



International Centre for Trade  
and Sustainable Development

# Facilitation 2.0: Services and Trade in the Digital Age

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September 2018

Think Piece



[rtaexchange.org](http://rtaexchange.org)

# Acknowledgements

## Published by

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Publisher and Chief Executive: Ricardo Meléndez-Ortiz

Inter-American Development Bank (IDB)  
1300 New York Avenue, N.W., Washington, D.C., 20577, USA  
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## Acknowledgements

This paper has been produced under the RTA Exchange, jointly implemented by the International Centre for Trade and Sustainable Development (ICTSD) and the Inter-American Development Bank (IDB). For more information on the RTA Exchange, please visit [www.rtaexchange.org/](http://www.rtaexchange.org/).

The RTA Exchange is managed by Marie Chamay, Director of Strategic Initiatives, and Christophe Bellmann, Senior Resident Research Associate, with the support of Emily Bloom, Project Officer, RTA Exchange at ICTSD, in collaboration with Antoni Estevadeordal, Manager, Integration and Trade Sector, and Jeremy Harris, Economist and Integration and Trade Specialist.

This think piece is one of a series of papers developed by the RTA Exchange that explore Facilitation 2.0. The series is managed by Felipe Sandoval, ICTSD Senior Advisor, Trade Law and Negotiations.

Facilitation 2.0 is a comprehensive approach to twenty-first-century trade conceived by ICTSD that encompasses services, goods, investment, and e-commerce. It builds on the Trade Facilitation Agreement of the World Trade Organization and lays out a possible way forward for its expansion, while providing an innovative narrative for coherent policymaking at the domestic, regional, and multilateral levels.

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The author wishes to thank Markus Jelitto, Iza Lejárraga, Felipe Sandoval, Christophe Bellmann, and Andrew Crosby for their helpful comments and inputs on a previous draft of this paper.

**Citation:** Soprana, Marta. 2018. *Facilitation 2.0: Services and Trade in the Digital Age*. RTA Exchange. Geneva: International Centre for Trade and Sustainable Development and Inter-American Development Bank.

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ISSN 2520-2278

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## Abbreviations

CETA Comprehensive Economic and Trade Agreement

CPTPP Comprehensive and Progressive Agreement for Trans-Pacific Partnership

EU European Union

FDI foreign direct investment

GATS General Agreement on Trade in Services

GVC global value chain

ICT information and communication technology

MFN most-favoured nation

MRA mutual recognition agreement

OECD Organisation for Economic Co-operation and Development

RTA regional trade agreement

SDG Sustainable development Goal

SME small and medium-sized enterprise

TFA Trade Facilitation Agreement

TFSA Trade Facilitation in Services Agreement

WTO World Trade Organization

## Executive Summary

The digital era calls for a coherent, integrated, and multidimensional approach to trade policy across areas (goods, services, investments, intellectual property rights, and electronic commerce) and negotiating forums at both regional and multilateral levels. From a facilitation perspective, this would entail shifting from the traditional only-goods approach to a Facilitation 2.0 framework.

This paper focuses on one specific component of Facilitation 2.0: services. More specifically, it explores existing approaches to services facilitation in the context of regional trade agreements (RTAs) and how these regional trade regulatory experiences can inform World Trade Organization (WTO) members about potential opportunities for convergence at the multilateral level. It also addresses paths to multilateralisation, offering a potential alternative to the negotiation of a self-standing services facilitation agreement.

Services facilitation can be described as the simplification, modernisation, and harmonisation of services supply processes with a view to reducing transaction costs. It is intended to complement, integrate with, and work in tandem with market access, as it is charged with removing all administrative and regulatory barriers that limit the ability of firms and consumers to benefit fully from market liberalisation.

From a sustainable development perspective, understanding how to best facilitate trade in services at the regional and multilateral level is very important, because services facilitation can promote sustainable development indirectly—by supporting services liberalisation in its contribution to the 2030 Agenda—and directly—by advancing the achievement of specific Sustainable Development Goals (SDGs), namely good health and well-being (SDG3); good-quality education (SDG4); gender equality (SDG5); industry, innovation, and infrastructure (SDG9); and reduction in inequalities (SDG10).

An analysis of a representative group of RTAs that were either concluded or entered into force in the past decade shows that, while only recently discussed at the WTO, services facilitation is not a novel topic in the context of RTAs. All the agreements under examination have included provisions, with different degrees of scope and depth, which—directly or indirectly—facilitate trade in services, and in most cases the parties have undertaken commitments beyond the General Agreement on Trade in Services, especially with respect to disciplines on domestic regulation.

The paper shows that, at the regional level, trade in services is facilitated primarily through increased transparency; improved administration of procedures (including fees and charges); and advanced disciplines on regulatory requirements. Other,

less recurring provisions include regulatory cooperation, mutual recognition of qualifications, and provisions facilitating the movement of natural persons. It also reveals that the scope of application of provisions facilitating trade in services can differ significantly, with three possible (not mutually exclusive) scenarios identified across and within RTAs: horizontal, sector-specific, and mode-specific.

Four lessons on the potential for multilateralisation of disciplines on services facilitation can be drawn from RTA best practices. First, the areas where the parties to the RTAs showed the highest degree of convergence are transparency, primarily through the publication of measures affecting trade in services (including information on mode 4 and licensing requirements and procedures); the establishment of enquiry mechanisms and contact points; and the streamlining of administrative procedures, including those related to the temporary entry of services suppliers. Since these are also the commitments that may require less effort to be applied on a most-favoured nation basis, because de facto they already do, they have the greatest potential for multilateralisation.

Second, with the exception of transparency-related provisions and commitments to keep applicants informed during the application process, which almost all RTAs couched in hard law, the parties to RTAs showed a preference for soft(er) commitments in all other disciplines related to the facilitation of trade in services. Thus, it is more likely for WTO members to agree on negotiating multilateral disciplines on services facilitation as soft (or best-endeavour) law rather than hard law.

Third, as it is highly unlikely that a self-standing services facilitation agreement would be the optimal solution, owing to the difficulty in achieving a critical mass behind a range of topics larger and deeper than the limited areas of convergence identified above, the architecture of GATS offers valid and solid alternatives for the multilateralisation of disciplines on services facilitation in the form of additional commitments under Article XVIII and disciplines on domestic regulation under Article VI:4.

Fourth, whatever the procedure to negotiate new obligations on services facilitation at the multilateral level, WTO members must ensure coherence with any other provisions that have been discussed or adopted under the e-commerce and investment agendas, because in the current digital era all aspects of international trade are closely interrelated and, therefore, bound to influence and affect one another.





