



Trade in Services and WTO

Trade in Services Division
WTO

What are we talking about?



- Services and Trade in Services
- Overview of the GATS
- Negotiations on Trade in Services
- Stakes and Role of the Private Sector in Services-related Trade Policy-making and Negotiations



Nature of services

- What is a “service”?
- How is it different from a “good”?
- What does this mean for government regulation of services transactions?

A definition of a "service"

- a change
 - in the condition of a person, or
 - of a good belonging to some economic unit
- brought about by an activity
 - of some other economic unit
- with prior agreement
 - of the former person or economic unit

(Hill,T, (1977) "On goods and services", *Review of Income and Wealth*, 23, 315-338)

Characteristics of services

- service is not a “thing”
 - not tangible
 - not storable
- consequences?
 - service must be consumed at same time as production?
 - producer and consumer must be in same place?
 - international trade in services difficult?

Some consequences flowing from the nature of services

Nature of service

Consequence

Services often must be produced and consumed in <i>same place</i>	<u>Local establishment</u> is often essential
Services are <i>intangible</i> and thus hard to regulate directly	Regulations imposed directly on <u>supplier</u> ; tariffs difficult
Service <i>quality</i> is often difficult to assess	Regulations on <u>qualifications</u> of supplier (e.g. lawyers)
Services are often supplied through <i>networks</i>	Regulation to prevent natural <u>monopolies</u> (e.g. telecoms)
Services sometimes have a <i>non-economic</i> role	Regulation of these industries (e.g. cultural industries)



The traditional view

- **Services = intangible = non-tradable**
- **Services = government monopolies**
- **Services = rich countries' playfield**
- **Services = unsuited for GATT-type disciplines**

But new technology partially changes the nature of services

- service producers and consumers may now remain apart, by use of
 - telecommunications and internet
 - embedding of many more services in goods (e.g. CDs, video disks as well as books)
- service producers and consumers may now come together to a single place, by use of
 - rapid and cheap air and other transport

PARADIGM SHIFT IN THE SERVICES SECTOR

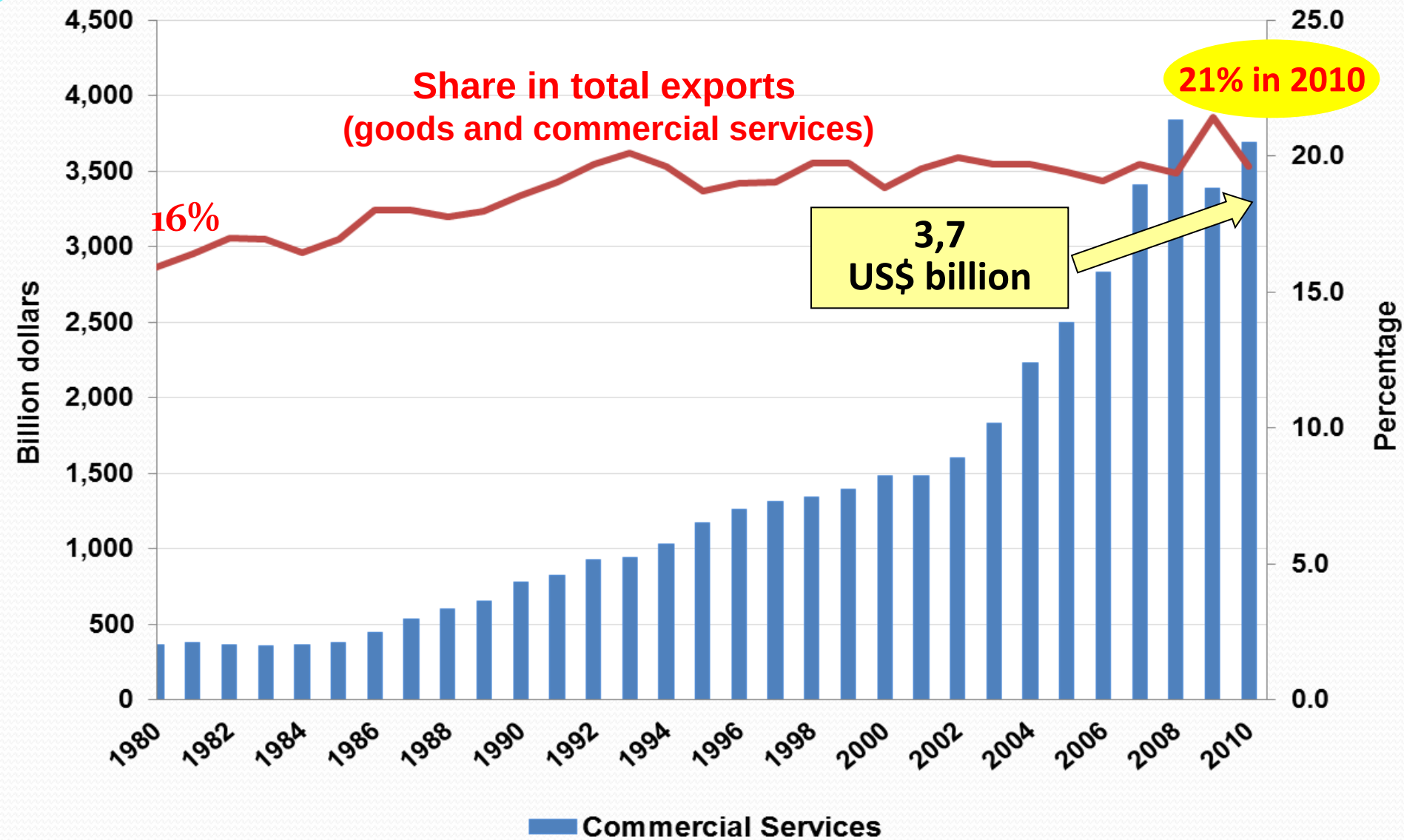
- The old model: Public utility/government functions
- The new model: Private sector leads competitive market
- Fundamentally different role for governments: governments are mainly regulators rather than service providers; they regulate services for various policy objectives: to promote competition; to prevent and correct market failures; to protect consumers; to safeguard public interests (environment, moral, security, social equity, etc.)

Importance of Services

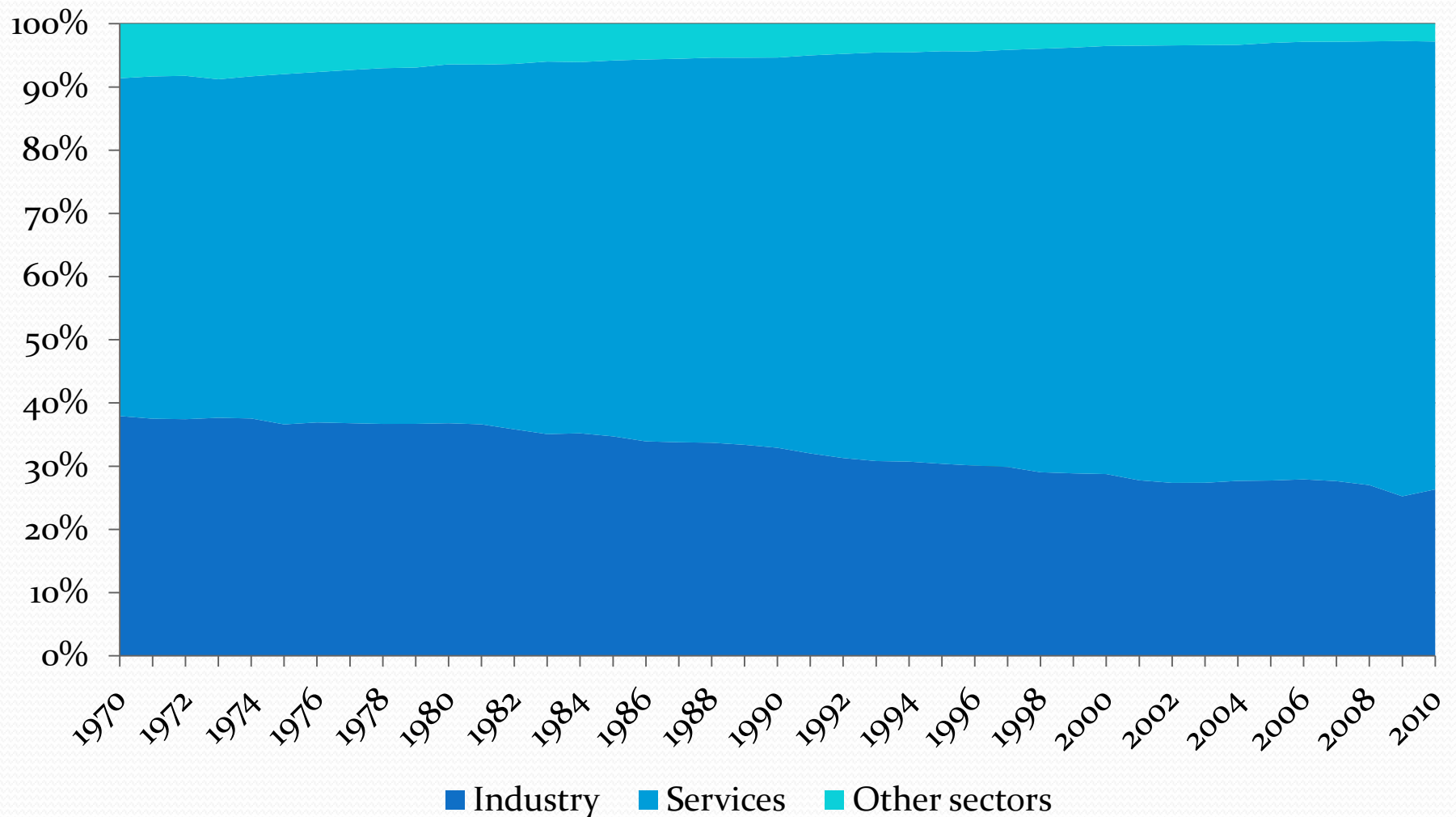
- Services are increasingly important in economic activities, drive market competitiveness, and generate significant economic, social, and political effects:
 - An engine of growth
 - Productivity and innovation
 - A driver of employment
 - A central pillar in industrial structure
 - Key to foreign direct investment
 - Export revenues
 - Poverty reduction

