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**SUBMISSION**

# Australia-European Union Free Trade Agreement

September 2018

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## ABOUT THIS SUBMISSION

This submission provides the Business Council of Australia's views on the Australia–European Union Free Trade Agreement (A–EU FTA) negotiations, including our suggestions on desirable objectives for the negotiations.

The Business Council appreciates that any free trade agreement (FTA) is a product of negotiation and 'give and take', and that not all that might be desirable will be achievable. Nonetheless, the ideas and suggestions below indicate potential areas of benefit for Australian businesses and the Australian economy.

## KEY RECOMMENDATIONS

### Related to the FTA in general

- ▶ The Business Council strongly supports the negotiation of a comprehensive A–EU FTA that liberalises substantially all trade in goods and services, and facilitates investment and the movement of skilled professionals. The negotiations should aim to achieve most favoured nation (MFN) outcomes with the EU's other FTAs.
- ▶ As with previous FTAs, the A–EU FTA should be a 'living agreement', with institutional architecture for ongoing technical cooperation and updating, including on regulatory issues and standards.

### Goods

- ▶ The Agreement should eliminate substantially all tariffs on trade between the EU and Australia.
- ▶ The Agreement should address barriers affecting exports of agricultural products such as tariff -rate quotas.
- ▶ The Business Council supports trade liberalising outcomes in the automotive sector, including the five per cent tariff and the Luxury Car Tax, especially if other important Australian market access interests can be achieved.

### Rules-of-origin

- ▶ The A–EU FTA should include high standard outcomes on ROO that simplify procedures for Australian exporters and importers. Arrangements for declaring or certifying origin should be flexible and provide traders with a range of options.
- ▶ The negotiations should embrace ROO cumulation across the EU-Australia and EU-New Zealand FTAs, and consider this possibility also for intermediate goods traded with partners in other FTAs, including anticipating future arrangements with the UK.
- ▶ The A–EU FTA should include institutional mechanisms for periodic updating of the ROO.

### **Technical barriers to trade and product standards**

- ▶ The A–EU FTA should facilitate mutual recognition of product standards across as wide a range of products as possible, and explore possibilities for drawing on European expertise in standards setting. The provisions related to product standards should also include institutional mechanisms for ongoing review and resolution of differences.

### **Trade facilitation**

- ▶ The A–EU FTA should include mutual recognition arrangements with the EU for the recognition of Australian ‘trusted traders’ for purposes of treatment of goods at EU ports.

### **Geographic indicators**

- ▶ A–EU FTA negotiations should avoid concessions on geographic indicators and instead reach outcomes in other areas of the negotiations that represent win-win outcomes for both sides. Geographic indicators should be subject to strict, delineating principles.

### **Financial services**

- ▶ Australia’s negotiating approach should consider the reconfiguration of Eurozone financial structures post-Brexit and ensure Australian financial institutions can participate in any new structures, including through digital delivery of services.
- ▶ The outcomes should include institutional mechanisms to progress coordination of financial regulation ‘equivalence’ and passporting, such as the establishment of a working group and/or ministerial meeting process.
- ▶ The A–EU FTA should explore possibilities for securing regulatory equivalence and passporting of managed fund products.

### **Professional, education and tourism services**

- ▶ A–EU FTA outcomes should enhance the ability of professional service providers to supply services across all modes of supply in different EU jurisdictions. The Agreement should also look to opportunities to promote education and tourism exports.

### **Investment**

- ▶ The A–EU FTA should secure market access improvements in investment in the EU. The Business Council supports liberalisation of foreign investment screening thresholds for European investors on a reciprocal basis, to levels applicable in FTAs with Chile, New Zealand and the US.

### **Movement of natural persons and recognition of qualifications**

- ▶ A–EU FTA outcomes should enhance the capacity of EU firms and companies entering into contracts to sponsor Australian business persons, independent executives, professionals and service providers for work and business visas.

