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# Liberalization of Services Trade

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For obvious reasons, manufactures and agriculture dominate much of the debate about trade liberalization. Cross-border flows of manufactured products are easy to quantify and origins are relatively easy to track even when nested in global value chains. By contrast, service sector products are diffuse and difficult to pin down. Services are often wrongly thought of as "nontradable." How, after all, can you export a haircut?

But a great many services are in fact "tradable," carried in the heads of professionals traveling to foreign locales, transported over the internet, or delivered through direct investment in facilities abroad. Insurance sold by MetLife, mutual funds sold by Vanguard, and movies sold by Lionsgate are obvious examples. Less obvious are accounting services provided by Ernst & Young or engineering services provided by Bechtel. And not at all obvious are a new Mayo Clinic in Shanghai or a Yale campus in Singapore (which in fact exists).

The Trans-Pacific Partnership (TPP) opens up avenues for these and more than a hundred other services to be sold abroad—thereby integrating markets that have long been separated. Expanded services trade potentially ranks among the largest TPP payoffs, especially for the US economy. According to Peter Petri and Michael Plummer, US service exports will increase by $149 billion, the largest gain predicted in that sector for any TPP country. The TPP will boost services trade by $225 billion for all member countries, when fully implemented in about 15 years. (See their chapter in this volume.)

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The Korea-US FTA (KORUS) shows that these are not fanciful projections. Korea used the negotiations as a tool to open its professional and telecommunication service sectors and thereby modernize the Korean economy. US exports of services to Korea have grown steadily since KORUS entered into effect in March 2012, increasing from $16.7 billion in 2011 to $20.7 billion in 2014, a 24 percent rise.[1] Korea is not a TPP member, but US experience in the Korean service market previews potential gains in a much larger market once the TPP is ratified.

The tradable business services sector accounts for 25 percent of US employment, double the share of manufacturing (Jensen 2011, 3). Equally important, the business services sector is expanding. Growing subsectors include consulting services, research and development, health care, education, and government services. The World Trade Organization's (WTO) General Agreement on Trade in Services (GATS), adopted in 1995, represented the first official attempt to define "tradable" services and to lay the groundwork for multilateral liberalization. The GATS defined four "modes" of services trade: Mode 1—cross-border provisions (e.g., software sold over the internet from one country to another); Mode 2—consumption abroad (e.g., use of hotel services by a foreign national on vacation); Mode 3—commercial presence (e.g., opening a bank or a chain restaurant in a foreign country); and Mode 4—temporary movement of persons (e.g., a business consultant conducting a site visit abroad) (Jensen 2011, 28).

Attempts to further liberalize services trade within the GATS framework foundered in the WTO's Doha Development Round. This failure prompted a subgroup of 23 WTO members—including 8 TPP members and counting 28 EU countries as a single WTO member—to launch the Trade in Services Agreement (TiSA). TiSA could be completed in 2016 and might achieve a high degree of liberalization.[2] For the moment, however, the TPP accord represents the high-water mark of services liberalization in the world economy.

## Payoff to the US Economy

While the United States faces a comparative disadvantage in manufacturing standardized consumer goods—and therefore imports such items from Asia and Latin America—the law of comparative advantage always has a flip side. The United States enjoys an enormous comparative advantage in making and selling sophisticated services. As table 8.1 shows, the United States currently enjoys an annual trade surplus of more than $200 billion in cross-border

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1. Services trade data are available at "U.S. Trade in Goods and Services by Selected Countries and Areas," Bureau of Economic Analysis, www.bea.gov/international/index.htm#trade.

2. The 23 members of TiSA are *Australia*, *Canada*, *Chile*, Chinese Taipei (Taiwan), Colombia, Costa Rica, the European Union (28 countries), Hong Kong, Iceland, Israel, *Japan*, Liechtenstein, Mauritius, *Mexico*, *New Zealand*, Norway, Pakistan, Panama, *Peru*, South Korea, Switzerland, Turkey, and the *United States*. Italicized countries are TPP members.

