



Trade in Services Agreement (TiSA) Market Access Negotiations: Israel

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Description

This is a confidential Market Access Negotiations document from the European Union (EU) to Israel in the negotiation of the Trade in Services Agreement (TiSA). TiSA is an international treaty currently under negotiation between the United States, the European Union and 23 other countries. The Agreement creates an international legal regime which aims to deregulate and privatize the supply of services - which account for the majority of the economy across TiSA countries. The Market Access Negotiations document exposes part of the negotiating process, whereby one of the negotiating parties (the European Union) outlines its requests for a schedule of commitments from another of the parties (Israel). The text dates from shortly before the 11th round of TiSA negotiations held 9-13 February 2015 in Geneva, Switzerland.

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**TiSA – market access negotiations
by country**

(25 January 2015)

I S R A E L

SUMMARY

- **EU's interest:** To get further market access at least in business services, construction, distribution, postal, transport and telecom and substantive improvement on mode 4 and financial services
- **Israel's interest:** financial services

1. Offensive	points
Key market access requests that remain to be offered by Israel	

The requests below do not cover the whole set of EU requests to Israel, but represent the key ones that should be raised in bilateral market access negotiations.

Request n°1: Horizontal

COMMITMENTS, OFFERS AND INDICATIONS

TiSA	GATS/ DDA (initial + revised offer)	Best FTA
<p>Very poor offer, telecom, distribution and transport to be improved; construction, education, health and recreational to be committed.</p> <p>Very poor commitments on mode 4.</p> <p>There are several horizontal restrictions, including public monopolies, registration of corporate bodies.</p>	<p>Commitments in some sectors (business, distribution, construction, transport and energy) are made or improved, most sectors have in fact remained unchanged.</p> <p>Horizontal restrictions on commercial presence (mode 3): residency requirement of the 'outside' directors of a company is removed (it seems), but discretionary approval of registration of limited partnership is retained.</p>	<p>Israel does not have the FTAs with the services schedules and only few with the services cooperation articles in the text. So it is not possible to conduct the comparison.</p>

ASSESSMENT

- Israel does not have schedules services' commitments in any of its FTAs, so in TiSA it is essential that Israel offers significantly more than GATS and DDA.
- The current TiSA offer contains market access commitment in only about half of WTO120 list of sectors. Important sector such as construction is not scheduled. Some subsectors of business services as well as energy are scheduled but with no commitments.
- There is almost no offer in distribution services (only 1 subsector from 1 out of 5 sectors committed, and only in M3; policy space reservation NT). We also note only partial commitments on telecom, transport and postal.
- The offer contains number of FDI caps and number of minority FDI caps, including those in horizontal commitments.
- There are also very limited commitments on mode 4.

EU INTEREST

- Complementing the offer with uncommitted sectors, improving the sectors partially committed as well as removing FDI caps will substantively add value.

Outcome of the bilateral meeting of November 7, 2014

- The EU pointed towards IL offer's cover note which indicates that the offer is partial and that consultations are on-going for possible improvements.
- Israel clarified that some discussions are on-going but nothing could be shared at the occasion of the bilateral meeting. Updates will come but without precise indication when.

Request n°2: Sector mode 4**COMMITMENTS, OFFERS AND INDICATIONS**

TiSA	GATS/DDA (initial + revised offer)	Best FTA
<p>No period of stay provided, Only ICTs: Executive, managers without ENTs; Specialists with ENTs!</p> <p>In sectors committed (in total 60) NT restriction: Israeli residence or citizenship required for a licence for legal and taxation services.</p>	<p>No offer at all (as had been indicated during the bilaterals), so no CSS or business visitors or graduate trainees.</p> <p>ICT commitments for specialists remain subject to Labour Market testing.</p>	N/A

ASSESSMENT

- The offer is only limited to commitments on ICTs, with explicitly requiring ENTs for specialists.
- Further, it does not contain periods of stay for committed categories.
- No commitments for CSS and IPs.

