

DIRECTORATE-GENERAL FOR EXTERNAL POLICIES
POLICY DEPARTMENT



**Comparison
of the EU
service offers
for the TTIP
and TiSA
negotiations**

INTA



STUDY

Comparison of the EU service offers for the TTIP and TiSA negotiations

ABSTRACT

A comparison of the services offers which the European Union has made for the negotiations on the EU-US Transatlantic Trade and Investment Partnership (TTIP) and the Trade in Services Agreement (TiSA) shows that, in general, both treaties follow similar approaches and points of difference are minor; both TiSA and TTIP apply a positive listing approach in regards to market access and negative listing in regards to national treatment, and the rules governing market access and national treatment do not differ between the two agreements. The most significant differences in sector-specific provisions are featured in the transport sector and educational services, while the highest harmonisation of provisions is in the energy sector and communications. Overall, the service provisions in TiSA and TTIP are very similar, although it seems that the level of trade liberalization is higher in TiSA.

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Table of contents

Glossary	4
Executive summary	5
1 Scope of TiSA and TTIP	6
2 Overview of scheduling commitments	7
3 Comparison of rules	8
3.1 Market access	8
3.2 National treatment	8
3.3 Most favoured nation	9
3.4 Coverage of domestic regulation	9
3.5 Mutual recognition of qualifications	9
3.6 Payments and transfers	10
3.7 General exceptions	10
3.8 Security exceptions	11
3.9 Summary	11
4 Comparison of sector specific provisions	13
4.1 Limitations on market access	14
4.2 Limitations on national treatment	23
4.3 MFN exemptions	31
4.4 Summary	39
5 Conclusions	42
6 Bibliography	43

Glossary

AT	Austria
BE	Belgium
NG	Bulgaria
CY	Cyprus
CZ	Czech Republic
DE	Germany
DK	Denmark
EE	Estonia
EL	Greece
ES	Spain
FI	Finland
FR	France
HR	Croatia
HU	Hungary
IE	Ireland
IT	Italy
LT	Lithuania
LU	Luxembourg
LV	Latvia
MT	Malta
NL	Netherlands
PL	Poland
PT	Portugal
RO	Romania
SE	Sweden
SI	Slovenia
SK	Slovakia
UK	United Kingdom

Executive summary

In this paper we analyse and compare the service provisions in the European Union offers for the negotiations on the Trade in Services Agreement (TiSA) and the EU-US Transatlantic Trade and Investment Partnership (TTIP). TiSA is a plurilateral trade agreement negotiated by the EU and 22 other members of the World Trade Organization (WTO) which aims at liberalizing worldwide trade in services with the ultimate goal of making TiSA provisions a part of the WTO. TTIP is a bilateral trade agreement between the EU and the US, aiming at creating a free trade area on both sides of the Atlantic, which also involves trade liberalization in services. Both agreements take the General Agreement on Trade in Services (GATS) as a starting point for the negotiations.

TiSA and TTIP both apply a positive listing approach to scheduling (the listing of the provisions related to specific commitments) in regard to market access provisions, which means that the sectors for which trade liberalization commitments are undertaken are specifically listed. In regard to national treatment, the negative listing method is utilized, committing national treatment to all sectors while only listing exceptions. The 'ratchet' clause (a binding reduction or elimination of trade barriers for the future) applies in both TiSA and TTIP, with TiSA covering only a part of explicitly-listed provisions on national treatment and TTIP applying to explicitly-listed existing measures relating to national treatment, performance requirements, principles applying to senior management and board of directors, and most favoured nation treatment. Standstill clauses (setting the current level of market openness as a lower bound for liberalisation) are binding in TiSA, on the same issues for which the ratchet clause applies, while it is currently not possible to say whether TTIP will include such a ratchet clause.

The rules governing market access in the publicly available material are similar in both agreements, although TiSA has a longer list of areas in which limitations are not allowed. For national treatment, the provisions are also very similar, with TTIP indicating additionally that national treatment does not require compensating foreign services or service suppliers for their competitive disadvantage resulting from their foreign origin. As of this writing, most favoured nation provisions are missing in general text of TiSA, although the exemptions of this rule are summarized in the list of specific provisions. Nor does TiSA currently include articles on domestic regulation, licensing, qualification requirements and procedures, or mutual recognition of qualifications. In TTIP all these provisions are described in detail. Finally, the ban on restricting payments and transfers that is present in TiSA is currently missing in TTIP.

In addition to the rules concerning horizontal issues in services under the two agreements, this study also compares the sector-specific provisions in communication and telecommunications; construction services; distribution; educational services; environmental services; health and social services; transport services, and energy services. Our comparison shows that limitations on market access, national treatment, and MFN are rather consistent across sectors, with the main differences appearing in the transport and in the educational services sectors. The highest degree of commonality is recorded in the energy sector and communications. Finally, our analysis shows that TTIP contains a much higher number of limitations in comparison to TiSA.

1 Scope of TiSA and TTIP

The purpose of this paper is to analyse and compare service provisions in two major proposed international trade agreements in which the European Union (EU) is a participant. The Trade in Services Agreement (TiSA) is a plurilateral trade agreement currently being negotiated by the EU and 22 other members of the World Trade Organization (WTO)¹. TiSA aims at liberalizing the worldwide trade in services. The Transatlantic Trade and Investment Partnership (TTIP) is a proposed bilateral free trade agreement between the EU and the US which also involves trade liberalization in services.

Both agreements are significant trade liberalization attempts, particularly because they involve the two largest world economies. The EU and the US together account for around 38% of world trade in services², while participants of the TiSA agreement account for 70% of world trade in services³. The fundamental difference between the two potential treaties is the fact that TiSA is a plurilateral agreement devoted completely to trade in services and involves many parties, while TTIP is a comprehensive bilateral free trade agreement in which only a part of regulations is related to services.

TiSA is based on the General Agreement on Trade in Services (GATS)⁴, a treaty of the World Trade Organization, which entered into force in 1995 after the Uruguay Round negotiations. GATS provisions regulating multilateral trading in services are also present in TiSA⁵, although the latter incorporates additional liberalization commitments, making it a “WTO-plus” agreement. As TiSA is compatible with GATS, any WTO member not originally included can become a participant in the future if they wish to; this provision also means that TiSA can be incorporated into WTO rules proper in the future if desired.

On the contrary, TTIP does not have a plurilateral character – only two parties, the EU and the US, are involved. Although the negotiated service provisions in TTIP also take GATS as a starting point, TTIP is not intended to become a part of WTO regulations in the future. This is because TTIP is a more ambitious trade liberalization than TiSA, aiming at creating a free trade area on both sides of the Atlantic.

Both TiSA and TTIP are important elements of the trade policy strategy of the European Commission (EC)⁶ which negotiates trade agreements on behalf of the EU. The Commission seeks to prioritize trade in services, as they account for around 70% of the EU GDP and employment. Services account for almost 40% of value of exports from Europe and the EU is the world’s largest exporter of services. The EC wants to use TiSA negotiations to restart the multilateral trade liberalization negotiations stalled after no progress in the Doha Development Round. As indicated above, the ultimate aim is to make TiSA a part of the WTO provisions.

The rest of this paper is organized as follows. In the next section an overview of the approaches to scheduling of commitments is provided. In the third section specific rules concerning trade in services in both agreements are compared. In the fourth section sector-specific commitments are examined. Finally, the fifth section has some concluding thoughts about the approaches of each agreement.

¹ Which include: Australia, Canada, Chile, Colombia, Costa Rica, Hong Kong, Iceland, Israel, Japan, Liechtenstein, Mauritius, Mexico, New Zealand, Norway, Pakistan, Panama, Peru, the Republic of Korea, Switzerland, Taiwan, Turkey and the United States.

² http://trade.ec.europa.eu/doclib/docs/2006/september/tradoc_122532.pdf

³ <http://ec.europa.eu/trade/policy/in-focus/tisa/>

⁴ https://www.wto.org/english/docs_e/legal_e/26-gats_01_e.htm

⁵ Actually, all relevant provisions of GATS are incorporated in the EU TiSA proposal with no change, except for the replacement of “Members” by “Parties”, the references to institutions, the numbering and the cross-referencing.

⁶ See http://trade.ec.europa.eu/doclib/docs/2015/october/tradoc_153846.pdf

2 Overview of scheduling commitments

In general there are two approaches to listing commitments in trade agreements: “positive” or “negative” listing (Adlung and Mamdouh, 2013). In case of the former, which is also called a bottom-up approach, the sectors for which trade liberalization commitments are undertaken are specifically listed. On the contrary, in case of the latter, which is also called a top-down approach, it is assumed that everything is fully committed unless specifically excluded, i.e. those sectors in which trade barriers are left intact must be listed.

Historically, the EU has used both approaches, while the EC (2014a, p. 2-3) treats the choice between them as a technical point, since the same outcomes can be achieved using any of these methods. On the other hand, the EU has been inclined to follow a bottom-up approach in its recent negotiations on trade liberalization, as it is the same method used in the GATS. During the sub-group meeting on services in TTIP some members indicated that negative listing is more far-reaching in terms of trade liberalization, while others claimed that this method is clearer for business as it shows clearly what is not open.

Both of these approaches are also to be found in TiSA and TTIP. Within TiSA (see EC, 2014b, p.1), specific commitments relating to market access are listed using the positive-list approach. On the other hand, the provisions related to national treatment and most favoured nation (MFN) treatment are catalogued in a form of negative list. The same methods are applied in case of TTIP (see EC, 2015, p. 3), with market access scheduled as a positive list and national treatment and most favoured nation provisions are listed using a top-down approach.

