Regional Approaches to Services Trade and Investment Liberalisation

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The Australia-Japan Research Centre is part of the Asia Pacific School of Economics and Government, The Australian National University, Canberra.

ISSN 0 728 8409  
ISBN 0 86413 289 1

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REGIONAL APPROACHES TO SERVICES TRADE AND INVESTMENT LIBERALISATION

This paper addresses the question of whether the difficult issues associated with services trade and investment liberalisation are more likely to be tackled effectively in the bilateral or the multilateral context. It provides a first examination of the services trade and investment outcomes in some bilateral free trade agreements (FTAs) in the Asia Pacific region, especially those centred around Singapore. The author draws the preliminary conclusion that bilateral FTAs which attempt to explore territory beyond the World Trade Organization (WTO) may well prove to be 'WTO minus' in terms of their impact on nascent WTO rule-making in these new areas and to have potentially negative impacts on the WTO architecture itself. The paper calls for vigilance and objective evaluation to ensure that bilateral efforts contribute in a positive way to a successful and rapid outcome to the currently troubled Doha Round of multilateral negotiations.

Introduction

Some commentators suggest that the special features of the services sector make smaller group trading arrangements a potentially efficient means of promoting services trade and investment liberalisation. Others argue that small group arrangements pose at least as many risks for services as they do for goods, and that the priority is to establish the global rules in a multilateral process. Between these positions, awareness of the risks can help identify possible ways of using regional arrangements to support the multilateral process.

There is some concern, meanwhile, that the developing countries, including those in East Asia, are not sufficiently effective in the current Doha Round of services negotiations, and that there are some key structural issues (including policymaking capacity) which contribute to this outcome. Failure to tackle this problem now could lead to haphazard outcomes from the services negotiations, with consequent serious implementation issues in developing countries, resulting in increased levels of regional disillusionment with the multilateral process. Designing effective capacity-building programs is critical, including formulating negotiating positions which complement the domestic policy reform agenda.
This paper reports work on these issues in order to contribute to developing a coalition of interests on an East Asian approach to services trade and investment liberalisation. The aim is to identify areas of common interest among the East Asian economies that will contribute to the development of a more concerted trade policy strategy in the Doha Round as well as in APEC and in smaller subregional and bilateral groupings.

**WTO Doha Round GATS negotiations**

Under Article XI of the Uruguay Round General Agreement on Trade in Services (GATS), a further set of services negotiations aiming for progressive liberalisation was built into the post Uruguay Round agenda of the World Trade Organization (WTO), to commence no later than five years from 1995. Negotiations were initiated in 2000 and, importantly, guidelines and procedures were agreed by the Council for Trade in Services in March 2001. The guidelines allow in particular for flexibility for developing countries under Article XIX:2; special priority for least developed countries under Article IV:3; and no a priori exclusion of sectors or modes of supply. Paragraph 3 of the guidelines affirms that ‘The process of liberalization shall take place with due respect for national policy objectives, the level of development and the size of individual Members, both overall and in individual sectors’.

Like the ‘built-in’ negotiations on agriculture, which have also been under way since 2000, the ongoing built-in negotiations on services were effectively rolled into the Doha Round negotiating mandate. Paragraph 15 of the Doha Ministerial Declaration endorsed the work already done, reaffirmed the negotiating guidelines and procedures, and established key elements of a timetable, including the deadline of 1 January 2005 for the conclusion of the negotiations as part of a single undertaking.

The Uruguay Round left some key issues in the GATS unresolved. The rule-making itself is unfinished with respect to emergency safeguards (Article X), domestic regulation relating to issues such as qualifications, technical standards and licensing (Article VI:4), government procurement (Article XIII) and subsidies (Article XV). The deadline for negotiation of rules on emergency safeguards was 15 March 2002 but this has now been extended to 15 March 2004. Most favoured nation (MFN) exemptions in GATS schedules are specifically subject to negotiation, with flexibility for developing countries.

With respect to modalities and procedures, the request–offer approach is the main method adopted, although other options remain potentially in play. These include a sector-specific
approach (likely candidates are energy, environment and legal services); a cluster approach (likely candidates are energy, environmental and tourism services); and a formula approach, which could include the elimination of discrepancies between actual and bound practice, elimination of certain types of restrictions, and exchange of commitments in Mode 3 (commercial presence) versus Mode 4 (movement of natural persons).

**Prospects and current state of play in the GATS negotiations**

The general assessment is that the services negotiations are more or less on track. A larger number of key developing countries are engaged than was the case during the Uruguay Round; some outstanding issues (for example how to handle autonomous liberalisation) have recently been resolved; important negotiating deadlines have largely, if not entirely, been met; and the negotiations have entered the market access phase. This compares favourably with progress in other areas of the Doha Round, particularly agriculture.

GATS requests were tabled at the end of June 2002 and initial GATS offers are due to be presented at the end of March 2003. With the tabling of offers, the real market access bargaining stage of the negotiations has now begun in earnest.

