« The voice of the European Service Industries for International Trade Negotiations in Services »

EU Centre for Global Affairs

THE UNIVERSITY of ADELAIDE

Business Breakfast Forum
In Pursuit of Services Trade and Investment Outcomes in the Australia/European Union FTA

Friday 2 December

Corrs Chambers Westgarth, 8 Chifley Square,
Corner of Hunter and Elizabeth Streets, SYDNEY - Australia

Pascal Kerneis – Managing Director

ESF (European Services Forum)

Table of content

1) What is ESF?
2) International trade & investment in services
3) EU Trade Policy for Services and Investments
4) Impact of Brexit on EU Trade Policy for Services and Investment
5) EU-Australia FTA : What should be its content for Trade and investment in services?
   A. Market access Pillar
   B. Regulatory disciplines and cooperation
   C. Movement of natural persons
   D. Mutual recognition of qualification

1) What is ESF?

« The voice of the European Service Industries for International Trade Negotiations in Services »

ESF Membership covers a large range of services sectors and Horizontal federations:

- Insurance
- Banking
- Business services: IT & Computer; consulting, advertising, after-sales services, News Agencies
- Professional services:
    - Legal services,
    - Accountants,
    - Architects,
    - Engineers, etc.
- Construction services
- Distribution services
- Postal & Express Delivery
- Audio-visual services
- Energy related services
- Environmental services
- Telecommunication services
- Tourism
- Air Transport
- Maritime Transport

&

- BUSINESSEUROPE
- Confederation of Danish Industries (DI)
- Confederation of Finnish Industries (EK)
- Confederation of Swedish Enterprises (SN)
- Irish Business and Employers Confederation (IBEC
- Confederation of French Enterprises (MEDEF)

98% of EU Services companies, only approximately 20% export

For more information, see www.esf.be

ESF

« The voice of the European Service Industries for International Trade Negotiations in Services »

Some ESF COMPANY MEMBERS :

BT

DHL

PRUDENTIAL

BDO

orange™

Standard Chartered

LE GROUPE LA POSTE

EY

inmarsat

Deutsche Bank

ZURICH®

SIEMENS

Deutsche Telekom

IBM®

HSBC

For more information, see **www.esf.be**

ESF

« The voice of the European Service Industries for International Trade Negotiations in Services »

Some of the ESF Associations' Members

EuroCommerce
THE RETAIL, WHOLESALE AND INTERNATIONAL TRADE REPRESENTATION TO THE EU

FIEC

EBF European Banking Federation

DIGITALEUROPE

BUSINESSEUROPE

MEDEF

insurance europe

ACE
ARCHITECTS' COUNCIL OF EUROPE
CONSEIL DES ARCHITECTES D'EUROPE

eea european express association

IBEC

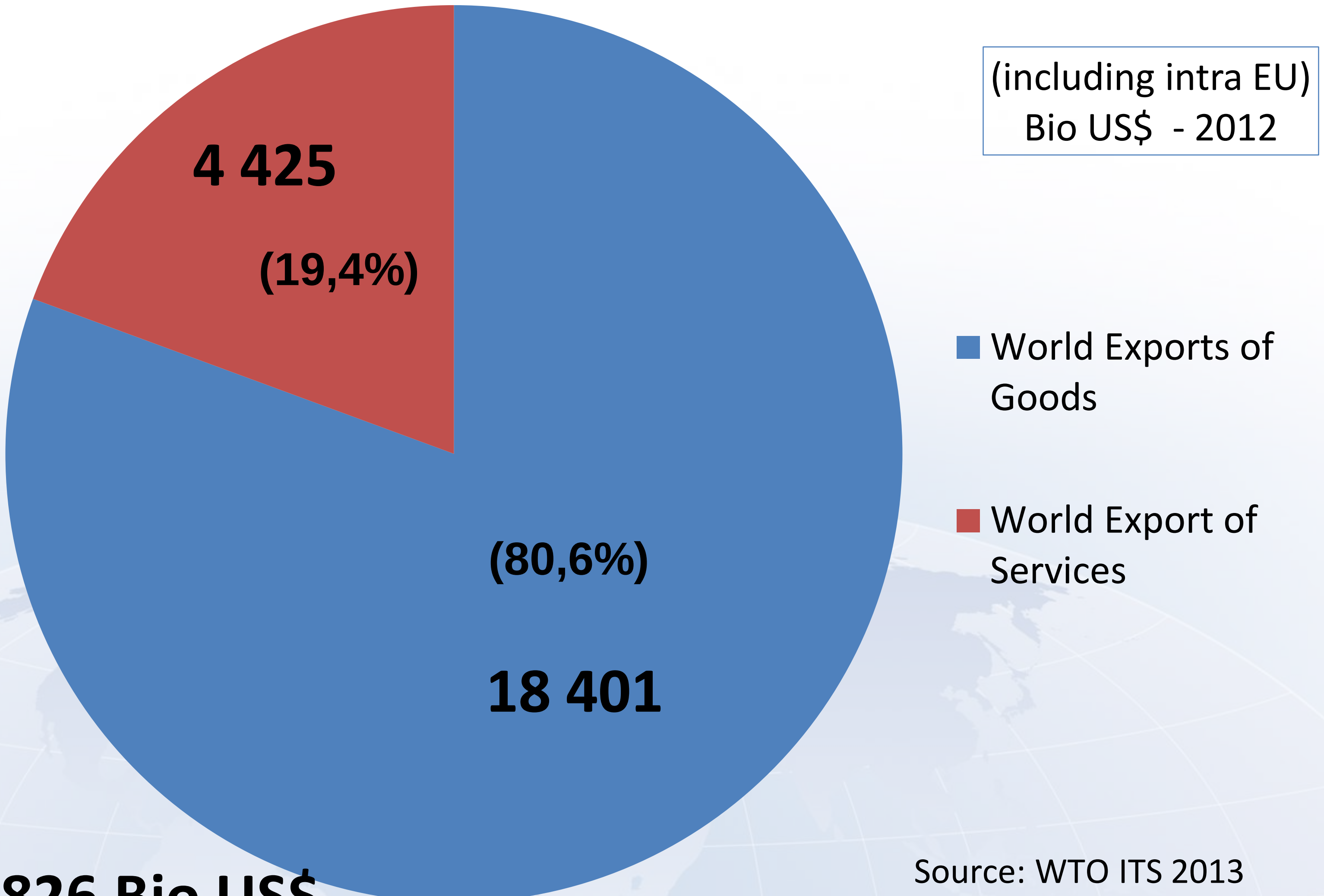
FEE

ESOA

2) International trade & investment in services : Facts and Figures

« The voice of the European Service Industries for International Trade Negotiations in Services »

Size of global trade – Export of goods and services

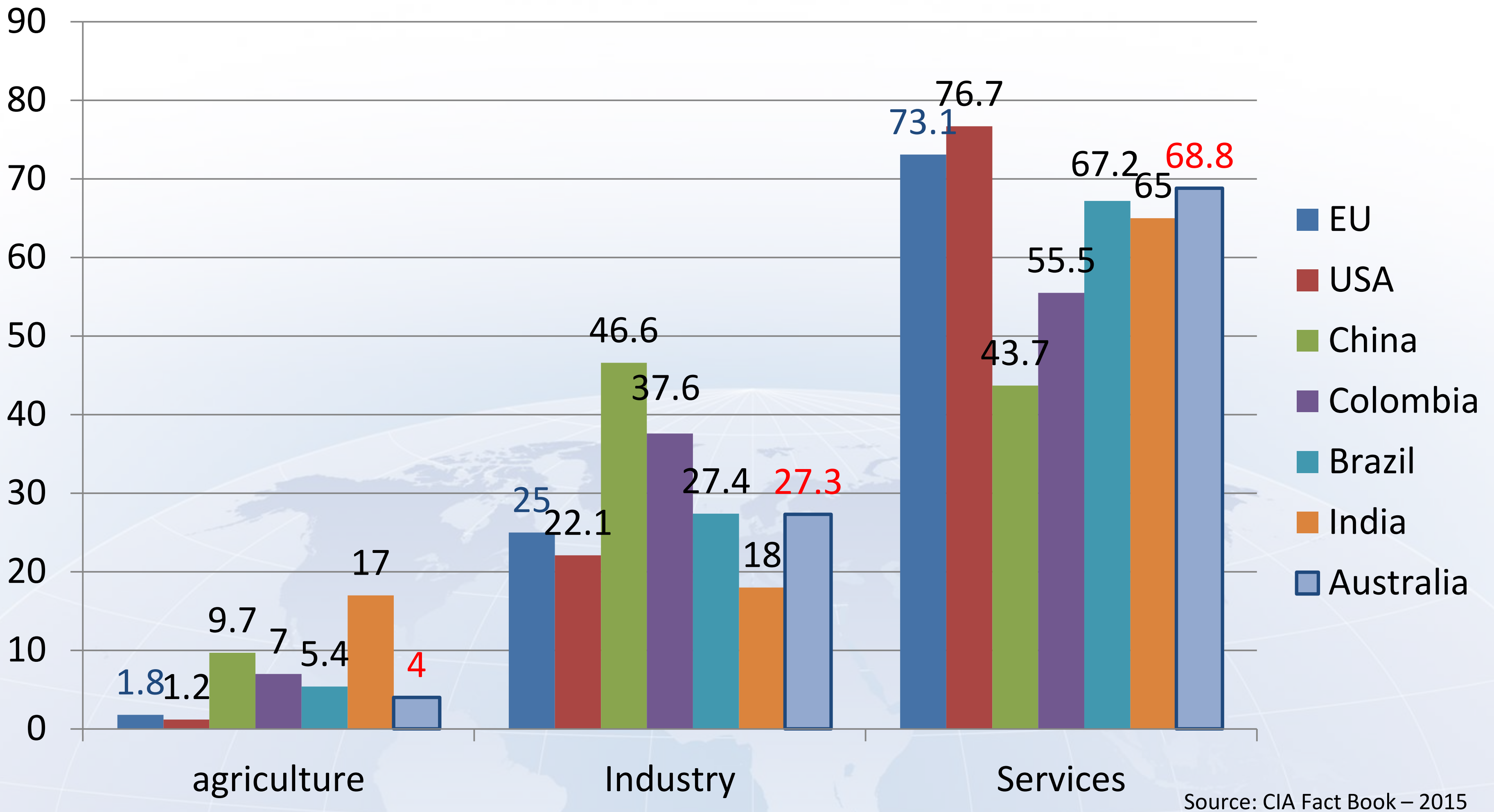


Total: 22 826 Bio US$

Source: WTO ITS 2013

« The voice of the European Service Industries for International Trade Negotiations in Services »

World Economy:
Percentage of GDP by Sector - 2014

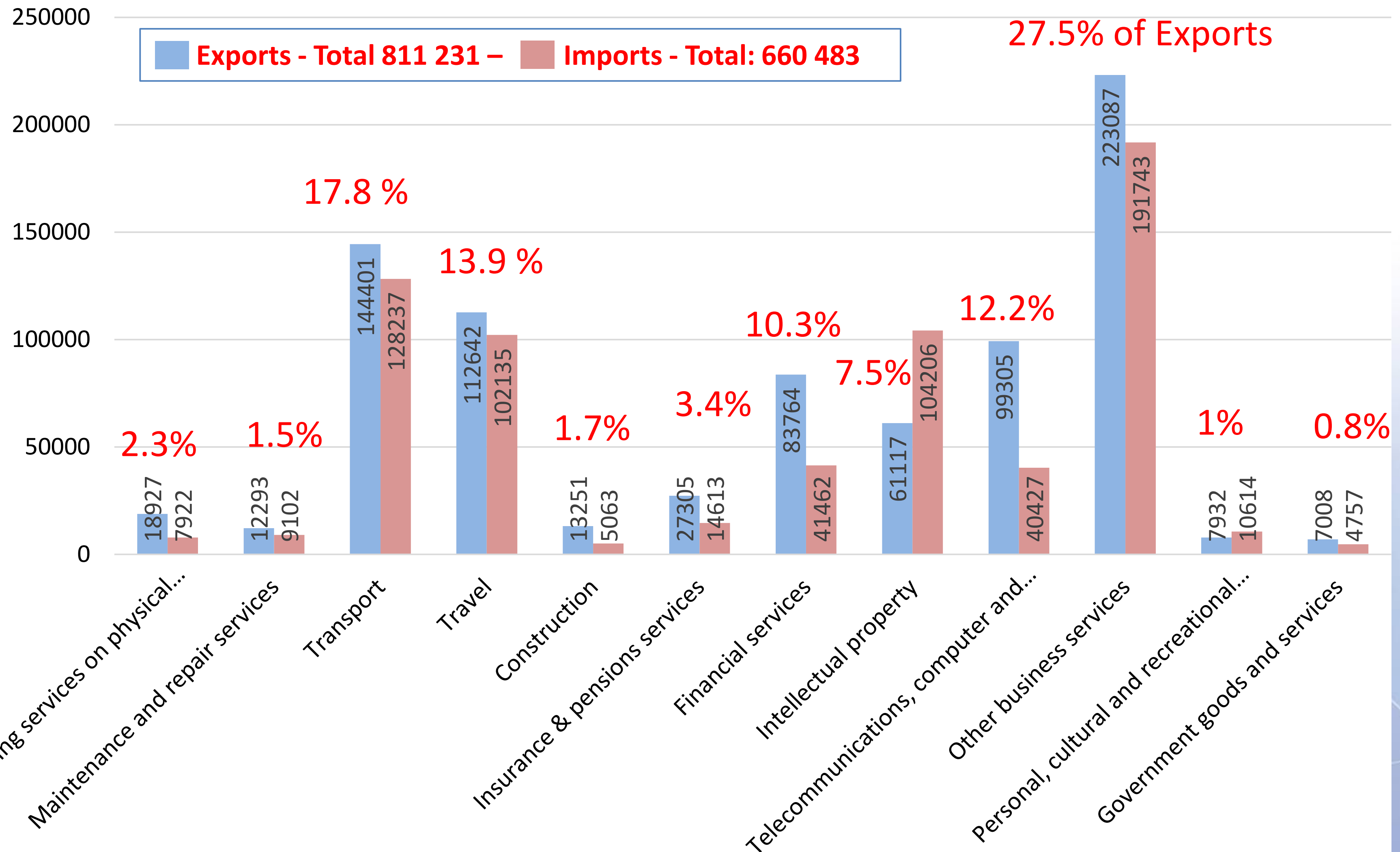


Source: CIA Fact Book – 2015

« The voice of the European Service Industries for International Trade Negotiations in Services »

