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Prospects for Services Trade Negotiations

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Abstract

Trade and investment in services are difficult to measure, and the regulatory barriers that inhibit the free flow of services are hard to quantify. As a result, very little attention has been paid to dismantling barriers to services trade and investment in free trade negotiations. This paper examines what has been achieved in both regional and multilateral compacts by surveying international precedents involving Asian countries which have included services trade reforms. We then assess the prospects for services trade negotiations and explore how services trade negotiations could be pursued over the next decade through two distinct channels: the Trans-Pacific Partnership (TPP) and a plurilateral approach among groups of WTO countries. We find that in the case of developing Asia, free trade agreements have largely excluded services or have only committed to "lock in" current practices in a narrow subset of service sectors. This is also the case in agreements negotiated between developing countries, which have produced less substantial commitments to liberalize services than those negotiated between developing and developed countries. Multilateral negotiations on services have also underperformed, as substantive negotiations on services in the Doha Round never really got underway. We advocate a stronger effort by developing Asian countries to prioritize services negotiations in their regional arrangements, and to expand coverage of services in those pacts to a broad range of infrastructure services that are included in other FTAs in force or under construction in the Asia-Pacific region.

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Keywords: International trade, services, regional trade agreements, Association of Southeast Asian Nations, General Agreement on Trade in Services, Doha Round, Trans-Pacific Partnership, Asia-Pacific

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INTRODUCTION

Services trade often is given short shrift in trade negotiations. The subject only surfaced in multilateral talks late in the postwar era with the conclusion of the General Agreement on Trade in Services (GATS) at the end of the Uruguay Round of multilateral trade negotiations. The GATS drew on the experience of services trade provisions in path-breaking trade pacts such as the Australia-New Zealand Closer Economic Relations Trade Agreement and the Canada-United States Free Trade Agreement (FTA), though the resulting multilateral rules were much more limited in scope and in depth of liberalization of existing trade barriers than the regional pacts.

To date, most trade pacts have focused more on merchandise trade than services, and most obligations undertaken with regard to services have simply committed to maintaining current practices. The focus on services has been particularly narrow in negotiations among developing countries, including among those in developing Asia, with the effect of discouraging investment and limiting the availability of productive services across the economy.

Services issues span a wide range of governmental jurisdictions, complicating the task of formulating a coherent approach toward services trade policy and negotiations. The slow pace of services trade negotiations is at least partly due to the complexity of dealing with a broad range of policy measures affecting the provision of services. Unlike merchandise trade, where reducing border restrictions via tariffs and quotas was for many decades the fodder of trade talks, the main barriers to trade and investment in services are imposed through quotas or outright bans on foreign participation in the marketplace, discriminatory licensing and subsidies, public procurement practices, and discriminatory access to distribution networks (Francois, Hoekman, and Woerz 2007). In addition, service "products" are often non-storable and intangible, creating different barriers to trade in services than those that apply to goods (Fontagné, Guillin, and Mitaritonna 2011). To be sure, some services restrictions serve legitimate purposes; others mask protectionist intent. Trade negotiations seek to address the latter.

The basic principles that govern liberalization in services trade are unconditional most-favored nation (MFN) treatment, national treatment, transparency, and the absence of local presence requirements. GATS obligations cover national treatment and market access commitments for listed activities (which in principle should be augmented through successive rounds of negotiations). In addition, GATS Article VI.4 outlines disciplines on certain domestic regulations related to licensing and technical standards to ensure regulatory measures are based on objective and transparent criteria and are not more burdensome than necessary to ensure the quality of the services. However, as outlined in the 2012 World Trade Organization (WTO) *World Trade Report*, progress in this area has been slow and the level of openness across services sectors and countries varies significantly (WTO 2012). Many developing and emerging Asian economies have only made low level commitments in GATS and have not supplemented those reforms very much in their bilateral negotiations.

Trade negotiations can contribute to economic growth by reducing or removing impediments to trade and investment in services. Services reforms would enhance competition in the domestic economy, spur innovation and productivity gains in agriculture and manufacturing as well as service industries, and generally generate net job creation in the economy.

This paper assesses the prospects for services trade negotiations and the challenges and opportunities they pose for developing countries. We believe that Asian countries should give more priority to services trade talks as part of their overall development strategy. To that end, we first assess the services provisions of the FTA between the members of the Association of Southeast Asian Nations (ASEAN), the China-ASEAN, China-New Zealand, and the Malaysia-New Zealand FTAs, and then assess those pacts against the more comprehensive results of the Korea-United States (KORUS) FTA. Then we look forward to how services trade negotiations could be pursued over the next decade through two distinct channels: the Trans-Pacific Partnership (TPP) and a plurilateral approach among groups of WTO countries.

SERVICES IN REGIONAL TRADE PACTS

This section surveys and compares the coverage of services in selected trade agreements implemented over the past five years both among Asian countries and between the Asian countries and more developed trading partners. Table 1 summarizes the coverage and content of key components of those pacts.

The degree of liberalization in services trade varies considerably between the four pacts. On one end of the spectrum is the ASEAN-China pact. Services were negotiated separately after the agreement entered into force in July 2007, and the services commitments are quite limited. While the ASEAN-China pact increases market access to a number of service sectors such as construction and engineering, tourism and travel, and transport and educational services, the agreement does not provide MFN treatment or bar local presence requirements. It also excludes subsidies and government procurement practices, and exempts important sectors from national treatment. The New Zealand-China and New Zealand-Malaysia agreements are similar in their use of a "positive list" to schedule reform commitments, MFN obligations and mode 4 commitments. Although the New Zealand-Malaysia pact uses a positive list approach,[1] the agreement includes a novel provision whereby Malaysia agreed to renegotiate its services commitments with New Zealand if it concludes a negative list agreement with another country in the future. Such forward-looking provisions establish a useful precedent for agreements that schedule commitments via a positive list approach.

At the other end of the spectrum is the KORUS FTA, which offers much broader coverage of services. It is the only agreement among the four that uses a negative list approach and provides

1. Under a positive list approach a country lists each sector and mode of supply in its national schedule, indicating what type of access and what type of treatment they are willing to offer foreign services suppliers. Under a negative list approach all service sectors are subject to liberalization unless indicated in a list of reservations or non-conforming measures.

unconditional MFN and national treatment. The one area where it falls short, however, is its coverage of mode 4. The limited obligations on the movement of natural persons is due primarily to a congressional mandate that "immigration" issues broadly defined not be discussed in the context of a trade pact (Schott 2007).

The following subsections summarize key features of each pact.

Intra-ASEAN FTA

Services trade of the ASEAN countries has been rapidly growing during the last decade. Total trade in services (exports plus imports) increased on average 12 percent a year between 2000 and 2010, reaching more than $400 billion in 2010 or 25 percent of aggregate output (figure 1).

Transportation, travel, and other business services subsectors account for the majority of ASEAN's service exports and imports (see table 2). These three sectors comprised 85 percent of total service exports and 79 percent of imports in 2010. Financial services and computer and information services also play a large role in ASEAN services trade. Exports of these services more than doubled over the last decade and accounted for nearly 10 percent of total service exports in 2010.

The ASEAN FTA initially covered only trade in goods; agreements on trade in services and investment came later. In December 1995, the ASEAN members signed the ASEAN Framework Agreement on Services (AFAS). The AFAS outlined three main objectives: (1) enhance cooperation in services amongst member states in order to improve the efficiency and competitiveness, diversify production capacity and supply and distribution of services, of firms within and outside ASEAN; (2) substantially eliminate restrictions to trade in services among member states; and (3) expand the depth and scope of liberalization beyond those undertaken in the GATS, with the aim to realize a free trade area in services.[2] There are currently four ASEAN bodies responsible for advancing these goals:

1. The Coordinating Committee on Services (CCS): business services, construction, healthcare, logistics and transport services, telecommunication and information technology services, and tourism.
2. The Coordinating Committee on Investment (CCI): services incidental to manufacturing, agriculture, fishery, forestry, and mining and quarrying.
3. The Air Transport Sectoral Negotiation (ATSN) of the Air Transport Working Group.
4. The Working Committee on ASEAN Financial Services Liberalization under the ASEAN Framework Agreement on Services (WC-FSL/AFAS).

2. Doing so will require ASEAN countries to keep pace with new trends and technological innovations, benchmark international standards for greater efficiency and competitiveness, and build up human capital. ASEAN Secretariat, available at http://www.aseansec.org/6628.htm.

