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The Tisa initiative: An overview of market access issues

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World Trade Organization
Economic Research and Statistics Division

**THE TISA INITIATIVE: AN OVERVIEW OF
MARKET ACCESS ISSUES**

Juan A. Marchetti and Martin Roy

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THE TISA INITIATIVE: AN OVERVIEW OF MARKET ACCESS ISSUES

By Juan A. Marchetti and Martin Roy¹

Abstract

The plurilateral negotiations on a Trade in Services Agreement (TISA) have attracted much attention in trade policy circles. Policy and economic implications are intensely debated given the number and economic importance of participants. This paper aims to provide insights into the market access issues arising in such negotiations. Should TISA negotiations result in participants exchanging the best commitments they have so far undertaken in their preferential trade agreements (PTAs) – a reasonable starting point –, TISA market access commitments would go well beyond GATS commitments and services offers tabled in the Doha Round. While this would be in itself a significant outcome (especially in terms of predictability and stability), we also highlight, however, that the real economic benefits would be reduced by the fact that a number of participants have already exchanged significant concessions amongst themselves through bilateral PTAs. Further, and more importantly, exchanging 'best PTA' commitments would not meet the participants' most important export interests. These have often remained unaddressed in many of the previous bilateral negotiations or involve countries not currently participating in TISA. Addressing better these export interests would require going beyond an exchange of 'best PTA' commitments among TISA participants – with the more difficult policy and negotiating decisions that this implies – and/or seeking to expand the group of participants. We also discuss the different forms that such a plurilateral agreement may take vis-à-vis the WTO framework.

Keywords: GATS, trade in services, preferential trade agreements

JEL Classifications: F13, F15, F53

1 INTRODUCTION

The dynamism and importance of trade in services contrast sharply with the sluggishness of WTO negotiations in this area, where the latest serious attempt to move things forward dates back to mid-2008, on the occasion of the so-called services 'signalling conference'.² Faced with that state of affairs, and against the background of a proliferation of preferential trade agreements (PTAs) covering services, a group of WTO Members, the so-called 'Really Good Friends of Services' (RGFs) agreed on 5 July 2012, to start preparing negotiations on an International Services Agreement to reinforce and strengthen the global services market.³ As of end October 2013, 23 WTO Members are participating in the discussions: Australia; Canada; Chile; Colombia; Costa Rica; the European Union; Hong Kong, China; Iceland; Israel; Japan; Korea; Liechtenstein; Mexico; New Zealand; Norway; Pakistan; Panama; Paraguay; Peru; Switzerland; Chinese Taipei;

¹ Counsellors in the Trade in Services Division of the WTO Secretariat. The authors would like to thank Antonella Liberatore and Joscelyn Magdeleine for help with the trade data as well as Clémence Moreau for assistance on the editing of the manuscript.

² See the report by the Chairperson of the Trade Negotiations Committee (TNC), available at: http://www.wto.org/english/tratop_e/dda_e/job08_93_e.doc. Addressing WTO Members' Ministers at the end of the 8th Ministerial Conference, the then Chairperson of the TNC, Pascal Lamy, said that "there is an impasse, and a need to more fully explore different negotiating approaches, compatible with the principles of inclusiveness, transparency, bottom up of our work." See the statement at: http://www.wto.org/english/thewto_e/minist_e/min11_e/min11_closing_e.htm

³ Over time, they changed the denomination of such an endeavour for 'Trade in Services Agreement' or TISA.

Turkey; and the United States.⁴ It has been reported that China and Uruguay have formally asked to join the negotiating group.⁵

Discussions on the TISA have been intensive over the last months. They have focused on a framework of rules (e.g. on data flows, state-owned enterprises) and on the agreement's liberalization modalities (i.e., negative vs. positive list approach to scheduling commitments, or a combination of both⁶). Market access negotiations have not yet started in earnest, though the participants' initial market access offers are scheduled to be submitted in November. These initial offers are to take the form of a hybrid approach that builds on the GATS, but that provides for commitments on national treatment to be undertaken for all service sectors on the basis of a negative list.⁷ It has been estimated that the agreement would offer the European Union a potential EUR 15.6 billion and the United States EUR 10.4 billion (De Micco, 2013).

While there has been much speculation among observers and negotiators about TISA's liberalization modalities and rules framework, this paper leaves these issues aside and focuses instead on market access issues.⁸ From that perspective, the purpose of this paper is to provide some elements of reflection on a basic set of questions: what is the market access potential of such an agreement? What could be achieved in terms of market access commitments by the TISA? How much more than in GATS commitments? We also briefly look into a second and related issue, which is how those commitments may, in the end, relate to the WTO framework and be multilateralized.

The paper is organized as follows. The following section discusses the economic background against which these negotiations are taking place. The third section looks at the web of trade agreements that already link TISA participants and examines their bilateral trade flows. We then analyze the market access commitments that TISA participants have undertaken in their PTAs, and compare such achievements with these governments' key areas of export interest, as evidenced by their participation in the WTO services negotiations. The fourth section discusses the possible interaction between TISA and the WTO framework. The conclusion highlights that, in its current configuration, an extension of 'best PTA' commitments across TISA participants would produce notable benefits, assuming such agreement is backed by a strong dispute settlement mechanism. However, on the basis of our analysis of potential commitments and export interests, such an outcome would likely not go very far in addressing the participants' most important areas of export interest. Better addressing such issues would require going beyond levels of access so far achieved in PTAs and/or expanding the negotiations to cover markets of greater commercial interest.

2 THE ECONOMIC CONTEXT: THE GROWING IMPORTANCE OF SERVICES TRADE

Services account for a significant and rising share of domestic output and employment, reaching about 70 per cent of both production and employment in advanced economies. In fact, the positive association between the service sector share of GDP and per capita income is one of

⁴ We recognize that, like any negotiation, the TISA may never materialize.

⁵ See "China in push to join US-led \$4tn services trade talks", Financial Times, 23 September 2013. At the time of writing, neither China nor Uruguay had officially joined the negotiations.

⁶ Generally speaking, in a positive-list approach to scheduling commitments, market access and national treatment are granted only in the sectors expressly listed by each party in its schedule; for each sub-sector, the parties then indicate the level of commitment granted for each mode of supply. In contrast, in a negative-list approach, market access and national treatment apply fully to all covered service sectors, except to the extent that non-conforming measures (commonly referred to as "reservations") providing otherwise have been listed in annexes. In other words, under this approach, everything is in principle liberalized unless specified otherwise in the annexes. In a positive-list approach, nothing is liberalized, unless expressly specified otherwise. Negative-list agreements also typically include a 'ratchet' mechanism, which automatically binds future liberalization for remaining existing non-conforming measures.

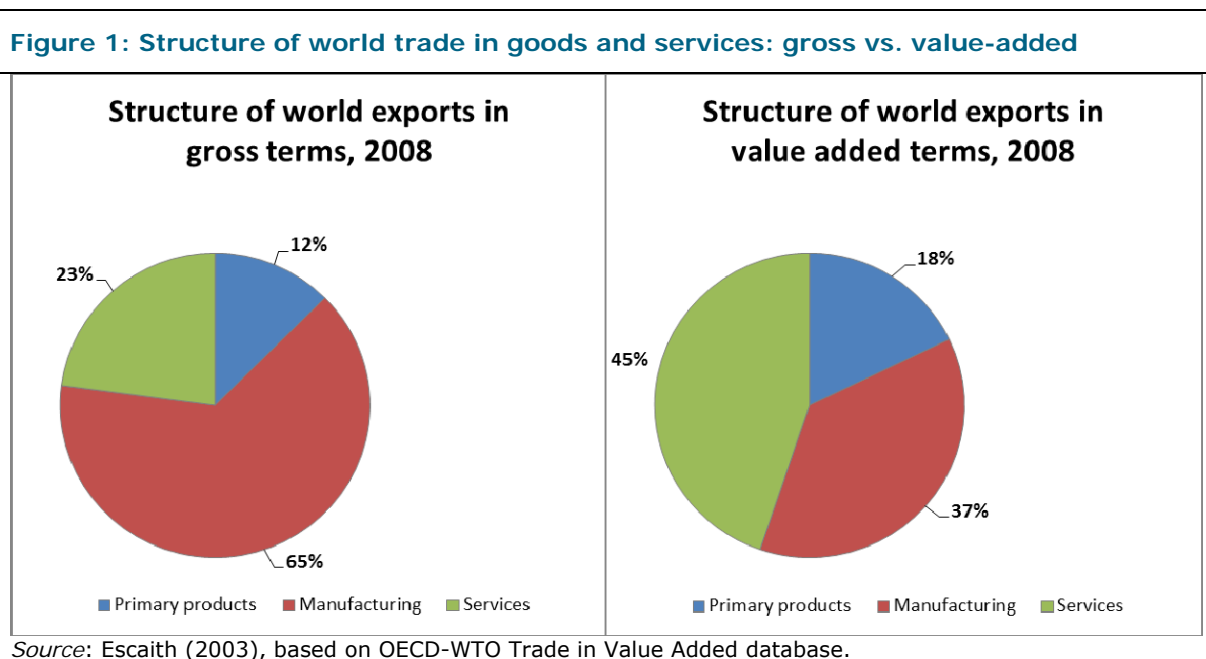
⁷ Inside US Trade, "TISA Negotiators set November Deadline for Offers, Despite Text Issues", 9 November 2013; WTO Reporter, "TISA Round Sees Progress on Proposals, Commitments to Make Market Access Offers", 11 November 2013.

⁸ This is not to say that GATS+ rules or liberalization modalities have limited relevance. For example, the inclusion of a "ratchet" (mechanism that automatically binds future liberalization) could have significant impact. On TISA negotiations more generally, see: Adlung and Mamdouh (2013); Hufbauer, Jensen and Stephenson (2012); Sauvé (2013).

the best-known regularities of growth and development economics (Eichengreen and Gupta, 2011).

At the same time, services are playing a critical role in the transformation of trade and investment patterns by enabling the development of global value chains (GVCs) (National Board of Trade, 2013). On the one hand, services such as communications and transport facilitate the transit of intermediate goods along the supply chain and enable the coordination between respective production units; on the other, domestic manufacturing industries which are first-tier or second-tier suppliers of international supply chains also require purchasing services from local providers for their normal operations (Escaith, 2013).

