



European Services Forum



Trade in Services Agreement (TiSA) Negotiations: Uniformity of Commitments

Note by the Global Services Coalition

Summary

The TiSA negotiations were launched with the shared intention that each participating country, at a minimum, would offer to extend its best existing FTA commitments in services to all other parties. The Global Services Coalition members urge that efforts be made to bring commitments within TiSA to the standard of the

“best of the best” commitments within the existing FTAs, both in the interests of greater uniformity and to maximise TiSA’s value as a model for multilateralisation. By making commitments as uniform as possible – and without reducing quality - the value of TiSA for all parties would improve and would bring greater ease of use by business.

Current Services Commitments

Whatever the final form of TiSA, its essential underlying concept is a WTO-consistent trade agreement under which each participant undertakes to improve on its existing GATS commitments by, at a minimum, extending its best existing FTA commitments in services to all parties. The participants’ current GATS commitments are by no means equal in quality. The OECD Services Trade Restrictiveness Index (STRI) is one measure of this. The following two bar-graphs (covering commercial banking and aggregate computer and related services) illustrate the variations in services openness across all 34 OECD member countries, the Russian Federation, Brazil, China, India, Indonesia and South Africa (i.e. a group including all TiSA participants except Chinese Taipei, Colombia, Costa Rica, Hong Kong (China), Liechtenstein, Pakistan, Panama, Paraguay, Peru and Uruguay). The variations concern policy measures that are applied on a most-favoured nation (MFN) basis (preferential treatment entailed in regional trade agreements is left out of account). The index uses a basic binary evaluation (0=totally open, 1=totally closed).

Fig. 1: STRI for commercial banking by policy area

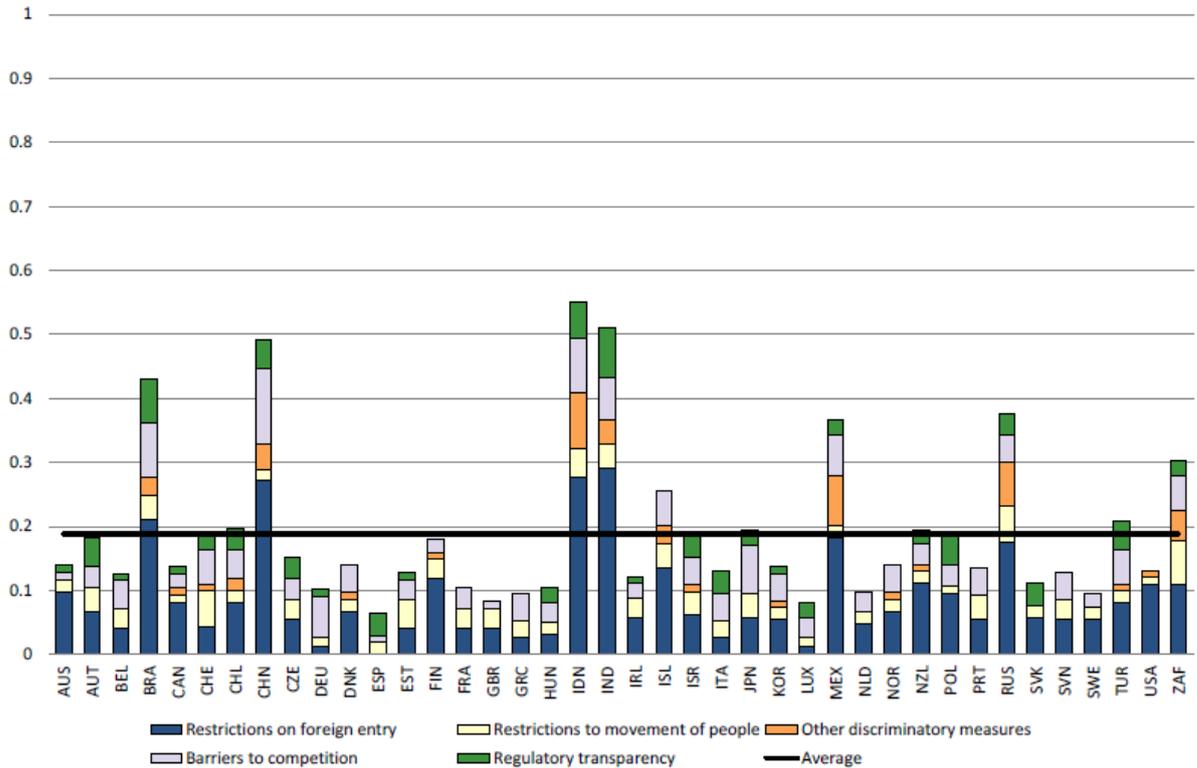
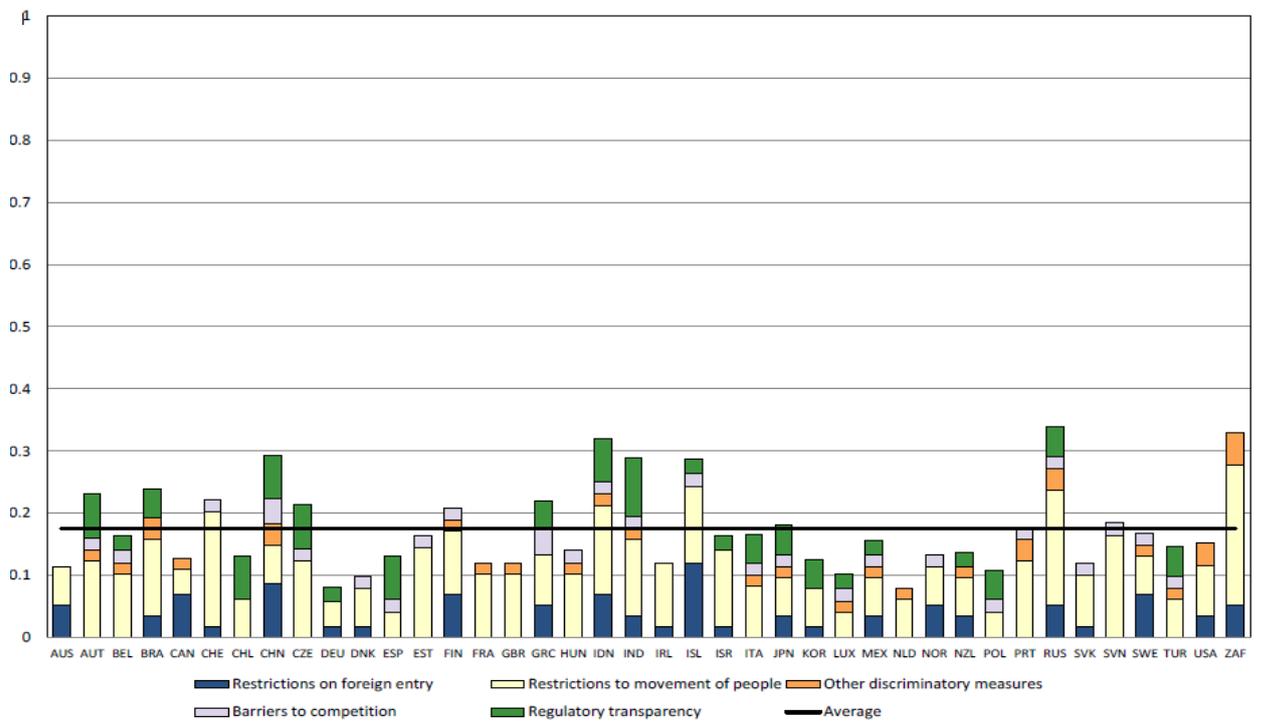