Around 40 requests were tabled, half of them from developing countries. It has been expected that 20–30 countries would table offers, with the initial degree of substance depending perhaps on progress in other areas. At the time of writing, relatively few countries within the Asia Pacific region had tabled their offers. The offers from the bulk of these countries, moreover, were not transparent to the public.

To the extent that there is transparency, the general assessment is that countries have tended to hold back in their GATS offers, pending more certain progress in other areas of the Doha Round. Overall the level of ambition does not seem high. Certainly in the case of the United States and Australia, which have been examined in greater immediate detail, the offers are in effect ‘standstill’ offers. They entail no new liberalisation and would require no changes in domestic legislation if they were to become part of a final Doha Round outcome. The offers are to bind autonomous liberalisation which has already taken place since the end of the Uruguay Round. Binding is nevertheless a significant step forward as it entails commitments to WTO dispute settlement and exchange of equivalent concessions in the case of any potential backsliding and hence sends strongly positive signals to foreign investors.
The immediate negotiating aim is to maintain momentum so that progress in services keeps running on a parallel track with agriculture, industrials and other rules issues in order to see what sort of package might start to emerge as the end of the negotiating process (in 2005) approaches. It is already clear that progress on services risks becoming hostage to progress on agriculture and on the extraction of concessions of interest to developing countries, for example on special and differential treatment.

In the GATS negotiations there are likely to be bottlenecks on the unfinished rules issues, especially on safeguards. The evidence is, however, that these issues are largely becoming accepted as second-order objectives for this round. In addition, governments have had to meet major difficulties in handling civil society interests in the GATS negotiations. The anti-GATS campaign is closely focused on the misguided but widespread sense in domestic community constituencies that trade and investment liberalisation will facilitate the dismantling of vital public services, especially in the health and education sectors. While the negotiations are in general less politicised than negotiations in some other areas, real progress will obviously be hampered unless breakthroughs also occur there.

In essence, the Uruguay Round GATS commitments did not go much beyond the status quo in national policies. A successful outcome this time round will clearly require all parties to make more commitments on national treatment and fewer MFN exemptions in their schedules. Put simplistically, developing countries need to make more commitments on Mode 3 (commercial presence, or investment), developed countries need to make more commitments on Mode 4 (movement of natural persons), and these need to go beyond the movement of intercorporate transferees. All countries need to improve the transparency of domestic regulations covering services access. If anything, the security environment following September 11 has made progress on Mode 4 harder. And there is new protectionist sentiment emerging: in many Organisation for Economic Co-operation and Development (OECD) countries there is unrest about the impact of information technology outsourcing on domestic labour markets.

**ASEAN countries and the GATS**

With the exception of Singapore, ASEAN countries generally are not well placed to address the newer aspects of the WTO agenda, including services. Clearly very few of them are fully engaged in the GATS negotiations. In general, ASEAN countries’ services commitments in the Uruguay Round were weak. Sally (2003) points out that intra-ASEAN negotiating differences are evident,
particularly in the services negotiations. Singapore has a strong market access focus and is hence a demandeur on services, but the other ASEAN members are defensive – and increasingly so since the Asian crisis, despite autonomous liberalisation achieved since the end of the Uruguay Round. On the related new issues of investment, competition and transparency in government procurement, Singapore is open to new negotiations while the others are much more cautious.

In general, ASEAN services sectors remain highly protected. Stephenson and Nikomborirak (2002) point out that in nearly every service subsector examined in the ASEAN countries, except transport and sometimes tourism, there is a cap or ceiling imposed on foreign equity. Another common restriction is on the type of commercial establishment a foreign company is allowed to establish. The third most common type of barrier is on Mode 4 commitments.

The lack of concerted ASEAN engagement is reflected in the very small number of service requests and offers forthcoming from individual ASEAN members in the Doha Round to date. Until the recent decision of the United States, Canada, Australia, New Zealand and the European Union (EU) to go public with their GATS offers, there had been no transparency in the GATS negotiations. Requests were not publicly available, so information is limited. But we know, for example, that neither Indonesia nor the Philippines has made GATS requests of Australia. It is therefore unlikely that they have made requests of other countries. It is important to ask why these countries are not playing the WTO game.

One problem relates to the regulatory intensity of services trade and the difficulties associated with the much wider, more complex domestic consultation process required, including with regulatory agencies, to formulate appropriate international strategies. Negotiators tend to be overwhelmed with the breadth and complexity of the issues, generating a higher level of caution and defensiveness. Within ASEAN there is no common approach to regulation of key services sectors, and this divergence of domestic policy makes international coordination more difficult. Finally, there is a major information deficit with respect to the commercial service export interests of individual countries.

