‘Services Provisions in RTAs: Stumbling Blocks or Building Blocks for Multilateral Liberalisation?’

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Outline

• Authors
• Argument put forward
• Uniqueness of Services
• Economic effects
• Rules of origin
• Ongoing Liberalisation (PTA context)
• Building Blocks or Stumbling Blocks?
• Scope for WTO?
• Summary of suggestions and conclusions – Cause for optimism
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Argument

• Recent Wave: RTAs including a trade in services component

• Reflecting the following developments:
  – 1: Increasing reliance on other barriers
  – 2: Importance of services infrastructure
  – 3: Increase range of services traded
  – 4: Expanded scope for foreign participation

• Generally debate confined to goods

• Changing nature requires new thinking
  – More optimistic case than that of goods
  – Suggest disciplining role for WTO
Uniqueness - services.

- Broadening of Trade concept & need to focus on non-tariff barriers
- 4 modes of trade in services:
  - 1: Cross Boarder (35%).
  - 2: Consumption Abroad (10-15%).
  - 3: Commercial Presence (50%).
  - 4: Presence of natural persons (1-2%).
- Services 2/3 Global GDP
  - Cross border share ~ 20%
- Largely: foreign investment.
Economic Effects - Liberalising Country

• Matto & Fink (2004)
  – 1: Preferential liberalisation in services brings static welfare gains (relative to status quo).
  – 2: Unilateral MFN liberalisation generally yields greater welfare gains than unilateral preferential liberalisation.
  – 3: Long term trade diversion effect even if preferences are only temporary.
Rules of origin - Services

• Focus: Origin of **providers**
• Rules for RTAs in Services:
  – 1: Criteria re. **jurisdiction**
  – 2: **Supplier’s** economic activity
  – 3: **Ownership/control** of enterprise
• **Restrictive** = greater scope diversion
• When **liberal** - diversion depends upon
  – Openness, propensity to do business anyway, costs associated with departure
• **Additionally**: Nature of Services
• Welfare implications **differ** for preference granters/receivers
Ongoing Liberalisation (PTA)

• Explicit Vs regulatory (implicit)
• How much explicit liberalisation has taken place?
• Questions
  – 1: How deep is value added offered by RTA commitments?
  – 2: What extent are non-parties to RTAs discriminated against?
Fink (2007)

• 1: RTA commitment reproduces GATS
• 2: RTA commitment goes beyond GATS
  – (but does not imply liberalisation)
• 3: RTA commitment implies actual L’n
  – Non-discriminatory implementation
• 4: *RTA commitment implies actual L’n*
  – *Liberal rules of origin*
• 5: RTA commitment implies actual L’n
  – *Restrictive rules of origin*
What this means

• Why so liberal?
  – GATS V:6, but why agree?
  – Network characteristics

• How many in which category?
  – Partial answer only…
  – Cat #1: exception
  – Cat #2,3 & 4: most common

• Sectoral Distribution Patterns:
  – RTAs offer at least some value added
  – Greatest L’n in sectors less sensitive to foreign participation & supply important Inputs for firms in economy
Implicit Barriers

– legitimate regulatory measures that address market failures or promote certain social objectives

• Restrictions often incidental
  – Not intentional - also open to abuse

• Many RTAs discipline use of regulatory barriers via provision resembling GATS VI: 4

• May help prevent protectionism framed in terms of regulation
  – Regulatory standards Vs practice
  – Regional co-operation - discrimination

• Trade interests ➔ new solutions
Building OR Stumbling Blocks?

• Need for non-discriminatory market opening & liberal RoO
• Not negotiated in isolation

• Building Block Forces
• Political Economy Arguments
  • Importance of scale and sequence
  • Proliferation undermines reciprocity
  • Including Non-party MFNs
  • Restrictive nature RoO for naturals
  • Regulatory co-operation & PolEc forces
  • Spillovers

• Only time will tell…
  – BUT BBs compartmentally stronger wrt goods
Suggestions for WTO:

- Strengthen **surveillance** of Services RTAs
- Encourage secretariat/scholars to **analyse** the relevance of first mover advantages
- Encourage international **regulatory standards**
- Promote **transparency** and reduce trade distorting propensity of MRAs
- Encourage **templates** in MRAs
- Further **regulatory co-operation**.
Conclusions...

- **RTAs**: *on balance* stronger in case of services than goods.
- **Optimism**: weakly discriminatory nature
- Only **time will tell** whether recent wave RTAs in Services is harmful or helpful to multilateral cause.
- **Special Concerns:**
  - 1: RTAs liberalising mode 4 (discriminatory-rules of origin)
  - 2: Preferential Regulatory co-operation (discernable discrimination)