CAPACITY BUILDING WORKSHOP:

CURRENT TRADE-RELATED ISSUES AND THEIR IMPLICATIONS FOR APTA

BY APTA SECRETARIAT

11 SEPTEMBER 2018 , SEOUL, REPUBLIC OF KOREA

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

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CURRENT ISSUES ON TRADE IN SERVICES

SERVICE TRADE FACILITATION AND LIBERALIZATION OF ENVIRONMENTAL SERVICES

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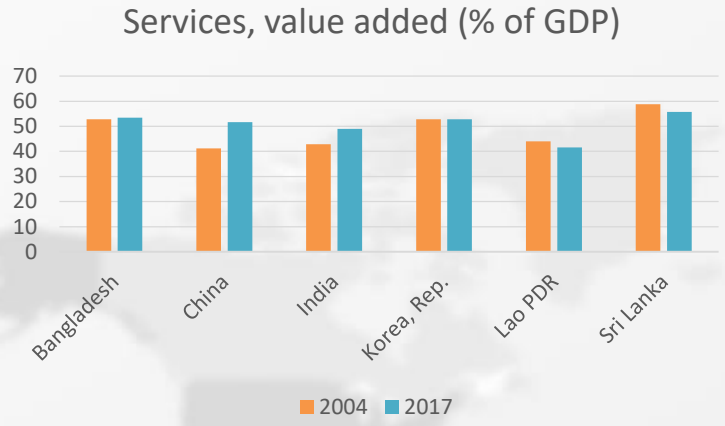
PRESENTATION STRUCTURE

- *Overview*
  - The roles of services in APTA Participating States (PSs)
  - Services trade in APTA PSs
- *State of play in services negotiation at the global level*
  - GATS
  - TiSA
  - PTAs
- *Environmental services*
  - What are environmental services? Why do they matter?
  - Environmental services negotiations
- *An initiative on services-trade facilitation*
  - Background
  - Elements
  - Potential areas for discussion in APTA
- *Way forward*

OVERVIEW

CONTRIBUTION OF SERVICES



Source: World Development Indicators Database (accessed August 2018)

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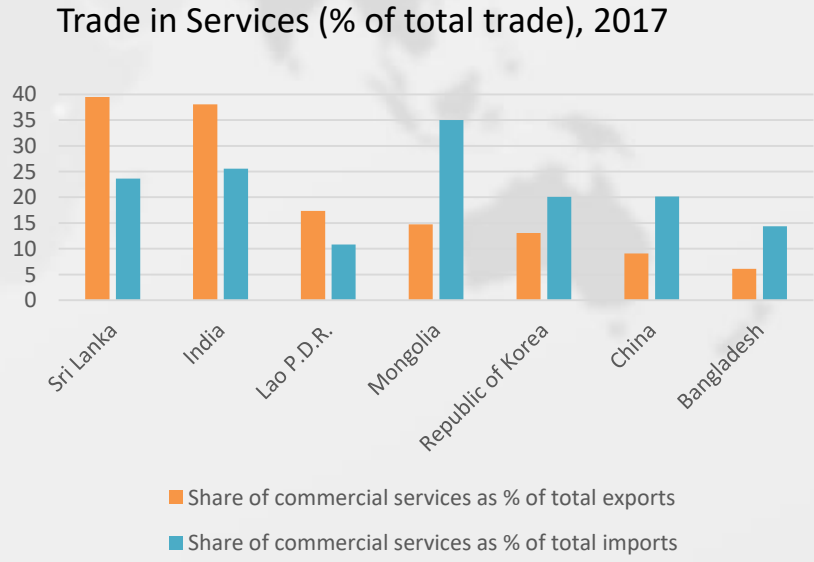

Source: WTO Database (accessed August 2018)

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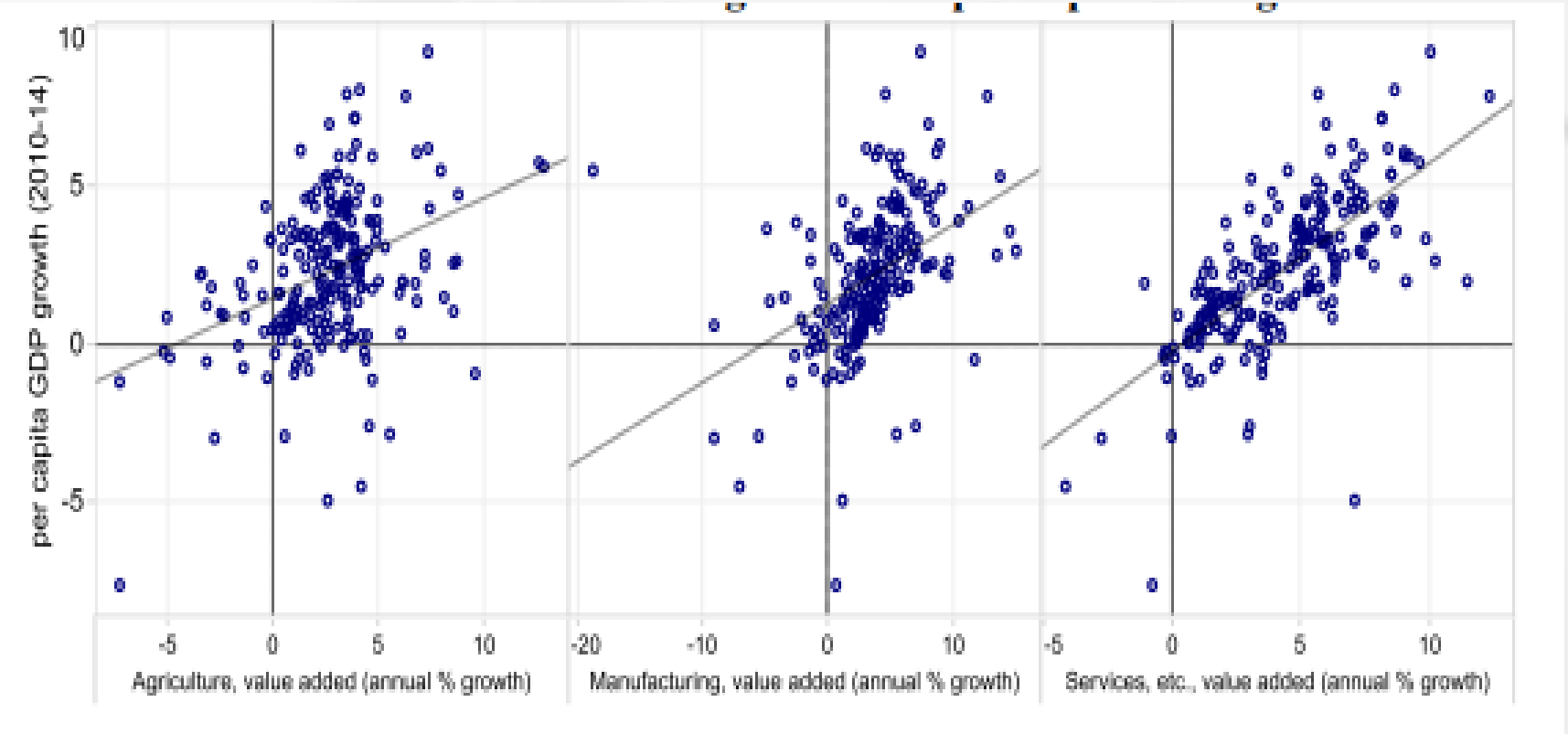
THE POST–CRISIS TREND



Source: BPM6, World Economic Outlook, World Development Indicators, and authors' calculations as cited in Loungani and others, 2017.

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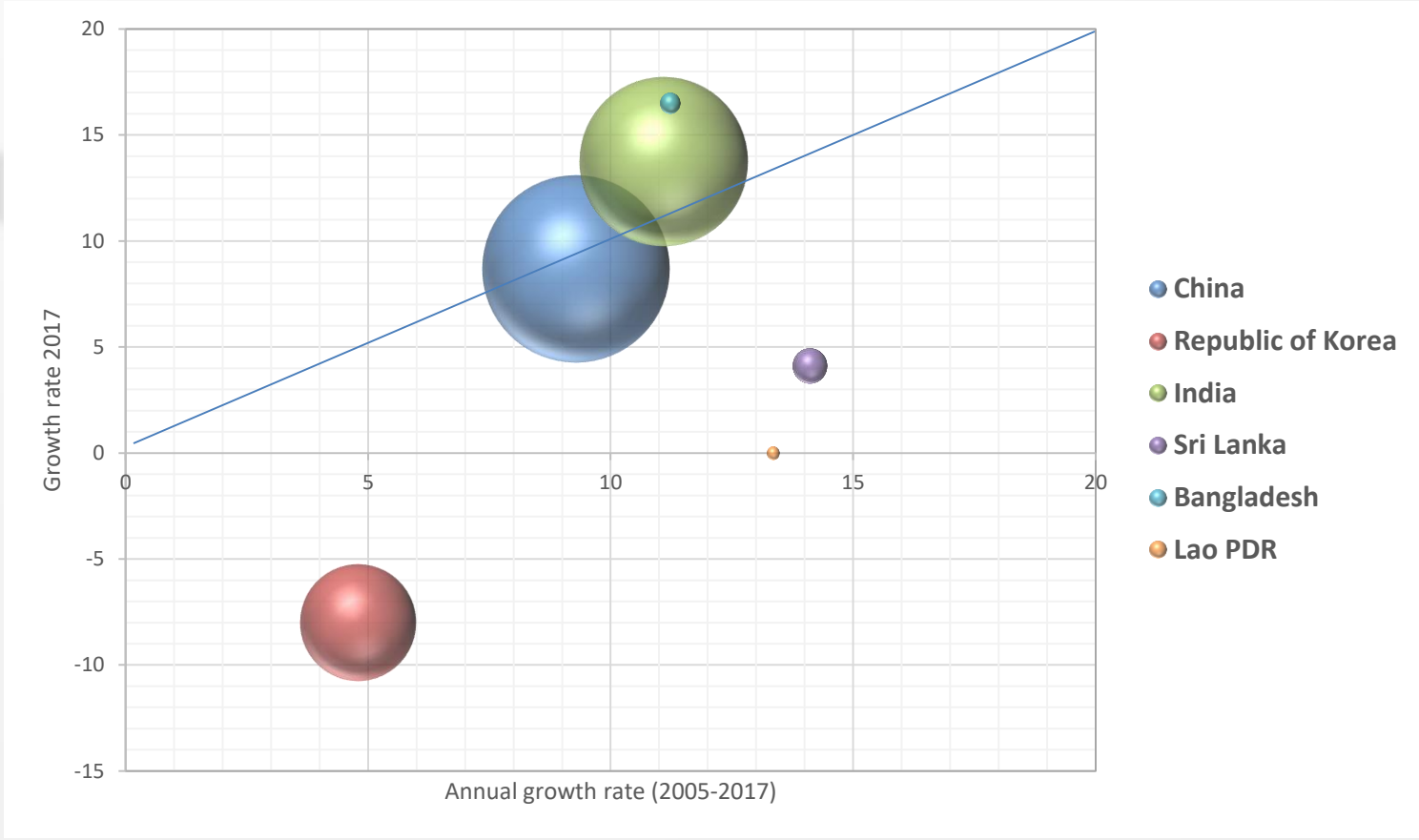
SERVICES–EXPORT PERFORMANCE



