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**Working Paper**

## Provisions on small and medium-sized enterprises in regional trade agreements

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**PROVISIONS ON SMALL AND MEDIUM-SIZED ENTERPRISES IN REGIONAL TRADE AGREEMENTS**

**José-Antonio Monteiro**

*Manuscript date: June 2016*

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## PROVISIONS ON SMALL AND MEDIUM-SIZED ENTERPRISES IN REGIONAL TRADE AGREEMENTS

José-Antonio Monteiro\*

*Manuscript date: June 2016*

**ABSTRACT:** This paper reviews the different types of provisions explicitly addressing small and medium enterprises (SMEs), including micro firms (MSMEs), in regional trade agreements (RTAs). The analysis covers the 270 RTAs currently in force and notified to the WTO as of April 2016. The analysis shows that half of all the notified RTAs, namely 136 agreements, incorporate at least one provision mentioning explicitly SMEs. These SMEs-related provisions are highly heterogeneous and differ in terms of location in the RTA, language, scope and commitments. Many of the SMEs-related provisions are only found in a single or couple of RTAs. A limited but increasing number of RTAs incorporate specific provisions in dedicated articles or even chapters on SMEs. Although the number of detailed SMEs-related provisions included in a given RTA has tended to increase in recent years, most SMEs-related provisions remain couched in best endeavour language. The two most common categories of SMEs-related provisions found in RTAs are provisions (1) promoting cooperation on SMEs and (2) specifying that SMEs and/or programs supporting SMEs are not covered by the RTAs' obligations provisions. Other types of SMEs-related provisions, incorporated in a limited number of RTAs, refer, *inter alia*, to government procurement, trade facilitation, electronic commerce, intellectual property, or transparency.

**KEYWORDS:** Regional Trade Agreements, Small and Medium-Sized Firms (SME).

**JEL CLASSIFICATIONS:** F13, F15

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## 1 INTRODUCTION

Trade agreements, including regional trade agreements (RTAs), can benefit small and medium enterprises (SMEs), including micro firms (MSMEs), by reducing or eliminating tariff and non-tariff barriers, simplifying customs procedures, promoting electronic commerce, and enhancing transparency of trade-related domestic regulations. Yet, the literature is silent on the different approaches adopted to explicitly address SMEs in RTAs.

<sup>1</sup> This study aims at filling this gap by identifying both commonalities and differences in addressing explicitly the issue of SMEs in RTAs. The analysis covers 270 RTAs currently in force and notified to the WTO as of May 2016.

The review confirms that SMEs-related provisions, similar to other types of provisions in RTAs, are highly heterogeneous. These SMEs-related provisions differ considerably not only in terms of location in the RTA, but also in terms of language, scope and commitments. Many of these provisions are only found in a single or couple of RTAs. Half of all the notified RTAs, namely 136 agreements, incorporate at least one provision mentioning explicitly SMEs, with an acceleration in the last 15 years. In parallel, the number of detailed SMEs-related provisions included in a given RTA has tended to increase in recent years. A limited but increasing number of agreements incorporate specific provisions in dedicated articles or even chapters on SMEs. Most SMEs-related provisions are couched in best endeavour language. The two most common categories are, in order of frequency, provisions (1) promoting co-operation on SMEs in general or in a specific context, such as electronic commerce and government procurement; and (2) specifying that SMEs and/or programs supporting SMEs are exempted from the RTAs' obligations. Other types of SMEs-related provisions, incorporated in a limited number of RTAs, focus on trade facilitation, intellectual property, and transparency.

The remainder of the paper is structured as follows. Section 2 presents the data and methodology used to identify provisions on SMEs in RTAs. Section 3 provides an overview of the evolution and trends of SMEs-related provisions in RTAs. The structure and location of SMEs-related provisions in RTAs is presented in section 4, while section 5 discusses in details the typology of SMEs-related provisions. Section 6 discusses upcoming types of SMEs-related provisions in recent RTAs that have yet to be notified to the WTO. Finally, section 7 concludes.

## 2 METHODOLOGY

The objective of this study is to establish a comprehensive typology of SMEs-related provisions included in RTAs. The analysis covers the 270 RTAs currently into force that have been notified to the WTO between 1957 and May 2016 under Article XXIV (Territorial Application – Frontier Traffic – Customs Unions and Free-trade Areas) of the General Agreement on Tariffs and Trade (GATT-1994), the Enabling Clause (Decision on Differential and More Favourable Treatment, Reciprocity and Fuller Participation of Developing Countries), Article V (Economic Integration) of the General Agreement on Trade in Services (GATS) or the Transparency Mechanism for Regional Trade Agreements.<sup>2</sup> The main text of the RTAs but also side documents, such as protocols, annexes, communication letters, and other documents associated with the RTAs have been considered in the analysis.

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<sup>1</sup> The only exception is a recent study by Cernat and Lodrant (2016) analysing SMEs-related provisions in 28 regional trade agreements negotiated by the European Union and the United States between 1990 and 2014.

<sup>2</sup> The WTO's RTA database (<http://rtais.wto.org>) contains detailed information on all the RTAs notified to the GATT/WTO. As of May 2016, some 629 notifications of RTAs (counting goods, services and accessions separately) have been received by the GATT/WTO. Of these, 423 are in force. These WTO figures correspond to 458 physical RTAs (counting goods, services and accessions together), of which 270 are currently in force. Accessions to an existing RTA are excluded from the analysis in this report.

Unless specified otherwise, SMEs-related provisions are defined as any provisions mentioning explicitly small and medium enterprises, including micro firms. The following keywords have been used to identify SMEs-related provisions: small, medium, micro, SME, and start-up.<sup>3</sup> In addition to specific SMEs-related provisions, there are many provisions in RTAs potentially relevant to SMEs, even though these provisions do not make explicit reference to SMEs or distinction between firm size. Some of these provisions relevant to SMEs will be discussed in Section 5 presenting the typology of SMEs-related provisions.

RTAs provisions can be analysed from different perspectives, such as their nature, their location in the agreement, and their degree of enforcement. Since no paper has analysed provisions related to SMEs, a comprehensive typology of provisions referring explicitly to SMEs in existing RTAs will be constructed based on the (non-exhaustive) criteria listed in Table 1:

**Table 1: RTAs' analysis criteria**

<b>Structure of the provision</b>	<b>Location of the provision</b>	<b>Type of commitment</b>
Footnote	Main text of the RTA	Recognition/Affirmation
Within article	Annex to the RTA	Encouragement
Sub-article	Side agreement	Recommendation
Specific article		Obligation
Specific chapter		

SMEs-related provisions can take different forms. The term SME can be mentioned in a footnote, or more generally within an article covering various issues, including SMEs. SMEs-related provisions can also be a sub-part, such as a specific paragraph, of an article addressing different issues. Similarly, a chapter covering broader issues can include a specific article dedicated to SMEs. Conversely, a specific chapter can be integrated in the RTA with different articles addressing exclusively SMEs. In addition to the main text of the RTA, SMEs-related provisions can be included in the annexe(s) to the RTA or side agreement(s) negotiated in parallel to the RTA or concluded after the agreement's entry into force.

The type of language of SMEs-related provision is likely to differ across RTAs. Difference in wording often reflects the level of detail of RTAs' provisions. SMEs-related provisions can recognize or reaffirm specific statements. Other provisions can be couched in best endeavour language and exhort or recommend the parties to behave in a certain way or take specific steps. Alternatively, provisions can make firmer commitments creating specific obligations and/or rights. While formulating a provision in firmer language can give an indication of the stronger nature of the commitment, the location of the provision in the agreement is also relevant to determine whether the provision is covered or not by the RTA's dispute settlement procedures, making it legally binding or not.

The combination of these criteria allows the analysis to be as exhaustive as possible. In addition, the comparative analysis allows distinguishing and inferring the number of different SMEs-related provisions. However, the assessment of the actual level of implementation of SMEs-related provisions, which is likely to be specific to each RTA, is outside the scope of this study.

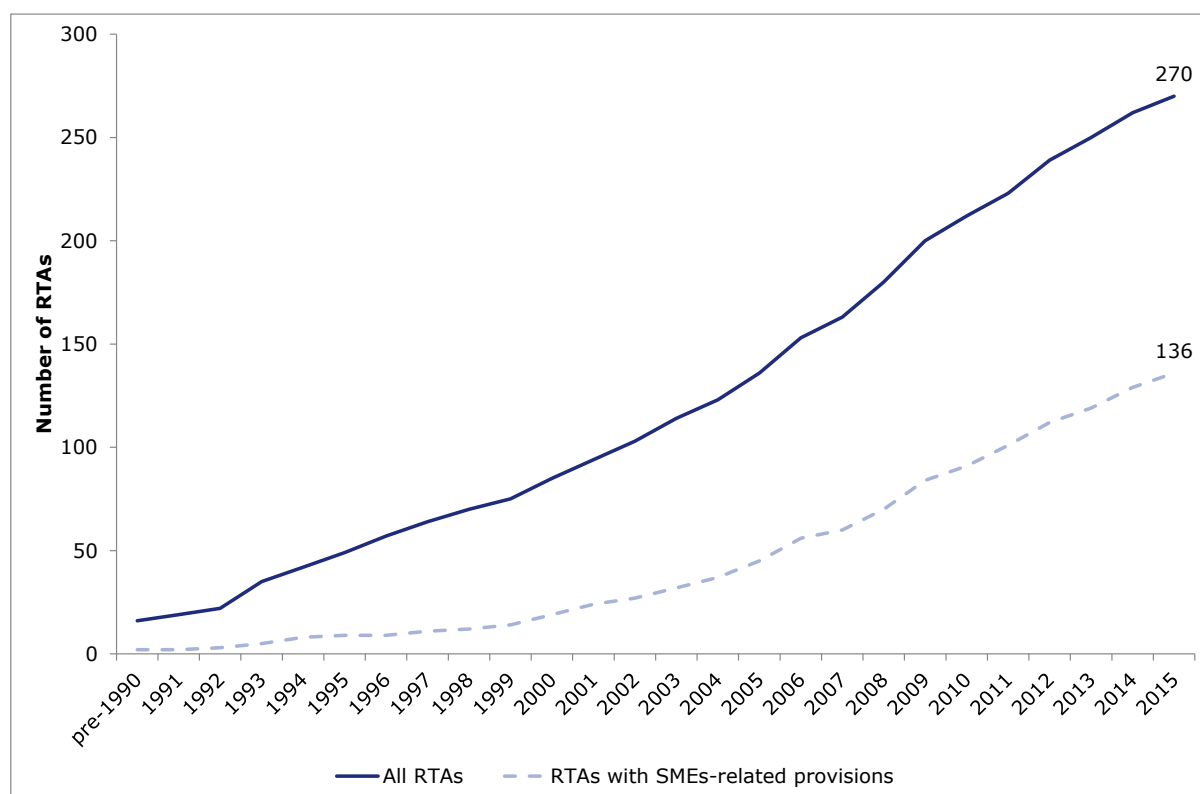
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<sup>3</sup> The French and Spanish translations of these keywords have also been used.

### 3 OVERVIEW AND TRENDS OF SMEs-RELATED PROVISIONS

As highlighted in Figure 1, the number of RTAs with SMEs-related provisions has increased steadily since the late 1990s and early 2000s. As of May 2016, 136 RTAs, representing 49% of all the notified RTAs, include at least one provision mentioning explicitly SMEs. This trend mirrors the expansion of RTAs in the last 25 years, both in terms of number and scope (WTO, 2011). While only 17 RTAs entered into force between 1970 and 1990, RTAs have proliferated between 1990 and May 2016 with the entry into force of 253 RTAs.<sup>4</sup>

**Figure 1: Evolution of RTAs with provisions explicitly mentioning SMEs**



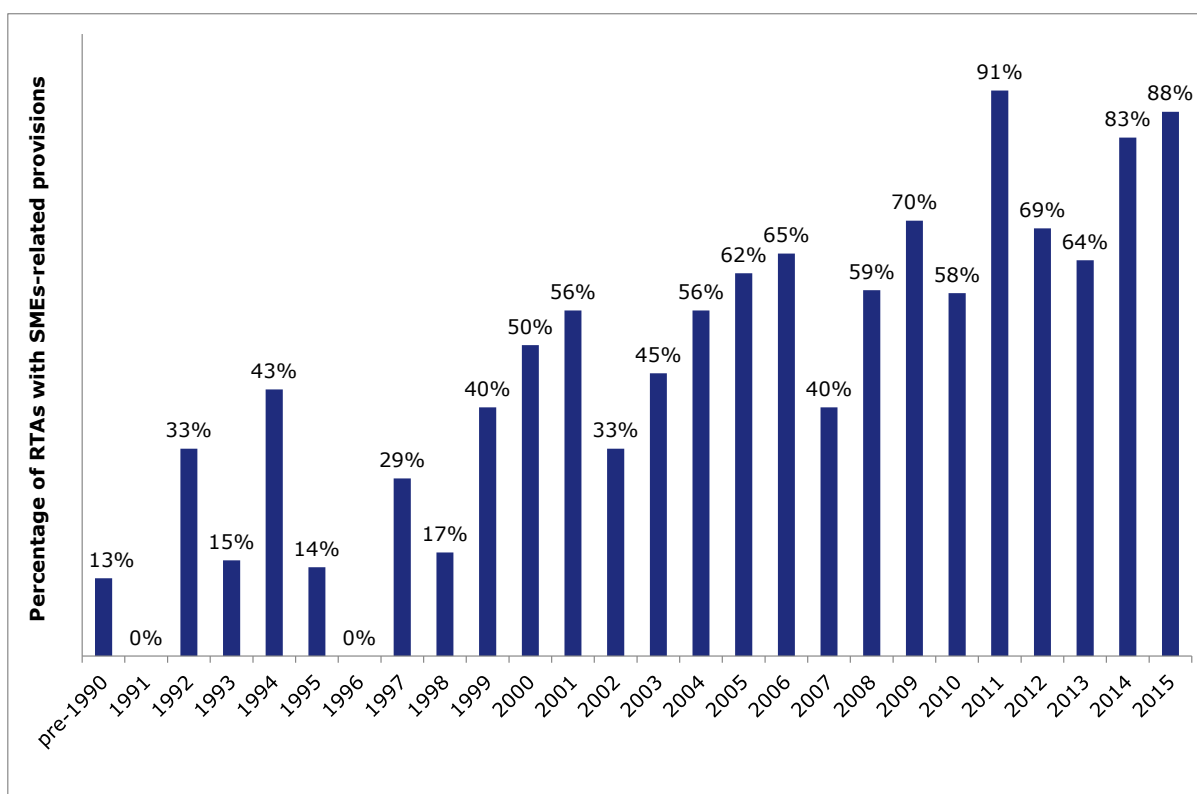
Source: Computations based on WTO RTA database.