- ▶ The Business Council supports the reciprocal liberalisation of temporary entry visas for EU intra-corporate transferees; independent executives; installers and machinery servicers; professionals and trades persons.
- ▶ Negotiations should establish ongoing mechanisms for progressing mutual recognition of professional qualifications in the EU and Australia.
- ▶ The Business Council would support the A–EU FTA promoting or institutionalising the expansion of working holiday arrangements, including the expansion of qualifying countries and possible relaxation of applicable durations and conditions attached to the working holiday visas, in return for reciprocal outcomes in EU jurisdictions.

### **Labour and environment**

- ▶ The A–EU FTA should not conflate trade liberalisation with labour and environment provisions, especially where these make bilateral trade conditional on the observance of EU rather than Australian standards.

### **Digital trade**

- ▶ The A–EU FTA should promote digital trade, and extend disciplines on data localisation requirements to the financial services industry. Outcomes should not require changes to existing legislation on data, privacy or cyber security.
- ▶ A–EU FTA negotiations should explore including mutual recognition arrangements for data breach notifications.

## **A COMPREHENSIVE TRADE AGREEMENT WITH THE EU COULD BRING SUBSTANTIAL BENEFITS**

The Business Council strongly supports the negotiation of a deep and comprehensive FTA with the European Union. This is consistent with the Business Council's long-held view that free and open trade, based on transparent rules, boosts national income and economic welfare. International trade and foreign investment have always played an indispensable role in Australia's economic growth and prosperity.

The free trade agreement with the European Union promises to be among the more significant of Australia's free trade agreements, provided it includes strong market access outcomes for goods, services, investment and movement of Australians across the EU for business purposes. Education and tourism should also not be overlooked as areas where Australia might expand exports to the EU.

The Agreement should be ambitious, liberal and comprehensive, particularly in the context of current threats to the world trading system, and meaningfully improve outcomes for Australia. An A–EU FTA can play an important foreign policy role in signalling that both Australia and the EU are strong supporters of the rules-based international trading system, as well as assisting Australia's wider relations with both the EU and individual member states.

Taken as a whole, the EU is Australia's fourth largest destination for merchandise exports (worth over A\$17 billion in 2017) and second largest source of merchandise imports (worth

A\$50 billion in 2017). Key exports included coal, gold, oil-seeds and alcohol, while key imports included motor vehicles and pharmaceutical products.

In 2017, the EU was both Australia's largest supplier of services, exceeding the US (A\$21.5 billion imported from the EU, as compared with A\$16.2 billion imported from the US), and the second largest customer of Australian services (A\$11.6 billion in services exported to the EU, as compared with A\$15.8 billion exported to China).

In terms of the total foreign investment stock, the EU was the largest investor in Australia in 2017 (A\$1.087 trillion total EU investment in Australia). It was also the second largest destination for Australian investment abroad, just below the US (A\$612 billion total Australian investment in the EU).

The EU's ranking in Australia's trade and investment will decrease with the UK's departure from the EU but will remain very important. Germany, Italy and France are among key economic partners for Australia in the EU.

The A–EU FTA will inevitably differ from Australia's earlier FTAs with other partners due to the nature and balance of the trade and investment relationship, such as the relative importance of services and investment. While this will bring challenges, it also offers substantial opportunities. The negotiations will also need to address the many implications of Brexit and take into account possible FTA negotiations with the UK in the future.

Although the EU has fixed approaches to regulation and free trade agreement provisions in some areas, Australia should not shy away from promoting innovative ideas that would benefit both sides, including consideration of different approaches in the EU. Ideally, the format and structure of the FTA should be consistent with Australia's other FTAs.

There are, in addition, some possible EU demands that, if accommodated, would benefit not just the EU but also Australian businesses and consumers alike. Motor vehicles, foreign investment and visas may be among areas of EU demand. The Business Council would prefer that Australia negotiate outcomes in these 'win-win' areas, rather than accommodating the EU on matters such as geographic indicators that detract from the fundamental purpose of an FTA in liberalising trade.