The ‘ratchet’ clause in trade agreements means that if in a particular area a trade barrier was reduced or eliminated, this must be binding for the future and therefore such a measure cannot be reintroduced. The ‘ratchet’ clause applies in both TiSA and TTIP. In TiSA (EC, 2014b, p.2) it concerns only a part of explicitly-listed provisions on national treatment. In TTIP (EC, 2015, p. 4) the clause applies to explicitly-listed existing measures relating to national treatment, performance requirements, principles applying to senior management and board of directors, and most favoured nation treatment. The provisions to which it does not apply are listed separately.

The ‘standstill’ clause in trade agreements means that a current level of market openness should be binding. In case of TiSA (EC, 2014b, p.2), the clause applies only to a part of provisions on national treatment – the same for which the ‘ratchet’ clause is binding. In case of TTIP, it is envisaged that the standstill clause will apply to liberalisation of current payments and capital movements, although there is very little within the TTIP offer as currently written that actually refers to standstill clauses. Indeed, much of the definition of standstill clauses in TTIP has been done by opponents to the agreement, suggesting that the actual standstill provisions need to be spelled out more clearly within TTIP and marketed more effectively by the EU.

Notwithstanding this major caveat, overall the approaches to scheduling in the two agreements show very little divergence.

Finally, it is worth noting that the commitments of the US related to the abovementioned clauses tend to follow the same approach to that of the EU offers. Therefore both ‘ratchet’ and ‘standstill’ clause apply to national treatment, but not to market access (Godsoe, 2014). Agreement on this issue was reached during the fifth round of TiSA negotiations in October 2012, with not only the EU and the US but in principle all parties agreeing on how the mechanism of ‘ratchet’ and ‘standstill’ should work (SEPO, 2015). The US position on these clauses has been consistent in recent years; the United States Trade Representative (USTR) has championed ‘ratchet’ clauses as far back as the North American Free Trade Agreement (NAFTA), and such clauses were included in the recently-approved US-Korea Free Trade Agreement of 2012. On the other hand, most NAFTA-type agreements from the US from the mid-1990s onward have not included ‘standstill’ provisions, only beginning to reappear in discrete treaties such as

the US-Australia Free Trade Agreement of 2005. The US offer for TiSA is thus not extraordinary, but does represent somewhat of a change in US trade policy from the early 2000s.

3 Comparison of rules

In this section specific rules (disciplines) governing trade in services under TiSA and TTIP according to the EU proposals are analysed. In particular the rules concerning market access, national treatment, most favoured nation, coverage of domestic regulation, mutual recognition of qualifications, payments and transfers, as well as general exceptions and security exceptions are examined.

3.1 Market access

The general rules governing market access are explicitly outlined in proposed texts for both TiSA and TTIP. Article I-3 of the EU TiSA proposal (2014a, p. 6) is actually a paraphrase of the Article XVI of GATS, indicating that, in all sectors for which Parties of the agreement undertake market access commitments, they must not maintain or adopt any measures limiting the number of services suppliers, the total value of service transactions or assets, the total number of service operations or the total quantity of service output.

The same provisions are also present in the Article 3-2 of the EU proposal for TTIP (2015a, p. 11). In addition to the above-listed areas in which no limitations are allowed, TiSA features also the total number of natural persons that may be employed in a particular service sector or that the services supplier may employ, specific types of legal entities through which services are supplied and the participation of foreign capital in shareholding and foreign direct investment. They are not included in the TTIP proposal in the services chapter, which means that restrictions in these areas are allowed.

The forms of limitations that cannot be introduced in the sectors for which commitments are undertaken include numerical quotas, monopolies, exclusive service suppliers, or the requirement of an economic needs test. Overall, the general provisions regulating market entry are very similar in case of TTIP and TiSA, with the specific commitments on market access with relevant limitations are listed in Annex III to the EU TTIP offer (2015b, p. 117-170) and in the Schedule of specific commitments of the EU TiSA offer (2014b, p. 3-130).

3.2 National treatment

According to the published documents both TiSA and TTIP feature separate articles regulating national treatment. In case of the EU proposal for TiSA (2014a, p. 7) it is the Article I-4 which states that in each of the sectors covered by the agreement each Party must treat services and service suppliers of other Parties no less favourably than the way it treats its own services and service providers. Similar provisions can be found in the EU proposal for TTIP (2015a, p. 11-12).

The requirement of no less favourable treatment can be fulfilled either by formally identical treatment or formally different treatment. The treatment is considered less favourable when it modifies the conditions of competition in a way that favours own services and services suppliers of the Party compared to that of the other Parties. The specific commitments on national treatment with relevant reservations are listed in Annexes I and II of the EU TTIP offer (2015b, p. 4-116) and in the Schedule of specific commitments of the EU TiSA offer (2014b, p. 3-130).

The provisions related to national treatment are almost the same in the two trade agreements. However, besides the above-listed elements, TTIP provisions also feature an additional point stating that the national-treatment provisions should not be interpreted as a requirement for any Party to compensate foreign services or service suppliers for their competitive disadvantage resulting from their foreign origin. This component is missing in the text of TiSA.

3.3 Most favoured nation

The general provisions related to most favoured nation (MFN) treatment are missing in the published text of the EU offer for TiSA. As indicated in European Parliament (2013, p. 15), to avoid free-riding the automatic multilateralization of TiSA based on MFN principle should be suspended temporarily until there is a sufficient number of WTO members willing to join the agreement.

On the contrary, MFN rule is explicitly mentioned in the EU proposal for TTIP (2015, p.12). The Article 3-4 states that each Party must treat services and services suppliers of the other Party no less favourably than it treats services and services suppliers of any non-Party. It means that Parties of the agreement grant each other at least such trade advantages as they give to most favoured third countries. It is also indicated that such provisions should not be interpreted as obliging to extend on the other Party the benefits resulting from double taxation agreements and other treaties regulating the recognition of qualifications, licences and prudential measures.

The specific commitments and relevant reservations on most favoured nation treatment in TTIP are listed in Annexes I and II of the EU offer (2015b, p. 4-116), while the MFN exemptions for TiSA are catalogued in the Schedule of specific commitments of the EU offer (2014b, p. 131-170).

3.4 Coverage of domestic regulation

Provisions on domestic regulation are missing in the published text of the EU proposal for TiSA (2014a). On the contrary, the proposal for TTIP (2015a, p. 16-18) has a separate section devoted to this issue. These provisions relate to licensing and qualification requirements and procedures and apply only to these sectors for which specific commitments are undertaken. The Parties are obliged to ensure that measures concerning licensing and qualification are based on criteria which prevent the respective authorities from performing arbitrary assessment. These criteria should be proportionate to the objectives, clear and unambiguous, objective, pre-established, made public in advance, transparent and accessible.

The provisions state that an authorisation or a license must be granted as soon as the conditions for obtaining them are met. The Parties need to maintain or establish relevant tribunals or procedures which provide a prompt review and appropriate remedies for administrative decisions affecting the supply of services at the request of affected service providers. In case of scarcity of natural resources or technical capacity which limits the number of licenses, the selection procedure must be fair and transparent and may take into account legitimate policy objective like health, safety, consumer and environmental protection or the preservation of cultural heritage.

According to TTIP provisions, licensing and qualification procedures and formalities must be clear, fair, objective, made public in advance and as simple as possible. The authorization fees should be reasonable and proportional to authorization costs. When it is necessary the applicants should be given a reasonable period of application submission, while the authorities should process applications without unnecessary delays. They should also inform the applicants if the application is incomplete and offer the opportunity to correct it. When the application is rejected, upon request, the applicant need to be informed about the reasons for rejection and be allowed to resubmit the application.

3.5 Mutual recognition of qualifications

There is no separate point in the EU proposal for TiSA (2014a) related to general provisions concerning mutual recognition of qualifications (mutual recognition agreement – MRA). It is only mentioned in the Article I-5 that Parties may negotiate additional commitments regarding qualifications and licensing matters. In the proposal for TTIP (2015a, p. 19-22) this issue is presented thoroughly. The system of mutual recognition must be fair, transparent and consistent. The recognition must not cause

discrimination in its criteria for authorization, licensing or certification of service supplier or be a disguised restriction on trade in services.

The Parties should stimulate relevant authorities or professional bodies to develop joint recommendations on proposed MRAs and report them to the Committee on Mutual Recognition of Professional Qualifications (MRA Committee). Such recommendations should assess the compatibility of the existing licensing or qualification systems, the approach for negotiation of MRAs and possible economic gains from mutual recognition.

Subsequently, if these recommendations are consistent with other provisions, the negotiating entities negotiate the MRA. If its draft is consistent with the agreement, the MRA is adopted. If the professional qualifications of a service provider are recognized by the MRA, then the service supplier must be treated no less favourably than those whose qualifications were certified by the host Party's jurisdiction.

3.6 Payments and transfers

There is no separate point in the EU proposal for TTIP related to the provisions related to payments and transfers. In contrast the proposal for TiSA (2014a, p. 8) in the Article 1-7 mentions this issue explicitly. The provision states that the Party cannot restrict international transfers and payments for current transactions which relate to its specific commitments. This should not, though, affect the rights and commitments of the Party resulting from its membership in the International Monetary Fund (IMF) if they are not inconsistent with the TiSA commitments.

The only exception which allows for restricting international transfers and payments, as well as other measures limiting trade in services, is the need to safeguard balance of payments in case of serious financial problems. It is indicated that the process of economic development or economic transition may require the maintenance of a certain level of financial reserves which in certain circumstances involves the use of the abovementioned restrictions.

Such measures cannot discriminate among Parties, need to be consistent with International Monetary Fund (IMF) regulations, and must avoid unnecessary damages to the economic interests of others. They also should not go beyond the specific circumstances and ought to be temporary and gradually phased-out when the situation improves. These restrictions must not be used to protect any particular sector. The agreement should also define the body to which the restrictions and their changes are notified. The body will be responsible for assessing the balance of payments situation and foremost the need to introduce restrictive measures.