**Table 8.1 US trade in cross-border services, 2005–14**
(billions of US dollars)

| Year | Exports | Imports | Balance of payments |
|---|---|---|---|
| 2005 | 373 | 304 | 69 |
| 2006 | 417 | 341 | 76 |
| 2007 | 488 | 373 | 116 |
| 2008 | 533 | 409 | 124 |
| 2009 | 513 | 387 | 126 |
| 2010 | 563 | 409 | 154 |
| 2011 | 628 | 436 | 192 |
| 2012 | 656 | 452 | 204 |
| 2013 | 688 | 464 | 224 |
| 2014 | 711 | 477 | 233 |

*Source:* US Bureau of Economic Analysis, www.bea.gov/iTable/iTable.cfm?ReqID=62&step=1#reqid=62&step=1&isuri=1&6210=4&6200=160.

service transactions. The outward stock of US foreign direct investment (FDI) in services amounts to $3.7 trillion, whereas the inward stock is $1.2 trillion. As table 8.2 shows, income receipts for US outward FDI in service industries far exceed income payments on US inward FDI ($318 billion versus $54 billion in 2014).

Many of the highest-paid professions are found in tradable service jobs. The US labor force ranks among the most highly educated in the world and features star entrepreneurs and outstanding innovators. Facebook, Google, and Uber—to name a few exemplary firms—are less than 20 years old yet dominate the global economy in their respective spheres. It cannot be forgotten that the internet, which has spawned applications in every nook of modern life, was started and nurtured in the United States.

The fact that US trading partners significantly limit their service imports implies that TPP liberalization will open vistas for US exporters. All TPP partners, like other WTO members, are signatories to the GATS. While this multilateral agreement, dating from the Uruguay Round completed in 1995, provides a framework for liberalization, to date it has required very little actual reduction of barriers. Moreover, negotiations in the ill-fated Doha Round have failed to dismantle the array of nontariff barriers used by WTO members to protect their domestic service suppliers.

Among TPP members, Canada, Japan, New Zealand, the United States, and Singapore have joined the Agreement on Government Procurement (GPA), which requires transparency and nondiscrimination in covered government procurement (including some services). TPP Chapter 15 on Government

**Table 8.2 US FDI income in service industries, 2014**
(billions of US dollars)

| Service industry | Outward FDI income receipts | Inward FDI income payments |
|---|---|---|
| Information | 16 | 4 |
| Banking | 5 | 10 |
| Finance and insurance | 39 | 18 |
| Professional, scientific, and technical services | 11 | 3 |
| Holding companies (nonbank) | 224 | 12 |
| Transportation and warehousing | 4 | 3 |
| Real estate and rental and leasing | 15 | 2 |
| Administration, support, and waste management | 4 | 2 |
| TPP subtotal[a] | 50 | 12 |
| Global total | 318 | 54 |

FDI = foreign direct investment

a. TPP total for income receipts includes 9 of the 12 TPP countries: Australia, Canada, Chile, Japan, Malaysia, Mexico, New Zealand, Peru, and Singapore. TPP total for income payments includes 7 of the 12 TPP countries: Australia, Canada, Japan, Malaysia, Mexico, New Zealand, and Singapore. Values between –$500,000 and +$500,000 are not recorded in BEA data.

*Source:* US Bureau of Economic Analysis, available at www.bea.gov/iTable/iTable.cfm?ReqID=2&step=1#reqid=2&step=1&isuri=1.

Procurement requires greater transparency on the part of members that have not joined the GPA (see chapter 7 by Tyler Moran in this volume).

Given empty shelves in the GATS framework and limited membership in the GPA, estimated "tariff-equivalent barriers" to services trade are high among TPP members. Tariff-equivalent figures translate regulatory barriers and quantitative restrictions into ad valorem tariffs. Lionel Fontagné, Amélie Guillin, and Cristina Mitaritonna (2011) have done the hard work of translating service sector barriers imposed by several countries into tariff-equivalent figures, shown in table 8.3. Restrictive barriers are common all over the Pacific, and sales of business services, the largest component of US service exports, are particularly restricted. The barriers include outright bans, quotas, restrictive licenses, buy-national procurement rules, and discriminatory access to distribution networks.