An important strategic objective may be to use the A–EU FTA to help enhance Australia's positioning in Asia as a safe, secure and effective portal for the EU to access Asian markets, capital and talent, and vice versa.

Areas where innovative approaches could be adopted include facilitating the movement of skilled professionals; advancing mutual recognition and 'equivalence' in key areas of EU and Australian regulation; and practical changes to administrative arrangements that make doing business easier.

The negotiations should reference market access outcomes in other FTAs to which the EU is a party, to ensure that Australian businesses and individuals enjoy parity of treatment. Preferably, the negotiations should ensure Australia achieves most favoured nation (MFN) outcomes on par with those achieved by the EU's other FTA partners. The EU–Canada Comprehensive Economic and Trade Agreement (CETA) may be one important point of reference. Another will be the EU's parallel negotiations with New Zealand. While both countries are pursuing separate negotiations, Australia should work closely with New Zealand to leverage outcomes of mutual advantage and to enhance the capacity for smooth

exchange of goods and services across all three jurisdictions.

The Business Council supports a comprehensive A–EU FTA that liberalises substantially all trade in goods and services, and facilitates investment and the movement of skilled professionals. The negotiations should aim to achieve MFN outcomes with the EU’s other FTAs.

Some of the market access barriers that may need to be addressed in the A–EU FTA involve complex issues of EU regulation, for example, on product standards, professional qualifications and in the financial sector. This complexity, in large degree, reflects the fact that the EU itself coordinates regulation across its 28 member states. As far as possible, the FTA should enhance market access to each of these individual EU jurisdictions and not just theoretical access to the EU as a whole.

The precise barriers that arise due to this complexity may not be easy to identify immediately, and may require ongoing expert technical work at a sectoral level. Therefore, a useful objective for the A–EU FTA could be to establish strong, ongoing mechanisms for institutional cooperation and review. We identify some specific areas below.

It is also important to bear in mind that Australia may need to balance competing demands stemming from the different regulatory standards adopted by the EU and other growing regional trade partners such as China, while maintaining the integrity of Australia’s own arrangements for product and other standards. This is a further reason to include ongoing mechanisms for dialogue around regulatory and standards issues.

As with previous FTAs, the A–EU FTA should be a ‘living agreement’, with institutional architecture for ongoing technical cooperation and updating, including on regulatory issues and standards.

## Reducing barriers to goods trade

The Agreement should expand opportunities and reduce costs for exports to, and imports from, the EU. Both exports and imports are important in this equation. Boosting exports obviously improves returns for Australia, while reducing tariffs on imports will assist participation in global value chains and lower costs for Australian producers and consumers alike.

Tariffs should be eliminated not only for existing major export items, but also where there is little existing trade, recognising that future economic activity can develop in unanticipated areas. The outcomes should avoid ‘picking winners’ and encompass all tariff lines.

The Agreement should eliminate substantially all tariffs on trade between the EU and Australia.

One area where there are impediments to Australian exports is agriculture, including tariff-rate quotas (TRQs) on meat, dairy and other products. Outcomes should address TRQ quota

volumes, inside and outside quota tariff rates, and country specific quota access for Australian exporters. The Business Council therefore supports the views of Australian agricultural groups on this issue in recommending that the negotiations address agricultural trade barriers.

The Agreement should address barriers affecting exports of agricultural products such as TRQs.

As part of efforts to achieve outcomes that are meaningful and important for Australia in a range of areas – such as our financial, professional service and agricultural trade interests – the Business Council would support eliminating duties and taxes that affect vehicle imports.

These duties and taxes include the five per cent *ad valorem* tariff on motor vehicles – the elimination of which would be in line with Australia's other FTAs – and the Luxury Car Tax (LCT), which the Henry Tax Review recommended abolishing. The presence of the LCT discourages the purchase of high standard, low-emission and fuel-efficient vehicles, including those produced in the EU.

