



THE STAKES ON NEGOTIATING A PLURILATERAL AGREEMENT ON TRADE IN SERVICES

Agnes GHIBUȚIU

Institute for World Economy, Bucharest, E-mail: agnesghibutiu@clicknet.ro

Abstract *In March 2013, a group of 23 like-minded WTO Members, including the EU, started negotiations for a plurilateral Agreement on Trade in Services. This paper aims to address the ongoing talks from several angles. First, it explores the motivation behind these negotiations and highlights the objectives and structure of the new plurilateral trade in services agreement. Secondly, it sheds light on the stakes involved in these negotiations. And thirdly, it analyses the future plurilateral agreement through the lens of the multilateral trading system. According to the findings of the paper, the new deal is a policy response to disappointment over the protracted Doha Round multilateral talks. But it also stems from a need for more ambitious market opening and deeper trade integration in services on the part of advanced economies, given the crucial role of services along global production networks, which dominate nowadays production, trade and investment.*

Key words:

Trade in services; WTO; Doha Round; trade negotiations; plurilateral trade agreements

JEL Codes:

F13, F14, F23, F15, L88

1. Introduction

In March 2013, a group of 23 members of the World Trade Organization (WTO), including the EU (counting as a single participant), started negotiations in Geneva for a plurilateral agreement on trade in services. This new agreement is known as TISA (Trade in Services Agreement) as opposed to the GATS (The General Agreement on Trade in Services) – the multilateral agreement in force since the creation of the WTO in 1995. The objective of TISA is the liberalisation of trade in services among a group of 23 like-minded WTO members, willing to step up market opening for services following disappointment over the multilateral negotiations.

From the outset it should be stressed that GATS (The General Agreement on Trade in Services) under the WTO umbrella is an outcome of the Uruguay Round (1986-1994). Through this agreement services were embedded in the multilateral rules and disciplines for the first time in the history of the multilateral trading system. As the opening of services markets following the completion of the Uruguay Round was below expectations, the 148 WTO members (at that time) agreed to continue negotiations in certain areas (such as transport, financial services and telecommunications) thereafter. Besides, in some of the multilateral agreements arising from the Uruguay Round explicit commitments have been included to resume negotiations at specified intervals. The year 2000 was set to start negotiations in services and

agriculture that became in 2001 part of the Doha Round.

Although liberalising market access for services and improving the existing trade rules on trade in services were among the major objectives of the Doha Development Agenda (DDA), the multilateral talks stalled in July 2008. Besides, the offers made so far fell short of actual applied levels of access to global services markets, and therefore represented a very modest level of ambition. Hence, the new negotiations aim to realize an ambitious market opening to cover all services sectors, including ICT services, logistics and transport, financial services and business services. They also aim to go beyond simply further opening up markets, by developing new rules on trade in services in line with the new realities in the global trade landscape.

On February 24, 2014 ended the 6th round of plurilateral negotiations on TISA. The results of the meetings chaired by the EU in Geneva are a clear sign that talks on this new agreement gained momentum. Much is already on the table. As services negotiations are done on a request-offer basis, the exchange of offers is seen as a turning point in the efforts to forge an agreement. In their opening bids, participants are listing the services sectors they are willing to open up to foreign suppliers and to what degree. Since the launch of the talks in March 2013, 21 of the 23 participants have tabled initial offers. With participants agreeing on the basic text of the TISA provisions and almost all offers on the table, the negotiations are clearly on track

and likely to accelerate. The next round is set to take place the week of April 28, 2014 (European Commission, 2014).