Five rounds of negotiations have taken place since 1995, each employing a different negotiating approach. The first round of negotiations (1996–1998) followed the "request and offer approach" similar to the GATS. The negotiations focused on financial services, maritime transport, telecommunications, air transport, tourism, construction, and business services. The negotiation process started with an exchange of information among member states on their existing commitments under GATS and other services trade regimes. During the second round (1999–2001), ASEAN adopted the "Common Subsector Approach" where member states were requested to schedule commitments in subsectors for which at least four member states had already made commitments under the GATS or other previous AFAS packages. The threshold of four member states under the second round was modified to three member states under the "modified common subsector approach" during the third round of negotiations (2002–2004), thereby increasing the number of subsectors to be scheduled for liberalization. During this round, negotiations started using the ASEAN Minus X formula wherein countries may proceed with liberalization at a different pace. This change allowed subgroups of countries to proceed while other countries could opt out and join at a later stage. The fourth round (2005–2007) required member states to schedule commitments on a minimum number of subsectors from two sets of subsectors—a mandatory list comprising 65 subsectors and a list of 19 subsectors from which countries are required to schedule at least five. Based on the ASEAN Economic Community (AEC) Blueprint, the target minimum number of new services subsectors (based on GATS W/120 classification) to be scheduled for each round (every two years) up to 2015 is: 10 in 2008, 15 in 2010, 20 in 2012, 20 in 2014, and 7 in 2015.[3]

Additional efforts to dismantle barriers to services trade were outlined in the AEC Blueprint, adopted in November 2007. One of the key pillars of the AEC Blueprint is the free flow of trade in services. The AEC Blueprint focuses on five priority services sectors: air transport, e-ASEAN, health care, tourism, and logistics services. These were selected based on comparative advantage in natural resource endowments, labor skills, cost competitiveness, and the value-added contribution to ASEAN economies. Under the AEC Blueprint, "substantially all" restrictions are supposed to be phased out over eight years; priority sectors are to implement reforms within three years, with more sensitive sectors such as logistics given longer adjustment periods.

An analysis of the progress of AEC Blueprint shows mixed results. During the five rounds of negotiations, ASEAN members concluded seven packages of commitments. However, the extent of commitments to reform and their implementation vary among countries. The ASEAN Scorecard (ASEAN Secretariat 2012b) reports that roughly 65 services sectors were scheduled for liberalization under the

3. W/120 is a comprehensive list of 160 services subsectors covered under the GATS compiled in July 1991 by the WTO to facilitate the Uruguay Round negotiations (http://unstats.un.org/unsd/tradekb/Knowledgebase/Sectoral-Classification-List-W120).

seventh AFAS Package. However, these commitments contain few provisions beyond existing GATS commitments (Zhang and Shen 2011).

Analyses by Dee (2010) and Arunanondchai and Fink (2007) find the most positive results in health and medical services. In these areas, ASEAN countries that are WTO members have bound relatively liberal regimes in their national schedules. Further progress could be achieved through mutual recognition or harmonization of quality standards, both for individual professionals and for healthcare institutions.

In transport services, most ASEAN countries have taken a relatively liberal approach to many aspects of maritime regulation, but none meet the Blueprint target of allowing at least 51 percent foreign ownership by 2010 in all maritime services. Shepherd and Pasadilla (2012) also find that the minimum foreign ownership requirement for logistics services is not met by most countries. In air transport services, the AEC Blueprint target stipulates that foreign ownership limits to be raised to 70 percent by 2010, for domestically established air transport services companies. Effective liberalization of trade in air transport services requires the reform of both investment laws and withholding clauses in air transport services agreements; substantial ownership by an ASEAN community of interests rather than substantial domestic ownership is thus the target for this sector.

In banking services many ASEAN countries have not reached the AEC Blueprint targets for increasing foreign equity limits. In the wake of the financial crisis, many ASEAN countries undertook significant reforms of their prudential regulation, and loosened restrictions on foreign ownership on an MFN basis. However, the majority of ASEAN members have yet to reform foreign ownership restrictions as stipulated in the AEC Blueprint.

The ASEAN Scorecard (ASEAN Secretariat 2012b) also provides an assessment of the progress on liberalization in priority sectors, and reports new initiatives undertaken in these areas. For example, ASEAN members have developed a Tourism Strategic Plan (2011–2015) to promote the region as a single tourist destination, develop a set of ASEAN tourism standards and certification processes to enable tourism professionals to work in any of the ASEAN member states, and allow visitors to travel throughout ASEAN with a single visa.[4] ASEAN members also developed Mutual Recognition Arrangements (MRAs) that address criteria for licensing and certification of professionals. To date, the ASEAN Economic Ministers have signed seven MRAs on engineering services, nursing services, architectural services, surveying qualifications, accountancy services, medical practitioners, and dental practitioners.

The AEC Scorecard (ASEAN Secretariat 2012b) reports that the MRAs for engineers and architects have already been implemented, while work on the implementation of the MRAs for nursing, medical, dental, accountancy, and surveying is ongoing. Setiati and Mugijayani (2011) find that implementation of the MRA on engineering and architectural services, and well-established registration procedures,

4. http://www.aseansec.org/25795.htm

standards and criteria, are well advanced. However, they note significant shortcomings: the MRAs do not include monitoring information exchanges among member states and do not identify best practices for the assessment of engineers and architects. In addition, significant barriers remain (particularly under Mode 3 and Mode 4) in terms of limits in foreign equity shares, land ownership, prohibition of employment in some sectors, and restrictions on hiring of foreign workers.

Despite the notable achievements, ASEAN countries still need to implement significant reforms. Shepherd and Pasadilla (2012) identify priority sectors and policies that ASEAN countries should focus on to improve services trade and investment flows (see table 3). The authors emphasize "backbone" services such as telecommunications; transport, distribution, and logistics; finance; health services; education; outsourcing services and business processing; and business and professional services. The policy priorities outlined in table 3 concentrate on reducing transaction costs and boosting productivity across all sectors of the economy.

II. ASEAN-CHINA FTA

The ASEAN-China agreement took almost a decade to negotiate and enter into force (Zhao and Webster 2011). China and ASEAN first signed a Framework Agreement on Comprehensive Economic Cooperation in November 2002, which aimed to progressively liberalize trade in goods and services, create a transparent and liberal investment regime, and foster closer economic cooperation. The Framework presaged a free trade area covering trade in goods by 2010 for ASEAN 6 (Brunei Darussalam, Indonesia, Malaysia, Philippines, Singapore, and Thailand) and by 2015 for Cambodia, Lao, Myanmar, and Vietnam. The commitments were undertaken incrementally, starting with an Early Harvest Program (2004) covering liberalization on specific agricultural tariffs[5], an Agreement on Trade in Goods in 2005, an Agreement on Trade in Services in 2007, and an Agreement on Investment in 2009. The ASEAN-China FTA took effect in January 2010.

The 2007 Agreement on Trade in Services called for progressive liberalization of discriminatory measures with respect to trade in services and the expansion of the depth and scope of reforms beyond those committed under the GATS. China undertook commitments in 26 sectors, including construction, environmental preservation, transportation, recreational, and business services. In return, ASEAN members committed to liberalize finance, telecommunications, education, tourism, construction, and health care (Yang 2009).[6] However, Shepherd and Pasadilla (2012) note that neither China nor ASEAN, with the

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5. The Program covered eight categories of agricultural products with some exclusions. The Philippines is the only ASEAN member that did not participate.

6. Yang (2009) identified the services subsectors for which China and ASEAN have an advantage as well as those subsectors which need further development (table 4) and pointed out that there are complementarities in the services sector between the parties.

exception of Singapore and to some extent Malaysia, made commitments in the ASEAN-China FTA that go substantially beyond their GATS obligations.

The ASEAN-China agreement also stipulates that countries shall negotiate additional packages of specific commitments on services trade. In November 2011, the Second Package of Specific Commitments was signed, and entered into force on January 1, 2012. China improved market access provisions in commercial services, construction and distribution, finance, tourism, and transportation and financial services. ASEAN members agreed to WTO-plus commitments in tourism, air and maritime transportation, and business and construction services (China-ASEAN Business Council Chinese Secretariat 2011). Travel and transportation account for about 60 percent of total ASEAN trade in services (table 2), so coverage of those sectors was particularly important. The volume of transportation trade from China to ASEAN has significantly increased in recent years and should further benefit from the growth of cargo and passengers due to the Mekong River development.

