





European Digital Rights (EDRi) welcomes [LIBE's draft Opinion on TiSA](#). In view of the [amendments](#) (AMs) we would like to make recommendations on the amendments that follow under our scope of work.

EDRi encourages MEPs to:

 **SUPPORT:** AMs 3, 8, 13, 14, 19, 22, 24, 26, 33, 35, 36, 38, 48, 49, 50

 **OPPOSE:** AMs 1, 2, 5, 9, 10, 11, 15, 16, 23, 25, 30, 31, 32, 34, 37, 39, 40, 41, 42, 44, 45, 47, 51, 52, 53, 54

A short justification is given below.

Amendment 1
Axel Voss
Draft opinion
Recital A

OPPOSE	
<i>Draft opinion</i>	<i>Amendment</i>
A. whereas the Union is bound by the Charter of Fundamental Rights of the European Union (the Charter), including Article 8 thereof on the right to the protection of personal data, and by Article 16 of the Treaty on the Functioning of the European Union (TFEU) on the same fundamental right, as a key pillar of EU primary law which must be fully respected by all international agreements;	A. whereas the Union is bound by the Charter of Fundamental Rights of the European Union (the Charter), including Article 8 thereof on the right to the protection of personal data, and by Article 16 of the Treaty on the Functioning of the European Union (TFEU) on the same fundamental right, as a key pillar of EU primary law which must be respected by all international agreements;
Comments: We are surprised MEPs would propose anything other than full respect of a pillar of EU primary law.	

Or. de

Amendment 2
Timothy Kirkhope
Draft opinion
Recital A

OPPOSE	
<i>Draft opinion</i>	<i>Amendment</i>
A. whereas the Union is bound by the Charter of Fundamental Rights of the European Union (the Charter), including Article 8 thereof on the right to the protection of personal data, and by Article 16 of the Treaty on the Functioning of the European Union (TFEU) on the same fundamental right, as a key pillar of EU primary law which must be fully respected by all international agreements;	A. whereas the Union is bound by the Charter of Fundamental Rights of the European Union (the Charter), including Article 8 thereof on the right to the protection of personal data, and by Article 16 of the Treaty on the Functioning of the European Union (TFEU) on the same fundamental right, as a key pillar of EU primary law which must be fully respected by all international agreements; <i>acknowledges that the legal traditions and systems of the United States and the European Union are different, and therefore should pursue</i>

	<i>agreements based on adequacy and equivalence of the differing systems, rather than a replication of European standards;</i>
Comments: TiSA is not an agreement that only includes the EU and the US. Either an agreement respects the primary law of the European Union or it does not – a system that does not respect European law is not, by definition “adequate”.	

Or. en

Amendment 3

Louis Michel, Gérard Deprez, Maite Pagazaurtundúa Ruiz, Sophia in 't Veld

Draft opinion

Recital A

SUPPORT	
<i>Draft opinion</i>	<i>Amendment</i>
A. whereas the Union is bound by the Charter of Fundamental Rights of the European Union (the Charter), including Article 8 thereof on the right to the protection of personal data, and by Article 16 of the Treaty on the Functioning of the European Union (TFEU) on the same fundamental right, as a key pillar of EU primary law which must be fully respected by all international agreements;	A. whereas the Union is bound by the Charter of Fundamental Rights of the European Union (the Charter), including Article 7 thereof concerning the right to respect for private and family life and Article 8 thereof on the right to the protection of personal data, and by Article 16 of the Treaty on the Functioning of the European Union (TFEU) on the same fundamental right, as a key pillar of EU primary law which must be fully respected by all international agreements;
Comments: We welcome the reference to Article of 7 of the Charter of Fundamental Rights.	

Or. fr

Amendment 4

Marina Albiol Guzmán

Draft opinion

Recital A a (new)

NO POSITION	
<i>Draft opinion</i>	<i>Amendment</i>
	<i>Aa. whereas the Union is bound by the Charter of Fundamental Rights of the European Union, including Article 14 concerning the right to education, Articles 27, 28, 29, 30, 31, 32 and 33 concerning workers' rights, Article 34 concerning the right to social assistance, Article 35 concerning the right to health care, Article 37 concerning the right to environmental protection, and Article 38 concerning the right to protection as consumers. Taking into account that all these are basic rights which cannot be put at stake;</i>
Comments: This amendment falls outside EDRi's scope of work. However, we agree in principle that basic rights must be protected.	

Or. en

Amendment 5

Timothy Kirkhope

Draft opinion

Recital A a (new)

OPPOSE	
<i>Draft opinion</i>	<i>Amendment</i>
	<i>Aa. whereas TISA is intended to create an open and fair level playing field for companies operating overseas; allowing the opening up of markets in order to provide economic growth and jobs for the EU, whereas high data protection standards in the transfer of personal data are important in to ensure trust and further investment in sectors such as digital and telecommunications;</i>

Comments: This amendment only reflects an economic point of view of the importance of data protection standards and leaves out a reference to privacy and data protection as fundamental rights. Personal data should be excluded from the negotiations.

Or. en

Amendment 6

Louis Michel, Gérard Deprez, Maite Pagazaurtundúa Ruiz, Sophia in 't Veld

Draft opinion

Recital C a (new)

NO POSITION	
<i>Draft opinion</i>	<i>Amendment</i>
	<i>Ca. whereas Article 31 of the Charter requires the Union to ensure fair and just working conditions;</i>
Comments: It falls outside EDRI's scope of work. However, in principle, we obviously agree that all fundamental rights must be upheld.	

