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A Review of the Philippines' Participation in Trade in Services Agreements

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List of Acronyms

ABAC	APEC Business Advisory Council
AEC	ASEAN Economic Community
AEM	ASEAN Economic Ministers
AFAS	ASEAN Framework Agreement on Services
AMTB	ASEAN Matters Technical Board
APEC	Asia-Pacific Economic Cooperation
APSCo	Asia-Pacific Services Coalition
AQRF	ASEAN Qualifications Reference Framework
ASEAN	Association of Southeast Asian Nations
ASEM	Asia-Europe Meeting
ATISA	ASEAN Trade in Services Agreement
BAA	Boracay Action Agenda
BITR	Bureau of International Trade Relations
BSP	<i>Bangko Sentral ng Pilipinas</i>
CAEC	Committee for ASEAN Economic Community
CEP	comprehensive economic partnership
COVID-19	coronavirus disease 2019
CTRM	Committee on Tariff and Related Matters
DA	Department of Agriculture
DENR	Department of Environment and Natural Resources
DFA	Department of Foreign Affairs
DOE	Department of Energy
DOLE	Department of Labor and Employment
DOTR	Department of Transportation
DTI	Department of Trade and Industry
EO	executive order

EPA	economic partnership agreement
GATS	General Agreement on Trade in Services
FEALAC	Forum for East Asia-Latin America Cooperation
FINL	Foreign Investment Negative List
FTA	free trade agreement
IAC-TS	Inter-Agency Committee on Trade in Services
IT	information technology
IT-BPM	information technology and business process management
MFN	most favored nation
MNP	movement of natural persons
MRA	mutual recognition agreement
MSMEs	micro, small, and medium enterprises
NCC	National Competitiveness Council
NEDA	National Economic and Development Authority
NEDA-TSIS	NEDA–Trade, Services, and Industry Staff
PCC	Philippine Coordinating Committee
PCRC	Philippine Council for Regional Cooperation
PDP	Philippine Development Plan
PEDP	Philippine Export Development Plan
PH-EFTA	Philippines-European Free Trade Association
PH-WGS	Philippine Working Group on Services for the ASEAN Plus Dialogue Partners Trade in Services
PhilNITS	Philippine National ID Standards
PJEPA	Philippines-Japan Economic Partnership Agreement
PPD	public-private dialogues
PSC	Philippine Services Coalition
RA	Republic Act

RCEP	Regional Comprehensive Economic Partnership
RTA	regional trade agreement
SMEs	small and medium enterprises
TBAC	Technical Board on ASEM Concerns
TBAM	Technical Board on APEC Matters
TBFM	Technical Board on FEALAC Matters
TCWM	Technical Committee on WTO Matters
TSIS	Trade, Services, and Industry Staff
WTO	World Trade Organization

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Abstract

This paper reviews the participation of the Philippines in services trade agreements at the multilateral, regional, and bilateral levels. It also discusses the government's institutional arrangements for services trade negotiations. To harness the benefits of free trade agreements and increase market opportunities for the country, the government should judiciously exercise policy space in binding commitments, involve various stakeholders early in the services negotiation cycle, clarify and delineate roles of relevant agencies, and capacitate the private sector, particularly micro, small, and medium enterprises, to engage in trade in services more actively. To strengthen the governance structure of trade negotiations in services, lead coordination must be consolidated in one agency instead of the current setup, where the role is split between two agencies depending on the trade partner and the scope of the agreement.

Introduction

The services sector is becoming increasingly significant to both national and global economic development. Based on the 2019 World Development Indicators, the services sector accounted for 61 percent of the global gross domestic product (GDP) in 2018, expanding faster than the agriculture and manufacturing sectors. Its relevance in global trade is also significant. Trade in services reached USD 5.8 trillion in 2018, taking up approximately a quarter of the value of global trade. The services sector in the global trade and developing economies are estimated to grow by 50 percent and 15 percent, respectively, assuming the reduction of trade costs, face-to-face interaction, and services trade barriers (WTO 2019).

Services negotiations have not been concluded at the multilateral level since the late 1990s (WTO 2019). A recent achievement of the World Trade Organization (WTO) is the adoption of the Joint Initiative on Services Domestic Regulation by 67 member-states, including the Philippines. The joint initiative aims to improve transparency in the regulatory environment and cut red tape (WTO 2021). Over the last 20 years, most services trade openings were bound by regional trade agreements (RTAs) rather than in the WTO. Since the General Agreement on Trade in Services (GATS) entered into force, the number of services RTAs has drastically increased from less than 10 in 2000 to 148 by 2018. While most of the RTAs concluded before 2000 only covered goods, more than two-thirds of those concluded over the last decade have included disciplines on services trade. Approximately 80 percent of WTO members are party to at least one RTA that covers services. Furthermore, an increasing number of services RTAs have been concluded among developing economies, especially in the last decade (WTO 2019).

Unlike trade in goods, where liberalization is about reducing tariffs, services trade liberalization involves nontariff measures in the form of various regulations that limit market access and/or discriminate against foreign service suppliers (Egger et al. 2019). While liberalization could be done unilaterally, there are benefits in pursuing services liberalization within the ambit of trade policy and agreements. According to Sáez (2010), trade agreements help the liberalization process if there is opposition from vested national interests to open up the domestic market or introduce changes to regulations. International contracts could not be changed unilaterally. Thus, trade agreements provide

a more stable framework for trade and create a path for gradually introducing reforms and rules that cannot be modified arbitrarily. The reciprocal nature of trade liberalization in such agreements could also bolster political support for the liberalization of services markets.

The Philippines has not been as active in forging trade agreements as its neighbors in the Association of Southeast Asian Nations (ASEAN), such as Indonesia, Malaysia, Singapore, Thailand, and Viet Nam. As members of ASEAN, these countries are all parties to eight agreements (Table 1).

Table 1. FTAs of ASEAN-6

Scope	Indonesia	Malaysia	Philippines	Singapore	Thailand	Viet Nam
Plurilateral	3	4	3	5	3	4
Country bloc	6	5	6	9	5	7
Bilateral	4	7	1	15	4	4
Total	13	16	10	29	12	15

FTA = free trade agreement; ASEAN = Association of Southeast Asian Nations

Note: The categorization of agreements (scope) follows the Asia-Pacific Trade and Investment Agreement Database by the United Nations Economic and Social Commission for Asia and the Pacific. Source: UNESCAP (n.d.)

It is in the interest of the Philippines to pursue market access in services, given its comparative advantage in this sector. However, the restrictive regulatory environment, particularly in foreign investment, and the quality of regulatory governance make it difficult for the Philippines to commit to further market openings and adhere to trade disciplines.

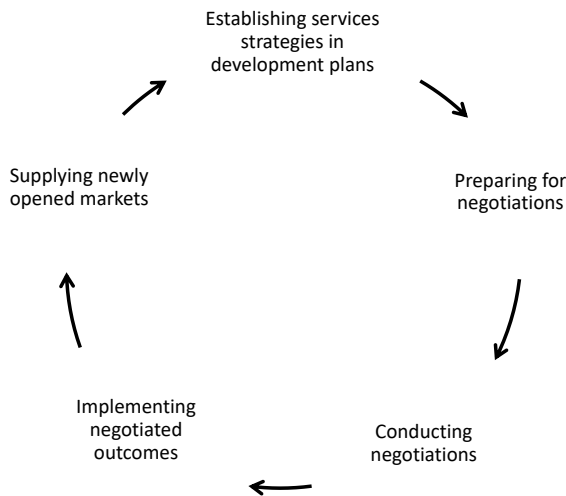
This paper reviews the participation of the Philippines in services trade agreements at the multilateral (i.e., WTO GATS), regional (i.e., ASEAN and dialogue partners), and bilateral (i.e., Philippines-Japan Economic Partnership Agreement [PJEPA] and Philippines-European Free Trade Association [PH-EFTA] Free Trade Agreement) levels. It also assesses the government’s institutional arrangements for trade in services negotiations. Moreover, it examines the country’s services-related commitments in its free trade agreements (FTAs), identifying the opportunities available and the challenges that need to be addressed for the country to maximize its

participation in FTAs. Specifically, the paper will (1) assess the role of FTAs in delivering services trade benefits, (2) examine the challenges at the regulatory and institutional levels of Philippine participation in FTAs, and (3) identify the gaps and/or weaknesses in the regulatory and institutional framework/s and provide recommendations.

Institutional Arrangements for Trade in Services Negotiations

The life cycle of services negotiations has several key moments (Figure 1), as explained by Marconini and Sauvé (2010).

Figure 1. Key moments in the life cycle of services negotiations



Source: Marconini and Sauvé (2010)

Establishing services strategies in development plans involves defining comprehensive services policy objectives and strategies at the national level as guides in measuring opportunity costs of trade agreements. The government should determine the pace and manner in which the country should be engaged in services trade agreements, considering the costs and benefits of (not) opening up the services

economy to the global market. Services sector reforms should be well coordinated. There should be a clear delegation of power from the president and a designated multi-issue steering committee and agencies to coordinate and oversee the implementation of the services roadmap. The government should also consider the policies' effect on employment, restructuring, national champions, and other strategic factors. Through the inputs of industries, it can identify obstacles for growth and development and the corresponding services-related policies to address them, as well as specify boundaries between private-public interests.

In **preparing for negotiations**, organizing an efficient coordination process is vital. The departments of trade and/or foreign affairs are usually responsible for coordination within and outside the government to establish a coherent national position on services-related issues and negotiations. Intergovernmental coordination should consider national priorities and facilitate two-way consultations with stakeholders, including the private sector and civil society. There is also a need to uncover the negotiating preferences of service producers, consumer communities (e.g., consumer advocacy groups), and other sectors interlinked with services (e.g., manufacturing, agriculture, mining). The government should have a periodic audit of domestic services and trade-related regulations to evaluate if regulatory objectives are met, identify inefficient regulations, and adopt measures to facilitate market access. Such inventory is also helpful in initiating dialogues among negotiators, agencies, and sectoral regulators (including capacity-building needs) and conducting dialogues with external stakeholders (including identifying the opportunities and challenges that exporters experience). Trade negotiators and government officials should understand trade laws and consider different liberalization scenarios and their corresponding economic and social impacts (e.g., on gender and development, poverty eradication, and human health). Ideally, negotiations should proceed after the national development strategies have been formulated, so the country is prepared to respond to complex regulatory and policy issues. It is also essential to balance trading partners' demands and domestic politics and establish proper communication channels between the government and external stakeholders.

To gain opportunities in trade agreements, the government must be proactive in **conducting services negotiations**. This includes

presenting request lists during services negotiations to promote export interests of services where the country has a comparative advantage. The government can also reach out to other developing countries to generate support and gather resources for negotiating specific issues. In formulating rule-making proposals, it could outsource assistance from nongovernment or policy research institutions with expertise in services. Coordination and consultation with key stakeholders within and outside the government should also be continuous.

In **implementing negotiated outcomes**, it is necessary to strengthen regulatory agencies and enforce policies that boost overall performance in services. In formulating regulations, it is important to consider factors such as trade and investment costs and manage the liberalization effects on regulatory, sectoral, and overall economy. New or alternative regulatory interventions may be required to liberalize service markets. When committing to procompetitive regulations, the government should consider their impacts on vulnerable groups (e.g., displaced workers) and aim to improve access to essential services for various population segments. Furthermore, the country can benefit from training officials in trade and sectoral regulations, engaging in capacity-building activities and technical assistance offered by donor countries, and partnering with local institutions, universities, or policy research institutions.

Supplying newly opened markets would need an improvement in export quality through diversification and value addition. There are several ways that the government can facilitate this. It must lift barriers to trade, investment, and labor movement. It should also enhance service quality standards, comply with partner countries' certification requirements, improve trade infrastructure, and pursue high-quality and low-cost communications, finance, transportation, and logistics services. It can also assist private sector associations, enhance support structures (e.g., funding assistance) for small and medium enterprises (SMEs), and strengthen public-private dialogue and partnering activities. The private sector can also support regulatory institutions by providing financial and human resources and expertise to improve regulatory performance, quality and licensing standards, and access to distribution networks. A coalition of service industries has a role in establishing business-to-business contacts, particularly for SMEs.

The *Philippine Development Plan (PDP) 2017–2022*, particularly Chapter 9, recognizes the importance of services. It provides strategies to promote trade in services, including producing high value-added and sustainable services by supporting information technology and business process management (IT-BPM), education, health care, logistics, construction, transport-related services, and creative industries. To improve the regulatory environment, priority reforms should include removing barriers to foreign investments¹ and promoting fair competition, especially for transport, energy, and telecommunication services.

Meanwhile, the *Philippine Export Development Plan (PEDP) 2018–2022* hinges on PDP's target goal for good and service exports. It also presents key strategies to boost the country's exports, such as improving the export environment by removing regulations hindering services trade liberalization, enhancing business productivity and competitiveness, increasing the quality of services and goods, and promoting innovation. Moreover, the PEDP seeks to utilize market access opportunities from bilateral, regional, and multilateral trade agreements. It also plans to focus on three export products and services, including export services on information technology and tourism-related services.