III. New Zealand-China FTA

Many Asian FTAs—particularly intra-Asian FTAs—take a gradual approach to liberalization, focusing first on merchandise trade and then, only years later implementing reforms on services and investment (Yunling 2011). By contrast, the New Zealand-China FTA included for the first time provisions on both goods and services when it entered into force on October 2, 2008. All of China's preceding agreements—Hong Kong, Macau, ASEAN, Chile, and Pakistan—were concluded without a services component. Commitments on services were eventually included in these agreements, but only as a side agreement negotiated years later.

The New Zealand-China FTA takes a positive list approach to services trade liberalization similar to the GATS in the WTO. China incorporated the language on services from its existing GATS schedule, but augmented the agreement by making additional commitments across modes 1 to 4 that go beyond its WTO commitments.[7] Chinese commitments in the New Zealand-China FTA cover a broader range of service sectors and obligations related to services—such as transparency measures, standards, and competition policy—and more significant liberalization than other Asian FTAs. These 'GATS-plus' commitments include greater access for New Zealand service suppliers in computer and related services, services related to management consulting, education, environmental services, sporting and recreational services, air transport, and road transportation services (New Zealand Ministry of Foreign Affairs and Trade 2008).

China improved mode 3 access for environmental services by allowing wholly owned foreign enterprises to operate in China, and expanded its commitments on air transport to allow investment in

7. The 'modes' of supply refer to cross-border trade (mode 1); consumption abroad (mode 2); commercial presence (mode 3); and the movement of natural persons (mode 4).

more subsectors such as computer system services related to air transport. New Zealand service providers may now establish joint ventures with Chinese companies, with a non-controlling stake. In computer services, China removed all restrictions on modes 1 to 3 related to consultancy services. New commitments included in the agreement are provisions on modes 1 to 3 for storage, warehousing and freight forwarding in road transportation services, and sporting and recreational services. These subsectors had been completely excluded from China's GATS schedule. China also expanded its commitments on management consulting services.

Significant commitments were also made to increase Chinese purchases of education services in New Zealand. China agreed to include eight New Zealand universities, 20 institutes of technology and six degrees conferring private training establishments duly approved and accredited on the Chinese Ministry of Education study abroad website. China and New Zealand also established a reciprocal doctoral research scholarship program that provides scholarships to students in both countries for five years. In addition, both countries committed to evaluate and improve mutual recognition of qualifications and academic degrees through the New Zealand-China Education Joint Working Group. Chinese concessions in education services are particularly important to New Zealand, where education is the second largest services export (New Zealand Ministry of Foreign Affairs and Trade 2008).

China and New Zealand also made important commitments on the movement of natural persons (mode 4), which is covered in a separate chapter. The FTA specifies five categories of persons: business visitors, contractual service suppliers, intra-corporate transferees, skilled workers, and a new category of installers and servicers.[8] The length of stay permitted depends on the country and ranges from three months to three years. For example, China allows entry of up to three months for installers and service providers, and allows business visitors to stay for up to six months compared to the 90 day maximum contained in China's GATS schedule. New Zealand allows professionals and intra-corporate transferees to stay for up to three years, and allows all other service providers a stay of up to three months. In addition, China agreed to expedite the processing of visas for services suppliers and business persons, and New Zealand committed to expedite the application and approval process for certain Chinese visas and create a new group transit visa for Chinese nationals.

Compared to other regional Asia-Pacific trade agreements, the New Zealand-China FTA is relatively comprehensive. The New Zealand-China FTA provides greater GATS-plus commitments compared to the ASEAN-China FTA, which only includes commitments on a very narrow range of service sectors. For example, the Chinese commitments exclude key sectors such as tourism, distribution, education,

8. An installer or servicer includes persons who install or service machinery and/or equipment. The installation or servicing is done by the supplying company as a condition of purchase of the machinery or equipment.

communication, and financial services, which are important drivers of ASEAN economies (Trewin et al 2008).

The two year review of the New Zealand-China FTA reported noteworthy progress on education services and tourism. Two-way trade in services has grown markedly, particularly in new sectors such as business consulting, aviation training, software and internet-related services, and landscape design (New Zealand Ministry of Foreign Affairs and Trade 2010). Further progress is being made on education through work by the New Zealand-China Education Joint Working Group to expand joint training programs, research and development, and advancing mutual recognition of vocational qualifications.

Despite these notable achievements in expanding services trade, the New Zealand-China FTA has a number of shortcomings. One shortcoming is the exclusion of services procured by the governments of China and New Zealand, although the two countries may negotiate a future agreement relating to government procurement of services. The main shortcoming, however, is the lack of comprehensive MFN obligations. The agreement only grants MFN treatment to seven service sectors: environmental services, construction, services incidental to agriculture and forestry, engineering services, integrated engineering, computer and related services, and tourism. In the case of agricultural and forestry services, China only confers MFN treatment to Organization for Economic Cooperation and Development (OECD) members. In addition, the agreement allows both parties to "adopt or maintain any measure that accords differential treatment to third countries under any free trade agreement […] in force or signed prior to the date of entry into force" of the New Zealand-China FTA (New Zealand Ministry of Foreign Affairs and Trade 2008). These restrictive MFN provisions are not conducive to the expansion of market access over time, as China and New Zealand enter into agreements with other countries. However, compared to intra-Asian FTAs, the MFN provisions in the New Zealand-China FTA are fairly progressive. Most intra-Asian FTAs do not commit to MFN treatment for their FTA partners. For example the ASEAN-China, ASEAN-Korea, China-Hong Kong, China-Macao, Australia-Singapore and New Zealand-Singapore FTAs do not contain MFN disciplines (Trewin et al 2008).

IV. New-Zealand-Malaysia FTA

The Malaysia-New Zealand FTA was signed in October 2009, and entered into force in July 2010. The agreement builds on provisions included in the ASEAN-Australia-New Zealand FTA as well as Malaysia and New Zealand's commitments under GATS. The commitments augment those pacts' provisions on market access, national treatment, and MFN treatment.

The main achievement of the agreement is the expansion of market access for service suppliers. Malaysia increased the number of sectors and subsectors subject to liberalization, particularly in education, environmental services, tourism, veterinary services, management consulting, and maritime services.

In contrast, Malaysia did not commit to any liberalization in environmental services under its GATS schedule, nor did it include environmental services in any previous FTA. In the Malaysia-New Zealand FTA, however, Malaysia agreed to include wastewater management, cleaning services of exhaust gases, natural and landscape protection, and noise abatement services. In maritime services, Malaysia agreed to raise the equity limit for New Zealand service suppliers from the 30 percent commitment in the ASEAN-Australia-New Zealand FTA to 49 percent.

In turn, New Zealand expanded market access for Malaysian service suppliers. Its commitments included three new subsectors: services incidental to mining, mailing list compilation services, and washing and dry cleaning services. It also reduced restrictions on market access in seven subsectors: services incidental to animal husbandry, wholesale trade services, non-life insurance and insurance intermediation services, maritime transport, air transport, and commission agent services.

In addition to improved market access, the Malaysia-New Zealand FTA includes ASEAN-Australia-New Zealand FTA-plus provisions on MFN obligations and the movement of natural persons. The Malaysia-New Zealand FTA grants MFN to specific sectors of commercial interest, including private education, environmental, engineering and computer services, and services incidental to mining. This improves substantially on the ASEAN-Australia-New Zealand FTA, which does not include MFN treatment for any service sector. On mode 4 provisions, New Zealand maintained the provisions included in the ASEAN-Australia-New Zealand FTA. In contrast, Malaysia substantially expanded its mode 4 obligations by providing New Zealand business persons greater market access to Malaysia. This is achieved by broadening the definition of "business person," removing market testing for intra-corporate transferees, increasing the length of stay for business persons or services suppliers from five to ten years, and improving the timeframe for processing applications for temporary access.

V. Services in the KORUS FTA

The KORUS FTA achieved substantial improvement in market access for foreign service suppliers and investors beyond commitments already embodied in Korea's GATS schedule, and also introduced new bindings in sectors that were excluded under GATS. The FTA uses a negative list approach, grants MFN and national treatment to all service sectors, and provides market access without local presence requirements.