While these are all understandable factors, the consequence is that ASEAN is not operating as a group in the GATS and hence is punching well below its potential considerable weight. Each ASEAN member has a different approach, with the result that the overall position is fragmented and not influential. With the simultaneous drive for regional and bilateral trading arrangements under way, there is a real danger that the ASEAN countries will be picked off individually by major bilateral trading partners. This will further fragment ASEAN trade policy, losing ASEAN all opportunity to act as any kind of regional hub.
The continued absence of a safeguards mechanism for services is one explanation which developing countries, including ASEAN members, tend to offer in Geneva for holding back on GATS commitments and GATS offers to date. ASEAN countries appear to be suggesting that GATS offers might indeed be forthcoming if a safeguards clause is put in place. Whatever the technical pros and cons associated with this issue, it is important that East Asian countries take note of the steps which have been initiated by Australia, despite opposition from the United States and the EU, to mediate on this issue in favour of developing countries. Australia has taken an informal position which offers scope for a potential alliance with East Asian economies in resolving this issue and facilitating developing country offers from the region.

**Treatment of services in bilateral FTAs**

Is it easier to solve the problems of trade and investment liberalisation in services among smaller groups of trading partners on a bilateral basis in free trade agreements (FTAs) with major trading partners or in a plurilateral regional arrangement of East Asian countries? Presumably the recent interest in bilateral FTAs is partly driven by a desire to find potential ways around the challenges and difficulties presented in the multilateral negotiating framework. So it is worthwhile asking whether FTAs are indeed succeeding in meeting these challenges.

There are relatively few studies available to date which compare the disciplines of the GATS with the liberalising thrust or otherwise of the services provisions in FTAs – and none which examine the services aspects of the most recent series of FTAs centred on Singapore. In the following section, this paper takes a first quick look at the Singapore–Japan, Singapore–Australia and Singapore–US FTAs. In doing so it draws on recent OECD Secretariat research (Sauve 2002) which identifies a number of criteria or GATS benchmarks against which to make this comparative assessment.

The OECD study concludes that (at least up until the recent series of FTAs listed above) services trade and investment liberalisation has tended to prove no easier to achieve in smaller groups than it has in the WTO. Stephenson and Nikomborirak (2002) argue on the contrary that, in the Western Hemisphere, services liberalisation as reflected in the texts of regional FTAs like the North American Free Trade Agreement (NAFTA), the Mercado Común del Sur (MERCOSUR), the Andean Pact and the Caribbean Community agreement (CARICOM) achieve more far-reaching disciplines than does the GATS. The authors admit, however, that the liberalisation
achieved on paper in these agreements is not necessarily played out in practice and is difficult to assess in the absence of relevant information.

Obviously, with the GATS incomplete, there is considerable scope for regional and bilateral experimentation. In particular, the negative list approach increasingly adopted in FTAs seems to offer good governance benefits in terms of enhanced transparency. Yet most of the time, and certainly with respect to domestic regulation, the OECD study (Sauve 2002) concludes that GATS disciplines go further than what has been achieved in FTAs, despite the opportunities provided by the use of the negative list approach. One possible exception, noted in Stephenson and Nikomborirak (2002), results from the ‘Standard of Treatment’ clause used in some NAFTA-type FTAs. This confers whichever is the more favourable treatment under either the MFN or the national treatment principle. The agreements also contain a mechanism which ratchets up future liberalisation and binds it automatically to the FTA. On the face of it, NAFTA-style ratchet mechanisms appear highly liberalising in that they extend to bilateral partners any liberalisation negotiated subsequently with any new partner. However, unlike simple ‘review of commitments’ clauses, they do not necessarily encourage bilateral trading partners to work away on sensitive areas carved out of their own original agreement.

The OECD study (Sauve 2002) points out, in addition, that none of the FTAs to date have really tackled the issues proving most difficult in Geneva – the interface between domestic regulation and liberalisation. There is little evidence of regulatory integration anywhere other than in the Australia New Zealand Closer Economic Relations Trade Agreement (ANZCERTA) – at least not in the NAFTA-type agreements. Where agreements do have provisions in this area, they tend to be less fleshed out, weaker or more narrowly drawn – for example, focusing solely on professional services – than those arising under Article VI of the GATS (including the Article VI:4 work program). Stephenson and Nikomborirak (2002) note that the NAFTA-type agreements go beyond the GATS in actually trying to encourage mutual recognition but, as noted above, that they target recognition very narrowly to subsectors such as professional services.

Nor, according to the OECD Secretariat, has there been any real progress in FTAs on the sectors proving most sensitive in Geneva – for example, air and maritime transport, audiovisual services and energy services – with the notable, but occasional, exception of transport, where the OECD suggests that regional proximity may sometimes have been a major facilitating factor. The ASEAN Framework Agreement on Services provides a relevant example. In general, Stephenson and Nikomborirak assess the market access commitments undertaken within ASEAN to date to be only marginally better than those in the GATS. However, the air and
maritime transport sectors do show greater preferential commitments than in the GATS. Agreements involving the United States, however, typically carve out both air and maritime services, even with regional neighbours. And sectors other than transport which have proved elusive multilaterally have also proved elusive bilaterally.

FTAs are often seen as offering scope for speedier headway in areas such as services-related standards and the recognition of licences and professional or educational qualifications. Despite the presumed possibilities, the OECD study argues, however, that FTAs have not actually achieved much on standards. Progress in this area has been slow and generally disappointing, even at the regional level.

