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Trade in Services Agreement holds promise of increased jobs and growth

The American Chamber of Commerce to the European Union (AmCham EU) strongly supports the EU's proposal to launch negotiations for a Trade in Services Agreement (TISA). As the EU prepares to embark on a Transatlantic Trade and Investment Partnership (TTIP) with the United States this year, maintaining a firm commitment to liberalising the services sector in the wider international realm is critical. A commercially meaningful TISA, which allows companies to compete on a level playing field in the global marketplace, will play a vital role in safeguarding the recovery of both the European economy and paving the road to renewed economic prosperity.

Services are essential to enabling all international trade

In order to make, buy, move or sell products, services play an integral role. High-tech services enable research and development, and in many sectors, make up an important part of the final product itself. Professional and financial services provide the support needed for the development and sale of products, retail services provide the venue to the sale of products, and logistics and delivery services get products to and from the market. Developing a common international framework and opening markets to the provision of foreign services will play a crucial role in enabling the international trading platform to meet both current and future demands.

When working with its international partners to develop the contents of such an agreement, AmCham EU encourages EU leaders to take the following priorities into account:

1. Transparency, regulatory coherence and stakeholder consultation

AmCham EU is a long-standing supporter of transparency of legislative processes, broad and frequent consultation with all stakeholders from the earliest stages, and regulatory coherence. This can be achieved through consultative partnerships between regulatory agencies and their stakeholders, and productive dialogues between international counterparts.

In addition, it is important to ensure that regulatory requirements do not act as discriminatory barriers to market access, and regulation should be limited to what is necessary to achieve specific and legitimate policy objectives. In cases where competitive market forces impede the achievement of a regulatory objective, regulatory review or forbearance should take place as appropriate.

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2. Promoting fair competition and a global level playing field

Opening domestic markets to foreign services must go hand in hand with the promotion of fair competition and a global level playing field for all companies. Avoiding discrimination against foreign service providers through national treatment and other means is particularly important in services companies, which are typically highly regulated and where authorities may enforce onerous licensing requirements that tip the playing field toward local providers, stifling growth as a consequence.

3. Facilitating customs processes

Inefficient and burdensome customs administration procedures are a key deterrent to the growth of international trade, particularly for new market entrants and smaller enterprises. Establishing effective processes for customs clearance through commitments to immediate release of goods, single-window clearance and the use of electronic border clearance in the context of the TISA will result in immediate trade facilitation gains.

4. Protection against forced localisation barriers to trade

AmCham EU urges against requirements that foreign service providers cede a portion or all of their ownership or control to locally based interests e.g. data storage, server location or domestic employment quotas. These practices impede foreign direct investment and TISA members should prohibit such restrictions, which limit investment and hinder the growth of digital trade and electronic commerce. The agreement should also seek to limit exceptions, such as life, safety and national security to ensure they are not used as disguised barriers to trade.

5. Deeper concessions for express delivery services (EDS)

Despite their critical role in international trade supporting the development of modern, global supply chains, the EDS sector faces some of the most antiquated policy environments for doing business, including onerous regulations on cross-border transport, inefficient border clearance procedures and domestic regulations that distort competition. A strategically negotiated TISA, which achieves deeper concessions on EDS will have significant benefits for the EDS sector and its customers, particularly small and medium-sized enterprises.

6. Facilitation of cross border data flows

Given advances in information and communication technology, and the increasing possibilities for services to be delivered electronically, restrictions on cross border data flows increasingly serve as barriers to services trade. With this in mind, the TISA should allow cross border data flows, external data management, storage and access (including the ability to use cloud-based technologies) both within a firm and in its operations

with customers.¹ The TISA should establish an obligation to allow cross border data flows for the purpose of delivering permitted services (Mode 1) and operations of global services businesses, including local investments (Mode 3). Finally, AmCham EU believes that the TISA should provide for consistency and regulatory certainty in the field of cross-border data flows by ensuring compliance with accepted international principles.²

7. Open and accessible market commitments for electronic security services

Where innovative life safety technology and services are deployed, small and medium sized businesses will prosper. Conversely, investment will be discouraged when consumers do not feel secure. Products are only as good as the quality of the design, installation, service and monitoring of the electronic security system. In line with protection against forced localisation, the benefits of commercial and residential electronic security services should be free from localisation requirements under the banner of national security. The adoption and distribution of best available techniques and products are essential when threats to commerce and personal safety exist; therefore AmCham EU encourages the EU to include provisions on electronic security services in the TISA.

8. Enhancing global mobility

AmCham EU urges TISA members to commit to improving the ability of business professionals to travel temporarily for work. This will enhance economic growth and integration across all parties. We support action on Mode 4 services in a TISA that would clarify, harmonise and broaden the definition of business visitor across TISA participants. This definition should include functions related to providing after-sales service; participating in commercial transactions, negotiations and litigation; participating in scientific, educational, professional or business conferences, consultations or conventions; exhibiting at an international fair or trade show; engaging in research, design, marketing, market research, sales, or distribution; engaging in short-term educational programmes; and providing professional or business services. Secondly, the definition of business visitor should permit and facilitate the temporary entry of intra-company transferees, professionals with specialised knowledge or advanced degrees, and traders and investors. Finally, the TISA should create pathways to facilitate visa processing and entry for business professionals and frequent travellers, including by facilitating the creation and harmonisation of electronic document submission options for TISA members, and developing a TISA-wide trusted-traveller and border-processing programme.

¹ This principle has been described in the 2011 US-EU Trade Principles on ICT Services (and similar US-Japan principles), and in the OECD Internet policy principles.

² Such as the OECD Privacy Principles contained in the OECD Guidelines on the Protection of Privacy and Trans Border Flows of Personal Data.

The future of the Trade in Services Agreement

In addition to boosting international services trade, the TISA presents an important opportunity for its members to shape future standards in the longer term. The 21 WTO members currently engaged in preliminary TISA discussions represent a vital segment of the global service industry -- up to 70 percent of the world's trade in services -- and this is a powerful starting point. Nevertheless as negotiations progress, AmCham EU encourages EU leaders to develop an agreement with a view to enlarged future participation, particularly by large emerging economies such as China and India, and possible incorporation in the WTO suite of agreements.

AmCham EU is confident that adhering to these priorities will help to ensure that the Trade in Services Agreement provides a catalyst for the creation of growth and jobs in the services sector and beyond.

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AmCham EU speaks for American companies committed to Europe on trade, investment and competitiveness issues. It aims to ensure a growth-orientated business and investment climate in Europe. AmCham EU facilitates the resolution of transatlantic issues that impact business and plays a role in creating better understanding of EU and US positions on business matters. Aggregate US investment in Europe totalled €1.9 trillion in 2012 and directly supports more than 4.2 million jobs in Europe.

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