In addition, and as depicted in Figure 2, the share of RTAs incorporating SMEs-related provisions has been trending upward to the point where provisions on SMEs are included in almost 80 per cent of all the RTAs that entered into force in the last 5 years (2011-2015). This trend is in line with the growing discussions on SMEs' participation in international trade in the policy agenda of many regional and multilateral forums and organisations.

<sup>4</sup> The 17 notified RTAs that entered into force between 1970 and 1990 are the Andean Community; Asia Pacific Trade Agreement; Australia - New Zealand Closer Economic Relations Trade Agreement; Agreement on Trade and Commercial Relations between Australia and Papua New Guinea; Caribbean Community and Common Market; Central American Common Market; Agreement between the European Economic Community and Iceland; Agreement between the European Economic Community and Norway; Association of the Overseas Countries and Territories with the European Community; Agreement between the European Economic Community, Switzerland and Liechtenstein; Cooperation Agreement between the European Economic Community and the Syrian Arab Republic; European Free Trade Association; Latin American Integration Association; Protocol on Trade Negotiations; South Pacific Regional Trade and Economic Cooperation Agreement; Trade Agreement between Panama and the Dominican Republic, and Free Trade Area between Israel and the United States of America.

As shown in Figure 3, the evolution of RTAs with SMEs-related provisions can be characterized by three distinct periods. Prior to 1990, only two RTAs with SMEs-related provisions were negotiated. The South Pacific Regional Trade and Economic Cooperation Agreement (SPARTECA) is the first RTA to ever include a provision explicitly referring to SMEs. The agreement specifies that Australia and New Zealand's bilateral and regional development assistance measures and programmes may include those which contribute to investment in industries, including agro based industries, with particular emphasis on those of a smaller or medium size. The Cartagena Agreement establishing the Andean Community is the second RTA with SMEs-related provisions stipulating, among other things, that the commission and general secretariat shall consider, in the application of industrial integration programmes and projects, the situation and requirements of small and medium-sized industry.

**Figure 2: Percentage of RTAs with provisions explicitly mentioning SMEs**

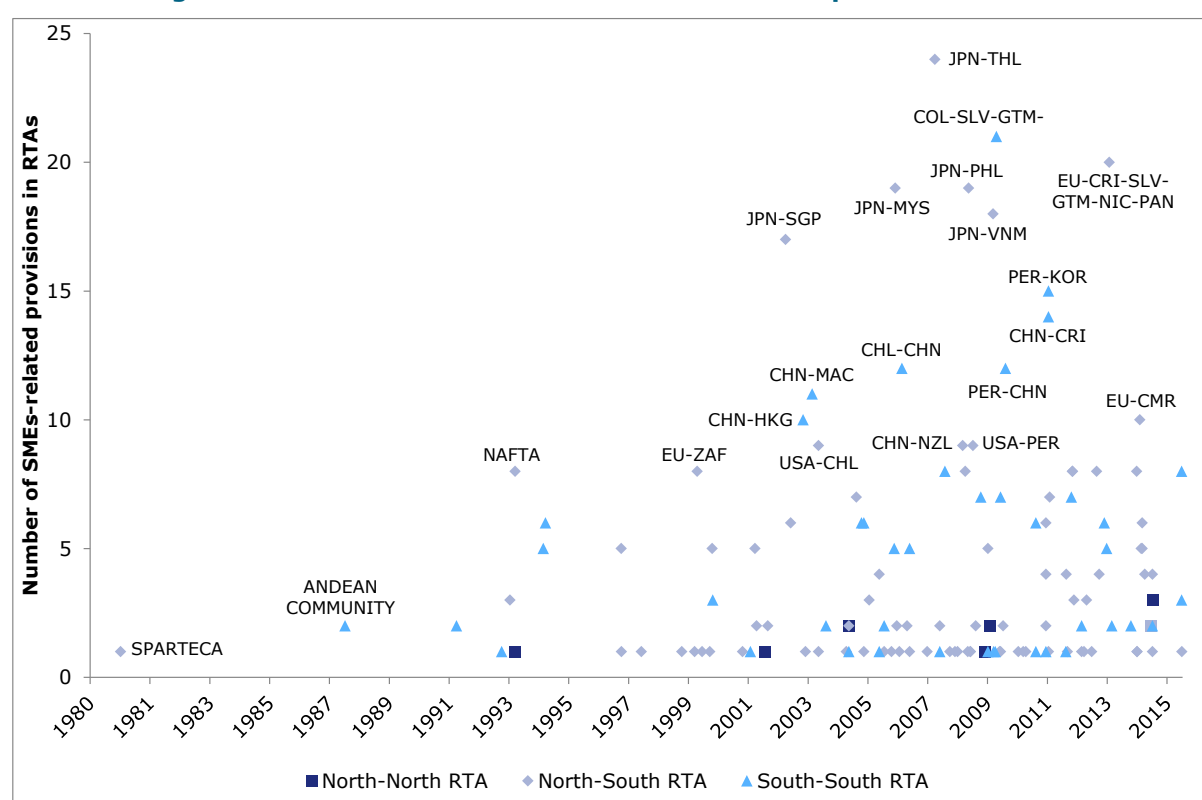


Note: The total number of RTAs with SMEs-related provision per year is the sum of RTAs incorporating SMEs-related provisions that entered into force that year. Figures are not cumulative.  
Source: Computations based on WTO RTA database.

Between 1990 and 1999, the number of RTAs with SMEs-related provisions has increased slightly, but the number of specific provisions on SMEs remained limited, with a few exceptions, such as the North American Trade Agreement (NAFTA) and the Common Market for Eastern and Southern Africa (COMESA). From 2000, the number of RTAs with SMEs-related provisions has accelerated significantly. This increase in the total number of RTAs with SMEs-related provisions is driven by the surge in the number of such agreements involving developing countries. As of May 2016, 65% and 31% of the RTAs incorporating SMEs-related provisions were agreements negotiated, respectively, between developed and developing countries (88 North-south RTAs) and between developing countries (42 South-South RTAs). Only 6 RTAs negotiated between developed countries incorporate SMEs-related provisions.

In addition to the rise in the number of RTAs with provisions mentioning explicitly SMEs, the number and level of details of these SMEs-related provisions in these agreements have also increased significantly since 2000. The Japan-Thailand economic partnership agreement is currently the agreement with the highest number of SMEs-related provisions. These provisions are found in the RTA's chapters on intellectual property and cooperation, as well as in the dedicated chapter on cooperation in the field of SMEs of the implementing agreement associated with the trade agreement. The RTAs to which Japan is a party with Malaysia, the Philippines, Viet Nam and Singapore also incorporate a relatively high number of provisions on SMEs. Similarly, the free trade agreement between Colombia, El Salvador, Guatemala and Honduras includes detailed SMEs-related provisions in the chapters on electronic commerce, cooperation, administration of the treaty and annexes to the chapters on government procurement and cooperation. More recently, the EU-Central America association agreement also incorporate several provisions on SMEs, including a specific article on cooperation. The RTAs negotiated by the EU with South Africa and Cameroon contain also several SMEs-related provisions, mainly on cooperation. Other RTAs with various SMEs-related provisions involve mainly China.

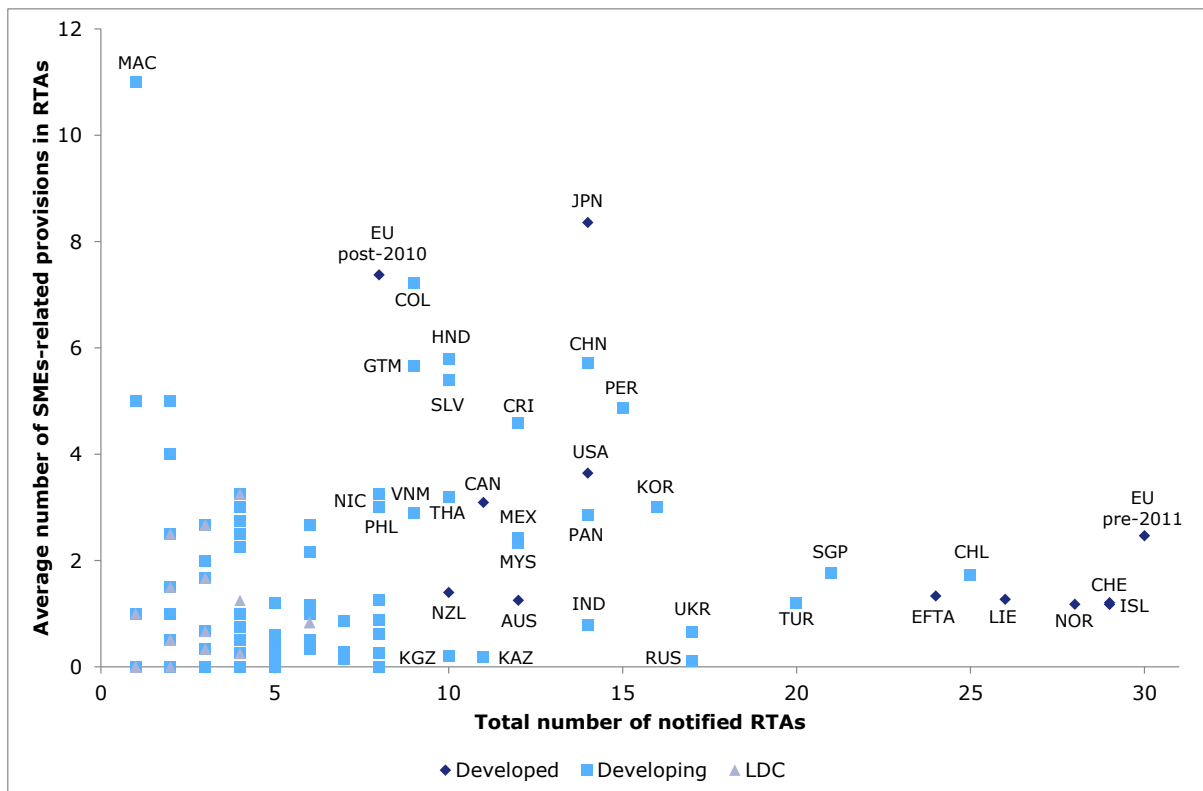
**Figure 3: Evolution of the number of SMEs-related provisions in RTAs**



Source: Computations based on WTO RTA database.



**Figure 4: Number of RTAs with provisions referring to SMEs by country**



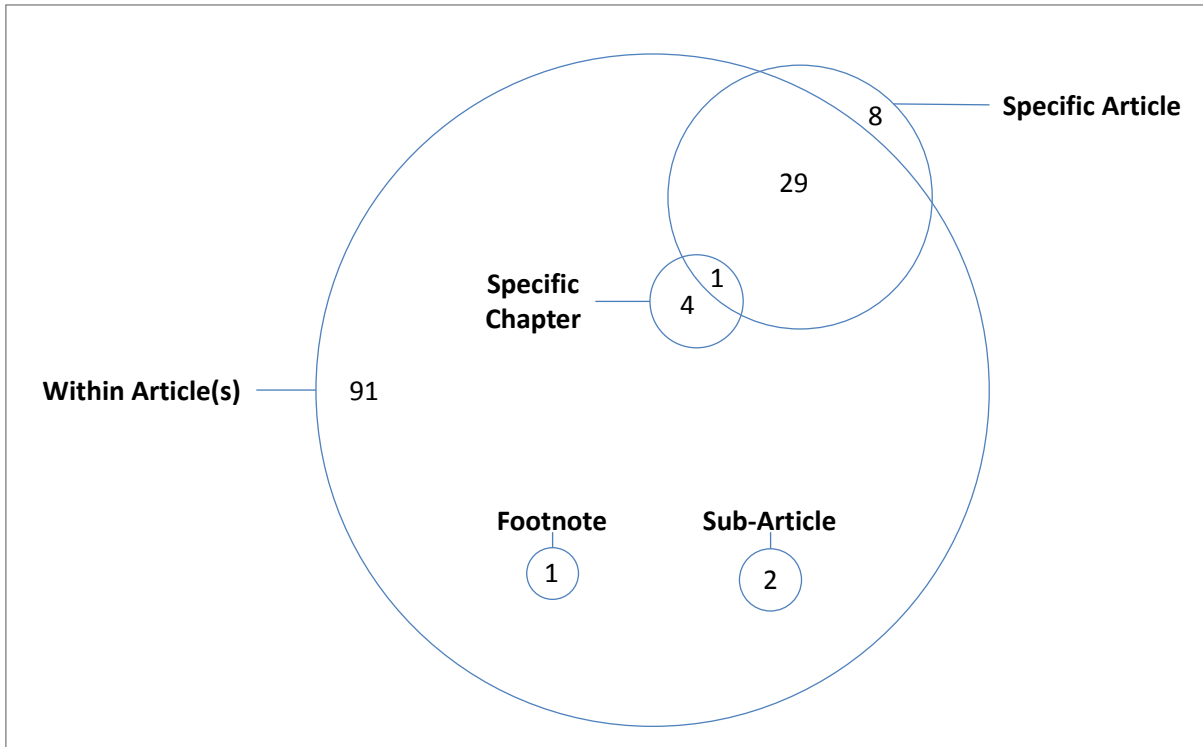
Source: Computations based on WTO RTA database.