# 1. Introduction

In the past two decades, digital innovations and technological progress have led to significant changes in the structure of production methods, processes, and business models, as exemplified by the emergence and growth of electronic commerce; data now being transferred across borders alongside goods, services, capital, and people; and global value chains (GVCs) becoming a stable feature of world trade.<sup>1</sup> At the heart of this transformation are services, whose contribution to gross domestic product and employment has increased remarkably since the early 2000s (ICTSD 2016). Most notably, a growing share of value added in trade is attributable to services, which is partly due to certain service sectors (e.g. distribution, financial, and telecommunication services) being enablers of international supply chains and manufacturing industries undergoing servicification, which means that they increasingly buy, produce, and sell services (National Board of Trade Sweden 2016).

The growing fragmentation of supply chains, the increasing complexity of the linkages between goods, services, capital, data, and intellectual property, and the progressively central role played by services in the world trade system have two major policy implications. First, trade policy must adapt to the economic and regulatory challenges brought by the digitalisation of the world economy to ensure the maximisation of the efficiency of GVCs and cross-border transactions, while safeguarding legitimate policy objectives. Second, the digital era calls for a more extended, inclusive, and coherent approach to trade policy across dimensions (national, regional, and multilateral) and trade areas (e.g. goods, services, investments, and electronic commerce) (OECD 2015).

It is in this context that Facilitation 2.0, which involves unilateral structural reform, coherent trade policies, and multiparty initiatives at different international forums, including the World Trade Organization (WTO) and regional trade agreements (RTAs), emerges as a potential response to the need to enable trade in the digital era (Meléndez-Ortiz 2018).

This paper focuses on one specific component of the Facilitation 2.0 framework: services. More specifically, it explores existing approaches to services facilitation in the context of RTAs and how these regional trade regulatory experiences can inform WTO members about potential opportunities for convergence at the multilateral level.

The paper starts by defining services facilitation, with a discussion of its relationship with the other components of the Facilitation 2.0 framework and its importance from a sustainable development perspective. It then proceeds to analyse a representative universe of RTAs, identify trade-facilitating provisions related to services, and assess likely areas of convergence for multilateralisation. A discussion on the potential path to create an efficient and coherent interface between RTAs and the multilateral trading system on services facilitation follows. The paper concludes by exploring the links between provisions facilitating trade in services and sustainable development.

## 2. Defining Services Facilitation

### 2.1 What Is Services Facilitation?

The concept of facilitation applied to the realm of services is still relatively novel. While rather extensive literature exists on goods-related trade facilitation and its objective of reducing transaction costs in trade in goods by expediting the movement, release, and clearance of goods and promoting cooperation

<sup>1</sup> With GVCs, the various stages of the production process are located across different countries through international outsourcing and offshoring of activities. See OECD (n.d.).

on customs compliance issues, especially since the conclusion on the Trade Facilitation Agreement (TFA), studies specifically dedicated to services facilitation are quite limited, and no universally recognised definition of services facilitation is available.

So, how can facilitation of trade in services be defined? What does it entail? One could adopt the TFA approach and describe it as the simplification, modernisation, and harmonisation of regulatory measures affecting services supply with a view to reducing transaction costs. Measures exemplifying a TFA-based facilitation approach for services trade would include increased transparency, streamlining procedures for licences, simplifying visa-related processes for the temporary entry of service suppliers, reducing administrative red tape, and encouraging transnational institutional cooperation. Work done by Anér and Stavroulakis (2008), who identified increased transparency, administrative cooperation, and regulatory coordination as potential tools to facilitate services trade and underpin market access, and Chakravarty (2017), who argued that solutions to facilitate trade in services are largely within the realm of removing regulatory bottlenecks and promoting institutional cooperation, offer some support to this approach.

Some WTO members opined that the scope of application of the TFA should be extended to other areas, such as services. India, for example, recently put forward a proposal for the negotiation of a Trade Facilitation in Services Agreement (TFSA) based on the premise that it is necessary to reduce transaction costs associated with the unnecessary regulatory burden and procedural bottlenecks affecting trade in services (S/WPDR/W/55; WTO 2016b).

Existing literature addresses services facilitation through the identification of barriers to trade in services and potential policy interventions to eliminate them. Albeit meagre, it exposes a crucial issue by establishing what facilitating trade in services actually means: its relationship with market access. De (2013), in recognising the impact that reforming domestic regulation can have on facilitating trade in services, still mentions two market access measures (the

reduction of stringent foreign ownership caps and the relaxation of restrictions on the type of commercial presence) among potential tools to facilitate services trade. Anér and Stavroulakis (2008), on the other hand, discussed potential solutions to facilitate trade in services with respect to a number of obstacles that existed in the European Union (EU) Internal Market despite the fact that there is an EU supranational legal order in the field of services.

Despite their affinity, services facilitation and market access should not be confused with one another. Obstacles to trade in services that fall under any of the six types of restriction listed in the General Agreement on Trade in Services (GATS) Article XVI are to be removed through autonomous or negotiated market access liberalisation. For example, restrictions on the movement of natural persons result primarily from lack of market access commitments by WTO members rather than from lengthy visa procedures and, thus, streamlining immigration procedures will do little to foster the temporary entry of service suppliers unless WTO members agree to undertake less stringent mode 4 market access commitments. However, other types of barrier to services trade—falling outside the realm of application of GATS Article XVI—can be reduced or eliminated through recourse to what can be defined as services facilitation measures. For example, since lack of transparent information on licence requirements can contribute to increasing costs for service suppliers that intend to establish a commercial presence abroad, especially small and medium-sized enterprises (SMEs), adopting measures that encourage greater transparency on licensing requirements and the application process may help facilitate the supply of services through mode 3.

Thus, not all services trade impediments can be addressed through services facilitation, which is to be intended as complementing, integrating, and working in tandem with market access. In other words, charged with removing all administrative and regulatory barriers that limit the ability of firms and consumers to benefit fully from market liberalisation, services facilitation ensures that “the market access arising out of existing as well as future liberalisation

commitments are effective and meaningful” (S/WPDR/W/57; WTO 2016a).

Facilitating services is especially crucial when market access is allowed *de jure*—a WTO member has undertaken full or partial commitments in the service sector at issue—but excessively burdensome and lengthy procedures discourage foreign service suppliers from entering the market, acting *de facto* as a zero-quota kind of services barriers. For example, a WTO member that sets a not-too-stringent limit on the number of suppliers of tourism services through licensing for mode 3 may *de facto* completely discourage foreign SMEs that would fulfil the requirements for licensing to actually enter the market if information on the application procedure was too fragmented or obscure or available only in the national language, and the application procedure was too lengthy and costly. By increasing transparency and streamlining administrative procedures, the above-mentioned foreign SMEs may be better able to take advantage of the (partial) services liberalisation undertaken by the WTO member.