Long-term performance

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MAJOR EXPORTERS OF APTA BY SUBSECTOR, 2016

	Bangladesh	China	India	Korea, Rep	Lao PDR	Sri Lanka	APTA
Goods-related services	0.2	**88.4**	1.0	10.3	0.0	0.0	**100**
Transport	0.5	**42.7**	19.2	34.6	0.1	2.8	**100**
Travel	0.2	**50.1**	25.3	19.6	0.8	4.0	**100**
Other commercial services	0.5	38.1	**44.2**	16.7	0.0	0.5	**100**
• **Charges for the use of intellectual property n.i.e.**	0.0	14.1	6.3	**79.6**	0.0	0.0	**100**
• **Construction**	0.4	**47.5**	7.8	44.1	0.0	0.2	**100**
• **Financial services**	0.9	30.9	**48.7**	17.1	0.0	2.4	**100**
• **Insurance and pension services**	0.0	**58.6**	30.1	9.6	0.0	1.7	**100**
• **Other business services**	0.4	43.4	40.7	15.6	0.0	0.0	**100**
• **Personal, cultural, and recreational services**	0.2	22.6	**42.7**	34.5	0.0	0.0	**100**
• **Telecommunications, computer, and information services**	0.7	30.9	**63.0**	4.3	0.0	1.0	**100**
Commercial services	**0.4**	**44.0**	**34.1**	**19.9**	**0.2**	**1.5**	**100**

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Source: ESCAP's calculations based on the WTO International Trade Statistics Database (accessed August 2018)

MAJOR EXPORTS BY APTA PS, 2016

	Bangladesh	China	India	Korea, Rep.	Lao PDR	Sri Lanka	APTA
Goods-related services	3.3	11.4	0.2	2.9	0.0	0.0	5.7
Transport	20.8	16.2	9.4	29.1	9.7	31.7	16.7
Travel	10.6	21.3	13.9	18.4	85.9	49.5	18.7
Other commercial services	65.2	51.1	76.5	49.5	4.4	18.8	58.9
• Charges for the use of intellectual property n.i.e.	0.0	0.6	0.3	7.0	0.0	0.0	1.8
• Construction	5.3	6.1	1.3	12.5	0.5	0.9	5.6
• Financial services	4.4	1.5	3.1	1.9	0.2	3.5	2.2
• Insurance and pension services	0.0	2.0	1.3	0.7	0.1	1.7	1.5
• Other business services	24.0	27.8	33.7	22.1	0.0	0.6	28.2
• Personal, cultural, and recreational services	0.4	0.4	0.9	1.2	0.0	0.0	0.7
• Telecommunications, computer, and information services	31.1	12.7	33.6	4.0	3.6	12.1	18.1
Commercial services	100	100	100	100	100	100	100

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Source: ESCAP's calculations based on the WTO International Trade Statistics Database (accessed August 2018)

MAJOR IMPORTERS OF APTA BY SUBSECTOR, 2016

	Bangladesh	China	India	Korea,Rep.	Lao PDR	Sri Lanka	APTA
Goods-related services	0.1	19.7	3.4	76.9	0.0	0.0	100
Transport	3.2	48.5	28.8	17.4	0.0	2.0	100
Travel	0.2	85.0	5.3	8.9	0.2	0.5	100
Other commercial services	0.8	47.2	30.6	20.9	0.0	0.5	100
• Charges for the use of intellectual property n.i.e.	0.1	61.6	14.0	24.2	0.0	0.0	100
• Construction	1.9	70.6	8.1	19.0	0.1	0.2	100
• Financial services	8.8	20.2	49.9	17.1	0.0	4.0	100
• Insurance and pension services	0.0	67.1	26.3	5.0	0.0	1.5	100
• Other business services	0.4	41.2	31.0	27.3	0.0	0.1	100
• Personal, cultural, and recreational services	0.2	45.5	40.2	14.1	0.0	0.0	100
• Telecommunications, computer, and information services	0.4	61.1	23.1	13.3	0.1	2.2	100
Commercial services	1.1	63.5	18.8	15.7	0.1	0.9	100

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Source: ESCAP's calculations based on the WTO International Trade Statistics Database (accessed August 2018)

MAJOR IMPORTS BY APTA PS, 2016

	Bangladesh	China	India	Korea, Rep.	Lao PDR	Sri Lanka	APTA
Goods-related services	0.1	0.5	0.3	7.7	0.0	0.0	1.6
Transport	71.1	17.9	36.1	26.0	6.7	54.9	23.5
Travel	6.4	58.1	12.3	24.5	87.1	25.1	43.4
Other commercial services	22.4	23.4	51.3	41.9	6.2	20.0	31.5
• Charges for the use of intellectual property n.i.e.	0.6	5.3	4.1	8.5	0.0	0.0	5.5
• Construction	2.9	1.8	0.7	2.0	2.1	0.5	1.7
• Financial services	11.7	0.5	3.8	1.5	0.1	6.6	1.4
• Insurance and pension services	0.0	2.9	3.8	0.9	1.2	4.6	2.7
• Other business services	6.0	9.7	24.6	25.9	0.0	1.1	14.9
• Personal, cultural, and recreational services	0.1	0.5	1.4	0.6	0.0	0.0	0.7
• Telecommunications, computer, and information services	1.0	2.8	3.6	2.5	2.7	7.2	2.9
Commercial services	100	100	100	100	100	100	100

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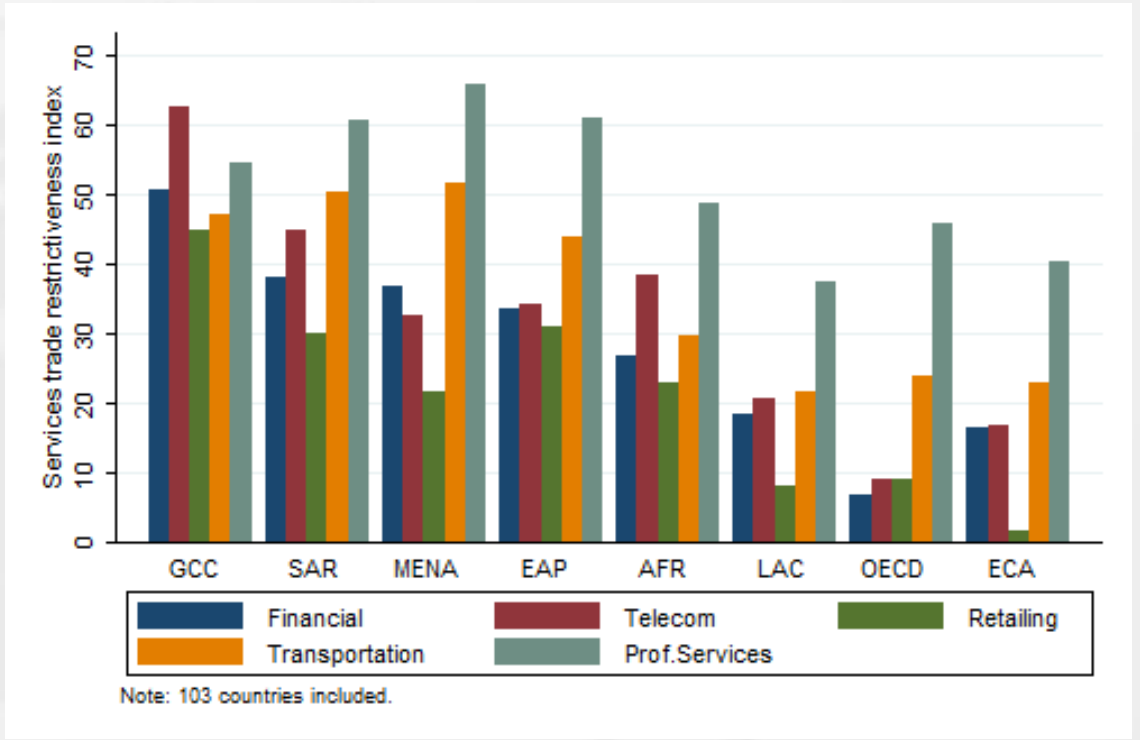
Source: ESCAP's calculations based on the WTO International Trade Statistics Database (accessed August 2018)

SERVICES TRADE NEGOTIATIONS

APTA PS AND GATS

- All the PSs of APTA are WTO members and thus signatory of GATS.
- The extent of liberalisation in services dated back to commitments made in 1994 during Uruguay Round, with exception to Lao PDR and China which acceded later.
- There is not much progress in services liberalisation under the Doha round.