By law, two principal agencies are responsible for negotiating the country's international commitments. Executive Order (EO) 133 of 1987 directs the Department of Trade and Industry (DTI) to take the primary role in negotiating and reviewing existing international trade agreements. While DTI is the lead agency in most international trade negotiations, it has no veto power over positions taken by other agencies. Instead, trade policymaking is done by consensus, and individual departments and agencies bring their own initiatives, research, and trade positions (Pasadilla and Liao 2011). Meanwhile, Republic Act 7157—otherwise known as the Philippine Foreign Service Act of 1991—mandates the Department of Foreign Affairs (DFA) to (1) preserve and enhance national security, (2) promote and attain economic security, and (3) protect the rights and promote the welfare

¹ The recent passage of amendments to the Public Service Act (on March 21, 2022), Retail Trade Liberalization Act (on December 10, 2021), and Foreign Investment Act (on March 2, 2022) would relax foreign equity limitations in key sectors of the economy.

and interest of Filipinos overseas. Hence, the DFA leads the conduct of foreign relations and engages in economic diplomacy, in line with the pursuit of economic security.

Two groups with similar memberships reflect these bifurcated institutional arrangements in trade negotiations. These are the Committee on Tariff and Related Matters (CTRM) and the Philippine Council for Regional Cooperation (PCRC).

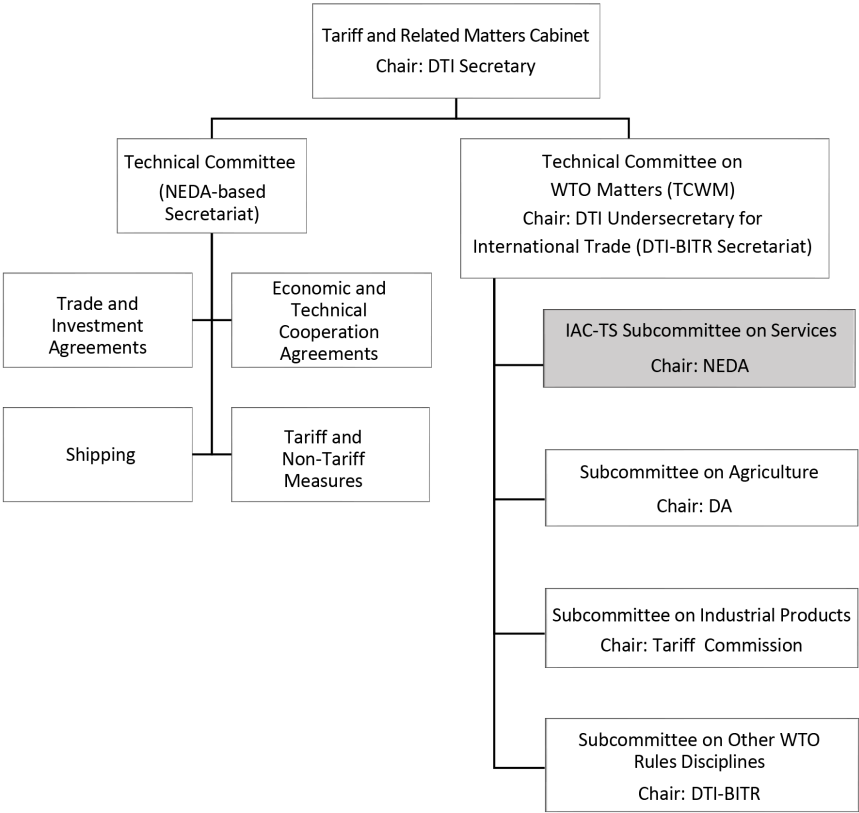
As specific FTAs arise, coordinating committees are created with their own structure. For example, the Philippine Coordinating Committee (PCC) was created for the PJEPA through EO 213, series of 2003. The DFA Undersecretary for International Economic Relations and the DTI Undersecretary for International Trade (now the Industry Development Group) serve as co-chairs of the PCC. It comprises representatives from various government agencies, with the DTI-Bureau of International Trade Relations (BITR) as the secretariat.

Committee on Tariff and Related Matters

The CTRM, created through EO 230, series of 1987, is one of the seven cabinet-level interagency committees assisting the National Economic and Development Authority (NEDA) Board in the performance of its functions. The NEDA Board comprises the Philippine president as chairperson and the NEDA secretary as vice-chairperson, with members from other government agencies (NEDA 2021). The CTRM advises the NEDA Board on tariffs and related matters and the effects of various international developments. It also coordinates agency positions and recommends national positions for international economic negotiations and a continuous rationalization program for the country's tariff structure.

The CTRM has three levels: the committee proper (Cabinet-level), the Technical Committee, and the Technical Committee on WTO Matters (TCWM) (Figure 2). Further, the Technical Committee has four subcommittees: Trade and Investment Agreements, Economic and Technical Cooperation Agreements, Shipping, and Tariff and Non-Tariff Measures (or the Technical Working Group on Tariff Review). Likewise, the TCWM has four subcommittees: Services, Agriculture, Industrial Products, and Other WTO Rules Disciplines (Pasadilla and Liao 2011; Tillah 2011).

Figure 2. CTRM framework



CTRM = Committee on Tariff and Related Matters; DTI = Department of Trade and Industry; NEDA = National Economic and Development Authority; WTO = World Trade Organization; BITR = Bureau of International Trade Relations; DA = Department of Agriculture; TSIS = Trade, Services, and Industry Staff
Sources: Pasadilla and Liao (2011); Tillah (2011); with modifications based on the interview with DTI-BITR and NEDA-TSIS on March 12, 2021

CTRM Cabinet

The CTRM Cabinet is led by the DTI Secretary and composed of the following (NEDA 2021):

- Director-General of NEDA (co-chairperson)
- Executive Secretary
- Secretary of the Department of Agriculture (DA)
- Secretary of the Department of Budget and Management
- Secretary of the Department of Labor and Employment (DOLE)

- Department of Agrarian Reform
- Department of Finance
- DFA
- Department of Environment and Natural Resources (DENR)
- Governor of *Bangko Sentral ng Pilipinas* (BSP)
- Chairman of Tariff Commission

Technical Committee

The Technical Committee is mainly composed of undersecretaries and directors. It reports to the CTRM Cabinet and receives assistance from the NEDA-based secretariat. Aside from the aforementioned departments, senior officials from the following offices are also part of the Technical Committee (Pasadilla and Liao 2011):

- Department of Transportation and Communications, renamed as Department of Transportation (DOTr)² in 2016
- Board of Investments (BOI)
- Bureau of Customs
- Department of Energy (DOE)
- National Telecommunications Commission
- Securities and Exchange Commission (SEC)
- Department of Science and Technology
- Legal office representative from the Office of the President provides advice and intermediates between the president and the CTRM

Technical Committee on WTO Matters

The TCWM, created in 1999, focuses on handling issues directly related to multilateral commitments. It recommends strategies and evaluates the implementation and participation of the country at the multilateral level. The DTI-BITR serves as the TCWM secretariat and coordinates services-related matters with the Philippine Mission to the WTO in Geneva, headed by an ambassador assigned by the DFA and supported by other officers from other departments (Avila 2011; Serafica 2022). The TCWM is composed of interagency subcommittees on (1) agriculture, headed by the DA; (2) services, headed by NEDA;

² All functions and duties relating to communications were transferred to the Department of Information and Communications Technology in 2016, based on Section 15 of RA 10844.

(3) industrial products, headed by the Tariff Commission; and (4) other WTO rules disciplines, headed by the DTI-BITR (Tillah 2011).

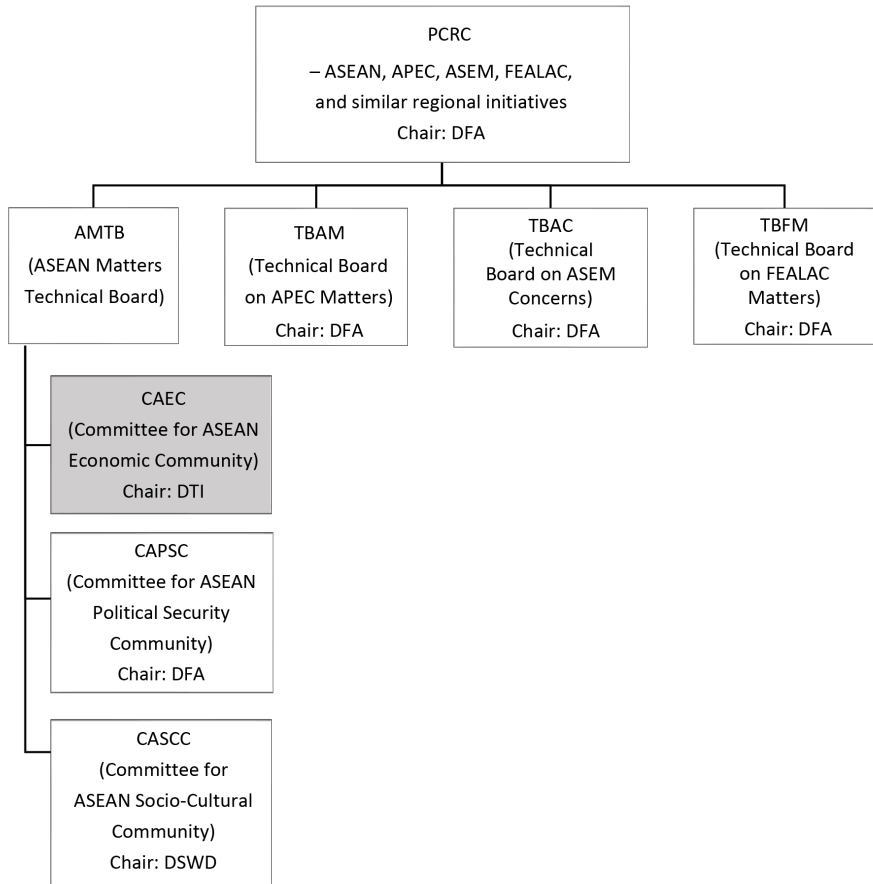
Under the TCWM is the Inter-Agency Committee on Trade in Services (IAC-TS), which leads services trade negotiations in the WTO. All decisions made by the IAC-TS are endorsed to the TCWM (chaired by the DTI) for consideration and approval. The IAC-TS is chaired by NEDA and receives secretariat assistance from NEDA's Trade, Services, and Industry Staff (TSIS). Services trade covers many sectors and is decentralized such that line agencies (e.g., DENR, DOTr, DOLE, BSP, Department of Tourism, DOE, Professional Regulatory Commission, Commission on Higher Education) still handle trade issues for their respective industries (Pasadilla and Liao 2011). Moreover, the IAC-TS handles negotiations for bilateral FTAs, such as the PH-EFTA FTA, PJEPA, PH-South Korea, and PH-European Union. It also handles the finalization of the ASEAN Framework Agreement on Services (AFAS) 10th package.

Philippine Council for Regional Cooperation

The PCRC was created under Administrative Order (AO) 20 (s. 2011) to facilitate interagency coordination in formulating and implementing national policy toward enhancing relations with all regional and interregional organizations and fora. AO 20 recognized the primacy of the DFA in the conduct of foreign relations. Hence, it designated the DFA as the focal point for the formulation, coordination, and integration of Philippine proposals and positions on matters relating to ASEAN, the Asia-Pacific Economic Cooperation (APEC), Asia- Europe Meeting (ASEM), Forum for East Asia-Latin America Cooperation (FEALAC), and similar regional initiatives.

The PCRC comprises four subcabinet-level technical boards: the ASEAN Matters Technical Board (AMTB), the Technical Board on APEC Matters (TBAM), the Technical Board on ASEM Concerns (TBAC), and the Technical Board on FEALAC Matters (TBFM) (Figure 3). The DFA serves as the chair of these technical boards since it was designated as the senior Philippine official in regional associations/fora. The chair may also create, reorganize, or alter the membership of the PCRC, technical boards, committees, and working groups.

Figure 3. PCRC framework



PCRC = Philippine Council for Regional Cooperation; ASEAN = Association of Southeast Asian Nations; APEC = Asia-Pacific Economic Cooperation; ASEM = Asia-Europe Meeting; FEALAC = Forum for East Asia-Latin America Cooperation; DFA = Department of Foreign Affairs; DTI = Department of Trade and Industry; DSWD = Department of Social Welfare and Development; BTR = Bureau of International Trade Relations

Source: Administrative Order 20 (s. 2011), with modifications based on the interview with DTI-BTR on March 12, 2021

Under the AMTB is the Committee for ASEAN Economic Committee (CAEC), chaired by the DTI and composed of agencies concerned with ASEAN economic and financial cooperation. Further, the Philippine Working Group on Services for the ASEAN Plus Dialogue Partners Trade in Services (PH-WGS) is under the CAEC.

The PH-WGS handles ASEAN Plus 1 FTAs' services trade negotiations, including liberalization of services trade, movement of natural persons (MNPs), and mutual recognition arrangements (MRAs) on professional services. Other ASEAN-related matters, such as the Regional Comprehensive Economic Partnership (RCEP), are also discussed and cleared by the CAEC and PCRC.

Services negotiations

Services cover various subsectors. Based on Article 1 of GATS, trade in services occurs via the following modes of supply:

- Mode 1 – from the territory of one member into the territory of any other member
- Mode 2 – in the territory of one member to the service consumer of any other member
- Mode 3 – by a service supplier of one member, through commercial presence in the territory of any other member
- Mode 4 – by a service supplier of one member, through the presence of natural persons of a member in the territory of any other member

Although services trade negotiations are handled either by the IAC-TS under the CTRM or by the PH-WGS under the PCRC, the composition of the two groups is similar (Table 2). The NEDA-TSIS is the lead coordinator of the former, while the DTI-BITR is in charge of the latter.

