World Trade Organization

Services Domestic Regulation

Good regulatory practice for services markets enters WTO rulebook

In February 2024, the disciplines on services domestic regulation entered into force for a group of WTO members. A total of 71 governments – representing 92.5% of global services trade – are committed to implementing these new disciplines[1].

The new disciplines on services domestic regulation bring long standing work on good regulatory practice for services within the ambit of the WTO. With services representing the fastest growing sector of today's global economy, a set of disciplines that facilitate services trade and economic development by promoting more transparent, predictable, and efficient regulatory frameworks benefits all WTO members, and especially small businesses and women entrepreneurs.

ORIGIN AND PURPOSE OF THE DISCIPLINES ON SERVICES DOMESTIC REGULATION

Services trade has grown considerably in the past decade and is estimated to now account for around half of global trade. At the same time, the costs of trading services remain about twice as high as trade costs for goods. A significant portion of these costs are attributable to regulatory divergence, as well as opaque regulations and cumbersome procedures.

In December 2021, a group of WTO members announced the successful conclusion of negotiations on a set of disciplines on services domestic regulation (WT/L/1129). In 2022, they initiated WTO procedures to give legal effect to the negotiated outcome. All WTO members are invited to become part of this outcome.

The new disciplines on services domestic regulation aim to mitigate the unintended trade restrictive effects of measures relating to licensing requirements and procedures, qualification requirements and procedures, and technical standards.

Given their close linkage with good regulatory practices recognized at the international level, the integration of the disciplines on services domestic regulation in the WTO legal framework can contribute to promoting and consolidating internal reforms, while supporting the growth of domestic services sectors.

"Transparency is pivotal to facilitating trade. Procedures may be complicated and lengthy for good reasons, but there is no good reason for them to be unclear and non-transparent. Providing information contributes to more efficient procedures and reduced trade costs, by making cross-border business transactions more predictable in terms of time and costs."

Making Regional Integration Work- Company Perspectives on Non-Tariff Measures in Arab States (2018), International Trade Centre (ITC)

"As competitiveness of the services sector often depends on the prevailing policies and regulatory practices, growth potential can be accelerated by more inclusive participation of the private sector in national, regional and international policy making processes."

COMESA Business Council (2020)

"Companies complained that obtaining, filling and submitting the large number of official documents required for their trading operations costs them a considerable amount of time and resources, which could otherwise be put to business development and expansion. The report recommends that a review of all documents be undertaken with the aim of streamlining and reducing the number of forms used by exporting and importing companies."

Indonesia: Company Perspectives -Country Report (2016), International Trade Centre (ITC)

"Services are famously where the rubber of trade meets the road of a country's domestic economic conditions. Domestic regulation of services has a significant impact on the vibrancy of trade in services and simultaneously in trade in goods, since services such as telecommunications, transport, financial, and energy are inputs to the manufacturing process."

Regulatory Assessment Toolkit: A Practical Methodology for Assessing Regulation on Services Trade and Investment, World Bank (2014)

[1] Albania, Argentina, Australia, Kingdom of Bahrain, Brazil, Canada, Chile, China, Colombia, Comoros, Costa Rica, El Salvador, European Union, Georgia, Hong Kong China, Iceland, Israel, Japan, Kazakhstan, Republic of Korea, Liechtenstein, Mauritius, Mexico, Moldova, Montenegro, New Zealand, Nigeria, North Macedonia, Norway, Paraguay, Peru, Philippines, Russian Federation, Kingdom of Saudi Arabia, Singapore, Switzerland, Chinese Taipei, Thailand, Timor-Leste, Türkiye, Ukraine, United Arab Emirates, United Kingdom, United States, Uruguay.

THE DISCIPLINES ON SERVICES DOMESTIC REGULATION: KEY QUESTIONS

WHAT?

The disciplines apply to measures relating to licensing requirements and procedures, qualification requirements and procedures, and technical standards affecting trade in services.

The focus of the disciplines lies on measures that are closely linked to the process of authorization to supply a service. They seek to facilitate trade in services by ensuring that opportunities created by market access and national treatment commitments are not undermined by opaque and complex authorization procedures.