Or. fr

Amendment 7

Marina Albiol Guzmán

Draft opinion

Recital D a (new)

NO POSITION	
<i>Draft opinion</i>	<i>Amendment</i>
	<i>Da. whereas Members of the European Parliament depend on leaked documents when scrutinizing the negotiations for TiSA;</i>
Comments: The amendment highlights the high degree of secrecy of the negotiations, which is greatly problematic and therefore constitutes a welcome addition. However, the ability to scrutinise the developments must be afforded to everybody, not just to the European Parliament. We thus remain neutral on this amendment, as it is not sufficiently broad.	

Or. en

Amendment 8

Laura Agea, Laura Ferrara, Ignazio Corrao

Draft opinion

Recital D a (new)

SUPPORT	
<i>Draft opinion</i>	<i>Amendment</i>
	<i>Da. whereas negotiations on the Trade in Services Agreement (TiSA) have been taking place in total secrecy since 2013; welcomes, therefore, the Council decision to declassify the TiSA negotiating mandate; takes the view, however, that the Council has not taken into due account the right of citizens to have their personal data protected and expresses concern regarding the possibility that the TiSA might undermine the fundamental rights of citizens as enshrined in the Charter;</i>
Comments: The reference to the high degree of secrecy in the negotiations is welcome, as is the Council's decision to declassify the negotiating mandate. We share the concern for the right of citizens to the protection of their personal data.	

Or. it

Amendment 9

Axel Voss

Draft opinion

Recital E

OPPOSE	
<i>Draft opinion</i>	<i>Amendment</i>
<i>E. whereas ongoing negotiations on international trade agreements, including the Trade in Services Agreement (TiSA), also touch upon international data flows while</i>	<i>deleted</i>

excluding privacy and data protection entirely, which will be discussed in parallel;

Comments: We don't welcome the deletion. Fundamental rights must not be subject to negotiation.

Or. de

Amendment 10

Laura Agea, Laura Ferrara, Ignazio Corrao

Draft opinion

Recital E

OPPOSE

Draft opinion

E. whereas ongoing negotiations on **international trade agreements, including** the Trade in Services Agreement (TiSA), **also** touch upon international data flows **while excluding privacy and data protection entirely, which will be discussed in parallel;**

Amendment

E. whereas ongoing negotiations on the Trade in Services Agreement (TiSA), **mainly** touch upon international data flows **and data processing, including personal data;**

Comments: The original paragraph clearly excluded data protection and privacy from the scope of the negotiations. The amendment just describes the situation.

Or. it

Amendment 11

Timothy Kirkhope

Draft opinion

Recital E

OPPOSE

Draft opinion

E. whereas **ongoing negotiations on international trade agreements, including** the Trade in Services Agreement (TiSA), **also** touch upon international data flows while excluding privacy and data protection entirely, which will be discussed in parallel;

Amendment

E. whereas the Trade in Services Agreement (TiSA), touch upon international data flows while excluding privacy and data protection entirely, which will be discussed in parallel;

Comments: We do not understand the goal of the amendment.

Or. en

Amendment 12

Louis Michel, Maite Pagazaurtundúa Ruiz, Gérard Deprez, Sophia in 't Veld

Draft opinion

Recital E a (new)

NO POSITION

Draft opinion

Amendment

Ea. whereas data flows are assuming growing importance for the economy and for international trade and whereas the increase in these flows must have as a corollary a greater effort by the Union to ensure its independence in the digital sphere and to develop cutting-edge expertise in the field of cybersecurity;

Comments: The relevance of this amendment to the matter at hand appears somewhat tenuous. If the intention is to support the exclusion of issues such as encryption standards from the negotiations, we would welcome this.

Or. fr

Amendment 13

Louis Michel, Gérard Deprez, Maite Pagazaurtundúa Ruiz, Sophia in 't Veld

Draft opinion

Recital E b (new)

SUPPORT

Draft opinion

Amendment

Eb. whereas the USA is a party to the negotiations on the future agreement; having regard to the recent judgment of the Court of Justice declaring the European Commission's

	<i>decision on Safe Harbour invalid;</i>
Comments: This amendment describes the current situation.	

Or. fr

Amendment 14
Laura Agea, Laura Ferrara, Ignazio Corrao
Draft opinion
Recital F

SUPPORT	
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<i>Draft opinion</i>	<i>Amendment</i>
F. whereas the draft US text on e-commerce for the TiSA would undermine EU rules and safeguards for the transfer of personal data to third countries; whereas Parliament reserves the right to express its opinion after consulting any future text proposals and drafts of the TiSA agreement;	F. whereas the draft US text on e-commerce for the TiSA would undermine EU rules and safeguards for the transfer of personal data to third countries, <i>exposing the privacy and security of information to serious risks;</i> whereas Parliament reserves the right to express its opinion after consulting any future text proposals and drafts of the TiSA agreement;

Comments: This provides greater detail to the risks the US proposal would cause to the privacy and security of personal data.

Or. it

Amendment 15
Axel Voss
Draft opinion
Recital F

OPPOSE	
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<i>Draft opinion</i>	<i>Amendment</i>
F. whereas <i>the draft US text on e-commerce for the TiSA would undermine EU rules and safeguards for the transfer of personal data to third countries; whereas Parliament reserves the right to express its opinion after consulting any future text proposals and drafts of the TiSA agreement;</i>	F. whereas, <i>pursuant to Article 218(6) TFEU, the European Parliament is to deliver an opinion on the TiSA agreement and on other agreements between the Union and third countries;</i>

Comments: It is not acceptable to substitute an important point of the opinion with a reference to procedural aspects of the negotiations.