World exports of commercial services

1980 – 2010

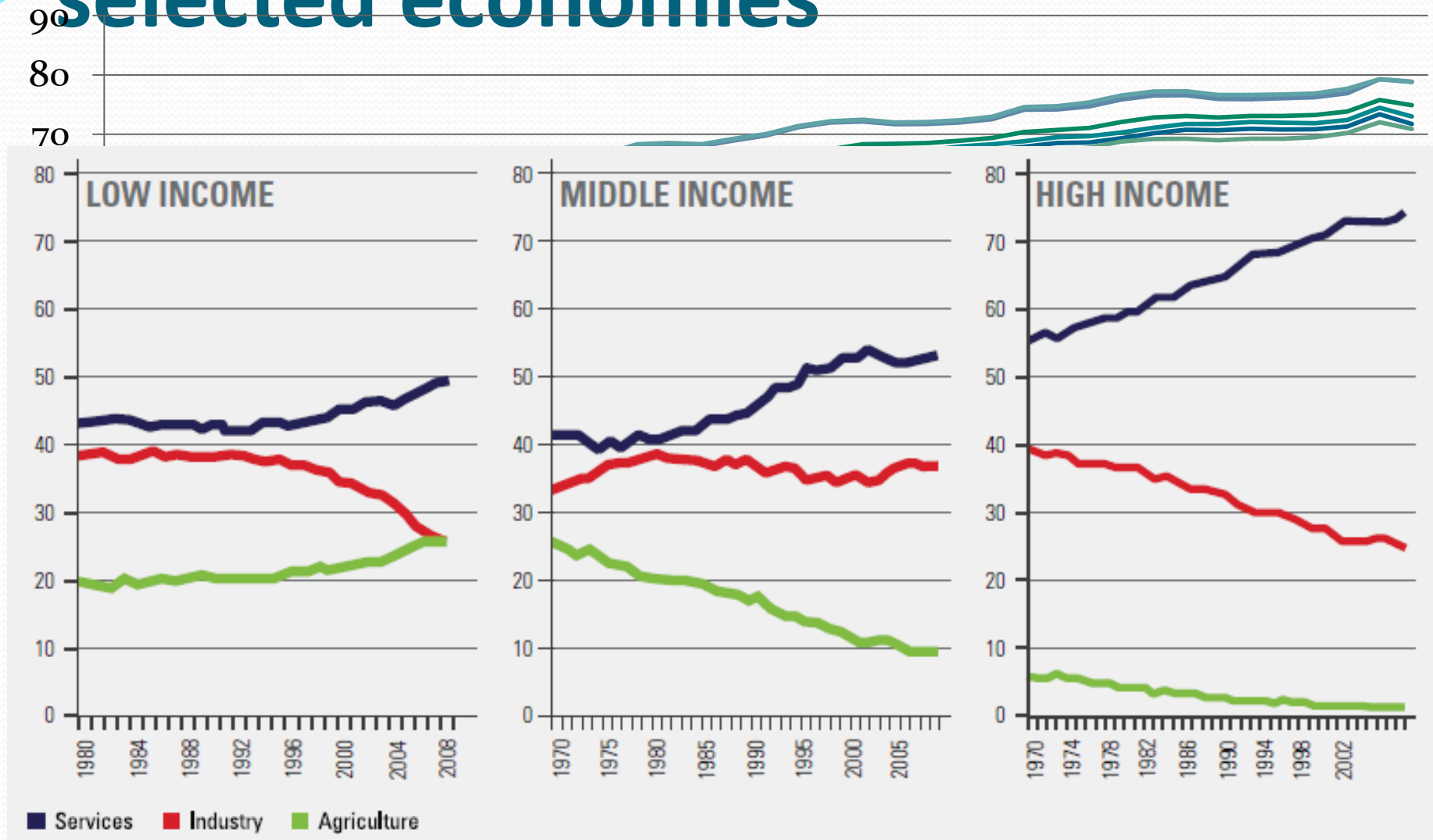


GDP value-added: World

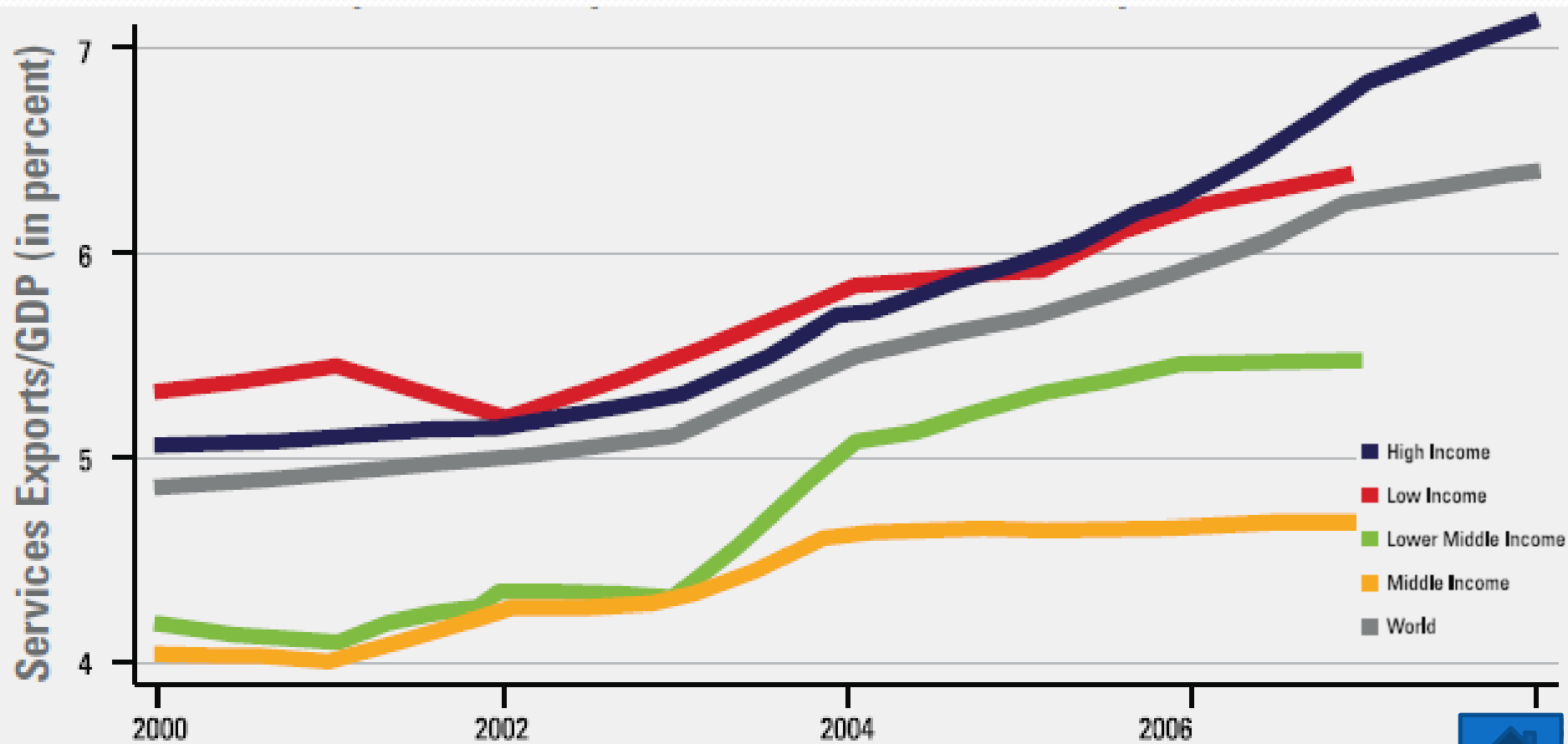


Source: World

Services GDP value-added: selected economies

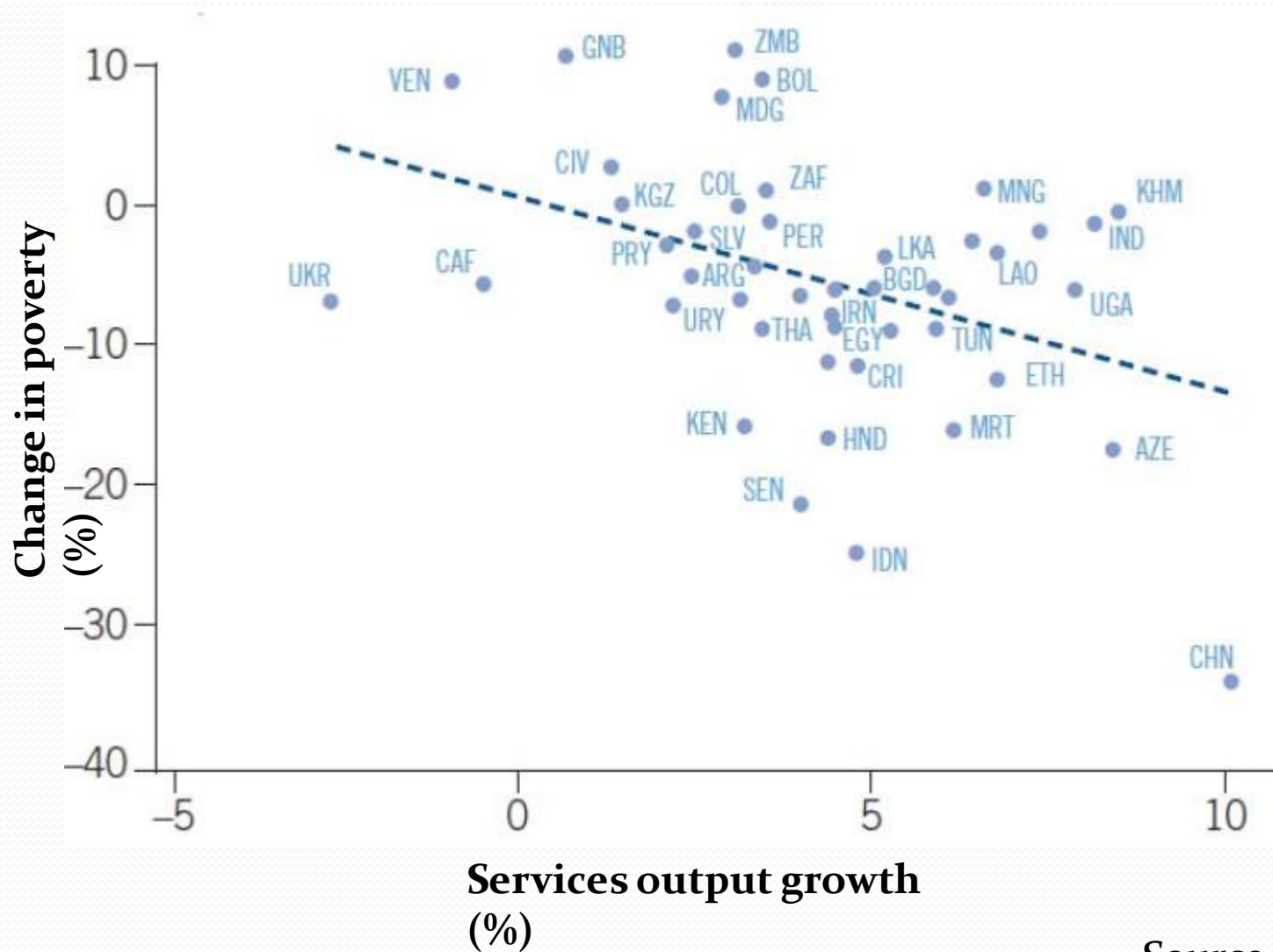