The disciplines provide built-in flexibilities for their implementation, in order to preserve space for differences in WTO members' regulatory capacity and approaches. For example, they allow to implement certain obligations "to the extent practicable" or in a manner consistent with WTO members' legal system, or simply "encourage" competent authorities to take certain actions.

The disciplines apply to sectors where specific commitments have been undertaken in GATS schedules. A possibility is foreseen for WTO members to voluntarily expand the application of the disciplines to additional sectors.

Developing economies that adopt the disciplines can delay the application of specific provisions in sectors in which they face implementation difficulties for up to 7 years. The use of transitional periods allows them to make any necessary adjustments to their domestic regulatory frameworks.

Least-developed countries that commit to the disciplines are not required to apply them until their graduation from LDC status and can designate the necessary transitional periods at that time.

HOW?

The disciplines are integrated as "additional commitments" into GATS schedules pursuant to GATS Article XVIII. This provision allows WTO members to negotiate commitments regarding measures on qualifications, standards, or licensing matters.

The disciplines supplement existing specific commitments undertaken in GATS schedules.

The disciplines are binding only on those WTO members who inscribe them into their GATS schedules. They will be applied on a most-favoured nation basis, meaning that services suppliers from all WTO members will be able to equally benefit from their implementation.

WHY?

The disciplines directly respond to the need for transparent, predictable, effective authorization procedures – which are critical elements of a business-friendly environment. In business surveys, services suppliers consistently highlight the lack of accessible information regarding applications processes as the most significant cost factor in their efforts to access domestic markets and operate. Moreover, services suppliers regularly call on governments to reduce multiple layers of bureaucracy and streamline administrative procedures.

Recognizing the importance of well-functioning regulatory frameworks aligned with principles of good regulatory practice, many WTO members at different levels of development have progressively undertaken regulatory reforms to streamline licensing and authorization procedures and improve their transparency and predictability. The disciplines capture many of these reform aspects, while also building on international instruments of good regulatory practice – such as the APEC-OECD Integrated Checklist on Regulatory Reform (2005) and the OECD Recommendation on Regulatory Policy and Governance (2012).

WORTH NOTING

For the first time, a WTO negotiated text contains a provision on non-discrimination between men and women. The objective of this discipline is to ensure non-discrimination in authorization processes, and thereby support women's economic empowerment and boost their participation in services trade.

The Disciplines on Services Domestic Regulation - What's in it for service suppliers and investors?

ENHANCING TRANSPARENCY AND BUILDING EFFECTIVE STAKEHOLDER ENGAGEMENT MECHANISMS

Governments implementing the disciplines will:

- Publish and make available information required to comply with requirements and procedures for authorization, including through electronic means;
- Establish appropriate mechanisms for responding to enquiries from service suppliers;
- Engage stakeholders by publishing proposed laws and regulations, providing opportunity for comments from interested persons, and considering comments received.

ENSURING CERTAINTY AND PREDICTABILITY OF AUTHORIZATION PROCEDURES

Governments implementing the disciplines will:

- Establish indicative timeframes for processing applications;
- Process applications in a timely manner;
- Provide information on the status of applications;
- Allow applicants to correct minor deficiencies in incomplete applications and identify additional information required;
- Inform applicants of reasons for rejection of applications and allow resubmission;
- Allow authorization once granted to enter into effect without undue delay;
- Allow reasonable time between publication of laws and regulations and date of required compliance by service suppliers;
- Hold examinations at reasonably frequent intervals.

PROMOTING REGULATORY QUALITY AND FACILITATION

Governments implementing the disciplines will:

- Require applicants to approach only one competent authority to obtain authorization;
- Permit submission of applications at any time throughout the year, or at least, allow reasonable periods of time for submission;
- Accept electronic applications and authenticated copies of documents;
- Ensure that authorization fees are reasonable, transparent, and do not in themselves restrict the supply of service;
- Support professional bodies wishing to establish dialogues on issues relating to recognition of professional qualifications;
- Ensure that competent authorities reach their decisions in a manner independent from services suppliers;
- Consolidate relevant information on a single online dedicated portal;
- Develop technical standards through open and transparent processes;
- Base measures relating to authorization on objective and transparent criteria;
- Ensure that procedures are impartial, adequate and do not unjustifiably prevent fulfilment of authorization requirements;
- Ensure that authorization measures do not discriminate between men and women.