EU Services Exports and Imports per sectors

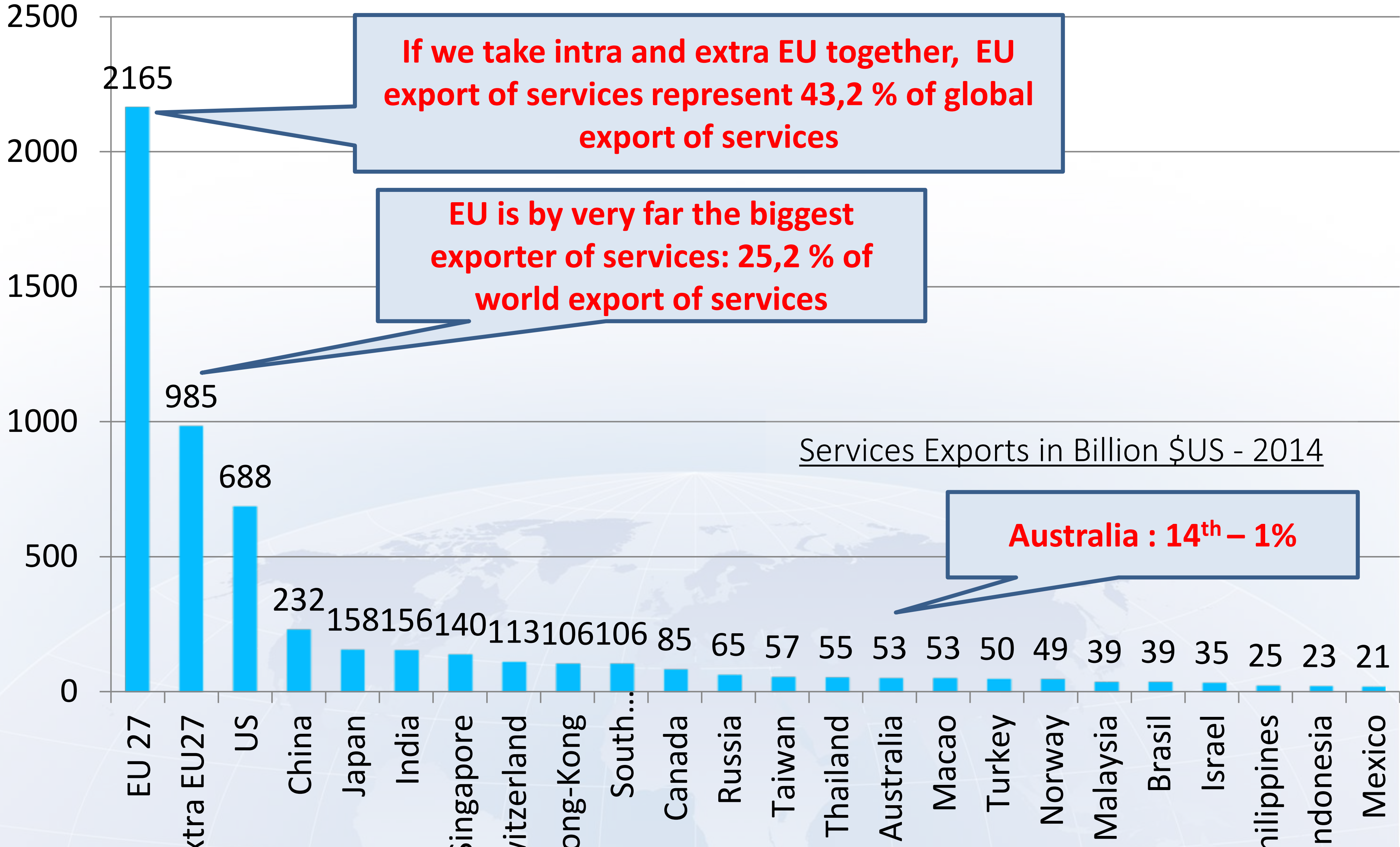
(2015 - € Billion)



Source: Eurostat 2016 – Note: Other business services comprise mainly: research and development, professional and management consulting services, technical, trade-related services.

« The voice of the European Service Industries for International Trade Negotiations in Services »

THE EU IS BY FAR THE WORLD BIGGEST EXPORTER OF TRADE IN SERVICES

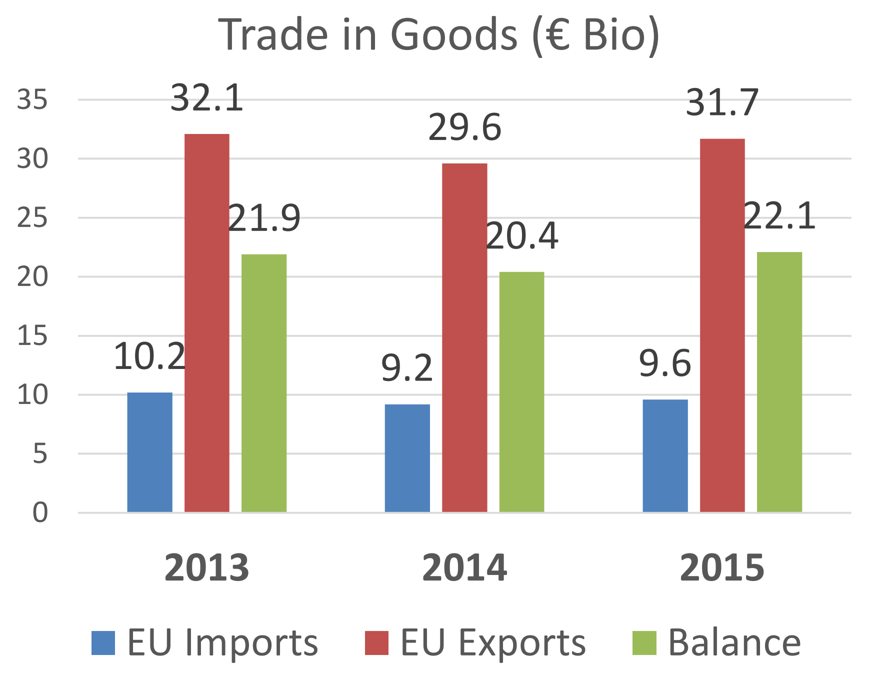


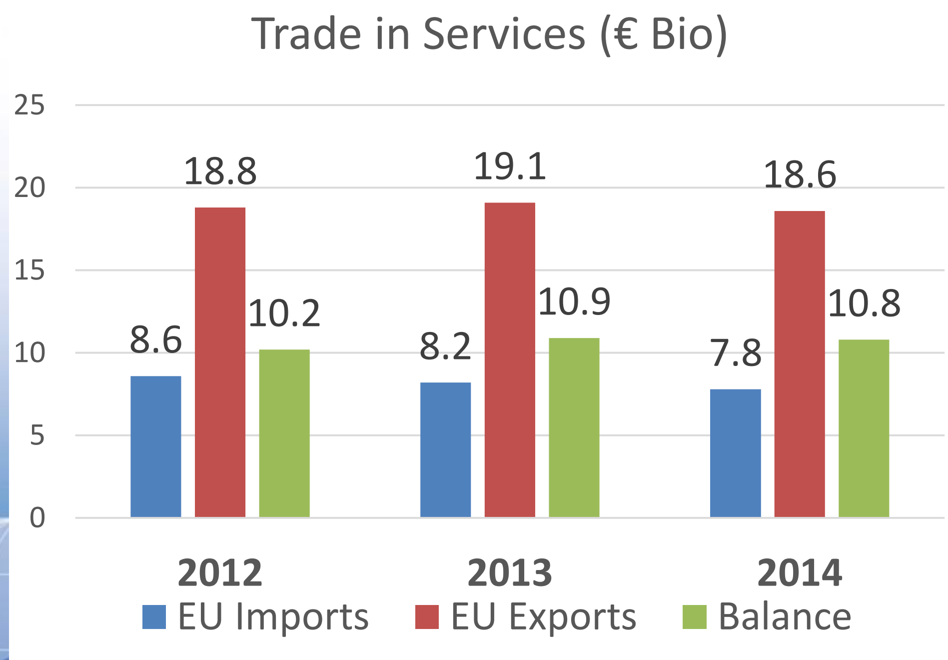
Source: WTO ITS 2015 – Figures for 2014

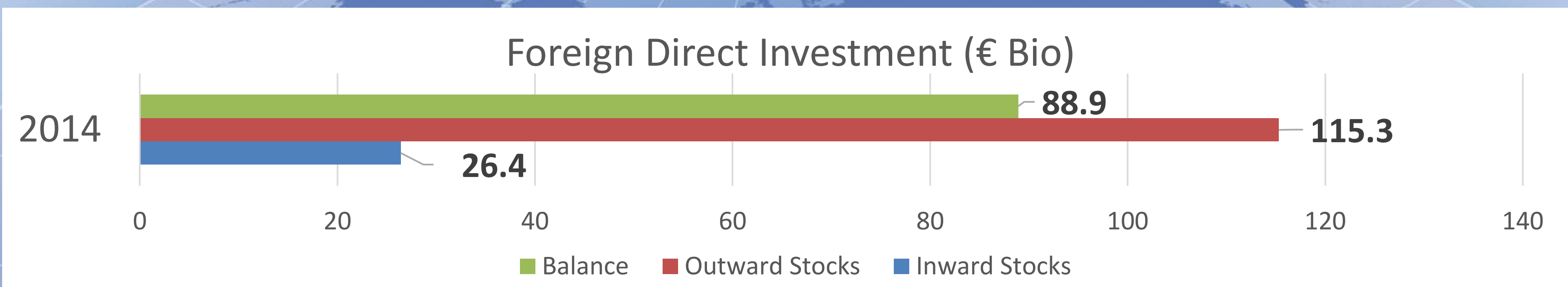
« The voice of the European Service Industries for International Trade Negotiations in Services »

EU-Australia Trade & Investment

(Imports and exports of goods & services & FDI)







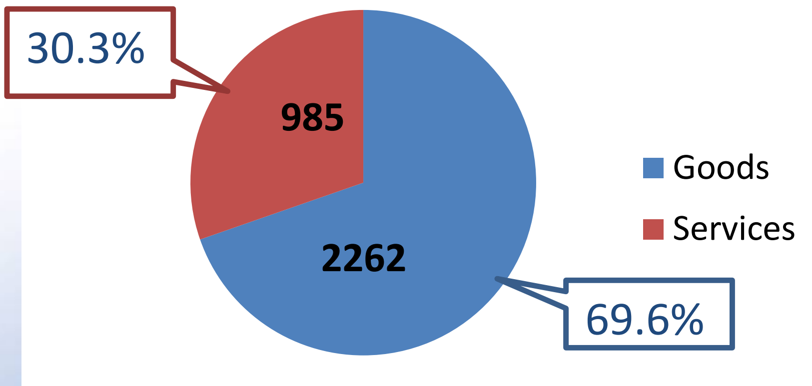
« The voice of the European Service Industries for International Trade Negotiations in Services »

IMPORTANCE OF TRADE IN SERVICES

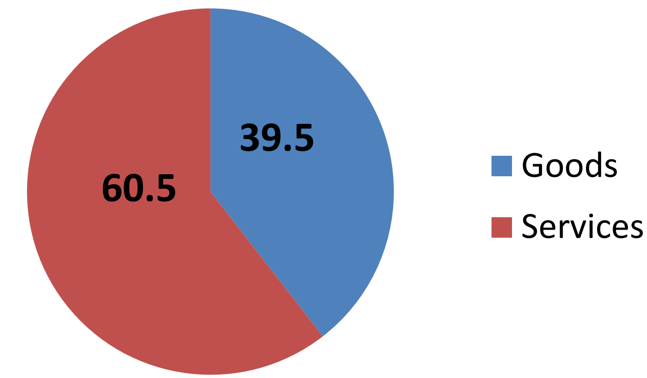
If we use the trade in value-added (TiVA) indicators,

