The Increasing Proliferation of Services PTAs: Features and Implications

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Plan of the presentation

- Article V
- Current state of play
- Analysis of services RTAs: what has been achieved and how it compares with GATS
- Economic implications and impact on multilateralism
Article V: Conditions

- Substantial sectoral coverage (volume of trade, number of sectors, and modes)
- No a priori exclusion of modes, etc.
- Absence or elimination of substantially all discrimination “in the sense” of Article XVII (national treatment)
- Should facilitate trade among parties and not raise overall barriers vis-à-vis other Members
- If GATS specific commitments are affected, renegotiation according to Article XXI is required
Article V: Flexibility

- Elimination of discrimination can be achieved over “a reasonable timeframe”
- Conditions are relaxed if developing countries are parties to the agreement
- Consideration may be given to the relationship with a wider process of economic integration
- However: No discrimination of established suppliers (juridical persons) of third countries, except for agreements among developing countries
Notifications under Article V
General Trends

- Services PTAs are proliferating
  - 11 WTO Members involved in such PTAs before 2000. More than 75 now.
  - 5 services PTAs notified before 2000, more than 10 times that since 2000.
- Still a small fraction of all PTAs notified, but common feature of PTAs involving developed countries
- Regional imbalance in participation to services PTAs
General Trends

- Most important trading Members are involved in this web, although no agreements link them
  - Top 25 exporters/importers of services are involved.
  - Main *demandeurs* in WTO negotiations all involved.
  - Also, services PTAs cover most WTO Members targeted by plurilateral requests
    - 26 of 36 Members recipient > 5 requests;
    - 45 of 63 Members recipient of at least 1 request)
Services RTAs as part of all RTAs
Level of Development of Parties to Services RTAs

- North-North: 41%
- North-South: 10%
- South-South: 49%
Features of Services RTAs

- Part of comprehensive PTAs; Standard feature of PTAs involving developed economies.
- Broad commonality among different PTAs, and vis-à-vis the GATS: scope, general provisions, exceptions...
- No major developments in ‘rules’, with some exceptions, re: DR and Transparency.
- Largest difference relates to architecture and modalities:
  - Separate chapters on Financial, Telecoms, Business Persons, GP.
  - Initially: GATS Model (positive list) vs. NAFTA model (negative list).
Features of Services RTAs

- With some innovations in the architecture more recently:
  - Best of both worlds? Negative-list with a GATS-type MA obligation (Article XVI)

- Other approaches:
  - Positive-list with standstill
  - Packages of commitments
  - Listing solely GATS+ agreements

- Various carve-outs from MFN
- Rules of origin: some exceptions to liberal ROF envisaged by Art.V(6)
Motivations for Services PTAs

- Politics
- To reflect new ways of doing business
- Security of access for services exporters
- Negotiating economy
- Regional Integration
- Encourage and consolidate reforms
- Part of trade-offs for preferential access in goods
- Bandwagon
Assessing Commitments in Services RTAs

- Analysis of MA and NT commitments by 37 WTO Members (EU as 1) in 40 PTAs.
- Focus on modes 1 and 3 examined.
- RTA commitments have been compared to GATS commitments and GATS offers.
- Rough attempt to take into account level of commitment.
- Starting point: Hoekman methodology.
- ... with modifications to take into account the fact that various commitments of a given Member were analyzed.
## Methodology to Assess RTA Commitments

<table>
<thead>
<tr>
<th>Sector</th>
<th>GATS</th>
<th>PTA with Country A</th>
<th>PTA with Country B</th>
<th>PTA with Country C</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Legal Services</strong></td>
<td>No commitment</td>
<td>Better commitment than in GATS, but limitations remain (partial)</td>
<td>Even better commitment than in the PTA with A, but limitations remain (partial)</td>
<td>Even better commitment than in the PTA with B, but limitations remain (partial)</td>
</tr>
<tr>
<td></td>
<td>0</td>
<td>0.5</td>
<td>0.75</td>
<td>0.875</td>
</tr>
<tr>
<td><strong>Accountancy Services</strong></td>
<td>No commitment</td>
<td>Full commitment</td>
<td>No commitment</td>
<td>Partial commitment</td>
</tr>
<tr>
<td></td>
<td>0</td>
<td>1</td>
<td>0</td>
<td>0.5</td>
</tr>
<tr>
<td><strong>Advertising Services</strong></td>
<td>Partial commitment</td>
<td>No better commitment than in the GATS.</td>
<td>Better commitment than in the GATS, although limitations remain (partial)</td>
<td>Full commitment</td>
</tr>
<tr>
<td></td>
<td>0.5</td>
<td>0.5</td>
<td>0.75</td>
<td>1</td>
</tr>
</tbody>
</table>
Benefits of the Method of Analysis

- Use of scoring methodology permits:
  - more ‘precise’ assessment of PTA commitments
  - Simple way to summarize and present results
  - Comparison of levels of commitments of a given Member in different PTAs, for example:
    - Compare commitments of county A in its PTAs with B, C, and D, as well as in the GATS context;
    - See which types of PTAs have yielded ‘more commitments’, for who, in what mode, and in what sectors.
All services