And FTAs have achieved no progress on the unfinished GATS rule-making, especially on safeguards and subsidies (which are typically grandfathered or carved out through negative listing). Progress has occasionally been made in the NAFTA-type FTAs on government procurement, but this has usually been in the context of negotiations on government procurement rather than services as such. The bilateral discussions on rules have otherwise seemed to face the same technical challenges and political sensitivities found in Geneva.

The OECD study (Sauve 2002) also concludes that, in the two key infrastructure sectors of telecoms and financial services, on balance, FTAs have seen less progress in bound liberalisation than is the case under the GATS, though in developing countries they may have encouraged greater transparency in implementation. The OECD suggests that this result confirms the political economy gains associated with the achievement of critical mass through multilateral bargaining.

Finally, the OECD research suggests that FTAs have rarely, if ever, achieved much of value on Mode 4. ASEAN’s own experience tends to confirm this finding. Stephenson and Nikomborirak (2002) also note that NAFTA-type agreements do not cover Mode 4 as such but are limited to coverage of temporary movement of business service providers.

What emerges from this discussion is that regulatory harmonisation and mutual recognition in particular seem to remain difficult whatever the negotiating arena. There are no easier answers at the bilateral level. This can be expected to be the case also in FTAs between developed countries such as Australia and the United States. It is likely to be more constructive, therefore, especially for developing countries, to concentrate services trade policy attention on the WTO.

Before moving on to look briefly at the more recent FTAs centred on Singapore, it is important to recognise two other important general characteristics of FTAs covering services.
First, the OECD study draws attention to the fact that, with very few exceptions, FTAs covering services typically feature a liberal ‘rule of origin’/denial of benefits clause. That means they extend the preferential treatment to all legal persons conducting substantial business operations in the member countries. In practice, this implies that at least the post-establishment treatment of what in many instances represents the most important mode of supplying services in foreign markets – that is, investment – is extended to third-country investors and is non-preferential.

Second, the OECD study notes that governments participating in FTAs have shown a greater readiness in services than in goods to subsequently extend regional preferences on an MFN basis under the GATS. This may reflect a realisation that preferential treatment is harder to confer in services trade. Multilateral liberalisation also offers the opportunity to secure access to the world’s most efficient suppliers. This is economically vital in critical infrastructure services which are likely to exert significant effects on economy-wide performance.

**Role of services in recent FTAs in the region**

A key question is whether the above conclusions hold also for the most recent agreements, for example those agreed recently between Singapore, Japan, Australia and the United States. In their own way, these will tend to serve as models for future agreements in the region, at least with developing countries. In fact, one would hope that an FTA between two developed countries, for example between Australia and the United States, might attempt to go beyond these models and display a greater degree of ambition in setting a potential template for problem solving in the GATS.

Even a quick glance at the tables of contents of these recent agreements and at the services and investment chapters themselves shows that services issues have come to dominate the content of regional FTAs. It is worth noting that ASEAN countries other than Singapore would presumably have difficulties entering FTAs of this nature that entail extensive commitments on services, investment and associated domestic regulatory reforms.

Although this analysis is far from complete – in the case of the Singapore–US agreement the negotiating text was strictly still available only in draft at the time of writing – some basic early conclusions emerge. Judged against the benchmarks set out in the OECD study discussed above (Sauve 2002), the recent agreements can be seen on balance to tend to focus on specific bilateral market access issues (and to provide access on a reciprocal preferential basis) rather
than grappling with the GATS – plus issues which might facilitate trade in services more generally. They tend, admittedly with some exceptions, not to sufficiently address issues such as competition policy, mutual recognition or regulatory harmonisation.

Usefully, the Singapore–US agreement does make some progress on competition policy and investment policy issues in Singapore which will in effect have MFN application. The Singapore–US and Singapore–Australia agreements both seek to make limited starts in the direction of regulatory convergence, with a welcome focus on the transparency of regulation. The Singapore–Japan agreement focuses, importantly, on transparency of implementation. The Singapore–Australia agreement attempts in a limited (and in practice relatively unsuccessful) way to encourage the process of mutual recognition for professional services.

However, there is nothing positive to report in the recent agreements on the unfinished GATS rule-making front. On the contrary, the negative list approach risks locking in certain existing restrictions which new GATS rules (for example, on subsidies) might well seek to discipline.

Nor is there anything especially creative on the ‘movement of natural persons’ front. The Singapore–US agreement follows the example already set in the other NAFTA-type agreements. With respect to services, Modes 3 and 4 are separated out and dealt with in generic chapters (Mode 3 in the chapter on investment and Mode 4 in the chapter on temporary movement of business people). The services chapter consequently deals only with cross-border trade in services (Modes 1 and 2). The investment chapter covers bilateral investment promotion and protection and defines basic MFN and national treatment disciplines on investment in both goods and services.

The Singapore–Australia agreement covers Mode 3 more traditionally in the services chapter. The difference between these two approaches is largely cosmetic. The inclusion of Mode 3 in the investment chapter serves to pad that chapter out. Clearly, however, the US approach, should it continue to become institutionalised, especially in agreements involving developed countries such as Australia, risks setting precedents which could have a pre-emptive impact both on the structure of the GATS and on the modalities for future investment and government procurement negotiations in Geneva.