60,5% of total EU Exports are Services

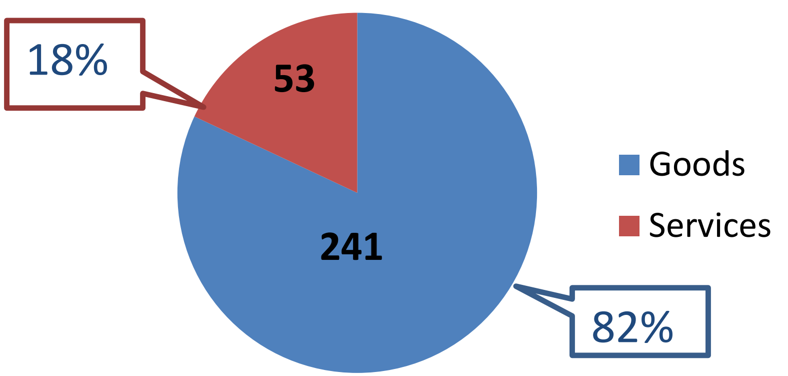
Extra EU Exports in BoP – 2014 - $Bio



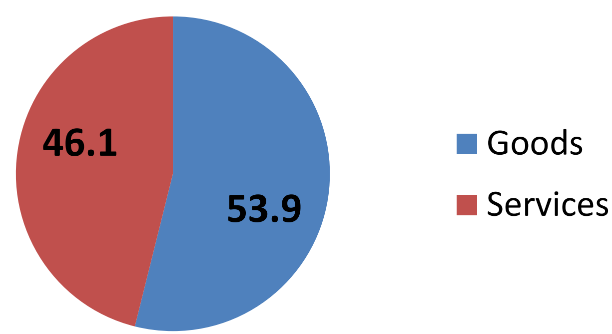
EU Exports in TiVA – 2011 - %



Australia Exports in BoP – 2014 - $Bio



Australia Exports in TiVA – 2011 - %



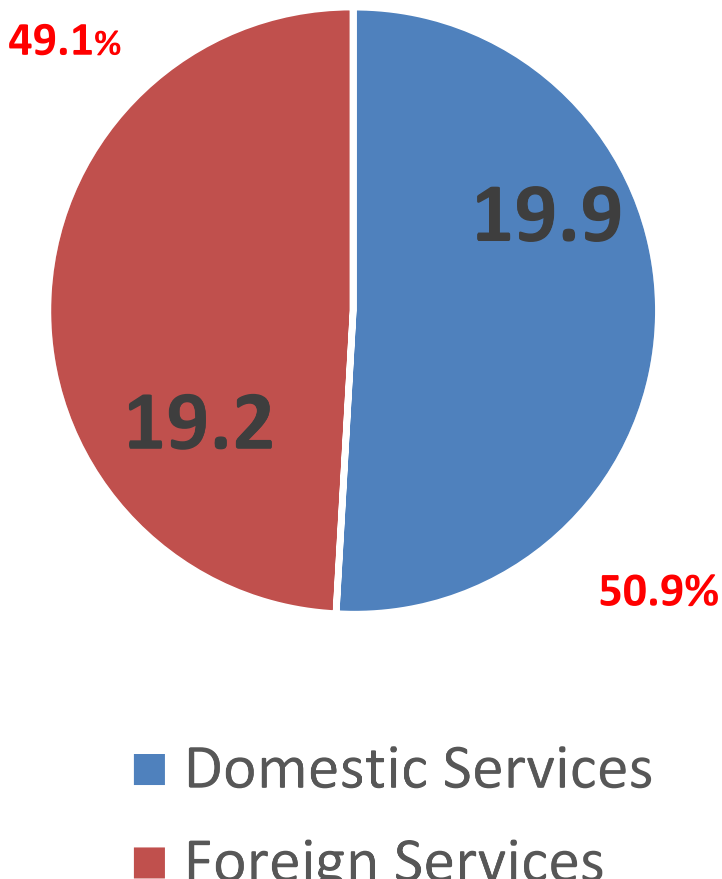
Source: World Trade Organization, "Global Value Chains" 2011

46,1% of total Australia Exports are Services

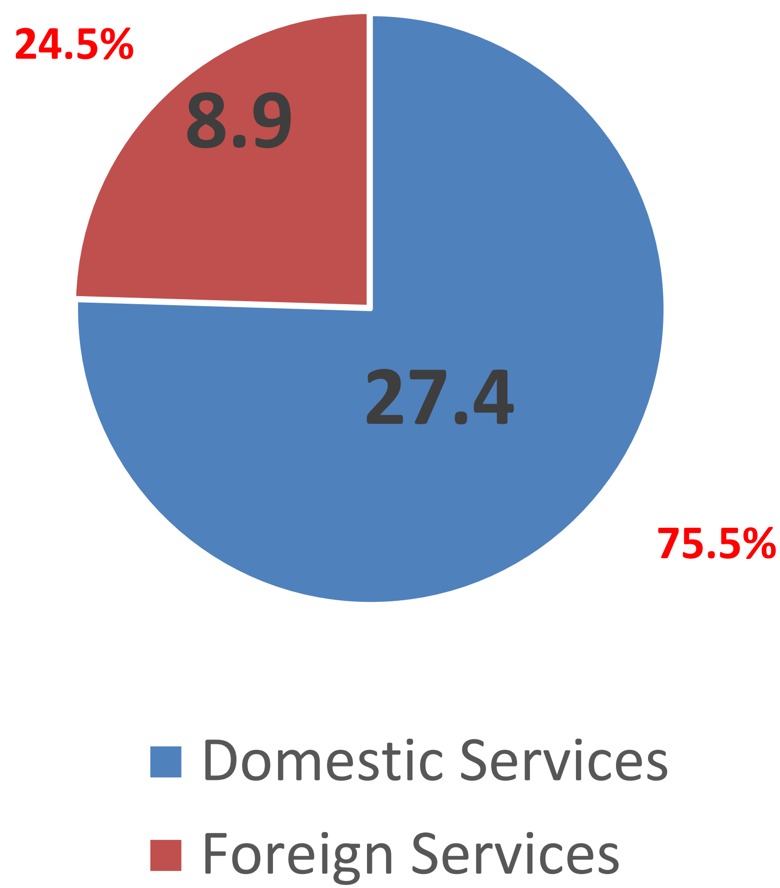
« The voice of the European Service Industries for International Trade Negotiations in Services »

Share of Services value added in EU & Australia ***Goods*** Exports
Share of Domestic & Foreign Services in Goods Exports - %

EU27 = 39.1%



Australia = 36.3%

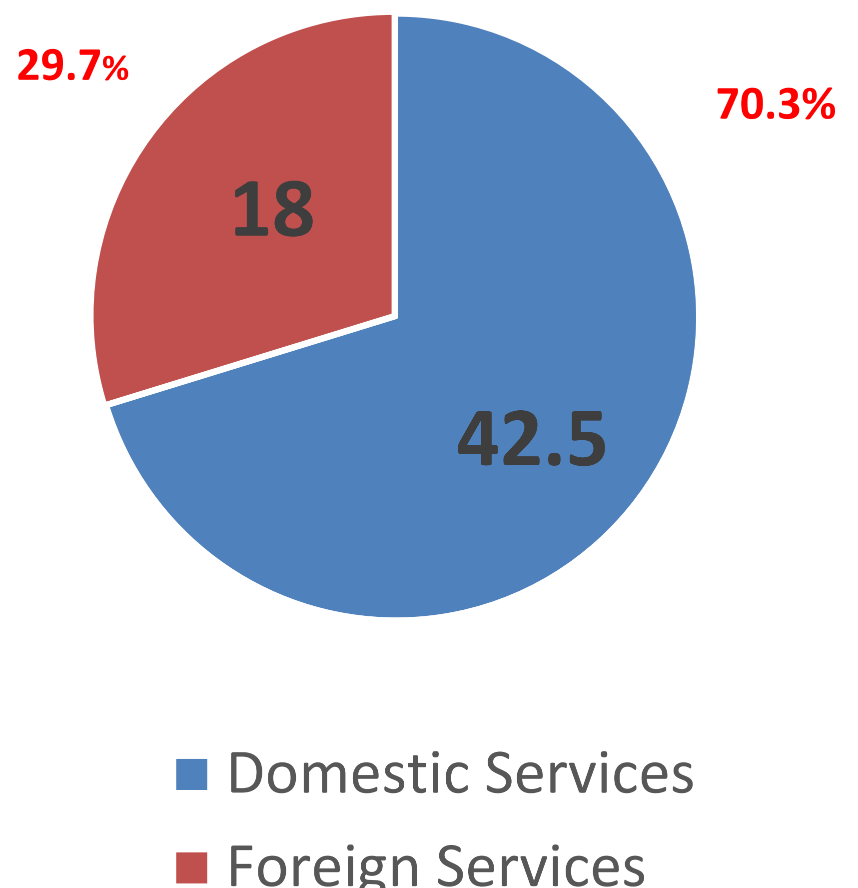


Source: World Trade Organization, "Global Value Chains" 2011

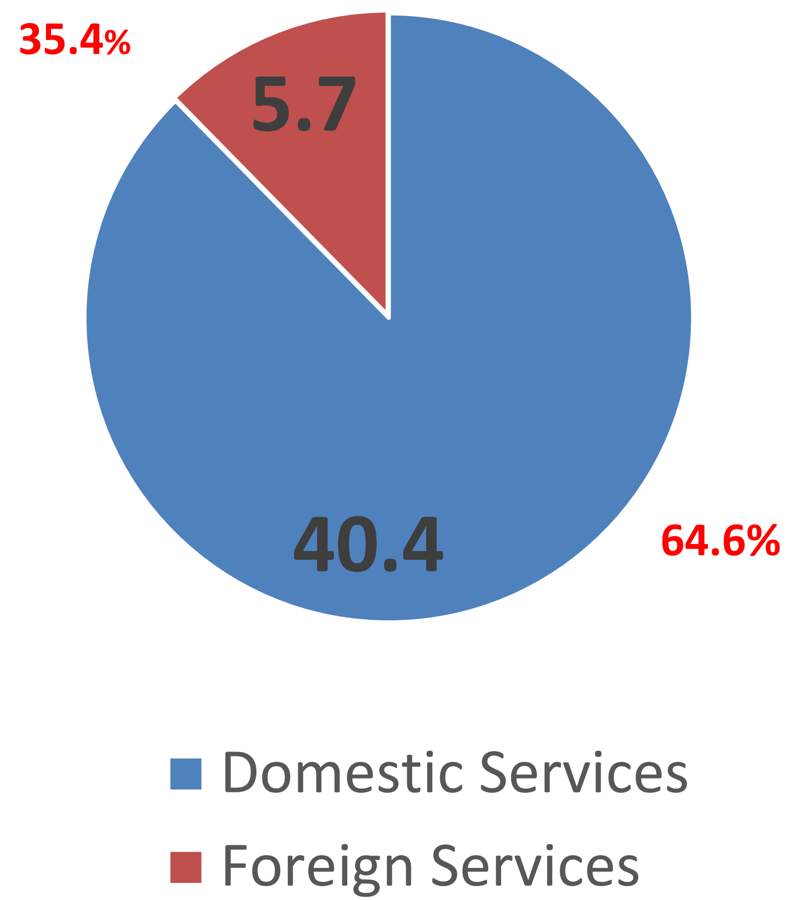
« The voice of the European Service Industries for International Trade Negotiations in Services »

Share of Services in EU & Australia Global Exports
Share of Domestic & Foreign Services - %