Services trade restrictive index (STRI)



Bochert, Gootiiz and Mattoo (2012) based on World Bank 2012 data

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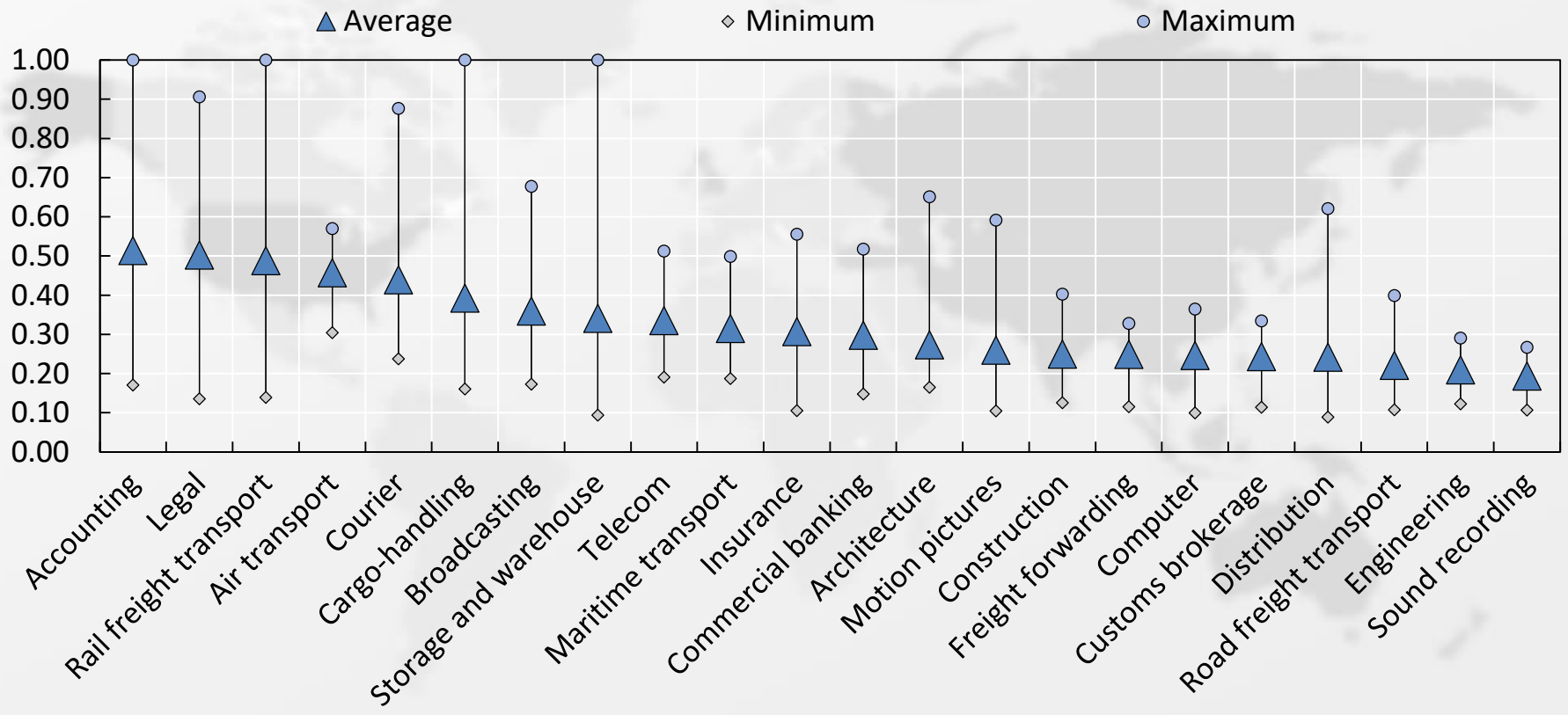
STRI average, minimum and maximum scores of Asia-Pacific economies by sector, 2017



Source: ESCAP (2017), based on OECD 2017 data.

Note: Due to limitations in data availability, the data only include Australia, China, India, Indonesia, Japan, the Republic of Korea, New Zealand, Russian Federation and Turkey.

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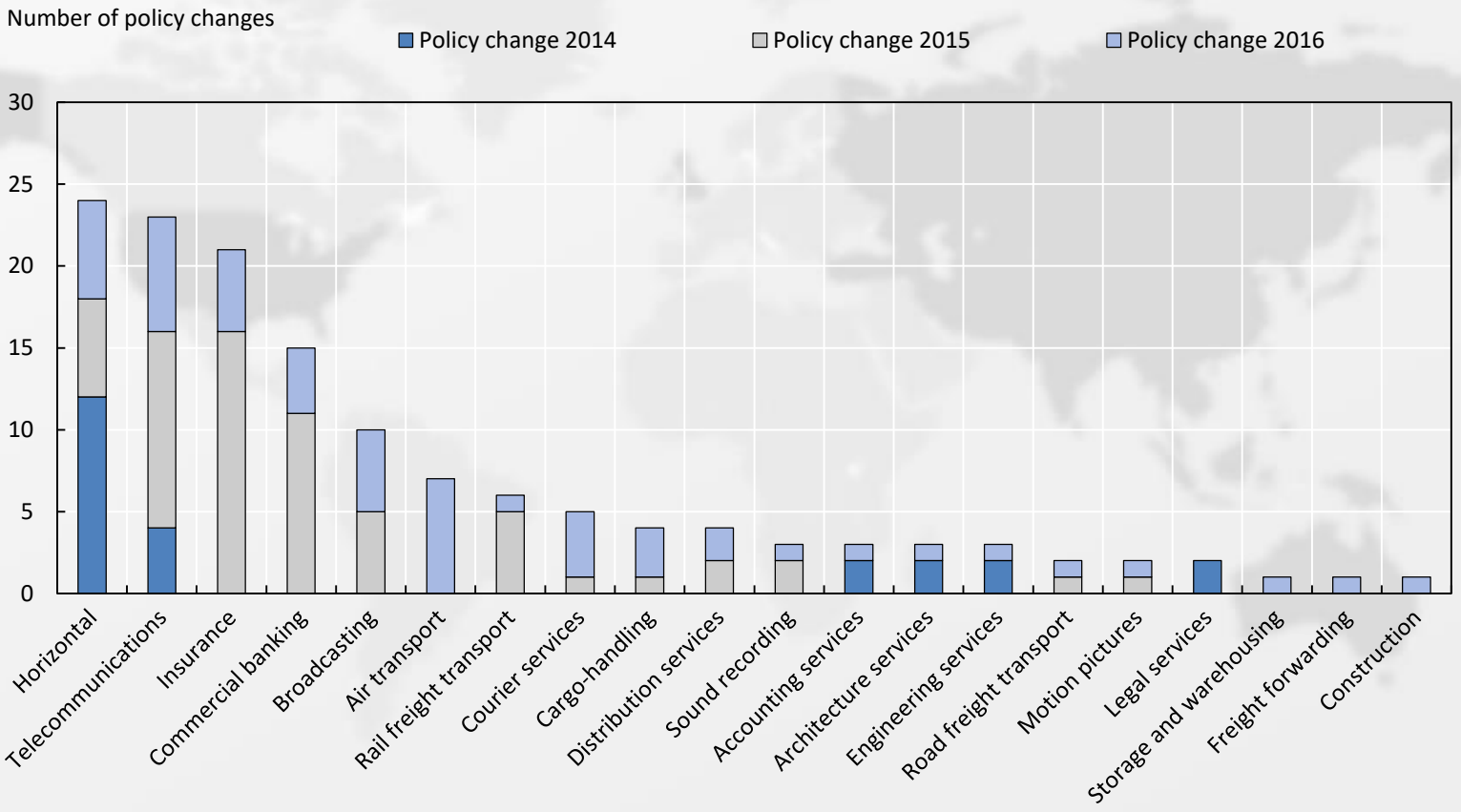
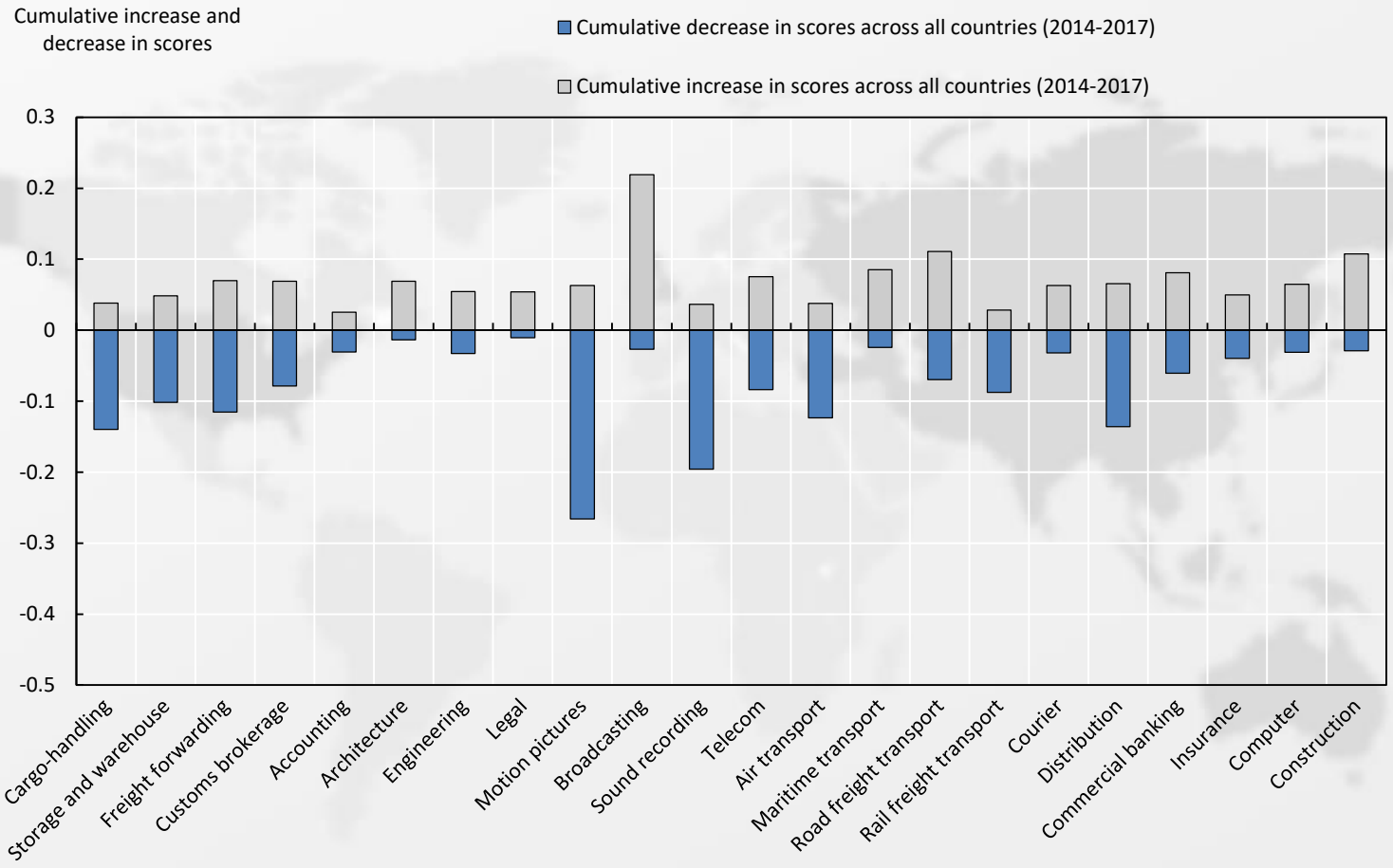
POLICY CHANGES IN STRI, 2014–2016



Source: OECD 2017.