The United States and Korea made GATS-plus commitments in insurance, telecommunications and financial and business services, and tourism and travel services among others. For example, Korea agreed to allow US financial services companies 100 percent ownership of Korean financial institutions, including the establishment of bank branches and insurance companies (United States-Korea Business Council 2007). Under Korea's GATS schedule only minority stake joint ventures were permitted in some financial services such as investment advisory or securities trading services, and the establishment of branches was very restricted. Korea also expanded market access for insurance, banking, and asset management services and agreed to remove the restriction on the transfer of customer data into and out of Korea (United States International Trade Commission 2007). Under the KORUS FTA the United States and Korean insurance providers will have greater access to each other's market for direct life and non-life insurance, reinsurance and retrocession, insurance intermediation, and services auxiliary to insurance. GATS-plus commitments in telecommunications also include the removal of foreign investment restrictions. For example, under GATS Korea limits foreign investment to 49 percent of total voting shares. Under the KORUS FTA wholly owned subsidiaries will be allowed to operate in Korea. The KORUS FTA also grants national treatment for network interconnection, number portability, and dialing parity for foreign telecommunication services providers. In addition, Korea further liberalized or locked in changes in broadcasting and cable quotas undertaken just before the formal negotiations began at the least restrictive level allowed under current law.

These provisions should create significant new business opportunities, especially through the improved commitments on commercial presence in areas like banking where Korea had been particularly closed off to foreign suppliers. The expanded market access in financial services achieved in the KORUS FTA will help US financial institutions increase their market presence in Korea, and the additional trade and investment from US suppliers will help promote competition and provide diversified financial services more efficiently in the Korean market.

In addition to GATS-plus provisions, Korea made new commitments on legal services, education and health care services, express delivery, and sports and recreation services. These sectors were excluded from Korea's GATS schedule. For example, for the first time, Korea agreed to allow foreign legal consulting services in the Korea market. The KORUS FTA allows US firms to establish joint ventures in legal services, and permits US law firms to enter into cooperative agreements with local law firms and establish offices to provide legal consultancy services (United States Department of Commerce 2011). In express delivery services, Korea and the United States agreed to reduce customs clearing time to no longer than four hours, down from the six hour target that has been included in past US FTAs. Commitments on express delivery also include a commitment by Korea to reform Korea Post (the state-owned enterprise that is one of the largest providers of insurance, banking, and express delivery services). Korea agreed to reduce the number of services Korea Post provides and ensure independent regulation, on par with private service providers (Cooper et al 2011).

Other notable provisions include a separate chapter on electronic commerce (e-commerce) and the inclusion of government procurement services, a sector that is normally excluded from services agreements. The United States and Korea agreed to provide equal treatment for electronically delivered services and similar products delivered physically. This is achieved through binding obligations to provide non-discriminatory and duty-free treatment for all digital products transmitted electronically. The United States and Korea also committed to facilitate paperless trading by making trade administration documents available to the public in electronic form. The provisions included in the agreement on government procurement of services expand market access (e.g., by including digital and information technology products) and lower the threshold value for central government contracts from $203,000 to $100,000 (United States Department of Commerce 2011).

The main deficiency of the KORUS agreement is its lack of commitments on mode 4. The only notable provision is a commitment by the United States to extend the validity of L-1 visas for intra-company transferees to five years, up from the one to three year period that existed previously (Schott 2010).

THE DOHA ROUND: WHAT WASN'T DONE AND WHAT COULD HAVE BEEN ACHIEVED

Article XIX of the General Agreement on Trade in Services (GATS) mandates WTO members to "enter into successive rounds of negotiations […] with a view to achieving a progressively higher level of liberalization" on specific commitments. WTO members agreed in the Uruguay Round to begin new services negotiations in 2000. These negotiations began in January 2000 and at the Doha Ministerial Conference in November 2001, services negotiations became part of the "single undertaking" under the Doha Development Agenda (DDA). Since then negotiations on services have focused on four main areas: market access; domestic regulation; GATS rules on safeguard measures, government procurement, and subsidies; and the implementation of modalities for the least developed countries (LDCs).

With regard to GATS rules on emergency safeguard measures, subsidies, and government procurement, countries have not been able to agree on disciplines that go beyond existing GATS commitments. Consequently no text was tabled, and the discussion remained conceptual in nature (WTO 2011). The only area where negotiations progressed was regarding special treatment for LDCs. Even then, however, differences arose over the terms of a proposed LDC waiver, which would excuse WTO members from their MFN obligation under GATS when granting preferential treatment to service suppliers originating in LDC countries.

Dropping the Ball in 2008

In May 2008, the Chairman of the Doha Round negotiating group on services issued a sobering report outlining elements required for the completion of services negotiations. At the time, 71 countries had submitted initial offers, and 30 of those countries had also submitted revised offers. Of the 71 offers, 13 were from Asian countries including China, Taipei, Hong Kong and Macao, India, Indonesia, Japan, Korea, Malaysia, Pakistan, the Philippines, Singapore, and Thailand. Overall, the offers—from both developed and developing countries—focused primarily on business and financial services and to a lesser extent on telecommunications and tourism services (Marchetti and Roy 2008). Scant progress was made in key sectors such as professional services, maritime transportation, construction, distribution, and health and environmental services (Marchetti and Roy 2008, Borchert et al 2011).

The May 2008 report identified the main problems in the Doha Round as the participants' level of ambition, their reluctance to bind existing and improved levels of market access and national treatment, and limited offers with respect to the treatment of sectors and modes of supply of export interest to developing countries (especially mode 4). Left unsaid was the sad truth that the Doha Round negotiations on services did not progress very far because many developing countries insisted that countries agree on the modalities for liberalizing agriculture and non-agricultural market access (NAMA) before seriously engaging in talks on services. Substantive negotiations on services trade never really got started.

In July 2008, the Chair of the Trade Negotiations Committee (TNC) convened a "signaling conference" to assess the progress that had been made and how the current offers on services liberalization might be improved. The Chairman's report indicates that countries were prepared to issue new or improved offers, and identified thirteen sectors where these improvements could be made. Particular attention was given to business and financial services, telecommunications, environmental and energy services. Discussion on audiovisual, distribution, education and health services was fairly shallow; only a few participants signaled a "general" interest in further liberalization in these sectors, and no concrete offers or recommendations were made. Despite indications that countries would be willing to undertake additional services liberalization, new substantive offers were not forthcoming. In April 2011, the Chairman's report concluded that no substantial progress had been made since July 2008, and that significant gaps remained between offers and requests.

Ongoing research by the World Bank (Gootiiz and Mattoo 2009 and Hoekman and Mattoo 2011) shows that the Doha Round offers are on average twice as restrictive as policies currently applied by WTO countries. However, the offers of South Asian countries do significantly improve upon their Uruguay Round commitments. In contrast, Doha Round offers of East Asia and Pacific countries do not improve much on existing policies (Borchert, Gootiiz, and Mattoo 2011). Moreover, Cambodia, Mongolia, Vietnam, and Bangladesh did not submit any offers on services. In sum, if the Doha Round was concluded with the current services offers, the agreement would not achieve much new liberalization in services but would "lock in" a portion of the reforms that countries already have implemented (Hufbauer, Schott, and Wong 2010).

Foregone Benefits of a Doha Round Deal

To be blunt, WTO negotiators missed a big bet by keeping services negotiations on the sidelines for most of the Doha decade. This tactical blunder contributed importantly to the impasse in the Doha Round and prevented participating countries from reaping substantial trade and welfare gains. How much? We summarize in table 5 the findings of three major assessments by CEPII (Fontagné, Guillin, and Mitaritonna 2011) for the European Commission, the Peterson Institute for International Economics (Hufbauer, Schott, and Wong 2010), and the World Bank (Borchert, Gootiiz, and Mattoo 2011).

Quantifying barriers to services trade is complex, and negotiating strategies to create a "level playing field" necessarily must traverse a fine line between "legitimate" regulatory constraints (e.g., prudential safeguards for financial services) and those that mask protectionist intent. In the academic literature, various methodologies are deployed to measure the level of restrictiveness or openness of trade regimes and to calculate the tariff equivalent of regulatory barriers to services trade. The authors of the CEPII study use the tariff equivalents estimated by Fontagné, Guillin, and Mitaritonna (2011) for nine services sectors and 65 countries based on the Global Trade Analysis Project (GTAP), and compute the average protection applied by each importer, using a fixed effects methodology. Overall, they find that developed countries have the lowest levels of protection in services. On a sectoral basis transport is the most liberalized sector, while construction is the most protected.

The CEPII authors apply these tariff equivalents to their model, and assume a 3 percent reduction in protection in all industrialized, Latin American, and Asian countries (excluding Central Asia). Their results show that the largest gains in terms of additional exports will be seen in the European Union—roughly $15 billion of additional services exports representing more than half of their projected increase in world trade in services. Exports of services in Asian countries will stagnate, except in India where an additional $120 million of exports are estimated as a result of liberalization. In terms of the impact on value added in services sectors in Asia, construction and transportation will benefit the most, financial and business services the least.