EU = 60.5%

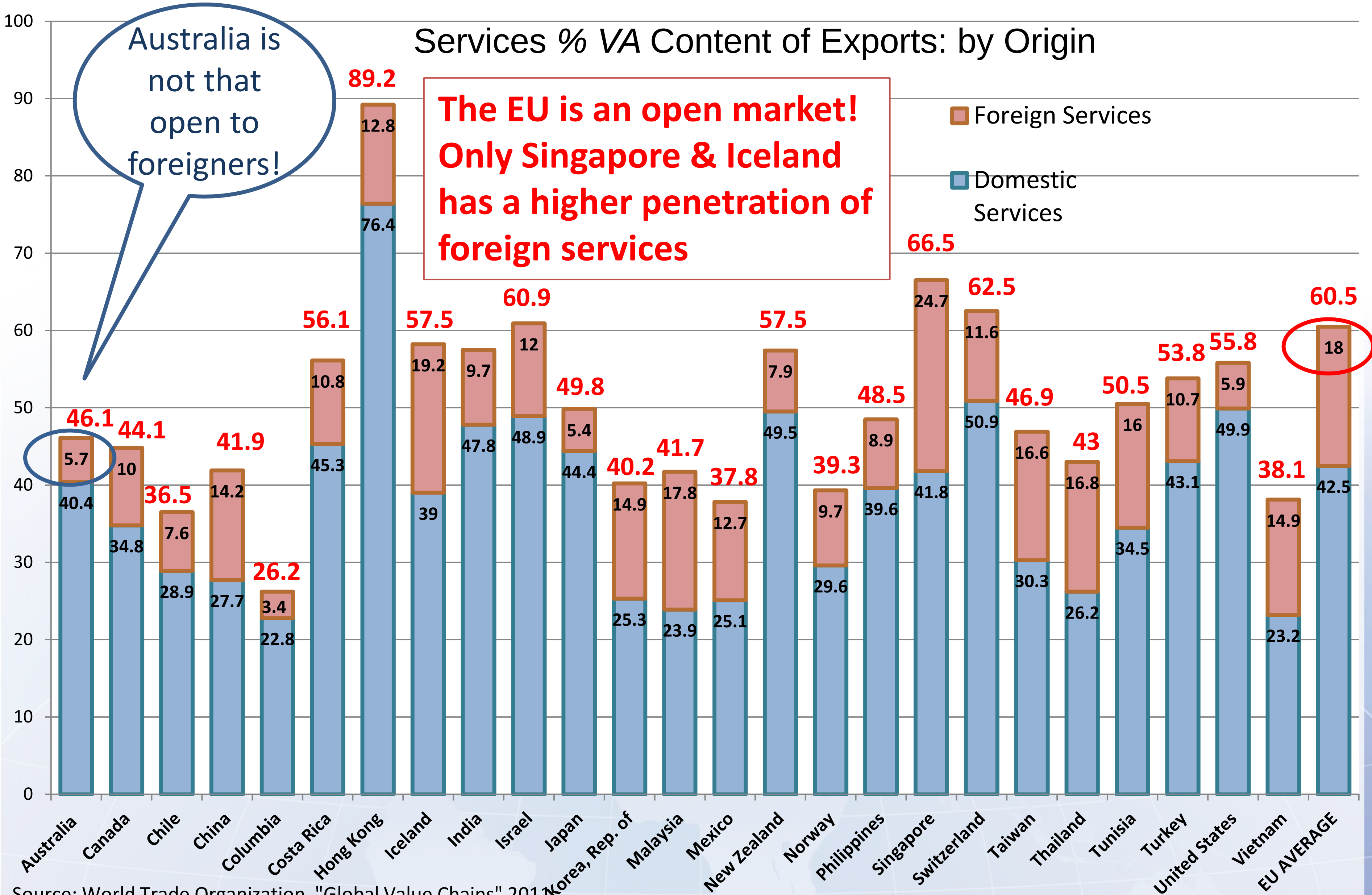


Australia = 46.1%



Source: World Trade Organization, "Global Value Chains" 2011

« The voice of the European Service Industries for International Trade Negotiations in Services »

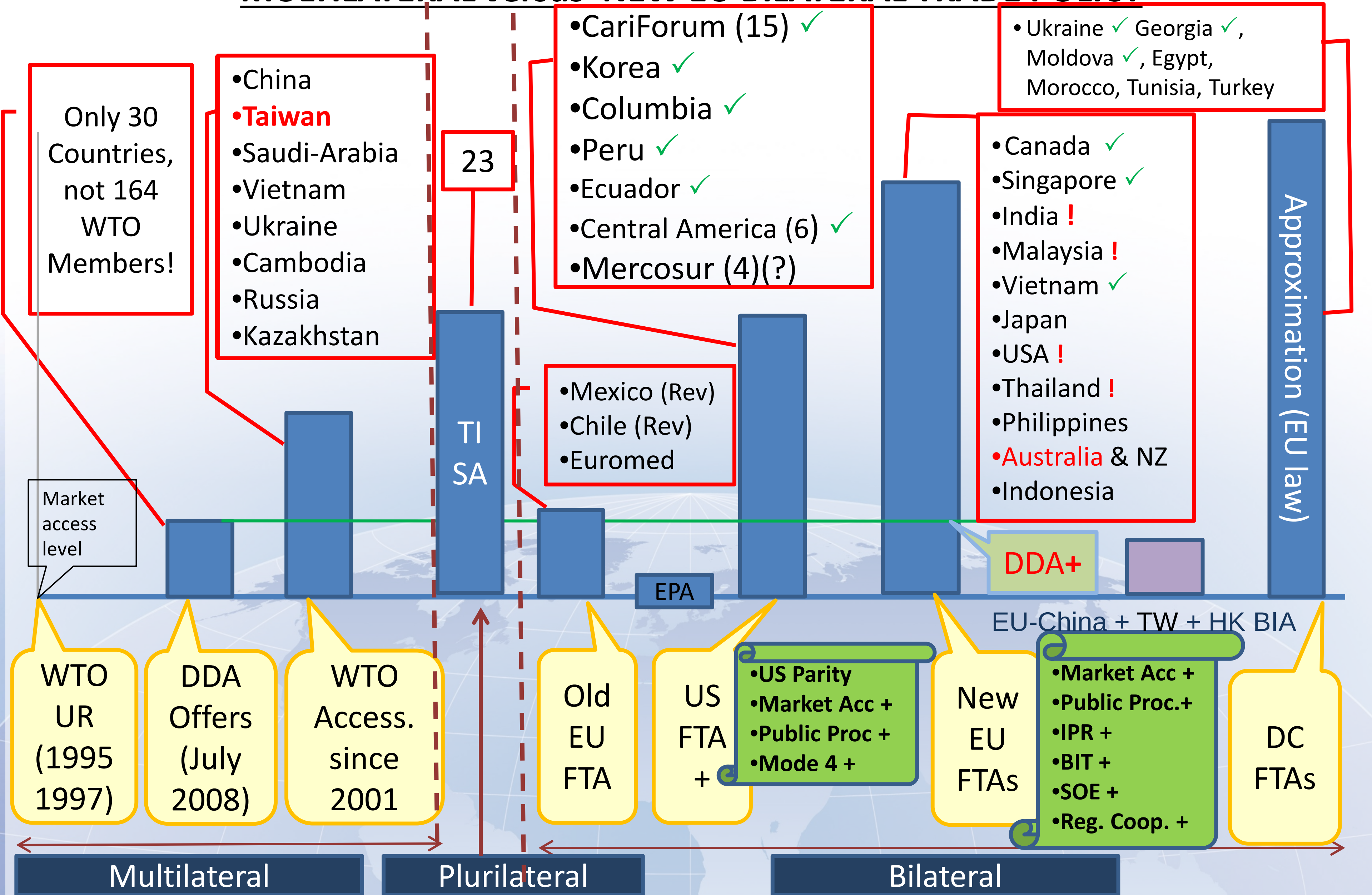


Source: World Trade Organization, "Global Value Chains" 2011

3) EU Trade Policy for Services and Investment

« The voice of the European Service Industries for International Trade Negotiations in Services »

MULTILATERAL versus NEW EU BILATERAL TRADE POLICY



EU Trade Policy:

➔ Concluded Agreements :

1. EU-Mexico (2000) (few and low services Commitments)(Rev. Start 2016)
2. EU-Chile (2002) (modest services commitments) (Rev. Start 2017)
3. EU-Cariforum (15 countries) (2008)
4. EU-South Korea (ratified en 2011) (current Benchmark)
5. EU-Colombia (ratified en 2012)
6. EU-Peru (ratified en 2012) (EU-Ecuador signed 2015)
7. EU-Central America (6 countries) (ratified en 2012)
8. EU with Eastern Partnership: Ukraine, Georgia, Moldova (Nov 2013) (Approximation – EU Acquis) *(Armenia: suspended)*

** To be signed by the Council and ratified by the European Parliament.*

1. EU-Singapore *(Political deal: December 2012, Initialled; September 2013 – wait for ECJ Opinion! – 03/2017 + Ratification in EP?)**
2. EU-Canada CETA *(Political deal on trade: Oct. 2013, on Investment with ICS: Sep. 2014 + April 2016) (Signed on 30/10/2016 -Ratification:02/2017 – Provisional application: 1/07/2017);**
3. EU-Vietnam (*Political deal: August 2015**)

➔ On-Going FTA negotiations: New EU Trade Strategy published on Oct 2015

1. *EU-Malaysia FTA (started in 2010 – 7 rounds, stalled since 09/2012, elections in 06/2013, 8th round not scheduled yet)*
2. *EU-Thailand (started 03/2013, 1 round: 05/2013, 2nd round: 09/2013, 3rd round : 12/2013 – Stalled after Military Coup in May 2014)*
3. *EU-India (TIA)(started in2006 - elections in 2014 – stalled in 2013)(2016?)*
4. *EU-MERCOSUR FTA (Argentina, Brazil, Uruguay, Paraguay) (blocked) (New exchange of offers in May 2016)*
5. *EU-Indonesia CEPA: Vision Group 2011; Launch: July 16 – 1st Round: Sept 2016*
6. EU EPAs with ACP countries (5 African regions, incl. 6 SADC countries signed in June 2016, but nearly nothing on services)
7. EU with EuroMed : Egypt, Israel, Jordan, Morocco, Tunisia.
8. EU-Philippines FTA: 1st Round (23 May 2016); 2nd Round (Dec 2016)
9. Revision of EU-Mexico: 1st Round: week 13 June 2016!
10. Australia & New Zealand DCFTA; Revision of EU-Turkey Custom Union: Consult. Deadline Beg. June 2016
11. Revision EU-Chile (Consultation launched – Deadline 31/08/2016).
12. Taiwan BIA? Hong-Kong BIA

➔ On-Going negotiations (2): **BIG FTAs!**

- EU-US TTIP (mandate: June 2016 – 13 rounds;

  Stocktaking in DC: 17 Feb. 8th round: February 2015 in Brussels – 9th Round: New-York, April 2015 – 10th Round: Brussels, July 2015 – 11th Round: Miami, October 2015 – 12th Round: Brussels, Feb. 2016, 13th Round: New-York, April 2016; 14th Round: Brussels, 11-15 July 2016 - 15th Round: New-York, Oct. 2016 – Suspended on 18 October 2016!
- EU-Japan (Started March 2013 – 13 rounds ; One-Year Review: May 2014 – Last Rounds : 16th : April 2016 in Tokyo. Next Round: 17th: 26-30 September 2016 – Deal: Dec. 2016/Spring 2017?
- EU-China Bilateral Investment Agreement: (mandate: Nov 2013; 1st Round: 01/2014 – 2nd Round: 03/ 2014, 5th Round : Beijing,17-19 March 2015). 11th round: in Qingdao - week of 27 June 2016
- TiSA (Plurilateral Trade in Services Agreement) (see below) Deal: 2016?
- Environmental Goods Agreement (EGA + Services) Deal: 2016?

« The voice of the European Service Industries for International Trade Negotiations in Services »

- TRADE IN SERVICES AGREEMENT – TiSA -

Time line of the talks =

- Started on 18-19 March 2013,
- Past Rounds of negotiations: 2^{nd} Round: Week 29 April, 3^{rd} : Week 24 June; 4^{th} : Week 16 September; 5^{th} : Week 24-28 November 2013; 6^{th} : 17-24 February 2014; 7^{th} : Week 28/04-2/05; 8^{th} : Week 23-24 June; 9^{th} : September 2014; 10^{th} : December 2014; 11^{th}: Round: February 2015; 12^{th}: April 2015; 13^{th}: July 2015; 14^{th}: October 2015; 15^{th}:Nov/Dec 2015; 16^{th}: Feb. 2016; 17^{th}: April 2016; 18^{th} : May/June 2016, 19^{th}: 8 - 18 July 2016; 20^{th}: week 19 – 26 Sept 2016; 21^{st} : 2 - 10 November 2016
- TiSA Ministerial Meeting (Senior officials): 4 June 2015 (OECD – Paris) – TiSA Mini Ministerial Dinner: 21 October 2016 (Oslo– Paris)
- Second revised offer 21 October 2016.
- TiSA Ministerial scheduled on 5-6 Dec. 2016… towards conclusion!
- Trump Elections on 8 November 2016! TiSA Ministerial and last round: cancelled on 18 Nov! Deal? 2017?

ESF TiSA Countries' Priorities

➔ 23 "like minded" Countries:

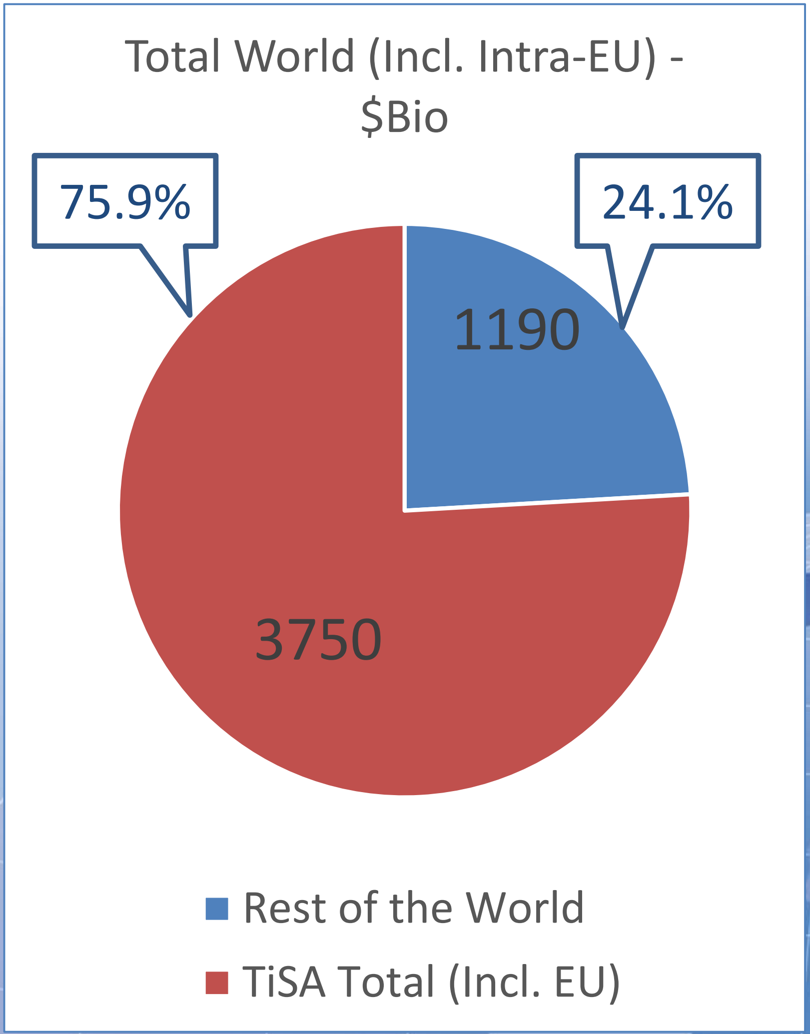
- TiSA countries that are integrated into the EU Single Market: **Iceland**, **Liechtenstein**, **Norway**,... and partially **Switzerland**
- The EU has recent FTA with the following TiSA countries: **Colombia, Costa-Rica, Peru, Panama, South Korea**
- The EU has concluded FTA but not yet ratified FTA with **Canada**
- The EU has on going FTA negotiations with: **Japan**, **USA**
- The EU does not have any FTA with the following TiSA Countries: 1. **Australia**, 2.**Hong-Kong**, 3. **Israel**, 4. **Taiwan**, 5. **New-Zealand**, 6. **Pakistan**, 7. ~~**Paraguay**~~, 8. ~~**Uruguay**~~, 9. **Turkey**
- The EU has FTA with low level of services commitments with **Chile** and **Mexico,** and EPA with **Mauritius** (but no services)

➔ Where are the emerging countries? China, Brazil, India, **Indonesia,** Russia, South Africa?