As depicted in Figure 4, the RTAs negotiated by Japan, Colombia, China, Honduras, Guatemala, El Salvador, Peru and Costa Rica have, on average, a higher number of SMEs-related provisions. The inclusion of SMEs-related provisions remains however a dynamic process. For instance, the RTAs concluded by the EU prior to 2011 tended to include a limited number of provisions on SMEs, while the most recent agreements to which the EU is a party incorporate, on average, relatively more SMEs-related provisions. Ultimately, the decision to include SMEs-related provisions in RTAs is likely to depend on the parties negotiating the agreement as well as on the actual content of these provisions. The structure and typology of SMEs-related provisions are reviewed in the next two sections.

#### 4 STRUCTURE AND LOCATION OF SMEs-RELATED PROVISIONS

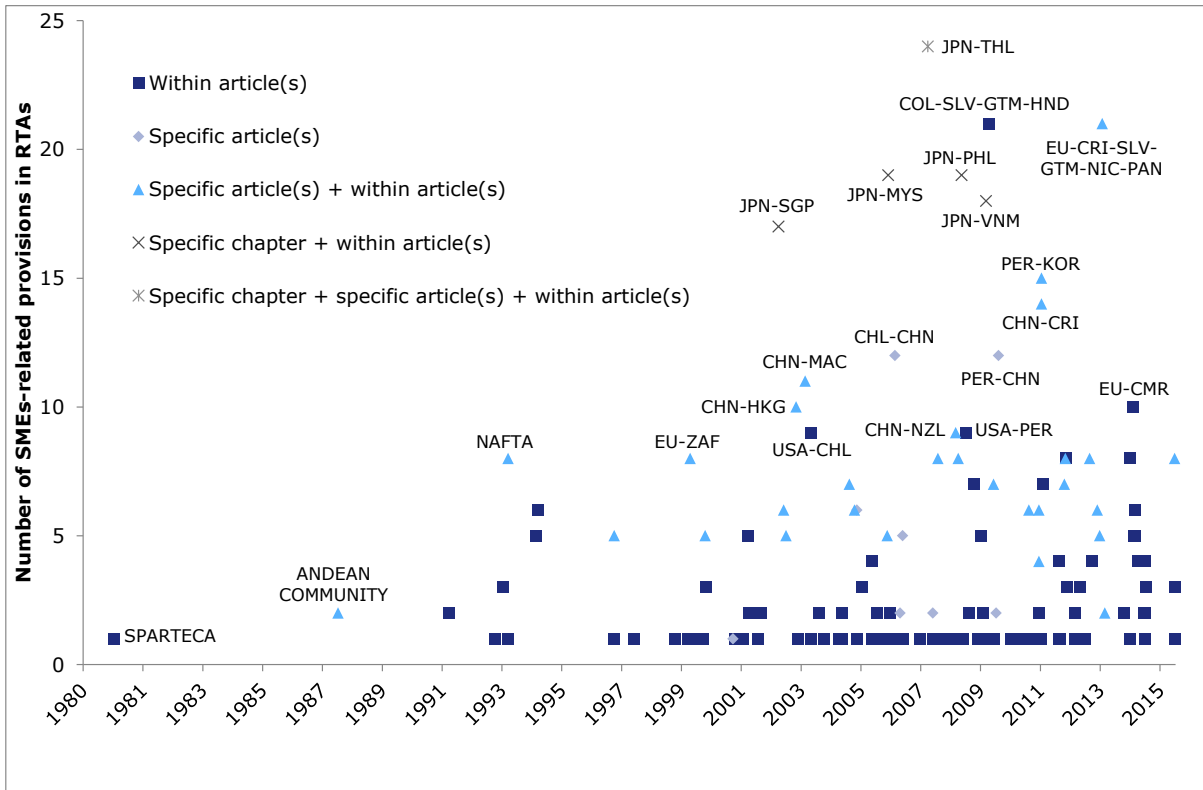
The structural analysis of the 136 RTAs with SMEs-related provisions shows that these provisions can be incorporated in different parts of the RTAs and as a result can take different forms. As depicted in Figure 5 and Figure 6, the choice of the form of SMEs-related provisions varies significantly among RTAs, even among agreements negotiated by the same country. Although there is in recent years an increasing number of RTAs, namely 38 agreements, incorporating specific article(s) on SMEs, the most common form of SMEs-related provisions consists of an article referring to an issue or a broad range of issues that mentions SMEs as a particular case. For instance, a large number of cooperation provisions list SMEs, among other themes, as a (potential) area of cooperation.

**Figure 5: Structure of SMEs-related provisions in RTAs**



Note: Proportions not respected.  
Source: Computations based on WTO RTA database.

**Figure 6: Evolution of the structure of SMEs-related provisions in RTAs**

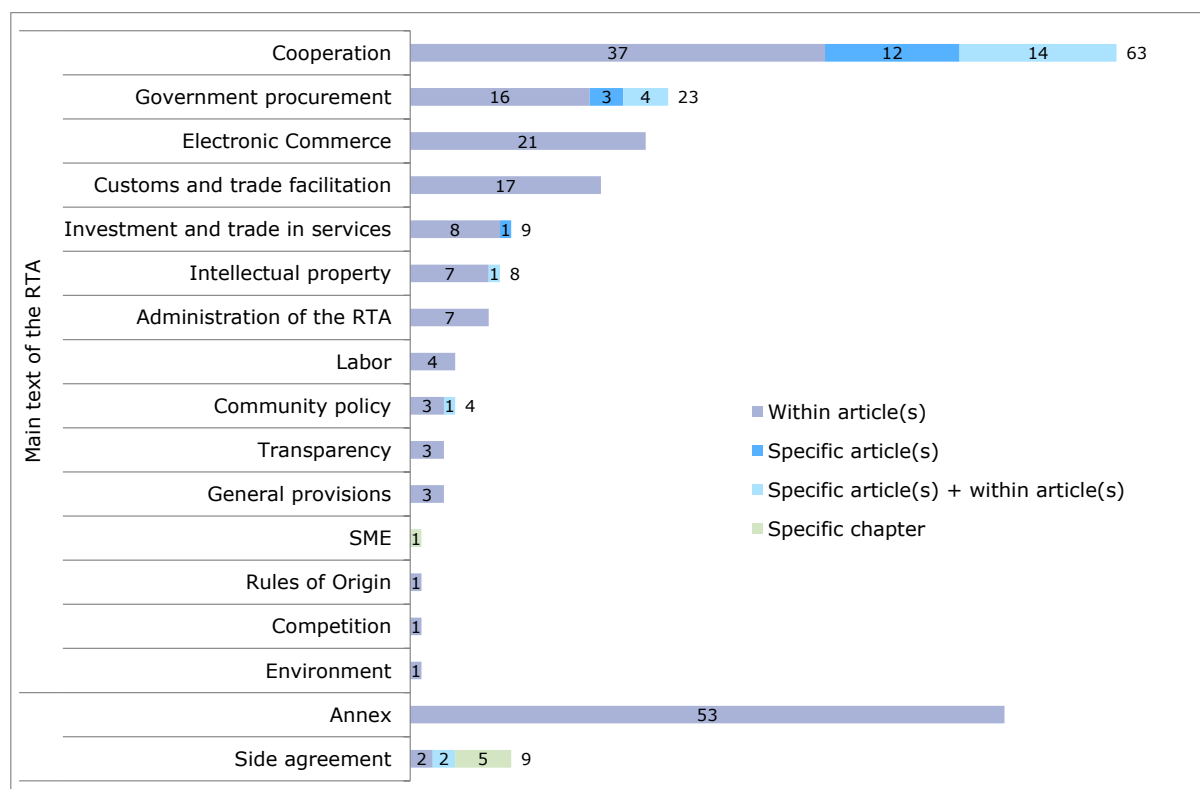


Source: Computations based on WTO RTA database.

The RTAs to which Japan is a party with Malaysia, the Philippines, Viet Nam, Singapore and Thailand are the only agreements to include a specific chapter on cooperation in SMEs. Furthermore, the Japan-Thailand economic partnership agreement is the only notified RTA to include SMEs-related provisions taking the form of (two) within articles, a specific article and a specific chapter. The agreement's intellectual property chapter incorporates a specific article on assistance for acquisition of intellectual property rights for SMEs. The article establishing the sub-committee on intellectual property rights also lists utilisation and commercialisation of intellectual property rights for SMEs as one of its topics of discussion. SMEs are also identified as a field of cooperation in the cooperation chapter. In addition to the main RTA, the associated implementing agreement includes a specific chapter on cooperation in the field of SMEs detailing areas and forms of cooperation, as well as the establishment of a sub-committee on SMEs. Similarly, the economic agreement partnerships negotiated by Japan with Malaysia, the Philippines, and Viet Nam include a dedicated cooperation chapter on SMEs in their respective associated implementing agreement.

As highlighted above, SMEs-related provisions not only take different forms, but can also be found in various places of the RTAs. As shown in Figure 7, provisions mentioning explicitly SMEs are mainly located in the chapters on cooperation, government procurement, electronic commerce and trade facilitation. SMEs-related provisions are also included in a large number of annexes, in particular to the RTAs' chapters on government procurement, services and cooperation.

**Figure 7: Location of provisions referring to SMEs in RTAs**



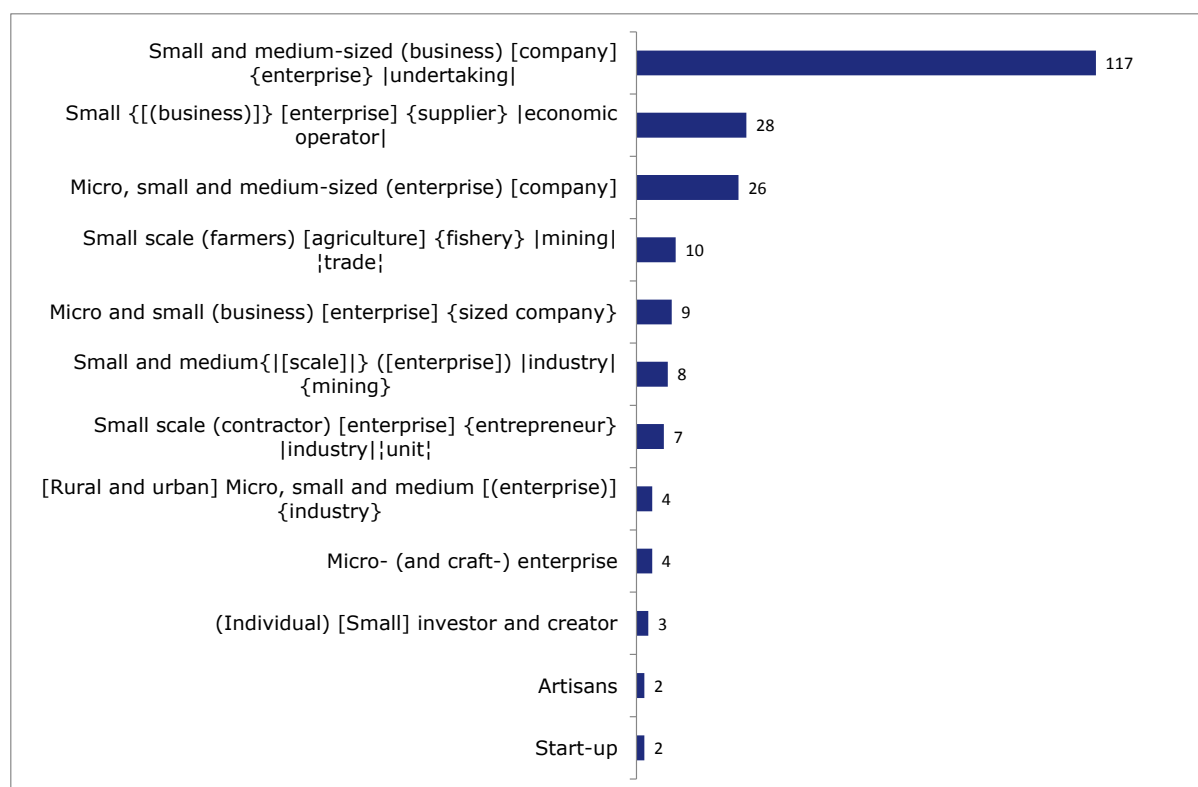
Source: Computations based on WTO RTA database.

Specific articles on SMEs are mainly included in the chapters on cooperation and government procurement. As mentioned previously, the Japan-Thailand economic partnership agreement is the only RTA to have a specific article on SMEs in the intellectual property chapter. Similarly, the economic partnership agreement between the CARIFORUM states and the EU is the only RTA to include in the section on tourism services a specific article calling the parties to endeavour to facilitate the participation of SMEs in the tourism services sector. The Japan-Singapore economic partnership agreement has also the specificity of being the only RTA to include two dedicated chapters on SMEs, one in the main agreement and another one in the associated implementing agreement. The remaining chapters that include SMEs-related provisions are in many cases particular to a given RTA and for that reason often unique to that agreement. As discussed in greater details in the next section, different location in the RTA usually implies a different type of SMEs-related provisions.

## 5 TYPOLOGY OF SMEs-RELATED PROVISIONS

RTAs provisions are known to be heterogeneous across agreements (WTO, 2011), and SMEs-related provisions are no exception. Provisions related to SMEs differ considerably not only in terms of structure and location in the agreement, but also in terms of language, scope and legal commitments. More than 460 different SMEs-related provisions have been identified. This large number of SMEs-related provisions is partly explained by the terminology used to identify SMEs. More than 50 different expressions have been devised to refer to SMEs, including artisans, start-up, individual creators, and micro enterprises.