The Disciplines on Services Domestic Regulation and WTO Members' Policy Space

- The disciplines do not focus on regulatory substance and are largely limited to procedures for obtaining authorization to supply services.
- The disciplines do not circumscribe the right to regulate services sectors in the pursuance of domestic policy objectives.
- WTO members remain free to apply any market access and national treatment limitations inscribed in their GATS schedules.

THE ECONOMIC AND TRADE EFFECTS OF THE DISCIPLINES ON SERVICES DOMESTIC REGULATION

The implementation of the disciplines will reduce trade costs and improve overall economic performance, including an increase in real income and real exports, as well as more active participation in international services trade

In the short to medium term, real income is expected to increase at the global level by at least by 0.3% (or USD 301 Billion), while global exports are projected to rise by at least 0.8% (or USD 206 Billion). The largest increases in real income are anticipated for lower-middle income economies (0.6%), whereas upper-middle income economies are poised to experience the largest growth in real exports (1.5%) (Figure 1). The implementation of the disciplines is projected to lead to a reduction in trade costs by 10% for lower-middle income economies and by 14% for upper-middle income economies, for global savings of USD 127 billion. Overall, the implementation will lead to more active engagement in international services trade, as well as broad reductions in input prices in the primary, secondary, and residual services sectors.

Services trade creates jobs, facilitates efficient allocation of resources, enhances firms' competitiveness, and diversifies economies' output. Because services provide inputs for the whole economy, making the services sector more efficient and competitive typically also improves the performance of all the other economic sectors, including manufacturing and agriculture. By enhancing the efficiency and productivity of domestic services sectors, services firms' ability to compete in international markets can be boosted.

The implementation of the disciplines will, among various benefits, reduce the costs of business start-up procedures, lead to broader financial inclusion, and boost participation in global value chains

WTO research demonstrates that economies implementing the disciplines in their internal regulatory frameworks perform better in a number of economic indicators. The implementation of the disciplines is associated with reducing costs for starting a business, as the good regulatory practice principles set out therein will assist economies in establishing more effective and efficient business authorization processes. Cutting red tape in regulatory frameworks can especially benefit small businesses, as well as young and women entrepreneurs. Furthermore, clear and reliable regulations can enhance entrepreneurs' access to finance as, where the overall quality of the regulatory system is higher, financial institutions tend to have greater confidence in extending loans to start-ups, thereby contributing to a reduction in the overall cost of borrowing for these businesses.

Furthermore, the implementation of the disciplines is positively associated with the level of financial inclusion, measured by bank account ownership. Good regulatory practices can foster an environment for financial inclusion by promoting competition and innovation among services suppliers. It can, for instance, increase availability of banking services to individuals in remote or underserved areas, and foster the development of innovative products, such as mobile banking and other digital solutions, which can facilitate access to banking services.

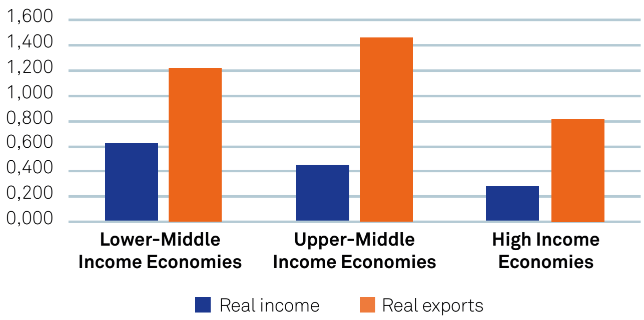
The implementation of the disciplines is also projected to lead to higher participation in global value chains (GVCs). As GVCs rely intensively on services, streamlining authorization procedures and enhancing the transparency and predictability of regulatory procedures is crucial. By promoting employment and generating positive spillover effects, including knowledge and technology transfer, GVCs can especially support lower income economies in meeting their development goals. Higher participation in GVCs fosters productivity, product sophistication, and export diversification. It also increases opportunities to integrate into the global economy by allowing firms, including small and medium ones, to join international business networks.