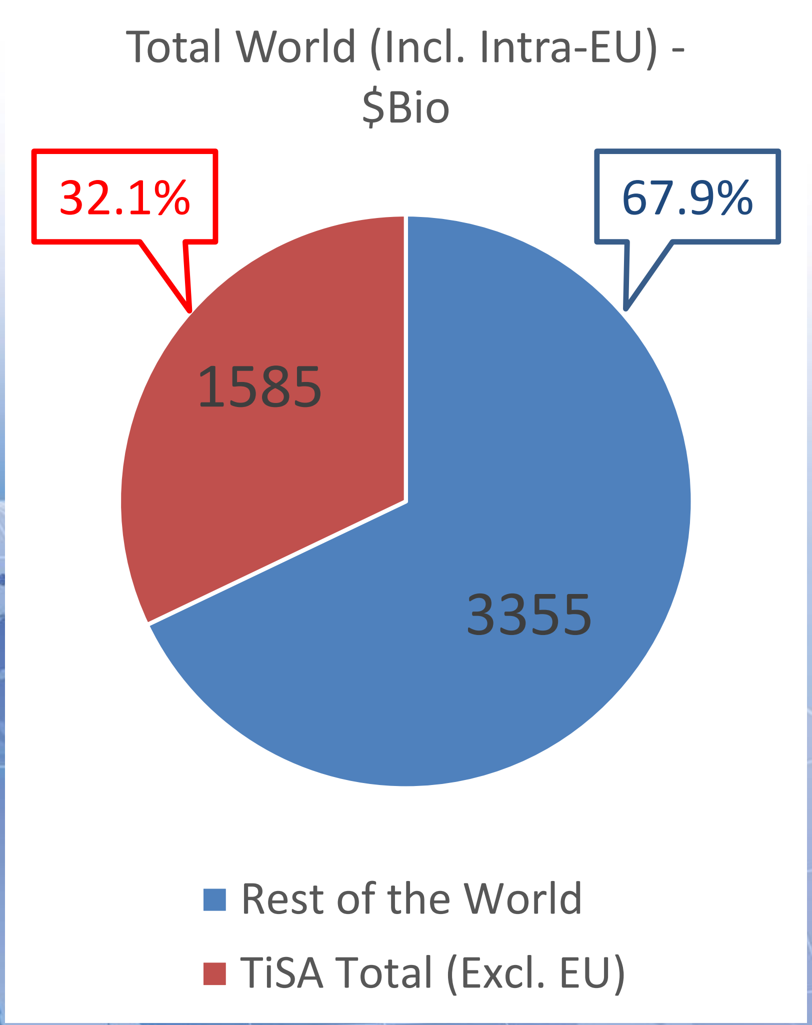
« The voice of the European Service Industries for International Trade Negotiations in Services »

TiSA in figures (with & without EU intra & extra)

TiSA with EU



TiSA without EU

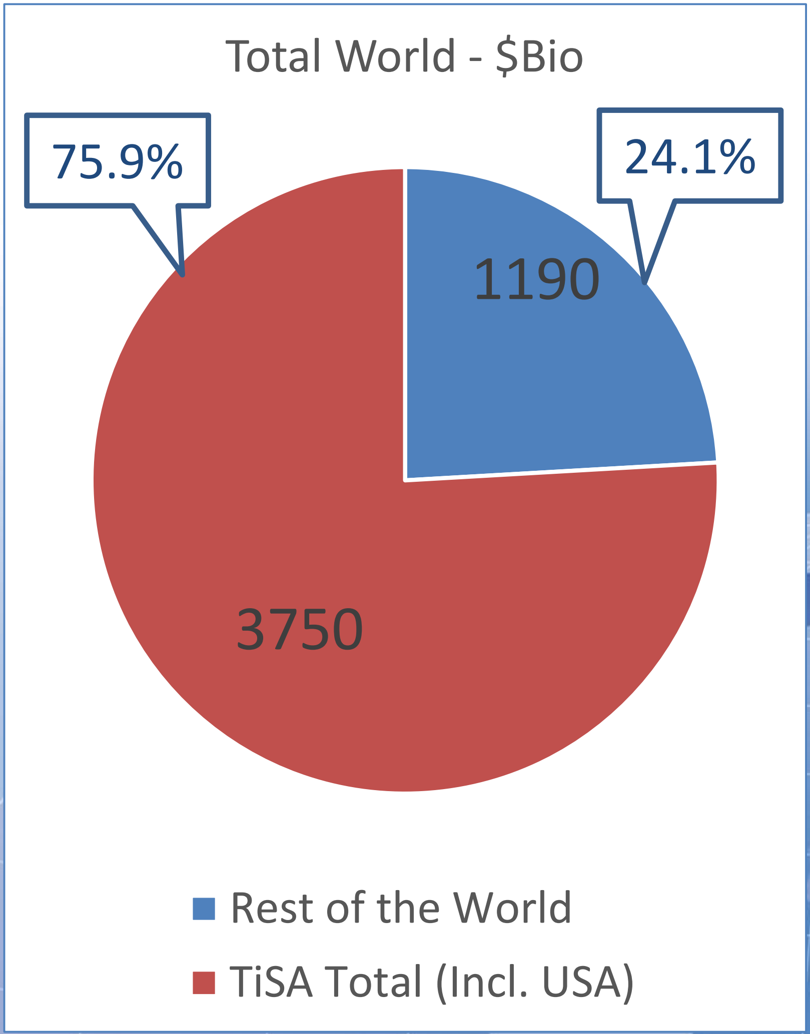


Source: WTO International Trade Statistics - 2015

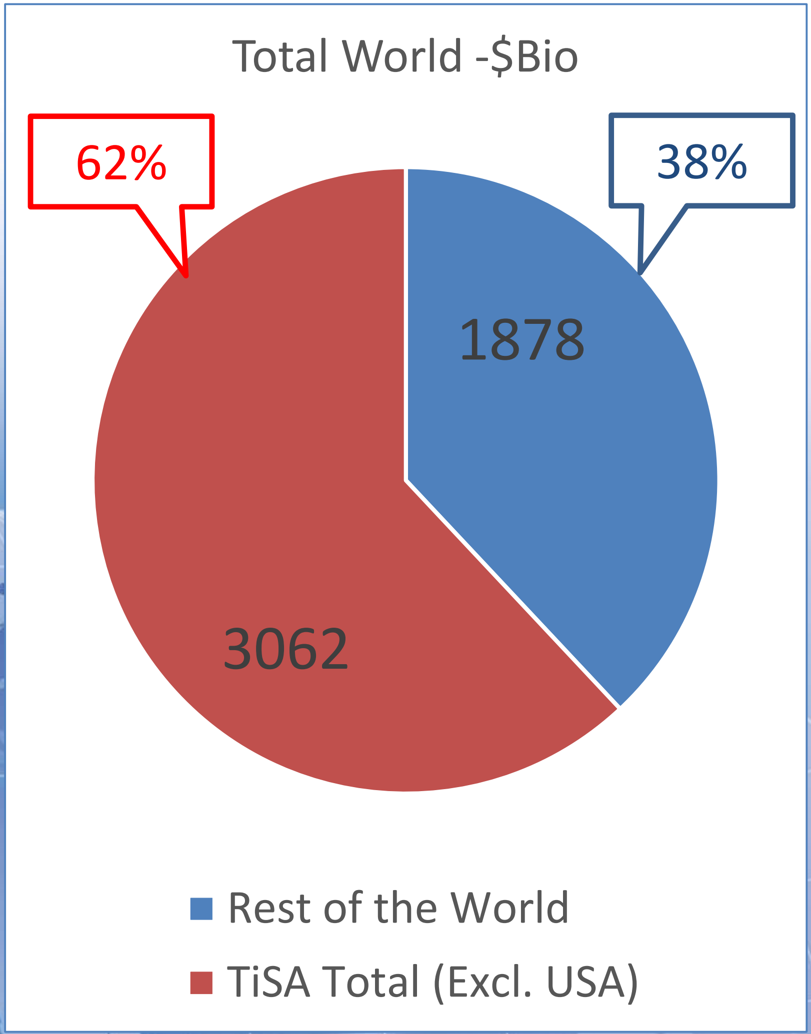
« The voice of the European Service Industries for International Trade Negotiations in Services »

TiSA in figures (with & without USA)