**Figure 8: SMEs terminology used in RTAs**



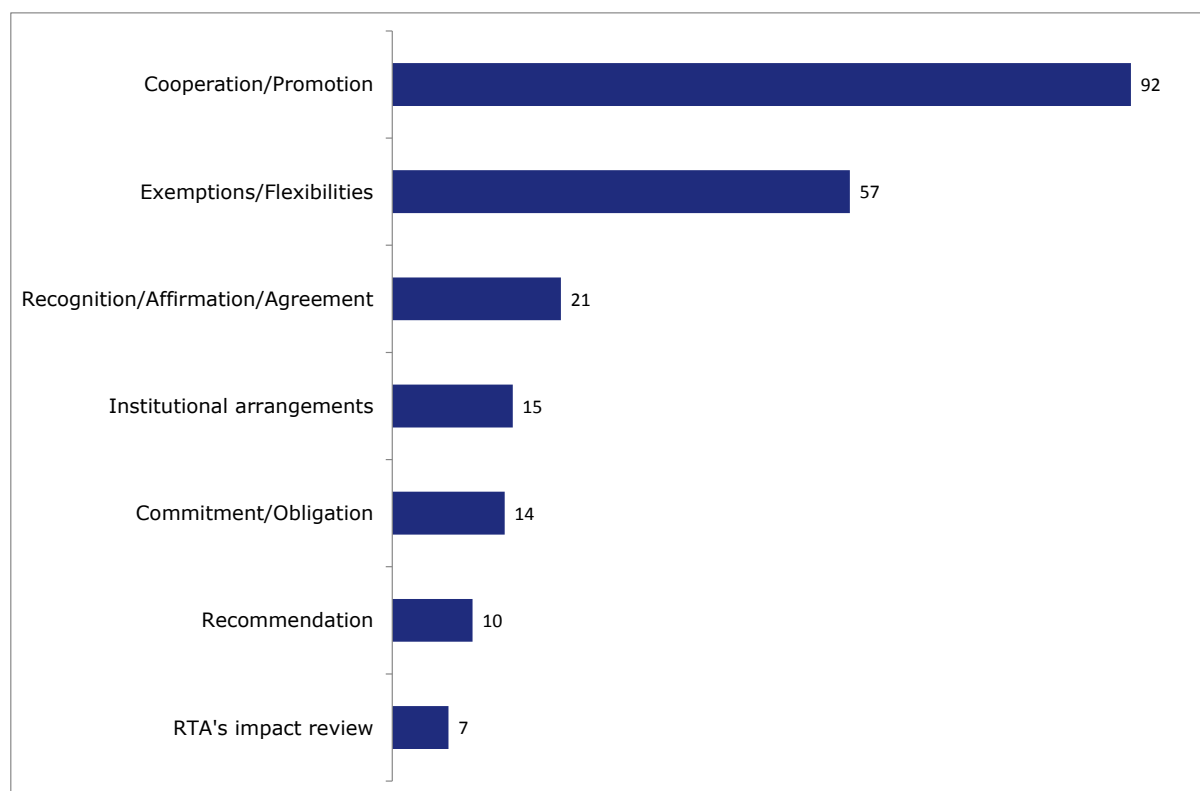
Note: Total number of RTAs with at least one SMEs-related provision referring to the respective terminology.  
Source: Computations based on WTO RTA database.

As shown in Figure 8, the scope of most SMEs-related provisions refers to small and medium-sized enterprises, businesses or companies, although an increasing number of provisions also cover explicitly micro enterprises. In some cases, the terminology used stems from the provision's location in the RTAs. For instance, the concept of individual or small investors and creators is mentioned in a specific article on intellectual property of the Japan-Thailand RTA, which commits the parties to stimulate the creation and development of intellectual property by each party's persons, particularly individual inventors and creators and SMEs. In certain cases, the SMEs-related provisions refer to a specific sector. For instance, the implementing agreement associated with the economic partnership agreement between Japan and Peru identifies sustainable development of small-scale agriculture and rural area as a potential area of cooperation.

### 5.1 Main forms of SMEs-related provisions

Despite the high heterogeneity characterizing most SMEs-related provisions, the comparative analysis of the 136 RTAs with provisions referring explicitly to SMEs has enabled to identify eight main forms of provisions. SMEs-related provisions range from the parties' recognition of the importance of the role of SMEs to cooperation activities to firmer commitments and exemptions.

**Figure 9: Main forms of SMEs-related provisions in RTAs**

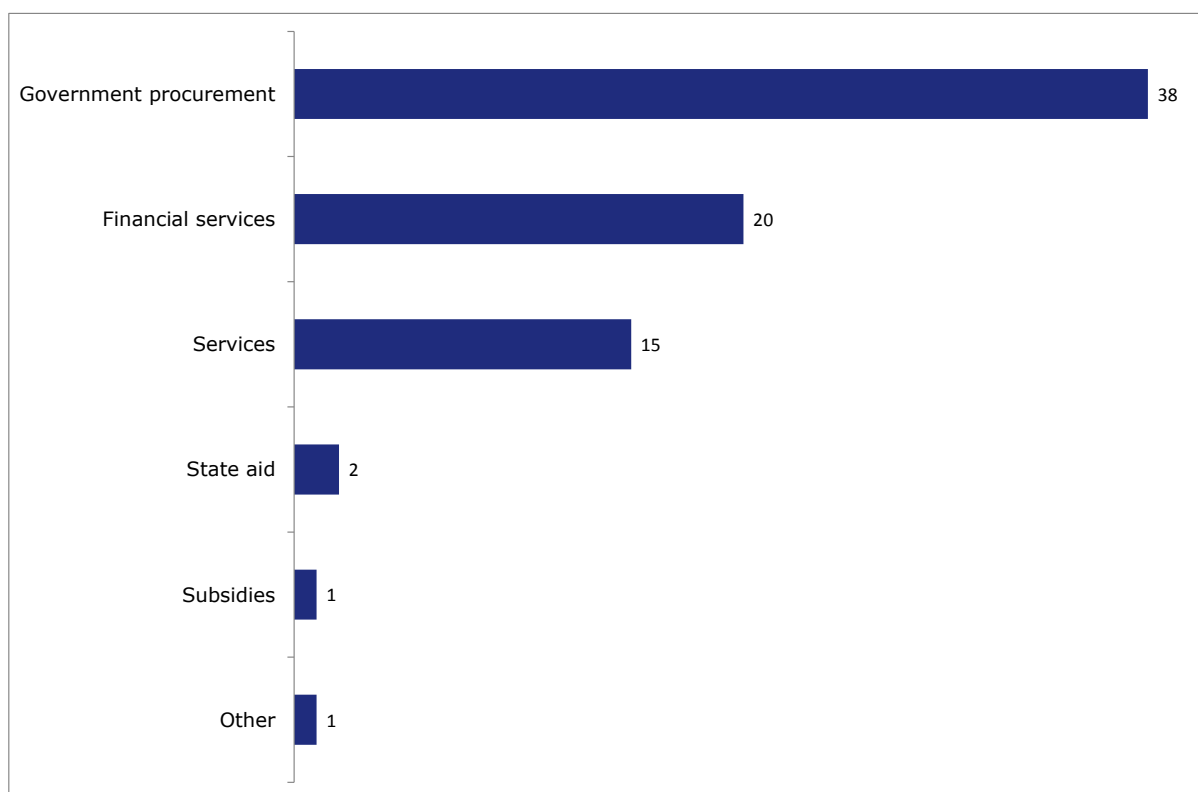


Note: Total number of RTAs with at least one SMEs-related provision belonging to the respective category.  
 Source: Computations based on WTO RTA database.

As highlighted in Figure 9, the most common form of SMEs-related provisions, included in 93 RTAs, identifies and promotes cooperation on SMEs among the parties. Cooperation provisions on SMEs are mainly included in the cooperation chapter, but are also found in others chapters, such as government procurement, investment, electronic commerce, labour, environment and SMEs. As will be discussed below, some provisions only identify SMEs as an area of cooperation. Other provisions specify the cooperation activities' objectives without specifying the means. Conversely, other provisions are more specific and list the precise areas and forms of cooperation. In addition, the language used to devise these cooperation provisions differ significantly across agreements. Some RTAs only foresee a possible cooperation, while other RTAs appear to be more committed with firmer language.

The second most common forms of SMEs-related provisions, included in 57 RTAs, consists of specifying that SMEs or domestic programmes aimed at supporting SMEs are either not covered by or assumed to be consistent with the obligations set forth in the RTA. Although the language of this type of provisions varies across agreements, all these provisions ensure that the parties conserve policy space to apply particular domestic policies to support SMEs. As shown in Figure 10, exemption provisions related to SMEs cover mainly the obligations set out in the government procurement chapter. A number of exemptions and reservation measures that apply to SMEs are also include in the parties' services schedules. The other types of SMEs-related exemptions are specific to a single or a couple of RTAs. For instance, the RTA between the EU and the Republic of Korea specifies in a footnote of the article on prohibited subsidies in the chapter on competition that subsidies for SMEs granted in accordance with objective criteria or conditions as provided for in Article 2.1 (b) and footnote of the WTO Agreement on Subsidies and Countervailing Measures Agreement shall not be subject to the article. The RTAs negotiated by the European Free Trade Association (EFTA) states with Morocco and the Palestinian Authority provide in the annex on the interpretation of the article on state aid examples of types of aid normally consistent with the article, such as aid to SMEs if intended to offset disadvantages directly linked to the size of the firm in question. The treaty of trade between India and Nepal stipulates that India will extend the relief in the levy of applicable excise duty rates to imported articles manufactured in Nepal in small-scale units.

**Figure 10: Coverage of SMEs-related exemptions**



Note: Total number of RTAs with at least one SMEs-related provision belonging to the respective category.  
Source: Computations based on WTO RTA database.

The remaining forms of SMEs-related provisions are only incorporated in a limited number of RTAs. Several SMEs-related provisions, included in 14 RTAs, are formulated in mandatory terms. Some of these provisions, found in the chapters on trade facilitation, transparency and intellectual property, call on the parties to take measures to ensure economic operators, including SMEs, are not negatively affected. For instance, a few RTAs stipulate that each party shall establish, pursue and maintain an efficient and predictable regulatory environment for economic operators, especially small ones doing business in its territory.

SMEs-related provisions included in four RTAs, aimed at establishing a customs union, tend to be the most far-reaching in supporting SMEs.<sup>5</sup> For instance, the European Union (EU) Treaty states that the directives adopted by the council shall avoid imposing administrative, financial and legal constraints in a way that would hold back the creation and development of SMEs. The Economic Community of West African States (ECOWAS) specifies that the economic community shall, by stages, ensure the adoption of measures for the integration of the private sectors, particularly the creation of an enabling environment to promote SMEs. Similarly, the East African Community (EAC) stipulates that the partner states shall adopt common principles, *inter alia*, to facilitate the development of micro, small and medium industries and promote indigenous entrepreneurs. The Common Market for Eastern and Southern Africa (COMESA) incorporate a couple of SMEs-related provisions, including the commitment to improve the performance of SMEs for export development, such as marketing, business management and the provision of credits.

Other SMEs-related provisions are couched in a best endeavour language. Certain provisions, found only in the chapters on government procurement and electronic commerce of 21 RTAs, recognize, affirm or agree on the importance of SMEs. For instance, several provisions specify that the RTA's parties recognize or agree on the importance of the participation of MSMEs in government procurement. Others provisions explain that the parties recognize the importance of facilitating the use of electronic commerce by MSMEs. Another form of SMEs-related provisions, found only in the trade facilitation chapter of 10 RTAs, is worded as a recommendation. For instance, the RTA between the EU and Cameroon stipulates that customs procedures should be transparent, efficient and simplified, in order to reduce costs and increase predictability for economic operators, including SMEs.

A limited number of RTAs, namely 15 agreements, establish institutional arrangements related to SMEs, such as a committee, to discuss and oversee the implementation of the agreement's commitments. The first type of institutional provisions establishes a specific body dedicated to SMEs. Most RTAs with comprehensive SMEs-related cooperation provisions establish a specific body devoted to SMEs to monitor, review and evaluate the cooperative activities undertaken by the parties.<sup>6</sup> A committee on SMEs is also established under the government procurement chapter of a couple of RTAs. Instead of establishing a specific institutional body on SMEs, the second type of institutional provisions addresses the issue of SMEs in the institution established under a specific chapter in charge of addressing matters related to the implementation of that chapter, such as government procurement, intellectual property and rules of origin.

Finally, the last main form of SMEs-related provisions is a specific type of institutional provisions related to a possible function of the RTA's main institution, named trade committee or commission. Seven RTAs, including Costa Rica-Peru and EU-Colombia-Peru RTAs, envisage the possibility for the institutional body to review the RTA's impact on (micro and) SMEs, including any resulting benefits. In this context, the RTAs to which Colombia is a party with the United States, Canada, and the Northern Triangle, and the agreement between the United States and Peru further specify that the RTA's institution may designate working groups to evaluate the RTA's effects on (micro and) SMEs and make relevant recommendations to the RTA's institution, including working plans focused on the needs of (micro and) SMEs. These four RTAs further explains that these working groups may receive information, input and views from representatives of SMEs and their business association.

