

HOW TO CUT SERVICES TRADE COSTS:

THE WTO JOINT INITIATIVE ON SERVICES DOMESTIC REGULATION

ARTNeT Webinar

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Jane Drake-Brockman, Institute for International Trade

Markus Jelitto, WTO Secretariat

1. What is the Problem and why is it important for Regional Trade?

Services Business Perspectives

- From a business perspective, good trade policy always starts at home. And the Domestic Regulation agenda is what most services business representatives see as the “Cutting through the Red Tape” agenda. Its about every economy getting its own domestic regulatory house in order.
- If domestic regulatory regimes are inefficient, local business compliance costs will be too high and local businesses wont be competitive. They wont attract investment partners. They wont find an offshore B2B niche.
- If domestic regulatory regimes are efficient, then yes, foreign firms will be more likely to invest in and to enter local markets. But there is a strong evidence base that **this kind of trade reform is a win-win** all around, leading chiefly to **a rise in the level of domestic production** of services.
- Meaning that local businesses will also grow. Local SMEs and MSMEs will tend to experience the deepest regulatory compliance cost reductions and productivity gains allowing for **local SME growth and internationalisation**.
- This is why so many services business associations around the world share similar perspectives on this particular topic. It is why the Global Services Coalition exists. Its why the Asia Pacific Services Coalition was able to come together. Services SMEs everywhere (and remember the services sector is THE SME sector) are all in the same boat.
- **Cutting trade costs is a shared win-win for business everywhere.**

Business Survey Findings; PECC 2016



Question: On a scale of 1 to 5, how much of an impediment do you think each of the following are to services trade in the region?

	SME	Govt	Biz	Large	Services	Non-services
Transparency, multiple layers of authority, and predictability of regulations	1	1	1	1	1	1
Restriction on data flows	2	6	4	6	3	9
Complex requirements for visas and permits for foreign employees	3	3	3	3	2	7
Quotas on the entry of foreign employees	4	7	7	8	5	10
Limitations on firms operations	5	10	8	9	8	3
Certification and standards issues	6	2	2	2	6	2
Transfer of technology requirements	7	4	5	4	4	8
Screening of foreign investments	8	5	10	11	10	6
Recognition of qualifications for foreign employees	9	8	6	5	7	4
Localization requirements	10	9	9	7	9	5
Foreign equity limits	11	11	11	12	13	11
Restrictions on land ownership	12	12	13	13	12	14
Economic needs tests for foreign employees	13	13	12	10	11	13
Minimum capitalization requirements	14	14	14	14	14	12

2. How have Governments responded to the Challenge, in RTAs and in the WTO?

WTO: From Uruguay Round to DDA

- The WTO Uruguay Round of multilateral negotiations ended in **1994**, including a “built-in agenda” of ongoing negotiations on both agriculture and services, including on **domestic regulation of services**.
- The “built-in agenda” negotiations commenced in early **2000** and in late **2001** were incorporated into the Doha Development Agenda (DDA).
- In Geneva, the WTO saw no progress on Services Domestic Regulation until in **2017**, at the WTO MC in Buenos Aires, 59 WTO Members affirmed their commitment to advancing negotiations on Services Domestic Regulation.

Work on Principles for Domestic Regulation

- 1997 **OECD Principles on Regulatory Reform**
- 1999 **APEC Principles to Enhance Competition & Regulatory Reform**
- 2001 **APEC Principles on Trade Facilitation** (Regulatory Transparency, Communication and Consultation, Simplification, Practicability and Efficiency, Non Discrimination, Consistency and Predictability, Harmonization, Standardization and Recognition, Modernization and the Use of New Technology, Due Process, Cooperation)
- 2001 **APEC Menu of Options for Voluntary Liberalization, Facilitation & Promotion of Economic & Technical Cooperation in Services Trade & Investment**
 - 2002 **APEC General Transparency Standards**
 - 2003 **APEC Principles for Services Trade Liberalization, Facilitation & Economic & Technical Cooperation**
 - 2003 **APEC Principles for Regulatory Cooperation & Reform of Services Trade**

Long Gap during which focus shifted to Self-Assessment Tools (next slide)

- 2018 **APEC Non-Binding Principles for Domestic Regulation of Services** (Outcome of 2015 APEC Services Competitiveness Framework & 2016 APEC Services Competitiveness Roadmap)
- 2020 **Draft Reference Paper, WTO JI on Services Domestic Regulation**
- 2021 **“OECD Best Practice Principles on International Regulatory Co-operation”, Non-Binding Principles, Draft for consultation**

Self Assessment Tools on Regulatory Best Practice

- 2005 “OECD/APEC Integrated Checklist on Regulatory Reform”
- 2011 [APEC business & academic stakeholders both call for APEC Principles on Dom Reg](#)
- 2012 “OECD Recommendation of the Council on Regulatory and Policy Governance”
- 2014 World Bank “**Regulatory Assessment Toolkit: A Practical Methodology for Assessing Regulation on Services Trade and Investment**”
 - “Services are famously (and indeed on occasions literally) where the rubber of trade meets the road of a country’s domestic economic conditions. Domestic regulation of services has a significant impact on the vibrancy of trade in services and simultaneously in trade in goods, since services such as telecommunications, transport, financial, and energy are inputs to the manufacturing process”
- 2014 World Bank “**Valuing Services in Trade: A Toolkit for Competitiveness Diagnostics**”.
 - The Toolkit provides a framework, guidelines, and set of practical tools to conduct a thorough analysis and diagnostic of trade competitiveness in the services sector with a methodology that sheds light on a country’s ability both to export services and improve its export performance through policy change.
 - This prompts the [2015 APEC Services Competitiveness Framework](#) (back to previous slide)

Regional Comprehensive Economic Partnership

- Original RCEP negotiating partners from ASEAN: Brunei Darussalam, Cambodia, Indonesia, Lao PDR, Malaysia, Myanmar, Philippines, Singapore, Thailand* and Viet Nam and ASEAN FTA partners: Australia*, China*, India, Japan*, New Zealand* and the Republic of Korea*
- Ministers from 15 of these countries signed RCEP in November **2020**
- An important pillar in regional economic integration efforts and work towards a model framework of global trade and investment rules
- Facilitating services trade is an essential component, including disciplines on Domestic Regulation
- These are designed to lock in and improve good regulatory practice across the region to optimize the benefits of services market access commitments made under RCEP