Or. de

Amendment 16
Timothy Kirkhope
Draft opinion
Recital F

OPPOSE	
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<i>Draft opinion</i>	<i>Amendment</i>
F. whereas <i>the draft US text on e-commerce for the TiSA would undermine EU rules and safeguards for the transfer of personal data to third countries; whereas Parliament reserves the right to express its opinion after consulting any future text proposals and drafts of the TiSA agreement;</i>	F. whereas <i>it is important that the EU and the US reach a compromise regarding the transfer of personal data to third countries which fully respects the privacy and protection of personal data;</i> whereas Parliament reserves the right to express its opinion after consulting any future text proposals and drafts of the TiSA agreement;

Comments: This amendment weakens the wording used in the draft opinion. The CJEU has issued its ruling and it is not in the gift of the Commission to 'compromise' it away.

Or. en

Amendment 17
Marina Albiol Guzmán
Draft opinion
Recital F a (new)

NO POSITION	
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<i>Draft opinion</i>	<i>Amendment</i>
	<i>Fa. whereas some of the parties participating</i>

	<i>in the TiSA negotiations have not ratified the conventions of the International Labour Organization;</i>
Comments: It falls outside EDRI's scope of work.	

Or. en

Amendment 18
Monika Hohlmeier, Axel Voss, Anna Maria Corazza Bildt
Draft opinion
Recital F a (new)

NO POSITION	
<i>Draft opinion</i>	<i>Amendment</i>
	<i>Fa. whereas TiSA is an opportunity for the EU to consolidate its position as the world leader in the field, with 24 % of global trade in services;</i>
Comments: It falls outside EDRI's scope of work.	

Or. en

Amendment 19
Laura Agea, Laura Ferrara, Ignazio Corrao
Draft opinion
Recital F a (new)

SUPPORT	
<i>Draft opinion</i>	<i>Amendment</i>
	<i>Fa. whereas the judgment of the European Court of Justice in the Safe Harbour case C-362/14 will have an impact on international agreements on the transfer of personal data;</i>
Comments: We welcome the reference to the CJEU's landmark case Schrems v Data Protection Commissioner. Its impact on data transfers is of utmost importance.	

Or. it

Amendment 20
Louis Michel, Gérard Deprez, Maite Pagazaurtundúa Ruiz, Sophia in 't Veld
Draft opinion
Recital F a (new)

NO POSITION	
<i>Draft opinion</i>	<i>Amendment</i>
	<i>Fa. whereas TiSA will entail movements of natural persons and whereas in this context all European citizens should be treated equally as regards access to the territory of the other parties to the agreement;</i>
Comments: It falls outside EDRI's scope of work.	

Or. fr

Amendment 21
Monika Hohlmeier, Axel Voss, Anna Maria Corazza Bildt
Draft opinion
Recital F b (new)

NO POSITION	
<i>Draft opinion</i>	<i>Amendment</i>
	<i>Fb. whereas non-tariff barriers, which on average represent more than 50 % of the cost of cross-border services, disproportionately affect small and medium-sized enterprises, which often lack the human and financial resources necessary to overcome those obstacles; whereas the elimination of unnecessary barriers would facilitate their internationalisation;</i>
Comments: It falls outside EDRI's scope of work.	

Or. en

Amendment 22

Louis Michel, Gérard Deprez, Maite Pagazaurtundúa Ruiz, Sophia in 't Veld

Draft opinion

Recital F b (new)

SUPPORT	
<i>Draft opinion</i>	<i>Amendment</i>
	<i>Fb. whereas the European Parliament will have the power to approve or reject the final agreement;</i>

Or. fr

Amendment 23

Timothy Kirkhope

Draft opinion

Paragraph 1 – point a

OPPOSE	
<i>Draft opinion</i>	<i>Amendment</i>
<i>(a) to ensure that the agreement guarantees full respect for EU fundamental rights standards through the inclusion of a legally binding and suspensive human rights clause as a standard part of EU trade agreements with third countries;</i>	<i>deleted</i>

Comments: We don't need to explain why this amendment is objectionable.

Or. en

Amendment 24

Marina Albiol Guzmán

Draft opinion

Paragraph 1 – point a

SUPPORT	
<i>Draft opinion</i>	<i>Amendment</i>
(a) to ensure that the agreement guarantees full respect for EU fundamental rights standards through the inclusion of a legally binding and suspensive human rights clause as a standard part of EU trade agreements with third countries;	<p>(a) to ensure that the agreement guarantees full respect for EU fundamental rights standards through the inclusion of a legally binding and suspensive human rights clause as a standard part of EU trade agreements with third countries <i>which must include:</i></p> <ul style="list-style-type: none"> – <i>Confirmation of states obligations under the Universal Declaration of Human Rights and other relevant international human rights instruments including, but not limited to, the European Convention on Human Rights and the International Covenant on Civil and Political Rights;</i> – <i>Assurance that state parties will interpret the provisions in the agreement in accordance with international human rights law;</i> – <i>Assurance that none of the obligations which may arising from the agreement will have the effect of modifying the obligations to respect, protect, and fulfil fundamental rights in the EU;</i> – <i>An exception permitting parties to suspend their obligations arising from the agreement if there are grounds to believe that it will result in a breach of fundamental rights;</i> – <i>A mechanism putting forward periodic human rights impact assessments to be conducted jointly by a designated committee of the US Congress and the European Parliament;</i> – <i>A mechanism to bring complaints in front</i>