## 5.2 Main areas of SMEs-related provisions

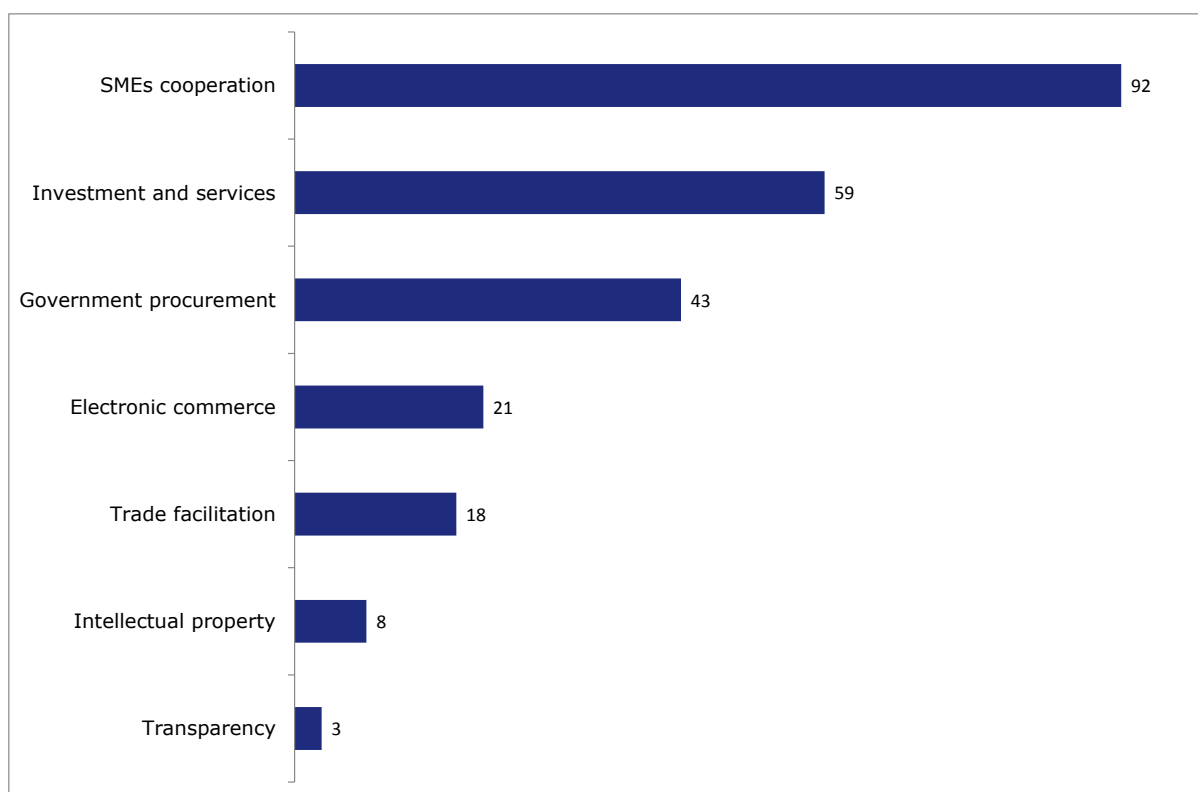
The issue of SMEs is by definition a cross-cutting issue. This explains why SMEs-related provisions are located in different places in RTAs and cover different areas. As highlighted in Figure 11, SMEs-related provisions refer mainly to (1) cooperation on SMEs, followed by (2) services and investment, (3) government procurement, (4) electronic commerce, (5) trade facilitation, (6) intellectual property and (7) transparency.

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<sup>5</sup> A customs union is a trade agreement in which tariffs and other trade barriers are eliminated on most or all trade and a common commercial policy is adopted (WTO, 2011).

<sup>6</sup> A large number of RTAs, incorporating a specific chapter on cooperation, provide for an institutional mechanism to develop and evaluate cooperation activities. However, these provisions are not specific to SMEs-related cooperation activities.

**Figure 11: Main areas of SMEs-related provisions in RTAs**



Note: Total number of RTAs with at least one SMEs-related provision belonging to the respective category.  
Source: Computations based on WTO RTA database.

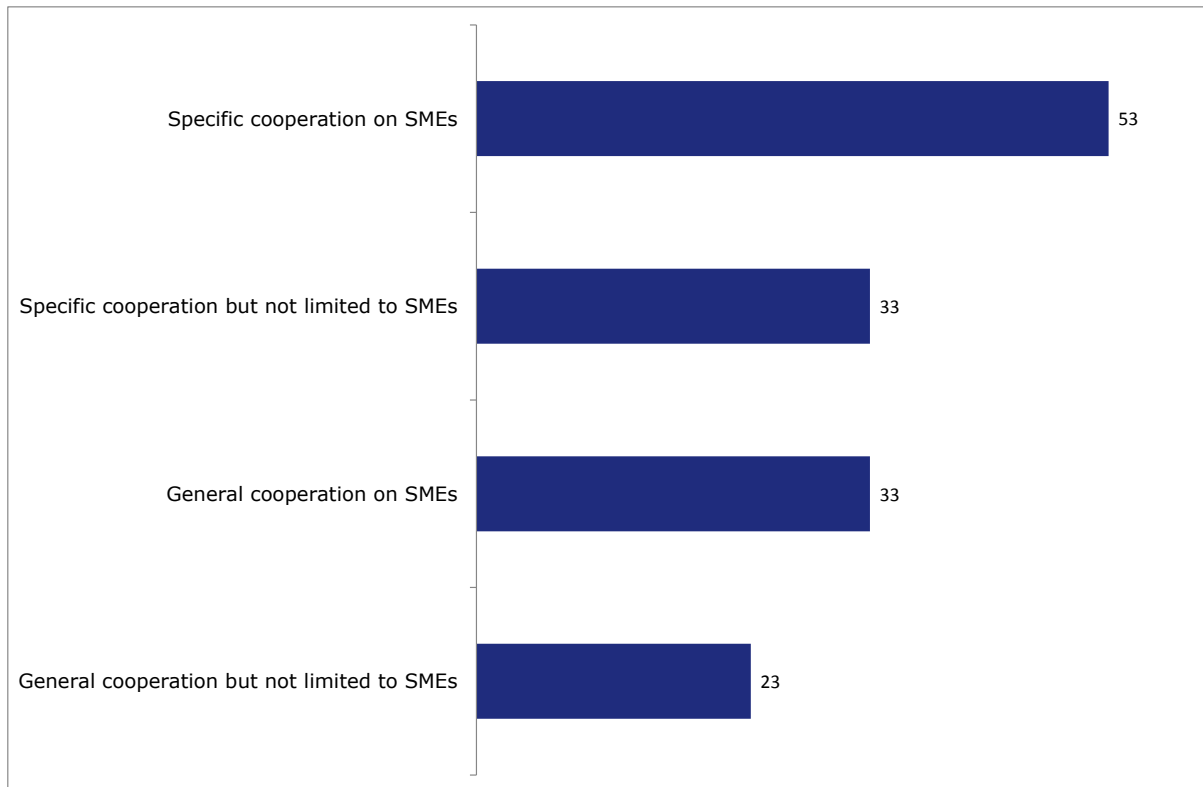
### 5.2.1 Cooperation on SMEs

Cooperation provisions are not only the most common form of SMEs-related provisions, but are also by far the most heterogeneous type of SMEs-related provisions across agreements. 92 RTAs include at least one provision on cooperation mentioning SMEs.

Part of this high heterogeneity stems from the scope of these cooperation provisions. As highlighted in Figure 12, certain cooperation provisions address general issues which are not limited to SMEs. For instance, the RTA between the EU and South Africa explains that cooperation in the field of trade development shall focus on the development of the private sector, in particular SMEs engaged in trade. Other types of cooperation provisions address more specific issues, for which SMEs receive a particular focus. The EU-Central America association agreement specifies that cooperation and technical assistance on technical barriers to trade may include activities to facilitate the comprehension and compliance with the EU's requirements, in particular by SMEs. In other provisions, SMEs is only listed as a general area of cooperation without providing any additional details or defining any actions. For instance, the RTA between Australia and Thailand specifies that the parties shall develop cooperation in sectors that are not covered by existing cooperation arrangements, through *inter alia*, SMEs capacity enhancement. Conversely, other cooperation provisions are more specific and mentions explicitly the topic and/or form of cooperation activities related to SMEs.



**Figure 12: Types of SMEs-related provisions on cooperation**

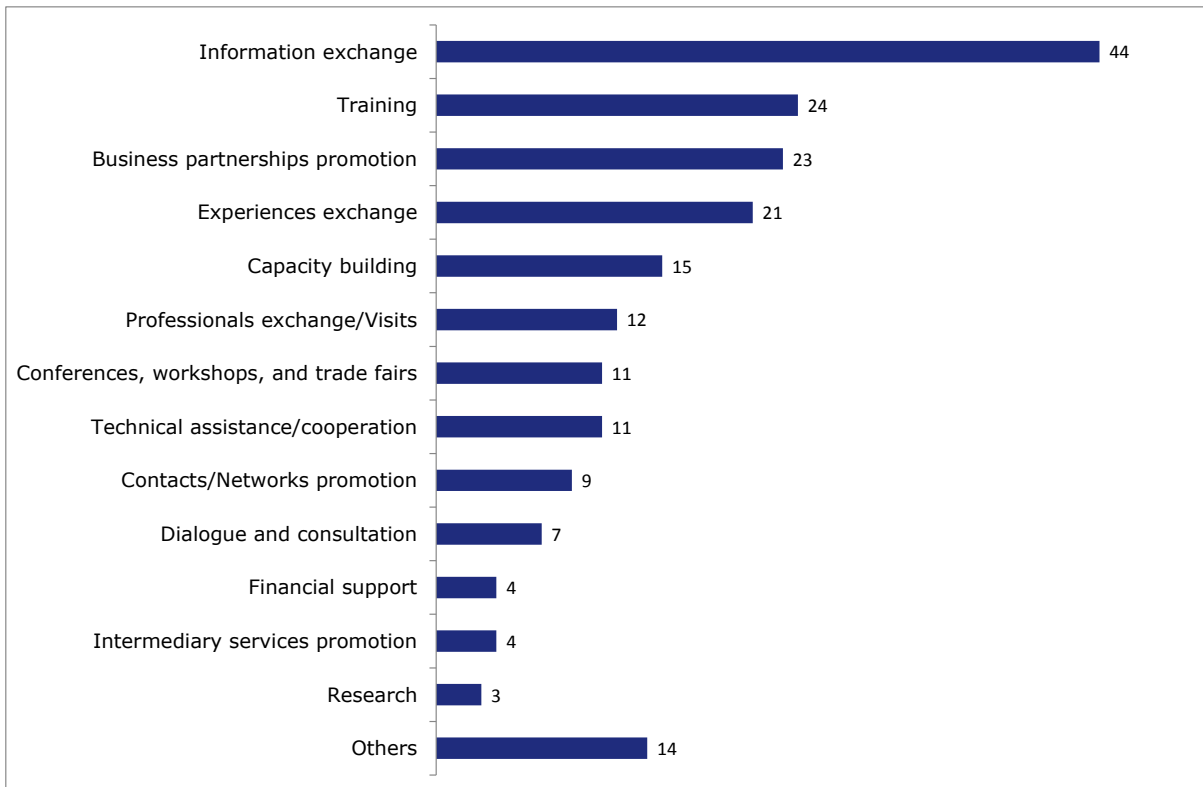


Note: Total number of RTAs with at least one SMEs-related provision belonging to the respective category.  
Source: Computations based on WTO RTA database.

As shown in Figure 13, a broad range of issues, often interrelated, are explicitly addressed in an increasing number of SMEs-related provisions. Promoting and facilitating investments, including joint ventures, between SMEs of the parties is one of the most covered issues in cooperation provisions. Other issues addressed in cooperative activities include the development of opportunities for business partnerships, alliances and clusters, information networks, innovation, including in some cases technology transfer, and competitiveness. Access to finance for SMEs and the development of financial intermediaries are also the object of cooperation in several RTAs. While some provisions focus on SMEs in general, others provisions refer only to SMEs engaged in export and are aimed at improving market access. Other cooperation provisions only consider SMEs operating in a specific sector, such as tourism, mining, agriculture, or fishery, or in the context of government procurement or electronic commerce.

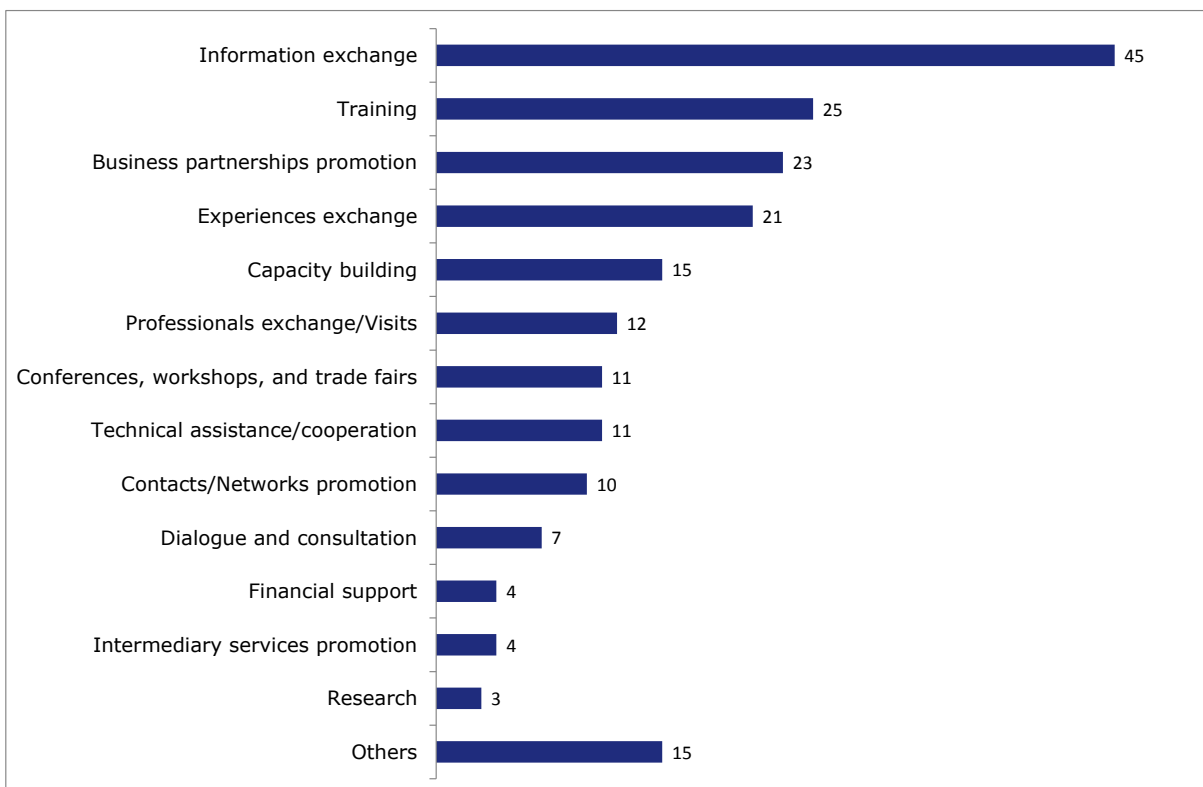
Similarly, as noted in Figure 14, more than 14 different forms of cooperation activities on SMEs have been explicitly identified. The most common cooperation activity consists in exchanging relevant information between the parties, including establishing information networks among SMEs. Promotion of business partnerships, contacts and networks among SMEs in the parties are also listed in an increasing number of RTAs. Other cooperation forms include training, experiences exchange, visits and professionals exchange, as well as organization of conferences, workshops and trade fairs. A limited number of RTAs specify financial supports to SMEs as a cooperation form. For instance, the RTA between China and New Zealand mentions that the parties will encourage and facilitate, as appropriate, exploring jointly effective strategies and support policies for the development of SMEs, including financial support and intermediary services.