Through the generic investment disciplines, the Singapore–US agreement provides for a right of non-establishment – that is, there is no local presence requirement as a precondition to supply services. This is seen as a means of encouraging cross-border trade in services. Such
a provision, for which no GATS equivalent exists, is thought to be well suited to promoting e-commerce.

The jury is out on whether these agreements, despite the claims of GATS-plus, can serve effectively as benchmarks either for the Doha Round negotiations or for broader regional integration. New market access commitments are only truly GATS – plus if they are applied on an MFN rather than a preferential basis. As these recent agreements are implemented, we will see the extent to which participating governments choose to extend the commitments multilaterally and bind them in the GATS as part of the Doha Round outcome. It would be consistent with the rhetoric of ‘competitive liberalisation’ for the governments involved to take such a step. Meanwhile, trade and investment diversion will apply in services just as it does in goods, with the effect of locking in new bilateral partnerships instead of seeking access to world’s best practice in services delivery.

The domestic politics associated with FTAs are complex, with local protectionist interests to defend, especially in infrastructure services. Dealing with market access issues in a repeated reciprocal bilateral manner is unlikely to lead to agreements which can be broadened to include a progressively wider number of regional players. Bilateral market access deals, moreover, unless they also deal effectively with the competition policy environment, can create new opportunities for rent seeking. This can lead to ‘first-mover’ gains to particular firms, which then have a vested interest against the extension of the bilateral agreement to include other trading partners. In particular, the chances that individual ASEAN countries will succeed in negotiating consistent and complementary non-exclusive arrangements, allowing opportunities for eventual wider subregional participation, seem to be very poor.

Despite the fact that other ASEAN countries would have difficulty participating in FTAs involving significant liberalisation of services and more transparent domestic regulation, other ASEAN countries increasingly feel forced to try to follow the Singaporean example. This trend carries very real dangers for ASEAN cohesion.

**ASEAN fragmentation in the GATS negotiations**

ASEAN cohesion on the international trade policy front is already a major problem. Despite ASEAN’s strong and visibly influential role in the Uruguay Round, Sally (2003) argues that ASEAN coordination in the WTO has now effectively broken down. While individual ASEAN members are separately active, to varying degrees, in the WTO, ASEAN as a collective group
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currently has no voice whatsoever. The convergence of WTO negotiating interests on agricultural and industrial market access issues, which was so evident in the Uruguay Round, seems to have fragmented completely in the Doha Round. This new reality is most clearly evident in the case of trade and investment in services. As discussed above, the regional drift to FTAs that are focused – as they increasingly must be – on services trade and investment issues is likely to make this fragmentation much worse.

As noted by Sally (2003), this is a problem for ASEAN and also a problem for the WTO. At this particular juncture of the Doha Round, with the fifth ministerial meeting to take place in September 2003, there are good reasons for Southeast Asian countries to address the issue and in so doing to also help ensure a more united East Asian front in the negotiations. As Sally points out, the developing countries in East Asia account for roughly half of the relatively few active developing country members of the WTO. This translates into real and potential influence, both in terms of individual activity and in multi-country coalitions. The accession of China and Chinese Taipei to the WTO reinforces the potential. China’s evident constructive engagement in the Doha negotiations also bodes well for regional influence in the WTO, particularly as China is now the leading developing country in the organisation. East Asian countries – including those from North Asia, Southeast Asia, Australia and New Zealand – are well positioned to exercise considerable influence in the outcome to the Doha Round.

Gains from reform

‘What’s in it for us?’ is a common question among developing countries, including those in the East Asian region. It is important first to recognise that, according to WTO estimates (Sauve 2002), international trade in services was worth US$2.3 trillion at the end of 2000 – more than one-third of total world trade (up from 18 per cent in 1995). Moreover, from 1980 to 1995, trade in services grew by 8 per cent compared with 6 per cent for merchandise trade. Complex though the GATS issues might appear, services trade is too important to ignore.

Various modelling studies show that the global gains from services trade and investment liberalisation are likely to be substantial, and to be shared very evenly between developed and developing economies. The Australian Department of Foreign Affairs and Trade (DFAT 1999) estimates that halving trade distortions affecting services would bring annual global gains of US$250 billion, almost three times the gains from comparable reductions in trade barriers on agriculture. This study indicates that all economies would gain – and, in proportion to their GDP
size, some smaller economies would benefit substantially. Another study by the Australian Productivity Commission (Dee and Hanslow 2000) confirms the relative importance of services trade liberalisation. This study found that about half the estimated global gains from trade liberalisation – about US$130 billion – would derive from services sector liberalisation. Moreover, these gains would be concentrated in particular in the developing world where the scale of impediments is largest.

A more recent study by the Productivity Commission (Verikios and Zhang 2001) assesses the effects of liberalising trade in the financial services and telecommunications sectors and suggests that economies gain both from removing barriers to the establishment of new operations (domestic or foreign) and by liberalising the operations of existing operators. For the world as a whole, the one-off gains are estimated to be at least 0.2 per cent of combined GNP, or about US$50 billion. The report suggests that gains from liberalising telecommunications are overwhelmingly derived from improvements in resource allocation. The global gains from liberalising financial services are mainly due to an increase in the returns to the world capital stock.