Services exports as contributor to GDP at different levels of development



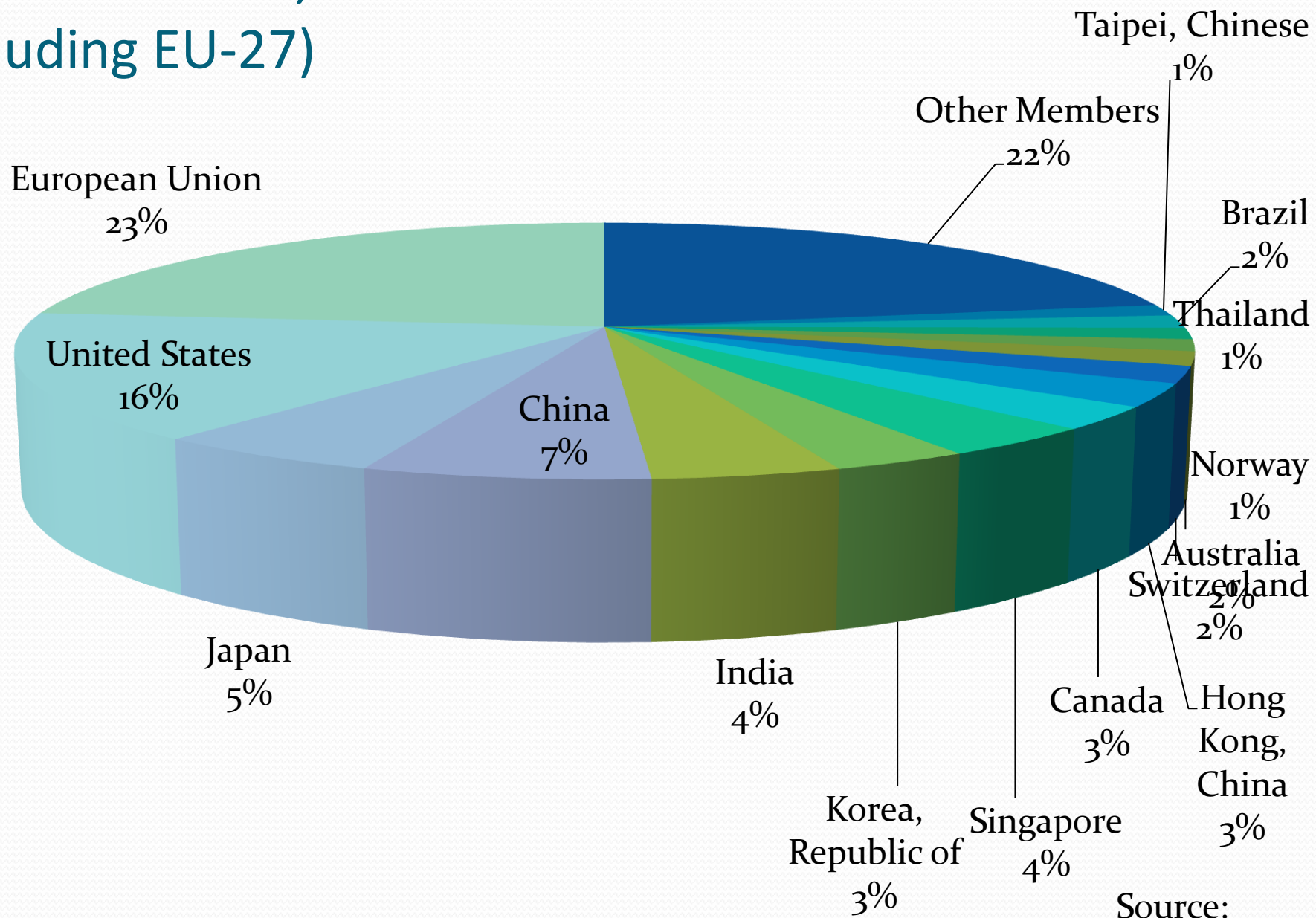
Source:

Services growth and poverty reduction



Source: ABAC from
Ghani and Kharas, 2010

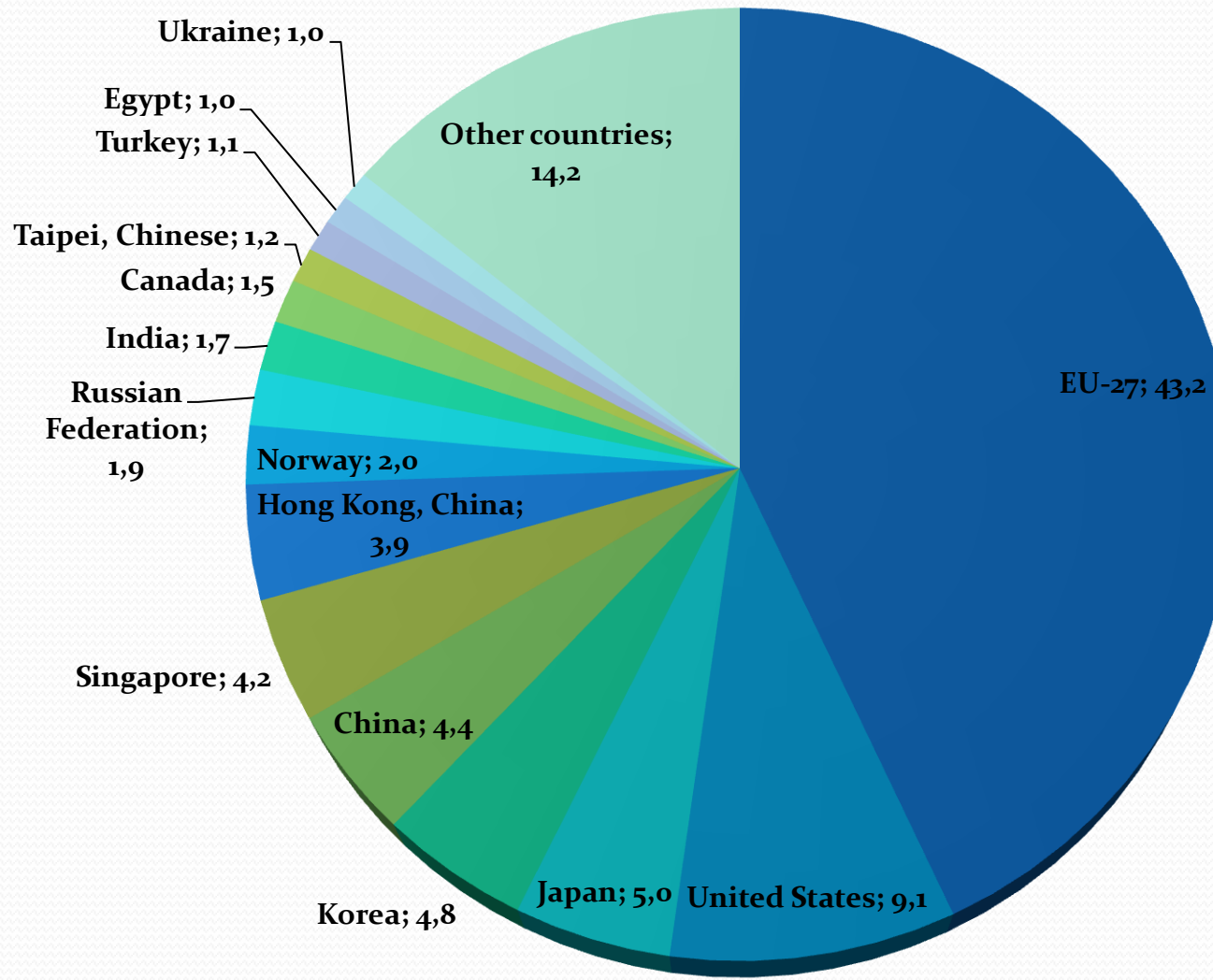
WTO Members share in world commercial services trade, 2010 (excluding EU-27)