In the Peterson Institute analysis conducted by Hufbauer, Schott, and Wong (2010), the authors place special emphasis on the findings on tariff equivalents reported by Gootiiz and Mattoo (2009). Since those results were only available regionally, however, the authors used the country results reported by Wang, Mohan, and Rosen (2009) to make their calculations, with adjustments to the tariff equivalents in certain countries. OECD countries have the lowest barriers to services trade. Asia, India, Pakistan, China, and Indonesia have the most restrictive barriers in place.

If WTO liberalization resulted in a 10 percent reduction in the tariff equivalent of services trade barriers, total world services exports would increase by $55 billion. Developing countries would garner significant gains: an additional $35.3 billion in imports and $16.1 billion in exports, generating GDP gains of more than $21 billion. Asia, China, and India would see the largest boost in trade, with imports and exports growing by $19 billion and $7 billion respectively, and accounting for about half of the trade gains for all developing countries (see table 1.2 in Hufbauer, Schott, and Wong 2010).

The World Bank study (Borchert, Gootiiz, and Mattoo, 2011) draws on its ongoing research project compiling data on actual or applied trade policies in services for 56 countries, across five sectors: financial services, telecommunications, retail distribution, transportation, and selected professional services. In each sector the most relevant modes of supplying that service are included. For example, for financial and professional services the authors include commercial presence (mode 3) in each sector, and include the movement of natural persons (mode 4) in professional services. To measure the restrictiveness of services trade policies, the authors compile a summary of key restrictions for each sector-mode combination. From this the authors assess policy regimes and map them onto five broad categories ranging from completely open to completely closed, with variations in between that take into account the requirements for entry and operation. Each regime is then assigned a services trade restrictiveness index (STRI) on a scale from 0 (completely open) to 100 (completely closed).

In their previous work, Gootiiz and Mattoo (2009) compared the policies in place in the South Asia region (SAR) and East Asia and the Pacific (EAP) to five other regions. Their results show that SAR and EAP countries have the most restrictive policies in place, compared to Latin America, Africa, Eastern Europe, and OECD countries. The only region that has higher barriers to services trade is the Middle East and North Africa, or MENA (figure 2). By delivery mode, East Asia and Pacific and South Asia, on average, have the most restrictive policies—albeit only marginally above the MENA region—on cross-border supply of services (mode 1). Barriers to services trade via commercial presence (mode 3) and movement of natural persons (mode 4) are also high compared to other developing regions except for MENA. On a sectoral basis there is much more variation in levels of restrictiveness. For example, the authors find that EAP countries have relatively low barriers in retail services, whereas retail is one of the more protected sectors in OECD countries.[9]

The 2011 study finds that developing countries have significantly liberalized services sectors over the past 10 to 20 years, with notable improvements in telecommunications and financial services. However, the authors find that substantial protectionist policies remain in the transport and professional services sectors, in both developing and developed countries. This is especially true in Asia, where professional services is the most restricted sector, followed by transportation and telecommunications in the EAP and financial services in the SAR (figure 3).

9. Guillin (2011) finds similar results. For example, East Asian countries have much lower tariff equivalent barriers in travel and business services than OECD countries. However, the opposite is true for computer and government services, where East Asian countries have much higher tariff equivalent barriers than OECD countries.

An analysis of the policies in place in SAR and EAP countries shows that both regions have equally restrictive policies. However, EAP countries have a smaller binding gap than SAR countries, meaning their applied policies are closer to their Uruguay Round commitments. The Doha Round offers submitted by SAR countries significantly improve upon Uruguay Round commitments—especially those offers submitted by India and Pakistan—while the offers submitted by EAP countries do not improve significantly on their Uruguay Round commitments (Borchert, Gootiiz, and Mattoo 2011).

SERVICES NEGOTIATIONS: PROSPECTS GOING FORWARD

The Doha Round negotiations have made little progress in increasing market access and reducing barriers to trade in services. Negotiations were linked to the successful outcome of the two other pillars of the DDA—agriculture and NAMA—and were put on the back burner as countries tried to resolve the more contentious issues in those other areas. In addition the prospective gains from the WTO negotiations seemed to be distributed unevenly, prompting countries to conclude that the prospective gains would not justify the domestic political risk of seeking changes in existing policies (Schott 2011). As a result, services negotiations stagnated; offers that were submitted were shallow. The most protected sectors were not subject to substantive negotiations and the offers that were submitted did not reflect the liberalization that had already taken place (Borchert, Gootiiz, and Mattoo 2011). The lack of substantial progress has led a number of proposals to move away from the offer-request negotiations to a plurilateral approach.

In the past most liberalization in services trade has taken place unilaterally or through the inclusion of a services component in preferential trade arrangements (PTAs). Hoekman, Martin, and Mattoo (2010) found that "applied" services policies (i.e., those currently in effect) are more liberal than the liberalization commitments made by WTO members in the GATS. In other words, countries provide more open access to their markets than they are willing to guarantee through multilateral trade obligations. Similarly, Roy, Marchetti, and Lim (2007) and Marchetti and Roy (2008) found most PTAs have sectoral coverage that is greater than their GATS commitments. However, the latter study shows that many Asian countries have made limited "GATS-plus" commitments in their PTAs. For example, ASEAN members like Indonesia, Malaysia, and Thailand have not improved much on their GATS commitments; the same is true for India and to some extent China. Very few Asian countries have made significant improvements on their existing GATS commitments. Singapore, an outlier, has made significant reforms in services trade by introducing new binding commitments for cross-border trade and commercial presence that go beyond what was negotiated in their respective GATS schedules. [10]

10. Under a scoring system developed by Marchetti and Roy (2008), where 0 represents no commitment and 100 indicates full commitment in all subsectors across modes 1 and 3, Singapore doubles its "score" on services commitments from roughly 25 in GATS to over 80 in its FTAs

In large measure, the Uruguay Round effectively bound existing policies, ensuring that WTO members will not introduce new protectionist measures in sectors covered by GATS commitments. If the Doha Round had concluded, it would have had the same "lock in" effect. However, now that the conclusion of the Doha Round seems unlikely, future liberalization of services will likely take place through three channels: the unilateral removal of barriers to trade; PTAs that include a services component; and/or a plurilateral accord that could set the course for new multilateral trade obligations. The following subsections examine the two most promising new initiatives: negotiations on the Trans-Pacific Partnership and on an International Services Agreement.

I. The Trans-Pacific Partnership

In the absence of progress in the Doha Round, the TPP is the most comprehensive trade agreement currently under negotiation. The TPP negotiations began in March 2010 and currently involve nine countries: Australia, Brunei, Chile, Malaysia, New Zealand, Peru, Singapore, the United States, and Vietnam. Canada and Mexico have been invited to join the talks in late 2012; Japan and South Korea may do so in 2013. In that event, the TPP would be a very big deal, covering 13 countries with a combined GDP of $28 trillion and more than $6 trillion in exports of goods and services.

Ultimately the TPP is expected to become a central pathway toward the long-term goal of a Free Trade Area of the Asia-Pacific (FTAAP) envisaged by Asia-Pacific Economic Cooperation (APEC) leaders almost two decades ago. Adding new members will be a challenge, but if successful the expansion would achieve meaningful progress in removing barriers to services trade and could give a significant boost to services exports. Estimates by Petri, Plummer, and Zhai (forthcoming 2012) indicate that the TPP would lead to a 2.7 percent increase in services exports of signatory countries by 2025, while expanding the TPP to other APEC countries would boost that figure to almost 18 percent.

Under the TPP agreement, services are being negotiated as part of the overall "high-standard" agreement mandated by TPP leaders. Liberalization in services is being negotiated based on a negative list approach, which basically requires participants to schedule "non-conforming measures" that would not be covered by TPP obligations (Elms and Lim 2012). Such an approach would provide maximum coverage of MFN, national treatment, and transparency obligations and thereby augment rules and market access commitments already embodied in the GATS. Negotiators also are seeking to improve transparency and streamline regulations to ensure they are not unnecessarily burdensome.

To those ends, officials will likely look to existing agreements like the KORUS and the New-Zealand-Malaysia FTAs for negotiating precedents. The KORUS FTA contains very high standards on financial services, insurance, and express delivery services, while the New Zealand-Malaysia FTA contains GATS-plus market access commitments in education, environment, maritime, tourism, management consulting, and veterinary services. If the TPP includes such provisions, it will substantially upgrade the breadth and quality of services liberalization undertaken by participating countries in their existing bilateral and regional trade pacts.