POLICY CHANGES INDUCED CHANGES IN STRI, ASIA–PACIFIC ECONOMIES, 2014–2017



Source: ESCAP, based on OECD 2017 data.

Note: Due to limited data availability, the data only include Australia, China, India, Indonesia, Japan, the Republic of Korea, New Zealand, Russian Federation and Turkey. Data used in this figure are the simple sum of change in STRI of each country.

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APTA PSS AND GATS

- In July 2014, the LDCs submitted to WTO a collective request containing sectors and modes of particular export interest to them, covering :
  - Market access, and national treatment restrictions;
  - Visas, work permits, and residence permits; and
  - Recognition of qualifications of least developed country professions and accreditation of least developed country institutions.
- Bangladesh and Lao PDR get some benefit under the Services waiver decision, however the offers seem to fall shore of the request made by LDCs, especially concerning mode 4.

Number of economies providing preferences to LDCs under Services Waiver

Liberalization	Mode 1	Mode 2	Mode 3	Mode 4
Fully	17	20	13	0
Partially	3	1	9	10

Source: ESCAP (2017), based on WTO S/C/N Notifications (accessed December 2017).

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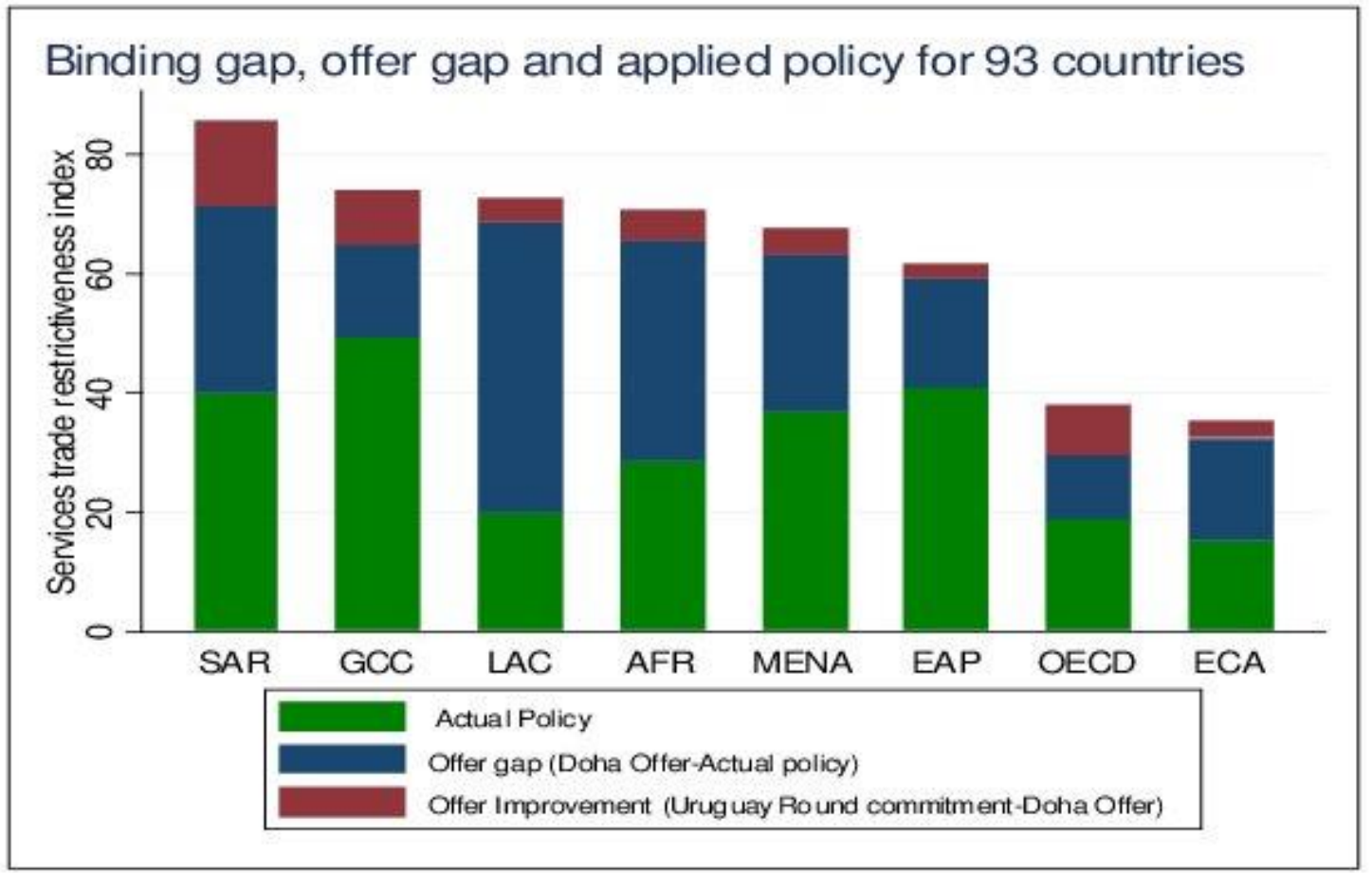
EXISTING COMMITMENTS, DOHA OFFERS AND ACTUAL POLICY BY REGION



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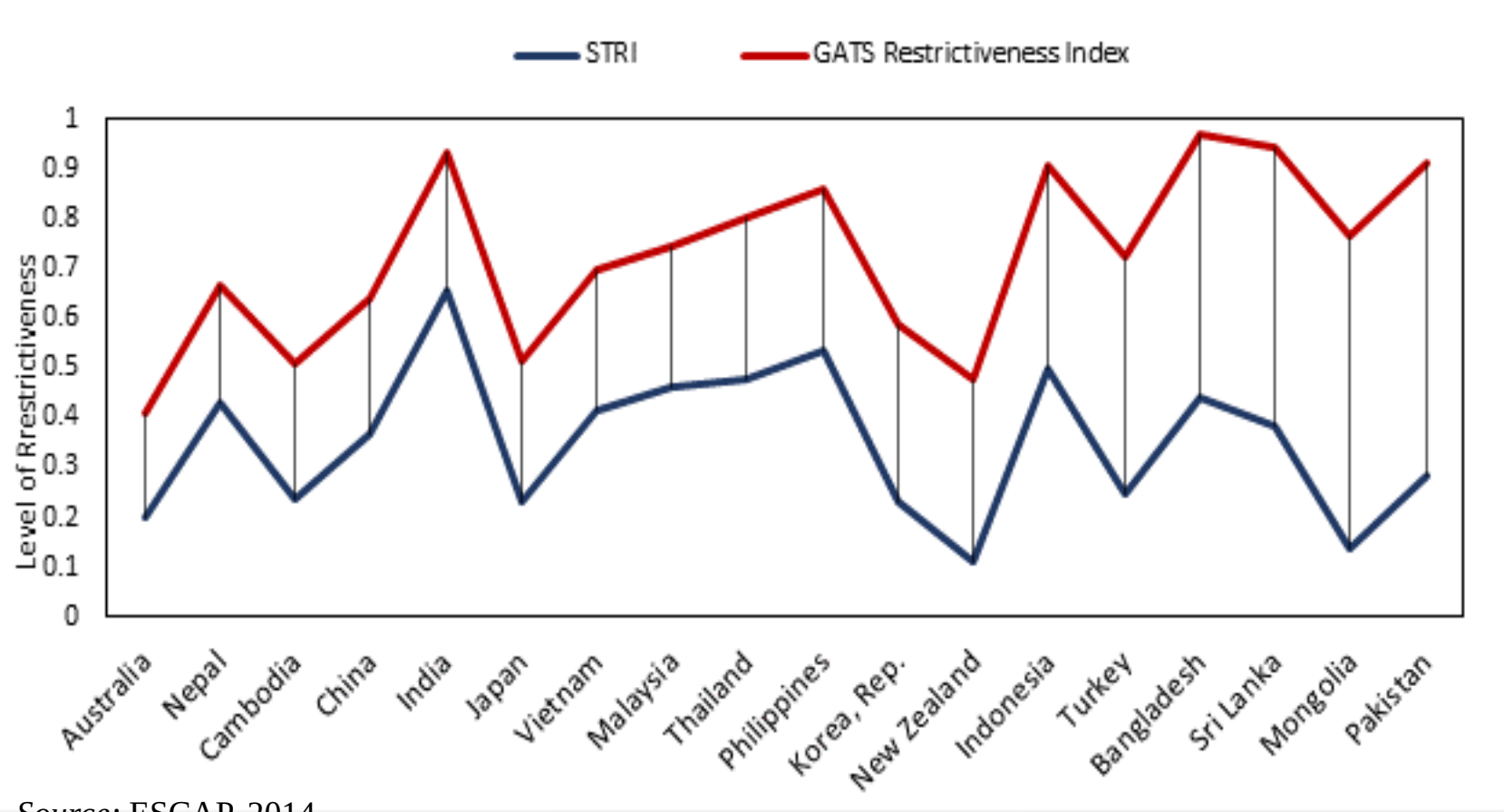
MOST COUNTRIES MORE LIBERAL THAN WHAT THEY REFLECT THROUGH GATS COM MITMENTS



Source: ESCAP, 2014.

