Ibec
For Irish Business

Brexit & Future EU
An Ibec campaign

Untapped potential: The future for Irish and EU services

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Foreword

The EU has opened up extensive opportunities to trade, attract investment and foster a skilled workforce. Our future economic fortunes continue to demand an outward-looking, dynamic and successful EU. One that embraces change and is aligned with the needs of business and citizens.

The services sector is already central to Europe's economic performance and will be even more important into the future. The EU has a vital role to play in ensuring the sector reaches its full potential. We need a collective approach.

The Single Market and EU international trade policy needs to be redefined for today's services-led, digitalised and innovative global economy. Barriers to market entry and operating across borders must be reduced. If business is to create the jobs of the future, it needs a predictable, transparent and pragmatic regulatory environment.

Given the complexity of modern supply chains, goods and services regulation should no longer be considered in isolation. Instead, regulation must embrace openness in the provision of services and the digital economy. It is essential that new rules and standards are set for trade in services and cross-border data flows are facilitated within and outside the EU.

This paper, which is part of Ibec's wider Brexit and Future EU campaign, sets out the importance of services in intra-EU trade, international trade and a future economic partnership between the EU and the UK. It identifies how intrinsic trade in services is to all parts of the economy and sets out five key recommendations for the way forward.

The EU's current 'Future of Europe' debate is a great opportunity to set out a new vision for the future. Let's have the conversation.

Danny McCoy
Ibec CEO

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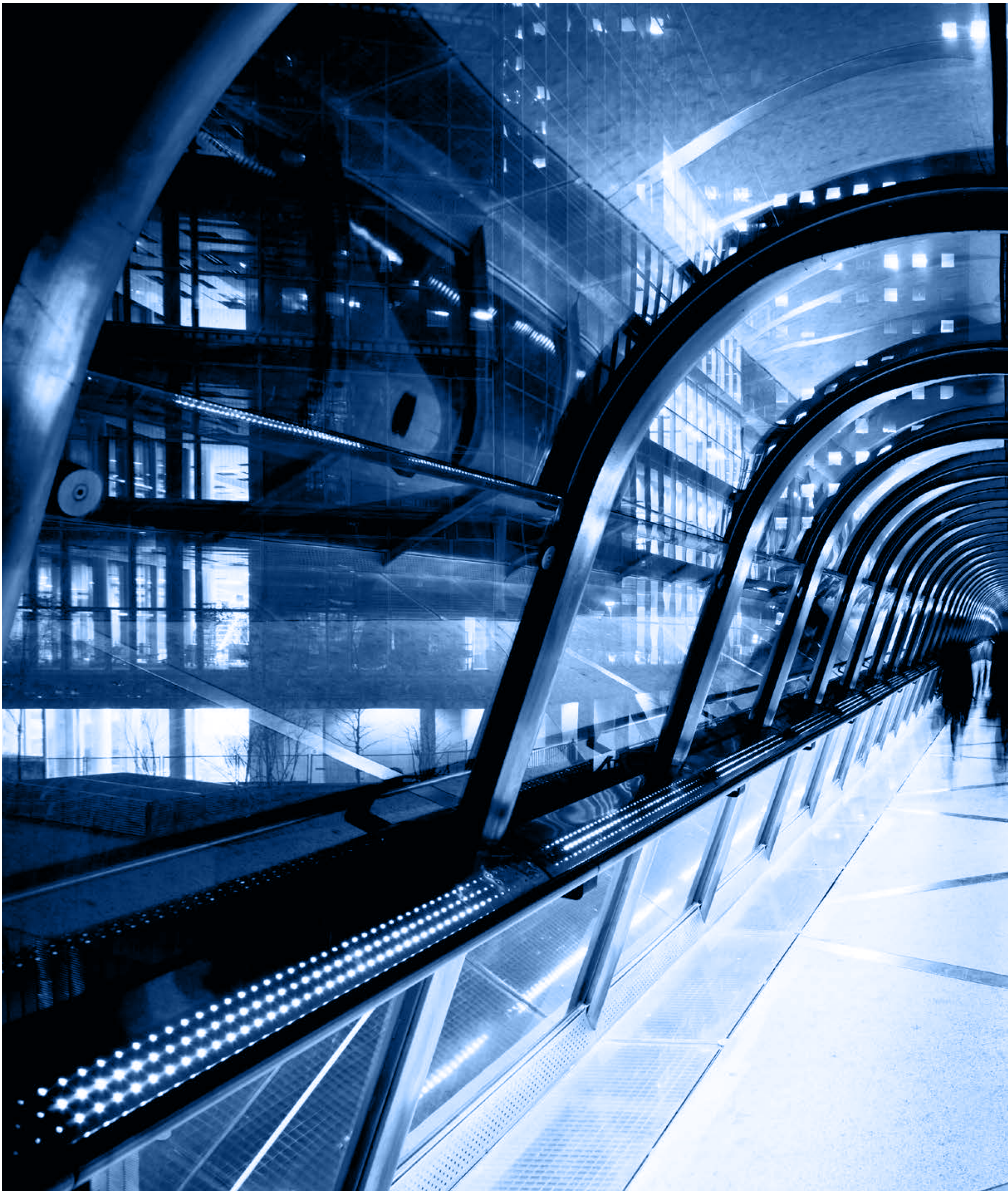


01 Recommendations

1. Complete the EU internal market in services

Targeted, concerted action is needed to complete the internal market in services. Existing rules need to be uniformly applied, monitored and enforced. EU action must include greater regulatory cooperation between member states.

2. Unleash the potential of the Digital Single Market

The completion of a Digital Single Market (DSM) must be prioritised. This market must secure trust through smart regulation, while also facilitating the free flow of data. At both EU and national level, we need to better promote the development of digital skills, and actively encourage digital entrepreneurship and innovation. Continued investment in digital infrastructure is needed to make this happen.

3. Lead the international debate and promote greater cooperation globally

The EU should set the global agenda and work to shape the international rules for trade in services at the WTO and OECD. Business needs a global system that facilitates the safe and secure free flow of data across borders, not one that creates unnecessary new trade barriers.

4. Make ambitious services commitments integral to free trade agreements

The EU must make ambitious commitments on trade in services integral to all free trade agreements (FTAs). In an increasingly digitalising global economy, which relies on cross-border services and data flows, it is essential that barriers to trade are minimised. These include unjustified data localisation measures and market protectionism.

