UNITED NATIONS ESCAP
Economic and Social Commission for Asia and the Pacific

Trade *Insights*

ISSUE No. 13 SEPTEMBER 2015

# Waiting for Service? Progress in Preferential Market Access for Asia-Pacific Least Developed Countries' Services Exports

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## Highlights

Services exports from Asia-Pacific least developed countries (LDCs) are growing in volume and should be further encouraged as they can contribute towards export diversification and development. Unlike in the case of merchandise trade, however, until recently LDCs did not receive any preferential market access in services trade. Progress is finally being made towards implementation of a 2011 WTO mechanism (the 'Services Waiver') that provides a route for countries to voluntarily offer LDCs preferences in services. This note reviews headway made so far in implementing the Services Waiver and considers the potential impacts for Asia-Pacific LDCs. Key conclusions are that:

- Growth in services trade has been faster than growth in merchandise trade over the past two decades. Services account for more than a fifth of global trade—more if measured in value added terms—and 12% of world GDP in 2013.
- Asia-Pacific LDCs' service exports have grown steadily since 2000, but their share of total output has remained broadly constant in most economies. Most Asia-Pacific LDCs still heavily rely on travel and tourism for their service exports, but they have also ventured into exporting communications, transportation, construction, and insurance services.
- Preferential access schemes for LDC services exports provided by other WTO members can provide a boost to LDC exporters if they are across relevant sectors and modes of supply. LDCs submitted a collective request on preferential access to the WTO in July 2014.
- As of August 2015, eleven countries out of the 25 that indicated their intentions to provide preferential treatment to LDCs in services have so far submitted their notifications to the WTO setting out their preferential access offers.
- Early assessment of these offers shows that while many sectors are covered, commitments fall short of meeting the full LDC request, particularly regarding liberalization of services provided under 'Mode 4' covering the movement of natural persons. (and particularly requests regarding visa procedures and application processes and fees).

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*The authors would like to acknowledge, without implicating him, excellent comments received from Rudolf Adlung and Sherry Stephenson.*

## The growth of international services trade

Trade in services now accounts for more than a fifth of global trade volumes in gross terms and almost half of global trade in value-added terms. Services is the world's largest and fastest-growing sector, providing more than 60% of global output and an even larger share of employment in many countries (WTO, 2015). Two-thirds of all foreign direct investment flows are also into the services sectors. For the past two decades, trade in services has also grown faster than merchandise trade, reaching over $9 trillion for the first time in 2013 and constituting 11.9% of world GDP (ESCAP, 2015). In addition, the "servicification" of manufacturing processes has meant that producers and exporters of manufactured goods have become more reliant on efficient access to transportation, banking, telecommunications, insurance, and other vital services to remain competitive (Swedish National Board of Trade, 2012).. Services value-added, across all world economies, accounted for 29% of the global gross exports in 2009, and the same share for Asia-Pacific industrial exports (Anukoonwattaka, 2015)

Although services were traditionally seen as intrinsically less tradable than merchandise—as they were often assumed to require face-to-face interactions between buyers and sellers—the falling costs of travel, communications, and information technology are making it easier for services to be delivered across physical distances and national boundaries. For instance, medical diagnostics can now be done remotely, and accountancy and other back-office services are often outsourced overseas. Regulatory reforms such as the elimination of monopoly providers and opening to foreign investments in some countries have also contributed to a rise in services trade. These factors have resulted to an overall increase in service exports for all income country groups and regions worldwide (Saez, 2014).