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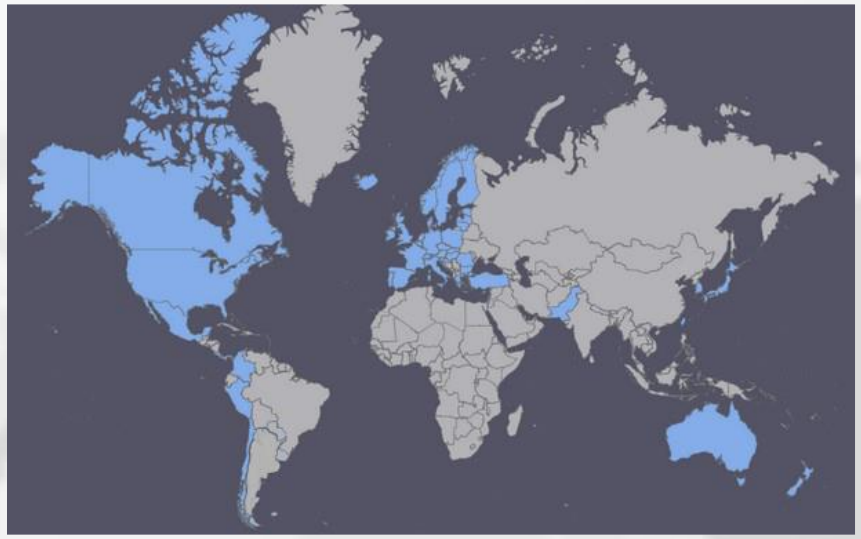
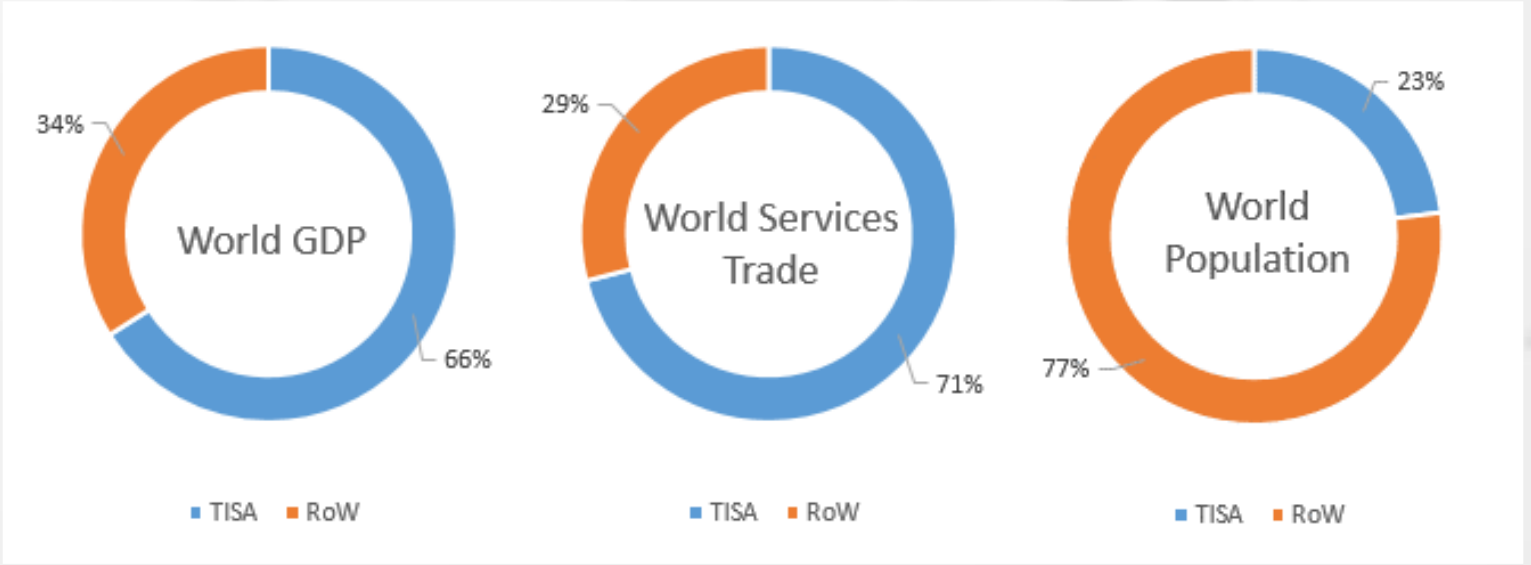
TRADE IN SERVICES AGREEMENT (TISA)

- Since stalling of Doha Round talks on services, action has shifted to TISA or Trade in Services Agreement.
- Launched in March 2013.
- No conclusive end-date set for completion of talks. 21 rounds of TiSA negotiations, and since November 2016, the negotiations have been on hold.
- Negotiations based on WTO GATS principles but **uses 'hybrid' approach** combining 'negative' listing for national-treatment and 'positive' listing for market access.
- Currently, there are 23 participating states. Deal may eventually be 'multilateralised' with benefits extended to all WTO members once enough WTO members join.

TISA PARTICIPANTS, 2016





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PILLARS OF THE TISA NEGOTIATIONS

1. **Basic GATS provisions** (e.g. scope, definitions, market access and national treatment, exceptions)
2. **GATS plus provisions** (horizontal national treatment, standstill and ratchet plus market access "standards")
3. **Regulatory disciplines** (additional or strengthened) (domestic regulation, ICT services, logistics, financial services, maritime transport, government procurement and several others…)
4. **Institutional provisions** (accession, multilateralization, dispute settlement)

WHAT DOES TISA COVER?

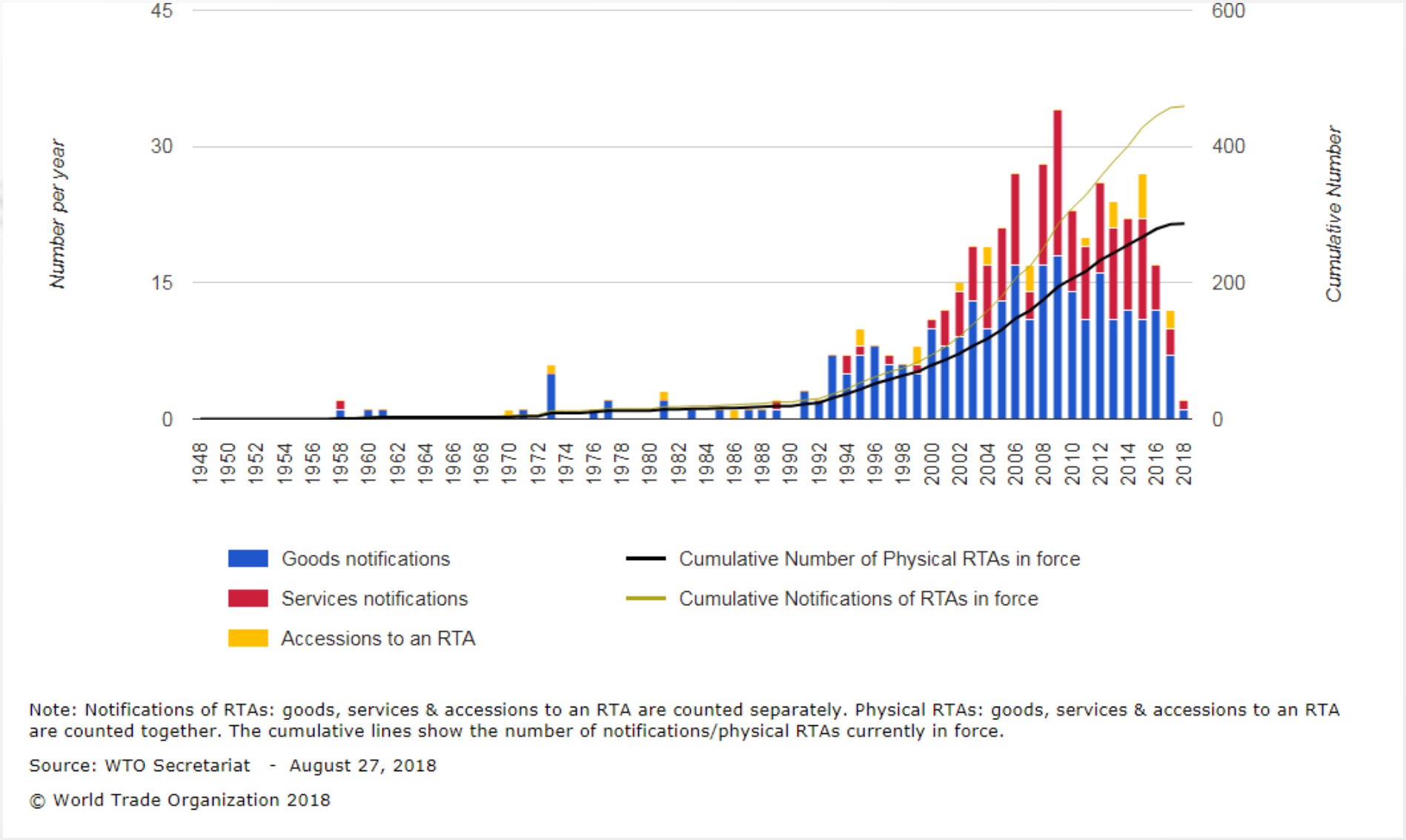
- Many more sectoral Annexes compared to GATS
- The sectoral coverage of TiSA may turn out to be greater than that of the TPP and CETA.
- Provision to address sensitivities in the 'policy space reservation' of the horizontal section

SENSITIVITY IN TISA NEGOTIATION

- Divergent views on domestic regulation
- The right to safeguard public services
- “Technological neutrality” for energy services
- Telecommunications and data flows

SERVICES IN PTAS

SERVICES IN PTAS



Note: Notifications of RTAs: goods, services & accessions to an RTA are counted separately. Physical RTAs: goods, services & accessions to an RTA are counted together. The cumulative lines show the number of notifications/physical RTAs currently in force.