This increasing role of services has recently been brought to light by OECD and WTO Secretariat estimations of trade flows on the basis of value added. All in all, the participation of services in world exports doubles when trade is measured on a value-added basis instead of gross commercial price. As can be seen from Figure 1, services activities are the largest contributors to the value of global trade, to the detriment of manufacturing. As explained by Escaith (2013), this has two major implications for economic policy. On the one hand, an increasingly higher share of employment is found in the services sector, and more of those jobs are linked to trade than what used to be believed. On the other hand, since a larger share of the final cost of production of manufactured products is due to imbedded services, the competitiveness of GVCs and of countries participating in them becomes dependent on the efficient supply of service inputs.



As shown in Table 1, the contribution of services to the domestic content of goods exports varies according to the sectors of activity, and is higher in manufacturing than in primary products. On average for all countries, the share of value-added from domestic services in the total gross value of manufacture exports was about 20% in 2008, compared to only 10% for primary products. However, in the Top-10 countries in relation to services content (including heavily services-oriented economies like Australia, France, New Zealand and the US, but also emerging economies like Brazil and South Africa), the domestic services content in the gross value of the exports of primary products can be as high as 23%.

Table 1: Share of domestic services content in exports of goods, 2008 (per cent)

Share of domestic services Value Added in gross exports of			
Manufacturing products		Primary products	
Bottom 10 countries	13.0	Bottom 10 countries	8.1
Top 10 countries	25.2	Top 10 countries	22.8
Average (weighted)	20.2	Average (weighted)	10.0

Source: Escaith (2013), based on OECD-WTO trade in value added database.

Services have been increasingly important not only in trade flows but also in investment flows. According to UNCTAD, 63% of world FDI flows over the 2009-2011 period have been in the services sector, while the share of services in world FDI flows over the 1990-1992 period was 54%.

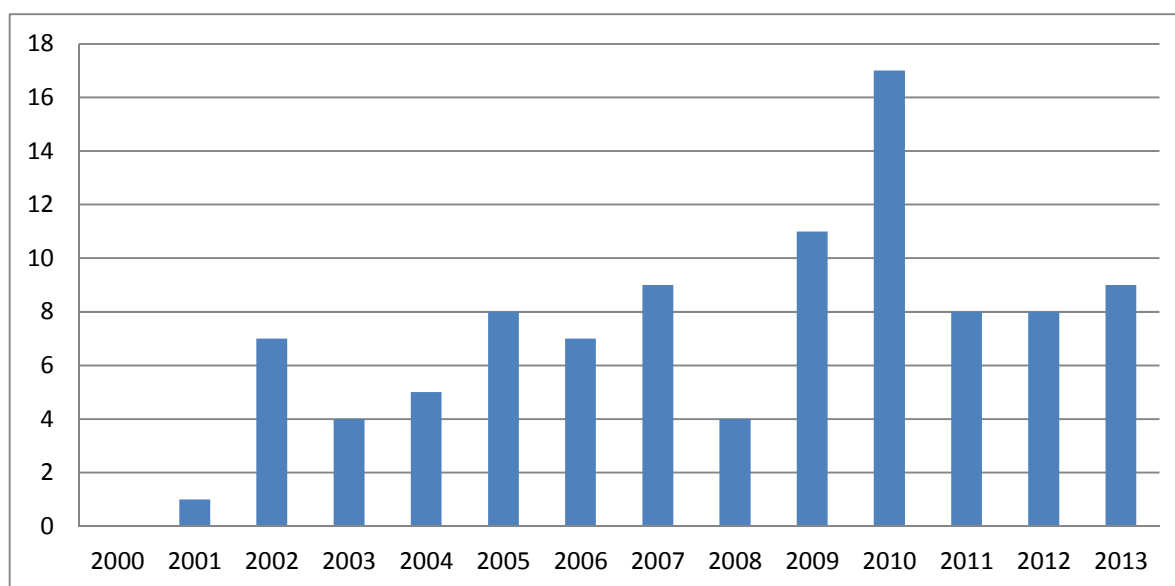
3 ANALYSIS OF MARKET ACCESS ISSUES

3.1 TISA participants: already a dense network of trade relations

Assessing the potential contribution of TISA in terms of market access commitments first requires seeing the extent to which participants are already tied by preferential trade agreements (PTAs) on services. Obviously, the value added of concessions obtained in TISA would be diminished if the same concessions had already been obtained through PTAs.

The issue is particularly relevant since TISA negotiations take place against the background of the recent proliferation of services PTAs.⁹ While only 6 PTAs were notified under Article V of the GATS before 2000, over 100 have been notified since.¹⁰ The number of countries following a bilateral trade policy strategy has increased significantly over the last decade. While only 11 WTO Members (counting the EU as one) were involved in services PTAs before 2000, a majority of the WTO membership is now embarked in that type of negotiations. Figure 2 illustrates the recent increase in services PTAs.

Figure 2: Number of Services PTAs entering into force since 2000, per year



Source: WTO RTA Database.

Note: On the basis of services PTAs notified under GATS Article V, as of July 2013.

⁹ See Marchetti and Roy (2008); Roy, Marchetti and Lim (2007); Roy (2011).

¹⁰ Counting only those RTAs that are currently in force.

Table 2 shows TISA participants that have already concluded a service PTA between themselves. It also provides information on those participants involved in on-going PTA negotiations on services which are currently taking place outside the context of TISA. The striking insight of Table 2 is the already dense network of trade relationships among some of the TISA participants. This is not surprising since, except for Singapore, the WTO Members that have concluded most services PTAs are also TISA participants (e.g., Mexico, Chile, United States).

While some TISA participants have either concluded no services PTA (Israel and Turkey), others have not concluded such PTAs with other TISA participants (Pakistan and Paraguay). At the other end of the spectrum, Chile is the salient case emerging from Table 2, as it has already signed PTAs on services with 17 of the 23 TISA participants, followed by Colombia, the European Union, Mexico, Peru and the United States, each of which has bilateral agreements with at least 9 TISA participants.

This network of services PTAs is already expanding. In fact, at the time of launching TISA negotiations, many of its participants were already embarked in on-going bilateral or plurilateral negotiations with each other, as also highlighted in Table 2.

Table 2: Preferential Trade Agreements among TISA participants

	Australia	Canada	Chile	Colombia	Costa Rica	EU	HKC	Iceland	Israel	Japan	Korea, Rep. of	Liechtenstein	Mexico	New Zealand	Norway	Pakistan	Panama	Paraguay	Peru	Switzerland	Chinese Taipei	Turkey	USA	
Australia			x							O	O		O	x					O					x
Canada			x	x	O	O		O		O	O	O	x		O				x	O				x
Chile	x	x		x	x	x	x	x		x	x	x	x	x	x		x		x	x				x
Colombia		x	x			x		x				x	x		x					x				x
Costa Rica			x			x							x				x		x					x
EU		O	x	x	x			x	O	O	x	x	x		x		x		x					O
HKC			x					x				x		x	x						x			
Iceland		O	x	x		x	x				x	x	x		x						x			
Israel						O																		
Japan	O	O	x	O		O					O		x	O					x	x				O
Korea, Rep. of	O	O	x	x		x		x		O		x	O	O	x				x	x				x
Liechtenstein		O	x	x		x	x	x			x		x								x			
Mexico	O	x	x	x	x	x		x		x	O	x		O	x				x	x				x
New Zealand	x		x				x			O	O		O						O					O
Norway		O	x	x		x	x	x			x		x								x			
Pakistan																								
Panama			x		x	x													x		x			x
Paraguay																								
Peru	O	x	x		x	x				x	x		x	O			x							x
Switzerland		O	x	x			x	x		x	x	x	x		x									
Chinese Taipei																	x							
Turkey																								
USA	x	x	x	x	x	O				O	x		x	O			x		x					

Source: Own elaboration based on WTO database on Regional Trade Agreements and Governments' websites.
 Legend: 'x' signals the agreements in force; 'o' signals on-going PTA negotiations (e.g. TPP, EU-US).
 Note: Indication of on-going negotiations does not pretend to be exhaustive, as it is done on the basis of available public information.

In some cases, TISA participants are involved in plurilateral negotiations that include both TISA and non-TISA partners. The most important of these other plurilateral initiatives are undoubtedly the Trans-Pacific Partnership Agreement (TPP) and the Regional Comprehensive Economic Partnership Agreement (RCEP). The TPP builds on the Trans-Pacific Strategic Economic Partnership Agreement (P4) between Brunei Darussalam, Chile, New Zealand and Singapore, which entered into force in 2006. In addition to the four original parties, negotiations currently also involve Australia, Canada, Japan, Malaysia, Mexico, Peru, the USA and Viet Nam. The RCEP is an ASEAN-centered proposal for a regional free trade area, which will include the ten ASEAN member states and those countries which have existing FTAs with ASEAN, namely Australia, China, India, Japan, Republic of Korea or New Zealand.

Also noteworthy is the Pacific Alliance (PA) between Chile, Colombia, Costa Rica, Mexico and Peru, aiming at deepening integration among these countries. A number of other countries, including Canada, China and Japan, are participating as observers in the PA and may eventually join at some point. At the same time, bilateral negotiations involving important TISA economies are in the final stages (e.g. Canada – European Union, which has been agreed in principle) or have been recently launched (European Union – United States).

TISA negotiations may have very significant implications for those that have not yet entered into any bilateral agreement with other TISA participants (Israel, Pakistan, Paraguay and Turkey). The impact would also be greater for those who have a relatively more limited number of bilateral

agreements with other TISA participants, such as Australia, Canada, Chinese Taipei, Japan and New Zealand.

As also seen in Table 2, TISA – should it be concluded – would have the effect of bringing about, for the first time, preferential binding commitments on services between the world's three largest services markets, namely the United States, the European Union, and Japan. For other participants, potential benefits would also need to be viewed from that angle: no single TISA participant has pre-existing services PTAs with these three large economies; and Hong Kong, China; New Zealand, Chinese Taipei (in addition to Israel, Paraguay and Turkey) do not have services PTAs with any of the three.

Finally, it can be observed that the WTO Members that have been most active in negotiating services PTAs are currently involved in TISA, with the exception of certain Central American countries, ASEAN members, China, and India.

3.2 Overview of TISA participants' trade profiles

TISA participants account for about 68% of world services trade, calculated on a balance of payments basis (see Table 3).¹¹ If achieved, it would be the non-WTO agreement accounting for the greatest share of world services trade. The top 20 services exporters/importers that are not currently participating in TISA are: China (4.4% of world exports and 6% of world imports); India (3.3% of world exports and 3.1% of world imports); Singapore (3.1% of world exports and 2.9% of world imports); Russian Federation (1.7% of world exports and 2.9% of world imports); Thailand (1.3% of world exports and 1.7% of world imports); Brazil (1.2% of world exports and 2.4% of world imports); and Malaysia (1.1% of world exports and 1.2% of world imports). Saudi Arabia, United Arab Emirates and Indonesia, each of which accounts for more than 1% of world services imports, are not in TISA either.