Under the WTO framework, rules and disciplines on services trade are established under the General Agreement on Trade in Services (GATS), which entered into force in 1995, though the then bound levels of liberalization are rather limited in comparison to the regime for merchandise trade. Since that time, trade in services has received increasing coverage in regional and bilateral trade agreements, and is also a major focus of for ongoing 'mega-regional' initiatives such as the Trans-Pacific Partnership (TPP) and Regional Comprehensive Economic Partnership (RCEP) and the Transatlantic Trade and Investment Partnership (TTIP). In Geneva a group of 50 WTO members have taken the initiative to negotiate a plurilateral agreement on services (the TiSA or Trade in Services Agreement), with a view to updating the GATS through a possible link to the WTO. Many countries have also taken steps to unilaterally liberalize their services regimes, thereby creating a significant 'gap' between the modest liberalization commitments made in GATS and the level of openness available in reality (ESCAP, 2014).

## Trends in services exports by Asia-Pacific LDCs

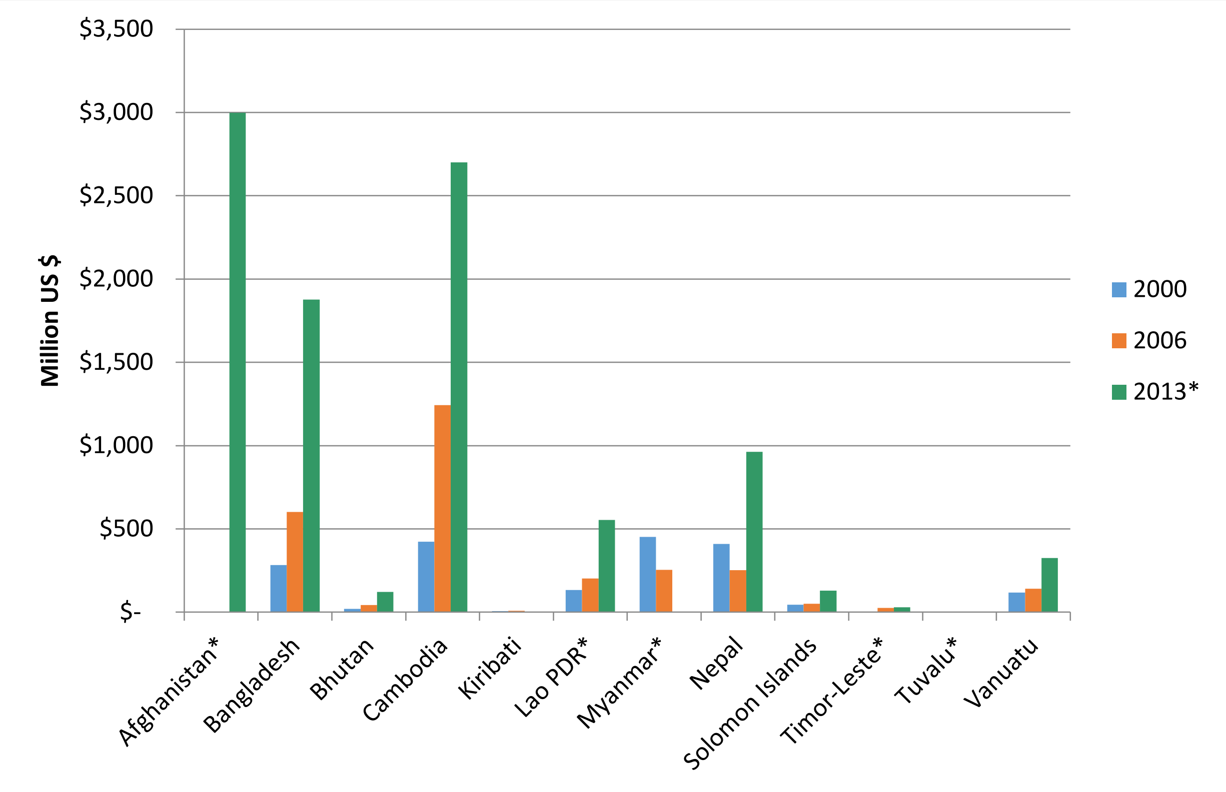
Services exports comprised 18% of total Asia-Pacific LDC exports in 2012 (—even more in gross terms: this is unfortunately impossible to calculate at present on value- added terms) --and they represent a much higher share for some economies, typically those where tourism is a critical sector (Heal and Palmioli, 2015). In least developed and developing markets where supply of essential services is inadequate, imports of services, particularly infrastructure services, can also be as vital as imports of basic commodities (WTO, 2015). Most Asia-Pacific LDCs[1] have seen a steady growth of their service exports since 2000 (figure 1), but a lack of data have made the impacts of services trade harder to assess, especially for least-developed countries. The share of services exports as a percentage of GDP for individual Asia-Pacific LDCs remained relatively flat between 2006 and 2013,[2] often not exceeding