**Figure 13: Cooperation areas on SMEs**



Note: Total number of RTAs with at least one SMEs-related provision belonging to the respective category.  
Source: Computations based on WTO RTA database.

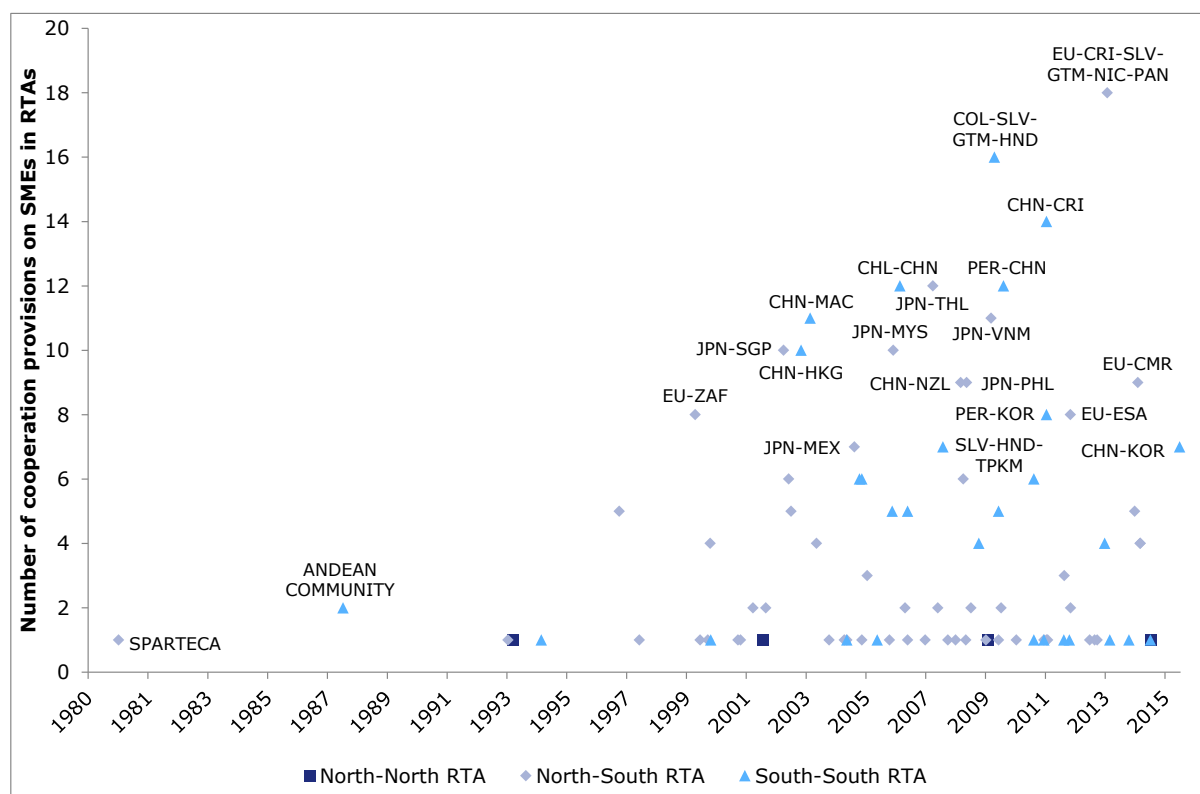
**Figure 14: Cooperation forms on SMEs**



Note: Total number of RTAs with at least one SMEs-related provision belonging to the respective category.  
Source: Computations based on WTO RTA database.

As highlighted in Figure 15, the RTA between the EU and Central America includes the most detailed provisions on cooperation related to SMEs. The agreement foresees cooperation and technical assistance on SMEs in the context of employment and social protection, services, technical barriers to trade, artisanal goods and organic goods. In addition, a specific article on cooperation on MSMEs identifies a number of cooperation actions such as the promotion of productive linkages process, exchange of experiences and best practices, encouragement of joint investments, partnerships and business networks, and identification and reduction of obstacles to access financial sources and the creation of new financing mechanisms. Other RTAs with relatively detailed SMEs-related provisions on cooperation include the agreement between Colombia and the Northern Triangle (El Salvador, Guatemala, and Honduras), as well as several agreements negotiated by China with Costa Rica, Peru, Chile, Macao, China and Hong Kong, China. The economic partnership agreements concluded by Japan with Thailand, Viet Nam, Malaysia, Singapore and the Philippines list also various topics and forms of cooperation related to SMEs. In addition, these RTAs establish an institutional body on SMEs, defined as joint committee, sub-committee or working group depending on the agreement. This body's functions include, among other things, reviewing and discussing issues concerning the chapter on cooperation on SMEs, exchanging views and information on the promotion of SMEs cooperation, as well as identifying and recommending ways of further cooperation.

**Figure 15: Evolution of the number of RTAs with SMEs-related cooperation provisions**



Source: Computations based on WTO RTA database.

### 5.2.2 Services and investment

An increasingly large number of RTAs include provisions on services. While most services commitments in RTAs go beyond those established under the General Agreement on Trade in Services (GATS), these RTAs share relatively similar disciplines as those set forth in the GATS. Only a limited but growing number of RTAs have gone beyond the GATS with provisions on domestic regulation and transparency (WTO, 2011). Small and medium-sized service providers can potentially benefit from increasing market access in sectors in which restrictions have been eliminated.

**Figure 16: Types of SMEs-related provisions on services and investment**



Note: Total number of RTAs with at least one SMEs-related provision belonging to the respective category.  
Source: Computations based on WTO RTA database.

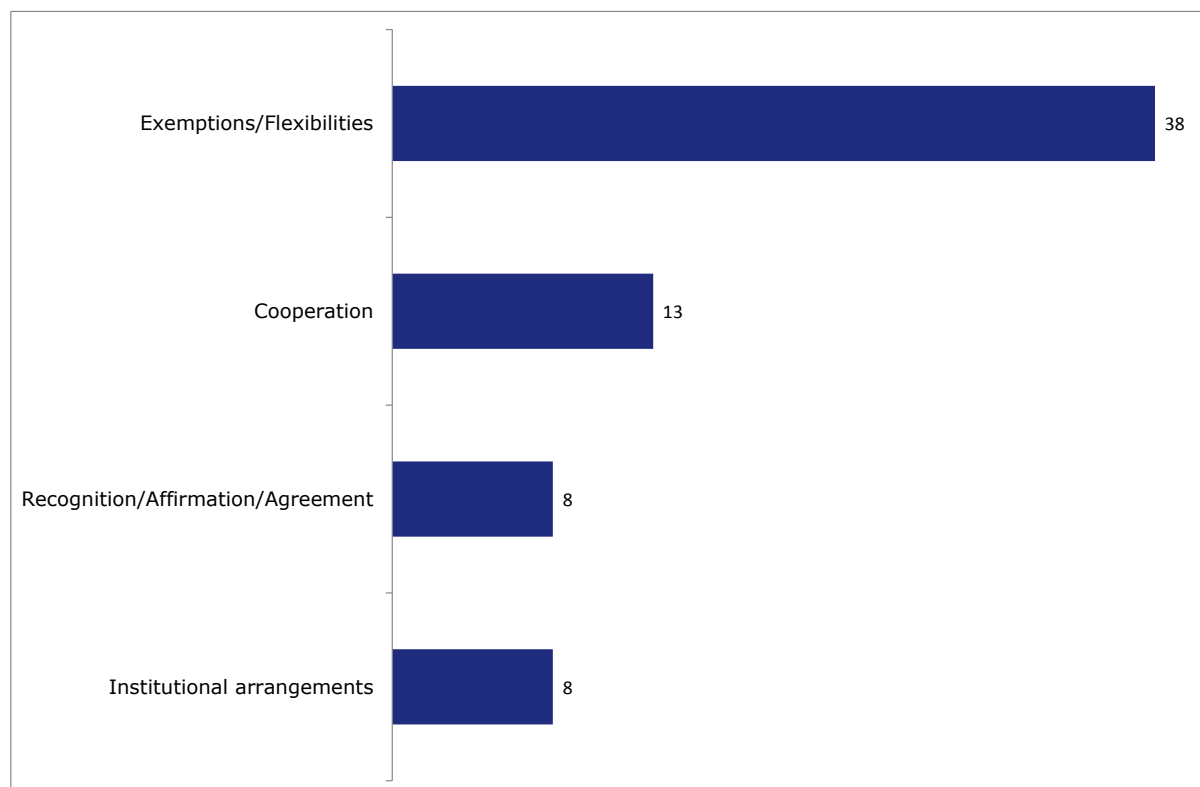
As highlighted in Figure 16, only two types of SMEs-related provisions on services and investment have been identified. As explained previously, some of the services commitments undertaken by the parties in 30 RTAs are subject to certain limitations or reservations explicitly related to SMEs set out in the annexes of the parties' services schedules. In many cases, these SMEs-related reservations are limited to financial services. For instance, the annex to the services chapter of the trade agreement between Canada and the Republic of Korea explains that the measure requiring Korean insurance companies to extend loans to SMEs is not inconsistent with the article on market access for financial institutions. Fishing and mining are other sectors for which a limited number of RTAs include SMEs-related reservation measures. For instance, the free trade agreement between Chile and the United States specifies that access to small-scale fishing activities shall be subject to registration, which is only granted to Chilean natural persons and foreign natural persons with permanent residency, or a Chilean juridical persons constituted by the aforementioned persons. Similarly, the RTA between Morocco and the United States specifies that the mining of lead, zinc, and barite ores in the Tafilalet and Figuig region in Morocco is reserved for small-scale miners from that region.

Besides reservation measures, 33 RTAs also incorporate cooperation provisions focused either on investment for SMEs and/or SMEs providing services. For instance, the EFTA-Egypt RTA specifies that cooperation may include the development of mechanisms for joint investments, in particular with SMEs. The economic partnership agreement between the CARIFORUM states and the EU stipulates that the parties agree to cooperate and facilitate support in the development of internet marketing strategies for SMEs in the tourism services sector.

### 5.2.3 Government procurement

Provisions on government procurement have been increasingly covered in RTAs. Similar to other areas, government procurement provisions in RTAs do not follow a single and same template. They range from principles of non-discrimination, reciprocity and transparency, to cooperation and gradual liberalization of procurement markets (Anderson et al., 2011). In many countries, entities in the public sector are important customers to many domestic SMEs providing products and services, such as infrastructure and consulting services. Firms, including SMEs, can therefore directly benefit from the implementation of RTA's provisions on government procurement aimed at improving transparency of and access to government procurement markets.

**Figure 17: Types of SMEs-related provisions on government procurement**



Note: Total number of RTAs with at least one SMEs-related provision belonging to the respective category.  
Source: Computations based on WTO RTA database.

As noted in Figure 17, four main types of provisions on government procurement, included in 43 RTAs, have been identified. These provisions range from the recognition of the importance of SMEs' participation in government procurements to the exemption of programmes aimed at supporting SMEs from the RTA's obligations to cooperation and the establishment of a specific committee on small business.

As explained above, the annex of 38 RTAs' government procurements chapter include a provision explaining that the chapter does not apply to any form of preference to benefit SMEs, including in some cases only micro and/or small firms. For instance, the annex listing the government procurement schedules of the trade agreement between Costa Rica and Peru explains that the government procurement chapter does not apply to procurement programs to support SMEs in the case of Costa Rica and micro and small enterprises in the case of Peru. Similarly, most RTAs negotiated by the United States and Canada include at least one provision specifying that the government procurement chapter does not apply to set-asides on behalf of small and minority businesses. Set asides may consist of any form of preferences to benefit SMEs, such as exclusive right to provide a specific good and/or service or a price preference. Several RTAs to which Colombia is a party with a similar provision further considers measures conducive to facilitate transfer of technology and sub-contracting.

The free trade agreement between Costa Rica and Singapore is the only RTA to explicitly stipulate in the article on scope and coverage that nothing in the government procurement chapter shall prevent the parties from using government procurement to promote industry development including measures to assist SMEs within their territory to gain access to the government procurement market. Similarly, the RTA between the Cooperation Council for the Arab States of the Gulf (GCC) and Singapore is the only agreement to include an article on SMEs in the government procurement chapter, which specifies that the parties reserve the right to apply a ten per cent price preference for SMEs in their respective countries. A similar provision is included in Panama's schedule of several RTAs, according to which the Panama Canal Authority may award Panamanian MSMEs a price preference that should not exceed ten per cent.

Besides exemptions, a second type of SMEs-related provisions on government procurement recognises the importance of the participation of (micro and) SMEs in government procurement. Such provision is included in a specific article on SMEs in the government procurement chapter of the RTAs to which Peru is a party with Colombia and the EU, Costa Rica, EFTA, the Republic of Korea, and Panama, as well as the EFTA-Colombia RTA. A related provision, mentioned in the same article of these agreements, recognises the importance of business alliances between suppliers, and in particular of (micro and) SMEs, including the joint participation in tendering procedures.