II. An International Services Agreement

At a conference in June 2011, the Services Task Force of the Pacific Economic Cooperation Council and the Asian Development Bank Institute (PECC and ADBI 2011) produced a report in favor of a plurilateral approach to the negotiation of a services agreement outside the Doha Round. The PECC study included a question in its 2011 annual survey of opinion leaders: "should APEC members take the lead in promoting a plurilateral agreement on services?" Responses were overwhelmingly positive: 72 percent of all those who answered responded positively and only 5 percent dissented. This positive response was shared to almost the same degree by government officials (70 percent) as by business leaders (76 percent).

In January 2012, the idea of a plurilateral agreement on services began to take shape, when a group of self-selected industrialized and advanced developing countries held their first "brainstorming" session in Geneva on how to advance liberalization of trade in services. The initial group of 16 countries was joined by an additional two countries at the next meeting in March 2012, and Israel and Turkey joined in May 2012. The group now includes Australia, Canada, Chile, Colombia, Costa Rica, the European Union (counting the 27 members of the European Union as a single country), Hong Kong, Israel, Japan, Mexico, New Zealand, Norway, Pakistan, Peru, Singapore, South Korea, Switzerland, Taiwan, Turkey, and the United States. The goal of the group is to develop an International Services Agreement (ISA) within the WTO, but outside the Doha Round negotiations, which develops new rules governing trade and investment in services and broadens market access commitments. The group has not yet decided whether such liberalization would be implemented on an MFN or conditional MFN basis. Actual negotiations are unlikely to begin until 2013 (Inside US Trade 2012).

The payoffs of an ISA would be significant. According to Hufbauer, Jensen, and Stephenson (2012), a 50 percent cut in tariff equivalent barriers to services trade could add $78 billion in exports among the current ISA participants. The Asian countries participating in the talks account for over a third of these gains. However, important developing Asian countries such as Indonesia, Malaysia, and Thailand, and larger Asian economies like China and India, are not yet involved. Including them in the ISA would substantially boost export gains and would benefit developing Asia countries that have done very little on services liberalization, particularly in areas like infrastructure and financial services, and stand to gain substantially from opening up services trade.

Before negotiations on an ISA can advance very far, however, participants need to address two basic architectural issues: namely whether the ISA should follow a negative or a positive list approach to scheduling concessions, and whether obligations should be applied on a conditional or unconditional MFN basis. Ideally, the ISA would move away from the GATS positive list approach and adopt a negative negotiating modality. Under the negative list approach all service sectors and measures are included in the agreement, and generally all of the disciplines apply to these sectors and measures without limitations, unless otherwise specified. The positive list allows each country to select which service sectors and subsectors will be included, and what type of market access and treatment each will receive. The positive list approach is more limiting with regard to the coverage in each national schedule. In contrast, the negative list approach obliges countries to review the entire range of regulatory measures and restrictions in the service sector, and identify those that should be placed in a list of "non-conforming" measures (i.e., those measures or sectors that cannot meet the core disciplines of market access, national treatment, and unconditional MFN).

Regarding conditional or unconditional MFN treatment, Article II of the GATS spells out an unconditional MFN obligation between all WTO members but allows countries to take exemptions. However, if the ISA is outside the WTO the agreement need not apply unconditional MFN to non-members. Conditional MFN treatment may be the wiser choice in this agreement considering the fact that several important countries have not yet agreed to participate in the ISA and would be "free riders" on the prospective liberalization if the accord is implemented on an MFN basis.

CONCLUSION

To date, trade negotiations have focused more on dismantling barriers to merchandise trade than on barriers to services trade and investment. This lack of attention can be attributed in part to the nature of and difficulty in identifying and understanding impediments to services trade. Services data are incomplete and too aggregated to provide the kind of information needed to understand the detailed characteristics of service sectors in each economy. It is thus hard to develop and assess negotiating strategies without solid estimates of the restrictiveness of specific services trade barriers and the impact of negotiated obligations and commitments in trade agreements on the ability of service providers to trade and invest in a specific market. With those limitations in mind, we offer three main findings below.

First, FTAs negotiated between developing and developed countries have produced more substantial commitments to liberalize services than those negotiated between developing countries. This is evident from the analysis of the five FTAs considered in this paper. Agreements like the ASEAN and China-ASEAN FTAs initially focused on dismantling barriers to merchandise trade, and only addressed barriers to services trade and investment years later, as a separate component of the agreement. Even then, intra-Asian arrangements cover services to a limited degree. For example, there has been scant progress in key sectors such as professional services and telecommunication in East Asian and Pacific countries, and little liberalization in financial services in South Asian countries (Borchert, Gootiiz, and Mattoo 2011).

Second, multilateral negotiations on services also have underperformed. In the Doha Round, the insistence by developing countries that modalities for liberalizing agriculture and non-agricultural market access be completed before seriously engaging in talks on services meant that substantive negotiations on services trade never really got started. Thirteen Asian countries presented initial services offers in the Doha Round that did not presage changes in existing barriers to trade and investment. In contrast, evolving services trade initiatives in the Asia-Pacific region and plurilateral proposals in the WTO seek to achieve more substantial trade and investment reforms across a broader range of service sectors, particularly infrastructure services that are important contributors to productivity growth across the economy.

Third, within developing Asia most countries have not been active participants in services trade negotiations in the GATS/WTO and have undertaken only token obligations in regional trade arrangements. In most instances, these commitments have codified current practice and have not helped propel domestic economic reform. That said, there is something to be said for the importance of policy predictability in encouraging investment, so making current restrictive policies more transparent and "locking them in" may have positive, though hard to quantify, benefits.

To that end, we advocate a stronger effort by developing Asian countries to prioritize services negotiations in their regional arrangements, and to expand coverage of services in those pacts to a broad range of infrastructure services that are included in other FTAs in force or under construction in the Asia-Pacific region, like the TPP. In addition, these countries should volunteer to participate in prospective new plurilateral services initiatives like the ISA, and seek inclusion of obligations for developed country signatories to provide administrative and technical support to help developing Asia establish and implement the required new regulatory regimes.

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Table 1 Services provisions in selected free trade agreements