[1] The Asia-Pacific LDCs are: Afghanistan, Bangladesh, Bhutan, Cambodia, Kiribati, Lao People's Democratic Republic, Myanmar, Nepal, Solomon Islands, Timor-Leste, Tuvalu and Vanuatu.

[2] 2013 data not available for Afghanistan, Kiribati, Lao People's Democratic Republic, Myanmar, Timor-Leste, and Tuvalu.

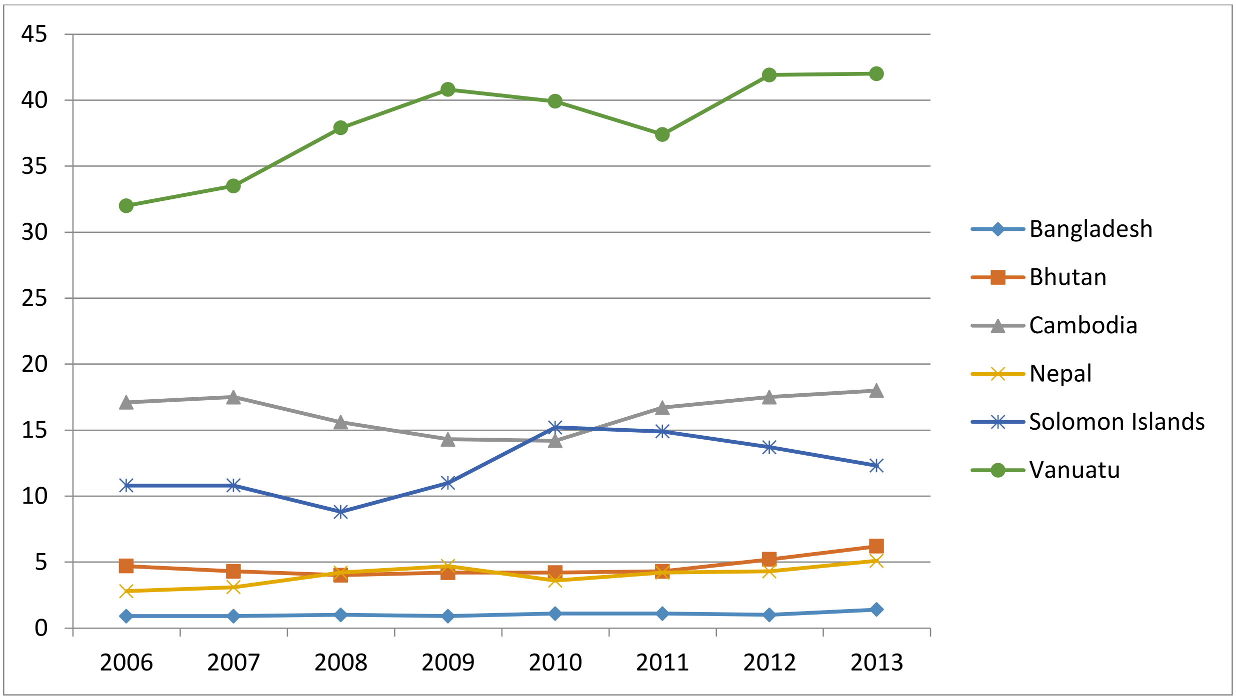
a 2% increase for most countries (figure 2). Taken as a whole, however, the increase in their service exports as a share of output is outpacing high-income economies. From 2006 to 2012, Asia-Pacific LDCs' commercial service exports as a share of their GDP increased by 1.7%, while high-income Asia-Pacific countries' increased by only 0.3%. There is also great diversity among Asia-Pacific LDCs. Vanuatu's service exports, for instance, contributed to 42% of its GDP in 2013, while Cambodia's contributed to 18%, and Bangladesh's only to 1.8% of their respective GDPs (figure 2).