Elimination of these barriers should be part of a broad and expansive trade agreement that embraces substantial and ambitious liberalisation by both Australia and the EU, rather than a narrow agreement achieving only defensive trade outcomes for both sides. The Business Council would prefer that Australia reach agreement with the EU on issues such as car tariffs and the LCT instead of other EU demands such as geographic indicators, which detract from the fundamental purpose of an FTA in liberalising trade.

The Business Council supports trade liberalising outcomes in the automotive sector, including the five per cent tariff and the LCT, especially if other important Australian market access interests can be achieved.

## Rules-of-origin

The rules-of-origin (ROO) outcomes should simplify procedures and information requirements for Australian businesses seeking to utilise preferential tariff access, as well as for their customers in the EU. The Business Council supports a flexible approach to ROO that provides traders with options to either provide certificates of origin or to self-declare the origin of their goods. The arrangements should avoid a strongly punitive approach for minor mistakes in declarations.

The A–EU FTA should include high standard outcomes on ROO that simplify procedures for Australian exporters and importers. Arrangements for declaring or certifying origin should be flexible and provide traders with a range of options.

The Business Council considers that opportunities for participating in supply chains between Australia, New Zealand and the European Union should be enhanced by negotiating consistent ROO and allowing for diagonal cumulation across the EU's FTAs with both Australia and New Zealand for as many goods as possible.



Consideration should also be given to negotiating deals between Australia and the EU that expand possibilities for cumulation involving other countries with which the EU and/or Australia have existing or pending FTA arrangements. The ROO negotiations should bear in mind the direction of future ROO arrangements between the UK and the EU post-Brexit, as these may have implications both for the A–EU FTA and a possible future UK–Australia FTA.

The negotiations should embrace ROO cumulation across the EU–Australia and EU–New Zealand FTAs, and consider this possibility also for intermediate goods traded with partners in other FTAs, including anticipating future arrangements with the UK.

The Business Council also considers that – as for other areas of the A–EU FTA – there should be institutional mechanisms for future review of the ROO. This would facilitate updating of the ROO while preserving liberal outcomes. Such a mechanism could facilitate continuing improvement to the ROO as trade interests change and new possibilities for cumulation with third parties emerge. It would help minimise the ‘spaghetti-bowl’ effect of overlapping FTAs and assist future consolidation of different ROO arrangements.

The A–EU FTA should include institutional mechanisms for periodic updating of the ROO.

## Technical barriers to trade and product standards

The negotiations should aim to enhance mutual recognition of Australian and EU standards and standard-setting bodies, including for the purposes of meeting European labelling, packaging and Conformité Européenne (CE) mark requirements, across as wide a range of products as possible (excepting quarantine standards for agricultural products, which must reflect the differing environmental and risk circumstances of Australia and the EU).

In some cases, the A–EU FTA may present opportunities to draw on EU standard-setting expertise and reduce potentially duplicative work in Australia, especially where the standards would in any case be comparable. This possibility should be explored actively.

In negotiating outcomes on mutual recognition of product standards, Australia will also need to be mindful of potential Brexit outcomes. Ideally, there should be seamless processes for recognising standards across the EU, UK and Australia, including in view of potential future FTA negotiations between Australia and the UK, and the need for a new negotiated arrangement between the EU and UK.

Ongoing institutional mechanisms for recognition of technical standards, or for examining the equivalency of standard-setting bodies, and processes for resolving differences over these issues, may need to be embedded in the FTA.

The A–EU FTA should facilitate mutual recognition of product standards across as wide a range of products as possible, and explore possibilities for drawing on European expertise in standards setting. The provisions related to product standards

should also include institutional mechanisms for ongoing review and resolution of differences.

## Trade facilitation

The A–EU FTA negotiations should also enable EU recognition of the Australian Trusted Traders scheme for purposes of goods treatment at EU ports. The arrangements should encompass both industrial and agricultural products.