	<p><i>of national courts in order to initiate an investigation by the designated authority into human rights disputes arising under the agreement;</i></p> <p><i>– Procedures to ensure that citizens have equality before the law;</i></p> <p><i>– Assurance that the Parties to the agreement will not in any way whatsoever relatively privilege their own citizens, or otherwise discriminate against non-citizens, merely according to their citizenship status in any matter affected by this agreement, concerning public order, national security, crime or grounds of important public interest; such as internationally recognised labour standards, environment or public health and education standards;</i></p> <p><i>– An accessible mechanism to impose sanctions when fundamental rights and standards are abused;</i></p>
<p>Comments: This amendment provides meaning to what human right clauses should look like.</p>	

Or. en

Amendment 25

Monika Hohlmeier, Axel Voss, Anna Maria Corazza Bildt

Draft opinion

Paragraph 1 – point a

OPPOSE	
<i>Draft opinion</i>	<i>Amendment</i>
<p>(a) to ensure that the agreement guarantees full respect for EU fundamental rights standards <i>through the inclusion of a legally binding and suspensive human rights clause as a standard part of EU trade agreements with third countries;</i></p>	<p>(a) to ensure that the agreement guarantees full respect for EU fundamental rights standards;</p>
<p>Comments: Saying that human rights should be respected does not mean much unless it is a binding obligation. This amendment deletes they key phrase of point a.</p>	

Or. en

Amendment 26

Laura Agea, Laura Ferrara, Ignazio Corrao

Draft opinion

Paragraph 1 – point a a (new)

SUPPORT	
<i>Draft opinion</i>	<i>Amendment</i>
	<p><i>(aa) Expresses serious concern over the draft TiSA agreement, which would seriously undermine all the Union's provisions and safeguards concerning the protection and transfer to third countries of the personal data of its citizens;</i></p>
<p>Comments: The leaks and public documents show enough reasons to have concerns about the respect of EU data protection legislation.</p>	

Or. it

Amendment 27

Marina Albiol Guzmán

Draft opinion

Paragraph 1 – point a a (new)

NO POSITION	
<i>Draft opinion</i>	<i>Amendment</i>
	<p><i>(aa) to oppose TiSA because of the consequences it will have on European standards of services such as health care, education or social assistance, which could</i></p>

	<i>stop being fundamental rights and become another market niche in the hands of multinational corporations, undermining the civil liberties of European citizens;</i>
Comments: It falls outside EDRI's scope of work.	

Or. en

Amendment 28
Marina Albiol Guzmán
Draft opinion
Paragraph 1 – point a b (new)

NO POSITION	
<i>Draft opinion</i>	<i>Amendment</i>
	<i>(ab) to oppose TiSA because of its consequences on workers' rights, undermining European standards of labour protection and making workers loose the protection by the justice system they enjoy today;</i>
Comments: It falls outside EDRI's scope of work.	

Or. en

Amendment 29
Marina Albiol Guzmán
Draft opinion
Paragraph 1 – point a c (new)

NO POSITION	
<i>Draft opinion</i>	<i>Amendment</i>
	<i>(ac) to request Member States to hold binding referenda about the Agreement before it is passed;</i>
Comments: It falls outside EDRI's scope of work.	

Or. en

Amendment 30
Axel Voss
Draft opinion
Paragraph 1 – point b

OPPOSE	
<i>Draft opinion</i>	<i>Amendment</i>
<i>(b) to incorporate, as a key priority, a comprehensive and unambiguous horizontal self-standing provision, based on Article XIV of the General Agreement on Trade in Services (GATS), that fully exempts the existing and future EU legal framework for the protection of personal data from the agreement, without any condition that it must be consistent with other parts of the TiSA, and to ensure that the agreement does not preclude the enforcement of exceptions for the supply of services which are justifiable under the relevant World Trade Organisation rules (Articles XIV and XIVbis of the GATS);</i>	<i>(b) Recalls that Article XIV of the General Agreement on Trade and Services (GATS) clearly refers to privacy and the protection of personal data as an exception which cannot be considered a trade barrier; stresses that EU data protection legislation cannot be deemed to constitute 'arbitrary or unjustifiable discrimination' in the application of Article XIV of the GATS;</i>
Comments: There is a need for a self-standing clause, which is exactly what the European Parliament asked in its Resolution on TTIP. Why would the Parliament now change its view in TiSA?	