**Figure 1: Asia-Pacific LDCs' commercial services exports**




*2013 or nearest year, depending on latest available data.
*Source: ESCAP Online Database. Figures based on WTO.*

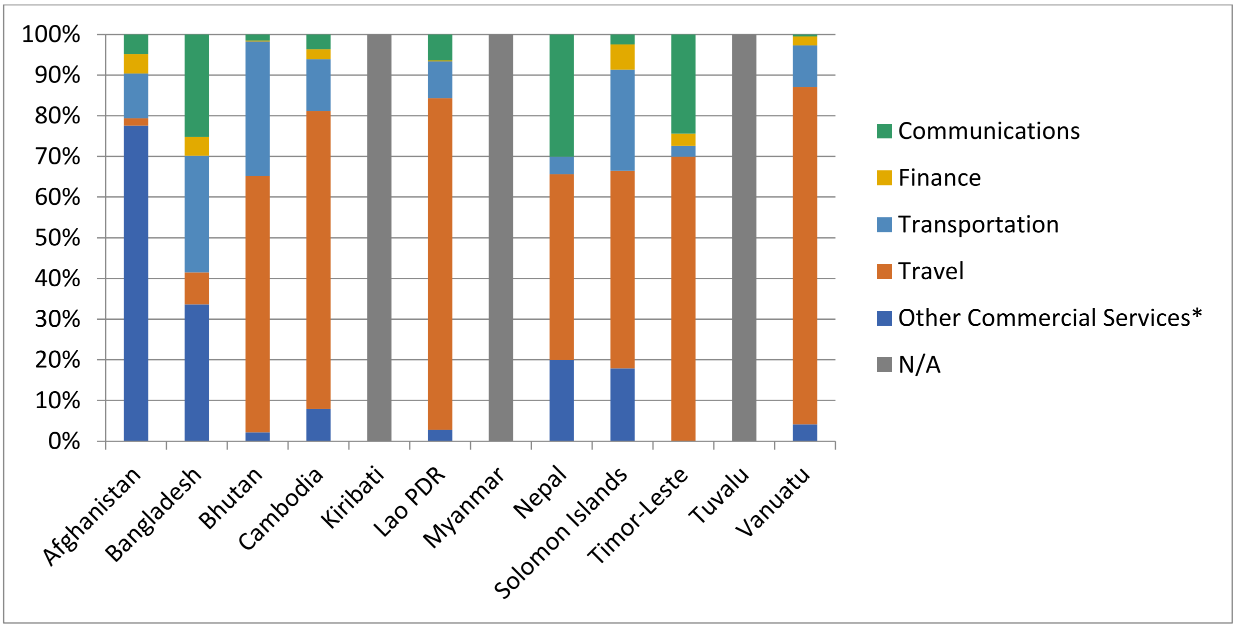
**Figure 2: Exports of commercial services as % of GDP**




*Source: ESCAP Online Database. Figures based on WTO. Note: Data not available for all LDCs.*

The travel sector remains a critical component of service exports for most Asia-Pacific LDCs, but they have also ventured into exporting communications, transportation, construction, and insurance services (figure 3). (Current statistical practices may also underestimate services in other sectors like business process outsourcing). However, sectors, such as finance, telecommunications, and business services, comprise a relatively small share of exports from most Asia-Pacific LDCs compared to their share in high-income countries. In 2012, in line with expectations for countries at this level of development, 28.5% of service exports from Asia-Pacific LDCs were from travel and only 2.6% were from finance, while the numbers were 26.7% and 6.1% respectively for regional high-income economies.