¹¹ Only extra-EU trade is taken into account.

Table 3: TISA participants' exports and imports of services (excluding intra-EU (27) trade), 2011

(Value and share of world trade, in billion dollars and percentage, respectively)

Exporters	Value	Share	Importers	Value	Share
Extra-EU (27)	784	24.7	Extra-EU (27) imports	644	21.1
United States	581	18.3	United States	395	12.9
Japan	142	4.5	Japan	166	5.4
Hong Kong, China	121	3.8	Canada	100	3.3
Switzerland	94	3.0	Korea, Republic of	98	3.2
Korea, Republic of	94	3.0	Australia	60	1.9
Canada	75	2.3	Hong Kong, China	56	1.8
Australia	51	1.6	Switzerland	47	1.5
Chinese Taipei	46	1.5	Norway	45	1.5
Norway	42	1.3	Chinese Taipei	41	1.4
Turkey	38	1.2	Mexico	25	0.8
Israel	27	0.8	Turkey	20	0.6
Mexico	15	0.5	Israel	20	0.6
Chile	12	0.4	Chile	14	0.4
New Zealand	10	0.3	New Zealand	11	0.4
Panama	7	0.2	Colombia	9	0.3
Colombia	5	0.2	Peru	7	0.2
Costa Rica	5	0.2	Pakistan	7	0.2
Peru	5	0.2	Panama	3	0.1
Iceland	3	0.1	Iceland	3	0.1
Pakistan	3	0.1	Costa Rica	2	0.1
Total of above	2160	68.1	Total of above	1773	58.0
World (excl. intra-EU (27))	3170	100.0	World (excl. intra-EU (27))	3055	100.0

Source: WTO International Trade Statistics 2012.

Table 4 shows available information on TISA participants' bilateral services trade flows on a balance-of-payments basis. This suggests that the negotiations may indeed be very significant for some of them. According to these estimates by the WTO Secretariat, exports to TISA participants already represent as much as 48% of Australia's total commercial services exports, 73.5% for Canada (although concentrated basically in the European Union, Japan and the United States); about 58% for both the European Union and Hong Kong, China; 79% for Iceland; 67% for Japan; 52% for Korea; 56% for Pakistan; and almost 61% for the United States.

Table 4: Exports of Services by selected TISA participants to other TISA participants

(Balance-of-Payments basis, 2010, million dollars)

	Exporters								
	Australia	Canada	EU27	Hong Kong, China	Iceland	Japan	Korea, Rep of	Pakistan	USA
Australia			18962	2881	15	2637	1397	7	13520
Canada	694		17519	1612	71	2118	774	22	50753
Chile	156		2981	110	1		359		
Chinese Taipei	500		7207	4453	1	9256	1955		9805
Colombia			2216		1				
Costa Rica			480		0				
EU27	7764	12292		19552	1408	33503	9822		170248
Hong Kong, China	1542		11721		4	2094	4144	20	5511
Iceland			236						
Israel			5409	338	4				
Japan	1903	1184	25911	6205	11		10787	47	45147
Korea, Republic of	1753		10005	2531	3	3707		20	15335
Mexico	57		6815	134	1	649	647		24156
New Zealand	2994		2575	324	1	255	124		
Norway	208		24413	122	114		349	15	
Pakistan			1502	60	0				
Panama			1702	293	0		331		
Peru	73		1320		0				
Switzerland	753		93519	1329	44	2264	427	59	
Turkey			10687	47	2		324	5	
USA	4635	37332	170534	22253	263	38057	13922	3497	
TISA (value)	23033	50809	415716	62244	1943	94540	45363	3693	334475
TISA (%)	48.4	73.5	58.2	58.6	79.1	66.9	52.0	56.0	60.7
World	47576	69166	713904	106159	2455	141286	87282	6593	550746

Source: WTO Secretariat.

That said, the weight of TISA in individual countries' total exports would be reduced if we excluded countries with which they already have services PTAs in force. In such a case, TISA partners would account for 32% of Australia's total services exports (rather than 48%), 19% in the case of Canada (instead of 73.5%), 38.5% for the European Union (instead of 58%), 23% for Korea (instead of 52%), and 42% for the United States (instead of 61%).

Table 4bis: Services supplied by United States affiliates established abroad (outward FATS) and by foreign affiliates in the United States (inward FATS) by economy of affiliate, 2009

(Million dollars and percentage)

Supply of services abroad			Supply of services in the United States		
	Value	Share		Value	Share
	2009	2009		2009	2009
World	1076439	100.0	World	659639	100.0
EU27	508480	47.2	EU27	373142	56.6
Canada	101424	9.4	Japan	87125	13.2
Japan	65566	6.1	Canada	69958	10.6
Switzerland	55928	5.2	Switzerland	46116	7.0
Australia	38263	3.6	Bermuda	19445	2.9
Above 5	769661	71.5	Above 5	595786	90.3
Singapore	34351	3.2	Australia	12613	1.9
Mexico	30466	2.8	India	7232	1.1
Hong Kong, China	29433	2.7	Korea, Rep of	6800	1.0
Brazil	24708	2.3	Hong Kong, China	3763	0.6
China	23064	2.1	Mexico	3125	0.5
Bermuda	16096	1.5	Israel	1948	0.3
India	13083	1.2	Norway	1553	0.2
Korea, Republic of	10169	0.9	Brazil	972	0.1
Taipei, Chinese	8922	0.8	Venezuela, Bolivarian Rep. of	806	0.1
Argentina	6283	0.6	China	624	0.1
Above 15	966236	89.6	Above 15	635222	96.2

Source: WTO International Trade Statistics 2012.

The picture of bilateral trade in services through the establishment of a commercial presence abroad is quite interesting as well. As shown in Table 4bis, almost 80% of US exports and 90% of US imports through commercial presence would be covered by this agreement.

3.3 Market access achieved in services PTAs

As noted earlier, a large majority of TISA participants has been involved in various services PTAs. The market access concessions exchanged through these agreements provide a general picture of what might, at a minimum, be achieved among TISA participants. Indeed, one might expect that, as a general rule, most participants would exchange their 'best PTA' concessions.¹² From that perspective, an analysis of PTA concessions provides useful insights on the possible contours of market access commitments that might emerge from TISA.

To provide a picture of PTA commitments, we rely on the dataset on services commitments in PTAs that was initially developed in Marchetti and Roy (2008) and subsequently expanded in

¹² In some cases, one might expect that they would go beyond best PTA commitments, in particular for those participants that have few or less ambitious preferential agreements.

Roy (2011). The dataset covers 53 Members (counting the EU and its Member States as one) and 67 services PTAs.¹³

The dataset limits its assessment of services commitments to mode 1 (cross-border trade) and mode 3 (commercial presence), which represent the bulk of total world services trade – over 75%. While a similar assessment with respect to mode 4 (movement of natural persons) would be valuable because of this mode's own importance as well as the link with the other two modes of supply in firms' actual business models, commitments under this mode are horizontal in nature, and would therefore best be captured by a different approach than the one used here. Since the supply of services through mode 2 (consumption abroad) is largely unrestricted, comparing GATS and PTA commitments in this area would provide limited value added.

For the purposes of analysing GATS+ commitments in PTAs, we use an index that takes into account, in a basic and straightforward manner, the level of commitments undertaken in each subsector and mode of supply by differentiating between 'full commitments' (without restrictions), 'partial commitments' (subject to certain restrictions), and the absence of commitments.¹⁴ The index does not attempt to quantify the quality of commitments or to determine their level of trade restrictiveness, but focuses on the extent to which RTA commitments go beyond GATS commitments and services offers in the Doha Development Agenda. It permits to provide information on GATS+ commitments by Member, mode of supply, PTA, and sector.¹⁵

By comparing PTA commitments with Doha Round offers, the index provides a better understanding of the former's value added, and of the levels of ambition set by those trading partners in the different fora. It also permits getting a glance at the potential gains in DDA negotiations if preferential commitments were to be multilateralized.¹⁶

Figure 3 shows index values on a 0 to 100 scale for TISA participants' GATS commitments (including DDA offers), on the one hand, and their best PTA commitments, on the other hand. Best PTA commitments are calculated by looking at the best commitment undertaken by the WTO Member concerned for each subsector and mode of supply across all the PTAs to which it is a party.

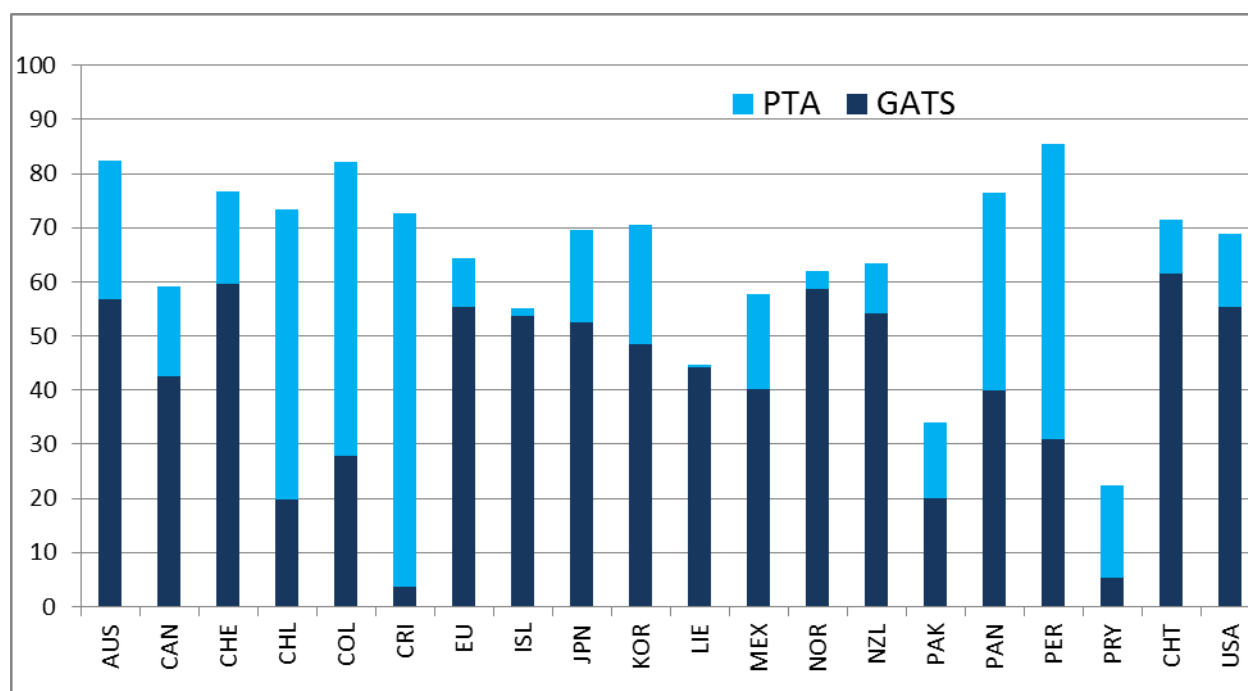
¹³ This dataset is available at: http://www.wto.org/english/tratop_e/serv_e/dataset_e/dataset_e.htm
The lists of Members and PTAs covered are found in Tables A-1 and A-2 in Appendix.