This reinforces the results of other studies showing that the gains from services liberalisation, like goods liberalisation, accrue to the countries implementing the reforms, whether or not other economies also liberalise.

These results highlight the economic cost associated with the services trade and investment impediments currently in place in developing countries and the potential scope for significant improvements in international competitiveness that trade reform can bring. The main gains are from autonomous or unilateral reform. They include:

• access to services at lower prices
• enhanced access in the infrastructure sector to badly needed foreign investment and associated technology
• access not just to capital but to improved ways of organising a business (for example, in logistics)
• the introduction, through foreign participation in financial services, of strengthened risk management capacity.

Business interests in all sectors appreciate the value of reforms in the above directions. Modelling results also highlight an important contribution from the intersectoral effects of
liberalisation. A more efficient services sector removes impediments to international competitiveness in other sectors. For example, improved efficiency in transport services facilitates market integration in agriculture and reformed telecoms service provision can facilitate back-office data-processing or health diagnostics services.

Developing countries have export interests in services and can gain from new international market access commitments from trading partners under the GATS. Table 1 shows that Hong

Table 1  Trade in services in Asian countries, 2000

(a) Exports

<table>
<thead>
<tr>
<th>Rank</th>
<th>Exporter</th>
<th>Value (US$ billion)</th>
<th>Share (% total in Asia)</th>
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<td>68.3</td>
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<td>2</td>
<td>Hong Kong</td>
<td>42.1</td>
<td>13.9</td>
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<td>China</td>
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<td>4</td>
<td>South Korea</td>
<td>29.2</td>
<td>9.6</td>
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<td>5</td>
<td>Singapore</td>
<td>26.6</td>
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<td>6</td>
<td>Taiwan</td>
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<td>6.7</td>
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<td>7</td>
<td>Australia</td>
<td>17.8</td>
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(b) Imports

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<th>Share (% total in Asia)</th>
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<tr>
<td>5</td>
<td>Taiwan</td>
<td>25.7</td>
<td>7.0</td>
</tr>
<tr>
<td>6</td>
<td>Singapore</td>
<td>21.3</td>
<td>5.8</td>
</tr>
<tr>
<td>7</td>
<td>India</td>
<td>19.9</td>
<td>5.5</td>
</tr>
<tr>
<td>8</td>
<td>Australia</td>
<td>17.7</td>
<td>4.8</td>
</tr>
<tr>
<td>9</td>
<td>Malaysia</td>
<td>16.6</td>
<td>4.5</td>
</tr>
<tr>
<td>10</td>
<td>Thailand</td>
<td>14.7</td>
<td>4.0</td>
</tr>
</tbody>
</table>

Kong China, China, South Korea and Singapore are all very important regional services exporters as well as importers. Indeed, as illustrated in Table 2, Singapore is the largest developing or transition economy services exporter in the world, followed by South Korea, China and Thailand. Malaysia follows in seventh position. On the import side, South Korea ranks number one, followed by China; Thailand, Singapore, Malaysia and Indonesia are all in the top 10. Singapore, South Korea and China are larger exporters and importers of services than Australia.

**Table 2  Trade in services in developing and transition economies**

(a) Exports

<table>
<thead>
<tr>
<th>Rank</th>
<th>Exporter</th>
<th>Value (US$ billion)</th>
<th>Share (% world total)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Singapore</td>
<td>26.6</td>
<td>1.9</td>
</tr>
<tr>
<td>2</td>
<td>South Korea</td>
<td>29.2</td>
<td>2.0</td>
</tr>
<tr>
<td>3</td>
<td>China</td>
<td>30.1</td>
<td>2.1</td>
</tr>
<tr>
<td>4</td>
<td>Thailand</td>
<td>12.8</td>
<td>0.9</td>
</tr>
<tr>
<td>5</td>
<td>Turkey</td>
<td>19.2</td>
<td>1.3</td>
</tr>
<tr>
<td>6</td>
<td>Russian Federation</td>
<td>9.6</td>
<td>0.7</td>
</tr>
<tr>
<td>7</td>
<td>Malaysia</td>
<td>13.6</td>
<td>0.9</td>
</tr>
<tr>
<td>8</td>
<td>Mexico</td>
<td>13.6</td>
<td>0.9</td>
</tr>
<tr>
<td>9</td>
<td>Egypt</td>
<td>9.7</td>
<td>0.7</td>
</tr>
<tr>
<td>10</td>
<td>India</td>
<td>17.6</td>
<td>1.2</td>
</tr>
</tbody>
</table>