EU INTEREST

- Next to economic value the request has also a systemic value for mode 4 negotiations on the standards proposed by the EU in the text.
- In EU interest is to eliminate ENTs for specialists and achieve commitments on business visitors and at least for CSS.

FEASIBILITY/EXPECTATIONS

- Israel is willing to clarify commitments, but taking any more commitments will be very difficult and unlikely, in particular on CSS and IPs.
- This is a political issue in Israel, strongly linked to national security considerations, including for the question of business visitors.

Outcome of the bilateral meeting of November 7, 2014

- Israel took note.

Request n°3: Business services

COMMITMENTS, OFFERS AND INDICATIONS

TiSA	GATS/DDA (initial + revised offer)	Best FTA
<p>- Research and Development: not committed.</p> <p>- Real estate services: sector listed but not committed.</p> <p>- Rental and leasing services: sector listed but not committed.</p> <p>- Other business services: 12 out of 20 subsectors scheduled but among those 4 totally unbound, rest with partial commitment for mode 1 or 3.</p> <p>The offer indicates that real estate and rental/leasing might be added at a later stage.</p>	<p>Research and Development, Real estate and rental services: not committed.</p> <p>Other business services – only 7 out of 20 subsectors committed.</p>	N/A (no services agreements so far)

ASSESSMENT

- A more ambitious approach in the business services sector by Israel would be welcome, especially improving the offer in real estate and rental and leasing services as well as in the other business services.

<u>Outcome of the bilateral meeting of November 7, 2014</u>
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| <ul style="list-style-type: none"> • Israel took note. |
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Request 3bis: Computer services
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ASSESSMENT

- Israel has great interest in that sector (is part of the 'friends of computer services'), given the highly advanced nature of its IT sector.
- That sector was totally open in Israel, but in TiSA offer: Partial commitments MA scope: CPC 841 to 849, excluding CPC 84330 (time shadings services).
- CPC 849 remains uncommitted.
- No reference to CRS understanding.

EU INTEREST

- Committing computer services at two digits level.

Outcome of the bilateral meeting of November 7, 2014

- Israel took note.

Request n°4 Tourism services

COMMITMENTS, OFFERS AND INDICATIONS

TiSA	GATS/DDA (initial + revised offer)	Best FTA
<p>Full coverage in terms of listed sectors but with partial commitment (Mode 3 in CPC 7472 restricted to Israeli resident or citizen in MA and NT), for CPC 7471 in NT 1) 3).</p> <p>Only licensed tourist guides (Israeli resident or citizen) may be employed by travel agencies and operators to guide their tours in Israel.</p>	<p>In GATS full coverage but with partial commitment.</p> <p>In DDA Israel proposed liberalisation of travel agencies and tour operators in mode 3 by removing requirements of national ownership and employment (so as proposed in TiSA).</p> <p>Other important points like cross-border services of travel agencies and tour operators remain unbound.</p>	N/A (no services agreements so far)

ASSESSMENT

- Quite good offer for tourism services.
- A clarification needed for CPC 7471 (Travel agencies and tour operators) for NT. In GATS/DDA mode 3 in none, while in TiSA is limited: "Only licenced tourists' guides (Israeli residents and citizens) may be employed by travel agencies and operators to guide their tour in Israel." – If not mistake, then it would be a GATS minus.

<u>Outcome of the bilateral meeting of November 7, 2014</u>
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| <ul style="list-style-type: none"> • Israel took note, but stressed that the circumstances might have changed and IL might need to introduce a GATS minus. |
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Request n°5: energy services

COMMITMENTS, OFFERS AND INDICATIONS

TiSA	GATS/DDA (initial + revised offer)	Best FTA
<p>Only two of seven energy-related categories are committed. However, as the EU is closed on a number of these categories as well.</p> <p>Policy space for energy services.</p> <p><u>Market access / National treatment: Categories as in EU offer</u></p> <p>A. Services incidental to mining (CPC 833): no reservation on mode 3 (modes 1/2 not feasible).</p> <p>B. Pipeline transportation of fuel (CPC 7131): unbound.</p> <p>C. Storage and warehouse services of fuels transported through pipelines (CPC 742): unbound.</p> <p>D. Wholesale trade services of solid, liquid and gaseous fuels and related products (CPC 62271): not covered.</p> <p>E. Retailing Services of motor fuel (CPC 613): not covered.</p> <p>F. Retail sales of fuel oil, bottled gas, coal and wood (CPC 63297): none for mode 3.</p> <p>G. Services incidental to energy distribution (CPC 887): not covered.</p>	<p>For DDA offer, almost the same, for categories B and C is mode 3 not completely unbound – however possible nationality and residency requirements.</p>	N/A