In the published text of the EU proposal for TTIP (2015a, p. 52) it is indicated that the articles on balance of payments will be inserted at a later stage.

3.7 General exceptions

The provisions on general exceptions are present in the proposal for both TiSA and TTIP. They are very much similar. Article I-9 in the proposal for TiSA (2014a, p. 9-10) it is indicated that the agreements cannot prevent their parties from introducing any measures necessary to protect public morals, to maintain public order, to protect human, animal and plant life or health, to secure compliance with laws and regulations preventing fraudulent or deceptive practices in services and protecting the privacy of individuals, to ensure the imposition or collection of direct taxes and to ensure the avoidance of double taxation resulting from other obliging agreements.

Article 7-1 in the proposal for TTIP (2015a, p. 51) there are also other exceptions included: the protection of public security, the conservation of natural resources (if the same measures are applied to domestic supply or consumption of services), the protection of national treasures of artistic, historic and archaeological value. On the other hand, the point on the avoidance of double taxation is missing as for

now. Still, the general exceptions under both agreements cannot be used for arbitrary or unjustifiable discrimination between the Parties.

3.8 Security exceptions

In regards to security exceptions, these are explicitly mentioned in the EU proposal for TiSA (2014a, p. 10). Article I-10 states that the agreement should not be interpreted as obliging the Parties to disclose any information whose disclosure might be contrary to their security interests and preventing them from any actions necessary to protect their securities. These actions include those relating to the supply of services for a military establishment, fissionable and fusionable materials and the actions taken in a time of war or emergency in international relations. The agreement must not prevent the Parties from fulfilling their United Nations obligations for the maintenance of international peace and security.

Finally, in the published text of the EU proposal for TTIP (2015a, p. 52) it is indicated that the articles relating to security exceptions will be inserted at a later stage.

3.9 Summary

In Table 1 below we list all elements of the two agreements which are present in one of them and missing in the other, indicating where additional provisions are planned and a placeholder is present. The Table shows that some provisions are still to be added which makes it too early to judge the content of the two treaties.

Table 1. Currently-absent elements in the provisions on specific rules

Issue	TTIP	TiSA
Market access	No ban on the limitations on the total number of natural persons employed, the specific types of legal entities for service supply, and on the participation of foreign capital	Limitations on the total number of natural persons employed, the specific types of legal entities for service supply and the participation of foreign capital are not allowed
National treatment	Explicitly mentioned that national-treatment provisions do not oblige to compensate foreign services for their competitive disadvantage resulting from their foreign origin	No separate point indicating no requirement for compensation of foreign services for their competitive disadvantage
Most favoured nation (MFN)	Separate section on the issue	No provisions on MFN rules
Coverage of domestic regulation	Separate section on the issue	No provisions on coverage of domestic regulation. Parties may negotiate commitments regarding qualifications and licensing matters
Mutual recognition of qualifications (MRA)	Separate section on MRA. Placeholder for MRAs agreed by the time the TTIP negotiations are finalized	No provisions related to MRA. Parties may negotiate commitments regarding qualifications and licensing matters
Payments and transfers	No provisions	Separate section on the issue
Safeguarding the balance of payments	No provisions, to be inserted at a later stage	Separate section on the issue
General exceptions	No exception concerning the avoidance of double taxation	No exception related to the protection of public security, the conservation of natural resources, and the protection of national treasures
Security exceptions	No provisions. To be added at a later stage	Separate section on the issue
Further horizontal commitments or standards	No provisions	Placeholder existent
New and Enhanced Disciplines	No provisions	Placeholder existent
Institutional provisions	No provisions on general rules, only an indication of the review of the agreement by the body to be defined by the agreement.	Placeholder existent. Suggested areas: resolution of disputes, future participation, multilateralization, institutions.

4 Comparison of sector specific provisions

In order to compare the sector specific provisions of TiSA and TTIP, we focus on three specific areas:

- a) Limitations on market access
- b) Limitations on national treatment
- c) MFN Exemptions

These three categories can be analyzed in reference to which type of supply mode is utilized, with each sector including (following the definition of trade in services in Article I of the GATS Agreements):

1) Cross-border supply – the possibility for non-resident service suppliers to supply services cross-border into the Member's territory

2) Consumption abroad – the freedom for the Member's residents to purchase services in the territory of another Member

3) Commercial presence – the opportunities for foreign service suppliers to establish, operate or expand a commercial presence in the Member State's territory, such as a branch, agency, or wholly-owned subsidiary

4) Presence of natural persons – the possibilities offered for the entry and temporary stay in the Member State's territory of foreign individuals in order to supply a service

The summary of provisions by sector, according to supply mode, is given in Table 2-4 below. In terms of the comparison of the two agreements, there are various ways in which a sector may be coded:

- **Same limitations:** the range of limitations is exactly the same (in terms of countries and contents/substance) in both agreements;
- **None:** if there are no limitations on market access or national treatment in a given sector and mode of supply.
- **Bound:** the particular country is bound by a given commitment of no limitation (analogous to “none”), but where all commitments in a schedule are bound unless otherwise specified.
- **Unbound:** a country has not taken any commitments for this specific sector, likely maintaining measures inconsistent with market access or national treatment.

In the Tables below, we avoided including the text of specific provisions of the agreements, preferring to emphasize the commonalities and differences in the sector-specific provisions.⁷

⁷ The countries listed in the Tables below are referred to using their EU official abbreviations, thus AT (Austria), BE (Belgium), BG (Bulgaria), CY (Cyprus), CZ (Czech Republic), DE (Germany), DK (Denmark), EE (Estonia), EL (Greece), ES (Spain), FI (Finland), FR (France), HR (Croatia), HU (Hungary), IE (Ireland), IT (Italy), LT (Lithuania), LU (Luxembourg), LV (Latvia), MT (Malta), NL (Netherlands), PL (Poland), PT (Portugal), RO (Romania), SE (Sweden), SI (Slovenia), SK (Slovakia), and UK (United Kingdom).

4.1 Limitations on market access

In general, limitations on market access in TiSA and TTIP are consistent across sectors, with the main differences appearing in the number of countries subjected to a given provision. The in-depth analysis of the limitations is shown in Table 2 below, but a few issues in each sector are highlighted here.

Construction and related engineering services

The sector of construction and related engineering services is limited in a similar range in both agreements, since there are only reservations requested by **CY** in TTIP, which is not present in TiSA.

Distribution Services

The sector of distribution services has similar limitations in 3 out of the 4 modes of supply: consumption abroad, commercial presence, and presence of natural persons. There are also additional reservations requested by **CY** in TTIP. The distribution of pharmaceuticals is unbound in **AT, BG, CZ, FI, IE, RO, SK, SI** in TiSA, while in TTIP the list of countries is enlarged by **CY**.

Transport Services

The sector of Transport Services is subdivided into four subsectors: Maritime transport, Internal Waterways Transport, Road transport and Pipeline transport of goods other than fuel.

In the first subsector - maritime transport - both agreements have same limitations in all 4 modes of supply. As far as Inland waterways transport is concerned cross – border supply and consumption abroad have the same limitations proposed by thirteen of the EU's Member States, while limitations on market access for commercial presence and for the presence of natural presence are the same for both agreements (however, TTIP has reservations in terms of conditions for inland waterway transport operators). In the subsector of road transport, all 4 modes of supply have the same limitations, except for direct branching in commercial presence. It is unbound in **BG** and in **CZ** in TTIP, while for TiSA it is unbound only for **BG**. Lastly, the sector of pipeline transport of goods other than fuel does not take any commitments for this sector and is unbound in both treaties for the whole EU in cross-border mode of supply. However, consumption abroad is unbound, except in **LT, HR** and **HU**.

Energy Services

The sector of energy services is subdivided into seven subsectors: Services incidental to mining, pipeline transportation of fuels, storage and warehouse services of fuels transported through pipelines, wholesale trade services of solid, liquid and gaseous fuels and related products, retailing services of motor fuel, retail sales of fuel oil, bottled gas, coal and wood and services related to energy distribution. We observe in TTIP the application by the **UK** of some limitations in energy services (services incidental to mining) in cross-border supply, commercial presence and presence of natural persons. The next six subsectors of services related to energy have the same limitations in all 4 modes of supply in both agreements, including the same limitations proposed by **PL** for commercial presence in the context of storage and warehouse services of fuels transported through pipelines.

Communications

In the communications sector, the limitations on market access are very similar in both treaties. In the subsector of postal and courier services, the limitations on cross-border supply, consumption abroad, commercial presence as well as the presence of natural persons follow the same principles in both TiSA and TTIP.

Telecommunications

The sector of telecommunications services concerns all services consisting of (1) the transmission and reception of signals by any electromagnetic means, excluding broadcasting, as well as (2) satellite broadcast transmission services. In the (1) subsector, there are no differences between the two treaties. However, in the (2) subsector, we observe the same limitations on cross-border supply, consumption abroad and commercial presence, except that in TiSA, specific principles apply to Belgium regarding service providers and in TTIP, the limitations are unbound in Belgium for satellite broadcast transmission services. Moreover, TTIP provides that the “provision of broadcast transmission services is subject to reciprocity and that the transmission of broadcasting signal may be subject to non-discriminatory obligations”. As far as the limitations regarding the presence of natural persons are concerned, they are similarly treated in both treaties.

Educational services

The sector of educational services is subdivided into three subsectors: primary education services, secondary education services, higher education services, adult education services and other education services. In the subsector of primary education services, the limitations on cross-border supply, consumption abroad, commercial presence as well as the presence of natural persons are comprehending the same principles in both TiSA and TTIP and are the exceptions apply to the same countries (**FR, IT and EL**).