Specifically, in communication services, barriers in Japan and Singapore are estimated at 63 percent tariff equivalents, followed by Mexico with 56 percent tariff-equivalent barriers. Removing an outright merchandise tariff of 56 or 63 percent would bring shouts of joy; dismantling equivalent regulatory barriers should also be cause for celebration. In financial services, New Zealand and Australia are the most restrictive. Such high barriers have long hindered US service firms from selling to foreign markets.

**Table 8.3 Service barriers in the TPP** (percent ad valorem equivalent)

| TPP member | Communications | Finance | Business | Overall |
|---|---|---|---|---|
| Australia | 32 | 64 | 67 | 51 |
| Canada | 28 | 34 | 31 | 30 |
| Japan | 63 | 61 | 44 | 46 |
| Mexico | 56 | 53 | 134 | 73 |
| New Zealand | 38 | 71 | 49 | 47 |
| Singapore | 63 | 53 | 2 | 20 |
| United States | 37 | 51 | 42 | 36 |

Note: The "overall" figures are the average of eight reported categories, weighted by the US export total of each category.

*Source:* Fontagné, Guillin, and Mitaritonna (2011).

Back-of-the-envelope calculations suggest that *complete* elimination of *global* barriers to business services could increase US service exports by a massive $300 billion when fully implemented.[3] Of course the TPP did not achieve that ambitious target, but it made progress. Consequently, US exports of services are projected to enjoy significant growth.[4]

Peter Petri, Michael Plummer, and Fan Zhai first provided the best quantitative projections for the economic impact of the TPP in 2012. Their updated January 2016 estimates indicate that, for all TPP members, exports of manufactures will increase by $777 billion when the agreement is fully implemented some 15 years hence (see chapter 1 by Petri and Plummer in this volume). Service exports by all TPP members will increase by $225 billion by 2030. Under the TPP, US exports of services are projected to increase by $149 billion. In fact, US firms will claim the lion's share of service export gains enabled by the TPP, namely 67 percent. New access will greatly benefit US companies such as Ernst & Young, McKinsey & Company, Goldman Sachs, Fidelity Investments, the Cleveland Clinic, Bechtel, Yale University, and other titans of the modern American economy.

Three factors explain the predominance of US service firms: the efficiencies of large firms engaged in service industries, the huge US pool of highly educated personnel, and the widespread use of information technology. Compared with most other countries, the United States already provides a better environment for foreign companies in the service industries. The US

3. For details, see Hufbauer, Jensen, and Stephenson (2012).

4. The *Wall Street Journal* highlighted US agriculture, manufacturing, and technology companies as TPP winners, but it missed the point that, in terms of forecast export gains, the biggest TPP winners are US service firms. See David Kesmodel, William Mauldin, and Jonathan D. Rockoff, "Some U.S. Industries Seen as Winners in Pacific Trade Pact," *Wall Street Journal*, October 5, 2015, www.wsj.com/articles/several-u-s-industries-applaud-trans-pacific-partnership-1444078117 (accessed on October 12, 2015).

scores on the Organization for Economic Cooperation and Development (OECD) Services Trade Restrictiveness Index (STRI) are lower than the OECD averages in 11 sectors.[5] For example, in legal services, the United States has the lowest score (0.12) while Mexico has the highest (0.53). Very low US scores in the motion picture industry (0.06) and sound recording (0.05) also reflect a business-friendly environment. As a consequence of their TPP commitments, other members will liberalize their service market access barriers to a much greater extent than will be required of the United States.

While this chapter focuses on benefits to the United States, it must be emphasized that the TPP partners will enjoy significant economic gains from liberalizing their service markets. In most countries, service industries fall well behind US and Singapore productivity and quality levels. This is true in everything from retail trade to telecommunications to mutual funds. It is especially true of service industries in Japan, Mexico, Malaysia, and Vietnam. Low-cost, high-quality, and efficient services are essential for economic growth and critical inputs for export industries. These relationships are widely recognized among TPP partners. US exports of manufactures are projected to increase by $201 billion, somewhat larger than services, but account for only 26 percent of the TPP total.