Source: WTO Secretariat - August 27, 2018

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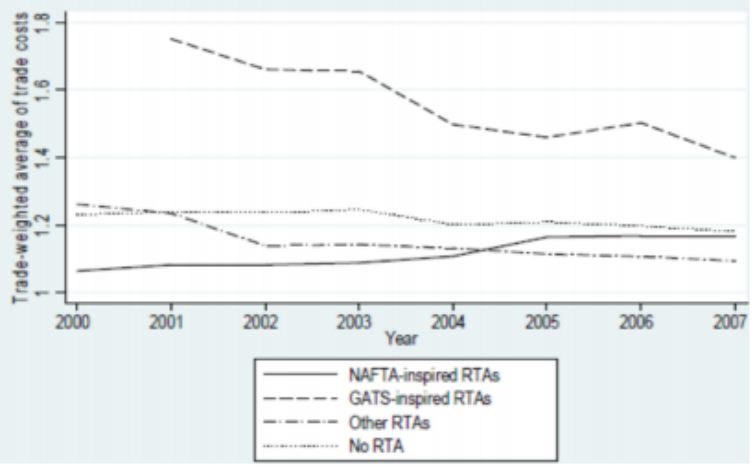
MODALITIES

- Positive list or bottom up- it is based on WTO GATS; mostly adopted in South-South agreements and deemed to be more realistic and easier, but not necessarily bringing more benefits
- Negative list or top down- it is based on NAFTA (and similar agreements) and has been increasingly used in N-N and North-South; deemed less realistic but more desirable due to lower



On average, trade costs are lower in negative list agreements

Source: Stephenson (2015)

- Hybrid approach- combination of the above two approaches; used also in TiSA

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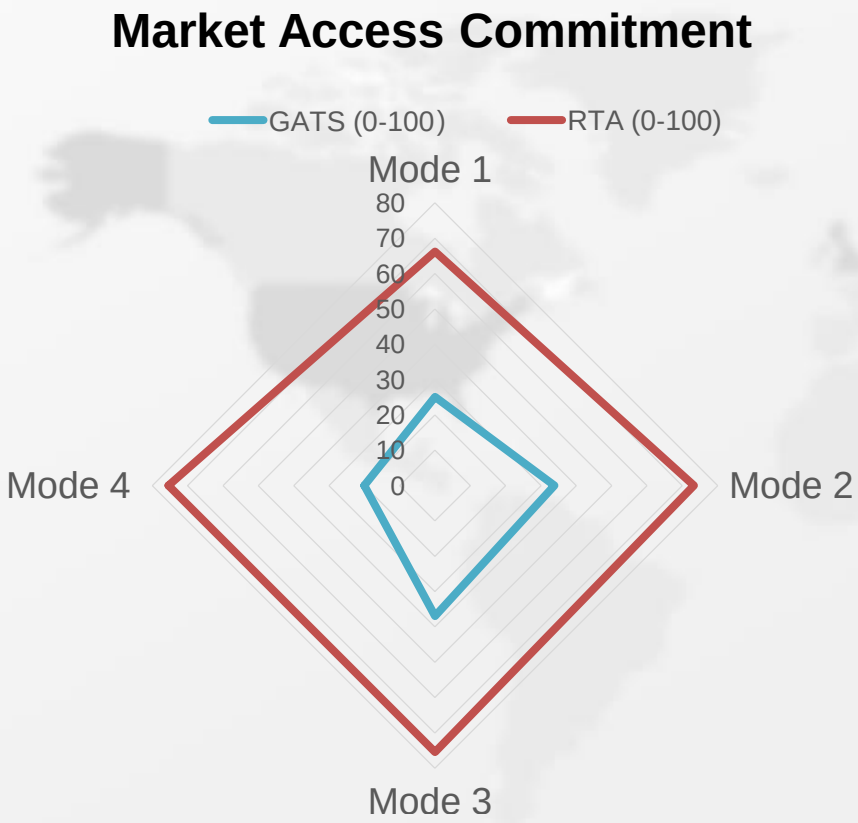
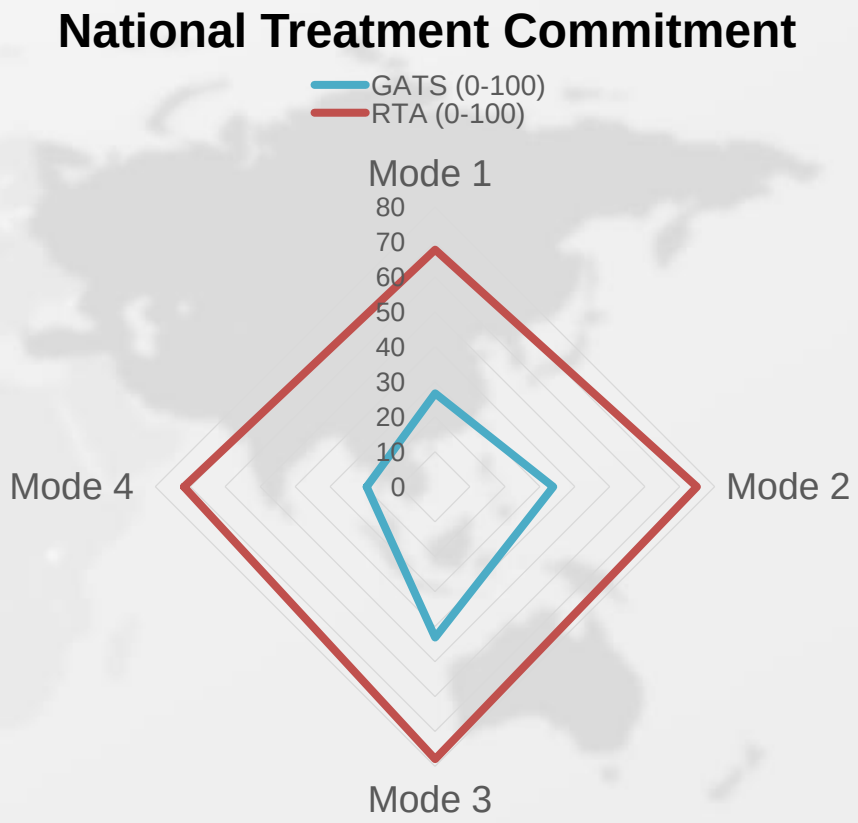
RTAS VS GATS: MODAL DIFFERENCE IN LIBERALIZATION LEVEL AND PREFERENCE MARGIN





Reference: Zhou, N., & Whalley, J. (2014). How Do the" GATS-Plus" and" GATS-Minus" Characteristics of Regional Service Agreements Affect Trade in Services? (No. w20551). National Bureau of Economic Research.

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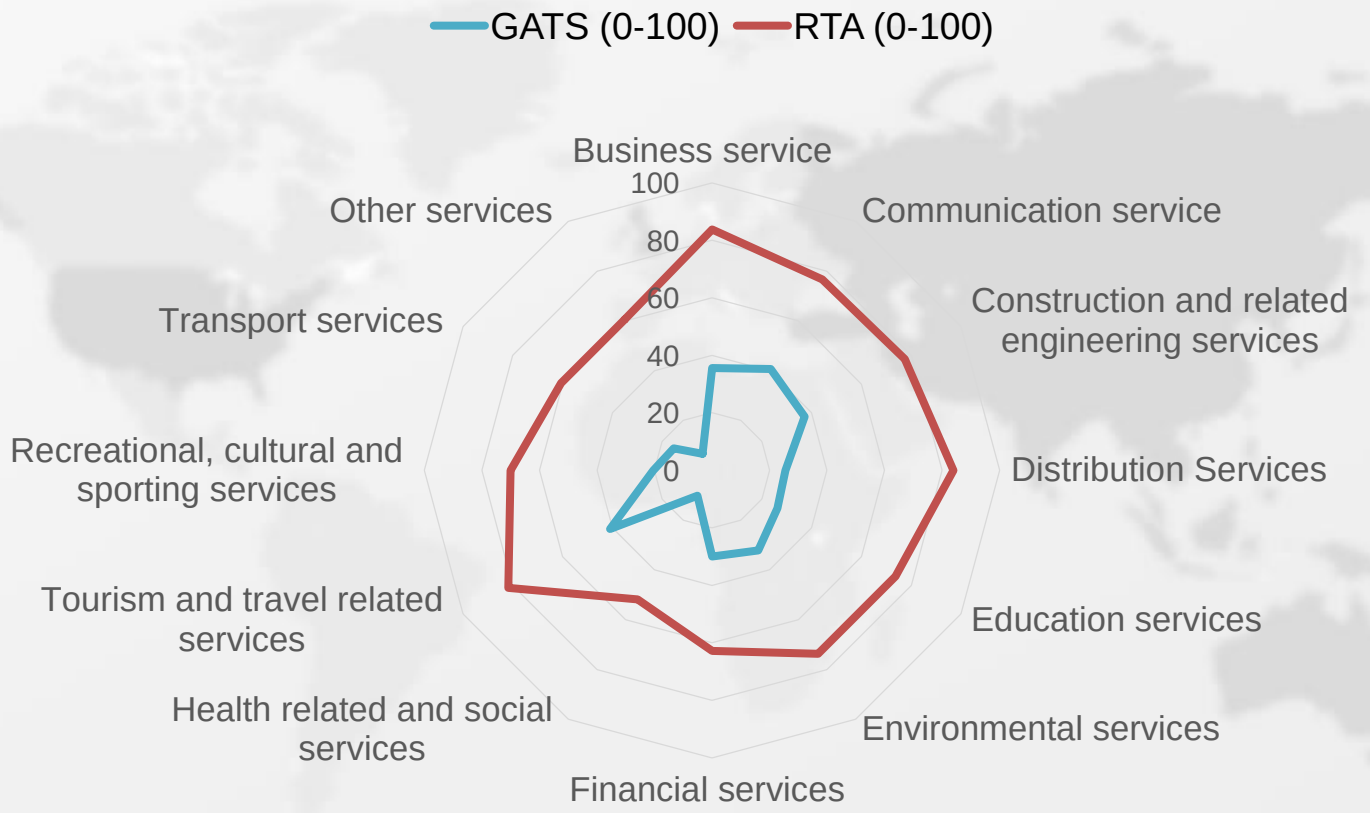
RTAS VS GATS: SECTORAL DIFFERENCE IN LIBERALIZATION LEVEL AND PREFERENCE MARGIN



