force of this Agreement under paragraph 2, an original signatory for which this Agreement has not entered into force shall notify the Depository of the completion of its applicable legal procedures and its intention to become a Party to this Agreement. The Agreement shall enter into force with respect to the notifying original signatory 30 days after the notification, unless the TiSA Committee otherwise agrees.

Article IV: 17 - Review

1. The TiSA Committee shall review the operation of this Agreement with a view to furthering its objectives, every three years, or upon request by a Party.
2. Upon the review under paragraph 1, the TiSA Committee may take any decisions in accordance with this Agreement.

Article IV: 18 – Amendments of the WTO Agreement

In the event of an amendment of the WTO Agreement that amends a provision that the Parties have incorporated into this Agreement, the Parties shall, unless otherwise provided for in this Agreement, consult on whether to amend this Agreement.

Article IV: 19 – Amendments

1. The Parties may agree to amend this Agreement. Upon proposal by any Party, the TiSA Committee shall consider the amendment of the Agreement, and decide to submit the proposed amendment to the Parties for acceptance.
2. An amendment shall enter into force 60 days after the date on which all Parties have notified the Depository in writing of the approval of the amendment in accordance with their respective applicable legal procedures, or on such other date as the Parties may agree.

Article IV: 20 – Withdrawal

1. Any Party may withdraw from this Agreement by providing written notice of withdrawal to the Chair of the TiSA Committee. A withdrawing Party shall simultaneously notify the other Parties of its withdrawal through the contact points designated under Article IV:6 (Contact Points).
2. A withdrawal shall take effect six months after a Party provides written notice under paragraph 1 to the Chair of the TiSA Committee, unless the TiSA Committee takes a decision establishing a different period.

Article IV: 21 – Relation to Other Agreements

1. Recognising the Parties' intention for this Agreement to coexist with their existing international agreements, each Party affirms:
 - (a) in relation to existing international agreements to which all Parties are party, including the WTO Agreement, its existing rights and obligations with respect to the other Parties; and
 - (b) in relation to existing international agreements to which that Party and at least one other Party are party, its existing rights and obligations with respect to that other Party or Parties, as the case may be.
2. If a Party considers that a provision of this Agreement is inconsistent with a provision of another agreement to which it and at least one other Party are party, on request, the relevant Parties to the other agreement shall consult with a view to reaching a mutually satisfactory solution. This paragraph is without prejudice to a Party's rights and obligations under Section xx (Dispute Settlement).¹

Article IV: 22 – Reservations

This Agreement does not allow for reservations within the meaning of the Vienna Convention on the Law of Treaties.

Article IV: 23 – Private Rights

Nothing in this Agreement shall be construed as conferring rights or imposing obligations on persons other than those created between the Parties under public international law, nor as permitting this Agreement to be directly invoked in the domestic legal systems of the Parties.

¹ For the purposes of application of this Agreement, the Parties agree that the fact that an agreement provides more favourable treatment of services and service suppliers than that provided for under this Agreement does not mean that there is an inconsistency within the meaning of paragraph 2.