Or. de

Amendment 31
Timothy Kirkhope
Draft opinion
Paragraph 1 – point b

OPPOSE	
<i>Draft opinion</i>	<i>Amendment</i>
<i>(b) to incorporate, as a key priority, a</i>	<i>(b) to incorporate, as a key priority, in the core</i>

<p><i>comprehensive and unambiguous horizontal self-standing provision, based on Article XIV of the General Agreement on Trade in Services (GATS), that fully exempts the existing and future EU legal framework for the protection of personal data from the agreement, without any condition that it must be consistent with other parts of the TiSA, and to ensure that the agreement does not preclude the enforcement of exceptions for the supply of services which are justifiable under the relevant World Trade Organisation rules (Articles XIV and XIVbis of the GATS);</i></p>	<p><i>text of TiSA, an exemption, notwithstanding any other part of the agreement, allowing for the protection of the privacy of individuals in relation to the processing and dissemination of personal data and the protection of confidentiality of individual records and accounts, and to ensure that the agreement does not preclude the enforcement of exceptions for the supply of services which are justifiable under the relevant World Trade Organisation rules (Articles XIV and XIVa of the GATS);</i></p>
<p>Comments: This amendment is not as negative as AM 30, but the amendment narrows' the scope of the original paragraph, as the exception would only cover TiSA's core text and not the sectoral chapters. Considering data protection is on the table of negotiations in the financial services, e-commerce and telecommunications chapter, this is unacceptable.</p>	

Or. en

Amendment 32

Monika Hohlmeier, Anna Maria Corazza Bildt

Draft opinion

Paragraph 1 – point b

OPPOSE	
<i>Draft opinion</i>	<i>Amendment</i>
<p>(b) to incorporate, <i>as a key priority, a comprehensive and unambiguous</i> horizontal self-standing provision, based on Article XIV of the General Agreement on Trade in Services (GATS), that <i>fully</i> exempts the existing and future EU legal framework for the protection of personal data from the agreement, <i>without any condition that it must be consistent with other parts of the TiSA</i>, and to ensure that the agreement does not preclude the enforcement of exceptions for the supply of services which are justifiable under the relevant World Trade Organisation rules (Articles XIV and XIVbis of the GATS);</p>	<p>(b) to incorporate <i>a</i> horizontal self-standing provision, based on Article XIV of the General Agreement on Trade in Services (GATS), that exempts the existing and future EU legal framework for the protection of personal data from the agreement and to ensure that the agreement does not preclude the enforcement of exceptions for the supply of services which are justifiable under the relevant World Trade Organisation rules (Articles XIV and XIVa of the GATS);</p>
<p>Comments: This amendment eliminates one of the key elements of the original paragraph (second deletion), which would create a loophole in the exception.</p>	

Or. en

Amendment 33

Marina Albiol Guzmán

Draft opinion

Paragraph 1 – point b a (new)

SUPPORT	
<i>Draft opinion</i>	<i>Amendment</i>
	<p><i>(ba) to incorporate a clause to the Agreement which clearly forbids the use of personal data gathered by public services or institutions for commercial or marketing purposes, as well as forbidding the transfer of personal data gathered by the State and its institutions to private companies;</i></p>
<p>Comments: There is widespread bad practice of re-selling data of citizens collected for legitimate purposes.</p>	

Or. en

Amendment 34

Timothy Kirkhope

Draft opinion

Paragraph 1 – point c

OPPOSE

<i>Draft opinion</i>	<i>Amendment</i>
(c) to ensure that personal data can be transferred outside the Union <i>only if the provisions on third-country transfers in EU data protection laws are complied with; to negotiate on provisions which touch upon the flow of personal data only if the full application of EU data protection rules is guaranteed and respected;</i>	(c) to ensure that personal data can be transferred outside the Union <i>so long as equivalent EU data protection standards are provided for under an international agreement or mechanism;</i>
Comments: The original text is significantly clearer and more comprehensive.	

Or. en

Amendment 35

Aldo Patriciello

Draft opinion

Paragraph 1 – point c

SUPPORT

<i>Draft opinion</i>	<i>Amendment</i>
(c) to ensure that personal data can be transferred outside the Union only if the provisions on third-country transfers in EU data protection laws are complied with; to negotiate on provisions which touch upon the flow of personal data only if the full application of EU data protection rules is guaranteed and respected;	(c) to ensure that personal data can be transferred outside the Union only if the provisions on third-country transfers in EU data protection laws are complied with; to negotiate on provisions which touch upon the flow of personal data only if the full application of EU data protection rules is guaranteed and respected; <i>to make provision for a specific oversight and penalty mechanism in the event of any infringement of EU rules;</i>
Comments: Enforcement is very important in this context.	

Or. it

Amendment 36

Laura Agea, Laura Ferrara, Ignazio Corrao

Draft opinion

Paragraph 1 – point c

SUPPORT

<i>Draft opinion</i>	<i>Amendment</i>
(c) to ensure that personal data <i>can be transferred</i> outside the Union only if <i>the provisions on third-country transfers in EU data protection laws are complied with; to negotiate on provisions which touch upon the flow of personal data only if the full application of EU data protection rules is guaranteed and respected;</i>	(c) to ensure that <i>negotiations concerning the transfer of</i> personal data outside the Union <i>can continue</i> only if <i>full compliance with EU data protection legislation is guaranteed; points out that personal data may be processed only in Europe and that all rules relating to the transfer of that data to third countries are exceptions to that principle and must meet certain conditions; in particular, the third country must ensure an appropriate level of protection and ensure that EU citizens have the same opportunities to appeal and the same procedural rights as citizens of that third country in the event of any unlawful use of their personal data;</i>
Comments: Data transfers must be compliant with EU law. The original is also acceptable.	