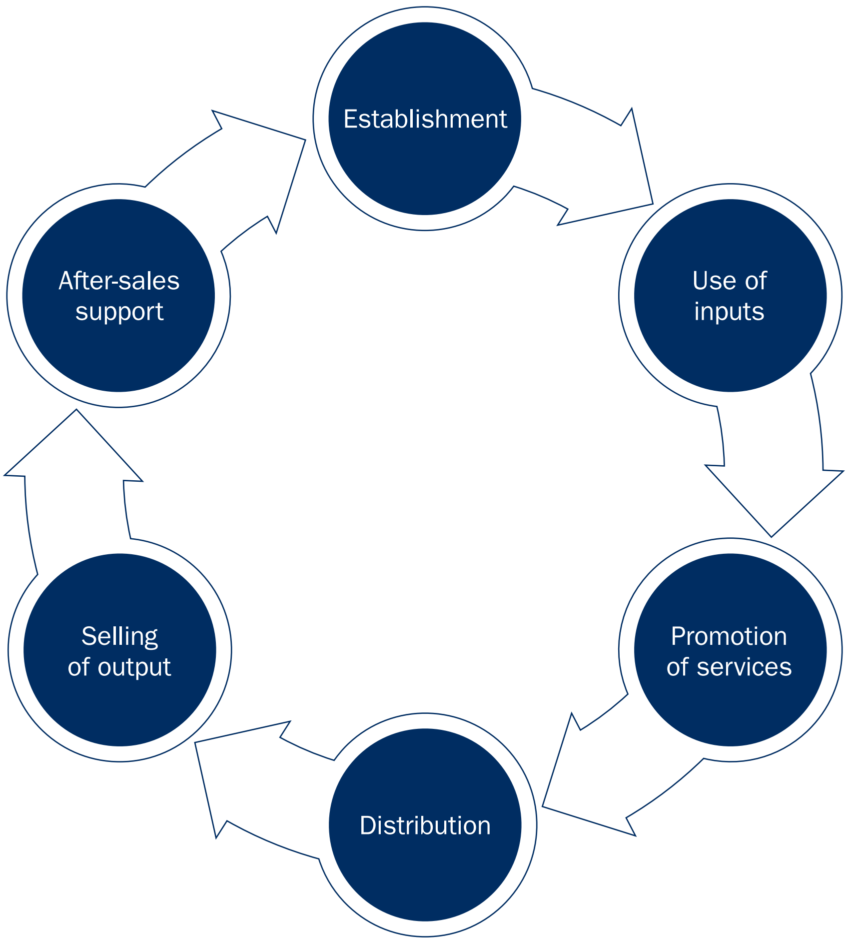
5. Ensure close cooperation on services is central to future EU-UK relations

Given the critical role of services in supply chains and the level of interdependence between our economies, negotiators must prioritise trade in services between the EU and the UK post-Brexit. This will require deep engagement across a broad range of service sectors – including information technology, finance and insurance, transport, tourism and business services.

02 Trade in Services: Global opportunities, the EU and Ireland

Economic development is typically accompanied by a growing services sector. The services sector now generates nearly two-thirds of global GDP, employs the greatest number of workers of any sector and creates the most jobs globally. Services are an integral part of modern supply chains and can be delivered as free-standing intangible products such as distribution and accounting services; as inputs to a manufacturing process e.g. design; or as complements to a good e.g. repair and maintenance provision.

Figure 1: Services are essential at every phase of the supply chain

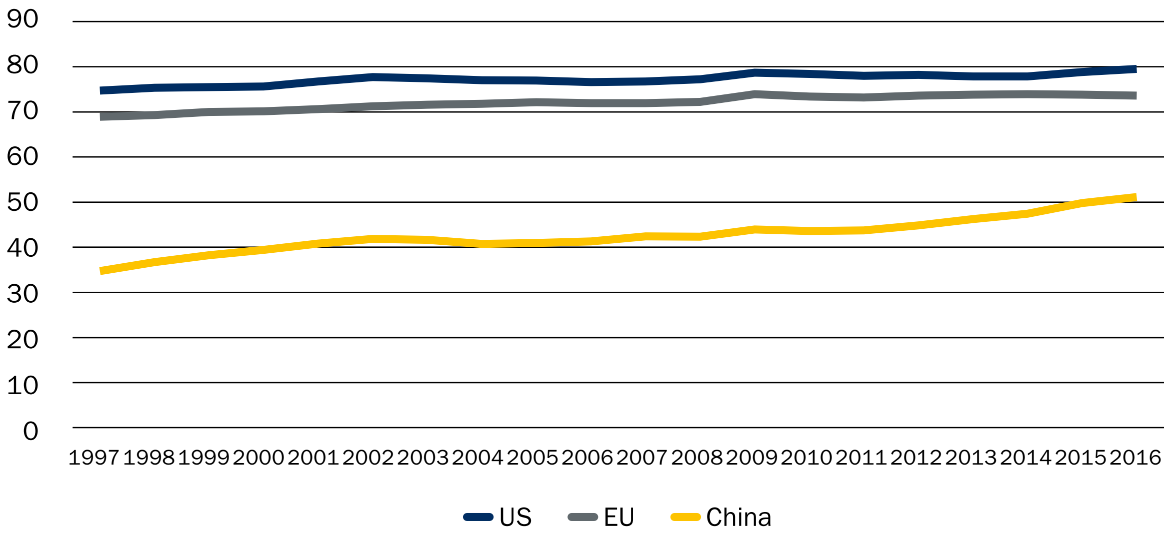


The services element of the economy spans numerous sectors including, but not limited to: financial and insurance activities; professional, scientific and technical activities; distribution and logistics; information and communication technologies; administrative and support service activities; construction; real estate activities; transportation and storage; accumulation and food services activities.

The importance of services

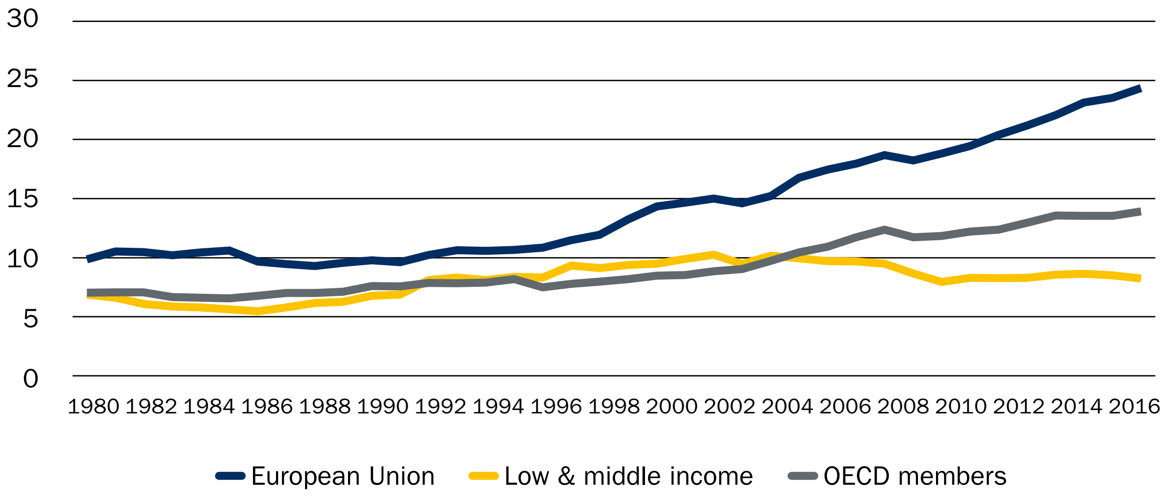
Over the past 20 years services have become a progressively important part of the global economy. Between 1997 and 2016 the share of the global economy accounted for by services rose from 61.6% to just over 65%. This share is much higher for more developed countries. Services accounts for 73.6% of the EU economy, having grown from 68.9% in 1997. In this sense, the growth in the share of services in value added in the EU has exceeded the global trend. The share of the global economy accounted for by services has the potential to continue to grow if the economies of fast-growing developing countries become more complex and converge over the coming years. In China, for example, services accounted for only 34.7% of gross value added in 1997, this has now risen to 51.1%.