(b) Imports

<table>
<thead>
<tr>
<th>Rank</th>
<th>Importer</th>
<th>Value (US$ billion)</th>
<th>Share (% world total)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>South Korea</td>
<td>33.4</td>
<td>2.3</td>
</tr>
<tr>
<td>2</td>
<td>China</td>
<td>35.9</td>
<td>2.5</td>
</tr>
<tr>
<td>3</td>
<td>Saudi Arabia</td>
<td>10.9</td>
<td>0.8</td>
</tr>
<tr>
<td>4</td>
<td>Thailand</td>
<td>14.7</td>
<td>1.0</td>
</tr>
<tr>
<td>5</td>
<td>Singapore</td>
<td>21.3</td>
<td>1.5</td>
</tr>
<tr>
<td>6</td>
<td>Russian Federation</td>
<td>17.4</td>
<td>1.2</td>
</tr>
<tr>
<td>7</td>
<td>Malaysia</td>
<td>16.6</td>
<td>1.2</td>
</tr>
<tr>
<td>8</td>
<td>Brazil</td>
<td>15.9</td>
<td>1.1</td>
</tr>
<tr>
<td>9</td>
<td>Indonesia</td>
<td>14.3</td>
<td>1.0</td>
</tr>
<tr>
<td>10</td>
<td>Mexico</td>
<td>16.8</td>
<td>1.2</td>
</tr>
</tbody>
</table>

There are many examples of areas in which developing countries might be exporters. One is tourism; another is Mode 4 (movement of natural persons). Mode 4 has potentially broad scope to cover executives, contractors and low-skill workers. This is of interest to many, if not all, developing economies. Most ASEAN countries would appear to have strong comparative advantages in Mode 4. The Philippines, in particular, is performing strongly in IT outsourcing.

Towards a services trade agenda for East Asia

There is scope for East Asian countries to work more closely together on services trade and investment liberalisation issues, both in the GATS negotiations in the Doha Round and in the regional context. A more concerted East Asian approach would have a very influential impact in the WTO. There is also separate and complementary scope for the East Asian developing countries to themselves play much larger roles in the various issues-based coalitions in the Doha Round. They do not have to be formal, close-knit coalitions. Loose informal cooperation is also extremely valuable, especially to developing countries with less negotiating experience in Geneva. Small ‘friends’ groups already exist – for example, the ‘Really Good Friends of GATS’ group – but they need new members if they are to impact on progress in the round.

China by itself, as the WTO’s largest developing country member, has the power to shape negotiating outcomes if it works in cooperation with other East Asian countries around a coalescence of negotiating interests. And East Asian negotiating interests in services are indeed convergent. Despite the very different relative importance of services in different national economies in the region, East Asian countries have a joint interest in ensuring that the smaller developing countries in the region are not picked off individually by larger trading partners such that inconsistent and unsustainable regional outcomes arise.

Nor does the region have any interest in ASEAN fragmentation, including as an accidental by-product of FTA negotiations. Through the services and investment chapters, there is a risk that these will have a haphazard impact on domestic regulatory matters. On the contrary, the region has an interest in regulatory transparency and convergence as a central aspect of ongoing APEC-wide trade facilitation.

In the services negotiations in the WTO, market access and certainty and predictability of that access are the main game. Removing the many gaps between actual and bound policy is the first priority. Binding of the status quo is a valuable demonstration of commitment to reform. Wherever binding of the status quo is possible, no East Asian country has an interest in holding
back – least of all the ASEAN countries, for whom policy competitiveness is critical to regaining the confidence of foreign investors. It should not be impossible, for example, for Indonesia to offer to bind services sector reforms implemented recently as a result of the IMF Structural Adjustment Programme.

Any offer on services is, meanwhile, valuable negotiating coin in other areas of the Doha negotiations. An offer on services need not bear resemblance to any external requests from trading partners. Nor need it be associated with any request on the part of the offering country. Offers should reflect domestic assessments of what is in a country’s own best economic interests. Autonomous reforms achieved since the end of the Uruguay Round should be bound. The rewards will be many, in domestic economic terms, in fresh investor interest and in heightened bargaining power in other negotiating arenas. Central to the achievement of this agenda is the need for a much greater focus on the effective provision of vital trade policy capacity building, especially for the ASEAN countries and China.

**Building regional trade policy capacity**

The need for capacity building in order to achieve cooperative progress with the above agenda is clearly very extensive. The Doha Ministerial Declaration asserts supposedly firm commitments in this regard and charges the WTO Secretariat with supporting domestic efforts for mainstreaming trade into national plans for economic development and strategies for poverty reduction in coordination with bilateral donors and other international institutions. So far governments have pledged $10 million as part of a global trust fund for technical assistance in the Doha Round. APEC in particular will need to give this priority if the GATS negotiations, and the Doha Round as a whole, are to be successful.

Findlay (2003) outlined steps in developing a trade negotiating strategy. The first steps are clear domestic priorities for policy reform and a clear sense of how services trade in particular fits into the overall economic strategy. Experience suggests that it will be difficult for developing countries to resist specific requests by trading partners if this sequence is not followed. If developing countries allow their own policy changes to be driven solely by external pressure, policy reform will tend to be partial and potentially unsustainable, often putting foreigners in privileged market positions. The central focus of trade policy reform, especially in services, must be on putting one’s domestic regulatory house in order.
Capacity building in the region should focus on a deep sharing of experience on how to derive an international strategy from a systematic assessment of domestic economic considerations rather than on a technical explanation of current issues on the WTO negotiating agenda. The depth of non-border trade policy reform entailed in services trade liberalisation is resource intensive. It requires commensurately more complex policy planning tools and domestic decision-making processes. It will be very important to continue to share information on such issues, including identification of trade opportunities and impediments.