In the remaining subsectors of secondary education services, higher education services, adult education services, and other education services, we observe the same limitations in TTIP and TiSA on cross-border supply, consumption abroad, commercial presence and presence of natural persons in both countries and concerning the same countries.

Environmental services

The sector of environmental services includes the following: waste water services, solid/hazardous waste management - excluding cross-border transport of hazardous waste, refuse disposal services, sanitation and similar services, protection of ambient air and climate, remediation and clean-up of soil and waters treatment, remediation of contaminated/polluted soil and water, noise and vibration abatement, protection of biodiversity and landscape, nature and landscape protection services, and other environmental and ancillary services.

In this sector, the limitations on market access are very similar in both treaties, since the limitations on cross-border supply, consumption abroad, commercial presence, as well as the presence of natural persons contain the same principles in both TiSA and TTIP.

Health and social services

The sector of health comprehends hospital services, ambulance services, and residential health facilities other than hospital services. We observe that the limitations on market access regarding cross-border supply, consumption abroad (except for ambulance services) commercial presence, and the presence of natural persons are the same for both TTIP and TiSA and concern the same countries.

In the specific sector of social services, we observe a difference between TiSA and TTIP regarding cross-border supply for **LT** and **LV** (unbound in TiSA), although the limitations on consumption abroad, commercial presence and presence of natural persons are the same for both documents.

Table 2. Limitations on market access⁸

Sector or subsector	TISA	TTIP
Construction and related engineering services		
	1), LT Unbound 2), 3) EU: None 4) BVEP⁹; ICT¹⁰; SeSe¹¹: Subject to the following limitations in BG : Foreign specialists must have experience of at least two years in the field of construction.	1), LT Unbound 2), 3) EU: None 4) BVEP; ICT; SeSe: Subject to the following limitations in BG and CY : BG : Foreign specialists must have experience of at least two years in the field of construction. CY : Authorization by the competent authorities required for foreign natural persons
Distribution services		
	1), EU: None except : In AT, BG, CZ, FI, IE, RO, SK, SI : Unbound for distribution of pharmaceuticals. 1), 2), 3), EU: None except : Same countries 4) BVEP; ICT; SeSe Unbound except as indicated in the horizontal section	1), EU: None except: Apart from AT, BG, CZ, FI, IE, RO, SK, SI : Unbound for distribution of pharmaceuticals refers to one more country - CY 1), 2), 3), EU: None except : Same countries 4) BVEP; ICT; SeSe Unbound except as indicated in the horizontal section
Transport services		
A. Maritime transport	1), 2), EU: None 3), EU: None except in LV and MT 4) BVEP; ICT; SeSe Unbound except as indicated in the horizontal section	1), 2), EU: None 3), EU: None except in LV and MT 4) BVEP; ICT; SeSe Unbound except as indicated in the horizontal section
B. Internal Waterways Transport	1), 2) EU: None except: Same limitations in BG, CY, CZ, EE, FI, HR, HU, LT, MT, RO, SE, SI, SK : Unbound.	1), 2) Same limitations In BG, CY, CZ, EE, FI, HR, HU, LT, MT, RO, SE, SI, SK : Unbound. The following reservation is postulated :

⁸ For detailed description of supply modes 1), 2), 3) and 4) and terminology used please see p. 12.

⁹ Business visitors for establishment purposes (BVEP), means natural persons employed in a senior position within a juridical person of one Party [In AT, BE, CY, CZ, DE, DK, EE, EL, ES, FI, FR, IE, IT, LT, LU, LV, MT, NL, PT, SI, UK other than a non-profit organization], who are responsible for setting up an establishment.

¹⁰ Intra-corporate transferees (ICT), means natural persons who reside outside the territory of the Member States at the time of the application and who have been employed by a juridical person of one Party [In AT, BE, CY, CZ, DE, DK, EE, EL, ES, FI, FR, IE, IT, LT, LU, LV, MT, NL, PT, SI, UK other than a non-profit making organization] or its branch.

¹¹ Service sellers (SeSe), means natural persons who are representatives of a services supplier of one Party seeking entry and temporary stay in the territory of a Member State for the purpose of negotiating the sale of services, or entering into agreements to sell services for that supplier

Sector or subsector	TISA	TTIP
	3), EU: None except: Same limitations in AT, LV, MT, BG, HR, HU, FI. 4) Same limitations - BVEP; ICT; SeSe: Unbound except as indicated in the horizontal section	In the EU, inland waterway transport may only be provided by an operator that fulfils the following conditions: - is established in a Member State, - is entitled there to carry out the (international) transport of goods or passengers by inland waterway, and -uses vessels registered in a Member State or in possession of a certificate of membership of a fleet of a Member State. In addition, the vessels must be owned by natural persons domiciled in a Member State and who are Member State nationals, or owned by legal persons registered in a Member State and the majority ownership requirement may exceptionally be provided. In Spain, Sweden and Finland there is no legal distinction between maritime and internal waterways. The regulation of maritime transport applies equally to internal waterways. 3), EU: None except: Same limitations in AT, LV, MT, BG, HR, HU, FI. 4) Same limitations - BVEP; ICT; SeSe: Unbound except as indicated in the horizontal section
C. Road Transport		
a) Passenger Transportation	1), EU: Unbound 2), EU: None 3), EU: None except: Same limitations, one difference refers to: Unbound for direct branching (incorporation is required) – only BG reserved it. 4) BVEP; ICT; SeSe: Unbound except as indicated in the horizontal section	1), EU: Unbound 2), EU: None 3), EU: None except: Same limitations In BG, CZ: Unbound for direct branching (incorporation is required). 4) BVEP; ICT; SeSe: Unbound except as indicated in the horizontal section

Sector or subsector	TISA	TTIP
b) Freight Transportation(CPC 7123, excluding transportation of postal and courier items on own account)	1), EU: Unbound 2), EU: None 3), EU: Same limitations, one difference refers to: Unbound for direct branching (incorporation is required) – only BG reserved it 4) BVEP; ICT; SeSe: Unbound except as indicated in the horizontal section	1), EU: Unbound 2), EU: None 3), EU: Same limitations In BG, CZ: Unbound for direct branching (incorporation is required). 4) BVEP; ICT; SeSe: Unbound except as indicated in the horizontal section
D. Pipeline transport of goods other than fuel (CPC 7139)	1), EU: Unbound 2), EU: except in LT, HR, and HU: Unbound 3), EU: None except: Same limitation in AT – exclusive rights can only be granted to a subject having their headquarters in the EU	1), EU: Unbound 2), EU: except in LT, HR, and HU: Unbound 3), EU: None except: Same limitation in AT – exclusive rights can only be granted to a subject having their headquarters in the EU
Energy Services		
A. Services Incidental to Mining	1), 2), 3) EU: None 4) BVEP; ICT; SeSe: Same Unbound and subject to the following limitations: In SK: Residency requirement.	1), EU: None In the UK the license to undertake exploration and production activities on the UK continental shelf (UK CS) is necessary. 2), EU: None 3), EU: None In the UK the license to undertake exploration and production activities on the UK continental shelf (UK CS) is necessary. 4) Unbound except as indicated in the horizontal section, and subject to the following limitations: In CY: Nationality condition. In SK: Residency requirement.
B. Pipeline Transportation of fuels	1), EU Unbound 2), EU : None except: Same countries: AT, BE, BG, CY, CZ, DE, DK, ES, EE, FI, FR, EL, IE, IT, LV, LU, MT, NL, PL, PT, RO, SK, SI, SE, UK: Unbound. 3), EU: None except Same countries AT, BE, BG, CY, CZ, DE, DK, ES, EE, FI, FR, EL, IE, IT, LV, LU, MT, NL, PL, PT, RO, SK, SI, SE, UK: Unbound.	1), EU Unbound 2), EU : None except: Same countries: AT, BE, BG, CY, CZ, DE, DK, ES, EE, FI, FR, EL, IE, IT, LV, LU, MT, NL, PL, PT, RO, SK, SI, SE, UK: Unbound. 3), EU: None except Same countries AT, BE, BG, CY, CZ, DE, DK, ES, EE, FI, FR, EL, IE, IT, LV, LU, MT, NL, PL, PT, RO, SK, SI, SE, UK: Unbound. 4), BVEP; ICT; SeSe: Same Unbound

Sector or subsector	TISA	TTIP
	4), BVEP; ICT; SeSe: Same Unbound	
C. Storage and warehouse services of fuels transported through pipelines	1), EU : None except: In same countries: AT, BE, BG, CY, CZ, DE, DK, ES, EE, FI, FR, EL, IE, IT, LV, LU, MT, NL, PL, PT, RO, SK, SI, SE, UK: Unbound. 2), EU: None 3), EU: None except Same limitation in PL 4), BVEP; ICT; SeSe: Same Unbound	1), EU : None except: In same countries: AT, BE, BG, CY, CZ, DE, DK, ES, EE, FI, FR, EL, IE, IT, LV, LU, MT, NL, PL, PT, RO, SK, SI, SE, UK: Unbound. 2), EU: None 3), EU: None except Same limitation in PL 4), BVEP; ICT; SeSe: Same Unbound
D. Wholesale trade services of solid, liquid and gaseous fuels and related products	1) EU: None 2) EU: None 3) EU: None 4) BVEP; ICT; SeSe: Same Unbound	1) EU: None 2) EU: None 3) EU: None 4) BVEP; ICT; SeSe: Same Unbound
E. Retailing Services of motor fuel (CPC 613) F. Retail sales of fuel oil, bottled gas, coal and wood (CPC 63297)	1), EU: None except EU: Same Unbound for retailing services of motor fuel. Unbound for retail sales of fuel oil, bottled gas, coal and wood (except for mail order) in the same list of countries BE, BG, CY, CZ, DE, DK, ES, FR, EL, IE, IT, LU, MT, NL, PL, PT, SK, UK 2), EU: None 3), EU: None except EU: Unbound for retailing services of motor fuel Same limitations in BE, BG, DK, FR, IT, MT, PT 4), BVEP; ICT; SeSe: Same Unbound	1), EU: None except EU: Same Unbound for retailing services of motor fuel. Unbound for retail sales of fuel oil, bottled gas, coal and wood (except for mail order) in the same list of countries BE, BG, CY, CZ, DE, DK, ES, FR, EL, IE, IT, LU, MT, NL, PL, PT, SK, UK 2), EU: None 3), EU: None except EU: Unbound for retailing services of motor fuel Same limitations in BE, BG, DK, FR, IT, MT, PT 4), BVEP; ICT; SeSe: Same Unbound
G. Services incidental to energy distribution	1), EU : Unbound except for consultancy services. 2), EU: None 3), EU: None except: Same countries AT, BE, BG, CY, CZ, DE, DK, ES, EE, FI, FR, EL, IE, HU, IT, LU, LT, MT, NL, PL, PT, RO, SK, SE, UK Same limitation in SI 4), BVEP; ICT; SeSe: Same unbound	1), EU : Unbound except for consultancy services. 2), EU: None 3), EU: None except: Same countries AT, BE, BG, CY, CZ, DE, DK, ES, EE, FI, FR, EL, IE, HU, IT, LU, LT, MT, NL, PL, PT, RO, SK, SE, UK Same limitation in SI 4), BVEP; ICT; SeSe: Same unbound
Communications services		
Postal and courier services	1), 2), 3), 4) BVEP; ICT; SeSe: same principles	1), 2), 3), 4) BVEP; ICT; SeSe: same principles

