



In Pursuit of Services Trade and Investment Outcomes in the EU-AUS FTA

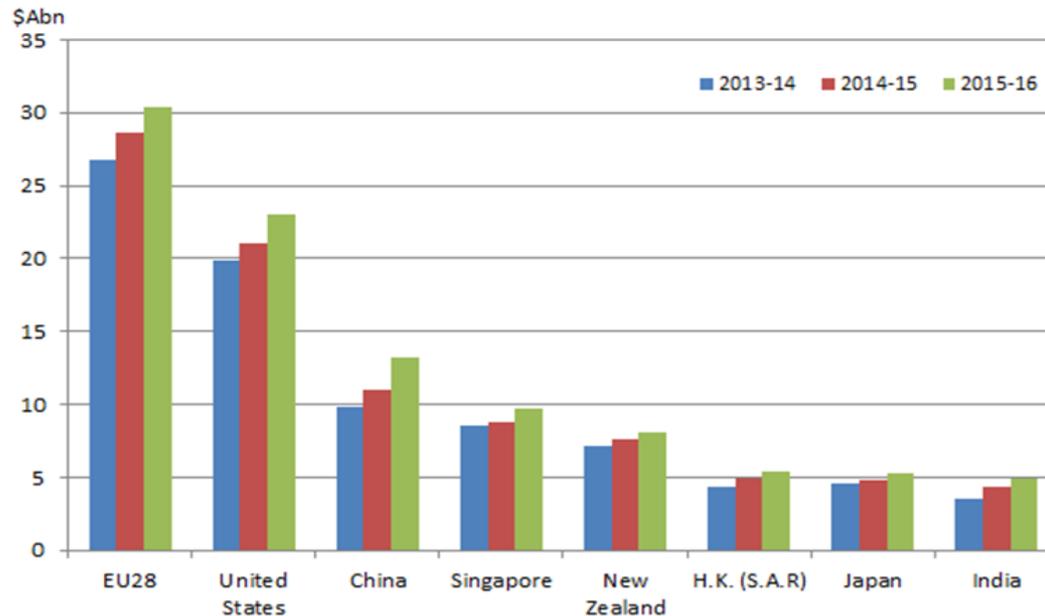
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Services and Investment – a strong bilateral relationship

1. Services

Australian two-way trade in services, 2013-14 to 2015-16



Based on Australian Bureau of Statistics (2016), 5368.0.55.003

Services - size of market

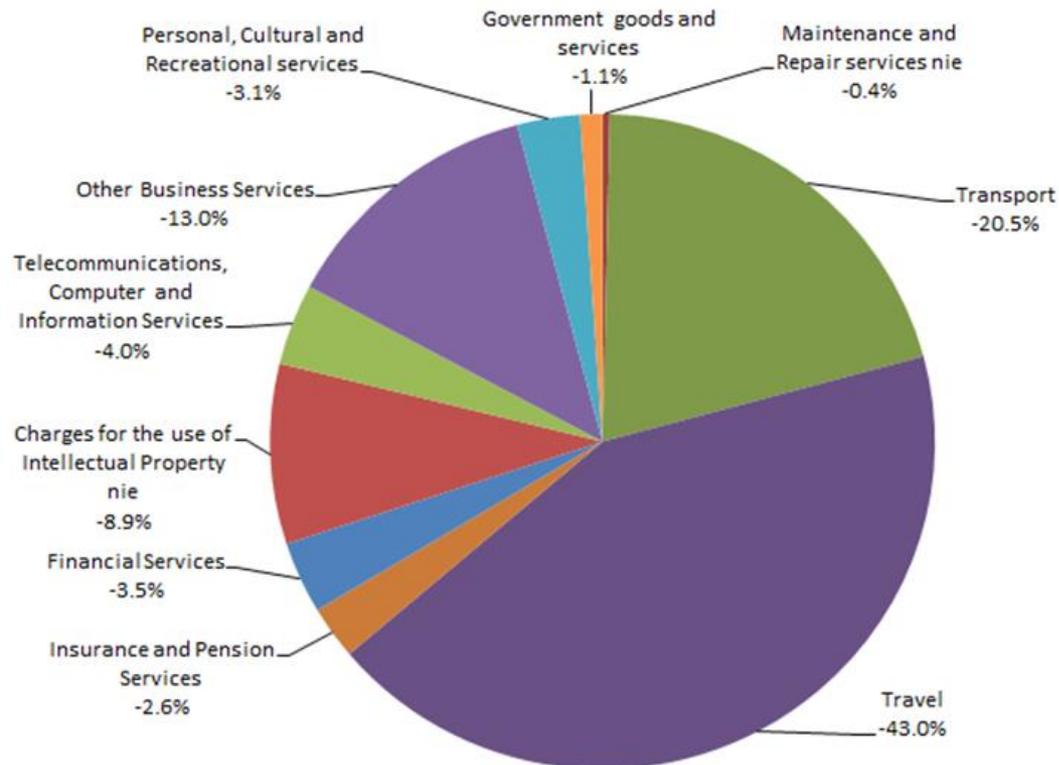
- *The EU remained Australia's largest trading partner in services, representing **21%**, or **A\$30.4 billion of Australia's total services trade** (+6% on 2014-15), ahead of the United States and China.*
- *The EU was also Australia's largest supplier of services, at **A\$20.0 billion** (+8%), and **the second-largest export market for Australian services**, worth A\$10.4 billion (+3%)*
- *Services form an important component of the EU-Australia trade relationship, comprising **32% of total bilateral trade** in 2015-16, and **40% of Australia's exports to the EU.***