Or. it

Amendment 37

Eleftherios Synadinos

Draft opinion

Paragraph 1 – point c

OPPOSE

<i>Draft opinion</i>	<i>Amendment</i>
(c) to ensure that personal data can be	(c) to ensure that personal data can be

transferred outside the Union only if the provisions on third-country transfers in EU data protection laws are complied with; to negotiate on provisions which touch upon the flow of personal data only if the full application of EU data protection rules is guaranteed and respected;	transferred outside the Union only if the provisions on third-country transfers in EU data protection laws are complied with; to negotiate on provisions which touch upon the flow of personal data only if the full application of EU data protection rules is guaranteed and respected, <i>in accordance with the Council of Europe Convention of 28 January 1981 for the Protection of Individuals with regard to Automatic Processing of Personal Data and the relevant case law established further to Article 8 of the Convention for the Protection of Human Rights and Fundamental Freedoms;</i>
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Comments: The added text brings no additional clarity.

Or. el

Amendment 38

Laura Agea, Laura Ferrara, Ignazio Corrao

Draft opinion

Paragraph 1 – point c a (new)

SUPPORT	
<i>Draft opinion</i>	<i>Amendment</i>
	<i>(ca) to oppose any attempt to limit the powers of European and national supervisory bodies which protect personal data;</i>

Comments: Enforcement is important.

Or. it

Amendment 39

Laura Agea, Laura Ferrara, Ignazio Corrao

Draft opinion

Paragraph 1 – point c b (new)

OPPOSE	
<i>Draft opinion</i>	<i>Amendment</i>
	<i>(cb) to assess the appropriate tools for ensuring that EU citizens have a ‘right to be forgotten’ even if their personal data is transferred to third countries;</i>

Comments: It is not at all clear what “a” right to be forgotten” might mean.

Or. it

Amendment 40

Axel Voss

Draft opinion

Paragraph 1 – point d

OPPOSE	
<i>Draft opinion</i>	<i>Amendment</i>
<i>(d) to oppose the provisions with regard to the protection of personal data in the US draft TiSA chapter on e-commerce;</i>	<i>deleted</i>

Comments: The US proposal is not compatible with EU law. This statement is similar to the one made by the LIBE Committee in TTIP. The Parliament should be consistent.

Or. de

Amendment 41

Timothy Kirkhope

Draft opinion

Paragraph 1 – point d

OPPOSE	
<i>Draft opinion</i>	<i>Amendment</i>
<i>(d) to oppose the provisions with regard to the protection of personal data in the US draft TiSA chapter on e-commerce;</i>	<i>deleted</i>

Comments: The US proposal is not compatible with EU law. This statement is similar to the one made

by the LIBE Committee in TTIP. The Parliament should be consistent.

Or. en

Amendment 42

Anna Maria Corazza Bildt, Monika Hohlmeier

Draft opinion

Paragraph 1 – point d

OPPOSE	
<i>Draft opinion</i>	<i>Amendment</i>
(d) to oppose the provisions with regard to the protection of personal data in the US draft TiSA chapter on e-commerce;	(d) to stress that the provisions with regard to the protection of personal data in the US draft TiSA chapter on e-commerce should be improved in order to meet the EU standards on data protection ;
Comments: This amendment does not use bad wording <i>per se</i> , but the original wording is stronger.	

Or. en

Amendment 43

Louis Michel, Gérard Deprez, Maite Pagazaurtundúa Ruiz, Sophia in 't Veld

Draft opinion

Paragraph 1 – point d a (new)

NO POSITION	
<i>Draft opinion</i>	<i>Amendment</i>
	(da) to implement the recommendations of the European Parliament formulated in its resolution of 12 March 2014 concerning European independence in the fields of IT and cybersecurity in order to ensure optimal security of data flows ;
Comments: The relevance of this amendment is not obvious.	

Or. fr

Amendment 44

Axel Voss

Draft opinion

Paragraph 1 – point e

OPPOSE	
<i>Draft opinion</i>	<i>Amendment</i>
(e) to keep in mind that EU rules on the transfer of personal data may prohibit the processing of such data in third countries if they do not meet the EU adequacy standard; to insist that any requirements for the localisation of data processing equipment and establishments be in line with EU rules on data transfers; to cooperate with third countries in the appropriate settings with a view to adopting adequate high data protection standards around the world ;	(e) to keep in mind that, under EU rules on the transfer of personal data, the processing of such data in third countries is permitted only if the agreements there concerning the processing of personal data meet the EU adequacy standard;
Comments: The use of "only if" makes the amendment untrue from an EU law perspective. There are other mechanisms to transfer data to third countries. In addition, Data localisation (processing or storage) should not be banned within the EU, especially not after the Snowden revelations. Some countries like Germany already have rules on data localisation. We recognise that, as with most things, data localisation can be abused but, as with most things, this does not automatically mean that it should be prohibited.	

Or. de

Amendment 45

Timothy Kirkhope

Draft opinion

Paragraph 1 – point e

OPPOSE	
<i>Draft opinion</i>	<i>Amendment</i>
(e) to keep in mind that EU rules on the transfer of personal data may prohibit the	(e) to keep in mind that EU rules on the transfer of personal data may prohibit the

processing of such data in third countries if they do not meet the EU adequacy standard; to <i>insist that any requirements for the localisation of data processing equipment and establishments be in line with EU rules on data transfers</i> ; to cooperate with third countries in the appropriate settings with a view to adopting adequate high data protection standards around the world;	processing of such data in third countries if they do not meet the EU adequacy standard; to cooperate with third countries in the appropriate settings with a view to adopting adequate high data protection standards around the world;
Comments: Data localisation (processing or storage) should not be banned within the EU, especially not after the Snowden revelations. Some countries like Germany already have rules on data localisation. We recognise that, as with most things, data localisation can be abused but, as with most things, this does not automatically mean that it should be prohibited.	