Transportation services: leading exporters

(billion dollars)

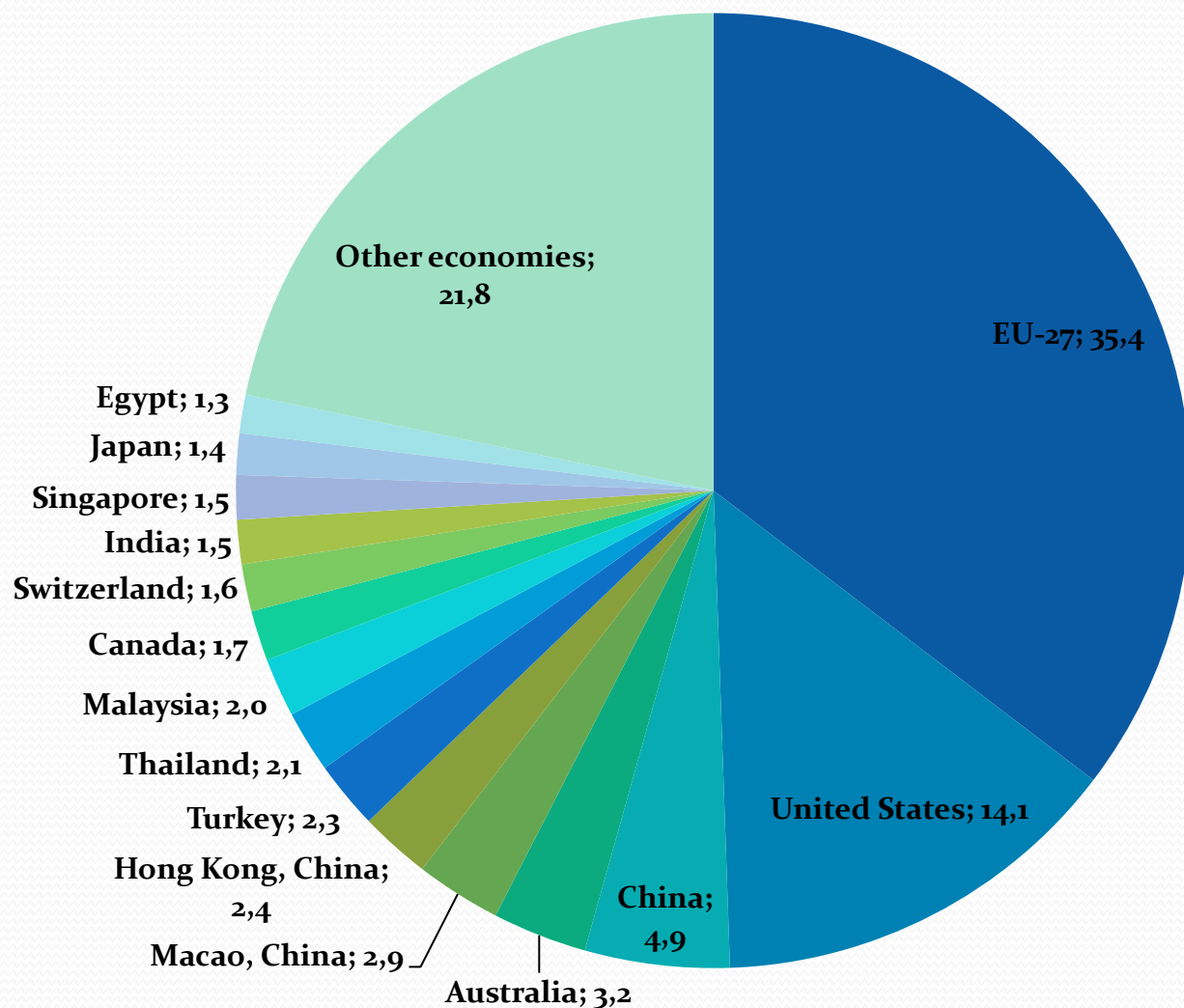
Country	Value
EU-27	339.4
United States	71.1
Japan	39.0
Korea	38.0
China	34.2
Singapore	32.7
Hong Kong, China	30.3
Norway	15.8
Russian Federation	14.9
India	13.2
Canada	11.7
Taipei, Chinese	9.8
Turkey	8.4
Egypt	7.9
Ukraine	7.8



Travel services: leading exporters

(billion dollars)

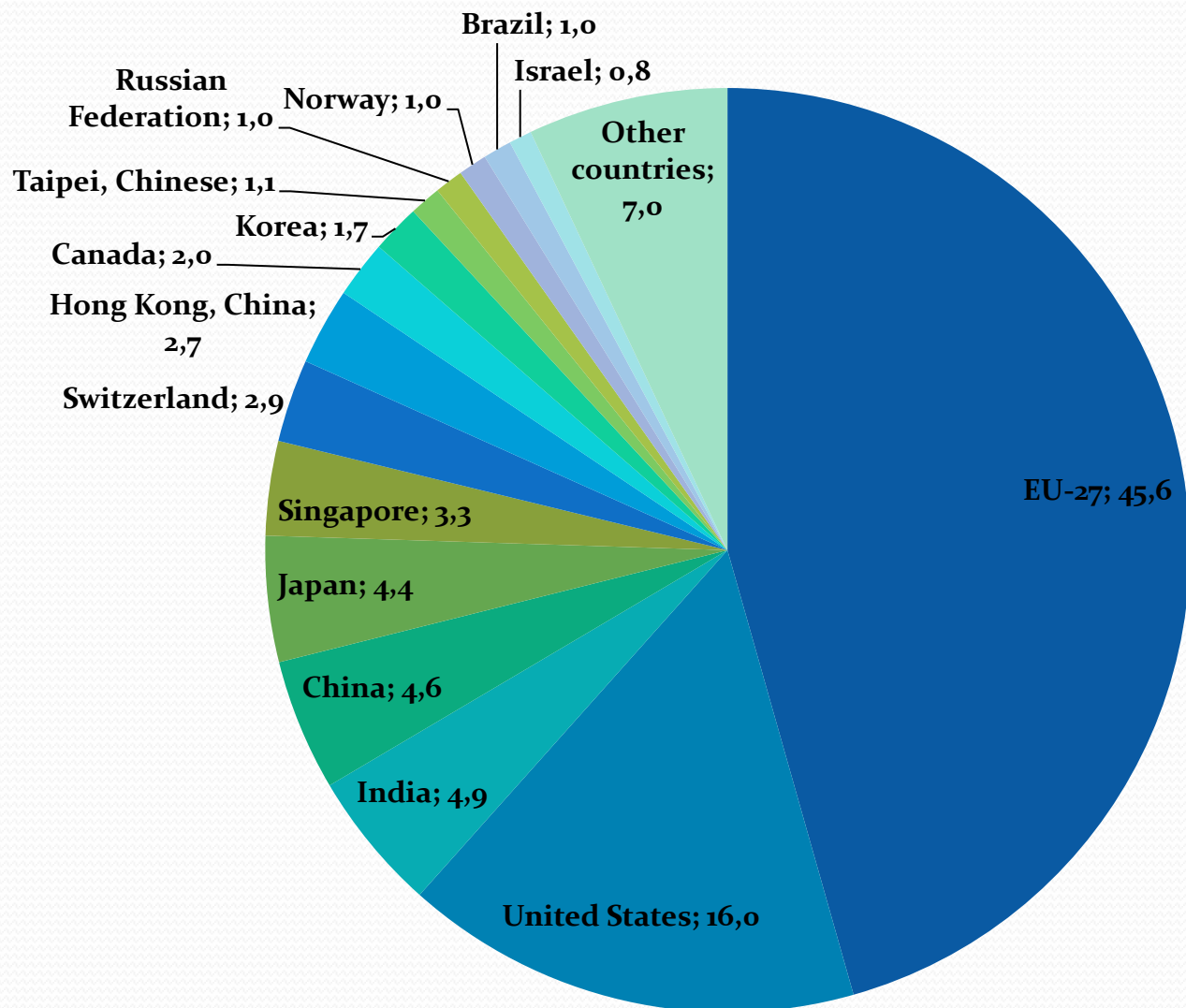
Country	Value
EU-27	331.9
United States	132.6
China	45.8
Australia	30.1
Macao, China	27.1
Hong Kong, China	22.2
Turkey	21.2
Thailand	19.7
Malaysia	18.3
Canada	15.7
Switzerland	14.9
India	14.2
Singapore	14.1
Japan	13.2
Egypt	12.5



Other commercial services: leading exporters

(billion dollars)

Country	Value
EU-27	897.5
United States	314.6
India	95.9
China	90.2
Japan	86.7
Singapore	65.1
Switzerland	56.7
Hong Kong, China	54.0
Canada	40.1
Korea	33.8
Taipei, Chinese	21.8
Russian Federation	20.1
Norway	19.7
Brazil	19.4
Israel	15.7



Leading exporters

(million dollars)

Communications services

Country	Value	Annual % change in 2010
EU-27	45434	1
United States	10541	10
Kuwait	...	...
Canada	2959	14
India	1411	-5
Russian Federation	1351	1
Switzerland	1467	10
China	1220	2
Singapore	1345	28
Indonesia	1126	9

Construction services

Country	Value (2009)	Annual % change in 2010
EU-27	40717	-7
Korea	14553	-19
Japan	12436	-14
China	9463	53
Russian Federation	3293	-20
Turkey	1274	-13
United States	1103	...
Iran	952	...
Singapore	925	13
Malaysia	909	...