The DTI, DFA, and NEDA have an overarching role, while the other agencies are focused on a specific mode of supply or subsector. For instance, BOI, SEC, and Department of Justice cover all subsectors but are focused on a specific mode of supply and/or regulatory issue. Mode 1, which occurs via cross-border flows, involves the Department of Information and Communications Technology; Mode 2 (consumption abroad) primarily covers tourism; Mode 3 (establishment of commercial presence) involves BOI and SEC; and Mode 4 (on MNPs) is handled mainly by DOLE. Moreover, different subsectors are handled by their respective agencies.

Table 2. Members of the interagency committee/working group on trade in services

Member Agencies	
DTI–Board of Investments	Department of Information and Communications Technology
DTI–Bureau of International Trade Relations	Department of Justice
DTI–Export Marketing Bureau	Department of Labor and Employment
<i>Bangko Sentral ng Pilipinas</i>	Department of Science and Technology
Bureau of Immigration	Department of Transportation
Civil Aeronautics Board	Department of Tourism
Commission on Higher Education	Film Development Council of the Philippines
Construction Industry Authority of the Philippines	Insurance Commission
Department of Energy	Maritime Industry Authority
Department of Education	National Economic and Development Authority
Department of Environment and Natural Resources	National Telecommunications Commission
Department of Finance	Philippine Ports Authority
Department of Foreign Affairs	Professional Regulation Commission
Department of Health	Philippine Postal Corporation*
Technical Education and Skills Development Authority	Civil Aviation Authority of the Philippines *

* Not part of the Philippine Working Group on Services for the ASEAN Plus Dialogue Partners Trade in Services

DTI = Department of Trade and Industry

Source: PIDS (2022)

Participation of the Philippines in Services Agreements

Multilateral agreement

The multilateral agreement for trade in services is relatively young compared to its goods counterpart. GATS was signed on April 15, 1994 in Marrakesh, Morocco, as part of the Marrakesh Agreement that entered into force on January 1, 1995 and established the WTO. In contrast, the multilateral agreement for trade in goods has existed since 1947 through the General Agreement on Tariffs and Trade.

GATS establishes a set of rules and disciplines governing the use by WTO members of measures affecting trade in services. Its main objectives are to (1) progressively liberalize trade in services through rounds of negotiations, (2) encourage economic growth and development through liberalization of trade in services, and (3) increase the participation of developing countries in world trade in services. GATS applies to any measure directly or indirectly affecting trade in services, regardless if it is performed by any level of the government or private entities (UNCTAD 2020).

Services trade is liberalized through a series of market access and national treatment commitments specified in schedules that describe their terms, limitations, and conditions. It prohibits discrimination among members and identifies six types of market access restrictions. GATS Article XVI on market access lists the following limitations:

- a. number of service suppliers
- b. value of service transactions or assets
- c. number of operations or quantity of output
- d. number of natural persons supplying a service
- e. type of legal entity or joint venture
- f. participation of foreign capital

These measures do not ensure the quality of services or capability of service suppliers. Hence, they serve no other purpose but to restrict trade and are therefore considered as such (UNCTAD 2020).

Similar to bound tariffs for trade in goods, when a government makes specific market access and/or national treatment commitment in a particular service, it cannot impose new measures on foreign service

suppliers that are more restrictive than what is scheduled (Miroudot and Pertel 2015; UNCTAD 2020). GATS also defines transparency standards (e.g., obliging WTO members to publish all measures falling under the agreement) and several other disciplines on good governance for the services sectors.

GATS aims to increase the participation of developing countries in services trade to improve the quality of domestic services, increase access to distribution channels and information networks, and liberalize market access using more customized negotiation, which takes a longer process but is more effective for developing countries. GATS does not impose regulations nor champion deregulation or privatization (UNCTAD 2020). It considers the welfare of least developed and developing countries as well as the challenges in regulating services. In facilitating market access, it helps enhance developing countries' ability to participate in the services trade. More importantly, it preserves every government's right to regulate.

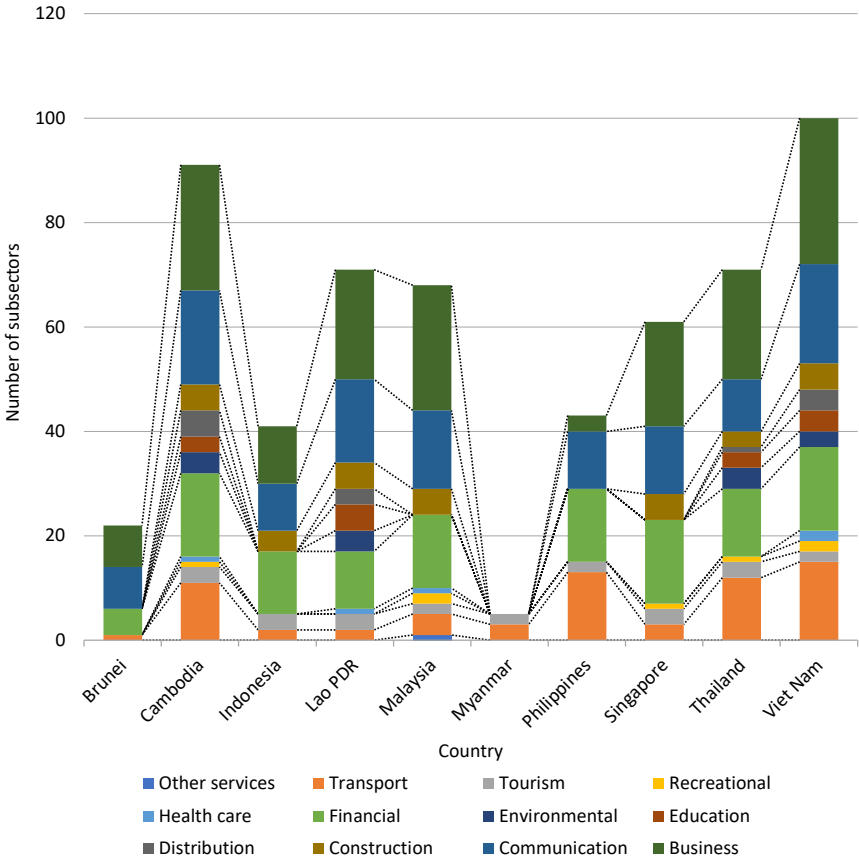
Figure 4 and Table 3 show the subsectors that ASEAN member-states have scheduled under GATS. The two do not reflect the depth (quality) of commitments made across various sectors and whether full or partial commitments were made across all modes of supply. Nonetheless, they show that the Philippines, an original WTO member, committed fewer subsectors than other members, particularly in business services. Cambodia, Viet Nam, and Laos, which joined in 2004, 2007, and 2013, respectively, included more subsectors in their commitments.

Figure 5 and Table 4 also show the subsectors that the country's FTA partners committed under GATS. The Philippines has fewer commitments than the other members except for India.

Further multilateral services trade negotiations have started since November 2001 under the Doha Development Agenda. However, no outcomes have been achieved to date in terms of additional market openings. In 2021, the WTO Joint Initiative on Services Domestic Regulation was adopted by 67 WTO members, including the Philippines. As a participating member, the Philippines is expected to incorporate the disciplines in the Reference Paper on Services Domestic Regulation as additional commitments in its GATS schedule of specific commitments. The Philippines also signed the WTO Joint Statement Initiative on E-commerce and is actively participating in the ongoing discussions,

which include issues relevant to services, such as cross-border data flows, customs duties on electronic transmissions, internet access, as well as market access and other issues in business, telecommunication, distribution, financial, and transport services.

Figure 4. Subsectors scheduled under GATS by ASEAN member-states



GATS = General Agreement on Trade in Services; ASEAN = Association of Southeast Asian Nations; PDR = People's Democratic Republic; WTO = World Trade Organization
Note: Following the WTO Services Sectoral Classification List or the W/120, which covers 155 subsectors, a commitment was counted if the subsector (or a part thereof) was included in the schedule of specific commitments, regardless of whether full or partial commitments were made in that subsector. Subsectoral coverage does not reflect the level of openness of any sector since each party may make varying degrees of openness in their commitments in the different modes of supply in each services subsector. The relative size of the sectoral coverage also does not necessarily reflect the relative commercial significance of the sectors.
Source: WTO and World Bank (n.d.)

Table 3. GATS commitments, Philippines and ASEAN member-states

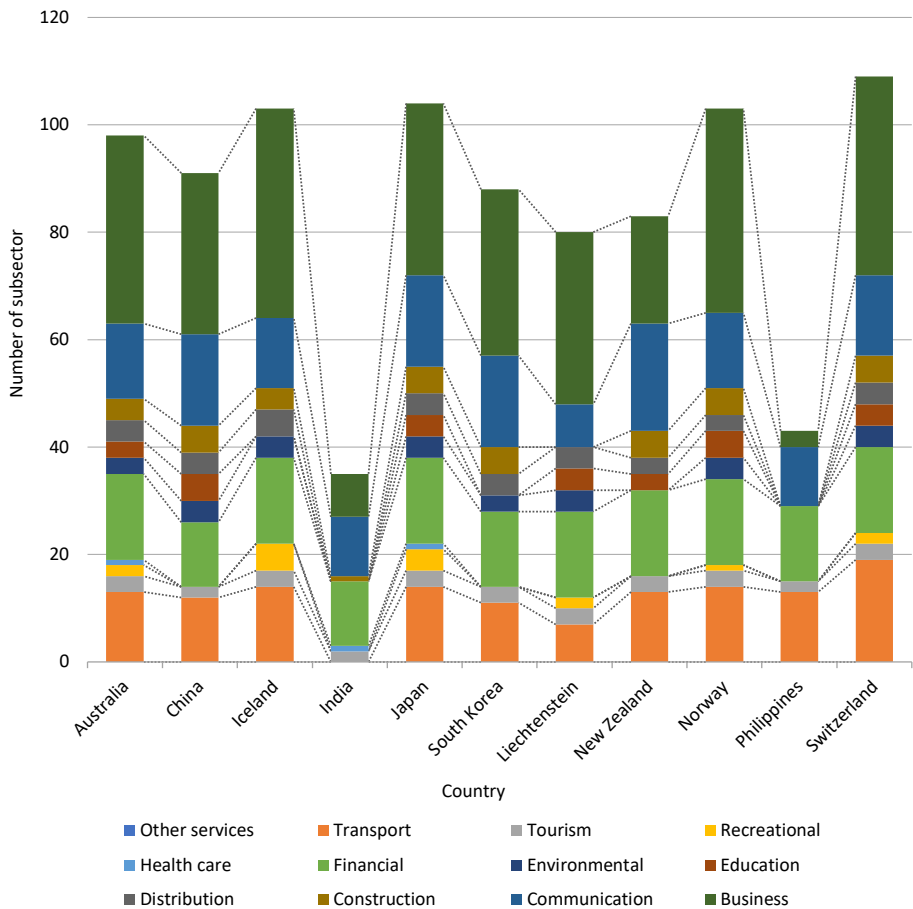
Subsector (Number of Subsectors)	BN	KH	ID	LA	MY	MM	PH	SG	TH	VN
Business services (46)	8	24	11	21	24	0	3	20	21	28
Communication services (24)	8	18	9	16	15	0	11	13	10	19
Construction and related engineering services (5)	0	5	4	5	5	0	0	5	3	5
Distribution services (5)	0	5	0	3	0	0	0	0	1	4
Educational services (5)	0	3	0	5	0	0	0	0	3	4
Environmental services (4)	0	4	0	4	0	0	0	0	4	3
Financial services (17)	5	16	12	11	14	0	14	16	13	16
Health-related and social services (other than those listed under 1.A.H-J.) (4)	0	1	0	1	1	0	0	0	0	2
Tourism and travel-related services (4)	0	3	3	3	2	2	2	3	3	2
Recreational, cultural, and sporting services (other than audiovisual services) (5)	0	1	0	0	2	0	0	1	1	2
Transport services (35)	1	11	2	2	4	3	13	3	12	15
Other services not included elsewhere (1)	0	0	0	0	1	0	0	0	0	0
Total (155)	22	91	41	71	68	5	43	61	71	100

ASEAN = Association of Southeast Asian Nations; BN = Brunei Darussalam; KH = Cambodia; ID = Indonesia; LA = Lao People's Democratic Republic; MY = Malaysia; MM = Myanmar; PH = Philippines; SG = Singapore; TH = Thailand; VN = Viet Nam; WTO = World Trade Organization

Note: Following the WTO Services Sectoral Classification List or the W/120, which covers a total of 155 subsectors, a commitment was counted if the subsector (or a part thereof) was included in the schedule of specific commitments, regardless of whether full or partial commitments were made in that subsector. Subsectoral coverage does not reflect the level of openness of any sector since each party may make varying degrees of openness in their commitments in the different modes of supply in each subsector. The relative size of the sectoral coverage also does not necessarily reflect the relative commercial significance of the sectors.

Source: WTO and World Bank (n.d.)