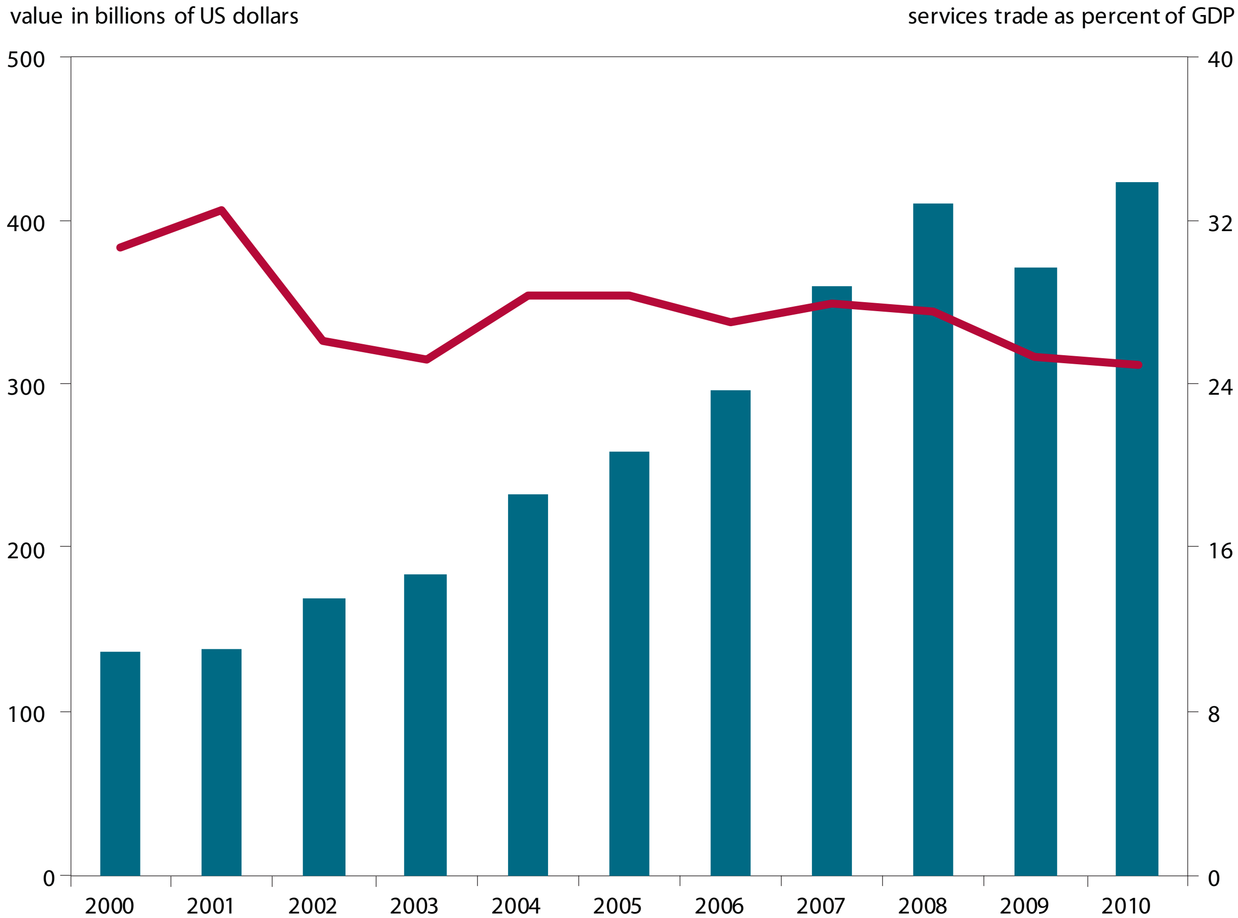
	ASEAN-China	New Zealand-China	Malaysia-New Zealand	Korea-United States
Entry into force	July 2007, updated Nov 2011[1]	October 2008	July 2010	March 2012
Negotiating modality	Positive	Positive	Positive[2]	Negative
Notable exclusions[3]	■ Government procurement ■ Subsidies or grants provided by either party ■ Air transport services	■ Government procurement ■ Subsidies or grants provided by either party ■ Air traffic rights ■ Services supplied by the government	■ Government procurement ■ Subsidies or grants provided by either party ■ Cabotage in maritime transport ■ Air traffic rights	■ Government procurement ■ Subsidies or grants provided by either party ■ Air transport services
Most-favored nation treatment	No	Applied to select sectors:[4] ■ Environmental services ■ Construction ■ Engineering ■ Computer services ■ Tourism ■ Services incidental to agriculture and forestry	Applied to select sectors: ■ Private education ■ Environmental services ■ Engineering ■ Computer ■ Services incidental to mining	Yes, applied to all service sectors.
National treatment	Yes, with exceptions. In China: ■ Computer services In ASEAN countries: ■ Communication ■ Construction ■ Tourism ■ Energy ■ Real estate ■ Financial services ■ Health related services	Yes, with exceptions. In New Zealand: ■ Audiovisual ■ Telecommunications ■ Engineering In China: ■ Legal services ■ Architecture ■ Medical doctors ■ Scientific consulting ■ Construction ■ Insurance ■ Banking ■ Tourism	Yes, with exceptions. In New Zealand: ■ Services incidental to animal husbandry ■ Telecommunications ■ Audiovisual services In Malaysia: ■ Architecture ■ Engineering ■ Education ■ Financial services ■ Veterinary services	Yes
Local presence requirements	Yes	No	No	No
Mode 4 provisions	Yes	Yes, separate chapter	Yes, separate chapter	Yes

ASEAN = Association of Southeast Asian Nations

1. The Framework Agreement on Comprehensive Economic Cooperation between China and ASEAN was signed in 2002. This agreement included merchandise trade only. In 2007 China and ASEAN signed a separate agreement on services, which was updated in 2011. Article 4 of the ASEAN-China agreement states that Parties agree to enter into negotiations to progressively liberalize trade in services, beyond those undertaken by ASEAN members and China under GATS.
2. Malaysia agreed to renegotiate its services commitments with New Zealand on a negative list basis if and when it concludes a negative list agreement with another country in the future.
3. In the ASEAN-China FTA special treatment is given to Cambodia, Lao People's Democratic Republic (PDR), Myanmar and Vietnam, allowing them to open fewer sectors, liberalize fewer types of transactions, and progressively extend market access in line with their respective development situation.
4. MFN treatment does not apply to FTAs already in force at the date of entry into force of the New Zealand-China agreement.

Source: Individual free trade agreements.

Figure 1 Total trade in services of ASEAN nations



Source: Authors' calculations using UN Service Trade Database.

Table 2 Distribution of services trade of ASEAN (percent)

Subsector	Exports		Imports	
	2000	2010	2000	2010
1 Transportation	31.8	24.5	43.3	40.8
2 Travel	35.1	32.5	17.9	21
3 Communications services	1.7	1.7	1.5	1.4
4 Construction services	1.3	1.1	2.3	1.0
5 Insurance services	1.4	1.7	4.4	3.9
6 Financial services	3.5	6.5	1.3	1.5
7 Computer and information services	0.7	2.1	0.8	1.0
8 Royalties and license fees	0.2	1.1	10.1	11.1
9 Other business services	23.5	28.2	17.2	17.2
10 Personal, cultural, and recreational services	0.1	0.2	0.3	0.3
11 Government services, n.i.e.	0.6	0.5	0.8	0.6

ASEAN = Association of Southeast Asian Nations

Source: Staff calculations using UN Services Trade Database.

Table 3 Policy priorities

Service sector	Policy focus
Telecommunications	■ Regulations that allow operators to connect to existing networks without discrimination and allow the development of internet-based telephony
	■ Reducing barriers to entry for foreign companies can boost competition, thereby lowering prices and improving service provision
	■ Licensing arrangements to facilitate entry without discrimination against foreign service providers
Transport, distribution, and logistics	■ Restriction on commercial presence
	■ In logistics: role of government monopolies in some logistics-related sectors.
Finance	■ Commercial presence and intra-corporate fees. Myanmar is almost completely closed to foreign providers; Vietnam, Malaysia, Thailand, and Lao People's Democratic Republic (PDR) are the next most restrictive; Brunei Darussalam and the Philippines are less restrictive than the ASEAN average; and Cambodia and Indonesia are relatively more open in terms of commercial presence
Health services	■ People-related regulations, e.g., licensing, training of local staff; number of nationals in foreign hospitals
	■ Type of establishment and scope of ownership
Education services	■ Commercial presence, e.g., restriction to establish branch or satellite campuses
	■ Denial of privileges to foreign-owned schools and students
	■ Discriminatory measures in the provision of research grants
	■ Indonesia and the Philippines have absolute restrictions on the establishment of foreign-owned universities
Business process outsourcing and other off-shored services	■ Availability of a large pool of human resources
	■ Foreign direct investment (FDI) restrictions
	■ Rules on data security and intellectual property rights
Business and professional services	■ Mutual recognition agreements to facilitate trade in professional services at the same time ensuring consumer protection

Source: Shepherd and Pasadilla (2012)

Table 4 Services trade between the PRC and ASEAN

Country	Sectors with advantage/potential	Sectors needed to be developed
PRC	Construction, marine transportation, travel, computer and information	Financial services, insurance, consulting
Brunei Darussalam	Travel and related services, financial services, cooperative exploitation of oil and natural gas	Commercial services, transportation
Cambodia	Travel and related services, construction and related engineering	Commercial services, telecommunication services, environment, and public facility
Indonesia	Transportation, communication, post and cable services, consulting	Financial services, insurance, travel
PDR Lao	Electricity, travel, and related services,	Transportation, communication
Malaysia	Travel and related services, financial services	Commercial services
Myanmar	Energy exploitation, construction, mining	Energy and human resource exploitation, travel, transportation, and communication
Philippines	Information and related services, paging hub, commercial purchasing services	Travel, banking, and security
Singapore	Air transportation, financial services, hotel, exhibition services	Gambling, construction
Thailand	Travel, environment, and financial services	Construction and related services
Vietnam	Labor services	Education, commercial services, technological services, financial services

PDR = People's Democratic Republic; PRC = People's Republic of China; ASEAN = Association of Southeast Asian Nations
Source: Table 3, Yang (2009).