Leading exporters

(million dollars)

Insurance services

Country	Value	Annual % change in 2010
EU-27	42414	-2
United States	14558	-1
Switzerland	4843	-10
Canada	4392	10
Singapore	2846	19
China	1727	8
Mexico	1831	15
India	1782	17
Japan	1272	48
Bahrain	906	6

Financial services

Country	Value	Annual % change in 2010
EU-27	130415	1
United States	58003	5
Switzerland	15817	-2
Hong Kong, China	12608	12
Singapore	12168	31
Japan	3606	-25
India	6003	64
Canada	3312	31
Korea	2847	25
Norway	1373	-13

Leading exporters

(million dollars)

Computer and information services

Country	Value	Annual % change in 2010
EU-27	107226	4
India (2009)	33807	...
United States	13830	3
Israel	7700	0
China	9256	42
Canada	4893	16
Norway	2192	-16
Philippines	2151	23
Singapore	1788	13
Malaysia (2009)	1454	...

Receipts and payments of royalties and licence fees

Country	Value	Annual % change in 2010
United States	95807	7
EU-27	82050	7
Japan	26680	23
Switzerland (2009)	15681	...
Canada	3813	11
Korea	3146	-2
Singapore	1865	38
Israel	812	7
Australia	942	29
Mexico (2009)	656	...

Leading exporters

(million dollars)

Other business services

Country	Value	Annual % change in 2010
EU-27	432208	2
United States (2009)	94195	...
China	61242	34
Japan	42547	0
Singapore	43807	14
Hong Kong, China (2009)	32230	...
India (2009)	28540	...
Canada	18236	11
Taipei, Chinese	19015	19
Switzerland (2009)	14281	...

Personal, cultural and recreational services

Country	Value	Annual % change in 2010
United States (2009)	14908	...
EU-27	17450	18
Canada	2198	6
Turkey	914	19
Australia	704	17
Korea	635	21
Norway	452	-5
India	335	-28
Russian Federation	474	36
Argentina	374	11

Services in the Multilateral System:



YEAR	ROUND	PARTICIPANTS
1947	Geneva	23
1949	Annecy	13
1951	Torquay	38
1956	Geneva	26
1960/61	Dillon Round	26
1964/67	Kennedy Round	62
1973/79	Tokyo Round	102
1986/93	Uruguay Round	123

(□ Creation of GATS)

THE GATS

- Response to the Paradigm Shift
- Institutionalizing new realities
- Defines new trade concepts
- Provides the legal framework
- A forum for continuing negotiations

Services within the Agreement establishing the WTO



<i>Umbrella Agreement</i>	Agreement establishing the WTO		
<i>3 broad areas of trade</i>	Goods	Services	Intellectual Property
<i>Basic principles</i>	GATT	GATS	TRIPS
<i>Additional details</i>	Other goods agreements and annexes	Services annexes	
<i>Market access commitments</i>	Members' schedules of commitments	Members' schedules of commitments (and MFN exemptions)	
<i>Dispute settlement</i>	Dispute settlement (based on the Agreements and commitments)		
<i>Transparency</i>	TRADE POLICY REVIEWS		



GATS in a nutshell



I. Scope and Definition:

- any (i) measure (ii) affecting (iii) trade in services
(*except* in exercise of governmental authority and air traffic rights)
- Trade in services is defined as four modes of supply

II. Obligations (*flexibility!*)

- **Specific commitments: market access, national treatment, additional Commitments**
(NB: they are country-specific and subject to negotiations)
- General obligations: MFN, Transparency, Disciplines on Domestic Regulation, Payments and transfers
(NB: there are national MFN exemptions; some general obligations are conditional upon existence of specific commitments)

III. Exceptions and permissions

- General Exceptions (public morals, public order, health...)
- Security Exceptions
- Economic integration agreements
- Recognition

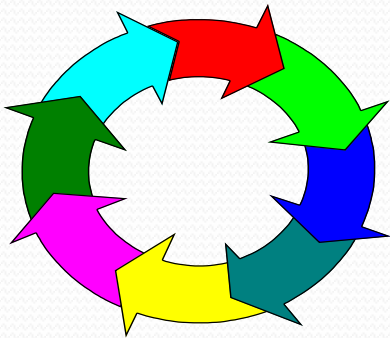
IV. Further work

- Disciplines on Domestic Regulation
- Subsidies
- Safeguards
- Government procurement

GATS: Theoretical Scope vs. Actual Coverage

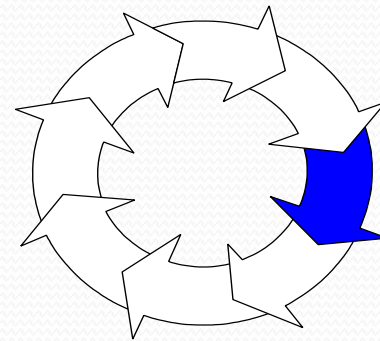


Common to all



- ☐ Short text of Articles
- the “Framework”
- ☐ Sectoral and other
Annexes

Individual



- ☐ Schedules of
Commitments
- ☐ MFN Exemptions
(only at outset & if needed)

GATS: Scope, coverage, definition



- n MEASURES AFFECTING TRADE IN SERVICES AT ALL GOVERNMENT LEVELS
- n ALL SERVICES
(except governmental services and air traffic rights)
- n FOUR MODES OF SUPPLY
 - Cross-border supply
 - Consumption abroad
 - Commercial presence
 - Movement of natural persons



GATS: Sectoral coverage

- n Business Services
- n Communication
- n Construction
- n Distribution
- n Education
- n Environmental Services
- n Health Related Services
- n Financial Services
- n Tourism
- n Recreation, Culture, Sports
- n Transport
- n Other Services



General (unconditional) obligations

- **Most-Favoured-Nation Treatment**
- Transparency obligations
- Some other “good governance” provisions (availability of legal remedies, etc.)

Note: There is no obligation to open markets!



MFN Exemptions

- n Bilateral agreements covering services trade
- n National laws requiring reciprocal treatment or extending special preferences
- n Regional or other economic agreements that do not satisfy the criteria of GATS Article V, e.g. do not cover all sectors, cover a single mode of supply, or do not aim at full liberalization within the grouping



“Conditional” Obligations

Obligations that apply only to those sectors where commitments are undertaken. They concern:

- Transparency (Art. III:3)
- Domestic Regulation (Art. VI:1, 3, 4,5,6)
- Monopolies (Art. VIII:2)
- Payments and Transfers (Art. XII)

Specific commitments - market access and national treatment: main elements



n MARKET ACCESS (Article XVI)

Absence of quota-type and similar restrictions

n NATIONAL TREATMENT (Article XVII)

Non-discrimination with regard to **all** measures affecting the supply of a service

Any limitations must be inscribed in Schedules under the relevant modes(s).

Trade Barriers & Domestic Regulation



- Market Access (Article XVI)
 - mostly quantitative restrictions
- National Treatment (Article XVII)
 - discriminatory measures
- Domestic Regulation (Article VI:4)
 - qualitative (minimum) and procedural requirements - regulatory autonomy of Members subject to rules aimed at minimising trade restrictive effects (Article VI:4)



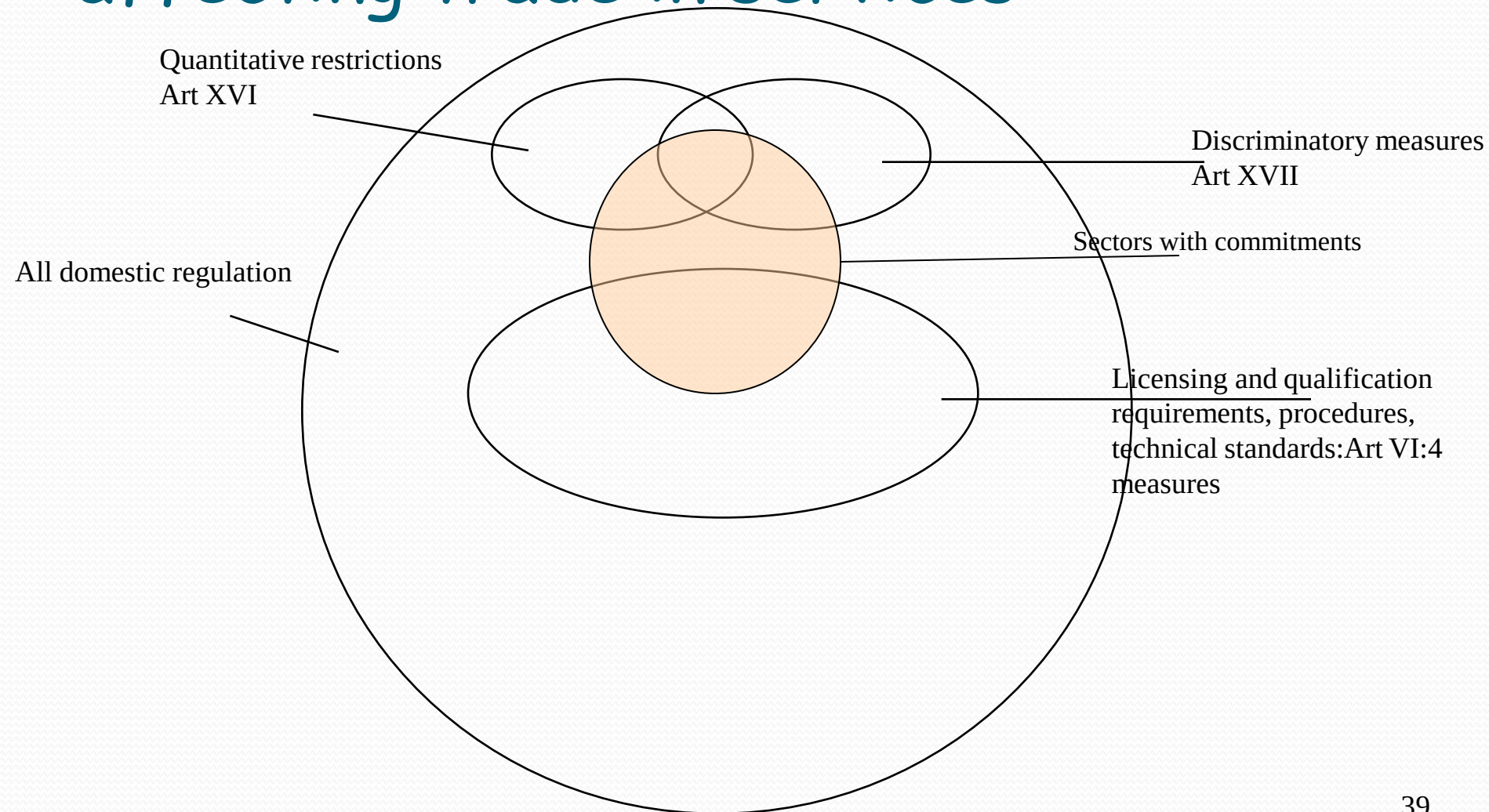
Scheduling specific commitments: progressively remove trade barriers