Figure 2: Services as a share of GVA %



As the contribution of services has increased in economies, so has the importance of services trade. Between 1980 and 1998 the EU's trade in services peaked at the equivalent of around 11% of GDP. However, since then it has increased to just over 24% of GDP. A similar, if less pronounced trend can be witnessed in other OECD countries. Lower and middle-income countries on the other hand have seen their pace of growth outlast growth in services trade over the period.

Figure 3: Trade in services as % of GDP



Ireland – an open, dynamic market for services

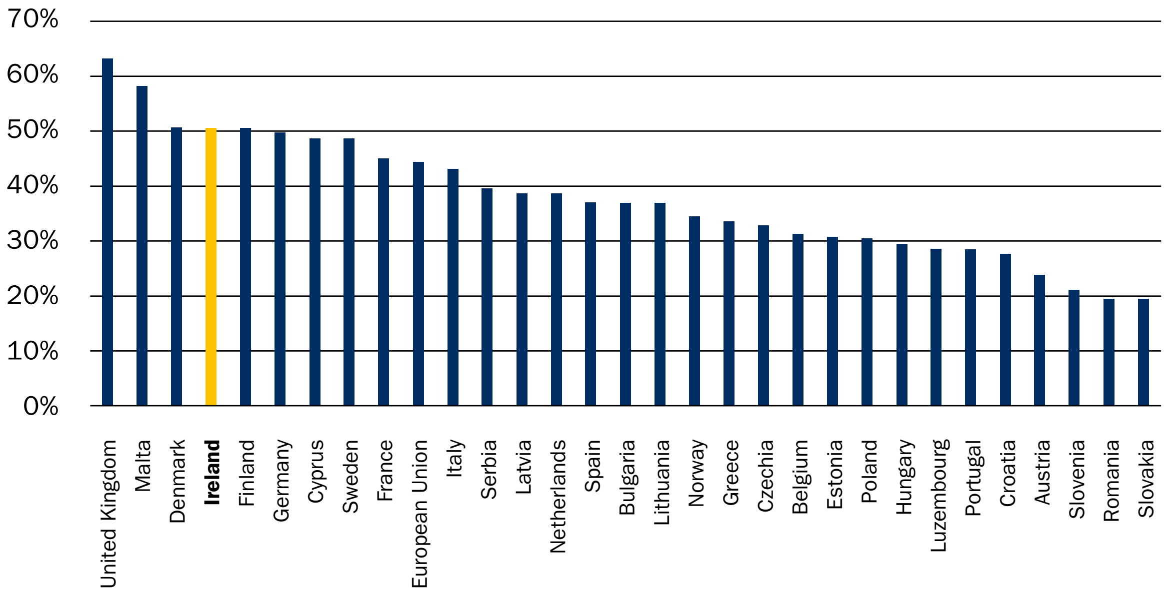
Ireland is highly specialised in business services, which is the most dynamic part of services trade according to the OECD. It includes telecommunications, computer and information services, finance, insurance and KIBS (knowledge intensive business services).

The OECD put Ireland second in its list of top ten countries with the most open markets for services trade in 2017. The full OECD list is comprised of Latvia, Ireland, Germany, Netherlands, Australia, Lithuania, Denmark, Japan, United Kingdom, and the Czech Republic.

The OECD list is based on the Services Trade Restrictiveness Index (STRI), which considers restrictiveness in the following clusters of services: Digital network services (telecommunications, broadcasting, computer services); Transport, distribution, supply chain services (courier, FTDL); market bridging and support services (commercial banking, accounting, legal); and physical infrastructure services (construction, architecture, engineering). According to the STRI index, Ireland scores below the OECD average in all 22 sectors measured, indicating an open and liberalised domestic services economy. This is an advantage for Irish services exports, and also for domestic users of intermediate services. According to the OECD, a rich and cost-effective services supplier base drives comparative advantage in industries that are intensive users of intermediate services, such as high-end manufacturing sectors.

Ireland's trade in services, which is equivalent to 113% of GDP, is now the third highest in the world, jumping from 11th place as recently as 2005. The growing Irish trade in services reflects a global trend toward greater trade integration in services.

Figure 4: Percentage of European services traded outside the EU per country



Ireland's services exports are split evenly between intra-EU and extra-EU trade. This results in Ireland having the fourth highest share of its services exports going to non-EU countries out of any country in the EU. This is only exceeded by the UK and Malta (driven by their financial services centres), but is similar in balance to the service exports of Denmark and Finland. The share of non-EU in total services exports for Ireland is driven by links between Ireland-based computer services companies and their US parent companies. This is quite similar in structure to Finland.

Small open economies benefit most from open markets and liberalisation in trade of goods and services. Furthermore, an export-oriented services sector contributes to a stronger export-oriented industrial base. The current strength of the Irish services economy coupled with ongoing digital adoption across sectors, means that Ireland is in a strong position to benefit from the further liberalisation of markets for services trade.

03 Trading inside the EU: The Single Market in services and digitalisation

Trade in services between EU member states is governed under Single Market rules as well as under the Digital Single Market (DSM). The Single Market, launched in 1992, is based on four fundamental freedoms: movement of goods, services, people and capital. The DSM is a further extension of the Single Market which is designed to account for the increasing digitalisation of the economy.

1. Complete the EU internal market in services

Targeted, concerted action is needed to complete the internal market in services. Existing rules need to be uniformly applied, monitored and enforced. EU action must include greater regulatory cooperation between member states.

Current situation on the integration of services in the EU

Services are a vital part of the European economy, accounting for over 70% of the EU's GDP and an equal share of EU employment. Despite this level of importance, targeted initiatives to liberalise service provision within the EU have been slower and less successful than those governing the free movement of goods and capital. The core principles of the Single Market in services are:

- The freedom to establish a company in another EU member state
- The freedom to provide or receive services in an EU member state other than the one where the company or consumer is established

The application of these core principles has been developed through the case law of the European Court of Justice (CJEU)[1]. To boost integration, the 2006 'Services Directive' codified this case law in a single directive covering activities accounting for 46% of EU

1. The CJEU is divided into 2 courts: (i) Court of Justice – deals with requests for preliminary rulings from national courts, certain actions for annulment and appeals. (ii) General Court – rules on actions for annulment brought by individuals, companies and, in some cases, EU governments. In practice, this means that this court deals mainly with competition law, State aid, trade, agriculture, trademarks.

GDP, including sectors such as retail, tourism, construction and business services. In addition to the Directive, several sector specific laws have provided rules for transport, financial services, telecommunications, postal services, broadcasting and patent rights.

This complex Single Market framework governs trade in services between EU countries. It also governs trade between the EU member states and the EEA members (Norway, Iceland and Lichtenstein) and to a more limited degree trade with Switzerland.

Supervisory and enforcement responsibilities are vested, to varying degrees, in the European Commission, EU regulatory agencies, domestic supervisory authorities, national courts and/or the CJEU.

In parallel, the EU's standardisation policy has aimed to establish common standards which support market-based competition and ensure interoperability of complementary products and services throughout the member states. However, continued reticence to open domestic services markets and a preference for standard setting and monitoring at national level means that standardisation in services still amounts to only 2% of all EU harmonised standards.

While there are several large providers operating across different member states, many companies, including Europe's SME community, may not have the resources to navigate multiple regulatory systems and are therefore effectively prohibited from operating in a cross-border capacity. This inconsistent and disjointed implementation represents a significant challenge to the proper functioning of the EU Single Market and ultimately serves to restrict investment, stifle innovation and limit competition.