Similar Disciplines in Other RTAs

- Pacific Alliance
- Hong Kong, China – New Zealand
- Vietnam – EU
- Singapore – EU
- Indonesia – Australia
- US – Ecuador (Protocol on Trade Rules & Transparency)
- ASEAN – China
- ASEAN – Korea

WTO Joint Initiative SDR disciplines

WB Toolkit 2014

Examinations of
professionals
programmed at
frequent intervals

Develop technical
standards through
open and transparent
process

Transparent and objective
requirements and procedures

Transparency and
reasonability of
authorization fees

Non-discrimination
between men and
women

Timeframes for
processing applications

Reasonable time before
entry into force

Acceptance of
authenticated copies of
documents

Stakeholder
engagement

Independence
of competent
authorities

Interagency
coordination

Time periods for
submission of
applications

Enquiry
points

Publish information relevant
for service suppliers (online)

Regulatory impact
assessment

Use of
international
standards

Information on status
and decision on
application

Administrative and
judicial review

WB – WTO
STRI 2016-2020

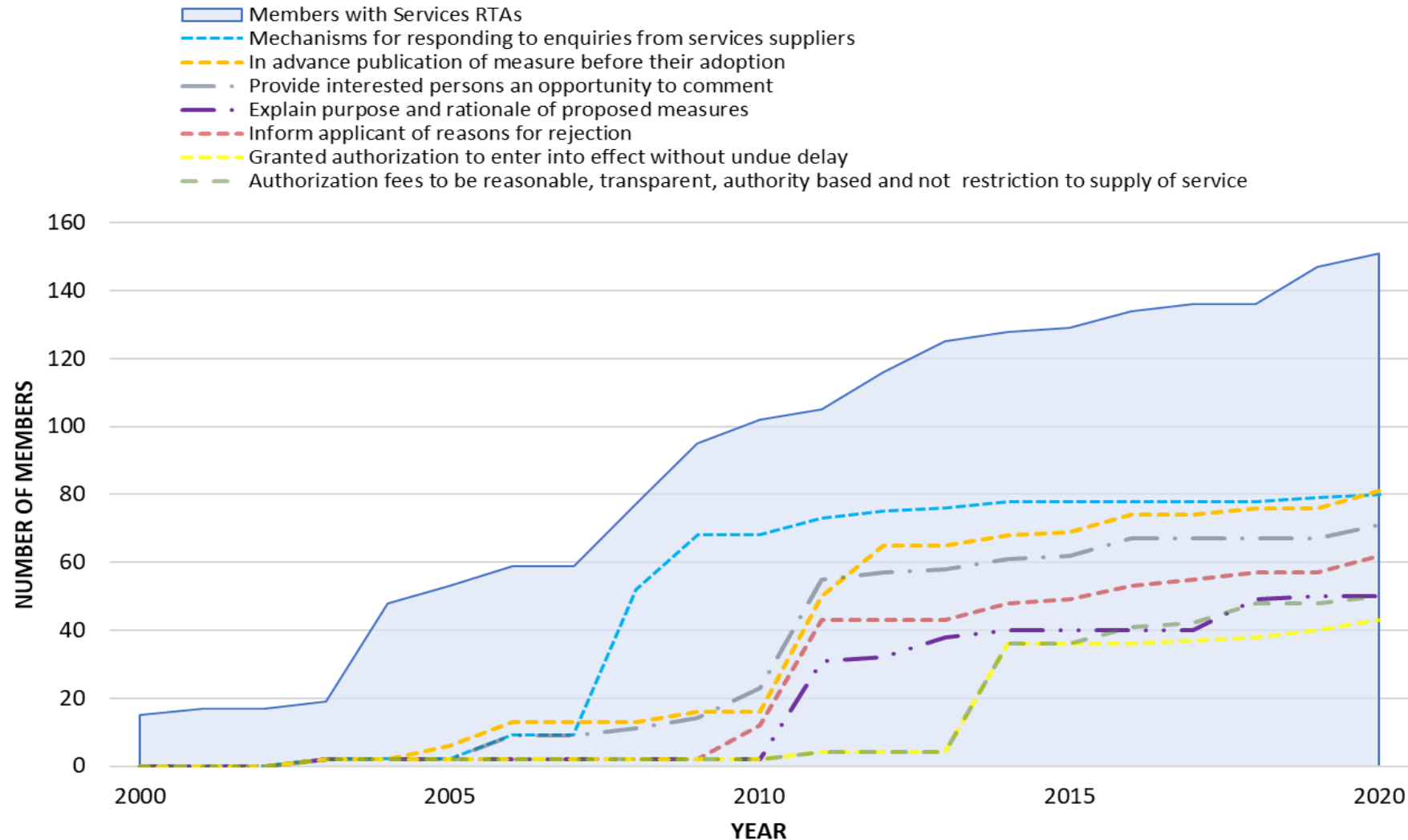
Appeal mechanisms for
administrative decisions

International
cooperation

Enforcement procedures
and risk management

OECD Recommendation
2012

Services Domestic Regulation and Regional Trade Agreements



SERVICES DOMESTIC REGULATION AT THE WTO

- Basic rules contained in the GATS against **unnecessarily trade restrictive** regulatory requirements and procedures for services suppliers
- **Building upon GATS regulatory provisions**, the disciplines developed by the Joint Initiative aim to enhance transparency and predictability of Members' authorization procedures to supply services
- The disciplines developed by the Joint Initiative are **not be construed to diminish any GATS obligations of Members** (paragraph 6 of Section I of INF/SDR/W/1/Rev.2)


Transparency



Ensuring prompt availability of information to service suppliers and stakeholder involvement

- Availability of information needed to comply with requirements and procedures for authorization
- Enquiry points for services suppliers
- Publication of draft regulations and opportunity for comments


Legal certainty and predictability



Establishing regulatory and procedural guarantees to be followed by competent authorities when dealing with applications

- Indicative timeframes for processing applications
- Information on status and decision on applications
- Reasonable time between publication of laws and regulations and their entry into force

Regulatory quality and facilitation



Disseminating good regulatory practices to facilitate services suppliers' ability to trade

- Acceptance of electronic applications and authenticated copies of documents
- Independent and impartial decision making by competent authorities
- Reasonable and transparent authorization fees

Flexibilities and development related provisions

- **Horizontal flexibilities** throughout the text to preserve space for differences in WTO members' regulatory capacity and approaches
- **Transitional periods** for developing countries (paragraph 10 of Section I of INF/SDR/W/1/Rev.2)
- Least-developed countries participating in the Initiative would adopt the disciplines **only upon graduation from LDC status** (paragraph 11 of Section I of INF/SDR/W/1/Rev.2)
- **Technical assistance and capacity building** on mutually agreed terms and conditions (paragraph 13 of Section I of INF/SDR/W/1/Rev.2)