ASEAN
Australia-Singapore
Australia-Thailand
CAFTA-DR
Costa Rica-Mexico
EU-Chile
EU-Mexico
EFTA-Chile
EFTA-Korea
EFTA-Mexico
EFTA-Singapore
India-Singapore
Japan-Malaysia
Japan-Mexico
Japan-Philippines
Japan-Singapore
Japan-Thailand
Jordan-Singapore
Korea-Chile
Korea-Singapore
MERCOSUR
Mexico-Honduras
Mexico-Guatemala
Mexico-El Salvador
New Zealand-Singapore
Panama-Chinese Taipei
Panama-El Salvador
Panama-Singapore
US-Australia
US-Bahrain
US-Chile
US-Jordan
US-Morocco
US-Oman
US-Singapore
US-Peru
US-Peru
Overall Scores
(average for all Members reviewed)
Scores by Member (sample)
RTAs: How Much Further than the GATS?

- Overall PTA commitments tend to go significantly beyond GATS offers
  - For either M1 or M3, average score achieved by PTAs is more than twice that of existing GATS commitments
  - Value-added of GATS offers pales in comparison with PTA advances
- Unequal results across Members
RTA Improvements, by Sector

- Professional
- Computer
- Postal-Courier
- Telecom
- Audiovisual
- Construction
- Distribution
- Education
- Environmental
- Financial
- Health
- Tourism
- Maritime
- Rail
- Road
- Auxiliary/Transport

Graph shows comparisons between RTA, GATS offer, and GATS levels for different sectors.
How Much Further than the GATS?

- Those that have made the most important GATS+ commitments in RTAs had also modest DDA offers?
- Value-added of PTA commitments is fairly widespread across sector groupings
- That said, PTA advances tend to be relatively more modest in sectors that are more difficult at the multilateral level.
Real liberalization in selected sectors
Some examples

<table>
<thead>
<tr>
<th>Country</th>
<th>Sector</th>
<th>Liberalization commitment</th>
</tr>
</thead>
<tbody>
<tr>
<td>Australia</td>
<td>Insurance</td>
<td>Branching in life insurance</td>
</tr>
<tr>
<td>Bahrain</td>
<td>Construction</td>
<td>Local presence requirement to be lifted</td>
</tr>
<tr>
<td>China</td>
<td>Professional</td>
<td>Will allow wholly owned operations in architectural, engineering, integrated engineering, and urban planning and landscape architectural services</td>
</tr>
<tr>
<td>Colombia</td>
<td>Audiovisual</td>
<td>Will reduce quotas for broadcasting of locally-produced TV programs from 50% to 30%</td>
</tr>
<tr>
<td>Costa Rica</td>
<td>Telecom</td>
<td>Full liberalization by 2007</td>
</tr>
<tr>
<td>Oman</td>
<td>Distribution</td>
<td>Full foreign ownership of retail enterprises worth more than $1 million</td>
</tr>
<tr>
<td>Singapore</td>
<td>Legal</td>
<td>Existing Singaporean laws to be modified so as to relax conditions under which US law firms are permitted to provide legal services.</td>
</tr>
<tr>
<td>Thailand</td>
<td>Tourism, education &amp; maritime transport</td>
<td>Will allow 60% Australian ownership in major restaurants or hotels, some tertiary education services,</td>
</tr>
</tbody>
</table>
Determinants of PTA Advances

- Analysis of each Members’ commitments for each PTA suggests that the following factors are key:
  - Reciprocity
  - Economic importance of trading partners
  - Negotiating modalities
Implications for Multilateralism

- Negative Political Economy Implications?
  - PTA negotiations diverting resources from Doha negotiations?
  - Creation of vested interests opposing multilateral liberalization
  - PTA providing an incentive to “hold back” in multilateral negotiations?
  - Success of big trading partners in PTAs reducing their ambition in multilateral negotiations?
  - Tough issues do not get solved in PTAs
  - Losing leverage to deal with key issues in Doha
  - Chain reaction: the PTA bandwagon
Implications for the Multilateral System

-Relevant Considerations:
- No loss of revenue as in the case of tariff reductions
- Degree of economic distortion depends on applied discrimination against non-parties, which in turn depends on extent of “real liberalization”
- Less so than for goods, but services PTAs do lead to new access, with potentially far reaching effects across the economy
Negative Implications Should Not Be Downplayed

- Relevant Considerations:
  - Discrimination against non-parties:
    - Single regulatory regimes for services may imply de facto extensions of preferences to third countries
    - Problems with rules of origin may not be as complex
    - BUT...
Negative Implications Should Not Be Downplayed

- BUT...
  - cases of applied discrimination exist;
  - information is lacking;
  - licensing/authorisation process makes it difficult to discern preferences
  - timing of the ‘new access’ is key: first-mover advantages
Thank you!