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Australia-European Union Free Trade Agreement
Office of Trade Negotiations
Department of Foreign Affairs and Trade
RG Casey Building
John McEwen Crescent
Barton ACT 0221

Dear Sir or Madam

**Submission to relating to the Australia-European Union Free Trade Agreement
Retirement Savings Portability**

I refer to your invitation for submissions from interested individuals on potential opportunities of a Free Trade Agreement (FTA) with the European Union. The invitation suggests several areas which might be addressed, including the movement of people.

Any steps which increase the opportunities for Australians and Europeans to live and work in each others' countries and to build social and cultural links are strongly beneficial to increasing trade. However, working as an expatriate may result in a person being forced to leave significant retirement savings trapped in another country, exposed to changes in exchange rates, taxes or legislative regimes for many years after departure. I ask that consideration be given to facilitating pension transfers in the EU FTA negotiations.

In my case, I worked in Germany as a lawyer for a decade until recently. During that time, I contributed to a private pension scheme operated by the Bar Association of the State of Hessen. I have now returned to Australia and do not anticipate working in Germany again. I have requested release of my pension contributions (or the opportunity to roll them over into an Australian superannuation fund) but I was told this is not possible. Further, I am required to continue making contributions (approx. EUR 740 per annum) in order to preserve the benefits I have already accrued. While I will be able to receive a pension from this scheme upon reaching retirement age, in the meantime I am exposed to exchange rate risk, the need to negotiate the requirements of a system in a foreign country and complex double-taxation issues. It is hard for me to plan for my retirement when I have little certainty over the future value or tax treatment of a large part of my retirement savings.

These issues confront many Australians who have worked in Europe and present a significant barrier to building the cultural and business ties which come from labour mobility. An agreement to

facilitate simple and tax-neutral transfers between European and Australian contributory pension funds would alleviate this issue.

Australia has reached arrangements with New Zealand under the Trans-Tasman Retirement Savings Portability scheme¹ (the **NZ Scheme**), which has been in place since 2013, and does exactly this. Similarly, the United Kingdom permits transfers to Australian superannuation funds under the QROPS scheme, although I understand the process here is more complex. On the other hand, Australia permits superannuation savings to be paid out in cash to departing temporary residents, although these payments are subject to tax. This demonstrates that there is precedent for a retirement savings portability scheme which could be implemented with the EU. Further, Australia is recognised as having a robust and well-regulated retirement savings system, which should reduce resistance to transfers to this country.

Finally, while I appreciate that retirement savings regimes are typically regulated at a national level within the EU, any in-principle arrangements reached under the FTA related to private contributory pension transfers could set out the basis for changes to be incorporated into national law.

In summary:

- Movement of workers between Australia and the European builds social and cultural ties, but is also critical to building trade links.
- The lack of portability of retirement savings is a significant disincentive to labour mobility, and disadvantages Australians who work in Europe (and vice-versa). It exposes their retirement savings to exchange rate risk and complex tax and administrative issues.
- To the extent that opportunities for early release of pensions exist, these are often complex, restrictive and subject to punitive taxation regimes.²
- The NZ Scheme presents a model for how a retirement savings portability scheme with EU members may work. It should be simple and tax-neutral.
- This would promote labour mobility, trade ties and fairness for the individuals affected.

I ask that these issues are addressed in the course of the Australia-EU FTA negotiations. I would be very happy to discuss with you any of the issues raised.

Yours faithfully,



Stuart Gregory

¹ The Arrangement between the Government of Australia and the Government of New Zealand on trans-Tasman retirement saving portability, signed on 16 July 2009.

² I understand that non-EU citizens who have worked in Germany for under 5 years may request the release of their pension contributions as a cash payout. However, this is:

- limited to those with under 5 years of contributions;
- available only 2 years after departure from the European Union; and
- subject to an extremely punitive tax regime (approximately 50 per cent. is lost).