COMPARISON OF SCOPE AND COVERAGE

	JSI (Section II)*	RCEP
Scope of measures covered	<p>Measures relating to:</p> <ul style="list-style-type: none"> ▪ Qualification requirements and procedures ▪ Technical standards ▪ Licensing requirements and procedures 	<p>Measures relating to:</p> <ul style="list-style-type: none"> ▪ Qualification requirements and procedures ▪ Technical standards ▪ Licensing requirements
Coverage of disciplines	<ul style="list-style-type: none"> ▪ Disciplines apply to a Member's specific commitments as set out in its GATS schedule ▪ Members are encouraged to apply the disciplines to additional sectors as well ▪ Disciplines do not apply to any terms, limitations, conditions or qualifications set out in a Member's GATS schedule 	<ul style="list-style-type: none"> ▪ Disciplines apply to RCEP parties' commitments, as set out in their schedules of specific commitments or schedules of non-conforming measures ▪ Some RCEP parties made commitments on entry into force on a negative list basis (Australia, Brunei Darussalam, Indonesia, Japan, Korea, Malaysia and Singapore) ▪ The remaining RCEP parties made commitments at entry into force on a positive list basis for Modes 1, 2 and 4 and a negative list basis for Mode 3 (Cambodia, China, Lao PDR, Myanmar, NZ, Philippines, Thailand and Viet Nam). ▪ Those remaining RCEP parties have agreed to transition to a full negative list within six years of entry into force (15 years for Cambodia, Lao PDR and Myanmar)
Flexibilities for developing countries and LDCs	<ul style="list-style-type: none"> ▪ Transition periods for implementation of the disciplines ▪ Non-application of the disciplines by the LDCs until after graduation 	<ul style="list-style-type: none"> ▪ No transition periods ▪ No flexibilities for LDCs

COMPARISON OF DISCIPLINES

JSI (Section II)*	RCEP	How do they compare?
Independence (Section II, paragraph 12)	No equivalent	RCEP has no equivalent
Publication and information available (Section II, paragraph 13)	Article 17.3.1 General Provisions and Exceptions Chapter	RCEP is substantively similar
Opportunity to comment and information before entry into force (Section II, paragraphs 14 – 19)	Article 17.3.2 General Provisions and Exceptions Chapter	RCEP is substantively similar
Enquiry points (Section II, paragraph 20)	Article 8.14.5 Trade in Services Chapter Article 18.8 Institutional Provisions Chapter	RCEP is substantively similar
Technical standards (Section II, paragraph 21)	Articles 8.15.5 and 8.15.6 Trade in Services Chapter	RCEP is substantively similar and has deeper provisions in some areas
Section II, paragraph 22 Development of measures	Article 8.15.5 Trade in Services Chapter	RCEP is substantively similar and has deeper provisions in some areas

COMPARISON OF DISCIPLINES

JSI (Section II)*	RCEP	How do they compare?
Submission of applications (Section II, paragraph 4)	No equivalent	RCEP has no equivalent
Application timeframes (Section II, paragraph 5)	No equivalent	RCEP has no equivalent
Electronic applications and acceptance of copies (Section II, paragraph 6)	Article 8.15.7(h) and (i) Trade in Services Chapter	RCEP is substantively similar
Processing of applications (Section II, paragraphs 7 and 8)	Article 8.15.7(b) – (f) Trade in Services Chapter	RCEP is substantively similar and has deeper provisions in some areas
Fees (Section II, paragraph 9)	Article 8.15.7(a) Trade in Services Chapter	RCEP is substantively similar
Assessment of qualifications (Section II, paragraph 10)	Article 8.15.8 Trade in Services Chapter	RCEP is substantively similar
Recognition (Section II, paragraph 11)	Article 8.16.6 and Annex 8C on Professional Services Trade in Services Chapter	RCEP has deeper provisions

CASE STUDY #1 – ACCEPTANCE OF COPIES

JSI (Section II)*	RCEP
<p>Paragraph 6:</p> <p>If a Member requires authorization for the supply of a service, it shall ensure that its competent authorities:</p> <p>...</p> <p>(b) accept copies of documents, that are authenticated in accordance with the Member’s domestic laws and regulations, in place of original documents, <i>unless the competent authorities require original documents to protect the integrity of the authorization process.</i></p>	<p>Article 8.15.7:</p> <p>Where a Party requires authorisation for the supply of a service, it shall ensure that its competent authorities:</p> <p>...</p> <p>(i) <i>where they deem appropriate</i>, accept copies of documents authenticated in accordance with its laws and regulations, in place of original documents.</p>

Paragraph 6(b) just pinpoints more specifically the circumstances in which Members would *not* consider it appropriate to accept copies of documents – they cannot be accepted if that would undermine the integrity of the authorisation process

