GATS + Liberalization in East Asian FTAs: Architectural Aspects and Achievements

Submitted by: World Bank
Overview

- Background
- Architecture of East Asian FTAs
- Services liberalization in East Asian FTAs
- Negative list agreements and services liberalization
- Rules on relation between services and investment
- Conclusion
FTAs in services in East Asia in figures

- 25 agreements
  - 3 ‘regional’ agreements (AFAS, AFAS-China, TransPacific SEP)
  - 22 bilaterals
- 16 East Asian countries*
- 11 other countries
- 1 non-WTO Member
- 40+ agreements currently under negotiations
## Architecture of East Asian FTAs

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### Architecture of FTAs: liberalization approach

<table>
<thead>
<tr>
<th>Sectors subject to trade commitments</th>
<th>Level of openness</th>
<th>Level of openness</th>
</tr>
</thead>
<tbody>
<tr>
<td>Positive list</td>
<td>Positive list</td>
<td>Positive list</td>
</tr>
<tr>
<td>Negative list</td>
<td>Positive/negative list</td>
<td>Negative list</td>
</tr>
<tr>
<td>‘Pure’ positive list</td>
<td>Hybrid list (GATS)</td>
<td>Negative list</td>
</tr>
</tbody>
</table>
Key features of hybrid list FTAs

- Four modes of supply (with separate investment chapter in some cases)
- Main obligations:
  - Market access
  - National treatment
  - + additional commitments
- Generally, no mechanism to bind at actual levels of openness,
  - except in Japan-Malaysia and Japan-Philippines (‘SS’ entries)
Key features of negative list FTAs

- Three modes of supply (except Trans-Pacific and Australia-Singapore)
- Investment in services treated in separate chapter (except Trans-Pacific)
- Additional obligations (e.g. performance requirements), but sometimes no binding market access discipline (Japan–Mexico, Chile – Korea)
- Non-conforming measures versus ‘future’ measures
- Varying approaches to financial services, partly/fully reverting to hybrid list

Positive vs. Negative: an architectural assessment

- Transparency: depends on level of openness
  - Lots of restrictions: positive list
  - Few restrictions: negative list
    - But drafting is crucial!
- Liberalization
  - Same outcome can be achieved with either model
  - Status quo binding: in principle, negative lists
    - but “future measures” de facto prevent status quo binding
    - and positive lists also have this potential (Japan – Malaysia, Japan - Philippines)
- From an architectural perspective, there seems to be nothing inherent to either approach in terms of transparency or liberalization
  - \( \implies \) Empirical question.
Services liberalization in East Asian FTAs

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GATS + liberalization in East Asian FTAs

- Evidence is mixed.
- Many agreements show few commitments beyond GATS level
  - AFAS
  - Thailand – Australia
  - Singapore – Jordan
- Others entail broad / deep commitments:
  - US – Lao PDR
  - Mainland – Hong Kong CEPA
  - Japan – Singapore
  - US – Singapore
Who gives more at bilateral / regional level?

- ...those who have given more at multilateral level.
- ...albeit other countries have greater potential for improvement.

In what sectors?

- Business services
- Communication services
- Construction and related engineering services
- Distribution services
- Educational services
- Environmental services
- Financial services
- Health and related social services
- Recreational, cultural, and sporting services
- Tourism and travel-related services
- Transport services
- Other services not included elsewhere
In what modes of supply?

![Mode of Supply Chart]

Negative list FTAs and liberalization commitments

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What kind of agreement provides more liberalization?

Do negative list FTA ensure broader / deeper liberalization?

- **Broader**: negative list FTAs show a statistically significant effect on the amount of new scheduled sectors
- **No deeper liberalization**: no statistically significant effect of negative list FTA on the improvement of existent multilateral liberalization commitments (once GDP per capita is controlled for)