In terms of international negotiating strategy, the 'main game' is to bind domestic policy reform. There are substantial gains from removing the gap between actual and bound policy practice. Designing and making those commitments does not cost much in terms of the resources consumed in the negotiating process. From this perspective, other aspects of the negotiations, including negotiations on new GATS rules, would have a lower overall priority. Some economies may also wish to use the international negotiating process to help overcome domestic resistance to change in areas which have proven difficult to reform unilaterally. In many respects, there is a virtuous cycle in services liberalisation, since liberalisation itself helps to further build capacity.

**Looking ahead: setting benchmarks for the WTO**

Irrespective of preparedness or capacity on services trade and investment related issues, East Asian nations are seemingly embarked on an unstoppable process of bilateral FTA trade negotiation. It is critically important to minimise any damage to the multilateral system. One potential solution is to leave the services sectors out of the regional preferential trading arrangement (PTA) negotiation process. This is clearly increasingly impractical, especially from a business perspective. These days, trade is increasingly about trade in services, and this includes trade between developing countries.

The only alternative is to ensure that new bilateral agreements – which seek increasingly to go beyond the WTO agreements and into uncharted territory, chiefly on the services and investment related front – set ambitious problem-solving benchmarks for the WTO rather than, accidentally or otherwise, undermining it. This is the most important trade policy challenge facing not only this region but every other region of the globe.

Unfortunately, the reality of bilateral negotiation is that the larger, more powerful nation tends to win, and the wins reflect the particular market access objectives of that nation, not
necessarily the most liberal outcome from a multilateral perspective. Ensuring that bilateral PTAs negotiated within the region set constructive rather than destructive benchmarks for the multilateral system will require considerable ongoing vigilance.

The GATS rule-making process is unfinished, with issues such as subsidies, safeguards and government procurement yet to be negotiated. There is multilateral controversy about whether new issues such as e-commerce should even be classified as services and hence be covered under the GATS. And the WTO has barely begun on investment and competition policy.

To the extent that PTAs in the region continue to experiment with these issues, they could start to set powerful potential precedents for the WTO. Such precedents will no doubt automatically be described by the participating governments as ‘WTO Plus’ or ‘Beyond WTO’ outcomes. But this could prove to be a very misleading description because the negotiating positions in Geneva into which such precedents will tend to lock PTA partners will not necessarily be constructive for the multilateral process. On the contrary, to the extent that future bilateral commitments are in fact ‘new’, they may have the effect of prejudging and foreclosing the multilateral debate in Geneva, especially if the PTA partners are politically strong players in the WTO. The outcomes would then better be described as ‘WTO minus’ rather than ‘WTO plus’.

The whole idea of a rules-based system is to protect the small and medium-sized countries. The largest, most powerful trading nations cannot set the multilateral trade rules alone. However, to the extent that they can bilaterally pick off in PTAs those countries with different perspectives on negotiating issues in Geneva, they can enhance their overall negotiating power. PTAs offer countries such as the United States a back door route to control of the negotiating agenda in Geneva.

The WTO architecture is based around the General Agreement on Tariffs and Trade, which covers goods trade, and the GATS, which covers trade in services. But the handling of new trade-related issues such as investment and competition policy, both of which are already covered to a degree within the GATS, raises architectural design questions for the WTO system as a whole.

To the extent that PTAs in the region reflect individual countries’ negotiating preferences on unfinished rules issues or architectural design issues, such precedents are likely to prove powerful influences on the course of the debate in Geneva. This is likely to be the case, for example, for issues relevant to digital trade, where deep definitional debate remains to be resolved before substantive progress in rules making can be achieved in the WTO. It is equally likely to prove to be the case with respect to investment and competition policy issues – indeed any issues where rule-making in Geneva is still nascent.
Whenever bilateral precedents are set, they risk detracting from the debate in Geneva. Through PTA arrangements, the United States is clearly aiming to build a growing US-oriented negotiating alliance in Geneva, especially on digital issues. There is a danger that Japan will be tempted to follow suit in the agricultural arena.

Therefore, in assessing the regional trend to bilateral PTAs, it will be important not to jump automatically to the conclusion that, if a PTA entails obligations which go ‘beyond’ the WTO in areas such as services trade, the outcome is necessarily to be applauded. Precisely the opposite could prove to be the case. Vigilance and impartial evaluation will remain essential to the regional trade policy tool kit.

Notes

This paper was prepared for the East Asia Trade Strategy Conference held at The Australian National University on 20–21 March 2003 while the author was a Visiting Fellow at the Asia Pacific School of Economics and Government at The Australian National University.


2 The first parts of this section are based on material in Findlay (2003).

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