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THE ANATOMY OF REGIONAL TRADE AGREEMENTS WITH A SERVICES COMPONENT

ANATOMIA REGIONALNYCH POROZUMIEŃ HANDLOWYCH Z KOMPONENTEM USŁUGOWYM

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Summary: Regional trade agreements (RTAs) have risen in number and reach over the years, including a notable increase in the agreements with services commitments. Of the 293 RTAs WTO-notified and currently in force, 142 have provisions liberalizing trade in goods only, while 151 also cover services commitments. On the basis of the World Trade Organization RTA Database, the paper maps the global landscape of RTAs and draws the main trends and characteristics of RTAs services' proliferation through quantitative and qualitative categorizations of RTAs. The detailed analysis of the recent proliferation of RTAs points to the differences in the anatomy of agreements with a services component and agreements with a goods component.

Keywords: GATS, regional trade agreements (RTAs), services, trade in services, WTO.

Streszczenie: Regionalne porozumienia handlowe (*Regional Trade Agreements*, RTAs) są kluczowym elementem międzynarodowych relacji handlowych. Przez ostatnie dwadzieścia pięć lat obserwujemy szybki wzrost zarówno liczby, jak i zasięgu geograficznego RTAs, w tym znaczne zwiększenie się liczby porozumień obejmujących przepływ usług. Spośród 293 RTAs notyfikowanych przez Światową Organizację Handlu (World Trade Organization, WTO) i aktualnie obowiązujących 142 zawierają postanowienia liberalizujące wyłącznie handel towarami, a 151 dotyczy także zobowiązań w zakresie handlu usługami. Na podstawie informacji z bazy WTO RTA Database artykuł odwzorowuje aktualny krajobraz regionalnych porozumień handlowych i identyfikuje najważniejsze tendencje i cechy charakterystyczne usługowych RTAs. Szczegółowa analiza obecnej proliferacji RTAs wskazuje na różnice w anatomii porozumień z komponentem usługowym w porównaniu z porozumieniami obejmującymi wyłącznie handel towarami.

Słowa kluczowe: GATS, regionalne porozumienia handlowe, usługi, handel usługami, Światowa Organizacja Handlu (WTO).

1. Introduction

Regional trade agreements (RTAs) have increased rapidly in recent years, as has the world share of trade covered under them, and have become a key fixture of trade policy for all World Trade Organization (WTO) members¹. The proliferation of RTAs, coexisting with the multilateral trading system, presents the WTO members with challenges and opportunities; the promotion of free trade through preferential agreements can foster trade liberalization and benefit economic development by integrating developing countries into the world economy; yet the development of complex networks of non-MFN trade relations will increase discrimination and may well undermine transparency and predictability in international trade relations [Acharya (ed.) 2016].

RTAs in the WTO are taken to mean any reciprocal trade agreement between two (bilateral) or more (plurilateral) partners, not necessarily belonging to the same region. WTO members are permitted to enter into RTAs under specific conditions which are spelled out in three sets of rules. These rules cover the formation and operation of customs unions and free-trade areas covering trade in goods (Article XXIV of the General Agreement on Tariffs and Trade 1994), regional or global arrangements for trade in goods between developing country members (Enabling Clause), as well as agreements covering trade in services (Article V of the General Agreement on Trade in Services) [The World Trade Organization 2019a]. The most recent instrument – the transparency mechanism – clarifies procedures to be followed by for the notification to the WTO and the consideration of RTA by the relevant committee: the Committee on Regional Trade Agreements (CRTA) for RTAs notified under Article XXIV of GATT and Article V of GATS, and the Committee on Trade and Development (CTD) for RTAs falling under the Enabling Clause [The World Trade Organization 2019b].

In addition to their increasing number, modern RTAs are becoming more sophisticated in their content and coverage. There is a growing trend in RTAs to liberalize not just goods trade but also trade in services and investment. As a result, over the last 25 years provisions referring to services have been included in an increasing number of regional trade agreements. A detailed analysis of RTAs currently in force and notified to the WTO (as of 7 March 2019), shows that issues related to services are explicitly found in more than half of the agreements.