¹⁴ See Marchetti and Roy (2008) and Roy (2011).

¹⁵ Fully assessing the depth and quality of commitments is a complicated matter. To capture the relative restrictiveness of commitments, only a case-by-case qualitative analysis would be satisfying. Accordingly, the index should not be used to rank countries' PTA or GATS commitments, but more to compare one's own commitments in different fora. The approach taken in Marchetti and Roy (2008) builds upon the one initially used by Hoekman (1996) to assess the content of GATS schedules emerging from the Uruguay Round where, for each sub-sector and mode of supply, a score of 1 is given for a full commitment (without limitations), 0.5 for partial commitments, and 0 for the absence of commitments. Naturally, such an approach has its limitations, the most obvious being that it only captures in a general manner the restrictiveness/openness of commitments. Among all the partial commitments with a score of 0.5, some could be subject to limitations heavily restricting trade, while others only contain limitations that only marginally affect trade. In Marchetti and Roy (2008), the Hoekman index is adapted so as to allow the comparison of a Member's partial commitments in different PTAs. Comparison is easy when, for example, a partial commitment (score of 0.5) in a given sub-sector becomes a full commitment in another PTA (score of 1). However, differences between a Member's commitments in the GATS and in its various PTAs often consists of removing or relaxing some, but not all, limitations in a given sub-sector and mode. Rather than giving a score of 0.5 to all partial commitments without taking account of greater concessions made from one negotiation to the other, the index gives a higher score for each improvement in a Member's partial commitments: for each step, half the difference between the score for a full commitment (1) and the score of the partial commitment being improved is added. For example, a partial commitment being improved by way of a foreign equity limit moving from 49 to 51 per cent would obtain a score of 0.75.

¹⁶ For additional details on the methodology used to produce the dataset, see Marchetti and Roy (2008).

Figure 3: GATS+ commitments in PTAs: Index values per Member (modes 1 and 3)



Source: For methodology and caveats, see Roy (2011) and http://www.wto.org/english/tratop_e/serv_e/dataset_e/dataset_e.htm.
 Note: GATS stands for GATS offer. For acronyms, see Table A-1 in Appendix.

Figure 3 illustrates that relevant WTO Members have, overall, undertaken significantly better commitments in PTAs than what they have proposed in their DDA services offer. This often is the case even for those TISA participants that have high levels of GATS commitments.

This general conclusion is confirmed when using another approach whereby, instead of comparing the indices, which gives information about market access improvements, commitments in PTAs are assessed by looking at the proportion of services sub-sectors where a party to a PTA undertakes commitments that go beyond its DDA services offer (see Figure A-1 and A-2 in Appendix).¹⁷

The extension of 'best PTA' commitments among all TISA participants can therefore be expected to yield significant benefits, especially in terms of the additional legal predictability and security they would bring, provided of course the TISA contains an adequate dispute settlement mechanism.

Extension of 'best PTA' commitments would also bring some benefits to pairs of countries already bound by a PTA. Indeed, as shown in Table 5, the level of commitments granted by some Members is not identical across all PTAs. In some cases, it can differ markedly from one agreement to the other (e.g., PTA concessions granted by Chile, Mexico and Switzerland).

¹⁷ This approach was used in Roy, Marchetti and Lim (2007). In that approach, GATS+ commitments are sub-sectors uncommitted in the WTO that are subject to commitments in PTAs or sub-sectors subject to better guarantees of access in PTAs than in the WTO. Such approach makes no attempt to assess the precise type of improvements or levels of commitment, including whether new bindings are 'full' or 'partial' commitments. On the other hand, it permits a straightforward assessment, revealing in how many and in which sectors PTA commitments go beyond multilateral undertakings. The number of Members and RTAs covered is the same as that used for the index (Roy (2011)).

Table 5: Index values per PTA agreement – TISA participants

		Concessions received																									
		GATS + DDA	BEST PTA	Australia	Canada	Chile	Colombia	Costa Rica	EU	HKC	Iceland	Israel	Japan	Korea, Rep. of	Liechtenstein	Mexico	New Zealand	Norway	Pakistan	Panama	Paraguay	Peru	Switzerland	Chinese Taipei	Turkey	USA	
Concessions given	Australia	57	83			x											x									82	
	Canada	43	59			x	x															59				x	
	Chile	20	73	68	x		64	65	54	x	54		68	66	54	x	x	54			54 ¹⁸	x	54			68	
	Colombia	28	82		x	x			x		x				x	x		x				x	x			82	
	Costa Rica	6	73			55			x								58				x	x				71	
	EU	55	64			58	x	x						x	x	x					x	x					
	HKC					x						x															
	Iceland	54	55			54	x		x						54		54		x								
	Israel																										
	Japan	53	70			68											67										
	Korea, Rep. of	49	71			61	x		x		49								49				x	49			67
	Liechtenstein	44	45			45			x		x				45		45		x					x			
	Mexico	41	58			x	x	57	x			41		58		41											x
	New Zealand	54	64	x		x					x																
	Norway	59	62			59	x		x	x	x			59	x	59											
	Pakistan	20	34																								
	Panama	40	77					x	x														x		72		76
	Paraguay	5	22																								
	Peru	31	86		68	x	x	x	x					x	x	x											85
	Switzerland	60	77			60	x				x	x		73	60	x	63		x								
Chinese Taipei	62	72																									
Turkey																											
USA	55	69	67	x	68	67	67							68		x					67	67					

Source: Roy (2011).

The general conclusion above about benefits of an extension of 'best PTA' commitments should not be considered as an unconditional endorsement of this type of negotiations. PTAs – should the TISA in the end be one – may have significant shortcomings. First, any preferential access in services can be particularly costly for non-parties because it may provide lasting advantages to first movers that might be hard to reverse through subsequent extension of access to other countries. This results from the limited number of suppliers that can naturally operate in certain services markets (e.g., financial services, telecoms); location-specific sunk costs of production are important in many sectors. Second, preferential access in services as a result of PTAs likely occurs more often than might be detected: discretionary licensing decisions (despite *de jure* non-discriminatory regulations) may result from preferential commitments. This is more likely in services where there are no GATS commitments whatsoever. Such advantages may be a factor contributing to the proliferation of PTAs, which sometimes looks like a competitive race.¹⁹ Third, concerns about a spaghetti bowl-type of situation may relate not so much to rules of origin but to the different levels of market access granted in different agreements. Finally, services liberalization through PTAs have not resulted in further opening up of sensitive sectors in major trading partners (e.g. audiovisual services in the EU, maritime transport in the US).

3.4 Assessing 'best PTA' commitments in view of TISA participants' export interests

While, as suggested in the preceding section, extension of 'best PTA' commitments would, generally speaking, go significantly beyond GATS and would therefore bring non-negligible benefits to TISA participants (provided there is a dispute settlement mechanism ensuring enforcement), an analysis of the market access potential of such an agreement should also take account of the likelihood of meeting the participants' main export interests of its signatories. In other words, one should also consider whether GATS+ commitments in current PTAs would indeed match the main 'offensive' interests in terms of sectors and trading partners. After all, through the liberalization of

¹⁸ Mode 1 only.

¹⁹ See Marchetti, Roy and Zoratto (2012).

export opportunities in sectors where a country has a comparative advantage, trade agreements are supposed to maximize over time the benefits that may already accrue to that country through unilateral liberalization.

A general picture of export interests of WTO Members is revealed by their involvement in the process of plurilateral requests and offers that took place in the context of the Doha Round in 2006.²⁰ Starting in 2006, Members engaged actively in the WTO plurilateral negotiating process by formulating collective requests in almost all sectors and modes of supply. The process meant that Members with the same export interest would coalesce, collectively agree on a level of commitment that should be achieved in the Round, and, on that basis, select the recipients of the resulting collective/plurilateral request. Such a process allowed for the identification of the key markets in each sector, both in terms of their commercial importance and the gap between their GATS commitments/offers and the *demandeurs'* market access ambitions.

Table 6 identifies, on the basis of the information available, where TISA participants have either sponsored or been the target of a plurilateral request. As can be seen, with few exceptions, TISA participants appear more often as sponsors of such requests rather than recipients. These plurilateral requests were made on the assumption that the market access objectives would also be met by the *demandeurs*, which would have implied in some cases improvements to their GATS commitments. In other words, in some cases, meeting those objectives would have led to an upgrade of commitments not only on the part of the recipients but also on the part of the *demandeurs*. It is worth noting that some TISA participants received few requests, which may reflect that either they already complied with the objectives set by the requests or that other markets were of greater commercial interest in those sectors.²¹

²⁰ The Hong Kong Ministerial Declaration of 2005, in an attempt to move the WTO services negotiations forward, provided that the request-offer negotiations should be pursued on a plurilateral basis, in addition to the traditional bilateral request-offer process. This meant that any group of Members could present a joint request to a group of other Members in any specific sector or mode of supply, identifying the type of commitments sought. See paragraph 7 of Annex C to the Hong Kong Ministerial Declaration. While the negotiating process was plurilateral in that requests were made by groups of Members to other groups of Members, the resulting commitments would be extended on a MFN basis to all Members.

²¹ It is worth noting in that regard that WTO negotiations, and the plurilateral request/offer process was no exception, seek to identify and engage the so-called 'critical mass' of WTO Members, i.e. those whose participation in the final negotiating package is considered essential. The WTO Members identified in the plurilateral requests can be seen in this light as well.