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POSSIBLE REASONS FOR THE PREFERENCE MARGIN

- Services have been a major feature of PTAs aimed at deeper economic integration.
- A negative list approach is often used instead of a positive list
- PTAs sometimes include a “ratchet clause” that makes them effectively a “dynamic” liberalization instrument

GATS-MINUS COMMITMENTS BY MODE OF SUPPLY AND SERVICE SECTOR

	Number	Percentage	Additional	Tightening	Omitted	Reciprocity
By mode of supply						
Mode 1	483	16%	45%	7%	49%	1%
Mode 2	397	13%	24%	8%	68%	0%
Mode 3	1104	35%	35%	11%	59%	1%
Mode 4	1129	36%	27%	31%	49%	0%
By sector						
Business services	594	19%	43%	20%	43%	2%
Communication services	760	24%	43%	21%	40%	0%
Construction& engineering	56	2%	63%	39%	18%	0%
Distribution services	39	1%	33%	26%	41%	0%
Education services	61	2%	70%	15%	21%	0%
Environmental service	40	1%	50%	30%	40%	0%
Financial services	1195	38%	15%	10%	78%	1%
Health-related &social services	17	1%	41%	47%	12%	0%
Tourism &travel-related services	69	2%	38%	29%	42%	0%
Recreational, cultural, sports services	34	1%	53%	26%	26%	0%
Transport service	248	8%	35%	23%	49%	0%

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Reference: Zhou, N., & Whalley, J. (2014). How Do the" GATS-Plus" and" GATS-Minus" Characteristics of Regional Service Agreements Affect Trade in Services? (No. w20551). National Bureau of Economic Research.

ENVIRONMENTAL SERVICES – GLOBAL AND REGIONAL PERSPECTIVES

4TH APTA MC

- The mandate to work on green trade and investment comes form the 4th Ministerial Council meeting of AOTA which was held in January 2017 where Ministers declared:

  "…..While noting that international trade is an engine for sustained economic growth and development, the 2030 Agenda for Sustainable Development stressed the need to further mainstream sustainable development at all levels, integrating economic, social and environmental aspects and recognizing their inter-linkages, so as to achieve sustainable development in all its dimensions. We noted that the 4th Round concessions include certain items which have been identified as climate smart goods and technologies by ESCAP. **It is important that APTA contributes its efforts towards promotion of green trade and investment within APTA Participating States.** ……"

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WHAT ARE ENVIRONMENTAL SERVICES?

- **W/120 Services sectoral classification list**

Environmental services

A. Sewage services (9401)

B. Refuse disposal services(9402)

C. Sanitation and similar services(9403)

D. Other (no reference to CPC codes)

- **Alternative Proposed Classification (by EU referring to 'core' enviromental services**

1. Water for human use/Waste water management;
2. solid/hazardous waste management;
3. protection of ambient air and climate;
4. remediation and clean-up of soil and water;
5. noise and vibration abatement;
6. protection of biodiversity and landscape,
7. other environmental and ancillary services.

- **'Cluster' approach in environmental services (in addition to the core)**

  - **Members could commit in other services with an 'environmental' end-use.**

e.g. 'environmental engineering' under Engineering services and 'Environmental R&D' under R&D services

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WHAT ARE 'ENVIRONMENTAL SERVICES' ? (2)

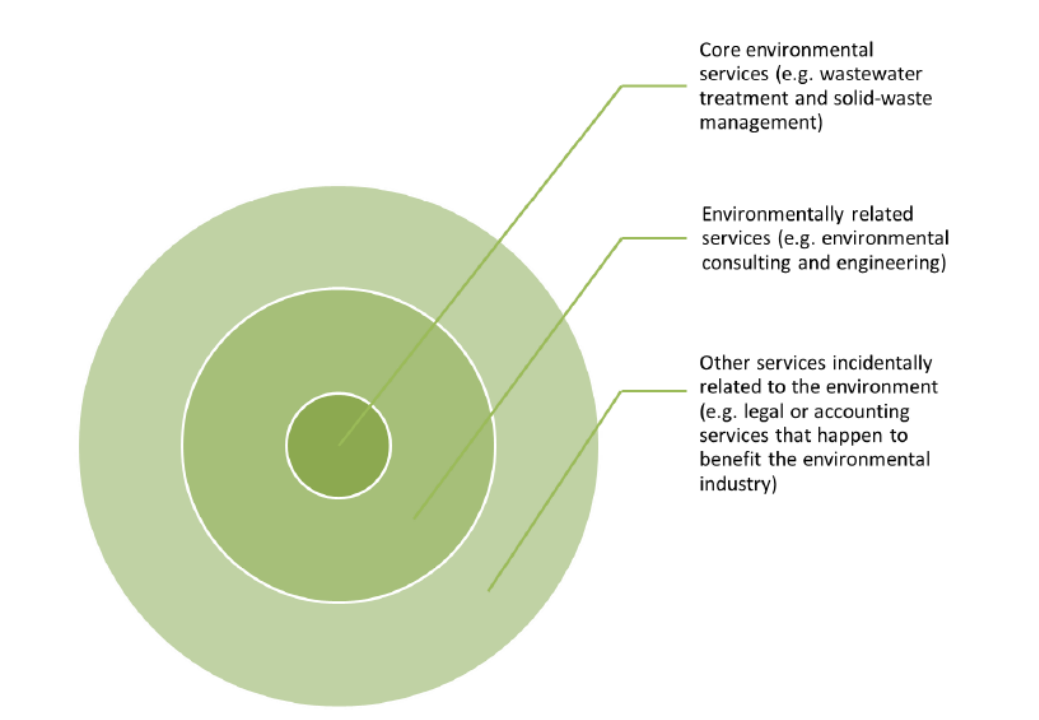
- No universal definition though easier to pin down a service based on 'environmental end-use'.

- Some experts have categorized environmental services into:
  - **Environmental infrastructure services** –Eg: Water treatment and management of waste
  - **Commercial or professional environmental services**-Eg: noise abatement, nature and landscape protection and
  - **Other services with an 'environmental' end-use:** Environmental engineering; environmental consultancy

CLASSIFICATION DEBATE: WHERE ARE WE?

- No consensus so far to modify the classification of environmental services in the W/120.
  - Multilateral discussions are de facto suspended.
- Each Member can follow own classification as long as overlap is avoided and commitments are ‘mutually exclusive’ in nature.

PRELIMINARY EVIDENCE IS NECESSARY FOR DEFINING THE SCOPE OF ENVIRONMENTALLY RELATED SERVICES



How critical a related service is to the provision of the core service/ cleaner equipment and technologies?

*H*ow important *relative to other services* to the provision of the core service or environmental technology?

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ENVIRONMENTAL SERVICES TRADE AND MODES OF SUPPLY

Mode 1 – cross-border supply	Remote monitoring and control of air pollution levels
Mode 2 – consumption abroad	Solid waste are treated abroad
Mode 3 – establishment of commercial presence	Subsidiary provides solid waste treatment services
Mode 4 – presence of natural persons	Foreign technician provides natural disaster assessment services

TRADE IN ENVIRONMENTAL SERVICES

- More than 40 WTO members, at all levels of development, have undertaken specific commitments on environmental services. Most have commitments in several sub-sectors while some have commitments in all sub-sectors.

ENVIRONMENTAL GOODS AND SERVICES (EGS) IN WTO

2001 Doha Ministerial Declaration

Paragraph 31(iii)

With a view to enhancing the mutual supportiveness of trade and environment, we agree to negotiations, without prejudging their outcome, on […]

iii) the reduction or, as appropriate, elimination of tariff and non-tariff barriers to environmental goods and services.

- Environmental Services was being negotiated in WTO under broader services negotiations in WTO Council for Trade in Services.
- Since stalling of Doha Round, action has shifted to TISA or Trade in Services Agreement.