**Figure 3: Composition of services exports, 2012**




*Source: ESCAP Online Database. Figures based on WTO.*

**Other Commercial Services include: construction services; insurance services; computer and information services; royalties and license services; other business services; and personal, cultural and recreational services.*

## Preferential access in services trade for LDCs

Asia-Pacific LDCs could benefit greatly from further developing and expanding their services sector on an efficient and productive basis. The World Bank (2012) suggests that growth in services value added is more correlated with GDP growth than with growth in manufacturing value added, and also has stronger links with poverty reduction. Additionally, trading services could be a source of export diversification for Asia-Pacific LDCs, providing them with a new frontier for greater participation in world trade. Trade in services also demonstrated greater relative resilience following the 2008 financial crisis in terms of its lower magnitude of decline, less synchronicity across different countries, and earlier recovery time compared to goods trade (UNCTAD, 2012). These reasons highlight the importance of services for LDCs and serve as the backdrop for their collective request for preferential access at the WTO.

Nonetheless, significant barriers remain to an expansion of LDC services trade. As tariffs are not applied to trade in services, barriers to trade are almost always generally of a quantitative and/or regulatory in nature and their impact is not amenable to simple quantification. The greater variance and complexity in trading services make it harder to track and quantify, and explain the paucity of detailed sectoral data on services trade.[3] In general though, global commitments to liberalization of services under the GATS are less advanced than liberalization of bound levels bound for merchandise trade under the GATT, and are subject to weaker regulatory disciplines. Thus despite falling overall costs, according to estimates, trade costs in services are two to three times higher than trade in goods globally, as services costs have remained relatively flat over the past decade, while trade costs in goods have continued to fall overall at a faster rate (Miroudot et al., 2013).

Internal supply constraints also hamper LDCs attempts to expand services exports. The ability to trade services more competitively relies heavily on human skill factors and an efficient regulatory framework and institutions that many Asia-Pacific LDCs have yet to fully develop, such as an adequately trained workforce, strong rule of law, intellectual property rights protection, and sufficient digital infrastructures. Despite these barriers, however, LDCs could still potentially develop higher market shares in services by investing in information and communication technologies, which are becoming more and more affordable, and tapping into cultural, linguistic, and educational factors to attract service industries (ITC, 2013). Additionally, some services such as those in the ICT, cultural and education sectors do not necessarily require advanced physical connectivity to be traded, making it potentially easier for LDCs to tap into them compared to manufacturing, where high-quality logistics and market proximity are often crucial determinants. Preferential access in important services markets could give LDC service suppliers the edge over international competitors operating in larger and better connected markets and thus provide the impetus for further expansion.

The Enabling Clause of 1979 provided a permanent legal basis for derogations to the most-favored-nation (MFN)[4] treatment for developing countries, which allowed members to offer them non-reciprocal preferential access in merchandise trade. The intention was to help developing economies gain better access to major markets and overcome structural economic deficiencies. From 2005 onwards, developed countries (and some developing countries) have introduced additional preferential access in merchandise trade specifically for LDCs (Heal and Palmioli, 2015).

[3] GATS covers four modes of services trade: Mode 1 - Cross-border supply (e.g. banking or architectural services transmitted via telecommunications or mail); Mode 2 - Consumption abroad (e.g. tourist or patient moving into another member's territory to obtain a service); Mode 3 - Commercial presence (e.g. domestic subsidiaries of foreign insurance companies or hotel chains); Mode 4 - Presence of natural persons (e.g. accountants, doctors or teachers entering the territory of another member to supply a service).

[4] The Most Favored Nation principle underlies the main WTO agreements and stipulates that countries can not usually discriminate between their trading partners e.g. by offering lower tariff rates or other preferences. to only a selected partners unless following conditions stipulated in four categories of exceptions, one being non-reciprocal preferences for LDCs.