Table 6: Summary of WTO Plurilateral Requests involving TISA participants

	Accounting	Air transport	Architectural/ Engineering	Audiovisual	Computer & related	Construction & related	Cross-border (Modes 1 & 2)	Distribution	Education	Energy	Environmental services	Financial services	Legal	Logistics	Maritime transport	Mode 3	Mode 4	Postal/Courier incl. express	Telecommunications	Tourism	Requests made (*)	Requests received (*)
Australia	X	X	X	0	X	X	0	0	X	X	X	X	X	X	X	0	0	0	X	0	13	6
Canada	X	0	X	0	X	X	0	0	0	X	X	X	X	0	X	0	0	0	X	0	10	9
Chile	X	X	X	0	X	0	X	X	0	0	0	0	X	X	0	0	X	0	0	0	9	7
Colombia			X	0	0	0	0	0	0	0	0	0	0	0	0	X	X	0	X	0	4	10
Costa Rica											0	0								X	0	2
EU	X	X	X	0	X	X	0	X	0	X	X	X	X	0	X	X	0	X	X	0	14	6
HKC	0	0	0	X	X	0	X		0			X	0	X	X	X		0	X	0	8	8
Iceland														0	X		0			0	1	3
Israel	0			0	0	0		0			0	0						0	0	0	0	9
Japan	X	0	X	X	X	X	0	X	0	X	X	X	X	X	X	X	0	X	X	0	15	5
Korea, Rep. of		0	X	0	X	X	0	X	0	X	X	X	0	0	X	0		0	X	0	9	9
Liechtenstein														0							0	1
Mexico	0	0	X	X	X	X	X	X	0	0	0	0	0	0	X	0	X	0	0	0	8	10
New Zealand	X	X	X	0	X	X	X		X		0		X	X	X	X	0	X	0	0	12	5
Norway		X	X	0	X	X	0			X	X	X	0	X	X	0	0	X	X	0	10	6
Pakistan	0	0	0		X	0	X	0	0	0	0	0		0	0	0	X		0		3	13
Panama			0	0	0			0						0	X					X	2	5
Paraguay			0	0	0		0														0	4
Peru			X	0	X	0	0	0		0	0		0	0			X			X	4	9
Switzerland	X	X	X	0	0		X		0		X			X	X	X	0	0	0	0	8	7
Chinese Taipei		0	0	X	X	X	X	X	X	X	X	X	0	X	X	0		0	X		12	5
Turkey			0	0	0	X		0	0	0	0	0	0	0	0			0	0		1	12
USA	X	0	X	X	X	X	0	X	X	X	X	X	X	0	0	X	0	X	X	0	14	6

Source: Based on plurilateral requests submitted in the context of the DDA. Available on the following websites: <https://servicescoalition.org/images/files/DOHA/crequests.htm> and http://commerce.nic.in/trade/international_trade_tis_gaitis_requests_pr.asp

Note: The plurilateral requests on MFN exemptions have been omitted.

Legend: 'X' identifies Members that have requested further liberalization of the sector and mode concerned; '0' identifies Members who have been requested to further liberalize the sector or mode concerned.

Arguably, plurilateral requests provide a good indication of the markets and sectors/modes where TISA participants would have most interest in these negotiations. Since, as we explained previously, extension of 'best PTA' commitments is an obvious possible landing – or take off? – zone for TISA, a key question is whether and to what extent TISA participants have undertaken 'best PTA' commitments that meet the objectives of the requests they have received.

Table 7 helps answer that question by presenting index values for GATS commitments/offers and for 'best PTA' by TISA participant and by sector. The table shows, in bold and highlighted form, the TISA participants that received plurilateral requests at the WTO in various service sectors.²² In other words, these are the TISA participants from which further liberalization had been requested at the WTO. As can be seen, few sectors are highlighted for TISA participants, meaning that they often were not targets of plurilateral requests in relevant sectors, either because they were sponsors and had therefore already signaled their intention to comply with the requests' objectives, or their market – for whatever reason – had not been deemed of sufficient interest to justify a request. The table underscores that the export markets of greater commercial and negotiating interest are not involved in the TISA negotiations; the greatest commercial interests of TISA participants would therefore not be met by simply extending 'best PTA' commitments among TISA participants.

²² In this table, we omit the multi-sector requests (e.g., focusing on modes or MFN exemptions), as well as those that focus on part of sector, e.g., the legal services sub-sector within the professional services sector.

As indicated earlier, index values have to be interpreted cautiously as they do not aim to fully capture the quality of commitments, nor can they always indicate whether the plurilateral requests' objectives have been fully met; indeed, 'partial' commitments can be subject to various levels of restrictiveness (and sub-sectors are not weighted according to their potential commercial value). Still, the index provides a picture of where Members are contracting new or improved bindings, per sector. An important point emerging from such picture is that a number of larger economies (notably the European Union, United States, and Japan) do not appear to have gone significantly beyond their GATS offer in the sectors where they were the target of plurilateral requests.

In computer services, only one TISA participant that is the target of the plurilateral request has made significant GATS+ commitments in a preferential context (Colombia). In telecommunications, of the six participants that are on the receiving end of the request, only one has made significant GATS+ commitments in its PTAs (Chile). In financial services, only four TISA participants were the target of the plurilateral request: two with some GATS+ commitments in PTAs (Costa Rica and Pakistan) and two (Israel and Turkey) that have not concluded a services PTA. On maritime transport, PTAs have only led to limited improvements from the United States.

Should 'best PTA' commitments be 'transferred' to TISA, some improvements could be expected in construction, environmental, distribution, and audiovisual services, though not necessarily in the more economically important markets (i.e., Canada and the European Union in audiovisual, the European Union, Japan and Switzerland in education).

Table 7: Index values for GATS commitments/offers and 'best PTA' commitments for TISA participants

	Australia		Canada		Chile		Colombia		Costa Rica		European Union		Iceland		Japan		Korea, Rep.of		Liechtenstein	
	GATS	PTA	GATS	PTA	GATS	PTA	GATS	PTA	GATS	PTA	GATS	PTA	GATS	PTA	GATS	PTA	GATS	PTA	GATS	PTA
Professional Services	80	86	44	51	34	94	53	95	0	50	59	63	75	75	54	66	60	81	50	50
Computer Services	100	100	100	100	75	100	40	100	100	100	100	100	85	85	100	100	100	100	100	100
Postal-Courier Services	0	50	31	66	0	50	0	100	0	100	63	63	0	50	50	50	25	63	0	0
Telecom Services	93	96	74	74	33	88	83	94	0	50	88	94	80	80	70	70	80	90	100	100
Audiovisual Services	0	50	0	0	0	10	0	60	0	70	0	10	0	0	60	60	30	80	0	0
Construction Services	83	100	62	62	0	83	87	100	0	100	71	83	67	100	42	62	79	100	0	0
Distribution Services	69	84	53	66	0	100	0	100	0	78	72	88	100	100	75	88	78	84	63	63
Education Services	30	55	0	50	0	25	20	100	0	90	40	40	0	0	45	50	15	39	50	50
Environmental Services	50	100	75	75	0	25	0	50	0	63	72	73	25	25	50	75	50	67	44	44
Insurance Services	65	73	58	74	25	70	35	83	0	85	58	58	55	55	65	75	40	78	58	58
Banking and other Financial Services	33	35	41	49	23	41	19	60	19	40	43	43	33	33	56	60	31	42	71	71
Health and Social Services	8	13	0	0	0	0	0	0	0	100	25	33	0	0	8	25	0	0	0	0
Tourism Services	75	100	46	63	50	100	100	100	33	75	83	83	83	83	83	100	79	100	58	58
Recreational Services	38	72	0	50	0	100	13	88	0	81	59	59	69	69	50	100	6	53	50	63
Maritime Transport Services	45	71	35	56	0	52	0	86	0	67	48	63	52	52	52	83	70	93	0	0
Air Transport Services	60	95	35	53	53	90	10	63	10	101	66	73	55	55	50	50	55	84	0	0
Auxiliary Transport Services	71	100	50	50	0	100	0	50	0	86	57	71	71	71	14	61	7	54	57	57

	Mexico		New Zealand		Norway		Pakistan		Panama		Paraguay		Peru		Switzerland		Chinese Taipei		United States	
	GATS	PTA	GATS	PTA	GATS	PTA	GATS	PTA	GATS	PTA	GATS	PTA	GATS	PTA	GATS	PTA	GATS	PTA	GATS	PTA
Professional Services	48	48	70	83	88	88	24	45	20	50	0	0	35	85	73	89	55	55	58	63
Computer Services	100	100	100	100	90	90	70	85	100	100	45	95	100	100	95	98	100	100	100	100
Postal-Courier Services	13	50	50	75	50	50	25	34	0	100	0	0	0	100	50	63	25	25	63	63
Telecom Services	43	43	75	75	100	100	53	55	53	98	0	23	50	100	97	98	93	93	94	94
Audiovisual Services	35	85	50	50	0	0	0	0	60	80	0	10	0	75	0	50	70	85	98	98
Construction Services	33	42	92	92	100	100	12	82	33	85	0	0	0	100	79	100	83	92	83	83
Distribution Services	50	75	63	88	75	75	19	52	63	97	0	44	47	90	66	94	100	100	100	100
Education Services	58	78	60	70	55	55	30	30	80	100	0	20	20	80	45	45	55	55	30	55
Environmental Services	13	100	50	100	81	88	13	31	63	88	0	25	13	88	44	50	75	75	100	100
Insurance Services	43	43	70	70	60	60	15	23	40	60	40	50	50	70	65	68	65	65	40	50
Banking and other Financial Services	31	31	58	58	38	38	33	35	100	100	8	8	31	44	76	82	40	42	29	33
Health and Social Services	25	100	0	8	0	0	13	29	17	33	0	17	0	0	0	50	50	50	8	8
Tourism Services	71	100	100	100	100	100	58	63	29	75	92	92	50	100	67	100	58	79	83	83
Recreational Services	81	100	0	25	25	25	0	44	0	100	0	38	19	97	38	63	38	63	94	94
Maritime Transport Services	21	31	52	52	62	62	0	0	57	57	0	17	5	87	36	48	43	68	0	44
Air Transport Services	8	19	59	59	68	68	0	0	23	68	0	0	0	89	50	93	55	71	5	29
Auxiliary Transport Services	50	100	0	0	29	100	0	36	0	0	0	0	0	100	71	93	64	71	43	64

Source: Roy (2011) on basis of Marchetti and Roy (2008).

Note: The index value is brought within a scale of 0 to 100 for each sector, with 100 representing full commitments (i.e., without limitations) across all relevant sub-sectors of a sector grouping. "GATS" reflects the index value for both GATS commitments and services offer in the ongoing Doha Development Agenda. "PTA" reflects the index value for a Member's 'best' PTA commitments across all its PTAs, for each sub-sector. The index value is for both mode 1 (cross-border trade) and mode 3 (commercial presence). The score for EU commitments is for the EC-15.