So, while a potential affinity exists between measures aimed at facilitating trade in services and measures related to market access, it would be best to consider the latter as excluded from the services facilitation agenda, since WTO members already have a vehicle to remove market access restrictions—that is, successive rounds of negotiations aimed at binding commitments towards further liberalisation. Still, it is worth pointing out that measures aimed at increasing transparency and removing procedural barriers may still facilitate trade in services, even in the absence of binding market access commitments.

How significant are barriers to trade in services that would require a services facilitation (rather than a market access) approach? Or, from a TFA perspective, how considerable a problem are transaction costs in services? Some evidence offered by the Organisation for Economic Co-operation and Development (OECD) suggests that the costs of services trade barriers, especially those associated with domestic regulation falling short of best practices in competition and

rule-making, are as high as, if not higher than, the costs of barriers to trade in goods, with the average level of restriction amounting to trade costs up to 150 percent on cross-border exports in sectors such as telecommunication services. This would seem to support the view that there is indeed a need to curtail transaction costs affecting trade in services and that these process would entail the reduction (and possibly removal) of behind-the-border obstacles and procedural bottlenecks (OECD 2017). However, it is worth noting that since the OECD estimate itself is based on the Services Trade Restrictiveness Index, which encompasses a wide array of measures—including on services facilitation—the effect on trade costs is attributable to all types of restriction, and not only those related to services facilitation. Given also that empirical analysis on trade costs in services is still rather limited, it is evident that the above-mentioned findings should be treated with caution, especially with respect to the impact of trade costs on different modes of supply.

## 2.2 Understanding Services Facilitation in the Context of Facilitation 2.0

The digital era, characterised by services becoming increasingly complementary or embedded in goods, growing and expanding electronic commerce, foreign direct investments (FDI) shifting in geography and volume, and production processes extending beyond national borders, calls for a coherent, integrated, and multidimensional approach to trade policy across areas (goods, services, investments, intellectual property rights, and electronic commerce) and negotiating forums at regional and multilateral levels. From a facilitation perspective, shifting from the traditional only-goods approach to a Facilitation 2.0 framework would serve this purpose well.

Ensuring integration and coherence between services facilitation, investment facilitation, and e-commerce facilitation policies is particularly crucial owing to the strong interlinkages between these areas. Investment relates to services from both a regulatory

and an economic perspective. The establishment of a commercial presence abroad (mode 3) partly overlaps with the concept of investment (in the services sectors), and many RTAs already include mode 3 provisions under investment chapters or sections. Also, investments have contributed significantly to the development of new services with a strong digital component. Therefore, the development of disciplines on investment facilitation in RTAs and under the aegis of the Informal WTO Dialogue on Investment Facilitation for Development are undoubtedly relevant to services facilitation.<sup>2</sup> Similarly, as e-commerce is understood to mean “production, distribution, marketing, sale or delivery of goods and services by electronic means” (WT/L/274; WTO 1998), any discipline aimed at facilitating electronic commerce developed at regional and multilateral levels may also be relevant to promoting trade facilitation in services. Therefore, expanding the trade facilitation agenda, expressed as Facilitation 2.0, to include services, investments, and e-commerce—with their potential to promote inclusive growth, generate well-paid jobs, and foster sustainable development—best responds to the need to adapt trade policy to the new interdependent challenges and opportunities posed by technological progress (Meléndez-Ortiz 2018).

### 2.3 Fostering Development through Services Facilitation

Services facilitation can also contribute significantly to promoting sustainable development. It does so in a twofold manner. At a more general level, it supports services liberalisation in its contribution to the three pillars of sustainable development.<sup>3</sup> By

<sup>2</sup> For example, during the six meetings of the Informal WTO Dialogue on Investment Facilitation for Development, the participants exchanged views and experiences on a number of issues, including the publication/notification of investment-related measures, and procedural aspects of investment applications, which in the context of services are relevant to mode 3 (establishment of a commercial presence). See WTO (2018).

helping to remove the obstacles that limit the ability to benefit fully from market liberalisation in the services sector, facilitating services trade through increased transparency, streamlined administrative procedures, and regulatory reform contribute to ensuring that services can efficiently and effectively foster sustainable development through growth and non-growth channels.<sup>4</sup>

On a more specific level, services facilitation disciplines may contribute directly to the achievement of a number of Sustainable Development Goals (SDGs)—and relative targets—set out in the 2030 Agenda for Sustainable Development, as discussed in Section 5.

## 3. Services Facilitation in the RTA Context

While discussions on services facilitation in a multilateral setting are still germane, disciplines on this issue have been quite advanced at a regional level. In order to understand how RTAs have addressed services facilitation and whether there are elements of convergence that could be harvested for multilateral negotiations, this study analysed a representative

<sup>3</sup> Point 5 of the 2002 Johannesburg Declaration on Sustainable Development refers to three interdependent and mutually reinforcing pillars of sustainable development: economic development, social development, and environmental protection. See United Nations (2002).

<sup>4</sup> As inputs in the production of manufacturing and agricultural products and through the increasing role of servicification, efficient services can stimulate economic growth by affecting labour productivity and competitiveness. The improvement of basic services (e.g. health-related and education services) and the development of information and communication technology (ICT) services can help to reduce the digital divide, lead to greater social inclusion, and allow women and other vulnerable minorities to engage more actively in the domestic economy. Finally, the development of environment-related services can help to reduce the negative environmental externalities linked to increased production and consumption. See ICTSD (2016).

group of RTAs that were either concluded or entered into force in the past decade, namely the New Zealand–Hong Kong Closer Economic Partnership (2010); the EU–Georgia Association Agreement (2014); the Pacific Alliance Free Trade Agreement (2016); the EU–Canada Comprehensive Economic and Trade Agreement (2016); the EU–Japan Economic Partnership Agreement (2017); the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (2018); and the EU–Singapore Free Trade Agreement (2018).

This study focused on services-related chapters and annexes (cross-border trade in services and movement of natural persons) and horizontal chapters on regulatory transparency and regulatory coherence, which apply also to services sectors. For the purposes of this paper, chapters dedicated exclusively to investment and electronic commerce were not included in the investigation.

The analysis focused on three key aspects: (i) the types of provision on services facilitation contained in these agreements; (ii) the scope of application of provisions related to the facilitation of services trade; and (iii) the depth of commitments on services facilitation undertaken by the parties.

