On the leaked TiSA documents:

bilateral market access request by the European Union - June 2016

a preliminary analysis, 6 Oct 2016

This leak consist of 14 documents that apparently represent part of the requests of the European Union during the second round of exchange of offers and request in June 2016 of currently ongoing TiSA negotiations.

The leak contains the request to: *Chile, Chinese Taipei, Colombia, Costa Rica, Hong Kong, Israel, Japan Korea, Mauritius, Mexico, Pakistan, Panama, Peru and Turkey*.

A similar document had reached the public domain on 22 Sept 2016 representing the EU request to Switzerland[1]

We try here to provide a first preliminary analysis of these documents.
However it is important to note that for a proper analysis of the potential implications of these EU demands the prior offers of these 14 countries would be needed. But like most TiSA related documents these are shrouded in total secrecy and not in the public domain.

For example, since the nature of the "policy space reservations" of Chile for Constructions services are not know the potential implications of the EU demand to remove these reservations can not be properly evaluated.

Never the less we believe that even without such context it already becomes clear that the EU demands in the TiSA negotiations require urgent public scrutiny.

The EU for example demands from *Israel* to "remove or narrow policy space reservations for **environmental protection**" and to remove "the right to deny a foreign investment if this would hinder the maintenance of **essential national interest**"[2]

The EU repeatedly demands that countries eliminate their reservations for measures taken by local and sub national governments. If countries would follow this demand this might have direct consequences for internal politics and the power relations between national and sub national political decision making. The EU for example demands from the national governments of *Japan*, *Chinese Taipei*, and *Mexico* to take away policy space from their **sub-national** and **local governments**.

The EU has also far reaching demands related to the **retail sector**. The EU is for example demanding from *Mexico* to reviews its reservations related to the sell of **firearms, cartridges and ammunition.**

Several countries have passed laws to ensure that foreign investment leads to positive national employment effects. The EU apparently tries to use the TiSA negotiations to change such national laws. This is illustrate by the leaked demands to *Panama, Turkey*

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1 Jan Jirat, *Dienstleistungsabkommen TiSA, Die Kehrseite des TTIP-Erfolgs,* Die Wochenzeitung 22/09/2016 online at https://www.woz.ch/-724d

2 The EU apparently wants to restrict this to a more narrow horizontal "security exception"

and *Mauritius*, that, if agreed, could have serious implications for **local employment and the national labour market**.

The EU also shows a total neglect for national sector development strategies of developing countries like *Mauritius* and *Pakistan*. So asks the EU *Pakistan* to stop its efforts "**to support its small and medium scale domestic services providers**" and to remove joint venture requirements for engineering services. From *Mauritiu* the EU demands to reduce its **performance requirements for investors with respect to local labour and local content**

Other measures that are challenged by the EU are limitations on foreign control over national telecommunication infrastructure, postal services or mass media. The EU for example challenges in its requests: the 49% equity cap for telecommunications and broadcasting in *Mexico* , the 40% limitation on foreign equity in any enterprise holding a free-to-air TV concession in *Colombia,* and the limitation to a 49% foreign participation in *Koreas* telecommunication sector. (see also the EU requests for *Colombia* & *Israel)*

The EU also seems to **rejects the principle of reciprocity** (meaning that a country only liberalise a sector if the counterpart country takes the same commitment) as reflected for example in its demands to *Mexico*

The EU also has substantial demands related to financial services. Several national restrictions and reservations that are questioned by the EU might be instrumental to prevent national financial instability or financial crisis.

The October 6, 2015 decision by the Court of Justice of the European Union (CJEU) prohibited the transboundary data transfer under the so called Save Harbour Agreement of the EU with the USA. Reason was that US law allows access to EU data stored on servers in the USA by the National Security Agency and other US agencies. Since it is unlikely that the USA will change its related laws it is expected that EU will have to introduce new data localisation requirements in the near future.

This seems in harsh contrast to the consistent demand of DG trade of the EU commission in these leaked documents to remove localisation requirements for data processing and the insistence of the EU commission on free cross border data flows.
While frequently explicitly mentioned in the EU requests for financial services [see e.g. *Turkey*, *Korea*, *Mauritius* or *Pakistan*] the request to eliminate barrier to transboundary data flows also hides behind the somewhat cryptic EU request to "**take full commitments for CPC843"**

CPC stand for *Central Product Classification* system of the United Nations and CPC code 843 stands for "Data processing services" (see for example the EU request to *Panama*)

These are just a few examples that in our view illustrate that the EU negotiation position in these secret trade talks seems to be purely driven by the commercial demands of special interest groups such as the European Services Forum and in total neglect of the wider norms and values of the European Union.

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