Figure 5. Subsectors scheduled under GATS, Philippines and trade partners



GATS = General Agreement on Trade in Services; WTO = World Trade Organization

Note: Following the WTO Services Sectoral Classification List or the W/120, which covers 155 subsectors, a commitment was counted if the subsector (or a part thereof) was included in the schedule of specific commitments, regardless of whether full or partial commitments were made in that subsector. Subsectoral coverage does not reflect the level of openness of any sector since each party may make varying degrees of openness in their commitments in the different modes of supply in each services subsector. The relative size of the sectoral coverage also does not necessarily reflect the relative commercial significance of the sectors.

Source: WTO and World Bank (n.d.)

Table 4. GATS commitments, Philippines and trade partners

Subsector (Number of Subsectors)	AU	CN	IS	IN	JP	KR	LI	NZ	NO	PH	CH
Business services (46)	35	30	39	8	32	31	32	20	38	3	37
Communication services (24)	14	17	13	11	17	17	8	20	14	11	15
Construction and related engineering services (5)	4	5	4	1	5	5	0	5	5	0	5
Distribution services (5)	4	4	5	0	4	4	4	3	3	0	4
Educational services (5)	3	5	0	0	4	0	4	3	5	0	4
Environmental services (4)	3	4	4	0	4	3	4	0	4	0	4
Financial services (17)	16	12	16	12	16	14	16	16	16	14	16
Health-related and social services (other than those listed under 1.A.H-J.) (4)	1	0	0	1	1	0	0	0	0	0	0
Tourism and travel-related services (4)	3	2	3	2	3	3	3	3	3	2	3
Recreational, cultural, and sporting services (other than audiovisual services) (5)	2	0	5	0	4	0	2	0	1	0	2
Transport services (35)	13	12	14	0	14	11	7	13	14	13	19
Other services not included elsewhere (1)	0	0	0	0	0	0	0	0	0	0	0
Total (155)	98	91	103	35	104	88	80	83	103	43	109

GATS = General Agreement on Trade in Services; AU = Australia; CN = China; IS = Iceland; IN = India; JP = Japan; KR = Republic of Korea; LI = Liechtenstein; NZ = New Zealand; NO = Norway; PH = Philippines; CH = Switzerland

Note: Following the WTO Services Sectoral Classification List or the W/120, which covers a total of 155 subsectors, a commitment was counted if the subsector (or a part thereof) was included in the schedule of specific commitments, regardless of whether full or partial commitments were made in that subsector. Subsectoral coverage does not reflect the level of openness of any sector since each party may make varying degrees of openness in their commitments in the different modes of supply in each subsector. The relative size of the sectoral coverage also does not necessarily reflect the relative commercial significance of the sectors.

Source: WTO and World Bank (n.d.)

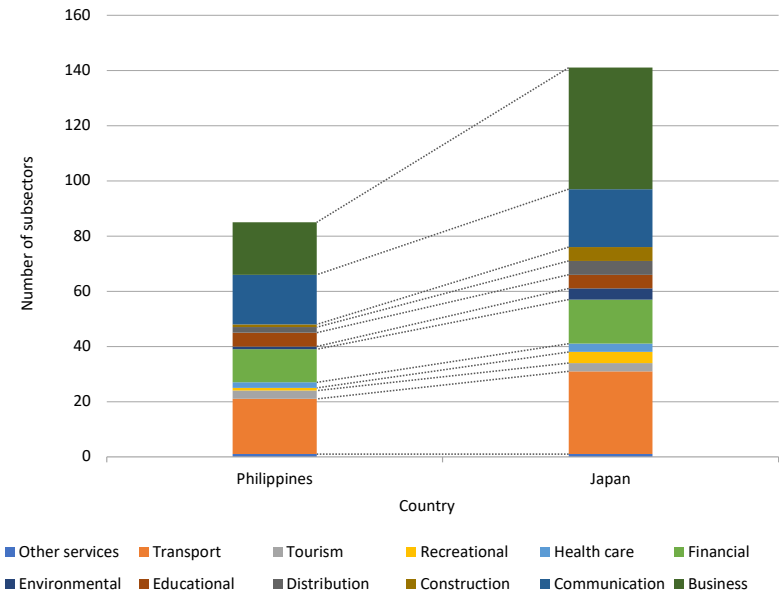
Bilateral agreements

Philippines-Japan Economic Partnership Agreement

The PJEPA was the first bilateral FTA that the Philippines embarked upon. It was signed in 2006 and entered into force in 2008. The agreement contains a chapter on trade in services (Chapter 7), with annexes on (1) financial services and (2) schedule of specific commitments and list of most-favored-nation (MFN) treatment exemptions. It also includes a chapter on MNPs (Chapter 9), with an annex on specific commitments.

Commitments were made using the “positive list” similar to GATS (Figure 6 and Table 5) and include a standstill obligation, meaning they do not deviate from the current laws and regulations (or status quo).

Figure 6. Subsectors scheduled under PJEPA



PJEPA = Philippines-Japan Economic Partnership Agreement; WTO = World Trade Organization
Note: Following the WTO Services Sectoral Classification List or the W/120, which covers a total of 155 subsectors, a commitment was counted if the subsector (or a part thereof) was included in the schedule of specific commitments, regardless of whether full or partial commitments were made in that subsector. Subsectoral coverage does not reflect the level of openness of any sector since each party may make varying degrees of openness in their commitments in the different modes of supply in each subsector. The relative size of the sectoral coverage also does not necessarily reflect the relative commercial significance of the sectors.
Source: Authors’ compilation

These sectors were marked as “SS” (for “Standstill”). Of the 74 subsectors scheduled by the Philippines, it made SS commitments in 70 subsectors. Meanwhile, Japan has 125 subsectors (out of its 139 scheduled subsectors) that reflect the status quo. This ensures the transparency and stability of the Philippines' domestic laws and regulations under which Japanese enterprises conduct business operations in the Philippines and vice versa. The PJEPA was the first agreement to adopt this approach to services. It was followed by the Japan-Malaysia and Japan-Indonesia economic partnership agreements (METI n.d.).

Table 5. Summary of commitments under PJEPA

Sector (Number of Subsectors)	Philippines	Japan
Business services (46)	15	44
Communication services (24)	18	21
Construction and related engineering services (5)	0	5
Distribution services (5)	1	5
Educational services (5)	5	5
Environmental services (4)	1	4
Financial services (17)	12	16
Health-related and social services (other than those listed under 1.A.H-J.) (4)	1	3
Recreational, cultural, and sporting services (other than audiovisual services) (5)	0	4
Tourism and travel-related services (4)	3	3
Transport services (35)	17	28
Other services not included elsewhere (1)	1	1
Total (155)	74	139

PJEPA = Philippines-Japan Economic Partnership Agreement; WTO = World Trade Organization
 Note: Following the WTO Services Sectoral Classification List or the W/120, which covers a total of 155 subsectors, a commitment was counted if the subsector (or a part thereof) was included in the schedule of specific commitments, regardless of whether full or partial commitments were made in that subsector. Subsectoral coverage does not reflect the level of openness of any sector since each party may make varying degrees of openness in their commitments in the different modes of supply in each subsector. The relative size of the sectoral coverage also does not necessarily reflect the relative commercial significance of the sectors.

Source: Authors' compilation

The PJEPA contains an MFN obligation, which means both parties are "unconditionally and automatically entitled to the preferential treatment accorded to a nonparty country under any other FTA/EPA", except in sectors where reservations on MFN treatment were made (METI n.d., p.788).

The agreement also requires a transparency list, which contains existing measures not conforming to the market access and national treatment obligations, regardless of whether a specific commitment covers the relevant sector. This list is prepared solely to increase the transparency of restrictions.

In terms of new commitments made under the PJEPA compared to GATS, the Philippines added 14 commitments under business services, particularly on professional services (8), computer and related services (3), and other business services subsectors (3). Also included were all subsectors under education services (5), subsectors under transport services (6), and subsectors under telecommunications services (5). Moreover, the country made commitments on distribution, audiovisual, postal, sewage, tourist guides, hospital, banking, and other financial services. The schedule of commitments also mentioned other services not included elsewhere, like power generation–operation of power plants (as provided under the Bureau of the Treasury scheme), oil refinery, and oil terminals/depots.

In contrast, Japan made 14 commitments under transport services, 12 under business services, and 4 under communication services. It also included commitments on social services, other distribution services, other education services, other human health services, and other services not included elsewhere (i.e., home helper services, excluding those classified in social services) (Table 6).

Table 7 shows the summary of new commitments made by the Philippines and Japan under the PJEPA compared to their commitments made under GATS. Although the Philippines introduced 38 new subsectors under the PJEPA, some of its GATS commitments were not incorporated into the PJEPA. It only included 36 subsectors from GATS instead of 43, leaving out 2 commitments under business

Table 6. GATS and PJEPA commitments, Philippines versus Japan

Sector (Number of subsectors)	Philippines		Japan	
	GATS	PJEPA	GATS	PJEPA
Business services (46)	3	15	32	44
Communication services (24)	11	18	17	21
Construction and related engineering services (5)	0	0	5	5
Distribution services (5)	0	1	4	5
Educational services (5)	0	5	4	5
Environmental services (4)	0	1	4	4
Financial services (17)	14	12	16	16
Health-related and social services (other than those listed under 1.A.H-J.) (4)	0	1	1	3
Recreational, cultural, and sporting services (other than audiovisual services) (5)	0	0	4	4
Tourism and travel-related services (4)	2	3	3	3
Transport services (35)	13	17	14	28
Other services not included elsewhere (1)	0	1	0	1
Total (155)	43	74	104	139

PJEPA = Philippines-Japan Economic Partnership Agreement; WTO = World Trade Organization
 Note: Following the WTO Services Sectoral Classification List or the W/120, which covers a total of 155 subsectors, a commitment was counted if the subsector (or a part thereof) was included in the schedule of specific commitments, regardless of whether full or partial commitments were made in that subsector. Subsectoral coverage does not reflect the level of openness of any sector since each party may make varying degrees of openness in their commitments in the different modes of supply in each subsector. The relative size of the sectoral coverage also does not necessarily reflect the relative commercial significance of the sectors.
 Source: Authors' compilation

Table 7. Commitments under PJEPA versus GATS

PJEPA Members	New Commitments under PJEPA	Total PJEPA Commitments	GATS Commitments	GATS Commitments Not Found in PJEPA
Philippines	38	74	43	7
Japan	35	139	104	0

PJEPA = Philippines-Japan Economic Partnership Agreement; GATS = General Agreement on Trade in Services

Source: Authors' compilation

services (relating to aircraft and convention services); 3 commitments under financial services (direct insurance, including coinsurance; reinsurance and retrocession; and services auxiliary to insurance), and 2 commitments under transport services (maintenance and repair of rail and road transport equipment). In contrast, Japan incorporated all its GATS commitments in the PJEPA.

Japan included various categories in its list of natural persons allowed to supply services, such as nurses and caregivers. Filipino professional and skilled workers are given 1–3 years (extendable) to work in Japan, while nurses are given 1 year (extendable) and caregivers are given a maximum of 3 years (all extendable) to provide healthcare services in Japan. The PJEPA also allowed nurses with at least 3 years of experience to work in Japan as trainees. However, they need to have at least 6 months of language training and pass the Japanese licensure exam to become a licensed nurse in Japan (Peji 2010; Medalla et al. 2013). As of 2019, only about 30 percent (168) of 547 nurses and 20 percent (333) of 1,694 care workers deployed in Japan passed the Japanese qualification exams since the PJEPA program started in 2009 (DTI n.d.-b).

Japan remains conservative, but its aging population will eventually force the country to be more open to migrant labor (Tullao and Cortez 2013). Its stringent qualifications in health care and other types of services allow Filipinos to take globally recognized examinations. For instance, the Philippine National IT Standards (PhilNITS),³ which is supported by Japan and the Philippine government, provides IT certification (Palanca-Tan 2014; PhilNITS n.d.). Moreover, qualification exams will encourage the improvement of the quality of universities and training centers in the Philippines, as they aim to align their competence with global standards. The PJEPA can also be an instrument to protect the welfare of Filipino workers in Japan. For instance, workers in the entertainment sector are not given employment contracts and

³ PhilNITS is formerly known as the Information Technology Standard Examination of the Philippines.

are regarded as guest performing artists, making them vulnerable to exploitation (Tullao and Cortez 2013).

Besides market access in Mode 4, the PJEPA also promotes better cooperation and capacity-building projects for the services sector. Cooperation includes activities in information and communications, transportation, financial, and tourism services, among others. In terms of capacity-building, the Philippines can benefit from the technical assistance programs, training, and technology and skills transfers from Japan, and vice versa. The PJEPA has committees and subcommittees that refine provisions and mechanisms and monitor the agreement's implementation (Medalla and Ledda 2013).

In the general review of the agreement in 2019, two working groups were created to study the inclusion of micro, small, and medium enterprises (MSMEs) and e-commerce in the PJEPA. The Philippines also continues to negotiate on improving the market access for Mode 4, particularly the entry of Filipino skilled workers to Japan (DTI n.d.-b).