CASE STUDY #2 – FEES

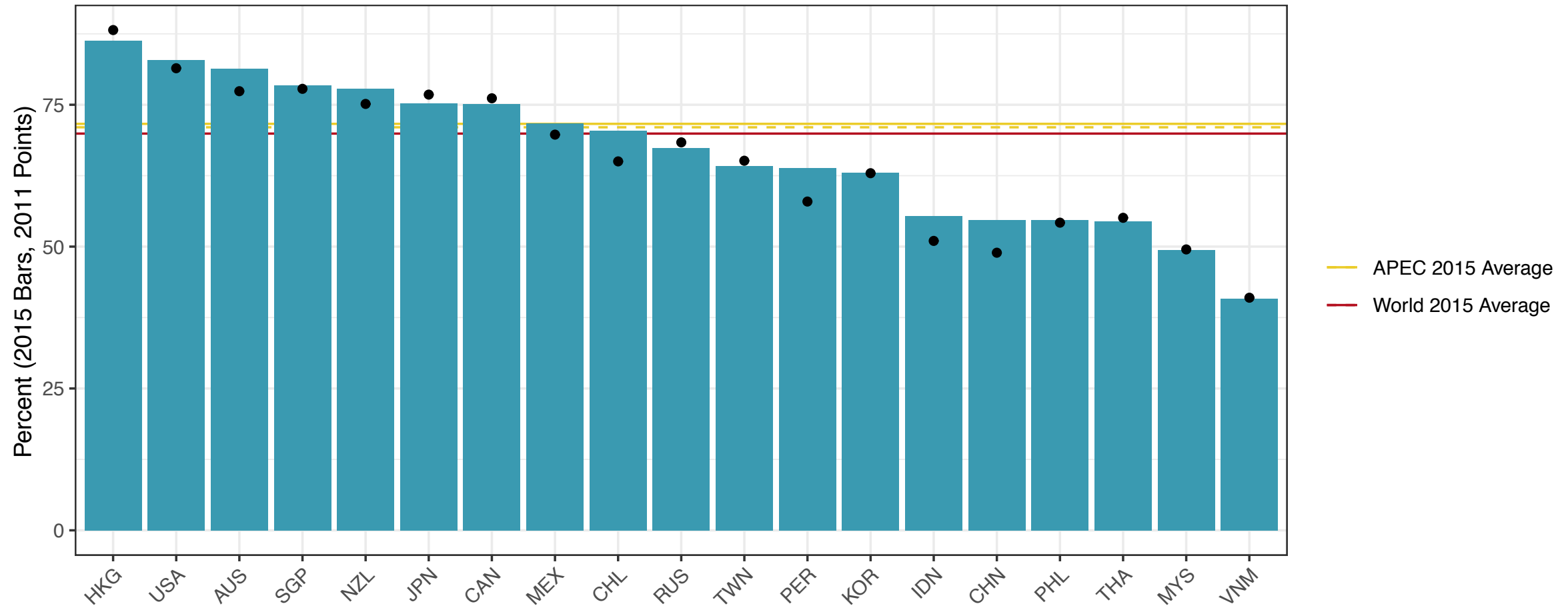
JSI (Section II)*	RCEP
<p>Paragraph 9:</p> <p>Each Member shall ensure that the authorization fees ^[FN] charged by its competent authorities are reasonable, transparent, based on authority set out in a measure, and do not in themselves restrict the supply of the relevant services.</p> <p><small>[FN] Authorization fees do not include fees for the use of natural resources, payments for auction, tendering or other non-discriminatory means of awarding concessions, or mandated contributions to universal service provision.</small></p>	<p>Article 8.15.7:</p> <p>Where a Party requires authorisation for the supply of a service, it shall ensure that its competent authorities:</p> <p>...</p> <p>(a) ensure that any authorisation fees charged for the completion of relevant application procedures are reasonable, transparent, and do not in themselves restrict the supply of a service. For the purposes of this subparagraph, authorisation fees do not include fees for the use of natural resources, payment for auction, tendering, or other non-discriminatory means of awarding concessions, or mandated contributions to universal services provision;</p> <p>...</p>

Paragraph 9 is substantively the same

3. Expected Benefits

Reminder: Services are key economic drivers

Share of Services Value Added in GDP, TiVA Data for 2015

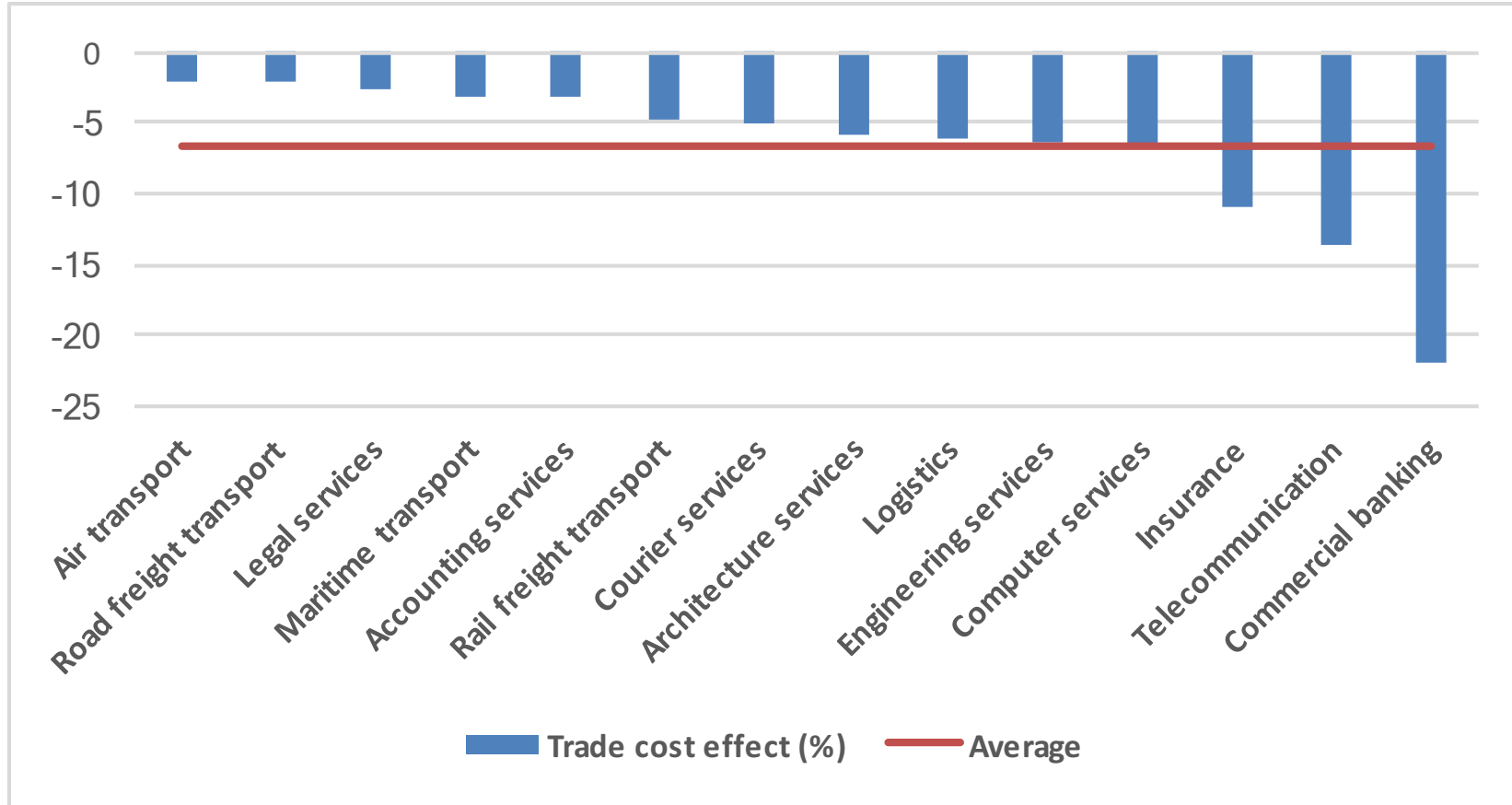


Source: Own calculations using OECD/WTO TiVA database 2018.