### 3.1 Types and Depth of Provisions

Although none of the agreements under examination contains a chapter or section explicitly dedicated to services facilitation, all seven RTAs include provisions that, directly or indirectly, may facilitate trade in services, with articles detailing licensing or qualification procedures—for example, Annex III to Chapter 13 in the New Zealand–Hong Kong, China Closer Economic Partnership; Article 12.3 in the Comprehensive Economic and Trade Agreement (CETA), indicating criteria for the adoption of domestic regulation measures relating to qualification requirements, technical standards, and licensing requirements (Article 9.9 in the Pacific Alliance and Article 8.30 in the EU–Japan Economic Partnership

Agreement); or establishing procedures for publishing laws, regulations, procedures, and administrative rulings to ensure greater transparency (Article 26.2 in the Comprehensive and Progressive Agreement for Trans-Pacific Partnership, CPTPP).

As Table 1 shows, at a regional level, trade in services is facilitated primarily through increased transparency, improved administration of procedures (including fees and charges), and advanced disciplines on regulatory requirements. Other, less recurring provisions include regulatory cooperation, mutual recognition of qualifications, and provisions facilitating the movement of natural persons (Table 2).

#### *Transparency*

All RTAs examined herein contain provisions aimed at increasing transparency in the adoption and implementation of measures affecting trade in services. While separate chapters or sections can be dedicated to transparency, with their scope of application extending to all issues covered by the agreement, including trade in services (e.g. Chapter 27 of CETA), a number of RTAs have included transparency provisions that apply specifically to trade in services (e.g. Annex III to Chapter 13 of the New Zealand–Hong Kong, China RTA) or individual services sectors (e.g. Article 13.11 of CETA for financial services; Article 14.19 of the Pacific Alliance; Article 13.18 of CPTPP for telecommunication services; Article 8.39 of the EU–Japan RTA for postal services).

In the sampled RTAs, the most recurring transparency provisions that facilitate trade in services either reaffirm or incorporate existing transparency commitments in GATS or introduce new requirements or specifications that are not mandated in GATS (GATS+).<sup>5</sup> Provisions that encourage the prompt publication of laws, regulations, procedures, and administrative rulings relevant to services, and those that call for the establishment of enquiry or contact points to provide

<sup>5</sup> For more details, see Lejárraga (2013).

specific information to entrepreneurs and services suppliers of the other party, tend to fall under the first category. GATS+ transparency provisions, on the other hand, include those detailing what type of information should be published,<sup>6</sup> and those setting forth guidelines for publishing measures relevant to trade in services, including providing opportunity for comments before the entry into force of a measure.<sup>7</sup>

Differences emerge as to the coverage offered by each RTA on these transparency provisions. While in the New Zealand–Hong Kong, China RTA, Pacific Alliance, and CPTPP the parties included all four types mentioned above, the EU–Georgia agreement focuses primarily on the need to establish enquiry points to respond promptly to all requests on relevant measures. Interestingly, on the latter, there is the highest convergence among the RTAs under examination. Excepting the EU–Japan RTA, all

agreements contain strong commitments related to the establishment of contact points or enquiry mechanisms.

Actually, transparency provisions in RTAs are generally included as hard law (e.g. “must,” “shall”), with CETA (Article 27.1 on publication) and CPTPP (Article 26.1 on the type of information to make publicly available for telecommunication services) using terminology (“shall ensure that”) that refers to situations where the government itself is not directly executing the obligation but ensures that a regulator, or competent authority, is complying with the commitment.

#### *Regulatory disciplines and administration of procedures*

As Table 1 shows, in order to facilitate services trade, RTAs also quite frequently include three types of provision aimed at removing potential regulatory bottlenecks: (i) disciplines on domestic regulations that spell out the criteria upon which measures related to licensing requirements and procedures, qualification requirements, and procedures should be based; (ii) detailed descriptions of how to administer measures affecting trade in services in a simpler and more transparent manner; and (iii) criteria for the application of fees and charges in relation to administrative procedures and authorisations.

With regard to disciplines on domestic regulation, while the parties to RTAs show a noticeable convergence towards the nature of the criteria (they need to be objective and transparent) and the depth of the commitments (except in the EU-led RTAs with Georgia and Japan, the commitments are generally couched in soft law language), differences emerge about how the parties present them. Notably, RTAs to which the EU is not a party are more inclined to offer indicative examples of objective and transparent criteria, such as competence and the ability to supply the service (e.g. Article 9.9 of the Pacific Alliance), mimicking the language of GATS Article VI:4(a). On the other hand, EU-led RTAs tend to provide for GATS+ exhaustive lists of criteria, such as clarity,

<sup>6</sup> Art. 8.23 of the EU–Japan RTA, which applies to mode 4 only, provides a non-exhaustive list of types of information to be published that includes categories of visa, permits, or any similar type of authorisation regarding entry and temporary stay; documentation required and conditions to be met; maximum length of stay under each type of authorisation; and conditions for any available extension or renewal. Annex III to Chapter 13 of the New Zealand–Hong Kong, China Closer Economic Partnership provides another illustrative list of information to be published that includes the official titles, addresses, and contact information of relevant competent authorities; applicable licensing requirements and criteria, terms, and conditions of licenses, and licensing procedures and fees; procedures relating to appeals or reviews of applications; and the normal timeframe for processing of an application.

<sup>7</sup> Indeed, while GATS Art. III on transparency does not establish a public comment procedure, a number of RTAs do. A case in point is Art. 11.13 of CPTPP, which promotes regulatory transparency in financial services by calling for the parties to promptly publish regulations to be adopted; provide reasonable opportunity to comment on the proposed regulation; address in writing substantive comments received from interested persons; allow a reasonable period between publication and entry into force of the regulation; and maintain or establish appropriate mechanisms for responding to enquiries regarding measures of general application relevant to financial services.