2. Origins of the Initiative, Objectives and Architecture of the Agreement

The origins of the initiative goes back to the 8th Ministerial Conference of the WTO in December 2011, when WTO Ministers acknowledged the impasse in the multilateral Doha talks and the unlikelihood of concluding all elements of the DDA simultaneously in the near future. To overcome the stalemate, WTO Ministers also recognized the need to more fully explore different negotiating approaches and made a commitment to continue negotiations in certain areas covered by the DDA with the aim of reaching "provisional or definitive agreements based on consensus earlier than the full conclusion of the single undertaking"(WTO, 2011). In this spirit, since 2012 WTO members went ahead with negotiations in several areas of the DDA and even succeeded to conclude a multilateral *Agreement on Trade Facilitation*, as part of the "Bali package" adopted at the 9th Ministerial Conference of the WTO in December 2013 in Bali, Indonesia (WTO, 2013a). It is against this backdrop that some countries –originally led by the U.S. and Australia – started promoting the idea of a stand-alone agreement on trade in services amongst WTO members, who are willing to speed up progress in the DDA negotiations.

Overall, 51 WTO members are currently participating in this initiative, including the EU with its 28 Member States, Australia, Canada, Chile, Chinese Taipei, Colombia, Costa Rica, Hong Kong (China), Iceland, Israel, Japan, Korea, Liechtenstein, Mexico, New Zealand, Norway, Pakistan, Panama, Paraguay, Peru, Switzerland, Turkey and the United States. Together, they account for over two-thirds of global trade in services.

The objective of the plurilateral negotiations is to conclude an ambitious agreement, that covers all services sectors and goes beyond market opening achieved multilaterally, by assuming broader commitments to liberalise services markets and establishing new trade rules (such as those applying to investment in services, government procurement, licensing procedures or access to communication networks).

It is worth mentioning, that already during the exploratory talks that took place in 2012, the participants agreed upon the *basic principles* and *main elements* of the future TISA. These include, inter alia, the following (European Commission, 2013):

- TISA would not simply be a free trade agreement, but would have the objective of being a full part of the

WTO system. Hence, it will be open for any WTO member which shares the objectives of the agreement and wishes to join it.

- Although the negotiations do not fall under the remit of the WTO, the participants are keen to ensure that the TISA is carefully crafted to make it compatible with the GATS. This compatibility will make it both open to other WTO members who wish to join later and also make it easier to integrate it into the WTO. This could attract some emerging countries, such as the BRICS (Brazil, Russia, India, China, and South Africa) to also join the initiative.

- TISA will be comprehensive in scope with no exclusion of services sectors or modes of supply at the outset. (GATS stipulates four modes of supply, i.e. "mode 1" – *cross-border supply*; "mode 2" – *consumption abroad*; "mode 3" – *commercial presence*; and "mode 4" – *presence of natural persons* in foreign markets). Commitments taken by the participants will reflect the actual level of existing liberalisation and provide for improved market access.

- The agreement will include new and better rules, covering domestic regulation (e.g. authorization and licensing procedures), maritime transport, telecommunication services, e-commerce, computer related services, postal and courier services, financial services, temporary movement of natural persons, government procurement, export subsidies and state-owned enterprises.

In terms of the *structure* of TISA, the participants agreed upon the following:

- The agreement would be based on the GATS, with some core GATS articles (including on definitions, scope, market access and national treatment, general and security exemptions) being incorporated. This would make it possible at a later stage to integrate TISA into the GATS).

- Additional provisions would govern how each member could take commitments (e.g. commitments on national treatment would be applied on a horizontal basis to all services sectors and modes of supply, and exemptions would have to be listed in the countries' national schedule of commitments).

- The structure of the agreement would provide for its future multilateralisation. However, for bringing the TISA under the WTO umbrella, the number of participants will need to reach a critical mass so that its benefits can be extended to all WTO members. In order to avoid free-riding, the automatic multilateralisation of TISA based on the MFN principle will be temporarily suspended as long as there is no critical mass of WTO members joining the agreement.

Finally, it is important to note that negotiations on the TISA Agreement are strongly advocated by the EU and the U.S. This initiative is part of the major strategic

objectives pursued by both superpowers in terms of trade policy, along with their recent push towards new regional and bilateral preferential trade agreements, such as the *Transatlantic Trade and Investment Partnership* (negotiated between the EU and the U.S.), the *EU-Japan Free Trade Agreement*, both launched in 2013, and the *Transpacific Partnership* (currently negotiated by 12 developed and emerging countries in Asia-Pacific, including the U.S. and Japan).