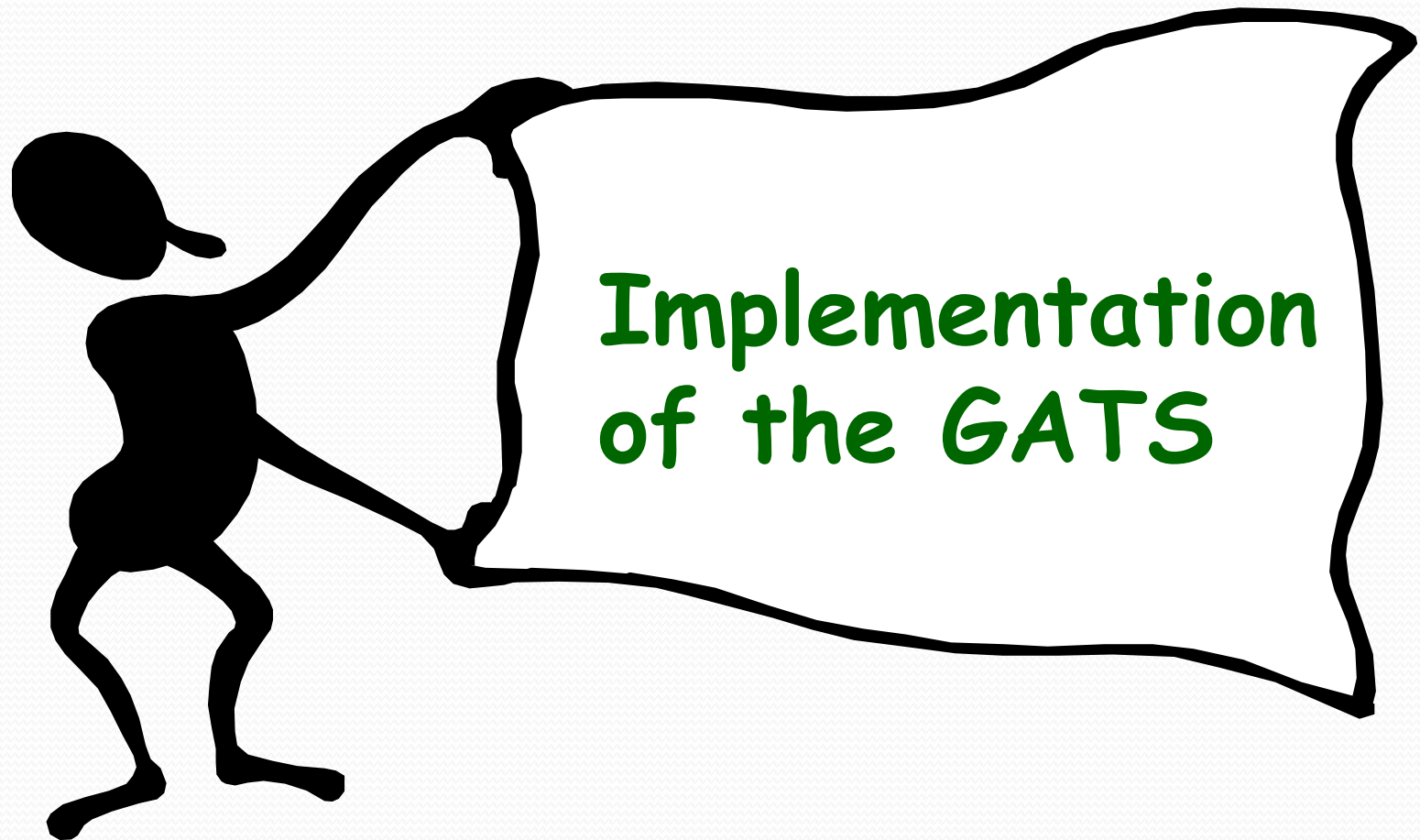
SCHEDULE OF SPECIFIC COMMITMENTS OF MEMBER X

Sector or Sub-Sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
Positive Element: selection of sectors in which Market Access and National Treatment is granted	(1)	(1)	Negotiated commitments not subject to scheduling under MA or NT
	(2)	(2)	
	(3) Negative Element:	(3)	
	(4) inscription	(4)	
	(1) of any limitations on	(1)	
	(2) Market Access and	(2)	
	(3) National Treatment	(3)	
	(4)	(4)	



Scope of the GATS: measures affecting trade in services







Transparency: notifications

- To notify measures significantly affecting commitments (Art.III:3):
 - Over 400 notifications
- To notify economic integration agreements (Art.V:7):
 - 92 agreements notified until June 2012
- To notify mutual recognition arrangements (Art. VII:4):
 - 50



Progressive Liberalization

- Negotiation under Article XIX: started on 1 January 2000 and incorporated into the Doha Round at the end 2001
- Renegotiation under Article XXI: five processes invoked



GATS and dispute settlement

- Defining the scope of the GATS
 - **Canada Periodicals** (1997): trade in magazines, plus discussion of advertising services
- 1. Services linked to trade in goods:
 - **EC Bananas** (1997): trade in bananas, plus distribution services
 - **Canada Autos** (2000): trade in cars, plus distribution services
- Pure services cases:
 - **Mexico Telecom** (2003): trade in telecommunications services
 - **US Online Gambling** (2004): trade in gambling services
- Recent case:
 - **China Audiovisual** (2009): trade in distribution and audiovisual services
 - **China Electronic Payment System** (2011): trade in financial services



Overview of WTO Dispute Settlement: By Agreements (April 2011)

Year	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	Total	%
Complaints	25	39	50	41	30	34	23	37	26	19	12	20	13	19	14	17	5	424	–
Anti-Dumping	1	3	3	6	8	10	6	7	6	8	4	8	1	6	3	5	3	88	21%
Agriculture	2	5	14	5	6	4	2	7	6	2	2	1	2	1	6	0	0	65	16%
ATC	1	6	2	1	1	4	0	0	1	0	0	0	0	0	0	0	0	16	4%
Customs Valuation	3	1	0	1	1	3	1	0	1	0	0	1	1	2	0	0	0	15	4%
DSU	1	1	0	1	1	1	1	0	0	2	0	0	0	0	0	0	0	8	2%
GATS	1	3	2	3	1	3	1	0	1	1	0	0	1	3	0	1	0	21	5%
GATT	24	28	33	25	17	22	18	34	20	18	6	20	12	15	13	16	5	326	77%
GPA	0	0	3	0	1	0	0	0	0	0	0	0	0	0	0	0	0	4	1%
Import Licensing	1	1	13	5	4	1	2	3	1	1	1	0	0	0	0	0	0	33	8%
Rules of Origin	0	0	2	1	0	0	0	1	0	0	0	1	0	2	0	0	0	7	2%
Safeguards	0	0	2	2	4	3	7	11	1	0	2	2	0	0	1	4	0	39	9%
SCM	0	8	10	11	3	6	4	7	4	6	1	9	4	5	2	1	0	81	19%
SPS	5	3	3	5	0	2	1	5	6	0	0	0	1	2	3	1	0	37	9%
TBT	8	4	3	5	0	2	3	2	4	0	0	0	1	3	3	1	0	39	9%
TRIMS	0	7	5	3	1	1	1	2	0	0	1	3	2	0	0	1	0	27	6%
TRIPS	0	6	5	4	5	3	1	0	1	0	0	0	1	1	0	2	0	29	7%
WTO	0	0	0	1	2	6	5	5	4	2	1	5	0	1	0	2	0	34	8%



Build-in agenda of the GATS:

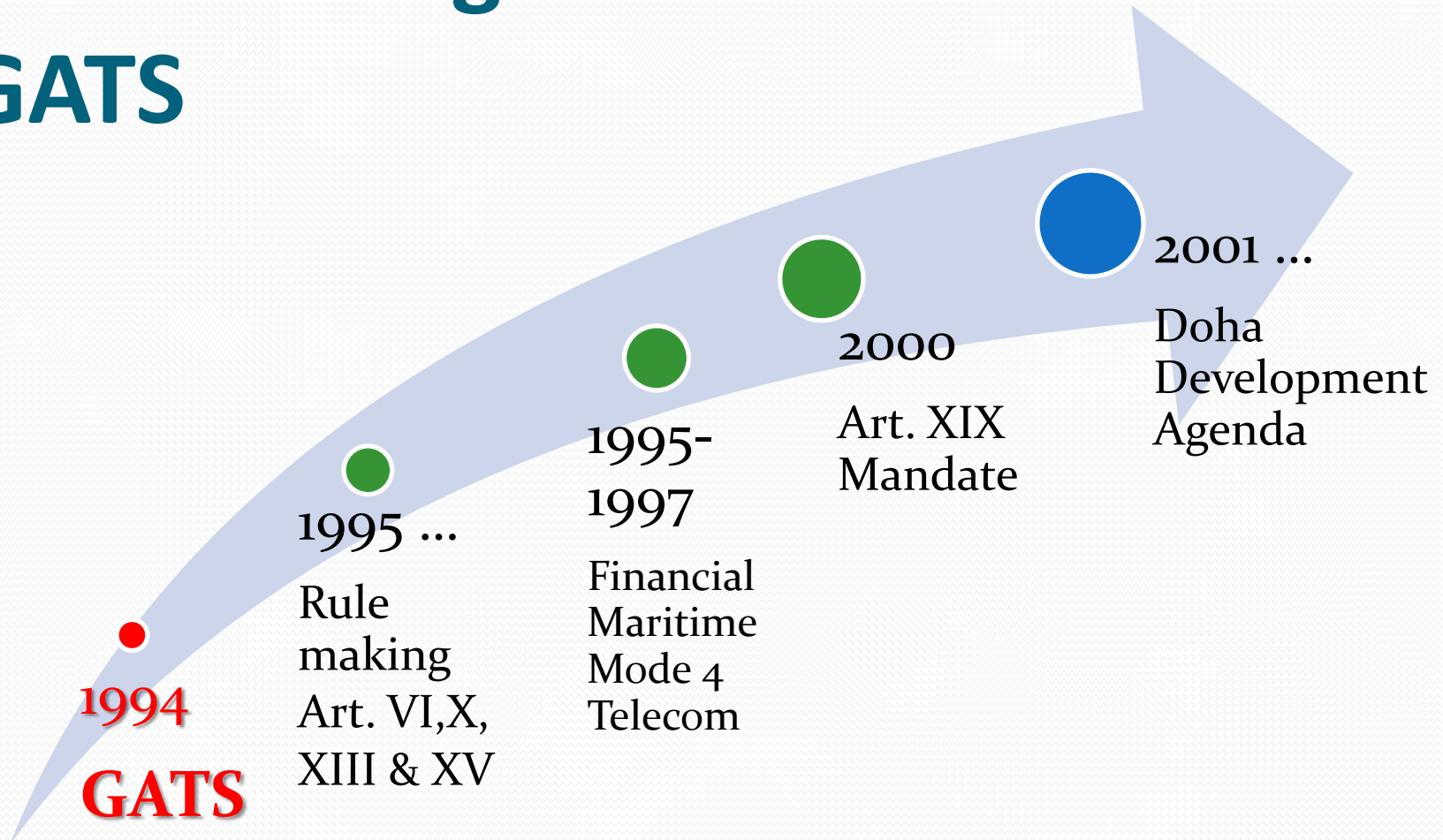
- Negotiations with a view to developing necessary disciplines with respect qualification requirements and procedures, licensing requirements and procedures, and technical standards (Art.VI.4)
- Multilateral negotiations on the question of emergency safeguard measures (Art. X)
- Multilateral negotiations on government procurement in services (Art. XIII)
- Negotiations with a view to developing necessary multilateral disciplines to avoid trade-distortive effects on subsidies (Art. XV)



Services
Negotiations
under the *GATS*



Services negotiations under the GATS





DDA: Negotiating issues

- **Specific commitments (“market access”)**
 - Market access
 - National treatment
 - Other commitments
- **MFN exemptions**
 - Annex on Article II
- **Regulatory framework**
 - Domestic regulation
 - Subsidies, Safeguards, Government procurement
- *Implementation of LDC modalities*
 - *Measures falling under LDC waiver*



Milestones in the DDA negotiations

- **2005 Hong Kong Ministerial Declaration**
 - Annex C sets out 'modalities' for negotiations in services
 - Sectoral and modal negotiating objectives
 - Timelines for conclusion of the services negotiations
- **2008 Mini-Ministerial Meeting**
 - Draft text on services
 - Signalling Conference
 - Principle of LDC waiver
- **Eighth Ministerial Conference (2011) ...**



State of play: Market access

- **Initial offers**

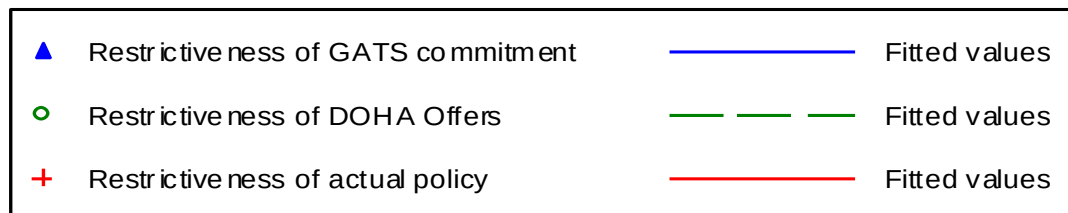
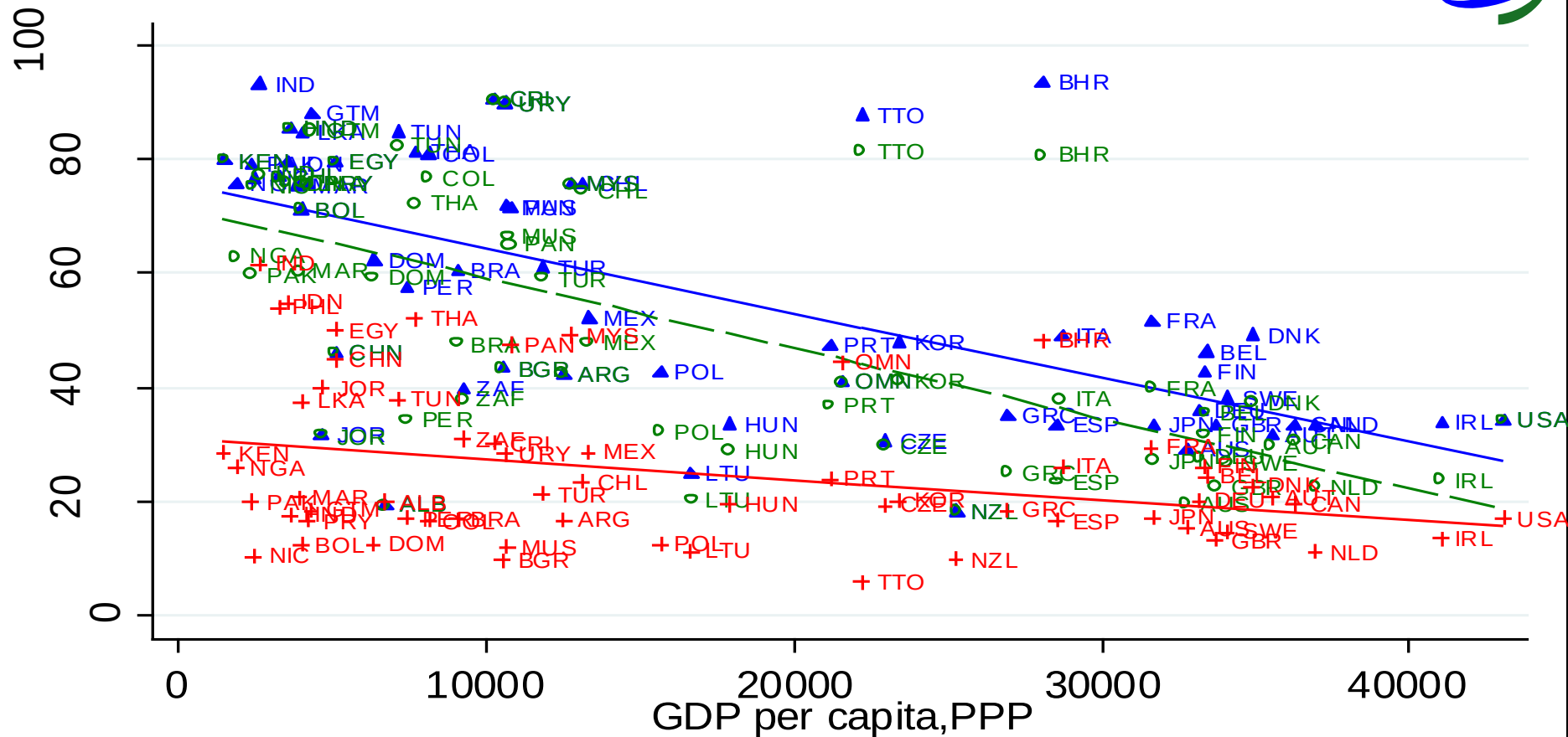
- 71 Schedules (covering 95 Members*)
- Last submission: 19 March 2008 (Belize)

- **Revised offers**

- 31 Schedules (covering 55 Members*)
- Last submission: 22 August 2007 (Nigeria)