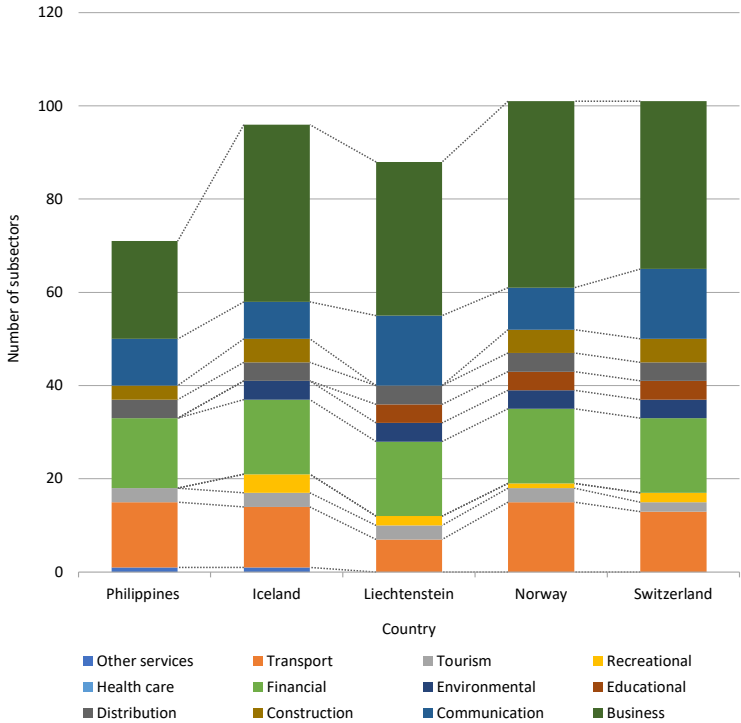
Philippines-European Free Trade Association (PH-EFTA) Free Trade Agreement

The PH-EFTA FTA was signed on April 28, 2016 in Bern, Switzerland. It entered into force on June 1, 2018 for the Philippines, Norway, Liechtenstein, and Switzerland, and on January 1, 2020 for Iceland.

Chapter 6 on trade in services closely follows the GATS approach. It covers trade in all services sectors under the four modes of supply. Separate annexes on (1) financial services, (2) telecommunication services, (3) MNPs, (4) maritime transport services, and (5) energy-related services complement the chapter with additional disciplines specific to these sectors. The parties' lists of specific commitments and exemptions from MFN treatment are contained in Annexes XI and XII, respectively.

As Figure 7 and Table 8 show, the Philippines committed fewer subsectors compared to EFTA member-states.

Figure 7. Subsectors scheduled under PH-EFTA FTA



PH-EFTA = Philippines-European Free Trade Association; FTA = free trade agreement;
WTO = World Trade Organization

Note: Following the WTO Services Sectoral Classification List or the W/120, which covers a total of 155 subsectors, a commitment was counted if the subsector (or a part thereof) was included in the schedule of specific commitments, regardless of whether full or partial commitments were made in that subsector. Subsectoral coverage does not reflect the level of openness of any sector since each party may make varying degrees of openness in their commitments in the different modes of supply in each subsector. The relative size of the sectoral coverage also does not necessarily reflect the relative commercial significance of the sectors.

Source: Authors' compilation

Table 8. Summary of commitments under PH-EFTA FTA

Sector (Number of Subsectors)	PH	IS	LI	NO	CH
Business services (46)	21	38	33	40	36
Communication services (24)	10	8	15	9	15
Construction and related engineering services (5)	3	5	0	5	5
Distribution services (5)	4	4	4	4	4
Educational services (5)	0	0	4	4	4

Table 8 (*continued*)

Sector (Number of Subsectors)	PH	IS	LI	NO	CH
Environmental services (4)	0	4	4	4	4
Financial services (17)	15	16	16	16	16
Health-related and social services (other than those listed under 1.A.H-J.) (4)	0	0	0	0	0
Recreational, cultural, and sporting services (other than audiovisual services) (5)	3	3	3	3	2
Tourism and travel-related services (4)	0	4	2	1	2
Transport services (35)	14	13	7	15	13
Other services not included elsewhere (1)	1	1	0	0	0
Total (155)	71	96	88	101	101

PH-EFTA = Philippines-European Free Trade Association; FTA = free trade agreement; PH = Philippines; IS = Iceland; LI = Liechtenstein; NO = Norway; CH = Switzerland WTO = World Trade Organization
 Note: Following the WTO Services Sectoral Classification List or the W/120, which covers a total of 155 subsectors, a commitment was counted if the subsector (or a part thereof) was included in the schedule of specific commitments, regardless of whether full or partial commitments were made in that subsector. Subsectoral coverage does not reflect the level of openness of any sector since each party may make varying degrees of openness in their commitments in the different modes of supply in each subsector. The relative size of the sectoral coverage also does not necessarily reflect the relative commercial significance of the sectors.

Source: Authors' compilation

In terms of new commitments made, the Philippines added 20 subsectors under business services, 3 each for communications and construction and related engineering services, 4 under distribution services, 1 each for financial and tourism and travel-related services, 8 under transport services, and 1 under other services not included elsewhere. The Philippines became more liberal by binding 41 new subsectors, with 71 total commitments under the PH-EFTA agreement, compared to 43 commitments under GATS. Liechtenstein added 1 commitment under other services and 7 commitments under telecommunication services. Norway also added 2 commitments under other business services (services incidental to mining and convention services), 1 commitment under distribution services (commission agents' services), and 3 commitments under transport services. Meanwhile, Iceland added commitments on other construction and related engineering services and other services not included elsewhere. Switzerland did not make additional commitments (Table 9).

Table 9. GATS versus PH-EFTA FTA commitments, Philippines and EFTA countries

Sector (Number of Subsectors)	Philippines		Iceland		Liechtenstein		Norway		Switzerland	
	GATS	PH-EFTA	GATS	PH-EFTA	GATS	PH-EFTA	GATS	PH-EFTA	GATS	PH-EFTA
Business services (46)	3	21	39	38	32	33	38	40	37	36
Communication services (24)	11	10	13	8	8	15	14	9	15	15
Construction and related engineering services (5)	0	3	4	5	0	0	5	5	5	5
Distribution services (5)	0	4	5	4	4	4	3	4	4	4
Educational services (5)	0	0	0	0	4	4	5	4	4	4
Environmental services (4)	0	0	4	4	4	4	4	4	4	4
Financial services (17)	14	15	16	16	16	16	16	16	16	16
Health-related and social services (other than those listed under 1.A.H-J.) (4)	0	0	0	0	0	0	0	0	0	0
Recreational, cultural, and sporting services (other than audiovisual services) (5)	2	3	3	3	3	3	3	3	3	2
Tourism and travel-related services (4)	0	0	5	4	2	2	1	1	2	2
Transport services (35)	13	14	14	13	7	7	14	15	19	13
Other services not included elsewhere (1)	0	1	0	1	0	0	0	0	0	0
Total (155)	43	71	103	96	80	88	103	101	109	101

GATS = General Agreement on Trade in Services; PH-EFTA = Philippines-European Free Trade Association; FTA = free trade agreement; WTO = World Trade Organization

Note: Following the WTO Services Sectoral Classification List or the W/120, which covers a total of 155 subsectors, a commitment was counted if the subsector (or a part thereof) was included in the schedule of specific commitments, regardless of whether full or partial commitments were made in that subsector.

Subsectoral coverage does not reflect the level of openness of any sector since each country may make varying degrees of openness in their commitments in the different modes of supply in each subsector. The relative size of the sectoral coverage also does not necessarily reflect the relative commercial significance of the sectors.

Source: Authors' compilation

Table 10 shows the number of new commitments under the PH-EFTA FTA compared to GATS. Although the Philippines has 41 new commitments under the FTA, it only incorporated 30 subsectors committed under GATS instead of 43. Some subsectors in GATS commitments under business services (i.e., relating to aircraft and convention services), telecommunication services (i.e., voice mail, online information and database retrieval and electronic data interchange), and transport services (i.e., road and rail passenger and freight transportation, maintenance, and repair of road and rail transport equipment) were not included in the PH-EFTA schedule of commitments. Meanwhile, Iceland did not make commitments under other business services, other distribution services, other recreational services, and other transport services. Likewise, Norway did not include 5 commitments under telecommunication services (i.e., electronic mail; voice mail; online information and database retrieval; electronic data interchange; and enhanced/value-added facsimile services, including store and forward, store and retrieve), other education services, freight transport agency services, and other services auxiliary to all modes of transport. On the other hand, Liechtenstein incorporated all of its GATS commitments in the PH-EFTA FTA.

Table 10. Commitments under PH-EFTA FTA versus GATS

PH-EFTA Members	New Commitments under PH-EFTA	PH-EFTA Commitments	GATS Commitments	GATS Commitments Not Found in PH-EFTA
Philippines	41	71	43	13
Liechtenstein	8	88	80	0
Norway	6	101	103	8
Iceland	2	96	103	9
Switzerland	0	101	109	8

PH-EFTA = Philippines-European Free Trade Association; FTA = free trade agreement;

GATS = General Agreement on Trade in Services

Source: Authors' compilation

The PH-EFTA FTA opened Mode 1 (cross-border supply) and Mode 4 (MNPs), which benefits service suppliers and skilled and professional workers, particularly in architecture and engineering. It allowed the entry and temporary presence of service suppliers, such as business visitors, intracorporate transferees (i.e., specialists, managers, and executives), contractual service providers, and installers of equipment or machinery. It also waived the economic tests in some services sectors. The annex on maritime transport and related services listed opportunities, such as nondiscriminatory treatment on access to ports, use of infrastructure, and market access to maritime transport service suppliers. Additionally, it allowed companies and industry organizations to establish their presence in an EFTA territory. EFTA authorities can also aid the crew and passengers of Filipino vessels.

Some EFTA countries offered additional commitments. For instance, Switzerland added a new “installers and maintainers” category in most subsectors. It also allowed the maintenance and repair of Swiss aircraft in the Philippines. Meanwhile, Norway allowed independent professionals and graduate trainees to provide services temporarily. The Philippines can benefit from the investments of EFTA countries in services subsectors, including IT-BPM, renewable energy, construction and related engineering, environmental, maritime transport, and finance services. For future negotiations, the Philippines may request preferential treatment offered by EFTA countries to nonparty countries (DTI 2021a; Embassy of the Philippines in Bern, Switzerland n.d.).

Regional agreements

Through its membership in ASEAN, the Philippines has engaged in various regional trade agreements, including services.

ASEAN

ASEAN Framework Agreement on Services (AFAS). The formal liberalization process of trade in services in ASEAN started with the signing of AFAS on December 15, 1995 during the 5th ASEAN Summit in Bangkok, Thailand. As stated in Article 1, AFAS aims to:

1. enhance cooperation in services among member-states to improve efficiency and competitiveness, diversify production

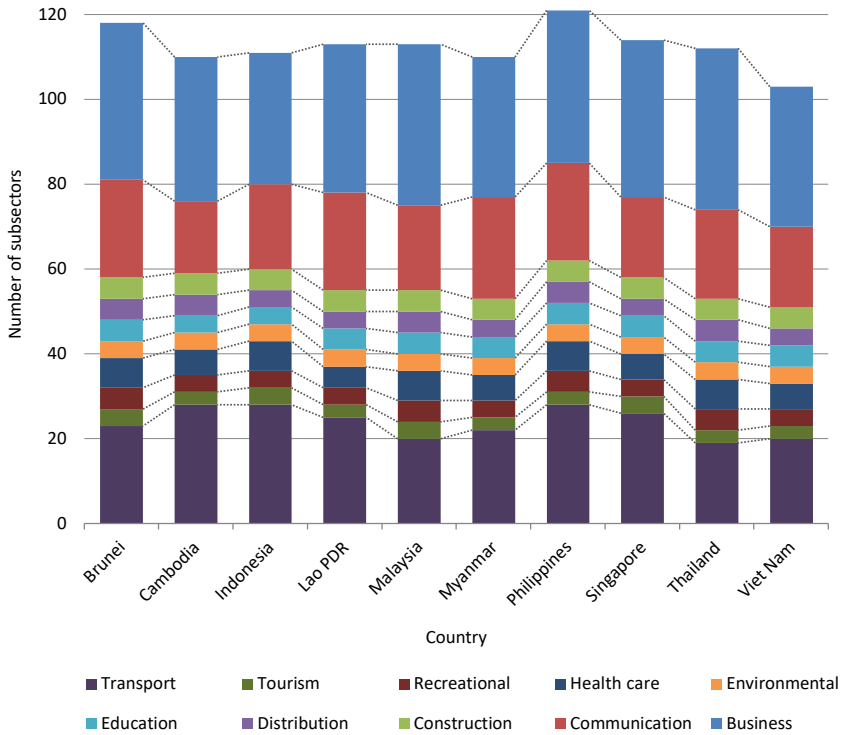
- capacity, and supply and distribution of services of their service suppliers within and outside ASEAN;
2. eliminate substantially restrictions to trade in services among member-states; and
 3. liberalize trade in services by expanding the depth and scope of liberalization beyond those undertaken by member-states under the GATS to realize a free trade area in services.

AFAS rules are consistent with international rules for trade in services provided under GATS. It likewise adopts a GATS-plus principle, which means that the depth and scope of commitments in AFAS must go beyond their GATS commitments (ASEAN 2021).

AFAS Article IV requires member-states to enter into negotiations on measures affecting trade in services and set out the results in the schedules of commitments. The parties organized rounds of negotiations, where the approach and parameters for liberalization were set for each respective round. Each succeeding package deepens the level and widens the coverage of the member-states' commitments, substantially eliminating trade restrictions. After four rounds, liberalization was undertaken based on a set of targets and timelines stipulated in the ASEAN Economic Community (AEC) and other decisions of the ASEAN Economic Ministers (AEM). The results were then formalized as packages of schedules of commitments under the AFAS, which provides details on the liberalization commitments of member-states. Starting from the fifth package, all previous AFAS commitments were consolidated into a single comprehensive schedule, along with new and improved commitments made under subsequent packages.