**Table 1.**

Services facilitation in regional trade agreements  
(RTAs): type and depth of provisions (most recurring)

Type of discipline	RTAs already in force				RTAs concluded but not yet in force		
	New Zealand– Hong Kong (2010)	EU– Georgia (2014)	Pacific Alliance (2016)	EU– Canada (2016) <sup>a</sup>	EU–Japan (2017)	CPTPP (2018)	EU– Singapore (2018)
<b>Transparency</b>	<b>Y</b>	<b>Y</b>	<b>Y</b>	<b>Y</b>	<b>Y</b>	<b>Y</b>	<b>Y</b>
Publication of measures							
Type of information to be made publicly available	GATS+		GATS+		GATS+	GATS+	
Reasonable time to comment	GATS+		GATS+	GATS+		GATS+	GATS+
Enquiry mechanisms and contact points							
<b>Disciplines on domestic regulation (conditions for licensing and qualification)</b>	<b>Y</b>	<b>Y</b>	<b>Y</b>	<b>Y</b>	<b>Y</b>	<b>Y</b>	<b>Y</b>
Defining criteria for measures relating to qualification and licensing requirements and procedures, and technical standards		GATS+		GATS+	GATS+		GATS+
Application or due consideration of international standards							
Reference to GATS Article VI:4 negotiations							
<b>Administration of measures (licensing and qualification procedures)</b>	<b>Y</b>	<b>Y</b>	<b>Y</b>	<b>Y</b>	<b>Y</b>	<b>Y</b>	<b>Y</b>
Acceptance of applications in electronic format	GATS+	GATS+		GATS+	GATS+		GATS+
Administration of measures not creating unnecessary barriers to trade							
Licensing procedures not unduly complicated or more burdensome than necessary							
Independence of competent authority	GATS+	GATS+		GATS+	GATS+		GATS+
Informing applicants of incomplete documentation	GATS+	GATS+	GATS+	GATS+	GATS+	GATS+	GATS+
Informing applicants of rejected applications	GATS+	GATS+	GATS+	GATS+	GATS+	GATS+	GATS+
Informing applicants of any rights and timeframe or review of, or appeal against, decision		GATS+		GATS+	GATS+		GATS+
Reasonable time to submit application	GATS+	GATS+		GATS+	GATS+	GATS+	GATS+
Reasonable timeframe to complete processing of application	GATS+	GATS+	GATS+	GATS+	GATS+	GATS+	GATS+
Opportunity to resubmit application	GATS+			GATS+			GATS+
Adequate procedures to verify and assess qualifications	GATS+		GATS+			GATS+	



**Table 1.** *Continued*

Type of discipline	RTAs already in force				RTAs concluded but not yet in force		
	New Zealand–Hong Kong (2010)	EU–Georgia (2014)	Pacific Alliance (2016)	EU–Canada (2016) <sup>a</sup>	EU–Japan (2017)	CPTPP (2018)	EU–Singapore (2018)
<b>Fees and charges</b>	<b>Y</b>	<b>Y</b>	<b>Y</b>	<b>Y</b>	<b>Y</b>	<b>Y</b>	<b>Y</b>
Reasonable and proportionate licensing fees		GATS+				GATS+	GATS+
Fees determined with regard to administrative cost	GATS+			GATS+	GATS+		
Objective, transparent, and commensurate administrative fees			GATS+		GATS+		
Licensing fees do not restrict supply of the services							GATS+

 Hard law (e.g. “must,” “shall”)

 Soft law (e.g. “may,” “could,” “should,” “shall endeavour,” “shall ensure,” “shall take into account”)

<sup>a</sup> Provisionally in force.

GATS+: RTA provisions that mirror a corresponding obligation in the General Agreement on Trade in Services (GATS) but introduce new requirements or specifications that are not mandated in GATS.

Source: Author

objectivity, transparency, advance public availability, and accessibility (e.g. Article 12.3 of CETA).

Interestingly, the New Zealand–Hong Kong, China RTA and CPTPP are the only agreements where the parties committed to taking into account international standards to determine conformity with the disciplines on domestic regulation contained in the agreement, a clear reference to GATS Article VI:5(b). Also in the New Zealand–Hong Kong, China RTA is an explicit reference to the potential incorporation of disciplines negotiations under GATS Article VI:4, a feature it shares with the Pacific Alliance Agreement and CPTPP. In both cases, the commitments are couched into soft law.

As to the administration of measures, the RTAs under examination show a tendency to include GATS+ provisions detailing the application process for licensing and qualification procedures. Indeed, in most RTAs, the parties made strong commitments to inform applicants of incomplete documentation, rejected applications, and any rights and timeframe for

review of, or appeal against, decisions. Convergence also exists on the need to complete the processing of applications within a reasonable timeframe, with the Pacific Alliance and the EU–Japan RTAs couching this provision in strong law rather than soft law.

All RTAs undertook soft commitments on the application of fees and charges.

#### *Mutual recognition of qualifications*

Another issue of relevance for the facilitation of services trade where convergence among WTO members is still somewhat limited is the mutual recognition of professional qualifications, which is addressed in a handful of the RTAs under examination. A case in point is CETA, which proposes some non-binding guidelines to provide practical guidance to facilitate the negotiation of mutual recognition agreements (MRAs) (Annex 11-A). The CPTPP, in its Annex on Professional Services, encourages the establishment of dialogues among the relevant bodies of each party, with a view to recognising professional qualifications



and facilitating licensing or registration procedures.<sup>8</sup>

#### *Provisions facilitating mode 4*

A small number of RTAs have provisions aimed specifically at facilitating mode 4, primarily through increased transparency (by means of enhanced access to information on the requirements for temporary entry by business persons); streamlined immigration procedures; and the establishment of enquiry mechanisms or contact points (Article 10.5 of CETA). For example, the agreement between New Zealand and Hong Kong, China explicitly states that the purpose of its Chapter 14 (dedicated entirely to mode 4) is to facilitate the movement of business persons (Article 1) and calls for the expeditious processing of completed applications for immigration formalities (Article 5). Similarly, the EU–Japan RTA clearly indicates the desire of the parties to facilitate the entry and temporary stay of natural persons for business purposes (Article 8.22), with specific provisions aimed at ensuring that the processing of applications related to mode 4 follows good administrative practices (Annex 8-C).

#### *Regulatory cooperation*

Another type of provision relevant to services facilitation that is found less frequently in RTAs is regulatory cooperation. Indeed, a number of RTAs also encourage horizontal, mode-specific, or sector-specific regulatory cooperation with a view to facilitating services trade via the sharing of best practices on implementation and the exchange of information on procedural requirements and associated formalities, although the language remains generally soft and non-binding. The parties to CETA, for example, while agreeing on the need to facilitate bilateral trade and investment in a way that reduces unnecessary differences in regulation, made regulatory cooperation voluntary and left ample space for policy manoeuvre to policymakers and regulators in the EU and Canada to adopt legislation (Chapter 21). In CPTPP, the parties addressed cooperation specific to regulatory coherence (Article 25.7) and mode 4 (Article 12.8),<sup>9</sup> while the EU and Singapore focused their attention on cooperating to promote the development of telecommunication services (Article 8.48) and maintain a dialogue on regulatory issues raised by electronic commerce (Article 8.61).

<sup>8</sup> Through best endeavour language, CPTPP also calls for the establishment of a Professional Services Working Group as a means to facilitate trade in professional services (Art. 10.9).

