CETA and EUJEPA: outcomes and implications for EU-AU negotiations

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Question

• If the STRI is cross-referenced against services commitments in the CETA and the EUJEPA, are identified high barriers being liberalised?
Overview

• EU trade treaties: service outcomes
  • CETA
  • EUJEPA
• Canada’s STRI: Identifying the most restrictive sectors
• Japan’s STRI: Identifying the most restrictive sectors
• Conclusion/Implications for EU-AU negotiations
MA, NT, MFN

• **Market Access**: Gives each Party’s services suppliers or investors access to the domestic services market.

• **National Treatment**: Treats foreign suppliers or investors no less favourably than domestic suppliers or investors.

• **MFN treatment**: Each time a party offers a more beneficial treatment to a Trade Partner in a future bilateral agreement, it has to extend the same treatment to all partners to its trade agreement.
CETA: service outcomes

• Negative list - all service sectors are liberalized - exemptions are listed in specific Annexes.
• Chapter 8: Investment
• Chapter 9: Cross-border trade in services (mode 1 & 2)
  • Annex 9-C: courier services covered by Chs 8, 9 s.t. reservations.
  • Exceptions: for CA cultural industries, for EU AV services, all but some air services, financial services, procurement, subsidies.
  • NT, MA, MFN
• Chapter 10: Temporary entry + stays for business purposes
• Chapter 11: Mutual recognition of professional qualifications
• Chapter 12: Domestic regulation
• Chapter 13: Financial services
• Chapter 14: International maritime transport services
• Chapter 15: Telecommunications
• Chapter 16: E-commerce
EUJEPA: Trade in services, investment liberalisation and electronic commerce (Ch 8)

• General Provisions
• Investment liberalisation – MA, NT, MFN
• Cross-border trade in services – MA, NT, MFN
  • Exceptions: air services other than aircraft repair and maintenance, CRS services, ground handling services, selling and marketing; AV services, cabotage in maritime transport services, govt procurement, subsidies.

• Entry and temporary stay
• Regulatory framework
  • Domestic regulation
  • General provisions– Mutual recognition of prof qualifications
  • Postal and courier services (not in CETA)
  • Telecommunications services
  • Financial services
  • International maritime transport services
  • Electronic commerce

STRI Analysis
CA STRI: Identifying the most restrictive sectors

Canada's STRI (2018)

Source: OECD STRI database, own calculations
Important STRI caveats

• STRIs are ordinal (only rank matters)
• They are really qualitative but expressed as values 0→1
• Difference in index value ≠ difference in economic impact.
CA STRI: Identifying the most restrictive sectors

Canada's STRI (2018)

Source: OECD STRI database, own calculations
An Example: Digging Deeper into Canada’s STRI for Courier Services

- Score = 1 for all identified measures in all policy areas:
  - 4 restrictions on foreign entry
    - Postal monopoly - Canada Post ownership, Director residency, screening.
  - 4 other discriminatory measures
    - Tax treatment at the federal level for small Canadian firms,
      Explicit preferences for local suppliers for procurement.
  - 4 barriers to competition
    - Monopoly, preferential postal network for Canada Post
  - 3 measures on regulatory transparency
    - Time and number of documents needed to process visas.
  - 2 restrictions to movement of people
    - Labour market tests on contractual and independent suppliers.
Courier services STRI: issue

• Community Service Obligations (CSOs)
  • Reserved letter delivery service – Canada Post
    • Canada Post has: the sole and exclusive privilege of collecting, transmitting and delivering letters **weighing up to 500g**, with the exception of outbound international mail (Sections 14 and 15, Canada Post Corporation Act).

• Commercial business
  • Parcel delivery, express delivery services etc.

• Why include market segments tied to CSOs in the STRI?
JP STRI: Identifying the most restrictive sectors

Japan's STRI (2018)

Logistics cargo-handling
Logistics storage and warehouse
Logistics freight forwarding
Logistics customs brokerage
Accounting
Architecture
Engineering
Legal
Motion pictures
Broadcasting
Sound recording
Telecom
Air transport
Maritime transport
Road freight transport
Rail freight transport
Courier
Distribution
Commercial banking
Insurance
Computer
Construction

- Regulatory transparency
- Barriers to competition
- Other discriminatory measures
- Restrictions to movement of people
- Restrictions on foreign entry
- OECD Average
JP STRI: Identifying the most restrictive sectors

Japan's STRI (2018)

- Regulatory transparency
- Barriers to competition
- Other discriminatory measures
- Restrictions to movement of people
- Restrictions on foreign entry
- OECD Average

Chart showing various sectors with their respective restriction levels.
Comparing (common) restrictive measures in courier services across countries
## Courier services restrictions: AU, CA, JP

