

Health-related provisions in RTAs and options for the future



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Legal aspects of health-related issues in trade agreements

Review an RTA's potential to safeguard and promote public health:

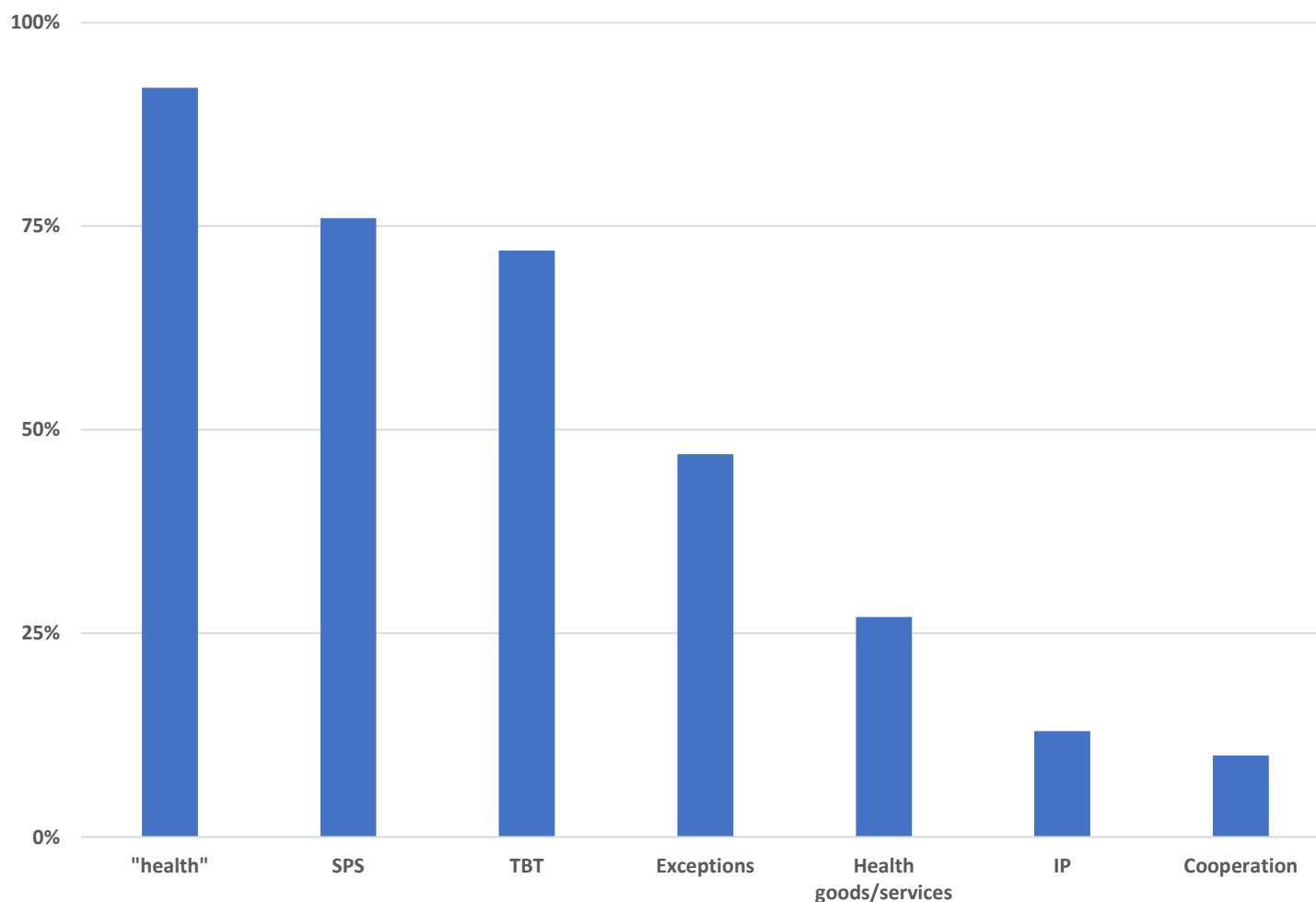
- **1. *To what extent it obliges parties to facilitate trade in health goods and services?***
 - tariff rate, market access, simplified border procedures etc.
- **2. *To what extent it allows parties to impose measures to protect public health, even if those measures may deviate from their obligations on trade openness?***
 - exceptions, SPS provisions, TBT provisions
- **3. *To what extent it incorporates specific/dedicated provisions that address health considerations?***
 - specific health standards, commitment to maintain relevant laws and regulations, commitment to cooperate etc.

The multilateral baseline: WTO rules and health issues

<i>Specific health issues and most relevant WTO agreements*</i>							
WTO Rule or Agreement	Agriculture	SPS	TBT	TRIPS	GATS	GATT	TFA
Health Issue							
Infectious disease control		x	x			x	
Food safety		x					x
Tobacco control	x		x	x	x	x	
Environment	x	x	x	x	x	x	
Access to drugs and vaccines				x			
Health services					x		
Food security and nutrition	x	x				x	x
Emerging health-related issues							
- Biotechnology	x	x	x	x			
- Information technology				x	x		x
- Traditional medicine knowledge				x			
- Export restrictions	x					x	x
- Urgent/emergency circumstances			x	x	x	x	x
<i>*Mention is made of only the most relevant agreements to the specific health issue , updates are marked in blue</i>							

Source: modified and updated based on working paper by WTO & WHO (2002)