The third type of SMEs-related provisions on government procurement refers to cooperative activities. Despite language differences, most of these provisions aim at facilitating access of MSMEs to government procurement market. For instance, the RTA between the Republic of Korea and Peru specifies that the parties shall endeavour to work jointly towards exchanging information and facilitating access of SMEs to government procurement procedures, methods, and contracting requirements, focusing on their special needs. Relatively similar provisions are included in the RTAs between the EU, Colombia and Peru, EFTA and Peru, and EFTA and Colombia. In these three agreements, the parties agree to exchange information and work jointly with the aim of facilitating access by MSMEs to government procurement procedures, methods and contracting requirements, focused on their special needs. The provision included in the government chapter of the agreement between Australia and Chile is slightly firmer and specifies that the parties shall exchange information on their respective approaches to maximise access for SMEs to the government procurement market.

A limited number of RTAs, namely two agreements, establish also under the government procurement chapter an institutional body dedicated to SMEs with the aim of facilitating activities related to the promotion of SMEs' participation in government procurement opportunities. Under NAFTA, a committee on small business is in charge, among other, of facilitating the identification of small businesses interested in becoming trading partners of the other party's small businesses, as well as developing data bases of small businesses in each party's territory for use by entities of the other party wishing to procure from small businesses. The RTA between Colombia and Mexico includes similar provisions but the committee refers to micro, small and medium industries. Conversely, a few other RTAs, namely six agreements, establish a specific committee on government procurements to address any matters pertaining to the implementation of the government procurement chapter, including SMEs. For instance, the free trade agreement between Canada and Peru mentions that the committee on government procurement is established with a view to maximizing access to government procurement, including with respect to facilitating participation SMEs in the government procurement market of the other party. The free trade agreement between the United States and Chile also specifies that the committee on procurement shall meet on request to address matters related to the implementation of the government procurement chapter, such as efforts to increase understanding of their respective government procurement systems, with a view to maximizing access to government procurement opportunities for small business suppliers. The language of the provision in the trade agreement between the Dominican Republic and Central America is slightly firmer and stipulates that the committee on government procurement shall meet as necessary, but at least once year, to promote opportunities for the parties' MSMEs. In addition to a committee on government procurement, both trade agreements between the United States and Peru, and between Chile and Colombia further specify that each party shall designate a contact point tasked to address matters relating to the implementation of the government procurement chapter, such as efforts to increase understanding of their respective government procurement systems, with a view to maximizing access to government procurement opportunities, especially for suppliers of SMEs.

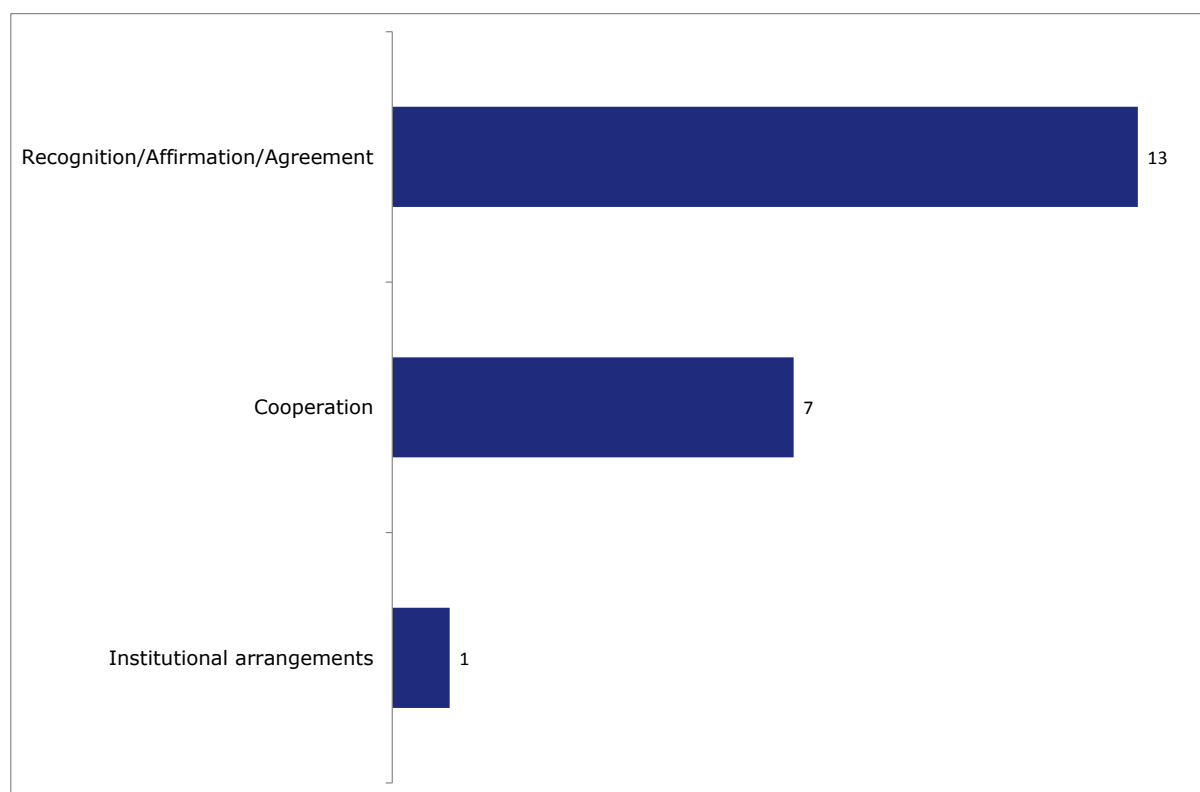
### 5.2.4 Electronic commerce

The rapid development of information and communication technologies, such as internet, has enabled to further reduce transaction costs associated with information search by improving access to information on new markets, competitors and potential customers. The creation of a website can complement or replace physical market presence by establishing direct contacts with potential new foreign customers, making it possible to place international orders and enhancing customer service and support (Lorhke et al., 2006; Morgan-Thomas, 2009).

In the last 15 years, provisions on electronic commerce have increasingly been incorporated in RTAs. The type of issues and commitments covered in these RTAs' specific chapter on electronic commerce differ substantially across agreements. A moratorium on customs duties on electronic transmissions between the parties, transparency commitments and cooperation activities are among the most common provisions on electronic commerce. A limited but increasing number of RTAs also address specific domestic regulation issues, such as regulatory barriers, electronic authentication, online consumer protection, online personal data protection and unsolicited commercial electronic messages (Herman, 2010). Provisions promoting and facilitating the development of electronic commerce can potentially help SMEs to reach new customers.

Besides these provisions that apply to firms of any size, a limited but increasing number of RTAs, namely 21 agreements, incorporate also different provisions mentioning explicitly SMEs in the electronic commerce chapter. SMEs-related provisions on electronic commerce refer to either facilitating the use of electronic commerce by SMEs or overcoming obstacles encountered by SMEs in the use of electronic commerce. As highlighted in Figure 18, three main different types of SMEs-related provisions on electronic commerce have been identified. Many of these provisions are specific to one or a couple of trade agreements.

**Figure 18: Types of SMEs-related provisions on electronic commerce**



Note: Total number of RTAs with at least one SMEs-related provision belonging to the respective category.  
Source: Computations based on WTO RTA database.

The first type of provisions, included in 13 RTAs, recognizes or affirms the importance of SMEs in electronic commerce. For instance, the free trade agreements negotiated by Canada with Colombia, Honduras, the Republic of Korea and Peru, specifies that the parties recognise the importance of facilitating the use of electronic commerce by MSMEs. The remaining provisions of this type of SMEs-related provisions on electronic commerce refer to cooperation among the parties. In eight agreements, such as the United States-Panama, Chile-Colombia, and Singapore-Chinese Taipei RTAs, the parties recognise the importance of working together to overcome the obstacles encountered by SMEs. A relatively similar provision is included in the RTAs to which Canada is a party with Colombia, Honduras, the Republic of Korea and Peru, in which the parties affirm the importance of working together to facilitate the use of electronic commerce by MSMEs. The provision included in the free trade agreement between Canada and Panama is slightly more specific by stating that the parties recognise the importance of sharing information and experiences on laws, regulations and programmes in order to facilitate the use of electronic commerce by MSMEs.

The second type of SMEs-related provisions on electronic commerce refers to cooperation activities. For instance, the RTA between the Republic of Korea and Peru mentions the parties' commitment to working together to facilitate the use of electronic commerce by SMEs. Similarly, the free trade agreements to which Japan is a party with Australia and Switzerland stipulates that the parties shall cooperate to overcome obstacles encountered by SMEs in using electronic commerce. In other cases, such as the agreement establishing the ASEAN-Australia-New Zealand free trade area, cooperative research and training activities in assisting SMEs to overcome obstacles encountered in the use of electronic commerce is listed as a potential area of cooperation to be encouraged. The RTAs to which Singapore is a party with Costa Rica and GCC also mention promoting and facilitating the use of electronic commerce by SMEs as a potential area of cooperation.

As discussed earlier, an increasing number of RTAs establish institutional arrangements, such as a committee, to discuss and oversee the implementation of the agreement's commitments. In that context, the trade agreement between the EU and Colombia and Peru explicitly foresees that the agreement's trade committee, may, to the extent necessary and justified, establish a working group with the aim of recommending mechanisms to assist MSMEs in overcoming obstacles faced by them in the use of electronic commerce, among others tasks.

### **5.2.5 Trade facilitation**

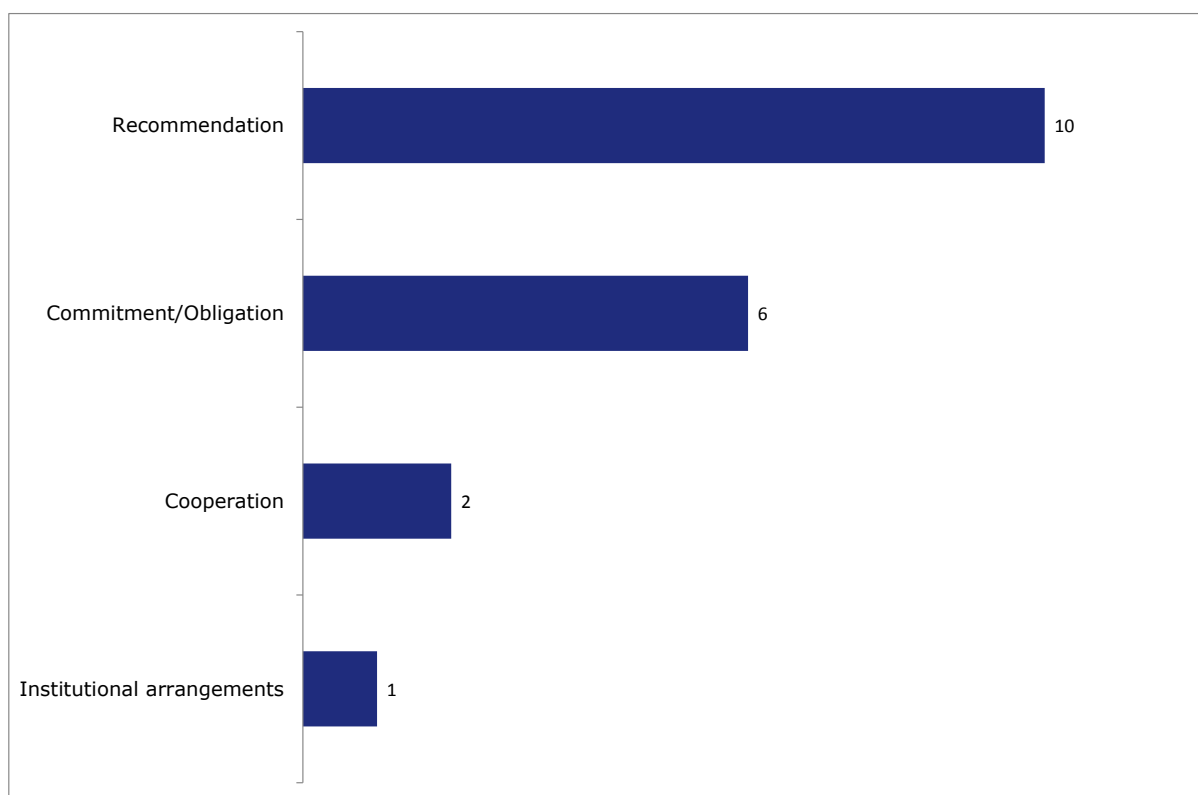
Unlike large firms, SMEs are often prevented from exporting because of the presence of large (sunk) fixed costs. The decision to export can further be deterred by the existence of complicated and burdensome customs and border procedures and formalities, including those associated with expediting the movement, release and clearance of goods, resulting in high transport costs and delays. Trade facilitation reform, aimed at simplifying and improving the efficiency of customs procedures, can enhance trade by reducing transport costs and delays and improving predictability and transparency of customs procedures.

The number of RTAs with trade facilitation provisions has not only increased very rapidly since the 1990s but the coverage of trade facilitation measures has also expanded in the last 10 years. Similar to other areas covered by RTAs, provisions on trade facilitation display important disparities across agreements in terms of language, coverage and level of commitment (WTO, 2015). Despite the variety of different trade facilitation provisions, SMEs can benefit from the reduction in transport costs and delays, resulting from the implementation of RTAs' provisions on SMEs, by making it easier and faster to export. The reduction in transaction costs can also potentially make SMEs more competitive in international markets.



In addition to these trade facilitation provisions that apply indifferently to SMEs or large firms, four main types of SMEs-related provisions on trade facilitation have been included in 18 RTA, mainly the trade facilitation chapter, as noted in Figure 19. The first type of SMEs-related provisions on trade facilitation, found in 10 RTAs, recommends taking into account the interests of SMEs. For instance, eight agreements negotiated by the EFTA states, including with Canada, Serbia, Ukraine, and Hong Kong, China, stipulate that the parties shall consult their respective business communities on their needs with regard to the development and implementation of trade facilitation measures, noting that particular attention should be given to the interests of SMEs. The language of this type of provisions in the free trade agreement between EFTA states and Central American states (Costa Rica and Panama) is slightly firmer by specifying that each party shall consult its business community on its needs with regard to the development and implementation of trade facilitation measures, giving particular attention to the interests of SMEs. In a broader context, the provision in the interim agreement between Cameroon and the EU stipulates that the customs procedures should be transparent, efficient and simplified in order to reduce costs and increase predictability for economic operators, including SMEs.