3. What are the Stakes on Negotiating the TISA Agreement?

For the EU, trade in services is of strategic importance. The services sector is the main contributor to economic growth and creation of jobs, accounting for some three quarters of EU GDP and an even greater proportion of employment. Cross-border trade in services represents around 30% of total EU trade, and foreign direct investment (FDI) in services accounts for about 70% of the EU's FDI flows and 60% of its FDI stocks. The figures are similar for the U.S. and many other advanced countries that participate in the negotiations. The stakes on negotiating the plurilateral trade in services agreement are significant not only for advanced countries, that are traditionally the major players in global services trade, but also developing countries, that began relative recently the transition towards a services economy and managed to become in a short period of time important players in the global services market. Several arguments do support this view.

Firstly, services account for a dominant role in the economic structure in most countries. According to the World Bank's World Development Indicators (2013), the share of services value-added in world GDP increased steadily over the last decades, to reach 70% in 2011. While differences among countries in terms of services sector's contribution to GDP are still significant, the relative weight of services in GDP increased over 2000-2011 in all countries, irrespective of their income levels, and also outweighed other economic sectors in all groups of countries (Table 1).

Comparative empirical research on the role of services in the economy shows that as economies advance on the development ladder and incomes rise, the contribution of services to overall economy increases, as reflected by their rising share in GDP and employment. Numerous factors both on the supply and demand side are driving this structural shift. The transformation of advanced countries into real services economies over the last decades is perhaps the clearest illustration of these structural changes. Secondly, apart from dominating the economic structure in numerous economies in terms of percentage GDP shares, services are an important component of international trade. According to data provided by the WTO, global trade in services amounted to US\$ trillion 4.35 in 2012 (WTO, 2013b). As many categories of services are inextricably linked to trade in goods (such as transport, financial services, insurance, etc.), trade in services and trade in goods have evolved in tandem in recent decades (Figure 1).

Table 1. Sectorial contribution to world GDP, by income groups, 2000-2011 (% of GDP)

World/Income groups	Agriculture		Industry		Manufacturing		Services	
	2000	2011	2000	2011	2000	2011	2000	2011
World	4	3	29	27	19	17	67	70
High income	2	1	28	25	18	15	70	74
Middle income	13	10	36	37	23	21	51	53
Low income	34	27	21	24	12	13	45	49

Source: The World Bank (2013)

As many categories of services are inextricably linked to trade in goods (such as transport, financial services, insurance, etc.), trade in services and trade in goods have evolved in tandem in recent decades (Figure 1). Both types of trade flows recorded rapid growth and surpassed notably the dynamics of global production. While in the 80s and 90s world trade in services outpaced growth in goods trade, in the '2000 its dynamics lagged behind. Over the 2005-2012 period, the average annual growth of trade in goods and services overlapped, at 8% (WTO, 2013d). Hence, the share of services in world trade in goods and services