Key features of Services in the Internal Market

Table 1: Highlights in the liberalisation of services in the EU Single Market

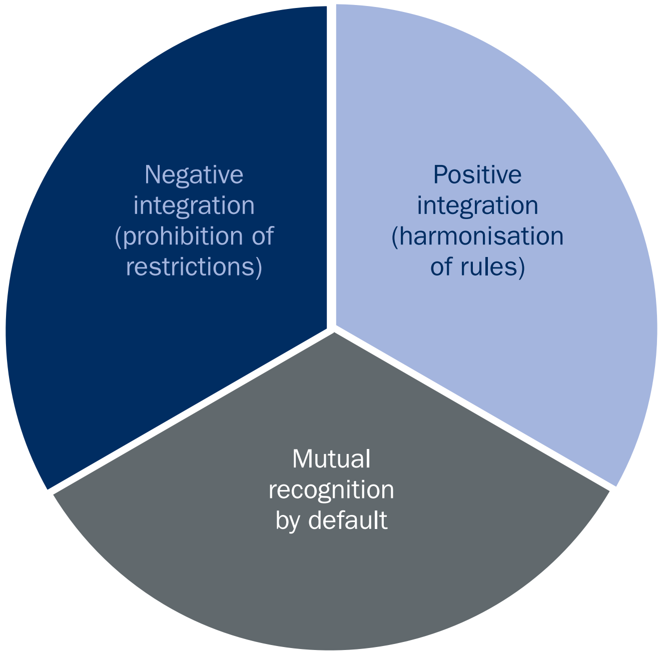
Year	Key events
1951	Establishment of the Coal and Steel Community, forerunner to the EU
1957	Treaty of Rome signed covering free movement of workers and freedom of establishment
1986-1992	Approximately 280 separate items of legislation adopted including mutual recognition principle and recognition of professional qualifications
1987	Single European Act enters into force with objective of creating a European Single Market by 1992
1992	Maastricht Treaty establishes EU Single Market including free movement of people pillar and EU citizenship • insurance companies have freedom to provide services in other member states • intra-EU road transport is liberalised

Year	Key events
1993	Liberalisation of the EU aviation market
2002	European Commission report finds low level of liberalisation in the single market for services and numerous barriers to trade
2004	Single European Sky I package
2009	Services Directive implemented in all member states
2009	European Council makes recommendations on establishing single rulebook for banking supervision, the first pillar of the Banking Union
2009	Single European Sky II package
2010	Audiovisual Media Services Directive (AVMSD)
2015	European Commission launches Action Plan for Capital Markets Union
2015	European Commission adopts strategy on Digital Single Market
2017	European Commission presents Services Package

Source: European Commission

Services Directive 2006/123/EC
With widespread acceptance that a low level of Single Market integration was limiting the full potential of the EU economy, the objective of the 2006 Services Directive is to increase trade between member states by eliminating legal and administrative barriers in the areas covered.

Figure 5: How intra-EU trade in services works



The Directive obliged member states to facilitate cross-border service provision by

- Establishing and maintaining points of single contact – essentially centralised portals enabling businesses to easily (and remotely) access information and complete administrative procedures relating to their intended activities
- Ensuring that relevant national authorisation schemes are as fair and transparent as possible
- Eliminating any discriminatory measures, including nationality or residency requirements, and other unjustified or disproportionate criteria such as economic needs tests, territorial restrictions, time limits or stipulations relating to the company's number of employees.

In addition to businesses benefitting from much simpler formalities and procedures in the member state in which they wish to establish or provide a service, the directive aimed to benefit consumers with access to better quality services, enhanced transparency and more competitive prices.

Table 2: Services Directive

Services covered by Services Directive	Services not covered by Services Directive (some covered by sector specific rules)
Distributive trades e.g. retail and wholesale of goods	Financial services
Activities of most regulated professions e.g. legal and tax advisors, architects, engineers, accountants, etc.	Electronic communications
Construction and crafts	Transport
Business-related services	Healthcare
Tourism	Temporary work agencies
Leisure	Private security
Installation and maintenance of equipment	Audio-visual services
Accommodation and food	Gambling
Training and education	Certain social services provided by the State
Rentals and leasing	Services provided by notaries and bailiffs
Real estate	
Household support services	

Source: European Commission

The EU has sought to build on the Services Directive with a series of overarching policy initiatives designed to further advance the Single Market in services – chiefly the DSM, the capital markets union and the banking union.

The Commission's more recent tools to further enhance the ease of providing a service in another member state (Services Package, Compliance Package, etc.) contain some helpful measures but the fact remains that these initiatives primarily address administrative challenges. Instead, lingering regulatory differences between member states which continue to undermine the proper functioning of the Single Market should be targeted.

Full implementation of existing rules and a reinvigorated commitment by the European Commission and all member states to a harmonised Single Market with regulatory convergence in services can unlock growth and deliver real efficiencies and competitive advantages to the EU's 22 million businesses and its 500 million consumers.

Recognising professional qualifications

One of the fundamental principles of the freedom to establish or provide a service in another member state is the endorsement or recognition of professional qualifications by the member state in which the professional service provider wishes to establish or operate.

The Directive on the Recognition of Professional Qualifications sets out the process which governs how a professional from one EU member state can apply to have their qualifications recognised in another. The length and content of the education, training or employment experience is assessed and if there are substantial differences between this and that which is required in the host country, the applicant is advised on which 'compensatory measures' they can take before formal recognition can take place. A limited number of highly-regulated professions are automatically recognised once the applicant has met the minimum professional experience requirements. The professions falling under the Directive include nurses, midwifes, doctors (general practitioners and specialists), dental practitioners, pharmacists, architects and veterinary surgeons.

The Directive also allows professionals to:

- Work in another EU member state on the basis of a declaration made in advance
- The right to establish as a "self-employed" person on a permanent basis and in a member state other than where they obtained their professional qualification.

The European Professionals Card (EPC) was introduced in 2016 with the aim of streamlining the recognition process. An authorised EPC can be used as proof that the service provider has successfully completed all administrative formalities and his or her professional qualifications have been formally endorsed by the host member state. Valid for both temporary and permanent establishment, it is an easier, more efficient and more transparent process. Although currently restricted to certain professional categories, the EPC's scope is expected to be broadened to others.

Impact of digital technologies on Single Market and trade in services

2. Unleash the potential of the Digital Single Market

The completion of a Digital Single Market (DSM) must be prioritised. This market must secure trust through smart regulation, while also facilitating the free flow of data. At both EU and national level, we need to better promote the development of digital skills, and actively encourage digital entrepreneurship and innovation. Continued investment in digital infrastructure is needed to make this happen.

Current situation on digitalisation in the EU Single Market
Digitalisation has multiplied opportunities for services across sectors. It increases choice for consumers and enables SMEs to participate in global supply chains. According to the digital trade restrictiveness index compiled by the European Centre for International Political Economy (ECIPE) openness to digital trade encourages investments in, for example, research and development and design. This provides benefits to both digital companies and traditional manufacturing companies. Conversely, the restriction of digital trade inhibits growth in sectors across the economy.

