7 EU trade policy and services: The perspective from the private sector

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Services play a significant role in all global modern economies. In a world that is increasingly globalising, services sectors provide essential support to the rest of the economy.

Trade in services

From an EU-level perspective, the importance of services becomes clearer. Taking intra- and extra-EU trade in services together, the EU represents 41% of the world trade in services, while services represent 73% of EU GDP. Exports of services represent 32.6% of total EU exports in terms of balance of payments (BOP). Those BOP figures give the wrong picture, however, and do not reflect the real economy. An explanation for this dichotomy can be found by calculating trade not in terms of balance of payments at the border, but rather in terms of value added. The joint OECD-WTO Trade in Value-Added (TiVA) database indicates that there is a significant part of the services value added in the exports of manufactured goods, representing up to 34.5% of the value of EU exports of goods in 2016.[1] This means that services represent 58% of total EU exports in terms of value added. The EU is the largest exporter and importer of services in the world – it exported €912 billion of services in 2017 (an increase of 61% since 2010) and imported €720 billion (a total combined annual volume of €1,633 billion). This represents 23% of global trade in services (extra-EU), and also presents a positive balance of €191 billion, contributing to the strength of the EU economy. The world of trade has dramatically changed over the last 20 years, and the importance of services in trade needs to be properly assessed in the future trade policy.

1 Also known as "Mode 5" services, as discussed in Foltea (2018).

Investment

It is not only in trade that services play a central role. Besides being the world leader of services trade, the EU is also the biggest world investor, investing €10.6 trillion in outward stocks (34% of global foreign direct investment, or FDI) and €9.1 trillion in inward stocks (29% of global FDI). Fifty-eight percent of outward FDI is invested by European services sectors in the rest of the world; and more importantly, 87% of EU inward investments are to the European services sectors. This is extremely significant and not sufficiently grasped by policy. Recently, the EU approved a new framework to screen FDI with the main purpose of keeping the EU open to investment while safeguarding Europe's security, public order, and strategic interests when it comes to foreign investments into the EU. FDI plays a vital role in European economies and the EU is seen as one of the most open investment regimes, according to the OECD FDI Regulatory Restrictiveness Index.

Employment

A recent report from the European Commission (Arto et al. 2018) reveals not only that EU exports support 36 million jobs, but also that 61% of this employment is in services. This means that 22 million services jobs are directly related to EU exports (goods and services) to the rest of the world. Significantly, most of these jobs were high-skilled jobs – 20% of EU jobs supported by EU exports to the rest of the world were high-skilled jobs in the services sector, 30% were medium-skilled jobs, while 11% were low-skilled jobs. The report also provides details of how the export of services creates jobs in the countries to which European services businesses export. In 2014, the services sector accounted for 47% of the employment outside of the EU supported by exports of the EU, a significant increase compared to 2000, when it was 37%. This means that more than 9 million services jobs outside the EU are created by EU exports.

The predominant role of the EU in the multilateral system

A necessary WTO reform

The EU has played a pivotal role in the creation and functioning of the WTO. The setting up of the multilateral system of the WTO has been the cornerstone for the development of the global economy since WWII. The establishment of international rules of law, with countries making commitments to respect their trading partners in exchange for mutually agreed access to each other markets, is the simple basis of today's international trading system. This system has been essential in the avoidance of major trade conflicts between nations and has allowed economies to thrive, elevating millions out of poverty, creating millions of jobs, and fostering innovation and growth. The WTO is the right tool to set international trade rules that will ensure a level playing field among all exporters and investors. Hence, this system must be preserved. Services-related organisations such as the European Services Forum (ESF) call on WTO Members to modernise the organisation so as to transform the rules of the world trade of yesterday into a new rulebook for the 21st century. The WTO is currently facing a severe existential crisis. The reform and modernisation of the WTO will be the most important task regarding trade policy in the coming years. There is no doubt that the lack of progress in delivering new market access gains and new disciplines through the Doha Development Agenda (DDA) has contributed to weakening the WTO. The rules now need to be strengthened to ensure that all countries will apply the same disciplines with open markets but fair and non-discriminatory rules.