ASEAN has concluded 10 packages of commitments under the AFAS through 5 rounds of negotiations since January 1, 1996. As of the 10th AFAS Package, member-states have committed to liberalize almost all of the services sectors and subsectors (111–122 out of the total 128 subsectors) under the purview of the AEM, leaving out only those sensitive and/or commercially insignificant subsectors (Figure 8).

Figure 8. Subsectors scheduled under the 10th AFAS Package



AFAS = ASEAN Framework Agreement on Services; PDR = People's Democratic Republic;
WTO = World Trade Organization

Note: Following the WTO Services Sectoral Classification List or the W/120, which covers a total of 155 subsectors, a commitment was counted if the subsector (or a part thereof) was included in the schedule of specific commitments, regardless of whether full or partial commitments were made in that subsector. Subsectoral coverage does not reflect the level of openness of any sector since each party may make varying degrees of openness in their commitments in the different modes of supply in each subsector. The relative size of the sectoral coverage also does not necessarily reflect the relative commercial significance of the sectors.

Source: Authors' compilation

In addition, there were 7 additional packages of commitments in financial services⁴ under the AFAS signed by the ASEAN Finance Ministers and 8 additional packages of commitments in air transport⁵

⁴ The second, third, fourth, fifth, sixth, seventh, and eighth packages of commitments in financial services under the AFAS

⁵ The fourth, fifth, sixth, seventh, eighth, ninth, tenth, and eleventh packages of commitments in air transport services under the AFAS

signed by the ASEAN Transport Ministers. These successive packages further widen and deepen the member-states' commitment in financial and air transport services.

ASEAN Trade in Services Agreement (ATISA). In April 2012, the AEC Council mandated the review and enhancement of the AFAS into a comprehensive agreement, which eventually became the ATISA.

ASEAN leaders issued the Kuala Lumpur Declaration on the Establishment of the ASEAN Community on November 22, 2015 in Malaysia, comprising the AEC, ASEAN Political-Security Community, and ASEAN Socio-Cultural Community. One of the key documents adopted was the *ASEAN Economic Blueprint 2025*. With respect to trade in services, the blueprint aims to broaden and deepen services integration within the region, improve ASEAN's integration in the global supply chains, and enhance the member-states' competitiveness in services.

The blueprint sets ASEAN's next agenda to facilitate the negotiations and implementation of the ATISA as the legal instrument for further integration of services sectors in the region. The ATISA, which was substantially concluded in 2017, was finalized in August 2018 and was signed by all ASEAN member-states on October 7, 2020 in Manila, Philippines.

The ATISA provides greater clarity by stipulating all obligations within the agreement. Moreover, it outlined the specific timelines for the member-states to transition from a GATS-type positive list scheduling of specific commitments into a negative list scheduling of reservations (or Schedules of Non-Conforming Measures). Listing down all measures that do not conform with obligations under the ATISA provides greater transparency on the current services regime. By improving transparency and predictability, the ATISA boosts service suppliers' confidence in the region's economy.

With the transition timeline, the ATISA will supersede the AFAS, including all its implementing protocols. The agreement has three sectoral annexes: (1) financial, (2) telecommunication, and (3) air transport ancillary services. They include sector-specific obligations intended for deeper commitments and strengthened regulatory cooperation.

Mobility of service suppliers in ASEAN. There are three key ASEAN initiatives that promote the mobility of service suppliers in the region (Table 11).

Table 11. ASEAN initiatives

Initiative	Purpose
Movement of natural persons	Regulates the access of foreign service suppliers to the domestic market
Mutual recognition arrangements	Regulates the recognition of the qualification of foreign services suppliers by authorities in another country
ASEAN Qualifications Reference Framework	Provides a translation mechanism to understand the qualification level of service suppliers from another country

ASEAN = Association of Southeast Asian Nations
Source: ASEAN Secretariat (2021)

Movement of natural persons. The ASEAN Agreement on MNPs was signed on November 19, 2012 in Phnom Penh, Cambodia. Its entry into force on June 14, 2016 superseded the Mode 4 commitments made by the member-states under the previous AFAS packages. The agreement provides the legal framework to work toward eliminating substantially all restrictions in the temporary cross-border movement of natural persons involved in trade in goods, services, and investment.

It also intends to be the mechanism to further liberalize and facilitate MNPs toward the free flow of skilled labor in ASEAN through close cooperation among related ASEAN bodies in the areas, including trade in goods, trade in services, investment, immigration, and labor (ASEAN 2021). As stated in Article 1 of the MNP Agreement, it aims to:

- provide rights and obligations in relation to the MNP as set out in AFAS;
- facilitate the movement of natural persons engaged in the conduct of trade in goods, trade in services, and investment;
- establish streamlined and transparent procedures for immigration applications; and
- protect the integrity of member-states' borders and the domestic labor force and permanent employment in member-states' territories.

However, the cross-border entry of natural persons for permanent employment or migration (e.g., permanent residency or citizenship) is not covered. Its scope only applies to business visitors, intracorporate transferees, contractual service suppliers, and other categories as may be specified in the schedules of commitments for the temporary entry and stay of natural persons. Unskilled labor is also not included.

Mutual recognition arrangements. To facilitate the movement of professionals in the region, the AEM concluded and signed MRAs on seven professional services. These are:

- MRA on Engineering Services (December 9, 2005 in Kuala Lumpur, Malaysia)
- MRA on Nursing Services (December 8, 2006 in Cebu, Philippines)
- MRA on Architectural Services (November 19, 2007 in Singapore)
- Framework Arrangement for the Mutual Recognition of Surveying Qualifications (November 19, 2007 in Singapore)
- MRA on Medical Practitioners (February 26, 2009 in Cha-am, Thailand)
- MRA on Dental Practitioners (February 26, 2009 in Cha-am, Thailand)
- MRA Framework on Accountancy Services (February 26, 2009 in Cha-am, Thailand), subsequently amended as MRA on Accountancy Services (November 13, 2014, Nay Pyi Taw, Myanmar)

Additionally, the ASEAN MRA on Tourism Professionals was signed on November 9, 2012 in Bangkok, Thailand. The region is focusing efforts on implementing these MRAs and improving the mobility of professionals.

Table 12 shows the number of professionals participating in MRAs on accountancy, engineering, and architectural services. The Philippines has the second- and fourth-highest number of registered architects and engineers, respectively, in ASEAN. However, the number of registered accountants⁶ in the Philippines is relatively small than in the other five ASEAN member-states.

⁶ The pioneering batch of ASEAN Chartered Professional Accountants from the Philippines was only conferred last July 31, 2021 (PRC 2021).

Table 12. Registered ASEAN professionals, 2021

Country	ASEAN Accountant ¹	ASEAN Architect ²	ASEAN Engineer ³
Brunei Darussalam	5	18	33
Cambodia	0	29	84
Indonesia	2,047	182	1,235
Lao PDR	0	21	17
Malaysia	1,368	51	1,577
Myanmar	477	16	618
Philippines	113	139	610
Singapore	965	132	310
Thailand	722	29	231
Viet Nam	0	30	302
Total	5,697	647	5,017

ASEAN = Association of Southeast Asian Nations; PDR = People's Democratic Republic
Notes:

¹ Data from ASEAN Chartered Professional Accountant Coordinating Committee as of October 31, 2021

² Data from ASEAN Architect Council

³ Data from ASEAN Chartered Professional Engineering Coordinating Committee

Sources: ACPCC (n.d.); AAC (n.d.); ACPECC (n.d.)

ASEAN Qualifications Reference Framework (AQRF). The AQRF promotes transparency in the region's higher qualifications systems and enhances the member-states' national qualification frameworks. It is a common reference that enables comparisons of qualifications across ASEAN, promoting learner and worker mobility (ASEAN 2021).

ASEAN and dialogue partners

ASEAN is not only pursuing regional integration, but it is also actively engaging its key dialogue partners through FTAs and/or comprehensive economic partnerships (CEPs). Services liberalization is an important feature of these agreements.

Comprehensive economic partnership agreements with major dialogue partners. Table 13 features the various ASEAN plus 1 agreements that have been signed to date.

Table 13. ASEAN plus 1 FTA/CEP

ASEAN plus 1 FTAs	Dialogue Partner	Date and Place Signed
Framework Agreement on Comprehensive Economic Cooperation	People's Republic of China	January 17, 2007 Cebu, Philippines
	Republic of Korea	November 21, 2007 Singapore
	India	November 13, 2014 Nay Pyi Taw, Myanmar
Comprehensive Free Trade Agreement	Australia and New Zealand	February 27, 2009 Cha-am, Thailand
	Hong Kong	March 28, 2018 Nay Pyi Taw, Myanmar
Comprehensive Economic Partnership	Japan	April 24, 2019 Ha Noi, Viet Nam

ASEAN = Association of Southeast Asian Nations; FTA = free trade agreement;

CEP = comprehensive economic partnership

Source: Lifted in full from ASEAN Secretariat (2021, p.42)

China. The Agreement on Trade in Services under the Framework Agreement on Comprehensive Economic Co-operation between ASEAN and China is the first services FTA that the region has concluded with a dialogue partner. It was signed on January 17, 2007 in Cebu, Philippines. The parties' market access commitments are contained in the first package of specific schedule of commitments attached to the agreement. The second package of commitments was subsequently concluded and signed on November 16, 2011 in Bali, Indonesia (ASEAN 2021). The upgraded third package of commitments was signed on November 21, 2015 in Kuala Lumpur, Malaysia. It was concluded as

part of the overall improvement of the ASEAN-China FTA through the Protocol to Amend the Framework Agreement on Comprehensive Economic Cooperation and Certain Agreements thereunder between ASEAN and China.

South Korea. The Agreement on Trade in Services under the Framework Agreement on Comprehensive Economic Cooperation between ASEAN and South Korea was signed on November 21, 2007 in Singapore. The agreement includes an annex on financial services and a letter of understanding. The schedules of specific commitments for the first package of commitments are annexed to this agreement (ASEAN 2021).

Australia and New Zealand. The next major FTA is the Agreement Establishing the ASEAN-Australia-New Zealand Free Trade Area, which was signed on February 27, 2009 in Cha-am, Thailand. It covers trade in goods, trade in services, investment, e-commerce, and various other areas. The agreement also contains a separate chapter on MNP and annexes on financial and telecommunication services. Accordingly, there are two separate schedules of commitments: one on specific services commitments and the other on MNP (ASEAN 2021).

India. The fourth completed services FTA is the Agreement on Trade in Services under the Framework Agreement on Comprehensive Economic Cooperation between ASEAN and India, which was signed on November 13, 2014 in Nay Pyi Taw, Myanmar. It includes an Annex on MNP and the schedules of specific commitments (ASEAN 2021).

Hong Kong. The ASEAN-Hong Kong FTA was signed on March 28, 2018 in Nay Pyi Taw, Myanmar. It is a comprehensive agreement covering several chapters on trade in goods, trade in services, and intellectual property. Investment was concluded as a separate agreement signed on May 18, 2018 in Ha Noi, Viet Nam.

Japan. The Agreement on Comprehensive Economic Partnership among ASEAN and Japan was signed on April 14, 2008. It contains an article mandating further negotiations on trade in services and investment to be consolidated into the agreement.

Subsequently, the First Protocol to Amend the Agreement on Comprehensive Economic Partnership among ASEAN and Japan was signed on April 24, 2019 in Ha Noi, Viet Nam. Aside from incorporating the expanded chapters on trade in services and investment, the amendment also includes an additional chapter on MNP and two annexes on financial and telecommunication services. There are also two separate schedules of commitments: one on specific services commitments, while the other is on MNP.

Regional Economic Comprehensive Partnership. RCEP is an agreement between ASEAN and its FTA partners (1) Australia, (2) China, (3) India, (4) Japan, (5) South Korea, and (6) New Zealand.

RCEP negotiations began on November 20, 2012 in Phnom Penh, Cambodia. It was eventually signed on November 15, 2020 by ministers from 15 countries, as India was not in a position to sign the agreement. RCEP was signed by former President Rodrigo Duterte on September 2, 2021 and is currently in the Senate for concurrence (DTI 2021b).

RCEP is significantly broader and deeper than all ASEAN's previous FTAs. The chapter on trade in services includes annexes on financial, telecommunication, and professional services. Most significantly, the scheduling of market access commitments adopts a negative list approach either at the conclusion of the negotiations or within a specific timeline after RCEP's entry into force.

RCEP's chapters on trade in services and temporary movement of natural persons, along with the resulting market access commitments, are considered to be significantly better than any of ASEAN's previous FTAs (ASEAN 2021). Table 14 shows the new subsectors that were committed under the RCEP.

RCEP signatories accord preferential treatment to skilled professionals and business persons, such as in legal, construction, engineering, and banking services. A chapter on economic and technical cooperation support is built into the agreement. Table 15 shows the number of subsectors that the Philippines committed under RCEP.