## Services in the TPP

Services trade rightly received a lot of attention in TPP negotiations. In fact, 12 service sectors and approximately 168 subsectors are identified in the agreement. Four TPP chapters are exclusively devoted to these variegated services: Chapter 10, Cross Border Trade in Services; Chapter 11, Financial Services; Chapter 12, Temporary Entry for Business Persons; and Chapter 13, Telecommunications. In addition, Chapter 9, Investment, covers foreign direct investment in services as well as goods; Chapter 14, Electronic Commerce, covers the sale of services (entertainment, education, etc.) as well as the sale of goods; and Chapter 17, State-Owned Enterprises, covers SOEs that sell services or goods.

Chapter articles set forth principles of liberalization. If the TPP stopped there, free trade and investment in services would become the rule for the TPP member countries. However, numerous exceptions are scheduled both in chapter annexes and in the four annexes to the entire agreement: Annex I, Non-Conforming Measures (subject to a ratchet or future negotiation); Annex II, Non-Conforming Measures (of a permanent nature); Annex III, Financial Services; and Annex IV, State-Owned Enterprises. Like KORUS (and unlike the GATS), the TPP adopts a "negative list" approach for scheduling noncon-

5. 2015 data are available at OECD Services Trade Restrictiveness Index (STRI), http://stats.oecd.org/Index.aspx. The OECD STRI measures the following 19 sectors: logistics, accounting, architecture, engineering, legal services, motion pictures, broadcasting, sound recording, telecommunications, air transport, maritime transport, road freight transport, rail freight transport, courier, distribution, commercial banking, insurance, computer, and construction.

forming measures. A "negative list" means that, unless a particular service sector or subsector is scheduled, market access is open to firms based in all TPP members. Importantly, this approach will ensure free trade in newly created services. Meanwhile, the negative lists provide ready targets for future negotiations to enlarge the scope of free trade and investment.

In broad terms, with scheduled exceptions, TPP members have now promised fair and equal treatment to foreign firms that seek to enter their service markets through trade, investment, or both. New restrictions on market access are not permitted, and new unilateral liberalization will be automatically extended to all TPP members—again, with country- and subject-specific exceptions set forth in the annexes. As a general matter, foreign suppliers need not establish residence in other TPP countries to access local markets, for either goods or services.

Nevertheless, direct investment and trade flows are often two sides of the same coin. This is especially true for trade in services (see WTO 1996). Unlike the WTO, modern bilateral and regional trade agreements commonly include investment chapters that complement their service chapters (Houde, Kolse-Patil, and Miroudot 2007). Chapter 9 of the TPP follows this pattern. The investment chapter ensures that service firms can establish operations in partner countries, and it gives needed protection for fair treatment and compensation in the event of expropriation.

The unique features of TPP commitments in financial services (TPP Chapter 11) are examined in the chapter by Anna Gelpern. For present purposes, suffice it to observe that—for prudential reasons—the liberalization of financial services is considerably more limited than liberalization of most other service sectors.

## Sticky Barriers Endure

While the United States will reap substantial gains from services liberalization abroad, it insisted on retaining "sacred" barriers at home. These hobbled the US Trade Representative's efforts to secure still greater liberalization abroad and they continue to impose high costs on the US economy.

**Temporary movement of skilled personnel.** Special US visas enable the temporary entry of foreign business persons (L-1A visas for executives and managers and L-1B visas for skilled personnel), and together approximately 150,000 foreigners enter the United States annually under the L visas. But because of the political sensitivity of immigration, the United States made no new commitments in the TPP. In TPP Chapter 12, however, other TPP members did commit to negotiate reciprocal country-specific entry provisions for business persons.