Strengthening the negotiating function of the WTO

A WTO e-commerce agreement

All trade in goods and services – from the placing of an order to the confirmation of delivery – now involves the electronic transfer of data. Data transfer is today's all-purpose means of business communication, spurring economic growth and innovation in all industries. The EU is the world's most data-dependent actor in the global trading system, illustrating the importance of enabling digital trade for the growth of the European economy. This explains why the ESF welcomed the fact that, at the end of the December 2017 WTO Ministerial Conference in Buenos Aires, trade ministers from 71 countries adopted a Joint Statement on E-Commerce. Seventy-seven countries are now participating in these plurilateral negotiations launched in March 2019 in Geneva, which look at setting up disciplines in various areas related to international e-commerce. These talks are on the flagship of the new and modernised negotiating function of the WTO.

WTO disciplines on services domestic regulation and investment facilitation

Other negotiations are still ongoing in the WTO, mandated by Article VI.4 of the General Agreement on Trade in Services (GATS) aiming at setting up disciplines in countries' domestic regulation of the various services sectors. Reaching an agreement by the 12th WTO Ministerial in June 2020 in Kazakhstan will demonstrate that the multilateral system is still able to deliver. More transparency on the licensing procedures and other regulatory aspects is a key demand of foreign companies looking to do business in hosting countries, and will contribute greatly to better international trade and investment in services sectors. In the same vein, the joint initiative towards a WTO Investment Facilitation Agreement, whereby signatories will commit to more transparency in licensing and administrative procedures for all investors, will also shows the WTO relevance.

Trade in Services Agreement (TiSA)

Rules and commitments for market access in trade in services in the WTO, already through the result of the Uruguay Round and the creation of the General Agreement on Trade in Services and confirmed by the unfinished business of the DDA, have always been agreed through plurilateral negotiations. That was also the case during the Trade in Services Agreement (TiSA) negotiations, which unfortunately were suddenly halted at the end of 2016 ahead of a final ministerial council which could have led to the conclusion of an ambitious deal on trade in services. Such an agreement, dealing exclusively with services trade, would have been an acknowledgement of the importance of services in international trade. ESF encourages the EU to monitor the possibility of resuming these negotiations closely, as such an agreement will provide not only a new rulebook for the services trade, but also new market access commitments.

The necessary pursuit of bilateral trade policy

The negotiations of bilateral free trade agreements (FTAs) are a necessary complement of the multilateral agreements. The services industry is a strong advocate of concluding ambitious, deep, and comprehensive FTAs with all trading partners that demonstrate a willingness to work towards a strong commercial relationship with the EU, built on high standards and respect for sustainable development. EU FTAs should systematically aim at achieving liberalisation of services sectors markets in all modes of supply, from cross-border trade in services to movement of business persons, through the removal of barriers that are hampering or limiting foreign direct establishments.

Ongoing trade negotiations with ambitious services chapters

The EU is currently negotiating a long list of bilateral and regional trade agreements. Some of these negotiations should deliver high-standard agreements with ambitious services chapters and market access commitments, following the negative list approach that provides better transparency for business. This should be the case for the talks with Australia, New Zealand, and Chile; it should also be the case with Switzerland, the second biggest trading partner of the EU for trade in services. The EU exported €118 billion worth of services to Switzerland in 2017. Hence, the EU should modernise the agreements governing the trade relations with Switzerland with ambitious services components in a new deep and comprehensive FTA (DCFTA). The recent conclusion of the agreement with Mercosur was long overdue, although given the very old mandate, the results for the services sectors are of medium quality. The most desired FTA that the EU should go for is a bilateral deal with India as soon as possible. The EU also has to further improve its trade in services relations with its Mediterranean and Middle Eastern neighbour countries – first by concluding the services and agriculture talks with Tunisia and Morocco, then by including Egypt in these discussions. To circumvent the stalled FTA talks with Gulf Cooperation Council (GCC) countries, the EU should envisage the negotiation of a regional investment agreement with these six countries. And European businesses support the revision of the Custom Agreement with Turkey as a tool to tackle the many existing barriers to trade and investment in that country. The talks with Indonesia have to go on so as to further open up the services market of this vast and populous country, and the negotiations with other Association of Southeast Asian Nations (ASEAN) countries, such as Malaysia, Philippines and Thailand, must resume as soon as the political situation is ripe. Services should also be a priority in the Economic Partnership Agreement (EPA) revision with some African countries and in the forthcoming negotiations of the Post-Cotonou Agreement between the EU and the African, Caribbean and Pacific (ACP) countries.

