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“Towards EU-Australia FTA negotiations – Perspectives of the European Services sectors”

1. Thank you for the invitation;
2. Need to repair an anomaly. Australia (together with New Zealand, Russia and China) is one of the rare countries that do not have bilateral trade agreement with the EU.
3. Australia (and New-Zealand) are significant Trading partners with the EU.
 - a. AUS, NZ & EU = Services economy: Share of GDP in 2014: AUS=67.4% - NZ=69.6% - EU=73.1%
 - b. EU trade in services surplus: 2013 = +11.4 Bio €
 - c. Significant volume of trade in services : 2013 = +30.6 Bio €
 - d. EU Services Exports represent a significant share of total trade with AUS (41%) & NZ (32.8%)
 - e. AUS (& NZ) are significant FDI Partners: + 122 Bio€ EU Stocks (of which +60% = Services)
4. Australia & New-Zealand are strong developed countries willing to move ahead in trade policy
 - a. AUS & NZ : TransPacific Partnership (TPP) Parties
 - b. AUS & NZ : OECD Members
 - c. AUS & NZ : Trade in Services Agreement (TiSA) Participants
 - d. AUS: acceding country to Government Procurement Agreement (GPA) & NZ: GPA Member since 2014
5. ESF Strongly supports the launch of deep and comprehensive FTA with AUS & NZ. For us DCFTA with AUS & NZ means:
 - a. GATS Plus (General Agreement on Trade in Services – which is the current level of binding commitments for AUS & NZ with the EU)
 - b. TiSA Plus (The TiSA schedules of Commitments are meant to be the Best existing FTA)
 - c. TPP Plus (TPP is the most recently concluded but not ratified FTA by AUS & NZ.)
 - d. GPA Plus (AUS should join GPA in 2016, but we would want more commitments for the services sectors, either in terms of coverage (all public tendering entities, incl. at local level & public schools, universities & hospitals) or in lowering the thresholds.
6. AUS & NZ are already open countries – From DCFTA, ESF wants more Market Access
 - a. The DCFTA should use the negative list approach, like with Canada and Japan.
 - b. The market access commitments should at least aim at binding the existing practice of openness (i.e. remove all the water) and if possible bind the existing current regulatory practice.

- c. On Horizontal level, DCFTA with AUS & NZ should deliver more commitments on:
 - i. Cross-border trade in services (incl. ensuring cross-border data flow and ban local servers requirement)
 - ii. Temporary mobility of high skilled personnel: this is an area where the FTA should deliver concrete results (Business Visitors, Intra-Corporate Transferees, Contract Services Suppliers, etc.) with negotiations of Mutual Recognition Agreements (MRA) of qualification and licences of some professional services providers (lawyers, auditors, engineers, etc.)
 - d. At sectoral levels, some existing remaining restrictions should be lifted: (improvement of the DDA services revised offer)
 - i. AUS: Postal & Express delivery
 - ii. AUS: Distribution services (car sector: e.g.)
 - iii. AUS: Professional services (legal and accounting)
 - iv. AUS: Financial Services (Insurance and retail banking)
 - v. AUS: Improvement of TPP schedule in aviation, in maritime transport, etc.
 - vi. NZ: Revised offer of DDA was good. One can however target Equity cap in Telecom, lack of commitments in distribution services (franchise); restrictions on agriculture related services, as well as R&D services.
7. The DCFTA should introduce a regulatory cooperation process, including commitments towards regulatory coherence and good governance and transparency obligations for the legislators and a mechanism of regulatory cooperation where the regulators would meet and work of regulatory convergence, looking at removing red tape and unnecessary duplicative burdensome regulations, while preserving their independence and high regulatory standards. The services sectors regulators should be part of such a process.
8. Finally, the DCFTA should include an Investment Protection Chapter that will provide effective protection to EU companies that invest in Australia and New Zealand:
- a. AUS has BIT (Bilateral Investment Treaty) with 5 EU member states (LTh, HU, PL, RO & CZ). NZ does not have any BIT with EU countries.
 - b. ESF is however questioning the EU institutions on the real value of the new EU proposal, since the protection of the investment is significantly diminished compared to existing BITs (extended “right to regulate” that will allow any public authority to use as an excuse any “legitimate policy objective”; quasi elimination of “indirect expropriation”; introduction of uncertainty in the definition of “fair & equitable treatment”; and introduction of possibility of “politisation” of cases through the new Court System, where the two parties are in the tribunal!, etc.
9. ESF urges the Parliament to encourage the Commission and the Council to do their utmost to launch these negotiations as early as possible, so as to ensure that the EU will not suffer from trade distortion when TPP will be ratified and implemented by AUS & NZ.
10. Thank you for your attention.
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