Article V of GATS permits the formation of economic integration agreements, provided that the agreement has substantial sectoral coverage, including all four modes of supply, and it eliminates substantially all discrimination between the parties by eliminating existing discriminatory measures and/or prohibiting new or more discriminatory measures [The World Trade Organization 2019c].

Following a brief introduction regarding the WTO rules applying to RTAs, the paper attempts to discern the recent developments and trends in the changing landscape

¹ All the 164 WTO members currently have RTAs in force.

of RTAs with services commitments. It presents a comprehensive overview of services RTAs proliferation compared to that of RTAs in general, characterizes patterns in RTAs formation, and describes their landscape that we face today. It also looks at statistics on services trade flows related to RTAs in order to shed some light on this issue². The paper uses the WTO RTA Database as its principle source of information. The objective of this paper is not to examine the coverage and depth of trade liberalization covered in RTAs; the author's intent is rather to raise awareness of the scale and significance of the services RTA phenomenon – as an important development in the global trading system – with a view to further research on these issues.

2. The current landscape of services RTAs³

Although regional services agreements are not a recent phenomenon (notably in the European region), the number and scope of provisions related to services incorporated in a given RTA have tended to increase steadily since the early 1990s. This was a result of the entry into force of the WTO and the creation of rules on international trade in services through the GATS and its article V “Economic Integration”, which apply specifically to regional services agreements.

Figure 1 considers the scale of the RTA proliferation (during the WTO years) by listing the cumulative number of physical RTAs in force as well as by breaking down the number of RTAs notified, by type of notification: goods and services. As of 7 March 2019, of the 293⁴ RTAs notified and in force, 142 have provisions liberalizing trade in goods only, while 150 liberalize goods and services, and 1 covers trade in services only⁵. The figure below indicates a large increase in services RTAs activity – especially over the last fifteen years. Since 1995, on average six RTAs including trade in services have been notified per year (compared to ten goods notifications). The contribution of new services notifications to the total increase in RTA notifications is likely to become more significant in the future if we consider that almost all of the RTAs signed but not yet in force, and under negotiation contain provisions on trade in services. Furthermore, the momentum in services trade [McKinsey Global Institute 2019] appears to validate and further strengthen this trend.

In order to identify and characterize relevant patterns in the regional trade agreements landscape, this section sets out to classify RTAs according to the following criteria:

² Data on intra-RTA trade in services are very limited.

³ The paper identifies the trends in the landscape of WTO-notified RTAs currently in force (as of March 2019).

⁴ Accessions to already existing RTA are not counted separately.

⁵ Since WTO members do not strictly follow their notification obligations, the actual number of services RTAs is likely to be much higher than what is reported.

- 1) level of development⁶ (participation of developed or developing countries only or of both developed and developing countries);
- 2) geographical coverage (intra or cross-regional RTAs) within/across regions⁷;
- 3) type (bilateral or plurilateral RTAs).

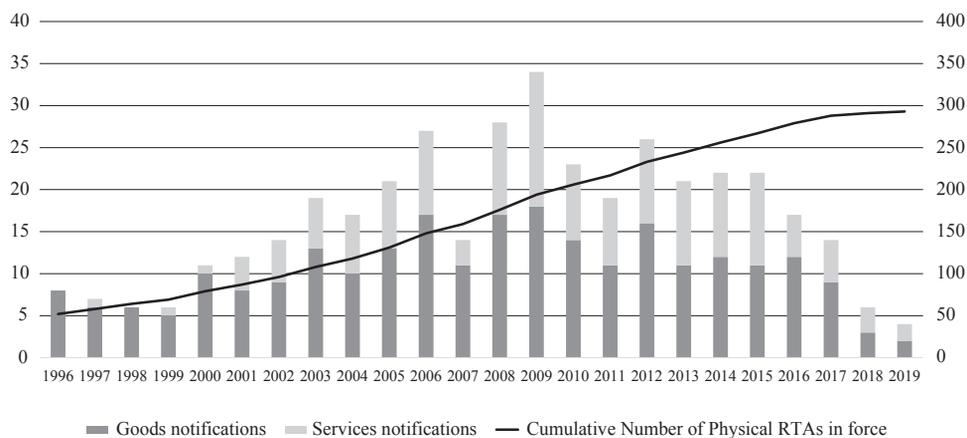


Fig. 1. Physical RTAs currently in force (by year of entry in force), 1996-2019

Note: Physical RTAs in force refer the actual RTAs notified to the WTO. They are calculated without double-counting the RTAs in goods and services and without including accessions to existing RTAs.