The incoming Commission will have to reinsert new momentum to the negotiations of the bilateral investment agreement with China, where European services companies encounter many trade and investment barriers. Investment negotiations should also be launched with Hong Kong and Taiwan. Last but not least, ESF deeply regrets the suspension of the negotiations of the EU-US Transatlantic Trade in Investment Partnership (TTIP) in October 2016. One can only take note that services are not on the agenda of the potential future mandate of partial EU–US trade talks that is currently being discussed. However, given the fact that trade in services represents 38% of total exports by the EU to the US, and 46% of the total exports from the US to the EU, services should not be forgotten as the EU advances in its trade talks with the US.

A better visibility and enforcement strategy for the services contents of EU FTAs

ESF commends the work of the outgoing European Commission, which achieved significant success in pursuing the 'Trade for All' strategy launched by Trade Commissioner Cecilia Malmström in 2015. Numerous trade negotiations and implementing trade agreements were agreed with partners around the world, such as Canada, Japan and South Korea, Colombia, Peru and Ecuador, as well as with Central American countries and with neighbouring countries in Eastern and Central Europe (Ukraine, Georgia, and Moldova). Ambitious deals with Singapore and Vietnam were made. These FTAs have contributed significantly to the liberalisation of services with our trading partners, allowing new business opportunities and strengthening the legal security of doing business through binding rules of current regulatory regimes. The political conclusion of the EU–Mexico FTA revision is another success for EU trade policy.

A key challenge for the incoming European Parliament and European Commission will be communicating the benefits of the FTAs to service businesses, allowing them to better utilise the opportunities available under such deals. Negotiating agreements is of no value if those who are intended to benefit from them are unaware of their advantages. The European Commission has done excellent work to inform businesses in the manufacturing and agriculture sectors on the benefits of the FTAs for goods in terms of reductions in tariffs, understanding the rules of origin, or standards and other non-tariffs measures.

The incoming Commission must give equal attention to services companies, with targeted communication materials (licensing requirements, investment opportunities, working permits, etc.) informing economic operators in these industries of the opportunities an FTA can provide for their business, and where to find the practical information. Since trade in services represents more than 30% of total EU trade in terms of balance of payments and more than 55% of total EU trade in terms of value added, much more needs to be done in this area. Despite the amount of text in EU FTAs dedicated to services ranging between 30% and 50% of the total number of pages, almost nothing is dedicated to services industries when it comes to the implementation tools. This must be corrected. Trade in services statistics should be systematically detailed by sector, in all relevant publications, as is the case for trade in goods sectors. Information to help European services companies to better understand the agreements and how to export or set up a commercial presence should also be developed. The technical content of FTAs related to services needs to be explained in a digestible way for non-experts.

References

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About the author

Pascal Kerneis has served as Managing Director since ESF's creation in 1999. He is a lawyer specialised in European Law. Having completed his Ph. D. thesis on international Trade and European Law, in 1990, Pascal started his career as a legal expert for the European Commission. After having joined the European Banking Federation, he was closely involved in the WTO negotiations on financial services. In December 1997, in Geneva, he participated in the private financial services industry's effort to help the negotiators achieving a comprehensive agreement, with substantial commitments for the banking sector.