Benefits for the APEC Region

- The APEC Business Advisory Council report to APEC for the Mid Term Review of the APEC Services Competitiveness Roadmap, submitted in May 2021, emphasizes that where strong interlinkages exist between trade initiatives at APEC level and processes in multilateral fora such as the WTO, APEC economies should work in concert to help build critical mass for multilateral outcomes.
- ABAC also emphasizes the importance of all APEC economies participating in the WTO Joint Initiatives, all of which are pertinent to the Roadmap action items.
- **The ABAC Report states that the WTO JI on Services Domestic Regulation is deeply connected with the APEC Non-Binding Principles and warrants an APEC commitment to bring APEC weight to delivering for the 12th WTO Ministerial Council, the first and only outcome on services since the WTO was created.**
- ABAC refers to preliminary OECD estimates that over a 3-5 year period, implementation of these principles could deliver a significant reduction in regional trade costs across all services sectors.
- The OECD findings are now confirmed and published this week in a June 2021 OECD Trade Policy Brief available at <https://www.oecd.org/trade/topics/services-trade/documents/oecd-brief-apec-domestic-regulation.pdf> The following data is drawn from this OECD source.

Potential services trade cost reductions by sector (average 7% over 3-4 years)



As % of export values

Air transport	-2
Road freight transport	-2
Legal services	-3
Maritime transport	-3
Accounting services	-3
Rail freight transport	-5
Courier services	-5
Architecture services	-6
Logistics	-6
Engineering services	-6
Computer services	-7
Insurance	-11
Telecommunication	-14
Commercial banking	-22

Note: Calculations based on the 14 APEC economies currently covered in the OECD STRI.
Source: Calculations are based on the methodology in Benz & Jaax (2020).

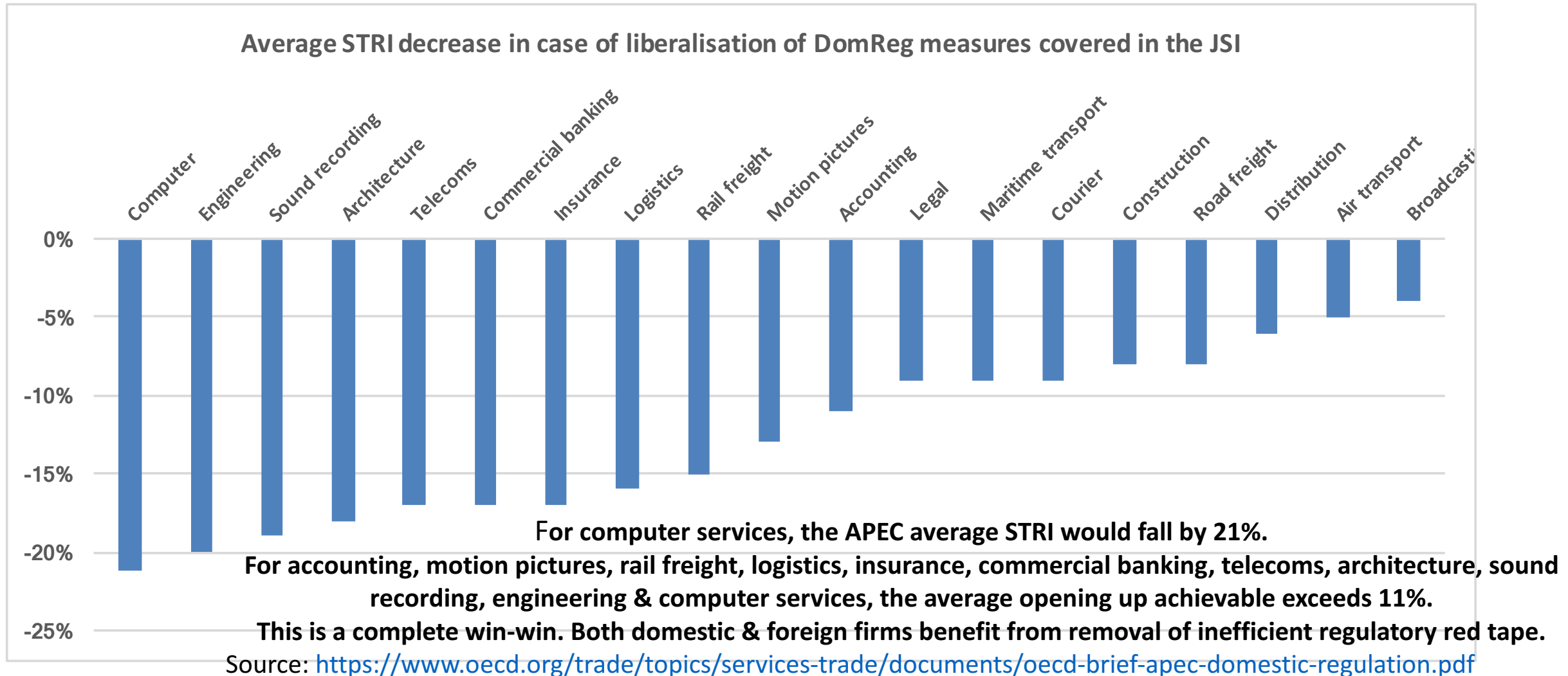
A closer look behind these averages

- If we look at **computer services**, we see that for 8 of the 14 economies in the data set, trade costs would fall by over 11% and for 5 of those economies, by over 15%.
- For **architecture**, for 8 economies, trade costs would fall by over 12% and for 4 of those economies, by over 16%.
- In **engineering**, for 8 economies there would be a drop in trade costs of over 12% and for 6 of those economies, a drop of over 16%.
- For **telecommunications**, there are 2 economies for which trade costs would fall by over 80%.
- **Insurance** services trade costs would fall by over 10% in as many as 11 of the 14 economies and for 7 of those economies the drop would exceed 18%.
- In **other commercial services**, the drop in trade costs exceeds 13% in as many as 11 economies and **for 9 of these economies, the cut in trade costs would exceed 29%.**
- **Much is at stake here for regional trade growth & post pandemic recovery**