Sector or subsector	TISA	TTIP
Telecommunication services		
All services consisting of the transmission and reception of signals by any electromagnetic means, excluding broadcasting	1), 2), 3): same limitations. 4) BVEP; ICT; SeSe: same limitations.	1), 2), 3): same limitations. 4) BVEP; ICT; SeSe: same limitations.
Satellite broadcast transmission services	1), 2), 3): same absence of limitations, except in BE : service providers in this sector may be subject to obligations to safeguard general interest objectives related to the conveyance of content through their network in line with the EU regulatory framework for electronic communications. 4) BVEP; ICT; SeSe: same principles	1), 2), 3): Same absence of limitations, except that the provision of broadcast transmission services is subject to reciprocity and that the transmission of broadcasting signal may be subject to non-discriminatory obligations to safeguard general interest objectives related to the conveyance of content through networks, in line with the EU regulatory framework for electronic communications. In BE , the limitation is unbound for satellite broadcast transmission services. 4) BVEP; ICT; SeSe: same principles
Educational services		
Primary education services	1), 2), 3) EU: unbound on the same countries Same limitations for HU and SK . 4) BVEP; ICT; SeSe: same limitations and conditions for FR, IT and EL .	1), 2), 3) EU: unbound on the same countries Same limitations for HU and SK . 4) BVEP; ICT; SeSe: same limitations and conditions for FR, IT and EL .
Secondary education services	1), 2) EU: unbound on the same countries and same exceptions for LV . 3) EU: unbound on the same countries and same conditions for HU, SK and LV 4) BVEP; ICT; SeSe: same principles for FR, IT, EL and LV .	1), 2) EU: unbound on the same countries and same exceptions for LV . 3) EU: unbound on the same countries and same conditions for HU, SK and LV 4) BVEP; ICT; SeSe: same principles for FR, IT, EL and LV .
Higher education services	1) Unbound on the same countries. Same exceptions for FR, IT, CZ, SK, ES and IT 2) Unbound for the same countries and same differences for CZ and SK ; 3) Unbound on the same countries. Same exceptions for CZ, SK, EL, HU, ES and IT ; 4)	1) Unbound on the same countries. Same exceptions for FR, IT, CZ, SK, ES and IT 2) Unbound for the same countries and same differences for CZ and SK ; 3) Unbound on the same countries. Same exceptions for CZ, SK, EL, HU, ES and IT ; 4)

Sector or subsector	TISA	TTIP
	BVEP; ICT; SeSe: same principles for FR, CZ, SK, IT and DK .	BVEP; ICT; SeSe: same principles for FR, CZ, SK, IT and DK .
Adult education services	1), 2) EU: same limitations for CY, FI, MT, RO, SE and AT . 3) Same limitations for AT, CY, FI, MT, RO, SE, HU , and SK . 4) BVEP; ICT; SeSe: same limitations.	1), 2) EU: same limitations for CY, FI, MT, RO, SE and AT . 3) Same limitations for AT, CY, FI, MT, RO, SE, HU , and SK . 4) BVEP; ICT; SeSe: same limitations.
Other education services	1, 2) same limitations in the EU, exceptions in HR, CZ and SK 3) same limitations in the EU, exceptions in CZ and SK 4) BVEP; ICT; SeSe: same limitations.	1, 2) same limitations in the EU, exceptions in HR, CZ and SK 3) same limitations in the EU, exceptions in CZ and SK 4) BVEP; ICT; SeSe: same limitations.
Environmental services		
A. Waste Water Services B. Solid/hazardous waste management, excluding cross-border transport of hazardous waste a) Refuse Disposal Services b) Sanitation and Similar Services C. Protection of ambient air and climate D. Remediation and clean-up of soil and waters Treatment, remediation of contaminated/polluted soil and water E. Noise and vibration abatement F. Protection of biodiversity and landscape Nature and landscape protection services G. Other environmental and ancillary services	1) EU: same limitations: Unbound except for consulting services. 2), 3) EU: same principles. 4) BVEP; ICT; SeSe: same principles.	1) EU: same limitations: Unbound except for consulting services. 2), 3) EU: same principles. 4) BVEP; ICT; SeSe: same principles.
Health and social services		
A. Hospital Services B. Ambulance Services C. Residential health facilities	1) same principles for HU 2) same principles at EU level: No limitations except for ambulance services	1) same principles for HU 2) same principles at EU level: No limitations except for ambulance services

Sector or subsector	TISA	TTIP
other than hospital services	3) same limitations, which concern the participation of private operators in the health and social networks. Same principles in AT and SI, where the limitations are unbound for ambulance services, and in BG, where they are unbound for hospital services, for ambulance services and for residential health facilities other than hospital services. Also, the limitations are unbound in CY, CZ, FI, MT, SE, SK for both treaties. Same principles for HR (medical licence), PL, BE, UK DE and FR. 4) BVEP; ICT; SeSe: same limitations and same exception for FR regarding the access to management functions. Same limitations in HR (medical license) and PL (permission of practice of medical profession for foreigners and limitation of election rights for foreign medical doctors).	3) same limitations, which concern the participation of private operators in the health and social networks. Same principles in AT and SI, where the limitations are unbound for ambulance services, and in BG, where they are unbound for hospital services, for ambulance services and for residential health facilities other than hospital services. Also, the limitations are unbound in CY, CZ, FI, MT, SE, SK for both treaties. Same principles for HR (medical licence), PL, BE, UK DE and FR. 4) BVEP; ICT; SeSe: same limitations and same exception for FR regarding the access to management functions. Same limitations in HR (medical license) and PL (permission of practice of medical profession for foreigners and limitation of election rights for foreign medical doctors).
D. Social services		
	1) EU except in LT and LV: Unbound. In LT, LV: No limitations. 2) Same limitations and principles on the same countries (CZ, FI, HU, MT, PL, SE, SI, SK). 3) Limitations in the EU except in CZ, FR, FI, HU, MT, PL, SE, SI, and SK (none). Same principles in FR and in HR (regarding the need for a license). In CZ, FI, HU, MT, PL, SE, SI, SK: Unbound 4) BVEP; ICT; SeSe: same limitations and principles for FR, LV, PL and HR.	1) EU: Unbound 2) Same limitations and principles on the same countries (CZ, FI, HU, MT, PL, SE, SI, SK). 3) In CZ, FI, HU, MT, PL, SE, SI, SK: Unbound. Same principles in FR and in HR (regarding the need for a license) 4) BVEP; ICT; SeSe: : same limitations and principles for FR, LV, PL and HR.

4.2 Limitations on national treatment

As with limitations on access, limitations on national treatment tend to adhere to the same principles in TTIP and TiSA, although there tends to be less disagreement in the energy realm and more in transport. As in the previous section, the in-depth treatment of provisions is shown in Table 3.

Construction and related engineering services

The sector of construction and related engineering services has the same limitations on national treatment in **LT** in both agreements, with the right reserved to adopt or maintain any measure with respect to the provision of construction services, including requesting prior approval of foreign services suppliers by the competent authorities.

Distribution services

Limitations in the sector of distribution services are almost the same in both agreements, with the same countries having carved out similar exceptions. **HU** (commodity dealing/brokering services) and **LT** (distribution of pyrotechnics) offer derogation from national treatment in two modes of supply: cross-border supply and consumption abroad. Furthermore, the same limitations in TTIP and TiSA are proposed by **IT** in cross-border supply, consumption abroad, and commercial presence in distribution of tobacco. **AT**, in turn, proposes a reservation on national treatment in retail sales of tobacco, where the priority is given to EEA nationals. Duplicate limitations have been granted to **BG** in wholesale and retail trade services linked with petroleum and petroleum products. Finally, in TTIP but not in TiSA, specific measures are applied in **ES**, where the establishment of a distribution service is subject to an EU nationality condition.

Transport services

The subsector of maritime transport has no limitations in TiSA, while in both treaties some reservations exist in reference to inland waterway operators. Both TiSA and TTIP contain two major limitations for in **BG** and **AT**, but TTIP allows for goods or passenger transport operations to only be provided by an operator that fulfils the conditions related to residency rules. In regards to road transport (passenger transport and freight transport), TiSA provides that in **BG**, the limitations on national treatment are unbound on direct branching, which is not found in TTIP. On the other hand, TTIP stipulates that road freight transport operations established in **EL** may only use vehicles that are registered in **EL**, which is a right not reserved in TiSA. Finally, pipeline transport of goods other than fuel is limited in TiSA and TTIP alike, with more precise limitations in TTIP.