<sup>9</sup> Art. 12.8 of CPTPP establishes that the parties shall consider undertaking mutually agreed cooperation activities, subject to available resources, including by (i) providing advice on the development and implementation of electronic processing systems for visas; and (ii) sharing experiences with regulations, and the implementation of programmes and technology related to border security, and the expediting of certain categories of applicants in order to reduce facility and workload constraints.

**Table 2.**

Services facilitation in regional trade agreements (RTAs): type and depth of provisions (less recurring)

Type of discipline	RTAs already in force				RTAs concluded but not yet in force		
	New Zealand–Hong Kong (2010)	EU–Georgia (2014)	Pacific Alliance (2016)	EU–Canada (2016) <sup>a</sup>	EU–Japan (2017)	CPTPP (2018)	EU–Singapore (2018)
<b>Provisions pertaining to recognition</b>	<b>Y</b>	<b>N</b>	<b>Y</b>	<b>Y</b>	<b>N</b>	<b>Y</b>	<b>N</b>
Facilitation of dialogue between regulators	GATS+						
Harmonisation, recognition of regulatory outcomes, recognition of qualifications and professional registration, or recognition arrangements	GATS+						
Non-most-favoured nation (MFN) recognition	GATS+		GATS+			GATS+	
Guidelines to facilitate negotiation of mutual recognition agreements				GATS+			
Implementing temporary licensing regime			GATS+			GATS+	
<b>Provisions facilitating movement of natural persons</b>	<b>Y</b>	<b>N</b>	<b>N</b>	<b>Y</b>	<b>Y</b>	<b>Y</b>	<b>N</b>
Acceptance and processing of applications in electronic format					GATS+		
Reasonable immigration processing fees	GATS+				GATS+	GATS+	
Processing fees do not unduly impair or delay trade in services					GATS+	GATS+	
Publication of information on requirements for temporary entry	GATS+			GATS+	GATS+	GATS+	
Establishment of enquiry mechanisms or contact points				GATS+		GATS+	
Type of information to be made publicly available					GATS+	GATS+	
<b>Cooperation</b>	<b>N</b>	<b>Y</b>	<b>N</b>	<b>Y</b>	<b>N</b>	<b>Y</b>	<b>Y</b>
Regulatory cooperation		GATS+		GATS+		GATS+	GATS+
Cooperation to increase transparency				GATS+			
Cooperation on mode 4 provisions						GATS+	

Hard law (e.g. “must,” “shall”)

Soft law (e.g. “may,” “could,” “should,” “shall endeavour,” “shall ensure,” “shall take into account”)

<sup>a</sup> Provisionally in force.

GATS+: RTA provisions that mirror a corresponding obligation in the General Agreement on Trade in Services (GATS) but introduce new requirements or specifications that are not mandated in GATS.

Source: Author

## 3.2 Scope of Application

As Table 3 illustrates, the scope of application of provisions facilitating trade in services can differ significantly, with three possible, not mutually exclusive scenarios: horizontal, sector-specific, and mode-specific.<sup>10</sup> For example, RTAs can include provisions facilitating trade in services with a horizontal scope

<sup>10</sup> The same RTA can have horizontal, sector-specific, and mode-specific provisions, although, clearly, the scope of application of a single provision cannot be both horizontal and sector-specific.

of application—i.e. covering all service sectors and modes of supply (e.g. Article 95 of the EU–Georgia RTA) or covering both goods and services (e.g. Chapter 15 in the New Zealand–Hong Kong, China RTA; Chapter 27 in CETA on transparency). While all RTAs under examination have at least one provision aimed at facilitating trade in services that applies to all sectors (including those where no commitments were undertaken), they also all have sector-specific services facilitation provisions, with the New Zealand–Hong Kong, China RTA being the notable exception. A case in point is the Pacific Alliance, which includes an annex dedicated entirely to the supply of professional services that contains provisions related to services facilitation.

**Table 3.**

Services facilitation in regional trade agreements (RTAs): scope of application

Scope of discipline	RTAs already in force				RTAs concluded but not yet in force		
	New Zealand–Hong Kong (2010)	EU–Georgia (2014)	Pacific Alliance (2016)	EU–Canada (2016) <sup>a</sup>	EU–Japan (2017)	CPTPP (2018)	EU–Singapore (2018)
<b>General application</b>	<b>Y</b>	<b>Y</b>	<b>Y</b>	<b>Y</b>	<b>Y</b>	<b>Y</b>	<b>Y</b>
Transparency	x	x	x	x		x	x
Disciplines on domestic regulation	x	x			x		x
Administration of measures	x	x			x		x
Fees and charges	x	x			x		x
Administration of economic needs tests		x					
Provisions pertaining to recognition	x						
Cooperation		x					x
<b>Specific modes</b>	<b>Y</b>	<b>–</b>	<b>Y</b>	<b>Y</b>	<b>Y</b>	<b>Y</b>	<b>–</b>
Mode 1							
Mode 2							
Mode 3			Excluded <sup>a,b</sup>			Excluded <sup>a,b</sup>	
Mode 4	Transparency, <sup>a</sup> Mode 4-related provisions <sup>a</sup>			Transparency <sup>a</sup>	Transparency <sup>a</sup>	Transparency, <sup>a</sup> cooperation <sup>a</sup>	

**Table 3.** *Continued*

Scope of discipline	RTAs already in force				RTAs concluded but not yet in force		
	New Zealand–Hong Kong (2010)	EU–Georgia (2014)	Pacific Alliance (2016)	EU–Canada (2016) <sup>a</sup>	EU–Japan (2017)	CPTPP (2018)	EU–Singapore (2018)
<b>Specific sectors</b>	-	Y	Y	Y	Y	Y	Y
Telecommunication services			Transparency, <sup>a</sup> administration of measures <sup>a</sup>	Administration of measures <sup>a</sup>	Transparency, <sup>a</sup> administration of measures <sup>a</sup>	Telecoms, <sup>a</sup> administration of measures <sup>a</sup>	Transparency, <sup>a</sup> administration of measures, <sup>a</sup> fees and charges, <sup>a</sup> cooperation <sup>a</sup>
Financial services		Transparency, <sup>a</sup> administration of measures <sup>a</sup>	Transparency <sup>a</sup>	Transparency <sup>a</sup>	Transparency, <sup>a</sup> administration of measures <sup>a</sup>	Transparency <sup>a</sup>	
Postal services					Transparency, <sup>a</sup> administration of measures <sup>a</sup>		
Professional services			Disciplines on domestic regulation, <sup>a</sup> administration of measures			Administration of measures, <sup>a</sup> recognition of mutual recognition agreement (MRA)	
<b>Annex</b>	Y	-	Y	Y	Y	Y	-
Sector-specific			Professional services			Professional services	
Mode-specific					Mode 4		
Issue-Specific	Domestic regulation			MRAs			

<sup>a</sup> Provisionally in force.