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NEGOTIATIONS ON ENVIRONMENTAL SERVICES IN WTO

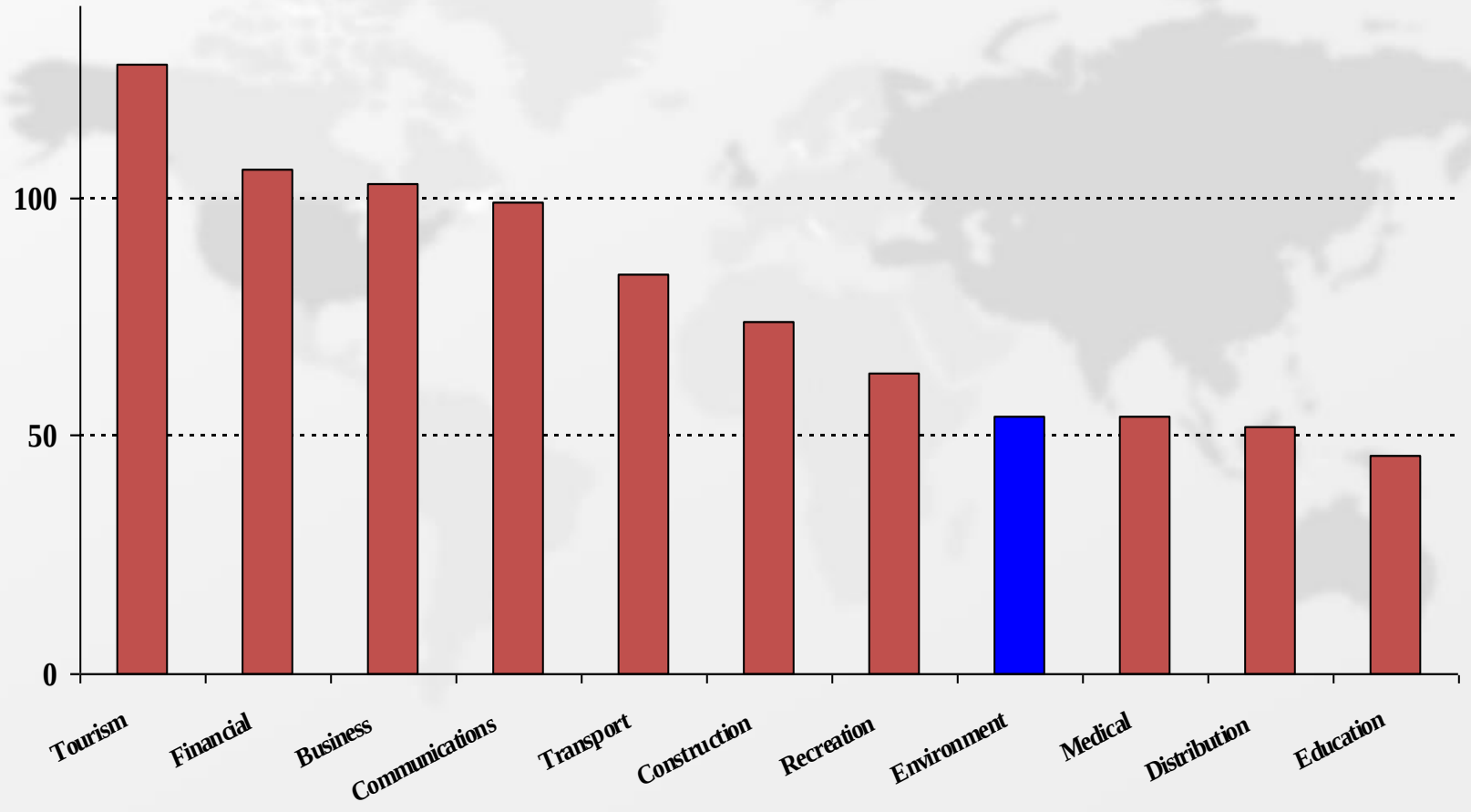
- Two main aspects in the Special Session of the Council for Trade in Services:
  - What to liberalize: Definition and classification of environmental services
  - How to liberalize: Market access negotiations
    - Undertaking new “specific commitments” on environmental services

EGS IN WTO

- More than 40 WTO members, at all levels of development, have undertaken specific commitments on environmental services. Most have commitments in several sub-sectors while some have commitments in all sub-sectors.
- WTO members have identified individually or in groups the objectives in the market access negotiations on environmental services.

RELATIVELY FEW COMMITMENTS MADE UNDER GATS

Distribution of specific commitments across sectors
(Number of WTO Members)



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GATS COMMITMENT ON ENVIRONMENTAL SERVICES BY MODE OF SUPPLY

Mode of supply	Market Access		National Treatment	
	Unbound	Full commitment	Unbound	Full commitment
Mode 1 = cross-border	84%	10%	80%	20%
Mode 2 = consumption abroad	57%	32%	55%	45%
Mode 3 = commercial presence	55%	20%	55%	45%
Mode 4 = movement of natural persons	54%	0%	54%	14%

Note: The data shown above refer to the sample of WTO members covered by Miroudot et al. (2010), which includes all OECD members and a large number of non-member economies, including Albania, China, Costa Rica, Croatia, El Salvador, Honduras, India, Indonesia, Jamaica, Jordan, Malaysia, Morocco, Oman, Peru, the Philippines, Singapore, Thailand, and Viet Nam. The European Union, being a customs union, is here treated as one single WTO member. Environmental services here refer to activities 6A, 6B, 6C, and 6D in the W/120.

ISSUES OF IDENTIFYING POLICY RESTRICTIONS

Few restrictions on commercial presence seem to directly target core environmental services.

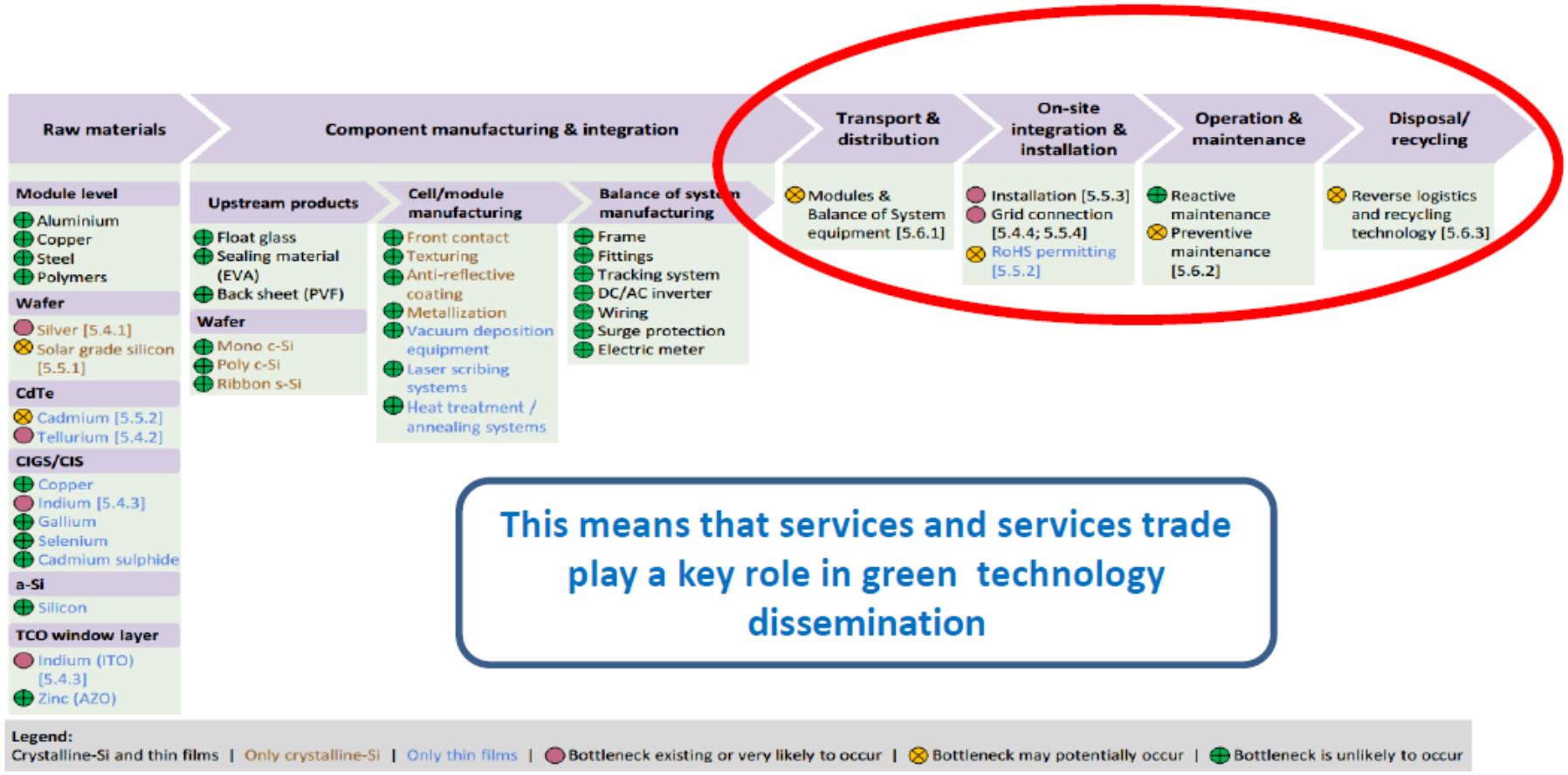
Restrictions on commercial presence seem more prevalent when one considers the broader set of services that form important inputs to environmental projects.

Many environmental services are treated as public goods provided by municipal departments or local public utilities, which makes barriers to competition unusually high in the sector.

Scope and mode of environmental services may change due to evolution of technology.

ENSURING COHERENCE BETWEEN EG AND ES NEGOTIATIONS

Environmental goods are supplied together with services



Source: E4tech & Avalon, IEA-RETD RE-SUPPLY Study, 2012
http://iea-retd.org/archives/publications/re-supply

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SERVICES–TRADE FACILITATION

SERVICES–TRADE FACILITATION AND APTA

- Given the importance of services to the economy of APTA Participating States and the fact that the Services RIs are high, it is useful for APTA PSs to also discuss, apart from market access, the issue of services trade facilitation.
- The services facilitation can draw parallels to the WTO TFA to which APTA PSs are signatory and can draw lessons from provisions relating to transparency, information exchange, advance rulings etc. as well as other cooperation mechanism among their domestic regulators.

INDIA'S PROPOSAL ON SERVICES TRADE FACILITATION

- On 27th July 2017, India circulated to WTO a revised draft legal text for the Trade Facilitation Agreement for Services ('draft TFS').
- Aiming at reduction of transaction costs associated with unnecessary regulatory and administrative burden on trade in services, the TFS Agreement aims for facilitating trade in services, such as transparency, streamlining procedures, and eliminating bottlenecks.
- The scope covered across all modes of supply.
- India proposed to apply the TFS measures only on services in sectors where specific commitments have been made by Members.
- The proposal also includes single window, electronic appellations, ross border insurance coverages, provisions for facilitating movement of natural persons etc.
- As in the case of the TFA, TFS proposed for provisions for special and differential treatment for developing countries and LDCs and address related issues of technical assistance and support for capacity building.

APTA SERVICES FACILITATION – POSSIBLE AREAS

- APTA can consider discussing the following issues which will facilitate trade in services (in parallel to the negotiations on market access in services) as they are broadly covered under the FA:
  - Consultations and cooperation among relevant authorities (Article 4)
  - Exchange of information (Article 4.2 (d))
  - Mutual recognition agreements (Article 16)
  - Transparency in application of measures in trade in services
  - Opportunities to comment before entry into force of measures affecting trade in services
  - Procedures and timelines for applications and for appeal and review
  - Disciplines on taxes, fees, charges and other levies on supply of services

WAY FORWARD

Given the importance of services trade for the APTA Participating States and the fact that the Services trade restrictions are generally high, the secretariat envisage that, in the Services negotiations in APTA, it might be useful to

1. Also discuss, apart from market access, the issue of services trade facilitation.
2. Discuss the market access negotiations on environmental services
3. Ensuring coherence between goods and services negotiation