

ESF16-09

Mr. Frans Timmermans
First Vice-President
European Commission
200, rue de la loi
B – 1049 - Brussels

Brussels, 31st October 2016

Subject : **EU contribution on data flow language in TiSA**

Dear First Vice-President,

The European Services Forum (ESF) represents the interests of European services sectors committed to actively promoting the liberalisation of international trade and investment in services.

The European Union is by far the biggest exporter (€985 Billion in 2014) and importer (€744 Billion) of services in the world, bringing a net surplus of €241 Billion in 2014 to the European economy (WTO Statistics).

ESF has vigorously supported the on-going plurilateral Trade in Services Agreement (TiSA) negotiations since their inception in 2013. We applaud the EU for its leading role in taking the negotiations forward. We are confident that the talks are now reaching an end-game phase with the opportunity to still conclude TiSA by the end of this year.

You will know that one of the critical issues in TiSA (and other trade negotiations) is the need to establish rules on cross border data flows.

Digitally enabled trade, relying on data-flows across borders, has become critical for all international merchandise and services business. Cross border data flows go far beyond simple business-to-consumer e-commerce relationships, and far beyond trade in services. They encompass all international trading activities, which include all trade in goods, whether finished or intermediate goods, via global supply chains.

This will grow exponentially in the coming years, involving all connected devices, the internet of things or machine-to-machine networks, Industry 4.0 and innovations such as the development of 3D-Printing and artificial intelligence. The largest part of cross-border data-flows takes place on an intra-company basis.

In recent years, new trade barriers to cross-border data flows have emerged, including forced data localisation requirements, which discriminate against EU firms whose servers are located in Europe or in global hubs.

We understand that a number of circumstances made it difficult for the European Commission and the EU Member States to enter into negotiations on data flows so far and to put forward its recent proposal to tackle the matter.

However, this becomes now urgent. The window of opportunity for concluding TiSA by the end of this year is narrowing, given the short remaining period before the TiSA Ministerial meeting scheduled for 5-6 December 2016 in Geneva. With a new US administration and important elections coming up also in Europe, 2017 risks being a lost year for major trade initiatives.

We therefore would like to urge you to allow the submission of the Commission's recent paper on proposed language on data flows in international trade agreement to the EU Member States, in preparation for circulating it rapidly to other parties to the TiSA negotiations.

As one of the world's leading trading blocs critically dependent on cross border data flows, the EU must be an active participant in framing international rules that will set high data flow standards for the future.

Yours sincerely,

Art 4.1 (b)

Sir Thomas Harris
ESF Chairman

*Cc: Mr Jean-Claude Juncker, President of the European Commission
Mrs Cecilia Malmström, European Commissioner for Trade*