Plurilateral requests formulated in the DDA provide information not only on sectors and markets of interest within TISA, but also on TISA participants' overall export interests. The key lesson in that regard, as hinted earlier, is that many markets of greater interest are not TISA participants. Tables 8 and 8bis illustrate this by, respectively, listing the WTO Members that have sponsored and received most plurilateral requests, and by indicating the number of TISA and non-TISA participants that have received a plurilateral request. Because of either market size, existing barriers, or lack of GATS commitments, such countries as China, India, Brazil and ASEAN appear prominently among those that have received most requests. However, these emerging economies are not involved in TISA negotiations, even if they account for most of TISA participants' export interests in such key sectors as telecommunications or financial services.²³ Moreover, in almost all sectors, the number of non-TISA participants having received a plurilateral request clearly surpasses the number of TISA participants having received it. In other words, in almost each sector, more markets of interest (from an exporter's point of view) are outside TISA than inside (Table 8bis).

Table 8: WTO Members having received and sponsored most plurilateral requests

Member	Requests received	Member	Requests sponsored
Philippines	19	Japan*	16
Thailand	19	Australia*	14
Brazil	18	European Union*	14
China	18	United States*	14
Indonesia	18	Chinese Taipei*	13
Malaysia	17	New Zealand*	12
Argentina	15	Singapore	11
India	15	Canada*	10
South Africa	15	Korea (Rep. of)*	10
Pakistan*	13	Norway*	10
Turkey*	13	Switzerland*	10
Canada*	11	Hong Kong, China*	9
Singapore	11	Mexico*	9

Source: based on plurilateral requests submitted in the context of the DDA. Available on the following websites: <https://servicescoalition.org/images/files/DOHA/crequests.htm> and http://commerce.nic.in/trade/international_trade_tis_gaitis_requests_pr.asp

Note: asterisk indicates TISA participant. The plurilateral request on MFN exemptions has been included in this table.

²³ As indicated earlier, China has recently indicated its intention to join TISA.

Table 8bis: Number of WTO Members receiving plurilateral requests

Sector/Mode	Non-TISA	TISA
Accounting	16	4
Air transport	13	8
Architectural/ Engineering	18	6
Audiovisual	14	14
Computer and related services	10	6
Construction and related engineering	14	6
Cross-border services (Mode 1/2)	13	9
Distribution	12	7
Education	12	9
Energy	16	6
Environmental services	12	9
Financial services	17	4
Legal	10	6
Logistics	21	13
Maritime transport	19	5
Postal/Courier including express delivery	11	9
Telecommunications	15	10

Source: Based on plurilateral requests submitted in the context of the DDA. Available on the following websites: <https://servicescoalition.org/images/files/DOHA/crequests.htm> and http://commerce.nic.in/trade/international_trade_tis_gaitis_requests_pr.asp

While a few of the most important non-TISA participants have not yet been involved in any service PTA (e.g., South Africa, Russian Federation), the others have undertaken market access commitments on services in PTAs notified under the GATS. Some have been involved in several PTA negotiations on services (e.g., China, India, ASEANs), while others like Brazil and Argentina have signed only one such agreement (i.e., Mercosur). In a similar way as Table 7 above, Table 9 presents, on the basis of the dataset used in Roy (2011), the index of 'best PTA' commitments for a selected list of non-TISA participants, per sector. As in Table 7, countries/sectors that were the target of a plurilateral request are highlighted.

A striking contrast with Table 7 is that most of these countries have received plurilateral requests in most sectors. We also see that Brazil, China, and ASEAN members have, in general, undertaken PTA commitments going beyond their GATS offers in a number of sectors where they have received the plurilateral request. Naturally, these advances vary per sector, and, again, while they provide a picture of improvements in commitments, they do not pretend to provide a comprehensive assessment of the restrictiveness or commercial value of such commitments. It is worth noting that most of China's GATS+ commitments in this dataset come from its PTAs with Hong Kong, China and Macao, China. Also, the commitments of Argentina and Brazil come from the 6th negotiating round under the MERCOSUR, which is yet to be ratified. In the case of India, GATS+ commitments are more limited for the sectors mentioned in the table, but the dataset does not cover most recent PTAs with Japan and Malaysia.

Table 9: Index values for GATS commitments/offers and 'best PTA' commitments for selected non-TISA participants

	Argentina		Brazil		China		India		Indonesia		Malaysia	
	GATS	PTA	GATS	PTA	GATS	PTA	GATS	PTA	GATS	PTA	GATS	PTA
Professional Services	40	100	21	55	51	67	51	61	15	57	43	72
Computer Services	100	100	35	95	60	70	88	94	20	60	73	90
Postal-Courier Services	50	50	50	50	25	25	0	0	0	0	0	0
Telecom Services	100	100	13	75	43	44	43	48	37	86	75	93
Audiovisual Services	0	60	0	25	40	70	8	8	0	30	10	18
Construction Services	100	100	58	83	42	62	62	81	42	67	62	78
Distribution Services	75	100	53	86	53	61	25	41	0	25	0	69
Education Services	0	25	0	100	25	25	10	13	55	55	10	38
Environmental Services	0	63	0	31	50	75	38	44	0	44	0	25
Insurance Services	40	60	38	51	50	63	50	58	25	25	35	48
Banking and other Financial Services	58	58	33	39	46	53	40	46	45	47	46	55
Health and Social Services	0	50	0	0	0	17	21	27	17	46	21	41
Tourism Services	100	100	50	50	58	63	58	71	42	63	17	73
Recreational Services	0	75	13	13	6	34	19	38	19	19	13	30
Maritime Transport Services	0	45	31	50	31	51	40	46	14	49	21	55
Air Transport Services	0	23	0	40	19	56	18	20	0	53	0	38
Auxiliary Transport Services	0	0	29	43	29	29	0	0	0	7	0	0

	Morocco		Philippines		Singapore		Thailand		Uruguay		Vietnam	
	GATS	PTA	GATS	PTA	GATS	PTA	GATS	PTA	GATS	PTA	GATS	PTA
Professional Services	8	76	0	49	45	88	13	50	0	78	73	78
Computer Services	0	100	45	83	60	100	28	83	90	100	75	75
Postal-Courier Services	25	38	38	63	25	44	0	0	25	38	50	50
Telecom Services	46	96	30	57	52	85	23	40	0	50	50	50
Audiovisual Services	0	80	0	38	60	80	10	20	0	10	10	10
Construction Services	42	58	17	52	100	100	25	77	0	83	42	42
Distribution Services	25	75	13	25	50	86	13	69	0	63	50	50
Education Services	0	50	0	58	30	80	25	65	0	0	15	20
Environmental Services	50	75	6	25	25	75	31	31	0	31	44	44
Insurance Services	35	53	30	30	58	75	55	55	10	58	50	50
Banking and other Financial Services	32	47	29	42	47	61	29	29	10	60	35	35
Health and Social Services	0	0	0	8	17	48	0	25	0	0	25	50
Tourism Services	50	83	46	52	67	100	21	41	100	100	42	42
Recreational Services	0	94	0	38	13	88	13	53	25	25	6	6
Maritime Transport Services	14	64	14	44	19	69	29	45	0	36	17	38
Air Transport Services	68	78	21	21	0	71	40	40	0	0	58	58
Auxiliary Transport Services	7	86	43	64	0	86	7	7	14	14	36	36

Source: Roy (2011) on basis of Marchetti and Roy (2008).

Note: See Table 7.

While the starting point (GATS commitments and GATS offer) for the non-TISA participants under analysis is often lower than for developed economies, a number of these non-TISA participants have made significant advances in some sectors in their PTAs. Many of these countries have made significant GATS+ commitments in computer services (especially Brazil, Indonesia, Philippines, and Thailand), telecommunications, construction, and distribution. Better commitments than in GATS offers have also been made, though in a more limited manner, in financial services, maritime transport, air transport, and audiovisual services.

The analysis of TISA market access issues undertaken in this Section has highlighted benefits and shortcomings of an extension of 'best PTA' commitments.²⁴ Such discussion of market access outcomes naturally raises the question of the link between TISA and the WTO, to which we now turn.

4 RELATIONSHIP BETWEEN TISA AND THE WTO

The above discussion on potential market access concessions that could be brought about by TISA negotiations begs the question of possible 'multilateralization'. Participants have indicated that the agreement should be compatible with the WTO and one that could be multilateralized at some point.²⁵ A key question in that regard is how TISA could relate to the WTO. Can it be a building block towards further multilateral liberalization of trade in services or will it become the largest 'services only' PTA? The question is all the more relevant in the case of TISA than in the case of other PTAs given the unprecedented number of participants in this initiative and the fact that, for the first time, a plurilateral agreement (potentially outside the WTO) is conceived for the sake of trade in services only. While our purpose here is not to pass judgement on their desirability or likelihood, four broad scenarios on the relationship between TISA and the WTO appear available, to which we now turn.

4.1 "GATS Protocol" approach, on a MFN basis

The first possibility for TISA participants would be to incorporate their new commitments into their own GATS schedules by way of a protocol. The benefits of these commitments would be extended to all WTO Members on an MFN basis. This was the method followed to incorporate the commitments resulting from the extended negotiations on financial services (1995), the movement of natural persons (1995), basic telecommunications (1997) and financial services again (1997), which resulted, respectively, in the second, third, fourth, and fifth protocols to the GATS.²⁶ The idea behind these negotiations was to reach a "critical mass" of WTO Members that would put forward a negotiated package of commitments going beyond their previous endeavours. This approach would be a truly multilateral one, in the sense that even though the negotiations would be held by a handful of WTO Members, the commitments would be 'multilateralized' through the MFN principle.

Two important lessons may be drawn from these experiences. Firstly, the commitments did not concern only market access and national treatment disciplines, but also regulatory principles, which were entered as 'additional commitments' in these WTO Members' schedules, particularly in the areas of financial services and basic telecommunications. The Basic Telecommunications Reference Paper constitutes the quintessence of the multilateral approach to regulatory disciplines, by which relevant WTO Members contracted GATS+ disciplines on regulations affecting trade in the sector. Potential disciplines being currently discussed in TISA (on measures other than those falling under the 'national treatment' and 'market access' obligations) might actually be multilateralized through the 'additional commitments' device. Secondly, and very importantly, in

²⁴ It is worth noting that other features of the TISA agreement which have yet to be defined, such as the general obligation to bind 'existing measures', a possible ratchet mechanism, as well as additional sector-specific or horizontal rules would add value to these 'best PTA' market access commitments, any shortcomings notwithstanding. This paper simply focuses on purely market access aspects of this negotiation, as a starting point for a more general analysis that would be carried out in the future in the light of developments.

²⁵ See the report of the meeting of the Council for Trade in Services held in June 2013 (S/C/M/114).