While all economies stand to benefit, the biggest gains are projected to accrue to those economies that are committed to implementing the disciplines. The potential of the disciplines will be harnessed by broadening participation to include more WTO members

The implementation of the disciplines will have positive effects for all economies. Real incomes are projected to grow even for those that are at present not committed to implementing the disciplines (Figure 2). This is because their service suppliers will also benefit from the implementation of good regulatory practices in the markets of their trading partners – as a result of the non-discriminatory application of the disciplines. However, exports are expected to progressively shift to implementing economies' markets, leading to a surge in their real export growth, while remaining stagnant for economies not implementing the disciplines.

If all WTO members implemented the disciplines, large welfare and trade increases are projected, especially for developing economies. This underscores the importance of widening participation in order to leverage the full potential of the disciplines. While in the short run, costs related to implementation may occur, these are expected to be far outweighed from the recurring gains in the medium to long term.

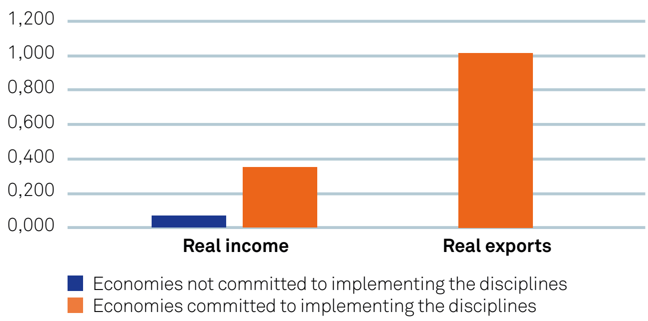
Figure 1: Projected percent change in macroeconomic aggregates by income groups



Source: Simulations with the WTO Global Trade Model

Note: the figure displays the percent change in real income and real exports projected for 2032 for different income groups, calculated as the value weighted average of regional results using the baseline values of GDP and the value of exports (FOB) in 2022. GDP per capita of the regions in the simulations are employed with the income brackets from the World Bank for 2022.

Figure 2: Projected percent change in macroeconomic aggregates by commitment to implement the disciplines



Source: Simulations with the WTO Global Trade Model

Note: the figure displays the percent change in real income and real exports projected for 2032 for participants and non-participants in the SDR outcome, calculated as the value weighted average of regional results using the baseline values of GDP, and the value of exports (FOB) in 2023.

THE DISCIPLINES ON SERVICES DOMESTIC REGULATION AND REGIONAL TRADE AGREEMENTS (RTAs)

Over time, RTAs have started addressing trade impediments resulting from a lack of transparency and procedural red tape. Several "new generation" agreements – adopted across all income groups and regions of the world – include a comprehensive set of regulatory obligations largely equivalent to the disciplines on services domestic regulation.

Figure 3: WTO members with domestic regulation disciplines in reviewed RTAs

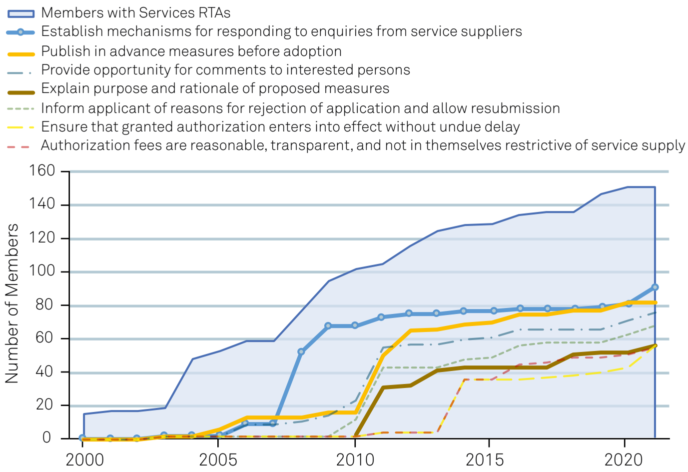
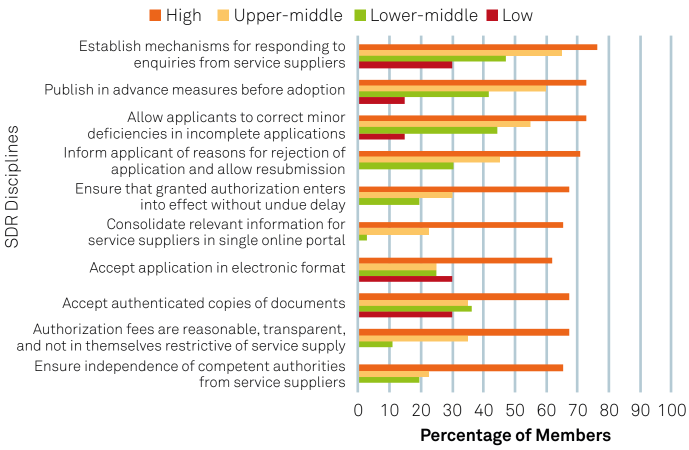