The adoption of digital technologies has impacted trade flows and trade volumes. Services are intensive users of technology and advancements in, for example: 3D printing; internet of things (IoT); artificial intelligence, and blockchain, will continue to disrupt trade in the future.

Consumer habits have changed with the greater availability of products online leading to an increase in online transactions. On the supply side, technological developments lower costs (customs, logistics) and open more markets to businesses, lessening the impact of geography and distance for some products. Transaction costs are also lowered by developments in payment systems.

In May 2015, the European Commission outlined a strategy that made digitalisation a key priority with the launch of the DSM. Such an EU-wide approach is essential if we are to harness the full power of digitalisation and technological innovation in the economy. The rapid pace of such developments challenge regulatory and global trade frameworks which are outdated and unfit for the digital age. Looking ahead, the regulation of digital economy, for example in areas such as intellectual property, data flows and privacy, will be key influencing factors for trade in services. Getting this right will create a comparative advantage and must be reflected in the EU's commitment to completing the DSM.

Structural shifts in our economies, such as digital adoption, also have implications for employment and labour and trade policy.

The automation of certain jobs and the creation of new kinds of work mean that skills that help government, businesses and individuals succeed in the new digitalised economy must be identified and promoted.

The EU and global trade framework must be adapted to today's trading environment to reflect and facilitate digital trade and the growth of services in the economy. The EU should fully complete the DSM so that European economies reap the full benefits of technological innovation and digitalisation. EU trade policy should set the global standard for trade in digital services, for example, by designing FTAs fit for the 21st century by including data flows and other components essential to proper functioning.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04 Trading outside the EU: The WTO and FTAs

Services trade with countries outside the EU takes place under two complementary structures. The first substantial liberalisation of trade in services resulted from WTO Uruguay Round negotiations that were completed in the mid-1990s. Further liberalisation of international trade in services is taking place under recently negotiated EU FTAs.

3. Lead the international debate and promote greater cooperation globally

The EU should set the global agenda and work to shape the international rules for trade in services at the WTO and at the OECD. Business needs a global system that facilitates the safe and secure free flow of data across borders, not one that creates unnecessary new barriers to trade.

Current WTO legal and regulatory framework for services

Services are traded across borders based on a legal framework established by the WTO General Agreement on Trade in Services (GATS) which came into force in 1995. There are 155 defined services sectors recognised in the GATS covering most services sectors. Certain services are excluded from the GATS such as: services supplied in the exercise of government authority; air transport services related to traffic rights; sensitive services specifically excluded through individual reservations by WTO members. For example, the EU has a reservation for trade in audiovisual services.

Each GATS member sets out commitments in their individual schedule of commitments. The schedule sets out the services for which the member guarantees market access and national treatment and lists any limitations to this. The obligations in the schedule can be categorised into two main groups:

(1) General obligations which apply directly and automatically to all members and services sectors.

(2) Commitments concerning market access and national treatment in specifically designated sectors.

The GATS expressly recognise the right of member governments to regulate and legislate for the supply of services in line with domestic policy needs. The commitments therefore vary between members based on their domestic priorities. Ireland as part of the EU is governed by the EU schedule of commitments.

Key features of the WTO Framework

GATS disciplines
GATS disciplines liberalise trade in services under the following headings:

- **Market access**
  Members agree not to introduce new quantitative limitations and include an exhaustive list of market access barriers.
- **National treatment**
  Members agree to give no less favourable treatment to any third country services or service suppliers than the treatment given to domestic services or suppliers.
- **Most-favoured nation (MFN) treatment**
  Members agree to no preferential treatment to any third country services and service suppliers. Preferential treatment can be given in regional FTAs provided that all modes of supply and major sectors are covered and all discriminations are eliminated between FTA parties.
- **Domestic regulation**
  Non-discriminatory domestic regulation by members is also subject to limited rules (horizontal and some sectoral). There is some possibility to recognise qualifications.

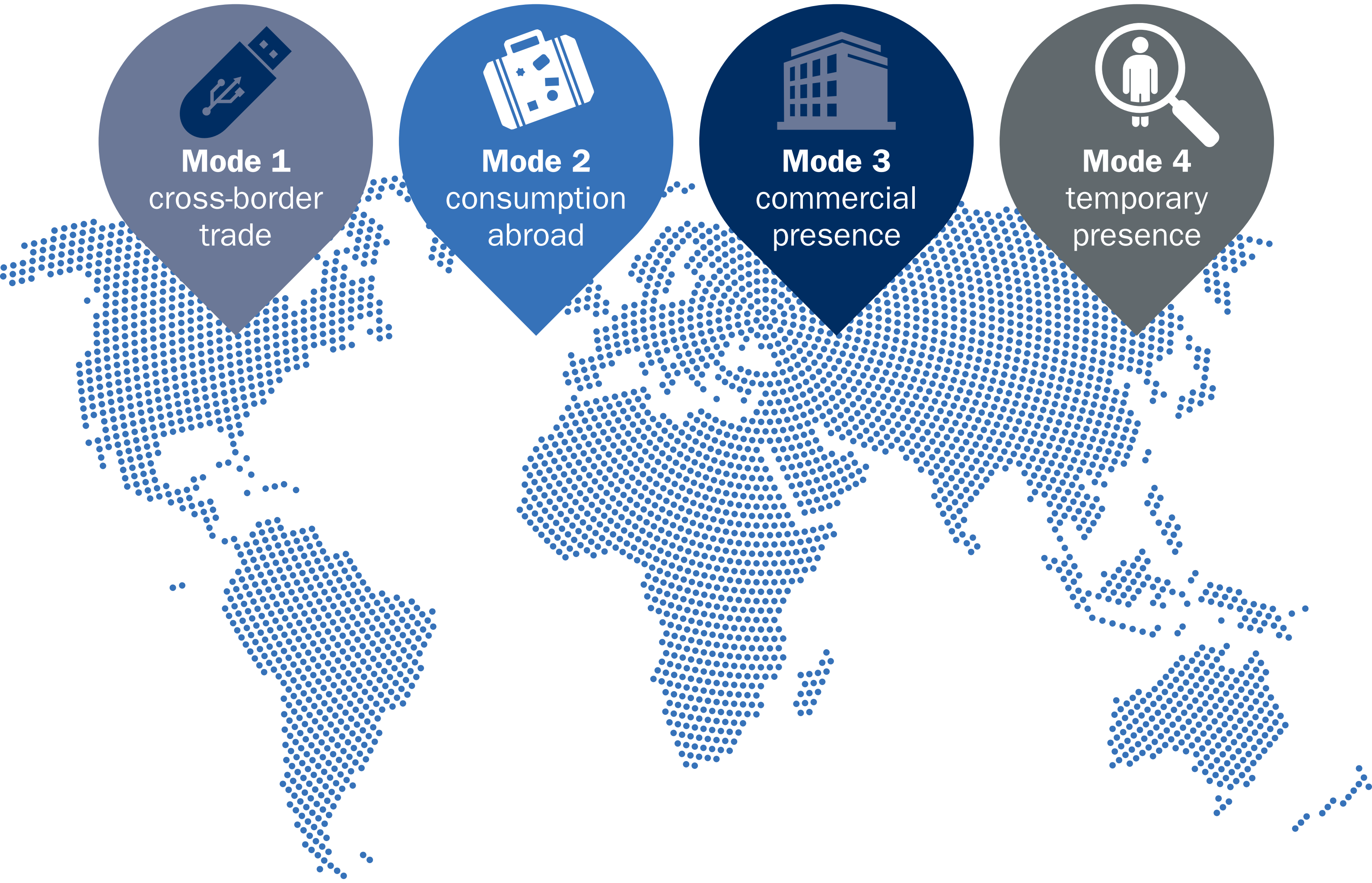
Modes of supply

Under the GATS, trade in services is categorised based on how the service is supplied which depends on the business model of the company. Currently there are four modes of supply:

- **Mode 1 cross border trade:** Direct export of a service across the border e.g. selling software online or a service provided through the telecommunications or postal infrastructure.
- **Mode 2 consumption abroad:** Services provided to non-resident customers e.g. tourism.
- **Mode 3 commercial presence:** Establishment of a subsidiary or branch abroad to provide the service e.g. banks establishing branches in a new market.
- **Mode 4 temporary presence of natural persons supplying a service:** Staff of a service exporting company travelling abroad to deliver a service e.g. an architect travelling from Ireland to a client in Canada.