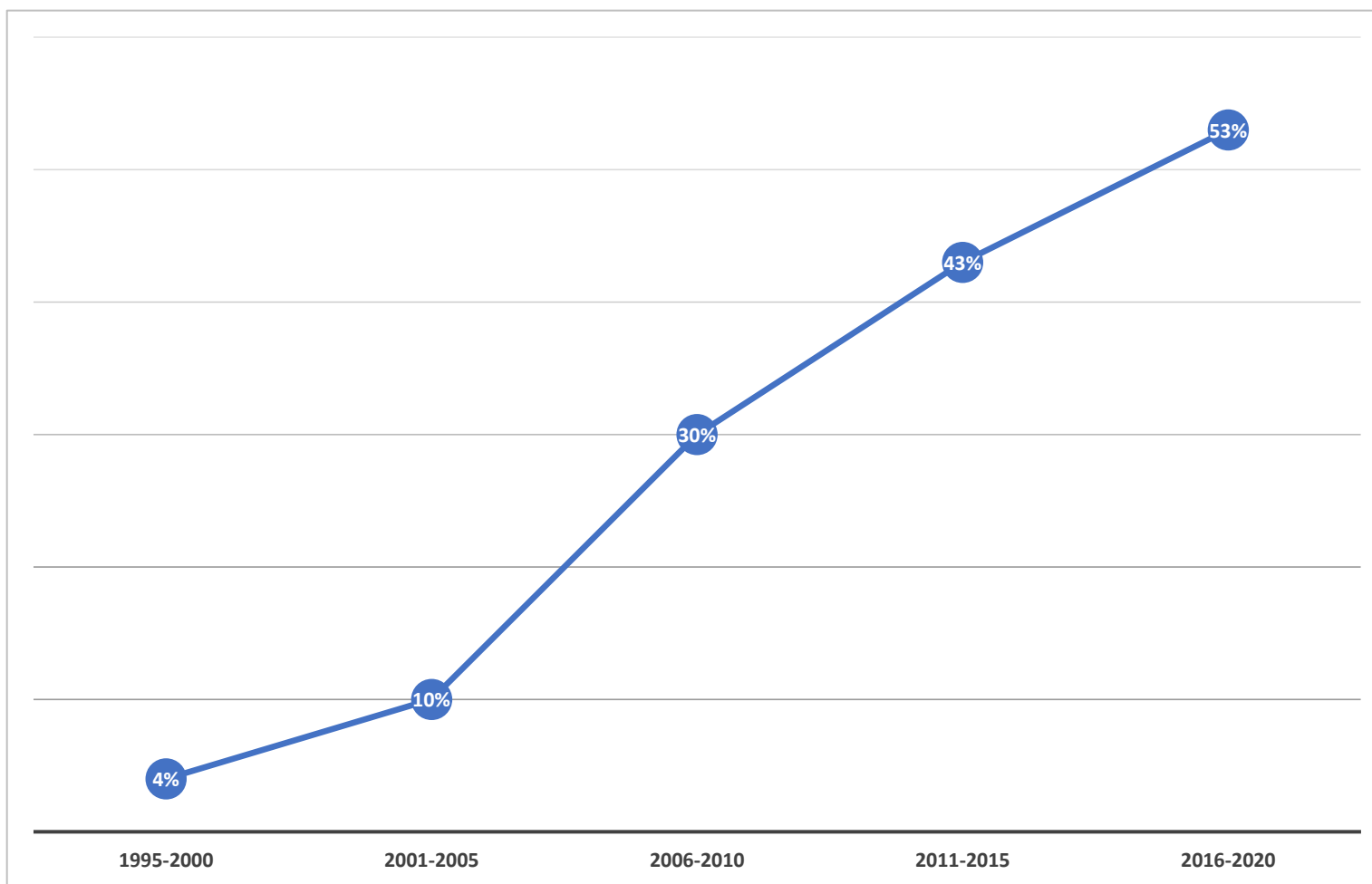
Coverage and types of health-related provisions in RTAs



- “Health” *per se* is not a new monster in RTAs.
- The majority of RTAs are modelled on the WTO agreements.
- RTAs have not gone far beyond the WTO rules in terms of addressing health issues.

Source: ESCAP Trade Agreement Text Analysis Tool, based on 330 RTAs; accessed 27 April 2022

Inclusion of at least one dedicated health provision in RTAs



- More recent RTAs tend to incorporate more dedicated health provisions.
- These dedicated health provisions are WTO-x.
- Stand-alone health chapter is rare, but dedicated health provisions can be found in other chapters (e.g., SPS, IP, Sustainable Development Chapter)

Source: ESCAP Trade Agreement Text Analysis Tool, based on 330 RTAs; accessed 27 April 2022

Examples of dedicated health-related provisions in RTAs

East African Community Chapter 21 Health, Social and Cultural Activities (*cooperation commitment – binding*)

“The Parties shall develop their cooperation in the field of public health with a view to raising its level, in line with common health values and principles, and as a precondition for sustainable development and economic growth.”

Australia-China FTA Chapter 8 Trade in Services, Article 8.15 (*specific commitment – binding*)

“The Parties shall cooperate in sector-specific initiatives, including by: (b) reducing possibly redundant testing and certification requirements for pharmaceutical products and medical devices by promoting the use of internationally accepted standards, including those related to Good Manufacturing Practices (GMP) and Good Laboratory Practices (GLP) [...]”

EU-Singapore FTA, Chapter 5, Article 5.12 (*specific commitment – binding*)

“Each Party shall notify the other Party in writing, within two calendar days, of any serious or significant risk to human, animal or plant life or health including any food emergencies. Where a Party has serious concerns regarding a risk to human, animal or plant life or health, affecting commodities for which trade takes place, consultations regarding the situation shall, upon request, take place as soon as possible [...]”

ESCAP Trade Agreement Text Analysis Tool

<https://tiid.shinyapps.io/text-analysis-tool/>