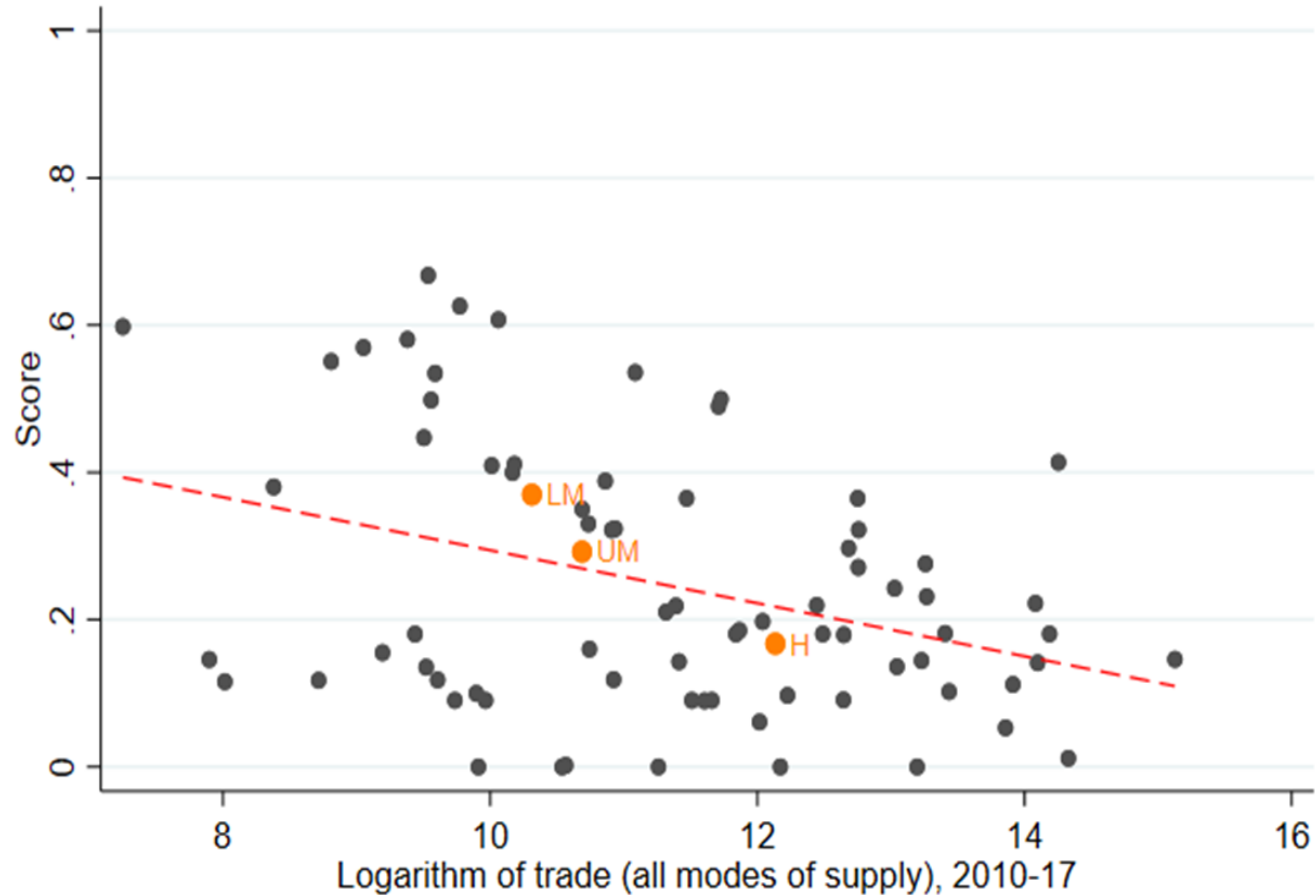
What does it mean for Services SMEs?

- OECD estimates for the APEC region suggest that on average, “trade cost reductions for SMEs could be between **2 and 3 percentage points higher** compared to large companies”.
- “With an average trade cost cut of around 7%, **“SMEs could benefit from trade cost reductions of up to 9%”**.”
- “The advantage of SMEs would be even larger in sectors experiencing the more profound reductions of services trade costs.” eg computer services, telecoms, financial services.
- “Improving services domestic regulation and reducing the costs of market entry would help improve the **inclusiveness** of services trade, allowing more SMEs to take up global opportunities.”
- See <https://www.oecd.org/trade/topics/services-trade/documents/oecd-brief-apec-domestic-regulation.pdf>

How much would the average OECD STRI drop if APEC economies eased domestic regulatory hurdles?