Source: [The World Trade Organization 2019d].

The level of development of members of RTAs with a services component differs slightly from that of RTAs with a goods component, as indicated in Table 1. While the proportion of RTAs with a services component and those with a goods component between developed countries is almost identical (less than 6 per cent of the agreements), agreements among developing countries are much less frequent for services than for goods (46 per cent and 65 per cent respectively), while RTAs between developed and developing countries are more numerous for services (48 per cent) than for goods (32 per cent). These figures are also extremely interesting in that they seem to show that preferential services trade, and hence more generally services trade, is equally important between developed and developing, and between developing ones. At the same time, they indicate that agreements containing services commitments are fewer between developed countries. The exceptions are partnerships between the EU – Japan, the EU – Canada, the United States – Australia, Australia – New Zealand, and Japan – Switzerland.

⁶ The definition of developed and developing countries is in accordance with the classification used by the World Trade Organization [The World Trade Organization 2018a].

⁷ The definition of regions is in accordance with the composition used by the World Trade Organization [The World Trade Organization 2018b].

Table 1. Number and percentage of RTAs in goods and services, by level of development, type and geographical coverage, 2019

Classification of RTAs	RTAs with a goods component		RTAs with a services component	
Developed-Developed	4	3%	9	6%
Developed-Developing	46	32%	73	48%
Developing-Developing	92	65%	69	46%
Bilateral	110	77%	130	86%
Plurilateral	32	23%	21	14%
Intra-regional	73	51%	40	26%
Cross-regional	69	49%	111	74%

Source: [The World Trade Organization 2019d].

A significant aspect of this proliferation is the configuration of RTAs. In terms of the composition used (bilateral versus plurilateral) and of the geographical distance with the partners chosen, services RTAs differ slightly, as illustrated in Table 1. The bulk of RTAs in force (over 80 per cent) are based on bilateral composition rather than the plurilateral one. The proportion of plurilateral agreements is lower (14 per cent) for agreements with a services component than for agreements with a goods component (23 per cent). The dominant share of bilateral RTAs results partly from the category of bilateralism applied [The World Trade Organization 2018b] according to which bilateral agreements may include more than two countries when one of the party is an RTA itself. As shown in Table 2, the number of bilateral RTAs in services between developing countries is quite similar to the number of agreements between developed and developing ones. There have been small and medium-sized countries, such as Singapore and Panama, larger ones, such as United States and more recently China, as well as an RTA itself (e.g. EU, EFTA, ASEAN) that have played a central role in this move towards increasing bilateralism.

The difference between RTAs in goods and services is more striking in terms of geographical distance with the chosen partners – three quarters of the agreements with a services component are cross-regional while less than half (49 per cent) of the agreements with a goods component are of a cross-regional nature. The bulk (86 per cent) of cross-regional RTAs with a services component are bilateral agreements, including (an increasing number of) agreements when one of the parties is a plurilateral RTA⁸. They are being supplemented by the simple plurilateral configuration (in which the constituent parties exceed two countries⁹) and agreements in which one of the parties is itself an RTA¹⁰.

⁸ Recently notified examples include EU-Japan, EU-Canada, EFTA-Philippines, EFTA-Georgia, and EAEU-Vietnam.

⁹ Recent examples include Comprehensive and Progressive Agreement for Trans-Pacific Partnership, GUAM and the Pacific Alliance.

¹⁰ Examples include EFTA – Central America, EU – Central America, ASEAN – Australia – New Zealand, EU – CARIFORUM States EPA.