ASSESSMENT

- There is no explicit energy-related offer. Categories to which energy services belong to (as listed below) are relatively closed.
- The TiSA offer is completely unbound in mode 3 for categories B (pipeline transportation of fuel) and C (storage and warehouse services), while in the DDA offer is not - however certain residency and nationality reservations are listed.

EU INTEREST

- Substantial interest.

FEASIBILITY/EXPECTATIONS

No high expectations, given the EU's limited openness it is difficult to ask for commitments.

Outcome of the bilateral meeting of November 7, 2014

- Israel clarified that the energy regulatory framework was under review, it was linked with the discovery of the gas in the sea and a possibility for new pipelines. Their position will be clearer within around a year.

Request n°6: Telecommunication services**COMMITMENTS, OFFERS AND INDICATIONS**

TiSA	GATS/DDA (initial + revised offer)	Best FTA
Israel takes commitments on all sub-sectors of telecommunications, for all modes 1-3. Full commitments in mode 1 and 2. Partial commitments in mode 3: foreign ownership and senior management requirements.	No commitments beyond public mobile voice telephony (CPC 75213).	N/A

ASSESSMENT

- TiSA offer: Partial commitments. Not satisfactory.
- For both mode 1 and mode 3, need to incorporate in Israel + main place of business in Israel, it's problematic for mode 1.
- FDI cap at 74 or 80 per cent for basic services + Nationality requirement for directors in telecom and broadcasting (in policy space reservations list).
- Reference to the regulatory principles of the GATS Annex.
- No commitment for VAS.
- For Broadcasting: Partial commitments. Not satisfactory as no MA commitments, but some very restrictive NT limitations.

ESTIMATED VALUE AND EU INTEREST

- Substantial interest. Orange already one of key players in mobile telephony market.

Outcome of the bilateral meeting of November 7, 2014

- On the obligation to incorporate for mode 1, IL questioned whether this was a real problem, whether we had a negative feed-back from our industry. EU clarified that this was a systemic interest but would in no doubt add costs for the operators.

- FDI caps: IL will revert to us on the absence of listing of the foreign equity caps in the NT column. Might be only a scheduling issue as it appears it is in the legislation.
- Reference to the GATS Annex: IL to revert. Not clear why this reference is there.
- VAS are missing: There is a new competition law in the pipeline. GOV is developing new policies in the area – so to be followed up.

Request n°7: Transport

COMMITMENTS, OFFERS AND INDICATIONS

TiSA	GATS/DDA (initial + revised offer)	Best FTA
<p>NT: overall reservation for maritime transport services. MA: no "dry" rental. Air auxiliaries very limited (only CRS and some repairs) Road transport: OK. Auxiliaries: very limited. No rail no internal waterways.</p> <p>New commitments in previously uncommitted sector are offered, in air transport (maintenance and repair, CRS) - corresponding partly to EC request, road transport (freight transportation, maintenance and repair of vehicles, and repair services) partly as requested by EC, auxiliary services (storage and warehouse), also partly responding to request of EC. In addition, commitments on transport of petroleum and natural gas (CPC 71310).</p>	N/A	N/A

ASSESSMENT

- No MA commitments on international maritime transport.