The A–EU FTA should include mutual recognition arrangements with the EU for the recognition of Australian ‘trusted traders’ for purposes of treatment of goods at EU ports.

## Geographic indicators

As a matter of general principle, the Business Council considers that geographic indicators (GIs) should be dealt with under normal arrangements for protecting consumers against deceptive or misleading product labelling, where the intent is to mislead the consumer as to the product’s origins, rather than as an intellectual property issue.

Nonetheless, international practice, including in the WTO’s Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS), has been to treat GIs as intellectual property, enforceable even when consumers are not being misled and there is no unfair commercial practice. Recognising this reality, there should be clear principles that discipline what can be regarded as a GI. The Business Council supports principles developed by Dairy Australia that require GIs to be:

- compound terms involving both the product name and the region it comes from;
- based on agreed reference points in longstanding public and media usage; and
- contestable in a clear and transparent process open to affected parties who wish to object to the GI’s registration.

The Business Council does not support the concept of ‘evocation’ favoured by the EU. This would prohibit the use of names considered as ‘evoking’, in some sense, a protected GI (an example would be ‘parmesan’ evoking ‘Parmigiano Reggiano’). This subjective approach would undermine the disciplines above for defining GIs on a strict and clear basis.

The Business Council would, in any case, prefer that the A–EU FTA negotiations focus on addressing areas of possible EU demand that represent ‘win-win’ outcomes for Australia and assist Australia’s international competitiveness – areas such as car tariffs and taxes; temporary entry visas; and investment screening thresholds – rather than accommodating the EU on GIs, which detract from the fundamental purpose of liberalising trade.

A–EU FTA negotiations should avoid concessions on geographic indicators and instead reach outcomes in other areas of the negotiations that represent win-win

outcomes for both sides. Geographic indicators should be subject to strict, delineating principles.

## Financial services

The negotiations will need to pay close regard to Brexit, which could result in new limitations on existing rights enjoyed by UK-domiciled Australian banks and financial service providers to operate across the EU under ‘equivalence’ and passporting arrangements. To the extent possible, these existing rights should be safeguarded.

Financial structures in the Eurozone post-Brexit may undergo change, with renewed competition between Paris, Frankfurt and Luxemburg and other cities. The A–EU FTA should ensure Australian financial service providers can participate in any new financial structures that develop post-Brexit, including through digital delivery of services and transactions.

Australia’s negotiating approach should consider the reconfiguration of Eurozone financial structures post-Brexit and ensure Australian financial institutions can participate in any new structures, including through digital delivery of services.

Ideally, the A–EU FTA should secure new rights for Australian banks and financial service companies based on recognition of EU and Australia regulatory ‘equivalence’ and an expansion of EU passporting arrangements to include Australia. This may be a long-term project, but the Agreement could facilitate mechanisms to work towards this goal.

The outcomes should include institutional mechanisms to progress coordination of financial regulation ‘equivalence’ and passporting, such as the establishment of a working group and/or ministerial meeting process.

The A–EU FTA could, in particular, include arrangements to enable the retailing across all EU jurisdictions of managed fund products, based on a recognition of the equivalence of Australian and EU regulatory arrangements. The outcomes could reference parallel work on funds passporting in both Australia and the EU, including the *Memorandum of Understanding on the Establishment and Implementation of the Asia Region Funds Passport*. The A–EU FTA presents a strategic opportunity to establish institutional structures to progress this agenda.

The A–EU FTA should explore possibilities for securing regulatory equivalence and passporting of managed fund products.

## Professional, education and tourism services

Business Council member companies are interested in enhanced access for professional services in the EU, including legal services. As a strongly services-oriented economy, Australia’s best interests will be served by ensuring that we do the maximum possible to

facilitate services exports, including by addressing barriers in all modes of supply. Services liberalisation is more than just a business opportunity for services firms; it also underpins the smooth running of supply chains in the goods sector, including in trade with the EU.