Table 2. Number of bilateral and plurilateral RTAs with a services component, by level of development and geographical coverage, 2019

Classification of RTAs	Bilateral	Bilateral; One Party is an RTA	Plurilateral	Plurilateral; One Party is an RTA
Developed-Developed	4	3	1	1
Developed-Developing	44	20	4	5
Developing-Developing	54	5	10	0
Intra-regional	25	8	6	1
Cross-regional	77	20	9	5

* The key or the explanation of the symbols used in the table.

Source: [The World Trade Organization 2019d].

The sharp increase in the number of cross-regional RTAs represents the most distinctive feature of the current proliferation; indeed these RTAs mean a shift from the traditional concept of regional integration among neighbouring countries with already well-established trading patterns (e.g. NATFA, CARICOM, MERCOSUR, EU, ASEAN), to preferential partnerships driven by strategic (political and economic) considerations that are not necessarily related to regional dynamics [Fiorentino et al. 2007]. RTAs with extra-regional partners are being employed as tools to open new trade opportunities in the global market place and in this way they are changing long established geographical trade patterns. The trend towards a broader geographical scope of RTAs is even more pronounced for those agreements that are currently under negotiation or have recently been signed (but are not yet in force), practically all of which are cross-regional.

There have also been changes over time in the geographical distribution of RTAs (Table 3). While RTAs were originally driven mainly by the European Union and the EFTA states, today the predominance of Europe in RTAs is challenged by an ever increasing number of notified RTAs (with many more under negotiation) in the Asian region, followed by countries in South America, consolidating their drive towards regionalism at an accelerated pace. However, RTAs covering trade in services tend to be concentrated in the Asian region, leading in terms of absolute numbers of RTAs for both the agreements within its own region and with other regions. By contrast, Africa and the Middle East, despite their relatively large number of agreements including the liberalization of merchandise trade, have only a few RTAs with a services component, although many countries from these regions are currently involved in negotiating trade agreements that may cover services.

The RTA phenomenon has spread across all regions. Table 4 shows the number of active services RTAs within a region and across regions for each regional group and partner group. East Asian countries, despite their wide extra-regional networks of RTAs, notably with partners from Oceania, South America and Europe, have also formed 18 physical RTAs with each other. While Europe features a considerable

Table 3. Regional composition of physical RTAs notified and in force, 2019

Region	Total RTAs	RTAs with a services component	Cross-regional RTAs with a services component	Intra-regional RTAs with a services component
Europe	99	34	25	9
East Asia	88	77	59	18
South America	61	44	41	3
CIS	46	11	9	2
North America	43	31	30	1
Central America	40	34	29	5
Africa	35	2	1	1
Middle East	28	5	5	0
Oceania	25	19	18	1
West Asia	21	7	7	0
Caribbean	9	4	4	0

* CIS denotes the Commonwealth of Independent States, including associate and former member states.

In cases when the signatories to the agreement belong to more than two regions, RTAs are counted more than once.

Source: [The World Trade Organization 2019d].

Table 4. The number of services RTAs within a region and across regions for each regional group and partner group

Region	North America	Caribbean	Central America	South America	Europe	CIS	Africa	Middle East	East Asia	West Asia	Oceania
North America	1	1	6	12	3	0	1	3	5	0	2
Caribbean		0	4	2	1	0	0	0	0	0	0
Central America			5	13	3	0	0	0	7	0	0
South America				3	5	0	0	0	12	0	3
Europe					9	5	0	0	10	0	0
CIS						2	0	0	3	0	0
Africa							1	0	0	0	0
Middle East								0	2	0	0
East Asia									18	7	16
West Asia										0	0
Oceania											1

Source: [The World Trade Organization 2019d].

number of agreements within the region, it has also followed the recent trend towards more cross-regional integration, and engaged in a dozen RTAs with countries in both Americas, East Asia and the CIS region. By contrast, North American countries have directed their RTA activities to other continents; they signed a series of agreements with partners in Latin America, and a few partnerships with countries in East Asia, the Middle East and Europe. Similarly, Oceanian countries prefer to form RTAs with extra-regional partners rather than with intra-regional ones. Perhaps not surprisingly, many cross-regional agreements are also located in North, Central and South America as well as the Caribbean in various constellations. It is noteworthy that few RTAs with a services component involve countries from more than two geographical regions, such as an RTA between the United States, Central American countries (within the Central American Free Trade Agreement) and the Dominican Republic in the Caribbean, the Economic Partnership Agreement signed by the 15 states of CARIFORUM and the EU 28, or the recent Comprehensive and Progressive Agreement for the Trans-Pacific Partnership which encompasses countries from East Asia, Oceania, and the North and South Americas.