Figure 4: Percentage of WTO members with domestic regulation disciplines in reviewed RTAs, by income groups



Over the last 15 years, "new generation" agreements have moved beyond removing quantitative restrictions and discriminatory measures relating to international services trade. They increasingly aim to address regulatory obstacles and cutting procedural red tape. By promoting the good governance of services markets, RTAs can render national regulatory frameworks more transparent, predictable, and conducive to economic activities, and thereby further boost growth and development.

Overall, as an increasing number of RTAs covering services have been concluded in the past fifteen to twenty years, the adoption of GATS-plus regulatory provisions has also accelerated over time. As of 2020, 112 WTO members have concluded at least one RTA with obligations equivalent to the disciplines on services domestic regulation. Economies at all levels of income and across all regions are nowadays involved in this practice. This trend also encompasses economies that are currently not committed to the disciplines on services domestic regulation at the WTO.

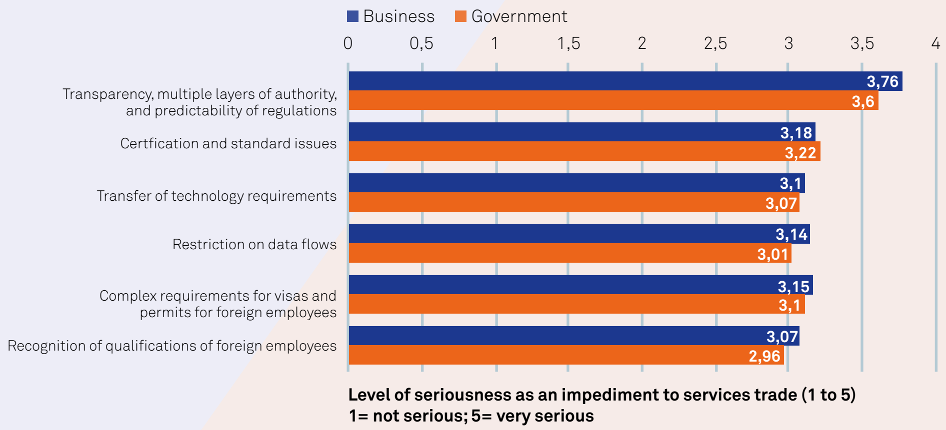
At a time when businesses ask for more transparent and predictable domestic regulatory frameworks, more and more RTAs seek to respond to the practical challenges that affect businesses' ability to trade (see BOX 1). Like the disciplines on services domestic regulation, regulatory provisions in RTAs do not interfere with substantive requirements that regulators can develop and implement to pursue their national policy objectives.

For more information on the research findings in this Factsheet, see

"Services Domestic Regulation – Locking in Good Regulatory Practices", WTO Staff Working Paper (September 2021), and "The Trade Effects of a New Agreement on Services Domestic Regulation", WTO Staff Working Paper (February 2024).

BOX 1
PACIFIC ECONOMIC COOPERATION COUNCIL (PECC): BUSINESS SURVEY ON IMPEDIMENTS TO SERVICES TRADE

In 2016, PECC conducted a survey of regional policies addressing businesses, governments, academics, media, and civil society. There was broad agreement that the most cumbersome barriers to trade in services are the lack of transparency, multiple layers of bureaucracy, and lack of predictability: 63% of business respondents considered the lack of transparency as a serious to very serious impediment to services trade, compared to 54% of government respondents. PECC advised governments to develop a set of regulatory principles to be applied across sectors that would enhance competition and foster economic growth.



Source: PECC International Secretariat, State of the Region 2016-2017 (2016).