Until recently, however, there was no equivalent non-reciprocal preferential access given to LDC service exports, and the multifaceted ways through which services could be traded has made negotiating and granting preferences for LDC services and service suppliers more complex than the case of goods. LDC negotiators since the introduction of the GATS in 1995 strove to at least establish the legal framework to enable members in a position to grant preferences to LDC services and services suppliers the same benefits that their merchandise suppliers and producers have enjoyed without the worry of violating the GATS MFN (Saez, 2014). These efforts were rewarded in December 2011 when WTO trade ministers adopted a waiver mechanism to the GATS MFN provisions, which will last for 15 years (until 2026) and enable countries to give better-than-MFN treatment for LDC services and service suppliers.

However, progress on implementation of the waiver was initially slow, so at the 2013 WTO Ministerial Conference in Bali, ministers adopted a decision to take various steps to operationalize the waiver: requiring LDCs to submit a collective request identifying sectors and modes of particular export interest to them and directing the Council for Trade in Services to convene a high-level meeting six months after the submission of the collective request.

In July 2014, LDC members of WTO submitted this collective request for service waivers. The content of the request emerged from a series of studies, interviews, and analysis conducted by the LDC group through which they sought to bring recognition to the difficulties that their services suppliers experience and to the steps that other members could take to support LDC market access. The details of the request were also tailored to represent the diversity of LDCs and the sensitivities that members in a position to grant preferences face (ITC, 2015). Through the results of their studies, the LDCs outlined in their request barriers in the forms of: “obstacles to recognition of LDC educational institutions, diplomas, and professional skills; imposition of transit taxes and other fees on tourists traveling to LDCs; and onerous application fees for visas, licenses, and residence and work permits” (WTO, 2014). In addition, the request raised concerns regarding “burdensome or prohibitive documentation” requirements levied to LDC service providers in instances where an LDC supplier has already obtained a contract with a consumer in the host country.” In light of these difficulties, the LDCs outlined three broad categories of potential waivers, which contained a comprehensive list of horizontal and sector-specific appeals for preferential treatment (see the Annex for a more detailed summary). The three main categories set out in the collective request are:

a) Market access, Article XVI, and national treatment restrictions
b) Visas, work permits, and residence permits, and
c) Recognition of qualifications of LDC professions and accreditation of LDC institutions.

## Operationalization of services trade waivers for LDCs

At a high-level meeting of the WTO Services Council in February 2015, 25 WTO members indicated their intentions to provide preferential treatment to LDC services and service suppliers. Furthermore, various WTO members agreed to provide technical assistance to help build LDC’s domestic services capacity, so they could take advantage of the preferences that would be awarded to them. Of the 25 WTO members that indicated their intentions to provide preferential treatment to LDCs, 11 had submitted their official notifications to the WTO by August 2015, namely: Australia, Canada, China, Japan, New Zealand, Norway, Republic of Korea, Singapore, Switzerland, Hong Kong, China and Chinese Taipei (The European Union also sent in an official communication to the WTO signaling their intended preferential treatments for LDCs to be notified at a future date).

The preferential treatment on offer runs across 12 major sectors and will be granted based on the countries’ ability and willingness to give preferential access. Based on current notifications, Norway offers the largest number of new preferential measures to LDCs on a horizontal and sectoral basis (figure 4) if measured against current GATS commitments. Norway will provide horizontal Mode 3 access to the establishment of LDC company branches and agencies and the formation of legal entities (limited liability companies and foundations). It will also provide horizontal Mode 4 access to intra-corporate transferees (managers, specialists, and trainees), business visitors, contractual service suppliers, and independent professionals. Additionally, it proposes preferential access in 10 of the 12 major services sectors, barring health and “other” sectors. Switzerland’s offering is providing horizontal Mode 3 access to certain sectors and preferential treatments in 10 of the 12 major sectors, similar to Norway. On the contrary, Canada and Singapore provide less new preferential access to LDCs on a horizontal and sectoral basis; while many service sectors of interest to LDCs are noted as already broadly open, in very few areas are LDCs market access preferences beyond those available to providers from other members. The EU as a whole provides the most comprehensive access to all sectors, but the offerings in each sector and sub-sector is different by EU members, depending on their laws and national preference, reflecting the reality of the fragmented services market within the EU.