At a global level, the EU is the most active WTO member in terms of the number of RTAs in force it has negotiated (Table 5) and the number of RTAs for which an early announcement has been made. In Europe it is followed closely by the EFTA

Table 5. WTO members most active in RTAs with goods and services commitments, 2019

Country/ Group of countries	Total RTAs	RTAs in goods only	RTAs in goods and services	List of RTAs for which an early announcement has been made
1	2	3	4	5
EU	40	24	16	EU – Eastern African Community (EAC) EPA; EU – India; EU – Indonesia; EU – Malaysia; EU – Morocco; EU – Philippines; EU – Singapore; EU – Thailand; EU – Tunisia; EU – US TTIP; EU – Vietnam; EU – West Africa EPA
EFTA	26	16	10	EFTA – Central America – Accession of Guatemala; EFTA – Ecuador; EFTA – GCC; EFTA – Indonesia; EFTA – India; EFTA – MERCOSUR; EFTA – Russian Federation/ Belarus/Kazakhstan; EFTA – Vietnam
Chile	24	5	19	–
Turkey	19	18	1	Ukraine – Turkey
Japan	16	1	15	Japan – Gulf Cooperation Council (GCC); Japan – Republic of Korea
Singapore	15	0	15	Canada – Singapore; EU – Singapore; Ukraine – Singapore

1	2	3	4	5
Republic of Korea	15	1	14	Japan – Republic of Korea; Korea, Republic of – Mexico
China	14	0	14	The Cross-Straits Economic Cooperation Framework Agreement (ECFA); China – Norway; Republic of Moldova - China
Panama	14	1	13	EFTA – Central America – Accession of Guatemala
Peru	13	1	12	–
United States	13	1	12	EU – US TTIP
Canada	12	5	7	Canada – CARICOM; Canada – Dominican Republic; Canada – El Salvador – Guatemala – Honduras – Nicaragua; Canada – Singapore
India	12	7	5	Bay of Bengal Initiative on Multi-Sectoral Technical and Economic Cooperation (BIMSTEC); EFTA – India; EU – India; India – SACU
Mexico	11	2	9	Republic of Korea – Mexico
Australia	11	1	10	Australia – Gulf Cooperation Council (GCC)

Source: [The World Trade Organization 2019d].

states and Turkey, in part due to their close economic relations with each other. Asia, Japan, Singapore and the Republic of Korea have the largest number of RTAs in force. However, others have been catching up for a number of years, notably China and India, while in Latin America, Chile, Panama and Peru have taken the lead in negotiating RTAs. In terms of RTAs with services provisions, Chile participates in the largest number of agreements (19), followed by the EU (16), Japan and Singapore (15), the Republic of Korea and China (14), Panama (13), Peru and the United States (12). Latin American countries and Asian countries, however, show increasing RTA activity, concluding the majority of their services agreements in the last decade. The above mentioned countries are considered to be a motor of RTA proliferation, as they are actively engaged in establishing RTAs with many partners, bundling up the formation of RTAs in goods and services.

2.1. Services trade flows related to RTAs

We should not lose sight of the fact that while the number of RTAs is important, the percentage of world trade that such RTAs cover is of much greater significance.

The major regional trade agreements (RTAs) shown in Table 2 range in size from three to twenty-eight economies. The European Union remains the largest RTA with

services commitments in terms of the number of member countries and the share in global exports of commercial services. EU services exports totalled 2288 bln USD in 2017, which constituted 43 per cent of world services exports (and 91 per cent of total European exports) while intra-EU services trade accounted for more than half of EU total exports. In terms of value of services exports in total RTA exports the Caribbean Community and Common Market (CARICOM) ranks first among major RTAs, with services representing 45 per cent of total CARICOM exports in 2017.