Or. en

Amendment 46

Laura Agea, Laura Ferrara, Ignazio Corrao

Draft opinion

Paragraph 1 – point e

NO POSITION	
<i>Draft opinion</i>	<i>Amendment</i>
(e) to keep in mind that EU rules on the transfer of personal data may prohibit the processing of such data in third countries <i>if they</i> do not meet the EU adequacy standard; to insist that any requirements for the localisation of data processing equipment and establishments be in line with EU rules on data transfers; to cooperate with third countries in the appropriate settings with a view to adopting adequate high data protection standards around the world;	(e) to keep in mind that EU rules on the transfer of personal data may prohibit the processing of such data in third countries <i>which</i> do not meet the EU adequacy standard; to insist that any requirements for the localisation of data processing equipment and establishments be in line with EU rules on data transfers; to cooperate with third countries in the appropriate settings with a view to adopting adequate high data protection standards around the world;
Comments: The amendment does not substantially change the meaning of the original draft.	

Or. it

Amendment 47

Eleftherios Synadinos

Draft opinion

Paragraph 1 – point e

OPPOSE	
<i>Draft opinion</i>	<i>Amendment</i>
(e) to keep in mind that EU rules on the transfer of personal data may prohibit the processing of such data in third countries if they do not meet the EU adequacy standard; to insist that any requirements for the localisation of data processing equipment and establishments be in line with EU rules on data transfers; to cooperate with third countries in the appropriate settings with a view to adopting adequate high data protection standards around the world;	(e) to keep in mind that EU rules on the transfer of personal data may prohibit the processing of such data in third countries if they do not meet the EU adequacy standard; to insist that any requirements for the localisation of data processing equipment and establishments be in line with EU rules on data transfers, <i>to ensure the creation of appropriate supervisory authorities and the establishment of central data access points</i> and to cooperate with third countries in the appropriate settings with a view to adopting adequate high data protection standards around the world;
Comments: While independent regulatory authorities for data protection are an important element of data protection, TiSA is not the place to regulate the creation of other supervisory authorities or central data access points.	

Or. el

Amendment 48

Laura Agea, Laura Ferrara, Ignazio Corrao

Draft opinion

Paragraph 1 – point e a (new)

SUPPORT	
<i>Draft opinion</i>	<i>Amendment</i>
	<i>(ea) to ensure that personal data transferred to third countries are deleted after a certain amount of time;</i>
Comments: We support this amendment insofar as data should be processed and stored no longer than necessary for the purpose of which they are collected.	

Or. it

Amendment 49
Laura Agea, Laura Ferrara, Ignazio Corrao
Draft opinion
Paragraph 1 – point e b (new)

SUPPORT	
<i>Draft opinion</i>	<i>Amendment</i>
	<i>(eb) to ensure compliance with Member States' provisions concerning the protection of personal data if they offer a level of protection that is higher than that provided by EU legislation;</i>
Comments: Insofar as this issue could arise after the adoption of the Regulation, we support it.	

Or. it

Amendment 50
Marina Albiol Guzmán
Draft opinion
Paragraph 1 – point f

SUPPORT	
<i>Draft opinion</i>	<i>Amendment</i>
(f) to show full regard for the need for transparency and accountability in the negotiations throughout the entire process, and to fulfil its obligation under Article 218(10) TFEU, which a recent Court of Justice ruling confirmed as being of statutory character ² , to keep Parliament fully informed on an immediate basis at all stages of the negotiations; <i>to ensure public access to relevant negotiation documents from all parties, with the exception of those which are to be classified with clear justification on a case-by-case basis, with a public justification of the extent to which access to the undisclosed parts of the document in question is likely to specifically and actually undermine the interests protected by the exceptions, in line with Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents</i> ³ ; to ensure that the agreement in no way weakens the laws of the EU or of its Member States on public access to official documents.	(f) to show full regard for the need for transparency and accountability in the negotiations throughout the entire process, and to fulfil its obligation under Article 218(10) TFEU, which a recent Court of Justice ruling confirmed as being of statutory character ² , to keep Parliament fully informed on an immediate basis at all stages of the negotiations; <i>be accountable to the European Parliament and its committees and to hold binding votes for every relevant step in the negotiation of the agreement; to ensure public access to all negotiation documents from all parties; to involve social organizations, unions and human rights organizations in the negotiation of the agreement in order to strengthen a real dialogue with society as a whole</i> ; to ensure that the agreement in no way weakens the laws of the EU or of its Member States on public access to official documents.
² Case C-658/11 Parliament v Council, judgment of 24 June 2014.	² Case C-658/11 Parliament v Council, judgment of 24 June 2014.
³ OJ L 145, 31.5.2001, p. 43.	³ OJ L 145, 31.5.2001, p. 43.
Comments: The amendment proposes stronger language, but is not objectionable. The original text is also acceptable	