TiSA with USA



TiSA without USA

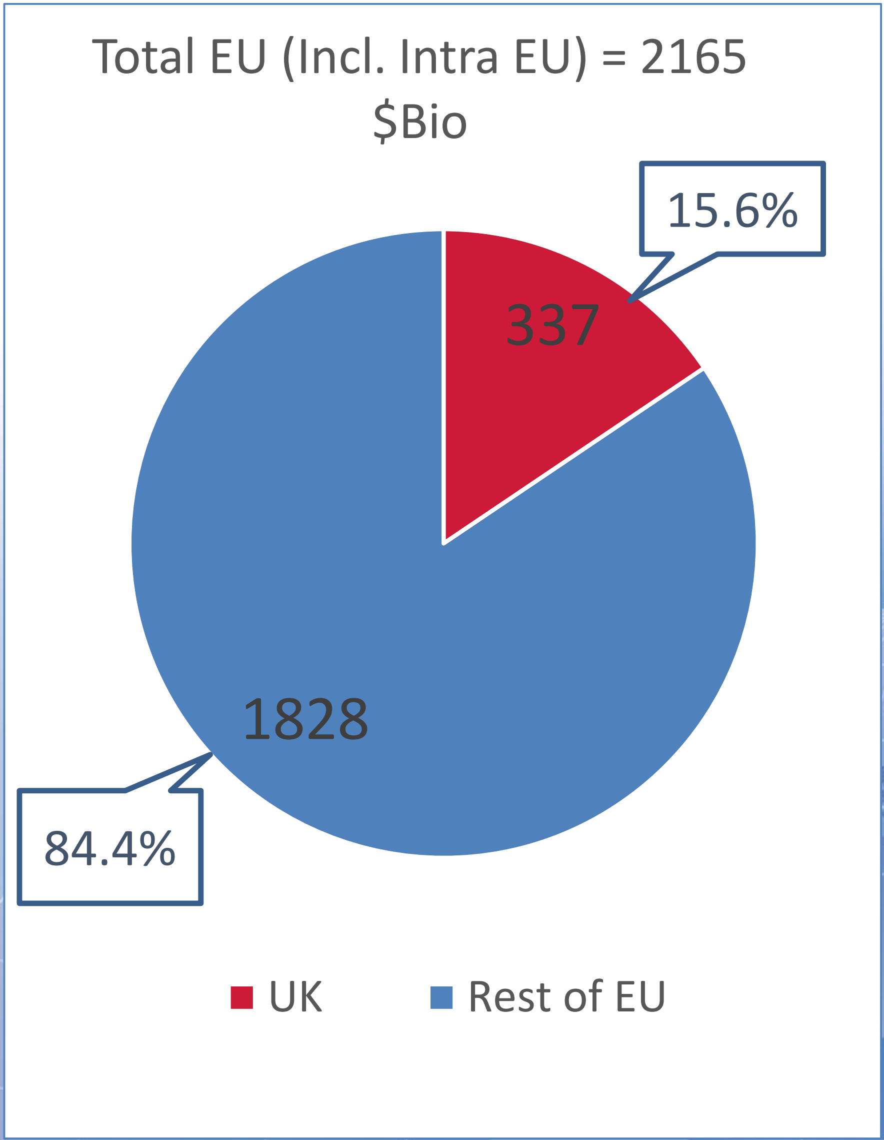


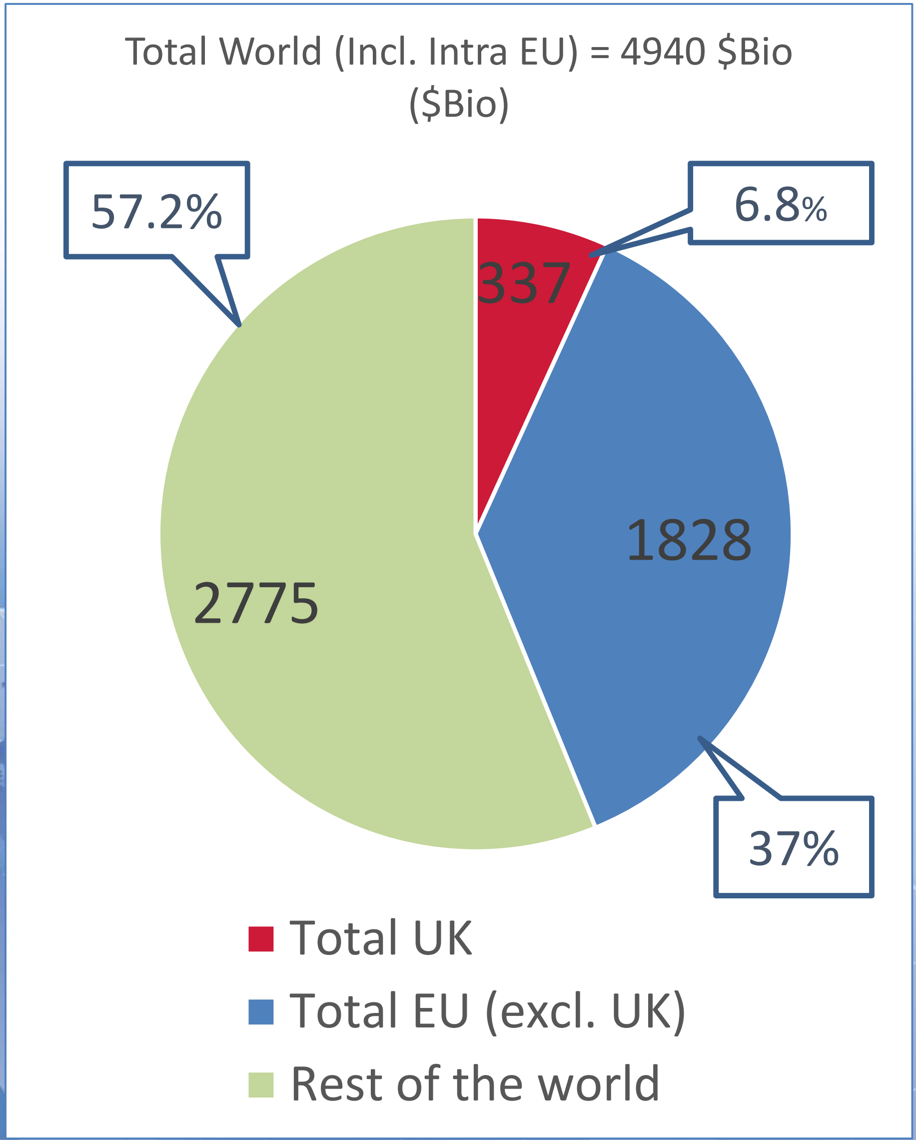
Source: WTO International Trade Statistics - 2015

4) Impact of Brexit on EU Trade Policy for Services and Investment

« The voice of the European Service Industries for International Trade Negotiations in Services »

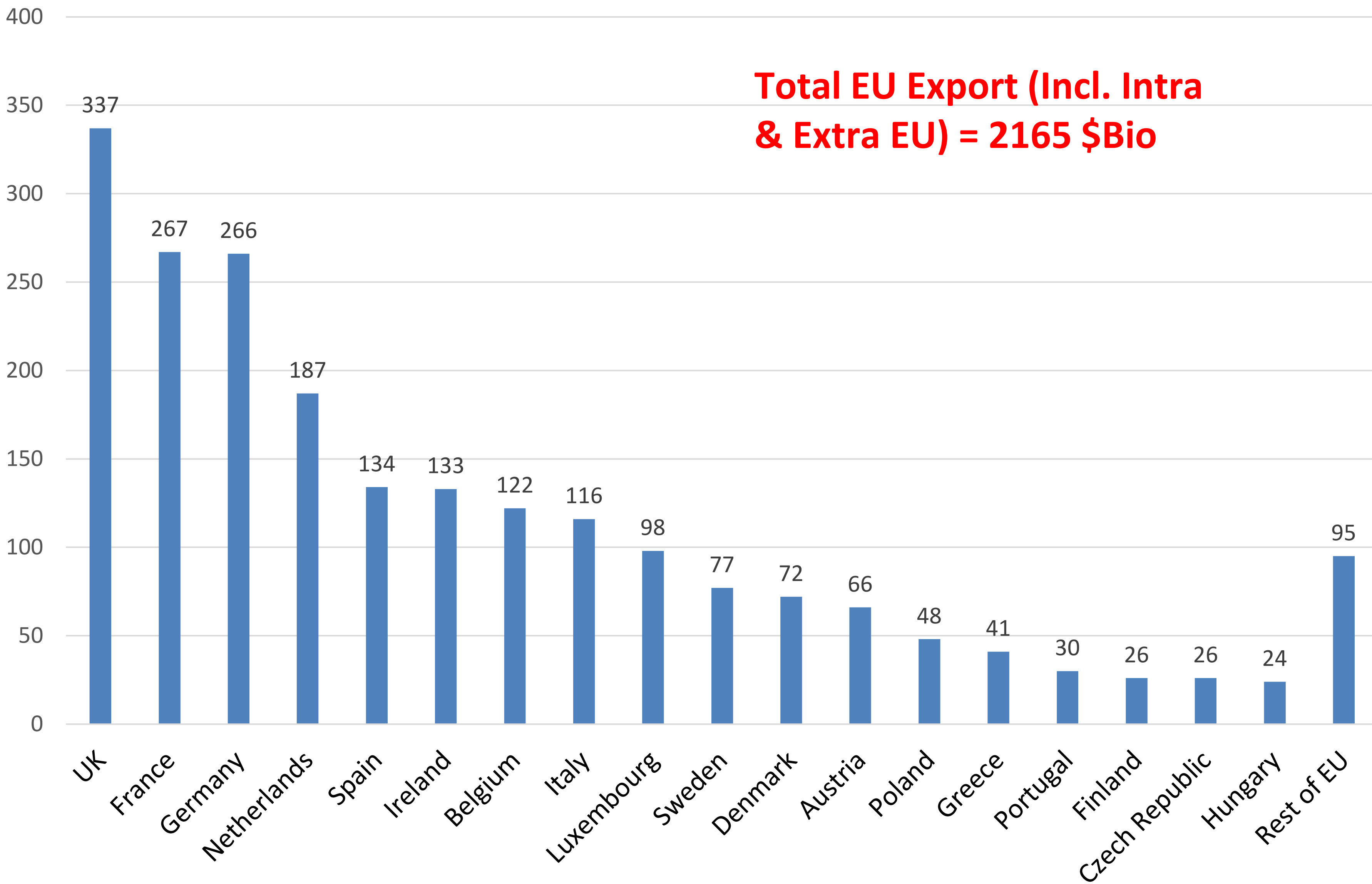
Share of the UK in World trade in services in the EU and in the World





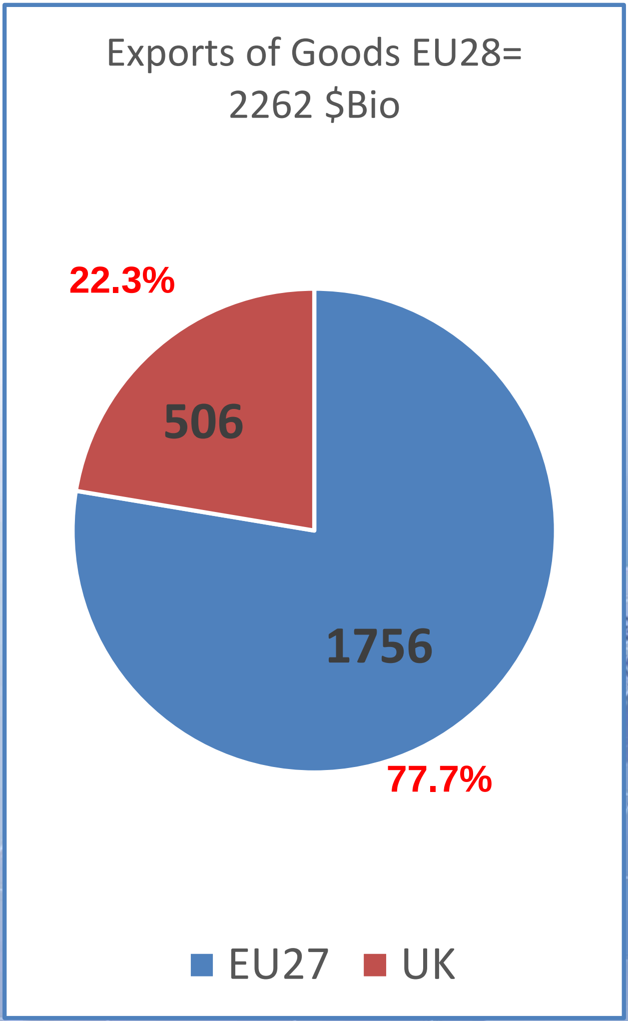
« The voice of the European Service Industries for International Trade Negotiations in Services »

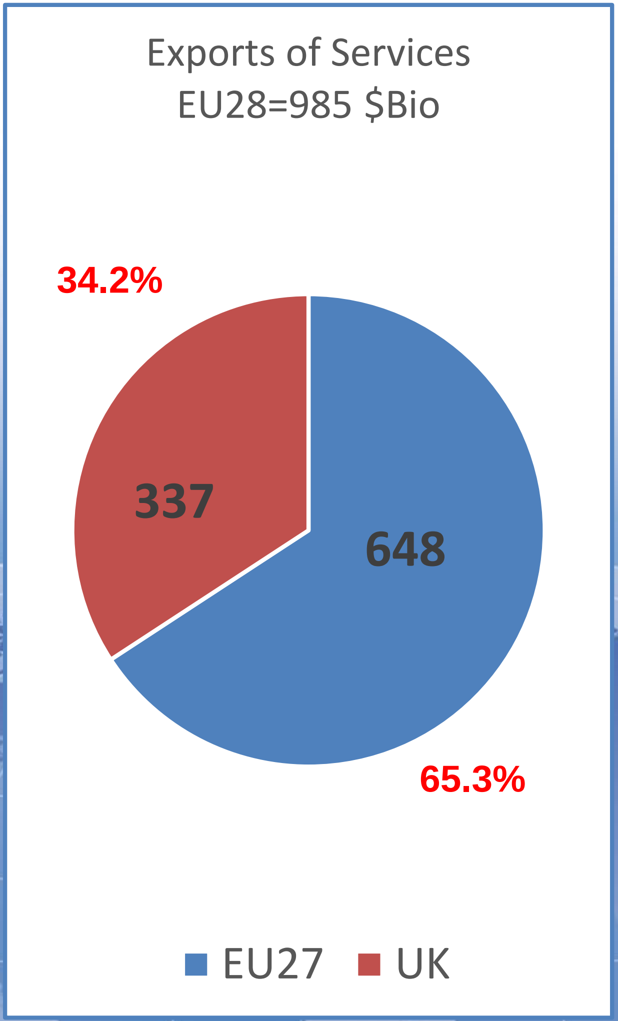
EU Exports of services per countries (Incl. Intra EU) - $Bio - 2014

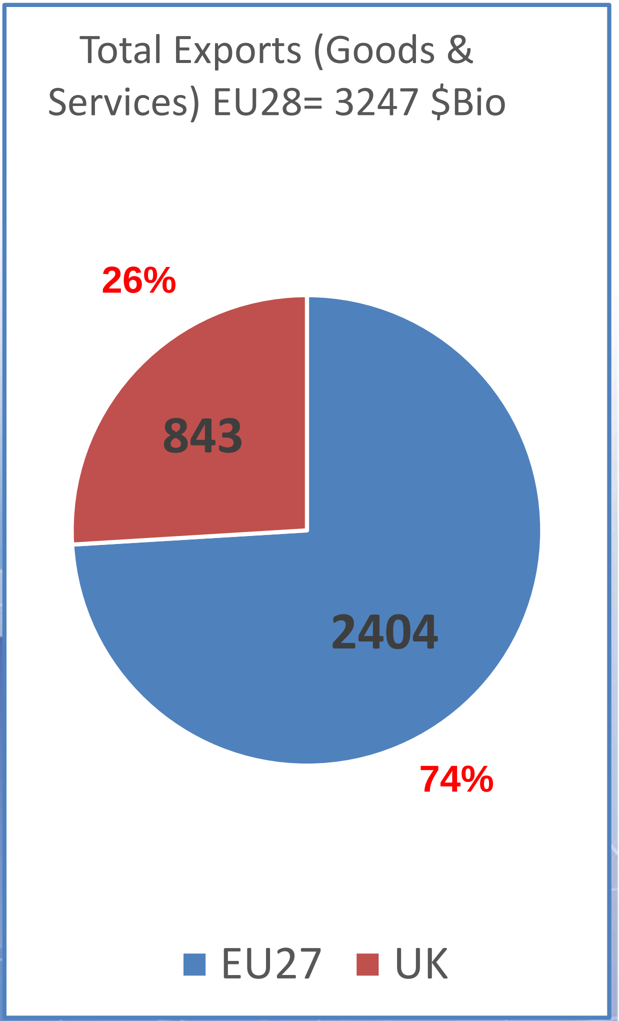


« The voice of the European Service Industries for International Trade Negotiations in Services »

