Framework for the International Services Agreement

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Framework for the International Services Agreement

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- Peterson Institute for International Economics, Washington DC
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Questions

- Is it the time for an ISA?
- What is behind the initiative?
- Will it make a difference?
- What should an ISA look like?
- How can opposition of the BRICS be addressed?
Why is the Service Sector Important?

- It is the growth engine for both developed and developing economies in the 21st century
- Cross-border services trade now account for 27% of global exports (as measured)
- Yet, barriers to service trade remain fairly high (WB, OECD restrictiveness indices)
- Huge potential advantages are to be reaped through greater services liberalization:
  - Job creation
  - Economic efficiency; lower costs of doing business
  - Facilitation of global value chains
Is it time for an International Service Agreement (ISA)? - YES

- The Doha Development Agenda has been put into freeze; Political dissent over broader Doha agenda
- Services have been hostage to the “Single Undertaking”
- Only one-third of WTO members presented an initial or revised offer during the decade of the Doha Round
- ‘De facto’ services discussions have been a plurilateral undertaking since 2000
Why an International Service Agreement (ISA)?

Services has become a hostage and victim both to lack of progress in Doha Round and to the WTO GATS itself

- Institutional deficiencies in the WTO GATS
- No progress has been made in GATS on either rules or market access for nearly two decades
- Result has been proliferation of RTAs covering services and competing governance systems
The Way Forward

An ISA in which self-selected WTO members voluntarily agree to new rules and market access commitments

The idea of moving the trade agenda forward in services on a plurilateral basis has been widely endorsed by different groups:

– Trade policy experts
– Business groups
– Practitioners
Backers for a services plurilateral

NUMEROUS AND VARIED

- World Economic Forum’s Global Agenda Council on Trade argued for a plurilateral “club-of-clubs” approach to WTO reform, including services (2009)
- Warwick Commission on “Future of WTO” (2010)
- APEC Leaders Meeting in Hawaii (November 2011)
- Transatlantic Taskforce on Trade & Investment (2012) - “coalitions of the willing” to move forward
Unequivocal Business Support for the Plurilateral Approach

- Business Community endorsements:
  - Australian Services Roundtable (2009)
  - Hong Kong Coalition of Services Industries (2010)
  - Global Services Coalition - Press Communiqué (2011)

- The Services Task Force of the PECC-ADBI (2011)
- US Coalition of Services Industries (2011)
- GMF Transatlantic Trade Task Force (2012)
- Asia-Pacific Business Community (2011)

Business support continues to grow in North America, Europe and Asia.
The ISA initiative has started to move forward in Geneva

Discussions began early 2012

- “Brainstorming” session in Geneva by representatives of 16 industrialized and advanced developing country members of the WTO (January 18, 2012)
- Subsequent meetings have been held in Geneva (February 15-16) (March 21, 2012)
- Next meeting is planned for May 2012
- Group is called “Really Good Friends of Trade in Services”
The ISA initiative has started to move forward in Geneva

Discussions centering on:

- Level of services market access in existing RTAs
- GATS-plus rules in RTAs
- Identification of new issues that should be discussed for an ISA: what is necessary to make it a 21st century agreement for services?
- Still preliminary; no agreement yet on architecture or content
Opposition to the ISA from the BRICS

BRICS opposed to ISA initiative: why?

- Against principles of transparency, inclusiveness and multilateralism
- Feel this would destroy any possibility of completing the Doha Round
- China, Russia have high levels of services commitments already in their WTO accession – not interested
- Lucrative licensing fees would be lost if services liberalized
Members to an ISA?

- Substantial coverage of world services trade
- 18 WTO members constitute almost ¾ of world services trade

**Essential Core Group**
- Australia
- Canada
- Chile
- Costa Rica
- Colombia
- European Union (27)
- Hong Kong
- Japan
- Korea
- Mexico
- New Zealand
- Norway
- Pakistan
- Peru
- Singapore
- Switzerland
- Taiwan
- U.S.

**Possible Early Adherents**
- Barbados
- Malaysia
- Panama
- Vietnam
- Indonesia?
- Egypt?
Is there a “critical mass” of participants for an ISA?

- In WTO terms, “critical mass” usually has meant 90% but there is no firm rule
- ISA participants number 18 WTO members (with EU counted as one)
- All major services exporters except BRICS
- Constitute 72% of world services trade at present, nearly 3/4
How important are BRICS in world services trade?

- China and India export around 8% of world services
- BRICS together hold around 13% of world services exports
- If BRICS join the ISA, would bring total of services trade covered to 85%
- BUT………challenges to reach this
Challenges convincing BRICS:
Inadequacy of Service Trade Statistics

- Difficulty in analyzing the importance of services trade due to the scarcity of good quality statistics
- Developing countries are already exporting more services than they realize but these are not captured statistically
- Main statistical source of service trade - IMF BOP Manual 6 - lists only few services categories vs. 6,000 items for goods trade
- “Intermediate” trade or trade in value-added not captured in trade statistics: if so, services could make up as much as 49% of world trade
Barriers to Services Trade...