Or. en

Amendment 51
Axel Voss

Draft opinion
Paragraph 1 – point f

OPPOSE	
<i>Draft opinion</i>	<i>Amendment</i>
<p>(f) to show full regard for the need for transparency and accountability in the negotiations throughout the entire process, and to fulfil its obligation under Article 218(10) TFEU, which a recent Court of Justice ruling confirmed as being of statutory character², to keep Parliament fully informed on an immediate basis at all stages of the negotiations; to ensure public access to relevant negotiation documents from all parties, with the exception of those which are to be classified with clear justification on a case-by-case basis, with a public justification of the extent to which access to the undisclosed parts of the document in question is likely to specifically and actually undermine the interests protected by the exceptions, in line with Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents³; to ensure that the agreement in no way weakens the laws of the EU or of its Member States on public access to official documents.</p>	<p>(f) Recalls the need for transparency in the negotiations throughout the entire process; reminds the Commission of its obligation to keep Parliament fully informed on an immediate basis at all stages of the negotiations; points out, further, that the agreement should in no way weaken the laws of the EU or the Member States on public access to official documents;</p>
<p>² Case C-658/11 Parliament v Council, judgment of 24 June 2014.</p>	<p>² Case C-658/11 Parliament v Council, judgment of 24 June 2014.</p>
<p>³ OJ L 145, 31.5.2001, p. 43.</p>	<p>³ OJ L 145, 31.5.2001, p. 43.</p>
<p>Comments: This amendment weakens the wording used in the Draft Opinion and removes <i>inter alia</i> the reference to the legal basis for access to documents.</p>	

Or. de

Amendment 52
Monika Hohlmeier
Draft opinion
Paragraph 1 – point f

OPPOSE	
<i>Draft opinion</i>	<i>Amendment</i>
<p>(f) to show full regard for the need for transparency and accountability in the negotiations throughout the entire process, and to fulfil its obligation under Article 218(10) TFEU, which a recent Court of Justice ruling confirmed as being of statutory character², to keep Parliament fully informed on an immediate basis at all stages of the negotiations; to ensure public access to relevant negotiation documents from all parties, with the exception of those which are to be classified with clear justification on a case-by-case basis, with a public justification of the extent to which access to the undisclosed parts of the document in question is likely to specifically and actually undermine the interests protected by the exceptions, in line with Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European</p>	<p>(f) to show full regard for the need for transparency and accountability in the negotiations throughout the entire process, and to fulfil its obligation under Article 218(10) TFEU, which a recent Court of Justice ruling confirmed as being of statutory character², to keep Parliament fully informed on an immediate basis at all stages of the negotiations; to ensure public access to relevant negotiation documents from all parties, with the exception of those which are to be classified with clear justification on a case-by-case basis, with a public justification of the extent to which access to the undisclosed parts of the document in question is likely to specifically and actually undermine the interests protected by the exceptions, in line with Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European</p>

Parliament, Council and Commission documents ³ ; <i>to ensure that the agreement in no way weakens the laws of the EU or of its Member States on public access to official documents.</i>	Parliament, Council and Commission documents ³ ;
² Case C-658/11 Parliament v Council, judgment of 24 June 2014.	² Case C-658/11 Parliament v Council, judgment of 24 June 2014.
³ OJ L 145, 31.5.2001, p. 43.	³ OJ L 145, 31.5.2001, p. 43.
Comments: The weakening of laws referred to in the original text should clearly be avoided.	

Or. en

Amendment 53
Eleftherios Synadinos
Draft opinion
Paragraph 1 – point f

OPPOSE	
<i>Draft opinion</i>	<i>Amendment</i>
(f) to show full regard for the need for transparency and accountability in the negotiations throughout the entire process, and to fulfil its obligation under Article 218(10) TFEU, which a recent Court of Justice ruling confirmed as being of statutory character ² , to keep Parliament fully informed on an immediate basis at all stages of the negotiations; to ensure public access to relevant negotiation documents from all parties, with the exception of those which are to be classified with clear justification on a case-by-case basis, with a public justification of the extent to which access to the undisclosed parts of the document in question is likely to specifically and actually undermine the interests protected by the exceptions, in line with Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents ³ ; to ensure that the agreement in no way weakens the laws of the EU or of its Member States on public access to official documents.	(f) to show full regard for the need for transparency and accountability in the negotiations throughout the entire process, and to fulfil its obligation under Article 218(10) TFEU, which a recent Court of Justice ruling confirmed as being of statutory character ² , to keep Parliament fully informed on an immediate basis at all stages of the negotiations; to ensure public access to relevant negotiation documents from all parties, with the exception of those which are to be classified with clear justification on a case-by-case basis, with a public justification of the extent to which access to the undisclosed parts of the document in question is likely to specifically and actually undermine the interests protected by the exceptions, in line with Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents ³ <i>and Article 42 TFEU concerning the right of access to documents</i> , to ensure that the agreement in no way weakens the laws of the EU or of its Member States on public access to official documents.
² Case C-658/11 Parliament v Council, judgment of 24 June 2014.	² Case C-658/11 Parliament v Council, judgment of 24 June 2014.
³ OJ L 145, 31.5.2001, p. 43.	³ OJ L 145, 31.5.2001, p. 43.
Comments: While the intention is welcome, the right of access to documents is laid out in Article 42 of the Charter of Fundamental Rights of the EU, rather than the TFEU.	

Or. el

Amendment 54
Monika Hohlmeier, Axel Voss, Anna Maria Corazza Bildt
Draft opinion
Paragraph 1 – point f a (new)

OPPOSE	
<i>Draft opinion</i>	<i>Amendment</i>
	<i>(fa) to welcome the substantial push for transparency vis-à-vis the public since the 2014 European elections, including the publication of EU market access offers and the mandate granted by the Council;</i>

Comments: The push for transparency is a step forward, but not a substantial change.

Or. en