THE UK REPRESENTS A VERY LARGE PART OF THE EXTRA EU TRADE



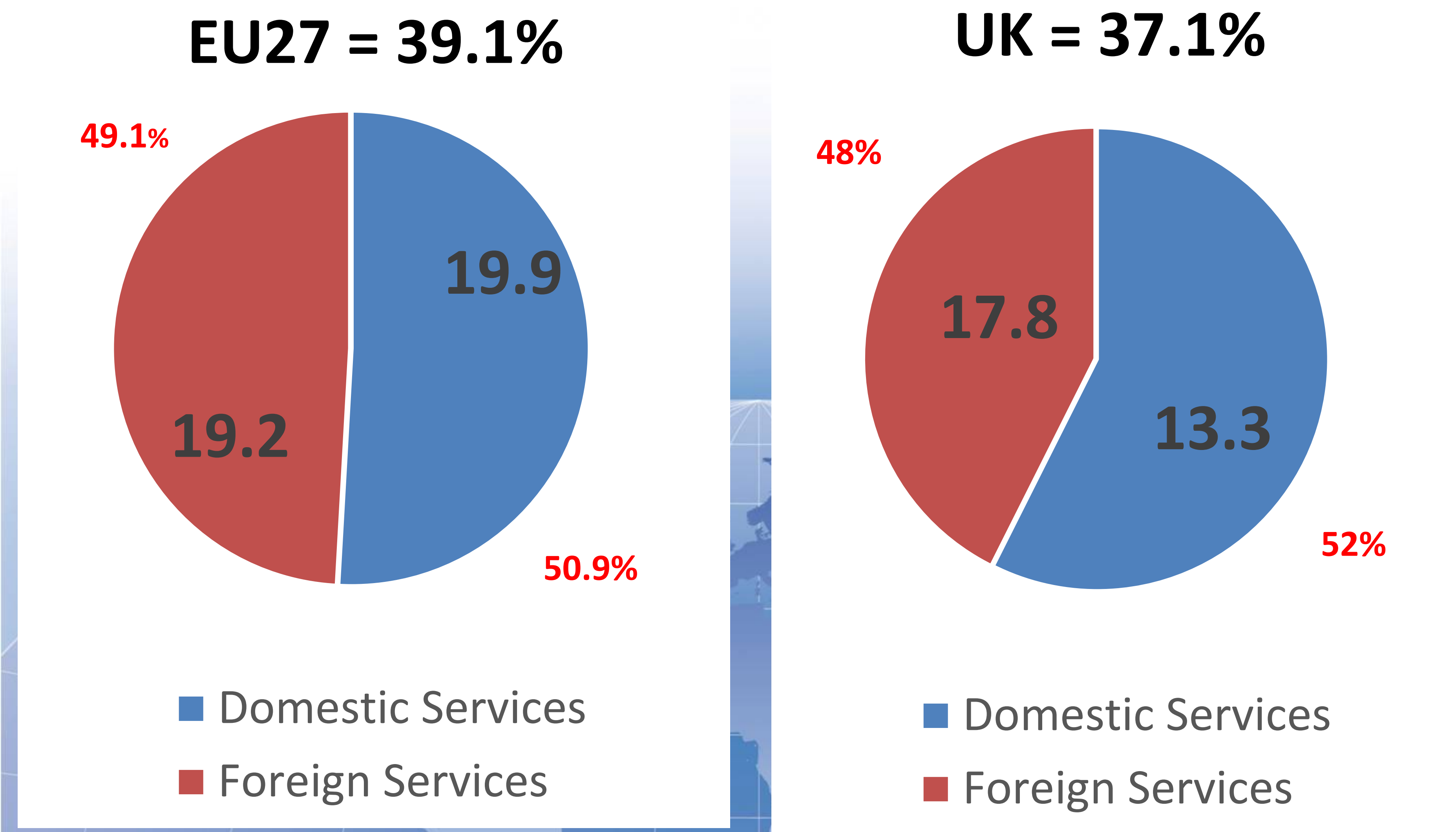




WTO International Trade Statistics - 2015

« The voice of the European Service Industries for International Trade Negotiations in Services »

Share of Services value added in EU & UK ***Goods*** Exports
Share of Domestic & Foreign Services in Goods Exports - %



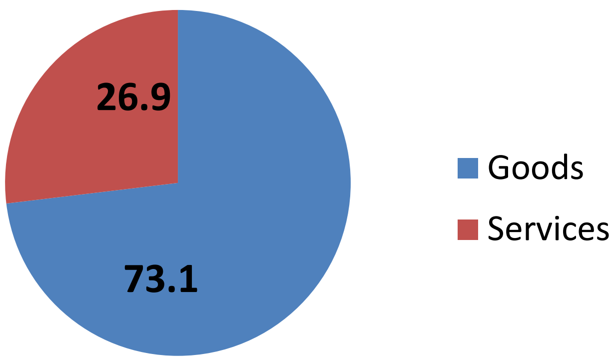
« The voice of the European Service Industries for International Trade Negotiations in Services »

IMPORTANCE OF TRADE IN SERVICES for EU & UK

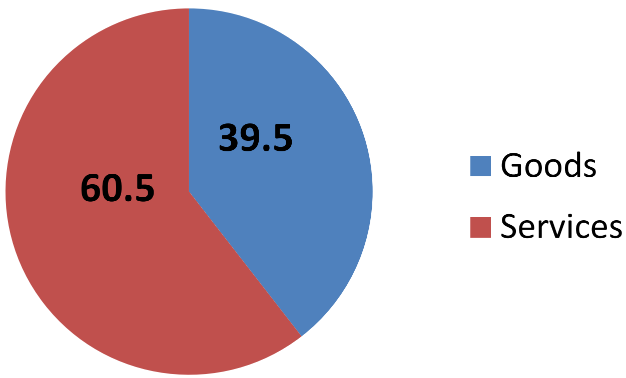
If we use the trade in value-added (TiVA) indicators,

60,5% of total EU VA Exports are Services

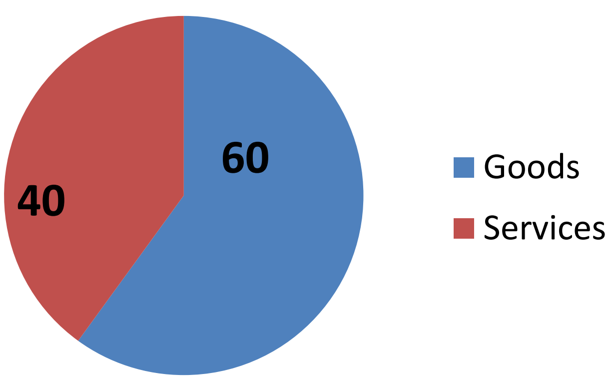
EU Exports in BoP – 2014 - %



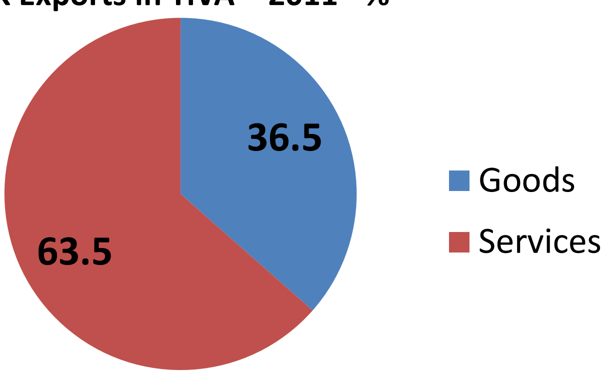
EU Exports in TiVA – 2011 - %



UK Exports in BoP - 2014 - %



UK Exports in TiVA – 2011 - %

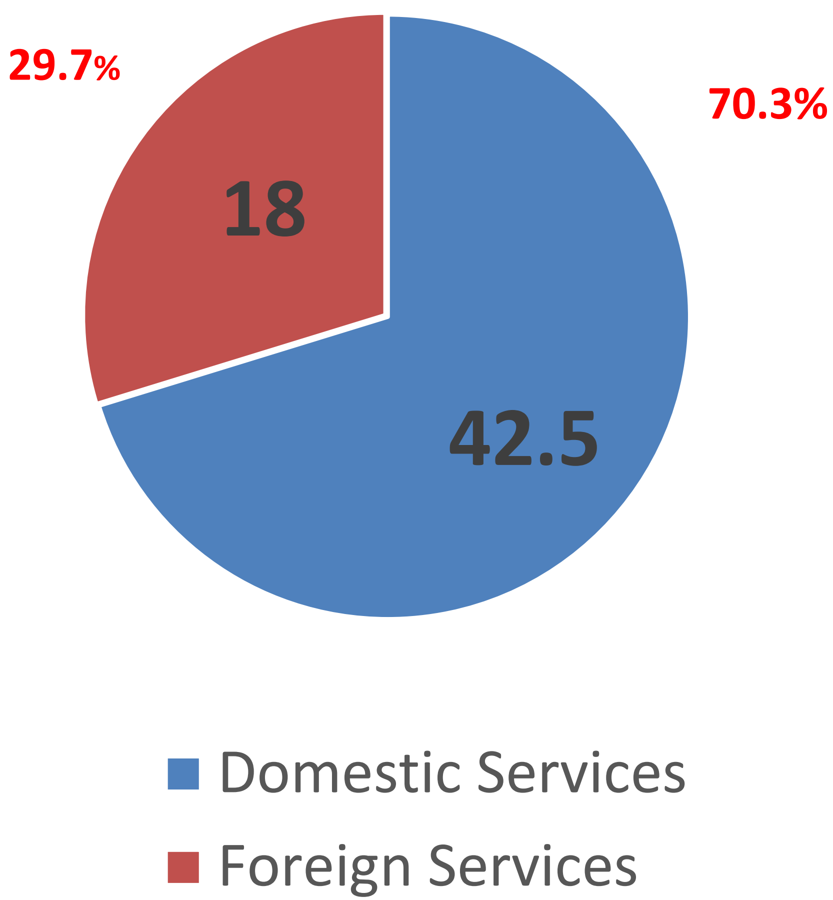


63,5% of total UK VA Exports are Services

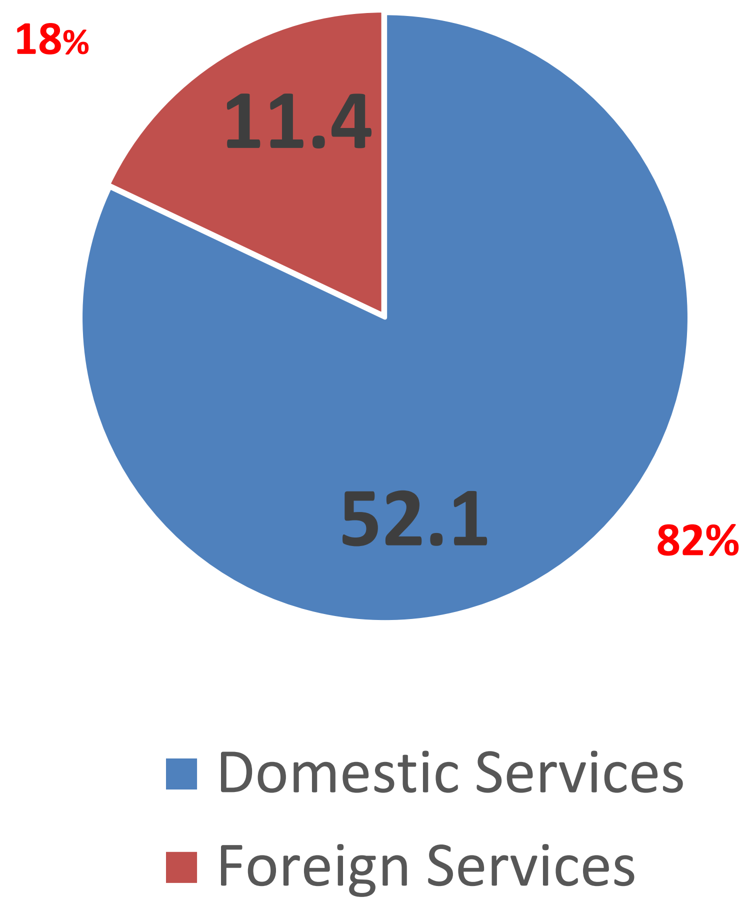
« The voice of the European Service Industries for International Trade Negotiations in Services »

Share of Services in EU & Taiwan Global Exports
Share of Domestic & Foreign Services - %