Fig 2: STRI for Aggregate computer and related services STRI by category



The broad conclusion to be drawn is that there is great variety in the degrees of services openness among the countries concerned. This variety, unless addressed in the TiSA negotiations, could well prove true of TiSA too.

Could TiSA commitments be made more uniform?

In the private sector's view, maximising uniformity at higher levels of ambition would be of great value:

- It would reinforce TiSA as an agreement in which all participants were linked by common standards of market openness and common disciplines across a wide range of services sectors;
- It would enhance TiSA's value to business, for global growth and wealth-creation;
- It would give scope for TiSA to set a standard for multilateralisation;
- It would enhance TiSA's influence as a model in the context of the WTO work programme.

There are however dismaying signs that, even where the scope for it is most straightforward, the quest for uniformity is running into difficulties. Financial services, and the use of the GATS Understanding on Financial Services, are one example. The Global Services Coalition had understood that the Understanding could well be adopted by all TiSA participants without difficulty, possibly augmented in those areas where there were proposals to expand its coverage. Instead, however, there are reports of differences among participants as to the interpretation of the Understanding, and the meaning of its standstill provision. The Global Services Coalition earnestly hopes that these differences will be resolved, in the interests of extending the uniformity in financial services commitments that had already been achieved among those GATS members using the Understanding.

Uniform commitments would also be of value in many other areas covered by TiSA. This is true not only of specific services sectors (such as telecommunications, building on the GATS schedules of commitments as well as on the Basic Telecommunications Reference Paper) but also for areas of economic activity requiring a group of linked commitments and disciplines in a standardised form (e.g. logistics, ICT and IT-enabled business, and others).

It is equally true for the following:

- public procurement of services;

- domestic regulation affecting services (e.g., licensing procedures);
- restrictions affecting business operations (notably forced localisation and data transfer, storage and processing);
- market access commitments affecting commercial presence (GATS Mode 3), such as residency requirements, nationality requirements, requirements affecting key personnel and intra-corporate transfers, restrictions on corporate form, equity caps; and the like; and
- the treatment of temporary presence of natural persons as service-providers (GATS Mode 4).

In all these areas, uniform commitments, offering standard and predictable freedoms, would greatly enhance the value of TiSA for services business.

Conclusion

TiSA, when concluded, will cover more than 70% of global services trade. Negotiations have progressed to the stage where work is being done on the individual chapters and annexes of the Agreement and the depth of the commitments that can be achieved. The Global Services Coalition urges the TiSA negotiators to give their fullest attention to achieving deep and uniform commitments to the maximum extent possible. To this end, better market access offers need to be tabled so as to raise the quality of commitments, and work on the regulatory disciplines need to be prioritised so as to take the negotiations forward towards an ambitious and balanced agreement.

Members of the Global Services Coalition stand ready to offer further detail on particular sectors or topics under negotiation, whenever desired during the TiSA negotiations.

April 14, 2015