Table 6. Selected RTAs' exports of services, 2017 (percentage share)

Region	RTA	Number of member countries	RTA's share in global exports of services	Share of services exports in total RTA exports
Europe	European Union (EU)	28	43.3	27.9
	European Free Trade Association (EFTA)	4	3.1	28.4
North America	North American Free Trade Agreement (NAFTA)	3	16.6	26.9
South and Central America	Andean Community (CAN)	4	0.4	14.8
	Central American Common Market (CACM)	5	0.4	31.2
	Caribbean Community and Common Market (CARICOM)	15	0.3	45.0
	Southern Common Market (MERCOSUR)	5	1.0	14.3
Africa	Economic and Monetary Community of Central Africa (CEMAC)	6	0.0005	12.2
	Common Market for Eastern and Southern Africa (COMESA)	20	0.7	31.7
	Economic Community of West African States (ECOWAS)	15	0.3	15.0
	Southern African Development Community (SADC)	15	0.5	14.4
	West African Economic and Monetary Union (WAEMU)	8	0.1	13.8
Middle East and Asia	ASEAN Free Trade Area (AFTA)	10	6.8	21.4
	Gulf Cooperation Council (GCC)	6	2.4	15.0
	South Asian Free Trade Agreement (SAFTA)	8	3.8	35.3

Source: [The World Trade Organization 2019e].

All major regional trade agreements cover 77 per cent of international trade in services today. The European Union (EU) and the North American Free Trade Agreement (NAFTA) continue to dominate services trade among regional trade agreements. They accounted for roughly 60% of the global exports of services in 2017, while together with members of the ASEAN Free Trade Area (AFTA), these three RTAs represented two-thirds of world exports of services. Other RTAs continue to represent relatively less important contributors to global services trade. The share of services exported by RTAs in the Middle East and Asia (AFTA, GCC, SAFTA) did not exceed 7 per cent of global exports. While African (CEMAC, COMESA, ECOWAS, SADC, WAEMU) and South and Central American (CAN, CACM, CARCOM, MERCOSUR) RTAs' participation in international services trade remain negligible, accounting for less than 1 per cent of world exports.

3. Conclusions

Over the years, regional trade agreements have not only increased in number but also in depth and complexity. The result has been the emergence of a dense network of RTAs over time, with overlapping agreements among the same trading partners in several cases, creating a global trade landscape defined by the complex interplay, even competition, among multiple trade regimes [The World Trade Organization 2011].

Services have not escaped the recent outbreak of RTAs, but as a relatively new subject in the trade negotiations, they have been less affected by this trend than goods. Only since the mid-1990s in particular, there has been a steady increase in RTAs with a services component entering into force. Currently, fifty-two per cent (151 out of 293) of physical RTAs include provisions liberalizing trade in services.

On the basis of WTO data, the paper mapped the global landscape of services RTAs and drew the main characteristics of their activity through quantitative and qualitative categorizations of RTAs in force. From this detailed analysis of recent proliferation of RTAs, a number of conclusions emerge. First, there are indeed differences in the anatomy of agreements with a services component and agreements with a goods component. Second, RTAs show an increasing level of sophistication; many of the new ones include the liberalization of trade in services and their outreach in terms of partners is becoming both innovative and not geographically bound. It is significant that the bulk of cross-regional RTAs with a services component are bilateral agreements, including an increasing number of agreements when one of the party is a plurilateral RTA. Third, services RTAs occur mainly between developed and developing countries, although an important share of agreements today is between developing countries as well. This indicates that RTAs are gradually replacing long established non-reciprocal systems of preferences, and the growing importance of developing countries in global services trade. The fourth trend that has been identified points to the process of enlargement and consolidation of existing

regional integration schemes, leading eventually to continent-wide or cross-regional free trade blocks.

The growing weight of services indicates that these are sectors that need more attention from governments in trade agreements and national policy agendas. Services are vital for trade growth, and they need to be more central in future trade agreements, hence the strong probability that the services RTAs proliferation will continue.

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