The negotiations should also look to identify opportunities to promote education and tourism services exports. These are among Australia's most important services exports, and among the promising areas for expanding exports to the EU. Below, we touch on the issue of expanding working holiday arrangements as one way to assist tourism exports.

The negotiations could embrace opportunities for scheduling commitments on education market access across the different modes of supply in the services schedules of the Agreement; consider potential simplifications of Australia's student visa application processes; and enhance pathways for employment visas for EU students post-study. These measures would encourage the uptake of study opportunities in Australia.

A–EU FTA outcomes should enhance the ability of professional service providers to supply services across all modes of supply in different EU jurisdictions. The Agreement should also look to opportunities to promote education and tourism exports.

## Investment

The Business Council would welcome any outcomes that bind and guarantee investment opportunities in the EU. But it is not only outbound investment opportunities that are important. The Business Council also supports liberal inbound investment rules. Australia historically has depended on foreign investment to meet its capital requirements, and this is not about to change.

Foreign investment is important for introducing new technology, production methods and best practice, and this is true for sensitive sectors in Australia, such as agriculture, as it is for other sectors. Where sensitivities exist, these can be eased, in part, by encouraging diversity in the sources of investment, rather than blocking it. One way to promote this diversity would be to increase investment screening thresholds for EU investors to the levels applicable in Australia's FTAs with Chile, New Zealand and the United States (A\$1,134 million).

The A–EU FTA should secure market access improvements in investment in the EU. The Business Council supports liberalisation of foreign investment screening thresholds for European investors on a reciprocal basis, to levels applicable in FTAs with Chile, New Zealand and the US.

## Movement of natural persons and recognition of qualifications

Improving the ability of Australians to work in, and be deployed to, the EU would benefit both Australian companies and individual Australian employees. It would improve the ability of Australian firms to work with EU partners, and to export to and invest in the EU, as well as enhancing the career and work opportunities of Australians at an individual level.

The Business Council understands that conditions on employer sponsorship of business visas in some individual EU jurisdictions may be unduly restrictive. These conditions can pose

practical difficulties for executives seeking to establish a new business presence in these jurisdictions and for Australian business travellers working under contractual arrangements for European counterparts (rather than under a full employment relationship). Such inflexibilities in some EU jurisdictions could be raised in the negotiations, with a view to facilitating broader possibilities for EU employer sponsorship of business visas for Australians.

A–EU FTA outcomes should enhance the capacity of EU firms and companies entering into contracts to sponsor Australian business persons, independent executives, professionals and service providers for work and business visas.

At the same time, the Agreement should also improve conditions for the recruitment of European skills into Australia, to help address skills shortages here, and to enhance Australia's international competitiveness.

In this context, it is important to note that Australian businesses always prefer to recruit and train locally if they can. Local recruitment avoids the high costs of international relocation and poses less risk for the employer if the employment relationship deteriorates. Nonetheless, it is also essential to recognise the reality that foreign professionals, specialists and technicians play an indispensable role in Australia's economy and economic development, and in the training and transfer of new skills to Australian workers.

The ability to employ foreign professionals is also important to encourage foreign investment in Australia in preference to other locations, and to boost the competitiveness of Australian goods and services in international export markets. Foreign professionals possess both vital technical knowledge – often proprietary knowledge not available in Australia – that can be embedded in our exports to make them more competitive, as well as useful connections abroad that can facilitate business transactions and familiarity with foreign markets.

It is important, therefore, that Australia maintain a broad view of the benefits of foreign temporary business migration and a visa system that supports this outcome. The EU is an important source of foreign skills, and the negotiations should aim for outcomes that assist their recruitment to Australia, in return for reciprocal outcomes in the EU.

The Business Council would also prefer that Australia negotiate outcomes on temporary entry visas – which are a win-win outcome for Australia and improve our international competitiveness – rather than accommodating the EU on matters such as geographic indicators, which detract from the fundamental purpose of an FTA in liberalising trade.