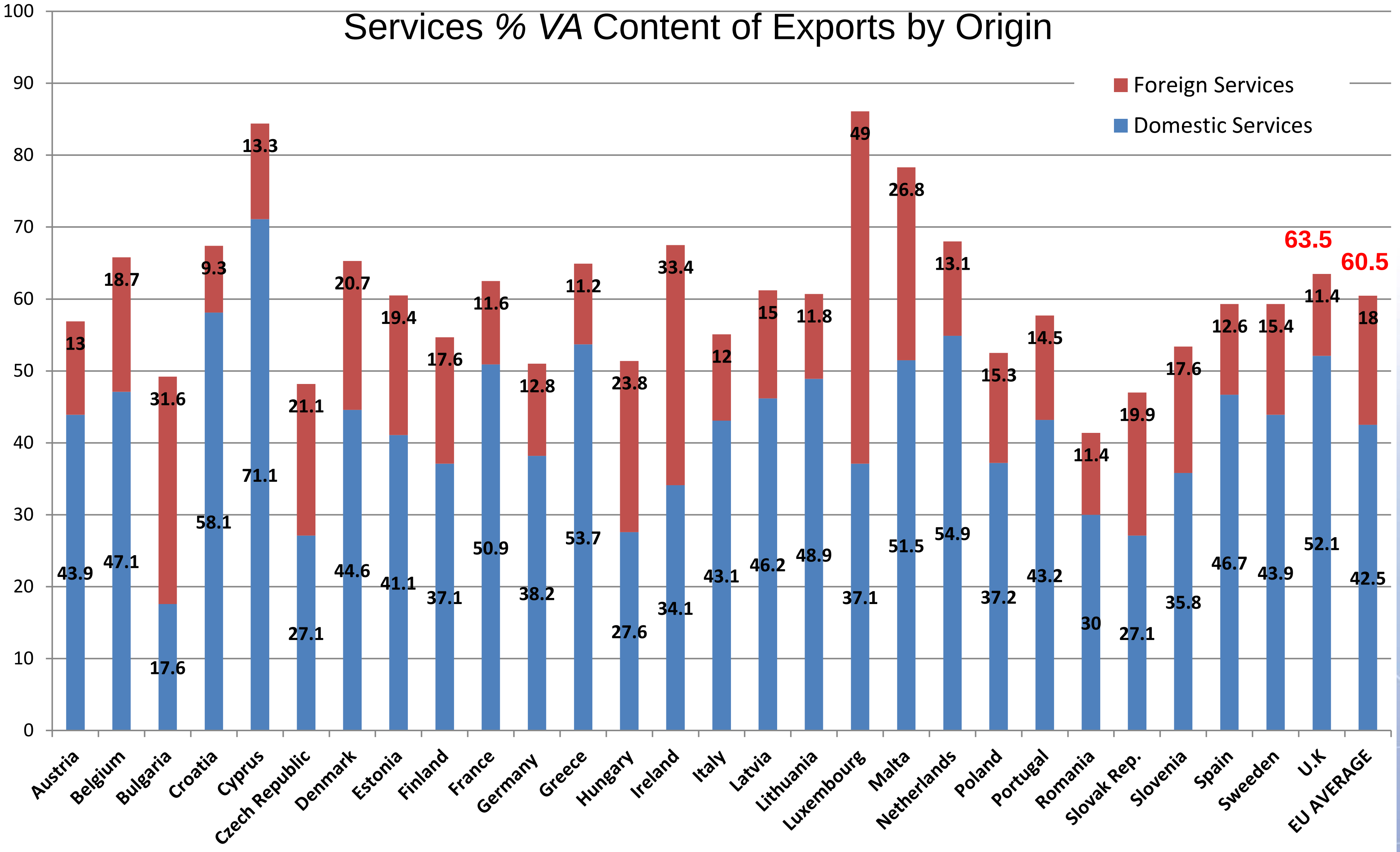
EU = 60.5%



UK = 63.5%



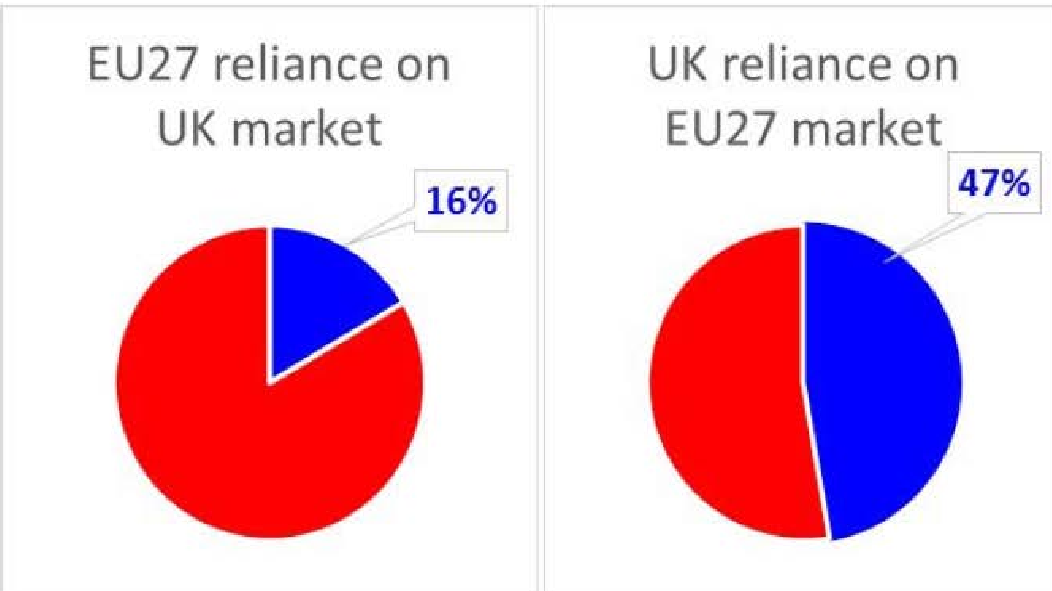
« The voice of the European Service Industries for International Trade Negotiations in Services »

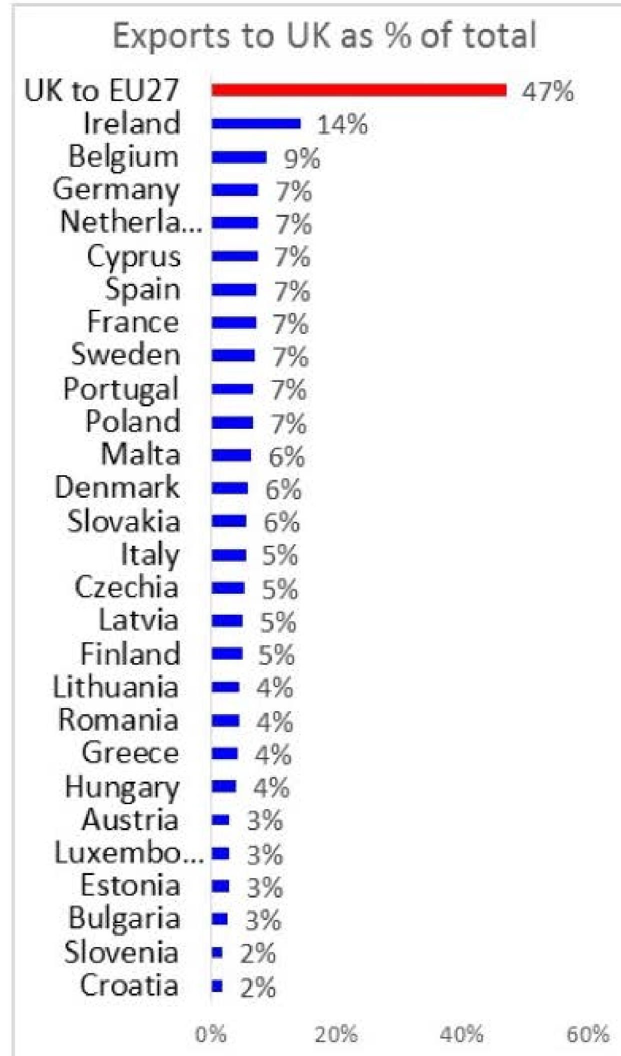


Source: World Trade Organization, "Global Value Chains" 2011

TRADE ASYMMETRY (Incl. Extra and Intra EU Trade)

Trade asymmetry





5) EU-Australia FTA : What should be its content for Trade and investment in services?

What should be the content of an EU Australia FTA?

A. Market access Pillar

(incl. Public procurement in services)

B. Regulatory disciplines and cooperation

C. Movement of natural persons

D. 4) Mutual recognition of qualification

What should be the content of an EU Australia FTA?

➔ "Deep and Comprehensive FTA" – Single Undertaking

- Goods: tariffs cuts (+95%), NTBs, Rules of Origin,
- Trade in services (Cross border – M1, Movement of people – M4)
- Investment (Pre-establishment market access including in services sectors – M3, post establishment protection: ISDS?)
- IPR (copyrights, patents, data flows, etc.)
- Public Procurement, including for services (central, regions, local, public entities): Australia Sub federal level?
- Competition, dispute settlement
- Regulatory disciplines and cooperation

➔ TiSA $^{+}$? ; TPP $^{+}$?; TTIP ambition?

A. Market access pillar (1)

- The current bidding level with Australia = GATS 1995
- Scheduling of Market access & National Treatment commitments using a Negative list : EU industry preferred choice!
  - GATS +; ➔ TiSA+; ➔ TPP+
  - Removal of all equity caps, with negotiated exceptions,
  - Binding of current practise (i.e. Higher Market access than in existing FTAs), with negotiated exceptions,
  - Standstill and Ratchet Clause (to lock in the autonomous reforms)
  - More on Professional services, telecom services, postal & express services, financial services, maritime Transport, etc.

A. Market access pillar (2)

- State of the art Investment protection chapter (BIT): including Investor-to-State Dispute Settlement (ISDS) with transparency process and the new EU Investment Court System (ICS).. Australia?
- Increased public procurement market access in the services sectors: (Construction & related services (architects, engineers, etc.); cleaning and catering services in administrations and all public entities; insurance services; telecom and IT services; security services; environmental services, etc.
  - → Australia not GPA member !
  - → Australia sub federal level? Difficulties ??

B. Regulatory disciplines and cooperation Pillar

- Adoption of a strong Horizontal Chapter on Disciplines for Domestic Regulation (Look at TiSA):
  - Transparency of the regulation
  - Prior consultation of stakeholders
  - Impact assessment
  - transparency of the licensing requirements and procedures (Proportionate to the goal, Objective, lease burdensome administrative costs as possible, short and predefined delays, right of appeal)
- Sector specific disciplines (e.g. on Telecoms, on Postal, on Energy, Environment, maritime and air transport, financial services, etc.) and Sector specific regulatory cooperation (living agreement)(TiSA?)
- Disciplines on State Own Enterprises (SOEs)
- Disciplines on cross border data flow (?) (very sensitive in the EU!)

C. Movement of Natural Persons

- A key priority for EU businesses in EU-Australia FTA
- Temporary period only, not permanent migration
- Negotiate faster Business Visa and Work permits delivery procedures: Visa facilitation (Sensitive in EU – Competence?)
- In all Categories of Natural Persons Covered under Mode 4:
  1. Intra-Corporate Transfers (ICT)
     - Managers
     - Specialists
     - Graduate Trainees
  2. Business Visitors (BV) = kind of APEC Card with EU ?
  3. Contract Service Suppliers (CSS)
     Employees of Juridical Persons
  4. Independent Professionals (IP)

D. MRAs on Professional qualification (1)

How to achieve Mutual Recognition Agreements in Professional qualifications in a EU-Australia FTA)? ➔ see EU-Canada CETA !

- The EU Treaty gives full competence to the EU institutions on all external aspects of the internal market, i.e. including also on Professional qualifications.
- How to reconcile the competent authorities in the professional services (DG Markt, + Member States ministries, + Professional bodies, and the trade authorities (DG Trade, Trade Policy Committee – Member States trade representatives, EP)?
- For many years in the EU, the private sector was told to work on the details via a "profession to profession agreement", that would then be examined by the institutions, so as to provide the "official stamp", transforming it into binding international law (see architects)

MRAs on Professional Qualification (2)

- The Commission and Canada Federal government have found a way to go forward:
- They agreed on a Framework Agreement that will be an annex to the CETA. It describes the modalities how MRAs on sector specific professional qualifications, once concluded by the private sector together with the "licencing bodies", will finally be transformed into the binding International treaty (FTA).
- All the competent authorities in the Member States and the Provinces have been involved in this solution.

  → i.e. The Australian States regulatory bodies will have to be involved. Is it possible?
- The framework agreement is an "enabling tool" (with Guidelines for the sectors) that ensure legal security to the agreement, if – and only if – the professional services sectors want to conclude a MRA.
- The Architects have already started to work on a MRA.

E. Chapter on Sustainable Development

- A chapter on other related issues to investment!
- Rules on Labour (respect of ILO Core Conventions

  ➔ Core labour standards like no child at work, no prisoners, etc.)
- Rules on Environment (Respect of multilateral environment agreements, COP 21, etc.)
- Possible rules on obligations for the companies to respect the basic corporate social responsibilities (CSR), OECD Guidelines for multinationals, etc.

➔ Question: should such a chapter be subject to the dispute settlement system of the BIA?

« The voice of the European Service Industries for International Trade Negotiations in Services »

THANK YOU FOR YOUR ATTENTION !

Pascal KERNEIS

Managing Director

European Services Forum – ESF

168, Avenue de Cortenbergh

B – 1000 – BRUSSELS

Tel: + 32 2 230 75 14

Fax: + 32 2 320 61 68

Email: esf@esf.be

Website: www.esf.be