<u>Outcome of the bilateral meeting of November 7, 2014</u>
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| <ul style="list-style-type: none"> • <u>Maritime</u>: Israel clarified that this sector is undergoing a privatisation process. One of the most problematic issues is the following: there are 3 existing ports and another 2 ports will be built, and there are some contentious issues with the local unions of the ports. There is quite a clear policy from the ministry but will take time. EU insisted on the importance of maritime transport and suggested to have a discussion sub-sector by sub-sector, as they are not all subject to the current changes, international maritime transport in particular. • <u>Air transport</u>: Israel too note of the EU question on extension to airport operations, ground handling, selling and marketing. |
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Request n°8: Competitive Delivery Services

COMMITMENTS, OFFERS AND INDICATIONS

TiSA	GATS/DDA (initial + revised offer)	Best FTA
Partial commitment (4 out of 6 subsectors committed according to W120; missing CPC 75113 and CPC 75119); above 500gr per addressed item; mode 2 unbound as technically not feasible.	In GATS postal and courier committed in M1 and M3, M2 unbound due to tech. feasibility; liberalised for items above 500g); No additional offer in DDA.	Israel does not have the FTAs with the services schedules, and only few with the services cooperation articles in the text. So it is not possible to conduct the comparison.

ASSESSMENT

- Overall very good MA commitments of Israel in postal and courier services.
- The only not committed sectors relate to e.g. to post offices where interest of the EU operators is more likely to be very limited (if existing at all).
- A 'reserved area' for items below 500gr.

<u>Outcome of the bilateral meeting of November 7, 2014</u>
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| <ul style="list-style-type: none"> • Israel took note of the request to reduce the reserved area. |
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Request n°9: Distribution

COMMITMENTS, OFFERS AND INDICATIONS

TiSA	GATS/DDA (initial + revised offer)	Best FTA
<p>Almost no offer in distribution; only 1 subsector from 1 out of 5 sectors committed (retail of fuel oil, bottled gas, coal and wood), and only in M3.</p> <p>Policy space reservation NT.</p>	<p>Limited offer made for this sector in mode 1 - 3 (full) and in mode 4 (as indicated in the horizontal section).</p> <p>For wholesale trade only for CPC 61111, and retail trade only 61112 (motor vehicles), 6121 (motorcycles etc.) and 63297 (fuel oil, bottled gas, coal and wood).</p>	<p>Israel does not have the FTAs with the services schedules, and only few with the services cooperation articles in the text. So it is not possible to conduct the comparison.</p>

ASSESSMENT

- The TiSA offer is a clear GATS minus.
- Policy space reservations with regard to distribution services.

<u>Outcome of the bilateral meeting of November 7, 2014</u>
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| <ul style="list-style-type: none"> • Israel will provide further information on a new law passed a few month ago i.e. an anti-monopoly laws relating to some geographical areas (at least 3 different supermarkets in a given region). But there are many different measures being taken aiming at lowering the costs of living. |
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Request n°10: Financial services

COMMITMENTS, OFFERS AND INDICATIONS

TiSA	GATS/DDA (initial + revised offer)	Best FTA
<p>Insurance Services:</p> <p>Ok. Understanding + with regard to live insurance model, Understanding – with respect to services auxiliary to insurance.</p> <p><u>Mode 1</u></p> <p>MAT insurance and reinsurance committed, unbound for services auxiliary to insurance (Understanding-). Life insurance committed cross border (!)</p> <p><u>Mode 3: committed</u></p> <p>Banking Services:</p> <p>In section A potentially broad policy space NT reservation for all modes of supply for all banking services “in order to promote competition in the banking sector”. Otherwise ok, but Mode 1 auxiliary services should be committed.</p> <p><u>Mode 1</u></p> <p>Lending, credit committed, transfer of information committed, but advisory and other auxiliary financial services unbound (Understanding -).</p> <p><u>Mode 3</u></p> <p>Banking services in general committed with the exception of trading of derivatives, interest rate instruments which is unbound in mode 3.</p> <p>Deposit taking and lending “unbound for non-banking institutions” > means that you have to be authorised as a Bank in order to provide this service (if this is the meaning would not have to be scheduled).</p>	<p>No new/improved commitments offered, only some (technical) changes to the general notes regarding currency regulations.</p>	<p>Israel does not have FTAs that cover services, and only few with the cooperation articles in the text. So it is not possible to conduct the comparison.</p>