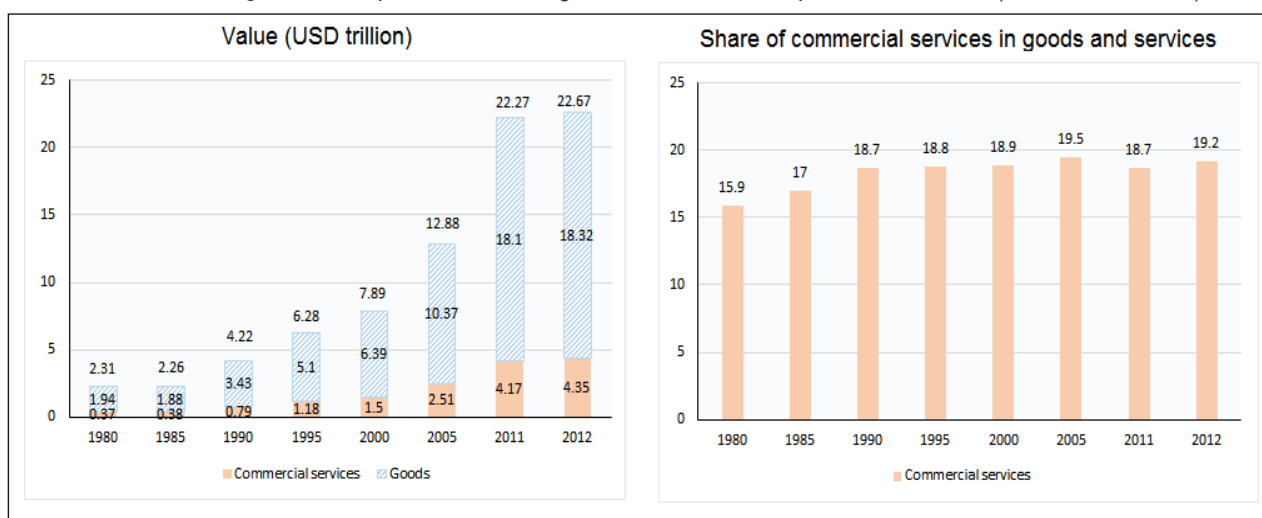
remained relatively unchanged since 1990, at around 20%.

World trade in services, like merchandise trade, continues to be concentrated mainly in Europe and North America, but while the weight of developed countries is on a downward trend, the role of developing countries, particularly in Asia, is on the rise. In fact, the defining feature of contemporary world economy is the increasing role of developing economies in world production and trade and the subsequent power shift from developed towards developing countries. This trend is manifest also in services trade. WTO data shows that in the last decade

growth in services trade in developing countries substantially outpaced growth in developed countries. As a result, the share of developing countries in global services trade increased to 35% in 2012 (WTO, 2013b). Particularly relevant is the rapid rise of new services providers and consumers in emerging countries, like China and India, that have in a relatively short time succeeded to significantly strengthen their position in global services trade and advance rapidly in the world rankings of services exporters/importers. China, for example, doubled its share in world services exports from 2.1% to 4.4% between 2000-2012, advancing from position 12 to position 5 in the global hierarchy of services exporters, while India almost tripled its share

from 1.2% to 3.4%, jumping from the 22th place to the 7th place in the same period, according to our calculations (WTO, 2001; 2013b). A similar picture emerges on the import side. But many other developing countries are increasingly raising competitive pressures for advanced countries; even so trade in services has traditionally been a privilege of the highly competitive developed world. This trend has gained momentum in recent years, particularly due to intensified outsourcing of services (such as information and business services) by companies in developed countries to low cost countries – a process facilitated largely by new ICT and worldwide market opening.

Figure 1. Composition of world goods and services exports¹, 1980-2012 (US\$ trillion and %)



Note: ¹ based on balance of payments statistics; preliminary data for goods exports in 2012.

Source: Own calculations based on data provided by the WTO Secretariat (WTO, 2013b; 2013c; 2013d).

The insights provided by statistical data in value-added terms developed by OECD-WTO shed new light on the contribution of services to international trade, changing the traditional way we look at services, in general. The share of services in world trade is around 20% when measured in gross terms, i.e. by balance of payments statistics. However, when measured in terms of value-added, the respective share is 42%, i.e. more than double the share calculated in conventional terms (WTO, 2013b). This difference stems from the fact that most goods exports need services inputs for their production. As intermediate services are included in the sales price of goods, they are recorded as international transaction of goods, thereby underestimating the real contribution of services to trade. For the EU as a whole, the services content of overall exports amounts to 51%, but for many individual Member States (e.g. Luxembourg, Greece, Ireland, Great Britain) it is much higher. The contribution of services to total exports is around 50% in the U.S., while in India it is even higher.