Energy Services

TiSA has no limitations specific to this sector, unlike TTIP which excludes two countries in Annex I and 10 countries in Annex II.

Communications services – Telecommunications

We observe overall more differences in TiSA and TTIP regarding the limitations on national treatment than regarding the limitations on market access. In TiSA, in the sector of communication services, for the limitations on cross-border supply, consumption abroad and commercial presence, the EU reserves the right to adopt or maintain any measure with respect to broadcast transmission services, excluding satellite broadcast transmission services, and any measures with respect to the provision of audiovisual services. In TTIP, the principles are the same for cross-border supply, but we observe differences in the field of transmission of broadcasting signals. Lastly, TTIP adds a special clause for **FI** regarding the residence status of managing board members in communications and telecommunications companies.

Educational services

It should be pointed out that only TTIP provides reservations for future measures regarding national treatment. In the subsector of primary education services, TiSA adds a nationality condition for board

members of primary education establishments and for teachers in the limitations on commercial presence, while TTIP provides reservations for future measures regarding privately funded primary education services in nine Member States. In the subsector of secondary education services, both treaties present the same limitations on commercial presence for **EL**. However, differences are noted in TiSA for cross-border supply, consumption abroad and commercial presence in **FR** as far as the teaching rights for foreign nationals are concerned. TTIP provides reservations for future measures on this sector with respect to the cross-border provision of privately funded secondary education services in **IT** and **HR**. Moreover, TTIP provides specific measures for Board members of privately funded secondary education services, which TiSA does not.

In the subsector of higher education services, TiSA stipulates a nationality condition for teachers of a privately funded educational institution in **FR** in the context of cross-border supply, consumption abroad, and commercial presence. For this subsector, the TTIP provides reservations for future measures regarding privately-funded higher education services in seven countries, while Slovenia sees limitations concerning the nationality of the Board members of a privately-funded educational institution (and the same applies in the Czech Republic for higher educational services). In the subsector of adult education services, the difference between the two treaties lies in the fact that the TTIP provides reservations for future measures on the provision of privately-funded adult education services and for the provision privately funded adult education services by means of radio or television broadcasting (although this only applies to Austria).

Environmental services

In this sector, the differences between TTIP and TiSA lay in the fact that TTIP implies that the EU reserves the right to adopt or maintain any measure with respect to cross border provision of environmental services, except for consulting services.

Health and Social Sciences

Differences between TTIP and TiSA are minimal, and only applicable in the case of France, as shown in Table 3 below.

Table 3. Limitations on national treatment¹²

Sector or subsector	TISA	TTIP
Construction and related engineering services		
	1) In LT , the right is reserved to adopt or maintain any measure with respect to the provision of construction services, including requesting prior approval of foreign services suppliers by the competent authorities.	1) The EU reserves the right to adopt or maintain any measure with respect to the following: In LT with respect to the provision of cross-border construction services, including requiring prior approval of foreign suppliers by the competent authorities.

¹² For detailed description of supply modes 1), 2), 3) and 4) and terminology used please see p. 12.

Sector or subsector	TISA	TTIP
Distribution services		
	1),2), Same limitations in HU and LT 1),2),3) Same limitations in IT 1),3), Same limitations in AT 3), Same limitations in BG .	1),2), Same limitations in HU and LT 1),2),3) Same limitations in IT 1),3), Same limitations in AT 3), Same limitations in BG In ES, establishment is subject to an EU nationality condition
Transport services		
A. Maritime transport	No limitations	Goods or passenger transport operations by inland waterway may only be provided by an operator that fulfils the following conditions: - is established in a Member State, - is entitled there to carry out the (international) transport of goods or passengers by inland waterway, and -uses vessels registered in a Member State or in possession of a certificate of membership of a fleet of a Member State. In addition, the vessels must be owned by natural persons domiciled in a Member State and who are Member State nationals, or owned by legal persons registered in a Member State and the majority ownership requirement may exceptionally be provided. In Spain, Sweden and Finland there is no legal distinction between maritime and internal waterways. The regulation of maritime transport applies equally to internal waterways. In AT: for internal waterways transport EEA nationality is required, for natural partners in order to set up a shipping company. Majority of the governing board of each enterprise must have EEA nationality. A registered company or permanent establishment in Austria is required. More than 50% of the

Sector or subsector	TISA	TTIP
		business shares and the working capital must be held by EEA nationals.
B. Internal Waterways Transport	1, 2, 3) In BG: No direct branching. 3) Same limitation in AT: Nationality condition in order to set up a shipping company by natural persons. In the case of establishment as a legal person, a nationality condition for the majority of managing directors, the managing board and the supervisory board. Registered company or permanent establishment in Austria is required. In addition, the majority of the business shares must be held by citizens of the European Union.	In BG: No direct branching (incorporation is required) for transport services. Goods or passenger transport operations by inland waterway may only be provided by an operator that fulfils the following conditions: - is established in a Member State, - is entitled there to carry out the (international) transport of goods or passengers by inland waterway, and -uses vessels registered in a Member State or in possession of a certificate of membership of a fleet of a Member State. In addition, the vessels must be owned by natural persons domiciled in a Member State and who are Member State nationals, or owned by legal persons registered in a Member State and the majority Same limitation in AT: for internal waterways transport EEA nationality is required, for natural partners in order to set up a shipping company. Majority of the governing board of each enterprise must have EEA nationality. A registered company or permanent establishment in Austria is required. More than 50% of the business shares and the working capital must be held by EEA nationals.
C. Road Transport		
a) Passenger Transport	1, 3) In BG: No direct branching.	In SE: For CPC 7121, 7122 and 7123, requirement for established entities to use

Sector or subsector	TiSA	TTIP
	3) In SE: For CPC 7121 and 7122, requirement for established entities to use vehicles with national registration 3) In RO: For CPC 7121 and 7122, license is required to provide road haulage and road transport services in Romania. Road haulage and road passenger transport operators having a license may only use vehicles that are registered in Romania, owned and used according to the Government Ordinance provisions.	vehicles with national registration. In RO: For CPC 7121, 7122 and 7123, license is required to provide road haulage and road transport services in Romania. Road haulage and road passenger transport operators having a license may only use vehicles that are registered in Romania, owned and used according to the Government Ordinance provisions.
b) Freight Transport	1, 3) In BG: No direct branching (incorporation is required for CPC 7123, excluding transportation of postal and courier items on own account). 3) In EL: For CPC 7123, Road freight transport operations established in Greece may only use vehicles that are registered in Greece. 3) In RO: For CPC 7123, license is required to provide road haulage and road transport services in Romania. Road haulage and road passenger transport operators having a license may only use vehicles that are registered in Romania, owned and used according to the Government Ordinance provisions. 3) In SE: Requirement for established entities to use vehicles with national registration.	In EL: For CPC 7123, Road freight transport operations established in Greece may only use vehicles that are registered in Greece In SE: For CPC 7121, 7122 and 7123, requirement for established entities to use vehicles with national registration. In RO: For CPC 7121, 7122 and 7123, license is required to provide road haulage and road transport services in Romania. Road haulage and road passenger transport operators having a license may only use vehicles that are registered in Romania, owned and used according to the Government Ordinance provisions. In EL: For CPC 7123, Road freight transport operations established in Greece may only use vehicles that are registered in Greece
D. Pipeline transport of goods other than fuel	3), In AT: Exclusive rights can only be granted to nationals of the Member States of the European Union and to juridical persons of the European Union having their headquarters in	In AT: regarding the transportation of gas, with regard to natural persons, authorization is only granted to EEA nationals domiciled in the EEA. Enterprises and

Sector or subsector	TISA	TTIP
	the EU.	partnerships must have their seat in the EEA. The operator of the network must appoint a Managing Director and a Technical Director who is responsible for the technical control of the operation of the network, both of whom must be EEA nationals. The competent authority may waive the nationality and domiciliation requirements where the operation of the network is considered to be in the public
Energy Services		
	No limitations	Limitations in AT, PL, BE, BG, CY, FI, FR, PT, SK, HU, DE, SE.
Communication services – telecommunications		
	1, 2, 3) The EU reserves the right to adopt or maintain any measure with respect to broadcast transmission services, excluding satellite broadcast transmission services. Broadcasting is defined as the uninterrupted chain of transmission required for the distribution of TV and radio programme signals to the general public, but does not cover contribution links between operators. In BE, same principles in both treaties regarding the right to adopt or maintain any measure with regard to satellite broadcast transmission services. 1, 2, 3) The EU reserves the right to adopt or maintain any measures with respect to the provision of audiovisual services	In the field of Cross-Border Trade in Services and Investment, unless national treatment is provided by the United States, the EU retains the right to maintain or adopt any measure with respect to broadcast transmission services. The transmission of broadcasting signal may be subject to non-discriminatory obligations to safeguard general interest objectives related to the conveyance of content through networks, in line with the EU regulatory framework for electronic communications. In BE, same principles in both treaties regarding the right to adopt or maintain any measure with regard to satellite broadcast transmission services. Moreover, in FI, at least half of the ordinary and deputy members of the Board of Directors have to be resident in the EEA. The Managing Director

Sector or subsector	TISA	TTIP
		of a limited company has to be resident in the EEA. Company exemptions may, however, be granted. These limitations do not apply to telecommunications services.
Educational Services		
Overall for the sector of educational services, TTIP provides reservations for future measures: "The EU with regard to education services which receive public funding or State support in any form, and are therefore not considered to be privately funded and with regard to privately funded other education services. The EU reserves the right to adopt or maintain any measure with respect to requiring that the majority of the members of the board of directors of an establishment providing education services must be Slovak nationals in SK, Czech nationals in CZ. In IT for requiring that only Italian juridical persons may be authorised to issues state-recognised diplomas."		
Primary education services	1, 2, 3) In FR: same limitations 3) In EL: Nationality condition for owners and majority of members of the Board and for teachers.	1, 2, 3) In FR: same limitations. In EL: same limitations. Reservations for future measures The EU reserves the right to adopt or maintain any measure with respect to restricting the provision of privately funded primary education services in BG, CY, FI, MT, RO, SI and SE, as well as in IT and HR.
Secondary education services	1, 2, 3) In FR: Nationality condition in order to teach in a privately funded educational institution. However, foreign nationals may obtain an authorization from the relevant competent authorities in order to teach. Foreign national may also obtain an authorization to establish and operate educational institutions. This authorization is granted on a discretionary basis. 3) In EL: same limitations	In EL: same limitations. Reservations for future measures The EU reserves the right to adopt or maintain any measure with respect to the cross-border provision of privately funded secondary education services in IT and HR. In SI, for requiring that the majority of the members of the board of directors of an establishment providing privately funded secondary education services must be Slovenian nationals.