*Counting EC Members (EC 25) individually

UR Commitments, Doha Offers and Actual Policies

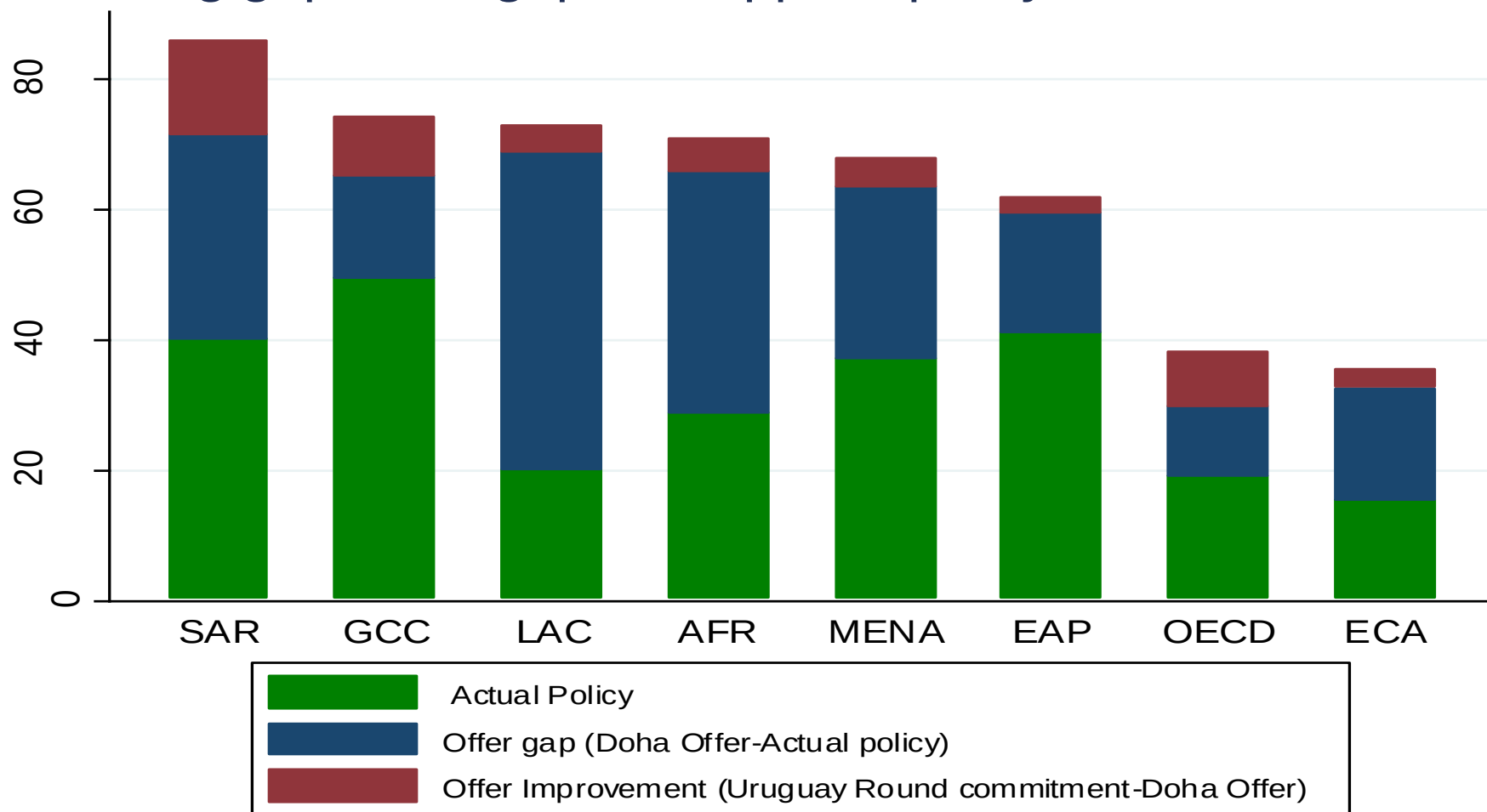


STRI for 61 countries, excluding Qatar and 31 countries that did not submit offers

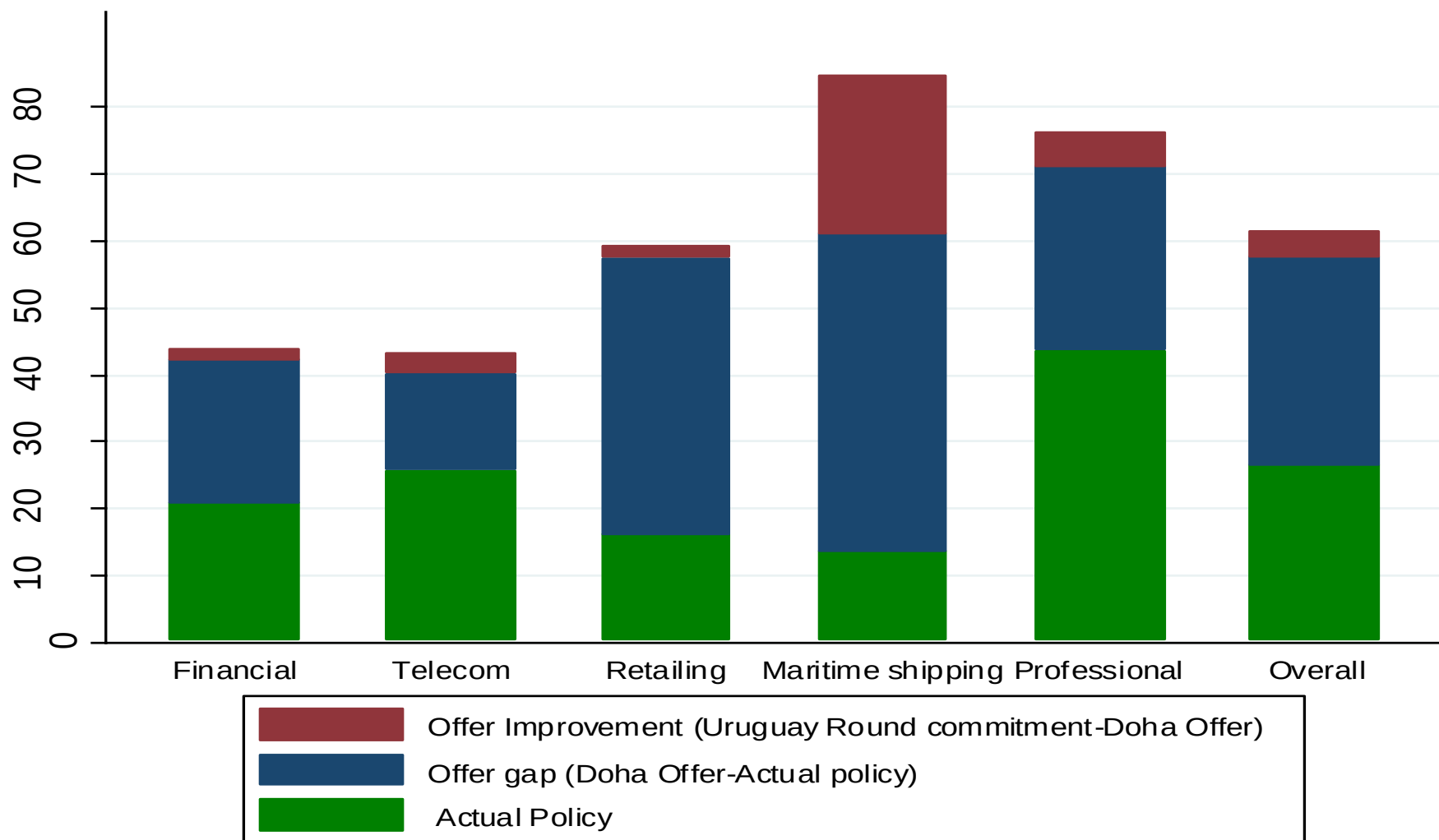
UR commitments, Doha offers and actual policies by region



Binding gap, offer gap and applied policy for 93 countries



UR commitment, Doha Offers, and actual policies by sector



Source: Borchert, Gootiiz, Mattoo 2010



Challenges in the services negotiations

- **Linkage to other negotiating areas: single undertaking**
 - Especially agriculture & NAMA
- **Difficult policy coordination in capitals**
 - Sectoral responsibilities scattered among different ministries
- **Structure of GATS**
 - Schedules and modal structure too complex?
- **Regionalism**
 - Diversion of negotiating resources?



Looking ahead

- The DDA negotiations remain at an impasse.
- Unlikely that all elements could be concluded simultaneously in the near future.
- Members need to more fully explore different negotiating approaches while respecting the principles of transparency and inclusiveness.
- Plurilateral services negotiations among RGF (“real good friends”): Implications for the GATS



Trade policy and the private sector

- An economy's trade policy (laws, regulations, trade agreements, etc) defines its trade environment in which the private sector is doing business: institutions, tax and investment incentives, infrastructure, competition policy, etc.
- The private sector is an important stakeholder in policy-making as it directly bears the consequences of trade policies.
- The private sector is also expected to play an important role in trade policy-making including trade negotiations.

The private sector as a stakeholder in trade policy-making

- Business operation requires transparency, certainty and predictability of economic policies.
- Business benefits from good infrastructure, efficient and reliable public services, less tax burden, and appropriate incentives.
- Business suffers from poor infrastructure, burdensome regulations, inefficient and corrupt administration.
- When going abroad, business expects an open, non-discriminatory, transparent as well as predictable regulatory environment in the host country; it also expects support from its home country.

Role of the private sector in trade policy-making

- Monitor the policy-making process: to ensure government interventions are justified.
- Contribute to policy-making: keep the government informed of business needs and market trends; regulatory barriers encountered domestically and abroad; provide concrete advice and suggestions.
- Provide inputs to trade negotiations: participate in the consultation process; inform trade negotiators of market targets.

THANK YOU

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