**"Cabotage" laws.** The Merchant Marine Act of 1920, also known as the Jones Act, has raised the costs of transporting goods between US ports for almost a century. The Jones Act requires that "all merchandise transported between two ports within the jurisdiction of the United States be carried by a U.S.-flag vessel, built in the United States, owned by a U.S. citizen and crewed by American merchant mariners."[6] Similar "cabotage" laws exist in other countries and other industries—notably air travel. By excluding competition from foreign shipping and airlines, such laws significantly raise the cost of transporting goods and people, while conferring economic rents on a handful of protected firms and their employees.

**State professional licensees.** Tradable service jobs include many of the traditionally highest paid professions—such as doctors, engineers, and attorneys. These professions are highly regulated at the state level, and practitioners are often barred from selling their services in another state, much less another country. Attorneys eligible to practice in California cannot simply cross the border and represent clients in Arizona. First they must be admitted to practice by the state bar association. Medical licenses work in a similar manner. While licensing boards are necessary to maintain standards of competence and ethics, inflexible rules can diminish competitive forces, both nationally and internationally. Counterpart licenses and boards abroad obviously diminish the export potential of US firms and professionals. The TPP calls upon but does not require members to give due recognition to the professional qualifications of personnel based in other TPP countries.

**Excepted service industries.** Rules issued by the Federal Communications Commission (FCC) illustrate restrictions on service firms, whether domestic or foreign. Newspaper and broadcast station cross-ownership is prohibited if the station's service area entirely covers the city where the newspaper is published. However, as long as a TV station group does not reach more than 39 percent of all US TV households, a single entity can own a large number of TV stations nationwide. Mergers between major television networks such as ABC, CBS, Fox, and NBC are prohibited. Last, foreign ownership of capital stock of US broadcast, common carrier, or aeronautical radio station licensees is restricted to 20 percent of equity, while foreign investment of a firm that owns such media groups is limited to 25 percent.[7]

**Subfederal procurement of services.** States and municipalities regularly purchase services from private firms—everything from consulting engineers and database management to health and educational services. The United

6. See American Maritime Congress, "The Jones Act—the Foundation of the Merchant Marine," Issue Briefing, www.americanmaritime.org/about/jonesact.pdf (accessed on August 20, 2015).

7. This limit may be increased at the FCC's discretion, which it rarely exercises. More details available at "Foreign Ownership Rules and Policies for Common Carrier, Aeronautical En Route and Aeronautical Fixed Radio Station Licensees," FCC, updated November 20, 2014, www.fcc.gov/encyclopedia/foreign-ownership-rules-and-policies-common-carrier-aeronautical-en-route-and-aeronauti (accessed on August 13, 2015).

States excluded all subfederal procurement—goods and services—from TPP coverage, and other countries did likewise (see chapter by Tyler Moran on government procurement).

**Additional limitations.** Box 8.1 provides a long (but only partial) list of other US nonconforming measures, drawn from the four annexes. As the examples cited above and box 8.1 illustrate, consistent with the GATS and prior US FTAs, the United States was unwilling to use the TPP as a vehicle for significantly liberalizing service sectors.

US unwillingness served as justification for other TPP countries to insist on their own long lists of nonconforming measures. As a result, scheduled barriers will continue to restrict trade and growth in the Pacific countries. But the glass of liberalization is more than half full, since Japan, Malaysia, and Vietnam committed to far more liberalization of services trade in the TPP than they had promised in the GATS.

In the TPP, Japan liberalized package delivery services by FedEx and UPS and promised national treatment for 85 nonfinancial services including such activities as technical testing and radio and television services (see box 8.2). Malaysia will substantially augment its sparse commitment under the GATS (see box 8.3). Vietnam will provide national treatment in 64 subsectors of services such as telecommunications and remove many nontariff barriers such as caps on foreign capital contributions to new ventures (see box 8.4). These commitments will not only sharply increase the market access of US service firms but also spur growth in the three TPP partners.

## Conclusion

The United States made few new commitments in the four core TPP service chapters (cross-border trade, temporary movement of persons, finance, and telecommunications) or in the related chapters on subjects that significantly affect services trade (investment, electronic commerce, and state-owned enterprises). But other TPP countries did make commitments. Despite exceptions for nonconforming measures, those commitments bring foreign practices closer to US norms. In turn, US service firms enjoy better access, especially to the markets of Japan, Malaysia, and Vietnam.