<table>
<thead>
<tr>
<th></th>
<th>Improved FTA commitment</th>
<th>New FTA commitment</th>
<th>Total FTA commitment</th>
<th>Improved FTA commitment</th>
<th>New FTA commitment</th>
<th>Total FTA commitment</th>
</tr>
</thead>
<tbody>
<tr>
<td>Negative list</td>
<td>0.073*</td>
<td>0.294*</td>
<td>0.367*</td>
<td>0.014</td>
<td>0.279*</td>
<td>0.293*</td>
</tr>
<tr>
<td>commitment</td>
<td>(5.82)</td>
<td>(15.63)</td>
<td>(17.91)</td>
<td>(1.05)</td>
<td>(13.07)</td>
<td>(12.82)</td>
</tr>
<tr>
<td>GDP per capita of</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>scheduling country</td>
<td></td>
<td>(9.94)</td>
<td>(10.99)</td>
<td></td>
<td></td>
<td>(9.89)</td>
</tr>
<tr>
<td>GDP per capita of</td>
<td>0.005</td>
<td>0.009</td>
<td>0.004</td>
<td>-0.005</td>
<td>0.009</td>
<td>0.004</td>
</tr>
<tr>
<td>partner country (or</td>
<td></td>
<td>(1.24)</td>
<td>(1.36)</td>
<td></td>
<td>(1.52)</td>
<td>(1.52)</td>
</tr>
<tr>
<td>countries)</td>
<td></td>
<td></td>
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</tr>
<tr>
<td>Number of</td>
<td>1,440</td>
<td>1,440</td>
<td>1,440</td>
<td>1,440</td>
<td>1,440</td>
<td>1,440</td>
</tr>
<tr>
<td>observations</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Adjusted R- squared</td>
<td>0.352</td>
<td>0.516</td>
<td>0.626</td>
<td>0.393</td>
<td>0.516</td>
<td>0.639</td>
</tr>
</tbody>
</table>

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The devil is the details…

- Singapore reserves the right to “[...]to adopt or maintain any measure affecting the supply of services by foreign full banks or in relation to Qualifying Full Bank licenses.” (Australia-Singapore)

- United States effectively exempts “[a]ll existing non-conforming measures of all states of the United States, the District of Columbia, and Puerto Rico.” (Singapore-US)

- United States “[...] reserves the right to adopt or maintain any measure that is not inconsistent with the United States’ obligations under Article XVI of the General Agreement on Trade in Services.” (Singapore-US)

- Mexico “[...] reserves the right to adopt or maintain any measure relating to the supply of services in any mode of supply in which those services were not technically feasible at the time of entry of force of this Agreement.” (Japan-Mexico)

Rules on investment and services chapters

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Investment in services

**Rules addressing dual coverage: an informal ranking**

<table>
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<tr>
<th>Rule</th>
<th>Countries</th>
</tr>
</thead>
<tbody>
<tr>
<td>1) Market access and domestic regulations provision of services chapter apply to investment in services</td>
<td>Nicaragua-Taiwan (China), Panama-Singapore, Singapore-US</td>
</tr>
<tr>
<td>2) Services chapter prevails in case of inconsistencies</td>
<td>India-Singapore, Japan-Malaysia, Jordan-Singapore, US-Vietnam, Japan-Singapore (for Singapore)</td>
</tr>
<tr>
<td>3) One single schedule of commitments, also covering investment in goods</td>
<td>Australia-Singapore, Australia-Thailand</td>
</tr>
<tr>
<td>4) Core liberalizing obligations in investment chapter do not apply to investment in services</td>
<td>EFTA-Singapore FTA, Japan-Philippines (for the Philippines)</td>
</tr>
<tr>
<td>5) Core liberalizing obligations (NT, MFN) in investment chapter do not apply to commercial presence</td>
<td>New Zealand-Singapore, EFTA-Korea</td>
</tr>
<tr>
<td>6) Relationship not defined</td>
<td>Japan-Singapore, Japan-Philippines (for Japan)</td>
</tr>
</tbody>
</table>
Concluding remarks

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Conclusions

- Different architectural approaches have no inherent benefits of disadvantages in regard to transparency and liberalization
- Negative lists, however, provide incentives for broader –but not deeper- commitments.
- East Asian FTAs present mixed liberalization achievements
  - Developing countries in East Asia seem reluctant to services liberalization commitments –both multilaterally and regionally/bilaterally
  - East Asia richer countries (Japan, Korea, Singapore) have taken advantage of FTAs to expand on already significant multilateral commitments
Thank you for your attention.

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