Services – Composition of Total Trade

- **Travel services** remained the largest component of EU-Australia services trade in 2015-16, accounting for A\$14.8 billion (+7%), almost half of the two-way trade in services, and one-fifth of Australia's total trade in travel services.
- Trade in **education-related services** rose to A\$1.6 billion (+10%); the EU is Australia's third-largest partner, after China and India.
- Other **business services** (including professional and technical services) were 16% higher at \$A4.1 billion
- charges for the **use of intellectual property** rose 8% to A\$2.0 billion
- Bilateral trade in **transport services** fell by 0.2% to A\$4.8 billion and **financial services** were 12% lower at A\$1.6 billion

Services - Composition of EU exports

The EU's services exports to Australia, 2015-16 (A\$20.0 billion)



EU-AUS FTA – ambitious on services

"The high level of openness of both the EU and Australian services markets provides a significant opportunity for high-quality commitments. The Agreement should aim at the broadest possible removal or reduction of market access and national treatment limitations to provide commercially meaningful new market access for each other's services/service Suppliers"

EU-Australia FTA scoping paper

EU-AUS FTA – ambitious on services

- *Market Access and National treatment at all levels of government*
- *domestic regulations / regulatory disciplines (fin. Services, e-commerce, communication, transport, data protection and privacy)*
- *cross-border, presence of natural persons, qualifications*
- *TiSA point of departure*

Services - EU Member State concerns

1. Professional and educational qualifications

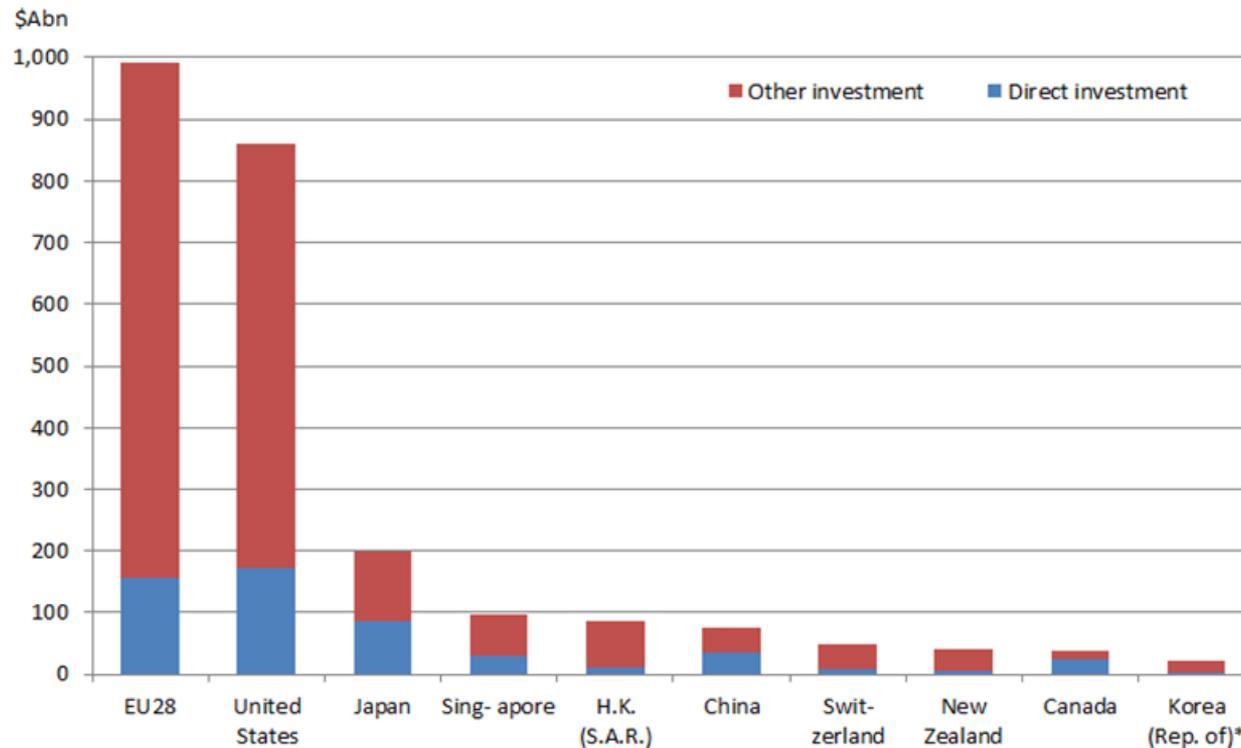
- **medical qualifications** (doctors and nurses): lack of adequate recognition of workplace-based training, extremely lengthy and bureaucratic processes, and high fees