Table 14. Examples of improved commitments under RCEP versus ASEAN plus 1

RCEP Partner	Subsector
Australia	Other business services (e.g., professional and management consulting services and technical, trade-related services) Telecommunication services Audiovisual services
China	Legal services and accounting (excluding Chinese law practice) Auditing and bookkeeping services Taxation services Architectural services Hairdressing and other beauty services Passenger and freight transport services
Japan	Professional services Hotel management services Transport services
Korea	Financial services Game development services Transport services, particularly in rail transport services and maintenance and repair of rail transport equipment
New Zealand	Air transport services, particularly cargo and baggage handling services, and airport management services Banking and other financial services

RCEP = Regional Comprehensive Economic Partnership; ASEAN = Association of Southeast Asian Nations

Source: DTI (n.d.-a)

Table 15. Subsectors scheduled by the Philippines under RCEP

Sector	Total Number of Subsectors	Number of Subsectors in RCEP
Business services	46	30
Communication services	24	16
Construction and related engineering services	5	3
Distribution services	5	3
Educational services	5	2
Environmental services	4	4
Financial services	17	15
Health-related and social services (other than those listed under 1.A.H-J.)	4	2
Tourism and travel-related services	4	3
Recreational, cultural, and sporting services (other than audiovisual services)	5	2
Transport services	35	22
Other services not included elsewhere	1	1
Total	155	103

RCEP = Regional Comprehensive Economic Partnership; WTO = World Trade Organization

Note: Following the WTO Services Sectoral Classification List or the W/120, which covers a total of 155 subsectors, a commitment was counted if the subsector (or a part thereof) was included in the schedule of specific commitments, regardless of whether full or partial commitments were made in that subsector. Subsectoral coverage does not reflect the level of openness of any sector since each country may make varying degrees of openness in their commitments in the different modes of supply in each subsector. The relative size of the sectoral coverage also does not necessarily reflect the relative commercial significance of the sectors.

Source: Authors' compilation

Challenges and Ways Forward

Breadth and depth of commitments

Since the Philippines first participated in a services trade agreement in the 1990s, it has expanded the coverage of subsectors in its schedule of commitments (Table 16).

Table 16. Subsectors scheduled by the Philippines under different agreements

Sector	Total	GATS	PJEPA	PH-EFTA FTA	AFAS10 (AEM)	RCEP
Business services	41	2	14	20	36	29
Communication services	24	11	18	10	23	16
Construction and related engineering services	5	0	0	3	5	3
Distribution services	5	0	1	4	5	3
Educational services	5	0	5	0	5	2
Environmental services	4	0	1	0	4	4
Health-related and social services (other than those listed under 1.A.H-J.)	4	0	1	0	7	2
Tourism and travel-related services	4	2	3	3	5	3
Recreational, cultural, and sporting services (other than audiovisual services)	5	0	0	0	3	2
Transport services	30	12	16	12	28	19
Other services not included elsewhere	1	0	1	1	0	1
Total	128	27	60	53	121	84

GATS = General Agreement on Trade in Services; PJEPA = Philippines-Japan Economic Partnership Agreement; PH-EFTA = Philippines-European Free Trade Association; FTA = free trade agreement; AFAS = ASEAN Framework Agreement on Services; AEM = ASEAN Economic Ministers; RCEP = Regional Comprehensive Economic Partnership; WTO = World Trade Organization

Note: For comparability with the AFAS Package 10 under the AEM, commitments in the following subsectors were removed: financial services, air transport services, and services covered under the ASEAN Comprehensive Investment Agreement. Following the WTO Services Sectoral Classification List or the W/120, which covers a total of 155 subsectors, a commitment was counted if the subsector (or a part thereof) was included in the schedule of specific commitments, regardless of whether full or partial commitments were made in that subsector. Subsectoral coverage does not reflect the level of openness of any sector since each country may make varying degrees of openness in their commitments in the different modes of supply in each subsector. The relative size of the sectoral coverage also does not necessarily reflect the relative commercial significance of the sectors.

Source: Authors' compilation

Although coverage has increased, the degree of liberalization is another issue. "Water" in the schedule of commitments is the difference between the bound level of restrictiveness and the actual trade regime.

It is analogous to the “water” in tariffs, which is the difference between bound and applied tariffs (Miroudot and Pertel 2015). This could occur by not including any sector or subsector (or the highest level of water). The fewer the sectors that countries have committed, the higher the water. Another type of water is created when quantitative limitations are more restrictive than what domestic laws allow. This binding overhang gives a country substantial leeway to increase the restrictiveness of trade policies without violating their trade obligations; thus, according them policy space (Egger et al. 2019). While it provides countries some flexibility to raise barriers, it sets an upper bound on the level of protection that a firm may face.

For the Philippines, the Foreign Investment Negative List (FINL) contains the limitations on foreign participation in various business activities. Industries not listed in the FINL are not necessarily bound in trade agreements. In cases where subsectors are included in the schedule of commitments, the limitations set could be more restrictive than existing laws. For instance, in GATS, the Philippines committed tourism accommodation facilities but limited foreign ownership to 40 percent. In later agreements starting with Japan and EFTA countries, the limitation was removed since there are no laws that restrict foreign ownership in these activities. Another example of water is in RCEP, where the Philippines committed only 103 subsectors. Moreover, foreign equity participation was limited to 40 percent in hospital services even though there is no law that sets such a restriction.

“Water” in the services policy commitments is not unique to the Philippines. The extent of water could be significant (Gootiiz and Mattoo 2009; Miroudot and Pertel 2015; Egger et al. 2019). While countries are entitled to have the policy space, having sound bases for these commitments is also vital as there may be a trade-off involved. Reducing the gap between bound and applied policies lessens uncertainty and could enhance people’s welfare. Moreover, commitments that bind the status quo spur more trade (Roy 2019; Hoekman and Shepherd 2020).

Egger et al. (2019) examined the uncertainty linked to the gap between bound policy commitments under GATS and actual applied policy. For the Philippines, the tariff equivalent of eliminating binding

overhang is estimated to be 2.95 percent of the cost of exporting services. Meanwhile, Ciuriak et al. (2020) compared the effect on services trade of actual restrictions and the gap between the applied and binding commitments. They found that water in services bindings is associated with less services trade, but the effect of reducing the gap is weaker than the effect of reducing actual restrictions. Specifically, the impact of reductions in actual restrictions on services trade is 2.4 times stronger than the effect of comparable reductions in water. Further, compared to GATS, there is less water in FTA commitments, resulting in a 4.7 percent increase in trade due to lower uncertainty. Lamprecht and Miroudot (2018) also found that services commitments that bind the status quo result in more trade than commitments that have 'water'. Overall, commitments that bind the existing regime are preferred to one with water, although the latter would still be better than an unbound policy regime.

The Philippines has recently relaxed foreign investment restrictions in key sectors of the economy (Table 17). These unilateral reforms give the government more policy space, which it should judiciously exercise in international trade agreements.

Seizing market opportunities and enhancing the capacity to supply

A trade agreement does not end with the signing of the document. The next steps involve implementing the agreement and ensuring that domestic service suppliers can take advantage of market opportunities. Businesses need to have a sufficient understanding of the country's various trade agreements. Thus, to increase participation in regional and international trade, the government needs to boost efforts in advocating and raising awareness of the market opportunities of trade agreements using a language that businesses can understand, collaborate with private industries to identify priority sectors and target markets where the country has a competitive advantage, and build effective coordination flow among relevant agencies (Mashayekhi et al. 2014). Further, government support for the services sector (e.g., giving incentives) would be helpful, as well as identifying the country's historical and cultural features and other resources (Soprana 2011).

Table 17. Regulatory reforms to liberalize the economy

Law	Date Signed	Description
Republic Act 11595 – An act amending Republic Act 8762, otherwise known as the “Retail Trade Liberalization Act of 2000”, by lowering the required paid-up capital for foreign retail, enterprises, and other purposes	December 10, 2021	It reduces foreign retailers’ minimum paid-up capital from USD 2.5 million to PHP 25 million. Furthermore, foreign retailers with more than one physical store must have a minimum investment per store of at least PHP10 million, down from the USD 830,000 per store previously required.
Republic Act 11647 – An act promoting foreign investments, amending thereby Republic Act 7042, otherwise known as the “Foreign Investments Act of 1991”, as amended, and for other purposes	March 2, 2022	It allows foreign nationals to own MSMEs with a minimum paid-in capital of USD 100,000, provided that they involve advanced technology, are endorsed as a startup or startup enabler, or employ a majority of Filipinos and have at least 15 local employees.
Republic Act 11659 – An act amending the Commonwealth Act 146, otherwise known as the “Public Service Act”, as amended	March 21, 2022	It allows 100 percent foreign ownership of public services not classified as public utilities, such as telecommunications and transport services, except public utility vehicles.

USD = United States dollar; PHP = Philippine peso; MSMEs = micro, small, and medium enterprises
Source: Authors’ compilation

Countries can obtain market access on better terms by participating in trade agreements (Marconini and Sauvé 2010). Through FTAs, Philippine service suppliers have obtained access to the markets of various partner countries. Although these may not be different from the actual policy, such access is secured under the agreement. In at least one case, actual preference was given. As reported, nurses and caregivers were included in the commitment on MNPs under the PJEPA. As of 2019, only about 30 percent (168) of 547 nurses and 20 percent (333) of 1,694 care workers deployed in Japan passed the Japanese qualification exams since the PJEPA program started in 2009 (DTI, n.d.-b). There has been no similar report on Philippine companies that expanded to partner

countries' markets through the various FTAs. Similarly, there are no official data on outward direct investments and/or foreign affiliates trade statistics that could provide information on the investments or sales of Philippine service companies overseas.

Unlike trade in goods where FTA utilization can be determined from customs data, no equivalent source of information exists for services trade. In general, attributing the impact on the business sector or domestic regulatory reforms to FTAs is difficult to ascertain in the case of services. From the perspective of a developed country, businesses surveyed in Australia reveal that FTAs influence business activities and strategies in terms of overseas expansion and investment. However, FTAs are viewed as complementary only to business strategy and not a silver bullet. While FTAs provide greater regulatory certainty for service suppliers, they recognize that it will take time before the desired market access outcomes are achieved (PwC 2018).

Marconini and Sauvé (2010, p.65) explained that services exporters from developing countries face the following challenges:

1. market development constraints flowing from low brand recognition and difficulties in establishing credibility with international suppliers;
2. lack of access to financing for export or business development;
3. limited prospects to serve foreign markets through an established presence (that is, more limited returns on Mode 3 commitments by trading partners);
4. lack of access to reliable and inexpensive infrastructure and key input services, notably finance, information technology, and telecommunications; and
5. lack of access to the range of formal and informal networks and institutional facilities necessary for trade.

Investment in human capital development and infrastructure is essential for the services sector to flourish, particularly in the digital economy. There should be greater coherence between regulations on infrastructure services and other policies, for example, on investment and trade, consumer protection, and competition, to maximize the benefits of developing these sectors. Specific training and qualifications

must also be built to meet international standards (Soprana 2011; Mashayekhi et al. 2014). Some of the difficulties that service exporters encounter are precisely the kind of services that could be made available or significantly improved if domestic markets were more open to foreign suppliers.

In terms of modes of supply, cross-border supply (Mode 1) of services requires human capital with competent educational and technical skills, telecommunications, and internet access to supply service export via electronic transmission. Weak infrastructure, administrative barriers, corruption, and safety and health concerns deter the potential of the Philippine tourism services (Mode 2). Additionally, developing countries usually have limited capacity to participate in Mode 3 due to a lack of resources and capital. While developing countries have the most comparative advantage in Mode 4, it is also the strictest mode of supply due to economic needs tests, increased labor quotas, and licensing and qualification requirements of the host country. They have failed to gain better access to MNPs even at WTO (Mashayekhi et al. 2014; Peters and Saygili 2018; Chaitoo 2020).

As for the participation of SMEs in international trade, the APEC Small and Medium Enterprises Working Group (2004) prepared a checklist of best practices to support SMEs with greater access to the global market. These include (1) developing a national plan for both existing and potential services exporters, (2) conducting research on trade barriers, and (3) improving trade in services statistics. These are essential inputs in developing relevant programs to increase market opportunities for SMEs. The APEC SME Working Group also suggests providing institutional and policy support for SMEs. Institutional support includes establishing an office that shall regularly assist SMEs in exporting services and plan initiatives to promote trade in services, delegating services champions to coordinate issues between the government and private sector, and creating a database of SME service exporters.

Meanwhile, policy support covers lowering minimum size requirements for SMEs eligible for assistance, encouraging SMEs to comply with international standards, and prioritizing telecommunication and digital infrastructure improvement. The group also suggested ways to increase SMEs' awareness of their potential to supply to the global

market, increasing their credibility in the foreign market, and assisting them in trade promotion (e.g., creating a partnership database of services exporters and potential partners in the international market and introducing SMEs to foreign investors, trade missions, and other potential partners). It also incorporated supporting women entrepreneurs by organizing events for them, generating gender-disaggregated statistics, and publishing success stories of women in trade in services. Moreover, providing skills development for SMEs, assessing the efficacy of initiatives for services exporters, and forming advisory groups and consultations with services exporters are valuable capacity-building efforts for SMEs. Furthermore, Chaitoo (2020) identified services subsectors where SMEs can potentially engage (Table 18).