Moreover, the TPP chapters establish a minimum floor for liberalization, which will eventually be achieved in TiSA and agreed by future members of the TPP. Nonconforming measures scheduled in the TPP may be whittled away in future negotiations. Services trade offers enormous opportunity for US export growth in the decade ahead. The TPP represents a significant milestone in reaching that potential.

## Box 8.1 Other illustrative US nonconforming measures

| | Sector | Obligations concerned | Description |
|---|---|---|---|
| Annex I | Atomic energy | NT | A license issued by the Nuclear Regulatory Commission is required for commercial purposes. |
| | Business services | NT, LP | A license is required for exports of certain high-tech goods and software. |
| | Mining | NT, MFN | Aliens and foreign corporations are limited in acquiring energy pipelines. |
| | All sectors | NT, MFN, SMBD | Overseas Private Investment Corporation (OPIC) programs are not available to non-US citizens. |
| | Land transportation | NT, LP, MFN | Only registered US persons may provide bus or truck services. |
| | Transportation services | NT, LP | A customs broker's license and a US office are required. |
| | All sectors | NT, MFN | Foreign firms, except for certain Canadian issuers, may not use the small business registration forms to register public offerings of securities. |
| Annex II | Social services | NT, MFN, LP, PR, SMBD | The United States reserves the right to adopt measures with respect to social services. |
| | Minority affairs | NT, LP, PR, SMBD | The United States reserves the right to adopt measures with respect to socially or economically disadvantaged minorities. |
| | Betting and gambling | NT, MFN, LP, PR, SMBD | The United States reserves the right to adopt or maintain any measure relating to betting and gambling services. |
| | All sectors | MA | The United States reserves the right to adopt measures consistent with US obligations under Article XVI of the General Agreement on Trade in Services (GATS) (NT and MFN schedules). |
| | All sectors | MFN | The United States reserves the right to adopt measures granting better treatment under free trade agreements. |

**Box 8.1 Other illustrative US nonconforming measures** *(continued)*

| | Sector | Obligations concerned | Description |
|---|---|---|---|
| Annex III | Banking and other financial services | SMBD | All directors of national banks must be US citizens. |
| | | NT, MA | Foreign ownership of Edge corporations is limited to foreign banks. |
| | | NT, MA | Credit unions and savings banks must be organized under US laws. |
| | | NT, MA | A foreign bank must establish an insured banking subsidiary. |
| | | NT | Foreign banks are required to register as investment advisers. |
| | | NT | Foreign banks cannot be members of the Federal Reserve System. |
| | | MA | The United States undertakes no commitment allowing the expansion by a foreign bank into another state. |
| | | NT, MA, CBT | The authority to act as a sole trustee of an indenture for a bond offering is subject to a reciprocity test. |
| | | NT, MA | Designation as a primary dealer in US government debt securities is conditioned on reciprocity. |
| | | MFN | A broker-dealer registered under US law that has its principal place of business in Canada may maintain its reserves in a bank in Canada. |
| | Insurance | NT, CBT, MA | Branches of foreign insurance companies are not permitted to provide surety bonds for US government contracts. |
| | | CBT | The insured must demonstrate that the insurance was sought in the US market when federal maritime vessels are insured by non-US person. |
| Annex IV | State-owned enterprises | Nondiscriminatory treatment | To facilitate housing finance in the United States, Fannie Mae and other federal financing banks may purchase and sell financial products only to US persons. |

NT = national treatment; MFN = most-favored nation treatment; LP = local presence; SMBD = senior management and boards of directors; PR = performance requirements; CBT = cross-border trade; MA = market access

Note: Annex I pertains to Non-Conforming Measures (subject to a ratchet or future negotiation); Annex II pertains to Non-Conforming Measures (of a permanent nature); Annex III pertains to Financial Services; and Annex IV pertains to State-Owned Enterprises.

*Source:* TPP full text, https://ustr.gov/trade-agreements/free-trade-agreements/trans-pacific-partnership/tpp-full-text.