**Figure 4: Assessment of Preferential Access offered in the submissions by WTO Members under the LDC Services Waiver (horizontal and sectoral)**


**Preferential treatments to LDCs indicated for the EU are based on its signal of intentions to the WTO, lacking its official notification. Offers vary considerably by country.*

Nine of the 11 countries, plus the European Union, intend to grant preferential treatments to LDCs in the business and transport sectors. Many of the preferences given in the business sector are in professional services (accounting, legal, and consultancy) and rental leasing services. In the transport sector, many of the preferential access offers were related to freight and maritime transport as well as maintenance of transport equipment. On the other hand, countries were less willing to grant preferential access in the education, environment, health and financial sectors. It is also worth noting that most preferential access given to LDCs is across Modes 1, 2, and 3, while commitments to Mode 4 remain largely unbound or are very limited in scope. This makes it difficult to assess the true effectiveness of the preferential access provided to LDCs, as many service sectors and most effectively supplied through the presence of natural persons.

**Box: Extension of Trade in Services Agreement (TISA) benefits to LDCs?**

Launched in March 2013, the Trade in Services Agreement (TISA) is a U.S. and Australian-led plurilateral negotiating project between 25 WTO member parties (with the EU counted as one) to liberalize trade in services. TISA aims to open up markets, update the GATS and deepen international rules on a wide range of service sectors, including: banking, telecommunications, transport, and environmental services. The e-commerce. According to the proponents, the negotiations are open to all WTO members who are interested in liberalizing their services industry. While China has asked to join the negotiations, current participants have not (yet) agreed on whether or not China's position on services is in line with the rest of the members' interests. Mauritius is the most recent country to have joined the TiSA negotiations. it should be admitted. Some TISA member countries, most notably the United States and Mexico, have signalled their willingness to extend to LDCs similar levels of market access granted to TISA members upon conclusion of the ongoing negotiations, though the U.S. has yet to officially announce this intention in the WTO.

There have been 13 rounds of negotiations as of July 2015, but discussions on many issues are still in their nascent stages and the parties have yet to establish a deadline for concluding the talks (European Commission, 2015). The wide coverage of sectors and the multitude of parties involved also make for slower progress in the negotiations, which if concluded could potentially serve as the basis for future services trade agreements involving the whole WTO membership, assuming that potential aberrations from the GATS disciplines can be avoided and that negotiating outcomes are compatible with the participants' obligations and commitments under the GATS (Adlung, 2015). . Moreover, the United States, which has been the leading proponent of TISA, has concentrated its attention on attempts to conclude the 12-party Trans-Pacific Partnership.

If granted TISA-equivalent access in major markets like the United States, LDCs could see gains from further services access although they would be competing on the same terms as other TiSA members. (This will, however, depend upon the decision that will be taken as to how to outcome of the TiSA will be applied – on an MFN basis or not, and whether the LDCs will be an exception to this or not.) It remains though difficult to quantify the potential benefits for LDCs because the details of the negotiations remain publicly undisclosed. However, the services industry in the United States accounts for three-quarters of its $16.7 trillion gross domestic product, and the TISA member parties overall collectively represent 75% of the world's $44 trillion services market (USTR, 2015). Gaining preferential access to some of these economies, even if it is just to the United States, could provide a boon for LDCs as long as they utilize their advantages effectively to remain competitive. The conclusion of the TISA negotiations remains uncertain, however, at present so LDCs may be waiting considerably longer before seeing any benefits, which would be additional to those that they could enjoy from the more rapid implementation of the preferences granted under the LDC Services Waiver.