<sup>b</sup> Mode 3 is excluded from the scope of application of the chapter on cross-border trade in services and is incorporated under the investment chapter (not analysed for the purposes of this paper).

Source: Author

A third set of agreements comprises all the RTAs that have limited the scope of application of services facilitation provisions to specific modes. For example, Chapter 14 of the New Zealand–Hong Kong, China agreement is dedicated to facilitating the movement of business persons of either party engaged in the conduct of trade and investment between the parties and establishing streamlined and transparent immigration procedures for applications made by business persons of the other party, with Article 5 providing details to ensure the expeditious application of procedures for business persons. The New

Zealand–Hong Kong, China RTA, therefore, contains provisions aimed at facilitating the supply of services through the movement of one specific category of natural persons (mode 4). Likewise, in the EU and Japan RTA, the parties established under Article 8.22 that “the measures taken by each Party to facilitate and expedite procedures related to the entry and temporary stay of natural persons of the other Party for business purposes shall be consistent with Annex 8-C,” an annex dedicated specifically to mode 4 that calls for the parties to follow good administrative practice.

Special consideration should be given to provisions aimed at facilitating the supply of services through the establishment of a commercial presence abroad (i.e. mode 3). While RTAs chapters on services or cross-border trade in services usually contain services facilitation provisions, also chapters or sections dedicated to investment may have disciplines relevant to mode 3, including on investment facilitation. For the purposes of this paper, mode 3-related facilitation provisions that are addressed only in chapters or sections dedicated specifically to investment were not considered.

## 4. Multilateralising Services Facilitation: Lessons from RTAs

Services facilitation has been addressed, in different degrees of scope and depth, in all RTAs, and in most cases the parties have undertaken GATS+ commitments (especially with respect to disciplines on domestic regulation). This signals a shared concern and desire among the parties on the need to remove barriers to trade that derive from lack of information and inefficient domestic regulation. Thus, RTAs can contribute to informing the discussion currently taking place at the WTO on the services component of Facilitation 2.0 by offering insight on the issues where convergence among WTO members is likely stronger, and that, therefore, have the greatest potential for multilateralisation, as well as how the latter could be achieved.

Four lessons on the potential for multilateralisation of disciplines on services facilitation can be drawn from RTA best practices. First, the areas where the parties to the RTAs showed the highest degree of convergence are transparency, primarily through the publication of measures affecting trade in services (including information of mode 4 and licensing requirements and procedures); the establishment of enquiry mechanisms and contact points; and the

streamlining of administrative procedures, including those related to the temporary entry of services suppliers. These are also the commitments that may require less effort to be applied on a most-favoured nation (MFN)-basis because de facto they already do.<sup>11</sup> Indeed, transparency-related commitments to promptly publish information relevant to services trade tend not to discriminate against third parties, while other commitments (e.g. implementation of temporary licensing programmes) apply only to the parties to the agreement, making them potentially more costly, lengthy, and politically sensitive to multilateralise. Thus, WTO members may find it more fruitful to engage in the multilateralisation of services facilitation provisions by addressing these areas first, rather than focusing on areas where diverging approaches are more evident, such as recognition and the facilitation of mode 4.

The second lesson relates to the potential legal strength of services facilitation provisions in a multilateral context. With the exception of transparency-related provisions and commitments to keep applicants informed during the application process, which almost all RTAs couched in hard law, the parties to RTAs showed a preference for soft(er) commitments in all other disciplines related to the facilitation of trade in services. Therefore, unless WTO members move to depart greatly from the language used at the regional level, it is likely that only disciplines related to increasing transparency—including in relation to the provision of information on temporary entry requirements and administrative procedures—have the potential to be multilateralised as hard rather than soft law.

Third, taking into consideration that convergence exists mainly on two issues (increased transparency and improved administrative procedures) and that the TFSA proposal put forward by India received a tepid reaction

<sup>11</sup> Implementation is key to understanding whether a measure is de facto applied on an MFN basis. If a party to an RTA makes all relevant measures publicly available also to non-parties, then in practice it is implementing a transparency measure on an MFN basis.

from the other WTO members, it is highly unlikely that a self-standing services facilitation agreement would be the optimal solution. Negotiating a new agreement, in the footsteps of the TFA, requires a critical mass that can drive negotiations towards consensus and a strong political will, both of which are currently lacking. Extending the scope of the current TFA to include services would also prove a difficult task.

The architecture of GATS offers valid and solid alternatives to a self-standing agreement to promote services facilitation in the form of additional commitments under Article XVIII and disciplines on domestic regulation under Article VI:4, bearing in mind that the latter can actually take the form of Article XVIII, and the former can go beyond disciplines on domestic regulation.<sup>12</sup> WTO members could follow the example of the Reference Paper on Basic Telecommunications, which establishes a common set of regulatory guidelines that became a binding commitment, under Article XVIII, for its signatories upon adoption, to draft obligations aimed at facilitating trade in services. Such a solution would be easier to reach from both a procedural and a political perspective than a standalone services facilitation agreement, because the scope of the services facilitation provisions could be limited to transparency and the streamlining of administrative procedures (where convergence among RTAs is higher) and the commitments would be binding only to those WTO members that decide to adopt them. It would also provide for a harmonised set of rules that would help reduce regulatory asymmetry and cut administrative red tape across borders.

Finally, whatever the procedure to negotiate new obligations on services facilitation at a multilateral level, WTO members must ensure coherence with any other provisions that have been discussed or adopted under the e-commerce and investment agendas, because in the current digital era all aspects of international trade are closely interrelated and, therefore, bound to influence and affect one another.

<sup>12</sup> It is worth noting that all seven RTAs under examination have included disciplines on the criteria for measures relating to qualification and licensing requirements and procedures.

## 5. Services Facilitation and Sustainable Development Goals

As mentioned in Section 2.3, services facilitation can promote sustainable development indirectly, by supporting services liberalisation in its contribution to the 2030 Agenda, and directly, by advancing the achievement of specific SDGs.

Table 4 offers a few examples of the role services facilitation provisions can play in attaining a number of SDGs. It shows that facilitating health and educational services by improving the procedures for the recognition of qualifications and fostering the negotiation of MRAs can play a role in promoting the transfer of knowledge (e.g. on vaccines) required to ensure healthy lives, universal access to sexual and reproductive health, and inclusive and equitable education (SDGs 3, 4, and 5). The development of disciplines on domestic regulation on licensing requirements in the financial sector, on the other hand, may contribute to improving the regulation of global financial markets and, therefore, reduce inequalities (SDG 10). Finally, increased transparency on the laws and regulations governing the supply of communication and computer services may help empower women by enhancing the use of enabling technology (SDG 5) and assist in the provision of universal and affordable access to the internet (SDG 9).