- similar concerns raised about recognition of broader **professional qualifications**, such as architects, and **vocational qualifications**

2. Replacement of "457" visa with the new Temporary Skill Shortage visa. Concerns focus on new visa's **reduced opportunities for permanent residency**, which could impact on MS' businesses ability to attract talent.

2. Investment - *The EU is the largest investor in Australia*

Foreign investment in Australia in 2015 - stocks



Investment - EU investment in Australia

- **EU remained Australia's largest investment partner for 2015**, with the level of two-way investment valued at \$A1,580bn (+5% on 2014), or **31% of Australia's two-way investment stocks**
- **The EU is the leading investor in Australia**, with total investment stocks as of 2015 reaching \$A990.9bn (+4%), or **33% of total foreign investment in Australia** (13 times larger than China's total investment in Australia)
- The EU's investment stock in Australia was made up of **portfolio investment** (\$A630bn - 64% of the total; +8% on 2014); **direct investment** (\$A158bn - 16%; +3%); **financial derivatives** (\$A129bn - 13%; -7%).

Investment – AUS investment in EU

- *The level of Australian investment in the EU reached \$A590bn (+6%), or 28% of total Australian investment abroad, making it **Australia's second-largest investment destination** after the United States.*

Investment – EU FTA interests

- *investment is closely linked to **movement of natural persons**, so FTA should seek to facilitate cross-border trade in services mode 4.*
- *seek equal treatment with Australia's most recent FTA partners with regard to **Foreign Investment Review Board thresholds** (EU investors currently disadvantaged by facing much lower investment review thresholds than competitors from US, Japan and China)*
- *FTA should be subject to EU **Investment Court System (ICS)** in order to protect investors*

Investment protection

- *effective protection at all levels*
- *right to regulate (public policy)*
- *standards of protection (NT, MFN, equitable treatment, expropriation, compensation, transfers)*
- *Resolution of disputes*
- *Analysis of impact of ECJ ruling is on-going*

Investment – a final word (1)

*On 16 of May the **European Court of Justice (ECJ)** issued an opinion to clarify the **division of competence between the EU and the Member States** in relation to the EU's Free Trade Agreement with Singapore. The Opinion is still being analysed, but some conclusions can be drawn:*

- The Court confirms that the Singapore FTA falls under EU exclusive and EU shared competence*
- Only two parts fall under shared competence (not MS exclusive competence). These are portfolio investment and investor-state dispute settlement*

The Court confirmed EU exclusive competence in other areas, including: trade in goods and services (including transport services); protection of foreign direct investment; IP rights; Public procurement; Competition; Trade and sustainable development; Transparency.

Investment – a final word (1)

*The Commission needs to assess carefully the **consequences of this Opinion for future EU trade and investment agreements.***

The assessment will require discussion with the European Parliament and the Council. This will require some time. The clarity provided by the Court will enable the European Commission to start a discussion with Member States and the European Parliament on how to improve decision-making for future trade agreements.