More importantly, services play a crucial role in global production networks (GPN). According to estimates, around 80% of global trade in goods and services takes place within GPN controlled by transnational corporations (TNCs) (UNCTAD, 2013). By deciding where to invest, TNCs simultaneously decide where and with whom to conduct trade, thereby determining the patterns of global trade. Services are strongly implied in these networks, either through intra-firm trade, non-equity modes of international production (e.g. services outsourcing) or arm's-length transactions. As a result of the increasing convergence of modern production systems in manufacturing and services, most manufactured goods require inputs of intermediary services to be produced and exported. Estimates based on trade in value-added data show that the value created by services as intermediate inputs represents over 30% of the total value-added in manufactured goods (OECD, 2013). This means that services enhance the competitiveness of manufacturing

firms and allow them to better participate in GPN. Further, services play an important role in GPN as facilitators of trade in goods, as they coordinate the various stages of the dispersed global production and ensure the efficient movement of different parts and components across national borders. Due to the coordination functions they perform in GPN (e.g. transportation, logistics, etc.) services do actually ensure the proper functioning of these networks. Hence, it should not come as a surprise that over two-thirds of global FDI stocks are allocated to services (UNCTAD, 2013). The growing role of services in GPN is also reflected in the changes that have occurred in the composition of global services trade over the recent decades. The "other services" categories that ensure the coordination and facilitation of production along GPN (e.g. financial services, insurance, IT and telecommunications, etc.) recorded the highest growth in the last decades. According to our calculations based on WTO data, the share of "other services" in global services trade soared from 35% to 54% between 1980-2012, while the shares of transport and tourism decreased from 36% to 20% and from 29% to 26%, respectively (Ghibuțiu and Oehler-Șincai, 2013, p. 95). The increasing integration of goods and services markets and the inextricable linkages between trade and FDI flows call for adequate approaches to services in terms of trade policy. If in the past trade was in general about selling goods and services produced by factories of a nation to customers in other nations (focused on *demand*), currently trade is becoming more complex as it equally involves production (*supply*), i.e. the manufacturing of products through GPN, with the latter being the most dynamic segment of world trade (Baldwin, 2011; 2012). Trade conducted through TNCs networks is a combination of trade in goods, trade in services and knowledge with FDI flows and migration of labour. This highlights the need for a more coherent view of trade and trade-related policies in the sphere of services.

4. TISA, Plurilateral Agreements and the WTO

Coming back to the new agreement on trade in services, it is important to emphasize that the plurilateral talks are taking place outside the WTO. However, the participants are keen to ensure that the architecture of the TISA agreement is compatible with the GATS in order to be multilateralised at a later stage. This would allow, on the one hand, the opening of the TISA to other WTO members willing to join it in the future, and on the other hand, facilitate its integration into the multilateral rules and disciplines of the WTO (European Commission, 2013). Yet, some analysts are rather cautious about this and consider that the modalities of bringing the agreement into the

multilateral trading system remain unclear. Meanwhile, negotiators have decided to suspend temporarily the automatic multilateralisation of TISA based on MFN principle as long as there is no critical mass of WTO members joining it. Many developing countries (such as the BRICS) are not yet involved, but the participants expect the similarities between TISA and GATS to determine them to join the initiative either during the talks, or thereafter.

The WTO remains the most appropriate forum for negotiating market access in goods and services, reduction in subsidies and many other issues concerning rules and disciplines to govern trade. But even if multilateral solutions are preferable to any other solutions, plurilateral agreements are, nevertheless, a way to move forward in specific topic areas (Koopmann and Wittig, 2014, p. 3).

Moreover, there are several precedents for plurilateral agreements hosted by the WTO, including, inter alia, the *Information Technology Agreement*, the *Agreement on Government Procurement* or the *Agreement on financial services* – all of them being currently renegotiated to extend or deepen their scope. Particularly relevant is the *Information Technology Agreement* (ITA) signed in 1997, which covers trade in IT products (such as computers, semiconductors, telecommunication devices etc.). While the original ITA agreement included 28 participants, their number increased to 78 in 2013. By providing duty free imports for IT products under MFN treatment, participants create opportunities for exporters from all WTO members. The ITA agreement illustrates the benefits of applying the MFN principle in plurilateral agreements and also shows how the WTO can serve as an effective forum for promoting market opening that goes beyond liberalisation achieved multilaterally.