The Business Council supports the reciprocal liberalisation of temporary entry visas for EU intra-corporate transferees; independent executives; installers and machinery servicers; professionals and trades persons.

Another important facilitator to the deployment of skilled professionals between the EU and Australia is mutual recognition of skills and trades qualifications. Mutual recognition would increase the availability of skilled services in both markets. This is not an outcome that an FTA treaty can secure in and of itself, but rather requires detailed work at the level of the professional and trades organisations which set industry-level standards. The A–EU FTA

can, however, serve as the impetus for continuing work in this space, including institutional mechanisms, such as an umbrella working group, to progress this agenda.

Negotiations should establish ongoing mechanisms for progressing mutual recognition of professional qualifications in the EU and Australia.

Business Council members have also raised working holiday arrangements. Short-term work assignments are an increasingly important trend in international recruitment and deployment, and effective working holiday arrangements can help this aspect of employment mobility. They can also promote exports of services in Australia's tourism sector.

In return for reciprocal EU arrangements, consideration should be given to relaxing some current limitations of working holiday arrangements, such as durations and age limitations, which are generally set at the level of 31 years. It is recognised that working holiday arrangements are negotiated with individual EU jurisdictions. The A–EU FTA can, however, provide impetus to negotiations in this area as part of the overall package of outcomes.

The Business Council would support the A–EU FTA promoting or institutionalising the expansion of working holiday arrangements, including the expansion of qualifying countries and possible relaxation of applicable durations and conditions attached to the working holiday visas, in return for reciprocal outcomes in EU jurisdictions.

## Labour and environment regulations

As a general principle, the Business Council considers that the inclusion of labour and environmental provisions in trade agreements conflate domestic policy issues with international trade and investment. Their inclusion is often motivated by perceived domestic political requirements in the countries demanding these provisions, rather than any strict relationship with trade; or by a desire to condition and limit trade with the FTA partner countries.

International agreement on labour and environment issues should be a matter of direct and respectful negotiation in appropriate forums (e.g. on the relevant environmental issues, the UN Framework Convention on Climate Change would be one such forum).

The Business Council would resist labour or environment provisions that could, in effect, make bilateral trade conditional on the observance of EU standards. Australia has standards of labour and environmental regulation that are second to none. Any agreement implying that Australia's standards are inferior to those of the EU should be avoided.

The A–EU FTA should not conflate trade liberalisation with labour and environment provisions, especially where these make bilateral trade conditional on the observance of EU rather than Australian standards.

## Digital trade

The A–EU FTA also offers an opportunity to promote digital trade. The Business Council’s recent submission to the Department of Foreign Affairs and Trade on digital trade includes recommendations relevant to the A–EU FTA.

We support extending disciplines on data localisation to the financial services industry. Financial service suppliers and institutions were excluded from the definition of ‘covered persons’ in the TPP-11’s electronic commerce chapter.

We also recommend against agreeing to any provisions in the A–EU FTA that would oblige Australia to expand personal data, privacy or cyber security regulation. The EU’s General Data Protection Regulation (GDPR) is more prescriptive than Australian regulation. The adoption of GDPR-like provisions in Australia would be a fundamental shift and should be subject to due consideration through a separate and dedicated policy process.

The A–EU FTA should promote digital trade, and extend disciplines on data localisation requirements to the financial services industry. Outcomes should not require changes to existing legislation on data, privacy or cyber security.

The Business Council would also support steps to align mandatory data breach notification schemes in Australia and the EU. Differences in reporting deadlines and criteria have caused practical difficulties in both jurisdictions. Mutual recognition arrangements – for example, involving the Australian Privacy Commissioner passing on notifications to the EU instead of requiring companies to report in both jurisdictions – would benefit Australian companies.

A–EU FTA negotiations should explore including mutual recognition arrangements for data breach notifications.