Mode 4 does not cover immigration or access to the labour market- it enables a temporary presence only. Independent professionals, business services sellers and contractual service suppliers can travel anywhere where they have a contractual relationship for service provision with a local person or company. An established company can also send intra-corporate transferees, graduate trainees and business visitors to a subsidiary or branch in the importing country.

Figure 6: Modes of supply in WTO



4. Make ambitious services commitments integral to free trade agreements

The EU must make ambitious commitments on trade in services integral to all free trade agreements (FTAs). In an increasingly digitalising global economy, which relies on cross border services and data flows, it is essential that barriers to trade are minimised. These include unjustified data localisation measures and market protectionism.

EU Free Trade Agreements (FTAs)

Current EU approach to services in FTAs
Through its services provisions in FTAs the EU seeks to build on the WTO GATS provisions and secure binding commitments to openness.

The EU excludes some sectors from its FTAs – similar to exclusions at the WTO level – which include: limitations in financial services and a prudential carveout as in the GATS; the audio-visual sector; air transport and; services in the exercise of a government authority. Both parties can list exclusions for sensitive sectors in the FTA. In the case of the EU, this can be at member state level or EU level i.e. reservations can vary between the member states.

Services chapters in FTAs cover horizontal issues (e.g. domestic regulation) and sector specific issues in dedicated chapters. Unilateral declarations, guidelines, issues of interpretation etc. are included as annexes to the agreement. There are market access commitments included in the FTAs but domestic regulations in the market still apply.

The treatment of services in FTAs is evolving and not as comprehensive as the treatment of goods. For example, Mode 4 commitments are focused on highly skilled professionals and do not preclude the introduction of visas.

Key features of EU approach to services in FTAs
The commitments made by parties to the FTA are included in the schedule of commitments as an annex to the main document. Parties to the agreement agree to use either a positive or negative list approach. This decision is often political. It is possible for negotiators to use a hybrid approach, using both positive and negative lists. The negative list approach has been used in the most recent EU FTAs.

Positive list
Parties explicitly list the sectors and services for which they are making market access and national treatment commitments. Secondly, they list the exceptions to this. GATS is a commonly cited example of the positive list approach.

Negative list
Parties list only the exceptions therefore all sectors not listed are considered open by default. For businesses, the negative list is more transparent and easier to read. The EU negotiated under a negative list most recently with Canada and Japan.

A negative list usually consists of two annexes: one setting existing national legislation which derogates from market access and/or national treatment and another which outlines the sectors and subsectors for which the party to the FTA reserves the right to derogate from in the future.

This approach enables both parties to retain flexibility in listed areas in the future should they wish to adjust policies. The US and other countries sometimes use a third annex to list reservations in relation to financial services. Reservations can be at member state level or EU level. Other important elements of the negative list are covered under various clauses outlined below.

- **The standstill clause**
  This prevents the adoption of extra protectionist measures: the adoption of new regulations or amendments to existing ones can go only in the direction of further openness and cannot introduce new barriers for foreign companies.

- **The ratchet clause**
  If a party decides to unilaterally liberalise a measure it has listed in the Annex I of an FTA, then that new liberalisation automatically becomes binding in the FTA i.e. the benefit of that liberalisation cannot be taken away from the FTA partner. These clauses apply to national treatment provisions and sometimes to market access provisions.

- **The most favoured nation (MFN) clause**
  The MFN principle locks in preferential market access and prevents erosion of benefits if more liberalised access is granted to a new FTA partner. Essentially, this means that parties are guaranteed to benefit from any trade concessions granted to third parties in the future in relation to areas covered by the MFN clause.

Services trade under a modern EU FTA – CETA

The Comprehensive Economic and Trade Agreement (CETA) between the EU and Canada is considered the most advanced EU FTA in relation to its services provisions. CETA entered into force provisionally in September 2017, meaning most of the agreement now applies[2].

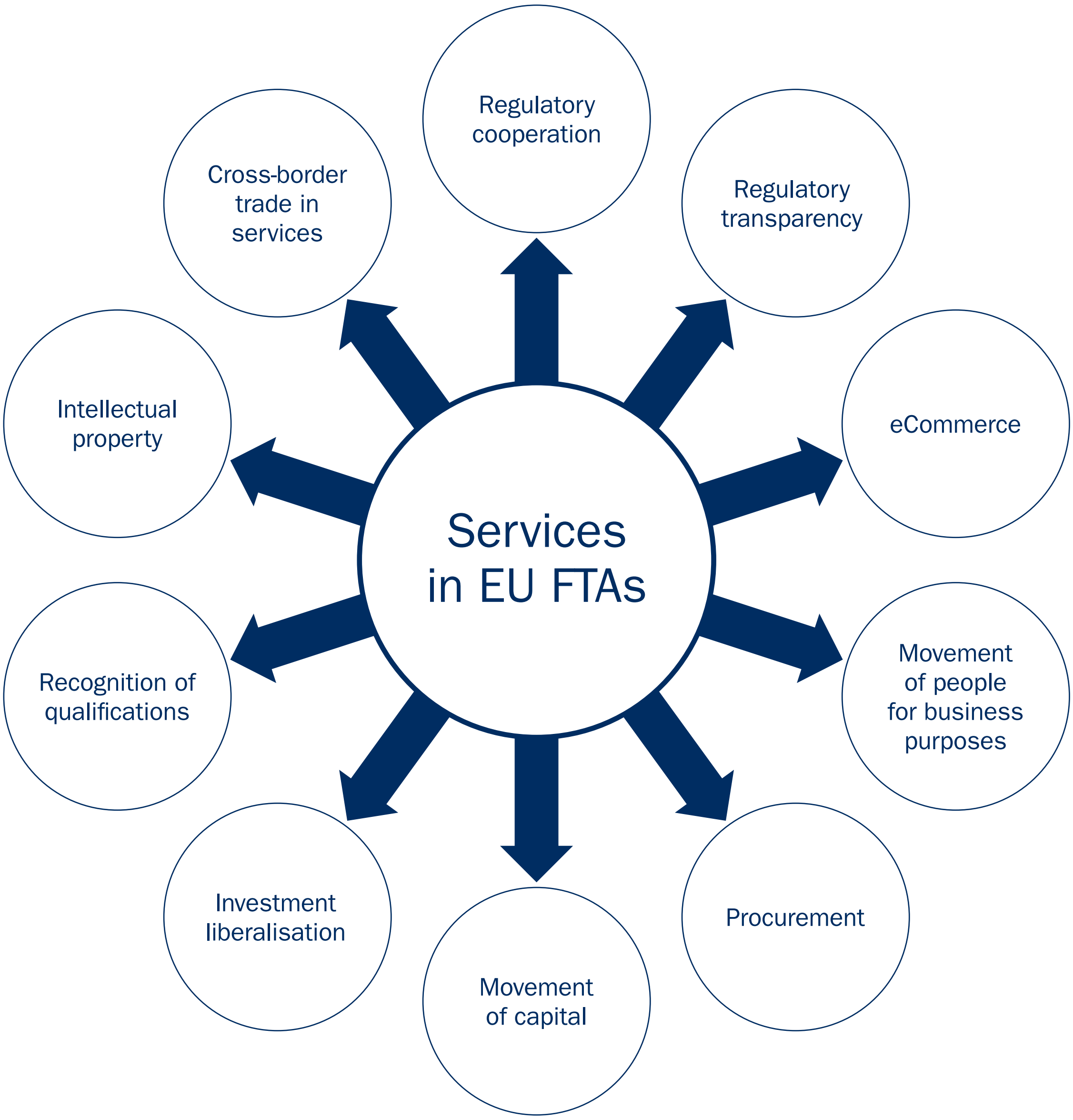
There are over 1,800 pages of text in CETA and 960 of these deal with services. CETA covers services in four main pillars: (i) market access; (ii) regulatory discipline and cooperation; (iii) movement of natural persons and (iv) mutual recognition of qualifications. Services sectors that have a dedicated chapter in CETA are: financial services; international maritime transports services; telecommunications and electronic commerce (digital trade). In addition, horizontal issues are covered in chapters on mutual recognition of professional qualifications; temporary entry and stay of natural persons for business purposes; domestic regulation and cross border trade in services.