Services Domestic Regulation and Cross-Border Services Trade

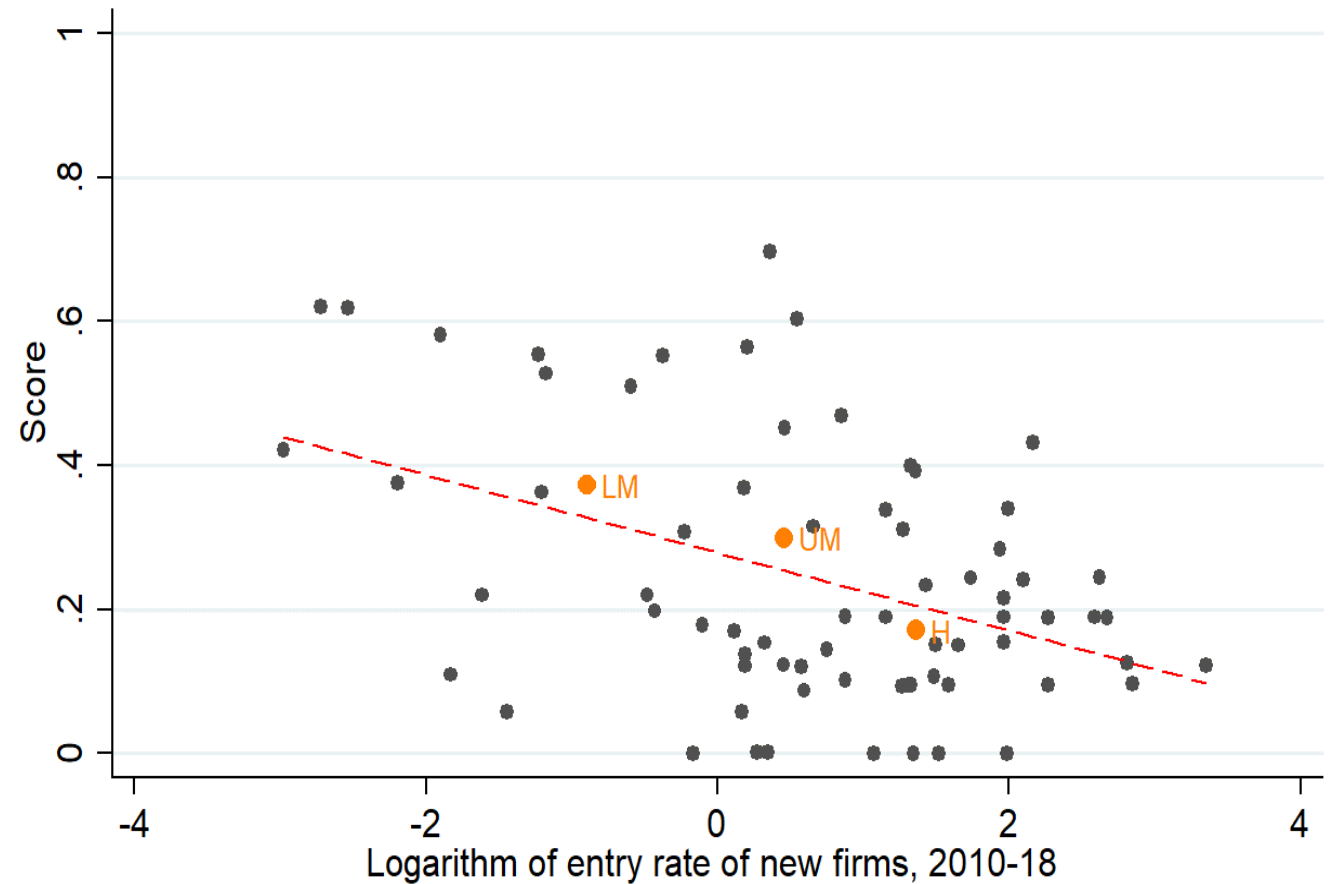


Note: H, UM and LM denote averages for high, upper-middle and lower-middle income economies.

Economies implementing more disciplines tend to participate more actively in international trade in services

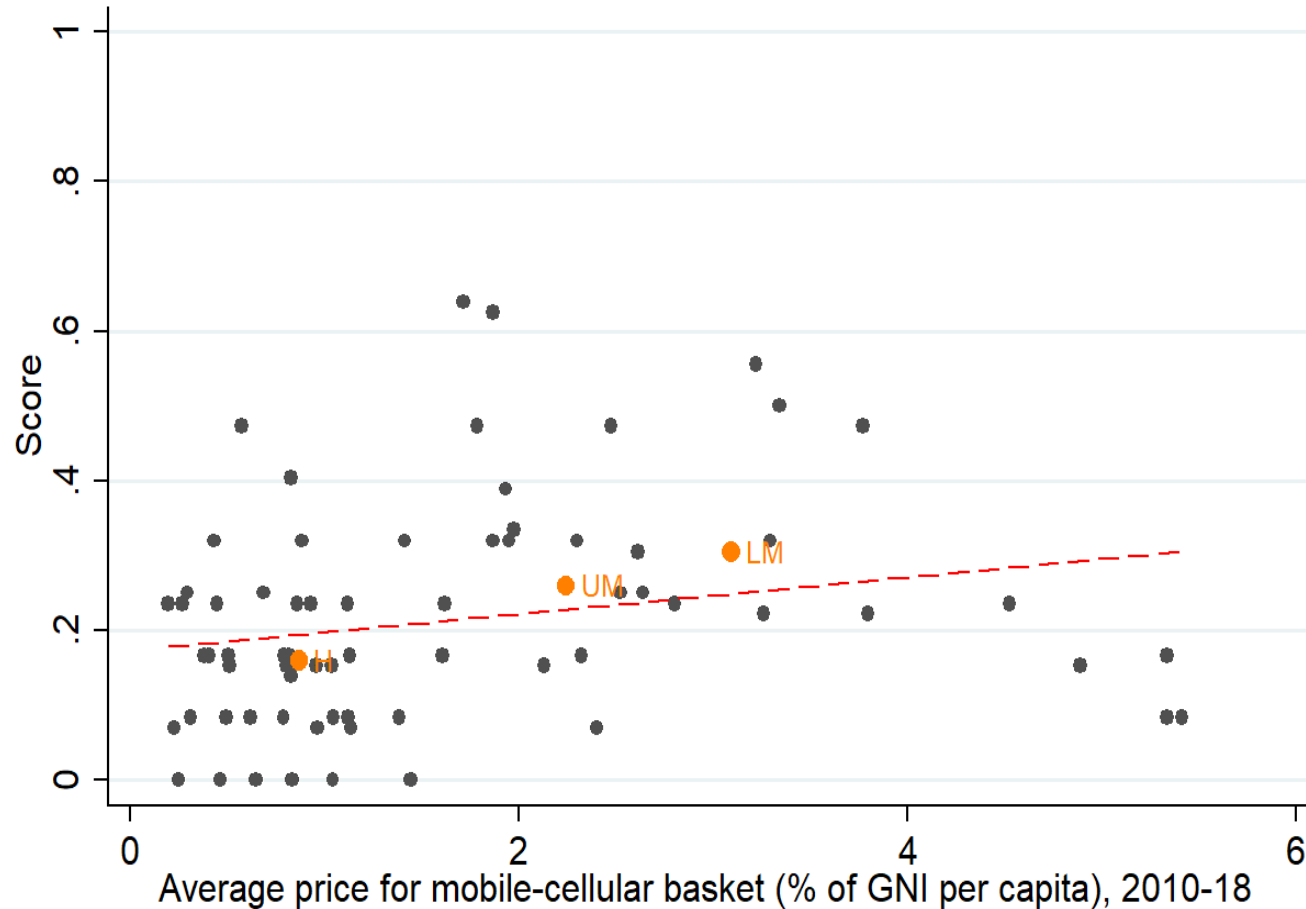
Services Domestic Regulation and Entrepreneurship

*Where more disciplines are in place,
the level of entrepreneurship
tends to be greater*



Note: Lower values mean that more disciplines on services domestic regulation are in place. H, UM and LM denote the average for high, upper-middle and lower-middle income economies. Entry rate is defined as the number of newly registered LLCs per 1,000 working-age people.

Services Domestic Regulation and Telecom Prices



Note: Lower values mean that more disciplines on services domestic regulation are in place.
H, UM and LM denote the average for high, upper-middle and lower-middle income economies.