- Fairly high for most developing countries
- Often take the form of lump-sum costs to enter a market
- Estimated tariff equivalent of services restrictions high for the BRICS:
  - Brazil 55.5%
  - China 67.9%
  - India 68.1%
  - Russia 51.2%
  - South Africa 39.6%
<table>
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<tr>
<th>Country</th>
<th>Current Tariff Equivalent</th>
<th>Tariff Equivalent After 50% Cut</th>
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<td>USA</td>
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Can the potential expansion of services trade from ISA be quantified?

**Partial Equilibrium Approach**

- Calculating service trade generated by a 50% reduction in the tariff equivalent barriers
- Matrix of bilateral services trade flows between potential “core” members

1. Percentage point reduction in tariff equivalent barriers $\times$ price elasticity of imports (-1.37) = percentage gain
2. Percentage gain $\times$ trade flow = increase in trade

**Overall annual service exports would increase by $78 billion for members participating in the ISA plus the BRICS**

- This is a conservative estimate; no dynamic effects included
- US ($14 billion) and EU ($21 billion) would see the largest gains
Relationship of ISA to WTO

Various options
1. Inside the WTO

- As part of the Doha Development Agenda: reviving the services component

**Major Difficulties:**
- Lack of enthusiasm of the majority of WTO members
- Negotiations would be conducted within traditional GATS format – request / offer that does not work
- Limited agreement would not satisfy the needs and wishes of the business community
2. Linked to the WTO

- Plurilateral ISA negotiated
- Formal link to WTO requested through “waiver” option of Article IX(3) of Marrakesh Agreement – would need ¾ of WTO Members to agree

  Three advantages:
  1. ISA members could apply the WTO dispute settlement provisions to resolve their disagreements
  2. More countries would join an ISA linked to the WTO than a free-standing ISA
  3. ISA would focus attention on the WTO rather than a competing forum.
3. Outside the WTO

- ISA could be a free-standing agreement
- Similar to the other RTAs but covering services only – then notified under GATS Article V

GATS Article V Approach
- The “Economic Integration Provision”
- Services-only agreement covering “substantially all services trade” (number of sectors, volume of trade and modes of supply) - and eliminating “substantially all discrimination”
- High standard for the ISA
First Best Solution: ISA attached to the WTO

- Negotiation of a high-standard ISA meeting requirements of GATS Article V
- Attachment to WTO through waiver of $\frac{3}{4}$ of WTO members
- Conditional MFN agreement, with an accession clause
- Problems with unconditional MFN benefits?
  - Free-rider problem
  - No incentive for others to join in the future
  - Still an open question
What about the skeptics?

The BRICS

- Expected to stand back of the ISA in the first instance
- Including the five economies would add $349 billion to ISA world services exports, to 85% of total

Benefits for them:

- Improvement of the competitive strength of their domestic service sector
- High-quality services provided by foreign suppliers
- Guaranteed and more open markets for their existing exports of business and professional services (e.g. software- India, engineering-Brazil and Russia) and other services
- These opportunities should eventually help to overcome doubt
The ISA: A Services Agreement for the 21st century?

Architecture and Key Elements
Architecture

- **Negative List Approach** or/
  - ISA members should identify exceptions to services liberalization under traditional core disciplines; exceptions contain a time commitment
  - Possible challenge for EU participation
  - Should cover all service sectors
  - Create competitive neutrality and modal neutrality

- **Agreed target objectives**
  - Specific targets all members would be expected to meet
    1) Promise not to impose new restrictions
    2) Eliminate barriers to FDI
    3) Allow greater freedom of international movement of individual service providers
Key elements...

- **Conditional Most-Favored-Nation Treatment**
  - Countries that are not members of the ISA should not automatically benefit from ISA liberalization
  - Explore mechanism for extending RTA liberalization in current agreements and reaching convergence

- **Liberalized Temporary Movement (Mode 4)**
  - Emphasis on temporary movement of highly skilled persons: expand coverage
  - Possible bonding requirements for others
  - Tailor Mode 4 requirements to the skill qualifications of potential migrants
Key elements…

- **Stronger Disciplines**: key provisions to include in ISA
  - Government Procurement
  - Competition Policy
  - Mutual Recognition
  - Transparency
  - Domestic Regulation / Regulatory Coherence
New cutting-edge disciplines

1) **State-owned Enterprises-**
   - Accounted for 1/3 of the emerging world’s FDI between 2003-2010
   - Can distort conditions of competitiveness
   - Need substantial rules on SOEs to ensure competitive neutrality

2) **Cross-border Data Flows-**
   - ½ of the world’s trade in services is enabled by ICT
   - Must remain free of impediments
   - Need to include set of cross-border data principles that guarantee the right of unrestricted cross-border trade in data services
New cutting-edge disciplines

1) **Forced Localization**-
   - Interferes with modal neutrality, creates impediments to economic efficiency, impedes the smooth operation of value chains, and acts as a deterrent to FDI
   - Disciplines should constrain governments from imposing new “local content” requirements in service sectors

2) **Investment Protection and Guarantees**
   - Important to the business community
   - Consider including an investor-state arbitration mechanism for Mode 3 investment (FDI in services)
   - Possibly optional; accepted on a bilateral basis
How will differences be resolved?

- Preferred: Using the established dispute settlement mechanism of the WTO
  - But only practical if ISA is established within the WTO framework
  [Otherwise, separate dispute settlement provisions will have to be considered]

- With Modest Changes:
  - Advisory board should be included
  - Service firms could bring complaints to them
The time has come for an International Services Agreement

Thank You
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