²⁶ The negotiations proved successful with regard to basic telecommunications and financial services in 1997, but less so with regard to mode 4 (where only six WTO Members incorporated new commitments) and the first extended negotiation on financial services in 1995 (where the US did not join the second protocol and decided instead to take a broad MFN exemption).

order to ensure that those new commitments would enter into force only if a "critical mass" of participants in the negotiations had actually accepted them – a way of reducing last-minute "free riding" among participants – the protocols provided that in case not all participants had ratified by the due date, those who had actually accepted the protocol by the due date would eventually decide on its entry into force..

In a way, the idea of a group of trading partners taking specific commitments going beyond what others had committed to in the GATS had already been foreseen in the Understanding on Commitments in Financial Services. The Understanding is a unique legal instrument in the WTO that was included in the Final Act of the Uruguay round but is not formally part of the GATS. It is an alternative approach to making market access, national treatment and additional commitments in financial services. As such, it provides for a formula approach to scheduling commitments under Articles XVI, XVII, and XVIII of the GATS with regard to financial services for the Members that voluntarily choose to adopt it. Despite being a formula approach, and an "alternative to Part III" of the GATS, it remains possible for Members scheduling on the basis of the Understanding to impose market access and national treatment limitations, as under Part III.²⁷ Specific commitments undertaken pursuant to the Understanding apply on an MFN basis.

Interestingly, despite providing for an alternative approach to that contained in Part III of the GATS, the Understanding's provisions are not divided into those falling under Article XVI, those falling under Article XVII, and those constituting Additional Commitments as per Article XVIII. A comprehensive analysis of the Understanding is beyond the scope of this paper. However, it is worth noting that it may provide an intellectual basis for multilateralizing GATS+ commitments and disciplines.

Apart from ensuring that the "critical mass" of countries takes part in it, the main advantage of this concerted action option is that the new commitments would become part of the GATS, and therefore the WTO framework, through incorporation into the schedules of the WTO Members concerned.

4.2 Going alone, on an MFN basis

Another option available to TISA participants is the unilateral improvement of their existing specific commitments through individual certification procedures. This is not new in the WTO. Some 20 WTO Members have introduced changes to their commitments in this way, outside the context of negotiations.

According to this procedure, which follows a well-established practice dating back to GATT times, WTO Members would approve individual requests for the introduction of amendments to existing schedules deemed as improvements of commitments, or changes of a purely technical character that do not worsen the scope or the substance of the existing commitments. Once the approval has been given, the new commitments would be incorporated into the schedule of the WTO Member concerned. The new commitments would therefore benefit all other WTO Members through the MFN principle.

Contrary to the 'GATS protocol' option, this approach would not ensure that the "critical mass" of WTO Members is achieved. In other words, WTO Members following this approach would find themselves in a sort of prisoner's dilemma, not knowing whether the other trading partners would do the same, when they would do it, and whether their new commitments would actually be approved by all WTO Members.. This approach may nevertheless be a complement to the previous one, allowing for the future incorporation of new WTO Members to the "critical mass".

4.3 A plurilateral agreement within the WTO

A third option for TISA participants would be to seek incorporation into the WTO framework as a "plurilateral trade agreement". At present, two plurilateral trade agreements are in force,

²⁷ In practical terms, WTO Members adopting the "Understanding" would indicate in a horizontal note to the financial services commitments that the latter have been made pursuant to the Understanding, and would therefore include only the reservations taken with regard to the requirements contained in the Understanding.

namely the Agreement on Trade in Civil Aircraft and the Agreement on Government Procurement, which has been recently amended after long negotiations.²⁸

Article X:9 of the WTO Agreement foresees the addition of new plurilateral trade agreements, subject to a decision by the WTO Ministerial Conference taken "exclusively by consensus".

Plurilateral trade agreements are binding only on those WTO Members that have accepted them. In other words, the rights and obligations arising from the disciplines and the commitments in plurilateral trade agreements are not extended to the other WTO Members through the MFN principle. Being part of Annex 4 of the WTO Agreement makes the plurilateral agreement an integral part of the WTO legal framework, allowing its signatories to benefit from the WTO dispute settlement system to enforce the obligations emanating from the agreement. Plurilateral trade agreements, such as the one on government procurement, contain accession clauses, allowing for the incorporating of new signatories.

This option provides for shallower "multilateralization", to the extent that commitments and obligations would be non-MFN, but the agreement would still benefit from the multilateral dispute settlement system and might allow for the expansion of its membership. The challenge – far from insignificant – would be to obtain consensus from non-TISA participants in order to get this new plurilateral agreement adopted.

4.4 A plurilateral agreement outside the WTO

If the intention of TISA participants is to conclude an agreement whose benefits would not extend to other WTO Members, another option is to conclude an "economic integration agreement" as per Article V of the GATS.

Article V allows WTO Members to sign preferential trade agreements, subject to some conditions. If the conditions are met, Article V provides legal coverage for measures taken pursuant to such agreements, which would otherwise be inconsistent with the MFN obligation in Article II of GATS.

The first condition imposed by Article V is that the agreement has "substantial sectoral coverage", "understood in terms of number of sectors, volume of trade affected and modes of supply", as clarified in a footnote to that provision. In addition, in order to meet this condition, "agreements should not provide for the a priori exclusion of any mode of supply". In a finding not subsequently appealed, the Panel in *Canada - Autos* considered that "such economic integration agreements typically aim at achieving higher levels of liberalization between or among their parties than that achieved among WTO Members."

The second condition imposed is that the agreement must provide for the "absence or elimination of substantially all discrimination, in the sense of Article XVII, between or among parties, in the sectors covered". This should happen through the "(i) elimination of existing discriminatory measures and/or (ii) the prohibition of new or more discriminatory measures". The panel in *Canada – Autos* considered that this non-discrimination obligation must benefit all services and service suppliers from all the signatories to the economic integration agreement.²⁹

²⁸ The idea of plurilateral trade agreements finds its origins in the "Tokyo Round" of negotiations (1973-1979), which led inter alia to six "codes" (on government procurement, TBT, subsidies, anti-dumping, customs valuation and import licensing) negotiated among a limited number of GATT contracting parties. Membership in the codes varied from one to another.

²⁹ In the words of the panel: "Although the requirement of Article V:1(b) is to provide non-discrimination in the sense of Article XVII (National Treatment), we consider that once it is fulfilled it would also ensure non-discrimination between all service suppliers of other parties to the economic integration agreement. It is our view that the object and purpose of this provision is to eliminate all discrimination among services and service suppliers of parties to an economic integration agreement, including discrimination between suppliers of other parties to an economic integration agreement. In other words, it would be inconsistent with this provision if a party to an economic integration agreement were to extend more favourable treatment to service suppliers of one party than that which it extended to service suppliers of another party to that agreement."

In addition, Article V imposes obligations with a view to protecting third-parties. Specifically, Article V:4 provides that economic integration agreements "shall be designed to facilitate trade between the parties to the agreement and shall not in respect of any Member outside the agreement raise the overall level of barriers to trade in services within the respective sectors or subsectors compared to the level applicable prior to such an agreement".

It goes without saying, agreements falling under the umbrella of Article V of the GATS are not part of the WTO framework and thus do not benefit from the WTO dispute settlement system. While new liberalization of trade in services is laudable, we also cautioned earlier against some possible economic downsides of services PTAs. Obviously, the impact of a PTA of the size of TISA would also have political impact on multilateral negotiations, as already mentioned by other experts, though from different viewpoints.³⁰

5 CONCLUSION

As far as services are concerned, the TISA is the single most significant development to have emerged in the trade negotiating arena over the last couple of years. As such, it may have wide – and unpredictable at this stage – implications for the multilateral trading system.

In its current format, TISA negotiations cover almost 70% of world services trade, and include major trading partners, such as Canada, the EU, Japan, the Republic of Korea and the United States. For some – if not all – of these trading partners, TISA represents major export opportunities. For example, almost 80% of US exports and 90% of US imports through commercial presence would be covered by this agreement. Still, this seemingly bright picture gets more nuanced when we look in detail at the composition of TISA. First, many of the trading partners involved in TISA negotiations have already extensive links with each other through bilateral or plurilateral PTAs. The second striking feature of TISA – as it currently stands – is the absence of some of the most dynamic emerging market economies, including Brazil, China, India, South Africa and ASEAN countries. The recent expression of interest by China to join the negotiations – which may also incite others – can change this nuanced picture and instil a different dynamic to this project.

TISA participants, as well as their constituencies, are certainly allowed to have high expectations on the outcome of these negotiations. An analysis of past PTA negotiations shows that extending each country's 'best PTA' commitments to all other TISA participants, coupled with a similar level of commitment by newcomers to preferential negotiations, would already be a significant outcome when compared to the levels of bindings achieved in the GATS. However, when those 'best PTA' commitments are assessed in the light of TISA participants' export interests, the picture gets nuanced once again. The key conclusions in that regard are that extension of 'best PTA' commitments within TISA would not seem to go a long way towards meeting these governments' key export interests. A first reason is that, past PTA negotiations involving TISA participants have not made significant progress in liberalizing sectors of highest export interest to those involved in these negotiations. Second, and more importantly, many markets of greater interest for TISA participants, as revealed in the DDA negotiations, are not involved for the time being in the TISA project (e.g. Brazil, China, India and ASEAN); in almost every sector, more markets of interest are outside TISA than inside. Obviously, here again, recent developments, in particular China's intention to join, may change this picture.

If TISA is to better address participants' key areas of export interest, a first scenario is that participants go beyond what they have so far agreed to do in their pre-existing PTAs. In various cases, this would involve difficult political and trade policy choices. Whether a 'services-only' agreement would provide sufficient trade-off options to facilitate such decisions remains to be seen. A second scenario involves expanding the number of participants to the negotiations. While this increases the likelihood that key export interests be addressed, this may also have an impact on the negotiating dynamic, as new entrants (e.g., developing economies that were not part of the 'Really Good Friends') bring their own different negotiating interests. And should the number of participants expand significantly, this may further raise questions regarding the link to, and impact on, the WTO services negotiations.

³⁰ Sauv  (2013); Hufbauer et al. (2012).