Economies implementing more disciplines tend to face lower prices in the mobile telecommunications sector

For more information: [Factsheet on Services Domestic Regulation](#)

4. State of play and the way forward

Reference paper approach as a tool
for uniform application
(permissible departures identified
in Section I)

Incorporation of Reference Paper in
participating Members' GATS
Schedules of specific commitments

GATS Art XVIII: "Members may
negotiate commitments ...
including those regarding
qualifications, standards or
licensing matters. Such
commitments shall be inscribed in
a Member's Schedule."

Application of the disciplines on
MFN basis



WORLD TRADE
ORGANIZATION

(20-9191)

RESTRICTED

INF/SDR/W/1/Rev.2

18 December 2020

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JOINT INITIATIVE ON SERVICES DOMESTIC REGULATION

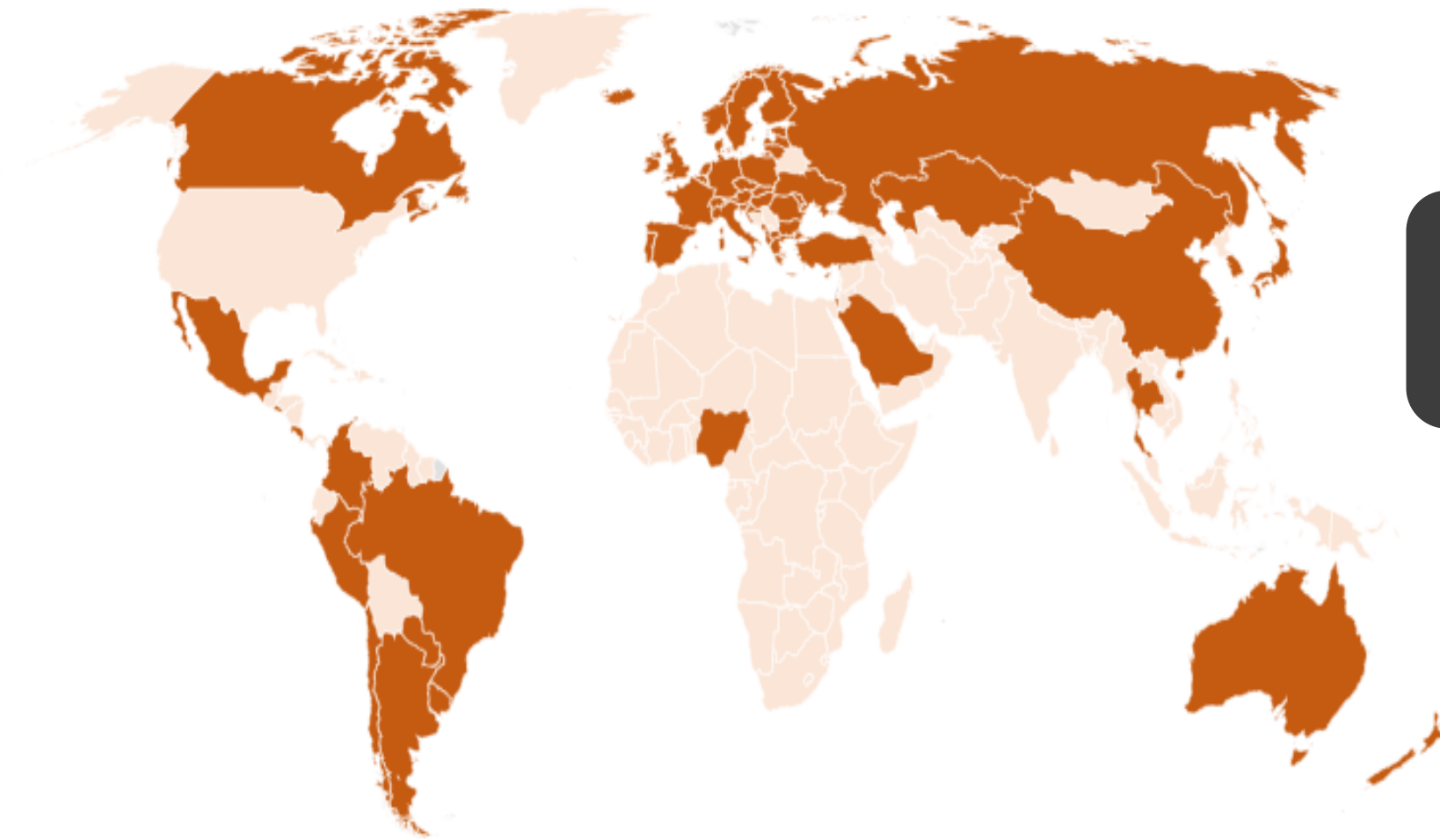
NOTE BY THE CHAIRPERSON

Revision

INDICATIVE DRAFT SCHEDULE OF SPECIFIC COMMITMENTS – [MEMBER]

Modes of supply:	(1) Cross-border	(2) Consumption abroad	(3) Commercial presence	(4) Presence of natural persons
Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments	
ALL SECTORS INCLUDED IN THIS SCHEDULE			[Member] undertakes as additional commitments the disciplines contained in Section II of document INF/SDR/W/1.	
			Paragraph 22(d) opt-out [Member] undertakes as additional commitments the disciplines contained in Section II of document INF/SDR/W/1, except for paragraph 22(d).	
			Transitional periods [Member] undertakes as additional commitments the disciplines contained in Section II of document INF/SDR/W/1, subject to the following transitional periods: <ul style="list-style-type: none"> a. With respect to [sector], [Member] shall implement paragraph(s) [x] of document INF/SDR/W/1, no later than [x] year(s) after the entry into force of the additional commitments contained in the above paragraph. 	
			Extended sectoral coverage [Member] undertakes as additional commitments the disciplines contained in Section II of document INF/SDR/W/1 for all sectors included in this schedule and for the following sectors:	

CURRENT PARTICIPANTS



**63 WTO
Members**

**73.5% of world
services trade**

STATE-OF-PLAY

Revised Reference
Paper (only a few
outstanding issues)

Exchange of draft
schedules

Securing maximum
participation of
WTO Members

APEC Ministers Responsible for Trade Declaration of 5 June 2021

APEC MRT Statement on Services to Support the Movement of Essential Goods

“APEC economies should prioritise identifying unnecessary barriers to trade in any relevant services that may hinder expediting and facilitating the movement of essential goods, and should ensure consistency of any such barriers with their World Trade Organization (WTO) and preferential trade agreement obligations and commitments.”

“These efforts should be supported by a strong international set of disciplines.”

“In this context, we note the progress made in the WTO under the Joint Statement Initiative on Domestic Regulation in Services.”

“APEC member participants in this Initiative encourage conclusion of these negotiations as soon as possible.”