<table>
<thead>
<tr>
<th>Indicator</th>
<th>Value given in answer to indicator question</th>
<th># of countries with high score (=1)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Limits to the proportion of shares that can be acquired by foreign investors in publicly-controlled firms</td>
<td>No, Yes, Yes</td>
<td>2</td>
</tr>
<tr>
<td>Board of directors: at least one must be resident</td>
<td>Yes, Yes, No</td>
<td>2</td>
</tr>
<tr>
<td>Screening exists without exclusion of economic interests</td>
<td>Yes, No, No</td>
<td>2*</td>
</tr>
<tr>
<td>Cross-border data flows: cross-border transfer of personal data is possible to countries with substantially similar privacy protection laws</td>
<td>Yes, No, Yes</td>
<td>2</td>
</tr>
<tr>
<td>Labour market tests: intra-corporate transferees</td>
<td>Yes, No, Yes</td>
<td>2</td>
</tr>
<tr>
<td>Labour market tests: contractual services suppliers</td>
<td>Yes, Yes, Yes</td>
<td>3</td>
</tr>
<tr>
<td>Labour market tests: independent services suppliers</td>
<td>Yes, Yes, No</td>
<td>2</td>
</tr>
<tr>
<td>Public procurement: Procurement regulation explicitly prohibits discrimination of foreign suppliers</td>
<td>Yes, No, No</td>
<td>2</td>
</tr>
<tr>
<td>National, state or provincial government control at least one major firm in the sector</td>
<td>Yes, Yes, Yes</td>
<td>3</td>
</tr>
<tr>
<td>The government can overrule the decision of the regulator</td>
<td>No, Yes, Yes</td>
<td>2</td>
</tr>
<tr>
<td>The designated postal operator obtains preferential tax or subsidy treatment</td>
<td>Yes, No, Yes</td>
<td>2</td>
</tr>
<tr>
<td>The designated postal operator obtains exemptions from transport bans</td>
<td>Yes, No, Yes</td>
<td>2</td>
</tr>
<tr>
<td>Access to the postal network is granted on a non-discriminatory basis</td>
<td>No, Yes, No</td>
<td>3**</td>
</tr>
<tr>
<td>Range of visa processing time (days)</td>
<td>15, 32, 1</td>
<td>2</td>
</tr>
<tr>
<td>Number of documents needed to obtain a business visa</td>
<td>13, 10, 7</td>
<td>2</td>
</tr>
<tr>
<td>Time taken for customs clearance (days)</td>
<td>1.73, 0.13, 1.42</td>
<td>2</td>
</tr>
<tr>
<td>A de minimis regime is in place: Import duties (USD)</td>
<td>190.00, 15.30, 91.50</td>
<td>2</td>
</tr>
</tbody>
</table>


Notes: * AU (the Australian government adopts a flexible, reviewing foreign investment proposals against the
Implications

• Might be useful for negotiators?
Back to our Question

• If the STRI is cross-referenced against services commitments in the CETA and the EUJEP A, are identified high barriers being liberalised?

• Somewhat..
Summary

• Canada more restrictive than OECD average in: telecommunications, distribution, courier, broadcasting services, insurance, logistics cargo-handling, motion pictures, construction.

• Japan: Legal, telecommunications, courier, commercial banking, logistics freight forwarding.

• CETA & EUJEPA has specific chapters/sections for
  • Telecommunications,
  • Financial services,
  • MRA for professional services.

• Australia’s STRI?
Australia’s STRI (2018)

Logistics cargo-handling
Logistics storage and warehouse
Logistics freight forwarding
Logistics customs brokerage
Accounting
Architecture
Engineering
Legal
Motion pictures
Broadcasting
Sound recording
Telecom
Air transport
Maritime transport
Road freight transport
Rail freight transport
Courier
Distribution
Commercial banking
Insurance
Computer
Construction

- Regulatory transparency
- Barriers to competition
- Other discriminatory measures
- Restrictions to movement of people
- Restrictions on foreign entry
- OECD Average
- Minimum
EU-AU Negotiations: EU’s Textual proposal

• EUJEPA style – Investment liberalisation and trade in services.
• General Provisions
  • Exclude most air, CRS, ground handling services, selling and marketing; AV services, domestic shipping
• Investment liberalisation – MA, NT, MFN
• Cross-border trade in services – MA, NT, MFN
• Entry and temp stay for business purposes – Annex on ICT
• Regulatory framework
  • Domestic regulation
  • General provisions – MR PQs
  • Delivery Services - postal, courier, express
  • Telecommunication services
  • Financial services
  • International maritime transport services
Summary

• Respective treaties partly targeted at services sectors with current relatively high restrictiveness.
  • MR, telecomm, FS for CETA and EUJEPa
  • EUJEPa (and likely EU-AU) have a subsection dedicated to postal / courier services.
• Canada’s STRI indicates a higher than average restrictiveness in courier services but no dedicated section in CETA.
The End

Thank you!

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Positive and Negative lists

• EU trade deals for services and investment typically use principles of National Treatment (NT) and Market Access (MA).

• Commitments and exceptions in the agreement text use either:

  • **Positive list**: each Party explicitly lists the sectors/subsectors in which NT and MA commitments apply. Next, it lists all exceptions, with the limitations it will apply.

  • **Negative list**: a Party can skip the first step. Sectors/sub-sectors *not* listed are open to foreign service providers under the same conditions as for domestic suppliers.

In principle, all service sectors are liberalised - existing exemptions from NT and MA are enumerated in specific Annexes.

  • Annex I: existing legislation that runs counter to MA and NT
  • Annex II: sectors for which a party retains their right to deviate MA and/or NT commitments in the future.