These general conclusions are the result of a fact-finding exercise. They should not be read as an unconditional endorsement of this type of negotiations, whose final impact on trade and the multilateral trading system will crucially depend on how the TISA relates to the WTO framework. Different options exist for such a relationship, ranging from a fully-MFN-based agreement within the WTO, to a (preferential) plurilateral agreement inside the WTO, to a preferential agreement outside the WTO. As is well known, preferential agreements may introduce significant trade distortions, which get accentuated the more discriminatory such agreements are. Beyond economic implications, however, TISA also raises questions with regard to the future of the trading system represented by the WTO. Would TISA contribute to the fragmentation of world trade in services, with unpredictable consequences for the expansion of global value chains? Could TISA introduce some 'order' to the spaghetti bowl of services PTAs? Would TISA reinforce or weaken the multilateral system, understood as the general framework for the management of bilateral, plurilateral and multilateral trade relationships? Could TISA become a building block towards further non-discriminatory liberalization of trade in services? These – and surely many more – questions will arise in the future. This paper has simply focused on the market access aspects of TISA, as a starting point of a more general analysis covering many other facets of this negotiation that would need to be carried out in the future in the light of developments.

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APPENDIX

Table A-1: Members Covered in the PTA Dataset and Acronyms

Acronyms	Member	Acronyms	Member
ARG	Argentina	KNA	Saint Kitts and Nevis
ATG	Antigua and Barbuda	KOR	Rep. of Korea
AUS	Australia	LCA	St. Lucia
BHR	Bahrain	LIE	Liechtenstein
BLZ	Belize	MAC	Macao, China
BRA	Brazil	MAR	Morocco
BRB	Barbados	MEX	Mexico
BRN	Brunei Darussalam	MYS	Malaysia
CAN	Canada	NIC	Nicaragua
CHE	Switzerland	NOR	Norway
CHL	Chile	NZL	New Zealand
CHN	China	OMN	Oman
COL	Colombia	PAK	Pakistan
CRI	Costa Rica	PAN	Panama
DMA	Dominica	PER	Peru
DOM	Dominican Rep.	PHL	Philippines
EU	European Union	PRY	Paraguay
GRD	Grenada	SGP	Singapore
GTM	Guatemala	SLV	El Salvador
GUY	Guyana	SUR	Suriname
HKG	Hong Kong, China	CHT	Chinese Taipei
HND	Honduras	THA	Thailand
IDN	Indonesia	TTO	Trinidad and Tobago
IND	India	URY	Uruguay
ISL	Iceland	USA	USA
JAM	Jamaica	VCT	Saint Vincent and the Grenadines
JOR	Jordan	VNM	Viet Nam
JPN	Japan		

Source: WTO Dataset of Services Commitments in Regional Trade Agreements (RTAs).

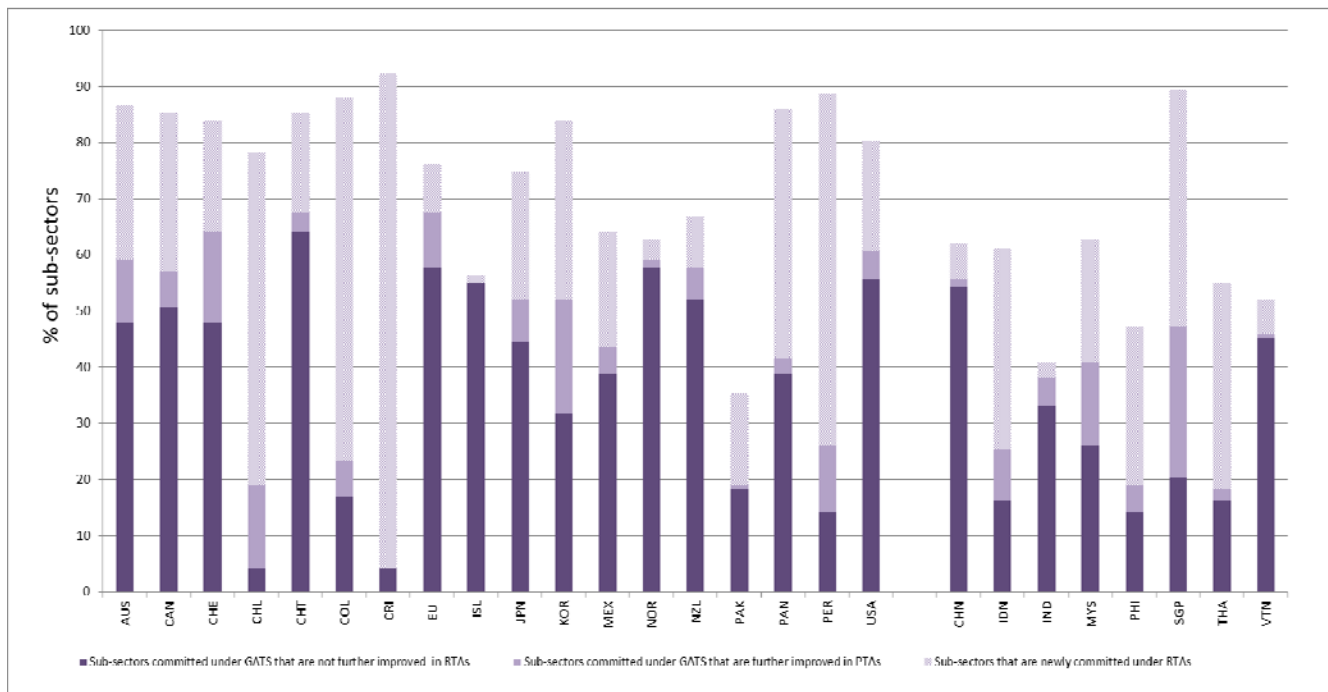
Table A-2: List of services PTAs in the dataset

Korea (Rep.)-India	Japan-Thailand	EFTA-Chile
ASEAN-Korea (Rep.)	Chile-Japan	Korea (Rep.)-Chile
ASEAN-Australia-New Zealand	Chile-China	EU-Chile
Honduras-El Salvador-Chin. Taipei	India-Singapore	Chile-El Salvador
Peru-China	Panama-Singapore	China-Macao, China
Japan-Vietnam	US-Bahrain	China-Hong Kong, China
Japan-Switzerland	EFTA-Korea (Rep.)	US-Singapore
Chile-Colombia	Costa Rica-Mexico	US-Chile
Canada-Peru	Japan-Malaysia	Singapore-Australia
Panama-Chinese Taipei	Mexico-Honduras	EFTA-Singapore
Nicaragua-Chinese Taipei	Jordan-Singapore	Japan-Singapore
China-New Zealand	Mexico-Guatemala	Chile-Costa Rica
Australia-Chile	Mexico-El Salvador	US-Jordan
China-Singapore	Dominican Rep.-Cent. America-US	New Zealand-Singapore
US-Peru	Korea (Rep.)-Singapore	EFTA-Mexico
US-Oman	US-Morocco	China-Peru
Japan-Philippines	Peru-Singapore	EU-Mexico
EU-CARIFORUM	US-Australia	US-Korea (Rep.)
Brunei Darussalam-Japan	ASEAN-China	Mercosur (6th negotiated round)
Japan-Indonesia	Japan-Mexico	ASEAN (7th package)
Panama-Chile	Panama-El Salvador	US-Colombia
Pakistan-Malaysia	Thailand-Australia	US-Panama
Pakistan-China		

Source: WTO Dataset of Services Commitments in Regional Trade Agreements (RTAs).

Figure A-1: Proportion of services sub-sectors subject to new or improved commitments in PTAs, compared with GATS offers, for selected Members

MODE 1



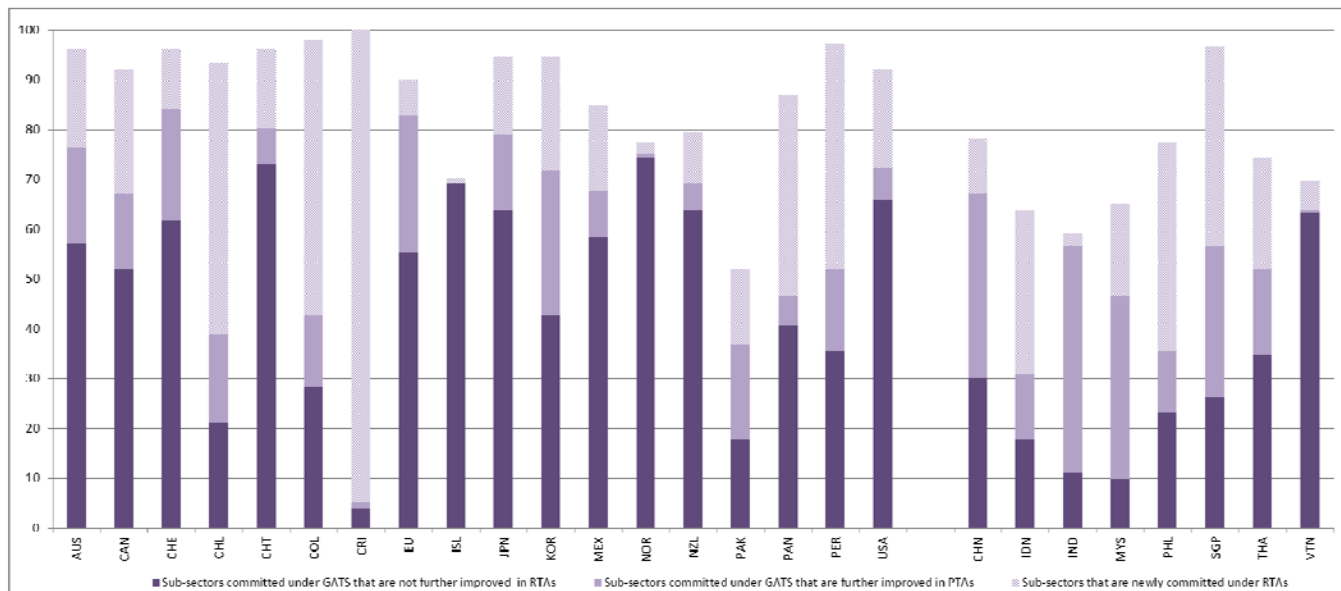
Source: Roy (2011) on basis of Marchetti and Roy (2008).

Note: "GATS" stands for GATS commitments and services offer in the ongoing Doha Development Agenda. "PTA" reflects the index value for a Member's 'best' PTA commitments across all its PTAs, for each sub-sector. Data for EU commitments is for the EC-15. For additional information on methodology, see:

http://www.wto.org/english/tratop_e/serv_e/dataset_e/dataset_e.htm

Figure A-2: Proportion of services sub-sectors subject to new or improved commitments in PTAs, compared with GATS offers, for selected Members

MODE 3



Source: Roy (2011) on basis of Marchetti and Roy (2008).

Note: "GATS" stands for GATS commitments and services offer in the ongoing Doha Development Agenda. "PTA" reflects the index value for a Member's 'best' PTA commitments across all its PTAs, for each sub-sector. Data for EU commitments is for the EC-15. For additional information on methodology, see:

http://www.wto.org/english/tratop_e/serv_e/dataset_e/dataset_e.htm