## Box 8.2 Illustrative service liberalization commitments for Japan

- In the TPP, Japan secured narrower exceptions, compared to its previous FTAs. Japan agrees not to introduce new nonconforming measures for aircraft manufacturing and repair. Discriminatory measures for "new" services (aka "unrecognized or technically unfeasible services"), as well as measures for nonnuclear energy utilities to favor domestically made equipment are not allowed. For the first time, Japan clarifies that its exception for "postal services" does not cover the delivery of parcels, packages, and goods—e.g., courier services, including express.
- In the GATS, of the 138 nonfinancial services subsectors in the comprehensive list (W/120), Japan agreed to full national treatment commitments for Mode 1 (cross-border supply) and Mode 3 (commercial presence) in only 26 subsectors. It has no GATS commitments in 50 subsectors. By comparison, in the TPP, applying its negative-list Non-Conforming Measures (NCMs) to the W/120, Japan agreed to full national treatment commitments in 85 services subsectors, and improvements over the GATS in another 47.
- Subsectors in which Japan's TPP commitments are improved over its GATS commitments include:

  Research and development; Technical testing; Courier services; Telecom; Radio and television services; Other communications services; Distribution; Air, road, water, and rail transport; Services auxiliary to all modes of transport.

GATS = General Agreement on Trade in Services

*Source:* TPP full text, https://ustr.gov/trade-agreements/free-trade-agreements/trans-pacific-partner-ship/tpp-full-text.

## Box 8.3 Illustrative service liberalization commitments for Malaysia

- Elimination of foreign capital cap in telecom services (Malaysia set a 30 percent cap under the GATS).
- Elimination of all joint venture and performance requirements for 12 service sectors in the upstream oil and gas industry, including drilling services, turbine repair and maintenance, and seismic data acquisition.
- Liberalization of its legal services market for the first time.
- Malaysia's GATS commitments are fewer than Vietnam's, so the TPP provides a significantly broader coverage than the GATS. Subsectors in which Malaysia's TPP commitments are improved over its GATS commitments include:

  Computer and related services; Research and development services; Rental/leasing without operators; Advertising services; Management consulting; Audiovisual services; Construction services; Environmental services; Higher education services.

GATS = General Agreement on Trade in Services

*Source:* TPP full text, https://ustr.gov/trade-agreements/free-trade-agreements/trans-pacific-partnership/tpp-full-text.

## Box 8.4 Illustrative service liberalization commitments for Vietnam

- Elimination of foreign capital cap in non-facilities-based telecom services within 5 years (Vietnam set the cap at 65 percent under the GATS).
- Elimination of its economic needs test (ENT) for additional retail stores: immediately for stores less than 500 square meters and within 5 years for all stores.
- Elimination of foreign capital cap for electronic game services within 5 years (Vietnam set the cap at 49 percent under the GATS).
- Elimination of joint venture requirements for freight brokerage and related cargo logistics services.
- In the GATS, of the 138 nonfinancial services subsectors in the comprehensive list (W/120), in only 8 did Vietnam promise full national treatment for Mode 1 (cross-border supply) and Mode 3 (commercial presence). It did not have GATS commitments in 57 subsectors. By comparison, in the TPP Vietnam promises full national treatment in 64 subsectors, and improvements over the GATS in another 43 subsectors.
- Nonfinancial subsectors in which Vietnam's TPP commitments improve on its GATS commitments include:

  Engineering services; Advertising services; Management consulting services; Services incidental to mining and manufacturing; Related scientific and technical consulting services; General construction services; All environmental services; Services auxiliary to all modes of transport; Interdisciplinary R&D; Real estate services; Rental/leasing of ships and other transport equipment; Radio and television services; Other communications services such as Facebook, Instagram, etc.; Home security services; Entertainment and recreational services; Air transportation services.

GATS = General Agreement on Trade in Services

*Source:* TPP full text, https://ustr.gov/trade-agreements/free-trade-agreements/trans-pacific-partner-ship/tpp-full-text.

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