Table 18. Potential sectors where SMEs may participate

Sector	Mode 1	Mode 2	Mode 4
ICT and BPO	✓		✓
Cultural and entertainment services	✓	✓	✓
Advertising services	✓		✓
Financial services	✓		
Transport services*	✓	✓	
Tourism		✓	
Online distribution**	✓		
Courier/delivery	✓		

SMEs = small and medium enterprises; ICT = information and communications technology; BPO = business process outsourcing

* Particularly freight and passenger by road and tourism- and business-related travelers

** For countries with a small market and inefficient logistics

Source: Chaitoo (2020), with additions

The APEC Boracay Action Agenda (BAA) started in 2015 as an initiative for MSMEs to take advantage of trade liberalization and participate in regional and global trade. The final review of the BAA showed a lack of support for services firms. Collaboration between the government and industry is essential in developing institutional and policy support and creating programs and initiatives to increase MSMEs'

market opportunities. The engagement of the Philippine Services Coalition (PSC) with the APEC Business Advisory Council (ABAC) Philippines and the regular dialogues conducted by DTI with the private sector and other stakeholders have helped in promoting national interest in regional discussions, identifying priorities, and devising solutions to issues (PIDS 2022).

The government and private sector must collaborate to foster competitive supply responses. Marconini and Sauvé (2010) noted that this could be the most difficult component of the service negotiating cycle because matters relating to private sector development tend to involve expertise and institutions that are not centrally involved in previous parts of the negotiating life cycle. Thus, it is important to engage private sector associations, capacitate support structures for SMEs, and conduct public-private dialogue and partnering activities.

Indeed, consultation with the private sector should be done early in the process. Pasadilla and Liao (2011) observed that a defined set of trade and commercial interests is missing whenever the Philippines negotiates. While industry players may be fully aware of their defensive interests, they often do not have a clear idea of the offensive interests or concessions they would like to obtain from the country's trading partners. The government should engage with domestic stakeholders to negotiate effectively, identify domestic suppliers' interests, competitive strengths, and weaknesses more accurately, and direct policy attention to the need for more supply capacity (Marconini and Sauvé 2010). Much preparation is needed to put together development-enhancing requests. Request lists are offensive (as opposed to defensive), focusing on sectors, subsectors, and modes of supply which the requesting country is asking the partner country to remove or lessen access-impairing regulatory measures. The main motivation behind request lists is to promote the export interests of the requesting country's leading service providers. Therefore, the request list should be based on an assessment of these interests, which is absent in the approach many developing countries take to negotiation (Marconini and Sauvé 2010).

An organization such as the PSC could be instrumental in ensuring that industry stakeholders are actively involved in each stage of the services negotiation life cycle (Box 1).

Box 1. Philippine Services Coalition

The Philippine Services Coalition (PSC) was first convened in 2004 to promote the services sector in the country. It was revitalized in 2014 to represent various services sectors and industries and advocate reforms and services agenda, advancing the services sector in the domestic and international markets. The PSC envisions global competitiveness of the services sector, provision of higher value-added services, structural transformation, and pursuit of trade in services.

Among their accomplishments include the integration of the Services Export Competitiveness Roadmap into the Philippine Export Development Plan and the creation of the action agenda of the Public-Private Sector Task Force on National Competitiveness, which was later renamed the National Competitiveness Council (NCC). The PSC also conducted the National Workshop on Services in 2014 in collaboration with the ABAC Philippines and Department of Foreign Affairs. It also led services discussions in NCC meetings and co-chaired the NCC Services Working Group, composed of representatives from the government (e.g., NEDA, DTI, DOLE) and private sector (e.g., IT-BPM).

The PSC became the official representative of the Philippines in the Asia-Pacific Services Coalition (APSCo). Together with the ABAC Philippines, the PSC led several public-private dialogues on services during the Philippine hosting of APEC in 2015. Since then, the PSC has focused on conducting small meetings with key stakeholders to promote the services sector. With the help of ABAC Philippines, PSC members were reconvened in 2019 with representatives from the IT-BPM, creative industries, maritime, tourism, construction, and engineering industries. Although the COVID-19 pandemic disrupted PSC's activities, the coalition conducted a virtual public-private dialogue on services in October 2021 in partnership with APSCo, ABAC Philippines, and Globe Telecom. The Australian Department of Foreign Affairs and Trade and the University of Adelaide's Institute for International Trade also supported the event. This initiative provided inputs to advocate for the Philippines to participate in the WTO Joint Statement Initiative on Services Domestic Regulation. The PSC also invites business associations and industries to regional efforts, such as signing the global industry statement for the extension of the WTO moratorium on duties in electronic transmissions.

ABAC = APEC Business Advisory Council; NEDA = National Economic and Development Authority; DTI = Department of Trade and Industry; DOLE = Department of Labor and Employment; IT-BPM = information technology and business process management; APEC = Asia-Pacific Economic Cooperation; WTO = World Trade Organization

Source: PSC (personal communication with authors on July 12, 2021)

Improving the governance structure for services trade policy formulation and negotiations

The range of subsectors and stakeholders involved makes services trade negotiations especially challenging (Avila 2011; Pasadilla and Liao 2011). Two key issues are highlighted below:

- **Overlapping functions.** The current setup shows overlapping roles and responsibilities, wherein several line agencies and

ad hoc committees are mandated to handle trade negotiations. Different interagency consultation mechanisms are in place. The lead agency that consolidates and negotiates the Philippine position differs depending on the trading bloc or partner (i.e., CTRM for WTO and other matters, PCRC for regional and ad hoc coordinating committees for bilateral talks). Services negotiations for ASEAN plus 1 FTAs are handled by the DTI-BITR, while NEDA-TSIS handles services negotiations for WTO and bilateral agreements.

Such an arrangement causes issues in the coordination flow, affecting the quality of produced policy agenda. Further, the lack of a legal mandate that delineates the scope of the role and authority of government agencies leads trade negotiators to take a "minimalist approach" to negotiating trade positions. Since various entities handle trade agreements, the lack of a centralized institution also results in the loss of institutional memory.

- **Multistakeholder environment.** The services sector involves various government departments and nongovernment stakeholders who have different insights and priorities and are more likely to have conflicting interests. Due to the difficulty of balancing multiple interests, creating trade negotiating positions and outlining strategies becomes complex and challenging.

Avila (2011) suggested having a network approach to services. This involves creating a network to promote the exchange of knowledge and information and manage complicated interactions and differing perspectives and preferences of private parties and government agencies. Consultations with various industries and relevant agencies are essential to gain support and information for creating and implementing a sound policy on services.

The updated PDP recognizes the need to strengthen the governance structure of international trade negotiations through (NEDA 2020, p. 274):

- effective coordination among different interagency bodies involved in international trade agreements;
- timely monitoring and assessment of gains and challenges; and
- capacity-building activities to develop a continuing pool of trade negotiations.

Currently, the formulation of the country's offensive and defensive interests is done either by NEDA-TSIS or DTI-BITR, depending on the coverage or footprint of the agreement. The first step toward strengthening the governance structure of trade in services is to consolidate the coordination of trade negotiations in one agency instead of the current setup where the lead coordination role is split between two agencies. This would ensure coherence and consistency in formulating trade positions developed across bilateral, regional, plurilateral, or multilateral levels. Moreover, the costs associated with various aspects of negotiations could be streamlined and focused on capacity building and stakeholder engagement. This will also help retain institutional memory and clarify the delegation of responsibility in monitoring or assessing the country's market opportunities in various services agreements.

DTI, rather than NEDA, would be a better fit as the lead coordinator since it already has the infrastructure for trade negotiations. It is also in the best position to engage various stakeholders, particularly service industries, to ensure that their concerns are addressed and that trade negotiation outcomes are aligned with industrial policies. Additional resources, including more staff, would be needed to undertake this role effectively. NEDA should be involved in setting overall trade policy guidance in line with national priorities and assess gains and impacts. NEDA could focus on identifying and championing the domestic reforms needed to advance services trade rather than participating in negotiations.

The participation of the private sector in services trade negotiations should be harnessed. The private sector, industry associations, and coalitions engaged in services-related matters can share their expertise and resources in various activities in crafting trade policy and negotiation positions. They are essential in mapping a national strategy for services and identifying inefficient domestic regulations hindering the growth of the services sector and trade in services. Businesses can also specify trade barriers they have encountered with foreign markets and their impacts on business operations. Industry associations and coalitions may initiate dialogues between private and public stakeholders to identify opportunities and challenges in opening services sectors to the international market, convene services symposiums to raise awareness of its members' interests and inform and educate public officials about

service industry operations and issues at the domestic and international levels, and act as resource persons to explain issues from the business perspective (Box 2).

Box 2. Issues in services trade negotiations

Due to turf mentality, an unclear delegation of authority, insufficient funds for research, political influence, and lack of knowledge and involvement of industries in the trade agreements process, the Philippines cannot optimize its participation in international trade. Instead of the Committee on Tariff and Related Matters functioning as one, different member-agencies compete for the prioritization of their own sectors.

Thus, relevant agencies must be given sufficient resources to increase their technical capability and conduct trade research to fulfill their mandate, retain institutional knowledge, and ensure that outcomes are aligned with developmental goals. The process of trade negotiations must also be systematic to pursue public interest and not just benefit a few big industries. Members of the Inter-Agency Committee on Trade in Services are expected to have consulted with their respective sectors to provide informed insights on priority services offered in the international markets. Likewise, the government must assist in building businesses' awareness and capacity to participate in international trade negotiations.

The Philippine Development Plan and Philippine Export Development Plan do not have straightforward plans on how the country will participate in the services trade, based on the discussions with the government and industry sector during a public webinar conducted by the Philippine Institute for Development Studies (PIDS 2022) on boosting the Philippines' participation in services trade agreements. A strategic and focused approach to linking government agencies, industries, and civil society early in the process of services negotiations will be relevant to identifying the offensive interests of different sectors and the trade barriers that hinder them from participating in free trade agreements. Trade negotiators will be in a better position to handle trade talks and negotiate for better access across the four modes of supply once they clearly understand the key services the Philippines will offer the international market. The country may explore consolidating institutional trade arrangements into one agency to lead all the international trade agreements, simplifying government roles.

Source: Pasadilla and Liao (2011); PIDS (2022)

Moreover, it is important to adopt a whole-of-economy approach, where the interests of various sectors and stakeholders are considered. To help raise awareness and participation in FTAs, the PSC suggested the following steps:

- establish coordination channels of relevant networks for more effective dissemination of information and feedback mechanism

- maintain an updated directory and have a core group of representatives of key organizations to strengthen public-private sector engagement
- break down the content into more focused topics and turn it into simpler communication points for sharing with concerned parties
- translate technical terms into “business language” that will be understood and appreciated by the business sector
- organize learning sessions and invite experts from both the public and private sectors to digest the agreement and provide useful inputs to the negotiating team
- partner with concerned associations or groups in organizing meetings and events to expand the reach of information and advocacy
- ensure accurate, credible, and timely information sharing by maintaining a dedicated platform (within or outside their respective sites) where all relevant information can be accessed, including provisions for feedback
- send important notices and updates regularly via email and, when necessary, call for a short meeting and quick updates and alignments.

Conclusion

The coverage of subsectors in the schedule of commitments continues to increase as the country joins trade agreements. However, quantitative limitations for some subsectors are more restrictive than what domestic laws allow. Regulatory reforms were recently passed to relax foreign investment restrictions in the key sectors of the economy. Moving forward, this would give the government more policy space, which it should judiciously exercise in international trade agreements.

The overlapping functions and duties of line agencies and ad hoc committees involved in trade negotiations adversely affect the flow of coordination and quality of produced policy agenda.

Assigning one agency to be in charge of the coordination of trade in services instead of splitting the lead coordination role depending on the trade partner and scope of the agreement would be the first step to

strengthening the governance structure. The DTI would be a better fit since it is already equipped for trade negotiations. NEDA could focus on providing overall trade policy guidance and assess the gains and impacts of FTAs and trade policy in order to identify the necessary domestic reforms.

Since the services sector involves various government departments and private stakeholders, it is difficult to balance multiple and conflicting interests, making the formulation of trade positions and outlining strategies complex and challenging. Hence, consultations must be done systematically and in the early phase of negotiations to make a well-informed decision based on public interest. Members of the IAC-TS are expected to have consulted with their respective sectors to help decide on priority services that could be offered to the global market.

Ultimately, the success of FTA participation lies in the proactive engagement of various stakeholders throughout the services negotiation cycle. Establishing a clear services strategy, having consistent coordination, pursuing offensive interests, strengthening domestic regulatory framework and institutions, and empowering businesses and individuals to be globally competitive will need a whole-of-economy approach. More trade commitments do not readily translate to more exports for the Philippine services suppliers. To increase businesses' awareness and participation in international trade in services, the government needs to collaborate with industry and provide sustainable support for services firms, especially SMEs.

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This paper reviews the participation of the Philippines in services trade agreements at the multilateral, regional, and bilateral levels. It also discusses the government's institutional arrangements for services trade negotiations. To harness the benefits of free trade agreements and increase market opportunities for the country, the government should judiciously exercise policy space in binding commitments, involve various stakeholders early in the services negotiation cycle, clarify and delineate roles of relevant agencies, and capacitate the private sector, particularly micro, small, and medium enterprises, to engage in trade in services more actively. To strengthen the governance structure of trade negotiations in services, lead coordination must be consolidated in one agency instead of the current setup, where the role is split between two agencies depending on the trade partner and the scope of the agreement.