Sector or subsector	TISA	TTIP
Higher education services	1) In DK: same limitations. 1, 2, 3) In FR: Nationality condition in order to teach in a privately-funded educational institution. However, foreign nationals may obtain an authorization from the relevant competent authorities in order to teach. Foreign nationals may also obtain an authorization to establish and operate educational institutions. This authorization is granted on a discretionary basis. 3) In EL: same limitations.	In DK: same limitations. In EL: same limitations Reservations for future measures The EU reserves the right to adopt or maintain any measure with respect to restricting the provision of privately funded higher education services in AT, BG, CY, FI, MT, RO and SE. In SI, for requiring that the majority of the members of the board of directors of an establishment providing privately funded higher education services must be Slovenian nationals. In CZ, for restricting the provision of higher educational services except post-secondary technical and vocational education services.
Adult education services		Reservations for future measures The EU reserves the right to adopt or maintain any measure with respect to restricting the provision of privately funded adult education services in CY, FI, MT, RO and SE. In AT, for the provision privately funded adult education services by means of radio or television broadcasting.
Other education services		Reservations for future measures The EU reserves the right to adopt or maintain any measure with respect to requiring EEA residency for providers of education services other than post-secondary technical and vocational education services in SK.

Sector or subsector	TISA	TTIP
Environmental Services		
1) Waste Water Services 2) Solid/hazardous waste management, excluding cross-border transport of hazardous waste a) Refuse Disposal Services b) Sanitation and Similar Services C. Protection of ambient air and climate D. Remediation and clean-up of soil and waters Treatment, remediation of contaminated/polluted soil and water E. Noise and vibration abatement F. Protection of biodiversity and landscape Nature and landscape protection services G. Other environmental and ancillary services	1, 2, 3) same principles regarding the following: The EU reserves the right to adopt or maintain any measure with respect to the provision of services relating to the collection, purification and distribution of water to household, industrial, commercial or other users, including the provision of drinking water, and water management.	The EU reserves the right to adopt or maintain any measure with respect to cross border provision of environmental services, except for consulting services. Same principles regarding the fact that the EU reserves the right to adopt or maintain any measure with respect to the provision of services relating to the collection, purification and distribution of water to household, industrial, commercial or other users, including the provision of drinking water, and water management.
Health and Social Services		
A. Hospital Services B. Ambulance Services C. Residential health facilities other than hospital services	3) In FR : same principles.	In FR : same principles.
D. Social services	3) In FR : Foreign investors have to establish in the legal form of " <i>société d'exercice libéral</i> " and " <i>société civile professionnelle</i> ".	

4.3 MFN exemptions

The final area of examination, Table 4 below provides a close analysis of discrepancies and similarities in most-favoured nation (MFN) exemptions in TiSA and TTIP. There are far fewer differences between the two treaties in regards to MFN exemptions. In general, we can observe an exemption of MFN in the TiSA proposal that refers to a part of distribution services, and more precisely audiovisual services in **ES**. This is not reflected in TTIP. Apart from the same exemptions in both agreements granted for **AT** and **FI** in the

subsector of maritime transport services and inland waterways and related services, one difference is recorded. Indeed, **SK** offers an exemption to protect the integrity of infrastructure and the environment, and to regulate the traffic rights. It appears only in TiSA, with no parallel in TTIP. In the same subsector, an MFN exemption is offered by **SE** in terms of US vessels under the US flag to operate cabotage traffic in Sweden – the entry appears in TTIP by contrast. As far as remaining subsectors of transport services are concerned, the exemptions are in parallel between TiSA and TTIP, while the sector of energy services has no exemptions in both treaties.

Both treaties also incorporate limitations on the sector of environmental services, with TiSA providing limitations on cross-border supply, namely that “the EU reserves the right to adopt or maintain any measure with respect to environmental services, except for consulting services.” TTIP, on the other hand, provides that “the EU reserves the right to adopt or maintain any measure with respect to the provision of services relating to the collection, purification and distribution of water to household, industrial, commercial or other users, including the provision of drinking water, and water management.”

Finally, given the fact that TiSA does not develop MFN exemptions in sectors such as educational services, communication services, or health and social services, we are not able to interpret the differences between both treaties in these particular fields.

Table 4. MFN Exemptions¹³

Sector or subsector	TISA	TTIP ¹⁴
Construction and related engineering services		
	No exemptions	No exemptions
Distribution services		
Audiovisual – Distribution services	In ES the exemption is aimed at promoting European cultural values and linguistic policy objectives toward young people. The measure applies to Parties to the Council of Europe	
Transport Services		
Road Transport - Passenger and Freight	Same exemptions in both agreements granted for the following countries : AT, BG, EE, HR, CZ, FI, LT, RO, SK, ES	Same exemptions in both agreements granted for the following countries : AT, BG, EE, HR, CZ, FI, LT, RO, SK, ES
Rail Transport - Passenger and Freight	Same exemptions in both agreements granted for the following countries: BG, CZ, SK	Same exemptions in both agreements granted for the following countries: BG, CZ, SK

¹³ For detailed description of supply modes 1), 2), 3) and 4) and terminology used please see p. 12.

¹⁴ In terms of MFN exemptions, TTIP proposal presents Reservations for Future Measures. It encompasses a description of measure indicating why it is inconsistent with Article II and a description of the sector in which the exemption applies. No information about the country/countries the which measure applies, the intended duration of the exemption as well as the conditions creating the need for the exemption.

Sector or subsector	TISA	TTIP ¹⁴
Maritime Transport Services and Inland Waterways and related services	Same exemptions in both agreements granted for the following countries: AT, FI. In SK one more exemption is granted to protect the integrity of infrastructure and the environment, and to regulate traffic rights.	Same exemptions in both agreements granted for the following countries: AT, FI In SE, measures may be taken on a reciprocal basis allowing US vessels under the US flag to operate cabotage traffic in Sweden. insofar as US and its provinces and territories allow vessels registered under the Swedish flag to operate cabotage traffic in US. The specific aim of this reservation depends on the content of possible mutually agreed future agreement between the US and SE. The EU reserves the right to adopt or maintain any measure which accords differential treatment to a country pursuant for existing or future agreements relating to access to inland waterways (including agreements following the Rhine-Main-Danube link), which reserve traffic rights for operators based in the countries concerned who meet nationality criteria regarding ownership. Subject to regulations implementing the Mannheim Convention on Rhine Shipping. This part of the reservation only applies to the following Member States: BE, DK, FR, DE, EL, IE, IT, LU, NL, PT, ES and UK.
Energy Services		
	No exemptions	No exemptions
Communication services		
		Unless national treatment is provided by the United States, the EU retains the right to maintain or adopt any measure with respect to broadcast transmission services.

Sector or subsector	TISA	TTIP ¹⁴
		The transmission of broadcasting signal may be subject to non-discriminatory obligations to safeguard general interest objectives related to the conveyance of content through networks, in line with the EU regulatory framework for electronic communications. In BE, the right is reserved to adopt or maintain any measure with regard to satellite broadcast transmission services
Educational services		
		Reservations for future measures The EU with regard to education services which receive public funding or State support in any form, and are therefore not considered to be privately and with regard to privately funded other education services. The EU reserves the right to adopt or maintain any measure with respect to requiring that the majority of the members of the board of directors of an establishment providing education services must be Slovak nationals in SK, Czech nationals in CZ. In IT for requiring that only Italian juridical persons may be authorised to issues state-recognised diplomas.
Primary education services		Reservations for future measures The EU reserves the right to adopt or maintain any measure with respect to restricting the provision of privately funded primary education services in BG, CY, FI, MT, RO, SI and SE, as well as in IT and HR, with respect to the cross-border

Sector or subsector	TiSA	TTIP ¹⁴
		provision of privately funded primary education services. In HR , the EU reserves the right to adopt or maintain any measure with respect to the establishment for provision of privately funded primary education services.
Secondary education services		Reservations for future measures The EU reserves the right to adopt or maintain any measure with respect to restricting the provision of privately funded primary education services in BG, CY, FI, MT, RO and SE, as well as in IT and HR, with respect to the cross-border provision of privately-funded secondary education services. In SI, for requiring that the majority of the members of the board of directors of an establishment providing privately funded secondary education services must be Slovenian nationals.
Higher education services		Reservations for future measures The EU reserves the right to adopt or maintain any measure with respect to restricting the provision of privately funded higher education services in AT, BG, CY, FI, MT, RO and SE. In SI, for requiring that the majority of the members of the board of directors of an establishment providing privately funded higher education services must be Slovenian nationals. In CZ, for restricting the provision of higher educational services except post-secondary technical and vocational education services.