**Figure 19: Types of SMEs-related provisions on trade facilitation**



Note: Total number of RTAs with at least one SMEs-related provision belonging to the respective category.  
 Source: Computations based on WTO RTA database.

The second type of SMEs-related provision on trade facilitation, worded in firmer language, encompasses two categories of provisions. The first category, found in the association agreements to which the EU is a party with the Republic of Moldova and Ukraine, specifies the parties' agreement that their trade and customs legislation, provisions and procedures shall, *inter alia*, aim at reducing costs and increasing predictability for economic operators, including SMEs. The second category of SMEs-related provisions is more specific and included in the RTAs negotiated by the EU with Côte d'Ivoire, Colombia and Peru, and the Republic of Moldova. Although the language of this second type of provisions differs across the three RTAs, it specifies that procedures guaranteeing the right of appeal against customs administrative (actions,) rulings and decisions affecting imports, exports or goods in transit shall be easily accessible, including to SMEs. The provision in the trade agreement between the EU and Colombia and Peru explicitly mentions SMEs and micro enterprises.

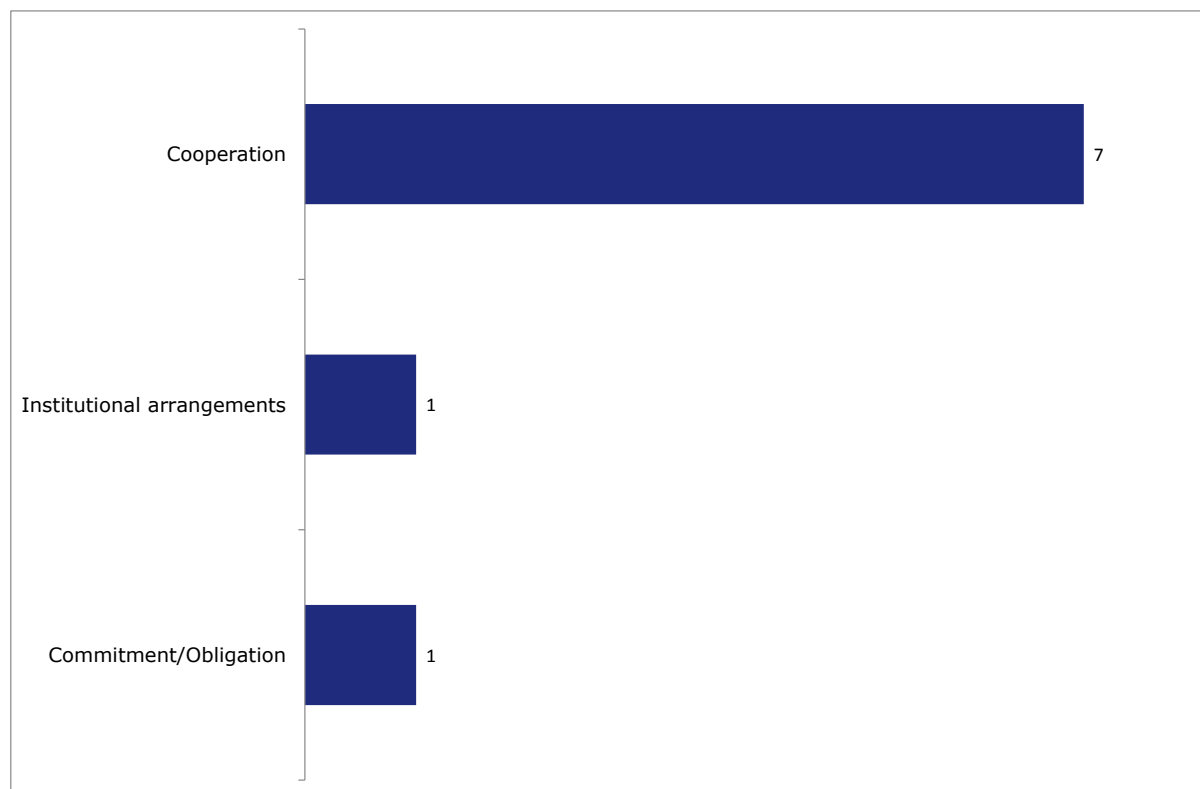
The remaining types of SMEs-related provisions on trade facilitation refer to cooperation. The RTA between Colombia and Northern Triangle explicitly lists trade facilitation as a topic of cooperation on SMEs. In particular, the parties agree to develop information exchange and internship programmes of officials and technicians in the field of trade facilitation, as well as technical assistance and training of human resources. The Association of Southeast Asian Nations (ASEAN) Free Trade Area (AFTA) further commits its member states to develop and implement a comprehensive ASEAN Trade Facilitation Work Programme, which sets out all concrete actions and measures with clear targets and timelines of implementation necessary for creating a consistent, transparent, and predictable environment for international trade transactions that increases trading opportunities and help businesses, including SMEs, to save time and reduce costs.

### 5.2.6 Intellectual property

Many SMEs, in particular those that engage in international trade, are often more innovative than similar firms that do not engage in export activities (Esteve-Pérez and Rodríguez, 2012). Innovation enables firms to adapt to market changes and foreign customers' diversified preferences. In that context, the protection of intellectual property rights can be of particular relevance to SMEs, including the so-called "born globals" or "international new ventures" that tend to be more knowledge intensive than traditional firms.

The number of RTAs with intellectual property provisions has accelerated since the WTO's creation and the entry into force of the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS). Similar to other types of provisions, the number and type of intellectual property provisions vary widely across RTAs. Although most RTAs contain intellectual property provisions of a general nature, a limited but increasing number of agreements include explicit provisions on specific fields of intellectual property law, such as trademarks, copyrights, patents, and geographical indications (Valdés and McCann, 2014).

**Figure 20: Types of SMEs-related provisions on intellectual property**



Note: Total number of RTAs with at least one SMEs-related provision belonging to the respective category.  
 Source: Computations based on WTO RTA database.

As depicted in Figure 20, only three types of SMEs-related provisions on intellectual property, included in 8 RTAs, have been identified. The first and most common type of provisions relates to cooperation. Despite the fact that these provisions have been worded differently, most of these cooperation provisions aim at stimulating innovation and intellectual property. For instance, the economic partnership agreement between the EU and the CARIFORUM States specifies that parties agree to cooperate, including by facilitating support, in the promotion of creativity and design, particularly in MSMEs. In some cases, the cooperation provisions are more specific. The RTA between the Republic of Korea and Peru stipulates that the parties agree to exchange views and information on the legal framework concerning protection and enforcement of intellectual property rights in accordance with their respective laws, regulations, and policies to stimulate the creation and development of intellectual property by persons of each party, particularly SMEs. Both Australia-Thailand and Panama-Peru RTAs include similar provisions but couched in slightly firmer language and referring explicitly to individual inventors and creators. The economic partnership agreement between the EU and the CARIFORUM States further mentions that research centres, higher-education institutions, and other stakeholders, including MSMEs, located in the parties shall be involved in cooperation on science and technology as appropriate.

The remaining two types of provisions are only found in the Japan-Thailand economic partnership agreement, which is the only RTA to include a specific article on SMEs in the intellectual property chapter. The article on assistance for acquisition of intellectual property rights for SMEs stipulates that each party shall, in accordance with its laws and regulations, take appropriate measures to provide assistance to SMEs for acquisition of intellectual property rights, which may include reduction of official fees. In addition, the agreement establishes a sub-committee on intellectual property tasked with various functions, including discussing any issues related to intellectual property with a view to enhancing protection of intellectual property and enforcement of intellectual property rights and to promoting efficient and transparent administration of intellectual property system, such as utilisation and commercialisation of intellectual property rights for SMEs.

### **5.2.7 Transparency**

In recent years, an increasing number of RTAs contain a dedicated chapter on transparency with provisions that aim at promoting transparency and due process in policy-making. Such transparency chapter are often complemented by more specific transparency commitments included in other chapters, such as technical barriers to trade (TBT) (Molina and Khoroshavina, 2015).

The RTAs to which the EU is a party with the Republic of Korea, Georgia and Ukraine are the only agreements to include a specific provision related to SMEs in the article on the objective of the transparency chapter. Although the language of this provision differs across the three agreements, it stipulates that the parties shall pursue, provide, or establish and maintain an efficient and predictable regulatory environment for economic operators doing business in their territories, especially small operators, including SMEs.

## **6 UPCOMING SMEs-RELATED PROVISIONS**

RTAs are sometimes viewed as a laboratory enabling countries to devise new provisions and address new issues and challenges. As a matter of fact, several recent RTAs, which have yet to be notified to the WTO, incorporate new types of SMEs-related provisions.<sup>7</sup>

### **6.1 Additional Protocol to the Pacific Alliance Framework Agreement**

The Additional Protocol to the Pacific Alliance Framework Agreement between Chile, Colombia, Mexico and Peru incorporates in its government procurement chapter a specific article on facilitating the participation of MSMEs, which includes a number of novel and unique provisions. Under the Additional Protocol, the party, who maintains measures providing preferential treatment

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<sup>7</sup> RTAs that have yet to be notified to the WTO include, among others, the Trans Pacific Partnership (TPP), the Comprehensive Economic and Trade Agreement between Canada and the EU (CETA), the Cross-Straits Economic Cooperation Framework Agreement (ECFA) between China and Chinese Taipei; the Free Trade Agreement between the EFTA States and GCC.

to its MSMEs with respect to the other parties' MSMEs, shall endeavour to reduce such measures.<sup>8</sup> In addition, the party maintaining measures providing preferential treatment is committed to ensure that such measures, including eligibility criteria, are objective and transparent. The parties are also called upon to provide information with respect of their measures used to help, promote, encourage or facilitate MSMEs' participation in government procurement and to cooperate in the elaboration of mechanisms supplying information to MSMEs about means to participate in government procurement covered by the agreement. The remaining other new provisions are mainly related to transparency, such as establishing an electronic portal and ensuring procurement documents are available free of charge.

## **6.2 Trans Pacific Partnership (TPP)**

The Trans Pacific Partnership (TPP), negotiated by 12 countries in the Pacific region<sup>9</sup>, includes also a specific article on facilitating the participation of SMEs in its government procurement chapter. Many of the provisions in this specific article are relatively similar to the ones found in the Additional Protocol. For instance, under the TPP, if a party maintains a measure that provides preferential treatment for SMEs, that party shall ensure that the measure, including the criteria for eligibility, is transparent. The agreement further encourages parties to provide comprehensive procurement-related information in a single electronic portal; make all tender document available free of charge; conduct procurement by electronic means; and consider the size, design and structure of the procurement to facilitate participation by SMEs.

In addition, the TPP contains a specific chapter on SMEs with several new provisions on information sharing. In particular, each party is required to establish or maintain a publicly accessible website containing information regarding the TPP, including a summary of the agreement and explanations of key provisions of particular relevance to SMEs. In addition, the website may provide any other pieces of information that could be useful to any person interested in trading, investing or doing business in its territory, such as customs regulations and procedures; regulations and procedures concerning intellectual property rights; technical regulations, standards, and sanitary and phytosanitary measures relating to importation and exportation; foreign investment regulations; business registration procedures; employment regulations; and taxation information. A committee on SMEs is also established and in charge of various tasks, including identifying ways to assist SMEs of the parties to take advantage of the commercial opportunities under the TPP, discussing and exchanging best practices in supporting and assisting SMEs exporters and facilitating the development of programmes to assist SMEs to participate and integrate effectively into global supply chains.

## **6.3 Comprehensive Economic and Trade Agreement between Canada and the EU (CETA)**

The Comprehensive Economic and Trade Agreement between Canada and the EU (CETA) includes also new types of SMEs-related provisions in the investment chapter' section on resolution of investment dispute between investors and states. In particular, CETA provides the disputing parties with the possibility to hold consultation through videoconference or other means where the investor is a SME. The respondent shall also give sympathetic consideration to the investor's request that a sole member of the tribunal should hear the claim if the investor is a SME. In addition, the joint committee established under CETA shall consider supplemental rules aimed at reducing the financial burden on claimants who are natural persons or SMEs. Such supplemental may take into account the financial resources of such claimants and the amount of compensation sought.

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<sup>8</sup> The Additional Protocol includes in the annex to the government chapter two provisions explaining that the chapter does not apply to set-asides of procurements on behalf of MSMEs in Colombia and government procurement measures designed to promote MSMEs in Peru.

<sup>9</sup> The parties to TPP are Australia, Brunei Darussalam, Canada, Chile, Japan, Malaysia, Mexico, New Zealand, Peru, Singapore, the United States of America, and Viet Nam.

## 7 CONCLUSIONS

Provisions mentioning explicitly SMEs have been incorporated into an increasing number of RTAs. As of May 2016, 136 RTAs, encompassing half of all RTAs notified to the WTO, incorporate at least one provision that mentions explicitly SMEs. In parallel, the number of detailed SMEs-related provisions included in a given RTA has tended to increase in recent years. Most of these provisions do not follow a specific and unique template, even in agreements negotiated by the same country. As a result, SMEs-related provisions on SMEs are very heterogeneous in terms of structure, location, language and scope. The two most common categories of SMEs-related provisions are provisions (1) specifying that SMEs and/or programs supporting SMEs are not covered by the RTAs' obligations; and (2) promoting co-operation on SMEs, including in the context of electronic commerce and government procurement. The remaining types of SMEs-related provisions are included in a limited number of RTAs and cover specific issues, such as trade facilitation, intellectual property, and transparency.

SMEs-related provisions, similar to other types of provisions, are set in a dynamic context and are likely to keep evolving with new and more comprehensive types of provisions on SMEs. If the new types of SMEs-related provisions included in mega regional trade agreements, such as TPP and CETA, are any indications, the language and forms of SMEs-related provisions in RTAs will likely keep evolving and become increasingly more specific and pragmatic.

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