In recognising the importance of services facilitation for the 2030 Agenda, it should also be noted that institutional capacity constraints, unless properly addressed, may prevent developing countries and least developed countries from fully capturing the benefits accruing from increased transparency and simplified procedures in the services sector. While the representative group of RTAs analysed in this paper offers little guidance on this issue, since no provisions related to services facilitation were found to take into consideration different developmental circumstances (with the exception of Chapter 25 on regulatory coherence in CPTPP), the TFA experience

could be used as a footprint to develop multilateral disciplines facilitating trade in services that allow for

some flexibility in the implementation of regulatory commitments based on members' capacity.

## Table 4.

Role of services facilitation provisions

Sustainable Development Goal	Reference/target	Service sector	Services facilitation
3 (Good Health and Well-Being)	Ensure healthy lives and promote well-being for all at all ages	Health services	Recognition of qualifications
4 (Quality Education)	Ensure inclusive and equitable good-quality education and promote lifelong learning opportunities for all	Educational services	Recognition of qualifications
5 (Gender Equality)	Ensure universal access to sexual and reproductive health and reproductive rights (Target 5.6)	Health services	Recognition of qualifications
5 (Gender Equality)	Enhance use of enabling technology, in particular information and communications technology (ICT), to promote empowerment of women (Target 5.8)	Communication services, computer services	Increased transparency, administration of procedures
9 (Industry, Innovation and Infrastructure)	Significantly increase access to ICT and strive to provide universal and affordable internet access in least developed countries by 2020 (Target 9.c)	Communication services, computer services	Increased transparency, administration of procedures
10 (Reduced Inequalities)	Improve regulation and monitoring of global financial markets and institutions and strengthen implementation of such regulations (Target 10.5)	Financial services	Disciplines on domestic regulation

Source: Author

## 6. Conclusion

Services facilitation, an essential component of the Facilitation 2.0 framework, is a rather novel concept that refers to the simplification, modernisation, and harmonisation of services regulation with a view to reducing transaction costs. Similar to the TFA, which is heralded as a powerful tool to addressing the needs of developing countries in tackling poverty alleviation, services facilitation can contribute to fostering the 2030 Sustainable Development Agenda. Therefore, understanding how to best facilitate trade in services is particularly important from a development perspective.

So far, the most significant advances in rule-making on services facilitation have taken place at the regional level. An overview of a representative set of RTAs

shows that it is common for parties to RTAs to include provisions, with different degrees of scope and depth, that—directly or indirectly—facilitate trade in services and that in most cases the parties undertook GATS+ commitments.

Taking into consideration that the architecture of GATS offers valid and solid alternatives to a self-standing agreement for the multilateralisation of disciplines on services facilitation, RTA best practices indicate that disciplines on transparency and the streamlining of administrative procedures, including those related to the temporary entry of services suppliers, have the greatest potential for multilateralisation—in the form of additional commitments under GATS Article XVIII or Article VI:4—and that WTO members are more likely to agree on negotiating multilateral disciplines on services facilitation as soft (or best-endeavour) law rather than hard law.

## References

- Anér, Emilie and Markos Montmar Stavroulakis. 2008. *The Contribution of Trade to a New EU Growth Strategy: Facilitating Trade in Services*. Stockholm: National Board of Trade of Sweden.
- Chakravarty, Aveek. 2017. *India's Proposal for Trade Facilitation in Services: a Breath of Fresh Air for Global Trade?* CTEI Working Paper. Geneva: Graduate Institute.
- De, Prabir. 2013. "Assessing Barriers to Trade in Services in India: an Empirical Investigation." *Journal of Economic Integration* 28 (1).
- ICTSD. 2016, *Services and Sustainable Development: a Conceptual Approach*. Geneva: International Centre for Trade and Sustainable Development (ICTSD).
- Lejárraga, Iza. 2013. *Multilateralising Regionalism: Strengthening Transparency Disciplines in Trade*. OECD Trade Policy Papers. Paris: Organisation for Economic Co-operation and Development (OECD).
- Meléndez-Ortiz, Ricardo. 2018. *Facilitation 2.0: Enabling Trade in the Digital Era*. Geneva: International Centre for Trade and Sustainable Development. <https://www.ictsd.org/opinion/facilitation-20-enabling-trade-in-the-digital-age>.
- National Board of Trade Sweden. 2016. *The Servicification of EU Manufacturing: Building Competitiveness in the Internal Market*. Stockholm: National Board of Trade of Sweden.
- OECD. 2017. *Services Trade Policies and the Global Economy*. Paris: Organisation for Economic Co-operation and Development (OECD).
- OECD. 2015. *Trade Policy Implications for Global Value Chains*. Paris: Organisation for Economic Co-operation and Development (OECD). <https://www.oecd.org/tad/trade-policy-implications-gvc.pdf>.
- OECD. n.d. "Global Value Chains (GVCs)." Paris: Organisation for Economic Co-operation and Development (OECD). [www.oecd.org/sti/ind/global-value-chains.htm](http://www.oecd.org/sti/ind/global-value-chains.htm).
- United Nations. 2002. *Johannesburg Declaration on Sustainable Development*. A/CONF.199/20. New York: United Nations.
- WTO. 2018. *Investment Facilitation: Relationship between Trade and Investment*. Geneva: World Trade Organization (WTO). [www.wto.org/english/thewto\\_e/minist\\_e/mc11\\_e/briefing\\_notes\\_e/bfinvestfac\\_e.htm](http://www.wto.org/english/thewto_e/minist_e/mc11_e/briefing_notes_e/bfinvestfac_e.htm).



WTO. 2016a. *Communication from India: Possible Elements of a Trade Facilitation in Services Agreement*. S/WPDR/W/57. Geneva: World Trade Organization (WTO).

WTO. 2016b. *Communication from India: Concept Note for an Initiative on Trade Facilitation in Services*. S/WPDR/W/55. Geneva: World Trade Organization (WTO).

WTO. 1998. *Work Programme on Electronic Commerce*. WT/L/274. Geneva: World Trade Organization (WTO).

Jointly implemented by the International Centre for Trade and Sustainable Development (ICTSD) and the Inter-American Development Bank (IDB), the RTA Exchange works in the interest of the sharing of ideas, experiences to date, and best practices to harvest innovation from RTAs and leverage lessons learned towards progress at the multilateral level. Conceived in the context of the E15 Initiative, the RTA Exchange creates a space where stakeholders can access the collective international knowledge on RTAs and engage in dialogue on RTA-related policy issues.