Sector or subsector	TISA	TTIP ¹⁴
Adult education services		Reservations for future measures The EU reserves the right to adopt or maintain any measure with respect to restricting the provision of privately funded adult education services in CY, FI, MT, RO and SE. In AT, for the provision privately funded adult education services by means of radio or television broadcasting.
Other education services		Reservations for futures measures The EU reserves the right to adopt or maintain any measure with respect to requiring EEA residency for providers of education services other than post-secondary technical and vocational education services in SK.
Environmental services		
		The EU reserves the right to adopt or maintain any measure with respect to the cross border provision of environmental services, except for consulting services. The EU with respect to the provision of services relating to the collection, purification and distribution of water to household, industrial, commercial or other users, including the provision of drinking water, and water management.
Health and Social Services		
		The EU with regard to the provision of all health services which receive public funding or State support in any form, and are therefore not considered to be privately funded (with a few

Sector or subsector	TiSA	TTIP ¹⁴
		exceptions). The EU reserves the right to adopt or maintain any measures with regard to all privately funded health services, other than privately funded hospital, ambulance, and residential health services other than hospital services. The EU, except in HU, with respect to requiring the establishment of suppliers and restricting the cross-border provision of privately funded hospital, ambulance, and residential health services other than hospital services. In HU with respect to requiring establishment of suppliers and restricting the cross-border provision of health services, with the exception of privately funded hospital, ambulance and residential health services other than hospital services. In FR, with regard to the cross-border provision of privately funded laboratory analysis and testing services. In AT, BG, BE, UK, CY, CZ, MT, SE, SK, PL, FI, with respect to the cross-border provision of privately-funded ambulance services. In AT, SI and PL with respect to the establishment of privately funded ambulance services. In BG, with respect to the establishment of hospital services, for ambulance services and for residential health facilities other than hospital services. In CY, CZ, FI, MT, SE and SK, with respect to the establishment of privately-funded hospital, ambulance, and residential health services other than hospital services. In BE and UK, with regard to the establishment of privately funded ambulance and residential health services other than hospital services.

Sector or subsector	TISA	TTIP ¹⁴
		In DE, the right is reserved to maintain national ownership of hospitals run by the German Forces. Germany reserves the right to nationalise other key hospitals. In CY, provision for Cypriot citizens of medical treatment, not available in Cyprus, in selected countries with which bilateral agreements have been signed or will be signed in the future.
Social services		The EU, with respect to the cross-border supply of social services, whether publicly or privately funded and with respect to activities or services forming part of a public retirement plan or statutory system of social security. The EU, with respect to establishment of all social services which receive public funding or State support in any form, and are therefore not considered to be privately funded, and with regard to activities or services forming part of a public retirement plan or statutory system of social security. In AT, CZ, FI, HR, HU, MT, NL, PL, RO, SK, SI, SE, with respect to establishment of all social services, whether publicly or privately funded. In BE, CY, DE, DK, EL, ES, FR, IE, IT, PT, and UK, with respect to establishment of publicly funded social services, and to privately funded social services other than services relating to Convalescent and rest Houses and Old People's Home.

4.4 Summary

This summary of the above tables lists all elements where no provisions are included in TTIP compared to TiSA or vice versa. Apart from several differences in the measures provided by both treaties in the analysed sectors, an overarching issue seen above is that TiSA provides a list of horizontal commitments regarding both limitations on market access and on national treatment, an approach not taken by TTIP. These horizontal commitments, beyond the scope of the present paper, apply to the vast majority of sectors under TiSA. TTIP also does not present any placeholder for future work in its section regarding sector-specific commitments, which TiSA does present. Finally, it appears there are far more limitations and exemptions in TTIP than in TiSA in general.

Table 5. Summary

Limitations on market access	TTIP
	In TTIP, specific limitations which are not present in TiSA are observed in the subsector of internal waterways transport, outlining limitations in its provision. In the subsector of services incidental to mining, TTIP provides limitations in the UK for the license to undertake exploration and production activities (for cross-border supply and commercial presence) and in CY for a nationality condition (for the presence of natural persons). These measures are non-existent in TiSA. In the subsector of satellite broadcast transmission services, TTIP provides a reciprocity condition for their provision as well as non-discriminatory obligations in the context of broadcasting signal's transmission.
Limitations on national treatment	TiSA
	In TiSA, specific measures which are not present in TTIP are observed in the subsector of road transport and freight transportation, namely regarding direct branching. Additionally, TiSA provides specific measures in BE for the subsector of satellite broadcast transmission services. In TiSA, specific measures are provided for LT and LV in the sector of social services.
Limitations on national treatment	TTIP
	TTIP provides specific measures in ES regarding nationality conditions for the sector of distribution services, which TiSA does not. In the sector of transport services, we see a major discrepancy between both treaties, since TTIP provides limitations on goods or passenger transport operations by inland waterway. Moreover, TTIP provides specific measures in the same sector for AT, although some measures related to this countries are similar in both treaties. The same provisions are observed for the sector of internal waterways transport.

	We also observe differences in the countries experimenting limitations on national treatment in the sector of road transport. Indeed, apart the fact that the same limitations are observed in both treaties in RO and SE, TTIP also expresses restrictions in EL whereas TiSA in BG. Moreover, in the subsector of pipeline transport of goods other than fuel, we observe more limitations in TTIP than in TiSA for AT. Moreover, TTIP provides limitations on national treatment in AT, PL, BE, BG, CY, FI, FR, PT, SK, HU, DE, SE in the sector of energy services, whereas TiSA does not provide any limitations for this sector. TTIP provides limitations on national treatment for AT, PL, BE, BG, CY, FI, FR, PT, SK, HU, DE and SE in the communications sector, unlike TiSA, which does not provide any limitations in this sector. Moreover, in the same sector, TTIP states specific measures for FI regarding an EEA residence condition for the members of the Board Directors. Furthermore, in the sector of educational services, TTIP provides reservations for future measures, mainly for the provision of privately-funded education services, which TiSA does not. Lastly, TTIP provides specific measures regarding the adoption or maintaining of any measure with respect to cross border provision of environmental services, except for consulting services. We do not observe this measure in TiSA. TiSA Unlike TTIP, TiSA provides specific measures regarding the provision of audiovisual services for the communications sector. Moreover, in the educational sector, TiSA provides a nationality condition as well as a requirement for a specific authorisation for foreign teachers willing to teach in FR. Lastly, TiSA establishes a specific denomination for foreign investors in the sector of social services.
Most-favoured nation exemptions	TTIP In the sector of transport services, we observe MFN exemptions which are inexistent in TiSA, and which mainly concern cabotage traffic of US vessels in SE and access to inland waterways. Moreover, TTIP provides specific rules regarding broadcast transmission services in the communications' sector and reserves specific measures for satellite broadcast transmission services in BE. Unlike TiSA, which does not provide any MFN exemptions in the sector of educational services, TTIP provides specific reservations for future measures regarding privately-funded education services as well as a nationality condition in SK and CZ, conditions related to the recognition of diplomas in IT, and a nationality condition for Board

	Members in SI. In the sector of environmental services, TTIP provides MFN exemptions relative to the cross-border provision of environmental services (except for consulting services) and to the provision of services relating to the collection, purification and distribution of water to household, industrial, commercial or other users, including the provision of drinking water, and water management. In the sector of health and social services, TTIP provides exemptions related to the adoption or maintaining any measures with regard to all privately funded health services (with exceptions) and for numerous countries as far as cross-border health services and privately-funded health services are concerned. TiSA does not provide any MFN exemption in this sector.
	TiSA
	We observe an MFN exemption in the sector of distribution services which is not provided by TTIP and which concerns the promotion of European cultural values and linguistic policy objectives toward young people.

5 Conclusions

In this paper we have analysed the service provisions in the European Union offers for the negotiations on the Trade in Services Agreement (TiSA) and the Transatlantic Trade and Investment Partnership (TTIP). In general, there are many commonalities in the two agreements, reflecting the parallel tracks on which they have been negotiated and their similar spirit, with differences derived from both their origin (WTO/GATS versus WTO-plus) and the specific circumstances of Member States. In particular, the approaches to scheduling are similar in the two agreements, with both TiSA and TTIP using a positive listing approach to scheduling regarding market access, meaning that sectors for which trade liberalization commitments are undertaken are specifically listed. In case of national treatment, the negative listing method is applied, committing national treatment to all sectors, while only exceptions are listed.

The rules governing market access and national treatment also show little divergence between the two agreements. However, in TiSA the list of areas in which limitations for market access are not allowed is longer, while in TTIP it is additionally indicated that national treatment does not require compensating foreign services for competitive disadvantage resulting from foreign origin. The rules for most favoured nation, coverage of domestic regulation, and the mutual recognition of qualifications are, for now missing, in the published text of TiSA, while they are presented in detail in TTIP provisions. TiSA also features the ban on limitations of transfers and payments and security exceptions. These are not included in TTIP, but intended to be added at a later stage. Finally, the general exceptions to the rules are similar, with TTIP listing additionally the reason of the protection of public security, the conservation of natural resources and the protection of national treasures of artistic, historic and archaeological value.

As far as the sector specific-provisions are concerned, the comparison of the EU offers for TiSA and TTIP shows that limitations on market access, national treatment, and MFN are consistent across sectors. In our analysis, the main differences are detected in the transport and in the educational services sectors, perhaps reflecting the national character of these services and the different legal basis for their regulation (i.e. under WTO rules versus bilaterally). For other major cross-border services, however, the highest levels of harmonization of provisions are recorded in the energy sector and communications. Our investigation also shows that TTIP is the agreement with a higher number of limitations in comparison to TiSA, perhaps suggesting that TiSA may be a more effective vehicle for broader-based liberalization.

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