

Brussels, 26 February 2015  
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**NOTE**

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From: Presidency  
To: Permanent Representatives Committee  
Subject: Decision to make public the TiSA negotiating directives

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1. Following the increased interest by the public in the Trade in Services Agreement (TiSA) negotiations, Trade Commissioner Cecilia Malmström sent a letter on 29 January 2015 to the Latvian Minister of Foreign Affairs, Mr Edgars Rinkēvičs, suggesting to make the TiSA negotiating directives public, as set out in document ST 6891/13 ADD 1 EU RESTRICTED.
2. Members of the European Parliament have also demanded orally the release of the TiSA negotiating directives on a number of occasions.
3. The Commission has already taken steps to enhance the release of the TiSA negotiations by making public on its website the initial EU offer and a number of other documents.
4. The suggested release of the TiSA negotiating directives was discussed by the Trade Policy Committee (Full Members) at its meeting on 20 February 2015. While delegations broadly supported making the negotiating directives public, one delegation indicated that it was not in a position to give its agreement in the Trade Policy Committee, as the release of the

negotiating directives had horizontal implications extending beyond the agreement at stake. Several other delegations, while not opposing making the TiSA negotiating directives public, indicated their wish to have a more horizontal discussion in COREPER at an appropriate moment. It should be noted that the decision to make the TiSA negotiating directives public, which cover areas of Member States' competence, has to be taken by common accord.

5. The Presidency, acknowledging the positive impact that greater transparency could have on the outcome of the TiSA negotiations, considers that making the negotiating directives public will have no impact on the ability of the EU to negotiate effectively and will not undermine the EU's negotiating position in these specific negotiations. It has therefore proposed a statement to the Council minutes (see Annex) clarifying the reasoning for making the negotiating directives public, as well as the general principles which should apply to any future such decisions.
6. In this light, the Permanent Representatives' Committee is invited to discuss the horizontal question of making negotiating mandates public and the principles to be applied in the future, as well as to reach agreement to make the TiSA negotiating directives public, including agreeing on a statement to the minutes of the Council, as set out in Annex.

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**Draft statement to the Council minutes**

"The Council, having carefully considered the negotiating directives for the Trade in Services Agreement (TiSA), is of the view that making the negotiating directives public will have no impact on the ability of the EU to negotiate effectively and will not undermine the EU's negotiating position in these specific negotiations. Furthermore, the Council considers that release will not undermine the public interest as regards international relations, nor the Council's decision-making process in this specific case. Given the plurilateral nature of the negotiations on TiSA in the context of the WTO, release would also correspond to the WTO's framework for transparency.

As regards possible future decisions to make public other negotiating directives, the Council recalls that the negotiation of international agreements can justify a certain level of confidentiality in order to ensure the effectiveness of the negotiations. As a result, negotiating directives should, as a matter of principle, remain outside the public domain. Any decision to make negotiating directives public shall therefore be taken in the light of a careful analysis, based on the facts and merits of each specific case pursuant to the established practice of the Council, and can under no circumstances be seen as constituting a precedent for the future."

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