## Conclusion

The operationalization of potential services trade preferences is a positive development for Asia-Pacific LDCs, which have seen services become an increasingly important component of their trade globally. Properly utilizing the services trade waivers could help Asia-Pacific LDCs in their development goals, as it could help them diversify their exports and help them develop industries which play to their comparative advantage. Likewise, offers of additional capacity building to held LDC service suppliers realize export opportunities is very welcome.

However, it remains difficult to assess the real effectiveness of the preferential treatments offered to date, as many offers fall short of fully meeting the LDC collective request, particularly with regards to Mode 4. In addition, the majority of countries who have signaled that they would give preferential treatments to LDC service providers have yet to submit their notifications to the WTO.

## Annex: Summary of key items in LDC collective request

### A. Market Access, Article XVI, and National Treatment Restrictions

**Horizontal**

- Create a special temporary entry visa subcategory fo LDC contractual service suppliers
- Waive all economic needs tests and labour market tests for LDC supplier
- Waive restrictions on contractual service suppliers. Wage parity will not be a pre-condition of entry, but does not preclude the application of minimum wage and salary thresholds
- Waive restrictions on independent professionals, installers and servicers of machinery, and Mode 3 for all services suppliers
- Waive residency requirements for LDC profesionals; discriminatory regulations on salary, health, and other benefits; and social security, income tax, and similar deductions to renumeration of LDC service suppliers

**Travel, Tourism, Hospitality, and Conference Services**

- Waive Mode 1 and 2 for LDC travel agencies, restrictions on entry of LDC tour guides, and restrictions on repatriation of capital and profits, land ownership, etc.
- Set up approved destination status for Mode 2 toursits and waive transit taxes and expedite visa procedures for toursits

**Banking, Non-Bank, and Insurance Services**

- Waive Mode 3 restrictions on establishment of non-bank offices and brances; Mode 1 and 4 for non-bank services; and restrictions on national treatment for LDC banks and travel insurance provided by LDC providers

**Transport and Logistics Related Services**

- Waive restrictions on domestic martime towing services, drivers licenses, and Modes 1, 2, and 3 on all logistics related agency services
- Provide preferential treatment for permits and visa for LDC intracorporate transferees

**Education and Training-Related Services**

- Waive Mode 2 restrictions on ability of students from preference providing country to use government tuition to pay for study abroad in LDCs
- Allocate preferential quotas for LDC students at higher education institutions

**ICT and BPO Services**

- Waive Mode 1,2,3 and 4restrictions for LDC BPO services suppliers and other ICT-related services
- Provide preferential treatment for permits and visas for LDC intracorporate tranferees in host country ICT companies

**Creative Industry Services**

- Waive requirements of social security deductions, financial security requirements for visas; Modes 1,2,3, and 4 barriers to AV services; fees on equipment

**Waive 1, 3, and 4 restrictions on:**

- Professional services**,** transport services, construction services, computer services, engineering and design services, entertainment services, and hospitality services

### B. Visas, Work Permits, and Residence Permits

- Waive fees for LDC contractual services, intracorporate transferees, and fees associated with LDC supplier applications for patents, trademarks, etc.
- Expedite procedures and simplify procedures in granting visas, licenses, residence, or work permits for LDC suppliers
- Waive financial security requirements to apply for visas or work permits and provide reasons for denial of visas. Provide guidance on how to correct deficiencies.

### C. Recognition of Qualifications of LDC Professions and Accrediation of LDC Institutions

- Enable conclusion of agreements with LDC institutions and registrations to recognize minimum qualifications required of LDC service providers; recognition of diplomas and degrees from LDC accredited institutions; and online testing for LDC suppliers
- Waive reciprocity as a condition of LDC professional bodies and English or other language testing.

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