CETA also provides an example of how the MFN clause works. In CETA, the EU and Canada included the MFN clause in relation to movement of natural persons. This means that if the EU in a future FTA with a third country agrees to greater liberalisation in relation to movement of natural persons, then this will automatically apply to

2. National parliaments in EU countries, and in some cases regional ones too, will need to approve CETA before it can take full effect.

Canada. The inclusion of an MFN clause in an FTA therefore has implications for future negotiations.[3] MFN clauses can also be found as sector specific reservations by member states or the EU in the annex of the agreement.

Figure 7: How services feature in EU FTAs



3. There is no MFN clause in EU FTAs with Singapore, Central America, Colombia or Peru. In the EU-Vietnam FTA there is an MFN clause in the Investment Chapter. The EU-Korea FTA mirrors the MFN clause found in the WTO GATS. There are MFN provisions in EU-Cariforum, EU-Canada CETA and EU-Japan EPA, as well as in the EU-Mexico Revised FTA.

05 Brexit: Services key for a dynamic future relationship between the EU and UK

Services play a key role in the EU and UK economies contributing 74% of EU GDP and 73% of the EU labour force; these figures rise to 80.4% of UK GDP and 83.5% of UK labour force. The EU is the largest services exporter in the world. The UK is the largest services exporter in the EU28, at €189.2 billion, representing 22.4 % of total EU28 services exports (extra EU). In general, Irish services trade is concentrated in areas where EU membership has had a positive impact e.g. financial and business services. The ESRI found that removing the EU effect on Irish-UK trade in services could result in trade flow reductions of 33% in Irish services imports from the UK and a 45% reduction in exports to the UK.[4] The EU27 and the UK trade in services are highly integrated thanks to the EU Single Market in services: this is set to change dramatically after Brexit. The impact of Brexit on services raises various sectoral and horizontal issues.

5. Ensure close cooperation on services is central to future EU-UK relations.

Given the critical role of services in supply chains and the level of interdependence between our economies, negotiators must prioritise trade in services between the EU and the UK post-Brexit. This will require deep engagement across a broad range of service sectors – including information technology, finance and insurance, transport, tourism and business services.

The EU-UK political declaration on a future relationship sets out a framework to "conclude ambitious, comprehensive and balanced arrangements" on trade and investment in services while "respecting each Party's right to regulate". This includes an objective to establish provisions for the facilitation of e-commerce, to avoid unjustified barriers to trade by electronic means, and to ensure an open, secure and

4. ESRI Working Paper No. 595, July 2018, Irish-UK Services Trade and Brexit, Martina Lawless.

trustworthy online environment for businesses and consumers, including around the protection of personal data. It also sets out a practical ambition for fair and equal access to public telecoms networks and services.

While this level of ambition is welcome, the potential still exists that the two regulatory regimes in services may diverge over time. It will be important for business that the negotiations deliver on these high-level objectives to ensure that data flows and digital services are a highly integrated element of any future trade relationship.

Irish business could be significantly impacted by a change in the regimes governing trade in services with the UK. Negotiators must strive for an ambitious future relationship between the EU and the UK on trade in services post-Brexit, something which is essential for business sectors and supply chains. Limiting change to the EU-UK trade in services regime will minimise disruption to EU, UK and Irish economies.

Key issues for services trade in future relationship between EU and UK

- **Financial services passporting**
  Early indications are that financial services passporting will no longer be permitted following the UK exit from the EU. This will impact on the ability of financial services companies to sell certain products cross border between the UK and the EU. The provision of services from the UK to the EU27 will be regulated by the third country regimes in EU law and in the national legal frameworks of the respective member states of the EU customers. In these circumstances it will important that full consideration is given to financial services in the services chapters of any future economic relationship between the EU and UK.

- **Movement of workers**
  Once the UK is outside the EU, the free movement of workers between the two jurisdictions will no longer operate as it currently does. The EU and UK have committed to maintaining the Irish-UK Common Travel Area that pre-dates membership of the EU. However, the detail of how this will apply to cross border provision of services remains to be seen. This could impact cross-border commuters and the cyclical movement of labour supply between the two islands in times of economic downturn and periods of high demand. Equally, a disruption to the free movement of workers is problematic for companies operating in any EU jurisdiction which in the past benefitted from employing UK citizens. The UK labour market will also lose the ability to easily hire EU workers through the Single Market pillar. This is projected to be seriously damaging to industries such as agriculture, manufacturing and the services industry which relies heavily on workers from across the EU.

- **Recognition of qualifications and training**
  After Brexit, the recognition of certain qualifications and certificates will have to be agreed between the EU and the UK; it will not be automatic. For example, the provision of legal services by a UK based consultant or a UK qualified consultant is likely to be limited, restricting them from practising EU law or host country law. This would pose problems to UK professionals providing services in other EU member states and vice versa. Mutual recognition of qualifications and training should form part of the negotiations on the future EU-UK economic relationship.

- **Intellectual property rights**
  EU rules on customs enforcement of intellectual property rights will no longer apply to the UK. The EU's IP and regulatory framework is key to promoting and facilitating innovation and any change risks uncertainty about the future of the pan-European unitary patent system. In situations where there is an IP dispute with a third country, UK law has been a preferred jurisdiction due to its mutual familiarity. Businesses may need to consider alternative jurisdictions agreeable to both parties where such relationships exist.