Hence, according to many observers, joining a plurilateral agreement by a critical mass of WTO members is seemingly a more viable option for advancing negotiations in specific sectors than negotiating a comprehensive package deal for years inside the WTO (Koopman and Wittig, 2014, p. 3). The "Bali package", including the new *Agreement on Trade Facilitation*, adopted by the 9th WTO Ministerial Conference in December 2013 in Bali (Indonesia) also highlights the need to move to more efficient patterns of negotiation in the WTO, involving a narrower range of issues (WTO, 2013a). But it is equally true that plurilateral agreements are a deviation from the WTO's single undertaking principle and often infringe upon MFN treatment.

The positive outcome of the last WTO Ministerial Conference in Bali renewed the confidence of member countries in the multilateral trading system and created an opportunity for concluding the Doha Round. The round is set to continue and a work programme to

address the remaining DDA issues will be established by the end of 2014 (WTO, 2013a). However, it remains an open question whether the WTO will deliver in terms of agreed negotiating results in the short and medium term, all the more so the most difficult part of the DDA would be addressed only from now on. Besides, the DDA should be expanded to include a number of key issues arising from the dramatic expansion of GPN and the closer interactions among nations. The growing fragmentation of different stages of the production process across borders and the participation of several countries in the production of final products is not just about trade relations, i.e. *trading goods and services internationally*, but also production relations, i.e. *producing things internationally*. Hence, the kind of issues that should be covered properly by multilateral rules includes, inter alia, investment, competition, intellectual property rights. However, crafting such multilateral rules is facing tremendous difficulties given the WTO's large membership (160) and its consensus based decision-making. Therefore, even in the optimistic scenario of completing the Doha Round, it is likely to witness in the future not only a stronger move towards plurilateral deals in specific sectors, but also a continuing push towards regional and bilateral preferential trade agreements.

5. Conclusions

The plurilateral talks on TISA (Trade in Services Agreement) started in 2013 among a group of 23 like-minded WTO members, which account for over two-thirds of global services trade. The motivation behind this initiative is disappointment over the Doha talks, but it also stems from the need to achieve deeper trade integration in services and establish new trade rules.

The plurilateral negotiations aim to conclude an ambitious agreement that covers all services sectors and goes beyond market opening achieved multilaterally. They also aim to develop strong rules on trade in services, given the strategic importance of services. Apart from being the main source of economic growth and job creation, the services sector is a major contributor to trade. More importantly, services play a crucial role along GPN controlled by TNCs, as they facilitate trade in goods and coordinate the different stages of dispersed global production. Trade conducted through TNCs networks combines trade in goods, trade in services and knowledge with FDI flows and migration of labour. Therefore, it calls for *more coherent approaches to trade and trade-related policies in services*. At stake is ultimately the relevance of services for countries' participation in GPN that dominate nowadays global production, trade and investment.

The TISA initiative is part of the strategic objectives pursued by the EU and the U.S. in terms of trade policy,

along with their push towards regional and bilateral preferential trade agreements, such as the *Transatlantic Trade and Investment Partnership*, the *EU-Japan Free Trade Agreement* or the *Transpacific Partnership*.

Negotiations on TISA are conducted outside the WTO. However, the participants aim to ensure that the agreement is compatible with the multilateral GATS. This would open TISA to other WTO members and also facilitate its integration into the WTO.

While multilateral solutions are preferable to any other solutions and the WTO is the most appropriate forum for negotiating trade-related issues, plurilateral deals are, nevertheless, a way to move forward in specific areas, as shown by precedents within the WTO. Even in the optimistic scenario of completing the Doha Round, we may see in the future a stronger move towards plurilateral deals in specific areas, in parallel to an unabated push towards preferential trade agreements.

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