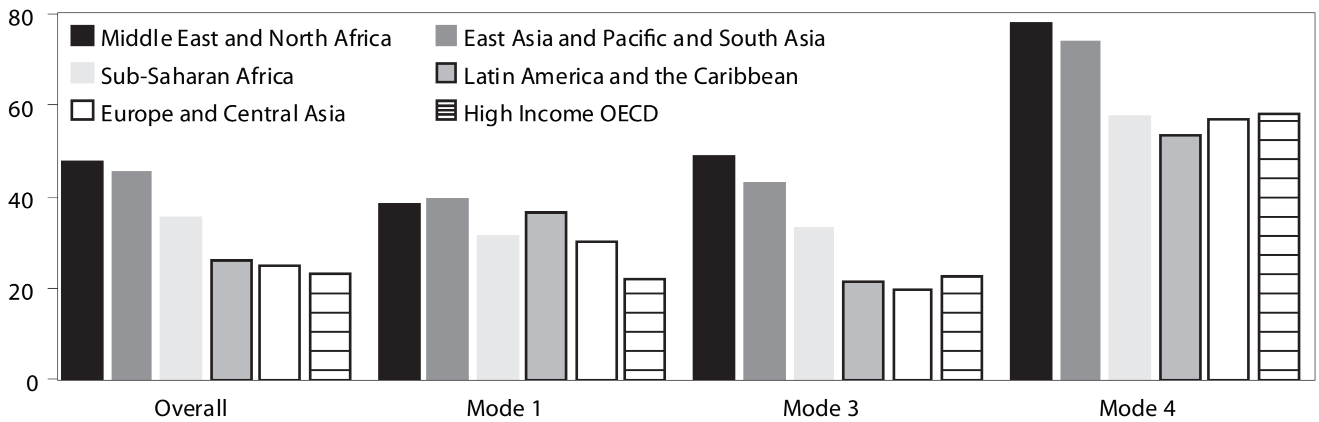
Table 5 Summary of studies on gains from liberalization in services trade

Study	Methodology	Main findings
Centre d'Études Prospectives et d'Informations Internationales (CEPII), 2011	■ Dynamic computable general equilibrium (CGE) model to compare the trajectory of the world economy with the liberalizations outlined in the Doha Development Agenda (DDA), to a dynamic baseline scenario where the DDA is not concluded. ■ Use draft modalities from December 2008, and updated in April 2011. ■ Assume 3 percent reduction in barriers in services trade. ■ Tariff equivalent barriers of services are from CEPII (Fontagné, Guillin, and Mitaritonna, 2011). ■ Services barriers take two forms: - An export tax in the case of communication and transport services. - Additional iceberg trade cost in the case of other services. ■ The scenarios are implemented in 2012. Phasing out is applied linearly over 5 years for developed countries, 10 years for developing countries, and 12 years for recently acceded countries.	■ World: - The estimated GDP gains from a 3 percent reduction in services barriers are $15 billion, or 10 percent of total GDP gains (agriculture plus non-agricultural market access (NAMA) plus services). - Services exports would increase by $34 billion, or 10 percent of total exports. ■ Asia[1]: - The estimated GDP gains are $4.8 billion, or 32 percent of total GDP gains from services liberalization. - China accounts for 16 percent of these gains, followed by the Association of Southeast Asian Nations (ASEAN) which accounts for 6 percent (see table 2). - Results show that services exports for all Asian countries, except India, will stagnate. - The largest sectoral gains in terms of value added are in construction and transportation.
Peterson Institute for International Economics (PIIE), 2010	■ Partial equilibrium analysis to calculate the impact of a 10 percent reduction in barriers to services trade for a sample of 21 countries.[2] ■ Use tariff equivalent barriers estimates reported in Wang, Mohan, and Rosen (2009), with adjustments to a few of the tariff equivalent values. ■ Assume the 10 percent reduction could be achieved by various changes in policies across countries, and that these would be binding commitments in the General Agreement on Trade in Services (GATS) schedules that actually lower the applied level of services barriers.	■ World: - The estimated gains in GDP from trade gains (exports plus imports) amounts to $45.5 billion. - Global services exports increase by $55 billion, imports by $49.8 billion. ■ Asia: - Services exports (among the sample 21 countries) are estimated to increase by $11.5 billion. China accounts for approximately 30 percent of these exports; Japan and Korea account roughly 20 and 15 percent. - Imports would increase by $21.5 billion. China accounts for 34 percent of this total and India accounts for roughly 20 percent.
The World Bank, 2011	■ A survey of applied trade in services policies in 32 developing countries and 24 Organization for Economic Cooperation and Development (OECD) countries. ■ Compares applied policies with these countries' GATS commitments in services, and the best offers that they have made in the current Doha negotiations. ■ Summarizes key restrictions in each sector to construct restrictiveness index for services trade policies. ■ These are then mapped on a 5-point scale ranging from 0 (no restrictions) to 1 (highly restricted). ■ Sector results are aggregated across modes of supply using weights that reflect the relative importance of the different modes for each sector.	■ World: - The best offers submitted in the Doha negotiations improve on Uruguay Round commitments by 10 percent but are on average 2.3 times more restrictive than actual policies in the respective countries. - Overall actual policy is substantially more liberal than Uruguay Round (UR) commitments, and Doha offers improve somewhat upon UR commitments, but the offer gap still remains large.[3] ■ Asia[4]: - SAR has a services trade restrictiveness index (STRI) of 40.7, while East Asia Pacific (EAP) has an STRI of 39.9 (the highest STRI after the Middle East and North Africa and Gulf Cooperation Council groupings). - Southeast Asia Region (SAR) and EAP countries have restrictive policies in place. However, the Doha offers submitted by SAR countries improve more on their UR commitments than the Doha offers submitted by EAP countries. - At the sectoral level Doha offers from SAR and EAP offer the most in telecommunications and maritime shipping. They offer the least in retail distribution, maritime auxiliary, and professional services.

1. Asia refers to ASEAN, China, India, Japan, Korea, Taiwan, and "rest of Asia" (Bangladesh, Pakistan, Sri Lanka, Afghanistan, Bhutan, Maldives, and Nepal).
2. Includes Argentina, Australia, Brazil, Canada, China, Colombia, the European Union, India, Indonesia, Japan, Korea, Malaysia, Mexico, Norway, Pakistan, Philippines, South Africa, Switzerland, Thailand, Turkey, and the United States.
3. The "offer gap" refers to Doha offers minus actual policies.
4. The authors aggregate "Asia" into two regions; Southeast Asia Region (SAR) and East Asia Pacific (EAP).

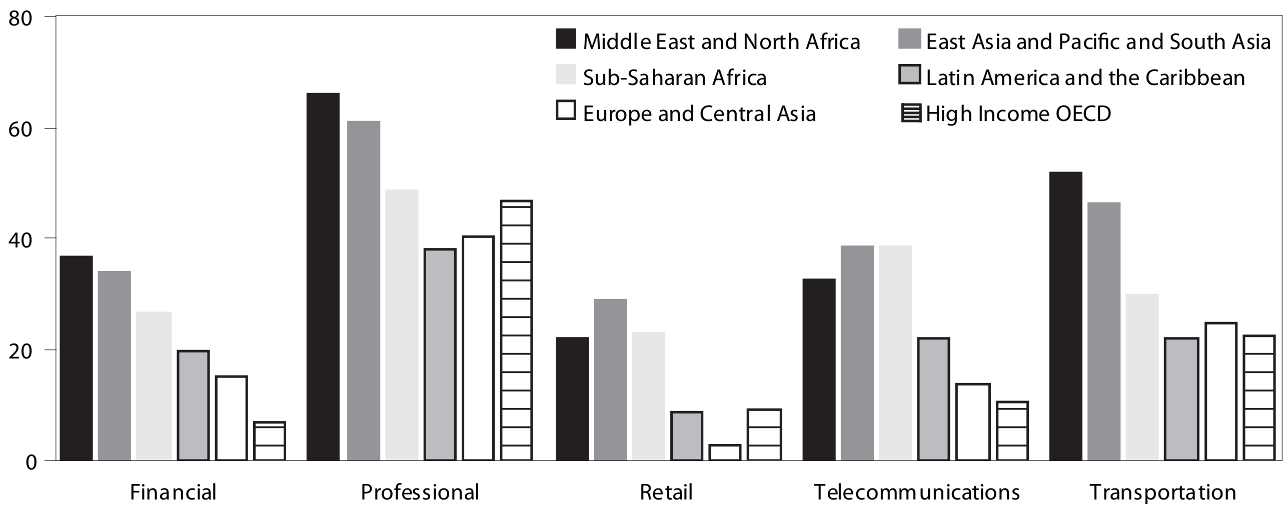
Sources: Hufbauer, Schott, and Wong, 2010; Decreux and Fontagné 2011; and Borchert, Gootiiz, and Mattoo 2011.

Figure 2 Services trade restrictiveness index



Note: Regional services trade restrictiveness index (STRI) is calculated as simple averages of individual country's STRI.
Source: World Bank, Services Trade Restrictiveness Database.

Figure 3 Services trade restrictiveness index, by sector



Note: Regional services trade restrictiveness index (STRI) is calculated as simple averages of individual country's STRI.
Source: World Bank, Services Trade Restrictiveness Database.