- **Data flows**
  Rules for transfer of data to third countries differ to transfer rules within the Single Market. Divergence between the EU and the UK on requirements for data protection and information exchange would create a barrier to data flows on both sides, potentially impactful to all sectors of the economy. The UK is a major exporter of digital data services such as data hosting and processing and has been an EU entry point for many global data-dependent businesses which rely on a constant flow and exchange of communications data. Disruption to this regime could have serious impacts for businesses in Ireland, the UK and the EU. We ask the EU and UK to honour the ambition on data flows outlined in the political declaration and ensure an agreement on data transfers forms part of the final arrangement on the EU-UK future partnership.

- **Public procurement**
  The UK will no longer be subject to EU public procurement rules after Brexit and UK companies in this space will be treated as third country traders. Currently, UK companies are the top non-local bidders for government contracts in Ireland. Tenders for the purchase of supplies by UK entities operating in the water, energy, transport and postal services sectors will be more restricted when bidding for tenders in Ireland and other EU member states.

- **Movement of goods**
  Logistics and transport services play a huge role in the transportation of goods at all stages of the supply chain. Movement restrictions, such as new customs procedures, which slow down or stop such services from operating, will have a severe knock-on effect to the general movement of goods. This will be a substantial challenge for companies who use the UK as a land bridge to get to other parts of the EU.

- **Movement of funds / movement of capital**
  Volatility in capital markets will make accessing money a challenge and will have implications for mergers, acquisitions and investment, creating problems accessing finance for Irish businesses which rely on UK funding and which partner with UK businesses on EU funding programmes. Duties, import VAT, currency volatility and additional administrative burdens could drive up the cost of doing business and affect cash flow and working capital needs.

- **Contract continuity**
  Contract continuity will be affected for those which are established between EU and UK parties. After withdrawal, EU rules on conflicts of laws and jurisdictions will no longer apply to the UK and contracts will be governed by UK law. Businesses are contracting for shorter durations in order to mitigate potential commercial risks. This causes challenges for long-term business planning, as well as creating the additional administrative cost of more frequent contract renewals.

- **Recognition of regulatory regimes**
  Nearly all services sectors are subject to tight regulation at either a national or EU level. After Brexit, regulatory regimes in the UK and EU may diverge, which has the potential to create barriers to trade in service industries such as insurance, ICT, professional services such as architecture and engineering, express delivery services, logistics and data privacy framework. To minimise impact on business and consumers, EU and UK negotiators should aim towards a future economic framework with respective regulatory regimes as closely aligned as possible.

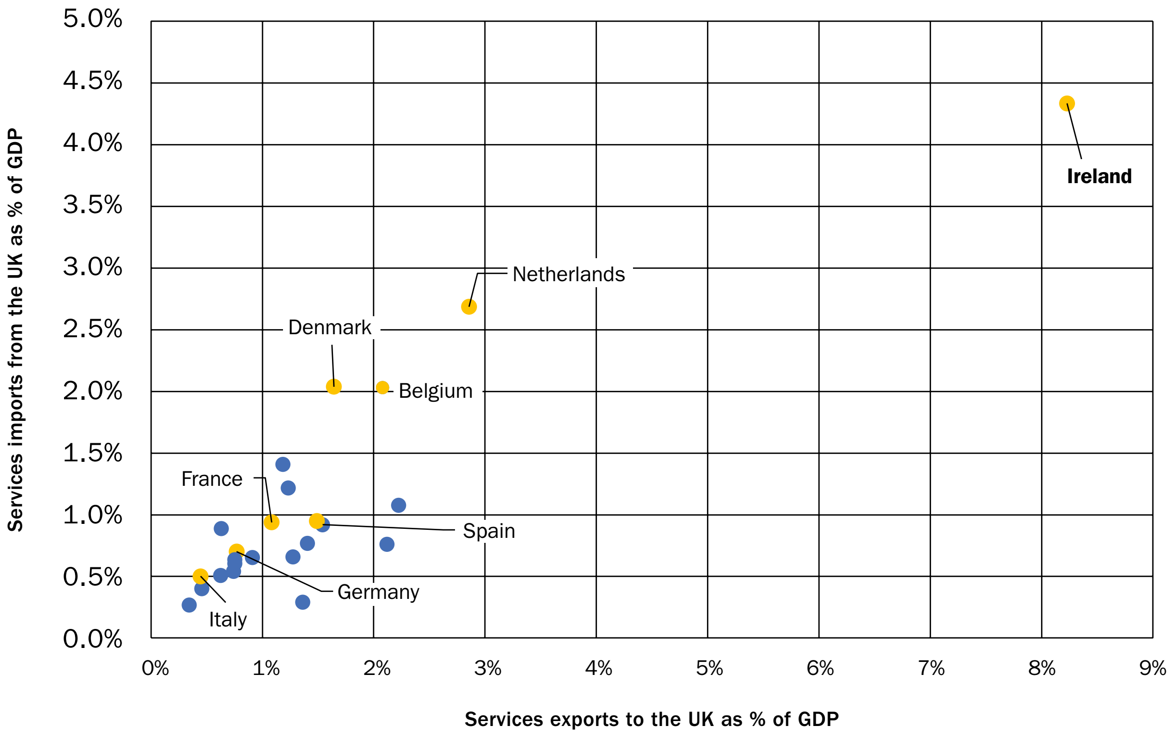
- **Macroeconomic issues**
  The macroeconomic impact of Brexit on services sectors could be significant. Economic instability, exchange rate volatility and related drops in consumer confidence and spending will have negative knock-on effects particularly on sectors such as tourism, hospitality, and retail. Businesses are also contracting for shorter durations in order to alleviate potential commercial risks. A future EU-UK economic partnership which champions cooperation on services would help to mitigate against these impacts.

Ireland is more exposed than most EU member states

When it comes to Brexit, Ireland is more exposed than any of the larger EU members in terms of services trade with the UK as a share of GDP. Luxembourg, Cyprus and Malta, due to the dominance of their financial centres, are much more integrated with the UK when it comes to the relative scale of services trade. Ireland's services exports to the UK are equivalent to 8.2% GDP with services imports from the UK equivalent to 4.3% of GDP.

On the services side, the UK accounts for 16% of total Irish exports or around €22.5 bn. The biggest sectors involved in that overall number are information technology (IT) services, finance and insurance followed by transport and tourism. Of these only the transport and tourism sectors have a direct reliance on the UK with much greater links to the US in information technology and finance. The UK has become a smaller share of services exports in recent years, having been 22.5% only a decade ago. That shift has been driven by growing IT services exports to the US but also less reliance on UK tourists for inflows and transport revenues. Between both goods and services, the UK accounts for 14.4% of total exports in 2016 (the latest year we have services data for).

Figure 8: Services trade with the UK, % of GDP



It is worth noting, however, that although most of Ireland's exports are driven by multinational companies, our indigenous companies are the most labour intensive - and crucially support large numbers of jobs as they are closely linked with multinational supply chains. They are also much more likely to be based outside Dublin and in rural areas. Over 27% of their exports go to the UK, compared with only 16% overall.

About Ibec

Ibec is Ireland's largest lobby group, representing Irish business both domestically and internationally. Our members span all sectors of the economy, collectively employing over 70% of the private sector workforce. Our policy work seeks to improve business conditions and thereby promote sustainable economic growth.

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Notes

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